



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

Public Hearing

Audience publique

**Commissioner / Commissaire
The Honourable / L'honorable
Marie-Josée Hogue**

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Sikh Coalition

Balpreet Singh

Prabjot Singh

Bloc Québécois

Mathieu Desquilbet

Iranian Canadian Congress

Dimitri Lascaris

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Ottawa, Ontario

--- L'audience débute le mardi 17 septembre 2024 à 9 h 31

--- The hearing begins Tuesday, September 17, 2024 at 9:31
a.m.

THE REGISTRAR: Order, please. À l'ordre,
s'il vous plaît.

This sitting of the Foreign Interference
Commission is now in session. Commissioner Hogue is
presiding. Cette séance de la Commission sur l'ingérence
étrangère est en cours. La Commissaire Hogue préside. The
time is 9:31. Il est 9 h 31.

COMMISSAIRE HOGUE: Bon ben, bienvenue.
Juste avant de débiter, j'ai indiqué hier qu'un questionnaire
serait mis en ligne incessamment. Alors, il est en ligne
depuis ce matin. Je le souligne parce qu'il peut y avoir des
gens intéressés qui nous écoutent qui seront heureux de
savoir que c'est maintenant disponible. Alors, merci.

So we'll start with our first witnesses this
morning. It's you, Me Sheppard, who is going to conduct the
examinations?

MR. DANIEL SHEPPARD: Yes. Good morning,
Madam Commissioner. For the record, it's Daniel Sheppard for
the Commission.

Today, the Commission is calling two
witnesses in a panel, Garnett Genuis and John McKay. If
Mr. Genuis could be affirmed and Mr. McKay sworn, please.

--- MR. GARNETT GENUIS, Affirmed/Sous affirmation solennelle:

--- MR. JOHN MCKAY, Sworn/Assermenté:

1 **THE REGISTRAR:** Counsel, you may proceed.

2 **MR. DANIEL SHEPPARD:** Thank you very much.

3 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR**

4 **MR. DANIEL SHEPPARD:**

5 **MR. DANIEL SHEPPARD:** Let's begin with some
6 basic introductions if we can. Mr. Genuis, could you just
7 introduce yourself to the Commissioner and give her a little
8 bit of your background?

9 **MR. GARNETT GENUIS:** Sure. I'm a Member of
10 Parliament. I represent the constituency of Sherwood Park,
11 Fort Saskatchewan and Alberta. I have served in that role
12 since 2015. And of some relevance to the Commission, I've
13 been involved in international human rights issues. I've
14 served on the Foreign Affairs Committee, as well as Special
15 Committee on Canada-China Relations, and I am and remain a
16 Co-Chair of IPAC.

17 **MR. DANIEL SHEPPARD:** And Mr. McKay, if you
18 could introduce yourself, please?

19 **MR. JOHN MCKAY:** My name is John McKay. I've
20 been a Member of Parliament representing a riding in Toronto,
21 Scarborough-Guildwood, for 27 years. Prior to that, I was --
22 I practiced law. I currently am Defence Chair of the House
23 of Commons Committee, and I am the Co-Chair of the Permanent
24 Joint Board of Defence. And like Garnett, involve myself in
25 other activities regarding human rights.

26 **MR. DANIEL SHEPPARD:** Thank you. And before
27 I proceed, I -- I'll just say on behalf of the interpreters
28 if we could all try to speak slowly to make sure that

1 everything is interpreted into French.

2 You're here today to testify about your
3 experiences as Co-Chairs of the Interparliamentary Alliance
4 on China, and some events that occurred with respect to
5 cyberattacks against you.

6 Before we get to that, we have a few
7 administrative things that we'll need to get out of the way.
8 If the Court Operator could please bring up WIT75.EN.

9 Mr. Genuis, you recall being interviewed by
10 Commission Counsel on August 15th of 2024?

11 **MR. GARNETT GENUIS:** I do.

12 **MR. DANIEL SHEPPARD:** And following that
13 interview, you were provided with a summary prepared by
14 Commission Counsel.

15 **MR. GARNETT GENUIS:** That's correct.

16 **MR. DANIEL SHEPPARD:** And you've had an
17 opportunity to review this document for accuracy?

18 **MR. GARNETT GENUIS:** Yes.

19 **MR. DANIEL SHEPPARD:** And do you have any
20 corrections or additions or deletions to make to it?

21 **MR. GARNETT GENUIS:** No.

22 **MR. DANIEL SHEPPARD:** And to the best of your
23 knowledge information and belief, is it an accurate summary
24 of the interview you had?

25 **MR. GARNETT GENUIS:** Yes.

26 **MR. DANIEL SHEPPARD:** And do you adopt this
27 summary as part of your evidence before the Commission?

28 **MR. GARNETT GENUIS:** I do.

1 **MR. DANIEL SHEPPARD:** Thank you.

2 And while we don't need to pull it up, we
3 will also be entering as an exhibit the French translation,
4 which is document WIT75.FR.

5 If the Court Operator could now pull up
6 WIT79.EN.

7 And while that's coming up, Mr. McKay, you
8 recall being interviewed by Commission counsel on August 19th
9 of 2024?

10 **--- EXHIBIT No./PIÈCE No. WIT0000075.EN:**

11 Interview Summary - Garnett Genuis
12 (Stage 2)

13 **--- EXHIBIT No./PIÈCE No. WIT0000079.EN:**

14 Interview Summary - John McKay (Stage
15 2)

16 **MR. JOHN MCKAY:** I do.

17 **MR. DANIEL SHEPPARD:** And I'll ask you the
18 same questions, but perhaps in a more summary fashion.

19 You've reviewed this document and it is
20 accurate to the best of your knowledge, information and
21 belief?

22 **MR. JOHN MCKAY:** Yeah, I'm satisfied it
23 represents our conversation.

24 **MR. DANIEL SHEPPARD:** Thank you.

25 And again for the record, it doesn't have to
26 be pulled up, but we will also enter as an exhibit the French
27 translation, WIT 79.FR.

28 And that can come down now.

1 --- EXHIBIT No./PIÈCE No. WIT0000079.FR:

2 Résumé de l'entrevue - John McKay
3 (étape 2)

4 **MR. DANIEL SHEPPARD:** So now that we have
5 those preliminaries out of the way, I'd like to first ask you
6 to describe the Inter-Parliamentary Alliance on China.

7 Could one of you first just explain what is
8 IPAC?

9 **MR. GARNETT GENUIS:** Sure.

10 The Inter-Parliamentary Alliance on China is
11 an international network of legislators. It intentionally is
12 representative of legislators from a diversity of political
13 traditions. Every country has co-chairs which represent
14 different political parties, usually government and
15 opposition. And it is a legislative network that works on
16 issues involving China with the general view that the
17 approach that has been taken previously that emphasizes,
18 bluntly, appeasement has not been effective, and that a more
19 realistic approach that emphasizes human rights, universal
20 human dignity is required.

21 There are shades and variations within this
22 very diverse network, but it is united by that common
23 orientation and it has been very successful at mobilizing
24 legislators from across the world. And I can say for myself
25 and I think many Canadian Parliamentarians would agree that
26 it has impacted our work. It has helped us learn more about
27 some of the challenges associated with the current state of
28 the PRC, and it has also helped us to share information,

1 collaborate with like-minded legislators around the world.

2 Because of that success, I think we have good
3 reason to believe that IPAC has become a particular target of
4 CCP interference operations here in Canada and around the
5 world.

6 **MR. DANIEL SHEPPARD:** And you said CCP. So
7 we're clear, you're referring to the Chinese Communist Party.

8 **MR. GARNETT GENUIS:** That's correct, yeah.

9 **MR. DANIEL SHEPPARD:** In terms of the
10 structure of IPAC, am I right in understanding that there's
11 an international secretariat that sort of coordinates things
12 and then, within each country, there are Parliamentarians who
13 are members and there are co-chairs within each country that
14 sort of help to coordinate the activities of that country's
15 Parliamentarians. Is that a fair description?

16 **MR. GARNETT GENUIS:** Yeah, I'll respond to
17 that as well, and John, obviously, jump in.

18 The structure is there's a secretariat and
19 they support our work, but it is a network that is led by the
20 legislators, and it is required that when a country joins,
21 you have co-chairs who represent a diversity of political
22 traditions and they coordinate in-country activities as well
23 as participate in international activities.

24 **MR. JOHN MCKAY:** Yeah, I would largely adopt
25 Garnett's answer here. Just I had -- in my case, I'm
26 representing the Liberal Party, but also involved as a co-
27 chair is Irwin Cotler, a former Justice Minister, and
28 certainly active human rights lawyer. And IPAC has been

1 instrumental and helpful to his activities, particularly his
2 activities with respect to Jimmy Lai in Hong Kong.

3 And so there have been some notable instances
4 where IPAC has had some significant influence, and my guess
5 would be that that has been unwelcome in Beijing.

6 **MR. GARNETT GENUIS:** And if I can just add to
7 that quickly as well in terms of the impact of IPAC, I recall
8 very specifically the first IPAC meeting we had. We had a
9 briefing on what is happening in East Turkistan, the
10 demographic impacts of the Government of China's policies,
11 and it was at that meeting that I first sort of concluded
12 this has all the attributes of genocide. And that informed
13 subsequent efforts that we undertook to bring back the
14 Subcommittee on International Human Rights in the middle of
15 the summer to do intensive hearings which led to the all-
16 party conclusion among those who had been around the table
17 that Uyghurs and other Turkic Muslims were and are being
18 subject to an ongoing genocide. That subcommittee was the
19 first such body in the world to come to those conclusions
20 and, subsequently, we had the determination by the U.S.
21 administration, by the Canadian Parliament and other
22 Parliaments voting around the world, but at the root of that
23 was information shared within IPAC.

24 And as that process of genocide recognition
25 has unfolded, there's been a great deal of collaboration from
26 information sharing among Parliamentarians, so that, I think,
27 particular recognition of the scale of human rights abuse has
28 been very important in shifting the conversation in many

1 countries around our engagement with the PRC, and IPAC has
2 been at the heart of that.

3 **MR. JOHN McKAY:** And I'd just add to that
4 current initiative has to do with Taiwan. Again, I expect
5 that our role in presenting information about Taiwan and
6 adopting, hopefully getting our Parliaments to adopt
7 resolutions with respect to Taiwan will again draw the
8 unwelcome attention of the Beijing government.

9 **MR. DANIEL SHEPPARD:** So let's shift, then,
10 and talk a little bit about the attention of the People's
11 Republic of China with respect to IPAC.

12 And if the ---

13 **COMMISSIONER HOGUE:** Sorry. Before you do
14 that, I have just one question.

15 Can you just tell me when the first Canadian
16 MPs got involved in the IPAC? Do you know when it ---

17 **MR. GARNETT GENUIS:** Yeah, so we were
18 founding members and this was 2020.

19 **COMMISSIONER HOGUE:** Twenty twenty (2020),
20 okay.

21 **MR. GARNETT GENUIS:** Yeah, so it was ---

22 **COMMISSIONER HOGUE:** So it's fairly recent.

23 **MR. JOHN McKAY:** Yes.

24 **MR. GARNETT GENUIS:** Exactly, yeah. Yeah, it
25 was -- I can't remember the precise month, but it was -- it
26 was roughly maybe May-June that we had our first meeting.
27 The preparatory activities happened before then, but ---

28 **COMMISSIONER HOGUE:** Thank you.

1 **MR. DANIEL SHEPPARD:** Could the court
2 operator please pull up COM380?

3 **--- EXHIBIT No./PIÈCE No. COM0000380:**

4 United States of America v. Ni Gaobin
5 et al., Indictment, 24-CR-43

6 **MR. DANIEL SHEPPARD:** This is an indictment
7 filed in the United States that was unsealed on March 25th of
8 2024. I don't imagine you're intimately familiar with the
9 details of this document, but I take it you're both aware of
10 the existence of this indictment. Is that fair, Mr. Genuis?

11 **MR. GARNETT GENUIS:** Yes.

12 **MR. DANIEL SHEPPARD:** Mr. McKay?

13 **MR. JOHN McKAY:** That's correct.

14 **MR. DANIEL SHEPPARD:** And just to kind of
15 summarize at a high level what this indictment alleges, it
16 describes an alleged conspiracy perpetrated by the Hubei
17 State Security Department, which is described as the
18 provincial foreign intelligence arm of the Chinese Ministry
19 of State Security.

20 And if you go to page 6, paragraph 14, it
21 attributes a series of cyber attacks undertaken by
22 individuals acting at the direction or behest of the Ministry
23 of State Security referred to as "Advanced Persistent Threat
24 31", or APT 31, and it describes attacks targeting a number
25 of entities.

26 I think importantly for our conversation
27 today will be paragraph 20. If we can go to page 8, please.

28 And the indictment says this:

1 "In addition to targeting U.S.
2 government and political officials,
3 the conspirators also targeted other
4 government officials around the world
5 who expressed criticism of the PRC
6 government. For example, in or about
7 2021, the conspirators targeted the
8 email accounts of various government
9 individuals from across the world who
10 are part of the Inter-Parliamentary
11 Alliance on China (IPAC)..." (As
12 read)

13 And then it goes on to describe some of the
14 background to IPAC and some of the ways in which IPAC members
15 were targeted.

16 Standing here today, I take it you're both
17 aware of these allegations that IPAC was targeted by APT 31.
18 Is that fair?

19 **MR. GARNETT GENUIS:** Yes.

20 **MR. JOHN McKAY:** We're now aware, yes.

21 **MR. DANIEL SHEPPARD:** My question is, when
22 this indictment was unsealed on March 25th of this year, were
23 you aware of these allegations?

24 **MR. GARNETT GENUIS:** No.

25 **MR. JOHN McKAY:** No.

26 **MR. DANIEL SHEPPARD:** Okay. So I'd like to
27 talk a little bit about how you became aware of the
28 information that you were targeted by a Chinese backed cyber

1 attack. And Mr. Genuis, I think the story starts with you on
2 the weekend of April 19th to the 21st of this year. Could you
3 describe how it is that you became aware of these events?

4 **MR. GARNETT GENIUS:** Absolutely. Mr. Luke de
5 Pulford is the Executive Director of IPAC, and he called me.
6 We've known each other for a while, our relationship slightly
7 predates IPAC. And we talked about the situation and kind of
8 what the next steps would be. And he had some follow up
9 conversations that he needed to have with American
10 authorities, and the -- and basically, we both agreed that
11 informing the Canadian members affected as soon as possible
12 was vital.

13 And so, we arranged for -- on the same day,
14 to first have a briefing with the co-chairs, John and I, a
15 kind of formal briefing from IPAC Secretariate staff and then
16 later that day we did a briefing with all of the IPAC members
17 who were affected. I should say, we invited all of the IPAC
18 members who were affected. But in the interests of sharing
19 information in the appropriate manner, we didn't say in the
20 invitation precisely what the briefing was going to be about
21 and so some came, some didn't, and then we sent a follow up
22 email after that.

23 My understanding of what happened, sort of
24 prior to me being informed, is that IPAC saw this indictment,
25 communicated with American officials about it, and sort of
26 said, well, it would have been nice if you had told us
27 earlier. And the feedback they got was that when it comes to
28 this kind of information, the American approach is always to

1 not inform individual legislators, but to inform governments,
2 and to have the expectation that whatever information
3 dissemination is going to happen or not happen is the
4 responsibility of the sovereign governments with whom they
5 work.

6 So I don't want to get too far ahead, but one
7 of the -- this is a question we've asked directly to American
8 officials, and they've emphasized that because of sovereignty
9 considerations their processes go to the governments and then
10 it's up to the governments what to do with that information.

11 **MR. DANIEL SHEPPARD:** Okay. During this
12 initial phone call you had with Mr. de Pulford, were you
13 informed of which email account belonging to you was targeted
14 by the cyber attacks?

15 **MR. GARNETT GENUIS:** As I recall, yes, I was.

16 **MR. DANIEL SHEPPARD:** And was that your
17 parliamentary email account or was it a personal email
18 account?

19 **MR. GARNETT GENUIS:** It was a personal, non
20 parliamentary email account.

21 **MR. DANIEL SHEPPARD:** So let's move the story
22 forward a little bit, and Mr. McKay, I think it now comes to
23 you. Mr. Genuis has indicated that there was a second phone
24 call with the two of you as co-chairs, and Mr. de Pulford.
25 Can you tell the Commissioner what you recall being told
26 during that conversation?

27 **MR. JOHN MCKAY:** Well, we got into some
28 detail about this pixel attack, which I have had to have

1 explained to me about two or three times to try and
2 comprehend what this means. And the means by which they were
3 penetrated.

4 And then the questions start to tumble out of
5 your mind as to what's the significance of this? Because you
6 don't really understand it. And I only have one device, and
7 that's the parliamentary device. But I do have personal
8 stuff on my parliamentary device. So that again, starts to
9 open up other lines of question. And then of course, then
10 the question was why would they be interested in us?

11 And so, these questions start to gel in your
12 mind, in effect, after you get off the phone call, because
13 it's not quite clear what it is that's been happening. And
14 then -- and then we did have a subsequent phone call that day
15 with the other -- the other victims, for want of a better
16 term, and then we had a briefing from the FBI subsequent to
17 that. And it was made more clear to us what the FBI had
18 surveilled, the volume of these attacks, and you start to
19 appreciate over time that this is a massive operation that is
20 being conducted by the state security people for China.

21 So it does start to settle into your mind
22 that this is something that does need to be addressed and in
23 particular appreciated to your inner interest in this.

24 **MR. DANIEL SHEPPARD:** And one of the
25 questions you described gelling in your mind after you got
26 off that initial phone call is, why? Why was it that you
27 were targeted. Have you gained an understanding of why it is
28 that you and fellow IPAC members were the target of these

1 cyber attacks?

2 **MR. JOHN McKAY:** I'm not sure I have any more
3 insight than I did on the day. I suppose in retrospect, you
4 look at the roles that you play in parliament as a Chair of
5 Defence Committee, possibly that's of interest. Chair of the
6 Permanent Joint Board of Defence, maybe that's of interest.
7 Those are the direct security things. Your activities with
8 organizations such as IPAC, former Chair of -- I was formerly
9 Chair of the Tiawan Friendship Committee and various other
10 things, you know, articles and interviews. Possibly all of
11 that leads to something and maybe that's why we are of
12 interest.

13 But I think I'm more inclined to think this
14 is just a scatter gun approach and we were caught up in the
15 net of interest. But then you ask yourself, what all this
16 information they apparently gather, what is it that happens
17 to all of that information and where are my vulnerabilities,
18 and not only where are my vulnerabilities, but where are
19 those with whom I communicate? What am I opening up here
20 inadvertently?

21 **MR. GARNETT GENUIS:** My sense is that in
22 this case it was a generalized targeting of IPAC members. Of
23 course, there's inevitably overlap between being an IPAC
24 member and the kinds of activities that Mr. McKay describes.
25 Generally, someone wouldn't take on a leadership role within
26 IPAC if they've shown no interest in these kinds of issues
27 otherwise. But it seemed in this case this was a generalized
28 targeting of IPAC members in Canada and various countries

1 throughout the world. And it's, I think, I kind of
2 recognition of the significance of IPAC, and the work the
3 network is doing on Taiwan, on Uyghur's, and on a range of
4 other issues.

5 **MR. DANIEL SHEPPARD:** And Mr. McKay, just to
6 follow up on a minor point, Mr. Genuis has indicated that it
7 was a personal email account of his that was targeted. Do
8 you know which email account of yours was targeted?

9 **MR. JOHN MCKAY:** Short answer is, no. I only
10 carry one device, and you know, frankly it's a mix of my
11 personal, and my partisan, and my parliamentary. They are
12 fairly discrete. But you know since talking to you and
13 having thought about it, the lines that what I would
14 heretofore have perceived as discrete lines between those
15 three of partisan, personal, and parliamentary no longer
16 apply. And I'm hoping that Madam Commissioner and you will
17 wrestle with the vulnerabilities that carrying a
18 parliamentary device has in our personal lives.

19 **MR. DANIEL SHEPPARD:** And I'm going to be
20 coming back to that theme of personal, partisan, and
21 parliamentary in a moment. But perhaps just to close off the
22 story of how IPAC was informed, if the Court operator could
23 please pull up COM485_R? And if we can just scroll down a
24 little bit so that we can see some of the text?

25 **--- EXHIBIT No./PIÈCE No. COM0000485 R:**

26 URGENT AND CONFIDENTIAL: PRC

27 SPONSORED CYBER ATTACK BRIEFING FROM

28 IPAC

1 **MR. DANIEL SHEPPARD:** This is an email dated
2 April 25th of 2024. I take it you have both seen this email
3 previously?

4 **MR. JOHN McKAY:** Yeah.

5 **MR. DANIEL SHEPPARD:** Mr. Genuis, yes?

6 **MR. GARNETT GENUIS:** Yes.

7 **MR. DANIEL SHEPPARD:** Mr. McKay, yes. And
8 can you just briefly describe what this email was?

9 **MR. GARNETT GENUIS:** So this was the next
10 step in making sure ---

11 **MR. JOHN McKAY:** This was from us, yeah.

12 **MR. GARNETT GENUIS:** --- everyone in the -- I
13 should say everyone who is affected by -- or who was targeted
14 in Canada received. So it was on the 24th in the morning,
15 the briefing of co-chairs, in the afternoon, the briefing of
16 all those who had been targeted, but not everybody who had
17 been targeted was on the call, and this follow up email was
18 sent providing that information.

19 **MR. DANIEL SHEPPARD:** And if you go through
20 the email, it provides certain information from IPAC, the
21 Secretariat of IPAC, to the Canadian members, some of the
22 details of the attacks, some of the background as to how IPAC
23 became aware.

24 Is the information in this email the same as
25 the information that you received directly from Mr. de
26 Pulford in your phone calls?

27 **MR. JOHN McKAY:** Yes.

28 **MR. GARNETT GENUIS:** There may have been

1 additional things discussed on the calls, but I think this
2 email is pretty comprehensive, so yes.

3 **MR. DANIEL SHEPPARD:** What was your
4 understanding of whether or not these cyber attacks were
5 successful in penetrating your accounts?

6 **MR. JOHN MCKAY:** Well our understanding at
7 the time was that they were not successful. Our
8 understanding was that the information from the FBI was
9 forwarded to the quote unquote appropriate authorities,
10 Canadian authorities, which we assume is either CSC or CSIS,
11 and that in turn was conveyed to the those -- the entity that
12 provides protective service for parliamentarians, and they
13 ran -- I guess they ran a check and they were satisfied that
14 no firewalls had been breached. That's our -- that was our
15 understanding. It's still our understanding of the sequence
16 of events.

17 **MR. GARNETT GENUIS:** I have a slightly
18 different response. When we initially received this
19 information, we didn't know to what extent the attack had
20 been successful or not. Clearly we could know that we hadn't
21 experienced some major noticeable event in terms of our
22 email, things being deleted, unable to access it, et cetera,
23 but this was a pixel reconnaissance attack designed to get
24 certain basic information enabling further reconnaissance
25 activity and potentially further attacks down the line. So
26 whether information had been gathered through this attack
27 that was being used in surveillance that had informed
28 awareness of foreign actors about our activities, simply I

1 don't know.

2 I raised a question of privilege about this
3 in the House on April 29th, which was the first Monday --
4 which was the first day back in the House of Commons
5 following us receiving the information. Subsequently a
6 statement was made to the media by a Mr. Mathieu Gravel,
7 director of outreach and media relations, who said there were
8 no cyber security impacts to any Members or their
9 communications. So I -- we have it from him that this claim
10 was made that the defeat of the -- that the attack was
11 blocked.

12 However, and I -- on May the 1st, I made a
13 statement to this effect to the speaker highlighting that
14 House of Commons Cybersecurity does not do anything with
15 respect to my personal email account. So although we now
16 have their statement with respect to the fact that the cyber
17 attack on parliamentary accounts did not penetrate, I still
18 don't know whether there was any impact on my personal
19 account.

20 I will say I don't recall opening an email
21 that fits the description and I haven't seen any visible
22 impacts on my account. But can I say with certainty that the
23 attack failed? I wish I could, but I can't. I can't say
24 there wasn't an impact. I can only say that I don't -- I
25 haven't seen any impact.

26 **MR. DANIEL SHEPPARD:** And just with respect
27 to your comment that this was a preliminary activity, if we
28 could just scroll down on this email to where it says, yes,

1 "part of a progressive attack". That's a paragraph
2 describing the nature of the attack and indicating that it is
3 preparatory to other potential attacks that might, you know,
4 be undertaken. That's what you're referring to there?

5 **MR. GARNETT GENUIS:** Exactly.

6 **MR. JOHN McKAY:** And to just, I mean, add to
7 that, when you face that initial progressive attack, it's
8 critical that you know about it so that you can take counter
9 measures to further protect yourself and your accounts.

10 And I think one of the key issues here is
11 understanding the progressive nature of the attack. It just
12 speaks to the critical importance of us being informed. And
13 I'm sure we're going to get to the fact that this didn't
14 happen and some of the issues around that, but the
15 progressive nature of the attack is a critical piece of
16 information.

17 **MR. JOHN McKAY:** I would just -- there was a
18 slight divergence between Garnett and myself on this, and
19 maybe that's because he's more literate in this area than I
20 am. I do think though that we are into territory where
21 frankly, you know, when they say, "Well, there was no breach
22 of the firewall," that you're prepared to take -- at least I
23 was prepared to take that as face value.

24 Now whether they're saying they, whoever they
25 is here, is saying one thing and I'm believing something
26 else, I don't really know, but if we are to go down the
27 various rabbit holes, for want of a better term, of what
28 breaching the firewall means, then this is a good line of

1 inquiry for this inquiry. But I, like Garnett, in the sense
2 that I have not observed anything in any of my other devices,
3 whether it's a home computer or anything else, any
4 vulnerabilities, though it's become a bit of a joke in our
5 family whenever anything goes wrong, we know who to blame.

6 So -- but thus far, you know, it's become a
7 fine line between what's information and what's paranoia, and
8 I don't know at this point.

9 **MR. DANIEL SHEPPARD:** And Mr. Genuis, it
10 sounded as though when you were describing a statement about
11 the lack of success of the cyber attacks, it sounded like you
12 were reading from, like, a press release of some type.

13 My question is, have either of you received a
14 formal briefing from the House of Commons administration
15 about the cyber attack?

16 **MR. JOHN MCKAY:** No, I haven't. I have
17 spoken to the speaker directly about this and it was a
18 generalized conversation relating to essentially how much
19 information do you want and when do you want to know it,
20 because this is apparently a massive problem for the
21 Parliament.

22 **MR. GARNETT GENUIS:** I have not been briefed.
23 I have participated in some of the PROC hearings on this
24 subject, but no, I have not received a briefing.

25 **MR. DANIEL SHEPPARD:** And when you refer to
26 the PROC hearings on this subject, these are proceedings
27 before the House of Commons Standing Committee on Procedure
28 and House Affairs that have flown from the question of

1 privilege that you raised in the House?

2 MR. GARNETT GENUIS: That's correct. Yeah.
3 I assume every Canadian knows what PROC stands for. Can't
4 imagine.

5 MR. DANIEL SHEPPARD: Everyone in this room,
6 maybe.

7 MR. GARNETT GENUIS: Yeah.

8 MR. DANIEL SHEPPARD: And you both indicated
9 -- I asked the question with respect to the House of Commons
10 Administration, have either of you been briefed on these
11 events directly by the Government of Canada?

12 MR. GARNETT GENUIS: No, no.

13 MR. DANIEL SHEPPARD: So, Mr. Genuis, you
14 commented on the importance of being notified of these
15 events. I'd like to ask both of you, I take it from your
16 comments that notification seems to be something that's
17 important. What would you had done had you been notified of
18 these attacks around the time that they had been occurring?

19 MR. GARNETT GENUIS: One very simple thing I
20 would have done is disabled the automatic image loading
21 function in my personal email. There are certain basic
22 things that I've been learning more recently about how you
23 minimize your exposure to this and one of them is when it
24 comes to pixel reconnaissance attacks, there's a pixel
25 embedded in a picture.

26 So most people, I think, would have, when
27 they open an email that has images in it, those images would
28 load automatically, but an extra precautionary measure that a

1 person in my position, or elsewhere, can take is to not have
2 those images load automatically. That's one example of a
3 kind of protective action that someone who knows that they
4 might be subject or have been subject to a pixel
5 reconnaissance attack could take.

6 Certainly, I would have sought additional
7 information about the best ways to protect my personal, as
8 well as my parliamentary online activities from infiltration.
9 I wasn't able to take those steps because I wasn't informed.

10 **MR. JOHN MCKAY:** I did what any person of my
11 age and stage does, you phone your kid, which is exactly what
12 I did. I have a son who makes his living coding, and he took
13 his father through the explanation of what this all means.
14 And maybe -- you know, I -- and so you gain some
15 understanding. You still don't understand, at least I still
16 didn't understand my vulnerabilities and probably would have
17 benefitted from somebody intervening at that stage and saying
18 -- explaining the vulnerabilities so that, you know, whether
19 you're disabling some function or doing -- taking other cyber
20 hygiene measures, I don't know. But if you're not told, you
21 don't know.

22 **MR. DANIEL SHEPPARD:** With the time we have
23 left, I'd like to talk to you about two issues that I think
24 we've touched upon a little bit already. And the first one,
25 Mr. McKay, I'd like to go back to an idea that you had
26 touched on, which is this notion of having a parliamentary
27 role, a partisan role, and a personal role. Could you just
28 unpack a little bit what you meant by that?

1 **MR. JOHN McKAY:** Well, the life of an MP is a
2 strange life, frankly, and once you're elected you are a
3 member of parliament for 24 hours every day, seven days a
4 week, 365 days a year. And there's a lot of blurring. You
5 know, if I go to church, people talk to me about politics.
6 If I go shopping, people talk to me about politics. So it's,
7 you know, it's a mix-in. My friends talk to me about
8 politics, and simultaneously, you know, some of them are
9 liberals, some of them are not, and -- so you're blurred into
10 the personal.

11 So it's in some respects unique to the
12 position that there is so much blurring between the various
13 roles of a parliamentarian. I mean, you could it put it more
14 dramatically and say you have no personal life. In some
15 respects that true, and you are always, quote/unquote "on",
16 and in some respects that's true.

