



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

IN THE MATTER OF THE FOREIGN INTERFERENCE COMMISSION

AFFIDAVIT OF SUSAN TOROSIAN

I, Susan Torosian, of the City of Ottawa, in the Province of Ontario, MAKE OATH AND SAY:

1. On August 8, 2024, I was interviewed by Counsel for the Public Inquiry into Foreign Interference in Federal Electoral Processes and Democratic Institutions (“Commission Counsel”) in my capacity as Executive Director, Public Affairs and Civic Education.
2. Following that interview, Commission Counsel prepared a summary of my evidence.
3. I have reviewed a summary of my evidence, a copy of which is attached as **Exhibit “A”** to this affidavit (the “Witness Summary”).
4. I do not wish to make any changes, additions, or deletions to the Witness Summary. I adopt the contents of the Witness Summary as true and accurate.
5. I adopt the contents of Exhibit A as part of my evidence before the Commission.

SWORN before me in the City of
Gatineau, in the Province of
Québec on September 19, 2024.

Gedna,
Edwidge

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Susan Torosian

This is **Exhibit “A”** to the affidavit
of Susan Torosian, sworn before me
this 19 day of September 2024

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Interview Summary: Elections Canada (Stéphane Perrault, Serge Caron, Josée Villeneuve and Susan Torosian)

Stéphane Perrault, Serge Caron, Josée Villeneuve and Susan Torosian were interviewed by Commission counsel on August 8, 2024.

Notes to Readers:

- Commission Counsel have provided explanatory notes in square brackets to assist the reader.

1. Background

- [1] Stéphane Perrault is the Chief Electoral Officer of Canada. He has held this position since June 2018. It is a non-renewable term of 10 years. Prior to his appointment he was Acting Chief Electoral Officer from December 2016 to June 2018. Prior to this, he held a variety of legal positions with Elections Canada, the Privy Council Office, and the Department of Justice.
- [2] Serge Caron is the Deputy Chief Electoral Officer for Digital Transformation, as well as Elections Canada's Chief Information Officer and Chief Security Officer. He has held this position since 2020. Prior to this he was Elections Canada's Chief Information Officer from 2016 to 2020. Before that, he held a number of information technology positions with the Treasury Board Secretariat and in the private sector.
- [3] Josée Villeneuve is the Acting Deputy Chief Electoral Officer, Regulatory Affairs. From 2018 to 2024 she was the Senior Director for Political Financing at Elections Canada. Prior to that, she held positions within Elections Canada, the Office of the Information Commissioner of Canada, and the Competition Bureau.
- [4] Susan Torosian is the Executive Director, Public Affairs and Civic Education at Elections Canada. She has held this position since 2016. Prior to that, she was Senior Director of Public Affairs, Acting Executive Director of Strategic Partnerships and

Outreach, Director of Outreach and Director of External Relations at Elections Canada. She has also held a number of positions in the public and private sectors.

2. Outreach and Civic Education Initiatives

- [5] Elections Canada (“**EC**”) has a mandate to ensure that all Canadians are informed about the electoral process. This includes information respecting the checks and balances that are built into the electoral system to ensure its integrity.
- [6] EC’s messaging programs constantly evolve to reflect changes in the information environment, such as changing trends in how individuals consume media. EC collects metrics through a variety of means to see whether its messaging is effective in enhancing public understanding of the electoral process. EC’s metrics do include analyzing the impact of its messaging on sub-populations, such as new Canadians but do not further define subsets within the New Canadians category. Information can be found on EC’s website on the “Research on Electoral Participation” section of the “Research” page, under “First Time Electors – New Canadians.
- [7] Ms. Torosian highlighted four program areas relevant to how EC informs the public about the electoral process: the Voter Information Campaign, the Community Relations Officer program, Inspire Democracy, and civic education initiatives.

2.1 Voter Information Campaign

- [8] When an election is called, EC engages in a multimedia campaign designed to drive individuals to its website. It is comprised of advertisements, social media activity, and media engagement. The goal of this campaign is to position EC as the authoritative source of information about where, when and the ways to vote. The EC website contains key information about the voting process in 49 languages in addition to English and French, 33 of which are heritage languages most commonly used in Canada and 16 indigenous languages. Where possible, Elections Canada offers its advertising in heritage languages as well. Individuals can also obtain information from EC over the phone, where interpretation services for approximately 220 languages are available.

