



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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Bloc Québécois

Mathieu Desquilbet

Iranian Canadian Congress

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Ottawa, Ontario

1 --- The hearing begins on Thursday, September 26, 2024, at
2 9:31 a.m.

3 --- L'audience débute le jeudi 26 septembre 2024 à 9 h 31

4 **THE REGISTRAR:** Order, please. À l'ordre,
5 s'il vous plait.

6 This sitting of the Foreign Interference
7 Commission is now in session. Commissioner Hogue is
8 presiding.

9 Cette séance de la Commission sur l'ingérence
10 étrangère est en cours. La Commissaire Hogue préside.

11 The time is 9:31 a.m. Il est 9 h 31.

12 **COMMISSIONER HOGUE:** Bonjour.

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

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

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

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

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

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

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

27 **THE REGISTRAR:** Thank you very much.
28

1 **--- MR. SAMI KHOURY, Sworn/assermenté:**

2 **THE REGISTRAR:** Thank you.

3 Now for Ms. Xavier.

4 **MS. CAROLINE XAVIER:** Bonjour.

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

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

9 **THE REGISTRAR:** Thank you.

10 **--- MS. CAROLINE XAVIER, Sworn/assermenté:**

11 **THE REGISTRAR:** Thank you very much.

12 And just now for Ms. Tayyeb.

13 **MS. ALIA TAYYEB:** Yes. Alia Tayyeb. T-A-Y-
14 Y-E-B.

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

16 **--- MS. ALIA TAYYEB, Sworn/assermenté:**

17 **THE REGISTRAR:** Thank you very much.

18 Counsel, you may proceed.

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

20 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR**

21 **MS. ERIN DANN:**

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

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

24 **MS. ERIN DANN:** I'll start off with a bit of
25 housekeeping. We have a lot of information to cover this
26 morning and only an hour to do so. Nevertheless, I'm going
27 to remind myself and try to remind all of you that we need to
28 speak slowly, given that we have a number of interpreters

1 working today. And I'll do my best to lead by example on
2 that front.

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

5 Ms. Xavier and Ms. Tayyeb, you were
6 interviewed in a panel format by the Commission on June 14th,
7 2024. The interview summary before you is a summary of that
8 interview. Have you had a chance to review that? And if you
9 have, can you advise whether you have any changes, additions,
10 or deletions you wish to make?

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

13 **MS. ALIA TAYYEB:** Likewise.

14 **MS. ERIN DANN:** Thanks. And will you adopt
15 that summary as part of your evidence before the Commission
16 today?

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

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

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

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

22 **--- EXHIBIT No./PIÈCE No. WIT0000122.EN:**

23 Interview Summary: Caroline Xavier,
24 Rajiv Gupta, Alia Tayyeb

25 **--- EXHIBIT No./PIÈCE No. WIT0000122.FR:**

26 Résumé d'entrevue - Caroline Xavier,
27 Rajiv Gupta, Alia Tayyeb

28 **MS. ERIN DANN:** Next I'll ask that WIT_133 be

1 called up.

2 The three of you were examined as a panel by
3 Commission counsel during in-camera hearings in this previous
4 summer. Have you had a chance to review this summary of the
5 publicly disclosable aspects of that evidence? If so, do you
6 have any changes, additions, or deletions?

7 Perhaps we'll start with Ms. Tayyeb.

8 **--- EXHIBIT No./PIÈCE No. WIT0000133:**

9 In Camera Examination Summary:

10 Caroline Xavier, Alia Tayyeb, Sami
11 Khoury

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

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

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

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

19 And will you adopt that as part of your
20 evidence today?

21 **MS. CAROLINE XAVIER:** Yes.

22 **MS. ALIA TAYYEB:** Yes.

23 **MR. SAMI KHOURY:** Yes.

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

25 Finally, I'll ask that CANDOC.28 be pulled
26 up.

27 And I should advise there is no -- there is
28 not currently a French translation of the examination

1 summary, but that will be added to our database when it's
2 available.

3 --- EXHIBIT No./PIÈCE No. CAN.DOC.000028:

4 Communications Security Establishment
5 - Part C Institutional Report to the
6 Public Inquiry on Foreign
7 Interference

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

10 This is the institutional report that I
11 understand was prepared by the Communications Security
12 Establishment. Ms. Xavier, perhaps I'll direct these
13 questions to you.

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

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

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

21 By way of introduction, Ms. Xavier, I
22 understand you are the Chief of the Communications Security
23 Establishment. I'll refer to that as CSE today. And in this
24 role, you're responsible for the management and operation of
25 CSE. Is that right?

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

27 As Chief, I'm the equivalent of a Deputy
28 Minister.

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

2 And Ms. Tayyeb, you testified at these -- at
3 our first stage of the hearings. I understand you're the
4 Deputy Chief SigInt, which stands for Signals Intelligence,
5 and you're also responsible for CSE's foreign cyber
6 operations. Do I have that right?

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

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

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

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

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

21 And in my new role now, I'm supporting the
22 Chief, supporting my colleagues across town, Deputy
23 Ministers, but continue to be a spokesperson for the
24 organization and bring my years of experience out there to
25 talk about cyber.

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

27 We heard at Stage 1 and as set out in the
28 institutional report from CSE that CSE is Canada's foreign

1 signals intelligence agency and the technical authority for
2 cyber security and information assurance.

3 Before we get into some of the details of
4 those aspects of CSE's mandate, could you tell us whether and
5 how the foreign intelligence and cyber security aspects of
6 CSE's mandate work together to counter hostile activities by
7 state actors? And for example, does foreign intelligence
8 inform cyber security efforts to protect Canadian democratic
9 institutions?

10 I'm not sure who is best placed to answer
11 that question.

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

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

19 We are an organization that is also able to -
20 - also has the authority to perform what we call foreign
21 cyber operations as well as provide technical assistance to
22 law enforcement organizations.

23 It's worth mentioning all those parts of our
24 mandate because, as you've outlined, it is actually very much
25 a mandate that works very closely together and has an ability
26 to be able to support itself, whether it's from the foreign
27 signals intelligence perspective informing cyber security or
28 cyber security incidents that we perform on behalf of the

1 Government of Canada and beyond that is able to inform what
2 goes on from a foreign intelligence to be able to go and look
3 at it further from the foreign end.

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

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

10 For instance, collecting foreign
11 intelligence, one of our intelligence requirements would be
12 cyber threats facing Canadians, so we would, from a foreign
13 intelligence and signals intelligence perspective, collect on
14 that requirement.

15 When we detect cyber threats that are
16 directed towards Canada, we would provide that from a foreign
17 intelligence mandate perspective to the Cyber Centre to
18 assist them in defending against the threat that had been
19 identified.

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

28 **MS. ERIN DANN:** Mr. Khoury, from your

1 perspective?

2 **MR. SAMI KHOURY:** To add on what the Chief
3 and Alia have said, absolutely, almost two faces of the coin
4 or two sides of the coin. And we get tips, we get
5 information from the second side about foreign cyber threats,
6 new tactics maybe that they are seeing, and we employ those
7 information into our cyber defence capabilities, but
8 likewise, in investigating an incident, if we see -- if we
9 pull a thread that points to external activity or outside of
10 Canada sources, then we pass it on to our second colleagues
11 to pursue it further.

12 So we do work in unison in making Canada
13 safer.

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

15 I'll turn now to some questions about the
16 threat landscape. And in your interview and examination
17 summaries, you provide a lot of information about the threat
18 landscape.

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

22 Perhaps we could pull up COM598.EN.

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

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

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

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

4 **MS. CAROLINE XAVIER:** That is correct. It
5 would be fair, though, to add that since at least 2017, we
6 have been advising in a public way about these types of
7 threat actors.

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

9 And indeed, this is an update to previous
10 reports relating to cyber threat to Canada's democratic
11 process, and those are available to the -- online and also on
12 our Party database.

13 If we go to PDF page 5 of that document, the
14 third bullet on that page states that China and Russia
15 continue to conduct most of the attributed cyber -- excuse me
16 -- cyber threat activity targeting foreign elections since
17 2021.

18 Is that still -- does that remain the case,
19 that China and Russia, in terms of attributed threat
20 behaviour, are the most significant threat actors?

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

22 Again, worth mentioning that this threat to
23 democratic processes very much was focused on what we have
24 observed from a broad perspective with regards to electoral
25 activities across the world, and this is what this
26 highlights.

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

28 The report speaks to two, I'll call them,

1 broad categories of cyber threat activities, as you've
2 mentioned, observed in various foreign elections across the
3 globe.

4 The first category, I'll suggest, is cyber
5 threats against election infrastructure. So these types of
6 cyber threats would seek to attack the electoral process
7 directly.

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

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

20 **MS. CAROLINE XAVIER:** Really important to
21 share that, as I said earlier, since 2017, we've been
22 observing what's going on from an electoral perspective and
23 offering our assistance to -- especially Canadian chief
24 electoral offices, and our Elections Canada colleagues in
25 particular, with regards to some of the threats that are
26 highlighted in this report. And since 2017, we have been
27 highlighting the fact that the targets that you demonstrated
28 earlier on the page or in this booklet are, indeed, possible

1 targets of threat actors who may choose to have an impact on
2 electoral processes, and in particular, critical
3 infrastructure of electoral organisations. And what we have
4 advised in this publication, in addition on the slide that
5 you're on here in particular, is where we -- in the
6 observations and the analysis we've done, we've observed that
7 the cyber threat activity will often take the form of mis and
8 disinformation, and that, yes, cyber is one of those tools
9 that can be used with regards to that influence in these
10 types of processes.

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

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

1 anything he'd add.

2 **MR. SAMI KHOURY:** Sure. So on the first type
3 of threats, the infrastructure, we pride ourself with a very
4 good partnership with Election Canada that goes back to the
5 previous two elections, and we work very closely with them to
6 protect their infrastructure. We have a amazing technical
7 capability to protect Government of Canada infrastructure,
8 and those are also made available to Election Canada. But
9 also, since the last election, we connect with them bimonthly
10 to keep up to the speed, so it's not just a ramp up on
11 election period, so during an election, but also, keep up to
12 speed with what their plans are, and help them, you know, in
13 their evolution of technology, make sure that it is secure.
14 So on that front, we work very closely with Election Canada,
15 and also, more recently, we also extended our support to a
16 more provincial electoral bodies, also to support them during
17 their electoral cycles.

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

26 **MS. CAROLINE XAVIER:** And if I may, it's
27 worth adding that, especially leading up to electoral
28 processes, that those types of guidance and advisory

1 opportunities get more intense, but we do continue to stay
2 quite in close touch with all those that need our support, as
3 the technical authority that we are. And I'd say -- I think
4 it's important to also say that we put out a lot of, as Sami
5 has highlighted, guidance and publications totally geared
6 towards politicians, candidates, and those that are CIOs, or
7 chief information officers, security officers for electoral
8 organisations, so they know exactly what are the different
9 ways in which they could protect their infrastructure.

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

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

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

27 **--- EXHIBIT No./PIÈCE No. COM0000598.EN:**

1 process 2023 Update

2 **--- EXHIBIT No./PIÈCE No. COM0000598.FR**

3 Cybermenaces contre le processus
4 démocratique du Canada - Mise à jour
5 de 2023

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

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

9 **MS. CAROLINE XAVIER:** Cyber Threat
10 Assessment.

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

17 **--- EXHIBIT No./PIÈCE No. COM0000527.EN:**

18 National Cyber Threat Assessment 2023
19 - 2024

20 **--- EXHIBIT No./PIÈCE No. COM0000527.FR:**

21 Évaluation des cybermenaces national
22 2023-2024

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

27 In your in-camera examination, this panel
28 testified that the PRC has become more audacious and

1 sophisticated in the manner it conducts foreign interference,
2 and that the PRC's cyber capabilities have evolved
3 significantly over the last two years and have increased in
4 terms of sophistication. Your colleague, Mr. Gupta, in our
5 interview described the sheer relentlessness of the PRC's
6 cyber programs threat activities. Can you help us understand
7 what all of that means in terms of the PRC cyber threat
8 activities that target Canada and the risk they pose or the
9 threats they pose?

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

1 to that as a threat actor.

2 **MR. SAMI KHOURY:** I mean, they're very
3 sophisticated, yes. They're very persistent. We have to
4 defend against all. They have number of tools in their
5 toolbox, and we have to not just defend the federal
6 government against all of them, but also, inform Canadian and
7 Canadian organisation on how to take the necessary measures
8 to defend themselves against many of those capabilities that
9 we see by defending the government, by partnering with our
10 allies and so on.

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

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

24 And then in addition to the cyber threats, I
25 would say we've seen increased use of social media campaigns
26 in keeping with developments in the digital landscape, in
27 addition to that big data collection. All of that in
28 addition to the cyber threats that we were talking about.

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

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

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

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

19 **MS. ALIA TAYYEB:** No, certainly. One of the
20 I would say newer developments in the threat landscape is the
21 prevalence of personal information online about individuals.
22 And so if that is one thing that we're seeing increasingly,
23 the corollary to that is big data collection, so where state
24 actors will collect, and non-state actors, quite frankly,
25 collect personal information, commercial information, with an
26 attempt to then use that information for a variety of
27 purposes, which range from traditional espionage, in the
28 context of this Commission for foreign interference

1 activities as well, increasing a knowledge base about
2 individuals, and behaviours, and patterns certainly helps
3 influence campaigns, whether they are in the -- let's say in
4 the digital landscape in particular or in sort of personal
5 world scenarios.

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

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

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

22 **MS. CAROLINE XAVIER:** Absolutely. *Je me sens*
23 *très fière du fait que*
24 I lead an organization that is -- has world class experts and
25 are really good at what they do and who are very passionate
26 and motivated to ensure that they protect Canadians and keep
27 Canada safe. And that same passion is what I see in my
28 colleagues across the Five Eyes in particular, given the

1 close relationship that we have. And we definitely all, as I
2 said earlier, see the PRC as the strategic threat to all of
3 our collective, you know, sovereign rules-based communities
4 and country.

5 And so yes, we operate in the rules-based
6 order. We recognize that our threat actors beyond the PRC do
7 not have to operate in those roles or those norms or
8 standards and choose not to, in particular for their own end
9 goals.

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

17 And so coming together, we do feel we are
18 stronger as allies against the PRC, but against all threat
19 actors that are potentially threatening our respective
20 sovereign countries.

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

23 But it's also important and worth noting that
24 while we recognize in doing this, it is doing the
25 publications that we've talking about, making sure that
26 Canadians and various audiences are prepared, and that we all
27 have a role to play. It's important that we see it as a team
28 sport when it comes to raising cyber resilience for Canada

1 and for Canadians, but it's the same in the space of trying
2 to mitigate threats. It's a team sport that we all have to
3 do our part and every different player in the organizations
4 or in the various -- wherever they come from, have a role to
5 play also to mitigate that threat.

6 **MS. ERIN DANN:** Thank you. Moving on to some
7 of those other threat actors that you mentioned.

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

10 There is a discussion about Russia's threat
11 activity.

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

13 What are you able to tell us about Russia's
14 capabilities and intentions with respect to interfering in
15 Canadian democratic processes? And I've just put up
16 paragraphs 49 to 51 in terms of what some of the information
17 that we were able to provide publicly from the in-camera
18 exam.

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

23 Russia is an extremely capable actor on a
24 number of different fronts, not -- certainly in terms of
25 cyber capabilities and other forms of intelligence,
26 espionage, and cyber operations capabilities. And we've seen
27 them act, again, in -- we've seen them as a foreign
28 interference actor for many years. We've certainly

1 highlighted in our various publications how active Russia is
2 in interfering with democratic institutions world-wide.
3 We've made a point of saying that this activity is
4 increasing. We've pointed out tactics, particularly the use
5 of state media, use of social media manipulation over the
6 years. This has been something that has been very acute
7 since at least 2015-2016, if not before. And so we've been
8 extremely vocal in highlighting that. We've issued --
9 speaking on behalf of Sami, of course, but many Cyber
10 Advisories that highlight Russian threat activity directed
11 towards Canada.

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

21 They absolutely have the capability of doing
22 so. What we continue to examine, and this is a matter of
23 constant assessment, is the intention to do so. And so it's
24 a very -- for us, a very live intelligence requirement that
25 the Government of Canada is -- wants to know. From a foreign
26 intelligence perspective, it's certainly a very high priority
27 for us. So while we did not see it in previous campaigns,
28 does not mean -- or previous elections, does not mean we

1 won't in the future, and so we're very alive to that
2 possibility, given the capabilities of Russia as a state
3 actor.

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

6 That's perfect.

7 There's a heading here, "India's Cyber
8 Capabilities and Threat Activity".

9 These paragraphs describe a Cyber Centre
10 report from 2023 on emerging state cyber threat -- threats,
11 which assesses India as having a medium sophistication cyber
12 program.

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

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

21 I think what you highlighted here in the
22 report is exactly what we can say and what we're capable of
23 saying, but I'd say that the assessment that is in these two
24 paragraphs is a validated assessment based on observations
25 from the S&I community writ at large, and that we do see
26 India as this emerging actor. And in particular, we
27 recognize that when -- as per the example in paragraph 53,
28 that when the Prime Minister stood up in the House of Commons

1 and spoke about the killing of Mr. Hardeep Singh Nijjar or
2 when he was in India on his visit, that we recognized that
3 there was some mis and disinformation going on while those
4 visits were happening.

5 That's about the extent that I feel
6 comfortable able to speak to on India. I don't know if Sami
7 has anything more to add.

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

13 **MS. ERIN DANN:** Thank you. That's -- I
14 appreciate that.

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

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

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

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

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

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

3 Ms. Xavier, earlier today you described the
4 almost ubiquitous nature of foreign -- I'm sorry,
5 misinformation and disinformation that CSE has observed in
6 international elections. We heard a lot of really
7 interesting testimony yesterday from the Media Ecosystem
8 Observatory about misinformation and disinformation, and
9 specifically that technological advances like generative AI,
10 which have really lowered the barrier to entry for threat
11 actors looking to spread misinformation and disinformation.

12 Is that something that CSE has observed as
13 well?

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

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

24 And we see that AI can be a benefit, but we
25 definitely speak about it as the threat vector in that
26 publication in particular.

27 And you mentioned media. We recognize that
28 various people can be leveraged, and media being one of them,

1 especially in the mis and disinformation, and Alia alluded to
2 this earlier with regards to the PRC possibly using media as
3 a form of influence.

4 I make mention of the media piece because one
5 of the things as part of our ongoing work that we do to raise
6 the cyber resilience is we held a session in particular with
7 media in May of this year recognizing that we didn't want --
8 we wanted them to be aware of how they could potentially be
9 used as vectors of influence and mis and disinformation.

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

11 Could we pull up CAN46724?

12 **--- EXHIBIT No./PIÈCE No. CAN046724.0001:**

13 Deepfakes and Disinformation: The
14 Malicious Use of Machine Learning
15 Enabled Technology

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

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

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

1 time.

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

3 And if we go to page 13 of that document, it
4 reads, "Detection model performance evaluation". It appears
5 to refer to models developed to detect synthetic content on
6 social media platforms.

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

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

18 We do have, especially on the cyber defence
19 and cyber resilience aspect, put out software applications or
20 various tools that we feel would be beneficial to help raise
21 that cyber resilience.

22 In this particular space that you're
23 highlighting, we're definitely continuing to assess what are
24 the tools that exist out there with regards to identifying
25 what could be synthetic versus real content out there, so
26 that is part of the types of things that we assess for
27 reasons to be able to educate others, for reasons of being
28 able to better understand the technology because that is part

1 of what we need to do and we want to do, is be well informed.

2 And we do this collectively within our own
3 organization, but also very much with partners both in the
4 private sector and again international partners where we're
5 all looking at these various technologies and learning from
6 each other and trying to not duplicate the efforts where
7 possible. So we do this internationally and domestically
8 with our domestic partners as well.

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

10 Just final question on misinformation and
11 disinformation. I understand that CSE cannot direct its
12 apparatus towards Canadians or persons in Canada. Given this
13 aspect or -- of CSE's work, does CSE play any role in
14 monitoring or reviewing misinformation and disinformation in
15 the Canadian domestic space?

16 Ms. Tayyeb, perhaps I'll -- or Ms. Xavier, if
17 you wish.

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

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

24 So is it relevant to the Canadian threat
25 landscape? Absolutely. So without directing our activities
26 at Canadians, we certainly scan the foreign space, foreign
27 threat actors, what techniques, tactics are being used,
28 developed. That could include synthetic content production,

1 social media manipulation.

2 We would be looking at it from a foreign
3 state actor capabilities and intentions perspective as it
4 relates to Canada, certainly, but not as it relates to the
5 activities of Canadians.

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

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

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

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

20 What I would say for that question, indeed it
21 is often hard to establish where and who is conducting a
22 social media campaign or who is responsible for a particular
23 piece of disinformation or misinformation.

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

28 And so if we commence with a reasonable view

1 that that is the case, then we can, you know, either through
2 our foreign intelligence collection, attempt to confirm
3 suspicions and hypothesis about those campaigns.

4 We can look through our technical expertise,
5 conduct additional verifications or technical verifications
6 on material that we reasonably assess is foreign or from a
7 foreign actor. And often it would be where the information
8 comes from. If -- so it would be the difference between
9 looking at activity that we know to be or have indications is
10 attributed to a foreign actor, we could take our actions, our
11 foreign intelligence mandate would be clearly engaged at that
12 time.

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

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

28 **COMMISSIONER HOGUE:** And does it mean that if

1 you're examining, for example, a campaign going on, a
2 disinformation campaign going on in Canada and you suspect
3 that maybe the source of this campaign is a foreign state,
4 you would have to stop if, in the context of your
5 observation, you note -- or you come to the conclusion that
6 it's not necessarily a foreign state? Where do you have to
7 draw the line between having some suspicions or reasonable
8 cause to believe, ---

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

10 **COMMISSIONER HOGUE:** --- and the lack of
11 evidence or the lack of conviction that it is really a
12 foreign state behind the campaign?

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

28 And so we begin that way. We're -- when we,

1 and this happens, discover otherwise, that there is a
2 Canadian involved, that information is shared with the
3 appropriate agencies of the Government of Canada who have a
4 mandate to further investigate, and then we would not
5 continue that activity at that point. But we may continue a
6 portion of that activity that does relate to the foreign
7 actor in parallel.

8 **COMMISSIONER HOGUE:** I see. And the
9 threshold is reasonable belief?

10 **MS. ALIA TAYYEB:** It must be reasonable and
11 it must be foreign intelligence. So there must be a foreign
12 actor and we must have a reasonable belief that this is a
13 foreign actor.

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

15 **MS. CAROLINE XAVIER:** Madame La Commissaire,
16 si vous me permettez d'ajoute, is that if one of our domestic
17 colleagues, like CSIS or RCMP, as Alia mentioned, once we've
18 passed the baton, for lack of a better word, to them to
19 continue the investigation, if they would require any
20 technical support from us, they have the ability to ask us
21 through our request for assistance, and then we would then be
22 operating under their mandate, and that's part of section 20
23 of the Act.

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

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

2 **MS. ERIN DANN:** And just on that last point,
3 Ms. Xavier, that you noted, I note at paragraph 63 of
4 WIT_133, that CSE had advised that it has not received
5 requests for assistance under your section 20 assistance
6 mandate for technical attribution of a misinformation or
7 disinformation campaign in the context of a general election
8 or democratic process?

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

10 **MS. ERIN DANN:** Thank you. I want to turn to
11 an incident that we heard evidence about last week and
12 earlier this week which relates to an email campaign
13 targeting members of the Interparliamentary Alliance on
14 China.

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

17 **--- EXHIBIT No./PIÈCE No. CAN.SUM.000027:**

18 PRC Email Operations Against
19 Parliamentarians

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

25 **MR. SAMI KHOURY:** Sure. So as part of the
26 mandate of the Cyber Centre, as recognized in our laws to
27 help defend federal infrastructure and infrastructure that is
28 designated by the Minister as systems of importance, over the

1 years, in order to -- we've developed capabilities in order
2 to pick up malicious behaviour, odd behaviour, that would
3 signal that there was something suspicious going on. We
4 developed a set of capabilities, some of them sit on the
5 network, some of them sit on hosts, some of them sit in the
6 cloud, and that telemetry that we receive from those various
7 sensors come together in a way that would signal to us that
8 there's something odd going on on these machines.

9 It tends to focus primarily on those
10 sophisticated malicious activities, often nation state, but
11 at the perimeter of the government, we block about 6.6
12 billion on a daily basis, 6.6 billion attempted scans or
13 attempted malicious activity. Those are blocked at the
14 perimeter.

15 But also, there are additional layers of
16 sensors, because we adopted a model of depth -- or layers or
17 depths, allowing us to block other types of activities
18 further, deeper into the network also.

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

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

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

1 **MS. ERIN DANN:** We heard -- just a note on
2 some terminology. We heard this event with the email
3 tracking campaign variously described as a campaign, an
4 incident, an attack. Do those terms have specific meanings
5 for the Cyber Centre? And how would it characterize the --
6 what happened with the email tracking campaign?

7 **MR. SAMI KHOURY:** Yeah, these terms have
8 significance in a way. We look them all as, initially, a
9 cyber incident, and then the severity of the incident
10 determines, you know, our response.

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

19 And these are the techniques that they use in
20 order to ascertain that there is -- this email is valid,
21 somebody actually looked at it or nobody looked at it. So
22 these are -- this is what forms email campaigns.

23 To the incident that we are referring to,
24 this was an email campaign. What differentiated it from, you
25 know, the variety of email campaigns that we see on a daily
26 basis, the fact that there was a nation state actor behind
27 it.

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

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

6 And we really do see this incident from the
7 host state nation as doing what we call reconnaissance type
8 of work to determine exactly, as Sami said, whether there's
9 somebody on the other end, for example.

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

12 **--- EXHIBIT No./PIÈCE No. COM0000485 R:**

13 URGENT AND CONFIDENTIAL: PRC

14 SPONSORED CYBER ATTACK BRIEFING FROM
15 IPAC

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

19 This was an email provided by IPAC to its
20 members in relation to this incident, and it mentions under
21 the heading part of a progressive attack, that pixel
22 reconnaissance as you've described, does limited damage, that
23 it shouldn't be understood as a successful hack. However,
24 "in the hands of APT31, should be understood as the first
25 stage in a progressive cyber attack."

26 Would you agree with that assessment?

27 **MR. SAMI KHOURY:** I would agree that, you
28 know, it's reconnaissance that, in that case, APT31 was

1 undertaking. It's difficult to then ascertain what's their
2 intention after that, but before every cyber -- you know, in
3 a cyber incident there are many phases.

4 One of them is doing some reconnaissance to
5 understand the environment, to understand what is the
6 technology behind it and so on before deciding what to do
7 next. But as we mentioned in our opening comment, the PRC is
8 a very persistent actor and they will -- you know, they will
9 try everything to get through.

10 **MS. ERIN DANN:** Right. And we heard some
11 concern from the co-chairs of IPAC who testified that they
12 had -- that this incident may have compromised the
13 identities, for example, or made available the identities of
14 contacts -- sensitive contacts that they had on their
15 devices.

16 Is that sort of information available to a
17 threat actor if this type of email tracking campaign is
18 successful?

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

28 It's -- again, it's pure, you know, I would

1 say reconnaissance at its most basic -- at the most basic
2 level.

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

4 **--- EXHIBIT No./PIÈCE No. CAN.SUM.000027.0001:**

5 Tab A - Chronology of Events: Email
6 Tracking Link Campaign Targeting
7 Canadian Parliamentarians

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

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

13 There we are.

14 This indicates that on February 26, 2021,
15 that the Cyber Centre received information from the House of
16 Commons indicating that more emails and shared meta data for
17 41 emails had been sent to various MPs. Of those emails, 31
18 were either read or inadvertently opened.

19 Is this relating to the same -- is this all
20 related to one email campaign and in the context where some
21 of the emails were read or inadvertently opened, can you
22 speak to why, nevertheless, this incident was assessed as
23 having been forwarded?

24 **MR. SAMI KHOURY:** So these email -- again,
25 because they were reconnaissance, if we go back to January
26 21st, as soon as we found out that this email campaign was
27 ongoing, we notified the House of Commons and then took
28 mitigation measures to block the domain, but it's possible

1 that some users still inadvertently clicked on the email or
2 opened the email. So as a result, the tracking link would
3 somewhat go out with information about the IP address and
4 other information about the environment where the email was
5 opened.

6 So that's what -- that's what that implies,
7 that either read or inadvertently opened.

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

9 Commissioner, I notice I'm getting quite
10 short on time. I wonder if I could ask for an indulgence for
11 some extra time to complete my examination on this issue and
12 also provide a few moments for my colleague, Ms. Morris, to
13 ask ---

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

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

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

18 Could we pull up CAN47839?

19 **--- EXHIBIT No./PIÈCE No. CAN047839:**

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

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

28 If we scroll down, this is -- appears to be

1 an email that was sent from the Cyber Centre to the House of
2 Commons IT or security department. Is that right?

3 **MR. SAMI KHOURY:** Yes.

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

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

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

8 **COMMISSIONER HOGUE:** Okay.

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

10 **MS. CAROLINE XAVIER:** Twenty twenty-one
11 (2021).

12 **MS. ERIN DANN:** Twenty twenty-one (2021).

13 Thank you.

14 And at the -- this was the initial bulletin
15 that was shared in relation to this campaign.

16 This bulletin, as I see it, does not indicate
17 that the Cyber Centre was aware or suspected that APT31 was
18 the threat actor behind this campaign. Is that the type of
19 information that would generally go into a bulletin like
20 this?

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

26 So the maximum we would put is Protected B in
27 that case where we shared some, you know, IP details and
28 operational details that the House of Commons can then

1 operationalize to mitigate the incident from their end.

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

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

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

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

18 So this was the very first emails.

19 **MS. ERIN DANN:** Understood.

20 And at the time of that bulletin, I
21 appreciate why the information was not contained within the
22 bulletin, but at the time of the January 22nd bulletin, was
23 the Cyber Centre aware or did they suspect involvement by
24 APT31?

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

26 **MS. ERIN DANN:** Okay. And I understand if we
27 -- we don't need to go back to the chronology, but I
28 understand that on February 17th there was a meeting with the

1 House of Commons Security and IT official, and at that
2 meeting, which was at a classified level, that's when the
3 information in relation to APT31 was shared; is that right?

4 **MR. SAMI KHOURY:** Yes.

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

6 **COMMISSIONER HOGUE:** Can you just remind me
7 on which date the ---

8 **MS. ERIN DANN:** Yes.

9 **COMMISSIONER HOGUE:** --- incident ---

10 **MS. ERIN DANN:** So this initial bulletin was
11 sent on January 22nd, 2021, was that the same day, or a day -
12 - the same day as the incident was detected by the Cyber
13 Centre?

14 **MR. SAMI KHOURY:** Yeah.

15 **MS. CAROLINE XAVIER:** That is correct. It
16 would be worth, if you don't mind, putting back the
17 chronology ---

18 **MS. ERIN DANN:** The chronology?

19 **MS. CAROLINE XAVIER:** --- because it really -
20 --

21 **MS. ERIN DANN:** Certainly.

22 **MS. CAROLINE XAVIER:** --- does demonstrate
23 that.

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

26 **MS. CAROLINE XAVIER:** Yeah.

27 **MS. ERIN DANN:** --- oh, there we go.

28 **MS. CAROLINE XAVIER:** Yeah.

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

6 **MR. SAMI KHOURY:** Yes, we received a tip from
7 a trusted partner, and as soon as we validated it, we then
8 sent the email. That's why the email went out at 7:30 in the
9 evening, because we felt an urgency ---

10 **COMMISSIONER HOGUE:** So it was on the same
11 day?

