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GRANTING CONCESSIONS AND PAYING RANSOMS TO TERRORISTS: A POLICY OPTIONS ANALYSIS OF THE U.S. POLICY ON HOSTAGE RECOVERY

by

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June 2016

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13. ABSTRACT (maximum 200 words)

   Nations around the world, including the United States, have been battling terrorist hostage-takings by instituting "no-concessions" policies. The hope is that denying terrorists their demands will remove all incentives for hostage-taking, thereby eliminating its practice. However, since this policy has been in existence, research has shown that hostage-takings have increased. Considering the recent, highly publicized beheadings of hostages held by the Islamic State, is there a better policy option, such as one that protects U.S. citizens who are being held hostage? To answer this question, this thesis conducted a policy options analysis. Criteria were developed from the literature, and the current U.S. policy was compared to two other policy options. The research found that current U.S. policy does not effectively achieve its goals and, as such, does not offer the best protection to U.S. citizens. As a result, the thesis concluded that the United States would be better served by removing the no-concessions rule and focusing on a policy that punishes terrorists who participate in hostage-taking.

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ABSTRACT

Nations around the world, including the United States, have been battling terrorist hostage-takings by instituting "no-concessions" policies. The hope is that denying terrorists their demands will remove all incentives for hostage-taking, thereby eliminating its practice. However, since this policy has been in existence, research has shown that hostage-takings have increased. Considering the recent, highly publicized beheadings of hostages held by the Islamic State, is there a better policy option, such as one that protects U.S. citizens who are being held hostage? To answer this question, this thesis conducted a policy options analysis. Criteria were developed from the literature, and the current U.S. policy was compared to two other policy options. The research found that current U.S. policy does not effectively achieve its goals and, as such, does not offer the best protection to U.S. citizens. As a result, the thesis concluded that the United States would be better served by removing the no-concessions rule and focusing on a policy that punishes terrorists who participate in hostage-taking.

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LIST OF ACRONYMS AND ABBREVIATIONS

AAH	Asa'ib Ahl al-Haq
DOS	U.S. Department of State
FBI	Federal Bureau of Investigation
FLN	National Liberation Front
GTD	Global Terrorism Database
HOBAS	Hostage Barricade Database System
IIASA	International Institute for Applied Systems Analysis
IRA	Irish Republican Army
IRS	Internal Revenue Service
ISIS	Islamic State
IT	information technology
NYPD	New York City Police Department
PPD	Presidential Policy Directive
START	National Consortium for the Study of Terrorism and Response to Terrorism
TOW	tube-launched, optically tracked, wire-guided
UN	United Nations

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EXECUTIVE SUMMARY

When terrorists take hostages, they do so to instill fear and make a nation appear powerless. To counter this fear and protect citizens from hostage-takings, countries, including the United States, have implemented "no-concessions" policies. These policies are designed to deny terrorists' demands, thus removing incentives for—and thereby eliminating—hostage-takings. Research has shown, however, that hostage-takings have increased over the years despite no-concessions policies. To determine if no-concessions policies actually deter hostage-takings, this research conducted a policy options analysis. Using criteria developed from a literature review, the current U.S. policy was compared to two other policy options. The research found that current U.S. policy does not effectively achieve its goals and, as such, does not offer the best protection to U.S. citizens. The United States would be better served by removing the no-concessions rule and focusing on a policy that punishes terrorists who participate in hostage-takings.

Throughout U.S. history, refusing to grant concessions has been the foundation of terrorist-negotiation policy. Behavioral logic dictates that removing incentives deters hostage-taking, thus ending the cycle of terrorism. While having a no-concessions policy does appear to be logical, it is based on beliefs; and beliefs alone are not a valid tool for formulating policy. In an attempt to understand why the current U.S. policy has performed so poorly, this research answered three questions: Does having a no-concessions policy deter hostage-taking? Does paying ransoms really fund terrorism? Does the policy allow for consistency and equality?

Does having a no-concessions policy deter hostage-taking? Studies have indicated that maintaining a no-concessions policy does not deter hostage-taking. Research by terrorism experts and economists explains that there is always a value in obtaining hostages beyond monetary considerations, such as the value of publicity, and a no-concessions policy does not diminish that value. Quantitative data from the Global Terrorism Database supports these claims, indicating that hostage-taking incidents have

been on the rise since 1970.[1] As hostage-takings involving American citizens has not declined as a result of the no-concessions policy, the policy is ineffective and a revision should be considered.