17 So when you are using devices, you may be
18 simultaneously using them for three purposes - parliamentary,
19 personal, and partisan. And so when we've had this
20 conversation, and frankly, Mr. Sheppard, you've kind of sent
21 me down this path, I started to think about how I may have
22 inadvertently or unwittingly exposed personal and partisan
23 activities to my parliamentary account. And I don't think
24 there's been any consequence of that, but in truth I don't
25 know. In truth I don't know.

26 So I don't know where you were thinking we'll
27 go, Madam Commissioner, but I think it is worthwhile thinking
28 about the extinction of whatever protective service we get to

1 the entire range of devices that are used by members.

2 COMMISSIONER HOGUE: Because as of now it's
3 limited to your parliamentary and ---

4 MR. JOHN McKAY: Yeah, yeah. So on my ---

5 COMMISSIONER HOGUE: --- device or your ---

6 MR. JOHN McKAY: Well, that's ---

7 COMMISSIONER HOGUE: --- email account, or --
8 -

9 MR. JOHN McKAY: Well, that's ---

10 COMMISSIONER HOGUE: --- other ---

11 MR. JOHN McKAY: --- the point. So I can
12 only access this device with -- through the House of Commons
13 Protective Service. You know, it's got a double
14 authentication, and as far as I know it's pretty good. But
15 in that -- in this information of this device is personal
16 information and is partisan information.

17 COMMISSIONER HOGUE: Is it in a different
18 account on your device?

19 MR. JOHN McKAY: Yeah, it's in a different
20 account, yeah.

21 COMMISSIONER HOGUE: It's a different
22 account. So you have like three accounts or two different
23 accounts on the ---

24 MR. JOHN McKAY: That's right.

25 COMMISSIONER HOGUE: --- same device?

26 MR. JOHN McKAY: That's right. So I have a
27 Gmail account on the device ---

28 COMMISSIONER HOGUE: Okay.

1 **MR. JOHN McKAY:** --- for instance. And you
2 know, frankly, the -- there's a blurring of lines between
3 people who support me politically and people who are personal
4 to me.

5 **COMMISSIONER HOGUE:** Because what you are
6 saying is it's not your device that is protected but just
7 your parliamentary account? Is that right?

8 **MR. JOHN McKAY:** Well, that's it. You see, I
9 would think, and I don't know the answer to this, and
10 possibly with subsequent testimony you'll be able to
11 ascertain the extent of the protection on the device, and
12 maybe I'm just being paranoid here in thinking that I've
13 inadvertently exposed other. I would rather like to be
14 paranoid in this particular instance. But having said that,
15 I think that's a legitimate line of inquiry, is to what is
16 the nature and extent of the protection that is afforded to
17 MPs who think they have a top-of-the-line security device
18 from the Parliamentary Protective Service.

19 **MR. GARNETT GENUIS:** We've talked about some
20 of the fuzziness, but I think it might be useful to just
21 really zero in on where that clear separation has to be and
22 why many MPs do keep separate devices.

23 So I have two phones. I have them both here
24 with me. I generally carry them all around. And I'm a
25 political person. I like to participate in campaigns; right?
26 So this is my parliamentary device. I -- it has my
27 parliamentary email account. I communicate with staff about
28 parliamentary issues and so forth.

1 Last night, I was making some phone calls to
2 get out the vote for the bi-election. I was using this
3 phone. It would -- this has -- I make partisan calls from
4 it. It has certain information on it in relation to partisan
5 activities. And so that is -- my understanding is, is that
6 the kind of separation that one is supposed to have.

7 **COMMISSIONER HOGUE:** Because there is no
8 connection between them in the sense that you don't have your
9 personal account also in your other device ---

10 **MR. GARNETT GENUIS:** I ---

11 **COMMISSIONER HOGUE:** --- you just have your
12 personal account on one device and your parliamentary
13 account on ---

14 **MR. GARNETT GENUIS:** Well ---

15 **COMMISSIONER HOGUE:** --- another device. Or
16 they are entirely connected?

17 **MR. GARNETT GENUIS:** So I do have -- for
18 instance, my social media account. So I do a lot of -- I
19 post parliamentary things on my parliamentary Facebook page.
20 So my Facebook account, I access my parliamentary Facebook
21 page through my personal Facebook page, and that's on my
22 parliamentary device. I think there would some variation,
23 but I suspect that many members of parliament would have a
24 personal email also on their parliamentary device, but many
25 would also preserve a personal device, particularly for
26 partisan functions.

27 Now, this phone, I just bought it, like
28 anyone else. Like this was issued to me by the House of

1 Commons, and this, I went to a store and got it and bought a
2 phone plan for it, just like anyone else does. Which is why
3 when the House of Commons official from the Speaker's Office
4 gave that comment to the media saying, "Well, these attacks
5 were all blocked", well this is not behind your firewall,
6 it's -- because it's not a parliamentary device.

7 But if there is information on that personal
8 email that's of interest to a foreign actor, and it could be
9 political discussions that are happening on my personal
10 account. So as John was talking about, if a personal friend,
11 who happens to also work for a civil society organisation,
12 says informally to me by a personal email, "Hey Garnett, can
13 you speak at this event we're putting on?", the natural thing
14 is to respond to that, not say, "Well, you got to call my
15 office first through the proper channel." Right? And so
16 there's some of that that inevitably appears on a personal
17 account, and then there's also some risk of a blackmail as
18 well. I have a -- proud to say a boring personal life, but
19 if foreign actors are interested in people's -- in accessing
20 people's personal accounts for -- to understand aspects of
21 their parliamentary work, but also, potentially for blackmail
22 purposes. So it is a potential vulnerability. This personal
23 device is not behind any House of Commons firewall at all.

24 **MR. JOHN McKAY:** Just as a point of
25 clarification, I too would never use my phone for partisan
26 activities. I just want to be, you know, abundantly clear
27 that, you know, we don't make, you know, campaign calls like
28 Garnett was desperately making last night.

1 **MR. GARNETT GENIUS:** Happy to talk more about
2 the bi-election results if you like, John.

3 **MR. JOHN McKAY:** And with -- well, using a
4 parliamentary device, just that's a no-go area. That's
5 clear, but some of the rest is not nearly as clear.

6 **MR. DANIEL SHEPPARD:** And so you've described
7 different ways in which, just using you as the two examples,
8 different parliamentarians may organize their various
9 information technology devices and lives in different ways.
10 When it comes to the parliamentary devices and accounts, I
11 take it that your understanding is the House of Commons
12 administration is responsible for cyber security and the
13 protection of those networks; is that fair?

14 **MR. JOHN McKAY:** I describe it as the
15 Parliament of Canada rather than the House of Commons.

16 **MR. GARNETT GENIUS:** And I'm not sure exactly
17 what the interplay is between security agencies, and we've
18 heard some testimony at Prague on this since, but -- but
19 either way, there's a special hedge of protection that is
20 looking at those devices.

21 **MR. DANIEL SHEPPARD:** And so whoever it might
22 be, those devices have someone responsible for their
23 protection other than yourselves?

24 **MR. GARNETT GENIUS:** Yeah, exactly.

25 **MR. DANIEL SHEPPARD:** When it comes to your
26 personal devices and your personal accounts, does the House
27 of Commons or the Parliament of Canada provide protection for
28 those?

1 MR. JOHN McKAY: No.

2 MR. GARNETT GENIUS: No.

3 MR. DANIEL SHEPPARD: Does the Government of
4 Canada provide protection for those?

5 MR. JOHN McKAY: No.

6 MR. GARNETT GENIUS: No.

7 MR. DANIEL SHEPPARD: Mr. ---

8 MR. GARNETT GENIUS: At least not as far as
9 we know.

10 MR. JOHN McKAY: Well, I'm pretty sure that
11 my home computer is not protected by the Government of
12 Canada.

13 MR. DANIEL SHEPPARD: Mr. McKay, does the
14 Liberal Party of Canada provide you with protection ---

15 MR. JOHN McKAY: No.

16 MR. DANIEL SHEPPARD: --- for those devices?

17 MR. JOHN McKAY: No.

18 MR. DANIEL SHEPPARD: Mr. Genius, does the
19 Conservative Party of Canada provide you with protection for
20 those devices?

21 MR. GARNETT GENIUS: No, they would deal with
22 security around specific party apps, for example, but not the
23 devices themselves.

24 MR. DANIEL SHEPPARD: I mean, maybe just to
25 put it simply, are either of you aware of anyone other than
26 yourselves who are responsible for providing for cyber
27 security for your personal devices and accounts?

28 MR. JOHN McKAY: No.

1 **MR. GARNETT GENIUS:** No.

2 **MR. DANIEL SHEPPARD:** So then it takes us to
3 the question of whether or not that's adequate, and if not,
4 who ought to be providing you with those supports. And I'll
5 just ask each of you to comment on that question.

6 **MR. JOHN MCKAY:** Is it adequate? I think
7 that's the \$64 question for this inquiry. I think we've been
8 exposed, and then that's led to a lot of thinking on my part,
9 at least, about my vulnerabilities. And who should do it?
10 I'm a big believer in the separation of the powers. You
11 know, the government is one thing, Parliament is another,
12 judiciary is another. And I think that Parliament should be
13 responsible for its own security. Doesn't mean that they're
14 going to set up a parallel CSIS or CSE or anything of that
15 nature. I would expect that they would get information from
16 our, if you want, government agencies, but I think it's
17 Parliament that should provide the security. I think it's
18 Parliament that should provide the devices and should be
19 sensitive to the unique needs of MPs and senators, all who
20 are, we're coming to understand, are far more vulnerable
21 people than we'd previously understood.

22 **MR. DANIEL SHEPPARD:** Mr. Genius?

23 **MR. GARNETT GENIUS:** Yeah, I mean, there are
24 some different alternatives. Is the current system adequate?
25 No. I think, you know, the most fundamental thing is that
26 when government becomes aware of threats, they should talk to
27 us about it. That's clearly the biggest failure here that we
28 were -- there was a progressive attack that was happening.

1 We could have taken steps to protect ourselves more
2 effectively if we had been informed, and we were not
3 informed. And it remains mysterious to me why nobody thought
4 I had a right to know this information that was very
5 important to how I would protect myself and the people that I
6 correspond with, so I think this is a big failure in terms of
7 the actions of the government.

8 And we may run out of time talking about
9 this, I suppose, but there's the ministerial directive, much
10 discussed, you know, after the events involving Mr. Chong,
11 and yet we were still not informed of this event, in spite of
12 that directive. Now that directive was put in place after
13 the original events associated with this targeting took
14 place, but we were not informed even after that directive
15 came into place.

16 So what could be done beyond informing us to
17 provide better such protection? One possible option would be
18 to just change the rules around partisan activity on
19 parliamentary devices. If we said, well -- if everyone's on
20 an equal playing field, there already are forms of
21 subsidisation of partisan activity, that if we said for
22 elected members of Parliament to move partisan activity --
23 personal activity onto their parliamentary devices, this
24 would bring those things under kind of a greater level of
25 protection. That's not foolproof because it wouldn't apply
26 to candidates, other such people who might be targeted, but
27 it would provide greater protection for parliamentarians. So
28 that's one potential option. Another option would be

1 providing resources directly to parties just to support their
2 support of personal devices and of partisan activity.

3 One thing to just mention is that the House
4 of Commons does provide some support for home security.
5 There's a program through which they do that, which is sort
6 of an acknowledgment that maybe protecting us in our offices
7 and on the hill isn't sufficient because we could face
8 threats to our safety when we're at home. And the same
9 principle could easily be applied in the area of IT, that
10 there are cyberthreats as well that extend outside of the
11 parliamentary precinct, parliamentary devices, and,
12 therefore, there has to be some protection of that. So
13 whether it makes sense to just have more cyber protection of
14 our personal devices or to encourage and permit use of
15 parliamentary devices for more activities, those are two
16 potential options. Although, even if we were to go the
17 direction of permitting more use of parliamentary devices for
18 personal and partisan activity, I think it would be natural
19 that parliamentarians would still maintain personal channels
20 of communication. Someone's not going to shut down their
21 personal email when they get elected and tell their siblings
22 and parents to email them at their .parl.gc.ca account, but
23 some of these steps could make improvements.

24 **MR. JOHN MCKAY:** The only distinction I would
25 make between Garnett's views and mine is that I think
26 parliamentarians should be taking care of themselves.
27 Certainly, we're going to use government resources to acquire
28 the information, but the decision as to what should be done

1 about the information as it's generated, I think, needs to be
2 done by responsible people in the parliament precinct and I
3 would start with the Speaker's offices. That would be my
4 view. And the protocols and the level of threat and all of
5 the various concerns, I think, should be administered by the
6 House in some form or another, to the benefit of members of
7 parliament, with the concern, primarily the members of
8 parliament. Governments have other concerns at times. And
9 so I am strongly of the view the separation of the three
10 branches of government should be maintained, particularly in
11 the realm of security.

12 The other issues I could -- I may or may not
13 take issue with on Garnett, but I think he's outlined some of
14 the concerns that are pretty relevant.

15 **MR. GARNETT GENUIS:** If I can just follow up
16 on that, I mean, I think it's useful to kind of zero in on
17 what, if any, disagreements there are in terms of process.

18 Like I think that government should ensure --
19 it has a responsibility to ensure that those who are targeted
20 are informed. The way the government in this case sought to
21 absolve itself of responsibility is saying, "Well, we
22 informed House of Commons, IT and it was up to them to decide
23 to inform you or not".

24 Frankly, that seems like a pretty weak excuse
25 given that officials subsequently admitted at committee that
26 oftentimes those -- that information sharing has associated
27 caveats with it such as that they can't share it without the
28 permission of those who gave them the information in the

1 first place.

2 So the government said it was up to them to
3 decide whether or not to inform you, and yet the information
4 we have suggests that that information had caveats attached
5 to it that said that they couldn't share the information with
6 us without coming back for permission in the first place.

7 Moreover, House of Commons security is
8 responsible for protecting us, but the function of informing
9 people who have a right to know that they've been targeted, I
10 think it primarily falls to government. In any event,
11 government did not inform us and they did attach caveats to
12 the information. We should have been informed, and it would
13 have matter if we had been. So I would like to underline
14 yes, there's an important separation of powers, but when
15 someone has information that's relevant to the security of a
16 Parliamentarian, they have a responsibility to ensure the
17 Parliamentarian gets that information, and that didn't happen
18 in this case.

19 **MR. JOHN McKAY:** Yeah, I guess we're going to
20 agree to disagree, but the simple point being that the
21 government did inform the protective service, whoever that
22 might be, and they did not pass on the information. Whether
23 if they didn't pass on the information the government should
24 have phoned us up and said, "Well, you know, they didn't tell
25 you", I think that would be -- I think that's a bit
26 problematic.

27 So if you can establish some lines of
28 clarity, I think that's where we are -- you know, who's to

1 take responsibility, what are the terms and conditions under
2 which the information is disclosed, I think the needs of
3 Parliamentarians are unique in this particular case and we've
4 inadvertently or potentially inadvertently exposed people
5 that shouldn't have been exposed.

6 **MR. DANIEL SHEPPARD:** And with the two or so
7 minutes I have left, I'd like to ask one last question
8 that's, I think, specific to the issue of cyber attacks.

9 Mr. McKay, you made mention of a conversation
10 that you had with the Speaker of the House of Commons, and
11 it's discussed in more detail in your interview summary, but
12 in essence, as I understand it, he informed you that the
13 House of Commons faced frequent cyber attacks and that if MPs
14 were notified of all of them, there would essentially be a
15 constant stream of notifications.

16 Assuming that to be the case, when do you
17 feel or what factors should be taken into account when
18 deciding in a particular case whether or not Members of
19 Parliament should, in fact, be notified of a cyber attack?

20 And maybe, Mr. McKay, I'll start with you.

21 **MR. JOHN McKAY:** Yeah. You hit on the most
22 difficult of questions.

23 Some MPs, by virtue of circumstances, are
24 more vulnerable than others, and so, if you want, there may
25 be a vulnerability index. The trouble is that that is -- has
26 got all kinds of judgment brought to it. You know, if I look
27 at my own profile, am I a more vulnerable or less vulnerable
28 MP than Garnett, for instance, and what's the basis on which

1 my level of vulnerability would be, and would anybody looking
2 at whether to inform me or not have significant -- or an
3 appreciation of my profile so that they would appreciate that
4 this particular piece of information on this particular
5 attack is unique and makes me the more vulnerable than, say,
6 Garnett does in a similar amount of information.

7 I don't know how you arrive at that, but it
8 is a bit of a "know your client" question. And we all have
9 different levels of vulnerability.

10 How that goes about, I don't know. I do know
11 that the Speaker's Office seems to be seized with the
12 problem, but I don't know that they've advanced their level
13 of understanding when they do notifications as well.

14 I think it's -- you know, we're all geniuses
15 after the fact, and should we have been informed? At this
16 point, probably yes, based on what we know. And based upon
17 our activities and based upon our profiles, it's probably
18 true we should have been told. And there's a unique and
19 discrete set of MPs, and that was not -- the trigger didn't
20 fire.

21 So I -- as you can see, I'm floundering on a
22 response to your question, but I think it is a very difficult
23 question, and I wish you well.

24 Garnett?

25 **MR. GARNETT GENUIS:** Yeah. Respectfully, I
26 don't think it's that difficult. I mean, we were
27 specifically being targeted by a foreign state because of our
28 specific political activities. This wasn't kind of

1 generalized constant attacks on the network. This was a
2 specific targeting of specific members because of their
3 activities including, in my case, at least, at a personal
4 account that the House of Commons is not involved in
5 overseeing.

6 The Government of Canada had this
7 information, they received it from Foreign Intelligence
8 Agency. They did not tell us. They, instead, gave it to the
9 House of Commons, who has no oversight of my personal email,
10 and they attached caveats to the information which prevented
11 passing it along without permission. So I think it's pretty
12 clear that the government had a responsibility they didn't
13 discharge.

14 This characterization that it's really
15 difficult to know what to share because, you know, it would
16 lead to a constant stream of notifications, we get a lot of
17 emails from the Speaker's Office.

18 You know, we get a constant stream of
19 notifications about opportunities to go on early morning all-
20 party jogs, right. I think there should be a higher priority
21 to be sending us regular updates on specific cyber threats
22 than to be getting these constant stream of information about
23 events and all-party jogging opportunities, with all due
24 respect. This was a serious issue we should have been
25 informed about and we weren't. And I think that the
26 particular personal targeting of this, the information that
27 the government received from our American partners is just so
28 obvious that this is a case we should have been told about.

1 I don't think the fact that there may be some
2 marginal cases should distract us from the fact that this is
3 a very clear case and people chose not to inform us, and they
4 failed in their responsibilities to keep our democratic
5 institutions safe. We should have been told.

6 **MR. DANIEL SHEPPARD:** Mr. McKay, Mr. Genuis,
7 thank you very much.

8 Madam Commissioner, those are my questions.

9 **COMMISSIONER HOGUE:** Thank you very much.

10 We'll take a 20 minutes' break, so we'll come
11 back at 10:55.

12 **THE REGISTRAR:** Order, please. À l'ordre,
13 s'il vous plait.

14 This sitting of the Commission is now in
15 recess until 10:55. Cette séance de la commission est
16 maintenant suspendue jusqu'à 10h55.

17 --- Upon recessing at 10:34 a.m.

18 --- La séance est suspendue à 10 h 34

19 --- Upon resuming at 10:57 a.m.

20 --- L'audience reprend à 10 h 57

21 **THE REGISTRAR:** Order, please. À l'ordre, s'il
22 vous plait.

23 The sitting of the Foreign Interference
24 Commission is now back in session. Cette séance de la
25 Commission sur l'ingérence étrangère est de retour en
26 session.

27 The time is 10:58. Il est 10 h 58.

28 **COMMISSIONER HOGUE:** Alors, bonjour.

1 I think Ms. Dann, you have a message to
2 convey?

3 **MS. ERIN DANN:** Yes, thank you Commissioner.
4 Just before we resume with the examinations, I'm advised that
5 there have been some technical issues with the livestream of
6 the Commission's proceeding this morning. We hope that those
7 have been resolved. But I wanted to alert everyone that if
8 there are any ongoing issues there will be a fully archived -
9 - a full recording of today's proceedings available at the
10 end of the day on the Commission's website.

11 **COMMISSIONER HOGUE:** Thank you.

12 Alors, Me Sheppard -- oh no, it's cross-
13 examination, I'm sorry, you can sit where you are.

14 So the first one is -- I think it's the Jenny
15 Kwan's attorney.

16 **--- MR. GARNETT GENUIS, Resumed/Sous la même affirmation:**

17 **--- MR. JOHN McKAY, Resumed/Sous le même serment:**

18 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

19 **MR. SUJIT CHOUDHRY:**

20 **MR. SUJIT CHOUDHRY:** Good morning, members.
21 For the record, my name is Sujit Choudhry, I'm counsel to
22 Jenny Kwan. Commissioner, just as a housekeeping matter I'm
23 going to seek leave from you to put to these witnesses a
24 Commission document that was not on our list, regrettably,
25 but it shouldn't be a problem. It's Commission 357.

26 **--- EXHIBIT No./PIÈCE No. COM0000357:**

27 House of Commons - Debates - No 304 -

28 April 29, 2024

COMMISSIONER HOGUE: It's fine.

"There are other interparliamentary organizations that exist outside of the formal structures of the House of Commons that MPs can belong to." (As read)

MR. GARNETT GENUIS: Yes.

MR. GARNETT GENUIS: Yes, that's right.

"IPAC involvement is an integral part

1 of what I do as a member of
2 Parliament." (As read)

3 And you'll recall -- and I won't read it
4 because we are pressed for time -- but you recall making that
5 statement, don't you?

6 **MR. GARNETT GENUIS:** Yes, absolutely.

7 **MR. SUJIT CHOUDHRY:** And you agree that there
8 is an integral relationship between your work on IPAC and
9 your work as an MP?

10 **MR. GARNETT GENUIS:** Yeah, absolutely.

11 **MR. SUJIT CHOUDHRY:** Sorry, did you want to
12 say something more?

13 **MR. GARNETT GENUIS:** Sure.

14 In the previous statement you referenced, in
15 my discussion with Commission counsel, what I was emphasizing
16 is that there are formal groups that are registered with the
17 House of Commons, interparliamentary groups that are kind of,
18 official interparliamentary groups of the House of Commons.
19 And then there are groups that do not have that official
20 status with the House of Commons, like IPAC, that are
21 nonetheless integral to how we gather information and
22 collaborate and inform the work we do.

23 **MR. SUJIT CHOUDHRY:** Okay. And Mr. McKay, I
24 don't recall -- I'm just putting to Mr. Genuis his remarks on
25 how he sees the relationship between his work on IPAC and
26 being an MP. Do you see it the same way as Mr. Genuis?

27 **MR. JOHN MCKAY:** Yes. I would -- we all
28 belong to various groups. When you start with the formal

1 committees on the house, and then you go to the formal
2 committees, like I chair a Canada U.S. parliamentary
3 friendship group, and then you go to friendship groups, and
4 then there's even other levels of associations.

5 **MR. SUJIT CHOUDHRY:** Okay. Well, thank you
6 sir.

7 So I'd now like to stay on this document if I
8 could, and I think it's on the righthand side of the page, if
9 I could scroll up, please? Actually, if you could go down,
10 go down to the next page. Yes.

11 And so, could we scroll down a bit more?
12 Yes, okay. So on the righthand column there's some small
13 text there, Mr. Genuis, it's a quote that you read into
14 Hansard from House of Commons Procedure and Practice, and I
15 just want to state what it says for the record. It says:

16 "In order to fulfill their
17 parliamentary duties, members should
18 be able to go about their
19 parliamentary business undisturbed.
20 Any form of intimidation of a member
21 with respect to the member's actions
22 during a proceeding in parliament
23 could amount to contempt." (As read)

24 Do you recall stating that?

25 **MR. GARNETT GENUIS:** Yes, I do.

26 **MR. SUJIT CHOUDHRY:** Okay. And -- but I'd
27 like to now take you to the next two paragraphs where you
28 then -- you apply that principle both to your question of

1 privilege but also to Mr. Chong's, which you cited as a
2 precedent, and I want to put to you the following
3 proposition: That in these passages here, you make not one
4 point but three different points. The first point is the
5 point that quote stands for, which is that intimidation by a
6 third party, so in this case a foreign state, raises a
7 question of privilege, but you then raise two additional
8 points that aren't reflected in that quote.

9 The first point is that the government has a
10 duty to protect parliamentarians from interference with their
11 official duties, and then the third point is that they have -
12 - governments has a duty to warn parliamentarians if there
13 has in fact been any such interference.

14 Do you agree that you made those two points
15 as well?

16 **MR. GARNETT GENUIS:** Yeah, I -- all the
17 things you said are points that I made and points that I
18 believe.

19 **MR. SUJIT CHOUDHRY:** And those are also
20 questions of privilege in your view?

21 **MR. GARNETT GENUIS:** Yes. I will add that,
22 not I think in this speech, but in a previous -- when I was
23 posing the question of privilege, I spoke of a precedent
24 involving a -- an attempted bugging of an NDP Caucus meeting
25 decades ago, and the speaker quickly ruled at that time that
26 even, regardless of impact, the fact that there was bugging
27 happening was clearly a question of privilege.

28 **MR. SUJIT CHOUDHRY:** Good.

1 Mr. McKay, do you view things the same way as
2 Mr. Genuis? That is, is the question of privilege not simply
3 the interference with your email account, but the failure to
4 warn and the failure to protect?

5 **MR. JOHN MCKAY:** I supported Mr. Genuis in
6 his privilege motion, and largely adopt his views; yes.

7 **MR. SUJIT CHOUDHRY:** Okay, good. Thank you.
8 And just before we move on from this point, I know that in
9 both of your witness -- your interview summaries, you --
10 there was a description of your views on the ministerial
11 direction on threats to security of Canada that, as you know,
12 was issued in May of 2023 in response to revelations
13 governing Mr. -- regarding Mr. Chong.

14 I just want to ask you both, do you think
15 that pursuant to that directive, CSIS had a duty to warn you
16 or advise you as soon as the government became aware of the
17 cyberattack against your accounts? And maybe, Mr. Genuis,
18 you could start.

19 **MR. GARNETT GENUIS:** Well, I think there's a
20 bit of a lack of clarity around events that took place prior
21 to that directive being issued. This is an instance where
22 the attempted hacking attempt that we know about, the attack,
23 happened prior to the directive being issued, and yet, given
24 the progressive nature of the attack, the fact that
25 information may have been gathered, there may have been
26 impacts that went after the directive. So my suggestion
27 would be that there be clear direction to inform about
28 present events but also past events, especially those that

1 might be still having an impact.

2 **MR. SUJIT CHOUDHRY:** Okay. Thank you.

3 Mr. McKay?

4 **MR. JOHN MCKAY:** I'm reading the ministerial
5 directive ---

6 **MR. SUJIT CHOUDHRY:** Sure.

7 **MR. JOHN MCKAY:** --- and I would like a
8 little bit more clarity and direction to the -- CSIS in this
9 particular instance. It leaves a little bit too much, in my
10 view, to the discretion of the individual officer, you know,
11 whenever possible should be informed. That's a little
12 bit.... But then in all instances, the minister is informed.
13 So I'm not quite sure where I land on that, but it does seem
14 to be a little on the vague side.

15 **MR. SUJIT CHOUDHRY:** So I guess the question
16 is -- so that's a comment about the terms of the directive
17 and whether it provides too much discretion. But do you
18 think in this case -- so let me pose a hypothetical to you:
19 Suppose a cyberattack had occurred after the directive was
20 issued. Do you think under the directive CSIS should have
21 informed you of a cyberattack?

22 **MR. JOHN MCKAY:** Absolutely.

23 **MR. SUJIT CHOUDHRY:** Okay, thank you. So my
24 final question, then, is about this relationship between
25 personal devices and parliamentary devices. And it's a bit
26 of a, if I could use a Yiddish word, it's a bit of a
27 "schnozzle", you know? It's -- it seems to be a bit of a
28 mess.

1 And so I'm wondering if -- I want to propose
2 to you a different way of framing the issue and see -- and
3 get both of your reviews about this. That we might think in
4 Canada not about whether activities are partisan or
5 parliamentary or whether devices are personal or official,
6 but rather, whether these activities or devices or our work
7 is part of democracy or not. And if so, then really the
8 framing is what -- is something part of our democratic
9 infrastructure, whether it's parliamentary or a party issue?
10 And if so, if it's part of our infrastructure and it's
11 vulnerable to threat, the question I'd pose to you is, is the
12 government's duty to protect and warn apply to the
13 infrastructure understood broadly?

14 **MR. GARNETT GENUIS:** I'd have two comments on
15 that. I think that's an interesting idea from the
16 perspective of security. I think we would want to preserve,
17 independent of questions of security, that certain activities
18 are private or they should justly be governed by political
19 parties, as opposed to by the state. But I think from a
20 security perspective, there may be a case.... The only thing
21 I would say is that there are areas of our lives that are not
22 -- clearly not part of democracy, such as our personal lives,
23 but which there still is some potential risk of foreign
24 interference negatively impacting. I mentioned the
25 possibility of blackmail, for example. So there -- that
26 distinction doesn't necessarily capture every area in which
27 we would nonetheless want there to be a -- be cyber
28 protection.

1 **MR. SUJIT CHOUDHRY:** Okay.

2 Mr. McKay, sir?

3 **MR. JOHN MCKAY:** Yeah. I have been a
4 practising politician for a long time now, and there were --
5 when I started I think the lines were far more clear as to
6 what constituted personal, private, and public, and partisan,
7 but these things have brought us into a situation where those
8 lines don't necessarily exist any longer, and have become a
9 threat to our democracy. So regrettably, I think that more
10 and more of our lives are being drawn into the protective
11 realm of CSIS, and others, other protection functions, and
12 failure to protect is a threat to the democracy. I wouldn't
13 have said that even five years ago, but now I -- now I'm
14 starting to come to that regrettable conclusion.

15 **MR. SUJIT CHOUDHRY:** Commissioner, those
16 conclude my questions.

17 Thank you for your time, gentlemen.

18 **COMMISSIONER HOGUE:** Thank you.

19 So next one is Me Sirois for the RCDA.

20 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

21 **MR. GUILLAUME SIROIS:**

22 **MR. GUILLAUME SIROIS:** Good morning.

23 **MR. GARNETT GENUIS:** Good morning.

24 **MR. GUILLAUME SIROIS:** I'm Guillaume Sirois,
25 counsel for the Russian Canadian Democratic Alliance.

26 I will begin by asking questions directed at
27 you, Mr. Genuis, and move on to then Mr. McKay. And you are
28 both obviously welcome to provide input even though the

1 question is not specifically addressed to you.