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

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

21 **MS. CAROLINE XAVIER:** So it's important to
22 note that, given the dates that we're dealing with, we were
23 at the peak of COVID. I only make mention of this for the
24 reasons that many public servants were working remotely from
25 home, and we as a 24/7 organisation doing what we do, we
26 still had individuals working physically in the office, doing
27 exactly what we want them to do in terms of ensuring Canada's
28 security. And when this information came to our attention,

1 it came in a classified space, where we have access to that
2 in our physical building. And when we sent this at the
3 Protected B level, as Sami highlighted, to our House of
4 Commons' colleagues, we got a -- the response as per the
5 chron. But what we recognise is it was continue -- it was
6 really important to continue to educate them on the fact that
7 it was a state actor and really understanding, you know, to
8 take this incident potentially quite seriously, even though,
9 as Sami highlighted, it was reconnaissance. But because
10 we're dealing with a state actor that we've been discussing
11 this morning that was -- is quite sophisticated, we wanted to
12 ensure that they had as much understanding about the actor,
13 and that was the intent of that February 17th meeting. So it
14 was a big deal to be able to bring people physically into our
15 -- into a facility, you know, metres apart, while trying to
16 share with them a classified information, wearing masks, all
17 that we needed to do during that timeframe to be able to
18 ensure that the House of Commons understood this was a state
19 actor at play.

20 **MS. ERIN DANN:** And did you expect that the
21 House of Commons would take different or additional action
22 based on that information? What was the expectation ensuring
23 ---

24 **MS. CAROLINE XAVIER:** The expectation was
25 very much to continue to follow the recommendations that we
26 shared with them in all of the various reports that we gave
27 them, the 12 reports during the period from January all the
28 way to November of 2021. And that if -- you know, more

1 importantly, was to continue to have that ongoing engagement
2 with them, because when we're dealing with a cyber incident,
3 whether it's this one or any incident, we always need to have
4 an ongoing engagement with the service provider, because that
5 is how we both learn more about the incident and the actions
6 that an actor might be taking. And because we had the
7 limited lens of the @.parl blah, blah, blah, they're the ones
8 that had really the more of the information because it was
9 happening in their infrastructure. So it's only when we
10 shared with them a series of IP, we didn't even know who they
11 were. It's only them that could confirm who that was, for
12 example.

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

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

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

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

27 **MS. ERIN DANN:** If we go to page 6 of the
28 chronology, there is an entry for June 3rd, 2021, which

1 indicates that CSIS conveyed that all targeted
2 parliamentarians were members of IPAC to the House of
3 Commons. Was that information conveyed also to the Cyber
4 Centre?

5 **MS. CAROLINE XAVIER:** So from the date that
6 we received the incident of concern, we engage our S&I
7 partners. So we went directly to the House of Commons, but
8 even in that meeting of February 17th, CSIS colleagues, for
9 example, were also present as part of that meeting. And so
10 that ongoing engagement with our S&I partners, especially
11 CSIS, is one that is, on a regular basis, an activity we do
12 because in keeping with what Alia was explaining earlier to
13 la commissaire, is that there's a recognition that sometimes
14 what we start to understand comes from a foreign end, but
15 then can quickly become a domestic Canadian end. And as we
16 outlined it earlier, our role stops when the foreign end is
17 no longer the primary concern.

18 **COMMISSIONER HOGUE:** But someone is -- can
19 take over?

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

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

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

5 **MS. ERIN DANN:** Yes.

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

1 regular basis.

2 **MS. ERIN DANN:** All right. And just to be
3 clear, the House of Commons would not have had the authority
4 to share the information about APT31 without seeking, for
5 example, your permission, or -- not permission, but would
6 need some further authorisation to be able to share that
7 classified information?

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

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

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

20 **MS. ERIN DANN:** Sorry.

21 **MR. SAMI KHOURY:** The incident was mitigated.
22 That's our priority. First job is mitigate the incident. We
23 needed to give context to the House of Commons IT team that
24 there would be a lot of back and forth, that there would be a
25 lot of questions asked, because we want to understand exactly
26 what happened, whether there are any second order, third
27 order implications for that tracking link. So why are we so
28 engaged with the House of Commons? It's because in our back

1 -- the back of our mind, APT31 is there. And that's why we
2 had to tell them about the context, so that they can
3 appreciate our curiosity behind the incident.

4 **MS. ERIN DANN:** Thank you very much. And
5 I'll just ask, is there any -- this incident happened in
6 2021. We know in 2023, Chief, you issued a Chief's Directive
7 in relation to information that may be relevant to threats to
8 parliamentarians or their family. If an incident like this
9 were to occur today, would it fall within that -- the type of
10 information that is covered by that directive?

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

19 So whenever we come across anything that is
20 linked to a Canadian, we already always ensure that that
21 intelligence makes it ways to the necessary partners to be
22 able to take the necessary action.

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

26 **--- EXHIBIT No./PIÈCE No. CAN038232.0001:**

27 Canada towards 2028 - IA 2022-23/90

28 **MS. ERIN DANN:** If we could go to page 28 of

1 that document?

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

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

7 On cyber investigations there's an indication
8 in this Intelligence Assessment that:

9 "The Canadian S&I community must
10 shift from need-to-know to need-to-
11 share for reporting related to cyber
12 activity with a national security
13 nexus. Domestic victim engagement
14 must be executed in a manner that
15 supports collection and reporting
16 requirements of all stakeholders."

17 Is that a perspective that CSE shares? And
18 why or why not?

19 **MS. CAROLINE XAVIER:** No, absolutely it's a
20 statement that we support and share. That is why we put out
21 so many publications that we do. You know, we started this
22 from the perspective of always ensuring that signals
23 intelligence helps inform cyber security and cyber defence,
24 and that then leads to the publications that we put out for
25 the various audiences that we aim to educate.

26 We also recognize that need to share in the
27 form of offerings and services that the Cyber Centre
28 provides, including recommending that people subscribe to our

1 services so they need -- so they get the need-to-know
2 information sooner, because we want to be able to share it as
3 quickly as we can.

4 **MS. ERIN DANN:** Thank you. On the topic of
5 subscribing to services, I'd like to hand over the
6 questioning to my colleague, Ms. Morris, who will be asking
7 about some public engagement and engagement with political
8 parties.

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

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

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

13 **COMMISSIONER HOGUE:** Thank you.

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

15 **MS. CAROLINE XAVIER:** Bonjour.

16 **MS. SIOBHAN MORRIS:** Good morning,
17 Commissioner.

18 **COMMISSIONER HOGUE:** Good morning.

19 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR**

20 **MS. SIOBHAN MORRIS:**

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

23 Ms. Xavier, you mentioned earlier that CSE
24 publishes several different types of cyber security guidance
25 and other publications meant for various audiences. So I'd
26 like to talk about that, but before I get into that, I just
27 want to ask a few questions about CSE and the Cyber Centre's
28 efforts to engage with the public more generally and their

1 public profile.

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

5 So acknowledging the humour in that, do you
6 feel that Canadians have a good awareness of what CSE and
7 what the Cyber Centre and what they do, and is it important
8 that they have that awareness?

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

18 And so it is important that Canadians
19 continue to understand who we are, and we work hard at that,
20 especially with the role of the Cyber Centre, as this tool
21 and this service offering to Canadians and various other
22 partners that we interact with.

23 And so when we -- you know, when we put out -
24 - when we do things with regards to recruitment or we do what
25 we do in terms of the mis- and disinformation campaigns that
26 we run on behalf of the Government of Canada, or when we do
27 the community engagements that we do with high schools and
28 various other outreaches that we do, we do it with the intent

1 of continuing to educate people about the work we do and the
2 importance of the work we do linked to the foreign
3 intelligence mandate that we have in particular, and really
4 try to remind them that we are not targeting Canadians and
5 that we're here to work in that foreign space in particular.

6 And again, just really proud of the fact that
7 as an organization, given the types of work we do, people are
8 really interested in joining us. And so, you know, because
9 the type of missions we run are things that are really unique
10 to our mandate and allows us to really do what is the best
11 that we do for Canada.

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

19 **MS. CAROLINE XAVIER:** I'd say that despite
20 the fact that a large part of what we do needs to remain
21 classified to be able to do our job at the most effective
22 way, and in particular, because some of the intelligence we
23 have in our possession is intelligence of other partners,
24 where we all have an agreement and understanding that we need
25 to protect that intelligence with the standards that we
26 uphold.

27 But a big part of that mandate that we have
28 is that resilience, cyber resilience setting mandate. It's

1 linked to our section 17 of our Act, of trying to bring that
2 information assurance, that cyber security awareness, to the
3 average Canadian. And, you know, this goes back to the point
4 I made earlier about the team sport element. We recognize
5 that we all have a role to play in ensuring that we're cyber
6 smart.

7 And, you know, we have partnerships, for
8 example, with a company called CIRA, where we put out -- they
9 have a Canadian Shield application we highly recommend that
10 all Canadians download on their personal devices to be able
11 to help protect their cellphones, for examples.

12 We have a campaign we run every October that
13 is totally geared to average Canadians via our cyber.gc.ca
14 website really recognizing that cyber security is something
15 that needs to be intergenerational and really be something
16 that everybody pays attention to when it comes to the hygiene
17 of their cyber security and really promoting that health
18 element.

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

22 **COURT OPERATOR:** Could you repeat that
23 document ID, please?

24 **MS. SIOBHAN MORRIS:** CAN_19525. The full doc
25 ID number might helpful. There's a zero in there. It's
26 CAN_019525.

27 **--- EXHIBIT No./PIÈCE No. CAN019525:**

28 Countering Mis- and Disinformation:

1 Developing an Emerging Protecting
2 Democracy Agenda

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

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

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

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

24 And so Canadian Shield, as I mentioned, is
25 something that is out there that anybody could use. So a
26 politician who wants to help protect their personal device
27 absolutely can use that as part of the tools of their
28 toolkit. We don't just advertise it to be used purely by

1 politicians or purely by X-audience. Really it's something
2 we promote for anybody else who would be interested in
3 wanting to ensure that they're doing all they can to protect
4 themselves.

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

6 **MR. SAMI KHOURY:** If I can add a bit of
7 context?

8 So earlier in my testimony we talked about
9 the 6.6 billion blocks that the government does on a daily
10 base. All that information, everything we learn about these
11 blocks, about these malicious sources of cyber activity, we
12 distil it down and we share it in a threat feed that
13 organization can subscribe to and defend their own network
14 with the information that we know.

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

25 The commercial version is called Canadian
26 Armour, and so for organizations if they want to subscribe to
27 it, they have a nominal fee to pay, but for Canadians it is a
28 free service by CIRA. And all we do is we share with CIRA

1 the malicious indicators that they can then integrate into
2 the application, and that's live, 24 hours a day, seven days
3 a week.

4 The other thing I'll say is during the
5 pandemic, we made it available for free to all of the
6 healthcare institution, because we knew that during the
7 pandemic there was probably a higher likelihood of fraud or
8 scams that would try to take advantage of the pandemic. So
9 we made the tool -- in partnership with CIRA, we made the
10 tool available for free to the healthcare sector.

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

12 And one more brief question before I'm out of
13 time. Ms. Xavier, you mentioned that all of these public
14 tools and publications are geared towards various audiences.
15 One of those audiences is clearly the Canadian public, but
16 can you speak very briefly about who these publications are
17 intended for, and how you ensure they reach their intended
18 audience?

19 **MS. CAROLINE XAVIER:** Yes. So very much --
20 because we're a technical authority on cybersecurity,
21 sometimes some of these publications that we put out or the
22 alerts that we put out could be geared towards a technical
23 audience; for example, a chief information security officer,
24 or a CIO.

25 Having said that, we really recognize that we
26 want our website to be tools that are available to a very --
27 a variety of audiences. So the website is broken down to
28 depending on the type of person you are where you might go on

1 the website, whether you're an average Canadian citizen, to
2 potentially a person who's looking to protect something from
3 a technical perspective, to a small/medium enterprise, or a
4 larger organization. So we really try to ensure that we're
5 looking at various audiences, including our critical
6 infrastructure partners.

7 So that is intentional because we recognize
8 that we have a role to play to continue to raise that cyber
9 resilience at a national level, and not only with critical
10 infrastructure, for example, with whom -- our main partners
11 for us.

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

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

21 In addition to that, we also promote our
22 publications through the various associations, because we
23 recognize associations have an opportunity to get to end
24 users in a different way. So there are various ways in which
25 we ensure that it's well known.

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

27 **MR. SAMI KHOURY:** Yeah, I was going to say we
28 have two channels, primary channel, we have Get Cyber Safe,

1 which is a public website for Canadians to go to and there
2 was all sorts of information there. That touches more
3 Canadian, how to configure a phone, a computer, those kind of
4 things. There's the official website of the Cyber Centre,
5 the cyber.gc.ca. It's more geared, as the Chief pointed out,
6 to more specialized community; academia, large businesses,
7 government, small/medium businesses, with a little bit more
8 technical information. And often these get amplified if we
9 issue a publication that we need to get attention, it will be
10 amplified maybe with a media release or with -- I'll give an
11 interview if necessary, or I'll speak about it at the
12 conference.

13 So we are out there also promoting the
14 publication, it's not simply passively posting them on our
15 website. But we also, as the Chief pointed out, rely on
16 partnerships to highlight the fact that something else --
17 something new came out and you might want to pay attention to
18 that document. So we will send out a bulletin to
19 communities, specific communities, to say we just issued a
20 publication on X or on Y, please pay attention to it.

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

23 **COMMISSIONER HOGUE:** Thank you.

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

27 **THE REGISTRAR:** Order, please. À l'ordre,
28 s'il vous plaît.

1 The sitting of the Commission is now in
2 recess until 11:15 a.m. Cette séance de la commission est
3 maintenant suspendue jusqu'à 11 h 15.

4 --- Upon recessing at 11:02 a.m./

5 --- La séance est suspendue à 11 h 02

6 --- Upon resuming at 11:18 a.m./

7 --- La séance est reprise à 11 h 18

8 **THE REGISTRAR:** Order, please. À l'ordre,
9 s'il vous plait.

10 This sitting of the Foreign Interference
11 Commission is now back in session. Cette séance de la
12 Commission sur l'ingérence étrangère est de retour en
13 session.

14 The time is 11:18 p.m. Il est 11 h 18.

15 **COMMISSIONER HOGUE:** So the first to conduct
16 cross-examination is counsel for Michael Chong.

17 Maître van Ert.

18 **--- MR. SAMI KHOURY, Resumed/Sous le même serment:**

19 **--- MS. CAROLINE XAVIER, Resumed/Sous le même serment:**

20 **--- MS. ALIA TAYYEB, Resumed/Sous le même serment:**

21 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

22 **MR. GIB van ERT:**

23 **MR. GIB van ERT:** I'll ask the Court Operator
24 to pull up CAN8242, please.

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

28 Et j'ai remarqué que vous avez de temps en

1 temps passé du français... de l'anglais au français et
2 n'hésitez pas de répondre en français, comme vous voulez.

3 **MS. CAROLINE XAVIER:** Merci.

4 **MR. GIB van ERT:** This is not your document,
5 but it does refer to CSE. I'll just give you the context
6 first and then I'll show you the bits I want to ask you
7 about.

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

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

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

21 And then the next bullet just to
22 contextualize this again:

23 "Further, through issues management
24 notes, CSIS identified the Deputy
25 Minister of Public Safety, the
26 Minister and the NSIA of the plan to
27 provide a personal security briefing
28 given the nature of the threat

1 information.”

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

4 “In the case of Mr. Chong, CSIS
5 considers that it met its duty to
6 advise the Minister by way of
7 disseminating the relevant
8 intelligence reports and assessments
9 which outlined the potential threat
10 activity directed at Mr. Chong and
11 his family.”

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

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

16 So the redaction:

17 “Prior to May 2021, CSIS shared
18 intelligence reports that discussed
19 PRC foreign interference efforts
20 against Mr. Chong. These reports
21 were shared to named senior
22 officials, including the Clerk of the
23 Privy Council, the NSIA and others at
24 PCO, Deputy Minister of Foreign
25 Affairs and others at Global Affairs,
26 Deputy Minister of National
27 Defence...”

28 I understand that was Jody Thomas at the

1 time. Do you recall that?

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

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

8 **MS. CAROLINE XAVIER:** Correct.

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

11 **MS. CAROLINE XAVIER:** I was not with the
12 Establishment at that time.

13 **MR. GIB van ERT:** Oh, I see. All right.
14 Were your colleagues with the Establishment
15 at that time?

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

17 **MS. CAROLINE XAVIER:** They would have been,
18 yes.

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

20 All right. Thank you.

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

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

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

28 **MS. ALIA TAYYEB:** I don't recall the dates of

1 her tenure.

2 **MR. GIB van ERT:** All right. We'll go on.

3 So the Deputy -- just let me clarify this.

4 The Establishment does, in fact, report to the Minister of
5 National Defence. Have I got that right?

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

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

8 **MS. CAROLINE XAVIER:** We are part of that
9 portfolio.

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

15 So on the point about the CSE Chief, it was
16 Ms. Bruce at the time.

17 Are you able to tell the Commission whether
18 Ms. Bruce did, indeed, receive the document as CSIS is
19 telling us here?

20 **MS. CAROLINE XAVIER:** I can't confirm on --
21 directly on behalf of Ms. Bruce, but what I can say is that
22 as a member of the S&I community, it's highly probable that a
23 Chief of the Communications Security Establishment who is
24 partners of other colleagues that are highlighted on this
25 document would have probably received that document.

26 But with all confirmation, only Shelly could
27 really tell you for sure.

28 **MR. GIB van ERT:** All right. And it says

1 that others at CSIS, it doesn't say who, also received the
2 document.

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

5 **MS. ALIA TAYYEB:** So I can't confirm the
6 specificity of these documents. I don't have a record of
7 those. I don't have a record of those.

8 I don't know what the documents are in
9 particular. I could -- but to be helpful to you, maybe just
10 elaborate that -- and as the Chief mentioned, as members of
11 this S&I community, we are often -- we will often be the
12 recipients of reports --

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

14 **MS. ALIA TAYYEB:** --- particularly as they
15 relate to foreign interference because that is equally
16 something that CSE is looking into, so it would be highly
17 likely that we would have received those reports, probably
18 myself, others who would be involved in our foreign
19 intelligence mandate specifically.

20 **MR. GIB van ERT:** You think you probably
21 received them but you don't recall right now?

22 **MS. ALIA TAYYEB:** Correct.

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

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

1 **MS. ALIA TAYYEB:** Yes.

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

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

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

7 **MS. ALIA TAYYEB:** Not specifically, but what
8 I can say is any reports that have to do with foreign
9 interference that may engage our mandate would be sent to the
10 areas of the establishment that would be working on that
11 topic.

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

16 **MS. CAROLINE XAVIER:** It would be worth
17 perhaps having Alia describe to you, just again to be
18 helpful, how we manage intelligence within our organization,
19 because we clearly know how to track intelligence that is
20 coming into our establishment, or that we're responsible for.
21 Is that worth doing for you?

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

24 **MS. CAROLINE XAVIER:** Okay.

25 **MR. GIB van ERT:** So really what I need to
26 know is if you are aware of any difficulty, for instance the
27 people who received the documents, or who were meant to
28 receive them couldn't access them because they couldn't log

1 in to CTSN, or someone was on vacation, or someone was on
2 leave. Are you aware of anything like that?

3 **MS. CAROLINE XAVIER:** No.

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

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

8 **MS. CAROLINE XAVIER:** Correct.

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

10 Do you know whether anyone at the
11 establishment took steps to make the Minister of National
12 Defense aware of these intelligence reports that CSIS was
13 sharing about Mr. Chong?

14 **MS. CAROLINE XAVIER:** I don't know that we
15 can confirm that.

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

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

21 **MS. ALIA TAYYEB:** No, I don't know the
22 answer. I don't know what reports are being referred to
23 specifically.

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

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

26 **MR. GIB van ERT:** Sorry to interrupt, but it
27 says prior to May 2021, so we're talking about reports from
28 CSIS prior to May 2021. I can also tell you that we now know

1 that there were three such reports. That's in a document
2 that's been filed. Does that help you at all?

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

4 **MR. GIB van ERT:** All right. Well, in that
5 case let me ask you this, we see that the Deputy Minister of
6 National Defence, according to CSIS, received these
7 documents. Does -- I understand that CSIS reports to the
8 Minister -- sorry, that CSE reports to the Minister. Do you
9 also deal with the Deputy Minister?

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

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

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

17 **MR. GIB van ERT:** Well, I'm trying not to ask
18 ---

19 **MS. CAROLINE XAVIER:** Yeah.

20 **MR. GIB van ERT:** --- hypotheticals, but I
21 understand that you just don't know enough to say.

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

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

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

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

27 I'll ask the Court Operator to turn up

28 CAN27809.

1 --- EXHIBIT No./PIÈCE No. CAN027809:

2 Steps Taken to ensure Awareness of
3 Intelligence Reports Related to
4 Members of Parliament

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

12 And Ms. Xavier, I think you spoke to this
13 point with Ms. Dann earlier. This is where counsel showed
14 you the document I'm about to show you, which is a Jody
15 Thomas memo to the Prime Minister. And you explained at
16 paragraph 41 that, yes, there was a direction to inform
17 Ministers in the centre about threats to parliamentarians,
18 but that's what CSE was doing already. And I think you told
19 Ms. Dann that as well.

20 So that's the context of this. I take it
21 that you were already in that habit. Is that right?

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

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

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

1 "You recently issued clear direction
2 to ensure that you, your office, and
3 Ministers, are proactively made aware
4 of intelligence reports related to
5 national security threats to
6 Parliamentarians and their families."

7 So and then at paragraph 3, bullet 3:

8 "Public Safety portfolio agencies and
9 CSE are developing and implementing
10 internal measures to
11 ensure...Ministers are proactively
12 made aware..."

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

15 **MS. CAROLINE XAVIER:** From a CSE perspective
16 that is correct, in that we did not feel that we had any new
17 measures put in place because we already have mechanisms to
18 track intelligence and who reads it. We have client
19 relationship officers that we use to be able to ensure that
20 intelligence gets to Ministers or various other readers who
21 have the need to know of a particular subject to ensure that
22 they have intelligence as part of the information at their
23 fingertips to be able to take the necessary decisions that
24 they need. It offers an additional insight.

25 And so, in this memo it is clear that we are
26 part of the security and intelligence community, and so the
27 intent here is for us as a member of that security
28 intelligence community to ensure that we're doing whatever we

1 can and our part to continue to enhance that -- those
2 measures. And that's in the spirit of this, that we might
3 have had less to do than some of our colleagues, but we
4 potentially could still be helpful to them in terms of the
5 practices we employ, the tools we employ, so that they can
6 know how they could leverage some of the ways in which we do
7 tracking of intelligence or the practices that we already had
8 in place.

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

19 **MS. CAROLINE XAVIER:** I would agree in the
20 sense that I do feel that as an agency we continue to do our
21 role really well and effectively on ensuring that
22 intelligence gets to those that should have the intelligence
23 for the decisions they need to take. And that we do a good
24 job of really tracking that and ensuring we know who's done
25 what with the intelligence.

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

28 Ms. Thomas says this, and I'm going to try to

1 work my way through it. It is Ottawa speak of the highest
2 order:

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

19 I'm going to suggest to you that whether
20 those recommendations for frameworks, and accountability, and
21 efficiency were required for some other agency, they weren't
22 required for CSE. It already had in place what it needed to
23 do.

24 **MS. CAROLINE XAVIER:** We definitely do
25 already have in place what we needed to do. But it's, you
26 know, from the perspective of the National Security and
27 Intelligence Advisor, she looks at us collectively as a
28 security and intelligence community, and so this is why it's

1 not surprising that a memo of this nature we would be
2 included in it.

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

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

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

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

23 I know you couldn't recall whether Ms. Thomas
24 was the Deputy Minister or not. I'm pretty darn sure she
25 was, and I want to suggest this, she ought to have known that
26 this bullet point suggesting that more frameworks and
27 comprehensive approaches to be proactive were needed was a
28 lot of nonsense, at least as regard to CSE. She was there

1 and she could see that CSE was doing its job. Do you agree
2 with that?

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

9 **MR. GIB van ERT:** Thank you. You've been
10 most helpful.

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

12 **COMMISSIONER HOGUE:** Thank you.

13 Counsel for Jenny Kwan? Mr. Choudhry.

14 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

15 **MR. SUJIT CHOUDHRY:**

16 **MR. SUJIT CHOUDHRY:** Thank you, Commissioner.
17 For the record, my name is Sujit Choudhry. I'm counsel for
18 Jenny Kwan. So I'd like to focus on a couple of themes in
19 the time that I have. The first is the misinformation and
20 disinformation mandate that CSE has, and, for the record,
21 which you gave evidence about in the witness summary at
22 paragraphs 59 to 63. And so what I want to -- and that's
23 WIT133, for the record. We don't need to call it up, but I -
24 - we just -- it was discussed in the Commission Counsel's
25 examination.

26 I want to just probe a bit as to how CSE, if
27 at all, addresses the problem of messaging on apps like
28 Telegram or WeChat that occurs at scale that is not the same

1 thing necessarily as a social media platform, like, Twitter,
2 or Facebook, or Instagram, but shares some of its properties
3 in terms of spreading a large-scale forum in which
4 misinformation/disinformation can occur, and that in a way
5 that can be very targeted at certain self-selecting
6 communities. And I think it's a matter of public record that
7 in Canada a significant portion of the Chinese Canadian
8 diaspora receives information from WeChat. And so are those
9 -- is that phenomenon on your radar? Do you have tools to
10 examine it? What challenges does it pose? What are your
11 plans to address it? Any of the above? If you could -- and
12 that's a question to the entire panel.

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

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

20 **MS. CAROLINE XAVIER:** Well, so as we
21 discussed earlier, our mandate's really clear that we focus
22 on the foreign intelligence part and the foreign part of the
23 world, if you want. And so when -- in terms of where
24 Canadians might be using some of those applications, we would
25 not have the authority, for example, to be in those spaces.
26 I think, you know, in terms of identifying whether or not
27 we're using these various applications that you've talked
28 about, I don't feel comfortable going there in terms of that

1 would be, you know, perhaps divulging techniques and ---

2 **MR. SUJIT CHOUDHRY:** Understand.

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

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

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

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

20 The second thing to highlight is one thing
21 that we talked about earlier in the testimony is we do have a
22 mandate to disrupt threat activities. So where relevant,
23 where appropriate, where lawful, where authorized, it could
24 be a technique used to disrupt those activities, were they
25 appropriately authorized through our structure. So that is a
26 tool that we have in addition.

27 And then the other -- maybe the third thing
28 is through, like we said, all of our publications and all of

1 our public advisories, we have called out specific campaigns,
2 specific actors, specific techniques. We've done that on
3 numerous occasions. A great example was early in the
4 conflict when Russia invaded Ukraine, and we saw Russian
5 disinformation campaigns online to discredit Canadian Armed
6 Forces personnel. We called that out publicly to make people
7 aware that this was going on. So I'd say those are the three
8 types of things we might do.

9 **MR. SUJIT CHOUDHRY:** Okay. Okay, that's very
10 helpful. Thank you.

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

12 **MR. SUJIT CHOUDHRY:** Oh, yes, of course, Mr.
13 Khoury.

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

15 **MR. SUJIT CHOUDHRY:** Yeah.

16 **MR. SAMI KHOURY:** --- we take the privacy of
17 Canadian very seriously, and there is almost two million apps
18 out there, so assessing each one on its security or privacy
19 is almost an impossible task, so instead, we've put out some
20 advice and guidance to help Canadian make the right settings
21 into those app, what to look for, what are the privacy
22 setting that you should be concerned about, and inform them,
23 better inform them on what are the question that in using
24 these social media app they should be mindful of, but also,
25 how to spot misinformation/disinformation out there. So to
26 enhance their social media experience from a safety and
27 security point of view, but also, from an awareness in term
28 of what am I scrolling through here.

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

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

8 **MR. SAMI KHOURY:** Yes.

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

11 "TikTok, the People's Republic of
12 China's (PRC) first Western-centric
13 social media application has the
14 potential to be exploited by the PRC
15 government to bolster its influence
16 and power overseas, including in
17 Canada. The highly addictive short-
18 video application owned by PRC's
19 ByteDance allows redacted access to
20 sensitive user data..."

21 And then after some further redacted text, it
22 cites,

23 "Despite assurances to the contrary,
24 personal data on TikTok is accessible
25 to China."

26 Do you agree with that assessment?

27 **MS. CAROLINE XAVIER:** We generally agree with
28 that statement, yes.

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

10 **MS. CAROLINE XAVIER:** So we're not a
11 regulatory organization, but what we have done already is
12 given advice around, as Sami said earlier, with regards to
13 how to use social media platforms of any nature, how to do so
14 in a manner to be protecting your privacy and how to
15 protecting your data and its potential collection. We have
16 banned TikTok on government-issued devices, and that came
17 from the advice of the security and intelligence community
18 that supported that by Treasury Board in issuing that ban.
19 And that is because of these types of assessments that that
20 ban was made, given that we want to ensure that we're
21 continuing to protect the data that we collect on behalf of
22 Canadians and to do the jobs that we do to serve Canadians.
23 And so in terms of if there's an interest to potentially ban
24 TikTok in some other mechanism, we will be part of the
25 apparatus that will give advice linked to this broader
26 security and intelligence community. But as I mentioned in
27 general, we have put advice around social media platforms re
28 at large in ensuring that you're comfortable with the privacy

1 elements of the originating country that may be ---

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

3 **MS. CAROLINE XAVIER:** --- the owner of that -

4 --

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

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

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

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

21 **MR. SUJIT CHOUDHRY:** Okay. So for the last
22 few minutes that I have, I'd like to talk about the IPAC
23 incident again and about MPs. And I understand it's your
24 evidence that on a go-forward basis the new ministerial
25 directive would apply?

26 **MS. CAROLINE XAVIER:** Not to CSE. Which
27 ministerial directive?

28 **MR. SUJIT CHOUDHRY:** Well, the ministerial --

1 the CSIS TRM directive would cover this type of -- not to
2 CSE, but ---

3 **MS. CAROLINE XAVIER:** Right.

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

6 **MS. CAROLINE XAVIER:** Correct.

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

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

12 So this is an interview summary of witnesses
13 who testified on behalf of the House of Commons. Are you
14 familiar with this document?

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

16 **MR. SUJIT CHOUDHRY:** So I -- the relevant
17 paragraphs I want to draw your attentions to are paragraphs
18 13 to 15, but maybe we could scroll up to 15 for the
19 shortness of time.

20 So there's -- Mr. Touati basically gave
21 evidence here about the February 17th, 2021 meeting and eh
22 says there, his evidence was that:

23 "The information received did not
24 contradict Digital Services'
25 assessment that the cyber attack had
26 failed."

27 And given that it had failed, he was not
28 alarmed by the briefing, and basically the long and short of

1 it is that based on the information that he and his team
2 received, they didn't decide to warn the MPs.

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

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

7 And what I'm interested in is -- so it's
8 11(i). Eleven (11) roman one. And so it's this kind of --
9 it's the paragraph that begins:

10 "Immediately following the 17
11 February meeting with the [House of
12 Commons], CSE officials internally
13 expressed concern that the [House of
14 Commons] had not been given
15 sufficient information to appreciate
16 the significant of the threat [and]
17 [t]hese concerns were escalated..."

18 And then ultimately, nothing was done in that
19 case, although the MOU was renegotiated.

20 So we're a little bit unclear as to who was
21 told what, because the one view that's being presented is
22 that the IT team at the House of Commons wasn't given enough
23 information to ascertain that the threat was a very serious
24 one and therefore didn't warn the members of Parliament. And
25 then -- and that seems to be what this paragraph says.

26 On the other hand, there's been evidence --
27 there's been a suggestion that in fact more specific
28 information was provided. And so we're just trying to

1 understand exactly who was told what so we can draw some
2 lessons for the future.

