

Personal Submission to the Senate Inquiry into the Effectiveness of the Australian Government's response to Australian citizens who are kidnapped and held for ransom overseas

Terms of Reference:

- (a) the effectiveness of the Australian Government's response to Australian citizens who are kidnapped and held for ransom overseas, including but not limited to the response of the Australian Federal Police, the Department of Foreign Affairs and Trade and the consular assistance in the relevant country;
- (b) how the Australian Government's response in these situations compares to the approach taken by other countries
- (c) measures that could be taken by the Australian Government to improve the handling of its assistance to Australian citizens and their families; and
- (d) any other related matter.

Introduction:

I make this submission both personally as an Australian who travels overseas often and also as a former DFAT diplomatic and consular officer (1987-2001), now retired, but in 1994 was personally and officially involved in several consular cases involving the criminal kidnapping of several Australians in Cambodia, with travelling companions from other European countries, some of who were released alive but six of whom were not, being tragically killed while being held hostage for ransom.

Specifically, my firsthand experience relevant to this Inquiry is primarily of the two tragic 1994 Cambodian cases: in April, Kellie-Anne Wilkinson and her two British companions near Kompong Som abducted from their taxi on the highway, and, 3 months later in July 1994, David Wilson and his French and British companions, abducted from their train near Kampot, both in southern Cambodia and all 6 being killed by their captors before a safe release. (Fuller details and chronologies of these previous Cambodian cases are set out in the previous 1995-97 Senate Inquiry into Consular Services *"Helping Australians Abroad"*) In order to draw relevant lessons for this 2011 Inquiry, from these two 1994 Cambodia kidnapping cases, it is necessary to compare these two tragic outcomes to an interceding successful outcome in May 1994: the negotiation and safe release of an American Melissa Himes. Critically Himes was taken by the same group that 2 months later abducted David Wilson and his companions, but then killed them 6 weeks later while still negotiating for their safe release (with the Cambodian Government) for an agreed cash ransom. Put simply, what was done differently that saw Melissa Himes safely released in May 1994, while 4 months later, David Wilson and his 2 companions were brutally murdered by the same kidnapping group on Phnum Vour?

Useful analogies also can be drawn with the negotiation-ransom-release strategy used by Mellissa Himes' NGO employers in May 1994 and the recent successful safe release of Australian Nigel Brennan and his Canadian companion in Somalia in 2010. Further analogies, as well as contrasts and contradictions, can be drawn from other kidnap-ransom cases involving Australians (and other non-citizens) where successful releases were achieved by the Australian Government or its agents direct or indirect involvement in obtaining their

subsequent safe release. Despite its stated policy, the Australian Government does negotiate and pays to obtain safe release of Australians (and non-citizens) abducted overseas. It just says publicly that it Does Not.

The Australian Government's Overseas Kidnap-Ransom policy:

Soon after joining the Australian Diplomatic Service (the overseas part of DFAT) in 1987, it was made clear to me and fellow officers that the Australian Government's official policy response to situations where Australian citizens were kidnapped and held for ransom overseas was "No Negotiation No Ransom", often repeated by various Australian Foreign Ministers since 1987 as "We don't negotiate, we don't pay ransoms, we don't do deals with criminal kidnapers, etc." In reality, however, this was not always the response. In my week long consular training as an Australian Consul for my 1994 Cambodia posting, this was reiterated as the primary official policy position for all kidnap-ransom situations. However, once there was a kidnapping overseas, there was one additional primary goal: we had to "beat the media to the family with the bad news". The only thing worse than actually having a kidnapping was for the media to get to the family first or worse still for DFAT to only learn of the kidnapping from the media or from the family calling DFAT after the media had told them, as happened in most recent kidnap-hostage cases from Nigel Brennan's abduction back to David Wilson in 1994 (this goes to the DFAT-Media poor relations issue).

