



4 March 2024

To Commission Counsel for the Public Inquiry on Foreign Interference (PIFI)

Submission on the risk of systemic discrimination in addressing potential foreign interference in Canada's democracy.

- **Summary of Key Points**

- This submission looks at the risk of systemic discrimination in efforts to identify and combat foreign interference through the use of sweeping generalizations and vague or ominous language.
- The risk of national security overreach stems from the way that CSIS has characterized the foreign interference threat from the People's Republic of China (PRC). It has done so in such a way as to allow for a very broad definition of what constitutes foreign interference and who might be implicated in it, which has in turn fed into public paranoia about the "China Threat".
- For the purposes of the Public Inquiry, the key question is whether the expansive framing of a foreign interference / espionage threat from the PRC threatens the civil rights of Canadians and if it explains the many unfounded allegations of interference and espionage on the part of Canadians with ties to the PRC, including politicians and their staffers and campaign workers.

- To assume that the “targets” of PRC influence activities in Canada are passive automatons who are incapable of forming their own views on issues related to China and Canada-China relations is simplistic and dangerous, not to mention insulting to those who are deemed to be “targets”.
- While CSIS has adopted an analytical framework for “grey zone” interference and espionage investigations that allows them to cast suspicion on individuals and groups across the entire spectrum of Canadian civil society, it has at the same time stubbornly resisted informing the public about what these objectionable “grey zone” foreign interference activities are.
- And yet, the only way for “vulnerable” individuals and communities to not be complicit in objectionable activities is to know what those objectionable activities are, and why they are deemed as such.
- The Commission’s mandate to examine *“the supports and protections in place for members of a diaspora who may be especially vulnerable and may be the first victims of foreign interference in Canada’s democratic processes”* should be understood not just as the need for protections against the targets of foreign interference, but also as the need to protect diaspora communities which fear discrimination and stigmatization because of an overly broad understanding of foreign interference, and the delegitimization of their voices and votes because of the views they hold.

- The Inquiry is a rare opportunity to not only confirm the existence of documents which make claims about foreign interference, but to also scrutinize the validity and import of these documents.
- In doing so, the Commissioner should keep in mind four inter-related principles:
 - a) The **credibility** of the information contained in the documents,
 - b) How **material** the foreign interference claims are, in terms of the impact on elections and on the welfare of Canadians,
 - c) whether the response to foreign interference claims is **proportionate** to the threat and to the range of other foreign interference threats that may be more material,
 - d) whether our approach to dealing with foreign interference is applied consistently to the most important sources of interference, and if it is **consistent** with our own efforts at influencing opinion in other countries.

In my previous submission to the Inquiry dated 6 Feb 2024, I offered my analysis of foreign interference claims related to Mr Erin O’Toole and Mr Kenny Chiu during the 44th General Election, as presented in two partially redacted Top Secret Security Intelligence Threats to Elections Task Force (SITE) documents that were made available to PIFI participants (CAN005804 and CAN003781) and subsequently entered into evidence.

In that submission, I question the conclusions reached by SITE based on their own findings as well as on what I deem to be shaky assumptions and flawed reasoning. I ask at the end of my submission if “the serious errors of analysis in the SITE reports are due to partisanship, prejudice, inadequate training, and/or a failure of leadership in the constituent bodies of SITE, namely CSIS, CSE, GAC and the RCMP”.

The question I am raising is whether these flaws are institutional and systemic rather than that of just a few analysts. The fact that the two reports are high-level summaries that presumably went to the seniormost levels of government suggests that they went through many layers of approval at the relevant agencies, all of whom were willing accept the prejudicial and stigmatizing assumptions of the authors. That is deeply troubling for the agencies as a whole and it has implications for how PIFI should interpret other national security and intelligence reports on issues related to foreign interference from the PRC and their connection to Canadian citizens of Chinese descent in GE43 and GE44.

This submission looks at the risk of systemic discrimination in efforts to identify and combat foreign interference through the use of sweeping generalizations and vague or ominous language, as well as the application of foreign interference thresholds that are inconsistent across different groups of foreign actors and diaspora communities. It draws on some of the classified documents entered into evidence at PIFI as well as general observations from media and other publicly available information.

I would reiterate at the outset that I share with the Commission and all participants a common interest in identifying genuine cases of foreign interference in the 2019 and 2021 general elections and coming up with better ways to protect our democracy from such unwanted interference. At the same time, I believe we must be vigilant against an overzealous approach to foreign interference that results in the stifling of legitimate political debate, the stigmatization of Canadians, stereotyping of racialized communities, and the violation of fundamental rights.

