



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**

VOLUME 1

Held at :

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II Appearances / Comparutions

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| Commission Lead Counsel / Procureure en chef de la commission | Shantona Chaudhury |
| Commission Counsel / Avocat(e)s de la commission | Gordon Cameron Erin Dann Matthew Ferguson Hubert Forget Howard Krongold Hannah Lazare Jean-Philippe Mackay Kate McGrann Lynda Morgan Siobhan Morris Annie-Claude Poirier Gabriel Poliquin Natalia Rodriguez Guillaume Rondeau Nicolas Saint-Amour Daniel Sheppard Maia Tsurumi |
| Commission Research Council / Conseil de la recherche de la commission | Geneviève Cartier Nomi Claire Lazar Lori Turnbull Leah West |
| Commission Senior Policy Advisors / Conseillers principaux en politiques de la commission | Paul Cavalluzzo Danielle Côté |
| Commission Staff / Personnel de la commission | Annie Desgagné Casper Donovan Michael Tansey |

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Appearances / Comparutions

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| Ukrainian Canadian Congress | Donald Bayne Jon Doody |
| Government of Canada | Gregory Tzemenakis Barney Brucker |
| Office of the Commissioner of Canada Elections | Christina Maheux Luc Boucher |
| Human Rights Coalition | Hannah Taylor Sarah Teich |
| Russian Canadian Democratic Alliance | Mark Powers Guillaume Sirois |
| Michael Chan | John Chapman Andy Chan |
| Han Dong | Mark Polley Emily Young Jeffrey Wang |
| Michael Chong | Gib van Ert Fraser Harland |
| Jenny Kwan | Sujit Choudhry Mani Kakkar |
| Media Coalition | Christian Leblanc Patricia Hénault |
| Centre for Free Expression | John Mather |

IV Appearances / Comparutions

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| Churchill Society | Malliha Wilson |
| The Pillar Society | Daniel Stanton |
| Democracy Watch | Wade Poziomka Nick Papageorge |
| Canada's NDP | Anne McGrath |
| Conservative Party of Canada | Michael Wilson Nando de Luca |
| Chinese Canadian Concern Group on The Chinese Communist Party's Human Rights Violations | Neil Chantler |
| Erin O'Toole | Thomas W. Jarmyn Preston Lim |
| Senator Yuen Pau Woo | Yuen Pau Woo |

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Ottawa, Ontario

--- L'audience débute le lundi 29 janvier 2024 à 10 heures

LE GREFFIER: Order, please. À l'ordre, s'il vous plait. There is no need to rise. Vous n'avez pas besoin de vous lever.

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 maintenant en cours. La commissaire Hogue préside.

The hearing is now in session. L'audience est maintenant en cours.

--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR LA COMMISSAIRE HOGUE :

COMMISSAIRE HOGUE: Bonjour à tous. Good morning.

Alors, aujourd'hui marque l'ouverture de la première série d'audiences publiques de la Commission d'enquête sur l'ingérence étrangère dans les processus électoraux et les institutions démocratiques fédérales.

Ces audiences, je tiens à le souligner, se tiennent sur un territoire traditionnel du peuple algonquin anichinabé.

Je remercie d'emblée les représentants de Services publics et Approvisionnement Canada pour leur collaboration et leur grande disponibilité à organiser les lieux de façon à ce que tous puissent y travailler

1 efficacement et que le public s'y sente bien accueilli.

2 Je suis Marie-Josée Hogues et j'ai été nommée
3 commissaire pour présider les travaux de la Commission et les
4 mener à bon port.

5 J'exerce habituellement la fonction de juge à
6 la Cour d'appel du Québec et, quoique je reprendrai mes
7 fonctions une fois les travaux de la Commission terminés, je
8 me consacre entièrement à la Commission depuis la mi-
9 septembre. Je remercie d'ailleurs la juge en chef du Québec,
10 l'honorable Manon Savard, d'avoir accepté de me décharger
11 temporairement de mes responsabilités de juge.

12 Alors, je vous souhaite la bienvenue où que
13 vous soyez. Welcome to you all wherever you are, présents
14 dans cette salle, écoutant la télévision ou par webdiffusion,
15 je vous remercie de l'intérêt que vous portez aux travaux de
16 la Commission, il témoigne de l'importance que vous accordez
17 à notre démocratie et de votre engagement à en assurer la
18 protection.

19 Je suis accompagnée aujourd'hui d'une partie
20 du personnel de la Commission.

21 Me Shantona Chaudhury agit comme procureur-
22 chef. Vous apprendrez à la connaître et vous apprécierez son
23 travail, j'en suis certaine. Plusieurs des avocats et
24 avocates qui font partie de son équipe sont également ici et
25 vous aurez l'opportunité de les voir à l'œuvre cette semaine.

26 Je suis également accompagnée de la
27 professeure Geneviève Cartier, directrice de l'équipe de
28 recherche. Son équipe a identifié des experts possédant les

1 connaissances requises pour assister la Commission. Je
2 reviendrai plus loin sur le rôle de ces experts.

3 Je remercie toutes ces personnes de leur
4 engagement de même que tous ceux et celles qui travaillent
5 dans l'ombre, directeurs administratifs, responsables des
6 communications, rédacteurs, adjointes, traducteurs,
7 interprètes, personnel administratif et technique, personnel
8 de sécurité. Sans eux, il serait tout simplement impossible
9 d'exécuter le mandat qui nous a été confié.

10 Before turning to the Commission's intended
11 work, I would like to recall the context that gave rise to
12 its creation, what the role of a commission of inquiry is,
13 and the mandate that has been entrusted to us here. I will
14 then give an overview of the work the Commission wants to
15 undertake and how we intend to do it.

16 Allegations that foreign governments are
17 attempting to interfere in Canadian elections have been
18 circulating for some time, but these allegations were
19 particularly prevalent in 2022 when some media outlets
20 reported that they had received information suggesting
21 foreign interference in the 2019 and 2021 federal elections.

22 In the wake of these revelations, some
23 members of Parliament have publicly asserted that they
24 themselves have been the target of foreign interference and
25 that they were not notified about it in good time by Canadian
26 authorities.

27 Given the importance of protecting our
28 democracy, these allegations have sparked significant debate

1 and discussions, both at the political level and in the
2 media. Thus, in March 2023, the government of Canada
3 appointed the Right Honourable David Johnston as independent
4 special rapporteur asking him to determine whether foreign
5 governments had indeed attempted to influence election
6 results, either by interfering with voters or with the
7 candidates themselves.

8 He was also asked to review, where
9 appropriate, the information and actions taken by the federal
10 government in relation to the threat of foreign interference
11 and to determine whether it will be advisable to investigate
12 the matter further.

13 Le rapporteur spécial Johnston a déposé un
14 rapport public ainsi qu'une annexe confidentielle le 23 mai
15 2023. Il y conclut que des gouvernements étrangers ont tenté
16 d'influencer des candidats et des électeurs aux deux
17 dernières élections, mais sans que cela ne compromette
18 l'intégrité de ces élections.

19 Il s'est aussi dit d'avis que la façon dont
20 l'information à ce sujet a circulé était problématique,
21 ajoutant toutefois que rien de ce qu'il a vu ne lui permet de
22 conclure que le premier ministre, un ministre ou leurs
23 cabinets respectifs se sont abstenus, volontairement ou par
24 négligence, de donner suite aux renseignements qu'ils ont pu
25 recevoir en lien avec des actes d'ingérence étrangère.

26 Il a recommandé qu'un processus public
27 supplémentaire, autre toutefois qu'une commission d'enquête
28 publique vu la quantité de documents classifiés concernés,

1 soit entrepris pour examiner plus à fond la menace que
2 représente l'ingérence étrangère.

3 Il est inutile de revenir sur les événements
4 qui ont ensuite mené à la démission du rapporteur spécial. Il
5 suffit de rappeler que le 7 septembre 2023, avec l'accord de
6 tous les partis politiques reconnus, le gouvernement a
7 constitué par décret la présente commission d'enquête et m'a
8 nommée commissaire. Je suis entrée en fonction le
9 18 septembre suivant.

10 Ceci m'amène à dire quelques mots sur la
11 nature et sur le rôle d'une commission d'enquête. Une
12 commission d'enquête est une institution publique payée par
13 le gouvernement et entièrement indépendante de ce dernier
14 dans la poursuite de ses travaux. Elle dispose d'une très
15 grande marge de manœuvre dans toutes les décisions liées à la
16 manière dont elle choisit de procéder et n'est pas liée par
17 les conclusions auxquelles d'autres entités appelées à
18 étudier des questions similaires ont pu ou pourraient
19 parvenir.

20 Cela dit, une commission doit exercer ses
21 pouvoirs aux seules fins du mandat qui lui a été confié par
22 son décret constitutif et dans le respect de l'équité
23 procédurale. Une commission d'enquête a pour fonction de
24 rechercher les faits pour comprendre ce qui s'est passé dans
25 une situation donnée. Dans le cadre de son mandat, elle
26 procède à une recherche objective de la vérité et tente
27 d'identifier tous les faits pertinents, d'en tirer certaines
28 conclusions et de faire des recommandations au gouvernement.

1 Sous réserve de certaines contraintes sur lesquelles je
2 reviendrai un peu plus loin, elle porte ces faits à la
3 connaissance du public.

4 The role of a Commission of Inquiry is to
5 investigate the facts in order to understand what happened in
6 a given situation. Its objective is to search for the truth.
7 Seeking to understand what happened in order to inform the
8 public and make recommendations to the government, it
9 attempts to identify all relevant facts and then draw
10 conclusions. Subject to certain constraints, to which I will
11 return later, it makes these facts public.

12 Le processus qu'une commission d'enquête
13 applique n'est donc pas un processus contradictoire comme
14 celui d'un procès civil ou commercial, ni un processus
15 accusatoire comme celui d'un procès criminel. Il n'appartient
16 pas à une commission d'enquête de chercher à identifier des
17 coupables ou des responsables. Ces travaux n'impliquent ni
18 demandeurs, ni défendeurs, ni accusés.

19 Cela dit, une commission rend publics ses
20 constats, même lorsqu'ils peuvent porter ombrage à la
21 réputation de certaines personnes ou de certaines
22 organisations.

23 Les avocats de la Commission et moi-même
24 sommes neutres et impartiaux. Nous représentons l'intérêt
25 public et notre but est de découvrir la vérité, quelle
26 qu'elle soit.

27 The Commission lawyers and I are neutral and
28 impartial. We represent the public interest and our goal is

1 to uncover the truth, whatever it may be.

2 You will note throughout its work that the
3 Commission counsel will work together with the lawyers of the
4 participants, be they parties or intervenors. This is
5 standard practice in a Commission of Inquiry. Everyone must
6 work towards the same goal, understanding what happened,
7 learning from it and making recommendations for the future.

8 This idea of cooperation is so important that
9 the rules of practice and procedure adopted by the Commission
10 expressly impose an obligation on counsel to cooperate with
11 one another. It even goes so far as to provide for the
12 possibility of participants or their lawyers to suggest to
13 Commission counsel topics to explore with witnesses or
14 questions to ask them.

15 This cooperation is essential if the
16 Commission is to be effective and make good use of the very
17 limited time at its disposal.

18 That being said, I may choose to allow some
19 intervenors or their lawyers, as the case may be, to ask
20 certain witnesses questions on specific subjects if I feel,
21 along the way, that it may be useful in better understanding
22 certain facts. This is a discretionary power that I will
23 retain throughout the hearings and exercise as necessary.

24 The applicable rules of evidence are also
25 flexible, as the Commission is not bound to adhere to strict
26 rules of evidence in the same way that courts generally are.
27 This flexibility is just as essential to enable the
28 Commission to effectively carry out its work within the

1 limited time allocated. Thus, I can allow evidence to be
2 presented in multiple ways provided, of course, that in doing
3 so I uphold procedural fairness.

4 As Commissioner, I indeed have the obligation
5 to ensure that the rights of all are respected.

6 Since I am presiding over the hearings and it
7 will be up to me to draw conclusions from the evidence being
8 presented, I want to stress that I have not yet seen that
9 evidence. I have discussed with the Commission counsel the
10 subjects that seem relevant to me and the way in which the
11 hearing should be conducted, but I have chosen to participate
12 neither in the meetings with potential witnesses nor in the
13 review of the documents obtained.

