

**Public Inquiry Into Foreign Interference
in Federal Electoral Processes and Democratic Institutions**

**Hon. Marie-Josée Hogue J.A.,
Commissioner**

**FACTUAL PHASE (STAGE ONE) SUBMISSIONS OF
THE HON. MICHAEL CHONG M.P.**

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INTRODUCTION

1. Stage One of the Factual Phase of the Commission’s work has proven the wisdom of holding a public inquiry into foreign interference (“**FI**”) in Canada’s electoral processes and democratic institutions. While the Commission’s factual investigations are far from complete, the public has already learned much more about the “existential threat to Canadian democracy and governments”¹ posed by foreign interference, and the failures of our leaders and institutions to meet that threat in the course of the 2019 and 2021 general elections, than was revealed by the Special Rapporteur’s report.

2. CSIS has concluded that the People’s Republic of China (“**PRC**”) interfered in both the 43rd and 44th general elections (“**GE43**” and “**GE44**”). CSIS has, moreover, repeatedly warned the government—from the Prime Minister down—that FI will persist in Canada for as long as there are no legal or political consequences to foreign states engaging in it.

3. Despite CSIS’s conclusions and warnings, the institutions charged with protecting Canadian democracy did not act during GE43 and GE44. In particular, the Panel of Five’s design flaws caused it to stay silent. It is not independent of government, it was uncertain whether its mandate applied at the level of individual ridings, and it lacked both resources and commitment to addressing Mandarin-language disinformation. These flaws raise significant doubts about whether the Panel of Five discharged its duties in the last two elections and can do so in the next.

4. As head of government, the Prime Minister has special responsibilities for national security.² The Prime Minister is also responsible for the machinery of government. Flaws in the design and functioning of the Panel of Five and related bodies are, therefore, ultimately the responsibility of the Prime Minister.

¹ As CSIS put it in CAN004495, Briefing to the Prime Minister’s Office on Foreign Interference Threats to Canada’s Democratic Institutions at p. 6.

² MMC0000026, Canada, *Open and Accountable Government* (2015) at p. 58 (pdf p. 71).

5. No one contends that FI changed the outcome of the last two elections, if by “outcome” one means which party was in a position to form government. But that is too narrow a definition of outcome. In Canada’s parliamentary democracy there can be no such thing as “rounding error ridings”. Every riding counts. Nor can the experiences of “special interest groups” such as diaspora communities be marginalized in favour of “mainstream” voters.

FINDINGS THE COMMISSION SHOULD MAKE AT THIS STAGE

6. The Commission’s work is incomplete. Significant evidence remains to be heard with respect to both facts and policy. Nonetheless, there are several findings that the Commission can and should make in its initial report.

A. The PRC was the most sophisticated and active foreign interference threat agent in Canada’s 2019 and 2021 general elections

7. The publicly available testimony and the documents before the Commission make clear that the PRC is currently the most sophisticated and active foreign interference threat actor operating in Canada, and that this was true during GE43 and GE44.

8. A report from the Intelligence Assessment Secretariat indicates that the “Canadian intelligence community is of the consensus view that China poses the most significant FI threat to Canada, judged by the breadth, depth, and frequency of its targeted efforts.”³ The Commission’s topical summary on China indicates that the resources the PRC expends on election-related foreign interference “exceed those of other states.”⁴ As the CSIS representative of the 2019 SITE TF put it, China is “at the ceiling” while other countries are somewhere “around our ankles”.⁵

³ CAN003787, Intelligence Assessment Secretariat, Special Report: China’s Foreign Interference Activities at p. 1.

⁴ CAN.SUM.000005, Country Summary: People’s Republic of China at p. 2.

⁵ WIT0000044, *In Camera* Examination Summary: Mr. Lyall King, Ms. Tara Denham, Mr. Eric Gordon, CSIS Representative at para. 39.

9. The 2019 SITE TF After Action Report noted that the PRC was “the most active foreign state actor” with respect to foreign interference targeting Canadian politicians and political parties.⁶ Similarly, the 2021 SITE TF After Action Report noted that the PRC “sought to clandestinely and deceptively influence Canada’s 2021 federal election.”⁷

10. The Commission can and should now find that the PRC was the main foreign interference threat actor in GE43 and GE44.

B. The PRC’s main target for PRC disinformation in GE44 was the Conservative Party of Canada

11. It is clear that the PRC’s main target for disinformation in GE44 was the Conservative Party of Canada (“**CPC**”) and certain of its candidates.

12. The 2021 SITE TF After Action Report notes that PRC state actors perceived the Conservative party platform as “contrary to their interests” and that as a result “the PRC primarily preferred to support Liberal Party of Canada (LPC) candidates and oppose the CPC.”⁸ Similarly, CSIS concluded that “[i]n 2021, the PRC FI activities were almost certainly motivated by a perception that the Conservative Party of Canada was promoting a platform that was perceived to be anti-PRC” and noted its observations of online and media activities “aimed at discouraging Canadians, particularly of Chinese heritage, from supporting the Conservative Party, leader Erin O’Toole, and particularly Steveston-Richmond East candidate Kenny Chiu”.⁹ CSIS added that “the timing of these efforts” aligned “with Conservative polling improvements”.¹⁰

⁶ CAN008973, Security and Intelligence Threats to Elections Task Force After Action Report (2019 Federal Election) at p. 10 (pdf p. 11).

