



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**

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V
Table of Content / Table des matières

	PAGE
MR. SAMI KHOURY, Sworn/Assermenté	2
MS. CAROLINE XAVIER, Sworn/Assermentée	2
MS. ALIA TAYYEB, Sworn/Assermentée	2
Examination in-Chief by/Interrogatoire en-chef par Ms. Erin Dann	2
Examination in-Chief by/Interrogatoire en-chef par Ms. Siobhan Morris	51
Cross-Examination by/Contre-interrogatoire par Mr. Gib van Ert	60
Cross-Examination by/Contre-interrogatoire par Mr. Sujit Choudhry	73
Cross-Examination by/Contre-interrogatoire par Ms. Sarah Teich	84
Cross-Examination by/Contre-interrogatoire par Mr. Parbjot Singh	88
Cross-Examination by/Contre-interrogatoire par Mr. Guillaume Sirois	93
Cross-Examination by/Contre-interrogatoire par Mr. Neil Chantler	98
Cross-Examination by/Contre-interrogatoire par Ms. Helene Robertson	103
MR. ALLEN SUTHERLAND, Sworn/Assermenté	110
Examination in-Chief by/Interrogatoire en-chef par Ms. Lynda Morgan	110
Cross-Examination by/Contre-interrogatoire par Ms. Sarah Teich	150
Cross-Examination by/Contre-interrogatoire par Mr. Guillaume Sirois	155
Cross-Examination by/Contre-interrogatoire par Mr. Neil Chantler	162
Cross-Examination by/Contre-interrogatoire par Mr. Thomas Jarmyn	170
Cross-Examination by/Contre-interrogatoire par Ms. Mani Kakkar	177
Cross-Examination by/Contre-interrogatoire par Mr. Sébastien Dasyva	186

VI
Table of Content / Table des matières

	PAGE
MS. SHALENE CURTIS-MICALLEF, Sworn/Assermentée	192
MS. HEATHER WATTS, Sworn/Assermentée	192
Examination in-Chief by/Interrogatoire en-chef par Ms. Leila Ghahhary	192
Cross-Examination by/Contre-interrogatoire par Ms. Mani Kakkar	223
Cross-Examination by/Contre-interrogatoire par Mr. Guillaume Sirois	228
Cross-Examination by/Contre-interrogatoire par Ms. Sarah Teich	234
Cross-Examination by/Contre-interrogatoire par Mr. George Tzemenakis	240

VII Exhibit List / Liste des pièces

No.	DESCRIPTION	PAGE
WIT0000122.EN	Interview Summary: Caroline Xavier, Rajiv Gupta, Alia Tayyeb	3
WIT0000122.FR	Résumé d'entrevue – Caroline Xavier, Rajiv Gupta, Alia Tayyeb	3
WIT0000133	In Camera Examination Summary: Caroline Xavier, AliaTayyeb, Sami Khoury	4
CAN.DOC.000028	Communications Security Establishment - Part C Institutional Report to the Public Inquiry on Foreign Interference	4
COM0000598.EN	Cyber threats to Canada's democratic process 2023 Update	14
COM0000598.FR	Cybermenaces contre le processus démocratique du Canada - Mise à jour de 2023	14
COM0000527.EN	National Cyber Threat Assessment 2023 - 2024	15
COM0000527.FR	Évaluation des cybermenaces national 2023-2024	15
CAN046724_0001	Deepfakes and Disinformation: The Malicious Use of Machine Learning Enabled Technology	26
CAN.SUM.000027	PRC Email Operations Against Parliamentarians	33
COM0000485_R	URGENT AND CONFIDENTIAL: PRC SPONSORED CYBER ATTACK BRIEFING FROM IPAC	36
CAN.SUM.000027.001	Tab A - Chronology of Events: Email Tracking Link Campaign Targeting Canadian Parliamentarians	37
CAN047839	[REDACTED] Cyber Event Report	39
CAN038232_0001	Canada towards 2028 - IA 2022-23/90	49
CAN019525	Countering Mis- and Disinformation: Developing an Emerging Protecting Democracy Agenda	54
CAN027809	Steps Taken to ensure Awareness of Intelligence Reports Related to Members of Parliament	68
CAN041952.0001	Canadian Cyber Operations	89

VIII
Exhibit List / Liste des pièces

No.	DESCRIPTION	PAGE
CAN025923.0001	Potential Foreign Information Manipulation and Interference following PM Statement on Killing of Hardeep Nijjar	90
WIT0000094.EN	Interview Summary: Privy Council Office – Democratic Institutions (Mala Khanna, Allen Sutherland, Sarah Stinson and Manon Paquet)	111
WIT0000094.FR	Résumé d’entrevue : Bureau du Conseil privé – Institutions démocratiques (Mala Khanna, Allen Sutherland, Sarah Stinson et Manon Paquet)	111
WIT0000123	Interview Summary: Allen Sutherland, Assistant Secretary to the Cabinet, Democratic Institutions and Machinery of Government	112
WIT0000113.EN	Addendum to Interview Summary: PCO DI- Allen Sutherland Interview Summary	112
WIT0000113.FR	Addendum au résumé d’entrevue – Allen Sutherland	113
CAN.DOC.000036	Informing Parliamentarians on Threats - Chronology - 1 January 2019 to 31 April 2024	113
CAN.DOC.000036.001	Informers les parlementaires des menaces - chronologie - Du 1er janvier 2019 au 31 avril 2024	114
CAN.DOC.000037	Part C Institutional Report For The Privy Council Office	114
CAN.DOC.000037.001	Partie C : Rapport Institutionnel du Bureau du Conseil Privé	114
CAN022859.0001	Lunch and Learn: Democratic Institutions Secretariat	115
CAN031772	Threshold and Letter to Minister LeBlanc	126
CAN033988.0001	Protecting Democracy - Fall 2023 Priorities	131
CAN032909.0001	GAC Introductory Meeting with Tencent on WeChat and Information Manipulation	137
CAN046103.0001	Canadian Digital Media Research Network - Nov 2023 Report	143
CAN033655	Critical Election Incident Public Protocol Panel Retreat	145

VIX
Exhibit List / Liste des pièces

No.	DESCRIPTION	PAGE
COM0000475.EN	Toolkit to resist DISINFORMATION and FOREIGN INTERFERENCE for community leaders	186
CAN034019.0001	Countering Disinformation: A Guidebook for Public Servants	187
CAN.DOC.000029	Centre de la sécurité des télécommunications - Partie C Rapport institutionnel à l'Enquête publique sur l'ingérence étrangère	191
WIT0000100.EN	Interview Summary: Department of Justice (Shalene Curtis-Micallef, Samantha Maislin Dickson, Heather Watts, Michael Sousa)	194
WIT0000100.FR	Résumé d'entrevue : ministère de la Justice (Shalene Curtis-Micallef, Samantha Maislin Dickson, Heather Watts, Michael Sousa)	194
CAN.DOC.000032	Department of Justice Outline Institutional Report - PIFI Stage 2	195
CAN.DOC.000033	Rapport institutionnel du ministère de la Justice - Étape 2 de l'EPIE	195
WIT0000132	In Camera Technical Briefing on Bill C-70, An Act Respecting Countering Foreign Interference	195
CAN044799.0001	Countering Foreign Interference Act	202
CAN025666	Examples of Conduct Targeted by New FI Offences	205
COM0000595.EN	Addressing foreign interference	214
COM0000596.EN	What we heard: Consultation on the proposed reforms to the Security of Information Act, Criminal Code and Canada Evidence Act	216
CAN026649	[Threat Matrix]	234

Ottawa, Ontario

--- The hearing begins Thursday, September 26, 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 a.m.

COMMISSIONER HOGUE: Bonjour.

Alors, you're the one conducting the examination this morning?

MS. ERIN DANN: I am. Thank you. Good morning, Commissioner.

It's Erin Dann, for the record. And this morning we'll be hearing from witnesses from CSE.

If I could ask that the witnesses be sworn or affirmed?

THE REGISTRAR: All right. So I'll start with Mr. Khoury.

Could you please state your full name and then spell your last name for the record?

MR. SAMI KHOURY: Sami Khoury. That's K-H-O-U-R-Y.

THE REGISTRAR: Thank you very much.

--- MR. SAMI KHOURY, Sworn:

THE REGISTRAR: Thank you.

Now for Ms. Xavier.

MS. CAROLINE XAVIER: Bonjour.

1 **THE REGISTRAR:** Could you please state your
2 full name and spell your last name for the record?

3 **MS. CAROLINE XAVIER:** Caroline Xavier, X-A-V-
4 I-E-R.

5 **THE REGISTRAR:** Thank you.

6 --- MS. CAROLINE XAVIER, Sworn:

7 **THE REGISTRAR:** Thank you very much.
8 And just now for Ms. Tayyeb.

9 **MS. ALIA TAYYEB:** Yes. Alia Tayyeb. T-A-Y-
10 Y-E-B.

11 **THE REGISTRAR:** Perfect. Thank you.

12 --- MS. ALIA TAYYEB, Sworn:

13 **THE REGISTRAR:** Thank you very much.
14 Counsel, you may proceed.

15 **MS. ERIN DANN:** Thank you.

16 --- EXAMINATION IN-CHIEF BY MS. ERIN DANN:

17 **MS. ERIN DANN:** Good morning.

18 **MS. ALIA TAYYEB:** Good morning.

19 **MS. ERIN DANN:** I'll start off with a bit of
20 housekeeping. We have a lot of information to cover this
21 morning and only an hour to do so. Nevertheless, I'm going
22 to remind myself and try to remind all of you that we need to
23 speak slowly, given that we have a number of interpreters
24 working today. And I'll do my best to lead by example on
25 that front.

26 If we can begin with those housekeeping
27 matters, I'll ask for WIT_122.

28 Ms. Xavier and Ms. Tayyeb, you were

1 interviewed in a panel format by the Commission on June 14th,
2 2024. The interview summary before you is a summary of that
3 interview. Have you had a chance to review that? And if you
4 have, can you advise whether you have any changes, additions,
5 or deletions you wish to make?

6 **MS. CAROLINE XAVIER:** I have had a chance to
7 review this document and I have no changes to provide to it.

8 **MS. ALIA TAYYEB:** Likewise.

9 **MS. ERIN DANN:** Thanks. And will you adopt
10 that summary as part of your evidence before the Commission
11 today?

12 **MS. ALIA TAYYEB:** Yes.

13 **MS. CAROLINE XAVIER:** I do.

14 **MS. ERIN DANN:** Thank you.

15 And for the record, the French translation of
16 that interview should also be marked as an exhibit.

17 **--- EXHIBIT No. WIT0000122.EN:**

18 Interview Summary: Caroline Xavier,
19 Rajiv Gupta, Alia Tayyeb

20 **--- EXHIBIT No. WIT0000122.FR:**

21 Résumé d'entrevue - Caroline Xavier,
22 Rajiv Gupta, Alia Tayyeb

23 **MS. ERIN DANN:** Next I'll ask that WIT_133 be
24 called up.

25 The three of you were examined as a panel by
26 Commission counsel during in-camera hearings in this previous
27 summer. Have you had a chance to review this summary of the
28 publicly disclosable aspects of that evidence? If so, do you

1 have any changes, additions, or deletions?

2 Perhaps we'll start with Ms. Tayyeb.

3 **--- EXHIBIT No. WIT0000133:**

4 In Camera Examination Summary:

5 Caroline Xavier, Alia Tayyeb, Sami

6 Khoury

7 **MS. ALIA TAYYEB:** I have had a chance to
8 review it, and no. Nothing to change. Thank you.

9 **MS. CAROLINE XAVIER:** I also have had a
10 chance to review, and no changes. Thank you.

11 **MR. SAMI KHOURY:** Likewise. I reviewed it,
12 and no changes to make. Thank you.

13 **MS. ERIN DANN:** Thank you.

14 And will you adopt that as part of your
15 evidence today?

16 **MS. CAROLINE XAVIER:** Yes.

17 **MS. ALIA TAYYEB:** Yes.

18 **MR. SAMI KHOURY:** Yes.

19 **MS. ERIN DANN:** Thank you.

20 Finally, I'll ask that CANDOC.28 be pulled
21 up.

22 And I should advise there is no -- there is
23 not currently a French translation of the examination
24 summary, but that will be added to our database when it's
25 available.

26 **--- EXHIBIT No. CAN.DOC.000028:**

27 Communications Security Establishment

28 - Part C Institutional Report to the

1 Public Inquiry on Foreign
2 Interference

3 **MS. ERIN DANN:** If you can just scroll down a
4 little bit, Court Operator.

5 This is the institutional report that I
6 understand was prepared by the Communications Security
7 Establishment. Ms. Xavier, perhaps I'll direct these
8 questions to you.

9 Have you had a chance to review this
10 institutional report and do you adopt it on behalf of CSE as
11 part of CSE's evidence before the Commission?

12 **MS. CAROLINE XAVIER:** Yes, I have had a
13 chance to review this institutional report and I am
14 comfortable with the contents of the report.

15 **MS. ERIN DANN:** Thank you very much.

16 By way of introduction, Ms. Xavier, I
17 understand you are the Chief of the Communications Security
18 Establishment. I'll refer to that as CSE today. And in this
19 role, you're responsible for the management and operation of
20 CSE. Is that right?

21 **MS. CAROLINE XAVIER:** That's correct.

22 As Chief, I'm the equivalent of a Deputy
23 Minister.

24 **MS. ERIN DANN:** Thank you.

25 And Ms. Tayyeb, you testified at these -- at
26 our first stage of the hearings. I understand you're the
27 Deputy Chief SigInt, which stands for Signals Intelligence,
28 and you're also responsible for CSE's foreign cyber

1 operations. Do I have that right?

2 **MS. ALIA TAYYEB:** Indeed. That's correct.

3 **MS. ERIN DANN:** Mr. Khoury, at the time of
4 the *in camera* examination, you were the head of the Canadian
5 Centre for Cyber Security. I'll refer to that as the Cyber
6 Centre. Is that right?

7 **MR. SAMI KHOURY:** That's correct, yes.

8 **MS. ERIN DANN:** And I understand that you
9 have a new title now, which is Government of Canada Senior
10 Official for Cyber Security. Can you tell us about that
11 role?

12 **MR. SAMI KHOURY:** Yeah. That's correct.
13 That's a new role that I started on September 3rd of this
14 year, so I was the head of the Cyber Centre from August 2021
15 to end of August 2024.

16 And in my new role now, I'm supporting the
17 Chief, supporting my colleagues across town, Deputy
18 Ministers, but continue to be a spokesperson for the
19 organization and bring my years of experience out there to
20 talk about cyber.

21 **MS. ERIN DANN:** Thank you.

22 We heard at Stage 1 and as set out in the
23 institutional report from CSE that CSE is Canada's foreign
24 signals intelligence agency and the technical authority for
25 cyber security and information assurance.

26 Before we get into some of the details of
27 those aspects of CSE's mandate, could you tell us whether and
28 how the foreign intelligence and cyber security aspects of

1 CSE's mandate work together to counter hostile activities by
2 state actors? And for example, does foreign intelligence
3 inform cyber security efforts to protect Canadian democratic
4 institutions?

5 I'm not sure who is best placed to answer
6 that question.

7 **MS. CAROLINE XAVIER:** Perhaps I'll begin.

8 So absolutely, as you've mentioned, we are
9 Canada's foreign intelligence collector. We are the signals
10 intelligence collection agency for the Government of Canada
11 as well as the technical authority and operators for the
12 Government of Canada and also at a national level with
13 regards to cyber security.

14 We are an organization that is also able to -
15 - also has the authority to perform what we call foreign
16 cyber operations as well as provide technical assistance to
17 law enforcement organizations.

18 It's worth mentioning all those parts of our
19 mandate because, as you've outlined, it is actually very much
20 a mandate that works very closely together and has an ability
21 to be able to support itself, whether it's from the foreign
22 signals intelligence perspective informing cyber security or
23 cyber security incidents that we perform on behalf of the
24 Government of Canada and beyond that is able to inform what
25 goes on from a foreign intelligence to be able to go and look
26 at it further from the foreign end.

27 With that, perhaps I'll ask Alia if there's
28 anything she'd like to add, and then Sami as well.

1 **MS. ALIA TAYYEB:** No, I think that's well
2 explained as an example and we actually did provide, I think,
3 an excellent example in our most recent CSE annual report to
4 elaborate on this very point.

5 For instance, collecting foreign
6 intelligence, one of our intelligence requirements would be
7 cyber threats facing Canadians, so we would, from a foreign
8 intelligence and signals intelligence perspective, collect on
9 that requirement.

10 When we detect cyber threats that are
11 directed towards Canada, we would provide that from a foreign
12 intelligence mandate perspective to the Cyber Centre to
13 assist them in defending against the threat that had been
14 identified.

15 Further to that, the foreign cyber operations
16 aspect of the mandate could be used to further disrupt those
17 efforts by threat actors from a cyber perspective, and so
18 that's -- and anything that Cyber Centre learned in response
19 about that threat could be provided back to the foreign
20 intelligence, to my side of the shop, in order for us to
21 further investigate those threats from a foreign intelligence
22 perspective.

23 **MS. ERIN DANN:** Mr. Khoury, from your
24 perspective?

25 **MR. SAMI KHOURY:** To add on what the Chief
26 and Alia have said, absolutely, almost two faces of the coin
27 or two sides of the coin. And we get tips, we get
28 information from the second side about foreign cyber threats,

1 new tactics maybe that they are seeing, and we employ those
2 information into our cyber defence capabilities, but
3 likewise, in investigating an incident, if we see -- if we
4 pull a thread that points to external activity or outside of
5 Canada sources, then we pass it on to our second colleagues
6 to pursue it further.

7 So we do work in unison in making Canada
8 safer.

9 **MS. ERIN DANN:** Thank you.

10 I'll turn now to some questions about the
11 threat landscape. And in your interview and examination
12 summaries, you provide a lot of information about the threat
13 landscape.

14 In the interests of time, I want to highlight
15 several of the key points in terms of the capabilities and
16 activities of foreign-based actors that you've highlighted.

17 Perhaps we could pull up COM598.EN.

18 This is a report entitled "Cyber Threats to
19 Canada's Democratic Process 2023 Update". And I understand
20 this is a public-facing report. Is that right?

21 **MS. CAROLINE XAVIER:** That is correct. It
22 was put out in December 2023.

23 **MS. ERIN DANN:** Thank you.

24 And in that report, the Cyber Centre
25 identifies China, Russia, Iran and North Korea as the key
26 threat actors in this cyber space. Is that right?

27 **MS. CAROLINE XAVIER:** That is correct. It
28 would be fair, though, to add that since at least 2017, we

1 have been advising in a public way about these types of
2 threat actors.

3 **MS. ERIN DANN:** Thank you.

4 And indeed, this is an update to previous
5 reports relating to cyber threat to Canada's democratic
6 process, and those are available to the -- online and also on
7 our Party database.

8 If we go to PDF page 5 of that document, the
9 third bullet on that page states that China and Russia
10 continue to conduct most of the attributed cyber -- excuse me
11 -- cyber threat activity targeting foreign elections since
12 2021.

13 Is that still -- does that remain the case,
14 that China and Russia, in terms of attributed threat
15 behaviour, are the most significant threat actors?

16 **MS. CAROLINE XAVIER:** That remains correct.

17 Again, worth mentioning that this threat to
18 democratic processes very much was focused on what we have
19 observed from a broad perspective with regards to electoral
20 activities across the world, and this is what this
21 highlights.

22 **MS. ERIN DANN:** Thank you.

23 The report speaks to two, I'll call them,
24 broad categories of cyber threat activities, as you've
25 mentioned, observed in various foreign elections across the
26 globe.

27 The first category, I'll suggest, is cyber
28 threats against election infrastructure. So these types of

1 cyber threats would seek to attack the electoral process
2 directly.

3 And if we go to page 14 and we scroll down
4 just a bit, we see some of the examples of this type of cyber
5 threat activity.

6 If we go to page 16 of the PDF -- if you
7 could just scroll up top of that page. The report also
8 describes cyber threat activity and election influence
9 campaigns, which I understand from this report and your
10 evidence involves the use of cyber capabilities to manipulate
11 information, the information environment and the electorate,
12 and, thereby, potentially indirectly affecting the electoral
13 process. Is that sort of a fair summary of these two types
14 of threat activities?

15 **MS. CAROLINE XAVIER:** Really important to
16 share that, as I said earlier, since 2017, we've been
17 observing what's going on from an electoral perspective and
18 offering our assistance to -- especially Canadian chief
19 electoral offices, and our Elections Canada colleagues in
20 particular, with regards to some of the threats that are
21 highlighted in this report. And since 2017, we have been
22 highlighting the fact that the targets that you demonstrated
23 earlier on the page or in this booklet are, indeed, possible
24 targets of threat actors who may choose to have an impact on
25 electoral processes, and in particular, critical
26 infrastructure of electoral organisations. And what we have
27 advised in this publication, in addition on the slide that
28 you're on here in particular, is where we -- in the

1 observations and the analysis we've done, we've observed that
2 the cyber threat activity will often take the form of mis and
3 disinformation, and that, yes, cyber is one of those tools
4 that can be used with regards to that influence in these
5 types of processes.

6 **MS. ERIN DANN:** And are you able to tell us
7 in this setting whether CSE assesses, or which of these type
8 of threat activities CSE assesses as posing a greater risk to
9 Canadian democratic processes? Is it the attacks directly on
10 electoral infrastructure, or, if you can say, is it -- is
11 there a greater risk -- or greater threat from the sort of
12 misinformation and disinformation or manipulation of the
13 online environment?

14 **MS. CAROLINE XAVIER:** I'll turn to Sami to
15 potentially see if there's any more he'd like to add. I
16 mean, one of the points we make in this publication in
17 particular is we really recognise that
18 misinformation/disinformation are pervasive throughout the
19 processes of possible electoral processes. And so, really
20 actually, didn't spend a lot of time focused only on the mis
21 and dis because that is something we see, you know,
22 throughout various activities of campaigns. And so with
23 that, perhaps I'll ask Sami to potentially see if there's
24 anything he'd add.

25 **MR. SAMI KHOURY:** Sure. So on the first type
26 of threats, the infrastructure, we pride ourself with a very
27 good partnership with Election Canada that goes back to the
28 previous two elections, and we work very closely with them to

1 protect their infrastructure. We have a amazing technical
2 capability to protect Government of Canada infrastructure,
3 and those are also made available to Election Canada. But
4 also, since the last election, we connect with them bimonthly
5 to keep up to the speed, so it's not just a ramp up on
6 election period, so during an election, but also, keep up to
7 speed with what their plans are, and help them, you know, in
8 their evolution of technology, make sure that it is secure.
9 So on that front, we work very closely with Election Canada,
10 and also, more recently, we also extended our support to a
11 more provincial electoral bodies, also to support them during
12 their electoral cycles.

13 On the influence, we have put out a number of
14 publications, advice and guidance, to bring attention to the
15 threat of misinformation/disinformation, starting with the
16 National Cyber Threat Assessment that we issued about two
17 years ago and working on the new edition, but also, specific
18 advice and guidance publications posted on our website where
19 help Canadians differentiate sometimes the grey areas between
20 misinformation/disinformation.

21 **MS. CAROLINE XAVIER:** And if I may, it's
22 worth adding that, especially leading up to electoral
23 processes, that those types of guidance and advisory
24 opportunities get more intense, but we do continue to stay
25 quite in close touch with all those that need our support, as
26 the technical authority that we are. And I'd say -- I think
27 it's important to also say that we put out a lot of, as Sami
28 has highlighted, guidance and publications totally geared

1 towards politicians, candidates, and those that are CIOs, or
2 chief information officers, security officers for electoral
3 organisations, so they know exactly what are the different
4 ways in which they could protect their infrastructure.

5 **MS. ERIN DANN:** Thank you for that. And just
6 on that point, if we go to page 23 of this document, we have
7 here -- these links don't function, but we have here noted
8 some of the cyber security guides for campaign teams, advice
9 to political candidates, advice to elections authorities. Is
10 this what you were referring to, Ms. Xavier?

11 **MS. CAROLINE XAVIER:** Yeah, this is a subset,
12 I'd say, of the plethora of information we have available on
13 our website. And this is really important to us because this
14 is in line with our Section 17 part of our Act and mandate to
15 ensure that we're doing all we can to inform Canadians and
16 those that are going to be involved, for example, in various
17 electoral processes of all the things they can do to protect
18 themselves.

19 **MS. ERIN DANN:** Thank you. I should note
20 that COM598.FR, I should -- I'd ask that also be marked as an
21 exhibit, which is the French version of this report.

22 **--- EXHIBIT No. COM0000598.EN:**

23 Cyber threats to Canada's democratic
24 process 2023 Update

25 **--- EXHIBIT No. COM0000598.FR**

26 Cybermenaces contre le processus
27 démocratique du Canada - Mise à jour
28 de 2023

1 **MS. ERIN DANN:** Mr. Khoury, you mentioned
2 another Cyber Centre report, the National Cyber ---

3 **MR. SAMI KHOURY:** Cyber Threat ---

4 **MS. CAROLINE XAVIER:** Cyber Threat
5 Assessment.

6 **MS. ERIN DANN:** --- Threat Assessment, and
7 that, for the benefit of the participants and the record, is
8 at COM596, I believe. Just give me one moment. I'm sorry, 5
9 -- COM527, and there's both an English and French version.
10 I'd ask those to be made exhibits as well. Don't need to
11 bring those up, Mr. Court Operator, right now.

12 **--- EXHIBIT No. COM0000527.EN:**

13 National Cyber Threat Assessment 2023
14 - 2024

15 **--- EXHIBIT No. COM0000527.FR:**

16 Évaluation des cybermenaces
17 nationales 2023-2024

18 **MS. ERIN DANN:** I want to ask some questions
19 about the threat actors -- excuse me -- the significant
20 threat actors that have been identified in this phase. We
21 can take down that document, please.

22 In your in-camera examination, this panel
23 testified that the PRC has become more audacious and
24 sophisticated in the manner it conducts foreign interference,
25 and that the PRC's cyber capabilities have evolved
26 significantly over the last two years and have increased in
27 terms of sophistication. Your colleague, Mr. Gupta, in our
28 interview described the sheer relentlessness of the PRC's

1 cyber programs threat activities. Can you help us understand
2 what all of that means in terms of the PRC cyber threat
3 activities that target Canada and the risk they pose or the
4 threats they pose?

5 **MS. CAROLINE XAVIER:** So as part of our
6 discussion even this morning, we've been really clear about
7 the fact that we've put out several publications with regards
8 to threats that could be of concern towards Canada. And in
9 our National Cyber Threat Assessments, even those prior to
10 the last -- within the last two years, we've been clear about
11 a series of actors of which you mentioned earlier. And the
12 PRC has remained one of those actors that we highlight in our
13 various publications, and in particular, looking at it from
14 signals intelligence perspective, foreign intelligence
15 perspective, as well as from a cyber threat perspective. And
16 in particular, in the National Cyber Threat Assessment, we
17 highlight that, indeed, the PRC is a sophisticated actor, a
18 persistent actor, a patient actor, an actor that has become a
19 bit more assertive in -- within the last few years we have
20 seen that in terms of what -- the fact that they have a --
21 you know, they are a strategic threat towards Canada is what
22 we have publicly stated. And so with that, I'll perhaps turn
23 to see if Sami would like to add anything more with regards
24 to that as a threat actor.

25 **MR. SAMI KHOURY:** I mean, they're very
26 sophisticated, yes. They're very persistent. We have to
27 defend against all. They have number of tools in their
28 toolbox, and we have to not just defend the federal

1 government against all of them, but also, inform Canadian and
2 Canadian organisation on how to take the necessary measures
3 to defend themselves against many of those capabilities that
4 we see by defending the government, by partnering with our
5 allies and so on.

6 **MS. ERIN DANN:** Thank you. And, Ms. Tayyeb,
7 anything you wanted to add on that?

8 **MS. ALIA TAYYEB:** I mean, maybe just further
9 to my colleagues, I think we've been clear in our -- both our
10 public reports that we've issued, in addition to the country
11 summaries that have been provided to the Commission, that the
12 tactics and techniques used by state actors, in particular,
13 the PRC, or those that are increasing in sophistication.
14 Sami talked about, and the chief talked about cyber threats.
15 In addition to that, we've highlighted other forms of
16 threats. We've seen actors like the PRC continuing to use
17 traditional FI tools, such as use of proxies, use of proxy
18 organizations, use of state-run media.

19 And then in addition to the cyber threats, I
20 would say we've seen increased use of social media campaigns
21 in keeping with developments in the digital landscape, in
22 addition to that big data collection. All of that in
23 addition to the cyber threats that we were talking about.

24 **MS. CAROLINE XAVIER:** And if I may, it would
25 be worth adding as well that although we've seen this in
26 terms of the observations that we've put together in our
27 national cyber threat assessments and the various
28 publications.

1 We've also -- we share this perspective with
2 our closest allies. In particular, those in the Five Eyes,
3 which are part of Australia, U.S., U.K., and New Zealand, in
4 addition to ourselves.

5 And the reason I make this point is because
6 we put out what we call co-badge publications, where all of
7 us are clearly highlighting this threat actor in a public
8 way.

9 **MS. ERIN DANN:** Ms. Tayyeb, just to follow
10 up, one tactic or technique that you mentioned was big data
11 collection. Do you have -- can you explain sort of what that
12 is and what potential intentions would be behind big data
13 collection?

14 **MS. ALIA TAYYEB:** No, certainly. One of the
15 I would say newer developments in the threat landscape is the
16 prevalence of personal information online about individuals.
17 And so if that is one thing that we're seeing increasingly,
18 the corollary to that is big data collection, so where state
19 actors will collect, and non-state actors, quite frankly,
20 collect personal information, commercial information, with an
21 attempt to then use that information for a variety of
22 purposes, which range from traditional espionage, in the
23 context of this Commission for foreign interference
24 activities as well, increasing a knowledge base about
25 individuals, and behaviours, and patterns certainly helps
26 influence campaigns, whether they are in the -- let's say in
27 the digital landscape in particular or in sort of personal
28 world scenarios.

1 **MS. ERIN DANN:** Thank you.

2 **MS. CAROLINE XAVIER:** And if I may, just to
3 complement what Alia said, I know we're here to talk about
4 foreign interreference in electoral processes, but the
5 threats that we're describing this morning are not only
6 within an electoral period. So just worth nothing.

7 **MS. ERIN DANN:** That's helpful. Thank you.
8 And Ms. Xavier, you mentioned this morning the patience of
9 the PRC, and you noted in our in-camera examination that
10 because the PRC faces fewer constraints than a state
11 operating under a democratic government, that is an aspect
12 that makes the PRC a difficult adversary. Nevertheless, you
13 opined that Canada and its allies, as you mentioned, are well
14 positioned to respond to these PRC cyber related and other
15 foreign interference threats. Can you help us understand how
16 you reached that conclusion?

17 **MS. CAROLINE XAVIER:** Absolutely. [No
18 interpretation] I lead an organization that is -- has world
19 class experts and are really good at what they do and who are
20 very passionate and motivated to ensure that they protect
21 Canadians and keep Canada safe. And that same passion is
22 what I see in my colleagues across the Five Eyes in
23 particular, given the close relationship that we have. And
24 we definitely all, as I said earlier, see the PRC as the
25 strategic threat to all of our collective, you know,
26 sovereign rules-based communities and country.

27 And so yes, we operate in the rules-based
28 order. We recognize that our threat actors beyond the PRC do

1 not have to operate in those roles or those norms or
2 standards and choose not to, in particular for their own end
3 goals.

4 And I -- yes, the relationship we have, we've
5 been in the foreign signals intelligence collection for
6 almost 80 years as an organization. So go back to we're
7 really good at what we do. And that relationship of, you
8 know, over 70 years has included partners like the United
9 States and the United Kingdom in particular, who have also
10 been in the signals intelligence business as we have.

11 And so coming together, we do feel we are
12 stronger as allies against the PRC, but against all threat
13 actors that are potentially threatening our respective
14 sovereign countries.

15 And so yes, that is why we feel confident
16 that as a team, we will have to continue to do our part.

17 But it's also important and worth noting that
18 while we recognize in doing this, it is doing the
19 publications that we've talking about, making sure that
20 Canadians and various audiences are prepared, and that we all
21 have a role to play. It's important that we see it as a team
22 sport when it comes to raising cyber resilience for Canada
23 and for Canadians, but it's the same in the space of trying
24 to mitigate threats. It's a team sport that we all have to
25 do our part and every different player in the organizations
26 or in the various -- wherever they come from, have a role to
27 play also to mitigate that threat.

28 **MS. ERIN DANN:** Thank you. Moving on to some

1 of those other threat actors that you mentioned.

2 Can we have WIT_133, please? Page 11 of that
3 document. And if we scroll down to paragraph 49? Thank you.

4 There is a discussion about Russia's threat
5 activity.

6 Ms. Tayyeb, I'll direct this question to you.

7 What are you able to tell us about Russia's
8 capabilities and intentions with respect to interfering in
9 Canadian democratic processes? And I've just put up
10 paragraphs 49 to 51 in terms of what some of the information
11 that we were able to provide publicly from the in-camera
12 exam.

13 **MS. ALIA TAYYEB:** Absolutely. And I would
14 take this paragraph in the context of every other document
15 that we've also produced with respect to Russian capabilities
16 and intentions vis a vie Canada.

17 Russia is an extremely capable actor on a
18 number of different fronts, not -- certainly in terms of
19 cyber capabilities and other forms of intelligence,
20 espionage, and cyber operations capabilities. And we've seen
21 them act, again, in -- we've seen them as a foreign
22 interference actor for many years. We've certainly
23 highlighted in our various publications how active Russia is
24 in interfering with democratic institutions world-wide.
25 We've made a point of saying that this activity is
26 increasing. We've pointed out tactics, particularly the use
27 of state media, use of social media manipulation over the
28 years. This has been something that has been very acute

1 since at least 2015-2016, if not before. And so we've been
2 extremely vocal in highlighting that. We've issued --
3 speaking on behalf of Sami, of course, but many Cyber
4 Advisories that highlight Russian threat activity directed
5 towards Canada.

6 In this context, and we've said this in
7 conjunction with the previous hearings, that as it relates to
8 the general elections, 43 and 44, which were examined
9 previously, we had not seen directed campaigns from Russia
10 directed at affecting the outcome of Canadian elections.
11 That's the assessment from CSE, but also the Canadian
12 intelligence community as a whole, which is not to say that
13 we saw everything, but we did not see a concerted campaign
14 aimed at affecting the outcome of the election.

15 They absolutely have the capability of doing
16 so. What we continue to examine, and this is a matter of
17 constant assessment, is the intention to do so. And so it's
18 a very -- for us, a very live intelligence requirement that
19 the Government of Canada is -- wants to know. From a foreign
20 intelligence perspective, it's certainly a very high priority
21 for us. So while we did not see it in previous campaigns,
22 does not mean -- or previous elections, does not mean we
23 won't in the future, and so we're very alive to that
24 possibility, given the capabilities of Russia as a state
25 actor.

26 **MS. ERIN DANN:** Thank you. If we could go to
27 page 12 of this document? Paragraph 52.

28 That's perfect.

1 There's a heading here, "India's Cyber
2 Capabilities and Threat Activity".

3 These paragraphs describe a Cyber Centre
4 report from 2023 on emerging state cyber threat -- threats,
5 which assesses India as having a medium sophistication cyber
6 program.

7 Mr. Khoury or Ms. Xavier, whoever's best
8 placed to answer this, can -- the description here is that
9 India is aspiring to build a modernized cyber program. Can
10 you comment on the examples that you gave in the interview
11 and how CSE assesses India's capabilities in terms of its
12 cyber activities and other foreign interference activities?

13 **MS. CAROLINE XAVIER:** So I'll begin, and
14 perhaps Sami will have more to add.

15 I think what you highlighted here in the
16 report is exactly what we can say and what we're capable of
17 saying, but I'd say that the assessment that is in these two
18 paragraphs is a validated assessment based on observations
19 from the S&I community writ at large, and that we do see
20 India as this emerging actor. And in particular, we
21 recognize that when -- as per the example in paragraph 53,
22 that when the Prime Minister stood up in the House of Commons
23 and spoke about the killing of Mr. Hardeep Singh Nijjar or
24 when he was in India on his visit, that we recognized that
25 there was some mis and disinformation going on while those
26 visits were happening.

27 That's about the extent that I feel
28 comfortable able to speak to on India. I don't know if Sami

1 has anything more to add.

2 **MR. SAMI KHOURY:** No. I mean, essentially,
3 in the National Cyber Threat Assessment we call out the four
4 countries, Russia, China, North Korea and Iran, but they're
5 not the only cyber actors out there. And I guess that's too
6 sensitive to talk about other things.

7 **MS. ERIN DANN:** Thank you. That's -- I
8 appreciate that.

9 One other country, Mr. Khoury, that you did
10 mention and is mentioned in the most recent National Cyber
11 Threat Assessment is the Kingdom of Saudi Arabia.

12 Now, I understand the national cyber security
13 threat assessment, that focuses on cyber threats to Canada
14 broadly. It's not limited to those in democratic processes.
15 But in that report, it identifies Saudi Arabia along with
16 China and Iran as countries that CSE assesses as almost
17 certainly monitoring diaspora populations and activists
18 abroad using combination of cyber tools.

19 Is that a -- sort of a fair, accurate summary
20 of the information in the National Cyber Threat Assessment?

21 **MR. SAMI KHOURY:** Yeah, that's what we wrote
22 in it.

23 **MS. CAROLINE XAVIER:** That's correct.

24 **MS. ERIN DANN:** Thank you.

25 Ms. Xavier, earlier today you described the
26 almost ubiquitous nature of foreign -- I'm sorry,
27 misinformation and disinformation that CSE has observed in
28 international elections. We heard a lot of really

1 interesting testimony yesterday from the Media Ecosystem
2 Observatory about misinformation and disinformation, and
3 specifically that technological advances like generative AI,
4 which have really lowered the barrier to entry for threat
5 actors looking to spread misinformation and disinformation.

6 Is that something that CSE has observed as
7 well?

8 **MS. CAROLINE XAVIER:** That is correct.

9 So consistent with one of the documents you
10 had pulled up earlier, the Threats to Democratic Processes,
11 the one that we released in December of 2023, we highlight in
12 particular in that publication that misinformation and
13 disinformation is quite pervasive and that we've seen that
14 and observed that in all the studies that we've done and the
15 analysis. And we mention in particular, as you said,
16 generative AI as being an amplifier of mis and
17 disinformation.

18 And we see that AI can be a benefit, but we
19 definitely speak about it as the threat vector in that
20 publication in particular.

21 And you mentioned media. We recognize that
22 various people can be leveraged, and media being one of them,
23 especially in the mis and disinformation, and Alia alluded to
24 this earlier with regards to the PRC possibly using media as
25 a form of influence.

26 I make mention of the media piece because one
27 of the things as part of our ongoing work that we do to raise
28 the cyber resilience is we held a session in particular with

1 media in May of this year recognizing that we didn't want --
2 we wanted them to be aware of how they could potentially be
3 used as vectors of influence and mis and disinformation.

4 **MS. ERIN DANN:** Thank you.

5 Could we pull up CAN46724?

6 **--- EXHIBIT No. CAN046724.0001:**

7 Deepfakes and Disinformation: The
8 Malicious Use of Machine Learning
9 Enabled Technology

10 **MS. ERIN DANN:** This is a Cyber Centre report
11 on deep fakes and disinformation. At page 3, PDF page 3 of
12 this document, indicates that the report is current or the
13 information in the report is current to March of 2022.

14 Is it fair to say that even in the last two
15 years there have been advancements in this type of generative
16 AI and deep fakes and machine learning enabled technology?