I also believe that Canada should deal firmly with unlawful interference in our democracy, especially harassment, threats, and intimidation perpetrated by foreign actors or their proxies, including what is popularly termed “transnational repression”.

How CSIS Conceptualizes the Foreign Interference Threat from the People’s Republic of China

Partially redacted classified documents entered into evidence at PIFI have shone a light on how CSIS conceptualizes the foreign interference threat from the PRC. Due to redactions, the documents only describe the threat in general terms. The redacted sections likely contain specific examples of foreign interference, which the Commission will be able to examine more closely. However, the analytical flaws in the SITE reports elaborated in my previous submission should give pause as to whether examples offered in other intelligence documents can be taken at face value, including the allegations against specific individuals such as Mr Han Dong, Mr Michael Chan, as well as unnamed political staffers and campaign workers, many of whom are likely to be Canadians of Chinese descent.

The risk of national security overreach stems from the way that CSIS has characterized the foreign interference threat from the PRC, which is to allow for a sweeping definition of what constitutes foreign interference and who might be implicated in it.

A partially redacted CSIS document on Foreign Interference from the PRC¹ describes it as “sophisticated, pervasive, and persistent”, and one that operates in a legal and normative “grey zone”. It asserts that the PRC targets “all levels of government (including provincial and municipal levels), in addition to various facets of Canadian society, including vulnerable diaspora groups, media entities, dissidents, activists, elites, elected officials, and academics”. The redacted documents do not give specific examples of foreign interference and how they threaten Canadian interests.

The United Front Work Department of the Chinese Communist Party (CCP)

Central to the portrayal of the threat of foreign interference from the PRC is the idea of the United Front Work Department (UFWD) as a “magic weapon” against democratic societies such as in Canada. CSIS puts it this way: “The United Front Work Department actively seeks to conduct and support Foreign Interference activity to further PRC interests, including co-opting foreign entities (especially elites) through the promulgation of United Front work”². This way of framing the

¹ PRC Foreign Interference in Canada: A Critical National Security Threat, PIFI Canada Release 001 Jan 25, 2024 CAN 005811

² The PRC Foreign Interference. . . PIFI -- Canada Release 001, January 25, 2024 CAN 005784

problem has gained prominence since Xi Jinping became President of China in 2012. He is credited with placing renewed emphasis on the UFWD and bringing under its ambit a wider range of “civil society” actors in China, notably overseas Chinese individuals, and groups. President Xi famously referred to the UFWD as a “magic weapon”³ – a buzzword that CSIS seems to take seriously as an actionable way to conduct anti-interference and espionage investigations. It is consistent with the agency’s belief that Chinese spies may be found in “diaspora communities, businesspeople, academics, politicians and political staffers, media and religious communities”⁴, which has in turn given license for the media, academics, and armchair analysts to cast innuendo on individuals who belong to these groups. That kind of innuendo, combined with leaks of classified documents from anonymous sources, is part of the groundswell that has led to the public inquiry.

It is beyond the scope of this submission to offer a detailed analysis of the UFWD and its work overseas, especially in Canada. There is no disputing either the existence of the UFWD, which predates the founding of the People’s Republic of China, or the importance that President Xi has placed on it, and hence the need for our intelligence agencies to pay attention to how it operates.

For the purposes of PIFI, the key question is whether the framing of a foreign interference / espionage threat from the PRC based on a particular understanding

³ The coinage in fact dates to Mao in 1939, who named the United Front Work Department as one of three “magic weapons”, along with armed struggle and party building.

⁴ PRC Foreign Interference in Canada: A Critical National Security Threat, PIFI -- Canada Release – 001, January 25, 2024

of the UFWD threatens the civil rights of Canadians and if it explains the many unfounded allegations of interference and espionage on the part of Canadians with ties to the PRC, including politicians and their staffers and campaign workers.

There is no doubt that the UFWD seeks to influence opinion and to co-opt individuals and groups who are not part of the CCP, including in foreign countries. Research from the Netherlands suggests that these influence operations focus on Chinese nationals or former Chinese nationals with respect to their views on issues in China and on the legitimacy and authority of the Party, rather than on domestic issues in a foreign country⁵. The UFWD has also put special emphasis on overseas Chinese students and scholars as a “central focus” of their efforts to attract talent to return to China, for example through an array of “Thousand Talent” incentive programs⁶ that are akin to Canada Research Chairs⁷.