Does paying ransoms really fund terrorism? One of the newest justifications for having a no-concessions policy is that granting ransoms funds terrorism. It is without question that any money given to a terrorist organization helps fund that organization; however, the research shows that the impact of ransom payments is inconsequential to the overall funding of a terrorist organization. For instance, ISIS receives about $20.8 million a year in ransom payments.[2] Their estimated yearly income is $2 billion.[3] In context, ransoms make up approximately one percent of ISIS' average annual income. Eliminating this funding does nothing to remove the threat they pose. Economic studies have indicated that hostage-takings more often occur not out of want for money, but because the offenders lack fear of retribution. For the Somali pirates, for example, successful ransom payouts were a minor factor in repeat hostage-takings. Rather, because the country of Somalia does not contain a strong central government, the pirates have no fear of prosecution. Because fear of retribution is a successful deterrent to hostage-taking, the U.S. policy should be less concerned about ransoms and should focus more on a policy that will bring hostage-takers to justice.

Does the policy allow for consistency and equality? No-concessions policies are often violated. For example, the United States sold arms to Iran for the release of hostages during the Iran-Contra affair. Policy violations cause confusion and mistrust not only with other governments, but also with U.S. citizens. This was evident when the United States chose to negotiate a prisoner release for Army Sergeant Bowe Bergdahl in exchange for five Taliban terrorists, but did nothing for American journalist James Foley, who was later beheaded by members of ISIS. Although the U.S. no-concession policy

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[1] "Global Terrorism Database," National Consortium for the Study of Terrorism and Response to Terrorism (START), accessed March 14, 2016, https://www.start.umd.edu/gtd/about/.

[2] Rukmini Callimachi, "Paying Ransoms, Europe Bankrolls Qaeda Terror," *New York Times*, July 29, 2014, http://www.nytimes.com/.

[3] John Hall, "New Study of ISIS Income Suggests $2billion a Year Estimate Is Too low," *Daily Mail*, March 20, 2015, http://www.dailymail.co.uk/news/article-3003919/Are-ISIS-earning-2billion-year-New-study-terror-group-s-income-suggests-previous-estimates-far-low.html.

was designed to address these inequities, maintaining the policy appears to hinder any efforts for equality. History has demonstrated that a no-concessions policy will continue to be violated and, as such, equality will remain intangible.

On all counts, maintaining the no-concessions rule has rendered the current policy ineffective at protecting U.S. citizens during hostage-taking events. Having this rule in the policy limits the flexibility needed to conduct negotiations. It reduces options and limits outcomes. If negotiators cannot discuss the possibility of ransom payments, prisoner releases, or other acts of concessions, negotiations can be one-sided and ineffective. The strict no-concessions rule also opens the policy up to violation. Every hostage situation is different, and having a blanket policy, especially one that is restricting, does not allow for the safe return of hostages. In addition, rigid policies that cannot be upheld make countries appear weak. A no-concessions policy sounds strong, but when nations are forced to violate their own policies, they lose credibility.

As a result of the research, it is strongly recommended that the United States remove the no-concessions language from its policy. Moreover, because the research indicated that the fear of retribution can be a deterrent to hostage-taking, the United States should stress a pursue, capture, or kill policy for terrorists who commit hostage-takings. While it is impossible to prevent every hostage-taking incident, these recommendations will reduce the likelihood that U.S. citizens are taken hostage and, more importantly, increase the chances of their safe return when they are abducted.

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I.   INTRODUCTION

The topic of negotiating with terrorists often draws contentious arguments. When asked if the nation should negotiate with terrorist organizations in exchange for American hostages' lives, a 2014 Gallup poll demonstrated that Americans were almost evenly divided. According to Gallup, "Forty-three percent say it is more important for the U.S. to secure the safe release of prisoners, even if that means compromising with terrorist demands, while 44% say it is more important to discourage future prisoner-taking by refusing to negotiate with terrorist groups, even if that means risking the lives of the U.S. prisoners."[1] By a slight margin, the poll indicates that most Americans believe a logical truth: negotiating and granting concessions to terrorists puts others in danger of being taken hostage.

