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

Enquête publique sur l'ingérence étrangère  
dans les processus électoraux et les  
institutions démocratiques fédéraux

## In Camera Examination Summary: Panel of Five - 2021

Current and former senior Government officials who were members of the **Panel of 5** (“**Panel**”) during the 2021 election period were examined by Commission counsel during *in camera* hearings held between February 28 and March 6, 2024. The witnesses were Ms. Janice Charette, Ms. Nathalie Drouin, Mr. David Morrison, Ms. Marta Morgan, Mr. Rob Stewart and Mr. François Daigle. Counsel for the Attorney General of Canada appeared on behalf of the Government of Canada and had the opportunity to examine witnesses. After ruling on an application from the Government of Canada, the hearing was held in the absence of the public and other Participants.

### Notes to Reader:

- Commission Counsel’s explanatory notes are contained in square brackets to assist the reader.
- This summary has been produced in reliance on subclause (a)(iii)(C)(II) of the Commission’s Terms of Reference. It discloses the evidence pertinent to clauses (a)(i)(A) and (B) of the Commission’s Terms of Reference that, in the opinion of the Commissioner, would not be injurious to the critical interests of Canada or its allies, national defence or national security.
- This summary contains information that relates to the Commission’s mandate under clauses (a)(i)(A) and (B) of its Terms of Reference. Any information provided during the examination that relates to other aspects of the Commission’s Terms of Reference has been omitted. This summary should be read in conjunction with the CSIS unclassified interview summaries and the unclassified version of the CSIS Institutional Report.
- This summary should be read with the public summary of the interview of members of the Panel of 5 (2021) by Commission counsel.

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## Examination by Commission Counsel

- [1] Each witness confirmed the accuracy of the classified summary of the interview that Commission Counsel conducted with them on February 14, 2024. They adopted the classified version as part of their evidence before the Commission.
- [2] Ms. Drouin also adopted the content of the Institutional Report prepared by the **Privy Council Office (“PCO”)**.

## Roles and Responsibilities

- [3] Each witness described their organizational mandate and their roles and responsibilities as members of the Panel [This information is set out in the public version of the Interview Summary].

## Panel Operations and Procedures: 2021 compared to 2019

### Changes to the Protocol

- [4] Pursuant to a Cabinet decision made before the election, the **Critical Election Incident Public Protocol (“Protocol”)** was amended in a number of ways following the 2019 election. Ms. Charette identified the following differences between the 2019 and 2021 Protocol:
  - a) In 2019, the Protocol had been set up only for the 2019 election. With the update, the Protocol was put in place for all future elections;
  - b) The Protocol was modified to apply not only to **foreign interference (“FI”)**, but also to any incidents of domestic interference. Ms Charette added that this included domestic interference for domestic purposes or FI being conducted through a domestic actor;
  - c) The temporal scope of application of the Protocol was clarified: it applies throughout the caretaker period, which means from the date of an election until there is a clarity about a new government. During the caretaker period, the government in power uses the convention of restraint; it only makes decisions or takes action in the event that there is something urgent that has to be addressed, but otherwise avoids

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actions that would bind the hands of a future government. If, as was the case of the 2021 election, it is clear following the election that the existing government would continue to hold power, the caretaker period ends at the conclusion of the election. If there is a change in government, the caretaker period extends until the new government is sworn in.

d) It was made clear that the Panel of 5 could consult with the Chief Electoral Officer to ensure that there was clarity on respective responsibilities around any issue, including election security. Ms. Drouin added that this change merely clarified how the Panel already related to the Chief Electoral Officer. Ms. Charette commented that the Panel was mindful that the 2021 election was a COVID election which raised various issues, including around the use of mail-in ballots.

e) Political parties were expressly allowed to bring issues to the attention of the Panel;

[5] Ms. Drouin testified that the addition of a domestic interference component to the Panel's mandate was the most important change to the Protocol. Ms. Charrette added that in her view, this change had been made partly in reaction to the riots that followed the 2020 United States election, which could be considered domestic interference. Ms. Drouin also noted that the absence of a fixed election date in 2021 limited the ability to publicly announce the commencement of its operation as it had prior to the 2019 election.

