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# First Report

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Independent Special Rapporteur  
on Foreign Interference



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# I. Introduction and Executive Summary

Democracy is built on trust. Canada is blessed to have an electoral system run by professional, independent and non-partisan public servants, ensuring Canadians can have faith that when they mark their ballots, their votes will be counted. My mandate is not to investigate this system, which remains robust. Rather, it is to investigate whether foreign governments are attempting to influence candidates or voters, whether the federal government has failed to act appropriately in the face of intelligence about foreign electoral interference, and whether a further public process is required to reaffirm trust in our electoral system. Public concern about these issues has been amplified by media reports of leaked intelligence documents.

This is my first report. I will report again not later than the end of October 2023.

## Conclusions

In this first report, after intensive review, I have reached the following conclusions:

1. Foreign governments are undoubtedly attempting to influence candidates and voters in Canada. While much has been done already, more remains to be done promptly to strengthen our capacity to detect, deter and counter foreign interference in our elections.
2. When viewed in full context with all of the relevant intelligence, several leaked materials that raised legitimate questions turn out to have been misconstrued in some media reports, presumably because of the lack of this context.
3. There are serious shortcomings in the way intelligence is communicated and processed from security agencies through to government, but no examples have been identified of Ministers, the Prime Minister

or their offices knowingly or negligently failing to act on intelligence, advice or recommendations.

4. A further public process is required to address issues relating to foreign interference, but there should not and need not be a separate Public Inquiry. A Public Inquiry examining the leaked materials could not be undertaken in public given the sensitivity of the intelligence. However, public hearings on the serious governance and policy issues identified to date should and will be held, at the earliest possible date, as part of the second phase of my mandate.
5. My conclusions concerning the media allegations, including the confidential annex to my report, should be referred to and reviewed by the National Security and Intelligence Committee of Parliamentarians (NSICOP) and the National Security and Intelligence Review Committee (NSIRA), and they should report publicly if they reach different conclusions.

There is no doubt that foreign governments are attempting to influence candidates and voters – a fact successive federal governments have known about for many years and have acted to respond to in various ways, as described below. This is a growing threat to our democratic system and must be resisted as effectively as possible by government. Much has been done already, but considerably more remains to be done to strengthen our capacity to resist foreign interference.

While there is growing foreign interference, care must be taken in assessing it and the government's response. In the current circumstances where public concern has been raised by media reports of leaked intelligence documents, it is important to review the materials underlying these reports carefully

and in context. Once that context is established, sounder conclusions can be reached. As I describe below, when the intelligence is reviewed and considered in the context of all relevant intelligence, the specific instances raised are less concerning than some media reporting has suggested, and in some cases tell a different story from what has been reported to date. The elections of 2019 and 2021 were well protected by sophisticated mechanisms, and there is no basis to lack confidence in their results. This does not diminish the importance of the underlying issue of foreign interference or the need to respond to it effectively. Legitimate questions have been raised by opposition parties and the media, and a full response by government is required.

I have not found examples of Ministers, the Prime Minister or their offices knowingly ignoring intelligence, advice or recommendations on foreign interference or being driven by partisan considerations in dealing with these issues. However, I have found serious shortcomings in the way intelligence is communicated from security agencies to the various government departments, processed at those departments to decide what should get briefed and recommended to the political levels, and communicated to the Prime Minister, responsible Ministers, and their respective Offices for decision-making and action. These serious gaps must be addressed and corrected.

Canada requires a sophisticated and objective approach to national security. Foreign interference can undermine the foundations of our democracy, not just particular political parties. Ideally, it should be an issue that transcends partisanship and unites all political actors in common cause to defend our democracy and the integrity of our elections.

As described in the paragraphs below, I have concluded that a further public process is required to address issues relating to foreign interference, but as explained below it should not be a Public Inquiry focused on the incidents raised by the leaked documents. Rather, the public process should focus on strengthening Canada's capacity to detect, deter and counter foreign interference in our elections and the threat such interference represents to our democracy. To that end, in the remaining five months of my mandate, I intend to conduct public hearings to address these issues and then provide a second report. During the balance of my mandate, I will also remain available to examine any additional allegations raised that fall within my terms of reference

## Measures to Ensure Public Transparency

The Terms of Reference (TOR) direct that I make recommendations no later than May 23, 2023 on "the advisability of additional mechanisms or transparent processes" that in my opinion "may be necessary to answer any issues in connection with my mandate."<sup>1</sup> Consistent with that direction, I am taking four steps to bring as much public transparency as possible to my work, while also balancing national security interests.

First, in drafting my conclusions in this report on the question of whether the government failed to act appropriately in the face of intelligence, I have insisted to the security agencies that I be granted scope to say as much as possible about the intelligence collected by our security agencies that is relevant to my mandate without compromising Canada's security interests. As a result, the level of disclosure in this report is

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<sup>1</sup> Government of Canada, "Independent Special Rapporteur on Foreign Interference - Terms of Reference" (March 21, 2023), <https://www.canada.ca/en/democratic-institutions/services/independent-special-rapporteur/terms-conditions.html> [Government of Canada, "ISR Terms of Reference" (March 21, 2023)].

unprecedented, reflecting the public interest in maintaining trust in our democracy and electoral system.

Second, recognizing that the public disclosure permitted is limited given the security interests at stake, I have included a confidential annex to my report that addresses the major media allegations in detail and includes citations to the intelligence documents and other products that led me to my conclusions. The purpose of this confidential annex is to permit individuals holding appropriate Top Secret security clearance to review my conclusions and judge whether they are warranted based on the full information contained in the annex.

Third, I recommend that the Prime Minister ask NSICOP and NSIRA to review my conclusions on the question of whether the government failed to act appropriately on foreign interference and advise the Prime Minister and the public if they disagree or wish to make any recommendations. NSICOP is comprised of Members of Parliament from the Liberal Party of Canada (LPC), Conservative Party of Canada (CPC), Bloc Québécois, New Democratic Party (NDP) and one Independent Senator. NSIRA is comprised of experts in national security. The members of each of these bodies have the required security clearances to review not just this public report but especially the annex, and they are well placed given their expertise and experience in security matters to bring their judgment to the available intelligence materials I have gathered. In recommending review by both Parliamentarians and expert officials through NSICOP and NSIRA, I am seeking to provide maximum transparency and accountability to what I have found and thereby contribute to public trust. I also recommend that the Chair of NSIRA, former Supreme Court of Canada

Justice Honourable Marie Deschamps, work closely with the NSICOP Chair, Member of Parliament (MP) Honourable David McGuinty, to ensure collaboration between these two committees and that the review is conducted in the non-partisan spirit that the issue of national security deserves.

Fourth, the TOR require, in part, that I “consider innovations and improvements in public agencies and their coordination to combat foreign interference in federal elections going forward including changes in the institutional design and co-ordination of government assets deployed to defend against or otherwise deal with such interference,” targeting completion of that work by the end of October 2023.<sup>2</sup> To fulfill that mandate, I will hold public hearings during which Canadians (especially from diaspora communities), experts, political parties and government officials can provide submissions on policy and governance solutions to the problems I have identified, as described in my report below. This will be a public process, but not a Public Inquiry, as I do not need the subpoena powers provided by the *Inquiries Act* to gather this information and encourage public attention on these matters.

## Best Path Forward

There has been a widespread call in the media for a Public Inquiry, and Parliament has passed a motion calling for the same.<sup>3</sup> I began this process with an inclination that I would recommend that a Public Inquiry be launched. Transparency and truth are the foundation of trust, and we have a long history of using Public Inquiries as a means of permitting Canadians to see “through the looking glass” into the inner workings of government. However, after

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2 Government of Canada, “ISR Terms of Reference” (March 21, 2023).

3 Eric Stober, “Launch an election interference inquiry, House of Commons urges in vote” *Global News* (March 23, 2023), <https://globalnews.ca/news/9572993/canada-election-interference-inquiry-motion/>.

my work over the past two months, I have concluded that a Public Inquiry would not be the best way forward for four reasons.

First, I have been able to review all the relevant facts over the past two months. I have been given full briefings by intelligence officials and access to any Top Secret materials associated with the incidents that are the subject of the media allegations. I have been given access to any Cabinet documents relevant to the foreign interference issues. I have interviewed the most senior officials in the intelligence agencies and government departments dealing with these issues, the Ministers leading the responsible departments, the senior staff in the Prime Minister's Office, and the Prime Minister himself. I interviewed the leaders of the NDP and the Bloc. I have reviewed the testimony of the witnesses that have appeared before the Standing Committee on Procedures and House Affairs (PROC). In my view, a person leading a Public Inquiry would be unlikely to learn more about who knew what, when, and what was done with it, than has been made available to me. Duplicating this effort would not be productive and would lead to delay in addressing the issues.

Second, any Public Inquiry into these factual questions could not be held in public. The sensitivity of the intelligence and the damage that would be done by revealing it means that the "public inquiry" would necessarily be held *in camera*. The Commissioner would be left in the same position as I, reviewing material in private and unable to provide any greater transparency than what I am able to provide to Canadians in this report.

Third, as described below, there is no convincing evidence to support the most serious allegations made about the government's failure to act on specific instances of foreign interference in respect of the elections of 2019 or 2021. The failures I have found relate to substantial gaps in the

communication and processing of intelligence information as opposed to the Prime Minister, Ministers or senior officials ignoring intelligence or recommendations. A further review of the specific media allegations through a Public Inquiry would not advance our ability to amend these arrangements and strengthen our institutional capacity to detect, deter and counter foreign interference. There is evidence that significant communications problems contributed to the intelligence failing to reach the Minister of Public Safety relating to the Honourable Michael Chong and other MPs with family in China, but there is no reason to believe it was intentional.

Fourth, while we could launch a Public Inquiry on the issues I am required to address for my October report under my TOR, there would be a clear overlap with the work I have already started doing, and there is no reason to think the additional powers available to a Commissioner (e.g., to subpoena witnesses or take evidence under oath) are required for that work. It is more timely and effective to complete the work already underway so that the government, Parliament and the public will have the benefit of this review and advice at the earliest possible date. Delay would be contrary to the public interest.

## Report Overview

My report is divided into five main sections.

1. Part II describes my mandate and details of the process I have engaged in over the past two months, such as briefings, an extensive review of public, Cabinet and Top Secret documents, including raw intelligence reports, Parliamentary committee hearing testimony, and interviews with more than 50 individuals. For these interviews I was assisted by legal counsel.
2. Parts III and IV set out background information on two key topics – what foreign interference is and why Canada is vulnerable



to it, and the nature of intelligence gathered by Canada's security agencies respecting foreign interference and how it is distributed through government.

3. In Part V, I address sections 2(a) and (b) of my TOR, describing the intelligence gathered by our security agencies on foreign interference (including comparing it to what has been reported in the media), whether it was, or was not, communicated to the Prime Minister and his Office or other Ministers and their Offices, or Cabinet, and what recommendations, if any, were made with respect to this intelligence.

4. In Parts VI and VII, I address section 2(c) of my TOR, describing and assessing the steps taken by the Prime Minister and his Office, Ministers and their Offices, Cabinet, and government departments and security agencies to defend against or otherwise deal with electoral interference, particularly during the 2019 and 2021 elections, and the experience during those elections.
5. In Part VIII, I provide recommendations.

## II. Mandate and Process

### 1. Mandate

Since late 2022 there have been reports in the media, based on leaks of classified information, indicating that China and other countries have been engaging in foreign interference in Canada's elections. These reports, and the discussions generated by them, have raised serious questions about the nature and extent of foreign electoral interference in Canada and the effects it may have had on Canada's democracy, particularly during the 2019 and 2021 federal elections. Opposition parties and commentators have also asked questions about whether the federal government has failed to act in the face of intelligence about foreign electoral interference and, if so, whether this lack of inaction has been intentional (to secure partisan advantage) or the result of negligence or neglect.

On March 15, 2023, the government announced its intent to appoint me with "a wide mandate to look into foreign interference in the last two federal general elections and make expert recommendations on how to further protect our democracy and uphold Canadians' confidence in it."<sup>4</sup>

On March 21, 2023, the government published my TOR. They state that "the work of the Independent Special Rapporteur will broadly follow five lines of effort:

1. To assess the extent and impact of foreign interference in Canada's electoral processes.
2. To review the Federal Government's information and actions about the threat of foreign interference to Canada's electoral processes both historically and particularly as it relates to the 2019 and 2021 federal elections:

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<sup>4</sup> Prime Minister of Canada Justin Trudeau, "Prime Minister announces Independent Special Rapporteur to help protect the integrity of Canada's democracy" (March 15, 2023), <https://pm.gc.ca/en/news/news-releases/2023/03/15/prime-minister-announces-independent-special-rapporteur-to-help-protect> [Prime Minister of Canada, "ISR Announcement" (March 15, 2023)].

- a) To determine what findings and recommendations were made by the Canadian Security Intelligence Services, Privy Council Office, the Protocol Panel and any other agencies and officials to address foreign interference in the two elections.
  - b) To determine what was communicated to the Prime Minister and his Office; other Ministers and their Offices; and Cabinet about electoral interference and what recommendations were made by agencies and officials to address it.
  - c) To determine what steps were taken by the Prime Minister and his Office; Ministers and their Offices; Cabinet and government departments and agencies to defend against or otherwise deal with electoral interference.
3. The Independent Special Rapporteur will consider the issues that are expected to be answered through the work of the National Security and Intelligence Committee of Parliamentarians and National Security and Intelligence Review Agency and will raise any outstanding questions of public interest or answers that are needed to ensure public confidence with respect to the issue of foreign interference during the 43<sup>rd</sup> and 44<sup>th</sup> General Elections, beyond those that will be answered by National Security and Intelligence Committee of Parliamentarians or National Security and Intelligence Review Agency;
4. The Independent Special Rapporteur will consider innovations and improvements in public agencies and their coordination to combat foreign interference in federal elections going forward including changes in the institutional design and co-ordination

of government assets deployed to defend against or otherwise deal with such interference; and

- 5. To report on any other related matters of importance.”<sup>5</sup>

The TOR state that I am to provide reports on a rolling basis to the Prime Minister, to be shared with Opposition Leaders and Canadians, targeting the completion of all work by the end of October 2023. Importantly, they state that “while recognizing the challenges involved in these complex deliberations, given the public interest, interim recommendations on the advisability of additional mechanisms or transparent processes that in the opinion of the Independent Special Rapporteur may be necessary to answer any issues in connection with this mandate are requested no later than May 23, 2023. Recommendations regarding mechanisms or transparent processes could include the recommendation to initiate a formal public inquiry.”<sup>6</sup>

In meeting the deadline of May 23, 2023 to recommend whether a formal public inquiry or other transparent processes may be necessary to answer any issues in connection with my mandate, I have considered all of the issues set out in the TOR, and have focused in particular on the issues raised in section 2, which relates to what the government knew, when, and what it did or did not do.

## 2. Process

This section explains how I conducted the work I was asked to do to make my first report by May 23, 2023.

After I accepted this engagement, I retained Sheila Block of Torys LLP to assist me in obtaining, reviewing, and analyzing the materials that I expected to receive, as well as assisting

<sup>5</sup> Government of Canada, “ISR Terms of Reference” (March 21, 2023).

<sup>6</sup> Government of Canada, “ISR Terms of Reference” (March 21, 2023).

with interviews. The “ISR team” includes me, my executive assistant Kelly-Ann Benoit, as well as Ms. Block and the team she led at Torys.

### ***(a) Documentary Collection***

We began by examining what was available in the public record about foreign interference and election interference in the 2019 and 2021 elections. It turned out that there were substantial materials available, which set out the nature of the problem and the government’s response.

We then received a large collection of documents that we were advised contained the government’s best efforts to find all of the intelligence products underlying the allegations that had been made in the media. After reviewing these documents carefully, asking for follow-up information and receiving it, we satisfied ourselves that we had been provided with what we needed to assess the foreign interference threats to the 2019 and 2021 elections. This information was a good basis to start conducting interviews. We continued to receive documents, both as suggested by the Canadian Security and Intelligence Service (CSIS), the Canadian Security Establishment (CSE), or the Privy Council’s Office (PCO), and also as a result of our follow-up requests. At the end of our process leading to this first report, we sought and received from the PCO a certification that the PCO had produced to us all information that we had sought in undertaking our review, including the background information related to the media allegations.

### ***(b) Briefings by Security Agencies and the PCO***

We received extensive briefings from representatives of CSIS, CSE, and other security and intelligence experts within the federal public service.

David Vigneault, Director of CSIS and Caroline Xavier, Chief of CSE, made their personnel available to us to give briefings, answer

questions, and provide information as we requested it. We met with both Mr. Vigneault and Ms. Xavier numerous times, and met with their staff, including the analysts focused on foreign intelligence, several times. At these agencies’ request, we are keeping their names confidential to protect their security.

We also received briefings from other public service personnel on topics such as the operation of the Critical Election Incident Public Protocol (CEIPP), the Rapid Response Mechanism (RRM), and the origins and development of the government’s Plan to Protect Canada’s Democracy. We interviewed Jody Thomas, the current National Security and Intelligence Advisor (NSIA), several times. We also interviewed her predecessors who served the Right Honourable Prime Minister Justin Trudeau, including Daniel Jean, Vincent Rigby, David Morrison (who was an acting NSIA), and Greta Bossenmaier. Mr. Morrison is currently the Deputy Minister of Global Affairs Canada (GAC), and also served on the Panel of Five (as defined below), so we interviewed him several times. We also interviewed Michael MacDonald, who was briefly an interim NSIA when Mr. Morrison went on a personal leave.

### ***(c) Interviews with Party Leaders and MPs***

We interviewed Prime Minister Trudeau on May 9. The timing was intentional, as we wanted to meet with him after we had collected as much information as possible.

We wrote to the leaders of opposition parties (Honourable Pierre Poilievre, Jagmeet Singh and Yves-François Blanchet), asking if they had any information that could assist the process. Mr. Singh and Mr. Blanchet met with us to discuss their perspectives. NDP MP Jenny Kwan, and the party’s National Director Anne McGrath joined Mr. Singh and explained the injurious effects that foreign intelligence has on diaspora

communities. Mr. Blanchet was joined by MP René Villemure and staff member Marie-Ève-Lyne Michel.

Mr. Poilievre's office acknowledged receipt of our letter, and he responded publicly in a letter released on Twitter on April 12, then to the ISR team on April 13. It was not responsive to our request. We wrote him again, asking for information or documents on April 19 and received no response. We wrote Mr. Poilievre a further letter on May 3, asking for documents relating to allegations made by the CPC after the 2021 election, repeated by his predecessor, Erin O'Toole, in 2022. I also asked Mr. Poilievre to meet with me, offering May 8 or 9 as possible dates. We received no response from his office. On May 11, his Chief of Staff confirmed our letter of May 3 had been received. On May 18, Mr. Poilievre's office indicated that he was declining our request. Shortly after, we received a letter and a package of news articles from Mr. Poilievre.

