

For Public Release

File No.: CCM #2021-009892

Solicitor-client Privilege

September 7, 2021 Meeting of the Critical Election Incident Public Protocol Panel**ANNEX F****Scenario Exercise #4: "Fake News and Early Results"****Scenario**

- The Covid-19 Delta variant skyrockets the week after an election is called and Elections Canada sees a huge spike in mail-in ballot requests. On the morning of election day, a deepfake video of a respected reporter relaying early results from the mail-in ballots circulates widely on social media. The graphic behind the reporter shows that the incumbent party is in second place, and the forerunner is closing in on a majority. A screenshot of this goes viral and is shared over a million times.
- Inject 1: The news agency for whom the reporter works announces that the video is fake. The story of the fake report is a top story on all the major news outlets in Canada as well as a number of outlets abroad. Elections Canada also responds by clearly laying out its mail-in ballot process, including safeguards such as the verification of outer envelopes, and that the counting of many of such ballots will only begin after the polls close. SITE briefs the Panel that they see little in the way of foreign involvement, and most of the sharing has been done domestically with little indication of artificial amplification.
- Inject 2: Social media platforms remove the video, however a screenshot of the results continues to surface on various pages attributed to partisan groups that support the supposed first place party and the incumbent. Many of these have repurposed the graphic in a manner that could possibly be seen as satirical.
- Inject 3: After advance polls are closed, EC reiterates an earlier statement that results will be delayed, adding that the delay will be longer than originally anticipated as the number of mail-in ballots has far exceeded expectations. Claims of fraudulent ballots and incorrect counts appear across several competitive ridings and increase in number, scope and intensity, and a clear result has yet to be announced three days after election day.

Considerations

- The Cabinet Directive on the Critical Election Incident Public Protocol (Protocol) requires that any public announcement issued by the Panel only be made where the Panel determines that an incident or an accumulation of incidents has occurred that threatens Canada's ability to have a free and fair election, taking into consideration *inter alia* (i) the degree to which the incident(s) undermine(s) Canadians' ability to have a free and fair election; (ii) the potential of the incident(s) to undermine the credibility of the election; and (iii) the degree of confidence officials have in the intelligence or information.
- In this scenario, the notion of a deepfake video suggests that an important preliminary consideration will be the veracity of information, and notably whether it has or can be verified by members of the intelligence community or other actors. Facts related to the counting of ballots could also be readily confirmed by Elections Canada.

For Public Release

- [APG] -

- A questions for consideration may be whether the actions, if true, falls under the mandate of the Chief Electoral Officer or the Commissioner of Canada Elections, for instance by constituting a violation of the *Canada Election Act* or the *Criminal Code*.
- Consideration might also be given to the role of the Clerk of the Privy Council in facilitating transitions of government including in communicating principles surrounding government formation and reinforcing the need for official election results to the Governor General, the government, and potentially the public, as well as existing policies of broadcasters and social media platforms with respect to disinformation and misinformation. Section 2(b) of the *Canadian Charter of Rights and Freedoms* expressly recognizes freedom of the press in Canada (see also *Denis v Côté*, 2019 SCC 44 at para 45-49).
- Inject 1 considerations: Questions for consideration may include whether consultation with the Chief Electoral Officer is warranted.
- Inject 2 considerations: Section 2(b) of the *Canadian Charter of Rights and Freedoms* expressly recognizes freedom of the press in Canada (see also *Denis v Côté*, 2019 SCC 44 at para 45-49).
- Inject 3 considerations: Questions for consideration may include whether political parties, the Chief Electoral Officer, or the Commissioner of Canada Elections are positioned to adequately address these matters, and the extent to which there is any intelligence on the matter.

August 27, 2021

/Roussy/van Dieen/sh

File No.: CCM #2021-009892

Solicitor-client Privilege