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MEMORANDUM FOR THE PRIME MINISTER

cc: Jody Thomas

**STATUS UPDATE ON IMPLEMENTATION
OF THE ROSENBERG RECOMMENDATIONS**

(Information Only)

SUMMARY

- o This note provides you with an update on the implementation of Mr. Morris Rosenberg's 16 recommendations from his independent evaluation of the Critical Election Incident Public Protocol (the Protocol) following the 2021 General Election. It is expected that all recommendations will be implemented in about six months, s. 39 -

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- o Nine of the recommendations can be completed within current authorities while seven will require new authorities. The former includes recommendations to ensure Panel members are prepared to assume their duties, to develop an enhanced communication plan on foreign interference in elections, and to provide briefings to Parliamentarians.

- o For the latter s. 39 - Cabinet Confidence

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You recently instructed SITE to adopt an enhanced operational posture to monitor for and assess potential foreign interference during the ongoing by-elections and to produce an after-action report. The experience these interim measures will inform the development of permanent measures to respond to Mr. Rosenberg's recommendations, recommendations of

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National Security and Intelligence Committee of Parliamentarians, as well as commitments made in the April 2023 *Countering an evolving threat* report.

Background

- In advance of the 2019 General Election, the Government of Canada introduced the Critical Election Incident Public Protocol (the Protocol), as part of the broader Plan to Protect Canada's Democracy. The Protocol is a non-partisan process for informing Canadians if serious incidents threaten the integrity of the election. It is administered by a panel composed of the Clerk of the Privy Council, the National Security and Intelligence Advisor to the Prime Minister, and the Deputy Ministers of Justice, Public Safety and Foreign Affairs (the Panel). As per the Cabinet Directive on the Protocol, following each general election, an independent report must be prepared to assess the implementation of the Protocol and its effectiveness in addressing threats to the election.
- The Cabinet Directive on the Protocol was updated in 2021 to include recommendations from the independent evaluation completed by Mr. James Judd following the 2019 General Election. Mr. Morris Rosenberg was identified as the independent evaluator of the Protocol following the 2021 General Election. The unclassified version of his evaluation was publicly released in February 2023.
- In his assessment of the Protocol, Mr. Rosenberg found that it should remain in place and identified 16 recommendations divided across five themes: Communications, Panel Considerations, Protocol Changes, Political Actors and Security Issues.
- In the April 6, 2023 report *Countering an evolving threat: Update on recommendations to counter foreign interference in Canada's democratic institutions* (the LeBlanc-Charette report) that I co-authored, the Government defined key actions and next steps to address outstanding recommendations from reports by the National Security and Intelligence Committee of Parliamentarians (NSICOP), Mr. Judd and Mr. Rosenberg. The latter's recommendations represented 16 of the 23 recommendations reviewed in this report.
- Four by-elections are being held across the country on June 19, 2023, and another by-election will be called by July 2, 2023. Given the context of heightened attention on foreign interference in Canada's democratic processes, you directed the Security and Intelligence Threats to Elections Task Force (SITE) to monitor and assess foreign interference in the by-elections. You requested that lines of communications with political party representatives be open in the event of an incident of foreign interference. You also instructed SITE to produce an after-election classified report which will consist of its assessment of any attempts at foreign interference during the by-elections. An unclassified report will also be made public.

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Privy Council**Implementation of the 16 Rosenberg Recommendations: Status Update**

- Work to implement Mr. Rosenberg's 16 recommendations, grouped into the five aforementioned themes, and fulfill the Government's commitments as set out in the LeBlanc-Charette report is ongoing.
- It is expected that all recommendations will be implemented in about six months, s. 39 - Cabinet Confidence
- Some of Mr. Rosenberg's recommendations align with those found in the reports by the National Security and Intelligence Committee of Parliamentarians (NSICOP), as well as in the December 2020 letter from the Chair of NSICOP to you following their reception and assessment of the independent evaluation by Mr. Judd. As a result, some of the measures taken to respond to the Rosenberg recommendations and committed to in the LeBlanc-Charette report contribute to resolving certain recommendations provided by NSICOP.