The Australian Government's Overseas Kidnap-Ransom Media stance:

We were taught in DFAT that "the media are the enemy," not to be trusted nor shared information with - this despite the frequent fact that the media were far better informed than we consular officers in the field were, constrained as we were by our very restrictive operating procedures and rules. The dissonance between the well informed, up to date media information on the ground and that held by us consular staff supposedly on the same foreign ground was manifestly obvious to me in David Wilson's case. Yet we were officially proscribed from sharing and exchanging vital real time information, so the media were frequently up to date while we played 'patch-cover and catch up' with the family. Inevitably, pragmatism in needing to avoid being 'caught out' by the families and media, saw informal information exchanges develop early on to everyone's benefit (though these were always denied). Just as inter-governmental 'official diplomacy' is built on trust and various formal/informal levels of information exchange, so it must be (and was) with the media in these desperate kidnap-hostage situations. To do otherwise was downright dangerous and thus quite stupid, two elements DFAT did not need to add to the hostage-ransom mix. Moreover, such a stance was heavily criticised in the 1995-97 Senate Inquiry but the recent Brennan case shows that DFAT still maintains its utterly hopeless "media are the enemy" policy.

The Australian Government's Overseas Kidnap-Ransom Family policy:

To DFAT, Hostage families are a 'problem' to be managed not to be informed, people best removed rather than being involved.

Accordingly, the hostages' family (-ies: split/divorced parent-families provide special problems, as do non-biological or step-parents, or out of date 'Next of Kin' on passport application data) were, as one of my bosses in Phnom Penh put it in the David Wilson case to be "treated as mushrooms" and "kept in the dark" as much as possible. We were also to

convince and keep them “too frightened” to travel to Cambodia or if they did come, then keep them too scared to travel outside of the capital where we “could manage them” and try to keep them dependant on us for their information. However, invariably they went with the much more up to date friendly Australian and overseas media covering the case in country, after soon realising DFAT withheld far more than it disclosed to them and often what we told them had already been in the media so was not new nor informative.

Even a cursory view of the most recent Australian kidnapped overseas case of Nigel Brennan, clearly shows that none of this official Kidnap-Ransom-Media-Family response policies has changed since 1994. Now, some 17 years on, the Australian Government’s official response to Australian citizens who are kidnapped and held for ransom overseas remains unchanged in 2011 as a “No Negotiation No Ransom” policy. Moreover, clearly it still does NOT Work- as it did not work in Cambodia in 1994. The 1995-97 Senate Inquiry into Consular Services “*Helping Australians Abroad*” made numerous recommendations in the Media and Family areas yet almost none have been implemented by DFAT. Why?

The Alternative Kidnap-Ransom policies:

Negotiation: Nigel Brennan’s and a number of other cases in the past decade, equally clearly show that serious Negotiation and Ransom responses (even if paid and then denied) both can and do result in positive outcomes like Melissa Himes in Cambodia, the Danes in Laos, Steve Pratt in Yugoslavia, Douglas Wood and John Martinkus in Iraq as well several Australian cases in Somalia, Ethiopia and Afghanistan or even for some with mixed results (where there were deaths/casualties too) as in Yemen and Lebanon.

All of these cases (except Himes) involved the Australian Government negotiating directly, contrary to its publicly stated policy of “No Negotiation no Ransom”, and, in several cases using several million dollars of Australian taxpayer’s monies to guarantee a successful live release, albeit apparently released to a 3rd party like the ICRC or UN or host local government - further, at least 3 cases involved a non-Australian citizen’s release (as in the Brennan, Pratt and Bunce cases).

Snatch & Grab: Active intervention can be done at official Government level, either by the local authorities or by using our own SAS-type resources or a combination of as was the case in Doug Wood’s recovery in Iraq or Mdme. Bettancourt in Colombia. Active official SAS-type intervention requires superior intelligence on the ground in country as well as successful stealth insertion of exemplary military personnel. Also a critical early decision, as to whether to involve the local Government or not, based on our confidence, trust in them and their competence, eg. which we had in Wood’s case in Iraq (as we might in Afghanistan today) but which we did not have in Wilson’s case in 1994 Cambodia (despite having ADF there), though such a rescue plan got to a very advanced stage with units deployed ‘on the ground’, before Australia pulled out for lack of confidence in its Cambodian government counterparts, particularly its military.