14 I have chosen this approach to ensure that I
15 have no preconceived ideas and I will adhere to it throughout
16 the Commission work.

17 Puisque je préside les audiences et qu'il
18 m'appartiendra de tirer des conclusions de la preuve qui sera
19 administrée, je souligne que je n'ai pas encore vu cette
20 preuve. J'ai discuté avec les avocats de la Commission des
21 sujets qui m'apparaissent pertinents et de la façon dont les
22 audiences devraient être menées, mais j'ai choisi de ne
23 participer ni aux rencontres avec les témoins potentiels, ni
24 à la revue des documents obtenus. C'est l'approche que j'ai
25 choisie pour m'assurer de ne pas avoir d'idées préconçues et
26 je m'y tiendrai tout au long des travaux de la Commission.

27 Cela dit, mon équipe et moi entendons tout
28 mettre en œuvre pour aller au fond des choses et comprendre

1 ce à quoi le pays a pu faire face et ce à quoi il est peut-
2 être toujours confronté en matière d'ingérence étrangère.

3 L'ingérence étrangère dans nos institutions
4 démocratiques est un enjeu très sérieux qui exige qu'on
5 pousse la réflexion, qu'on pousse le plus loin possible à la
6 fois l'enquête, l'analyse et la réflexion pour ultimement
7 identifier les meilleurs moyens de la contrecarrer ou, s'il
8 n'est pas possible de l'empêcher totalement, d'en limiter les
9 effets.

10 That said, my team and I will make every
11 effort to get to the bottom of things and understand what the
12 country has faced and what it may still be facing in terms of
13 foreign interference.

14 Foreign interference in our democratic
15 institutions is a very serious issue. It requires us to
16 investigate, analyze and reflect as thoroughly as possible in
17 order to ultimately identify the best ways to counter it or,
18 if it's not possible to prevent it entirely, to limit its
19 effects.

20 Conformément aux termes du décret, la
21 Commission doit, dans le premier volet de la phase factuelle
22 de ses travaux, examiner si la Chine, la Russie ou d'autres
23 acteurs étatiques ou non étatiques – vous savez probablement
24 que la Commission s'intéresse aussi à l'Inde – se sont
25 ingérés dans les élections fédérales de 2019 et de 2021. Si
26 c'est le cas, elle doit aussi évaluer les répercussions que
27 ces actes ou ces tentatives d'ingérence ont pu avoir sur
28 l'intégrité des élections. Tant sur le plan national que

1 celui des circonscriptions. Puis, elle doit examiner, le cas
2 échéant, la façon dont l'information qui a pu être obtenue à
3 cet égard a circulée, et les mesures qui ont pu être prises
4 en réponse.

5 In conformity with the terms of the Order in
6 Council, the Commission, in the first stage of the factual
7 phase of its work, must examine whether China, Russia, or
8 other actors, state or non-state -- you probably know that
9 the Commission is also interested by India -- interfered in
10 the 2019 and 2021 Federal Elections; and if so, we must also
11 assess the repercussions that these acts or attempts to
12 interfere may have had on the integrity of the elections,
13 both nationally and at the consequence level.

14 The Commission must then examine, where
15 appropriate, the way in which information obtained in this
16 regard circulated, and the measures that could have been
17 taken in response.

18 La Commission rédigera et déposera un premier
19 rapport portant sur ces questions, au plus tard le 3 mai
20 2024.

21 Dans le second volet de cette phase
22 factuelle, la Commission doit analyser la capacité et les
23 moyens dont dispose l'État pour détecter, prévenir et contrer
24 l'ingérence étrangère, en portant attention à trois grandes
25 considérations.

26 D'abord, la façon dont les renseignements
27 sont créés, échangés, évalués et diffusés. Et comment les
28 conseils à l'intention de décisionnaires de haut rang,

1 notamment d'élus, sont formulés.

2 Ensuite, les mesures de soutien de
3 protections qui sont en place, pour protéger les membres
4 d'une diaspora qui peuvent être particulièrement vulnérables
5 et devenir les premières victimes de cette ingérence.

6 Enfin, les mécanismes qui étaient en place
7 pour protéger les élections de 2019 et de 2021 contre
8 l'ingérence étrangère, comparativement à ceux qui étaient en
9 place pour protéger les élections antérieures à 2019.

10 In the second stage of the factual phase, the
11 Commission must analyze the country's capacity and means to
12 detect, prevent, and counter foreign interference, paying
13 attention to three main considerations:

14 First, how information is created, exchanged,
15 assessed, and disseminated, and how advice for senior
16 decision-makers, including elected officials, is formulated.

17 Secondly, the support and protection measures
18 in place to protect members of a diaspora who may be
19 particularly vulnerable and become the first victims of such
20 interference.

21 Finally, the mechanisms that were in place to
22 protect the 2019 and 2021 elections from foreign
23 interference, compared to those that were in place in more
24 recent elections.

25 Finally, in the policy phase of its work, the
26 Commission will think of ways to ameliorate state's capacity
27 to detect, prevent, and counter foreign interference, as well
28 as, if applicable, ways in which relevant information is

1 communicated to interested persons, and then formulate
2 recommendations.

3 Finalement, dans la phase politique de ses
4 travaux, la Commission s'interrogera sur comment améliorer la
5 capacité de l'État, de détecter et de prévenir et de contrer
6 l'ingérence étrangère, ainsi que, le cas échéant, sur la
7 façon dont l'information pertinente est communiquée aux
8 personnes intéressées. Puis, elle formulera des
9 recommandations.

10 La Commission rédigera un second rapport à ce
11 sujet, qui en plus de ses conclusions de faits, comportera
12 l'ensemble de ses recommandations à l'égard des questions
13 soulevées dans son mandat. Celui-ci devra être déposé au plus
14 tard le 31 décembre 2024

15 La Commission fait ainsi face à deux défis
16 importants. Le temps dont elle dispose, et le fait que la
17 grande majorité des documents et des renseignements auxquels
18 elle aura accès dans le cadre de ses travaux et sur lesquels
19 elle se fondera pour parvenir à ses conclusions, seront
20 vraisemblablement des documents dit classifiés.

21 Le temps limité dont elle dispose est prévu à
22 son mandat, certes, mais il s'explique également par la
23 nécessité d'examiner rapidement la question d'ingérence
24 étrangère et de réfléchir afin de formuler aussi rapidement
25 des recommandations pour augmenter la capacité du
26 gouvernement à la détecter et à la contrecarrer.

27 Si ce défi du temps peut être relevé par le
28 travail de collaboration dont nous avons déjà parlé, celui

1 relatif au traitement de documents classifiés exigera un
2 travail particulier dont il sera question au cours de la
3 semaine qui vient.

4 En effet, qui dit renseignements et documents
5 classifiés, dit du même coup, renseignements et documents ne
6 pouvant être divulgués publiquement.

7 Or, une Commission d'enquête publique, comme
8 son nom l'indique, vise essentiellement à éclairer le public.
9 Le mandat qui lui a été confié implique ainsi une dualité
10 fondamentale : respecter les lois et les règles applicables
11 aux documents et aux informations classifiés, et maximiser la
12 transparence de ses travaux.

13 Heureusement, la Commission compte dans ses
14 rangs plusieurs avocats chevronnés ayant une très grande
15 expérience des questions relatives à l'administration en
16 preuve de documents et d'informations classifiés. Un certain
17 nombre d'entres eux comptant d'ailleurs parmi les avocats
18 reconnus par la Cour fédérale pour agir à titre
19 *d'amicus curie*, ou en français, à titre d'amis de la Cour,
20 lorsque celle-ci est appelée à trancher des différends en
21 cette matière.

22 Précisément pour déterminer les défis, les
23 limites et les effets préjudiciables potentiels associés à la
24 divulgaration au public, d'informations et de renseignements
25 classifiés, relatifs à la Sécurité nationale, le décret
26 impose à la Commission l'obligation de tenir, au tout début
27 de ses travaux, des audiences sur ces questions.

28 Ce sont ces audiences que j'ai qualifiées à

1 quelques reprises d'audiences préliminaires relatives à la
2 confidentialité à des fins de Sécurité nationale, que nous
3 entreprenons cette semaine.

4 Pourquoi les qualifier d'audiences
5 préliminaires ? Parce qu'elles permettront de préparer les
6 audiences publiques subséquentes qui elle, porteront sur les
7 questions de fond. D'ailleurs, je souligne que les
8 présentations, les discussions et les témoignages qui auront
9 lieu cette semaine ne porteront que sur ce défi que pose la
10 Sécurité nationale dans une Commission d'enquête et non sur
11 les questions de fond.

12 In fact, the work we will undertake this week
13 consists of first understanding the constraints arising from
14 the fact that many of the relevant pieces of information and
15 documents are classified; and secondly, considering the best
16 ways for the Commission to make public as much information as
17 possible during the hearings of Stages 1 and 2, and in its
18 reports.

19 During these preliminary hearings, we will
20 hear from factual witnesses and recognized experts who, as we
21 wrote in our second notice to the public, will help the
22 Commission and the public understand both the risk that may
23 arise from the disclosure of classified information, and the
24 practices that can be adapted to allow the disclosure of as
25 much information as possible. While adhering to applicable
26 legal and national security constraints.

27 Here is what we are considering as a work
28 schedule, subject, of course, to what we discover in the

1 course of the Inquiry.

2 Let us first clarify that the two phases of
3 the work, which I referred to earlier, cannot be completely
4 separated from each other. The investigation that has begun
5 and the evidence that will be introduced at each series of
6 public hearings, whether they relate to Stage 1 or Stage 2,
7 can and most certainly be useful in enabling us to understand
8 the situation in its entirety. Based on what we hear during
9 this week's hearings, the Commission will work to make
10 disclosable the classified documents and information it has
11 already received, and will continue to receive, as it carries
12 on with the Inquiry concurrently -- I should say, as much as
13 possible.

14 À la lumière de ce qu'elle aura entendu lors
15 des audiences de cette semaine, la Commission travaillera à
16 en divulguant certains des documents. Il y a des informations
17 classifiées qu'elle a déjà obtenues et qu'elle continuera
18 d'obtenir, puisqu'elle poursuit son enquête en parallèle.

19 Once that is done, we will again hold public
20 hearings, probably at the end of March 2024, which will focus
21 on the issue raised in the first phase of our work.

22 La Commission devra-t-elle également tenir
23 des audiences à huis clos, comme prévu à son mandat? Étant
24 donné la quantité d'information classifiée en cause, il est
25 fort probable que oui. Cela étant, la Commission tentera de
26 trouver des moyens de communiquer l'essence de l'information
27 qu'elle obtiendra lors des audiences à huis clos. Par
28 exemple, par le biais d'un résumé.

1 Il est aussi possible que certaines personnes
2 appelées à témoigner devant la Commission, et craignant pour
3 leur sécurité ou celle de leurs proches, demandent que leur
4 identité, et/ou que certaines informations soient gardées
5 confidentielles. De telles demandes sont également
6 susceptibles d'entraîner la tenue d'audiences à huis clos.

7 It is also possible that certain persons
8 called upon to testify before the Commission, who fear for
9 their safety or the safety of members of their family,
10 request that their identity be protected, and/or certain
11 information provided be kept confidential. Such requests may
12 lead to a need to hold in camera hearings.

13 À cet égard, je rappelle que la Commission a
14 adopté des règles de pratique et de procédure comportant de
15 nombreuses mesures visant à assurer la sécurité de ceux et
16 celles qui lui fourniront de l'information. Ces règles,
17 quoique techniques, vu leur vocation, méritent d'être
18 consultées par ceux qui s'intéressent aux travaux de la
19 Commission. Elles peuvent d'ailleurs être consultées sur son
20 site Web, sous la rubrique « Documents ».

21 Quant aux mesures pouvant être prises pour
22 assurer la sécurité de certaines personnes, j'attire plus
23 particulièrement votre attention aux règles 51 et 82 à 85.
24 Il faut essentiellement en retenir que la Commission est bien
25 consciente qu'il pourrait être nécessaire de protéger
26 l'identité de certains témoins ou de certaines informations
27 que des citoyens ou des groupes lui communiqueront. Les
28 personnes qui demanderont que leur identité soit protégée

1 connaîtront d'ailleurs ma décision à cet égard avant
2 d'entreprendre leur témoignage ou de fournir des
3 renseignements et des documents.

