

ments), is appropriately shared within the United States Government to facilitate a coordinated response to a hostage-taking;

(iii) assess and track all hostage-takings of U.S. nationals abroad and provide regular reports to the President through the National Security Council on the status of such cases and any measures being taken toward the hostages' safe recovery;

(iv) provide a forum for intelligence sharing and, with the support of the Director of National Intelligence, coordinate the declassification of relevant information;

(v) coordinate efforts by participating agencies to provide appropriate support and assistance to hostages and their families in a coordinated and consistent manner and to provide families with timely information regarding significant events in their cases;

(vi) make recommendations to agencies in order to reduce the likelihood of U.S. nationals being taken hostage abroad and enhance United States Government preparation to maximize the probability of a favorable outcome following a hostage-taking; and

(vii) coordinate with agencies regarding congressional, media, and other public inquiries pertaining to hostage events.

SEC. 3. *Establishment of the Hostage Response Group.* (a) There shall be a Hostage Response Group (HRG) chaired by the Special Assistant to the President and Senior Director for Counterterrorism, to be convened on a regular basis and as needed at the request of the National Security Council to further the safe recovery of U.S. nationals held abroad. The HRG may also be tasked with coordinating the United States Government response to other hostage-takings occurring abroad in which the United States has a national interest, as specifically referred to the HRFC by the Deputies Committee.

(b) The regular members of the HRG shall include the Director of the HRFC, the HRFC's Family Engagement Coordinator, and senior representatives from the Department of State, Department of the Treasury, Department of Defense, Department of Justice, FBI, Office of the Director of National Intelligence, and other agencies as the President, from time to time, may designate.

(c) The HRG, in support of the Deputies Committee chaired by the Assistant to the President for Homeland Security and Counterterrorism, and consistent with the process outlined in Presidential Policy Directive 1 or any successor, shall:

(i) identify and recommend hostage recovery options and strategies to the President through the National Security Council, as consistent with Presidential Policy Directive 30 of June 24, 2015 (U.S. Nationals Taken Hostage Abroad and Personnel Recovery Efforts);

(ii) coordinate the development and implementation of U.S. hostage recovery policies, strategies, and procedures, consistent with the policies set forth in Presidential Policy Directive 30;

(iii) receive regular updates from the HRFC on the status of U.S. nationals being held hostage abroad and measures being taken to effect the hostages' safe recovery;

(iv) coordinate the provision of policy guidance to the HRFC, including reviewing recovery options proposed by the HRFC and working to resolve disputes within the HRFC; and

(v) where higher-level guidance is required, make recommendations to the Deputies Committee.

SEC. 4. *Establishment of the Special Presidential Envoy for Hostage Affairs.* (a) There shall be a Special Presidential Envoy for Hostage Affairs (Special Envoy), appointed by the President, who shall report to the Secretary of State.

(b) The Special Envoy shall:

(i) lead diplomatic engagement on U.S. hostage policy;

(ii) coordinate all diplomatic engagements in support of hostage recovery efforts, in coordination with the HRFC and consistent with policy guidance communicated through the HRG;

(iii) coordinate with the HRFC proposals for diplomatic engagements and strategy in support of hostage recovery efforts;

(iv) provide senior representation from the Special Envoy's office to the HRFC and in the HRG; and

(v) in coordination with the HRFC as appropriate, coordinate diplomatic engagements regarding cases in which a foreign government confirms that it has detained a U.S. national but the United States Government regards such detention as unlawful or wrongful.

SEC. 5. *Reporting.* (a) Within 180 days of the date of this order, the HRG shall provide a status report to the Assistant to the President for Homeland Security and Counterterrorism on the establishment of the HRFC and its implementation of policy guidance communicated through the HRG.

(b) Within 1 year of the date of this order, the Director of the National Counterterrorism Center, in consultation with the Secretary of State, Secretary of Defense, Attorney General, and Director of the FBI, shall provide a status report to the Assistant to the President for Homeland Security and Counterterrorism on the implementation of this order. That report shall be informed by consultation with stakeholders outside of the United States Government, including former hostages and hostages' families, and shall, to the extent possible, be made available to the public.

SEC. 6. *Definition.* For purposes of this order, the term "U.S. national" means: (a) a U.S. national as defined in either 8 U.S.C. 1101(a)(22) or 8 U.S.C. 1408; or (b) a lawful permanent resident alien with significant ties to the United States.

SEC. 7. *General Provisions.* (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law, regulation, Executive Order, or Presidential Directive to any executive department, agency, or head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

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

(a) Review

The Secretary of State shall review 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 the Special Envoy

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.

(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 individuals, 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.)

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 ef-