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## *In Camera* Examination Summary: RCMP Commissioner Michael Duheme, Deputy Commissioner, Federal Policing, Mark Flynn & Assistant Commissioner, Federal Policing National Security, Brigitte Gauvin

Commission Counsel examined senior officials from the Royal Canadian Mounted Police (“**RCMP**”) during *in camera* hearings held in July and August 2024. Counsel for the Attorney General of Canada appeared on behalf of the Government of Canada (“**GoC**”) and had the opportunity to examine the witnesses. The hearing was held in the absence of the public and other Participants. This summary discloses the evidence that, in the opinion of the Commissioner, would not be injurious to critical interests of Canada or its allies, national defence or national security.

### Notes to Reader:

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

## 1. Witnesses

- [1] Michael Duheme was appointed Commissioner of the RCMP in March 2023. Before assuming his current role, he was Deputy Commissioner, Federal Policing (“**DCFP**”). The RCMP has over 30,000 employees, stationed both in Canada and abroad.<sup>1</sup>
- [2] Mark Flynn is the current DCFP. In this capacity, he is responsible for overseeing the RCMP’s Federal Policing (“**FP**”) mandate, which includes but is not limited to national security, federal serious organized crime, money laundering, financial crime, cyber, the

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<sup>1</sup> [Additional background on Commissioner Duheme can be found in the RCMP Stage 2 Interview Summary at para 1.]

## UNCLASSIFIED

national intelligence program and foreign deployments under the RCMP's international program.<sup>2</sup>

- [3] Brigitte Gauvin is the Assistant Commissioner, Federal Policing National Security (“**FPNS**”). In this role, Assistant Commissioner Gauvin is the officer in charge of the RCMP's National Security program.<sup>3</sup> She has been with the RCMP's National Security program since 2017.

## 2. Preliminary Matters

- [4] The witnesses confirmed the accuracy of the RCMP Stage 2 Institutional Report and the classified version of their interview summary from June 18, 2024. The witnesses adopted this material as part of their evidence before the Commission.

## 3. Defining Foreign Actor Interference

- [5] Commissioner Duheme confirmed that the RCMP's working definition of Foreign Actor Interference (“**FAI**”) is: any overt or covert illegal activity conducted at the direction or for the benefit of a foreign entity which targets Canadian interests, or interferes in Canadian society and threatens Canadians or Canada's security.
- [6] Deputy Commissioner Flynn confirmed that there is no meaningful distinction between FAI and Foreign Interference (“**FI**”), as used by other GoC departments and agencies. He agreed that FAI activities can include (1) threats to critical infrastructure, (2) threats to democracy, (3) threats, intimidation and harassment of communities, (4) threats to information or intelligence, and (5) economic threats. Deputy Commissioner Flynn added that transnational repression (“**TNR**”) underlies many of these activities and that there can be significant physical violence undertaken by the perpetrators of FAI.
- [7] Deputy Commissioner Flynn said that RCMP senior management has a good understanding of what constitutes FAI and that this understanding flows down to those

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<sup>2</sup> [Additional background on DCFP Flynn can be found in the RCMP Stage 2 Interview Summary at para2.]

<sup>3</sup> [Additional information about the role of ACFPNS can be RCMP Stage 1 Institutional Report (unclassified) at p. 11.]

## UNCLASSIFIED

involved in operational and front line responses. Where there can be a challenge is in making connections – investigators may not always see the connection between a discrete incident (for example, an assault) and broader FAI issues which fall under the RCMP's national security mandate. Supervisors and RCMP management are responsible for making the connection to ensure a cohesive and effective police response.

- [8] Deputy Commissioner Flynn described how the RCMP has increased education and awareness about FAI, including through training and at meetings where staff from across the country are brought together.

#### 4. Programs for dealing with Foreign Actor Interference

- [9] As described in the RCMP Stage 1 Institutional Report, the RCMP has three primary mandates: Contract and Indigenous Policing, Specialized Policing Services, and FP.<sup>4</sup>
- [10] Deputy Commissioner Flynn agreed that while at the most senior level, FAI related investigations fall under the FP mandate, other branches within the RCMP are also involved in the FAI frontline response.
- [11] Deputy Commissioner Flynn described four units at headquarters that have governance and oversight roles in relation to FAI: FPNS; Federal Policing National Intelligence (“**FPNI**”); Federal Policing Criminal Operations (“**FPCO**”); and Federal Policing Sensitive and International Investigations (“**FPSII**”).<sup>5</sup> Assistant Commissioner Gauvin clarified that the primary responsibility for FAI investigations within the RCMP lies with FPNS.
- [12] Deputy Commissioner Flynn explained that FPSII is an operational unit based in Ottawa that specializes in matters related to anti corruption, war crimes and sanction violations.