Active intervention also can be done on a private, commercial basis by the family engaging firms which provide such specialist services, usually run retired SAS or MI officers. This is increasingly common and can be successful but carries a much higher risk to all involved rather than a direct negotiated ransom-release such as was the case for Nigel Brennan and his Canadian hostage companion. Clearly, the Australian Government’s official current No Negotiation No Ransom policy unfortunately leads hostage families to become desperate as

to consider this option as a realistic alternative to their own Government apparently doing nothing - for the families 'doing nothing' is simply NOT an option. Both the Wilson and Brennan families investigated this 3rd party option in Australia and overseas as a possible alternative - indeed they were approached by several groups, both in Australia and from overseas, offering this service for widely varying fees.

Doing Nothing: as is the current Australian Government's "No Negotiation No Ransom" policy, which while fine in theory is both impractical and immoral in a real life hostage situation. Just ask Nigel Brennan and his family.

Arguably it is also a breach of domestic Australian human rights and international consular legal obligations to our citizens overseas in desperate need of official consular assistance and care, as are their families here at home. Following the 1995-97 Senate Inquiry, DFAT adopted and published (on its SmartTraveller.gov.au website) a Charter of Consular Rights listing 'What We Can' and "What We Can't Do For You" - yet that Charter is still silent on kidnap-hostage situations 14 years later. Australians travelling overseas pay for their passports and travel/airport taxes with a clear expectation that their Australian Government will use that money to provide them a full Consular Service overseas and for their families back home - yet in reality, they would easily find that most passport revenue (over \$200m pa) is not spent on consular services at all (perhaps 10%), reflecting the very low priority these services have in DFAT in Canberra and overseas. Further, if they are unlucky enough to get kidnapped and become a hostage overseas, they and their families quickly find that their own Australian Government's "No Negotiation No Ransom" policy, in effect, to 'Do Nothing.' An official strategy that forces the hostage family to go elsewhere looking at these 3rd party alternatives - as the Brennan family did after a year of 'mis-putting' their faith in their own Government.

If the Australian Government wants to maintain its current 'Do Nothing' hostage policy, it must now after the Brennan case, at least be prepared to guide the Australian hostage families to competent 3rd party interveners, which the Brennans found and successfully used to obtain Nigel Brennan's safe release. To fail to do that now is just to maintain the 'death sentence' outcome that the Australian Government's same stance brought to David Wilson and his 2 companions in 1994 in the Cambodian jungle.

Such an intentional and deliberate official abrogation of an Australian citizens fundamental human and consular rights cannot be a valid government choice, neither morally, legally nor practically in a kidnap-hostage situation overseas (or at home). In practice and reality, negotiation-ransoms work successfully in the majority of kidnap-ransom cases overseas. 3rd party Intervention clearly produces positive results just as the Australian Government doing nothing equally clearly does not and often produces a tragic fatal result. Locked in a dark room as a hostage abroad which would you choose - Nigel Brennan makes it clear in his speaking and writing since he returned home alive: clearly the Australian Government's 'Do Nothing' hostage policy must change now before the next kidnapping occurs.

The Commercial Alternative Kidnap-Ransom response:

In reality, as demonstrated in Melissa Himes and Nigel Brennan's cases, as well as various recent cases in Iraq, Lebanon, Somalia and Afghanistan, private sector commercial 3rd party and professional kidnap-ransom-release-retrieval agents can and frequently do negotiate safe releases in exchange for ransoms. Often these services are provided under commercial

kidnap-ransom-retrieval insurance policies - such as Canada's CBC, UK's BBC and Australia's ABC hold for their overseas correspondents welfare and safety.

Anecdotally, it appears that by far the majority of modern kidnap-ransom cases are quietly, quickly and successfully solved by negotiation and ransom payment under these commercial (or Government-sovereign) insurance policies. Usually without any media knowledge or coverage, simply by virtue of the speed that an agreed (often much lower) price is reached and exchange-release takes place, eg. CBC's Melissa Chung in Afghanistan - as contrasted with Nigel Brennan's extraordinarily prolonged and drawn out kidnap case.