The United States outlines this logic as one of the primary reasons its government makes no concessions with terrorists—out of the fear that it will incentivize the terrorists to repeat their tactics. Both current and past U.S. policies have maintained that the government will "deny hostage-takers the benefits of ransom, prisoner releases, policy changes, or other acts of concession."[2] This decision, explains the U.S. Department of State (DOS), is based on the belief that "paying ransom or making other concessions to terrorists in exchange for the release of hostages increases the danger that others will be taken."[3] However, beliefs alone are not a valid tool for forming policy regarding terrorist hostage-takings.

Traditionally, the United States has had a policy against negotiating with terrorists. But with the recent beheadings of some American hostages at the hands of terrorists, that policy has been reviewed and revised. In the summer of 2015, the White

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[1] Jeffrey Jones, "Americans Divided on Wisdom of U.S. Prisoner Negotiations," Gallup, June 11, 2014, http://www.gallup.com/poll/171395/americans-divided-wisdom-prisoner-negotiations.aspx.

[2] "7 FAM 1820: Hostage-taking and Kidnappings," U.S. Department of State, August 11, 2014, 5, https://fam.state.gov/searchapps/viewer?format=html&query=7%20fam%201820%20hostage&links=7,FAM,1820,HOSTAG&url=/FAM/07FAM/07FAM1820.html.

[3] Bureau of Public Affairs, "Fact Sheet: International Terrorism—American Hostages," *U.S. Department of State Dispatch* 6, no. 43 (October 23, 1995): Article 10.

House released the *Report on U.S. Hostage Policy* in an effort to provide better support for hostages and their families. This report resulted in Presidential Policy Directive (PPD)-30 and Executive Order 13698, which form the policy for hostage recovery activities. The policy keeps its firm "no-concessions" rule but now allows for direct communication with terrorist hostage-takers. It also gives families the ability to pay ransoms for the safe return of their relatives.

While the policy does make sweeping changes by allowing negotiations, it contradicts the no-concessions clause by permitting families the ability to pay ransoms. With lives at stake, it is important to understand relevant material concerning the topic of negotiating with terrorists. This thesis analyzes the new policy on hostage recovery and offers recommendations for the best policy option to protect U.S. citizens from this type of terrorist activity.

A.   PROBLEM STATEMENT AND RESEARCH QUESTIONS

Even though the United States has taken steps to improve its ability to recover American hostages held abroad, it is uncertain whether or not the new policy will be effective at negotiating and protecting U.S. citizens from terrorist hostage-takings. Because the policy retains the no-concessions clause, it may still be unable to achieve these goals. Moreover, the United States has consistently violated the no-concessions rule by negotiating and granting concessions to terrorists; an example is the Iran-Contra affair, during which the United States traded arms for hostages and arranged the prisoner exchange involving Bowe Bergdahl. Policy application contradictions like these cause confusion, and lead to questions about the U.S. government's integrity, strength, and wisdom.

In order to address these problems, the research focused on the effectiveness of maintaining a no-concession policy. While the research explores this issue as well as others that inevitably arise in connection with negotiation policies, the following questions are the primary focus:

- How does the U.S. no-concessions policy impact hostage recovery activities when negotiating with terrorists?

- What other policy options might best help the United States protect its citizens?

B. RESEARCH DESIGN

This thesis intended to answer the research questions by conducting a policy options analysis. To effectively do so, Eugene Bardach's policy analysis process was followed.[4] Alternative policies were developed, criteria were established based on the literature, and then the policy options were evaluated.

Three policy alternatives were established: maintaining the current policy of no concessions, granting ransom payments or other acts of concessions without limits, and removing the no-concessions language. The policy options were then measured against four criteria to determine their effectiveness during hostage-takings. The majority of the criteria were established as a result of analyzing the recurring themes in the nation's policy throughout its historical development. After the policy alternatives and criteria were established, the next stage was to design a scoring system (described in more detail in Chapter IV) and evaluate the options. Once the policy options were scored, they were totaled and ranked. The highest number indicated the optimal policy for the United States.

