

§ 1741. Assistance for United States nationals unlawfully or wrongfully detained abroad

(a) Review

The Secretary of State shall review, as expeditiously as possible, the cases of United States nationals detained abroad to determine if there is credible information that they are being detained unlawfully or wrongfully, based on criteria which may include whether—

- (1) United States officials receive or possess credible information indicating innocence of the detained individual;
- (2) the individual is being detained solely or substantially because he or she is a United States national;
- (3) the individual is being detained solely or substantially to influence United States Government policy or to secure economic or political concessions from the United States Government;
- (4) the detention appears to be because the individual sought to obtain, exercise, defend, or promote freedom of the press, freedom of religion, or the right to peacefully assemble;
- (5) the individual is being detained in violation of the laws of the detaining country;
- (6) independent nongovernmental organizations or journalists have raised legitimate questions about the innocence of the detained individual;
- (7) the United States mission in the country where the individual is being detained has received credible reports that the detention is a pretext for an illegitimate purpose;
- (8) the individual is detained in a country where the Department of State has determined in its annual human rights reports that the judicial system is not independent or impartial, is susceptible to corruption, or is incapable of rendering just verdicts;
- (9) the individual is being detained in inhumane conditions;
- (10) due process of law has been sufficiently impaired so as to render the detention arbitrary; and
- (11) United States diplomatic engagement is likely necessary to secure the release of the detained individual.

(b) Referrals to Special Envoy; notification to Congress

(1) In general

Upon a determination by the Secretary of State, based on the totality of the circumstances, that there is credible information that the detention of a United States national abroad is unlawful or wrongful, and regardless of whether the detention is by a foreign government or a nongovernmental actor, the Secretary shall—

- (A) expeditiously transfer responsibility for such case from the Bureau of Consular Affairs of the Department of State to the Special Presidential Envoy for Hostage Affairs; and
- (B) not later than 14 days after such determination, notify the Committee on Foreign Relations of the Senate, the Select Committee on Intelligence of the Senate, the Committee on Foreign Affairs of the House

of Representatives, and the Permanent Select Committee on Intelligence of the House of Representatives of such determination and provide such committees with a summary of the facts that led to such determination.

(2) Form

The notification described in paragraph (1)(B) may be classified, if necessary.

(c) Report

(1) Annual report

(A) In general

The Secretary of State shall submit to the appropriate congressional committees an annual report with respect to United States nationals for whom the Secretary determines there is credible information of unlawful or wrongful detention abroad.

(B) Form

The report required under this paragraph shall be submitted in unclassified form, but may include a classified annex if necessary.

(2) Composition

The report required under paragraph (1) shall include current estimates of the number of individuals so detained, as well as relevant information about particular cases, such as—

- (A) the name of the individual, unless the provision of such information is inconsistent with section 552a of title 5 (commonly known as the “Privacy Act of 1974”);
- (B) basic facts about the case;
- (C) a summary of the information that such individual may be detained unlawfully or wrongfully;
- (D) a description of specific efforts, legal and diplomatic, taken on behalf of the individual since the last reporting period, including a description of accomplishments and setbacks; and
- (E) a description of intended next steps.

(d) Resource guidance

(1) Establishment

Not later than 180 days after December 27, 2020, and after consulting with relevant organizations that advocate on behalf of United States nationals detained abroad and the Family Engagement Coordinator established pursuant to section 1741b(c)(2) of this title, the Secretary of State shall provide resource guidance in writing for government officials and families of unjustly or wrongfully detained individuals.

(2) Content

The resource guidance required under paragraph (1) should include—

- (A) information to help families understand United States policy concerning the release of United States nationals unlawfully or wrongfully held abroad;
- (B) contact information for officials in the Department of State or other government agencies suited to answer family questions;
- (C) relevant information about options available to help families obtain the release of unjustly or wrongfully detained individ-

uals, such as guidance on how families may engage with United States diplomatic and consular channels to ensure prompt and regular access for the detained individual to legal counsel, family members, humane treatment, and other services;

(D) guidance on submitting public or private letters from members of Congress or other individuals who may be influential in securing the release of an individual; and

(E) appropriate points of contacts, such as legal resources and counseling services, who have a record of assisting victims' families.