2 In Episode 59 of your podcast, Resuming
3 Debate, Mr. Genuis, you discussed Russian propaganda as a
4 tool for undermining African democracies with Dr. Joseph
5 Siegle. You remember that podcast?

6 **MR. GARNETT GENUIS:** I don't -- I remember
7 the discussion and general contours of it, but maybe not all
8 the details, but yes.

9 **MR. GUILLAUME SIROIS:** You suggest that
10 Russia may use similar strategies of propaganda in western
11 democracies. What can you tell us about that?

12 **MR. GARNETT GENUIS:** Well, I am concerned
13 about the Russian state's effort to project its narratives
14 and the impacts that those have.

15 **MR. GUILLAUME SIROIS:** You believe that
16 Canada's democratic institution can be a target of Russian
17 propaganda as well?

18 **MR. GARNETT GENUIS:** I suspect so, yes.

19 **MR. GUILLAUME SIROIS:** Is -- have you seen
20 any evidence of Russian propaganda in -- during the last two
21 elections, for instance, or between elections?

22 **MR. GARNETT GENUIS:** I certainly see
23 instances of people who are advancing narratives, ideas that
24 I consider wrong that are aligned in their perspective --
25 perspectives with those of the Russian Government. I don't
26 know that in any case I can say this person is directly -- how
27 that person has been instigated to hold those opinions, but
28 obviously, I see and everybody sees a presence online,

1 comments in response to posts I make in support of Ukraine,
2 people that are challenging those posts, often with,
3 obviously, factually incorrect claims.

4 So I guess what I'm -- I'm trying to be
5 precise here. The specific source for that person of those
6 conclusions isn't always obvious, but these are narratives
7 that align with things that -- narratives that the Kremlin is
8 trying to push.

9 **MR. GUILLAUME SIROIS:** And so you mentioned
10 the one in Ukraine. Are there other narratives that you
11 suspect are influenced by the Kremlin's narrative, or...?

12 **MR. GARNETT GENUIS:** I mean, I mentioned the
13 Ukraine because it's the most -- by far the most obvious
14 example. Whether there are other narratives that are being
15 advanced at the instigation of the Kremlin, I don't have
16 specific knowledge of that.

17 **MR. GUILLAUME SIROIS:** Okay. Thank you.

18 Now turning to you, Mr. McKay, do you
19 remember the passing of the *Magnitsky Act* in 2017?

20 **MR. JOHN MCKAY:** Yes.

21 **MR. GUILLAUME SIROIS:** Do you recall any
22 efforts by Russia to interfere with the adoption of that Act?

23 **MR. GARNETT GENUIS:** If it may ---

24 **MR. JOHN MCKAY:** Not specifically, no, I
25 don't. I know there was a huge push on the part of our
26 Parliament and caucus to get it, and Bill Browder and Irwin
27 Cotler were very instrumental in that push. But I don't
28 recall any counter-narrative being put forward.

1 **MR. GUILLAUME SIROIS:** I don't -- I simply
2 want to refresh the witnesses' member, and -- by pulling an
3 article from 2017 from the "New York Times" where there's
4 some discussions about interference from Russia during the
5 passing of that Act, and Mr. McKay's quoted in that article.

6 I added this to my list of documents perhaps
7 two hours after the deadline, and I simply want to refresh
8 the witnesses' memory with that article, if that's possible.

9 **MR. DANIEL SHEPPARD:** Madam Commissioner, the
10 document lists get taken down at the deadline, and so it's
11 news to the Commission that any documents have been listed.
12 This has not been notified to the Commission and, as a
13 result, these documents have never been provided to the
14 witnesses to familiar themselves with, so I -- as a reminder
15 for all participants, attempts to put in documents late need
16 to be brought to the attention of Commission counsel as a
17 matter of fairness to the witnesses. And I'm not sure if the
18 witnesses are comfortable or in a position to comment on a
19 document they have not yet had an opportunity to review.

20 **COMMISSIONER HOGUE:** Okay. So what I suggest
21 is we'll -- you'll take a look at the document and tell us if
22 you are not comfortable commenting.

23 **MR. JOHN McKAY:** Sure.

24 **COMMISSIONER HOGUE:** Just let us know.

25 **MR. JOHN McKAY:** By all means.

26 **COMMISSIONER HOGUE:** I understand it's just
27 for refreshing their memory, so we'll see whether they are
28 comfortable or not.

1 MR. JOHN McKAY: Our memory is refreshed. Go
2 ahead.

3 MR. GUILLAUME SIROIS: Yeah. It's RCD 31,
4 please.

5 --- EXHIBIT No./PIÈCE No. RCD0000031:

6 Canadian Lawmakers Say Pro-Russia
7 Group Tried to Derail Sanctions Law

8 MR. GUILLAUME SIROIS: As you see, it's an
9 article from the "New York Times" dated October 4, 2017. It
10 talks about the adoption of the sanctions law, which is the
11 *Magnitsky Act*.

12 You can go down.

13 MR. JOHN McKAY: Can you go back up?

14 MR. GUILLAUME SIROIS: Interview John McKay,
15 Member of Parliament.

16 I'll let you read.

17 (SHORT PAUSE/COURTE PAUSE)

18 MR. JOHN McKAY: Can you keep on going?

19 MR. GUILLAUME SIROIS: Yeah.

20 (SHORT PAUSE)

21 MR. GUILLAUME SIROIS: Just for the record, I
22 sent -- I have the email right here. I sent an email to
23 Commission counsel, Kate McGrann and Matthew Ferguson, on
24 Sunday at 8:00 p.m. Eastern time asking for permission to put
25 these documents to the witnesses.

26 But in any event, I simply wanted to ask you
27 a few questions about these events.

28 And now that your memory's refreshed, do you

1 recall these attempts from Russia to interfere in the
2 adoption of that Act?

3 **MR. JOHN MCKAY:** I don't with any precision,
4 to be candid about it. Marcus Gold was somebody with whom we
5 worked on a regular basis and we have -- and he was one of
6 the people that brought around Bill Browder and Irwin Cotler
7 and advocated on behalf of the adoption of the *Magnitsky Act*,
8 but I don't recall the -- this particular bit of information.

9 **MR. GUILLAUME SIROIS:** Thank you.

10 My last question, if that's okay. These
11 attempts, as you quote in the article, were pretty obvious at
12 the time in 2017. I'm wondering if you have any comments --
13 that's to you, Mr. Genuis, as well, if you have any comments
14 regarding the evolution of the Russian strategies to
15 interfere in Canadian elections since 2017.

16 **MR. GARNETT GENUIS:** I think some of the
17 kinds of narratives they push are different now. I think
18 there's also just more recognition since the further invasion
19 of Ukraine of how malicious an actor the Putin regime is.

20 I think some of the statements of the
21 government after 2015 around certain matters suggested much
22 more naivete than about the threat. So some -- awareness has
23 increased. There are different kinds of narratives used,
24 some of them mutually contradictory, and I think those
25 narratives will continue to shift and change just based on
26 where these -- Russia and other foreign actors see there
27 being opportunities.

28 **MR. GUILLAUME SIROIS:** Right. Thank you.

1 **COMMISSIONER HOGUE:** Thank you.

2 So next one is Human Rights Coalition, I
3 think.

4 Sorry. You're on Zoom.

5 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

6 **MS. SARAH TEICH**

7 **MS. SARAH TEICH:** Good morning, everyone.
8 Good morning, MP Genuis, MP McKay.

9 Can everyone hear me okay? There's a bit of
10 an echo in my ears.

11 **COMMISSIONER HOGUE:** Yes, we do.

12 **MS. SARAH TEICH:** Okay, great.

13 My name is Sarah Teich, and I'm representing
14 the Human Rights Coalition.

15 You both spoke about the possibility of
16 exposing others. MP McKay, you stated just before break
17 "Maybe I'd inadvertently exposed others". And MP Genuis, you
18 noted the importance of protecting yourself as well as the
19 people you correspond with. So I just have some follow-up
20 questions about that.

21 Do either of you or both of you communicate
22 with members of diaspora communities, MP Genuis, on your
23 personal or partisan device, and MP McKay, on your one
24 device?

25 **MR. GARNETT GENUIS:** Yes. There are many
26 people who I have worked with in various diaspora communities
27 for a long time who are not just collaborators but are also
28 personal friends and who I would communicate on personal

1 device and through personal channels in -- with in that
2 spirit.

3 **MR. JOHN MCKAY:** And if you represent a
4 riding in Toronto, you necessarily speak to, with and are
5 friends with many diaspora communities.

6 **MS. SARAH TEICH:** Which diaspora communities?
7 And particularly on or after January 2021.

8 **MR. JOHN MCKAY:** Well, I could march you down
9 Markham Road in my riding and pretty well cover every
10 diaspora community known to mankind, but the -- primarily,
11 it's the Gujarati community, Pakistani community,
12 Bangladeshi, the Armenians, the Taiwanese and, to a lesser
13 extent, Portuguese, and multiple Caribbean communities.
14 That's just a superficial rundown of Markham Road.

15 **MR. GARNETT GENUIS:** It would be difficult to
16 put parameters around which diaspora groups I'm communicating
17 with, but I think notably, because I'm most interested in
18 working on human rights issues, I tend to have the closest
19 relationships with diaspora communities who are particularly
20 involved in human rights advocacy, as opposed to those who
21 are focused on engaging the government in relation to other
22 kinds of policy files.

23 **MS. SARAH TEICH:** Does that include Uyghurs,
24 Tibetans, Falun Gong practitioners, Hong Kongers?

25 **MR. GARNETT GENUIS:** Yes. Absolutely.

26 **MS. SARAH TEICH:** Okay. Based on your
27 understanding of cyber attacks, and please only answer to the
28 extent that you have an understanding of cyber attacks, do

1 you think that this put your diaspora community contacts
2 and/or their loved ones at risk?

3 **MR. JOHN MCKAY:** I guess we are reluctantly
4 coming to that conclusion. At least I am reluctantly coming
5 to that conclusion, that I may have inadvertently exposed
6 people who communicate with me. I'm thinking of one
7 particular individual from the Hong Kong community. I'm
8 thinking of some of the Falun Gong folks that would be in my
9 contact list.

10 **MR. GARNETT GENUIS:** Yeah, so as I as I
11 discussed earlier, this was a pixel reconnaissance attack
12 that targeted at IPAC members in general, targeted my
13 personal account. I don't know to what extent it was or was
14 not successful, and if it was, what information was gathered.
15 But I have had communications on my personal account with
16 individuals from the communities you mentioned, information
17 that those individuals would certainly not want any malicious
18 foreign actor to have access to. So I don't think we can
19 presume that the attack was successful, nor can we presume
20 that it wasn't successful. But I certainly do correspond
21 with people in those communities through those channels.

22 **MS. SARAH TEICH:** Okay. Thank you.

23 If we can please pull up WIT.75? This is MP
24 Genuis' interview summary. Thank you. And if we can scroll
25 down to paragraph 46? I actually want to start at the bottom
26 of this paragraph.

27 Mr. Genuis, you note the real downstream
28 impacts of these attacks remain unknown. Just to clarify, is

1 that sort of what you're referring to as the impact on your
2 contacts? Or is this referring to something else?

3 **MR. GARNETT GENUIS:** No, that's exactly what
4 I'm referring to. Impacts on my contacts. Impacts that
5 would result from observation. And, you know, I think the
6 greatest threat here is to the freedom of people in diaspora
7 communities. They are vulnerable to all kinds of different
8 threats and I think it's important, as much as possible, to
9 put the spotlight on them, as well as on their courage and
10 heroism in persisting in human rights advocacy in spite of
11 these counter-pressures.

12 **MS. SARAH TEICH:** Thank you. If we can
13 actually go to the same paragraph, but a bit earlier on?

14 You noted you believe it's plausible that
15 China would target you, I'm paraphrasing, obviously it says
16 him, in a way that would threaten your safety or wellbeing on
17 Canadian soil. Would you agree that the experience of
18 members of diaspora communities is not necessarily the same
19 in that regard and that even though your safety and wellbeing
20 would not be threatened, that theirs might be?

21 **MR. GARNETT GENUIS:** I agree 100 percent.

22 **MS. SARAH TEICH:** MP McKay, would you agree
23 with that as well?

24 **MR. JOHN MCKAY:** Absolutely.

25 **MS. SARAH TEICH:** In your opinions, this is
26 to both of you, do you think that these potential downstream
27 impacts, particularly on your contacts that are members of
28 these communities, might have been minimized had you been

1 informed about the attack in a timely manner?

2 **MR. GARNETT GENUIS:** Yes. I would have been
3 able to take protective measures if I had known, and that
4 would have reduced the risk of downstream impacts.

5 **MR. JOHN McKAY:** I would like to connect the
6 dots, but I can't, given the vagueness of the information.
7 But I do specifically recall a specific conversation with a
8 Hong Kong activist and she was -- I feared for her safety and
9 I think, I don't know this for sure, I think that she has
10 reduced her activities.

11 **MS. SARAH TEICH:** Okay. This is my last
12 question, and it's for you, MP McKay. You raised this idea
13 of vulnerability indexes so that MPs that are more vulnerable
14 than others might be more readily notified. Do you think
15 that the vulnerability of an MP's contacts, particularly
16 among members of diaspora communities, should be a relevant
17 consideration?

18 **MR. JOHN McKAY:** I think it should be a
19 consideration. I do think you have to start somewhere, and I
20 would be starting with the profile of the MP and the
21 vulnerabilities that he/she would bring to it. And I guess
22 that, in turn, would bring in the downstream, for want of a
23 better term, contacts, calendars, all of the information that
24 you exchange in emails with people in the business that we're
25 in.

26 **MS. SARAH TEICH:** Thank you. I know I said
27 that was my last question, but I actually do have one more, I
28 just had to scroll, if Madam Commissioner, I have another

1 couple of minutes?

2 COMMISSIONER HOGUE: Yes.

3 MS. SARAH TEICH: Okay.

4 COMMISSIONER HOGUE: You have three minutes
5 left.

6 MS. SARAH TEICH: Perfect. So if we can
7 please pull up now COM.485 on to the screen? And if we could
8 go to the bottom of page 1? This is where Mr. de Pulford
9 talks about the progressiveness of the attack and how he had
10 notes here that at least two members of IPAC were compromised
11 in mid-2021 subsequent to the pixel reconnaissance emails.

12 If either of you know and/or can share, do
13 you think that your devices, or do you suspect that your
14 devices were targeted subsequent to the January 2021 email?

15 MR. JOHN McKAY: I can't say any ---

16 MR. GARNETT GENUIS: I don't have any
17 information ---

18 MR. JOHN McKAY: No.

19 MR. GARNETT GENUIS: --- about that. Sorry.

20 MS. SARAH TEICH: Okay. That's all right.

21 And if we can scroll to page 2?

22 Mr. de Pulford outlines some potential
23 requests. I'm curious, again to the extent you can share,
24 which of these you've requested and what, if anything, has
25 been done in response? And this is the one, two, three after
26 "We anticipate that Members in Canada..." I'm sorry, it's one
27 through four.

28 MR. JOHN McKAY: Sorry, could you back on the

1 question as to ---

2 **MS. SARA TEICH:** The question is these
3 suggested next steps that Mr. de Pulford identifies, have you
4 requested any of these? And what, if anything, has been done
5 in response of these four bullet points?

6 **MR. GARNETT GENUIS:** It seems to me that one,
7 three, and four have largely by advocacy that we have done,
8 statements I've made in the House. We've clearly attributed
9 this attack in our statements and called for Members of
10 Parliament -- parliamentarians should receive this
11 information in the future. And part of why we're here is to
12 talk about improvements that may need to be made in terms of
13 cyber security.

14 I would certainly be supportive of item
15 number two. It hasn't been a big focus of the conversation,
16 but the idea that individuals who are involved in trying to
17 target legislators in Canada, that those individuals should
18 be subject to sanctions in response to those activities,
19 that's, to me, a pretty commonsense proposition.

20 **MR. JOHN MCKAY:** Yeah, I would just say that,
21 you know, initiating the privilege motion by Garnett was step
22 one. Step two was reference -- was a finding that -- by the
23 Speaker. Step three was a reference to the PROC. And this
24 hearing is part of that overall response to those four
25 issues.

26 **MS. SARAH TEICH:** Okay. Thank you. That
27 concludes my questions.

28 **COMMISSIONER HOGUE:** Thank you.

1 So next one is counsel for the Concerned
2 Group.

3 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

4 **MR. NEIL CHANTLER:**

5 **MR. NEIL CHANTLER:** Good morning. My name is
6 Neil Chantler. I'm counsel for the Chinese Canadian
7 Concerned Group.

8 Question for MP Genuis. You said you would
9 have taken better measures to protect yourself had the
10 Government of Canada informed you about the cyber attack and
11 informed you in a more timely way; correct?

12 **MR. GARNETT GENUIS:** Yes.

13 **MR. NEIL CHANTLER:** And this would generally
14 be true whenever it comes to foreign interference? That
15 people are only able to respond and protect themselves if
16 they're informed of the threat?

17 **MR. GARNETT GENIUS:** Precisely, yeah.

18 **MR. NEIL CHANTLER:** And the more timely that
19 information arrives, the better able you are to protect
20 yourself?

21 **MR. GARNETT GENIUS:** Absolutely.

22 **MR. NEIL CHANTLER:** On the sequence of events
23 that unfolded in respect of this particular cyber attack,
24 could the Registrar please pull up WIT 75, at page 8,
25 paragraph 44.

26 Mr. Genius, you indicated in your interview
27 summary, in your interview with the Commission that you --
28 you've come to understand that the FBI notified the

1 Government of Canada in 2021. You go on to say in the next
2 paragraph that there's some suggestion that the Government of
3 Canada knew about these attacks in 2021. Where does that
4 come from, that suggestion?

5 **MR. GARNETT GENIUS:** Well, the public
6 comments and the government comments in the House of Commons
7 and I believe to the media implied that the government became
8 aware of or identified the attack. So although not entirely
9 clear, my sense was that there was an implication that they
10 had found out about these through some means other than being
11 informed by the Americans. I may have misunderstood that
12 though. They -- in many of the government's statements on
13 this, my perception is that they were sort of intentionally
14 vague, that they were viewing it through kind of a political
15 issues management lens rather than through a let's disclose
16 the information solve the problem kind of lens. So I may
17 have misunderstood, but that was my sense of the implication
18 of what they were saying.

19 **MR. NEIL CHANTLER:** And when were those
20 comments made?

21 **MR. GARNETT GENIUS:** So this was in the same
22 week. It was the week of April 29th. It was the week that
23 Parliament came back following us being informed. So I
24 raised the question of privilege on Monday. As I recall,
25 there was virtually no communications, response from the
26 government on that first day, and then there were some
27 subsequent responses delivered through the media and in the
28 House on the Tuesday or Wednesday.

1 **MR. NEIL CHANTLER:** And just to be clear,
2 that was earlier this year?

3 **MR. GARNETT GENIUS:** This year, exactly.

4 **MR. NEIL CHANTLER:** Could we please scroll to
5 paragraph 50?

6 Now here, Mr. Genius, you've shared your view
7 that there's a cultural problem within the Canadian
8 government with respect to the declassification of
9 information. Now I'm sure you'd agree that the cultural
10 problem isn't the only problem here.

11 **MR. GARNETT GENIUS:** Yeah.

12 **MR. NEIL CHANTLER:** There are other problems,
13 limitations in the *CSIS Act*, for example?

14 **MR. GARNETT GENIUS:** Yeah.

15 **MR. NEIL CHANTLER:** But I take it from your
16 evidence that you believe that even within the powers already
17 given to the government to share intelligence, sometimes
18 intelligence is not shared when it should be; is that
19 correct?

20 **MR. GARNETT GENIUS:** Yes, my understanding of
21 the processes is that the government does have the authority
22 to strategically declassify certain information if there's
23 public interest to do so. And in the comments that Ministers
24 make, it often appears that they are using national security
25 to justify maintaining secrecy when national security could
26 actually be better advanced through disclosure. That's
27 obviously not true in every case, and I'm -- as someone
28 outside the government, it's difficult to evaluate in any

1 particular case, but there are other countries around the
2 world where you much more frequently see what looks like
3 strategic disclosure of information in order to counter
4 foreign influence threats.

5 **MR. NEIL CHANTLER:** And so from your
6 perspective, what is the basis for that reluctance in
7 government to share information even when it might be
8 beneficial for the security of the country?

9 **MR. GARNETT GENIUS:** Well, in this particular
10 case -- in some cases, such as the Winnipeg labs documents
11 issue, there was a reluctant to -- a reluctance to disclose
12 information that seemed to be rooted in a desire for the
13 government to avoid embarrassment. So there was a kind of a
14 political or bureaucratic desire to prevent certain decision
15 makers from being embarrassed about things that had happened,
16 so there was an invocation of national security to avoid
17 disclosing information. In this particular case, if we had
18 been told up front, there would have been no embarrassment to
19 anyone, if we had been told frankly and up front. So in this
20 particular case, it's hard to see any logical motive, except
21 perhaps it speaks to an executive that just isn't that
22 interested in sharing information with MPs, that -- I should
23 say parliamentarians in general. That may speak more to a
24 mentality than a particular evaluation of interests in this
25 case.

26 **MR. NEIL CHANTLER:** Thank you.

27 Madam Commissioner, may I ask one final
28 question?

1 **COMMISSIONER HOGUE:** Yes, one final.

2 **MR. NEIL CHANTLER:** Use my time. Briefly to
3 both of you, you've both acknowledged today that combatting
4 foreign interference involves some degree of sharing, greater
5 sharing of information, in a more timely way to
6 parliamentarians. Would you agree that that same concept
7 would apply to members of the public, members of a diaspora
8 group like Chinese Canadians who are the targets of foreign
9 interference? They too need information about foreign
10 interference and they need it in a timely way in order to
11 better protect themselves and better respond?

12 **MR. JOHN MCKAY:** My response would be
13 sunlight is the best disinfectant, and that I'm hoping that
14 this Commission weighs in a bit on cultural secrecy in this -
15 - it's not in this particular government, but the government
16 writ large. Because I do have a secret clearance, I do get
17 exposed to certain information maybe others don't. Having
18 said that, we do have what I think is a regrettable culture
19 of secrecy in this country, which needs to change. You know,
20 because I interact with American defence officials, if I want
21 to find out about what's going on in Canada, I ask my
22 American colleagues, and that shouldn't be.

23 So I think in some indirect way, the failure
24 to disclose to us in a timely sort of way, unlike other
25 governments did, reflects that culture of secrecy and I don't
26 think we can continue to hold onto that because we -- not
27 only do we make ourselves vulnerable, but I think you
28 rightly, as to the previous question, it raised the issue of

1 diaspora, individuals and community members that also become
2 vulnerable.

3 MR. GARNETT GENIUS: Yeah, and I'll just add,
4 fundamentally, if there is a threat to an individual, to
5 their safety, to their wellbeing, it would have to be a
6 particularly extreme situation to not inform them. Generally
7 speaking, if a person is being threatened, they have a right
8 to that information, whether that person is a parliamentarian
9 or serving in some other vocation or a private citizen.

10 MR. JOHN McKAY: And reverse onus is actually
11 an interesting idea.

12 MR. NEIL CHANTLER: Thank you.

13 COMMISSIONER HOGUE: Thank you.

14 So the next one is counsel for the
15 Conservative Party, Me De Luca.

16 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

17 MR. NANDO DE LUCA:

18 MR. NANDO DE LUCA: Good morning. My name is
19 Nando De Luca. I'm counsel for the Conservative Party of
20 Canada. My first question is one of clarification and it's a
21 compound question for each of you, and it's this. How many
22 email accounts do you have, and from how many devices do you
23 access them, be it computers, mobile devices. We can start
24 with you, Mr. McKay?

25 MR. JOHN McKAY: I have two accounts, private
26 and gmail, and that's it, and I do it from one device.

27 MR. NANDO DE LUCA: Sorry, you said private
28 and gmail? Parliamentary?

1 **MR. JOHN McKAY:** No, my private one is my
2 gmail account.

3 **MR. NANDO DE LUCA:** And your parliamentary
4 email account?

5 **MR. JOHN McKAY:** Yes, that's the second one.

6 **MR. NANDO DE LUCA:** Mr. Genius?

7 **MR. GARNETT GENIUS:** Yeah, so I have two
8 email accounts that I still use, and one is my personal
9 parliamentary account that I check on my parliamentary device
10 only, and the other is a personal non-parliamentary account,
11 and I have access to that on both of my personal -- well,
12 both of my devices.

13 **MR. NANDO DE LUCA:** Okay. So again, for the
14 both of you, since 2021, or even since April of 2024 when the
15 APT31 cyber attack was disclosed, has anyone from the
16 Government of Canada or from the House of Commons
17 administration done a scan of your devices or your computers
18 to see if there was any impact of that cyber attack?

19 **MR. GARNETT GENIUS:** Assuming that's a scan
20 that would require them to tell me they were doing it and
21 have me bring those things in, then the answer's no.

22 **MR. JOHN McKAY:** No.

23 **MR. NANDO DE LUCA:** Mr. McKay? Thank you.

24 Also, for each of you, since the April 2024
25 disclosure of the cyber attack, have you had a chance to
26 reflect on the implications of the cyber attack and foreign
27 interference for the work you do as an MP and the
28 constituents that you deal with?

1 First you, Mr. Genuis.

2 **MR. GARNETT GENUIS:** Yeah, it's something I
3 have thought a lot about before and since, what are the
4 implications of foreign interference.

5 I am committed to not changing my behaviour
6 or my advocacy in response to these threats, if anything, to
7 intensifying my advocacy for human rights and against foreign
8 interference because I have an ability to speak on these
9 issues that many of those who are most vulnerable to these
10 kinds of attacks don't always, people that have to worry
11 about members of their family who live in other countries
12 getting picked up, facing negative repercussions.

13 I have the ability to advance concerns that
14 they clearly have that they may be in less of a position to
15 advance.

16 But how unknown surveillance impacts my work,
17 I simply don't know how somebody reading my emails could then
18 use information they gather to counter things I'm trying to
19 do. If that's happening, then I don't know about it and I
20 don't know what the implications have been or would be, so
21 that's certainly an issue as well.

22 **MR. NANDO DE LUCA:** Safe to say that if it's
23 happening, you'd like to know about it?

24 **MR. GARNETT GENUIS:** Yes, absolutely.

25 **MR. NANDO DE LUCA:** Mr. McKay?

26 **MR. JOHN MCKAY:** I'd like to say that it
27 hasn't impacted work, but you know, a minimal self-awareness
28 makes you think about what causes you take on or don't. And

1 I'd like to say that my behaviour prior to being aware is
2 exactly the same as my behaviour post-awareness, and I think
3 it is, I hope it is, but you know, it's -- it does make you
4 think.

5 **MR. NANDO DE LUCA:** Thank you. Those are my
6 questions.

7 **COMMISSIONER HOGUE:** Thank you.

8 Counsel for Michael Chong.

9 **--- CROSS-EXAMINATION BY / CONTRE-INTERROGATOIRE PAR**

10 **MR. FRASER HARLAND:**

11 **MR. FRASER HARLAND:** Fraser Harland, counsel
12 for Michael Chong. I just have a couple questions for Mr.
13 Genuis.

14 If I could ask the registrar to pull up WIT
15 75.EN, please, and go to paragraph 49, please.

16 Mr. Genuis, this is your witness statement.
17 And in this paragraph 49, in the first sentence it says that
18 you believe the targeted Parliamentarians should have been
19 notified by the Government of Canada.

20 And then in the last sentence, you say:

21 "The responsibility of notifying
22 Parliamentarians should have been
23 with security and intelligence
24 agencies such as CSIS." (As read)

25 And my question for you is just if CSIS had
26 advised, say, the Minister and Deputy Minister of Public
27 Safety of the cyber attack, you would agree that they would
28 also have a responsibility to read the intelligence, take it

1 seriously and then act on it to inform Parliamentarians. Is
2 that right?

3 **MR. GARNETT GENUIS:** Yeah, absolutely. And I
4 appreciate the opportunity to just clarify my statement here.

5 There are, obviously, limitations in terms of
6 information sharing that apply to CSIS. The Ministers,
7 Deputy Minister, the senior levels of government would have,
8 I think, been in a position to identify the problem and make
9 broader changes to ensure that we got that information, so I
10 think primary responsibility is on the government for taking
11 that action. This is what I said in the first sentence,
12 yeah.

13 **MR. FRASER HARLAND:** Those are my only
14 questions. Thank you, Madam.

15 **COMMISSIONER HOGUE:** Thank you.

16 The AG, do you have any questions?

17 **--- CROSS-EXAMINATION BY / CONTRE-INTERROGATOIRE PAR**

18 **MR. BARNEY BRUCKER**

19 **MR. BARNEY BRUCKER:** Good morning. Barney
20 Brucker for the Attorney General.

21 With respect to the information coming to you
22 from the FBI, that came after the indictment was made public.
23 Is that correct?

24 **MR. JOHN McKAY:** That's correct.

25 **MR. BARNEY BRUCKER:** And in COM 485_R -- this
26 is the message with Mr. de Pulford -- I took it from that,
27 and I'm wondering if you agree, that even in the United
28 States, the FBI was not able to inform members of, I guess it

1 would Congress down there -- is that what you understood?

2 **MR. GARNETT GENUIS:** I have no information on
3 that.

4 **MR. JOHN MCKAY:** Yeah, not clear.

5 **MR. BARNEY BRUCKER:** Mr. Genuis, you alluded
6 to the possibility that the government had -- Canadian
7 government had some information about these attacks earlier,
8 and I think you said that the information that was available
9 to you through the committee hearing was rather sparse. So
10 this is a supposition on your part, but -- which we may learn
11 more about in this hearing, but you have no further
12 information on that other than what's in your statement at
13 this time.

14 **MR. GARNETT GENUIS:** What I know is that the
15 American government had this information, this information
16 was shared with the Canadian government. It was not passed
17 on to us. According to the Canadian government, they shared
18 some information with caveats with House of Commons
19 administration. That's what I know.

20 And I've obviously heard the statements that
21 members of the government caucus and other representatives of
22 the government have made about this matter. I've heard those
23 statements at committee and elsewhere, so I have the
24 information that's on the public record as well as -- as well
25 as the information that I've shared.

26 **MR. BARNEY BRUCKER:** You have no information
27 as to what, if anything, Canadian security agencies may have
28 shared with the House of Commons administration?