⁷ CAN002359, Security and Intelligence Threats to Elections Task Force After Action Report (2021 Federal Election) at p. 3 (pdf p. 4).

⁸ CAN002359, Security and Intelligence Threats to Elections Task Force After Action Report (2021 Federal Election) at p. 3 (pdf p. 4).

⁹ CAN004495 Briefing to the Prime Minister’s Office on Foreign Interference Threats to Canada’s Democratic Institutions at p. 3.

¹⁰ CAN004495 Briefing to the Prime Minister’s Office on Foreign Interference Threats to Canada’s Democratic Institutions at p. 3.

13. Based on this and other evidence, the Commission can and should find that the PRC's principal target in GE44 was the Conservative Party and its candidates.

C. CSIS's assessment is that the PRC interfered in both GE43 and GE44

14. CSIS briefing notes from 21 February 2023, confirmed by the CSIS Director's testimony, clearly establish its assessment: "We know that the PRC clandestinely and deceptively interfered in both the 2019 and 2021 general elections".¹¹

15. A heavily redacted CSIS document from October 2022 indicates that the PRC "clandestinely supported" one or more candidates and "mobiliz[ed] support for preferred candidates at all levels of government". The same document speaks of PRC officials in Canada conducting "election-related foreign interference through local networks", "channeling donations and other assistance to preferred candidates" and "co-opt[ing] community leaders and associations" in ways that are "often covert, likely illegal, and therefore constitute[e] foreign interference by the PRC". This same document includes redactions which have been summarized as "PRC officials could be emboldened in their electoral interference efforts by the 2021 defeat of former Richmond MP Kenny Chiu".¹²

16. Based on this and other evidence, the Commission can and should find that CSIS's assessment is that the PRC interfered in both GE43 and GE44.

D. Canada's security agencies acted diligently and appropriately in their investigation of and warnings about foreign interference in GE43 and GE44

17. The publicly available evidence, and the admissions made by key witnesses, establish that Canada's security agencies—most particularly CSIS—acted diligently and appropriately in their efforts to investigate and warn of FI in GE43 and GE44.

¹¹ CAN004495 Briefing to the Prime Minister's Office on Foreign Interference Threats to Canada's Democratic Institutions at p. 2.

¹² CAN004079_R01, Untitled at p. 1.

18. CSIS gave numerous election-related briefings on FI to audiences throughout the federal government. Those briefed included: key ministers including the Prime Minister; PMO officials including the NSIA; Cabinet; and other federal agencies and bodies.¹³

19. The Director of CSIS has spoken both publicly and to the highest levels of government about the “tombstone facts” about FI.¹⁴ These include:

- (a) FI undermines Canada’s sovereignty, interests, and values. It is one of the most important strategic threats to Canada’s national security;
- (b) Canada has been slower than our Five Eyes allies to respond to the FI threat with legislative and other initiatives, such as proactively publicizing successful disruption of FI activities as a means of deterring future efforts;
- (c) Raising awareness and briefing officials, parliamentarians, and other leaders on FI threat activities is central to building resilience against FI;
- (d) State actors are able to conduct FI successfully in Canada because there are (at present) no consequences, either legal or political, to doing so. FI is therefore a low-risk and high-reward endeavour;
- (e) Better protecting Canadian democratic institutions against FI will require a shift in the government’s perspective and a willingness to take decisive action and impose consequences on perpetrators; and
- (f) Until FI is viewed as constituting an existential threat to Canadian democracy and the government forcefully and actively responds, these threats will persist.¹⁵

¹³ TRN0000010, Hearing Transcript, vol. 10, p. 175, l. 5 – p. 176, l. 8 (cross-examination of Mr. Vigneault). See also MMC0000020, CSIS Briefings and Intelligence Products on PRC Foreign Interference in the 2019 and 2021 General Elections.

¹⁴ TRN0000015, Hearing Transcript, vol. 15, p. 12, l. 19 (examination of Mr. Vigneault).

¹⁵ CAN015842, Briefing to the Prime Minister on Foreign Interference Threats to Canada’s Democratic Institutions at pp. 1-2, 4-5.