3 So are you able to -- are any of you able to
4 speak to that?

5 **MS. CAROLINE XAVIER:** Absolutely. So first
6 of all, worth sharing that we have a really great
7 relationship with the House of Commons IT security team, who
8 is the security team that manages both the House of Commons
9 and the Senate. That's who we work with when it comes to the
10 cyber security advice and guidance and the services that
11 we're working with them on.

12 It's important to note that this particular
13 paragraph that you're pointing to really focuses, as you
14 said, on the February 17th meeting, even though we were
15 already engaging with the House of Commons since January of
16 that same year.

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

19 February 17th is still early on, I'd say, in
20 the management of the incident. So it is not surprising, as
21 we discussed earlier, because the intent is to really address
22 the incident and to ensure that we're mitigating the risk,
23 which we did, that we stay focused on that, rather than
24 really being focused on how well a person may have truly
25 understood the state actor piece.

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

27 **MS. CAROLINE XAVIER:** That part comes with
28 the ongoing reports that we gave throughout from January all

1 the way to November of 2021 of that year.

2 So it's not surprising that at that point in
3 time that we were having internal discussions to, one, ensure
4 that we do whatever we could to continue to educate the House
5 of Commons IT security team to better under the state actor,
6 especially because as the role we play, we already were
7 understanding APT31 as a state actor.

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

12 And so what I'm trying to understand is, was
13 the IT department at the House of Commons told about the
14 nature of the threat sufficiently so that they ought to have
15 known that it was serious and therefore should have advised
16 the members of Parliament?

17 **MS. CAROLINE XAVIER:** I don't want to speak
18 about the therefore part that you just said. What I can say
19 is that given the ongoing conversations that we had, starting
20 in January, to all the way in November of that year, they
21 should have gotten a good understanding of the threat actor.
22 But more importantly, their focus, as was ours, was on
23 mitigating the threat. And as we discussed earlier, the type
24 of incident that this was was recognized as a recognisance
25 type of threat. And so that in itself was less of a -- you
26 know, the ranges of threats evolve, as we've said.

27 **MR. SUJIT CHOUDHRY:** Right. So final
28 question. Ms. Dann took you to a document which was an email

1 or a memo, that didn't reference APT31. But is it your
2 evidence that APT31 was identified to the House IT team as
3 the threat actor?

4 **MS. CAROLINE XAVIER:** Absolutely. On
5 February 17th.

6 **MR. SUJIT CHOUDHRY:** Okay. Thank you very
7 much.

8 **COMMISSIONER HOGUE:** Thank you.

9 Next one is Ms. Teich for the Human Rights
10 Coalition.

11 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

12 **MS. SARAH TEICH:**

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

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

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

19 "Adversary states are interested in
20 monitoring and disrupting the
21 activities of individuals who they
22 believe threaten their domestic
23 security and stability. State-
24 sponsored cyber threat actors almost
25 certainly target foreign nationals,
26 diaspora groups, activists, and
27 journalists to monitor and control
28 these individuals. This activity

1 likely threatens individuals' safety
2 and security, in addition to
3 increasing distrust and polarization
4 in Canadian society."

5 If we could please scroll to the top of the
6 next page?

7 It goes on:

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

22 Can any of you, or all of you, please
23 elaborate on this assessment? And to the extent that you can
24 share, of course, I'm particularly interested in hearing how
25 CSE came to this assessment and what CSE is doing to combat
26 this threat.

27 **MS. CAROLINE XAVIER:** So this excerpt comes
28 form the National Cyber Threat Assessment that we would have

1 put out in 2022, in the fall of 2022. And all the
2 assessments that we do, we take the information from signals
3 intelligence, normal and just basic intelligence, as well as
4 intelligence of partners and others in observations around
5 the world, and in particular, from observations we've had
6 from the cyber defence that we do for Government of Canada
7 and many other tools. And that is what forms the
8 observations of these publications.

9 With that, I'll hand it over to Sami to add
10 additional context.

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

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

23 **MS. CAROLINE XAVIER:** So when we put out a
24 publication, which we did in this case in 2022, it's with the
25 intent of forecasting what the threat landscape will look
26 like over the next two years, so which is why we're about to
27 put another publication out by the fall of this year to be
28 able to give a prediction of what we think will be the threat

1 landscape in the next couple years.

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

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

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

20 **MR. SAMI KHOURY:** No.

21 **MS. CAROLINE XAVIER:** So this publication is
22 only available in English and French. Having said that,
23 though, we have put out other publications that are excerpts
24 of some of our threat assessments in languages of Indigenous
25 communities in particular where we've also seen that the
26 north is vulnerable to some threat actors. And you know, the
27 intent of looking at what more we can do is part of the
28 exploration that we're still analyzing.

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

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

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

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

20 **COMMISSIONER HOGUE:** Thank you.

21 Mr. Singh for the Sikh Coalition.

22 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

23 **MR. PRABJOT SINGH:**

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

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

1 Can the Court Operator please bring up
2 CAN41952 and scroll to page 4, please?

3 Is this a document that you recognize?

4 --- EXHIBIT No./PIÈCE No. CAN041952.0001:

5 Canadian Cyber Operations

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

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

9 "India engages in disinformation to
10 project a positive image globally
11 while targeting specific
12 adversaries."

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

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

24 **MR. PRABJOT SINGH:** And just to reference
25 here, you mentioned that you can't speak about this for
26 reasons of national security confidentiality, but CSE does
27 have further information that Commission -- that Madam
28 Commissioner and the Commission counsel can access about

1 CSE's observations about Indian activities?

2 **MS. CAROLINE XAVIER:** Absolutely.

3 **MR. PRABJOT SINGH:** Thank you.

4 Can the Court Operator please bring up
5 CAN25923?

6 Thank you.

7 **--- EXHIBIT No./PIÈCE No. CAN025923.0001:**

8 Potential Foreign Information
9 Manipulation and Interference
10 following PM Statement on Killing of
11 Hardeep Nijjar

12 **MR. PRABJOT SINGH:** And if you just scroll
13 down just slightly just to see the bullet points. That's
14 good enough.

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

19 So this is an RRM report on Indian
20 interference after that announcement was made, and it goes
21 into considerable detail about the narrative being
22 disseminated by India aligned media outlets like ANI, India
23 Today and News 18, and it talks about a high level of
24 similarity in the tone and types of narratives circulated by
25 these outlets.

26 So if you look at bullet point 1:

27 "Some of the key findings of the
28 report note that these outlets

1 amplified several narratives,
2 targeting the Prime Minister,
3 Canada's High Commissioner to India,
4 Canada's national security agencies
5 as well as the Sikh diaspora in broad
6 terms and Hardeep Singh's political
7 beliefs specifically."

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

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

16 And it is helpful for us to understand these
17 findings in terms of the role we play from the foreign
18 intelligence perspective.

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

21 So the report catalogues some of the main
22 themes of disinformation, including that Canada safeguards
23 so-called terrorist and extremist forces, that Canada should
24 use violent means against supporters of Khalistan, attempts
25 to discredit Hardeep Singh's role as a community leader, and
26 attempts to discredit the Prime Minister and the NDP leader
27 as well.

28 Are these messages also consistent with the

1 observations made by the CSE?

2 And again, I note that you might not be able
3 to ---

4 **MS. CAROLINE XAVIER:** Yeah, I will not be
5 able to comment.

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

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

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

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

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

20 **MS. CAROLINE XAVIER:** I cannot elaborate any
21 further.

22 **MR. PRABJOT SINGH:** Thank you. Those are all
23 my questions.

24 **COMMISSIONER HOGUE:** Thank you.

25 Maître Sirois for the RCDA.

26 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

27 **MR. GUILLAUME SIROIS:**

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

1 Guillaume Sirois for the RCDA.

2 When did you learn that Russian operatives
3 were paying Canadian influencers \$10 million to establish
4 Tenet Media, a media outlet intended to influence Canadian
5 opinion?

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

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

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

12 **MR. GUILLAUME SIROIS:** --- because of
13 national security considerations?

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

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

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

24 **MR. GUILLAUME SIROIS:** Okay. After having
25 reviewed these events before or after they were revealed by
26 the United States, do you still believe that Russia is not
27 trying to influence Canadian public opinion?

28 **MS. ALIA TAYYEB:** So I don't -- I never said

1 that Russia was not trying to influence Canadian public
2 opinion, and I wouldn't agree with that statement.

3 **MR. GUILLAUME SIROIS:** Oh, so it is. It is
4 trying to influence.

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

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

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

16 **MR. GUILLAUME SIROIS:** Yeah.

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

18 **MR. GUILLAUME SIROIS:** Yeah.

19 **MS. ALIA TAYYEB:** Presumably.

20 **MR. GUILLAUME SIROIS:** Well, influencing that
21 person's opinion would most likely influence that person's
22 vote; right?

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

25 **MR. GUILLAUME SIROIS:** But for instance, with
26 the Tenet Media allegations that we see that a lot of content
27 targets the Prime Minister and presses on hot button issues
28 in Canadian politics, do you believe that can -- this sort of

1 information that has been seen by half a million, do you
2 think it can influence how people think and how people vote?

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

13 **MR. GUILLAUME SIROIS:** You cannot comment on
14 this?

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

23 What you're making as a link is, is that
24 directly then linked to influencing a person's vote. I think
25 that depends on the individual.

26 We work really hard on trying to ensure that
27 we put as much information out for Canadians to understand
28 how to detect if information is potentially misinformation or

1 disinformation, including having supported Government of
2 Canada campaigns over a few years. As well, we really
3 encourage people to be critically looking at the data that
4 they look at being critical thinkers and questioning any
5 information that's making it their way, whether it's from
6 Russia or others.

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

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

19 We have seen that in particular after the
20 invasion in Ukraine by Russian that those that are allies to
21 Ukraine or those that are parts of -- members of NATO, tend
22 to be those that Russia may -- or Russian activists or
23 hacktivists may be interested in perhaps influencing. But
24 whether that again, links back to a vote, I think is
25 something we're not prepared to make as a categoric
26 statement, I guess.

27 **MS. ALIA TAYYEB:** I think I would just add to
28 that an important element. I think I mentioned this earlier,

1 that we as a community, not CSE only, but as a security and
2 intelligence community, we are constantly revising our
3 assessments of activities, tactics, intentions, capabilities,
4 and we will continue to do so as the situation evolves. And
5 so, just to know that this is -- while we haven't -- I think
6 I was clear, we have not observed it in previous electoral
7 campaigns, does not mean that we are stopping looking at this
8 issue from a foreign intelligence perspective.

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

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

14 **MR. GUILLAUME SIROIS:** Is there a difference
15 between the lack of observation and the lack of intent? Is
16 it the same one and only thing, or is it two different
17 things?

18 **MS. CAROLINE XAVIER:** It could be two
19 different things.

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

23 **MR. GUILLAUME SIROIS:** And what actions did
24 CSE take in response to the Tenet Media events? And that's
25 going to be my last question.

26 **MS. ALIA TAYYEB:** So I think as I said
27 earlier, I cannot comment on specific operational cases. I
28 go back to what I have always said, is that CSE is actively

1 engaged in collecting foreign intelligence, of which foreign
2 interference in Canadian democratic processes is absolutely
3 one of our top priorities.

4 **MR. GUILLAUME SIROIS:** Thank you. Those are
5 all my questions.

6 **COMMISSIONER HOGUE:** Thank you.

7 Mr. Chantler for the Concern Group?

8 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

9 **MR. NEIL CHANTLER:**

10 **MR. NEIL CHANTLER:** Thank you, Commissioner.
11 Good afternoon. Neil Chantler, counsel for the Chinese
12 Canadian Concern Group.

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

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

25 **MS. CAROLINE XAVIER:** So this information
26 comes from, in particular, our last threats to democratic
27 process publication, which is also part of the evidence
28 provided. And where we talk about the fact that, you know,

1 many cyber threats are unattributed, to your point. So
2 attribution is definitely something that is one part of the
3 toolkit that one can use to be able to identify the whole
4 state -- the host state actor, or who is behind a cyber
5 incident or a cyber compromise.

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

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

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

26 **MS. ALIA TAYYEB:** So can I just maybe
27 elaborate. I don't want misunderstanding of something I
28 would have said earlier on a different issue. From a severe

1 -- I think in the end part of your first question, you asked,
2 does that mean that we're incapable or inadequately
3 addressing this. So maybe I'll answer those two things
4 together.

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

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

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

24 **MR. SAMI KHOURY:** So if I can -- that last
25 sentence in that paragraph is taken out of the context behind
26 it is a threat to democratic process, TDP4, in which we
27 surveyed 146 elections around the world and out of those 146
28 there is a high proportion of them, so 85 percent here that -

1 - where there was indications of foreign influence, foreign
2 interference, but 85 percent were unattributable. The
3 balance was attributed to Russia and China. So that is out
4 of that -- that last sentence is out of the context of threat
5 to democratic process.

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

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

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

23 At paragraph 15, page 5, same document, you
24 identify a PRC linked cyber threat actor as being one of the
25 biggest and most sophisticated cyber threat actors currently
26 targeting Canada. You mention at the bottom of that
27 paragraph that you've recently published an unclassified
28 piece about that. I wasn't able to put my finger on that.

1 Is this incident related to APT31, or is this something
2 totally different?

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

10 **MR. NEIL CHANTLER:** And finally, at paragraph
11 23, page 6 ---

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

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

27 **MS. ALIA TAYYEB:** So again, I can't -- I'll
28 not speak about a specific incident or a specific target set,

1 but again, to elaborate, from a domestic perspective, we
2 would not be, obviously, surveying any activities of anybody
3 inside Canada, which is not to say that, again, the
4 activities, intentions, capabilities, plans of the foreign
5 state actor would be within the foreign intelligence aspect
6 of the CSE mandate. So we would certainly pursue any foreign
7 intelligence -- any foreign interference activities
8 undertaken by the PRC and directed by the PRC, we could look
9 into those activities. We just would not be able to look at
10 the activities of the individuals who are in Canada.

11 **MR. NEIL CHANTLER:** Thank you very much.
12 Those are my questions.

13 **COMMISSIONER HOGUE:** Thank you.
14 The AG.

15 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

16 **MS. HELENE ROBERTSON:**

17 **MS. HELENE ROBERTSON:** Thank you, Madam
18 Commissioner.

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

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

25 I'm going to start with a question that you
26 had from MP Kwan's counsel, Jenny Kwan's counsel, who asked
27 you about CAN.SUM.27. Could we pull that up? And it's
28 paragraph 11(i). I believe it's the second page. There we

1 are.

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

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

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

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

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

1 investigate further, so that iterative process has been
2 ongoing for many, many months post-January 21st.

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

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

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

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

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

24 **Ms. HELENE ROBERTSON:** I'm sorry. Obviously
25 it wasn't clear. I'm just wondering whether or not the fact
26 that the incident -- the threat was mitigated on the first
27 day, did that have any effect on the urgency of the timing of
28 your subsequent engagements with the House of Commons?

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

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

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

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

25 The first one has to do with a question you
26 were asked by Mr. Chong's counsel. If you'll recall, he put
27 before you a memorandum from the NSIA Jody Thomas to the
28 Prime Minister about steps to ensure awareness of

1 intelligence reports related to members of Parliament. He
2 then provided his view of the intention and gist of that
3 memorandum, but he did not ask you if you agreed with his
4 interpretation of the gist of that memorandum. I would like
5 to offer you that opportunity. Do you agree with his
6 interpretation of the purpose or intention of that
7 memorandum?

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

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

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

26 **MS. HELENE ROBERTSON:** Thank you. And then
27 my final question is how would you describe the effectiveness
28 of CSE's collaboration with international partners in the

1 detection deterrence and countering of foreign interference
2 generally and obviously for this process in respect of
3 democratic institutions and processes?

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

27 I don't know if any of you want to add
28 anything?

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

8 **MS. HELENE ROBERTSON:** Thank you. Those are
9 my questions.

10 **COMMISSIONER HOGUE:** Thank you.

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

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

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

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

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

18 **THE REGISTRAR:** Order, please. À l'ordre,
19 5 s'il vous plaît.

20 This sitting of the Commission is now in
21 recess until 12:30. Cette séance de la Commission est en
22 maintenant suspendue jusqu'à 12 h 30.

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

24 --- La séance est suspendue à 12 h 24

25 --- Upon resuming at 12:30 p.m./

26 --- La séance est reprise à 12 h 30

27 **THE REGISTRAR:** Order please. À l'ordre, s'il
28 vous plaît.

1 This sitting of the Foreign Interference
2 Commission is now back in session. Cette séance de la
3 Commission sur l'ingérence étrangère est de retour en
4 session. The time is 12:30. Il est 12 h 30.

5 **COMMISSIONER HOGUE:** Just before we start, we
6 are running late, as you can all see. It's 12:30. I think we
7 have about an hour in-Chief with this witness. My intent
8 will be to go until 1:30, but I just want to make sure that
9 it doesn't create huge problem for anyone if we run until
10 1:30. It's fine? So you'll be able to go until the end of
11 your examination before lunch.

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

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

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

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

23 **THE REGISTRAR:** Thank you. Now for the
24 swearing in.

25 **--- MR. ALLEN SUTHERLAND, Sworn/Assermenté:**

26 **THE REGISTRAR:** Thank you. Counsel, you may
27 proceed.

28 **MS. LYNDA MORGAN:** Thank you. I'm just

1 getting my timer started. Thank you.

2 **--- EXAMINATION IN-CHIEF/EXAMINATION EN-CHEF PAR**

3 **MS. LYNDA MORGAN:**

4 **MS. LYNDA MORGAN:** So I'll start with some
5 preliminary housekeeping matters with you, Mr. Sutherland,
6 and then we'll move through to the substantive part of this
7 examination. So if I could call up WIT94, please, the
8 English version.

9 **--- EXHIBIT No./PIÈCE No. WIT0000094.EN:**

10 Interview Summary: Privy Council
11 Office - Democratic Institutions
12 (Mala Khanna, Allen Sutherland, Sarah
13 Stinson and Manon Paquet)

14 **--- EXHIBIT No./PIÈCE No. WIT0000094.FR:**

15 Résumé d'entrevue : Bureau du Conseil
16 privé - Institutions démocratiques
17 (Mala Khanna, Allen Sutherland, Sarah
18 Stinson et Manon Paquet)

19 **MS. LYNDA MORGAN:** Mr. Sutherland, this is a
20 summary you prepared based on your interview with Commission
21 counsel and others on June 13th, 2024?

22 **MR. ALLEN SUTHERLAND:** Yes.

23 **MS. LYNDA MORGAN:** You've reviewed the
24 summary for accuracy?

25 **MR. ALLEN SUTHERLAND:** I have.

26 **MS. LYNDA MORGAN:** And do you have any
27 changes to make to the summary?

28 **MR. ALLEN SUTHERLAND:** I do not.

1 **MS. LYNDA MORGAN:** Okay. And do you adopt
2 the contents of the summary as a part of your evidence before
3 the Commission today?

4 **MR. ALLEN SUTHERLAND:** I do.

5 **MS. LYNDA MORGAN:** Thank you. And just for
6 the record, the French translation, which we do not need to
7 pull up, but which is also an exhibit, is WIT94.FR.

8 Next document, I'll ask if we can call up
9 WIT123.

10 **--- EXHIBIT No./PIÈCE No. WIT0000123:**

11 Interview Summary: Allen Sutherland,
12 Assistant Secretary to the Cabinet,
13 Democratic Institutions and Machinery
14 of Government

15 And this is a summary prepared based on your
16 in-camera examination. Mr. Sutherland, you've reviewed the
17 summary for accuracy?

18 **MR. ALLEN SUTHERLAND:** I have.

19 **MS. LYNDA MORGAN:** And do you have any
20 changes to make to that document?

21 **MR. ALLEN SUTHERLAND:** I do not.

22 **MS. LYNDA MORGAN:** And are you also prepared
23 to adopt the contents of that summary as part of your
24 evidence before the Commission?

25 **MR. ALLEN SUTHERLAND:** I am.

26 **MS. LYNDA MORGAN:** Thank you. The final one
27 I'll ask that we pull up WIT113, please. And this is
28 described as an addendum summary to your stage 1 interview

1 with Commission counsel. You've reviewed this summary for
2 accuracy?

3 --- EXHIBIT No./PIÈCE No. WIT0000113.EN:

4 Addendum to Interview Summary: PCO
5 DI- Allen Sutherland Interview
6 Summary

7 --- EXHIBIT No./PIÈCE No. WIT0000113.FR:

8 Addendum au résumé d'entrevue - Allen
9 Sutherland

10 **MR. ALLEN SUTHERLAND:** I have.

11 **MS. LYNDA MORGAN:** Any changes to make?

12 **MR. ALLEN SUTHERLAND:** I do not have any
13 changes.

14 **MS. LYNDA MORGAN:** And are you prepared to
15 adopt the contents of that as part of your evidence before
16 the Commission?

17 **MR. ALLEN SUTHERLAND:** I am.

18 **MS. LYNDA MORGAN:** Thank you. And we don't
19 need to pull it up, but for the record, the French
20 translation is WIT113FR.

21 And our final piece of housekeeping relates
22 to the PCO Institutional Report, which, Mr. Sutherland, I
23 understand you're able to confirm represents PCO's evidence?

24 **MR. ALLEN SUTHERLAND:** I am.

25 **MS. LYNDA MORGAN:** And so if we can pull that
26 up briefly? It's CAN.DOC36.

27 And Mr. Sutherland, this is the PCO Stage 2
28 Institutional Report?

1 **MR. ALLEN SUTHERLAND:** Yes.

2 **MS. LYNDA MORGAN:** Thank you. And for the
3 record, I'll add CAN.DOC36.001, which is an addendum to the
4 Institutional Report, and the French versions are also found
5 at CAN.DOC37 and CAN.DOC37.001.

6 **--- EXHIBIT No./PIÈCE No. CAN.DOC.000036:**

7 Part C Institutional Report For The
8 Privy Council Office

9 **--- EXHIBIT No./PIÈCE No. CAN.DOC.000036.001:**

10 Informing Parliamentarians on Threats
11 - Chronology - 1 January 2019 to 31
12 April 2024

13 **--- EXHIBIT No./PIÈCE No. CAN.DOC.000037:**

14 Partie C : Rapport Institutionnel du
15 Bureau du Conseil Privé

16 **--- EXHIBIT No./PIÈCE No. CAN.DOC.000037.001:**

17 Informer les parlementaires des
18 menaces - chronologie - Du 1er
19 janvier 2019 au 31 avril 2024

20 **MS. LYNDA MORGAN:** And so with that
21 housekeeping complete, I'll move on to ---

22 **MR. ALLEN SUTHERLAND:** All right.

23 **MS. LYNDA MORGAN:** --- substantive issues.

24 So, Mr. Sutherland, you're the Assistant
25 Secretary for Machinery of Government and Democratic
26 Institutions within PCO?

27 **MR. ALLEN SUTHERLAND:** Yes, I am.

28 **MS. LYNDA MORGAN:** And you have been since

1 2016?

2 **MR. ALLEN SUTHERLAND:** For both roles, yes.

3 **MS. LYNDA MORGAN:** I'm going to just pull up
4 a visual to show where Democratic Institutions, which short
5 form is DI, fits within PCO.

6 So if we can pull up CAN22859, please?

7 **COURT OPERATOR:** Could you repeat the
8 document ID, please?

9 **MS. LYNDA MORGAN:** CAN22859.

10 **--- EXHIBIT No./PIECE No. CAN022859.0001:**

11 Lunch and Learn: Democratic
12 Institutions Secretariat

13 **COURT OPERATOR:** That document's not in the
14 hearing database.

15 **MS. LYNDA MORGAN:** Well let me ask you as we
16 look for that document, how would you describe the role of
17 the Democratic Institutions Secretariat, particularly as it
18 relates to foreign interference?

19 **MR. ALLEN SUTHERLAND:** So the Democratic
20 Institution Secretariat is in PCO. In its role, it provides
21 support to Minister LeBlanc in his capacity as Minister
22 responsible for Democratic Institutions. As it relates to
23 foreign interference, it provides support to Minister LeBlanc
24 in the development of the Protecting Democracy Plan.

25 **MS. LYNDA MORGAN:** And Democratic
26 Institutions is made up of two units, the Protecting
27 Democracy Unit, another acronym we'll introduce, it's PDU, --

28 -

1 **MR. ALLEN SUTHERLAND:** Right.

2 **MS. LYNDA MORGAN:** --- and the Electoral and
3 Senate Policy Unit, ---

4 **MR. ALLEN SUTHERLAND:** Right.

5 **MS. LYNDA MORGAN:** --- ESPU. Is that right?

6 **MR. ALLEN SUTHERLAND:** Correct.

7 **MS. LYNDA MORGAN:** And as I understand it,
8 the ESPU's kind of primary focus relates to the *Canada*
9 *Elections Act*. Is that correct?

10 **MR. ALLEN SUTHERLAND:** That is correct.

11 **MS. LYNDA MORGAN:** And so the focus for my
12 questions for you today will be on PDU, which I understand in
13 one of your interviews you described in your view as more
14 relevant to the Commission's mandate?

15 **MR. ALLEN SUTHERLAND:** That is correct.

16 **MS. LYNDA MORGAN:** And so the PDU was
17 established through Budget 2022?

18 **MR. ALLEN SUTHERLAND:** Correct.

19 **MS. LYNDA MORGAN:** And as I understand,
20 serves three primary functions. And you'll correct me if I'm
21 wrong, but first, a general research function to keep up to
22 date on major themes or emerging issues, the second is
23 advancing the Protecting Democracy Initiative, as laid down
24 in Minister LeBlanc's 2021 Mandate Letter, and the third is
25 stakeholder relations, so meaning engaging groups like think
26 tanks, civil society, and academia on issues of common
27 interest?

28 **MR. ALLEN SUTHERLAND:** That's a good

1 representation.

2 **MS. LYNDIA MORGAN:** Okay. Thank you. The
3 document, CAN22859, is up on the screen. I'll just ask we
4 scroll down to page 3, please.

5 The visual that I thought would be helpful
6 when we kind of reviewed the structure, but we can see in
7 blue, kind of highlighted, the Machinery of Government, your
8 name, breakdown to Democratic Institutions, and then a
9 subdivide into the PDU and ESPU that you've just described.

10 **MR. ALLEN SUTHERLAND:** It's accurate.

11 **MS. LYNDIA MORGAN:** Thank you. So I'd like to
12 talk to you about the Plan to Protect Democracy, which was --
13 there was quite a lot of evidence heard about the plan during
14 Stage 1, leading to the creation of SITE, Panel of Five,
15 amongst other things, and an updated plan was approved in
16 2021.

17 **MR. ALLEN SUTHERLAND:** Correct.

18 **MS. LYNDIA MORGAN:** And I understand that the
19 plan has not been formally updated since 2021?

20 **MR. ALLEN SUTHERLAND:** It has not.

21 **MS. LYNDIA MORGAN:** And are there any
22 particular issues or threats in the FI environment driving a
23 need for updates?

24 **MR. ALLEN SUTHERLAND:** I would argue that
25 there's a considerable number of things that are occurring in
26 the FI environment that merit consideration as Minister
27 LeBlanc prepares for -- to develop the next report, as per
28 his Mandate Letter.

1 One of the things that has changed is the
2 increase reliance on the -- let's see. One of the things
3 that has changed in the environment is our understanding of
4 the threat. I think it's really evolved. When the first PDU
5 plan was -- first Protecting Democracy Plan was developed, it
6 was really seen as a plan to protect against electoral
7 interference.

8 More and more, there's an understanding that
9 this is not limited to elections themselves, but is a 365 day
10 a year issue. So that's one change.

11 Another change that has occurred is that as
12 we look around at what other countries are doing, and as we
13 learn from them, which is a big part of what we try and do in
14 the Protecting Democracy Unit, we're seeing that allied
15 countries are adopting multi-prong strategies. So by that I
16 mean they engage civil society. They have a whole of
17 government approach.

18 You know from, I hope, my previous testimony,
19 but that has been an element of what we've tried to do at the
20 Protecting Democracy Plan, but it's really been hammered home
21 lately. So those are two elements that I think have changed
22 in recent years.

23 **MS. LYNDA MORGAN:** And so we've heard some
24 evidence about the AI threat.

25 **MR. ALLEN SUTHERLAND:** Yes.

26 **MS. LYNDA MORGAN:** Does PCO DI view AI as an
27 emerging threat in the FI context and has there been any
28 discussions about how the existing plan or a future plan

1 might respond to AI threat?

2 **MR. ALLEN SUTHERLAND:** So certainly the
3 National Security Agencies are very aware of the AI threat.
4 It could -- and it will be -- it is under development as part
5 of the emerging Protecting Democracy Plan.

6 In terms of different elements of it, it
7 could take the form of engagement with the social media
8 platforms, for instance, but also greater awareness for
9 Canadians and greater awareness in civil society.

10 **MS. LYNDA MORGAN:** And in the public summary
11 of your in-camera examination you'd indicated that the target
12 date is to ensure the updated plan is in place and ready for
13 the next federal election.

14 **MR. ALLEN SUTHERLAND:** Correct.

15 **MS. LYNDA MORGAN:** And are there any
16 practical implications if an updated plan is not ratified by
17 Cabinet before the next election?

18 **MR. ALLEN SUTHERLAND:** So the plan is in
19 place and, you know, there is the formal plan, but there's
20 also the arrangements that different agencies are doing. So
21 as you correctly stated earlier, we already have the SITE
22 Task Force. We have the -- the government has put it on
23 standing footing. Like, it is up and it is operating. And
24 one of the things that we have already activated, or the
25 government has already activated, is the engagement of the
26 Panel of Five. The Panel of Five has already begun its
27 deliberations, it already had some five meetings with a sixth
28 meeting coming in the coming weeks. And so it is already up

1 and running and ready should there be an election prior to
2 the fixed-date election.

3 **MS. LYNDA MORGAN:** And speaking about the
4 panel, ---

5 **MR. ALLEN SUTHERLAND:** M'hm.

6 **MS. LYNDA MORGAN:** --- I understand that
7 thought has been given to whether a potential expanded role
8 for the panel makes sense. And that's because, at the risk
9 of tremendously oversimplifying, they have a limited outward
10 facing role during the writ period, which is making a public
11 announcement if a particular incident or incidents meets the
12 threshold.

13 **MR. ALLEN SUTHERLAND:** So certainly
14 consideration has been given to provide Minister LeBlanc with
15 some suggestions as per -- to adjust the panel's role. We
16 have been looking at the various reports that have been made,
17 the Rosenberg report, the LeBlanc-Charette report, and these
18 do contain recommendations that might suggest a different
19 role for the panel.

20 So what are the sorts of things that are
21 under consideration? Well one is that the role of the panel
22 is currently stated as a single one. That is, in the event
23 of a threat to the integrity of the election, the panel will
24 step forward and inform Canadians about the threat and what
25 they can do to protect themselves. It's a single purpose
26 organization.

27 As we have seen the panel evolve and grow in
28 2019 and 2021, and as we see the emerging threats, what's

1 really come into view is that the role of the panel is also
2 one of coordinating the government response and safeguarding
3 elections writ large, so there's consideration being given to
4 how the panel might serve as a coordinator of a Government of
5 Canada response.

6 There has been thought also given to the
7 issue of the threshold. As many will know, the threshold is
8 high. It's been intentionally so because too much engagement
9 by the panel on stepping into the election space could be
10 very disruptive to the election, and so one school of thought
11 is that an appropriately high threshold ought to remain. But
12 what needs to be situated more clearly is Government of
13 Canada communication should there be a low threshold event.

14 So it should be possible to inform Canadians
15 of developments that they need to be aware of that may not
16 breach the threshold. They do not threaten the integrity of
17 the election writ large, but nevertheless would help inform
18 the citizenry of things they ought to know more about.