17 **MS. CAROLINE XAVIER:** It's fair to say that,
18 and worth mentioning that, again, in the National Cyber
19 Threat Assessment that was put out in the fall of 2022, we
20 did highlight artificial intelligence and mis and
21 disinformation. And this was an additional report to really
22 complement that. And this was a classified report at the
23 time.

24 **MS. ERIN DANN:** Yes. Thank you.

25 And if we go to page 13 of that document, it
26 reads, "Detection model performance evaluation". It appears
27 to refer to models developed to detect synthetic content on
28 social media platforms.

1 And I wanted to ask, does CSE develop or does
2 it have a role in sort of developing these types of tools or
3 is it testing tools developed by others? What's the space
4 for CSE in this place?

5 **MS. CAROLINE XAVIER:** So as part of our
6 mandate, as I mentioned in terms of cyber security, cyber
7 defence and information assurance, we also have a research
8 aspect as part of our mandate where we are always looking at
9 emerging technologies. We're always trying to ensure that we
10 have a good understanding of those various technologies and
11 what they can be.

12 We do have, especially on the cyber defence
13 and cyber resilience aspect, put out software applications or
14 various tools that we feel would be beneficial to help raise
15 that cyber resilience.

16 In this particular space that you're
17 highlighting, we're definitely continuing to assess what are
18 the tools that exist out there with regards to identifying
19 what could be synthetic versus real content out there, so
20 that is part of the types of things that we assess for
21 reasons to be able to educate others, for reasons of being
22 able to better understand the technology because that is part
23 of what we need to do and we want to do, is be well informed.

24 And we do this collectively within our own
25 organization, but also very much with partners both in the
26 private sector and again international partners where we're
27 all looking at these various technologies and learning from
28 each other and trying to not duplicate the efforts where

1 possible. So we do this internationally and domestically
2 with our domestic partners as well.

3 **MS. ERIN DANN:** Thank you.

4 Just final question on misinformation and
5 disinformation. I understand that CSE cannot direct its
6 apparatus towards Canadians or persons in Canada. Given this
7 aspect or -- of CSE's work, does CSE play any role in
8 monitoring or reviewing misinformation and disinformation in
9 the Canadian domestic space?

10 Ms. Tayyeb, perhaps I'll -- or Ms. Xavier, if
11 you wish.

12 **MS. CAROLINE XAVIER:** I can -- go ahead.

13 **MS. ALIA TAYYEB:** Okay. So the role that we
14 play. So you're right to point out up front, we cannot,
15 absolutely cannot direct any activities towards Canada or
16 Canadians. So the role we play in this space is with respect
17 to what foreign actors are doing in the space.

18 So is it relevant to the Canadian threat
19 landscape? Absolutely. So without directing our activities
20 at Canadians, we certainly scan the foreign space, foreign
21 threat actors, what techniques, tactics are being used,
22 developed. That could include synthetic content production,
23 social media manipulation.

24 We would be looking at it from a foreign
25 state actor capabilities and intentions perspective as it
26 relates to Canada, certainly, but not as it relates to the
27 activities of Canadians.

28 **MS. ERIN DANN:** So ---

1 **COMMISSIONER HOGUE:** I have a question.

2 We heard on many occasions, but especially
3 yesterday, that it's very often difficult and almost
4 impossible to identify the source of disinformation or
5 misinformation. So given this limitation to your authority,
6 how do you manage to look at the dis- and/or misinformation
7 going on in Canada while not knowing necessarily where it's
8 coming from? What can you do and how do you proceed?

9 **MS. ALIA TAYYEB:** So it -- for us, it's an
10 excellent question, and one that we talk through with our
11 allies and with our partners in the Canadian security
12 intelligence community quite often, what our role is, and
13 what we can bring to this topic.

14 What I would say for that question, indeed it
15 is often hard to establish where and who is conducting a
16 social media campaign or who is responsible for a particular
17 piece of disinformation or misinformation.

18 From our -- the way that we would handle it
19 is there's, for us, must be a presumption or reasonable
20 expectation that a campaign, an activity, an individual is
21 foreign based, is not Canadian or an individual in Canada.

22 And so if we commence with a reasonable view
23 that that is the case, then we can, you know, either through
24 our foreign intelligence collection, attempt to confirm
25 suspicions and hypothesis about those campaigns.

26 We can look through our technical expertise,
27 conduct additional verifications or technical verifications
28 on material that we reasonably assess is foreign or from a

1 foreign actor. And often it would be where the information
2 comes from. If -- so it would be the difference between
3 looking at activity that we know to be or have indications is
4 attributed to a foreign actor, we could take our actions, our
5 foreign intelligence mandate would be clearly engaged at that
6 time.

7 The difficulty comes when it's a campaign
8 that is observed in Canada and then we're asked to trace it
9 back. So there's a certain amount of activities we would not
10 be able to conduct from the starting point of a Canadian
11 campaign simply because the starting point would necessarily
12 involve the targeting of Canadians, which would not be
13 something that we would be able to do. We would be looking
14 at it from the foreign actor perspective.

15 So a challenging space to be sure, but in
16 combination with our CSIS colleagues, our RCMP colleagues,
17 our Global Affairs Colleagues, just sort of exemplified in
18 the Security and Intelligence Threats to Elections Task Force
19 through the meeting of the four mandates, I think we have a
20 fairly good coverage of a lot of these different threat
21 aspects.

22 **COMMISSIONER HOGUE:** And does it mean that if
23 you're examining, for example, a campaign going on, a
24 disinformation campaign going on in Canada and you suspect
25 that maybe the source of this campaign is a foreign state,
26 you would have to stop if, in the context of your
27 observation, you note -- or you come to the conclusion that
28 it's not necessarily a foreign state? Where do you have to

1 draw the line between having some suspicions or reasonable
2 cause to believe, ---

3 **MS. ALIA TAYYEB:** M'hm.

4 **COMMISSIONER HOGUE:** --- and the lack of
5 evidence or the lack of conviction that it is really a
6 foreign state behind the campaign?

7 **MS. ALIA TAYYEB:** Right. I think in a
8 scenario that you're describing, Madam Commissioner, that in
9 that scenario, we're -- and this is true for all foreign
10 intelligence collection that we do. So not only in this
11 context, but any form of foreign intelligence that we're
12 collecting, as soon as we no longer believe that this is a
13 foreign actor and have any indication that it may be a
14 Canadian actor, indeed we would cease that activity. The
15 information is shared with those in Canada who would have an
16 ability to pursue that from a Canadian perspective, but that
17 is a way in which we work through our foreign intelligence
18 mandate in all cases is we have to have a reasonable belief
19 that this is a foreign actor for us to proceed, for it to be
20 foreign intelligence, firstly, and for us to not be targeting
21 Canadians, which are both the legal requirements.

22 And so we begin that way. We're -- when we,
23 and this happens, discover otherwise, that there is a
24 Canadian involved, that information is shared with the
25 appropriate agencies of the Government of Canada who have a
26 mandate to further investigate, and then we would not
27 continue that activity at that point. But we may continue a
28 portion of that activity that does relate to the foreign

1 actor in parallel.

2 **COMMISSIONER HOGUE:** I see. And the
3 threshold is reasonable belief?

4 **MS. ALIA TAYYEB:** It must be reasonable and
5 it must be foreign intelligence. So there must be a foreign
6 actor and we must have a reasonable belief that this is a
7 foreign actor.

8 **COMMISSIONER HOGUE:** Okay. Thank you.

9 **MS. CAROLINE XAVIER:** [No interpretation], is
10 that if one of our domestic colleagues, like CSIS or RCMP, as
11 Alia mentioned, once we've passed the baton, for lack of a
12 better word, to them to continue the investigation, if they
13 would require any technical support from us, they have the
14 ability to ask us through our request for assistance, and
15 then we would then be operating under their mandate, and
16 that's part of section 20 of the Act.

17 But as Alia clearly said, and I really should
18 have stated that up front in terms of our authority, we
19 really do not target any of our apparatus towards Canadians
20 or persons in Canada, but Canadians anywhere around the
21 world, by the way, just important and worth mentioning.

22 **COMMISSIONER HOGUE:** I see. Thank you.

23 **MS. ERIN DANN:** And just on that last point,
24 Ms. Xavier, that you noted, I note at paragraph 63 of
25 WIT_133, that CSE had advised that it has not received
26 requests for assistance under your section 20 assistance
27 mandate for technical attribution of a misinformation or
28 disinformation campaign in the context of a general election

1 or democratic process?

2 **MS. CAROLINE XAVIER:** That's correct.

3 **MS. ERIN DANN:** Thank you. I want to turn to
4 an incident that we heard evidence about last week and
5 earlier this week which relates to an email campaign
6 targeting members of the Interparliamentary Alliance on
7 China.

8 If I could ask that CANSUM_27 be pulled up?
9 If we go to page 2 of that document, paragraph 5?

10 **--- EXHIBIT No. CAN.SUM.000027:**

11 PRC Email Operations Against
12 Parliamentarians

13 **MS. ERIN DANN:** Mr. Khoury, it states that
14 the Cyber Centre can deploy different types of sensors on
15 systems it is tasked to protect. Can you briefly explain
16 sort of what those sensors are, where they might be used, and
17 what purpose they serve?

18 **MR. SAMI KHOURY:** Sure. So as part of the
19 mandate of the Cyber Centre, as recognized in our laws to
20 help defend federal infrastructure and infrastructure that is
21 designated by the Minister as systems of importance, over the
22 years, in order to -- we've developed capabilities in order
23 to pick up malicious behaviour, odd behaviour, that would
24 signal that there was something suspicious going on. We
25 developed a set of capabilities, some of them sit on the
26 network, some of them sit on hosts, some of them sit in the
27 cloud, and that telemetry that we receive from those various
28 sensors come together in a way that would signal to us that

1 there's something odd going on on these machines.

2 It tends to focus primarily on those
3 sophisticated malicious activities, often nation state, but
4 at the perimeter of the government, we block about 6.6
5 billion on a daily basis, 6.6 billion attempted scans or
6 attempted malicious activity. Those are blocked at the
7 perimeter.

8 But also, there are additional layers of
9 sensors, because we adopted a model of depth -- or layers or
10 depths, allowing us to block other types of activities
11 further, deeper into the network also.

12 And we've been recognized. Very proud of the
13 work that the team has done. Not just in defending the
14 Federal Government, but we've also been recognized by our
15 colleagues internationally as being a leader in that space
16 when it comes to cyber defence.

17 **MS. ERIN DANN:** And I understand where you
18 have ministerial authority and a request to do so, these
19 types of sensors can also be deployed on non-government
20 systems?

21 **MR. SAMI KHOURY:** That's right.

22 **MS. ERIN DANN:** We heard -- just a note on
23 some terminology. We heard this event with the email
24 tracking campaign variously described as a campaign, an
25 incident, an attack. Do those terms have specific meanings
26 for the Cyber Centre? And how would it characterize the --
27 what happened with the email tracking campaign?

28 **MR. SAMI KHOURY:** Yeah, these terms have

1 significance in a way. We look them all as, initially, a
2 cyber incident, and then the severity of the incident
3 determines, you know, our response.

4 Tracking email campaigns. I would say email
5 campaigns are not new. We receive, all of us, email that
6 tends to be from spams, from marketing. These are all email
7 campaigns. Many of those emails contain sometimes a link,
8 sometimes an invisible image that helps the sender, you know,
9 get additional information on the user -- that the recipient
10 opened the email. What time did they open it, what kind of a
11 web browser did they use?

12 And these are the techniques that they use in
13 order to ascertain that there is -- this email is valid,
14 somebody actually looked at it or nobody looked at it. So
15 these are -- this is what forms email campaigns.

16 To the incident that we are referring to,
17 this was an email campaign. What differentiated it from, you
18 know, the variety of email campaigns that we see on a daily
19 basis, the fact that there was a nation state actor behind
20 it.

21 **MS. ERIN DANN:** All right.

22 **MS. CAROLINE XAVIER:** May I -- if I could
23 add, the point that Sami was making in terms of the House of
24 Commons incident that we're talking about, we definitely see
25 it as an incident and not an attack, so just worth nothing,
26 for the reasons that the incident was mitigated.

27 And we really do see this incident from the
28 host state nation as doing what we call reconnaissance type

1 of work to determine exactly, as Sami said, whether there's
2 somebody on the other end, for example.

3 **MS. ERIN DANN:** All right. Could we just
4 pull up briefly COM485_R, I believe?

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

6 URGENT AND CONFIDENTIAL: PRC
7 SPONSORED CYBER ATTACK BRIEFING FROM
8 IPAC

9 **MS. ERIN DANN:** If we can scroll down to the
10 bottom, this is an email message from IPAC -- I'm sorry, back
11 to page 1.

12 This was an email provided by IPAC to its
13 members in relation to this incident, and it mentions under
14 the heading part of a progressive attack, that pixel
15 reconnaissance as you've described, does limited damage, that
16 it shouldn't be understood as a successful hack. However,
17 "in the hands of APT31, should be understood as the first
18 stage in a progressive cyber attack."

19 Would you agree with that assessment?

20 **MR. SAMI KHOURY:** I would agree that, you
21 know, it's reconnaissance that, in that case, APT31 was
22 undertaking. It's difficult to then ascertain what's their
23 intention after that, but before every cyber -- you know, in
24 a cyber incident there are many phases.

25 One of them is doing some reconnaissance to
26 understand the environment, to understand what is the
27 technology behind it and so on before deciding what to do
28 next. But as we mentioned in our opening comment, the PRC is

1 a very persistent actor and they will -- you know, they will
2 try everything to get through.

3 **MS. ERIN DANN:** Right. And we heard some
4 concern from the co-chairs of IPAC who testified that they
5 had -- that this incident may have compromised the
6 identities, for example, or made available the identities of
7 contacts -- sensitive contacts that they had on their
8 devices.

9 Is that sort of information available to a
10 threat actor if this type of email tracking campaign is
11 successful?

12 **MR. SAMI KHOURY:** No. From the perspective
13 of solely the -- sending an email, whether pixel
14 reconnaissance or whether tracking link, all it gets back
15 tends to be sort of, one, validating that the email was
16 received, that -- maybe what version of the operating system
17 is the person running, what web browser are they using,
18 what's their IP address, but it doesn't go any further than
19 this by collecting contact information or anything on your
20 devices.

21 It's -- again, it's pure, you know, I would
22 say reconnaissance at its most basic -- at the most basic
23 level.

24 **MS. ERIN DANN:** Can we bring up CANSUM27.001?

25 **--- EXHIBIT No. CAN.SUM.000027.0001:**

26 Tab A - Chronology of Events: Email
27 Tracking Link Campaign Targeting
28 Canadian Parliamentarians

1 **MS. ERIN DANN:** This is a chronology of
2 events relating to the email tracking link campaign. If we
3 go to page 3.

4 If we could scroll down to the entry for
5 February 26. I'm sorry. It could be on the next page.

6 There we are.

7 This indicates that on February 26, 2021,
8 that the Cyber Centre received information from the House of
9 Commons indicating that more emails and shared meta data for
10 41 emails had been sent to various MPs. Of those emails, 31
11 were either read or inadvertently opened.

12 Is this relating to the same -- is this all
13 related to one email campaign and in the context where some
14 of the emails were read or inadvertently opened, can you
15 speak to why, nevertheless, this incident was assessed as
16 having been forwarded?

17 **MR. SAMI KHOURY:** So these email -- again,
18 because they were reconnaissance, if we go back to January
19 21st, as soon as we found out that this email campaign was
20 ongoing, we notified the House of Commons and then took
21 mitigation measures to block the domain, but it's possible
22 that some users still inadvertently clicked on the email or
23 opened the email. So as a result, the tracking link would
24 somewhat go out with information about the IP address and
25 other information about the environment where the email was
26 opened.

27 So that's what -- that's what that implies,
28 that either read or inadvertently opened.

1 **MS. ERIN DANN:** Thank you.

2 Commissioner, I notice I'm getting quite
3 short on time. I wonder if I could ask for an indulgence for
4 some extra time to complete my examination on this issue and
5 also provide a few moments for my colleague, Ms. Morris, to
6 ask ---

7 **COMMISSIONER HOGUE:** Yes, sure.

8 **MS. ERIN DANN:** Thank you.

9 Mr. Khoury, you mentioned the initial
10 bulletin that was provided on January 22nd, 2021.

11 Could we pull up CAN47839?

12 **--- EXHIBIT No. CAN047839:**

13 Countering Mis- and Disinformation:
14 Developing an Emerging Protecting
15 Democracy Agenda

16 **MS. ERIN DANN:** This is a document, for the
17 participants' benefit, that is new to the Party database. We
18 believe this is the bulletin that Mr. Dicaire, who we heard
19 from the House of Commons earlier this week, that he referred
20 to in his testimony on Tuesday.

21 If we scroll down, this is -- appears to be
22 an email that was sent from the Cyber Centre to the House of
23 Commons IT or security department. Is that right?

24 **MR. SAMI KHOURY:** Yes.

25 **COMMISSIONER HOGUE:** What's the date? I'm
26 sorry. I don't see the date.

27 **MS. ERIN DANN:** That's all right.

28 If we scroll up to the top, it's January ---

1 **COMMISSIONER HOGUE:** Okay.

2 **MS. ERIN DANN:** --- 22nd.

3 **MS. CAROLINE XAVIER:** Twenty twenty-one
4 (2021).

5 **MS. ERIN DANN:** Twenty twenty-one (2021).
6 Thank you.

7 And at the -- this was the initial bulletin
8 that was shared in relation to this campaign.

9 This bulletin, as I see it, does not indicate
10 that the Cyber Centre was aware or suspected that APT31 was
11 the threat actor behind this campaign. Is that the type of
12 information that would generally go into a bulletin like
13 this?

14 **MR. SAMI KHOURY:** No. This bulletin, we
15 share these bulletins either at the unclassified level or at
16 the Protected B level. The association of a campaign with a
17 nation state tends to be classified, so we would not put that
18 out in a bulletin that goes out by email.

19 So the maximum we would put is Protected B in
20 that case where we shared some, you know, IP details and
21 operational details that the House of Commons can then
22 operationalize to mitigate the incident from their end.

23 **MS. ERIN DANN:** And -- sorry.

24 **MS. CAROLINE XAVIER:** Sorry. If I could add.

25 And this email that would have been shared on
26 this date was because of the initial observations that we saw
27 from the IP addresses that came to our attention with the --
28 as per this email, parle.gc.ca, or send.gc.ca end point.

1 And so in sharing this with the House of
2 Commons IT security folks is with the intention of alerting
3 them of this, but it's the first of 12 reports that we issued
4 to them to be able to continue to raise their awareness of
5 the incident. But as well, this was then followed by
6 meetings that we had with them because when we do a cyber
7 security incident, there is very much an ongoing back and
8 forth of better understanding the incident because they own
9 the data and the information that they could share with us
10 the indicators of compromise, for example.

11 So this was the very first emails.

12 **MS. ERIN DANN:** Understood.

13 And at the time of that bulletin, I
14 appreciate why the information was not contained within the
15 bulletin, but at the time of the January 22nd bulletin, was
16 the Cyber Centre aware or did they suspect involvement by
17 APT31?

18 **MR. SAMI KHOURY:** We were aware.

19 **MS. ERIN DANN:** Okay. And I understand if we
20 -- we don't need to go back to the chronology, but I
21 understand that on February 17th there was a meeting with the
22 House of Commons Security and IT official, and at that
23 meeting, which was at a classified level, that's when the
24 information in relation to APT31 was shared; is that right?

25 **MR. SAMI KHOURY:** Yes.

26 **MS. CAROLINE XAVIER:** That is correct.

27 **COMMISSIONER HOGUE:** Can you just remind me
28 on which date the ---

1 MS. ERIN DANN: Yes.

2 COMMISSIONER HOGUE: --- incident ---

3 MS. ERIN DANN: So this initial bulletin was
4 sent on January 22nd, 2021, was that the same day, or a day -
5 - the same day as the incident was detected by the Cyber
6 Centre?

7 MR. SAMI KHOURY: Yeah.

8 MS. CAROLINE XAVIER: That is correct. It
9 would be worth, if you don't mind, putting back the
10 chronology ---

11 MS. ERIN DANN: The chronology?

12 MS. CAROLINE XAVIER: --- because it really -
13 --

14 MS. ERIN DANN: Certainly.

15 MS. CAROLINE XAVIER: --- does demonstrate
16 that.

17 MS. ERIN DANN: So we -- that's
18 CAN.SUM.27.001. And if we go to page, I believe, 2 ---

19 MS. CAROLINE XAVIER: Yeah.

20 MS. ERIN DANN: --- oh, there we go.

21 MS. CAROLINE XAVIER: Yeah.

22 MS. ERIN DANN: The top of that page. So the
23 first entry is the January 22nd incident. That's when the
24 first incident bulletin was sent, and I understand that is
25 the day that the Cyber Centre detected or received
26 information in relation to the incident.

27 MR. SAMI KHOURY: Yes, we received a tip from
28 a trusted partner, and as soon as we validated it, we then

1 sent the email. That's why the email went out at 7:30 in the
2 evening, because we felt an urgency ---

3 **COMMISSIONER HOGUE:** So it was on the same
4 day?

5 **MR. SAMI KHOURY:** The same day, yes.

6 **MS. ERIN DANN:** What was -- then we have --
7 if we scroll further, there's a number of other incident
8 bulletins, I believe, that are sent out, and there's further
9 communications that we see between January 22nd and the
10 meeting on February 17th. What was the purpose of sharing
11 the information, the classified information on February 17th
12 about APT31 with the House of Commons, and why wasn't that
13 done earlier?

14 **MS. CAROLINE XAVIER:** So it's important to
15 note that, given the dates that we're dealing with, we were
16 at the peak of COVID. I only make mention of this for the
17 reasons that many public servants were working remotely from
18 home, and we as a 24/7 organisation doing what we do, we
19 still had individuals working physically in the office, doing
20 exactly what we want them to do in terms of ensuring Canada's
21 security. And when this information came to our attention,
22 it came in a classified space, where we have access to that
23 in our physical building. And when we sent this at the
24 Protected B level, as Sami highlighted, to our House of
25 Commons' colleagues, we got a -- the response as per the
26 chron. But what we recognise is it was continue -- it was
27 really important to continue to educate them on the fact that
28 it was a state actor and really understanding, you know, to

1 take this incident potentially quite seriously, even though,
2 as Sami highlighted, it was reconnaissance. But because
3 we're dealing with a state actor that we've been discussing
4 this morning that was -- is quite sophisticated, we wanted to
5 ensure that they had as much understanding about the actor,
6 and that was the intent of that February 17th meeting. So it
7 was a big deal to be able to bring people physically into our
8 -- into a facility, you know, metres apart, while trying to
9 share with them a classified information, wearing masks, all
10 that we needed to do during that timeframe to be able to
11 ensure that the House of Commons understood this was a state
12 actor at play.

13 **MS. ERIN DANN:** And did you expect that the
14 House of Commons would take different or additional action
15 based on that information? What was the expectation ensuring
16 ---

17 **MS. CAROLINE XAVIER:** The expectation was
18 very much to continue to follow the recommendations that we
19 shared with them in all of the various reports that we gave
20 them, the 12 reports during the period from January all the
21 way to November of 2021. And that if -- you know, more
22 importantly, was to continue to have that ongoing engagement
23 with them, because when we're dealing with a cyber incident,
24 whether it's this one or any incident, we always need to have
25 an ongoing engagement with the service provider, because that
26 is how we both learn more about the incident and the actions
27 that an actor might be taking. And because we had the
28 limited lens of the @.parl blah, blah, blah, they're the ones

1 that had really the more of the information because it was
2 happening in their infrastructure. So it's only when we
3 shared with them a series of IP, we didn't even know who they
4 were. It's only them that could confirm who that was, for
5 example.

6 **MS. ERIN DANN:** And so I understood also in
7 that February 17th meeting, they were able to share the
8 identity of the -- some of the parliamentarians who would
9 have received the email, or who the campaign was targeted at?

10 **MS. CAROLINE XAVIER:** That's correct.

11 **MS. ERIN DANN:** All right. And I wanted to -
12 - you mentioned the 12 bulletins that are outlined on the
13 chronology. In each of those bulletins, when they're sent to
14 the House of Commons, is it identified that they all relate
15 to the same incident or the same threat actor? Would that
16 have been apparent in each of the bulletins?

17 **MR. SAMI KHOURY:** Yes. We assign a case
18 number to every incident, and that's how we keep track of the
19 chronology of events that has to do with an incident.

20 **MS. ERIN DANN:** If we go to page 6 of the
21 chronology, there is an entry for June 3rd, 2021, which
22 indicates that CSIS conveyed that all targeted
23 parliamentarians were members of IPAC to the House of
24 Commons. Was that information conveyed also to the Cyber
25 Centre?

26 **MS. CAROLINE XAVIER:** So from the date that
27 we received the incident of concern, we engage our S&I
28 partners. So we went directly to the House of Commons, but

1 even in that meeting of February 17th, CSIS colleagues, for
2 example, were also present as part of that meeting. And so
3 that ongoing engagement with our S&I partners, especially
4 CSIS, is one that is, on a regular basis, an activity we do
5 because in keeping with what Alia was explaining earlier to
6 la commissaire, is that there's a recognition that sometimes
7 what we start to understand comes from a foreign end, but
8 then can quickly become a domestic Canadian end. And as we
9 outlined it earlier, our role stops when the foreign end is
10 no longer the primary concern.

11 **COMMISSIONER HOGUE:** But someone is -- can
12 take over?

13 **MS. CAROLINE XAVIER:** That's the whole intent
14 is that the partner, one of our domestic partners, will then
15 take over.

16 **MS. ERIN DANN:** Were you involved in any
17 discussions at the time of this incident, so back in 2021,
18 with any of your partners about briefing or informing the
19 targeted parliamentarians about this incident and that a
20 foreign state actor was suspected to be behind it? Was that
21 a -- were you part of those discussions?

22 **MS. CAROLINE XAVIER:** I can't say that we
23 were directly part of discussions that might have said, oh,
24 we should brief parliamentarians, if that's what your
25 question is. I'm -- I think that's what your ---

26 **MS. ERIN DANN:** Yes.

27 **MS. CAROLINE XAVIER:** --- question is. What
28 I can say is that, again, as part of an incident, there's a

1 lot of back and forth. The priority during an incident is
2 preventing the compromise, and that was what we were aiming
3 to achieve, and we did. We mitigated the risk, and that is
4 the priority before anything else. Then, you know, in the
5 engagement that we continue to have with service providers,
6 which is very much who we interact with as a Cyber Centre and
7 as an organisation, we work through the IT specialists,
8 through the chief information security officers because
9 they're the ones that have the relationship with the end
10 user. And so when we provide them with information, the
11 expectation is that they'll take that and do with it what
12 they feel is appropriate. And this is again why it's so
13 important that we work with our other domestic colleagues,
14 like our CSIS colleagues, who also could be the ones who
15 necessarily take steps with an end user, if they feel and
16 deem it appropriate. But collectively as a security and
17 intelligence community, we do work together to be able to do
18 -- to offer briefings to parliamentarians, to offer briefings
19 to various private sector partners. This is part of what we
20 do already, irrelevant of whether there was an incident or
21 not. So these are the types of conversations we do have on a
22 regular basis.

23 **MS. ERIN DANN:** All right. And just to be
24 clear, the House of Commons would not have had the authority
25 to share the information about APT31 without seeking, for
26 example, your permission, or -- not permission, but would
27 need some further authorisation to be able to share that
28 classified information?

1 **MS. CAROLINE XAVIER:** That's correct, because
2 as we are looking at this, this is an incident that took
3 place in 2021, and now we're in 2024. Obviously, things have
4 evolved and we're looking at it in a 2024 lens versus the
5 lens we would have had in 2021. And as Sami highlighted, the
6 host state nation APT31 at that time was very much a
7 classified activity or something we -- would remain
8 classified, which is why we did the in-person conversation
9 with them. It's more apparent now because we're in a
10 different world for sure.

11 **MS. ERIN DANN:** And ---

12 **MR. SAMI KHOURY:** I think the ---

13 **MS. ERIN DANN:** Sorry.

14 **MR. SAMI KHOURY:** The incident was mitigated.
15 That's our priority. First job is mitigate the incident. We
16 needed to give context to the House of Commons IT team that
17 there would be a lot of back and forth, that there would be a
18 lot of questions asked, because we want to understand exactly
19 what happened, whether there are any second order, third
20 order implications for that tracking link. So why are we so
21 engaged with the House of Commons? It's because in our back
22 -- the back of our mind, APT31 is there. And that's why we
23 had to tell them about the context, so that they can
24 appreciate our curiosity behind the incident.

25 **MS. ERIN DANN:** Thank you very much. And
26 I'll just ask, is there any -- this incident happened in
27 2021. We know in 2023, Chief, you issued a Chief's Directive
28 in relation to information that may be relevant to threats to

1 parliamentarians or their family. If an incident like this
2 were to occur today, would it fall within that -- the type of
3 information that is covered by that directive?

4 **MS. CAROLINE XAVIER:** It would. However, the
5 directive wasn't required for our authorities and our actions
6 to follow exactly what the directive said. We were already
7 actually acting in that manner. I just felt it was important
8 to also ensure that from a public perspective, people
9 understood that this was a directive that we put in place,
10 but it wasn't something that was necessary, given the way our
11 authorities work.

12 So whenever we come across anything that is
13 linked to a Canadian, we already always ensure that that
14 intelligence makes it ways to the necessary partners to be
15 able to take the necessary action.

16 **MS. ERIN DANN:** All right. And finally, I'll
17 last take you to CAN_38232. And this is a CSIS Intelligence
18 Assessment.

19 **--- EXHIBIT No. CAN038232.0001:**

20 Canada towards 2028 - IA 2022-23/90

21 **MS. ERIN DANN:** If we could go to page 28 of
22 that document?

23 You'll see it's largely redacted, but it's
24 talking about -- this is a document that is speaking to --
25 I'm sorry, it's PDF page 28. I'm sorry, Mr. Court Operator.

26 I just wanted to have your comments on --
27 yes, to the bottom of the page. The unredacted piece there.

28 On cyber investigations there's an indication

1 in this Intelligence Assessment that:

2 "The Canadian S&I community must
3 shift from need-to-know to need-to-
4 share for reporting related to cyber
5 activity with a national security
6 nexus. Domestic victim engagement
7 must be executed in a manner that
8 supports collection and reporting
9 requirements of all stakeholders."

10 Is that a perspective that CSE shares? And
11 why or why not?

12 **MS. CAROLINE XAVIER:** No, absolutely it's a
13 statement that we support and share. That is why we put out
14 so many publications that we do. You know, we started this
15 from the perspective of always ensuring that signals
16 intelligence helps inform cyber security and cyber defence,
17 and that then leads to the publications that we put out for
18 the various audiences that we aim to educate.

19 We also recognize that need to share in the
20 form of offerings and services that the Cyber Centre
21 provides, including recommending that people subscribe to our
22 services so they need -- so they get the need-to-know
23 information sooner, because we want to be able to share it as
24 quickly as we can.

25 **MS. ERIN DANN:** Thank you. On the topic of
26 subscribing to services, I'd like to hand over the
27 questioning to my colleague, Ms. Morris, who will be asking
28 about some public engagement and engagement with political

1 parties.

2 I believe Ms. Morris just requires 10
3 minutes, if that's ---

4 **COMMISSIONER HOGUE:** That's fine.

5 **MS. ERIN DANN:** Thank you.

6 **COMMISSIONER HOGUE:** Thank you.

7 **MS. SIOBHAN MORRIS:** Good morning.

8 **MS. CAROLINE XAVIER:** Bonjour.

9 **MS. SIOBHAN MORRIS:** Good morning,
10 Commissioner.

11 **COMMISSIONER HOGUE:** Good morning.

12 **--- EXAMINATION IN-CHIEF BY MS. SIOBHAN MORRIS:**

13 **MS. SIOBHAN MORRIS:** So as my colleague
14 mentioned, my name is Siobhan Morris, Commission counsel.

15 Ms. Xavier, you mentioned earlier that CSE
16 publishes several different types of cyber security guidance
17 and other publications meant for various audiences. So I'd
18 like to talk about that, but before I get into that, I just
19 want to ask a few questions about CSE and the Cyber Centre's
20 efforts to engage with the public more generally and their
21 public profile.

22 So on the CSE's website, under the "Careers"
23 page, there's an advertisement that describes CSE as "The
24 most important organization that you've never heard of."

25 So acknowledging the humour in that, do you
26 feel that Canadians have a good awareness of what CSE and
27 what the Cyber Centre and what they do, and is it important
28 that they have that awareness?

1 **MS. CAROLINE XAVIER:** So thank you for the
2 question, because I'm really proud about the work we do in
3 our organization and the people that are behind all of the
4 efforts. And that campaign slogan that you mentioned is --
5 was done intentionally to kind of be a little bit tongue in
6 cheek, because we recognize that often we're confused with
7 CSIS, for example, versus CSE, but that our roles and
8 mandates are very different and distinct and very
9 complementary, actually.

10 And so it is important that Canadians
11 continue to understand who we are, and we work hard at that,
12 especially with the role of the Cyber Centre, as this tool
13 and this service offering to Canadians and various other
14 partners that we interact with.

15 And so when we -- you know, when we put out -
16 - when we do things with regards to recruitment or we do what
17 we do in terms of the mis- and disinformation campaigns that
18 we run on behalf of the Government of Canada, or when we do
19 the community engagements that we do with high schools and
20 various other outreaches that we do, we do it with the intent
21 of continuing to educate people about the work we do and the
22 importance of the work we do linked to the foreign
23 intelligence mandate that we have in particular, and really
24 try to remind them that we are not targeting Canadians and
25 that we're here to work in that foreign space in particular.

26 And again, just really proud of the fact that
27 as an organization, given the types of work we do, people are
28 really interested in joining us. And so, you know, because

1 the type of missions we run are things that are really unique
2 to our mandate and allows us to really do what is the best
3 that we do for Canada.

4 **MS. SIOBHAN MORRIS:** Thank you. So you have
5 all mentioned in one way or another throughout your testimony
6 that a large part of CSE's work is necessarily not visible to
7 the public, or is highly classified. So can you speak a
8 little bit about how this impacts CSE's ability to engage
9 with public and foster resilience to cyber threats among
10 Canadians?

11 **MS. CAROLINE XAVIER:** I'd say that despite
12 the fact that a large part of what we do needs to remain
13 classified to be able to do our job at the most effective
14 way, and in particular, because some of the intelligence we
15 have in our possession is intelligence of other partners,
16 where we all have an agreement and understanding that we need
17 to protect that intelligence with the standards that we
18 uphold.

19 But a big part of that mandate that we have
20 is that resilience, cyber resilience setting mandate. It's
21 linked to our section 17 of our Act, of trying to bring that
22 information assurance, that cyber security awareness, to the
23 average Canadian. And, you know, this goes back to the point
24 I made earlier about the team sport element. We recognize
25 that we all have a role to play in ensuring that we're cyber
26 smart.

27 And, you know, we have partnerships, for
28 example, with a company called CIRA, where we put out -- they

1 have a Canadian Shield application we highly recommend that
2 all Canadians download on their personal devices to be able
3 to help protect their cellphones, for examples.

4 We have a campaign we run every October that
5 is totally geared to average Canadians via our cyber.gc.ca
6 website really recognizing that cyber security is something
7 that needs to be intergenerational and really be something
8 that everybody pays attention to when it comes to the hygiene
9 of their cyber security and really promoting that health
10 element.

11 **MS. SIOBHAN MORRIS:** Thank you. And on the
12 topic of Canadian Shield, could the Court Operator please
13 pull up CAN_19525, please, and scroll to PDF page 12?

14 **COURT OPERATOR:** Could you repeat that
15 document ID, please?

16 **MS. SIOBHAN MORRIS:** CAN_19525. The full doc
17 ID number might helpful. There's a zero in there. It's
18 CAN_019525.

19 **--- EXHIBIT No. CAN 019525:**

20 Countering Mis- and Disinformation:
21 Developing an Emerging Protecting
22 Democracy Agenda

23 **COURT OPERATOR:** Just a minute.

24 **MS. SIOBHAN MORRIS:** So maybe while we're
25 waiting I can just kind of describe what the document says,
26 but it's a document that describes -- oh, here we go --
27 various efforts to counter mis- and disinformation on the
28 part of CSE.

1 So at PDF page 12, so we see Canadian Shield
2 is mentioned in the context of suggesting maybe it could be
3 used to help with political parties. So maybe you could tell
4 us just a little bit more about this tool and where this
5 proposal stands, so whether not it's actually been
6 implemented to assist political parties.

7 **MS. CAROLINE XAVIER:** So I'm not sure I
8 personally recognize this document because -- I don't know if
9 I know exactly where it comes from. But I think it's
10 important to note that, as I mentioned earlier, in the work
11 that we do within, especially an electoral period, we want to
12 ensure that there's as much awareness of tools and protection
13 elements that are available to candidates, political parties,
14 politicians, and information -- electoral infrastructure
15 individuals.

16 And so Canadian Shield, as I mentioned, is
17 something that is out there that anybody could use. So a
18 politician who wants to help protect their personal device
19 absolutely can use that as part of the tools of their
20 toolkit. We don't just advertise it to be used purely by
21 politicians or purely by X-audience. Really it's something
22 we promote for anybody else who would be interested in
23 wanting to ensure that they're doing all they can to protect
24 themselves.

25 I don't know, Sami, if you want to add more?

26 **MR. SAMI KHOURY:** If I can add a bit of
27 context?

28 So earlier in my testimony we talked about

1 the 6.6 billion blocks that the government does on a daily
2 base. All that information, everything we learn about these
3 blocks, about these malicious sources of cyber activity, we
4 distil it down and we share it in a threat feed that
5 organization can subscribe to and defend their own network
6 with the information that we know.

7 We also share that with CIRA, the Canadian
8 Internet Registry Authority, and they include that in an app
9 that you can download from the app store, and you can install
10 on your personal phone, you can install on your home
11 computer, but essentially, you benefit from all the
12 protections that we have put out. Whether you're an
13 organization or a private citizen, you can protect yourself
14 because if you try to go to a malicious website or -- sorry.
15 If you try to go to a website that we know is malicious, it
16 will be blocked by Canadian Shield.

17 The commercial version is called Canadian
18 Armour, and so for organizations if they want to subscribe to
19 it, they have a nominal fee to pay, but for Canadians it is a
20 free service by CIRA. And all we do is we share with CIRA
21 the malicious indicators that they can then integrate into
22 the application, and that's live, 24 hours a day, seven days
23 a week.

24 The other thing I'll say is during the
25 pandemic, we made it available for free to all of the
26 healthcare institution, because we knew that during the
27 pandemic there was probably a higher likelihood of fraud or
28 scams that would try to take advantage of the pandemic. So

1 we made the tool -- in partnership with CIRA, we made the
2 tool available for free to the healthcare sector.

3 **MS. SIOBHAN MORRIS:** Thank you.

4 And one more brief question before I'm out of
5 time. Ms. Xavier, you mentioned that all of these public
6 tools and publications are geared towards various audiences.
7 One of those audiences is clearly the Canadian public, but
8 can you speak very briefly about who these publications are
9 intended for, and how you ensure they reach their intended
10 audience?

11 **MS. CAROLINE XAVIER:** Yes. So very much --
12 because we're a technical authority on cybersecurity,
13 sometimes some of these publications that we put out or the
14 alerts that we put out could be geared towards a technical
15 audience; for example, a chief information security officer,
16 or a CIO.