4 Generally speaking, the important thing to
5 remember is that the Commission is well aware that it may be
6 necessary to protect the identity of certain witnesses or
7 certain information that citizens or groups will communicate,
8 and that I will not hesitate to do so when I deem it
9 appropriate. In fact, those who request that their identity
10 be protected will know of my decision in this regard before
11 they undertake to testify or provide information and
12 documents.

13 J'ai par ailleurs l'intention d'assurer le
14 respect des droits de chacun lors des audiences à huis clos.
15 Ainsi, il est possible que je choisisse de limiter la portée
16 d'un témoignage ou de ne pas tenir compte de certains
17 renseignements qui pourraient m'être communiqués lors de ces
18 audiences si j'estime que cela est nécessaire pour préserver
19 la réputation ou les droits des citoyens qui, je le rappelle,
20 n'auraient pas dans de telles circonstances l'opportunité de
21 soumettre ce témoignage ou ces informations à l'épreuve du
22 contre-interrogatoire.

23 Je veux en outre rappeler que le témoignage
24 ne sera pas le seul moyen de nous transmettre des
25 informations. La Commission prévoit en effet établir un
26 processus pour que ceux qui le souhaitent puissent
27 communiquer leurs observations, leurs suggestions, et
28 partager des expériences pertinentes qu'ils pourraient avoir

1 vécues en lien avec des questions relevant du mandat de la
2 Commission. Ce processus sera facile à utiliser et les
3 personnes qui le feront pourront demander que leur identité
4 et que certaines informations transmises soient protégées.

5 The Commission has established an email
6 address to facilitate sharing of confidential information.
7 Strict measures have been put in place to protect the
8 confidentiality of information sent via the email address,
9 also available on the Commission website.

10 At present, it is planned that the public
11 hearings during which the Commission will examine the
12 country's capacity and means to detect, prevent, and counter
13 foreign interference, Stage 2, will take place in September
14 2024. The factual investigation of Stage 2 will take place
15 and will be followed by hearings on the policy phase of the
16 Commission, which will bring to light the research council's
17 work. Further details about the council members are -- may
18 be found on the website.

19 Concurrently, and throughout this work, the
20 Commission will collaborate closely with the research
21 directorate, which has set up a research council made up of
22 four academics whose combined skills cover all aspects of the
23 Commission's mandate. The council's role is to design and
24 implement a research program that will support the Commission
25 in all aspects of its mandate. Experts will then be invited
26 to produce reports or take part in public roundtable
27 discussions with the aim of providing the insights the
28 Commission needs, in particular, with a view to submitting to

1 the government relevant and realistic recommendations on ways
2 to detect and counter interference, or at the very least, to
3 minimise its impacts.

4 For the time being, however, we must get on
5 with our preliminary hearings, and to do so, I give the floor
6 to Mrs. Chaudury. Thank you.

7 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MS. SHANTONA**

8 **CHAUDHURY:**

9 **MS. SHANTONA CHAUDHURY:** Thank you,
10 Commissioner. Good morning, everyone.

11 My name is Shantona Chaudhury, and I am lead
12 counsel to the Foreign Interference Commission.

13 Bonjour tout le monde. Je m'appelle Shantona
14 Chaudhury et je suis procureur en chef de la Commission sur
15 l'ingérence étrangère.

16 I am joined here today, in person and
17 remotely, by a number of Commission counsel who have been
18 working very hard to put this week's hearings together in a
19 very short time. Gordon Cameron, Erin Dann, Jean-Philippe
20 MacKay, Natalia Rodriguez, Daniel Sheppard, Hannah Lazare,
21 Siobhan Morris, and Nicolas Saint-Amour.

22 As the Commissioner explained, this week's
23 preliminary hearings are mandated by Clause a(i)(d) of the
24 Commission's terms of reference, which direct the Commission
25 to hold public hearings at the outset of its mandate on
26 national security confidentiality.

27 It is important to understand that this week
28 is not yet about the actual substance of the Commission's

1 mandate. The Commission's investigation is ongoing. We
2 will, of course, have public hearings in due course. As the
3 Commissioner mentioned, we anticipate holding those hearings
4 in late March with respect to Clauses a(i)(A) and a(i)(B) of
5 the terms of reference, and in September, with respect to
6 Clause a(i)(C).

7 But for this week, the topic at hand is
8 national security on confidentiality. Over the course of the
9 week, we will be hearing from experts, former officials, and
10 current fact witnesses in an effort to explore the challenges
11 involved in dealing with classified information, and
12 importantly, to identify how the Commission can best meet
13 those challenges.

14 Je vais maintenant vous présenter un aperçu
15 général de l'échéancier de la semaine. La journée
16 d'aujourd'hui est introductive. Nous demanderons d'abord à
17 tous les participants ou à leurs avocats de se présenter.
18 Ensuite, les avocats de la Commission feront deux
19 présentations.

20 La première portera sur le fonctionnement des
21 commissions d'enquête en général, puis, plus précisément, le
22 fonctionnement de la présente commission. La seconde
23 abordera de manière générale la question de confidentialité
24 en matière de sécurité nationale en traitant de certains
25 concepts qui seront explorés en détails au cours de la
26 semaine.

27 Les journées de mardi et mercredi seront
28 consacrées à des consultations d'experts. Tandis que les

1 journées de jeudi et vendredi seront réservées aux
2 dépositions des témoins de fait.

3 Mardi, nous entendrons un panel universitaire
4 spécialisé dans des domaines pertinents, tels que le droit en
5 matière de sécurité nationale et le droit à l'information.
6 Les professeurs Leah West, Michael Nesbitt, et Pierre Trudel.
7 Il s'agira d'une discussion modérée suivie d'une séance de
8 questions-réponses, toutes deux animées par des avocats de la
9 Commission.

10 Mercredi, nous entendrons des anciens
11 responsables de la sécurité nationale et de la communauté du
12 renseignement. John Forster, ancien chef du Centre de la
13 sécurité des télécommunications, ou CST. Richard Fadden,
14 ancien directeur du Service canadien du renseignement de
15 sécurité, ou SCRS, et ancien conseiller à la sécurité
16 nationale du premier ministre. Ainsi que Alan Jones, ancien
17 directeur adjoint des opérations au SCRS. Une fois de plus,
18 le format sera celui d'une discussion suivie d'une séance de
19 questions-réponses animée par un avocat de la Commission.

20 On Thursday, a panel of current officials in
21 the national security and intelligence community will
22 testify, David Vigneault, Director of the Canadian Security
23 Intelligence Service, CSIS, Alia Tayyeb, Deputy Chief of
24 Signals Intelligence at the Communications Security
25 Establishment, or CSE, and Dan Rogers, Deputy National
26 Security Intelligence Advisor to the Prime Minister.

27 The witnesses will be examined by Commission
28 counsel, followed by cross-examination by the parties.

1 On Friday morning, Dominic LeBlanc, Minister
2 of Public Safety, Democratic Institutions and
3 Intergovernmental Affairs, will testify. He, too, will be
4 examined by Commission counsel, followed by cross-examination
5 by the parties.

6 On Friday afternoon, the Commissioner will
7 hear closing submissions from the participants, and that will
8 conclude the week.

9 Sur ce, j'aimerais vous remercier au nom de
10 la Commission d'être présents, d'être à l'écoute et surtout
11 de votre volonté d'assister la Commission à accomplir son
12 mandat à la fois important et exigeant.

13 Merci.

14 **COMMISSIONER HOGUE:** Thank you.

15 So I now invite the participants or their
16 lawyers to introduce themselves. In the case of associations
17 or organizations, I will appreciate that you indicate which
18 interests you represent. The Commission already knows, but I
19 think it's a good idea for everyone attending the hearings to
20 know it, too.

21 So let's start with the Government of Canada.

22 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR Me GREGORY**
23 **TZEMENAKIS:**

24 **Me GREGORY TZEMENAKIS:** Bonjour, Madame la
25 commissaire, madame la conseillère... conseillère principale de la
26 Commission et collègue.

27 Je me présente, je m'appelle Gregory
28 Tzemenakis et avec mon collègue, Barney Brucker, nous sommes

1 les avocats principaux pour le gouvernement du Canada.

2 Nous avons aussi Alice Henley avec nous.

3 Please allow me to make two very brief
4 introductory observations.

5 First, it is foundational to Canada's
6 democracy that Canadians have confidence in free and fair
7 elections. The Government of Canada is committed to
8 supporting the work of the Inquiry and in reinforcing the
9 confidence of Canadians.

10 Second, as we enter into these hearings on
11 the challenges posed by dealing with largely classified
12 information, we will offer a perspective that looks at the
13 full range of public interests, including ensuring that
14 Canadians are well informed of the risks of foreign
15 interference.

16 There are tools that would allow us to
17 achieve this goal while upholding the public interest in
18 protecting certain categories of information.

19 Merci.

20 **COMMISSIONER HOGUE:** Merci beaucoup.

21 So we can go on with the Office of the
22 Commissioner of Canada Elections.

23 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR Me CHRISTINA**

24 **MAHEUX:**

25 **Me CHRISTINA MAHEUX:** Bonjour, je m'appelle
26 Christina Maheux et je suis conseillère stratégique et
27 avocate principale au Bureau de la Commissaire aux élections
28 fédérales, le BCEF, auquel la qualité pour agir comme

1 participant pour les deux volets de cette commission
2 d'enquête publique a été accordée.

3 Je serai accompagnée au cours des prochains
4 jours par mon collègue Luc Boucher qui est absent
5 aujourd'hui.

6 La commissaire aux élections fédérales est la
7 haute fonctionnaire indépendante chargée de veiller à
8 l'observation et au contrôle d'application de la *Loi*
9 *électorale du Canada*.

10 L'ingérence étrangère dans les processus
11 démocratiques fédéraux est un enjeu que la commissaire aux
12 élections fédérales, madame Caroline Simard, prend très au
13 sérieux. Le BCEF remercie la commissaire Hogue pour
14 l'opportunité que représente cette participation. Le BCEF se
15 réjouit de pouvoir contribuer et collaborer à la réalisation
16 du mandat important de cette commission d'enquête.

17 Merci.

18 **COMMISSAIRE HOGUE:** Merci beaucoup.

19 The Human Rights Coalition.

20 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MS. HANNAH**

21 **TAYLOR:**

22 **MS. HANNAH TAYLOR:** Commissioner Hogue,
23 participants and fellow counsel, valued members of the media
24 and the public, my name is Hannah Taylor, counsel for the
25 Human Rights Coalition. My pronouns are she or they, and I
26 can be referred to as "Ms. Taylor" or "Counsel Taylor".

27 My co-counsel for these hearings is David
28 Matas, sitting to my right, whose pronouns are he/him and who

1 can be referred to as Mr. Matas.

2 The Human Rights Coalition is comprised of
3 eight community organizations engaged in work for the rights
4 of several diaspora communities particularly vulnerable to
5 transnational repression and the effects of foreign
6 interference in Canada. These organizations are Human Rights
7 Action Group, Uyghur Rights Advocacy Project, Falun Gong
8 Human Rights Group, Canada-Hong Kong Link, Democratic Spaces,
9 HIDMONA-Eritrean Canadians Human Rights Group of Manitoba,
10 Security and Justice for Tigrayans Canada and the Alliance of
11 Genocide Victim Communities.

12 Thank you for the opportunity to participate
13 in the Commission's work.

14 **COMMISSIONER HOGUE:** Thank you.

15 Let's go now with the Russian-Canadian
16 Democratic Alliance.

17 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MR.**

18 **GUILLAUME SIROIS:**

19 **MR. GUILLAUME SIROIS:** Good morning. I'm
20 Guillaume Sirois from Power Law. I will be representing the
21 Russian-Canadian Democratic Alliance for the Commission,
22 along with my colleague, Mark Power.

23 The RCDA's core mission is to support the
24 development of the Russian-Canadian community around the
25 ideals of democracy, human rights, civil liberties and the
26 rule of law.

27 Regarding the national security
28 confidentiality hearings, the RCDA is concerned that no

1 witnesses from the diaspora will be heard.