2.2 Community Relations Officer

- [9] Community Relations Officers (“**CROs**”) are employed locally by returning officers during election periods to engage with hard-to-reach populations who traditionally have less knowledge about the electoral process or face other barriers to voting. They are hired and trained by Returning Officers at the Electoral District level to reach out to target populations by making presentations on the mechanics of registering and voting, distributing voter information materials and in some cases assisting with interpretation in languages other than Canada’s two official languages and assisting in hiring poll workers from the communities they represent. There are six targeted population groups, and six corresponding types of CROs. One type is “ethnocultural”. During the 43rd and 44th General Elections there were approximately 200 ethnocultural CROs.

2.3 Inspire Democracy

- [10] Inspire Democracy is a permanent program made up of a network of 800 civil society groups that work to deliver ongoing programming on the electoral process. This means that the program is delivered not only during the election period but also between elections. Many (31 in the 44th General Election) of these groups service particular ethnocultural communities. The purpose of Inspire Democracy programming is to reduce barriers to participating in the electoral process, including running for office, working at a federal election, registering to vote and voting. By working with stakeholder partners, Inspire Democracy is better able to interact with hard to reach audiences.

2.4 Civic Education

- [11] EC’s Civic Education program is designed to target the next generation of voters. Working with educators, Elections Canada educates students about the electoral process and has discussions about voting through a variety of educational resources for use by teachers in the classroom. Although this program targets students, research indicates that students bring home the conversations they have in the classroom around voting, which produces spin-off education for parents.

2.5 Enhancements for the 45th General Election

- [12] In preparation for the 45th General Election, EC is building in messaging about electoral integrity measures into all of its program areas. Messages include: the secrecy of the ballot; the requirement for voters to provide proof of identity and residence before voting; vote by mail requirements; the use of paper ballots; and the vote counting process.
- [13] EC is developing media guides in Mandarin, Cantonese and Punjabi, which are the three most spoken languages in Canada other than English and French. These guides contain additional information beyond the information normally shared with media organizations at election time. This includes additional information on electoral safeguards. EC aims to use these guides to better engage with ethnocultural communities in Canada about particular concerns that have been expressed about the security and integrity of the elections process.
- [14] EC has developed a Community Leader Handbook to be used as part of the Inspire Democracy Program, which has been translated into 33 heritage languages. This handbook will assist with providing information about participation in the electoral process to a wider range of ethnocultural communities.
- [15] EC's "Guide to Federal Elections" is currently available in English and French, 33 heritage languages and 16 Indigenous languages) on EC's website. EC is considering offering printed versions on this Guide for use by the Inspire Democracy Program, and CROs.
- [16] The Inspire Democracy program is also being expanded to a network of 40 organizations that are focused on ethnocultural communities in Canada.
- [17] EC's digital literacy resource for teachers is being updated in response to growing concerns about misinformation and disinformation in the online environment related to the electoral process.
- [18] During elections, the EC website looks substantially different than during intra-election periods. EC's "ElectoFacts" resource, which was launched in January 2024, will be prominently displayed on the election period website in addition to the repository of

Elections Canada Official Communications available since 2015. [ElectoFacts is described as a resource that Canadian electors can use to easily check whether information they come across about Canada's federal electoral process is true or not]. The website will also have a section targeting new Canadians. One goal of the election-period website will be to reinforce the electoral safeguards that exist.

- [19] EC is currently considering launching a pre-election advertising campaign and pre-election website during the pre-election period if the next election occurs on the fixed election date.
- [20] The panel was asked about a program referred to as “Electoral Safeguard Education Initiatives”. Ms. Torosian explained that EC has launched two pilot projects under this initiative, which are situated within both the Inspire Democracy and the Civic Education programs. Both seek to leverage community connections and support partners in the community to deliver educational programming.
- [21] The first pilot project involves the use of two Regional Education Officers, one based in Markham, Ontario, and one based in Surrey, British Columbia. These Officers have linguistic and community connections to ethnocultural groups in their respective locations. They focus their work on supporting the delivery of programming in primary schools, but also support workshops for voting age members of the public.
- [22] The second pilot project is the use of a Regional Outreach Coordinator based in Edmonton, Alberta, who extends EC’s reach and supports community partners on the ground. Ms. Torosian noted that, while not as ethnically diverse as Markham or Surrey, 36% of Edmonton’s population is comprised of first-generation immigrants.
- [23] When asked about the reason for an enhanced focus on electoral integrity messages, Mr. Perrault stated that this focus was not new, nor is it exclusively tied to concerns about foreign interference. The notion of talking about electoral integrity emerged for EC more than ten years ago, and EC has gradually been providing more content in this area. Ms. Torosian noted that there is a body of research that recommends that electoral authorities provide more information of this type to the public.

[24] That said, concerns about foreign interference have played a role in EC's messaging. Mr. Perrault referred to emphasizing ballot secrecy as an example of this. The fact that this is a concern within some communities has emerged within the context of discussions about foreign interference. Ms. Torosian added that misleading online information about the electoral process has also played a role in informing EC's messaging.