1 **MR. GARNETT GENUIS:** So in the committee
2 hearings, which are a matter of public record, I have tried
3 to probe the kinds of information that was shared, the
4 parameters of that information. I'll note as well that some
5 of those deliberations in committee are -- were *in camera*, so
6 -- but certainly I can speak to in the public sessions, we
7 tried to drill down on exactly what information was shared
8 with House of Commons administration and what the parameters
9 around that were.

10 They subsequently confirmed to the committee
11 that there were caveats associated with the information that
12 was shared, which, in my view, throws -- it throws the
13 government's story here in a particularly bad light because
14 they said they information with Parliament that could have
15 been passed on to us, and yet there were caveats attached to
16 that information.

17 **MR. BARNEY BRUCKER:** Okay. And Mr. McKay,
18 perhaps this is for you. I took from your remarks before our
19 break that given the role of an MP as you described it, it's
20 inevitable that there would be some blurring of information,
21 whether it be respect to your role as a -- strictly as an MP,
22 personal or partisan, there's just no way around it because
23 of the 24/7-365 day nature of the job. Is that fair?

24 **MR. JOHN MCKAY:** That's correct.

25 **MR. BARNEY BRUCKER:** Last question.

26 Mr. Genuis, did you have your own personal
27 devices submitted for forensic analysis or scanning to
28 determine whether or not they have been compromised?

1 **MR. GARNETT GENUIS:** No, I would have been
2 happy to work with relevant agencies on that, but I received
3 no follow-up whatsoever to -- after raising this issue.

4 **MR. BARNEY BRUCKER:** Did you take any steps
5 to do that outside of involvement with the government agency?

6 **MR. GARNETT GENUIS:** To have them scanned by
7 a private security ---

8 **MR. BARNEY BRUCKER:** Yes.

9 **MR. GARNETT GENUIS:** --- firm, essentially,
10 is what you're asking. No, I didn't.

11 **MR. BARNEY BRUCKER:** Right. Thank you.

12 **COMMISSIONER HOGUE:** Thank you.

13 Mr. Sheppard, any question in re-examination?

14 **--- RE-EXAMINATION BY / RÉ-INTERROGATOIRE PAR**

15 **MR. DANIEL SHEPPARD:**

16 **MR. DANIEL SHEPPARD:** Just one, Madam
17 Commissioner.

18 Counsel for Ms. Kwan asked a question in
19 which he talked about reframing the question of personal
20 versus partisan to one of communications as being part of the
21 democratic infrastructure.

22 Mr. Genuis, in the course of giving your
23 answer, you raised the question about the importance of a
24 zone of privacy for everyone. The need to protect privacy.

25 In light of that, does the importance of
26 protecting privacy, whether it is for personal information or
27 all that potentially politically sensitive information, does
28 the desire to protect that impact your thinking about who

1 ought to be responsible for providing cyber security? And in
2 particular, does it raise any issues in your mind about the
3 Government of Canada having access to devices in order to
4 provide cyber security services?

5 **MR. GARNETT GENUIS:** I mean, look, I think
6 it's very possible to achieve all of these objectives at
7 once. To have greater cyber security for all aspects of our
8 lives, the personal, the partisan, and the parliamentary,
9 while also ensuring that privacy is preserved, right?

10 I have a security system at my home that is -
11 - that is supported in collaboration with the House of
12 Commons. I trust the fact that the House of Commons'
13 involvement in that doesn't compromise my personal privacy in
14 some way, or lead to other political actors having access to
15 personal information. I think the same standard can be
16 applied in the context of cyber information.

17 I just -- I wanted to respond to the
18 questions on that, to particularly emphasize that you know,
19 yes, things are part of the infrastructure of democracy, but
20 they -- but for the democratic system to work they also have
21 to have a separateness and a privacy to them. So you know,
22 conceptually there is different things going on here. But I
23 think it's very doable in practice to ensure the security of
24 all of these things together while protecting privacy.

25 **MR. DANIEL SHEPPARD:** And Mr. McKay, do you
26 have any views?

27 **MR. JOHN MCKAY:** Privacy is becoming a
28 delusion. And I think that's a regrettable development.

1 There isn't anybody in this room I couldn't find out
2 information that they really wish I couldn't find out. And I
3 don't know where you land on that.

4 But I -- I guess the question is -- becomes
5 really, do I trust the security provider to provide my
6 security? And that will necessarily involve intrusions into
7 my privacy. I think that's a sacrifice that we are already
8 making, whether we want to or not. And the real questions
9 there become what is the limitation of the -- where does
10 security bump up against privacy? And at this point, I think
11 our privacy has been very compromised, you know, ours in
12 particular, but society at large.

13 And I say, even counsel -- even I was talking
14 to someone earlier today and one of these pixel attacks was
15 successful by virtue of communication between the client and
16 the lawyer. It got through to the lawyer's account and
17 therefore accessed the client's accounts.

18 So my view is that we have to redefine what
19 our views are on privacy and recognize that privacy will be a
20 bit of an illusion if you're going to ask for this kind of
21 level of security.

22 **MR. DANIEL SHEPPARD:** Thank you very much.
23 Those are my questions.

24 **COMMISSIONER HOGUE:** Thank you. So thank you
25 to you. I really appreciate.

26 And we'll break for lunch. We'll come back
27 at 1:15.

28 **MR. JOHN MCKAY:** Thank you.

1 **THE REGISTRAR:** Order, please. À l'ordre,
2 s'il vous plait. This sitting of the Commission is now in
3 recess until 1:15 p.m. À l'ordre, s'il vous plait. The
4 sitting... Cette séance de la Commission est maintenant
5 suspendue jusqu'à 13 h 15.

6 --- Upon recessing at 11:58 p.m. /

7 --- La séance est suspendue à 11 h 58

8 --- Upon resuming at 1:17 p.m.

9 --- L'audience est reprise à 13 h 17

10 **THE REGISTRAR:** Order, please. À l'ordre,
11 s'il vous plait.

12 This sitting of the Foreign Interference
13 Commission is now back in session. Cette séance de la
14 Commission sur l'ingérence étrangère est de retour en
15 session.

16 The time is 1:17 p.m. Il est 13 h 17.

17 **COMMISSIONER HOGUE:** So good afternoon.
18 First of all, before you start, Maitre Ferguson, for those
19 that join us just this afternoon unless I'm speaking to those
20 that are not in the room, I referred to a questionnaire
21 yesterday, so I would like to mention that the questionnaire
22 is now live, so those that are interested filling out the
23 questionnaire can do it right away, so it's available.

24 Thank you.

25 **MR. MATTHEW FERGUSON:** Good afternoon.
26 Matthew Ferguson for Commission counsel.

27 Can we swear the witnesses, please -- or
28 affirm the witnesses?

1 **LE GREFFIER:** OK. D'abord, Madame Simard.
 2 Pourriez-vous, s'il vous plait, indiquer votre nom complet et
 3 épeler votre nom de famille pour la transcription
 4 sténographique.

5 **Mme CAROLINE SIMARD:** Caroline Simard - S-I-M-
 6 A-R-D.

7 **LE GREFFIER:** Parfait. Merci. Et pour la
 8 déclaration solennelle, affirmez-vous solennellement que vous
 9 direz la vérité, toute la vérité, et rien que la vérité?

10 **Mme CAROLINE SIMARD:** Je l'affirme.

11 **LE GREFFIER:** Merci.

12 **--- MS. CAROLINE SIMARD, Affirmed/Sous affirmation**
 13 **solennelle:**

14 **LE GREFFIER:** Merci.

15 And now for Ms. Boucher. Could you please
 16 state your name -- your full name and spell your last name
 17 for the record?

18 **MS. CARMEN BOUCHER:** Carmen Boucher, B-o-u-c-
 19 h-e-r.

20 **--- MS. CARMEN BOUCHER, Affirmed/Sous affirmation solennelle:**

21 **THE REGISTRAR:** Counsel, you may proceed.

22 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR**

23 **Me MATTHEW FERGUSON:**

24 **Me MATTHEW FERGUSON:** Madame Simard, bonjour.

25 Madame la Commissaire Simard, vu qu'il y a
 26 deux commissaires, si vous permettez, je vais m'adresser à
 27 vous aujourd'hui comme « Madame Simard ».

28 **Mme CAROLINE SIMARD:** C'est très bien.

1 **COMMISSAIRE HOGUE:** Sans ça, je risquerais de
2 répondre à votre place. <Rires>

3 **Me MATTHEW FERGUSON:** Alors, vous avez déjà
4 témoigné le 28 mars dernier devant cette Commission, pouvez-
5 vous nous expliquer ou, en fait, nous rappeler en quoi
6 consiste votre rôle de commissaire aux élections fédérales.

7 **Mme CAROLINE SIMARD:** Donc, en tant que
8 commissaire aux élections fédérales, j'ai le mandat... un
9 mandat d'observation et contrôle d'application de la *Loi*
10 *électorale du Canada*. Alors, essentiellement, ça se décline
11 de plusieurs façons avec plusieurs pouvoirs, je pourrai vous
12 les expliquer ou les rappeler plus tard, si c'est utile.

13 **Me MATTHEW FERGUSON:** Merci. Et peut-être
14 juste avant de procéder, pouvez-vous aussi nous rappeler
15 votre mandat et vos responsabilités en ce qui concerne
16 l'ingérence étrangère.

17 **Mme CAROLINE SIMARD:** Parfait. Alors, en
18 résumé, pour le mandat, donc, encore une fois, un mandat
19 d'observation et de contrôle d'application de la loi, ça se
20 décline certainement de... en fait, autour des pouvoirs en
21 matière d'enquête et des enquêtes en lien avec les
22 contraventions de la *Loi électorale du Canada*.

23 Lors de la première comparution, donc celle
24 de mars, je décrivais le rôle en matière d'ingérence
25 étrangère en référant à certaines dispositions précises de la
26 *Loi électorale* parce qu'il faut se rappeler qu'en vertu de la
27 *Loi électorale du Canada*, il n'y a pas une disposition unique
28 qui traite d'ingérence étrangère, il y en a plusieurs. Il y

1 en a, disons, qui sont plus ciblées, comme l'article 282.4 de
2 la Loi qui nous parle d'influence indue par les étrangers; il
3 y a aussi d'autres dispositions, mais je dirais que, pour
4 bien comprendre la portée du rôle, il faut faire le tour de
5 l'ensemble de ces dispositions.

6 **Me MATTHEW FERGUSON:** Il y en a plusieurs qui
7 touchent ou qui peuvent toucher à la question d'ingérence
8 étrangère, mais il n'y a pas une disposition propre à
9 l'ingérence étrangère. C'est bien ça?

10 **Mme CAROLINE SIMARD:** C'est exact.

11 **Me MATTHEW FERGUSON:** Et, Madame Simard, vous
12 avez été interviewée par les avocats de la Commission le
13 25 juillet dernier et un résumé de cette entrevue a été
14 préparé.

15 Mr. Court Operator, can we call up WIT 91?

16 Donc, est-ce que... Madame Simard, est-ce que
17 vous avez eu l'occasion d'examiner ce résumé pour vérifier
18 s'il reflète fidèlement le contenu de notre discussion?

19 **Mme CAROLINE SIMARD:** Oui.

20 **Me MATTHEW FERGUSON:** Avez-vous eu l'occasion
21 d'y apporter des corrections et/ou des modifications?

22 **Mme CAROLINE SIMARD:** Oui.

23 **Me MATTHEW FERGUSON:** Et est-ce que vous
24 adoptez ce résumé comme faisant partie de votre témoignage
25 devant la Commission?

26 **Mme CAROLINE SIMARD:** Oui.

27 **Me MATTHEW FERGUSON:** Merci.

28 Before I tender it, I have some questions to

1 Ms. Boucher.

2 Ms. Boucher, you were also interviewed by
3 Commission counsel last July 25, and a summary of the
4 interview, this summary in front of you, was prepared by
5 Commission counsel. Have you had a chance to review it for
6 accuracy?

7 **MS. CARMEN BOUCHER:** Yes, I have.

8 **MR. MATTHEW FERGUSON:** Okay. Have you had a
9 chance to make corrections, additions, subtractions or
10 deletions?

11 **MS. CARMEN BOUCHER:** Yes, I have.

12 **MR. MATTHEW FERGUSON:** Okay. Do you have --
13 do you adopt this summary as part of your evidence before the
14 Commission?

15 **MS. CARMEN BOUCHER:** I do.

16 **MR. MATTHEW FERGUSON:** Okay. Then Mr. Court
17 Operator, I will be tendering this WIT 91 as well as the
18 English version, WIT.91.en. And I'm not sure if it's
19 available in the party database yet, but there should be
20 WIT.91.fr. Let's see if we can call it up, just to exhibit
21 it on the screen. If it's not available yet, it will be
22 shortly. Thank you. Okay. We'll come back to it. We'll
23 make sure that it's available shortly. Thank you.

24 As well as a small portion of the July 25,
25 2024 interview was held in a classified environment and
26 references classified information.

27 Commission counsel has also provided a
28 publicly disclosable portion of the interview summary. I

1 will call it WIT.91.1.

2 **--- EXHIBIT No./PIÈCE No. WIT0000091:**

3 Interview Summary: Office of the
4 Commissioner of Canda Elections
5 (Caroline Simard and Carmen Boucher)

6 **--- EXHIBIT No./PIÈCE No. WIT0000091.EN:**

7 Interview Summary: Office of the
8 Commissioner of Canda Elections
9 (Caroline Simard and Carmen Boucher)1

10 **--- EXHIBIT No./PIÈCE No. WIT0000091.001:**

11 Appendix to Interview Summary: Office
12 of the Commissioner of Canada's
13 Elections (Caroline Simard & Carmen
14 Boucher)

15 **MR. MATTHEW FERGUSON:** Okay. It's on the
16 screen.

17 Ms. Boucher, have you had a chance to read it
18 for accuracy? This particular document?

19 **MS. CARMEN BOUCHER:** Yes, I have.

20 **MR. MATTHEW FERGUSON:** Have you had a chance
21 to make any corrections, additions, or deletions?

22 **MS. CARMEN BOUCHER:** Yes, I have.

23 **MR. MATTHEW FERGUSON:** And do you adopt this
24 summary as part of your evidence before the Commission?

25 **MS. CARMEN BOUCHER:** I do.

26 **Me MATTHEW FERGUSON:** Même question à vous,
27 Madame Simard. Est-ce que vous avez eu l'occasion d'examiner
28 ce résumé pour vérifier s'il reflète fidèlement le contenu de

1 la discussion.

2 **Mme CAROLINE SIMARD:** Oui.

3 **Me MATTHEW FERGUSON:** OK. Est-ce que vous
4 avez eu l'occasion d'y apporter des corrections ou des
5 modifications?

6 **Mme CAROLINE SIMARD:** J'ai pas eu à le faire
7 dans ce cas-ci.

8 **Me MATTHEW FERGUSON:** Très bien. Et est-ce
9 que vous avez adopté ce résumé comme faisant partie de votre
10 témoignage?

11 **Mme CAROLINE SIMARD:** Oui.

12 **MR. MATTHEW FERGUSON:** Merci. Ms. Boucher,
13 you're testifying here. You didn't testify back in March.
14 So we understand you're the executive director of -- at the
15 Office of Commissioner of Canada Elections of enforcement,
16 where you oversee all investigations. Can you give us a
17 brief insight into your role at OCC?

18 **MS. CARMEN BOUCHER:** I am the executive
19 director of enforcement. That involves supervising or
20 overseeing all investigative activities, including those of
21 our investigators, the analytical branch, and paralegals. I
22 also supervise the intake and triage section and I will soon
23 be supervising in a compliance unit as well.

24 **MR. MATTHEW FERGUSON:** Okay. And you've been
25 with the OCC for, I believe, just over a year now? Okay.
26 And in the stage one interview, you mentioned that the
27 position of ED was created to fill certain gaps in strategy,
28 transformation, and change management that were identified

1 following a strategy review undertaken in May 2023. What was
2 that strategy review about?

3 **MS. CARMEN BOUCHER:** Well I wasn't present --
4 -

5 **MR. MATTHEW FERGUSON:** Right.

6 **MS. CARMEN BOUCHER:** --- for the strategy
7 review because it predated me.

8 **MR. MATTHEW FERGUSON:** Your position was
9 created as a result of it?

10 **MS. CARMEN BOUCHER:** My position was created
11 as a result of that strategic review, to my understanding.

12 **Me MATTHEW FERGUSON:** Madame la commissaire,
13 en fait, si j'adresse la question à vous, qu'est-ce qui a
14 initié cet examen? La stratégie en mars... en mai 2023,
15 excusez-moi.

16 **Mme CAROLINE SIMARD:** Parfait. Alors, je
17 vous dirais que on sait tous maintenant que la vague de
18 l'ingérence étrangère nous a frappé, nous étant tous les
19 membres de cet écosystème-là, de pleine foi à l'automne. Et...

20 **Me MATTHEW FERGUSON:** À l'automne?

21 **Mme CAROLINE SIMARD:** À l'automne, pardon,
22 2022. Merci. Et on se rappellera que je suis entrée en
23 fonction au mois d'août 2022. Donc, quelques semaines plus
24 tard, on était à même de constater là l'importance que
25 prenait le sujet dans la sphère publique et donc, assez
26 rapidement, il est devenu important d'agir à l'interne.

27 Donc, la planification stratégique, disons,
28 elle a eu lieu avec les employés au mois de mai 2023, mais

1 elle a précédé bien sûr là disons certaines actions. Donc,
2 des comparutions parlementaires, le fait qu'à l'interne
3 aussi, je doive prendre la décision de créer une unité
4 spéciale au niveau des enquêtes là pour se pencher sur ces
5 sujets complexes.

6 Et donc, chronologiquement parlant, donc, ça
7 nous amène à la planification stratégique au terme de
8 laquelle la vision a été dégagée. Donc, c'est une vision
9 d'être un chef de file mondial pour lutter pour... lutter
10 contre les menaces à la démocratie électorale ou au droit...
11 l'exercice des droits électoraux et de paire avec les
12 partenaires. Donc, cette vision-là, comme vous pouvez voir,
13 regroupe plusieurs éléments. On pourra peut-être en parler
14 plus abondamment plus tard.

15 Il y a eu aussi des consultants qui sont
16 venus nous donner... prêter main forte pour pouvoir bien
17 évaluer la capacité que nous avons à l'interne. Donc, une
18 bonne capacité pour faire le travail qui était surtout axé au
19 niveau financement politique, les votes illégaux, c'est
20 toujours le cas.

21 Il y avait aussi ce travail-là qui avait été
22 aussi entamé sur d'autres questions que sont la
23 désinformation et l'ingérence étrangère. Mais c'était
24 important d'avoir un regard objectif et de l'extérieur par
25 des professionnels qui ont pu évaluer ces écarts-là entre la
26 capacité interne et maintenant les nouvelles exigences en
27 matière d'ingérence étrangère.

28 Ce qui est intéressant, je pense, de

1 souligner pour les fins de l'enquête ici, l'enquête publique,
2 c'est que cet exercice-là a déjà été fait avec nos
3 partenaires. Donc, les consultants ont pu à ce moment-là
4 consulter nos partenaires, notamment, Élections Canada, le
5 SCRS, la GRC, CST en français (donc, CSC en anglais), et
6 donc, arriver avec des conclusions.

7 Et ces conclusions-là, nous, à l'interne, on
8 a pu se les approprier, mettre sur pied une initiative,
9 pardon, de transformation et qui se matérialise là vraiment
10 par une restructuration. Madame Boucher y faisait référence
11 brièvement tout à l'heure. Il y a aussi des actions
12 concrètes qui se sont fait là pour renforcer les liens avec
13 les partenaires existants, créer d'autres liens avec d'autres
14 partenaires, assurer une plus grande visibilité par une
15 stratégie de communications.

16 Il y a aussi eu beaucoup de travail en
17 ressources humaines, comme vous pouvez le deviner, au niveau
18 de la dotation, au niveau de la formation. Alors, et aussi
19 ce qui est important dans la mission qu'on disait chef de
20 file, ça été aussi d'aller voir à l'extérieur et de mettre
21 sur pied un... je vais dire un forum international -- c'est
22 comme ça qu'on l'appelle à l'interne -- qui regroupe donc nos
23 homologues à l'international.

24 Alors, je pourrai évidemment vous fournir
25 plus d'informations si vous le jugez utile.

26 **Me MATTHEW FERGUSON:** C'est qui vos
27 principaux homologues à l'international?

28 **Mme CAROLINE SIMARD:** Donc, pour la première,

1 donc on... je veux dire, je veux être juste dans...

2 **Me MATTHEW FERGUSON:** Oui.

3 **Mme CAROLINE SIMARD:** C'est la première.

4 Alors, ça va être une lancée officielle en fait sous peu. Et
5 on a donc nos homologues des États-Unis, de l'Australie, du
6 Royaume-Uni, de l'Allemagne, des Pays-Bas. Je pense que j'en
7 oublie pas. Alors, on... ce sera donc la première occasion
8 pour nous d'échanger sur des défis communs, les leçons
9 appries. Et le premier sujet, c'est celui de l'ingérence
10 étrangère.

11 **Me MATTHEW FERGUSON:** Donc...

12 **COMMISSAIRE HOGUE:** J'ai juste une question
13 qui me turlupine. Je comprends que vous êtes arrivée à
14 l'automne...

15 **Mme CAROLINE SIMARD:** Oui.

16 **COMMISSAIRE HOGUE:** ... en aout 2022.

17 **Mme CAROLINE SIMARD:** C'est correct, oui.

18 **COMMISSAIRE HOGUE:** Sur la base de ce que
19 vous avez pu revoir, parce que je comprends que vous étiez
20 pas là évidemment préalablement, mais est-ce que je dois
21 comprendre que l'ingérence étrangère était pas vraiment sur
22 le radar à ce moment-là? Préalablement à l'automne 2022?

23 **Mme CAROLINE SIMARD:** Je vous dirais...

24 **COMMISSAIRE HOGUE:** Du bureau. Du bureau,
25 évidemment.

26 **Mme CAROLINE SIMARD:** Oui. Je vous dirais
27 que, en fait, les travaux de la commissaire d'enquête m'a
28 permis de plutôt apprécier le travail qui avait été fait dans

1 le passé. Donc, pour les élections de 2019 et de 2021, donc
2 déjà, il y avait du travail qui se faisait.

3 Il faut se rappeler qu'il y a aussi des
4 modifications législatives dans cette mouvance-là en lien,
5 justement, avec l'ingérence étrangère. Alors, je vous dirais
6 qu'il y avait ce travail-là qui avait été fait. Et quand je
7 suis entrée en fonction, il y avait des enjeux, dont celui
8 d'ingérence étrangère, mais il y avait aussi celui de la
9 désinformation, de la cryptomonnaie, pis d'autres enjeux.

10 **COMMISSAIRE HOGUE:** Alors, c'était pas aussi
11 organisé, si je peux utiliser cette expression-là, mais
12 c'était néanmoins quelque chose qui était déjà sur le radar
13 du bureau?

14 **Mme CAROLINE SIMARD:** C'est ce que je dirais,
15 oui.

16 **COMMISSAIRE HOGUE:** D'accord. Merci.

17 **Me MATTHEW FERGUSON:** Et pour faire suite à
18 la question de Madame la commissaire, il y avait pas de plan
19 propre à l'ingérence étrangère lorsque vous êtes entrée en
20 fonction, c'est bien ça?

21 **Mme CAROLINE SIMARD:** C'est bien ça. Et
22 donc, le plan stratégique se veut donc un plan plus global
23 qui englobe évidemment l'ingérence étrangère du point de vue
24 stratégique. Il y a aussi... je vous disais la planification
25 en... le plan stratégique comms, en communications, pis
26 d'autres actions.

27 Puis pour avoir une idée vraiment très
28 précise, c'est de regarder aussi du point de vue des

1 opérations. Madame Boucher pourrait vous expliquer plus en
2 détails ce qui a pu se faire au niveau des opérations. Avec,
3 notamment, la... disons le cœur de cet exercice-là, c'est
4 vraiment la collecte, l'utilisation et l'archivage du
5 renseignement. Ça, ça a été... ça nous amène vraiment ailleurs
6 comme organisation.

7 **Me MATTHEW FERGUSON:** On va y revenir un peu
8 plus tard sur ces questions précises là. Et là on comprend
9 que rapidement après votre entrée en fonction en aout 2022,
10 la question de l'ingérence étrangère est rapidement devenue
11 un dossier chaud. Est-ce que vous êtes d'accord avec cette
12 affirmation-là?

13 **Mme CAROLINE SIMARD:** C'est-à-dire que ça
14 faisait partie maintenant de plus en plus de la sphère
15 publique. On nous appelait à comparaître devant différents...
16 ben, en fait, c'était un comité parlementaire, mais on voyait
17 que le sujet aussi prenait de l'intérêt auprès d'autres
18 comités parlementaires.

19 Puis encore une fois, à l'interne, il y a eu
20 donc une décision importante, je pense au début du mois de
21 décembre 2022 qui a été, comme je soulignais tout à l'heure
22 donc, de créer une unité spéciale sur ce dossier-là. Donc,
23 c'est qu'on avait évidemment beaucoup de volume. Ça a été une
24 façon de gérer... de conserver un contrôle sur les matières
25 usuelles, les dossiers, disons, habituels, communs,
26 réguliers, si on veut, pis de créer donc cette unité spéciale
27 là.

28 Et l'objectif, évidemment, ça été on recevait

1 des plaintes à ce moment-là. On recommençait à recevoir des
2 plaintes alimentées par ce qui se passait dans la sphère
3 publique. Et là l'exercice a d'abord été de faire... de le
4 faire en deux étapes. D'abord, à la lumière de ces nouvelles
5 allégations là, de regarder le travail passé et de voir si
6 sous ce nouvel éclairage-là, il y avait d'autres pistes
7 d'enquête ou d'autre travail qui devait être complété.

8 Puis je vous dirais qu'au terme... en faisant
9 tout ce travail-là très rigoureux par des enquêteurs vraiment
10 d'expérience, à ce moment-là, en fait, on a clos. On a clos
11 cet exercice-là puis on s'est tourné vers le futur et c'est là
12 que, en fait, il y a d'autre travail qui s'est fait. Et
13 cette annonce-là s'est fait publiquement au mois de mars,
14 donc un peu plus tard, lorsque j'ai comparu devant le comité
15 parlementaire PROC. C'était au mois de mars 2023.

16 **Me MATTHEW FERGUSON:** Est-ce que depuis votre
17 entrée en fonction, est-ce qu'il y a un plan propre à
18 l'ingérence étrangère? Je comprends qu'il y a eu quelques
19 modifications du côté des opérations, mais est-ce qu'il y a
20 un plan propre pour adresser ou pour lutter contre
21 l'ingérence étrangère au... à votre bureau?

22 **Mme CAROLINE SIMARD:** Je vous dirais que ça
23 fait partie du plan stratégique. Et à ce jour, je ne vois
24 pas le besoin de créer un plan spécifique ingérence étrangère
25 parce que tout est bien articulé à l'intérieur de ce plan
26 stratégique global-là. Et tout décline... vraiment là, on a le
27 plan stratégique, on a d'autres plans encore une fois en
28 communications, ressources humaines, le reste. Puis des

1 plans d'action aussi qui ont été développés dans cette
2 initiative-là de transformation. Alors, je pense qu'au
3 contraire, c'est que d'y aller globalement comme ça, on
4 couvre l'ingérence étrangère, mais on couvre aussi les enjeux
5 communs comme la désinformation pis les autres enjeux. Pis
6 aussi, il faut pas oublier que l'ingérence étrangère chez
7 nous, c'est une petite partie du travail qu'on fait.

8 Et donc, est-ce que vous êtes d'accord que
9 l'approche du BCEF en matière d'ingérence étrangère a évolué
10 depuis votre entrée en fonction?

11 **Mme CAROLINE SIMARD:** Pourriez-vous répéter
12 la question?

13 **Me MATTHEW FERGUSON:** Que l'approche en
14 matière d'ingérence étrangère a évolué depuis votre entrée en
15 fonction?

16 **Mme CAROLINE SIMARD:** Ben, en fait, je
17 l'aurais personnellement pas qualifié comme ça, mais quand on
18 regarde l'organisation, je pense que c'est important de le
19 cadrer au niveau historique. C'est un organisme qui existe
20 depuis 50 ans pis qui a connu différentes évolutions pis qui
21 se... qui peuvent s'apprécier à la lumière des modifications
22 législatives. Alors, il y en a eu tout plein. Et là, je
23 vous dirais qu'on est certainement dans l'ère ingérence
24 étrangère.

25 **MR. MATTHEW FERGUSON:** And Ms. Boucher, on
26 the operations side, can you speak to some of the changes
27 that have taken place, and also as to the awareness amongst
28 staff of the question or the issue of foreign interference?

1 **MS. CARMEN BOUCHER:** Certainly. So prior to
2 my arrival, as Madam Simard has stated, we have specialised a
3 taskforce of three individuals to focus really on the Greater
4 Vancouver Area, specifically, which is two seasoned
5 investigators and one of our OSINT analysts, open source
6 intelligence analyst, to conduct a research on that. Those
7 staff members had to really build that knowledge set with
8 regards to methodologies of the PRC and foreign interference.
9 It wasn't an existing in-depth knowledge set.

10 So while efforts had been done in the past,
11 particularly prior to the 2019 elections, to bring in
12 academics and former government experts, et cetera, to inform
13 the staff and build the knowledge set, this was heading into
14 a much more detailed realm, where in order to identify
15 foreign interference in their files they have to really
16 understand what that looks like. So that's one of the first
17 major things that was conducted prior to my arrival.

18 When I came into my position, one of my
19 primary mandates was to take a holistic look at the tools
20 that we're using, the structure of the enforcement branch,
21 did we need to have expanded analytical capability, for
22 instance, which is already under a lot of pressure because of
23 the exponential growth of technology and technology in our
24 files. We have a lot more files that have a technological
25 component.

26 So I conducted a review, approximately three
27 months, of all of the processes, abilities, tools. I spoke
28 with partners. I was part of the review with the consultants

1 and attended some of those interviews as well, and really
2 looking to see what we needed to adjust.

3 Some of the recommendations from that came
4 out into the new structure that we're putting together of
5 putting all the operations under a single manager to try and
6 find some efficiencies and make sure that we're really
7 looking at things in a holistic manner and on the files.

