



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

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

**Public Hearing**

**Audience publique**

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

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## II Appearances / Comparutions

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 Leila Ghahhary Emily McBain-Ashfield Hamza Mohamadhossen
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

### III

## Appearances / Comparutions

Commission Staff / Personnel de la commission	Annie Desgagné Casper Donovan Michael Tansey
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 Nancy Miles
Human Rights Coalition	Hannah Taylor Sarah Teich
Russian Canadian Democratic Alliance	Mark Power 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

## IV Appearances / Comparutions

Churchill Society

Malliha Wilson

The Pillar Society

Daniel Stanton

Democracy Watch

Wade Poziomka  
Nick Papageorge

Canada's NDP

Lucy Watson

Conservative Party of Canada

Nando de Luca

Chinese Canadian Concern Group on  
The Chinese Communist Party's  
Human Rights Violations

Neil Chantler

Erin O'Toole

Thomas W. Jarmyn  
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Senator Yuen Pau Woo

Yuen Pau Woo

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Ottawa, Ontario

--- The hearing begins Thursday, March 27, 2024 at 9:51 a.m.

**THE REGISTRAR:** Order, please.

This sitting of the Foreign Interference Commission is now in session. Commissioner Hogue is presiding.

The time is 9:51 a.m.

**COMMISSIONER HOGUE:** [No interpretation]

...sorry for being a bit late this morning, but sometimes we have some issues that prevent us from starting on time.

I am ready to begin.

**MR. DANIEL SHEPPARD:** Thank you, Madam Commissioner. It's Daniel Sheppard for the Commission.

The Commission's first witness today is Stéphane Perrault, Chief Electoral Officer of Canada.

If the witness could please be affirmed.

**COMMISSIONER HOGUE:** [No interpretation].

**THE REGISTRAR:** Could you please state your name and your -- and spell your last name for the record, please?

**MR. STÉPHANE PERRAULT:** Stéphane Perrault.  
P-e-r-r-a-u-l-t.

**--- MR. STÉPHANE PERRAULT, Affirmed:**

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

**--- EXAMINATION IN-CHIEF BY MR. DANIEL SHEPPARD:**

**MR. DANIEL SHEPPARD:** Good morning, Mr. Perrault.

1                   **MR. STÉPHANE PERRAULT:** Good morning.

2                   **MR. DANIEL SHEPPARD:** I'd like to get some  
3 preliminary matters just out of the way first.

4                   If the court operator could please bring up  
5 ELC.IR.1.EN, please.

6                   And while that's being brought up, Mr.  
7 Perrault, Elections Canada prepared an institutional report  
8 at the request of Commission counsel. Is that right?

9                   **--- EXHIBIT No. ELC.IR.1.EN:**

10                                   Elections Canada Institutional Report

11                   **MR. STÉPHANE PERRAULT:** That's correct.

12                   **MR. DANIEL SHEPPARD:** And I believe we're  
13 just bringing it up.

14                   You had an opportunity to review the  
15 institutional report that you prepared?

16                   **MR. STÉPHANE PERRAULT:** I have.

17                   **MR. DANIEL SHEPPARD:** Okay. And are you able  
18 to adopt that institutional report as the evidence of  
19 Elections Canada for the purposes of this Commission?

20                   **MR. STÉPHANE PERRAULT:** I am.

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

22                   And just for the record, there's also a  
23 French language version which can be found at ELC.IR.1.FR.

24                   **--- EXHIBIT No. ELC.IR.1.FR:**

25                                   Rapport institutionnel d'Élection  
26                                   Canada

27                   **MR. DANIEL SHEPPARD:** The next document I  
28 would like brought up is WIT20.EN.



1 interviewed by Commission counsel on March 14th in a  
2 classified setting. Is that correct?

3 **MR. STÉPHANE PERRAULT:** I was.

4 **MR. DANIEL SHEPPARD:** Okay. And following  
5 that classified interview, a publicly disclosable summary was  
6 produced.

7 **MR. STÉPHANE PERRAULT:** Correct.

8 **MR. DANIEL SHEPPARD:** I understand that there  
9 are two corrections to be made to the summary that was  
10 produced.

11 If we can scroll to paragraph 1, please?

12 In the first line, it says:

13 "Mr. Perrault explained that during  
14 the 2019 federal election, he  
15 discussed with the Canadian Security  
16 Intelligence Service..."

17 I understand the first correction is that the  
18 words "discussed with" should be replaced with the words "was  
19 informed by". Is that correct?

20 **MR. STÉPHANE PERRAULT:** That is correct.

21 **MR. DANIEL SHEPPARD:** The second correction  
22 is following the bolded word "CSIS" in the second line. The  
23 words "allegations of irregularities" should be replaced with  
24 the words "a fact situation that could involve foreign  
25 interference".

26 I'm just going to say that one more time, "a  
27 fact situation that could involve foreign interference".

28 Is that also a correction?

1                   **MR. STÉPHANE PERRAULT:** That is correct.

2                   **MR. DANIEL SHEPPARD:** With those two  
3 corrections made, do you agree that this public summary is an  
4 accurate summarization of your classified interview with  
5 Commission counsel?

6                   **MR. STÉPHANE PERRAULT:** It is.

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

8                   And again, for the record, the French version  
9 of that summary can be found at WIT31\_FR.

10                   And we can take that document down.

11                   **--- EXHIBIT No. WIT 31.FR:**

12                                   Stephane Perrault Public Interview  
13                                   Summary v2

14                   **MR. DANIEL SHEPPARD:** All right. So Mr.  
15 Perrault, could you please describe what your roles and  
16 responsibilities are as the Chief Electoral Officer of  
17 Canada?

18                   **MR. STÉPHANE PERRAULT:** So I guess my -- our  
19 core mandate is to administer federal elections,  
20 bi-elections, or general elections within the boundaries,  
21 essentially, of the *Canada Elections Act*. I would say that  
22 there are three main elements to that role. One is an  
23 operational aspect, which involves, for example, the  
24 maintaining of a national register of electors from which we  
25 draw lists that are used in elections.

26                   I appoint returning officers for each of  
27 Canada's 338, soon to be 443 electoral districts, and we  
28 train and support those returning officers. When a writ is

1       dropped, and of course we often do not know when that  
2       happens, returning officers have to set up an office. We  
3       have about 500 offices that need to be set up across the  
4       country after the writ is dropped. So we support them in  
5       that regard, and we provide office equipment and computers  
6       and telephony, and then all of the material that is required  
7       for the conduct of an election.

8                 Returning officers have to identify some  
9       15,000 to 16,000 polling locations during the period of the  
10      early days of the election, sign those leases, so that they  
11      can assign voters to those polling locations, and then they  
12      must recruit and train some 230,000 people within a matter of  
13      days. So of course we support them in that regard and we  
14      support them with training.

15                So that's the core of the operational role.  
16      We also, of course, have a mandate to inform Canadians about  
17      the electoral process and the ways in which they can vote and  
18      the requirements that they must meet in order to vote. So  
19      that's the second aspect.

20                And the third aspect is administering the  
21      political financing rules under the *Canada Elections Act*.  
22      And perhaps I can elaborate on that if you wish.

23                **MR. DANIEL SHEPPARD:** So let's talk a little  
24      bit about the political financing rule. So I understand that  
25      under the *Canada Elections Act* there are a number of rules  
26      that regulate how money can be contributed, collected, used,  
27      and disclosed throughout the election process. Is that....?

28                **MR. STÉPHANE PERRAULT:** That is correct. I

1 should say that I believe that we have one of the most robust  
2 and complete political financing regime in the world. That  
3 does not make it perfect, and we regularly seek ways to  
4 improve it, and I've made recommendations to Parliament to do  
5 that.

6 But in the whole, it is a very comprehensive  
7 regime, and so that does include elements like public funding  
8 for various political entities, it includes spending limits  
9 for candidate's parties and third parties. In the case of  
10 third parties, it includes pre writ spending limits as well  
11 as limits during the election period.

12 It includes fairly restrictive contribution  
13 rules as to who can contribute and how much to the various  
14 political entities, but they're relatively low thresholds in  
15 Canada for contributions compared to what you see  
16 internationally, and there are very low thresholds for  
17 disclosure. For any amount of \$200 or more, the name and  
18 address of the contributor is disclosed and reported on  
19 publicly. And again, that is quite transparent compared to  
20 most other jurisdictions around the world.

21 So that's the regime in a, you know, in a  
22 nutshell, in a very, very shortly summarised that we  
23 administer.

24 It is a complex regime, so we provide  
25 guidance to political entities in the form of handbooks. We  
26 do very specific interpretation notes on more complex or  
27 controversial aspects of the regime. We provide training for  
28 financial agents, in person and virtually. We, of course,

1 receive the financial returns annually, in the case of  
2 parties and district associations, and event based for  
3 candidates' parties, nomination, and leadership contestants.

4 And then we audit those returns and we -- if  
5 we find apparent non-compliance, then we may refer the matter  
6 to the Commissioner of Canada Elections for further  
7 investigation or compliance activities. We also publish all  
8 of that information and make it publicly available on our  
9 website and in person. People can come in and examine the  
10 underlying documents to satisfy themselves of the compliance  
11 with the Rules.

12 **MR. DANIEL SHEPPARD:** Thank you. And I'd  
13 like to pick up on two parts of your answer there. The first  
14 was your reference to the publication of handbooks. So as I  
15 understand it, these are documents prepared by Elections  
16 Canada that are essentially designed to provide information  
17 about the political financing rules that are applicable to  
18 different types of participants in the electoral process.

19 **MR. STÉPHANE PERRAULT:** That is correct.  
20 It's prepared by Elections Canada, but there is an open  
21 consultation process with parties and the Commissioner on  
22 those handbooks.

23 **MR. DANIEL SHEPPARD:** And I'm not going to  
24 ask them to be pulled up, but Elections Canada did provide  
25 copies of the handbooks for both the -- that were in effect  
26 during both the 2019 and the 2021 elections. And those can  
27 be found at ELC25 through to ELC41.

28 The other thing that you mentioned in your

1 discussion of the political financing rules, had to do with  
2 making referrals to the Office of the Commissioner of Canada  
3 Elections. So maybe you can just very briefly explain what  
4 is the Office of Commissioner of Canada Elections and how  
5 that office relates to your office as Chief Electoral  
6 Officer.

7 **MR. STÉPHANE PERRAULT:** So the Commissioner  
8 of Canada Elections is responsible for the enforcement of the  
9 *Canada Elections Act*. It is responsible for taking or  
10 deciding to make any investigation or taking any enforcement  
11 action within the powers granted to the Commissioner under  
12 the Act.

13 Under the Act, the Commissioner is appointed  
14 by the Chief Electoral Officer, by myself, after consultation  
15 with the Director of Public Prosecution. But once appointed,  
16 the Act is very clear that the Commissioner operates  
17 independently in the exercise of all of her functions in  
18 relation to investigations and compliance under the Act. So  
19 there is a clear and very strong separation of powers between  
20 the two offices.

21 **MR. DANIEL SHEPPARD:** And so to be clear,  
22 then, do you give direction to the Commissioner of Canada  
23 Elections in terms of what she should or should not  
24 investigate?

25 **MR. STÉPHANE PERRAULT:** I do not. The two  
26 things that I do is if, and it happens regularly, receive  
27 complaints that should be addressed to the Commissioner, we  
28 don't really exercise any significant judgement there. We

1       redirect those complaints to the Commissioner. But if in the  
2       course of our responsibilities, my responsibilities under the  
3       Act, I see situations, and this is mostly in relation to  
4       political financing, that suggest a violation of the Act,  
5       then I will refer that matter to the Commissioner, and then  
6       she has to examine and decide whatever actions she deems  
7       appropriate.

8                   **MR. DANIEL SHEPPARD:** Okay. And we're going  
9       to return a little bit later on to some of the information  
10      flows between Elections Canada and the OCCE, and those will  
11      be dealt with by my colleague, Mr. Ferguson, who will be  
12      continuing this questioning a little bit later on.

13                   One final question about some of the  
14      regulatory roles that Elections Canada plays. Does Elections  
15      Canada have a role in overseeing or regulating the party  
16      nomination process?

17                   **MR. STÉPHANE PERRAULT:** It does not. So  
18      nomination contests, first of all, under the Act, parties are  
19      not required to hold a contest. They may hold a contest, and  
20      if they do, that happens either at the party or most often at  
21      the electoral district association level, where there is one.  
22      There are some rules around political financing to ensure  
23      that the money that flows into the nomination contest does  
24      not -- is not improper and does not flow through the other  
25      political entities. But beyond some restrictions around the  
26      financing, we have no roles, and there are no rules in the  
27      Act regarding the manner in which and who participates in  
28      nomination contests.

1                   **MR. DANIEL SHEPPARD:** For those parties that  
2 choose to hold nomination contests, I understand that there's  
3 something called a Nomination Contest Report that gets filed  
4 with Elections Canada.

5                   **MR. STÉPHANE PERRAULT:** Correct. So we are  
6 not given prior notice of a nomination contest, unlike  
7 leadership contests, until after a nomination contest is  
8 held. The entity, the district association, or a party that  
9 holds the contest must give us notice, and then the  
10 contestants, who suspend or receive more than \$1,000 are  
11 required to file a return, a financial return.

12                   **MR. DANIEL SHEPPARD:** And my understanding is  
13 that those financial returns are then audited by Elections  
14 Canada as a routine matter.

15                   **MR. STÉPHANE PERRAULT:** They are.

16                   **MR. DANIEL SHEPPARD:** So I'd like to turn to  
17 a different area, and it has to do, fundamentally, with the  
18 terms of reference of this Commission.

19                   This Commission's terms of reference direct  
20 the Commissioner to, amongst other things, assess the  
21 integrity of the 43rd and the 44th general election.

22                   As someone who I imagine spends quite a bit  
23 of time thinking about elections integrity, I wonder if you  
24 have any views or observations about how it is this  
25 Commission should think about the concept of elections  
26 integrity?

27                   **MR. STÉPHANE PERRAULT:** It's quite a bit to  
28 say here. First of all, I think the Commission needs to

1 separate impact on result and impact on integrity. Impact on  
2 result is extremely difficult to assess, as most cases, it's  
3 not possible. And when you look at things like  
4 disinformation campaigns, or even illegal financing of  
5 parties, or illegal spending, misinformation, there are so  
6 many factors at play in an election, that you cannot  
7 basically draw a straight line between any activity in those  
8 areas and the results, unlike, for example, destruction of  
9 ballots or election fraud.

10 So I think the Commission needs to, and the  
11 words that you mentioned in the Commission's mandate are the  
12 right ones, assess the integrity of the election, and that is  
13 fundamentally a qualitative exercise. It's not a  
14 quantitative exercise.

15 So that's the first point.

16 The second point is that there is no fixed  
17 and firm definition of what integrity means. It's generally  
18 used -- there are basically two broad usages of the term  
19 integrity or electoral integrity.

20 The most common, and I would suggest not the  
21 most useful one for the Commission, is a very narrow sense,  
22 which is compliance with the rules and procedures to secure  
23 the election, essentially around the voting process. That's  
24 a very common usage. I don't think it's particularly  
25 enlightening for the Commission. It's very narrow in its  
26 scope and it assumes that the legal rules around voting are  
27 appropriate. They may not be. There may be need to improve  
28 the rules around the election. So I would suggest that this

1 narrow understanding of electoral integrity, which is common,  
2 is not the right one.

3 There was a broader understanding of  
4 electoral integrity that speaks to the conditions for holding  
5 free and fair elections. And that's also the language in the  
6 Critical Incident Protocol.

7 Now, again, the words "free and fair  
8 elections" don't have a crystalized meaning, but they're  
9 often used in the international context, and they talk about,  
10 and I've made some reference to that in my institutional  
11 brief, they talk about certainly core aspects of elections  
12 like the secrecy of the vote, and the manner in which  
13 boundaries are drafted, and the independence of the electoral  
14 management, and so forth. But they also speak to the broader  
15 environment, such as having free press, freedom of  
16 association, that are the conditions for having free and fair  
17 elections.

18 So that's the first thing. I think it's  
19 broader than electoral administration. It's the echo system  
20 of elections. And I think that's right for the work of the  
21 Commission.

22 The second thing is that the concept of free  
23 and fair elections does not assume a perfect election. There  
24 is no such thing as a perfect election, in the sense that  
25 there are always actions and activities that are non-  
26 compliant in some way with the rules or the expectations that  
27 we have for an election. So the -- and the diversity of  
28 ways, whether it's lawn signs being destroyed, or other

1 matters, there's always some degree of irregularities or  
2 threats to the integrity of the electoral process. That's a  
3 given.

4 What the concept of free and fair elections  
5 requires is the existence of mechanisms to detect and deal  
6 with those threats or those irregularities, and that  
7 includes, for example, how do you deal with complaints? How  
8 do you investigate? Is there a proper investigative  
9 function? And in the case of contested elections, judicial  
10 recounts or -- sorry, there are judicial recounts and  
11 contested elections where the courts can play a role.

12 **MR. DANIEL SHEPPARD:** And Mr. Perrault, I'm  
13 just going to interrupt you there for just one moment. And  
14 this is something I think many witnesses will be hearing  
15 Commission counsel say, and that's requested on behalf of the  
16 interpreters, to slow down a little bit.

17 **MR. STÉPHANE PERRAULT:** So I was speaking to  
18 the necessity of having proper mechanisms to detect and  
19 address irregularities or threats to the electoral process.  
20 So talking about complaints, investigations, contestable  
21 actions, judicial recounts. We have all of that.

22 There is, in Canada, a statutory requirement  
23 to have an independent audit of the performance of the poll  
24 workers, their compliance with the procedures prescribed  
25 under the Act. So that's another mechanism to detect non-  
26 compliance and threats to the integrity.

27 Following an election, I make a series of  
28 reports to Parliament, and I also publish data on our

1 website, about the election, its management, perceptions of  
2 the election, issues that we encounter during the election,  
3 and that allows the public and allows parliamentarians to  
4 form an opinion as to integrity of the electoral process.

5 There's the Critical Incident Protocol.  
6 That's another mechanism.

7 So when you talk about assessing the  
8 integrity of the election, it's also, in my view, looking --  
9 in a systemic way, looking at the mechanisms that are there  
10 to deal with potential threat to the integrity of the  
11 electoral process.

12 I'll add one more thing, which is not in my  
13 institutional report, nor in my interview notes, and it's the  
14 fact of this concept of free and fair elections does not, in  
15 my view, normally usually account for the unique threats that  
16 are presented by foreign interference. When you read about  
17 free and fair elections, you won't typically see anything  
18 about foreign interference. But I think it is critical to  
19 understand the uniqueness of the threats that foreign  
20 interference present, especially when you look at the  
21 mechanisms that I talked just a moment ago.

22 So in several ways, I think that foreign  
23 interference presents unique threats to the election. First  
24 of all, because of its nature, foreign interference goes to  
25 not only the integrity of the electoral process, but also the  
26 sovereignty of the country. So that's one significant issue  
27 here.

28 The seriousness of the threat. State actors

1 have capabilities that are not commonly found in private  
2 actors. The capabilities of state actors to undertake, for  
3 example, cyber security attacks are significant. The  
4 capabilities of foreign state actors to undertake long-term  
5 strategies are, in a way, unique. You don't find that in  
6 private state actors.

7 And the very complexity of what foreign  
8 interference is, and you're well aware of that, foreign  
9 interference is not a specific thing. it's a series of  
10 actions, activities, and strategies. Some may be unlawful  
11 under the *Elections Act*. Some may be unlawful under other  
12 acts of Parliament. Some may be lawful. And you're talking  
13 about propaganda, influence campaigns. This may not be,  
14 necessarily, unlawful, though it is foreign interference if  
15 it is done in a matter that is covert and detrimental to the  
16 interests of Canada.

17 So it is a complex issue that does require  
18 the collaboration of a range of agencies and institutions,  
19 including Elections Canada, but also, of course, national  
20 security partners.

21 **MR. DANIEL SHEPPARD:** And so given the  
22 uniqueness of foreign interference as you've just described  
23 it, what do you see as Elections Canada's role to play in  
24 protecting against those activities?

25 **MR. STÉPHANE PERRAULT:** So we have a -- we  
26 are not a security agency, but we do have an important  
27 security role in several respects, irrespective of whether  
28 the threat is foreign or domestic. We, first of all, have

1 the security role proper, that is securing our IT  
2 infrastructure from cyber attacks. And we don't do that  
3 alone. We work with the Canadian Centre for Cybersecurity,  
4 which has the expertise. But we also have some in-house  
5 expertise. And of course there are measures that we take to  
6 protect our infrastructure, as well as matters to protect the  
7 safety of the polls and returning officers. So that's sort  
8 of the security proper.

9 We also have a role in what I would describe  
10 as informational security, to make sure that Canadians have  
11 the right information about the voting process, that they're  
12 equipped when an election is called to understand where and  
13 when they can vote, and to address instances of  
14 misinformation about the voting process. So that's a second  
15 aspect.

16 We talked about a third aspect earlier, which  
17 relates to political financing, which is administering the  
18 regime, which includes measures to protect against undue  
19 influence of money.

20 And the last one I would mention is I have a  
21 role to make recommendations to Parliament regarding  
22 improvements to the *Elections Act*, and I have made  
23 recommendations to Parliament, some of which are directly or  
24 indirectly relevant to foreign interference.

25 **MR. DANIEL SHEPPARD:** So I'd also like to  
26 pick up then on one of the comments you made about the role  
27 that other government entities play with respect to foreign  
28 interference. And that takes me to Elections Canada's

1 relationship with the government.

2 I'd just like to start with noting that in  
3 your interview, you emphasized the importance of Elections  
4 Canada's independence. Can you just briefly explain why that  
5 independence from government is important?

6 **MR. STÉPHANE PERRAULT:** So Elections Canada  
7 was created about a hundred years ago precisely for that  
8 reason, in order to have an independent body, independent  
9 from the government of the day, in charge of administering  
10 the election. And that is critical to the confidence, the  
11 trust that Canadians have that the electoral process is  
12 administered in a manner that is neutral and non-partisan.

13 I also said in my interview, and I think  
14 that's is critical, that independence does not mean working  
15 in isolation. So I think can and we do collaborate with  
16 government, but we always maintain an independent stance.

17 **MR. DANIEL SHEPPARD:** Okay. And so it's that  
18 collaboration with government, then, that I'd like to move  
19 to. And in your interview you describe kind of an evolution  
20 that sort of begins with the 2016 US presidential elections,  
21 and some lessons learned from that experience, and led to the  
22 creation of bodies called Electoral Security Coordination  
23 Committees, or ESCCs. Can you tell me about how that ESCCs  
24 came into existence?

25 **MR. STÉPHANE PERRAULT:** Certainly. At least  
26 from my perspective, I can't speak from the government side.  
27 But following the American presidential election in 2016,  
28 late 2016, of course, as well as the experience with Brexit

1 and concerns about foreign interference there as well, I felt  
2 that we need to have -- we needed to have much stronger  
3 collaboration with security agencies in protecting the  
4 electoral process.

5 So in January of 2017, right after the  
6 American election, I met first with senior officials at PCO,  
7 expressing the view that while in the past we used to have  
8 meetings with the RCMP and Public Safety right before an  
9 election, these were one-off meetings to do a sort of a  
10 sanity check and make sure everything was okay. We needed to  
11 work much more closely in collaboration with security  
12 agencies. And I did meet with the Communications Security  
13 Establishment, Greta Bossenmaier then, to also reinforce my  
14 openness to their support in protecting our cyber -- our IT  
15 infrastructure.

16 And so from these meetings at that point on  
17 -- and I don't know the exact date -- there were discussions  
18 that led to a working group, more or less formal, that became  
19 eventually the Electoral Security Coordinating Committee.

20 **MR. DANIEL SHEPPARD:** And I understand that  
21 these committees exist at a number of different levels within  
22 the government. There's one that brings together Directors  
23 General, one that brings together Assistant Deputy Ministers,  
24 and the one that brings together Deputy Ministers, and that  
25 would be the committee which you would sit on, on behalf of  
26 Elections Canada.

27 **MR. STÉPHANE PERRAULT:** Correct.

28 **MR. DANIEL SHEPPARD:** And Elections Canada

1 was the co-chair of these committees.

2 **MR. STÉPHANE PERRAULT:** We were. With the  
3 Security -- it would have been PCO.

4 **MR. DANIEL SHEPPARD:** And so what was the  
5 purpose of these bodies? What did the ESCCs do?

6 **MR. STÉPHANE PERRAULT:** Fundamentally, the  
7 purpose of the bodies were to have an awareness of a threat  
8 environment, the nature of the threats; to understand the  
9 roles and responsibilities of each of the partners, and to  
10 clarify -- and create contact points, and to clarify using  
11 tabletop exercises in the face of various complex scenarios,  
12 who would intervene, when, in what sequence, and who would be  
13 called upon to, or communicate with, if necessary, the  
14 Canadian public. But mostly it was about defining clearly  
15 roles and responsibilities.

16 And of course, in the Public Service, as  
17 elsewhere, people move on to other jobs and they're not  
18 constantly there. So the regular meetings also helped to  
19 onboard new participants and make sure that as we move  
20 towards the election there was always a clear understanding  
21 of each entity's role.

22 **MR. DANIEL SHEPPARD:** Were the ESCCs  
23 decision-making bodies?

24 **MR. STÉPHANE PERRAULT:** They were not.

25 **MR. DANIEL SHEPPARD:** And what's the  
26 distinction, then, between a decision-making body and a  
27 coordination body?

28 **MR. STÉPHANE PERRAULT:** A decision-making

1 body make decisions about the appropriate course of action.  
2 This was not that. This was to understand what each of the  
3 partners are doing in their own area of responsibility, and  
4 so that there's a collective understanding of the work that's  
5 being done to secure the election.

6 **MR. DANIEL SHEPPARD:** I also understand that  
7 from time to time, ESCCs were a forum in which intelligence  
8 briefings or other kind of information from the security and  
9 intelligence community was presented to the committee  
10 members, is that right?

11 **MR. STÉPHANE PERRAULT:** That's correct. As I  
12 indicated, one of the purpose was to share a common  
13 understanding of the threat environment.

14 **MR. DANIEL SHEPPARD:** And I'm going to come  
15 back to that topic in a moment. But before I do, I'd like to  
16 talk to you about one other type of institution, and that is  
17 -- you've referred to it already -- the Critical Election  
18 Incident Public Protocol, the CEIPP. And, in particular, the  
19 body that we all know as the panel of five. Could you  
20 describe the relationship between the panel of five and your  
21 position?

22 **MR. STÉPHANE PERRAULT:** So I am not one of  
23 the five members of the panel. The panel's mandate is to  
24 examine matters that are relevant to the security of our  
25 electoral process but that do not relate to matters that fall  
26 within my mandate. So they do not speak on the electoral  
27 administration -- sorry; the administration of the election.  
28 These are matters that are within my mandate. So there's a

1 clear division of roles and responsibilities that is aligned  
2 with the different accountabilities.

3 We spoke earlier about the independence of my  
4 office; however, there is an understanding that through  
5 security partners, we share information about the threat  
6 environment, and if the panel were to be called upon to make  
7 a public statement, or if I were to make a public statement  
8 in relation to a significant matter of security, then we  
9 would inform each other.

10 **MR. DANIEL SHEPPARD:** And in either the 2019  
11 or the 2021 General Election, was there ever one of those  
12 communications between yourself and the panel of five  
13 respecting the possibility of making an announcement?

14 **MR. STÉPHANE PERRAULT:** No, there was not.

15 **MR. DANIEL SHEPPARD:** So I'd like to turn  
16 now, then, to the topic of intelligence, and flows of  
17 intelligence to Elections Canada.

18 So I understand that Elections Canada  
19 received intelligence both within the context of the ESCCs,  
20 and also from time to time would receive briefings directly  
21 from security and intelligence partners on a bilateral basis.  
22 Is that right?

23 **MR. STÉPHANE PERRAULT:** That is correct.

24 **MR. DANIEL SHEPPARD:** Could the Court  
25 Operator please bring up ELC101\_R? And if we could just  
26 scroll down so that the body of the text can be seen? Thank  
27 you.

28 **--- EXHIBIT No. ELC 101 R:**

1 Letter to Serge Caron from CSIS:  
2 Enhancing Security of Elections

3 So Mr. Perrault, this is a letter received by  
4 Serge Carron, who is one of your Deputies within Elections  
5 Canada in July of 2021, that appears to be from CSIS. I take  
6 it you've seen this document before?

7 **MR. STÉPHANE PERRAULT:** I have.

8 **MR. DANIEL SHEPPARD:** Okay. And what this  
9 document is, is essentially an invitation from CSIS to review  
10 sensitive information that may be relevant to the safe and  
11 effective delivery of a future election event. And they ask  
12 that ideally a meeting can be -- or a meeting will establish  
13 a routine which can be carried out throughout the 44<sup>th</sup>  
14 General Election.

15 Was there some type of routine that was  
16 established for information sharing with CSIS?

17 **MR. STÉPHANE PERRAULT:** So outside of the ES  
18 -- the Electoral Security Coordinating Committee, I'm aware  
19 that there was a meeting following this letter. I am not  
20 aware that there were recurring meetings, and certainly not  
21 during the 44<sup>th</sup> General Election.

22 **MR. DANIEL SHEPPARD:** And this, of course, is  
23 with respect to the 44<sup>th</sup> General Election. With respect to  
24 the 43<sup>rd</sup> General Election, were there bilateral briefings or  
25 routines established between Elections Canada and CSIS to  
26 receive information?

27 **MR. STÉPHANE PERRAULT:** I certainly recall  
28 one bilateral meeting. There was a CSIS representative that

1 came to meet a range of senior officials at Elections Canada,  
2 but I'm not aware of routine meetings, especially  
3 specifically bilaterally with CSIS. As I said, there were  
4 routine meetings with the Electoral Security Coordinating  
5 Committee, which includes CSIS.

6 **MR. DANIEL SHEPPARD:** And we can take that  
7 document down.

8 In your interview summary, you indicate that  
9 the briefings that you receive, whether bilaterally or  
10 through the ESCC's work, primarily and generally the nature  
11 of things like situational awareness, information about  
12 tradecraft, and general threat assessments; is that correct?

13 **MR. STÉPHANE PERRAULT:** That is correct.

14 **MR. DANIEL SHEPPARD:** Can the court operator  
15 pull up CAN019456?

16 **--- EXHIBIT No. CAN 19456:**

17 Speaking Points for EC Brief

18 **MR. DANIEL SHEPPARD:** This is a document that  
19 was recently declassified for public use with the Commission.  
20 It appears to be speaking notes from the site task force for  
21 briefing to Elections Canada.

22 And I'd ask the court operator to just kind  
23 of slowly kind of scroll down so that the witness can see  
24 some of the content. And it looks as though we see kind of  
25 general background information about understanding of foreign  
26 interference threats. We see information about the  
27 informational environment generally.

28 And then as we continue to scroll, there's

1 certain information about particular threat actors in terms  
2 of their general sophistication, their interests and some of  
3 the strategies they may employ.

4 And then if we keep scrolling, we then see  
5 discussions of things other than foreign interference, other  
6 topics like ideologically motivated violent extremism.

7 I'm not going to ask you any questions about  
8 the specific content of this document. My only question to  
9 you is, is this the sort of information that you received  
10 when we're talking about the meetings involving general  
11 threat assessments and informational awareness?

12 **MR. STÉPHANE PERRAULT:** Yes, it's very much  
13 the type of information that we would have received. I do  
14 not know whether the note's for an Elections Canada briefing.  
15 That's not apparent from my reading of the document, but I  
16 read it very quickly.

17 But certainly to your question, this is a  
18 line with the kinds of information we would receive about the  
19 threat environment.

20 **MR. DANIEL SHEPPARD:** Okay. Thank you.

21 And we can take the document down.

22 Can you tell me about whether and to what  
23 extent this type of information was useful to Elections  
24 Canada in fulfilling its mandate to maintain electoral  
25 integrity?

26 **MR. STÉPHANE PERRAULT:** So there's nothing in  
27 that document that is really directly actionable, but it is  
28 useful both in what it says and what it does not say.

1           It does speak to issues like disinformation  
2           and cyber security and it reaffirms the necessity to be aware  
3           and prepared to deal with these issues, including, for  
4           example, I believe it speaks to disinformation about COVID  
5           measures during the election. And so of course, we were  
6           prepared to do just that.

7           It speaks about threats in terms of cyber  
8           security and we were working with the Centre for Cyber  
9           Security to protect against that, so that's useful.

10          It's useful in what it does not say also in  
11          the sense that it does not -- when you see a document like  
12          this or information of that nature, you examine as to whether  
13          there are other things that you should be doing that you're  
14          not doing and there's nothing in that document that suggests  
15          that there are.

16                   **MR. DANIEL SHEPPARD:** So that's the type of  
17          kind of general briefings that Elections Canada received  
18          around the 43rd and 44th general elections.

19                   And I understand with respect to the 44th  
20          general election that was more or less it. That is the type  
21          of intelligence briefing that Elections Canada received. Is  
22          that right?

23                   **MR. STÉPHANE PERRAULT:** That's correct.

24                   **MR. DANIEL SHEPPARD:** There were no more  
25          fact-specific briefings that you received for the 44th  
26          general election.

27                   **MR. STÉPHANE PERRAULT:** That is correct.

28                   **MR. DANIEL SHEPPARD:** I'd like, then, to talk

1 to you about the 43rd general election.

2 My understanding is that in connection with  
3 the 43rd general election, you were informed by CSIS of one  
4 fact specific matter. Is that correct?

5 **MR. STÉPHANE PERRAULT:** That is correct.

6 **MR. DANIEL SHEPPARD:** My understanding is  
7 that you were informed by CSIS of a fact situation that could  
8 have involved foreign interference related to voting in the  
9 nomination contest in the riding of Don Valley North,  
10 Ontario. Is that correct?

11 **MR. STÉPHANE PERRAULT:** That is correct.

12 **MR. DANIEL SHEPPARD:** I understand that at  
13 the point in time when you received that information, you  
14 concluded that no action could be taken then, in part because  
15 participation in a nomination contest is not regulated in the  
16 same way as -- in the same way as an election. Is that  
17 correct?

18 **MR. STÉPHANE PERRAULT:** That is correct.

19 **MR. DANIEL SHEPPARD:** And in particular, my  
20 understanding is that any issues of irregularities under the  
21 *Canada Elections Act* would have to be examined during the  
22 audit of the nomination contest report which, at the time of  
23 this briefing, had not yet been produced to Elections Canada.  
24 Is that right?

25 **MR. STÉPHANE PERRAULT:** That's correct  
26 because the only aspect that is regulated is the financial  
27 aspect of the nomination contest.

28 **MR. DANIEL SHEPPARD:** So we've already

1 talked, then, about the fact that these reports are received  
2 and audited as a matter of course by Elections Canada, and so  
3 my understanding with respect to this fact situation is that  
4 an audit of the nomination contest report was conducted in  
5 the ordinary course by Elections Canada.

6 **MR. STÉPHANE PERRAULT:** It was.

7 **COMMISSIONER HOGUE:** I have one question.  
8 What is the -- I'm not sure I should say standard, but what  
9 is the typical delay between receiving a report and auditing  
10 the report?

11 **MR. STÉPHANE PERRAULT:** So we aim to complete  
12 all of the audits within 12 months for candidates. In the  
13 case of nomination contestants, we don't have a similar  
14 service standard or target. The priority will be given to  
15 the audit of the candidate returns because there are  
16 financial reimbursements that are -- that are tied to that  
17 and are more extensive rules that relate to that. So  
18 typically, we would -- we would do the campaign returns for  
19 the candidates first.

20 It depends, however. In the case of  
21 nomination contests, they can happen at any time, so they're  
22 not -- there's not necessarily a conflict of priorities in  
23 terms of the audit of the nomination contests. So that  
24 varies more than the audit of candidate returns, which is --  
25 which follows a fairly strict calendar.

26 **MR. DANIEL SHEPPARD:** So there's, then, an  
27 audit of the return with respect to this nomination contest.  
28 And I understand that as a result of information obtained by

1 Elections Canada during that audit, you refer the matter to  
2 the Office of the Commissioner of Canada Elections.

3 **MR. STÉPHANE PERRAULT:** Correct.

4 If I may, I should add a point with regard to  
5 my previous answer, is that we do make connections between  
6 the nomination contest return and the candidate return. We  
7 want to make sure that the flow of money between the two --  
8 so when we do the candidate return, we will normally examine  
9 the nomination contest as well.

10 **MR. DANIEL SHEPPARD:** And so then through  
11 that overall auditing process that you've described, a  
12 referral gets made to the Office of the Commissioner of  
13 Canada Elections.

14 **MR. STÉPHANE PERRAULT:** That is correct.

15 **MR. DANIEL SHEPPARD:** Was the subject matter  
16 of that referral related in any way to allegations respecting  
17 foreign interference?

18 **MR. STÉPHANE PERRAULT:** It was not.

19 **MR. DANIEL SHEPPARD:** Is there anything else  
20 you're able to say in a public setting about the information  
21 that you received from CSIS that we've just discussed?

22 **MR. STÉPHANE PERRAULT:** No.

23 **MR. DANIEL SHEPPARD:** So thank you, Mr.  
24 Perrault. That is all of my questions. However, my  
25 colleague, Mr. Ferguson, is going to continue with some  
26 additional questioning.

27 **--- EXAMINATION IN-CHIEF BY MR. MATTHEW FERGUSON:**

28 **MR. MATTHEW FERGUSON:** [No interpretation].

1                   **MR. STÉPHANE PERRAULT:** [No interpretation].

2                   **MR. MATTHEW FERGUSON:** My name is Matthew  
3 Ferguson, as you know. I will be talking about -- speaking  
4 -- I'll be speaking French for the second part of your  
5 testimony.