2.6 Stakeholder Partnerships

- [25] The panel was asked to discuss how EC works with stakeholder groups to provide educational programming and information to voters.
- [26] EC works with stakeholders of various types. For example, EC works with Immigration, Refugees and Citizenship Canada to provide information on the electoral process to every person who participates in a citizenship ceremony.
- [27] EC also has a relationship with 800 civil society groups including ethnocultural organizations and works with them to support their delivery of information about the electoral process. Some are under contract with EC to provide content, while others do so on a voluntary basis. Mr. Perrault noted that partnering with community and ethnocultural organizations allows for EC's content to be delivered to communities in a way that reflects their own experiences and voice.
- [28] Commission counsel referred to publicly available information suggesting that some foreign states may use community organizations in Canada as proxies to engage in foreign interference. Mr. Perrault indicated that EC does not ask the Canadian Security and Intelligence Service to validate the community organizations that EC works with. EC does, however, monitor these organizations' activities, particularly on social media. The focus of this monitoring is to ensure that EC's contracted partner organizations remain non-partisan.
- [29] Ms. Torosian indicated that EC was preparing to engage with digital platforms in the fall in preparation for the next general election. Topics that EC expects to address include artificial intelligence ("AI"), ensuring algorithms do not direct users to outdated or

incorrect information, renewing its escalation protocols, changes to their operations context and the changing online environment more generally.

3. By-Elections Since the 44th General Election

- [30] Since the 44th General Election in 2021, there have been five sets of federal by-elections:
- 12 December 2022: Mississauga-Lakeshore.
 - 19 June 2023: Notre-Dame-de-Grâce-Westmount; Oxford; Winnipeg South Centre; and Portage-Lisgar.
 - 24 July 2023: Calgary Heritage.
 - 4 March 2024: Durham.
 - 24 June 2024: Toronto-St. Paul's.
- [31] Mr. Perrault indicated that EC is unaware of any issues related to foreign interference in any of these by-elections.
- [32] EC did receive complaints about foreign interference following the 44th General Election. These took the form of people expressing their concern about the issue of foreign interference generally. EC did not receive any reporting of concerns about particular incidents related to foreign interference.

4. Security Initiatives Following the 44th General Election

- [33] Mr. Caron provided an update on certain security initiatives that have taken place at EC since the 44th General Election. These fell under EC's three security pillars: cyber, physical, and personnel security.
- [34] Elections Canada has upgraded its security posture around its IT systems. It is migrating to a new data center that has enhanced physical security controls. It has also upgraded its security information and event management system.

- [35] EC has devoted increasing attention to the threats posed by AI, including its capacity to amplify mis and disinformation online, and to create “deepfakes”, which are convincing audio or visual impersonations. EC has been in discussions with electoral authorities in provinces and territories about the risks posed by AI. The Canadian Centre for Cyber Security (“**CCCS**”) participated in a roundtable on this topic with the Canadian Chief Electoral Officers.
- [36] EC has been developing its physical security infrastructure to permit enhanced access to classified information. This includes installation of a Government of Canada Secret Infrastructure (“**GCSI**”) terminal and upgraded secure phone systems. EC is currently working to implement secure videoconferencing systems. Mr. Caron explained that these systems will increase the EC’s operational efficiency by permitting more ready access to Secret level information within EC’s own facilities.
- [37] EC has also been assisting the Office of the Commissioner of Canada Elections (“**OCCE**”) in obtaining a Secure Compartmented Information Facility (“**SCIF**”). Once implemented, this will allow for storage of Top Secret level information. Mr. Caron explained that EC is involved in this initiative due to its responsibility for certain administrative aspects of the OCCE. EC does not itself require access to its own SCIF as it does not have a regular operational need to access Top Secret information.
- [38] EC has increased the pace and sophistication of its “phishing” exercises, which are designed to train staff and make them resilient to phishing attempts. This is due to the increased sophistication of cyberattacks targeting individuals.

5. Coordination Mechanisms with Government

- [39] The panelist were asked about the operation of the various coordination bodies with government since the 44th General Election, and in particular the Electoral Security Coordinating Committees (“**ESCCs**”).
- [40] Mr. Caron explained that the ESCCs operated in respect of two different objects: byelections, and the 45th General Election.