That in no way excuses or minimizes any coercive actions on the part of the Chinese state or its proxies directed at their citizens or former citizens in another country. These cases of “transnational repression” should not be tolerated in Canada and it would be helpful for PIFI during the policy phase of its work to pay special attention to any new tools that may be needed to combat such acts. Intimidation, harassment, and coercion, however, are a special and egregious

⁵ Pieke, Frank (2021), *China’s Influence and the Chinese Community in the Netherlands*, Leiden Asia Centre

⁶ Zweig, David (2020), *America Challenges China’s National Talent Programs*, Centre for Strategic and International Studies, Washington D.C. <https://www.csis.org/analysis/america-challenges-chinas-national-talent-programs>

⁷ The Canada Research Chairs Program invests up to \$311 million per year to attract and retain some of the world’s most accomplished and promising minds. Chairholders aim to achieve research excellence in engineering and the natural sciences, health sciences, humanities, and social sciences. <https://www.chairs-chaire.gc.ca/home-accueil-eng.aspx>

case of foreign interference that are different from the allegations of interference in Canadian elections and the more general allegations of security threats against Canada that have led to this inquiry.

The problem with assuming that the UFWD is a “magic weapon” for the CCP to advance its objectives overseas is that there is no such thing as a magic weapon. There is no doubting the CCP’s desire to *have* a magic weapon in its effort to co-opt non-CCP members in foreign countries to the cause of the PRC, but to assume that the “targets” of United Front activities in Canada – Chinese community groups, business leaders, academics, politicians, etc. – are passive automatons who are incapable of forming their own views on issues related to China and Canada-China relations is simplistic and dangerous, not to mention insulting to those who are deemed to be “targets”⁸.

That said, there is a role for education within the Chinese Canadian community (and other groups that are at risk of stigmatization because of their overseas links) on the importance of autonomy and agency, and on the need to always assert these principles without having to be subject to litmus tests of what it means to be loyal Canadians. This could be part of a set of recommendations for the Policy Phase of the Commission’s work around the theme of “resilience” against foreign interference and national security overreach.

⁸ An overly broad conception of the United Front Work Department in Australia has also resulted in the stigmatization of many Chinese-Australian organizations. As the Australian China analyst Ryan Manuel has observed, “Any overseas Chinese organization could be described as being linked to the United Front” <https://www.abc.net.au/news/2019-09-15/gladys-lui-united-front-work-department/11511028>

The point is that while Xi Jinping may indulge in magical thinking, our intelligence agencies shouldn't. To accept that the UFWD is a "magic weapon" is to open the door to a sweeping definition of interference and espionage that could unfairly implicate a very wide range of individuals and groups who are believed to be practising such "magic". There is a reason why periods of history where there has been widespread discrimination and persecution on the grounds of national security have been dubbed "witch hunts".

How can Canadians avoid being implicated in objectionable foreign interference activities if they don't know what these activities are?

Even if our intelligence agencies disavow magical thinking, they have nevertheless adopted an analytical framework for interference and espionage investigations that allows them to cast suspicion on individuals and groups across the spectrum of Canadian civil society, based largely on where they come from, the groups they associate with, and the views that they espouse. Hence, the vague references in various CSIS documents to "pervasive" threats, as well "non-traditional" and "grey zone" activities, and the idea of "elite capture"⁹ as well as "CCP talking points"¹⁰ which have been used in media reports that have led to the stigmatization of individuals and groups with ties to the PRC.

Curiously, CSIS and other intelligence agencies have stubbornly resisted informing the public about specific acts of objectionable "grey zone" foreign interference

⁹ <https://thehub.ca/2023-06-02/elite-capture-may-be-a-bigger-problem-than-the-chinese-governments-intimidation-tactics-experts-warn/>

¹⁰ <https://nationalpost.com/news/canada/what-does-china-want-from-canada>

activities that are supposedly taking place across Canadian society. And yet, the only way for “diaspora communities, businesspeople, academics, politicians and political staffers, media and religious communities” to not be complicit in objectionable activities is to know what those objectionable activities are, and why they are deemed as such.

The Commission will be able to assess if the specific examples of foreign interference cited in the unredacted documents in fact meet the threshold of unlawful activity and threats to Canada, or if those activities on the part of Canadians are protected under the Charter of Rights and Freedoms. The Commission will also be able to make recommendations on greater transparency on the part of CSIS to help Canadians understand what specific activities constitute foreign interference, so that they can steer clear of them.

Return of the “Red Scare”?