19 So that's another element of the role
20 currently under consideration by the Democratic Institute
21 Group, and we're -- we've been engaging with Minister LeBlanc
22 and we will continue to do so.

23 **MS. LYNDA MORGAN:** And can you speak to
24 whether any consideration has been given to updating the
25 panel's membership to include non-government representatives?

26 **MR. ALLEN SUTHERLAND:** That, too, has been
27 under consideration.

28 An issue there, if I might, Commissioner, is

1 that with the Panel of Five, we really do have a unique group
2 of senior civil servants who each bring to the table
3 important competencies necessary to exercise the nuanced
4 judgment expected of a panel.

5 So we have, you know, the Deputy Minister of
6 Justice and Deputy Attorney General of Canada bringing
7 important *Charter* rights and kind of democratic values
8 issues. We have, of course, the Clerk of the Privy Council
9 and Secretary to the Cabinet who brings an understanding of,
10 indeed, the entire system.

11 We also have the NSIA, the National Security
12 and Intelligence Advisor, who brings a nuanced understanding
13 of the security space, as well as the Deputy of Public
14 Safety, who brings as well an understanding of public safety
15 issues. And then finally, we have the Deputy of Foreign
16 Affairs, who brings an understanding of the international
17 relations issues.

18 And what's important with that Group of Five
19 is they also bring an understanding of their organizations
20 and how to marshal those parts of the organization in support
21 of safeguarding Canada's elections so that, as part of that
22 coordinating function, it really is a very good group. It's
23 -- the number, it being five, is one that is effective for
24 decision-making.

25 So we have considered different permutations
26 of it. Minister and Cabinet will, indeed, decide. It is a
27 Cabinet directive. But just to kind of make a bit of a
28 defence of the status quo there.

1 **MS. LYNDA MORGAN:** So you've talked -- you
2 spoke already about how SITE -- or how the panel is already
3 up and functioning and meeting in ---

4 **MR. ALLEN SUTHERLAND:** Yes.

5 **MS. LYNDA MORGAN:** --- preparation for the
6 next election.

7 I'd like to ask you about the by-elections
8 and how SITE was stood up for the by-elections and some of
9 the relationships and kind of reporting channels during the
10 by-elections.

11 So SITE was stood up for 2023 and 2024 by-
12 elections?

13 **MR. ALLEN SUTHERLAND:** Yeah.

14 **MS. LYNDA MORGAN:** And if we look at the
15 composition of SITE today, I understand that PCO DI has
16 observer status on SITE.

17 **MR. ALLEN SUTHERLAND:** Yes, we do.

18 **MS. LYNDA MORGAN:** And PCO DI did not have
19 that status initially when SITE was created.

20 **MR. ALLEN SUTHERLAND:** That's correct as
21 well.

22 **MS. LYNDA MORGAN:** Who decides what groups
23 can participate in SITE, whether as a member or to get this
24 observe status?

25 **MR. ALLEN SUTHERLAND:** How did we win
26 observer status?

27 **MS. LYNDA MORGAN:** Yeah.

28 **MR. ALLEN SUTHERLAND:** I think we were

1 invited on by members of the SITE Task Force.

2 **MS. LYNDA MORGAN:** And with observer status,
3 is DI involved in deciding what to do with pieces of
4 intelligence such as whether to share particular information
5 with the panel, or is the role more limited?

6 **MR. ALLEN SUTHERLAND:** I think the role is
7 more limited than that.

8 The role of the SITE Task Force is to present
9 information to whether it is the panel or DM CIRs, which is
10 Deputy Minister Committee of Intelligence Response, and it's
11 really not to provide a heavy vetting function. The
12 intelligence is meant to flow.

13 **MS. LYNDA MORGAN:** And so that leads me to
14 the kind of general reporting structure during the by-
15 elections.

16 As you've just described, there's no panel to
17 report to, so SITE is reporting up to DM CIR.

18 **MR. ALLEN SUTHERLAND:** Reports up to DM CIR
19 and DM CIR operates still under Ministerial authorities.

20 If I could make just one point about the by-
21 elections. So this is -- the Prime Minister gave direction
22 to stand up the SITE Task Force during that time period. It
23 represented an expansion of the role. And I think it's
24 really important for the way forward because I think here we
25 see in a pilot case the evolving new practices that Canadians
26 can expect from -- should there be a federal election writ
27 large.

28 For one thing, you see increased

1 transparency, so there's an after-action report after the by-
2 elections. This is part of informing Canadians what has
3 happened to their elections. The other thing is the calling
4 out.

5 On two occasions of the nine by-elections,
6 there has been a calling out of foreign interference at what
7 would be a sub-threshold level, both Michael Chong and the
8 spamouflage incident. So what you're seeing is we're
9 evolving, the system is learning, and we're also setting
10 expectations for a broader -- you know, when there is a
11 federal election, those practices can be more readily
12 applied. And part of what we're trying to do is normalize
13 communications and just kind of establish the change in
14 bureaucratic practices.

15 **MS. LYNDA MORGAN:** So if we look at DM CIR
16 outside of the writ period, who's the body to whom SITE kind
17 of shares their intelligence, I understand that DM CIR has
18 some but not all of the same members as those on the panel.

19 **MR. ALLEN SUTHERLAND:** I believe that it's
20 three of five.

21 **MS. LYNDA MORGAN:** And DM CIR is differently
22 situated than the panel. It's not in a position to make a
23 public announcement because of Ministerial accountability.
24 Is that correct?

25 **MR. ALLEN SUTHERLAND:** It would have to draw
26 on Ministerial accountabilities in order to make an
27 announcement ---

28 **MS. LYNDA MORGAN:** And can you ---

1 **MR. ALLEN SUTHERLAND:** --- which could be
2 delegated.

3 **MS. LYNDA MORGAN:** Can you describe
4 practically what that means?

5 **MR. ALLEN SUTHERLAND:** What that means is
6 that whatever is decided at DM CIR, it only operates under
7 Ministerial accountability, so under normal -- under usual
8 circumstances, Ministerial authority is applied so that it
9 would involve engaging the Minister unless he or she has
10 already delegated that responsibility to the Deputy involved.

11 **MS. LYNDA MORGAN:** I'd like to pull up an
12 email. It's CAN31772. It's just called "Re threshold and
13 letter to Minister LeBlanc".

14 **--- EXHIBIT No./PIÈCE No. CAN031772:**

15 Threshold and Letter to Minister
16 LeBlanc

17 **MS. LYNDA MORGAN:** If we can scroll down to
18 the bottom of page 1, please.

19 And so in this email, there's a series of
20 exchanges about how to articulate a threshold for public
21 communication in the event of a threat to the by-election.

22 And at the bottom of page 1, the last
23 paragraph, there's reference to:

24 "...connecting with Al on this and
25 will likely see if he'd like to come
26 to ADM ESCC and DM CIR to discuss
27 threshold and decision-making. When
28 we see Al, ..."

1 Presumably that is you?

2 **MR. ALLEN SUTHERLAND:** Could be AI, but yeah.

3 No, it's me.

4 **MS. LYNDA MORGAN:** And did you participate in
5 discussions of threshold and decision-making in relation to
6 kind of outside of the writ period?

7 **MR. ALLEN SUTHERLAND:** I do not recall
8 speaking to DM CIR on this subject, nor do I recall speaking
9 to ADM ESCC. It's possible it happened, but I just don't
10 have a clear -- like because it's not unusual to talk about
11 issues around threshold.

12 Now, I would say that the question of
13 threshold is a different one outside a panel context, right.
14 The threshold is a term that can -- is being used loosely
15 because there is no panel threshold in a non-caretaker
16 situation. So I think what -- when she says a threshold, I
17 think what she's referring to, a level at which an
18 announcement might be made.

19 **MS. LYNDA MORGAN:** And in this context, as
20 you've said, it would be a Minister or someone delegated by
21 the Minister who'd make a decision about whether it's
22 appropriate to make an announcement?

23 **MR. ALLEN SUTHERLAND:** So my understanding is
24 that DM CIR operates by consensus and then, based on that, DM
25 authorities -- or Ministerial authorities apply, so based on
26 that common -- the group coming to a common understanding
27 from their Minister would most likely make a decision at that
28 point.

1 **MS. LYNDA MORGAN:** And one of the features of
2 FI-related intelligence is that it could relate to members of
3 the government or political parties or other political
4 actors.

5 **MR. ALLEN SUTHERLAND:** Correct.

6 **MS. LYNDA MORGAN:** And it seems that that
7 could present a challenge in the reporting or sharing of that
8 intelligence with clients who are also political actors. And
9 so has there been any discussion of what mechanism or body
10 might be best positioned to respond to sensitive partisan
11 issues to avoid giving rise to the appearance of a conflict
12 of interest?

13 **MR. ALLEN SUTHERLAND:** So ultimately
14 Ministers are responsible in our system, so their authorities
15 apply. There could be situations where the Minister would
16 delegate the decision down to the DM level, or could
17 conceivably be even further down than that, but it would
18 require a delegation.

19 **MS. LYNDA MORGAN:** And so has there been any
20 specific discussion about whether there should be an
21 alternate reporting mechanism? Is there a viable alternate
22 reporting mechanism when there are sensitive partisan issues
23 engaged?

24 **MR. ALLEN SUTHERLAND:** So not to my
25 knowledge. I'm not a member of DM CIR, so I don't know the
26 answer to that.

27 **MS. LYNDA MORGAN:** And not more generally in
28 the context of a more permanent reporting body or more

1 permanent ---

2 **MR. ALLEN SUTHERLAND:** I think -- I think
3 there are others who'd be better placed to understand whether
4 or not the Minister -- a Minister had made that delegation or
5 not. It could well have happened, I just -- I'm unfamiliar.

6 **MS. LYNDA MORGAN:** I think, let me just try
7 the question one more time.

8 **MR. ALLEN SUTHERLAND:** Sure.

9 **MS. LYNDA MORGAN:** Has there been discussion
10 of creating an alternate stream or path of intelligence flow,
11 for instance, in situations where there are sensitive
12 partisan issues that may need to be addressed?

13 **MR. ALLEN SUTHERLAND:** Well, it is the case
14 that the national security agencies having been engaging the
15 political parties, have offered briefings on sensitive
16 national -- sensitive issues. So I think that we've been
17 trying to create -- the Government of Canada has been trying
18 to create that link with parties because it understands that
19 parties are very important democratic actors, they're
20 democratic institutions, and we need to further develop those
21 links, even outside of the election period.

22 **MS. LYNDA MORGAN:** And during GE 44, PCO DI
23 acted as co-chair of the political party briefings with PCO
24 S&I assistant secretary?

25 **MR. ALLEN SUTHERLAND:** That's correct.

26 **MS. LYNDA MORGAN:** And as I understand it,
27 there was two types of briefings, one was specific incident
28 to be briefed to a particular party, and then also general

1 briefings, and PCO DI was only involved in the latter.

2 **MR. ALLEN SUTHERLAND:** So we attended both
3 parts as co-chair. It would be unusual if I stepped out
4 during the other part of the meeting. But we tended to
5 provide more general briefings about how the panel worked
6 during the election period, offering, you know, a contact
7 point, but the actual substantive briefings were done by the
8 national security agencies.

9 **MS. LYNDA MORGAN:** And is PCO DI responsible
10 for scheduling those briefings and also inviting the parties
11 to briefing?

12 **MR. ALLEN SUTHERLAND:** I think that was more
13 on the security and intelligence side.

14 **MS. LYNDA MORGAN:** Okay. We've heard some
15 criticism of the level of detail in some of the briefings,
16 some complaints, potentially, that the information wasn't
17 concrete enough. Is there any formal mechanism in place to
18 kind of obtain feedback about briefings, kind of determine
19 their advocacy or figure out if the briefings needs to be
20 changed in any way?

21 **MR. ALLEN SUTHERLAND:** It hasn't happened on,
22 like, a meeting-by-meeting basis. I do recall that we asked
23 after the fact how things went. And beyond that, there was,
24 you know, an open invitation to talk, whether it was to me or
25 to my SI counterpart on issues that were either more
26 sensitive or more general. In fact, someone who was on -- a
27 member of those briefings contacted me yesterday, retained my
28 card and he called me yesterday about a subject.

1 **MS. LYNDA MORGAN:** Are there any anticipated
2 changes to be made before the next election, in relation to
3 the content or scheduling of briefings?

4 **MR. ALLEN SUTHERLAND:** So we're very mindful
5 that in the hearings the different party actors have been
6 dissatisfied with the level of briefing and the content of
7 the briefing, so we're committed to doing a better job,
8 hitting the standard, better understanding their needs.
9 That's part of why we're reaching out to them now.

10 I'm not saying we've hit the standard. There
11 is an issue around exactly -- you know, so there was a
12 question on the generality of briefings and what can be done
13 to kind of make them more meaningful for parties. And I know
14 that all those involved will be working to try and kind of
15 meet their expectations. They are, in effect, our clients.
16 And so we're disappointed that they weren't satisfied, and,
17 you know, we will try and do a better job going forward.

18 **MS. LYNDA MORGAN:** I'd like to ask you about
19 a couple of flagged risks or kind of challenges that have
20 been identified in relation to the plan. The document I'm
21 going to show you is from the fall of 2023, so it's possible
22 that some of these are no longer risks or challenges.

23 But if we could pull up CAN33988, please?

24 **THE COURT OPERATOR:** Could you repeat the
25 document ID, please?

26 **MS. LYNDA MORGAN:** Three three nine eight
27 eight (33988).

28 **THE COURT OPERATOR:** That document is in the

1 PD, so it'll just be a minute.

2 (SHORT PAUSE/COURTE PAUSE)

3 --- EXHIBIT NO./PIÈCE No. CAN033988.0001:

4 Protecting Democracy - Fall 2023
5 Priorities

6 **MS. LYNDA MORGAN:** So this is labelled as,
7 "Protecting Democracy, Fall 2023 Priorities". I'll first
8 direct your attention to the box at the top of the first page
9 with the red header, "Risks and Challenges".

10 **MR. ALLEN SUTHERLAND:** M'hm.

11 **MS. LYNDA MORGAN:** It's partially redacted,
12 but the first item is described as:

13 "Sequencing: multiple recommendations
14 [or] reports coming forward..."

15 And the second is:

16 "Minister's time: broader portfolio,
17 urgent issues requiring attention."

18 Are you able to speak to those two risks and
19 challenges that were identified, and if anything has been
20 done to address them or respond to them?

21 **MR. ALLEN SUTHERLAND:** Sure. So I think the
22 first one just speaks to there has been -- you know, we
23 benefitted from a number of reports, and there's also the
24 work of the Inquiry, understanding at which point should the
25 government -- should recommendations to the Minister be made
26 such that the government makes a change when there is a
27 report outstanding.

28 So it's very important to evolve with the

1 evolving threat, we -- it's a question of picking the moment
2 that's most opportune for kind of evolving the next version,
3 knowing that there's important information that's
4 outstanding. So there's a bit of a -- I think where we'll
5 be and where we have been is a little bit of what I call,
6 "Ready, fire, aim," right? We have to evolve and then when
7 we get good ideas we'll evolve again.

8 And so that's what we've done. We got some
9 good recommendations, for instance, from the Rosenberg Report
10 on evolving kind of the panel's activity level prior to an
11 election; that's already happened. And so -- and just -- and
12 we've given -- continue to give thought to some of his other
13 recommendations, in terms of a more forward-leaning role for
14 government communications in that spot. So that's what
15 that's speaking to.

16 On the second point it's like the -- it's
17 like the old joke about Ottawa, what's the scarcest commodity
18 in Ottawa? A Minister's time. So when is the best time to
19 brief the Minister? We've had ongoing engagement with him,
20 but that's what that's speaking to, is he's a very active
21 Minister. We're fortunate to have the Minister we do but his
22 time is very precious, and we have to make precious use of
23 it.

24 **MS. LYNDIA MORGAN:** And if we can scroll down
25 to page 2, again in the middle column here, there's some
26 items under the header of "Systemic challenges". The first
27 is:

28 "Ability to determining what is

1 foreign origin and what is not." (As
2 read)

3 Are you able to speak to kind of how that
4 challenge plays out practically?

5 **MR. ALLEN SUTHERLAND:** Yeah. And I think you
6 saw a little bit of it with the -- your previous witnesses.
7 It's not always possible to attribute in real time whether or
8 not a foreign actor, whether something's inauthentically
9 amplified or not, and determining that foreign origin can be
10 a real challenge, so that is an ongoing one that faces the
11 national security agencies and the Protecting Democracy Plan
12 more generally.

13 **MS. LYNDY MORGAN:** And if we look at the
14 second two, evolution of platforms and access to data, I'll
15 group those together, but can you just expand on what those
16 challenges look like?

17 **MR. ALLEN SUTHERLAND:** Yeah, so the number of
18 platforms continues to grow, they evolve, they get more
19 popular, less popular, and as well, the access to data point
20 is one that you will hear from academics in terms of their
21 ability to see into the platforms and what's happening.

22 **MS. LYNDY MORGAN:** And what is the benefit of
23 -- when the complaint here is phrased as no reasonable way to
24 get access to large quantities of data, what is the practical
25 problem that that creates?

26 **MR. ALLEN SUTHERLAND:** So I would say that
27 it's -- if I'm guessing who wrote this, it was one of my
28 members of the research team because it's put in a very

1 research-sensitive way because this is how academics talk
2 about the problem. But it just -- it's just your window into
3 what's happening on the platform, your window into the
4 algorithm just gets more challenging. Now, of course, the
5 national security agencies have -- and Alia's, you know,
6 spoke about trade craft, their trade craft evolves too. So
7 I'm not sure I would take the blanket statement of no
8 reasonable way to mean that the NSAs can't do their job.
9 I've heard no indication of that from them. That is more of
10 an academic complaint.

11 **MS. LYNDA MORGAN:** I would like to move onto
12 mis and disinformation. I understand that is one of the key
13 focuses for the PDU?

14 **MR. ALLEN SUTHERLAND:** Yes.

15 **MS. LYNDA MORGAN:** And I understand that PCO
16 DI is developing what has been described as a training module
17 around mis and disinformation?

18 **MR. ALLEN SUTHERLAND:** Correct.

19 **MS. LYNDA MORGAN:** Is there a specific
20 strategy or module being developed in relation to FI, or is
21 this a broader program that's being developed?

22 **MR. ALLEN SUTHERLAND:** It's broader than
23 that, but because mis and disinformation can be foreign in
24 origin or it can be domestic in origin, so I believe the
25 module which is currently under development with the Canada
26 School of Public Administration -- Public Service, Canada
27 School of Public Service is -- would deal with the broader
28 set of issues.

1 **MS. LYNDA MORGAN:** And who is the target
2 audience for that module?

3 **MR. ALLEN SUTHERLAND:** So the target audience
4 in the first instance would be public servants, and as well,
5 strategic communication shops specifically, so that it can
6 address, you know, mis and disinformation as relates to
7 government services and operations. It's also being
8 explicitly made available to provinces to help them as well.
9 So we have opened up invitations to provinces in some of our
10 other -- we had a trust series with Canada's School of Public
11 Service, and we ensure that provinces are also able to access
12 it as well.

13 **MS. LYNDA MORGAN:** In your -- in the public
14 version of your examination summary, you explain that there's
15 a need to build a comprehensive strategy to have
16 communications experts more versed in the need to pre-bunk
17 and debunk mis and disinformation. Are you able to explain
18 what that means, who are the communication experts? What
19 does it mean to be versed in the need to pre-bunk and debunk?

20 **MR. ALLEN SUTHERLAND:** So -- well, I can give
21 you a sort of a layperson's view of it because I'm not a
22 strategic coms expert. But what it speaks to is the need for
23 government communications to be mindful of issues around mis
24 and disinformation and how they might affect trust in
25 government services and citizen's understanding of those
26 services. Trust is a very vital asset when it comes to
27 effective government operations. We often require the trust
28 of citizens in order to deliver programs and services most

1 efficiently. So it is an important strategic communications
2 objective to work in a way that retains the trust of
3 communities, and that means addressing when there is mis and
4 disinformation.

5 **MS. LYNDA MORGAN:** And one of the ways that
6 mis and disinformation can be propagated is through social
7 media. We heard during stage one there was the Canada
8 Declaration on Online Activity. I just wanted to ask you for
9 some updates on that in relation ---

10 **MR. ALLEN SUTHERLAND:** Sure.

11 **MS LYNDA MORGAN:** --- to signatories. If I
12 can have CAN32909 pulled up, please?

13 **--- EXHIBIT No./PIÈCE No. CAN032909.001:**

14 GAC Introductory Meeting with Tencent
15 on WeChat and Information
16 Manipulation

17 **MS LYNDA MORGAN:** So this is described as GAC
18 introductory meeting with Tencent on WeChat and information
19 manipulation. We can see your full name on this email, so we
20 know that you were included on this chain. If we can scroll
21 to the bottom of the page there? And so this is an email
22 from you ---

23 **MR. ALLEN SUTHERLAND:** Yes.

24 **MS LYNDA MORGAN:** --- where you say that,
25 "DI would be interested in connecting
26 with them re Canada Declaration on
27 Online Integrity. WeChat is not
28 currently a signatory."

1 Are you able to explain if any progress has
2 been made since this 2023 email, and also, whether there are
3 additional signatories in addition to those we heard about in
4 2021?

5 **MR. ALLEN SUTHERLAND:** Yes, so the
6 statement's correct. WeChat is not currently a signatory to
7 the Canada Declaration on Information -- Online Integrity.
8 Since then, we have had an introductory discussion with
9 Tencent where we had a general discussion about their
10 platform and whether they might be interested in becoming a
11 signatory. So discussions are ongoing more generally with
12 different social media platforms. We are reengaging with
13 them as part of providing advice to the Minister on whether
14 it might be possible to renew the Canada Declaration, perhaps
15 update it, and that includes whether there might be a
16 possibility for new signatories.

17 **MS. LYNDA MORGAN:** And in terms of the
18 purpose of being a signatory, what does it mean for someone
19 to sign on to this declaration?

20 **MR. ALLEN SUTHERLAND:** So it is a voluntary
21 declaration. It doesn't have the force of law. We have
22 found that in the past that it has helped provide a
23 connection between a social media platform and the
24 government, so that there's a connection point. We've also
25 found that in the past, having a platform -- because they do
26 worry about the reputational risks, having a platform sign on
27 means that it sort of says, you know, that there needs to be
28 attention to Canada and Canada's election. So in the past,

1 we have seen that, whether it's a Canadian director of the --
2 as you know, most of the social media platforms are based in
3 the United States, but having the Canadian director be able
4 to say we've signed a declaration with Canada, that it means
5 something and has a resonance in headquarters and helps get
6 attention to Canadian issues, but it is entirely voluntary
7 and does not have the force of law.

8 **MS. LYNDA MORGAN:** And the Commissioner has
9 heard and will hear evidence about the government-created
10 guidebook on countering disinformation for public servants,
11 and I understand PCO DI played a role in or was responsible -
12 --

13 **MR. ALLEN SUTHERLAND:** Yes.

14 **MS. LYNDA MORGAN:** --- for preparing ---

15 **MR. ALLEN SUTHERLAND:** Yes.

16 **MS. LYNDA MORGAN:** --- that material. And
17 there is also associated toolkits?

18 **MR. ALLEN SUTHERLAND:** Yes.

19 **MS. LYNDA MORGAN:** Which are described as
20 protecting democracy toolkits to resist disinformation and
21 foreign interference, and there's different versions for
22 community leaders, for elected officials, and for public --
23 elected officials and public officer holders, and then public
24 servants there's also a separate toolkit?

25 **MR. ALLEN SUTHERLAND:** Correct.

26 **MS. LYNDA MORGAN:** How does PCO DI envision
27 that those written materials will be used?

28 **MR. ALLEN SUTHERLAND:** So they're intended to

1 be used by different groups. You didn't mention them, but
2 we've also -- the Minister has sent them to the Federation of
3 Canadian Municipalities. I would also note that the -- a
4 toolkit is -- currently, we're finishing translation in eight
5 languages. The idea is to make sure that it gets distributed
6 to community leaders as well, eight languages and Inuktitut.
7 So we are working -- this is an area of growth for us,
8 engaging with community leaders, engaging with provinces.
9 Minister LeBlanc sent them to each of his counterparts. He's
10 -- when he meets bilaterally, he tends to mention them as
11 well, which we really appreciate. And in addition to that,
12 the toolkits and guidebooks were the subject of discussion of
13 a Clerks and Cabinet Secretaries meeting. So the Clerk and
14 Cabinet Secretaries meeting is a meeting of the clerk, so the
15 top public servant in Canada, with his provincial
16 counterparts. So we -- there were actually two sessions that
17 related to issues around foreign interference or mis- and
18 disinformation as well as issues around social cohesion at
19 the last set of meetings. And we were able to present the
20 toolkits to folks.

21 **MS. LYNDIA MORGAN:** And in terms of the kind
22 of, practical way in which the contents are going to be used,
23 how does PCO DI envision the use? I mean, is it a user
24 manual, does it provide information about who to contact? Is
25 it meant to ---

26 **MR. ALLEN SUTHERLAND:** It does do that.

27 **MS. LYNDIA MORGAN:** --- provide a broader,
28 just understanding of the baseline?

1 **MR. ALLEN SUTHERLAND:** I would say that -- so
2 there is an ability to -- if I remember correctly, it's been
3 a while since I've looked at them, but I believe there is
4 someone to contact if you have a problem. We're also using
5 it as a bit of a calling card, so my director has been making
6 calls out to the provinces to see if there's further
7 interest.

8 **MS. LYNDIA MORGAN:** And so, in relation to
9 mis- and disinformation, I understand PDU is also focused on
10 engaging civil society?

11 **MR. ALLEN SUTHERLAND:** Yes.

12 **MS. LYNDIA MORGAN:** And making use of that
13 civil society capacity.

14 **MR. ALLEN SUTHERLAND:** Yes.

15 **MS. LYNDIA MORGAN:** Can you understand -- I'll
16 get into some of the specifics, but can you understand the
17 reasoning behind that outreach to civil society?

18 **MR. ALLEN SUTHERLAND:** Yeah. It's one of our
19 growing understandings is just the important role that civil
20 society takes in protecting democracy. If you look at the
21 front-line countries around the world, your Finlands, your
22 Estonias, your Taiwan, they have very active civil societies
23 and it's really part of the key role in ensuring you have an
24 informed citizen is to have an informed civil society.
25 Because civil society can reach out to groups within Canada
26 in a way sometimes a government cannot.

27 So we feel very strongly that civil society
28 is an important partner in protecting democracy and engaging

1 with different groups. So that's why it's been a growing
2 focus of the PDU's activities. We've tried to do it in a
3 couple of ways. We've been sponsoring conferences, so the
4 Democracy Exchange, and Canada Votes, we often host dedicated
5 sessions at some of those conferences. And as well, I
6 believe yesterday you heard -- or maybe it was the day
7 before, you heard from the CDMRN, so they -- that's the group
8 that we have been championing.

9 **MS. LYNDIA MORGAN:** So I understand that PCO
10 DI supports the CDMRN, which is Canadian Digital Media
11 Research Network, and it receives government funding. Is
12 that right?

13 **MR. ALLEN SUTHERLAND:** Yes.

14 **MS. LYNDIA MORGAN:** Are there any mechanisms
15 in place, given the nature of the funding, to ensure the
16 CDMRN independence from government?

17 **MR. ALLEN SUTHERLAND:** So they are
18 independent. They are a network of 10 different groups from
19 across the country. I believe it's probably contained in
20 their terms and conditions, but I haven't looked at their
21 terms and they are not in front of me, so I can't say how
22 explicitly it's mentioned in the terms and conditions. But
23 it's certainly understood that this is not a government
24 directed organization.

25 **MS. LYNDIA MORGAN:** So I'd like ---

26 **MR. ALLEN SUTHERLAND:** They wouldn't allow
27 us, frankly.

28 **MS. LYNDIA MORGAN:** I'd like to ask you about

1 some of the engagement between PCO DI and CDMRN.

2 **MR. ALLEN SUTHERLAND:** Yeah.

3 **MS. LYNDA MORGAN:** Just trying not to stumble
4 on the acronym. But if we can pull up CAN46103, please?

5 **--- EXHIBIT No./PIÈCE No. CAN046103.0001:**

6 Canadian Digital Media Research
7 Network - Nov 2023 Report

8 **MS. LYNDA MORGAN:** I appreciate you're not on
9 this document, this is a briefing note to the Minister at the
10 beginning of January 2024.

11 **MR. ALLEN SUTHERLAND:** Okay.

12 **MS. LYNDA MORGAN:** And if you can scroll down
13 the page, please? If you look in the paragraph just above
14 recommendations or next steps, you see the statement:

15 "PCO DI has also engaged the CDMRN on
16 three immediate priorities..."

17 And it lists three:

18 "(1) a public facing monthly product
19 on the state of the Canadian media
20 ecosystem; (2) the incident response
21 protocol; and (3) a potential
22 approach for briefing officials and
23 others on the CDMRN's work and
24 findings."

25 Nine months have passed roughly since the
26 memo. Are you able to comment on any progress made on these
27 immediate priorities or kind of how they played out
28 practically?

1 **MR. ALLEN SUTHERLAND:** A little bit. So I
2 think CDMRN received a three year -- three years of support
3 and funding. So the organization is very much on its
4 maturity curve, and I think that we're starting to see the
5 benefits. We're starting to harvest the benefits.

6 Their monthly product I have seen, I think
7 they've had at least two, possible three of those monthly
8 products, meant to inform the community at large. They are
9 publicly available. And as well, they have been developing
10 their incident response protocol. And so, on that it's -- I
11 think what that refers to is if they see something, do they
12 provide a dedicated assessment?

13 So you will have seen the work that --
14 perhaps you will have seen the work that they did on the
15 Kirkland Lake bot issue that arose, which is a good example
16 of their work.

17 In terms of potential briefings, we do meet
18 with them monthly or so, just to get their sense of how the
19 ecosystem is evolving. It is a tremendous analytic challenge
20 to understand, like, think of all the Canadian digital media
21 space. So what's happening, like how do you describe it,
22 what does it look like? And so, they are experts in that.
23 They're again, 10 institutions from across Canada, so we very
24 much appreciate their insights on this, and their commentary
25 on issues like polarization within Canadian society have been
26 very interesting and I would argue, kind of hopeful.

27 **MS. LYNDIA MORGAN:** And you've described their
28 work as complimentary to that of the panel. How is their

1 work complimentary and how do you see the two working
2 together?

3 **MR. ALLEN SUTHERLAND:** So working together is
4 too strong a statement. As you reiterated earlier, they are
5 an independent organization.

6 But in effect, the CDMRN in an electoral
7 situation should they notice something in the public space
8 and were to comment on it, it may mean that government
9 doesn't need to comment on it. And so, if they can debunk a
10 false narrative that has occurred, or some mis- and
11 disinformation, and Canadians are informed of it, wonderful.
12 It means that government doesn't need to step forward.

13 We're very sensitive in government about
14 being perceived as an arbiter of truth. And so, government
15 has to be very careful in this space, but the CDMRN as an
16 independent, is you know, a set of institutions is sometimes
17 right sized for some of the problems that might happen to
18 spark up from time to time.

19 **MS. LYNDIA MORGAN:** I'm going to ask you about
20 CAN33655, which is minutes of a 2024 panel meeting, and as
21 you said earlier in your evidence, the panel has already
22 started meeting in preparation for the next election.

23 **--- EXHIBIT No./PIÈCE No. CAN033655:**

24 Critical Election Incident Public
25 Protocol Panel Retreat

26 **MS. LYNDIA MORGAN:** So this is a -- called it
27 a meeting, it's a retreat -- March 25th, 2024, and if we
28 scroll down on the first page under other Government of

1 Canada invitees, we can see your name.

2 **MR. ALLEN SUTHERLAND:** M'hm.