Prior to receiving Mr. Poilievre's letter, we approached Mr. O'Toole, the Leader of the CPC for the 2021 election. Mr. O'Toole met with us on May 17. Each of Mr. Singh, Mr. Blanchet, and Mr. O'Toole gave their thoughtful perspectives on the threat of foreign interference. Each urged me to recommend a public inquiry.

We wrote to the Honourable Michael Chong on May 3, 2023, after the revelations in the media about him, asking for a meeting. His office acknowledged receipt, but did not agree to a meeting. We watched his thoughtful testimony before PROC on May 16, and he provided us an instructive letter on May 18.

My counsel spoke to MP Kevin Vuong on May 18 and heard his perspective on foreign interference.

#### ***(d) Meetings with Cabinet Ministers***

We wanted to speak with all members of the federal Cabinet who might have had knowledge of or responsibility for the matters put in

issue by the allegations. We asked to speak to any present or former Minister of Foreign Affairs, Minister of Public Safety or Minister of Democratic Institutions. We interviewed the following Ministers:

- Honourable Melanie Joly, Minister of Foreign Affairs
- Honourable Marco Mendicino, Minister of Public Safety
- Honourable Dominic LeBlanc, Minister of Intergovernmental Affairs, Infrastructure and Communities
- Honourable Marc Garneau, former Minister of Global Affairs (now retired from political office)
- Honourable Karina Gould, former Minister of Democratic Institutions, and current Minister of Families, Children and Social Development
- Honourable Chrystia Freeland, Deputy Prime Minister and Minister of Finance, former Minister of Foreign Affairs
- Honourable William Blair, former Minister of Public Safety and Emergency Preparedness, and current Minister of Emergency Preparedness and President of the Privy Council

The specifics of our interviews depended on the portfolio the Minister held or holds. Ministers of Public Safety have responsibility for CSIS and the Royal Canadian Mounted Police (RCMP), and therefore much of the discussion focused on what they knew about foreign interference attempts and the relevant intelligence, and when they knew it. Ministers of Democratic Institutions have policy responsibility for developing institutional responses to foreign interference, so much of that discussion focused on their knowledge of the problem and that policy development, although we also asked them questions about what they knew and when. Ministers of Foreign Affairs are charged with negotiating Canada's international relationships and overseeing foreign diplomatic

missions. As a result, when a foreign interference problem reaches their desks, it is likely because of concerns with a particular diplomat, or because of a communication they have to make with a foreign counterpart. However, we also asked them what they knew and when.

Ministers each came with a staff member, either their Chief of Staff or a knowledgeable member of their office. Both the Prime Minister and PMO Staff attended with Alana Kiteley, Director of Issues Management and Parliamentary Affairs at the Prime Minister's Office (PMO), and legal counsel, Brian Gover and Fredrick Schumann (none of whom participated in either interview).

### **(e) Public Service Officials**

We interviewed several former and current public service officials, including NSIAs, Clerks of the Privy Council (the most senior job in Canada's public service), and Deputy and Assistant Deputy Ministers. In addition to the people mentioned above, these included:

- Senator Ian Shugart, a sitting Senator, former Clerk of the Privy Council and a member of the 2019 Panel of Five
- Janice Charette, the Clerk of the Privy Council and a member of the 2021 Panel of Five
- Dan Rogers, Deputy Secretary to Cabinet, Emergency Preparedness and COVID Recovery, PCO
- Natalie Drouin, the current Deputy Clerk of the Privy Council, a former Deputy Minister at Justice, and a member of the 2019 Panel of Five
- Marta Morgan, a former Deputy Minister of Global Affairs, and a member of the 2019 and 2021 Panels of Five
- Michael MacDonald, Assistant Secretary to Cabinet, Security and Intelligence, PCO (and briefly an interim NSIA)
- Marie-Hélène Chayer, Executive Director, Task Force on Foreign Interference (on secondment from the Integrated Terrorism Assessment Centre), PCO
- Allen Sutherland, Assistant Secretary, Machinery of Government and Democratic Institutions, PCO
- Alia Tayyeb, Deputy Chief, SIGINT, CSE
- Sébastien Aubertin-Giguère, Counter-Foreign Interference Coordinator, Public Safety
- Tricia Geddes, Associate Deputy Minister, Public Safety
- Cindy Termorshuizen, Associate Deputy Minister, GAC
- Dr. Gregory O'Hayon, Director General, RCMP
- Philippe Lafortune, Director General and Chief Intelligence Officer, GAC
- Darryl Hirsch, Director, Integrated Terrorism Assessment Centre, PCO
- Nabih Eldebs, Deputy Chief, Authorities, Compliance and Transparency, CSE
- Samantha Maislin-Dickson, Assistant Deputy Minister, Public Safety, Defence and Immigration Portfolio, Department of Justice (DOJ)
- Heather Watts, Deputy Assistant Deputy Minister, Public Safety, Defence and Immigration Portfolio, DOJ
- Greg Koster, Director General, Criminal Law Policy Section, DOJ
- Director General, Intelligence Operations, CSE (whose name is being protected for security reasons)
- Director, Risk Mitigation Programs, CSE (whose name is being protected for security reasons)
- Heidi Hulan, Assistant Deputy Minister, GAC
- Sami Khoury, Head, Canadian Centre for Cyber Security, CSE

- Paul MacKinnon, Deputy Secretary to the Cabinet, Governance, PCO
- François Daigle, Deputy Minister, DOJ (now retired)
- Gallit Dobner, Executive Director, GAC
- Lisa Ducharme, A/ Director General of National Intelligence, Federal Policing and International Policing, RCMP
- Shawn Tupper, Deputy Minister, Public Safety
- Michael Duheme, Interim Commissioner, RCMP
- Mark Flynn, Deputy Commissioner Federal Policing, RCMP
- Patrick Boucher, Senior Assistant Deputy Minister, Public Safety
- Richard Bilodeau, Director General, Public Safety

#### **(f) Political Staff**

In addition to the permanent public service who work in federal departments, Minister's offices employ political staff. Each Minister was accompanied by a member of their staff.

We had a separate interview with key political staff from the PMO, including:

- Katie Telford, Chief of Staff, PMO
- Jeremy Broadhurst, Senior Advisor, PMO
- Patrick Travers, Senior Global Affairs Advisor, PMO
- Brian Clow, Deputy Chief of Staff, PMO

We interviewed these PMO staffers as a group, and then interviewed Ms. Telford a second time alone. The interviews were focused on what they knew about the intelligence relating to foreign interference, when they knew it and what they did about it.

#### **(g) Reviewing Parliamentary Processes**

PROC has been holding hearings and calling witnesses. The ISR team has been watching those proceedings and reviewing the transcripts. While those proceedings have certainly included an element of political theatre, MPs have asked insightful questions and received important information from a variety of witnesses. Where appropriate, we have relied upon and quoted from their testimony.

## **III. What is Foreign Interference and Why is Canada Vulnerable to It?**

### **1. What is Foreign Interference?**

Before discussing how the government has handled the threat of foreign interference (or FI), it is helpful to define what activities constitute foreign interference.

Foreign interference occurs when states, or entities acting on their behalf, engage in harmful activities. The *Canadian Security Intelligence Service Act (CSIS Act)* defines “threats to

the security of Canada” as including “foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine, deceptive, or involve a threat to any person.”<sup>7</sup>

This should be distinguished from diplomatic activity or lobbying of Canadian officials by a foreign state. It is both lawful and normal for

7 (R.S.C. 1985, c. C-23), <https://laws-lois.justice.gc.ca/eng/acts/c-23/FullText.html>, s. 2 [CSIS Act].

states to have views on the policies of other states, to express those views publicly, and to attempt to convince Canadian officials to adopt certain policies that align with those views. There is certainly nothing unusual about diplomats building relationships with elected officials and communicating their countries' views of issues to them. Canada conducts these types of activities throughout the world on issues that are important to Canada including, for example, trade, security and defence, and the environment.

Foreign states veer from diplomacy into foreign interference when their influence activities are covert, deceptive or threatening. But there is also a considerable “grey zone” in which activities that might appear largely benign (such as involvement between diplomats and diaspora community associations) can be leveraged by foreign adversaries.

The foreign interference that is the focus of my mandate are activities directed at undermining Canada's democratic institutions and processes. The spectre of foreign interference with democratic institutions is particularly corrosive because it can damage the public's trust in the electoral process, which is essential to a functioning democracy.<sup>8</sup> At the same time, because foreign interference is often clandestine and deceptive, it can be hard to identify. Put simply, although foreign interference is easy to define in principle, in practice it is not always straightforward to distinguish it from permissible diplomatic or political activity. This problem is exacerbated in a multicultural and free society

like Canada. As I describe in more detail below, one of our nation's strengths is multiculturalism, which arises because Canada is home to significant diaspora communities from around the world. It is not surprising that these diaspora communities wish to maintain links with their countries of origin. These connections are part of what enriches a multicultural society – they are not foreign interference. However, in order to properly counter foreign interference, we must also recognize that diaspora communities may become victims of foreign states which seek to exploit these connections.

Foreign interference is not a new problem for democracies. Although the nature of foreign interference and its manifestations have changed substantially over the years, democracies have had to confront foreign interference since their inception well before Confederation. President George Washington was so concerned about interference by foreign states in the newly formed United States' domestic affairs that he made his warning against it a central feature of his farewell address in September 1796, stating that “history and experience prove that foreign influence is one of the most baneful foes of republican government.”<sup>9</sup> He warned that party passions and excessive partisanship made the country more vulnerable to interference by foreign powers.<sup>10</sup> These concerns – and Washington's diagnosis of what contributes to it – continue to apply today.

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8 Jean-Nicolas Bordelau, “Securing Elections: A Comparative Assessment of Canada's Response to Foreign Interference” (July 2021) *Centre for International and Defence Policy* 7:3, [https://www.researchgate.net/profile/Jean-Nicolas-Bordeleau/publication/354103025\\_Securing\\_Elections\\_A\\_Comparative\\_Assessment\\_of\\_Canada's\\_Response\\_to\\_Foreign\\_Interference/links/612526061e95fe241af586ea/Securing-Elections-A-Comparative-Assessment-of-Canadas-Response-to-Foreign-Interference.pdf](https://www.researchgate.net/profile/Jean-Nicolas-Bordeleau/publication/354103025_Securing_Elections_A_Comparative_Assessment_of_Canada's_Response_to_Foreign_Interference/links/612526061e95fe241af586ea/Securing-Elections-A-Comparative-Assessment-of-Canadas-Response-to-Foreign-Interference.pdf), at p. 1; Pippa Norris, *Why Electoral Integrity Matters* (Cambridge: Cambridge University Press, 2014).

9 United States Senate, 106th Congress, 2nd Session, “Washington's Farewell Address” (2000) Senate Document No. 106-21, <https://www.govinfo.gov/content/pkg/GPO-CDOC-106sdoc21/pdf/GPO-CDOC-106sdoc21.pdf>, at p. 25 [United States Senate, “Washington's Farewell Address” (2000)].

10 United States Senate, “Washington's Farewell Address” (2000), at p. 16.

While the threat posed by foreign interference is not new, it is evolving and growing. A paper from Australian National University's National Security College identified trends that are changing the landscape. These include:

- **Accelerated globalization**, including compression of time and space by the internet, greater economic interconnectedness, increased privatization and liberalization, and mass migration.
- **Advances in digital technologies**, including digitalization of political, economic and social functions, manipulative consumer platforms, big data and big surveillance, and democratization of the tools of influence.
- **Greater public engagement in policymaking and scrutiny of government decisions**, including the rise of more openness, and greater accountability and oversight, which can facilitate mistrust if governments are perceived to fail.
- **Social and political fragmentation**, including declining trust, an increase in conspiracy and extremist communities, and increasing disagreement about how facts and data are perceived.
- **Rise of "modern authoritarian" regimes**, including the rise in geopolitical power of authoritarian regimes (in particular the People's Republic of China (PRC)), the reversal of trends towards openness in those regimes, and the adoption of explicit influence-based strategies that view democratic institutions, public opinion and private entities as legitimate targets.<sup>11</sup>

Foreign states that wish to interfere with Canada's democratic processes are growing increasingly sophisticated in how they do so. Common techniques now include cyber-attacks such as spear-phishing to collect information to support foreign interference activities, and the use of disinformation to influence public perception and behaviour.<sup>12</sup> These online influence campaigns are particularly pernicious because they may be difficult to track back to a foreign state actor, or in some cases impossible to distinguish from legitimate public discourse.

In addition to exploiting the digital environment, foreign interference actors continue to cultivate and exploit human relationships to gain information and facilitate threat activities, including using proxies to contribute to electoral campaigns. At its most extreme, foreign interference can include blackmail, threats and intimidation, with the goal of instilling fear and compliance amongst Canadian communities.<sup>13</sup> As the media has reported, we have seen reports of PRC officials considering action against families of Canadian MPs located in China or Hong Kong.

## 2. Our Free and Democratic Government Makes Us Vulnerable to Foreign Interference

Canada is an open and free society. Our constitutional system of governance is premised on democracy, the rule of law, federalism and respect for minorities. These four principles

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11 Katherine Mansted, "The Domestic Security Grey Zone: Navigating the Space Between Foreign Influence and Foreign Interference" (February 2021) National Security College Occasional Paper, [https://nsc.crawford.anu.edu.au/sites/default/files/uploads/nsc\\_crawford\\_anu\\_edu\\_au/2021-02/nsc\\_foreign\\_interference\\_op\\_2021.pdf](https://nsc.crawford.anu.edu.au/sites/default/files/uploads/nsc_crawford_anu_edu_au/2021-02/nsc_foreign_interference_op_2021.pdf), at pp. 10-11.

12 Canadian Security Intelligence Service, "Foreign Interference and You" (2021), [https://www.canada.ca/content/dam/csis-scrs/documents/publications/2021/foreign-interference-and-you/AOSE\\_ForeignInterferenceHandout%20-%20Digital\\_ISBN\\_A.pdf](https://www.canada.ca/content/dam/csis-scrs/documents/publications/2021/foreign-interference-and-you/AOSE_ForeignInterferenceHandout%20-%20Digital_ISBN_A.pdf), at p. 4 [CSIS, "Foreign Interference and You" (2021)].

13 CSIS, "Foreign Interference and You" (2021), at p. 4.



were articulated by the Supreme Court of Canada in the 1998 *Reference Re: Secession of Quebec*.<sup>14</sup>

These foundational principles are the backbone of a system of governance which ensure that Canadians are free and self-governing. But they are also the very features that leave our institutions open to manipulation by foreign actors and states that work to undermine the integrity of our system for their own purposes.

**Democracy.** Our democratic institutions are governed by a mixture of tradition, convention, the written constitution, and laws passed by legislatures. To work effectively, these institutions rely on an interplay between individuals, community organizations, interest groups, political parties, and media, each of which have a role in the creation and dissemination of information and ideas. Importantly, this occurs independently of the machinery of government, which (subject to some rule-setting by legislatures establishing independent institutions like Elections Canada and the Commissioner of Canada Elections) largely stays out of electoral politics. Robust protection for freedom of thought, belief, opinion, and expression means that discerning what is true and what is dis- or misinformation is predominantly left to what is sometimes referred to as the marketplace of ideas. But the openness of our democracy and media also provides an ideal forum for foreign actors that wish to disrupt our democratic process, often using social media and other mass communication technologies that cannot be traced to particular foreign states at a level that is actionable, as we have learned from the 2016 American Presidential Election, the 2016 Brexit Referendum, and the 2017 French Presidential Election. The very fact that anyone may run for office means that we must take all appropriate

steps to protect individual candidates from inducements, threats or seemingly benign foreign interference conduct by foreign states.

Our Westminster-style system of Parliamentary democracy means that political party members select their representative for each riding in the nomination process, and then voters choose between those representatives. Similarly, parties choose their leaders, who go on to be Prime Minister if their party forms the government. But the nomination and leadership processes depend heavily on candidates signing up members, and then getting them to support the candidate. Reports of buses of people brought to nomination meetings may be a surprise to the less initiated, but numerous people with campaign experience told us that there are “always buses,” and wondered whether they get more attention when they contain racialized Canadians.

**Rule of Law.** Canadians value our system of law enforcement and criminal justice. It provides an ongoing check against abuses that are seen in other countries, in which critics of the government or others vulnerable to persecution or abuses of power find themselves caught up in the criminal justice system. However, it also creates vulnerabilities in fighting foreign interference. Sophisticated malign actors understand how to operate in the grey zone of legality, in which they can attempt to achieve their objectives while still not doing anything unlawful. This is particularly true in the context of foreign interference, which (as I have noted) can be difficult to distinguish from legitimate activities by foreign states. Moreover, the limits of intelligence gathering means that much of what we learn is not readily transformed into evidence that can be presented before a judge or jury, either because it is not sufficiently reliable, because it is inadmissible hearsay,

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14 [1998] 2 S.C.R. 217, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1643/index.do>.

or because disclosing the evidence to the defendant would undermine future intelligence gathering from the same source or method.

**Respect for Minorities.** Our tradition of multiculturalism and respect for minorities means that we not only permit but also welcome diaspora communities and community organizations in our political process. There is nothing wrong with a diaspora community or a community organization publicizing, objecting to, voting against, or encouraging others to vote against a political candidate whose policies about or posture towards that community's country of origin are seen as unfriendly or hostile. However, as with our other values that underlie openness and freedom, the role of diasporas and their community organizations in domestic politics can be exploited by foreign interference actors. While there is nothing wrong with grassroots community organizations expressing political preferences, they can be hard to discern from so-called "astro-turf" organizations that purport to be grassroots but exist for ulterior or illegitimate purposes. Moreover, even genuine organizations may be susceptible to being manipulated, induced or threatened to cross the line from legitimate democratic politics into foreign interference. Another problem is that unscrupulous foreign state actors can leverage diaspora members who have family in their country of origin, either directly with threats or inducements to those family members, or through other indirect means. Again, these activities can be subtle and exist in a grey zone, or they can be more brazen.

It is crucial that efforts to combat foreign interference do not cause discrimination against diaspora populations. Diaspora communities are largely victims of foreign interference activities. We must take all steps necessary to ensure that they do not also face discrimination by virtue of foreign interference activities of foreign states that target them. This is especially (although not uniquely) true for the Chinese

Canadian diaspora, since so much of the recent discussion of foreign interference has focused on the PRC.

**Federalism.** Federalism is a central Canadian institution, which was incorporated into our constitution so that the Canadian union could reconcile diversity with unity. While it does not create the same vulnerabilities as democracy, the rule of law and respect for minorities, it does raise one issue that should be considered and canvassed in any subsequent process: intelligence about foreign interference is gathered at the federal level and disseminated at the federal level, but is not disseminated to provincial or lower levels of government (such as municipalities, school boards, etc.). There can be and often are high-level discussions with those officials, but they are not cleared to receive classified intelligence. This is something that needs to be robustly addressed, as foreign adversaries recognize both that non-federal officials have a lot of power and that there is considerable movement between political levels, with some starting as municipal or provincial officials and then moving to the federal sphere.