Certainly 3-4 months 'whoa to go' as AKE suggests is a normal kidnap-release time frame is consistent with my experience of 1994 Cambodia, when Melissa Himes' release took 6 weeks while David Wilson would have taken 4-6 weeks but for untoward unsafe Cambodian military interventions, which the Australian Government failed to stop in mid-August and which then undermined the negotiations and finally led to his avoidable murder in early September 1994. Critically, in Himes case in Cambodia 3 months earlier, the US Embassy did directly intervene and stop planned Cambodian military intervention, thus allowing her successful release by the same group 2 weeks later. Further, like the Brennans, Himes' employer NGO successfully used a 3rd party independent overseas negotiator whereas 2 months later the Australian Government chose the Cambodian government and military to conduct David Wilson's negotiation with the same abduction group.

Therein lies several clear lessons given the contrary tragic results. Independent 'of Government' 3rd party negotiation works by lowering the hostage profile and political stakes, which in turn lowers the release price and kidnap duration. Conversely, direct Government intervention/negotiation may well raise all the stakes, depending on: who are the initial abductors and who are the hostage holders for the negotiation - as hostages are often on-sold quickly to larger or more political, military groups for them to then use to increase their power and leverage in local politics.

Independent 3rd party negotiation also directly involves the hostage family thus bringing them right into the core of the daily decision-making group, whereas the current Australian Government kidnap-hostage policy stance excludes the family in a disrespectful and quite dysfunctional way.

Indeed, that policy stance also does the same to the media, which will always be involved reporting on the story since its their job to do so, not helping them will not 'kill the story' once its out. Far better for the family and media to be fully involved than entirely excluded by the Government as now.

Ignoring or shutting out the media, independent negotiators and families is not the way to go, before, now or in the future. It is not a practical, realistic nor moral path but instead is one that amounts to a total dereliction or abrogation of our Government's consular duties to us as Australian citizens abroad.

In reality, it is clear to me that the current Australian Government overseas hostage policy setting of 'No Ransom, No Negotiation' coupled with 'No Assistance' to the hostage families or media remains today as unworkable as it is dysfunctional. That is so both today, tomorrow and was most certainly so in 1994 in Cambodia, where it had fatal consequences. There, in effect, it gave a government death sentence to David Wilson and his 2 companions, even after a ransom had been agreed (17 August 1994) and the money (\$150k) was made available (per 3 different parties). Without doubt, the tragedy of David Wilson's death should never be repeated again with an Australian hostage held overseas.

Accordingly, it is clear to me that the Australian Government's current overseas kidnap-hostage policy must change significantly in the hostage and their family's favour. 'Doing Nothing' is no longer an option, if it ever were so.

What price for a kidnapped Australian's life?

Why are some kidnapped Australians worth millions of taxpayer dollars and yet others are apparently worth little or nothing under the Australian Government's "No Negotiation No Ransom" policy? Surely, if the Australian Government is to be consistent with its own policy, then every Australian kidnapped overseas is worth the same under the current kidnap-hostage policy, that is Nothing. Yet, looking back over the last decade of Australian overseas hostages/prisoners clearly this is not the reality: Iraq Wood v Martinkus; Europe Pratt v Laphorne; SE Asia Danes v Wilson; Afghanistan Bunce v Hicks? So why is this so, who decides who is worth more than nothing, how much more and who then pays whom? Do the hostage families get asked or involved in these vital but inconsistent DFAT decisions? After Nigel Brennan's 2009 release the Australian Government claimed to have spent millions \$ on its 'Brennan taskforce', and even more recently DFAT was claiming it actually had run two 'Brennan taskforces': one in Canberra and one in Nairobi - if so what were those millions spent on, for what objectives/goals, providing what services for what real gain and to whose benefit?

Certainly from their public reactions, apparently, it was clearly not for Nigel or the Brennan family's benefit. So where did these millions \$ go?

Terms of Reference

(a) the effectiveness of the Australian Government's response to Australian citizens who are kidnapped and held for ransom overseas.

Actual Response - apparently the Australian Government's practical responses to Kellie-Anne Wilkinson and 3 months later David Wilson's abductions in Cambodia were a **total failure** - since neither came home alive - then Foreign Minister Evans admitted so publicly after Wilson's November 1994 Melbourne funeral.

