

Foreign Affairs, Defence and Trade References Committee Inquiry – Effectiveness of the Australian Government’s response to Australian citizens who are kidnapped and held for ransom overseas

Private Submission

This submission, addressing Terms of Reference (a) and (c), arises from the case of Douglas Wood, an Australian citizen working as a contractor in Iraq who was kidnapped in April 2005 and held by terrorist gangs until his rescue nearly seven weeks later in June.

I am making this submission with the general concurrence of my brothers Graeme, Douglas and Vernon Wood and my wife Ruth Wood.

Summary of case

A terrorist gang kidnapped Douglas and forced him, under gunpoint, to appeal to the allied Governments to withdraw their troops from Iraq. The Australian Government despatched a task force, under DFAT Deputy Secretary Nick Warner, to Baghdad on the very day that Douglas’s video appeal was broadcast. Head-shaven and bruised, Douglas was forced to make a second video appeal five days later; his execution within three more days was threatened. On behalf of Douglas’s family – wife in California and daughter in Washington State (USA) and brothers in Surrey (UK), Melbourne and Canberra – Vernon and I, and I alone, made several video appeals to the unknown kidnappers, broadcast on television channels in the Middle East, for Douglas’s release. In one appeal we offered to make a donation to a charity working in Iraq. Taj Eldin Al-Hilali, Mufti of Australia, travelled to Baghdad to act as a possible intermediary. Acting cooperatively, the family and DFAT established a website and, in other ways, conducted public diplomacy in Iraq. The task force in Baghdad explored all options, including police, military and intelligence, although DFAT shared only consular and some diplomatic information with the family. DFAT rang family members almost daily throughout the crisis, with information and to consult on next steps. The initial gang, presumably concluding that its political demands would not be met, traded Douglas to a mercenary gang. A ransom demand was received after five weeks, via Warner. Its provenance and the *bona fides* of the intermediaries were both uncertain. The amount was preposterous. The Government and the family both rejected the demand, out of hand, giving it no publicity. There appeared to be a stalemate until, acting on their own intelligence operations, a contingent of Iraqi troops discovered Douglas in captivity in Baghdad and apprehended his captors. Two Iraqi associates kidnapped with him had been murdered earlier. Douglas later gave evidence via video link at AFP HQ in Canberra to a court in Baghdad, leading to the execution of some gang members.

Terms of Reference (a): Effectiveness of Australian Government agencies’ response

Government’s commitment: Government agencies’ contingency planning for such a crisis as occurred, and speedy despatch of a senior-level and sizable task force to Baghdad, were impressive. The agencies’ commitment reflected the Government’s, which was very high. Standard consular and humanitarian reasons aside, Australia’s military engagement in Iraq – which was contentious – was surely relevant. An execution of an Australian citizen by political terrorists in Iraq would have weighed with ministers personally and politically. An interdepartmental committee chaired by a DFAT Deputy Secretary, which reported to the Foreign Minister and Prime Minister, met daily. The Foreign Minister and Prime Minister made personal contact with me. The Opposition took a bilateral approach to the case, making no criticism of the Government’s handling. The public profile which Vernon and I, and also Sheik Al-Hilali and representatives of Australia’s Muslim community, adopted helped keep the case prominent in the Australian media during the first week

of the crisis and at its end. I make this comment because the political and other circumstances of each case of kidnapping differ. The circumstances of the Nigel Brennan case differed greatly.

Agencies' consultation: DFAT's level and frequency of consultation with the family was very high. Vernon and I had several meetings with DFAT (to Deputy Secretary or First Assistant Secretary level). The Assistant Secretary, Consular, with the senior staff counsellor and a senior officer of the AFP (Counter-Terrorism Unit), initiated separate phone conversations with Douglas's wife, daughter and me on all weekdays and most weekends throughout the crisis. I had other regular contact, by email or phone, if not face-to-face, with the Assistant Secretary, Consular (or his First Assistant Secretary), a staff journalist working on public diplomacy and the senior staff counsellor. Other family members also had easy contact.

Agencies' actions: Nick Warner initiated many meetings in Baghdad, including with Sheik Al-Hilali (to whom DFAT provided excellent support). DFAT debriefed the family regularly on Warner's meetings with Al-Hilali and other possible intermediaries and on its consular activities. We had no knowledge of military and intelligence activities. The AFP discussed with us initial findings in Baghdad, but not subsequent activities. Among ideas for public diplomacy which DFAT discussed with us were a family website and advertisements and flyers in Iraq – which were all implemented. Having (from us) grounds for concern about Douglas's health, DFAT assembled several contingency medical kits in Baghdad. We evinced anxiety about any rescue attempt, knowing the high risk of mischance, but DFAT's response was: 'All options are on the table'. Although some people urged us to engage private security operators, we decided against, given Australia's presence in Iraq, the Australian Government's high commitment to the case and the cost and risks. In summary, we placed a high level of trust in Australian Government agencies. We never had occasion to criticise DFAT or any other agency publicly, and did not: indeed, in our press conference at Parliament House after Douglas's rescue, Vernon and I commended the Government and its agencies highly.

Family initiatives: The family took its own initiatives, which were generally public – video appeals, forging a relationship with Sheik Al-Hilali and the Muslim community in Australia, and offering a charitable donation. We engaged a media adviser and forged a mutually beneficial relationship with the media. We had input into the design and content of DFAT's public diplomacy: Douglas's daughter, in particular, used the website creatively. We fed back to DFAT that the Foreign Minister's early, belligerent denunciations of the 'terrorists', while deserved and understandable politically, could be counter-productive to efforts to forge some kind of dialogue with the captors. (His remarks became more nuanced later.) To avoid 'crossed wires', we consulted DFAT before implementing any idea. DFAT was generally encouraging, even if sceptical about the utility of some ideas. It was also inclined to distrust or scorn the Australian media. Ultimately, any initiative that might 'buy time' merited consideration, and DFAT applied a 'No harm to Douglas' test.