6                   To start off, I'd like to start off with just  
7 some of the rules of the *Canada Elections Act* relating to  
8 foreign interference. And please, you say in your  
9 Institutional Report that the Elections Act has no definition  
10 of what is foreign interference, but rather forbids the  
11 participation of certain persons in certain roles in the  
12 electoral process -- foreign persons. Can you start by  
13 describing these rules relative to contributions from foreign  
14 sources.

15                   I'll repeat the question better. Who can  
16 make a gift or a contribution to a candidate or a political  
17 party?

18                   **MR. STÉPHANE PERRAULT:** So in the case of  
19 candidates and parties, it's quite clear only a Canadian  
20 citizen or a permanent resident, so some non-citizens can as  
21 long as they are permanent residents. We're talking about  
22 persons with no corporate gifts or union gifts that can be  
23 made; only persons can give money to an elected association.

24                   **MR. MATTHEW FERGUSON:** I think that you  
25 accelerated somewhat a little bit in French. I'd ask you to  
26 please slow down a little bit so that the interpreters can  
27 follow along.

28                   **COMMISSIONER HOGUE:** I was just about to say

1 the same thing.

2 **MR. STÉPHANE PERRAULT:** [No interpretation].

3 **MR. MATTHEW FERGUSON:** So is it the same rules  
4 that apply to -- for an association for a nominating meeting?

5 **MR. STÉPHANE PERRAULT:** Yes.

6 **MR. MATTHEW FERGUSON:** Does this mean money and  
7 non-monetary contributions; like, in kind?

8 **MR. STÉPHANE PERRAULT:** Yes.

9 **MR. MATTHEW FERGUSON:** So if I understand  
10 correctly, it is forbidden for anyone not a Canadian citizen  
11 or permanent resident to give contributions to a candidate of  
12 a political party or a riding association, an EDA, or a  
13 candidate running for, say, leadership of the party or for --  
14 to be appointed a candidate.

15 **MR. STÉPHANE PERRAULT:** No. For third  
16 parties the rules are different. There's no limit to the  
17 contributions that can be made to a third party.

18 **MR. MATTHEW FERGUSON:** [No interpretation].

19 **MR. STÉPHANE PERRAULT:** Now, a third party is  
20 any entity other than one of those that is covered in the  
21 list of which we just gave, which show that includes  
22 associations, unions, companies, et cetera. So that's  
23 different rules. There are no limit to the contributions  
24 made by them. But these people cannot use these monies  
25 coming from abroad for regulated activities under the law.

26 Partisan activities of electoral publicity,  
27 these apply both before and during the election period.

28 There's also rules on -- rules related to surveys. Generally

1 speaking, third parties cannot use monies from abroad to  
2 cover off such expenses.

3 **MR. MATTHEW FERGUSON:** Does that rule apply --  
4 the writ period?

5 **MR. STÉPHANE PERRAULT:** Well, outside the writ  
6 period, the only those that are permitted is in the pre-  
7 election period, which starts on the 30<sup>th</sup> of June. So  
8 outside of those period, a third-party is not subject to any  
9 rules, other than they have to take into account the  
10 contributions that they receive because when the election  
11 comes, if the third party is active, then they will have to  
12 tell -- divulge the source of it; otherwise, there's no  
13 regulations.

14 **COMMISSIONER HOGUE:** Can you, Mr. Perrault,  
15 for the benefit of one and all, give us a few examples of  
16 third parties to whom this might apply, and it might receive  
17 contributions during the election period or pre-election  
18 period?

19 **MR. STÉPHANE PERRAULT:** Well, if we look at  
20 the last election, there was a wide diversity of third  
21 parties. There was major unions, for example; there's other  
22 groups that organize regularly for an election; Canada Proud,  
23 for example. And there's other organizations that are  
24 tightly related to certain political parties or candidates.  
25 There are other groups that are related to environment or  
26 particular causes, themes. All of these groups have to  
27 register, if they spend more than \$500 during an election or  
28 if -- so if they spend during the election period or pre-

1 election period.

2 **COMMISSIONER HOGUE:** [No interpretation].

3 **MR. MATTHEW FERGUSON:** I also note that the  
4 Election Act doesn't talk about foreign interference, or  
5 doesn't forbid it, but rather foreign -- undue foreign  
6 influence.

7 **MR. STÉPHANE PERRAULT:** [No interpretation].

8 **MR. MATTHEW FERGUSON:** What does "undue  
9 foreign influence" mean?

10 **MR. STÉPHANE PERRAULT:** Well, it's a  
11 provision that was adopted in 2019 when it received Royal  
12 sanction, and it provides that foreign entities, or foreign  
13 states in particular, cannot make the expenses to directly  
14 support or contribute to the election of a candidate or a  
15 political party, or encourage Canadians to vote or not vote.  
16 This is limited to the writ period, and it is a -- it has  
17 important exceptions. So for example, the expression of  
18 personal opinion, an article in the media editorial that  
19 aren't covered by this rule.

20 **MR. MATTHEW FERGUSON:** So maybe it is an  
21 obvious question, but to whom does this apply?

22 **MR. STÉPHANE PERRAULT:** I don't have the  
23 definition in front of me, but this is state actors, foreign  
24 bodies, and others who act in their name. So if you look at  
25 282.8 the list appears in the Act.

26 **MR. MATTHEW FERGUSON:** So it applies to  
27 Canadians and non-residents, and residents?

28 **MR. STÉPHANE PERRAULT:** It doesn't apply to

1       them, no.

2                   **MR. MATTHEW FERGUSON:** Now, I understand that  
3       there's also the possibility of making expenses for  
4       activities to favour or block a candidate. What does it  
5       mean; make expenses?

6                   **MR. STÉPHANE PERRAULT:** It means,  
7       essentially, spending but there are promotion activities, not  
8       necessarily publicity, advertising, but anything that  
9       represents an expense that either promotes or opposes a  
10      candidate.

11                  **MR. MATTHEW FERGUSON:** So in the absence of  
12      expenses or a violation of provincial or federal act, the  
13      Election Act doesn't forbid a foreign party to promote or  
14      oppose a political party during an election period.

15                  **MR. STÉPHANE PERRAULT:** But there's a second  
16      aspect of the provision here. Make an expense or make a  
17      promotion in a way that is contrary to a provincial or  
18      federal act. That is what is covered.

19                  **MR. MATTHEW FERGUSON:** So the law does not  
20      prohibit the foreigner, whether it be a foreign state or  
21      other, to promote or oppose a political party during the  
22      election period if they don't make any expenses.

23                  **MR. STÉPHANE PERRAULT:** That's true, if they  
24      don't make any expense.

25                  **COMMISSIONER HOGUE:** And so you say when they  
26      don't make any expense, when there's no expense, does that  
27      mean -- let's take an example, articles are published in the  
28      media at the request of a foreign state or of some organism

1 from abroad without there being any money spent.

2 **MR. STÉPHANE PERRAULT:** [No interpretation].

3 **COMMISSIONER HOGUE:** So in that case,  
4 according to you, is that something that is allowed?

5 **MR. STÉPHANE PERRAULT:** Well, it's clearly  
6 allowed.

7 **COMMISSIONER HOGUE:** Completely allowed.

8 **MR. STÉPHANE PERRAULT:** Yes.

9 **MR. MATTHEW FERGUSON:** So excuse me, I don't  
10 know...

11 **COMMISSIONER HOGUE:** No, that's fine.

12 **MR. STÉPHANE PERRAULT:** I have finished, yes.

13 **MR. MATTHEW FERGUSON:** So it doesn't prohibit  
14 a foreign agent to express their opinion on the result that  
15 they anticipate, whether it be a former president of the  
16 United States or the Ambassador from China.

17 **MR. STÉPHANE PERRAULT:** For example.

18 **MR. MATTHEW FERGUSON:** Are there other  
19 provisions or other rules that could be useful in order to  
20 protect the Canadian electoral process to counter foreign  
21 intervention?

22 **MR. STÉPHANE PERRAULT:** Well, there are a few  
23 specific rules. I mentioned those about political financing,  
24 and only Canadian citizens can vote, so that's very basic,  
25 it's very important. But a foreign actor could indeed  
26 intervene but in 282.4 you will see that there's a clause  
27 that deals with bullying, intimidation, and some activities  
28 that are not specifically, let's say some provisions that

1 don't protect against foreign intervention but they do  
2 protect the electoral process nevertheless.

3 **MR. MATTHEW FERGUSON:** Now, what about  
4 complaints dealing with foreign interference with respect to  
5 2019 and 2021 General Elections?

6 I would like to point out that the  
7 Commission's counsellors interviewed Mrs. Josée Villeneuve,  
8 one of your assistant, who provided a summary of her  
9 testimony. It is available and it is document WIT 00013.

10 So Elections Canada received many complaints,  
11 diversified complaints, that have to do with your mandate,  
12 and in some cases they are not under your mandate.

13 **MR. STÉPHANE PERREAULT:** Well, the definition  
14 of complaint is very wide-ranging; 18,000 complaints. So it  
15 includes any problem about a candidate, a party, a third  
16 party, or with respect to the electoral system, the  
17 legislation, or issues with respect to official languages, or  
18 a facility that is not easily reached. So anything that has  
19 to do with electoral -- federal election is considered as a  
20 complaint.

21 **MR. MATTHEW FERGUSON:** Well, you just dealt  
22 with the 18,000 complaints, and for 2019, you received 18,889  
23 complaints, and 16,000 for 2021. Are these figures, they are  
24 from your -- extracted from your report?

25 **MR. STÉPHANE PERREAULT:** I do not question.

26 **MR. MATTHEW FERGUSON:** And there were some  
27 122 complaints that had to do with concerns about foreign  
28 interference in 2019, and 27 such complaints about foreign

1 intervention for the 2021 general elections.

2 I understand that in many cases these  
3 activities are not necessarily prohibited. For instance, the  
4 fact that Barack Obama tweeted his support.

5 **MR. STÉPHANE PERREAULT:** Yes, or Greta  
6 Thunberg was here during an electoral campaign to deal with  
7 the environment and some Canadians see this as unfair. I  
8 won't comment but in fact, these are not prohibited by the  
9 Act.

10 **COMMISSIONER HOGUE:** But how can you  
11 determine what is linked with foreign interference and what  
12 isn't, with respect to these files?

13 **MR. STÉPHANE PERREAULT:** Well, in the  
14 complaint, people do identify someone, or it is very  
15 implicit. For instance, what is the former American  
16 President, Mr. Obama. So even though foreign interference is  
17 not defined, it doesn't mean that it has to do with a  
18 provision in the legislation that has to do with foreign  
19 interference. It is the perception of the person who  
20 addresses a complaint.

21 **COMMISSIONER HOGUE:** [No interpretation].

22 **MR. MATTHEW FERGUSON:** And then there were  
23 cases that were suspected of foreign interference, and they  
24 were under study; 52 complaints in 2019, and eight in 2021.

25 Could you help us to understand what is the  
26 threshold for Elections Canada when those files are sent to  
27 the office of the Commissioner of Canada Elections?

28 **MR. PERREAULT:** Well, these complaints -- or

1 these complaints are redirected; they don't come from us. We  
2 don't want to do the work of the Commissioner because she's  
3 in charge of any investigation or any conformity compliance  
4 measure; she's responsible for that. So if the alleged facts  
5 underline the possibility of an offence, even if it is very  
6 light, we do refer them, and in many cases we ask the  
7 Commissioner, we receive these complaints and in the case of  
8 President Obama, we said, "Do you want to treat these -- to  
9 process these complaints" And the answer was, "Oh no, there  
10 were so many."

11 **MR. MATTHEW FERGUSON:** What about the  
12 redirected complaints and the references?

13 **MR. STÉPHANE PERREAULT:** Well, references.  
14 With respect to our mandate, we do see some things that  
15 deserve the attention of the Commissioner because there's  
16 some indication. We don't draw conclusions because an  
17 investigation is required, but we see it is possible that  
18 there was a violation of the Act; that something...

19 **COMMISSIONER HOGUE:** That someone complained?

20 **MR. STÉPHANE PERREAULT:** Yes. Maybe in terms  
21 of financial report, maybe it was not submitted, or it was  
22 late, so it needs a more in-depth investigation, and it is  
23 the Commissioner who makes a final decision. But when  
24 there's a reference from us, it's because we think that it is  
25 a legitimate request.

26 Sometimes we simply send them over because  
27 they were addressed to the wrong institution.

28 **COMMISSIONER HOGUE:** [No interpretation].

1                   **MR. MATTHEW FERGUSON:** In your Institutional  
2 Report, you say that Elections Canada received complaints  
3 about a network of people and money transfers from the  
4 Chinese Council to political candidate; it's on page 35 and  
5 36 in your Institutional Report. So I understand that you  
6 were made aware of these allegations in February 2023,  
7 following reports in the media. And it led to a yearly --  
8 no, a review of the various reports about political  
9 organizations across the country.

10                   Could you say a few words about this report?

11                   **MR. STÉPHANE PERREAULT:** Of course it's very  
12 difficult to say if there's hidden funding. For instance, if  
13 there is financing through people who do declare money that  
14 was contributed but does not come from them, then you need an  
15 investigation. However, in these public reports there were  
16 allegations about money that were considered as  
17 contributions, and then that was spent in order to reimburse  
18 a political expenditure.

19                   So we made an analysis to see if there was  
20 not a very close relationship between the monies coming from  
21 a donor to someone who does receive compensation for  
22 services, but we did not find anything that would have  
23 justified a reference to the Commissioner.

24                   **MR. MATTHEW FERGUSON:** Mr. Court Operator,  
25 can I call the document ELR.IR.1.FR on the screen, please?  
26 And page 36. Just scroll down. Okay.

27                   [No interpretation]...draw your attention in  
28 the Institutional Report on page 36, you do mention that

1       there's no problem that was found with respect to the  
2       reimbursement to donors of the amounts in accordance with the  
3       media article. However, it is important to point out that  
4       the capacity to track this type of transactions is limited by  
5       the content of the reports. There is no detailed report  
6       about the riding association expenditures, and the difficulty  
7       when we try to obtain information about these transactions.

8                 Why do you add this reservation about your  
9       summary report?

10                **MR. STÉPHANE PERREAULT:** Because for  
11       candidates they have to present all the justifications, and  
12       it's true for leadership candidate and for potential  
13       candidate. So they have to file all the paperwork. Now,  
14       with respect to political parties and riding associations, we  
15       do not -- we do not have access to expenditures and  
16       justifying documents. We've asked that from Parliament on  
17       many occasions but we don't have access now.

18                **MR. MATTHEW FERGUSON:** You talk about a  
19       review and results but there's a problem there.

20                **MR. STÉPHANE PERREAULT:** Yes, because there  
21       could be a sub-amount and a larger amount, and if we could  
22       see the invoice, maybe we would have more information that is  
23       not available when you look at the global financial report.

24                **COMMISSIONER HOGUE:** Well, would it be fair  
25       to say that your auditing is necessarily limited in that  
26       context?

27                **MR. STÉPHANE PERREAULT:** That's what we are  
28       seeing.

1                   **COMMISSIONER HOGUE:** So the result is limited  
2 in terms of conclusions because without justification you  
3 cannot draw conclusions.

4                   **MR. STÉPHANE PERREAULT:** Yes, what we say is,  
5 "What can we do in order to try to find underlying truth?"  
6 Sometimes we find some problems suggesting that a transaction  
7 was not regular, so it does happen. I wanted to see such an  
8 analysis would reveal something; it was not the case. But  
9 it's quite incomplete.

10                  **MR. MATTHEW FERGUSON:** Now, in addition to  
11 these restrictions, are there other challenges or issues with  
12 respect to these audit?

13                  **MR. STÉPHANE PERREAULT:** When we talk about  
14 contributions, we cannot go beyond the fact that an  
15 individual made a donation. Where does the money come from?  
16 That we cannot check; we cannot verify. Of course it's  
17 always possible to provide money without declaring brown  
18 envelopes and they would go beyond and above the political  
19 regime. But if there's a limited amount of money, then you  
20 do limit what can be done without it being obvious in terms  
21 of political competitors. But what is done with cash outside  
22 of the reports, that cannot be assessed.

23                  **MR. MATTHEW FERGUSON:** Now, I would like to  
24 deal with what you described in your Institutional Report as  
25 the observation of the environment and of the digital  
26 content.

27                               Once more, I would add that the Commission  
28 lawyers interviewed Mr. Nick Gamache, another of your

1 employees, and we produced a more detailed summary of this  
2 interview, document WIT 0000019; five zeros one nine.

3 **--- EXHIBIT No. WIT19.FR:**

4 Résumé d'entrevue : Nick Gamache

5 **--- EXHIBIT No. WIT19.EN:**

6 Interview Summary: Nick Gamache

7 **MR. MATTHEW FERGUSON:** So at the end of 2016,  
8 following the American presidential elections, could you tell  
9 us how Elections Canada considered the problems of  
10 disinformation and misinformation on the social media and our  
11 electoral integrity? In other words, how could you get  
12 prepared for the coming storm?

13 **MR. STÉPHANE PERRAULT:** Yes, there was an  
14 awareness of the damages caused by disinformation and  
15 misinformation. Sometimes it's not even intentional but it  
16 has -- it is a reality with social media.

17 So we set up a monitoring system for social  
18 media in order to make sure that the information that had to  
19 do with the electoral process would be such as not to prevent  
20 voters from being correctly informed. That was our concern.

21 And there is misinformation and  
22 disinformation about all kinds of issues. There were  
23 partisan debates that were not necessarily very honest; in  
24 some cases, they were squarely wrong. But it is not our role  
25 to be the referee of partisan electoral debates. That's not  
26 what we intended to do.

27 What we wanted to do was to look at the  
28 public environment to see what kind of information had to do

1 with the electoral process to make sure that if some concerns  
2 among Canadian or incorrect information were dealt with  
3 correctly in order to address these issues through our own  
4 social media in our website or in the media at large so that  
5 people could understand the information and that way we would  
6 be able to make sure that voters were well-informed and could  
7 exercise their voting right. That was our strategy.

8 **MR. MATTHEW FERGUSON:** You use the term,  
9 "Monitoring" so the French term "*Surveillance*" might be a bit  
10 too strong.

11 **MR. STÉPHANE PERRAULT:** Yes, it is a bit too  
12 strong to talk about "*Surveillance*," but we were monitoring  
13 the public media. It's not a question of digital information  
14 at the individual level. And we are not interested in who's  
15 the target audience, whether it is a domestic or foreign  
16 source, we don't have the tools to determine appropriately if  
17 the information comes from Canada or from foreign sources.  
18 It can be misleading and it's not because there's some  
19 information in an apparently Canadian account that it is the  
20 case.

21 But as far as we are concerned, the reason  
22 why we are monitoring social media is to make sure that the  
23 right information is available to all Canadians, whatever the  
24 source, so it's not a relevant criteria. We will act  
25 whatever the source; we don't try to understand this reality.

26 And the same applies to the intent behind.  
27 We simply want to be aware of the information that is  
28 provided.

1                   **MR. MATTHEW FERGUSON:** So you do not interfere  
2                   in terms of a conversation between two person who are having  
3                   a discussion on the internet about their own vote?

4                   **MR. STÉPHANE PERRAULT:** No. When we are  
5                   monitoring, we talk about voting, about elections. Key words  
6                   that will come out of partisan conversations, and we will see  
7                   these terms, but we do not use them, in terms of our mandate,  
8                   if it's not to understand what is said about the electoral  
9                   process.

10                  **COMMISSIONER HOGUE:** And let's say that  
11                  there's a forum about the process, discussions about the  
12                  process, so it's not a conversation that seems to be secret,  
13                  so it's not an information about who voted for this or that  
14                  candidate, it's not the issue. So how will you intervene if  
15                  it is a forum about that in social media?

16                  **MR. STÉPHANE PERRAULT:** Well, it depends  
17                  when. If we are close to the date of the vote, the speed  
18                  with which the conversation is spreading, how many people are  
19                  reached, and the very nature of the information provided  
20                  also.

21                  So some things are very serious. Let's say  
22                  that on the eve of an election, you are informed that you  
23                  have to provide a title or be vaccinated, then we have to  
24                  intervene. But it's not a case -- in most cases we do  
25                  intervene early in the process. When we see some information  
26                  of that kind, we can identify the narrative as being  
27                  misleading in the social media on the platforms, but we don't  
28                  have any power to request a withdrawal.

1                   And it is not our privilege, approach, it  
2 would be a last resort because Canadians would be very  
3 reluctant to see us act as censors, in terms of that  
4 information.

5                   But normally, the information arrives early  
6 enough in the process that -- so that we can include that on  
7 our website or then have interviews with media  
8 representatives or on our social media accounts. So there  
9 are many ways in terms of contacting the public at large, but  
10 it all depends on the nature and the range of the information  
11 that we want to provide to the public.

12                   **COMMISSIONER HOGUE:** [No translation].

13                   **MR. MATTHEW FERGUSON:** Well, following the  
14 question of Madam Commissioner, when there are discussions on  
15 those forums, are these the publicly accessible forums?

16                   **MR. STÉPHANE PERRAULT:** Yes.

17                   **MR. MATTHEW FERGUSON:** You don't have access  
18 to private conversations?

19                   **MR. STÉPHANE PERRAULT:** No.

20                   **MR. MATTHEW FERGUSON:** And what are the  
21 digital platforms that are being monitored, generally  
22 speaking?

23                   **MR. STÉPHANE PERRAULT:** Well, I think that  
24 you will find a list in the report. There are 67 such  
25 sources, and you know most of them, but I do include chats  
26 among other sources, and some more marginal platforms that I  
27 don't know but my team is aware of the existence of those  
28 platforms, 67 in all.

1                   In the last election, the figure was inferior  
2                   to that of 2019, but our monitoring dealt with 67 platform.

3                   **MR. MATTHEW FERGUSON:** Do you have a  
4                   relationship with WeChat?

5                   **MR. STÉPHANE PERRAULT:** No, we have no  
6                   relationship except with some platform; Facebook, for  
7                   instance.

8                   **MR. MATTHEW FERGUSON:** Twitter?

9                   **MR. STÉPHANE PERRAULT:** Yes. But there are  
10                  platforms where we do some advertising, so it depends. We  
11                  have some accounts. In some cases we advertise or then we  
12                  simply observe what's going on in the case of these  
13                  particular platforms.

14                  **MR. MATTHEW FERGUSON:** Well, from what you  
15                  just described about what you observed in the digital  
16                  environment, do you try to detect foreign interference  
17                  activities?

18                  **MR. STÉPHANE PERRAULT:** We do not have any  
19                  capacity to make a distinction between the two because it can  
20                  be misleading. For instance, we have some 20 languages,  
21                  Mandarin and Cantonese, for instance, and it's not because a  
22                  comment is made in a foreign language that we must conclude  
23                  that it is foreign interference. And the reverse is true,  
24                  whatever it is in French or in English. So it requires an  
25                  investigation, and it is the intelligence authorities that  
26                  can make a judgment, and they have the tools to do that. But  
27                  it's not a case for Elections Canada. We are simply trying  
28                  to determine that the information about the voting process is

1 accurate.

2                   And then we see some operational things. For  
3 instance, if a road is blocked or a bridge is not usable, so  
4 we are informed immediately, it can help us in terms of  
5 operations. So we want to facilitate the voting process,  
6 that's all.

7                   **MR. MATTHEW FERGUSON:** I understood also, and  
8 it's mentioned in your Institutional Report, that Elections  
9 Canada was made aware of some intelligence reports about  
10 digital interference occurrences between 2018 and 2022. What  
11 did you learn, generally speaking?

12                   **MR. STÉPHANE PERRAULT:** Could you tell me  
13 exactly what you are referring to?

14                   **MR. MATTHEW FERGUSON:** In your report, you  
15 are mentioning the accounts, the summaries, the briefings  
16 that came from the intelligence services. So what were you  
17 made aware of, in general terms, and was this information  
18 used in order to monitor the digital environment?

19                   **MR. STÉPHANE PERRAULT:** Well, we mentioned  
20 some quite generic examples. For instance, the interest in  
21 the case of some foreign states, or their strategy.

22                   Now, with respect to disinformation, I think  
23 that the only relevant element, and we were prepared for  
24 that, it was disinformation about health measure for the  
25 election, whether it is domestic or foreign, it's the same as  
26 far as we are concerned; it is an interference. And there  
27 were some cases, not that many, but some information was  
28 provided and we could not confirm the origin of this

1 misleading information.

2 **MR. MATTHEW FERGUSON:** Now, I'll talk about  
3 monitoring social media again. So how is it used with  
4 Elections Canada?

5 **MR. STÉPHANE PERRAULT:** Well, these reports  
6 allow us to have a better understanding of the concerns of  
7 Canadian of the environment about the electoral process, so  
8 we can adjust or recalibrate our information on the website  
9 to make sure that people do understand. For instance, the  
10 health measures; what is required, what isn't. And we were  
11 applying the local standards and the -- for instance, the  
12 mask mandates, it varied. And there was no requirement for  
13 any vaccine. So that was mentioned. And concerns in Canada,  
14 and it is true here in Canada and elsewhere in the United  
15 Kingdom, we use pencils, and in some cases we know that  
16 people say that there are erasers to change the result of the  
17 vote. But we are aware of these things and these stories  
18 about the process are well-known before the election. So we  
19 can clarify and put information in advance on our website in  
20 order to educate the population about the rules and why they  
21 do exist.

22 **MR. MATTHEW FERGUSON:** And these reports are  
23 shared with external sources such as the RCMP or CSIS?

24 **MR. STÉPHANE PERRAULT:** Yes, we have weekly  
25 reports all the time but during a campaign these are daily  
26 reports that are shared with our security partners, so the  
27 members of the SITE Task Force; essentially, CSIS, RCMP,  
28 Global Affairs. So they do receive the information, as well

1 as the Commissioner, so all our security partners are made  
2 aware of the content of the report. Global Affairs.

3 **COMMISSIONER HOGUE:** And if in the  
4 information, you don't deal with the process as such, if it's  
5 not what is of concern to you, will you nevertheless transfer  
6 the information, or then will you limit the information about  
7 what you are responsible for?

8 **MR. STÉPHANE PERRAULT:** No, no, no. We don't  
9 say "So-and-so said." No. We say, "Here's what we heard.  
10 Here's what we saw." And it could include partisan debates  
11 or critics against some parties or some candidates. These  
12 are the trends that we can monitor in social media, and it is  
13 shared with all our security partners. But we don't give  
14 them any directive, and we don't draw their attention, or  
15 this or that. We take for granted that they respect their  
16 mandate in order to look at the information available.

17 **MR. MATTHEW FERGUSON:** Now, I'll deal with  
18 the last part of this examination.

19 With respect to the 44<sup>th</sup> and 43<sup>rd</sup> General  
20 Elections and their integrity now. First of all, the 43<sup>rd</sup>  
21 General Elections, can I see that you say that there was no  
22 problem of foreign intervenes that have to do with your  
23 mandate?

24 **MR. STÉPHANE PERRAULT:** Yes, it is an  
25 important nuance. I'm not aware, in terms of our mandate, of  
26 any case of foreign intervention in the management of the  
27 elections.

28 **MR. MATTHEW FERGUSON:** And this is strictly

1 related to your role.

2 **MR. STÉPHANE PERRAULT:** Yes.

3 **MR. MATTHEW FERGUSON:** Now, between  
4 classified and non-classified information, what is your  
5 opinion about the 2019 General Elections, in terms of  
6 integrity?

7 **MR. STÉPHANE PERRAULT:** In terms of my  
8 mandate, I'm very confident. But with respect to larger  
9 issues and the elections' ecosystem, it's up to the  
10 Commission to consider all the facts that you will be made  
11 aware of.

12 Now, in terms of elections management,  
13 absolutely.

14 **MR. MATTHEW FERGUSON:** And is it the same  
15 answer because we have 338 elections taking place at the same  
16 time. So would you say that it applies to each electoral  
17 riding election?

18 **MR. STÉPHANE PERRAULT:** Yes.

19 **MR. MATTHEW FERGUSON:** Now, about the 44<sup>th</sup>  
20 General Elections; it is a slightly different context because  
21 it took place during the COVID-19 pandemic, so it was a first  
22 for Elections Canada to hold General Elections during a  
23 pandemic period, of course.

24 **MR. STÉPHANE PERRAULT:** Yes, absolutely,  
25 absolutely.

26 **MR. MATTHEW FERGUSON:** And there's also a  
27 question about the slight -- the lesser number of voting  
28 places.

1                   **MR. STÉPHANE PERRAULT:** Schools were, in most  
2 cases, unavailable to receive voting, and there were condos  
3 that were normally have voting offices for their residents.  
4 True, it was a challenge, and in the end, in the end we had  
5 14,500 compared with 15,500. So some 1,000 less facilities.  
6 So not always the same number and therefore not always as  
7 close to citizens.

8  
9                   **MR. MATTHEW FERGUSON:** Do you think that the  
10 reduction of the number of polling stations is the kind of  
11 situation that could increase the vulnerability to foreign  
12 interference measures?

13                   **MR. STÉPHANE PERRAULT:** Well, I have no  
14 information that allows me to believe that.

15                   **MR. MATTHEW FERGUSON:** I also understand that  
16 Election Canada's didn't meet any major problems of foreign  
17 interference during your mandate, relative to the 44<sup>th</sup>  
18 General Election; is this correct?

19                   **MR. STÉPHANE PERRAULT:** Correct.

20                   **MR. MATTHEW FERGUSON:** And once again on the  
21 basis of all the informations available to you today,  
22 classified and unclassified, can you give us your opinion of  
23 the integrity of the 2021 General Election?

24                   **MR. STÉPHANE PERRAULT:** Well, similarly I  
25 would say that generally the General Election, I have a high  
26 level of confidence in the integrity of this election with  
27 regard to the questions that relate to my mandate.

28                   **MR. MATTHEW FERGUSON:** And once again,

1       whether it be the General Election or the 338 riding  
2       elections, is your answer the same for all of the ridings?

3                   **MR. STÉPHANE PERRAULT:** Yes, my answer is the  
4       same.

5                   **MR. MATTHEW FERGUSON:** And do I understand  
6       that this statement on your part in response to the questions  
7       of my colleague, Sheppard, the questions on the integrity of  
8       the election do not talk about the result of the election, or  
9       do they, the results of the election?

10                  **MR. STÉPHANE PERRAULT:** The result of the  
11       elections is when you count the votes. And as far as I'm  
12       concerned -- well, I have no ways of speculating factors that  
13       could influence that. But what I can say is that in the  
14       administration of the election, overall everything respected  
15       the rules and the law and there was a high level of integrity  
16       there.

17                  **MR. MATTHEW FERGUSON:** And here's my last  
18       question. But since you mention it in your Institutional  
19       Report, and during the interview with the lawyers of this  
20       Commission, you were aware of allegations in the media. How  
21       do you reconcile these statements that qualified the  
22       elections that you state to be of a high level of integrity,  
23       how do you reconcile it with allegations of hostile actors  
24       attempted to interfere with those elections, or at least in  
25       some ridings? How do you reconcile the allegations made and  
26       your statement?

27                  **MR. STÉPHANE PERRAULT:** I won't say that I  
28       wasn't concerned by these allegations that we hear in the

1 public sphere, but I think that as a citizen and the Director  
2 General of Elections, I am concerned about that.

3 But I have perhaps two restrictions on my  
4 comment: Basically, based on the facts that I am aware of,  
5 and for issues related to my mandate, I think that the  
6 Commission wants to look -- take a wider look at the  
7 electoral ecosystem in which the elections took place, and  
8 will examine it better to understand what might have  
9 happened, and formulate an opinion thereupon. But it's not  
10 my mandate and I do not have the resources necessary to make  
11 any such determination.

12 **MR. MATTHEW FERGUSON:** Madam Commissioner, I  
13 believe that this is it for my questions.

14 Thank you very much.

15 **COMMISSIONER HOGUE:** It will be a good time  
16 for the break.

17 **MR. MATTHEW FERGUSON:** [No interpretation].

18 **COMMISSIONER HOGUE:** We'll come back in about  
19 20 minutes.

20 **THE REGISTRAR:** Order, please.

21 The hearing is in recess until 11:40.

22 --- Upon recessing at 11:19 a.m.

23 --- Upon resuming at 11:45 a.m.

24 --- **STÉPHANE PERRAULT, Resumed:**

25 **THE REGISTRAR:** Order, please.

26 This sitting of the Foreign Interference  
27 Commission is back in session.

28 **COMMISSIONER HOGUE:** So let me look at the

1 order. It's -- who is the first? Ah. Yes, just a moment,  
2 I'm going to find it. Yes, I do. It's okay, I got it.  
3 Sorry.

4 So it's the counsel for Michael Chong.

5 **MR. GIB van ERT:** Thank you, Commissioner.

6 **--- CROSS-EXAMINATION BY MR. GIB van ERT:**

7 **MR. GIB van ERT:** Sir, I wanted to start with  
8 some questions about your independence from government. You  
9 explained this morning that you're independent from  
10 government. I understand that you're an officer of  
11 Parliament; right?

12 **MR. STÉPHANE PERRAULT:** That's correct.

13 **MR. GIB van ERT:** And the virtue of that is  
14 that you're not accountable to any minister.

15 **MR. STÉPHANE PERRAULT:** I am not.

16 **MR. GIB van ERT:** Right. And in fact, I  
17 understand that you're only removable on a joint resolution  
18 of Parliament. Is that right?

19 **MR. STÉPHANE PERRAULT:** Correct, a joint  
20 resolution of the House of Commons and Senate.

21 **MR. GIB van ERT:** Right. Thank you. And I  
22 understand as well that you serve for a non-review --  
23 renewable 10 year term.

24 **MR. STÉPHANE PERRAULT:** That is correct.

25 **MR. GIB van ERT:** And the virtue of it being  
26 non-renewable, from an institutional independence  
27 perspective, tell me if I've got this right, is that it  
28 removes any incentive on your part to try to please anyone in

1 government in the hope that you might get the job again after  
2 10 years.

3 **MR. STÉPHANE PERRAULT:** That is correct.

4 **MR. GIB van ERT:** Right. So you can please  
5 people or not please people in government and one way or  
6 another, you'll be moving on when your term is over?

7 **MR. STÉPHANE PERRAULT:** That is the case.

8 **MR. GIB van ERT:** All right. Now, Mr.  
9 Perrault, would you -- I know you've touched on it a bit  
10 already, but would you just elaborate for the Commissioner on  
11 why the Chief Electoral Officer needs that sort of  
12 institutional independence?

13 **MR. STÉPHANE PERRAULT:** Because it's  
14 important for Canadians to be reassured that the election is  
15 not conducted under the influence of any particular  
16 interests, including the interests of the governing party.

17 **MR. GIB van ERT:** Thank you.

18 I've been realizing as we work through this  
19 material, that the phrase general election is one that I  
20 don't know that I don't know that I fully appreciated the  
21 significance of the word general in that phrase before. But  
22 I think maybe I'm coming onto it; you'll tell me.

23 A general election, as I understand it, is  
24 one where there is an election held in all of the electoral  
25 districts in the country at once. It's general in the sense  
26 that it's -- everyone is having an election in all the  
27 ridings?

28 **MR. STÉPHANE PERRAULT:** That is a proper

1 description of it.

2 **MR. GIB van ERT:** Right. Okay. And so, we  
3 have 338 elections on election day, and that's what we call a  
4 general election?

5 **MR. STÉPHANE PERRAULT:** That's correct.

6 **MR. GIB van ERT:** Thank you. And so, when  
7 we're considering the integrity of the general election, what  
8 we've really got to think about is the integrity of each of  
9 those 338 component elections. Is that right?

10 **MR. STÉPHANE PERRAULT:** That's right. When  
11 an election is contested, for example before a court, it is  
12 contested on a riding-by-riding basis. So it is not  
13 generally contested.

14 **MR. GIB van ERT:** Right, right. And so, if  
15 there were foreign interference, or for that matter any kind  
16 of interference, in only a handful of ridings in a given  
17 general election, that could still jeopardize your assessment  
18 of the integrity of the general election as a whole?

19 **MR. STÉPHANE PERRAULT:** So I just want to  
20 make some nuances here. As Chief Electoral Officer, that's  
21 in my statement, I'm not called upon to certify the integrity  
22 of an election. What I am called upon to do is account for  
23 it and provide evidence regarding my administration of the  
24 elections for others, including participants who may wish to  
25 challenge the election, including parliamentarians or the  
26 Courts who have an interest, and of course, including the  
27 Commission.

28 So formally my role is not to certify in any

1 way that case. So when I speak about it -- and I was asked a  
2 question earlier -- it is a general assessment that I make,  
3 but it is not a formal role that I play under the *Act*.

4 **MR. GIB van ERT:** Sure. Now, I take that  
5 point and I didn't mean to suggest that you are responsible  
6 for certifying integrity. But you're concerned about the  
7 integrity of elections?

8 **MR. STÉPHANE PERRAULT:** Of course.

9 **MR. GIB van ERT:** Yes. And so, when you are  
10 considering the integrity, do I have it right that if you  
11 felt that 330 of the elections had integrity but eight lacked  
12 integrity, you wouldn't say to yourself, well, close enough.  
13 We've come pretty close to 338. You're having to hold  
14 yourself and your agency to a standard of 338.

15 **MR. STÉPHANE PERRAULT:** And I would report if  
16 I know of incidents that affect the integrity of an election,  
17 if I am aware of factual information that affects that. Even  
18 if it's one electoral district, I would include that in my  
19 reports to Parliament.

20 **MR. GIB van ERT:** Yes. But I just want to  
21 make sure you've agreed with me, your concern is the  
22 integrity of all the 338?

23 **MR. STÉPHANE PERRAULT:** Absolutely.

24 **MR. GIB van ERT:** Thank you.