17 Having said that, we really recognize that we
18 want our website to be tools that are available to a very --
19 a variety of audiences. So the website is broken down to
20 depending on the type of person you are where you might go on
21 the website, whether you're an average Canadian citizen, to
22 potentially a person who's looking to protect something from
23 a technical perspective, to a small/medium enterprise, or a
24 larger organization. So we really try to ensure that we're
25 looking at various audiences, including our critical
26 infrastructure partners.

27 So that is intentional because we recognize
28 that we have a role to play to continue to raise that cyber

1 resilience at a national level, and not only with critical
2 infrastructure, for example, with whom -- our main partners
3 for us.

4 **COMMISSIONER HOGUE:** And are you promoting
5 this tool only on your website, or you're also using other,
6 forum or...?

7 **MS. CAROLINE XAVIER:** No. We use -- the
8 website is a great mechanism, but having said that,
9 especially during our cyber awareness month campaign, there
10 are different ways in which the cyber.gc.ca website is put
11 out. We have several, like, almost 20 channels of social
12 media that we also use to put out our website.

13 In addition to that, we also promote our
14 publications through the various associations, because we
15 recognize associations have an opportunity to get to end
16 users in a different way. So there are various ways in which
17 we ensure that it's well known.

18 I don't know, Sami, if you might have...

19 **MR. SAMI KHOURY:** Yeah, I was going to say we
20 have two channels, primary channel, we have Get Cyber Safe,
21 which is a public website for Canadians to go to and there
22 was all sorts of information there. That touches more
23 Canadian, how to configure a phone, a computer, those kind of
24 things. There's the official website of the Cyber Centre,
25 the cyber.gc.ca. It's more geared, as the Chief pointed out,
26 to more specialized community; academia, large businesses,
27 government, small/medium businesses, with a little bit more
28 technical information. And often these get amplified if we

1 issue a publication that we need to get attention, it will be
2 amplified maybe with a media release or with -- I'll give an
3 interview if necessary, or I'll speak about it at the
4 conference.

5 So we are out there also promoting the
6 publication, it's not simply passively posting them on our
7 website. But we also, as the Chief pointed out, rely on
8 partnerships to highlight the fact that something else --
9 something new came out and you might want to pay attention to
10 that document. So we will send out a bulletin to
11 communities, specific communities, to say we just issued a
12 publication on X or on Y, please pay attention to it.

13 **MS. SIOBHAN MORRIS:** Thank you. That's very
14 helpful. Those are all my questions.

15 **COMMISSIONER HOGUE:** Thank you.

16 So it's already 11:00, so we'll take the
17 break. A 15-minutes break, and we'll start the cross-
18 examination right after.

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

20 The sitting of the Commission is now in
21 recess until 11:15 a.m.

22 --- Upon recessing at 11:02 a.m.

23 --- Upon resuming at 11:18 a.m.

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

25 This sitting of the Foreign Interference
26 Commission is now back in session.

27 The time is 11:18 a.m.

28 **COMMISSIONER HOGUE:** So the first to conduct

1 cross-examination is counsel for Michael Chong.

2 Maître van Ert.

3 --- MR. SAMI KHOURY, Resumed:

4 --- MS. CAROLINE XAVIER, Resumed:

5 --- MS. ALIA TAYYEB, Resumed:

6 --- CROSS-EXAMINATION BY MR. GIB van ERT:

7 MR. GIB van ERT: I'll ask the Court Operator
8 to pull up CAN8242, please.

9 I'll be directing my questions to the Chief,
10 but, Chief, if your colleagues feel that they have something
11 that they could helpfully contribute, by all means.

12 [No interpretation]

13 This is not your document, but it does refer
14 to CSE. I'll just give you the context first and then I'll
15 show you the bits I want to ask you about.

16 So in the first two -- this is called MD,
17 which I believe is Ministerial Directive, on Accountability.
18 I believe it's a CSIS document. And it starts by saying:

19 "In the case of Mr. Chong [my
20 client], CSIS considers that it met
21 its duty to advise the Minister by
22 way of disseminating the relevant
23 intelligence reports and assessments
24 which outlined the potential threat
25 activity directed at Mr. Chong and
26 his family."

27 I should say, by the way, there's no date on
28 this, but it appears to be about May 2023.

1 And then the next bullet just to
2 contextualize this again:

3 "Further, through issues management
4 notes, CSIS identified the Deputy
5 Minister of Public Safety, the
6 Minister and the NSIA of the plan to
7 provide a personal security briefing
8 given the nature of the threat
9 information."

10 And then if you'll go, Mr. Court Operator,
11 please, to the second page, the third bullet. There we are.

12 "In the case of Mr. Chong, CSIS
13 considers that it met its duty to
14 advise the Minister by way of
15 disseminating the relevant
16 intelligence reports and assessments
17 which outlined the potential threat
18 activity directed at Mr. Chong and
19 his family."

20 Now, we're coming to the bit that I wanted to
21 ask you some questions about, and it's the next bullet.

22 If you'll just go up a little bit in the
23 document, please. There we are.

24 So the redaction:

25 "Prior to May 2021, CSIS shared
26 intelligence reports that discussed
27 PRC foreign interference efforts
28 against Mr. Chong. These reports

1 were shared to named senior
2 officials, including the Clerk of the
3 Privy Council, the NSIA and others at
4 PCO, Deputy Minister of Foreign
5 Affairs and others at Global Affairs,
6 Deputy Minister of National
7 Defence..."

8 I understand that was Jody Thomas at the
9 time. Do you recall that?

10 **MS. CAROLINE XAVIER:** It's possible. I was
11 not the Chief of CSE at the time of what I think is the date
12 of this document, as you said, because you're talking about a
13 period of 2021.

14 **MR. GIB van ERT:** Yes, I think that's right.
15 I believe it was Shelly Bruce at that time.

16 **MS. CAROLINE XAVIER:** Correct.

17 **MR. GIB van ERT:** You were with the
18 Establishment, though, at that time?

19 **MS. CAROLINE XAVIER:** I was not with the
20 Establishment at that time.

21 **MR. GIB van ERT:** Oh, I see. All right.
22 Were your colleagues with the Establishment
23 at that time?

24 **MS. ALIA TAYYEB:** Yes, I was.

25 **MS. CAROLINE XAVIER:** They would have been,
26 yes.

27 **MR. GIB van ERT:** You were.

28 All right. Thank you.

1 Well, if you can -- are you able to say
2 whether the Deputy Minister of National Defence was Ms.
3 Thomas at that time?

4 **MS. ALIA TAYYEB:** I mean, I think because I
5 don't know the date of this report, it would not be ---

6 **MR. GIB van ERT:** No, no. We're talking
7 about early 2021.

8 **MS. ALIA TAYYEB:** I don't recall the dates of
9 her tenure.

10 **MR. GIB van ERT:** All right. We'll go on.
11 So the Deputy -- just let me clarify this.
12 The Establishment does, in fact, report to the Minister of
13 National Defence. Have I got that right?

14 **MS. CAROLINE XAVIER:** It does, correct.

15 **MR. GIB van ERT:** All right. Thank you.

16 **MS. CAROLINE XAVIER:** We are part of that
17 portfolio.

18 **MR. GIB van ERT:** Okay. And then it says,
19 "the Chief of CSE, Ms. Bruce, and others at CSE" -- I'll come
20 back to that in a moment, but just to finish, "the Minister
21 and Deputy Minister of Public Safety and others at Public
22 Safety."

23 So on the point about the CSE Chief, it was
24 Ms. Bruce at the time.

25 Are you able to tell the Commission whether
26 Ms. Bruce did, indeed, receive the document as CSIS is
27 telling us here?

28 **MS. CAROLINE XAVIER:** I can't confirm on --

1 directly on behalf of Ms. Bruce, but what I can say is that
2 as a member of the S&I community, it's highly probable that a
3 Chief of the Communications Security Establishment who is
4 partners of other colleagues that are highlighted on this
5 document would have probably received that document.

6 But with all confirmation, only Shelly could
7 really tell you for sure.

8 **MR. GIB van ERT:** All right. And it says
9 that others at CSIS, it doesn't say who, also received the
10 document.

11 Ms. Tayyeb, do you know of others at CSE that
12 received these products?

13 **MS. ALIA TAYYEB:** So I can't confirm the
14 specificity of these documents. I don't have a record of
15 those. I don't have a record of those.

16 I don't know what the documents are in
17 particular. I could -- but to be helpful to you, maybe just
18 elaborate that -- and as the Chief mentioned, as members of
19 this S&I community, we are often -- we will often be the
20 recipients of reports --

21 **MR. GIB van ERT:** Yes.

22 **MS. ALIA TAYYEB:** --- particularly as they
23 relate to foreign interference because that is equally
24 something that CSE is looking into, so it would be highly
25 likely that we would have received those reports, probably
26 myself, others who would be involved in our foreign
27 intelligence mandate specifically.

28 **MR. GIB van ERT:** You think you probably

1 received them but you don't recall right now?

2 **MS. ALIA TAYYEB:** Correct.

3 **MR. GIB van ERT:** All right.

4 I would ask, Chief, that you please confirm
5 afterwards with the Commission through your counsel that Ms.
6 Bruce received these intelligence reports from early 2021 and
7 I'd ask Ms. Tayyeb to also check her records and confirm
8 whether or not she received them, please.

9 **MS. ALIA TAYYEB:** Yes.

10 **MR. GIB van ERT:** Thank you.

11 **MS. ALIA TAYYEB:** No problem.

12 **MR. GIB van ERT:** And you're not aware, then,
13 of those these other people at CSE may be that received these
14 reports according to CSIS.

15 **MS. ALIA TAYYEB:** Not specifically, but what
16 I can say is any reports that have to do with foreign
17 interference that may engage our mandate would be sent to the
18 areas of the establishment that would be working on that
19 topic.

20 **MR. GIB van ERT:** All right. Are you aware
21 of any difficulties that CSE had in receiving these reports
22 that CSIS says it sent to Ms. Bruce and others at your
23 agency?

24 **MS. CAROLINE XAVIER:** It would be worth
25 perhaps having Alia describe to you, just again to be
26 helpful, how we manage intelligence within our organization,
27 because we clearly know how to track intelligence that is
28 coming into our establishment, or that we're responsible for.

1 Is that worth doing for you?

2 **MR. GIB van ERT:** Well, my difficulty is just
3 that I'm very short on time.

4 **MS. CAROLINE XAVIER:** Okay.

5 **MR. GIB van ERT:** So really what I need to
6 know is if you are aware of any difficulty, for instance the
7 people who received the documents, or who were meant to
8 receive them couldn't access them because they couldn't log
9 in to CTSN, or someone was on vacation, or someone was on
10 leave. Are you aware of anything like that?

11 **MS. CAROLINE XAVIER:** No.

12 **MR. GIB van ERT:** Thank you.

13 Now, to be clear, these were -- the document
14 tells us, and I want you to confirm if you can, these are
15 CSIS products, not CSE products. Is that right?

16 **MS. CAROLINE XAVIER:** Correct.

17 **MR. GIB van ERT:** Thank you. All right.

18 Do you know whether anyone at the
19 establishment took steps to make the Minister of National
20 Defense aware of these intelligence reports that CSIS was
21 sharing about Mr. Chong?

22 **MS. CAROLINE XAVIER:** I don't know that we
23 can confirm that.

24 **MS. ALIA TAYYEB:** No, and I think I cannot
25 confirm that for certain, because I don't ---

26 **MR. GIB van ERT:** May I ask you, you can't
27 confirm it because of national security reasons or just
28 because you don't know?

1 **MS. ALIA TAYYEB:** No, I don't know the
2 answer. I don't know what reports are being referred to
3 specifically.

4 **MR. GIB van ERT:** Right ---

5 **MS. ALIA TAYYEB:** What I could ---

6 **MR. GIB van ERT:** Sorry to interrupt, but it
7 says prior to May 2021, so we're talking about reports from
8 CSIS prior to May 2021. I can also tell you that we now know
9 that there were three such reports. That's in a document
10 that's been filed. Does that help you at all?

11 **MS. ALIA TAYYEB:** No, it does not.

12 **MR. GIB van ERT:** All right. Well, in that
13 case let me ask you this, we see that the Deputy Minister of
14 National Defence, according to CSIS, received these
15 documents. Does -- I understand that CSIS reports to the
16 Minister -- sorry, that CSE reports to the Minister. Do you
17 also deal with the Deputy Minister?

18 **MS. CAROLINE XAVIER:** We do.

19 **MR. GIB van ERT:** All right. So if CSIS had
20 already copied the Deputy Minister, would that relieve CSE of
21 its duty to do more, because the Deputy already had it?

22 **MS. CAROLINE XAVIER:** Possibly. But it's
23 really hard to answer a hypothetical without really
24 understanding what might have truly happened.

25 **MR. GIB van ERT:** Well, I'm trying not to ask
26 ---

27 **MS. CAROLINE XAVIER:** Yeah.

28 **MR. GIB van ERT:** --- hypotheticals, but I

1 understand that you just don't know enough to say.

2 **MS. CAROLINE XAVIER:** It's really ---

3 **MR. GIB van ERT:** All right.

4 **MS. CAROLINE XAVIER:** --- challenging. Yes.

5 **MR. GIB van ERT:** Understood. Well, look,
6 let me move on then.

7 I'll ask the Court Operator to turn up
8 CAN27809.

9 **--- EXHIBIT No. CAN027809:**

10 Steps Taken to ensure Awareness of
11 Intelligence Reports Related to
12 Members of Parliament

13 **MR. GIB van ERT:** If you could go to the
14 second page, please? This is a document that's actually
15 referred to in your witness statement, Ms. Xavier. I believe
16 you were taken to it. In fact, perhaps I ought to show you
17 the witness statement first. I'm sorry, Mr. Court Operator,
18 could you go to WIT122 first and we'll come back to this
19 afterwards? It's paragraph 41, please -- 40 and 41.

20 And Ms. Xavier, I think you spoke to this
21 point with Ms. Dann earlier. This is where counsel showed
22 you the document I'm about to show you, which is a Jody
23 Thomas memo to the Prime Minister. And you explained at
24 paragraph 41 that, yes, there was a direction to inform
25 Ministers in the centre about threats to parliamentarians,
26 but that's what CSE was doing already. And I think you told
27 Ms. Dann that as well.

28 So that's the context of this. I take it

1 that you were already in that habit. Is that right?

2 **MS. CAROLINE XAVIER:** That's correct.

3 **MR. GIB van ERT:** Thank you. So if you'll go
4 back, Mr. Operator, to the previous document 27809, page 2?
5 Yes, thank you.

6 And it says at the second bullet point, this
7 is Ms. Thomas to the Prime Minister, in -- I believe it's in
8 May of 2023, if I'm not mistaken:

9 "You recently issued clear direction
10 to ensure that you, your office, and
11 Ministers, are proactively made aware
12 of intelligence reports related to
13 national security threats to
14 Parliamentarians and their families."

15 So and then at paragraph 3, bullet 3:

16 "Public Safety portfolio agencies and
17 CSE are developing and implementing
18 internal measures to
19 ensure...Ministers are proactively
20 made aware..."

21 But I take it you already had these measures;
22 you didn't need to do anything more. Is that right?

23 **MS. CAROLINE XAVIER:** From a CSE perspective
24 that is correct, in that we did not feel that we had any new
25 measures put in place because we already have mechanisms to
26 track intelligence and who reads it. We have client
27 relationship officers that we use to be able to ensure that
28 intelligence gets to Ministers or various other readers who

1 have the need to know of a particular subject to ensure that
2 they have intelligence as part of the information at their
3 fingertips to be able to take the necessary decisions that
4 they need. It offers an additional insight.

5 And so, in this memo it is clear that we are
6 part of the security and intelligence community, and so the
7 intent here is for us as a member of that security
8 intelligence community to ensure that we're doing whatever we
9 can and our part to continue to enhance that -- those
10 measures. And that's in the spirit of this, that we might
11 have had less to do than some of our colleagues, but we
12 potentially could still be helpful to them in terms of the
13 practices we employ, the tools we employ, so that they can
14 know how they could leverage some of the ways in which we do
15 tracking of intelligence or the practices that we already had
16 in place.

17 **MR. GIB van ERT:** Chief, the thrust of this
18 memo seems to be that CSIS and CSE somehow hadn't been doing
19 enough to inform the centre about threats to
20 parliamentarians, or to inform Ministers. And what I want to
21 suggest to you is -- and just speaking for CSE, that doesn't
22 appear to be the case at all. I don't see from the documents
23 we have been shown, from the statements that we have been
24 given, I don't see that CSE failed in any of its obligations
25 to inform Ministers or to inform the centre at all. Do you
26 agree with me about that?

27 **MS. CAROLINE XAVIER:** I would agree in the
28 sense that I do feel that as an agency we continue to do our

1 role really well and effectively on ensuring that
2 intelligence gets to those that should have the intelligence
3 for the decisions they need to take. And that we do a good
4 job of really tracking that and ensuring we know who's done
5 what with the intelligence.

6 **MR. GIB van ERT:** And Court Operator, if
7 you'll just go, please, to the bottom bullet point?

8 Ms. Thomas says this, and I'm going to try to
9 work my way through it. It is Ottawa speak of the highest
10 order:

11 "Recommendations are being developed
12 on a more systematic and
13 comprehensive approach to proactively
14 elevate key intelligence reports,
15 while protecting the privacy rights
16 of individuals of interest to threat
17 actors. This includes developing
18 processes and advice to enhance the
19 efficiency and accountability
20 framework related to the
21 dissemination and use of intelligence
22 in support of strategic decision-
23 making, including by better tracking
24 readership and more effectively
25 flagging specific reports for the
26 Ministers' attention."

27 I'm going to suggest to you that whether
28 those recommendations for frameworks, and accountability, and

1 efficiency were required for some other agency, they weren't
2 required for CSE. It already had in place what it needed to
3 do.

4 **MS. CAROLINE XAVIER:** We definitely do
5 already have in place what we needed to do. But it's, you
6 know, from the perspective of the National Security and
7 Intelligence Advisor, she looks at us collectively as a
8 security and intelligence community, and so this is why it's
9 not surprising that a memo of this nature we would be
10 included in it.

11 **MR. GIB van ERT:** Well, it is a little
12 surprising though in my suggestion to you, because Ms. Thomas
13 seems to be telling the Prime Minister that the national
14 security community generally let the Prime Minister and the
15 Ministers down. But everything that I see indicates that CSE
16 was knocking on doors all over town.

17 We saw the list a moment ago, three different
18 reports before the IMU in May, and then the July IA, which I
19 didn't mention to you comes after that. They are trying to
20 ring the bell, you're hearing the bell, but the bell is not
21 being heard elsewhere. What do you say to that?

22 **MS. CAROLINE XAVIER:** I don't know that I
23 want to comment about where other bells are being heard. I
24 don't know that I can really confirm the intent that Ms. Jody
25 Thomas had here. But what I can agree with in terms of your
26 statement is that I do feel that as an agency, we continue to
27 do our job effectively. But working really hand in glove
28 with our partners, like our CSIS colleagues.

1 **MR. GIB van ERT:** And then just one final
2 question, because I'm out of time.

3 I know you couldn't recall whether Ms. Thomas
4 was the Deputy Minister or not. I'm pretty darn sure she
5 was, and I want to suggest this, she ought to have known that
6 this bullet point suggesting that more frameworks and
7 comprehensive approaches to be proactive were needed was a
8 lot of nonsense, at least as regard to CSE. She was there
9 and she could see that CSE was doing its job. Do you agree
10 with that?

11 **MS. CAROLINE XAVIER:** I don't know what to
12 say with regards to what she might have thought, so I think
13 it's kind of hard for me to confirm that, but, I mean, I
14 guess it's a fair assessment to say that she was generally
15 familiar with who we are as an organisation. That was part
16 of the same portfolio, yes.

17 **MR. GIB van ERT:** Thank you. You've been
18 most helpful.

19 **MS. CAROLINE XAVIER:** Thank you.

20 **COMMISSIONER HOGUE:** Thank you.

21 Counsel for Jenny Kwan? Mr. Choudhry.

22 **--- CROSS-EXAMINATION BY MR. SUJIT CHOUDHRY:**

23 **MR. SUJIT CHOUDHRY:** Thank you, Commissioner.
24 For the record, my name is Sujit Choudhry. I'm counsel for
25 Jenny Kwan. So I'd like to focus on a couple of themes in
26 the time that I have. The first is the misinformation and
27 disinformation mandate that CSE has, and, for the record,
28 which you gave evidence about in the witness summary at

1 paragraphs 59 to 63. And so what I want to -- and that's
2 WIT133, for the record. We don't need to call it up, but I -
3 - we just -- it was discussed in the Commission Counsel's
4 examination.

5 I want to just probe a bit as to how CSE, if
6 at all, addresses the problem of messaging on apps like
7 Telegram or WeChat that occurs at scale that is not the same
8 thing necessarily as a social media platform, like, Twitter,
9 or Facebook, or Instagram, but shares some of its properties
10 in terms of spreading a large-scale forum in which
11 misinformation/disinformation can occur, and that in a way
12 that can be very targeted at certain self-selecting
13 communities. And I think it's a matter of public record that
14 in Canada a significant portion of the Chinese Canadian
15 diaspora receives information from WeChat. And so are those
16 -- is that phenomenon on your radar? Do you have tools to
17 examine it? What challenges does it pose? What are your
18 plans to address it? Any of the above? If you could -- and
19 that's a question to the entire panel.

20 **MS. CAROLINE XAVIER:** So just for clarity, I
21 think your question is, do we monitor WeChat or WhatsApp type
22 of applications?

23 **MR. SUJIT CHOUDHRY:** Yes, or -- yeah, I mean,
24 that's -- yeah, that's one part of the question. If not, why
25 not, and could you, and should you, and would you have plans
26 to?

27 **MS. CAROLINE XAVIER:** Well, so as we
28 discussed earlier, our mandate's really clear that we focus

1 on the foreign intelligence part and the foreign part of the
2 world, if you want. And so when -- in terms of where
3 Canadians might be using some of those applications, we would
4 not have the authority, for example, to be in those spaces.
5 I think, you know, in terms of identifying whether or not
6 we're using these various applications that you've talked
7 about, I don't feel comfortable going there in terms of that
8 would be, you know, perhaps divulging techniques and ---

9 **MR. SUJIT CHOUDHRY:** Understand.

10 **MS. CAROLINE XAVIER:** --- procedures so.

11 **MR. SUJIT CHOUDHRY:** Right. Sorry, did
12 anyone else want to speak to that?

13 **MS. ALIA TAYYEB:** I can maybe just elaborate
14 on that last point. So, indeed, we won't be able to comment
15 on our specific activities in any sense of operational work,
16 but just to reiterate a couple things that I think are
17 relevant to your question.

18 So, first, from the foreign intelligence
19 aspect of our mandate, we certainly do collect and
20 disseminate information that relates to any foreign actor
21 campaigns that would be linked to foreign interference
22 activities, which could include misinformation and
23 disinformation campaigns. So we would report on those
24 activities. We would advise government that those activities
25 are occurring. Other agencies within government may take
26 appropriate actions as is relevant to their mandates.

27 The second thing to highlight is one thing
28 that we talked about earlier in the testimony is we do have a

1 mandate to disrupt threat activities. So where relevant,
2 where appropriate, where lawful, where authorized, it could
3 be a technique used to disrupt those activities, were they
4 appropriately authorized through our structure. So that is a
5 tool that we have in addition.

6 And then the other -- maybe the third thing
7 is through, like we said, all of our publications and all of
8 our public advisories, we have called out specific campaigns,
9 specific actors, specific techniques. We've done that on
10 numerous occasions. A great example was early in the
11 conflict when Russia invaded Ukraine, and we saw Russian
12 disinformation campaigns online to discredit Canadian Armed
13 Forces personnel. We called that out publicly to make people
14 aware that this was going on. So I'd say those are the three
15 types of things we might do.

16 **MR. SUJIT CHOUDHRY:** Okay. Okay, that's very
17 helpful. Thank you.

18 **MR. SAMI KHOURY:** If I could add ---

19 **MR. SUJIT CHOUDHRY:** Oh, yes, of course, Mr.
20 Khoury.

21 **MR. SAMI KHOURY:** So ---

22 **MR. SUJIT CHOUDHRY:** Yeah.

23 **MR. SAMI KHOURY:** --- we take the privacy of
24 Canadian very seriously, and there is almost two million apps
25 out there, so assessing each one on its security or privacy
26 is almost an impossible task, so instead, we've put out some
27 advice and guidance to help Canadian make the right settings
28 into those app, what to look for, what are the privacy

1 setting that you should be concerned about, and inform them,
2 better inform them on what are the question that in using
3 these social media app they should be mindful of, but also,
4 how to spot misinformation/disinformation out there. So to
5 enhance their social media experience from a safety and
6 security point of view, but also, from an awareness in term
7 of what am I scrolling through here.

8 **MR. SUJIT CHOUDHRY:** Okay. Thank you. I'd
9 like to now ask the Court Reporter to pull up a document,
10 please. It's CAN4358_1. And this is a document about
11 TikTok. And if you could just enlarge that text at the top
12 of the page there? And so this is an analytical brief. It's
13 from CSIS. Are you all familiar with this document?

14 **MS. CAROLINE XAVIER:** We are.

15 **MR. SAMI KHOURY:** Yes.

16 **MR. SUJIT CHOUDHRY:** Yeah, and so I just want
17 to read for the record the statement there.

18 "TikTok, the People's Republic of
19 China's (PRC) first Western-centric
20 social media application has the
21 potential to be exploited by the PRC
22 government to bolster its influence
23 and power overseas, including in
24 Canada. The highly addictive short-
25 video application owned by PRC's
26 ByteDance allows redacted access to
27 sensitive user data..."

28 And then after some further redacted text, it

1 cites,

2 "Despite assurances to the contrary,
3 personal data on TikTok is accessible
4 to China."

5 Do you agree with that assessment?

6 **MS. CAROLINE XAVIER:** We generally agree with
7 that statement, yes.

8 **MR. SUJIT CHOUDHRY:** Yeah. And so I'd like
9 to ask you a question then. There has been, as you know,
10 discussion in allied jurisdictions about banning TikTok or
11 about establishing domestic ownership requirements because of
12 the threat that TikTok poses to national security. And so
13 I'm asking you, as civil servants, if you were asked to give
14 your advice, if you're able to share that, would you advise
15 that similar measures be taken in Canada to address TikTok,
16 and if so, what would those be?

17 **MS. CAROLINE XAVIER:** So we're not a
18 regulatory organization, but what we have done already is
19 given advice around, as Sami said earlier, with regards to
20 how to use social media platforms of any nature, how to do so
21 in a manner to be protecting your privacy and how to
22 protecting your data and its potential collection. We have
23 banned TikTok on government-issued devices, and that came
24 from the advice of the security and intelligence community
25 that supported that by Treasury Board in issuing that ban.
26 And that is because of these types of assessments that that
27 ban was made, given that we want to ensure that we're
28 continuing to protect the data that we collect on behalf of

1 Canadians and to do the jobs that we do to serve Canadians.
2 And so in terms of if there's an interest to potentially ban
3 TikTok in some other mechanism, we will be part of the
4 apparatus that will give advice linked to this broader
5 security and intelligence community. But as I mentioned in
6 general, we have put advice around social media platforms re
7 at large in ensuring that you're comfortable with the privacy
8 elements of the originating country that may be ---

9 **MR. SUJIT CHOUDHRY:** M'hm.

10 **MS. CAROLINE XAVIER:** --- the owner of that -
11 --

12 **MR. SUJIT CHOUDHRY:** M'hm. And as to what
13 government should do? Is that something you're able to
14 comment on or not?

15 **MS. CAROLINE XAVIER:** Sorry?

16 **MR. SUJIT CHOUDHRY:** So is it -- so I
17 understand you've advised government to -- and governments
18 don't use TikTok now, and there's a ban on TikTok use on
19 government devices. You have talked about advice to
20 Canadians, but in terms of a broader policy, referencing
21 what's happened in one of our allied jurisdictions, is there
22 anything specific you can advise as to what should be done in
23 Canada?

24 **MS. CAROLINE XAVIER:** No, there's nothing
25 specific to advise, other than that these are conversations
26 we're very aware are happening because of the point you're
27 making others are considering it.

28 **MR. SUJIT CHOUDHRY:** Okay. So for the last

1 few minutes that I have, I'd like to talk about the IPAC
2 incident again and about MPs. And I understand it's your
3 evidence that on a go-forward basis the new ministerial
4 directive would apply?

5 **MS. CAROLINE XAVIER:** Not to CSE. Which
6 ministerial directive?

7 **MR. SUJIT CHOUDHRY:** Well, the ministerial --
8 the CSIS TRM directive would cover this type of -- not to
9 CSE, but ---

10 **MS. CAROLINE XAVIER:** Right.

11 **MR. SUJIT CHOUDHRY:** --- this activity would
12 have been -- fall within the scope of it; correct?

13 **MS. CAROLINE XAVIER:** Correct.

14 **MR. SUJIT CHOUDHRY:** Okay. So I do want to -
15 - we do want to learn what happened, and so I need to go back
16 there just for a minute.

17 So there's -- if we could pull up, please,
18 WIT_129 and go to paragraphs 13 to 15?

19 So this is an interview summary of witnesses
20 who testified on behalf of the House of Commons. Are you
21 familiar with this document?

22 **MS. CAROLINE XAVIER:** We are.

23 **MR. SUJIT CHOUDHRY:** So I -- the relevant
24 paragraphs I want to draw your attentions to are paragraphs
25 13 to 15, but maybe we could scroll up to 15 for the
26 shortness of time.

27 So there's -- Mr. Touati basically gave
28 evidence here about the February 17th, 2021 meeting and eh

1 says there, his evidence was that:

2 "The information received did not
3 contradict Digital Services'
4 assessment that the cyber attack had
5 failed."

6 And given that it had failed, he was not
7 alarmed by the briefing, and basically the long and short of
8 it is that based on the information that he and his team
9 received, they didn't decide to warn the MPs.

10 And so that's his account of what happened.

11 I want to take you now to a different
12 document, CANSUM27, paragraph 11(i). And this is again about
13 the same incident.

14 And what I'm interested in is -- so it's
15 11(i). Eleven (11) roman one. And so it's this kind of --
16 it's the paragraph that begins:

17 "Immediately following the 17
18 February meeting with the [House of
19 Commons], CSE officials internally
20 expressed concern that the [House of
21 Commons] had not been given
22 sufficient information to appreciate
23 the significant of the threat [and]
24 [t]hese concerns were escalated..."

25 And then ultimately, nothing was done in that
26 case, although the MOU was renegotiated.

27 So we're a little bit unclear as to who was
28 told what, because the one view that's being presented is

1 that the IT team at the House of Commons wasn't given enough
2 information to ascertain that the threat was a very serious
3 one and therefore didn't warn the members of Parliament. And
4 then -- and that seems to be what this paragraph says.

5 On the other hand, there's been evidence --
6 there's been a suggestion that in fact more specific
7 information was provided. And so we're just trying to
8 understand exactly who was told what so we can draw some
9 lessons for the future.

10 So are you able to -- are any of you able to
11 speak to that?

12 **MS. CAROLINE XAVIER:** Absolutely. So first
13 of all, worth sharing that we have a really great
14 relationship with the House of Commons IT security team, who
15 is the security team that manages both the House of Commons
16 and the Senate. That's who we work with when it comes to the
17 cyber security advice and guidance and the services that
18 we're working with them on.

19 It's important to note that this particular
20 paragraph that you're pointing to really focuses, as you
21 said, on the February 17th meeting, even though we were
22 already engaging with the House of Commons since January of
23 that same year.

24 And as I mentioned earlier, we had a series
25 of conversations with the House of Commons.

26 February 17th is still early on, I'd say, in
27 the management of the incident. So it is not surprising, as
28 we discussed earlier, because the intent is to really address

1 the incident and to ensure that we're mitigating the risk,
2 which we did, that we stay focused on that, rather than
3 really being focused on how well a person may have truly
4 understood the state actor piece.

5 **MR. SUJIT CHOUDHRY:** M'hm.

6 **MS. CAROLINE XAVIER:** That part comes with
7 the ongoing reports that we gave throughout from January all
8 the way to November of 2021 of that year.

9 So it's not surprising that at that point in
10 time that we were having internal discussions to, one, ensure
11 that we do whatever we could to continue to educate the House
12 of Commons IT security team to better under the state actor,
13 especially because as the role we play, we already were
14 understanding APT31 as a state actor.

15 **MR. SUJIT CHOUDHRY:** Yeah. I understand
16 that. I think the issue is about notification to the members
17 of Parliament. And as you probably know, that's currently a
18 matter before PROC right now, on a question of privilege.

19 And so what I'm trying to understand is, was
20 the IT department at the House of Commons told about the
21 nature of the threat sufficiently so that they ought to have
22 known that it was serious and therefore should have advised
23 the members of Parliament?

24 **MS. CAROLINE XAVIER:** I don't want to speak
25 about the therefore part that you just said. What I can say
26 is that given the ongoing conversations that we had, starting
27 in January, to all the way in November of that year, they
28 should have gotten a good understanding of the threat actor.

1 But more importantly, their focus, as was ours, was on
2 mitigating the threat. And as we discussed earlier, the type
3 of incident that this was was recognized as a recognisance
4 type of threat. And so that in itself was less of a -- you
5 know, the ranges of threats evolve, as we've said.

6 **MR. SUJIT CHOUDHRY:** Right. So final
7 question. Ms. Dann took you to a document which was an email
8 or a memo, that didn't reference APT31. But is it your
9 evidence that APT31 was identified to the House IT team as
10 the threat actor?

11 **MS. CAROLINE XAVIER:** Absolutely. On
12 February 17th.

13 **MR. SUJIT CHOUDHRY:** Okay. Thank you very
14 much.

15 **COMMISSIONER HOGUE:** Thank you.

16 Next one is Ms. Teich for the Human Rights
17 Coalition.

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

19 **MS. SARAH TEICH:** Good morning.

20 Can we please pull up COM527? This is CSE's
21 National Cyber Threat Assessment 2023-2024. And I'd like to
22 please jump to page 20 towards the bottom.

23 And I'd like to just read out this excerpt
24 and get your thoughts on it. This section reads:

25 "Adversary states are interested in
26 monitoring and disrupting the
27 activities of individuals who they
28 believe threaten their domestic

1 security and stability. State-
2 sponsored cyber threat actors almost
3 certainly target foreign nationals,
4 diaspora groups, activists, and
5 journalists to monitor and control
6 these individuals. This activity
7 likely threatens individuals' safety
8 and security, in addition to
9 increasing distrust and polarization
10 in Canadian society."

11 If we could please scroll to the top of the
12 next page?

13 It goes on:

14 "We assess that threat actors are
15 almost certainly using cyber tools
16 against these populations in Canada.
17 This activity takes several forms,
18 including content monitoring on
19 foreign-based applications, social
20 media-enabled activity and espionage
21 against individuals using spyware.
22 We assess that Chinese, Iranian, and
23 Saudi Arabian state-sponsored cyber
24 threat actors have almost certainly
25 monitored diaspora populations and
26 activists abroad using a combination
27 of these means."

28 Can any of you, or all of you, please

1 elaborate on this assessment? And to the extent that you can
2 share, of course, I'm particularly interested in hearing how
3 CSE came to this assessment and what CSE is doing to combat
4 this threat.

5 **MS. CAROLINE XAVIER:** So this excerpt comes
6 form the National Cyber Threat Assessment that we would have
7 put out in 2022, in the fall of 2022. And all the
8 assessments that we do, we take the information from signals
9 intelligence, normal and just basic intelligence, as well as
10 intelligence of partners and others in observations around
11 the world, and in particular, from observations we've had
12 from the cyber defence that we do for Government of Canada
13 and many other tools. And that is what forms the
14 observations of these publications.

15 With that, I'll hand it over to Sami to add
16 additional context.

17 **MR. SAMI KHOURY:** That's right. I mean, it's
18 all encompassing, open-source all the way to very sensitive
19 intelligence, that we reach an assessment, and at that point,
20 we make a determination that that assessment should be, if
21 it's classified, should be maybe declassified and shared into
22 the National Cyber Threat Assessment of the day. That's why
23 we make those statements, to bring attention to what we felt
24 in 2022 was part of the threat landscape that Canada will be
25 facing.

26 **MS. SARAH TEICH:** And just a point of
27 clarification. You both said 2022. Do you mean 2024? This
28 document says 2023-2024 on the cover page.

1 **MS. CAROLINE XAVIER:** So when we put out a
2 publication, which we did in this case in 2022, it's with the
3 intent of forecasting what the threat landscape will look
4 like over the next two years, so which is why we're about to
5 put another publication out by the fall of this year to be
6 able to give a prediction of what we think will be the threat
7 landscape in the next couple years.

8 **MS. SARAH TEICH:** Okay. I understand. So
9 this is a forecast, if you will. Has this particular
10 forecast proven accurate in this case?

11 **MR. SAMI KHOURY:** The statements are not
12 meant to be necessarily forecasts. The statements are -- in
13 that case, those statements are meant to bring attention to
14 something that we are aware of and to encourage the reader,
15 encourage Canadians, to take the necessary measures to be
16 aware of those threats and to safeguard their security and
17 privacy through the number of follow-on advice and guidance
18 that we've published. Some of them are in the annex of the
19 document, so we try not to just put out the threat, but also
20 what are some things that Canadians or Canadian organizations
21 can do to protect themselves from the threats that we outline
22 in the documents.

23 **MS. SARAH TEICH:** Okay. Was this document
24 and/or the annex, as you're referring to, available in
25 languages besides English and French?

26 **MR. SAMI KHOURY:** No.

27 **MS. CAROLINE XAVIER:** So this publication is
28 only available in English and French. Having said that,

1 though, we have put out other publications that are excerpts
2 of some of our threat assessments in languages of Indigenous
3 communities in particular where we've also seen that the
4 north is vulnerable to some threat actors. And you know, the
5 intent of looking at what more we can do is part of the
6 exploration that we're still analyzing.

7 **MS. SARAH TEICH:** All right. Do you think it
8 would be valuable in the future to put these sorts of
9 documents or at least this particular section of it into
10 languages commonly spoken by vulnerable diaspora communities?

11 **MS. CAROLINE XAVIER:** We think it is
12 potentially something to consider. The part I think that is
13 always something that I have to think about from -- as a
14 Chief of an organization is the resources and do I have the
15 resources available to be able to do that. I'm not saying
16 that that can't be done, and so that is something I will take
17 into consideration as we look at future publications. But
18 that's also where we work in partnership with other
19 colleagues like my CSIS colleagues where I know they put out
20 publications of different languages which would tend to
21 amplify this type of message as well.

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

23 I have so many more questions, but I think
24 this means I'm out of time, doesn't it, so I'll restrain
25 myself. Thank you so much.

26 **COMMISSIONER HOGUE:** Thank you.

27 Mr. Singh for the Sikh Coalition.

28 --- CROSS-EXAMINATION BY MR. PRABJOT SINGH:

1 **MR. PRABJOT SINGH:** Thank you, Commissioner,
2 and to our panelists. My name is Prabjot Singh. I'm legal
3 counsel for the Sikh Coalition.

4 And I want to start today by bringing up a
5 report on Canadian cyber operations so we can dive right in.

6 Can the Court Operator please bring up
7 CAN41952 and scroll to page 4, please?

8 Is this a document that you recognize?

9 **--- EXHIBIT No. CAN041952.0001:**

10 Canadian Cyber Operations

11 **MS. CAROLINE XAVIER:** I believe so, yes.

12 **MR. PRABJOT SINGH:** Looking at this specific
13 section, the document says that:

14 "India engages in disinformation to
15 project a positive image globally
16 while targeting specific
17 adversaries."