8 But certainly a flagrant area, which is part
9 of the primary mandate that Ms. Simard gave me when I
10 arrived, was how do we deal with classified information. So
11 a large portion of the restructuring and the building that
12 we're trying to do is to ensure we have the technological
13 infrastructure to directly access classified material in an
14 electronic format. This also reduces the burden on our
15 partners to have to provide everything to us in more of a
16 manual manner, and to ensure ---

17 **MR. MATTHEW FERGUSON:** Sorry. When you say
18 "manual", you mean paper?

19 **MS. CARMEN BOUCHER:** Paper.

20 **MR. MATTHEW FERGUSON:** Okay.

21 **MS. CARMEN BOUCHER:** Paper -- well, paper and
22 an individual that has to personally identify that the
23 information needs to go to us ---

24 **MR. MATTHEW FERGUSON:** Right.

25 **MS. CARMEN BOUCHER:** --- at the partner
26 agency and then creating a group of individuals that can
27 triage that information.

28 And the important thing to recall, where I

1 suppose for people who don't already have that experience, is
2 that the same people working in investigations cannot have
3 access to granular intelligence. The intelligence is not
4 available for criminal investigations or administrative
5 investigations unless it has been released for that purpose.
6 So it really takes a separate team that can look at the
7 triage, and that team needs to have also visibility on our
8 investigations. So it's pretty complex for a small
9 organisation like ourselves, as you can imagine.

10 **MR. MATTHEW FERGUSON:** Okay. On that topic
11 of accessing classified information, what resources does it
12 require? You just mentioned that the investigators can't be
13 the persons handling the classified information and the
14 intelligence. So what kind of administrative burden does
15 that put on you?

16 **MS. CARMEN BOUCHER:** So with regards to just
17 accessing the information in general, I have a lot of
18 employees, including investigators, with security clearances
19 to see classified material, but anyone touching a criminal
20 investigation or administrative investigation is limited to a
21 strategic level, like analytical products essentially.

22 So for our purposes at present, it's the
23 senior managers on those teams that can access the classified
24 information and then decide whether or not we need to take
25 further steps in discussions with the partners for making it
26 actionable.

27 The classified infrastructure is a whole
28 other topic. I don't know if you want me to go into that at

1 some point.

2 **MR. MATTHEW FERGUSON:** Well, we can come to
3 it a bit later, yeah.

4 **MS. CARMEN BOUCHER:** Yeah.

5 **MR. MATTHEW FERGUSON:** But in terms of
6 intelligence collection, obviously the Office of the
7 Commissioner of Canada Elections is not an intelligence
8 collection agency, but intelligence can be helpful to your
9 office in carrying out your mandate of ensuring compliance
10 and enforcement of the *Canada Elections Act*. So how are you
11 made aware of intelligence that may fall under that mandate?

12 **MS. CARMEN BOUCHER:** So the current system is
13 that CSIS, or another partner with classified information,
14 would provide the information to us in a paper in-person
15 briefing. So a senior manager would review the information
16 and have a discussion with CSIS about if there was
17 information there that we would need to have discussions for
18 use.

19 That's managed with CSIS at the helm because
20 they own the information. We do not produce classified
21 materials, so we're really a consumer of intelligence. And
22 the discussions with CSIS litigation branch talks about all
23 of the jeopardies of what can happen if the classified
24 information hits the public realm. If we want to use it for
25 authorisation or even just for the purpose of conducting an
26 interview or taking an investigative step, we have to have
27 the permission of the partner that produces the intelligence
28 to make sure that the source of the intelligence is

1 protected.

2 My vision is that we will have a small
3 secretariat that is capable of managing the intelligence,
4 that can read the classified reports and also be aware of
5 what's happening on the investigative side, but they cannot
6 give direction on an investigative file. It has to be a
7 division between the two. Those positions aren't filled at
8 present, so really the weight is on myself and Madam Gigou,
9 who testified earlier in these hearings.

10 **MR. MATTHEW FERGUSON:** Right. And Ms. Gigou
11 previously described in March of this year that the OCCE
12 would be invited to review the intelligence and then consider
13 whether it was -- whether it requires a use letter. Is this
14 still -- is this structure still in place post-General
15 Election 44, post-2021, to receive classified information in
16 this way?

17 **MS. CARMEN BOUCHER:** Yes, that structure is
18 still in place and we've renewed the discussions with CSIS as
19 well to ensure they have our most up-to-date intelligence
20 requirements. This Inquiry has also helped, I think,
21 everyone, including CSIS, understand exactly which directions
22 we could go, so we're receiving more tailored intelligence
23 products at this point. We're still receiving it in paper
24 form only, so I don't know what they have, they have to
25 correct. They provide it to us.

26 **MR. MATTHEW FERGUSON:** Okay. And what's your
27 current capacity for receiving classified information? What
28 is the infrastructure that you possess in order to receive

1 that or an access to receive that information?

2 **MS. CARMEN BOUCHER:** It's in person only.

3 **MR. MATTHEW FERGUSON:** So you have no
4 structures in-house where you can receive either secret level
5 or top secret level communications.

6 **MS. CARMEN BOUCHER:** I do not.

7 **MR. MATTHEW FERGUSON:** Okay. We'll come back
8 to that a bit later. I want to come back to the question of
9 -- it was mentioned by Mme Simard la question de la
10 mésinformation et désinformation. Je pense que during Ms.
11 Boucher's Stage 1 interview in March she indicated the OCC's
12 role with respect to disinformation is extremely narrow and
13 that is generally -- it generally involved impersonation or
14 false statements.

15 La *Loi électorale du Canada* contient quelques
16 dispositions spécifiques relatives à la désinformation, mais
17 celles-ci se limitent essentiellement à certaines fausses
18 déclarations faites en période électorale à l'encontre d'un
19 candidat, d'un candidat potentiel ou d'un chef de parti et il
20 y a une liste de ces fausses déclarations-là.

21 C'est bien ça?

22 **Mme CAROLINE SIMARD:** Oui. Juste peut-être une
23 petite correction.

24 **Me MATTHEW FERGUSON:** Oui.

25 **Mme CAROLINE SIMARD:** J'ai peut-être mal
26 entendu, mais au mois de mars, c'est madame Gigou et non
27 madame Boucher.

28 **Me MATTHEW FERGUSON:** Oui, excusez-moi. Dans...

1 **Mme CAROLINE SIMARD:** Oui.

2 **Me MATTHEW FERGUSON:** Je me suis peut-être mal
3 exprimé, mais c'est madame Simard lors de l'entrevue du mois
4 de mars.

5 **Mme CAROLINE SIMARD:** Parfait.

6 **Me MATTHEW FERGUSON:** Et non lors de son
7 témoignage. Oui.

8 **Mme CAROLINE SIMARD:** Excellent.

9 **Me MATTHEW FERGUSON:** Excusez-moi.

10 **Mme CAROLINE SIMARD:** Parfait. Puis donc, je
11 vous dirais, dans les grandes lignes, oui, je rappellerais,
12 donc, qu'il y a effectivement à l'article 91 fausse
13 déclaration.

14 **Me MATTHEW FERGUSON:** Oui.

15 **Mme CAROLINE SIMARD:** On est à 480.1, 481 où
16 on parle d'usurpation de qualité et des fausses publications
17 également. Donc, probablement qu'on référerait à tout ça.
18 Alors, je confirmerais effectivement, puis j'appellerais ça
19 peut-être, parce qu'on a la preuve d'intention qui est
20 requise, donc je parlerais plutôt de désinformation plutôt
21 que de mésinformation ici.

22 **Me MATTHEW FERGUSON:** Donc, que la personne se
23 présente faussement avec l'intention de tromper. C'est bien
24 ça?

25 **Mme CAROLINE SIMARD:** Je vous dirais que j'ai
26 pas le texte de loi...

27 **Me MATTHEW FERGUSON:** Oui.

28 **Mme CAROLINE SIMARD:** ...devant moi, mais de

1 mémoire, c'est ça.

2 **Me MATTHEW FERGUSON:** OK.

3 **COMMISSAIRE HOGUE:** Et simplement peut-être
4 pour le bénéfice du public qui suit nos travaux, est-ce que
5 j'ai raison de dire que les pouvoirs, en fait, du Bureau sont
6 limités à ce que la Loi lui accorde et que ça ne vous
7 appartient pas de décider, par exemple, d'élargir les
8 pouvoirs que vous pourriez vouloir exercer?

9 **Mme CAROLINE SIMARD:** Vous résumez tellement
10 bien, Madame la Commissaire, l'état de la situation. Oui.

11 **Me MATTHEW FERGUSON:** Et en plus de ça, que
12 ces infractions-là s'appliquent seulement en période
13 électorale. C'est bien ça?

14 **Mme CAROLINE SIMARD:** Pour la plupart, je vous
15 dirais.

16 **Me MATTHEW FERGUSON:** C'est-à-dire les deux
17 qu'on vient de mentionner.

18 **Mme CAROLINE SIMARD:** Là, j'y vais de mémoire.
19 Là, c'est difficile pour moi. Je vous dirais que si on veut
20 se concentrer, le plus important, c'est 282.4, et justement
21 c'est notre disposition en influence indue par des étrangers
22 limitée à la période électorale. Alors, il y a des
23 recommandations pour évidemment élargir cette période-là.

24 **MR. MATTHEW FERGUSON:** Merci.

25 Ms. Boucher, I understand the -- you
26 mentioned that the OCC -- in your July 25th interview that
27 the OCC does not conduct online surveillance and that it does
28 not have a mandate of prevention, but you indicated that --

1 during the interview that the OCC does seek to detect foreign
2 interference early on and limit its impact.

3 I'm not sure whether this specifically
4 applies to mis or disinformation, but can you elaborate on
5 this a bit? What are the ways in which the OCC acts
6 proactive either during an election period or in anticipation
7 thereof?

8 **MS. CARMEN BOUCHER:** So certainly during an
9 electoral period, our primary concern if we see non-
10 compliance with the *Elections Act* is to get back into a state
11 of compliance. So for instance, if we saw an impersonation
12 that was contrary to the *Elections Act*, we would contact the
13 individual responsible if possible or the provider that it
14 was published on if it was on social media, et cetera, and
15 try to have a remedy taken to ensure that it doesn't affect
16 the election specifically.

17 If we discover it after the fact, then of
18 course we're trying to reconstruct retroactively and then
19 looking at whether or not there's applicable compliance
20 measures that should be implemented. So for sure from that
21 perspective, we would be seeking proactive measures.

22 In all of our files, and not specific to
23 disinformation, one of the criteria that we have for
24 escalating a file is if there is a foreign aspect, any
25 foreign aspect, and that would result in it having a higher
26 priority, additional safeguards around it, supervision levels
27 are higher, signature levels for opening and closing the
28 file.

1 So we have a lot of things that enter into
2 account as soon as there's a foreign aspect to the file.

3 **MR. MATTHEW FERGUSON:** Okay. So if it's a
4 standard mis, disinformation element that you identify,
5 that's one thing, but if it has a foreign aspect to it, it's
6 increasing -- it's escalated in priority.

7 **MS. CARMEN BOUCHER:** It's escalated in
8 priority and the safeguards that are around it as well, yes.

9 **MR. MATTHEW FERGUSON:** Okay. And what do you
10 mean by "safeguards around it"?

11 **MS. CARMEN BOUCHER:** So additional oversight,
12 documentation requirements, potential for a mandatory consult
13 with the partner agency, for instance.

14 **MR. MATTHEW FERGUSON:** Okay. And what steps
15 are you taking in anticipation of the dissemination of mis
16 and disinformation during the next general election, which
17 could be either months or weeks away?

18 **MS. CARMEN BOUCHER:** Mis and disinformation,
19 I would say, are in the same criteria as a lot of the other
20 initiatives that we have, so I wouldn't say it's necessarily
21 specific to that, but we have engaged our partner agencies as
22 CSE certainly are experts in a great deal of this information
23 and identifying origin of information, for instance. And we
24 have had discussions on artificial intelligence with CSE in
25 this regard, and we're not the only partner that are
26 interested in this certainly.

27 So there's a global community effort that's
28 happening within the electoral ecosystem, so I personally

1 attended a number of meetings in which these multiple topics
2 were discussed, discussions with CSIS as well with regards to
3 what they see for disinformation, discussions on artificial
4 intelligence and deep fakes, discussions with the RCMP about
5 what type of technical assistance that they can provide us.
6 So it's not just identifying something that is in
7 contravention; can we identify the individual, can we prove
8 that it's actually false? And as Mme Simard mentioned, it
9 has to be intentionally false and not parity, not
10 unintentional amplification of information that is false or
11 even intentional amplification of misinformation would not
12 likely contravene our Act.

13 So primarily partner engagement, I would say,
14 and education of the staff.

15 We're also watching other elections that are
16 happening, so there's dozens of elections around the world
17 all the time and certainly those are all opportunities for us
18 to learn and then we do roundtables and tabletop exercises to
19 ensure that we know what we would do if something similar
20 happened in Canada.

21 **MR. MATTHEW FERGUSON:** Are you -- you
22 mentioned that you're following what's happening in other
23 jurisdictions around the world. For example, were you aware
24 of the -- what happened during the general election in
25 Slovakia a year ago where deep fakes were spread across
26 social media platforms?

27 **MS. CARMEN BOUCHER:** So the most interesting
28 thing on the Slovak election was that there was a voice call

1 that was actually a deep fake voice call. People think about
2 deep fakes and artificial intelligence, they tend to think of
3 videos, but it can actually be something that is voice
4 generated.

5 So the Slovak election, there was a fake
6 phone call of one of the candidates allegedly in a
7 conversation to rig the election, and this was within the 48-
8 hour blackout period in the Slovak media as well, according
9 to their electoral laws. So it's a very interesting case for
10 us to look at and a reminder that we can't get hyper focused
11 on the idea of video fakes.

12 **MR. MATTHEW FERGUSON:** Okay. And how are you
13 raising that awareness within the office among your staff?

14 **MS. CARMEN BOUCHER:** So we're a very small
15 team. There's less than 30 people in the enforcement branch,
16 so they have regular tabletops. Right now they're doing a
17 lot of general election preparation, and we had specific
18 discussions with the RCMP on that case and some other similar
19 cases. Then we disseminated that information.

20 I also have tasked my analytical team to be
21 tracking all of the artificial intelligence and deep fake
22 instances that they see in a structured manner to make sure
23 they were not missing examples, and they'll be used in our
24 general election tabletops.

25 We have a lot of investigators that have not
26 been through an election yet. It also means we have some
27 younger, very technically adept individuals working in that
28 area, which can be helpful, and we're ensuring that we're

1 doing exercises on those possibilities.

2 The challenge also, as you can imagine, is
3 we're not going to see necessarily what's already been seen.
4 It's trying to predict the things that are coming. And
5 that's part of where we really turn to the partner agencies
6 as well because they may have additional information.

7 **MR. MATTHEW FERGUSON:** And you mentioned
8 tabletop exercises. Those are exercises where you --
9 essentially a simulation of an event that can hypothetically
10 occur or not. Is that correct?

11 **MS. CARMEN BOUCHER:** Yes, a tabletop exercise
12 is basically where you take a scenario and walk through what
13 the reactions would be. It's usually conducted blindly,
14 meaning that the participants don't know what the next steps
15 would be, so they give a scenario to the participants, each
16 person speaks about what steps they would take, then they
17 provide what we call an injection of new material, "Now
18 imagine if this is the next thing that comes in," so it
19 provided a new piece of information, and then they have to
20 rethink if their reaction was correct, what did they miss,
21 did they deviate. It's a really valuable training tool for
22 people in enforcement.

23 **MR. MATTHEW FERGUSON:** And who are you
24 conducting these specific tabletop exercises with in terms of
25 generative AI and deep fakes?

26 **MS. CARMEN BOUCHER:** So our team conducts in-
27 house electoral -- general election preparatory tabletops.
28 We also were involved in one with an interdepartmental

1 taskforce managed by Elections.

2 **MR. MATTHEW FERGUSON:** M'hm.

3 **MS. CARMEN BOUCHER:** We've done tabletop
4 exercises with the SITE team, with Security of Elections --
5 Security Intelligence Threat to Elections Task Force.

6 **Me MATTHEW FERGUSON:** OK. Je vais changer de
7 sujet. Ça se peut qu'on revienne sur ce sujet-là un peu plus
8 tard.

9 Madame Simard, je comprends que vous avez
10 comparu devant le Comité des parlementaires sur la sécurité
11 nationale et le renseignement, mieux connu sous le nom
12 NSICOP, en juin 2023. Et lors de votre comparution devant le
13 comité, vous avez fait une présentation.

14 And if we can call up CEF3, please? And go
15 to page 11?

16 **--- EXHIBIT No./PIÈCE No. CEF0000003:**

17 Présentation_FRE_CEF

18 **Me MATTHEW FERGUSON:** Ok. Donc, ici vous
19 reconnaissez, Madame Simard, votre document?

20 **Mme CAROLINE SIMARD:** Oui.

21 **Me MATTHEW FERGUSON:** OK. Et donc, à la page
22 11, il y a une... c'est une page qui s'intitule « Notre coffre
23 à outils souhaité », donc *wishlist*. Vous faites un genre de
24 liste de souhaits. Pouvez-vous élaborer un peu là-dessus en
25 termes de... on voit à gauche, c'est des choses qui sont
26 prévues ou est-ce que je comprends bien que vous voulez un
27 certain élargissement de vos pouvoirs en vertu de la *Loi*
28 *électorale du Canada*?

1 **Mme CAROLINE SIMARD:** Tout à fait. Peut-
2 être, si vous me permettez, avant de répondre, pourriez-vous
3 me rappeler ou me confirmer c'est bien en juin 2023, n'est-ce
4 pas, que j'ai...

5 **Me MATTHEW FERGUSON:** C'est bien ça.

6 **Mme CAROLINE SIMARD:** Parfait, merci. Alors,
7 il s'agissait, comme vous venez de le dire, donc d'une
8 présentation à huis clos devant le comité NSICOP alors
9 duquel, comme vous l'avez dit, j'ai fait une présentation.
10 Donc, cette présentation.

11 Puis l'acétate 11 réfère aux outils qui
12 étaient souhaités à ce moment-là. Donc, il y a plus d'un an.
13 Vous comprendrez que je pense -- je vais passer à travers
14 rapidement -- que tout ça est encore vrai, mais vous
15 comprendrez qu'à la lumière de... juste la discussion qu'on
16 vient d'avoir, il y a d'autres outils aussi qui se sont
17 ajoutés. Outils souhaités, j'entends.

18 Alors, pouvoir de collecte d'éléments de
19 preuve visant les personnes visées. Donc, évidemment, ce
20 qui... si vous me permettez, je vais juste en prendre
21 connaissance.

22 **Me MATTHEW FERGUSON:** Oui, allez-y.

23 **Mme CAROLINE SIMARD:** Alors, essentiellement,
24 cet acétate faisait état des outils manquants dans notre
25 coffre à outils. Le principal, je vous dirais, donc
26 l'acétate réfère à cinq points, mais trois d'entre eux
27 réfèrent au régime de sanctions administratives pécuniaires.

28 D'entrée de jeu, je rappelais qu'il y a des

1 pouvoirs... que je dispose de pouvoirs pour faire mon travail,
2 remplir le mandat d'observation, contrôle et d'application de
3 la Loi. Il y a des outils, donc, pénaux. J'ai le pouvoir de
4 déposer des accusations criminelles. J'ai aussi le pouvoir
5 de signifier des... pardon, en français, des procès-verbaux de
6 violation.

7 Et donc, pour le régime administratif,
8 actuellement, c'est qu'il n'y a pas de pouvoir d'enquête. Je
9 vous dirais que certaines personnes pourraient se demander
10 pourquoi on parle d'un régime administratif alors qu'on parle
11 d'ingérence étrangère, mais je vous dirais que je pense qu'il
12 y a aucun outil qui est à négliger pour lutter contre un
13 enjeu aussi sérieux.

14 Puis notre rôle, c'est un rôle évidemment,
15 donc, de contrer... contrer, évidemment, cette menace-là. Mais
16 c'est aussi plus large. Pis je fais un lien fais avec les
17 travaux qui nous occupent ici. Quand on parle de dissuader,
18 quand on dit aussi que c'est important de détecter, je vous
19 dirais que c'est dans... en fait, dans ce rôle-là qu'on va être
20 capable aussi de détecter avec le régime administratif,
21 notamment, des... disons, des violations, des... en fait, je vais
22 dire des contraventions plus sérieuses et en lien avec
23 l'ingérence étrangère. Plus sérieuses, pardon, c'est-à-dire
24 plus en lien, je devrais dire, avec l'ingérence étrangère.

25 Et comme je vous le soulignais précédemment,
26 on n'a pas d'outil donc d'enquête dans le domaine
27 administratif. Ce qui veut dire qu'on n'a pas d'ordonnance,
28 de pouvoir d'ordonnance de préservation, d'ordonnance de

1 communication, partage d'informations. Alors, ce sont
2 habituellement ces pouvoirs-là qui se trouvent dans le coffre
3 à outils des régulateurs ou des décideurs qui ont accès à un
4 tel régime. Alors, devant le comité NSICOP, je faisais
5 valoir l'importance d'ajouter ces pouvoirs-là.

6 J'ajouterais également l'importance de revoir
7 les montants aussi qui sont imposés. Donc... et selon les
8 personnes visées. Personnes au sens juridique du terme. Et
9 actuellement, les montants maximums pour les entreprises, on
10 parle de 5 000 \$. Vous comprendrez que quand on se situe
11 dans des contraventions qui peuvent être colorées d'ingérence
12 étrangère, qui peuvent faire référence à des entreprises qui
13 génèrent des chiffres d'affaires de plusieurs millions de
14 dollars, un maximum de 5 000 \$, c'est nettement insuffisant.
15 Et, évidemment, on se retrouve dans la cour de « cost of
16 doing business ». C'est le fait que les gens vont... les
17 entreprises préféreraient payer plutôt que de se conformer.
18 Alors...

19 **COMMISSAIRE HOGUE:** Votre référence... quand
20 vous mentionnez 5 000 \$, vous faites référence au montant
21 maximal qui peut être imposé comme pénalité?

22 **Mme CAROLINE SIMARD:** Tout à fait, aux
23 entreprises. Et pour être plus précise, donc, pour les
24 individus, on parle de 1 500 \$. Ce qu'on demandait à ce
25 moment-là, et ce que je demande toujours, c'est que... en fait,
26 pour les individus, c'est pas là où ça se passe. C'est
27 vraiment plus pour les entreprises et c'est de regarder plus
28 attentivement... il faudrait disséquer, je vous dirais là, la

1 *Loi*, et se concentrer sur les contraventions qui sont en
2 lien, notamment avec l'ingérence étrangère. Pis,
3 certainement, où on peut se trouver en situation d'une
4 entreprise qui est en très bonne posture financière et qui se
5 verrait dans une situation de contravention.

6 **COMMISSAIRE HOGUE:** Alors, ce que vous dites,
7 c'est les pénalités, en fait, puis vous me corrigerez, là...

8 **Mme CAROLINE SIMARD:** Oui.

9 **COMMISSAIRE HOGUE:** ... si je comprends pas
10 bien. Vous dites les pénalités qu'on peut actuellement
11 imposer sont insuffisantes au niveau du montant?

12 **Mme CAROLINE SIMARD:** Oui.

13 **COMMISSAIRE HOGUE:** Parce que c'est pas un
14 désincitatif. Ça prendrait vraiment des montants plus
15 importants et, je crois comprendre, beaucoup plus importants
16 à vos yeux...

17 **Mme CAROLINE SIMARD:** Oui.

18 **COMMISSAIRE HOGUE:** ... pour vraiment avoir un
19 effet qui désinciterait toutes les entreprises à participer à
20 des activités d'ingérence étrangère?

21 **Mme CAROLINE SIMARD:** Tout à fait. Je vous
22 dirais, oui, il y a la dissuasion, mais dans ce régime-là qui
23 assurait la conformité. Vraiment, c'est dans cette posture-
24 là qu'on se situe, qu'il y a déjà des exemples qui existent
25 au Canada, notamment quand on se tourne du côté de la *Loi sur*
26 *la concurrence*, la *Loi canadienne anti-pourriel*, on parle là
27 de millions de dollars comme maximum. Encore une fois, c'est
28 pas nécessairement les maximums qui s'appliquent, mais c'est

1 important d'avoir cette latitude-là et de prendre une
2 décision, bien sûr, éclairée et basée, bien sûr, sur une
3 évaluation de facteurs.

4 Alors, je vous dirais qu'il y a certainement
5 ça, puis je vous dirais qu'il y avait aussi d'autres
6 éléments, comme la preuve d'intention. Donc, habituellement,
7 règle générale, dans un régime administratif, on retrouve
8 très peu de preuves d'intention. Alors qu'ici, dans la *Loi*
9 *électorale du Canada*, on a ce fardeau-là.

10 Alors, je vous dirais que ce qu'on suggère...
11 ce qu'on suggérerait à ce moment-là, et c'est toujours le cas,
12 c'est de revoir la Loi, mais à la... en fait, pour pouvoir la
13 dépouiller, disons, autant ce peut... autant que possible, je
14 vais le dire comme ça, donc, de la preuve d'intention lorsque
15 c'est pas nécessaire.

16 **COMMISSAIRE HOGUE:** Parce que c'est un
17 fardeau qui est lourd? Qui est plus lourd à rencontrer?

18 **Mme CAROLINE SIMARD:** Tout à fait.
19 Exactement. Puis c'est pour ça, qu'habituellement, ça
20 n'appartient pas au régime administratif. Où, justement, la
21 preuve... les fardeaux de preuve sont moins élevés. Les seuils
22 à rencontrer sont moins élevés que les régimes pénaux pour
23 les raisons évidentes qu'on connaît en droit.

24 Alors, je vous dirais qu'essentiellement,
25 c'était à ce moment-là la posture dans laquelle on se
26 trouvait au mois de juin 2023. Depuis, il y a aussi, donc,
27 d'autres outils qu'on a identifiés comme pouvant être utiles
28 pour réaliser pleinement le mandat. On parlait... on parle

1 notamment de SCIDA. J'ai oublié le terme en français de
2 SCIDA.

3 **Me MATTHEW FERGUSON:** Oui. Je pense que
4 c'est la *Loi sur la communication d'information ayant trait à*
5 *la sécurité du Canada*. C'est bien ça ?

6 **Mme CAROLINE SIMARD:** Oui, c'est bien ça.
7 Merci.

8 **Me MATTHEW FERGUSON:** C'était à l'écran
9 devant vous. Oui.

10 **Mme CAROLINE SIMARD :** Ah, parfait. Ah,
11 pardon, oui. Et on a aussi FINTRAC aussi, où on demande
12 également d'avoir un accès direct à FINTRAC, donc il y avait
13 aussi ces demandes-là de modifications législatives. Donc, ça
14 appartient à la sphère publique, évidemment, tout ça doit
15 être apprécié devant le... par le Parlement, par les
16 parlementaires, et faire l'objet de modifications
17 législatives, le cas échéant.

18 **Me MATTHEW FERGUSON:** Puis au niveau des
19 augmentations... de l'augmentation des montants maximaux que
20 vous avez... que vous recommandez, est-ce que vous avez fait...
21 formulé une recommandation quant au montant du plafond
22 maximal?

23 **Mme CAROLINE SIMARD:** Pas encore. Jusqu'à
24 maintenant, en fait, c'est dans le cadre de ces comparutions-
25 là parlementaires, je pense que là c'était, si je me rappelle
26 bien, c'est dans le cadre de NSICOP où j'ai parlé de ça, mais
27 il n'y a pas eu encore d'analyses ciblées sur cette question-
28 là.

1 **Me MATTHEW FERGUSON:** Et pour ce qui est... vous
2 avez mentionné FINTRAC, CANAFE, et là, je comprends que
3 depuis votre témoignage au mois de mars, il y a eu une
4 demande qui a été faite pour être... devenir destinataire
5 désigné d'informations provenant de CANAFE et FINTRAC; avant,
6 il fallait passer par la GRC. C'est bien ça?

7 **Mme CAROLINE SIMARD:** Oui, c'est bien ça.

8 **Me MATTHEW FERGUSON:** OK. Et quand est-ce que
9 vous avez formulé cette demande-là pour devenir un
10 destinataire désigné d'informations de FINTRA?

11 **M. YURIY NOVODVORSKIY:** Pour vous donner les
12 dates plus exactes, je vais devoir me tourner vers madame
13 Boucher, parce que là, je vous dirais qu'il y a plusieurs
14 dates qui me viennent en tête, alors c'est madame Boucher qui
15 serait mieux en mesure de vous donner l'information exacte.

16 **MR. MATTHEW FERGUSON:** Ms. Boucher, do you
17 have the date?

18 **MS. CARMEN BOUCHER:** I don't remember the
19 date of the initial outreach, but at the end of June ---

20 **MR. MATTHEW FERGUSON:** The month?

21 **MS. CARMEN BOUCHER:** --- we'd sent the ---

22 **MR. MATTHEW FERGUSON:** Okay.

23 **MS. CARMEN BOUCHER:** --- request to finance,
24 because it is finance that would make the legislative
25 requests, and the finance department, so after an initial
26 conversation with them in mid-June, they asked us if we could
27 submit our request prior to the end of June to be able to
28 enter into their summer planning, and it was prepared and

1 sent before July 1st.

2 **MR. MATTHEW FERGUSON:** Okay. What are the
3 anticipated advantages of becoming a listed organization from
4 FINTRAC?

5 **MS. CARMEN BOUCHER:** The primary advantage
6 for me would be lead generation. It provides an additional
7 window into overseas transactions because FINTRAC
8 automatically receives transactions that hit a threshold of
9 \$10,000 or if there's anything that a bank can deem
10 suspicious, so it's actually quite broad what they collect.
11 Right now, we would have to have a starting point and go
12 through the RCMP to request information. You kind of have to
13 know that it exists to know to ask for it, and we can't throw
14 them dozens of requests. It has to be very targeted. If we
15 were designated a recipient, then FINTRAC could proactively
16 flag things that they thought might fall to our mandate and
17 partners could request that FINTRAC provide a copy of a
18 voluntary disclosure test as well. So it's a way for the
19 community to engage FINTRAC proactively. So that's
20 definitely one of the primary things for us.

21 I also think it's important for the
22 independence aspect of our office that we not be forced to
23 disclose to the RCMP what we're investigating, because,
24 currently, to go through them and ask that they approach
25 FINTRAC, we have to *de facto* tell them what we're looking at
26 and there could certainly be files that were too sensitive
27 for that type of engagement.

