



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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Ottawa, Ontario

--- The hearing begins Thursday, March 27, 2024 at 9:51 a.m.

THE REGISTRAR: Order, please.

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

The time is 9:51 a.m.

COMMISSIONER HOGUE: [No interpretation]

...sorry for being a bit late this morning, but sometimes we have some issues that prevent us from starting on time.

I am ready to begin.

MR. DANIEL SHEPPARD: Thank you, Madam Commissioner. It's Daniel Sheppard for the Commission.

The Commission's first witness today is Stéphane Perrault, Chief Electoral Officer of Canada.

If the witness could please be affirmed.

COMMISSIONER HOGUE: [No interpretation].

THE REGISTRAR: Could you please state your name and your -- and spell your last name for the record, please?

MR. STÉPHANE PERRAULT: Stéphane Perrault.
P-e-r-r-a-u-l-t.

--- MR. STÉPHANE PERRAULT, Affirmed:

THE REGISTRAR: Counsel, you may proceed.

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

MR. DANIEL SHEPPARD: Good morning, Mr. Perrault.

1 **MR. STÉPHANE PERRAULT:** Good morning.

2 **MR. DANIEL SHEPPARD:** I'd like to get some
3 preliminary matters just out of the way first.

4 If the court operator could please bring up
5 ELC.IR.1.EN, please.

6 And while that's being brought up, Mr.
7 Perrault, Elections Canada prepared an institutional report
8 at the request of Commission counsel. Is that right?

9 **--- EXHIBIT No. ELC.IR.1.EN:**

10 Elections Canada Institutional Report

11 **MR. STÉPHANE PERRAULT:** That's correct.

12 **MR. DANIEL SHEPPARD:** And I believe we're
13 just bringing it up.

14 You had an opportunity to review the
15 institutional report that you prepared?

16 **MR. STÉPHANE PERRAULT:** I have.

17 **MR. DANIEL SHEPPARD:** Okay. And are you able
18 to adopt that institutional report as the evidence of
19 Elections Canada for the purposes of this Commission?

20 **MR. STÉPHANE PERRAULT:** I am.

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

22 And just for the record, there's also a
23 French language version which can be found at ELC.IR.1.FR.

24 **--- EXHIBIT No. ELC.IR.1.FR:**

25 Rapport institutionnel d'Élection
26 Canada

27 **MR. DANIEL SHEPPARD:** The next document I
28 would like brought up is WIT20.EN.

1 --- EXHIBIT No. WIT 20.EN:

2 Interview Summary: Stéphane Perrault
3 and Serge Caron

4 **MR. DANIEL SHEPPARD:** And while that's
5 happening, **MR. Perrault**, you were interviewed by Commission
6 counsel on March 8th. Do you recall that?

7 **MR. STÉPHANE PERRAULT:** I do.

8 **MR. DANIEL SHEPPARD:** And a summary was
9 prepared of that interview which I understand was shared with
10 your counsel and I take it you've had an opportunity to
11 review that summary?

12 **MR. STÉPHANE PERRAULT:** I have.

13 **MR. DANIEL SHEPPARD:** Okay. And you agree
14 that that summary is an accurate summary of the interview you
15 provided to Commission counsel?

16 **MR. STÉPHANE PERRAULT:** It is.

17 **MR. DANIEL SHEPPARD:** Thank you very much.
18 And again, just for the record, the French
19 version is available at WIT20.FR.

20 --- EXHIBIT No. WIT 20.FR:

21 Résumé d'entrevue : Stéphane Perrault
22 et Serge Caron

23 **MR. DANIEL SHEPPARD:** And the last document
24 I'd like to get out of the way at the beginning is WIT31_EN.

25 --- EXHIBIT No. WIT 31.EN:

26 Stéphane Perrault Public Interview
27 Summary v2

28 **MR. DANIEL SHEPPARD:** You were also

1 interviewed by Commission counsel on March 14th in a
2 classified setting. Is that correct?

3 **MR. STÉPHANE PERRAULT:** I was.

4 **MR. DANIEL SHEPPARD:** Okay. And following
5 that classified interview, a publicly disclosable summary was
6 produced.

7 **MR. STÉPHANE PERRAULT:** Correct.

8 **MR. DANIEL SHEPPARD:** I understand that there
9 are two corrections to be made to the summary that was
10 produced.

11 If we can scroll to paragraph 1, please?

12 In the first line, it says:

13 "Mr. Perrault explained that during
14 the 2019 federal election, he
15 discussed with the Canadian Security
16 Intelligence Service..."

17 I understand the first correction is that the
18 words "discussed with" should be replaced with the words "was
19 informed by". Is that correct?

20 **MR. STÉPHANE PERRAULT:** That is correct.

21 **MR. DANIEL SHEPPARD:** The second correction
22 is following the bolded word "CSIS" in the second line. The
23 words "allegations of irregularities" should be replaced with
24 the words "a fact situation that could involve foreign
25 interference".

26 I'm just going to say that one more time, "a
27 fact situation that could involve foreign interference".

28 Is that also a correction?

1 **MR. STÉPHANE PERRAULT:** That is correct.

2 **MR. DANIEL SHEPPARD:** With those two
3 corrections made, do you agree that this public summary is an
4 accurate summarization of your classified interview with
5 Commission counsel?

6 **MR. STÉPHANE PERRAULT:** It is.

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

8 And again, for the record, the French version
9 of that summary can be found at WIT31_FR.

10 And we can take that document down.

11 **--- EXHIBIT No. WIT 31.FR:**

12 Stephane Perrault Public Interview
13 Summary v2

14 **MR. DANIEL SHEPPARD:** All right. So Mr.
15 Perrault, could you please describe what your roles and
16 responsibilities are as the Chief Electoral Officer of
17 Canada?

18 **MR. STÉPHANE PERRAULT:** So I guess my -- our
19 core mandate is to administer federal elections,
20 bi-elections, or general elections within the boundaries,
21 essentially, of the *Canada Elections Act*. I would say that
22 there are three main elements to that role. One is an
23 operational aspect, which involves, for example, the
24 maintaining of a national register of electors from which we
25 draw lists that are used in elections.

26 I appoint returning officers for each of
27 Canada's 338, soon to be 443 electoral districts, and we
28 train and support those returning officers. When a writ is

1 dropped, and of course we often do not know when that
2 happens, returning officers have to set up an office. We
3 have about 500 offices that need to be set up across the
4 country after the writ is dropped. So we support them in
5 that regard, and we provide office equipment and computers
6 and telephony, and then all of the material that is required
7 for the conduct of an election.

8 Returning officers have to identify some
9 15,000 to 16,000 polling locations during the period of the
10 early days of the election, sign those leases, so that they
11 can assign voters to those polling locations, and then they
12 must recruit and train some 230,000 people within a matter of
13 days. So of course we support them in that regard and we
14 support them with training.

15 So that's the core of the operational role.
16 We also, of course, have a mandate to inform Canadians about
17 the electoral process and the ways in which they can vote and
18 the requirements that they must meet in order to vote. So
19 that's the second aspect.

20 And the third aspect is administering the
21 political financing rules under the *Canada Elections Act*.
22 And perhaps I can elaborate on that if you wish.

23 **MR. DANIEL SHEPPARD:** So let's talk a little
24 bit about the political financing rule. So I understand that
25 under the *Canada Elections Act* there are a number of rules
26 that regulate how money can be contributed, collected, used,
27 and disclosed throughout the election process. Is that....?

28 **MR. STÉPHANE PERRAULT:** That is correct. I

1 should say that I believe that we have one of the most robust
2 and complete political financing regime in the world. That
3 does not make it perfect, and we regularly seek ways to
4 improve it, and I've made recommendations to Parliament to do
5 that.

6 But in the whole, it is a very comprehensive
7 regime, and so that does include elements like public funding
8 for various political entities, it includes spending limits
9 for candidate's parties and third parties. In the case of
10 third parties, it includes pre writ spending limits as well
11 as limits during the election period.

12 It includes fairly restrictive contribution
13 rules as to who can contribute and how much to the various
14 political entities, but they're relatively low thresholds in
15 Canada for contributions compared to what you see
16 internationally, and there are very low thresholds for
17 disclosure. For any amount of \$200 or more, the name and
18 address of the contributor is disclosed and reported on
19 publicly. And again, that is quite transparent compared to
20 most other jurisdictions around the world.

21 So that's the regime in a, you know, in a
22 nutshell, in a very, very shortly summarised that we
23 administer.

24 It is a complex regime, so we provide
25 guidance to political entities in the form of handbooks. We
26 do very specific interpretation notes on more complex or
27 controversial aspects of the regime. We provide training for
28 financial agents, in person and virtually. We, of course,

1 receive the financial returns annually, in the case of
2 parties and district associations, and event based for
3 candidates' parties, nomination, and leadership contestants.

4 And then we audit those returns and we -- if
5 we find apparent non-compliance, then we may refer the matter
6 to the Commissioner of Canada Elections for further
7 investigation or compliance activities. We also publish all
8 of that information and make it publicly available on our
9 website and in person. People can come in and examine the
10 underlying documents to satisfy themselves of the compliance
11 with the Rules.

12 **MR. DANIEL SHEPPARD:** Thank you. And I'd
13 like to pick up on two parts of your answer there. The first
14 was your reference to the publication of handbooks. So as I
15 understand it, these are documents prepared by Elections
16 Canada that are essentially designed to provide information
17 about the political financing rules that are applicable to
18 different types of participants in the electoral process.

19 **MR. STÉPHANE PERRAULT:** That is correct.
20 It's prepared by Elections Canada, but there is an open
21 consultation process with parties and the Commissioner on
22 those handbooks.

23 **MR. DANIEL SHEPPARD:** And I'm not going to
24 ask them to be pulled up, but Elections Canada did provide
25 copies of the handbooks for both the -- that were in effect
26 during both the 2019 and the 2021 elections. And those can
27 be found at ELC25 through to ELC41.

28 The other thing that you mentioned in your

1 discussion of the political financing rules, had to do with
2 making referrals to the Office of the Commissioner of Canada
3 Elections. So maybe you can just very briefly explain what
4 is the Office of Commissioner of Canada Elections and how
5 that office relates to your office as Chief Electoral
6 Officer.

7 **MR. STÉPHANE PERRAULT:** So the Commissioner
8 of Canada Elections is responsible for the enforcement of the
9 *Canada Elections Act*. It is responsible for taking or
10 deciding to make any investigation or taking any enforcement
11 action within the powers granted to the Commissioner under
12 the Act.

13 Under the Act, the Commissioner is appointed
14 by the Chief Electoral Officer, by myself, after consultation
15 with the Director of Public Prosecution. But once appointed,
16 the Act is very clear that the Commissioner operates
17 independently in the exercise of all of her functions in
18 relation to investigations and compliance under the Act. So
19 there is a clear and very strong separation of powers between
20 the two offices.

21 **MR. DANIEL SHEPPARD:** And so to be clear,
22 then, do you give direction to the Commissioner of Canada
23 Elections in terms of what she should or should not
24 investigate?

25 **MR. STÉPHANE PERRAULT:** I do not. The two
26 things that I do is if, and it happens regularly, receive
27 complaints that should be addressed to the Commissioner, we
28 don't really exercise any significant judgement there. We

1 redirect those complaints to the Commissioner. But if in the
2 course of our responsibilities, my responsibilities under the
3 Act, I see situations, and this is mostly in relation to
4 political financing, that suggest a violation of the Act,
5 then I will refer that matter to the Commissioner, and then
6 she has to examine and decide whatever actions she deems
7 appropriate.

8 **MR. DANIEL SHEPPARD:** Okay. And we're going
9 to return a little bit later on to some of the information
10 flows between Elections Canada and the OCCE, and those will
11 be dealt with by my colleague, Mr. Ferguson, who will be
12 continuing this questioning a little bit later on.

13 One final question about some of the
14 regulatory roles that Elections Canada plays. Does Elections
15 Canada have a role in overseeing or regulating the party
16 nomination process?

17 **MR. STÉPHANE PERRAULT:** It does not. So
18 nomination contests, first of all, under the Act, parties are
19 not required to hold a contest. They may hold a contest, and
20 if they do, that happens either at the party or most often at
21 the electoral district association level, where there is one.
22 There are some rules around political financing to ensure
23 that the money that flows into the nomination contest does
24 not -- is not improper and does not flow through the other
25 political entities. But beyond some restrictions around the
26 financing, we have no roles, and there are no rules in the
27 Act regarding the manner in which and who participates in
28 nomination contests.

1 **MR. DANIEL SHEPPARD:** For those parties that
2 choose to hold nomination contests, I understand that there's
3 something called a Nomination Contest Report that gets filed
4 with Elections Canada.

5 **MR. STÉPHANE PERRAULT:** Correct. So we are
6 not given prior notice of a nomination contest, unlike
7 leadership contests, until after a nomination contest is
8 held. The entity, the district association, or a party that
9 holds the contest must give us notice, and then the
10 contestants, who suspend or receive more than \$1,000 are
11 required to file a return, a financial return.

12 **MR. DANIEL SHEPPARD:** And my understanding is
13 that those financial returns are then audited by Elections
14 Canada as a routine matter.

15 **MR. STÉPHANE PERRAULT:** They are.

16 **MR. DANIEL SHEPPARD:** So I'd like to turn to
17 a different area, and it has to do, fundamentally, with the
18 terms of reference of this Commission.

19 This Commission's terms of reference direct
20 the Commissioner to, amongst other things, assess the
21 integrity of the 43rd and the 44th general election.

22 As someone who I imagine spends quite a bit
23 of time thinking about elections integrity, I wonder if you
24 have any views or observations about how it is this
25 Commission should think about the concept of elections
26 integrity?

27 **MR. STÉPHANE PERRAULT:** It's quite a bit to
28 say here. First of all, I think the Commission needs to

1 separate impact on result and impact on integrity. Impact on
2 result is extremely difficult to assess, as most cases, it's
3 not possible. And when you look at things like
4 disinformation campaigns, or even illegal financing of
5 parties, or illegal spending, misinformation, there are so
6 many factors at play in an election, that you cannot
7 basically draw a straight line between any activity in those
8 areas and the results, unlike, for example, destruction of
9 ballots or election fraud.

10 So I think the Commission needs to, and the
11 words that you mentioned in the Commission's mandate are the
12 right ones, assess the integrity of the election, and that is
13 fundamentally a qualitative exercise. It's not a
14 quantitative exercise.

15 So that's the first point.

16 The second point is that there is no fixed
17 and firm definition of what integrity means. It's generally
18 used -- there are basically two broad usages of the term
19 integrity or electoral integrity.

20 The most common, and I would suggest not the
21 most useful one for the Commission, is a very narrow sense,
22 which is compliance with the rules and procedures to secure
23 the election, essentially around the voting process. That's
24 a very common usage. I don't think it's particularly
25 enlightening for the Commission. It's very narrow in its
26 scope and it assumes that the legal rules around voting are
27 appropriate. They may not be. There may be need to improve
28 the rules around the election. So I would suggest that this

1 narrow understanding of electoral integrity, which is common,
2 is not the right one.

3 There was a broader understanding of
4 electoral integrity that speaks to the conditions for holding
5 free and fair elections. And that's also the language in the
6 Critical Incident Protocol.

7 Now, again, the words "free and fair
8 elections" don't have a crystalized meaning, but they're
9 often used in the international context, and they talk about,
10 and I've made some reference to that in my institutional
11 brief, they talk about certainly core aspects of elections
12 like the secrecy of the vote, and the manner in which
13 boundaries are drafted, and the independence of the electoral
14 management, and so forth. But they also speak to the broader
15 environment, such as having free press, freedom of
16 association, that are the conditions for having free and fair
17 elections.

18 So that's the first thing. I think it's
19 broader than electoral administration. It's the echo system
20 of elections. And I think that's right for the work of the
21 Commission.

22 The second thing is that the concept of free
23 and fair elections does not assume a perfect election. There
24 is no such thing as a perfect election, in the sense that
25 there are always actions and activities that are non-
26 compliant in some way with the rules or the expectations that
27 we have for an election. So the -- and the diversity of
28 ways, whether it's lawn signs being destroyed, or other

1 matters, there's always some degree of irregularities or
2 threats to the integrity of the electoral process. That's a
3 given.

4 What the concept of free and fair elections
5 requires is the existence of mechanisms to detect and deal
6 with those threats or those irregularities, and that
7 includes, for example, how do you deal with complaints? How
8 do you investigate? Is there a proper investigative
9 function? And in the case of contested elections, judicial
10 recounts or -- sorry, there are judicial recounts and
11 contested elections where the courts can play a role.

12 **MR. DANIEL SHEPPARD:** And Mr. Perrault, I'm
13 just going to interrupt you there for just one moment. And
14 this is something I think many witnesses will be hearing
15 Commission counsel say, and that's requested on behalf of the
16 interpreters, to slow down a little bit.

17 **MR. STÉPHANE PERRAULT:** So I was speaking to
18 the necessity of having proper mechanisms to detect and
19 address irregularities or threats to the electoral process.
20 So talking about complaints, investigations, contestable
21 actions, judicial recounts. We have all of that.

22 There is, in Canada, a statutory requirement
23 to have an independent audit of the performance of the poll
24 workers, their compliance with the procedures prescribed
25 under the Act. So that's another mechanism to detect non-
26 compliance and threats to the integrity.

27 Following an election, I make a series of
28 reports to Parliament, and I also publish data on our

1 website, about the election, its management, perceptions of
2 the election, issues that we encounter during the election,
3 and that allows the public and allows parliamentarians to
4 form an opinion as to integrity of the electoral process.

5 There's the Critical Incident Protocol.
6 That's another mechanism.

7 So when you talk about assessing the
8 integrity of the election, it's also, in my view, looking --
9 in a systemic way, looking at the mechanisms that are there
10 to deal with potential threat to the integrity of the
11 electoral process.

12 I'll add one more thing, which is not in my
13 institutional report, nor in my interview notes, and it's the
14 fact of this concept of free and fair elections does not, in
15 my view, normally usually account for the unique threats that
16 are presented by foreign interference. When you read about
17 free and fair elections, you won't typically see anything
18 about foreign interference. But I think it is critical to
19 understand the uniqueness of the threats that foreign
20 interference present, especially when you look at the
21 mechanisms that I talked just a moment ago.

22 So in several ways, I think that foreign
23 interference presents unique threats to the election. First
24 of all, because of its nature, foreign interference goes to
25 not only the integrity of the electoral process, but also the
26 sovereignty of the country. So that's one significant issue
27 here.

28 The seriousness of the threat. State actors

1 have capabilities that are not commonly found in private
2 actors. The capabilities of state actors to undertake, for
3 example, cyber security attacks are significant. The
4 capabilities of foreign state actors to undertake long-term
5 strategies are, in a way, unique. You don't find that in
6 private state actors.

7 And the very complexity of what foreign
8 interference is, and you're well aware of that, foreign
9 interference is not a specific thing. it's a series of
10 actions, activities, and strategies. Some may be unlawful
11 under the *Elections Act*. Some may be unlawful under other
12 acts of Parliament. Some may be lawful. And you're talking
13 about propaganda, influence campaigns. This may not be,
14 necessarily, unlawful, though it is foreign interference if
15 it is done in a matter that is covert and detrimental to the
16 interests of Canada.

17 So it is a complex issue that does require
18 the collaboration of a range of agencies and institutions,
19 including Elections Canada, but also, of course, national
20 security partners.

21 **MR. DANIEL SHEPPARD:** And so given the
22 uniqueness of foreign interference as you've just described
23 it, what do you see as Elections Canada's role to play in
24 protecting against those activities?

25 **MR. STÉPHANE PERRAULT:** So we have a -- we
26 are not a security agency, but we do have an important
27 security role in several respects, irrespective of whether
28 the threat is foreign or domestic. We, first of all, have

1 the security role proper, that is securing our IT
2 infrastructure from cyber attacks. And we don't do that
3 alone. We work with the Canadian Centre for Cybersecurity,
4 which has the expertise. But we also have some in-house
5 expertise. And of course there are measures that we take to
6 protect our infrastructure, as well as matters to protect the
7 safety of the polls and returning officers. So that's sort
8 of the security proper.

9 We also have a role in what I would describe
10 as informational security, to make sure that Canadians have
11 the right information about the voting process, that they're
12 equipped when an election is called to understand where and
13 when they can vote, and to address instances of
14 misinformation about the voting process. So that's a second
15 aspect.

16 We talked about a third aspect earlier, which
17 relates to political financing, which is administering the
18 regime, which includes measures to protect against undue
19 influence of money.

20 And the last one I would mention is I have a
21 role to make recommendations to Parliament regarding
22 improvements to the *Elections Act*, and I have made
23 recommendations to Parliament, some of which are directly or
24 indirectly relevant to foreign interference.

25 **MR. DANIEL SHEPPARD:** So I'd also like to
26 pick up then on one of the comments you made about the role
27 that other government entities play with respect to foreign
28 interference. And that takes me to Elections Canada's

1 relationship with the government.

2 I'd just like to start with noting that in
3 your interview, you emphasized the importance of Elections
4 Canada's independence. Can you just briefly explain why that
5 independence from government is important?

6 **MR. STÉPHANE PERRAULT:** So Elections Canada
7 was created about a hundred years ago precisely for that
8 reason, in order to have an independent body, independent
9 from the government of the day, in charge of administering
10 the election. And that is critical to the confidence, the
11 trust that Canadians have that the electoral process is
12 administered in a manner that is neutral and non-partisan.

13 I also said in my interview, and I think
14 that's is critical, that independence does not mean working
15 in isolation. So I think can and we do collaborate with
16 government, but we always maintain an independent stance.

17 **MR. DANIEL SHEPPARD:** Okay. And so it's that
18 collaboration with government, then, that I'd like to move
19 to. And in your interview you describe kind of an evolution
20 that sort of begins with the 2016 US presidential elections,
21 and some lessons learned from that experience, and led to the
22 creation of bodies called Electoral Security Coordination
23 Committees, or ESCCs. Can you tell me about how that ESCCs
24 came into existence?

25 **MR. STÉPHANE PERRAULT:** Certainly. At least
26 from my perspective, I can't speak from the government side.
27 But following the American presidential election in 2016,
28 late 2016, of course, as well as the experience with Brexit

1 and concerns about foreign interference there as well, I felt
2 that we need to have -- we needed to have much stronger
3 collaboration with security agencies in protecting the
4 electoral process.

5 So in January of 2017, right after the
6 American election, I met first with senior officials at PCO,
7 expressing the view that while in the past we used to have
8 meetings with the RCMP and Public Safety right before an
9 election, these were one-off meetings to do a sort of a
10 sanity check and make sure everything was okay. We needed to
11 work much more closely in collaboration with security
12 agencies. And I did meet with the Communications Security
13 Establishment, Greta Bossenmaier then, to also reinforce my
14 openness to their support in protecting our cyber -- our IT
15 infrastructure.

16 And so from these meetings at that point on
17 -- and I don't know the exact date -- there were discussions
18 that led to a working group, more or less formal, that became
19 eventually the Electoral Security Coordinating Committee.

20 **MR. DANIEL SHEPPARD:** And I understand that
21 these committees exist at a number of different levels within
22 the government. There's one that brings together Directors
23 General, one that brings together Assistant Deputy Ministers,
24 and the one that brings together Deputy Ministers, and that
25 would be the committee which you would sit on, on behalf of
26 Elections Canada.

27 **MR. STÉPHANE PERRAULT:** Correct.

28 **MR. DANIEL SHEPPARD:** And Elections Canada

1 was the co-chair of these committees.

2 **MR. STÉPHANE PERRAULT:** We were. With the
3 Security -- it would have been PCO.

4 **MR. DANIEL SHEPPARD:** And so what was the
5 purpose of these bodies? What did the ESCCs do?

6 **MR. STÉPHANE PERRAULT:** Fundamentally, the
7 purpose of the bodies were to have an awareness of a threat
8 environment, the nature of the threats; to understand the
9 roles and responsibilities of each of the partners, and to
10 clarify -- and create contact points, and to clarify using
11 tabletop exercises in the face of various complex scenarios,
12 who would intervene, when, in what sequence, and who would be
13 called upon to, or communicate with, if necessary, the
14 Canadian public. But mostly it was about defining clearly
15 roles and responsibilities.

16 And of course, in the Public Service, as
17 elsewhere, people move on to other jobs and they're not
18 constantly there. So the regular meetings also helped to
19 onboard new participants and make sure that as we move
20 towards the election there was always a clear understanding
21 of each entity's role.

22 **MR. DANIEL SHEPPARD:** Were the ESCCs
23 decision-making bodies?

24 **MR. STÉPHANE PERRAULT:** They were not.

25 **MR. DANIEL SHEPPARD:** And what's the
26 distinction, then, between a decision-making body and a
27 coordination body?

28 **MR. STÉPHANE PERRAULT:** A decision-making

1 body make decisions about the appropriate course of action.
2 This was not that. This was to understand what each of the
3 partners are doing in their own area of responsibility, and
4 so that there's a collective understanding of the work that's
5 being done to secure the election.

6 **MR. DANIEL SHEPPARD:** I also understand that
7 from time to time, ESCCs were a forum in which intelligence
8 briefings or other kind of information from the security and
9 intelligence community was presented to the committee
10 members, is that right?

11 **MR. STÉPHANE PERRAULT:** That's correct. As I
12 indicated, one of the purpose was to share a common
13 understanding of the threat environment.

14 **MR. DANIEL SHEPPARD:** And I'm going to come
15 back to that topic in a moment. But before I do, I'd like to
16 talk to you about one other type of institution, and that is
17 -- you've referred to it already -- the Critical Election
18 Incident Public Protocol, the CEIPP. And, in particular, the
19 body that we all know as the panel of five. Could you
20 describe the relationship between the panel of five and your
21 position?

22 **MR. STÉPHANE PERRAULT:** So I am not one of
23 the five members of the panel. The panel's mandate is to
24 examine matters that are relevant to the security of our
25 electoral process but that do not relate to matters that fall
26 within my mandate. So they do not speak on the electoral
27 administration -- sorry; the administration of the election.
28 These are matters that are within my mandate. So there's a

1 clear division of roles and responsibilities that is aligned
2 with the different accountabilities.

3 We spoke earlier about the independence of my
4 office; however, there is an understanding that through
5 security partners, we share information about the threat
6 environment, and if the panel were to be called upon to make
7 a public statement, or if I were to make a public statement
8 in relation to a significant matter of security, then we
9 would inform each other.

10 **MR. DANIEL SHEPPARD:** And in either the 2019
11 or the 2021 General Election, was there ever one of those
12 communications between yourself and the panel of five
13 respecting the possibility of making an announcement?

14 **MR. STÉPHANE PERRAULT:** No, there was not.

15 **MR. DANIEL SHEPPARD:** So I'd like to turn
16 now, then, to the topic of intelligence, and flows of
17 intelligence to Elections Canada.

18 So I understand that Elections Canada
19 received intelligence both within the context of the ESCCs,
20 and also from time to time would receive briefings directly
21 from security and intelligence partners on a bilateral basis.
22 Is that right?

23 **MR. STÉPHANE PERRAULT:** That is correct.

24 **MR. DANIEL SHEPPARD:** Could the Court
25 Operator please bring up ELC101_R? And if we could just
26 scroll down so that the body of the text can be seen? Thank
27 you.

28 **--- EXHIBIT No. ELC 101 R:**

1 Letter to Serge Caron from CSIS:
2 Enhancing Security of Elections

3 So Mr. Perrault, this is a letter received by
4 Serge Carron, who is one of your Deputies within Elections
5 Canada in July of 2021, that appears to be from CSIS. I take
6 it you've seen this document before?

7 **MR. STÉPHANE PERRAULT:** I have.

8 **MR. DANIEL SHEPPARD:** Okay. And what this
9 document is, is essentially an invitation from CSIS to review
10 sensitive information that may be relevant to the safe and
11 effective delivery of a future election event. And they ask
12 that ideally a meeting can be -- or a meeting will establish
13 a routine which can be carried out throughout the 44th
14 General Election.

15 Was there some type of routine that was
16 established for information sharing with CSIS?

17 **MR. STÉPHANE PERRAULT:** So outside of the ES
18 -- the Electoral Security Coordinating Committee, I'm aware
19 that there was a meeting following this letter. I am not
20 aware that there were recurring meetings, and certainly not
21 during the 44th General Election.

22 **MR. DANIEL SHEPPARD:** And this, of course, is
23 with respect to the 44th General Election. With respect to
24 the 43rd General Election, were there bilateral briefings or
25 routines established between Elections Canada and CSIS to
26 receive information?

27 **MR. STÉPHANE PERRAULT:** I certainly recall
28 one bilateral meeting. There was a CSIS representative that

1 came to meet a range of senior officials at Elections Canada,
2 but I'm not aware of routine meetings, especially
3 specifically bilaterally with CSIS. As I said, there were
4 routine meetings with the Electoral Security Coordinating
5 Committee, which includes CSIS.

6 **MR. DANIEL SHEPPARD:** And we can take that
7 document down.

8 In your interview summary, you indicate that
9 the briefings that you receive, whether bilaterally or
10 through the ESCC's work, primarily and generally the nature
11 of things like situational awareness, information about
12 tradecraft, and general threat assessments; is that correct?

13 **MR. STÉPHANE PERRAULT:** That is correct.

14 **MR. DANIEL SHEPPARD:** Can the court operator
15 pull up CAN019456?

16 **--- EXHIBIT No. CAN 19456:**

17 Speaking Points for EC Brief

18 **MR. DANIEL SHEPPARD:** This is a document that
19 was recently declassified for public use with the Commission.
20 It appears to be speaking notes from the site task force for
21 briefing to Elections Canada.

22 And I'd ask the court operator to just kind
23 of slowly kind of scroll down so that the witness can see
24 some of the content. And it looks as though we see kind of
25 general background information about understanding of foreign
26 interference threats. We see information about the
27 informational environment generally.

28 And then as we continue to scroll, there's

1 certain information about particular threat actors in terms
2 of their general sophistication, their interests and some of
3 the strategies they may employ.

4 And then if we keep scrolling, we then see
5 discussions of things other than foreign interference, other
6 topics like ideologically motivated violent extremism.

7 I'm not going to ask you any questions about
8 the specific content of this document. My only question to
9 you is, is this the sort of information that you received
10 when we're talking about the meetings involving general
11 threat assessments and informational awareness?

12 **MR. STÉPHANE PERRAULT:** Yes, it's very much
13 the type of information that we would have received. I do
14 not know whether the note's for an Elections Canada briefing.
15 That's not apparent from my reading of the document, but I
16 read it very quickly.

17 But certainly to your question, this is a
18 line with the kinds of information we would receive about the
19 threat environment.

20 **MR. DANIEL SHEPPARD:** Okay. Thank you.

21 And we can take the document down.

22 Can you tell me about whether and to what
23 extent this type of information was useful to Elections
24 Canada in fulfilling its mandate to maintain electoral
25 integrity?

26 **MR. STÉPHANE PERRAULT:** So there's nothing in
27 that document that is really directly actionable, but it is
28 useful both in what it says and what it does not say.

1 It does speak to issues like disinformation
2 and cyber security and it reaffirms the necessity to be aware
3 and prepared to deal with these issues, including, for
4 example, I believe it speaks to disinformation about COVID
5 measures during the election. And so of course, we were
6 prepared to do just that.

7 It speaks about threats in terms of cyber
8 security and we were working with the Centre for Cyber
9 Security to protect against that, so that's useful.

10 It's useful in what it does not say also in
11 the sense that it does not -- when you see a document like
12 this or information of that nature, you examine as to whether
13 there are other things that you should be doing that you're
14 not doing and there's nothing in that document that suggests
15 that there are.

16 **MR. DANIEL SHEPPARD:** So that's the type of
17 kind of general briefings that Elections Canada received
18 around the 43rd and 44th general elections.

19 And I understand with respect to the 44th
20 general election that was more or less it. That is the type
21 of intelligence briefing that Elections Canada received. Is
22 that right?

23 **MR. STÉPHANE PERRAULT:** That's correct.

24 **MR. DANIEL SHEPPARD:** There were no more
25 fact-specific briefings that you received for the 44th
26 general election.

27 **MR. STÉPHANE PERRAULT:** That is correct.

28 **MR. DANIEL SHEPPARD:** I'd like, then, to talk

1 to you about the 43rd general election.

2 My understanding is that in connection with
3 the 43rd general election, you were informed by CSIS of one
4 fact specific matter. Is that correct?

5 **MR. STÉPHANE PERRAULT:** That is correct.

6 **MR. DANIEL SHEPPARD:** My understanding is
7 that you were informed by CSIS of a fact situation that could
8 have involved foreign interference related to voting in the
9 nomination contest in the riding of Don Valley North,
10 Ontario. Is that correct?

11 **MR. STÉPHANE PERRAULT:** That is correct.

12 **MR. DANIEL SHEPPARD:** I understand that at
13 the point in time when you received that information, you
14 concluded that no action could be taken then, in part because
15 participation in a nomination contest is not regulated in the
16 same way as -- in the same way as an election. Is that
17 correct?

18 **MR. STÉPHANE PERRAULT:** That is correct.

19 **MR. DANIEL SHEPPARD:** And in particular, my
20 understanding is that any issues of irregularities under the
21 *Canada Elections Act* would have to be examined during the
22 audit of the nomination contest report which, at the time of
23 this briefing, had not yet been produced to Elections Canada.
24 Is that right?

25 **MR. STÉPHANE PERRAULT:** That's correct
26 because the only aspect that is regulated is the financial
27 aspect of the nomination contest.

28 **MR. DANIEL SHEPPARD:** So we've already

1 talked, then, about the fact that these reports are received
2 and audited as a matter of course by Elections Canada, and so
3 my understanding with respect to this fact situation is that
4 an audit of the nomination contest report was conducted in
5 the ordinary course by Elections Canada.

6 **MR. STÉPHANE PERRAULT:** It was.

7 **COMMISSIONER HOGUE:** I have one question.
8 What is the -- I'm not sure I should say standard, but what
9 is the typical delay between receiving a report and auditing
10 the report?

11 **MR. STÉPHANE PERRAULT:** So we aim to complete
12 all of the audits within 12 months for candidates. In the
13 case of nomination contestants, we don't have a similar
14 service standard or target. The priority will be given to
15 the audit of the candidate returns because there are
16 financial reimbursements that are -- that are tied to that
17 and are more extensive rules that relate to that. So
18 typically, we would -- we would do the campaign returns for
19 the candidates first.

20 It depends, however. In the case of
21 nomination contests, they can happen at any time, so they're
22 not -- there's not necessarily a conflict of priorities in
23 terms of the audit of the nomination contests. So that
24 varies more than the audit of candidate returns, which is --
25 which follows a fairly strict calendar.

26 **MR. DANIEL SHEPPARD:** So there's, then, an
27 audit of the return with respect to this nomination contest.
28 And I understand that as a result of information obtained by

1 Elections Canada during that audit, you refer the matter to
2 the Office of the Commissioner of Canada Elections.

3 **MR. STÉPHANE PERRAULT:** Correct.

4 If I may, I should add a point with regard to
5 my previous answer, is that we do make connections between
6 the nomination contest return and the candidate return. We
7 want to make sure that the flow of money between the two --
8 so when we do the candidate return, we will normally examine
9 the nomination contest as well.

10 **MR. DANIEL SHEPPARD:** And so then through
11 that overall auditing process that you've described, a
12 referral gets made to the Office of the Commissioner of
13 Canada Elections.

14 **MR. STÉPHANE PERRAULT:** That is correct.

15 **MR. DANIEL SHEPPARD:** Was the subject matter
16 of that referral related in any way to allegations respecting
17 foreign interference?

18 **MR. STÉPHANE PERRAULT:** It was not.

19 **MR. DANIEL SHEPPARD:** Is there anything else
20 you're able to say in a public setting about the information
21 that you received from CSIS that we've just discussed?

22 **MR. STÉPHANE PERRAULT:** No.

23 **MR. DANIEL SHEPPARD:** So thank you, Mr.
24 Perrault. That is all of my questions. However, my
25 colleague, Mr. Ferguson, is going to continue with some
26 additional questioning.

27 **--- EXAMINATION IN-CHIEF BY MR. MATTHEW FERGUSON:**

28 **MR. MATTHEW FERGUSON:** [No interpretation].

1 **MR. STÉPHANE PERRAULT:** [No interpretation].