18 Can you elaborate on what this means in terms
19 of how India disseminates disinformation in Canada?

20 **MS. CAROLINE XAVIER:** We can't elaborate more
21 than what you have there in terms of -- for reason of
22 national security, but I think as per this document and other
23 documents that have been put in as evidence, we gave the
24 example, for example, of recognizing that we have a large
25 Indian community within Canada that's Can-Indian and has
26 links back to India potentially, and recognize that there is
27 definitely an interest by the Government of Canada with these
28 populations.

1 **MR. PRABJOT SINGH:** And just to reference
2 here, you mentioned that you can't speak about this for
3 reasons of national security confidentiality, but CSE does
4 have further information that Commission -- that Madam
5 Commissioner and the Commission counsel can access about
6 CSE's observations about Indian activities?

7 **MS. CAROLINE XAVIER:** Absolutely.

8 **MR. PRABJOT SINGH:** Thank you.
9 Can the Court Operator please bring up
10 CAN25923?

11 Thank you.

12 **--- EXHIBIT No. CAN025923.0001:**

13 Potential Foreign Information
14 Manipulation and Interference
15 following PM Statement on Killing of
16 Hardeep Nijjar

17 **MR. PRABJOT SINGH:** And if you just scroll
18 down just slightly just to see the bullet points. That's
19 good enough.

20 So in your interview with Commission counsel,
21 you mentioned that CSE observed Indian disinformation after
22 the Prime Minister's announcement specifically about India's
23 involvement in the assassination of Hardeep Singh last year.

24 So this is an RRM report on Indian
25 interference after that announcement was made, and it goes
26 into considerable detail about the narrative being
27 disseminated by India aligned media outlets like ANI, India
28 Today and News 18, and it talks about a high level of

1 similarity in the tone and types of narratives circulated by
2 these outlets.

3 So if you look at bullet point 1:

4 "Some of the key findings of the
5 report note that these outlets
6 amplified several narratives,
7 targeting the Prime Minister,
8 Canada's High Commissioner to India,
9 Canada's national security agencies
10 as well as the Sikh diaspora in broad
11 terms and Hardeep Singh's political
12 beliefs specifically."

13 So are these statements consistent with the
14 observations that would have been made by the CSE?

15 **MS. CAROLINE XAVIER:** So I won't be able to
16 comment about whether they're consistent. What I would say
17 is that RRM performs a function and these are the findings
18 that they found. And as a community, we work together to
19 understand the landscape and we would have been aware of
20 these findings.

21 And it is helpful for us to understand these
22 findings in terms of the role we play from the foreign
23 intelligence perspective.

24 **MR. PRABJOT SINGH:** And if we can scroll down
25 to page 4, and slowly scroll through to page 5.

26 So the report catalogues some of the main
27 themes of disinformation, including that Canada safeguards
28 so-called terrorist and extremist forces, that Canada should

1 use violent means against supporters of Khalistan, attempts
2 to discredit Hardeep Singh's role as a community leader, and
3 attempts to discredit the Prime Minister and the NDP leader
4 as well.

5 Are these messages also consistent with the
6 observations made by the CSE?

7 And again, I note that you might not be able
8 to ---

9 **MS. CAROLINE XAVIER:** Yeah, I will not be
10 able to comment.

11 **MR. PRABJOT SINGH:** So my last question is,
12 is it fair to say that Indian actors will target lawful
13 advocacy for an independent Sikh homeland Khalistan with
14 targeted disinformation campaigns to discredit and isolate
15 these activities from the broader public?

16 **MS. CAROLINE XAVIER:** I also wouldn't be able
17 to comment on that.

18 **MR. PRABJOT SINGH:** One further question. I
19 see that I have a little bit of time.

20 So in your *in camera* interview with
21 Commission counsel, you talked about this idea that India's
22 aspiring to modernize its cyber program.

23 Can you elaborate on what that means in terms
24 of Indian disinformation or other threats to Canada?

25 **MS. CAROLINE XAVIER:** I cannot elaborate any
26 further.

27 **MR. PRABJOT SINGH:** Thank you. Those are all
28 my questions.

1 **COMMISSIONER HOGUE:** Thank you.

2 Maître Sirois for the RCDA.

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

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

5 Guillaume Sirois for the RCDA.

6 When did you learn that Russian operatives
7 were paying Canadian influencers \$10 million to establish
8 Tenet Media, a media outlet intended to influence Canadian
9 opinion?

10 **MS. ALIA TAYYEB:** So I won't be able to
11 answer specific questions on specific operational matters.

12 **MR. GUILLAUME SIROIS:** You cannot tell me
13 when you learned about this ---

14 **MS. ALIA TAYYEB:** That's correct. I won't be
15 able to.

16 **MR. GUILLAUME SIROIS:** --- because of
17 national security considerations?

18 **MS. ALIA TAYYEB:** That's right.

19 **MR. GUILLAUME SIROIS:** Was it news to you
20 when the unsealed indictment came out at the beginning of
21 September that Russia set up something like that.

22 **MS. ALIA TAYYEB:** Again, unfortunately, I
23 won't be able to comment on any sort of specific incidents.
24 I think we've been very clear and -- about our statements and
25 assessments about the extent to which we absolutely see
26 Russian foreign interference activities in Canada, but on
27 specific operational matters I won't be able to comment.

28 **MR. GUILLAUME SIROIS:** Okay. After having

1 reviewed these events before or after they were revealed by
2 the United States, do you still believe that Russia is not
3 trying to influence Canadian public opinion?

4 **MS. ALIA TAYYEB:** So I don't -- I never said
5 that Russia was not trying to influence Canadian public
6 opinion, and I wouldn't agree with that statement.

7 **MR. GUILLAUME SIROIS:** Oh, so it is. It is
8 trying to influence.

9 **MS. ALIA TAYYEB:** So as I said, Russia has
10 been involved with a host of influence campaigns, many of
11 which -- I referenced one very specifically that we've
12 declassified about putting disinformation about Canadian
13 Armed Forces, so indeed, I believe that Russia is trying to
14 influence opinion in Canada and elsewhere in the world.

15 **MR. GUILLAUME SIROIS:** Do you agree that the
16 citizen's vote is based primarily on his or her opinion,
17 personal opinion?

18 **MS. ALIA TAYYEB:** That a citizen's vote? Is
19 that what you said?

20 **MR. GUILLAUME SIROIS:** Yeah.

21 **MS. ALIA TAYYEB:** Do you mean in elections?

22 **MR. GUILLAUME SIROIS:** Yeah.

23 **MS. ALIA TAYYEB:** Presumably.

24 **MR. GUILLAUME SIROIS:** Well, influencing that
25 person's opinion would most likely influence that person's
26 vote; right?

27 **MS. ALIA TAYYEB:** It would depend on the
28 nature of the intent behind the operational matter at hand.

1 **MR. GUILLAUME SIROIS:** But for instance, with
2 the Tenet Media allegations that we see that a lot of content
3 targets the Prime Minister and presses on hot button issues
4 in Canadian politics, do you believe that can -- this sort of
5 information that has been seen by half a million, do you
6 think it can influence how people think and how people vote?

7 **MS. ALIA TAYYEB:** So I think -- happy for the
8 -- if the Chief wants to add, from an intelligence
9 practitioner's point of view, it's not really for me to talk
10 about what I believe. My responsibility is to collect
11 foreign intelligence about states' capabilities, intentions
12 and activities and to report that information. And so we
13 stand by the assessments that we have provided in public
14 about the nature and scope of Russian activities, but beyond
15 that, I wouldn't be prepared to opine on things that are just
16 not within my professional remit.

17 **MR. GUILLAUME SIROIS:** You cannot comment on
18 this?

19 **MS. CAROLINE XAVIER:** Yeah, I think it's a
20 hard question to answer. I think, as Alia said and as we've
21 stated in our National Cyber Threat Assessments and other
22 publications that we've put out, we've been clear that we've
23 seen Russia having a strategic possible -- being a strategic
24 threat to Canada, but it wouldn't be only in the influence
25 space, potentially. We've talked about it in the mis and
26 disinformation space, for example.

27 What you're making as a link is, is that
28 directly then linked to influencing a person's vote. I think

1 that depends on the individual.

2 We work really hard on trying to ensure that
3 we put as much information out for Canadians to understand
4 how to detect if information is potentially misinformation or
5 disinformation, including having supported Government of
6 Canada campaigns over a few years. As well, we really
7 encourage people to be critically looking at the data that
8 they look at being critical thinkers and questioning any
9 information that's making it their way, whether it's from
10 Russia or others.

11 **MR. GUILLAUME SIROIS:** So you agree that
12 Russia is trying to influence public opinion of Canadians,
13 but you don't agree that Russia has the intent to influence
14 the outcome of elections. Do you see that this lack of
15 connection is a bit silly or not? Is it just me?

16 **MS. CAROLINE XAVIER:** I think what we've been
17 clear on, and in particular earlier in this testimony, is
18 that we've not observed, and particularly in the last two
19 general elections, that Russia's influence has been specific
20 to the democratic process. I think what we've been clear is
21 that Russia is definitely, as I said, a threat actor of
22 concern.

23 We have seen that in particular after the
24 invasion in Ukraine by Russian that those that are allies to
25 Ukraine or those that are parts of -- members of NATO, tend
26 to be those that Russia may -- or Russian activists or
27 hacktivists may be interested in perhaps influencing. But
28 whether that again, links back to a vote, I think is

1 something we're not prepared to make as a categoric
2 statement, I guess.

3 **MS. ALIA TAYYEB:** I think I would just add to
4 that an important element. I think I mentioned this earlier,
5 that we as a community, not CSE only, but as a security and
6 intelligence community, we are constantly revising our
7 assessments of activities, tactics, intentions, capabilities,
8 and we will continue to do so as the situation evolves. And
9 so, just to know that this is -- while we haven't -- I think
10 I was clear, we have not observed it in previous electoral
11 campaigns, does not mean that we are stopping looking at this
12 issue from a foreign intelligence perspective.

13 **MR. GUILLAUME SIROIS:** So it's a question of
14 whether or not you observed it, it's not a question of
15 whether or not Russia had the intent?

16 **MS. CAROLINE XAVIER:** So what is the question
17 exactly, whether we observed what?

18 **MR. GUILLAUME SIROIS:** Is there a difference
19 between the lack of observation and the lack of intent? Is
20 it the same one and only thing, or is it two different
21 things?

22 **MS. CAROLINE XAVIER:** It could be two
23 different things.

24 **MS. ALIA TAYYEB:** I mean, I think we can only
25 -- I'm not sure if I understand the meaning of the question.
26 I think we can only comment on that which we observe.

27 **MR. GUILLAUME SIROIS:** And what actions did
28 CSE take in response to the Tenet Media events? And that's

1 going to be my last question.

2 **MS. ALIA TAYYEB:** So I think as I said
3 earlier, I cannot comment on specific operational cases. I
4 go back to what I have always said, is that CSE is actively
5 engaged in collecting foreign intelligence, of which foreign
6 interference in Canadian democratic processes is absolutely
7 one of our top priorities.

8 **MR. GUILLAUME SIROIS:** Thank you. Those are
9 all my questions.

10 **COMMISSIONER HOGUE:** Thank you.

11 Mr. Chantler for the Concern Group?

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

13 **MR. NEIL CHANTLER:** Thank you, Commissioner.
14 Good afternoon. Neil Chantler, counsel for the Chinese
15 Canadian Concern Group.

16 Could the Court Operator please pull up
17 WIT122, this is your interview summary. I'm going to start
18 by asking you just to further elaborate on some of the issues
19 that you raised in your interview with Commission counsel.
20 Paragraph 4, please?

21 In this paragraph, you identify at the end of
22 the paragraph that the PRC is one of the main cyber security
23 threat actors, but 85 percent of cyber threat activity was
24 unattributed. How significant is attribution to your work to
25 combat cyber threats, and does this number reflect a present
26 reality in which we are far from where we need to be in order
27 to adequately respond to these threats?

28 **MS. CAROLINE XAVIER:** So this information

1 comes from, in particular, our last threats to democratic
2 process publication, which is also part of the evidence
3 provided. And where we talk about the fact that, you know,
4 many cyber threats are unattributed, to your point. So
5 attribution is definitely something that is one part of the
6 toolkit that one can use to be able to identify the whole
7 state -- the host state actor, or who is behind a cyber
8 incident or a cyber compromise.

9 Our role primarily, especially as being the
10 incident responder of the Government of Canada or as an
11 advisor to government and other national entities, we really
12 focus always on trying to ensure that we're mitigating the
13 risk. That's always the priority and the primary thing that
14 we start with. But because attribution can be a tool that is
15 helpful, especially from a foreign policy perspective or for
16 a broader national security or national interest reason,
17 attribution is something one might try to ascertain.

18 But it can be very difficult, in particular,
19 because one of the things we said in our threats to the
20 democratic processes, is that there are various ways in which
21 threat actors can hide behind other things and never be able
22 to be attributed.

23 **MR. NEIL CHANTLER:** Am I correct in assuming
24 that attribution is necessary for you to even assert
25 jurisdiction over a matter? If you don't know where it's
26 coming from, how do you know it's not coming from within
27 Canada? How do you know that it's not coming from a Canadian
28 actor?

1 **MS. ALIA TAYYEB:** So can I just maybe
2 elaborate. I don't want misunderstanding of something I
3 would have said earlier on a different issue. From a severe
4 -- I think in the end part of your first question, you asked,
5 does that mean that we're incapable or inadequately
6 addressing this. So maybe I'll answer those two things
7 together.

8 So no, it doesn't mean that. Attribution to
9 a state actor is certainly helpful and useful. It helps us
10 potentially predict future threats. But as the Chief
11 mentioned, it's one part of our toolkit, the first being to
12 mitigate the risk itself.

13 So the next part of your question which is,
14 don't I need to know who is responsible before we mitigate
15 the threat? No, in fact, the cyber centre is -- Sami can
16 elaborate -- responsible for threat mitigation, does so very
17 effectively on a day-to-day basis. This is not dependent on,
18 let's say, the foreign intelligence aspect of the mandate in
19 order to attribute something before they defend and mitigate
20 the risk.

21 So I just didn't want that to be
22 misunderstood from a foreign intelligence perspective that it
23 be foreign is -- and that it be linked to foreign
24 intelligence, is what kicks in that part of the mandate, but
25 it doesn't necessarily follow that the cyber defenders can't
26 defend against it. Maybe Sami wants to elaborate.

27 **MR. SAMI KHOURY:** So if I can -- that last
28 sentence in that paragraph is taken out of the context behind

1 it is a threat to democratic process, TDP4, in which we
2 surveyed 146 elections around the world and out of those 146
3 there is a high proportion of them, so 85 percent here that -
4 - where there was indications of foreign influence, foreign
5 interference, but 85 percent were unattributable. The
6 balance was attributed to Russia and China. So that is out
7 of that -- that last sentence is out of the context of threat
8 to democratic process.

9 Domestically, as Alia pointed out, our first
10 priority is to mitigate the incident. That is our job one.
11 How do we stop the incident? How do we stop it from sort of
12 expanding? After that we want to know what exactly happened
13 in order to warn Canadians, Canadian organizations if there
14 are measures that they need to be taking. Maybe it's a new
15 technique that we haven't seen before.

16 Sometimes it could be cyber criminals behind
17 it, but sometimes after, you know, after you mitigate and you
18 understand what happened, then if it piques our curiosity to
19 say this looks like a nation state, this is when we will
20 pursue the technical attribution and work with our colleagues
21 in SigInt to find out who's behind it. But that's from a
22 domestic cyber incident perspective.

23 **MR. NEIL CHANTLER:** Thank you, sir. With the
24 limited time I'd like to just ask you a couple of questions
25 quickly.

26 At paragraph 15, page 5, same document, you
27 identify a PRC linked cyber threat actor as being one of the
28 biggest and most sophisticated cyber threat actors currently

1 targeting Canada. You mention at the bottom of that
2 paragraph that you've recently published an unclassified
3 piece about that. I wasn't able to put my finger on that.
4 Is this incident related to APT31, or is this something
5 totally different?

6 **MS. CAROLINE XAVIER:** So we did put out a
7 publication specifically about the PRC and what we have
8 observed along with what partners have seen, as it being a
9 sophisticated threat actor. We could ensure that you have
10 that publication. It is available on our website if needed,
11 but it's not specific to one incident. It was more related
12 to PRC as a cyber threat actor.

13 **MR. NEIL CHANTLER:** And finally, at paragraph
14 23, page 6 ---

15 **MR. SAMI KHOURY:** Actually, can I say
16 something? This paragraph 15, as I read it, is a publication
17 that we jointly issued with our U.S. colleagues and others on
18 a campaign called "Volt Typhoon". So you won't see
19 necessarily China on the name, but if you look on our website
20 "Volt Typhoon", you'll see it and that is about maintaining
21 ongoing access to a target network.

22 **MR. NEIL CHANTLER:** Thank you. Okay, quickly
23 at paragraph 23, this is where you raised the issue of
24 Chinese police stations. You merely acknowledge their
25 existence here. But I want to ask, these obviously are
26 entities that exist in Canada, or at least did exist. They
27 would have been outside your mandate insofar as they were
28 here. But when they are communicating perhaps with the PRC,

1 are you able to intercept those communications?

2 **MS. ALIA TAYYEB:** So again, I can't -- I'll
3 not speak about a specific incident or a specific target set,
4 but again, to elaborate, from a domestic perspective, we
5 would not be, obviously, surveying any activities of anybody
6 inside Canada, which is not to say that, again, the
7 activities, intentions, capabilities, plans of the foreign
8 state actor would be within the foreign intelligence aspect
9 of the CSE mandate. So we would certainly pursue any foreign
10 intelligence -- any foreign interference activities
11 undertaken by the PRC and directed by the PRC, we could look
12 into those activities. We just would not be able to look at
13 the activities of the individuals who are in Canada.

14 **MR. NEIL CHANTLER:** Thank you very much.
15 Those are my questions.

16 **COMMISSIONER HOGUE:** Thank you.

17 The AG.

18 **--- CROSS-EXAMINATION BY MS. HELENE ROBERTSON:**

19 **MS. HELENE ROBERTSON:** Thank you, Madam
20 Commissioner.

21 My name is Helene Robertson. I'm counsel for
22 the Attorney General. And thank you very much to the
23 witnesses.

24 I'm going to ask some questions about some of
25 the things that were put to you in the various discussions
26 that you had today.

27 I'm going to start with a question that you
28 had from MP Kwan's counsel, Jenny Kwan's counsel, who asked

1 you about CAN.SUM.27. Could we pull that up? And it's
2 paragraph 11(i). I believe it's the second page. There we
3 are.

4 And so counsel said to you that the concerns
5 were escalated to key executives. Do you remember that? He
6 then went on to say that nothing -- following that
7 escalation, nothing happened. Would you agree with that
8 characterization?

9 **MS. CAROLINE XAVIER:** No, we wouldn't agree
10 with that characterization because when we were in constant
11 communication with the House of Commons, we gave them a
12 series of recommendations for them to take -- to do and to
13 perform within those 12 reports that we would have issued to
14 them. And as part of that ongoing dialogue, they would go do
15 an action and come back to us with a result potentially, or
16 they would just take the action that they felt was
17 appropriate, given what they were observing, based on what we
18 would give them as instructions.

19 **MS. HELENE ROBERTSON:** Thank you.

20 **MS. CAROLINE XAVIER:** I don't know if Sami
21 wants to add more?

22 **MR. SAMI KHOURY:** No, I mean, exactly. I
23 mean, it's a very iterative process to investigate a cyber
24 incident. The House of Commons IT with whom we have a very
25 good partnership that goes back to 2016, if not before, are
26 very responsive, and in connecting with them, there's always
27 a question. They know that IT, they need to go back, do what
28 they have to do, and then reconnect with us. So if you look

1 at the timeline, there's a series of meetings, because at
2 every meeting, we uncover something new that we want to
3 investigate further, so that iterative process has been
4 ongoing for many, many months post-January 21st.

5 **MS. HELENE ROBERTSON:** Thank you very much.
6 And in that same regard, when would you say that the incident
7 that was at issue here was mitigated? When did the threat
8 end?

9 **MR. SAMI KHOURY:** The threat ended, as far as
10 I'm concerned, on the day that we detected it and we blocked
11 it, but we wanted to continue to investigate. So the threat
12 -- we blocked the domain and we then issued some guidance to
13 the House of Commons to find the emails, delete the emails.
14 So effectively, as far as we are concerned, the threat was
15 mitigated then, and then they did what they had to do from
16 their end to remove any remnants of that campaign.

17 If any were missed and somebody clicked, it
18 would go nowhere because we had blocked the domain
19 effectively on January 22nd, as soon as we issued that alert.

20 **MS. HELENE ROBERTSON:** Thank you. and then
21 what effect did that fact of having blocked it on that first
22 day, what effect did that have on the timing of your ongoing
23 engagement with the House of Commons on this incident?

24 **MS. CAROLINE XAVIER:** Sorry, I'm not sure we
25 understand the question.

26 **Ms. HELENE ROBERTSON:** I'm sorry. Obviously
27 it wasn't clear. I'm just wondering whether or not the fact
28 that the incident -- the threat was mitigated on the first

1 day, did that have any effect on the urgency of the timing of
2 your subsequent engagements with the House of Commons?

3 **MS. CAROLINE XAVIER:** Well even though it was
4 mitigated, as we've discussed, because we knew it was a host-
5 state actor behind it, we still felt it was important to
6 continue that engagement with them.

7 And as Sami said, you start at one point, but
8 then it's as you continue to have that ongoing engagement
9 with the service provider that you better understand what the
10 threat could be or what the indicators of compromise could
11 be, and we could only get that with that ongoing engagement
12 with the service provider, which in this case was the House
13 of Commons.

14 So for them to go back and explore more on
15 their network and their infrastructure, the indicators of
16 compromise we gave them, or things to analyse, they would
17 come back potentially with more information that would allow
18 us to confirm, was there any other additional risks to the
19 network or threats to the networks? But at that point, we
20 felt we had mitigated the threat and that the ongoing steps
21 they were taking was mitigating anything else that could have
22 been in existence but we felt there was nothing else to be
23 found at that time.

24 **MS. HELENE ROBERTSON:** Wonderful. Thank you.
25 I just have two more questions that I'll get through fairly
26 quickly because my time is tight.

27 The first one has to do with a question you
28 were asked by Mr. Chong's counsel. If you'll recall, he put

1 before you a memorandum from the NSIA Jody Thomas to the
2 Prime Minister about steps to ensure awareness of
3 intelligence reports related to members of Parliament. He
4 then provided his view of the intention and gist of that
5 memorandum, but he did not ask you if you agreed with his
6 interpretation of the gist of that memorandum. I would like
7 to offer you that opportunity. Do you agree with his
8 interpretation of the purpose or intention of that
9 memorandum?

10 **MS. CAROLINE XAVIER:** I'm sorry, you'll have
11 to remind me. What was the ---

12 **MS. HELENE ROBERTSON:** So he suggested to you
13 that the purpose of that memorandum was, and obviously I'm
14 going to paraphrase his paraphrase, which is that it was to
15 essentially tell the Prime Minister that the security and
16 intelligence community had failed in their -- in informing
17 him adequately of those intelligence reports.

18 **MS. CAROLINE XAVIER:** No, I don't take it
19 that that was the intent. I think it's important that the
20 NSIA, in the role that she had, that she ensures that the
21 Prime Minister is aware of the steps that were being taken to
22 continue to strengthen the measures that need to be put in
23 place and we want to put in place as a security and
24 intelligence community. I don't know that we see it as a
25 collective failure. I don't know that that was her intention
26 either, to -- that it was a failure of the S&I community. I
27 don't know that we would agree with that statement.

28 **MS. HELENE ROBERTSON:** Thank you. And then

1 my final question is how would you describe the effectiveness
2 of CSE's collaboration with international partners in the
3 detection deterrence and countering of foreign interference
4 generally and obviously for this process in respect of
5 democratic institutions and processes?

6 **MS. CAROLINE XAVIER:** No, I'm really proud of
7 the relationships we have, in particular with our
8 international colleagues in the Five Eyes. But because of
9 the work we do in particular in putting out publications on
10 threats to democratic processes, our relationships extend way
11 beyond only the Five Eyes. And in doing that work, we do
12 collaborate quite effectively in particular with colleagues
13 in the Five Eyes on observing and working with them when it
14 comes to democratic processes. So for example, we ensure
15 that there are tabletops that are done, we take part of those
16 tabletop exercises, we work very collaboratively to
17 understand if there's a foreign interference from a foreign
18 intelligence perspective with them to better understand what
19 that could mean for our -- for threats towards our general
20 elections, for example. We have a really great relationship
21 and a great sharing partnership that allows us to do our job
22 really effectively. And that doesn't only limit itself to
23 the relationship that CSE has. All of our S&I colleagues
24 have relationships with their Five Eye partners and beyond,
25 which allows us to continue to ensure that we're doing our
26 part so that Canadians have faith and confidence in the work
27 that we do as institutions because that is what we're here
28 for, is to ensure that we're doing our jobs effectively.

1 I don't know if any of you want to add
2 anything?

3 **MS. ALIA TAYYEB:** I think, yeah, absolutely,
4 it's a natural part of how we work. We work incredibly
5 closely with our partners in terms of sharing intelligence on
6 threats. It's extremely seamless, both with our
7 international partners, and we've talked a lot in various
8 hearings about our domestic partnerships as well, which makes
9 the community very strong.

10 **MS. HELENE ROBERTSON:** Thank you. Those are
11 my questions.

12 **COMMISSIONER HOGUE:** Thank you.

13 Ms. Dann, any question in re-examination?

14 **MS. ERIN DANN:** No, thank you.

15 **COMMISSIONER HOGUE:** So thank you very much
16 for your time. We'll take five minutes because we have to
17 switch witnesses.

18 **MS. CAROLINE XAVIER:** Merci beaucoup.

19 **COMMISSIONER HOGUE:** So you're free to go.

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

21 This sitting of the Commission is now in
22 recess until 12:30.

23 --- Upon recessing at 12:24 p.m.

24 --- Upon resuming at 12:30 p.m.

25 **THE REGISTRAR:** Order please.

26 This sitting of the Foreign Interference
27 Commission is now back in session. The time is 12:30.

28 **COMMISSIONER HOGUE:** Just before we start, we

1 are running late, as you can all see. It's 12:30. I think
2 we have about an hour in-Chief with this witness. My intent
3 will be to go until 1:30, but I just want to make sure that
4 it doesn't create huge problem for anyone if we run until
5 1:30. It's fine? So you'll be able to go until the end of
6 your examination before lunch.

7 **MS. LYNDA MORGAN:** Okay. Thank you.

8 I just wanted to relay a reminder from the
9 interpreter's as well for all counsel just to speak a bit
10 more slowly when they're asking questions to allow time for
11 interpretation. And so with that, I'd ask that the witness
12 be affirmed or sworn, please.

13 **THE REGISTRAR:** All right. Mr. Sutherland,
14 could you please state your full name, and then spell your
15 last name, for the record?

16 **MR. ALLEN SUTHERLAND:** Allen Sutherland, S-U-
17 T-H-E-R-L-A-N-D.

18 **THE REGISTRAR:** Thank you. Now for the
19 swearing in.

20 **--- MR. ALLEN SUTHERLAND, Sworn:**

21 **THE REGISTRAR:** Thank you. Counsel, you may
22 proceed.

23 **MS. LYNDA MORGAN:** Thank you. I'm just
24 getting my timer started. Thank you.

25 **--- EXAMINATION IN-CHIEF MS. LYNDA MORGAN:**

26 **MS. LYNDA MORGAN:** So I'll start with some
27 preliminary housekeeping matters with you, Mr. Sutherland,
28 and then we'll move through to the substantive part of this

1 examination. So if I could call up WIT94, please, the
2 English version.

3 **--- EXHIBIT No. WIT0000094.EN:**

4 Interview Summary: Privy Council
5 Office - Democratic Institutions
6 (Mala Khanna, Allen Sutherland, Sarah
7 Stinson and Manon Paquet)

8 **--- EXHIBIT No. WIT0000094.FR:**

9 Résumé d'entrevue : Bureau du Conseil
10 privé - Institutions démocratiques
11 (Mala Khanna, Allen Sutherland, Sarah
12 Stinson et Manon Paquet)

13 **MS. LYNDA MORGAN:** Mr. Sutherland, this is a
14 summary you prepared based on your interview with Commission
15 counsel and others on June 13th, 2024?

16 **MR. ALLEN SUTHERLAND:** Yes.

17 **MS. LYNDA MORGAN:** You've reviewed the
18 summary for accuracy?

19 **MR. ALLEN SUTHERLAND:** I have.

20 **MS. LYNDA MORGAN:** And do you have any
21 changes to make to the summary?

22 **MR. ALLEN SUTHERLAND:** I do not.

23 **MS. LYNDA MORGAN:** Okay. And do you adopt
24 the contents of the summary as a part of your evidence before
25 the Commission today?

26 **MR. ALLEN SUTHERLAND:** I do.

27 **MS. LYNDA MORGAN:** Thank you. And just for
28 the record, the French translation, which we do not need to

1 pull up, but which is also an exhibit, is WIT94.FR.

2 Next document, I'll ask if we can call up
3 WIT123.

4 **--- EXHIBIT No. WIT0000123:**

5 Interview Summary: Allen Sutherland,
6 Assistant Secretary to the Cabinet,
7 Democratic Institutions and Machinery
8 of Government

9 And this is a summary prepared based on your
10 in-camera examination. Mr. Sutherland, you've reviewed the
11 summary for accuracy?

12 **MR. ALLEN SUTHERLAND:** I have.

13 **MS. LYNDIA MORGAN:** And do you have any
14 changes to make to that document?

15 **MR. ALLEN SUTHERLAND:** I do not.

16 **MS. LYNDIA MORGAN:** And are you also prepared
17 to adopt the contents of that summary as part of your
18 evidence before the Commission?

19 **MR. ALLEN SUTHERLAND:** I am.

20 **MS. LYNDIA MORGAN:** Thank you. The final one
21 I'll ask that we pull up WIT113, please. And this is
22 described as an addendum summary to your stage 1 interview
23 with Commission counsel. You've reviewed this summary for
24 accuracy?

25 **--- EXHIBIT No. WIT0000113.EN:**

26 Addendum to Interview Summary: PCO
27 DI- Allen Sutherland Interview
28 Summary

1 --- EXHIBIT No. WIT0000113.FR:

2 Addendum au résumé d'entrevue - Allen
3 Sutherland

4 **MR. ALLEN SUTHERLAND:** I have.

5 **MS. LYNDA MORGAN:** Any changes to make?

6 **MR. ALLEN SUTHERLAND:** I do not have any
7 changes.

8 **MS. LYNDA MORGAN:** And are you prepared to
9 adopt the contents of that as part of your evidence before
10 the Commission?

11 **MR. ALLEN SUTHERLAND:** I am.

12 **MS. LYNDA MORGAN:** Thank you. And we don't
13 need to pull it up, but for the record, the French
14 translation is WIT113FR.

15 And our final piece of housekeeping relates
16 to the PCO Institutional Report, which, Mr. Sutherland, I
17 understand you're able to confirm represents PCO's evidence?

18 **MR. ALLEN SUTHERLAND:** I am.

19 **MS. LYNDA MORGAN:** And so if we can pull that
20 up briefly? It's CAN.DOC36.

21 And Mr. Sutherland, this is the PCO Stage 2
22 Institutional Report?

23 **MR. ALLEN SUTHERLAND:** Yes.

24 **MS. LYNDA MORGAN:** Thank you. And for the
25 record, I'll add CAN.DOC36.001, which is an addendum to the
26 Institutional Report, and the French versions are also found
27 at CAN.DOC37 and CAN.DOC37.001.

28 --- EXHIBIT No. CAN.DOC.000036:

1 Part C Institutional Report for The
2 Privy Council Office

3 --- EXHIBIT No. CAN.DOC.000036.001:

4 Informing Parliamentarians on Threats
5 - Chronology - 1 January 2019 to 31
6 April 2024

7 --- EXHIBIT No. CAN.DOC.000037:

8 Part C Institutional Report For The
9 Privy Council Office

10 --- EXHIBIT No. CAN.DOC.000037:

11 Partie C : Rapport Institutionnel du
12 Bureau du Conseil Privé

13 --- EXHIBIT No. CAN.DOC.000037.001:

14 Informer les parlementaires des
15 menaces - chronologie - Du 1er
16 janvier 2019 au 31 avril 2024

17 **MS. LYNDA MORGAN:** And so with that
18 housekeeping complete, I'll move on to ---

19 **MR. ALLEN SUTHERLAND:** All right.

20 **MS. LYNDA MORGAN:** --- substantive issues.
21 So, Mr. Sutherland, you're the Assistant
22 Secretary for Machinery of Government and Democratic
23 Institutions within PCO?

24 **MR. ALLEN SUTHERLAND:** Yes, I am.

25 **MS. LYNDA MORGAN:** And you have been since
26 2016?

27 **MR. ALLEN SUTHERLAND:** For both roles, yes.

28 **MS. LYNDA MORGAN:** I'm going to just pull up

1 a visual to show where Democratic Institutions, which short
2 form is DI, fits within PCO.

3 So if we can pull up CAN22859, please?

4 **COURT OPERATOR:** Could you repeat the
5 document ID, please?

6 **MS. LYNDA MORGAN:** CAN22859.

7 **--- EXHIBIT No. CAN022859.0001:**

8 Lunch and Learn: Democratic
9 Institutions Secretariat

10 **COURT OPERATOR:** That document's not in the
11 hearing database.

12 **MS. LYNDA MORGAN:** Well let me ask you as we
13 look for that document, how would you describe the role of
14 the Democratic Institutions Secretariat, particularly as it
15 relates to foreign interference?

16 **MR. ALLEN SUTHERLAND:** So the Democratic
17 Institution Secretariat is in PCO. In its role, it provides
18 support to Minister LeBlanc in his capacity as Minister
19 responsible for Democratic Institutions. As it relates to
20 foreign interference, it provides support to Minister LeBlanc
21 in the development of the Protecting Democracy Plan.

22 **MS. LYNDA MORGAN:** And Democratic
23 Institutions is made up of two units, the Protecting
24 Democracy Unit, another acronym we'll introduce, it's PDU, --
25 -

26 **MR. ALLEN SUTHERLAND:** Right.

27 **MS. LYNDA MORGAN:** --- and the Electoral and
28 Senate Policy Unit, ---

1 **MR. ALLEN SUTHERLAND:** Right.

2 **MS. LYNDA MORGAN:** --- ESPU. Is that right?

3 **MR. ALLEN SUTHERLAND:** Correct.

4 **MS. LYNDA MORGAN:** And as I understand it,
5 the ESPU's kind of primary focus relates to the *Canada*
6 *Elections Act*. Is that correct?

7 **MR. ALLEN SUTHERLAND:** That is correct.

8 **MS. LYNDA MORGAN:** And so the focus for my
9 questions for you today will be on PDU, which I understand in
10 one of your interviews you described in your view as more
11 relevant to the Commission's mandate?

12 **MR. ALLEN SUTHERLAND:** That is correct.

13 **MS. LYNDA MORGAN:** And so the PDU was
14 established through Budget 2022?

15 **MR. ALLEN SUTHERLAND:** Correct.

16 **MS. LYNDA MORGAN:** And as I understand,
17 serves three primary functions. And you'll correct me if I'm
18 wrong, but first, a general research function to keep up to
19 date on major themes or emerging issues, the second is
20 advancing the Protecting Democracy Initiative, as laid down
21 in Minister LeBlanc's 2021 Mandate Letter, and the third is
22 stakeholder relations, so meaning engaging groups like think
23 tanks, civil society, and academia on issues of common
24 interest?

25 **MR. ALLEN SUTHERLAND:** That's a good
26 representation.

27 **MS. LYNDA MORGAN:** Okay. Thank you. The
28 document, CAN22859, is up on the screen. I'll just ask we

1 scroll down to page 3, please.

2 The visual that I thought would be helpful
3 when we kind of reviewed the structure, but we can see in
4 blue, kind of highlighted, the Machinery of Government, your
5 name, breakdown to Democratic Institutions, and then a
6 subdivide into the PDU and ESPU that you've just described.

7 **MR. ALLEN SUTHERLAND:** It's accurate.

8 **MS. LYNDA MORGAN:** Thank you. So I'd like to
9 talk to you about the Plan to Protect Democracy, which was --
10 there was quite a lot of evidence heard about the plan during
11 Stage 1, leading to the creation of SITE, Panel of Five,
12 amongst other things, and an updated plan was approved in
13 2021.

14 **MR. ALLEN SUTHERLAND:** Correct.

15 **MS. LYNDA MORGAN:** And I understand that the
16 plan has not been formally updated since 2021?

17 **MR. ALLEN SUTHERLAND:** It has not.

18 **MS. LYNDA MORGAN:** And are there any
19 particular issues or threats in the FI environment driving a
20 need for updates?

21 **MR. ALLEN SUTHERLAND:** I would argue that
22 there's a considerable number of things that are occurring in
23 the FI environment that merit consideration as Minister
24 LeBlanc prepares for -- to develop the next report, as per
25 his Mandate Letter.

26 One of the things that has changed is the
27 increase reliance or the -- let's see. One of the things
28 that has changed in the environment is our understanding of

1 the threat. I think it's really evolved. When the first PDU
2 plan was -- first Protecting Democracy Plan was developed, it
3 was really seen as a plan to protect against electoral
4 interference.

5 More and more, there's an understanding that
6 this is not limited to elections themselves, but is a 365 day
7 a year issue. So that's one change.

8 Another change that has occurred is that as
9 we look around at what other countries are doing, and as we
10 learn from them, which is a big part of what we try and do in
11 the Protecting Democracy Unit, we're seeing that allied
12 countries are adopting multi-prong strategies. So by that I
13 mean they engage civil society. They have a whole of
14 government approach.

15 You know from, I hope, my previous testimony,
16 but that has been an element of what we've tried to do at the
17 Protecting Democracy Plan, but it's really been hammered home
18 lately. So those are two elements that I think have changed
19 in recent years.

20 **MS. LYNDA MORGAN:** And so we've heard some
21 evidence about the AI threat.

22 **MR. ALLEN SUTHERLAND:** Yes.

23 **MS. LYNDA MORGAN:** Does PCO DI view AI as an
24 emerging threat in the FI context and has there been any
25 discussions about how the existing plan or a future plan
26 might respond to AI threat?

27 **MR. ALLEN SUTHERLAND:** So certainly the
28 National Security Agencies are very aware of the AI threat.

1 It could -- and it will be -- it is under development as part
2 of the emerging Protecting Democracy Plan.

3 In terms of different elements of it, it
4 could take the form of engagement with the social media
5 platforms, for instance, but also greater awareness for
6 Canadians and greater awareness in civil society.

7 **MS. LYNDIA MORGAN:** And in the public summary
8 of your in-camera examination you'd indicated that the target
9 date is to ensure the updated plan is in place and ready for
10 the next federal election.

11 **MR. ALLEN SUTHERLAND:** Correct.

12 **MS. LYNDIA MORGAN:** And are there any
13 practical implications if an updated plan is not ratified by
14 Cabinet before the next election?

15 **MR. ALLEN SUTHERLAND:** So the plan is in
16 place and, you know, there is the formal plan, but there's
17 also the arrangements that different agencies are doing. So
18 as you correctly stated earlier, we already have the SITE
19 Task Force. We have the -- the government has put it on
20 standing footing. Like, it is up and it is operating. And
21 one of the things that we have already activated, or the
22 government has already activated, is the engagement of the
23 Panel of Five. The Panel of Five has already begun its
24 deliberations, it already had some five meetings with a sixth
25 meeting coming in the coming weeks. And so it is already up
26 and running and ready should there be an election prior to
27 the fixed-date election.