C. LITERATURE REVIEW

The two major arguments against negotiating with terrorists are clear. Some say negotiating encourages more terrorism by giving into their demands and putting lives at risk.[5] Others argue that negotiating legitimizes terrorists and undermines international efforts to eliminate terrorism.[6] Although most of the research on negotiating with terrorists approaches the topic in the broader sense, discussing the overall peace process

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[4] Eugene Bardach and Eric M. Patashnik, *A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving* (Washington, DC: CQ Press, 2015).

[5] A. Murady, "Negotiating with Terrorists Encourages More Terrorism," *Daily Outlook Afghanistan*, February 18, 2014, http://outlookafghanistan.net/topics.php?post_id=9427.

[6] Peter R. Neumann, "Negotiating With Terrorists," *Foreign Affairs* 86, no. 1 (February 2007): 128.

rather than specific hostage situations, the two topics are closely related. A review of the literature indicates that there are many positive and negative outcomes associated with negotiating. Decision makers should consider all these benefits and pitfalls when determining a better policy. This literature review covers the major arguments against, as well as the pros and cons of, negotiating.

1. Negotiating with Terrorists Causes More Terrorism

Some authors argue that negotiating causes more terrorism. Duyvesteyn and Schuurman, along with Clutterbuck and Hayes, confirm their group hypothesis: negotiations that lead to concessions can cause terrorists to repeat certain acts of terrorism.[7] However, in making this statement, none of these authors reference past research or offer any empirical evidence to support their claim. Though they feel that granting concessions leads to more terrorism, few state that it should prevent negotiations from taking place.

A policy brief from the International Institute for Applied Systems Analysis (IIASA) claims that "the degree to which ... [terrorists] achieve their demands," not the negotiation process itself, causes them to perpetuate actions.[8] In other words, if negotiations always result in conceding to any or all of the terrorists' demands, they may repeat their tactics. William Zartman confirms this in his writings, declaring that if negotiations result in concessions, such as news interviews or radio publicity instead of ransom payments, for example, the terrorists are "more likely to decide that the result is not worth the effort, rather than to feel encouraged to do it again."[9] In contrast, as proposed by IIASA, if the negotiations lead to ransom payments or appeasements,

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[7] Isabelle Duyvesteyn and Bart Schuurman, "The Paradoxes of Negotiating with Terrorist and Insurgent Organisations," *Journal of Imperial and Commonwealth History* 39, no. 4 (2011): 677, doi: 10.1080/03086534.2011.615612.

[8] International Institute for Applied Systems Analysis (IIASA), "Negotiating with Terrorists: A Mediator's Guide," *IIASA Policy Brief*, no. 6 (March 2009), http://www.iiasa.ac.at/web/home/resources/publications/IIASAPolicyBriefs/pb06.html.

[9] I. William Zartman, "Negotiating with Terrorists," *International Negotiation* 8, no. 3 (September 2003): 448–449.

terrorists are more likely to continue their tactics.[10] It is the negotiation's outcome—not the act of negotiating itself—that encourages them to repeat acts of terrorism.[11]

Pruitt argues that states are generally against negotiating because it rewards terrorist violence, and negotiating is often categorized as capitulation.[12] Governments therefore prefer combat, as Pruitt puts it, "because it requires no concessions, grants no legitimacy, and is consistent with the norm of punishing illegal violence."[13] However, negotiations are not synonymous with capitulation or concessions. As Pruitt and others have affirmed, negotiating should not be equated with granting concessions. Clutterbuck's research cites several examples of the negative outcomes of negotiating with terrorist groups. Despite these outcomes, he admits that governments should never refuse to negotiate even if they refuse to grant concessions.[14]

Published writings tend to agree that simply granting concessions may encourage certain types of terrorists to actively pursue ransom payments or prisoner exchanges; however, the literature does not imply that all types of terrorists will participate in these activities. Although many authors agree that granting concessions leads to more terrorism, they offer no quantitative data or research to support this claim—this lack of data indicates a major gap in understanding a no-concessions policy.