2 **MR. MATTHEW FERGUSON:** My name is Matthew
3 Ferguson, as you know. I will be talking about -- speaking
4 -- I'll be speaking French for the second part of your
5 testimony.

6 To start off, I'd like to start off with just
7 some of the rules of the *Canada Elections Act* relating to
8 foreign interference. And please, you say in your
9 Institutional Report that the Elections Act has no definition
10 of what is foreign interference, but rather forbids the
11 participation of certain persons in certain roles in the
12 electoral process -- foreign persons. Can you start by
13 describing these rules relative to contributions from foreign
14 sources.

15 I'll repeat the question better. Who can
16 make a gift or a contribution to a candidate or a political
17 party?

18 **MR. STÉPHANE PERRAULT:** So in the case of
19 candidates and parties, it's quite clear only a Canadian
20 citizen or a permanent resident, so some non-citizens can as
21 long as they are permanent residents. We're talking about
22 persons with no corporate gifts or union gifts that can be
23 made; only persons can give money to an elected association.

24 **MR. MATTHEW FERGUSON:** I think that you
25 accelerated somewhat a little bit in French. I'd ask you to
26 please slow down a little bit so that the interpreters can
27 follow along.

28 **COMMISSIONER HOGUE:** I was just about to say

1 the same thing.

2 **MR. STÉPHANE PERRAULT:** [No interpretation].

3 **MR. MATTHEW FERGUSON:** So is it the same rules
4 that apply to -- for an association for a nominating meeting?

5 **MR. STÉPHANE PERRAULT:** Yes.

6 **MR. MATTHEW FERGUSON:** Does this mean money and
7 non-monetary contributions; like, in kind?

8 **MR. STÉPHANE PERRAULT:** Yes.

9 **MR. MATTHEW FERGUSON:** So if I understand
10 correctly, it is forbidden for anyone not a Canadian citizen
11 or permanent resident to give contributions to a candidate of
12 a political party or a riding association, an EDA, or a
13 candidate running for, say, leadership of the party or for --
14 to be appointed a candidate.

15 **MR. STÉPHANE PERRAULT:** No. For third
16 parties the rules are different. There's no limit to the
17 contributions that can be made to a third party.

18 **MR. MATTHEW FERGUSON:** [No interpretation].

19 **MR. STÉPHANE PERRAULT:** Now, a third party is
20 any entity other than one of those that is covered in the
21 list of which we just gave, which show that includes
22 associations, unions, companies, et cetera. So that's
23 different rules. There are no limit to the contributions
24 made by them. But these people cannot use these monies
25 coming from abroad for regulated activities under the law.

26 Partisan activities of electoral publicity,
27 these apply both before and during the election period.

28 There's also rules on -- rules related to surveys. Generally

1 speaking, third parties cannot use monies from abroad to
2 cover off such expenses.

3 **MR. MATTHEW FERGUSON:** Does that rule apply --
4 the writ period?

5 **MR. STÉPHANE PERRAULT:** Well, outside the writ
6 period, the only those that are permitted is in the pre-
7 election period, which starts on the 30th of June. So
8 outside of those period, a third-party is not subject to any
9 rules, other than they have to take into account the
10 contributions that they receive because when the election
11 comes, if the third party is active, then they will have to
12 tell -- divulge the source of it; otherwise, there's no
13 regulations.

14 **COMMISSIONER HOGUE:** Can you, Mr. Perrault,
15 for the benefit of one and all, give us a few examples of
16 third parties to whom this might apply, and it might receive
17 contributions during the election period or pre-election
18 period?

19 **MR. STÉPHANE PERRAULT:** Well, if we look at
20 the last election, there was a wide diversity of third
21 parties. There was major unions, for example; there's other
22 groups that organize regularly for an election; Canada Proud,
23 for example. And there's other organizations that are
24 tightly related to certain political parties or candidates.
25 There are other groups that are related to environment or
26 particular causes, themes. All of these groups have to
27 register, if they spend more than \$500 during an election or
28 if -- so if they spend during the election period or pre-

1 election period.

2 **COMMISSIONER HOGUE:** [No interpretation].

3 **MR. MATTHEW FERGUSON:** I also note that the
4 Election Act doesn't talk about foreign interference, or
5 doesn't forbid it, but rather foreign -- undue foreign
6 influence.

7 **MR. STÉPHANE PERRAULT:** [No interpretation].

8 **MR. MATTHEW FERGUSON:** What does "undue
9 foreign influence" mean?

10 **MR. STÉPHANE PERRAULT:** Well, it's a
11 provision that was adopted in 2019 when it received Royal
12 sanction, and it provides that foreign entities, or foreign
13 states in particular, cannot make the expenses to directly
14 support or contribute to the election of a candidate or a
15 political party, or encourage Canadians to vote or not vote.
16 This is limited to the writ period, and it is a -- it has
17 important exceptions. So for example, the expression of
18 personal opinion, an article in the media editorial that
19 aren't covered by this rule.

20 **MR. MATTHEW FERGUSON:** So maybe it is an
21 obvious question, but to whom does this apply?

22 **MR. STÉPHANE PERRAULT:** I don't have the
23 definition in front of me, but this is state actors, foreign
24 bodies, and others who act in their name. So if you look at
25 282.8 the list appears in the Act.

26 **MR. MATTHEW FERGUSON:** So it applies to
27 Canadians and non-residents, and residents?

28 **MR. STÉPHANE PERRAULT:** It doesn't apply to

1 them, no.

2 **MR. MATTHEW FERGUSON:** Now, I understand that
3 there's also the possibility of making expenses for
4 activities to favour or block a candidate. What does it
5 mean; make expenses?

6 **MR. STÉPHANE PERRAULT:** It means,
7 essentially, spending but there are promotion activities, not
8 necessarily publicity, advertising, but anything that
9 represents an expense that either promotes or opposes a
10 candidate.

11 **MR. MATTHEW FERGUSON:** So in the absence of
12 expenses or a violation of provincial or federal act, the
13 Election Act doesn't forbid a foreign party to promote or
14 oppose a political party during an election period.

15 **MR. STÉPHANE PERRAULT:** But there's a second
16 aspect of the provision here. Make an expense or make a
17 promotion in a way that is contrary to a provincial or
18 federal act. That is what is covered.

19 **MR. MATTHEW FERGUSON:** So the law does not
20 prohibit the foreigner, whether it be a foreign state or
21 other, to promote or oppose a political party during the
22 election period if they don't make any expenses.

23 **MR. STÉPHANE PERRAULT:** That's true, if they
24 don't make any expense.

25 **COMMISSIONER HOGUE:** And so you say when they
26 don't make any expense, when there's no expense, does that
27 mean -- let's take an example, articles are published in the
28 media at the request of a foreign state or of some organism

1 from abroad without there being any money spent.

2 **MR. STÉPHANE PERRAULT:** [No interpretation].

3 **COMMISSIONER HOGUE:** So in that case,
4 according to you, is that something that is allowed?

5 **MR. STÉPHANE PERRAULT:** Well, it's clearly
6 allowed.

7 **COMMISSIONER HOGUE:** Completely allowed.

8 **MR. STÉPHANE PERRAULT:** Yes.

9 **MR. MATTHEW FERGUSON:** So excuse me, I don't
10 know...

11 **COMMISSIONER HOGUE:** No, that's fine.

12 **MR. STÉPHANE PERRAULT:** I have finished, yes.

13 **MR. MATTHEW FERGUSON:** So it doesn't prohibit
14 a foreign agent to express their opinion on the result that
15 they anticipate, whether it be a former president of the
16 United States or the Ambassador from China.

17 **MR. STÉPHANE PERRAULT:** For example.

18 **MR. MATTHEW FERGUSON:** Are there other
19 provisions or other rules that could be useful in order to
20 protect the Canadian electoral process to counter foreign
21 intervention?

22 **MR. STÉPHANE PERRAULT:** Well, there are a few
23 specific rules. I mentioned those about political financing,
24 and only Canadian citizens can vote, so that's very basic,
25 it's very important. But a foreign actor could indeed
26 intervene but in 282.4 you will see that there's a clause
27 that deals with bullying, intimidation, and some activities
28 that are not specifically, let's say some provisions that

1 don't protect against foreign intervention but they do
2 protect the electoral process nevertheless.

3 **MR. MATTHEW FERGUSON:** Now, what about
4 complaints dealing with foreign interference with respect to
5 2019 and 2021 General Elections?

6 I would like to point out that the
7 Commission's counsellors interviewed Mrs. Josée Villeneuve,
8 one of your assistant, who provided a summary of her
9 testimony. It is available and it is document WIT 00013.

10 So Elections Canada received many complaints,
11 diversified complaints, that have to do with your mandate,
12 and in some cases they are not under your mandate.

13 **MR. STÉPHANE PERREAULT:** Well, the definition
14 of complaint is very wide-ranging; 18,000 complaints. So it
15 includes any problem about a candidate, a party, a third
16 party, or with respect to the electoral system, the
17 legislation, or issues with respect to official languages, or
18 a facility that is not easily reached. So anything that has
19 to do with electoral -- federal election is considered as a
20 complaint.

21 **MR. MATTHEW FERGUSON:** Well, you just dealt
22 with the 18,000 complaints, and for 2019, you received 18,889
23 complaints, and 16,000 for 2021. Are these figures, they are
24 from your -- extracted from your report?

25 **MR. STÉPHANE PERREAULT:** I do not question.

26 **MR. MATTHEW FERGUSON:** And there were some
27 122 complaints that had to do with concerns about foreign
28 interference in 2019, and 27 such complaints about foreign

1 intervention for the 2021 general elections.

2 I understand that in many cases these
3 activities are not necessarily prohibited. For instance, the
4 fact that Barack Obama tweeted his support.

5 **MR. STÉPHANE PERREAULT:** Yes, or Greta
6 Thunberg was here during an electoral campaign to deal with
7 the environment and some Canadians see this as unfair. I
8 won't comment but in fact, these are not prohibited by the
9 Act.

10 **COMMISSIONER HOGUE:** But how can you
11 determine what is linked with foreign interference and what
12 isn't, with respect to these files?

13 **MR. STÉPHANE PERREAULT:** Well, in the
14 complaint, people do identify someone, or it is very
15 implicit. For instance, what is the former American
16 President, Mr. Obama. So even though foreign interference is
17 not defined, it doesn't mean that it has to do with a
18 provision in the legislation that has to do with foreign
19 interference. It is the perception of the person who
20 addresses a complaint.

21 **COMMISSIONER HOGUE:** [No interpretation].

22 **MR. MATTHEW FERGUSON:** And then there were
23 cases that were suspected of foreign interference, and they
24 were under study; 52 complaints in 2019, and eight in 2021.

25 Could you help us to understand what is the
26 threshold for Elections Canada when those files are sent to
27 the office of the Commissioner of Canada Elections?

28 **MR. PERREAULT:** Well, these complaints -- or

1 these complaints are redirected; they don't come from us. We
2 don't want to do the work of the Commissioner because she's
3 in charge of any investigation or any conformity compliance
4 measure; she's responsible for that. So if the alleged facts
5 underline the possibility of an offence, even if it is very
6 light, we do refer them, and in many cases we ask the
7 Commissioner, we receive these complaints and in the case of
8 President Obama, we said, "Do you want to treat these -- to
9 process these complaints" And the answer was, "Oh no, there
10 were so many."

11 **MR. MATTHEW FERGUSON:** What about the
12 redirected complaints and the references?

13 **MR. STÉPHANE PERREAULT:** Well, references.
14 With respect to our mandate, we do see some things that
15 deserve the attention of the Commissioner because there's
16 some indication. We don't draw conclusions because an
17 investigation is required, but we see it is possible that
18 there was a violation of the Act; that something...

19 **COMMISSIONER HOGUE:** That someone complained?

20 **MR. STÉPHANE PERREAULT:** Yes. Maybe in terms
21 of financial report, maybe it was not submitted, or it was
22 late, so it needs a more in-depth investigation, and it is
23 the Commissioner who makes a final decision. But when
24 there's a reference from us, it's because we think that it is
25 a legitimate request.

26 Sometimes we simply send them over because
27 they were addressed to the wrong institution.

28 **COMMISSIONER HOGUE:** [No interpretation].

1 **MR. MATTHEW FERGUSON:** In your Institutional
2 Report, you say that Elections Canada received complaints
3 about a network of people and money transfers from the
4 Chinese Council to political candidate; it's on page 35 and
5 36 in your Institutional Report. So I understand that you
6 were made aware of these allegations in February 2023,
7 following reports in the media. And it led to a yearly --
8 no, a review of the various reports about political
9 organizations across the country.

10 Could you say a few words about this report?

11 **MR. STÉPHANE PERREAULT:** Of course it's very
12 difficult to say if there's hidden funding. For instance, if
13 there is financing through people who do declare money that
14 was contributed but does not come from them, then you need an
15 investigation. However, in these public reports there were
16 allegations about money that were considered as
17 contributions, and then that was spent in order to reimburse
18 a political expenditure.

19 So we made an analysis to see if there was
20 not a very close relationship between the monies coming from
21 a donor to someone who does receive compensation for
22 services, but we did not find anything that would have
23 justified a reference to the Commissioner.

24 **MR. MATTHEW FERGUSON:** Mr. Court Operator,
25 can I call the document ELR.IR.1.FR on the screen, please?
26 And page 36. Just scroll down. Okay.

27 [No interpretation]...draw your attention in
28 the Institutional Report on page 36, you do mention that

1 there's no problem that was found with respect to the
2 reimbursement to donors of the amounts in accordance with the
3 media article. However, it is important to point out that
4 the capacity to track this type of transactions is limited by
5 the content of the reports. There is no detailed report
6 about the riding association expenditures, and the difficulty
7 when we try to obtain information about these transactions.

8 Why do you add this reservation about your
9 summary report?

10 **MR. STÉPHANE PERREAULT:** Because for
11 candidates they have to present all the justifications, and
12 it's true for leadership candidate and for potential
13 candidate. So they have to file all the paperwork. Now,
14 with respect to political parties and riding associations, we
15 do not -- we do not have access to expenditures and
16 justifying documents. We've asked that from Parliament on
17 many occasions but we don't have access now.

18 **MR. MATTHEW FERGUSON:** You talk about a
19 review and results but there's a problem there.

20 **MR. STÉPHANE PERREAULT:** Yes, because there
21 could be a sub-amount and a larger amount, and if we could
22 see the invoice, maybe we would have more information that is
23 not available when you look at the global financial report.

24 **COMMISSIONER HOGUE:** Well, would it be fair
25 to say that your auditing is necessarily limited in that
26 context?

27 **MR. STÉPHANE PERREAULT:** That's what we are
28 seeing.

1 **COMMISSIONER HOGUE:** So the result is limited
2 in terms of conclusions because without justification you
3 cannot draw conclusions.

4 **MR. STÉPHANE PERREAULT:** Yes, what we say is,
5 "What can we do in order to try to find underlying truth?"
6 Sometimes we find some problems suggesting that a transaction
7 was not regular, so it does happen. I wanted to see such an
8 analysis would reveal something; it was not the case. But
9 it's quite incomplete.

10 **MR. MATTHEW FERGUSON:** Now, in addition to
11 these restrictions, are there other challenges or issues with
12 respect to these audit?

13 **MR. STÉPHANE PERREAULT:** When we talk about
14 contributions, we cannot go beyond the fact that an
15 individual made a donation. Where does the money come from?
16 That we cannot check; we cannot verify. Of course it's
17 always possible to provide money without declaring brown
18 envelopes and they would go beyond and above the political
19 regime. But if there's a limited amount of money, then you
20 do limit what can be done without it being obvious in terms
21 of political competitors. But what is done with cash outside
22 of the reports, that cannot be assessed.

23 **MR. MATTHEW FERGUSON:** Now, I would like to
24 deal with what you described in your Institutional Report as
25 the observation of the environment and of the digital
26 content.

27 Once more, I would add that the Commission
28 lawyers interviewed Mr. Nick Gamache, another of your

1 employees, and we produced a more detailed summary of this
2 interview, document WIT 0000019; five zeros one nine.

3 So at the end of 2016, following the American
4 presidential elections, could you tell us how Elections
5 Canada considered the problems of disinformation and
6 misinformation on the social media and our electoral
7 integrity? In other words, how could you get prepared for
8 the coming storm?

9 **MR. STÉPHANE PERRAULT:** Yes, there was an
10 awareness of the damages caused by disinformation and
11 misinformation. Sometimes it's not even intentional but it
12 has -- it is a reality with social media.

13 So we set up a monitoring system for social
14 media in order to make sure that the information that had to
15 do with the electoral process would be such as not to prevent
16 voters from being correctly informed. That was our concern.

17 And there is misinformation and
18 disinformation about all kinds of issues. There were
19 partisan debates that were not necessarily very honest; in
20 some cases, they were squarely wrong. But it is not our role
21 to be the referee of partisan electoral debates. That's not
22 what we intended to do.

23 What we wanted to do was to look at the
24 public environment to see what kind of information had to do
25 with the electoral process to make sure that if some concerns
26 among Canadian or incorrect information were dealt with
27 correctly in order to address these issues through our own
28 social media in our website or in the media at large so that

1 people could understand the information and that way we would
2 be able to make sure that voters were well-informed and could
3 exercise their voting right. That was our strategy.

4 **MR. MATTHEW FERGUSON:** You use the term,
5 "Monitoring" so the French term "*Surveillance*" might be a bit
6 too strong.

7 **MR. STÉPHANE PERRAULT:** Yes, it is a bit too
8 strong to talk about "*Surveillance*," but we were monitoring
9 the public media. It's not a question of digital information
10 at the individual level. And we are not interested in who's
11 the target audience, whether it is a domestic or foreign
12 source, we don't have the tools to determine appropriately if
13 the information comes from Canada or from foreign sources.
14 It can be misleading and it's not because there's some
15 information in an apparently Canadian account that it is the
16 case.

17 But as far as we are concerned, the reason
18 why we are monitoring social media is to make sure that the
19 right information is available to all Canadians, whatever the
20 source, so it's not a relevant criteria. We will act
21 whatever the source; we don't try to understand this reality.

22 And the same applies to the intent behind.
23 We simply want to be aware of the information that is
24 provided.

25 **MR. MATTHEW FERGUSON:** So you do not interfere
26 in terms of a conversation between two person who are having
27 a discussion on the internet about their own vote?

28 **MR. STÉPHANE PERRAULT:** No. When we are

1 monitoring, we talk about voting, about elections. Key words
2 that will come out of partisan conversations, and we will see
3 these terms, but we do not use them, in terms of our mandate,
4 if it's not to understand what is said about the electoral
5 process.

6 **COMMISSIONER HOGUE:** And let's say that
7 there's a forum about the process, discussions about the
8 process, so it's not a conversation that seems to be secret,
9 so it's not an information about who voted for this or that
10 candidate, it's not the issue. So how will you intervene if
11 it is a forum about that in social media?

12 **MR. STÉPHANE PERRAULT:** Well, it depends
13 when. If we are close to the date of the vote, the speed
14 with which the conversation is spreading, how many people are
15 reached, and the very nature of the information provided
16 also.

17 So some things are very serious. Let's say
18 that on the eve of an election, you are informed that you
19 have to provide a title or be vaccinated, then we have to
20 intervene. But it's not a case -- in most cases we do
21 intervene early in the process. When we see some information
22 of that kind, we can identify the narrative as being
23 misleading in the social media on the platforms, but we don't
24 have any power to request a withdrawal.

25 And it is not our privilege, approach, it
26 would be a last resort because Canadians would be very
27 reluctant to see us act as censors, in terms of that
28 information.

1 But normally, the information arrives early
2 enough in the process that -- so that we can include that on
3 our website or then have interviews with media
4 representatives or on our social media accounts. So there
5 are many ways in terms of contacting the public at large, but
6 it all depends on the nature and the range of the information
7 that we want to provide to the public.

8 **COMMISSIONER HOGUE:** [No translation].

9 **MR. MATTHEW FERGUSON:** Well, following the
10 question of Madam Commissioner, when there are discussions on
11 those forums, are these the publicly accessible forums?

12 **MR. STÉPHANE PERRAULT:** Yes.

13 **MR. MATTHEW FERGUSON:** You don't have access
14 to private conversations?

15 **MR. STÉPHANE PERRAULT:** No.

16 **MR. MATTHEW FERGUSON:** And what are the
17 digital platforms that are being monitored, generally
18 speaking?

19 **MR. STÉPHANE PERRAULT:** Well, I think that
20 you will find a list in the report. There are 67 such
21 sources, and you know most of them, but I do include chats
22 among other sources, and some more marginal platforms that I
23 don't know but my team is aware of the existence of those
24 platforms, 67 in all.

25 In the last election, the figure was inferior
26 to that of 2019, but our monitoring dealt with 67 platform.

27 **MR. MATTHEW FERGUSON:** Do you have a
28 relationship with WeChat?

1 **MR. STÉPHANE PERRAULT:** No, we have no
2 relationship except with some platform; Facebook, for
3 instance.

4 **MR. MATTHEW FERGUSON:** Twitter?

5 **MR. STÉPHANE PERRAULT:** Yes. But there are
6 platforms where we do some advertising, so it depends. We
7 have some accounts. In some cases we advertise or then we
8 simply observe what's going on in the case of these
9 particular platforms.

10 **MR. MATTHEW FERGUSON:** Well, from what you
11 just described about what you observed in the digital
12 environment, do you try to detect foreign interference
13 activities?

14 **MR. STÉPHANE PERRAULT:** We do not have any
15 capacity to make a distinction between the two because it can
16 be misleading. For instance, we have some 20 languages,
17 Mandarin and Cantonese, for instance, and it's not because a
18 comment is made in a foreign language that we must conclude
19 that it is foreign interference. And the reverse is true,
20 whatever it is in French or in English. So it requires an
21 investigation, and it is the intelligence authorities that
22 can make a judgment, and they have the tools to do that. But
23 it's not a case for Elections Canada. We are simply trying
24 to determine that the information about the voting process is
25 accurate.

26 And then we see some operational things. For
27 instance, if a road is blocked or a bridge is not usable, so
28 we are informed immediately, it can help us in terms of

1 operations. So we want to facilitate the voting process,
2 that's all.

3 **MR. MATTHEW FERGUSON:** I understood also, and
4 it's mentioned in your Institutional Report, that Elections
5 Canada was made aware of some intelligence reports about
6 digital interference occurrences between 2018 and 2022. What
7 did you learn, generally speaking?

8 **MR. STÉPHANE PERRAULT:** Could you tell me
9 exactly what you are referring to?

10 **MR. MATTHEW FERGUSON:** In your report, you
11 are mentioning the accounts, the summaries, the briefings
12 that came from the intelligence services. So what were you
13 made aware of, in general terms, and was this information
14 used in order to monitor the digital environment?

15 **MR. STÉPHANE PERRAULT:** Well, we mentioned
16 some quite generic examples. For instance, the interest in
17 the case of some foreign states, or their strategy.

18 Now, with respect to disinformation, I think
19 that the only relevant element, and we were prepared for
20 that, it was disinformation about health measure for the
21 election, whether it is domestic or foreign, it's the same as
22 far as we are concerned; it is an interference. And there
23 were some cases, not that many, but some information was
24 provided and we could not confirm the origin of this
25 misleading information.

26 **MR. MATTHEW FERGUSON:** Now, I'll talk about
27 monitoring social media again. So how is it used with
28 Elections Canada?

1 **MR. STÉPHANE PERRAULT:** Well, these reports
2 allow us to have a better understanding of the concerns of
3 Canadian of the environment about the electoral process, so
4 we can adjust or recalibrate our information on the website
5 to make sure that people do understand. For instance, the
6 health measures; what is required, what isn't. And we were
7 applying the local standards and the -- for instance, the
8 mask mandates, it varied. And there was no requirement for
9 any vaccine. So that was mentioned. And concerns in Canada,
10 and it is true here in Canada and elsewhere in the United
11 Kingdom, we use pencils, and in some cases we know that
12 people say that there are erasers to change the result of the
13 vote. But we are aware of these things and these stories
14 about the process are well-known before the election. So we
15 can clarify and put information in advance on our website in
16 order to educate the population about the rules and why they
17 do exist.

18 **MR. MATTHEW FERGUSON:** And these reports are
19 shared with external sources such as the RCMP or CSIS?

20 **MR. STÉPHANE PERRAULT:** Yes, we have weekly
21 reports all the time but during a campaign these are daily
22 reports that are shared with our security partners, so the
23 members of the SITE Task Force; essentially, CSIS, RCMP,
24 Global Affairs. So they do receive the information, as well
25 as the Commissioner, so all our security partners are made
26 aware of the content of the report. Global Affairs.

27 **COMMISSIONER HOGUE:** And if in the
28 information, you don't deal with the process as such, if it's

1 not what is of concern to you, will you nevertheless transfer
2 the information, or then will you limit the information about
3 what you are responsible for?

4 **MR. STÉPHANE PERRAULT:** No, no, no. We don't
5 say "So-and-so said." No. We say, "Here's what we heard.
6 Here's what we saw." And it could include partisan debates
7 or critics against some parties or some candidates. These
8 are the trends that we can monitor in social media, and it is
9 shared with all our security partners. But we don't give
10 them any directive, and we don't draw their attention, or
11 this or that. We take for granted that they respect their
12 mandate in order to look at the information available.

13 **MR. MATTHEW FERGUSON:** Now, I'll deal with
14 the last part of this examination.

15 With respect to the 44th and 43rd General
16 Elections and their integrity now. First of all, the 43rd
17 General Elections, can I see that you say that there was no
18 problem of foreign intervenes that have to do with your
19 mandate?

20 **MR. STÉPHANE PERRAULT:** Yes, it is an
21 important nuance. I'm not aware, in terms of our mandate, of
22 any case of foreign intervention in the management of the
23 elections.

24 **MR. MATTHEW FERGUSON:** And this is strictly
25 related to your role.

26 **MR. STÉPHANE PERRAULT:** Yes.

27 **MR. MATTHEW FERGUSON:** Now, between
28 classified and non-classified information, what is your

1 opinion about the 2019 General Elections, in terms of
2 integrity?

3 **MR. STÉPHANE PERRAULT:** In terms of my
4 mandate, I'm very confident. But with respect to larger
5 issues and the elections' ecosystem, it's up to the
6 Commission to consider all the facts that you will be made
7 aware of.

8 Now, in terms of elections management,
9 absolutely.

10 **MR. MATTHEW FERGUSON:** And is it the same
11 answer because we have 338 elections taking place at the same
12 time. So would you say that it applies to each electoral
13 riding election?

14 **MR. STÉPHANE PERRAULT:** Yes.

15 **MR. MATTHEW FERGUSON:** Now, about the 44th
16 General Elections; it is a slightly different context because
17 it took place during the COVID-19 pandemic, so it was a first
18 for Elections Canada to hold General Elections during a
19 pandemic period, of course.

20 **MR. STÉPHANE PERRAULT:** Yes, absolutely,
21 absolutely.

22 **MR. MATTHEW FERGUSON:** And there's also a
23 question about the slight -- the lesser number of voting
24 places.

25 **MR. STÉPHANE PERRAULT:** Schools were, in most
26 cases, unavailable to receive voting, and there were condos
27 that were normally have voting offices for their residents.
28 True, it was a challenge, and in the end, in the end we had

1 14,500 compared with 15,500. So some 1,000 less facilities.
2 So not always the same number and therefore not always as
3 close to citizens.
4

5 **MR. MATTHEW FERGUSON:** Do you think that the
6 reduction of the number of polling stations is the kind of
7 situation that could increase the vulnerability to foreign
8 interference measures?

9 **MR. STÉPHANE PERRAULT:** Well, I have no
10 information that allows me to believe that.

11 **MR. MATTHEW FERGUSON:** I also understand that
12 Election Canada's didn't meet any major problems of foreign
13 interference during your mandate, relative to the 44th
14 General Election; is this correct?

15 **MR. STÉPHANE PERRAULT:** Correct.

16 **MR. MATTHEW FERGUSON:** And once again on the
17 basis of all the informations available to you today,
18 classified and unclassified, can you give us your opinion of
19 the integrity of the 2021 General Election?

20 **MR. STÉPHANE PERRAULT:** Well, similarly I
21 would say that generally the General Election, I have a high
22 level of confidence in the integrity of this election with
23 regard to the questions that relate to my mandate.

24 **MR. MATTHEW FERGUSON:** And once again,
25 whether it be the General Election or the 338 riding
26 elections, is your answer the same for all of the ridings?

27 **MR. STÉPHANE PERRAULT:** Yes, my answer is the
28 same.

1 **MR. MATTHEW FERGUSON:** And do I understand
2 that this statement on your part in response to the questions
3 of my colleague, Sheppard, the questions on the integrity of
4 the election do not talk about the result of the election, or
5 do they, the results of the election?

6 **MR. STÉPHANE PERRAULT:** The result of the
7 elections is when you count the votes. And as far as I'm
8 concerned -- well, I have no ways of speculating factors that
9 could influence that. But what I can say is that in the
10 administration of the election, overall everything respected
11 the rules and the law and there was a high level of integrity
12 there.

13 **MR. MATTHEW FERGUSON:** And here's my last
14 question. But since you mention it in your Institutional
15 Report, and during the interview with the lawyers of this
16 Commission, you were aware of allegations in the media. How
17 do you reconcile these statements that qualified the
18 elections that you state to be of a high level of integrity,
19 how do you reconcile it with allegations of hostile actors
20 attempted to interfere with those elections, or at least in
21 some ridings? How do you reconcile the allegations made and
22 your statement?

23 **MR. STÉPHANE PERRAULT:** I won't say that I
24 wasn't concerned by these allegations that we hear in the
25 public sphere, but I think that as a citizen and the Director
26 General of Elections, I am concerned about that.

27 But I have perhaps two restrictions on my
28 comment: Basically, based on the facts that I am aware of,

1 and for issues related to my mandate, I think that the
2 Commission wants to look -- take a wider look at the
3 electoral ecosystem in which the elections took place, and
4 will examine it better to understand what might have
5 happened, and formulate an opinion thereupon. But it's not
6 my mandate and I do not have the resources necessary to make
7 any such determination.

8 **MR. MATTHEW FERGUSON:** Madam Commissioner, I
9 believe that this is it for my questions.

10 Thank you very much.

11 **COMMISSIONER HOGUE:** It will be a good time
12 for the break.

13 **MR. MATTHEW FERGUSON:** [No interpretation].

14 **COMMISSIONER HOGUE:** We'll come back in about
15 20 minutes.

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

17 The hearing is in recess until 11:40.

18 --- Upon recessing at 11:19 a.m.

19 --- Upon resuming at 11:45 a.m.

20 --- **STÉPHANE PERRAULT, Resumed:**

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

22 This sitting of the Foreign Interference
23 Commission is back in session.

24 **COMMISSIONER HOGUE:** So let me look at the
25 order. It's -- who is the first? Ah. Yes, just a moment,
26 I'm going to find it. Yes, I do. It's okay, I got it.
27 Sorry.

28 So it's the counsel for Michael Chong.

1 **MR. GIB van ERT:** Thank you, Commissioner.

2 **--- CROSS-EXAMINATION BY MR. GIB van ERT:**

3 **MR. GIB van ERT:** Sir, I wanted to start with
4 some questions about your independence from government. You
5 explained this morning that you're independent from
6 government. I understand that you're an officer of
7 Parliament; right?

8 **MR. STÉPHANE PERRAULT:** That's correct.

9 **MR. GIB van ERT:** And the virtue of that is
10 that you're not accountable to any minister.

11 **MR. STÉPHANE PERRAULT:** I am not.

12 **MR. GIB van ERT:** Right. And in fact, I
13 understand that you're only removable on a joint resolution
14 of Parliament. Is that right?

15 **MR. STÉPHANE PERRAULT:** Correct, a joint
16 resolution of the House of Commons and Senate.

17 **MR. GIB van ERT:** Right. Thank you. And I
18 understand as well that you serve for a non-review --
19 renewable 10 year term.

20 **MR. STÉPHANE PERRAULT:** That is correct.

21 **MR. GIB van ERT:** And the virtue of it being
22 non-renewable, from an institutional independence
23 perspective, tell me if I've got this right, is that it
24 removes any incentive on your part to try to please anyone in
25 government in the hope that you might get the job again after
26 10 years.

27 **MR. STÉPHANE PERRAULT:** That is correct.

28 **MR. GIB van ERT:** Right. So you can please

1 people or not please people in government and one way or
2 another, you'll be moving on when your term is over?

3 **MR. STÉPHANE PERRAULT:** That is the case.

4 **MR. GIB van ERT:** All right. Now, Mr.
5 Perrault, would you -- I know you've touched on it a bit
6 already, but would you just elaborate for the Commissioner on
7 why the Chief Electoral Officer needs that sort of
8 institutional independence?

9 **MR. STÉPHANE PERRAULT:** Because it's
10 important for Canadians to be reassured that the election is
11 not conducted under the influence of any particular
12 interests, including the interests of the governing party.

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

14 I've been realizing as we work through this
15 material, that the phrase general election is one that I
16 don't know that I don't know that I fully appreciated the
17 significance of the word general in that phrase before. But
18 I think maybe I'm coming onto it; you'll tell me.

19 A general election, as I understand it, is
20 one where there is an election held in all of the electoral
21 districts in the country at once. It's general in the sense
22 that it's -- everyone is having an election in all the
23 ridings?

24 **MR. STÉPHANE PERRAULT:** That is a proper
25 description of it.

26 **MR. GIB van ERT:** Right. Okay. And so, we
27 have 338 elections on election day, and that's what we call a
28 general election?

1 **MR. STÉPHANE PERRAULT:** That's correct.

2 **MR. GIB van ERT:** Thank you. And so, when
3 we're considering the integrity of the general election, what
4 we've really got to think about is the integrity of each of
5 those 338 component elections. Is that right?

6 **MR. STÉPHANE PERRAULT:** That's right. When
7 an election is contested, for example before a court, it is
8 contested on a riding-by-riding basis. So it is not
9 generally contested.

10 **MR. GIB van ERT:** Right, right. And so, if
11 there were foreign interference, or for that matter any kind
12 of interference, in only a handful of ridings in a given
13 general election, that could still jeopardize your assessment
14 of the integrity of the general election as a whole?

15 **MR. STÉPHANE PERRAULT:** So I just want to
16 make some nuances here. As Chief Electoral Officer, that's
17 in my statement, I'm not called upon to certify the integrity
18 of an election. What I am called upon to do is account for
19 it and provide evidence regarding my administration of the
20 elections for others, including participants who may wish to
21 challenge the election, including parliamentarians or the
22 Courts who have an interest, and of course, including the
23 Commission.

24 So formally my role is not to certify in any
25 way that case. So when I speak about it -- and I was asked a
26 question earlier -- it is a general assessment that I make,
27 but it is not a formal role that I play under the Act.

28 **MR. GIB van ERT:** Sure. Now, I take that

1 point and I didn't mean to suggest that you are responsible
2 for certifying integrity. But you're concerned about the
3 integrity of elections?

4 **MR. STÉPHANE PERRAULT:** Of course.

5 **MR. GIB van ERT:** Yes. And so, when you are
6 considering the integrity, do I have it right that if you
7 felt that 330 of the elections had integrity but eight lacked
8 integrity, you wouldn't say to yourself, well, close enough.
9 We've come pretty close to 338. You're having to hold
10 yourself and your agency to a standard of 338.

11 **MR. STÉPHANE PERRAULT:** And I would report if
12 I know of incidents that affect the integrity of an election,
13 if I am aware of factual information that affects that. Even
14 if it's one electoral district, I would include that in my
15 reports to Parliament.

16 **MR. GIB van ERT:** Yes. But I just want to
17 make sure you've agreed with me, your concern is the
18 integrity of all the 338?

19 **MR. STÉPHANE PERRAULT:** Absolutely.

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

21 You've explained that Elections Canada has
22 now adopted a monitoring of social media. And you were clear
23 that the purpose of that is to monitor for -- well, one of
24 the purposes is to monitor for misinformation or
25 disinformation around the process of voting, the process of
26 the conduct of elections?

27 **MR. STÉPHANE PERRAULT:** Correct.

28 **MR. GIB van ERT:** Right. As opposed to

1 political speech generally, for instance?

2 **MR. STÉPHANE PERRAULT:** Exactly.