25 You've explained that Elections Canada has  
26 now adopted a monitoring of social media. And you were clear  
27 that the purpose of that is to monitor for -- well, one of  
28 the purposes is to monitor for misinformation or

1       disinformation around the process of voting, the process of  
2       the conduct of elections?

3                   **MR. STÉPHANE PERRAULT:** Correct.

4                   **MR. GIB van ERT:** Right. As opposed to  
5       political speech generally, for instance?

6                   **MR. STÉPHANE PERRAULT:** Exactly.

7                   **MR. GIB van ERT:** Right. So -- and I know  
8       you gave the example to Maître Ferguson of people spreading  
9       false news about the content of pencils that are used in  
10      ballots for instance. Let me give you another fanciful  
11      example because I just want to make sure I've understood this  
12      right.

13                   If in a given general election you were  
14      monitoring -- your agency is monitoring social media, and you  
15      see that there is a story going around and actually gaining  
16      some pace, right, not just one random comment on some Reddit  
17      feed somewhere, but something that's actually picking up  
18      traction to the effect of in this coming election there'll be  
19      no advance voting allowed for people in British Columbia.  
20      That would be untrue of course.

21                   **MR. STÉPHANE PERRAULT:** Of course.

22                   **MR. GIB van ERT:** It would always have the  
23      same rule for all of the provinces, right? So if you saw  
24      something like that, have I understood you correctly that  
25      that's the sort of thing where you have a mandate now to go  
26      ahead and intervene?

27                   **MR. STÉPHANE PERRAULT:** Yes. There are  
28      different ways of doing that, but it is part of my mandate to

1 make sure that people in your example, in British Columbia --

2 -

3 **MR. GIB van ERT:** Right.

4 **MR. STÉPHANE PERRAULT:** --- are aware of the  
5 ways to vote.

6 **MR. GIB van ERT:** And not misinformed?

7 **MR. STÉPHANE PERRAULT:** And not misinformed.

8 **MR. GIB van ERT:** Right. If instead the  
9 disinformation that your monitors were detecting was about  
10 something not touching the conduct of the election, but  
11 instead the positions of a particular party or the views of a  
12 particular candidate, that would not be a matter that  
13 Elections Canada could intervene on?

14 **MR. STÉPHANE PERRAULT:** No. It should not.

15 **MR. GIB van ERT:** Is there any institution or  
16 body in the country that is responsible for intervening where  
17 an instance of gross disinformation is detected on social  
18 media?

19 **MR. STÉPHANE PERRAULT:** That's a very broad  
20 question. There are liable laws in this country that would  
21 operate even during an election. So there are forums in that  
22 regard that could be leveraged to deal with that.

23 As I said earlier, I am not in a position to  
24 ascertain whether a content on social media is domestic or  
25 foreign, despite the appearances. And I would imagine, but I  
26 will let our security partners speak to that, that they have  
27 an interest in that regard. Whether they can in real time  
28 ascertain that or not is a different matter, and I won't

1 speak to that.

2 **MR. GIB van ERT:** Is there somebody -- you've  
3 mentioned liable laws for instance. It's a good point. I  
4 take your point. The difficulty of course is that correcting  
5 disinformation through a liable suit will take longer than it  
6 will to conduct the election, right? So if someone is saying  
7 something that is outrageously false about a candidate or a  
8 party during the election and you wait to let the Courts rule  
9 on it in a few years time, that won't help the candidate or  
10 the party during the election. Do you agree?

11 **MR. STÉPHANE PERRAULT:** It -- it will not.  
12 And this is part, I think, of the challenges of living in an  
13 open society which foreign state actors can leverage.

14 **MR. GIB van ERT:** Yes, and exploit.

15 **MR. STÉPHANE PERRAULT:** Yes.

16 **MR. GIB van ERT:** Against our interests as  
17 Canadians wanting to have fair elections, potentially.

18 **MR. STÉPHANE PERRAULT:** Potentially.

19 **MR. GIB van ERT:** Yes. So short of the  
20 Courts, are you as Chief Electoral Officer, aware of any  
21 other institution that currently exists that has the capacity  
22 -- because you've made clear that you don't -- to respond to  
23 an instance of disinformation? And I mean a clear instance.  
24 Is there somebody who's got the power during the election in  
25 order to safeguard the election and prevent people from being  
26 misled by that disinformation? Who's got the power to do  
27 that, if anyone?

28 **MR. STÉPHANE PERRAULT:** So the critical

1 incident protocol was set up to deal with matters that do not  
2 fall within my mandate and that within the view of the  
3 members of the protocol, threaten the ability to have a free  
4 and fair election. Whether they -- depending on the quality  
5 of the information that they have and the seriousness, they  
6 have to make an assessment of intervening or not intervening  
7 in an election. That's a judgement that they have to make.

8 **MR. GIB van ERT:** Yes. And you explained  
9 earlier that you are not a member of that panel?

10 **MR. STÉPHANE PERRAULT:** I am not.

11 **MR. GIB van ERT:** Because you need to be  
12 independent of government?

13 **MR. STÉPHANE PERRAULT:** In my administration  
14 of my mandate, yes.

15 **MR. GIB van ERT:** And the members of that  
16 panel are all at pleasure appointees of the government of the  
17 day?

18 **MR. STÉPHANE PERRAULT:** That's a fact.

19 **MR. GIB van ERT:** Right, right. Is there  
20 somebody that actually enjoys the sort of independence that  
21 you have who can intervene to contradict or dispel  
22 disinformation during an election campaign?

23 **MR. STÉPHANE PERRAULT:** There is not.

24 **MR. GIB van ERT:** Thank you.

25 And just a few points about nomination  
26 contests. You've given evidence on this already of course.  
27 You were clear that Elections Canada does administer  
28 financial rules around party political candidate nomination

1 contests. So we've got that. But other than that, as I  
2 understood your evidence, Elections Canada has no role in  
3 those nomination contests?

4 **MR. STÉPHANE PERRAULT:** Correct. We are  
5 informed after the fact.

6 **MR. GIB van ERT:** Informed, yes, as you  
7 explained about there would be an after the fact financial  
8 report for instance?

9 **MR. STÉPHANE PERRAULT:** Correct.

10 **MR. GIB van ERT:** Right, right. So to take  
11 an example which may or may not prove to be hypothetical, if  
12 voters were bussed in from outside a riding into another  
13 riding to vote in some federal party's nomination contest,  
14 contrary to the rules of that party's nomination proceedings,  
15 that would not be a matter for Elections Canada?

16 **MR. STÉPHANE PERRAULT:** No, we have no  
17 authority to intervene in that regard.

18 **MR. GIB van ERT:** That would be a matter for  
19 the party, but you couldn't get involved?

20 **MR. STÉPHANE PERRAULT:** That's correct.

21 **MR. GIB van ERT:** Are you aware of any other  
22 institution, besides the party itself, that would have any  
23 role in that?

24 **MR. STÉPHANE PERRAULT:** In terms of the  
25 contest itself and deciding the validity of that contest, no.

26 **MR. GIB van ERT:** Thank you, Mr. Perrault.  
27 You've been most helpful.

28 **COMMISSIONER HOGUE:** Thank you. So the next

1 one is counsel for Erin O'Toole.

2 --- CROSS-EXAMINATION BY MR. THOMAS JARMYN:

3 MR. THOMAS JARMYN: Thank you, Commissioner.

4 It's Tom Jarmyn for Erin O'Toole.

5 Mr. Perrault, I'm going to -- some of the  
6 questions I had have been covered previously, so I may jump  
7 around a little bit, ---

8 MR. STÉPHANE PERRAULT: Sorry, ---

9 MR. THOMAS JARMYN: --- and I apologize. Can  
10 you hear me?

11 MR. STÉPHANE PERRAULT: Oh, okay. I wasn't  
12 seeing who -- where the question ---

13 MR. THOMAS JARMYN: Oh, sorry.

14 MR. STÉPHANE PERRAULT: I was hearing a voice  
15 and not seeing a person. There, I've got you on the screen.

16 MR. THOMAS JARMYN: All right. Thank you  
17 very much. So just to begin, I'll probably begin where Mr.  
18 Ferguson left off and Mr. van Ert covered a little bit.

19 When you speak about the integrity of the  
20 elections, of the 43<sup>rd</sup> and 44<sup>th</sup> general election, you're  
21 answering that question in the concept -- or in the context  
22 of the stator mandate given to you under the *Elections Act*?  
23 Is that correct?

24 MR. STÉPHANE PERRAULT: That's correct.

25 MR. THOMAS JARMYN: And not within the  
26 broader concept that you were discussing with Mr. Sheppard of  
27 the free and fair election that sometimes we all think about?  
28 Is that correct?

1                   **MR. STÉPHANE PERRAULT:** That is correct.

2                   **MR. THOMAS JARMYN:** Yeah. And we don't need  
3 to bring up ELC54, which is your report on the 43<sup>rd</sup> and the  
4 44<sup>th</sup> general election entitled *Meeting New Challenges:  
5 Recommendations from the Chief Electoral Officer*, but that  
6 report makes a number of recommendations regarding responses  
7 to foreign funding, disinformation, and other activities  
8 involving state actors; is that correct?

9                   **--- EXHIBIT No. ELC 54:**

10                                   Meeting New Challenges -  
11                                   Recommendations from the Chief  
12                                   Electoral Officer of Canada following  
13                                   the 43rd and 44th General Elections

14                   **MR. STÉPHANE PERRAULT:** That is correct.

15                   **MR. THOMAS JARMYN:** And is that based upon  
16 your concerns about the broader concept of the application of  
17 a free and fair election in Canada?

18                   **MR. STÉPHANE PERRAULT:** It is, in the sense  
19 that this is an example where the laws of Canada are, in my  
20 view, subject to improvements, and these are improvements  
21 that I'm recommending.

22                   **MR. THOMAS JARMYN:** Okay. Thank you. And  
23 looking at section 282.4 of the *Elections Act*, which deals  
24 with foreign interference or undue foreign influence, which  
25 you discussed with Mr. Sheppard, I believe, that applies only  
26 during the election period? Is that correct?

27                   **MR. STÉPHANE PERRAULT:** That is correct. And  
28 I have recommended that it be expanded beyond the election

1 period.

2 **MR. THOMAS JARMYN:** Yeah. And so if those  
3 similar activities which might violate 282.4 during the  
4 election period occurred in the context of a nomination race,  
5 that wouldn't actually be a violation of the *Elections Act*;  
6 would it?

7 **MR. STÉPHANE PERRAULT:** It would not.

8 **MR. THOMAS JARMYN:** Okay. And I just want to  
9 take you to WIT31. And if we could bring that up on the  
10 screen? Because I want to look at paragraph 2 in particular.

11 **MR. STÉPHANE PERRAULT:** Sorry, just to go  
12 back to the previous question, there ---

13 **MR. THOMAS JARMYN:** Sure.

14 **MR. STÉPHANE PERRAULT:** --- may be -- going  
15 back to your previous question, if I may? There may -- so  
16 282.4 would not apply. There may be other rules that apply.  
17 For example, making non-monetary contributions to a  
18 contestant would apply; right?

19 **MR. THOMAS JARMYN:** Yes.

20 **MR. STÉPHANE PERRAULT:** Okay.

21 **MR. THOMAS JARMYN:** Yes.

22 **MR. STÉPHANE PERRAULT:** Some form of  
23 coordination and the benefit is given that has value and that  
24 is caught by the rules on contribution, which excludes,  
25 certainly, non-Canadians and certainly foreign states.

26 **MR. THOMAS JARMYN:** Thank you, yes.

27 So if we could look at WIT31, paragraph 2?

28 In that, that's a summary of your classified

1 ---

2 **COMMISSIONER HOGUE:** Just a moment, I think  
3 we -- it's not on the screen yet. Okay. It is.

4 **MR. STÉPHANE PERRAULT:** There we are.

5 **MR. THOMAS JARMYN:** Okay. Thank you.

6 So that's a discussion with your classified  
7 interview with respect to the nomination contest in Don  
8 Valley North. And in paragraph 2, you say that participation  
9 in nomination contest is not regulated in the same way as an  
10 election.

11 **MR. STÉPHANE PERRAULT:** That is correct.

12 **MR. THOMAS JARMYN:** And what -- and I'm not  
13 asking for the actual facts or anything underlying these  
14 allegations, but would further action with respect to these  
15 allegations have been considered if a nomination contest was  
16 regulated in the same manner as an election?

17 **MR. STÉPHANE PERRAULT:** I don't think I can  
18 answer that question without disclosing beyond the boundaries  
19 of what I can disclose.

20 **MR. THOMAS JARMYN:** Okay. Thank you. And  
21 just with respect to the context of the general election, in  
22 your discussion with Mr. Sheppard, you talked about the  
23 processes Elections Canada underwent in order to prepare, and  
24 among that is hiring some 230,000 employees in the course of  
25 the general election. And these are deputy returning  
26 officers and the polling clerks necessary to man, you know,  
27 the establishment? Is that correct?

28 **MR. STÉPHANE PERRAULT:** That is correct. For

1 roughly 16,000 polling locations, ---

2 **MR. THOMAS JARMYN:** Yeah.

3 **MR. STÉPHANE PERRAULT:** --- you need poll  
4 clerks, and returning officers, and information officers, and  
5 other personnel to support the process.

6 **MR. THOMAS JARMYN:** And those folks are all  
7 hired during the writ period or during the election period?  
8 Is that right?

9 **MR. STÉPHANE PERRAULT:** That is correct.

10 **MR. THOMAS JARMYN:** And what steps are taken  
11 to vet candidates for those positions?

12 **MR. STÉPHANE PERRAULT:** So we have them sign  
13 a declaration that they meet the qualifications. So in order  
14 to work as an officer, you do have to be a Canadian citizen.  
15 But beyond that, and I think what you're getting at, there is  
16 no security clearance that is done of these people. That  
17 would not be possible, given the magnitude of the workforce  
18 that we're talking about and the days that we have to hire.  
19 We are normally hiring all the way up to the weekend before  
20 polling day.

21 **MR. THOMAS JARMYN:** Yes, and I appreciate  
22 it's a mammoth challenge. I suspect you're probably one of  
23 the largest employers in Canada by the end of the writ  
24 period.

25 **MR. STÉPHANE PERRAULT:** We are.

26 **MR. THOMAS JARMYN:** So you don't have any  
27 ability to verify whether or not any of these folks have  
28 affiliations with other organizations or entities, ---

1                   **MR. STÉPHANE PERRAULT:** No, we do not.

2                   **MR. THOMAS JARMYN:** --- other than self  
3 disclosure?

4                   **MR. STÉPHANE PERRAULT:** Correct. I would say  
5 the electoral process is an open process, there are  
6 observers, including candidate representatives, that are  
7 there to ensure the integrity of the process, but candidate  
8 representatives are not, also, security screened.

9                   **MR. THOMAS JARMYN:** Okay. Thank you. Those  
10 are all my questions, Madam Commissioner. Thank you.

11                   **COMMISSIONER HOGUE:** Thank you.

12                   So next one is counsel for Jenny Kwan.

13                   **--- CROSS-EXAMINATION BY MR. SUJIT CHOUDHRY:**

14                   **MR. SUJIT CHOUDHRY:** Good morning, Mr.  
15 Perrault.

16                   **MR. STÉPHANE PERRAULT:** Good morning.

17                   **MR. SUJIT CHOUDHRY:** For the record, I'm  
18 Sujit Choudhry. I'm counsel for Jenny Kwan.

19                   Mr. Perrault, I also would like to talk a bit  
20 about the interview summary that we were disclosed last night  
21 that referenced the allegation or the fact situation that  
22 might include foreign interference in Don Valley North.

23                   And so if I understood you correctly this  
24 morning in your answers to questions from Commission counsel,  
25 you stated that whatever that allegation might be, and we  
26 know you can't give us the specifics, it falls outside the  
27 current scope of the mandate of Elections Canada?

28                   **MR. STÉPHANE PERRAULT:** I can't speak to that

1 because I would have to nuance that.

2 **MR. SUJIT CHOUDHRY:** Okay. So then I'll move  
3 on. So I'm going to proceed on the assumption that you  
4 couldn't address it.

5 And I'd like to put up on the screen a  
6 document I think you're very familiar with. It's the  
7 playbook that I imagine you had a hand in putting together.  
8 And this is the Election Incident Response Playbook, and the  
9 document number is ELC, many zeros, 826. And I'm hoping it  
10 will come up soon.

11 **--- EXHIBIT No. ELC 826:**

12 Election Incidence Response Playbook  
13 for 44th General Election

14 **COMMISSIONER HOGUE:** I think it is.

15 **MR. SUJIT CHOUDHRY:** It's in the hearing  
16 database.

17 **COMMISSIONER HOGUE:** Can you repeat the  
18 document?

19 **MR. SUJIT CHOUDHRY:** Sure. It's ELC0000826.

20 **COMMISSIONER HOGUE:** There it is.

21 **MR. SUJIT CHOUDHRY:** Thank you very much.

22 And if we could go to page 7, please?

23 So I just want to spend a bit of time on this  
24 document.

25 Could you actually scroll down a bit? We're  
26 missing the title. No, the other way. Thank you.

27 Okay. So this -- the title of this graph is  
28 "Election Incident Response Architecture". And so you'd

1 agree that there's -- by my account, there are about a dozen  
2 different committees that -- or bodies that this document  
3 describes, and by my account, in this document and its  
4 surrounding text, there are at least a dozen different  
5 federal government departments or agencies or entities that  
6 are on these various committees and bodies; is that about  
7 right?

8 **MR. STÉPHANE PERRAULT:** That's correct.

9 **MS. EWA KRAJEWSKA:** Sorry, before Mr.  
10 Perrault answers, I just want to note that this is not a  
11 document that we were given notice that would be provided to  
12 Mr. Perrault. Can he just have some time to ---

13 **MR. SUJIT CHOUDHRY:** Sure.

14 **MS. EWA KRAJEWSKA:** I gather that it is an  
15 ELC document but if you just give him a minute, please?

16 **MR. SUJIT CHOUDHRY:** Yeah, and I apologize  
17 for that.

18 So I guess what I'm trying to figure out is  
19 in relation to the potential for an interference in Don  
20 Valley North, I'm wondering, of these various bodies and the  
21 different government departments that are named here, whose  
22 job would it have been to address that type of concern?

23 **MR. STÉPHANE PERRAULT:** It depends on what  
24 you mean by "Address". So whatever happens at a nomination,  
25 or if there's not a nomination, the person that files the  
26 nomination per person in accordance with the nomination  
27 papers for the election of a candidate, there's the same  
28 words being used twice here, but whatever happens in the

1 nomination contest is separate than what happens during the  
2 election. So these are separate matters.

3 And so I'm not sure what you mean by address  
4 the issue. If you mean by that stop the nomination process,  
5 or the nomination contest?

6 **MR. SUJIT CHOUDHRY:** Yes. I'm referring  
7 specifically to a nomination contest.

8 **MR. STÉPHANE PERRAULT:** So the party is the  
9 only entity that controls the nomination contest, ---

10 **MR. SUJIT CHOUDHRY:** So ---

11 **MR. STÉPHANE PERRAULT:** --- or the district  
12 association, as the case may be.

13 **MR. SUJIT CHOUDHRY:** So part of the point of  
14 this exercise is to think forward about how we might renovate  
15 or reform our institutional machinery around questions of  
16 election integrity, and I think it's evident that nomination  
17 contests are on the agenda.

18 And so what I'd ask you to think, if you were  
19 advising Parliament and you're asked a question, "Which  
20 institution should be given the mandate to regulate  
21 nomination contests," would it be Elections Canada? Or if  
22 not Elections Canada, would it be some other one of these  
23 institutions that already seem to have some hand in electoral  
24 integrity, or should it be a new body?

25 **MR. STÉPHANE PERRAULT:** So the -- it's an  
26 interesting question. I have raised the question with  
27 political parties as to whether they have -- they see an  
28 interest in further regulating nomination contest. This may

1 not necessarily involve any other body than themselves, but  
2 it may involve them having rules that they must abide by, or  
3 it could involve another body.

4 What I'll say is that there was no --  
5 generally speaking, no appetite to deal -- to change the  
6 rules or to further regulate, is probably the best way of  
7 saying it, further regulate the nomination process.

8 I should say that this is not exceptional in  
9 the world. That there are very few countries that actually  
10 nominate the -- that regulate the nomination process. There  
11 are examples but they are exceptional. I have not drawn my  
12 own conclusions in that regard. I may make recommendations  
13 to Parliament or this committee, depending on the findings  
14 that come out of the first phase.

15 **MR. SUJIT CHOUDHRY:** And one last question,  
16 if I may, on this theme.

17 So if Elections Canada were given such a  
18 mandate, or it was added to Elections Canada's  
19 responsibilities because it's sufficiently adjacent to its  
20 existing responsibilities, would it -- in your opinion would  
21 it -- does it have the expertise and capacity and resources  
22 to address that issue; and if not, what would it need to get  
23 the job done?

24 **MR. STÉPHANE PERRAULT:** It would  
25 fundamentally alter our -- we would need to change  
26 fundamentally the way we operate. We would need returning  
27 officers permanently in each of the Canada's 300 -- 343  
28 electoral districts, which does not exist now. They're

1 nominated but they do not operate, they do not have an  
2 office. So we would have to have a permanent capacity if we  
3 were to actually administer a nomination contest.

4 Now, there are alternatives to that, which is  
5 the parties administer them, but they are bound by certain  
6 rules that they must -- so we can explore different ways of  
7 further regulating without necessarily expanding so much the  
8 role of Elections Canada.

9 As I said, and as I told the parties, this is  
10 something that I need to consider, based on what comes out of  
11 these -- out of this inquiry.

12 **MR. SUJIT CHOUDHRY:** Thank you, sir.

13 **COMMISSIONER HOGUE:** Thank you.

14 So the next one is counsel for the  
15 Conservative Party.

16 **(SHORT PAUSE)**

17 **--- CROSS-EXAMINATION BY MR. NANDO de LUCA:**

18 **MR. NANDO de LUCA:** Good morning, Mr.  
19 Perrault. My name is Nando De Luca; I'm the lawyer for the  
20 Conservative Party of Canada. Thank you for being here today  
21 and taking the time to answer our questions.

22 I'd like to get a further understanding, as  
23 well, regarding WIT 31, and I'd ask for that to be called up,  
24 if possible?

25 So first off -- can you hear me okay, sir?

26 **MR. STÉPHANE PERRAULT:** I can.

27 **MR. NANDO de LUCA:** So first off this  
28 morning, I believe you -- with respect to this document, you

1 offered some clarifications in discussing it with Commission  
2 counsel. I'm going to ask you some questions about those,  
3 but maybe we could go to paragraph 2 because as I see this  
4 document there might have been another correction.

5 Paragraph 2 says:

6 "At that point, Mr. Perrault  
7 determined that no action could be  
8 taken."

9 I've got a version of this document that  
10 says, "...ruled that no action could be taken"; was that  
11 another change to be made?

12 **MR. STÉPHANE PERRAULT:** I don't recall that.

13 **MR. NANDO de LUCA:** Okay.

14 **MS. EWA KRAJEWSKA:** Just I think -- I believe  
15 that was just a correction to the translation; it was  
16 originally in French.

17 **MR. NANDO de LUCA:** Okay, that's fine.

18 So with respect to -- I'll have some more  
19 questions about paragraph 2. With respect to the corrections  
20 that you did make this morning, could you give some context  
21 as to how those corrections came about?

22 **MR. STÉPHANE PERRAULT:** I reviewed the  
23 document and felt that there's some adjustments that needed  
24 to be made to better reflect my statement.

25 **MR. NANDO de LUCA:** Okay. And had you not  
26 reviewed a version of this document prior to the review which  
27 brought about these corrections?

28 **MR. STÉPHANE PERRAULT:** I've seen various

1 versions of that document.

2 **MR. NANDO de LUCA:** Okay. So it was upon  
3 further review in preparation for today's statement that you  
4 determined that ---

5 **MR. STÉPHANE PERRAULT:** Correct.

6 **MR. NANDO de LUCA:** --- the revised wording  
7 more accurately reflected your sentiments?

8 **MR. STÉPHANE PERRAULT:** Correct.

9 **MR. NANDO de LUCA:** Okay. So the -- with  
10 respect to paragraph 1, you made a couple of corrections, and  
11 you clarified first that the discussion that you had with  
12 CSIS in 2019, you changed the words, "He discussed with and  
13 was informed by". I have a question; is that an indication  
14 -- I have a more general question; how did this discussion or  
15 this information come about? What was the context? Was it  
16 solicited by you or did CSIS come to you unsolicited?

17 **MR. STÉPHANE PERRAULT:** CSIS came to me  
18 unsolicited.

19 **MR. NANDO de LUCA:** Okay. And you saw fit  
20 this morning to change, "Allegations of irregularities" to,  
21 "A fact situation which could involve foreign interference".  
22 What distinction do you draw, if any, between those two?

23 **MR. STÉPHANE PERRAULT:** Irregularities  
24 connotes a violation of the rules under the Act, and my  
25 corrected version does not necessarily have that connotation.

26 **MR. NANDO de LUCA:** Okay. Fair to say you  
27 were trying to be more specific?

28 **MR. STÉPHANE PERRAULT:** Yes.

1                   **MR. NANDO de LUCA:** Okay. So back to  
2 paragraph 2. And I think, I believe it's your counsel, for  
3 making the correction. I was going to ask a question, but it  
4 applies regardless of whether the word is "Ruled" or  
5 "Determined"; when you say in -- or when it's written in  
6 paragraph 2 that there was a determination made, was that any  
7 sort of a formal deliberative process, or was it just based  
8 on the meeting that you had with CSIS?

9                   **MR. STÉPHANE PERRAULT:** It was based on the  
10 information that I had; I came to that conclusion.

11                   **MR. NANDO de LUCA:** But, again, was it based  
12 on a deliberative process in which you solicited views of  
13 other persons?

14                   **MR. STÉPHANE PERRAULT:** It was not.

15                   **MR. NANDO de LUCA:** So -- okay. More  
16 generally, with respect to the subject matter, you reference  
17 that it related to voting in the nomination contest in the  
18 Riding of Don Valley North, paragraph 1.

19                   And am I correct that those concerns related  
20 to the Liberal Party nomination contest?

21                   **MR. STÉPHANE PERRAULT:** I believe that I'm  
22 not authorized to speak beyond what is in this public  
23 statement. I'd have to consult with counsel regarding  
24 further elaboration on the document.

25                   **MR. NANDO de LUCA:** Okay. And I'd like to  
26 get a better understanding, if I can, as to why you  
27 determined that no action could be taken.

28                   I think you indicated that, to the extent

1 that you're able in terms of the details that were provided  
2 to you, any concerns did not -- may I characterize it this  
3 way -- relate to concerns within your core mandate?

4 **MR. STÉPHANE PERRAULT:** That's one way of  
5 saying it. Did not relate to the administration of the rules  
6 under the Act.

7 **MR. NANDO de LUCA:** Okay. And am I correct  
8 that the purchasing of -- more generally, the purchasing of  
9 party memberships in Canada are regulated by the *Canada*  
10 *Elections Act*?

11 **MR. STÉPHANE PERRAULT:** Aspects of it, yes.

12 **MR. NANDO de LUCA:** Okay. But in the case we  
13 don't know -- in the case that you're -- the riding contest  
14 that you're referring to, that element of regulation was not  
15 engaged; correct?

16 **MR. STÉPHANE PERRAULT:** I -- again, I cannot  
17 expand beyond the public statement. This was carefully  
18 limited.

19 **MR. NANDO de LUCA:** Okay. Would you agree  
20 that requiring individuals who wish to vote in a nomination  
21 contest for a federal election should first be required to  
22 purchase a membership using a Canadian credit card or a  
23 Canadian bank account?

24 **MR. STÉPHANE PERRAULT:** Would I agree that  
25 what? I missed a verb on that.

26 **MR. NANDO de LUCA:** Sorry.

27 **MR. STÉPHANE PERRAULT:** Can you repeat the  
28 question, please?

1                   **MR. NANDO de LUCA:** Sure.

2                   So appreciating that we can't get into the  
3                   specifics, as a general proposition or perhaps as a  
4                   proposition of policy that with respect to riding contests  
5                   such as the one in issue here for Don Valley North, it would  
6                   be preferable to require individuals who wish to vote in such  
7                   a contest to purchase a membership using some form of payment  
8                   -- Canadian-based payment, i.e. a Canadian credit card or a  
9                   Canadian bank account?

10                  **MR. STÉPHANE PERRAULT:** I would agree.

11                  **MR. NANDO de LUCA:** Okay. And that would  
12                  certainly help deter the flow of funds -- foreign funds if  
13                  they were being used.

14                  **MR. STÉPHANE PERRAULT:** I will note that I  
15                  have made recommendations to Parliament in that respect.

16                  **MR. NANDO de LUCA:** Okay. So you indicated  
17                  towards -- if I could ask you to turn your attention to  
18                  paragraph 3 of your statement, sir.

19                  Sorry. I'm going to go back to 2.

20                  You set out reasons why or your -- why you  
21                  determined not to take any action with respect to what you  
22                  were informed by CSIS, one of them being that the rules  
23                  respecting nomination contests are different. And you  
24                  touched upon your mandate as being limited to the financial  
25                  -- certain financial aspects of it.

26                  **MR. STÉPHANE PERRAULT:** That is correct.

27                  **MR. NANDO de LUCA:** Okay. You then talk  
28                  about -- as another rationale, you offer that as opposed to

1       doing it -- doing anything about it at that time, you would  
2       be undertaking an audit after the fact.

3                   **MR. STÉPHANE PERRAULT:** As we do for all  
4       nomination contests.

5                   **MR. NANDO de LUCA:** Right. And as, in fact,  
6       you did for this riding here that you talk about in paragraph  
7       3; correct?

8                   **MR. STÉPHANE PERRAULT:** Correct.

9                   **MR. NANDO de LUCA:** Okay. So I'm trying to  
10      understand, though, are -- let's say you're in a situation  
11      where you're provided with credible information about true  
12      irregularities in connection with a riding nomination that do  
13      fall within your mandate. Are you suggesting that you would  
14      not have the power to do anything about it at the time,  
15      contemporaneously, as opposed to waiting for the audit  
16      process after the fact?

17                  **MR. STÉPHANE PERRAULT:** It's unlikely that it  
18      could do that. That's correct.

19                  I mean, our role is to examine the financial  
20      returns and address irregularities through the audit. If  
21      there are irregularities, they are then referred to the  
22      Commissioner.

23                  **MR. NANDO de LUCA:** Even if you were to be  
24      made aware of, for example, blatant irregularities regarding  
25      spending during the nomination process as it were happening,  
26      you don't believe you have the tools available to you to  
27      address it in real time?

28                  **MR. STÉPHANE PERRAULT:** I would have to

1 inform the Commissioner, and then she would have to make the  
2 determination as to what appropriate action would be  
3 undertaken. But I don't have an enforcement role.

4 **MR. NANDO de LUCA:** I appreciate that. Okay.

5 But needless to say, with respect to the  
6 specific matter that was referred to, that wasn't the  
7 decision that you took in connection with this ---

8 **MR. STÉPHANE PERRAULT:** It was not.

9 **MR. NANDO de LUCA:** Okay.

10 **MR. STÉPHANE PERRAULT:** And I will note that  
11 you made a number of qualifiers here, hypothetical, about  
12 credible evidence, blatant ---

13 **MR. NANDO de LUCA:** Sure.

14 **MR. STÉPHANE PERRAULT:** --- violations.

15 These ---

16 **MR. NANDO de LUCA:** Fair enough.

17 So you concluded your -- and this is touched  
18 upon in your paragraph 4. This wasn't a conclusion, rather,  
19 earlier. You said that -- I'm trying to get an  
20 understanding.

21 With respect to the matter, if I understand  
22 your paragraph 4 and your testimony earlier, with respect to  
23 the matter that you did refer to the Commissioner, am I  
24 correct this was as a result of the audit process after the  
25 fact?

26 **MR. STÉPHANE PERRAULT:** Yes.

27 **MR. NANDO de LUCA:** Did I understand your  
28 evidence correctly that that was a distinct concern from that

1 that had been discussed with you by CSIS during the election  
2 period?

3 **MR. STÉPHANE PERRAULT:** Can you rephrase that  
4 question?

5 **MR. NANDO de LUCA:** Sure.

6 I'm trying to understand if there's any  
7 relationship with what you referred to the Commissioner as a  
8 result of the audit process.

9 **MR. STÉPHANE PERRAULT:** So the statement at  
10 paragraph 3 is explicit on that. It was referred for other  
11 reasons.

12 **MR. NANDO de LUCA:** Okay. And are you able  
13 to share with us what, if anything, came as a result of what  
14 was shared with you by CSIS?

15 I appreciate that you determined that you  
16 couldn't or shouldn't take specific action with respect to  
17 what was shared with you by CSIS. Do you know if that was  
18 followed up by someone else or some other body?

19 **MR. STÉPHANE PERRAULT:** I cannot share that  
20 with you.

21 **MR. NANDO de LUCA:** Okay. Now, you expressed  
22 a sentiment towards the end of your testimony, and that's, I  
23 believe, reflected in paragraphs 4 and 5 that as far as your  
24 mandate is concerned, i.e. that which you're directly charged  
25 with administering and overseeing under the *Elections Act*,  
26 you believe that both with respect to the 43rd and the 44th  
27 election you were not informed of significant or any  
28 instances of foreign interference?

1                   **MR. STÉPHANE PERRAULT:** That's correct.

2                   **MR. NANDO de LUCA:** Okay. And that as a  
3 result of that, from that perspective, at least, and perhaps  
4 from broader perspective, your view is that both of those  
5 elections had high integrity, again with respect to your core  
6 mandate?

7                   **MR. STÉPHANE PERRAULT:** With respect to my  
8 mandate, correct. Based on the facts that I know today, that  
9 is correct.

10                  **MR. NANDO de LUCA:** Okay. And I appreciate  
11 that you may not be -- well, I don't know if you'll be able  
12 to share this.

13                   Are you -- so I'll ask the question.

14                   Are you aware -- and I'm drawing here on how  
15 specific those conclusions are. Are you aware of information  
16 that could call into question the integrity of the 43rd and  
17 the 44th election, information that doesn't engage your  
18 mandate, that could call into question the integrity of those  
19 elections?

20                  **MR. STÉPHANE PERRAULT:** So I think everyone  
21 here is aware of the information that is made public that is  
22 serious. That relates to the -- what I described as the  
23 broader conception of electoral integrity and that, I  
24 believe, is important for the Commission to examine and make  
25 determinations on.

26                   But as I said, I am not in a position to make  
27 any kind of determination or pronounce on these.

28                  **MR. NANDO de LUCA:** But what -- but I guess

1 what I want to know is -- and I appreciate that the  
2 Commissioner will ultimately have to deal with this.

3 Is there other information that you have that  
4 might be able to be shared in a non-public setting that could  
5 ---

6 **MR. STÉPHANE PERRAULT:** There is not.

7 **MR. NANDO de LUCA:** Okay. Those are my  
8 questions. Thank you.

9 **COMMISSIONER HOGUE:** Thank you.

10 So next one is the Human Rights Coalition.

11 **MS. HANNAH TAYLOR:** Good afternoon,  
12 Commissioner.

13 **--- CROSS-EXAMINATION BY MS. HANNAH TAYLOR:**

14 **MS. HANNAH TAYLOR:** Good afternoon,  
15 Mr. Perrault. My name's Hannah Taylor. I'm counsel for the  
16 Human Rights Coalition.

17 Mr. Perrault, I'm correct in understanding  
18 that Elections Canada sometimes receives complaints about  
19 alleged violations of the *Canada Elections Act*, and when you  
20 do, you pass that along to the Commissioner?

21 **MR. STÉPHANE PERRAULT:** That's correct.

22 **MS. HANNAH TAYLOR:** Are there mechanisms in  
23 place to keep the identity of those who submit complaints  
24 confidential during the time in which the complaint is in  
25 your office?

26 **MR. STÉPHANE PERRAULT:** This is treated as  
27 personal information, except with respect to the referral to  
28 the Commissioner. I can't speak to the manner in which the

1 documents are preserved in my office.

2 **MS. HANNAH TAYLOR:** You would agree that the  
3 intimidation of members of diaspora communities in the  
4 context of Canadian elections is an issue that Elections  
5 Canada is concerned with?

6 **MR. STÉPHANE PERRAULT:** It is.

7 **MS. HANNAH TAYLOR:** And from what I  
8 understand, Elections Canada is or has been attempting to  
9 respond to this type of concern by developing targeted  
10 messaging products about the secrecy of the ballot and other  
11 safeguards in the voting process?

12 **MR. STÉPHANE PERRAULT:** That's work that's  
13 undergoing right now in preparation for the next election;  
14 correct.

15 **MS. HANNAH TAYLOR:** They're still being  
16 developed.

17 **MR. STÉPHANE PERRAULT:** Yes. Well, there is  
18 information on our website right now that is fully developed,  
19 and we're working on content for outreach initiatives for the  
20 next election.

21 **MS. HANNAH TAYLOR:** And this came up briefly  
22 with counsel for Mr. O'Toole. In June 2022, you provided  
23 recommendations for additional tools for combatting foreign  
24 interference in Canadian elections to the Speaker of the  
25 House of Commons, including the expansion of the Rules on  
26 undue influence by foreigners to the pre writ period;  
27 correct?

28 **MR. STÉPHANE PERRAULT:** Yes, in committee, I

1 -- in parliamentary committee, I indicated that in fact it  
2 should probably be expanded at all times.

3 **MS. HANNAH TAYLOR:** And I understand  
4 correctly that this recommendation has not yet been  
5 implemented. It's perhaps in the process of being expanded,  
6 I don't know if you can speak to that, but it's not yet  
7 implemented.

8 **MR. STÉPHANE PERRAULT:** There is a bill  
9 before the house that was introduced, Bill C-65, that  
10 includes a number of recommendations in it that I have made  
11 or that is aligned with a number of recommendations that I've  
12 made.