2. Negotiating with Terrorists Gives Them Legitimacy

Another argument against negotiating with and granting concessions to terrorists is that it gives terrorists legitimacy. Peter Neumann, though he does not concur, outlines the most popular argument among scholars in his field: "Democracies must never give in to violence, and terrorists must never be rewarded for using it. Negotiations give legitimacy to terrorists and their methods and undermine actors who have pursued

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[10] IIASA, "Negotiating with Terrorists."

[11] Ibid.

[12] Dean G. Pruitt, "Negotiation with Terrorists," *International Negotiation* 11, no. 2 (May 2006): 371–385, doi: 10.1163/157180606778968290.

[13] Pruitt, "Negotiation with Terrorists," 373.

[14] Richard Clutterbuck, "Negotiating with Terrorists," *Terrorism and Political Violence* 4, no. 4 (December 1, 1992): 277, doi: 10.1080/09546559208427186.

political change through peaceful means."[15] Duyvesteyn and Schuurman's research similarly suggests that terrorists often seek out negotiations to improve their legitimacy: "Talks appear to legitimize the aims and strength, if not the methods, of terrorist groups, thus elevating their status from violent criminals to potent political activists."[16] Former Afghan National Directorate of Security Amrualla Saleh, discussing the United States' willigness to negotiate with the Taliban, says, "Negotiating with the Taliban after more than 10 years of fighting means giving legitimacy and space to militant extremism."[17] In essence, Saleh believes that negotiations recognize and legitimize the Taliban's violence and atrocities. Such negotiations could prompt other terrorist groups to commit violent acts for resolution.

Harmonie Toros acknowledges Saleh's common argument against negotiating, commenting, "A key objection raised by terrorism scholars and policymakers against engaging in negotiations with terrorists is that it legitimizes terrorist groups, their goals and their means. Talking to them would serve only to incite more violence and weaken the fabric of democratic states, they argue."[18] However, Toros suggests that other scholars are overlooking the fact that governments require terrorists to cease violence during negotiations, and because the terrorists are obligated to end attacks once a solution is reached, the norm of nonviolence is actually strengthened during negotiations.[19] Toros's research suggests that granting legitimacy may be a necessary step in resolving conflict and stopping the cycle of terrorism. Groups typically use terrorism to communicate political change because they feel that an injustice has been committed and that there are no peaceful avenues for reparation.[20] Negotiating, according to Toros, provides terrorists a nonviolent alternative to communicate; it provides them with ingress

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[15] Neumann, "Negotiating With Terrorists," 128.

[16] Duyvesteyn and Schuurman, "Paradoxes," 668.

[17] Amrullah Saleh, "Why Negotiate With the Taliban?" *Wall Street Journal*, February 10, 2012, sec. Opinion, http://online.wsj.com/news/articles/SB10001424052970204136404577207500541175714.

[18] Harmonie Toros, "'We Don't Negotiate with Terrorists!': Legitimacy and Complexity in Terrorist Conflicts," *Security Dialogue* 39, no. 4 (August 1, 2008): 407, doi: 10.1177/0967010608094035.

[19] Toros, "We Don't Negotiate," 412.

[20] Ibid., 414.

into the political mainstream and a departure from terrorism as a form of communication. In contrast, if a state refuses to negotiate and accept a group's legitimacy, it can lead to further radicalization and a repeated cycle of terrorism.[21] Finally, says Toros, "Negotiating with 'terrorists' can indeed lead to their legitimation, but through this very legitimation it may offer 'terrorists' an alternative path and the chance to transform into nonviolent actors."[22] The importance of Toros' research is that, instead of avoiding the argument over granting legitimacy, she addresses the importance of granting it to terrorist groups as a necessary step to the peace process.

3.   Pros and Cons of Negotiating

Many authors do not necessarily oppose negotiating; much literature focuses on illuminating both the benefits and potential consequences of negotiating with terrorists. Neumann writes: "The most obvious and profound benefit to talking to groups that use terror is to hasten an end to the violence and produce a sustainable peace."[23] By involving terrorists in the negotiation process, they become part of the solution instead of part of the problem.[24] As Zartman emphasizes, "As in any negotiations, when the two parties become convinced that a search for a solution is legitimate and acceptable to both sides, they become joint searchers for a solution to a problem rather than adversaries."[25] Negotiating is the first step in the peace process; it is a necessary element to a peaceful solution that brings both sides together.