3 **MR. GIB van ERT:** Right. So -- and I know
4 you gave the example to Maître Ferguson of people spreading
5 false news about the content of pencils that are used in
6 ballots for instance. Let me give you another fanciful
7 example because I just want to make sure I've understood this
8 right.

9 If in a given general election you were
10 monitoring -- your agency is monitoring social media, and you
11 see that there is a story going around and actually gaining
12 some pace, right, not just one random comment on some Reddit
13 feed somewhere, but something that's actually picking up
14 traction to the effect of in this coming election there'll be
15 no advance voting allowed for people in British Columbia.
16 That would be untrue of course.

17 **MR. STÉPHANE PERRAULT:** Of course.

18 **MR. GIB van ERT:** It would always have the
19 same rule for all of the provinces, right? So if you saw
20 something like that, have I understood you correctly that
21 that's the sort of thing where you have a mandate now to go
22 ahead and intervene?

23 **MR. STÉPHANE PERRAULT:** Yes. There are
24 different ways of doing that, but it is part of my mandate to
25 make sure that people in your example, in British Columbia --
26 -

27 **MR. GIB van ERT:** Right.

28 **MR. STÉPHANE PERRAULT:** --- are aware of the

1 ways to vote.

2 **MR. GIB van ERT:** And not misinformed?

3 **MR. STÉPHANE PERRAULT:** And not misinformed.

4 **MR. GIB van ERT:** Right. If instead the
5 disinformation that your monitors were detecting was about
6 something not touching the conduct of the election, but
7 instead the positions of a particular party or the views of a
8 particular candidate, that would not be a matter that
9 Elections Canada could intervene on?

10 **MR. STÉPHANE PERRAULT:** No. It should not.

11 **MR. GIB van ERT:** Is there any institution or
12 body in the country that is responsible for intervening where
13 an instance of gross disinformation is detected on social
14 media?

15 **MR. STÉPHANE PERRAULT:** That's a very broad
16 question. There are liable laws in this country that would
17 operate even during an election. So there are forums in that
18 regard that could be leveraged to deal with that.

19 As I said earlier, I am not in a position to
20 ascertain whether a content on social media is domestic or
21 foreign, despite the appearances. And I would imagine, but I
22 will let our security partners speak to that, that they have
23 an interest in that regard. Whether they can in real time
24 ascertain that or not is a different matter, and I won't
25 speak to that.

26 **MR. GIB van ERT:** Is there somebody -- you've
27 mentioned liable laws for instance. It's a good point. I
28 take your point. The difficulty of course is that correcting

1 disinformation through a liable suit will take longer that it
2 will to conduct the election, right? So if someone is saying
3 something that is outrageously false about a candidate or a
4 party during the election and you wait to let the Courts rule
5 on it in a few years time, that won't help the candidate or
6 the party during the election. Do you agree?

7 **MR. STÉPHANE PERRAULT:** It -- it will not.
8 And this is part, I think, of the challenges of living in an
9 open society which foreign state actors can leverage.

10 **MR. GIB van ERT:** Yes, and exploit.

11 **MR. STÉPHANE PERRAULT:** Yes.

12 **MR. GIB van ERT:** Against our interests as
13 Canadians wanting to have fair elections, potentially.

14 **MR. STÉPHANE PERRAULT:** Potentially.

15 **MR. GIB van ERT:** Yes. So short of the
16 Courts, are you as Chief Electoral Officer, aware of any
17 other institution that currently exists that has the capacity
18 -- because you've made clear that you don't -- to respond to
19 an instance of disinformation? And I mean a clear instance.
20 Is there somebody who's got the power during the election in
21 order to safeguard the election and prevent people from being
22 misled by that disinformation? Who's got the power to do
23 that, if anyone?

24 **MR. STÉPHANE PERRAULT:** So the critical
25 incident protocol was set up to deal with matters that do not
26 fall within my mandate and that within the view of the
27 members of the protocol, threaten the ability to have a free
28 and fair election. Whether they -- depending on the quality

1 of the information that they have and the seriousness, they
2 have to make an assessment of intervening or not intervening
3 in an election. That's a judgement that they have to make.

4 **MR. GIB van ERT:** Yes. And you explained
5 earlier that you are not a member of that panel?

6 **MR. STÉPHANE PERRAULT:** I am not.

7 **MR. GIB van ERT:** Because you need to be
8 independent of government?

9 **MR. STÉPHANE PERRAULT:** In my administration
10 of my mandate, yes.

11 **MR. GIB van ERT:** And the members of that
12 panel are all at pleasure appointees of the government of the
13 day?

14 **MR. STÉPHANE PERRAULT:** That's a fact.

15 **MR. GIB van ERT:** Right, right. Is there
16 somebody that actually enjoys the sort of independence that
17 you have who can intervene to contradict or dispel
18 disinformation during an election campaign?

19 **MR. STÉPHANE PERRAULT:** There is not.

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

21 And just a few points about nomination
22 contests. You've given evidence on this already of course.
23 You were clear that Elections Canada does administer
24 financial rules around party political candidate nomination
25 contests. So we've got that. But other than that, as I
26 understood your evidence, Elections Canada has no role in
27 those nomination contests?

28 **MR. STÉPHANE PERRAULT:** Correct. We are

1 informed after the fact.

2 **MR. GIB van ERT:** Informed, yes, as you
3 explained about there would be an after the fact financial
4 report for instance?

5 **MR. STÉPHANE PERRAULT:** Correct.

6 **MR. GIB van ERT:** Right, right. So to take
7 an example which may or may not prove to be hypothetical, if
8 voters were bussed in from outside a riding into another
9 riding to vote in some federal party's nomination contest,
10 contrary to the rules of that party's nomination proceedings,
11 that would not be a matter for Elections Canada?

12 **MR. STÉPHANE PERRAULT:** No, we have no
13 authority to intervene in that regard.

14 **MR. GIB van ERT:** That would be a matter for
15 the party, but you couldn't get involved?

16 **MR. STÉPHANE PERRAULT:** That's correct.

17 **MR. GIB van ERT:** Are you aware of any other
18 institution, besides the party itself, that would have any
19 role in that?

20 **MR. STÉPHANE PERRAULT:** In terms of the
21 contest itself and deciding the validity of that contest, no.

22 **MR. GIB van ERT:** Thank you, Mr. Perrault.
23 You've been most helpful.

24 **COMMISSIONER HOGUE:** Thank you. So the next
25 one is counsel for Erin O'Toole.

26 **--- CROSS-EXAMINATION BY MR. THOMAS JARMYN:**

27 **MR. THOMAS JARMYN:** Thank you, Commissioner.
28 It's Tom Jarmyn for Erin O'Toole.

1 Mr. Perrault, I'm going to -- some of the
2 questions I had have been covered previously, so I may jump
3 around a little bit, ---

4 **MR. STÉPHANE PERRAULT:** Sorry, ---

5 **MR. THOMAS JARMYN:** --- and I apologize. Can
6 you hear me?

7 **MR. STÉPHANE PERRAULT:** Oh, okay. I wasn't
8 seeing who -- where the question ---

9 **MR. THOMAS JARMYN:** Oh, sorry.

10 **MR. STÉPHANE PERRAULT:** I was hearing a voice
11 and not seeing a person. There, I've got you on the screen.

12 **MR. THOMAS JARMYN:** All right. Thank you
13 very much. So just to begin, I'll probably begin where Mr.
14 Ferguson left off and Mr. van Ert covered a little bit.

15 When you speak about the integrity of the
16 elections, of the 43rd and 44th general election, you're
17 answering that question in the concept -- or in the context
18 of the stator mandate given to you under the *Elections Act*?
19 Is that correct?

20 **MR. STÉPHANE PERRAULT:** That's correct.

21 **MR. THOMAS JARMYN:** And not within the
22 broader concept that you were discussing with Mr. Sheppard of
23 the free and fair election that sometimes we all think about?
24 Is that correct?

25 **MR. STÉPHANE PERRAULT:** That is correct.

26 **MR. THOMAS JARMYN:** Yeah. And we don't need
27 to bring up ELC54, which is your report on the 43rd and the
28 44th general election entitled *Meeting New Challenges:*

1 *Recommendations from the Chief Electoral Officer*, but that
2 report makes a number of recommendations regarding responses
3 to foreign funding, disinformation, and other activities
4 involving state actors; is that correct?

5 **MR. STÉPHANE PERRAULT:** That is correct.

6 **MR. THOMAS JARMYN:** And is that based upon
7 your concerns about the broader concept of the application of
8 a free and fair election in Canada?

9 **MR. STÉPHANE PERRAULT:** It is, in the sense
10 that this is an example where the laws of Canada are, in my
11 view, subject to improvements, and these are improvements
12 that I'm recommending.

13 **MR. THOMAS JARMYN:** Okay. Thank you. And
14 looking at section 282.4 of the *Elections Act*, which deals
15 with foreign interference or undue foreign influence, which
16 you discussed with Mr. Sheppard, I believe, that applies only
17 during the election period? Is that correct?

18 **MR. STÉPHANE PERRAULT:** That is correct. And
19 I have recommended that it be expanded beyond the election
20 period.

21 **MR. THOMAS JARMYN:** Yeah. And so if those
22 similar activities which might violate 282.4 during the
23 election period occurred in the context of a nomination race,
24 that wouldn't actually be a violation of the *Elections Act*;
25 would it?

26 **MR. STÉPHANE PERRAULT:** It would not.

27 **MR. THOMAS JARMYN:** Okay. And I just want to
28 take you to WIT31. And if we could bring that up on the

1 screen? Because I want to look at paragraph 2 in particular.

2 **MR. STÉPHANE PERRAULT:** Sorry, just to go
3 back to the previous question, there ---

4 **MR. THOMAS JARMYN:** Sure.

5 **MR. STÉPHANE PERRAULT:** --- may be -- going
6 back to your previous question, if I may? There may -- so
7 282.4 would not apply. There may be other rules that apply.
8 For example, making non-monetary contributions to a
9 contestant would apply; right?

10 **MR. THOMAS JARMYN:** Yes.

11 **MR. STÉPHANE PERRAULT:** Okay.

12 **MR. THOMAS JARMYN:** Yes.

13 **MR. STÉPHANE PERRAULT:** Some form of
14 coordination and the benefit is given that has value and that
15 is caught by the rules on contribution, which excludes,
16 certainly, non-Canadians and certainly foreign states.

17 **MR. THOMAS JARMYN:** Thank you, yes.

18 So if we could look at WIT31, paragraph 2?

19 In that, that's a summary of your classified

20 ---

21 **COMMISSIONER HOGUE:** Just a moment, I think
22 we -- it's not on the screen yet. Okay. It is.

23 **MR. STÉPHANE PERRAULT:** There we are.

24 **MR. THOMAS JARMYN:** Okay. Thank you.

25 So that's a discussion with your classified
26 interview with respect to the nomination contest in Don
27 Valley North. And in paragraph 2, you say that participation
28 in nomination contest is not regulated in the same way as an

1 election.

2 **MR. STÉPHANE PERRAULT:** That is correct.

3 **MR. THOMAS JARMYN:** And what -- and I'm not
4 asking for the actual facts or anything underlying these
5 allegations, but would further action with respect to these
6 allegations have been considered if a nomination contest was
7 regulated in the same manner as an election?

8 **MR. STÉPHANE PERRAULT:** I don't think I can
9 answer that question without disclosing beyond the boundaries
10 of what I can disclose.

11 **MR. THOMAS JARMYN:** Okay. Thank you. And
12 just with respect to the context of the general election, in
13 your discussion with Mr. Sheppard, you talked about the
14 processes Elections Canada underwent in order to prepare, and
15 among that is hiring some 230,000 employees in the course of
16 the general election. And these are deputy returning
17 officers and the polling clerks necessary to man, you know,
18 the establishment? Is that correct?

19 **MR. STÉPHANE PERRAULT:** That is correct. For
20 roughly 16,000 polling locations, ---

21 **MR. THOMAS JARMYN:** Yeah.

22 **MR. STÉPHANE PERRAULT:** --- you need poll
23 clerks, and returning officers, and information officers, and
24 other personnel to support the process.

25 **MR. THOMAS JARMYN:** And those folks are all
26 hired during the writ period or during the election period?
27 Is that right?

28 **MR. STÉPHANE PERRAULT:** That is correct.

1 **MR. THOMAS JARMYN:** And what steps are taken
2 to vet candidates for those positions?

3 **MR. STÉPHANE PERRAULT:** So we have them sign
4 a declaration that they meet the qualifications. So in order
5 to work as an officer, you do have to be a Canadian citizen.
6 But beyond that, and I think what you're getting at, there is
7 no security clearance that is done of these people. That
8 would not be possible, given the magnitude of the workforce
9 that we're talking about and the days that we have to hire.
10 We are normally hiring all the way up to the weekend before
11 polling day.

12 **MR. THOMAS JARMYN:** Yes, and I appreciate
13 it's a mammoth challenge. I suspect you're probably one of
14 the largest employers in Canada by the end of the writ
15 period.

16 **MR. STÉPHANE PERRAULT:** We are.

17 **MR. THOMAS JARMYN:** So you don't have any
18 ability to verify whether or not any of these folks have
19 affiliations with other organizations or entities, ---

20 **MR. STÉPHANE PERRAULT:** No, we do not.

21 **MR. THOMAS JARMYN:** --- other than self
22 disclosure?

23 **MR. STÉPHANE PERRAULT:** Correct. I would say
24 the electoral process is an open process, there are
25 observers, including candidate representatives, that are
26 there to ensure the integrity of the process, but candidate
27 representatives are not, also, security screened.

28 **MR. THOMAS JARMYN:** Okay. Thank you. Those

1 are all my questions, Madam Commissioner. Thank you.

2 **COMMISSIONER HOGUE:** Thank you.

3 So next one is counsel for Jenny Kwan.

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

5 **MR. SUJIT CHOUDHRY:** Good morning, Mr.
6 Perrault.

7 **MR. STÉPHANE PERRAULT:** Good morning.

8 **MR. SUJIT CHOUDHRY:** For the record, I'm
9 Sujit Choudhry. I'm counsel for Jenny Kwan.

10 Mr. Perrault, I also would like to talk a bit
11 about the interview summary that we were disclosed last night
12 that referenced the allegation or the fact situation that
13 might include foreign interference in Don Valley North.

14 And so if I understood you correctly this
15 morning in your answers to questions from Commission counsel,
16 you stated that whatever that allegation might be, and we
17 know you can't give us the specifics, it falls outside the
18 current scope of the mandate of Elections Canada?

19 **MR. STÉPHANE PERRAULT:** I can't speak to that
20 because I would have to nuance that.

21 **MR. SUJIT CHOUDHRY:** Okay. So then I'll move
22 on. So I'm going to proceed on the assumption that you
23 couldn't address it.

24 And I'd like to put up on the screen a
25 document I think you're very familiar with. It's the
26 playbook that I imagine you had a hand in putting together.
27 And this is the Election Incident Response Playbook, and the
28 document number is ELC, many zeros, 826. And I'm hoping it

1 will come up soon.

2 --- EXHIBIT No. ELC 826:

3 Election Incidence Response Playbook
4 for 44th General Election

5 **COMMISSIONER HOGUE:** I think it is.

6 **MR. SUJIT CHOUDHRY:** It's in the hearing
7 database.

8 **COMMISSIONER HOGUE:** Can you repeat the
9 document?

10 **MR. SUJIT CHOUDHRY:** Sure. It's ELC0000826.

11 **COMMISSIONER HOGUE:** There it is.

12 **MR. SUJIT CHOUDHRY:** Thank you very much.

13 And if we could go to page 7, please?

14 So I just want to spend a bit of time on this
15 document.

16 Could you actually scroll down a bit? We're
17 missing the title. No, the other way. Thank you.

18 Okay. So this -- the title of this graph is
19 "Election Incident Response Architecture". And so you'd
20 agree that there's -- by my account, there are about a dozen
21 different committees that -- or bodies that this document
22 describes, and by my account, in this document and its
23 surrounding text, there are at least a dozen different
24 federal government departments or agencies or entities that
25 are on these various committees and bodies; is that about
26 right?

27 **MR. STÉPHANE PERRAULT:** That's correct.

28 **MS. EWA KRAJEWSKA:** Sorry, before Mr.

1 Perrault answers, I just want to note that this is not a
2 document that we were given notice that would be provided to
3 Mr. Perrault. Can he just have some time to ---

4 **MR. SUJIT CHOUDHRY:** Sure.

5 **MS. EWA KRAJEWSKA:** I gather that it is an
6 ELC document but if you just give him a minute, please?

7 **MR. SUJIT CHOUDHRY:** Yeah, and I apologize
8 for that.

9 So I guess what I'm trying to figure out is
10 in relation to the potential for an interference in Don
11 Valley North, I'm wondering, of these various bodies and the
12 different government departments that are named here, whose
13 job would it have been to address that type of concern?

14 **MR. STÉPHANE PERRAULT:** It depends on what
15 you mean by "Address". So whatever happens at a nomination,
16 or if there's not a nomination, the person that files the
17 nomination per person in accordance with the nomination
18 papers for the election of a candidate, there's the same
19 words being used twice here, but whatever happens in the
20 nomination contest is separate than what happens during the
21 election. So these are separate matters.

22 And so I'm not sure what you mean by address
23 the issue. If you mean by that stop the nomination process,
24 or the nomination contest?

25 **MR. SUJIT CHOUDHRY:** Yes. I'm referring
26 specifically to a nomination contest.

27 **MR. STÉPHANE PERRAULT:** So the party is the
28 only entity that controls the nomination contest, ---

1 **MR. SUJIT CHOUDHRY:** So ---

2 **MR. STÉPHANE PERRAULT:** --- or the district
3 association, as the case may be.

4 **MR. SUJIT CHOUDHRY:** So part of the point of
5 this exercise is to think forward about how we might renovate
6 or reform our institutional machinery around questions of
7 election integrity, and I think it's evident that nomination
8 contests are on the agenda.

9 And so what I'd ask you to think, if you were
10 advising Parliament and you're asked a question, "Which
11 institution should be given the mandate to regulate
12 nomination contests," would it be Elections Canada? Or if
13 not Elections Canada, would it be some other one of these
14 institutions that already seem to have some hand in electoral
15 integrity, or should it be a new body?

16 **MR. STÉPHANE PERRAULT:** So the -- it's an
17 interesting question. I have raised the question with
18 political parties as to whether they have -- they see an
19 interest in further regulating nomination contest. This may
20 not necessarily involve any other body than themselves, but
21 it may involve them having rules that they must abide by, or
22 it could involve another body.

23 What I'll say is that there was no --
24 generally speaking, no appetite to deal -- to change the
25 rules or to further regulate, is probably the best way of
26 saying it, further regulate the nomination process.

27 I should say that this is not exceptional in
28 the world. That there are very few countries that actually

1 nominate the -- that regulate the nomination process. There
2 are examples but they are exceptional. I have not drawn my
3 own conclusions in that regard. I may make recommendations
4 to Parliament or this committee, depending on the findings
5 that come out of the first phase.

6 **MR. SUJIT CHOUDHRY:** And one last question,
7 if I may, on this theme.

8 So if Elections Canada were given such a
9 mandate, or it was added to Elections Canada's
10 responsibilities because it's sufficiently adjacent to its
11 existing responsibilities, would it -- in your opinion would
12 it -- does it have the expertise and capacity and resources
13 to address that issue; and if not, what would it need to get
14 the job done?

15 **MR. STÉPHANE PERRAULT:** It would
16 fundamentally alter our -- we would need to change
17 fundamentally the way we operate. We would need returning
18 officers permanently in each of the Canada's 300 -- 343
19 electoral districts, which does not exist now. They're
20 nominated but they do not operate, they do not have an
21 office. So we would have to have a permanent capacity if we
22 were to actually administer a nomination contest.

23 Now, there are alternatives to that, which is
24 the parties administer them, but they are bound by certain
25 rules that they must -- so we can explore different ways of
26 further regulating without necessarily expanding so much the
27 role of Elections Canada.

28 As I said, and as I told the parties, this is

1 something that I need to consider, based on what comes out of
2 these -- out of this inquiry.

3 **MR. SUJIT CHOUDHRY:** Thank you, sir.

4 **COMMISSIONER HOGUE:** Thank you.

5 So the next one is counsel for the
6 Conservative Party.

7 **(SHORT PAUSE)**

8 **--- CROSS-EXAMINATION BY MR. NANDO de LUCA:**

9 **MR. NANDO de LUCA:** Good morning, Mr.
10 Perrault. My name is Nando De Luca; I'm the lawyer for the
11 Conservative Party of Canada. Thank you for being here today
12 and taking the time to answer our questions.

13 I'd like to get a further understanding, as
14 well, regarding WIT 31, and I'd ask for that to be called up,
15 if possible?

16 So first off -- can you hear me okay, sir?

17 **MR. STÉPHANE PERRAULT:** I can.

18 **MR. NANDO de LUCA:** So first off this
19 morning, I believe you -- with respect to this document, you
20 offered some clarifications in discussing it with Commission
21 counsel. I'm going to ask you some questions about those,
22 but maybe we could go to paragraph 2 because as I see this
23 document there might have been another correction.

24 Paragraph 2 says:

25 "At that point, Mr. Perrault
26 determined that no action could be
27 taken."

28 I've got a version of this document that

1 says, "...ruled that no action could be taken"; was that
2 another change to be made?

3 **MR. STÉPHANE PERRAULT:** I don't recall that.

4 **MR. NANDO de LUCA:** Okay.

5 **MS. EWA KRAJEWSKA:** Just I think -- I believe
6 that was just a correction to the translation; it was
7 originally in French.

8 **MR. NANDO de LUCA:** Okay, that's fine.

9 So with respect to -- I'll have some more
10 questions about paragraph 2. With respect to the corrections
11 that you did make this morning, could you give some context
12 as to how those corrections came about?

13 **MR. STÉPHANE PERRAULT:** I reviewed the
14 document and felt that there's some adjustments that needed
15 to be made to better reflect my statement.

16 **MR. NANDO de LUCA:** Okay. And had you not
17 reviewed a version of this document prior to the review which
18 brought about these corrections?

19 **MR. STÉPHANE PERRAULT:** I've seen various
20 versions of that document.

21 **MR. NANDO de LUCA:** Okay. So it was upon
22 further review in preparation for today's statement that you
23 determined that ---

24 **MR. STÉPHANE PERRAULT:** Correct.

25 **MR. NANDO de LUCA:** --- the revised wording
26 more accurately reflected your sentiments?

27 **MR. STÉPHANE PERRAULT:** Correct.

28 **MR. NANDO de LUCA:** Okay. So the -- with

1 respect to paragraph 1, you made a couple of corrections, and
2 you clarified first that the discussion that you had with
3 CSIS in 2019, you changed the words, "He discussed with and
4 was informed by". I have a question; is that an indication
5 -- I have a more general question; how did this discussion or
6 this information come about? What was the context? Was it
7 solicited by you or did CSIS come to you unsolicited?

8 **MR. STÉPHANE PERRAULT:** CSIS came to me
9 unsolicited.

10 **MR. NANDO de LUCA:** Okay. And you saw fit
11 this morning to change, "Allegations of irregularities" to,
12 "A fact situation which could involve foreign interference".
13 What distinction do you draw, if any, between those two?

14 **MR. STÉPHANE PERRAULT:** Irregularities
15 connotes a violation of the rules under the Act, and my
16 corrected version does not necessarily have that connotation.

17 **MR. NANDO de LUCA:** Okay. Fair to say you
18 were trying to be more specific?

19 **MR. STÉPHANE PERRAULT:** Yes.

20 **MR. NANDO de LUCA:** Okay. So back to
21 paragraph 2. And I thank, I believe it's your counsel, for
22 making the correction. I was going to ask a question, but it
23 applies regardless of whether the word is "Ruled" or
24 "Determined"; when you say in -- or when it's written in
25 paragraph 2 that there was a determination made, was that any
26 sort of a formal deliberative process, or was it just based
27 on the meeting that you had with CSIS?

28 **MR. STÉPHANE PERRAULT:** It was based on the

1 information that I had; I came to that conclusion.

2 **MR. NANDO de LUCA:** But, again, was it based
3 on a deliberative process in which you solicited views of
4 other persons?

5 **MR. STÉPHANE PERRAULT:** It was not.

6 **MR. NANDO de LUCA:** So -- okay. More
7 generally, with respect to the subject matter, you reference
8 that it related to voting in the nomination contest in the
9 Riding of Don Valley North, paragraph 1.

10 And am I correct that those concerns related
11 to the Liberal Party nomination contest?

12 **MR. STÉPHANE PERRAULT:** I believe that I'm
13 not authorized to speak beyond what is in this public
14 statement. I'd have to consult with counsel regarding
15 further elaboration on the document.

16 **MR. NANDO de LUCA:** Okay. And I'd like to
17 get a better understanding, if I can, as to why you
18 determined that no action could be taken.

19 I think you indicated that, to the extent
20 that you're able in terms of the details that were provided
21 to you, any concerns did not -- may I characterize it this
22 way -- relate to concerns within your core mandate?

23 **MR. STÉPHANE PERRAULT:** That's one way of
24 saying it. Did not relate to the administration of the rules
25 under the Act.

26 **MR. NANDO de LUCA:** Okay. And am I correct
27 that the purchasing of -- more generally, the purchasing of
28 party memberships in Canada are regulated by the *Canada*

1 *Elections Act?*

2 **MR. STÉPHANE PERRAULT:** Aspects of it, yes.

3 **MR. NANDO de LUCA:** Okay. But in the case we
4 don't know -- in the case that you're -- the riding contest
5 that you're referring to, that element of regulation was not
6 engaged; correct?

7 **MR. STÉPHANE PERRAULT:** I -- again, I cannot
8 expand beyond the public statement. This was carefully
9 limited.

10 **MR. NANDO de LUCA:** Okay. Would you agree
11 that requiring individuals who wish to vote in a nomination
12 contest for a federal election should first be required to
13 purchase a membership using a Canadian credit card or a
14 Canadian bank account?

15 **MR. STÉPHANE PERRAULT:** Would I agree that
16 what? I missed a verb on that.

17 **MR. NANDO de LUCA:** Sorry.

18 **MR. STÉPHANE PERRAULT:** Can you repeat the
19 question, please?

20 **MR. NANDO de LUCA:** Sure.

21 So appreciating that we can't get into the
22 specifics, as a general proposition or perhaps as a
23 proposition of policy that with respect to riding contests
24 such as the one in issue here for Don Valley North, it would
25 be preferable to require individuals who wish to vote in such
26 a contest to purchase a membership using some form of payment
27 -- Canadian-based payment, i.e. a Canadian credit card or a
28 Canadian bank account?

1 **MR. STÉPHANE PERRAULT:** I would agree.

2 **MR. NANDO de LUCA:** Okay. And that would
3 certainly help deter the flow of funds -- foreign funds if
4 they were being used.

5 **MR. STÉPHANE PERRAULT:** I will note that I
6 have made recommendations to Parliament in that respect.

7 **MR. NANDO de LUCA:** Okay. So you indicated
8 towards -- if I could ask you to turn your attention to
9 paragraph 3 of your statement, sir.

10 Sorry. I'm going to go back to 2.

11 You set out reasons why or your -- why you
12 determined not to take any action with respect to what you
13 were informed by CSIS, one of them being that the rules
14 respecting nomination contests are different. And you
15 touched upon your mandate as being limited to the financial
16 -- certain financial aspects of it.

17 **MR. STÉPHANE PERRAULT:** That is correct.

18 **MR. NANDO de LUCA:** Okay. You then talk
19 about -- as another rationale, you offer that as opposed to
20 doing it -- doing anything about it at that time, you would
21 be undertaking an audit after the fact.

22 **MR. STÉPHANE PERRAULT:** As we do for all
23 nomination contests.

24 **MR. NANDO de LUCA:** Right. And as, in fact,
25 you did for this riding here that you talk about in paragraph
26 3; correct?

27 **MR. STÉPHANE PERRAULT:** Correct.

28 **MR. NANDO de LUCA:** Okay. So I'm trying to

1 understand, though, are -- let's say you're in a situation
2 where you're provided with credible information about true
3 irregularities in connection with a riding nomination that do
4 fall within your mandate. Are you suggesting that you would
5 not have the power to do anything about it at the time,
6 contemporaneously, as opposed to waiting for the audit
7 process after the fact?

8 **MR. STÉPHANE PERRAULT:** It's unlikely that it
9 could do that. That's correct.

10 I mean, our role is to examine the financial
11 returns and address irregularities through the audit. If
12 there are irregularities, they are then referred to the
13 Commissioner.

14 **MR. NANDO de LUCA:** Even if you were to be
15 made aware of, for example, blatant irregularities regarding
16 spending during the nomination process as it were happening,
17 you don't believe you have the tools available to you to
18 address it in real time?

19 **MR. STÉPHANE PERRAULT:** I would have to
20 inform the Commissioner, and then she would have to make the
21 determination as to what appropriate action would be
22 undertaken. But I don't have an enforcement role.

23 **MR. NANDO de LUCA:** I appreciate that. Okay.

24 But needless to say, with respect to the
25 specific matter that was referred to, that wasn't the
26 decision that you took in connection with this ---

27 **MR. STÉPHANE PERRAULT:** It was not.

28 **MR. NANDO de LUCA:** Okay.

1 **MR. STÉPHANE PERRAULT:** And I will note that
2 you made a number of qualifiers here, hypothetical, about
3 credible evidence, blatant ---

4 **MR. NANDO de LUCA:** Sure.

5 **MR. STÉPHANE PERRAULT:** --- violations.
6 These ---

7 **MR. NANDO de LUCA:** Fair enough.

8 So you concluded your -- and this is touched
9 upon in your paragraph 4. This wasn't a conclusion, rather,
10 earlier. You said that -- I'm trying to get an
11 understanding.

12 With respect to the matter, if I understand
13 your paragraph 4 and your testimony earlier, with respect to
14 the matter that you did refer to the Commissioner, am I
15 correct this was as a result of the audit process after the
16 fact?

17 **MR. STÉPHANE PERRAULT:** Yes.

18 **MR. NANDO de LUCA:** Did I understand your
19 evidence correctly that that was a distinct concern from that
20 that had been discussed with you by CSIS during the election
21 period?

22 **MR. STÉPHANE PERRAULT:** Can you rephrase that
23 question?

24 **MR. NANDO de LUCA:** Sure.

25 I'm trying to understand if there's any
26 relationship with what you referred to the Commissioner as a
27 result of the audit process.

28 **MR. STÉPHANE PERRAULT:** So the statement at

1 paragraph 3 is explicit on that. It was referred for other
2 reasons.

3 **MR. NANDO de LUCA:** Okay. And are you able
4 to share with us what, if anything, came as a result of what
5 was shared with you by CSIS?

6 I appreciate that you determined that you
7 couldn't or shouldn't take specific action with respect to
8 what was shared with you by CSIS. Do you know if that was
9 followed up by someone else or some other body?

10 **MR. STÉPHANE PERRAULT:** I cannot share that
11 with you.

12 **MR. NANDO de LUCA:** Okay. Now, you expressed
13 a sentiment towards the end of your testimony, and that's, I
14 believe, reflected in paragraphs 4 and 5 that as far as your
15 mandate is concerned, i.e. that which you're directly charged
16 with administering and overseeing under the *Elections Act*,
17 you believe that both with respect to the 43rd and the 44th
18 election you were not informed of significant or any
19 instances of foreign interference?

20 **MR. STÉPHANE PERRAULT:** That's correct.

21 **MR. NANDO de LUCA:** Okay. And that as a
22 result of that, from that perspective, at least, and perhaps
23 from broader perspective, your view is that both of those
24 elections had high integrity, again with respect to your core
25 mandate?

26 **MR. STÉPHANE PERRAULT:** With respect to my
27 mandate, correct. Based on the facts that I know today, that
28 is correct.

1 **MR. NANDO de LUCA:** Okay. And I appreciate
2 that you may not be -- well, I don't know if you'll be able
3 to share this.

4 Are you -- so I'll ask the question.

5 Are you aware -- and I'm drawing here on how
6 specific those conclusions are. Are you aware of information
7 that could call into question the integrity of the 43rd and
8 the 44th election, information that doesn't engage your
9 mandate, that could call into question the integrity of those
10 elections?

11 **MR. STÉPHANE PERRAULT:** So I think everyone
12 here is aware of the information that is made public that is
13 serious. That relates to the -- what I described as the
14 broader conception of electoral integrity and that, I
15 believe, is important for the Commission to examine and make
16 determinations on.

17 But as I said, I am not in a position to make
18 any kind of determination or pronounce on these.

19 **MR. NANDO de LUCA:** But what -- but I guess
20 what I want to know is -- and I appreciate that the
21 Commissioner will ultimately have to deal with this.

22 Is there other information that you have that
23 might be able to be shared in a non-public setting that could
24 ---

25 **MR. STÉPHANE PERRAULT:** There is not.

26 **MR. NANDO de LUCA:** Okay. Those are my
27 questions. Thank you.

28 **COMMISSIONER HOGUE:** Thank you.

1 So next one is the Human Rights Coalition.

2 **MS. HANNAH TAYLOR:** Good afternoon,
3 Commissioner.

4 **--- CROSS-EXAMINATION BY MS. HANNAH TAYLOR:**

5 **MS. HANNAH TAYLOR:** Good afternoon,
6 Mr. Perrault. My name's Hannah Taylor. I'm counsel for the
7 Human Rights Coalition.

8 Mr. Perrault, I'm correct in understanding
9 that Elections Canada sometimes receives complaints about
10 alleged violations of the *Canada Elections Act*, and when you
11 do, you pass that along to the Commissioner?

12 **MR. STÉPHANE PERRAULT:** That's correct.

13 **MS. HANNAH TAYLOR:** Are there mechanisms in
14 place to keep the identity of those who submit complaints
15 confidential during the time in which the complaint is in
16 your office?

17 **MR. STÉPHANE PERRAULT:** This is treated as
18 personal information, except with respect to the referral to
19 the Commissioner. I can't speak to the manner in which the
20 documents are preserved in my office.

21 **MS. HANNAH TAYLOR:** You would agree that the
22 intimidation of members of diaspora communities in the
23 context of Canadian elections is an issue that Elections
24 Canada is concerned with?

25 **MR. STÉPHANE PERRAULT:** It is.

26 **MS. HANNAH TAYLOR:** And from what I
27 understand, Elections Canada is or has been attempting to
28 respond to this type of concern by developing targeted

1 messaging products about the secrecy of the ballot and other
2 safeguards in the voting process?

3 **MR. STÉPHANE PERRAULT:** That's work that's
4 undergoing right now in preparation for the next election;
5 correct.

6 **MS. HANNAH TAYLOR:** They're still being
7 developed.

8 **MR. STÉPHANE PERRAULT:** Yes. Well, there is
9 information on our website right now that is fully developed,
10 and we're working on content for outreach initiatives for the
11 next election.

12 **MS. HANNAH TAYLOR:** And this came up briefly
13 with counsel for Mr. O'Toole. In June 2022, you provided
14 recommendations for additional tools for combatting foreign
15 interference in Canadian elections to the Speaker of the
16 House of Commons, including the expansion of the Rules on
17 undue influence by foreigners to the pre writ period;
18 correct?

19 **MR. STÉPHANE PERRAULT:** Yes, in committee, I
20 -- in parliamentary committee, I indicated that in fact it
21 should probably be expanded at all times.

22 **MS. HANNAH TAYLOR:** And I understand
23 correctly that this recommendation has not yet been
24 implemented. It's perhaps in the process of being expanded,
25 I don't know if you can speak to that, but it's not yet
26 implemented.

27 **MR. STÉPHANE PERRAULT:** There is a bill
28 before the house that was introduced, Bill C-65, that

1 includes a number of recommendations in it that I have made
2 or that is aligned with a number of recommendations that I've
3 made.

4 **MS. HANNAH TAYLOR:** Okay. Thank you. I
5 would like to turn to electoral integrity, the principles of
6 which I understand to inform Elections Canada's or Elections
7 Canada's mandate. You have mentioned that a broader
8 conception of electoral integrity could refer to maintaining
9 the conditions needed for holding -- or for the holding of
10 free and fair elections, and that this is a more useful
11 framework for the implementation of Elections Canada's
12 mandate as opposed to a narrower conception of electoral
13 integrity.