2 Comme l'a souligné la commissaire dans son
3 discours d'ouverture, les membres de la diaspora sont les
4 premières victimes d'ingérences étrangères, elles ont donc le
5 plus grand intérêt à voir plus d'informations sur cette
6 menace et sur les actions du gouvernement en réponse à cette
7 menace.

8 L'Alliance démocratique des Canadiens russes
9 espère que la Commission va rencontrer son mandat de
10 maximiser le degré de transparence à l'égard du public, mais
11 cette transparence servira raisonnablement non seulement à
12 restaurer la confiance du public dans nos institutions
13 démocratiques, mais donnera aussi à la diaspora des
14 informations cruciales pour mieux se protéger contre
15 l'ingérence étrangère.

16 Merci.

17 **COMMISSAIRE HOGUE:** Merci, Maitre Sirois.

18 The Canadian Ukrainian Congress. I think
19 they are on the video.

20 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MR. JOHN**

21 **DOODY:**

22 **MR. JOHN DOODY:** Good morning, Commissioner.

23 **COMMISSIONER HOGUE:** Good morning.

24 **MR. JOHN DOODY:** My name is Jon Doody. I
25 represent the Ukrainian Canadian Congress along with Donald
26 Bayne.

27 The Ukrainian Canadian Congress is the voice
28 of Canada's Ukrainian community. It's an umbrella

1 organization representing the national, provincial and local
2 Ukrainian organizations within Canada, and our interest is in
3 particular on how Russia's interference has impacted
4 Ukrainian Canadians specifically.

5 Thank you.

6 **COMMISSIONER HOGUE:** Thank you.

7 Michael Chong?

8 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MR. GIB van**
9 **ERT:**

10 **MR. GIB van ERT:** Bonjour, Madame la
11 commissionnaire. My name is Gib van Ert. With me is Fraser
12 Harland, and we are counsel for the Honourable Michael Chong,
13 MP.

14 **COMMISSIONER HOGUE:** Han Dong?

15 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MR. MARK**
16 **POLLEY:**

17 **MR. MARK POLLEY:** Good morning, Commissioner.
18 I'm Mark Polley and I'm accompanied by Jeffrey Wang and also
19 online by Emily Young. And we represent the Honourable MP
20 Han Dong.

21 Thank you.

22 **COMMISSIONER HOGUE:** Thank you.

23 Jenny Kwan?

24 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MR. SUJIT**
25 **CHOUDHURY:**

26 **MR. SUJIT CHOUDHURY:** Good morning,
27 Commissioner. My name is Sujit Choudhry. I'm counsel for
28 Jenny Kwan, Member of Parliament for Vancouver East.

1 I'm joined by my co-counsel, Mani Kakkar.

2 Thank you.

3 **COMMISSIONER HOGUE:** Thank you.

4 Michael Chan, I think, is on video, or his
5 counsel.

6 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MR. JOHN**

7 **CHAPMAN:**

8 **MR. JOHN CHAPMAN:** Yes, Madam Commissioner.

9 It's John Chapman. I and my colleague, Andy Chan, represent
10 Mr. Chan. And Andy is on the Zoom as well.

11 **COMMISSIONER HOGUE:** Thank you.

12 And we have the Centre for Free Expression.

13 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE PAR MR. JOHN**

14 **MATHER:**

15 **MR. JOHN MATHER:** Yes. Good morning,

16 Commissioner. My name is John Mather. I'm attending this
17 morning with my colleague, Michael Robson. We represent the
18 Centre for Free Expression.

19 The CFE is a non-partisan research public
20 education and advocacy centre based out of the Toronto
21 Metropolitan University. Among other things, the CFE
22 advocates for the public's right to information about its
23 government and public institutions.

24 The right to information is a fundamental
25 component of the right to free expression. If Canadians are
26 deprived of information about their government, there cannot
27 be informed public discourse, and informed public discourse
28 is a foundation of genuine democracy.

1 The CFE welcomes and thanks the Commissioner
2 for the opportunity to participate in the Commission's
3 process and to assist the Commission in achieving its mandate
4 to maximize transparency. Transparency is necessary to
5 ensure Canadians have confidence in their elections.

6 Canadians have the right to know what
7 happened, how their government responded and the ongoing
8 threats that may persist and we hope, through this process,
9 that the Canadians will not be left in the dark.

10 Thank you.

11 **COMMISSIONER HOGUE:** Thank you.

12 The Churchill Society.

13 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE DE MS. MALLIHA**

14 **WILSON:**

15 **MS. MALLIHA WILSON:** Good morning.

16 **COMMISSIONER HOGUE:** It's going to be on
17 video, I think.

18 **MS. MALLIHA WILSON:** Yes. Good morning,
19 Madam Commissioner and Commission Counsel. My name is
20 Malliha Wilson. You can refer to me as Ms. Wilson or
21 Counsel Wilson.

22 The Churchill Society for the Advancement of
23 Parliamentary Democracy is a non-partisan charitable
24 organisation that facilitates discussion and debate about
25 Canada's parliamentary democracy. Our work celebrates and
26 upholds the integrity of democratic institutions. And our
27 direct interest in this inquiry stems from that work, and our
28 participation will serve as a bulwark against the erosion of

1 public confidence in these institutions by reassuring our
2 many supporters that our voice is heard. Thank you.

3 **COMMISSIONER HOGUE:** Thank you.

4 The Pillar Society.

5 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE DE MR. DANIEL**

6 **STANTON:**

7 **MR. DANIEL STANTON:** Good morning,
8 Commissioner. Bonjour à tous. I'm Dan Stanton. I'm on the
9 board of directors of the Pillar Society.

10 Formed in 1994, the Pillar Society is an
11 organisation of former members of the Canadian Security
12 Intelligence Service and members of the former RCMP Security
13 Service. We have a very particular set of skills relating to
14 intelligence collection, human source assessment and
15 protection, as well as the disclosure of intelligence and the
16 intelligence to evidence challenge.

17 As noted by the Commissioner in her rationale
18 for accepting Pillar's application, and I quote:

19 "As former members of Canada's
20 intelligence community, Pillar
21 Society members may offer a different
22 perspective than current
23 representatives of CSIS and other
24 government bodies. I acknowledge
25 that the Pillar Society may present a
26 different perspective on a range of
27 intelligence and machinery of
28 government issues, and that the

1 Commission would benefit from diverse
2 viewpoints." (As read)

3 The Pillar Society is very honoured and
4 enthusiastic about participating in this inquiry. Thank you.

5 **COMMISSIONER HOGUE:** Thank you.
6 Democracy Watch.

7 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE DE MR. WADE**

8 **POZIOMKA:**

9 **MR. WADE POZIOMKA:** Good morning,
10 Madam Commissioner. My name is Wade Poziomka, and I, along
11 with my colleague, Nick Papageorge, represent Democracy Watch
12 national nonprofit and nonpartisan organisation advocating
13 for democratic reform, government accountability, and
14 corporate responsibility.

15 **COMMISSIONER HOGUE:** The Conservative Party
16 of Canada, I think on video.

17 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE DE MR. NANDO De**

18 **LUCA:**

19 **MR. NANDO De LUCA:** Good morning,
20 Madam Commissioner. My name is Nando De Luca. I'm appearing
21 on behalf of the Conservative Party of Canada.

22 **COMMISSIONER HOGUE:** Good morning. Thank
23 you.

24 The Chinese Canadian Concern Group on the
25 Chinese Communist Party's Human Rights Violations.

26 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE DE MR. NEIL**

27 **CHANTLER:**

28 **MR. NEIL CHANTLER:** Good morning,

1 Madam Commissioner, Commission Counsel, participants, and
2 counsel. My name is Neil Chantler, and I am counsel for the
3 Chinese Canadian Concern Group on the Chinese Communist
4 Party's Human Rights Violations.

5 The Concern Group is a grassroots
6 organisation formed in 2020. Its members are Hong Kong
7 immigrants to Canada with a wide range of backgrounds and
8 professions, including journalists, professors, engineers,
9 and religious leaders, many of whom have been the target of
10 foreign interference.

11 The Concern Group's mission is to observe and
12 expose human rights violations by the Chinese Communist Party
13 and China's influence on Canada's political, economic, and
14 academic arenas. The Concern Group looks forward to
15 contributing to this inquiry, and has been granted intervenor
16 standing in the fact finding phase and standing in the policy
17 phase of the inquiry. Thank you.

18 **COMMISSIONER HOGUE:** Thank you.

19 Senator Pau Woo, I think on video.

20 **--- OPENING REMARKS BY/REMARQUES D'OUVERTURE DE SENATOR YUEN**

21 **PAU WOO:**

22 **SENATOR YUEN PAU WOO:** Bonjour, Madame la
23 Commissionnaire. Je suis un sénateur indépendant
24 représentant la Colombie-Britannique.

25 I am very pleased to be part of this
26 Commission and look forward to working with all of you.

27 **COMMISSIONER HOGUE:** Thank you.

28 Erin O'Toole. I think his counsel is on

1 video.

2 --- OPENING REMARKS BY/REMARQUES D'OUVERTURE DE MR. TOM

3 JARMYN:

4 **MR. TOM JARMYN:** Good morning, Commissioner.
5 My name is Tom Jarmyn, and, along with my colleague, Preston
6 Lim, we represent the Honourable Erin O'Toole. Mr. O'Toole
7 was first selected as a member of parliament for Durham in
8 2012, and was the leader of the Conservative Party of Canada
9 during the 2021 election. And we look forward to
10 participating in this process. Thank you.

11 **COMMISSIONER HOGUE:** Thank you.

12 The Media Coalition.

13 --- OPENING REMARKS BY/REMARQUES D'OUVERTURE DE MR. CHRISTIAN

14 LeBLANC:

15 **MR. CHRISTIAN LEBLANC:** Bonjour, Madame la
16 Commissaire. Christian Leblanc. Fasken. Je suis accompagné
17 de Me Patricia Hénault qui sera en virtuel ce matin, mais qui
18 se joindra à nous en personne cet après-midi ou demain matin.

19 La Coalition des médias est formée de CTV,
20 Global, Torstar, CBC/Radio-Canada, Québecor Média et le
21 journal La Presse.

22 We're here to assist and, as much as we can,
23 guide the Commission on what we think are very important
24 principles of publicity. And on confidentiality matters, we
25 know that the Commission is very keenly aware of that, and
26 I'm glad that it was repeated this morning.

27 And we will be here to make sure and defend
28 the right of the public to information and at the disposal of

1 the Commission to do so. Merci.

2 **COMMISSIONER HOGUE:** Merci, M. Leblanc.

3 And I think the last one is the NDP, but they
4 are not present this morning if I am right.

5 Did I cover everyone, or am I missing anyone?
6 I don't think so. Just think -- everyone has been covered.
7 Perfect.

8 So we'll go on, and I realise I don't have
9 the....

10 It's -- is it time for the break? I think
11 so, huh, because it's 10:54? Yes? Okay. So we'll take the
12 break.

13 **THE REGISTRAR:** We are now in recess for
14 10 minutes, or 20 minutes.

15 --- Upon recessing at 10:55 a.m./

16 la séance est suspendue à 10h55

17 --- Upon resuming at 11:20 a.m./

18 la séance est reprise à 11h20

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

21 This sitting of the Foreign Interference
22 Commission is back in session. Cette séance de la Commission
23 sur l'ingérence étrangère a repris.

24 **COMMISSIONER HOGUE:** So I would invite Maître
25 Natalia Rodriguez to come to the podium, I think, to make the
26 first presentation.

27 **--- PRESENTATION BY/PRÉSENTATION PAR MS. NATALIA RODRIGUEZ:**

28 **MS. NATALIA RODRIGUEZ:** Thank you, Madam

1 Commissioner.

2 Good morning, everyone. My name is Natalia
3 Rodriguez and I'm Commission Counsel. Today's presentation
4 will be an overview of Commissions of Inquiry generally, and
5 also, a look into the Foreign Interference Commission
6 specifically.

7 If any of the participants have any questions
8 about this presentation or the presentation that will follow
9 in the afternoon, please feel free to email the Commission
10 with any questions.