Fortunately these two cases can be readily distinguished:

Ms Wilkinson and her two British friends were living in Cambodia, they travelled that route weekly for over a year safely and were not rich business people usually the target of such kidnappings. They were taken opportunistically at a criminal gang roadblock as foreigners who may have money or valuables, when it transpired they had neither they were killed at dawn the next morning, probably for fear that holding onto them would bring too much risk of government military retaliation on the kidnap group. We don't know why - only the how, when and where - certainly by the time I arrived there the next morning to set up the consular post at Kompong Som, unknown to us, they were already dead and buried. Sadly, clearly they were not taken for their hostage value and they paid for their misfortune with their lives the next dawn. Simply had they been 5-10 minutes earlier they would have beaten the kidnappers' roadblock. A case of 'wrong place at the wrong time' and no fault of theirs at all. For once, the Australian Government's 'No Negotiation No Ransom' hostage policy had no impact or effect on their tragic fatal outcome. Subsequently though when we did offer and pay 'ransom' money for the return of the 3 bodies, that had easily foreseen and untoward consequences, which ensured that we never fully recovered them, even 6

months later, for an orderly return for a proper funeral and grieving processes to be completed by their families.

Mr Wilson and his 2 foreign companions, were taken for their hostage value was obvious as over 200 locals were also taken hostage on 26 July 1994 then released daily as ransoms were paid for them by their families or business partners. Apart from the casualties and deaths at the 'hit on the train', no hostages were killed until David Wilson and his 2 companions died 6 weeks later. Within days of their capture, a ransom of US\$50,000 for each of the 3 foreigners was sought by their captors - the same amount sought for Melissa Himes 2 months earlier but she was released for 10% of that after 6 weeks negotiation. By the end of the first week of captivity, both David Wilson's family and his Melbourne football club were well on the way to raising the ransom, and by the next week two more ransoms were available - one in gold from Ron Walker in Melbourne and the fourth in cash from Cambodian Government in Phnom Penh. While the Australian Government publicly reiterated the 'No Negotiation No Ransom' hostage policy and DFAT actively discouraged the payment of any of the 3 Melbourne ransoms, 'secretly' the Australian, British and French Governments immediately accepted the Cambodian ransom payment offer (US\$150,000 cash) and then ceded all the negotiation and control to the Cambodian Government. This was done with 4 agreed provisos: The four Governments would all deny any negotiation or ransom; the Cambodians were sole negotiators; all other decisions would be made back in the 4 capitals (not in/by the local embassies/ambassadors) and finally the Cambodian Government promised to take "No action that might harm the hostages without our prior consent". Yet each of these provisos had adverse consequences, respectively: inability to maintain a public official lie to the contrary; a proliferation of competing private negotiators; miscommunication, misunderstandings and critical decision delays; perpetuating a public official lie contrary to the media reported reality then doing nothing to reverse it - thus ensuring any hostage release was most likely to be a **total failure**.

The Cambodian government negotiation commenced the next day via UHF radio supplied by the Australian embassy ADF to the Cambodian military negotiator, transmitting from a nearby village. Within the next week the ransom-release deal had been done with the abductors: Release the 3 foreigners for US\$150,000 cash; a ceasefire; no retaliation post-release (as had happened in Himes case); no criminal charges nor confiscation of land, resources, property by the Cambodian government. In fact, the release deal agreed to be done that Friday (19 August 1994) as a 'present' for the Cambodian PM Prince Ranariddh's birthday.

However, clearly, the other Cambodian PM Hun Sen did not want that positive outcome so intervened militarily on the day before the release - entirely contrary to his Government's guarantee "not to act adversely without consultation and prior consent" - so the first release deal fell through. Soon the deal was reset for next Friday: result - same outcome after even more serious military intervention. During this sensitive negotiation-release time, the Australian Government did nothing to block or postpone the military attacks - in complete contrast to the US Embassy during the Himes kidnapping by the same group 3 months earlier. Sadly from mid-August, unchallenged, the Cambodian military attacks then increased steadily day by day until one of the abductor leaders decided that holding onto the 3 foreigners was causing all this damage, so took them out and murdered them contrary

to his commanders wishes/orders (for which he was killed by him later the next year 1995).