Panel Considerations (Recommendations 6 and 7)

- **Recommendations and Commitment:** In response to Mr. Rosenberg's recommendations to ensure that Panel members are well-prepared in advance to assume their Panel-related position (recommendations 6 and 7), the LeBlanc-Charette report committed the Government to start holding Panel meetings regularly, starting in Spring 2023. The Panel would be held only to ensure readiness since the Panel does not have authorities outside of the Caretaker period.
- This measure aligns with NSICOP's perspective. In the December 2020 correspondence from the Chair of NSICOP, the Honourable David McGuinty, on Mr. Judd's report, the Committee confirmed its support for the re-establishment of the Protocol and the Panel as soon as possible, noting that it would ensure that the Panel is ready to assemble, deliberate and intervene as needed in the event of an incident undermining the integrity of an election.
- **Actions to date:** While the Panel is not directly involved in the ongoing by-elections, the deputy ministers that make up the Panel support the ongoing efforts as members of the Committee on Intelligence Response (with the current exception of the Deputy Minister of Justice and Deputy Attorney General of Canada). As such, they receive assessments of foreign interference threats during the by-elections from SITE, including daily reports, and stand ready to brief and advise ministers with mandates to protect Canada's democratic institutions.
- **Next Steps:** PCO will offer briefings to new members of the panel, including my successor, in early summer 2023. A first meeting of the Panel will also be held

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shortly thereafter.

Communications (Recommendations 1, 4, 5 and 16)

- **Recommendations and Commitment:** Four of Mr. Rosenberg's recommendations are related to an enhanced communications strategy around the Protocol. In his May 2, 2023 appearance at the Standing Committee on Access to Information, Privacy and Ethics (ETHI), Mr. Rosenberg further suggested the Government consider producing a public intelligence report after an election. As part of the LeBlanc-Charette report, the Government committed to enhance communications with Canadians on the Protocol and measures to protect Canada's democracy, and on threats to democratic institutions and electoral processes at all times.
- This measure also aligns with NSICOP's recommendations to develop a whole-of-government mechanism to respond to the activities of hostile states and the establishment of a comprehensive strategy through sustained central leadership and coordination.
- **Actions to Date:** The Government has taken first steps towards an enhanced communications approach in the context of the ongoing by-elections. On May 16, 2023, the Government announced SITE's role during the by-elections, clearly positioning the measure within the Plan to Protect Canada's Democracy. The production of an after-action report by SITE, including the public release of a non-classified version on attempts at foreign interference, is aligned with the Government's commitment to increase communications with Canadians on threats to democratic institutions.

In addition to existing regular exchanges, PCO and Public Safety Canada (PS) continue to engage in targeted discussions to improve communications with Canadians on countering foreign interference in democratic processes.

The National Counter-Foreign Interference Coordinator, housed at PS, leads the development and implementation of the Counter-Foreign Interference Strategy (the Strategy) to defend Canadian sovereignty, values and interests from foreign interference. PS is working to release a public version of the Strategy to spread awareness of the threat posed by foreign interference and the measures the Government of Canada is taking to counter it. The Strategy intends to address all forms of foreign interference but includes democratic processes and government institutions as one of its priority sectors.

Next Steps: PCO will continue to collaborate with relevant departments to develop an enhanced whole-of-government communications strategy on threats to democratic institutions. The communications approach during the by-elections, including the publication of an after-action report, will inform the broader approach regarding communications about the threat of foreign interference in elections.

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- Recommendations and Commitments: Mr. Rosenberg provided two recommendations of logistical nature regarding the timing and location of briefings of political party representatives during election periods. He also recommended that a program of unclassified briefings on foreign and election interference designed for Parliamentarians be developed. The Government committed to make new briefings available to Parliamentarians and their staff.
- This measure aligns with the first recommendation from the NSICOP's report following your official visit to India in February 2018 that suggests that Members of the House of Commons and the Senate be briefed on the risks of foreign interference upon being sworn-in and regularly thereafter. In his December 2020 letter on Mr. Judd's report, the Chair of NSICOP further noted the need for the government to engage frequently and substantively with political parties on the Protocol and to educate Parliamentarians on foreign interference threats during and outside election periods.
- Actions to Date: As part of the measures to protect the ongoing by-elections from foreign interference, you instructed PCO to open lines of communications with and to provide briefings to representatives from political parties represented in the House of Commons and the People's Party of Canada so they can be ready in the event of an incident of foreign interference. A briefing was held with the parties and it was held in a central location as recommended by Mr. Rosenberg.
- Next Steps. PCO is working with PS to offer briefings to Parliamentarians as soon as possible.

Protocol Changes (Recommendations 9, 10, 11 and 15)

- Recommendations and Commitment: Mr. Rosenberg recommended three amendments be made to the Cabinet Directive on the Protocol to bring clarifications to the threshold for announcement by the Panel. He also recommended that the Protocol be maintained with his suggested changes. Further, as noted above, in his ETHI appearance, Mr. Rosenberg advised that the Government consider producing a public intelligence after-election report. In the LeBlanc-Charette report, the Government committed to reviewing the Cabinet Directive to examine the potential for these changes.
- In his December 2020 letter on Mr. Judd's assessment, the Chair of NSICOP further noted that there should be considerations given to the content of an announcement by the Panel, considering the many challenges that may ensue, which include foreign states targeting and exploiting partisan organizations and discourses to amplify differences, spread disinformation and sow division.