20. Staff from the Prime Minister's office testified that they had never been briefed on these conclusions. Mr. Broadhurst stated that this information came from talking points that had not been "through any sign off or approval process" and that "this stuff has never been said to us" and "we've never heard language like the stuff that is in this document."¹⁶ This evidence was contradicted by Director Vigneault's testimony. He made clear that his speaking points had been prepared by his professional staff and vetted by the Deputy Director Policy at CSIS. He swore that this was not new information, but rather information that he has conveyed both publicly and in briefings to the Prime Minister and PMO.¹⁷

21. The Prime Minister and others have, at times, suggested that to raise FI concerns risks indulging in, or encouraging, anti-Asian racism. Yet both the Prime Minister and Mr. Dong acknowledged in cross-examination that there is no evidence that CSIS's investigation of FI generally or in relation to GE43 and GE44 was done out of Sinophobic or anti-Asian motives. Mr. Dong agreed that, in investigating FI allegations in Don Valley North, CSIS was not being racist but simply doing its job.¹⁸ The Prime Minister likewise affirmed that he did not feel the Service was acting in a racially prejudiced way, and agreed that Canadians can be concerned about allegations of FI in our elections without being at all racially prejudiced.¹⁹

22. Based on this and other evidence, the Commission can and should find that CSIS and our other security agencies acted diligently and appropriately—including without racism—in their efforts to investigate and warn of FI in GE43 and GE44.

¹⁶ TRN0000013, Hearing Transcript, vol. 13, p. 136, l. 26 – p. 137, l. 3 (examination of Jeremy Broadhurst).

¹⁷ TRN0000015, Hearing Transcript, vol. 15, p. 7, ll. 23-27 and p. 9, l. 22 – p. 10, l. 16 (examination of Mr. Vigneault).

¹⁸ TRN0000008, Hearing Transcript, vol. 8, p. 139, l. 19 – p. 140, l. 4 (cross-examination of Han Dong).

¹⁹ TRN0000014, Hearing Transcript, vol. 14, p. 210, l. 8 – p. 211, l. 10 (cross-examination of Rt. Hon. Justin Trudeau).

E. The Panel of Five’s institutional weaknesses

23. The evidence before the Commission revealed five institutional weaknesses in the Panel of Five created under the Critical Election Incident Public Protocol (the “**CEIPP**” or “**Protocol**”).

i. The Panel of Five lacks institutional independence

24. The Panel of Five is composed of the Clerk of the Privy Council, the National Security and Intelligence Advisor, and three deputy ministers. All are at-pleasure appointees who serve at the pleasure of the Prime Minister.²⁰

25. At-pleasure appointees do not enjoy the institutional independence accorded to other public office holders. For example, the Commission heard evidence from the Chief Electoral Officer who explained that he is not accountable to any minister, but instead serves a non-renewable ten-year term and can only be removed on a joint resolution of the Senate and House of Commons.²¹ This institutional independence removes any incentive to try to please anyone in government in hopes of keeping one’s job.²² It also allows Canadians to be confident that the election “is not conducted under the influence of any particular interests, including the interests of the governing party.”²³

26. The Chief Electoral Officer testified that it would be inappropriate for him to be a member of the Panel because he needed to maintain his independence from government. He further explained that there is no body or institution in Canada that enjoys institutional independence from government that can intervene to contradict or dispel disinformation during an election campaign.²⁴

²⁰ TRN0000012, Hearing Transcript, vol. 12, p. 156, l. 19 – p. 157, l. 6 (cross-examination of Nathalie Drouin and Janice Charette).

²¹ TRN0000007, Hearing Transcript, vol. 7, p. 62, ll. 12-19 (cross-examination of Stéphane Perrault).

²² TRN0000007, Hearing Transcript, vol. 7, p. 62, ll. 24-28 (cross-examination of Stéphane Perrault).

²³ TRN0000007, Hearing Transcript, vol. 7, p. 62, ll. 24-28 (cross-examination of Stéphane Perrault).

²⁴ TRN0000007, Hearing Transcript, vol. 7, p. 69, ll. 7-22 (cross-examination of Stéphane Perrault).

27. Some witnesses defended the Panel's composition saying that its members are non-partisan, professional, accomplished, and loyal to Canada.²⁵ However, that is not the issue. As Minister Gould ultimately agreed, there is a difference between being non-partisan and enjoying true institutional independence.²⁶ It is a very great difference; institutional independence insulates an office-holder from the incentive to please any particular party or government. Rather than relying on the personal diligence or professionalism of the office holder, institutional independence fundamentally changes the incentives and structures of the office. The Panel of Five is clearly not independent of government, and therefore lacks the institutional protections enjoyed by officers of Parliament, judges, and other truly independent office holders.

28. The Commission should find that the Panel of Five lacks institutional independence from government. The policy implications of that finding should await the Commission's final report, but the finding itself can and should be made now.

ii. There is no consensus on the standard of proof for the Protocol's threshold

29. Section 6.0 of the CEIPP cabinet directive provides that a public announcement by the Panel of Five during the caretaker period would only occur if the Panel determines that an incident or accumulation of incidents has occurred that threatens Canada's ability to have a free and fair election.²⁷ That threshold must be met before the Panel can make a public announcement under section 7.0. But the directive does not say what standard of proof the Panel should apply in deciding whether this threshold is met. Instead, this determination is left to the Panel's judgment.²⁸

30. The nature of the intelligence and information relied on by the Panel, together with the Panel's responsibilities to consider making public announcements to counter possible acts of election interference, require clarity about the standard of proof. Without such

²⁵ TRN0000014, Hearing Transcript, vol. 14, p. 38, ll. 1-6 (cross examination of Hon. Karina Gould).