28 **MR. MATTHEW FERGUSON:** Okay. Are there any

1 drawbacks to becoming a FINTRAC recipient, a designated
2 FINTRAC recipient?

3 **MS. CARMEN BOUCHER:** Really, just the
4 capacity to manage the information on both ends.

5 **MR. MATTHEW FERGUSON:** Okay. And so I
6 understand that that request has -- was made in June and it's
7 still pending. Are there any other steps that you need to
8 accomplish before becoming a listed FINTRAC or designated
9 FINTRAC organization?

10 **MS. CARMEN BOUCHER:** The additional steps are
11 all on the part of finance. I have heard back from them that
12 things are progressing well, so we are hopeful that will be
13 part of the legislative efforts in the fall, but it's in
14 finances' hands at this point.

15 **MR. MATTHEW FERGUSON:** Okay.

16 Madame Simard, lors de votre... toujours si je
17 rapporte... si je fais référence au rapport de NSICOP, lors de
18 votre passage à NSICOP, vous avez mentionné qu'il y avait
19 quatre défis externes que doit surmonter le BCEF -- c'est
20 mentionné au paragraphe 120 du rapport. Vous avez parlé du
21 dilemme de la conversation du renseignement en preuve, les
22 limites technologiques comme le chiffrement, l'échange
23 d'informations au sein du gouvernement et la difficulté
24 d'obtenir des éléments de preuve se trouvant à l'étranger.

25 Je pense qu'on a un peu parlé limites
26 technologiques et sur la manière... mais pouvez-vous un peu
27 élaborer là-dessus sur c'est quoi les limites technologiques
28 que vous avez identifiées comme étant un défi externe?

1 **Mme CAROLINE SIMARD:** C'est une bonne
2 question. Franchement là, j'essaie de me rappeler puis...

3 **MS. CARMEN BOUCHER:** If I may, I believe it
4 was specific to encryption, the challenges of evolving
5 technology and end-to-end encryption for communications.

6 **MR. MATTHEW FERGUSON:** Okay. And what does
7 that entail, Ms. Boucher? Is that -- are we talking of
8 getting back into the -- is it the exchange of classified
9 information, the reception of classified information, or is
10 it just -- is it a different level of encryption?

11 **MS. CARMEN BOUCHER:** No, it's encryption such
12 as if you're using an app ---

13 **MR. MATTHEW FERGUSON:** M'hm.

14 **MS. CARMEN BOUCHER:** --- that is encrypted
15 end-to-end. We don't have the ability to decrypt that
16 information and the user, the providing service generally
17 also doesn't have the ability to decrypt. So other agencies
18 would have the capacity to have a search -- don't really want
19 to speak for them and what they have for techniques, but they
20 would be able to have direct access to it that they might be
21 able to break the encryption. We don't have that capacity.

22 **MR. MATTHEW FERGUSON:** Okay.

23 **MS. CARMEN BOUCHER:** So it has to be provided
24 to us by one of the individuals in the conversation or
25 passage of information.

26 **MR. MATTHEW FERGUSON:** Okay.

27 And, Madame Simard, ça, c'est les défis
28 externes qui ont été identifiés devant NSICOP. Qu'en est-il

1 maintenant des défis internes que le BCEF doit surmonter?

2 **Mme CAROLINE SIMARD:** Alors, je commencerais
3 en parlant... on parlait de capacité tout à l'heure, donc
4 l'écart au niveau, donc, de ces nouvelles exigences-là en
5 matière d'ingérence étrangère et la capacité interne, donc
6 c'est certainement d'ajouter les ressources requises pour
7 remplir le mandat à la lumière de ces nouvelles exigences-là.

8 Donc, évidemment, présentement, on fonctionne
9 avec un mandat... c'est-à-dire, pardon, un budget de
10 4,4 millions de dollars pour les ressources permanentes, je
11 vous dirais que ça doit être augmenté pour, je vous dirais,
12 on évalue à l'interne 10 millions de dollars, et pour les
13 ressources aussi en termes de... c'est technique, FTE ou du
14 personnel, à l'heure actuelle, on travaille environ avec
15 80 personnes, employés et consultants, je vous dirais que la
16 moitié, donc 40, sont des ressources permanentes.

17 Alors, quand on parle d'augmenter la
18 capacité, précisément c'est à ces niveaux-là. Je vous dirais
19 qu'on poursuit l'initiative de transformation, et là, c'est
20 la gestion du changement. Alors, je vous dirais que tout le
21 monde met l'épaule à la roue pour y arriver. C'est beaucoup
22 d'efforts à l'interne de la part des employés et de la part,
23 en fait, de tout le monde là, et c'est... je vous dirais que...
24 je pense que c'est important pour moi d'utiliser la tribune
25 ici pour vous communiquer que c'est vraiment très demandant,
26 très exigeant, mais, vraiment, les gens mettent l'épaule à la
27 roue, tant au niveau interne, mais aussi les partenaires qui
28 viennent nous appuyer. Je parle de gestion du changement, je

1 pense que c'est un exemple qui illustre bien la collaboration
2 avec les partenaires, on a un partenaire qui est venu, en
3 fait, nous donner une formation sur comment chez eux ils ont
4 vécu ce changement-là.

5 Alors, je vous dirais que c'est ressources,
6 formation, puis tout l'aspect de la gestion du changement.

7 **MR. MATTHEW FERGUSON:** Merci. Ms. Boucher,
8 you mentioned during your July 25th interview that one of
9 your first mandates as executive director was to establish a
10 systemic access to classified information. In your interview
11 and the materials you provided you can see -- we can see that
12 both accessing intelligence and the infrastructure you need
13 to access that intelligence has been a challenge for the OCC.
14 I don't want to elicit any classified information in your
15 endeavours to secure that access, but can you provide a high-
16 level description of your sojourn through that bureaucracy?

17 **MS. CARMEN BOUCHER:** So first, I would note
18 that it is a challenge for us certainly, but I think it's a
19 challenge for any organization that's not used to working in
20 that world because there isn't a playbook, as I discovered
21 when I tried to wind my way through the democracy. There are
22 two classified systems available primarily or that I'm aware
23 of for the Government of Canada. One is the secret level,
24 GCSI, Government of Canada Secure Infrastructure. That's the
25 simpler solution. We could have a terminal in-house and be
26 able to send out emails at a secret level. It's given access
27 and installation, et cetera, is all managed through shared
28 services. And that is the first thing that we attempted. It

1 should be quicker, in theory, but we've been working on it
2 for just over a year. Elections Canada has managed to
3 install it, and I am allegedly pending access still. But
4 figuring out how to fast track that, what's required, we need
5 a survey of our building to see if they can put the
6 infrastructure in place. And, again, you're really reliant
7 on external individuals, external knowledge sets, and if
8 you're not at the top of the pile, it could take a lot longer
9 to do as well.

10 The second classified infrastructure is the
11 CTSN infrastructure. I'm not sure I know what that stands
12 for, technical network.

13 It's the classified top secret network. It's
14 made available by the Communications Security Establishment,
15 so again, it's not something that we can do independently.

16 Secret access isn't sufficient for us. As
17 well, secret access lets us send out information to our
18 liaising partners and certainly can reduce pressures or risk
19 of accidentally producing classified information on an
20 unclassified forum. We need to be able to access CSIS
21 reporting and probably CSE reporting. That would be at a top
22 secret level and above, and for that we need the CTSN
23 network.

24 Understanding the steps in that, when I came
25 in, I really didn't have -- I didn't understand what the
26 steps to go through were, and it was very difficult to find
27 an answer as to what those steps were. Our security is --
28 and internal security tools are all coming out of Elections

1 Canada, so we don't have an in-house security team. They
2 have fairly a in-depth knowledge set as well, but another
3 organization that's not used to dealing with top secret
4 information.

5 So we started by reaching out to PSPC to see
6 if they could tell us what the steps were to identifying top
7 secret access, didn't really get very far with that initial
8 conversation. The first response was that that's not
9 information that they can share. They can't provide the
10 locations of the secure infrastructure. People generally
11 don't share their infrastructure, so it was a very
12 discouraging response.

13 Then we went to CSE and it took some time to
14 get a response back, but the response was also "We can't tell
15 you where the locations are", so I really didn't know where
16 to go at that point. And part of that, as I say, is on our
17 knowledge set, but I think any organization that's entering
18 it for the first time probably hits that blockade.

19 I would like as steps 1 to 12 to get access
20 to CTSN. It would have saved us some time.

21 At that point, the Elections Canada security
22 team put us into contact with the Centre of Security
23 Expertise, which I had never heard of, so I really didn't
24 know who to call. And this is important, I think, as well.

25 They were extremely helpful, located more
26 than one partner that was located walking distance to our
27 office or within a reasonable time. I can't cross a bridge
28 during an election on something urgent, so we were looking

1 for something on the Gatineau side.

2 And they identified potential partners. We
3 reached out to those partners and we found at this point a
4 willing partner, so I thought we were in the clear and was
5 very excited. That was December of last year. And I
6 realized in February that we were missing a huge step, which
7 is becoming an authorized organization.

8 So authorized organization status is granted
9 by CSE to organizations that have been determined to have
10 need and capacity to manage the classified information. We
11 put in our application for that, which was granted in July.
12 The actual application process was less onerous than I was
13 expecting, and at that point we really were starting to get
14 all the information that we need on the steps.

15 There's actually quite clear policy out
16 there. I just didn't know where to get it. It's not
17 available on Google or on the systems that we have.

18 So we have authorized organization status,
19 but there's still a number of steps left. We have to have an
20 internal administrative structure to properly manage the
21 classified information. That includes having a senior
22 indoctrinated official designated by our office approved by
23 CSE.

24 There are specific resume requirements for
25 experience for that individual. They have to have a top
26 secret clearance, special indoctrinations. We can't conduct
27 those indoctrinations yet, so CSE will have to indoctrinate
28 those people.

1 I need a compartmented Information Officer
2 that would be the person that writes the specific procedure
3 and tracks who is accessing the classified infrastructure,
4 making sure that they have the appropriate levels. It's
5 really quite complex so we were building that all trying to
6 pick our way through the bureaucracy.

7 And as slow as it seemed, and I'm actually a
8 person that likes to run, not walk, so I can definitely say
9 that at times I was trying to figure out why is this hard,
10 for the progress we've made in a year, I'm actually quite
11 astounded. But that comes to what I mentioned earlier about
12 the GCSI. People are treating us as a priority right now in
13 large part because of the visibility of this Inquiry and what
14 people are understanding of the challenges that we're facing.

15 **MR. MATTHEW FERGUSON:** Okay. I want to show
16 you a document that maybe betrays a bit your frustration with
17 this process. If we call up CEF275_R.

18 **--- EXHIBIT No./PIÈCE No. CEF0000275 R:**

19 Email exchange delays RE GCSI user
20 costs - follow up questions

21 **MR. MATTHEW FERGUSON:** And I also have a
22 question in relation to it.

23 If we go down to the second page. Just a bit
24 higher.

25 A bit higher, please. Okay.

26 It's an email response on the 24th of June of
27 this year to someone at Elections Canada that you're noted --
28 you're taking note of the delay for I believe it's the GCSI

1 terminal.

2 MS. CARMEN BOUCHER: Yes.

3 MR. MATTHEW FERGUSON: You're mentioning
4 you're shocked it's still not functional seven to eight
5 months later, and you mention that you wish to advise SSC,
6 which is Shared Services Canada, that this is a specific
7 subject of discussion with PIFI.

8 "Access to secure infrastructure is a
9 primary topic for Phase 2 and I would
10 hate to have to say in a public forum
11 that we've been waiting 10 months for
12 whatever it is and still no access to
13 this infrastructure." (As read)

14 I understand that this had to do with a
15 question of a broken printer. Was it that?

16 MS. CARMEN BOUCHER: Well, the terminal was
17 installed at Elections Canada in November and it became
18 functional in July, but it's the printer and the tools -- the
19 encryption tools that allow you to actually be able to read
20 the information and print it, there's apparently steps to get
21 to that that they were blockaded at for several months.

22 MR. MATTHEW FERGUSON: And since June 24th,
23 has this problem been rectified?

24 MS. CARMEN BOUCHER: It is rectified.

25 MR. MATTHEW FERGUSON: Okay. Well, that's
26 good.

27 If I move on to -- I'd like to discuss
28 briefly Party nominations and leadership contests.

1 Madame Simard, pouvez-vous nous rappeler si
2 le BCEF joue un rôle dans le contrôle et l'application des
3 règles relatives aux courses à l'investiture ou au leadership
4 des partis.

5 **Mme CAROLINE SIMARD:** Donc, brièvement, je
6 vous dirais que, comme principe général, ce ne sont que les
7 dispositions en matière de financement politique qui
8 s'appliquent. Pour le reste, ce sont essentiellement les
9 règles de partis qui s'appliquent.

10 **Me MATTHEW FERGUSON:** OK. Donc, les partis
11 organisent leur propre course à l'investiture et au
12 leadership selon les règles qu'eux décident d'utiliser eux-
13 mêmes pour ces courses.

14 **Mme CAROLINE SIMARD:** Oui.

15 **Me MATTHEW FERGUSON:** OK. Est-ce qu'il y a... et
16 c'est également vrai que la *Loi électorale du Canada*
17 n'interdit pas aux non-citoyens ou aux non-résidents de voter
18 lors d'une course à l'investiture ou au leadership?

19 **Mme CAROLINE SIMARD:** C'est vrai.

20 **Me MATTHEW FERGUSON:** Donc, il n'y a aucune
21 loi interdisant à ces... aux non-citoyens, aux non-Canadiens ou
22 non-résidents canadiens de voter lors de ces courses-là.

23 **Mme CAROLINE SIMARD:** C'est correct. C'est la
24 même question, n'est-ce pas?

25 **Me MATTHEW FERGUSON:** Oui, excusez-moi.

26 **Mme CAROLINE SIMARD:** Parfait.

27 **Me MATTHEW FERGUSON:** J'ai répété, excusez-
28 moi.

1 Ms. Boucher, you stated also in your
2 interview that you were unaware whether the OCCE has received
3 any complaints relating to allegations of FI concerning
4 recent nomination contests in Canada. You mentioned,
5 however, that any such complaints would have been closed upon
6 receipt if they fell outside the OCCE's mandate.

7 What happens or has it happened that the OCCE
8 receives a complaint, becomes aware of suspicious activity
9 that relates to foreign interference or allegations of
10 misconduct in either nomination or leadership contest that is
11 not covered by the *Canada Elections Act*? So you'd receive a
12 complaint, it alleges certain things, but it falls outside of
13 your mandate. What do you do with that information?

14 **MS. CARMEN BOUCHER:** It would depend on the
15 nature of the information, but generally if it does not fall
16 to our mandate, it is closed at receipt.

17 **MR. MATTHEW FERGUSON:** Is there any
18 reflection as to whether some information should go to
19 partner agencies for further investigation? That's something
20 that may fall under a different -- another partner agency's
21 mandate.

22 **MS. CARMEN BOUCHER:** There may be things that
23 fall under Elections Canada mandate that would be sent to
24 them. Outside of that, I think it is unlikely that that
25 would happen.

26 The complaints that come in are subject to
27 weekly reports that are sent up the line and are reviewed by
28 a number of individuals within my branch under myself,

1 including I read them all, and individuals in the compliance
2 unit, they go to all our senior managers. So there's
3 additional opportunity to flag something that may be of
4 interest, but I don't think that there's an example of what
5 you're suggesting.

6 **MR. MATTHEW FERGUSON:** Okay.

7 And, récemment, il y a eu des élections
8 partielles au Canada, je pense qu'il y en a eu dix depuis les
9 élections générales de 2021, dont deux hier. C'est bien ça?

10 **Mme CAROLINE SIMARD:** Le nombre dix, il
11 faudrait que je le vérifie, mais deux hier, oui.

12 **Me MATTHEW FERGUSON:** OK. Puis je ne parle pas
13 nécessairement des deux d'hier, mais est-ce que le BCEF a... je
14 comprends qu'il a reçu des plaintes suivant des allégations
15 spécifiques d'ingérence étrangère dans le cadre de ces
16 élections partielles, c'est-à-dire les dix... peut-être pas les
17 dix, mais les huit dernières élections partielles. Il y a eu
18 des plaintes alléguant des instances d'ingérence étrangère.
19 C'est bien ça?

20 **Mme CAROLINE SIMARD:** C'est-à-dire que dont le
21 sujet pouvait être celui-là. Effectivement, vous comprendrez
22 qu'il y a toute une confidentialité qui entoure le... c'est-à-
23 dire les plaintes, le contenu de... de nos... des plaintes qu'on
24 reçoit et du travail d'enquête là en cours. Mais je vous
25 dirais que dans des termes généraux, je peux certainement
26 vous dire que ça a été évoqué.

27 **MR. MATTHEW FERGUSON:** I think, Ms. Boucher,
28 you mentioned that there was nothing glaring, there was

1 nothing that -- there was nothing glaring in the complaints
2 that you received?

3 MS. CARMEN BOUCHER: I didn't see anything
4 alarming.

5 MR. MATTHEW FERGUSON: Alarming. Sorry.

6 MS. CARMEN BOUCHER: It's okay.

7 MR. MATTHEW FERGUSON: Yeah.

8 MS. CARMEN BOUCHER: Several of the
9 complaints were really precipitated by media reporting or the
10 NSICOP reports, this inquiry, certainly, and not specific to
11 the byelections. But if we're speaking over the last year
12 what has come in, there's been certainly some that were
13 flagged for foreign and some of them are based on if people
14 don't know what's behind it, then they're speculating that
15 that could be. So it's certainly something that we would
16 look at.

17 MR. MATTHEW FERGUSON: Okay. Are you able to
18 give an idea of the number of complaints you've received with
19 respect to that?

20 MS. CARMEN BOUCHER: About a dozen.

21 MR. MATTHEW FERGUSON: Okay. During the
22 byelections, did you receive regular updates from SITE?

23 MS. CARMEN BOUCHER: We attend a weekly
24 committee meeting.

25 MR. MATTHEW FERGUSON: M'hm.

26 MS. CARMEN BOUCHER: It's the Electoral
27 Security Coordinating Committee. That's at high level. So
28 EDM director general level, where there is the round tables

1 with our partners, including Elections Canada, CSIS, CSC all
2 attend, PCO. So we get regular updates through that, but
3 weekly updates.

4 **MR. MATTHEW FERGUSON:** I understand the OCCE
5 attends SITE meetings, but is not a member of the SITE Task
6 Force? Is that correct?

7 **MS. CARMEN BOUCHER:** We only attend SITE
8 meetings that are extended out to broader partners, where we
9 would be included with other partners who are not core
10 members.

11 **MR. MATTHEW FERGUSON:** Okay. Have you sought
12 status on SITE or -- have you sought status on SITE?

13 **MS. CARMEN BOUCHER:** I've had conversations
14 with CSIS, who is currently the lead for SITE, with regards
15 to what they're looking at for membership. We haven't done
16 an in-depth analysis of whether we would be exactly a member
17 or observer status, but it wouldn't be something that we
18 could just request. It has to be offered, I would say. And
19 the response even from the SITE leaders was that they weren't
20 quite sure what that would look like, but that they were
21 considering whether they needed to go on a different path in
22 the future. And so our request was that we be at the table
23 for those discussions.

24 **MR. MATTHEW FERGUSON:** That you'd be at the
25 table for the discussions pertaining to ---

26 **MS. CARMEN BOUCHER:** Should SITE expand
27 membership or observer status.

28 **MR. MATTHEW FERGUSON:** And are there -- what

1 are your anticipated -- what are the advantages or
2 disadvantages of being -- for the OCC being a member of SITE?

3 **MS. CARMEN BOUCHER:** So again, not
4 necessarily a member. Perhaps an observer.

5 **MR. MATTHEW FERGUSON:** Observer. Right.

6 **MS. CARMEN BOUCHER:** I think that's important
7 from our ---

8 **MR. MATTHEW FERGUSON:** Sure.

9 **MS. CARMEN BOUCHER:** --- status.

10 **MR. MATTHEW FERGUSON:** M'hm.

11 **MS. CARMEN BOUCHER:** The primary advantage is
12 that SITE has a more tactical view of things. The ESCC
13 committee meetings are at a high level, so it's really
14 strategic discussions. They are providing updates that may
15 delve more granular, but it's very much a high-level meeting.
16 They're usually 30 to 60 minutes long, so you don't get in-
17 depth detail passed, whereas the SITE meetings, in particular
18 during an election, they're speaking much more granular, and
19 if our goal is to identify potential overlap with our
20 investigations, we need that insight into the more granular
21 intelligence.

22 **MR. MATTHEW FERGUSON:** Yeah. We also saw in
23 the material the setting up of an Interdepartmental Task
24 Force, the IDTF. I think that's an acronym that's used. Can
25 you speak a bit more about that? What's that about and
26 what's the difference between that and SITE?

27 **MS. CARMEN BOUCHER:** So I didn't attend the
28 Interdepartmental Task Force. It was attended by one of my

1 senior investigators. They had an initial roundtable
2 tabletop exercise that was attended, and they're looking at
3 setting a sort of permanent structure for that. I would
4 liken it to, like, a centre of operations, where the
5 different partners will sit live during an electoral period.
6 So it will be daily contact for the different partner
7 agencies to sit. This provides opportunities for us to take
8 leads that are actionable and it's not necessarily
9 intelligence focused. So while there could be classified
10 meetings, there is also enforcement partners that are sitting
11 at the table and it's really to make sure that the
12 information is moving very quickly. So similar that you
13 would do for any major event, except focused on elections.

14 **MR. MATTHEW FERGUSON:** Okay. And I want to
15 turn now to something that I think you alluded to at the
16 beginning of your testimony, Ms. Boucher, which is an
17 investigation -- say investigation -- I'll use your
18 terminology, a review, of, in the Greater Vancouver Area, and
19 maybe I'll just ask a few preliminary questions first, but
20 with respect to the 43rd and 44th General Elections, there was
21 no -- the files that raise allegations of foreign
22 interference did not lead to the OCC laying any charges or
23 taking enforcement actions against any individuals? Is that
24 correct?

25 **MS. CARMEN BOUCHER:** That is correct.

26 **MR. MATTHEW FERGUSON:** Okay. And at the time
27 of the Commissioner's appearance, Mme Simard's appearance in
28 March of 2024, there were two ongoing reviews, one focused on

1 the Greater Toronto Area, and more specifically, allegations
2 of FI in Don Valley North. This one remains open. It's an
3 ongoing review; correct?

4 **MS. CARMEN BOUCHER:** I can't provide anymore
5 information on that review.

6 **MR. MATTHEW FERGUSON:** The other review --
7 and my purpose wasn't to elicit whether it was ---

8 **MS. CARMEN BOUCHER:** Understood.

9 **MR. MATTHEW FERGUSON:** The other is a review
10 focused on electoral districts in the Greater Vancouver Area,
11 and more specifically, the unsuccessful candidate Kenny Chiu
12 has, well, it's a detailed review of media and social media
13 to determine whether there was tangible evidence of
14 contraventions to the *Canada Evidence Act*.

15 And I'll pull up a document, which is
16 CEF.152_r. Okay. That's underscore r? Okay.

17 Do you recognize the document here, Ms.
18 Boucher?

19 **MS. CARMEN BOUCHER:** Yes, I do.

20 **MR. MATTHEW FERGUSON:** Okay. And I
21 understand that this review was the one you mentioned at the
22 beginning of your testimony involving two investigators and
23 an analyst; correct?

24 **MS. CARMEN BOUCHER:** One and the same.

25 **MR. MATTHEW FERGUSON:** One and the same?
26 Okay.

27 Now I'll pull up document CEF.302_r. It
28 takes some time to load.

1 --- EXHIBIT No./PIÈCE No. CEF0000302 R:

2 Memo for CCE_Summary 2022-0925

3 **MR. MATTHEW FERGUSON:** Okay. This is a memo
4 dated August 19, 2024 to Mme Simard. And you're CC'd on this
5 memorandum too. I understand that this is -- this memorandum
6 relates to the closing -- relates to a report of this review.
7 Is that correct?

8 **MS. CARMEN BOUCHER:** Yes, it's the memorandum
9 which includes the report and proposes to the Commission for
10 a decision as to whether we should close the review.

11 **MR. MATTHEW FERGUSON:** Yeah. Now, if we -- I
12 think the document is 112 pages. There is appendices at the
13 end. The document is there for -- I'll go through -- I won't
14 take a granular search to this document. I have some
15 questions as to what this -- what initiated this review and
16 whether you've conducted reviews of this nature in the past.

17 So if you could help us to understand what
18 this review specifically was about?

19 **MS. CARMEN BOUCHER:** So as Mme Simard
20 mentioned, pursuant to the media reporting from the fall of
21 2022, ---

22 **MR. MATTHEW FERGUSON:** M'hm.

23 **MS. CARMEN BOUCHER:** --- make sure I get my
24 years right, there was a retroactive review that was done
25 around our organization's prior files that could have fallen
26 into the category of foreign interference, including some
27 that touched briefly on Mr. Chiu, but were not specific to
28 that.

1 Pursuant to that media reporting, we did
2 receive complaints, renewed complaints, specific to the
3 information that was circulating in the media, and one of
4 those complaints was the complaint which the Bloc Quebecois
5 made public subsequently, which is why I can confirm it here
6 in this forum, and this review was initiated in response to
7 the new information that was circulating to ensure that we
8 were doing our due diligence and identify if there were
9 contraventions to the *Canada Election Act*.

10 **MR. MATTHEW FERGUSON:** And has the OCC
11 undertaken such an ambitious, or such a -- yeah, I could say
12 a deep dive in other files in the past?

13 **MS. CARMEN BOUCHER:** We've certainly had
14 significant and long reviews not specific to foreign
15 interference.

16 **MR. MATTHEW FERGUSON:** Okay. So this was the
17 first major review specific to foreign interference?

18 **MS. CARMEN BOUCHER:** Yes.

19 **MR. MATTHEW FERGUSON:** And if we take a look
20 -- a quick walk through the Executive Summary at page 5?
21 Right here. Just a bit up.

22 Right. So here at paragraph 5, we see that
23 the -- and the subsequent paragraphs, that the review found
24 either insufficient or no evidence to support the elements
25 constituting the offences of undue foreign influence -- undue
26 influence by foreigners, voter intimidation or duress,
27 unregistered domestic third-party, use of spending of foreign
28 funds by a third party, the making or publishing false

1 statements during an election period. Is that correct?

2 **MS. CARMEN BOUCHER:** That is correct.

3 **MR. MATTHEW FERGUSON:** Did the OCCE receive
4 any assistance or support from partner security or
5 intelligence agencies, or other law enforcement in the course
6 of this review?

7 **MS. CARMEN BOUCHER:** We had some on the
8 ground support from the RCMP for logistics around interviews.

9 **MR. MATTHEW FERGUSON:** If I go to paragraph
10 148, and you'll have to bear with me, I didn't note the page
11 number, Mr. Court Operator. Paragraph 148, yeah, we're
12 almost there. Yeah.

13 So here it mentions -- the report mentions
14 that although information received during the review leads to
15 suspect that attempts to influence the -- I'm sorry, that's
16 not the right quote. I'll just read quote from somewhere
17 else. But in the report it mentions that:

18 "Although the information received
19 during this review leads to suspect
20 that attempts to influence the
21 Chinese Canadian diaspora existed, at
22 no time did investigators obtain
23 sufficient evidence to support any of
24 the elements of undue foreign
25 influence or other contraventions as
26 defined by the Act." (As read)

27 Now, I'll read paragraph 148, which states:

28 "Information gathered indicates that

1 impetus and direction was given by
2 PRC officials for the anti-CPC
3 campaign." (As read)

4 And a bit further down at 149:

5 "The overall campaign was carried out
6 and amplified via a multi-pronged and
7 layered approach using Chinese
8 Canadian association individuals,
9 Chinese Canadian business interests,
10 as well as pervasive social media and
11 printed, digital and broadcast media
12 messaging. (As read)

13 Now, these are -- I'll qualify it as
14 significant findings or claims, insofar as they are
15 indicative of foreign interference. Is that an accurate
16 statement?

17 **MS. CARMEN BOUCHER:** Yes.

18 **MR. MATTHEW FERGUSON:** Okay. Before making
19 this report publicly available, did the OCCE share the report
20 or any information yielded by the investigation, or any
21 findings with security and intelligence agencies or law
22 enforcement?

23 **MS. CARMEN BOUCHER:** We provided a verbal
24 extensive briefing to both the RCMP and CSIS.

25 **MR. MATTHEW FERGUSON:** Have you reported
26 unredacted copies of the reports to either agency?

27 **MS. CARMEN BOUCHER:** Not at this stage, we've
28 only provided it to the inquiry this week.

1 **MR. MATTHEW FERGUSON:** Right. Okay.

2 **MS. CARMEN BOUCHER:** We won't provide an
3 unredacted version though, because our witness is protected
4 from the partner agencies as well.

5 **MR. MATTHEW FERGUSON:** Right.

6 **MS. CARMEN BOUCHER:** Due to our independence
7 in addition.

8 **MR. MATHEW FERGUSON:** So you'll be -- if you
9 provided copies they will be redacted copies. But now that
10 you have ---

11 **MS. CARMEN BOUCHER:** It would likely be a
12 lighter redaction than what the public redaction is, but it
13 would not be a fully unredacted report.

14 **MR. MATTHEW FERGUSON:** Okay. And despite
15 these findings by the OCCE investigators of a seemingly
16 concerted attempt with elements of foreign direction to
17 interfere in certain electoral districts, none of this
18 conduct could substantiate a charge to an offence contrary to
19 the *Canada Elections Act*. Correct?

20 **MS. CARMEN BOUCHER:** That is correct.

21 **MR. MATTHEW FERGUSON:** Okay. What -- I don't
22 know if you can speak to this, but what more -- what more was
23 needed to substantiate a charge to an offence contrary to the
24 *Canada Elections Act*?

25 **MS. CARMEN BOUCHER:** So I think I would have
26 to go back to the prior statement about there were elements
27 of foreign interference that were seen, but not under the
28 *Canada Elections Act*. My investigator's role is to identify

1 contraventions to our Act, they aren't experts in national
2 security law, and they are certainly not experts in the PRC
3 and their efforts.