The fact that Canada attracts foreign interference is a sign of strength, not a sign of weakness. Foreign adversaries see our free, open and democratic society, and seek to undermine it. We have a long tradition of free and fair multi-party elections, peaceful transitions between governments, and successful power-sharing between different levels of government. These traditions, along with the Canadian traditions of hard work and innovation, have created a society that is both open and prosperous, and it is that combination that (along with other similar countries) both provides an example to the world and threatens autocratic regimes who wish to avoid providing their own people with freedom and democracy.

In considering how to reduce the incidence and impact of foreign interference, it will be important to ensure that we protect and not undermine the foundations of our constitutional governance. Countering foreign interference but causing a surge in racism against diaspora communities would not serve our goals of fairness or political cohesiveness. Similarly, in countering foreign interference it will be important (as NSIA Thomas told PROC) to avoid playing into the hands of foreign adversaries, whose goals include creating confusion and undermining confidence in election outcomes.<sup>15</sup>

In sum, foreign interference is a serious threat. Left unaddressed, it will weaken the fabric of Canadian democracy. But we should not mistake the nature of the threat. As Robert Joyce of the U.S. National Security Agency said, “I kind of look at Russia as the hurricane. It comes in fast and hard. China, on the other hand, is climate change: long, slow, pervasive.”<sup>16</sup> One can batten down the hatches for a storm, but fighting long, slow and pervasive attempts to undermine democracy is not primarily about responding to particular incidents or actions. Rather, it requires a steady focus on the problem, regular and frequent policy and procedural improvements, and excellent lines of communication within government.

## IV. Intelligence and How it Moves Through Government

### 1. Understanding – and Misunderstanding – Intelligence

The controversy that led to my appointment arose out of media reporting by Global News and The Globe and Mail over the past several months, based on classified information. Information collected by our intelligence agencies was shown or relayed to reporters, who in turn wrote their stories based on the classified intelligence. Much of what was reported was based on limited intelligence. I have had an opportunity to review a more comprehensive set of intelligence and conduct interviews with experts, and have in certain instances drawn rather different conclusions from what was reported. For Canadians

to understand how this could happen, it is important to understand the difference between intelligence, evidence and facts.

Countries, including Canada, must spend considerable resources to gather intelligence on threats, both foreign and domestic. Intelligence gathering is difficult and painstaking work, as intelligence agencies gather sources and develop methods which they hope will provide them with (typically small) bits of information they learn about threats. This intelligence is gathered in small pieces. Because it is done clandestinely, and there are routine efforts to counter it, it can be very difficult to determine

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15 Standing Committee on Procedure and House Affairs, 44<sup>th</sup> Parliament, 1st Session, No. 055, Testimony of Jody Thomas (March 1, 2023), <https://www.ourcommons.ca/DocumentViewer/en/44-1/PROC/meeting-55/evidence> [PROC, Testimony of Jody Thomas (March 1, 2023)].

16 Andy Langenkamp, “From Russian rain to Chinese storm” *The Hill* (May 8, 2022), <https://thehill.com/opinion/national-security/3479964-from-russian-rain-to-chinese-storm/>.

what intelligence is credible when considered in isolation. Experienced consumers of intelligence with access to all the information that has been collected understand that they should view individual pieces with considerable skepticism. The information might be correct, but unsubstantiated. It may also be conveyed to mislead, influence or deceive. It is exceptionally rare to draw conclusions, much less take action, from any single intelligence report. Each one is a brushstroke in the broader picture. Many brushstrokes must be put on the canvas together before the picture emerges. What Canadian national security and intelligence agencies understand about the foreign interference activities directed at Canada is not based on individual pieces of intelligence, but on the slow accumulation and layering of intelligence over a number of years. It is extremely difficult to draw conclusions based on individual pieces of intelligence.

Even when one develops an appreciation for the direction in which the intelligence is pointing, very little is directly actionable. It is extremely rare for CSIS to obtain intelligence, notify the Minister of Public Safety, and expect immediate action. First, a significant amount of intelligence comes from human sources reporting something they heard. It is difficult to turn that into evidence that is usable by law enforcement. Second, the need to disclose evidence to a defendant threatens sources and methods. Threat Reduction Measures (TRMs) – actions taken by CSIS to mitigate the threat, requiring special authorization under the *CSIS Act* – are a possibility, but not in all situations. If the intelligence relates to foreign interference, GAC could engage in a *démarche* (i.e., a discussion with a diplomatic official), which

could lead to the expulsion of a diplomat, as we saw recently.<sup>17</sup> If a political party were presented with information that one of its candidates was inappropriately advancing the foreign interference activities of another state, it might (depending on the time by which it learns of those allegations and the political party's internal candidate nomination and removal processes) decide to remove a candidate. But as Hamish Marshall (Campaign Manager for the CPC's 2019 campaign) stated, "[o]ur parties are not set up in a way that we can sort of just take it as read that something came from the security services and, therefore, we should change the candidates."<sup>18</sup>

The "what to do about this information" conundrum is particularly acute when the intelligence involves specific diaspora communities. When information about foreign interference is provided without care or context, it can cause the public narrative to turn on these communities. There is no doubt that these communities are distrustful of security agencies. Reflexive action in response to one-off pieces of intelligence runs the risk of exacerbating that sentiment.

None of this is to say that we should simply accept foreign interference, or that nothing can be done about it. But foreign interference is not usually embodied in discrete, one-off pieces of intelligence, and it cannot be dealt with on a one-off "look-what-I-found" basis, unless it is especially urgent. The primary role of intelligence is to paint a picture, and the government's job is to provide a policy response to the picture that the intelligence is painting. The steps that the government has taken to address foreign interference (detailed in Part VI), are all examples of these types of policy steps.

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17 Darren Major, "Canada Expelling diplomat accused of targeting MP Michael Chong's family" *CBC News* (May 8, 2023), <https://www.cbc.ca/news/politics/canada-expelling-chinese-diplomat-1.6836336>.

18 Standing Committee on Procedure and House Affairs, 44<sup>th</sup> Parliament, 1st Session, No. 065, Testimony of Hamish Marshall (April 25, 2023), <https://www.ourcommons.ca/DocumentViewer/en/44-1/PROC/meeting-65/evidence>.

I believe that more can and must be done, and I will address that at a later stage in my mandate. Given the nature of intelligence gathering, the fact that the government did not respond to specific pieces of intelligence can leave those who are not regular consumers of intelligence with misapprehensions unless the full context is provided.

Based on my full review of the intelligence and context, it is my view that the leaks and the subsequent media reporting have led to such misapprehensions, particularly relating to incidents that are alleged to have occurred in the 2019 and 2021 elections. This, in turn, has led to further unsubstantiated speculation, inaccurate connections being drawn, and a narrative emerging that the government allowed or tolerated foreign interference, potentially for its own political gain, or potentially out of neglect or incompetence. As I explain below, I have found that the narrative that the government failed to act is not a fair conclusion based on the facts. However, the machinery of government needs significant improvement to address the evolving threat of foreign interference.

My mandate does not expressly include addressing the leaks themselves. Suffice it to say, leaking secret intelligence is unlawful and a breach of duty by the leaker. It cannot be justified by any frustration the leaker may have with the government's response. It also risks great harm to Canada's ability to gather intelligence (and the safety of intelligence sources) and to work cooperatively with allies in doing so. Sources dry up, and some may be in physical danger. Any responsible intelligence professional knows how destructive and dangerous leaks can be. They cause mistrust.

It is a matter of urgency that all efforts be made to identify and hold the leaker(s) responsible. Malice cannot be ruled out.

I recognize that absent the leaks, I would not have been appointed to undertake my work. However, that does not justify the leaks, which risk great harm to the Canadian interest.

## 2. Sources and Uses of Intelligence in Canada

Most Canadians assume that Canada collects intelligence but know very little about how it is collected or under what legal authority. In essence, the two primary agencies are CSIS, created under the *CSIS Act*, and the CSE, created under the *Communications Security Establishment Act*.<sup>19</sup> CSIS is run by the Director, Mr. Vigneault, who reports to the Minister of Public Safety. CSE is run by the Chief, Ms. Xavier, who reports to the Minister of National Defence, and focuses on signals intelligence (intelligence derived from electronic signals and systems).<sup>20</sup>

However, CSIS and CSE are not Canada's only sources of intelligence. Canada is part of the Five Eyes Alliance, which includes Australia, New Zealand, the United Kingdom and the United States. These countries share a broad range of intelligence with one another. This is a crucial arrangement for Canada, which has indicated on numerous occasions it receives more from the Five Eyes alliance than it sends to that alliance.<sup>21</sup> As a result, it is crucial that we maintain the trust and confidence of our Five Eyes partners.

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19 S.C. 2019, c. 13, s. 76.

20 The RCMP also engages in intelligence gathering, primarily related to internal security threats. The Canadian Forces Intelligence Command is Canada's military intelligence agency.

21 Sylvain, Rouleau, "The Value of Intelligence Sharing for Canada: the 'Five Eyes' Case" (2020) *Canadian Military Journal* 21:1, <http://www.journal.forces.gc.ca/Vol21/No1/PDF/CMJ211Ep29.pdf>.

Once intelligence is collected and analyzed, CSIS and CSE's primary role is to send it to their stakeholders in government. This includes their primary Minister and their department (i.e., Public Safety and National Defence, respectively). But it can also include numerous other Departments, Ministers and their offices including, most notably, PMO and the PCO. One of the most senior officials in the PCO (and indeed, in Canada's public service) is the NSIA. Unfortunately, since the Prime Minister has come to office, there have been five permanent NSIAs (Mr. Fadden, Mr. Jean, Ms. Bossenmaier, Mr. Ribgy and Ms. Thomas), one long-term acting NSIA (Mr. Morrison), and one interim NSIA (Mr. MacDonald). While I appreciate that it is a role that requires significant seniority and experience, and that people tend to take that role when they are somewhat closer to retirement, the turnover is in tension with the continuity that this role demands.

### 3. The Dissemination of Intelligence Within the Government – a Problem that Needs Attention

It is worthwhile to describe what I have observed about how information and intelligence is distributed and responded to within the government. CSIS and CSE write intelligence reports and intelligence analyses. As explained above, these reports are often addressed to departments, not individuals. These reports may say "PCO, GAC, PS, ND" on them, meaning they will go to the Privy Council Office, Global Affairs Canada, Department of Public Safety, and Department of National Defence. However, it is rare for specific names to be mentioned, so specifically who at these departments received these memos cannot be determined from the documentary sources.

After conducting numerous interviews, the picture remains cloudy. The materials are disseminated, but no one keeps track of who specifically received or read them. This means there can be intelligence that is "sent" to various consumers, but it does not always actually get consumed. Staff at the PMO speak of being given a large binder in a secure room with an agency client relations officer present, a short time to review it, with no context or prioritization of the material, and no ability to take notes (for security reasons). The binder may have a significant mix of topics from around the world, and no one says, "you should pay attention to this issue in particular." If staffers are away, they may not see the binder that day.

This is not just a problem at the political level. The information flow between the security agencies and the departments they serve is also not well tracked. Simply sending something to the Department of Public Safety, GAC, or even the PCO is no guarantee it makes it to someone whose responsibility it is to wade through the enormous volume of intelligence that comes out every week and ensure the right people see it, or that someone has accountability to respond to it (if a specific response is appropriate, which often it is not). An action tracking mechanism is essential. As Dr. Wesley Wark, a scholar who is an expert in this area, stated, "The Canadian intelligence system is too decentralized, too siloed, there are too many moving parts. These structural facts can only be mitigated through a greater concentration of power, authority and resources at the centre – at PCO and in the office of the National Security and Intelligence Advisor."<sup>22</sup> I agree with this observation. This is a serious impediment to the efficient management of information and reviews.

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<sup>22</sup> Wesley Wark, "Intelligence Shared, sort of" *Wesley Wark's National Security and Intelligence Newsletter* (May 5, 2023), [https://wesleywark.substack.com/p/intelligence-shared-sort-of?utm\\_source=substack&utm\\_medium=email](https://wesleywark.substack.com/p/intelligence-shared-sort-of?utm_source=substack&utm_medium=email).

The current arrangements can lead to situations where information that should be brought to the attention of a Minister or the Prime Minister does not reach them because it can be lost in the sea of material that floats through the government. At the same time, other material is not brought to the attention of a Minister or the Prime Minister because it is judged in isolation not to be sufficiently reliable or actionable to warrant briefing to that level. The critical need is to assign responsibility for these judgments to individuals with the expertise and experience to make them.

We understand that in the last few weeks, NSIA Thomas has implemented a process to better manage the flow of information at the Deputy Minister level. This is an important start, but it is clear to me that better systems are essential to process the enormous amount of intelligence produced every day. It needs to be someone's job (or multiple identified peoples' job) to decide what goes to the NSIA and what gets briefed

to the political levels (i.e., to Ministers and their offices). Large and undifferentiated binders, a lack of accountability about who is reading those binders, or whose job it is to respond to what is contained in them, is not what is required of the current era of international relations and the attendant threats. This is at least in part because foreign interference evolves quickly, and the machinery of government evolves slowly. Foreign interference is an area of serious concern, and better mechanisms are required.

I should note that the Prime Minister asserted that the fact that he or a Minister does not get a particular piece of information does not mean that the system is not working; it means that the information was not credible or serious enough that it required his or the Minister's attention. That is often true, but it is not true in all cases. We have seen intelligence that should have at least made it to the Ministerial level that the relevant Minister did not see.

## **V. TOR Questions 2(a) and (b): What are the Principal Allegations, What does the Intelligence Show, Who did the Security Agencies Report to, and When?**

### **1. The Limits of this Section**

Most of the work I have undertaken over the last two months has been to investigate the allegations that were made public about foreign interference and to try to determine (a) whether they had any basis in any intelligence products; (b) whether there were further documents or knowledge within the agencies; (c) whether the additional information paints a clearer picture of the facts; and (d) what elected officials and their staff knew about the various allegations,

to the extent that they are an accurate reflection of the picture painted once the facts are discerned and what they did about it.

All of this had to be done in a Top Secret, secured facility as the information was highly classified. Many of the events in question happened several years ago, and the more recent ones occurred in the middle of the COVID-19 pandemic. However, in light of the documents that the ISR team has reviewed, the people we have interviewed, and being able to refresh memories with those documents,

I believe I have been able to draw reliable conclusions for the purpose of this report, with a reasonable body of evidence to support those conclusions.

In an ideal world, I would have been able to transparently take Canadians along with me through my journey, to show them in this report how comprehensive the process has been, and to allow them to draw their own conclusions about the allegations from the full body of information. This was never going to be possible due to national security concerns. But the allegations have caused significant misunderstandings and contributed to a discourse of distrust. The security agencies have therefore worked with me to ensure that I am able to tell the public as much as possible in order to restore public trust. Of course, there are limits to this, as no one wants to put human sources, methods or our trusted relationship with the Five Eyes at risk. We must be able to continue to collect intelligence to counter this and the many other threats that exist.

In addition to this summary of conclusions for the public, I have provided a confidential annex to this report. It is classified Top Secret and will be given to members of Cabinet, senior public servants, NSICOP, NSIRA, and those Opposition Leaders who choose to get cleared to see Top Secret material. Unlike this section, which has no references, the confidential annex contains full footnotes to security agency work products so that anyone reviewing it can see how I drew conclusions. I acknowledge that this is a somewhat unsatisfactory alternative to the kind of transparency that I would have been able to provide in a less sensitive area. I hope that the analysis in this report inspires the public to trust that I have conducted the kind of comprehensive work that the allegations merit and will understand why I cannot disclose all of the information on which they are based.

My review of these allegations included the raw and analyzed intelligence and interviews as described above. I was warned on numerous occasions that intelligence often consists of human observations and interpretations. At times, there is enormous uncertainty, considerable inconclusiveness and often more to the story than the intelligence tells. I repeat this warning for readers of this report, as it now consists of my interpretation of these interpretations. I have done my best to probe and test it.

In the balance of this section, I list the major allegations made in the media reporting, and provide a brief analysis of each one. Mostly they relate to the 2019 and 2021 elections, although I also address threats against MPs that occurred outside of the election period, which is another topic that arose from media reporting. I selected these allegations because they were the major, high-profile allegations relating primarily to federal candidates in the 2019 and 2021 election, as well as potential threats to Parliamentarians, which is a sensitive issue. To the extent any additional allegations of similar prominence are raised in the media or brought to my attention before my mandate expires at the end of October 2023, I will examine those that fall within my terms of reference and refer my conclusions to NSICOP and NSIRA.

## 2. My Review of the Principal Allegations

The narrative that has arisen from the media reporting is that the Liberal government failed to act on foreign interference because it helped them politically, and hurt their primary opponent, the CPC. This narrative came from a series of factual allegations made in this reporting. In this section, I respond, as fully as I am able, to those factual allegations. The confidential annex deals with the allegations in more detail.



## (1) 2019 Election

Canada's 2019 Election was the first to occur after the 2016 U.S. Presidential Election. Russian efforts at disrupting that election made the rest of the democratic world take acute notice of the threat of foreign interference in the election context. This issue was not a surprise in the security and intelligence community, which had been monitoring it for years.

Leading up to the election, security and intelligence officials were well aware of the threats posed by foreign interference and were actively monitoring them. Michael Kovrig and Michael Spavor had been detained by the PRC at the time of this election, and Canada-PRC relations, which were optimistic in the middle of the previous decade, had taken a turn for the worse.

The key allegations respecting the 2019 elections, and my assessment of those allegations, are set out below.

### **(i) The PRC Gave \$250,000 to 11 Political Candidates for the 2019 Election (Global News, November 7, 2022)**

One of the most inflammatory of the allegations is the suggestion that the PRC filtered \$250,000 to candidates (sometimes identified as Liberal candidates) in the 2019 Election. I have reviewed the intelligence relating to this allegation, interviewed CSIS officials, NSIA Thomas, past NSIAs, security personnel in the PCO, and the Panel of Five Deputy Ministers from the 2019 Election, as well as the Prime Minister and the relevant Ministers. I can report the following.

It appears from limited intelligence that the PRC intended for funds to be sent to seven Liberal and four Conservative federal candidates through a community organization, political staff and (possibly unwittingly) a Progressive Conservative Party of Ontario MPP.

There is uncertainty about whether there was money, if it actually went to staff or the provincial MPP, and there is no intelligence suggesting any federal candidates received these funds.

The media reporting later stated that there was no evidence of covert funding, although this was largely overlooked, so the public narrative persisted that candidates (sometimes identified as only Liberal candidates) received these funds.

NSIA Thomas and the Prime Minister's Chief of Staff both testified to PROC that there was no evidence of money flowing to federal candidates.<sup>23</sup>

I asked the Prime Minister and other Ministers if they or their staff knew anything about money being transferred to federal candidates in the 2019 Election. They indicated that they had not heard anything about this until the media reporting. The Prime Minister pointed out that he is not briefed on matters that are not supported by reliable intelligence. No recommendations were made to any Minister or the Prime Minister about this allegation, and therefore no recommendations were ignored.

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<sup>23</sup> PROC, Testimony of Jody Thomas (March 1, 2023); Standing Committee on Procedure and House Affairs, 44<sup>th</sup> Parliament, 1st Session, No. 061, Testimony of Katie Telford (April 14, 2023), <https://www.ourcommons.ca/DocumentViewer/en/44-1/PROC/meeting-61/evidence>.