11 So as an overview, I will be looking at the
12 mandate of the Foreign Interference Commission, the history
13 of Commissions of Inquiry, different types of Commissions of
14 Inquiry, the fact of the fundamental principle of
15 independence that all Commissions enjoy, the type of process
16 which is inquisitorial and not litigation in nature, the
17 usefulness of Commissions of Inquiry. I will also then look
18 at some other investigative or policy inquiries as compared to
19 Commissions of Inquiry. And then finally, we will take a
20 look at the Foreign Interference Commission and some of the
21 characteristics of this Commission in particular.

22 Just having a little technical difficulties
23 with the clicker. Oh, there we go. Thank you very much.

24 So to start, the Foreign Interference
25 Commission has an overarching mandate to examine and assess
26 foreign interference in federal electoral processes and
27 democratic institutions, particularly with respect to the
28 2019 and 2021 general elections, and to make recommendations

1 with respect to that mandate to the government.

2 Commissions of Inquiry have a long history in
3 Canada. In fact, the federal *Inquiries Act* was enacted in
4 1867. So since Confederation, there have been 373 federal
5 Commissions of Inquiry, including this one, so this is number
6 373. And Commissions of Inquiry have covered and looked into
7 many of the most pressing issues of those times, including
8 inflation, health, the environment, pipelines, terrorism, and
9 missing and murdered Indigenous women and girls.

10 There are three different types of
11 Commissions of Inquiry. The first is investigative
12 inquiries, and those make findings of fact about an incident
13 or an institutional or systemic problem. For example,
14 allegations of corruption and the proposed recommendations
15 based on those fact findings to government.

16 This type of inquiry is set up to investigate
17 a past events or a series of events. And as the Supreme
18 Court of Canada said in 1995, it is often in the wake of
19 public shock, horror, disillusionment, or skepticism in order
20 to uncover the truth. This type of Commission of Inquiry
21 examines the conduct of individuals and organizations that
22 may be relevant to past events. And the mandate and purpose
23 here is to explain what went wrong and why. It's not to
24 ascribe any kind of liability, civil, criminal or otherwise.

25 Now the second type of Commissions of Inquiry
26 is the policy inquiry. For example, the Royal Commission of
27 Aboriginal Peoples. And these are more informal than
28 investigative inquiries. The focus here is on research,

1 consulting and developing policy options for government.
2 Commissions of this type are mandated to examine a particular
3 area of public policy and to make recommendations for future
4 policy direction. The primary task here is to gather
5 information about an issue and to use it to create a
6 blueprint for future legislation and policy.

7 Now the third type of Commissions of Inquiry
8 are the blended Commissions of Inquiry, which have both an
9 investigative and a policy function. And the last example
10 that we have on the federal front is the Public Order
11 Emergency Commission, which concluded in February of last
12 year.

13 Now this one, this type of inquiry can be
14 often more complex because it has two completely different
15 stages. And so each stage demands a particular type of
16 evidence and analytical tools. Each requires its own kind of
17 expertise and its own workload, and sometimes its own
18 dedicated team. So to manage these practical and analytical
19 challenges, the Terms of Reference, which is the mandate that
20 is given to the Commission by the government, may divide the
21 inquiry's work into two separate phases; the first being a
22 quasi-judicial phase of fact finding, and the other one is a
23 less legalistic research process to formulate policy
24 recommendations.

25 Now the Foreign Interference Commission, as
26 you have likely guessed, is a blended type of commission.
27 There is an investigative phase, which is set out in the
28 Terms of Reference clause A-1(a) and A-1(d) -- sorry, A-1(b)

1 and A-1(c), and there's a policy phase, which is set out in
2 the Terms of Reference, clause A-1(e).

3 Now, this Commission of Inquiry is unique in
4 that it also has a third type of stage that doesn't fit quite
5 nicely into the investigative or policy phase, and that's set
6 out in Clause D of the Terms of Reference, which require
7 preliminary hearings into national security confidentiality,
8 and that's what we're doing today.

9 Now, commissions of inquiry are based on a
10 fundamental principle of independence. Commissions of
11 inquiry are established by government, and its terms of
12 reference, or its mandate, is also provided to the commission
13 by the government. However, commissions of inquiry are
14 independent from the Executive Branch, and owe allegiance
15 only to the people of Canada. They are non-partisan, and
16 they carry out their work in an independent, impartial, and
17 neutral manner. They are not beholden to political
18 interests, but rather the work is done in the public
19 interest.

20 Once the terms of reference that are drafted
21 by the government are in place, the government no longer has
22 any control or direction over the process or the procedure of
23 the Inquiry. This is unless the Terms of Reference are
24 amended by Order in Council. So the commission receives its
25 mandate and carries out that mandate in an independent
26 manner.

27 Another feature of commissions of inquiry is
28 that they are not part of the justice system; they're not

1 part of the judicial system. They're a different type of
2 process that is not akin to what many lawyers may be familiar
3 with, which is the litigation process. This is not a
4 litigation process; it is not an adversarial process.

5 So in an adversarial system, which is the
6 system that we have here in Canada, there are two advocates,
7 each side representing the interests of one party, and
8 there's also a neutral decision-maker, who hears arguments
9 from both sides and makes a decision.

10 However, a commission of inquiry is not that.
11 It is more akin to an inquisitorial system, which is used in
12 many civil law systems around the world, including in many
13 European countries, where a judge investigates and decides
14 the case.

15 In this case, a commission is also
16 investigating the facts, although there is no civil or
17 criminal liability, as I mentioned.

18 In the report of the Ipperwash Inquiry, the
19 Commissioner said:

20 "A public inquiry is more
21 inquisitorial than adversarial, in
22 that the objective of those involved
23 in the process is to uncover the
24 truth, rather than to establish
25 liability." (As read)

26 In this case, evidence is called by
27 Commission counsel, not by the counsel for the parties or the
28 participants. There are no strict rules of evidence like you

1 would have in a courtroom, but there are still principles of
2 fundamental justice that are observed, and procedural
3 fairness.

4 Commissioners draft their Rules of Procedure
5 that govern their inquiries, generally with the input from
6 participants; so again, a very different type of process than
7 litigation.

8 Why are commissions of inquiry useful? Well,
9 they provide an independent and non-partisan review of
10 events, issues in government; they're able to tackle long-
11 term and complex issues; they're free from many of the
12 institutional impediments or red tape that can sometimes
13 constrain other branches of government, and they're also
14 subject to judicial review.

15 The objectives here are informing and
16 educating the public, politicians, and government, and making
17 recommendations that are aimed at resolving issues and
18 developing policy.

19 Commissions of inquiry have a wide range of
20 investigative powers. Because each commission of inquiry is
21 unique, has a unique mandate, a unique timeline, and it
22 established under unique circumstances, the commission can be
23 staffed with expertise that accord with those specific needs
24 of that commission.

25 Now, there are other bodies and entities that
26 also fulfil a function in our democracy, looking into issues,
27 be they factual issues or policy issues. For example, there
28 are Parliamentary committees that look into some of these

1 issues; there's departmental investigations; the policy
2 branches of departments also fulfil some of this function.
3 There are government and intergovernmental task forces;
4 advocacy groups and think tanks often carry out some of this
5 work. And then on the criminal side, there's criminal
6 investigations and prosecutions. However, all of these are
7 very different from commissions of inquiry and serve a
8 slightly different purpose.

9 Parliamentary committees, how do they compare
10 to commissions of inquiry? Well, they can compel evidence,
11 like commissions of inquiry can, but they are partisan by
12 nature. So that's one distinction.

13 The work of the Parliamentary committee can
14 also die, or be dissolved, if Parliament is dissolved in the
15 middle of their work. They also have no structured format
16 for questioning witnesses and reviewing documents.

17 Departmental investigations are established
18 under Part II of the *Inquiries Act*. They can also compel
19 evidence; however, they are not independent from government
20 as they are established and overseen by a government
21 Minister. They're normally limited in scope, and the scope
22 is the business of that department and the conduct of
23 official duties in the service of that department. So
24 they're not looking at broader issues beyond those of their
25 department.

26 Departments generally have policy branches,
27 and they also carry out some policy work; however, they do
28 not have the ability to compel evidence; they're not

1 independent from government; there's no public oversight or
2 transparency into what goes on in those departments, and they
3 often are consumed by more urgent shorter-term tasks and
4 shorter-term issues within the government, and so this may
5 limit their ability to tackle long-term or more complex
6 policy issues.

7 Government and intergovernmental task forces
8 do not have the power to compel evidence, and they are not
9 independent from government.

10 Advocacy groups and think tanks, as I
11 mentioned, sometimes carry out some of this policy work.
12 They do not have the ability to compel evidence. They are
13 often animated by a particular ideological perspective, and
14 they often lack the resource and expertise for effective
15 investigation, policy-making such as that done by a
16 commission of inquiry.

17 Criminal investigations and prosecutions,
18 obviously very different. They focus on individuals'
19 criminal liability in either defending or proving a charge,
20 so very limited in scope.

21 And so those are some other investigatory
22 bodies that carry out similar, and at times, overlapping work
23 but have very different features than commissions of inquiry.

24 Now, commissions of inquiry are created and
25 funded by legislation. The Government of Canada under
26 section 2 of the *Federal Inquiries Act*, created the Foreign
27 Interference Commission through an Order in Council on
28 September 7, 2023.

1 The *Inquiries Act* allows the Governor in
2 Council to establish an inquiry to investigate any matter
3 connected with the good government or public business of
4 Canada. And this Order in Council of September 7, 2023
5 included the terms of reference for this Commission, and
6 we'll look at those Terms of Reference in a little bit more
7 detail.

8 So after the Foreign Interference Commission
9 completes its report and submits it, it does not play any
10 role in implementing any recommendations.

11 There were four additional Orders in Council
12 that relate to this Inquiry, three of them were made on
13 September 7th. The first designated the Commission as a
14 funded government department under the *Financial*
15 *Administration Act*, which is necessary for funding to have
16 the Commission's work go forward. The second amended the
17 *Security of Information Act* to permanently bind the
18 Commissioner and her staff to secrecy under the Act. The
19 third amended the *Canada Evidence Act* to allow the
20 Commissioner and staff to review classified information. And
21 there was a final Order in Council with respect to this
22 Inquiry on December 21st, and that extended the first
23 deadline of the first report to May 3rd, 2024.

24 So this chart provides an overview of the
25 terms of reference. As I mentioned, there is a clause A, B,
26 C, D, and E. A, B, and C, refer to the factual phase of the
27 inquiry; clause D relates to these hearings that are being
28 held this week with respect to national security

1 confidentiality, and clause E sets out the requirement that
2 the Commissioner make policy recommendations.

3 So clause A, as we are probably all familiar
4 with, requires the Commissioner to examine and assess
5 interference by China, Russia, and other foreign states or
6 nonstate actors, with respect to the 2019 and 2021 general
7 elections, as well as any impacts on those elections, and to
8 confirm the integrity of and any potential impacts on those
9 elections.

10 Clause B requires the Commissioner to examine
11 and assess, with respect to the 2019 and 2021 elections, the
12 flow of information to senior decisionmakers, the flow of
13 information between the Security and Intelligence Threats to
14 Elections Taskforce and the Critical Election Incident Public
15 Protocol Panel, and to also examine and assess actions taken
16 in response to the flow of information.

17 Clause C requires the Commissioner to examine
18 and assess the capacity of relevant federal departments,
19 agencies, institutional structures, and government processes
20 to detect, deter, and encounter any form of foreign
21 interference directly or indirectly targeting Canada's
22 democratic processes, with some specific issues to look at as
23 well, including the effect on members of the diaspora groups.

24 Clause D, as I mentioned, is the clause in
25 the terms of reference that establishes these hearings with
26 respect to classified and national security information and
27 intelligence, and to identify challenges, limitations, and
28 potential adverse impacts associating with the disclosure of

1 this type of information to the public.

2 And as I mentioned, clause E is the clause
3 that requires policy recommendations.

4 So the work of the Commission, as we've just
5 seen, is quite vast, and it is divided up into different
6 phases and stages of work. So this chart sets out the
7 different stages in order, chronological order. So on the
8 very left, we have the preliminary hearings that we're
9 conducting this week, and that refers to clause D of the
10 terms of reference.

11 Next, is Stage 1 of the fact finding phase,
12 and that will encompasses -- encompass clauses A and B. So
13 it's looking at foreign interference in the 2019 and 2021
14 general elections, as well as the flow of information in
15 relation to those elections and foreign interference. After
16 that, the Commission's initial report is due on May 3rd,
17 2024, and we saw the Order In Council that extended that
18 deadline.

