

Chapter 7

Consular support

7.1 The committee has considered the preparedness and competence of government agencies in handling a kidnapping situation. Their goal is to secure the release of the hostage as safely and expeditiously as possible. But during this ordeal, families, often in shock and under great stress, also need special assistance and support.

7.2 In its 1997 report, the committee acknowledged the anguish and grief that families and friends may experience following a traumatic event such as the violent death overseas of one of their own. At that time, a consultant engaged by DFAT, Mr Tim McDonald, noted that the focus of consular services had been on Australians overseas, their families at home being a secondary consideration. Although in the context of a death overseas, not necessarily following a hostage situation, he was of the view that in this day and age 'the question of the welfare of the family has to be taken much more seriously. Importantly, the problem does not end when the person overseas dies'.¹ The same circumstances apply to victims taken hostage and held for ransom and their families. In this chapter, the committee considers the consular support provided to the family and associates of a kidnap victim.

Respect for the work of government officials

7.3 Before examining the services and support provided during and after kidnapping events, it is important to acknowledge the extremely difficult work undertaken by government officials in response to kidnapping events: work requiring high levels of expertise and involving significant danger and stress. The committee notes the remarks from a number of witnesses commending the work of officials.

7.4 Dr Malcolm Wood noted in his submission that his family 'never had occasion to criticise DFAT or any other agency publicly, and did not: indeed, in our press conference at Parliament House after Douglas' rescue, Vernon and I commended the Government and its agencies highly'.² Dr Wood reiterated this to the committee stating:

In the case of Douglas Wood...his family's experience of the role and conduct of the then Australian government and its agencies was overwhelmingly positive. It seemed to me this committee, as also the government and its agencies, deserved testimony to that effect for

1 Senate Foreign Affairs, Defence and Trade References Committee, *Helping Australians abroad: a review of the Australian Government's consular services*, June 1997, pp. 83–84.

2 M Wood, *Submission 3*, p. 2.

perspective and balance, particularly as there have been few documented cases falling within the committee's terms of reference.³

7.5 Nigel Brennan also acknowledged the work of some government officials in his submission:

There were a number of individuals from the Government agencies that should be commended for the dedicated work and abundant compassion they shared with my family and myself throughout my 462-day ordeal and since my release...In so many ways we will never be able to thank them enough, which I hope they understand and accept. They are fine Australians and we should all be proud of them.⁴

7.6 Although some officers stand out for commendation, both the Wood and Brennan families identified particular areas of the government's consular support that could be improved.

Consular services

7.7 In its submission, DFAT outlined its consular role in kidnapping situations involving Australians:

Within the parameters of the no-ransom policy, DFAT has a clear consular role to play to assist an Australian citizen who is kidnapped overseas and their families.

We can provide information to families on what they can expect, including on possible timelines and expected psychological and emotional challenges, notwithstanding that each case is different and experiences will vary.

- We will appoint a case officer as the primary point of contact for the family.

We know from lessons learned from other hostage situations that the provision of information, including on what the government cannot do, is vital for families.⁵

7.8 The department can also provide a level of financial assistance in emergencies such as kidnappings through the provision of a repayable consular loan to assist with costs such as family travel associated with the hostage situation or for counselling services.⁶

7.9 DFAT also offers support for arrangements in regard to the release and return of hostages. The department may deploy an emergency response team with specialised

3 *Committee Hansard*, 6 October 2011, p. 1.

4 N Brennan, *Submission 12*, [p. 21].

5 Department of Foreign Affairs and Trade, *Submission 8*, [p. 5].

6 Department of Foreign Affairs and Trade, *Submission 8*, [p. 6].

staff to a nearby location to provide support for family and make reception arrangements following the release of the hostage.⁷

The Consular Charter and duty of care

7.10 The range of consular services provided by DFAT is described by the *Consular Services Charter* and the *Consular Operations Handbook*. The charter signifies DFAT's 'commitment to providing effective, prompt and courteous consular services delivered in an equitable way to all Australian citizens'.⁸ The handbook presents guidelines in regards to the operation of policies, procedures and levels of service provided by the department. Neither publication creates a legally binding duty or obligation on the Australian Government to provide any particular consular assistance or services nor refers specifically to kidnapping situations.