It is the job of our security and intelligence agencies to uncover nefarious activities, including in places where they may be unlikely to take place. Nothing in this submission should suggest that they stop doing so. However, for the purposes of PIFI, it is important to ascertain if the specific allegations of interference and/or espionage related to GE43 and 44 (for example, allegations against Mr Han Dong and Mr Michael Chan; or allegations about “Chinese police stations” in various cities across Canada leveled by the RCMP¹¹) stem from an overly broad understanding of security risks from the PRC. The assertion that Chinese agents

¹¹ <https://montreal.ctvnews.ca/senator-demands-to-know-why-rcmp-alleged-chinese-police-stations-were-in-montreal-1.6386277>

could be found among “diaspora communities, businesspeople, academics, politicians and political staffers, media and religious communities” is both true, and unhelpful. It is reminiscent of the McCarthyite paranoia of “reds under the bed”¹² and serves to cast such a wide net as to dissipate proper attention to priority areas of national economic and security risk, including from countries other than the PRC.

A good example of how a vague and broad conceptualization of the national security threat from China has seeped into the public consciousness comes from the Inquiry itself, where in rulings issued by the Commissioner, it has been revealed that some participants with full standing are seeking to exclude other participants (including myself) on the *suspicion* that we are “collaborating with or supporting China”. They assert that “it would be dangerous for Messrs. Chan, Dong, and Woo to cross-examine witnesses from these communities, as this would allow them to obtain information that they could then pass on to the Chinese government”¹³.

One of the participant groups says it “refuses to participate in a process meant to address and reconcile foreign interference that uplifts individuals complicit in and benefiting from foreign interference themselves”¹⁴. Another group has argued for the removal of standing being granted to “individuals *suspected* to have strong

¹² Betcherman, Lita-Rose (2012) *Reds Under the Bed: How Communists Frightened the Canadian Establishment, 1928-32*, Bev Editions

¹³ Public Inquiry on Foreign Interference, *Decision on Application to Restrict Cross Examination*, 12 Feb 2024

¹⁴ <https://www.theglobeandmail.com/politics/article-second-diaspora-group-pulls-out-of-interference-inquiry/>

ties to the Chinese consulates, and their proxies”. Media outlets have reproduced these claims verbatim without asking the organizations for supporting evidence. They can do so in part because our security agencies have given them license to do so -- by asserting that the PRC foreign interference threat is “pervasive”, covers “all of society” and includes “diaspora communities, businesspeople, academics, politicians and political staffers, media and religious communities”. If a senator can be accused of being an agent of a foreign government, based on zero evidence, how many other Canadians are vulnerable to the same, or worse?

Vulnerable diaspora communities include those who fear discrimination and stigmatization due to national security overreach and the public paranoia that goes with it

In this regard, the Commission’s mandate to examine “*the supports and protections in place for members of a diaspora who may be especially vulnerable and may be the first victims of foreign interference in Canada’s democratic processes*” is of critical importance. However, this call should be taken not just as the need for protections against the targets of foreign interference (such as coercion and harassment of Canadians by foreign agents), but also as the need to protect diaspora communities who fear discrimination and stigmatization because of an overly broad definition of foreign interference. It should also be understood as the need to prevent national security overreach from delegitimizing diaspora voices and votes because of the views they hold. In the current environment of geopolitical tension, media frenzy, and political groupthink, I believe the balance of risks has shifted to the latter.

To the extent that we need to learn from the mistakes of like-minded countries, a good example is Australia, where the historian of Uyghur nationalism David Brophy has warned of a “China Panic” that has been harmful to Australia, and Australian-Chinese in particular. The Commission is looking at many issues of foreign interference that have a close parallel to the situation in Australia¹⁵.

The Role of the Commission in Scrutinizing National Security and Intelligence Documents

It is beyond the scope of the Commission to review the inner workings of our Security and Intelligence agencies. However, the Commission has been given unfettered access to all relevant documents pertaining to claims of foreign interference in GE 43 and GE 44, and more broadly against Canadian democracy. This presents a rare opportunity to not just confirm the existence of documents which make claims about foreign interference, but to also scrutinize the validity and import of those documents.

There are four inter-related principles that should be applied in reviewing the classified documents:

1) Credibility

Is the information provided in the documents complete? Are the sources reliable? Are the conclusions drawn from the information defensible? Are the premises behind the conclusions valid? I have already shown in my

¹⁵ Brophy, David (2021) *China Panic: Australia's Alternative to Paranoia and Pandering*, Carlton: La Trobe University Press. See especially Chapter 4 on “Interfering with Democracy”.

previous submission that two SITE-TF documents alleging foreign interference and disinformation were seriously flawed because of internal contradictions, faulty assumptions, poor reasoning, incomplete research, and quite possibly prejudice. That these high-level documents likely went through many layers of approval suggests a systemic problem in the constituent bodies of SITE-TF rather than a problem of just a few bad analysts.