4 So some of this may fall to other partner
5 agencies, certainly. For our purposes, a contravention, for
6 instance, intimidation and duress has to be intimidation of
7 an elector for the purpose of influencing their vote. It's
8 very specific in the *Canada Elections Act*. So widespread
9 systemic efforts to sway a community to act in a certain
10 manner would be very difficult to prove. But it would also
11 be very unlikely to fall under the specific contraventions of
12 the Act as narrowly as they are written. And that would be a
13 similar answer to most of the contraventions that you've
14 listed there.

15 **MR. MATTHEW FERGUSON:** Yeah. And maybe for
16 the public listening and watching, the OCCE doesn't have the
17 power to create offences to fit patterns; correct?

18 **MS. CARMEN BOUCHER:** As mentioned earlier by
19 the Commissioner, we are not responsible for creating
20 legislation. We enforce the Act as approved by parliament.

21 **MR. MATTHEW FERGUSON:** And the report -- at
22 paragraph 156 the report indicates that foreign -- at
23 paragraph 156, I'll wait until it comes up:

24 "Foreign ownership or control of
25 Canadian broadcasting media may be in
26 contravention of applicable Canadian
27 statutory and regulatory
28 requirements. Consideration will be

1 made for a recommendation to disclose
2 to the CRTC as appropriate."

3 (As read)

4 Can you tell us whether any decision to
5 disclose information in that direction has been made?

6 **MS. CARMEN BOUCHER:** The document for a
7 recommendation hit my desk this morning.

8 **MR. MATTHEW FERGUSON:** Okay.

9 **MS. CARMEN BOUCHER:** And you'll understand, I
10 thought that Madam Simard would probably prefer to review it
11 tomorrow.

12 **MR. MATTJEW FERGUSON:** Yeah. Well, we won't
13 be calling you back tomorrow, Madam Simard.

14 **MS. CAROLINE SIMARD:** Thank you.

15 **MR. MATTHEW FERGUSON:** What are the take
16 aways from this investigation, lessons learned for the OCCE?
17 I know it was an extensive review that didn't lead to
18 findings of fault, or to initiate an investigation, and any
19 charges -- to substantiate any charges contrary to the *Canada*
20 *Elections Act*. But what were any takeaways, if any, from
21 this investigation review?

22 **MS. CARMEN BOUCHER:** I think that primarily
23 our staff has really built a really significant knowledge set
24 with regards to the Chinese communities in Canada, the
25 pressures that they are under, how the associations work, the
26 interactions with Canadians here and their homeland. We
27 didn't have any of that knowledge set to start and it will be
28 a great knowledge set to build on for the next election.

1 Specific to the PRC, understanding that we haven't done a
2 similar review for the -- I don't know the number, half a
3 dozen other countries that could possibly surface in the next
4 election.

5 So first, from a lessons-learned perspective,
6 extremely useful. Certainly, from an open-source
7 intelligence perspective we've learned a great deal about how
8 those -- the information circulates on the internet in those
9 communities. We've worked to strengthen our linguistic
10 capacities within the office.

11 So we're really looking at where our
12 limitations would be a challenge in addressing this in the
13 future in the most efficient manner, because we also had a
14 big lag on timing on starting this review, which was leaving
15 us reconstituting things after the fact. It's always better
16 to be in there sooner. So the goal is for us to learn what
17 we need to build to do it faster and better next time, and I
18 think it's been a great learning opportunity for the staff.

19 There's also you can imagine, some sense of
20 frustration in that they've put all those efforts in and my
21 investigators would love to get to an end game. They are
22 investigators for a reason. But the narrowness of what our
23 contraventions fall under, it really leaves us enforcing what
24 we have before us, and the question of proof. How are we
25 going to prove intention? We have the obligation of
26 intention for these criminal prosecutions that we would be
27 looking for on something this serious, and for that we need
28 witnesses that are willing to testify, and there's a huge

1 challenge there if you're working in a community of a
2 diaspora that has widespread fear.

3 **MR. MATTHEW FERGUSON:** Just before I move on
4 to my last set of questions that flow from this -- but I just
5 want to go to page 79 to show for the record that the review
6 was closed and signed by the Commissioner, Madame la
7 Commissaire, le 14 septembre dernier. 79. 79.

8 **MS. CARMEN BOUCHER:** Page 79?

9 **MR. MATTHEW FERGUSON:** And can we just see
10 the dates? So it's mentioned decision is sought to conclude
11 the review the review. There's an X marking the box next to
12 reviews to be concluded based on the conclusions outlined in
13 the report and considerations supporting decision or other
14 observations signé le 14... euh, le... excusez-moi, pas le 14,
15 mais le 9 septembre dernier. C'est bien ça, Madame Simard?

16 **MR. MATTHEW FERGUSON:** Ms. Boucher, you
17 touched on something in one of your answers. You said that
18 you -- this report allowed you to engage with various groups,
19 I think maybe I'm paraphrasing now. But with various groups
20 and members of the Chinese Canadian diaspora in the greater
21 Vancouver area. Does the OCCE have a specific vision in
22 place to dialogue with diaspora communities in the future, or
23 going forward I should say?

24 **MS. CARMEN BOUCHER:** Any dialogue with the
25 community would still be in the context of a file. So we do
26 engage with academics and certainly academic experts. Some
27 of the individuals that were interviewed for the purposes of
28 this file or other files on foreign interference, we have the

1 ability to maintain a sporadic dialogue with them,
2 particularly experts, I would say. Engaging that diaspora on
3 an ongoing basis, I think that would be difficult given our
4 size and the specific role that we play of enforcement.

5 **MR. MATTHEW FERGUSON:** Okay. I believe those
6 are my questions. Maybe I just have one more.

7 Madame Simard, vous avez reconnu, lors de
8 votre témoignage ici en mars, qu'il serait peut-être très
9 utile d'établir des liens avec les communautés de la
10 diaspora. Est-ce que, depuis votre témoignage, est-ce que
11 vous avez réfléchi à ces initiatives d'établir ou tisser des
12 liens avec des groupes culturels et ethniques à l'avenir?

13 **Mme CAROLINE SIMARD:** Alors, la réponse
14 courte, c'est oui. La réponse un petit peu plus longue et un
15 peu plus détaillée et utile, je pense, pour vos travaux,
16 c'est qu'on est dans une phase exploratoire. Je vous parlais
17 tout à l'heure du plan stratégique communications, du plan de
18 mobilisation qui est en développement également.

19 Pis dans cette mouvance-là, on explore
20 différentes options. On a notamment identifié comme
21 partenaire Élections Canada qui a déjà des outils de
22 sensibilisation et d'information. Puis c'est à un stade
23 exploratoire. On se comprend là, mais quand... mais tout de
24 même, un stade... c'est-à-dire, même si on est au stade
25 exploratoire, on est capable déjà d'évaluer une possibilité
26 de se faire ajouter là dans ces outils-là de communication.
27 Donc, il existe déjà dans plusieurs langues, des langues
28 autochtones et aussi des langues tierces. Alors, ce serait

1 une des options présentement qui est sous étude.

2 **Me MATTHEW FERGUSON:** Merci. Ça complète,
3 Madame la commissaire. Merci.

4 **COMMISSAIRE HOGUE:** Merci, Monsieur Ferguson.
5 Alors, on va prendre la pause.

6 So we'll come back at five past three. We
7 have 20 minutes? Yes. Five past three.

8 **THE REGISTRAR:** Order, please. À l'ordre,
9 s'il vous plaît. This sitting of the Commission is now in
10 recess until 3:05 p.m. Cette séance de la Commission est
11 maintenant suspendue jusqu'à 15 h 05.

12 --- Upon recessing at 2:45 p.m./

13 --- La séance est suspendue à 14 h 45

14 --- Upon resuming at 3:08 p.m./

15 --- La séance est reprise à 15 h 08

16 **THE REGISTRAR:** Order please. À l'ordre, s'il
17 vous plaît.

18 The sitting of the Foreign Interference
19 Commission is now back in session. Cette séance de la
20 Commission sur l'ingérence étrangère est de retour en
21 session. The time is 3:08 p.m. Il est 15 h 8.

22 --- MS. CAROLINE SIMARD, Resumed/Sous la même affirmation:

23 --- MS. CARMEN BOUCHER, Resumed/Sous la même affirmation:

24 **COMMISSIONER HOGUE:** So we'll start cross-
25 examinations. First counsel is counsel for Jenny Kwan.

26 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

27 MR. SUJIT CHOUDHRY:

28 **MR. SUJIT CHOUDHRY:** Thank you, Madam

1 Commissioner. For the record, my name is Sujit Choudhry.
2 I'm counsel for Jenny Kwan.

3 I would like to take you both, Ms. Boucher
4 and Ms. Simard, to a document that Mr. Ferguson put up at the
5 end of his examination, and it's CEF 302_R. And if we could
6 go to, I believe it's page 4, footnote 1. And if we could
7 expand that a bit? It's hard for people to read.

8 Okay. And so I think this is principally a
9 question to Ms. Boucher, but it has to do with the
10 interpretation of this provision and the conclusion that the
11 OCCE drew based on the interpretation of this provision
12 regarding this review. And so -- and if I understood
13 correctly, it was your testimony that it'd be very hard to
14 make out an offence under the Act when mass communications
15 are concerned, given how it's worded at present. And forgive
16 me if I'm -- if I've paraphrased incorrectly. We didn't have
17 a lot of time for you to explain your interpretation. I know
18 you're legal counsel as well, so it would be helpful, I
19 think, for us if you could expand a bit on how you're
20 interpreting this Act and why you viewed it -- what you view
21 the barriers to applying it in this case to be.

22 **MS. CARMEN BOUCHER:** So to clarify, I'm not
23 legal counsel.

24 **MR. SUJIT CHOUDHRY:** Oh, forgive me.

25 **MS. CARMEN BOUCHER:** So I'm not sure if I'm
26 going to be able to give you ---

27 **MR. SUJIT CHOUDHRY:** Okay. Well ---

28 **MS. CARMEN BOUCHER:** --- the detail you would

1 like, but I can certainly try.

2 **MR. SUJIT CHOUDHRY:** Sure.

3 **MS. CARMEN BOUCHER:** So my reference to Mr.
4 Ferguson was specific to intimidation as an example. So it's
5 intimidation of an elector. It's not intimidation writ
6 large. So mass communication designed to intimidate would be
7 difficult because it has to intimidate an elector as opposed
8 to systemic intimidation by China.

9 **MR. SUJIT CHOUDHRY:** I see. Now this
10 provision as I'm reading it doesn't use the word
11 "intimidation". It uses the word "unduly influenced".

12 **MS. CARMEN BOUCHER:** That's correct. I was
13 not referring to this portion of the Act.

14 **MR. SUJIT CHOUDHRY:** I see. Okay. Well,
15 maybe if we could talk about this portion of the Act then.
16 So in principle, could this portion of the Act be violated by
17 miscommunication regarding a candidate designed to influence
18 how people -- people's political support for that candidate?

19 **MS. CARMEN BOUCHER:** So if they incur an
20 expense for the communication it can, but the use of most
21 apps is free. And that is another challenge for us as well.
22 So one of my investigators made the comment to me that if
23 this was a concerted effort by China using WeChat or
24 WhatsApp, that it would have been a very cheap one if not
25 free. And if we cannot prove an expense, then it may not
26 fall under this portion of the Act ---

27 **MR. SUJIT CHOUDHRY:** I see. Okay. That's
28 helpful. And so it's the -- and so -- so, for -- so if I

1 could kind of summarize, if disinformation is done for free
2 on WeChat, or WhatsApp, or any social media platform, then if
3 it didn't involve incurring an expense, it wouldn't violate
4 this provision of the Act?

5 **MS. CARMEN BOUCHER:** Not this provision, but
6 it could violate a different provision of the Act.

7 **MR. SUJIT CHOUDHRY:** And which provision
8 would that be?

9 **MS. CARMEN BOUCHER:** Well, there are portions
10 of the Act that refer to small statements or impersonation,
11 for instance ---

12 **MR. SUJIT CHOUDHRY:** I see.

13 **MS. CARMEN BOUCHER:** --- would not require an
14 expense.

15 **MR. SUJIT CHOUDHRY:** And for this review, did
16 you look at those provisions of the Act as well or not.

17 **MS. CARMEN BOUCHER:** Yes, there's a list of
18 the provisions that were looked at right up until the end
19 within this document and it includes all statements.

20 **MR. SUJIT CHOUDHRY:** I see. And I'm sorry
21 I'm -- we -- I only was able to see this document recently,
22 so I'm sorry I'm asking these questions.

23 **MS. CARMEN BOUCHER:** I understand.

24 **MR. SUJIT CHOUDHRY:** Yeah, and so -- and you
25 nonetheless concluded that there was no violation of those
26 provisions of the Act either?

27 **MS. CARMEN BOUCHER:** That we had insufficient
28 evidence to prove.

1 **MR. SUJIT CHOUDHRY:** I see.

2 **MS. CARMEN BOUCHER:** Or no evidence to prove,
3 depending on the contraventions. Near the end of the report,
4 there is a portion that -- I don't know the page number, I
5 apologize -- that summarizes each of the contraventions that
6 were looked at.

7 **MR. SUJIT CHOUDHRY:** Yes. Okay. Thank you.
8 Well, that's all for now, I'm afraid, but, thank, that's
9 helpful.

10 I was wondering if we could turn to your
11 witness -- your interview summary, and so this is the -- of
12 the non-classified interview, so it's WIT 91, if you could
13 put it up.

14 And so I -- there's a number of paragraphs
15 here, Ms. Boucher and Ms. Simard, where you talk about your
16 current capacities, your current capabilities, your current
17 budgets. And so I can take you to specific paragraphs where
18 I've drawn these points from if you like, but I'd like to be
19 -- hope to summarize. There's a lot of information in here,
20 and so I want to go through a few points.

21 So the first is, I understand that you have -
22 - OCCE currently has about 80 employees. Is that correct?

23 **MS. CARMEN BOUCHER:** And contractors.

24 **MR. SUJIT CHOUDHRY:** And -- employees and
25 contract together.

26 **MS. CARMEN BOUCHER:** Yes.

27 **MR. SUJIT CHOUDHRY:** How many of those 80 are
28 full-time?

1 **MS. CARMEN BOUCHER:** The majority of them are
2 full-time, but they are not permanent positions. So they're
3 -- versus an indeterminate position with the government,
4 they're on term or contract positions.

5 **MR. SUJIT CHOUDHRY:** So how many are
6 indeterminate?

7 **MS. CARMEN BOUCHER:** About 40.

8 **MR. SUJIT CHOUDHRY:** So about half are
9 indeterminate and 40 are on limited term. Okay.

10 And then you said as well, I believe, in this
11 document that you have about 20 investigators, but your
12 testimony today you said you had about 30. So I'm wondering
13 what the correct figure is.

14 **MS. CARMEN BOUCHER:** So what I said today was
15 there's less than 30 people in the enforcement branch, and
16 that's not just investigators.

17 **MR. SUJIT CHOUDHRY:** I see.

18 **MS. CARMEN BOUCHER:** So there are, I believe
19 including myself, 28 individuals in enforcement, but there's
20 been hiring and it might be 30, but I'll say 28.

21 **MR. SUJIT CHOUDHRY:** And of those -- and of
22 those 28, then, how many are indeterminate and how many of
23 them are on fixed term?

24 **MS. CARMEN BOUCHER:** It's approximately half.

25 **MR. SUJIT CHOUDHRY:** So at 14 full-time or
26 indeterminate.

27 And you've had problems with turnover, you've
28 referenced in the document. Is that right?

1 **MS. CARMEN BOUCHER:** Yes.

2 **MR. SUJIT CHOUDHRY:** And that's partly
3 because you can't hire people in permanent positions that put
4 you at a competitive disadvantage. Is that right?

5 **MS. CARMEN BOUCHER:** Absolutely. Yes.

6 **MR. SUJIT CHOUDHRY:** Okay. And then on the
7 issue of the budget, if we could shift to that.

8 So I know that -- Mme Simard, I believe in
9 your answer to Mr. Ferguson, you estimated that your current
10 budget is about five million. Did I hear you correctly?

11 **MS. CAROLINE SIMARD:** Yeah, 4.4.

12 **MR. SUJIT CHOUDHRY:** Okay. And you'd like a
13 budget of about what, about 10; correct?

14 **MS. CAROLINE SIMARD:** Yeah, correct.

15 **MR. SUJIT CHOUDHRY:** Right. And your -- but
16 because -- and because of these budget constraints, you're
17 not able to hire as many indeterminate employees as you'd
18 like. Is that fair?

19 **MS. CAROLINE SIMARD:** It is a bit more
20 complicated than that, but I would say that yes.

21 **MR. SUJIT CHOUDHRY:** Okay. So I'd like to
22 now shift to the issue of a case mix.

23 And so there are a number of statements you
24 make -- and I'm going to refer, for the record, to paragraphs
25 8 and 23. And so in paragraph 8, if I could summarize, you
26 say that the bulk of your files were historically routine.
27 You now have many complex files, including several involving
28 new technologies and foreign interference.

1 And then in paragraph 23 -- I think that was
2 Mme Boucher. And then paragraph 23, you state:

3 "Foreign interference is having a
4 tremendous impact on the OCCE team.
5 Of a team of about 20 investigators,
6 three were dedicated to just one
7 major interference case." (As read)

8 It's a direct indication -- the dedication of
9 resources is a direct indication of the complexity of the
10 files that involve foreign interference.

11 Do you recall making those statements?

12 **MS. CARMEN BOUCHER:** I do.

13 **MR. SUJIT CHOUDHRY:** And so is it fair to say
14 that allegations of foreign interference relative to what you
15 called your historically routine cases tend to be more
16 complex on average?

17 **MS. CARMEN BOUCHER:** Foreign interference
18 files are generally more complex, writ large.

19 **MR. SUJIT CHOUDHRY:** Okay. And then because
20 they're more complex, they're more resource intensive.

21 **MS. CARMEN BOUCHER:** They can be.

22 **MR. SUJIT CHOUDHRY:** They can be.

23 **MS. CARMEN BOUCHER:** It depends on the
24 allegation.

25 **MR. SUJIT CHOUDHRY:** Okay. And is it fair to
26 say that the demand on OCCE's resources posed by foreign
27 interference investigations or complaints is rising?

28 **MS. CARMEN BOUCHER:** Yes.

1 **MR. SUJIT CHOUDHRY:** Okay. So I'd now like
2 to shift to issues of capacity and expertise.

3 And here, for the record, I'm referring to
4 statements made at paragraphs 8, 20 and 22.

5 And so -- and paragraph 8, there are
6 statements made about developing and maintaining an ability
7 to investigate complex files requires extensive expertise,
8 training and time, which can be challenging.

9 Paragraph 20, there are statements about how
10 staff need to understand evolving methodologies in order to
11 identify when there's potential foreign interference. And
12 that's an understanding, I think, that they don't all
13 currently have.

14 And then paragraph 22, there's a statement
15 which states:

16 "It's essential for the OCCE to
17 evolve in order to deal with foreign
18 interference, a problem that presents
19 significant challenges for a micro
20 organization such as the OCCE where
21 staff members are often called upon
22 to support several important
23 initiatives simultaneously. Staff
24 members struggled to develop the
25 office's ability to deal with foreign
26 interference." (As read)

27 Do you remember -- do you recall those
28 statements?

1 **MS. CARMEN BOUCHER:** I believe that's Mme
2 Simard's.

3 **MR. SUJIT CHOUDHRY:** Mme Simard, do you
4 recall those statements?

5 **MS. CAROLINE SIMARD:** Yes, I do.

6 **MR. SUJIT CHOUDHRY:** And you agree with
7 those?

8 **MS. CAROLINE SIMARD:** Yes.

9 **MR. SUJIT CHOUDHRY:** And so it would -- so
10 it's fair to say, then, that at this time, today, it's
11 challenging for the OCCE to investigate foreign interference
12 without a bigger budget, without more staff, without more
13 expertise who have more experience.

14 **Mme CAROLINE SIMARD:** C'est-à-dire que pour
15 avoir... pour, en fait, décrire clairement l'état de la
16 situation, c'est qu'à l'heure actuelle, on a cette capacité-
17 là à l'interne. Ce qui manque, c'est... en fait, c'est le souci
18 de ce qui s'en vient là comme défi, surtout avec les
19 prochaines élections et avec la multiplication potentielle
20 des menaces.

21 **MR. SUJIT CHOUDHRY:** Well, let's talk about
22 the next election because I think it was Ms. Boucher who said
23 that if I -- please forgive me. You said that your staff
24 might be preparing for the next election. Is that correct?

25 **MS. CARMEN BOUCHER:** My staff is preparing
26 for the next elections.

27 **MR. SUJIT CHOUDHRY:** And I think we can take
28 notice of the fact that that might happen at any time.

1 And so let me ask you a question. If the
2 next election were to happen in a month, would you be where
3 you need to be given your current staffing and resources, to
4 properly address foreign interference?

5 **Mme CAROLINE SIMARD:** Alors, présentement,
6 moi, je peux vous dire que, selon l'état de la situation
7 actuelle, oui. Je viens d'y répondre, c'est-à-dire que c'est
8 la préoccupation puis c'est pour ce qui s'en vient comme
9 défi. Et essentiellement, c'est qu'on parle ici, donc, on l'a
10 dit là, d'une communauté visée, mais c'est la multiplication
11 éventuelle, le risque d'avoir des dossiers en simultané.
12 C'est vraiment... c'est probablement ça.

13 Mais pour répondre clairement à votre
14 question : actuellement, nous sommes capables de traiter ces
15 demandes-là. Juste peut-être, historiquement, je pense c'est
16 important de le signaler. Le Bureau a déjà eu, malgré une
17 capacité même moindre, de traiter les dossiers en lien avec
18 un dossier problématique qui était Robocalls. Vous vous
19 rappellerez probablement de ce dossier-là. Alors, la
20 capacité, elle est à l'interne, c'est juste que je vous
21 dirais que pour le personnel, c'est vraim... je veux dire,
22 c'est difficile là, c'est des... c'est beaucoup d'heures de
23 travail. Je vais dire ça comme ça.

24 **MR. SUJIT CHOUDHRY:** And this is a three-year
25 plan, but the election might happen in a month. And so I'm
26 assuming that at the end of the three years, you'd be in a
27 better position than you are today. Is that right?

28 **Mme CAROLINE SIMARD:** C'est-à-dire que pour

1 moi, je vois ça comme l'amélioration continue, puis c'est
2 vrai pour le Bureau depuis 50 ans. Alors, depuis 50 ans, moi,
3 quand je regarde rétro... c'est-à-dire dans le passé là, puis
4 quand je regarde l'évolution du Bureau, ç'a été une constante
5 amélioration, donc, en lien avec les modifications
6 législatives, bien sûr, comme je le disais précédemment, puis
7 là, les outils qui se sont ajoutés. Mais on suit l'évolution,
8 donc, même technologique. Quand ç'a été l'internet il y a
9 20 ans, ben là, je veux dire, le Bureau, j'imagine, puis
10 c'est ce que je comprends, s'est mis à la page, puis là,
11 c'est la même chose maintenant avec l'intelligence
12 artificielle puis tout ce que ça... tous les nouveaux
13 développements qui se présentent à nous.

14 **MR. SUJIT CHOUDHRY:** Ms. Boucher, do you have
15 anything to add to that?

16 **MS. CARMEN BOUCHER:** Yeah. I would add that
17 we also have the ability to do surge capacity because we can
18 hire additional contractors, so a lot of our contractors are
19 extremely experienced. They have a very specialized
20 expertise.

21 So the challenging thing with our current
22 funding model and half of our staff being permanent is that
23 we are more reliant than I would like to be on contractors.
24 We still have the capacity to do it.

25 And we have had -- always had complex and
26 complicated files. The robocalls is an excellent example.
27 However, the challenge is if I get six or seven of those at
28 once and they're on six or seven different countries of

1 foreign interference, we would have to turn for outside help
2 and supplement.

3 Most of those investigations don't happen in
4 the electoral period. As I'm sure you would know, given your
5 legal background, those investigations take sometimes years,
6 so we would have the ability after the election to do the
7 deep dive and boost where we need. The challenge is,
8 ideally, you have an internal staff capacity and the staff
9 can grow within.

10 I have several investigators with that level
11 of capacity. The staff that don't have that level are in the
12 -- like for government terms, like PM4 or PM5 level
13 investigators. I have PM6 investigators that do the complex.

14 Since we have so many non-complex files, they
15 are given to the people that are still learning so that they
16 aren't thrown into the most complex files.

17 **MR. SUJIT CHOUDHRY:** Madam Commissioner, how
18 much time do I have left?

19 **COMMISSIONER HOGUE:** Your time has just
20 expired, but ---

21 **MR. SUJIT CHOUDHRY:** Oh, okay.

22 **COMMISSIONER HOGUE:** --- but if you have a
23 last question, I'm going to allow a last question.

24 **MR. SUJIT CHOUDHRY:** You know, I think I'll
25 wrap up for today. Thank you very much.

26 **COMMISSIONER HOGUE:** Thank you.

27 So counsel for the RCDA?

28 Oh, I'm sorry, I think it was the

1 Conservative Party. Sorry.

2 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

3 MR. NANDO DE LUCA:

4 MR. NANDO DE LUCA: Good afternoon. My name
5 is Nando de Luca. I represent the Conservative Party of
6 Canada.

7 Could I have CEF.302_r pulled back up? And I
8 just want to pick up on what my friend was canvassing at the
9 beginning of his questions at footnote number one. Right
10 there.

11 And I guess this is for Ms. Boucher. Did I
12 understand your testimony with respect to possible
13 prosecutions under the *Canada Elections Act*, focusing in on
14 282.4(2), that one of the challenges that relates to the fact
15 that the Act uses the word -- or the phrase "influences an
16 elector" as opposed to the electorate at large?

17 MS. CARMEN BOUCHER: The difficulty of
18 proving electorate at large. It would be much more
19 challenging than proving an elector.

20 MR. NANDO DE LUCA: Okay. So maybe I
21 misunderstood. I thought that what you were trying to
22 suggest was because it's only stated in the singular, it
23 excludes the plural. Did I misunderstand?

24 MS. CARMEN BOUCHER: No, I don't think that
25 that is my interpretation.

26 MR. NANDO DE LUCA: Okay. Could I ask you to
27 consider then what is it about the fact -- you tended to
28 stress the word "elector" that makes it difficult to prove

1 the offence, in your estimation?

2 **MS. CARMEN BOUCHER:** The offence of undue
3 influence requires knowingly, it requires incurring an
4 expense, ---

5 **MR. NANDO DE LUCA:** Yes.

6 **MS. CARMEN BOUCHER:** --- or incurs a breach
7 of another Act of Parliament, and in addition, we have to
8 show that it was the purpose of influencing an elector to
9 vote. Whether that's one elector or dozens of electors. It
10 has to be done with that purpose and with those sub-criteria.

11 **MR. NANDO DE LUCA:** Right. So do I take it
12 from your answer that if it had -- that if it was more than
13 one elector, it would be even more difficult?

14 **MS. CARMEN BOUCHER:** Well that would depend
15 on the facts of the case.

16 **MR. NANDO DE LUCA:** Could I ask -- I'm going
17 to change -- turn to a slightly different topic. Am I
18 correct that the Elections Canada -- *Canada Elections Act*
19 does regulate certain aspects of parties' leadership
20 contests?

21 **MS. CARMEN BOUCHER:** Their financial aspects
22 of the leadership contests are regulated.

23 **MR. NANDO DE LUCA:** Right. And am I correct
24 that the Conservative Party of Canada made a submission to
25 the Commissioner of Canada Elections in July 2022 regarding
26 potential breaches of the Act that it observed in
27 administering the CPC's leadership contest that year?

28 **MS. CARMEN BOUCHER:** They did, but it was not

1 in connection with foreign interference.

2 **MR. NANDO DE LUCA:** Okay. And the submission
3 was in respect of irregularities and the sale of CPC
4 memberships for one of the contestants, not the current
5 leader, that may have resulted in a circumvention of donation
6 limits? Is that correct?

7 **MS. CARMEN BOUCHER:** I'm not at liberty to
8 speak to our files in an open environment.

9 **MR. SÉBASTIEN LAFRANCE:** And Madam
10 Commissioner, I'm sorry, Sébastien Lafrance for the OCCE, but
11 Ms. Boucher answered that it was not related to foreign
12 interference, so in all fairness, given the mandate of this
13 Commission, it would go beyond the mandate of this
14 Commission.

15 **COMMISSIONER HOGUE:** Do you have anything to
16 add, Me De Luca?

17 **MR. NANDO DE LUCA:** Yes, with respect to the
18 objection, Madam Commissioner, I'm going to pull up the
19 document. It was just added to the database, with your
20 permission, that actually responds to the complaint.

21 Certainly one of the issues that has been put
22 forward even for this phase is the vulnerabilities in the
23 various electoral processes, including memberships, ---

24 **COMMISSIONER HOGUE:** In relation to foreign
25 interference.

26 **MR. NANDO DE LUCA:** Right.

27 **COMMISSIONER HOGUE:** So since she mentioned
28 that it's not in connection with foreign interference,

1 honestly I fail to see how it can be relevant to what I'm
2 tasked to do.

3 **MR. NANDO DE LUCA:** Okay. All right. Well
4 then I'm going to reserve. This is part of my client's --
5 the CPC's evidence that will be put forward later, and maybe
6 we can bring it up with them.

7 Those are my questions. Thanks very much.

8 **COMMISSIONER HOGUE:** Thank you. So now it's
9 the counsel for RCDA.

10 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

11 **MR. GUILLAUME SIROIS:**

12 **MR. GUILLAUME SIROIS:** Good afternoon. Bon
13 après-midi. Guillaume Sirois pour the RCDA, Russian-Canadian
14 Democratic Alliance.

15 I would like to pull CEF.23_r2, please.

16 While that's being pulled up, those are
17 complaints filed with the OCCE during the 44th General
18 Election.

19 Yeah, sure, it's CEF.23_r2.

20 Do you recognize this document?

21 **MS. CARMEN BOUCHER:** You'd have to scroll
22 down. I believe this was the document we addressed in Phase
23 1 of the testimony?

24 **MR. GUILLAUME SIROIS:** Exactly. Yeah. Yes.
25 I raised that document during stage 1. There are two
26 complaints, as I understand it, in that document. The first
27 one is the one we're seeing right now. And there's a second
28 complaint filed approximately the same day about similar

1 events.

2 So if you can go back just to the first page
3 of the document, please?

4 We see that it was -- again, we see that it
5 was filed on August 31st. it relates to fake news,
6 disinformation during the 44th General Election.

