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To / Pour : PRIME MINISTER	Date : March 02, 2020
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Subject / Objet:
**RESPONSE TO THE NATIONAL SECURITY AND INTELLIGENCE
 COMMITTEE OF PARLIAMENTARIANS 2019 ANNUAL REPORT**

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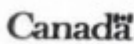
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MEMORANDUM FOR THE PRIME MINISTER

c.c.: Ian Shugart, Catherine Blewett

**RESPONSE TO THE NATIONAL SECURITY AND INTELLIGENCE
COMMITTEE OF PARLIAMENTARIANS 2019 ANNUAL REPORT**

(Information Only)

SUMMARY

- This memorandum is an update on the National Security and Intelligence Committee of Parliamentarians (NSICoP/Committee) 2019 Annual and Special Reports, which will be tabled in Parliament by the Government House Leader on or before March 12, 2020 (**Tab A**). You approved redactions to both reports to remove information that would be injurious if disclosed through the tabling process, most recently in discussions with the NSICoP Chair, the Honourable David McGuinty, during the week of February 24, 2020. Your officials then followed up with the implicated departments/agencies and the NSICoP Secretariat to release additional information, consistent with your discussion with Mr. McGuinty.
- The 2019 Annual Report includes chapters on diversity and inclusion (DI) in the security and intelligence (S&I) departments and agencies, the government's response to foreign interference (FI), and the Canada Border Service Agency's (CBSA) S&I activities. The Special Report reviews the Department of National Defence/Canadian Armed Forces (DND/CAF) intelligence collection activities during missions undertaken abroad.
- The Reports' key findings are:
 - The S&I departments and agencies are experiencing persistent challenges in increasing DI (Annual Report Chapter 1 on DI);
 - Some foreign states—notably, Russia and China—conduct sophisticated and pervasive interference activities against Canada that pose a significant risk to national security, in addition to finding that the government's response has largely been *ad hoc* rather than holistic and systematic (Annual Report Chapter 2 on FI);
 - CBSA's S&I activities are largely well-governed and appropriately implemented (Annual Report Chapter 3 on CBSA); and,
 - DND/CAF's intelligence activities in operations conducted abroad include collection of Canadian identifying information, and that this is not fully compliant with the *Privacy Act* (Special Report).
- Of these issues, it is expected that the DI and FI findings, as well those on DND/CAF's activities, will attract the most media attention.
- The Annual and Special Reports contain recommendations for the improvement of the government's security and intelligence departments' and agencies' policies and activities. The 2018 reports contained seven recommendations, and the 2019 reports contain eleven recommendations.
- There is no statutory requirement to respond to the reports' recommendations. Of note, the Government did not respond to the Committee's 2018 Annual and Special Reports. Upon tabling those reports, the Leader of the Government in the House of Commons thanked the Committee for its work without commenting on the recommendations. Responsive media lines were similarly non-committal, noting simply that the Government was considering the recommendations.

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Summary Of The Reports

- The 2019 Annual Report is comprised of a Chair's Message, Introduction, and three substantive chapters. The **Introduction** lays out the mandate and activities of the Committee in 2019, and the structure of the report. The **Chair's Message** reflects lessons learned since the Committee's formation, and states: "the Committee has faced a number of challenges in accessing information based on reasons that are inconsistent with the National Security and Intelligence Committee of Parliamentarians' (NSICoP) enabling legislation".
- **Chapter 1** on diversity and inclusion (DI) finds that there are persistent challenges in increasing DI in the security and intelligence (S&I) departments/agencies, despite decades of legislation, specific promotional programs and measures in place, multiple reports, and repeated calls for change. The report also finds that there are challenges in tracking DI issues, including harassment complaints, and that accountability for ensuring DI is insufficient. The report indicates that NSICoP will undertake a retrospective review on this issue within three to five years to assess the S&I community's progress.
- **Chapter 2** on foreign interference (FI) finds that some foreign states—notably, Russia and China—conduct sophisticated and pervasive interference activities against Canada that pose a significant risk to national security, principally by undermining Canada's fundamental institutions and eroding the rights and freedoms of Canadians. The report further finds that during the period under review, the government's interdepartmental coordination on FI was case-specific and *ad hoc*, and has been limited by the absence of a holistic approach. As such, the government's approach tends to give greater weight to short-term interests rather than longer-term considerations.
- The report recommends that the government develop a comprehensive strategy to counter FI, and build institutional and public resiliency that is sustained by central leadership and coordination. NSICoP reiterates its recommendation from its 2018 *Special report into the allegations associated with Prime Minister Trudeau's official visit to India*, that members of the House of Commons and Senate should be briefed regularly on the risks of FI and extremism in Canada.
- **Chapter 3** finds that the Canada Border Service Agency's (CBSA) authorities for engaging in national S&I are clear, and its activities are well-governed; however, CBSA lacks ministerial direction for these activities. Additionally, CBSA does not have a standard process for assessing and reporting on risks and outcomes of its activities, including to the rights of individuals. The report recommends that the

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Minister of Public Safety and Emergency Preparedness provide written direction to CBSA, and that the agency develop a consistent risk assessment and reporting process.

- The **Special Report** finds that the Department of National Defence/Canadian Armed Forces' (DND/CAF) policy framework for collection, use, retention and dissemination of information on Canadians requires clarification, and that DND/CAF is not fully compliant with the *Privacy Act* in relation to intelligence activities taking place outside of Canada. It further finds that Crown prerogative may not prove to be an adequate source of authority for DND/CAF to conduct its intelligence activities, particularly where they involve information about Canadians.
- The report recommends that DND/CAF rescind the Chief of Defence Intelligence Functional Directive: Guidance on the Collection of Canadian Citizen Information, and—with the Privacy Commissioner—review its other relevant functional directives and policy instruments. The report further recommends that the Minister of National Defence should ensure that DND/CAF complies with the *Privacy Act*, whether its activities are conducted in Canada or abroad. Finally, the report recommends that the Minister of National Defence introduce legislation governing DND/CAF's intelligence activities.

Vincent Rigby

Attachment

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