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Cabinet Directive on the Critical Election Incident Public Protocol

1.0 Introduction

The protection and preservation of Canada's democratic institutions and practices is one of the core responsibilities of the federal government.

National security threat and risk assessments, along with the experience of key international allies, underscore that Canada's general elections may be vulnerable to interference in a number of areas. Recognizing this, significant work has been undertaken within the federal government to protect and defend electoral systems and processes. As part of this work, the Government of Canada has established the Critical Election Incident Public Protocol (CEIPP) in order to ensure coherence and consistency in Canada's approach to publicly informing Canadians during the caretaker period about incidents that threaten Canada's ability to have a free and fair election.

2.0 Purpose

The *Cabinet Directive on the Critical Election Incident Public Protocol* sets out the ministers' expectations with respect to the general directions and the principles to guide the process for informing the public of an incident that threatens Canada's ability to have a free and fair election during the period that the Caretaker Convention is in effect.

The Protocol is an application reflective of the Caretaker Convention. The Caretaker Convention puts into practice the principle that the government is expected to exercise restraint in its activities and "restrict itself" in matters of policy, spending and appointments during the election period, except where action is "urgent" and "in the national interest". The Caretaker Convention typically begins on the dissolution of Parliament. It ends when a new government is sworn-in or a result returning an incumbent government is clear.

During the caretaker period, announcements that must proceed are to be made in the name of the department to ensure a distinction between official government business and partisan activity.

3.0 Scope of application

The Critical Election Incident Public Protocol will have a limited mandate. It will only be initiated to respond to incidents that occur during the caretaker period, and that do not fall within Elections Canada's areas of responsibility (i.e. (in other words), with regard to the administration of the election, as identified in the *Canada Elections Act*). Incidents that occur outside of the caretaker period will be addressed through regular Government of Canada operations.

4.0 Panel

The protocol will be administered by a group of senior civil servants who will, working with the national security agencies within the agencies' existing mandates, be responsible for determining whether the threshold for informing Canadians has been met, either through a single incident or an accumulation of separate incidents.

This Panel will be comprised of:

- the Clerk of the Privy Council;
- the National Security and Intelligence Advisor to the Prime Minister;
- the Deputy Minister of Justice and Deputy Attorney General;
- the Deputy Minister of Public Safety; and
- the Deputy Minister of Foreign Affairs.

5.0 Process

The protocol lays out a process through which Canadians would be notified of an incident that threatens Canada's ability to have a free and fair election, should notification be necessary.

During the caretaker period, the protocol for a public announcement would be:

1. The national security agencies will provide regular briefings to the Panel on emerging national security developments and potential threats to the integrity of the election. The Panel may also receive information and advice from sources other than the security and intelligence agencies.

2. Political parties will be instructed on how to report any interference that they may experience during the election.
3. If the head of a national security agency (i.e. (in other words), the Communications Security Establishment, the Canadian Security Intelligence Service, the Royal Canadian Mounted Police or Global Affairs Canada, working within their respective mandates) becomes aware of interference in a general election, they will, in consultation with each other, consider all options to effectively address the interference. As part of this process, they will inform the Panel. Barring any overriding national security/public security reasons, the agencies will inform the affected party (e.g. (for example), a candidate; a political party; Elections Canada) of the incident directly.
4. The Panel will evaluate incidents to determine if the threshold (as set out in Section 6 below) for informing the public has been met. The Panel will operate on a consensus basis and will draw on expertise from across government, including national security agencies working within their existing mandates. The Panel may consult with the Chief Electoral Officer (CEO) to ensure mandates are being respected should issues of interference arise that are possibly relevant to both the Panel and the CEO (Chief Electoral Officer).
5. If a public announcement is deemed necessary, the Panel will inform the Prime Minister, the other major party leaders (or designated senior party officials who have received their security clearances sponsored by the Privy Council Office) and Elections Canada that a public announcement will be made. These leaders would all receive the same briefing information.
6. Immediately after having informed the Prime Minister, the other political parties and Elections Canada, the Clerk of the Privy Council, on

behalf of the Panel, may either issue a statement or ask the relevant agency head(s) to issue a statement to notify Canadians of the incident(s).

6.0 Threshold for informing the public

A public announcement during the caretaker period would only occur if the Panel determines that an incident or an accumulation of incidents has occurred that threatens Canada's ability to have a free and fair election.

Determining whether the threshold has been met will require considerable judgement. There are different considerations that could be included in making this judgement:

- the degree to which the incident(s) undermine(s) Canadians' ability to have a free and fair election;
- the potential of the incident(s) to undermine the credibility of the election; and
- the degree of confidence officials have in the intelligence or information.

The Panel brings together unique national security, foreign affairs, democratic governance and legal perspectives, including a clear view of the democratic rights enshrined in the *Canadian Charter of Rights and Freedoms*.

A disruptive event or incidents of interference may emanate from domestic and/or foreign actors. Attribution of interference attempts may be challenging or not possible within the timelines permitted by events, given that attempts to unduly influence the election may involve misdirection and disinformation. Further, it is possible that foreign actors could be working in collaboration with, or through, domestic actors. Ultimately, it is the impact of the incident on Canada's ability to have a free and fair election

that is at issue in the determination of whether the threshold has been met, and if a public announcement is required. For clarity, Canadians – and democracy – are best served by election campaigns that offer a full range of debate and dissent. The Protocol is not intended to, and will not, be used to respond to that democratic discourse.

7.0 Announcement

The announcement would focus on:

- a. notification of the incident;
- b. what is known about the incident (as deemed appropriate); and
- c. steps Canadians should take to protect themselves (e.g. (for example), ensure that they are well informed; cyber hygiene), if relevant.

8.0 Existing authorities

Nothing in this Directive in any way alters or expands the mandates of the national security agencies or any other department or agency. Specifically, nothing in this protocol supersedes the RCMP (Royal Canadian Mounted Police)'s independence.

9.0 Assessment

Following each general election, an independent report will be prepared, assessing the implementation of the Critical Election Incident Public Protocol and its effectiveness in addressing threats to the election. This report will be presented to the Prime Minister and to the National Security

and Intelligence Committee of Parliamentarians. A public version will also be developed. These reports are intended to help inform whether adjustments to the protocol should be made

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