14 **MR. STÉPHANE PERRAULT:** It's true, but it's
15 not quite what I said. I said it's more useful for the
16 Commission to take that broader mandate. When we use -- we
17 have what we call an integrity framework that outlines six
18 principles that are reflected to a certain degree in the
19 provisions of the Act, and we use that when we devise
20 programs or initiatives. And we challenge ourselves to
21 examine through the lens of these principles whether what we
22 do improves, or elements of what we do raises concerns
23 regarding what are the other of these principles. So it's a
24 lens through which we evaluate our initiatives.

25 **MS. HANNAH TAYLOR:** Okay. You would agree
26 that a broader framework for understanding the integrity of
27 the -- a broader framework is also more useful for
28 understanding the integrity of a specific election?

1 **MR. STÉPHANE PERRAULT:** Yes, I think so.

2 **MS. HANNAH TAYLOR:** Okay. And you would
3 agree that maintaining the conditions needed for the holding
4 of free and fair elections includes ensuring that acts of
5 transnational repression do not impede the involvement of
6 voters from diaspora communities in those elections?

7 **MR. STÉPHANE PERRAULT:** Yes.

8 **MS. HANNAH TAYLOR:** Turning now a bit to
9 discussions, a bit of your mandate. When you or Elections
10 Canada considers the issue of foreign interference in
11 Canadian elections, and you make assertions as to how free
12 and fair a Canadian election is, you do so within the bounds
13 of Elections Canada's mandate and operations; correct?

14 **MR. STÉPHANE PERRAULT:** That's correct.

15 **MS. HANNAH TAYLOR:** It's not the role of
16 Elections Canada to identify or investigate threats of
17 foreign interference in Canadian elections; correct?

18 **MR. STÉPHANE PERRAULT:** We don't do any
19 investigations, in fact. That's the Commissioner of Canada
20 elections who does investigations.

21 **MS. HANNAH TAYLOR:** And Elections Canada
22 engages in analysis of the information environment
23 surrounding elections with its security partners at a high-
24 level. Would that be a proper kind of summary of how that
25 works?

26 **MR. STÉPHANE PERRAULT:** So we receive
27 briefings from our security partners at a high-level
28 regarding the nature of the threat environment. I may have

1 misheard your question because I was confusing it with the
2 social media monitoring that we do which we do separately
3 from our partners, but we share with our partners.

4 **MS. HANNAH TAYLOR:** Right; yes. I'd be
5 discussing information outside of the social media
6 monitoring.

7 **MR. STÉPHANE PERRAULT:** Okay.

8 **MS. HANNAH TAYLOR:** You would agree that it's
9 not the role of Elections Canada to evaluate and assess
10 Canadian elections?

11 **MR. STÉPHANE PERRAULT:** No, we -- our role is
12 to provide all of the information possible regarding our
13 administration to allow other bodies, including courts,
14 including this Commission, including parliamentarians,
15 including ordinary Canadians to form a judgement. So if you
16 go on our website, you will see there a segment of our
17 website that shows all the studies and surveys and the
18 reports that I do in order to provide transparency unto the -
19 - with respect to the administration of the election, and
20 that is integral to the idea of electoral integrity or free
21 and fair elections. That this process be observable, that
22 people can pass judgement on it.

23 **MS. HANNAH TAYLOR:** Okay. Other bodies
24 passing judgement on it, as opposed to ---

25 **MR. STÉPHANE PERRAULT:** Other bodies, that is
26 correct.

27 **MS. HANNAH TAYLOR:** So moving now -- turning
28 back to the social media monitoring that Elections Canada

1 does. We've heard this morning that Elections Canada
2 monitors public social media and digital content for
3 information focussing on matters relating to the voting
4 process, but not information that could be seen to be
5 partisan. Is that correct?

6 **MR. STÉPHANE PERRAULT:** So the purpose, as
7 you describe, the purpose is as you describe. As we do that,
8 we do come across content that is partisan, but we don't
9 collect it for that purpose and we do not action any -- in
10 any way that information.

11 **MS. HANNAH TAYLOR:** We also heard that
12 Elections Canada focusses on information that can be found in
13 public channels as opposed to private groups on social media
14 or private messaging apps and -- private messaging apps. Is
15 that correct?

16 **MR. STÉPHANE PERRAULT:** Correct. We are not
17 -- again, we're not an intelligence or investigative body,
18 and I don't think it would be appropriate for Elections
19 Canada to go beyond what is in the public domain.

20 **MS. HANNAH TAYLOR:** And Elections Canada does
21 not have the tools to determine the source of the information
22 it gathers on social media, including whether that source is
23 foreign or domestic?

24 **MR. STÉPHANE PERRAULT:** That's correct. Our
25 goal is to protect the information ecosystem, if I can use
26 that term, against mis or incorrect information about the
27 electoral process, whatever the source, whatever the intent.

28 **MS. HANNAH TAYLOR:** And Elections Canada

1 monitors the specific set of publicly available content
2 during the writ period, meaning the time between the
3 dissolution of Parliament and the election, which lasts about
4 50 days at maximum. Is that correct?

5 **MR. STÉPHANE PERRAULT:** No, that's not
6 correct. We ---

7 **MS. HANNAH TAYLOR:** Okay.

8 **MR. STÉPHANE PERRAULT:** --- monitor it all
9 the time.

10 **MS. HANNAH TAYLOR:** All the time? Okay.

11 **MR. STÉPHANE PERRAULT:** Yes. Our -- the size
12 of the theme varies.

13 **MS. HANNAH TAYLOR:** Okay.

14 **MR. STÉPHANE PERRAULT:** So during the
15 election period we have about 25, in the last election we had
16 about 25 staff devoted to this. It is a reduced staff now.
17 We do weekly reports, for example, so there is less work
18 involved in the writing, but we monitor on a permanent basis.

19 **MS. HANNAH TAYLOR:** Okay. And so outside of
20 those maximum 50 days there is 25 staff members dedicated to
21 monitoring this publicly available information, and then the
22 team grows during election period. That would be the
23 difference?

24 **MR. STÉPHANE PERRAULT:** Last election it grew
25 to 25, I would say ---

26 **MS. HANNAH TAYLOR:** Okay.

27 **MR. STÉPHANE PERRAULT:** --- and now it's a
28 bit -- it's a bit less than that.

1 MS. HANNAH TAYLOR: Okay. During ---

2 MR. DANIEL SHEPPARD: I'm sorry, guys, for
3 interrupting. We do have a request to please slow down with
4 ---

5 MS. HANNAH TAYLOR: Oh.

6 MR. DANIEL SHEPPARD: --- the questioning.

7 MS. HANNAH TAYLOR: Thank you. Sorry.

8 Okay. So thank you for correcting me,
9 Mr. Perrault. So during election period you have 25 staff
10 members monitoring.

11 MR. STÉPHANE PERRAULT: I think there is
12 three or five who are writing the reports and twenty
13 monitoring, but I -- it's a ballpark figure.

14 MS. HANNAH TAYLOR: Okay. And then how many
15 are doing that work during the rest of the year?

16 MR. STÉPHANE PERRAULT: I would have to come
17 back to that. I think the size overall is around 15 now, but
18 I'd have to be more precise. If you want to, I could come
19 back to the Commission with that information. Sure.

20 MS. HANNAH TAYLOR: Those are all of my
21 questions. Thank you.

22 COMMISSIONER HOGUE: Thank you.

23 Next one is RCDA.

24 --- CROSS-EXAMINATION BY MR. GUILLAUME SIROIS:

25 MR. GUILLAUME SIROIS: [No interpretation].

26 MR. STÉPHANE PERRAULT: [No interpretation].

27 MR. GUILLAUME SIROIS: [No interpretation].

28 --- EXHIBIT No. WIT 13.EN:

1 Interview Summary: Josée Villeneuve

2 --- EXHIBIT No. WIT 13.FR:

3 Résumé d'entrevue: Josée Villeneuve

4 **MR. GUILLAUME SIROIS:** [No interpretation].

5 **MR. STÉPHANE PERRAULT:** [No interpretation].

6 **MR. GUILLAUME SIROIS:** [No interpretation].

7 ...all approach to Elections Canada, but I
8 would like us to have a closer look at a precise case in
9 order to understand how it works -- on the ground when
10 Elections Canada receives a complaint of foreign interference
11 in an election.

12 In the photograph here, we see that we
13 received a complaint about a person that came from the
14 Federation of Russia because it had the .ru domain, which is
15 a domain in the Russian Federation. The matter was also then
16 sent to the Commissioner's office because it was publicity,
17 and there was a lot of social effect.

18 **MR. STÉPHANE PERRAULT:** Yes, there could be a
19 cost for that because it was publicly. It was not evident
20 but one can surmise that that is the case.

21 **MR. GUILLAUME SIROIS:** So there's necessarily
22 a cost related to ---

23 **MR. STÉPHANE PERRAULT:** Well, that's the
24 definition of publicity, but when you see an image where it's
25 not always evident to know whether there was actually a cost
26 related to having it there.

27 **MR. GUILLAUME SIROIS:** But in this case it
28 was publicity, therefore it seemed probable that it was.

1 **MR. STÉPHANE PERRAULT:** But this has to be
2 determined by an inquiry.

3 **MR. GUILLAUME SIROIS:** And that is why you
4 referred it, and you thought it could be an issue of foreign
5 interference and that it should be subject to an inquiry by
6 the Commissioner.

7 **MR. STÉPHANE PERRAULT:** [No interpretation].

8 **MR. GUILLAUME SIROIS:** And so it was
9 information about the leader of a federal party during an
10 election and disinformation campaigns in this regard without
11 any appearance of it being publicity or payment being made.
12 Would that also deserve to be referred to the Commissioner's
13 Office or there has to be a payment?

14 **MR. STÉPHANE PERRAULT:** There has to be
15 something that is against the law. So there could be
16 intimidation, that could be a violation, but in terms of the
17 content that criticizes a leader or a party, or that supports
18 and it's in the media, or the social media, without anything
19 more than that, that is not a violation of the law and
20 therefore there would be no cause to refer to the
21 Commissioner's Office.

22 **MR. GUILLAUME SIROIS:** I just want to make
23 sure they understand; so in addition to there appearing to be
24 interference, is there any other indicators that would
25 suggest that it should be referred to the Commissioner's
26 Office?

27 **MR. STÉPHANE PERRAULT:** You have to
28 understand that the exercise that goes on when we receive a

1 complaint from the public about a specific case, an
2 allegation of a violation, explicitly or implicitly, we've
3 mentioned that earlier, is an exercise that is rather light.
4 As soon as we think that there might be something that the
5 Commissioner should look at, we refer to her. If the person
6 says, "I am complaining; I want there to be an inquiry," we
7 send it automatically, even though, *a priori*, it doesn't look
8 like there's actually a problem.

9 But if someone says that they really want to
10 have an inquiry undertaken, well, then we send it on to the
11 person responsible for that, the Commissioner. But if it's
12 not clear, but there's an allegation of some facts that could
13 be considered a violation of the law and that could therefore
14 be referred to the Commissioner, we do so.

15 **MR. GUILLAUME SIROIS:** Is it possible that
16 the false information could have circulated on the social
17 media, whether an ad or not, just a false information
18 campaign that was on the social media; is it possible that
19 that kind of information is there without it being of
20 interest to Elections Canada?

21 **MR. STÉPHANE PERRAULT:** Of course.

22 **MR. GUILLAUME SIROIS:** The complaint that
23 we're talking about here in the summary of the interview with
24 Madam Duchand (phonetic), was it sent to other people or
25 other organizations rather -- outside of Elections Canada?

26 **MR. STÉPHANE PERRAULT:** Not to my knowledge.

27 **MR. GUILLAUME SIROIS:** Is it typical every
28 time there's a complaint, justifies, perhaps, the

1 intervention of the Commissioner, it's sent to her, but not
2 to any other organization that you were collaborating with?

3 **MR. STÉPHANE PERRAULT:** Indeed, the
4 Commissioner has herself agreements with the intelligence
5 community, and she can decide having looked at -- that there
6 might be information that is useful to them, but it's up to
7 her to make that determination.

8 **MR. GUILLAUME SIROIS:** Finally, do you
9 confirm sometime earlier this morning that there's no
10 organization that is independent as you are; that
11 concentration on fighting against that kind of disinformation
12 so the complaint that we're referring to here, which was a
13 disinformation complaint about a leader of a federal party
14 during an election, doesn't correspond to the mandate of
15 anybody who's responsible for inquiring and acting?

16 **MR. STÉPHANE PERRAULT:** It's an interesting
17 question of public policy. We live in an open society, and I
18 do believe that we have to have tools; that we should be
19 vigilant, and that citizen education plays an important role.

20 At our university organization, for example,
21 McGill, we're doing some media surveillance, fact-checking as
22 it's called, of what appeared in social media during the
23 election. So there's quite an ecosystem around the political
24 environment that intervenes to counter disinformation, and at
25 the parties and candidates of course.

26 **MR. GUILLAUME SIROIS:** The question is; in an
27 open society should there be an official organization
28 responsible for surveying and checking the veracity of

1 information during an election campaign?

2 **MR. STÉPHANE PERRAULT:** Well, I can tell you
3 that I don't think that Elections Canada should be playing
4 such a role. That doesn't mean we should do nothing. We do
5 -- we are responsible with making people aware, and it's work
6 that is done along those lines, and we shall continue to do
7 so. But I do not think that we -- hope that the state
8 organization be the information police on the internet. It's
9 very difficult. We saw in 2016 in the United States whether
10 certain content that was accused of being Canadian is or
11 isn't.

12 **MR. GUILLAUME SIROIS:** So if there's -- if
13 we're talking about a publicity from the URL from Russia, the
14 .ru, do we hope that the organizations like the one you
15 mentioned at University of McGill should report this, or is
16 it useful to have an independent federal organization that
17 would be responsible for fighting against disinformation?

18 **MR. STÉPHANE PERRAULT:** There's a group at
19 Global Affairs that has a look at things like that. There's
20 also the famous panel of five that I referred to earlier,
21 which receives information. But I shouldn't say that there's
22 no mechanism of monitoring, but before intervening or that
23 the state or some organization, the state intervene on
24 content that's online and it could be (indiscernible) it's a
25 very delicate matter.

26 **MR. GUILLAUME SIROIS:** For the groups that
27 you mentioned, these are not organizations that are
28 independent, such as Elections Canada is.

1 **MR. STÉPHANE PERRAULT:** No, they aren't.

2 **MR. GUILLAUME SIROIS:** Those are my
3 questions, Madam Commissioner.

4 **COMMISSIONER HOGUE:** And our next one is
5 counsel for Han Dong.

6 **MR. JEFFREY WANG:** Madam Commissioner, we
7 have no questions.

8 **COMMISSIONER HOGUE:** No question?
9 So it's your turn.

10 **MR. BARNEY BRUCKER:** No questions.

11 **COMMISSIONER HOGUE:** Then it's your turn?

12 **MR. DANIEL SHEPPARD:** Thank you, Madam
13 Commissioner. We have no re-direct.

14 **COMMISSIONER HOGUE:** Prior to that there was
15 Elections Canada.

16 **MR. DANIEL SHEPPARD:** I apologize to my
17 friends from Elections Canada.

18 **COMMISSIONER HOGUE:** You're too quick.

19 **MS. EWA KRAJEWSKA:** I have no questions.
20 Thank you.

21 **COMMISSIONER HOGUE:** You still have no
22 question?

23 **MR. DANIEL SHEPPARD:** I have now many follow-
24 up questions.

25 No, thank you, Madam Commissioner.

26 **COMMISSIONER HOGUE:** So thank you very much,
27 Mr. Perrault.

28 **MR. STÉPHANE PERRAULT:** [No interpretation].

1 **COMMISSIONER HOGUE:** So we'll take the
2 lunchbreak. We'll come back at 1 -- five past 1:00. Yeah,
3 1:00.

4 **THE REGISTRAR:** Order, please.
5 This hearing is in recess until 1:05 p.m.

6 **MS. ERIN DANN:** Two oh five (2:05), I think.

7 **THE REGISTRAR:** Oh, correct; 2:05 p.m.
8 Two oh five (2:05) p.m.

9 --- Upon recessing at 12:46 p.m.

10 --- Upon resuming at 3:06 p.m.

11 **THE REGISTRAR:** Order, please. The sitting
12 of the Foreign Interference Commission is back in session.

13 **COMMISSIONER HOGUE:** Good afternoon.

14 First of all, I want to apologize for the
15 delay. I realize that presiding over a Commission is not
16 like presiding over a court of law. We cannot control
17 everything, especially in a context like this one where
18 there's some confidentiality and security issues. So I'm
19 sorry, but we'll do our best to proceed efficiently this
20 afternoon. Thank you.

21 **MR. DANIEL SHEPPARD:** And Madam Commissioner,
22 before we begin with the next witness, Commission counsel
23 wanted to remind the parties that pursuant to Rule 59 of the
24 Rules of Practice and Procedure, participants must seek leave
25 to cross-examine a witness on their interview summary. This
26 was not done this morning and it is the expectation that
27 participants should seek leave moving forward. Witnesses
28 cannot be cross examined on their interview summary or

1 statement of anticipated evidence as a prior inconsistent
2 statement.

3 **COMMISSIONER HOGUE:** Thank you. It's a good
4 reminder for everyone.

5 **MR. DANIEL SHEPPARD:** Madam Commissioner, we
6 call at this time Ms. Caroline Simard, Mr. Yves Côté, and Ms.
7 Mylène Gigou.

8 **COMMISSIONER HOGUE:** [No interpretation].

9 **THE REGISTRAR:** [No interpretation].

10 **MR. YVES CÔTÉ:** [No interpretation].

11 **THE REGISTRAR:** Please raise your right hand.

12 Do you swear to tell all the truth, nothing
13 but the truth, and so God help you?

14 **MR. YVES CÔTÉ:** I do.

15 **--- MR. YVES CÔTÉ, Sworn:**

16 **THE REGISTRAR:** And you, Mrs. Simard?

17 **MS. CAROLINE SIMARD:** So it will be a
18 declaration.

19 **THE REGISTRAR:** No problem. Please indicate
20 your name for the file.

21 **MS. CAROLINE SIMARD:** Caroline Simard. S-i-
22 m-a-r-d.

23 **THE REGISTRAR:** Please raise your right hand.

24 Do you swear to say the truth, all the truth,
25 and nothing but the truth?

26 **MS. CAROLINE SIMARD:** I do.

27 **--- MS. CAROLINE SIMARD, Affirmed:**

28 **THE REGISTRAR:** Thank you.

1 And Mrs. Gigou, do you want to swear on the
2 Bible or affirmation?

3 **MS. MYLÈNE GIGOU:** I will do affirmation.

4 **THE REGISTRAR:** Please indicate your name.

5 **MS. MYLÈNE GIGOU:** My name is Mylène Gigou;
6 Gi-g-o-u.

7 **THE REGISTRAR:** Please raise your right hand.
8 Do you swear to say the truth, nothing but
9 the truth, and all the truth?

10 **MS. MYLÈNE GIGOU:** Yes, I do.

11 **--- MS. MYLÈNE GIGOU, Affirmed:**

12 **THE REGISTRAR:** Thank you.

13 Please proceed.

14 **--- EXAMINATION IN-CHIEF BY MR. MATTHEW FERGUSON:**

15 **MR. MATTHEW FERGUSON:** Hello, and welcome.

16 So ladies and gentleman witnesses, I will be
17 talking to you in French and English. I will ask you to
18 speak slowly because we are working with interpreters today.
19 So if you're thinking you're speaking too slowly, please slow
20 down even more.

21 So Commissioner Simard, and I will talk to
22 you as Mrs. Simard to not create any confusion with our
23 Commissioner for this hearing. Can you confirm that the
24 Federal Elections Bureau prepared additional report, and that
25 is part of your evidence before the Commission?

26 **MS. CAROLINE SIMARD:** I do.

27 **MR. MATTHEW FERGUSON:** So Court Operator, can
28 we call up CEF.IR.0001.EN?

1 --- EXHIBIT No. CEF.IR.1.EN:

2 Institutional Report OCCE

3 **MR. MATTHEW FERGUSON:** So that is the
4 document of the Institutional Report in English.

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

6 **MR. MATTHEW FERGUSON:** Thank you. I will ask
7 for CEF.IR several zeroes 2.FR.

8 --- EXHIBIT No. CEF.IR.2.FR:

9 Rapport institutionnel BCEF

10 **MR. MATTHEW FERGUSON:** And that is the French
11 version.

12 **MS. CAROLINE SIMARD:** Yes.

13 **MR. MATTHEW FERGUSON:** So Mrs. Simard, you
14 were interviewed by the lawyers of the Commission on March
15 6th, and the summary of that interview was prepared; is that
16 correct?

17 **MS. CAROLINE SIMARD:** Yes.

18 **MR. MATTHEW FERGUSON:** Did you have a chance
19 -- I will ask the next document be pulled up, please.

20 --- EXHIBIT No. WIT 6.EN:

21 Stage 1 Interview Summary: Caroline
22 Simard and Carmen Boucher

23 **MR. MATTHEW FERGUSON:** So question; is this
24 the summary of the interview?

25 **MS. CAROLINE SIMARD:** Yes.

26 **MR. MATTHEW FERGUSON:** Did you get the chance
27 of examining the summary to make sure that it reflected the
28 contents of the discussion?

1 **MS. CAROLINE SIMARD:** Yes, I did.

2 **MR. MATTHEW FERGUSON:** Did you have the
3 chance of bringing any correction or modification?

4 **MS. CAROLINE SIMARD:** Yes.

5 **MR. MATTHEW FERGUSON:** And I understand that
6 you want to do a change today also?

7 **MS. CAROLINE SIMARD:** Yes, please.

8 **MR. MATTHEW FERGUSON:** If you allow me, we
9 could do the change, it wouldn't be very long. But I think
10 that I know the nature of the change. In a generic way,
11 could you simply state what the change would be?

12 **MS. CAROLINE SIMARD:** It would be a typo in
13 paragraph 16 to indicate about 5 percent for federal
14 elections between 2020 -- the 2021 federal election, and the
15 mistake is that it's 0.5 percent ---

16 **MR. MATTHEW FERGUSON:** OK.

17 **MS. CAROLINE SIMARD:** --- for the federal
18 elections.

19 **MR. MATTHEW FERGUSON:** So we need .5 instead
20 of 5.

21 **MS. CAROLINE SIMARD:** [No interpretation].

22 **MR. MATTHEW FERGUSON:** Thank you. Were there
23 any other corrections?

24 **MS. CAROLINE SIMARD:** No.

25 **MR. MATTHEW FERGUSON:** Mr. Côté, hello.

26 **MR. YVES CÔTÉ:** [No interpretation].

27 **MR. MATTHEW FERGUSON:** Mrs. Gigou, hello.

28 You were interviewed by the lawyers of the

1 Commission on March 18th, and there's a summary of that
2 interview that was prepared.

3 So could the Clerk bring up the document?

4 **--- EXHIBIT No. WIT 25:**

5 Stage 1 Interview Summary: Yves Côté,
6 Mylène Gigou and Al Mathews

7 **MR. MATTHEW FERGUSON:** So Mr. Côté, Mrs.
8 Gigou, did you have the chance of looking at that summary to
9 check if it reflected accurately the contents of the
10 discussion?

11 **MR. YVES CÔTÉ:** Yes.

12 **MR. MATTHEW FERGUSON:** Mrs. Gigou?

13 **MS. MYLÈNE GIGOU:** Yes.

14 **MR. MATTHEW FERGUSON:** Did you have the
15 chance of bring any changes or corrections?

16 **MR. YVES CÔTÉ:** Yes.

17 **MS. CAROLINE SIMARD:** Yes.

18 **MR. MATTHEW FERGUSON:** Do you wish to bring
19 changes or corrections today?

20 **MR. YVES CÔTÉ:** No.

21 **MR. MATTHEW FERGUSON:** [No interpretation].

22 **MS. MYLÈNE GIGOU:** I would; paragraph 4.

23 **MR. MATTHEW FERGUSON:** [No interpretation].

24 **MS. MYLÈNE GIGOU:** The line before last:

25 "Among others, for investigating
26 allegations of bid rigging and price
27 fixing under the *Competition Act*."

28 (As read)

1 An important distinction.

2 (LAUGHTER)

3 **COMMISSIONER HOGUE:** It makes a big
4 difference.

5 **MR. MATTHEW FERGUSON:** Words are important.
6 Thank you for that.

7 So Mrs. Simard, I will start with you.

8 Since August 2022, you have been Commissioner
9 to the Federal Elections; is that correct?

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

11 **MR. MATTHEW FERGUSON:** Mr. Côté, you are the
12 previous Commissioner to the Federal Elections from 2012 up
13 to June 2022?

14 **MR. YVES CÔTÉ:** June 30th, 2022, yes.

15 **MR. MATTHEW FERGUSON:** [No interpretation].

16 Ms. Gigou, you are currently Senior Director
17 of Enforcement at the Office of the Commissioner of Canada
18 Elections. Correct?

19 **MS. MYLÈNE GIGOU:** Correct.

20 **MR. MATTHEW FERGUSON:** And prior to that, you
21 were Director of Investigations from March 2018 to
22 April 2021?

23 **MS. MYLÈNE GIGOU:** Yes, that is correct,
24 except for a six-month secondment during that period of time
25 from February 2022 to July 2022.

26 **MR. MATTHEW FERGUSON:** Thank you for that,
27 that specification.

28 Madam Simard, and to you as Commissioner to

1 the Federal Elections, the current person in position, can
2 you explain your roles and responsibilities?

3 **MS. CAROLINE SIMARD:** As you were saying, I
4 am Commissioner since 2022 and therefore I have a role of
5 observation and application of the law. In simple terms what
6 that means is that we do investigations and link with any
7 allegations of misgivings that are banned under the *Canadian*
8 *Electoral Act*, and I would say that following those
9 investigations, I am allowed to file indictments or monetary
10 fines, we'll call those "AMPS" in English. And there are
11 also possibilities of signing -- having the English words
12 coming up but we can sign undertakings and compliance
13 agreements. So those are the transactions, and there's a
14 possibility of issuing informal measures such as warning
15 letters or information letters.

16 **MR. MATTHEW FERGUSON:** And when you say we're
17 monitoring the implementation of the law, which one are you
18 talking about?

19 **MS. CAROLINE SIMARD:** It's the Electoral Act
20 of Canada that is limited to the federal elections.

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

22 Mr. Côté, do you have anything to add to this
23 description of the task?

24 **MR. YVES CÔTÉ:** No.

25 **MR. MATTHEW FERGUSON:** Mrs. Simard, we heard
26 earlier this morning the testimony from the head of
27 elections, Mr. Perrault. Could you briefly educate us on the
28 relationship between the BCF, the Federal Elections

1 Commissions and Elections Canada?

2 **MS. CAROLINE SIMARD:** It would say that to
3 better understand I would separate my answer into two parts.
4 The first part is that we are an organization that is mainly
5 based on the complaints that we receive, and we receive
6 referrals from Elections Canada that occupies 80 percent of
7 our time of our work. And so I would say it's the first part
8 that's very important and the second part is linked to our
9 respective roles, in terms of the interpretation of the Act.

10 To ensure cohesion in the interpretation of
11 the Act, we will often collaborate, so we will be consulted
12 to formulate any comments or suggestions in specific context
13 connected with potential changes to the law or Interpretation
14 Bulletins, and we also contribute at that level.

15 **MR. MATTHEW FERGUSON:** And as regard
16 Elections Canada, are you a branch of it, or are you a
17 separate entity?

18 **MS. CAROLINE SIMARD:** And so the Federal
19 Elections Commissioner is independent, that's a very
20 important principle. We are independent from Elections
21 Canada, but also independent from the government in place;
22 independent from political parties; also independent from
23 partners such as the RCMP with which we collaborate, or any
24 other stakeholder.

25 **MR. MATTHEW FERGUSON:** How do you become a
26 Commissioner to Federal Elections?

27 **MS. CAROLINE SIMARD:** Well, there's a
28 selection process with a committee comprised of four parties,

1 but I would say in a more formal way in the Act it is planned
2 that is the Director General of Elections that proceeds with
3 the appointment, in consultation with the Prosecution Office
4 of Canada.

5 **MR. MATTHEW FERGUSON:** Thank you. Could you
6 tell us -- you spoke about monitoring the application of the
7 *Electoral Act of Canada*. Could you tell us more about your
8 skills as an organization and define what your jurisdiction
9 is?

10 **MS. CAROLINE SIMARD:** Well, what's simple to
11 retain is that the work we do is limited to the measures
12 outlined in the *Electoral Act*. So I would say that it's
13 important to remember, and we will get to that a bit later.
14 But there's some distortion between the public's perception
15 of what we can do, of what is planned in the -- what is
16 allowed in the Act, and truly what is the bearing of those
17 measures.

18 So I would start by saying this, and then I
19 can add to that if necessary.

20 **MR. MATTHEW FERGUSON:** [No
21 interpretation]...overviewing the implementation of the law
22 regarding activities of the political parties?

23 **MS. CAROLINE SIMARD:** Yes, so when we are
24 talking about a leadership race, the roles of the political
25 parties apply as opposed to the *Canada Elections Act*, except
26 for funding.

27 **MR. MATTHEW FERGUSON:** So you receive
28 complaints, so I would like to know how you -- so how does

1 your office receive complaints?

2 **MS. CAROLINE SIMARD:** There are several ways
3 but mostly -- and maybe Ms. Gigou would like to add
4 information, but I would like to say that the best way is
5 through our website. There is a form, and complainants can
6 use the form to communicate their complaints to us. So there
7 is a system by which we sort the files, the ones that are
8 more routine, the other ones that may be more important. So
9 it varies according to the nature of the file and then they
10 can be directed to the compliance unit directly or to the
11 investigation group.

12 **MR. MATTHEW FERGUSON:** If you receive a
13 complaint and if it comes under the purview of the -- your
14 office, you receive a complaint, and the allegations come
15 under your terms of reference, what are the next steps?

16 **MS. CAROLINE SIMARD:** The main stage is that
17 we will carry out a review, as I said, and after this review
18 or as part of this review what is important -- what is
19 important to evaluate is whether there is evidence to prove
20 that there have been violations and if we reach a certain
21 threshold -- I don't want to go into technicalities, but then
22 we can shift into investigations.

23 So in that case, we will send a letter --
24 whose behaviour is targeted by our investigation, and as part
25 of this investigation, we will have a range of tools to carry
26 out our work, so warrants or communication orders,
27 conservation orders.

28 So very generally speaking, this is what we

1 do.

2 I'm looking at Ms. Gigou; is there something
3 else that we should add?

4 **MS. MYLÈNE GIGOU:** No, I think that it
5 summarizes the situation.

6 **MR. MATTHEW FERGUSON:** So if the complaint
7 doesn't come under the purview of your office, what happens?

8 **MS. CAROLINE SIMARD:** So I would like to
9 specify that some of the complaints that we receive are not
10 part of our mandate. So for example, you were asking about
11 leadership contests. There is also the whole issue of
12 freedom of speech. Maybe we can come back to that later. So
13 in such cases, we developed a practice within the
14 organization by which we communicate the outcome of our work,
15 or we close the file, generally speaking. Of course there
16 can be exceptions, but we inform the complainants. And I
17 think it's a good practice developed by our office.

18 **MR. MATTHEW FERGUSON:** Do you have the power
19 to take the initiative of an investigation?

20 **MS. CAROLINE SIMARD:** Yes. I can carry out
21 an investigation if the situation warrants it.

22 **MR. MATTHEW FERGUSON:** And if you identify
23 that a complaint may involve a person or foreign money or
24 foreign person, then I think that this is treated like an
25 unusual case.

26 **MS. CAROLINE SIMARD:** I would say non-
27 routine, ---

28 **MR. MATTHEW FERGUSON:** [No interpretation].

1 **MS. CAROLINE SIMARD:** --- generally speaking,
2 and of course, it depends on the facts; it's on a case-by-
3 case basis. But for such files which are more complex, yes,
4 such files will be led by experienced investigators.

5 **MR. MATTHEW FERGUSON:** So I would like now to
6 address foreign interference in relation to the mandate of
7 the Commission.

8 So can you address the allegations of foreign
9 interference which come under your purview?

10 **MS. CAROLINE SIMARD:** So it might be
11 interesting to understand the scope of the Act in terms of
12 for an interference, what is not part of the *Canada Elections*
13 Act. So the two examples previously discussed. So for
14 example, nomination campaigns, except for funding, and also
15 freedom of speech.

16 But when you look at this more closely, I
17 would say that there are three provisions which mention a
18 foreign interference. So section 284.1 which refer to undue
19 foreign interference, so it is expressively -- expressively
20 states exceptions to freedom of speech. And if not, there is
21 a prohibition to unduly influence voters. Of course, I don't
22 have the exact wording with me but there is a definition of
23 what is undue influence; for example, committing expenses or
24 violations of the law.

25 So in terms of undue influence, it is
26 different from influence as such, which is quite normal in an
27 electoral conference. So this is different from foreign
28 influence, which also happens; for example, when we think of

1 diplomacy. So it's important to keep that in mind that we
2 are talking about undue foreign influence.

3 And the other type of provision which also
4 refers to foreign factor, we're talking about foreign
5 funding. So I have clauses that I could communicate to you,
6 and also foreign broadcasting, and in the Institutional
7 Report, we had planned to have an annex with about 30
8 provisions which apply to Canadians, as well as to non-
9 Canadians; and, of course, on a case-by-case basis. But as
10 soon as you add the filter of foreign influence, and when
11 they are organized actions, then we could speak of foreign
12 interference, and there are three parts in the provisions, so
13 intimidation -- intimidation of voters, not of candidates.
14 So the second category, money; we talked about foreign
15 funding. And thirdly information, and for this category we
16 mention disinformation and there are provisions in law which
17 may apply, but with a much more limited scope than what the
18 public might think.

19 **MR. MATTHEW FERGUSON:** So voters'
20 intimidation, so the *Canada Elections Act* contains a
21 provision prohibiting the intimidation of voters, but not of
22 candidates. So can you explain this distinction?

23 **MS. CAROLINE SIMARD:** So it's 282.2, I think,
24 which provides for that. So it's about voters' intimidation.
25 And so I'm just quoting from memory, and we're talking about
26 constraints, about forcing, coercion where a pretence would
27 be used or misleading.

28 **MR. MATTHEW FERGUSON:** So we're prohibiting

1 voters' intimidation but not for candidates? So can you
2 educate us? So you can intimidate a candidate?

3 **MS. CAROLINE SIMARD:** Oh, no, that comes
4 under the *Criminal Code*. So I hadn't understood your
5 question.

6 So in that case it would be the *Criminal*
7 *Code*.

8 **MR. MATTHEW FERGUSON:** The *Criminal Code*.

9 **MS. CAROLINE SIMARD:** [No interpretation].

10 **MR. MATTHEW FERGUSON:** Mr. Côté, would you
11 like to add anything to that?

12 **MR. YVES CÔTÉ:** The only thing that I would
13 like to put on the table for future reference, that Ms.
14 Simard referred to 282.4, and this clause contains exceptions
15 that are significant and that are often not well understood
16 by the media and by the public at large. And so it would be
17 important to clarify this.

18 **MR. MATTHEW FERGUSON:** Yes, we could do that.

19 Mr. Registrar, could we show COM several
20 zeroes 9?

21 **--- EXHIBIT No. COM 9:**

22 Canada Elections Act S.C. 2000, c.9

23 **MR. YVES CÔTÉ:** And I didn't note the page
24 for section -- I think it's page 154, I think.

25 **MR. MATTHEW FERGUSON:** Thank you, Mr. Côté.

26 **MR. YVES CÔTÉ:** You're welcome.

27 **MR. MATTHEW FERGUSON:** No, it's not page 154.

28 **MR. YVES CÔTÉ:** Oh, in my copy...

1 **MR. MATTHEW FERGUSON:** No, 2.4.

2 **COMMISSIONER HOGUE:** [No interpretation].

3 **MR. MATTHEW FERGUSON:** Two point four (2.4).

4 We're almost there. So you're referring to
5 paragraphs 3, this is what you had in mind?

6 **MR. YVES CÔTÉ:** [No interpretation].

7 **MR. MATTHEW FERGUSON:** So 2.4, and we can
8 scroll down to paragraph 3.