²⁶ TRN0000014, Hearing Transcript, vol. 14, p. 38, ll. 1-6 (cross examination of Hon. Karina Gould).

²⁷ COM0000023, Cabinet Directive on the Critical Election Incident Public Protocol at p. 5.

²⁸ TRN0000012, Hearing Transcript, vol. 12, p. 195, ll.6-12 (cross-examination of François Daigle).

clarity, the Panel's treatment of incidents that may threaten our elections risks being inconsistent as between different incidents, different ridings, different parties, different diaspora communities, or even different general elections.

31. In its 2021 After Action Report, the SITE TF stated that although it observed online/media activities aimed at discouraging voters from supporting the Conservative Party, Erin O'Toole, and Kenny Chiu, it did not have "*clear evidence* that this online activity was a PRC-directed FI campaign"²⁹ and that it was "difficult to *decisively conclude*" whether individuals were acting at the behest of the PRC.³⁰ These statements meant the Panel needed to understand how much proof was required to meet the threshold.

32. Yet, in their evidence, it became clear that the Panel members never agreed on the standard of proof to be applied. Different witnesses had different views on this crucial question. Members of the 2019 Panel described both a "high threshold"³¹ and a "very high threshold".³² Mr. King explained that because Panel members came from different disciplines, "there are different thresholds applied."³³ Ms. Drouin, a member of both the 2019 and 2021 Panels, explained the Panel would need a "pretty high confidence" that foreign interference was being conducted.³⁴ For his part, Mr. Daigle, a member of the 2021 Panel, stated that the Panel would need to be satisfied "not simply that it was possible that an incident could have been driven by FI, but that it was probable."³⁵

33. The deputy minister of justice and deputy attorney general might have been expected to play a role in guiding the Panel to a clear standard of proof. Minister Gould's evidence was that in determining the composition of the Panel, the deputy minister of

²⁹ CAN002359, Security and Intelligence Threats to Elections Task Force After Action Report (2021 Federal Election) at p. 1 (pdf p. 2) (emphasis added).

³⁰ CAN002359, Security and Intelligence Threats to Elections Task Force After Action Report (2021 Federal Election) at p. 6 (pdf p. 7) (emphasis added).

³¹ WIT0000060, *In Camera* Examination Summary: Nathalie Drouin, Gina Wilson, Marta Morgan, Monik Beauregard at para. 18.

³² WIT0000050, Interview Summary: Marta Morgan, Natalie Drouin, Gina Wilson at para 15.

³³ TRN0000011, Hearing Transcript, vol. 11, p. 237, ll. 12-16 (cross-examination of Lyall King). See generally on this point, cross-examination at pp. 236-242.

³⁴ WIT0000050, Interview Summary: Marta Morgan, Natalie Drouin, Gina Wilson at para 15.

³⁵ WIT0000053, *In Camera* Examination Summary: Panel of Five - 2021 at para. 41.

justice was chosen to ensure that a legal perspective was represented.³⁶ However, Mr. Daigle explained that as a member of the Panel he did not give any legal advice, including on the standard of proof.³⁷

34. The problem of lack of certainty on the standard of proof is compounded by the fact that the Panel operates on a consensus basis. All five members must agree to take action.³⁸ If there is no agreement on the applicable standard of proof, that fact increases the likelihood that the Panel will fail to reach consensus. In short, lack of clarity about the standard of proof promotes inaction by the Panel.

35. The Commission should find that the Panel failed, in both GE43 and GE44, to articulate a clear standard of proof that applied to the threshold for intervention. The Commission should also find that this failure may have discouraged the Panel from taking action in cases where action was permissible under the Protocol.

iii. There was no consensus on the scope of the threshold (election as a whole or riding level)

36. The Chief Electoral Officer explained that a general election in Canada is really 338 elections that happen simultaneously.³⁹ The Prime Minister agreed, calling the general election “just the sum of 338 individual riding elections.”⁴⁰ Similarly, the former Leader of the Opposition noted that in “our first past the post system ... a general election is 338 individual elections”.⁴¹ In assessing the integrity of a general election, one must be satisfied of the integrity in each and every one of the 338 ridings.⁴² In Mr. O’Toole’s memorable phrase, no district can be treated as a “rounding error riding”.⁴³

³⁶ WIT0000062, Interview Summary: Hon. Karina Gould at para. 9.

³⁷ TRN0000012, Hearing Transcript, vol. 12, p. 196, ll.10-15 (cross-examination of François Daigle).

³⁸ TRN0000012, Hearing Transcript, vol. 12, p. 159, ll. 9-14 (cross-examination of Nathalie Drouin).

³⁹ TRN0000007, Hearing Transcript, vol. p. 64, ll. 1-4 (cross-examination of Stéphane Perrault).