7.11 In this regard, DFAT made it clear that it was not legally obliged to provide certain forms of assistance and services to Australians in foreign countries:

There is not a duty of care as such. The way I would describe it is that we will do all that we can to assist Australians who find themselves in difficulty overseas. There is nothing legislated around that, but that is our practice...

...As far as I am aware, there is nothing legislative about what we do. As I said, the government will do all it can and we have a general consular charter that we put out there which explains what the government can and cannot do.⁹

7.12 The department has sole discretion over the most appropriate level of consular services and this will vary depending on the case and the constraints on DFAT's ability to provide appropriate services. As noted above, however, DFAT appoints a case officer as the primary point of contact for the next of kin as part of its assistance to the family.¹⁰

Communicating and liaising with families

7.13 Communicating with, and providing information to, victims' families is one of the most important roles for consular services in emergencies such as kidnappings.

7.14 Families learning of the kidnapping of a loved one experience a range of emotions—shock, anguish, frustration and confusion—which continue as the days, weeks and in some cases months pass. Naturally, throughout this ordeal, they will feel as though they have no control over the situation. Their distress, grief and sense of

7 Department of Foreign Affairs and Trade, *Submission 8*, [p. 6].

8 Department of Foreign Affairs and Trade, *Consular Services Charter*, March 2010, accessed 3 November 2011, http://www.smartraveller.gov.au/consular_charter/index.html

9 *Committee Hansard*, 6 October 2011, p. 41.

10 Department of Foreign Affairs and Trade, *Submission 8*, [p. 5].

helplessness will affect the way they relate to others including the consular and police officers involved in the kidnapping situation. Assisting the family through this traumatic period requires special skills and careful attention.

7.15 In 1997, the committee found that although the release of the hostages should be of paramount importance, family members have a vital interest in the proceedings and outcome. Importantly, they want to be as fully informed as possible about developments relating to the kidnapping. At that time, the committee noted DFAT's concern that much information available was unsubstantiated and proved to be incorrect or misleading.¹¹ Even so, the committee formed the view that it was the department's role to pass on its concerns about the quality of the information as that information was relayed to the family.¹² The committee recommended that:

...the provision of information to families, in such distressing circumstances, be a high priority for DFAT and any mission abroad.¹³

7.16 Evidence before this committee also suggested that access to information was vitally important to the family of a kidnapped person, as is confidence and trust in those providing that information. The committee has already noted the dissatisfaction of family members with the mixed messages conveyed by DFAT and the AFP when they were considering the payment of a ransom or engaging a private consultant to negotiate the release. The committee now considers whether this failure in communication was evident in other areas.

7.17 As noted previously, DFAT explained to the committee that it can provide information to families on what to expect in the event of a kidnapping, including possible timelines and expected challenges.¹⁴ DFAT submitted that the department would work 'to share as much information with families as practicable, to the extent permitted by privacy laws'.¹⁵

Differing levels of service and support

7.18 Despite DFAT's awareness of the importance of helping family members throughout the kidnapping process, especially of keeping them informed, a number of witnesses were critical of the level and quality of the support provided. There also appeared to be a marked difference in the experiences of the Wood and the Brennan families.

11 Senate Foreign Affairs, Defence and Trade References Committee, *Helping Australians abroad: a review of the Australian Government's consular services*, June 1997, p. 162.

12 Senate Foreign Affairs, Defence and Trade References Committee, *Helping Australians abroad: a review of the Australian Government's consular services*, June 1997, p. 162.

13 Senate Foreign Affairs, Defence and Trade References Committee, *Helping Australians abroad: a review of the Australian Government's consular services*, June 1997, pp. 162–3.

14 Department of Foreign Affairs and Trade, *Submission 8*, [p. 5].

15 Department of Foreign Affairs and Trade, *Submission 8*, [p. 5].

7.19 Dr Wood praised the high quality and frequency of DFAT's consultation with the family. He explained that he and his brother had several meetings with DFAT officers including senior officers at the Deputy Secretary or First Assistant Secretary level. He explained further:

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.¹⁶

7.20 Dr Wood was also impressed with Mr Warner, who before packing his bags and flying to Baghdad, 'made a point of coming to the meeting to talk with me'. Mr Warner assured him 'of what he would try to do and, obviously, he gained some information from me about Douglas'.¹⁷ Furthermore, the Minister for Foreign Affairs and the Prime Minister made personal contact with Dr Wood.¹⁸ In addition to this high level attention, DFAT officers phoned family members almost daily throughout the crisis, 'with information and to consult on the next steps'.¹⁹ Dr Wood, however, cautioned against any direct comparisons with other kidnapping cases:

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...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.²⁰

7.21 Even so, the consideration shown to the Wood family, particularly, in relaying information about developments with the hostage taking, contrasts starkly with the experiences of the Brennan family.