7 Can you scroll down a little bit? I'm just
8 trying to introduce the document. And scroll down again.

9 It relates to an ad that was seen on YouTube
10 in which there was allegations that Justin Trudeau had
11 purchased a multi-billion-dollar yacht and made over 30
12 million in crypto.

13 We can scroll down a little bit more to page
14 4, please.

15 In the second to last paragraph we see a
16 summary of a call that was made with the complainant that
17 says the complainant:

18 "recognizes that such ads are not true
19 [but] expects that many don't [sic], thus
20 potentially influence their views."

21 Is this something that you share? Is it an
22 assessment that you share?

23 **MR. SÉBASTIEN LAFRANCE:** I will have to
24 interfere again. I'm sorry to disrupt my friend's question,
25 but if I would -- if I may kindly ask him to specify his
26 question to target it about foreign interference, because I
27 hardly see how it connects to foreign interference here. I'm
28 sorry.

1 Thank you. Sébastien Lafrance for the OCCE.

2 **COMMISSIONER HOGUE:** Are you in a position to
3 do it?

4 **MR. GUILLAUME SIROIS:** Well just if we go two
5 paragraphs before, the complainant -- no, the same page, just
6 two paragraphs above. The complainant, it's blank:

7 "...stated that [he found -- he or she]
8 found the video of high quality and
9 reported it as [he or she] knows that
10 foreign actors can manipulate in many
11 ways, and that this could be one."

12 I'm not sure if that satisfies my friend, but

13 ---

14 **MR. SÉBASTIEN LAFRANCE:** Yes. Thank you.

15 **MR. GUILLAUME SIROIS:** --- the second
16 complaint also provides a bit more evidence of potential
17 Russian interference as well.

18 I just want to understand your views on
19 whether or not this could potentially influence views of some
20 Canadians during an election?

21 **MS. CARMEN BOUCHER:** So if I understand your
22 question correctly, I don't think that the average Canadian
23 necessarily has an understanding of all of the technology
24 behind these things, but certainly have become more aware of
25 disinformation, technology, fake videos, malware, clickbait,
26 over the last few years. It's certainly a discussion in the
27 general populus, but it would -- the understanding of it
28 would vary person to person.

1 **MR. GUILLAUME SIROIS:** In 2021 it could
2 influence the views of some Canadians at least?

3 **MS. CARMEN BOUCHER:** Some Canadians,
4 certainly.

5 **MR. GUILLAUME SIROIS:** Thank you. We can go
6 down now at page 6, just to see the end of that complaint.
7 It says that it closed due to insufficient evidence because
8 it was not possible for the OCCE to reproduce the
9 advertisement and the complainant didn't have any screenshots
10 or screen captures of the advertisement.

11 **COMMISSIONER HOGUE:** Can you scroll down a
12 little bit? I think it's ---

13 **MR. GUILLAUME SIROIS:** Yeah, exactly. Thank
14 you.

15 So that kind of advertisement would be a
16 potential violation to section 91? Is that right? That's
17 what we said, the last paragraph?

18 **MS. CARMEN BOUCHER:** Potentially.

19 **MR. GUILLAUME SIROIS:** Okay. So we can
20 scroll down for the second complaint. That's in the same
21 document.

22 It's page 16. Oh, sorry, page 12. You're
23 right there. That's right. Thank you.

24 So it was received on September 1st, so the
25 same day that the first complaint was closed, a day after the
26 first complaint was filed. And it relates to seeing a
27 similar video about Justin Trudeau, as we can see from the
28 description below. However, the difference is that there is

1 a Russian URL that the complainant was about -- able to
2 capture during -- while he was viewing the video, and there
3 are screenshots attached.

4 We can scroll down to see that screenshot.
5 Next page, thank you. Just scroll down a little bit more.

6 You see panel.quizgo.ru.

7 You can scroll down again and at page 18,
8 please.

9 Yeah, Analysis, Findings, and Steps Taken.
10 That's a report that was prepared on December 22, 22nd, so a
11 few months after the election. But we see that the analyst
12 says that Quizgo, that the analyst -- the OCCE analyst
13 believes that Quizgo is a company that may be based in
14 Moscow.

15 Is it something that could relate -- could be
16 a foreign interference or it could be a violation of the
17 *Canada Elections Act*?

18 **MS. CARMEN BOUCHER:** The fact that it
19 originates in Russia, that depends. But what I'm -- I really
20 want to answer your question, but what I'm struggling to
21 understand is how this differs from what was addressed in the
22 first phase.

23 We have an understanding that this was
24 malware, so this was not an attempt at disinformation from
25 the information that the Government of Canada collected, that
26 included our discussions with GAC. The indication is that it
27 was malware or click bait. If you click on this, bad things
28 can happen to your computer. We don't have any indication

1 that it was actually going back to Russia, but we couldn't
2 reproduce the ad so we can't follow it past that, but that's
3 not the assessment from us or our partners.

4 **MR. GUILLAUME SIROIS:** Yes. I'm trying to
5 look forward to the future. I apologise. It's a bit of a
6 long introduction. But now I'm wondering what kind of tools
7 that the OCCE could have to better determine whether it is or
8 not a violation to the *Canada Elections Act* before the
9 election period ends?

10 **MS. CARMEN BOUCHER:** Thank you for your
11 question. So we do work closely with our partners on this
12 type of concern. So putting aside this specific case, I
13 guess unfortunately I don't think that it was a foreign
14 interference episode, we certainly are concerned about
15 artificial intelligence generated videos, misinformation,
16 disinformation that could be originating from a foreign state
17 or anyone.

18 Our Act is party agnostic for the most part,
19 it's written quite generally. So it's not specific to
20 whether or not it comes from a foreign actor, which is
21 actually a good thing because it allows us to apply it more
22 broadly.

23 So what we have is training internally for
24 recognising artificial intelligence videos that are not
25 original voice records, et cetera. So we have initial
26 software that we could use to do an initial assessment of it
27 that we would turn to the RCMP expertise. They have a unit
28 that's specialised in analysing a video or online content of

1 whatever forum, and we have an agreement in place that they
2 would prioritise us during an election to do so. Following
3 that, whether or not it's an offence and whether or not we
4 can move forward on it is really a case-by-case example.

5 **MR. GUILLAUME SIROIS:** I understand that the
6 input from partners is crucial. That ---

7 **MS. CARMEN BOUCHER:** We need their expertise.
8 That's not just input, we would turn to the RCMP to analyse
9 the video for us because it has to be video -- it has to be
10 analysed by an expert who can testify to evidentiary
11 standards. We don't have the in-house capacity. I have an
12 analytical team that can do the initial triage, and we have
13 partners with an MOU that can step in to ensure that we can
14 analyse it to evidentiary standards.

15 **MR. GUILLAUME SIROIS:** And we understood that
16 in the course of the hearings, or shortly afterwards, that
17 the initial engagement with GAC, the rapid response mechanism
18 that's on the SITE Task Force as well, was in November of --
19 the 18th of November 2021, so almost two months after the
20 44th general election. I'm wondering if that timeline is
21 appropriate or if you can comment on the timeline at all?

22 **MS. CARMEN BOUCHER:** I would have a dual
23 answer to that. One is that we receive thousands of
24 complaints during the electoral period, thousands of
25 complaints. We have to prioritise them. So what we're going
26 to react to on an immediate versus what we would react to a
27 month after the fact is based on whether or not there's
28 ongoing compliance and the severity of the action.

1 In this case, we had already done a
2 preliminary assessment. We were reaching out to GAC to
3 provide them the information in the event it fell under their
4 mandate. So the urgency to provide it under their mandate,
5 which is not ours and not specific to elections, is one
6 criteria. The other end is the criteria of GAC's resources
7 and potential delays on theirs. I don't have the specific of
8 the exchanges here, but part of that delay was on the part of
9 GAC due to their own priorities.

10 **MR. GUILLAUME SIROIS:** So if I understand
11 correctly, assuming it was not severe or urgent enough to be
12 shared with GAC before the election date.

13 **MS. CARMEN BOUCHER:** We didn't have an
14 indication that it was anything more than click bait, but
15 because there was Russian URL, out of due diligence we had to
16 share it with them.

17 **MR. GUILLAUME SIROIS:** Okay. And also I
18 understand from another document that the rapid response
19 mechanism was not necessarily sharing their weekly reports
20 with you.

21 **MS. CARMEN BOUCHER:** That's true.

22 **MR. GUILLAUME SIROIS:** That's true?

23 **MS. CARMEN BOUCHER:** Their daily SIT reps, we
24 were not receiving. I believe it was the daily SIT reps we
25 weren't receiving from the rapid response. The weekly ones
26 we may have been receiving. I would have to go back to the
27 record of the documents to know if it was both.

28 **MR. GUILLAUME SIROIS:** I'm not sure I have

1 time to go to the document.

2 MS. CARMEN BOUCHER: At any rate ---

3 COMMISSIONER HOGUE: No, because your time is
4 already exhausted, but you can have -- you can ask the last
5 question.

6 MR. GUILLAUME SIROIS: I think I'm going to
7 wrap it up for today, but thank you.

8 COMMISSIONER HOGUE: Thank you.

9 So next one is counsel for the Concern Group.

10 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

11 MR. NEIL CHANTLER:

12 MR. NEIL CHANTLER: Good afternoon. My name
13 is Neil Chantler. I'm counsel for the Chinese Canadian
14 Concern Group.

15 Madam Simard, Madam Boucher, I've heard you
16 acknowledge some things today, such as that the OCCE is in
17 dire need of a bigger budget and more staff in order to
18 properly conduct its work. Correct?

19 MS. CARMEN BOUCHER: Correct.

20 MR. NEIL CHANTLER: And part of the reason
21 for that is the growing complexity of these types of
22 investigations, perhaps growing awareness about foreign
23 interference, and particularly, the need to reach out and
24 engage with the victims of foreign interference. Correct?

25 Mme CAROLINE SIMARD: Je dois recadrer.
26 C'est à dire qu'au niveau du mandat, c'est un mandat
27 d'observation, contrôle, d'application de la Loi. Pour ce
28 qui est donc de l'aspect de la sensibilisation, donc, en

1 anglais, « outreach », et le reste... est-ce que je poursuis?

2 **COMMISSAIRE HOGUE:** Pardon, on va lui
3 laisser...

4 **Mme CAROLINE SIMARD:** OK, parfait.
5 Excellent. Sorry about that. OK. Alors, je peux
6 recommencer?

7 **COMMISSIONER HOGUE:** Just wait for him to ---

8 **MR. NEIL CHANTLER:** Thank you.

9 **MS. CAROLINE SIMARD:** Yes. Oui.

10 **COMMISSIONER HOGUE:** Please.

11 **MR. NEIL CHANTLER:** And the terms of
12 reference of this Inquiry recognise that diaspora groups are
13 among the first victims of foreign interference. You
14 acknowledge that?

15 **Mme CAROLINE SIMARD:** Alors, si vous me
16 permettez, je vais juste répondre à la question précédente.
17 Donc, je... la question était au niveau de notre rôle, de notre
18 mandat. Et ça allait jusqu'à la sensibilisation.

19 J'expliquais que je devais recadrer et
20 confirmer qu'effectivement, il s'agissait d'un rôle
21 d'observation, contrôle, d'application de la Loi pour ce qui
22 est de la partie éducation, sensibilisation. Alors, en
23 anglais, « outreach ». Ça... c'est un... ça fait partie du
24 mandat d'Élections Canada. Alors, je pense que c'est
25 important de préciser ces éléments-là dès le départ.

26 **MR. NEIL CHANTLER:** Okay. I didn't see
27 anything in your three year strategic plan that had to do
28 with diaspora groups, engaging with diaspora groups more than

1 you are already. Is that correct?

2 **Mme CAROLINE SIMARD:** C'est-à-dire que dans
3 le plan stratégique, il y a la vision que j'ai expliquée tout
4 à l'heure. Pis là-dedans, il y a trois objectifs
5 stratégiques. Il y en a un qui est de servir les Canadiens
6 et Canadiennes. Et sous cet objectif stratégique-là, il y a
7 un aspect qui est de rendre le bureau plus visible et, donc,
8 de pouvoir s'assurer que les Canadiens et Canadiennes
9 puissent venir vers nous pour effectivement porter plainte et
10 signaler les problématiques.

11 Alors, ceci existe. Pis au niveau plus,
12 disons, du développement des plans plus précis de
13 mobilisation, je l'expliquais un peu tout à l'heure,
14 l'exemple peut-être pointu, c'est anecdotique pis c'est au
15 stade exploratoire, mais c'est de travailler avec nos
16 partenaires pour la partie « outreach », pour à tout le moins
17 la partie qui nous concerne. Et l'exemple que je donnais,
18 c'était de travailler de concert avec Élections Canada,
19 notamment pour les documents d'information qui existent déjà
20 dans plusieurs langues, et qui pourraient, en fait, nous
21 trouver une petite place pour pouvoir informer les gens des
22 différentes communautés de l'existence du Bureau puis comment
23 nous rejoindre. Alors, c'est un départ, je vous dirais.

24 **MR. NEIL CHANTLER:** And you will need staff
25 who speak the language of the various diaspora groups that
26 you're dealing with, you'll need staff that speak Chinese
27 language, you'll need staff that can correspond with people?

28 **Mme CAROLINE SIMARD:** Alors, présentement au

1 Bureau, c'est assez impressionnant. On le disait tout à
2 l'heure, pour une capacité, donc, de 80 personnes, employées
3 contractuelles, on a une capacité de langues de plus de
4 15 langues parlées et comprises au Bureau, qui comprend le
5 mandarin, et pas seulement un employé. Alors, je vous dirais
6 que déjà, ça, ça l'existe au niveau des capacités du Bureau.

7 **MR. NEIL CHANTLER:** Could the Court Operator
8 please bring up CEF 302_R?

9 And, Madam Boucher, we've seen this document
10 a couple of times already today. There isn't much need for
11 me to further introduce it, but as you read through this
12 document, there is a number of -- there are many passages
13 that refer to evidence that was gathered in the course of
14 this review, complaints that were made, and these are multi-
15 faceted, from comments from a Consul General in Vancouver to
16 social media disinformation campaigns surrounding the
17 campaign of Kenny Chiu. A huge amount of information must
18 have been gathered in conducting this review; is that fair to
19 say?

20 **MS. CARMEN BOUCHER:** Yes.

21 **MR. NEIL CHANTLER:** And, ultimately, the
22 conclusions of this review have been already made known
23 today, and we know that the threshold for a proper
24 investigation was not met; right?

25 **MS. CARMEN BOUCHER:** Correct.

26 **MR. NEIL CHANTLER:** And so the file has been
27 closed, but, of course, the OCCE still has this file, and
28 it's probably -- contains a number of -- or a huge amount of

1 important information; is that right? And I understand there
2 to be information-sharing agreements between the OCCE and the
3 RCMP and CSIS, and these are two-way information-sharing
4 agreements; is that fair?

5 **MS. CARMEN BOUCHER:** There is an information-
6 sharing agreement; however, the *Canada Elections Act* has
7 specific confidentiality agreements and scripts out in what
8 circumstances that we can provide the information to them.

9 **MR. NEIL CHANTLER:** So are these not
10 circumstances where you could share that huge volume of
11 information, which may well suggest foreign interference? It
12 may well not meet the threshold under your mandate, but it
13 might lead to investigations by other agencies. Are you
14 unable to share this file with other agencies that could look
15 into it further?

16 **MS. CARMEN BOUCHER:** So we have provided an
17 extensive and detailed verbal briefing to both the RCMP and
18 CSIS. In the event that we decide to share the full report
19 or a redacted version thereof, it would require Madam
20 Simard's approval, and likely be requested under of the
21 public interest provisions of the Act. That said, there are
22 experts in those organizations and a great deal of this
23 information is already in their possession. So they will,
24 based on our briefing and the publication of a report, have
25 discussions with us if there's things they want to have
26 released to them or specifics.

27 **COMMISSIONER HOGUE:** It's going to be your
28 last question because you have already used all your time.

1 **MR. NEIL CHANTLER:** Do you agree with my
2 assertion that we may have a bit of a fragmented system right
3 now where information perhaps gets stuck with a specific
4 agency, perhaps the OCCE, that if we had a more integrated
5 system might be shared more freely, might result in perhaps
6 an overall better system to combat, deter, counter foreign
7 interference?

8 **Mme CAROLINE SIMARD:** En tout respect, je vous
9 dirais que ma lecture, elle est légèrement différente de la
10 vôtre, c'est-à-dire que je pense qu'on a un système qui
11 fonctionne bien, mais qui a besoin de certains ajustements.
12 On prend l'exemple du rapport ici, ça l'a mis en lumière
13 certaines informations qu'on a reçues beaucoup trop tard,
14 mais qui n'auraient pas changé le résultat. Alors, ça, c'est
15 quand même heureux comme conclusion, mais je vous dirais, des
16 ajustements, de notre côté, on a repéré, identifié certains
17 ajustements qui doivent être faits, qui sont de notre
18 responsabilité, et on s'évertue, donc, de travailler
19 proactivement pour améliorer ce travail parce qu'encore une
20 fois, c'est un travail d'équipe, alors c'est important que
21 tous les partenaires soient bien outillés et travaillent bien
22 les uns avec les autres.

23 **MR. NEIL CHANTLER:** Thank you.

24 **Mme CAROLINE SIMARD:** Thank you.

25 **COMMISSIONER HOGUE:** Thank you.

26 Next one is counsel for the Human Rights
27 Coalition, Me Teich.

1 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

2 MS. SARAH TEICH:

3 MS. SARAH TEICH: Good afternoon. If I can
4 pull back up 302_R again, and I'm going to pick up where Mr.
5 De Luca left off with footnote 1. We can scroll back down to
6 that.

7 So you mentioned, Ms. Bouchard [sic], to Mr.
8 De Luca that it can be -- that multiple electors could
9 potentially be a contravention of this Act. So my next
10 question is do the electors need to be specifically
11 identified or can they be anonymously identified?

12 MR. SÉBASTIEN LAFRANCE: Just for my friend's
13 benefit, it's Ms. Boucher, not Ms. Bouchard, if I'm -- thank
14 you very much.

15 MS. SARAH TEICH: Thank you. I'm sorry.

16 MS. CARMEN BOUCHER: It's okay. You're not
17 the first person to make that mistake.

18 So it does not -- it could be -- I'm sorry,
19 can you repeat the question?

20 MS. SARAH TEICH: So I understand that there
21 can be multiple electors. It doesn't need to be a singular
22 elector, but do the electors ---

23 MS. CARMEN BOUCHER: Anonymous, yes.

24 MS. SARAH TEICH: Can they be anonymous?

25 MS. CARMEN BOUCHER: So to submit a complaint
26 they can be anonymous; however, to take a prosecution, we
27 would have to have a person willing to testify.

28 MS. SARAH TEICH: Okay. If we can go now to

1 paragraph 159? This is a summary of the intimidation or
2 duress offence, and I understand that this offence, this
3 prohibition refers to a person, not an elector, so I just had
4 similar questions. Does it need to be a singular person, or
5 can it be multiple people?

6 **MS. CARMEN BOUCHER:** Well, there could be
7 multiple offences if it was multiple people.

8 **MS. SARAH TEICH:** Okay. And the person would
9 again have to be named; is that right?

10 **MS. CARMEN BOUCHER:** Or the Act would have to
11 be identified.

12 **MS. SARAH TEICH:** Okay.

13 **MS. CARMEN BOUCHER:** At present, I have
14 neither a perpetrator, nor an Act, nor an individual who was
15 influenced, so I'm missing all three criteria.

16 **MS. SARAH TEICH:** Okay. Thank you. If we
17 can now pull up WIT 91? And scroll down to paragraph 94.

18 Thank you. So you say here that the OCCE
19 doesn't have the resources to begin another project like
20 creating a confidential informant program. And you also
21 state that the electoral laws likely do not authorize the
22 OCCE to offer such protection. So I'll start with the last
23 sentence. On what basis do you believe that the electoral
24 laws do not authorize this? Did you get legal advice to this
25 effect?

26 **MS. CARMEN BOUCHER:** The entire *Canada*
27 *Elections Act* makes, to my recollection, one mention of an
28 informant, and that is with regards to one of the reasons for

1 confidentiality is to protect the identity of an informant.
2 There is no other mention of informant in the Act, to my
3 recollection. I'd have to do a control F to be sure, but ---

4 **MS. SARAH TEICH:** Okay. And why does this
5 mean that the laws don't authorize a confidential informant
6 program?

7 **MS. CARMEN BOUCHER:** The law is silent on it.
8 We are not a law enforcement agency in the way that the RCMP
9 is, and other agencies have specific provisions to provide
10 them with that. And I would also note that this paragraph
11 was in response to a specific question from the counsel at
12 the time of the interview, so it's not something under
13 consideration at this time in our organization.

14 **MS. SARAH TEICH:** Do you think it would be
15 valuable to have the electoral laws authorize this kind of
16 protection?

17 **MS. CARMEN BOUCHER:** I think it could be
18 valuable for the electoral laws to offer some sort of
19 protection. I don't know that a confidential informant
20 program would be the answer, and that would be an extremely
21 difficult thing to do in an organization our size.

22 **MS. SARAH TEICH:** What would an alternative
23 be?

24 **MS. CARMEN BOUCHER:** The alternative would be
25 if there's multiple offences and some of them overlap with
26 other areas of the Criminal Code, we may do a joint or
27 parallel investigation with the RCMP. So if there were
28 corresponding offences, we could do it jointly and charge

1 both, perhaps. Depend on the case.

2 **MS. SARAH TEICH:** Okay. And if both are
3 charged, would witnesses -- I suppose witnesses would be able
4 to enjoy the confidential informant protections offered by
5 other Acts; is that right?

6 **MS. CARMEN BOUCHER:** Exactly. There's
7 witness protection in other Acts that we do not have in ours.

8 **MS. SARAH TEICH:** Okay. Okay. Those are my
9 questions. Thank you.

10 **COMMISSIONER HOGUE:** Thank you.

11 Mr. Johnston for the AG.

12 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

13 **MR. MATTHEW JOHNSON:**

14 **MR. MATTHEW JOHNSON:** Madam Commissioner,
15 thank you.

16 My name is Matthew Johnson. I'm counsel for
17 the Attorney General of Canada and I just want to ask a few
18 questions about nomination processes. I know my friend took
19 you to a couple of questions mostly about I think the
20 legislative capacity there, but I want to talk about your
21 capacity as an organization, given some of the discussions
22 about nominations.

23 So maybe I'll just start with are you
24 familiar, as an organization, with the nomination rules of
25 each political party?

26 **Mme CAROLINE SIMARD:** Alors, je vous dirais
27 que dans des termes... c'est-à-dire, ça dépend des dossiers
28 d'enquête. Évidemment, quand ça se présente, ben il faut

1 connaitre... on va approfondir les règles... la connaissance,
2 pardon, des règles des partis politiques.

3 **MR. MATTHEW JOHNSON:** So you'd need to get to
4 the -- beyond sort of the financing rules if you were to --
5 for example, if there was a recommendation about OCCE or the
6 *Canada Evidence Act* being more involved with nomination
7 contests, there would be a learning process for your
8 organization to be able to be familiar with the details of
9 political party nomination contests and leadership contests;
10 correct?

11 **MS. CAROLINE SIMARD:** Correct.

12 **MR. MATTHEW JOHNSON:** Correct. And each
13 party obviously has its own rules; correct?

14 **MS. CAROLINE SIMARD:** Correct.

15 **MR. MATTHEW JOHNSON:** And I think with the
16 redistribution, we now have 343 ridings in the next election.
17 Is that -- am I correct about that?

18 **MS. CAROLINE SIMARD:** That's my ---

19 **MS. CARMEN BOUCHER:** Sounds right.

20 **MS. CAROLINE SIMARD:** Yes.

21 **MR. MATTHEW JOHNSON:** And so if we're talking
22 about volume, every party would presumably have its own
23 nomination contest and if there's a single party that has a
24 national slate, that would be 343 nomination contests, if
25 there's two parties, 686, three parties, suddenly you're
26 above 1,000. So we're talking about a lot of nomination
27 contests. Is that fair to say?

28 **MS. CAROLINE SIMARD:** Yes.

1 **MR. MATTHEW JOHNSON:** And I should note that,
2 you know, even within Quebec, you'd have the Bloc with 78
3 ridings. So you get to a large number very quickly in terms
4 of volume, in terms of capacity. Is that fair?

5 **Mme CAROLINE SIMARD:** Dans des termes
6 généraux, oui. Pis on parle de ces... effectivement, ce sont
7 les défis associés à... aux campagnes d'investiture et à la
8 direction.

9 **MR. MATTHEW JOHNSON:** And what would be the
10 impact on your organization on a capacity level if there was
11 a movement towards having the *Canada Evidence Act* apply and
12 OCCE be involved in monitoring, to some extent, those
13 nomination processes? What would that involve for you and
14 what would be the impact?

15 **Mme CAROLINE SIMARD:** Je vous dirais que ce
16 que... pour répondre précisément à cette question, c'est qu'il
17 va... ça va dépendre des termes qui seront définis évidemment
18 par le Parlement le cas échéant là, on s'entend. Puis... mais
19 c'est certain qu'il y aura... qu'il y aurait effectivement des
20 besoins en termes de capacité supplémentaire. Ça, c'est
21 certain. Minimalement. Et en fait, ces capacités-là seront
22 importantes selon, évidemment, le cadre défini. Alors ça, je
23 pense qu'on peut le dire de cette façon-là, oui.
24 Certainement.

25 **MR. MATTHEW JOHNSON:** Et il n'y a pas --
26 there's not a set time for nomination contests, ça pourrait
27 être au point de temps disparu? It could depend on during
28 the election campaign, in advance of the election campaign;

1 correct?

2 **MS. CAROLINE SIMARD:** I'm not sure that I
3 understand.

4 **MR. MATTHEW JOHNSON:** Sorry. There's no
5 specific time for nominations? Is that a fair point?

6 **MS. CAROLINE SIMARD:** Yeah. Yeah. Exactly.
7 Yeah.

8 **MR. MATTHEW JOHNSON:** So you could have
9 nominations within the period of the writ, but you could also
10 have nominations well in advance?

11 **MS. CAROLINE SIMARD:** That's my understanding
12 as well, depending, yeah.

13 **MR. MATTHEW JOHNSON:** Okay. So if we take it
14 together, you would have a large number of nominations using
15 different rules occurring at different times, and I think I'm
16 hearing you say that that would be a significant, or at least
17 an imposition for you as an organization if you were to be
18 involved in those beyond what you currently are?

19 **Mme CAROLINE SIMARD:** Oui. Moi, ce que... en
20 fait, pour répondre à vos questions, pis l'exercice est fait
21 à l'interne présentement, alors peut-être si c'est pour
22 faciliter votre travail, c'est qu'à l'heure actuelle, en
23 fait, je peux pas partager évidemment mes commentaires, je
24 vais les réserver pour le Parlement là.

25 **Me MATTHEW JOHNSON:** Oui. OK.

26 **Mme CAROLINE SIMARD:** Parce qu'on prévoit ça
27 dans C-65. Mais sachez que c'est déjà une évaluation qui est
28 faite à l'interne parce que, évidemment, on anticipe un

1 impact sur notre capacité. Alors, pour toutes les raisons
2 que vous avez... que vous venez d'évoquer.

3 **MR. MATTHEW JOHNSON:** If I can just bring up
4 WIT.91 very quickly and go to paragraph 103?

5 Ce sont paragraphe 103. Je ne sais pas la
6 page. Je m'excuse.

7 I think right at the end Ms. Boucher
8 clarified that depending on the specific legislation, this
9 could even double the OCCE's work because it does not have
10 the resource to monitor contests. I know that there's some
11 background there, but is that a fair estimate of what that
12 might involve? I know you would save more specific comments
13 for Parliament, but this is what you're talking about when
14 you said that, Ms. Boucher, that this could double your work?
15 Is that fair to say?

16 **MS. CARMEN BOUCHER:** It really depends on
17 what the contents of the legislation is.

18 **MR. MATTHEW JOHNSON:** Okay.

19 **MS. CARMEN BOUCHER:** So as you describe, if
20 it's very nomination contest, 365 days a year potential, and
21 they don't necessarily run just -- right now I have to bring
22 my staff up for 24/7 capacity during the writ period and
23 electoral period. I can't have people on call for seven
24 months of the year. We don't have the capacity for that type
25 of surge.

26 However, if there's only certain areas and
27 aspects that are added, it could be substantially less as
28 well.

1 **MR. MATTHEW JOHNSON:** Okay. Thank you.

2 Those are my questions.

3 Merci, Madame la commissaire.

4 **COMMISSIONER HOGUE:** Thank you.

5 Maitre Lafrance?

6 **Me SÉBASTIEN LAFRANCE:** Pas de questions,
7 Madame la commissaire.

8 **COMMISSAIRE HOGUE:** Pas de questions?

9 **Me SÉBASTIEN LAFRANCE:** Merci.

10 **COMMISSAIRE HOGUE:** Maitre Ferguson, c'est
11 terminé aussi?

12 Alors, merci beaucoup. Thank you very much
13 for your time and generosity.

14 **MS. CARMEN BOUCHER:** Thank you for having me.

15 **COMMISSIONER HOGUE:** So we have completed
16 what we wanted to complete today, so thank you. We are just
17 on time. I'm very, very impressed. It's probably the first
18 time.

19 So we'll start tomorrow morning at 9:30.

20 Thank you.

21 **THE REGISTRAR:** Order, please. À l'ordre,
22 s'il vous plaît.

23 This sitting of the Foreign Interference
24 Commission is adjourned until tomorrow, the 18th of September
25 2024 at 9:30 a.m.

26 Cette séance de la Commission sur l'ingérence
27 étrangère est suspendue jusqu'à demain, le 18 septembre 2024,
28 à 9 h 30.

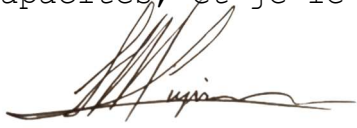
1 --- Upon adjourning at 4:00 p.m.

2 --- L'audience est ajournée à 16 h 00

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4 **C E R T I F I C A T I O N**

5
6 I, Sandrine Marineau-Lupien, a certified court reporter,
7 hereby certify the foregoing pages to be an accurate
8 transcription of my notes/records to the best of my skill and
9 ability, and I so swear.

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11 Je, Sandrine Marineau-Lupien, une sténographe officielle,
12 certifie que les pages ci-hautes sont une transcription
13 conforme de mes notes/enregistrements au meilleur de mes
14 capacités, et je le jure.

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