The money question

Family's strategy: With respect to the kidnappers' initial political demands, for several reasons the family did not think it proper to lobby the Government, privately or publicly, to withdraw its troops from Iraq. We also publicly stated our conviction that the Government would not respond to threats. Threatened murder of a loved family member is emotionally taxing and poses vexatious questions of political and personal ethics. What leverage might we apply, other than appeals to the captors' conscience and sensibility based, essentially, on family sentiment and humanitarianism, which were unlikely to be successful? Wanting to be prepared, we considered what we would do if we received a ransom demand. We decided to act pre-emptively, to make the captors ponder and to 'buy time'. We would go no further than offer a charitable donation to the people of Iraq, conditional on Douglas's release, in a context of empathy for the dreadful plight in which the Iraqi people found themselves. Necessarily, our offer was public. But we agonised privately about 'how much is a life

worth' – our family member's in this case. This question related to our collective means; we decided, privately, on an upper limit.

Possible help from others: We considered accepting financial support offered by philanthropic others or launching a public appeal to augment the size of a charitable donation, but decided against. People may not have distinguished a charitable donation from a ransom, considered that only a ransom could save Douglas or assumed that our offer was code for preparedness to pay a ransom anyway. These possible misunderstandings apart, there was risk of confusion between our money, money of people offering to fund a ransom and money of others offering to augment a charitable donation only. Moreover, indications of support given now would not necessarily translate to money committed later. Keeping good faith with contributors if circumstances changed – for example, Douglas were murdered or rescued – could prove difficult. There were also issues of mechanics and manageability. We would not criticise any family that, in different circumstances, decided differently.

Possible intermediaries: The family received no clear and direct response to our offer at any stage. The lack of opportunity to engage with the captors was frustrating. Despite this, we prepared for the contingency that Sheik Al-Hilali, or certain Iraqis with whom Nick Warner had discussions in Baghdad, might act on our behalf to negotiate a possible donor beneficiary and an acceptable amount of donation. We prepared written authorities. These were themselves highly fraught: How do you allow an intermediary negotiating leeway and keep control (including of your budget)? How do you insert qualifications and safeguards without making a document too complex (or dangerously misleading after translation)?

Preparation for negotiations: AFP officers installed recording equipment in my home to record all phone conversations, should I receive a call from an intermediary. They later installed similar equipment in Vernon's home. The equipment seemed antiquated. Officers provided briefing of a standard nature on what to note and say in the event of a call. Higher-level officers, of the Counter-Terrorism Unit, briefed me on negotiation strategies. Apart from the proof-of-life question, the strategies seemed basic. Our impression was that the officers' expertise in negotiation strategies was limited.

Diplomatic ambiguity: DFAT encouraged diplomatic ambiguity, to keep the captors guessing, and would have preferred that the family not clearly distinguish a charitable donation from a ransom. Their opinion – carefully phrased, orally – was clear, that only a ransom was likely to secure Douglas's release. At the same time they stated, categorically, the Government's policy not to pay a ransom (which we both believed and, as citizens, concurred with). Although they would not be party to any ransom being paid, they said what we might do was our business. They advised us about negotiation strategies in general terms only. They were careful that any written authority from us (to Sheik Al-Hilali or others), that they transmitted to Nick Warner on our behalf, could not implicate them or the Government in any 'money business'.

Transmitting money: Once the family had gathered its money together to make a charitable donation, Vernon, stating his purpose in connection with the well-publicised case, asked his bank how to transmit money to Baghdad. Nobody had forewarned us about the counter-terrorism provisions of Australia's Criminal Code which imperil anybody involved in transmitting money (or trying to) which could conceivably be converted to terrorist ends: a 'reckless' act attracts a mandatory sentence of life imprisonment. Relying on the Criminal Code, the bank's heavy-handed response to Vernon caused him trauma and potential financial embarrassment: it reported his approach and placed a monitor on his accounts. Consultations of solicitors (for both the bank and Vernon, which the bank funded) and of government lawyers followed. Belatedly and quietly, DFAT then informed us that certain international corporations, having risk assessment, security and financial transactions functions, might be able to transmit money in circumstances such as ours.

Vernon's bank had not confirmed its acceptance of any of these corporations as 'stakeholder' by the time Douglas was unexpectedly rescued. That relationships between both DFAT and Vernon's bank with these corporations, and between the corporations and us, lacked transparency – and, indeed, were meant to be secret – was disconcerting. The circumstances having changed, we later made a donation to a charity working in Iraq, without difficulty.

Terms of Reference (c): Recommendations

1. The AFP should develop greater depth of expertise in negotiation strategies in hostage situations. (This may have been done since 2005.)
2. DFAT, the AFP or government lawyers should advise a family in circumstances such as ours of relevant provisions of Australia's Criminal Code lest the family unwittingly be in breach, and should guide the family, proactively, through 'the minefield'.
3. Australia's Criminal Code should not imperil citizens initiating action with their bank, reasonably, openly and in good faith, to withdraw or transmit their own money in circumstances such as ours. Perhaps a clause is needed to allow a government minister or delegate to authorise a bank in special cases to do what the Code would ordinarily prohibit. Whether the provisions need be so draconian should also be reviewed.

In making these specific recommendations I reiterate that the experience of the Wood family – including Douglas immediately after his rescue – with the Australian Government and its agencies in the case of Douglas's kidnapping in Iraq in 2005 was overwhelmingly positive.

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