

INTERNATIONAL SECURITY

# Bringing Americans Home

## The First Non-Governmental Assessment of U.S. Hostage Policy and Family Engagement

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### Executive Summary

This assessment, conducted by the James W. Foley Legacy Foundation (JWFLF) is the first non-governmental review of the efficacy of the 2015 U.S. Hostage Policy Review and the implementation of Presidential Policy Directive 30 (PPD-30) and Executive Order 13698 (EO 13698) concerning hostage recovery activities. This study was conducted from the perspective of former American hostages, family members of current and former U.S. hostages, and others detained unlawfully or wrongfully by a foreign government. This study does not represent the perspective of all former hostages, detainees, and their families, but only presents the perspectives of those who participated in this study.

Based on confidential interviews with 27 participants, this report provides insights into how the U.S. government's restructuring of its hostage enterprise has impacted American hostage families. Additionally, this report provides an initial examination of the type of support unlawfully or wrongfully detained U.S. nationals and their families received from the government. All interviews were conducted between April 2018 and August 2018. This study is intended to spark and inform discussions that will continue to improve the U.S. government's provision of support to hostages, detainees, and their families.

### Key Findings and Recommendations:

1. **The reforms implemented in June 2015 have had significant success, but hostage cases demand continued U.S. leadership and prioritization.**
  - Americans held unjustly abroad deserve continued attention at the highest levels of the U.S. government. Often, it is leadership from the President himself and the Secretary of State that is necessary to bring these Americans home to their families. That leadership must continue.
  - One structural innovation of the government's June 2015 policy—the creation of the interagency Hostage Recovery Fusion Cell (HRFC) as the center of gravity for hostage-related matters—has been welcomed by most families as a single point of entry for discussing hostage-related matters with the government. However, families have noted with concern the gradually decreasing representation of officials from the Department of Defense (DOD) and the Joint Personnel Recovery Agency assigned to the HRFC. This impacts interagency coordination and influences how the government handles hostage matters.

- The U.S. government should restore hostage recovery experts across the HRFC in full-time capacities and also ensure the HRFC’s sustainability through legislation by providing dedicated funding.
  - Another structural innovation of the government’s June 2015 policy—the creation of the office of the State Department Special Presidential Envoy for Hostage Affairs—has proven essential in assisting families and managing the diplomatic aspects of hostage recovery efforts as well as improving engagement with key personnel, at home and abroad. However, families noted with deep concern the temporary vacancy of the Special Presidential Envoy for Hostage Affairs. Appointing a Special Presidential Envoy for Hostage Affairs must become an early priority for incoming administrations.
  - Since the government issued its June 2015 policy, families perceive that the U.S. government is placing a higher priority on bringing their loved ones home and is providing more candid assessments of both their relative’s circumstances and potential recovery options. This contrasts sharply with the experience of families of hostages prior to the 2015 policy change, where families perceived little to no priority was placed on the recovery of their loved ones. Increasing prioritization of bringing Americans held as hostages home must be continued.
2. **Clarifications in laws and policies must be communicated more effectively to families.**
    - The U.S. government’s June 2015 reforms clarified key policies on hostage recovery. This includes the government’s willingness to support families as they attempt to negotiate the release of their relatives and the disavowal of consideration of criminally prosecuting families for ransom payments that might technically qualify as material support to terrorism. Nonetheless, given the complexity revolving around negotiations and private payments of ransoms, confusion among hostage families persists. The U.S. government must ensure that the HRFC and others who interact with families of hostages are able to explain more clearly and consistently what the government’s policies are regarding hostage recovery efforts, to include the ability of hostage families to make ransom payments and communicate with hostage-takers without fear of prosecution.
  3. **U.S. government communication with families should become more regular.**
    - Since the U.S. government implemented its new policy in 2015, families are receiving more frequent and accurate briefings. Additionally, family engagement efforts have also been largely successful, with families describing the HRFC as “very helpful, consistent, and absolutely essential in coordinating efforts” on behalf of U.S. hostages. The government has been more successful in corresponding with hostage families, including responding to phone calls and emails as well as scheduling meetings more promptly. However, even after the 2015 policy changes, some families still expressed confusion over roles within government agencies and have requested more regularly scheduled meetings and updates. Additionally, families noted with concern that, recently, the information they receive feels incomplete and emphasized the need for fuller, faster information sharing by the U.S. government. Consequently, there must be an increase in communication and coordination efforts from the HRFC, ensuring that relevant information is shared quickly and fulsomely with families.
  4. **Critical needs of hostages and their families remain unaddressed.**
    - Returning hostages need continuing mental and physical health support upon their return. The families of hostages also require robust assistance to address ruined credit and other day-to-day financial challenges both during and after hostage incidents. The U.S. government should explore how it can help address these critical but unmet needs of hostages and their families, including whether the government can provide greater support to non-governmental organizations that might be better placed to address these challenges.
  5. **Americans unlawfully or wrongfully detained by foreign governments and their families deserve more attention and information from the U.S. government.**
    - The U.S. government’s June 2015 reforms are applied in full to all cases in which an American is held abroad and not acknowledged as held by a government—often hostage-takings by criminals, terrorists, or pirates—but applied only optionally and partially to cases in which an American is held abroad unlawfully or wrongfully and is acknowledged to be held by a foreign government. What has emerged since is a notable disparity in treatment, with families in the first category often receiving more attention and information from the U.S. government. The U.S. government, and more importantly the State Department, must ensure that cases in the second category also benefit from the June 2015 reforms. This includes an increase in information sharing and U.S. government support for families, both foreign and domestically. Any support provided by the HRFC would require additional personnel and resources to offset the added case load. Additionally, mechanisms should be established to identify monetary resources and manage the flow of information to Congress regarding the status of unlawfully or wrongfully detained U.S. nationals.