⁴⁰ TRN0000014, Hearing Transcript, vol. 14, p. 232, ll. 9-10 (cross-examination of Rt. Hon. Justin Trudeau).

⁴¹ TRN0000009, Hearing Transcript, vol. 9, p. 42, ll. 6-9 (cross-examination of Hon. Erin O’Toole).

⁴² TRN0000007, Hearing Transcript, vol. p. 64, ll. 5-12 (cross-examination of Stéphane Perrault).

⁴³ TRN0000009, Hearing Transcript, vol. 9, p. 42, l. 14 (cross-examination of Erin O’Toole).

37. The only contemporaneous document in evidence from the 2019 CEIPP meetings was a September 2019 “record of discussion” that unambiguously states that “the Panel agreed that potential interference activities should be assessed for their impact on a single national election, as opposed to potential impacts on 338 individual elections around the country.”⁴⁴

38. However, the evidence from Panel members was that, in both 2019 and 2021, they did not decide whether the threshold applied in relation to the general election “as a whole” or on a “riding-by-riding” basis.⁴⁵ Ms. Drouin testified that the 2019 record of discussion did not represent the Panel’s views on the issue. However, she admitted in cross-examination that the Panel did not have a process of taking formal minutes, nor could she identify a document that contradicted the record of discussion.⁴⁶

39. Ms. Drouin’s testimony also stands in contrast to the executive summary of the SITE TF 2019 After Action Report, which explained that although it observed foreign interference activities targeting certain ridings and candidates in relation to the election, “none of these foreign interference activities were part of a broad-based electoral interference campaign and did not have an impact on the overall outcome of the election.”⁴⁷ This conclusion suggests that SITE TF’s focus was on the election as a whole and not the integrity of elections in the elections at a riding level.

40. Evidence from both the Chief Electoral Officer, the Prime Minister, and the former Leader of the Opposition makes clear that this should not have been an unsettled issue for the Panel. The only way for it to assess if Canadians engaged in free and fair elections, is if each riding-level election was free and fair. The Commission should find that the Panel—in both 2019 and 2021—displayed uncertainty about a basic fact of Westminster-

⁴⁴ CAN009920, CEIPP Meeting Six Record of Discussion (9 September 2019) (emphasis in original).

⁴⁵ WIT0000060, *In Camera* Examination Summary: Nathalie Drouin, Gina Wilson, Marta Morgan, Monik Beauregard at para. 22; WIT0000058, Interview Summary: 2021 Panel of Five (Rob Stewart, Marta Morgan, Janice Charette, François Daigle, David Morrison, Nathalie Drouin) at para. 19.

⁴⁶ TRN0000012, Hearing Transcript, vol. 12, p. 135, ll. 6-21 (cross-examination of Nathalie Drouin).

⁴⁷ CAN008973, Security and Intelligence Threats to Elections Task Force After Action Report (2021 Federal Election) at p. 2 (pdf p. 3).

model constitutionalism, namely that general elections consist of hundreds of individual, riding-level contests in which we elect MPs—and not Prime Ministers or governments.

iv. The Panel was unclear whether attribution to a foreign state was required

41. The cabinet directive that establishes the CEIPP does not require the Panel to be able to attribute an act of FI to a foreign state before exercising its power to counter disinformation by means of a public announcement. Section 6.0 of the directive notes that such attribution may be impractical during an election period:

...attribution of foreign interference attempts may be challenging or not possible within the timelines permitted by events, given that attempts to unduly influence the election may involve misdirection and disinformation. Further, it is possible that foreign actors could be working in collaboration with, or through, domestic actors. 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.⁴⁸

42. Relatedly, the cabinet directive was amended before GE44 to provide that the Protocol would apply to incidents of foreign and domestic interference.⁴⁹

43. Despite the directive's direction that attribution is not required, and its amendment to include both foreign and domestic interference, it appears that the 2021 Panel, and the SITE TF charged with supporting it, were unduly focussed on whether disinformation could reliably be attributed to a foreign state.

44. The 2021 After Action Report stated that SITE TF observed social media activities aimed at discouraging voters from supporting the Conservative Party but that it could not determine if this was "PRC-directed".⁵⁰ Similarly, the 2021 Panel concluded that attribution of disinformation in respect of Kenny Chiu to the PRC was not possible.⁵¹

⁴⁸ COM0000023, Cabinet Directive on the Critical Election Incident Public Protocol at pp. 5-6.

⁴⁹ WIT0000053, *In Camera* Examination Summary: Panel of Five – 2021 at para. 4.

⁵⁰ CAN002359, Security and Intelligence Threats to Elections Task Force After Action Report (2021 Federal Election) at p. 1 (pdf p. 2).

⁵¹ TRN0000012, Hearing Transcript, vol. 12, p. 186, ll. 12-21 (cross-examination of François Daigle).