**(ii) A Network of 11 Federal Election Candidates and Operatives, At Least some of Whom are Witting Affiliates of the CCP (Chinese Communist Party) (Global News, November 7, 2022)<sup>24</sup>**

A second allegation — often confused with the first one — is that there is a “network” of 11 federal election candidates and operatives in the GTA, at least some of whom are willing participants in CCP goals.

I have reviewed the intelligence relating to this allegation, interviewed CSIS officials, NSIA Thomas, past NSIAs, security personnel in the PCO, and the Panel of Five Deputy Ministers from the 2019 Election, as well as the Prime Minister and relevant Ministers. I can report the following.

The PRC has leveraged proxy agents and has tried to influence numerous Liberal and Conservative candidates in subtle ways. There is no basis to conclude that the 11 candidates were or are working in concert (i.e., as a “network”) or understood the proxies’ intentions. Some of the candidates are well-integrated with Chinese Canadian community organizations. There is nothing inherently suspicious about this, as it is common for political candidates to rely on community support.

I interviewed the Prime Minister and other Ministers to determine if they or their staff knew anything about the alleged “network.” Most acknowledged that they were aware of the PRC foreign interference threat in general, and that leveraging proxy agents was a method that the PRC and other foreign adversaries used for this purpose. My conclusion is that there was no evidence presented to any Minister or the Prime Minister that any of the 11 candidates or any

group of candidates were working together as part of a network. No recommendation about a network of candidates was made as no network was known to exist. No recommendation was ignored.

**(iii) National Security Officials Warned Prime Minister Trudeau and his Office More Than a Year Before the 2019 Federal Election That Chinese Agents Were “assisting Canadian candidates running for political offices” (Global News, February 8, 2023)<sup>25</sup>**

I have reviewed the memorandum that allegedly contained this warning, and interviewed its author, Mr. Jean. I also looked at early drafts. I can report the following.

There was a memorandum provided to the Prime Minister, but it does not contain the quotation above. An early draft of the memorandum contained similar but not identical language to that quotation. That draft was significantly revised before the memorandum went to the Prime Minister. The Prime Minister was briefed on numerous occasions, including June 2017, about the foreign interference threat in a general way. This memorandum warns him that public efforts to raise awareness should remain general and not single out specific countries, because of diplomatic sensitivities. This is before the “two Michaels” and the deterioration in Canada-PRC relations.

I interviewed the Prime Minister about the memorandum and he acknowledged reviewing the final version at the time. He was surprised that a draft that he had never seen became the

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24 Sam Cooper, “Canadian intelligence warned PM Trudeau that China covertly funded 2019 election candidates: Sources” *Global News* (November 7, 2022), <https://globalnews.ca/news/9253386/canadian-intelligence-warned-pm-trudeau-that-china-covertly-funded-2019-election-candidates-sources/>.

25 Sam Cooper, “2017 memo prepared for PM warns of Beijing election interference” *Global News* (February 8, 2023), <https://globalnews.ca/news/9464937/security-memo-trudeau-china-election-interference/>.

subject of a leak. The final version makes no specific recommendations and was written to create awareness.

**(iv) “Prime Minister Justin Trudeau and senior aides were warned on at least two occasions that government MPs should be cautious in their political dealings with former Ontario Liberal cabinet minister Michael Chan because of alleged ties to China’s consulate in Toronto.... [CSIS] has a dossier on Mr. Chan that contains information on his activities in the 2019 and 2021 federal election campaigns and meetings with suspected Chinese intelligence operatives” (The Globe and Mail, February 13, 2023)<sup>26</sup>**

**“Han Dong was a close associate of Michael Chan, who is a target of CSIS.... Chan had orchestrated Tan [Geng’s] ouster [from Don Valley North] with a campaign that persuaded Justin Trudeau’s aides to back Dong instead” (Global News, February 25, 2023)<sup>27</sup>**

I have reviewed the intelligence relating to this allegation, interviewed CSIS officials, NSIA Thomas, past NSIAs, security personnel in the PCO, and the Panel of Five Deputy Ministers from the 2019 Election, as well as the Prime Minister and the relevant Ministers. I can report the following.

**Mr. Chan has close relationships with the PRC Consulate in Toronto, which he has admitted publicly. Mr. Chan has publicly stated that CSIS has never spoken to him about these allegations.**

LPC officials disagree with the assertion that Tan Geng was “ousted” by Mr. Chan. They stated that Mr. Geng was not permitted to run as a candidate for the LPC due to a personal matter that had nothing to do with Mr. Chan.

The recommendations made to the Prime Minister and other Ministers about Mr. Chan are confidential and are included as part of the confidential annex. I have seen no evidence that any recommendation has been ignored.

**(v) The PRC Interfered with the Nomination of Han Dong as the Liberal Party Candidate in Don Valley North (Global News, February 24, 2023)<sup>28</sup>**

I have reviewed the intelligence relating to this allegation, interviewed CSIS officials, NSIA Thomas, past NSIAs, security personnel in the PCO, and the Panel of Five Deputy Ministers from the 2019 Election, as well as the Prime Minister and relevant Ministers. I can report the following.

**Irregularities were observed with Mr. Dong’s nomination in 2019, and there is well-grounded suspicion that the irregularities were tied to the PRC Consulate in Toronto, with whom Mr. Dong maintains relationships.** In reviewing the intelligence, I did not find evidence that

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26 Robert Fife and Steven Chase, “CSIS warned Trudeau about Toronto-area politician’s alleged ties to Chinese diplomats” *The Globe and Mail* (February 13, 2023), <https://www.theglobeandmail.com/politics/article-csis-warned-trudeau-about-toronto-area-politicians-alleged-ties-to/>.

27 Sam Cooper, “Liberals ignored CSIS warning on 2019 candidate accused in Chinese interference probe: sources” *Global News* (February 25, 2023), <https://globalnews.ca/news/9504291/liberals-csis-warning-2019-election-candidate-chinese-interference/>.

28 Sam Cooper, “#Breaking: My investigation for Global News identifies that PM Justin Trudeau’s senior aides were allegedly brief by CSIS shortly before the October 2019 federal election, that candidate Han Dong, was suspected to be involved in PRC Foreign Interference.” *Twitter* (February 24, 2023), [https://twitter.com/scoopercooper/status/1629263827819790336?ref\\_src=twsrc%5Etfw](https://twitter.com/scoopercooper/status/1629263827819790336?ref_src=twsrc%5Etfw).

Mr. Dong was aware of the irregularities or the PRC Consulate's potential involvement in his nomination.

The Prime Minister was briefed about these irregularities, although no specific recommendation was provided. He concluded there was no basis to displace Mr. Dong as the candidate for Don Valley North. This was not an unreasonable conclusion based on the intelligence available to the Prime Minister at the time.

## (2) 2021 Election

Unlike the 2019 Election, which was a fixed-date election, the 2021 Election was called when the Prime Minister asked the Governor-General to dissolve Parliament. The election came at a difficult time for Canada-China relations. Michael Kovrig and Michael Spavor had been detained since 2018, and Canadians were justifiably angry at the detention and reports of their mistreatment. The COVID-19 pandemic had been ongoing for over a year, and the PRC had failed to cooperate with international investigations relating to the origins of the novel coronavirus. Moreover, the PRC declined to participate in a once-promising China-Canada joint venture on vaccines. The PRC was increasingly asserting itself as a global power, and increasingly developing relationships to counter western-based alliances such as the North Atlantic Treaty Organization. It ramped up its foreign interference efforts considerably, although not especially in the ways alleged.

The key allegations respecting the 2021 elections, and my assessment of those allegations, are set out below.

(vi) **“An orchestrated machine was operating in Canada with two primary aims: to ensure that a minority Liberal government was returned in 2021, and that certain Conservative candidates identified by China were defeated,” “Beijing was determined that the Conservatives did not win,” and Kenny Chiu was Targeted By the CCP’s Foreign Intelligence Network (The Globe and Mail, February 17, 2023)<sup>29</sup>**

(a) **“Orchestrated machine to ensure a minority Liberal government was returned” and “Beijing was determined that the Conservatives did not win” (The Globe and Mail, February 17, 2023)<sup>30</sup>**

I have reviewed the intelligence relating to this allegation, interviewed CSIS officials, the NSIA, past NSIAs, security personnel in the Privy Council's office, and the Panel of Five Deputy Ministers from the 2021 Election, as well as the Prime Minister and relevant Ministers. I can report the following.

There was an unconfirmed indication that a very small number of PRC diplomats expressed a preference for the LPC to the CPC in the 2021 Election. Other members of diplomatic staff have had a variety of opinions and preferences over different periods of time, and in different elections. But there was no indication that the PRC had a plan to orchestrate a Liberal minority government in 2021 or were “determined” that the Conservatives not win.

There was heavy re-circulation on WeChat of an article from The Hill Times (Canadian media) and The Global Times (PRC-operated media) questioning Mr. O’Toole’s (the CPC

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29 Robert Fife and Steven Chase, “CSIS documents reveal Chinese strategy to influence Canada’s 2021 election” *The Globe and Mail* (February 17, 2023), <https://www.theglobeandmail.com/politics/article-china-influence-2021-federal-election-csis-documents/> [Robert Fife and Steven Chase, “CSIS documents reveal Chinese strategy” (February 17, 2023)].

30 Robert Fife and Steven Chase, “CSIS documents reveal Chinese strategy” (February 17, 2023).

leader's) strategy regarding China. However, the re-circulation could not be attributed to any state actor.

The PRC's intention appears to be focused on assisting pro-China candidates and marginalizing anti-China candidates, not party preferences.

Diplomats posted to a foreign state — including Canada's diplomats — will have preferences in the foreign state's elections. These diplomats may even express those preferences openly or privately. That is not foreign interference. It only becomes foreign interference when it is clandestine, coercive or deceptive conduct.

I asked the Prime Minister and Ministers if they were aware of any orchestrated effort to elect a LPC minority. They were not. The Prime Minister pointed out that he is not briefed on matters that are not supported by reliable information.

My conclusion is that no recommendations were made to any Minister about this allegation. Furthermore, during the writ period, the Panel of Five (explained in more detail below) was in place and decided no action was warranted.

**(b) Certain Conservative Candidates Identified by the PRC Were Defeated, Kenny Chiu was targeted by the CCP's Foreign Intelligence Network After He Introduced a Foreign Interference Registry Private Members' Bill, and Chinese Agents Succeeded in Smearing him as a Racist in WeChat**

**and Mandarin-language Media Reports (The Globe and Mail, February 17, 2023)<sup>31</sup>**

I have reviewed the intelligence relating to this allegation, interviewed CSIS officials, NSIA Thomas, past NSIAs, security personnel in the PCO, and the Panel of Five Deputy Ministers from the 2021 Election, as well as the relevant Ministers. I can report the following.

Chinese-Canadian MPs, including Mr. Chiu, were and remain of particular interest to the PRC. There was online misinformation about Mr. Chiu's proposed foreign agent legislation, which he corrected in the media during the campaign. But the misinformation could not be traced to a state-sponsored source. The government does not regulate consumption of social media, during elections or otherwise. However, it has engaged with social media platforms to deal with misinformation, and the threat that it poses to election security. This does not include WeChat, which is based in the PRC.

Mr. Chiu gave an interview in February 2023, saying that "if you are ordinary Canadians, at least you will find that ridiculous [that he was anti-China], and you may potentially be able to fact check this information.... But some of my constituents, they exclusively rely on the source of information being circulated on social media, like WeChat."<sup>32</sup>

It is clear that PRC diplomats did not like Mr. Chiu, who is of Hong Kong descent and not from mainland China, and who sponsored a private members bill for a foreign agent registry. It is much less clear that they did anything in particular about it, although there

31 Robert Fife and Steven Chase, "CSIS documents reveal Chinese strategy" (February 17, 2023).

32 Robert Fife and Steven Chase, "CSIS reports outline how China targets Canadian politicians, business leaders" *The Globe and Mail* (February 20, 2023), <https://www.theglobeandmail.com/politics/article-secret-csis-reports-paint-picture-of-chinas-efforts-to-entrap-canadian/> [Robert Fife and Steven Chase, "CSIS reports outline how China targets Canadians" (February 20, 2023)].

was discussion that certain political figures who were perceived as anti-PRC would not be invited to PRC-sponsored events.

However, the PRC's objective in 2021 appeared to be specific to the posture of the candidates towards the PRC and not the candidate's party. The PRC is, in general, party agnostic. There is intelligence suggesting that a Chinese community association leader who was perceived to be close to the PRC approached a CPC candidate and offered to help raise money for their campaign.

The SITE Task Force (described below) assessed the claim by Kenny Chiu after the election and could not conclude that the activity was state-sponsored. Moreover, it was monitored by the 2021 Panel of Five responsible for reviewing critical election incidents (a process discussed in greater detail below). The Prime Minister and Ministers became aware of complaints by the CPC when the CPC began to speak publicly about them after the 2021 Election. I have no basis to conclude they were provided any recommendations about this information. However, as described below, the government continued to work on combatting foreign interference through its post-2021 Election mandate.

**(vii) “Sympathetic Donors are also encouraged to provide campaign contributions to candidates favoured by China,” Receive a Tax Credit, then Political Campaigns Quietly and Illegally Return Part of the Contribution (the Difference Between the Original**

**Donation and the Government's Refund Back to the Donors (The Globe and Mail, February 17, 2023)<sup>33</sup>**

I have reviewed the intelligence relating to this allegation, interviewed CSIS officials, NSIA Thomas, past NSIAs, security personnel in the PCO, and the Panel of Five Deputy Ministers from the 2021 Election, as well as the Prime Minister and relevant Ministers. I can report the following.

CSIS is aware of allegations that the PRC engages in this activity. These allegations are concerning because the activity, if it were carried out, would be a credible threat to the electoral process. That is why this activity is prohibited by the *Canada Elections Act*.<sup>34</sup> If there were credible evidence to justify an investigation, it would be referred to the Commissioner of Canada Elections. However, CSIS has not collected intelligence showing this activity is actually occurring.

**(viii) Han Dong Advised the PRC Consulate to Extend the Detention of the “Two Michaels” (Global News, March 22, 2023)<sup>35</sup>**

There has been considerable media attention about an alleged transcript of this conversation. I have reviewed the same intelligence report that was provided to the Prime Minister relating to this allegation, which I am advised is the only intelligence that speaks to this issue. I can report the following.

The allegation is false. Mr. Dong discussed the “two Michaels” with a PRC official, but did not suggest to the official that the PRC extend their detention. The allegation that he did make that suggestion has had a very adverse effect

33 Robert Fife and Steven Chase, “CSIS reports outline how China targets Canadians” (February 20, 2023).

34 S.C. 2000, c. 9, <https://laws-lois.justice.gc.ca/eng/acts/e-2.01/>.

35 Sam Cooper, “Liberal MP Han Dong secretly advised Chinese diplomat in 2021 to delay freeing Two Michaels: sources” *Global News* (March 22, 2023), <https://globalnews.ca/news/9570437/liberal-mp-han-dong-secretly-advised-chinese-diplomat-in-2021-to-delay-freeing-two-michaels-sources/>.

on Mr. Dong. He continued to maintain close relationships with PRC consular officials at least through the 2021 Election.

Ministers and the Prime Minister went out of their way to defend Mr. Dong, whom they believe has been badly harmed by the reporting. They did not believe the media reports when they came out, as they found Mr. Dong to be a loyal and helpful member of caucus. They received no recommendations about this allegation, as it is false.

### (3) Actions Against Members of Parliament

Although my TOR relate primarily to the 2019 and 2021 elections, as I was conducting my investigations and interviews, allegations surfaced that the PRC looked to take actions against MP Michael Chong and his family in China, and other MPs and their families. I therefore considered it important to include some discussion about these allegations, even though they are not directly related to either election. The key allegation is discussed below.

#### **PRC Officials Have Taken Actions to Target Michael Chong, his Family, and Other MPs and their Families (The Globe and Mail, May 1, 2023)<sup>36</sup>**

I have reviewed the intelligence relating to this allegation, interviewed CSIS officials, NSIA Thomas, past NSIAs and security personnel in the PCO about this allegation (which does not relate to election interference, but does relate to foreign interference), as well as the Prime Minister and relevant Ministers. I can report the following.

There are indications that PRC officials contemplated action directed at both Chinese-Canadian MPs and their family members in China, and sought to build profiles on others.

This includes Mr. Chong in both cases. There is no intelligence indicating that the PRC took steps to threaten his family. There is intelligence indicating they were looking for information.

There has been significant controversy about who received this information and when. The Prime Minister was initially advised that it did not leave the security agencies. However, on further review, that was acknowledged to be incorrect. The NSIA has acknowledged to Mr. Chong that her predecessor NSIA at the time received the memorandum that describes the potential action against Mr. Chong.

In addition to the memorandum in question, CSIS sent an issues management note (IMU) to the then Minister of Public Safety, his Chief of Staff, and his Deputy Minister in May 2021, noting that there was intelligence that the PRC intended to target Mr. Chong, another MP, and their family in China (if any). It indicated that CSIS intended to provide Mr. Chong and the other MP with a defensive briefing. The IMU did not recommend any particular action or ask for any direction from the Minister — it was simply provided for his information. CSIS conducted the briefing, but we understand from Mr. Chong's statements to the media and PROC that it did not include the detail with respect to his family.

Neither the Minister nor his chief of staff received the IMU. Both indicated (and we have confirmed with the public service) that they do not have access to the Top Secret Network e-mail on which it was sent. The Minister indicated that when CSIS wanted to transmit sensitive information, they would request a briefing, take him to a secure facility and show it to him. He did not receive sensitive information like this by e-mail. He believes the Ministerial Direction in place at the time means that CSIS should have briefed him about this, although

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<sup>36</sup> Robert Fife and Steven Chase, "China views Canada as a 'high priority' for interference: CSIS report" *The Globe and Mail* (May 1, 2023), <https://www.theglobeandmail.com/politics/article-china-targets-mps-csis/>.

he acknowledges this has been clarified in the new Ministerial Direction on Threats to the Security of Canada Directed at Parliament and Parliamentarians issued May 16, 2023 by the current Minister of Public Safety.<sup>37</sup>

I understand that NSIRA is conducting a review of how information is processed and received between CSIS and the Department of Public Safety. In addition, PROC is conducting a study respecting the targeting of Mr. Chong and his family. In his testimony before PROC, Mr. Chong stated that the failure to notify him that his family might be targeted amounted to a “systemic breakdown in the machinery of government.” It is certainly the most prominent, but not the only, example of poor information flow and processing between agencies, the public service and Ministers.

There are no indications that any other Minister was sent this information directly, or that the Prime Minister was made aware of the PRC’s efforts with respect to Mr. Chong and other MPs. The current Minister of Public Safety’s new Ministerial Direction requires CSIS to seek, wherever possible, to ensure that Parliamentarians are informed of threats to the security of Canada directed at them, and to inform the Minister of Public Safety of such threats in a timely manner.