13 **MS. HANNAH TAYLOR:** Okay. Thank you. I  
14 would like to turn to electoral integrity, the principles of  
15 which I understand to inform Elections Canada's or Elections  
16 Canada's mandate. You have mentioned that a broader  
17 conception of electoral integrity could refer to maintaining  
18 the conditions needed for holding -- or for the holding of  
19 free and fair elections, and that this is a more useful  
20 framework for the implementation of Elections Canada's  
21 mandate as opposed to a narrower conception of electoral  
22 integrity.

23 **MR. STÉPHANE PERRAULT:** It's true, but it's  
24 not quite what I said. I said it's more useful for the  
25 Commission to take that broader mandate. When we use -- we  
26 have what we call an integrity framework that outlines six  
27 principles that are reflected to a certain degree in the  
28 provisions of the Act, and we use that when we devise

1 programs or initiatives. And we challenge ourselves to  
2 examine through the lens of these principles whether what we  
3 do improves, or elements of what we do raises concerns  
4 regarding what are the other of these principles. So it's a  
5 lens through which we evaluate our initiatives.

6 **MS. HANNAH TAYLOR:** Okay. You would agree  
7 that a broader framework for understanding the integrity of  
8 the -- a broader framework is also more useful for  
9 understanding the integrity of a specific election?

10 **MR. STÉPHANE PERRAULT:** Yes, I think so.

11 **MS. HANNAH TAYLOR:** Okay. And you would  
12 agree that maintaining the conditions needed for the holding  
13 of free and fair elections includes ensuring that acts of  
14 transnational repression do not impede the involvement of  
15 voters from diaspora communities in those elections?

16 **MR. STÉPHANE PERRAULT:** Yes.

17 **MS. HANNAH TAYLOR:** Turning now a bit to  
18 discussions, a bit of your mandate. When you or Elections  
19 Canada considers the issue of foreign interference in  
20 Canadian elections, and you make assertions as to how free  
21 and fair a Canadian election is, you do so within the bounds  
22 of Elections Canada's mandate and operations; correct?

23 **MR. STÉPHANE PERRAULT:** That's correct.

24 **MS. HANNAH TAYLOR:** It's not the role of  
25 Elections Canada to identify or investigate threats of  
26 foreign interference in Canadian elections; correct?

27 **MR. STÉPHANE PERRAULT:** We don't do any  
28 investigations, in fact. That's the Commissioner of Canada

1 elections who does investigations.

2 **MS. HANNAH TAYLOR:** And Elections Canada  
3 engages in analysis of the information environment  
4 surrounding elections with its security partners at a high-  
5 level. Would that be a proper kind of summary of how that  
6 works?

7 **MR. STÉPHANE PERRAULT:** So we receive  
8 briefings from our security partners at a high-level  
9 regarding the nature of the threat environment. I may have  
10 misheard your question because I was confusing it with the  
11 social media monitoring that we do which we do separately  
12 from our partners, but we share with our partners.

13 **MS. HANNAH TAYLOR:** Right; yes. I'd be  
14 discussing information outside of the social media  
15 monitoring.

16 **MR. STÉPHANE PERRAULT:** Okay.

17 **MS. HANNAH TAYLOR:** You would agree that it's  
18 not the role of Elections Canada to evaluate and assess  
19 Canadian elections?

20 **MR. STÉPHANE PERRAULT:** No, we -- our role is  
21 to provide all of the information possible regarding our  
22 administration to allow other bodies, including courts,  
23 including this Commission, including parliamentarians,  
24 including ordinary Canadians to form a judgement. So if you  
25 go on our website, you will see there a segment of our  
26 website that shows all the studies and surveys and the  
27 reports that I do in order to provide transparency unto the -  
28 - with respect to the administration of the election, and

1 that is integral to the idea of electoral integrity or free  
2 and fair elections. That this process be observable, that  
3 people can pass judgement on it.

4 **MS. HANNAH TAYLOR:** Okay. Other bodies  
5 passing judgement on it, as opposed to ---

6 **MR. STÉPHANE PERRAULT:** Other bodies, that is  
7 correct.

8 **MS. HANNAH TAYLOR:** So moving now -- turning  
9 back to the social media monitoring that Elections Canada  
10 does. We've heard this morning that Elections Canada  
11 monitors public social media and digital content for  
12 information focussing on matters relating to the voting  
13 process, but not information that could be seen to be  
14 partisan. Is that correct?

15 **MR. STÉPHANE PERRAULT:** So the purpose, as  
16 you describe, the purpose is as you describe. As we do that,  
17 we do come across content that is partisan, but we don't  
18 collect it for that purpose and we do not action any -- in  
19 any way that information.

20 **MS. HANNAH TAYLOR:** We also heard that  
21 Elections Canada focusses on information that can be found in  
22 public channels as opposed to private groups on social media  
23 or private messaging apps and -- private messaging apps. Is  
24 that correct?

25 **MR. STÉPHANE PERRAULT:** Correct. We are not  
26 -- again, we're not an intelligence or investigative body,  
27 and I don't think it would be appropriate for Elections  
28 Canada to go beyond what is in the public domain.

1                   **MS. HANNAH TAYLOR:** And Elections Canada does  
2 not have the tools to determine the source of the information  
3 it gathers on social media, including whether that source is  
4 foreign or domestic?

5                   **MR. STÉPHANE PERRAULT:** That's correct. Our  
6 goal is to protect the information ecosystem, if I can use  
7 that term, against mis or incorrect information about the  
8 electoral process, whatever the source, whatever the intent.

9                   **MS. HANNAH TAYLOR:** And Elections Canada  
10 monitors the specific set of publicly available content  
11 during the writ period, meaning the time between the  
12 dissolution of Parliament and the election, which lasts about  
13 50 days at maximum. Is that correct?

14                   **MR. STÉPHANE PERRAULT:** No, that's not  
15 correct. We ---

16                   **MS. HANNAH TAYLOR:** Okay.

17                   **MR. STÉPHANE PERRAULT:** --- monitor it all  
18 the time.

19                   **MS. HANNAH TAYLOR:** All the time? Okay.

20                   **MR. STÉPHANE PERRAULT:** Yes. Our -- the size  
21 of the theme varies.

22                   **MS. HANNAH TAYLOR:** Okay.

23                   **MR. STÉPHANE PERRAULT:** So during the  
24 election period we have about 25, in the last election we had  
25 about 25 staff devoted to this. It is a reduced staff now.  
26 We do weekly reports, for example, so there is less work  
27 involved in the writing, but we monitor on a permanent basis.

28                   **MS. HANNAH TAYLOR:** Okay. And so outside of

1       those maximum 50 days there is 25 staff members dedicated to  
2       monitoring this publicly available information, and then the  
3       team grows during election period. That would be the  
4       difference?

5                   **MR. STÉPHANE PERRAULT:** Last election it grew  
6       to 25, I would say ---

7                   **MS. HANNAH TAYLOR:** Okay.

8                   **MR. STÉPHANE PERRAULT:** --- and now it's a  
9       bit -- it's a bit less than that.

10                  **MS. HANNAH TAYLOR:** Okay. During ---

11                  **MR. DANIEL SHEPPARD:** I'm sorry, guys, for  
12       interrupting. We do have a request to please slow down with  
13       ---

14                  **MS. HANNAH TAYLOR:** Oh.

15                  **MR. DANIEL SHEPPARD:** --- the questioning.

16                  **MS. HANNAH TAYLOR:** Thank you. Sorry.

17                         Okay. So thank you for correcting me,  
18       Mr. Perrault. So during election period you have 25 staff  
19       members monitoring.

20                  **MR. STÉPHANE PERRAULT:** I think there is  
21       three or five who are writing the reports and twenty  
22       monitoring, but I -- it's a ballpark figure.

23                  **MS. HANNAH TAYLOR:** Okay. And then how many  
24       are doing that work during the rest of the year?

25                  **MR. STÉPHANE PERRAULT:** I would have to come  
26       back to that. I think the size overall is around 15 now, but  
27       I'd have to be more precise. If you want to, I could come  
28       back to the Commission with that information. Sure.

1                   **MS. HANNAH TAYLOR:** Those are all of my  
2 questions. Thank you.

3                   **COMMISSIONER HOGUE:** Thank you.

4                   Next one is RCDA.

5                   **--- CROSS-EXAMINATION BY MR. GUILLAUME SIROIS:**

6                   **MR. GUILLAUME SIROIS:** [No interpretation].

7                   **MR. STÉPHANE PERRAULT:** [No interpretation].

8                   **MR. GUILLAUME SIROIS:** [No interpretation].

9                   **--- EXHIBIT No. WIT 13.EN:**

10                                   Interview Summary: Josée Villeneuve

11                   **--- EXHIBIT No. WIT 13.FR:**

12                                   Résumé d'entrevue: Josée Villeneuve

13                   **MR. GUILLAUME SIROIS:** [No interpretation].

14                   **MR. STÉPHANE PERRAULT:** [No interpretation].

15                   **MR. GUILLAUME SIROIS:** [No interpretation].

16                   ...all approach to Elections Canada, but I  
17 would like us to have a closer look at a precise case in  
18 order to understand how it works -- on the ground when  
19 Elections Canada receives a complaint of foreign interference  
20 in an election.

21                   In the photograph here, we see that we  
22 received a complaint about a person that came from the  
23 Federation of Russia because it had the .ru domain, which is  
24 a domain in the Russian Federation. The matter was also then  
25 sent to the Commissioner's office because it was publicity,  
26 and there was a lot of social effect.

27                   **MR. STÉPHANE PERRAULT:** Yes, there could be a  
28 cost for that because it was publicly. It was not evident

1 but one can surmise that that is the case.

2 **MR. GUILLAUME SIROIS:** So there's necessarily  
3 a cost related to ---

4 **MR. STÉPHANE PERRAULT:** Well, that's the  
5 definition of publicity, but when you see an image where it's  
6 not always evident to know whether there was actually a cost  
7 related to having it there.

8 **MR. GUILLAUME SIROIS:** But in this case it  
9 was publicity, therefore it seemed probable that it was.

10 **MR. STÉPHANE PERRAULT:** But this has to be  
11 determined by an inquiry.

12 **MR. GUILLAUME SIROIS:** And that is why you  
13 referred it, and you thought it could be an issue of foreign  
14 interference and that it should be subject to an inquiry by  
15 the Commissioner.

16 **MR. STÉPHANE PERRAULT:** [No interpretation].

17 **MR. GUILLAUME SIROIS:** And so it was  
18 information about the leader of a federal party during an  
19 election and disinformation campaigns in this regard without  
20 any appearance of it being publicity or payment being made.  
21 Would that also deserve to be referred to the Commissioner's  
22 Office or there has to be a payment?

23 **MR. STÉPHANE PERRAULT:** There has to be  
24 something that is against the law. So there could be  
25 intimidation, that could be a violation, but in terms of the  
26 content that criticizes a leader or a party, or that supports  
27 and it's in the media, or the social media, without anything  
28 more than that, that is not a violation of the law and

1       therefore there would be no cause to refer to the  
2       Commissioner's Office.

3                   **MR. GUILLAUME SIROIS:** I just want to make  
4       sure they understand; so in addition to there appearing to be  
5       interference, is there any other indicators that would  
6       suggest that it should be referred to the Commissioner's  
7       Office?

8                   **MR. STÉPHANE PERRAULT:** You have to  
9       understand that the exercise that goes on when we receive a  
10      complaint from the public about a specific case, an  
11      allegation of a violation, explicitly or implicitly, we've  
12      mentioned that earlier, is an exercise that is rather light.  
13      As soon as we think that there might be something that the  
14      Commissioner should look at, we refer to her. If the person  
15      says, "I am complaining; I want there to be an inquiry," we  
16      send it automatically, even though, *a priori*, it doesn't look  
17      like there's actually a problem.

18                   But if someone says that they really want to  
19      have an inquiry undertaken, well, then we send it on to the  
20      person responsible for that, the Commissioner. But if it's  
21      not clear, but there's an allegation of some facts that could  
22      be considered a violation of the law and that could therefore  
23      be referred to the Commissioner, we do so.

24                   **MR. GUILLAUME SIROIS:** Is it possible that  
25      the false information could have circulated on the social  
26      media, whether an ad or not, just a false information  
27      campaign that was on the social media; is it possible that  
28      that kind of information is there without it being of

1 interest to Elections Canada?

2 **MR. STÉPHANE PERRAULT:** Of course.

3 **MR. GUILLAUME SIROIS:** The complaint that  
4 we're talking about here in the summary of the interview with  
5 Madam Duchand (phonetic), was it sent to other people or  
6 other organizations rather -- outside of Elections Canada?

7 **MR. STÉPHANE PERRAULT:** Not to my knowledge.

8 **MR. GUILLAUME SIROIS:** Is it typical every  
9 time there's a complaint, justifies, perhaps, the  
10 intervention of the Commissioner, it's sent to her, but not  
11 to any other organization that you were collaborating with?

12 **MR. STÉPHANE PERRAULT:** Indeed, the  
13 Commissioner has herself agreements with the intelligence  
14 community, and she can decide having looked at -- that there  
15 might be information that is useful to them, but it's up to  
16 her to make that determination.

17 **MR. GUILLAUME SIROIS:** Finally, do you  
18 confirm sometime earlier this morning that there's no  
19 organization that is independent as you are; that  
20 concentration on fighting against that kind of disinformation  
21 so the complaint that we're referring to here, which was a  
22 disinformation complaint about a leader of a federal party  
23 during an election, doesn't correspond to the mandate of  
24 anybody who's responsible for inquiring and acting?

25 **MR. STÉPHANE PERRAULT:** It's an interesting  
26 question of public policy. We live in an open society, and I  
27 do believe that we have to have tools; that we should be  
28 vigilant, and that citizen education plays an important role.

1                   At our university organization, for example,  
2                   McGill, we're doing some media surveillance, fact-checking as  
3                   it's called, of what appeared in social media during the  
4                   election. So there's quite an ecosystem around the political  
5                   environment that intervenes to counter disinformation, and at  
6                   the parties and candidates of course.

7                   **MR. GUILLAUME SIROIS:** The question is; in an  
8                   open society should there be an official organization  
9                   responsible for surveying and checking the veracity of  
10                  information during an election campaign?

11                  **MR. STÉPHANE PERRAULT:** Well, I can tell you  
12                  that I don't think that Elections Canada should be playing  
13                  such a role. That doesn't mean we should do nothing. We do  
14                  -- we are responsible with making people aware, and it's work  
15                  that is done along those lines, and we shall continue to do  
16                  so. But I do not think that we -- hope that the state  
17                  organization be the information police on the internet. It's  
18                  very difficult. We saw in 2016 in the United States whether  
19                  certain content that was accused of being Canadian is or  
20                  isn't.

21                  **MR. GUILLAUME SIROIS:** So if there's -- if  
22                  we're talking about a publicity from the URL from Russia, the  
23                  .ru, do we hope that the organizations like the one you  
24                  mentioned at University of McGill should report this, or is  
25                  it useful to have an independent federal organization that  
26                  would be responsible for fighting against disinformation?

27                  **MR. STÉPHANE PERRAULT:** There's a group at  
28                  Global Affairs that has a look at things like that. There's

1 also the famous panel of five that I referred to earlier,  
2 which receives information. But I shouldn't say that there's  
3 no mechanism of monitoring, but before intervening or that  
4 the state or some organization, the state intervene on  
5 content that's online and it could be (indiscernible) it's a  
6 very delicate matter.

7 **MR. GUILLAUME SIROIS:** For the groups that  
8 you mentioned, these are not organizations that are  
9 independent, such as Elections Canada is.

10 **MR. STÉPHANE PERRAULT:** No, they aren't.

11 **MR. GUILLAUME SIROIS:** Those are my  
12 questions, Madam Commissioner.

13 **COMMISSIONER HOGUE:** And our next one is  
14 counsel for Han Dong.

15 **MR. JEFFREY WANG:** Madam Commissioner, we  
16 have no questions.

17 **COMMISSIONER HOGUE:** No question?  
18 So it's your turn.

19 **MR. BARNEY BRUCKER:** No questions.

20 **COMMISSIONER HOGUE:** Then it's your turn?

21 **MR. DANIEL SHEPPARD:** Thank you, Madam  
22 Commissioner. We have no re-direct.

23 **COMMISSIONER HOGUE:** Prior to that there was  
24 Elections Canada.

25 **MR. DANIEL SHEPPARD:** I apologize to my  
26 friends from Elections Canada.

27 **COMMISSIONER HOGUE:** You're too quick.

28 **MS. EWA KRAJEWSKA:** I have no questions.

1 Thank you.

2 **COMMISSIONER HOGUE:** You still have no  
3 question?

4 **MR. DANIEL SHEPPARD:** I have now many follow-  
5 up questions.

6 No, thank you, Madam Commissioner.

7 **COMMISSIONER HOGUE:** So thank you very much,  
8 Mr. Perrault.

9 **MR. STÉPHANE PERRAULT:** [No interpretation].

10 **COMMISSIONER HOGUE:** So we'll take the  
11 lunchbreak. We'll come back at 1 -- five past 1:00. Yeah,  
12 1:00.

13 **THE REGISTRAR:** Order, please.

14 This hearing is in recess until 1:05 p.m.

15 **MS. ERIN DANN:** Two oh five (2:05), I think.

16 **THE REGISTRAR:** Oh, correct; 2:05 p.m.

17 Two oh five (2:05) p.m.

18 --- Upon recessing at 12:46 p.m.

19 --- Upon resuming at 3:06 p.m.

20 **THE REGISTRAR:** Order, please. The sitting  
21 of the Foreign Interference Commission is back in session.

22 **COMMISSIONER HOGUE:** Good afternoon.

23 First of all, I want to apologize for the  
24 delay. I realize that presiding over a Commission is not  
25 like presiding over a court of law. We cannot control  
26 everything, especially in a context like this one where  
27 there's some confidentiality and security issues. So I'm  
28 sorry, but we'll do our best to proceed efficiently this

1 afternoon. Thank you.

2 **MR. DANIEL SHEPPARD:** And Madam Commissioner,  
3 before we begin with the next witness, Commission counsel  
4 wanted to remind the parties that pursuant to Rule 59 of the  
5 Rules of Practice and Procedure, participants must seek leave  
6 to cross-examine a witness on their interview summary. This  
7 was not done this morning and it is the expectation that  
8 participants should seek leave moving forward. Witnesses  
9 cannot be cross examined on their interview summary or  
10 statement of anticipated evidence as a prior inconsistent  
11 statement.

12 **COMMISSIONER HOGUE:** Thank you. It's a good  
13 reminder for everyone.

14 **MR. DANIEL SHEPPARD:** Madam Commissioner, we  
15 call at this time Ms. Caroline Simard, Mr. Yves Côté, and Ms.  
16 Mylène Gigou.

17 **COMMISSIONER HOGUE:** [No interpretation].

18 **THE REGISTRAR:** [No interpretation].

19 **MR. YVES CÔTÉ:** [No interpretation].

20 **THE REGISTRAR:** Please raise your right hand.  
21 Do you swear to tell all the truth, nothing  
22 but the truth, and so God help you?

23 **MR. YVES CÔTÉ:** I do.

24 **--- MR. YVES CÔTÉ, Sworn:**

25 **THE REGISTRAR:** And you, Mrs. Simard?

26 **MS. CAROLINE SIMARD:** So it will be a  
27 declaration.

28 **THE REGISTRAR:** No problem. Please indicate

1 your name for the file.

2 **MS. CAROLINE SIMARD:** Caroline Simard. S-i-  
3 m-a-r-d.

4 **THE REGISTRAR:** Please raise your right hand.  
5 Do you swear to say the truth, all the truth,  
6 and nothing but the truth?

7 **MS. CAROLINE SIMARD:** I do.

8 **--- MS. CAROLINE SIMARD, Affirmed:**

9 **THE REGISTRAR:** Thank you.  
10 And Mrs. Gigou, do you want to swear on the  
11 Bible or affirmation?

12 **MS. MYLÈNE GIGOU:** I will do affirmation.

13 **THE REGISTRAR:** Please indicate your name.

14 **MS. MYLÈNE GIGOU:** My name is Mylène Gigou;  
15 Gi-g-o-u.

16 **THE REGISTRAR:** Please raise your right hand.  
17 Do you swear to say the truth, nothing but  
18 the truth, and all the truth?

19 **MS. MYLÈNE GIGOU:** Yes, I do.

20 **--- MS. MYLÈNE GIGOU, Affirmed:**

21 **THE REGISTRAR:** Thank you.

22 Please proceed.

23 **--- EXAMINATION IN-CHIEF BY MR. MATTHEW FERGUSON:**

24 **MR. MATTHEW FERGUSON:** Hello, and welcome.

25 So ladies and gentleman witnesses, I will be  
26 talking to you in French and English. I will ask you to  
27 speak slowly because we are working with interpreters today.  
28 So if you're thinking you're speaking too slowly, please slow

1 down even more.

2 So Commissioner Simard, and I will talk to  
3 you as Mrs. Simard to not create any confusion with our  
4 Commissioner for this hearing. Can you confirm that the  
5 Federal Elections Bureau prepared additional report, and that  
6 is part of your evidence before the Commission?

7 **MS. CAROLINE SIMARD:** I do.

8 **MR. MATTHEW FERGUSON:** So Court Operator, can  
9 we call up CEF.IR.0001.EN?

10 **--- EXHIBIT No. CEF.IR.1.EN:**

11 Institutional Report OCCE

12 **MR. MATTHEW FERGUSON:** So that is the  
13 document of the Institutional Report in English.

14 **MS. CAROLINE SIMARD:** Yes.

15 **MR. MATTHEW FERGUSON:** Thank you. I will ask  
16 for CEF.IR several zeroes 2.FR.

17 **--- EXHIBIT No. CEF.IR.2.FR:**

18 Rapport institutionnel BCEF

19 **MR. MATTHEW FERGUSON:** And that is the French  
20 version.

21 **MS. CAROLINE SIMARD:** Yes.

22 **MR. MATTHEW FERGUSON:** So Mrs. Simard, you  
23 were interviewed by the lawyers of the Commission on March  
24 6<sup>th</sup>, and the summary of that interview was prepared; is that  
25 correct?

26 **MS. CAROLINE SIMARD:** Yes.

27 **MR. MATTHEW FERGUSON:** Did you have a chance  
28 -- I will ask the next document be pulled up, please.

1 --- EXHIBIT No. WIT 6.EN:

2 Stage 1 Interview Summary: Caroline  
3 Simard and Carmen Boucher

4 **MR. MATTHEW FERGUSON:** So question; is this  
5 the summary of the interview?

6 **MS. CAROLINE SIMARD:** Yes.

7 **MR. MATTHEW FERGUSON:** Did you get the chance  
8 of examining the summary to make sure that it reflected the  
9 contents of the discussion?

10 **MS. CAROLINE SIMARD:** Yes, I did.

11 **MR. MATTHEW FERGUSON:** Did you have the  
12 chance of bringing any correction or modification?

13 **MS. CAROLINE SIMARD:** Yes.

14 **MR. MATTHEW FERGUSON:** And I understand that  
15 you want to do a change today also?

16 **MS. CAROLINE SIMARD:** Yes, please.

17 **MR. MATTHEW FERGUSON:** If you allow me, we  
18 could do the change, it wouldn't be very long. But I think  
19 that I know the nature of the change. In a generic way,  
20 could you simply state what the change would be?

21 **MS. CAROLINE SIMARD:** It would be a typo in  
22 paragraph 16 to indicate about 5 percent for federal  
23 elections between 2020 -- the 2021 federal election, and the  
24 mistake is that it's 0.5 percent ---

25 **MR. MATTHEW FERGUSON:** OK.

26 **MS. CAROLINE SIMARD:** --- for the federal  
27 elections.

28 **MR. MATTHEW FERGUSON:** So we need .5 instead

1 of 5.

2 **MS. CAROLINE SIMARD:** [No interpretation].

3 **MR. MATTHEW FERGUSON:** Thank you. Were there  
4 any other corrections?

5 **MS. CAROLINE SIMARD:** No.

6 **MR. MATTHEW FERGUSON:** Mr. Côté, hello.

7 **MR. YVES CÔTÉ:** [No interpretation].

8 **MR. MATTHEW FERGUSON:** Mrs. Gigou, hello.

9 You were interviewed by the lawyers of the  
10 Commission on March 18<sup>th</sup>, and there's a summary of that  
11 interview that was prepared.

12 So could the Clerk bring up the document?

13 **--- EXHIBIT No. WIT 25:**

14 Stage 1 Interview Summary: Yves Côté,  
15 Mylène Gigou and Al Mathews

16 **MR. MATTHEW FERGUSON:** So Mr. Côté, Mrs.  
17 Gigou, did you have the chance of looking at that summary to  
18 check if it reflected accurately the contents of the  
19 discussion?

20 **MR. YVES CÔTÉ:** Yes.

21 **MR. MATTHEW FERGUSON:** Mrs. Gigou?

22 **MS. MYLÈNE GIGOU:** Yes.

23 **MR. MATTHEW FERGUSON:** Did you have the  
24 chance of bring any changes or corrections?

25 **MR. YVES CÔTÉ:** Yes.

26 **MS. CAROLINE SIMARD:** Yes.

27 **MR. MATTHEW FERGUSON:** Do you wish to bring  
28 changes or corrections today?

1                   **MR. YVES CÔTÉ:** No.

2                   **MR. MATTHEW FERGUSON:** [No interpretation].

3                   **MS. MYLÈNE GIGOU:** I would; paragraph 4.

4                   **MR. MATTHEW FERGUSON:** [No interpretation].

5                   **MS. MYLÈNE GIGOU:** The line before last:

6                                   "Among others, for investigating  
7                                   allegations of bid rigging and price  
8                                   fixing under the *Competition Act*."

9                                   (As read)

10                   An important distinction.

11                                   **(LAUGHTER)**

12                   **COMMISSIONER HOGUE:** It makes a big

13                   difference.

14                   **MR. MATTHEW FERGUSON:** Words are important.

15                   Thank you for that.

16                                   So Mrs. Simard, I will start with you.

17                                   Since August 2022, you have been Commissioner  
18                   to the Federal Elections; is that correct?

19                   **MS. CAROLINE SIMARD:** Yes.

20                   **MR. MATTHEW FERGUSON:** Mr. Côté, you are the  
21                   previous Commissioner to the Federal Elections from 2012 up  
22                   to June 2022?

23                   **MR. YVES CÔTÉ:** June 30<sup>th</sup>, 2022, yes.

24                   **MR. MATTHEW FERGUSON:** [No interpretation].

25                                   Ms. Gigou, you are currently Senior Director  
26                   of Enforcement at the Office of the Commissioner of Canada  
27                   Elections. Correct?

28                   **MS. MYLÈNE GIGOU:** Correct.

1                   **MR. MATTHEW FERGUSON:** And prior to that, you  
2 were Director of Investigations from March 2018 to  
3 April 2021?

4                   **MS. MYLÈNE GIGOU:** Yes, that is correct,  
5 except for a six-month secondment during that period of time  
6 from February 2022 to July 2022.

7                   **MR. MATTHEW FERGUSON:** Thank you for that,  
8 that specification.

9                   Madam Simard, and to you as Commissioner to  
10 the Federal Elections, the current person in position, can  
11 you explain your roles and responsibilities?

12                   **MS. CAROLINE SIMARD:** As you were saying, I  
13 am Commissioner since 2022 and therefore I have a role of  
14 observation and application of the law. In simple terms what  
15 that means is that we do investigations and link with any  
16 allegations of misgivings that are banned under the *Canadian*  
17 *Electoral Act*, and I would say that following those  
18 investigations, I am allowed to file indictments or monetary  
19 fines, we'll call those "AMPS" in English. And there are  
20 also possibilities of signing -- having the English words  
21 coming up but we can sign undertakings and compliance  
22 agreements. So those are the transactions, and there's a  
23 possibility of issuing informal measures such as warning  
24 letters or information letters.

25                   **MR. MATTHEW FERGUSON:** And when you say we're  
26 monitoring the implementation of the law, which one are you  
27 talking about?

28                   **MS. CAROLINE SIMARD:** It's the Electoral Act

1 of Canada that is limited to the federal elections.

2 **MR. MATTHEW FERGUSON:** Thank you.

3 Mr. Côté, do you have anything to add to this  
4 description of the task?

5 **MR. YVES CÔTÉ:** No.

6 **MR. MATTHEW FERGUSON:** Mrs. Simard, we heard  
7 earlier this morning the testimony from the head of  
8 elections, Mr. Perrault. Could you briefly educate us on the  
9 relationship between the BCF, the Federal Elections  
10 Commissions and Elections Canada?

11 **MS. CAROLINE SIMARD:** It would say that to  
12 better understand I would separate my answer into two parts.  
13 The first part is that we are an organization that is mainly  
14 based on the complaints that we receive, and we receive  
15 referrals from Elections Canada that occupies 80 percent of  
16 our time of our work. And so I would say it's the first part  
17 that's very important and the second part is linked to our  
18 respective roles, in terms of the interpretation of the Act.

19 To ensure cohesion in the interpretation of  
20 the Act, we will often collaborate, so we will be consulted  
21 to formulate any comments or suggestions in specific context  
22 connected with potential changes to the law or Interpretation  
23 Bulletins, and we also contribute at that level.

24 **MR. MATTHEW FERGUSON:** And as regard  
25 Elections Canada, are you a branch of it, or are you a  
26 separate entity?

27 **MS. CAROLINE SIMARD:** And so the Federal  
28 Elections Commissioner is independent, that's a very

1 important principle. We are independent from Elections  
2 Canada, but also independent from the government in place;  
3 independent from political parties; also independent from  
4 partners such as the RCMP with which we collaborate, or any  
5 other stakeholder.

6 **MR. MATTHEW FERGUSON:** How do you become a  
7 Commissioner to Federal Elections?

8 **MS. CAROLINE SIMARD:** Well, there's a  
9 selection process with a committee comprised of four parties,  
10 but I would say in a more formal way in the Act it is planned  
11 that is the Director General of Elections that proceeds with  
12 the appointment, in consultation with the Prosecution Office  
13 of Canada.

14 **MR. MATTHEW FERGUSON:** Thank you. Could you  
15 tell us -- you spoke about monitoring the application of the  
16 *Electoral Act of Canada*. Could you tell us more about your  
17 skills as an organization and define what your jurisdiction  
18 is?

19 **MS. CAROLINE SIMARD:** Well, what's simple to  
20 retain is that the work we do is limited to the measures  
21 outlined in the *Electoral Act*. So I would say that it's  
22 important to remember, and we will get to that a bit later.  
23 But there's some distortion between the public's perception  
24 of what we can do, of what is planned in the -- what is  
25 allowed in the Act, and truly what is the bearing of those  
26 measures.

27 So I would start by saying this, and then I  
28 can add to that if necessary.

1                   **MR. MATTHEW FERGUSON:** [No  
2                   interpretation]...overviewing the implementation of the law  
3                   regarding activities of the political parties?

4                   **MS. CAROLINE SIMARD:** Yes, so when we are  
5                   talking about a leadership race, the roles of the political  
6                   parties apply as opposed to the *Canada Elections Act*, except  
7                   for funding.

8                   **MR. MATTHEW FERGUSON:** So you receive  
9                   complaints, so I would like to know how you -- so how does  
10                  your office receive complaints?

11                  **MS. CAROLINE SIMARD:** There are several ways  
12                  but mostly -- and maybe Ms. Gigou would like to add  
13                  information, but I would like to say that the best way is  
14                  through our website. There is a form, and complainants can  
15                  use the form to communicate their complaints to us. So there  
16                  is a system by which we sort the files, the ones that are  
17                  more routine, the other ones that may be more important. So  
18                  it varies according to the nature of the file and then they  
19                  can be directed to the compliance unit directly or to the  
20                  investigation group.

21                  **MR. MATTHEW FERGUSON:** If you receive a  
22                  complaint and if it comes under the purview of the -- your  
23                  office, you receive a complaint, and the allegations come  
24                  under your terms of reference, what are the next steps?

25                  **MS. CAROLINE SIMARD:** The main stage is that  
26                  we will carry out a review, as I said, and after this review  
27                  or as part of this review what is important -- what is  
28                  important to evaluate is whether there is evidence to prove

1 that there have been violations and if we reach a certain  
2 threshold -- I don't want to go into technicalities, but then  
3 we can shift into investigations.

4 So in that case, we will send a letter --  
5 whose behaviour is targeted by our investigation, and as part  
6 of this investigation, we will have a range of tools to carry  
7 out our work, so warrants or communication orders,  
8 conservation orders.

9 So very generally speaking, this is what we  
10 do.

11 I'm looking at Ms. Gigou; is there something  
12 else that we should add?

13 **MS. MYLÈNE GIGOU:** No, I think that it  
14 summarizes the situation.

15 **MR. MATTHEW FERGUSON:** So if the complaint  
16 doesn't come under the purview of your office, what happens?

17 **MS. CAROLINE SIMARD:** So I would like to  
18 specify that some of the complaints that we receive are not  
19 part of our mandate. So for example, you were asking about  
20 leadership contests. There is also the whole issue of  
21 freedom of speech. Maybe we can come back to that later. So  
22 in such cases, we developed a practice within the  
23 organization by which we communicate the outcome of our work,  
24 or we close the file, generally speaking. Of course there  
25 can be exceptions, but we inform the complainants. And I  
26 think it's a good practice developed by our office.

27 **MR. MATTHEW FERGUSON:** Do you have the power  
28 to take the initiative of an investigation?

1                   **MS. CAROLINE SIMARD:** Yes. I can carry out  
2 an investigation if the situation warrants it.

3                   **MR. MATTHEW FERGUSON:** And if you identify  
4 that a complaint may involve a person or foreign money or  
5 foreign person, then I think that this is treated like an  
6 unusual case.

7                   **MS. CAROLINE SIMARD:** I would say non-  
8 routine, ---

9                   **MR. MATTHEW FERGUSON:** [No interpretation].

10                  **MS. CAROLINE SIMARD:** --- generally speaking,  
11 and of course, it depends on the facts; it's on a case-by-  
12 case basis. But for such files which are more complex, yes,  
13 such files will be led by experienced investigators.

14                  **MR. MATTHEW FERGUSON:** So I would like now to  
15 address foreign interference in relation to the mandate of  
16 the Commission.

17                                So can you address the allegations of foreign  
18 interference which come under your purview?

19                  **MS. CAROLINE SIMARD:** So it might be  
20 interesting to understand the scope of the Act in terms of  
21 for an interference, what is not part of the *Canada Elections*  
22 *Act*. So the two examples previously discussed. So for  
23 example, nomination campaigns, except for funding, and also  
24 freedom of speech.

25                                But when you look at this more closely, I  
26 would say that there are three provisions which mention a  
27 foreign interference. So section 284.1 which refer to undue  
28 foreign interference, so it is expressively -- expressively

1 states exceptions to freedom of speech. And if not, there is  
2 a prohibition to unduly influence voters. Of course, I don't  
3 have the exact wording with me but there is a definition of  
4 what is undue influence; for example, committing expenses or  
5 violations of the law.

6 So in terms of undue influence, it is  
7 different from influence as such, which is quite normal in an  
8 electoral conference. So this is different from foreign  
9 influence, which also happens; for example, when we think of  
10 diplomacy. So it's important to keep that in mind that we  
11 are talking about undue foreign influence.

12 And the other type of provision which also  
13 refers to foreign factor, we're talking about foreign  
14 funding. So I have clauses that I could communicate to you,  
15 and also foreign broadcasting, and in the Institutional  
16 Report, we had planned to have an annex with about 30  
17 provisions which apply to Canadians, as well as to non-  
18 Canadians; and, of course, on a case-by-case basis. But as  
19 soon as you add the filter of foreign influence, and when  
20 they are organized actions, then we could speak of foreign  
21 interference, and there are three parts in the provisions, so  
22 intimidation -- intimidation of voters, not of candidates.  
23 So the second category, money; we talked about foreign  
24 funding. And thirdly information, and for this category we  
25 mention disinformation and there are provisions in law which  
26 may apply, but with a much more limited scope than what the  
27 public might think.

28 **MR. MATTHEW FERGUSON:** So voters'

1 intimidation, so the *Canada Elections Act* contains a  
2 provision prohibiting the intimidation of voters, but not of  
3 candidates. So can you explain this distinction?

4 **MS. CAROLINE SIMARD:** So it's 282.2, I think,  
5 which provides for that. So it's about voters' intimidation.  
6 And so I'm just quoting from memory, and we're talking about  
7 constraints, about forcing, coercion where a pretence would  
8 be used or misleading.

9 **MR. MATTHEW FERGUSON:** So we're prohibiting  
10 voters' intimidation but not for candidates? So can you  
11 educate us? So you can intimidate a candidate?

12 **MS. CAROLINE SIMARD:** Oh, no, that comes  
13 under the *Criminal Code*. So I hadn't understood your  
14 question.

15 So in that case it would be the *Criminal*  
16 *Code*.

17 **MR. MATTHEW FERGUSON:** The *Criminal Code*.

18 **MS. CAROLINE SIMARD:** [No interpretation].

19 **MR. MATTHEW FERGUSON:** Mr. Côté, would you  
20 like to add anything to that?

21 **MR. YVES CÔTÉ:** The only thing that I would  
22 like to put on the table for future reference, that Ms.  
23 Simard referred to 282.4, and this clause contains exceptions  
24 that are significant and that are often not well understood  
25 by the media and by the public at large. And so it would be  
26 important to clarify this.

27 **MR. MATTHEW FERGUSON:** Yes, we could do that.

28 Mr. Registrar, could we show COM several

1 zeroes 9?

2 --- EXHIBIT No. COM 9:

3 Canada Elections Act S.C. 2000, c.9

4 **MR. YVES CÔTÉ:** And I didn't note the page  
5 for section -- I think it's page 154, I think.