[6] Ms. Charette also testified on the decision not to implement two recommendations of the **Report on the Assessment of the 2019 Protocol ("Judd Report")**. Ms. Charette noted that the Judd Report was a review of the 2019 Protocol and the work of the SITE Task Force and the Panel of Five in the 2019 election. In his report, Mr. Judd had expressed concerns over the high turnover rate in the membership of the Panel and suggested that consideration also be given to membership from outside the public service. She considered that turnover from one election to the next was inevitable, considering the natural evolution of the change in personnel in the senior ranks of public service. The Government chose to not adjust the membership of the Panel. The Government also chose not to accept Mr. Judd's recommendation to expand the temporal scope of application of the Protocol to the pre-writ period. Ms. Charette explained that the Government chose to refine the protocol to be explicit about the caretaker period but not

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to extend the application of the Protocol to the pre-writ period. This decision was based on the fact that the pre-writ period is not defined unless there is a fixed election date but also that other institutions with authorities (i.e. Ministers, Departments and Agencies) are fully active when the caretaker convention is not in application. She also noted the release of the NSICOP report at around the time but said that it dealt with broader issues in respect of foreign interference that went beyond the remit of the Panel.

**Onboarding of New Panel Members**

- [7] Mr. Stewart testified that a first meeting for the 2021 election was convened in January 2021 by the then-Clerk of the Privy Council. Two more meetings occurred in July 2021, where Panel members discussed the Judd Report assessing the operation of the Panel in 2019, the Protocol and various baseline briefings around foreign interference. Through the summer, the Panel discussed scenarios that could occur and the criteria that the Panel would use to assess whether they would meet the threshold for interfering with the integrity of the election.
- [8] Ms. Charette testified that she was first briefed around April or May 2021, in her capacity as interim Clerk, by the **National Security and Intelligence Advisor to the Prime Minister (“NSIA”)** and staff from the Democratic Institutions Secretariat on the Protocol, on her responsibilities as the chair of the Panel (Ms. Charette listed calling meetings, structuring agendas, leading discussions, and ensuring that people had access to the information as examples of those responsibilities) and on international examples of foreign interference. She indicated that she was also involved in the Cabinet discussions concerning the changes to be made to the Protocol and the presentation of the Plan to Protect Canada’s Democracy Memorandum to Cabinet. She added that she had attended the same briefings as Mr. Stewart throughout the summer of 2021 and was briefed by the SITE Task Force. She mentioned that she had access to documents made public by CSE and CSIS around cyber threats and foreign interference around democratic processes.
- [9] Mr. Daigle testified that, as he had replaced Ms. Drouin in her capacity of **Deputy Minister (“DM”)** of Justice in mid-August 2021, he attended his first meeting on August 23, 2021. To facilitate the transition Mr. Daigle explained that Ms. Drouin shared with him the materials that were provided at earlier Panel meetings, including from 2019. Mr. Daigle



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indicated that he already had a general awareness of FI and had already been exposed to intelligence and questions around intelligence and evidence in the context of his responsibilities for national security issues as Associate Deputy Minister at the Department of Justice. He noted that he had been involved in the **Deputy Ministers National Security Committee (“DMNS”)** and other national security related files for 5 or 6 years and in that capacity was a recipient of national security related intelligence.

[10] Mr. Morrison testified that he became a member of the Panel in the summer of 2021, when he was appointed acting NSIA. At that time, he received an onboarding package from the Democratic Institutions Secretariat. He stated that he was already a regular consumer of intelligence in his concurrent function as the Prime Minister’s Foreign and Defence Policy Advisor.

[11] Ms. Drouin testified that she had remained an observing member of the Panel in 2021 because there were several new members. Only she and Ms. Morgan also sat on the Panel in 2019. Ms. Drouin remained as an observer to ensure that there was a continuity and transfer of knowledge between the 2019 and 2021 Panels. She said that she participated in all aspects of Panel meetings in 2021 and was invited to offer her opinions but that she was not involved in Panel decisions. Ms. Charette added that she, as the then Clerk of the Privy Council, and Ms. Drouin, in her capacity as Deputy Clerk, worked as a team. As an observer to the Panel, Ms. Drouin would be well-placed to act as substitute for the Clerk on the Panel if need be. She noted that Catherine Blewett had attended Panel meetings as Deputy Clerk in 2019.

#### Flow of Information

[12] Ms. Drouin testified that the structure and content of Panel meetings in 2021 resembled those in 2019, including the use of intelligence briefings and scenario exercises. However, because of the COVID-19 pandemic, meetings were held virtually in 2021 and caused a change in the way information and intelligence from SITE was circulated. She assessed that, logistically, access to secure environments is easier within PCO than within the Department of Justice.