Zartman's work further argues that negotiating can weaken support for violence and boost moderate members of terrorist groups.[26] Most groups commit terrorist acts as a form of communication; therefore, when governments want to communicate with terrorist groups, it oftentimes encourages members to engage in peaceful talks. Toros supports Zartman's claim, agreeing that negotiations can strengthen moderates within the

[21] Ibid.

[22] Ibid., 422.

[23] Neumann, "Negotiating With Terrorists," 128–38.

[24] Ibid.

[25] Zartman, "Negotiating with Terrorists," 448–49.

[26] Ibid.

group who desire political change through nonviolence. In addition, Toros believes negotiating "can also lead to the slow transformation of the entire group into one adhering to the norms of nonviolent political debate."[27]

Audrey Cronin, too, agrees that negotiating can boost moderates and separate them from the group's hardliners—a phenomenon called splintering.[28] Duyvesteyn and Schuurman argue that splintering causes more violence: "Negotiations are virtually never seen as a positive development by all subgroups of the insurgent or terrorist organization. This can lead to the formation of splinter groups who view talks as a betrayal of principles or who fear that the outcomes of negotiations will limit their power."[29] Cronin further postulates that splintering can increase violence, but suggests that it can also isolate and potentially strangle the most radical factions of the group.[30] She feels that negotiations should be regarded as long-term solutions that require patience, flexibility, extensive intelligence, and determination; however, Cronin ultimately concludes that, regardless of the antiterrorism campaign a state imposes, terrorist organizations typically die out over time as a result of their own destructive devices.

Quinney and Coyne point out another benefit of negotiating—that it redirects the terrorists' attention. While it is possible that talks may not lead to a resolution, negotiations are often accompanied by a cease-fire.[31] Quinney and Coyne cite a study that found "about half of the terrorist groups involved in negotiations continued to use violence, but the intensity and frequency of the violence declined as talks dragged on."[32] Opponents of negotiating, such as Cronin, argue that cease-fires allow terrorists to regroup and rearm.[33] Duyvesteyn and Schuurman list this action as the first paradox in

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[27] Toros, "We Don't Negotiate," 413.

[28] Audrey Kurth Cronin, *When Should We Talk to Terrorists?* (Washington, DC: United States Institute of Peace, May 2010), 1–13, http://www.usip.org/publications/when-should-we-talk-terrorists.

[29] Duyvesteyn and Schuurman, "Paradoxes," 668.

[30] Cronin, *When Should We Talk to Terrorists?*, 1–13.

[31] Nigel Quinney and A. Heather Coyne, *Talking to Groups That Use Terror* (Washington, DC: United States Institute of Peace Press, 2011), 17.

[32] Quinney and Coyne, *Talking to Groups*.

[33] Cronin, *When Should We Talk to Terrorists?*, 1–13.

negotiating with terrorists: negotiations can mask violent motives, and terrorist groups typically enter into them to gain a tactical advantage.[34] Quinney and Coyne's points are slightly contradictory; they argue that not every negotiation will be successful, but entering into negotiations can save lives by occupying the group's time and focus. This distraction can hinder a terrorist group's ability to conduct attacks while negotiations are taking place.[35]

Quinney and Coyne list intelligence gathering as a key component in negotiations and another effective counterterrorism tool. They explain, "Talking is a good way to find out more about the terrorists' goals, priorities, and sensitivities—all of which can easily be missed or misconstrued when a group is demonized and isolated."[36] States miss important information and intelligence that can resolve conflicts when they employ policies against negotiating.

The literature review on negotiating with terrorists identified many valid considerations, including its positive and negative outcomes. The United States' current policy allows for direct negotiations with terrorists; however, maintaining the no-concessions rule endangers negotiations. It limits negotiators' abilities and resources, which ultimately hinders their ability to successfully negotiate.

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[34] Duyvesteyn and Schuurman, "Paradoxes."

[35] Quinney and Coyne, *Talking to Groups*, 17–18.

[36] Ibid., 18.