2) Materiality

How significant is the information provided in terms of security risks for Canada, in relation to the many other foreign interference / disinformation threats that exist. What is the impact of any alleged foreign interference threat on the actual workings of Canadian society, and how large could that impact plausibly be for the outcome of an election?

For example, compare an attempt to discourage Canadian voters from supporting the Conservative Party through a social media campaign asserting that Erin O’Toole “almost wants to break diplomatic ties with China” with a verified tweet by former President Barack Obama endorsing Justin Trudeau in the same election.¹⁶

Which social media campaign would have reached a larger audience, and which one likely had a larger impact on the election? There are dozens

¹⁶ <https://twitter.com/BarackObama/status/1184528998669389824> Likewise, Bernie Sanders tweeted his support for NDP leader Jagmeet Singh <https://twitter.com/BernieSanders/status/1438936022159593474>

more examples of social media campaigns emanating from the United States, or which have the imprint of American political discourse (for example on issues such as the environment, trade, firearms, cultural protection, and digital governance) that I believe would have had a much bigger impact on voters than the much smaller number of (dubious) examples of PRC interference in GE 43 and GE 44.

3) Proportionality

If we are serious about materiality, the corollary is to question if the response to foreign interference claims is proportional to the threat. Our national security and intelligence agencies should counter foreign interference from every and all sources, but they should place the greatest attention on the foreign interference threats that are the most material.

While the PIFI inquiry is required to focus on Russia and China in its terms of reference, and has since included India explicitly as a country of interest, are these in fact the countries that produce the source of greatest material impact to Canada's security, including our social and economic well-being? For its work to be credible, the Commission must address its mandate to look at "other countries"¹⁷. It must do so not for the sake of having an

¹⁷ A report by the Media Ecosystem Observatory in the aftermath of the 2021 General Election had this to say: "Canadian elections are rarely free from influence from the United States. Canadians consume a large amount of information originating in the U.S., and political events south of the border tend to be politically relevant in Canada. American politicians across the political spectrum also have a pattern of endorsing particular candidates in Canada and giving their opinion about Canadian political events or policies. Often, Canadian events are used as a foil or instrumentalized for political purposes in the United States".
https://www.mcgill.ca/maxbellschool/files/maxbellschool/meo_election_2021_report.pdf

exhaustive list of other potential sources of foreign interference (which would be an unproductive use of its time) but to in fact make sure that the *most important* source or sources of foreign interference are not omitted. And if the Commission chooses to omit an obvious source of foreign interference that looms large over Canada, it needs to explain to Canadians why it has done so.

4) Consistency

A proper appreciation for the credibility and materiality of information concerning foreign interference threats to Canada would lead to not only a proportional response to the range of threats, but also a consistent one. If our security and intelligence agencies see fit to flag Chinese language social media posts in Canada that may constitute disinformation in an election campaign, why do they not treat questionable material posted on English or French language social media in the same way?

And if Canadian politicians of Chinese descent are monitored for their interactions with diplomats from the PRC, why is the same not done for other politicians who have interactions with diplomats from other countries? The same would apply in every other instance of the allegations of foreign interference based on leaked information to the media that has almost exclusively focused on Chinese Canadians.

Consistency also requires that we take a position on foreign interference that we would expect of other countries when it comes to Canada. There is

a fine line between legitimate diplomacy and foreign interference, one which CSIS says is crossed when the activity is deemed to be “detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person”. This is a useful working definition, and one which CSIS should cleave to and be fully transparent about. It is not clear, however, that a foreign diplomat or proxy advocating for better relations with his/her country in the context of a Canadian election meets that test.

For example, is the recent announcement of a *Team Canada* effort (involving an amorphous coalition of government, business, labour, entrepreneurs, and civil society) to advance our country’s interests in the run-up to the 2024 US Presidential election much different from the PRC’s United Front activities to advance China’s interests in Canada with politicians at all levels of government¹⁸?

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'W. J. ...' with a stylized flourish at the end.

¹⁸ <https://www.cbc.ca/news/politics/trudeau-united-states-president-election-1.7091983#:~:text=Prime%20Minister%20Justin%20Trudeau%20announced,this%20fall's%20U.S.%20presidential%20election.>