(Pub. L. 116-260, div. FF, title III, §302, Dec. 27, 2020, 134 Stat. 3091; Pub. L. 117-263, div. I, title XCI, §9102, Dec. 23, 2022, 136 Stat. 3858.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a). Pub. L. 117-263, §9102(1), inserted “, as expeditiously as possible,” after “review” in introductory provisions.

Subsec. (b). Pub. L. 117-263, §9102(2), amended subsec. (b) generally. Prior to amendment, text read as follows: “Upon a determination by the Secretary of State, based on the totality of the circumstances, that there is credible information that the detention of a United States national abroad is unlawful or wrongful, and regardless of whether the detention is by a foreign government or a nongovernmental actor, the Secretary shall transfer responsibility for such case from the Bureau of Consular Affairs of the Department of State to the Special Envoy for Hostage Affairs created pursuant to section 1741a of this title.”

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 116-260, div. FF, title III, §301, Dec. 27, 2020, 134 Stat. 3091, provided that: “This subtitle [subtitle A (§§301-308) of title III of div. FF of Pub. L. 116-260, enacting this subchapter] may be cited as the ‘Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act.’”

§ 1741a. Special Envoy for Hostage Affairs

(a) Establishment

There shall be a Special Presidential Envoy for Hostage Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall report to the Secretary of State.

(b) Rank

The Special Envoy shall have the rank and status of ambassador.

(c) Responsibilities

The Special Presidential Envoy for Hostage Affairs shall—

(1) lead diplomatic engagement on United States hostage policy;

(2) coordinate all diplomatic engagements and strategy in support of hostage recovery efforts, in coordination with the Hostage Recovery Fusion Cell and consistent with policy guidance communicated through the Hostage Response Group;

(3) in coordination with the Hostage Recovery Fusion Cell as appropriate, coordinate diplomatic engagements regarding cases in which a foreign government has detained a United

States national and the United States Government regards such detention as unlawful or wrongful;

(4) provide senior representation from the Special Envoy's office to the Hostage Recovery Fusion Cell established under section 1741b of this title and the Hostage Response Group established under section 1741c of this title; and

(5) ensure that families of United States nationals unlawfully or wrongly detained abroad receive updated information about developments in cases and government policy.

(d) Family Engagement Coordinator

There shall be, in the Office of the Special Presidential Envoy for Hostage Affairs, a Family Engagement Coordinator, who shall ensure—

(1) for a United States national unlawfully or wrongfully detained abroad, that—

(A) any interaction by executive branch officials with any family member of such United States national occurs in a coordinated fashion;

(B) such family member receives consistent and accurate information from the United States Government; and

(C) appropriate coordination with the Family Engagement Coordinator described in section 1741b(c)(2) of this title; and

(2) for a United States national held hostage abroad, that any engagement with a family member is coordinated with, consistent with, and not duplicative of the efforts of the Family Engagement Coordinator described in section 1741b(c)(2) of this title.

(Pub. L. 116-260, div. FF, title III, §303, Dec. 27, 2020, 134 Stat. 3093; Pub. L. 117-263, div. I, title XCI, §9103, Dec. 23, 2022, 136 Stat. 3858.)

Editorial Notes

AMENDMENTS

2022—Subsec. (d). Pub. L. 117-263 added subsec. (d).

§ 1741b. Hostage Recovery Fusion Cell

(a) Establishment

The President shall establish an interagency Hostage Recovery Fusion Cell.

(b) Participation

The President shall direct the heads of each of the following executive departments, agencies, and offices to make available personnel to participate in the Hostage Recovery Fusion Cell:

(1) The Department of State.

(2) The Department of the Treasury.

(3) The Department of Defense.

(4) The Department of Justice.

(5) The Office of the Director of National Intelligence.

(6) The Federal Bureau of Investigation.

(7) The Central Intelligence Agency.

(8) Other agencies as the President, from time to time, may designate.

(c) Personnel

The Hostage Recovery Fusion Cell shall include—

(1) a Director, who shall be a full-time senior officer or employee of the United States Government;