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II.   BACKGROUND

A.   WHAT IS TERRORISM?

Analyzing terrorism is not an easy task. The topic's subjective nature makes it almost impossible to classify and define. What is considered an act of liberty to one person may be considered terrorism to another. This is why it is so difficult to identify acts of terrorism and why terrorism, as a word, has never been truly defined. This precise difficult was demonstrated in the case of Joseph Stack, who deliberately flew his plane into an Internal Revenue Service (IRS) office building in Austin, Texas. Stack, according to his manifesto, was upset with the IRS and the U.S. tax system.[37] In his suicide note, Stack expressed anger toward big businesses like General Motors, which received bailout money from the federal government, and the Catholic Church, which receives tax-exempt status from the IRS. His writings expressed frustration with the U.S. government over his IRS problems and politicians' lack of concern.[38] Stack, in his manifesto, also encouraged more people to wake up and fight against the government.[39] During the attack, Stack killed one IRS employee and injured several others.

Some accused the government of downplaying Stack's actions; news sources quoted homeland security officials as originally saying, "We believe there's no nexus with criminal or terrorist activity."[40] Reporter Glenn Greenwald took the opposite approach, pointing out that Stack's actions were an act of terrorism.[41] News reporters and political bloggers seemed divided on the issue; some reported that, because Stack suffered from mental illness and suicidal tendencies, his acts should not be considered

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[37] Joe Weisenthal, "The Insane Manifesto of Austin Texas Crash Pilot Joseph Andrew Stack," *Business Insider*, February 2, 2010, http://www.businessinsider.com/joseph-andrew-stacks-insane-manifesto-2010-2.

[38] Weisenthal, "The Insane Manifesto."

[39] Ibid.

[40] David Neiwert, "Huh? Since When Is Attempting To Blow up a Federal Building NOT an Act of Domestic Terrorism?," Crooks and Liars, February 18, 2010, http://crooksandliars.com/david-neiwert/huh-when-attempting-blow-federal-bui.

[41] Glenn Greenwald, "Terrorism: The Most Meaningless and Manipulated Word," Salon, accessed December 20, 2015, http://www.salon.com/2010/02/19/terrorism_19/.

terrorism.[42] While the mental illness argument may appear to have some merit, it is diminished by the fact that Theodore Kaczynski, also known as the Unabomber, is considered a major terrorist according to the Federal Bureau of Investigation (FBI).[43] Kaczynski, who could have been described as a recluse, sent a number of bombs through the U.S. Postal Service. His manifesto shows his hatred of industrial society and technology. After his writings were published, Kaczynski was caught, but not before his bombs killed three people and injured 23 others. Because of his self-contained life and atypical ways, Kaczynski was examined by several psychiatrists who diagnosed him as suffering from paranoid schizophrenia.[44] Kaczynski, similar to Stack, wrote an antiestablishment manifesto and carried out attacks against his hated institution. and although they both seemingly suffered from mental illnesses, Kaczynski was classified as a terrorist and Stack was not.

Another attack on U.S. soil committed by a U.S. citizen occurred when a truck bomb was detonated in Oklahoma City, destroying the Murrah Federal Building. The explosion killed 187 people, 19 of them children.[45] It was later learned that Timothy McVeigh and his co-conspirator Terry Nichols were responsible for the bombing. Both McVeigh and Nichols developed antigovernment ideology, most of which steamed from tragic events at Ruby Ridge and Waco, in which federal agents killed U.S. citizens.[46] McVeigh and Nichols felt that the U.S. government had violated these people's constitutional rights, and it was only a matter of time before others were next.

Although Stack's attack and the McVeigh-Nichols Oklahoma City bombing were virtually the same, there was little question that McVeigh and Nichols had committed a

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[42] Heather Horn, "Should We Call the IRS Attack Terrorism?," *The Wire*, February 19, 2010, http://www.theatlanticwire.com/politics/2010/02/should-we-call-the-irs-attack-terrorism/25460/.

[43] "Major Terrorism Cases," FBI, accessed January 9, 2016, https://www.fbi.gov/about-us/investigate/ terrorism/terrorism_cases.

[44] Stephen Diamond, "Terrorism, Resentment and the Unabomber," Psychology Today, accessed January 9, 2016, http://www.psychologytoday.com/blog/evil-deeds/200804/terrorism-resentment-and-the-unabomber.