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<sup>4</sup> RCMP Stage 1 Institutional Report (unclassified) at pp. 1-2.

<sup>5</sup> [Information on the roles and responsibilities of FPNS, FPNI and FPCO can be found in the RCMP Stage 1 Institutional Report (unclassified) at pp. 5-6]

UNCLASSIFIED

## 5. Current Threat Environment

- [13] Commissioner Duheme said that the threat environment has not changed significantly since 2021. The People’s Republic of China (“**PRC**”) remains the main threat actor. India is also a threat actor. Russia and North Korea are significant cyber crime threat actors. The Five Eyes Allies share this view of threat actors, and have observed the same methods of operation.
- [14] Deputy Commissioner Flynn said that there is a clear nexus between FAI and organized crime. Individuals who commit FAI-related crimes on behalf of foreign states often also commit other crimes for their own benefit.
- [15] Assistant Commissioner Gauvin said that threat actors’ sophistication level has increased over the years, increasing the length and complexity of investigations.
- [16] Commissioner Duheme said that there are multiple target areas in Canada for PRC FAI: economic integrity, proliferation,<sup>6</sup> theft of intellectual property, theft of protected information, critical infrastructure, TNR, disinformation, and democratic institutions.<sup>7</sup> The PRC targets all levels of government, which poses a specific set of problems because, until recently, the Canadian Security Intelligence Service (“**CSIS**”) lacked the authority to share intelligence with provinces. Bill C-70 addresses this issue in part.

## 6. Sensitive Sector Request

- [17] Assistant Commissioner Gauvin explained that a Sensitive Sector Request (“**SSR**”) applies when there are investigative steps to be taken that touch on one of the sensitive sectors in Canadian society. These sensitive sectors include media, religion, politics, academia and trade unions.
- [18] Assistant Commissioner Gauvin noted that the SSR policy contemplates two levels of approval. When a sensitive sector is the primary target of a proposed investigative action, or the proposed investigative action substantially involves a sensitive sector, a

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<sup>6</sup> Deputy Commissioner Flynn expressed agreement with the description of proliferation provided in CAN045033, p. 4.

<sup>7</sup> CAN045033, p. 3.

## UNCLASSIFIED

SSR requires approval by the Assistant Commissioner, FPNS. When a sensitive sector is not the primary target or will not be substantially involved with the proposed investigative action, the approval authority for the SSR is the officer in charge of Criminal Operations in the region.

- [19] Assistant Commissioner Gauvin said that SSRs are not unusual and are used fairly regularly, depending on the type of national security investigation. As an example, Assistant Commissioner Gauvin explained that counter-terrorism and religiously motivated violent extremism criminal investigations can involve SSRs when there is the potential implication of religious institutions. This is also true of FAI-related investigations that may implicate politicians and/or media organizations.
- [20] When asked about the high level considerations that apply when assessing SSRs, Assistant Commissioner Gauvin noted the type of investigative action being considered, the impact of the investigative action on the sensitive sector and the necessity of the investigative step.
- [21] Commissioner Duheme said that the SSR serves as a challenge function as it considers whether investigators have exhausted other means of investigation before approving a measure which could negatively impact a sensitive sector.
- [22] Deputy Commissioner Flynn added that the potential negative impact on the public interest is also a consideration. The SSR considers whether the greater public interest justifies the investigation by requiring consideration of the potential harm to the public confidence and the reputation of the sensitive sector as compared to the potential harm of not taking the proposed investigative step.
- [23] Deputy Commissioner Flynn noted that the SSR process should not be confused with the process to approve an investigation at the outset. The SSR is limited to the approval of specific investigative steps.

## 7. Information Flow within the RCMP

- [24] When asked if she felt there were multiple teams within the RCMP doing counter-FAI work in a duplicative and uncoordinated fashion, Assistant Commissioner Gauvin

## UNCLASSIFIED

explained that while there a number of investigative units within FP that have a role or a mandate in regards to FAI, the RCMP has been and continue to break down silos between units. The RCMP is increasing collaboration and information sharing between the various units that have a mandate that touches on FAI.