19 Stage 2 of the fact finding phase is set out
20 in clause C of the terms of reference, and that relates to,
21 generally, the government's capacity to detect, deter, and
22 counter foreign interference, as well as its capacity to
23 protect vulnerable diaspora members and other specific
24 issues.

25 And finally, when that phase is concluded,
26 the fact finding phase is concluded, the policy phase, which
27 is set out in clause E, will have its moment to shine, and
28 then a final report is due December 31st, 2024.

1 So while the government provides the
2 Commission with its terms of reference, and therefore, its
3 scope of work, the Commission establishes the guiding
4 principles which are akin to a lens through which it will
5 carry out its work. Generally, most commissions of inquiry
6 establish some guiding principles, and these are -- the ones
7 appear on this slide are the five that the Commission on
8 foreign interference will be using as its lens through which
9 to guide its work. And these are also set out at
10 paragraph 11 of the Rules of Practice and Procedure.

11 So the first one is transparency. The
12 Commission's proceedings and processes must be as open and
13 available to the public as is reasonably possible, consistent
14 with the requirements of national and personal security and
15 other applicable confidences and privileges.

16 Fairness. The Commission will work to assure
17 fairness to the public and the participant throughout the
18 proceedings. The Commission will take into account and
19 balance the interests of the public, including the right to
20 be informed; the interests of individuals, and the interests
21 of national security. The Commission will afford fair
22 treatment to all those involved or implicated.

23 The third guiding principle is thoroughness.
24 The Commission will examine the relevant issues with care so
25 that there can be no doubt that the questions raised by the
26 Commission's mandate are explored and answered as thoroughly
27 as possible within the timeframe allocated.

28 Expeditiousness. The Commission is operating

1 under a very tight schedule and must conduct its work
2 accordingly.

3 And finally, proportionality. The Commission
4 will allocate the limited investigative and hearing time
5 available in proportion to the importance and relevance of
6 matters to the Commission's mandate and the relative
7 contributions that the Commissioner determines each
8 participant is able to make to an issue, with the objective
9 of ensuring that the time available to the Commission, which
10 again I must stress is brief, is directed to properly
11 fulfilling the Commission's mandate.

12 Transparency is of utmost importance in the
13 Foreign Interference Commission. It's a primary objective of
14 commissions of inquiry to inform the public as to what has
15 happened and why. However, much of the information produced
16 to the Foreign Interference Commission is classified in its
17 nature, and we'll hear more about that in the presentation in
18 the afternoon, and its disclosure could prejudice national
19 security. So the Commission must find a balance that informs
20 the public without jeopardising national security.

21 The terms of reference specifically require
22 that the Commission maximise public transparency but take the
23 necessary steps to protect national interests. The terms of
24 reference also mandate in clause D these public hearings to
25 help achieve the right balance.

26 In conducting its work, the Commission has
27 certain powers, as I mentioned before. It can summon
28 witnesses. It can require them to produce documents and

1 things that the Commissioner deems necessary to the inquiry.
2 It can receive and review any relevant document, and this is
3 set out in our terms of reference. It can hire experts,
4 clerks, reporters, assistants, and counsel to assist the
5 inquiry. And finally, it can hold public and in-camera
6 hearings.

7 Now, we recently concluded the standing phase
8 of the Commission, and some members of the public may be
9 wondering what that's all about. So we thought we would give
10 a little brief explanation.

11 Standing means an opportunity to participate
12 directly in the proceedings with certain rights. Standing is
13 given to those that can contribute to the work of the
14 commission and have either a substantial and direct interest
15 in the subject matter of the Commission or have some unique
16 experience or expertise that is likely to provide the
17 Commission with assistance in its work that it could not
18 otherwise get.

19 Now, each commission determines how it would
20 like to establish a standing and if there are different
21 categories of standing. In this Commission, there are three
22 types of standing.

23 A party refers to an entity with standing in
24 all or part of the factual inquiry; an intervenor has
25 standing in the factual inquiry, and is usually an entity or
26 individual with some interest in the subject matter of the
27 Commission, but not as direct of an interest as a party; and
28 then we also have standing in the policy phase, which is

1 simply standing at this point.

2 And when we refer to a participant, we're
3 referring to an entity with standing, either party standing,
4 intervenor standing, or simply standing, if we're talking
5 about the policy phase.

6 Briefly on the role of Commission counsel,
7 Commission counsel are chosen and retained by the
8 Commissioner, and they're drawn largely from private
9 practice. Now the benefit here is that Commission counsel
10 can be chosen sometimes with respect to the expertise that
11 they bring to the table, particular experience that they may
12 have. Each group of Commission counsel is different and
13 unique and can respond to the needs of that particular
14 Commission.

15 Like the Commissioner, Commission counsel are
16 independent, neutral and impartial. They do not take the
17 side of any participant. Commission counsel do liaise with
18 participants, however, to facilitate their participation.

19 Thank you.

20 Commission counsel generally conduct the
21 investigation. They request document productions from
22 participants and others. They identify and interview persons
23 with relevant information and potential witnesses. They
24 review documents. They also help to organize the hearings.
25 They lead evidence at the hearings, and they ensure that all
26 relevant information is introduced into the record.

27 Commission counsel also assists the
28 Commissioner in drafting rules, drafting decisions, and the

1 final report. And as well, Commission counsel advise the
2 Commissioner as needed.

3 So the parties, intervenors and witnesses
4 have different rights. The parties have full rights to
5 participate, including the right to access documents in
6 advance of the hearing and to question witnesses.

7 Intervenors have notice of public hearings
8 and they have the right to attend public hearings as
9 participants. They may make oral and written submissions as
10 the Commissioner directs. They receive exhibits from the
11 public hearings, and they may have other rights, including
12 the right to question witnesses when that right is
13 specifically granted by the Commissioner.

14 Now witnesses that are not part of a group
15 that is represented as a participant can have legal
16 representation present when they testify, and they can also
17 ask for any exceptional measures if needed, for example, to
18 remain anonymous.

19 Now a public inquiry would not be a public
20 inquiry without public involvement. There are different ways
21 in which the public can get involved in the Commission's
22 work. The first is by attending the public hearings. So we
23 know that there are people attending virtually on Zoom, there
24 are people watching the hearings that are being live-streamed
25 from the website, and there's also people here in the room,
26 and we would encourage the public to attend the hearings,
27 either online or in person. We welcome you here at 395
28 Wellington.

1 We also have the Commission's website, which
2 already has a lot of information on there, including the
3 Rules of Practice and Procedure, Rules of Standing and
4 Funding, all of the Orders in Council that I mentioned, the
5 Terms of Reference, all of the decisions that have been
6 released so far, and there will be more information on the
7 website forthcoming, including the schedule of proceedings,
8 policy papers as they are developed, and all of the exhibits
9 that are entered into evidence at the hearings.

10 The Commission's also developing a public
11 consultation process to hear directly from affected Canadians
12 and those who want to provide information to the Commission.
13 And as the Commissioner mentioned this morning, we have
14 established a confidential email address for individuals who
15 have confidential information to share with us, to get in
16 contact with the Commission.

17 That is a brief overview of Commissions of
18 Inquiry and the Foreign Interference Commission. Thank you
19 very much.

20 **COMMISSIONER HOGUE:** Thank you, Maître
21 Rodriguez.

22 We are a bit ahead of time, but I think it's
23 -- everyone will be happy to have a bit more time for lunch,
24 so we'll break for lunch, and we'll come back at 1:45. Thank
25 you.

26 **THE REGISTRAR:** Order, please. À l'ordre.
27 The hearing is in recess until 1:45. La séance est en pose
28 pour jusqu'à 13h45.

1 --- Upon recessing at 11:51 p.m./

2 La séance est suspendue à 11h51

3 --- Upon resuming at 1:44 p.m.

4 La séance est reprise à 13h44

5 **THE REGISTRAR:** Order, please. À l'ordre
6 s'il vous plaît. The sitting of the Foreign Interference
7 Commission is back in session. Cette séance de la Commission
8 sur l'ingérence étrangère à repris.

9 **COMMISSIONER HOGUE:** Good afternoon. So our
10 next presentation will be made by Gordon Cameron. He's also
11 Commission counsel. So, Mr. Cameron, if you want to go at
12 the podium, please?

13 **--- PRESENTATION BY/PRÉSENTATION PAR MR. GORDON CAMERON:**

14 **MR. GORDON CAMERON:** Good afternoon. As the
15 Commissioner's mentioned, my name's Gordon Cameron, and the
16 title of this presentation is "The Foreign Interference
17 Commission and Classified Information". And one thing to say
18 at the outset is that this whole week is about that topic,
19 and indeed, tomorrow we will have a series of -- a panel of
20 academic experts, the next day, former senior public
21 officials in the National Security space, and then current
22 incumbent officials and a Minister. So there will be
23 detailed and at different levels academic, practical, and
24 current working discussions of this topic. What is happening
25 this afternoon is an overview to help prepare everybody, both
26 for listening to what's going to come up in the week and for
27 understanding how the Commission is handling the issue of its
28 management of classified information.

1 And so if there are questions out -- that
2 occur to you out of what I'm saying this afternoon, please
3 save them, because they're probably going to be answered by
4 what you're going to hear later in the week. If there's
5 something else that at the end of the week remains
6 unanswered, you can -- as Ms. Rodriguez said, send us an
7 email, but this will just be a very high-level overview of
8 the Commission's work with classified information. And the
9 topics we're going to discuss are -- the Table of Contents
10 looks quite predictable.

11 We're going to start with some definitions
12 and terminology, and that's not insignificant because the
13 Commission has noticed both in the input it's getting from
14 parties and in coverage by the media that the definitions and
15 terminology sometimes do matter to getting -- to
16 understanding properly what's going on with the Commission's
17 work with classified information.

18 We're going to talk about what classified
19 information is, why we use that term, and then how the
20 Commission works with classified information, how we're
21 handling it both mechanically and from issues of policy. And
22 then we're going to talk finally about the particular type of
23 information, classified information that the Commission is
24 noticing is coming to its attention in the foreign
25 interference context as opposed to some other threat that
26 might also generate classified information.

27 Now, at the risk of oversimplification, it is
28 quite useful to make a reasonable simplification and simply

1 talk about classified information.

2 You will see in the documents to which you've
3 had reference already and that will come up later in the
4 hearing the expression "sensitive or potentially injurious
5 information". That's language out of the *Canada Evidence*
6 *Act*. We have a very complete, very complete analysis of that
7 for you tomorrow.

8 And also, there's another expression you
9 might have seen if you've read the Commission's Terms of
10 Reference, and that is "information whose disclosure could be
11 injurious to the critical interests of Canada or its allies,
12 national defence or national security". That phrase appears
13 in this Commission's Terms of Reference in the Order in
14 Council establishing the Commission. It is derivative of
15 language in the *Canada Evidence Act*, but it is custom for us.
16 It was made specific for this Commission.

17 And the reason I'm introducing these concepts
18 under the discussion of classified information is in effect
19 to say you needn't be distracted by the more technical terms
20 for the purposes of this discussion or, frankly, for the
21 purposes of most of your understanding of this Commission's
22 work with classified information because that expression,
23 "classified information", will cover certainly for practical
24 purposes all of the work that we will be doing and all of our
25 discussion when you're making submissions to the Commission
26 or when you're trying to analyze the information that you're
27 seeing.

28 There will be times when you will see the

1 lawyers descend into the more technical language out of the
2 legislation or out of the Terms of Reference because there
3 are places where it could matter but the actual technical
4 terminology from the legislation be used, but for our
5 purposes we're going to be well served just with the
6 expression "national" -- sorry, "classified information".

7 And the topic of this day or this week we've
8 called "National Security Confidentiality", which is an
9 expression those of us who work in the field are very
10 familiar with. It is the umbrella term for those situations
11 in which classified information is necessary and typically
12 where it interfaces with litigation or with the public or
13 something and there is a need for confidentiality that is
14 classification of information for reasons of national
15 security. So this is what we call our NSC week, or our
16 "National Security Confidentiality" week to talk about these
17 terms.