5.1 ESCCs Related to Byelections

- [41] Mr. Caron noted that, in May 2023, the Security and Intelligence Threats to Elections Task Force (“**SITE**”) was stood up in anticipation of the June 2023 byelections. Because these byelections were taking place outside of the context of the caretaker convention, the Critical Election Incident Public Protocol (“**CEIPP**”) did not apply, and therefore there was no “Panel of Five” for SITE to brief. Instead, the Deputy Minister Committee on Intelligence Response (“**DMCIR**”) was the primary recipient of SITE briefings.
- [42] The Assistant Deputy Minister ESCC (“**ADM ESCC**”) began to meet to discuss whether there was a need for any structural changes to account for the different context of SITE operating during a byelection as compared to a general election. This included discussing and refreshing communications protocols. The ESCC also discussed risks and the general business of elections and election security.
- [43] In the lead up to each of the byelections, the ADM ESCC met every other week.
- [44] Mr. Perrault was asked about his relationship to DMCIR during a byelection. He indicated that he did not view it as different from his relationship with the Panel of Five during a general election. He noted that, during the byelections, he did not have any direct engagement with DMCIR.

5.2 ESCCs Related to the 45th General Election

- [45] In parallel with ESCC work surrounding byelections, the ESCCs have met on a monthly basis to prepare for the next general election. This will increase to biweekly or weekly meetings during the election.
- [46] These ESCC meetings have involved general awareness discussions and briefings about roles and responsibilities of different actors, as well as conducting tabletop exercises that are responsive to the changing threat landscape. In this respect, the ADM ESCC reviewed the results of a tabletop exercise held in 2024 involving an AI-focused scenario.

6. Relationships with Agencies and Departments Since the 44th General Election

- [47] The panel was asked to comment on their relationships with external partner organizations since the 44th General Election.
- [48] EC's relationship with the OCCE is largely unchanged. EC has a monthly meeting with the OCCE to discuss issues of mutual concern.
- [49] Since the 44th General Election, EC has enhanced its communications with police forces. This is due to experiences in the 44th General Election in which there were security incidents at polling places related to COVID-19 public health measures. This enhanced communication with police forces is not directed at foreign interference issues.
- [50] EC continues to obtain general awareness information from SITE through the ESCCs. There has been an increase in the flow of information.
- [51] EC has a strong relationship with the CCCS. There has been a greater emphasis on discussing emerging threats. EC is working with CCCS on new initiatives related to digital services in order to ensure that they are safe and secure when deployed.
- [52] EC's relationship with CSIS remains largely the same. There are open lines of communication.
- [53] EC continues to receive reports from Global Affairs Canada's ("**GAC**") Rapid Response Mechanism ("**RRM**") and RRM continues to access EC's Social Media Monitoring Reports. EC and the RRM also meet to share information on the latest trends and best practices in social media monitoring. An EC staff member was placed on secondment at the RRM for seven months in order to gain a better understanding of how they operate.
- [54] EC is continuing to pursue an information sharing agreement with GAC in order to formalize its existing relationship. Ms. Torosian indicated that the goal is to have this agreement in place by the 45th General Election.

7. The Political Finance Regime

- [55] The panel discussed the rules surrounding political financing under the *Canada Elections Act* (“**CEA**”). [Readers should refer to the political finance section of EC’s Supplementary Institutional Report for additional information on this topic].
- [56] Mr. Perrault expressed his view that Canada’s political finance rules were the most ambitious and comprehensive in the world in terms of their desire to limit the undue influence of money, increase transparency, and level the playing field among different actors. For example, he noted that in Canada the donation reporting threshold for an individual’s identity to be disclosed and published is \$200. In the United Kingdom, the disclosure threshold is approximately \$19,000 (converted to Canadian dollars). In Australian, the disclosure threshold for donations is approximately \$ 15,500 (converted to Canadian dollars). Canada also has comprehensive spending limits, including limits on third parties. He noted that no system is perfect, and the Canadian regime is complex. However, while no system will stop all unreported money from circulating, in our system, given the relatively low limits on the amounts of money that can be spent in Canadian elections, it is practically impossible for large amounts of money to circulate and be spent by parties and candidates undetected.

7.1 Regulations of Contributions

- [57] Under existing rules, only Citizens and Permanent Residents may make contributions to parties, candidates, electoral district associations (“**EDAs**”), nomination contestants and leadership contestants.¹ [Another category of recipients, “third parties” are discussed separately, below]. There is an annual limit of \$1,725 for 2024 in contributions collectively for all EDAs, nomination contestants and candidates for each registered party, as well as for each registered party, and in total for all contestants in a particular leadership contest. There is a prohibition against circumventing, attempting to

¹ [CEA, s. 363(1)].

circumvent or colluding to circumvent these limits.² No person may make a contribution using funds that were given to them for that purpose by another.³