- [25] Deputy Commissioner Flynn described several ways in which the RCMP has made changes that increase collaboration and information sharing. He noted the RCMP's recent changes within its FP program. As of April 1, 2024, the RCMP shifted away from a divisional model to a regional model.<sup>8</sup> Senior FP management is now composed of four regional commanders who are responsible for FP-related operations within their respective regions. The change in structure to FP helps transition away from the historical approach of investigating discrete incidents and allows for a focus on mitigating significant harms to Canada captured under the RCMP's FP mandate.
- [26] Deputy Commissioner Flynn also explained the campaign approach the RCMP is using. Operational plans now have objectives that go beyond traditional investigations into discrete incidents to being focused on objectives that have an impact on a larger problem.
- [27] The RCMP has prioritized improving information flow between units by setting up more in-person meetings and improving communications. Bringing people together and integrating the campaign approach into their daily work has been key.
- [28] Commissioner Duheme noted that in recognition of FAI as a matter of increasing significance for the RCMP, in 2018, a temporary FAI Team ("**FAIT**") was established. Assistant Commissioner Gauvin explained that over time, the team evolved, with a dedicated team being put in place in 2020 and dedicated funding having been received in 2023.
- [29] Assistant Commissioner Gauvin stated that the FAIT, – a team comprised of seven members, though others are involved in the team's efforts as well – is situated at RCMP headquarters, within FPNS, and has a governance role. The FAIT's role includes educating investigative units, as well as providing them with guidance, on FAI-related

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<sup>8</sup> See Interview Summary, RCMP, Stage 2, paras 25-27.

## UNCLASSIFIED

matters. The FAIT provides education within the RCMP more broadly as well as outside of the RCMP, including to policing partners, other government agencies, academia, the private sector, and communities.

- [30] Deputy Commissioner Flynn described how the Operational Analysis Unit, which operates under the FPNS program, also works with the FAIT to help paint a broad analytical picture of the interconnected nature of FAI.
- [31] When asked about training, Assistant Commissioner Gauvin confirmed that specific FAI training is not currently part of the curriculum at Depot.<sup>9</sup> FAI training is a part of the national security criminal investigator's course. The RCMP is currently working on developing an advanced national security criminal investigator's course and more specialized FAI training. Commissioner Duheme noted that the RCMP shares educational material on FAI through the Canadian Association of Chiefs of Police so that it can be disseminated to police of jurisdiction.
- [32] Commissioner Duheme opined that these initiatives are a testament to the RCMP's ability to adapt to the evolving threat environment. Previously, investigations were focused on individual incidents. More recently, the nexus between FAI and organized crime is more readily recognized.

## 8. Recruitment and Hiring

- [33] Commissioner Duheme explained that the RCMP has made changes to its hiring process. Applicants can now request to be deployed closer to home, as opposed to agreeing to serve anywhere in Canada. Commissioner Duheme observed that one benefit of this change is that the RCMP now has more local employees who have a better understanding of the historical context of their region. Moreover, this change has resulted in a 47 percent increase in applications since January 2024.
- [34] In addition, Commissioner Duheme indicated that the RCMP is in the midst of a project to transform FP that would result in creating a distinct training stream for recruits

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<sup>9</sup> Commissioner Duheme noted that the six month Depot training program is geared towards preparing recruits for front line policing and is therefore not specific to FP.

## UNCLASSIFIED

seeking to pursue a career in FP. This change would create one stream for Contract and Indigenous Policing and one for FP. FP recruits would receive a different training, more suited to the FP mandate. Commissioner Duheme said he is aware of cases where individuals are interested in FP exclusively, and expects that such a change will contribute to filling the vacant positions in FP.

- [35] In light of the above, Commissioner Duheme indicated that FP is on track in terms of filling all of its vacant positions within the next than five years.

## 9. Resource Management

- [36] The witnesses were asked about the RCMP's operational resources when it comes to FAI investigations, as discussed in the May 26, 2023 FP FAI Strategy.<sup>10</sup>
- [37] Deputy Commissioner Flynn indicated that the recent change to a regional command structure in FP was designed to address the challenges the RCMP have publicly discussed when it comes to FP resourcing. Prior to this change, he explained that a vacant position at a local detachment would be prioritized because of the direct line of accountability that would be drawn between that vacancy and a failure to respond to an imminent public safety threat. In other words, the impact of a police failure to respond to, for example, a 911 call in relation to an assault is more immediately obvious than a shortage of personnel to conduct longer-term FAI investigations. Because of the prioritization given to front line policing, many FP positions have remained unfilled over the years. Resources FP possessed had to be prioritized in a manner that would have the most significant impact against the most significant threat.
- [38] Deputy Commissioner Flynn discussed how resource constraints impacted FP's ability to conduct FAI-related criminal investigations by providing an example. In one of his previous roles, a money laundering network that was connected to organized crime and PRC FAI activity was brought to his attention. When asked if a financial crime unit could investigate the network, Deputy Commissioner Flynn queried what impact a successful financial crime investigation would have on the larger problem. Because multiple

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<sup>10</sup> CAN019675, p. 14.