Thus, in contrast to the 1994 Wilkinson and 2009 Brennan abductions, the Australian Government's 'No Negotiation No Ransom' hostage policy was not only a complete public and parliamentary lie but coupled with public repetition of the false guarantee by the Cambodian government "not to act adversely without consultation and prior consent", these two lies then combined in a final deadly impact on the tragic fatal outcome. Moreover, worse still, the Australian Government knew the 'No adverse action guarantee' was a lie only 3 days after David Wilson was abducted when we were informed of an impending all out Cambodian military attack against that kidnap group to commence the first week of August. Knowing as we did then that both a ransom-release process was already in place and a Cambodian military attack was imminent, we then did nothing to delay that attack, to allow the negotiation to succeed, and worse still, even after the attack started, we three foreign governments then all publicly denied that it was happening, as we reiterated that we had the Cambodian government's 'No adverse action guarantee', so it could not be happening. Indeed, all this official public dissembling was entirely contrary to what the media was reporting daily on in pictures on TV and in the papers.

By failing to act immediately and directly against, if only to merely postpone the already agreed Cambodian military attack until the hostages were released, the three foreign Governments, clearly abrogated their consular duties to their own hostage citizens, so effectively issuing their death warrants, which PM Hun Sen and his generals duly executed for us early September 1994. As his generals had told me on arriving in Kampot on 6 August 1994, "We're here to take the mountain, the 'big noses' (foreign hostages) are of no consequence (to us)" and they clearly were not to these generals NOR to us, the 3 foreign governments. Quite avoidably and unnecessarily, David Wilson and his 2 companions were murdered at dawn on 7 September 1994, only 6 weeks after they were abducted but worse, just 2 weeks after it was twice agreed in a deal for their safe release.

Clearly and certainly inarguably the Australian Government's response to David Wilson's abduction in July 1994 in Cambodia was a "**total failure**" as then Foreign Minister Evans admitted publicly in late 1994. If the Australian government minister in charge of the David Wilson case reached that conclusion in 1994, why then did the 1995-97 Senate Inquiry reach a contrary conclusion. That question remains unanswered - so is Gareth Evans now prepared to return to this Senate committee and repeat his November 1994 parliamentary official assertion that "we really did everything possible and nothing more could have been done for David Wilson to effect his safe release"?

To do so now would not only be untrue but would continue to support the same erroneous conclusion reached by the previous 1995-97 Senate Inquiry into Consular Services, when much of the David Wilson case detail remained unknown and off the public record. Fortunately, that 'information vacuum' on the Wilson kidnapping/death is no longer the case for this Senate committee. Thus I am able, willing and duty bound to answer any questions about that 1994 case for this benefit of this 2011 Senate Inquiry into the Australian Government's response to abductions of Australian citizens overseas. Now in 2011, since much more is known about exactly why, what and how it all went wrong, what was done and not done for David Wilson in August 1994, that it is manifestly both clear why DFAT's No Negotiation No Ransom was a **total failure** but also clear that the

Australian Government **did not do everything possible as so much more could and should have been** done to get David Wilson back home alive - as many have done since 1994 up to Nigel Brennan's safe return last year.

Not only did it clearly not work for David Wilson personally, but it is very clear from public comment from the Wilson family (and much more recently from the Laphornes and the Brennans) that DFAT's response and handling of the families of the victims of abduction overseas is also deficient, inconsistent, deceitful and diminishes steadily over time to the point of little or no contact and information provision to families.

Terms of Reference: (b) how the Australian Government's response in these situations compares to the approach taken by other countries.

Many larger countries, national and international organisations and international corporations face abductions, ransom demands and accordingly hold commercial insurance against such risks and likely events. As a general rule, countries favour a sovereign (bear their own) risk approach while the corporate sector goes to the commercial market for ransom-retrieval insurance cover and policies. Nowadays, this is a sophisticated, well developed multi-billion \$ specialist insurance market. There is no reason, other than budget cost, why Governments, with their immense buying power, could not hedge kidnap-ransom risks commercially (eg. using Passport revenue), just as they do for many other financial and currency transactions and risks these days. Equally there is no reason nor great risk as to why the Australian Government could not direct hostage families to such insurance brokers or ransom-release agents, then 'drop into the background' with its on-going official assistance continuing to such families and negotiators, eg. exchanging intelligence & information, providing secure communications, transferring negotiation messages and eventually moving ransom monies by secure official means etc.

