



U.S. Hostage Policy: Recent Developments

On June 24, 2015, President Barack Obama issued Executive Order (EO) 13698, *Hostage Recovery Activities*, and Presidential Policy Directive (PPD) 30, *U.S. Nationals Taken Hostage Abroad and Personnel Recovery Efforts*. The President also announced the release of an interagency *Report on U.S. Hostage Policy*, which reviewed U.S. responses to overseas hostage-takings and identified two dozen key findings and recommendations. Some security observers see these documents as reflecting a shift in the nation’s hostage policy.

Background

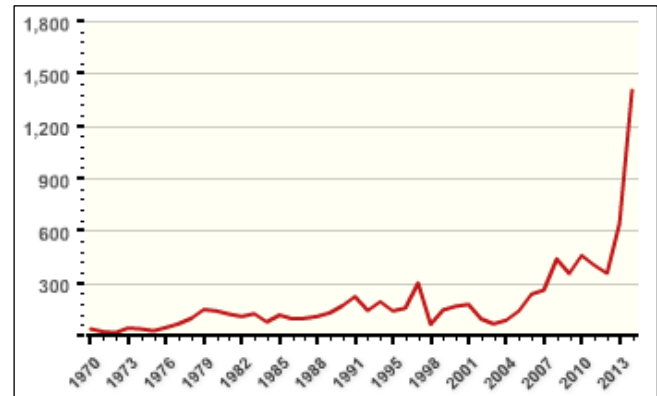
EO 13698, PPD 30, and the *Hostage Policy Report* were the culmination of a review ordered by President Obama, following the video-captured beheadings of U.S. journalists James Foley and Steven Sotloff by the Islamic State in late August and early September 2014. Subsequent high-profile incidents further revealed challenges in current hostage policy, including the deaths of U.S. humanitarian aid workers Peter Kassig and Kayla Mueller, who were killed while detained by the Islamic State; U.S. photojournalist Luke Somers, who was killed during a mission to rescue him from Al Qaeda in the Arabian Peninsula (AQAP); and U.S. development contractor Warren Weinstein, who was unintentionally killed in a drone strike in Pakistan. See **Figure 1** for longer-term trends related to hostage taken incidents, worldwide.

The U.S. hostage policy review team concluded that shifting dynamics associated with recent overseas hostage-takings necessitated a reconsideration. “Simply put, our approach has not kept up with this changed environment,” the June *Hostage Policy Report* stated. In addition, former U.S. hostages and families of recent hostages had criticized aspects of the U.S. government’s response and outreach. Media reports revealed that the Director of Counterterrorism at the National Security Council had warned families that they risked criminal prosecution if they paid ransoms to terrorists. The June *Hostage Policy Report* confirmed that official communications with families of hostages and other external stakeholders were “often ad hoc” and “suffered from a lack of coordinated, consistent, and accurate information sharing.”

Although there is no public list of U.S. citizens currently held hostage overseas, Homeland Security Advisor Lisa Monaco stated in June that more than 30 kidnapped Americans are still detained abroad. The State Department’s *Country Reports on Terrorism 2014* listed 12 private U.S. citizens kidnapped overseas in 2013 by terrorists. The report also described 11 foreign terrorist organizations that are partially funded by kidnapping ransoms: Abu Sayyaf Group, Boko Haram, Haqqani Network, Islamic State, Al-Mulathamun Battalion, National Liberation Army, Al-Nusrah Front, AQAP, Al Qaeda in the

Islamic Maghreb, Revolutionary Armed Forces of Colombia, and Tehrik-e Taliban Pakistan.

Figure 1. Hostage Taken Incidents, Worldwide



Source: University of Maryland, National Consortium for the Study of Terrorism and Responses to Terrorism, Global Terrorism Database, last updated June 2015.

Policy Changes

With the issuance of EO 13698, President Obama directed the establishment of a Hostage Recovery Fusion Cell (HRFC), an interagency entity to coordinate operational-level hostage recovery efforts; a Hostage Response Group (HRG) to support National Security Council strategy development and policy implementation; and a Special Presidential Envoy for Hostage Affairs within the State Department to lead diplomatic engagement on hostage policy and recovery efforts. EO 13698 also establishes a Family Engagement Coordinator within the HRFC to facilitate all interactions with hostages’ families.

PPD 30 and its classified annex reorganize the U.S. government to respond to overseas hostage-takings in a more coordinated manner through the HRG, HRFC, and through a new Intelligence Community Issue Manager for Hostage Affairs in Office of the Director of National Intelligence. It emphasizes improved family engagement through “proactive” information sharing. Concurrent with PPD 30’s release, the Justice Department confirmed that it has never prosecuted a hostage’s family or friends for paying ransoms. PPD 30 also commits to improved support to the families of hostages and to returned hostages.