18 Information is classified by the government
19 when the -- and it is classified by the government, by the
20 way. It is exclusively the province of the government to
21 classify information. And it does that when it assesses that
22 it's necessary to restrict the disclosure of the information
23 and, importantly, both within the government and outside the
24 government in order to protect some aspect of the Canadian
25 national public interest.

26 Now, that might seem fairly trite, but
27 there's a fair bit packed into that paragraph -- and as we'll
28 see when we move into some of the subdivisions of this, there

1 are different levels of classification, so not all classified
2 information is the same. And predictably, it follows a range
3 from merely confidential -- and I don't want to understate
4 the potential significance of confidential information, but
5 it is at the lower level of sensitivity, but it is at the
6 lower level of sensitivity to what I've called here very,
7 very secret information which can be at the -- you know, the
8 most sensitive information that the government classifies.

9 And the differences in the levels -- and
10 we're going to look at several of those levels and ascribe
11 some qualities to each of them, but what you'll see in the
12 next few slides is that the differences in the levels are
13 driven by the different levels of harm that it is feared
14 could arise from the disclosure of the information outside of
15 the permitted audience, so that could be outside of a
16 government department, outside of a very small group of
17 people within a government department, outside of the
18 government itself to the public to other nations, potentially
19 to our adversaries, et cetera. So all of these things are
20 taken into consideration when the government is deciding at
21 what level it should classify information.

22 Now, unhelpfully for the vocabulary here, the
23 first category I'm going to talk about is technically not
24 classified information; it's protected information. But
25 functionally, we have to approach it at the same level. It
26 still is information that the government has decided needs to
27 be controlled in its circulation, needs to have restricted
28 access.

1 The difference between protected information
2 and classified information is that protected information
3 pertains to situations in which the harm from disclosure
4 would be to an individual -- sorry, an individual or at least
5 something less than the national interest, than Canada's
6 national interest.

7 It's important because the Commission will --
8 anticipates receiving a fairly substantial volume of
9 protected information. That doesn't mean that the protection
10 of the information isn't significant because, of course,
11 there could be very serious harm. There are levels within
12 protected information, one of which is very serious harm to
13 an individual. So it could still be critically important
14 that the information remain confidential. It just doesn't
15 affect the national public interest at the federal government
16 level.

17 Then -- so if you move from protected
18 information into what technically is called classified
19 information, there are three categories: confidential,
20 secret and top secret. And as I said before, these
21 categories are established based on the anticipated harm that
22 could come from disclosure outside the audience for which the
23 information was assembled.

24 So confidential information is disclosure
25 that could cause some injury if disclosed and injury to the
26 national interest.

27 Secret information, that is, information that
28 gets the classification "secret", is information the

1 disclosure of which could cause serious injury again to the
2 national interest.

3 And finally, top secret information is
4 information the disclosure of which could cause exceptionally
5 grave injury to the national interest. And if you were to
6 look at the government policy on security, those adjectives
7 would be applied in exactly that context.

8 We haven't made these up. Those are the
9 exact terms that are used by the people who classify the
10 information to decide whether they, on looking at a document,
11 should be classifying it as confidential, secret or top
12 secret.

13 And then a point -- and a complication that
14 we'll add here, but it's important because it might arise in
15 the context of some of our discussions, is that within top
16 secret information, there are further categorizations for
17 information that is -- and the expression I've used in the
18 slide is ultra sensitive. So it is at least top secret, but
19 a decision has been made by the people who have assembled the
20 information that it should only be disclosed within an even
21 more restricted audience than would otherwise be available
22 with top secret information, so -- sometimes this is called
23 compartmentalization or control systems that are used even
24 with top secret information.

25 And though the -- there is nothing
26 technically above top secret, the expression "top secret and
27 above" has just come into the parlance as the way of
28 describing both top-secret information and the various sub-

1 compartments of especially sensitive top-secret information
2 that might arise.

3 A point that I'll just digress on briefly
4 here is that when we're talking about a document and its
5 classification at the confidential, secret, or top-secret
6 level, that designation of the document doesn't mean that
7 every word in that document is at the top-secret level; that
8 is, that the disclosure of any, say, sentence in that
9 document could cause exceptionally grave harm to the national
10 interest. It could mean that one sentence in that document
11 could cause that type of harm and the rest of the document
12 might -- I say "only", but this is still substantial, only be
13 at a secret level or perhaps not even necessarily classified
14 upon itself. But when a person's creating a document and
15 that document is what is going to be circulated, if there's
16 one item of information in there that is at the top-secret
17 level, obviously, the whole document has to be classified as
18 top secret. I mention that because when we come later to
19 discussion of things like redactions, that fact that not the
20 whole document needs to be top secret, that doesn't flow
21 necessarily from the designation or classification of it as
22 top secret.

23 Now one of the points we wanted to make sure
24 the parties and the public were completely alert to is that
25 this Commission has access to all of the categories I just
26 described, of classified information, obviously, protected
27 and classified information, protected, secret, top secret,
28 any compartmentalization, any information relevant to foreign

1 interference that the Commission has requested from the
2 government will be given to us regardless of its
3 classification of or regardless of its compartmentalization,
4 regardless of its otherwise restricted information within
5 government. There might only be three people within
6 government who are entitled to see the document, but the
7 Commission will see it. So there's nothing -- no information
8 withheld from the Commissioner or Commission counsel on the
9 basis that it would be -- that it is classified or otherwise
10 protected on grounds of national security.

11 Now, this didn't come about without a
12 considerable amount of work on the part of the Commission,
13 and the government, and everybody else to make it possible
14 for the Commission to have this unrestricted access to
15 classified information. And so one thing that -- and for
16 those of you who are wondering why the hearings didn't start
17 the day after the Order in Council came out, one thing that
18 had to happen was that the Commissioner and all Commission
19 counsel had to be security cleared to the highest levels and
20 indoctrinated to all of those top secret and above
21 compartmentalizations of, so that the Commissioner and all
22 Commission counsel would have access to all of the classified
23 information. There will be controls within the Commission
24 about who sees what, but we are at least all, as the lawyers
25 would say, *prima facie* qualified to see that information.

26 Another thing that had to happen before we
27 could have you here today and get started on the public
28 hearings is that the Commission had to have premises that it

1 could examine this information in, and those premises are not
2 just any board room in a building in Ottawa. They have to be
3 specially constructed, so that they are both secure as to
4 access, secure as to potential eavesdropping, that all of the
5 computers, everything has to be unhackable. So there's a
6 huge infrastructure program that has to take place when a --
7 when you get literally a pop-up entity like a Commission of
8 Inquiry that is suddenly going to be given access to the most
9 sensitive information that the government holds, there's an
10 incredible machine that had to come into place to get
11 premises, to get computers, to get infrastructure, to get
12 personnel properly cleared, et cetera. All of that has
13 happened. We're well underway in the course of the work, but
14 that is a -- one of the consequences of the fact that the
15 Commission has access by virtue of its Terms of Reference to
16 all of this information.

17 Another consequence is that because we have
18 been given this information, all of us, the Commissioner,
19 Commission counsel, any staff who have access to the
20 information, are by law -- we also swore oaths, but we are --
21 by virtue of at least the *Security of Information Act* and
22 some of the legislation, permanently, as in until we die,
23 bound to secrecy for all of this information.

24 Now here is the -- what you might call the
25 inflection point in the discussion, because so far we've been
26 talking about the unrestricted access that the Commission has
27 to all of the classified information. And what has to be
28 understood to appreciate the way you are going to see the

1 Commission's work unfold over the coming months is that
2 there's a difference between having access to classified
3 information and having the authority to disclose it. And you
4 might even put that more categorically than there being a
5 difference between them, which is having access to classified
6 information accords no authority to disclose it. And as a
7 matter of fact, as I was just saying in relation to the
8 Commission being permanently bound to secrecy, often access
9 to classified information is prohibitive of ever being able
10 to disclose it because you are in that category of people who
11 are not allowed to disclose.

12 And this is not just something unique to
13 public Commissions of Public Inquiry or this Commission,
14 obviously. There are other entities out there that work with
15 these same restrictions, and NSIRA and NSICOP are good
16 examples. You also encounter this in some tribunals. Courts
17 sometimes have similar issues where the Commission has access
18 to classified information but no authority at all to disclose
19 it to the public, or indeed, as government controls itself
20 within its various departments, the Commission doesn't have
21 authority to disclose it to people in the government who
22 aren't authorized to receive it.

23 So analogous to that, analogous to the lack
24 of authority to disclose it is the Commission does not have
25 any authority to unilaterally declassify information. So we
26 can't look at a document and say this is classified as top
27 secret, but in our view, it only needs to be classified as
28 secret or confidential or not classified at all. The

1 Commission has no authority to render information disclosable
2 unilaterally.

3 And so the question you might ask is what do
4 we do then? You know, what good is it that we have access to
5 all of this classified information in a public inquiry if the
6 Commission doesn't have any authority to disclose it? And
7 the answer is that because of the restrictions on disclosure,
8 what the Commission will do, and what other Commissions have
9 done in the past, is make representations to the government
10 to achieve maximum transparency, which is, of course, within
11 the Commission's Terms of Reference and something that is
12 central in the way all of the work will be done.

13 Now there are -- I'm going to look here at
14 several of the tools that we use to make representations to
15 government and try to give some examples, or at least
16 elaborate for you about what it means for us to do this kind
17 of work. I'm going to start -- this could have warranted, in
18 retrospect, a slide of its own, but just so that you
19 understand how we get to this stage where we've got
20 classified information, and the Commission has an interest in
21 disclosing some part of that document to the parties and to
22 the public. The process would start with the Commission
23 identifying some -- and this would be a rolling process, but
24 some documents that it thought important that the parties,
25 and perhaps ultimately the public, have to participate in the
26 Commission's work. And so a request -- and bearing in mind,
27 the Commission is looking at the totally unredacted document.
28 It is looking at a bare document with all of the information

1 in it. The Commission would then send off a request to the
2 government, here are 10, 50, a hundred, whatever number of
3 documents that the Commission has identified as appropriate
4 for disclosure to the parties or the public. Would you, the
5 government, render them disclosable? So here they are in
6 their bare form. Would you send them back to us in a form
7 that we can then disclose to the public? And you've seen, if
8 you've looked at the consultation paper and the results of
9 that, what that looks like when it comes back. Sometimes the
10 document is almost completely redacted, sometimes it's almost
11 complete disclosed, depending on the volume of classified
12 information in that document.

13 So if we then look at that stage in that
14 sequence of events, picture the Commission has now received
15 back a batch of these documents that it wants to disclose to
16 you, and it's -- the documents say it's got a document with
17 four lines of redaction in it, the first representation, the
18 first category of representation that the Commission can make
19 to the government is to basically disagree with the
20 government that a redaction belongs there. To simply say it
21 is our view that there is no injury from the disclosure of
22 what is underneath this redaction; and therefore, that
23 redaction can be just lifted and the words can go out in
24 their current form. So that's a lift of a redaction, and
25 that's the kind of representation we might make say for the
26 first of the four redactions in the document that we come
27 across.

28 Then the second type of thing, we might

1 across say the second redaction, where the Commission agrees
2 that those words would cause injury if disclosed. That the
3 redaction is a fair redaction because if that redaction
4 weren't there, there would be injury from the disclosure of
5 those words.

6 What the Commission might then say is, though
7 we can't use those words, we can reframe the point in a way
8 that gets the gist of those redacted words across without any
9 injury. So we, in effect, filter out the classified
10 information from the redacted words, reframe it, and this
11 process is called summarisation.

12 And so when you see a document, what you
13 might see is a redaction and then a textbox on top of it,
14 like "discussion of target's movements", or something like
15 that, that is vague. It allows the reader to sort of follow
16 through the document in ways that redactions cannot sometimes
17 be very frustrating in preventing, is sometimes you come
18 across a redaction and then an unredacted sentence, but you
19 can't make sense of the unredacted sentence because it
20 obviously flowed from the redacted sentence. So if we can
21 get a summary of that redaction that allows the reader to
22 make sense, perhaps, of some of the gist of what was
23 redacted, but especially so that they can then make sense of
24 the rest of the whole document, that's the other tool we have
25 when we are trying to get disclosure.

26 So in this case, sorry, in both cases, the
27 argument is what we propose for disclosure need not be
28 classified. Either the classification was never warranted or

1 the words can be reframed and summarised in a way that
2 doesn't require classification that allows disclosure to the
3 public.