6 **MR. MATTHEW FERGUSON:** Thank you, Mr. Côté.

7 **MR. YVES CÔTÉ:** You're welcome.

8 **MR. MATTHEW FERGUSON:** No, it's not page 154.

9 **MR. YVES CÔTÉ:** Oh, in my copy...

10 **MR. MATTHEW FERGUSON:** No, 2.4.

11 **COMMISSIONER HOGUE:** [No interpretation].

12 **MR. MATTHEW FERGUSON:** Two point four (2.4).

13 We're almost there. So you're referring to  
14 paragraphs 3, this is what you had in mind?

15 **MR. YVES CÔTÉ:** [No interpretation].

16 **MR. MATTHEW FERGUSON:** So 2.4, and we can  
17 scroll down to paragraph 3.

18 So if you can give us not a whole lecture but  
19 an explanation on the exceptions.

20 **MR. YVES CÔTÉ:** So maybe later when you will  
21 have questions on specific files, we could come back to that.  
22 It will give you an example of things which come under the  
23 exceptions. So we see that:

24 "Subsection 1 which creates the  
25 violation does not apply if the only  
26 thing done by the person or entity to  
27 influence the elector to vote or  
28 refrain from voting..." (As read)

1                   And then we mention three things:

2                                "Their expression or their opinion  
3                                about the outcome or desired outcome  
4                                of the election." (As read)

5                   So you would have a foreigner who goes, "I  
6                   want the next government to be elected or not be. A  
7                   statement by them that encourages the elector to vote or  
8                   refrain from voting from any candidate or registered party in  
9                   the election. So a foreigner who would say, "You should vote  
10                   for this candidate, X or Y," and see the transmission to the  
11                   public through broadcasting, and then there is a whole range;  
12                   so electronic or print media, interviews, debates. So this  
13                   is part of an exception, for example, a British, French, or  
14                   US magazine which would write an editorial saying that Canada  
15                   should do such-and-such a thing during the next election. So  
16                   this also comes under the exceptions so this is not caught by  
17                   subsection 1 which creates violations.

18                                **MR. MATTHEW FERGUSON:** If I go back to (b),  
19                   you say that a foreigner might say, "You should vote for  
20                   such-and-such a candidate in the election," that's allowed  
21                   under the law. But in a case where they say, "You should  
22                   vote for such-and-such a person because otherwise there will  
23                   be consequences for your family in X country," so would that  
24                   be captured?

25                                **MR. YVES CÔTÉ:** It would be captured under  
26                   (b) because exception talks about by an intervention  
27                   encouraging the elector to vote for or against someone, we  
28                   would have to see what the threats are about, for example, if

1 it would take the form of an intimidation or of a constraint  
2 but it would be a different dimension, and it would be very  
3 fact-dependent, so we would have to see what happened, what  
4 was said, what was done, so -- to see whether the definition  
5 of coercion might apply or not.

6 **MR. MATTHEW FERGUSON:** We will come back to  
7 that when we look at specific cases.

8 Ms. Simard, I think you addressed a question  
9 earlier when you made a change to your summary interview, or  
10 to your interview summary. You were talking about the  
11 percentage of complaints in terms of foreign interference  
12 concerning allegations of foreign interference; and 2021 it  
13 was 0.5 of complaints that were received?

14 **MS. CAROLINE SIMARD:** Yes, out of 4,000  
15 complaints received in 2021, 2022 complaints were identified  
16 in relation to foreign interference, so if you do the math,  
17 you have 0.5 percent.

18 **MR. MATTHEW FERGUSON:** And for 2019?

19 **MS. CAROLINE SIMARD:** Two hundred and one  
20 (201) complaints were identified in relation to foreign  
21 interference, so it's a percentage of 2 percent of  
22 complaints.

23 **MR. MATTHEW FERGUSON:** For 2019?

24 **MS. CAROLINE SIMARD:** Twenty nineteen (2019).

25 **MR. MATTHEW FERGUSON:** And generally  
26 speaking, Ms. Simard, how do you see your mandate in terms of  
27 the foreign interference file?

28 **MS. CAROLINE SIMARD:** So I would say that the

1 mandate is a mandate to observe the law, and to implement it  
2 so when there is a connection to foreign interference.

3 **MR. MATTHEW FERGUSON:** Mr. Côté, during our  
4 meeting, you mentioned issues with foreign interference, you  
5 said that there were "unknown unknowns". So you spoke about  
6 camouflage of funds.

7 **MR. YVES CÔTÉ:** I should have said "known  
8 unknowns" and not "unknown unknowns".

9 **MR. MATTHEW FERGUSON:** [No interpretation].

10 **MR. YVES CÔTÉ:** What I was referring to is  
11 that there -- several things can happen as part of an  
12 electoral campaign, so it is very likely that we will never  
13 hear of that. For example, if you have a foreign country  
14 giving money to a Canadian citizen, an X sum, who would say  
15 to the Canadian citizen, "You will transfer these funds to  
16 the campaign of Candidate B." So in such circumstances, the  
17 person who received money from the foreign government has  
18 tied -- ties to the foreign government and when that person  
19 gives the money to the candidate, the candidate will have no  
20 way of suspecting that the money comes from a contaminated or  
21 even illegal source. So I think that this kind of situation,  
22 I presume, could occur, so I should have referred to "known  
23 unknowns". So such circumstances are very unlikely to be  
24 discovered by people like us. There are very little, like,  
25 necessarily we'd have complaints because it would have to  
26 come from the foreign government or by their proxy. So they  
27 would have very little interest in raising awareness of such  
28 activities.

1                   So when these things happen, the likelihood  
2                   that we will become informed is very minute.

3                   **MR. MATTHEW FERGUSON:** So don't you have  
4                   tools within the Office of the Commissioner of Canada  
5                   Elections to detect such wrongdoing?

6                   **MR. YVES CÔTÉ:** I don't know what type of  
7                   tool would make it possible for us to do that because as you  
8                   may know, we'll come back to that, we have investigative  
9                   powers we talked about that are somewhat limited. We cannot,  
10                  for example, attempt to intercept a telephone communication.  
11                  But fundamentally, the country that acts badly with their  
12                  accomplices has every interest in keeping that covert and  
13                  secret. So that's not necessarily a question of  
14                  investigative techniques; it's just a way that things would  
15                  occur. So that they are undiscoverable, to all practical  
16                  purposes.

17                  **MR. MATTHEW FERGUSON:** My next question, I  
18                  won't make a link to what you just said and the subject of  
19                  the next question, but you've also learned that the OCC is  
20                  not a designated distributor of information coming from  
21                  FINTRAC and to obtain information from FINTRAC you have to go  
22                  through the RCMP. Is that a problem for you in investigating  
23                  allegations of foreign interference with regards to the  
24                  elections of 2019 and 2021?

25                  **MR. YVES CÔTÉ:** As far as I know -- and I'll  
26                  ask Madam Gigou to add to it if she knows -- but that was not  
27                  identified as the source of a problem or source of an  
28                  obstacle which would have kept us from doing the work because

1 the understanding that I have, or the memory that I have is  
2 that we could go through the RCMP, which can receive  
3 information from FINTRAC. So in those circumstances, it's  
4 not as though the avenue was completely shut off to us.

5 So Madam Gigou, if you would like to add to  
6 what I've said?

7 **MS. MYLÈNE GIGOU:** I have nothing to add to  
8 that answer.

9 **MR. MATTHEW FERGUSON:** And we'll come back to  
10 that a little later when we'll raise another case, but I  
11 think that has more to do with Ms. Simard.

12 Mr. Côté, I would now like to raise the  
13 question of the approach of the Commission with regard to  
14 foreign interference as the elections of 2019 and '21 were  
15 approaching. I understand that foreign interference became a  
16 major concern for your office over the previous year, the  
17 year preceding the 2019 elections, and you had also in mind  
18 the presidential elections in the United States in 2016.

19 Can you talk about how the OCC thought about  
20 the possibility of foreign interference, and how you went  
21 about to preventatively attack the problem?

22 **MR. YVES CÔTÉ:** Are you expecting a short  
23 answer from me because that opens up so many different  
24 things. But maybe, and in a general way, you -- that will be  
25 heard here, having looked at what happened during the  
26 American election in 2016 with the interventions of foreign  
27 countries, which were entirely negative and malicious. As  
28 all reasonable person might assume, if it happens on the

1 other side of the border, it might very well be happening on  
2 our side of the border as well.

3 So armed with that conclusion, we asked what  
4 we may do, and we set in place various measures and we  
5 undertook various initiatives to attempt to prepare the best  
6 way we could.

7 Among those initiatives, there was the fact  
8 that -- and especially Madam Gigou, who was responsible for  
9 that, and she did that very well; to establish and strengthen  
10 links to federal organizations which have a role to play in  
11 that type of thing. And I think that at the SRS, the  
12 Communications Centre, CSE, and the Global Affairs, we  
13 established and strengthened those links to see how  
14 communications could be carried out. And I think that this  
15 comes out in the Institutional Report that Madam Simard  
16 submitted. We renewed an agreement with the RCMP and  
17 concluded one with the -- with CSIS. So that was in terms of  
18 the actors that I would call federal.

19 And then, in a general and very continuous  
20 way, as the Director of Elections, had meetings with what we  
21 call the Advisory Committee of Political Parties, which is an  
22 organization that was created under the Act. We made sure we  
23 were present, and we made sure that we were present to remind  
24 those people what our role was. And the question -- I didn't  
25 mention every time but the question of foreign interference  
26 was important, and I made them aware of the fact that we were  
27 there, if they had concerns that they should come to see us.

28 Then in terms of education, if you will, and

1 the awareness-building of our people, we brought in experts  
2 in the area; university professors, and a former Canadian  
3 Ambassador, and a former CSIS Director who sat down with our  
4 investigators, our analysts, and our lawyers, and who  
5 informed them of what they were able to note and see  
6 externally in carrying out their functions.

7 I think that I will stop there, unless if  
8 Madam Gigou has something to add.

9 But what we wanted to do was really make our  
10 staff as informed as possible and as alert as possible to the  
11 fact that those things, if they weren't occurring, they very  
12 well could occur during the course of the campaign or our  
13 federal electoral activities.

14 **MR. MATTHEW FERGUSON:** Ms. Gigou, do you have  
15 something to add to that?

16 **MS. MYLÈNE GIGOU:** Just maybe in addition to  
17 the MOUs, sorry, the memorandum of understanding, we also  
18 engage with the various departments as well, within -- that  
19 were members of SITE or became the members of SITE, to  
20 communicate our mandate, talk about the parameters of our  
21 legislation, in particular, as they may relate to foreign  
22 interference as well, so that was another component here.  
23 And also, engaging with Australia in terms of their lessons  
24 learned in their country, and as well as provincial  
25 organisations that had recently had elections so that we  
26 could build on the lessons that they had learned as well.

27 **MR. MATTHEW FERGUSON:** Why specifically  
28 Australia?

1                   **MS. MYLÈNE GIGOU:** I think it -- with regards  
2 to their ecosystem as well and relationship with China as  
3 well, it was identified as a country with which we should be  
4 speaking, and we also had the benefit of having one of their  
5 representatives here in Canada for sometime. So it was a --  
6 an easy face-to-face engagement with that person as well, and  
7 a good way to build the relationship. So maybe that's what I  
8 would add to that as well.

9                   **MR. MATTHEW FERGUSON:** And ---

10                   **MR. YVES CÔTÉ:** [No interpretation].

11                   **MR. MATTHEW FERGUSON:** [No  
12 interpretation]...making your office known to other  
13 organizations involved in application of the law and in  
14 information and security; is that correct?

15                   **MR. YVES CÔTÉ:** Yes.

16                   **MR. MATTHEW FERGUSON:** Ms. Gigou, I'd like to  
17 talk about digital platforms. So this is something that I  
18 think you were involved in with respect to having platforms  
19 sign on to the Canada Declaration on Electoral Integrity  
20 Online. Can you speak a bit to that. Who were the platforms  
21 that you were engaging with ahead of the 2019 and 2021  
22 elections?

23                   **MS. MYLÈNE GIGOU:** Certainly. Just to maybe  
24 clarify in terms of the question, however. The declaration,  
25 I was not specifically involved in that. My role consisted  
26 of building a relationship with these platforms to  
27 communicate who we were, what we did, and understand the  
28 mechanism by which we could request information, whether it

1 be subscriber or if it was content, and also understand the  
2 parameters by which they may remove material on a digital  
3 platform as well, with the understanding that that would be  
4 done in the context of the contravention of the *Canada*  
5 *Elections Act*.

6 So the idea was making sure they know we are,  
7 what we do, and why we're calling, and why it's urgent, in  
8 particular, if it's happening during a general election  
9 period, where we want to ensure compliance and swift results.

10 So in the lead up to the 2019 general  
11 elections, that was part of my mandate, to engage with  
12 Facebook, Microsoft, there were others as well, to have that  
13 understanding. Again, in the lead up to the 2021 general  
14 election, that was also part of my mandate as well, and we  
15 expanded on some of these platforms as well in the lead up to  
16 that snap election, so an early election.

17 **MR. MATTHEW FERGUSON:** In the lead up to  
18 either 2021 or 2019, have you had any engagement with  
19 platforms such as WeChat?

20 **MS. MYLÈNE GIGOU:** In preparation for the  
21 general elections, I did not, or our office did not engage  
22 with WeChat specifically for the purposes that I have  
23 described.

24 **MR. MATTHEW FERGUSON:** And what types do --  
25 does the OCCE, the Office of Commissioner of Canada  
26 Elections, engage in online monitoring?

27 **MS. MYLÈNE GIGOU:** We do not. In fact, we do  
28 have an analytics team that conducts passive collection, but

1 they do so in response to a specific complaint or review or  
2 investigation that we have, and that is the extent of their  
3 mandate. They do not proactively monitor the environment or  
4 anything of the like.

5 **MR. MATTHEW FERGUSON:** I'd like now to turn  
6 to investigations and relationships with partner agencies.  
7 Ms. Gigou, you are the Senior Director of Enforcement and the  
8 former Director of Investigations at the OCCE. Can you speak  
9 about your Investigations Unit? How many are you? What  
10 types of tools and powers that you have to carry out your  
11 work?

12 **MS. MYLÈNE GIGOU:** Certainly. So when I  
13 initially took the job in 2018, we had a team of  
14 approximately 12 investigators. Since then, my  
15 responsibilities have broadened to not only include  
16 investigators but also paralegals and analysts that conduct  
17 the open source research as well. Our directorate as a whole  
18 has grown to approximately 28 individuals, including our  
19 executive director that leads the group.

20 And as part of that -- so -- and could you  
21 repeat the second part of your question?

22 **MR. MATTHEW FERGUSON:** Yeah. So what types  
23 of investigative tools and powers there that you enjoy?

24 **MS. MYLÈNE GIGOU:** Absolutely. Thank you.  
25 And I think it's Commissioner Simard that mentioned earlier  
26 some of our tools, but essentially we have tools that you  
27 could expect to be used in the general course of a review or  
28 investigation, for example, collecting information or

1 evidence from witnesses and complainants and the like, but we  
2 also have formal tools where with judicial authorisation we  
3 can seek evidence, whether it be a production order,  
4 preservation order, or a search warrant. All those,  
5 obviously, are -- require a certain threshold for us to be  
6 able to use these tools, and we must request judicial  
7 authorisation.

8 In recent years, our toolkit has been  
9 expanded with the addition of -- to the *Canada Elections Act*  
10 the ability to compel witness testimony under oath and the  
11 ability to request a written return. Again, these are --  
12 require judicial authorisation and we need to meet a certain  
13 threshold to be able to use these tools.

14 **MR. MATTHEW FERGUSON:** So you can --  
15 essentially, when you say that you have the power to compel,  
16 you apply to a judge to obtain the power to compel a witness  
17 to ask -- to answer questions that you may direct.

18 **MS. MYLÈNE GIGOU:** And to be clear, it's to  
19 compel a person, but the information cannot be used against  
20 this person.

21 **MR. MATTHEW FERGUSON:** Right. So the  
22 protections of the *Canada Elections Act* and the *Charter*.

23 **MS. MYLÈNE GIGOU:** That's correct.

24 **MR. MATTHEW FERGUSON:** Okay. What are the  
25 challenges, and this question I could address to all three of  
26 you, but what are the challenges for the OCCE in  
27 investigating foreign interference related issues; either  
28 allegations or concerns of foreign interference?

1                   **MS. MYLÈNE GIGOU:** I can go first, if you  
2 prefer. I note that our institutional report and the two  
3 witness summaries certainly provide an overview of some of  
4 these challenges. And maybe just to build on that, on  
5 perhaps from my perspective, three key points: access to  
6 evidence; technology; and the tracing of funds.

7                   And to talk a bit more about access to  
8 evidence, I think our investigators can be caught in a loop  
9 of needing evidence to get evidence. So essentially we do  
10 get complaints, we do receive allegations, but we need  
11 something concrete, or tangible, or a lead to be able to  
12 pursue our work. The reality is, in some instances, no  
13 witnesses are identified, or some are, but do not wish to  
14 cooperate.

15                   And as I just expanded -- and as I was just  
16 referring to the tools, we need to be able to have sufficient  
17 grounds to be able to use that tool, including to compel  
18 someone to speak to us. So I think that's one of the  
19 difficulties.

20                   And we know that the harder it is to access  
21 evidence or information, the more time passes, the more  
22 difficult it gets for us.

23                   In terms of technology, identifying who is  
24 behind the keyboard is another challenge, and depending on  
25 the scenario and how it presents itself. So I think that's  
26 one thing.

27                   And on a second -- maybe a second spin off to  
28 that as well is also digital platforms with closed access or

1 by design you need an invitation, or it's restricted pages or  
2 groups. That can create some challenges from an  
3 investigative perspective -- investigation perspective as  
4 well.

5 And the third one would be the tracing of  
6 funds. Obviously being able to identify the source of the  
7 funds and being able to link it back specifically to the  
8 allegations is also a challenge, and particularly when we're  
9 talking about cash, intermediary, other means of using  
10 untraceable mechanism, pre-paid cards, or the like.

11 What I think I'm describing here, however,  
12 doesn't just apply to allegations of foreign interference, in  
13 theory. It could also apply to other types of allegations  
14 without that foreign component as well.

15 And if I can just maybe close off as well, I  
16 would expect that these are not just challenges that are  
17 unique to our office, but likely for most law enforcement  
18 agencies as well.

19 **MR. MATTHEW FERGUSON:** [No interpretation].

20 **MR. YVES CÔTÉ:** [No interpretation] ...it  
21 seems obvious but it's worthwhile putting on the table so  
22 that everybody remembers it. In theory -- I say, "In  
23 theory," possible recourse to MLAT, Mutual Legal Assistance  
24 Treaty, so obviously that's a process that exists for those  
25 such as you think. We realize that it's very slow and  
26 complicated. But also what we need to bear in mind is that  
27 it's only with countries with whom we have concluded  
28 agreements. So there are many countries and the countries

1 that were named within this hearing and elsewhere as well,  
2 with which we have no agreement.

3 The possibility for us of forcing someone  
4 within one of those countries who doesn't cooperate with  
5 Canada, forcing them to provide us with information or some  
6 other -- that just basically doesn't exist.

7 **MR. MATTHEW FERGUSON:** So what you're  
8 describing is that even if we have a mandated or an  
9 international level with a country, a friendly nation, it's  
10 already difficult to receive information if it's a country  
11 with which we don't have a treaty, it's much more difficult  
12 if not impossible?

13 **MR. YVES CÔTÉ:** I would say it's virtually  
14 impossible, yes.

15 **MR. MATTHEW FERGUSON:** [No interpretation].

16 **MS. CAROLINE SIMARD:** There have been good  
17 answers, but if I could add in as well?

18 **MR. MATTHEW FERGUSON:** Yes, go ahead.

19 **MS. CAROLINE SIMARD:** I would add four  
20 challenges to this long list. The first is in terms of  
21 legislative changes. Obviously ensuring that we have all the  
22 means; all the tools, that is, that we need under the law.  
23 Also, it's important at a legislative level to make sure that  
24 we're consulted when there are changes to other laws that  
25 have an impact on this. I would say that's the first  
26 challenge to identify.

27 The second one is that obviously -- it is  
28 obvious, but a lot of effort has been put in in the past to

1 it be known to the public and to our partners, but we really  
2 need to continue with that effort. You can see already that  
3 there are challenges once again in having people come to see  
4 us, and that's really a basic thing in cases like this. They  
5 need to come forward to submit the complaint and act as a  
6 witness as well.

7 The third challenge is one of resources. We  
8 were able to do the work up to this point and there is that  
9 expertise for very complex files internally. Despite  
10 everything, we anticipate that with the next elections, and  
11 possibly with a greater volume, have some concerns in terms  
12 of resources. We're working presently with a budget of \$6.6  
13 million and what that will make it possible to do is that we  
14 have access -- even though we have access to certain funds,  
15 let's say certain -- a certain flexibility to access funds,  
16 that doesn't ensure stability in terms of the organization.  
17 And that's very basic at this point in the development of the  
18 organization.

19 And the fourth thing is in terms of  
20 information. There are challenges, obviously, to structure  
21 thing properly; to have the infrastructure in place to be  
22 able to take in the -- and deal with conservation and  
23 everything. And that is being set in place to complete what  
24 has been done in the past.

25 Thank you very much.

26 **MR. MATTHEW FERGUSON:** Essentially, by doing  
27 the promotion of it?

28 **MS. CAROLINE SIMARD:** [No interpretation].

1                   **MR. MATTHEW FERGUSON:** So I understand that  
2 the OCCE has a Memorandum of Understanding with the RCMP.

3                   So Mr. Clerk, can you bring up the next  
4 document, please?

5                   **--- EXHIBIT No. CEF 41:**

6   Protocole d'entente entre GRC et BCEF  
7   2019

8                   **MR. MATTHEW FERGUSON:** So this MOU, Document  
9 42. So could you explain what this Memorandum of  
10 Understanding is with the RCMP; what does it do?

11                   Mr. Côté, I think you're the one who signed  
12 this memorandum.

13                   **--- EXHIBIT No. CEF 42:**

14   MOU between RCMP and CCE 2019

15                   **MR. YVES CÔTÉ:** So it does different things.  
16 The main points are probably the following: We wanted -- and  
17 I think this was just renewing something that existed before  
18 but in the context of this MOU, we wanted to confirm the fact  
19 that when the RCMP received information saying that the  
20 Electoral Act has been violated, that the information would  
21 be transferred to us.

22                   But mainly I think that what we wanted to do  
23 here was to confirm certain rules and approaches between our  
24 office and the RCMP so that in circumstances where, for  
25 example, they would be asked to work with us on an  
26 investigation -- can be a joint investigation, which could  
27 happen but rarely happens -- an important dimension for us,  
28 Mrs. Simard told you that our office is fairly small, and in

1 the field of deep fakes and very intricate technology, we  
2 could have the expertise of the RCMP that's already there so  
3 that they could work for us to help our analysts go forward  
4 on the investigation.

5 There could be some circumstances where our  
6 investigators would like to have some information on a given  
7 citizen and in that moment we'll ask the RCMP so that they go  
8 in the CPIC system to go get information.

9 It's very important to...

10 **MR. MATTHEW FERGUSON:** So the CPIC is the  
11 police -- Criminal Investigation Police Centre?

12 **MR. YVES CÔTÉ:** That's right. And I'd like  
13 to underline that the MOU plans for those exchange of  
14 information to be done following the applicable laws,  
15 including the Act on the privacy protection.

16 And on this, I'd like to open an aside when  
17 Ms. Gigou talked about tools, another tool we have since  
18 recently is that Mrs. Simard's office has been recognized as  
19 being an investigatory body under the Privacy Protection Act  
20 becomes much more easy for our office in an investigation to  
21 go see other organizations and other federal departments to  
22 ask them to transfer the information.

23 So I come back on this, the MOU with the RCMP  
24 is very clear when it comes to everybody having to respect  
25 the applicable laws.

26 And maybe the other dimension of the MOU  
27 comes to mind, is that there are financial measures in the  
28 sense that the RCMP is doing work for us, we expect that, of

1 course, there would be an invoice or that they would be  
2 compensated for the resources that they allocate to us.

3 So that's what I retain from the MOU. Is  
4 there something else, Ms. Gigou?

5 **MS. MYLÈNE GIGOU:** No, I think this frames  
6 the relationship with the RCMP well.

7 **MR. MATTHEW FERGUSON:** Mrs. Gigou, an MOU  
8 with CSIS.

9 Mr. Court Operator, CEF several zeros, 43 and  
10 44. Hold up 44, please.

11 **--- EXHIBIT No. CEF 43:**

12 Protocole d'entente entre SCRS et  
13 BCEF 2019

14 **--- EXHIBIT No. CEF 44:**

15 MOU between CSIS and CCE 2019

16 **MR. MATTHEW FERGUSON:** And when was this  
17 Memorandum of Understanding put in place with the -- with  
18 CSIS?

19 **MS. MYLÈNE GIGOU:** I believe it was put in  
20 place in 2019, but I don't have the specific date.

21 **MR. MATTHEW FERGUSON:** If we can go to the  
22 end of the document, I'm going to suggest it was the  
23 September 26, 2019, signature of Mr. Côté.

24 [No interpretation].

25 **MR. YVES CÔTÉ:** [No interpretation].

26 **MR. MATTHEW FERGUSON:** So September 26, 2019,  
27 do I understand that prior to this, there was no Memorandum  
28 of Understanding with CSIS?



1 Commissioner of Canada Elections.

2 "...in accordance with the respective  
3 mandates and applicable laws."

4 And the document disappeared. Right, okay.  
5 And if we go now to -- I believe it's page 4. Or page 5,  
6 sorry. At paragraphs 4.2 and 4.3:

7 "Information shared by CSIS or the  
8 Commissioner may only be used to the  
9 extent authorized by law and subject  
10 to the Participants' respective  
11 policies."

12 And:

13 "Pursuant to relevant authorities,  
14 the Commissioner may share  
15 information lawfully or incidentally  
16 collected in the performance of its  
17 mandated duties and functions with  
18 CSIS, either proactively or in  
19 response to a request, where relevant  
20 to CSIS's mandate."

21 So I understand that CSIS -- this protocol or  
22 this Memorandum of Understanding defines an information-  
23 sharing relationship between the two organizations; is that  
24 correct?

25 **MS. MYLÈNE GIGOU:** Yes, I think that's  
26 correct.

27 **MR. MATTHEW FERGUSON:** Okay. If we now move  
28 to engagement with CSIS ahead of the GE 43, the 2019 General

1 Elections, can you speak to that?

2 **MS. MYLÈNE GIGOU:** Yes. So there was this --  
3 I'm just trying to think in terms of time. So 2018 again  
4 that's the first specific recollection that I have of a  
5 meeting with CSIS where we were informed of general  
6 information about the ecosystem and the like. Over time --  
7 over time, as part -- ultimately SITE was put together. And  
8 as part of that initiative, our organization certainly felt  
9 that it was important to engage with the members of SITE,  
10 which included CSIS. And as part of those efforts, we  
11 convened a meeting to speak about our mandate and key  
12 provisions related to the *Canada Elections Act*, which  
13 included CSIS.

14 So that's the first time that I specifically  
15 recall, in terms of these discussions, where we were really  
16 talking about our mandate and our role at more of an  
17 operational level.

18 **MR. MATTHEW FERGUSON:** And now I'm going to  
19 -- before I call up a document. In relation to complaints or  
20 reviews or investigations springing from either 2019 or 2021  
21 elections, has CSIS ever provided -- I think the term is  
22 "Actionable intelligence" that has led or assisted the OCC in  
23 an investigation?

24 **MS. MYLÈNE GIGOU:** So throughout the period  
25 of 2018 to 2024, the service has provided briefings and an  
26 opportunity to review material, all of which was informative  
27 about the environment and some of the threats. None of the  
28 information that I received was specifically actionable in an

1 investigation, and the information that was shared was shared  
2 for intelligence purposes.

3 **MR. MATTHEW FERGUSON:** Now, if we just talk  
4 about the process of you -- of receiving -- when I say you, I  
5 mean the OCC, but also you specifically, Ms. Gigou, of the  
6 process of receiving intelligence from CSIS, how does that go  
7 about? Can you just explain the process a bit?

8 **MS. MYLÈNE GIGOU:** Yes, certainly.

9 So generally speaking, in accordance to the  
10 process that was put in place, and in most instances, if not  
11 all, it was at the request of CSIS; a request for a meeting  
12 where it was either a verbal briefing or the opportunity to  
13 review an intelligence product, and an opportunity to ask  
14 questions about that product.

15 In each of these circumstances, there was an  
16 agreement that there would be no notes of the document or the  
17 content of the conversation, and I did not -- I did not  
18 retrieve any documents from the service in those specific  
19 circumstances.

20 There was a process by which I understood  
21 that I could request a use letter, or I believe in the prior  
22 period it may have been called a disclosure letter at that  
23 point, and if that was requested, then the service would  
24 consider it, and if so, provide it to me at a later date.

25 **MR. MATTHEW FERGUSON:** And we talk about  
26 disclosure or use letters, we're talking about intelligence  
27 or evidence?

28 **MS. MYLÈNE GIGOU:** We're talking about

1 intelligence. And in fact, the document that we would  
2 receive if it's a use letter, it would specifically identify  
3 the purpose for which I could use it and all of it states  
4 that it's for intelligence purpose.

5 **MR. MATTHEW FERGUSON:** Yeah.

6 **MS. MYLÈNE GIGOU:** And I would just want to  
7 clarify that, to the best of my recollection, that's what  
8 each of these state, but I have not specifically reviewed, in  
9 preparation for this testimony, these letters, yes.

10 **MR. MATTHEW FERGUSON:** Okay. Thank you for  
11 qualifying that, Ms. Gigou. And can you estimate how many  
12 times you were met or briefed by CSIS between 2018 and  
13 current day?

14 **MS. MYLÈNE GIGOU:** I would estimate that  
15 either myself or -- I estimate 15 to 20 meetings would likely  
16 have occurred. Those meetings could also include, in certain  
17 circumstances, calls or also discussion on more operational  
18 issues as well. For example, I have recollection of, like,  
19 just generally digital platforms, for example, but because I  
20 have no notes of those meetings, it's difficult for me to  
21 quantify specifically the number of -- the number of meetings  
22 with CSIS.

23 **MR. MATTHEW FERGUSON:** Okay. I'm now going  
24 to call up documents that -- or a series of documents that  
25 have been made available publicly to the Commission today.

26 **MS. MYLÈNE GIGOU:** Could I just ---

27 **MR. MATTHEW FERGUSON:** Yes.

28 **MS. MYLÈNE GIGOU:** --- perhaps add something?

1                   **MR. MATTHEW FERGUSON:** Before I pull up the  
2 document, sure.

3                   **MS. MYLÈNE GIGOU:** I just want to clarify,  
4 perhaps for the audience, that the reason that I did not  
5 familiarise myself with the documents in preparation for this  
6 testimony is that so that I did not inadvertently share  
7 information that was classified.

8                   **MR. MATTHEW FERGUSON:** So that you didn't --  
9 you didn't prepare for this part of the testimony because you  
10 didn't want to inadvertently disclose information that you  
11 are bound to secrecy?

12                   **MS. MYLÈNE GIGOU:** Exactly. Thank you.

13                   **MR. MATTHEW FERGUSON:** Now, I'll call up the  
14 first document, which is CAN, ending by 19300.

15                   **--- EXHIBIT No. CAN 19300:**

16   Memorandum - CCE strategic case  
17   management meeting with CSIS

18                   **MR. MATTHEW FERGUSON:** Now, I'm just going to  
19 -- we could scroll through the document very briefly. First  
20 of all, Ms. Gigou, do you -- have you before today -- before  
21 today, have you seen this document? Before today?

22                   **MS. MYLÈNE GIGOU:** I'm not sure whether I  
23 have seen this document before today.

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

25                   **MS. MYLÈNE GIGOU:** This specific one.

26                   **MR. MATTHEW FERGUSON:** Okay. And we see your  
27 name. This is -- it's a meeting. The subject is the CCE  
28 Strategic Case Management Meeting between CSIS and CCE

1       sometime in 2019 as the -- at CSIS NHQ. The persons from  
2       your office that were present were yourself and Mr. Matthews,  
3       Al Matthews. And the purpose of the contact was:

4                       "Pursuant to the CCE framework, this  
5                       strategic case management meeting was  
6                       convened to discuss PRC-related  
7                       foreign interference cases during the  
8                       2019 Canadian [elections]."

9                       And I understand you cannot -- first, do you  
10       have a recollection of a meeting -- of this specific meeting,  
11       or independent recollection of the meeting I should say?

12                      **MS. MYLÈNE GIGOU:** I want to clarify about  
13       whether or not I've seen this document before. As part of  
14       the -- this public inquiry, I did recently review certain  
15       documents for possible redactions. I don't specifically  
16       recall if this is one of the documents.

17                      But your question about any meetings that --  
18       the content of any meetings I attended with CSIS, first of  
19       all, these would not be my notes. This is not my documents,  
20       and I did not take any notes during the meeting, and as such  
21       -- and the content of the document itself, I'm unable to  
22       discuss it in this forum.

23                      **MR. MATTHEW FERGUSON:** Okay. And just to be  
24       clear, as well, and maybe it's not clear, but this is not a  
25       document coming from -- this is not a document produced or  
26       prepared by the CCE, correct, the OCCE?

27                      **MS. MYLÈNE GIGOU:** This is not a document  
28       that was generated by our office.

1                   **MR. MATTHEW FERGUSON:** Okay, thank you.  
2                   I'll call up a second document, 19301. I may  
3 not have that. Hold on.

4                   **--- EXHIBIT No. CAN 19301:**

5                   CCE strategic case management meeting  
6                   between CSIS and the CSE

7                   **MR. MATTHEW FERGUSON:** [No interpretation].

8                   **(SHORT PAUSE)**

9                   **MR. MATTHEW FERGUSON:** I'm going to scroll  
10 through this document as well, and Ms. Gigou, this is 19301  
11 on the screen. And before today, same question, have you  
12 seen this document? Is this document generated by the OCCE?

13                   **MS. MYLÈNE GIGOU:** This is not a document  
14 that is generated by the OCCE.

15                   **MR. MATTHEW FERGUSON:** I'm going to suggest  
16 that this is a -- this refers to a same meeting, it's a  
17 different document that refers to the same meeting. Do you  
18 have any information to that?

19                   **MS. MYLÈNE GIGOU:** I'm unable to discuss the  
20 content of any discussions that I....

21                   **MR. MATTHEW FERGUSON:** That you've had with  
22 CSIS in this -- in the course of this meeting. Okay.

23                   **MS. MYLÈNE GIGOU:** Thank you.

24                   **MR. MATTHEW FERGUSON:** And the purpose here,  
25 and I'm not asking you to comment, but the....

26                   If we go just to the purpose, Mr. Court  
27 Operator.

28                   It's:

1 "Pursuant to the CCE framework, the  
2 strategic case management meeting was  
3 convened to discuss PRC-related  
4 foreign interference cases during the  
5 2019 Canadian federal election." (As  
6 read)

7 I'm going to call up this next document,  
8 CAN019302.

9 **--- EXHIBIT No. CAN 19302:**

10 Memorandum - CCE strategic case  
11 management meeting with CSIS

12 **MR. MATTHEW FERGUSON:** And I'm calling up  
13 these documents primarily because they weren't available to  
14 the parties and the Commission before today. So the next  
15 document is 302. And we -- if we could scroll through the  
16 document.

17 Again, date, place, 2019 CSIS NHQ. Persons  
18 present are the same, Mr. -- Ms. Gigou and Mr. Matthews from  
19 CSIS or from, excuse me, from the CCE. Purpose the contact:

20 "Pursuant to the CCE framework, this  
21 strategic case management meeting was  
22 convened to discuss PRC-related  
23 foreign interference cases during the  
24 2019...Election."

25 And if we go a bit further. There was a  
26 discussion of a disclosure letter that was sent to the OCCE.

27 And I understand, again, your answer is the  
28 same, you cannot discuss the content of this meeting;

1 correct?

2 **MS. MYLÈNE GIGOU:** That's correct.

3 **MR. MATTHEW FERGUSON:** Okay.

4 If I now call up -- I'm going to skip a  
5 document and come back to it, but 18 -- I'll call up  
6 CAN 18372.

7 **COURT OPERATOR:** Was that 18372?

8 **MR. MATTHEW FERGUSON:** Yes, 8 -- 18372;  
9 correct.

10 **COURT OPERATOR:** I don't have that document.

11 **(SHORT PAUSE)**

12 **MS. SHANTONA CHAUDHURY:** Madam Commissioner I  
13 think we may need five minutes to just arrange the next  
14 document, if you don't mind.

15 **COMMISSIONER HOGUE:** So we'll take a break.

16 **THE REGISTRAR:** The proceeding will recess  
17 for five minutes.

18 --- Upon recessing at 4:25 p.m.

19 --- Upon resuming at 4:33 p.m.

20 **THE REGISTRAR:** Order, please.

21 The sitting of the Foreign Interference  
22 Commission is back in session.

23 **MR. YVES CÔTÉ, Resumed:**

24 **MME CAROLINE SIMARD, Resumed:**

25 **MME MYLÈNE GIGOU, Resumed:**

26 **--- EXAMINATION IN-CHIEF BY MR. MATTHEW FERGUSON (cont'd):**

27 **MR. MATTHEW FERGUSON:** So Ms. Gigou, we are  
28 now at Document 18372, CAN18372 is on the screen.

1 --- EXHIBIT No. CAN 18372:

2 Memorandum - Engagement with OCCE

3 **MR. MATTHEW FERGUSON:** I recommend we read  
4 through the document, because I understand this is another  
5 meeting you attended, but again, you are not at liberty to  
6 discuss the content of the meeting beyond this document;  
7 correct?