The Directive also asserts the U.S. government’s ability to “leverage all instruments of national power,” including unilateral action to protect U.S. nationals and U.S. interests under “extraordinary circumstances.” Deterrence efforts include “aggressive” interdiction, investigation, and prosecution of hostage-takers, as well as sanctions designations. To improve hostage prevention and recovery efforts, PPD 30 emphasizes enhanced cooperation with foreign governments, international organizations, and the

private sector—including “training, equipment, advice, and intelligence support to foreign governments.”

The new guidance on hostage policy applies to suspected and confirmed hostage-takings of U.S. nationals, lawful permanent residents with significant U.S. ties, and other overseas hostage-takings involving U.S. national interests.

The Obama Administration defines hostage taking as “the unlawful abduction or holding of a person or persons against their will in order to compel a third person or governmental organization to do or abstain from doing any act as a condition for the release of the person detained.”

“No Concessions” Policy Debate

PPD 30 upholds the U.S. government’s “policy to deny hostage-takers the benefits of ransom, prisoner releases, policy changes, or other acts of concession”—and commits the United States to encouraging foreign governments to adopt and implement corresponding policies. The no-concessions policy, however, does not preclude direct or indirect communications with hostage-takers.

Some have questioned both the commitment and scope of the U.S. government’s longstanding no-concessions policy, a view that was first publicly espoused during the Nixon Administration. Although PPD 30 clarifies that the detention of U.S. citizens by foreign governments or by non-state forces in the context of armed conflict is distinct from terrorist kidnapping and hostage situations, the timing of U.S. Army Sgt. Bowe Bergdahl’s May 2014 release, in exchange for five Taliban held at Guantanamo Bay, was perceived to contribute to confusion over the U.S. government’s no-concessions policy. Historically, debates over U.S. commitments to its no concessions policy date back to the Iran Hostage Crisis during the Carter Administration and the Iran-Contra Affair during the Reagan Administration. Such debates often entail whether the United States, or an intermediary on its behalf, should pursue communications or attempt negotiations with hostage takers for fear of setting a precedent that adversaries will increasingly kidnap U.S. citizens to exact policy concessions.

A former chief of the Federal Bureau of Investigation’s Crisis Negotiation Unit reportedly claimed that the no-concession policy had been flexibly interpreted in the past. Prior to the new guidance on hostage policy, some critics had suggested that ransom payments could be offered in special cases, including the use of such funds to lure and ultimately catch perpetrators. The details of U.S. hostage policy before PPD 30, however, were laid out in a classified presidential directive issued under the George W. Bush Administration in 2002 (NSPD-12).

Some continue to question how the no-concessions policy applies in cases where hostage takers benefit politically and gain public prestige and recruitment boosts from communications and negotiations with government representatives or third-party interventionists. Public details also remain vague surrounding the August 2014 release of

U.S. journalist Peter Theo Curtis, who had been held by Al Nusra Front—and some suggest that the spirit of the no-concessions policy could have been violated. A July *New Yorker* article described the personal involvement of the head of Qatar’s intelligence services in securing his release.

Despite international endorsements of no concessions to hostage takers, some also question whether the deterrent value of the policy is hampered by a lack of consistent application. In July 2014, for example, the *New York Times* reported that multiple foreign governments have been securing hostage releases through ransom payments to Al Qaeda and its affiliates—resulting in windfalls of at least \$125 million between 2008 and 2014.

Issues for Congress

Policy Implementation. Pursuant to EO 13698, there are two required status updates on hostage policy implementation: within six months, the HRG must report to the Homeland Security Council (HSC) on the status of its efforts to establish the HRFC and implement hostage-related policy guidance; and within one year, the Director of the National Counterterrorism Center must report to the HSC on the executive order’s implementation. Neither EO 13698 nor PPD 30 contain requirements to report to Congress on policy implementation and effectiveness.

Legislative Activity. The 114th Congress has taken several actions to address the issue of recovering U.S. hostages overseas and preventing the use of kidnappings as a terrorist group tactic. Several introduced bills seek to improve interagency coordination on hostage recovery efforts, similar to EO 13698 and PPD 30 (see S. 1635, S. 1652, H.R. 1498, H.R. 2201, and H.R. 2877). Other bills authorize the State Department to issue rewards—up to \$5 million—for information leading to the arrest or conviction of terrorists involved in the kidnapping of U.S. citizens (see S. 555 and H.R. 751). Several committees have also held hearings related to terrorist groups, hostage-taking, kidnapping for profit, and U.S. hostage policy. The Obama Administration has not requested additional funding to implement EO 13698 and PPD 30.

Congressional Interaction. The *Hostage Policy Report* identifies Members of Congress as among several possible “third-party intermediaries” (TPIs) who may participate in hostage recovery efforts and recommends that engagement with TPIs as well as responses to congressional inquiries be more closely and consistently coordinated. It further recommends that all interactions with Congress on hostage cases be coordinated by an HRFC congressional affairs section. Some may question how centralized management for congressional interactions may help or hinder the timeliness and accuracy of information shared with relevant Members, committees, and staffers.

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