- [58] It is the duty of the regulated entity⁴ to confirm that the contribution comes from an eligible source, and to record their identity if the donation is greater than \$20 and issue a contribution receipt. As such, the system is based on trust. If the recipient of a contribution learned that it has come from an ineligible source, they must return it to the donor or, if that is not possible, remit to the Receiver General through EC.⁵
- [59] Regulated entities must record donors' full first and last names (initial are not accepted) and for a contribution over \$200, their home address. The political entity must inform them that they can only donate if they are a Citizen or Permanent Resident. There is no obligation on a regulated entity to obtain proof of citizenship or permanent resident status, or proof of identity from donors. However, political entities may implement ways to ensure that donors are eligible. For example, parties may require donors to declare that they are eligible prior to accepting a contribution. Also, the fact that donor information is published by EC provides for an additional mechanism to scrutinize contributions.
- [60] For the 44th General Election, candidates received approximately 7 million dollars in contributions, from over 30,000 contributors for an average contribution of \$228. In 2021, parties received approximately 63 million dollars, from over 271,000 contributors for an average contribution of \$151. That same year, electoral district associations received approximately 35 million dollars in contributions, from over 126,000 contributors for an average contribution of \$249.

² [CEA, s. 368(1)].

³ [CEA, s. 370(1)].

⁴ [In this context, a regulated entity is a candidate, registered party, EDA, leadership contestant or nomination contestant. A third party, also a regulated entity, has different contribution rules. These are discussed separately below].

⁵ [CEA, s. 363(2)].

7.2 Spending Limits

- [61] Regulated entities other than leadership contestants are subject to spending limits under the *CEA*. Leadership contestants are only subject to a spending limit if the political party's rules impose such a limit.
- [62] Spending limits vary as between types of regulated entities and, in some cases, within a category of regulated entity. For example, the spending limit for candidates varies as between electoral districts.

7.3 Returns and Compliance Auditing

- [63] Regulated entities are required to file various types of returns with EC. The timing and content of these returns vary as between categories of regulated entities and may vary within a single category. For example, a candidate is required to file an auditor's report if they accept contributions totalling \$10,000 or more, if they incur electoral expenses totalling \$10,000 or more, or if they receive 10% or more of the votes cast in the electoral district in which they ran as a candidate.⁶ They are not required to file an auditor's report if they do not exceed any of these thresholds.
- [64] Political parties are required to notify EC of a leadership contest prior to the contest occurring. Leadership contestants must also register with EC and file interim returns (if applicable) and a campaign return. Political parties or EDAs, on the other hand, do not have to notify EC that a nomination contest is taking place until after it has occurred. Nomination contestants do not have to register with EC. They also do not have to file a campaign return unless they meet a reporting threshold.
- [65] Candidates, nomination contestants and leadership contestants are required to provide supporting documentation to EC along with their returns. Third parties are not, but EC may require them to provide it on request. EC has no authority to request political parties or EDAs to provide supporting documentation related to their return. Mr. Perrault noted that both he and his predecessors have recommended that he be given this power, which is standard at the provincial level. Being able to require political parties to

⁶ [CEA, s. 477.1(2)].

provide supporting documentation for their financial returns would enhance EC's ability to administer the political finance regime.

- [66] EC reviews all returns that it receives for completeness. It does not, however, conduct an in-depth audit of all returns. Rather, it uses a risk-based approach, in which it identifies returns that are flagged as high risk based on a series of objective criteria. Ms. Villeneuve explained that this involves a horizontal review of all transaction data across returns to detect anomalies, off-trend spending, high-risk transactions and other areas where the risk of non-compliance can be present.
- [67] Those returns that are flagged as high risk are subject to a more detailed audit to ensure applicable rules have been complied with. This includes an examination of both inflows and outflows. Mr. Perrault noted that an audit is not an investigation. EC may ask for additional documentation or clarification, but if there is a need for an investigation into an apparent violation of the *CEA*, the matter is dealt with by the OCCE.
- [68] Mr. Perrault explained that EC used to conduct complete audits of all returns, but that this approach was neither useful nor appropriate. It caused significant delays in the process, and focused EC's attention on minor or technical issues rather than focusing on substantive non-compliance with the rules. A risk-based approach to auditing is less burdensome for regulated entities and more effective for EC.
- [69] Commission counsel asked whether EC's auditing process could identify cases where contributors were non-citizens/permanent residents. Audits may identify contributions with a foreign address and follow-ups are made with the appropriate entity to verify eligibility. Mr. Perrault explained that while EC has access to some data from Immigration and Citizenship Canada for the purpose of detecting illegal registration and voting by non-citizens, it does not have the legal authority to use government databases to verify whether a contributor is a not a citizen or permanent resident, nor would the information available allow it to validate donations by permanent residents.
- [70] Commission counsel referred to a passage in EC's Supplemental Institutional Report, where EC indicated that in its experience not all nomination contests are properly reported to EC. Mr. Perrault gave the example of EDAs not filing a notice of nomination

of contest with EC as required. EDAs are organizations mostly run by volunteers who may not be aware of the rules they are subject to. EC can become aware that an EDA has not given notice of a nomination contest if it receives a contestant's financial return. This can also alert EC to the fact that other contestants may not have filed proper financial returns. Based on notices of violation published online, the Commissioner of Canada Elections has imposed administrative monetary penalties in many instances of a failure to file a return or filing it late. However, the full scope of this problem cannot be known to EC as it may receive no information at all indicating that a nomination contest has been held. There is no obligation on a party to hold a nomination contest to select a candidate.