### 3. Reducing the Role of Politics on National Security Issues

Foreign interference in Canadian elections is an existing and ongoing issue. Canadians need to understand the threat it presents and the mechanisms to address it. Canadians need to know how they can protect themselves from

being swept up in it. Canadians need their candidates, elected officials and governments to take it seriously and fight this ever-evolving danger. But I fear that the way that this story unfolded has led elected officials to engage with it in an excessively partisan way, which harms the confidence Canadians have in their institutions.

It is, of course, Parliament’s job to ask the government hard questions. The opposition’s role is to hold the government accountable for what it did, what it failed to do, and present alternatives. But context is everything. While no rational person would ask politicians to put politics totally aside, national security is an area in which facts and truth must always have primacy over partisanship. Elected officials from different parties can and should disagree on much, but they need to be able to have conversations with each other relating to external threats without undue partisanship. There has been too much posturing, and ignoring facts in favour of slogans, from all parties. And many of those slogans turned out to be wrong. We have heard repeatedly about \$250,000 going to 11 candidates, even after the country’s NSIA – our most senior non-partisan public servant on national security matters – testified it did not happen. And my review has confirmed her testimony.

Just as I was finalizing this report, I was heartened to hear that the government and opposition were able to reach a protocol relating to the controversy surrounding the Winnipeg Laboratory.<sup>38</sup> This is an excellent example of what Canadians need: a rational, factual review of national security threats that face our country. I was also heartened to hear (secondhand) that

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37 Public Safety Canada, “Ministerial Direction on Threats to the Security of Canada Directed at Parliament and Parliamentarians” (May 16, 2023), <https://www.publicsafety.gc.ca/cnt/trnsprnc/ns-trnsprnc/mnstrl-drctn-parl-secure-en.aspx> [Public Safety Canada, “Ministerial Direction” (May 16, 2023)].

38 Robert Fife and Steven Chase, “Government names former judges to help MPs investigate firing of Winnipeg scientists” *The Globe and Mail* (May 17, 2023), <https://www.theglobeandmail.com/politics/article-fired-winnipeg-scientists-mp-committee/>.



NSICOP members consider the process useful, beneficial and that politics are usually left to the side.

I encourage government and opposition Parliamentarians to follow this example in thinking about foreign interference. What hangs in the balance for all of us is confidence and trust in our democratic institutions. The very confidence and trust that foreign interference is trying to undermine. We must face the threat, together, recognizing that some issues must rise above partisanship.

#### 4. Conclusions on TOR 2(a) and (b)

The TOR ask me to address a series of issues. The two that this section have dealt with are:

1. To assess the extent and impact of foreign interference in Canada's electoral processes.
2. To review the Federal Government's information and actions about the threat of foreign interference to Canada's electoral processes both historically and particularly as it relates to the 2019 and 2021 federal elections:
  - a) To determine what findings and recommendations were made by the Canadian Security Intelligence Service, Privy Council Office, the Protocol Panel and any other agencies and officials to address foreign interference in the two elections.
  - b) To determine what was communicated to the Prime Minister and his Office; other Ministers and their Offices; and Cabinet about electoral interference and what recommendations were made by agencies and officials to address it.

My conclusions are as follows:

1. Attempts at foreign interference are ubiquitous, especially from the PRC. Successive federal governments have known about it for years and the occurrence of foreign interference has grown in the past several years. It is an

increasing threat to our democratic system and must be resisted as effectively as possible. Much has been done to strengthen our capacity to resist, but considerably more remains to be done.

- There is a risk of a racist backlash against diaspora communities, unless it is well communicated that these communities are the victims of foreign interference and not its instruments. We all have a responsibility to ensure that the fight against foreign interference does not set back our aspirations to be a truly multicultural country where everyone is treated fairly and equally.
2. Care must be taken to assess allegations of foreign interference and the government's response. This is particularly true where public concern has been sparked by reports of leaked intelligence documents. It is necessary to review the leaked materials, and the balance of the non-leaked materials, carefully and in context.
    - The specific instances of interference are less concerning than some media reporting has suggested, and in some cases the true story is quite different.
    - There is no reason to question the validity of the 2019 or 2021 elections, which were well-protected by sophisticated mechanisms and monitored by some of the most experienced non-partisan public servants in the country.
  3. I have not found instances of the government knowingly ignoring intelligence, advice or recommendations on foreign interference, or making decisions based on partisan considerations in dealing with these issues. However, there are significant governance shortcomings in the way intelligence is communicated from security agencies to the various government departments, processed at those departments to decide what should

get briefed and recommended to the political levels, and communicated to the Prime Minister, responsible Ministers, and their respective offices for decision-making and action. This became especially clear with respect to the issues relating to Mr. Chong and other MPs. These must be addressed, and I understand the government has already begun to do so.

4. Canada requires a more sophisticated approach to national security, designed for the current challenges. This includes a less politicized environment to discuss national security issues. Foreign interference hurts the foundation of our democracy, not just particular political parties. It should be a non-partisan issue on which elected officials work together to defend our democracy, not primarily an opportunity to score political

points. Responses to these threats when they are publicly raised should be direct and frank, with as much transparency as is possible while fully respecting classified information restrictions.

5. I am recommending a public process, but not a Public Inquiry under the *Inquiries Act*, to assist and accelerate the government and Parliament's work in policy development. The public process should focus on strengthening Canada's capacity to detect, deter and counter foreign interference in our elections and the threat such interference represents to our democracy. To that end, in the remaining five months of my mandate, I intend to conduct public hearings to address these issues. I explain this, and my reasoning, in greater detail below.

## VI. TOR Question 2(c): Government Steps to Counter and Communicate about Foreign Interference

The government and its intelligence agencies have communicated regularly about the growing threat of foreign interference, and put in place various mechanisms to counter it. Nevertheless, it is clear that there is a widespread lack of awareness of this among the Canadian public and even among some Parliamentarians. While more can and must be done to strengthen our ability to detect and deter foreign interference, the extent of the government's policy initiatives and regular communications on the topic contradicts suggestions that the government intended to hide the existence of foreign interference, that it has negligently failed to act on it, or that it tolerated foreign interference. In the balance of this section, I summarize both the warnings given and the mechanisms implemented.

Those looking for specific law enforcement actions as evidence of the government's concern will likely be disappointed. The "intelligence to evidence" problem, and the problems associated with making disclosure in court proceedings, mean that law enforcement is rarely going to be an effective means to counter these kinds of threats. However, CSIS has taken various TRMs, which they are authorized to conduct under s. 12.1 of the *CSIS Act*, in response to intelligence respecting foreign interference. An example are "defensive briefings" – i.e., CSIS speaking with potential victims of foreign interference to inform them of the possibility that they are being targeted by a foreign power. These briefings are not public for security reasons.

## 1. What has the Government Communicated to the Public About Foreign Interference?

One of the most important ways to counter foreign interference is for the public to understand what it looks like and how to be resilient against it. The public is often on the “front lines” of foreign interference activities, as private citizens and the public at large can be the targets of foreign interference activities. Government agencies recognize that this means that “all Canadians have a role to play in protecting Canada’s democracy and national security, both outside of, and during an election.”<sup>39</sup> But the public cannot be expected to maintain resiliency against foreign interference if they are not provided with information about what they should look out for.

This section of my report summarizes what the government and its agencies have publicly communicated about foreign interference since 2015, with a particular focus on the period immediately preceding the 2019 election to today. The government and its agencies have communicated that:

- States are actively conducting foreign interference activities against Canada, both inside and outside of the country;
- Foreign interference in the electoral process is an area of increasing concern, with the public commentary focusing particularly (but not exclusively) on the issue of cyber threats to election integrity; and
- The PRC is “particularly active” in foreign interference activities against Canada.

Although the government has made efforts to communicate with the public about foreign interference at a high level, until the public reporting of leaks that led to my appointment, there was limited awareness about it among the Canadian public. The government has taken some steps to correct this, particularly in the area of cyber threats to our electoral processes, but more needs to be done to ensure that the public understands and can recognize the threat that foreign interference poses. To this end, the government should provide more information to Canadians that would help them to identify and respond to foreign interference. I intend to address this question in more detail in the second part of my mandate.

### (a) States are Actively Conducting Foreign Interference Against Canada

In advance of the 2019 and 2021 elections, the government publicly acknowledged on multiple occasions that Canada is a target for foreign interference. These warnings have come from multiple agencies and officials, including:

1. **NSICOP.** NSICOP began to regularly review the government’s response to foreign interference starting in 2018. It first released a Special Report regarding the Prime Minister’s visit to India in February 2018. The report discussed Canada’s relationship to India in the context of allegations of foreign political interference surrounding the Indian media’s coverage of the Prime Minister being photographed at a reception with a person associated with Sikh extremism in Canada.<sup>40</sup> In its 2019 Annual

39 Canadian Security Intelligence Service, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), <https://www.canada.ca/content/dam/isis-scirs/documents/publications/2021/foreign-interference-threats-to-canada%27s-democratic-process.pdf>, at p. 3 [CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021)].

40 National Security and Intelligence Committee of Parliamentarians, “Special report into the allegations associated with Prime Minister Trudeau’s official visit to India in February 2018” (December 3, 2018), <https://www.nsicop-cpsnr.ca/reports/rp-2018-12-03/intro-en.html>.

Report, NSICOP conducted an extensive review of foreign interference in Canada by surveying materials from 2015 until 2018. The redacted report concluded that there was “ample evidence...that Canada is the target of significant and sustained foreign interference activities.”<sup>41</sup>

2. **CSIS.** Similarly, CSIS’s 2019 Public Report stated that foreign interference activities were directed at Canadians both inside and outside of the country, and that these activities threatened Canada’s national security and strategic interests.<sup>42</sup> A 2021 report entitled “Foreign Interference Threats to Canada’s Democratic Process” noted that “CSIS continues to observe steady, and in some cases increasing, foreign interference by state actors against Canada.”<sup>43</sup>
3. **Minister Blair’s Letter to Parliament.** On December 18, 2020, then Minister of Public Safety Blair tabled a letter to Parliamentarians in response to a motion passed in the House of Commons on November 18, 2020 respecting foreign state-backed interference and intimidation activities in Canada. The letter identified foreign interference as a “complex threat,” and went on to describe foreign interference as follows:

It poses a significant threat to the integrity of our political system, democratic institutions, social cohesion, academic freedom, economy and long-term prosperity as well as fundamental rights and freedoms. It can also affect the safety of our citizens and those who live here. This is not new. But it remains unacceptable as it targets all orders of government - federal, provincial and territorial, and municipal, as well as Canadian communities.<sup>44</sup>

### **(b) Foreign Interference in Elections an Area of Growing Concern**

The government and its agencies have also acknowledged the growing threat of foreign interference in Canadian elections, particularly since that issue became a widely reported matter of public concern in the 2016 U.S. Presidential Election and national elections in France and Germany in 2017. **Because social media and other online environments were the chief means for interference by Russia in those elections, much of the government’s public commentary on election interference has often focused on cyber threats to elections.**

In 2017, CSE released a report entitled “Cyber Threats to Canada’s Democratic Processes,” which noted that “recent cyber threat activity against the democratic process in the United States and Europe has raised concerns about

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41 National Security and Intelligence Committee of Parliamentarians, “Annual Report 2019” (March 12, 2020), <https://www.nsicop-cpsnr.ca/reports/rp-2020-03-12-ar/intro-en.html>, at pp. 64-65, 77; see also pp. 90-95 for a review of the government’s responses to specific incidents, such as the PRC and Operation Fox Hunt or Russia and the Salisbury Incident.

42 Canadian Security Intelligence Service, “CSIS Public Report 2019” (April 2020), <https://www.canada.ca/en/security-intelligence-service/corporate/publications/2019-public-report.html>.

43 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 4.

44 Public Safety Canada, “Response to the December 18, 2020 motion on Foreign Interference” (December 18, 2020), <https://www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20210625/27-en.aspx?wbdisable=true> [Public Safety Canada, “Response to the December 18, 2020 motion” (December 18, 2020)].

similar threats in Canada.”<sup>45</sup> CSE indicated that in the 2015 federal election it had “not observed nation-states using cyber capabilities with the purpose of influencing the democratic process in Canada during an election.”<sup>46</sup> That is, it had not yet seen in Canada the kind of problems that would arise in other elections around the world.

In 2018, the Prime Minister and then Minister of Defence Harjit Sajjan acknowledged that foreign interference in elections was of growing concern. In particular, Minister Sajjan warned that votes could be targeted by Russian-based cyber-attacks and disinformation, noting that “we need to further educate our citizens about the impact of fake news. No one wants to be duped by anybody.”<sup>47</sup> Also in 2018, the Canadian Centre for Cyber Security released a National Cyber Threat Assessment which acknowledged the potential for state-sponsored foreign interference (such as by “Russian trolls”) against elections, political parties, politicians, and media outlets.<sup>48</sup>

Leading up to the election of 2019, CSE made it clear that “Canadian voters will encounter some form of foreign cyber interference related

to the 2019 federal election,” but noted it was “improbable” that the interference would be to same extent as the Russian interference in the 2016 United States presidential election.<sup>49</sup> Then Minister of Democratic Institutions Gould also spoke to the House of Commons to explain the potential for foreign interference in the 2019 federal election, focusing in particular on cyber threats such as those seen in the 2016 US election and the elections in France and Germany in 2017.<sup>50</sup>

In 2019, CSE disclosed that since 2015, outside of election periods there had been some instances of foreign cyber interference:

- More than one foreign adversary manipulated social media using cyber tools to spread false or misleading information relating to Canada on Twitter, likely to polarize Canadians or undermine Canada’s foreign policy goals;
- Foreign state-sponsored media had disparaged Canadian Cabinet ministers; and

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45 Communications Security Establishment, “Cyber Threats to Canada’s Democratic Process” (2017), <https://www.cyber.gc.ca/sites/default/files/cyber/publications/cse-cyber-threat-assessment-e.pdf>, at p. 13 [CSE, “Cyber Threats to Canada’s Democratic Process” (2017)].

46 CSE, “Cyber Threats to Canada’s Democratic Process” (2017), at p. 4.

47 Mike Blanchfield, “Foreign election interference a reality, says Trudeau after Putin’s re-election,” *CBC* (March 21, 2018), <https://www.cbc.ca/news/politics/trudeau-putin-election-interference-1.4587130>; Michael MacDonald and Keith Doucette, “Canadian federal election will be target for Russian interference,” *CTV News* (November 18, 2018), <https://www.ctvnews.ca/politics/canadian-federal-election-will-be-target-for-russian-interference-sajjan-says-1.4182147>.

48 Canadian Centre for Cyber Security, “National Cyber Threat Assessment 2018” (2018), <https://www.cyber.gc.ca/en/guidance/national-cyber-threat-assessment-2018>.

49 Canadian Centre for Cyber Security, “2019 update: Cyber threats to Canada’s democratic process” (2019), <https://www.cyber.gc.ca/en/guidance/2019-update-cyber-threats-canadas-democratic-process> [Canadian Centre for Cyber Security, “2019 update” (2019)].

50 Democratic Institutions, “Speaking Notes for The Honourable Karina Gould Minister of Democratic Institutions for the House of Commons” (May 2019), <https://www.canada.ca/en/democratic-institutions/news/2019/05/speaking-notes-for--the-honourable-karina-gould-minister-of-democratic-institutions-for-the-house-of-commons.html>.

- A foreign adversary had manipulated information on social media to amplify and promote viewpoints highly critical of Government of Canada legislation imposing sanctions and banning travel of foreign officials accused of human rights violations.<sup>51</sup>

CSIS has also provided details about the techniques and tools used by foreign states and their proxies to advance their objectives beyond the cyber techniques, which were heavily commented on in the lead-up to the 2019 election. In 2021, CSIS released a series of public resources meant to raise awareness regarding foreign interference threats to Canadians as well as Canada’s democratic process.<sup>52</sup> In its report entitled “Foreign Interference Threats to Canada’s Democratic Process,” CSIS summarizes the techniques and tools used by foreign states as follows:

Foreign states and their proxies use a range of common techniques to further their objectives. This includes human intelligence operations, leveraging state-sponsored or community media, sophisticated cyber tools, and social media. While these techniques are varied and can be difficult to detect, there are indicators that can help increase individual awareness of these threats to avoid becoming a target.<sup>53</sup>

The report also identified particular techniques by which the Canadian public and voters are targeted by foreign interference, including by:

- Conducting disinformation and interference campaigns on an ongoing basis (i.e., not only during or in the lead-up to an election).<sup>54</sup>
- Targeting and manipulating diaspora communities, which CSIS described as one of the “primary means” through which states carry out foreign interference, with the result that those “communities may fear or resent state-backed or state linked retribution targeting both individuals in Canada and their loved ones abroad.”<sup>55</sup>
- Using threats, bribery or blackmail to influence voting behaviour (including threatening or sowing fear of reprisal if an individual fails to publicly support a favoured candidate or contribute to a preferred party, or using flattery, bribery or some other promise to entice individuals to do so).<sup>56</sup>
- Manipulating the online environment, and in particular social media, to “amplify societal differences, sow discord and undermine confidence in fundamental government institutions or electoral processes.”<sup>57</sup>

51 Canadian Centre for Cyber Security, “2019 update” (2019); Atlantic Council Digital Forensic Research Lab, “Canada and the Kremlin Clash on Magnitsky Act,” *Medium* (October 19, 2017), <https://medium.com/dfirlab/canada-and-the-kremlin-clash-on-magnitsky-act-92dab2cb8808>.

52 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021); CSIS, “Foreign Interference and You” (2021); Canadian Security Intelligence Service, “Protect Your Research - Regional Factsheets” (2021), <https://science.gc.ca/site/science/en/safeguarding-your-research/general-information-research-security/who-are-you-risk/protect-your-research-regional-factsheets>.

53 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 3.

54 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 7.

55 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 7.

56 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 7.

57 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 7.

CSIS also explained how other key stakeholders may be targets of foreign interference:

1. **Elected and Public Officials.** CSIS explained that foreign interference actors may “use deceptive means to cultivate a relationship with electoral candidates or their staff in order to covertly obtain information to be used later to their advantage through, for example, threats and blackmail.”<sup>58</sup> The report goes on to explain that state actors may also engage in longer-term cultivation of elected and public officials in order to see if those relationships can create opportunities down the road to further the state’s interests.<sup>59</sup>
2. **Donors, Lobby/Interest Groups, Community Organizations.** The report explained that donors, lobbyist, interest groups, or community organizations may be targeted to, either wittingly or unwittingly, assist with foreign interference activities that advance the foreign state’s interests. In the case of donors, CSIS noted that some may have connections to foreign states or may be pressured to make donations for a specific candidate; a candidate, in turn, may understand that there are expectations or “strings attached” to the donation that the candidate will act in accordance with the foreign state’s interests.<sup>60</sup>

3. **Media.** CSIS noted that foreign states may attempt to manipulate Canadian media in order to influence public opinion and participation in the democratic process, including through funding and advertisements or the propagation of disinformation or divisive content.<sup>61</sup>

The report identified, at an abstract level, various foreign interference techniques (for example, coercion, elicitation and cultivation) and provides high-level advice on how individuals can avoid being the targets of interference (for example, in order to avoid cultivation, CSIS advises individuals to “be aware and keep track of unnatural social interactions, frequent requests to meet privately, out-of-place introductions or engagements, gifts and offers of all expenses paid travel.”)<sup>62</sup>

In May 2020, NSIRA released a redacted report reviewing CSIS’ use of TRMs “on threats posed by hostile foreign states to Canadian democratic institutions” in 2019.<sup>63</sup> The review was undertaken in the context of the five-year anniversary of the *Anti-Terrorism Act, 2015*, which granted CSIS the authority to undertake TRMs.<sup>64</sup> The report noted CSIS’ first use of its threat reduction powers in the context of an election. While it did not disclose in substance the nature of the TRMs undertaken, it concluded that CSIS met its obligations in conducting the TRMs reviewed, “namely that CSIS consult

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58 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 9.