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- Actions to Date: PCO initiated work to explore the possibility of amending the Cabinet Directive on the Protocol to include possible Panel announcements in a way that is consistent with Canada's enhanced communications strategy. The communications-related Solicitor implications of these potential changes are still being assessed.

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As mentioned above, the ongoing by-elections represent an opportunity to test interim measures, including the production of a classified and unclassified after-action report by SITE. Based on the experience of the production of a SITE after-action report, PCO will consider whether to include it as part of an amended Cabinet Directive on the Protocol.

Security Issues (Recommendations 2, 3 and 8)

- Recommendations and Commitments: Mr. Rosenberg provided three security-related recommendations:
 - The first is to assess the coordination among different bodies in charge of ministerial security, to which the Government committed to evaluate the tools to enhance the security and information of Parliamentarians;
 - The second one is to review the mandate and membership of SITE. The Government committed to examine whether to make SITE a permanent entity with a mandate to conduct regular reporting on foreign interference activities; and
 - The last recommendation is for a review body to assess the decisions of ministers with respect to the use of threat reduction measures during the caretaker period. The LeBlanc-Charette report suggested that NSICOP and the National Security and Intelligence Review Agency undertake reviews in accordance with their mandate.

- Actions to Date: [PLACEHOLDER – RCMP announcement?]

SITE members carry out their mandates at all times, and meet on a periodic basis between elections to share information and best practices. As per the Cabinet Directive on the Protocol, during general elections only, their role is to provide regular briefings to Panel members on national security developments and potential threats to the integrity of the elections. In the context of the ongoing by-elections, SITE was instructed to adopt an enhanced operational structure to monitor for and assess foreign interference and to produce a classified and unclassified report of its assessment of foreign interference.

- Next Steps: [PLACEHOLDER – S&I to provide update on deck on security of public

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Experience from SITE's enhanced role will help determine whether its mandate and membership should be amended. PCO will engage with relevant partners across the Government to determine potential changes to make to the SITE mandate and membership, as part of an updated Plan to Protect Canada's Democracy.

- It should be noted that in their December 2020 letter to you on Mr. Judd's independent assessment, NSICOP supported the expansion of the Protocol's mandate to allow the Panel to become operational for other democratic events or for instances of foreign interference occurring throughout the election cycle. While this recommendation was not originally adopted because ministers have the responsibility and powers to address instances of foreign interference in-between elections, enhancing SITE's mandate and membership could be an alternative response to it.

PCO Comment

- Both Mr. Judd, in his independent evaluation of the Protocol following the 2019 General Election, and Mr. Rosenberg concluded that the Protocol worked well and should be maintained. Further, in his *First Report* released on May 23, 2023, the Independent Special Rapporteur on Foreign Interference (ISR), the Right Honourable David Johnston, also noted that "the elections of 2019 and 2021 were well by protected by sophisticated mechanisms", which include the Protocol.
- Recommendations from Mr. Judd and Mr. Rosenberg, government commitments made in the LeBlanc-Charette report as well as the ongoing work by the ISR contribute to our commitment to continuously improving measures to protect Canada's democratic institutions. This includes taking into consideration the third conclusion of the ISR's *First Report* that relates to the shortcomings in communicating intelligence. While this observation was not made in the context of the Protocol, it may provide useful insight since the Protocol impacts the flow of information during the Caretaker period.
- As demonstrated above, concrete steps have been taken to begin implementation of Mr. Rosenberg's recommendations. PCO will continue to work with partners to support the Minister of Intergovernmental Affairs, Infrastructure and Communities, the Honourable Dominic LeBlanc, s. 39 - Cabinet Confidence
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- This process will be informed by the final report of the ISR in the Fall, as well as the ongoing reviews and expected reports by the NSICOP, the National Security and

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Intelligence Review Agency, the Standing Committee on Procedure and House Affairs and the Standing Committee on Access to Information, Privacy and Ethics.

- Beyond the protection of democratic institutions, work continues to counter foreign interference more generally, notably through the Counter-Foreign Interference Strategy and potential legislative changes to the *Security of Information Act*, the *Canadian Security Intelligence Service Act* and the *Criminal Code*.
- I intend to provide you with an update ahead of the Parliamentary return in September 2023, specifically on the Panel briefings, the enhanced communications strategy and the Parliamentarians' briefings.

Janice Charette

[Redacted] Stinson/Sutherland/MacKinnon [Redacted]

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