

**PUBLIC INQUIRY INTO FOREIGN INTERFERENCE IN FEDERAL
ELECTORAL PROCESSES AND DEMOCRATIC INSTITUTIONS**

Written Submissions of the Concern Group

NSC Hearings January 29 – February 2, 2024

February 9, 2024

Neil Chantler

Chantler & Company
650-375 Water Street
Vancouver, BC V6B 5C6

Email: neilchantler@chantlerlaw.ca

Tel: (604) 424-8454

Counsel for the Chinese Canadian Concern
Group on the Chinese Communist Party's
Human Rights Violations

Submissions of the Concern Group

1. These are the submissions of the Chinese Canadian Concern Group on the Chinese Communist Party's Human Rights Violations (the "Concern Group") following the conclusion of the National Security Confidentiality hearings ("NSC Hearings"), held from January 29 to February 2, 2024 at the Public Inquiry into Foreign Interference in Federal Electoral Processes and Democratic Institutions (the "Inquiry").
2. The Concern Group is a grassroots organization formed in 2020 and based primarily in the Vancouver area. Its members are Hong Kong immigrants to Canada with a wide range of backgrounds and professions, including journalists, professors, engineers and religious leaders. Its members can read and write Chinese, thus enabling them to monitor foreign-language communications and understand the nuances of these communications. On average, members of the Concern Group have been living in Canada and actively involved in their communities for over 25 years.
3. The Concern Group's mission is to observe and expose human rights violations by the Chinese Communist Party (the "CCP") and the CCP's influence on Canada's political, economic, and academic arenas. In furtherance of its mission, the Concern Group has held public forums and issued press releases and open letters on issues of foreign interference by the CCP. The Concern Group believes that many Canadians – both private citizens and public officials – have been subjected to the CCP's coordinated political influence and infiltration into Canadian life, and that education of the public is critical to defending against this ongoing and serious threat to Canadian democracy.

4. Accordingly, the Concern Group is eager to participate in the important work of this Inquiry, and hopes the Inquiry is able to enhance public confidence in Canada's democratic systems. In recent years, the Concern Group has witnessed overt and covert attacks on our democratic systems in various forms, including manipulation and suppression of the media by the CCP and the CCP's influence in our cultural, religious and academic systems.
5. The Concern Group may be uniquely placed among participants at this Inquiry to comment on the impacts of foreign interference on the immigrant Chinese community, particularly those of Hong Kong descent. Its members have been actively engaged in politics, academics, and human rights, both in their professional lives and as members of the Concern Group, and have spoken out publicly against foreign interference by the CCP. As a consequence, they have been the targets of, and witnesses to, various forms of foreign interference by the CCP including intimidation and threats.
6. Certain members of the Concern Group are willing to provide their lived experience of foreign interference to the Inquiry, if they are permitted to testify, and if suitable assurances are made. These members will need adequate protections in place to ensure they do not put themselves at increased risk of harm to themselves and their families. Those protections might include the opportunity to provide testimony *in camera* to Inquiry staff without the risk of their identities being revealed to the general public, or, in some cases, even to other participants. The Concern Group suspects there are many potential witnesses with valuable information to share with the Inquiry who have legitimate concerns about their personal safety, and the safety of their families, should they come forward to testify. The PRC has been spreading fear amongst the diaspora, and this Commission provides an opportunity for diaspora members to share their experiences in confidence.