7.22 Mr Brennan believes that the early discussions between his family, DFAT and the AFP were positive. He noted that the AFP set up a number of special operational units, including one in his parent's home where regular family briefings took place.²¹

16 M Wood, *Submission 3*, p. 2.

17 *Committee Hansard*, 6 October 2011, p. 5.

18 M Wood, *Submission 3*, p. 1.

19 M Wood, *Submission 3*, p. 1.

20 M Wood, *Submission 3*, pp. 1–2.

21 N Brennan, *Submission 12*, [pp. 5, 8].

The discussions covered developments and possible resolution strategies. He noted that his family 'greatly appreciated' having these conversations at home.²² There were also phone and email correspondence with their DFAT case officer, believed to be in charge of the government operation, who was based in Canberra. Mr Brennan noted, however, that:

These briefings started to dwindle in October 2008, when the AFP moved out of my family's home to the 'Villas' apartments in Moore Park, and evaporated completely when the 'next of kin' phone was moved to Canberra in February 2009.²³

7.23 According to Mr Brennan, his family, always desperate for information, 'was soon and too often left stranded and alone'.²⁴ He stated:

Increasingly, phrases such as 'no need to know, no security clearance, it's confidential, it's a moving situation, it's uncertain etc' became commonplace excuses for not giving new information. Daily briefings became weekly and then non-existent.²⁵

7.24 Nicole Bonney informed the committee about how constantly and consistently her family requested information about the strategies being used to obtain her brother's release from captivity. She explained the protocol adopted for managing the flow of information:

...questions and information was to be passed through AFP negotiators on site in the Brennan family home. This would be passed on up through the chain of command and questions asked by Brennan family members may or may not be answered by higher authority. These possible answers came back down through the chain of command to the AFP negotiators to be passed on to the Brennan family. The Brennan family were not given any written information in regards to these questions and answers.²⁶

7.25 In her view this approach was 'a deliberate move to give the Australian government the ability to stagger and limit incoming information given to the Brennan family and to create an obscure chain of information'.²⁷ According to Mrs Bonney, the effect of this approach was that the Brennan family was 'unable to ascertain facts from the Australian government'.²⁸ Mrs Bonney summarised her family's experience:

Throughout the time Operation Mane was in place and beyond the Brennan family was treated with little respect by the Australian government in

22 N Brennan, *Submission 12*, [p. 8].

23 N Brennan, *Submission 12*, [p. 8].

24 N Brennan, *Submission 12*, [p. 8].

25 N Brennan, *Submission 12*, [p. 8].

26 N Bonney, *Submission 13*, [p. 8].

27 N Bonney, *Submission 13*, [p. 8].

28 N Bonney, *Submission 13*, [p. 8].

regard to their need and drive to obtain information regarding Nigel's kidnapping...The Brennan family suspects that the general opinion of the government was that of the Brennan family being dumb uneducated farmers and accordingly should be kept ill informed and ignorant of Nigel's situation and the situation in Somalia.²⁹

7.26 Mrs Bonney indicated that regular contact from DFAT would have been a better approach. She acknowledged, however, that family members 'were extremely pushy because we wanted as much information as we possibly could get'. She believed that they 'were not getting that phone call of "no change" because whoever was on that phone knew that we were going to ask questions'.³⁰

Withholding information and mixed messages

7.27 The criticisms that the Brennan family had with regard to the flow of information from government agencies were focused on a number of key instances in which the family felt they had been kept uninformed of important developments. Mr Brennan and Mrs Bonney cited a number of these instances, including:

- agencies not notifying the family of telephone conversations between Mr Brennan and an AFP officer based in South Africa in August 2008 until December 2008;³¹
- officials not informing the family as to which government departments were involved in the operation outside of DFAT and the AFP, their mission and how they interacted and worked together;³²
- the removal of the next of kin phone located in the Brennan family home without the family's full understanding or endorsement;³³
- calls and letters to the Minister for Foreign Affairs' office that went unanswered for months and requests for the family to meet with the Minister and the Prime Minister that received no response;³⁴
- agencies not discussing any procedures or the implementation of strategies in full with the Brennan family and not providing any written documentation of meetings with government departments to the family despite requests;³⁵
- misleading information about the official Australian-Canadian Government strategy;³⁶

29 N Bonney, *Submission 13*, [p. 47].

30 *Committee Hansard*, 11 October 2011, p. 5.