Terms of Reference: (c) measures that could be taken by the Australian Government to improve the handling of its assistance to Australian citizens and their families.

The obvious starting point here is for the present Australian Government to implement all 23 of the Recommendations of the 1995-97 Senate Inquiry into Consular Services "*Helping Australians Abroad*".

Drawing from its Executive Summary:

DFAT's consular services had been fairly narrowly focussed on Australians in trouble overseas with much less attention given to their families back in Australia (needing) more attention be devoted to helping families in Australia of victims overseas.

Recommendation 12: DFAT should negotiate with State & Territory Governments and with the Coroners to make arrangements for grieving or distressed families in their respective States and Territories to have access to their counselling services (and) also maintain a list of private counsellors to provide to families.

Recommendation 21: (DFAT provides) information to families, in such distressing circumstances, be a high priority for DFAT and any mission abroad.

Comment: Clearly this gap has remained the case as the Wilson, Laphorne and Brennan families have made quite clear and the arrangements for counselling services has yet to be put into place.

DFAT responded to Australians in need overseas but devoted little attention to the prevention of problems.

Comment: The lack of emphasis on prevention and learning by debriefing was noted by David Wilson's first coroner (Johnstone).

DFAT can be flexible in its exercise of consular assistance by using discretion and common sense to help someone in special circumstances when such help is normally not available.

Comment: This flexibility leads to inconsistency that sees \$millions spent on some cases, nothing on others.

This is seen at its starkest in current opportunist political interventions of the present PM Gillard and FM Rudd over the 14yo boy lawfully arrested, charged and held in a Bali jail - interventions totally contrary to DFAT's Charter of Consular Rights and the independence of overseas judicial processes, cf. Nigel Brennan got no such PM or FM calls in Somalia nor could he get his most urgent ones to Canberra answered on an AFP '24/7 monitoring service'. Consistency with the Consular Charter of Rights and between individual hostage cases is clearly needed from DFAT and its ministers now.

DFAT should do more to forge broader relations with relevant industries and specialist organisations, the coronial system and State and Territory Government services which could help distressed families.

Comment: This real need remains as the Wilson, Laphorne and Brennan families have made quite clear.

For example: the lack of uniformity across State and Territory Government coronial services as seen particularly, in the tardiness of the David Wilson Inquest, 17 years on and still not completed, eg. DFAT has significantly delayed the Wilson Inquest by over a decade by failing to act in a timely way to disclose critical information sought by the Wilsons and Coroner. Recently the Wilsons have indicated they have lost faith in the Victorian Inquest reaching the truth. That Inquest has yet to resume let alone be satisfactorily completed. As some States do not allow for inquests into deaths overseas, this inconsistency suggests adding a overseas deaths coronial jurisdiction to the Federal Magistrates Court.

DFAT's total media 'no comment' policy, either on or off the record, was a mistake (and we believe that DFAT should enter into more co-operative arrangements with the media in any future hostage crises or similar serious events and that the DFAT should explain that media strategy to families.

Recommendation 22: In any future hostage crisis or similar event, DFAT provide guidance to the media rather than ignore the media. The Department should also explain its media strategy to a hostage's family.

Comment: Over 14 years after your predecessor Committee made this recommendation, clearly nothing has changed and a total Media 'blackout' stance remains DFAT's current hostage media policy - as the Wilson, Laphorne and Brennan families have made quite clear

- as has the Bundaberg Mail in its submission. It was, is and clearly remains a 'mistaken policy' which should be changed now before the next kidnap of an Australian overseas. I would be happy to comment on any of the other of the Recommendations or suggestions for change made your predecessor 1995-97 Consular Services Inquiry committee as the present Committee may ask or seek of me in writing or in an oral hearing.

Terms of Reference:

(d) any other related matter.

I would be happy to comment on any of the other related matter, submission, idea or suggestion for change to the Australian Government's response to abductions overseas as this Committee may ask or seek of me in writing or in an oral hearing.

Alastair Gaisford
DFAT officer 1987-2001

Submitted in October 2011