7.4 Third Parties

[71] **“Third Party”** is the term used to describe everyone other than a political party, EDA, candidate and nomination contestant.⁷ It includes individuals, trade unions, corporations, civil society organizations, and entities that come into existence during elections. Like other regulated entities, third parties are subject to rules about who they may accept contributions from, and how they may make expenditures on certain **“Regulated Activities”** (partisan advertising, election advertising, partisan activities, and election surveys) during a pre-election or election period.⁸

[72] **“Foreign Third Parties”** are prohibited from incurring any expenses in respect of regulated activities during pre-election or election periods.⁹ A foreign third party is:

- an individual who is not a citizen or permanent resident and who does not reside in Canada;

⁷ [CEA, s.349 third party]; There are some variations in the definition between pre-election and election periods. During an election period, a third party is a person or a group other than a candidate, registered party or registered EDA. During a pre-election period, a third party is a person or a group other than a registered party or eligible party, registered EDA, nomination contestant and certain potential candidates.

⁸ [The “election period” is the period starting with the issuing of a writ of election and ending on polling day. The “pre-election period” applies to fixed date elections. It is generally the period starting on June 30 and ending on the day that the write of election is issued.]

⁹ [CEA, ss. 349.4(1), 351.1(1)].

- a corporation or entity that is incorporated or organized outside of Canada and does not carry on business in Canada or whose only activity in Canada is to influence voters; or
- a group that does not have any person responsible for it who is a citizen or permanent resident or who resides in Canada.

- [73] Third parties are subject to similar record keeping obligations as other regulated entities, although they are not required to issue receipts to contributors.
- [74] Third parties are required to register without delay with EC if they make expenditures on regulated activities of \$500 or more in the pre-election period or the election period.¹⁰
- [75] Unlike other regulated entities, third parties are not limited to receiving contributions from citizens and permanent residents. They may accept contributions from other sources such as corporations, trade unions, and other third parties. They must however know the name and address of the contributor in order to use the funds for regulated activities. Anonymous contributions are not authorized. They may also expend their own funds on regulated activities.
- [76] Third parties are, however, prohibited from using funds contributed by a “**Foreign Entity**” on a regulated activity. Foreign entities include foreign political parties, foreign governments, and agents of foreign governments.¹¹ There is no offence directed against a contributor for making an illegal contribution to a third party.
- [77] The panel agreed that, when a third party receives funds from both foreign and domestic sources to conduct their ordinary business outside of election periods, it can be challenging to determine whether any given expenditure given to conduct regulated activities is based on funds from a foreign entity.

¹⁰ [CEA, ss. 349.6(1), 353(1)].

¹¹ [CEA, ss. 349.01 – 349.02].

[78] Since 2018, third parties have been required to open a separate bank account to receive contributions and make expenditures for regulated activities.¹² This requirement means that all relevant inflows and outflows are recorded in a single place.

[79] Mr. Perrault discussed that the ability of third parties to use their “own funds” to engage in regulated activities presents a challenge. “Own funds” can constitute a large amount of some third party’s contributions. It can be very difficult for EC to verify the ultimate source of a third party’s own funds, i.e. where its own funds were obtained from. However, a third party is prohibited from using a contribution for regulated activities if it does not know the name and address of the contributor, or it is unable to determine the type of contributor.¹³ EC’s ability to require a third party to provide supporting financial documents is limited to “document evidencing expenses”,¹⁴ and not documents showing the source of contributions.

[80] Because of these concerns, Mr. Perrault had recommended to Parliament that third parties be limited to paying their regulated expenses from contributions from citizens and permanent residents, subject to a limited number of exceptions.¹⁵ Under this proposal, the only third parties that could use their own funds would be

- Individuals registered as third parties; or
- Third parties who receive less than 10% of their revenue from contributions based on the previous year, as evidenced in financial statements.

[81] Mr. Perrault indicated that adopting this rule would bring about a significant increase in transparency, including as it relates to foreign funding and would also go a long way in preventing the use of foreign funds.

¹² [CEA, s. 358.1].