31 N Brennan, *Submission 12*, [p. 2].

32 N Brennan, *Submission 12*, [p. 7].

33 N Brennan, *Submission 12*, [p. 8].

34 N Brennan, *Submission 12*, [pp. 9, 21].

35 N Bonney, *Submission 13*, [p. 3].

- agencies failing to adequately explain a change in strategy from building rapport and keeping lines of communication open with the kidnappers to the complete opposite;³⁷ and
- the denial of the family's request in July 2009, after securing the services of a private kidnap response firm, for the case details and a situation briefing due to claims that a 'full security clearance' was required.³⁸

7.28 One of the most disturbing accounts of the lack of awareness or disregard for Nigel Brennan and his family involved unanswered phone calls from Nigel Brennan to his family's phone over the Easter long-weekend in April 2009. The phone had been re-directed to the AFP's Operations Centre in Canberra in January 2009 under assurance that it would be under 24 hour monitoring. Mr Brennan explained:

...when the phone was actually removed from my house, it was under the proviso that it would be under 24-hour surveillance. The fact that those two phone calls I made around Easter went through to voicemail was absolutely distressing for my family. We went for a period of 10½ months when my family had absolutely no idea whether I was alive or dead. So the fact that the Australian Federal Police had told my family that it would be under 24-hour surveillance and then missed the calls because it was a public holiday, I think was disgraceful.³⁹

7.29 The AFP informed the committee that there was an explanation for the calls not being answered other than that the centre was not being staffed. Officers could not, however, discuss the issue publicly.⁴⁰ Even so, the Brennan family have not received any satisfactory explanation in regards to this matter.

7.30 Family members also recounted instances where they were not informed about offers to provide assistance from relevant people. Mrs Bonney noted that on one occasion they visited Canberra to get the latest update. She explained further:

Mum had sourced an NGO that was still on the ground that had an Australian head. It was the only NGO functioning inside Mogadishu at that point in time...We had specifically asked for contact with that NGO. Unbeknown to us the person had been in contact with the Australian consulate within the first 24 hours of Nigel actually being taken. That information was never passed on to us. When we tracked him down ourselves...we asked if we could speak to him through the Department of Foreign Affairs and Trade, who then said to us, 'He doesn't want contact

36 N Brennan, *Submission 12*, [p. 9].

37 N Brennan, *Submission 12*, [p. 9].

38 N Brennan, *Submission 12*, [p. 16]; N Bonney, *Submission 13*, [p. 4].

39 *Committee Hansard*, 11 October 2011, p. 4.

40 *Committee Hansard*, 11 October 2011, p. 18.

with you'...Which was incorrect, because we had already had contact with him.⁴¹

7.31 Nicole Bonney submitted that her family often found out information relating to her brother from local and international media. These accounts included the first report of the kidnapping; the broadcast of a video of the hostages on Al Jazeera; reports of deadlines in regards to the ransom; a phone interview with the hostages conducted by Agence France-Presse; and, the release of Somalis taken hostage at the same time as Mr Brennan and Ms Lindhout.⁴² She commented:

Unfortunately the Australian government were not forthcoming with alerting the Brennan family to the fact when incoming media was electronically coming in. At the time Heather Brennan questioned as to whether Operation Mane was indeed a 24/7 case as the Brennan family had been led to believe and assured it was.⁴³

7.32 Mrs Bonney went further to suggest:

On many occasions unconfirmed information was deliberately withheld from the Brennan family, a case in point was the attempted escape and seeking of sanctuary in a mosque by Nigel and Amanda.⁴⁴

7.33 She asked, did the Australian government recognise that 'this (in)action effectively made the opportunities for the family to decide on further actions an impossibility as they were not informed of unconfirmed information?'⁴⁵