28 **MS. LYNDIA MORGAN:** And speaking about the

1 panel, ---

2 **MR. ALLEN SUTHERLAND:** M'hm.

3 **MS. LYNDA MORGAN:** --- I understand that
4 thought has been given to whether a potential expanded role
5 for the panel makes sense. And that's because, at the risk
6 of tremendously oversimplifying, they have a limited outward
7 facing role during the writ period, which is making a public
8 announcement if a particular incident or incidents meets the
9 threshold.

10 **MR. ALLEN SUTHERLAND:** So certainly
11 consideration has been given to provide Minister LeBlanc with
12 some suggestions as per -- to adjust the panel's role. We
13 have been looking at the various reports that have been made,
14 the Rosenberg report, the LeBlanc-Charrette report, and these
15 do contain recommendations that might suggest a different
16 role for the panel.

17 So what are the sorts of things that are
18 under consideration? Well one is that the role of the panel
19 is currently stated as a single one. That is, in the event
20 of a threat to the integrity of the election, the panel will
21 step forward and inform Canadians about the threat and what
22 they can do to protect themselves. It's a single purpose
23 organization.

24 As we have seen the panel evolve and grow in
25 2019 and 2021, and as we see the emerging threats, what's
26 really come into view is that the role of the panel is also
27 one of coordinating the government response and safeguarding
28 elections writ large, so there's consideration being given to

1 how the panel might serve as a coordinator of a Government of
2 Canada response.

3 There has been thought also given to the
4 issue of the threshold. As many will know, the threshold is
5 high. It's been intentionally so because too much engagement
6 by the panel on stepping into the election space could be
7 very disruptive to the election, and so one school of thought
8 is that an appropriately high threshold ought to remain. But
9 what needs to be situated more clearly is Government of
10 Canada communication should there be a low threshold event.

11 So it should be possible to inform Canadians
12 of developments that they need to be aware of that may not
13 breach the threshold. They do not threaten the integrity of
14 the election writ large, but nevertheless would help inform
15 the citizenry of things they ought to know more about.

16 So that's another element of the role
17 currently under consideration by the Democratic Institute
18 Group, and we're -- we've been engaging with Minister LeBlanc
19 and we will continue to do so.

20 **MS. LYNDA MORGAN:** And can you speak to
21 whether any consideration has been given to updating the
22 panel's membership to include non-government representatives?

23 **MR. ALLEN SUTHERLAND:** That, too, has been
24 under consideration.

25 An issue there, if I might, Commissioner, is
26 that with the Panel of Five, we really do have a unique group
27 of senior civil servants who each bring to the table
28 important competencies necessary to exercise the nuanced

1 judgment expected of a panel.

2 So we have, you know, the Deputy Minister of
3 Justice and Deputy Attorney General of Canada bringing
4 important *Charter* rights and kind of democratic values
5 issues. We have, of course, the Clerk of the Privy Council
6 and Secretary to the Cabinet who brings an understanding of,
7 indeed, the entire system.

8 We also have the NSIA, the National Security
9 and Intelligence Advisor, who brings a nuanced understanding
10 of the security space, as well as the Deputy of Public
11 Safety, who brings as well an understanding of public safety
12 issues. And then finally, we have the Deputy of Foreign
13 Affairs, who brings an understanding of the international
14 relations issues.

15 And what's important with that Group of Five
16 is they also bring an understanding of their organizations
17 and how to marshal those parts of the organization in support
18 of safeguarding Canada's elections so that, as part of that
19 coordinating function, it really is a very good group. It's
20 -- the number, it being five, is one that is effective for
21 decision-making.

22 So we have considered different permutations
23 of it. Minister and Cabinet will, indeed, decide. It is a
24 Cabinet directive. But just to kind of make a bit of a
25 defence of the status quo there.

26 **MS. LYNDIA MORGAN:** So you've talked -- you
27 spoke already about how SITE -- or how the panel is already
28 up and functioning and meeting in ---

1 **MR. ALLEN SUTHERLAND:** Yes.

2 **MS. LYNDA MORGAN:** --- preparation for the
3 next election.

4 I'd like to ask you about the by-elections
5 and how SITE was stood up for the by-elections and some of
6 the relationships and kind of reporting channels during the
7 by-elections.

8 So SITE was stood up for 2023 and 2024 by-
9 elections?

10 **MR. ALLEN SUTHERLAND:** Yeah.

11 **MS. LYNDA MORGAN:** And if we look at the
12 composition of SITE today, I understand that PCO DI has
13 observer status on SITE.

14 **MR. ALLEN SUTHERLAND:** Yes, we do.

15 **MS. LYNDA MORGAN:** And PCO DI did not have
16 that status initially when SITE was created.

17 **MR. ALLEN SUTHERLAND:** That's correct as
18 well.

19 **MS. LYNDA MORGAN:** Who decides what groups
20 can participate in SITE, whether as a member or to get this
21 observe status?

22 **MR. ALLEN SUTHERLAND:** How did we win
23 observer status?

24 **MS. LYNDA MORGAN:** Yeah.

25 **MR. ALLEN SUTHERLAND:** I think we were
26 invited on by members of the SITE Task Force.

27 **MS. LYNDA MORGAN:** And with observer status,
28 is DI involved in deciding what to do with pieces of

1 intelligence such as whether to share particular information
2 with the panel, or is the role more limited?

3 **MR. ALLEN SUTHERLAND:** I think the role is
4 more limited than that.

5 The role of the SITE Task Force is to present
6 information to whether it is the panel or DM CIRs, which is
7 Deputy Minister Committee of Intelligence Response, and it's
8 really not to provide a heavy vetting function. The
9 intelligence is meant to flow.

10 **MS. LYNDIA MORGAN:** And so that leads me to
11 the kind of general reporting structure during the by-
12 elections.

13 As you've just described, there's no panel to
14 report to, so SITE is reporting up to DM CIR.

15 **MR. ALLEN SUTHERLAND:** Reports up to DM CIR
16 and DM CIR operates still under Ministerial authorities.

17 If I could make just one point about the by-
18 elections. So this is -- the Prime Minister gave direction
19 to stand up the SITE Task Force during that time period. It
20 represented an expansion of the role. And I think it's
21 really important for the way forward because I think here we
22 see in a pilot case the evolving new practices that Canadians
23 can expect from -- should there be a federal election writ
24 large.

25 For one thing, you see increased
26 transparency, so there's an after-action report after the by-
27 elections. This is part of informing Canadians what has
28 happened to their elections. The other thing is the calling

1 out.

2 On two occasions of the nine by-elections,
3 there has been a calling out of foreign interference at what
4 would be a sub-threshold level, both Michael Chong and the
5 spamouflage incident. So what you're seeing is we're
6 evolving, the system is learning, and we're also setting
7 expectations for a broader -- you know, when there is a
8 federal election, those practices can be more readily
9 applied. And part of what we're trying to do is normalize
10 communications and just kind of establish the change in
11 bureaucratic practices.

12 **MS. LYNDA MORGAN:** So if we look at DM CIR
13 outside of the writ period, who's the body to whom SITE kind
14 of shares their intelligence, I understand that DM CIR has
15 some but not all of the same members as those on the panel.

16 **MR. ALLEN SUTHERLAND:** I believe that it's
17 three of five.

18 **MS. LYNDA MORGAN:** And DM CIR is differently
19 situated than the panel. It's not in a position to make a
20 public announcement because of Ministerial accountability.
21 Is that correct?

22 **MR. ALLEN SUTHERLAND:** It would have to draw
23 on Ministerial accountabilities in order to make an
24 announcement ---

25 **MS. LYNDA MORGAN:** And can you ---

26 **MR. ALLEN SUTHERLAND:** --- which could be
27 delegated.

28 **MS. LYNDA MORGAN:** Can you describe

1 practically what that means?

2 **MR. ALLEN SUTHERLAND:** What that means is
3 that whatever is decided at DM CIR, it only operates under
4 Ministerial accountability, so under normal -- under usual
5 circumstances, Ministerial authority is applied so that it
6 would involve engaging the Minister unless he or she has
7 already delegated that responsibility to the Deputy involved.

8 **MS. LYNDIA MORGAN:** I'd like to pull up an
9 email. It's CAN31772. It's just called "Re threshold and
10 letter to Minister LeBlanc".

11 **--- EXHIBIT No. CAN031772:**

12 Threshold and Letter to Minister
13 LeBlanc

14 **MS. LYNDIA MORGAN:** If we can scroll down to
15 the bottom of page 1, please.

16 And so in this email, there's a series of
17 exchanges about how to articulate a threshold for public
18 communication in the event of a threat to the by-election.

19 And at the bottom of page 1, the last
20 paragraph, there's reference to:

21 "...connecting with Al on this and
22 will likely see if he'd like to come
23 to ADM ESCC and DM CIR to discuss
24 threshold and decision-making. When
25 we see Al, ..."

26 Presumably that is you?

27 **MR. ALLEN SUTHERLAND:** Could be AI, but yeah.
28 No, it's me.

1 **MS. LYNDA MORGAN:** And did you participate in
2 discussions of threshold and decision-making in relation to
3 kind of outside of the writ period?

4 **MR. ALLEN SUTHERLAND:** I do not recall
5 speaking to DM CIR on this subject, nor do I recall speaking
6 to ADM ESCC. It's possible it happened, but I just don't
7 have a clear -- like because it's not unusual to talk about
8 issues around threshold.

9 Now, I would say that the question of
10 threshold is a different one outside a panel context, right.
11 The threshold is a term that can -- is being used loosely
12 because there is no panel threshold in a non-caretaker
13 situation. So I think what -- when she says a threshold, I
14 think what she's referring to, a level at which an
15 announcement might be made.

16 **MS. LYNDA MORGAN:** And in this context, as
17 you've said, it would be a Minister or someone delegated by
18 the Minister who'd make a decision about whether it's
19 appropriate to make an announcement?

20 **MR. ALLEN SUTHERLAND:** So my understanding is
21 that DM CIR operates by consensus and then, based on that, DM
22 authorities -- or Ministerial authorities apply, so based on
23 that common -- the group coming to a common understanding
24 from their Minister would most likely make a decision at that
25 point.

26 **MS. LYNDA MORGAN:** And one of the features of
27 FI-related intelligence is that it could relate to members of
28 the government or political parties or other political

1 actors.

2 **MR. ALLEN SUTHERLAND:** Correct.

3 **MS. LYNDA MORGAN:** And it seems that that
4 could present a challenge in the reporting or sharing of that
5 intelligence with clients who are also political actors. And
6 so has there been any discussion of what mechanism or body
7 might be best positioned to respond to sensitive partisan
8 issues to avoid giving rise to the appearance of a conflict
9 of interest?

10 **MR. ALLEN SUTHERLAND:** So ultimately
11 Ministers are responsible in our system, so their authorities
12 apply. There could be situations where the Minister would
13 delegate the decision down to the DM level, or could
14 conceivably be even further down than that, but it would
15 require a delegation.

16 **MS. LYNDA MORGAN:** And so has there been any
17 specific discussion about whether there should be an
18 alternate reporting mechanism? Is there a viable alternate
19 reporting mechanism when there are sensitive partisan issues
20 engaged?

21 **MR. ALLEN SUTHERLAND:** So not to my
22 knowledge. I'm not a member of DM CIR, so I don't know the
23 answer to that.

24 **MS. LYNDA MORGAN:** And not more generally in
25 the context of a more permanent reporting body or more
26 permanent ---

27 **MR. ALLEN SUTHERLAND:** I think -- I think
28 there are others who'd be better placed to understand whether

1 or not the Minister -- a Minister had made that delegation or
2 not. It could well have happened, I just -- I'm unfamiliar.

3 **MS. LYNDA MORGAN:** I think, let me just try
4 the question one more time.

5 **MR. ALLEN SUTHERLAND:** Sure.

6 **MS. LYNDA MORGAN:** Has there been discussion
7 of creating an alternate stream or path of intelligence flow,
8 for instance, in situations where there are sensitive
9 partisan issues that may need to be addressed?

10 **MR. ALLEN SUTHERLAND:** Well, it is the case
11 that the national security agencies having been engaging the
12 political parties, have offered briefings on sensitive
13 national -- sensitive issues. So I think that we've been
14 trying to create -- the Government of Canada has been trying
15 to create that link with parties because it understands that
16 parties are very important democratic actors, they're
17 democratic institutions, and we need to further develop those
18 links, even outside of the election period.

19 **MS. LYNDA MORGAN:** And during GE 44, PCO DI
20 acted as co-chair of the political party briefings with PCO
21 S&I assistant secretary?

22 **MR. ALLEN SUTHERLAND:** That's correct.

23 **MS. LYNDA MORGAN:** And as I understand it,
24 there was two types of briefings, one was specific incident
25 to be briefed to a particular party, and then also general
26 briefings, and PCO DI was only involved in the latter.

27 **MR. ALLEN SUTHERLAND:** So we attended both
28 parts as co-chair. It would be unusual if I stepped out

1 during the other part of the meeting. But we tended to
2 provide more general briefings about how the panel worked
3 during the election period, offering, you know, a contact
4 point, but the actual substantive briefings were done by the
5 national security agencies.

6 **MS. LYNDA MORGAN:** And is PCO DI responsible
7 for scheduling those briefings and also inviting the parties
8 to briefing?

9 **MR. ALLEN SUTHERLAND:** I think that was more
10 on the security and intelligence side.

11 **MS. LYNDA MORGAN:** Okay. We've heard some
12 criticism of the level of detail in some of the briefings,
13 some complaints, potentially, that the information wasn't
14 concrete enough. Is there any formal mechanism in place to
15 kind of obtain feedback about briefings, kind of determine
16 their advocacy or figure out if the briefings needs to be
17 changed in any way?

18 **MR. ALLEN SUTHERLAND:** It hasn't happened on,
19 like, a meeting-by-meeting basis. I do recall that we asked
20 after the fact how things went. And beyond that, there was,
21 you know, an open invitation to talk, whether it was to me or
22 to my SI counterpart on issues that were either more
23 sensitive or more general. In fact, someone who was on -- a
24 member of those briefings contacted me yesterday, retained my
25 card and he called me yesterday about a subject.

26 **MS. LYNDA MORGAN:** Are there any anticipated
27 changes to be made before the next election, in relation to
28 the content or scheduling of briefings?

1 **MR. ALLEN SUTHERLAND:** So we're very mindful
2 that in the hearings the different party actors have been
3 dissatisfied with the level of briefing and the content of
4 the briefing, so we're committed to doing a better job,
5 hitting the standard, better understanding their needs.
6 That's part of why we're reaching out to them now.

7 I'm not saying we've hit the standard. There
8 is an issue around exactly -- you know, so there was a
9 question on the generality of briefings and what can be done
10 to kind of make them more meaningful for parties. And I know
11 that all those involved will be working to try and kind of
12 meet their expectations. They are, in effect, our clients.
13 And so we're disappointed that they weren't satisfied, and,
14 you know, we will try and do a better job going forward.

15 **MS. LYNDA MORGAN:** I'd like to ask you about
16 a couple of flagged risks or kind of challenges that have
17 been identified in relation to the plan. The document I'm
18 going to show you is from the fall of 2023, so it's possible
19 that some of these are no longer risks or challenges.

20 But if we could pull up CAN33988, please?

21 **THE COURT OPERATOR:** Could you repeat the
22 document ID, please?

23 **MS. LYNDA MORGAN:** Three three nine eight
24 eight (33988).

25 **THE COURT OPERATOR:** That document is in the
26 PD, so it'll just be a minute.

27 **(SHORT PAUSE)**

28 **--- EXHIBIT NO. CAN033988.001:**

1 Protecting Democracy - Fall 2023
2 Priorities

3 **MS. LYNDIA MORGAN:** So this is labelled as,
4 "Protecting Democracy, Fall 2023 Priorities". I'll first
5 direct your attention to the box at the top of the first page
6 with the red header, "Risks and Challenges".

7 **MR. ALLEN SUTHERLAND:** M'hm.

8 **MS. LYNDIA MORGAN:** It's partially redacted,
9 but the first item is described as:

10 "Sequencing: multiple recommendations
11 [or] reports coming forward..."

12 And the second is:

13 "Minister's time: broader portfolio,
14 urgent issues requiring attention."

15 Are you able to speak to those two risks and
16 challenges that were identified, and if anything has been
17 done to address them or respond to them?

18 **MR. ALLEN SUTHERLAND:** Sure. So I think the
19 first one just speaks to there has been -- you know, we
20 benefitted from a number of reports, and there's also the
21 work of the Inquiry, understanding at which point should the
22 government -- should recommendations to the Minister be made
23 such that the government makes a change when there is a
24 report outstanding.

25 So it's very important to evolve with the
26 evolving threat, we -- it's a question of picking the moment
27 that's most opportune for kind of evolving the next version,
28 knowing that there's important information that's

1 outstanding. So there's a bit of a -- I think where we'll
2 be and where we have been is a little bit of what I call,
3 "Ready, fire, aim," right? We have to evolve and then when
4 we get good ideas we'll evolve again.

5 And so that's what we've done. We got some
6 good recommendations, for instance, from the Rosenberg Report
7 on evolving kind of the panel's activity level prior to an
8 election; that's already happened. And so -- and just -- and
9 we've given -- continue to give thought to some of his other
10 recommendations, in terms of a more forward-leaning role for
11 government communications in that spot. So that's what
12 that's speaking to.

13 On the second point it's like the -- it's
14 like the old joke about Ottawa, what's the scarcest commodity
15 in Ottawa? A Minister's time. So when is the best time to
16 brief the Minister? We've had ongoing engagement with him,
17 but that's what that's speaking to, is he's a very active
18 Minister. We're fortunate to have the Minister we do but his
19 time is very precious, and we have to make precious use of
20 it.

21 **MS. LYNDA MORGAN:** And if we can scroll down
22 to page 2, again in the middle column here, there's some
23 items under the header of "Systemic challenges". The first
24 is:

25 "Ability to determining what is
26 foreign origin and what is not." (As
27 read)

28 Are you able to speak to kind of how that

1 challenge plays out practically?

2 **MR. ALLEN SUTHERLAND:** Yeah. And I think you
3 saw a little bit of it with the -- your previous witnesses.
4 It's not always possible to attribute in real time whether or
5 not a foreign actor, whether something's inauthentically
6 amplified or not, and determining that foreign origin can be
7 a real challenge, so that is an ongoing one that faces the
8 national security agencies and the Protecting Democracy Plan
9 more generally.

10 **MS. LYNDA MORGAN:** And if we look at the
11 second two, evolution of platforms and access to data, I'll
12 group those together, but can you just expand on what those
13 challenges look like?

14 **MR. ALLEN SUTHERLAND:** Yeah, so the number of
15 platforms continues to grow, they evolve, they get more
16 popular, less popular, and as well, the access to data point
17 is one that you will hear from academics in terms of their
18 ability to see into the platforms and what's happening.

19 **MS. LYNDA MORGAN:** And what is the benefit of
20 -- when the complaint here is phrased as no reasonable way to
21 get access to large quantities of data, what is the practical
22 problem that that creates?

23 **MR. ALLEN SUTHERLAND:** So I would say that
24 it's -- if I'm guessing who wrote this, it was one of my
25 members of the research team because it's put in a very
26 research-sensitive way because this is how academics talk
27 about the problem. But it just -- it's just your window into
28 what's happening on the platform, your window into the

1 algorithm just gets more challenging. Now, of course, the
2 national security agencies have -- and Alia's, you know,
3 spoke about trade craft, their trade craft evolves too. So
4 I'm not sure I would take the blanket statement of no
5 reasonable way to mean that the NSAs can't do their job.
6 I've heard no indication of that from them. That is more of
7 an academic complaint.

8 **MS. LYNDA MORGAN:** I would like to move onto
9 mis and disinformation. I understand that is one of the key
10 focuses for the PDU?

11 **MR. ALLEN SUTHERLAND:** Yes.

12 **MS. LYNDA MORGAN:** And I understand that PCO
13 DI is developing what has been described as a training module
14 around mis and disinformation?

15 **MR. ALLEN SUTHERLAND:** Correct.

16 **MS. LYNDA MORGAN:** Is there a specific
17 strategy or module being developed in relation to FI, or is
18 this a broader program that's being developed?

19 **MR. ALLEN SUTHERLAND:** It's broader than
20 that, but because mis and disinformation can be foreign in
21 origin or it can be domestic in origin, so I believe the
22 module which is currently under development with the Canada
23 School of Public Administration -- Public Service, Canada
24 School of Public Service is -- would deal with the broader
25 set of issues.

26 **MS. LYNDA MORGAN:** And who is the target
27 audience for that module?

28 **MR. ALLEN SUTHERLAND:** So the target audience

1 in the first instance would be public servants, and as well,
2 strategic communication shops specifically, so that it can
3 address, you know, mis and disinformation as relates to
4 government services and operations. It's also being
5 explicitly made available to provinces to help them as well.
6 So we have opened up invitations to provinces in some of our
7 other -- we had a trust series with Canada's School of Public
8 Service, and we ensure that provinces are also able to access
9 it as well.

10 **MS. LYNDA MORGAN:** In your -- in the public
11 version of your examination summary, you explain that there's
12 a need to build a comprehensive strategy to have
13 communications experts more versed in the need to pre-bunk
14 and debunk mis and disinformation. Are you able to explain
15 what that means, who are the communication experts? What
16 does it mean to be versed in the need to pre-bunk and debunk?

17 **MR. ALLEN SUTHERLAND:** So -- well, I can give
18 you a sort of a layperson's view of it because I'm not a
19 strategic coms expert. But what it speaks to is the need for
20 government communications to be mindful of issues around mis
21 and disinformation and how they might affect trust in
22 government services and citizen's understanding of those
23 services. Trust is a very vital asset when it comes to
24 effective government operations. We often require the trust
25 of citizens in order to deliver programs and services most
26 efficiently. So it is an important strategic communications
27 objective to work in a way that retains the trust of
28 communities, and that means addressing when there is mis and

1 disinformation.

2 **MS. LYNDA MORGAN:** And one of the ways that
3 mis and disinformation can be propagated is through social
4 media. We heard during stage one there was the Canada
5 Declaration on Online Activity. I just wanted to ask you for
6 some updates on that in relation ---

7 **MR. ALLEN SUTHERLAND:** Sure.

8 **MS LYNDA MORGAN:** --- to signatories. If I
9 can have CAN32909 pulled up, please?

10 **--- EXHIBIT No. CAN032909.001:**

11 GAC Introductory Meeting with Tencent
12 on WeChat and Information
13 Manipulation

14 **MS LYNDA MORGAN:** So this is described as GAC
15 introductory meeting with Tencent on WeChat and information
16 manipulation. We can see your full name on this email, so we
17 know that you were included on this chain. If we can scroll
18 to the bottom of the page there? And so this is an email
19 from you ---

20 **MR. ALLEN SUTHERLAND:** Yes.

21 **MS LYNDA MORGAN:** --- where you say that,
22 "DI would be interested in connecting
23 with them re Canada Declaration on
24 Online Integrity. WeChat is not
25 currently a signatory."

26 Are you able to explain if any progress has
27 been made since this 2023 email, and also, whether there are
28 additional signatories in addition to those we heard about in

1 2021?

2 **MR. ALLEN SUTHERLAND:** Yes, so the
3 statement's correct. WeChat is not currently a signatory to
4 the Canada Declaration on Information -- Online Integrity.
5 Since then, we have had an introductory discussion with
6 Tencent where we had a general discussion about their
7 platform and whether they might be interested in becoming a
8 signatory. So discussions are ongoing more generally with
9 different social media platforms. We are reengaging with
10 them as part of providing advice to the Minister on whether
11 it might be possible to renew the Canada Declaration, perhaps
12 update it, and that includes whether there might be a
13 possibility for new signatories.

14 **MS. LYNDA MORGAN:** And in terms of the
15 purpose of being a signatory, what does it mean for someone
16 to sign on to this declaration?

17 **MR. ALLEN SUTHERLAND:** So it is a voluntary
18 declaration. It doesn't have the force of law. We have
19 found that in the past that it has helped provide a
20 connection between a social media platform and the
21 government, so that there's a connection point. We've also
22 found that in the past, having a platform -- because they do
23 worry about the reputational risks, having a platform sign on
24 means that it sort of says, you know, that there needs to be
25 attention to Canada and Canada's election. So in the past,
26 we have seen that, whether it's a Canadian director of the --
27 as you know, most of the social media platforms are based in
28 the United States, but having the Canadian director be able

1 to say we've signed a declaration with Canada, that it means
2 something and has a resonance in headquarters and helps get
3 attention to Canadian issues, but it is entirely voluntary
4 and does not have the force of law.

5 **MS. LYNDA MORGAN:** And the Commissioner has
6 heard and will hear evidence about the government-created
7 guidebook on countering disinformation for public servants,
8 and I understand PCO DI played a role in or was responsible -
9 --

10 **MR. ALLEN SUTHERLAND:** Yes.

11 **MS. LYNDA MORGAN:** --- for preparing ---

12 **MR. ALLEN SUTHERLAND:** Yes.

13 **MS. LYNDA MORGAN:** --- that material. And
14 there is also associated toolkits?

15 **MR. ALLEN SUTHERLAND:** Yes.

16 **MS. LYNDA MORGAN:** Which are described as
17 protecting democracy toolkits to resist disinformation and
18 foreign interference, and there's different versions for
19 community leaders, for elected officials, and for public --
20 elected officials and public officer holders, and then public
21 servants there's also a separate toolkit?

22 **MR. ALLEN SUTHERLAND:** Correct.

23 **MS. LYNDA MORGAN:** How does PCO DI envision
24 that those written materials will be used?

25 **MR. ALLEN SUTHERLAND:** So they're intended to
26 be used by different groups. You didn't mention them, but
27 we've also -- the Minister has sent them to the Federation of
28 Canadian Municipalities. I would also note that the -- a

1 toolkit is -- currently, we're finishing translation in eight
2 languages. The idea is to make sure that it gets distributed
3 to community leaders as well, eight languages and Inuktitut.
4 So we are working -- this is an area of growth for us,
5 engaging with community leaders, engaging with provinces.
6 Minister LeBlanc sent them to each of his counterparts. He's
7 -- when he meets bilaterally, he tends to mention them as
8 well, which we really appreciate. And in addition to that,
9 the toolkits and guidebooks were the subject of discussion of
10 a Clerks and Cabinet Secretaries meeting. So the Clerk and
11 Cabinet Secretaries meeting is a meeting of the clerk, so the
12 top public servant in Canada, with his provincial
13 counterparts. So we -- there were actually two sessions that
14 related to issues around foreign interference or mis- and
15 disinformation as well as issues around social cohesion at
16 the last set of meetings. And we were able to present the
17 toolkits to folks.

18 **MS. LYNDIA MORGAN:** And in terms of the kind
19 of, practical way in which the contents are going to be used,
20 how does PCO DI envision the use? I mean, is it a user
21 manual, does it provide information about who to contact? Is
22 it meant to ---

23 **MR. ALLEN SUTHERLAND:** It does do that.

24 **MS. LYNDIA MORGAN:** --- provide a broader,
25 just understanding of the baseline?

26 **MR. ALLEN SUTHERLAND:** I would say that -- so
27 there is an ability to -- if I remember correctly, it's been
28 a while since I've looked at them, but I believe there is

1 someone to contact if you have a problem. We're also using
2 it as a bit of a calling card, so my director has been making
3 calls out to the provinces to see if there's further
4 interest.

5 **MS. LYNDA MORGAN:** And so, in relation to
6 mis- and disinformation, I understand PDU is also focused on
7 engaging civil society?

8 **MR. ALLEN SUTHERLAND:** Yes.

9 **MS. LYNDA MORGAN:** And making use of that
10 civil society capacity.

11 **MR. ALLEN SUTHERLAND:** Yes.

12 **MS. LYNDA MORGAN:** Can you understand -- I'll
13 get into some of the specifics, but can you understand the
14 reasoning behind that outreach to civil society?

15 **MR. ALLEN SUTHERLAND:** Yeah. It's one of our
16 growing understandings is just the important role that civil
17 society takes in protecting democracy. If you look at the
18 front-line countries around the world, your Finlands, your
19 Estonias, your Taiwan, they have very active civil societies
20 and it's really part of the key role in ensuring you have an
21 informed citizen is to have an informed civil society.
22 Because civil society can reach out to groups within Canada
23 in a way sometimes a government cannot.

24 So we feel very strongly that civil society
25 is an important partner in protecting democracy and engaging
26 with different groups. So that's why it's been a growing
27 focus of the PDU's activities. We've tried to do it in a
28 couple of ways. We've been sponsoring conferences, so the

1 Democracy Exchange, and Canada Votes, we often host dedicated
2 sessions at some of those conferences. And as well, I
3 believe yesterday you heard -- or maybe it was the day
4 before, you heard from the CDMRN, so they -- that's the group
5 that we have been championing.

6 **MS. LYNDA MORGAN:** So I understand that PCO
7 DI supports the CDMRN, which is Canadian Digital Media
8 Research Network, and it receives government funding. Is
9 that right?

10 **MR. ALLEN SUTHERLAND:** Yes.

11 **MS. LYNDA MORGAN:** Are there any mechanisms
12 in place, given the nature of the funding, to ensure the
13 CDMRN independence from government?

14 **MR. ALLEN SUTHERLAND:** So they are
15 independent. They are a network of 10 different groups from
16 across the country. I believe it's probably contained in
17 their terms and conditions, but I haven't looked at their
18 terms and they are not in front of me, so I can't say how
19 explicitly it's mentioned in the terms and conditions. But
20 it's certainly understood that this is not a government
21 directed organization.

22 **MS. LYNDA MORGAN:** So I'd like ---

23 **MR. ALLEN SUTHERLAND:** They wouldn't allow
24 us, frankly.

25 **MS. LYNDA MORGAN:** I'd like to ask you about
26 some of the engagement between PCO DI and CDMRN.

27 **MR. ALLEN SUTHERLAND:** Yeah.

28 **MS. LYNDA MORGAN:** Just trying not to stumble

1 on the acronym. But if we can pull up CAN46103, please?

2 --- EXHIBIT No. CAN046103.0001:

3 Canadian Digital Media Research

4 Network - Nov 2023 Report

5 **MS. LYNDA MORGAN:** I appreciate you're not on
6 this document, this is a briefing note to the Minister at the
7 beginning of January 2024.

8 **MR. ALLEN SUTHERLAND:** Okay.

9 **MS. LYNDA MORGAN:** And if you can scroll down
10 the page, please? If you look in the paragraph just above
11 recommendations or next steps, you see the statement:

12 "PCO DI has also engaged the CDMRN on
13 three immediate priorities..."

14 And it lists three:

15 "(1) a public facing monthly product
16 on the state of the Canadian media
17 ecosystem; (2) the incident response
18 protocol; and (3) a potential
19 approach for briefing officials and
20 others on the CDMRN's work and
21 findings."

22 Nine months have passed roughly since the
23 memo. Are you able to comment on any progress made on these
24 immediate priorities or kind of how they played out
25 practically?

26 **MR. ALLEN SUTHERLAND:** A little bit. So I
27 think CDMRN received a three year -- three years of support
28 and funding. So the organization is very much on its

1 maturity curve, and I think that we're starting to see the
2 benefits. We're starting to harvest the benefits.

3 Their monthly product I have seen, I think
4 they've had at least two, possible three of those monthly
5 products, meant to inform the community at large. They are
6 publicly available. And as well, they have been developing
7 their incident response protocol. And so, on that it's -- I
8 think what that refers to is if they see something, do they
9 provide a dedicated assessment?

10 So you will have seen the work that --
11 perhaps you will have seen the work that they did on the
12 Kirkland Lake bot issue that arose, which is a good example
13 of their work.

14 In terms of potential briefings, we do meet
15 with them monthly or so, just to get their sense of how the
16 ecosystem is evolving. It is a tremendous analytic challenge
17 to understand, like, think of all the Canadian digital media
18 space. So what's happening, like how do you describe it,
19 what does it look like? And so, they are experts in that.
20 They're again, 10 institutions from across Canada, so we very
21 much appreciate their insights on this, and their commentary
22 on issues like polarization within Canadian society have been
23 very interesting and I would argue, kind of hopeful.

24 **MS. LYNDIA MORGAN:** And you've described their
25 work as complimentary to that of the panel. How is their
26 work complimentary and how do you see the two working
27 together?

28 **MR. ALLEN SUTHERLAND:** So working together is

1 too strong a statement. As you reiterated earlier, they are
2 an independent organization.

3 But in effect, the CDMRN in an electoral
4 situation should they notice something in the public space
5 and were to comment on it, it may mean that government
6 doesn't need to comment on it. And so, if they can debunk a
7 false narrative that has occurred, or some mis- and
8 disinformation, and Canadians are informed of it, wonderful.
9 It means that government doesn't need to step forward.

10 We're very sensitive in government about
11 being perceived as an arbiter of truth. And so, government
12 has to be very careful in this space, but the CDMRN as an
13 independent, is you know, a set of institutions is sometimes
14 right sized for some of the problems that might happen to
15 spark up from time to time.

16 **MS. LYNDA MORGAN:** I'm going to ask you about
17 CAN33655, which is minutes of a 2024 panel meeting, and as
18 you said earlier in your evidence, the panel has already
19 started meeting in preparation for the next election.

20 **--- EXHIBIT No. CAN033655:**

21 Critical Election Incident Public
22 Protocol Panel Retreat

23 **MS. LYNDA MORGAN:** So this is a -- called it
24 a meeting, it's a retreat -- March 25th, 2024, and if we
25 scroll down on the first page under other Government of
26 Canada invitees, we can see your name.

27 **MR. ALLEN SUTHERLAND:** M'hm.

28 **MS. LYNDA MORGAN:** Did you attend this

1 retreat?

2 **MR. ALLEN SUTHERLAND:** I did, yes.

3 **MS. LYNDA MORGAN:** And if we continue to
4 scroll down, we see amongst the external parties who were
5 invited, multiple members of the CDMRN?

6 **MR. ALLEN SUTHERLAND:** Correct.

7 **MS. LYNDA MORGAN:** And if you keep scrolling
8 down, please, continue. To this, to page 5, just go up to
9 the top of that page, please. So the briefing by the CDMRN,
10 which is a 70-minute presentation.

11 **MR. ALLEN SUTHERLAND:** M'hm.

12 **MS. LYNDA MORGAN:** If you can scroll down and
13 stop there, please? Do you recall and did you attend this
14 presentation by the CDMRN?

15 **MR. ALLEN SUTHERLAND:** Yes, I did. Yeah.

16 **MS. LYNDA MORGAN:** Okay. And it looks like
17 there's three bolded potential questions for discussion in
18 the notes that are set out here. One is:

19 "How will you determine that a
20 disruption in the information
21 ecosystem originates from a foreign
22 or domestic entity?"

23 So that problem with attribution that you've
24 already described.

25 **MR. ALLEN SUTHERLAND:** Yes.

26 **MS. LYNDA MORGAN:** A question about whether
27 to make information public, what would it look like, and
28 questions about how do you see the CDMRN and panel

1 interacting during the election period. Were there -- was
2 there a resolution or a conclusion drawn in response to any
3 of these questions, or are they kind of ongoing topics for
4 discussion?

5 **MR. ALLEN SUTHERLAND:** As I recall, most of
6 the focus of the meeting was on the first question. The
7 CDMRN took the panel members extensively through their
8 methodology, and so kind of helped -- tried to them
9 understand how they know what they know. So that was largely
10 the focus.

11 It was a more general -- like, I wouldn't say
12 that the other questions were necessarily resolved, but I
13 think that the CDMRN did peak the interest of the panel
14 precisely around the issue that I raised earlier, which is
15 sometimes government's just not well placed to address issues
16 that emerge and if an independent active civil society can
17 call out -- and by the way, it's not just the CDMRN that do
18 it, media often plays a very important role in debunking
19 false narratives, political parties play a role in debunking
20 false narratives as well. So I don't want to leave folks
21 with the impression there is only the CDMRN out there. There
22 are groups that are outside the CDMRN and the think tank
23 community that can play a role too.

24 But I think the CDMRN managed to make, you
25 know, it's case that it is a potentially interesting group
26 that may be able to make a contribution to helping to make
27 our elections safer.

28 **MS. LYNDIA MORGAN:** Is it unusual to invite

1 external participants to panel retreats?

2 **MR. ALLEN SUTHERLAND:** So this is part of
3 what I think is kind of a new panel. We reinvent the panel
4 after each election. So this was the first time that we had
5 external people speak. It's an experiment that we think
6 worked, and we're going to build on it. In fact, we have
7 built on it already.

8 So the panel has also heard from the
9 Government of France and the Government of the U.K. on the
10 findings from their elections and we managed to get national
11 security agencies in both those groups to come talk to us
12 about what they saw during their election time periods and
13 what were the steps they took. This is part of ensuring that
14 Canada has a robust system. So we're committed to continuing
15 to engage dynamically to give the panel the best possible
16 information.

17 So this is an important new way of operating.
18 We're expanding it out and we're going to -- I mean, I think
19 the Clerk and the panel have given us a green light to
20 continue to be creative to bring people to the panel
21 meetings.

22 **MS. LYNDIA MORGAN:** And in relation to the
23 last bullet that's still up on the screen, ---

24 **MR. ALLEN SUTHERLAND:** Yeah.

25 **MS. LYNDIA MORGAN:** --- how do you see the
26 CDMRN and panel interacting during the election period? Is
27 that an issue that has been given any consideration? Whether
28 there will be any collaboration or, for instance, continuing

1 meetings during the writ period?

2 **MR. ALLEN SUTHERLAND:** So interacting -- so
3 each is independent, but understanding if they're seeing
4 something is pretty important to us. It might also, like, --
5 there could even be, you know, like, "We've noticed
6 something. What is your assessment of it?" So it's like if
7 they can help us understand more quickly what's going on in
8 the Canadian digital media space, that -- they're seen as a
9 potential resource, but very importantly, an independent
10 resource.

11 **MS. LYNDA MORGAN:** And I'd like to understand
12 the relationship between PCO DI and the Digital Citizenship
13 Initiative.

14 **MR. ALLEN SUTHERLAND:** Yes.

15 **MS. LYNDA MORGAN:** Short form DCI.

16 **MR. ALLEN SUTHERLAND:** Right.

17 **MS. LYNDA MORGAN:** So DCI has been in place
18 since around 2020, and that -- they receive funding for
19 projects like media literacy. Is there any kind of specific
20 relation between PCO DI and DCI? Or how would you describe
21 that information sharing, if any exists?

22 **MR. ALLEN SUTHERLAND:** So I would say it's a
23 close relationship. We've benefited from the DCI in
24 protecting democracy initiatives in the past. We have
25 included a funding element for the DCI. We've also made it
26 known that we have certain issues that we think are
27 particularly important. So we kind of throw them into the
28 mix. One of them, from years ago, was diaspora groups, and

1 if you look at the funding of projects in the Digital Citizen
2 Initiative, you will see that they have been funding diaspora
3 groups.

4 **MS. LYNDIA MORGAN:** Thank you. Those are my
5 questions for you. Thank you.

6 **COMMISSIONER HOGUE:** Thank you. So it's
7 1:29. We'll take -- just let me check. We'll come back at
8 2:50. Yes, 2:50. It's one hour 20 minutes. Yes, at 2:50.

9 **THE REGISTRAR:** Order, please. À l'ordre,
10 s'il vous plaît.

11 **COMMISSIONER HOGUE:** Bon appétit, tout monde.

12 **THE REGISTRAR:** The sitting of the Commission
13 is now in recess until 2:50 p.m. Cette séance de la
14 Commission est maintenant suspendue jusqu'à 15 h 05.