9 So if you can give us not a whole lecture but
10 an explanation on the exceptions.

11 **MR. YVES CÔTÉ:** So maybe later when you will
12 have questions on specific files, we could come back to that.
13 It will give you an example of things which come under the
14 exceptions. So we see that:

15 "Subsection 1 which creates the
16 violation does not apply if the only
17 thing done by the person or entity to
18 influence the elector to vote or
19 refrain from voting..." (As read)

20 And then we mention three things:

21 "Their expression or their opinion
22 about the outcome or desired outcome
23 of the election." (As read)

24 So you would have a foreigner who goes, "I
25 want the next government to be elected or not be. A
26 statement by them that encourages the elector to vote or
27 refrain from voting from any candidate or registered party in
28 the election. So a foreigner who would say, "You should vote

1 for this candidate, X or Y," and see the transmission to the
2 public through broadcasting, and then there is a whole range;
3 so electronic or print media, interviews, debates. So this
4 is part of an exception, for example, a British, French, or
5 US magazine which would write an editorial saying that Canada
6 should do such-and-such a thing during the next election. So
7 this also comes under the exceptions so this is not caught by
8 subsection 1 which creates violations.

9 **MR. MATTHEW FERGUSON:** If I go back to (b),
10 you say that a foreigner might say, "You should vote for
11 such-and-such a candidate in the election," that's allowed
12 under the law. But in a case where they say, "You should
13 vote for such-and-such a person because otherwise there will
14 be consequences for your family in X country," so would that
15 be captured?

16 **MR. YVES CÔTÉ:** It would be captured under
17 (b) because exception talks about by an intervention
18 encouraging the elector to vote for or against someone, we
19 would have to see what the threats are about, for example, if
20 it would take the form of an intimidation or of a constraint
21 but it would be a different dimension, and it would be very
22 fact-dependent, so we would have to see what happened, what
23 was said, what was done, so -- to see whether the definition
24 of coercion might apply or not.

25 **MR. MATTHEW FERGUSON:** We will come back to
26 that when we look at specific cases.

27 Ms. Simard, I think you addressed a question
28 earlier when you made a change to your summary interview, or

1 to your interview summary. You were talking about the
2 percentage of complaints in terms of foreign interference
3 concerning allegations of foreign interference; and 2021 it
4 was 0.5 of complaints that were received?

5 **MS. CAROLINE SIMARD:** Yes, out of 4,000
6 complaints received in 2021, 2022 complaints were identified
7 in relation to foreign interference, so if you do the math,
8 you have 0.5 percent.

9 **MR. MATTHEW FERGUSON:** And for 2019?

10 **MS. CAROLINE SIMARD:** Two hundred and one
11 (201) complaints were identified in relation to foreign
12 interference, so it's a percentage of 2 percent of
13 complaints.

14 **MR. MATTHEW FERGUSON:** For 2019?

15 **MS. CAROLINE SIMARD:** Twenty nineteen (2019).

16 **MR. MATTHEW FERGUSON:** And generally
17 speaking, Ms. Simard, how do you see your mandate in terms of
18 the foreign interference file?

19 **MS. CAROLINE SIMARD:** So I would say that the
20 mandate is a mandate to observe the law, and to implement it
21 so when there is a connection to foreign interference.

22 **MR. MATTHEW FERGUSON:** Mr. Côté, during our
23 meeting, you mentioned issues with foreign interference, you
24 said that there were "unknown unknowns". So you spoke about
25 camouflage of funds.

26 **MR. YVES CÔTÉ:** I should have said "known
27 unknowns" and not "unknown unknowns".

28 **MR. MATTHEW FERGUSON:** [No interpretation].

1 **MR. YVES CÔTÉ:** What I was referring to is
2 that there -- several things can happen as part of an
3 electoral campaign, so it is very likely that we will never
4 hear of that. For example, if you have a foreign country
5 giving money to a Canadian citizen, an X sum, who would say
6 to the Canadian citizen, "You will transfer these funds to
7 the campaign of Candidate B." So in such circumstances, the
8 person who received money from the foreign government has
9 tied -- ties to the foreign government and when that person
10 gives the money to the candidate, the candidate will have no
11 way of suspecting that the money comes from a contaminated or
12 even illegal source. So I think that this kind of situation,
13 I presume, could occur, so I should have referred to "known
14 unknowns". So such circumstances are very unlikely to be
15 discovered by people like us. There are very little, like,
16 necessarily we'd have complaints because it would have to
17 come from the foreign government or by their proxy. So they
18 would have very little interest in raising awareness of such
19 activities.

20 So when these things happen, the likelihood
21 that we will become informed is very minute.

22 **MR. MATTHEW FERGUSON:** So don't you have
23 tools within the Office of the Commissioner of Canada
24 Elections to detect such wrongdoing?

25 **MR. YVES CÔTÉ:** I don't know what type of
26 tool would make it possible for us to do that because as you
27 may know, we'll come back to that, we have investigative
28 powers we talked about that are somewhat limited. We cannot,

1 for example, attempt to intercept a telephone communication.
2 But fundamentally, the country that acts badly with their
3 accomplices has every interest in keeping that covert and
4 secret. So that's not necessarily a question of
5 investigative techniques; it's just a way that things would
6 occur. So that they are undiscoverable, to all practical
7 purposes.

8 **MR. MATTHEW FERGUSON:** My next question, I
9 won't make a link to what you just said and the subject of
10 the next question, but you've also learned that the OCC is
11 not a designated distributor of information coming from
12 FINTRAC and to obtain information from FINTRAC you have to go
13 through the RCMP. Is that a problem for you in investigating
14 allegations of foreign interference with regards to the
15 elections of 2019 and 2021?

16 **MR. YVES CÔTÉ:** As far as I know -- and I'll
17 ask Madam Gigou to add to it if she knows -- but that was not
18 identified as the source of a problem or source of an
19 obstacle which would have kept us from doing the work because
20 the understanding that I have, or the memory that I have is
21 that we could go through the RCMP, which can receive
22 information from FINTRAC. So in those circumstances, it's
23 not as though the avenue was completely shut off to us.

24 So Madam Gigou, if you would like to add to
25 what I've said?

26 **MS. MYLÈNE GIGOU:** I have nothing to add to
27 that answer.

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

1 that a little later when we'll raise another case, but I
2 think that has more to do with Ms. Simard.

3 Mr. Côté, I would now like to raise the
4 question of the approach of the Commission with regard to
5 foreign interference as the elections of 2019 and '21 were
6 approaching. I understand that foreign interference became a
7 major concern for your office over the previous year, the
8 year preceding the 2019 elections, and you had also in mind
9 the presidential elections in the United States in 2016.

10 Can you talk about how the OCC thought about
11 the possibility of foreign interference, and how you went
12 about to preventatively attack the problem?

13 **MR. YVES CÔTÉ:** Are you expecting a short
14 answer from me because that opens up so many different
15 things. But maybe, and in a general way, you -- that will be
16 heard here, having looked at what happened during the
17 American election in 2016 with the interventions of foreign
18 countries, which were entirely negative and malicious. As
19 all reasonable person might assume, if it happens on the
20 other side of the border, it might very well be happening on
21 our side of the border as well.

22 So armed with that conclusion, we asked what
23 we may do, and we set in place various measures and we
24 undertook various initiatives to attempt to prepare the best
25 way we could.

26 Among those initiatives, there was the fact
27 that -- and especially Madam Gigou, who was responsible for
28 that, and she did that very well; to establish and strengthen

1 links to federal organizations which have a role to play in
2 that type of thing. And I think that at the SRS, the
3 Communications Centre, CSE, and the Global Affairs, we
4 established and strengthened those links to see how
5 communications could be carried out. And I think that this
6 comes out in the Institutional Report that Madam Simard
7 submitted. We renewed an agreement with the RCMP and
8 concluded one with the -- with CSIS. So that was in terms of
9 the actors that I would call federal.

10 And then, in a general and very continuous
11 way, as the Director of Elections, had meetings with what we
12 call the Advisory Committee of Political Parties, which is an
13 organization that was created under the Act. We made sure we
14 were present, and we made sure that we were present to remind
15 those people what our role was. And the question -- I didn't
16 mention every time but the question of foreign interference
17 was important, and I made them aware of the fact that we were
18 there, if they had concerns that they should come to see us.

19 Then in terms of education, if you will, and
20 the awareness-building of our people, we brought in experts
21 in the area; university professors, and a former Canadian
22 Ambassador, and a former CSIS Director who sat down with our
23 investigators, our analysts, and our lawyers, and who
24 informed them of what they were able to note and see
25 externally in carrying out their functions.

26 I think that I will stop there, unless if
27 Madam Gigou has something to add.

28 But what we wanted to do was really make our

1 staff as informed as possible and as alert as possible to the
2 fact that those things, if they weren't occurring, they very
3 well could occur during the course of the campaign or our
4 federal electoral activities.

5 **MR. MATTHEW FERGUSON:** Ms. Gigou, do you have
6 something to add to that?

7 **MS. MYLÈNE GIGOU:** Just maybe in addition to
8 the MOUs, sorry, the memorandum of understanding, we also
9 engage with the various departments as well, within -- that
10 were members of SITE or became the members of SITE, to
11 communicate our mandate, talk about the parameters of our
12 legislation, in particular, as they may relate to foreign
13 interference as well, so that was another component here.
14 And also, engaging with Australia in terms of their lessons
15 learned in their country, and as well as provincial
16 organisations that had recently had elections so that we
17 could build on the lessons that they had learned as well.

18 **MR. MATTHEW FERGUSON:** Why specifically
19 Australia?

20 **MS. MYLÈNE GIGOU:** I think it -- with regards
21 to their ecosystem as well and relationship with China as
22 well, it was identified as a country with which we should be
23 speaking, and we also had the benefit of having one of their
24 representatives here in Canada for sometime. So it was a --
25 an easy face-to-face engagement with that person as well, and
26 a good way to build the relationship. So maybe that's what I
27 would add to that as well.

28 **MR. MATTHEW FERGUSON:** And ---

1 **MR. YVES CÔTÉ:** [No interpretation].

2 **MR. MATTHEW FERGUSON:** [No
3 interpretation]...making your office known to other
4 organizations involved in application of the law and in
5 information and security; is that correct?

6 **MR. YVES CÔTÉ:** Yes.

7 **MR. MATTHEW FERGUSON:** Ms. Gigou, I'd like to
8 talk about digital platforms. So this is something that I
9 think you were involved in with respect to having platforms
10 sign on to the Canada Declaration on Electoral Integrity
11 Online. Can you speak a bit to that. Who were the platforms
12 that you were engaging with ahead of the 2019 and 2021
13 elections?

14 **MS. MYLÈNE GIGOU:** Certainly. Just to maybe
15 clarify in terms of the question, however. The declaration,
16 I was not specifically involved in that. My role consisted
17 of building a relationship with these platforms to
18 communicate who we were, what we did, and understand the
19 mechanism by which we could request information, whether it
20 be subscriber or if it was content, and also understand the
21 parameters by which they may remove material on a digital
22 platform as well, with the understanding that that would be
23 done in the context of the contravention of the *Canada*
24 *Elections Act*.

25 So the idea was making sure they know we are,
26 what we do, and why we're calling, and why it's urgent, in
27 particular, if it's happening during a general election
28 period, where we want to ensure compliance and swift results.

1 So in the lead up to the 2019 general
2 elections, that was part of my mandate, to engage with
3 Facebook, Microsoft, there were others as well, to have that
4 understanding. Again, in the lead up to the 2021 general
5 election, that was also part of my mandate as well, and we
6 expanded on some of these platforms as well in the lead up to
7 that snap election, so an early election.

8 **MR. MATTHEW FERGUSON:** In the lead up to
9 either 2021 or 2019, have you had any engagement with
10 platforms such as WeChat?

11 **MS. MYLÈNE GIGOU:** In preparation for the
12 general elections, I did not, or our office did not engage
13 with WeChat specifically for the purposes that I have
14 described.

15 **MR. MATTHEW FERGUSON:** And what types do --
16 does the OCCE, the Office of Commissioner of Canada
17 Elections, engage in online monitoring?

18 **MS. MYLÈNE GIGOU:** We do not. In fact, we do
19 have an analytics team that conducts passive collection, but
20 they do so in response to a specific complaint or review or
21 investigation that we have, and that is the extent of their
22 mandate. They do not proactively monitor the environment or
23 anything of the like.

24 **MR. MATTHEW FERGUSON:** I'd like now to turn
25 to investigations and relationships with partner agencies.
26 Ms. Gigou, you are the Senior Director of Enforcement and the
27 former Director of Investigations at the OCCE. Can you speak
28 about your Investigations Unit? How many are you? What

1 types of tools and powers that you have to carry out your
2 work?

3 **MS. MYLÈNE GIGOU:** Certainly. So when I
4 initially took the job in 2018, we had a team of
5 approximately 12 investigators. Since then, my
6 responsibilities have broadened to not only include
7 investigators but also paralegals and analysts that conduct
8 the open source research as well. Our directorate as a whole
9 has grown to approximately 28 individuals, including our
10 executive director that leads the group.

11 And as part of that -- so -- and could you
12 repeat the second part of your question?

13 **MR. MATTHEW FERGUSON:** Yeah. So what types
14 of investigative tools and powers there that you enjoy?

15 **MS. MYLÈNE GIGOU:** Absolutely. Thank you.
16 And I think it's Commissioner Simard that mentioned earlier
17 some of our tools, but essentially we have tools that you
18 could expect to be used in the general course of a review or
19 investigation, for example, collecting information or
20 evidence from witnesses and complainants and the like, but we
21 also have formal tools where with judicial authorisation we
22 can seek evidence, whether it be a production order,
23 preservation order, or a search warrant. All those,
24 obviously, are -- require a certain threshold for us to be
25 able to use these tools, and we must request judicial
26 authorisation.

27 In recent years, our toolkit has been
28 expanded with the addition of -- to the *Canada Elections Act*

1 the ability to compel witness testimony under oath and the
2 ability to request a written return. Again, these are --
3 require judicial authorisation and we need to meet a certain
4 threshold to be able to use these tools.

5 **MR. MATTHEW FERGUSON:** So you can --
6 essentially, when you say that you have the power to compel,
7 you apply to a judge to obtain the power to compel a witness
8 to ask -- to answer questions that you may direct.

9 **MS. MYLÈNE GIGOU:** And to be clear, it's to
10 compel a person, but the information cannot be used against
11 this person.

12 **MR. MATTHEW FERGUSON:** Right. So the
13 protections of the *Canada Elections Act* and the *Charter*.

14 **MS. MYLÈNE GIGOU:** That's correct.

15 **MR. MATTHEW FERGUSON:** Okay. What are the
16 challenges, and this question I could address to all three of
17 you, but what are the challenges for the OCCE in
18 investigating foreign interference related issues; either
19 allegations or concerns of foreign interference?

20 **MS. MYLÈNE GIGOU:** I can go first, if you
21 prefer. I note that our institutional report and the two
22 witness summaries certainly provide an overview of some of
23 these challenges. And maybe just to build on that, on
24 perhaps from my perspective, three key points: access to
25 evidence; technology; and the tracing of funds.

26 And to talk a bit more about access to
27 evidence, I think our investigators can be caught in a loop
28 of needing evidence to get evidence. So essentially we do

1 get complaints, we do receive allegations, but we need
2 something concrete, or tangible, or a lead to be able to
3 pursue our work. The reality is, in some instances, no
4 witnesses are identified, or some are, but do not wish to
5 cooperate.

6 And as I just expanded -- and as I was just
7 referring to the tools, we need to be able to have sufficient
8 grounds to be able to use that tool, including to compel
9 someone to speak to us. So I think that's one of the
10 difficulties.

11 And we know that the harder it is to access
12 evidence or information, the more time passes, the more
13 difficult it gets for us.

14 In terms of technology, identifying who is
15 behind the keyboard is another challenge, and depending on
16 the scenario and how it presents itself. So I think that's
17 one thing.

18 And on a second -- maybe a second spin off to
19 that as well is also digital platforms with closed access or
20 by design you need an invitation, or it's restricted pages or
21 groups. That can create some challenges from an
22 investigative perspective -- investigation perspective as
23 well.

24 And the third one would be the tracing of
25 funds. Obviously being able to identify the source of the
26 funds and being able to link it back specifically to the
27 allegations is also a challenge, and particularly when we're
28 talking about cash, intermediary, other means of using

1 untraceable mechanism, pre-paid cards, or the like.

2 What I think I'm describing here, however,
3 doesn't just apply to allegations of foreign interference, in
4 theory. It could also apply to other types of allegations
5 without that foreign component as well.

6 And if I can just maybe close off as well, I
7 would expect that these are not just challenges that are
8 unique to our office, but likely for most law enforcement
9 agencies as well.

10 **MR. MATTHEW FERGUSON:** [No interpretation].

11 **MR. YVES CÔTÉ:** [No interpretation] ...it
12 seems obvious but it's worthwhile putting on the table so
13 that everybody remembers it. In theory -- I say, "In
14 theory," possible recourse to MLAT, Mutual Legal Assistance
15 Treaty, so obviously that's a process that exists for those
16 such as you think. We realize that it's very slow and
17 complicated. But also what we need to bear in mind is that
18 it's only with countries with whom we have concluded
19 agreements. So there are many countries and the countries
20 that were named within this hearing and elsewhere as well,
21 with which we have no agreement.

22 The possibility for us of forcing someone
23 within one of those countries who doesn't cooperate with
24 Canada, forcing them to provide us with information or some
25 other -- that just basically doesn't exist.

26 **MR. MATTHEW FERGUSON:** So what you're
27 describing is that even if we have a mandated or an
28 international level with a country, a friendly nation, it's

1 already difficult to receive information if it's a country
2 with which we don't have a treaty, it's much more difficult
3 if not impossible?

4 **MR. YVES CÔTÉ:** I would say it's virtually
5 impossible, yes.

6 **MR. MATTHEW FERGUSON:** [No interpretation].

7 **MS. CAROLINE SIMARD:** There have been good
8 answers, but if I could add in as well?

9 **MR. MATTHEW FERGUSON:** Yes, go ahead.

10 **MS. CAROLINE SIMARD:** I would add four
11 challenges to this long list. The first is in terms of
12 legislative changes. Obviously ensuring that we have all the
13 means; all the tools, that is, that we need under the law.
14 Also, it's important at a legislative level to make sure that
15 we're consulted when there are changes to other laws that
16 have an impact on this. I would say that's the first
17 challenge to identify.

18 The second one is that obviously -- it is
19 obvious, but a lot of effort has been put in in the past to
20 it be known to the public and to our partners, but we really
21 need to continue with that effort. You can see already that
22 there are challenges once again in having people come to see
23 us, and that's really a basic thing in cases like this. They
24 need to come forward to submit the complaint and act as a
25 witness as well.

26 The third challenge is one of resources. We
27 were able to do the work up to this point and there is that
28 expertise for very complex files internally. Despite

1 everything, we anticipate that with the next elections, and
2 possibly with a greater volume, have some concerns in terms
3 of resources. We're working presently with a budget of \$6.6
4 million and what that will make it possible to do is that we
5 have access -- even though we have access to certain funds,
6 let's say certain -- a certain flexibility to access funds,
7 that doesn't ensure stability in terms of the organization.
8 And that's very basic at this point in the development of the
9 organization.

10 And the fourth thing is in terms of
11 information. There are challenges, obviously, to structure
12 thing properly; to have the infrastructure in place to be
13 able to take in the -- and deal with conservation and
14 everything. And that is being set in place to complete what
15 has been done in the past.

16 Thank you very much.

17 **MR. MATTHEW FERGUSON:** Essentially, by doing
18 the promotion of it?

19 **MS. CAROLINE SIMARD:** [No interpretation].

20 **MR. MATTHEW FERGUSON:** So I understand that
21 the OCCE has a Memorandum of Understanding with the RCMP.

22 So Mr. Clerk, can you bring up the next
23 document, please?

24 **--- EXHIBIT No. CEF 41:**

25 Protocole d'entente entre GRC et BCEF
26 2019

27 **MR. MATTHEW FERGUSON:** So this MOU, Document
28 42. So could you explain what this Memorandum of

1 Understanding is with the RCMP; what does it do?

2 Mr. Côté, I think you're the one who signed
3 this memorandum.

4 **--- EXHIBIT No. CEF 42:**

5 MOU between RCMP and CCE 2019

6 **MR. YVES CÔTÉ:** So it does different things.
7 The main points are probably the following: We wanted -- and
8 I think this was just renewing something that existed before
9 but in the context of this MOU, we wanted to confirm the fact
10 that when the RCMP received information saying that the
11 Electoral Act has been violated, that the information would
12 be transferred to us.

13 But mainly I think that what we wanted to do
14 here was to confirm certain rules and approaches between our
15 office and the RCMP so that in circumstances where, for
16 example, they would be asked to work with us on an
17 investigation -- can be a joint investigation, which could
18 happen but rarely happens -- an important dimension for us,
19 Mrs. Simard told you that our office is fairly small, and in
20 the field of deep fakes and very intricate technology, we
21 could have the expertise of the RCMP that's already there so
22 that they could work for us to help our analysts go forward
23 on the investigation.

24 There could be some circumstances where our
25 investigators would like to have some information on a given
26 citizen and in that moment we'll ask the RCMP so that they go
27 in the CPIC system to go get information.

28 It's very important to...

1 **MR. MATTHEW FERGUSON:** So the CPIC is the
2 police -- Criminal Investigation Police Centre?

3 **MR. YVES CÔTÉ:** That's right. And I'd like
4 to underline that the MOU plans for those exchange of
5 information to be done following the applicable laws,
6 including the Act on the privacy protection.

7 And on this, I'd like to open an aside when
8 Ms. Gigou talked about tools, another tool we have since
9 recently is that Mrs. Simard's office has been recognized as
10 being an investigatory body under the Privacy Protection Act
11 becomes much more easy for our office in an investigation to
12 go see other organizations and other federal departments to
13 ask them to transfer the information.

14 So I come back on this, the MOU with the RCMP
15 is very clear when it comes to everybody having to respect
16 the applicable laws.

17 And maybe the other dimension of the MOU
18 comes to mind, is that there are financial measures in the
19 sense that the RCMP is doing work for us, we expect that, of
20 course, there would be an invoice or that they would be
21 compensated for the resources that they allocate to us.

22 So that's what I retain from the MOU. Is
23 there something else, Ms. Gigou?

24 **MS. MYLÈNE GIGOU:** No, I think this frames
25 the relationship with the RCMP well.

26 **MR. MATTHEW FERGUSON:** Mrs. Gigou, an MOU
27 with CSIS.

28 Mr. Court Operator, CEF several zeros, 43 and

1 44. Hold up 44, please.

2 --- EXHIBIT No. CEF 43:

3 Protocole d'entente entre SCRS et
4 BCEF 2019

5 --- EXHIBIT No. CEF 44:

6 MOU between CSIS and CCE 2019

7 **MR. MATTHEW FERGUSON:** And when was this
8 Memorandum of Understanding put in place with the -- with
9 CSIS?

10 **MS. MYLÈNE GIGOU:** I believe it was put in
11 place in 2019, but I don't have the specific date.

12 **MR. MATTHEW FERGUSON:** If we can go to the
13 end of the document, I'm going to suggest it was the
14 September 26, 2019, signature of Mr. Côté.

15 [No interpretation].

16 **MR. YVES CÔTÉ:** [No interpretation].

17 **MR. MATTHEW FERGUSON:** So September 26, 2019,
18 do I understand that prior to this, there was no Memorandum
19 of Understanding with CSIS?

20 **MS. MYLÈNE GIGOU:** That's my understanding,
21 yes, if the question is to me, yes.

22 **MR. MATTHEW FERGUSON:** Sorry; I'll continue
23 with the questions.

24 The fact that there was no Memorandum of
25 Understanding prior to this, does that mean that there was no
26 engagement or relationship with CSIS prior to the memorandum?

27 **MS. MYLÈNE GIGOU:** No, that's not correct.
28 In fact, prior to the MOU, there was certainly engagement

1 with CSIS.

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

3 **MS. MYLÈNE GIGOU:** My first recollection of a
4 meeting with CSIS would have been in June 2018, I believe,
5 from memory. And again, as Commissioner Côté explained,
6 given the environment, the ecosystem, the objective was to
7 build a relationship with CSIS so that our office would be
8 better informed about general threats and issues that could
9 be in this space. And that relationship developed with CSIS,
10 but ultimately a request was made to discuss the possibility
11 of having a formal MOU with the service.

12 **MR. MATTHEW FERGUSON:** Okay. And can we --
13 if we speak about the purpose of this particular Memorandum
14 of Understanding, I understand if we go to page 3 of the
15 "Purpose and Scope," defines -- outlines:

16 "...principles and requirements
17 governing information exchanges
18 between the Commissioner and CSIS..."

19 The Commissioner being the Office of the
20 Commissioner of Canada Elections.

21 "...in accordance with the respective
22 mandates and applicable laws."

23 And the document disappeared. Right, okay.
24 And if we go now to -- I believe it's page 4. Or page 5,
25 sorry. At paragraphs 4.2 and 4.3:

26 "Information shared by CSIS or the
27 Commissioner may only be used to the
28 extent authorized by law and subject

1 to the Participants' respective
2 policies."

3 And:

4 "Pursuant to relevant authorities,
5 the Commissioner may share
6 information lawfully or incidentally
7 collected in the performance of its
8 mandated duties and functions with
9 CSIS, either proactively or in
10 response to a request, where relevant
11 to CSIS's mandate."

12 So I understand that CSIS -- this protocol or
13 this Memorandum of Understanding defines an information-
14 sharing relationship between the two organizations; is that
15 correct?

16 **MS. MYLÈNE GIGOU:** Yes, I think that's
17 correct.

18 **MR. MATTHEW FERGUSON:** Okay. If we now move
19 to engagement with CSIS ahead of the GE 43, the 2019 General
20 Elections, can you speak to that?

21 **MS. MYLÈNE GIGOU:** Yes. So there was this --
22 I'm just trying to think in terms of time. So 2018 again
23 that's the first specific recollection that I have of a
24 meeting with CSIS where we were informed of general
25 information about the ecosystem and the like. Over time --
26 over time, as part -- ultimately SITE was put together. And
27 as part of that initiative, our organization certainly felt
28 that it was important to engage with the members of SITE,

1 which included CSIS. And as part of those efforts, we
2 convened a meeting to speak about our mandate and key
3 provisions related to the *Canada Elections Act*, which
4 included CSIS.

5 So that's the first time that I specifically
6 recall, in terms of these discussions, where we were really
7 talking about our mandate and our role at more of an
8 operational level.

9 **MR. MATTHEW FERGUSON:** And now I'm going to
10 -- before I call up a document. In relation to complaints or
11 reviews or investigations springing from either 2019 or 2021
12 elections, has CSIS ever provided -- I think the term is
13 "Actionable intelligence" that has led or assisted the OCC in
14 an investigation?

15 **MS. MYLÈNE GIGOU:** So throughout the period
16 of 2018 to 2024, the service has provided briefings and an
17 opportunity to review material, all of which was informative
18 about the environment and some of the threats. None of the
19 information that I received was specifically actionable in an
20 investigation, and the information that was shared was shared
21 for intelligence purposes.

22 **MR. MATTHEW FERGUSON:** Now, if we just talk
23 about the process of you -- of receiving -- when I say you, I
24 mean the OCC, but also you specifically, Ms. Gigou, of the
25 process of receiving intelligence from CSIS, how does that go
26 about? Can you just explain the process a bit?

27 **MS. MYLÈNE GIGOU:** Yes, certainly.

28 So generally speaking, in accordance to the

1 process that was put in place, and in most instances, if not
2 all, it was at the request of CSIS; a request for a meeting
3 where it was either a verbal briefing or the opportunity to
4 review an intelligence product, and an opportunity to ask
5 questions about that product.

6 In each of these circumstances, there was an
7 agreement that there would be no notes of the document or the
8 content of the conversation, and I did not -- I did not
9 retrieve any documents from the service in those specific
10 circumstances.

11 There was a process by which I understood
12 that I could request a use letter, or I believe in the prior
13 period it may have been called a disclosure letter at that
14 point, and if that was requested, then the service would
15 consider it, and if so, provide it to me at a later date.

16 **MR. MATTHEW FERGUSON:** And we talk about
17 disclosure or use letters, we're talking about intelligence
18 or evidence?

19 **MS. MYLÈNE GIGOU:** We're talking about
20 intelligence. And in fact, the document that we would
21 receive if it's a use letter, it would specifically identify
22 the purpose for which I could use it and all of it states
23 that it's for intelligence purpose.

24 **MR. MATTHEW FERGUSON:** Yeah.

25 **MS. MYLÈNE GIGOU:** And I would just want to
26 clarify that, to the best of my recollection, that's what
27 each of these state, but I have not specifically reviewed, in
28 preparation for this testimony, these letters, yes.

1 **MR. MATTHEW FERGUSON:** Okay. Thank you for
2 qualifying that, Ms. Gigou. And can you estimate how many
3 times you were met or briefed by CSIS between 2018 and
4 current day?

5 **MS. MYLÈNE GIGOU:** I would estimate that
6 either myself or -- I estimate 15 to 20 meetings would likely
7 have occurred. Those meetings could also include, in certain
8 circumstances, calls or also discussion on more operational
9 issues as well. For example, I have recollection of, like,
10 just generally digital platforms, for example, but because I
11 have no notes of those meetings, it's difficult for me to
12 quantify specifically the number of -- the number of meetings
13 with CSIS.

14 **MR. MATTHEW FERGUSON:** Okay. I'm now going
15 to call up documents that -- or a series of documents that
16 have been made available publicly to the Commission today.

17 **MS. MYLÈNE GIGOU:** Could I just ---

18 **MR. MATTHEW FERGUSON:** Yes.

19 **MS. MYLÈNE GIGOU:** --- perhaps add something?

20 **MR. MATTHEW FERGUSON:** Before I pull up the
21 document, sure.

22 **MS. MYLÈNE GIGOU:** I just want to clarify,
23 perhaps for the audience, that the reason that I did not
24 familiarise myself with the documents in preparation for this
25 testimony is that so that I did not inadvertently share
26 information that was classified.

27 **MR. MATTHEW FERGUSON:** So that you didn't --
28 you didn't prepare for this part of the testimony because you

1 didn't want to inadvertently disclose information that you
2 are bound to secrecy?

3 **MS. MYLÈNE GIGOU:** Exactly. Thank you.

4 **MR. MATTHEW FERGUSON:** Now, I'll call up the
5 first document, which is CAN, ending by 19300.

6 **--- EXHIBIT No. CAN 19300:**

7 Memorandum - CCE strategic case
8 management meeting with CSIS

9 **MR. MATTHEW FERGUSON:** Now, I'm just going to
10 -- we could scroll through the document very briefly. First
11 of all, Ms. Gigou, do you -- have you before today -- before
12 today, have you seen this document? Before today?

13 **MS. MYLÈNE GIGOU:** I'm not sure whether I
14 have seen this document before today.

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

16 **MS. MYLÈNE GIGOU:** This specific one.

17 **MR. MATTHEW FERGUSON:** Okay. And we see your
18 name. This is -- it's a meeting. The subject is the CCE
19 Strategic Case Management Meeting between CSIS and CCE
20 sometime in 2019 as the -- at CSIS NHQ. The persons from
21 your office that were present were yourself and Mr. Matthews,
22 Al Matthews. And the purpose of the contact was:

23 "Pursuant to the CCE framework, this
24 strategic case management meeting was
25 convened to discuss PRC-related
26 foreign interference cases during the
27 2019 Canadian [elections]."

28 And I understand you cannot -- first, do you

1 have a recollection of a meeting -- of this specific meeting,
2 or independent recollection of the meeting I should say?

3 **MS. MYLÈNE GIGOU:** I want to clarify about
4 whether or not I've seen this document before. As part of
5 the -- this public inquiry, I did recently review certain
6 documents for possible redactions. I don't specifically
7 recall if this is one of the documents.

8 But your question about any meetings that --
9 the content of any meetings I attended with CSIS, first of
10 all, these would not be my notes. This is not my documents,
11 and I did not take any notes during the meeting, and as such
12 -- and the content of the document itself, I'm unable to
13 discuss it in this forum.

14 **MR. MATTHEW FERGUSON:** Okay. And just to be
15 clear, as well, and maybe it's not clear, but this is not a
16 document coming from -- this is not a document produced or
17 prepared by the CCE, correct, the OCCE?

18 **MS. MYLÈNE GIGOU:** This is not a document
19 that was generated by our office.

20 **MR. MATTHEW FERGUSON:** Okay, thank you.

21 I'll call up a second document, 19301. I may
22 not have that. Hold on.

23 **--- EXHIBIT No. CAN 19301:**

24 CCE strategic case management meeting
25 between CSIS and the CSE

26 **MR. MATTHEW FERGUSON:** [No interpretation].

27 **(SHORT PAUSE)**

28 **MR. MATTHEW FERGUSON:** I'm going to scroll

1 through this document as well, and Ms. Gigou, this is 19301
2 on the screen. And before today, same question, have you
3 seen this document? Is this document generated by the OCCE?

4 **MS. MYLÈNE GIGOU:** This is not a document
5 that is generated by the OCCE.

6 **MR. MATTHEW FERGUSON:** I'm going to suggest
7 that this is a -- this refers to a same meeting, it's a
8 different document that refers to the same meeting. Do you
9 have any information to that?

10 **MS. MYLÈNE GIGOU:** I'm unable to discuss the
11 content of any discussions that I....

12 **MR. MATTHEW FERGUSON:** That you've had with
13 CSIS in this -- in the course of this meeting. Okay.

14 **MS. MYLÈNE GIGOU:** Thank you.

15 **MR. MATTHEW FERGUSON:** And the purpose here,
16 and I'm not asking you to comment, but the....

17 If we go just to the purpose, Mr. Court
18 Operator.

19 It's:

20 "Pursuant to the CCE framework, the
21 strategic case management meeting was
22 convened to discuss PRC-related
23 foreign interference cases during the
24 2019 Canadian federal election." (As
25 read)

26 I'm going to call up this next document,
27 CAN019302.

28 **--- EXHIBIT No. CAN 19302:**

1 Memorandum - CCE strategic case
2 management meeting with CSIS

3 **MR. MATTHEW FERGUSON:** And I'm calling up
4 these documents primarily because they weren't available to
5 the parties and the Commission before today. So the next
6 document is 302. And we -- if we could scroll through the
7 document.

8 Again, date, place, 2019 CSIS NHQ. Persons
9 present are the same, Mr. -- Ms. Gigou and Mr. Matthews from
10 CSIS or from, excuse me, from the CCE. Purpose the contact:

11 "Pursuant to the CCE framework, this
12 strategic case management meeting was
13 convened to discuss PRC-related
14 foreign interference cases during the
15 2019...Election."

16 And if we go a bit further. There was a
17 discussion of a disclosure letter that was sent to the OCCE.

18 And I understand, again, your answer is the
19 same, you cannot discuss the content of this meeting;
20 correct?

21 **MS. MYLÈNE GIGOU:** That's correct.

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

23 If I now call up -- I'm going to skip a
24 document and come back to it, but 18 -- I'll call up
25 CAN 18372.

26 **COURT OPERATOR:** Was that 18372?

27 **MR. MATTHEW FERGUSON:** Yes, 8 -- 18372;
28 correct.

1 COURT OPERATOR: I don't have that document.

2 (SHORT PAUSE)

3 MS. SHANTONA CHAUDHURY: Madam Commissioner I
4 think we may need five minutes to just arrange the next
5 document, if you don't mind.

6 COMMISSIONER HOGUE: So we'll take a break.

7 THE REGISTRAR: The proceeding will recess
8 for five minutes.

9 --- Upon recessing at 4:25 p.m.

10 --- Upon resuming at 4:33 p.m.

11 THE REGISTRAR: Order, please.

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

14 MR. YVES CÔTÉ, Resumed:

15 MME CAROLINE SIMARD, Resumed:

16 MME MYLÈNE GIGOU, Resumed:

17 --- EXAMINATION IN-CHIEF BY MR. MATTHEW FERGUSON (cont'd):

18 MR. MATTHEW FERGUSON: So Ms. Gigou, we are
19 now at Document 18372, CAN18372 is on the screen.

20 --- EXHIBIT No. CAN 18372:

21 Memorandum - Engagement with OCCE

22 MR. MATTHEW FERGUSON: I recommend we read
23 through the document, because I understand this is another
24 meeting you attended, but again, you are not at liberty to
25 discuss the content of the meeting beyond this document;
26 correct?