3 **MS. LYNDA MORGAN:** Did you attend this
4 retreat?

5 **MR. ALLEN SUTHERLAND:** I did, yes.

6 **MS. LYNDA MORGAN:** And if we continue to
7 scroll down, we see amongst the external parties who were
8 invited, multiple members of the CDMRN?

9 **MR. ALLEN SUTHERLAND:** Correct.

10 **MS. LYNDA MORGAN:** And if you keep scrolling
11 down, please, continue. To this, to page 5, just go up to
12 the top of that page, please. So the briefing by the CDMRN,
13 which is a 70-minute presentation.

14 **MR. ALLEN SUTHERLAND:** M'hm.

15 **MS. LYNDA MORGAN:** If you can scroll down and
16 stop there, please? Do you recall and did you attend this
17 presentation by the CDMRN?

18 **MR. ALLEN SUTHERLAND:** Yes, I did. Yeah.

19 **MS. LYNDA MORGAN:** Okay. And it looks like
20 there's three bolded potential questions for discussion in
21 the notes that are set out here. One is:

22 "How will you determine that a
23 disruption in the information
24 ecosystem originates from a foreign
25 or domestic entity?"

26 So that problem with attribution that you've
27 already described.

28 **MR. ALLEN SUTHERLAND:** Yes.

1 **MS. LYNDA MORGAN:** A question about whether
2 to make information public, what would it look like, and
3 questions about how do you see the CDMRN and panel
4 interacting during the election period. Were there -- was
5 there a resolution or a conclusion drawn in response to any
6 of these questions, or are they kind of ongoing topics for
7 discussion?

8 **MR. ALLEN SUTHERLAND:** As I recall, most of
9 the focus of the meeting was on the first question. The
10 CDMRN took the panel members extensively through their
11 methodology, and so kind of helped -- tried to them
12 understand how they know what they know. So that was largely
13 the focus.

14 It was a more general -- like, I wouldn't say
15 that the other questions were necessarily resolved, but I
16 think that the CDMRN did peak the interest of the panel
17 precisely around the issue that I raised earlier, which is
18 sometimes government's just not well placed to address issues
19 that emerge and if an independent active civil society can
20 call out -- and by the way, it's not just the CDMRN that do
21 it, media often plays a very important role in debunking
22 false narratives, political parties play a role in debunking
23 false narratives as well. So I don't want to leave folks
24 with the impression there is only the CDMRN out there. There
25 are groups that are outside the CDMRN and the think tank
26 community that can play a role too.

27 But I think the CDMRN managed to make, you
28 know, it's case that it is a potentially interesting group

1 that may be able to make a contribution to helping to make
2 our elections safer.

3 **MS. LYNDA MORGAN:** Is it unusual to invite
4 external participants to panel retreats?

5 **MR. ALLEN SUTHERLAND:** So this is part of
6 what I think is kind of a new panel. We reinvent the panel
7 after each election. So this was the first time that we had
8 external people speak. It's an experiment that we think
9 worked, and we're going to build on it. In fact, we have
10 built on it already.

11 So the panel has also heard from the
12 Government of France and the Government of the U.K. on the
13 findings from their elections and we managed to get national
14 security agencies in both those groups to come talk to us
15 about what they saw during their election time periods and
16 what were the steps they took. This is part of ensuring that
17 Canada has a robust system. So we're committed to continuing
18 to engage dynamically to give the panel the best possible
19 information.

20 So this is an important new way of operating.
21 We're expanding it out and we're going to -- I mean, I think
22 the Clerk and the panel have given us a green light to
23 continue to be creative to bring people to the panel
24 meetings.

25 **MS. LYNDA MORGAN:** And in relation to the
26 last bullet that's still up on the screen, ---

27 **MR. ALLEN SUTHERLAND:** Yeah.

28 **MS. LYNDA MORGAN:** --- how do you see the

1 CDMRN and panel interacting during the election period? Is
2 that an issue that has been given any consideration? Whether
3 there will be any collaboration or, for instance, continuing
4 meetings during the writ period?

5 **MR. ALLEN SUTHERLAND:** So interacting -- so
6 each is independent, but understanding if they're seeing
7 something is pretty important to us. It might also, like, --
8 there could even be, you know, like, "We've noticed
9 something. What is your assessment of it?" So it's like if
10 they can help us understand more quickly what's going on in
11 the Canadian digital media space, that -- they're seen as a
12 potential resource, but very importantly, an independent
13 resource.

14 **MS. LYNDA MORGAN:** And I'd like to understand
15 the relationship between PCO DI and the Digital Citizenship
16 Initiative.

17 **MR. ALLEN SUTHERLAND:** Yes.

18 **MS. LYNDA MORGAN:** Short form DCI.

19 **MR. ALLEN SUTHERLAND:** Right.

20 **MS. LYNDA MORGAN:** So DCI has been in place
21 since around 2020, and that -- they receive funding for
22 projects like media literacy. Is there any kind of specific
23 relation between PCO DI and DCI? Or how would you describe
24 that information sharing, if any exists?

25 **MR. ALLEN SUTHERLAND:** So I would say it's a
26 close relationship. We've benefited from the DCI in
27 protecting democracy initiatives in the past. We have
28 included a funding element for the DCI. We've also made it

1 known that we have certain issues that we think are
2 particularly important. So we kind of throw them into the
3 mix. One of them, from years ago, was diaspora groups, and
4 if you look at the funding of projects in the Digital Citizen
5 Initiative, you will see that they have been funding diaspora
6 groups.

7 **MS. LYNDIA MORGAN:** Thank you. Those are my
8 questions for you. Thank you.

9 **COMMISSIONER HOGUE:** Thank you. So it's
10 1:29. We'll take -- just let me check. We'll come back at
11 2:50. Yes, 2:50. It's one hour 20 minutes. Yes, at 2:50.

12 **THE REGISTRAR:** Order, please. À l'ordre,
13 s'il vous plaît.

14 **COMMISSIONER HOGUE:** Bon appétit, tout monde.

15 **THE REGISTRAR:** The sitting of the Commission
16 is now in recess until 2:50 p.m. Cette séance de la
17 Commission est maintenant suspendue jusqu'à 15 h 05.

18 --- Upon recessing at 1:29 p.m./

19 --- L'audience est suspendue à 13 h 29

20 --- Upon resuming at 2:50 p.m./

21 --- La séance est reprise à 14 h 50

22 **THE REGISTRAR:** Order please. À l'ordre,
23 s'il vous plaît.

24 This sitting of the Foreign Interference
25 Commission is now back in session. Cette séance de la
26 Commission sur l'ingérence étrangère est de retour en
27 session.

28 The time is 2:50 p.m. Il est 14 h 50.

1 **COMMISSIONER HOGUE:** Alors contre-
2 interrogatoire. Je pense -- I think the first one is Ms.
3 Teich for the Human Rights Coalition? Am I right?

4 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

5 **MS. SARAH TEICH:**

6 **MS. SARAH TEICH:** Good afternoon.

7 **MR. ALLEN SUTHERLAND:** Good afternoon.

8 **MS. SARAH TEICH:** Could we please pull up
9 CAN.DOC36?

10 **COURT OPERATOR:** Could you repeat the
11 document ID, please?

12 **MS. SARAH TEICH:** CAN.DOC36. It's the Part C
13 Institutional Report. Thank you. And scroll to page 27.
14 And just the very last line on the bottom, just the title is
15 here. It identifies DM China Committee. We can keep
16 scrolling down to the top of page 28.

17 The report identifies that there's this
18 committee and it notes here that:

19 "The Committee discusses issues
20 relating to foreign policy, and from
21 time to time, those related to
22 foreign interference."

23 Does this committee discuss the impacts of
24 foreign interference on Uyghurs, Honk Kongers, Tibetans, and
25 Falun Gong practitioners?

26 **MR. ALLEN SUTHERLAND:** I am not a member of
27 the committee and I am unfamiliar with its activities.

28 **MS. SARAH TEICH:** Okay. If you're aware, is

1 the committee consulting with members of these diaspora
2 communities?

3 **MR. ALLEN SUTHERLAND:** I'm sorry, I don't
4 know.

5 **MS. SARAH TEICH:** Okay. If we can scroll
6 down to page 31? A little bit further, where it says "ADM
7 China Committee".

8 I imagine -- I'm anticipating your answers
9 now, but I'm going to ask them anyway. In this page it
10 describes the committee's:

11 "Meetings are [...] typically held [...]
12 monthly or bimonthly [and that they]
13 discuss issues relating to foreign
14 policy, Canada-China relations, and
15 from time to time, those related to
16 foreign interference."

17 If you know, does this committee discuss the
18 impacts of foreign interference on Uyghurs, Hong Kongers,
19 Tibetans, or Falun Gong practitioners?

20 **MR. ALLEN SUTHERLAND:** I'm not familiar with
21 the operations of this committee.

22 **MS. SARAH TEICH:** Okay. If we just look
23 through, like, this whole report basically, I mean, there's
24 many committees identified. There's the DM China Committee,
25 the ADM China Committee, as I've flagged, and also there's an
26 ADM biweekly meeting on India. That one's mentioned on page
27 31. Is this list comprehensive?

28 **MR. ALLEN SUTHERLAND:** I can't attest as to

1 whether it's comprehensive, but I can say that it does -- as
2 you can see, there are a number of committees mentioned. I
3 believe it's comprehensive, but I don't know it for a fact.

4 **MS. SARAH TEICH:** Okay. Do you know if there
5 are any other country-specific committees besides those
6 related to China and India?

7 **MR. ALLEN SUTHERLAND:** At all within the
8 federal government?

9 **MR. GREGORY TZEMENAKIS:** Sorry to interrupt.
10 Apologies to my friend. The Institutional Report was
11 specifically crafted within the scope of this Foreign
12 Interference Inquiry, so there may be other committees.
13 They're not all listed. The beginning of the section
14 identifies which committees are listed and why they are
15 listed. So you can direct the witness to that portion. That
16 might help.

17 **MS. SARAH TEICH:** Okay. Sure. I'm not sure
18 exactly what portion or what page number that's at. Okay.
19 Maybe I'll just skip that question. It's all right.

20 In your opinion, would it be valuable to have
21 committees dedicated to other states, any other states that
22 may not be already included that engage in foreign
23 interference and transnational repression?

24 **MR. ALLEN SUTHERLAND:** It's hard for me to
25 comment on it, given that I don't know what these committees
26 -- the operations of these committees.

27 **MS. SARAH TEICH:** Okay. Fair enough. As a
28 whole, I understand that the DI has increased its engagement

1 efforts. Is the DI engaging with diaspora community groups?

2 **MR. ALLEN SUTHERLAND:** We are attempting to
3 kind of develop through our various products, making them
4 diaspora friendly.

5 I would also note that, you know, DI is a
6 very small unit. The DI Protecting Democracy Unit is only 10
7 people. If we speak of the Government of Canada itself, the
8 answer is certainly yes. As well, being attuned to the
9 issues of diaspora groups, I would just simply note that, you
10 know, all the recognized political parties develop the terms
11 and reference for the Foreign Interference Inquiry, which
12 includes a specific focus on diaspora groups, which again
13 speaks to the concern about diaspora groups as it relates to
14 things like foreign interference.

15 **MS. SARAH TEICH:** Okay. But just to be
16 clear, the DI, and I understand it's very small, does not
17 engage regularly with diaspora communities?

18 **MR. ALLEN SUTHERLAND:** We engage indirectly
19 through the DCI.

20 **MS. SARAH TEICH:** Okay.

21 **MR. ALLEN SUTHERLAND:** And we also are
22 endeavouring to get our toolkits translated into minority
23 language group languages.

24 **MS. SARAH TEICH:** Okay. Okay. Those are all
25 my questions. Thank you.

26 **COMMISSIONER HOGUE:** Thank you.

27 Next one is Mr. Sirois for the RCDA.

28 **MS. NATALIA RODRIGUEZ:** Commissioner, it's

1 Natalia Rodriguez, Commission counsel. If I can just
2 interject? Sorry. Pardon my voice, I'm kind of losing it.

3 But just a reminder for counsel, if you're
4 making an intervention, please turn on your microphone so
5 that it can get picked up for the interpreters, and to just
6 say your name for the record. It makes it a lot easier for
7 the transcriptionists.

8 **COMMISSIONER HOGUE:** Good point.

9 **MS. NATALIA RODRIGUEZ:** Thank you.

10 **COMMISSIONER HOGUE:** So Mr. Sirois.

11 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

12 **MR. GUILLAUME SIROIS:**

13 **MR. GUILLAUME SIROIS:** Good afternoon.

14 **MR. ALLEN SUTHERLAND:** Good afternoon.

15 **MR. GUILLAUME SIROIS:** When did you learn
16 that Russian operatives were paying Canadian influencers \$10
17 million to establish Tenet Media, a media outlet intended to
18 influence Canadian public opinion?

19 **MR. ALLEN SUTHERLAND:** I'm not familiar with
20 your question.

21 **MR. GUILLAUME SIROIS:** You're not familiar
22 with Tenet Media?

23 **MR. ALLEN SUTHERLAND:** Yeah, Tencent, you
24 mean?

25 **MR. GUILLAUME SIROIS:** Tenet Media, the media
26 outlet that was set up by Canadian influencers and paid by
27 Russian operatives. Have you heard about that in the news?

28 **MR. ALLEN SUTHERLAND:** Yes, I have.

1 **MR. GUILLAUME SIROIS:** And when did you learn
2 about this?

3 **MR. ALLEN SUTHERLAND:** I believe I learnt
4 about it over the summer.

5 **MR. GUILLAUME SIROIS:** So before or after
6 September 5th?

7 **MR. ALLEN SUTHERLAND:** Oh, sorry, must be
8 after September 5th.

9 **MR. GUILLAUME SIROIS:** Okay. So you learned
10 through the media reports?

11 **MR. ALLEN SUTHERLAND:** Yes.

12 **MR. GUILLAUME SIROIS:** And why didn't you
13 learn about this sooner than through the media reports and
14 the unsealing of the U.S. indictment? Was there any
15 indications from anywhere in government that this was
16 happening?

17 **MR. ALLEN SUTHERLAND:** It -- so that speaks
18 to a specific piece of intel. It was also gathered by the
19 Americans. So it's not surprising that I wouldn't have come
20 across it before it reached the media.

21 **MR. GUILLAUME SIROIS:** Okay. And this was
22 happening over quite a significant portion -- amount of time,
23 at least since, like, November of 2023. And I'm wondering,
24 like, we have a plan to protect our democracy, we have a
25 bunch of institutions that are doing their own kind of work,
26 but I'm wondering why it hasn't been caught by Canadian
27 agencies, or by the government, or by non-profit
28 organizations that are contracted by the government prior to

1 the unsealing of the U.S. indictment?

2 **MR. ALLEN SUTHERLAND:** So I can only really
3 speak for what I know.

4 **MR. GUILLAUME SIROIS:** M'hm.

5 **MR. ALLEN SUTHERLAND:** Just a reminder that
6 the job of Democratic Institutions within the Privy Council
7 Office is to provide a policy framework. We're not regular
8 consumers of intel. So it's not surprising that when intel
9 is gathered, and even if it is circulated, it's circulated on
10 a need-to-know basis. So it's not a surprise that I didn't
11 happen to get the information.

12 As for your broader statement about why
13 didn't national security agencies know, I can't speak to that
14 because I'm not part of the national security agency group.

15 **MR. GUILLAUME SIROIS:** Do you think that --
16 if we want to bring it back to the policy framework, do you
17 think the policy framework failed in identifying this sort of
18 disinformation campaign?

19 **MR. ALLEN SUTHERLAND:** Not based on what
20 you've said so far.

21 **MR. GUILLAUME SIROIS:** So you think it's
22 something that can happen, and does happen, and, like, it's
23 normal ---

24 **MR. ALLEN SUTHERLAND:** You'll ---

25 **MR. GUILLAUME SIROIS:** --- to you?

26 **MR. ALLEN SUTHERLAND:** --- have to explain
27 what is it that you feel can happen or did happen?

28 **MR. GUILLAUME SIROIS:** The fact that there

1 was 50 videos about Canadian issues that Tenet Media
2 published that have been seen by half a million Canadians, or
3 half a million people, supposedly Canadians, but that, like,
4 didn't raise any red flags or yellow flags?

5 **MR. ALLEN SUTHERLAND:** I don't know whether
6 that's the case or not.

7 **MR. GUILLAUME SIROIS:** Okay. You don't know
8 whether it raised any flags within government?

9 **MR. ALLEN SUTHERLAND:** As I said, my
10 responsibility is for the policy framework. What you're
11 talking about is pretty raw national security agency
12 information, and I'm sorry, I'm not -- I did not participate
13 in anything that might have happened in that space.

14 **MR. GUILLAUME SIROIS:** I might try to frame
15 it differently then. This happened not during an election
16 period. And I heard you mention during your examination
17 earlier today that you were trying to move from an election-
18 specific issue to a 365 day ---

19 **MR. ALLEN SUTHERLAND:** Yes, the Government of
20 Canada is, yes.

21 **MR. GUILLAUME SIROIS:** And would that
22 approach help you detect the sort of disinformation campaigns
23 that didn't happen during an election period?

24 **MR. ALLEN SUTHERLAND:** Well for instance, the
25 SITE Task Force is operational now; right? So that's an
26 example of it's not the writ period, but it's -- the SITE
27 Task Force is operational now. There's far more attention to
28 issues around foreign interference than there would have been

1 four years ago.

2 So I guess I -- it's really the premise of
3 your question, that it wasn't picked up and wasn't caught.
4 You're just not asking the right person. So I apologize for
5 that, but I can't know stuff I didn't get exposed to.

6 **MR. GUILLAUME SIROIS:** No problem. Are there
7 any policies that could be implemented to better detect these
8 sort of disinformation campaigns?

9 **MR. ALLEN SUTHERLAND:** That'd be a question -
10 - it strikes me that that's a question of trade craft and
11 it'd be addressed to the national security agencies.

12 **MR. GUILLAUME SIROIS:** I'm sorry. I thought
13 you were the policy person.

14 **MR. ALLEN SUTHERLAND:** I am the policy
15 person.

16 **MR. GUILLAUME SIROIS:** So any policies that
17 could be developed to better address this disinformation?

18 **MR. ALLEN SUTHERLAND:** Well, I suppose there
19 could be more support for national security agencies.

20 **MR. GUILLAUME SIROIS:** And it necessarily has
21 to be national security agencies that address these sort of
22 issues.

23 **MR. ALLEN SUTHERLAND:** The sort of
24 information that, you know -- your targeting of, you know,
25 clandestine FI strikes me as something that would naturally
26 engage the national security agencies.

27 **MR. GUILLAUME SIROIS:** No others. No other
28 agencies.

1 **MR. ALLEN SUTHERLAND:** I would -- how would I
2 frame it this way?

3 It would seem to be primarily of interest to
4 the national security agencies.

5 **MR. GUILLAUME SIROIS:** Who else?

6 **MR. ALLEN SUTHERLAND:** You know, it could
7 have a broader interest with -- no, I think the national
8 security agencies should be those who are primarily concerned
9 with the issue that you raised.

10 **MR. GUILLAUME SIROIS:** Okay. Do you know if
11 there has been any consequences to this disinformation
12 campaign?

13 I suppose not because they were addressed by
14 national security agencies, as you say.

15 **MR. ALLEN SUTHERLAND:** I'm not aware of any.

16 **MR. GUILLAUME SIROIS:** And so that brings us
17 to another point, perhaps, is that national security
18 agencies, by the very nature of their work, typically operate
19 in secret or like their work is not typically known by
20 Canadians. Do you think that's -- like we can't discuss
21 about this because most of this information is secret. CSE
22 told us this morning that they cannot answer any questions
23 about Tenet Media because it's protected by national security
24 confidentiality.

25 Do you think that's a risk to our democracy,
26 the fact that the diaspora or the Canadian public cannot know
27 about what our government is doing about these issues?

28 **MR. ALLEN SUTHERLAND:** I think it's a very

1 challenging area. Of course there will be some things that
2 are subject to -- and appropriately so. There's a need to
3 protect sources. There's a need to protect methods. Those
4 things cannot be broadly known.

5 But the broad features of foreign
6 interference, I would argue, can be made known to Canadians
7 and there has been substantial amount of work that has taken
8 place to try and do that. I think more needs to be done, so
9 in that sense I agree with you.

10 For instance, CSE and CSIS have regularly
11 produced reports outlining the threat environment. There
12 have been at least four reports. At the time they were first
13 introduced, it was the first time anywhere in the world that
14 such a report had been created outlining the threats to
15 democracy within Canada.

16 So that's one way that I think the national
17 security agencies are trying to provide the information they
18 can about their understanding of the threat environment. And
19 if you go to those reports, you'll see that they do name
20 countries, including Russia, in their threats -- threat
21 reports.

22 I think, too, that if you look at the
23 activities of former CSIS Director David Vigneault, he went
24 to the Board of Trade in Toronto and talked about these
25 issues, and other places as well. And I mean, you'd have to
26 check the record, but I believe he mentioned Russia.

27 I think that it's an overall government
28 challenge to find ways to inform Canadians of the threat

1 facing their democracy. I think that it's important to be
2 proportionate.

3 Canadian democracy is resilient. Canadian
4 democracy is -- has the -- our elections have integrity and
5 will continue to have integrity. And just as we've seen
6 around the world in countries in far more precarious
7 situations than Canada, they are still able to have
8 democratic events with integrity.

9 We've just seen it in France and Britain.
10 We've seen it in Taiwan, Estonia, Finland. Countries really
11 on the front line of the sort of disinformation you're
12 worried about are still able to conduct democratic elections,
13 and there's no reason why Canada can't.

14 I think the dialogue that you talk about is
15 an important one. It needs to be conducted very carefully.

16 And just to repeat, we cannot reveal our
17 tradecraft and we cannot reveal our methods.

18 **MR. GUILLAUME SIROIS:** So for you, it's not a
19 problem that this sort of things are happening in Canada and
20 we cannot know, for instance, why it's -- we learn from it
21 from the United States rather than from Canada or when did
22 our security agencies become aware of these.

23 **MR. ALLEN SUTHERLAND:** I think in the
24 specific instance, I think you need to talk to the national
25 security agencies.

26 **MR. GUILLAUME SIROIS:** Okay. Those are my
27 questions.

28 **MR. ALLEN SUTHERLAND:** Thank you.

1 COMMISSIONER HOGUE: Thank you.

2 Mr. Chantler for the Concern Group.

3 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

4 MR. NEIL CHANTLER:

5 MR. NEIL CHANTLER: Good afternoon, Mr.
6 Sutherland.

7 MR. ALLEN SUTHERLAND: Good afternoon.

8 MR. NEIL CHANTLER: Neil Chantler for the
9 Chinese Canadian Concern Group.

10 Could the Court Operator please pull up
11 WIT94? This is your interview summary.

12 MR. ALLEN SUTHERLAND: Okay.

13 MR. NEIL CHANTLER: I'm going to ask you some
14 questions about an idea that you touched on earlier about
15 arming the public with more information about foreign
16 interference ---

17 MR. ALLEN SUTHERLAND: Yeah.

18 MR. NEIL CHANTLER: --- as well as some of
19 the lessons we may have learned from countries like Taiwan.

20 At paragraph 17, please, of this document.

21 This is where you refer to Taiwan, and I'll
22 just read aloud:

23 "The DI, or the Democratic
24 Institution's, secretariat keeps a
25 running inventory of what they have
26 seen internationally in an attempt to
27 identify various foreign actors'
28 tradecrafts. For example, Mr.

1 Sutherland paid close attention to
2 how Taiwan's ecosystem successfully
3 combatted or cleansed itself from
4 meaning how it successfully exposed
5 disinformation to citizens, rendering
6 it ineffective. Artificial
7 intelligence generated foreign
8 disinformation during its 2024
9 Presidential election."

10 What can you tell us about Taiwan's methods?
11 What did they do in Taiwan that was different and -- from
12 what we've been doing in Canada?

13 **MR. ALLEN SUTHERLAND:** Well, so I had the
14 benefit of attending a conference hosted by the University of
15 Ottawa as well as Global Affairs Canada and, actually, the
16 U.S. Embassy, and there we had a real privilege to see and
17 meet with various members of the -- of civil society groups
18 in Taiwan.

19 The thing that is very impressive -- many
20 things are impressive about Taiwan, but the thing that I
21 would underscore in the democratic space is their civil
22 society's ability to identify mis and disinformation. In
23 this case, it's artificial -- AI generated mis and
24 disinformation. There was like -- to my knowledge, it's the
25 first recorded AI generated example of mis and disinformation
26 occurred during their 2024 Presidential campaign.

27 They were able to call it out very quickly
28 and it spoke to the effectiveness -- because it wasn't a

1 government agency that did it. It was their civil society
2 that did it. And it just spoke to a very effective civil
3 society and the potential of civil society to play a very
4 important role in combatting FI and mis and disinformation.

5 **MR. NEIL CHANTLER:** So these were not steps
6 taken by the Taiwanese government in ways ---

7 **MR. ALLEN SUTHERLAND:** Not to my knowledge.
8 I mean, you could speak with them and you might get a
9 slightly different answer, but in the main part, it was civil
10 society that led the way.

11 **MR. NEIL CHANTLER:** And how are you measuring
12 success? How do you know that what happened in Taiwan was
13 successful at combatting the foreign interference, the
14 artificial intelligence that was happening?

15 **MR. ALLEN SUTHERLAND:** So in this particular
16 case, it didn't have an impact on the election. It was AI
17 generated mis and disinformation that affected a candidate
18 and it was debunked quickly and effectively.

19 **MR. NEIL CHANTLER:** Success is often a
20 difficult thing to measure in this forum, isn't it,
21 combatting foreign interference? We're never really sure
22 what the impact might be.

23 **MR. ALLEN SUTHERLAND:** I -- yes, that makes
24 sense.

25 **MR. NEIL CHANTLER:** It's hard to measure the
26 impact of foreign interference and, conversely, it's hard to
27 measure our efforts to combat it.

28 **MR. ALLEN SUTHERLAND:** But I think we can say

1 that when something gets debunked quickly and effectively,
2 it's been successful.

3 **MR. NEIL CHANTLER:** If we can please scroll
4 to paragraph 21, this same document.

5 Here is where you talk about recent efforts
6 by the SITE Task Force to post by-election public reports.

7 **MR. ALLEN SUTHERLAND:** Yes.

8 **MR. NEIL CHANTLER:** And you say:

9 "This addresses a need to demonstrate
10 to Canadians that efforts were under
11 way to ensure the integrity of
12 elections."

13 This is part of government being more
14 transparent about foreign interference; right?

15 **MR. ALLEN SUTHERLAND:** Correct.

16 **MR. NEIL CHANTLER:** And this is in contrast
17 to the approach in 2021, or the conclusion in 2021 that
18 alerting the public about foreign interference might actually
19 erode confidence in our electoral systems. We've evolved
20 from that. This is the evolution.

21 **MR. ALLEN SUTHERLAND:** I think it's a
22 question of evolution. I think that Canadian and Canadian
23 society's in a very different context than it was in 2019 and
24 2021.

25 The mere fact of this Inquiry is helping to
26 inform Canadians of the threats that they face. I think that
27 there's an expectation among Canadians about being informed
28 that probably didn't exist in certainly 2019.

1 So what the government's trying to do is
2 evolve its approaches as society changes, as the threats
3 evolve, and one of the areas that we're giving attention to,
4 and I know you are in the Inquiry situation as well, is just
5 how to normalize communication so that if the government were
6 to step forward with something, that it's not seen as being
7 kind of something that undermines the integrity of the
8 election.

9 We're very mindful that there is a
10 possibility that government intervention could amplify things
11 by drawing attention to it or repeated interventions could
12 lead to a sense that, well, something's not right. There
13 must -- is the integrity threatened.

14 If we can normalize communications and
15 explain to Canadians based on now their higher level of
16 knowledge of these issues, I think that we're in a better
17 space now than we were before.

18 **MR. NEIL CHANTLER:** It certainly ---

19 **MR. ALLEN SUTHERLAND:** Sorry. That was a
20 long answer.

21 **MR. NEIL CHANTLER:** Sorry.

22 It does seem like a positive step forward.
23 My client group would certainly agree that the dissemination
24 of foreign interference information targeting the Chinese
25 community certainly helps better protect them from foreign
26 interference.

27 But I'm going to suggest to you that there
28 might be some risks to this new approach, and I expect that

1 they have been considered. And I'm interested to hear how
2 they've been considered and how you've worked around these
3 risks.

4 The first of two risks, I'll suggest to you,
5 is it's possible now that the public might become
6 desensitized to foreign interference announcements such that
7 they no longer pay attention to them. Has that risk been
8 considered and how have you worked around that in your own
9 reasoning?

10 **MR. ALLEN SUTHERLAND:** I think it has to do -
11 - so the desensitization of risk, I think it's about the
12 clear expression -- like we -- while we don't want them to be
13 dramatic, seen as kind of democracy-ending bits of
14 information, nor do we want them to be seen as ho hum and no
15 one pays attention. I think the sweet spot is to clearly
16 explain what's happened, why it's happened and what Canadians
17 can do to protect themselves and then, from there, I would
18 trust Canadians to both -- understand both the magnitude of
19 the risk and also that it -- because it involves our
20 democracy, it's important, too.

21 So I think the chances of desensitization,
22 I'm hopeful, are not high.

23 **MR. NEIL CHANTLER:** Presumably the answer
24 will be in the messaging. If something ---

25 **MR. ALLEN SUTHERLAND:** Yes.

26 **MR. NEIL CHANTLER:** --- is very serious, that
27 ---

28 **MR. ALLEN SUTHERLAND:** I would agree with

1 that.

2 **MR. NEIL CHANTLER:** --- will be clear in the
3 messaging.

4 **MR. ALLEN SUTHERLAND:** Yeah.

5 **MR. NEIL CHANTLER:** The second risk is that
6 it's possible the public might come to rely on the
7 government's assessments of foreign interference and
8 announcements about foreign interference and trust that if an
9 announcement hasn't been made, then there must not be any
10 outstanding issues of foreign interference. This is
11 sometimes referred to as the burden of benevolence that
12 you're taking on or otherwise an expectation trap.

13 How have you worked around that notion, that
14 by taking this role on you really must take it seriously?
15 And the public's going to be relying on the government to now
16 make announcements about foreign interference.

17 **MR. ALLEN SUTHERLAND:** I think part of our
18 response is not to simply rely on government so that that
19 speaks to what we think is an important role for civil
20 society and civil society actors, there's an important role
21 for media and there's an important role for political Parties
22 as well to play their role in trying to -- buttressing our
23 democracy.

24 So I take your point, like will Canadians sit
25 on their hands and if they don't hear anything, then they
26 don't need to care about, you know, mis and disinformation.
27 I'm hopeful that that's not the case.

28 I think it's not the case in the interim just

1 given where we are as a society, but maybe going forward it
2 might become an issue and we would address it at that time.

3 **MR. NEIL CHANTLER:** It certainly is a risk
4 when the government starts making announcements about things
5 that it considers to be disinformation, where does that line
6 get drawn where you're going to raise the alarm bells about a
7 disinformation campaign and where are you not going to.

8 These are very difficult lines to draw, is
9 the point I'm trying to make.

10 **MR. ALLEN SUTHERLAND:** Okay.

11 **MR. NEIL CHANTLER:** You would agree.

12 **MR. ALLEN SUTHERLAND:** I don't think that
13 Canadians will simply sit on their hands when confronted with
14 information that their -- that particularly foreign
15 interference in their election is taking place. The interest
16 in this Inquiry is proof that that's not the case.

17 So I think we're far away from that at this
18 time.

19 **MR. NEIL CHANTLER:** Those are my questions.
20 Thank you.