## UNCLASSIFIED

backup networks could be used for money laundering activities, it was felt that a successful financial crime investigation would have no significant impact. Deputy Commissioner Flynn ultimately refused the request because the proposed investigation was not sufficiently impactful to justify a higher prioritization.

- [39] The GoC's Budget 2023 allocated to the RCMP \$48.9M over three years to help counter FAI. Deputy Commissioner Flynn said that the need for dedicated FAI-related resources is growing and already exceeds capacity. The volume of FAI related complaints and the need for additional resources is expected to increase significantly. The RCMP does not have enough resources to fulfil its mandate.
- [40] Commissioner Duheme explained that 43% of the RCMP's budget is earmarked for the RCMP's Contract and Indigenous Policing mandate. As a result, federal budget cuts impact areas not included within that mandate, including FP.

## 10. Information Flow between the RCMP and Security and Intelligence Agencies

- [41] Under the One Vision Framework between the RCMP and CSIS, there are two formal information sharing mechanisms: (1) meetings; and (2) use letters.
- [42] First, Assistant Commissioner Gauvin explained that information is shared between the two organizations (during Strategic Case Management Meetings) through an established framework called "One Vision" meetings. The goal of these meetings is to discuss the nature of the threat(s) and determine the best approach moving forward in line with the two organizations' respective mandates and authorities. They can also discuss the possible use of Threat Reduction Measures by CSIS and any potential impact on the RCMP's ongoing and future activities. These formal meetings are recorded via minutes shared between the two organizations.
- [43] Second, Assistant Commissioner Gauvin explained CSIS uses "Use Letters", which formally share intelligence with the RCMP. While the One Vision meetings may not always result in a Use Letter, they often do. The information contained in the Use Letters are caveated, specifying how the information can be used. This can include use

## UNCLASSIFIED

for launching an investigation and/or for judicial purposes, or for the RCMP's situational awareness.

- [44] Commissioner Duheme and Deputy Commissioner Flynn also attend many committee meetings with deputy ministers from the Security and Intelligence community to share agency knowledge. Commissioner Duheme or Deputy Commissioner Flynn follow up with the relevant deputy ministers to obtain more detail in relation to areas of interest. Commissioner Duheme shared that the CSIS Director sometimes shares information with him informally during DM meetings, including meetings of the Deputy Minister Operations Committee (“**DMOC**”). These conversations occur when the CSIS Director knows a Use Letter is coming.
- [45] Deputy Commissioner Flynn said that the RCMP also receives and shares information from collaborative investigations, such as when INSET teams work with police of jurisdiction or with the Canadian Border Services Agency.

## 11. Alternatives to Criminal Prosecutions

- [46] Deputy Commissioner Flynn agreed that, at a high level, the intelligence to evidence problem can be broken down into two categories: (1) intelligence is often inadmissible in court; and (2) the Canadian court system are not well equipped to deal with classified information in an efficient manner that also protects defendants' *Charter* rights.<sup>11</sup>
- [47] He explained that this issue can limit the RCMP's ability to investigate FAI-related activities, because the RCMP generally becomes aware of these activities from intelligence, both domestic and from international partners. When international partners share intelligence, it generally comes with caveats requiring that the RCMP protect sensitive information from disclosure, posing a limit to the RCMP's ability to action the received intelligence for criminal investigations.
- [48] Deputy Commissioner Flynn spoke about how the RCMP no longer considers criminal prosecutions to be the “gold standard” of law enforcement. Greater emphasis is now

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<sup>11</sup> On re-examination by counsel for the Attorney General of Canada, Assistant Commissioner Gauvin added that the reference to the court system refers more broadly to justice system participants.

## UNCLASSIFIED

placed on harm reduction and public safety: the goal is to disrupt FAI-related activities and prevent them from reoccurring.