27 MS. MYLÈNE GIGOU: In reviewing quickly, it
28 appears there are multiple dates. Seems to provide an

1 overview of various dates.

2 **MR. MATTHEW FERGUSON:** Sorry, I mis-framed
3 the question and I'll ---

4 **MS. MYLÈNE GIGOU:** That's okay.

5 **MR. MATTHEW FERGUSON:** This is an overview of
6 the -- a series of engagements with the OCC -- between the
7 OCC and CSIS. So we read through the document, at the very
8 first -- if we go to the top of the document, "Engagement
9 with OCCE":

10 "The SITE [Task Force] was
11 established in 2018 with a mandate
12 focused narrowly on examining the
13 Foreign Interference in Elections.
14 The membership of SITE is GAC, RCMP,
15 CSIS, CSE as well as participation
16 from PCO. [...] CSE was historically
17 the Chair for the SITE [Task Force],
18 this has recently moved over to
19 CSIS."

20 And then if we go down:

21 "Engagement with OCCE has generally
22 been the provision of briefings by
23 CSIS to OCCE, the provision of
24 analytic products which OCCE can read
25 in CSIS HQ, and discussions within a
26 One Vision...framework. The
27 following relates to specific
28 engagement with OCCE:"

1 briefing of generally what was seen
2 during the 2019 and 2021 elections.
3 The Service met..."

4 Next bullet:

5 "The Service met with OCCE on...[19th
6 of January 2021]to provide the OCCE
7 with a briefing on the threats in the
8 lead up to a Federal election. This
9 briefing was not specific to PRC FI."

10 And on the 25th of February 2021:

11 "CSIS met with OCCE to provide an
12 unclassified briefing on threats to
13 democratic institutions and FI
14 activities..."

15 If we go to the next page, on the 16th of
16 November 2022:

17 "...the SITE T[ask]F[orce] (comprised
18 of CSE, CSIS, GAC, RCMP, with input
19 from PCO DI & S&I) briefed the new
20 OCCE Commissioner (Caroline Simard)
21 and her team on the SITE mandate and
22 shared key observations from the 2021
23 GE44."

24 Next bullet -- I think we can stop there
25 before the next bullets, because we're getting outside of the
26 terms of our reference.

27 So if I bring you back to this document and
28 the first page, and just a bit down the page if we go to --

1 yeah, there we are. So CSIS, I understand there was a
2 meeting between CSIS and OCCE on the 26th of September 2019
3 for the exchange of information for the purposes of the
4 *Canada Elections Act*, so that was the MOU.

5 And there was another meeting where the --
6 among other things, I put it to you -- I suggest to you that
7 there was another meeting where the service spoke with the
8 OCCE during the 2019 Federal election regarding allegations
9 of irregularities during the vote in Don Valley North. I
10 understand in this particular meeting that I'm just -- that
11 I'm referring to, that was a topic of among others. Is that
12 correct?

13 **MS. MYLÈNE GIGOU:** What I can say is that as
14 per -- I referred earlier to the process whereby I did not
15 take notes of any discussions with CSIS and these are not my
16 notes, and they cover a number of years based on the dates
17 that are -- that appear there in the document. Any
18 information that I would have received would have been
19 classified as well and not anything that I can discuss in
20 this setting.

21 **MR. MATTHEW FERGUSON:** Okay. All right. I
22 will -- [no interpretation].

23 If I could also move on from CSIS for say --
24 not for a moment -- I'll move on from CSIS to talk about SITE
25 and RRM. Can you really describe the relationship between
26 OCCE entities -- with these entities and SITE and RRM?

27 **MS. MYLÈNE GIGOU:** Okay. So in the ---

28 **MR. MATTHEW FERGUSON:** RRM, the rapid

1 response mechanism, yeah.

2 **MS. MYLÈNE GIGOU:** No, absolutely.

3 **MR. MATTHEW FERGUSON:** Yeah.

4 **MS. MYLÈNE GIGOU:** So in lead up to the 2019
5 general election I alluded to a meeting held at our office
6 whereby I convened, I believe likely DG level counterparts at
7 CSIS, CSC, GAC, RRM, and the RCMP to discuss our office's
8 mandate, key provisions related to foreign interference and
9 the role we saw ourselves play in this sphere. We're not a
10 member of SITE, but in the event that there was any
11 information or that they had awareness about our mandate so
12 that if there was anything to be shared with our office.

13 My recollection of that discussion was that
14 they found it to be informative and thought that a workshop
15 or session, a presentation to some of their staff could be
16 helpful as well. So a couple of weeks later we did organize
17 a session again at our office, where we communicated to staff
18 within those organizations information about our mandate. In
19 that context as well, we communicated a letter and the deck
20 that was shared in those sessions to those organizations.

21 **MR. MATTHEW FERGUSON:** You say the deck that
22 was shared, do you remember ---

23 **MS. MYLÈNE GIGOU:** The presentation.

24 **MR. MATTHEW FERGUSON:** The presentation, and
25 you're referring to specific provisions of the *Canada*
26 *Elections Act* as pertains to foreign interference?

27 **MS. MYLÈNE GIGOU:** That's right. That's
28 correct. In terms of building on that, for the 2021 general

1 election this was an -- a federal election that was called
2 early. But what we did do, again to continue building on
3 these relationships, we invited each of these organizations
4 to come speak to our office so that our staff could hear
5 about their roles, mandates, and the like, so they'd be
6 better informed about respective mandates.

7 And in that forum, we also -- if it was
8 someone new within those organizations that I didn't already
9 have a relationship with, had a bit of an exchange in terms
10 of our mandate as well. We recommunicated in the lead up to
11 the 2021st federal general election information about our
12 mandate with key individuals within those organizations.
13 Essentially my counterparts.

14 **MR. MATTHEW FERGUSON:** Okay.

15 [No interpretation] ...like to raise, Madam
16 Simard, the fact that you've referred to a number of
17 provisions in the Canada Elections Act -- I'm having trouble
18 with that word today; *the Canada Elections Act* relating to
19 foreign interference to attack the phenomenon of foreign
20 interference. You've alluded to an additional report, CEF
21 PR, a number of zeros FR.

22 The interpreter may not have correctly
23 understood the number of the document.

24 We'll refer you to page 27 of this document.
25 I think actually it's page 28 of the PDF. So page 28. This
26 is appendix to your Institutional Report, which draws up an
27 inventory of clauses regarding foreign interference. You're
28 talking about disinformation and misinformation. If we could

1 scroll down a little bit in the table, there are certain
2 false statements which are forbidden during an electoral
3 period, under Article 19.

4 **MS. CAROLINE SIMARD:** [No interpretation].

5 **MR. MATTHEW FERGUSON:** Also in your table,
6 the reference to 282.4. This is exerting undue influence --
7 of a foreigner exerting undue influence. This document is
8 there. We've raised a number of clauses in it, provisions in
9 it. I would like to raise the question of certain specific
10 files. It's a question aimed more at the former
11 Commissioner, Mr. Côté.

12 Can you describe -- in fact, I will take you
13 to certain files and discuss with you a certain examinations
14 or investigations flowing from the general elections in 2019.

15 I will start with a number of files sent by
16 Elections Canada, and I will ask you to describe, for each
17 one of these the decision-making process on the part of OCCE
18 concerning the closing of these files. I will refer to the
19 first file, CEF, a number of zeroes, and it ends in 7. I
20 don't know if -- you undoubtedly don't know that by heart.
21 If I say *Time* magazine, does that ring a...

22 **MR. YVES CÔTÉ:** Yes.

23 **MR. MATTHEW FERGUSON:** It's a file -- do you
24 have it?

25 **COURT OPERATOR:** CEF 7?

26 **MR. MATTHEW FERGUSON:** Yes. Yes, I will
27 speak to -- that's an error. There's an error in that file.
28 We will make sure that it's fed into the database of the

1 parties.

2 So it's a file that contains a number of
3 complaints relating to an article in *Time* magazine, an
4 American publication, during the 2019 elections. And there's
5 a reference to the first Prime Minister when he was a young
6 man in blackface or brownface a number of years earlier. Can
7 you talk to us about that file and the institutional process
8 in closing this file?

9 **MR. YVES CÔTÉ:** Yes. I would answer first of
10 all, that you talked about more than 100 complaints or 100
11 communications regarding that article, and as you said it
12 involved the person who was Prime Minister at the time. And
13 in an American publication things were raised that he had
14 done in his youth. And I -- quite simply, what you said,
15 having -- going over the exceptions at 282.4, paragraph 3,
16 and the conclusion that we arrived at shortly after having
17 received those complaints was that it fell under one of those
18 exceptions and that therefore there was no infraction
19 committed to our Act and that the file should therefore be
20 closed because there hadn't been an infraction.

21 **MR. MATTHEW FERGUSON:** So there was no
22 contravention, then.

23 **MR. YVES CÔTÉ:** [Interpretation].

24 **MR. MATTHEW FERGUSON:** I would like to refer
25 to the complaints that you received directly from the public
26 for the period of 2019, or for the elections in 2019.

27 What can you tell us, in a general way, about
28 the experience of the office in terms of receipt of

1 complaints directly from the public regarding allegations of
2 foreign interference?

3 **MR. YVES CÔTÉ:** I can say that we received in
4 2019 -- you've gone over the figures a little earlier with
5 Madam Simard. We received a great number, 200, but what is
6 important to bear in mind is that a number of those
7 complaints there's a phenomenon of what we call
8 amplification; a number of citizens will approach us and file
9 a complaint with regard to something that already exists. So
10 the figures that I have in mind may not be exact, but in the
11 case of the article that we talked about in *Time*, there were
12 some 100-odd. I think there were also 31 or 32 that were
13 based on an intervention made by a Swedish citizen in --
14 during the elections, Madam Thunberg, who came here and made
15 statements in Montreal and in Vancouver.

16 And thirdly, there was another incident
17 involving *Time* magazine where people referenced the cover of
18 the magazine in a way that -- or dealt with it, and we -- so
19 we looked at those complaints, and when we looked at the
20 three of them together, I think that we came up to 160
21 complaints out of the 200.

22 So the point here is that yes, the figure of
23 200 may seem considerable, but in fact it is related to 15
24 different allegations with regard to the 2019 elections.

25 **MR. MATTHEW FERGUSON:** And if I take another
26 file, the file which has CEF a number of zeroes, and 17.

27 **--- EXHIBIT No. CEF 17 R2:**

28 Compliance or Enforcement

1 Recommendation Report - January 8,
2 2020

3 **MR. MATTHEW FERGUSON:** And here, if I talk
4 about a file which is an example of a tweet from a former
5 American President who was talking about political party. Do
6 you remember this file?

7 **MR. YVES CÔTÉ:** Yes, exactly.

8 **MR. MATTHEW FERGUSON:** Can you talk about
9 your decision-making process here?

10 **MR. YVES CÔTÉ:** We received complaints; I
11 don't know many were there. There was some 30-odd, I
12 believe. So people alleged in communications with us that
13 there was "foreign interference" due to the fact that a
14 former American President was getting involved in the
15 campaign. And once again here, very quickly we came to the
16 conclusion that it fell under one of the exceptions in 282.4,
17 and it was one of the files that we closed very quickly. And
18 I can mention that during the following general elections,
19 the same person, Mr. Obama, made a tweet and we came to the
20 same conclusion, obviously, at that time.

21 **MR. MATTHEW FERGUSON:** And here you studied
22 or analyzed those complaints, those allegations under -- from
23 the perspective 282.4, which is the undue influence of
24 foreigners, ---

25 **MR. YVES CÔTÉ:** [No interpretation].

26 **MR. MATTHEW FERGUSON:** --- an American
27 President who supports a candidate or a political party, is
28 not forbidden by the law?

1 **MR. YVES CÔTÉ:** It's not forbidden. If you
2 look at the three exceptions for in the subsection 3, be it
3 an American President or an ordinary citizen from France or
4 whatever country, the status of the individual has no impact.
5 The thing is that a person from -- a foreign person
6 intervening in this way, you have to look at the exceptions,
7 and when we did that here, we arrived at the conclusion that
8 the exceptions applied, so that there was no contravening of
9 our Act.

10 **MR. MATTHEW FERGUSON:** In 2019 I understand
11 that Clause 282.4 ---

12 **MR. YVES CÔTÉ:** It's a hard one, right?

13 **MR. MATTHEW FERGUSON:** Yes, I'm having a hard
14 time with it.

15 **MR. YVES CÔTÉ:** [No interpretation].

16 **(LAUGHTER)**

17 **MR. MATTHEW FERGUSON:** I understand that it
18 was relatively young as a clause; it was the first elections
19 in which it was applicable. Were there complaints or
20 examinations or civil action taken with regard to that
21 clause?

22 **MR. YVES CÔTÉ:** There were no prosecution or
23 no court actions.

24 **MR. MATTHEW FERGUSON:** So there were a number
25 of complaints but they never led to legal action?

26 **MR. YVES CÔTÉ:** Correct.

27 **MR. MATTHEW FERGUSON:** [No interpretation].

28 **MR. YVES CÔTÉ:** And I mentioned earlier, and

1 it's worth going over it quickly, that for many people,
2 people well-meaning and reasonable, Canadian -- ordinary
3 Canadian citizens, when they see things like this they say to
4 themselves that a former president of another country says
5 that they can do that, that has to be against the law; there
6 must be something we can do to stop that. Obviously, as
7 Madam Simard wrote, the Commissioner operates within the
8 parameters of the law as it must be, and not as some people
9 might consider it to be. And so people that are skeptical in
10 light of the decision you made, so the response, if there is
11 one, is that obviously would be to change the Act, but that's
12 not my area.

13 **MR. MATTHEW FERGUSON:** [No interpretation].

14 **COMMISSIONER HOGUE:** [No interpretation].

15 **MR. MATTHEW FERGUSON:** [No interpretation].

16 **COMMISSIONER HOGUE:** [No interpretation].

17 One can imagine, for example, where a
18 foreigner, be it a former president or another person, makes
19 that type of tweet or makes a comment on Facebook, and it
20 does more than simply say they support a particular person,
21 but provides certain information. Taking for granted that
22 some of that information would not be true, let's assume
23 that, would your analysis then be able to follow two paths?
24 First of all, a question whether it's an infraction for that
25 person to support a candidate, but then to look also at the
26 content of what is said, to see if there's any information
27 that could be disinformation or misinformation.

28 **MR. YVES CÔTÉ:** Caroline, would you like to

1 answer? No?

2 You're raising a very good point, Madam
3 Commissioner, and obviously we would have to look at the
4 content of the allegations or the statements that are made in
5 the case that you're giving from a non-Canadian citizen.
6 There are at least two issues that would be raised very
7 quickly. First, in 282.8 of the Act where it's mentioned
8 that it is forbidden to exert a pretext or trickery to lead
9 the voting in a certain way, and obviously that applies to
10 everybody, be it in Canada or outside Canada. Everyone is
11 subjected to that.

12 And then there's section 91 of the Act which
13 says it's an infraction to communicate during an election
14 period some types of false information regarding candidates
15 or people associated with parties in order to influence
16 people in the exercise of their voting rights.

17 **COMMISSIONER HOGUE:** And that applies both to
18 foreigners as people in Canadian territory?

19 **MR. YVES CÔTÉ:** If I remember correctly,
20 under section 91, subsection 2 or something, that it
21 stipulates that that clause applies, regardless of where the
22 statements are made.

23 **COMMISSIONER HOGUE:** [No interpretation].

24 **MS. CAROLINE SIMARD:** If I may add?

25 **COMMISSIONER HOGUE:** [No interpretation].

26 **MS. CAROLINE SIMARD:** Just taking an
27 additional step; a false statement is very limited. We're
28 talking about false statements regarding citizenship of the

1 place of birth, studies, qualifications, and/or otherwise
2 having committed an infraction to the law. So it's very
3 limited; the scope is very limited.

4 **COMMISSIONER HOGUE:** So if there were false
5 representations that had to do with, like, a made-up story,
6 if you will, regarding a candidate who may have taken part in
7 illicit activities or whatever it is, it might not be covered
8 by that clause; you have to determine whether there was an
9 infraction or not, according to what?

10 **MS. CAROLINE SIMARD:** I will answer in the
11 affirmative regarding section 91, but there may be other
12 clauses that would apply as well.

13 **COMMISSIONER HOGUE:** Thank you.

14 **MR. MATTHEW FERGUSON:** So be it an American
15 President or a person regarding the allegiances or their
16 relationship with Canada, that doesn't change anything with
17 regard to the individual and their relationship with Canada,
18 be it an ally county or a more hostile country?

19 **MR. YVES CÔTÉ:** You're talking, Maître
20 Ferguson, about...?

21 **MR. MATTHEW FERGUSON:** Under 282.4.

22 **MR. YVES CÔTÉ:** Yes.

23 **MR. MATTHEW FERGUSON:** Now in 2019 -- Mr.
24 Côté, during your mandate in 2019, did you lead an
25 investigation into allegations of irregularities during the
26 nomination -- Liberal nomination in Don Valley North in 2019?

27 **MR. YVES CÔTÉ:** In 2019?

28 **MR. MATTHEW FERGUSON:** In 2019. Or we heard

1 evidence this morning to the effect that you received a
2 referral from Elections Canada? When I say, "In 2019" it has
3 to do with regarding the 2019 general elections.

4 **MS. MYLÈNE GIGOU:** You want me to take the
5 question?

6 **MR. YVES CÔTÉ:** Yes.

7 **MS. MYLÈNE GIGOU:** So we have received
8 complaints, including referrals related to the Liberal
9 nomination contest in Don Valley North. Some do not involve
10 allegations of foreign interference. Information regarding
11 the ongoing review initiated by the Commissioner of Canada
12 Elections has been shared with this public inquiry, and we
13 continue to receive information and assess it as part of our
14 ongoing review.

15 **MR. MATTHEW FERGUSON:** Yeah. But the
16 question was more with respect to the referral that Elections
17 Canada -- that's sent to the OCCE in 2019.

18 **MS. MYLÈNE GIGOU:** So your question ---

19 **MR. MATTHEW FERGUSON:** I understand there's -
20 --

21 **MS. MYLÈNE GIGOU:** If you're referring to
22 2019 ---

23 **MR. MATTHEW FERGUSON:** I understand that
24 there's an ongoing review, but I'm speaking specifically --
25 an ongoing review initiated by the current Commissioner, but
26 I'm speaking about a referral from Elections Canada in 2019.

27 **MS. MYLÈNE GIGOU:** Are you -- so my question
28 that I'm seeking clarification, are you certain of the date

1 being 2019 or are you referring to the 2019 ---

2 MR. MATTHEW FERGUSON: I'm referring to ---

3 MS. MYLÈNE GIGOU: --- Liberal nomination
4 contest ---

5 MR. MATTHEW FERGUSON: Correct. Right.

6 MS. MYLÈNE GIGOU: --- and a referral that
7 may have been subsequent to that, but not necessarily in
8 2019?

9 MR. MATTHEW FERGUSON: If my question was
10 unclear, then that's your -- you have the proper
11 understanding.

12 MS. MYLÈNE GIGOU: Okay.

13 MR. MATTHEW FERGUSON: Yeah.

14 MS. MYLÈNE GIGOU: So we did receive a
15 referral from Elections Canada related to the Liberal
16 nomination contest.

17 MR. MATTHEW FERGUSON: And do I understand
18 that that referral had -- did not have -- had nothing to do
19 with foreign interference?

20 MS. MYLÈNE GIGOU: That's my understanding,
21 yes.

22 MR. MATTHEW FERGUSON: Okay. Thank you.

23 [No interpretation] ... the last part. Mr.
24 Côté, I understand that if I refer to file CEF, a number of
25 zeroes 157.

26 --- EXHIBIT No. CEF 157:

27 Summary Report 2021-0825

28 MR. MATTHEW FERGUSON: Here, can we reduce it

1 somewhat so that we can see the entire document? Thank you.

2 We're talking here about a summary covering
3 three complaints from the same complainant. One of them has
4 to do with the statement from the Ambassador of China in
5 Canada -- to Canada in the *Hill Times* urging people to vote
6 for the Conservative Party. That's what -- summarizing that
7 document produced by -- after the examination if there --
8 considered to be covered by one of the exceptions under
9 Article 282.4. Once again, I understand the comments of the
10 dignitary for or against a candidate or for against a
11 political party, openly or covertly, that that did not engage
12 your responsibility under 282.4.

13 **MR. YVES CÔTÉ:** Maybe Mr. Ferguson, to be
14 more specific, I could say that the analysis that we did of
15 the Ambassador's words led us to the conclusion that those
16 words in particular came under one of the exceptions of
17 paragraph 3 of 282.4.

18 **MR. MATTHEW FERGUSON:** [No interpretation].

19 **MR. YVES CÔTÉ:** [No interpretation].

20 **MR. MATTHEW FERGUSON:** [No interpretation].

21 **MR. YVES CÔTÉ:** [No interpretation].

22 **MR. MATTHEW FERGUSON:** [No interpretation].

23 Then I would refer you to the next file.

24 **--- EXHIBIT No. CEF 156:**

25 Summary Report 2021-0439

26 **MR. MATTHEW FERGUSON:** [No interpretation].

27 Monsieur Côté:

28 "This matter involved complaints

1 received during the 2021 general
2 election over a lunch event for the
3 Liberal Party candidate in Vancouver
4 East." (As read)

5 Which is the electoral district of Jenny
6 Kwan, who is a party to these proceedings.

7 **MR. YVES CÔTÉ:** [No interpretation].

8 **MR. MATTHEW FERGUSON:** Can you tell us a
9 little about this matter and the disposition in this file?

10 **MR. YVES CÔTÉ:** [No interpretation] ...the
11 person who was acting as legal advisor to the NDP, or in the
12 NDP campaign that we're talking about here, so they wrote to
13 us to communicate the fact that there was a lunch that was
14 organized, and according to the allegations in the letter, if
15 I remember correctly, would have been paid for by a man whose
16 name is Chinese-sounding. And the way that the complaint was
17 drafted, brought to our attention that there were probably
18 violations to the rules of political financing, given that it
19 could have been perceived as a contribution from this person
20 to the candidate's campaign.

21 So come back a bit, we're talking of the
22 Liberal candidate. I think the name is there, Vander Vies.
23 When we tried to find the facts about this, we learned that
24 it is the candidate who approached Mr. Kwok to tell him that
25 him, the candidate, would be like to be able to meet some
26 Chinese people to get more familiar with them and to get
27 known in the context of the campaign. So for me it's an
28 important point; that is, it's the candidate who approached

1 that person, here Mr. Kwok in question, was described in the
2 letter by the lawyer of the party as someone who was
3 associated to some organizations involved in the fight
4 against racism, against people of Asian descendants. So
5 there was nothing in here that brought me, at the time, or
6 brought our investigators to think that that there was
7 something undue, especially when we considered the fact that
8 we had described Mr. Kwok as I just did.

9 So we obtained information, and the
10 information we got was along the lines that the sums paid by
11 Mr. Kwok for this banquet were about \$1,500, roughly. And
12 eventually the file was sold by imposing -- only a few weeks
13 ago by Commissioner Simard, a financial administrative
14 sanction against Mr. Vander Vies's campaign for having
15 omitted in the filed reports this non-monetary contribution
16 that his campaign had benefited from.

17 **MR. MATTHEW FERGUSON:** And I understand that
18 this file was settled under your mandate, Mrs. Simard.

19 **MS. CAROLINE SIMARD:** Yes, that's correct.

20 **MR. MATTHEW FERGUSON:** If I covered the last
21 file with you, Mr. Côté. File CEF 159.

22 **--- EXHIBIT No. CEF 159:**

23 Summary Report 2021-0553

24 This file involves a complaint submitted
25 during the 2021 general election that:

26 "...expressed concern that foreign
27 agents affiliated with the Chinese
28 Communist Party [...] may be

1 interfering in the [election]. The
2 [complainant enclosed] 3 [...]
3 screenshots of social media messages
4 in Chinese..."

5 The posts were described by OCCE staff as:
6 "...critical of the Conservative Party
7 of Canada [...] referenced the
8 potential impact of Bill C-282 [the
9 Foreign Influence Registry Bill,
10 tabled] by MP Kenny Chiu."

11 Can you describe what happened in this file
12 and when was the matter closed?

13 **MR. YVES CÔTÉ:** At what point it was closed,
14 I'm not sure. Maybe Ms. Gigou has the information. But I
15 know that it was closed while I was still Commissioner, so
16 under my regime, as you said.

17 So it's a file that we examined very closely.
18 A lot of work was done to look into that and read and get
19 translated the posts that were on the social media platform.
20 We looked at those attentively, and we came to the conclusion
21 that, yes, there were some words against -- I think the
22 document mentions it, that there were some words against Mr.
23 Sloan, against Mr. Chiu as well. And we saw in there some
24 people who were stating some things and taking some
25 positions, but we saw nothing in there that went beyond what
26 is acceptable in a democratic debate during an election.
27 Bearing in mind, though, is of course the measures that we
28 talked about, 282.4.

1 **MR. MATTHEW FERGUSON:** And I understand that
2 there was extensive opensource research conducted, I think
3 it's mentioned in the document, steps taken, the last step,
4 there was extensive opensource research conducted, this is a
5 topic we discussed during the interview, conducted by an OCC
6 analyst that identified between individuals related to the
7 posts and publications, and ties to China-based entities with
8 potential links to the Communist Party of China. Is that
9 correct?

10 **MR. YVES CÔTÉ:** [No interpretation].

11 **MR. MATTHEW FERGUSON:** And I also understand
12 that the document could not identify -- the OCC could not:
13 "...identify [any] tangible [...] direct
14 [or] evidence to substantiate the
15 elements constituting the offence of
16 undue foreign influence..."

17 **MR. YVES CÔTÉ:** Yes.

18 **MR. MATTHEW FERGUSON:** Was this document
19 prepared by one of your analysts and shared with your
20 partners agencies?

21 **MR. YVES CÔTÉ:** This was not shared by us
22 with our partners. There's one thing that we have to bear in
23 mind, this is a consideration, it's a fact that we perceive
24 ourselves -- and Mrs. Simard can confirm, but we see
25 ourselves first and foremost as an organization receiving
26 complaints, receiving information and not as an organization
27 whose mandate would comprise distribution or communication of
28 information coming from us to others.

1 **MR. MATTHEW FERGUSION:** Having said this, you
2 still signed the Memorandum of Understanding with the RCMP
3 that plans for this bilateral information-sharing
4 relationship.

5 **MR. YVES CÔTÉ:** So I didn't look at the
6 reports or analyses done by our specialists here, and if I
7 remember properly, they were very lengthy. But the
8 presumption that I have would be that the people in charge of
9 the file in our office, the investigators in charge, I know
10 their names, I know their backgrounds. These are very smart
11 people who have, at least for one of them, are trained in law
12 and have -- there are former members of the RCMP, so if they
13 saw something that should have been communicated, I can
14 presume that they would have come to me and would have asked
15 for the authorization of the Commissioner to share that
16 information with the RCMP.

17 And Mylène, I don't know if -- Madam Gigou,
18 sorry; I don't know if there was something to add?

19 **MS. MYLÈNE GIGOU:** I think on this specific
20 matter, in terms of the opensource research, I think one of
21 the considerations that could have also applied, and I say
22 that in the -- I wasn't specifically there during that time,
23 but the information was reproduced based on opensource
24 research. So it's information that's available to other
25 organizations as well in terms of opensource. But as the
26 former Commissioner mentioned, if there was something, for
27 example, in another instance where we deemed that there was a
28 significant threat in something that we saw, we contacted the

1 RCMP so that they're aware of those issues.

2 So in those circumstances, we certainly do,
3 in some, but given our confidentiality provisions and our
4 independence as well, we -- as he explained, this is
5 something that's very case specific and fact specific, when
6 we do seek authorization from the Commissioner of Canada
7 Elections to share with another agency.

8 **MR. MATTHEW FERGUSION:** And I will conclude
9 with the examinations following these allegations of foreign
10 interference with some coverage in the media in 2022 and
11 2023; that's under your mandate, Mrs. Simard.

12 You initiated an examination following
13 allegations communicated to you. I will speak of a first
14 file that is something that we mentioned together during the
15 interview. So I'll call up CEF 161. And could you briefly
16 describe this file?

17 **--- EXHIBIT No. CEF 161:**

18 Summary Report 2022-0925-56

19 **MS. CAROLINE SIMARD:** Yes, this is a file
20 that I opened on my own initiative following some allegations
21 expressed in the context of a Parliamentary committee. So in
22 the summary it's indicated that it was the PROC Committee.
23 And if I summarize very simply, some examination work was
24 done, some witnesses were met, and at the end of the day
25 there was no reason to take it any further. So I closed this
26 file.

27 **MR. MATTHEW FERGUSION:** Okay. I understand
28 there are two other investigations that were ongoing that

1 were ---

2 **MS. CAROLINE SIMARD:** [No interpretation].

3 **MR. MATTHEW FERGUSION:** --- initiated by
4 yourself?

5 **MS. CAROLINE SIMARD:** Two examinations, yes.

6 **MR. MATTHEW FERGUSION:** Yes, excuse me. And
7 I'll call up CEF 152.

8 **--- EXHIBIT No. CEF 152 R2:**

9 Summary Report 2022-0925

10 **MR. MATTHEW FERGUSION:** And so that is the
11 first file. I understand it's an examination following
12 allegations about some writings in the Greater Vancouver
13 region. And another file, CEF 150; I think it was mentioned
14 earlier. So an investigation into allegations linked to the
15 Don Valley riding, amongst others.

16 **--- EXHIBIT No. CEF 150 R2:**

17 Summary Report 2022-0925-11

18 **MS. CAROLINE SIMARD:** [No interpretation].

19 **MR. MATTHEW FERGUSION:** So I understand that
20 beyond those summaries, there's nothing that you can say
21 since those are ongoing?

22 **MS. CAROLINE SIMARD:** Yes, absolutely. So
23 the first one is following around 50 complaints, so it's
24 ongoing. And the second one was of my own initiative that it
25 was opened up, and it's still ongoing. And indeed, I cannot
26 tell you more than what's here.

27 So already it is very exceptional to share
28 this kind of information. You will understand that there are

1 different reasons; presumption of innocence, privacy,
2 investigation techniques, et cetera. And I would take a
3 couple of seconds to say that we are operating in a very
4 specific environment compared to others. It is a very much a
5 partisan environment and the last thing we want is to be used
6 as an instrument to feed that partisanship. So it's very
7 important to preserve confidentiality in that context.

8 **MR. MATTHEW FERGUSON:** Thankyou. And last
9 question, I asked the question to Mr. Simard -- now it's
10 getting late; Mr. Côté earlier, about 282.4, that there
11 hasn't been any prosecution following these allegations and
12 complaints around the elections of 2019. Were there some for
13 the elections in 2021; did these measures lead to any
14 prosecution?

15 **MR. YVES CÔTÉ:** When I left in June 2022,
16 there hadn't been any, no.

17 **MR. MATTHEW FERGUSON:** And still the case,
18 Mrs. Simard?

19 **MS. CAROLINE SIMARD:** Yes.

20 **MR. MATTHEW FERGUSON:** So thank you for your
21 time. I have finished my questions, but there will most
22 certainly be questions from other parties.

23 **COMMISSIONER HOGUE:** Thank you, Mr. Ferguson.

24 **MR. MATTHEW FERGUSON:** [No interpretation].

25 **COMMISSIONER HOGUE:** We are running late, so I
26 suggest that we really take a short break just for what is
27 needed. So five minutes and we will come back for cross-
28 examination.

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

2 The hearing is in recess until 5:20.

3 --- Upon recessing at 5:15 p.m.

4 --- Upon resuming at 5:21 p.m.

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

6 The sitting of the Foreign Interference
7 Commission is back in session.

8 **MR. SHANTONA CHAUDHURY:** I'm sorry,
9 Commissioner. We are missing one of our witnesses. I
10 believe they're coming in very shortly, but we'll just pause
11 for a moment before beginning.

12 **COMMISSIONER HOGUE:** Maybe we can applaud
13 when she....

14 **MR. GIB van ERT:** Commissioner, I wonder if
15 -- it's Gib van Ert here. A procedural matter that I don't
16 think affects a witness. I wonder if I might just -- it's a
17 bit late in the day to be asking questions about procedure,
18 so maybe I'll table it for tomorrow. But I wanted to flag
19 for you that I did have some guidance set out in seeking from
20 you about the proper use of the interview summaries in light
21 of the comments that Mr. Sheppard raised. I haven't had a
22 chance to talk to Commission counsel about it first, so what
23 I propose is to talk to Commission counsel. If we're not
24 able to work it out, I might ask for guidance from you first
25 thing in the morning, rather than burdening us with it now

26 **COMMISSIONER HOGUE:** Perfect. But I invite
27 you to discuss with them and then you'll see.

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

1 **COMMISSIONER HOGUE:** No, we are not sitting
2 tomorrow.

3 **MR. GIB van ERT:** Yes. I have just been
4 reminded of that. But we could do it on Tuesday morning if
5 need be.

6 **COMMISSIONER HOGUE:** Yes.

7 **MR. GIB van ERT:** Hopefully there won't be a
8 need.

9 **(SHORT PAUSE)**

10 **COMMISSIONER HOGUE:** You can go ahead.

11 **MR. YVES CÔTÉ, Resumed:**

12 **MME CAROLINE SIMARD, Resumed:**

13 **MME MYLÈNE GIGOU, Resumed:**

14 **--- CROSS-EXAMINATION BY MR. GIB van ERT:**

15 **MR. GIB van ERT:** [No interpretation].

16 [No interpretation] ...I would like to give a
17 summary of what I understood from your evidence, and I'm
18 looking at Mr. Côté in particular, but I would invite you,
19 the three of you to speak up if you want to.

20 But I would like to understand the scope of
21 the Act and the contraventions under the Act, and their
22 overlap with foreign interference.

23 If I understood you correctly -- without
24 going into all the details, if I understood correctly, there
25 is some possible overlap between the contraventions provided
26 for under the Act, and the idea of foreign interference as we
27 understand it, and as the Commission is reviewing it. But
28 even if there may be some overlap from time to -- it is also

1 the idea of foreign interference as defined by the
2 Commission, seems to be broader, and as a result, it is not
3 clear. So maybe it is clear that it is not the case that any
4 instance of foreign interference might be a violation of the
5 Act.

6 I know that I took a lot of time to explain
7 this but do you understand?

8 **MR. YVES CÔTÉ:** I think that I understand
9 and I quite agree with you.

10 **MR. GIB van ERT:** Thank you. And I might
11 add, if I understood correctly, even if the Act had other
12 contraventions and a greater scope, there would still be two
13 issues. First, the contravener may not be in the country;
14 isn't it true?

15 **MR. YVES CÔTÉ:** Yes. He or she may not be in
16 the country, but sometimes and often, it's impossible to
17 bring that person into the country.

18 **MR. GIB van ERT:** Yes, thank you. I agree.

19 And that's a legal matter, but generally all
20 criminal laws cannot be implemented extraterritorially,
21 outside the country. This is something that Parliament can
22 adjust but that's another challenge; do you agree?

23 **MR. YVES CÔTÉ:** Yes, that's correct.

24 **MR. GIB van ERT:** [No interpretation].

25 Turning to Ms. Gigou, if I may?

26 Commissioner, here I may be about to stumble
27 on the procedural question that I was going to raise but let
28 me see if I can do it without raising the question, and my

1 learned friends will raise any concerns they may have.

2 Ms. Gigou, I wanted to ask you; was there a
3 meeting between CSIS and the CCE, an urgent meeting, on the
4 Saturday before the polling day in October 2019?

5 **MS. MYLÈNE GIGOU:** I believe that's reflected
6 in my witness statement.

7 **MR. GIB van ERT:** I believe it is too, yes.
8 Thank you.

9 And in your witness statement -- and I don't
10 believe I'm seeking to contradict the witness here, or impugn
11 her testimony at all, so I don't believe I need our leave,
12 Commissioner -- but you referred to this, and in fact it came
13 up in Maître Ferguson's examination as well. You referred to
14 something called the one-vision process in connection with
15 this. That is to say, if I recall correctly, you said that
16 CSIS called on CCE in this urgent way according to a one-
17 vision process. Can you explain what the one-vision process
18 is, please?