[13] Throughout the election period, all Panel members received the daily situation reports prepared by the SITE TF (“**SITREPs**”).

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- [14] Mr. Daigle testified that, upon joining the Panel, he was added to the distribution list to receive the SITREPs. He noted that Panel members would receive updates from Mr. Sutherland of PCO Democratic institutions and Mr. MacDonald of PCO Security and Intelligence. Briefings from the SITE TF were done orally. Mr. Daigle believed that he did not physically receive documents entitled "SITE TF Update to P5"<sup>1</sup>, nor did he receive documents produced by CSIS to support briefings by Mr. Vigneault. Mr. Daigle testified that he had no issue accessing documents he considered useful to his work as a member of the Panel.
- [15] Ms. Drouin noted the challenge of recalling whether she had read the particular document (SITE TF Update to P5) in 2021 or in 2023 as part of the investigation around certain leaks of information to the media.
- [16] Ms. Morgan recalled receiving the daily SITREPs as part of her daily intelligence package and added that if there was a supplementary report or other pieces of intelligence, she would receive it with her daily package.
- [17] Ms. Charette did not have a precise recollection of the SITE TF Update to P5 document and wondered whether the July 2021 version might have been included in the reference binder that was provided to P5 members at the beginning of the 2021 election period. She remembered that, during the election period, members of the agencies that were part of the SITE TF each briefed the Panel verbally as did PCO Democratic Institutions and PCO Security and Intelligence.

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<sup>1</sup> [As the result of an undertaking, the AGC provided the following additional information to the Commission: It appears that the SITE TF Update from July 2021 was the baseline threat document provided to the Panel members for the July 2021 meeting. The Attorney General of Canada has no indication that subsequent SITE TF Updates were intended for distribution, or were distributed, to the members of the Panel of Five. These documents were updates to the baseline threat document which was provided to the Panel members for the July 2021 meeting described above. These subsequent Updates were produced for those officials who would be briefing the Panel at their meetings. The Updates are reflective of information provided to the Panel members by other means, such as the daily SITREPs and the oral briefings provided at Panel meetings.]

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- [18] Mr. Morrison noted that the document in question was not dated, as it only indicates “July 2021” on its first page, and contained information that would have duplicated on other documents, making it difficult to assess whether he had read this specific document.
- [19] In both 2019 and 2021, the Panel meetings were attended by members of the **Security and Intelligence Threats to Election Task Force (“SITE TF”)**, as well as by representatives of PCO. In both elections, after the representatives of the SITE TF had provided information or intelligence to the Panel, they would be excused from the meeting so that the Panel and representatives from PCO could deliberate in private.
- [20] Ms. Charette explained that during the election period, the SITE TF updates were briefed orally to the Panel. These briefings usually occurred during the weekly Panel meetings and each of the agency heads presented an update to the Panel. The briefings provided to the Panel were not one-way conversations. These allowed the Panel to have an exchange with the Agencies. For instance, if issues were identified in a briefing and the Panel wanted more information or a follow-up to be done, it would be addressed during those exchanges. Ms. Charette did not recall asking for any written documentation to come back from the agencies, but she would ask them to report back to the Panel on specific issues. On that point, Ms. Charette emphasized that it is unusual in Government to have five Deputy Ministers focusing on a specific topic and meeting with this regularity, and that the Panel members understood that they had a very important job to do during the caretaker period. In the context of these meetings, the agencies could report back to the Panel at the next meeting when the Panel was asking for updates or additional reporting.
- [21] Mr. Morrison added that, had it been necessary, the Panel could be convened for an *ad hoc* meeting to consider information that arose that could not wait for the next weekly meeting. Ms. Charette further elaborated that this had not been required during the 2021 election.
- [22] Beyond the briefings from the security agencies, Ms. Charette noted that the Panel received updates from Al Sutherland of Democratic Institutions and Mike MacDonald of Security and Intelligence on their conversations with social media companies, on their

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interactions with think-tanks that monitor social media for disinformation and on the briefings with cleared representatives of the political parties.

- [23] Mr. Daigle, Ms. Charette, Ms. Drouin and Mr. Morrison all testified that the Panel did not have the authority to direct an agency to use specific operational tools to collect intelligence; rather, it could ask for information and convey expectations on specific topics. Members of the Panel in their individual roles outside of the Panel had additional authorities that they could bring to bear as needed.