7.34 The Brennan family's evidence tells of a drawn out and distressing experience where the family felt they were being misinformed, drip-fed and fobbed off. This experience contrasts with DFAT's statements in regards to how it views its service to families in regards to information sharing. As noted above, DFAT's submission stated that it understands that the provision of information, including on what the government cannot do, is vital to families. The department informed the committee that it was preparing a written guide for families on what to expect if a family member is kidnapped (see paragraph 4.47). The submission noted:

Providing families with clear and up-to-date information on developments in the case can help families make informed decisions and navigate their way through sometimes unreliable information from other sources.⁴⁶

7.35 DFAT did recognise, however, that:

41 *Committee Hansard*, 11 October 2011, p. 7.

42 N Bonney, *Submission 13*, [p. 21].

43 N Bonney, *Submission 13*, [p. 22].

44 N Bonney, *Submission 13*, [p. 43].

45 N Bonney, *Submission 13*, [p. 43].

46 Department of Foreign Affairs and Trade, *Submission 8*, [p. 6].

There are complexities and challenges when dealing with intelligence material and these are addressed on a case-by-case basis.⁴⁷

7.36 While the committee understands the sensitivities around intelligence and information on operational matters, it would appear that these issues were never explained adequately to the Brennan family. This contrasts with Dr Wood's experience:

I understood from the outset that a government agency was never going to tell us—a family—about intelligence or military activities, and broadly they did not. I understood that. Perhaps if I had not served in government myself I would have been stronger in pushing.⁴⁸

7.37 While the background of the two families may have contributed to different expectations as to what information could be shared at the outset, it does not explain the Brennans' ongoing distress at the lack of information and inadequate explanations.

Breach of trust

7.38 Beyond their concerns with access to information, the Brennan family also criticised the government and agencies for what they considered to be misleading and untrue statements as well as significant delays in responding to their letters and questions. These actions amounted to what was considered by the family to be a breach of the trust they had placed in government officials. Mr Brennan explained:

That was another thing with information from very early on. DFAT and AFP asked my family to have no contact with Amanda's family, because apparently Amanda's family did not want my family to contact them. The Canadian family was told the same thing. There was disinformation that was being used. Both families were going through an incredibly traumatic experience, and there would have been nothing better than the two families working together and trying to communicate and share the burden of what they were going through. For a government to lie to my family and say 'The Lindhouts don't want you to talk to them' was a blatant lie.⁴⁹

7.39 Mrs Bonney told the committee that these discrepancies were 'really difficult for us to deal with because they made us doubt our own government and what our government was doing for us and if, in fact, they were helping us'.⁵⁰ They also related that the family later discovered that the head of the NGO in Mogadishu, referred to above, had, within 24 hours of the capture, contacted the consulate in Nairobi offering help and information on the kidnapping. Mrs Bonney elaborated on the man's efforts:

On the first day that Nigel was taken he rang three times. On the second day he rang twice. He received no calls back from the Australian High

47 Department of Foreign Affairs and Trade, *Submission 8*, [p. 6].

48 *Committee Hansard*, 6 October 2011, p. 4.

49 *Committee Hansard*, 11 October 2011, p. 10.

50 *Committee Hansard*, 11 October 2011, p. 7.

Commission in Nairobi...He then rang on a monthly basis and finally, in May, the Australian government approached him. At that point in time we had told the Australian government that we were planning on moving away from them and engaging a private contractor. We got a phone call saying, 'This guy can do it. Stick with us.'⁵¹

7.40 The man was believed to have been unable to obtain a proof-of-life from the hostage takers and was not involved in the negotiations for the release of the hostages.

7.41 The Brennan family stated that in mid-June 2009, they received a letter from then Minister for Foreign Affairs, Stephen Smith, describing the strategies which had been implemented by the negotiators in Nairobi as 'based on wearing down the kidnappers'.⁵² Nicole Bonney wrote:

If it had been explicitly stated to us that this was their main strategy, we would have pulled the plug on DFAT months ago. The emotions of family members range from despair to fury. It's soul-destroying for Dad...He's been completely let down by the government and its inability to help Nigel.⁵³

7.42 The Brennan's evidence suggested a considerable breakdown in the relationship between the family and government officials and their ability to work together towards the release of the hostages. This came about primarily through the way information was shared and the significant problems with the way different matters were communicated to the family.