15 --- Upon recessing at 1:29 p.m./

16 --- L'audience est suspendue à 13 h 29

17 --- Upon resuming at 2:50 p.m./

18 --- La séance est reprise à 14 h 50

19 **THE REGISTRAR:** Order please. À l'ordre,
20 s'il vous plaît.

21 This sitting of the Foreign Interference
22 Commission is now back in session. Cette séance de la
23 Commission sur l'ingérence étrangère est de retour en
24 session.

25 The time is 2:50 p.m. Il est 14 h 50.

26 **COMMISSIONER HOGUE:** I think the first one is
27 Ms. Teich for the Human Rights Coalition? Am I right?

28 **--- CROSS-EXAMINATION BY MS. SARAH TEICH:**

1 **MS. SARAH TEICH:** Good afternoon.

2 **MR. ALLEN SUTHERLAND:** Good afternoon.

3 **MS. SARAH TEICH:** Could we please pull up
4 CAN.DOC36?

5 **COURT OPERATOR:** Could you repeat the
6 document ID, please?

7 **MS. SARAH TEICH:** CAN.DOC36. It's the Part C
8 Institutional Report. Thank you. And scroll to page 27.
9 And just the very last line on the bottom, just the title is
10 here. It identifies DM China Committee. We can keep
11 scrolling down to the top of page 28.

12 The report identifies that there's this
13 committee and it notes here that:

14 "The Committee discusses issues
15 relating to foreign policy, and from
16 time to time, those related to
17 foreign interference."

18 Does this committee discuss the impacts of
19 foreign interference on Uyghurs, Honk Kongers, Tibetans, and
20 Falun Gong practitioners?

21 **MR. ALLEN SUTHERLAND:** I am not a member of
22 the committee and I am unfamiliar with its activities.

23 **MS. SARAH TEICH:** Okay. If you're aware, is
24 the committee consulting with members of these diaspora
25 communities?

26 **MR. ALLEN SUTHERLAND:** I'm sorry, I don't
27 know.

28 **MS. SARAH TEICH:** Okay. If we can scroll

1 down to page 31? A little bit further, where it says "ADM
2 China Committee".

3 I imagine -- I'm anticipating your answers
4 now, but I'm going to ask them anyway. In this page it
5 describes the committee's:

6 "Meetings are [...] typically held [...] monthly or bimonthly [and that they]
7 discuss issues relating to foreign policy, Canada-China relations, and
8 from time to time, those related to foreign interference."

9 If you know, does this committee discuss the
10 impacts of foreign interference on Uyghurs, Hong Kongers,
11 Tibetans, or Falun Gong practitioners?

12 **MR. ALLEN SUTHERLAND:** I'm not familiar with
13 the operations of this committee.

14 **MS. SARAH TEICH:** Okay. If we just look
15 through, like, this whole report basically, I mean, there's
16 many committees identified. There's the DM China Committee,
17 the ADM China Committee, as I've flagged, and also there's an
18 ADM biweekly meeting on India. That one's mentioned on page
19 31. Is this list comprehensive?

20 **MR. ALLEN SUTHERLAND:** I can't attest as to
21 whether it's comprehensive, but I can say that it does -- as
22 you can see, there are a number of committees mentioned. I
23 believe it's comprehensive, but I don't know it for a fact.

24 **MS. SARAH TEICH:** Okay. Do you know if there
25 are any other country-specific committees besides those
26

1 related to China and India?

2 **MR. ALLEN SUTHERLAND:** At all within the
3 federal government?

4 **MR. GREGORY TZEMENAKIS:** Sorry to interrupt.
5 Apologies to my friend. The Institutional Report was
6 specifically crafted within the scope of this Foreign
7 Interference Inquiry, so there may be other committees.
8 They're not all listed. The beginning of the section
9 identifies which committees are listed and why they are
10 listed. So you can direct the witness to that portion. That
11 might help.

12 **MS. SARAH TEICH:** Okay. Sure. I'm not sure
13 exactly what portion or what page number that's at. Okay.
14 Maybe I'll just skip that question. It's all right.

15 In your opinion, would it be valuable to have
16 committees dedicated to other states, any other states that
17 may not be already included that engage in foreign
18 interference and transnational repression?

19 **MR. ALLEN SUTHERLAND:** It's hard for me to
20 comment on it, given that I don't know what these committees
21 -- the operations of these committees.

22 **MS. SARAH TEICH:** Okay. Fair enough. As a
23 whole, I understand that the DI has increased its engagement
24 efforts. Is the DI engaging with diaspora community groups?

25 **MR. ALLEN SUTHERLAND:** We are attempting to
26 kind of develop through our various products, making them
27 diaspora friendly.

28 I would also note that, you know, DI is a

1 very small unit. The DI Protecting Democracy Unit is only 10
2 people. If we speak of the Government of Canada itself, the
3 answer is certainly yes. As well, being attuned to the
4 issues of diaspora groups, I would just simply note that, you
5 know, all the recognized political parties develop the terms
6 and reference for the Foreign Interference Inquiry, which
7 includes a specific focus on diaspora groups, which again
8 speaks to the concern about diaspora groups as it relates to
9 things like foreign interference.

10 **MS. SARAH TEICH:** Okay. But just to be
11 clear, the DI, and I understand it's very small, does not
12 engage regularly with diaspora communities?

13 **MR. ALLEN SUTHERLAND:** We engage indirectly
14 through the DCI.

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

16 **MR. ALLEN SUTHERLAND:** And we also are
17 endeavouring to get our toolkits translated into minority
18 language group languages.

19 **MS. SARAH TEICH:** Okay. Okay. Those are all
20 my questions. Thank you.

21 **COMMISSIONER HOGUE:** Thank you.

22 Next one is Mr. Sirois for the RCDA.

23 **MS. NATALIA RODRIGUEZ:** Commissioner, it's
24 Natalia Rodriguez, Commission counsel. If I can just
25 interject? Sorry. Pardon my voice, I'm kind of losing it.

26 But just a reminder for counsel, if you're
27 making an intervention, please turn on your microphone so
28 that it can get picked up for the interpreters, and to just

1 say your name for the record. It makes it a lot easier for
2 the transcriptionists.

3 COMMISSIONER HOGUE: Good point.

4 MS. NATALIA RODRIGUEZ: Thank you.

5 COMMISSIONER HOGUE: So Mr. Sirois.

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

7 MR. GUILLAUME SIROIS: Good afternoon.

8 MR. ALLEN SUTHERLAND: Good afternoon.

9 MR. GUILLAUME SIROIS: When did you learn
10 that Russian operatives were paying Canadian influencers \$10
11 million to establish Tenet Media, a media outlet intended to
12 influence Canadian public opinion?

13 MR. ALLEN SUTHERLAND: I'm not familiar with
14 your question.

15 MR. GUILLAUME SIROIS: You're not familiar
16 with Tenet Media?

17 MR. ALLEN SUTHERLAND: Yeah, Tencent, you
18 mean?

19 MR. GUILLAUME SIROIS: Tenet Media, the media
20 outlet that was set up by Canadian influencers and paid by
21 Russian operatives. Have you heard about that in the news?

22 MR. ALLEN SUTHERLAND: Yes, I have.

23 MR. GUILLAUME SIROIS: And when did you learn
24 about this?

25 MR. ALLEN SUTHERLAND: I believe I learnt
26 about it over the summer.

27 MR. GUILLAUME SIROIS: So before or after
28 September 5th?

1 **MR. ALLEN SUTHERLAND:** Oh, sorry, must be
2 after September 5th.

3 **MR. GUILLAUME SIROIS:** Okay. So you learned
4 through the media reports?

5 **MR. ALLEN SUTHERLAND:** Yes.

6 **MR. GUILLAUME SIROIS:** And why didn't you
7 learn about this sooner than through the media reports and
8 the unsealing of the U.S. indictment? Was there any
9 indications from anywhere in government that this was
10 happening?

11 **MR. ALLEN SUTHERLAND:** It -- so that speaks
12 to a specific piece of intel. It was also gathered by the
13 Americans. So it's not surprising that I wouldn't have come
14 across it before it reached the media.

15 **MR. GUILLAUME SIROIS:** Okay. And this was
16 happening over quite a significant portion -- amount of time,
17 at least since, like, November of 2023. And I'm wondering,
18 like, we have a plan to protect our democracy, we have a
19 bunch of institutions that are doing their own kind of work,
20 but I'm wondering why it hasn't been caught by Canadian
21 agencies, or by the government, or by non-profit
22 organizations that are contracted by the government prior to
23 the unsealing of the U.S. indictment?

24 **MR. ALLEN SUTHERLAND:** So I can only really
25 speak for what I know.

26 **MR. GUILLAUME SIROIS:** M'hm.

27 **MR. ALLEN SUTHERLAND:** Just a reminder that
28 the job of Democratic Institutions within the Privy Council

1 Office is to provide a policy framework. We're not regular
2 consumers of intel. So it's not surprising that when intel
3 is gathered, and even if it is circulated, it's circulated on
4 a need-to-know basis. So it's not a surprise that I didn't
5 happen to get the information.

6 As for your broader statement about why
7 didn't national security agencies know, I can't speak to that
8 because I'm not part of the national security agency group.

9 **MR. GUILLAUME SIROIS:** Do you think that --
10 if we want to bring it back to the policy framework, do you
11 think the policy framework failed in identifying this sort of
12 disinformation campaign?

13 **MR. ALLEN SUTHERLAND:** Not based on what
14 you've said so far.

15 **MR. GUILLAUME SIROIS:** So you think it's
16 something that can happen, and does happen, and, like, it's
17 normal ---

18 **MR. ALLEN SUTHERLAND:** You'll ---

19 **MR. GUILLAUME SIROIS:** --- to you?

20 **MR. ALLEN SUTHERLAND:** --- have to explain
21 what is it that you feel can happen or did happen?

22 **MR. GUILLAUME SIROIS:** The fact that there
23 was 50 videos about Canadian issues that Tenet Media
24 published that have been seen by half a million Canadians, or
25 half a million people, supposedly Canadians, but that, like,
26 didn't raise any red flags or yellow flags?

27 **MR. ALLEN SUTHERLAND:** I don't know whether
28 that's the case or not.

1 **MR. GUILLAUME SIROIS:** Okay. You don't know
2 whether it raised any flags within government?

3 **MR. ALLEN SUTHERLAND:** As I said, my
4 responsibility is for the policy framework. What you're
5 talking about is pretty raw national security agency
6 information, and I'm sorry, I'm not -- I did not participate
7 in anything that might have happened in that space.

8 **MR. GUILLAUME SIROIS:** I might try to frame
9 it differently then. This happened not during an election
10 period. And I heard you mention during your examination
11 earlier today that you were trying to move from an election-
12 specific issue to a 365 day ---

13 **MR. ALLEN SUTHERLAND:** Yes, the Government of
14 Canada is, yes.

15 **MR. GUILLAUME SIROIS:** And would that
16 approach help you detect the sort of disinformation campaigns
17 that didn't happen during an election period?

18 **MR. ALLEN SUTHERLAND:** Well for instance, the
19 SITE Task Force is operational now; right? So that's an
20 example of it's not the writ period, but it's -- the SITE
21 Task Force is operational now. There's far more attention to
22 issues around foreign interference than there would have been
23 four years ago.

24 So I guess I -- it's really the premise of
25 your question, that it wasn't picked up and wasn't caught.
26 You're just not asking the right person. So I apologize for
27 that, but I can't know stuff I didn't get exposed to.

28 **MR. GUILLAUME SIROIS:** No problem. Are there

1 any policies that could be implemented to better detect these
2 sort of disinformation campaigns?

3 **MR. ALLEN SUTHERLAND:** That'd be a question -
4 - it strikes me that that's a question of trade craft and
5 it'd be addressed to the national security agencies.

6 **MR. GUILLAUME SIROIS:** I'm sorry. I thought
7 you were the policy person.

8 **MR. ALLEN SUTHERLAND:** I am the policy
9 person.

10 **MR. GUILLAUME SIROIS:** So any policies that
11 could be developed to better address this disinformation?

12 **MR. ALLEN SUTHERLAND:** Well, I suppose there
13 could be more support for national security agencies.

14 **MR. GUILLAUME SIROIS:** And it necessarily has
15 to be national security agencies that address these sort of
16 issues.

17 **MR. ALLEN SUTHERLAND:** The sort of
18 information that, you know -- your targeting of, you know,
19 clandestine FI strikes me as something that would naturally
20 engage the national security agencies.

21 **MR. GUILLAUME SIROIS:** No others. No other
22 agencies.

23 **MR. ALLEN SUTHERLAND:** I would -- how would I
24 frame it this way?

25 It would seem to be primarily of interest to
26 the national security agencies.

27 **MR. GUILLAUME SIROIS:** Who else?

28 **MR. ALLEN SUTHERLAND:** You know, it could

1 have a broader interest with -- no, I think the national
2 security agencies should be those who are primarily concerned
3 with the issue that you raised.

4 **MR. GUILLAUME SIROIS:** Okay. Do you know if
5 there has been any consequences to this disinformation
6 campaign?

7 I suppose not because they were addressed by
8 national security agencies, as you say.

9 **MR. ALLEN SUTHERLAND:** I'm not aware of any.

10 **MR. GUILLAUME SIROIS:** And so that brings us
11 to another point, perhaps, is that national security
12 agencies, by the very nature of their work, typically operate
13 in secret or like their work is not typically known by
14 Canadians. Do you think that's -- like we can't discuss
15 about this because most of this information is secret. CSE
16 told us this morning that they cannot answer any questions
17 about Tenet Media because it's protected by national security
18 confidentiality.

19 Do you think that's a risk to our democracy,
20 the fact that the diaspora or the Canadian public cannot know
21 about what our government is doing about these issues?

22 **MR. ALLEN SUTHERLAND:** I think it's a very
23 challenging area. Of course there will be some things that
24 are subject to -- and appropriately so. There's a need to
25 protect sources. There's a need to protect methods. Those
26 things cannot be broadly known.

27 But the broad features of foreign
28 interference, I would argue, can be made known to Canadians

1 and there has been substantial amount of work that has taken
2 place to try and do that. I think more needs to be done, so
3 in that sense I agree with you.

4 For instance, CSE and CSIS have regularly
5 produced reports outlining the threat environment. There
6 have been at least four reports. At the time they were first
7 introduced, it was the first time anywhere in the world that
8 such a report had been created outlining the threats to
9 democracy within Canada.

10 So that's one way that I think the national
11 security agencies are trying to provide the information they
12 can about their understanding of the threat environment. And
13 if you go to those reports, you'll see that they do name
14 countries, including Russia, in their threats -- threat
15 reports.

16 I think, too, that if you look at the
17 activities of former CSIS Director David Vigneault, he went
18 to the Board of Trade in Toronto and talked about these
19 issues, and other places as well. And I mean, you'd have to
20 check the record, but I believe he mentioned Russia.

21 I think that it's an overall government
22 challenge to find ways to inform Canadians of the threat
23 facing their democracy. I think that it's important to be
24 proportionate.

25 Canadian democracy is resilient. Canadian
26 democracy is -- has the -- our elections have integrity and
27 will continue to have integrity. And just as we've seen
28 around the world in countries in far more precarious

1 situations than Canada, they are still able to have
2 democratic events with integrity.

3 We've just seen it in France and Britain.
4 We've seen it in Taiwan, Estonia, Finland. Countries really
5 on the front line of the sort of disinformation you're
6 worried about are still able to conduct democratic elections,
7 and there's no reason why Canada can't.

8 I think the dialogue that you talk about is
9 an important one. It needs to be conducted very carefully.

10 And just to repeat, we cannot reveal our
11 tradecraft and we cannot reveal our methods.

12 **MR. GUILLAUME SIROIS:** So for you, it's not a
13 problem that this sort of things are happening in Canada and
14 we cannot know, for instance, why it's -- we learn from it
15 from the United States rather than from Canada or when did
16 our security agencies become aware of these.

17 **MR. ALLEN SUTHERLAND:** I think in the
18 specific instance, I think you need to talk to the national
19 security agencies.

20 **MR. GUILLAUME SIROIS:** Okay. Those are my
21 questions.

22 **MR. ALLEN SUTHERLAND:** Thank you.

23 **COMMISSIONER HOGUE:** Thank you.

24 Mr. Chantler for the Concern Group.

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

26 **MR. NEIL CHANTLER:** Good afternoon, Mr.
27 Sutherland.

28 **MR. ALLEN SUTHERLAND:** Good afternoon.

1 disinformation during its 2024
2 Presidential election.”

3 What can you tell us about Taiwan’s methods?
4 What did they do in Taiwan that was different and -- from
5 what we’ve been doing in Canada?

6 **MR. ALLEN SUTHERLAND:** Well, so I had the
7 benefit of attending a conference hosted by the University of
8 Ottawa as well as Global Affairs Canada and, actually, the
9 U.S. Embassy, and there we had a real privilege to see and
10 meet with various members of the -- of civil society groups
11 in Taiwan.

12 The thing that is very impressive -- many
13 things are impressive about Taiwan, but the thing that I
14 would underscore in the democratic space is their civil
15 society’s ability to identify mis and disinformation. In
16 this case, it’s artificial -- AI generated mis and
17 disinformation. There was like -- to my knowledge, it’s the
18 first recorded AI generated example of mis and disinformation
19 occurred during their 2024 Presidential campaign.

20 They were able to call it out very quickly
21 and it spoke to the effectiveness -- because it wasn’t a
22 government agency that did it. It was their civil society
23 that did it. And it just spoke to a very effective civil
24 society and the potential of civil society to play a very
25 important role in combatting FI and mis and disinformation.

26 **MR. NEIL CHANTLER:** So these were not steps
27 taken by the Taiwanese government in ways ---

28 **MR. ALLEN SUTHERLAND:** Not to my knowledge.

1 I mean, you could speak with them and you might get a
2 slightly different answer, but in the main part, it was civil
3 society that led the way.

4 **MR. NEIL CHANTLER:** And how are you measuring
5 success? How do you know that what happened in Taiwan was
6 successful at combatting the foreign interference, the
7 artificial intelligence that was happening?

8 **MR. ALLEN SUTHERLAND:** So in this particular
9 case, it didn't have an impact on the election. It was AI
10 generated mis and disinformation that affected a candidate
11 and it was debunked quickly and effectively.

12 **MR. NEIL CHANTLER:** Success is often a
13 difficult thing to measure in this forum, isn't it,
14 combatting foreign interference? We're never really sure
15 what the impact might be.

16 **MR. ALLEN SUTHERLAND:** I -- yes, that makes
17 sense.

18 **MR. NEIL CHANTLER:** It's hard to measure the
19 impact of foreign interference and, conversely, it's hard to
20 measure our efforts to combat it.

21 **MR. ALLEN SUTHERLAND:** But I think we can say
22 that when something gets debunked quickly and effectively,
23 it's been successful.

24 **MR. NEIL CHANTLER:** If we can please scroll
25 to paragraph 21, this same document.

26 Here is where you talk about recent efforts
27 by the SITE Task Force to post by-election public reports.

28 **MR. ALLEN SUTHERLAND:** Yes.

1 **MR. NEIL CHANTLER:** And you say:

2 "This addresses a need to demonstrate
3 to Canadians that efforts were under
4 way to ensure the integrity of
5 elections."

6 This is part of government being more
7 transparent about foreign interference; right?

8 **MR. ALLEN SUTHERLAND:** Correct.

9 **MR. NEIL CHANTLER:** And this is in contrast
10 to the approach in 2021, or the conclusion in 2021 that
11 alerting the public about foreign interference might actually
12 erode confidence in our electoral systems. We've evolved
13 from that. This is the evolution.

14 **MR. ALLEN SUTHERLAND:** I think it's a
15 question of evolution. I think that Canadian and Canadian
16 society's in a very different context than it was in 2019 and
17 2021.

18 The mere fact of this Inquiry is helping to
19 inform Canadians of the threats that they face. I think that
20 there's an expectation among Canadians about being informed
21 that probably didn't exist in certainly 2019.

22 So what the government's trying to do is
23 evolve its approaches as society changes, as the threats
24 evolve, and one of the areas that we're giving attention to,
25 and I know you are in the Inquiry situation as well, is just
26 how to normalize communication so that if the government were
27 to step forward with something, that it's not seen as being
28 kind of something that undermines the integrity of the

1 election.

2 We're very mindful that there is a
3 possibility that government intervention could amplify things
4 by drawing attention to it or repeated interventions could
5 lead to a sense that, well, something's not right. There
6 must -- is the integrity threatened.

7 If we can normalize communications and
8 explain to Canadians based on now their higher level of
9 knowledge of these issues, I think that we're in a better
10 space now than we were before.

11 **MR. NEIL CHANTLER:** It certainly ---

12 **MR. ALLEN SUTHERLAND:** Sorry. That was a
13 long answer.

14 **MR. NEIL CHANTLER:** Sorry.

15 It does seem like a positive step forward.
16 My client group would certainly agree that the dissemination
17 of foreign interference information targeting the Chinese
18 community certainly helps better protect them from foreign
19 interference.

20 But I'm going to suggest to you that there
21 might be some risks to this new approach, and I expect that
22 they have been considered. And I'm interested to hear how
23 they've been considered and how you've worked around these
24 risks.

25 The first of two risks, I'll suggest to you,
26 is it's possible now that the public might become
27 desensitized to foreign interference announcements such that
28 they no longer pay attention to them. Has that risk been

1 considered and how have you worked around that in your own
2 reasoning?

3 **MR. ALLEN SUTHERLAND:** I think it has to do -
4 - so the desensitization of risk, I think it's about the
5 clear expression -- like we -- while we don't want them to be
6 dramatic, seen as kind of democracy-ending bits of
7 information, nor do we want them to be seen as ho hum and no
8 one pays attention. I think the sweet spot is to clearly
9 explain what's happened, why it's happened and what Canadians
10 can do to protect themselves and then, from there, I would
11 trust Canadians to both -- understand both the magnitude of
12 the risk and also that it -- because it involves our
13 democracy, it's important, too.

14 So I think the chances of desensitization,
15 I'm hopeful, are not high.

16 **MR. NEIL CHANTLER:** Presumably the answer
17 will be in the messaging. If something ---

18 **MR. ALLEN SUTHERLAND:** Yes.

19 **MR. NEIL CHANTLER:** --- is very serious, that
20 ---

21 **MR. ALLEN SUTHERLAND:** I would agree with
22 that.

23 **MR. NEIL CHANTLER:** --- will be clear in the
24 messaging.

25 **MR. ALLEN SUTHERLAND:** Yeah.

26 **MR. NEIL CHANTLER:** The second risk is that
27 it's possible the public might come to rely on the
28 government's assessments of foreign interference and

1 announcements about foreign interference and trust that if an
2 announcement hasn't been made, then there must not be any
3 outstanding issues of foreign interference. This is
4 sometimes referred to as the burden of benevolence that
5 you're taking on or otherwise an expectation trap.

6 How have you worked around that notion, that
7 by taking this role on you really must take it seriously?
8 And the public's going to be relying on the government to now
9 make announcements about foreign interference.

10 **MR. ALLEN SUTHERLAND:** I think part of our
11 response is not to simply rely on government so that that
12 speaks to what we think is an important role for civil
13 society and civil society actors, there's an important role
14 for media and there's an important role for political Parties
15 as well to play their role in trying to -- buttressing our
16 democracy.

17 So I take your point, like will Canadians sit
18 on their hands and if they don't hear anything, then they
19 don't need to care about, you know, mis and disinformation.
20 I'm hopeful that that's not the case.

21 I think it's not the case in the interim just
22 given where we are as a society, but maybe going forward it
23 might become an issue and we would address it at that time.

24 **MR. NEIL CHANTLER:** It certainly is a risk
25 when the government starts making announcements about things
26 that it considers to be disinformation, where does that line
27 get drawn where you're going to raise the alarm bells about a
28 disinformation campaign and where are you not going to.

1 These are very difficult lines to draw, is
2 the point I'm trying to make.

3 **MR. ALLEN SUTHERLAND:** Okay.

4 **MR. NEIL CHANTLER:** You would agree.

5 **MR. ALLEN SUTHERLAND:** I don't think that
6 Canadians will simply sit on their hands when confronted with
7 information that their -- that particularly foreign
8 interference in their election is taking place. The interest
9 in this Inquiry is proof that that's not the case.

10 So I think we're far away from that at this
11 time.

12 **MR. NEIL CHANTLER:** Those are my questions.

13 Thank you.

14 **COMMISSIONER HOGUE:** Thank you.

15 Counsel for Erin O'Toole.

16 **--- CROSS-EXAMINATION BY MR. THOMAS JARMYN:**

17 **MR. THOMAS JARMYN:** Good afternoon, Mr.
18 Sutherland.

19 **MR. ALLEN SUTHERLAND:** Good afternoon.

20 **MR. THOMAS JARMYN:** My name's Tom Jarmyn.
21 I'm counsel for Erin O'Toole.

22 I'd like to ask you some questions about the
23 role of the PDU and social media.

24 And so my understanding is that PDU is
25 responsible for coordinating relationships with the various
26 social media enterprises that operate within Canada. Is that
27 correct?

28 **MR. ALLEN SUTHERLAND:** That is -- I think

1 that's an overstatement of the role of the PDU. What we did
2 in 2019 and 2021 is, on behalf of the Minister responsible
3 for democratic institutions, we engaged with them on the
4 Canada Declaration on Electoral Integrity Online.

5 **MR. THOMAS JARMYN:** Okay.

6 **MR. ALLEN SUTHERLAND:** By that I mean to say
7 that there are other groups, including national security
8 agencies, which have their own relationships with the social
9 media platforms.

10 **MR. THOMAS JARMYN:** All right. Thank you.

11 But the PDU is responsible for policy
12 development, or at least policy coordination within the
13 Government of Canada in considering the relationship between
14 social media and our democratic institutions.

15 **MR. ALLEN SUTHERLAND:** Yes.

16 **MR. THOMAS JARMYN:** Is that accurate?

17 **MR. ALLEN SUTHERLAND:** So we -- like we don't
18 have a monopoly on this. I don't want to leave you with that
19 impression. But as relates to the protecting democracy plan
20 led by the Minister responsible for democratic institutions,
21 we are providing -- we provide guidance to him or her in the
22 development of things that include social media platforms.

23 **MR. THOMAS JARMYN:** All right. I'd like to
24 turn our attention to WeChat. And I put it to you that
25 WeChat is fundamentally different as a social network from
26 Facebook or X or Google. Would you agree with that?

27 **MR. ALLEN SUTHERLAND:** I would agree that
28 it's significantly different, yes.

1 **MR. THOMAS JARMYN:** And if we can bring up,
2 Court Reporter, CAN11293.

3 And if you could just shrink it modestly so
4 that we can see a little bit more of the page.

5 So this is an intelligence assessment memo
6 from July of 2023, and it talks about the Communist Party of
7 China's efforts to dominate the media landscape. And it
8 talks in the third bullet:

9 "The CPC controls narratives by
10 limiting opportunities for dissenting
11 voices, providing economic incentives
12 and fostering self-censorship."

13 And then in the sixth bullet, it talks about
14 how those things foster -- or support transnational
15 repression efforts and attempts to influence electoral
16 outcomes.

17 This is all consistent with your
18 understanding of the CPC's view of our democratic
19 institutions?

20 **MR. ALLEN SUTHERLAND:** So just to note, this
21 is an Intelligence Assessment Secretariat document, and it's
22 their set of key judgments. And I have no reason to disagree
23 with it.

24 **MR. THOMAS JARMYN:** Okay. I'd like to scroll
25 down to paragraph 11 at the bottom of page 3.

26 And this, in particular, discusses WeChat as
27 being one of the top online Chinese language news providers.
28 And more particularly in paragraph 12, if you go down to the

1 top of the next page, it talks about WeChat's all-
2 encompassing nature as a multipurpose service and how it
3 "facilitates CPC surveillance, repression and influence
4 operations".

5 Is -- again, is -- your understanding of the
6 control by the CPC over the WeChat network, is this
7 consistent with your understanding as well?

8 **MR. ALLEN SUTHERLAND:** I would say that I'm
9 not an expert in WeChat. So at an analytical level, I would
10 rely on the work of the IAS Secretariat.

11 **MR. THOMAS JARMYN:** Okay. But in attempting
12 to -- I understood from your comments from Commission counsel
13 that there have been discussions about bringing WeChat into
14 our Protecting Democracy Online Initiative. Is that really
15 possible, given these levels of control by the Chinese
16 Government?

17 **MR. ALLEN SUTHERLAND:** So it is certainly
18 something that we will need to consider as we go forward.
19 It's important to note that what I spoke of was an
20 introductory chat to see what was possible. We will have
21 further discussions. We will engage with the national
22 security agencies as we kind of move along, and if we can
23 reach an agreement, we will do it.

24 I would note that it's -- you know, the
25 Canada Declaration is a voluntary agreement and part of what
26 it's trying to do is create a link between the social media
27 platform and the government, such that if there is an issue
28 that were to arise, that there's a way of reaching out to

1 them to make sure that they follow their community standards.
2 So it's intended to try and promote good behaviour. It is
3 voluntary. I do not want to overstress its importance.

4 I take your comments about the need to
5 approach this very cautiously. I think we're doing that.
6 But I think it was important to start having those
7 discussions to see what was possible.

8 **MR. THOMAS JARMYN:** But the comment from the
9 intelligence agencies is that WeChat is designed in a way
10 that facilitates the spread of disinformation and
11 misinformation that facilitates China's interests. So if
12 it's a design feature, can an agreement even do anything for
13 us there?

14 **MR. ALLEN SUTHERLAND:** Well that's what all -
15 - that's what we'll need to work through together with the
16 national security agencies.

17 **MR. THOMAS JARMYN:** Okay. Thank you.

18 If I could ask the Reporter to bring up
19 CEF302_R?

20 So this is a document from August 19th of
21 2024 in which the Commissioner of Elections, essentially it
22 reviews the complaints that were made with respect to the
23 Greater Vancouver Area in the 2021 Election.

24 And to be right up front, the Commissioner
25 found that there was no basis to proceed with an undue
26 foreign influence charge.

27 But the important thing is that in the course
28 of 302 -- of this investigation, the Commissioner, or her

1 staff rather, interviewed a number of electors in that
2 region.

3 So I'd like to go to paragraph 96, which is
4 on PDF page 41. And if you could scroll down so that we see
5 the bottom of the paragraph?

6 So about half way down, there's a sentence
7 that talks about one of the interviews:

8 "He also reported, as did other
9 interview subjects, that, with
10 WeChat, you can only post what the
11 Chinese government allows you to
12 post, so the recipient can only see
13 what the government allows them to
14 see, other material is censored,
15 increasingly by use of artificial
16 intelligence..."

17 And then at the end:

18 "In the end, investigators were left
19 with the clear understanding that
20 Chinese Canadian WeChat users whom
21 investigators interviewed expect the
22 PRC to be monitoring their conduct
23 and content on WeChat."

24 So here we've got not just the global
25 assessment, but actual people on the ground believing the
26 accuracy of the global assessment.

27 What steps would the PDU be taking in order
28 to develop -- or to convey to the Chinese diaspora about

1 things about the secrecy of the ballot and how they need --
2 they shouldn't, or maybe they should, worry about these kinds
3 of activities?

4 **MR. ALLEN SUTHERLAND:** So the PDU group is
5 not equipped to engage in the way you're suggesting. I think
6 that this is more an issue of engagement with diaspora groups
7 writ large and it's more appropriately a Government of Canada
8 initiative.

9 **MR. THOMAS JARMYN:** And you're aware of
10 reports as well that the same sort of techniques have been
11 used against MP Chong, and in fact, that led to the
12 declaration that the Chinese Consul -- one of the Chinese
13 Diplomatic staff was *persona non grata*? Is that correct?

14 **MR. ALLEN SUTHERLAND:** So just on MP Chong, I
15 believe you set out the steps out correctly.

16 **MR. THOMAS JARMYN:** Okay. Thank you.

17 Finally I'd like to quickly turn to TikTok
18 and go to CAN4358_0001.

19 And this is strategic overview and it talks
20 about:

21 "Despite assurances to the contrary,
22 personal data on TikTok [...] is
23 accessible to China."

24 And subsequently, later on the analysis is
25 because of the *National Cyber Security Law*, the *National*
26 *Intelligence Law*, and the *National Security Law*, that TikTok
27 is a tool of the Chinese Government to spread disinformation.

28 Is that your understanding as well?

1 **MR. ALLEN SUTHERLAND:** I'm not in a position
2 to comment on that.

3 **MR. THOMAS JARMYN:** Okay. Thank you very
4 much. Those are all my questions.

5 **COMMISSIONER HOGUE:** Thank you.
6 Counsel for Jenny Kwan. Ms. Kakkar or Mr.
7 Choudhry?

8 **--- CROSS-EXAMINATION BY MS. MANI KAKKAR:**

9 **MS. MANI KAKKAR:** Good afternoon,
10 Commissioner.

11 And good afternoon, Mr. Sutherland.

12 **MR. ALLEN SUTHERLAND:** Good afternoon.

13 **MS. MANI KAKKAR:** I am Mani Kakkar. I am
14 counsel for Ms. Kwan. I actually have some questions for you
15 with respect to DM CIR, which I believe you explained in your
16 testimony is equivalent to the Panel of Five in many ways,
17 but just functions outside of the caretaker period?

18 **MR. ALLEN SUTHERLAND:** So it does -- so your
19 -- it's a correct statement. It operates outside the
20 caretaker period. It has many of the qualities of the panel
21 that -- including three of its members are also members who
22 have become members of the panel. It's different though in
23 that DM CIR exists at a time when ministerial authorities are
24 still in place.

25 **MS. MANI KAKKAR:** I appreciate that. And
26 actually, I'd like to delve into some of the details around
27 the similarities and differences.

28 I believe it was your testimony when

1 Commission counsel brought you to CAN.DOC31722 that the use
2 of the word "threshold" there wasn't sort of capital T
3 threshold the way it is for the Panel of Five. Am I to
4 understand that threshold for DM CIR is different than the
5 Panel of Five?

6 **MR. ALLEN SUTHERLAND:** The threshold for the
7 Panel of Five is laid out in the Cabinet Directive. I don't
8 know what the, you know, the small T threshold is that is
9 being used for DM CIR.

10 I think it's one that exists in relation to
11 ministerial authorities, so I think it probably has to do
12 with issues around government communications. So you'll
13 recall that DM CIR was in place during the nine by-elections
14 and we had the spamouflage incident and the Michael Chong
15 incident. In both those cases, the -- it is not necessarily
16 clear to me that that's the same as a threshold that affects
17 the integrity of the election, but it was one that, using
18 their small T threshold, was enough to do fuller engagement
19 by, in this case it would have been the rapid response
20 mechanism.

21 **MS. MANI KAKKAR:** Okay. So then I believe
22 what you're saying, in part, is that Canadians might have a
23 different response for DM CIR in by-elections than they can
24 expect from the Panel of Five during elections?

25 **MR. ALLEN SUTHERLAND:** So this is where I was
26 trying to draw a bit of a link that in fact by-elections are
27 allowing us to test a more proactive Government of Canada
28 communications approach. And I suggested it would happen in

1 two ways. One, greater transparency because the SITE Task
2 Force provided, pretty soon after the election, an assessment
3 afterwards of the integrity of the election. I think that's
4 very important, to give Canadians the assurance they need.

5 But then there was also a leaning in on
6 communications, in this case spamouflage and Michael Chong,
7 which speak to, you know, again, small T threshold events.

8 But I think that what it's suggesting is
9 revolving new strategies and tactics, responding to what we
10 think is a changed environment, which since -- you know, I
11 would -- people place it differently, but I would place it
12 around the Russian invasion of the Ukraine where governments
13 have shown a greater interest in stepping forward, calling
14 out foreign state actors who interfere, and that's what we
15 were trying to do there. So I think it's showing a more
16 advanced practice, an evolving practice.

17 **MS. MANI KAKKAR:** I appreciate that comment,
18 and you know, I appreciate that, like anything, your response
19 is going to evolve as your knowledge of the threat actors
20 evolves and as the Canadian public's knowledge evolves.

21 But I want to clarify one more distinction
22 and then ask the question I have around the inconsistencies
23 between responses during by-elections versus elections. But
24 to be clear, as well as the sort of lower "t" threshold being
25 different, the response can be different too. You had sort
26 of described the Panel of Five as a single-purpose entity,
27 whereas the Ministers have different accountabilities and
28 different tools at their disposal.

1 **MR. ALLEN SUTHERLAND:** Yes.

2 **MS. MANI KAKKAR:** Okay. And so that means
3 that during a by-election, the group of people that are
4 responsible for, perhaps, communicating with the public about
5 any possible interference that they feel meets a Threshold,
6 different thresholds again, capital "T" versus lower "t",
7 also could respond in different ways. They could, during a
8 by-election, have a much wider toolkit but somehow during a
9 General Election have a single-purpose tool that they can
10 use. Does that seem disproportionate to you?

11 **MR. ALLEN SUTHERLAND:** No, and let me try and
12 explain it.

13 **MS. MANI KAKKAR:** Sure.

14 **MR. ALLEN SUTHERLAND:** We'll see how I do.

15 **MS. MANI KAKKAR:** Sounds good.

16 **MR. ALLEN SUTHERLAND:** I think you're quite
17 right in saying that there could be a range of tools that are
18 used. You could have, in global diplomatic terms, a
19 *démarche*; you call in the Ambassador, you make an
20 announcement with your comms people, you make an announcement
21 with your experts outlining what's happened. The Panel's
22 threshold is meant when you have an incident that threatens
23 the integrity of the election. It means that the Panel steps
24 forward, it performs its task of identifying what has
25 happened and how Canadians can protect themselves. It is
26 meant to be used rarely.

27 What we're evolving using, to use your
28 language, the lower "t" threshold, is the broader range of

1 responses that might be possible from the Government of
2 Canada engaging different units in different ways. It could
3 be threat reduction measures, which may not have a public
4 face. And I think you heard from witnesses earlier today who
5 talked of that. But just to say there is a broader range to
6 the toolkit that could be brought to the fore to address
7 those issues that you identified.

8 **MS. MANI KAKKAR:** And I apologize; I remain a
9 little confused. Are you saying that there's a broader range
10 of toolkits during the general elections or during the by-
11 elections or both?

12 **MR. ALLEN SUTHERLAND:** Sorry if I've been
13 confusing.

14 **MS. MANI KAKKAR:** No, that's okay.

15 **MR. ALLEN SUTHERLAND:** I'm saying that the
16 full range of tools could be brought into place during a full
17 election, as you have seen in the by-election. The by-
18 election proofs is pilot for what might take place in the
19 broader General Election.

20 **MS. MANI KAKKAR:** Okay. So you're saying
21 that the broader range of tools that we've been seeing in
22 these by-elections is something that either is or will be in
23 place ---

24 **MR. ALLEN SUTHERLAND:** Could be. Could be.

25 **MS. MANI KAKKAR:** --- could be in place for
26 the general elections. Do you agree with me that by-
27 elections should be no more or less protected than the
28 general election because our general election is certainly

1 sort of like 330-plus by-elections?

2 **MR. ALLEN SUTHERLAND:** So the difference
3 between the two is in by-elections ministerial authorities
4 are fully intact and the Cabinet Directive doesn't take
5 place. So I think that the toolkit in both cases is
6 similarly large but not exactly the same because you don't
7 have the Panel for the by-elections.

8 **MS. MANI KAKKAR:** Would you agree, though,
9 that the same possible situation of foreign interference
10 should be arguably or theoretically dealt with in the same
11 way during a by-election that it should be in a general
12 election, that there should be no real difference?