- [49] Deputy Commissioner Flynn said the RCMP traditionally conducted investigations with a view to gathering evidence for a prosecution. Now, in certain circumstances, the RCMP may focus on disrupting FAI-related activities rather than developing a case for a more serious offence, such as one under the *Security of Information Act* (“**SOIA**”).
- [50] Deputy Commissioner Flynn referred to the PRC Overseas Police Stations (“**OPS**”) as an example of RCMP disruption. The RCMP wanted to: (1) shine light on the problem to help investigative efforts; (2) demonstrate to the community that the RCMP was taking the issue seriously; and (3) build trust with the targeted communities. The RCMP sent uniformed officers to neighborhoods in which suspected PRC OPS were operating.
- [51] Deputy Commissioner Flynn explained that this approach contrasted with historical RCMP practices. Previously, the RCMP would have sent plain clothes surveillance units and attempted to covertly collect information, potentially over a period of years. The RCMP took a more overt approach in the OPS case.
- [52] Deputy Commissioner Flynn believes that the RCMP approach had an immediate and long-term positive impact, both by furthering the investigation and by building trust with targeted communities. The RCMP is aware of concerns that were expressed that, following its intervention, certain services and activities that had been provided at some OPS locations ceased. When asked by Commission Counsel, Deputy Commissioner Flynn confirmed that a civil suit has been brought against the RCMP.

## 12. Bill C-70

- [53] Deputy Commissioner Flynn noted that Bill C-70, which has received royal assent, creates various new criminal offences that will fall within the RCMP’s mandate.
- [54] Changes in the law are part of the RCMP’s daily reality. The RCMP has taken steps to ensure they are ready for the Bill C-70 changes by: (1) receiving advice from Justice Canada, (2) preparing training for investigators to increase awareness of Bill C-70, and (3) adapting internal policy to reflect the changes resulting from Bill C-70.

## UNCLASSIFIED

- [55] Commissioner Duheme explained that, as with any new legislation, it can be difficult to quantify the amount of additional work required by the RCMP. While the creation of, for example, new criminal offences, can have a ripple effect on the RCMP's activities, the magnitude of any such ripple effect is, as of yet, unknown.
- [56] Deputy Commissioner Flynn said that Bill C-70 creates new tools which should provide the RCMP with opportunities to intervene earlier in some investigations. For instance, the definition of "political or governmental process" has been broadened in *SOIA*. This may allow the RCMP to intervene at early stages of FAI-related activities, such as the hypothetical co-opting of a school board official who could eventually aspire to become a provincial or federal elected official.
- [57] Further, because of the public attention surrounding Bill C-70 and new tools the legislation provides to CSIS, Deputy Commissioner Flynn said the RCMP may receive increased FAI related complaints.

### 13. Engagement with Diaspora Communities

- [58] Commissioner Duheme agreed that diaspora communities and political dissidents may fear reporting cases of FAI, particularly if they hail from places where law enforcement is repressive or lacks independence. Trust being an important factor when it comes to reporting, Commissioner Duheme indicated that the RCMP is working to address the trust gap between diaspora communities and law enforcement. Commissioner Duheme also noted that, in places where the RCMP is not the police of jurisdiction, it is important that the RCMP be in sync with local law enforcement, given the ties the latter may have developed with the communities it serves.
- [59] Assistant Commissioner Gauvin added that to help protect the identity of persons who wish to remain anonymous in reporting incidents such as those related to FAI, the RCMP has implemented the National Security Information Network. This mechanism includes an anonymous tip-line, as well as an email address and an online form. Assistant Commissioner Gauvin noted that maintaining anonymity does not necessarily prevent the pursuit of criminal charges. For example, an individual who wishes to remain anonymous could, in certain circumstances, become an informant.

## UNCLASSIFIED

- [60] Assistant Commissioner Gauvin also discussed a media campaign the RCMP was preparing to launch shortly in relation to PRC OPS. The media campaign will be conducted in Mandarin, French and English, and will be mainly on several social media platforms (X/Twitter, Facebook and Instagram). While one of the aims of the media campaign will be to invite members of the public to collaborate with the RCMP for the purpose of advancing the investigation, a primary objective will be to sensitize the community, helping to build resilience and foster a sense of empowerment.
- [61] Deputy Commissioner Flynn noted, however, the importance of knowing *which* media outlets diaspora communities engage with, as it has been observed that the slant – and even the content – of news reports often varies depending on the language of the intended audience. Thus, an individual reading a news report about a particular matter in English or French may be consuming something very different from what an individual reading reporting about the same matter in Mandarin, for example, may be consuming.
- [62] Though this is something FP is paying attention to, Deputy Commissioner Flynn stated that access to certain news outlets is a challenge for FP. Due to the influence and control exerted over certain networks, FP may not, for instance, be able to post advertisements in those networks' content. In response to such circumstances, Deputy Commissioner Flynn indicated that the RCMP has increased its "physical engagement" and broadened its efforts to permeate the environment. To illustrate this point, he provided the recent example of a high ranking RCMP official attending a community event in uniform, as a means of signaling the difference between the RCMP's vocation and that of law enforcement in the community members' country of origin.