45. Whether attribution to a foreign state was possible or not, however, the Panel had the power to counter such activities by a public announcement under s. 7.0. One of the panelists, Ms. Drouin, agreed with this in cross-examination.⁵²

46. What the Protocol requires from the Panel, in order to permit it to make a public announcement under s. 7.0, is not that a given incident is attributable to a foreign state, but only that the incident threatens Canada's ability to have a free and fair election. Yet the Panel appears to have believed that it was powerless to intervene unless it could attribute a given incident to a foreign state.

47. The Commission should find that attributing disinformation, or other forms of interference, to a foreign state is not a precondition for the Panel to make a public announcement pursuant to s. 7.0 of the cabinet directive.

48. The Commission should also find that the Panel misdirected itself in concluding otherwise in the case of the Kenny Chiu disinformation in Steveston–Richmond East.

v. *The Panel was ill-equipped to deal with Mandarin-language incidents*

49. As noted above, the PRC was the main foreign interference threat actor in GE43 and GE44. This fact was appreciated by the Panel, the SITE TF, CSIS, and the government well before GE43. Yet, none of the Panel of Five could speak or read Mandarin.⁵³ Mr. Sutherland agreed that if there was a need to bring misinformation or disinformation in Mandarin to the Panel's attention, it would have to be translated.⁵⁴

50. Key bodies tasked with providing information to the CEIPP were similarly ill-equipped. For example, the RRM team was composed of only five or six analysts.⁵⁵ In 2019, none of them could read or speak Mandarin. In 2021, there was a single China

⁵² TRN0000012, Hearing Transcript, vol. 12, p. 190, ll. 1-4 (cross-examination of Nathalie Drouin).

⁵³ TRN0000012, Hearing Transcript, vol. 12, p. 134, ll. 10-12 (cross-examination of Nathalie Drouin).

⁵⁴ TRN0000011, Hearing Transcript, vol. 11, p. 35, ll. 8-12 (cross-examination of Allen Sutherland).

⁵⁵ WIT0000047, Interview Summary: Lyall King, Gallit Dobner, CSIS Representative, Lisa Ducharme at p. 3.

expert, who was presumably responsible for monitoring possible social media disinformation in all 338 ridings.⁵⁶

51. The evidence also suggests that the Panel took misinformation and disinformation more seriously if it was in English and reported in the mainstream media—a serious error given the nature of the PRC threat. The Panel’s workplan suggested that the threshold for action under the Protocol would be more readily met when falsehoods were “disseminated beyond specific interest groups, i.e. picked up and reported on in the mainstream media.”⁵⁷ Mr. Morrison, a former National Security and Intelligence Advisor, said, with respect to disinformation about Kenny Chiu, that the Panel did not need to intervene because Mr. Chiu had himself given interviews to English language newspapers.⁵⁸ This ignores that if a disinformation campaign is spread in Mandarin, and gains currency among Canadians who consume chiefly Mandarin sources of information, corrections in mainstream, English-language media are unlikely to be effective.

52. Further, in the event that an announcement needed to be made, the Panel’s plan was to give a press conference—presumably in English and French. In the event of a disinformation campaign in a different language (say, Mandarin), one may doubt that this form of announcement would have the desired effect.

53. The Commission should find that, in both GE43 and GE44, the Panel had serious shortcomings in its ability to intake Mandarin information, its ability to communicate to Mandarin-speaking communities, and its approach to these communities as “specific interest groups” outside the Canadian mainstream.

F. Political party rules are vulnerable to foreign interference

54. There are important differences between who can vote in a general election and who can vote in political parties’ nomination and leadership contests.

⁵⁶ WIT0000046, *In Camera* Examination Summary: Ms. Gallit Dobner, Mr. Lyall King, CSIS Representative at para. 12.

⁵⁷ CAN009823, Critical Election Interference Public Protocol Panel Workplan at p. 3.

⁵⁸ TRN0000012, Hearing Transcript, vol. 12, p. 191, ll. 4-21 (cross-examination of David Morrison).

55. This difference is best exemplified by the Liberal Party of Canada's membership and nomination rules, which are the most relaxed. A person must be a Canadian citizen and at least 18 years old to vote in a general election. To become a registered Liberal, however, one need only be 14 years old and "ordinarily resident" in Canada.⁵⁹ Ordinary residence in Canada can be proved by simply demonstrating that one has an address in Canada. The Liberal Party of Canada's National Director, Mr. Ishmael, confirmed that this means international students and other foreigners only temporarily residing in Canada may become registered Liberals.⁶⁰ For nomination contests, registered Liberals must then establish that they reside in the riding where the nomination contest is taking place to vote. For leadership contests, any registered Liberal can vote.⁶¹

56. As Mr. Chong testified, current party membership rules are a concern because they can be exploited for FI.⁶² To permit foreign nationals who are only temporarily resident in Canada, such as international students, to vote in nomination and leadership contests creates a vulnerability in our democratic processes because such people are particularly vulnerable to coercion from their home states. This form of FI can have two serious impacts.