13 **MR. ALLEN SUTHERLAND:** I think in practice
14 what I'm saying is the two will be very similar.

15 **MS. MANI KAKKAR:** Okay, I appreciate that.

16 I want to now look at the issue of political
17 parties and the kind of briefings that you're providing them.
18 At page 8 of your summary, of your interview summary -- and
19 we don't need to bring that up -- you talked about briefings
20 to political parties.

21 **MR. ALLEN SUTHERLAND:** Yes.

22 **MS. MANI KAKKAR:** And what's become
23 increasingly clear in this Commission is that nomination
24 contests -- or, sorry, nomination processes and leadership
25 contests are also the subject of foreign interference, that
26 they can be manipulated and sometimes more effectively than
27 general elections for a variety of reasons, including how
28 close they can be.

1 Can I ask you, the briefings that you've been
2 -- or I should say that have been provided either at the
3 instruction of recommendations made by DM CIR, certain
4 Ministers, or government agencies, and as far as you're
5 aware, have they included information around nomination
6 contests or leadership contests and risks to them?

7 **MR. ALLEN SUTHERLAND:** So not to my
8 knowledge, but nor have I been part of every briefing.

9 **MS. MANI KAKKAR:** I appreciate that you may
10 not have been a part of it. In your view as someone who
11 designs policy, should they be?

12 **MR. ALLEN SUTHERLAND:** So the issue of
13 nomination contests is a very sensitive one. I noted the
14 first report of the Commission on this space. I would note,
15 too, that there have been some recommendations by Stéphane
16 Perrault in this space, and that he has provided the
17 recommendation that Elections Canada isn't well placed to
18 administer nomination contests.

19 I would add kind of two points, one is that
20 this, very directly and immediately, impacts the political
21 parties, so it's -- and I'm sure you'll do this as part of
22 your work, but engaging the political parties on this is
23 absolutely essential. They're the experts on how nomination
24 contests exist.

25 My only other point on this issue would be
26 that nomination contests themselves are exercises in
27 democracy, grassroots local democracy. So if there were --
28 and I'm not suggesting you would propose this, but if there

1 were burdensome regulations put in place, it might have an
2 adverse effect, particularly on lesser -- on smaller parties
3 and also in making nomination contests less likely to happen,
4 which itself would be kind of adverse to the interests of
5 democracy. So just a couple of thoughts on that.

6 **MS. MANI KAKKAR:** I appreciate that. I also
7 appreciate that I'm over my time.

8 May I ask for a small indulgence for one
9 follow-up question and one final question?

10 **COMMISSIONER HOGUE:** Yes, but rapidly.

11 **MS. MANI KAKKAR:** Keep it short. Okay.

12 I think my question in this regard was more
13 about whether you think that any intelligence that might be
14 relevant to a nomination process but not an election should
15 be shared with political parties in the kinds of briefings
16 that DM CIR might recommend to a Minister, or that the Panel
17 of Five may recommend once it's -- if its toolkit is
18 expanded.

19 **MR. ALLEN SUTHERLAND:** So that's a very
20 theoretical question, but in theory, yes.

21 **MS. MANI KAKKAR:** Okay. Thank you.

22 And my final question is one that takes into
23 the fact that, you know, we just talked about nomination
24 contests and political parties, which are partisan
25 activities, grassroot democratic activities as well. And
26 then you take into account also we had testimony earlier that
27 members of the House have, you know, two devices, one for
28 their House duties and one for their partisan duties. But

1 it's a very blurry line at times because, in reality, the
2 line between partisan activity and your role as an MP may be
3 blurred.

4 With all of that taken into account, the sort
5 of FI nomination processes, that blurred line, do you think
6 that there is a reason to have an independent body of some
7 kind instead of the DM CIR or the Panel of Five, which during
8 the caretaking period and outside of that perhaps with
9 delegated ministerial authority, functions to provide -- to
10 serve this role, given that the line is so blurry, given that
11 this is going to cover more than just government action?

12 **MR. ALLEN SUTHERLAND:** And, sorry; this is to
13 support political parties?

14 **MS. MANI KAKKAR:** This is not specifically to
15 support political parties, but the idea would be that instead
16 of the Panel of Five or DM CIR you have an independent body
17 that decides if a threshold is met or if action needs to be
18 taken in the context of a by-election or election, and they
19 would be independent because the line between partisan
20 activity and sort of government -- or House of Commons or MP
21 or government activity is so blurry that it might be better
22 for an independent body to serve that role.

23 **MR. ALLEN SUTHERLAND:** No, I don't agree with
24 that. The advantage of the Panel of Five is that it is
25 neutral, non-partisan, highly professional. It's an
26 effective, nuanced, decision-making group and it is closely
27 connected to our national security agencies and the
28 information needed to make the sort of determinations

1 expected of it. So I don't agree with that.

2 **MS. MANI KAKKAR:** Thank you, Mr. Sutherland.

3 **COMMISSIONER HOGUE:** Thank you.

4 AG, do you have any questions?

5 **--- CROSS-EXAMINATION BY MR. SÉBASTIEN DASYLVA:**

6 **MR. SÉBASTIEN DASYLVA:** Bonjour, Madame la
7 Commissaire. Sébastien Dasyuva pour le ministère de la
8 Justice, gouvernement du Canada.

9 Mr. Sutherland, you were asked by Minister
10 LeBlanc to engage with provinces and territories. You
11 testified earlier that toolkit that was prepared by the PDU.
12 This was part of the engagement with province and
13 territories?

14 **MR. ALLEN SUTHERLAND:** Yes, it was.

15 **MR. SÉBASTIEN DASYLVA:** Can we put document
16 COM475 on the screen, please? I understand this is the
17 toolkit that was prepared by the PDU?

18 **--- EXHIBIT No. COM0000475.EN:**

19 Toolkit to resist DISINFORMATION and
20 FOREIGN INTERFERENCE for community
21 leaders

22 **MR. ALLEN SUTHERLAND:** Yes, it is.

23 **MR. SÉBASTIEN DASYLVA:** Can you tell us a bit
24 about what we find in this document?

25 **MR. ALLEN SUTHERLAND:** Pardon me?

26 **MR. SÉBASTIEN DASYLVA:** Can you tell us about
27 what the content of this document is?

28 **MR. ALLEN SUTHERLAND:** So this document

1 provides readers with information on mis- and disinformation
2 and the steps they can take to protect themselves.

3 **MR. SÉBASTIEN DASYLVA:** And you talked about
4 a guidebook that was also prepared ---

5 **MR. ALLEN SUTHERLAND:** Yeah.

6 **MR. SÉBASTIEN DASYLVA:** --- for public
7 servants? This is the document at CAN34019.

8 **--- EXHIBIT No. CAN034019.0001:**

9 Countering Disinformation: A
10 Guidebook for Public Servants

11 **MR. SÉBASTIEN DASYLVA:** Can you tell us about
12 the difference between the first document that we saw and
13 this one?

14 **MR. ALLEN SUTHERLAND:** So whereas the first
15 document is intended for a broader audience including
16 community leaders, provinces, and community groups, this
17 disinformation guidebook, which was also made available to
18 the provinces, is intended for public servants to help them
19 understand the impact of mis- and disinformation on
20 government services and operations.

21 **MR. SÉBASTIEN DASYLVA:** You testified *in*
22 *camera*, you spoke about a compendium of good practice that
23 was prepared. We don't have this document, but what would --
24 what was the content of that document?

25 **MR. ALLEN SUTHERLAND:** The compendium of good
26 practices as it relates to public servants, is that what
27 you're referring to?

28 **MR. SÉBASTIEN DASYLVA:** The one that was

1 prepared by PDU?

2 **MR. ALLEN SUTHERLAND:** Right. So this is
3 just outlining different good practices as relates to
4 protecting yourself against mis- and disinformation.

5 **MR. SÉBASTIEN DASYLVA:** And are these
6 documents available publicly?

7 **MR. ALLEN SUTHERLAND:** Yes. They are
8 available on the DI website. In addition, we've tried to
9 widely distribute them.

10 **MR. SÉBASTIEN DASYLVA:** Can you tell us what
11 was the objective of reaching out to the provinces?

12 **MR. ALLEN SUTHERLAND:** So provinces are
13 actually a critical democratic infrastructure. So they can
14 themselves be subject to foreign interference. They are very
15 close to their citizens who might themselves, as we've heard
16 discussed already, be subject to foreign interference.

17 And the federal government has a unique value
18 add here, because we have national security agencies, which
19 is something that's not present in the provincial government.
20 So there's a way the federal government can be helpful in
21 spreading and understanding of mis- and disinformation and
22 the possible impacts that might hit on the local and regional
23 level.

24 The provinces in turn are really important
25 because of their role in education, and in particular,
26 critical media literacy, digital media literacy, and also
27 civics. I mean, we are talking essentially when we get to
28 the core, about our democracy, and it's really important that

1 democratic practices and protections are transmitted from
2 generation to generation. So engagement with the provinces
3 is really important.

4 As I mentioned earlier in my testimony,
5 that's leaving the clerk of the Privy Council, John Hannaford
6 has engaged directly with his counterparts across provinces
7 in part to get that message across and to offer support. And
8 this occurs at different levels. I don't want to leave the
9 impression it's just the protecting democracy unit. There
10 are other groups, Elections Canada has substantial links to
11 the provinces, but so do other groups, including the RCMP.

12 **MR. SÉBASTIEN DASYLVA:** My friend from the
13 Canadian Chinese Concern Group earlier talked about the risk
14 of Canadians sitting -- I think the expression sitting on
15 their hands if there is no public announcement?

16 **MR. ALLEN SUTHERLAND:** Yes.

17 **MR. SÉBASTIEN DASYLVA:** The plan talks about
18 -- plan to protect democracy talks about building citizenship
19 resilience.

20 **MR. ALLEN SUTHERLAND:** Yes.

21 **MR. SÉBASTIEN DASYLVA:** Would that help
22 mitigating this risk?

23 **MR. ALLEN SUTHERLAND:** Yes. Engaged
24 citizenry is the strongest protection against foreign
25 interference. I think I may not have presented it as well as
26 I might have. But I think both the questioner and I agreed
27 that it's about providing, you know, solid information so
28 that Canadian can understand it, and that is also a guard

1 against being desensitized. But being aware, understanding
2 the nature of the threat, and understanding the stakes for
3 our democracy are all important considerations.

4 **MR. SÉBASTIEN DASYLVA:** Thank you. C'est
5 toutes mes questions.

6 **COMMISSIONER HOGUE:** Merci.

7 Re-examination?

8 **MS. LYNDA MORGAN:** No, thank you.

9 **COMMISSIONER HOGUE:** Thank you, sir.

10 **MR. ALLEN SUTHERLAND:** Thank you.

11 **COMMISSIONER HOGUE:** So you're free to go.

12 **MR. ALLEN SUTHERLAND:** All right. Thank you.

13 **COMMISSIONER HOGUE:** Or to stay if you wish.

14 **MR. ALLEN SUTHERLAND:** I would like to, but
15 no. Thank you.

16 **COMMISSIONER HOGUE:** We'll suspend for 15
17 minutes because we have to switch witnesses. So we'll come
18 back at let's say -- I think we can do that in 12 minutes, so
19 we'll come back at 4:00.

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

21 The sitting of the Commission is now in
22 recess until 4:00 p.m.

23 --- Upon recessing at 3:49 p.m.

24 --- Upon resuming at 4:06 p.m.

25 **THE REGISTRAR:** Order please.

26 This sitting of the Foreign Interference
27 Commission is now back in session.

28 The time is 4:07 p.m.

1 **COMMISSIONER HOGUE:** Good afternoon.

2 **MS. LEILA GHAAHARY:** Good afternoon, Madam
3 Commissioner.

4 **COMMISSIONER HOGUE:** Good afternoon.

5 **MS. LEILA GHAAHARY:** For the record, it is
6 Leila Ghahhary for the Commission.

7 Madam Commissioner, before I start the next
8 examination, I just need to deal with one small housekeeping
9 matter.

10 In the examination of CSE, an institutional
11 report was put into evidence, and for the record, I'd like to
12 also enter the French version of that report into evidence.
13 There's no need to pull it up. The document ID is
14 CAN.DOC.29.

15 **--- EXHIBIT No. CAN.DOC.000029:**

16 Centre de la sécurité des
17 télécommunications - Partie C Rapport
18 institutionnel à l'Enquête publique
19 sur l'ingérence étrangère

20 **MS. LEILA GHAAHARY:** Madam Commissioner, we
21 will now hear from a panel of two witnesses, Shalene Curtis-
22 Micallef and Heather Watts, who appear on behalf of the
23 Department of Justice.

24 Mr. Registrar, please can the witnesses be
25 sworn?

26 **THE REGISTRAR:** All right. I'll start with
27 Ms. Curtis-Micallef.

28 Could you please state your full name and

1 spell your last name for the record?

2 **MS. SHALENE CURTIS-MICALLEF:** My name is
3 Shalene Curtis-Micallef. Curtis-Micallef is my last name, C-
4 U-R-T-I-S hyphen M-I-C-A-L-L-E-F.

5 **THE REGISTRAR:** Thank you. And now for the
6 swearing in.

7 **--- MS. SHALENE CURTIS-MICALLEF, Sworn:**

8 **THE REGISTRAR:** Thank you.

9 And now I'll proceed with Ms. Watts.

10 So, Ms. Watts, could you please state your
11 full name and then spell your last name for the record?

12 **MS. HEATHER WATTS:** My name is Heather Watts.
13 Last name, W-A-T-T-S.

14 **THE REGISTRAR:** Perfect. Thank you.

15 And now for the swearing in.

16 **--- MS. HEATHER WATTS, Sworn**

17 **THE REGISTRAR:** Thank you.

18 Counsel, you may proceed.

19 **MS. LEILA GHAAHARY:** Thank you.

20 **--- EXAMINATION IN-CHIEF BY MS. LEILA GHAAHARY:**

21 **MS. LEILA GHAAHARY:** Ms. Micallef, Ms. Watts,
22 good afternoon. I'll begin with a few housekeeping matters.

23 First of all, I want to deal with your
24 interview summary.

25 Court Operator, please could you put up
26 WIT100.EN?

27 Ms. Micallef, do you recall being interviewed
28 by Commission counsel on the 24th of June, 2024?

1 **MS. SHALENE CURTIS-MICALLEF:** Yes.

2 **MS. LEILA GHAAHARY:** And a summary of that
3 interview was subsequently prepared, and that is the document
4 that we see on our screens.

5 **MS. SHALENE CURTIS-MICALLEF:** Yes.

6 **MS. LEILA GHAAHARY:** And can you confirm that
7 you've had an opportunity to review that summary?

8 **MS. SHALENE CURTIS-MICALLEF:** I have.

9 **MS. LEILA GHAAHARY:** And do you wish to make
10 any corrections or additions to that summary?

11 **MS. SHALENE CURTIS-MICALLEF:** I do not.

12 **MS. LEILA GHAAHARY:** And can you confirm that
13 the summary's accurate, to the best of your knowledge and
14 belief?

15 **MS. SHALENE CURTIS-MICALLEF:** Yes, it is.

16 **MS. LEILA GHAAHARY:** And do you adopt that
17 summary as part of your evidence before the Commission today?

18 **MS. SHALENE CURTIS-MICALLEF:** I do adopt it.

19 **MS. LEILA GHAAHARY:** Thank you.

20 Ms. Watts, I'll ask you the same questions.

21 Do you recall being interviewed by Commission counsel on the
22 24th of June, 2024?

23 **MS. HEATHER WATTS:** I do.

24 **MS. LEILA GHAAHARY:** And do you agree that
25 the summary of that interview is the document that we see on
26 the screen?

27 **MS. HEATHER WATTS:** It is.

28 **MS. LEILA GHAAHARY:** And can you confirm that

1 you've had an opportunity to read that summary?

2 **MS. HEATHER WATTS:** I have.

3 **MS. LEILA GHAAHARY:** And do you wish to make
4 any corrections or additions to the summary?

5 **MS. HEATHER WATTS:** No, I don't.

6 **MS. LEILA GHAAHARY:** And can you confirm that
7 the summary's accurate, to the best of your knowledge and
8 belief?

9 **MS. HEATHER WATTS:** I confirm that it is.

10 **MS. LEILA GHAAHARY:** And do you adopt the
11 summary as part of your evidence before the Commission today?

12 **MS. HEATHER WATTS:** I do.

13 **MS. LEILA GHAAHARY:** Thank you.

14 For the record, the French version is at
15 WIT100.FR, and we do not need to pull that document up.

16 **--- EXHIBIT No. WIT0000100.EN:**

17 Interview Summary: Department of
18 Justice (Shalene Curtis-Micallef,
19 Samantha Maislin Dickson, Heather
20 Watts, Michael Sousa)

21 **--- EXHIBIT No. WIT0000100.FR:**

22 Résumé d'entrevue : ministère de la
23 Justice (Shalene Curtis-Micallef,
24 Samantha Maislin Dickson, Heather
25 Watts, Michael Sousa)

26 **MS. LEILA GHAAHARY:** I'll turn now to the
27 institutional report.

28 Court Operator, please could we now pull up

1 CAN.DOC.32?

2 The Department of Justice also prepared an
3 institutional report, and that is the document that we see on
4 our screens. Ms. Micallef and Ms. Watts, have you each had
5 an opportunity to review the institutional report?

6 MS. HEATHER WATTS: Yes.

7 MS. SHALENE CURTIS-MICALLEF: Yes.

8 MS. LEILA GHAAHARY: And do you adopt the
9 report as part of your evidence before the Commission today?

10 MS. HEATHER WATTS: We do.

11 MS. SHALENE CURTIS-MICALLEF: Yes.

12 MS. LEILA GHAAHARY: And again for the
13 record, the French version is at CAN.DOC.33, but there's no
14 need to pull up that document.

15 --- EXHIBIT No. CAN.DOC.000032:

16 Department of Justice Outline
17 Institutional Report - PIFI Stage 2

18 --- EXHIBIT No. CAN.DOC.000033:

19 Rapport institutionnel du ministère
20 de la Justice - Étape 2 de l'ÉPIE

21 MS. LEILA GHAAHARY: And finally, as a point
22 of reference, I want to turn to a document called a technical
23 briefing.

24 Court Operator, please could you pull up
25 WIT132?

26 --- EXHIBIT No. WIT0000132:

27 In Camera Technical Briefing on Bill
28 C-70, An Act Respecting Countering

1 Foreign Interference

2 **MS. LEILA GHAAHARY:** And this document is a
3 summary of an *in camera* technical briefing on Bill C-70 that
4 was provided by the Government of Canada to the Commission,
5 and we anticipate that this document will be filed in due
6 course, and it may be referred to by others during the course
7 of these proceedings.

8 Having dealt with those housekeeping matters,
9 I'll now turn briefly to deal with your professional
10 backgrounds and the role and functions of the Department of
11 Justice.

12 Ms. Micallef, if I can start with you. Are
13 you the Deputy Minister of the Department of Justice?

14 **MS. SHALENE CURTIS-MICALLEF:** I am.

15 **MS. LEILA GHAAHARY:** And have you held that
16 post since February 2023?

17 **MS. SHALENE CURTIS-MICALLEF:** That is
18 correct.

19 **MS. LEILA GHAAHARY:** And prior to that and
20 from September 2021 you served as the Associate Deputy
21 Minister for the Department of Justice.

22 **MS. SHALENE CURTIS-MICALLEF:** Yes, that's the
23 case.

24 **MS. LEILA GHAAHARY:** And the role of the
25 Department of Justice is to support the Minister for Justice,
26 who also has the dual role of the Attorney General for
27 Canada.

28 **MS. SHALENE CURTIS-MICALLEF:** Yes.

1 **MS. LEILA GHAAHARY:** And the Department is
2 headed by you and two Associate Deputy Ministers.

3 **MS. SHALENE CURTIS-MICALLEF:** Yes.

4 **MS. LEILA GHAAHARY:** And the Department is
5 responsible for justice policy development and for providing
6 the legal services to the government.

7 **MS. SHALENE CURTIS-MICALLEF:** Yes.

8 **MS. LEILA GHAAHARY:** And pausing there, Madam
9 Commissioner, it's important to highlight at this juncture
10 for both the witnesses and the parties who may ask questions
11 that in respect of the Department's legal services mandate,
12 which is litigation and advice, none of the questions I ask
13 today will seek to trespass on or elicit any information that
14 is legally privileged.

15 Ms. Micallef, the Department delivers its
16 services through a mix of units, branches and regional
17 offices, one of which is called the Policy Sector. Is that
18 right?

19 **MS. SHALENE CURTIS-MICALLEF:** That's correct.

20 **MS. LEILA GHAAHARY:** And amongst other
21 things, the Policy Sector carries out work in relation to
22 foreign interference.

23 **MS. SHALENE CURTIS-MICALLEF:** Yes, it does.

24 **MS. LEILA GHAAHARY:** Thank you.

25 Ms. Watts, I'll turn to you. You are the
26 Deputy Assistant Deputy Minister for the Department of
27 Justice?

28 **MS. HEATHER WATTS:** Yes, in the Policy

1 Sector.

2 **MS. LEILA GHAAHARY:** And I was about to say
3 you head up the Policy Sector.

4 And you've held that post since June 2022.

5 **MS. HEATHER WATTS:** That's correct.

6 **MS. LEILA GHAAHARY:** And the Policy Sector's
7 mandate includes policy development, law reform and
8 supporting the Minister in collaborating with external
9 partners and stakeholders such as the G7 and the provincial
10 and subnational governments.

11 **MS. HEATHER WATTS:** That's right.

12 **MS. LEILA GHAAHARY:** And the Criminal Law
13 Policy Section, the CLPS, is a division of the Policy Sector.

14 **MS. HEATHER WATTS:** That's right.

15 **MS. LEILA GHAAHARY:** And the CLPS is the
16 government's centre of expertise for criminal law and
17 criminal justice policy.

18 **MS. HEATHER WATTS:** That's right.

19 **MS. LEILA GHAAHARY:** And its work relates to
20 foreign interference through its policy development and law
21 reform on criminal law and evidence law as well as procedure
22 and national security law. Is that right?

23 **MS. HEATHER WATTS:** That's correct.

24 **MS. LEILA GHAAHARY:** And CLPS also provides
25 legal services to other government departments with regard to
26 foreign interference related policy issues.

27 **MS. HEATHER WATTS:** They do.

28 **MS. LEILA GHAAHARY:** And specifically, Ms.

1 Watts, you manage the criminal law and national security
2 files that involve the development of new policy, and matters
3 relating to foreign interference fall into that umbrella.

4 **MS. HEATHER WATTS:** That's correct.

5 **MS. LEILA GHAAHARY:** And another sector of
6 the Department of Justice is called the Public Safety Defence
7 Portfolio, and that is responsible for coordinating legal
8 advisory services in matters of foreign interference to CSE,
9 CSIS, the RCMP, the Department of National Defence and the
10 Canadian Armed Forces. Is that right?

11 **MS. HEATHER WATTS:** That's right.

12 **MS. LEILA GHAAHARY:** And as we've already
13 discussed, those advisory roles are the subject of legal
14 privilege.

15 Ms. Micallef, could you explain generally how
16 Justice is involved in the development of policy or
17 legislation, including the way that gaps are identified and
18 addressed?

19 **MS. SHALENE CURTIS-MICALLEF:** So the
20 Department of Justice supports the Minister, as you've noted,
21 with respect to the development of legislative and policy
22 proposals that fall within the federal realm, and that
23 includes the criminal justice system and areas such as the
24 *Security of Information Act*.

25 We work with partners within government to
26 look at the landscape of these with respect to legislative
27 reform. We also engage with academics, external parties,
28 civil society and others to identify gaps to consider where

1 modernization may be useful, and we take those inputs, we
2 look at other jurisdictions. We have relationships with
3 other like-minded countries. We speak to our provincial and
4 territorial counterparts and, depending on the topic, other
5 stakeholders.

6 **MS. LEILA GHAAHARY:** And such work has
7 included Bill C-70. Is that right?

8 **MS. SHALENE CURTIS-MICALLEF:** That's correct.

9 **MS. LEILA GHAAHARY:** And we'll come on to
10 that very shortly.

11 **MR. MATTHEW FERGUSON:** Pardon the
12 interruption. Matthew Ferguson, Commission counsel.

13 Can we -- Ms. Curtis-Micallef, can we just
14 ask you to speak into the mic? We're having trouble hearing
15 you.

16 Thank you.

17 **MS. LEILA GHAAHARY:** A broader overview of
18 the role and functions of the Department of Justice in
19 respect to foreign interference is contained in the
20 institutional report that we put up a short while ago.

21 In the interests of time, I don't intend to
22 go through it in any detail, but before I move on from your
23 background and the functions of the Department of Justice, is
24 there anything either of you would like to add?

25 **MS. SHALENE CURTIS-MICALLEF:** I think the
26 report is somewhat -- it's complete, so nothing at this
27 point.

28 **MS. LEILA GHAAHARY:** Moving on, then, to Bill

1 C-70, I'm going to ask you about the role of the Department
2 of Justice in relation to the Bill. And I should say, as we
3 all know, the Bill has now become law. Its short title is
4 the *Countering Foreign Interference Act*, but for today's
5 purposes I'll be referring to it as Bill C-70.

6 Court Operator, could you please put up
7 COM584?

8 And perhaps if you could scroll down. Thank
9 you.

10 This is a Bill C-70 Overview Report that's
11 been prepared by the Commission. It provides a helpful
12 starting point for anybody who might wish to learn more about
13 Bill C-70. Again, in the interest of time, I'm not going to
14 go through this in detail. Rather, we're going to focus on
15 some key aspects of the bill.

16 With that in mind, Court Operator, please
17 could we put up WIT132?

18 And this is the technical briefing I referred
19 to a moment ago.

20 Court Operator, could you take us to page 2,
21 please, paragraph 1?

22 Ms. Micallef, we can see there the technical
23 briefing states that:

24 ...the impetus for Bill C-70 which
25 highlighted the evolution of the
26 threat landscape and the need for the
27 Government of Canada to modernize its
28 Foreign Interference Tool box"

1 Would you agree with that?

2 **MS. SHALENE CURTIS-MICALLEF:** Yes, I do.

3 **MS. LEILA GHAAHARY:** And that exercise of
4 modernization is reflected in Parts 1 to 4 of the Bill?

5 **MS. SHALENE CURTIS-MICALLEF:** Yes.

6 **MS. LEILA GHAAHARY:** Ms. Watts, I'm going to
7 ask you to assist with a brief overview of the Bill.

8 Ms. Micallef, as this is a witness panel,
9 please do add to the answers if you wish to do so.

10 Court Operator, can we put up CAN44799?
11 Perhaps if you could scroll down? Thank you.

12 **--- EXHIBIT No. CAN044799.0001:**

13 Countering Foreign Interference

14 This is a Public Safety Slide Deck on Bill C-
15 70. It helpfully illustrates the main parts. And so we will
16 briefly look through it.

17 Could you take us to page 3 please, Court
18 Operator?

19 Ms. Watts, it's right to say that the
20 department led on the developments of Parts 2 and 3 of Bill
21 C-70?

22 **MS. HEATHER WATTS:** That's correct.

23 **MS. LEILA GHAAHARY:** And in relation to Parts
24 1 and 4, it provided legal advice and contributed to the
25 drafting, but other witnesses will be best placed to speak to
26 those parts? Is that right?

27 **MS. HEATHER WATTS:** That's correct.

28 **MS. LEILA GHAAHARY:** Let's briefly take a

1 look at each part. Part 1 provides for amendments to the
2 *CSIS Act*. Those amendments largely relate to the collection
3 of data, which we can see on page 4.

4 Court Operator, if you could scroll down?

5 And it also relates to a new power to share
6 information with non-federal entities, and that's illustrated
7 at page 5.

8 If you could take us there? Thank you.

9 Ms. Watts, in a few sentences, could you
10 perhaps help us with an explanation of the nature of those
11 two provisions?

12 **MS. HEATHER WATTS:** In the *CSIS Act*?

13 **MS. LEILA GHAAHARY:** Yes.

14 **MS. HEATHER WATTS:** The amendments? So I
15 think the main pieces of the *CSIS Act* that may be of interest
16 are the amendments, as you said, that allow the Service to
17 share information outside the federal government to equip
18 other entities with resilience against foreign interference.

19 The number two there, operating in a digital
20 world, that had to do with some of their collection
21 authorities and giving them new powers to collect information
22 and ways to collect information, rather.

23 And as well, there was a technical fix to the
24 collection of information outside of Canada and the dataset
25 regime.

26 **MS. LEILA GHAAHARY:** Thank you.

27 Court Operator, could you take us to page 6?

28 And this deals with the Part 2 changes in

1 relation to the *Security of Information Act*, or as it's
2 otherwise known, *SOIA*, and the *Criminal Code*.

3 Firstly dealing with *SOIA* at page 6, we see
4 there that the provisions of Bill C-70 expanded some of the
5 existing offences in *SOIA* and created several new ones. It
6 also changed the name of the Act to the *Foreign Interference
7 and Security Information Act*.

8 Ms. Watts, again, in a few sentences, could
9 you explain the nature of the amendments to *SOIA*?

10 **MS. HEATHER WATTS:** Sure. So the main
11 amendments to *SOIA* were we created new targeted offences
12 directed at foreign interference. So there's a new offence
13 that we've called on the slide there a general FI offence
14 committed for a foreign entity. There's also an offence to
15 commit an indictable offence for a foreign entity. This one
16 is modeled on the criminal organization and terrorism
17 offences that we have in the *Criminal Code*. And the third
18 one is a political interference offence for a foreign entity.

19 The other change was to amend an
20 existing offence. There was an existing offence in section
21 20 related to intimidation and threats of violence for a
22 foreign entity or a terrorist group and we simplified the
23 offence when it occurs in Canada and maintained the offence
24 with some minor modifications when the activity takes place
25 outside of Canada but is directed at harming Canadian
26 interests.

27 **MS. LEILA GHAAHARY:** Court Operator, could we
28 please put up 25 -- CAN, rather, 25666? And if you could

1 scroll down slightly? Thank you.

2 **--- EXHIBIT No. CAN025666:**

3 Examples of Conduct Targeted by New
4 FI Offences

5 **MS. LEILA GHAAHARY:** This is a document that
6 provides examples of conduct that would and would not be
7 captured by the new foreign interference offences that we've
8 just talked about.

9 And Court Operator, if we move through the
10 document just page by page, we can see the examples have been
11 provided in the gray shaded boxes.

12 Ms. Watts, these examples are necessarily
13 hypothetical, and we see a variety of instances when the new
14 offences could apply, but I wonder if you could help us out
15 with this. Could you explain whether the new general foreign
16 interference offence and the new political interference
17 offence would apply to non-federal and nomination processes?

18 **MS. HEATHER WATTS:** Sure. So just as
19 background for this document, it was an early policy
20 development discussion document, and so you will notice some
21 differences in the elements of the proposed offences on the
22 left-hand side that are different from what actually ended up
23 in the Bill.

24 So with that caveat, I'll just talk you
25 through it.

26 So as you mentioned, there is a political
27 interference offence that is in 20.4 of the *Security of*
28 *Information Act* that's a new offence. The idea behind that

1 offence is that it would cover interference in government and
2 political processes at all levels of government at all times,
3 including outside of election periods, and does specifically
4 apply to nomination contests, the development of party
5 platforms, et cetera.

6 **MS. LEILA GHAAHARY:** Thank you.

7 Court Operator, we can take that document
8 down. And if we can put up WIT100 again? And if you can go
9 to page 10?

10 Just taking a step back from Bill C-70 and
11 focusing on nomination races for a moment, we've heard about
12 foreign interference vulnerabilities in nomination processes.

13 And Ms. Micallef, you did help us with some
14 information around this when you were interviewed and
15 explained what challenges may arise when there is any federal
16 engagement in this issue. And looking at paragraph 10 -- I
17 beg your pardon, paragraph 33, you tell us there that
18 nomination races and party processes are purely private to
19 the parties and relate to their own choice of representatives
20 and you didn't see space in which the public service would be
21 able to be engaged. And I wonder if you could expand on that
22 and perhaps explain some more about your views around that?

23 **MS. SHALENE CURTIS-MICALLEF:** So I think
24 maybe I should add some context to that paragraph. So we
25 have within the Bill C-70 included an offence as it relates
26 to political processes and foreign interference that would
27 expressly include nomination races where there is
28 surreptitious covert activities by a foreign entity to

1 influence those.

2 The comment here is with respect to a
3 regulatory scheme, as opposed to an offence scheme, and the
4 decision on whether or not the public service engages in
5 regulating, as opposed to creating penal consequences for an
6 offence in nomination space, it's not a space that is
7 currently governed by our regulatory framework. And so that
8 is in that context where I'm speaking about their day-to-day
9 operations of political parties is not a space in which the
10 federal government is currently engaged. So I put aside one
11 piece around where there is foreign interference and there is
12 an offence that does touch on that as it applies to
13 nomination races versus general regulatory activities, and
14 how they vote, where they vote, and such things like that.

15 **MS. LEILA GHAAHARY:** Court Operator, can we
16 now go back to CAN44799, page 7, please?

17 Ms. Watts, we're still dealing with part 2 of
18 Bill C-70, but we're now turning to the Criminal Code, and
19 here we see the Bill has amended an existing sabotage offence
20 to lower the threshold of intent and to broaden the scope to
21 cover some acts done in relation to essential cyber and
22 physical infrastructure. Again, could you briefly help us
23 with an explanation about this new provision and how it might
24 apply to democratic institutions and processes?

25 **MS. HEATHER WATTS:** So a point of
26 clarification, the second bullet there that talks about
27 modernizing and clarifying the mental element, it was not
28 intended to reduce or lower the mental element required for

1 the offence of sabotage. It was really just to clean up
2 language. I think the original language was something like
3 purpose prejudicial to, and we changed it to with the intent
4 to, so it was not meant to be a substantive change.

5 The new offense that was enacted was a new
6 offence focused on conduct directed, as it says on the slide
7 there, to essential infrastructure, and then there are a list
8 of infrastructures in the Bill as illustrative examples.
9 There's a power to add to that list.

10 It's not entirely clear to me from your
11 question how that relates to democratic processes. In
12 theory, I guess, now that I'm thinking, the offense does
13 cover interference with critical infrastructure as it's
14 defined in the Bill, essential infrastructure. And in
15 theory, I guess that could include computer systems related
16 to entities of the government, potentially say for example,
17 Elections Canada, if that were to fall within the definitions
18 in the offense itself. It would depend on the facts, but
19 that could be an example.

20 **MS. LEILA GHAHHARY:** Thank you. Moving on
21 now to part three, Court Operator, could we go onto page 8,
22 please? Ms. Watts, we see there a bullet point summary in
23 relation to the *Canada Evidence Act*. Could you again briefly
24 explain these new provisions?

25 **MS. HEATHER WATTS:** Sure. So as it is right
26 now, as the Commission is likely aware, the *Canada Evidence*
27 *Act* is used to protect -- section 38, is used to protect
28 sensitive information from disclosure. Once that information

1 has been protected from disclosure it can't be used in legal
2 proceedings. So the idea behind the amendments to the *Act* in
3 this portion are to allow for both the protection and use of
4 sensitive information when federal administrative decisions
5 are being reviewed in the Federal Court.

6 So right now, there are a number of
7 standalone one-off schemes that apply that give the same type
8 of authority in the *Secure Air Travel Act* for example. But
9 the idea here is to have one general scheme that can apply to
10 any federal administrative decision, at any time when that
11 sensitive national security information may be part of the
12 file.

13 **MS. LEILA GHAAHARY:** Thank you.

14 And connected to these provisions is what is
15 often described as the intelligence to evidence, or
16 intelligence and evidence problem, and we'll just touch
17 briefly upon that. Court Operator, could you pull up WIT100,
18 please, and take us to page 9? And perhaps if you could just
19 zoom out so that we can see paragraphs 29 to 30? Thank you.

20 Ms. Micallef, you gave us your thoughts
21 during your interview with the Commission about the
22 intelligence and evidence issue. I understand that your
23 perspective is that not all intelligence can be evidence, and
24 the process of using intelligence is a multi-faceted issue
25 which gives rise to some challenges.

26 I wonder if first of all you could expand on
27 that and explain what you mean?

28 **MS. SHALENE CURTIS-MICALLEF:** Certainly. I'm

1 trying to figure out where to start. So I think if I could
2 start with intelligence, intelligence is information, and
3 information can be gathered for many different purposes, many
4 different means, and can be corroborated, not corroborated;
5 can be easily determined where it came from or can not be.

6 Whereas evidence is a different set of
7 information. It is evidence. Evidence speaks to the
8 admissibility of information into Court proceedings and there
9 are strict rules with respect to what information may be
10 admissible into Court proceedings. And it is not every piece
11 of information that is admissible in Court proceedings, they
12 have to be relevant, they need to be material. There are
13 rules of evidence with respect to hearsay, with respect to
14 opinion information, and all of those are determined by it's
15 admissibility by a Court and the judge proceeding over that
16 proceeding.

17 And as such, the concept that every piece of
18 intelligence will be subsequently admissible in Court is not
19 realistic or reasonable. There might be very good reasons
20 why that might not be the case. So that's what we discuss
21 sometimes as the intelligence to evidence challenge in some
22 circumstances, where there is a body of information which may
23 serve some valid reasons lawfully collected and support maybe
24 doing other activities, but may not actually be admissible in
25 Court. And so that would be the evidence and intelligence
26 challenge there.

27 And then there's the piece around even if it
28 is admissible, as my colleague has mentioned, there might be

1 privileges attached to that information, whether it's a
2 section 38, which means it's sensitive information, national
3 security information would be an example, or other privileges
4 that apply which would prevent -- other privileges like
5 information privilege, or some other privilege, that may also
6 layer upon whether or not it would be tendered in Court as
7 evidence. And as such, there are various steps that need to
8 be taken to ensure that intelligence can be used as evidence.

9 **MS. LEILA GHAAHARY:** And at paragraph 29, you
10 say that a justice is actively examining possible legislative
11 changes that would improve the use of intelligence as
12 evidence. Again, I wonder if you could speak to what those
13 changes might look like, and what work justice has been doing
14 in this regard?

15 **MS. SHALENE CURTIS-MICALLEF:** So we are very
16 seized, as is our law enforcement intelligence agencies with
17 making sure that we are best placed to be able to pursue
18 prosecutions or administrative proceedings. And so, my
19 colleague has given an example of making -- of a means that
20 we have taken with respect to changes to the *Canada Evidence*
21 *Act* to allow in civil proceedings or administrative
22 proceedings, the use of information that might be protected
23 by national security or other considerations.

24 There have been a couple of other amendments
25 that were made in Bill C-70 as it relates to sealing orders,
26 and as it relates to interlocutory appeals which also are
27 meant to advance the use of sensitive information in criminal
28 prosecutions. And then we're going to continue to work to

1 examine this issue.

2 We are not in a state where we think that
3 prosecutions cannot proceed in this country. We have rules
4 of evidence that -- and have had success before the Courts in
5 prosecuting cases that entail or involve sensitive
6 information. Those prosecutions, I should be clear, are not
7 directed by the Department of Justice, the Public Prosecution
8 Service is responsible for prosecutions at the federal level,
9 and then obviously AGs in the provinces for provincial
10 matters.

11 **MS. LEILA GHAAHARY:** Thank you.

12 Court Operator, could we again put up
13 CAN44799, and go to page 9, please?

14 Ms. Watts, we're now looking at part 4 of
15 Bill C-70, which created the new *Foreign Influence*
16 *Transparency and Accountability Act*, which in turn provides
17 for a new foreign influence transparency registry. Again,
18 other witnesses will be asked about these provisions in more
19 detail. But for now, could you again help us with a short
20 description of this new scheme?