Announcement Threshold Discussions – General

- [24] Ms. Charette indicated that the Panel's understanding of the threshold to make an announcement was grounded in Section 6 of the Protocol and informed by the different perspectives that the five members brought to the table. According to her, key considerations included the degree to which the incident or accumulation of incidents could undermine Canadians' ability to have a free and fair election, the degree of confidence in the intelligence, and the potential that the incident could undermine the credibility of the election. Ms. Charette added that the Panel had gone over a number of hypothetical scenarios to refine its understanding of the threshold.
- [25] Ms. Charette testified that the extent of the impact of an event on the election was assessed based on a wide array of factors: its reach, scale, source (domestic or foreign), credibility (single or multiple source, corroborated or uncorroborated), relevance, lifespan, and the effectiveness of self-correction. For a given incident, the Panel would work through the factors and develop an assessment of impact. As an example, she explained the reach factor. If the reach of an incident is very contained then it would have less impact. If the incident has a viral impact then it could require further attention from the Panel. She added that the Panel members assessed all of these factors based on their extensive experience in the public service. Ms. Charette added that the Panel is only one part of a broader ecosystem interested in election integrity and that in certain circumstances there are things that can be done by other players in the ecosystem which are short of the last resort – a public announcement by the Panel, which might in itself be construed as election interference.

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- [26] Ms. Drouin recalled that hypothetical situations raised in a table top exercise that involved concerns raised by lead officials of a party or in which an event occurred in close proximity to the election were particularly challenging. She explained that one of the possibilities that the Panel discussed was that making an announcement in response to issues raised by one party might itself be intervention that favoured that party more than another. She also remembered a specific table top exercise where fake videos emerged that suggested a leader had links to organized crime, and no one was coming forward to correct the misinformation. In the hypothetical scenario under consideration, the video became increasingly viral and eventually crossed over to mainstream media. According to Ms. Drouin, this hypothetical scenario approached the threshold for announcement.
- [27] Mr. Stewart considered assessing the impact of an incident to be a challenging exercise, given that the Panel needed to anticipate whether FI could influence voters without knowing how they would have behaved in the absence of FI. Mr. Daigle agreed that this was difficult, and testified that the Panel attempted to gather as much information as possible (on the nature of an event, on actors to whom it could be attributed to, on factual observations of behavior on the days following an event, etc.) to make its assessment. In the case of a possible disinformation campaign, it is sometimes not clear if misinformation occurred or not. Has there been amplification? Is there someone in the background who is trying to push an agenda? Is what the Panel looking at really just a conversation between Canadians on a particular social media platform?
- [28] Ms. Morgan noted that there are civil society organizations which monitor social media during elections, some of which had been funded in the past as part of the Protecting Canada's Democracy initiative, and that the Panel would have access to that information through the SITE TF. That, along with the relationships with the social media platforms, were other parts of the ecosystem that could assess whether there was inauthentic or foreign-created disinformation. Ms. Charrette recalled that a number of the social media companies entered into undertakings with the Government, through Democratic Institutions at PCO on how they would conduct themselves during an election campaign.
- [29] With respect to social media platforms, Mr. Daigle agreed that there were technical limitations on intelligence agencies' ability to assess the impact of an event (e.g., because

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of lack of visibility over activities on a social media platform such as WeChat). This carried over to the Panel's own assessment of impact. Ms. Morgan and Ms. Charrette noted that in addition to the work of the **Rapid Response Mechanism ("RRM")**, the formal and informal working relationships between SITE TF member agencies and PCO with social media platforms were helpful in this context. If something was happening on Facebook or Twitter, the Government could consult with the platform to understand whether there was evidence of inauthentic or foreign-created information.

### Specific Meetings of the Panel

#### June 25, 2021 Meeting

[30] Ms. Charette testified that this was the first Panel meeting that she had chaired and described it as an introductory meeting, an opportunity for new Panel members to internalize the Protocol. As representatives from the SITE member agencies were present, this was an opportunity for them to explain what they would be providing the Panel and for the Panel to provide guidance to SITE on the intelligence that would be relevant to its work.

[31] Mr. Stewart testified that another important matter of discussion during this meeting was the notion of domestic interference, which had recently been added to the Protocol, and the role of CSIS and RCMP in providing additional information. Ms. Drouin agreed and recalled that concerns had been expressed regarding the limitations on the authorities of the SITE TF member agencies to collect domestic intelligence. She noted the increased prominence of ideologically motivated violent extremism within the Panel's mandate and the panel's need to address it.