Continuity in liaison officers

7.43 A key factor identified by the Brennan family with regard to the problems with the relationship with government agencies was the lack of continuity in the personnel assigned to work with the family. While a number of senior DFAT and AFP staff worked on the case for the entire period, those placed in the family home and other officials working directly with the family were frequently rotated. Mrs Bonney submitted:

A large number of people worked on 'Operation Mane' and from the outset the Brennan family requested continuity...The Brennans found this an important request as it was both time consuming and distressing to have to constantly explain the family dynamics to new negotiators. New negotiators were also not aware of the capabilities of the various family members and the Brennan family felt they constantly had to prove themselves to new negotiators. This request took a number of months for the AFP to implement, as a result a large number of people lived with the Brennan

51 *Committee Hansard*, 11 October 2011, p. 8.

52 N Brennan, N Bonney and K Brennan, *The Price of Life*, Penguin Books, Melbourne, 2011, p. 285.

53 N Brennan, N Bonney and K Brennan, *The Price of Life*, Penguin Books, Melbourne, 2011, p. 285.

family under very stressful situations and on the whole relations were cordial. There were however exceptions to the rule and when the Brennan family made it aware they had personality and working issues with some individuals this was disregarded by the relevant authorities.⁵⁴

7.44 While personnel may have been rotated for operational and health and safety reasons, the family believed that agencies took issue with any bonds formed between officials and the family. Mr Brennan told the committee:

There were...problems that arose because anyone from a government department who got at all emotionally attached to my family were very quickly pulled out of the house never to return. The fact was that my family, as time went on, got less and less information.⁵⁵

7.45 Mr Brennan noted further that the family liaison officer was removed from the house. In his view a liaison officer 'should have been something that should have been there even after the government was tasked off the job and a private company was put in. There should have been some sort of family liaison officer involved'.⁵⁶ In this regard, Mrs Bonney stated:

I guess the real pity about that is that could actually really effectively work—having a family liaison officer actually dealing directly with a private contractor. If everyone is okay with it and happy with it, it could actually work extremely well. That was another difficulty that we had to deal with. We were dealing with different time zones and different countries. We were extremely fortunate that we had 24-hour access to John Chase [private crisis management consultant], but there may be other people in other situations that do not.⁵⁷

7.46 Mrs Bonney told the committee that the removal of the Queensland police officers permanently from the case 'was very distressing for the family and when the Brennan family questioned [an AFP officer] about these moves no satisfactory answer was provided'.⁵⁸ Mr Brennan also noted that family friends who were involved with Queensland Police or with the Army were 'basically told not to contact my family'.⁵⁹

7.47 Dr Wood submitted that his family had frequent contact, primarily with the Assistant Secretary, Consular, and with the senior staff counsellor and a senior officer in the AFP's counter-terrorism unit. While the Dr Wood had recording equipment installed in his home, no DFAT or AFP stayed in the home. As the Wood case was

54 N Bonney, *Submission 13*, [pp. 22–23].

55 *Committee Hansard*, 11 October 2011, p. 4.

56 *Committee Hansard*, 11 October 2011, p. 5.

57 *Committee Hansard*, 11 October 2011, p. 5.

58 N Bonney, *Submission 13*, [p. 2].

59 *Committee Hansard*, 11 October 2011, p. 8.

resolved in a much shorter period of time, it is difficult to compare the experiences of family liaison between the two cases.

7.48 Despite the severe criticism levelled at the government's response to the family's needs, the committee takes this opportunity to note again that the Brennan family were highly appreciative of some government officials who assisted them through their ordeal. Mr Brennan reminded the committee that there were 'a number of people within departments who did a fantastic job and who dealt with my family in a great way'.⁶⁰

Previous report and McCarthy review

7.49 Given the trauma faced by any family dealing with a kidnapping situation, the committee believes that the welfare of family members and those close to the victim should be a priority for all agencies involved. This finding is consistent with the committee's recommendation in 1997 that the 'provision of information to families, in such distressing circumstances, be a high priority for DFAT and any mission abroad'.⁶¹ The committee also notes the McCarthy review's recommendation that families be provided with oral and written advice on what to expect in a kidnapping case and make it clear what the government can and cannot do.