21 **MS. HEATHER WATTS:** As you said, this was the
22 responsibility of the Department of Public Safety. But I think
23 what's on the slide there gives you a good overview of what
24 the registry is meant to achieve. It's really about
25 providing transparency to Canadians about legitimate
26 activities, whether it is, as the slide shows, a foreign
27 principle, an activity that is meant -- directed at a
28 political or governmental process, this is a regulatory

1 scheme. It's not offences like we have in the *SOIA* and it
2 has its own processes and procedures that go along with it.

3 **MS. LEILA GHAAHARY:** I'd like to now turn to
4 the Bill C-70 consultations.

5 Ms. Micallef, I understand the Department of
6 Justice led consultations on Parts 2 and 3 of the Bill, that
7 is the parts we've just looked at relating to the *Criminal*
8 *Code*, *SOIA*, and the *Canada Evidence Act*. The Department also
9 assisted by way of advice, I think, in relation to
10 consultation to Part 1 and 4, but the Department didn't have
11 any involvement in those consultations. Those were not led
12 by the Department, so I won't ask you any questions in
13 relation to those consultations.

14 But Ms. Micallef, could you briefly summarize
15 the nature and extent of the Department's consultations in
16 relation to Parts 2 and 3?

17 **MS. SHALENE CURTIS-MICALLEF:** The Department
18 engaged in public consultations in November of 2023,
19 continuing on into February of 2024. Those consultations
20 were broad-based, included online consultations. They also
21 included roundtables. And they invited interested parties to
22 provide feedback with respect to the proposals that were
23 included in the consultation document. And those parties
24 included numbers of diaspora groups, legal academics, the
25 general public, working with other levels of government, and
26 so it was a broad-based consultation with respect to what had
27 been proposed.

28 **MS. LEILA GHAAHARY:** Ms. Watts, during your

1 interview you told us about the Cross-Cultural Roundtables on
2 National Security. Could you briefly explain the nature and
3 purpose of those roundtables?

4 **MS. HEATHER WATTS:** So the Cross-Cultural
5 Roundtable on National Security is a joint roundtable
6 appointed by the Minister of Public Safety and the Minister
7 of Justice. It has, I think, 15 members who are appointed.
8 The group meets several times a year to talk about issues of
9 interest to the group, things that the government may want to
10 get the views of the representatives of that on that table.
11 So the members of that roundtable come from a variety of
12 communities across Canada. They're regular citizens
13 appointed for a set term. And we did have one meeting, I
14 think, during the consultation period with them, where we did
15 talk to them about foreign interference. So that would just
16 be one of the topics that would be on their agenda, but it
17 was one group that we did speak to.

18 **MS. LEILA GHAAHARY:** Court Operator, could
19 you please put up COM595? And if you could perhaps just
20 scroll down slightly? Thank you.

21 **--- EXHIBIT No. COM000595.EN:**

22 Addressing foreign interference

23 **MS. LEILA GHAAHARY:** This is a consultation
24 paper on the amendments to Parts 2 and 3.

25 And if we turn up page 4, please?

26 And just at the bottom of the screen, the
27 paragraph we see starting:

28 "Any new amendments to Canada's laws

1 that protect against foreign
2 interference will give rise to
3 legitimate worries about the
4 protection of other important values,
5 rights, and interests. With this in
6 mind, it is crucial that any reforms
7 strike an appropriate balance between
8 ensuring an effective criminal
9 justice response to foreign
10 interference and respecting the
11 fundamental rights and freedoms of
12 the people in Canada." (As read)

13 Ms. Micallef, are you able to speak to what
14 those important values are and how the important balancing
15 act is being achieved?

16 **MS. SHALENE CURTIS-MICALLEF:** We -- when we
17 engaged upon these consultations, we were very mindful of the
18 importance of ensuring that we protected freedom of
19 expression, freedom of association, that we respected
20 generally the values in our *Charter* obligations, but also
21 values with respect to respect for people, including diaspora
22 communities. We did not want to marginalize or put them in
23 harms way either, or to limit their voice and political
24 expression in our country.

25 And so as we were endeavouring to ensure that
26 we had a robust framework to address nefarious activities,
27 surreptitious covert activities that interfere with Canada's
28 interests, we were mindful of the broader interest as well of

1 protecting our democracy, which includes freedom of
2 expression and other rights protected by the *Charter*.

3 **MS. LEILA GHAAHARY:** Court Operator, could
4 you please put up COM596? Perhaps if you scroll down
5 slightly?

6 **--- EXHIBIT No. COM0000596.EN:**

7 What we heard: Consultation on the
8 proposed reforms to the Security of
9 Information Act, Criminal Code and
10 Canada Evidence Act

11 **MS. LEILA GHAAHARY:** This is a report about
12 what was heard during the consultations. And if we go to
13 page 5 we see the issue posed is whether to create new
14 foreign interference offences under *SOIA*.

15 And if we turn over to page 6, if you could
16 perhaps go back to the top of the page, please? Thank you.

17 We see there concerns expressed about
18 possible unintended consequences of doing so. And at the top
19 of the page, it reflects the concern that the new offences
20 could capture legitimate interests, and in the second
21 paragraph, it expresses concerns with respect to vulnerable
22 communities who already face systemic discrimination in the
23 criminal justice system.

24 Ms. Watts, can you explain what was done to
25 address those concerns following the preparation of the What
26 We Heard Report?

27 **MS. HEATHER WATTS:** So for context, this
28 report really sets out a summary of what we actually heard

1 from all of the people that we spoke to during the
2 consultations, and this paragraph -- these paragraphs in
3 particular I think are a reflection of concerns from some
4 particular communities about over-policing and potentially
5 criminalizing what would otherwise be legitimate interactions
6 between members of diaspora communities here and potentially
7 family members and friends abroad.

8 So I think as the Deputy has set out, and in
9 the previous question with document, really when we are
10 developing criminal justice policy and law, a really integral
11 part of that is looking at what the impact of that law and
12 reform will be on rights and freedoms protected under the
13 *Charter*. And I think you've heard about what some of those
14 are already. In particular, concerns around not stifling
15 legitimate expression in this context. And when we're
16 drafting offences, we're always very mindful of section 7 of
17 the *Charter* and making sure that the offences are -- don't go
18 broader than they need to to address the harm that we're
19 seeking to address. So when we hear concerns like this, and
20 then we go to look to develop policy further and draft laws,
21 we would keep in mind, of course, the *Charter* and the
22 concerns that have been expressed about making sure that we
23 don't go farther than is necessary to address the harms.

24 **MS. LEILA GHAAHARY:** Moving on now from Bill
25 C-70 to the Department's role on the Panel of Five, we've
26 heard from Mr. Sutherland earlier today that in 2019, as part
27 of its plan to protect democracy, the government established
28 the Panel of Five which is tasked with safeguarding federal

1 elections. And in that regard, the panel is only operative
2 during the election itself. That's known as the writ period
3 or the caretaker period.

4 Mr. Sutherland also explained the multi-
5 disciplinary cross-government composition of the panel.

6 And Ms. Micallef, it's right that you've been
7 a member of that panel since 2023?

8 **MS. SHALENE CURTIS-MICALLEF:** Yes, since I
9 was appointed.

10 **MS. LEILA GHAAHARY:** And when you first
11 joined the panel, you were provided with an introductory
12 briefing, and that was in October 2023?

13 **MS. SHALENE CURTIS-MICALLEF:** That is
14 correct.

15 **MS. LEILA GHAAHARY:** And during your
16 interview, you explained that you bring a justice lens to the
17 panel, but your input is not limited to legal issues. Could
18 you explain how or in what way you bring that justice lens to
19 the Panel of Five?

20 **MS. SHALENE CURTIS-MICALLEF:** So as was
21 explained, the panel brings together a number of deputies
22 from different departments in the public service. I
23 represent the Department of Justice as the Deputy Minister of
24 Justice and Deputy Attorney General of Canada. We have a
25 responsibility at the Department of Justice to provide legal
26 advice to the Government of Canada. And in that context,
27 when I sit on the panel, I do bring that piece of the
28 considerations to the table with respect to compliance with

1 the *Charter*, democratic principles, our Constitution in
2 particular, and more generally a good understanding of our
3 legislative framework at the federal level. And so that is
4 the piece there.

5 I do also bring my substantive experience at
6 senior levels within the public service, and so my
7 participation is not purely in the role of providing legal
8 advice to the panel, but to supplementing the discussions
9 that we have.

10 **MS. LEILA GHAAHARY:** Court Operator, could
11 you put up CAN33655?

12 Thank you.

13 Ms. Micallef, since joining the panel you've
14 attended a number of meetings and panel retreats. And at
15 page 1 of the document on our screen, we see this is an
16 agenda for one of those retreats. It took place in March of
17 2024, and you attended.

18 If we now move to page 5, we can see that
19 during this retreat, the panel received a presentation from
20 the Canadian Digital Research Network, or the CDMRN, as it's
21 known. The discussion appears to have been a forward-looking
22 affair, providing an opportunity to explore how the CDMRN can
23 appropriately support and complement the panel's work both
24 outside and during the election period.

25 Are you able to share your insights on how
26 that might happen, how the CDMRN could support and complement
27 the panel's work?

28 **MS. SHALENE CURTIS-MICALLEF:** The CDMRN is an

1 independent collection of academics and experts in their area
2 of media and info ecosystem monitoring, so they have
3 expertise and insight from a very pragmatic and research-
4 based perspective. They are civil society and they're
5 independent from government.

6 We believe as a panel that it would be
7 useful, and it is useful, for us to hear other voices with
8 respect to our information ecosystem, and so that was the
9 reason why they were invited, so that we could get some
10 insight as a panel together -- I know various members have
11 different exposure to them -- but as a panel with respect to
12 the type of work that they're doing.

13 And it gives room for reflection around the
14 role of civil society in dealing with issues relating to
15 foreign interference, so foreign interference is not solely
16 the work of the panel, particularly given the panel's period
17 in which it operates. But we see foreign interference, and
18 you've seen it already in the *Countering Foreign Interference*
19 *Act* and the legislation, that we see it as a multi-pronged
20 approach to address foreign interference in this country.

21 So various tools, various measures from an
22 influence -- foreign influence transparency registry which
23 does not deal with foreign interference but provides
24 Canadians with transparent access to when it's -- when it's
25 in force, it will provide them to transparent access to
26 foreign actors or foreign entities that are trying to
27 influence processes. And that is not a negative activity.
28 It's just transparency with respect to that activity.

1 Other means of addressing foreign
2 interference includes the work that -- and the additional
3 powers provided to CSIS to be able to discuss threats with
4 other actors outside of the federal government.

5 So this is just another example of engaging
6 another aspect of, in this case, civil society in how do we
7 monitor and see what is going on in our information
8 ecosystem.

9 **MS. LEILA GHAAHARY:** Court Operator, could we
10 go to page 8 of the document?

11 Thank you.

12 Page 8, you can see at the end of the meeting
13 there was a stated intention to have panel meetings every six
14 weeks outside the election period. Ms. Micallef, can you
15 tell us whether these meetings have been set up and what the
16 panel has been doing to get ready for the upcoming election?

17 **MS. SHALENE CURTIS-MICALLEF:** So I'm trying
18 to remember how many meetings we've had. I think we've had
19 at least four meetings.

20 We have had a number of different speakers
21 come in and address the panel. That includes members of
22 foreign governments who have recently had elections in their
23 jurisdictions. We have had, as you've seen, civil society.
24 We have had other members of the federal public service come.

25 We have recently had the elections -- Chief
26 Electoral Officer attend a meeting.

27 So we have been taking active steps to
28 consider our role and consider how we will carry out our

1 duties during the next election, whenever that might be.

2 **MS. LEILA GHAAHARY:** And finally, the panel,
3 as we know, does not operate outside the caretaker period
4 and, more recently, for the purposes of responding to the
5 risk of foreign interference during by-elections, the SITE
6 panel has been stood up, and that reports to the DM CIR
7 committee when it comes to by-elections.

8 Ms. Micallef, I understand that the
9 Department of Justice does not sit on the DM CIR committee
10 and my question is, given that is the committee that has
11 oversight during the by-elections, do you think that the
12 absence of the Department of Justice is a loss of important
13 perspective?

14 **MS. SHALENE CURTIS-MICALLEF:** I actually
15 don't think it's a loss of an important perspective because
16 underlying all of this is where we started with respect to
17 the different roles that the Department of Justice plays.
18 And we do have a legal advisory role that is supported
19 through our Legal Services Units that are co-located with
20 every government department, not just in the national
21 security space, but Department of Health, Department of
22 Transport.

23 We have Justice lawyers who provide legal
24 advice to government officials across the federal public
25 service, so the decision-making and the processes with
26 respect to DM CIR is not void of having any Justice
27 contribution even though I personally do not sit on that.

28 I would note the difference between what we

1 do during the writ period and what DM CIR does during the
2 context of a by-election.

3 So the reason why the panel is set up for
4 that particular scope is because we are in the caretaker
5 period, and that, based on convention, is a period of
6 restraint because at that time the House is not sitting and
7 so Ministers are not operating and the government's not
8 operating under the oversight or the confidence of the House.
9 It's dissolved.

10 During a by-election, the government is still
11 acting, the House is still sitting, Ministerial authorities
12 are still there and so there is room for DM CIR to operate
13 and to work within that Ministerial authority and for myself
14 or the Minister of Justice if he should need to be engaged on
15 any issue to be engaged. And so they're in a different
16 space, in my mind.

17 **MS. LEILA GHAAHARY:** Thank you.

18 Madam Commissioner, those are my questions.

19 **COMMISSIONER HOGUE:** Thank you.

20 So cross-examination. Counsel for Jenny
21 Kwan. It's Ms. Kakkar.

22 **--- CROSS-EXAMINATION BY MS. MANI KAKKAR:**

23 **MS. MANI KAKKAR:** Good afternoon,
24 Commissioner. Good afternoon, panelists. My name is Mani
25 Kakkar and I'm counsel for Ms. Kwan.

26 I'd like to ask you some questions that I
27 think are targeted to you, Ms. Micallef, because they're
28 specifically about your role on the Panel of Five.

1 It's my understanding, based on your last
2 answer, that it's the caretaker period that changes the role
3 of the Panel of Five so that the response or the toolkit
4 available is different during elections versus by-elections.
5 Did I understand your testimony correctly? And if you need
6 to elaborate, please do.

7 **MS. SHALENE CURTIS-MICALLEF:** I don't think
8 the toolkit for the government is necessarily different.
9 It's how we use the tools.

10 So during the by-elections, the government is
11 in place, House is sitting, or it's -- is available. And so
12 Ministers continue to have their authorities. And
13 departments work and support those Ministers in the carrying
14 out of their duties, and deputy heads have responsibilities
15 within that framework. And that continues during the course
16 of by-elections and then through that ministerial authority.

17 I think the toolkit changes somewhat with
18 respect to a caretaker period where, as I mentioned, the
19 house has -- is dissolved. And in that sense, the Panel
20 performs a particular function, as a Cabinet Directive exists
21 now, with respect to a particular task, which is whether or
22 not we believe that Canadians can have a free and fair
23 election.

24 Within that time period, though, departments
25 still operate, activities still go on within the government,
26 officials are still undertaking important things. So I
27 wouldn't say that the only thing that can happen during a
28 period when the House is dissolved is for the Panel to act.

1 So there is continual monitoring, there are continual
2 responsibilities the departments have, and the deputies have
3 during that period of time.

4 **MS. MANI KAKKAR:** I appreciate your
5 testimony.

6 So you're saying that essentially they may be
7 used differently but that those departments are still in
8 operation. Do you think there are more limited use or some
9 of the practices around the caretaker period might make FI
10 activity -- or it might make one time more vulnerable to FI
11 activity than another, or your response more limited during
12 the general election versus the by-elections?

13 In other words, would the same FI activity,
14 whether it's in a by-election or an election, get a similar
15 response?

16 **MS. SHALENE CURTIS-MICALLEF:** I find that a
17 bit speculative because I don't know what the activity you're
18 speaking of. I mean, so during a by-election, the SITE Task
19 Force is stood up, and it monitors activities during the by-
20 election. During a full general election, the SITE Task
21 Force is stood up and it is monitoring activities as well.

22 During a by-election, the Panel is not
23 acting, so yes, that would be a different activity that would
24 not occur during the course of a by-election. So it sort of
25 depends on what the activity is, they will not necessarily
26 mirror themselves exactly. But if your question is, is there
27 a surveillance and is there a monitoring, and is there an
28 oversight of what is happening, I would say, in both of those

1 scenarios, yes, that is the case.

2 **MS. MANI KAKKAR:** The question -- I
3 apologize; I wasn't clear -- is actually is on the flip side.

4 My understanding is that the SITE Task Force
5 is an intelligence provider; they're not assessing, they're
6 not making decisions. So more on the flip side of the
7 decision-maker, whether it's the Panel of Five or DM CIR, are
8 the actions, responses, assessments going to be different for
9 -- and I appreciate the hypothetical nature of this, but for
10 the same FI activity during a by-election versus a general
11 election?

12 **MS. SHALENE CURTIS-MICALLEF:** I don't think I
13 can comment on that. I don't sit on DM CIR, as we've noted,
14 so I don't know how exactly they operate within that sphere.
15 So I don't think I would be in the best place to comment on
16 that.

17 **MS. MANI KAKKAR:** I appreciate your candour.
18 With respect to the way in which the Panel of
19 Five works, my understanding is that you've already started
20 to meet and have practice questions where you as a panel
21 discuss and determine what you might do if this was a real
22 situation in an election.

23 **MS. SHALENE CURTIS-MICALLEF:** That's correct.

24 **MS. MANI KAKKAR:** And the standard is that
25 you have to decide unanimously across all of you in order to
26 act.

27 **MS. SHALENE CURTIS-MICALLEF:** That's correct.

28 **MS. MANI KAKKAR:** And there's also a very

1 high threshold, still, as to when you might act?

2 **MS. SHALENE CURTIS-MICALLEF:** Yes.

3 **MS. MANI KAKKAR:** And the way in which you
4 can act is to provide a notice to the Canadian public.

5 **MS. SHALENE CURTIS-MICALLEF:** Yes.

6 **MS. MANI KAKKAR:** Okay. Do you think that
7 this very high threshold, this one way in which you can
8 respond, isn't flexible enough, given what you're learned
9 through this Commission about the ways in which FI activity
10 happens on the ground?

11 **MS. SHALENE CURTIS-MICALLEF:** I guess there's
12 two parts to that. One, I think -- well, one I know, the
13 Panel is leaning in and considering whether or not there's an
14 expectation that the Panel undertake other activities as a
15 panel, which may be different communication activities,
16 different response activities as a panel.

17 I think the part that is a bit nuanced,
18 though, is that deputies, as I said, continue to have
19 responsibilities. So whether the Panel acts as a panel in
20 making a public announcement versus whether deputies assume
21 the responsibilities that they normally do and take measures
22 that are necessary in those periods of time, that can still
23 happen.

24 So I think it does sort of speak to how --
25 who is taking the action and whether it's being taken as a
26 panel, which in this -- under the Cabinet Directive that
27 exists right now is the threshold of whether we believe that
28 Canadians will have a free and fair election, along with the

1 other considerations that are included in the Directive.

2 **MS. MANI KAKKAR:** Okay. I appreciate your
3 testimony on that point.

4 And Ms. Watts, I'd like to turn to you to
5 just ask a final question. And please do clarify if this is
6 not within your mandate, but one of the documents we reviewed
7 was -- or one of the documents that Commission counsel pulled
8 up was an agenda from a meeting that was actually for the
9 Panel of Five. And it had a group that was here yesterday
10 testifying with respect to the need for transparency when it
11 comes to information and data available by social media
12 platforms for research groups like it.

13 I understand your sort of policy portfolio
14 includes national security intelligence, and they partner
15 with and get information from organizations like MEO. Have
16 you considered mandating social media platforms to provide
17 API data at low cost or no cost to independent groups like
18 MEO?

19 **MS. HEATHER WATTS:** So the question that
20 you're asking about is not within the responsibility of the
21 Department of Justice, and it's not within my
22 responsibilities, so I can't speak to that.

23 **MS. MANI KAKKAR:** I appreciate your
24 clarification.

25 Thank you.

26 **COMMISSIONER HOGUE:** Thank you.

27 Mr. Sirois.

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

1 **MR. GUILLAUME SIROIS:** Good afternoon.

2 Guillaume Sirois for the Russian Canadian Democratic
3 Alliance.

4 Are you aware that Russian operatives paid
5 Canadian influencers \$10 million to establish Tenet Media, a
6 media outlet intended to influence Canadian public opinion?
7 Are you aware of this?

8 **MS. SHALENE CURTIS-MICALLEF:** I'm not aware
9 of all the details that you've provided, but I do know that
10 there is media reports with respect to Canadian influencers,
11 and charges in that respect.

12 **MR. GUILLAUME SIROIS:** And considering that
13 the main actors involved were Canadians, why are we learning
14 about these events through a US indictment and not a Canadian
15 indictment?

16 **MS. SHALENE CURTIS-MICALLEF:** Why am I
17 learning, or why ---

18 **MR. GUILLAUME SIROIS:** Canadian public.

19 **MS. SHALENE CURTIS-MICALLEF:** Why is the
20 Canadian public ---

21 **MR. GUILLAUME SIROIS:** Yes.

22 **MS. SHALENE CURTIS-MICALLEF:** --- learning
23 that?

24 **MR. GUILLAUME SIROIS:** Media, Canadian
25 public; why do we have to learn about this through a US
26 indictment, rather than a Canadian indictment, considering
27 that the main actors involved were Canadians?

28 **MS. SHALENE CURTIS-MICALLEF:** I don't know

1 that I can answer that question because I am not closely
2 affiliated with where that information might be in the
3 Canadian government and why that would be protected or not.

4 **MR. GUILLAUME SIROIS:** The actions described
5 in the indictment, receiving \$10 million from Russian
6 authorities to set up a propaganda media outlet influencing
7 Canadians and Americans; it's not legal in Canada to do that,
8 right?

9 **MS. SHALENE CURTIS-MICALLEF:** I wouldn't be
10 able to assess on that brief question whether it complies
11 with Canadian law or not.

12 I guess what -- if -- like, we have offences
13 in Canada with respect to foreign interference, and to the
14 extent that things fall within that, law enforcement is open
15 to investigate; I am not law enforcement. And the Public
16 Prosecution Service is open to determine whether or not
17 charges should be laid, and I'm not Public prosecution
18 Service. So unfortunately I can't comment on whether or not
19 charges should or should not be laid in Canada on that
20 information.

21 **MR. GUILLAUME SIROIS:** I don't think my
22 question is whether charges should or should not be laid,
23 it's rather whether or not there are laws that guard against
24 such actions in Canada.

25 **MS. SHALENE CURTIS-MICALLEF:** So we do have
26 laws that provide for offences, as we've described earlier
27 today, with respect to foreign influence and covert
28 activities. So we do have a framework in which to address

1 situations where there is foreign entities undertaking
2 actions that would be not lawful in our country.

3 **MR. GUILLAUME SIROIS:** And so I'm going to
4 reframe that question within that frame work. Do you know
5 that whether or not the actions described in the indictment
6 are within the legal framework of Canada or outside of that
7 legal framework?

8 **MS. SHALENE CURTIS-MICALLEF:** I have not done
9 that assessment.

10 **MR. GUILLAUME SIROIS:** Have you read the U.S.
11 indictment?

12 **MS. SHALENE CURTIS-MICALLEF:** No, I have not
13 read the U.S. indictment.

14 **MR. GUILLAUME SIROIS:** Okay. Do you think it
15 would be relevant to read it?

16 **MS. SHALENE CURTIS-MICALLEF:** Relevant for
17 what purpose?

18 **MR. GUILLAUME SIROIS:** The purpose of
19 determining whether these actions are legal or not in Canada.

20 **MR. GEORGE TZEMENAKIS:** Madam Commissioner, I
21 feel compelled to object to my friend's question. He's
22 asking the Deputy for a legal conclusion as to whether or not
23 something falls or does not fall within Canadian law. He has
24 not put the document to the witness. And so I would just
25 want some context to be placed to this if he's indeed
26 permitted to continue with this line of questioning. Thank
27 you.

28 **MR. GUILLAUME SIROIS:** Unfortunately, Madame

1 La Commissaire, in fairness, we don't have time to read
2 through the indictment, so I'll accept my friend's point and
3 I'll move on to my ---

4 **COMMISSIONER HOGUE:** Okay.

5 **MR. GUILLAUME SIROIS:** --- next question.

6 I'm wondering -- okay. Let's say that we're
7 not sure whether or not this is legal or not. But can you at
8 least provide some helpful comments on why were Canadian laws
9 not successful in deterring such actions from taking place in
10 Canada before the facts? Why were Canadians able to set up
11 this media outlet for close to a year, considering the laws
12 that apply in Canada concerning foreign interference?

13 **MS. SHALENE CURTIS-MICALLEF:** I apologize,
14 but I cannot speculate on a set of facts that I don't have.
15 So I'm not in a position to answer that question that you're
16 asking.

17 **MR. GUILLAUME SIROIS:** Okay. I'll move on to
18 another set of questioning then. We'll talk about -- my last
19 theme will be freedoms and -- rights and freedoms in Canada
20 and how disinformation can impact those.

21 Do you believe that disinformation campaigns
22 from foreign actors can impact fundamental rights and
23 freedoms and Canadians, such as the freedom of thought and/or
24 speech or the right to vote in an informed manner?

25 **MS. SHALENE CURTIS-MICALLEF:** I'm not here to
26 give legal advice about whether or not a certain activity
27 forms an infraction or not, nor am I giving *Charter* advice,
28 but I do believe that as the Government of Canada, we are

1 concerned when there is surreptitious, deceptive, covert
2 activity that is false being disseminated by foreign entities
3 with the goals of undermining Canadian interest. And so that
4 is why we have legislated in this space, because we do think
5 it is not acceptable that it continue in our country. And so
6 that's the approach we have taken in order to allow
7 Canadians, because in this context we're talking about
8 electoral processes, to have the opportunity to participate
9 fully in a fair process and to participate fully in our
10 democracy, and we're very much interested in protecting that.

11 **MR. GUILLAUME SIROIS:** And so do I understand
12 from your testimony that more governmental intervention or
13 laws to protect, for instance, the social media platforms,
14 the media ecosystem, more laws or governmental interventions
15 to protect against disinformation campaigns could help
16 protect Canadians' rights and freedoms, such as their right
17 to vote in an informed matter or their freedom of speech?

18 **MS. SHALENE CURTIS-MICALLEF:** Sorry, I didn't
19 say we needed more laws. I just explained the laws that we
20 had put in place.

21 So I'm not -- I can't speak to the fact that
22 at this point I think there are more laws that are necessary.
23 We have put in a suite of offences that came into force
24 August 19th of this year with a view to protecting our
25 democracy.

26 **MR. GUILLAUME SIROIS:** Thank you. Those are
27 all my questions.

28 **COMMISSIONER HOGUE:** Thank you.

1 Mr. Chantler?

2 **MR. NEIL CHANTLER:** I have no questions for
3 these witnesses. Thank you.

4 **COMMISSIONER HOGUE:** Then it's Ms. Teich for
5 the Human Rights Coalition.

6 **--- CROSS-EXAMINATION BY MS. SARAH TEICH:**

7 **MS. SARAH TEICH:** Good afternoon. I have a
8 couple of questions about the *Criminal Code* amendments
9 contained in Bill C-70.

10 And Commissioner, I'd like to seek your leave
11 to pull up CAN26649. It was not in my document list. It's a
12 PCO document and I just have one question about a line that
13 identifies *Criminal Code* offences relevant to foreign
14 interference, and I'd only ask them about that one line.

15 **--- EXHIBIT No. CAN026649:**

16 [Threat Matrix]

17 **COMMISSIONER HOGUE:** Okay. You can go ahead.

18 **MS. SARAH TEICH:** Thank you.

19 And if we can please scroll down to page 7?
20 And you can see there's a "Gaps" column. And under the
21 "Gaps" column, it says, "Gap in *Criminal Code* offences," and
22 in brackets "Example: Treason and sabotage". And I'm
23 wondering if the DOJ considered in its development of Bill C-
24 70, particularly Part 2, whether it would be valuable to
25 amend the treason provisions as well as the sabotage
26 provisions?

27 **MS. SHALENE CURTIS-MICALLEF:** So what I can
28 tell you is that the Department did a fulsome policy

1 development process and the result of that process is the
2 consultation paper that was made public in November, which
3 did not include treason.

4 **MS. SARAH TEICH:** Okay. Can you tell me why
5 it didn't?

6 **MS. SHALENE CURTIS-MICALLEF:** I can say that,
7 you know, as with all policy development, sometimes -- and I
8 will admit I've not seen this document before so I don't know
9 what the date is or what the context is, or who prepared it,
10 whether it was Justice or someone else. I think with all
11 legal policy development, you do a sort of scan of the
12 landscape and you look at what the challenges are and what
13 some of the models or examples may be to address the
14 challenge that you're trying to address and thinking of all -
15 - so just as the document that was pulled up earlier by
16 Commission counsel and I pointed out the final result was
17 different, I think this is an example of that. This could be
18 early thinking about potential solutions and as we go through
19 the policy development process, some things get added and
20 some things fall off.

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

22 If we can now please pull HRC91? Thank you.

23 This is a document authored by myself, and
24 David Matas, and Hannah Taylor.

25 If we can scroll down to page 141?

26 And I'd like to draw your attention to
27 recommendation number 10, which talks about criminalizing
28 refugee espionage.

1 benefit a foreign state.”

2 I think that depending on the fact scenario,
3 it is possible that something like that could fall within the
4 general offence, or even within the offence of committing an
5 indictable offence for, depending on the circumstances and
6 the intimidation offence.

7 So I think it’s really going to be quite fact
8 specific. But I wouldn’t say that we don’t have anything in
9 the new offences that could address what seems to be the
10 concerns here.

11 **MS. SARAH TEICH:** Okay. Yes. And the
12 general offence, and I know I don’t have this on the screen,
13 but if you’ll indulge me, I understand it’s:

14 “...induces or attempts to induce, [...]
15 any person to do anything or [...]
16 cause anything to be done”

17 So refugee espionage, would the difference be
18 something like this could criminalize if there’s sort of
19 intimidation like this, but it’s not about causing a person
20 to do something or causing something to be done? Like, this
21 sort of offence strikes me, and let me know if you agree,
22 about just obtaining information and providing information.
23 So that obtaining/providing information, in the absence of
24 attempting to induce a person to do something, that would not
25 be covered by *SOIA* as it’s currently been amended? Is that
26 right?

27 **MS. HEATHER WATTS:** So if you’ll indulge me,
28 it would be really helpful if I could look at the wording of

1 the offences themselves. It sounds like the offence that
2 you're referring to is the offence in section 20, which is
3 the threats and intimidation offence.

4 **MS. SARAH TEICH:** Yes, that's right.

5 **MS. HEATHER WATTS:** What I think I would
6 direct you to -- and if I'm able to look at my copy of the
7 SOIA is that okay? I think what I would direct you to is the
8 language that you've referred to is section 20. But I would
9 say that potentially what I was thinking of is the new
10 offence in 20.3, which engaging in surreptitious or deceptive
11 conduct, and it's really about somebody who does something at
12 the direction of, for the benefit of, or in association with
13 a foreign entity, "knowingly engages in surreptitious or
14 deceptive conduct" for a purpose "prejudicial to the safety
15 and interests of the State" of Canada. So it's going to be
16 fairly circumscribed in terms of what we're doing.

17 The other offence of committing an indictable
18 offence for benefit, direction, association, again it's going
19 to depend on the facts and circumstances, so I don't want to
20 speculate. But I would say that really depending -- if you
21 unpacked what was going on, it is possible that the offences
22 that we've put in place could cover it.

23 **MS. SARAH TEICH:** Okay.

24 Okay, thank you. Those are my questions.

25 **COMMISSIONER HOGUE:** Thank you.

26 AG?

27 **--- CROSS-EXAMINATION BY MR. GREGORY TZEMENAKIS:**

28 **MR. GREGORY TZEMENAKIS:** Good afternoon. My

1 name is Gregory Tzemenakis, and I'm counsel for the Attorney
2 General, which you know.

3 Well, I want to start with Bill C-70 and some
4 questions directed to you, Ms. Watts. So first of all, the
5 Bill was passed unanimously in the House of Commons?

6 **MS. HEATHER WATTS:** That's correct.

7 **MR. GREGORY TZEMENAKIS:** And are all parts of
8 the law now in force?

9 **MS. HEATHER WATTS:** Yes.

10 **MR. GREGORY TZEMENAKIS:** And I want to focus
11 on *SOIA*, and in particular section 20.4, so you should feel
12 free to pull it up. Section 24.4 creates a new offense of
13 engaging:

14 "...in surreptitious or deceptive
15 conduct at the direction of or in
16 association with a foreign
17 entity...to influence a Canadian
18 political or governmental process, or
19 to influence the exercise of a
20 democratic right in Canada."

21 Correct?

22 **MS. HEATHER WATTS:** That's correct.

23 **MR. GREGORY TZEMENAKIS:** And the term
24 governmental -- political or governmental process is defined
25 in this part of the *Act*; yes?

26 **MS. HEATHER WATTS:** It is.

27 **MR. GREGORY TZEMENAKIS:** It is. Does it
28 include nomination processes?

1 **MS. HEATHER WATTS:** It does. You'll see
2 paragraph f of the definition includes it.

3 **MR. GREGORY TZEMENAKIS:** And does it include
4 the holding of an election and/or a referendum?

5 **MS. HEATHER WATTS:** Yes.

6 **MR. GREGORY TZEMENAKIS:** And it an exhaustive
7 or non-exhaustive list of situations that may or may not fall
8 within this definition?

9 **MS. HEATHER WATTS:** It is a non-exhaustive
10 list, as indicated by the word "includes".

11 **MR. GREGORY TZEMENAKIS:** And did I hear you
12 correctly during your examination by Commission counsel that
13 this law applies at all times outside of a red period?

14 **MS. HEATHER WATTS:** It does.

15 **MR. GREGORY TZEMENAKIS:** It does. Thank you.
16 I'm going to direct the balance of my
17 questions to Ms. Micallef, and it's in respect of a Panel of
18 Five. You acknowledge to Commission counsel that you receive
19 in introductory briefing. I just want to bring some clarity
20 to that. Did you receive a threat landscape briefing, and
21 more specifically a landscape briefing related to foreign
22 interference?

23 **MS. SHALENE CURTIS-MICALLEF:** Yes, I did.

24 **MR. GREGORY TZEMENAKIS:** And did I understand
25 correctly that one of the reasons that -- well, let me ask
26 this question a different way. P5 has met and heard from
27 members of civil society organizations such as CDMRN and
28 other entities. Correct?

1 **MS. SHALENE CURTIS-MICALLEF:** That is
2 correct.

3 **MR. GREGORY TZEMENAKIS:** And can you just
4 bring some clarity around the comment you made to Commission
5 counsel as to the importance of hearing other voices when P5
6 is engaging in its work?

7 **MS. SHALENE CURTIS-MICALLEF:** The panel as
8 we're now constituted, which includes members from previous
9 panels and then members like myself who have just joined,
10 feel that it's particularly important to hear from various
11 voices as we prepare for our work. We're a consensus
12 decision-making body, and we do want to explore what else --
13 what other tools are available to support Canadians in having
14 an informed decision-making process during periods of
15 election, and generally at other periods of time as well.

16 So we have engaged with civil society with
17 that. We have engaged with other foreign governments with
18 that. A view to making sure that we have a robust and
19 diverse toolbox or toolkit of intervenors with respect to our
20 democratic processes.

21 **MR. GREGORY TZEMENAKIS:** Thank you.

22 We heard from Mr. Sutherland earlier today
23 that part of the discussion that took place at the retreat in
24 March and the presentation by the CDMRN was a discussion
25 around whether there are entities such as the CDMRN who might
26 be better placed to make a communication as opposed to the
27 Panel of Five if they say something. Can we have your
28 comments on that regard, please?

1 **MS. SHALENE CURTIS-MICALLEF:** I think we are
2 very mindful of our role as part of the executive.
3 Particularly during the caretaker period. And government not
4 being seen at the arbitrator of truth and the only voice as
5 to what may be mis- or disinformation in our environment.
6 And so, with that in mind, we are trying to make sure that
7 there -- to ensure that we take that into consideration with
8 respect to the work that we're doing.

9 **MR. GREGORY TZEMENAKIS:** Thank you.

10 The second last question is, can you -- we've
11 heard a lot of information about the, perhaps,
12 disproportionate effect -- well, it's not perhaps -- the
13 disproportionate effect on various diaspora communities in
14 Canada when it comes to foreign interference. Can you
15 elaborate briefly on how the panel is taking those voices
16 into consideration?

17 **MS. SHALENE CURTIS-MICALLEF:** So we are
18 acutely aware that certain communities are -- can be the
19 target of, or used in this context. And so, we are trying to
20 make sure that we have access and hear those voices, and that
21 our interventions do not further marginalize or cause harm,
22 or lack of trust with those groups either. And so that's
23 continuing work that we are doing as a panel, and not just as
24 a panel, I would say more specifically the Government of
25 Canada, because the panel does certain functions, but each
26 department has other responsibilities.

27 And just as we -- when we did our policy
28 development with respect to parts two and three of the Bill

1 C-70, reached out, I know that other government departments
2 are reaching out in their own policy development and also in
3 their operationalization of whatever new authorities they may
4 be considering or that they may have, and their new ways, or
5 programs, or existing programs. So I think that is an active
6 consideration.

7 **MR. GREGORY TZEMENAKIS:** Thank you.

8 My last question is just to bring some
9 clarity to a question asked for -- by counsel for Ms. Kwan,
10 and she was asking you questions about a hypothetical
11 situation as to whether or not in a similar situation the DM
12 CIR committee and the Panel of Five would respond in the same
13 manner. And I was just wondering if you can confirm very
14 briefly that the DM CIR and the Panel of Five have different
15 mandates, that operate at different points in time, and have
16 different membership. Is that fair?

17 **MS. SHALENE CURTIS-MICALLEF:** That is very
18 fair. Our time is more limited with respect to decision-
19 making as a Panel of Five from the dissolution of Parliament
20 to the forming of a new government or a clear -- clear that a
21 returning government is -- has the confidence to assume. So
22 our time periods are different. The threshold with which we
23 do a public statement is different, and so there are
24 different operatives in those circumstances.

25 **MR. GREGORY TZEMENAKIS:** Thank you. Merci,
26 madame la commissaire.

27 **COMMISSIONER HOGUE:** Merci.

28 Ms. Ghahhary, any questions in cross-

1 examination?

2 **MS. LEILA GHAAHARY:** No thank you, Madam
3 Commissioner

4 **COMMISSIONER HOGUE:** No. So the day is over.
5 Thank you very much for your time. And again, tomorrow
6 morning at 9:30.

7 **THE REGISTRAR:** Order, please. À l'ordre,
8 s'il vous plait.

9 The sitting of the Foreign Interference
10 Commission is adjourned until tomorrow, Friday the 27th of
11 September, at 9:30 a.m. C'est séance de la Commission sur
12 l'ingérence étrangère est suspendue jusqu'à demain vendredi
13 le 27 septembre à 9h30.

14 --- Upon adjourning at 5:27 p.m./

15 --- L'audience est suspendue à 17 h 27

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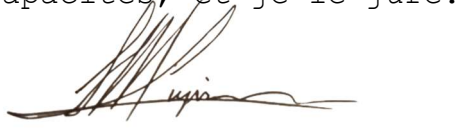
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C E R T I F I C A T I O N

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.

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