59 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 8.

60 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 8.

61 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 9.

62 CSIS, “Foreign Interference Threats to Canada’s Democratic Process” (July 2021), at p. 10.

63 National Security and Intelligence Review Agency, “Review of CSIS Threat Reduction Activities” (May 2020), <https://www.nsira-ossnr.gc.ca/wp-content/uploads/Redacted-TRM-Review-e-Updated.pdf>, at p. 4 [NSIRA, “Review Of CSIS Threat Reduction Activities” (May 2020)].

64 S.C. 2015, c. 20, [https://laws-lois.justice.gc.ca/eng/annualstatutes/2015\\_20/FullText.html](https://laws-lois.justice.gc.ca/eng/annualstatutes/2015_20/FullText.html); NSIRA, “Review Of CSIS Threat Reduction Activities” (May 2020), at p. 5.

with its government partners and complete an assessment of the operational, political, foreign relations and legal risks of each TRM.”<sup>65</sup>

**(c) The People’s Republic of China is a “particularly active” Foreign Interference Actor in Canada**

The government has also publicly acknowledged on numerous occasions that the PRC conducts foreign interference activities in Canada, and that, together with Russia, the PRC is are “particularly active.”

In its 2018 Annual Report, NSICOP acknowledged that the PRC was among “a handful of states who conduct espionage and foreign interference activities in Canada,” that the PRC “is known globally for its efforts to influence Chinese communities and the politics of other countries” and that the PRC does this work through “a number of official organizations that try to influence Chinese communities and politicians to adopt pro-China positions, most prominently the United Front Work Department.”<sup>66</sup> NSICOP highlighted that the government had in previous years commented on the occurrence of foreign interference by the PRC:

The Director of CSIS raised concerns about Chinese influence activities against Canadian politicians in 2010, and a former Canadian Foreign and Defence Policy Advisor to the Prime Minister and later Canadian Ambassador to PRC stated in 2017 that PRC used diaspora groups and mobilized Chinese students to influence Canadian politics. In 2016, concerns were raised about wealthy Chinese businessmen with close connections to China’s Communist party making political donations in Canada.<sup>67</sup>

Minister Blair’s December 18, 2020 letter to Parliamentarians named the PRC, Russia, North Korea, and Iran as countries that engaged in foreign interference in Canada, and that Russia and the PRC were “particularly active” foreign interference actors.<sup>68</sup> Similarly, the 2020 National Cyber Threat Assessment identified these four countries as posing “the greatest state-sponsored cyber threats to Canadian individuals and organizations.”<sup>69</sup>

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65 NSIRA, “Review Of CSIS Threat Reduction Activities” (May 2020), at pp. 2, 4.

66 National Security and Intelligence Committee of Parliamentarians, “Annual Report 2018” (April 9, 2019), <https://www.nsicop-cpsnr.ca/reports/rp-2019-04-09/intro-en.html>, at p. 26 [NSICOP, “Annual Report 2018” (April 9, 2019)].

67 NSICOP, “Annual Report 2018” (April 9, 2019), at pp. 26-27; Mike Blanchfield, “Canada should be wary of PRC’s efforts to interfere in its affairs amid pursuit of trade, says former envoy,” *Financial Post* (December 8, 2017), <https://financialpost.com/news/economy/watch-PRCs-efforts-to-influence-as-canada-pursues-trade-says-former-envoy>; Guadalupe Pardo, Robert Fife and Steve Chase, “Trudeau attended cash for access fundraiser with Chinese billionaires,” *The Globe and Mail* (November 22, 2016), <https://www.theglobeandmail.com/news/politics/trudeau-attended-cash-for-access-fundraiser-with-chinese-billionaires/article32971362/>.

68 Public Safety Canada, “Response to the December 18, 2020 motion” (December 18, 2020). Minister Blair also highlighted that it was the Prime Minister who decided that NSICOP’s work should be unclassified and publicly released in order to “specifically name ... [the PRC] and Russia as being particularly active in Canada.”

69 Canadian Centre for Cyber Security, “National Cyber Threat Assessment 2020” (2020), <https://www.cyber.gc.ca/en/guidance/national-cyber-threat-assessment-2020>, at p. 11.



## 2. What Initiatives has the Government Taken to Address Foreign Election Interference?

The government's focus on foreign election interference has intensified since 2017, in the wake of widespread reporting on Russian interference in the 2016 U.S. Presidential elections, as well as the French and German national elections in 2017. Since that time, it has taken steps aimed at addressing foreign interference in Canada's electoral system, under a framework which the government announced in 2019 called the Plan to Protect Canada's Democracy.<sup>70</sup> This section provides a brief overview of the steps taken by the government to address foreign interference since 2017.

### (a) Mandate for Minister of Democratic Institutions and a Policy Framework

In 2017, the Prime Minister provided a mandate letter to then Minister of Democratic Institutions Gould.<sup>71</sup> As part of that mandate letter, the Prime Minister asked Minister Gould to work with the Minister of Public Safety and the Minister of National Defence to lead efforts to protect against cyber threats.

To fulfil that mandate, the government developed and implemented a policy framework to further protect Canada's democracy, electoral process and democratic institutions. This framework was a whole-of-government

effort supporting four objectives, one of which was combatting foreign interference. The plan was first of its kind internationally, and led the co-chair of the Transatlantic Commission on Election Integrity (an organization of democratic governments that tries to protect the integrity of democratic processes), to say that Canada had "taken up the reins as a global leader fighting election interference."<sup>72</sup>

### (b) The Security and Intelligence Threats to Elections Task Force

The Security and Intelligence Threats to Elections (SITE) Task Force consists of officials from the RCMP, CSE, CSIS and GAC. Its mandate is to report on covert, clandestine or criminal activities by foreign actors.<sup>73</sup> As part of its activities, the SITE Task Force provides briefings to the Panel of Five established under the CEIPP (described below), as well as security-cleared representatives of each political party during the election period. The SITE Task Force was established in February 2019 as part of the Plan to Protect Canada's Democracy and was in place for the 2019 and 2021 elections.

### (c) The Critical Election Incident Public Protocol

The CEIPP is a Cabinet Directive that "sets out the ministers' expectations with respect to the general directions and the principles to guide the process for informing the public of an incident that threatens Canada's ability to have a free and fair election" during an election

70 Government of Canada, "Protecting democracy" (September 1, 2021), <https://www.canada.ca/en/democratic-institutions/services/protecting-democracy.html> [Government of Canada, "Protecting democracy" (September 1, 2021)].

71 Prime Minister of Canada Justin Trudeau, "ARCHIVED - Minister of Democratic Institutions Mandate Letter" (February 1, 2017), <https://pm.gc.ca/en/mandate-letters/2017/02/01/archived-minister-democratic-institutions-mandate-letter>.

72 Centre for International Governance Innovation, "New Report Praises Canada's Efforts to Combat Election Interference, but Warns Important Gaps Remain" (June 18, 2019), <https://www.cigionline.org/articles/new-report-praises-canadas-efforts-combat-election-interference-warns-important-gaps/>.

73 National Security and Intelligence Committee and Parliamentarians, "Special report on the National Security and Intelligence Activities of Global Affairs Canada" (June 27, 2022), <https://www.nsicop-cpsnr.ca/reports/rp-2022-11-04/special-report-global-affairs.pdf>, at p. 34.

period, when the Caretaker Convention is in effect (i.e., after Parliament is dissolved and before a new government is sworn in after an election).<sup>74</sup> As described in the Directive, the Caretaker Convention reflects “the principle that the government is expected to exercise restraint in its activities and ‘restrict itself’ in matters of policy, spending and appointments during the election period, except where action is ‘urgent’ and ‘in the national interest.’”<sup>75</sup> The Directive was established in 2019, prior to the 2019 election.<sup>76</sup>

The CEIPP establishes a panel of five senior public servants (the Panel of Five) who are tasked with the responsibility of communicating with Canadians during an election in the event of an incident or incidents that threaten the integrity of a federal election. Outside of the election period, the responsibility for addressing foreign interference falls to the responsible Ministers.

The Panel of Five is comprised of:

- the Clerk of the Privy Council;
- the National Security and Intelligence Advisor to the Prime Minister;
- the Deputy Minister of Justice and Deputy Attorney General;
- the Deputy Minister of Public Safety; and
- the Deputy Minister of Foreign Affairs.<sup>77</sup>

The Panel of Five’s deliberations are informed by intelligence reports and briefings from the SITE Task Force. The CEIPP establishes the process pursuant to which the Panel of Five reviews information about critical election events (including foreign interference activities) and considers whether it is necessary to inform Canadians of an incident that threatens Canada’s ability to have a free and fair election. It is only when this threshold is met (i.e., that the incident threatens Canada’s ability to have a free and fair election) that the processes for alerting the public set out in the CEIPP are engaged.<sup>78</sup>

The CEIPP recognizes that determining whether the threshold is met requires the exercise of “considerable judgment.”<sup>79</sup> It provides the following three factors to ground the exercise of that judgment by the Panel of Five:

- the degree to which the incident(s) undermine(s) Canadians’ ability to have a free and fair election;
- the potential of the incident(s) to undermine the credibility of the election; and
- the degree of confidence officials have in the intelligence or information.<sup>80</sup>

I have interviewed members of the 2019 and 2021 Panels of Five, including the chairs, Senator Shugart and Ms. Charette. They described the extensive preparations that they undertook (including considerable “tabletop”

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74 Government of Canada, “Cabinet Directive on the Critical Election Incident Public Protocol” (August 12, 2021), <https://www.canada.ca/en/democratic-institutions/services/protecting-democracy/critical-election-incident-public-protocol/cabinet.html>, s. 1.0 [Government of Canada, “Cabinet Directive on the CEIPP” (August 12, 2021)].

75 Government of Canada, “Cabinet Directive on the CEIPP” (August 12, 2021), s. 2.

76 Morris Rosenberg, “Report on the assessment of the 2021 Critical Election Incident Public Protocol” (February 2023), <https://www.canada.ca/content/dam/di-id/documents/rpt/CEIPP-rpt-eng.pdf>, at p. 4 [Rosenberg, “Report on the 2021 CEIPP” (February 2023)].

77 Government of Canada, “Cabinet Directive on the CEIPP” (August 12, 2021), s. 4.

78 Government of Canada, “Cabinet Directive on the CEIPP” (August 12, 2021), s. 5.

79 Government of Canada, “Cabinet Directive on the CEIPP” (August 12, 2021), s. 6.

80 Government of Canada, “Cabinet Directive on the CEIPP” (August 12, 2021), s. 6.

exercises in which a PCO official created difficult situations and walked them through how they would have responded). One matter that concerned me was the threshold they were using to intervene, and in particular, whether they saw their role as protecting the “integrity of the election” in terms of an overall result or the integrity of each of the individual elections occurring at the riding level. Each assured me that they had considered the question (both individually and as a group) and understood their role as protecting each individual riding’s election. If they had seen anything that threatened the result in a particular riding and could be credibly traced back to a state actor, they advised me that they would have responded.

They were forthright in pointing out some of the difficulties they faced. They cited examples from both 2019 and 2021, in which there was suspicious activity circulating online, but it could not be traced back to a foreign state.

The CEIPP was subject to review after the 2019 and 2021 elections, including through the reports by James Judd<sup>81</sup> (in 2020, in respect of the 2019 election) and Morris Rosenberg<sup>82</sup> (in 2023, in respect of the 2021 election). Several updates to the CEIPP have been implemented since the 2019 election, including:

- Explicitly permitting the Panel of Five to consult with the Chief Electoral Officer and to receive information and advice from sources other than the national security agencies.

- Clarifying the Panel of Five’s ability to consider potential incidents of interference involving both foreign and domestic malicious actors.<sup>83</sup>

#### **(d) The G7 Rapid Response Mechanism**

At the 2018 G7 Summit in Charlevoix, G7 Leaders announced the establishment of the G7 RRM. The RRM’s stated goal is to enhance collaboration between Canada and its G7 partners in the following areas:

- Building knowledge and capacity to counter foreign threats at national and subnational levels within the RRM and key partners;
- Developing common data analytics tools and methods to identify foreign threats;
- Supporting research to advance a common understanding and approach to foreign information manipulation and interference;
- Strengthening the RRM’s capacity for coordinated response to foreign threats;
- Strengthening collaboration with other international organizations and initiatives, civil society, academia and industry to identify and counter foreign threats;
- Communicating the work of the RRM to the public through annual reports on foreign threats to democracy.<sup>84</sup>

A particular focus of the RRM’s work is on monitoring and countering state-sponsored disinformation.<sup>85</sup>

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81 A long-time retired senior Canadian public servant and CSIS director from 2004 to 2009.

82 A long-time senior Canadian public servant who has served as a Deputy Minister of Justice, Health and Foreign Affairs.

83 Government of Canada, “Protecting democracy” (September 1, 2021).

84 Government of Canada, “Rapid Response Mechanism Canada: Global Affairs Canada” (September 20, 2022), <https://www.international.gc.ca/transparency-transparence/rapid-response-mechanism-mecanisme-reponse-rapide/index.aspx?lang=eng> [Government of Canada, “RRM” (September 20, 2022)].

85 Government of Canada, “RRM” (September 20, 2022).

As part of the RRM, the government established Rapid Response Mechanism Canada (RRM Canada) as the permanent secretariat to the RRM. In this role, RRM Canada leads the RRM efforts for the G7. It also supports Canada's efforts to monitor and respond to foreign state-sponsored disinformation online.

During election periods, RRM Canada acts as an early warning system for the SITE Task Force. Separately, RRM Canada also provides open-source data analytics about threats to democracy on an ongoing basis.<sup>86</sup>

### **(e) The Digital Citizen Initiative**

The Digital Citizen Initiative is a strategy aimed at building citizen resistance to online misinformation and disinformation and establishing partnerships with civil society organizations aimed at supporting a healthy information ecosystem. As part of this program, Heritage Canada provided \$7 million in 2019-2020 to projects provided by Canadian civil society organizations aimed at informing Canadians about online disinformation, reinforcing their resilience against it, and encouraging Canadians to participate in the democratic process.<sup>87</sup> The Digital Citizen Initiative also supports research aimed at bolstering resilience to misinformation and disinformation and developing “principles for the diversity of content online in order to reinforce democratic and citizen resilience.”<sup>88</sup>

### **(f) The National Security and Intelligence Committee of Parliamentarians**

In 2017, Parliament established NSICOP through the passage of the *National Security and Intelligence Committee of Parliamentarians Act (NSICOP Act)*.<sup>89</sup> NSICOP provides a forum for Members of Parliament of all recognized political parties and Senators with Top Secret clearance to review matters relating to national security and intelligence. NSICOP's mandate is to review:

- The legislative, regulatory, policy, administrative and financial framework for national security and intelligence;
- Any activity carried out by a department that relates to national security or intelligence, unless the activity is an ongoing operation and the appropriate Minister determines that the review would be injurious to national security; and
- Any matter relating to national security or intelligence that a minister of the Crown refers to the Committee.<sup>90</sup>

As part of its mandate under the *NSICOP Act*, NSICOP conducts two main types of reviews:

- A “framework review” reviews the legislative, regulatory, policy, administrative and financial framework for national security or intelligence.
- An “activity review” reviews activity carried out by an organization relating to national security or intelligence. These reviews may

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86 Government of Canada, “RRM” (September 20, 2022).

87 Government of Canada, “Digital Citizen Initiative - Online disinformation and other online harms and threats” (March 20, 2023), <https://www.canada.ca/en/canadian-heritage/services/online-disinformation.html> [Government of Canada, “Digital Citizen Initiative” (March 20, 2023)].

88 Government of Canada, “Digital Citizen Initiative” (March 20, 2023).

89 S.C. 2017, c. 15, <https://laws-lois.justice.gc.ca/eng/acts/N-16.6/FullText.html> [*NSICOP Act*].

90 National Security Intelligence Committee of Parliamentarians, “About” (2023), <https://www.nsicop-cpsnr.ca/about-a-propos-de-nous-en.html>.

focus on a particular government agency or organization, and may also look at how those agencies work together or review issues of concern to multiple agencies.<sup>91</sup>

In addition to these two types of reviews, NSICOP may also conduct a “referral review,” which is a review of any matter relating to national security and intelligence referred to it by a Minister.<sup>92</sup>

NSICOP is an agency of the executive branch reporting to the Prime Minister, but it is made up of elected parliamentarians from all parties with party status in the House of Commons, and an independent member of the Senate. In addition to the regular reports that it provides to the Prime Minister on an annual basis, NSICOP also issues special reports on particular areas of interest that fall under its review mandate. It provides those reports on a classified basis to the Prime Minister and provides versions of the reports to the public, with the classified information redacted.<sup>93</sup> As indicated below, in March 2023 the Prime Minister asked NSICOP to conduct a review and report on the state of foreign election interference in Canada. That work is ongoing and represents a continuation of the work it undertook in a previous review of the government’s response to foreign interference between 2015 and 2018, which it provided to Parliament in 2020.<sup>94</sup>

### (g) *The National Security and Intelligence Review Agency*

On July 19, 2019, Parliament established NSIRA through the *National Security and Intelligence Review Agency Act (NSIRA Act)*.<sup>95</sup> The NSIRA consists of a Chair (currently former Justice of the Supreme Court of Canada, the Honourable Marie Deschamps), and three to six independent members, all of whom are appointed by the Governor-in-Council on the recommendation of the Prime Minister. The *NSIRA Act* provides that such recommendations are to be made by the Prime Minister only after consultation by the Prime Minister with:

- the Leader of the Government in the Senate or Government Representative in the Senate and the Leader of the Opposition in the Senate;
- the Leader or Facilitator of every recognized party or parliamentary group in the Senate;
- the Leader of the Opposition in the House of Commons; and
- the leader in the House of Commons of each party having at least 12 members in that House.<sup>96</sup>

NSIRA’s statutory mandate is to review the government’s national security and intelligence activities in an integrated manner. This includes the power to review the activities of CSIS and CSE, and the national security and intelligence activities of all other federal departments and

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91 *NSICOP Act*, s. 8(1); *National Security and Intelligence Committee of Parliamentarians*, “Frequently Asked Questions” (2023), <https://www.nsicop-cpsnr.ca/faq-en.html> [NSICOP, “FAQ” (2023)].