8 **MS. MYLÈNE GIGOU:** In reviewing quickly, it  
9 appears there are multiple dates. Seems to provide an  
10 overview of various dates.

11 **MR. MATTHEW FERGUSON:** Sorry, I mis-framed  
12 the question and I'll ---

13 **MS. MYLÈNE GIGOU:** That's okay.

14 **MR. MATTHEW FERGUSON:** This is an overview of  
15 the -- a series of engagements with the OCC -- between the  
16 OCC and CSIS. So we read through the document, at the very  
17 first -- if we go to the top of the document, "Engagement  
18 with OCCE":

19 "The SITE [Task Force] was  
20 established in 2018 with a mandate  
21 focused narrowly on examining the  
22 Foreign Interference in Elections.  
23 The membership of SITE is GAC, RCMP,  
24 CSIS, CSE as well as participation  
25 from PCO. [...] CSE was historically  
26 the Chair for the SITE [Task Force],  
27 this has recently moved over to  
28 CSIS."

1 And then if we go down:

2 "Engagement with OCCE has generally  
3 been the provision of briefings by  
4 CSIS to OCCE, the provision of  
5 analytic products which OCCE can read  
6 in CSIS HQ, and discussions within a  
7 One Vision...framework. The  
8 following relates to specific  
9 engagement with OCCE:"

10 So the following relates to specific  
11 engagement with OCCE, and then it details on 2018 -- the 1<sup>st</sup>  
12 of October 2018, "OCCE attended CSIS HQ for a reading  
13 session." On the 22<sup>nd</sup> of June, 2018:

14 "IAB provided OCCE with a classified  
15 briefing session regarding threats to  
16 Canadian democratic institutions and  
17 processes with particular attention  
18 on China."

19 The next topic -- the next bullet is:

20 "CSIS and OCCE signed an MOU  
21 on...[the 26<sup>th</sup> of September 2019] for  
22 the exchange of information for the  
23 purposes of the *Canada Elections Act*,  
24 the *Referendum Act*, and the *CSIS*  
25 *Act*."

26 The next bullet:

27 "The Service spoke with OCCE during  
28 the 2019 Federal Election regarding

1                   allegations of irregularities during  
2                   the vote in Don Valley North"

3                   I continue down the document:

4                   "The Service met with OCCE on...[the  
5                   2<sup>nd</sup> of November 2021] to introduce  
6                   Service operational desks and discuss  
7                   lessons learned. A review of the  
8                   SITE T[ask]F[orce] was provided CSIS  
9                   provided an overview of FI and a  
10                  briefing of generally what was seen  
11                  during the 2019 and 2021 elections.  
12                  The Service met..."

13                  Next bullet:

14                  "The Service met with OCCE on...[19<sup>th</sup>  
15                  of January 2021]to provide the OCCE  
16                  with a briefing on the threats in the  
17                  lead up to a Federal election. This  
18                  briefing was not specific to PRC FI."

19                  And on the 25<sup>th</sup> of February 2021:

20                  "CSIS met with OCCE to provide an  
21                  unclassified briefing on threats to  
22                  democratic institutions and FI  
23                  activities..."

24                  If we go to the next page, on the 16<sup>th</sup> of  
25                  November 2022:

26                  "...the SITE T[ask]F[orce] (comprised  
27                  of CSE, CSIS, GAC, RCMP, with input  
28                  from PCO DI & S&I) briefed the new

1 OCCE Commissioner (Caroline Simard)  
2 and her team on the SITE mandate and  
3 shared key observations from the 2021  
4 GE44."

5 Next bullet -- I think we can stop there  
6 before the next bullets, because we're getting outside of the  
7 terms of our reference.

8 So if I bring you back to this document and  
9 the first page, and just a bit down the page if we go to --  
10 yeah, there we are. So CSIS, I understand there was a  
11 meeting between CSIS and OCCE on the 26<sup>th</sup> of September 2019  
12 for the exchange of information for the purposes of the  
13 *Canada Elections Act*, so that was the MOU.

14 And there was another meeting where the --  
15 among other things, I put it to you -- I suggest to you that  
16 there was another meeting where the service spoke with the  
17 OCCE during the 2019 Federal election regarding allegations  
18 of irregularities during the vote in Don Valley North. I  
19 understand in this particular meeting that I'm just -- that  
20 I'm referring to, that was a topic of among others. Is that  
21 correct?

22 **MS. MYLÈNE GIGOU:** What I can say is that as  
23 per -- I referred earlier to the process whereby I did not  
24 take notes of any discussions with CSIS and these are not my  
25 notes, and they cover a number of years based on the dates  
26 that are -- that appear there in the document. Any  
27 information that I would have received would have been  
28 classified as well and not anything that I can discuss in

1 this setting.

2 **MR. MATTHEW FERGUSON:** Okay. All right. I  
3 will -- [no interpretation].

4 If I could also move on from CSIS for say --  
5 not for a moment -- I'll move on from CSIS to talk about SITE  
6 and RRM. Can you really describe the relationship between  
7 OCCE entities -- with these entities and SITE and RRM?

8 **MS. MYLÈNE GIGOU:** Okay. So in the ---

9 **MR. MATTHEW FERGUSON:** RRM, the rapid  
10 response mechanism, yeah.

11 **MS. MYLÈNE GIGOU:** No, absolutely.

12 **MR. MATTHEW FERGUSON:** Yeah.

13 **MS. MYLÈNE GIGOU:** So in lead up to the 2019  
14 general election I alluded to a meeting held at our office  
15 whereby I convened, I believe likely DG level counterparts at  
16 CSIS, CSC, GAC, RRM, and the RCMP to discuss our office's  
17 mandate, key provisions related to foreign interference and  
18 the role we saw ourselves play in this sphere. We're not a  
19 member of SITE, but in the event that there was any  
20 information or that they had awareness about our mandate so  
21 that if there was anything to be shared with our office.

22 My recollection of that discussion was that  
23 they found it to be informative and thought that a workshop  
24 or session, a presentation to some of their staff could be  
25 helpful as well. So a couple of weeks later we did organize  
26 a session again at our office, where we communicated to staff  
27 within those organizations information about our mandate. In  
28 that context as well, we communicated a letter and the deck

1 that was shared in those sessions to those organizations.

2 **MR. MATTHEW FERGUSON:** You say the deck that  
3 was shared, do you remember ---

4 **MS. MYLÈNE GIGOU:** The presentation.

5 **MR. MATTHEW FERGUSON:** The presentation, and  
6 you're referring to specific provisions of the *Canada*  
7 *Elections Act* as pertains to foreign interference?

8 **MS. MYLÈNE GIGOU:** That's right. That's  
9 correct. In terms of building on that, for the 2021 general  
10 election this was an -- a federal election that was called  
11 early. But what we did do, again to continue building on  
12 these relationships, we invited each of these organizations  
13 to come speak to our office so that our staff could hear  
14 about their roles, mandates, and the like, so they'd be  
15 better informed about respective mandates.

16 And in that forum, we also -- if it was  
17 someone new within those organizations that I didn't already  
18 have a relationship with, had a bit of an exchange in terms  
19 of our mandate as well. We recommunicated in the lead up to  
20 the 2021<sup>st</sup> federal general election information about our  
21 mandate with key individuals within those organizations.  
22 Essentially my counterparts.

23 **MR. MATTHEW FERGUSON:** Okay.

24 [No interpretation] ...like to raise, Madam  
25 Simard, the fact that you've referred to a number of  
26 provisions in the *Canada Elections Act* -- I'm having trouble  
27 with that word today; *the Canada Elections Act* relating to  
28 foreign interference to attack the phenomenon of foreign

1 interference. You've alluded to an additional report, CEF  
2 PR, a number of zeros FR.

3 The interpreter may not have correctly  
4 understood the number of the document.

5 We'll refer you to page 27 of this document.  
6 I think actually it's page 28 of the PDF. So page 28. This  
7 is appendix to your Institutional Report, which draws up an  
8 inventory of clauses regarding foreign interference. You're  
9 talking about disinformation and misinformation. If we could  
10 scroll down a little bit in the table, there are certain  
11 false statements which are forbidden during an electoral  
12 period, under Article 19.

13 **MS. CAROLINE SIMARD:** [No interpretation].

14 **MR. MATTHEW FERGUSON:** Also in your table,  
15 the reference to 282.4. This is exerting undue influence --  
16 of a foreigner exerting undue influence. This document is  
17 there. We've raised a number of clauses in it, provisions in  
18 it. I would like to raise the question of certain specific  
19 files. It's a question aimed more at the former  
20 Commissioner, Mr. Côté.

21 Can you describe -- in fact, I will take you  
22 to certain files and discuss with you a certain examinations  
23 or investigations flowing from the general elections in 2019.

24 I will start with a number of files sent by  
25 Elections Canada, and I will ask you to describe, for each  
26 one of these the decision-making process on the part of OCCE  
27 concerning the closing of these files. I will refer to the  
28 first file, CEF, a number of zeroes, and it ends in 7. I

1 don't know if -- you undoubtedly don't know that by heart.  
2 If I say *Time* magazine, does that ring a...

3 **MR. YVES CÔTÉ:** Yes.

4 **MR. MATTHEW FERGUSON:** It's a file -- do you  
5 have it?

6 **COURT OPERATOR:** CEF 7?

7 **MR. MATTHEW FERGUSON:** Yes. Yes, I will  
8 speak to -- that's an error. There's an error in that file.  
9 We will make sure that it's fed into the database of the  
10 parties.

11 So it's a file that contains a number of  
12 complaints relating to an article in *Time* magazine, an  
13 American publication, during the 2019 elections. And there's  
14 a reference to the first Prime Minister when he was a young  
15 man in blackface or brownface a number of years earlier. Can  
16 you talk to us about that file and the institutional process  
17 in closing this file?

18 **MR. YVES CÔTÉ:** Yes. I would answer first of  
19 all, that you talked about more than 100 complaints or 100  
20 communications regarding that article, and as you said it  
21 involved the person who was Prime Minister at the time. And  
22 in an American publication things were raised that he had  
23 done in his youth. And I -- quite simply, what you said,  
24 having -- going over the exceptions at 282.4, paragraph 3,  
25 and the conclusion that we arrived at shortly after having  
26 received those complaints was that it fell under one of those  
27 exceptions and that therefore there was no infraction  
28 committed to our Act and that the file should therefore be

1 closed because there hadn't been an infraction.

2 **MR. MATTHEW FERGUSON:** So there was no  
3 contravention, then.

4 **MR. YVES CÔTÉ:** [Interpretation].

5 **MR. MATTHEW FERGUSON:** I would like to refer  
6 to the complaints that you received directly from the public  
7 for the period of 2019, or for the elections in 2019.

8 What can you tell us, in a general way, about  
9 the experience of the office in terms of receipt of  
10 complaints directly from the public regarding allegations of  
11 foreign interference?

12 **MR. YVES CÔTÉ:** I can say that we received in  
13 2019 -- you've gone over the figures a little earlier with  
14 Madam Simard. We received a great number, 200, but what is  
15 important to bear in mind is that a number of those  
16 complaints there's a phenomenon of what we call  
17 amplification; a number of citizens will approach us and file  
18 a complaint with regard to something that already exists. So  
19 the figures that I have in mind may not be exact, but in the  
20 case of the article that we talked about in *Time*, there were  
21 some 100-odd. I think there were also 31 or 32 that were  
22 based on an intervention made by a Swedish citizen in --  
23 during the elections, Madam Thunberg, who came here and made  
24 statements in Montreal and in Vancouver.

25 And thirdly, there was another incident  
26 involving *Time* magazine where people referenced the cover of  
27 the magazine in a way that -- or dealt with it, and we -- so  
28 we looked at those complaints, and when we looked at the

1 three of them together, I think that we came up to 160  
2 complaints out of the 200.

3 So the point here is that yes, the figure of  
4 200 may seem considerable, but in fact it is related to 15  
5 different allegations with regard to the 2019 elections.

6 **MR. MATTHEW FERGUSON:** And if I take another  
7 file, the file which has CEF a number of zeroes, and 17.

8 **--- EXHIBIT No. CEF 17 R2:**

9 Compliance or Enforcement  
10 Recommendation Report - January 8,  
11 2020

12 **MR. MATTHEW FERGUSON:** And here, if I talk  
13 about a file which is an example of a tweet from a former  
14 American President who was talking about political party. Do  
15 you remember this file?

16 **MR. YVES CÔTÉ:** Yes, exactly.

17 **MR. MATTHEW FERGUSON:** Can you talk about  
18 your decision-making process here?

19 **MR. YVES CÔTÉ:** We received complaints; I  
20 don't know many were there. There was some 30-odd, I  
21 believe. So people alleged in communications with us that  
22 there was "foreign interference" due to the fact that a  
23 former American President was getting involved in the  
24 campaign. And once again here, very quickly we came to the  
25 conclusion that it fell under one of the exceptions in 282.4,  
26 and it was one of the files that we closed very quickly. And  
27 I can mention that during the following general elections,  
28 the same person, Mr. Obama, made a tweet and we came to the

1 same conclusion, obviously, at that time.

2 **MR. MATTHEW FERGUSON:** And here you studied  
3 or analyzed those complaints, those allegations under -- from  
4 the perspective 282.4, which is the undue influence of  
5 foreigners, ---

6 **MR. YVES CÔTÉ:** [No interpretation].

7 **MR. MATTHEW FERGUSON:** --- an American  
8 President who supports a candidate or a political party, is  
9 not forbidden by the law?

10 **MR. YVES CÔTÉ:** It's not forbidden. If you  
11 look at the three exceptions for in the subsection 3, be it  
12 an American President or an ordinary citizen from France or  
13 whatever country, the status of the individual has no impact.  
14 The thing is that a person from -- a foreign person  
15 intervening in this way, you have to look at the exceptions,  
16 and when we did that here, we arrived at the conclusion that  
17 the exceptions applied, so that there was no contravening of  
18 our Act.

19 **MR. MATTHEW FERGUSON:** In 2019 I understand  
20 that Clause 282.4 ---

21 **MR. YVES CÔTÉ:** It's a hard one, right?

22 **MR. MATTHEW FERGUSON:** Yes, I'm having a hard  
23 time with it.

24 **MR. YVES CÔTÉ:** [No interpretation].

25 **(LAUGHTER)**

26 **MR. MATTHEW FERGUSON:** I understand that it  
27 was relatively young as a clause; it was the first elections  
28 in which it was applicable. Were there complaints or

1 examinations or civil action taken with regard to that  
2 clause?

3 **MR. YVES CÔTÉ:** There were no prosecution or  
4 no court actions.

5 **MR. MATTHEW FERGUSON:** So there were a number  
6 of complaints but they never led to legal action?

7 **MR. YVES CÔTÉ:** Correct.

8 **MR. MATTHEW FERGUSON:** [No interpretation].

9 **MR. YVES CÔTÉ:** And I mentioned earlier, and  
10 it's worth going over it quickly, that for many people,  
11 people well-meaning and reasonable, Canadian -- ordinary  
12 Canadian citizens, when they see things like this they say to  
13 themselves that a former president of another country says  
14 that they can do that, that has to be against the law; there  
15 must be something we can do to stop that. Obviously, as  
16 Madam Simard wrote, the Commissioner operates within the  
17 parameters of the law as it must be, and not as some people  
18 might consider it to be. And so people that are skeptical in  
19 light of the decision you made, so the response, if there is  
20 one, is that obviously would be to change the Act, but that's  
21 not my area.

22 **MR. MATTHEW FERGUSON:** [No interpretation].

23 **COMMISSIONER HOGUE:** [No interpretation].

24 **MR. MATTHEW FERGUSON:** [No interpretation].

25 **COMMISSIONER HOGUE:** [No interpretation].

26 One can imagine, for example, where a  
27 foreigner, be it a former president or another person, makes  
28 that type of tweet or makes a comment on Facebook, and it

1 does more than simply say they support a particular person,  
2 but provides certain information. Taking for granted that  
3 some of that information would not be true, let's assume  
4 that, would your analysis then be able to follow two paths?  
5 First of all, a question whether it's an infraction for that  
6 person to support a candidate, but then to look also at the  
7 content of what is said, to see if there's any information  
8 that could be disinformation or misinformation.

9 **MR. YVES CÔTÉ:** Caroline, would you like to  
10 answer? No?

11 You're raising a very good point, Madam  
12 Commissioner, and obviously we would have to look at the  
13 content of the allegations or the statements that are made in  
14 the case that you're giving from a non-Canadian citizen.  
15 There are at least two issues that would be raised very  
16 quickly. First, in 282.8 of the Act where it's mentioned  
17 that it is forbidden to exert a pretext or trickery to lead  
18 the voting in a certain way, and obviously that applies to  
19 everybody, be it in Canada or outside Canada. Everyone is  
20 subjected to that.

21 And then there's section 91 of the Act which  
22 says it's an infraction to communicate during an election  
23 period some types of false information regarding candidates  
24 or people associated with parties in order to influence  
25 people in the exercise of their voting rights.

26 **COMMISSIONER HOGUE:** And that applies both to  
27 foreigners as people in Canadian territory?

28 **MR. YVES CÔTÉ:** If I remember correctly,

1 under section 91, subsection 2 or something, that it  
2 stipulates that that clause applies, regardless of where the  
3 statements are made.

4 **COMMISSIONER HOGUE:** [No interpretation].

5 **MS. CAROLINE SIMARD:** If I may add?

6 **COMMISSIONER HOGUE:** [No interpretation].

7 **MS. CAROLINE SIMARD:** Just taking an  
8 additional step; a false statement is very limited. We're  
9 talking about false statements regarding citizenship of the  
10 place of birth, studies, qualifications, and/or otherwise  
11 having committed an infraction to the law. So it's very  
12 limited; the scope is very limited.

13 **COMMISSIONER HOGUE:** So if there were false  
14 representations that had to do with, like, a made-up story,  
15 if you will, regarding a candidate who may have taken part in  
16 illicit activities or whatever it is, it might not be covered  
17 by that clause; you have to determine whether there was an  
18 infraction or not, according to what?

19 **MS. CAROLINE SIMARD:** I will answer in the  
20 affirmative regarding section 91, but there may be other  
21 clauses that would apply as well.

22 **COMMISSIONER HOGUE:** Thank you.

23 **MR. MATTHEW FERGUSON:** So be it an American  
24 President or a person regarding the allegiances or their  
25 relationship with Canada, that doesn't change anything with  
26 regard to the individual and their relationship with Canada,  
27 be it an ally county or a more hostile country?

28 **MR. YVES CÔTÉ:** You're talking, Maître

1 Ferguson, about...?

2 **MR. MATTHEW FERGUSON:** Under 282.4.

3 **MR. YVES CÔTÉ:** Yes.

4 **MR. MATTHEW FERGUSON:** Now in 2019 -- Mr.  
5 Côté, during your mandate in 2019, did you lead an  
6 investigation into allegations of irregularities during the  
7 nomination -- Liberal nomination in Don Valley North in 2019?

8 **MR. YVES CÔTÉ:** In 2019?

9 **MR. MATTHEW FERGUSON:** In 2019. Or we heard  
10 evidence this morning to the effect that you received a  
11 referral from Elections Canada? When I say, "In 2019" it has  
12 to do with regarding the 2019 general elections.

13 **MS. MYLÈNE GIGOU:** You want me to take the  
14 question?

15 **MR. YVES CÔTÉ:** Yes.

16 **MS. MYLÈNE GIGOU:** So we have received  
17 complaints, including referrals related to the Liberal  
18 nomination contest in Don Valley North. Some do not involve  
19 allegations of foreign interference. Information regarding  
20 the ongoing review initiated by the Commissioner of Canada  
21 Elections has been shared with this public inquiry, and we  
22 continue to receive information and assess it as part of our  
23 ongoing review.

24 **MR. MATTHEW FERGUSON:** Yeah. But the  
25 question was more with respect to the referral that Elections  
26 Canada -- that's sent to the OCCE in 2019.

27 **MS. MYLÈNE GIGOU:** So your question ---

28 **MR. MATTHEW FERGUSON:** I understand there's -

1 --

2 **MS. MYLÈNE GIGOU:** If you're referring to  
3 2019 ---

4 **MR. MATTHEW FERGUSON:** I understand that  
5 there's an ongoing review, but I'm speaking specifically --  
6 an ongoing review initiated by the current Commissioner, but  
7 I'm speaking about a referral from Elections Canada in 2019.

8 **MS. MYLÈNE GIGOU:** Are you -- so my question  
9 that I'm seeking clarification, are you certain of the date  
10 being 2019 or are you referring to the 2019 ---

11 **MR. MATTHEW FERGUSON:** I'm referring to ---

12 **MS. MYLÈNE GIGOU:** --- Liberal nomination  
13 contest ---

14 **MR. MATTHEW FERGUSON:** Correct. Right.

15 **MS. MYLÈNE GIGOU:** --- and a referral that  
16 may have been subsequent to that, but not necessarily in  
17 2019?

18 **MR. MATTHEW FERGUSON:** If my question was  
19 unclear, then that's your -- you have the proper  
20 understanding.

21 **MS. MYLÈNE GIGOU:** Okay.

22 **MR. MATTHEW FERGUSON:** Yeah.

23 **MS. MYLÈNE GIGOU:** So we did receive a  
24 referral from Elections Canada related to the Liberal  
25 nomination contest.

26 **MR. MATTHEW FERGUSON:** And do I understand  
27 that that referral had -- did not have -- had nothing to do  
28 with foreign interference?



1                   **MR. MATTHEW FERGUSON:** [No interpretation].

2                   **MR. YVES CÔTÉ:** [No interpretation].

3                   **MR. MATTHEW FERGUSON:** [No interpretation].

4                   Then I would refer you to the next file.

5                   **--- EXHIBIT No. CEF 156:**

6   Summary Report 2021-0439

7                   **MR. MATTHEW FERGUSON:** [No interpretation].

8                   Monsieur Côté:

9   "This matter involved complaints  
10    received during the 2021 general  
11    election over a lunch event for the  
12    Liberal Party candidate in Vancouver  
13    East." (As read)

14   Which is the electoral district of Jenny  
15                   Kwan, who is a party to these proceedings.

16                   **MR. YVES CÔTÉ:** [No interpretation].

17                   **MR. MATTHEW FERGUSON:** Can you tell us a  
18                   little about this matter and the disposition in this file?

19                   **MR. YVES CÔTÉ:** [No interpretation] ...the  
20                   person who was acting as legal advisor to the NDP, or in the  
21                   NDP campaign that we're talking about here, so they wrote to  
22                   us to communicate the fact that there was a lunch that was  
23                   organized, and according to the allegations in the letter, if  
24                   I remember correctly, would have been paid for by a man whose  
25                   name is Chinese-sounding. And the way that the complaint was  
26                   drafted, brought to our attention that there were probably  
27                   violations to the rules of political financing, given that it  
28                   could have been perceived as a contribution from this person

1 to the candidate's campaign.

2 So come back a bit, we're talking of the  
3 Liberal candidate. I think the name is there, Vander Vies.  
4 When we tried to find the facts about this, we learned that  
5 it is the candidate who approached Mr. Kwok to tell him that  
6 him, the candidate, would be like to be able to meet some  
7 Chinese people to get more familiar with them and to get  
8 known in the context of the campaign. So for me it's an  
9 important point; that is, it's the candidate who approached  
10 that person, here Mr. Kwok in question, was described in the  
11 letter by the lawyer of the party as someone who was  
12 associated to some organizations involved in the fight  
13 against racism, against people of Asian descendants. So  
14 there was nothing in here that brought me, at the time, or  
15 brought our investigators to think that that there was  
16 something undue, especially when we considered the fact that  
17 we had described Mr. Kwok as I just did.

18 So we obtained information, and the  
19 information we got was along the lines that the sums paid by  
20 Mr. Kwok for this banquet were about \$1,500, roughly. And  
21 eventually the file was sold by imposing -- only a few weeks  
22 ago by Commissioner Simard, a financial administrative  
23 sanction against Mr. Vander Vies's campaign for having  
24 omitted in the filed reports this non-monetary contribution  
25 that his campaign had benefited from.

26 **MR. MATTHEW FERGUSON:** And I understand that  
27 this file was settled under your mandate, Mrs. Simard.

28 **MS. CAROLINE SIMARD:** Yes, that's correct.

1                   **MR. MATTHEW FERGUSON:** If I covered the last  
2 file with you, Mr. Côté. File CEF 159.

3                   **--- EXHIBIT No. CEF 159:**

4                                   Summary Report 2021-0553

5                                   This file involves a complaint submitted  
6 during the 2021 general election that:

7                                   "...expressed concern that foreign  
8 agents affiliated with the Chinese  
9 Communist Party [...] may be  
10 interfering in the [election]. The  
11 [complainant enclosed] 3 [...]   
12 screenshots of social media messages  
13 in Chinese..."

14                                  The posts were described by OCCE staff as:

15                                  "...critical of the Conservative Party  
16 of Canada [...] referenced the  
17 potential impact of Bill C-282 [the  
18 Foreign Influence Registry Bill,  
19 tabled] by MP Kenny Chiu."

20                                  Can you describe what happened in this file  
21 and when was the matter closed?

22                                  **MR. YVES CÔTÉ:** At what point it was closed,  
23 I'm not sure. Maybe Ms. Gigou has the information. But I  
24 know that it was closed while I was still Commissioner, so  
25 under my regime, as you said.

26                                  So it's a file that we examined very closely.  
27 A lot of work was done to look into that and read and get  
28 translated the posts that were on the social media platform.

1 We looked at those attentively, and we came to the conclusion  
2 that, yes, there were some words against -- I think the  
3 document mentions it, that there were some words against Mr.  
4 Sloan, against Mr. Chiu as well. And we saw in there some  
5 people who were stating some things and taking some  
6 positions, but we saw nothing in there that went beyond what  
7 is acceptable in a democratic debate during an election.  
8 Bearing in mind, though, is of course the measures that we  
9 talked about, 282.4.

10 **MR. MATTHEW FERGUSON:** And I understand that  
11 there was extensive opensource research conducted, I think  
12 it's mentioned in the document, steps taken, the last step,  
13 there was extensive opensource research conducted, this is a  
14 topic we discussed during the interview, conducted by an OCC  
15 analyst that identified between individuals related to the  
16 posts and publications, and ties to China-based entities with  
17 potential links to the Communist Party of China. Is that  
18 correct?

19 **MR. YVES CÔTÉ:** [No interpretation].

20 **MR. MATTHEW FERGUSON:** And I also understand  
21 that the document could not identify -- the OCC could not:  
22 "...identify [any] tangible [...] direct  
23 [or] evidence to substantiate the  
24 elements constituting the offence of  
25 undue foreign influence.."

26 **MR. YVES CÔTÉ:** Yes.

27 **MR. MATTHEW FERGUSON:** Was this document  
28 prepared by one of your analysts and shared with your

1 partners agencies?

2 **MR. YVES CÔTÉ:** This was not shared by us  
3 with our partners. There's one thing that we have to bear in  
4 mind, this is a consideration, it's a fact that we perceive  
5 ourselves -- and Mrs. Simard can confirm, but we see  
6 ourselves first and foremost as an organization receiving  
7 complaints, receiving information and not as an organization  
8 whose mandate would comprise distribution or communication of  
9 information coming from us to others.

10 **MR. MATTHEW FERGUSION:** Having said this, you  
11 still signed the Memorandum of Understanding with the RCMP  
12 that plans for this bilateral information-sharing  
13 relationship.

14 **MR. YVES CÔTÉ:** So I didn't look at the  
15 reports or analyses done by our specialists here, and if I  
16 remember properly, they were very lengthy. But the  
17 presumption that I have would be that the people in charge of  
18 the file in our office, the investigators in charge, I know  
19 their names, I know their backgrounds. These are very smart  
20 people who have, at least for one of them, are trained in law  
21 and have -- there are former members of the RCMP, so if they  
22 saw something that should have been communicated, I can  
23 presume that they would have come to me and would have asked  
24 for the authorization of the Commissioner to share that  
25 information with the RCMP.

26 And Mylène, I don't know if -- Madam Gigou,  
27 sorry; I don't know if there was something to add?

28 **MS. MYLÈNE GIGOU:** I think on this specific

1 matter, in terms of the opensource research, I think one of  
2 the considerations that could have also applied, and I say  
3 that in the -- I wasn't specifically there during that time,  
4 but the information was reproduced based on opensource  
5 research. So it's information that's available to other  
6 organizations as well in terms of opensource. But as the  
7 former Commissioner mentioned, if there was something, for  
8 example, in another instance where we deemed that there was a  
9 significant threat in something that we saw, we contacted the  
10 RCMP so that they're aware of those issues.

11 So in those circumstances, we certainly do,  
12 in some, but given our confidentiality provisions and our  
13 independence as well, we -- as he explained, this is  
14 something that's very case specific and fact specific, when  
15 we do seek authorization from the Commissioner of Canada  
16 Elections to share with another agency.

17 **MR. MATTHEW FERGUSION:** And I will conclude  
18 with the examinations following these allegations of foreign  
19 interference with some coverage in the media in 2022 and  
20 2023; that's under your mandate, Mrs. Simard.

21 You initiated an examination following  
22 allegations communicated to you. I will speak of a first  
23 file that is something that we mentioned together during the  
24 interview. So I'll call up CEF 161. And could you briefly  
25 describe this file?

26 **--- EXHIBIT No. CEF 161:**

27 Summary Report 2022-0925-56

28 **MS. CAROLINE SIMARD:** Yes, this is a file

1 that I opened on my own initiative following some allegations  
2 expressed in the context of a Parliamentary committee. So in  
3 the summary it's indicated that it was the PROC Committee.  
4 And if I summarize very simply, some examination work was  
5 done, some witnesses were met, and at the end of the day  
6 there was no reason to take it any further. So I closed this  
7 file.

8 **MR. MATTHEW FERGUSION:** Okay. I understand  
9 there are two other investigations that were ongoing that  
10 were ---

11 **MS. CAROLINE SIMARD:** [No interpretation].

12 **MR. MATTHEW FERGUSION:** --- initiated by  
13 yourself?

14 **MS. CAROLINE SIMARD:** Two examinations, yes.

15 **MR. MATTHEW FERGUSION:** Yes, excuse me. And  
16 I'll call up CEF 152.

17 **--- EXHIBIT No. CEF 152 R2:**

18 Summary Report 2022-0925

19 **MR. MATTHEW FERGUSION:** And so that is the  
20 first file. I understand it's an examination following  
21 allegations about some writings in the Greater Vancouver  
22 region. And another file, CEF 150; I think it was mentioned  
23 earlier. So an investigation into allegations linked to the  
24 Don Valley riding, amongst others.

25 **--- EXHIBIT No. CEF 150 R2:**

26 Summary Report 2022-0925-11

27 **MS. CAROLINE SIMARD:** [No interpretation].

28 **MR. MATTHEW FERGUSION:** So I understand that

1 beyond those summaries, there's nothing that you can say  
2 since those are ongoing?

3 **MS. CAROLINE SIMARD:** Yes, absolutely. So  
4 the first one is following around 50 complaints, so it's  
5 ongoing. And the second one was of my own initiative that it  
6 was opened up, and it's still ongoing. And indeed, I cannot  
7 tell you more than what's here.

8 So already it is very exceptional to share  
9 this kind of information. You will understand that there are  
10 different reasons; presumption of innocence, privacy,  
11 investigation techniques, et cetera. And I would take a  
12 couple of seconds to say that we are operating in a very  
13 specific environment compared to others. It is a very much a  
14 partisan environment and the last thing we want is to be used  
15 as an instrument to feed that partisanship. So it's very  
16 important to preserve confidentiality in that context.

17 **MR. MATTHEW FERGUSON:** Thankyou. And last  
18 question, I asked the question to Mr. Simard -- now it's  
19 getting late; Mr. Côté earlier, about 282.4, that there  
20 hasn't been any prosecution following these allegations and  
21 complaints around the elections of 2019. Were there some for  
22 the elections in 2021; did these measures lead to any  
23 prosecution?

24 **MR. YVES CÔTÉ:** When I left in June 2022,  
25 there hadn't been any, no.

26 **MR. MATTHEW FERGUSON:** And still the case,  
27 Mrs. Simard?

28 **MS. CAROLINE SIMARD:** Yes.

1           **MR. MATTHEW FERGUSON:** So thank you for your  
2 time. I have finished my questions, but there will most  
3 certainly be questions from other parties.

4           **COMMISSIONER HOGUE:** Thank you, Mr. Ferguson.

5           **MR. MATTHEW FERGUSON:** [No interpretation].

6           **COMMISSIONER HOGUE:** We are running late, so I  
7 suggest that we really take a short break just for what is  
8 needed. So five minutes and we will come back for cross-  
9 examination.

10          **THE REGISTRAR:** Order, please.

11                   The hearing is in recess until 5:20.

12          --- Upon recessing at 5:15 p.m.

13          --- Upon resuming at 5:21 p.m.

14          **THE REGISTRAR:** Order, please.

15                   The sitting of the Foreign Interference  
16 Commission is back in session.

17          **MR. SHANTONA CHAUDHURY:** I'm sorry,  
18 Commissioner. We are missing one of our witnesses. I  
19 believe they're coming in very shortly, but we'll just pause  
20 for a moment before beginning.

21          **COMMISSIONER HOGUE:** Maybe we can applaud  
22 when she....

23          **MR. GIB van ERT:** Commissioner, I wonder if  
24 -- it's Gib van Ert here. A procedural matter that I don't  
25 think affects a witness. I wonder if I might just -- it's a  
26 bit late in the day to be asking questions about procedure,  
27 so maybe I'll table it for tomorrow. But I wanted to flag  
28 for you that I did have some guidance set out in seeking from

1 you about the proper use of the interview summaries in light  
2 of the comments that Mr. Sheppard raised. I haven't had a  
3 chance to talk to Commission counsel about it first, so what  
4 I propose is to talk to Commission counsel. If we're not  
5 able to work it out, I might ask for guidance from you first  
6 thing in the morning, rather than burdening us with it now

7 **COMMISSIONER HOGUE:** Perfect. But I invite  
8 you to discuss with them and then you'll see.

9 **MR. GIB van ERT:** Thank you.

10 **COMMISSIONER HOGUE:** No, we are not sitting  
11 tomorrow.

12 **MR. GIB van ERT:** Yes. I have just been  
13 reminded of that. But we could do it on Tuesday morning if  
14 need be.

15 **COMMISSIONER HOGUE:** Yes.

16 **MR. GIB van ERT:** Hopefully there won't be a  
17 need.

18 **(SHORT PAUSE)**

19 **COMMISSIONER HOGUE:** You can go ahead.

20 **MR. YVES CÔTÉ, Resumed:**

21 **MME CAROLINE SIMARD, Resumed:**

22 **MME MYLÈNE GIGOU, Resumed:**

23 **--- CROSS-EXAMINATION BY MR. GIB van ERT:**

24 **MR. GIB van ERT:** [No interpretation].

25 [No interpretation] ...I would like to give a  
26 summary of what I understood from your evidence, and I'm  
27 looking at Mr. Côté in particular, but I would invite you,  
28 the three of you to speak up if you want to.

1           But I would like to understand the scope of  
2           the Act and the contraventions under the Act, and their  
3           overlap with foreign interference.

4           If I understood you correctly -- without  
5           going into all the details, if I understood correctly, there  
6           is some possible overlap between the contraventions provided  
7           for under the Act, and the idea of foreign interference as we  
8           understand it, and as the Commission is reviewing it. But  
9           even if there may be some overlap from time to -- it is also  
10          the idea of foreign interference as defined by the  
11          Commission, seems to be broader, and as a result, it is not  
12          clear. So maybe it is clear that it is not the case that any  
13          instance of foreign interference might be a violation of the  
14          Act.

15                 I know that I took a lot of time to explain  
16                 this but do you understand?

17                 **MR. YVES CÔTÉ:** I think that I understand  
18                 and I quite agree with you.

19                 **MR. GIB van ERT:** Thank you. And I might  
20                 add, if I understood correctly, even if the Act had other  
21                 contraventions and a greater scope, there would still be two  
22                 issues. First, the contravener may not be in the country;  
23                 isn't it true?

24                 **MR. YVES CÔTÉ:** Yes. He or she may not be in  
25                 the country, but sometimes and often, it's impossible to  
26                 bring that person into the country.

27                 **MR. GIB van ERT:** Yes, thank you. I agree.

28                 And that's a legal matter, but generally all

1 criminal laws cannot be implemented extraterritorially,  
2 outside the country. This is something that Parliament can  
3 adjust but that's another challenge; do you agree?

4 **MR. YVES CÔTÉ:** Yes, that's correct.

5 **MR. GIB van ERT:** [No interpretation].

6 Turning to Ms. Gigou, if I may?

7 Commissioner, here I may be about to stumble  
8 on the procedural question that I was going to raise but let  
9 me see if I can do it without raising the question, and my  
10 learned friends will raise any concerns they may have.

11 Ms. Gigou, I wanted to ask you; was there a  
12 meeting between CSIS and the CCE, an urgent meeting, on the  
13 Saturday before the polling day in October 2019?

14 **MS. MYLÈNE GIGOU:** I believe that's reflected  
15 in my witness statement.

16 **MR. GIB van ERT:** I believe it is too, yes.  
17 Thank you.

18 And in your witness statement -- and I don't  
19 believe I'm seeking to contradict the witness here, or impugn  
20 her testimony at all, so I don't believe I need our leave,  
21 Commissioner -- but you referred to this, and in fact it came  
22 up in Maître Ferguson's examination as well. You referred to  
23 something called the one-vision process in connection with  
24 this. That is to say, if I recall correctly, you said that  
25 CSIS called on CCE in this urgent way according to a one-  
26 vision process. Can you explain what the one-vision process  
27 is, please?

28 **MS. MYLÈNE GIGOU:** This is a process by which

1 CSIS shares intelligence with our office.

2 **MR. GIB van ERT:** Just with your office?