## Appendix A: Current Needs and Requests from Former Hostages and Hostage Families

This appendix presents a list of current needs and requests expressed by former hostages and their families. The needs and requests are not listed in order of importance but are grouped by category. Although, not all of these needs necessarily fall under the purview of the government, they are listed here for reference.

### HOSTAGE POLICY AND RECOVERY STRATEGY

- To the extent desired, involvement of families in the development of all strategy related to their relative's recovery efforts.
- Assistance in handling and speaking to captors.
- Utilization of former U.S. Presidents, U.S. Vice Presidents, or U.S. Secretaries of State to act on behalf of hostage victims.
- Advanced notice of proposed recovery options. Families would like to have the unrestricted right to veto any proposed action with which they disagree.
- For high ranking U.S. government officials to make public statements demanding the release and return of their loved one.
- For the government to fill positions at the Hostage Response Group and State Department with individuals who have greater authority and influence.
- For the Hostage Recovery Fusion Cell to utilize more terrorism experts i.e. FBI's Washington Field Office. Families recommended that the Washington Field Office be utilized more and help equip other field offices with the important background information regarding the terrorist organization and hostage case.
- Assurances from the Department of Justice that the U.S. government has no intention of charging family if they go about raising funds to pay ransom.
- Better definition of what constitutes negotiations with a terrorist organization.
- Clarity and assurance from the Department of Justice that families can negotiate with hostage captors i.e. terrorist organizations.
- For the Department of Justice to grant U.S. hostage negotiators immunity.
- The ability to reduce one's digital footprint online, i.e. personal information, price or pictures of homes. Captors misuse information as leverage.

### INFORMATION SHARING AND GOVERNMENT TRANSPARENCY

- Increased access to hostage related information for hostage families: The default should be full, and complete, and timely access to all information and activities known or undertaken by the U.S. government in regard to a hostage case-regardless of security classification, sources and methods excluded as appropriate.
- A list of government services by agency. Families currently receive information from the Hostage Recovery Fusion Cell in the Family Resource Guide. However, families have requested a similar guide from the State Department.
- Provision of a more structured timeframe of when the Hostage Recovery Fusion Cell will be reaching out.
- Families want to be informed more frequently and have requested regular briefings and debriefings.
- For U.S. government officials to ask families upfront with the frequency in how often they would like to be contacted.
- Families would like the Hostage Recovery Fusion Cell to inform families about the importance of having an organizational system and provide assistance in how to keep and store information.
- Family members expressed concerns about being excluded during their loved one's reintegration process. Family members reported that the Hostage Recovery Fusion Cell will no longer work with them, even with the former hostage's permission.
- Creation of a mechanism to identify and acknowledge unlawful or wrongful detentions of U.S. nationals.
- Creation of an ombudsman group to assist relevant NGOs to identify resources for unlawful or wrongfully detained U.S. nationals.
- Families have requested to be part of vetting the incoming Special Presidential Envoy for Hostage Affairs.

### ACCOUNTABILITY FOR HOSTAGE-TAKERS

- Location and recovery of loved ones' remains.
- Bringing of kidnappers to justice.
- To be included in the sentencing considerations if/when captors are brought to justice.
- For the U.S. government to hold foreign governments responsible for the hostage-taking and/or detention of their loved one.

## PHYSICAL AND MENTAL HEALTH

- A reintegration process for loved one being held.
- Information on how to prepare family, specifically younger children, when loved one returns.
- Multiple resources for mental health assistance (outside of the U.S. government or NGOs). Families prefer private practices.
- Mental health/counseling sessions that pair males with males and females with females.

## FINANCIAL GUIDANCE

- A proactive capability to assist families in the protection of their loved one's identity and assets should be developed and implemented, to the degree desired by the individual family.
- Assistance in being able to protect hostages' financial and physical assets if not previously named power of attorney.
- The ability to expunge financial records during the time of captivity.

## REFERRALS TO NON-GOVERNMENTAL RESOURCES

- Families would like to see an advisory team consisting of NGOs, academics, former ambassadors, individuals with high level foreign and domestic contacts, and an individual to act as a liaison.
- Assistance in developing foreign contacts.
- Advice on reputable security firms.
- Assistance in hiring a security team, families lack the expertise and need assistance in vetting each member.
- Some hostage families would like the opportunity to share their contact information with other hostage families, notwithstanding confidentiality considerations.

## GENERAL

- For American hostages and unlawfully detained American citizens to become a national priority.
- Assistance maintaining contacts and organizing materials.
- Support for families in managing day-to-day affairs, having a family coordinator to help family with everyday mundane things.