7.50 The evidence before this committee and the two recommendations cited above highlight the need for DFAT to improve the way it delivers its consular service to people under severe stress. The committee believes that the good relations between family members and government officials in such cases depend upon trust and effective communication. It is important for families to feel as though their interests are a high priority and that they are being kept in the loop. DFAT needs to be aware of the importance of sharing information and of selecting staff specially trained and equipped to deal with traumatised family members and able to convey information effectively between the relevant parties.

Committee view

7.51 The committee believes it is important that a sub-unit or section of the emergency response task force be responsible for supporting the families of victims. The members of this sub-unit should be specially trained for this liaison role and be able to provide families with accurate information and continuity.

Recommendation 4

7.52 The committee recommends that any inter-departmental emergency response task force include a sub group dedicated to supporting families of a victim of kidnapping. This group should be made up of personnel specially

60 *Committee Hansard*, 11 October 2011, p. 1.

61 Senate Foreign Affairs, Defence and Trade References Committee, *Helping Australians abroad: a review of the Australian Government's consular services*, June 1997, p. xix.

trained for this liaison role and able to provide the family with ongoing and accurate information. Agencies should strive to maintain the continuity of the personnel assigned to act in this role.

Interpreters

7.53 A key criticism made by the Brennan family with regard to consular services and communication relates to the significant language difficulties experienced by Nicole Bonney in her negotiations with the kidnappers. Mrs Bonney told the committee:

DFAT were unable or unwilling to assist requests on two particularly damning points: one, the refusal for a repeated request for a Somalian interpreter and, two, the refusal to pass on information with regard to legitimate private kidnap and ransom companies.⁶²

7.54 The 1997 committee report raised the issue of the provision of interpreters and translation services, specifically in regard to Australians involved in legal proceedings overseas. At the time, the committee recommended 'in the case of Australian victims of crime and those facing serious charges in overseas jurisdictions, that DFAT provide them with translator and interpreter services'.⁶³ The government at the time did not support this recommendation stating:

The Government cannot commit itself to an open obligation to fund translators overseas. However, the Government is prepared to consider carefully providing translators and interpreters on a case by case basis.⁶⁴

7.55 The response recognised further that:

...there will be particular cases which arise from time to time which, for particular reasons, demand that public funding be made available for translator and/or interpreter services. We consider that DFAT, in consultation with other Government agencies such as the Attorney-General's Department, should consider such cases as sympathetically as possible and subject to appropriate financial tests.⁶⁵

62 *Committee Hansard*, 11 October 2011, p. 2.

63 Senate Foreign Affairs, Defence and Trade References Committee, *Helping Australians abroad: a review of the Australian Government's consular services*, June 1997, p. 100.

64 'Government response to Review by Senate Foreign Affairs, Defence and Trade References Committee of the Australian Government's consular services', *Senate Hansard*, 26 November 1997, p. 9521, accessed 4 November 2011, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansards%2F1997-11-26%2F0141%22>

65 'Government response to Review by Senate Foreign Affairs, Defence and Trade References Committee of the Australian Government's consular services', *Senate Hansard*, 26 November 1997, p. 9521, accessed 4 November 2011, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansards%2F1997-11-26%2F0141%22>

7.56 Mrs Bonney submitted that a request for a Somali translator was made in the first week of her brother's kidnapping:

The phone calls that Nicole Bonney was having with [...] the kidnapper spokesperson were extremely difficult to understand and the transcribers in Canberra appeared to find his speech pattern no easier as Nicole was asked to confirm on a number of occasions what he was saying... This request [for a translator] was steadfastly ignored until the Brennan family became very vocal and then the request was denied outright claiming that we could not have a translator because then the government 'would need a translator to translate the translator'.⁶⁶

7.57 When asked the reason for not providing translator or interpreter services, DFAT told the committee:

It has been a longstanding policy of government that that is one of the things that we do not do. We do not provide translating or interpreting services. We have a consular charter which sets out very clearly what the government can and cannot do, and one of the things the government does not do is provide translating or interpreting services. Families can access those services if they wish, obviously, but it is set out clearly in our charter that those are just not something that the government provides.⁶⁷

7.58 When pressed on whether the circumstances of a kidnapping might require a different response to that set out in the consular charter, Ms Bird replied: 'We just generally do not do it in that way'.⁶⁸