3 **MS. MYLÈNE GIGOU:** Essentially in this -- it  
4 could be with other organizations, but certainly it's -- if I  
5 understand correctly, it's a model that's also used with the  
6 RCMP, and obviously we're not as mature as an organization as  
7 perhaps the RCMP, but essentially a process by which  
8 information is shared with our office.

9 **MR. GIB van ERT:** Thank you. And I  
10 understand that this meeting might have resulted in the  
11 preparation of a use letter.

12 **MS. MYLÈNE GIGOU:** As it states in my  
13 statement, yes.

14 **MR. GIB van ERT:** Thank you.

15 Could you tell the Commissioner what use CCE  
16 may permissibly make of intelligence that is the subject of a  
17 use letter?

18 **MS. MYLÈNE GIGOU:** So without -- the two  
19 letters that our office has received are for intelligence  
20 purposes only.

21 **MR. GIB van ERT:** Yes, I understand that, and  
22 you explained that to my colleague, Mr. Ferguson, earlier.

23 So you can use it for intelligence purposes  
24 only but of course you're not an intelligence organization,  
25 per se. I want to understand better what use you put it to.

26 **MS. MYLÈNE GIGOU:** So, essentially, none of  
27 the information, given that it was provided for intelligence  
28 purposes, would have been used as information to support any

1 investigations if one was undertaken. Or review, I should  
2 say; a review or investigation.

3 **MR. GIB van ERT:** Understood. Okay, that --  
4 thank you, that's very helpful. In other words, you have  
5 this intelligence, but you can't turn it into evidence for  
6 the purpose of investigating or enforcing a potential  
7 contravention of the law.

8 **MS. MYLÈNE GIGOU:** That's correct.

9 **MR. GIB van ERT:** Thank you.

10 I'll ask the Court Operator to call up  
11 CEF0000158, please. Thank you.

12 **--- EXHIBIT No. CEF 158:**

13 Summary Report 2021-0817

14 **MR. GIB van ERT:** And I'll invite anyone to  
15 answer this question. I understand that this is a complaint  
16 that was submitted that was alleging that Chinese agents were  
17 urging people not to vote for the Conservative Party of  
18 Canada, and this was in connection with the 44<sup>th</sup> election.  
19 And that the Commission determined that there was nothing  
20 violent or offensive in the language that was at issue and  
21 closed the file. Is that right?

22 **MR. YVES CÔTÉ:** The question was not to know  
23 whether there was violent language or not violent. It was to  
24 determine whether upon reading these posts, we could conclude  
25 that there was a violation of the Act, and we determined that  
26 the exchanges were sometimes strong. Sometimes the language  
27 was offensive. Sometimes people were going back and forth,  
28 but in the end we determined that even if some strong

1 language was used -- and I would like to draw your attention  
2 to the second bullet, that's what our investigators  
3 determined.

4 **MR. GIB van ERT:** Thank you for this  
5 precision.

6 So how was the fact that there was no threats  
7 of violence was relevant in this case?

8 **MR. YVES CÔTÉ:** If there were threats of  
9 violence that were clear or real threats of violence or  
10 threats to people's, that would be depending on the context,  
11 on the evidence, on -- people who were targeted by such  
12 threats, we might have been in a situation in which there may  
13 have been a violation under section 282.8 under pretence and  
14 contrivance.

15 **MR. GIB van ERT:** I will go back to the  
16 second sentence:

17 "The complainant alleged having noted  
18 on Chinese language social media  
19 forums that foreign agents, on behalf  
20 of China, were trying to manipulate  
21 the election by offending the  
22 Conservative  
23 Party...stating...Chinese people will  
24 be killed..."

25 And included some screenshots.

26 [No interpretation] ...you considered the  
27 complaint and you determined that as this was not coming  
28 within your purview under the *Electoral Act*, so you had to

1 close the case?

2 **MR. YVES CÔTÉ:** Yes, and if I remember --  
3 what I remember from the case is that our investigators  
4 worked very carefully. The posts were translated by  
5 professional translators, investigators sat down with the  
6 complainant to review the translation to make sure that the  
7 translation was faithful. And if I remember, it may have  
8 been edited here and there. But after this translation and  
9 the exchanges with the complainant, we reached the conclusion  
10 that you just mentioned, is that there had been no violation  
11 in that case.

12 **MR. GIB van ERT:** Thank you.

13 I'll ask the Court Operator to turn up the  
14 next document, CEF059.

15 **--- EXHIBIT No. CEF 59 R2:**

16 CEF0000059-red\_cav\_Redacted.pdf

17 **MS. CAROLINE SIMARD:** [No interpretation].

18 **MR. GIB van ERT:** [No interpretation].

19 **MS. CAROLINE SIMARD:** So I'd like to add that  
20 when I took office in 2022, there were allegations in the  
21 media very quickly, there was a media storm. And in this  
22 context, and when I appeared before Parliament, I said I  
23 would leave no stone unturned. So our staff went back to  
24 closed cases to see if they could find any other evidence,  
25 and that's one of these examples. In this case, we really  
26 tried to do additional work in spite of the fact that the  
27 work had been done very well in the past, but it was under  
28 new circumstances and we reached the same conclusion and the

1 case had to remain closed.

2 **MR. GIB van ERT:** Thank you.

3 **COMMISSIONER HOGUE:** You've used up your time  
4 but I will allow you to ask a last question.

5 **MR. GIB van ERT:** Thank you.

6 Well I'll finish with this -- and I won't  
7 need the document now, thank you -- even if the *Canada*  
8 *Elections Act* were amended to introduce broader prohibitions  
9 and to cover some of the kinds of foreign interference that  
10 are not presently covered, do you agree with me that the time  
11 that it would take to receive a complaint, investigate it,  
12 determine whether it had any merit, and then proceed to  
13 enforcement, would take much longer than the writ period and  
14 no enforcement could possibly be done before election day?  
15 Anyone.

16 **MR. YVES CÔTÉ:** Since I'm no longer in  
17 office, I would prefer for my colleagues to address the  
18 question.

19 **MS. CAROLINE SIMARD:** Considering that we  
20 only have a little time, I don't know if Ms. Gigou would like  
21 to speak.

22 **MS. MYLÈNE GIGOU:** During the election, what  
23 we try to do is achieve compliance as quickly as possible  
24 when a variety of scenarios present themselves. We try to  
25 equip ourselves as best as we can so that we can respond  
26 swiftly, quickly. Obviously we also want to make sure we're  
27 not making mistakes as well. So robust investigations or  
28 reviews can also take time.

1                   **MR. GIB van ERT:** Well I'm sure all of that  
2                   is true, but it's not an answer to the question I asked. The  
3                   question I asked was, do you agree with me that even if you  
4                   had powers to enforce against some of these other kinds of  
5                   foreign interference that we are considering here, it would  
6                   just be, practically speaking, impossible to receive a  
7                   complaint during the writ period, make a determination and do  
8                   something about it before election day? We're talking about  
9                   the space of 45/50 days; right?

10                  **MS. CAROLINE SIMARD:** What I would say  
11                  logically, yes, it would be difficult to do that. But, once  
12                  again, I think it's worth a try, that's what I would say.  
13                  That's what I would like to say.

14                  **MR. GIB van ERT:** [No interpretation].

15                  **MS. CAROLINE SIMARD:** [No interpretation].

16                  **MR. GIB van ERT:** Thank you, that was very  
17                  helpful.

18                  **COMMISSIONER HOGUE:** [No interpretation].

19                  Counsel for Erin O'Toole.

20                  **--- CROSS-EXAMINATION BY MR. THOMAS JARMYN:**

21                  **MR. THOMAS JARMYN:** Thank you, Commissioner.  
22                  This is Tom Jarmyn. I'm the counsel for Erin  
23                  O'Toole and I have just very few questions.

24                  When investigators receive a report or are  
25                  given a report to investigate, has there been any standing  
26                  direction given whether or not they screen the file with  
27                  respect to possible threats under either the *Security of*  
28                  *Information Act* -- or sorry, violations under the *Security of*

1        *Information Act* or the *Criminal Code*?

2                    **MS. CAROLINE SIMARD:** [No interpretation]

3        ...*Elections Act*, contraventions which apply, some provisions  
4        of the *Criminal Code* may apply, if they are related to the  
5        offences under the *Canada Elections Act*; for example, for  
6        fraud, for example, for political funding. So we could also  
7        use the clause for frauds under the *Criminal Code*. That's  
8        only an example.

9                    **MR. THOMAS JARMYN:** I'm thinking in  
10        particular of section 20 of the *Security of Information Act*,  
11        which makes it an offence to -- for the direct benefit of a  
12        foreign entity to act to induce, by menace, a person to do  
13        something that would increase the capacity of a foreign  
14        entity.

15                    **COMMISSIONER HOGUE:** So I think maybe you  
16        should rephrase your question. I ---

17                    **MR. THOMAS JARMYN:** Sorry.

18                    **COMMISSIONER HOGUE:** The witnesses, they are  
19        just trying to ---

20                    **MR. THOMAS JARMYN:** Yeah.

21                    **COMMISSIONER HOGUE:** --- understand what  
22        you're looking for.

23                    **MR. THOMAS JARMYN:** So section 20 of the  
24        *Security of Information Act* says:

25                    "Every person commits an offence who,  
26                    at the direction [or] the benefit of  
27                    [an] association with a foreign  
28                    entity [...], induces or attempts to

1 induce, by [menace]..."

2 And I've removed the words reflecting  
3 violence, et cetera, a person to do anything for the benefit  
4 -- sorry -- to do anything that:

5 "...increase[es] the capacity of a  
6 foreign entity..."

7 So when a foreign state actor causes or  
8 threatens further to, for example, CEF158, potential violence  
9 for the benefit of a foreign entity, does that -- have you --  
10 has direction been given to apply section 20 or to report  
11 that to another organization?

12 I appreciate you can't charge under SIA.

13 **MS. CAROLINE SIMARD:** So generally speaking,  
14 I will come back to the *Canada Elections Act*, and the  
15 provisions of that Act would apply, and I would say that as  
16 far as I know, this is our framework so there are a few  
17 exceptions in relation to the *Criminal Code* that I explained  
18 earlier today.

19 I'm turning to my colleagues to see if they  
20 might want to share additional information.

21 **MS. MYLÈNE GIGOU:** So perhaps just to  
22 supplement Madam Simard's answer, if I understood correctly,  
23 you asked if it was triaged with that lens as well?

24 **MR. THOMAS JARMYN:** Yeah.

25 **MS. MYLÈNE GIGOU:** So if that's the -- if  
26 that is in fact the question, so the triage that's done by  
27 our intake unit is done with the lens of the *Canada Elections*  
28 *Act*, as Commissioner Simard has mentioned.

1                   If something falls within our mandate and  
2                   it's been reviewed or investigated by investigators and that  
3                   they have -- we work in a small team with experienced  
4                   investigators and we also work very closely with our internal  
5                   legal services as well, so there may be discussions about  
6                   whether there could be, for example, the application of the  
7                   *Criminal Code* or things like that. There could be those  
8                   discussions. But there's no specific instructions that I am  
9                   personally aware of within our office with regards to the  
10                  *Security of Information Act*.

11                   **MR. THOMAS JARMYN:** Thank you. Those are all  
12                  my questions.

13                   **COMMISSIONER HOGUE:** Thank you. So I think  
14                  next one is Jenny Kwan.

15                   So it's Maître Choudhry.

16                  **--- CROSS-EXAMINATION BY MR. SUJIT CHOUDHRY:**

17                   **MR. SUJIT CHOUDHRY:** So Commissioner, I think  
18                  I'm going to walk into this procedural issue that's been  
19                  flagged. So I would like to ask some questions of the panel  
20                  regarding the Vancouver East luncheon that has been the  
21                  subject of the CCE investigation that Mr. Ferguson asked some  
22                  questions about. And both of the witness, the interview  
23                  summaries, addressed that luncheon over a few paragraphs, and  
24                  I'd like to ask -- I'd like to seek your leave to pose some  
25                  questions specifically in relation to the investigation of  
26                  that luncheon, as the evidence is described here, because  
27                  it's a bit -- the evidence that's in the witness -- in the  
28                  interview summaries is a bit more expansive than what Mr.

1 Côté was able to do.

2 COMMISSIONER HOGUE: And you want to draw my  
3 attention to what have been ---

4 MR. SUJIT CHOUDHRY: Yes.

5 COMMISSIONER HOGUE: --- what they said  
6 actually and what is ---

7 MR. SUJIT CHOUDHRY: I think -- yeah.

8 COMMISSIONER HOGUE: --- reflected in the  
9 summary?

10 MR. SUJIT CHOUDHRY: I'd like to, yes.

11 COMMISSIONER HOGUE: Okay.

12 MS. ERIN DANN: Commissioner, I wonder if we  
13 can assist to clarify the rule in respect to the witness  
14 summaries, but certainly in cross-examination that counsel is  
15 entitled to refer to the witness summary. Where leave is  
16 required is where there -- I'm going to cross-examine in the  
17 sense it puts some inconsistency -- you cannot put  
18 inconsistencies to the witness from their summary. I'm  
19 sorry, I'm not speaking clearly at the moment, but leave is  
20 not required in order to refer the witness to a portion of  
21 the witness summary.

22 MR. SUJIT CHOUDHRY: Fair enough. So I think  
23 we're all on the same page, and I think Mr. van Ert and I  
24 were doing it using them in the same way.

25 So let me begin, then, by asking that the  
26 following document be called up on the screen, please. It's  
27 JKW, four zeroes, 82.

28 --- EXHIBIT No. JKW 82:

1 Email from Jenny Kwan to CCE -  
2 Foreign Interference Investigation

3 **MR. SUJIT CHOUDHRY:** And if you could scroll  
4 down, please, to page 2 -- 3, actually. Actually, above.  
5 Yes.

6 So this is an email, as you'll see. It's  
7 from an investigator at the -- at CCE, as I'll call it, or --  
8 and it's to MP Kwan, and it's dated July 2023. And so it's a  
9 request to have a discussion regarding a complaint that she  
10 had lodged.

11 And I'll put to Mr. Côté, in particular, but  
12 to the panel, that this is the complaint that Mr. Côté  
13 referenced in his testimony in 2021.

14 **MR. YVES CÔTÉ:** It looks like it, yes.

15 **MR. SUJIT CHOUDHRY:** Yeah, okay. So I'd like  
16 to now call up JKW 000083.

17 **--- EXHIBIT No. JKW 83:**

18 Email from Jenny Kwan to CCE - Office  
19 of the Commissioner Canada Elections  
20 Report - SITE TF SITREP: 16 September  
21 2021

22 **MS. MYLÈNE GIGOU:** Sorry.

23 **MR. SUJIT CHOUDHRY:** I'm sorry. Yes, ma'am.

24 **MS. MYLÈNE GIGOU:** I -- if I could perhaps  
25 just clarify. Your question at the bottom -- just to pull up  
26 again the bottom message, please.

27 **MR. SUJIT CHOUDHRY:** Sure. Excuse me.

28 Could we go back to the previous document,

1 please? Thank you.

2 **MS. MYLÈNE GIGOU:** So that email of Monday,  
3 July 17, 2023 ---

4 **MR. SUJIT CHOUDHRY:** Correct.

5 **MS. MYLÈNE GIGOU:** --- you're suggesting that  
6 it relates to which file number, please?

7 **MR. SUJIT CHOUDHRY:** It -- well, it relates  
8 to a complaint that was lodged by Ms. Kwan during the 2021  
9 campaign.

10 **MS. MYLÈNE GIGOU:** Do you have the file  
11 number for that? Because I don't believe that's the -- it  
12 relates to those allegations.

13 **MR. SUJIT CHOUDHRY:** Well, I can -- that  
14 document's not been put....

15 Well, actually, Mr. Ferguson, I think you did  
16 put that document up on the screen.

17 **MS. MYLÈNE GIGOU:** So if you are referring to  
18 CEF 156.

19 **MR. MATTHEW FERGUSON:** I believe that's the  
20 document that is the -- that Mr. Choudhry is referring to.

21 **MS. MYLÈNE GIGOU:** The inquiry -- the email  
22 to Ms. Kwan did not -- was not for that purpose.

23 **MR. SUJIT CHOUDHRY:** I see, but can I take  
24 you then to the next ---

25 **MS. MYLÈNE GIGOU:** Okay.

26 **MR. SUJIT CHOUDHRY:** --- dated correspondence  
27 with Ms. Kwan?

28 So I'd like to take you down to Ms. Kwan's

1 email. It's dated August 10th.

2 So if you could scroll down, please.

3 And so I just want to spend a bit of time on  
4 this email -- on this email. And so -- and so the first  
5 thing I'd like to note is that at the bottom of this page  
6 Ms. Kwan cuts -- sorry.

7 If you could go up. A little bit slowly,  
8 slowly. There is italicised text. Good. Okay, just a bit  
9 more.

10 So what Ms. Kwan has copied and pasted into  
11 this email back to your investigator is correspondence that  
12 her team sent to CCE back in October of 2021 regarding  
13 pricing at the restaurant where the lunch that was the basis  
14 of her complaint back in 2021, was held. And if I could just  
15 summarise this here.

16 The reported cost of that lunch is, as has  
17 been said by Mr. Côté, was \$1,500. And Ms. Kwan's team did a  
18 market price assessment of what a lunch of that size should  
19 have cost, and the cost should have been, for the number of  
20 attendees, between \$2,500 and \$3,000.

21 And so the -- and so Ms. Kwan, and this was  
22 presented to your -- to CCE at the time, and Ms. Kwan will  
23 testify that there was no follow up on this issue until  
24 July 2023.

25 And then if you could scroll up, please.  
26 Slowly. A bit more. Stop there.

27 There's a paragraph here which says:

28 "When I brought the Fred Kwok

1 matter..."

2 That is the lunch:

3 "...up on the telephone call with you  
4 recently, your response was that you  
5 are less interested in this issue  
6 with your visit to the Lower  
7 Mainland. [But] I would like to  
8 point out that following this  
9 complaint and in light of the  
10 revelation from CSIS that I am a  
11 target for foreign interference..."

12 Which is a matter of public record:

13 "...it would be important to ensure  
14 that there be a thorough  
15 investigation on this matter to  
16 ensure that no foreign interference  
17 or violation of the *Election Act* has  
18 taken place."

19 And so then I take you down to -- further....

20 If you could scroll down to the next page  
21 again. I'm sorry to be jumping around.

22 Look at this paragraph here that begins "To  
23 date."

24 "To date, we have not received any  
25 information from *Elections Canada*..."

26 By which she means CCE:

27 "...regarding the conclusion of their  
28 investigation. Recent news coverage

1 of CSIS leaks has brought to our  
2 attention alleged involvement and  
3 interference by the Vancouver Chinese  
4 Consul General in the 2021 federal  
5 election. The media has also  
6 reported on a scheme conducted by the  
7 Toronto Chinese Consulate, which  
8 funnelled funds through...community  
9 figureheads into election campaigns.  
10 These reports have reminded us of the  
11 Fred Kwok incident, and brings to the  
12 forefront the lingering questions we  
13 have regarding the luncheon [we]  
14 hosted for the Liberal candidate  
15 during the [2021] election."

16 That's a typo.

17 And so my question, then, based on this  
18 letter is this: If in fact the Vancouver Chinese Consulate  
19 had provided funding for a lunch where a Canadian citizen --  
20 host -- which a Canadian hosted for a political candidate  
21 during an election, would that not amount to a violation of  
22 section 282.4 of the *Canada Elections Act*? Would that not  
23 amount to undue influence by foreigners?

24 **MS. CAROLINE SIMARD:** I will begin response  
25 by saying here that this is a file that was born, in terms of  
26 the facts what's important to remember is the initiative of  
27 the candidate who held a luncheon. And this file is one for  
28 which a decision was brought down, so a decision of an

1 administrative nature. An administrative sanction, a fine,  
2 was imposed to the official agent for a non-monetary  
3 undeclared contribution in the amount of \$500, and that  
4 amount was paid.

5 So for us at the office, this is then a file  
6 regarding a non-monetary contribution which was not declared.

7 **MR. SUJIT CHOUDHRY:** Yeah.

8 Commissioner Simard, I'm aware that that's your position.  
9 I'm aware of the decision that was taken, but that wasn't my  
10 question.

11 **MS. CAROLINE SIMARD:** [No interpretation].

12 **MR. SUJIT CHOUDHRY:** My question is simply  
13 this: If the Chinese Consulate in Vancouver contributed  
14 funds to a lunch hosted for a candidate in the 2021 federal  
15 election, would that not amount to undue influence by  
16 foreigners, in contravention of the *Canada Elections Act*?  
17 It's a simple question.

18 **MS. CAROLINE SIMARD:** [No interpretation]  
19 ...at the provision a little more closely.

20 **MR. SUJIT CHOUDHRY:** It's a -- it's a legal  
21 question.

22 **MS. MYLÈNE GIGOU:** And I would add to the  
23 Commissioner's response as well that although there is  
24 allegations, no one has provided specific information that  
25 the money paid for the lunch was from anyone other than  
26 Mr. Kwok.

27 **MR. SUJIT CHOUDHRY:** Well, I'd like to get to  
28 that.

1           But I'd like it noted for the record that I  
2       posed a question about whether payments by a foreign  
3       government to host a luncheon for a political candidate would  
4       violate the *Canada Elections Act*, and I did not get an answer  
5       from the panel.

6           So I now would like to move on to the  
7       investigation that was conducted. So I realise that, I think  
8       you've said, "Well, the -- there is no evidence that the  
9       funds came from a foreign government."

10          So I'd like to take you, if I could, to  
11       Witness Statement 6. Actually, pardon me, Witness  
12       Statement 25, page 18.

13          That's paragraph 96. So let's look at the --  
14       at paragraph 96.

15               **MR. YVES CÔTÉ:** Whose statement is this?

16               **MR. SUJIT CHOUDHRY:** This is the statement  
17       that was provided by Côté, Gigou and Mathews. So I believe  
18       this is yours, sir.

19               **MR. YVES CÔTÉ:** [No interpretation].

20               **MR. SUJI CHOUDHRY:** And so if I could look at  
21       the last two sentences of paragraph 96, it says:

22                       "The organizer of the lunch indicated  
23                       through his lawyer that he paid  
24                       \$1,500 for the lunch. The restaurant  
25                       in question refused to provide a  
26                       receipt of the lunch."

27          And so I'm to assume that you did not use any  
28       powers available under the Act to demand that documentation?

1                   **MS. CAROLINE SIMARD:** I understand the  
2 question as addressed, we're in an administrative context.  
3 In an administrative context, we do not have the tools that  
4 are available under the criminal regime. As a result there  
5 is no power of an order of communication existing. That is,  
6 I would say, one of the shortcomings of the regime as such  
7 under the Act. In terms of administrative powers, that  
8 simply doesn't exist.

9  
10                   **MR. SUJIT CHOUDHRY:** So you did not have the  
11 power to demand that documentation?

12                   **MS. CAROLINE SIMARD:** [No interpretation].

13                   **MR. SUJIT CHOUDHRY:** And nor did you have the  
14 -- did you have the power to demand that Mr. Kwok appear for  
15 an interview?

16                   **MS. CAROLINE SIMARD:** The power to testify,  
17 to...

18                   **MR. SUJIT CHOUDHRY:** And so ---

19                   **MS. CAROLINE SIMARD:** And once again if I may  
20 allow myself, it's appropriate to remember the facts. The  
21 context in which we were -- that is within this file, it's  
22 the initiative of the candidate. So we're in a position --  
23 in fact, you have to appreciate the fact, and the facts here  
24 are that we have someone who's a Canadian citizen and who  
25 pays for a luncheon, and therefore -- I cannot speculate  
26 here, but it's important to remember, once again, that this  
27 is a Canadian citizen.

28                   **MR. SUJIT CHOUDHRY:** So Commissioner, I put

1 it to you that given that you had no evidence from the  
2 individual in question who organized the lunch or from the  
3 restaurant, you were in no position to dismiss the allegation  
4 that there was potentially foreign interference through  
5 funding for the lunch, where there is a gap between the  
6 market price for the lunch and the amount that was reported  
7 by the organizer, and you didn't have the tools to find that  
8 evidence, so rather than saying there was no foreign  
9 interference, at most you could say you were unable to  
10 conclude that there was no foreign interference? You  
11 couldn't reach a conclusion either way?

12 **MS. CAROLINE SIMARD:** If you will allow me,  
13 if you want a complete answer I will turn to my colleague to  
14 seek what my have been done. And my investigative work was  
15 carried out when I entered into the position. I can speak  
16 for myself and say that before providing a decision -- once  
17 again, I'm within an administrative context and I do not see  
18 that is that it's the candidate's initiative, and we're in an  
19 administrative context. There are partners who are doing  
20 their work and in whom we have trust. We trust that they are  
21 doing their work properly. This is limited; it's within an  
22 administrative context.

23 **MR. SUJIT CHOUDHRY:** So Commissioner Simard,  
24 I'd like to take you to your witness statement and ---

25 **COMMISSIONER HOGUE:** I would just like to  
26 remind you that I've given you quite a few more minutes, and  
27 I would limit you to this last question.

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

1 So Commissioner, and that's ---

2 **COMMISSIONER HOGUE:** I should have spoken in  
3 English.

4 **MR. SUJIT CHOUDHRY:** That's fine.

5 **COMMISSIONER HOGUE:** I'm sorry.

6 **MR. SUJIT CHOUDHRY:** That's -- it's a  
7 compliment.

8 So if I -- in this case, I'd like to take you  
9 to -- I'd like to put into the record, because I don't have  
10 time to refer to them both, CAN1088 and CAN1075. And in  
11 particular, I'd like to take the panel to CAN1088.

12 **--- EXHIBIT No. CAN 1088:**

13 Report - SITE TF SITREP: 16 September  
14 2021

15 **--- EXHIBIT No. CAN 1075:**

16 Report - SITE TF SITREP: 07 September  
17 2021

18 **MR. SUJIT CHOUDHRY:** So this is a SITREP or  
19 SIT Report that is contemporaneous with the 2021 federal  
20 election. It's dated September 16<sup>th</sup>, 2021. And if I could  
21 take you to page 2, you'll see that under the -- if you could  
22 go down, oh do I have the wrong page up? Hold on a second.  
23 Pardon me. It's on page 1. You'll see in the second bullet  
24 point there is a reference to the lunch and it says there is:

25 "...a campaign event for the LPC  
26 Vancouver-East candidate that  
27 promised a free lunch hosted by a  
28 pro-Beijing individual with

1 connections to China..."

2 Now, am I to assume -- is it fair to say that  
3 this document, you've never seen this before?

4 **MS. MYLÈNE GIGOU:** I did not see this until  
5 perhaps earlier today. I'm not sure if this is a document  
6 that was flashed to me a bit earlier, a few hours ago.

7 **MR. SUJIT CHOUDHRY:** So had you seen this  
8 document when you received MP Kwan's complaint, might you  
9 have considered her allegation of foreign interference  
10 differently, given that another arm of the Canadian  
11 Government flagged that event during the election and raised  
12 the concern of possible links to pro-Beijing elements?

13 **MR. YVES CÔTÉ:** [No interpretation].

14 **MR. SUJIT CHOUDHRY:** Can I restate the  
15 question, Commissioner?

16 **COMMISSIONER HOGUE:** Yes, ---

17 **MR. SUJIT CHOUDHRY:** Yeah.

18 **COMMISSIONER HOGUE:** --- you can ---

19 **MR. SUJIT CHOUDHRY:** So ---

20 **COMMISSIONER HOGUE:** --- restate the  
21 question.

22 **MR. SUJIT CHOUDHRY:** So the question is this,  
23 that contemporaneously, during the election, a specific body  
24 designed to detect potential foreign interference flagged the  
25 very event that was the basis of a complaint to your office  
26 as raising a sign, a potential sign of possible foreign  
27 interference. And I'm using those terms carefully. We're  
28 not saying there was, but we're saying there might have been.

1 And had you seen this intelligence report when you received  
2 the complaint from MP Kwan's office, which happened during  
3 the election, would you not have perhaps considered the  
4 possibility of foreign interference a bit more seriously than  
5 you have?

6 **MR. YVES CÔTÉ:** It's the first time I see  
7 this document. What I would say is that clearly our  
8 investigators would have taken into account and considered  
9 the contents, with the information and allegations in this  
10 paragraph, and would have been part of the analysis of the  
11 file they would have done and it might have brought them in  
12 the same direction, or in a different direction.

13 **MR. SUJIT CHOUDHRY:** Thank you, Commissioner.

14 **COMMISSIONER HOGUE:** Thank you.

15 So I think it's Mr. De Luca acting for --  
16 representing the Conservative Party.

17 **--- CROSS-EXAMINATION BY MR. NANDO de LUCA:**

18 **MR. NANDO de LUCA:** Good afternoon. In the  
19 interests of the limited time that we have, I'll direct the  
20 following questions to Ms. Simard. I will ask that she  
21 answer, but in the event that either of you, Mr. Côté, or Ms.  
22 Gigou, would provide a different answer or something further  
23 to add to Ms. Simard's answer, I will pause and give you an  
24 opportunity to supplement. But otherwise, I'll assume that  
25 you accept each other's answers.

26 So first question, as set out in the website  
27 of the Commissioner of Canada Elections, it indicates that:

28 "The Commissioner and her staff work

1 to ensure that political entities,  
2 third parties, and other individuals  
3 and entities engaged in the electoral  
4 process do so in compliance with the  
5 rules.”

6 Do each of you agree that this is the mandate  
7 of the Commissioner?

8 **MS. CAROLINE SIMARD:** Yes.

9 **MR. NANDO de LUCA:** Ms. Simard, if a Canadian  
10 corporation or trade union began paying staff to promote or  
11 oppose a candidate to the federal election, would that be  
12 within the scope of your office or your mandate to review and  
13 investigate?

14 **MS. CAROLINE SIMARD:** [No interpretation].

15 **MR. NANDO de LUCA:** And am I correct that as  
16 a general proposition that sort of activity by a corporation  
17 or a trade union is offside the *Canada Elections Act*?

18 **MS. CAROLINE SIMARD:** [No interpretation].

19 **MR. NANDO de LUCA:** And I trust that in those  
20 circumstances, i.e. where a corporation or a trade union is  
21 actively paying staff to in effect campaign in a federal  
22 election, that's an investigation that you would pursue  
23 aggressively if there was evidence to bear it out?

24 **MS. CAROLINE SIMARD:** [No interpretation].

25 **MS. MYLÈNE GIGOU:** So just to clarify, the  
26 *Canada Elections Act* is extremely, extremely complex, and  
27 hypothetical fact scenarios at this speed, and I would -- I  
28 would -- I have difficulty answering at this time. We work

1 in a small team where we work very closely with legal counsel  
2 as well to ensure that the specific facts that were  
3 presented, whether they square within the parameters of the  
4 *Canada Elections Act*.

5 **MR. NANDO de LUCA:** But generally speaking, I  
6 am correct, that corporations and trade unions cannot be  
7 actively campaigning, or certainly expending funds in support  
8 of campaigning. Isn't that correct?

9 **MS. MYLÈNE GIGOU:** There are rules governing  
10 those activities.

11 **MR. NANDO de LUCA:** As a general proposition,  
12 is what I've asked you correct?

13 **MS. MYLÈNE GIGOU:** Yes.

14 **MR. NANDO de LUCA:** Thank you. And am I  
15 correct, just by way of example, if you recall in or about  
16 May 2020, the Commissioner entered into a Compliance  
17 Agreement with a company Norda Stelo Inc. to ensure  
18 compliance with the Act. And that was an investigation that  
19 related to attempts to circumvent the contribution rules  
20 under the Act?

21 **MS. MYLÈNE GIGOU:** So you said May 2020?

22 **MR. NANDO de LUCA:** Yes.

23 **MR. YVES CÔTÉ:** [No interpretation].

24 **MR. NANDO de LUCA:** Okay. But there are  
25 examples where enforcement steps have been taken against  
26 corporations or trade unions?

27 **MR. YVES CÔTÉ:** [No interpretation].

28 **MR. NANDO de LUCA:** Thank you.

1 Ms. Simard, do you accept that foreign  
2 interference by state actors is a threat to Canadian  
3 democracy?

4 **MS. CAROLINE SIMARD:** [No interpretation].

5 **MR. NANDO de LUCA:** And would you accept that  
6 although it may be difficult to trace that when a -- that  
7 when state actors perpetuate foreign interference they do so  
8 using staff of the state or operatives of the state?

9 **MS. CAROLINE SIMARD:** I guess among other  
10 thing. [No interpretation].

11 **MR. NANDO de LUCA:** Okay. And would you  
12 agree that it is part of your obligation and your duty to  
13 pursue unregistered third party spending to the full extent  
14 of your mandate, regardless of whether that third party  
15 spending originates domestically or internationally?

16 **MS. CAROLINE SIMARD:** [No interpretation]  
17 ...without the articles, it's very difficult to answer such a  
18 question currently.

19 **MR. NANDO de LUCA:** Ms. Gigou?

20 **MS. MYLÈNE GIGOU:** I'll -- yes. As  
21 Commissioner Simard has answered. Sorry.

22 **MR. NANDO de LUCA:** Sorry. Maybe I didn't  
23 understand the answer.

24 **MS. MYLÈNE GIGOU:** Could I ask you as well to  
25 maybe slow down just a little bit? I apologise.

26 **MR. NANDO de LUCA:** Sure.

27 **MS. MYLÈNE GIGOU:** It's getting very, very  
28 late in the day ---

1                   **MR. NANDO de LUCA:** Surely.

2                   **MS. MYLÈNE GIGOU:** --- and ---

3                   **MR. NANDO de LUCA:** Sorry. The question is  
4 essentially this: That your obligations to investigate  
5 contraventions of the Act, including third party spending,  
6 don't depend on whether that spending originates domestically  
7 or internationally.

8                   **MS. MYLÈNE GIGOU:** So just to be clear, when  
9 there are allegations that are presented to our office, a  
10 complaint is submitted. If there are allegations that fall  
11 within our mandate, we review it. In certain circumstances,  
12 we investigate it.

13                   **MR. NANDO de LUCA:** Right.

14                   **MS. MYLÈNE GIGOU:** It depends on the  
15 scenario.

16                   **MR. NANDO de LUCA:** Right. But you're  
17 mandate isn't limited to domestic actors or foreign actors.

18                   **MS. MYLÈNE GIGOU:** Correct.

19                   **MR. NANDO de LUCA:** Your mandate includes  
20 both.

21                   **MS. MYLÈNE GIGOU:** Correct.

22                   **MR. NANDO de LUCA:** Thank you. And ---

23                   **MR. YVES CÔTÉ:** If you'll allow me, I'd ---

24                   **MR. NANDO de LUCA:** [No interpretation].

25                   **MR. YVES CÔTÉ:** --- like to qualify one of  
26 the affirmations you've made.

27                   I do not think that the Act imposes to the  
28 Commissioner the duty to investigate. She has the duty of

1 carrying out her functions so as to maximize compliance to  
2 the law, but you will understand that I presume that there  
3 are all sorts of things that you can choose to not  
4 investigate on because there are other priorities, or because  
5 resources are limited, or because the level of severity of  
6 the violation is not that high.

7 So I wanted to say that there is no duty to  
8 investigate everything.

9 **MR. NANDO de LUCA:** Well, if not the duty,  
10 certainly the responsibility and the authority to do so?

11 **MR. YVES CÔTÉ:** Certainly the authority.

12 **MR. NANDO de LUCA:** Thank you. Are you  
13 familiar with an investigation by your office into a lunch  
14 organised by an organisation in British Columbia for the  
15 liberal candidate in Vancouver East?

16 **MS. CAROLINE SIMARD:** We talked about -- on  
17 our website that \$500 fine that was paid.

18 **MR. NANDO de LUCA:** Okay. And can you tell  
19 me when that investigation was opened?

20 **MS. CAROLINE SIMARD:** It was before my time.

21 **MR. YVES CÔTÉ:** It was opened, sir, if I  
22 remember properly, we receive a complaint from the lawyer of  
23 the NDP around September 10<sup>th</sup> or 11<sup>th</sup>. And I think the  
24 investigation -- I do not remember specifically but I think  
25 the investigation was opened shortly after receiving that.  
26 Except I would qualify what I said with the following, that  
27 during electoral campaign, by definition, the office is  
28 always very busy; there's all sorts of things coming to us

1 and it's rapid fire. So maybe the investigation was launched  
2 later, but I think it happened fairly quickly after.

3 **MR. NANDO de LUCA:** Okay. But my French is  
4 perfunctory, but my next question was going to be how long  
5 did the investigation last, and was it closed? I don't know  
6 if you answered that in the last answer. You may have.

7 **MR. YVES CÔTÉ:** When I left in June 2022, I  
8 think that the file was not closed yet.

9 **MS. MYLÈNE GIGOU:** I believe the  
10 investigation was -- I'm just looking for the date now,  
11 because the point at which the investigation was closed and  
12 the ultimate compliance measure was issued, there is a  
13 certain period covered by that period. But that -- the  
14 actual election phase, on June 14, 2022.

15 **MR. NANDO de LUCA:** Good. And can you give  
16 me a sense of how many investigators were assigned to that  
17 particular investigation, and how many investigative hours  
18 were expended?

19 **MR. YVES CÔTÉ:** [No interpretation] ...on the  
20 issue of hours, I have no idea. On the number of  
21 investigators that might have been working on the file, I  
22 think additionally on files like this we have two  
23 investigators who are paired. So I assume that this was the  
24 case, but I don't have independent recollection of how it was  
25 done.

26 **MR. NANDO de LUCA:** Ms. Gigou, do you know?

27 **MS. MYLÈNE GIGOU:** And I apologise. I was  
28 actually on secondment at the Public Health Agency at this --

1 for part of this period as well.