21 **COMMISSIONER HOGUE:** Thank you.

22 Counsel for Erin O'Toole.

23 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

24 **MR. THOMAS JARMYN:**

25 **MR. THOMAS JARMYN:** Good afternoon, Mr.
26 Sutherland.

27 **MR. ALLEN SUTHERLAND:** Good afternoon.

28 **MR. THOMAS JARMYN:** My name's Tom Jarmyn.

1 I'm counsel for Erin O'Toole.

2 I'd like to ask you some questions about the
3 role of the PDU and social media.

4 And so my understanding is that PDU is
5 responsible for coordinating relationships with the various
6 social media enterprises that operate within Canada. Is that
7 correct?

8 **MR. ALLEN SUTHERLAND:** That is -- I think
9 that's an overstatement of the role of the PDU. What we did
10 in 2019 and 2021 is, on behalf of the Minister responsible
11 for democratic institutions, we engaged with them on the
12 Canada Declaration on Electoral Integrity Online.

13 **MR. THOMAS JARMYN:** Okay.

14 **MR. ALLEN SUTHERLAND:** By that I mean to say
15 that there are other groups, including national security
16 agencies, which have their own relationships with the social
17 media platforms.

18 **MR. THOMAS JARMYN:** All right. Thank you.

19 But the PDU is responsible for policy
20 development, or at least policy coordination within the
21 Government of Canada in considering the relationship between
22 social media and our democratic institutions.

23 **MR. ALLEN SUTHERLAND:** Yes.

24 **MR. THOMAS JARMYN:** Is that accurate?

25 **MR. ALLEN SUTHERLAND:** So we -- like we don't
26 have a monopoly on this. I don't want to leave you with that
27 impression. But as relates to the protecting democracy plan
28 led by the Minister responsible for democratic institutions,

1 we are providing -- we provide guidance to him or her in the
2 development of things that include social media platforms.

3 **MR. THOMAS JARMYN:** All right. I'd like to
4 turn our attention to WeChat. And I put it to you that
5 WeChat is fundamentally different as a social network from
6 Facebook or X or Google. Would you agree with that?

7 **MR. ALLEN SUTHERLAND:** I would agree that
8 it's significantly different, yes.

9 **MR. THOMAS JARMYN:** And if we can bring up,
10 Court Reporter, CAN11293.

11 And if you could just shrink it modestly so
12 that we can see a little bit more of the page.

13 So this is an intelligence assessment memo
14 from July of 2023, and it talks about the Communist Party of
15 China's efforts to dominate the media landscape. And it
16 talks in the third bullet:

17 "The CPC controls narratives by
18 limiting opportunities for dissenting
19 voices, providing economic incentives
20 and fostering self-censorship."

21 And then in the sixth bullet, it talks about
22 how those things foster -- or support transnational
23 repression efforts and attempts to influence electoral
24 outcomes.

25 This is all consistent with your
26 understanding of the CPC's view of our democratic
27 institutions?

28 **MR. ALLEN SUTHERLAND:** So just to note, this

1 is an Intelligence Assessment Secretariat document, and it's
2 their set of key judgments. And I have no reason to disagree
3 with it.

4 **MR. THOMAS JARMYN:** Okay. I'd like to scroll
5 down to paragraph 11 at the bottom of page 3.

6 And this, in particular, discusses WeChat as
7 being one of the top online Chinese language news providers.
8 And more particularly in paragraph 12, if you go down to the
9 top of the next page, it talks about WeChat's all-
10 encompassing nature as a multipurpose service and how it
11 "facilitates CPC surveillance, repression and influence
12 operations".

13 Is -- again, is -- your understanding of the
14 control by the CPC over the WeChat network, is this
15 consistent with your understanding as well?

16 **MR. ALLEN SUTHERLAND:** I would say that I'm
17 not an expert in WeChat. So at an analytical level, I would
18 rely on the work of the IAS Secretariat.

19 **MR. THOMAS JARMYN:** Okay. But in attempting
20 to -- I understood from your comments from Commission counsel
21 that there have been discussions about bringing WeChat into
22 our Protecting Democracy Online Initiative. Is that really
23 possible, given these levels of control by the Chinese
24 Government?

25 **MR. ALLEN SUTHERLAND:** So it is certainly
26 something that we will need to consider as we go forward.
27 It's important to note that what I spoke of was an
28 introductory chat to see what was possible. We will have

1 further discussions. We will engage with the national
2 security agencies as we kind of move along, and if we can
3 reach an agreement, we will do it.

4 I would note that it's -- you know, the
5 Canada Declaration is a voluntary agreement and part of what
6 it's trying to do is create a link between the social media
7 platform and the government, such that if there is an issue
8 that were to arise, that there's a way of reaching out to
9 them to make sure that they follow their community standards.
10 So it's intended to try and promote good behaviour. It is
11 voluntary. I do not want to overstress its importance.

12 I take your comments about the need to
13 approach this very cautiously. I think we're doing that.
14 But I think it was important to start having those
15 discussions to see what was possible.

16 **MR. THOMAS JARMYN:** But the comment from the
17 intelligence agencies is that WeChat is designed in a way
18 that facilitates the spread of disinformation and
19 misinformation that facilitates China's interests. So if
20 it's a design feature, can an agreement even do anything for
21 us there?

22 **MR. ALLEN SUTHERLAND:** Well that's what all -
23 - that's what we'll need to work through together with the
24 national security agencies.

25 **MR. THOMAS JARMYN:** Okay. Thank you.

26 If I could ask the Reporter to bring up

27 CEF302_R?

28 So this is a document from August 19th of

1 2024 in which the Commissioner of Elections, essentially it
2 reviews the complaints that were made with respect to the
3 Greater Vancouver Area in the 2021 Election.

4 And to be right up front, the Commissioner
5 found that there was no basis to proceed with an undue
6 foreign influence charge.

7 But the important thing is that in the course
8 of 302 -- of this investigation, the Commissioner, or her
9 staff rather, interviewed a number of electors in that
10 region.

11 So I'd like to go to paragraph 96, which is
12 on PDF page 41. And if you could scroll down so that we see
13 the bottom of the paragraph?

14 So about half way down, there's a sentence
15 that talks about one of the interviews:

16 "He also reported, as did other
17 interview subjects, that, with
18 WeChat, you can only post what the
19 Chinese government allows you to
20 post, so the recipient can only see
21 what the government allows them to
22 see, other material is censored,
23 increasingly by use of artificial
24 intelligence..."

25 And then at the end:

26 "In the end, investigators were left
27 with the clear understanding that
28 Chinese Canadian WeChat users whom

1 investigators interviewed expect the
2 PRC to be monitoring their conduct
3 and content on WeChat.”

4 So here we've got not just the global
5 assessment, but actual people on the ground believing the
6 accuracy of the global assessment.

7 What steps would the PDU be taking in order
8 to develop -- or to convey to the Chinese diaspora about
9 things about the secrecy of the ballot and how they need --
10 they shouldn't, or maybe they should, worry about these kinds
11 of activities?

12 **MR. ALLEN SUTHERLAND:** So the PDU group is
13 not equipped to engage in the way you're suggesting. I think
14 that this is more an issue of engagement with diaspora groups
15 writ large and it's more appropriately a Government of Canada
16 initiative.

17 **MR. THOMAS JARMYN:** And you're aware of
18 reports as well that the same sort of techniques have been
19 used against MP Chong, and in fact, that led to the
20 declaration that the Chinese Consul -- one of the Chinese
21 Diplomatic staff was *persona non grata*? Is that correct?

22 **MR. ALLEN SUTHERLAND:** So just on MP Chong, I
23 believe you set out the steps out correctly.

24 **MR. THOMAS JARMYN:** Okay. Thank you.

25 Finally I'd like to quickly turn to TikTok
26 and go to CAN4358_0001.

27 And this is strategic overview and it talks
28 about:

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

4 And subsequently, later on the analysis is
5 because of the *National Cyber Security Law*, the *National*
6 *Intelligence Law*, and the *National Security Law*, that TikTok
7 is a tool of the Chinese Government to spread disinformation.

8 Is that your understanding as well?

9 **MR. ALLEN SUTHERLAND:** I'm not in a position
10 to comment on that.

11 **MR. THOMAS JARMYN:** Okay. Thank you very
12 much. Those are all my questions.

13 **COMMISSIONER HOGUE:** Thank you.
14 Counsel for Jenny Kwan. Ms. Kakkar or Mr.
15 Choudhry?

16 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

17 **MS. MANI KAKKAR:**

18 **MS. MANI KAKKAR:** Good afternoon,
19 Commissioner.

20 And good afternoon, Mr. Sutherland.

21 **MR. ALLEN SUTHERLAND:** Good afternoon.

22 **MS. MANI KAKKAR:** I am Mani Kakkar. I am
23 counsel for Ms. Kwan. I actually have some questions for you
24 with respect to DM CIR, which I believe you explained in your
25 testimony is equivalent to the Panel of Five in many ways,
26 but just functions outside of the caretaker period?

27 **MR. ALLEN SUTHERLAND:** So it does -- so your
28 -- it's a correct statement. It operates outside the

1 caretaker period. It has many of the qualities of the panel
2 that -- including three of its members are also members who
3 have become members of the panel. It's different though in
4 that DM CIR exists at a time when ministerial authorities are
5 still in place.

6 **MS. MANI KAKKAR:** I appreciate that. And
7 actually, I'd like to delve into some of the details around
8 the similarities and differences.

9 I believe it was your testimony when
10 Commission counsel brought you to CAN.DOC31722 that the use
11 of the word "threshold" there wasn't sort of capital T
12 threshold the way it is for the Panel of Five. Am I to
13 understand that threshold for DM CIR is different than the
14 Panel of Five?

15 **MR. ALLEN SUTHERLAND:** The threshold for the
16 Panel of Five is laid out in the Cabinet Directive. I don't
17 know what the, you know, the small T threshold is that is
18 being used for DM CIR.

19 I think it's one that exists in relation to
20 ministerial authorities, so I think it probably has to do
21 with issues around government communications. So you'll
22 recall that DM CIR was in place during the nine by-elections
23 and we had the spamouflage incident and the Michael Chong
24 incident. In both those cases, the -- it is not necessarily
25 clear to me that that's the same as a threshold that affects
26 the integrity of the election, but it was one that, using
27 their small T threshold, was enough to do fuller engagement
28 by, in this case it would have been the rapid response

1 mechanism.

2 **MS. MANI KAKKAR:** Okay. So then I believe
3 what you're saying, in part, is that Canadians might have a
4 different response for DM CIR in by-elections than they can
5 expect from the Panel of Five during elections?

6 **MR. ALLEN SUTHERLAND:** So this is where I was
7 trying to draw a bit of a link that in fact by-elections are
8 allowing us to test a more proactive Government of Canada
9 communications approach. And I suggested it would happen in
10 two ways. One, greater transparency because the SITE Task
11 Force provided, pretty soon after the election, an assessment
12 afterwards of the integrity of the election. I think that's
13 very important, to give Canadians the assurance they need.

14 But then there was also a leaning in on
15 communications, in this case spamouflage and Michael Chong,
16 which speak to, you know, again, small T threshold events.

17 But I think that what it's suggesting is
18 revolving new strategies and tactics, responding to what we
19 think is a changed environment, which since -- you know, I
20 would -- people place it differently, but I would place it
21 around the Russian invasion of the Ukraine where governments
22 have shown a greater interest in stepping forward, calling
23 out foreign state actors who interfere, and that's what we
24 were trying to do there. So I think it's showing a more
25 advanced practice, an evolving practice.

26 **MS. MANI KAKKAR:** I appreciate that comment,
27 and you know, I appreciate that, like anything, your response
28 is going to evolve as your knowledge of the threat actors

1 evolves and as the Canadian public's knowledge evolves.

2 But I want to clarify one more distinction
3 and then ask the question I have around the inconsistencies
4 between responses during by-elections versus elections. But
5 to be clear, as well as the sort of lower "t" threshold being
6 different, the response can be different too. You had sort
7 of described the Panel of Five as a single-purpose entity,
8 whereas the Ministers have different accountabilities and
9 different tools at their disposal.

10 **MR. ALLEN SUTHERLAND:** Yes.

11 **MS. MANI KAKKAR:** Okay. And so that means
12 that during a by-election, the group of people that are
13 responsible for, perhaps, communicating with the public about
14 any possible interference that they feel meets a Threshold,
15 different thresholds again, capital "T" versus lower "t",
16 also could respond in different ways. They could, during a
17 by-election, have a much wider toolkit but somehow during a
18 General Election have a single-purpose tool that they can
19 use. Does that seem disproportionate to you?

20 **MR. ALLEN SUTHERLAND:** No, and let me try and
21 explain it.

22 **MS. MANI KAKKAR:** Sure.

23 **MR. ALLEN SUTHERLAND:** We'll see how I do.

24 **MS. MANI KAKKAR:** Sounds good.

25 **MR. ALLEN SUTHERLAND:** I think you're quite
26 right in saying that there could be a range of tools that are
27 used. You could have, in global diplomatic terms, a
28 *démarche*; you call in the Ambassador, you make an

1 announcement with your comms people, you make an announcement
2 with your experts outlining what's happened. The Panel's
3 threshold is meant when you have an incident that threatens
4 the integrity of the election. It means that the Panel steps
5 forward, it performs its task of identifying what has
6 happened and how Canadians can protect themselves. It is
7 meant to be used rarely.

8 What we're evolving using, to use your
9 language, the lower "t" threshold, is the broader range of
10 responses that might be possible from the Government of
11 Canada engaging different units in different ways. It could
12 be threat reduction measures, which may not have a public
13 face. And I think you heard from witnesses earlier today who
14 talked of that. But just to say there is a broader range to
15 the toolkit that could be brought to the fore to address
16 those issues that you identified.

17 **MS. MANI KAKKAR:** And I apologize; I remain a
18 little confused. Are you saying that there's a broader range
19 of toolkits during the general elections or during the by-
20 elections or both?

21 **MR. ALLEN SUTHERLAND:** Sorry if I've been
22 confusing.

23 **MS. MANI KAKKAR:** No, that's okay.

24 **MR. ALLEN SUTHERLAND:** I'm saying that the
25 full range of tools could be brought into place during a full
26 election, as you have seen in the by-election. The by-
27 election proofs is pilot for what might take place in the
28 broader General Election.

1 **MS. MANI KAKKAR:** Okay. So you're saying
2 that the broader range of tools that we've been seeing in
3 these by-elections is something that either is or will be in
4 place ---

5 **MR. ALLEN SUTHERLAND:** Could be. Could be.

6 **MS. MANI KAKKAR:** --- could be in place for
7 the general elections. Do you agree with me that by-
8 elections should be no more or less protected than the
9 general election because our general election is certainly
10 sort of like 330-plus by-elections?

11 **MR. ALLEN SUTHERLAND:** So the difference
12 between the two is in by-elections ministerial authorities
13 are fully intact and the Cabinet Directive doesn't take
14 place. So I think that the toolkit in both cases is
15 similarly large but not exactly the same because you don't
16 have the Panel for the by-elections.

17 **MS. MANI KAKKAR:** Would you agree, though,
18 that the same possible situation of foreign interference
19 should be arguably or theoretically dealt with in the same
20 way during a by-election that it should be in a general
21 election, that there should be no real difference?

22 **MR. ALLEN SUTHERLAND:** I think in practice
23 what I'm saying is the two will be very similar.

24 **MS. MANI KAKKAR:** Okay, I appreciate that.

25 I want to now look at the issue of political
26 parties and the kind of briefings that you're providing them.
27 At page 8 of your summary, of your interview summary -- and
28 we don't need to bring that up -- you talked about briefings

1 to political parties.

2 **MR. ALLEN SUTHERLAND:** Yes.

3 **MS. MANI KAKKAR:** And what's become
4 increasingly clear in this Commission is that nomination
5 contests -- or, sorry, nomination processes and leadership
6 contests are also the subject of foreign interference, that
7 they can be manipulated and sometimes more effectively than
8 general elections for a variety of reasons, including how
9 close they can be.

10 Can I ask you, the briefings that you've been
11 -- or I should say that have been provided either at the
12 instruction of recommendations made by DM CIR, certain
13 Ministers, or government agencies, and as far as you're
14 aware, have they included information around nomination
15 contests or leadership contests and risks to them?

16 **MR. ALLEN SUTHERLAND:** So not to my
17 knowledge, but nor have I been part of every briefing.

18 **MS. MANI KAKKAR:** I appreciate that you may
19 not have been a part of it. In your view as someone who
20 designs policy, should they be?

21 **MR. ALLEN SUTHERLAND:** So the issue of
22 nomination contests is a very sensitive one. I noted the
23 first report of the Commission on this space. I would note,
24 too, that there have been some recommendations by Stéphane
25 Perrault in this space, and that he has provided the
26 recommendation that Elections Canada isn't well placed to
27 administer nomination contests.

28 I would add kind of two points, one is that

1 this, very directly and immediately, impacts the political
2 parties, so it's -- and I'm sure you'll do this as part of
3 your work, but engaging the political parties on this is
4 absolutely essential. They're the experts on how nomination
5 contests exist.

6 My only other point on this issue would be
7 that nomination contests themselves are exercises in
8 democracy, grassroots local democracy. So if there were --
9 and I'm not suggesting you would propose this, but if there
10 were burdensome regulations put in place, it might have an
11 adverse effect, particularly on lesser -- on smaller parties
12 and also in making nomination contests less likely to happen,
13 which itself would be kind of adverse to the interests of
14 democracy. So just a couple of thoughts on that.

15 **MS. MANI KAKKAR:** I appreciate that. I also
16 appreciate that I'm over my time.

17 May I ask for a small indulgence for one
18 follow-up question and one final question?

19 **COMMISSIONER HOGUE:** Yes, but rapidly.

20 **MS. MANI KAKKAR:** Keep it short. Okay.

21 I think my question in this regard was more
22 about whether you think that any intelligence that might be
23 relevant to a nomination process but not an election should
24 be shared with political parties in the kinds of briefings
25 that DM CIR might recommend to a Minister, or that the Panel
26 of Five may recommend once it's -- if its toolkit is
27 expanded.

28 **MR. ALLEN SUTHERLAND:** So that's a very

1 theoretical question, but in theory, yes.

2 **MS. MANI KAKKAR:** Okay. Thank you.

3 And my final question is one that takes into
4 the fact that, you know, we just talked about nomination
5 contests and political parties, which are partisan
6 activities, grassroot democratic activities as well. And
7 then you take into account also we had testimony earlier that
8 members of the House have, you know, two devices, one for
9 their House duties and one for their partisan duties. But
10 it's a very blurry line at times because, in reality, the
11 line between partisan activity and your role as an MP may be
12 blurred.

13 With all of that taken into account, the sort
14 of FI nomination processes, that blurred line, do you think
15 that there is a reason to have an independent body of some
16 kind instead of the DM CIR or the Panel of Five, which during
17 the caretaking period and outside of that perhaps with
18 delegated ministerial authority, functions to provide -- to
19 serve this role, given that the line is so blurry, given that
20 this is going to cover more than just government action?

21 **MR. ALLEN SUTHERLAND:** And, sorry; this is to
22 support political parties?

23 **MS. MANI KAKKAR:** This is not specifically to
24 support political parties, but the idea would be that instead
25 of the Panel of Five or DM CIR you have an independent body
26 that decides if a threshold is met or if action needs to be
27 taken in the context of a by-election or election, and they
28 would be independent because the line between partisan

1 activity and sort of government -- or House of Commons or MP
2 or government activity is so blurry that it might be better
3 for an independent body to serve that role.

4 **MR. ALLEN SUTHERLAND:** No, I don't agree with
5 that. The advantage of the Panel of Five is that it is
6 neutral, non-partisan, highly professional. It's an
7 effective, nuanced, decision-making group and it is closely
8 connected to our national security agencies and the
9 information needed to make the sort of determinations
10 expected of it. So I don't agree with that.

11 **MS. MANI KAKKAR:** Thank you, Mr. Sutherland.

12 **COMMISSIONER HOGUE:** Thank you.

13 AG, do you have any questions?

14 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

15 **Me SÉBASTIEN DASYLVA:**

16 **Me SÉBASTIEN DASYLVA:** Bonjour, Madame la
17 Commissaire. Sébastien Dasylva pour le ministère de la
18 Justice, gouvernement du Canada.

19 Mr. Sutherland, you were asked by Minister
20 LeBlanc to engage with provinces and territories. You
21 testified earlier that toolkit that was prepared by the PDU.
22 This was part of the engagement with province and
23 territories?

24 **MR. ALLEN SUTHERLAND:** Yes, it was.

25 **MR. SÉBASTIEN DASYLVA:** Can we put document
26 COM475 on the screen, please? I understand this is the
27 toolkit that was prepared by the PDU?

28 **--- EXHIBIT No./PIÈCE No. COM0000475.EN:**

1 Toolkit to resist DISINFORMATION and
2 FOREIGN INTERFERENCE for community
3 leaders

4 **MR. ALLEN SUTHERLAND:** Yes, it is.

5 **MR. SÉBASTIEN DASYLVA:** Can you tell us a bit
6 about what we find in this document?

7 **MR. ALLEN SUTHERLAND:** Pardon me?

8 **MR. SÉBASTIEN DASYLVA:** Can you tell us about
9 what the content of this document is?

10 **MR. ALLEN SUTHERLAND:** So this document
11 provides readers with information on mis- and disinformation
12 and the steps they can take to protect themselves.

13 **MR. SÉBASTIEN DASYLVA:** And you talked about
14 a guidebook that was also prepared ---

15 **MR. ALLEN SUTHERLAND:** Yeah.

16 **MR. SÉBASTIEN DASYLVA:** --- for public
17 servants? This is the document at CAN34019.

18 **--- EXHIBIT No./PIÈCE No. CAN034019.0001:**

19 Countering Disinformation: A
20 Guidebook for Public Servants

21 **MR. SÉBASTIEN DASYLVA:** Can you tell us about
22 the difference between the first document that we saw and
23 this one?

24 **MR. ALLEN SUTHERLAND:** So whereas the first
25 document is intended for a broader audience including
26 community leaders, provinces, and community groups, this
27 disinformation guidebook, which was also made available to
28 the provinces, is intended for public servants to help them

1 understand the impact of mis- and disinformation on
2 government services and operations.

3 **MR. SÉBASTIEN DASYLVA:** You testified *in*
4 *camera*, you spoke about a compendium of good practice that
5 was prepared. We don't have this document, but what would --
6 what was the content of that document?

7 **MR. ALLEN SUTHERLAND:** The compendium of good
8 practices as it relates to public servants, is that what
9 you're referring to?

10 **MR. SÉBASTIEN DASYLVA:** The one that was
11 prepared by PDU?

12 **MR. ALLEN SUTHERLAND:** Right. So this is
13 just outlining different good practices as relates to
14 protecting yourself against mis- and disinformation.

15 **MR. SÉBASTIEN DASYLVA:** And are these
16 documents available publicly?

17 **MR. ALLEN SUTHERLAND:** Yes. They are
18 available on the DI website. In addition, we've tried to
19 widely distribute them.

20 **MR. SÉBASTIEN DASYLVA:** Can you tell us what
21 was the objective of reaching out to the provinces?

22 **MR. ALLEN SUTHERLAND:** So provinces are
23 actually a critical democratic infrastructure. So they can
24 themselves be subject to foreign interference. They are very
25 close to their citizens who might themselves, as we've heard
26 discussed already, be subject to foreign interference.

27 And the federal government has a unique value
28 add here, because we have national security agencies, which

1 is something that's not present in the provincial government.
2 So there's a way the federal government can be helpful in
3 spreading and understanding of mis- and disinformation and
4 the possible impacts that might hit on the local and regional
5 level.

6 The provinces in turn are really important
7 because of their role in education, and in particular,
8 critical media literacy, digital media literacy, and also
9 civics. I mean, we are talking essentially when we get to
10 the core, about our democracy, and it's really important that
11 democratic practices and protections are transmitted from
12 generation to generation. So engagement with the provinces
13 is really important.

14 As I mentioned earlier in my testimony,
15 that's leaving the clerk of the Privy Council, John Hannaford
16 has engaged directly with his counterparts across provinces
17 in part to get that message across and to offer support. And
18 this occurs at different levels. I don't want to leave the
19 impression it's just the protecting democracy unit. There
20 are other groups, Elections Canada has substantial links to
21 the provinces, but so do other groups, including the RCMP.

22 **MR. SÉBASTIEN DASYLVA:** My friend from the
23 Canadian Chinese Concern Group earlier talked about the risk
24 of Canadians sitting -- I think the expression sitting on
25 their hands if there is no public announcement?

26 **MR. ALLEN SUTHERLAND:** Yes.

27 **MR. SÉBASTIEN DASYLVA:** The plan talks about
28 -- plan to protect democracy talks about building citizenship

1 resilience.

2 **MR. ALLEN SUTHERLAND:** Yes.

3 **MR. SÉBASTIEN DASYLVA:** Would that help
4 mitigating this risk?

5 **MR. ALLEN SUTHERLAND:** Yes. Engaged
6 citizenry is the strongest protection against foreign
7 interference. I think I may not have presented it as well as
8 I might have. But I think both the questioner and I agreed
9 that it's about providing, you know, solid information so
10 that Canadian can understand it, and that is also a guard
11 against being desensitized. But being aware, understanding
12 the nature of the threat, and understanding the stakes for
13 our democracy are all important considerations.

14 **MR. SÉBASTIEN DASYLVA:** Thank you. C'est
15 toutes mes questions.

16 **COMMISSIONER HOGUE:** Merci.

17 Re-examination?

18 **MS. LYNDA MORGAN:** No, thank you.

19 **COMMISSIONER HOGUE:** Thank you, sir.

20 **MR. ALLEN SUTHERLAND:** Thank you.

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

22 **MR. ALLEN SUTHERLAND:** All right. Thank you.

23 **COMMISSIONER HOGUE:** Or to stay if you wish.

24 **MR. ALLEN SUTHERLAND:** I would like to, but
25 no. Thank you.

26 **COMMISSIONER HOGUE:** We'll suspend for 15
27 minutes because we have to switch witnesses. So we'll come
28 back at let's say -- I think we can do that in 12 minutes, so

1 we'll come back at 4:00.

2 **THE REGISTRAR:** Order, please. À l'ordre,
3 s'il vous plait.

4 The sitting of the Commission is now in
5 recess until 4:00 p.m. Cette séance de la Commission est
6 maintenant suspendue jusqu'à 16h00

7 --- Upon recessing at 3:49 p.m./

8 --- La séance est suspendue à 15 h 49

9 --- Upon resuming at 4:06 p.m./

10 --- La séance est reprise à 16 h 06

11 **THE REGISTRAR:** Order please. À l'ordre,
12 s'il vous plait.

13 This sitting of the Foreign Interference
14 Commission is now back in session. Cette séance de la
15 Commission sur l'ingérence étrangère est de retour en
16 session.

17 The time is 4 :07 p.m. Il est 16 h 07.

18 **COMMISSIONER HOGUE:** Good afternoon.

19 **MS. LEILA GHAAHARY:** Good afternoon, Madam
20 Commissioner.

21 **COMMISSIONER HOGUE:** Good afternoon.

22 **MS. LEILA GHAAHARY:** For the record, it is
23 Leila Ghahhary for the Commission.

24 Madam Commissioner, before I start the next
25 examination, I just need to deal with one small housekeeping
26 matter.

27 In the examination of CSE, an institutional
28 report was put into evidence, and for the record, I'd like to

1 also enter the French version of that report into evidence.
2 There's no need to pull it up. The document ID is
3 CAN.DOC.29.

4 **--- EXHIBIT No./PIÈCE No. CAN.DOC.000029:**

5 Centre de la sécurité des
6 télécommunications - Partie C Rapport
7 institutionnel à l'Enquête publique
8 sur l'ingérence étrangère

9 **MS. LEILA GHAAHARY:** Madam Commissioner, we
10 will now hear from a panel of two witnesses, Shalene Curtis-
11 Micallef and Heather Watts, who appear on behalf of the
12 Department of Justice.

13 Mr. Registrar, please can the witnesses be
14 sworn?

15 **THE REGISTRAR:** All right. I'll start with
16 Ms. Curtis-Micallef.

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

19 **MS. SHALENE CURTIS-MICALLEF:** My name is
20 Shalene Curtis-Micallef. Curtis-Micallef is my last name, C-
21 U-R-T-I-S hyphen M-I-C-A-L-L-E-F.

22 **THE REGISTRAR:** Thank you. And now for the
23 swearing in.

24 **--- MS. SHALENE CURTIS-MICALLEF, Sworn/Assermentée:**

25 **THE REGISTRAR:** Thank you.

26 And now I'll proceed with Ms. Watts.

27 So, Ms. Watts, could you please state your
28 full name and then spell your last name for the record?

1 **MS. HEATHER WATTS:** My name is Heather Watts.
2 Last name, W-A-T-T-S.

3 **THE REGISTRAR:** Perfect. Thank you.
4 And now for the swearing in.

5 **--- MS. HEATHER WATTS, Sworn/Assermentée:**

6 **THE REGISTRAR:** Thank you.
7 Counsel, you may proceed.

8 **MS. LEILA GHAAHARY:** Thank you.

9 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR**

10 **MS. LEILA GHAAHARY:**

11 **MS. LEILA GHAAHARY:** Ms. Micallef, Ms. Watts,
12 good afternoon. I'll begin with a few housekeeping matters.

13 First of all, I want to deal with your
14 interview summary.

15 Court Operator, please could you put up
16 WIT100.EN?

17 Ms. Micallef, do you recall being interviewed
18 by Commission counsel on the 24th of June, 2024?

19 **MS. SHALENE CURTIS-MICALLEF:** Yes.

20 **MS. LEILA GHAAHARY:** And a summary of that
21 interview was subsequently prepared, and that is the document
22 that we see on our screens.

23 **MS. SHALENE CURTIS-MICALLEF:** Yes.

24 **MS. LEILA GHAAHARY:** And can you confirm that
25 you've had an opportunity to review that summary?

26 **MS. SHALENE CURTIS-MICALLEF:** I have.

27 **MS. LEILA GHAAHARY:** And do you wish to make
28 any corrections or additions to that summary?

1 **MS. SHALENE CURTIS-MICALLEF:** I do not.

2 **MS. LEILA GHAAHARY:** And can you confirm that
3 the summary's accurate, to the best of your knowledge and
4 belief?

5 **MS. SHALENE CURTIS-MICALLEF:** Yes, it is.

6 **MS. LEILA GHAAHARY:** And do you adopt that
7 summary as part of your evidence before the Commission today?

8 **MS. SHALENE CURTIS-MICALLEF:** I do adopt it.

9 **MS. LEILA GHAAHARY:** Thank you.

10 Ms. Watts, I'll ask you the same questions.
11 Do you recall being interviewed by Commission counsel on the
12 24th of June, 2024?

13 **MS. HEATHER WATTS:** I do.

14 **MS. LEILA GHAAHARY:** And do you agree that
15 the summary of that interview is the document that we see on
16 the screen?

17 **MS. HEATHER WATTS:** It is.

18 **MS. LEILA GHAAHARY:** And can you confirm that
19 you've had an opportunity to read that summary?

20 **MS. HEATHER WATTS:** I have.

21 **MS. LEILA GHAAHARY:** And do you wish to make
22 any corrections or additions to the summary?

23 **MS. HEATHER WATTS:** No, I don't.

24 **MS. LEILA GHAAHARY:** And can you confirm that
25 the summary's accurate, to the best of your knowledge and
26 belief?

27 **MS. HEATHER WATTS:** I confirm that it is.

28 **MS. LEILA GHAAHARY:** And do you adopt the

1 summary as part of your evidence before the Commission today?

2 **MS. HEATHER WATTS:** I do.