57. First, in "stronghold ridings", whoever wins the party's nomination is very likely to become the Member of Parliament.⁶³ In this way, foreign voters can have a significant impact on the composition of the House of Commons.

58. Second, in leadership contests, foreign voters can have an impact not only on who is chosen as leader of the party, but potentially who is appointed to be head of government, i.e., Prime Minister or premier. As Mr. Chong noted in his testimony, when the late Jim Prentice became leader of the PC Party of Alberta, he did not have a seat in the Legislative Assembly. He was appointed premier based on his victory in the

⁵⁹ TRN000008, Hearing Transcript, vol. 8, p. 63, ll. 1-26 (cross-examination of Azam Ishmael). See also MMC0000018, Rules Governing Registration as Registered Liberals at p. 6.

⁶⁰ TRN000008, Hearing Transcript, vol. 8, p. 63, l. 27 – p. 64, l. 22 (cross-examination of Azam Ishmael).

⁶¹ TRN000008, Hearing Transcript, vol. 8, p. 66, ll. 11-18 (cross-examination of Azam Ishmael).

⁶² WIT0000018, Stage 1 Interview Summary: Michael Chong at para. 20.

⁶³ TRN000008, Hearing Transcript, vol. 8, p. 62, ll. 18-22 (cross-examination of Azam Ishmael).

leadership contest.⁶⁴ Were the same situation to play out at the federal level (Mr. Chong explained) the result could be the appointment of a Prime Minister “elected through a process that was significantly compromised by non-citizens and foreign stage actors.”⁶⁵

59. Making specific recommendations with respect to party nomination and leadership contests goes beyond this stage of the Commission’s hearings. But the Commission can and should now find that political party nomination and leadership contests are significantly vulnerable to FI. This finding can be made even without a determination about the specific facts of the Don Valley North contest in GE43.

G. The SITE TF briefings to political parties were not useful

60. In both GE43 and GE44, the SITE TF held briefings with representatives of the federal political parties. The SITE TF was self-congratulatory with respect to these briefings. Its 2019 After Action Report claimed that “party representatives were appreciative of this engagement, which had allowed them to stay better informed of potential threats and to understand the range of government support available to help address those threats.”⁶⁶ Similarly, the CSIS representative described the briefings in 2021 as a “productive engagement” that gave the parties and opportunity to “speak directly about what they were experiencing in their political campaigns, and then hear directly from the security and intelligence community about the nature of the context in which political affairs were unfolding.”⁶⁷

61. These positive assessments were not shared by the party representatives themselves. To the contrary, all three party witnesses before the Commission expressed the view that the information they were given was general in nature and did not provide them the information or tools they needed to take specific actions.⁶⁸ Mr. Soliman

⁶⁴ TRN000009, Hearing Transcript, vol. 9, p. 247 at ll. 2-10 (cross-examination of Michael Chong).

⁶⁵ TRN000009, Hearing Transcript, vol. 9, p. 247 at ll. 22-24 (cross-examination of Michael Chong).

⁶⁶ CAN008973, Security and Intelligence Threat to Elections Task Force After Action Report (2019 Federal Election), p. 16 (pdf p. 17).

⁶⁷ WIT0000046, *In Camera* Examination Summary: Ms. Gallit Dobner, Mr. Lyall King, CSIS Representative at para. 39.

⁶⁸ TRN0000008, Hearing Transcript, vol. 8, p. 29, l. 10 – p. 30, l. 27 (examination of Azam Ishmael, Anne McGrath, and Walied Soliman).

considered the briefings were not a good use of time or resources.⁶⁹ Presumably, the purpose of the briefings was to make parties more vigilant about FI risks. The lack of true information sharing may, in fact, have had the opposite effect.

62. The Commission can and should find that the SITE TF briefings to political parties were not useful because they conveyed too little information.

H. Findings with respect to Mr. Chong

63. The Commission can make a number of findings about the possible foreign interference experienced by Michael Chong. His evidence on these points went unchallenged by the other participants.

64. First, Mr. Chong received a spoof email from an individual who claimed it was sent on behalf of the PRC. This email claimed that Mr. Chong had been barred from entering Chinese territory.⁷⁰ Mr. Chong was not sure that this email constituted foreign interference, but determined it should be sent to the staff of the Minister of Foreign Affairs. He did so and did not receive any response.⁷¹

65. Second, during GE44, Mr. Chong participated in a virtual all-candidates debate in the Township of Puslinch. Puslinch is a rural township with about 7,000 people, most of whom know one another. At the event, an individual appeared and asked questions in Mandarin-accented English. This person claimed Mr. Chong's positions on the PRC were responsible for the rise of anti-Asian discrimination and hate in Canada and accused the Conservatives of mimicking American foreign policy on China. No one from Puslinch that Mr. Chong spoke to could identify this person.⁷²

66. Mr. Chong acknowledged that this incident may or may not constitute foreign interference. However, he testified that if he had been aware that he was a PRC target

⁶⁹ TRN00000008, Hearing Transcript, vol. 8, p. 28, l. 25 – p. 29, l. 2 (examination of Walied Soliman).