7. Diaspora communities have particular qualities that make them targets of foreign interference, including cultural and language differences from the general population, ongoing ties to their homeland, and unique perspectives on Canada's legacy of discriminatory policies. As Minister LeBlanc recognized in his testimony at the Inquiry, diaspora communities are especially vulnerable to foreign interference. They are generally subjected to more threats from their home countries, both physical and psychological, and may be more reluctant to seek the protections available to other Canadians.
8. Dr. Leah West suggested another reason for this vulnerability: the lack of trust in Canadian institutions "is probably at its greatest in a number of diaspora communities and ethnic minority groups across Canada because of lack of accountability when there's been wrongs to those communities or over-surveillance...". It follows that public trust in Canadian institutions is critical to diaspora groups' resilience against foreign interference.
9. In this regard, the Inquiry's terms of reference specifically direct the Commissioner to examine the government's ability to detect, deter and counter foreign interference targeting diaspora groups, "who may be especially vulnerable and may be the first victims of foreign interference in Canada's democratic processes..." (terms of reference, para. a.i.C.II.).
10. In order to achieve these goals the Inquiry must maximize the transparency of the government agencies tasked with monitoring and policing foreign interference. As suggested by Richard Fadden, the Inquiry has to push against a culture of secrecy among government agencies. There is a tendency to overprotect information. Agencies get "too close" to their material. Employees of such agencies want to climb up through the ranks, and there is pressure to fall in line with conservative approaches to openness and transparency. Alan Jones testified about the importance of transparency for the credibility of government

agencies, for Canadians and Parliamentarians to understand why agencies are doing what they are doing, and to understand the good work that is being done on behalf of Canadians. Professor Pierre Trudel described “the public’s right to know” as “a significant principle of Canadian law.”

11. Professor Nesbitt quoted Justice O’Connor, Commissioner of the Arar Inquiry, as saying “it is very important that, at the outset of proceedings of this kind, every possible effort be made to avoid overclaiming [national security confidentiality]” and further, that limiting national security confidentiality claims to “what is truly necessary” is the “single most important factor in trying to ensure public accountability and fairness.” Ms. Chaudury cited the LeBlanc Charette report on the last day of the NSC Hearings: “An engaged, informed, and resilient citizenry is one of our best defences against attempts to undermine our democracy and its institutions.”
12. The Concern Group shares the above concerns, and respectfully submits this Inquiry should push the historical status quo for disclosure of intelligence to the public on the issue of foreign interference. The status quo has failed to meet the public’s needs for information on foreign interference and led to the repeated calls for this Inquiry.
13. The Inquiry will inevitably have to weigh national security concerns with the principles of openness and transparency, and this exercise will result in many documents remaining confidential. The Inquiry should aim to provide as much information as possible about these decisions, and to maintain the public’s confidence in these decisions. Professors Pierre Trudel and Michael Nesbitt emphasized the need to explain, carefully and methodically, why certain documents and information could not be disclosed to the public. Limits to the public’s access to information need to be justified. Indeed, they may need to be justified

carefully so as not to reveal the fact of a human source, for example. The exercise may not be easy, but it is critical to the Inquiry's success. As Dr. West noted, the "just trust us" response is never a reasonable or sufficient justification for a limit on a public's right to know in a well-functioning democracy.

14. Foreign interference is only one of the threats facing our electoral process. Another is public apathy for our democratic system, manifesting as reduced participation. Voter turnout at our last three federal elections (2015, 2019 and 2021) has decreased steadily (68.3%, 67% and 62.6% respectively).¹ The Inquiry has the potential to engage the public on the important subject of foreign interference in our electoral process and, in turn, engage the public in the related issues of participation and voter turnout.

15. To some extent, as with any public inquiry, the value of this Inquiry will derive from the process as much as the final report. The process should engage the public and shine a bright spotlight on foreign interference in our electoral systems. The process should be open and transparent and respect the media's role in its ultimate success. The Inquiry should bring the issue of foreign interference into daily conversations among Canadians. An inquiry behind closed doors will not attract the media, will not engage the public, and will miss the opportunity to enhance participation in and strengthen our democracy.

¹ Elections Canada, Voter Turnout at Federal Elections and Referendums, <https://www.elections.ca/content.aspx?section=ele&dir=turn&document=index&lang=e> (accessed February 9, 2024)

16. The Concern Group wishes to thank the Commissioner for the opportunity to participate in this phase of the Inquiry.

ALL OF WHICH IS RESPECTFULLY SUBMITTED,

This 9th day of February, 2024

Neil M.G. Chantler

Counsel for the Concern Group

Chantler & Company

650-375 Water Street

Vancouver, BC V6B 5C6

Email: neilchantler@chantlerlaw.ca

Tel: (604) 424-8454