3 **MS. LEILA GHAAHARY:** Thank you.

4 For the record, the French version is at
5 WIT100.FR, and we do not need to pull that document up.

6 **--- EXHIBIT No./PIÈCE No. WIT0000100.EN:**

7 Interview Summary: Department of
8 Justice (Shalene Curtis-Micallef,
9 Samantha Maislin Dickson, Heather
10 Watts, Michael Sousa)

11 **--- EXHIBIT No./PIÈCE No. WIT0000100.FR:**

12 Résumé d'entrevue : ministère de la
13 Justice (Shalene Curtis-Micallef,
14 Samantha Maislin Dickson, Heather
15 Watts, Michael Sousa)

16 **MS. LEILA GHAAHARY:** I'll turn now to the
17 institutional report.

18 Court Operator, please could we now pull up
19 CAN.DOC.32?

20 The Department of Justice also prepared an
21 institutional report, and that is the document that we see on
22 our screens. Ms. Micallef and Ms. Watts, have you each had
23 an opportunity to review the institutional report?

24 **MS. HEATHER WATTS:** Yes.

25 **MS. SHALENE CURTIS-MICALLEF:** Yes.

26 **MS. LEILA GHAAHARY:** And do you adopt the
27 report as part of your evidence before the Commission today?

28 **MS. HEATHER WATTS:** We do.

1 **MS. SHALENE CURTIS-MICALLEF:** Yes.

2 **MS. LEILA GHAAHARY:** And again for the
3 record, the French version is at CAN.DOC.33, but there's no
4 need to pull up that document.

5 **--- EXHIBIT No./PIÈCE No. CAN.DOC.000032:**

6 Department of Justice Outline
7 Institutional Report - PIFI Stage 2

8 **--- EXHIBIT No./PIÈCE No. CAN.DOC.000033:**

9 Rapport institutionnel du ministère
10 de la Justice - Étape 2 de l'EPIE

11 **MS. LEILA GHAAHARY:** And finally, as a point
12 of reference, I want to turn to a document called a technical
13 briefing.

14 Court Operator, please could you pull up
15 WIT132?

16 **--- EXHIBIT No./PIÈCE No. WIT0000132:**

17 In Camera Technical Briefing on Bill
18 C-70, An Act Respecting Countering
19 Foreign Interference

20 **MS. LEILA GHAAHARY:** And this document is a
21 summary of an *in camera* technical briefing on Bill C-70 that
22 was provided by the Government of Canada to the Commission,
23 and we anticipate that this document will be filed in due
24 course, and it may be referred to by others during the course
25 of these proceedings.

26 Having dealt with those housekeeping matters,
27 I'll now turn briefly to deal with your professional
28 backgrounds and the role and functions of the Department of

1 Justice.

2 Ms. Micallef, if I can start with you. Are
3 you the Deputy Minister of the Department of Justice?

4 **MS. SHALENE CURTIS-MICALLEF:** I am.

5 **MS. LEILA GHAAHARY:** And have you held that
6 post since February 2023?

7 **MS. SHALENE CURTIS-MICALLEF:** That is
8 correct.

9 **MS. LEILA GHAAHARY:** And prior to that and
10 from September 2021 you served as the Associate Deputy
11 Minister for the Department of Justice.

12 **MS. SHALENE CURTIS-MICALLEF:** Yes, that's the
13 case.

14 **MS. LEILA GHAAHARY:** And the role of the
15 Department of Justice is to support the Minister for Justice,
16 who also has the dual role of the Attorney General for
17 Canada.

18 **MS. SHALENE CURTIS-MICALLEF:** Yes.

19 **MS. LEILA GHAAHARY:** And the Department is
20 headed by you and two Associate Deputy Ministers.

21 **MS. SHALENE CURTIS-MICALLEF:** Yes.

22 **MS. LEILA GHAAHARY:** And the Department is
23 responsible for justice policy development and for providing
24 the legal services to the government.

25 **MS. SHALENE CURTIS-MICALLEF:** Yes.

26 **MS. LEILA GHAAHARY:** And pausing there, Madam
27 Commissioner, it's important to highlight at this juncture
28 for both the witnesses and the parties who may ask questions

1 that in respect of the Department's legal services mandate,
2 which is litigation and advice, none of the questions I ask
3 today will seek to trespass on or elicit any information that
4 is legally privileged.

5 Ms. Micallef, the Department delivers its
6 services through a mix of units, branches and regional
7 offices, one of which is called the Policy Sector. Is that
8 right?

9 **MS. SHALENE CURTIS-MICALLEF:** That's correct.

10 **MS. LEILA GHAAHARY:** And amongst other
11 things, the Policy Sector carries out work in relation to
12 foreign interference.

13 **MS. SHALENE CURTIS-MICALLEF:** Yes, it does.

14 **MS. LEILA GHAAHARY:** Thank you.

15 Ms. Watts, I'll turn to you. You are the
16 Deputy Assistant Deputy Minister for the Department of
17 Justice?

18 **MS. HEATHER WATTS:** Yes, in the Policy
19 Sector.

20 **MS. LEILA GHAAHARY:** And I was about to say
21 you head up the Policy Sector.

22 And you've held that post since June 2022.

23 **MS. HEATHER WATTS:** That's correct.

24 **MS. LEILA GHAAHARY:** And the Policy Sector's
25 mandate includes policy development, law reform and
26 supporting the Minister in collaborating with external
27 partners and stakeholders such as the G7 and the provincial
28 and subnational governments.

1 **MS. HEATHER WATTS:** That's right.

2 **MS. LEILA GHAAHARY:** And the Criminal Law
3 Policy Section, the CLPS, is a division of the Policy Sector.

4 **MS. HEATHER WATTS:** That's right.

5 **MS. LEILA GHAAHARY:** And the CLPS is the
6 government's centre of expertise for criminal law and
7 criminal justice policy.

8 **MS. HEATHER WATTS:** That's right.

9 **MS. LEILA GHAAHARY:** And its work relates to
10 foreign interference through its policy development and law
11 reform on criminal law and evidence law as well as procedure
12 and national security law. Is that right?

13 **MS. HEATHER WATTS:** That's correct.

14 **MS. LEILA GHAAHARY:** And CLPS also provides
15 legal services to other government departments with regard to
16 foreign interference related policy issues.

17 **MS. HEATHER WATTS:** They do.

18 **MS. LEILA GHAAHARY:** And specifically, Ms.
19 Watts, you manage the criminal law and national security
20 files that involve the development of new policy, and matters
21 relating to foreign interference fall into that umbrella.

22 **MS. HEATHER WATTS:** That's correct.

23 **MS. LEILA GHAAHARY:** And another sector of
24 the Department of Justice is called the Public Safety Defence
25 Portfolio, and that is responsible for coordinating legal
26 advisory services in matters of foreign interference to CSE,
27 CSIS, the RCMP, the Department of National Defence and the
28 Canadian Armed Forces. Is that right?

1 **MS. HEATHER WATTS:** That's right.

2 **MS. LEILA GHAAHARY:** And as we've already
3 discussed, those advisory roles are the subject of legal
4 privilege.

5 Ms. Micallef, could you explain generally how
6 Justice is involved in the development of policy or
7 legislation, including the way that gaps are identified and
8 addressed?

9 **MS. SHALENE CURTIS-MICALLEF:** So the
10 Department of Justice supports the Minister, as you've noted,
11 with respect to the development of legislative and policy
12 proposals that fall within the federal realm, and that
13 includes the criminal justice system and areas such as the
14 *Security of Information Act*.

15 We work with partners within government to
16 look at the landscape of these with respect to legislative
17 reform. We also engage with academics, external parties,
18 civil society and others to identify gaps to consider where
19 modernization may be useful, and we take those inputs, we
20 look at other jurisdictions. We have relationships with
21 other like-minded countries. We speak to our provincial and
22 territorial counterparts and, depending on the topic, other
23 stakeholders.

24 **MS. LEILA GHAAHARY:** And such work has
25 included Bill C-70. Is that right?

26 **MS. SHALENE CURTIS-MICALLEF:** That's correct.

27 **MS. LEILA GHAAHARY:** And we'll come on to
28 that very shortly.

1 **MR. MATTHEW FERGUSON:** Pardon the
2 interruption. Matthew Ferguson, Commission counsel.

3 Can we -- Ms. Curtis-Micallef, can we just
4 ask you to speak into the mic? We're having trouble hearing
5 you.

6 Thank you.

7 **MS. LEILA GHAAHARY:** A broader overview of
8 the role and functions of the Department of Justice in
9 respect to foreign interference is contained in the
10 institutional report that we put up a short while ago.

11 In the interests of time, I don't intend to
12 go through it in any detail, but before I move on from your
13 background and the functions of the Department of Justice, is
14 there anything either of you would like to add?

15 **MS. SHALENE CURTIS-MICALLEF:** I think the
16 report is somewhat -- it's complete, so nothing at this
17 point.

18 **MS. LEILA GHAAHARY:** Moving on, then, to Bill
19 C-70, I'm going to ask you about the role of the Department
20 of Justice in relation to the Bill. And I should say, as we
21 all know, the Bill has now become law. Its short title is
22 the *Countering Foreign Interference Act*, but for today's
23 purposes I'll be referring to it as Bill C-70.

24 Court Operator, could you please put up
25 COM584?

26 And perhaps if you could scroll down. Thank
27 you.

28 This is a Bill C-70 Overview Report that's

1 Perhaps if you could scroll down? Thank you.

2 --- EXHIBIT No./PIÈCE No. CAN044799.0001:

3 Countering Foreign Interference

4 This is a Public Safety Slide Deck on Bill C-
5 70. It helpfully illustrates the main parts. And so we will
6 briefly look through it.

7 Could you take us to page 3 please, Court
8 Operator?

9 Ms. Watts, it's right to say that the
10 department led on the developments of Parts 2 and 3 of Bill
11 C-70?

12 **MS. HEATHER WATTS:** That's correct.

13 **MS. LEILA GHAAHARY:** And in relation to Parts
14 1 and 4, it provided legal advice and contributed to the
15 drafting, but other witnesses will be best placed to speak to
16 those parts? Is that right?

17 **MS. HEATHER WATTS:** That's correct.

18 **MS. LEILA GHAAHARY:** Let's briefly take a
19 look at each part. Part 1 provides for amendments to the
20 *CSIS Act*. Those amendments largely relate to the collection
21 of data, which we can see on page 4.

22 Court Operator, if you could scroll down?

23 And it also relates to a new power to share
24 information with non-federal entities, and that's illustrated
25 at page 5.

26 If you could take us there? Thank you.

27 Ms. Watts, in a few sentences, could you
28 perhaps help us with an explanation of the nature of those

1 two provisions?

2 **MS. HEATHER WATTS:** In the *CSIS Act*?

3 **MS. LEILA GHAAHARY:** Yes.

4 **MS. HEATHER WATTS:** The amendments? So I
5 think the main pieces of the *CSIS Act* that may be of interest
6 are the amendments, as you said, that allow the Service to
7 share information outside the federal government to equip
8 other entities with resilience against foreign interference.

9 The number two there, operating in a digital
10 world, that had to do with some of their collection
11 authorities and giving them new powers to collect information
12 and ways to collect information, rather.

13 And as well, there was a technical fix to the
14 collection of information outside of Canada and the dataset
15 regime.

16 **MS. LEILA GHAAHARY:** Thank you.

17 Court Operator, could you take us to page 6?

18 And this deals with the Part 2 changes in
19 relation to the *Security of Information Act*, or as it's
20 otherwise known, *SOIA*, and the *Criminal Code*.

21 Firstly dealing with *SOIA* at page 6, we see
22 there that the provisions of Bill C-70 expanded some of the
23 existing offences in *SOIA* and created several new ones. It
24 also changed the name of the Act to the *Foreign Interference
25 and Security Information Act*.

26 Ms. Watts, again, in a few sentences, could
27 you explain the nature of the amendments to *SOIA*?

28 **MS. HEATHER WATTS:** Sure. So the main

1 amendments to *SOIA* were we created new targeted offences
2 directed at foreign interference. So there's a new offence
3 that we've called on the slide there a general FI offence
4 committed for a foreign entity. There's also an offence to
5 commit an indictable offence for a foreign entity. This one
6 is modeled on the criminal organization and terrorism
7 offences that we have in the *Criminal Code*. And the third
8 one is a political interference offence for a foreign entity.

9 The other change was to amend an
10 existing offence. There was an existing offence in section
11 20 related to intimidation and threats of violence for a
12 foreign entity or a terrorist group and we simplified the
13 offence when it occurs in Canada and maintained the offence
14 with some minor modifications when the activity takes place
15 outside of Canada but is directed at harming Canadian
16 interests.

17 **MS. LEILA GHAAHARY:** Court Operator, could we
18 please put up 25 -- CAN, rather, 25666? And if you could
19 scroll down slightly? Thank you.

20 **--- EXHIBIT No./PIÈCE No. CAN025666:**

21 Examples of Conduct Targeted by New
22 FI Offences

23 **MS. LEILA GHAAHARY:** This is a document that
24 provides examples of conduct that would and would not be
25 captured by the new foreign interference offences that we've
26 just talked about.

27 And Court Operator, if we move through the
28 document just page by page, we can see the examples have been

1 provided in the gray shaded boxes.

2 Ms. Watts, these examples are necessarily
3 hypothetical, and we see a variety of instances when the new
4 offences could apply, but I wonder if you could help us out
5 with this. Could you explain whether the new general foreign
6 interference offence and the new political interference
7 offence would apply to non-federal and nomination processes?

8 **MS. HEATHER WATTS:** Sure. So just as
9 background for this document, it was an early policy
10 development discussion document, and so you will notice some
11 differences in the elements of the proposed offences on the
12 left-hand side that are different from what actually ended up
13 in the Bill.

14 So with that caveat, I'll just talk you
15 through it.

16 So as you mentioned, there is a political
17 interference offence that is in 20.4 of the *Security of*
18 *Information Act* that's a new offence. The idea behind that
19 offence is that it would cover interference in government and
20 political processes at all levels of government at all times,
21 including outside of election periods, and does specifically
22 apply to nomination contests, the development of party
23 platforms, et cetera.

24 **MS. LEILA GHAAHARY:** Thank you.

25 Court Operator, we can take that document
26 down. And if we can put up WIT100 again? And if you can go
27 to page 10?

28 Just taking a step back from Bill C-70 and

1 focusing on nomination races for a moment, we've heard about
2 foreign interference vulnerabilities in nomination processes.

3 And Ms. Micallef, you did help us with some
4 information around this when you were interviewed and
5 explained what challenges may arise when there is any federal
6 engagement in this issue. And looking at paragraph 10 -- I
7 beg your pardon, paragraph 33, you tell us there that
8 nomination races and party processes are purely private to
9 the parties and relate to their own choice of representatives
10 and you didn't see space in which the public service would be
11 able to be engaged. And I wonder if you could expand on that
12 and perhaps explain some more about your views around that?

13 **MS. SHALENE CURTIS-MICALLEF:** So I think
14 maybe I should add some context to that paragraph. So we
15 have within the Bill C-70 included an offence as it relates
16 to political processes and foreign interference that would
17 expressly include nomination races where there is
18 surreptitious covert activities by a foreign entity to
19 influence those.

20 The comment here is with respect to a
21 regulatory scheme, as opposed to an offence scheme, and the
22 decision on whether or not the public service engages in
23 regulating, as opposed to creating penal consequences for an
24 offence in nomination space, it's not a space that is
25 currently governed by our regulatory framework. And so that
26 is in that context where I'm speaking about their day-to-day
27 operations of political parties is not a space in which the
28 federal government is currently engaged. So I put aside one

1 piece around where there is foreign interference and there is
2 an offence that does touch on that as it applies to
3 nomination races versus general regulatory activities, and
4 how they vote, where they vote, and such things like that.

5 **MS. LEILA GHAAHARY:** Court Operator, can we
6 now go back to CAN44799, page 7, please?

7 Ms. Watts, we're still dealing with part 2 of
8 Bill C-70, but we're now turning to the Criminal Code, and
9 here we see the Bill has amended an existing sabotage offence
10 to lower the threshold of intent and to broaden the scope to
11 cover some acts done in relation to essential cyber and
12 physical infrastructure. Again, could you briefly help us
13 with an explanation about this new provision and how it might
14 apply to democratic institutions and processes?

15 **MS. HEATHER WATTS:** So a point of
16 clarification, the second bullet there that talks about
17 modernizing and clarifying the mental element, it was not
18 intended to reduce or lower the mental element required for
19 the offence of sabotage. It was really just to clean up
20 language. I think the original language was something like
21 purpose prejudicial to, and we changed it to with the intent
22 to, so it was not meant to be a substantive change.

23 The new offense that was enacted was a new
24 offence focused on conduct directed, as it says on the slide
25 there, to essential infrastructure, and then there are a list
26 of infrastructures in the Bill as illustrative examples.
27 There's a power to add to that list.

28 It's not entirely clear to me from your

1 question how that relates to democratic processes. In
2 theory, I guess, now that I'm thinking, the offense does
3 cover interference with critical infrastructure as it's
4 defined in the Bill, essential infrastructure. And in
5 theory, I guess that could include computer systems related
6 to entities of the government, potentially say for example,
7 Elections Canada, if that were to fall within the definitions
8 in the offense itself. It would depend on the facts, but
9 that could be an example.

10 **MS. LEILA GHAAHARY:** Thank you. Moving on
11 now to part three, Court Operator, could we go onto page 8,
12 please? Ms. Watts, we see there a bullet point summary in
13 relation to the *Canada Evidence Act*. Could you again briefly
14 explain these new provisions?

15 **MS. HEATHER WATTS:** Sure. So as it is right
16 now, as the Commission is likely aware, the *Canada Evidence*
17 *Act* is used to protect -- section 38, is used to protect
18 sensitive information from disclosure. Once that information
19 has been protected from disclosure it can't be used in legal
20 proceedings. So the idea behind the amendments to the *Act* in
21 this portion are to allow for both the protection and use of
22 sensitive information when federal administrative decisions
23 are being reviewed in the Federal Court.

24 So right now, there are a number of
25 standalone one-off schemes that apply that give the same type
26 of authority in the *Secure Air Travel Act* for example. But
27 the idea here is to have one general scheme that can apply to
28 any federal administrative decision, at any time when that

1 sensitive national security information may be part of the
2 file.

3 **MS. LEILA GHAAHARY:** Thank you.

4 And connected to these provisions is what is
5 often described as the intelligence to evidence, or
6 intelligence and evidence problem, and we'll just touch
7 briefly upon that. Court Operator, could you pull up WIT100,
8 please, and take us to page 9? And perhaps if you could just
9 zoom out so that we can see paragraphs 29 to 30? Thank you.

10 Ms. Micallef, you gave us your thoughts
11 during your interview with the Commission about the
12 intelligence and evidence issue. I understand that your
13 perspective is that not all intelligence can be evidence, and
14 the process of using intelligence is a multi-faceted issue
15 which gives rise to some challenges.

16 I wonder if first of all you could expand on
17 that and explain what you mean?

18 **MS. SHALENE CURTIS-MICALLEF:** Certainly. I'm
19 trying to figure out where to start. So I think if I could
20 start with intelligence, intelligence is information, and
21 information can be gathered for many different purposes, many
22 different means, and can be corroborated, not corroborated;
23 can be easily determined where it came from or can not be.

24 Whereas evidence is a different set of
25 information. It is evidence. Evidence speaks to the
26 admissibility of information into Court proceedings and there
27 are strict rules with respect to what information may be
28 admissible into Court proceedings. And it is not every piece

1 of information that is admissible in Court proceedings, they
2 have to be relevant, they need to be material. There are
3 rules of evidence with respect to hearsay, with respect to
4 opinion information, and all of those are determined by it's
5 admissibility by a Court and the judge proceeding over that
6 proceeding.

7 And as such, the concept that every piece of
8 intelligence will be subsequently admissible in Court is not
9 realistic or reasonable. There might be very good reasons
10 why that might not be the case. So that's what we discuss
11 sometimes as the intelligence to evidence challenge in some
12 circumstances, where there is a body of information which may
13 serve some valid reasons lawfully collected and support maybe
14 doing other activities, but may not actually be admissible in
15 Court. And so that would be the evidence and intelligence
16 challenge there.

17 And then there's the piece around even if it
18 is admissible, as my colleague has mentioned, there might be
19 privileges attached to that information, whether it's a
20 section 38, which means it's sensitive information, national
21 security information would be an example, or other privileges
22 that apply which would prevent -- other privileges like
23 information privilege, or some other privilege, that may also
24 layer upon whether or not it would be tendered in Court as
25 evidence. And as such, there are various steps that need to
26 be taken to ensure that intelligence can be used as evidence.

27 **MS. LEILA GHAAHARY:** And at paragraph 29, you
28 say that a justice is actively examining possible legislative

1 changes that would improve the use of intelligence as
2 evidence. Again, I wonder if you could speak to what those
3 changes might look like, and what work justice has been doing
4 in this regard?

5 **MS. SHALENE CURTIS-MICALLEF:** So we are very
6 seized, as is our law enforcement intelligence agencies with
7 making sure that we are best placed to be able to pursue
8 prosecutions or administrative proceedings. And so, my
9 colleague has given an example of making -- of a means that
10 we have taken with respect to changes to the *Canada Evidence*
11 *Act* to allow in civil proceedings or administrative
12 proceedings, the use of information that might be protected
13 by national security or other considerations.

14 There have been a couple of other amendments
15 that were made in Bill C-70 as it relates to sealing orders,
16 and as it relates to interlocutory appeals which also are
17 meant to advance the use of sensitive information in criminal
18 prosecutions. And then we're going to continue to work to
19 examine this issue.

20 We are not in a state where we think that
21 prosecutions cannot proceed in this country. We have rules
22 of evidence that -- and have had success before the Courts in
23 prosecuting cases that entail or involve sensitive
24 information. Those prosecutions, I should be clear, are not
25 directed by the Department of Justice, the Public Prosecution
26 Service is responsible for prosecutions at the federal level,
27 and then obviously AGs in the provinces for provincial
28 matters.

1 **MS. LEILA GHAAHARY:** Thank you.
2 Court Operator, could we again put up
3 CAN44799, and go to page 9, please?

4 Ms. Watts, we're now looking at part 4 of
5 Bill C-70, which created the new *Foreign Influence*
6 *Transparency and Accountability Act*, which in turn provides
7 for a new foreign influence transparency registry. Again,
8 other witnesses will be asked about these provisions in more
9 detail. But for now, could you again help us with a short
10 description of this new scheme?

11 **MS. HEATHER WATTS:** As you said, this was the
12 responsibility of the Department of Public Safety. But I think
13 what's on the slide there gives you a good overview of what
14 the registry is meant to achieve. It's really about
15 providing transparency to Canadians about legitimate
16 activities, whether it is, as the slide shows, a foreign
17 principle, an activity that is meant -- directed at a
18 political or governmental process, this is a regulatory
19 scheme. It's not offences like we have in the *SOIA* and it
20 has its own processes and procedures that go along with it.

21 **MS. LEILA GHAAHARY:** I'd like to now turn to
22 the Bill C-70 consultations.

23 Ms. Micallef, I understand the Department of
24 Justice led consultations on Parts 2 and 3 of the Bill, that
25 is the parts we've just looked at relating to the *Criminal*
26 *Code*, *SOIA*, and the *Canada Evidence Act*. The Department also
27 assisted by way of advice, I think, in relation to
28 consultation to Part 1 and 4, but the Department didn't have

1 any involvement in those consultations. Those were not led
2 by the Department, so I won't ask you any questions in
3 relation to those consultations.

4 But Ms. Micallef, could you briefly summarize
5 the nature and extent of the Department's consultations in
6 relation to Parts 2 and 3?

7 **MS. SHALENE CURTIS-MICALLEF:** The Department
8 engaged in public consultations in November of 2023,
9 continuing on into February of 2024. Those consultations
10 were broad-based, included online consultations. They also
11 included roundtables. And they invited interested parties to
12 provide feedback with respect to the proposals that were
13 included in the consultation document. And those parties
14 included numbers of diaspora groups, legal academics, the
15 general public, working with other levels of government, and
16 so it was a broad-based consultation with respect to what had
17 been proposed.

18 **MS. LEILA GHAAHARY:** Ms. Watts, during your
19 interview you told us about the Cross-Cultural Roundtables on
20 National Security. Could you briefly explain the nature and
21 purpose of those roundtables?

22 **MS. HEATHER WATTS:** So the Cross-Cultural
23 Roundtable on National Security is a joint roundtable
24 appointed by the Minister of Public Safety and the Minister
25 of Justice. It has, I think, 15 members who are appointed.
26 The group meets several times a year to talk about issues of
27 interest to the group, things that the government may want to
28 get the views of the representatives of that on that table.

1 So the members of that roundtable come from a variety of
2 communities across Canada. They're regular citizens
3 appointed for a set term. And we did have one meeting, I
4 think, during the consultation period with them, where we did
5 talk to them about foreign interference. So that would just
6 be one of the topics that would be on their agenda, but it
7 was one group that we did speak to.

8 **MS. LEILA GHAAHARY:** Court Operator, could
9 you please put up COM595? And if you could perhaps just
10 scroll down slightly? Thank you.

11 **--- EXHIBIT No./PIÈCE No. COM0000595.EN:**

12 Addressing foreign interference

13 **MS. LEILA GHAAHARY:** This is a consultation
14 paper on the amendments to Parts 2 and 3.

15 And if we turn up page 4, please?

16 And just at the bottom of the screen, the
17 paragraph we see starting:

18 "Any new amendments to Canada's laws
19 that protect against foreign
20 interference will give rise to
21 legitimate worries about the
22 protection of other important values,
23 rights, and interests. With this in
24 mind, it is crucial that any reforms
25 strike an appropriate balance between
26 ensuring an effective criminal
27 justice response to foreign
28 interference and respecting the

1 fundamental rights and freedoms of
2 the people in Canada." (As read)

3 Ms. Micallef, are you able to speak to what
4 those important values are and how the important balancing
5 act is being achieved?

6 **MS. SHALENE CURTIS-MICALLEF:** We -- when we
7 engaged upon these consultations, we were very mindful of the
8 importance of ensuring that we protected freedom of
9 expression, freedom of association, that we respected
10 generally the values in our *Charter* obligations, but also
11 values with respect to respect for people, including diaspora
12 communities. We did not want to marginalize or put them in
13 harms way either, or to limit their voice and political
14 expression in our country.

15 And so as we were endeavouring to ensure that
16 we had a robust framework to address nefarious activities,
17 surreptitious covert activities that interfere with Canada's
18 interests, we were mindful of the broader interest as well of
19 protecting our democracy, which includes freedom of
20 expression and other rights protected by the *Charter*.

21 **MS. LEILA GHAAHARY:** Court Operator, could
22 you please put up COM596? Perhaps if you scroll down
23 slightly?

24 **--- EXHIBIT No./PIÈCE No. COM0000596.EN:**

25 What we heard: Consultation on the
26 proposed reforms to the Security of
27 Information Act, Criminal Code and
28 Canada Evidence Act

1 **MS. LEILA GHAAHARY:** This is a report about
2 what was heard during the consultations. And if we go to
3 page 5 we see the issue posed is whether to create new
4 foreign interference offences under *SOIA*.

5 And if we turn over to page 6, if you could
6 perhaps go back to the top of the page, please? Thank you.

7 We see there concerns expressed about
8 possible unintended consequences of doing so. And at the top
9 of the page, it reflects the concern that the new offences
10 could capture legitimate interests, and in the second
11 paragraph, it expresses concerns with respect to vulnerable
12 communities who already face systemic discrimination in the
13 criminal justice system.

14 Ms. Watts, can you explain what was done to
15 address those concerns following the preparation of the What
16 We Heard Report?

17 **MS. HEATHER WATTS:** So for context, this
18 report really sets out a summary of what we actually heard
19 from all of the people that we spoke to during the
20 consultations, and this paragraph -- these paragraphs in
21 particular I think are a reflection of concerns from some
22 particular communities about over-policing and potentially
23 criminalizing what would otherwise be legitimate interactions
24 between members of diaspora communities here and potentially
25 family members and friends abroad.

26 So I think as the Deputy has set out, and in
27 the previous question with document, really when we are
28 developing criminal justice policy and law, a really integral

1 part of that is looking at what the impact of that law and
2 reform will be on rights and freedoms protected under the
3 *Charter*. And I think you've heard about what some of those
4 are already. In particular, concerns around not stifling
5 legitimate expression in this context. And when we're
6 drafting offences, we're always very mindful of section 7 of
7 the *Charter* and making sure that the offences are -- don't go
8 broader than they need to to address the harm that we're
9 seeking to address. So when we hear concerns like this, and
10 then we go to look to develop policy further and draft laws,
11 we would keep in mind, of course, the *Charter* and the
12 concerns that have been expressed about making sure that we
13 don't go farther than is necessary to address the harms.

14 **MS. LEILA GHAAHARY:** Moving on now from Bill
15 C-70 to the Department's role on the Panel of Five, we've
16 heard from Mr. Sutherland earlier today that in 2019, as part
17 of its plan to protect democracy, the government established
18 the Panel of Five which is tasked with safeguarding federal
19 elections. And in that regard, the panel is only operative
20 during the election itself. That's known as the writ period
21 or the caretaker period.

22 Mr. Sutherland also explained the multi-
23 disciplinary cross-government composition of the panel.

24 And Ms. Micallef, it's right that you've been
25 a member of that panel since 2023?

26 **MS. SHALENE CURTIS-MICALLEF:** Yes, since I
27 was appointed.

28 **MS. LEILA GHAAHARY:** And when you first

1 joined the panel, you were provided with an introductory
2 briefing, and that was in October 2023?

3 **MS. SHALENE CURTIS-MICALLEF:** That is
4 correct.

5 **MS. LEILA GHAAHARY:** And during your
6 interview, you explained that you bring a justice lens to the
7 panel, but your input is not limited to legal issues. Could
8 you explain how or in what way you bring that justice lens to
9 the Panel of Five?

10 **MS. SHALENE CURTIS-MICALLEF:** So as was
11 explained, the panel brings together a number of deputies
12 from different departments in the public service. I
13 represent the Department of Justice as the Deputy Minister of
14 Justice and Deputy Attorney General of Canada. We have a
15 responsibility at the Department of Justice to provide legal
16 advice to the Government of Canada. And in that context,
17 when I sit on the panel, I do bring that piece of the
18 considerations to the table with respect to compliance with
19 the *Charter*, democratic principles, our Constitution in
20 particular, and more generally a good understanding of our
21 legislative framework at the federal level. And so that is
22 the piece there.

23 I do also bring my substantive experience at
24 senior levels within the public service, and so my
25 participation is not purely in the role of providing legal
26 advice to the panel, but to supplementing the discussions
27 that we have.

28 **MS. LEILA GHAAHARY:** Court Operator, could

1 you put up CAN33655?

2 Thank you.

3 Ms. Micallef, since joining the panel you've
4 attended a number of meetings and panel retreats. And at
5 page 1 of the document on our screen, we see this is an
6 agenda for one of those retreats. It took place in March of
7 2024, and you attended.

8 If we now move to page 5, we can see that
9 during this retreat, the panel received a presentation from
10 the Canadian Digital Research Network, or the CDMRN, as it's
11 known. The discussion appears to have been a forward-looking
12 affair, providing an opportunity to explore how the CDMRN can
13 appropriately support and complement the panel's work both
14 outside and during the election period.

15 Are you able to share your insights on how
16 that might happen, how the CDMRN could support and complement
17 the panel's work?

18 **MS. SHALENE CURTIS-MICALLEF:** The CDMRN is an
19 independent collection of academics and experts in their area
20 of media and info ecosystem monitoring, so they have
21 expertise and insight from a very pragmatic and research-
22 based perspective. They are civil society and they're
23 independent from government.