92 *NSICOP Act*, s. 8(1); NSICOP, “FAQ” (2023).

93 *National Security and Intelligence Committee of Parliamentarians*, “Reports” (2023), <https://www.nsicop-cpsnr.ca/reports-rapports-en.html>.

94 *National Security and Intelligence Committee of Parliamentarians*, “National Security and Intelligence Committee of Parliamentarians launches review of Foreign Interference in Canada’s Democratic Processes” (March 8, 2023), <https://www.nsicop-cpsnr.ca/press-releases/pr-cp-2023-03-08/pr-cp-2023-03-08-en.html>.

95 S.C. 2019, c. 13, s. 2, <https://laws-lois.justice.gc.ca/eng/acts/N-16.62/FullText.html> [NSIRA Act].

96 *NSIRA Act*, s. 4(2).

agencies (including, but not limited to: the RCMP, the Canada Border Services Agency, the Department of National Defence, GAC, and DOJ).<sup>97</sup> Previously, each national security and intelligence agency had its own review body that reviewed each agency separately. That framework did not provide for an integrated review of government security and intelligence activities.

In order to fulfil its statutory mandate, NSIRA may receive any information held by federal entities that NSIRA deems relevant, including classified and legally privileged information, with the exception of information classified as Cabinet Confidence.<sup>98</sup>

In the course of its reviews, NSIRA may make any finding or recommendation to the government that it considers appropriate. This includes findings or recommendations relating to a department's compliance with the law and any applicable ministerial directions and the reasonableness and necessity of a department's exercise of its powers.<sup>99</sup>

In March 2023, the Prime Minister asked NSIRA to conduct a review and report on the state of foreign election interference in Canada. He already gave that mandate to NSICOP. They have stated that they intend to coordinate with one another in carrying out this work.

### **(h) 2022 Policy Framework**

In 2022, the government continued its work examining options to protect five priority sectors when faced by activities by state actors that could be considered hostile. These were: democratic processes and institutions, communities, economic prosperity, international

affairs and defence, and critical infrastructure, including establishing a National Counter Foreign Interference Coordinator at the Department of Public Safety, a foreign agent registry, potential amendments to the *CSIS Act*, the *Security of Information Act (SOIA)*, and the *Criminal Code of Canada*. Various Ministers and their departments have been working on implementation through 2022 and into 2023. For instance, the National Counter Foreign Interference Coordinator, Sébastien Aubertin-Giguère, was appointed in the summer of 2022.

### **(i) 2023 Initiatives**

In March 2023, the Prime Minister's Office announced the following additional measures:

- A review by NSICOP of the state of foreign interference in federal electoral processes – NSICOP has provided us with their confidential Terms of Reference, which has given me confidence that they are carefully reviewing this issue;
- A review by NSIRA of how Canada's national security agencies handled foreign interference during the 43<sup>rd</sup> (2019) and 44<sup>th</sup> (2021) federal general elections;
- Launching public consultations relating to the creation of a Foreign Influence Transparency Registry;
- Establishing a National Counter Foreign Interference Coordinator in Public Safety Canada;
- Issuing a Ministerial Directive requiring CSIS to “seek, wherever possible within the law and while protecting the security and integrity of national security and intelligence

97 National Security and Intelligence Review Agency, “What We Do” (2023), <https://nsira-ossnr.gc.ca/what-we-do>.

98 National Security and Intelligence Review Agency, “All Government of Canada national security and intelligence activities now subject to independent expert review” (July 17, 2019), <https://nsira-ossnr.gc.ca/all-government-of-canada-national-security-and-intelligence-activities-now-subject-to-independent-expert-review>.

99 *National Security and Intelligence Review Agency Act*, S.C. 2019, c. 13, s. 2, <https://laws-lois.justice.gc.ca/eng/acts/N-16.62/FullText.html>, s. 8(3).

operations and investigations, to ensure that parliamentarians are informed of threats to the security of Canada directed at them.”<sup>100</sup>

- Developing a plan to address outstanding recommendations from NSICOP, the Rosenberg Report (defined below), and other reviews on foreign interference (outlined in an April 6, 2023 report by the Honourable Dominic LeBlanc, Minister of Intergovernmental Affairs, Infrastructure and Communities, and Janice Charette, Clerk of the Privy Council and Secretary to the

Cabinet entitled “Countering an Evolving Threat: Update on Recommendations to Counter Foreign Interference in Canada’s Democratic Institutions,” discussed in more detail below);<sup>101</sup> and

- Investing \$5.5 million in the Canadian Digital Media Research Network.<sup>102</sup>

The government has continued to take a number of initiatives to deal with the rapidly evolving foreign interference threat and protecting and preserving democratic institutions continues to be a clear priority.

## VII. The Elections of 2019 and 2021

In considering the sufficiency of the government’s response to foreign interference, a significant part of my mandate is to consider the elections of 2019 and 2021. I have addressed above the major allegations of specific incidents of foreign interference above. But it is important to report to Canadians how the CEIPP operated in the elections of 2019 and 2021, as it reflects how the government’s protective measures worked in practice.

As I describe in more detail below, major components of the CEIPP have already been assessed by independent examiners. I will summarize those reports and their conclusions below to provide some necessary background

on the elections of 2019 and 2021, the government’s response to it, and what others have concluded about the government’s response. This does not mean that I necessarily endorse or adopt the conclusions or recommendations set out in those reports. Where I intend to draw conclusions about facts or make recommendations, I will make that clear. Further, many of the issues raised by the conclusions and recommendations in the reports summarized below are policy matters that I will address in the second part of my mandate.

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100 Public Safety Canada, “Ministerial Direction” (May 16, 2023).

101 Dominic LeBlanc and Janice Charette, “Countering an Evolving Threat: Update on Recommendations to Counter Foreign Interference in Canada’s Democratic Institutions” (April 5, 2023), <https://www.canada.ca/content/dam/di-id/documents/rpt/rapporteur/Countering-an-Evolving-Threat.pdf> [LeBlanc and Charette, “Countering an Evolving Threat” (April 5, 2023)].

102 Prime Minister of Canada Justin Trudeau, “Taking further action on foreign interference and strengthening confidence in our democracy” (March 6, 2023), <https://pm.gc.ca/en/news/news-releases/2023/03/06/taking-further-action-foreign-interference-and-strengthening>; Prime Minister of Canada, “ISR Announcement” (March 15, 2023).

## 1. The 2019 Election

The 43<sup>rd</sup> general election was held on October 21, 2019.<sup>103</sup> The writ period lasted 41 days, from September 11, 2019 until election day.<sup>104</sup>

The LPC maintained government status by winning a plurality of 157 seats. The CPC finished with 121 seats, the Bloc with 32 seats, the NDP with 24 seats, the Green Party with three seats, and one independent candidate won a seat.<sup>105</sup>

The CEIPP was first implemented before the 2019 federal election. It was announced at the start of the year, with the Cabinet Directive establishing the CEIPP released on July 9, 2019. The Panel of Five had been meeting since May 2019 in preparation for the election.<sup>106</sup>

The Panel of Five did not find it necessary to intervene during the election, as they did not conclude that there were any threats that met the threshold.

The CEIPP's implementation in the 2019 election was reviewed by a senior civil servant, Jim Judd, who provided a report released in May 2020 (the Judd Report). The Judd Report provided context about foreign interference in Canada and internationally from 2016 up until after the 2019 federal election, then assessed the procedural aspects of the implementation

of the CEIPP.<sup>107</sup> The Judd Report did not assess the outcome of any Panel of Five decision-making.<sup>108</sup> He also only had access to information up to the Secret, not Top Secret, level.<sup>109</sup>

The Judd Report concluded that the CEIPP was successfully implemented, and that while the Panel of Five did not intervene to alert the public to an incidence of interference, it had been ready to do so if needed.<sup>110</sup> In so finding, Mr. Judd identified a number of challenges faced in implementing the CEIPP in 2019 (though he did not find that any of these challenges prevented the Panel of Five from discharging its mandate):

- ***The first of its kind.*** The Judd Report noted that the CEIPP was a uniquely Canadian invention and was therefore “effectively an experiment never before seen in the Canadian context and without any international analog from which to draw comparisons or lessons.”<sup>111</sup>
- ***Time constraints.*** The Judd Report noted that there were two principal timing issues in implementing the CEIPP. First, there was relatively little time to prepare the Panel of Five between its constitution and the election. Second, and fundamentally, the election campaign's 50-day timeline

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103 Elections Canada, “43<sup>rd</sup> General Election – October 21, 2019” (May 6, 2023), [https://www.elections.ca/content.aspx?section=ele&document=index&dir=pas/43ge&lang=e\\_](https://www.elections.ca/content.aspx?section=ele&document=index&dir=pas/43ge&lang=e_).

104 Office of the Chief Electoral Office of Canada, “Report on the 43<sup>rd</sup> General Election of October 21, 2019” (February 2020), [https://www.elections.ca/res/rep/off/sta\\_ge43/stat\\_ge43\\_e.pdf](https://www.elections.ca/res/rep/off/sta_ge43/stat_ge43_e.pdf), at p. 24.

105 The Globe and Mail, “Election 2019 Results” (2022), <https://www.theglobeandmail.com/politics/federal-election/2019-results/>.

106 Jim Judd, “Report on the Assessment of the Critical Election Incident Public Protocol” (May 2020), <https://www.canada.ca/content/dam/di-id/documents/ceipp-eng.pdf>, at p. 18 [Judd, “Report on the 2019 CEIPP” (May 2020)].

107 Judd, “Report on the 2019 CEIPP” (May 2020), at pp. 3-11.

108 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 1.

109 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 1.

110 Judd, “Report on the 2019 CEIPP” (May 2020), at pp. 20-21.

111 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 16.



meant that the Panel of Five would need to exercise its judgment quickly and in a dynamic environment, “in the rapidly evolving circumstances of political campaigning and the 24/7 world of news and social media.”<sup>112</sup>

- **Understanding and applying the threshold.** Because the threshold under the CEIPP is qualitative in nature, the Judd Report noted that the application of the threshold did not easily lend itself to “quantifiable metrics” that would trigger it.<sup>113</sup> This required the Panel of Five to make judgment calls based on the context of the interference. The Panel of Five also required consensus in order to take any decision to alert the public during the writ period.<sup>114</sup>
- **The problem of imperfect information and the diversity of interference.** Lastly, the Judd Report identified imperfect information and the potential diversity of the sources and types of interference as particular challenges to be addressed by the Panel of Five.<sup>115</sup> He noted that the Panel of Five would have to assess information that was incomplete and would be considering interventions by a host of hostile actors (foreign state and non-state actors, and even domestic actors intending to disrupt the electoral process).<sup>116</sup> He noted the particular problem (a problem which I have also recognized earlier in this report)

of determining whether social media posts are purely domestic in origin or whether they are foreign interference that has been “cloaked to present themselves as being of domestic origin.”<sup>117</sup>

- **The demands of multiple roles.** The Judd Report noted that, during the election period when they were serving on the Panel of Five, the members were also expected to continue addressing the daily responsibilities of their offices as they had in the pre-writ period.<sup>118</sup> Mr. Judd also noted that for three Deputy Ministers on the Panel of Five who were relatively new to their positions at the time of the election, this effectively meant “they were on a double learning curve” in discharging their obligations under the CEIPP.<sup>119</sup>

The Judd Report reviewed the activities of the Panel of Five, beginning with its first meeting in May 2019. Deliberations focused on the following topics:

- Achieving a common understanding of the CEIPP and its elements and especially the threshold for intervention by the Panel of Five.
- Becoming familiar with the roles, responsibilities, operations and personalities of key officials and agencies (Chief Electoral Officer and Elections Canada, the Commissioner of Canada Elections and the security agencies).

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112 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 16.

113 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 16.

114 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 16.

115 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 16.

116 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 16.

117 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 16.

118 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 17.

119 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 17.

- Understanding the potential foreign interference threats in respect of the electoral process, including the possible role of malign domestic actors, and the role that social media platforms might play in enabling these activities.
- Assessing the relationship between an act of interference and its potential or actual impact on the election and voters, (as well as the possible impact of an intervention by the Panel of Five during the writ period).
- Arriving at a common understanding of what the baseline was in Canada for ongoing foreign interference activities (cyber and traditional). The Judd Report suggests that the Panel of Five operated on the assumption that this would be the constant level of interference going forward, and that “new attacks above that level would therefore require particular scrutiny.”<sup>120</sup>
- Developing team-building and consensus decision-making capacities.<sup>121</sup>

The Judd Report notes that the threshold and its application “became an ongoing focus of debate and discussion in the Panel” from its first meeting throughout the writ period, and that these discussions “elicited different perspectives and considerations all of which

helped inform views on the threshold and the circumstances which might prompt the Panel to intervene.”<sup>122</sup> These discussions were informed, in part, by daily amalgamated multi-source intelligence and social media assessments provided by the SITE Task Force.<sup>123</sup>

It concluded that the Panel of Five did not have to intervene in the 2019 election which was “good news,” and that “[o]n the whole the implementation of the Protocol had been successful.”<sup>124</sup>

As a result of its review, the Report also made the following recommendations:

- That the operation of the CEIPP expand to include writ and pre-writ periods, though Mr. Judd recognized this would not be possible in the event of an election triggered by a vote of no confidence;<sup>125</sup>
- Prepare the Panel of Five earlier, especially new members;<sup>126</sup>
- Have an appropriate media strategy;<sup>127</sup>
- Monitor developments in the occurrence of foreign interference and the countermeasures taken internationally;<sup>128</sup>
- Review academic and think tank research on election interference;<sup>129</sup>

120 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 18.

121 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 18.

122 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 19.

123 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 19.

124 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 21

125 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 22.

126 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 23.

127 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 23.

128 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 23.

129 Judd, “Report on the 2019 CEIPP” (May 2020), at p. 23.

- Collaborate with political parties to provide cyber security guidance and access to classified intelligence related to potential interference threats;<sup>130</sup> and
- Evaluate partnerships with social media platforms to combat foreign interference.<sup>131</sup>

We understand that the government implemented these suggestions, except for extending the CEIPP to the pre-writ period, as it was assessed that it is only appropriate for the Panel of Five to operate when the Caretaker Convention is in effect. Prior to that, Ministerial responsibility is in place.

## 2. The 2021 Election

The 44<sup>th</sup> general election was an election triggered when the Prime Minister requested the Governor-General to dissolve Parliament. The election was held on September 20, 2021, with a writ period of 37 days, starting on August 15, 2021.<sup>132</sup>

The LPC retained the government, winning 160 seats. The CPC kept 119 seats, the Bloc Quebecois had 32 seats, the NDP had 25 seats, and the Green Party had two seats.<sup>133</sup>

The election occurred in the midst of the COVID-19 pandemic, an issue that brought out domestic malign actors. The elections discourse

was flooded with misinformation about public health measures (like vaccine requirements) and government restrictions.<sup>134</sup> There was an increase in anti-government sentiment, and in particular violence and threats of violence towards party leaders, campaigns, and election officials.<sup>135</sup>

A number of changes to the CEIPP were rolled out in advance of the 2021 election. First, given the threat posed by domestic actors, the CEIPP, which previously focused on vulnerability to foreign interference, now included domestic actors (a reflection of the fact that domestic actors were understood to be the source of disinformation in the 2020 US election).<sup>136</sup> Political parties were also briefed by security agencies, and the parties could alert the agencies of any incidents they felt could threaten the integrity of the election.<sup>137</sup> The CEIPP was also changed to explicitly allow the Panel of Five to consult with the Chief Electoral Officer as appropriate and so that the Panel of Five could, at their discretion, receive information from sources other than the SITE Task Force and the security agencies.<sup>138</sup>

The CEIPP's implementation in respect of the 2021 election was reviewed by a retired senior civil servant, Morris Rosenberg, in a report released in February 2023 (the Rosenberg Report). In order to prepare his report,

130 Judd, "Report on the 2019 CEIPP" (May 2020), at p. 24.

131 Judd, "Report on the 2019 CEIPP" (May 2020), at p. 24.

132 Office of the Chief Electoral Officer of Canada, "Report on the 44<sup>th</sup> General Election of September 20, 2021" (2022), [https://www.elections.ca/res/rep/off/sta\\_ge44/stat\\_ge44\\_e.pdf](https://www.elections.ca/res/rep/off/sta_ge44/stat_ge44_e.pdf), at p. 15.

133 The Globe and Mail, "Canada 2021 federal election results by riding" (2022), <https://www.theglobeandmail.com/politics/federal-election/2021-results/>.

134 Rosenberg, "Report on the 2021 CEIPP" (February 2023), at p. 13.

135 Rosenberg, "Report on the 2021 CEIPP" (February 2023), at p. 13.

136 Rosenberg, "Report on the 2021 CEIPP" (February 2023), at p. 13.

137 Rosenberg, "Report on the 2021 CEIPP" (February 2023), at pp. 22, 39.

138 Rosenberg, "Report on the 2021 CEIPP" (February 2023), at pp. 22, 39.

Mr. Rosenberg conducted interviews with relevant government officials (including all members of the 2021 Panel of Five), representatives of major political parties, civil society, academics, and social media platforms.<sup>139</sup> Mr. Rosenberg was also given access to briefing material prepared for the Panel of Five, as well as Canadian government documents.<sup>140</sup>

The Rosenberg Report concluded that there had not been “large scale foreign interference along the lines of Russian actions in the 2016 U.S. election” in Canada in the 2019 or 2021 federal elections.<sup>141</sup> There had been “efforts” of foreign interference, as well as the occurrence of domestic interference, but they did not meet the threshold for the Panel of Five taking action as established in the CEIPP.<sup>142</sup>

On the key issue of determining when the threshold had been met, the Rosenberg Report observed that there were several qualitative standards articulated in the CEIPP, none of which was objectively quantifiable.<sup>143</sup> In particular, Mr. Rosenberg took issue with this guidance in section 6.0 of the CEIPP: “ultimately, it is the impact of the incident on Canada’s ability to have a free and fair election that is at issue in the determination of whether the threshold has been met, and if a public announcement is required.”<sup>144</sup> He observed that officials may have a high degree of confidence in the veracity of a particular piece of intelligence, but still not be in a position to ascertain its impact during the brief writ period:

The challenge of measuring impact was highlighted in public commentary examining pro-Beijing disinformation campaigns targeting Conservative candidates. Were Conservative losses in several ridings with large Chinese diaspora communities due to attacks on the Conservative platform and on one of its candidates by media associated with or sympathetic to the Chinese government? Or were they the result of the Conservatives simply not being able to connect with sufficient numbers of voters in those communities?<sup>145</sup>

The report made 16 recommendations, including addressing the following issues:

- How the Panel of Five was prepared for the election;
- The structure of the CEIPP, including exploring whether announcements should be made even if the threshold is not met;
- Improving the government’s communication strategy, such as by announcing plans to safeguard the election a year after the most recent election, acknowledging that interference can occur prior to elections and specifying who exactly addresses interference outside of the writ period, emphasizing the full range of activities occurring under the CEIPP that do not meet the threshold, and clarifying that both foreign and domestic actors are included in their assessment;

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139 Rosenberg, “Report on the 2021 CEIPP” (February 2023), at p. 4.