19 **MS. MYLÈNE GIGOU:** This is a process by which
20 CSIS shares intelligence with our office.

21 **MR. GIB van ERT:** Just with your office?

22 **MS. MYLÈNE GIGOU:** Essentially in this -- it
23 could be with other organizations, but certainly it's -- if I
24 understand correctly, it's a model that's also used with the
25 RCMP, and obviously we're not as mature as an organization as
26 perhaps the RCMP, but essentially a process by which
27 information is shared with our office.

28 **MR. GIB van ERT:** Thank you. And I

1 understand that this meeting might have resulted in the
2 preparation of a use letter.

3 **MS. MYLÈNE GIGOU:** As it states in my
4 statement, yes.

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

6 Could you tell the Commissioner what use CCE
7 may permissibly make of intelligence that is the subject of a
8 use letter?

9 **MS. MYLÈNE GIGOU:** So without -- the two
10 letters that our office has received are for intelligence
11 purposes only.

12 **MR. GIB van ERT:** Yes, I understand that, and
13 you explained that to my colleague, Mr. Ferguson, earlier.

14 So you can use it for intelligence purposes
15 only but of course you're not an intelligence organization,
16 per se. I want to understand better what use you put it to.

17 **MS. MYLÈNE GIGOU:** So, essentially, none of
18 the information, given that it was provided for intelligence
19 purposes, would have been used as information to support any
20 investigations if one was undertaken. Or review, I should
21 say; a review or investigation.

22 **MR. GIB van ERT:** Understood. Okay, that --
23 thank you, that's very helpful. In other words, you have
24 this intelligence, but you can't turn it into evidence for
25 the purpose of investigating or enforcing a potential
26 contravention of the law.

27 **MS. MYLÈNE GIGOU:** That's correct.

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

1 I'll ask the Court Operator to call up
2 CEF0000158, please. Thank you.

3 **--- EXHIBIT No. CEF 158:**

4 Summary Report 2021-0817

5 **MR. GIB van ERT:** And I'll invite anyone to
6 answer this question. I understand that this is a complaint
7 that was submitted that was alleging that Chinese agents were
8 urging people not to vote for the Conservative Party of
9 Canada, and this was in connection with the 44th election.
10 And that the Commission determined that there was nothing
11 violent or offensive in the language that was at issue and
12 closed the file. Is that right?

13 **MR. YVES CÔTÉ:** The question was not to know
14 whether there was violent language or not violent. It was to
15 determine whether upon reading these posts, we could conclude
16 that there was a violation of the Act, and we determined that
17 the exchanges were sometimes strong. Sometimes the language
18 was offensive. Sometimes people were going back and forth,
19 but in the end we determined that even if some strong
20 language was used -- and I would like to draw your attention
21 to the second bullet, that's what our investigators
22 determined.

23 **MR. GIB van ERT:** Thank you for this
24 precision.

25 So how was the fact that there was no threats
26 of violence was relevant in this case?

27 **MR. YVES CÔTÉ:** If there were threats of
28 violence that were clear or real threats of violence or

1 threats to people's, that would be depending on the context,
2 on the evidence, on -- people who were targeted by such
3 threats, we might have been in a situation in which there may
4 have been a violation under section 282.8 under pretence and
5 contrivance.

6 **MR. GIB van ERT:** I will go back to the
7 second sentence:

8 "The complainant alleged having noted
9 on Chinese language social media
10 forums that foreign agents, on behalf
11 of China, were trying to manipulate
12 the election by offending the
13 Conservative
14 Party...stating...Chinese people will
15 be killed..."

16 And included some screenshots.

17 [No interpretation] ...you considered the
18 complaint and you determined that as this was not coming
19 within your purview under the *Electoral Act*, so you had to
20 close the case?

21 **MR. YVES CÔTÉ:** Yes, and if I remember --
22 what I remember from the case is that our investigators
23 worked very carefully. The posts were translated by
24 professional translators, investigators sat down with the
25 complainant to review the translation to make sure that the
26 translation was faithful. And if I remember, it may have
27 been edited here and there. But after this translation and
28 the exchanges with the complainant, we reached the conclusion

1 that you just mentioned, is that there had been no violation
2 in that case.

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

4 I'll ask the Court Operator to turn up the
5 next document, CEF059.

6 **MS. CAROLINE SIMARD:** [No interpretation].

7 **MR. GIB van ERT:** [No interpretation].

8 **MS. CAROLINE SIMARD:** So I'd like to add that
9 when I took office in 2022, there were allegations in the
10 media very quickly, there was a media storm. And in this
11 context, and when I appeared before Parliament, I said I
12 would leave no stone unturned. So our staff went back to
13 closed cases to see if they could find any other evidence,
14 and that's one of these examples. In this case, we really
15 tried to do additional work in spite of the fact that the
16 work had been done very well in the past, but it was under
17 new circumstances and we reached the same conclusion and the
18 case had to remain closed.

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

20 **COMMISSIONER HOGUE:** You've used up your time
21 but I will allow you to ask a last question.

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

23 Well I'll finish with this -- and I won't
24 need the document now, thank you -- even if the *Canada*
25 *Elections Act* were amended to introduce broader prohibitions
26 and to cover some of the kinds of foreign interference that
27 are not presently covered, do you agree with me that the time
28 that it would take to receive a complaint, investigate it,

1 determine whether it had any merit, and then proceed to
2 enforcement, would take much longer than the writ period and
3 no enforcement could possibly be done before election day?
4 Anyone.

5 **MR. YVES CÔTÉ:** Since I'm no longer in
6 office, I would prefer for my colleagues to address the
7 question.

8 **MS. CAROLINE SIMARD:** Considering that we
9 only have a little time, I don't know if Ms. Gigou would like
10 to speak.

11 **MS. MYLÈNE GIGOU:** During the election, what
12 we try to do is achieve compliance as quickly as possible
13 when a variety of scenarios present themselves. We try to
14 equip ourselves as best as we can so that we can respond
15 swiftly, quickly. Obviously we also want to make sure we're
16 not making mistakes as well. So robust investigations or
17 reviews can also take time.

18 **MR. GIB van ERT:** Well I'm sure all of that
19 is true, but it's not an answer to the question I asked. The
20 question I asked was, do you agree with me that even if you
21 had powers to enforce against some of these other kinds of
22 foreign interference that we are considering here, it would
23 just be, practically speaking, impossible to receive a
24 complaint during the writ period, make a determination and do
25 something about it before election day? We're talking about
26 the space of 45/50 days; right?

27 **MS. CAROLINE SIMARD:** What I would say
28 logically, yes, it would be difficult to do that. But, once

1 again, I think it's worth a try, that's what I would say.
2 That's what I would like to say.

3 **MR. GIB van ERT:** [No interpretation].

4 **MS. CAROLINE SIMARD:** [No interpretation].

5 **MR. GIB van ERT:** Thank you, that was very
6 helpful.

7 **COMMISSIONER HOGUE:** [No interpretation].

8 Counsel for Erin O'Toole.

9 **--- CROSS-EXAMINATION BY MR. THOMAS JARMYN:**

10 **MR. THOMAS JARMYN:** Thank you, Commissioner.

11 This is Tom Jarmyn. I'm the counsel for Erin
12 O'Toole and I have just very few questions.

13 When investigators receive a report or are
14 given a report to investigate, has there been any standing
15 direction given whether or not they screen the file with
16 respect to possible threats under either the *Security of*
17 *Information Act* -- or sorry, violations under the *Security of*
18 *Information Act* or the *Criminal Code*?

19 **MS. CAROLINE SIMARD:** [No interpretation]
20 ...*Elections Act*, contraventions which apply, some provisions
21 of the *Criminal Code* may apply, if they are related to the
22 offences under the *Canada Elections Act*; for example, for
23 fraud, for example, for political funding. So we could also
24 use the clause for frauds under the *Criminal Code*. That's
25 only an example.

26 **MR. THOMAS JARMYN:** I'm thinking in
27 particular of section 20 of the *Security of Information Act*,
28 which makes it an offence to -- for the direct benefit of a

1 foreign entity to act to induce, by menace, a person to do
2 something that would increase the capacity of a foreign
3 entity.

4 **COMMISSIONER HOGUE:** So I think maybe you
5 should rephrase your question. I ---

6 **MR. THOMAS JARMYN:** Sorry.

7 **COMMISSIONER HOGUE:** The witnesses, they are
8 just trying to ---

9 **MR. THOMAS JARMYN:** Yeah.

10 **COMMISSIONER HOGUE:** --- understand what
11 you're looking for.

12 **MR. THOMAS JARMYN:** So section 20 of the
13 *Security of Information Act* says:

14 "Every person commits an offence who,
15 at the direction [or] the benefit of
16 [an] association with a foreign
17 entity [...], induces or attempts to
18 induce, by [menace]..."

19 And I've removed the words reflecting
20 violence, et cetera, a person to do anything for the benefit
21 -- sorry -- to do anything that:

22 "...increase[es] the capacity of a
23 foreign entity..."

24 So when a foreign state actor causes or
25 threatens further to, for example, CEF158, potential violence
26 for the benefit of a foreign entity, does that -- have you --
27 has direction been given to apply section 20 or to report
28 that to another organization?

1 I appreciate you can't charge under SIA.

2 **MS. CAROLINE SIMARD:** So generally speaking,
3 I will come back to the *Canada Elections Act*, and the
4 provisions of that Act would apply, and I would say that as
5 far as I know, this is our framework so there are a few
6 exceptions in relation to the *Criminal Code* that I explained
7 earlier today.

8 I'm turning to my colleagues to see if they
9 might want to share additional information.

10 **MS. MYLÈNE GIGOU:** So perhaps just to
11 supplement Madam Simard's answer, if I understood correctly,
12 you asked if it was triaged with that lens as well?

13 **MR. THOMAS JARMYN:** Yeah.

14 **MS. MYLÈNE GIGOU:** So if that's the -- if
15 that is in fact the question, so the triage that's done by
16 our intake unit is done with the lens of the *Canada Elections*
17 *Act*, as Commissioner Simard has mentioned.

18 If something falls within our mandate and
19 it's been reviewed or investigated by investigators and that
20 they have -- we work in a small team with experienced
21 investigators and we also work very closely with our internal
22 legal services as well, so there may be discussions about
23 whether there could be, for example, the application of the
24 *Criminal Code* or things like that. There could be those
25 discussions. But there's no specific instructions that I am
26 personally aware of within our office with regards to the
27 *Security of Information Act*.

28 **MR. THOMAS JARMYN:** Thank you. Those are all

1 my questions.

2 **COMMISSIONER HOGUE:** Thank you. So I think
3 next one is Jenny Kwan.

4 So it's Maître Choudhry.

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

6 **MR. SUJIT CHOUDHRY:** So Commissioner, I think
7 I'm going to walk into this procedural issue that's been
8 flagged. So I would like to ask some questions of the panel
9 regarding the Vancouver East luncheon that has been the
10 subject of the CCE investigation that Mr. Ferguson asked some
11 questions about. And both of the witness, the interview
12 summaries, addressed that luncheon over a few paragraphs, and
13 I'd like to ask -- I'd like to seek your leave to pose some
14 questions specifically in relation to the investigation of
15 that luncheon, as the evidence is described here, because
16 it's a bit -- the evidence that's in the witness -- in the
17 interview summaries is a bit more expansive than what Mr.
18 Côté was able to do.

19 **COMMISSIONER HOGUE:** And you want to draw my
20 attention to what have been ---

21 **MR. SUJIT CHOUDHRY:** Yes.

22 **COMMISSIONER HOGUE:** --- what they said
23 actually and what is ---

24 **MR. SUJIT CHOUDHRY:** I think -- yeah.

25 **COMMISSIONER HOGUE:** --- reflected in the
26 summary?

27 **MR. SUJIT CHOUDHRY:** I'd like to, yes.

28 **COMMISSIONER HOGUE:** Okay.

1 **MS. ERIN DANN:** Commissioner, I wonder if we
2 can assist to clarify the rule in respect to the witness
3 summaries, but certainly in cross-examination that counsel is
4 entitled to refer to the witness summary. Where leave is
5 required is where there -- I'm going to cross-examine in the
6 sense it puts some inconsistency -- you cannot put
7 inconsistencies to the witness from their summary. I'm
8 sorry, I'm not speaking clearly at the moment, but leave is
9 not required in order to refer the witness to a portion of
10 the witness summary.

11 **MR. SUJIT CHOUDHRY:** Fair enough. So I think
12 we're all on the same page, and I think Mr. van Ert and I
13 were doing it using them in the same way.

14 So let me begin, then, by asking that the
15 following document be called up on the screen, please. It's
16 JKW, four zeroes, 82.

17 **--- EXHIBIT No. JKW 82:**

18 Email from Jenny Kwan to CCE -
19 Foreign Interference Investigation

20 **MR. SUJIT CHOUDHRY:** And if you could scroll
21 down, please, to page 2 -- 3, actually. Actually, above.
22 Yes.

23 So this is an email, as you'll see. It's
24 from an investigator at the -- at CCE, as I'll call it, or --
25 and it's to MP Kwan, and it's dated July 2023. And so it's a
26 request to have a discussion regarding a complaint that she
27 had lodged.

28 And I'll put to Mr. Côté, in particular, but

1 to the panel, that this is the complaint that Mr. Côté
2 referenced in his testimony in 2021.

3 **MR. YVES CÔTÉ:** It looks like it, yes.

4 **MR. SUJIT CHOUDHRY:** Yeah, okay. So I'd like
5 to now call up JKW 000083.

6 **--- EXHIBIT No. JKW 83:**

7 Email from Jenny Kwan to CCE - Office
8 of the Commissioner Canada Elections
9 Report - SITE TF SITREP: 16 September
10 2021

11 **MS. MYLÈNE GIGOU:** Sorry.

12 **MR. SUJIT CHOUDHRY:** I'm sorry. Yes, ma'am.

13 **MS. MYLÈNE GIGOU:** I -- if I could perhaps
14 just clarify. Your question at the bottom -- just to pull up
15 again the bottom message, please.

16 **MR. SUJIT CHOUDHRY:** Sure. Excuse me.

17 Could we go back to the previous document,
18 please? Thank you.

19 **MS. MYLÈNE GIGOU:** So that email of Monday,
20 July 17, 2023 ---

21 **MR. SUJIT CHOUDHRY:** Correct.

22 **MS. MYLÈNE GIGOU:** --- you're suggesting that
23 it relates to which file number, please?

24 **MR. SUJIT CHOUDHRY:** It -- well, it relates
25 to a complaint that was lodged by Ms. Kwan during the 2021
26 campaign.

27 **MS. MYLÈNE GIGOU:** Do you have the file
28 number for that? Because I don't believe that's the -- it

1 relates to those allegations.

2 **MR. SUJIT CHOUDHRY:** Well, I can -- that
3 document's not been put....

4 Well, actually, Mr. Ferguson, I think you did
5 put that document up on the screen.

6 **MS. MYLÈNE GIGOU:** So if you are referring to
7 CEF 156.

8 **MR. MATTHEW FERGUSON:** I believe that's the
9 document that is the -- that Mr. Choudhry is referring to.

10 **MS. MYLÈNE GIGOU:** The inquiry -- the email
11 to Ms. Kwan did not -- was not for that purpose.

12 **MR. SUJIT CHOUDHRY:** I see, but can I take
13 you then to the next ---

14 **MS. MYLÈNE GIGOU:** Okay.

15 **MR. SUJIT CHOUDHRY:** --- dated correspondence
16 with Ms. Kwan?

17 So I'd like to take you down to Ms. Kwan's
18 email. It's dated August 10th.

19 So if you could scroll down, please.

20 And so I just want to spend a bit of time on
21 this email -- on this email. And so -- and so the first
22 thing I'd like to note is that at the bottom of this page
23 Ms. Kwan cuts -- sorry.

24 If you could go up. A little bit slowly,
25 slowly. There is italicised text. Good. Okay, just a bit
26 more.

27 So what Ms. Kwan has copied and pasted into
28 this email back to your investigator is correspondence that

1 her team sent to CCE back in October of 2021 regarding
2 pricing at the restaurant where the lunch that was the basis
3 of her complaint back in 2021, was held. And if I could just
4 summarise this here.

5 The reported cost of that lunch is, as has
6 been said by Mr. Côté, was \$1,500. And Ms. Kwan's team did a
7 market price assessment of what a lunch of that size should
8 have cost, and the cost should have been, for the number of
9 attendees, between \$2,500 and \$3,000.

10 And so the -- and so Ms. Kwan, and this was
11 presented to your -- to CCE at the time, and Ms. Kwan will
12 testify that there was no follow up on this issue until
13 July 2023.

14 And then if you could scroll up, please.
15 Slowly. A bit more. Stop there.

16 There's a paragraph here which says:

17 "When I brought the Fred Kwok
18 matter..."

19 That is the lunch:

20 "...up on the telephone call with you
21 recently, your response was that you
22 are less interested in this issue
23 with your visit to the Lower
24 Mainland. [But] I would like to
25 point out that following this
26 complaint and in light of the
27 revelation from CSIS that I am a
28 target for foreign interference..."

1 Which is a matter of public record:

2 "...it would be important to ensure
3 that there be a thorough
4 investigation on this matter to
5 ensure that no foreign interference
6 or violation of the *Election Act* has
7 taken place."

8 And so then I take you down to -- further....

9 If you could scroll down to the next page
10 again. I'm sorry to be jumping around.

11 Look at this paragraph here that begins "To
12 date."

13 "To date, we have not received any
14 information from *Elections Canada*..."

15 By which she means CCE:

16 "...regarding the conclusion of their
17 investigation. Recent news coverage
18 of CSIS leaks has brought to our
19 attention alleged involvement and
20 interference by the Vancouver Chinese
21 Consul General in the 2021 federal
22 election. The media has also
23 reported on a scheme conducted by the
24 Toronto Chinese Consulate, which
25 funnelled funds through...community
26 figureheads into election campaigns.
27 These reports have reminded us of the
28 Fred Kwok incident, and brings to the

1 forefront the lingering questions we
2 have regarding the luncheon [we]
3 hosted for the Liberal candidate
4 during the [2021] election."

5 That's a typo.

6 And so my question, then, based on this
7 letter is this: If in fact the Vancouver Chinese Consulate
8 had provided funding for a lunch where a Canadian citizen --
9 host -- which a Canadian hosted for a political candidate
10 during an election, would that not amount to a violation of
11 section 282.4 of the *Canada Elections Act*? Would that not
12 amount to undue influence by foreigners?

13 **MS. CAROLINE SIMARD:** I will begin response
14 by saying here that this is a file that was born, in terms of
15 the facts what's important to remember is the initiative of
16 the candidate who held a luncheon. And this file is one for
17 which a decision was brought down, so a decision of an
18 administrative nature. An administrative sanction, a fine,
19 was imposed to the official agent for a non-monetary
20 undeclared contribution in the amount of \$500, and that
21 amount was paid.

22 So for us at the office, this is then a file
23 regarding a non-monetary contribution which was not declared.

24 **MR. SUJIT CHOUDHRY:** Yeah.
25 Commissioner Simard, I'm aware that that's your position.
26 I'm aware of the decision that was taken, but that wasn't my
27 question.

28 **MS. CAROLINE SIMARD:** [No interpretation].

1 **MR. SUJIT CHOUDHRY:** My question is simply
2 this: If the Chinese Consulate in Vancouver contributed
3 funds to a lunch hosted for a candidate in the 2021 federal
4 election, would that not amount to undue influence by
5 foreigners, in contravention of the *Canada Elections Act*?
6 It's a simple question.

7 **MS. CAROLINE SIMARD:** [No interpretation]
8 ...at the provision a little more closely.

9 **MR. SUJIT CHOUDHRY:** It's a -- it's a legal
10 question.

11 **MS. MYLÈNE GIGOU:** And I would add to the
12 Commissioner's response as well that although there is
13 allegations, no one has provided specific information that
14 the money paid for the lunch was from anyone other than
15 Mr. Kwok.

16 **MR. SUJIT CHOUDHRY:** Well, I'd like to get to
17 that.

18 But I'd like it noted for the record that I
19 posed a question about whether payments by a foreign
20 government to host a luncheon for a political candidate would
21 violate the *Canada Elections Act*, and I did not get an answer
22 from the panel.

23 So I now would like to move on to the
24 investigation that was conducted. So I realise that, I think
25 you've said, "Well, the -- there is no evidence that the
26 funds came from a foreign government."

27 So I'd like to take you, if I could, to
28 Witness Statement 6. Actually, pardon me, Witness

1 Statement 25, page 18.

2 That's paragraph 96. So let's look at the --
3 at paragraph 96.

4 **MR. YVES CÔTÉ:** Whose statement is this?

5 **MR. SUJIT CHOUDHRY:** This is the statement
6 that was provided by Côté, Gigou and Mathews. So I believe
7 this is yours, sir.

8 **MR. YVES CÔTÉ:** [No interpretation].

9 **MR. SUJI CHOUDHRY:** And so if I could look at
10 the last two sentences of paragraph 96, it says:

11 "The organizer of the lunch indicated
12 through his lawyer that he paid
13 \$1,500 for the lunch. The restaurant
14 in question refused to provide a
15 receipt of the lunch."

16 And so I'm to assume that you did not use any
17 powers available under the Act to demand that documentation?

18 **MS. CAROLINE SIMARD:** I understand the
19 question as addressed, we're in an administrative context.
20 In an administrative context, we do not have the tools that
21 are available under the criminal regime. As a result there
22 is no power of an order of communication existing. That is,
23 I would say, one of the shortcomings of the regime as such
24 under the Act. In terms of administrative powers, that
25 simply doesn't exist.

26

27 **MR. SUJIT CHOUDHRY:** So you did not have the
28 power to demand that documentation?

1 **MS. CAROLINE SIMARD:** [No interpretation].

2 **MR. SUJIT CHOUDHRY:** And nor did you have the
3 -- did you have the power to demand that Mr. Kwok appear for
4 an interview?

5 **MS. CAROLINE SIMARD:** The power to testify,
6 to...

7 **MR. SUJIT CHOUDHRY:** And so ---

8 **MS. CAROLINE SIMARD:** And once again if I may
9 allow myself, it's appropriate to remember the facts. The
10 context in which we were -- that is within this file, it's
11 the initiative of the candidate. So we're in a position --
12 in fact, you have to appreciate the fact, and the facts here
13 are that we have someone who's a Canadian citizen and who
14 pays for a luncheon, and therefore -- I cannot speculate
15 here, but it's important to remember, once again, that this
16 is a Canadian citizen.

17 **MR. SUJIT CHOUDHRY:** So Commissioner, I put
18 it to you that given that you had no evidence from the
19 individual in question who organized the lunch or from the
20 restaurant, you were in no position to dismiss the allegation
21 that there was potentially foreign interference through
22 funding for the lunch, where there is a gap between the
23 market price for the lunch and the amount that was reported
24 by the organizer, and you didn't have the tools to find that
25 evidence, so rather than saying there was no foreign
26 interference, at most you could say you were unable to
27 conclude that there was no foreign interference? You
28 couldn't reach a conclusion either way?

1 **MS. CAROLINE SIMARD:** If you will allow me,
2 if you want a complete answer I will turn to my colleague to
3 seek what my have been done. And my investigative work was
4 carried out when I entered into the position. I can speak
5 for myself and say that before providing a decision -- once
6 again, I'm within an administrative context and I do not see
7 that is that it's the candidate's initiative, and we're in an
8 administrative context. There are partners who are doing
9 their work and in whom we have trust. We trust that they are
10 doing their work properly. This is limited; it's within an
11 administrative context.

12 **MR. SUJIT CHOUDHRY:** So Commissioner Simard,
13 I'd like to take you to your witness statement and ---

14 **COMMISSIONER HOGUE:** I would just like to
15 remind you that I've given you quite a few more minutes, and
16 I would limit you to this last question.

17 **MR. SUJIT CHOUDHRY:** Okay. Thank you.

18 So Commissioner, and that's ---

19 **COMMISSIONER HOGUE:** I should have spoken in
20 English.

21 **MR. SUJIT CHOUDHRY:** That's fine.

22 **COMMISSIONER HOGUE:** I'm sorry.

23 **MR. SUJIT CHOUDHRY:** That's -- it's a
24 compliment.

25 So if I -- in this case, I'd like to take you
26 to -- I'd like to put into the record, because I don't have
27 time to refer to them both, CAN1088 and CAN1075. And in
28 particular, I'd like to take the panel to CAN1088.

1 --- EXHIBIT No. CAN 1088:

2 Report - SITE TF SITREP: 16 September
3 2021

4 --- EXHIBIT No. CAN 1075:

5 Report - SITE TF SITREP: 07 September
6 2021

7 **MR. SUJIT CHOUDHRY:** So this is a SITREP or
8 SIT Report that is contemporaneous with the 2021 federal
9 election. It's dated September 16th, 2021. And if I could
10 take you to page 2, you'll see that under the -- if you could
11 go down, oh do I have the wrong page up? Hold on a second.
12 Pardon me. It's on page 1. You'll see in the second bullet
13 point there is a reference to the lunch and it says there is:

14 "...a campaign event for the LPC
15 Vancouver-East candidate that
16 promised a free lunch hosted by a
17 pro-Beijing individual with
18 connections to China..."

19 Now, am I to assume -- is it fair to say that
20 this document, you've never seen this before?

21 **MS. MYLÈNE GIGOU:** I did not see this until
22 perhaps earlier today. I'm not sure if this is a document
23 that was flashed to me a bit earlier, a few hours ago.

24 **MR. SUJIT CHOUDHRY:** So had you seen this
25 document when you received MP Kwan's complaint, might you
26 have considered her allegation of foreign interference
27 differently, given that another arm of the Canadian
28 Government flagged that event during the election and raised

1 the concern of possible links to pro-Beijing elements?

2 **MR. YVES CÔTÉ:** [No interpretation].

3 **MR. SUJIT CHOUDHRY:** Can I restate the
4 question, Commissioner?

5 **COMMISSIONER HOGUE:** Yes, ---

6 **MR. SUJIT CHOUDHRY:** Yeah.

7 **COMMISSIONER HOGUE:** --- you can ---

8 **MR. SUJIT CHOUDHRY:** So ---

9 **COMMISSIONER HOGUE:** --- restate the
10 question.

11 **MR. SUJIT CHOUDHRY:** So the question is this,
12 that contemporaneously, during the election, a specific body
13 designed to detect potential foreign interference flagged the
14 very event that was the basis of a complaint to your office
15 as raising a sign, a potential sign of possible foreign
16 interference. And I'm using those terms carefully. We're
17 not saying there was, but we're saying there might have been.
18 And had you seen this intelligence report when you received
19 the complaint from MP Kwan's office, which happened during
20 the election, would you not have perhaps considered the
21 possibility of foreign interference a bit more seriously than
22 you have?

23 **MR. YVES CÔTÉ:** It's the first time I see
24 this document. What I would say is that clearly our
25 investigators would have taken into account and considered
26 the contents, with the information and allegations in this
27 paragraph, and would have been part of the analysis of the
28 file they would have done and it might have brought them in

1 the same direction, or in a different direction.

2 **MR. SUJIT CHOUDHRY:** Thank you, Commissioner.

3 **COMMISSIONER HOGUE:** Thank you.

4 So I think it's Mr. De Luca acting for --
5 representing the Conservative Party.

6 **--- CROSS-EXAMINATION BY MR. NANDO de LUCA:**

7 **MR. NANDO de LUCA:** Good afternoon. In the
8 interests of the limited time that we have, I'll direct the
9 following questions to Ms. Simard. I will ask that she
10 answer, but in the event that either of you, Mr. Côté, or Ms.
11 Gigou, would provide a different answer or something further
12 to add to Ms. Simard's answer, I will pause and give you an
13 opportunity to supplement. But otherwise, I'll assume that
14 you accept each other's answers.

15 So first question, as set out in the website
16 of the Commissioner of Canada Elections, it indicates that:

17 "The Commissioner and her staff work
18 to ensure that political entities,
19 third parties, and other individuals
20 and entities engaged in the electoral
21 process do so in compliance with the
22 rules."

23 Do each of you agree that this is the mandate
24 of the Commissioner?

25 **MS. CAROLINE SIMARD:** Yes.

26 **MR. NANDO de LUCA:** Ms. Simard, if a Canadian
27 corporation or trade union began paying staff to promote or
28 oppose a candidate to the federal election, would that be

1 within the scope of your office or your mandate to review and
2 investigate?

3 **MS. CAROLINE SIMARD:** [No interpretation].

4 **MR. NANDO de LUCA:** And am I correct that as
5 a general proposition that sort of activity by a corporation
6 or a trade union is offside the *Canada Elections Act*?

7 **MS. CAROLINE SIMARD:** [No interpretation].

8 **MR. NANDO de LUCA:** And I trust that in those
9 circumstances, i.e. where a corporation or a trade union is
10 actively paying staff to in effect campaign in a federal
11 election, that's an investigation that you would pursue
12 aggressively if there was evidence to bear it out?

13 **MS. CAROLINE SIMARD:** [No interpretation].

14 **MS. MYLÈNE GIGOU:** So just to clarify, the
15 *Canada Elections Act* is extremely, extremely complex, and
16 hypothetical fact scenarios at this speed, and I would -- I
17 would -- I have difficulty answering at this time. We work
18 in a small team where we work very closely with legal counsel
19 as well to ensure that the specific facts that were
20 presented, whether they square within the parameters of the
21 *Canada Elections Act*.

22 **MR. NANDO de LUCA:** But generally speaking, I
23 am correct, that corporations and trade unions cannot be
24 actively campaigning, or certainly expending funds in support
25 of campaigning. Isn't that correct?

26 **MS. MYLÈNE GIGOU:** There are rules governing
27 those activities.

28 **MR. NANDO de LUCA:** As a general proposition,

1 is what I've asked you correct?

2 **MS. MYLÈNE GIGOU:** Yes.

3 **MR. NANDO de LUCA:** Thank you. And am I
4 correct, just by way of example, if you recall in or about
5 May 2020, the Commissioner entered into a Compliance
6 Agreement with a company Norda Stelo Inc. to ensure
7 compliance with the Act. And that was an investigation that
8 related to attempts to circumvent the contribution rules
9 under the Act?

10 **MS. MYLÈNE GIGOU:** So you said May 2020?

11 **MR. NANDO de LUCA:** Yes.

12 **MR. YVES CÔTÉ:** [No interpretation].

13 **MR. NANDO de LUCA:** Okay. But there are
14 examples where enforcement steps have been taken against
15 corporations or trade unions?

16 **MR. YVES CÔTÉ:** [No interpretation].

17 **MR. NANDO de LUCA:** Thank you.

18 Ms. Simard, do you accept that foreign
19 interference by state actors is a threat to Canadian
20 democracy?

21 **MS. CAROLINE SIMARD:** [No interpretation].

22 **MR. NANDO de LUCA:** And would you accept that
23 although it may be difficult to trace that when a -- that
24 when state actors perpetuate foreign interference they do so
25 using staff of the state or operatives of the state?

26 **MS. CAROLINE SIMARD:** I guess among other
27 thing. [No interpretation].

28 **MR. NANDO de LUCA:** Okay. And would you

1 agree that it is part of your obligation and your duty to
2 pursue unregistered third party spending to the full extent
3 of your mandate, regardless of whether that third party
4 spending originates domestically or internationally?

5 **MS. CAROLINE SIMARD:** [No interpretation]

6 ...without the articles, it's very difficult to answer such a
7 question currently.

8 **MR. NANDO de LUCA:** Ms. Gigou?

9 **MS. MYLÈNE GIGOU:** I'll -- yes. As
10 Commissioner Simard has answered. Sorry.

11 **MR. NANDO de LUCA:** Sorry. Maybe I didn't
12 understand the answer.

13 **MS. MYLÈNE GIGOU:** Could I ask you as well to
14 maybe slow down just a little bit? I apologise.

15 **MR. NANDO de LUCA:** Sure.

16 **MS. MYLÈNE GIGOU:** It's getting very, very
17 late in the day ---

18 **MR. NANDO de LUCA:** Surely.

19 **MS. MYLÈNE GIGOU:** --- and ---

20 **MR. NANDO de LUCA:** Sorry. The question is
21 essentially this: That your obligations to investigate
22 contraventions of the Act, including third party spending,
23 don't depend on whether that spending originates domestically
24 or internationally.

25 **MS. MYLÈNE GIGOU:** So just to be clear, when
26 there are allegations that are presented to our office, a
27 complaint is submitted. If there are allegations that fall
28 within our mandate, we review it. In certain circumstances,

1 we investigate it.

2 **MR. NANDO de LUCA:** Right.

3 **MS. MYLÈNE GIGOU:** It depends on the
4 scenario.

5 **MR. NANDO de LUCA:** Right. But you're
6 mandate isn't limited to domestic actors or foreign actors.

7 **MS. MYLÈNE GIGOU:** Correct.

8 **MR. NANDO de LUCA:** Your mandate includes
9 both.

10 **MS. MYLÈNE GIGOU:** Correct.

11 **MR. NANDO de LUCA:** Thank you. And ---

12 **MR. YVES CÔTÉ:** If you'll allow me, I'd ---

13 **MR. NANDO de LUCA:** [No interpretation].

14 **MR. YVES CÔTÉ:** --- like to qualify one of
15 the affirmations you've made.

16 I do not think that the Act imposes to the
17 Commissioner the duty to investigate. She has the duty of
18 carrying out her functions so as to maximize compliance to
19 the law, but you will understand that I presume that there
20 are all sorts of things that you can choose to not
21 investigate on because there are other priorities, or because
22 resources are limited, or because the level of severity of
23 the violation is not that high.

24 So I wanted to say that there is no duty to
25 investigate everything.

26 **MR. NANDO de LUCA:** Well, if not the duty,
27 certainly the responsibility and the authority to do so?

28 **MR. YVES CÔTÉ:** Certainly the authority.

1 **MR. NANDO de LUCA:** Thank you. Are you
2 familiar with an investigation by your office into a lunch
3 organised by an organisation in British Columbia for the
4 liberal candidate in Vancouver East?

5 **MS. CAROLINE SIMARD:** We talked about -- on
6 our website that \$500 fine that was paid.

7 **MR. NANDO de LUCA:** Okay. And can you tell
8 me when that investigation was opened?

9 **MS. CAROLINE SIMARD:** It was before my time.

10 **MR. YVES CÔTÉ:** It was opened ,sir, if I
11 remember properly, we receive a complaint from the lawyer of
12 the NDP around September 10th or 11th. And I think the
13 investigation -- I do not remember specifically but I think
14 the investigation was opened shortly after receiving that.
15 Except I would qualify what I said with the following, that
16 during electoral campaign, by definition, the office is
17 always very busy; there's all sorts of things coming to us
18 and it's rapid fire. So maybe the investigation was launched
19 later, but I think it happened fairly quickly after.

20 **MR. NANDO de LUCA:** Okay. But my French is
21 perfunctory, but my next question was going to be how long
22 did the investigation last, and was it closed? I don't know
23 if you answered that in the last answer. You may have.

24 **MR. YVES CÔTÉ:** When I left in June 2022, I
25 think that the file was not closed yet.

26 **MS. MYLÈNE GIGOU:** I believe the
27 investigation was -- I'm just looking for the date now,
28 because the point at which the investigation was closed and

1 the ultimate compliance measure was issued, there is a
2 certain period covered by that period. But that -- the
3 actual election phase, on June 14, 2022.

4 **MR. NANDO de LUCA:** Good. And can you give
5 me a sense of how many investigators were assigned to that
6 particular investigation, and how many investigative hours
7 were expended?

8 **MR. YVES CÔTÉ:** [No interpretation] ...on the
9 issue of hours, I have no idea. On the number of
10 investigators that might have been working on the file, I
11 think additionally on files like this we have two
12 investigators who are paired. So I assume that this was the
13 case, but I don't have independent recollection of how it was
14 done.

15 **MR. NANDO de LUCA:** Ms. Gigou, do you know?

16 **MS. MYLÈNE GIGOU:** And I apologise. I was
17 actually on secondment at the Public Health Agency at this --
18 for part of this period as well.

19 **MR. NANDO de LUCA:** Is that perhaps
20 information that could be provided subsequently?

21 **MS. CAROLINE SIMARD:** Yes.