¹³ [CEA, ss. 349.94, 357.1]; The types are: individuals, businesses and commercial organizations, governments, trade unions, corporations without share capital other than trade unions and unincorporated organizations or associations other than trade unions.

¹⁴ [CEA, s. 359(9)].

¹⁵ ELC0000054, p. 22.

[82] This proposal is reflected in Bill C-65,¹⁶ which is currently pending before Parliament.

8. Other Reforms

[83] Commission counsel asked the panel about a range of reform proposals, including both those that had been previously recommended by Mr. Perrault, and others that are under consideration by EC.

8.1 The Use of Untraceable Assets

[84] Under the *CEA*, cash contributions above \$20 are prohibited. Some regulated entities rely on small dollar donations, including through events in which they “pass the hat” around to collect donations. However, larger amounts are prohibited because cash donations are largely untraceable and so EC cannot effectively track their source.

[85] Mr. Perrault explained that he has previously recommended to Parliament that other types of untraceable assets (such as pre-paid credit cards and gift cards) should also be banned.¹⁷ In his view, there is no legitimate purpose of using these instruments other than to obscure the source of contributions.

[86] Mr. Perrault has not recommended prohibiting contributions in cryptocurrency but has recommended additional regulations in this area. Mr. Perrault explained that he is not inclined to recommend banning something unless there is a clear case why this is necessary, and given the novelty of cryptocurrencies, he was not convinced that a total ban was required. So far, cryptocurrencies have not been an issue. He felt that the potential concerns around cryptocurrencies could be addressed by a comprehensive disclosure regime. He stated, however, that he understood the case for a broader prohibition and would be comfortable with one.

[87] Mr. Perrault’s recommendations respecting untraceable contributions is reflected in Bill C-65, except that C-65 bans donations of cryptocurrencies outright.

¹⁶ [Bill C-65, *An Act to amend the Canada Elections Act*, 44th Parl., 1st Sess.].

¹⁷ ELC0000054, pp. 56-58.

[88] Mr. Perrault indicated that his recommendation was not directed specifically at foreign interference, but that it incidentally does address the risk that foreign interference could be facilitated through the use of untraceable assets.

8.2 False Statements About the Electoral Process

[89] Currently the *CEA* does not directly prohibit individuals from making false statements about the electoral process, such as when, where and how to vote. Mr. Perrault indicated that this type of false information can harm both the integrity of the electoral process and public trust in elections.

[90] Mr. Perrault has recommended that the *CEA* be amended to prohibit anyone (including foreign persons or entities) from knowingly making false statements about the voting process in order to disrupt the conduct of the election or to undermine the legitimacy of the election or its results.¹⁸

[91] Commission counsel asked about why his recommendation included both a requirement that the person act “knowingly” and also have the specific intent to either disrupt the conduct of the election or to undermine trust in its results. Mr. Perrault responded that it would not be appropriate to prohibit a person from unwittingly making a false statement. He indicated that there are also many reasons why individuals may lie or exaggerate, some of which can be valid. The *Charter of Rights and Freedoms* can protect this type of expression. However, he felt that there was no legitimate reason why a person could knowingly lie for the purpose of undermining a *Charter* right like the right to vote.

[92] Commission counsel asked about why Mr. Perrault’s recommendation related to both disrupting the conduct of an election as well as undermining the legitimacy of the election or its results. He explained that there are ways an individual could knowingly lie in order to undermine public trust in an election that does not itself undermine the conduct of the election. Preventing lies that undermine public trust in elections is an important objective of his recommendation.

¹⁸ ELC0000054, p. 25.

[93] This recommendation is partially reflected in Bill C-65. Bill C-65 does not include language related to ‘undermining the legitimacy of the election or its results.’

8.3 Unauthorized Use of a Computer System

[94] Currently the *CEA* prohibits anyone from engaging in certain forms of fraudulent use of computer systems with the intent to affect the results of an election.¹⁹

[95] Mr. Perrault has previously recommended expanding this offence to also capture individuals who act with the intent to disrupt the conduct of an election or to undermine the legitimacy of the election or its results. Mr. Perrault indicated that the rationale for this expansion was similar to the “false statement” recommendation discussed above.

[96] This recommendation is partially reflected in Bill C-65. Bill C-65 includes language related to disrupting the conduct of an election. It does not include language related to undermining confidence in the election or its results.

8.4 Undue Foreign Interference

[97] Currently the *CEA* prohibits “undue foreign interference” during the election period.²⁰ Broadly speaking, this provision prohibits a range of foreign actors (including foreign political parties, foreign governments and agents of foreign governments) from unduly influencing an elector to vote or refrain from voting, or to vote or refrain from voting for a particular candidate or party. Unduly influencing is defined to mean that the foreign actor either incurs an expense or commits an offence under any Canadian law in order to influence an elector.