140 Rosenberg, “Report on the 2021 CEIPP” (February 2023), at p. 4.

141 Rosenberg, “Report on the 2021 CEIPP” (February 2023), at p. 42.

142 Rosenberg, “Report on the 2021 CEIPP” (February 2023), at p. 42.

143 Rosenberg, “Report on the 2021 CEIPP” (February 2023), at p. 42.

144 Rosenberg, “Report on the 2021 CEIPP” (February 2023), at p. 52.

145 Rosenberg, “Report on the 2021 CEIPP” (February 2023), at pp. 33-34.

- Providing political party representatives with secure briefings and Members of Parliament with unclassified briefings; and
- Assessing the capacity of the intelligence agencies to provide adequate security during elections and decisions involving TRMs during the writ period.<sup>146</sup>

After the election was over, representatives of the CPC complained to the PCO's Security and Intelligence Secretariat about foreign interference costing the party seats. There was particular concern about information circulating on WeChat about Mr. O'Toole's posture on China, largely replicating an article from the Hill Times (a legitimate Canadian news source). The CPC provided some information to the PCO, which in turn provided it to the SITE Task Force to investigate. The SITE Task Force's conclusion was that, although information had been circulating, it was unable to tie it to a state-sponsored source, and it was unclear whether the amplification was organic (i.e., people on WeChat sharing the article because it was of interest) or part of an orchestrated campaign. Mr. O'Toole continued to assert over the next several months that PRC interference cost the party eight or nine seats. As explained in my section on my conclusions, it is hard to accept this assertion, which has been rejected by the SITE Task Force and the 2021 Panel.

Moreover, even Mr. O'Toole's campaign team questioned the impact of foreign interference. On April 25, 2023, Mr. O'Toole's campaign manager, Fred DeLorey, told PROC: "Obviously, we didn't do as well with Chinese Canadians as we hoped to do in certain ridings.... [w]as it interference or was it our hardline approach?"<sup>147</sup> While the

answer to this is inherently unknowable, since we cannot know who voted or why, it raises a legitimate point, which is that there is certainly a possibility that some part of the Chinese Canadian community did not agree with the CPC's position on China. This is not foreign interference; it is the democratic process.

### 3. Preparing for the Next Election: The LeBlanc-Charette Report

On April 5, 2023, the Minister of Intergovernmental Affairs, Infrastructure and Communities (Minister LeBlanc) and the Clerk of the Privy Council and Secretary to the Cabinet (Ms. Charette) published a progress update on the government's implementation of recommendations made in various reports, including the Judd and Rosenberg reports (the LeBlanc-Charette Report).<sup>148</sup>

The recommendations from the Judd Report were all implemented except for allowing the CEIPP to operate outside of the writ period. The LeBlanc-Charette Report explained that this recommendation was not adopted so as to not interfere with the existing ability of Ministers to address the issue of foreign interference.<sup>149</sup>

Since the Rosenberg Report was released not long before the LeBlanc-Charette Report, the government was at the time of its release (and remains) in the process of reviewing the possibilities of implementing many of the recommendations. However, the government has stated that there will be changes to the communication strategy related to foreign interference, and the security recommendations in the report were all accepted.<sup>150</sup>

<sup>146</sup> Rosenberg, "Report on the 2021 CEIPP" (February 2023), at pp. 46-47.

<sup>147</sup> Standing Committee on Procedure and House Affairs, 44<sup>th</sup> Parliament, 1st Session, No. 065, Testimony of Fred Delorey (April 25, 2023), <https://www.ourcommons.ca/DocumentViewer/en/44-1/PROC/meeting-65/evidence>.

<sup>148</sup> LeBlanc and Charette, "Countering an Evolving Threat" (April 5, 2023).

<sup>149</sup> LeBlanc and Charette, "Countering an Evolving Threat" (April 5, 2023), at p. 4.

<sup>150</sup> LeBlanc and Charette, "Countering an Evolving Threat" (April 5, 2023), at pp. 6-7, 20-23.

## VIII. Conclusions

My mandate for my first report is to determine whether any further public process is required. My short answer is yes. I plan to hold a series of public hearings with Canadians (particularly from affected communities), government officials (including retired officials), knowledgeable experts, and other interested parties to discuss foreign interference, its effects on diaspora communities, and policy and governance improvements that could be made to improve the government's response to it. I hope and believe that these public hearings will continue to shine a spotlight on the problem of foreign interference, provide public education about the threat of foreign interference, and provide a better foundation of information which I can use to make policy and governance recommendations for improvement. I also hope these hearings will accelerate government policy development to address foreign interference, stressing both the importance and urgency of action.

These hearings will not focus on “who knew what and what did they do about it.” I have examined these issues, drawn conclusions, and provided as much information as possible to the public, as well as in a confidential annex to be viewed by the Prime Minister and members of Cabinet (as well as officials or Opposition Leaders with the requisite security clearance). I also recommend the Prime Minister refer my report, including the confidential annex, to the chairs of NSICOP and NSIRA so those bodies can review my conclusions and advise the Prime Minister, Parliament and the public if they disagree.

I carefully considered whether an inquiry under the *Inquiries Act* could help enhance public trust in our electoral process, over and above the work I have done. When I was first appointed, my preliminary view was that I was very likely to

recommend a Public Inquiry. But my conclusion is that, in light of the material and information that would lie at the heart of any inquiry, it could not be done in public. Rather, a “public inquiry” would necessarily be done in private and largely replicate the process I have undergone, and not advance the goals of transparency or trust any further than I have taken them and raise expectations that will ultimately be disappointed.

I have reached this conclusion in full appreciation both of our tradition of calling public inquiries to deal with difficult issues, and the significant benefits that they have brought to Canada, including (most recently) the Public Order Emergency Commission led by Justice Paul Rouleau that held hearings through 2022. Public Inquiries are valuable institutions and, in the right situation, should continue to be used so that Canadians can see and assess situations with their own eyes, and hear from the various people who were involved. But as I explain below, an Inquiry into the issues that have been referred to me would not do any of these things. Instead, I would be handing off a problem to someone else, without solving it, or even providing a process by which the problem could be solved. This would prolong, but not enhance, the process.

I explain my reasoning below, with reference to the question of what is a Public Inquiry, what I have done to investigate the allegations, and the limits of a Public Inquiry to address the matters at issue publicly.

### 1. What is a Public Inquiry?

Under the *Inquiries Act*, the federal government may appoint a Commissioner of Inquiry and provide them with terms of reference “concerning any matter connected with the good government of Canada or the conduct of

any part of the public business thereof.”<sup>151</sup> Once appointed, the Commissioner has the power to summon witnesses and require the production of documents.<sup>152</sup> This is all to ensure that they can obtain the necessary evidence to thoroughly investigate whatever issue has been referred.

Inquiries do not lead to criminal or civil liability. Rather, the point of an Inquiry is public transparency. This is accomplished by holding public hearings and drawing on expert advice so that Canadians themselves can see and hear the evidence about what is at issue, and compare it with the Commissioner’s conclusions.

While Public Inquiries have a long and rich history in Canada, they are not, and should not be, set up without good cause. They are not especially efficient processes for discerning facts. By their nature, they are expensive and lengthy, often extending for years. Counsel to the commission call witnesses, who are subject to cross-examination by other parties. The process is dominated by lawyers, and tends to become quasi-adversarial. When governments appoint public inquiries it is because they believe that the need for public transparency outweighs the inefficiencies caused by this process. While some public inquiries have an *in camera* component, it would be highly unusual to order a Public Inquiry that would be conducted almost entirely *in camera*. That would defeat its primary purpose, which is public accountability through transparency.

## 2. What Have I Done to Investigate the Allegations?

I was appointed with TOR that asked me to assess a number of different questions. For the purpose of this report, and the question of whether a Public Inquiry is required, I have

primarily focused on the extent and impact of foreign interference in Canada’s electoral processes as reported in the media, the government’s response (including CSIS, the PCO, the 2019 and 2021 Panels of Five, and other agencies and officials), the extent to which this was briefed up to the Prime Minister, Ministers, Cabinet and Minister’s Offices (including PMO), and their responses.

The work the ISR team has done to answer these questions could not be replicated in a public forum. The government has made available to the ISR team a considerable amount of public information on foreign interference, but the overwhelming amount of it is highly classified documents including raw and analyzed intelligence, government reports and memos. I have received classified briefings and conducted highly sensitive interviews with government officials, including numerous meetings with the Director of CSIS and the Chief of CSE, the NSIA, as well as people who report to them, and their foreign interference specialists. These documents and interviews have been extremely instructive. They shed considerable light on the questions listed above, but this process could not have occurred in public. I and the entire ISR team had to obtain Top Secret security clearances just to see the material, be briefed and conduct the interviews. Now that I have reviewed it, I understand why it is treated so sensitively: foreign adversaries would readily discern sources and methods from this information. It could endanger people. It can neither be made public in its current form, nor usefully be aggregated to a level that could be made public. That said, the documents we have seen and the information we have received have been very useful, indeed essential, for the purpose of drawing judicious conclusions.

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151 R.S.C., 1985, c. I-11, <https://laws-lois.justice.gc.ca/eng/acts/I-11/FullText.html>, s. 2 [*Inquiries Act*].

152 *Inquiries Act*, s. 4.

### 3. The Limits on a Public Inquiry

As I indicated above, when I was appointed Special Rapporteur, I began with an inclination towards recommending a Public Inquiry. However, as I have undertaken the review process, I asked myself repeatedly what purpose a Public Inquiry could serve for Canadians in light of the restrictions on the material that would need to be before the Commissioner. I have concluded it would not serve a useful purpose to enhance trust.

A Public Inquiry would not be, in any material way, public. A commissioner would be in the exact same position I am in: reviewing material in private, speaking to witnesses in private, and ultimately providing the public with conclusions that do not cite much by way of specific evidence. This would be unsatisfying, just as my process is unsatisfying, because it cannot be done in public. But two unsatisfying processes are not going to satisfy. A Public Inquiry would delay but not prevent the inevitable grappling that Canadians (as well as media and Parliamentarians without a security clearance) will need to do with the fact that they are not going to see the intelligence, they are not going to see the internal memoranda, and they are not going to hear from the security agencies in any detailed way. This is in many ways unfortunate, but it is necessary to protect our national security, the sources our intelligence agencies rely on, and our obligations to the Five Eyes partners.

### 4. Mechanisms for Transparency and Oversight

Because our government is acting on our behalf as citizens and with the goal of trust, transparency is the rule, and secrecy is the exception. We want to, and are largely entitled to, see what the government does in our names. However, permitting the government to maintain secrecy in matters of national security is a trade-off we make as citizens. Intelligence makes us safer but could not be gathered if

it were all made public. No one would be a source and in fact the lives of existing sources would be imperiled, and methods would be compromised shortly after they are developed. We could not participate in the Five Eyes relationship, as our allies would be unwilling to share intelligence if it was all being made public. And the intelligence we gathered would not be useful if our adversaries could see it, for obvious reasons. For all these reasons, Parliament has passed the *SOIA*, which protects various types of information from public disclosure.

However, because transparency is the rule and secrecy the exception, Parliament has put in place important oversight mechanisms so that government action can be reviewed. Two mechanisms in particular are relevant to my mandate: NSICOP and NSIRA, and I believe they are vital to restoring the role of Parliament as a vigilant overseer and the instrument of trust.

#### (a) NSICOP

The 2017 *NSICOP Act* set up a committee of Parliamentarians that has access to classified information. Its purposes are set out in section 8 of the *NSICOP Act*, as explained above.

NSICOP is currently constituted of four LPC MPs (including its chair, Mr. McGuinty), two CPC MPs, one Bloc MP, one NDP MP and an independent senator, all of whom have sufficient security clearances to view a comprehensive range of material and are bound, by law, to maintain its secrecy.

#### (b) NSIRA

The 2019 *NSIRA Act* sets up a review agency of respected Canadians who are knowledgeable in matters of national security. Its mandate is set out in the *NSIRA Act*, as explained above.

*NSIRA* is currently chaired by the Honourable Marie Deschamps, a judge who served over 20 years on our courts, including on the Supreme Court of Canada. Other members



are a law professor, a law Dean, a former NSIA who served Prime Minister Harper, a practicing lawyer, and an entrepreneur. They also have the relevant security clearances.

### **(c) An Important Role for NSICOP and NSIRA**

NSICOP and NSIRA exist to bridge the divide between the need for government transparency in a democratic society and the need to keep matters secret for the purposes of national security. They are statutory agents who work on Canadians' behalf to ensure that the government and its agencies are acting appropriately with respect to those matters that are kept confidential. That makes them well-placed to review my conclusions.

I have provided a confidential annex that provides additional detail for those with the relevant clearances. My report, including the confidential annex, and all the documents that were provided to me should be provided to NSICOP and NSIRA for them to review comprehensively and identify any different conclusions than mine. I note that I was given access to documents protected by Cabinet Confidence, which NSICOP and NSIRA are not typically entitled to see. However, I recommend the government disclose to NSICOP and NSIRA those cabinet confidential documents provided to me. They were instructive, and in my opinion reflect careful consideration of difficult issues by the federal cabinet. NSIRA and NSICOP would benefit from reviewing them to ensure these review bodies have access to the same information I gathered and reviewed.

I would strongly encourage NSICOP to ensure that its review is done in a manner that encourages maximum impartiality and minimizes partisanship. These issues are too important for partisanship, as they go to trust in our democratic institutions. I am therefore recommending that NSICOP work closely with NSIRA as much as possible. Their role as non-partisan outside

experts will be important to ensuring that this review is robust and as apolitical as possible. In addition, NSIRA has a substantial expert staff that can assist in this review.

I also recommend that the leaders of the three opposition parties seek Top Secret security clearances so that they can review the confidential annex and observe NSICOP's proceedings. Finally, I recommend that the Prime Minister and Cabinet fully cooperate with NSICOP, including appearing at NSICOP to respond to questions and provide information if invited to do so.

I recognize this review by NSICOP will necessarily be done *in camera* and not in public given the importance of maintaining the confidentiality of the relevant intelligence materials. However, by having Parliamentarians undertake the review, I am providing for scrutiny of my work and conclusions by elected officials specially selected for this work. This is not a perfect substitute for full public transparency, but it is better than a public inquiry that would be required to work virtually entirely *in camera*, and it provides for a review by Parliamentarians to supplement the work of Parliamentary Committees and Parliament itself.

### **(d) The Role of Opposition Leaders**

Finally, I would note that my TOR contemplate a report to the Prime Minister, with the reports to be shared promptly with Opposition Leaders and Canadians. I recommend the government start immediately the process of working with the Opposition Leaders to obtain the requisite security clearance so they can read and review my full report, including the confidential annex. While I recognize that in normal political circumstances an Opposition Leader may not want to be subject to the constraints of the SOIA, this matter is too important for anyone aspiring to lead the country to intentionally maintain a veil of ignorance on these matters. While political parties may disagree about

policy and priorities, they should do so from a common understanding of the true facts, not as speculated or hypothesized from media reports based on leaks of partial information.

These oversight reviews should increase trust and ensure Parliament has a sounder basis for the important debates it will have on foreign interference and steps to detect, deter and counter it.

## 5. Issues for Review in the Public Stage of My Work

For the reasons I have described above, a Public Inquiry could not publicly inquire into vital matters at issue in this first report, and would largely replicate the process I have just undergone. However, over and above the matters I have focused on for my first report, my TOR also ask me to do the following:

The Independent Special Rapporteur will consider the issues that are expected to be answered through the work of the National Security and Intelligence Committee of Parliamentarians and National Security and Intelligence Review Agency and will raise any outstanding questions of public interest or answers that are needed to ensure public confidence with respect to the issue of foreign interference during the 43<sup>rd</sup> and 44<sup>th</sup> General Elections, beyond those that will be answered by National Security and Intelligence Committee of Parliamentarians or National Security and Intelligence Review Agency;

The Independent Special Rapporteur will consider innovations and improvements in public agencies and their coordination to combat foreign interference in federal elections going forward including changes in the institutional design and co-ordination of government assets deployed to defend against or otherwise deal with such interference; and

To report on any other related matters of importance.

I intend to spend most of the balance of my term as ISR focusing on these questions and to do so in public. To date, I have focused predominantly on looking at government records and speaking to government personnel. In this next stage, I intend to find ways to speak publicly to and hear from Canadians about these issues, and receive their input. For example, I have already received letters from select Chinese Canadian community organizations indicating their concerns about how foreign interference is impacting the Chinese diaspora community, and the harmful effects it is having on civil society within that community. I therefore intend to organize public hearings that learn from diaspora community members and experts in national security and international relations. I also plan to have some of the conversations I have had with senior national security officials in public, so that Canadians can hear from them firsthand.

Issues I intend to tackle in this second part of the mandate include:

- Concerns of diaspora communities and individuals about foreign interference.
- Countering foreign interference.
- The so-called “intelligence to evidence” problem and how it might be addressed.
- The role and structure of NSICOP, and whether it can be strengthened.
- Amendments to the CSIS Act that might assist in fighting foreign interference.
- Machinery of government issues, including:
  - Processes for funneling intelligence to top officials, including greater accountability for ensuring that the right people see the right intelligence, including at the most senior public service and political levels.

- Tracking protocols so it is possible to reconstruct who saw what, and when.
- Clearer lines of responsibility for recommendations as to how to react to intelligence.
- A government-led process (rather than an agency-led process) for declassification of information to enhance transparency.
- The case for a national Security Committee of Cabinet.
- Whether NSICOP is properly constituted as a committee of the executive, rather than a committee of Parliament.
- How the government deals with threats against elected officials. I acknowledge that the Prime Minister has already indicated that he has changed the reporting requirements for these incidents. It will be useful to review them, see if they are appropriate, and determine if other recommendations can assist.

When that process is complete, I will report to the Prime Minister, who has indicated in my TOR that he intends to share my report with Opposition Leaders and Canadians. I anticipate that there will be considerably less sensitive information in that report, as it will focus on governance and organizational design rather than “who knew what and when.” As a result, when it sees my final report, the government can consider, and Parliament can debate, whether it is necessary to do more in public to both educate Canadians on foreign interference, and consider further policy innovations. This is an enormously important issue, and it will be crucial to both engage Canadians in the process of protecting our democracy against the foreign interference threat, and also gather whatever insight we can to help arm the government so it can counter the threat.

While the ISR team has had some preliminary discussions with the NSICOP secretariat, who were good enough to send us their confidential Terms of Reference, we have not yet engaged substantially with NSICOP itself, the Commissioner of Canada Elections or NSIRA. I will ensure that we accomplish this in the second half of our mandate.

My mandate does not expire until the end of October 2023. I anticipate that this first report will generate discussion, debate and feedback. I welcome this, and will consider it in the preparation of my final report. Certainly, if other allegations or matters related to foreign interference arise between now and then, I will continue to review them as necessary. I encourage Canadians to participate in the balance of this process, in which I will seek to address this ever-growing threat to our democracy.