⁷⁰ TRN00000009, Hearing Transcript, vol. 9, p. 213, l.6 – p. 214, l. 20.

⁷¹ TRN00000009, Hearing Transcript, vol. 9, p. 214, ll. 21-18.

⁷² TRN00000009, Hearing Transcript, vol. 9, p. 220, l. 22 – p. 223, l. 3.

before this incident occurred, he would have acted differently, including by recording the meeting so that the speaker's identity could be confirmed and the incident investigated.⁷³

67. Third, Mr. Chong participated in three roundtables with members of the Chinese community following GE44. They told him that they had been subject to high volumes of disinformation. They explained that a Vancouver-area radio station had been told not to mention Conservative candidate Kenny Chiu's name on air. Finally, they advised that they experience the PRC as having a stronger presence in Chinese communities in Canada than the government of Canada.⁷⁴

68. Mr. Chong has other significant and troubling evidence to give with respect to foreign interference that falls outside the Commission's stage one mandate. He looks forward to giving this additional evidence later in the proceedings.

FINDINGS THE COMMISSION SHOULD DEFER AT THIS STAGE

69. While there are findings that the Commission can safely make at this stage, it must bear in mind that the factual phase of its proceedings is not yet complete. It is therefore premature to make certain findings. In particular, the Commission is not yet able to make any final determination as to the integrity of GE43 and GE44, either nationally or in individual ridings. There are at least two reasons for this.

70. First, other than briefly on day one of the current hearings, the Commission has yet to hear from diaspora communities. Their experiences, including during GE43 and GE44, could have a significant impact on the Commission's final determinations about the integrity of those two elections. As a matter of prudence, and out of respect for those communities who have yet to be heard, the Commission should refrain from pronouncing on electoral integrity at this early stage.

71. Second, as noted in the preamble to the Commission's Terms of Reference, both the National Security and Intelligence Committee of Parliamentarians and the National

⁷³ TRN0000009, Hearing Transcript, vol. 9, p. 234, l. 1 – p. 235, l. 7.

⁷⁴ TRN0000009, Hearing Transcript, vol. 9, p. 230, l. 11 – p. 231, l. 8.

Security and Intelligence Review Agency are undertaking their own reviews with respect to foreign interference in federal electoral processes. While this Commission must come to its own conclusions, the findings of these other reviews—including any divergence with testimony and other evidence now before the Commission—should be considered by the Commission before it finally pronounces on the integrity of GE43 and GE44.

RECOMMENDATIONS

72. The Commission's Terms of Reference require it to make both findings and recommendations. Just as it is premature to make certain findings at this stage in the proceedings, it is premature to make recommendations. The Commission's recommendations should be made in its final report, together with its complete findings. No recommendations can or should be made in its interim report.

CONCLUSION

73. The Special Rapporteur concluded that foreign states “are undoubtedly *attempting* to influence candidates and voters in Canada”.⁷⁵ That finding is now revealed to be too timid. The correct assessment was that made by CSIS in February 2023: “*We know that the PRC clandestinely and deceptively interfered in both the 2019 and 2021 general elections*”.⁷⁶

74. The Special Rapporteur also concluded that while there were “serious shortcomings in the way intelligence is communicated and processed...no examples have been identified of Ministers, the Prime Minister or their offices knowingly or negligently failing to act on intelligence, advice or recommendations”.⁷⁷ Here again, however, CSIS's assessment puts matters in a different light: “Canada has been slower than our Five Eyes allies to respond to the FI threat”, “state actors are able to conduct FI

⁷⁵ COM000104, First Report of the Rt. Hon. David Johnston, Independent Special Rapporteur on Foreign Interference (23 May 2023) at p. 1 (emphasis added).

⁷⁶ CAN004495, Briefing to the Prime Minister's Office on Foreign Interference Threats to Canada's Democratic Institutions at p. 2 (emphasis added).

⁷⁷ COM000104, First Report of the Rt. Hon. David Johnston, Independent Special Rapporteur on Foreign Interference (23 May 2023) at p. 1.

successfully in Canada because there are no consequences, either legal or political”, and what is needed is “a shift in the government’s perspective and a willingness to take decisive action and impose consequences on perpetrators”.⁷⁸

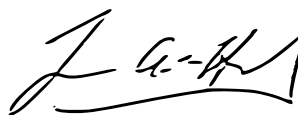
75. The Commission is far better placed to appreciate the evidence, make factual findings, and restore trust in our democratic processes and institutions than was the Special Rapporteur. While the Commission’s upcoming report must necessarily be preliminary and guarded on certain key issues, Mr. Chong looks forward to continuing to assist the Commission in its efforts to understand the foreign interference threat and, through such understanding, improve Canada’s resilience.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated 15 April 2024



Gib van Ert



Fraser Harland

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⁷⁸ CAN015842, Briefing to the Prime Minister on Foreign Interference Threats to Canada’s Democratic Institutions at pp. 2, 3.