22 **MR. YVES CÔTÉ:** [No interpretation] ---

23 **MS. MYLÈNE GIGOU:** I'm not sure whether we
24 can quantify it that way.

25 **MR. NANDO de LUCA:** Can enquiries be made,
26 even if it's on a best efforts basis?

27 **COMMISSIONER HOGUE:** You can try to see ---

28 **UNIDENTIFIED MALE SPEAKER:** [No

1 interpretation].

2 **COMMISSIONER HOGUE:** Yeah, it depends if -- I
3 understand it's -- it will be based just on a best efforts --
4 -

5 **MR. NANDO de LUCA:** Best efforts.

6 **COMMISSIONER HOGUE:** --- basis, yeah. No
7 more than that. So they can look and see if they can get the
8 information.

9 **MR. NANDO de LUCA:** Thank you.

10 I'd like to move on. I've got similar
11 questions to another matter. You're familiar with an
12 investigation by your office into matters of intimidation
13 against a Conservative Party candidate by a Chinese consular
14 official?

15 **MS. CAROLINE SIMARD:** So you're talking of
16 one file in particular?

17 **MR. NANDO de LUCA:** Sure. In WIT multiple
18 zeroes, 6, paragraph 55.

19 **MS. CAROLINE SIMARD:** Could we put up on the
20 screen?

21 **MR. NANDO de LUCA:** Sorry, I'll just ask to
22 call it up.

23 Paragraph 55.

24 Perhaps while you read through that, I have
25 the same questions as before, and to the extent that you can
26 answer them now, that's fine. If not, I'll take an
27 undertaking on a best-efforts basis so we don't belabour the
28 point.

1 So when was ---

2 **COMMISSIONER HOGUE:** Just to be clear, you
3 want to know how many investigators were ---

4 **MR. NANDO de LUCA:** I'll ask the questions
5 and put them on the record.

6 **COMMISSIONER HOGUE:** Okay.

7 **MR. NANDO de LUCA:** When was the
8 investigation opened? When was it closed? How long did it
9 last for? How many investigators were assigned to it? And
10 how many investigative hours were expended?

11 **MS. CAROLINE SIMARD:** I'm just trying to [No
12 interpretation].

13 **COMMISSIONER HOGUE:** [No interpretation].

14 **MS. CAROLINE SIMARD:** [No interpretation].

15 **MR. NANDO de LUCA:** [No interpretation].

16 Mr. Côté, this one's for you. Were you also
17 the Commissioner -- or were you the Commissioner of Canada
18 Elections when OCCE launched an investigation into certain
19 activities carried out by Rebel News in connection with the
20 43rd general election?

21 **MR. YVES CÔTÉ:** What was the date?

22 **MR. NANDO de LUCA:** I believe it was -- the
23 election was called on September 11th, 2019 and was held on
24 October 21, 2019. I believe the complaint emanated with
25 respect to activities that commenced just before September
26 11th.

27 **MR. YVON CÔTÉ:** I can certainly confirm that
28 at that time I was the Commissioner in place.

1 **MR. NANDO de LUCA:** Okay. And this
2 particular investigation, to perhaps refresh your memory,
3 Rebel News is an organization associated with the individual
4 whose name is Ezra Levant? Is that ringing a bell?

5 **MR. YVON CÔTÉ:** [No interpretation].

6 **MR. NANDO de LUCA:** Okay. And am I correct
7 that there was an investigation that led to the Deputy
8 Commissioner issuing two notices of violation against Rebel
9 News and issuing an administrative monetary penalty in the
10 amount of \$1,500 for each penalty? Does that sound familiar?

11 **MR. YVON CÔTÉ:** Two comments: First of all,
12 the link with foreign interference is not coming to me, for
13 the time being.

14 **MR. NANDO de LUCA:** Not getting ---

15 **MR. YVES CÔTÉ:** What you're saying about this
16 case, ---

17 **MR. NANDO de LUCA:** Yes.

18 **MR. YVES CÔTÉ:** --- I don't see foreign
19 interference at all in the picture. That said, yes, there
20 was ---

21 **MR. NANDO de LUCA:** Okay.

22 **MR. YVES CÔTÉ:** --- an AMP that was issued
23 against Rebel News, or to Rebel News for -- yeah.

24 **MR. NANDO de LUCA:** Okay. And am I correct,
25 Mr. Côté, that you were asked to review the Deputy
26 Commissioner's decision and you did so *de novo*?

27 **MR. YVON CÔTÉ:** I continue to mention that to
28 my knowledge, there was no foreign interference. I don't see

1 the link to foreign interference, but yes.

2 **MR. NANDO de LUCA:** Okay. We'll get to that.

3 **MR. YVES CÔTÉ:** Okay.

4 **MR. NANDO de LUCA:** And did -- and am I
5 correct that you ended up agreeing with the Deputy
6 Commissioner's determinations?

7 **MR. YVES CÔTÉ:** As I recall, I rejected the
8 appeal or the request for reconsideration, yes.

9 **MR. NANDO de LUCA:** Fair enough. And am I
10 correct that that was in or about July 2021?

11 **MR. YVES CÔTÉ:** I have no specific
12 recollection.

13 **MR. NANDO de LUCA:** Okay. And am I correct
14 that Rebel News sought judicial review in the Federal Court
15 in respect of the NOVs and the AMP that had been issued by
16 the OCCE?

17 **MR. YVON CÔTÉ:** [No interpretation].

18 **MR. NANDO de LUCA:** Okay. And the judicial
19 review application was dismissed and your decision was
20 upheld, Mr. Côté; correct?

21 **MR. YVES CÔTÉ:** [No interpretation].

22 **MR. NANDO de LUCA:** Okay. And Justice
23 Strickland's decision in that case was delivered in or about
24 December 2023; correct?

25 **MR. YVES CÔTÉ:** I don't think so. I think it
26 was a bit earlier, but I don't have a...

27 **MR. NANDO de LUCA:** Okay. And by that time,
28 am I correct that Ms. Simard had become the Commissioner?

1 **MS. CAROLINE SIMARD:** Yes, that's correct.

2 **MR. NANDO de LUCA:** Okay. So am I correct
3 that from the time of receipt of initial complaint in that
4 case in September 2019, through to investigation, through to
5 administrative action, internal review, and then judicial
6 review, and decision, we're talking a period of well over
7 four years that OCCE devoted expenses and resources in
8 relation to this one particular instance of contravention of
9 the *Elections Act*?

10 **MS. CAROLINE SIMARD:** [No interpretation].

11 **MR. NANDO de LUCA:** So between the initial
12 investigation and the ultimate conclusion, over four years
13 transpired in which your office had to devote resources and
14 time to both investigate and to see it through to a final
15 conclusion; isn't that correct?

16 **MS. CAROLINE SIMARD:** I don't have the dates
17 here. If the dates you're giving are correct, then the
18 mathematical calculation would be correct too, I presume.

19 **MR. NANDO de LUCA:** Okay. And would it be
20 fair to say that while for investigations of breaches of the
21 *Elections Act* by domestic actors, OCCE has allocated far
22 greater resources and spent far more time in its enforcement
23 activities than it has in respect of alleged breaches of the
24 Act by foreign operators?

25 **MS. CAROLINE SIMARD:** Well, you will
26 understand that in abstract it's difficult to answer such
27 question. We would have to reconcile the work that was done
28 during this whole period.

1 I came into my position in August 2022, it's
2 been a bit over a year and a half. So we'd have to see. To
3 answer you precisely, we would have to look at all this
4 information.

5 What I can tell you is that since I came in
6 my position in August 2022, I said so publicly, every part
7 was overturned for foreign interference in elections is an
8 issue that I take, and my staff takes, very seriously.

9 I don't know if it was to you or to the
10 previous lawyer, there was some work that was done about the
11 file that was closed. There are some investigations that
12 were launched of my own initiative, whereas we hadn't
13 received any files with complaints.

14 So everything is looked into, and once again,
15 this issue is taken very seriously.

16 **MR. NANDO de LUCA:** Would it be fair to say
17 that with respect to complaints that you considered to be
18 related to foreign interference, those are, on the whole,
19 dealt with in a shorter time period than complaints relating
20 -- other complaints relating to domestic actors?

21 **MS. CAROLINE SIMARD:** Foreign interference
22 cases are usually complex cases; they require time. So the
23 connection between a domestic file and a file of foreign
24 interference in terms of time, well, I don't think that this
25 comparison is adequate. I'm not quite seeing the use of such
26 an exercise, but in the foreign interference cases it takes
27 time; it's complex, there is a lot of work which needs to be
28 done, in-depth work.

1 **MR. NANDO de LUCA:** I believe your evidence
2 earlier was to the effect that for the 44th general election,
3 your office received 20 complaints which you would classify
4 as relating to potential foreign interference, and for the
5 43rd general election, there were approximately 200
6 complaints that you would classify as foreign interference
7 based? Is my recollection correct?

8 **MS. CAROLINE SIMARD:** That's correct. Yes.

9 **MR. NANDO de LUCA:** Okay. And has OCCE
10 conducted any analysis or formed any views as to why the
11 incidents of complaints in the 43rd general election was 10
12 times that of the 44th?

13 **MS. CAROLINE SIMARD:** No, generally speaking.
14 But I can turn to my colleagues to see if [no
15 interpretation].

16 **MR. YVES CÔTÉ:** I'd like to go back, sir, to
17 I think one of the points I made earlier when I was examined
18 by Maître Ferguson. And that is that in 2019, yes, we got
19 201 complaints, but 160 of them were related to three
20 allegations: one, the Time article; two, the Time cover; and
21 three, Ms. Thunberg.

22 So in all, when you look at the statistics
23 for that election, what you find is you have 15 different
24 allegations of foreign interference. So the number of
25 complaints appears to be so much bigger.

26 **MR. NANDO de LUCA:** That's fair. And that
27 leads into my next question somewhat. How many of such
28 investigations -- sorry, let me back up. Do all complaints

1 to OCCE result in investigations?

2 **MR. YVES CÔTÉ:** I missed the beginning of
3 your question.

4 **MR. NANDO de LUCA:** Do all the complaints
5 that you receive result in investigations?

6 **MR. YVES CÔTÉ:** In my time, no.

7 **MR. NANDO de LUCA:** Okay. So am I correct
8 that there's an administrative screening process or there's
9 some preliminary determination that gets undertaken as to
10 whether or not to pursue it as a formal investigation?

11 **MR. YVES CÔTÉ:** Yes.

12 **MR. NANDO de LUCA:** Okay. And with respect
13 to complaints which have matured or aggregated into formal
14 investigations, because you mentioned that you can have
15 multiple complaints with respect to the same incident.

16 Are you able to help us -- over the course of
17 the 44th and the 43rd general -- 43rd and 44th general
18 election, are you able to help us with how many formal
19 investigations have been commenced in respect of what you
20 would classify or characterize as potential foreign
21 interference?

22 **MR. YVES CÔTÉ:** I think that the numbers are
23 that there were three for each of the two campaigns.

24 **MR. NANDO de LUCA:** So six in total over the
25 two election periods.

26 **MR. YVES CÔTÉ:** Yes. And Mylène, is that ---

27 **MS. MYLÈNE GIGOU:** That's my recollection as
28 well.

1 **MR. NANDO de LUCA:** Okay. And ---

2 **COMMISSIONER HOGUE:** Me de Luca, it's going
3 to be your last question because your time is already
4 exhausted. I gave you a few minutes more, but this will be
5 the last one.

6 **MR. NANDO de LUCA:** So I'll be selective
7 here.

8 Ms. Simard, earlier in your testimony you
9 were reviewing the various enforcement mechanisms available
10 to OCCE, and I believe that you used the term that we've
11 heard sometimes as a regulatory toolkit or an enforcement
12 toolkit. One of you did, at least.

13 Does that sound familiar?

14 **MS. CAROLINE SIMARD:** Sorry. I missed ---

15 **MR. NANDO de LUCA:** The enforcement toolkit.

16 **MS. CAROLINE SIMARD:** Yes.

17 **MR. NANDO de LUCA:** Okay. I don't believe I
18 heard it. I could be wrong. But I'd like to refer you to
19 one of the enforcement mechanisms in the Act, and that is
20 section 516, which permits the Commissioner during the
21 election period to apply to the Court for an injunction to
22 bring an immediate end to a breach of the Act or to require
23 an individual to comply with the Act if the integrity of the
24 electoral process and the public interests are at stake.

25 Are you familiar with that provision?

26 **MS. CAROLINE SIMARD:** I know it's part [no
27 interpretation].

28 **MR. NANDO de LUCA:** Okay. And my question

1 is, has -- to your understanding, is this an enforcement
2 mechanism which the Commissioner has attempted to avail
3 itself -- himself or herself in the past?

4 **MS. CAROLINE SIMARD:** [No interpretation]
5 ...I will turn to my colleagues [no interpretation].

6 **MR. YVES CÔTÉ:** I don't believe so.

7 **MR. NANDO de LUCA:** Okay. Those are my
8 questions. Thank you very much.

9 **COMMISSIONER HOGUE:** Thank you.

10 So next one is Human Rights Coalition.

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

12 **MS. SARAH TEICH:** Good afternoon. My first
13 question is for Ms. Gigou.

14 You mentioned that in preparation for the
15 43rd and 44th general elections the OCC worked to establish
16 and strengthen relationships, including with government
17 agencies and academics and other experts. Did you also work
18 to establish and strengthen relationships with diaspora
19 community organizations?

20 **MS. MYLÈNE GIGOU:** Not to my knowledge.

21 **MS. SARAH TEICH:** Do you think that would be
22 valuable?

23 **MS. MYLÈNE GIGOU:** I think that's something
24 that we certainly have to think about as we plan for future
25 preparation activities.

26 **MS. CAROLINE SIMARD:** [No interpretation]
27 ...undertook following some 50 complaints that we received,
28 we can already draw that conclusion. So since we started

1 this work, that's certainly an inference we can make from the
2 work that has been carried out up to date.

3 **MS. SARAH TEICH:** I'm sorry. I missed the
4 first couple words of this.

5 Are you saying that this would be valuable,
6 that that's the inference you ---

7 **MS. CAROLINE SIMARD:** Yes, that's basically
8 what I said.

9 **MS. SARAH TEICH:** Thank you.

10 My next few questions are for Ms. Simard.

11 You mentioned that the organization is mainly
12 based on complaints that you receive. Does the OCCE have the
13 ability to offer witnesses confidentiality for complainants
14 or potential complainants, for example, through an informant
15 or human source program?

16 **MS. CAROLINE SIMARD:** No.

17 **MS. SARAH TEICH:** Do you think this would be
18 valuable?

19 **MS. CAROLINE SIMARD:** It's not part of the
20 protections that we have. I will turn to my colleagues.

21 **MR. YVES CÔTÉ:** No.

22 **MS. CAROLINE SIMARD:** I have nothing else to
23 add.

24 **MS. SARAH TEICH:** Does the OCCE have language
25 capabilities to receive complaints in multiple languages?

26 **MS. CAROLINE SIMARD:** I would say that
27 internally we have employees who speak third languages, but
28 we also have access to discretionary funding through which I

1 can have access to resources to hire consultants, if need be.

2 In the past, I think during the last year, I
3 had connections with my colleagues at the RCMP, at CSIS, to
4 find out whether they might support me if need be, and the
5 answer was positive.

6 **MR. YVES CÔTÉ:** And I would add, Madam, if I
7 may, that -- and I referred to this earlier in my testimony
8 today with respect to at least one complaint that I spoke to
9 where the base material was in Chinese, we had access to
10 professional translators who are, you know, fully qualified
11 to do that kind of work, and my sense is that whenever that
12 happens, whether it's Chinese, Russian or anything else,
13 access to those professional translators was -- would also be
14 secured.

15 **MS. SARAH TEICH:** Ms. Simard, you mentioned a
16 web form on the website where complainants can lodge
17 complaints. Is that web form available in other languages as
18 well?

19 **MS. CAROLINE SIMARD:** It's available in
20 English and French right now.

21 **MS. SARAH TEICH:** Do you think it would be
22 valuable to have it also be available in Chinese, Russian,
23 the Uyghur language, et cetera?

24 **MS. CAROLINE SIMARD:** I take note of your
25 suggestion.

26 **MS. SARAH TEICH:** Thank you.

27 Would you agree that the OCCE's limited
28 ability to offer confidentiality and the web form perhaps in

1 other languages might prevent some complainants from coming
2 forward or participating fully in the office's investigations
3 or reviews?

4 **MS. CAROLINE SIMARD:** I would say that it's
5 certainly a consideration but the protection in terms of
6 confidentiality is precisely to protect people, to make sure
7 that what they communicate to us would be confidential. So
8 for complainants and for witnesses as well, and so it's
9 certainly a consideration.

10 **MR. YVES CÔTÉ:** And if I may, Madam, I would
11 also add that if a would-be complainant didn't speak either
12 French or English, they could find a way through the website
13 to write in their own language something and I assume that
14 people at the reception of the organization would have it
15 translated such that they could then establish contact with
16 that person.

17 **MS. SARAH TEICH:** Do you know if that has
18 ever happened before?

19 **MR. YVES CÔTÉ:** Not to my knowledge.

20 **MS. SARAH TEICH:** My next question is also
21 for Ms. Simard, but of course, anyone can feel free to jump
22 in.

23 You mentioned it's been a practice developed
24 by your office to inform complainants of the outcome of the
25 work or if you close the file. Do you also provide the
26 complainants with reasons?

27 **MS. CAROLINE SIMARD:** In fact, I should turn
28 to Ms. Gigou for that.

1 **MS. MYLÈNE GIGOU:** It depends on the
2 circumstances, so -- it depends on the circumstances, it
3 depends on the material that was submitted as part of the
4 complaint as well. But we try to be as transparent as
5 possible, but while also maintaining the confidentiality of
6 the details of the work as well so that we are protecting,
7 for example, the process -- the investigative process as
8 well.

9 So it's determined, the content of the
10 response or the information that's shared, based on the
11 specific fact scenario.

12 **MS. SARAH TEICH:** All right. Thank you.
13 Ms. Simard and/or anyone else, you mentioned
14 that the office looks at whether provisions apply on a case-
15 by-case basis. Does the office also look to patterns in the
16 behaviour of a particular authoritarian state?

17 **MS. CAROLINE SIMARD:** That's an excellent
18 question. All questions are excellent, but this one allows
19 us to emphasize the work that we can do more broadly, as
20 opposed to on an isolated case. So I will refer to the
21 review which is underway. The possibility to learn lessons
22 from the work carried out on the ground; for example, within
23 some communities, with some practices. So for me, it's a
24 continuous learning process and that helps to identify
25 patterns, "*patrons*" as we say in French, to see whether we
26 can make connections between some cases that have been closed
27 and some that are ongoing.

28 I will turn to Ms. Gigou to find out if she'd

1 like to add something.

2 **MR. YVES CÔTÉ:** I would add that when I was
3 there, and I assume that this is continued, the investigators
4 would meet on a regular basis and there would be information
5 exchanges between them. And one of the things, one of the
6 purposes of such exchanges is exactly what you had in mind in
7 terms do we see a pattern here? Do we see things that on
8 their face if you'd look at them in isolated, they look
9 totally individual, independent, but when you put them
10 together....

11 And so my sense, and then you may ask, my
12 understanding is this is what investigators were doing and
13 one of the purposes was exactly to achieve the goal that you
14 alluded to.

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

16 **MS. MYLÈNE GIGOU:** And in fact, if I can
17 maybe build on that. Sorry, I said I didn't have anything to
18 add. In particular, when we're dealing with complex files,
19 we examine the lessons learned, as well, as part of that
20 exercise so that we can build on that knowledge set and that
21 experience and share it with others within the organisation
22 as well.

23 **MS. SARAH TEICH:** Thank you. My next
24 question, I'll just direct this again to all of you,
25 actually, and it's about the provision of the Act that
26 prohibits undue influence.

27 You explained, Mr. Côté, that a foreigner can
28 say "you should vote for such and such a person," and that

1 would be fine, but if they say, "you should vote for such and
2 such a person or else there will be consequences for your
3 family", that would be a violation of the Act. So my
4 question ---

5 **MR. YVES CÔTÉ:** Sorry, that's not what I
6 said.

7 **MS. SARAH TEICH:** Oh, okay. What did you
8 say?

9 **MR. YVES CÔTÉ:** What I said is that if there
10 was an implied threat, then you would have to look at another
11 provision of the Act which talks about intimidation and
12 duress, or compulsion, I forget what the word is in English,
13 so would have to look at that. So intimidation or duress,
14 you would have to look at whether the manner in which the
15 message was expressed and the effect that it may have on the
16 people that were in receipt of that message would amount to
17 something like intimidation or duress. So that I think, I
18 hope that's what I said, but that's certainly what I want to
19 say now.

20 **MS. SARAH TEICH:** Okay, thank you. And it's
21 interesting you said the word "implicit threat" because
22 you're anticipating my question.

23 **MR. YVES CÔTÉ:** No, I wasn't.

24 **MS. CAROLINE SIMARD:** It will be the last
25 part.

26 **MR. YVES CÔTÉ:** That part.

27 **MS. SARAH TEICH:** The last one. Okay.

28 We heard yesterday from multiple community

1 members that they are all too aware that if they don't comply
2 with the wishes of their respective authoritarian regimes
3 their family members may bear the brunt of this. So my
4 question is, when the office is looking at foreigner links to
5 the CCP under either the undue influence provision or the
6 harassment or intimidation, does the office consider that the
7 threat is implicit if the foreigner, for example, says simply
8 "You should vote for such and such a person", but the person
9 has family back in China or Russia or wherever?

10 **MR. YVES CÔTÉ:** The question you pose is a
11 very, very complex question. You have to look at the Act,
12 and look at the -- we would be in that case, in the criminal
13 context. So the evidence that you have bring forward in
14 order to obtain a conviction would be beyond a reasonable
15 doubt. So we will have to look very carefully at 282.8 to
16 determine, as I said in my previous answer, whether the
17 threshold, bringing the individual over the line, if you
18 will, has been met. Keeping in mind that when you look at
19 282.8(a), it talks about compelling a person to vote or
20 refrain from voting, and one of the things that you have to
21 consider is of course that in Canada 99.9 percent of the
22 cases, vote is secret. The only exception is special ballot
23 where somebody can check and see whether I crossed the right
24 candidate if you voted for the right candidate.

25 So that is a very important part of this
26 because nobody can be forced to say for whom they voted, and
27 of course when they vote they vote in secret. So that's
28 another dimension to the problem, which to me is a very, very

1 complex problem.

2 **MS. SARAH TEICH:** Thank you.

3 **COMMISSIONER HOGUE:** Thank you.

4 Alliance Democratic.

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

6 **MR. GUILLAUME SIROIS:** Good evening.

7 **MR. YVES CÔTÉ:** [No interpretation].

8 **MR. GUILLAUME SIROIS:** Guillaume Sirois,
9 counsel for RCDA.

10 I will ask my questions in both official
11 languages. Please feel free to address the question in the
12 language of your choice.

13 This morning we heard about a complaint which
14 was made in relation to a disinformation campaign in relation
15 to a political party leader during the 2021 election. Have
16 you heard of this complaint which was made to your office?

17 **MS. CAROLINE SIMARD:** Listened to the
18 proceedings this morning but I think that I know which file
19 you're referring to. But if you could quote a number, it
20 would -- we could make sure that we are referring to the same
21 file.

22 **MR. GUILLAUME SIROIS:** WIT-25, paragraph 78,
23 page 15.

24 It's written in English:

25 "With respect to GAC, the OCCE
26 obtained the authority..." ---

27 **COMMISSIONER HOGUE:** We don't have the -- we
28 don't have the documents.

1 **MS. MYLÈNE GIGOU:** Sorry, I just want to see
2 the document ---

3 **MR. GUILLAUME SIROIS:** Oh, sure.

4 **MS. MYLÈNE GIGOU:** --- to make sure we're
5 talking about ---

6 **MR. GUILLAUME SIROIS:** Oh, okay.

7 **MS. MYLÈNE GIGOU:** --- the same issue.

8 **COURT OPERATOR:** Can you repeat the document
9 number, please.

10 **MR. GUILLAUME SIROIS:** Yes. It's WIT 25,
11 page 15.

12 **MS. MYLÈNE GIGOU:** Oh, the -- okay. Sorry, I
13 thought you were putting a document ---

14 **MR. GUILLAUME SIROIS:** No, it's a witness
15 summary.

16 **COMMISSIONER HOGUE:** It will appear on the
17 screen. Okay, it's there.

18 **MR. GUILLAUME SIROIS:** Yeah. And you
19 mentioned a complaint that was received, I think -- well, in
20 fact, two complaints that were received concerning a
21 disinformation campaign supposedly originating from Russia.
22 I'm wondering similar -- I have similar questions that were
23 asked previously about when -- what were these complaints
24 received, and when were they closed, and what steps were
25 taken in response.

26 **MS. MYLÈNE GIGOU:** I can certainly take some
27 of the ---

28 **MR. GUILLAUME SIROIS:** [No interpretation].

1 **MS. MYLÈNE GIGOU:** --- first part of the
2 answer, perhaps. Again, going from memory, without having a
3 specific file in front of me.

4 I believe we -- our office received one
5 complaint from an -- from one individual that indicated
6 having seen a pop-up ad or something of the like. Believe
7 there was maybe a URL that was perhaps associated to Russia.
8 The person did not capture -- the pop-up ad did not have a
9 screen capture or anything of the like.

10 Sometime later, we received a second
11 complaint, but in fact in this instance I believe the
12 complainant was very quick to grab a screenshot of the
13 material. And it's -- based on what we saw as the
14 screenshot, we were able to associate it to perhaps being the
15 same thing as what another individual had reported to our
16 office.

17 We invested some resources into the file in
18 terms of our analytics team to try to recreate or re-find the
19 information, and proved to be extremely difficult for us to
20 do so. We were unable to do that. But at one point in time,
21 I recommend -- I believe I recommended to the --
22 Commissioner Côté that he authorise disclosure to GAC RRM to
23 determine whether they may have any information that could
24 assist.

25 **MR. GUILLAUME SIROIS:** Do you have any idea
26 of the timeframe since the receiving of the complaint and
27 referral to GAC?

28 **MS. MYLÈNE GIGOU:** I don't have the specific

1 dates in front of me, I don't think.

2 **MR. GUILLAUME SIROIS:** That's not a problem.
3 Maybe we can receive this information later.

4 Can I have an undertaking or a confirmation
5 that some best efforts will be taken ---

6 **MS. MYLÈNE GIGOU:** I'm just looking for the
7 information here if I have it in the -- my witness statement.

8 **COMMISSIONER HOGUE:** You don't have the
9 information?

10 **MS. MYLÈNE GIGOU:** I don't think I do.
11 Sorry.

12 **COMMISSIONER HOGUE:** If the information is
13 easily attainable then we'll ---

14 **MR. GUILLAUME SIROIS:** Thank you.

15 **COMMISSIONER HOGUE:** --- you will provide us
16 with.

17 **MS. MYLÈNE GIGOU:** And it's, just to be
18 clear, it's the initial date of each of the -- reception of
19 each of the two complaints and the date at which we
20 communicated with GAC RRM?

21 **MR. GUILLAUME SIROIS:** Exactly.

22 **MS. MYLÈNE GIGOU:** Okay.

23 **MS. CAROLINE SIMARD:** Commissioner, the
24 deadline for submitting our information?

25 **COMMISSIONER HOGUE:** That's a good question.

26 **MS. CAROLINE SIMARD:** Yeah, okay.

27 **COMMISSIONER HOGUE:** I will say as soon as
28 possible. But that being said, it's really what you can get.

1 **MS. CAROLINE SIMARD:** [No interpretation].

2 **MR. GUILLAUME SIROIS:** Okay. Moving on to
3 more broad issues, maybe.

4 [No interpretation] ...that that might lead
5 progressively to more and more extremism with regard to
6 certain political positions. Within that context, is it
7 reasonable to assume that people who are exposed to that
8 information would not complain about the information that
9 they're exposed to?

10 **MS. MYLÈNE GIGOU:** I could not answer that.
11 What I can say is that with regard to the situation you
12 describe, and specifically we had two incidents of complaints
13 that were brought forth.

14 **MR. GUILLAUME SIROIS:** I could reformulate my
15 question differently. Is it possible that that problem of
16 foreign interference will be underreported to the office?

17 **MS. CAROLINE SIMARD:** [No interpretation].

18 **COMMISSIONER HOGUE:** I ---

19 **MS. CAROLINE SIMARD:** Excuse me.

20 **COMMISSIONER HOGUE:** [No interpretation].

21 **MS. CAROLINE SIMARD:** Yes, it's a
22 possibility, but once again, we have taken all possible
23 measures to date to communicate a clear message; that is, if
24 you have information, contact our office. And that message
25 has been repeated at every opportunity that we've had.

26 **MR. GUILLAUME SIROIS:** Okay. I would like to
27 bring forth now JKW 07 on page 36. Page 36, paragraph 56.

28 **--- EXHIBIT No. JKW 7:**

1 Special Report on the Government of
2 Canada's Framework and Activities to
3 Defend its Systems and Networks from
4 Cyber Attack

5 **MR. GUILLAUME SIROIS:** Here we're talking
6 about foreign interference on the part of Russia. I will
7 read it in English because it's written in English.

8 "Russia engages in malicious cyber
9 threat activity, including cyber
10 espionage and foreign interference..."

11 [No interpretation].

12 "identification of divisive events
13 and trends in rival states to conduct
14 influence campaigns and undermine
15 liberal democratic norms and values."

16 [No interpretation] ...there may be more
17 linked to their country of origin with regard to media
18 relations.

19 My question is; in the context where the
20 office does not have the means to supervise social networks
21 or even less those of private networks like WeChat and
22 certain Facebook groups that you need permission to access,
23 is it easy to identify that type of activity and influence on
24 the part of a foreign regime such as Russia?

25 **MS. CAROLINE SIMARD:** I will bring you back
26 to the mandate of the Act to carry out surveillance. That is
27 not part of our mandate. It's a mandate of observation and
28 application of the law, enforcement of the Act and it's

1 within those confines that we approach things.

2 **MS. MYLÈNE GIGOU:** And I think there are --
3 we're one organization in a larger ecosystem as well, and
4 with different mandates in this sphere as well.

5 **MR. GUILLAUME SIROIS:** And to whom can I ask
6 the same question? Like, who is doing that kind of work?

7 **MS. MYLÈNE GIGOU:** No, I'm just saying we
8 have -- our role is we, as Commissioner Simard has explained,
9 is one, essentially, slice of the pie, but there are a lot of
10 other organizations in terms of national security and cyber
11 that operate in this sphere as well.

12 **MR. GUILLAUME SIROIS:** So it would be more of
13 a question for CSIS or CSC?

14 **COMMISSIONER HOGUE:** Well, that is going to
15 be for you to find out.

16 **MR. GUILLAUME SIROIS:** Yeah. I guess so.

17 **COMMISSIONER HOGUE:** Thank you.

18 Han Dong?

19 **MR. JEFFREY WANG:** No questions here.

20 **COMMISSIONER HOGUE:** No questions.

21 Government?

22 **MS. NANCY MILES:** Thank you, Madam
23 Commissioner. No questions.

24 **COMMISSIONER HOGUE:** Maître Boucher?

25 **--- CROSS-EXAMINATION BY MR. LUC BOUCHER:**

26 **MR. LUC BOUCHER:** Before we have to say good
27 evening [No interpretation].

28 **(LAUGHTER)**

1 **MR. LUC BOUCHER:** Avoid all speculation in
2 tomorrow's newspapers. You talked about a file -- and I will
3 address my question to Madam Gigou. You talked about a file
4 that was referred by Elections Canada, and which had been
5 closed thereafter. And it's -- the questions arose following
6 Mr. Perrault this morning who talked about a file at
7 Elections Canada that was referred to you that had nothing to
8 do with foreign interference.

9 Can you say why -- what was the nature of
10 that file that was referred, and why it was closed?

11 **MS. MYLÈNE GIGOU:** Without having the
12 specific referral or file in front of me, based on my
13 recollection, this was a campaign report that was not filed
14 with Elections Canada within the prescribed timeline. As I
15 recall, there was an extension provided, a formal extension,
16 and the report was ultimately filed 99 days late and it was
17 closed with a caution letter.

18 Again, I'm going from memory, but that's what
19 I recall.

20 **MR. LUC BOUCHER:** Thank you.

21 And I will direct it to the panel for those
22 who -- the person who will be judged most appropriate to
23 answer.

24 In terms of the questions regarding the time
25 taken by your Commission, even if more powers were granted
26 with regard to foreign interference, by the time that you
27 arrived at the end of the investigation, the elections would
28 be concluded. There's another aspect to your work that has

1 not been explored much during the investigations, or the
2 hearing, and that is to bring things back into compliance as
3 quickly as possible. And if possible, if there is this other
4 aspect, do you have an example? I don't want to direct you
5 exactly, an example of the ratio that would be appropriate
6 here?

7 **MS. CAROLINE SIMARD:** I will start to answer
8 and then I will turn to my colleagues to provide a follow-up.
9 And indeed -- well, I would start off by saying that
10 compliance is what we're looking for, and in terms of
11 elections, it doesn't directly answer your question, Maître
12 Boucher, but we have examples -- well, there are rapid
13 actions taken to act quickly during the election period.

14 Once again, I will turn to my colleagues to
15 answer my precisely. They've experienced that during the
16 elections. And I will add it's important, once again, it's a
17 message that needs to be clear, the one where all the old --
18 we are seeking compliance, very quickly, especially during an
19 electoral period. A major part of the work at the office is
20 done afterwards, and compliance or the penalty or the
21 punishment that comes afterwards is also very important to
22 transmit strong messages.

23 So I will conclude there for the moment.

24 **MS. MYLÈNE GIGOU:** Perhaps as an example,
25 when it comes to broadcasting, it can be very -- these are
26 complex issues, but I can recall, for example, a scenario
27 where it was unclear whether the advertising that was being
28 broadcasted was in fact originating from the U.S. or Canada,

1 but with -- once that became known to our office, contact was
2 made with a campaign to communicate our concern, and very
3 quickly the advertising would have been pulled in those
4 instances.

5 Ultimately I think we determined that the
6 initial arranged contractual arrangement for the advertising
7 had actually been made with a Canadian company. And in fact,
8 they were reimbursed for part of the advertising that was
9 cancelled, again, from a Canadian company.

10 But nonetheless, even though we didn't have
11 all the information, we took active steps very quickly to try
12 to resolve the situation.

13 Again, I don't have the specific file in
14 front of me, but to the best of my recollection, I believe
15 that's one of the scenarios.

16 **MS. ERIN DANN:** Commissioner, I'm very sorry
17 to interrupt. It's Erin Dann speaking. Our interpreters are
18 unable to work past ---

19 **COMMISSIONER HOGUE:** Seven.

20 **MS. ERIN DANN:** --- 7:00 o'clock, so I just
21 wanted to alert everyone.

22 **MR. LUC BOUCHER:** [No interpretation].

23 Despite all the rumours or articles in
24 newspapers, is it correct to affirm that your investigators
25 met with Mrs. -- and also Mr. Vander Vies and it was clearly
26 established that that entire luncheon was done following this
27 request?

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

1 **MR. LUC BOUCHER:** That's everything.

2 **COMMISSIONER HOGUE:** Thank you.

3 It has been a long day for everyone. It's
4 going to be a long weekend, so ---

5 **MR. YVES CÔTÉ:** For most people.

6 **COMMISSIONER HOGUE:** Happy Easter to
7 everyone. Thank you very much, and have a good weekend.

8 **MR. YVES CÔTÉ:** [No interpretation].

9 **THE REGISTRAR:** The Commission has adjourned
10 until -- well, has adjourned until next week.
11 --- Upon adjourning at 6:56 p.m.

12

13 **C E R T I F I C A T I O N**

14

15 I, Sandrine Marineau-Lupien, a certified court reporter,
16 hereby certify the foregoing pages to be an accurate
17 transcription of my notes/records to the best of my skill and
18 ability, and I so swear.

19

20 Je, Sandrine Marineau-Lupien, une sténographe officielle,
21 certifie que les pages ci-hauts sont une transcription
22 conforme de mes notes/enregistrements au meilleur de mes
23 capacités, et je le jure.

24

25



26 Sandrine Marineau-Lupien

27

28