2 **MR. NANDO de LUCA:** Is that perhaps  
3 information that could be provided subsequently?

4 **MS. CAROLINE SIMARD:** Yes.

5 **MR. YVES CÔTÉ:** [No interpretation] ---

6 **MS. MYLÈNE GIGOU:** I'm not sure whether we  
7 can quantify it that way.

8 **MR. NANDO de LUCA:** Can enquiries be made,  
9 even if it's on a best efforts basis?

10 **COMMISSIONER HOGUE:** You can try to see ---

11 **UNIDENTIFIED MALE SPEAKER:** [No  
12 interpretation].

13 **COMMISSIONER HOGUE:** Yeah, it depends if -- I  
14 understand it's -- it will be based just on a best efforts --  
15 -

16 **MR. NANDO de LUCA:** Best efforts.

17 **COMMISSIONER HOGUE:** --- basis, yeah. No  
18 more than that. So they can look and see if they can get the  
19 information.

20 **MR. NANDO de LUCA:** Thank you.

21 I'd like to move on. I've got similar  
22 questions to another matter. You're familiar with an  
23 investigation by your office into matters of intimidation  
24 against a Conservative Party candidate by a Chinese consular  
25 official?

26 **MS. CAROLINE SIMARD:** So you're talking of  
27 one file in particular?

28 **MR. NANDO de LUCA:** Sure. In WIT multiple

1 zeroes, 6, paragraph 55.

2 **MS. CAROLINE SIMARD:** Could we put up on the  
3 screen?

4 **MR. NANDO de LUCA:** Sorry, I'll just ask to  
5 call it up.

6 Paragraph 55.

7 Perhaps while you read through that, I have  
8 the same questions as before, and to the extent that you can  
9 answer them now, that's fine. If not, I'll take an  
10 undertaking on a best-efforts basis so we don't belabour the  
11 point.

12 So when was ---

13 **COMMISSIONER HOGUE:** Just to be clear, you  
14 want to know how many investigators were ---

15 **MR. NANDO de LUCA:** I'll ask the questions  
16 and put them on the record.

17 **COMMISSIONER HOGUE:** Okay.

18 **MR. NANDO de LUCA:** When was the  
19 investigation opened? When was it closed? How long did it  
20 last for? How many investigators were assigned to it? And  
21 how many investigative hours were expended?

22 **MS. CAROLINE SIMARD:** I'm just trying to [No  
23 interpretation].

24 **COMMISSIONER HOGUE:** [No interpretation].

25 **MS. CAROLINE SIMARD:** [No interpretation].

26 **MR. NANDO de LUCA:** [No interpretation].

27 Mr. Côté, this one's for you. Were you also  
28 the Commissioner -- or were you the Commissioner of Canada

1 Elections when OCCE launched an investigation into certain  
2 activities carried out by Rebel News in connection with the  
3 43<sup>rd</sup> general election?

4 **MR. YVES CÔTÉ:** What was the date?

5 **MR. NANDO de LUCA:** I believe it was -- the  
6 election was called on September 11<sup>th</sup>, 2019 and was held on  
7 October 21, 2019. I believe the complaint emanated with  
8 respect to activities that commenced just before September  
9 11<sup>th</sup>.

10 **MR. YVON CÔTÉ:** I can certainly confirm that  
11 at that time I was the Commissioner in place.

12 **MR. NANDO de LUCA:** Okay. And this  
13 particular investigation, to perhaps refresh your memory,  
14 Rebel News is an organization associated with the individual  
15 whose name is Ezra Levant? Is that ringing a bell?

16 **MR. YVON CÔTÉ:** [No interpretation].

17 **MR. NANDO de LUCA:** Okay. And am I correct  
18 that there was an investigation that led to the Deputy  
19 Commissioner issuing two notices of violation against Rebel  
20 News and issuing an administrative monetary penalty in the  
21 amount of \$1,500 for each penalty? Does that sound familiar?

22 **MR. YVON CÔTÉ:** Two comments: First of all,  
23 the link with foreign interference is not coming to me, for  
24 the time being.

25 **MR. NANDO de LUCA:** Not getting ---

26 **MR. YVES CÔTÉ:** What you're saying about this  
27 case, ---

28 **MR. NANDO de LUCA:** Yes.

1                   **MR. YVES CÔTÉ:** --- I don't see foreign  
2 interference at all in the picture. That said, yes, there  
3 was ---

4                   **MR. NANDO de LUCA:** Okay.

5                   **MR. YVES CÔTÉ:** --- an AMP that was issued  
6 against Rebel News, or to Rebel News for -- yeah.

7                   **MR. NANDO de LUCA:** Okay. And am I correct,  
8 Mr. Côté, that you were asked to review the Deputy  
9 Commissioner's decision and you did so *de novo*?

10                  **MR. YVON CÔTÉ:** I continue to mention that to  
11 my knowledge, there was no foreign interference. I don't see  
12 the link to foreign interference, but yes.

13                  **MR. NANDO de LUCA:** Okay. We'll get to that.

14                  **MR. YVES CÔTÉ:** Okay.

15                  **MR. NANDO de LUCA:** And did -- and am I  
16 correct that you ended up agreeing with the Deputy  
17 Commissioner's determinations?

18                  **MR. YVES CÔTÉ:** As I recall, I rejected the  
19 appeal or the request for reconsideration, yes.

20                  **MR. NANDO de LUCA:** Fair enough. And am I  
21 correct that that was in or about July 2021?

22                  **MR. YVES CÔTÉ:** I have no specific  
23 recollection.

24                  **MR. NANDO de LUCA:** Okay. And am I correct  
25 that Rebel News sought judicial review in the Federal Court  
26 in respect of the NOVs and the AMP that had been issued by  
27 the OCCE?

28                  **MR. YVON CÔTÉ:** [No interpretation].

1                   **MR. NANDO de LUCA:** Okay. And the judicial  
2 review application was dismissed and your decision was  
3 upheld, Mr. Côté; correct?

4                   **MR. YVES CÔTÉ:** [No interpretation].

5                   **MR. NANDO de LUCA:** Okay. And Justice  
6 Strickland's decision in that case was delivered in or about  
7 December 2023; correct?

8                   **MR. YVES CÔTÉ:** I don't think so. I think it  
9 was a bit earlier, but I don't have a...

10                  **MR. NANDO de LUCA:** Okay. And by that time,  
11 am I correct that Ms. Simard had become the Commissioner?

12                  **MS. CAROLINE SIMARD:** Yes, that's correct.

13                  **MR. NANDO de LUCA:** Okay. So am I correct  
14 that from the time of receipt of initial complaint in that  
15 case in September 2019, through to investigation, through to  
16 administrative action, internal review, and then judicial  
17 review, and decision, we're talking a period of well over  
18 four years that OCCE devoted expenses and resources in  
19 relation to this one particular instance of contravention of  
20 the *Elections Act*?

21                  **MS. CAROLINE SIMARD:** [No interpretation].

22                  **MR. NANDO de LUCA:** So between the initial  
23 investigation and the ultimate conclusion, over four years  
24 transpired in which your office had to devote resources and  
25 time to both investigate and to see it through to a final  
26 conclusion; isn't that correct?

27                  **MS. CAROLINE SIMARD:** I don't have the dates  
28 here. If the dates you're giving are correct, then the

1 mathematical calculation would be correct too, I presume.

2 **MR. NANDO de LUCA:** Okay. And would it be  
3 fair to say that while for investigations of breaches of the  
4 *Elections Act* by domestic actors, OCCE has allocated far  
5 greater resources and spent far more time in its enforcement  
6 activities than it has in respect of alleged breaches of the  
7 Act by foreign operators?

8 **MS. CAROLINE SIMARD:** Well, you will  
9 understand that in abstract it's difficult to answer such  
10 question. We would have to reconcile the work that was done  
11 during this whole period.

12 I came into my position in August 2022, it's  
13 been a bit over a year and a half. So we'd have to see. To  
14 answer you precisely, we would have to look at all this  
15 information.

16 What I can tell you is that since I came in  
17 my position in August 2022, I said so publicly, every part  
18 was overturned for foreign interference in elections is an  
19 issue that I take, and my staff takes, very seriously.

20 I don't know if it was to you or to the  
21 previous lawyer, there was some work that was done about the  
22 file that was closed. There are some investigations that  
23 were launched of my own initiative, whereas we hadn't  
24 received any files with complaints.

25 So everything is looked into, and once again,  
26 this issue is taken very seriously.

27 **MR. NANDO de LUCA:** Would it be fair to say  
28 that with respect to complaints that you considered to be

1 related to foreign interference, those are, on the whole,  
2 dealt with in a shorter time period than complaints relating  
3 -- other complaints relating to domestic actors?

4 **MS. CAROLINE SIMARD:** Foreign interference  
5 cases are usually complex cases; they require time. So the  
6 connection between a domestic file and a file of foreign  
7 interference in terms of time, well, I don't think that this  
8 comparison is adequate. I'm not quite seeing the use of such  
9 an exercise, but in the foreign interference cases it takes  
10 time; it's complex, there is a lot of work which needs to be  
11 done, in-depth work.

12 **MR. NANDO de LUCA:** I believe your evidence  
13 earlier was to the effect that for the 44<sup>th</sup> general election,  
14 your office received 20 complaints which you would classify  
15 as relating to potential foreign interference, and for the  
16 43<sup>rd</sup> general election, there were approximately 200  
17 complaints that you would classify as foreign interference  
18 based? Is my recollection correct?

19 **MS. CAROLINE SIMARD:** That's correct. Yes.

20 **MR. NANDO de LUCA:** Okay. And has OCCE  
21 conducted any analysis or formed any views as to why the  
22 incidents of complaints in the 43<sup>rd</sup> general election was 10  
23 times that of the 44<sup>th</sup>?

24 **MS. CAROLINE SIMARD:** No, generally speaking.  
25 But I can turn to my colleagues to see if [no  
26 interpretation].

27 **MR. YVES CÔTÉ:** I'd like to go back, sir, to  
28 I think one of the points I made earlier when I was examined

1 by Maître Ferguson. And that is that in 2019, yes, we got  
2 201 complaints, but 160 of them were related to three  
3 allegations: one, the Time article; two, the Time cover; and  
4 three, Ms. Thunberg.

5 So in all, when you look at the statistics  
6 for that election, what you find is you have 15 different  
7 allegations of foreign interference. So the number of  
8 complaints appears to be so much bigger.

9 **MR. NANDO de LUCA:** That's fair. And that  
10 leads into my next question somewhat. How many of such  
11 investigations -- sorry, let me back up. Do all complaints  
12 to OCCE result in investigations?

13 **MR. YVES CÔTÉ:** I missed the beginning of  
14 your question.

15 **MR. NANDO de LUCA:** Do all the complaints  
16 that you receive result in investigations?

17 **MR. YVES CÔTÉ:** In my time, no.

18 **MR. NANDO de LUCA:** Okay. So am I correct  
19 that there's an administrative screening process or there's  
20 some preliminary determination that gets undertaken as to  
21 whether or not to pursue it as a formal investigation?

22 **MR. YVES CÔTÉ:** Yes.

23 **MR. NANDO de LUCA:** Okay. And with respect  
24 to complaints which have matured or aggregated into formal  
25 investigations, because you mentioned that you can have  
26 multiple complaints with respect to the same incident.

27 Are you able to help us -- over the course of  
28 the 44th and the 43rd general -- 43rd and 44th general

1 election, are you able to help us with how many formal  
2 investigations have been commenced in respect of what you  
3 would classify or characterize as potential foreign  
4 interference?

5 **MR. YVES CÔTÉ:** I think that the numbers are  
6 that there were three for each of the two campaigns.

7 **MR. NANDO de LUCA:** So six in total over the  
8 two election periods.

9 **MR. YVES CÔTÉ:** Yes. And Mylène, is that ---

10 **MS. MYLÈNE GIGOU:** That's my recollection as  
11 well.

12 **MR. NANDO de LUCA:** Okay. And ---

13 **COMMISSIONER HOGUE:** Me de Luca, it's going  
14 to be your last question because your time is already  
15 exhausted. I gave you a few minutes more, but this will be  
16 the last one.

17 **MR. NANDO de LUCA:** So I'll be selective  
18 here.

19 Ms. Simard, earlier in your testimony you  
20 were reviewing the various enforcement mechanisms available  
21 to OCCE, and I believe that you used the term that we've  
22 heard sometimes as a regulatory toolkit or an enforcement  
23 toolkit. One of you did, at least.

24 Does that sound familiar?

25 **MS. CAROLINE SIMARD:** Sorry. I missed ---

26 **MR. NANDO de LUCA:** The enforcement toolkit.

27 **MS. CAROLINE SIMARD:** Yes.

28 **MR. NANDO de LUCA:** Okay. I don't believe I

1 heard it. I could be wrong. But I'd like to refer you to  
2 one of the enforcement mechanisms in the Act, and that is  
3 section 516, which permits the Commissioner during the  
4 election period to apply to the Court for an injunction to  
5 bring an immediate end to a breach of the Act or to require  
6 an individual to comply with the Act if the integrity of the  
7 electoral process and the public interests are at stake.

8 Are you familiar with that provision?

9 **MS. CAROLINE SIMARD:** I know it's part [no  
10 interpretation].

11 **MR. NANDO de LUCA:** Okay. And my question  
12 is, has -- to your understanding, is this an enforcement  
13 mechanism which the Commissioner has attempted to avail  
14 itself -- himself or herself in the past?

15 **MS. CAROLINE SIMARD:** [No interpretation]  
16 ...I will turn to my colleagues [no interpretation].

17 **MR. YVES CÔTÉ:** I don't believe so.

18 **MR. NANDO de LUCA:** Okay. Those are my  
19 questions. Thank you very much.

20 **COMMISSIONER HOGUE:** Thank you.

21 So next one is Human Rights Coalition.

22 **--- CROSS-EXAMINATION BY MS. SARAH TEICH:**

23 **MS. SARAH TEICH:** Good afternoon. My first  
24 question is for Ms. Gigou.

25 You mentioned that in preparation for the  
26 43rd and 44th general elections the OCC worked to establish  
27 and strengthen relationships, including with government  
28 agencies and academics and other experts. Did you also work

1 to establish and strengthen relationships with diaspora  
2 community organizations?

3 **MS. MYLÈNE GIGOU:** Not to my knowledge.

4 **MS. SARAH TEICH:** Do you think that would be  
5 valuable?

6 **MS. MYLÈNE GIGOU:** I think that's something  
7 that we certainly have to think about as we plan for future  
8 preparation activities.

9 **MS. CAROLINE SIMARD:** [No interpretation]  
10 ...undertook following some 50 complaints that we received,  
11 we can already draw that conclusion. So since we started  
12 this work, that's certainly an inference we can make from the  
13 work that has been carried out up to date.

14 **MS. SARAH TEICH:** I'm sorry. I missed the  
15 first couple words of this.

16 Are you saying that this would be valuable,  
17 that that's the inference you ---

18 **MS. CAROLINE SIMARD:** Yes, that's basically  
19 what I said.

20 **MS. SARAH TEICH:** Thank you.

21 My next few questions are for Ms. Simard.

22 You mentioned that the organization is mainly  
23 based on complaints that you receive. Does the OCCE have the  
24 ability to offer witnesses confidentiality for complainants  
25 or potential complainants, for example, through an informant  
26 or human source program?

27 **MS. CAROLINE SIMARD:** No.

28 **MS. SARAH TEICH:** Do you think this would be

1 valuable?

2 **MS. CAROLINE SIMARD:** It's not part of the  
3 protections that we have. I will turn to my colleagues.

4 **MR. YVES CÔTÉ:** No.

5 **MS. CAROLINE SIMARD:** I have nothing else to  
6 add.

7 **MS. SARAH TEICH:** Does the OCCE have language  
8 capabilities to receive complaints in multiple languages?

9 **MS. CAROLINE SIMARD:** I would say that  
10 internally we have employees who speak third languages, but  
11 we also have access to discretionary funding through which I  
12 can have access to resources to hire consultants, if need be.

13 In the past, I think during the last year, I  
14 had connections with my colleagues at the RCMP, at CSIS, to  
15 find out whether they might support me if need be, and the  
16 answer was positive.

17 **MR. YVES CÔTÉ:** And I would add, Madam, if I  
18 may, that -- and I referred to this earlier in my testimony  
19 today with respect to at least one complaint that I spoke to  
20 where the base material was in Chinese, we had access to  
21 professional translators who are, you know, fully qualified  
22 to do that kind of work, and my sense is that whenever that  
23 happens, whether it's Chinese, Russian or anything else,  
24 access to those professional translators was -- would also be  
25 secured.

26 **MS. SARAH TEICH:** Ms. Simard, you mentioned a  
27 web form on the website where complainants can lodge  
28 complaints. Is that web form available in other languages as

1 well?

2 **MS. CAROLINE SIMARD:** It's available in  
3 English and French right now.

4 **MS. SARAH TEICH:** Do you think it would be  
5 valuable to have it also be available in Chinese, Russian,  
6 the Uyghur language, et cetera?

7 **MS. CAROLINE SIMARD:** I take note of your  
8 suggestion.

9 **MS. SARAH TEICH:** Thank you.  
10 Would you agree that the OCCE's limited  
11 ability to offer confidentiality and the web form perhaps in  
12 other languages might prevent some complainants from coming  
13 forward or participating fully in the office's investigations  
14 or reviews?

15 **MS. CAROLINE SIMARD:** I would say that it's  
16 certainly a consideration but the protection in terms of  
17 confidentiality is precisely to protect people, to make sure  
18 that what they communicate to us would be confidential. So  
19 for complainants and for witnesses as well, and so it's  
20 certainly a consideration.

21 **MR. YVES CÔTÉ:** And if I may, Madam, I would  
22 also add that if a would-be complainant didn't speak either  
23 French or English, they could find a way through the website  
24 to write in their own language something and I assume that  
25 people at the reception of the organization would have it  
26 translated such that they could then establish contact with  
27 that person.

28 **MS. SARAH TEICH:** Do you know if that has

1 ever happened before?

2 **MR. YVES CÔTÉ:** Not to my knowledge.

3 **MS. SARAH TEICH:** My next question is also  
4 for Ms. Simard, but of course, anyone can feel free to jump  
5 in.

6 You mentioned it's been a practice developed  
7 by your office to inform complainants of the outcome of the  
8 work or if you close the file. Do you also provide the  
9 complainants with reasons?

10 **MS. CAROLINE SIMARD:** In fact, I should turn  
11 to Ms. Gigou for that.

12 **MS. MYLÈNE GIGOU:** It depends on the  
13 circumstances, so -- it depends on the circumstances, it  
14 depends on the material that was submitted as part of the  
15 complaint as well. But we try to be as transparent as  
16 possible, but while also maintaining the confidentiality of  
17 the details of the work as well so that we are protecting,  
18 for example, the process -- the investigative process as  
19 well.

20 So it's determined, the content of the  
21 response or the information that's shared, based on the  
22 specific fact scenario.

23 **MS. SARAH TEICH:** All right. Thank you.

24 Ms. Simard and/or anyone else, you mentioned  
25 that the office looks at whether provisions apply on a case-  
26 by-case basis. Does the office also look to patterns in the  
27 behaviour of a particular authoritarian state?

28 **MS. CAROLINE SIMARD:** That's an excellent

1 question. All questions are excellent, but this one allows  
2 us to emphasize the work that we can do more broadly, as  
3 opposed to on an isolated case. So I will refer to the  
4 review which is underway. The possibility to learn lessons  
5 from the work carried out on the ground; for example, within  
6 some communities, with some practices. So for me, it's a  
7 continuous learning process and that helps to identify  
8 patterns, "*patrons*" as we say in French, to see whether we  
9 can make connections between some cases that have been closed  
10 and some that are ongoing.

11 I will turn to Ms. Gigou to find out if she'd  
12 like to add something.

13 **MR. YVES CÔTÉ:** I would add that when I was  
14 there, and I assume that this is continued, the investigators  
15 would meet on a regular basis and there would be information  
16 exchanges between them. And one of the things, one of the  
17 purposes of such exchanges is exactly what you had in mind in  
18 terms do we see a pattern here? Do we see things that on  
19 their face if you'd look at them in isolated, they look  
20 totally individual, independent, but when you put them  
21 together....

22 And so my sense, and then you may ask, my  
23 understanding is this is what investigators were doing and  
24 one of the purposes was exactly to achieve the goal that you  
25 alluded to.

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

27 **MS. MYLÈNE GIGOU:** And in fact, if I can  
28 maybe build on that. Sorry, I said I didn't have anything to

1 add. In particular, when we're dealing with complex files,  
2 we examine the lessons learned, as well, as part of that  
3 exercise so that we can build on that knowledge set and that  
4 experience and share it with others within the organisation  
5 as well.

6 **MS. SARAH TEICH:** Thank you. My next  
7 question, I'll just direct this again to all of you,  
8 actually, and it's about the provision of the Act that  
9 prohibits undue influence.

10 You explained, Mr. Côté, that a foreigner can  
11 say "you should vote for such and such a person," and that  
12 would be fine, but if they say, "you should vote for such and  
13 such a person or else there will be consequences for your  
14 family", that would be a violation of the Act. So my  
15 question ---

16 **MR. YVES CÔTÉ:** Sorry, that's not what I  
17 said.

18 **MS. SARAH TEICH:** Oh, okay. What did you  
19 say?

20 **MR. YVES CÔTÉ:** What I said is that if there  
21 was an implied threat, then you would have to look at another  
22 provision of the Act which talks about intimidation and  
23 duress, or compulsion, I forget what the word is in English,  
24 so would have to look at that. So intimidation or duress,  
25 you would have to look at whether the manner in which the  
26 message was expressed and the effect that it may have on the  
27 people that were in receipt of that message would amount to  
28 something like intimidation or duress. So that I think, I

1 hope that's what I said, but that's certainly what I want to  
2 say now.

3 **MS. SARAH TEICH:** Okay, thank you. And it's  
4 interesting you said the word "implicit threat" because  
5 you're anticipating my question.

6 **MR. YVES CÔTÉ:** No, I wasn't.

7 **MS. CAROLINE SIMARD:** It will be the last  
8 part.

9 **MR. YVES CÔTÉ:** That part.

10 **MS. SARAH TEICH:** The last one. Okay.

11 We heard yesterday from multiple community  
12 members that they are all too aware that if they don't comply  
13 with the wishes of their respective authoritarian regimes  
14 their family members may bear the brunt of this. So my  
15 question is, when the office is looking at foreigner links to  
16 the CCP under either the undue influence provision or the  
17 harassment or intimidation, does the office consider that the  
18 threat is implicit if the foreigner, for example, says simply  
19 "You should vote for such and such a person", but the person  
20 has family back in China or Russia or wherever?

21 **MR. YVES CÔTÉ:** The question you pose is a  
22 very, very complex question. You have to look at the Act,  
23 and look at the -- we would be in that case, in the criminal  
24 context. So the evidence that you have bring forward in  
25 order to obtain a conviction would be beyond a reasonable  
26 doubt. So we will have to look very carefully at 282.8 to  
27 determine, as I said in my previous answer, whether the  
28 threshold, bringing the individual over the line, if you

1 will, has been met. Keeping in mind that when you look at  
2 282.8(a), it talks about compelling a person to vote or  
3 refrain from voting, and one of the things that you have to  
4 consider is of course that in Canada 99.9 percent of the  
5 cases, vote is secret. The only exception is special ballot  
6 where somebody can check and see whether I crossed the right  
7 candidate if you voted for the right candidate.

8 So that is a very important part of this  
9 because nobody can be forced to say for whom they voted, and  
10 of course when they vote they vote in secret. So that's  
11 another dimension to the problem, which to me is a very, very  
12 complex problem.

13 **MS. SARAH TEICH:** Thank you.

14 **COMMISSIONER HOGUE:** Thank you.

15 Alliance Democratic.

16 **--- CROSS-EXAMINATION BY MR. GUILLAUME SIROIS:**

17 **MR. GUILLAUME SIROIS:** Good evening.

18 **MR. YVES CÔTÉ:** [No interpretation].

19 **MR. GUILLAUME SIROIS:** Guillaume Sirois,  
20 counsel for RCDA.

21 I will ask my questions in both official  
22 languages. Please feel free to address the question in the  
23 language of your choice.

24 This morning we heard about a complaint which  
25 was made in relation to a disinformation campaign in relation  
26 to a political party leader during the 2021 election. Have  
27 you heard of this complaint which was made to your office?

28 **MS. CAROLINE SIMARD:** Listened to the

1 proceedings this morning but I think that I know which file  
2 you're referring to. But if you could quote a number, it  
3 would -- we could make sure that we are referring to the same  
4 file.

5 **MR. GUILLAUME SIROIS:** WIT-25, paragraph 78,  
6 page 15.

7 It's written in English:

8 "With respect to GAC, the OCCE  
9 obtained the authority..." ---

10 **COMMISSIONER HOGUE:** We don't have the -- we  
11 don't have the documents.

12 **MS. MYLÈNE GIGOU:** Sorry, I just want to see  
13 the document ---

14 **MR. GUILLAUME SIROIS:** Oh, sure.

15 **MS. MYLÈNE GIGOU:** --- to make sure we're  
16 talking about ---

17 **MR. GUILLAUME SIROIS:** Oh, okay.

18 **MS. MYLÈNE GIGOU:** --- the same issue.

19 **COURT OPERATOR:** Can you repeat the document  
20 number, please.

21 **MR. GUILLAUME SIROIS:** Yes. It's WIT 25,  
22 page 15.

23 **MS. MYLÈNE GIGOU:** Oh, the -- okay. Sorry, I  
24 thought you were putting a document ---

25 **MR. GUILLAUME SIROIS:** No, it's a witness  
26 summary.

27 **COMMISSIONER HOGUE:** It will appear on the  
28 screen. Okay, it's there.

1                   **MR. GUILLAUME SIROIS:** Yeah. And you  
2 mentioned a complaint that was received, I think -- well, in  
3 fact, two complaints that were received concerning a  
4 disinformation campaign supposedly originating from Russia.  
5 I'm wondering similar -- I have similar questions that were  
6 asked previously about when -- what were these complaints  
7 received, and when were they closed, and what steps were  
8 taken in response.

9                   **MS. MYLÈNE GIGOU:** I can certainly take some  
10 of the ---

11                   **MR. GUILLAUME SIROIS:** [No interpretation].

12                   **MS. MYLÈNE GIGOU:** --- first part of the  
13 answer, perhaps. Again, going from memory, without having a  
14 specific file in front of me.

15                   I believe we -- our office received one  
16 complaint from an -- from one individual that indicated  
17 having seen a pop-up ad or something of the like. Believe  
18 there was maybe a URL that was perhaps associated to Russia.  
19 The person did not capture -- the pop-up ad did not have a  
20 screen capture or anything of the like.

21                   Sometime later, we received a second  
22 complaint, but in fact in this instance I believe the  
23 complainant was very quick to grab a screenshot of the  
24 material. And it's -- based on what we saw as the  
25 screenshot, we were able to associate it to perhaps being the  
26 same thing as what another individual had reported to our  
27 office.

28                   We invested some resources into the file in

1 terms of our analytics team to try to recreate or re-find the  
2 information, and proved to be extremely difficult for us to  
3 do so. We were unable to do that. But at one point in time,  
4 I recommend -- I believe I recommended to the --  
5 Commissioner Côté that he authorise disclosure to GAC RRM to  
6 determine whether they may have any information that could  
7 assist.

8 **MR. GUILLAUME SIROIS:** Do you have any idea  
9 of the timeframe since the receiving of the complaint and  
10 referral to GAC?

11 **MS. MYLÈNE GIGOU:** I don't have the specific  
12 dates in front of me, I don't think.

13 **MR. GUILLAUME SIROIS:** That's not a problem.  
14 Maybe we can receive this information later.

15 Can I have an undertaking or a confirmation  
16 that some best efforts will be taken ---

17 **MS. MYLÈNE GIGOU:** I'm just looking for the  
18 information here if I have it in the -- my witness statement.

19 **COMMISSIONER HOGUE:** You don't have the  
20 information?

21 **MS. MYLÈNE GIGOU:** I don't think I do.  
22 Sorry.

23 **COMMISSIONER HOGUE:** If the information is  
24 easily attainable then we'll ---

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

26 **COMMISSIONER HOGUE:** --- you will provide us  
27 with.

28 **MS. MYLÈNE GIGOU:** And it's, just to be

1 clear, it's the initial date of each of the -- reception of  
2 each of the two complaints and the date at which we  
3 communicated with GAC RRM?

4 **MR. GUILLAUME SIROIS:** Exactly.

5 **MS. MYLÈNE GIGOU:** Okay.

6 **MS. CAROLINE SIMARD:** Commissioner, the  
7 deadline for submitting our information?

8 **COMMISSIONER HOGUE:** That's a good question.

9 **MS. CAROLINE SIMARD:** Yeah, okay.

10 **COMMISSIONER HOGUE:** I will say as soon as  
11 possible. But that being said, it's really what you can get.

12 **MS. CAROLINE SIMARD:** [No interpretation].

13 **MR. GUILLAUME SIROIS:** Okay. Moving on to  
14 more broad issues, maybe.

15 [No interpretation] ...that that might lead  
16 progressively to more and more extremism with regard to  
17 certain political positions. Within that context, is it  
18 reasonable to assume that people who are exposed to that  
19 information would not complain about the information that  
20 they're exposed to?

21 **MS. MYLÈNE GIGOU:** I could not answer that.  
22 What I can say is that with regard to the situation you  
23 describe, and specifically we had two incidents of complaints  
24 that were brought forth.

25 **MR. GUILLAUME SIROIS:** I could reformulate my  
26 question differently. Is it possible that that problem of  
27 foreign interference will be underreported to the office?

28 **MS. CAROLINE SIMARD:** [No interpretation].

1 COMMISSIONER HOGUE: I ---

2 MS. CAROLINE SIMARD: Excuse me.

3 COMMISSIONER HOGUE: [No interpretation].

4 MS. CAROLINE SIMARD: Yes, it's a  
5 possibility, but once again, we have taken all possible  
6 measures to date to communicate a clear message; that is, if  
7 you have information, contact our office. And that message  
8 has been repeated at every opportunity that we've had.

9 MR. GUILLAUME SIROIS: Okay. I would like to  
10 bring forth now JKW 07 on page 36. Page 36, paragraph 56.

11 --- EXHIBIT No. JKW 7:

12 Special Report on the Government of  
13 Canada's Framework and Activities to  
14 Defend its Systems and Networks from  
15 Cyber Attack

16 MR. GUILLAUME SIROIS: Here we're talking  
17 about foreign interference on the part of Russia. I will  
18 read it in English because it's written in English.

19 "Russia engages in malicious cyber  
20 threat activity, including cyber  
21 espionage and foreign interference..."

22 [No interpretation].

23 "identification of divisive events  
24 and trends in rival states to conduct  
25 influence campaigns and undermine  
26 liberal democratic norms and values."

27 [No interpretation] ...there may be more  
28 linked to their country of origin with regard to media

1 relations.

2 My question is; in the context where the  
3 office does not have the means to supervise social networks  
4 or even less those of private networks like WeChat and  
5 certain Facebook groups that you need permission to access,  
6 is it easy to identify that type of activity and influence on  
7 the part of a foreign regime such as Russia?

8 **MS. CAROLINE SIMARD:** I will bring you back  
9 to the mandate of the Act to carry out surveillance. That is  
10 not part of our mandate. It's a mandate of observation and  
11 application of the law, enforcement of the Act and it's  
12 within those confines that we approach things.

13 **MS. MYLÈNE GIGOU:** And I think there are --  
14 we're one organization in a larger ecosystem as well, and  
15 with different mandates in this sphere as well.

16 **MR. GUILLAUME SIROIS:** And to whom can I ask  
17 the same question? Like, who is doing that kind of work?

18 **MS. MYLÈNE GIGOU:** No, I'm just saying we  
19 have -- our role is we, as Commissioner Simard has explained,  
20 is one, essentially, slice of the pie, but there are a lot of  
21 other organizations in terms of national security and cyber  
22 that operate in this sphere as well.

23 **MR. GUILLAUME SIROIS:** So it would be more of  
24 a question for CSIS or CSC?

25 **COMMISSIONER HOGUE:** Well, that is going to  
26 be for you to find out.

27 **MR. GUILLAUME SIROIS:** Yeah. I guess so.

28 **COMMISSIONER HOGUE:** Thank you.

1 Han Dong?

2 **MR. JEFFREY WANG:** No questions here.

3 **COMMISSIONER HOGUE:** No questions.

4 Government?

5 **MS. NANCY MILES:** Thank you, Madam

6 Commissioner. No questions.

7 **COMMISSIONER HOGUE:** Maître Boucher?

8 **--- CROSS-EXAMINATION BY MR. LUC BOUCHER:**

9 **MR. LUC BOUCHER:** Before we have to say good  
10 evening [No interpretation].

11 **(LAUGHTER)**

12 **MR. LUC BOUCHER:** Avoid all speculation in  
13 tomorrow's newspapers. You talked about a file -- and I will  
14 address my question to Madam Gigou. You talked about a file  
15 that was referred by Elections Canada, and which had been  
16 closed thereafter. And it's -- the questions arose following  
17 Mr. Perrault this morning who talked about a file at  
18 Elections Canada that was referred to you that had nothing to  
19 do with foreign interference.

20 Can you say why -- what was the nature of  
21 that file that was referred, and why it was closed?

22 **MS. MYLÈNE GIGOU:** Without having the  
23 specific referral or file in front of me, based on my  
24 recollection, this was a campaign report that was not filed  
25 with Elections Canada within the prescribed timeline. As I  
26 recall, there was an extension provided, a formal extension,  
27 and the report was ultimately filed 99 days late and it was  
28 closed with a caution letter.

1                   Again, I'm going from memory, but that's what  
2 I recall.

3                   **MR. LUC BOUCHER:** Thank you.

4                   And I will direct it to the panel for those  
5 who -- the person who will be judged most appropriate to  
6 answer.

7                   In terms of the questions regarding the time  
8 taken by your Commission, even if more powers were granted  
9 with regard to foreign interference, by the time that you  
10 arrived at the end of the investigation, the elections would  
11 be concluded. There's another aspect to your work that has  
12 not been explored much during the investigations, or the  
13 hearing, and that is to bring things back into compliance as  
14 quickly as possible. And if possible, if there is this other  
15 aspect, do you have an example? I don't want to direct you  
16 exactly, an example of the ratio that would be appropriate  
17 here?

18                   **MS. CAROLINE SIMARD:** I will start to answer  
19 and then I will turn to my colleagues to provide a follow-up.  
20 And indeed -- well, I would start off by saying that  
21 compliance is what we're looking for, and in terms of  
22 elections, it doesn't directly answer your question, Maître  
23 Boucher, but we have examples -- well, there are rapid  
24 actions taken to act quickly during the election period.

25                   Once again, I will turn to my colleagues to  
26 answer my precisely. They've experienced that during the  
27 elections. And I will add it's important, once again, it's a  
28 message that needs to be clear, the one where all the old --

1 we are seeking compliance, very quickly, especially during an  
2 electoral period. A major part of the work at the office is  
3 done afterwards, and compliance or the penalty or the  
4 punishment that comes afterwards is also very important to  
5 transmit strong messages.

6 So I will conclude there for the moment.

7 **MS. MYLÈNE GIGOU:** Perhaps as an example,  
8 when it comes to broadcasting, it can be very -- these are  
9 complex issues, but I can recall, for example, a scenario  
10 where it was unclear whether the advertising that was being  
11 broadcasted was in fact originating from the U.S. or Canada,  
12 but with -- once that became known to our office, contact was  
13 made with a campaign to communicate our concern, and very  
14 quickly the advertising would have been pulled in those  
15 instances.

16 Ultimately I think we determined that the  
17 initial arranged contractual arrangement for the advertising  
18 had actually been made with a Canadian company. And in fact,  
19 they were reimbursed for part of the advertising that was  
20 cancelled, again, from a Canadian company.

21 But nonetheless, even though we didn't have  
22 all the information, we took active steps very quickly to try  
23 to resolve the situation.

24 Again, I don't have the specific file in  
25 front of me, but to the best of my recollection, I believe  
26 that's one of the scenarios.

27 **MS. ERIN DANN:** Commissioner, I'm very sorry  
28 to interrupt. It's Erin Dann speaking. Our interpreters are

1 unable to work past ---

2 **COMMISSIONER HOGUE:** Seven.

3 **MS. ERIN DANN:** --- 7:00 o'clock, so I just  
4 wanted to alert everyone.

5 **MR. LUC BOUCHER:** [No interpretation].

6 Despite all the rumours or articles in  
7 newspapers, is it correct to affirm that your investigators  
8 met with Mrs. -- and also Mr. Vander Vies and it was clearly  
9 established that that entire luncheon was done following this  
10 request?

11 **MS. CAROLINE SIMARD:** Yes.

12 **MR. LUC BOUCHER:** That's everything.

13 **COMMISSIONER HOGUE:** Thank you.

14 It has been a long day for everyone. It's  
15 going to be a long weekend, so ---

16 **MR. YVES CÔTÉ:** For most people.

17 **COMMISSIONER HOGUE:** Happy Easter to  
18 everyone. Thank you very much, and have a good weekend.

19 **MR. YVES CÔTÉ:** [No interpretation].

20 **THE REGISTRAR:** The Commission has adjourned  
21 until -- well, has adjourned until next week.

22 --- Upon adjourning at 6:56 p.m.

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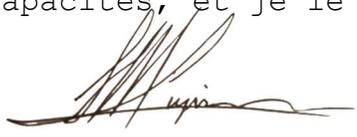
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C E R T I F I C A T I O N

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 officielle,  
certifie que les pages ci-hautes sont une transcription  
conforme de mes notes/enregistrements au meilleur de mes  
capacités, et je le jure.



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Sandrine Marineau-Lupien