#### August 23, 2021 Meeting

[32] Ms. Charette testified that this was the first occasion on which the Panel was briefed by the CSIS Director regarding a potential FI matter. According to Ms. Charette, the Panel understood that there were faint signals of FI, and they asked for further information and updates on this situation.

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## September 7, 2021 Meeting

[33] Ms. Charette recalled that the Panel was provided with an update. According to Ms. Charette, the Panel considered that this information did not meet the threshold, but asked the CSIS Director for greater clarity on the case and whether any steps could be taken to mitigate the threat.

[34] Ms. Charette explained that she had another meeting with the CSIS Director between this September 7 meeting and the next Panel meeting, which was scheduled for September 15. During this meeting, they discussed possible courses of action regarding the information shared during the previous P5 meetings.

## September 15, 2021 Meeting

[35] Ms. Morgan identified this meeting as the first one where the Panel was briefed on a possible disinformation campaign targeting Kenny Chiu. The first SITE TF daily report mention of the case was on September 9. Daily updates were subsequently issued from September 13-17. The Panel began with the assumption that this could be foreign interference and paid close attention to RRM.

[36] Ms. Morgan indicated that the key question, from the Panel's perspective, was whether the spreading of information was coordinated and inauthentic. Assessing whether this was state-propelled or propelled by the normal uptick in social media activity during an election campaign was challenging. Adding to the challenge was that WeChat, unlike other social media platforms, was largely opaque to the Government.

[37] She noted that, based on the RRM assessment, the information that circulated may have been coordinated, but the available indications were not significant enough to draw that conclusion. The information circulating was of interest both to state-controlled media in China, but also to Chinese-Canadians, so there was ambiguity as to whether the information spread was coordinated or authentic. This ambiguity led the Panel to determine that the threshold had not been met in this case.

[38] Ms. Drouin added that in the case of Mr. O'Toole, the episode began with a story in the Hill Times that later jumped to Canadian Chinese-language social media.

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- [39] Responding to a question about the difficulty of attributing misinformation from states that use sophisticated tools, Ms. Morgan explained that there are indicators that can be used, and technical expertise to make the necessary assessment.
- [40] Ms. Morgan also noted that there is also some inevitable ambiguity in the attribution of online FI during elections, particularly where a story is circulating in both Canadian and foreign social media and news sites. This is, in part, because there is a spike of activity and interest in election-related stories during election periods, and that includes interest in foreign news media about what Canadian media is saying about the relevant foreign country and Canada's relationship with it. She and Mr. Morrison both reflected that the increasing capabilities and sophistication of foreign actors made it increasingly difficult to attribute state-sponsored disinformation. Mr. Morrison noted that the known examples of FI in elections around the world have been easy to spot.
- [41] Mr. Daigle commented that it is important to remember that Canadians have the freedom to express their political opinions and that it is necessary to leave the space for people to have those discussions, particularly during an election. This is another reason that it was important that the threshold was not simply that it was possible that an incident could have been driven by FI, but that it was probable.

December 10, 2021 Meeting

- [42] Mr. Morrison explained that the purpose of this meeting had been to look back on the Panel's activities during the 2021 elections.
- [43] Mr. Morrison testified that, in his capacity as acting NSIA, after the 2021 election, and outside of the temporal scope of the mandate of the Panel, he received a report that a foreign state had attempted to interfere in the 2021 election through financing. He was informed that this intelligence was being further investigated. The Panel was informed of these developments at its December 10, 2021 meeting.
- [44] Ms. Charette testified that, at this December 10, 2021 meeting, the Panel had also been informed that the SITE TF had assessed concerns raised by the Conservative Party of Canada after the election that the 2021 election had been impacted by FI. She indicated that the Panel was informed that the SITE TF had assessed these concerns and had no



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reason to conclude that there was FI, and that that had been debriefed to the Conservative Party of Canada.

### Examination by Counsel for the Government of Canada

[45] Mr. Morrison testified that the Panel was aware during the caretaker period that FI was ongoing. He stated that the Panel had not observed a spike in FI during the 2021 election as compared to the baseline of FI, but was confident that SITE TF would bring reports of any FI that was detected. He said that the Panel did not ignore anything. Ms. Charette added that five Deputy Ministers receiving daily and weekly reports from multiple agencies on a single topic is an unusually high degree of attention to a specific topic. She confirmed that the Panel was looking at anything that was happening in the relevant timeframe, because they had a responsibility. Given this heightened vigilance and based on the Panel's review of all materials, Ms. Charette testified that she is confident that the 2021 election was free and fair.