7.59 DFAT addressed the issue of Mrs Bonney's calls with the kidnapper's spokesperson stating:

Obviously there were some phone calls to Nigel Brennan's family. They were in English. We clearly did need for our own purposes to have some Somali language translating capacity, for obvious reasons. Clearly we had some material that we needed to deal with. But the family calls were in English. Because it is such a business, the kidnappers know that they are going to be dealing with Western families, they will use English.⁶⁹

7.60 DFAT stated that families are able access private interpreter or translation services if they wished.⁷⁰

7.61 While the calls were made in English, Mrs Bonney documents in *The Price of Life* the considerable difficulties she had in understanding the spokesperson's accent and explaining certain terms. The private contractor, hired by the family to assist in

66 N Bonney, *Submission 13*, [p. 28].

67 *Committee Hansard*, 6 October 2011, p. 39.

68 *Committee Hansard*, 6 October 2011, p. 39.

69 *Committee Hansard*, 6 October 2011, p. 39.

70 *Committee Hansard*, 6 October 2011, p. 39.

negotiating the release of Mr Brennan and Ms Lindhout, located a Somali translator to communicate for them.

Committee view

7.62 Due to the limited evidence before the committee on the details of the negotiation process it is difficult for the committee to assess whether a translator was necessary in the Brennan case. It is clear, however, that Nicole Bonney experienced significant difficulties in understanding the kidnapper's representative and that misunderstandings increased the level of distress experienced by the family.

7.63 While DFAT's consular charter may rule out the provision of such services for Australians in trouble overseas, it is not clear to the committee why such rules should apply in special cases such as kidnappings where family members in Australia and the AFP are involved in negotiations with hostage takers. The committee believes that any measures which could assist in obtaining the successful release of hostages should be considered. The committee believes that it is inappropriate to encourage families to seek out and finance private translation services when the AFP or other agencies are involved in the negotiation process.

7.64 The committee agrees with the government's response to its recommendation in 1997 regarding the provision of translation and interpreter services: that agencies be 'prepared to consider carefully providing translators and interpreters on a case by case basis'.⁷¹

Proposed written guidelines

7.65 As discussed in chapter 4, DFAT agreed to the recommendation of the McCarthy review that written guidelines be prepared outlining for a family what to expect in kidnapping cases and what government agencies can and cannot do. DFAT told the committee that the written guidelines are 'very well advanced and should be done very shortly'.⁷²

Committee view

7.66 The committee believes that this written advice should be clear in regards to the consular services available to families. It should state that families will still receive support if they choose to engage a private contractor.

71 'Government response to Review by Senate Foreign Affairs, Defence and Trade References Committee of the Australian Government's consular services', *Senate Hansard*, 26 November 1997, p. 9521, accessed 4 November 2011, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansards%2F1997-11-26%2F0141%22>

72 *Committee Hansard*, 6 October 2011, p. 38.

Conclusion

7.67 One of the most compelling messages coming out of this inquiry, was the importance of DFAT exercising more care and diligence in the way in which it deals with distressed families. In 1997, the committee noted advice that following a traumatic event, ‘the question of the welfare of the family has to be taken more seriously’.⁷³ That advice is as relevant today as it was then.

7.68 The committee believes that DFAT must ensure that while efforts are being directed toward the safe release of the kidnapped victim, the family must also be a primary concern. The committee believes that the guidelines DFAT is now drafting should contain a preface that recognises the importance of treating families as a high priority, of building trust and of keeping family members fully informed on developments.

7.69 The family members of a kidnap victim may be demanding of an agency's time and resources: they may be difficult to converse with and ask hard questions. Officers should be able to make allowances and remain sensitive to how their actions affect families in such distressing circumstances. The committee believes that liaising with and providing direct support to family members requires special skills and training. It is of the view that those taking on the family support role should be specially trained for their liaison role and also be part of the emergency response task force. Being a sub unit of this task force would ensure that the family has someone representing their interests able to communicate directly with the task force and to convey back to the family information received from the team. The committee has made a recommendation to this effect (paragraph 7.52).

7.70 While consular support is most important for families in kidnapping cases during the period of captivity, issues can also arise in the transition period following the crisis. The next chapter examines the role of consular support once an incident is over.

73 Senate Foreign Affairs, Defence and Trade References Committee, *Helping Australians abroad: a review of the Australian Government's consular services*, June 1997, pp. 83–84.