24 We believe as a panel that it would be
25 useful, and it is useful, for us to hear other voices with
26 respect to our information ecosystem, and so that was the
27 reason why they were invited, so that we could get some
28 insight as a panel together -- I know various members have

1 different exposure to them -- but as a panel with respect to
2 the type of work that they're doing.

3 And it gives room for reflection around the
4 role of civil society in dealing with issues relating to
5 foreign interference, so foreign interference is not solely
6 the work of the panel, particularly given the panel's period
7 in which it operates. But we see foreign interference, and
8 you've seen it already in the *Countering Foreign Interference*
9 *Act* and the legislation, that we see it as a multi-pronged
10 approach to address foreign interference in this country.

11 So various tools, various measures from an
12 influence -- foreign influence transparency registry which
13 does not deal with foreign interference but provides
14 Canadians with transparent access to when it's -- when it's
15 in force, it will provide them to transparent access to
16 foreign actors or foreign entities that are trying to
17 influence processes. And that is not a negative activity.
18 It's just transparency with respect to that activity.

19 Other means of addressing foreign
20 interference includes the work that -- and the additional
21 powers provided to CSIS to be able to discuss threats with
22 other actors outside of the federal government.

23 So this is just another example of engaging
24 another aspect of, in this case, civil society in how do we
25 monitor and see what is going on in our information
26 ecosystem.

27 **MS. LEILA GHAAHARY:** Court Operator, could we
28 go to page 8 of the document?

1 Thank you.

2 Page 8, you can see at the end of the meeting
3 there was a stated intention to have panel meetings every six
4 weeks outside the election period. Ms. Micallef, can you
5 tell us whether these meetings have been set up and what the
6 panel has been doing to get ready for the upcoming election?

7 **MS. SHALENE CURTIS-MICALLEF:** So I'm trying
8 to remember how many meetings we've had. I think we've had
9 at least four meetings.

10 We have had a number of different speakers
11 come in and address the panel. That includes members of
12 foreign governments who have recently had elections in their
13 jurisdictions. We have had, as you've seen, civil society.
14 We have had other members of the federal public service come.

15 We have recently had the elections -- Chief
16 Electoral Officer attend a meeting.

17 So we have been taking active steps to
18 consider our role and consider how we will carry out our
19 duties during the next election, whenever that might be.

20 **MS. LEILA GHAAHARY:** And finally, the panel,
21 as we know, does not operate outside the caretaker period
22 and, more recently, for the purposes of responding to the
23 risk of foreign interference during by-elections, the SITE
24 panel has been stood up, and that reports to the DM CIR
25 committee when it comes to by-elections.

26 Ms. Micallef, I understand that the
27 Department of Justice does not sit on the DM CIR committee
28 and my question is, given that is the committee that has

1 oversight during the by-elections, do you think that the
2 absence of the Department of Justice is a loss of important
3 perspective?

4 **MS. SHALENE CURTIS-MICALLEF:** I actually
5 don't think it's a loss of an important perspective because
6 underlying all of this is where we started with respect to
7 the different roles that the Department of Justice plays.
8 And we do have a legal advisory role that is supported
9 through our Legal Services Units that are co-located with
10 every government department, not just in the national
11 security space, but Department of Health, Department of
12 Transport.

13 We have Justice lawyers who provide legal
14 advice to government officials across the federal public
15 service, so the decision-making and the processes with
16 respect to DM CIR is not void of having any Justice
17 contribution even though I personally do not sit on that.

18 I would note the difference between what we
19 do during the writ period and what DM CIR does during the
20 context of a by-election.

21 So the reason why the panel is set up for
22 that particular scope is because we are in the caretaker
23 period, and that, based on convention, is a period of
24 restraint because at that time the House is not sitting and
25 so Ministers are not operating and the government's not
26 operating under the oversight or the confidence of the House.
27 It's dissolved.

28 During a by-election, the government is still

1 acting, the House is still sitting, Ministerial authorities
2 are still there and so there is room for DM CIR to operate
3 and to work within that Ministerial authority and for myself
4 or the Minister of Justice if he should need to be engaged on
5 any issue to be engaged. And so they're in a different
6 space, in my mind.

7 **MS. LEILA GHAAHARY:** Thank you.

8 Madam Commissioner, those are my questions.

9 **COMMISSIONER HOGUE:** Thank you.

10 So cross-examination. Counsel for Jenny
11 Kwan. It's Ms. Kakkar.

12 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

13 **MS. MANI KAKKAR:**

14 **MS. MANI KAKKAR:** Good afternoon,
15 Commissioner. Good afternoon, panelists. My name is Mani
16 Kakkar and I'm counsel for Ms. Kwan.

17 I'd like to ask you some questions that I
18 think are targeted to you, Ms. Micallef, because they're
19 specifically about your role on the Panel of Five.

20 It's my understanding, based on your last
21 answer, that it's the caretaker period that changes the role
22 of the Panel of Five so that the response or the toolkit
23 available is different during elections versus by-elections.
24 Did I understand your testimony correctly? And if you need
25 to elaborate, please do.

26 **MS. SHALENE CURTIS-MICALLEF:** I don't think
27 the toolkit for the government is necessarily different.
28 It's how we use the tools.

1 So during the by-elections, the government is
2 in place, House is sitting, or it's -- is available. And so
3 Ministers continue to have their authorities. And
4 departments work and support those Ministers in the carrying
5 out of their duties, and deputy heads have responsibilities
6 within that framework. And that continues during the course
7 of by-elections and then through that ministerial authority.

8 I think the toolkit changes somewhat with
9 respect to a caretaker period where, as I mentioned, the
10 house has -- is dissolved. And in that sense, the Panel
11 performs a particular function, as a Cabinet Directive exists
12 now, with respect to a particular task, which is whether or
13 not we believe that Canadians can have a free and fair
14 election.

15 Within that time period, though, departments
16 still operate, activities still go on within the government,
17 officials are still undertaking important things. So I
18 wouldn't say that the only thing that can happen during a
19 period when the House is dissolved is for the Panel to act.
20 So there is continual monitoring, there are continual
21 responsibilities the departments have, and the deputies have
22 during that period of time.

23 **MS. MANI KAKKAR:** I appreciate your
24 testimony.

25 So you're saying that essentially they may be
26 used differently but that those departments are still in
27 operation. Do you think there are more limited use or some
28 of the practices around the caretaker period might make FI

1 activity -- or it might make one time more vulnerable to FI
2 activity than another, or your response more limited during
3 the general election versus the by-elections?

4 In other words, would the same FI activity,
5 whether it's in a by-election or an election, get a similar
6 response?

7 **MS. SHALENE CURTIS-MICALLEF:** I find that a
8 bit speculative because I don't know what the activity you're
9 speaking of. I mean, so during a by-election, the SITE Task
10 Force is stood up, and it monitors activities during the by-
11 election. During a full general election, the SITE Task
12 Force is stood up and it is monitoring activities as well.

13 During a by-election, the Panel is not
14 acting, so yes, that would be a different activity that would
15 not occur during the course of a by-election. So it sort of
16 depends on what the activity is, they will not necessarily
17 mirror themselves exactly. But if your question is, is there
18 a surveillance and is there a monitoring, and is there an
19 oversight of what is happening, I would say, in both of those
20 scenarios, yes, that is the case.

21 **MS. MANI KAKKAR:** The question -- I
22 apologize; I wasn't clear -- is actually is on the flip side.

23 My understanding is that the SITE Task Force
24 is an intelligence provider; they're not assessing, they're
25 not making decisions. So more on the flip side of the
26 decision-maker, whether it's the Panel of Five or DM CIR, are
27 the actions, responses, assessments going to be different for
28 -- and I appreciate the hypothetical nature of this, but for

1 the same FI activity during a by-election versus a general
2 election?

3 **MS. SHALENE CURTIS-MICALLEF:** I don't think I
4 can comment on that. I don't sit on DM CIR, as we've noted,
5 so I don't know how exactly they operate within that sphere.
6 So I don't think I would be in the best place to comment on
7 that.

8 **MS. MANI KAKKAR:** I appreciate your candour.
9 With respect to the way in which the Panel of
10 Five works, my understanding is that you've already started
11 to meet and have practice questions where you as a panel
12 discuss and determine what you might do if this was a real
13 situation in an election.

14 **MS. SHALENE CURTIS-MICALLEF:** That's correct.

15 **MS. MANI KAKKAR:** And the standard is that
16 you have to decide unanimously across all of you in order to
17 act.

18 **MS. SHALENE CURTIS-MICALLEF:** That's correct.

19 **MS. MANI KAKKAR:** And there's also a very
20 high threshold, still, as to when you might act?

21 **MS. SHALENE CURTIS-MICALLEF:** Yes.

22 **MS. MANI KAKKAR:** And the way in which you
23 can act is to provide a notice to the Canadian public.

24 **MS. SHALENE CURTIS-MICALLEF:** Yes.

25 **MS. MANI KAKKAR:** Okay. Do you think that
26 this very high threshold, this one way in which you can
27 respond, isn't flexible enough, given what you're learned
28 through this Commission about the ways in which FI activity

1 happens on the ground?

2 **MS. SHALENE CURTIS-MICALLEF:** I guess there's
3 two parts to that. One, I think -- well, one I know, the
4 Panel is leaning in and considering whether or not there's an
5 expectation that the Panel undertake other activities as a
6 panel, which may be different communication activities,
7 different response activities as a panel.

8 I think the part that is a bit nuanced,
9 though, is that deputies, as I said, continue to have
10 responsibilities. So whether the Panel acts as a panel in
11 making a public announcement versus whether deputies assume
12 the responsibilities that they normally do and take measures
13 that are necessary in those periods of time, that can still
14 happen.

15 So I think it does sort of speak to how --
16 who is taking the action and whether it's being taken as a
17 panel, which in this -- under the Cabinet Directive that
18 exists right now is the threshold of whether we believe that
19 Canadians will have a free and fair election, along with the
20 other considerations that are included in the Directive.

21 **MS. MANI KAKKAR:** Okay. I appreciate your
22 testimony on that point.

23 And Ms. Watts, I'd like to turn to you to
24 just ask a final question. And please do clarify if this is
25 not within your mandate, but one of the documents we reviewed
26 was -- or one of the documents that Commission counsel pulled
27 up was an agenda from a meeting that was actually for the
28 Panel of Five. And it had a group that was here yesterday

1 testifying with respect to the need for transparency when it
2 comes to information and data available by social media
3 platforms for research groups like it.

4 I understand your sort of policy portfolio
5 includes national security intelligence, and they partner
6 with and get information from organizations like MEO. Have
7 you considered mandating social media platforms to provide
8 API data at low cost or no cost to independent groups like
9 MEO?

10 **MS. HEATHER WATTS:** So the question that
11 you're asking about is not within the responsibility of the
12 Department of Justice, and it's not within my
13 responsibilities, so I can't speak to that.

14 **MS. MANI KAKKAR:** I appreciate your
15 clarification.

16 Thank you.

17 **COMMISSIONER HOGUE:** Thank you.

18 Mr. Sirois.

19 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

20 **MR. GUILLAUME SIROIS:**

21 **MR. GUILLAUME SIROIS:** Good afternoon.
22 Guillaume Sirois for the Russian Canadian Democratic
23 Alliance.

24 Are you aware that Russian operatives paid
25 Canadian influencers \$10 million to establish Tenet Media, a
26 media outlet intended to influence Canadian public opinion?
27 Are you aware of this?

28 **MS. SHALENE CURTIS-MICALLEF:** I'm not aware

1 of all the details that you've provided, but I do know that
2 there is media reports with respect to Canadian influencers,
3 and charges in that respect.

4 **MR. GUILLAUME SIROIS:** And considering that
5 the main actors involved were Canadians, why are we learning
6 about these events through a US indictment and not a Canadian
7 indictment?

8 **MS. SHALENE CURTIS-MICALLEF:** Why am I
9 learning, or why ---

10 **MR. GUILLAUME SIROIS:** Canadian public.

11 **MS. SHALENE CURTIS-MICALLEF:** Why is the
12 Canadian public ---

13 **MR. GUILLAUME SIROIS:** Yes.

14 **MS. SHALENE CURTIS-MICALLEF:** --- learning
15 that?

16 **MR. GUILLAUME SIROIS:** Media, Canadian
17 public; why do we have to learn about this through a US
18 indictment, rather than a Canadian indictment, considering
19 that the main actors involved were Canadians?

20 **MS. SHALENE CURTIS-MICALLEF:** I don't know
21 that I can answer that question because I am not closely
22 affiliated with where that information might be in the
23 Canadian government and why that would be protected or not.

24 **MR. GUILLAUME SIROIS:** The actions described
25 in the indictment, receiving \$10 million from Russian
26 authorities to set up a propaganda media outlet influencing
27 Canadians and Americans; it's not legal in Canada to do that,
28 right?

1 **MS. SHALENE CURTIS-MICALLEF:** I wouldn't be
2 able to assess on that brief question whether it complies
3 with Canadian law or not.

4 I guess what -- if -- like, we have offences
5 in Canada with respect to foreign interference, and to the
6 extent that things fall within that, law enforcement is open
7 to investigate; I am not law enforcement. And the Public
8 Prosecution Service is open to determine whether or not
9 charges should be laid, and I'm not Public prosecution
10 Service. So unfortunately I can't comment on whether or not
11 charges should or should not be laid in Canada on that
12 information.

13 **MR. GUILLAUME SIROIS:** I don't think my
14 question is whether charges should or should not be laid,
15 it's rather whether or not there are laws that guard against
16 such actions in Canada.

17 **MS. SHALENE CURTIS-MICALLEF:** So we do have
18 laws that provide for offences, as we've described earlier
19 today, with respect to foreign influence and covert
20 activities. So we do have a framework in which to address
21 situations where there is foreign entities undertaking
22 actions that would be not lawful in our country.

23 **MR. GUILLAUME SIROIS:** And so I'm going to
24 reframe that question within that frame work. Do you know
25 that whether or not the actions described in the indictment
26 are within the legal framework of Canada or outside of that
27 legal framework?

28 **MS. SHALENE CURTIS-MICALLEF:** I have not done

1 that assessment.

2 **MR. GUILLAUME SIROIS:** Have you read the U.S.
3 indictment?

4 **MS. SHALENE CURTIS-MICALLEF:** No, I have not
5 read the U.S. indictment.

6 **MR. GUILLAUME SIROIS:** Okay. Do you think it
7 would be relevant to read it?

8 **MS. SHALENE CURTIS-MICALLEF:** Relevant for
9 what purpose?

10 **MR. GUILLAUME SIROIS:** The purpose of
11 determining whether these actions are legal or not in Canada.

12 **MR. GEORGE TZEMENAKIS:** Madam Commissioner, I
13 feel compelled to object to my friend's question. He's
14 asking the Deputy for a legal conclusion as to whether or not
15 something falls or does not fall within Canadian law. He has
16 not put the document to the witness. And so I would just
17 want some context to be placed to this if he's indeed
18 permitted to continue with this line of questioning. Thank
19 you.

20 **MR. GUILLAUME SIROIS:** Unfortunately, Madame
21 La Commissaire, in fairness, we don't have time to read
22 through the indictment, so I'll accept my friend's point and
23 I'll move on to my ---

24 **COMMISSIONER HOGUE:** Okay.

25 **MR. GUILLAUME SIROIS:** --- next question.

26 I'm wondering -- okay. Let's say that we're
27 not sure whether or not this is legal or not. But can you at
28 least provide some helpful comments on why were Canadian laws

1 not successful in deterring such actions from taking place in
2 Canada before the facts? Why were Canadians able to set up
3 this media outlet for close to a year, considering the laws
4 that apply in Canada concerning foreign interference?

5 **MS. SHALENE CURTIS-MICALLEF:** I apologize,
6 but I cannot speculate on a set of facts that I don't have.
7 So I'm not in a position to answer that question that you're
8 asking.

9 **MR. GUILLAUME SIROIS:** Okay. I'll move on to
10 another set of questioning then. We'll talk about -- my last
11 theme will be freedoms and -- rights and freedoms in Canada
12 and how disinformation can impact those.

13 Do you believe that disinformation campaigns
14 from foreign actors can impact fundamental rights and
15 freedoms and Canadians, such as the freedom of thought and/or
16 speech or the right to vote in an informed manner?

17 **MS. SHALENE CURTIS-MICALLEF:** I'm not here to
18 give legal advice about whether or not a certain activity
19 forms an infraction or not, nor am I giving *Charter* advice,
20 but I do believe that as the Government of Canada, we are
21 concerned when there is surreptitious, deceptive, covert
22 activity that is false being disseminated by foreign entities
23 with the goals of undermining Canadian interest. And so that
24 is why we have legislated in this space, because we do think
25 it is not acceptable that it continue in our country. And so
26 that's the approach we have taken in order to allow
27 Canadians, because in this context we're talking about
28 electoral processes, to have the opportunity to participate

1 fully in a fair process and to participate fully in our
2 democracy, and we're very much interested in protecting that.

3 **MR. GUILLAUME SIROIS:** And so do I understand
4 from your testimony that more governmental intervention or
5 laws to protect, for instance, the social media platforms,
6 the media ecosystem, more laws or governmental interventions
7 to protect against disinformation campaigns could help
8 protect Canadians' rights and freedoms, such as their right
9 to vote in an informed matter or their freedom of speech?

10 **MS. SHALENE CURTIS-MICALLEF:** Sorry, I didn't
11 say we needed more laws. I just explained the laws that we
12 had put in place.

13 So I'm not -- I can't speak to the fact that
14 at this point I think there are more laws that are necessary.
15 We have put in a suite of offences that came into force
16 August 19th of this year with a view to protecting our
17 democracy.

18 **MR. GUILLAUME SIROIS:** Thank you. Those are
19 all my questions.

20 **COMMISSIONER HOGUE:** Thank you.

21 Mr. Chantler?

22 **MR. NEIL CHANTLER:** I have no questions for
23 these witnesses. Thank you.

24 **COMMISSIONER HOGUE:** Then it's Ms. Teich for
25 the Human Rights Coalition.

26 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

27 **MS. SARAH TEICH:**

28 **MS. SARAH TEICH:** Good afternoon. I have a

1 couple of questions about the *Criminal Code* amendments
2 contained in Bill C-70.

3 And Commissioner, I'd like to seek your leave
4 to pull up CAN26649. It was not in my document list. It's a
5 PCO document and I just have one question about a line that
6 identifies *Criminal Code* offences relevant to foreign
7 interference, and I'd only ask them about that one line.

8 **--- EXHIBIT No./PIÈCE No. CAN026649:**

9 [Threat Matrix]

10 **COMMISSIONER HOGUE:** Okay. You can go ahead.

11 **MS. SARAH TEICH:** Thank you.

12 And if we can please scroll down to page 7?
13 And you can see there's a "Gaps" column. And under the
14 "Gaps" column, it says, "Gap in *Criminal Code* offences," and
15 in brackets "Example: Treason and sabotage". And I'm
16 wondering if the DOJ considered in its development of Bill C-
17 70, particularly Part 2, whether it would be valuable to
18 amend the treason provisions as well as the sabotage
19 provisions?

20 **MS. SHALENE CURTIS-MICALLEF:** So what I can
21 tell you is that the Department did a fulsome policy
22 development process and the result of that process is the
23 consultation paper that was made public in November, which
24 did not include treason.

25 **MS. SARAH TEICH:** Okay. Can you tell me why
26 it didn't?

27 **MS. SHALENE CURTIS-MICALLEF:** I can say that,
28 you know, as with all policy development, sometimes -- and I

1 will admit I've not seen this document before so I don't know
2 what the date is or what the context is, or who prepared it,
3 whether it was Justice or someone else. I think with all
4 legal policy development, you do a sort of scan of the
5 landscape and you look at what the challenges are and what
6 some of the models or examples may be to address the
7 challenge that you're trying to address and thinking of all -
8 - so just as the document that was pulled up earlier by
9 Commission counsel and I pointed out the final result was
10 different, I think this is an example of that. This could be
11 early thinking about potential solutions and as we go through
12 the policy development process, some things get added and
13 some things fall off.

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

15 If we can now please pull HRC91? Thank you.

16 This is a document authored by myself, and
17 David Matas, and Hannah Taylor.

18 If we can scroll down to page 141?

19 And I'd like to draw your attention to
20 recommendation number 10, which talks about criminalizing
21 refugee espionage.

22 And if we can just scroll a little bit down
23 to the last paragraph of this page?

24 It notes that:

25 "Some countries have taken steps to
26 criminalize refugee espionage.

27 Sweden, Norway, and Switzerland have
28 explicitly criminalized refugee

1 espionage, or acts of obtaining
2 and/or providing information
3 detrimentally about another
4 individual in order to benefit a
5 foreign state."

6 I understand that *SOIA* has been amended to
7 capture some of this, but I just want to clarify. This sort
8 of fact scenario would not be covered under the *SOIA*
9 amendments? Is that right?

10 **MS. HEATHER WATTS:** Sorry, I'm just reading
11 the paragraph a little before I answer your question.

12 So the offence that we have in the -- that
13 we've added to the *SOIA* does not explicitly apply to
14 refugees, as is suggested here with the creation of that
15 offence.

16 And I don't want to be too speculative, but
17 the offences themselves, as you've described here, is:

18 "...obtaining and/or providing
19 information detrimentally [-- not
20 sure what that means --] about
21 another individual in order to
22 benefit a foreign state."

23 I think that depending on the fact scenario,
24 it is possible that something like that could fall within the
25 general offence, or even within the offence of committing an
26 indictable offence for, depending on the circumstances and
27 the intimidation offence.

28 So I think it's really going to be quite fact

1 specific. But I wouldn't say that we don't have anything in
2 the new offences that could address what seems to be the
3 concerns here.

4 **MS. SARAH TEICH:** Okay. Yes. And the
5 general offence, and I know I don't have this on the screen,
6 but if you'll indulge me, I understand it's:

7 "...induces or attempts to induce, [...]
8 any person to do anything or [...]
9 cause anything to be done"

10 So refugee espionage, would the difference be
11 something like this could criminalize if there's sort of
12 intimidation like this, but it's not about causing a person
13 to do something or causing something to be done? Like, this
14 sort of offence strikes me, and let me know if you agree,
15 about just obtaining information and providing information.
16 So that obtaining/providing information, in the absence of
17 attempting to induce a person to do something, that would not
18 be covered by *SOIA* as it's currently been amended? Is that
19 right?

20 **MS. HEATHER WATTS:** So if you'll indulge me,
21 it would be really helpful if I could look at the wording of
22 the offences themselves. It sounds like the offence that
23 you're referring to is the offence in section 20, which is
24 the threats and intimidation offence.

25 **MS. SARAH TEICH:** Yes, that's right.

26 **MS. HEATHER WATTS:** What I think I would
27 direct you to -- and if I'm able to look at my copy of the
28 *SOIA* is that okay? I think what I would direct you to is the

1 language that you've referred to is section 20. But I would
2 say that potentially what I was thinking of is the new
3 offence in 20.3, which engaging in surreptitious or deceptive
4 conduct, and it's really about somebody who does something at
5 the direction of, for the benefit of, or in association with
6 a foreign entity, "knowingly engages in surreptitious or
7 deceptive conduct" for a purpose "prejudicial to the safety
8 and interests of the State" of Canada. So it's going to be
9 fairly circumscribed in terms of what we're doing.

10 The other offence of committing an indictable
11 offence for benefit, direction, association, again it's going
12 to depend on the facts and circumstances, so I don't want to
13 speculate. But I would say that really depending -- if you
14 unpacked what was going on, it is possible that the offences
15 that we've put in place could cover it.

16 **MS. SARAH TEICH:** Okay.

17 Okay, thank you. Those are my questions.

18 **COMMISSIONER HOGUE:** Thank you.

19 AG?

20 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

21 **MR. GREGORY TZEMENAKIS:**

22 **MR. GREGORY TZEMENAKIS:** Good afternoon. My
23 name is Gregory Tzemenakis, and I'm counsel for the Attorney
24 General, which you know.

25 Well, I want to start with Bill C-70 and some
26 questions directed to you, Ms. Watts. So first of all, the
27 Bill was passed unanimously in the House of Commons?

28 **MS. HEATHER WATTS:** That's correct.

1 **MR. GREGORY TZEMENAKIS:** And are all parts of
2 the law now in force?

3 **MS. HEATHER WATTS:** Yes.

4 **MR. GREGORY TZEMENAKIS:** And I want to focus
5 on *SOIA*, and in particular section 20.4, so you should feel
6 free to pull it up. Section 24.4 creates a new offense of
7 engaging:

8 "...in surreptitious or deceptive
9 conduct at the direction of or in
10 association with a foreign
11 entity...to influence a Canadian
12 political or governmental process, or
13 to influence the exercise of a
14 democratic right in Canada."

15 Correct?

16 **MS. HEATHER WATTS:** That's correct.

17 **MR. GREGORY TZEMENAKIS:** And the term
18 governmental -- political or governmental process is defined
19 in this part of the *Act*; yes?

20 **MS. HEATHER WATTS:** It is.

21 **MR. GREGORY TZEMENAKIS:** It is. Does it
22 include nomination processes?

23 **MS. HEATHER WATTS:** It does. You'll see
24 paragraph f of the definition includes it.

25 **MR. GREGORY TZEMENAKIS:** And does it include
26 the holding of an election and/or a referendum?

27 **MS. HEATHER WATTS:** Yes.

28 **MR. GREGORY TZEMENAKIS:** And it an exhaustive

1 or non-exhaustive list of situations that may or may not fall
2 within this definition?

3 **MS. HEATHER WATTS:** It is a non-exhaustive
4 list, as indicated by the word "includes".

5 **MR. GREGORY TZEMENAKIS:** And did I hear you
6 correctly during your examination by Commission counsel that
7 this law applies at all times outside of a red period?

8 **MS. HEATHER WATTS:** It does.

9 **MR. GREGORY TZEMENAKIS:** It does. Thank you.
10 I'm going to direct the balance of my
11 questions to Ms. Micallef, and it's in respect of a Panel of
12 Five. You acknowledge to Commission counsel that you receive
13 in introductory briefing. I just want to bring some clarity
14 to that. Did you receive a threat landscape briefing, and
15 more specifically a landscape briefing related to foreign
16 interference?

17 **MS. SHALENE CURTIS-MICALLEF:** Yes, I did.

18 **MR. GREGORY TZEMENAKIS:** And did I understand
19 correctly that one of the reasons that -- well, let me ask
20 this question a different way. P5 has met and heard from
21 members of civil society organizations such as CDMRN and
22 other entities. Correct?

23 **MS. SHALENE CURTIS-MICALLEF:** That is
24 correct.

25 **MR. GREGORY TZEMENAKIS:** And can you just
26 bring some clarity around the comment you made to Commission
27 counsel as to the importance of hearing other voices when P5
28 is engaging in its work?

1 **MS. SHALENE CURTIS-MICALLEF:** The panel as
2 we're now constituted, which includes members from previous
3 panels and then members like myself who have just joined,
4 feel that it's particularly important to hear from various
5 voices as we prepare for our work. We're a consensus
6 decision-making body, and we do want to explore what else --
7 what other tools are available to support Canadians in having
8 an informed decision-making process during periods of
9 election, and generally at other periods of time as well.

10 So we have engaged with civil society with
11 that. We have engaged with other foreign governments with
12 that. A view to making sure that we have a robust and
13 diverse toolbox or toolkit of intervenors with respect to our
14 democratic processes.

15 **MR. GREGORY TZEMENAKIS:** Thank you.

16 We heard from Mr. Sutherland earlier today
17 that part of the discussion that took place at the retreat in
18 March and the presentation by the CDMRN was a discussion
19 around whether there are entities such as the CDMRN who might
20 be better placed to make a communication as opposed to the
21 Panel of Five if they say something. Can we have your
22 comments on that regard, please?

23 **MS. SHALENE CURTIS-MICALLEF:** I think we are
24 very mindful of our role as part of the executive.
25 Particularly during the caretaker period. And government not
26 being seen at the arbitrator of truth and the only voice as
27 to what may be mis- or disinformation in our environment.
28 And so, with that in mind, we are trying to make sure that

1 there -- to ensure that we take that into consideration with
2 respect to the work that we're doing.

3 **MR. GREGORY TZEMENAKIS:** Thank you.

4 The second last question is, can you -- we've
5 heard a lot of information about the, perhaps,
6 disproportionate effect -- well, it's not perhaps -- the
7 disproportionate effect on various diaspora communities in
8 Canada when it comes to foreign interference. Can you
9 elaborate briefly on how the panel is taking those voices
10 into consideration?

11 **MS. SHALENE CURTIS-MICALLEF:** So we are
12 acutely aware that certain communities are -- can be the
13 target of, or used in this context. And so, we are trying to
14 make sure that we have access and hear those voices, and that
15 our interventions do not further marginalize or cause harm,
16 or lack of trust with those groups either. And so that's
17 continuing work that we are doing as a panel, and not just as
18 a panel, I would say more specifically the Government of
19 Canada, because the panel does certain functions, but each
20 department has other responsibilities.

21 And just as we -- when we did our policy
22 development with respect to parts two and three of the Bill
23 C-70, reached out, I know that other government departments
24 are reaching out in their own policy development and also in
25 their operationalization of whatever new authorities they may
26 be considering or that they may have, and their new ways, or
27 programs, or existing programs. So I think that is an active
28 consideration.

1 **MR. GREGORY TZEMENAKIS:** Thank you.

2 My last question is just to bring some
3 clarity to a question asked for -- by counsel for Ms. Kwan,
4 and she was asking you questions about a hypothetical
5 situation as to whether or not in a similar situation the DM
6 CIR committee and the Panel of Five would respond in the same
7 manner. And I was just wondering if you can confirm very
8 briefly that the DM CIR and the Panel of Five have different
9 mandates, that operate at different points in time, and have
10 different membership. Is that fair?

11 **MS. SHALENE CURTIS-MICALLEF:** That is very
12 fair. Our time is more limited with respect to decision-
13 making as a Panel of Five from the dissolution of Parliament
14 to the forming of a new government or a clear -- clear that a
15 returning government is -- has the confidence to assume. So
16 our time periods are different. The threshold with which we
17 do a public statement is different, and so there are
18 different operatives in those circumstances.

19 **MR. GREGORY TZEMENAKIS:** Thank you. Merci,
20 madame la commissaire.

21 **COMMISSIONER HOGUE:** Merci.

22 Ms. Ghahhary, any questions in cross-
23 examination?

24 **MS. LEILA GHAAHARY:** No thank you, Madam
25 Commissioner

26 **COMMISSIONER HOGUE:** No. So the day is over.
27 Thank you very much for your time. And again, tomorrow
28 morning at 9:30.

1 **THE REGISTRAR:** Order, please. À l'ordre,
2 s'il vous plait.

3 The sitting of the Foreign Interference
4 Commission is adjourned until tomorrow, Friday the 27th of
5 September, at 9:30 a.m. Cette séance de la Commission sur
6 l'ingérence étrangère est suspendue jusqu'à demain vendredi
7 le 27 septembre à 9h30.

8 --- Upon adjourning at 5:27 p.m./

9 --- L'audience est suspendue à 17 h 27

10

11 **C E R T I F I C A T I O N**

12

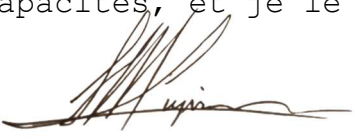
13 I, Sandrine Marineau-Lupien, a certified court reporter,
14 hereby certify the foregoing pages to be an accurate
15 transcription of my notes/records to the best of my skill and
16 ability, and I so swear.

17

18 Je, Sandrine Marineau-Lupien, une sténographe officielle,
19 certifie que les pages ci-hauts sont une transcription
20 conforme de mes notes/enregistrements au meilleur de mes
21 capacités, et je le jure.

22

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24 Sandrine Marineau-Lupien

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