4 The third approach that the Commission can
5 take is to look at -- let's -- so let's take the third of the
6 redactions on the page. And we look at it, and we say, A,
7 this is a legitimate redaction, so there would be some
8 injury, and no matter how hard we think about it, we can't
9 think of any way of reframing this or summarising it or
10 "gisting" those words so that it could be disclosed, it's
11 just plain injurious any way you deal with that redaction.

12 But if the Commissioner decides that the
13 public interest in disclosure of that information is so
14 important, that even though there could be some injury from
15 its disclosure, it should be disclosed to the public, then we
16 would make that representation to the government.

17 So those are the -- that is the sort of tier
18 -- tiered approach to getting maximum disclosure of the
19 information: lifting redactions where possible, summarising
20 where possible, and where none of that is possible, but the
21 information is very important, convincing the government that
22 it's simply in the public interest to disclose it even though
23 there could be some injury from that disclosure.

24 Now, well you might say, how is the
25 Commission going to argue with the government on any of these
26 points that a redaction should be lifted? Who are we to say
27 that information shouldn't be classified? Who are we to come up
28 with summaries that don't disclose classified information?

1 Or why would the government be persuaded by anything we said
2 about the public interest in disclosure?

3 And needless to say, as you've probably
4 figured out, the Commissioner saw this coming a long way
5 away, and so Commission has counsel and advisors who are
6 experienced in exactly this type of work. For some of us,
7 this is literally our day job. It's making these types of
8 representations to the government, in the context of other
9 public inquiries, as Commission counsel; in public inquiries
10 dealing with national security information as *amici*; in
11 public inquiries dealing with national security information;
12 a lot of work in the Federal Court, which is where most of
13 the national security litigation ends up under the *Canada*
14 *Evidence Act*, as I say, about which you'll hear a lot
15 tomorrow. So this is just a job that we will have to do to
16 bring the expertise and the experience that counsel in this
17 field have gained to be able to make those representations.

18 Now, moving to another point here. Given the
19 volume of classified information that is generated in the
20 course of the government's investigation of foreign
21 interference, it is possible that the Commissioner will end
22 up having, not only examining classified documents, but
23 hearing oral testimony in the absence of the public. That
24 is, that if someone is going to speak to information that has
25 to be classified, if a witness is going to speak to that, or
26 answer questions about classified information, that that will
27 have to take place in a closed hearing, what we call
28 *in-camera* hearings.

1 And by the -- for the same reasons that the
2 Commission doesn't have authority to simply disclose the
3 classified information and documents that she receives, she
4 doesn't have authority, absent the agreement of the
5 government, to permit anyone to attend those closed hearings,
6 other than the Commission and government lawyers. So you
7 have documentation that's classified, there could also be
8 oral testimony that is classified and it would be heard in a
9 closed proceeding.

10 A way to mitigate, it's never going to be
11 perfect, but a way to mitigate the fact that the
12 unsatisfactory situation of people whose interests are
13 affected by what goes on *in-camera*, is for Commission counsel
14 to consult with the parties before going *in-camera*, before
15 going into a hearing to which the parties aren't admitted,
16 about the topics that are expected to be discussed and the
17 points that you and your clients want explored in those
18 *in-camera* hearings. That might have already been made
19 evident to us from other submissions that have been made in
20 the course -- by the time we end up in an *in-camera* hearing,
21 but we can't be too clear in -- we want to be very clear that
22 an important part of making the *ex parte in-camera* hearings
23 work is input from the parties and their counsel about issues
24 that they would like to see explored.

25 And again, this is a process. That is,
26 counsel who are going to go into an *in-camera* hearing,
27 consulting with the other people who can't go to that hearing
28 but whose interests are affected, this is a process that

1 Commission counsel here are familiar with from other
2 contexts. It's what we do in other national security
3 litigation where we're trying to elicit information of
4 interest to parties who can't be present in the closed
5 proceedings.

6 And again, the testimony, the oral testimony
7 that is received *in-camera* will, to the extent it is dealing
8 with injurious information, be classified the same way it
9 would be in a document. It would appear on paper or
10 electronically, I suppose these days as a transcript, but
11 that would be a classified transcript. And so the Commission
12 will again in that process go through the same attempt to
13 maximise transparency by getting out to the parties as much
14 of that information that was received *in-camera* as is
15 possible.

16 Now the bullet there is really just to bring
17 these two concepts together, that for both documents and for
18 *in camera* testimony the Commission can attempt to persuade
19 the government to disclose information, but the decisions
20 will be made by the government. By those within the
21 government responsible for the information. And you will
22 have witnesses on Thursday and Friday who will be responsible
23 for those decisions, and it will be their job to explain how
24 they will deal with situations in which the Commission is
25 approaching them for the disclosure of information that they
26 had at that time classified.

27 Now, it's not exclusively persuasive, as the
28 lawyers in the room know. If there is disagreement between

1 the Commission and the government on a point that is
2 important enough to warrant litigation, the Commission can --
3 to use their vernacular -- take the government to court. It
4 can bring an application in the Federal Court, or more
5 probably announce that it intends to disclose information and
6 that will prompt the government to bring an application in
7 federal court.

8 And the matter, this question of does the
9 information need to be classified? Is there injury from it?
10 The Court might be able to come up with a summary that the
11 government and the Commission couldn't realize an agreement
12 on. That whole discussion moves over to the Federal Court
13 where a Judge -- Federal Court Judge would hear
14 representations and it wouldn't then be simply a question of
15 the Commission trying to persuade the government.

16 The Commission would be making submissions to
17 a Federal Court Judge, the government would be making
18 submissions to a Federal Court Judge, and a Federal Court
19 Judge would decide whether the information needs to be
20 withheld from the public. And that would be the same
21 analysis of in that case, is the information injurious and if
22 it is injurious is it nonetheless -- is there a weight of
23 public interest that justifies disclosure of the information,
24 even though there could be some injury to the public
25 interest.

26 So that covers both the process, the types of
27 information we're dealing with, the ways we are going to
28 encounter it, the ways we're going to deal with it, and

1 hopefully the way we will get maximum transparency to the
2 parties; and if we don't, that we end up in court.

3 This is -- the next topic is somewhat
4 different. It's not so much about the process as why this
5 process has assumed so much importance in this particular
6 public inquiry. And part of this is not so much a message
7 from the Commission to the parties and to the public, as a
8 message that the Commission is getting from the government
9 and thought it useful to put in this context here, because it
10 is very much related to the discussion of how much of this
11 classified information we will be able to get disclosed to
12 the parties and the public.

13 And the position of the government and our
14 understanding on looking at the volume of information that is
15 coming to us classified at a very high level, is that the
16 type of information that intelligence agencies gather when
17 investigating foreign interference tends to be especially
18 sensitive. And there are several reasons that we can see for
19 this, or that we've been advised about for this.

20 One is that the methods used to gather
21 foreign interference information often include highly
22 sensitive source, such as human sources whose lives are at
23 risk, or technologies, that is investigative techniques or
24 methods the government has of gathering information that it
25 simply does not want our adversaries to know about.

26 Another reason is that the disclosure of
27 foreign interference information can be especially harmful to
28 Canadians, individuals, or the Canadian public interest.

1 That of course is closely linked to the first one, the first
2 point.

3 And another point, and again, this will be
4 for the witnesses on Thursday to -- to convince you of, or
5 explain in greater detail. Any disclosure of foreign
6 interference information that comes out of this Commission of
7 Inquiry will be analyzed -- I say very sophisticated
8 intelligence agencies. I think most people would observe
9 among the most sophisticated intelligence agencies in the
10 world will be analyzing every bit of information that comes
11 out of this Commission of Inquiry.

12 And they have the ability as we've seen just
13 in popular culture and in what we know from our own
14 understanding of the ability to aggregate information, these
15 intelligence agencies have massive databanks of information
16 and have the ability to take the crumbs that come out of this
17 inquiry and combine them with that information and draw
18 conclusions that are very difficult to predict. That's part
19 of the problem is it's hard to know what they can do with the
20 information.

21 All we know is that we are dealing with
22 foreign intelligence agencies that if there is a way to
23 extract every drop of value from any piece of information
24 that comes out of this Commission, they have that ability
25 because of their sophistication of their intelligence
26 apparatus.

27 And so, a very large proportion of the
28 information that has been given to the Commission to date is

1 classified at the very highest levels.

2 The process is ongoing. We are still asking
3 for and receiving information, and so we don't have
4 definitive -- we don't have the data to make a definitive
5 analysis yet, but we've been working in this area for, some
6 of us, all of our careers, and we are able to observe that of
7 the information the Commission is receiving, a very high
8 proportion of it is classified at top secret or above,
9 typically above.

10 And we were able to come up with a rough
11 comparison, just to give -- I know that for some of you, you
12 were involved in the Public Order Emergency Commission or are
13 able to have reference to it. Just this is a rough
14 comparison because we are still in the process of gathering
15 documents and haven't even gotten to the stage of admitting
16 exhibits. We don't have an apples-to-apples comparison. We
17 can't compare exhibits to exhibits here.

18 But on the logical inference that there is
19 going to be a rough order of magnitude relationship between
20 the volume of documents that come in and their
21 classification, and the number of exhibits that get filed,
22 it's we think, still illustrative that in the Public Order
23 Emergency Commission, which remember -- or if you weren't
24 there I'll remind you, I'll tell you -- it was a public
25 inquiry that involved a high volume of national security
26 information.

27 Those of you who were involved in it got used
28 to seeing highly redacted, totally blacked out pages, because

1 there was a high volume of classified information. And yet,
2 less than half of a percent of the documents filed as
3 exhibits -- but these would all have been in the closed
4 proceedings -- were classified as top secret. And again,
5 it's a rough comparison.

6 But to date, 80 percent of the documents that
7 the Commission has received are classified at some level, and
8 80 percent of those are classified at top secret or above.
9 So acknowledging that it's not -- that we're comparing
10 exhibits to raw production, it's not really an apples to
11 apples comparison. Just you can see the difference in the
12 proportionate level of classification. You had a national
13 security public inquiry in POEC, but it did not generate
14 nearly so much top secret and above classified exhibits as
15 can be anticipated in this hearing.

16 Now, these are the challenges we face, but
17 the Commission has been mandated, and you've seen this in the
18 terms of reference and in all of the public statements of the
19 Commission. It is dedicated to making as much of this
20 information public as is possible within the law, and it has
21 the tools to do it. Frankly, if any Commission of Inquiry
22 could do it, this one can.

23 And this week of hearings is where we hope to
24 get your input on how we can do that better. Because some of
25 you have national security litigation experience, all of you
26 represent clients who have perspectives that aren't nearly as
27 familiar to us as they will be to you, and so it will be
28 input from you, both during this week, when you tell us how

1 better to get redactions lifted, how better to get summaries
2 prepared, how better to convince the government that
3 information should be disclosed, even though it's potentially
4 injurious. That is how we will be even better equipped is
5 from input from you, both this week during this hearing and
6 on an ongoing basis as we consult you to help us get through
7 this with as much disclosure as possible.

8 Thank you.

9 **COMMISSIONER HOGUE:** Merci, M. Cameron.

10 Alors, écoutez, ça termine notre journée.
11 Euh... pour demain, simplement de façon à ce que vous
12 puissiez tous planifier correctement votre journée, on a
13 prévu une pleine journée, c'est-à-dire, euh... un début à 10
14 h 00 et on prévoit, évidemment toujours dépendamment de la
15 façon dont les choses se déroulent, probablement en avoir
16 jusqu'à 16 h 30, demain.

17 Alors, au plaisir de tous vous revoir demain
18 matin.

19 **THE REGISTRAR:** Order, please. À l'ordre.

20 The hearing is now adjourned for the day. La
21 séance est maintenant close.

22 --- Upon adjourning at 2:28 p.m./

23 L'audience est ajournée à 14 h 28

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C E R T I F I C A T I O N

I, Sandrine Marineau-Lupien, a certified court reporter,
hereby certify the foregoing pages to be an accurate
transcription of my notes/records to the best of my skill and
ability, and I so swear.

Je, Sandrine Marineau-Lupien, une sténographe officiel,
certifie que les pages ci-hautes sont une transcription
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Sandrine Marineau-Lupien