

Summary of a Memorandum to Cabinet – Cabinet Directive on the Critical Election Incident Public Protocol

[This document contains a Commission prepared summary of the Memorandum to Cabinet (“**MC**”), seeking approval for a Cabinet Directive on the Critical Election Incident Public Protocol. MCs are a minister’s vehicle for proposing and explaining a proposed measure on a substantive policy issue to Cabinet and for obtaining its approval.]

In June 2019, a MC was presented to Cabinet to seek approval for the proposed Cabinet Directive on the Critical Election Incident Public Protocol (**the “Directive”**).

The basis for the Directive was the proposal endorsed in October 2018 to establish a Critical Election Incident Public Protocol (**the “Protocol”**) in order to ensure coherence and consistency in Canada's approach to publicly informing Canadians about incidents that could threaten the integrity of the election.

The Directive sets out the expectations regarding the general directions and the principles to guide the process for on informing the public during the writ period of an incident that threatens Canada's ability to have a free and fair election.

The MC recommended that Cabinet approve the Directive and that the Protocol be made publicly available.

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”. 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.

The Critical Election Incident Public Protocol (CEIPP) was to have a limited mandate. It was only to be initiated to respond to incidents that occurred within the writ period and that did not fall within Elections Canada's areas of responsibility (i.e., with regard to the administration of the election, as identified in the Canada Elections Act). Incidents that occurred prior to the writ period were to be addressed through regular Government of Canada operations.

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