[98] In order to better protect against foreign interference, Mr. Perrault has recommended that the undue influence provision be extended to apply to the pre-election period.²¹

¹⁹ [CEA, s. 482(1)].

²⁰ [CEA, s. 282.4].

²¹ ELC0000054, p. 26.

[99] This recommendation is reflected in Bill C-65, which further extends the prohibition to make it applicable at all times.

8.5 Online Platforms

[100] Since 2018, online platforms that sell advertising space to parties, candidates, EDAs, nomination contestants and third parties are required to publish a registry of partisan and election advertising messages, so long as they have a minimum threshold number of Canadian users. These registries must include the name of the person who authorized the advertising message.²²

[101] Mr. Perrault has previously expressed his view that there is a particular lack of transparency around the approach used by online platforms to manage election-related content, including advertising. As a result, he has recommended that online platforms be required to publish their policies on the administration of paid electoral communications and on user accounts during the pre-election and election periods, as well as their policies on how they will address content that misleads electors about the electoral process.²³

[102] This recommendation is not reflected in Bill C-65.

[103] Mr. Perrault was asked why he had recommended this measure but had not recommended minimum standards for such policies. He noted the sensitivity in this area, particularly surrounding narratives about censorship. While transparency about platforms' policies would contribute to a healthy information ecosystem, regulating rules about content could backfire and undermine freedom of expression.

8.6 Nomination Contests & Leadership Contests

[104] EC is currently in the process of considering recommendations related to the regulation of nomination contests and leadership contests. The rules surrounding nomination and leadership contests have been a longstanding concern and pre-date recent discussions

²² [CEA, s. 325.1].

²³ ELC0000054, pp. 29-31.

surrounding foreign interference. However, the work of the Foreign Interference Commission as well as the National Security and Intelligence Committee of Parliamentarians has disclosed information that have generated additional public concern about these processes.

[105] As part of its deliberations, EC has consulted with political parties through EC's Advisory Committee of Political Parties ("**APCC**"). Mr. Perrault indicated that this is a politically sensitive topic, and that it is important to consult with the APCC because political parties have legitimate concerns about regulatory changes. Mr. Perrault pointed to the importance of party autonomy as a core aspect of Canada's democratic system.

[106] EC's consultation process has been conducted in two phases. In Fall 2023, EC began by broaching the general topic of regulating nomination and leadership contests. The response from parties was uniform that this would not be desirable.

[107] In Spring 2024, EC placed the topic on the APCC agenda again, this time with a range of more specific regulatory options.

[108] Mr. Perrault indicated that EC had not yet finalized its recommendations, and so did not wish to go into the details of the options being considered. He indicated that EC aimed to have a document setting out its recommendation by the end of September. However, he stated that he could discuss the general areas that were under consideration by EC, namely:

- Transparency measures, including with respect to contest rules and results;
- Minimum rules for contests, such as some mandatory eligibility requirements to vote;
- Enforcement mechanisms, including who should be responsible for enforcement;
- Whether existing prohibitions under the *CEA*, such as undue influence or conduct that is inherently criminal, should apply to nomination and leadership contests.

[109] Commission counsel asked about public reports that EC did not favor direct administration of nomination and leadership contests. Mr. Perrault stated that there were both operational reasons why EC could not currently administer these contests and policy reasons why it should not do so.

[110] From an operational perspective, Mr. Perrault noted that EC is a centralized organization that springs into life in electoral districts across Canada when an election is called. It does not have the local structures or resources to engage in the ongoing type of operations that would be required to administer nomination and leadership contests across the country. Mr. Perrault noted that, in Canada, these contests can occur at any time, including during an election period. The fact that non-fixed date elections can occur, as well as the existence of by-elections, adds an additional level of complexity.

[111] Mr. Perrault noted that, to his knowledge, no electoral authority in the world with a comparable system administers nomination contests for political parties.

[112] With respect to policy arguments, Mr. Perrault recalled the importance of party autonomy, and the important value of permitting political parties to establish their own rules and procedures for selecting their leaders and candidates.

[113] Mr. Perrault emphasized, however, that just because EC should not itself administer nomination and leadership contests did not mean that there should not be additional rules to reinforce the integrity of these contests.

8.7 Other Area of Concern

[114] Commission counsel invited the panel to identify other areas of concern related to elections integrity that they viewed as significant and in need of more action. The panel agreed that AI was a significant challenge, particularly the use of AI to create deepfakes. Mr. Perrault noted that legislation alone may not be the most effective way to address this problem, but some legislative framework was likely needed.