[45] "Oklahoma City Bombing—Facts & Summary," History.com, accessed December 20, 2015, http://www.history.com/topics/oklahoma-city-bombing.

[46] Douglas Linder, "The Oklahoma City Bombing & the Trial of Timothy McVeigh," University of Missouri-Kansas City, 2006, http://law2.umkc.edu/faculty/projects/ftrials/mcveigh/mcveighaccount.html.

terrorist attack. In both events, the perpetrators hated the government, attacked a federal building, intended to change the government by the attack, wanted to inspire others with their actions, used weapons that caused mass destruction, and intended to instill fear and kill people. According to the Encyclopedia Britannica, the FBI and several news agencies, the Oklahoma City bombing is considered the worst act of homegrown terrorism.[47] Yet despite their similarities, the FBI continued to insist during the Stack investigation that it was a criminal matter and not terrorism.[48] Moreover, in CNN's most up-to-date tally of terrorist attacks in the United States, the Unabomber incident and the Oklahoma City bombing are both listed, but not Stack's violence is not.[49] These comparisons illustrate how complex it can be to identify acts of terrorism.

Categorizing terrorist actions has been proven to be enigmatic; defining terrorism is just as elusive. In fact, three separate U.S. government agencies define terrorism differently. The United States Department of Defense defines terrorism as "the unlawful use of violence or threat of violence, often motivated by religious, political, or other ideological beliefs, to instill fear and coerce governments or societies in pursuit of goals that are usually political."[50] According to the FBI's website, international and domestic terrorism includes the following core activities: "Violent acts or acts dangerous to human life that violate federal or state law; appear to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or

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[47] John Jenkins, *Encyclopedia Britannica*, s.v., "Oklahoma City Bombing," accessed December 20, 2015, http://www.britannica.com/event/Oklahoma-City-bombing; "Terror Hits Home: The Oklahoma City Bombing," FBI, accessed December 20, 2015, https://www.fbi.gov/about-us/history/famous-cases/oklahoma-city-bombing/oklahoma-city-bombing; Lydia Smith, "Oklahoma City Bombing 20th Anniversary: 20 Facts about the 1995 Attack," *International Business Times UK*, April 18, 2015, http://www.ibtimes.co.uk/oklahoma-city-bombing-anniversary-20-facts-about-1995-attack-1497033.

[48] Glenn Greenwald, "Refusal to Call Charleston Shootings 'Terrorism' Again Shows It's a Meaningless Propaganda Term," The Intercept, June 19, 2015, https://theintercept.com/2015/06/19/refusal-call-charleston-shootings-terrorism-shows-meaningless-propaganda-term/.

[49] "U.S. Terrorist Attacks Fast Facts," CNN, accessed December 23, 2015, http://www.cnn.com/2013/04/18/us/u-s-terrorist-attacks-fast-facts/index.html.

[50] Joint Chiefs of Staff, *Department of Defense Dictionary of Military and Associated Terms* (Joint Publication 1-02) (U.S. Department of Defense, January 2016), 241, http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf.

kidnapping."[51] Lastly, the DOS defines terrorism as "premeditated, politically-motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents."[52] A standard definition of terrorism has eluded the United States and the international community.

The United Nations (UN) Office on Drugs and Crime admits that a clear definition for the word terrorism has eluded governments for years.[53] The popular quote, "one man's terrorist is another man's freedom fighter," articulates the UN's perspective. According to Boaz Ganor, a survey of leading academics in the field of terrorism generated 109 different definitions of terrorism.[54] As Ganor acknowledges, "Most researchers tend to believe that an objective and internationally accepted definition of terrorism can never be agreed upon."[55] Christian Walter confirms this point in his manuscript entitled "Defining Terrorism in National and International Law." Walter points out that the term *freedom fighters* and the potential for accusing a state's officials of terrorism has confounded the debate.[56] A summary of the UN's discussions explains that "several delegations stressed a need to differentiate between terrorism and the legitimate right of peoples to resist foreign occupation."[57]

Bruce Hoffman attributes the difficulty in defining terrorism to its changing meaning over the past 200 years.[58] In his book, *Inside Terrorism*, Hoffman explains how the word terrorism was first popularized during the French Revolution and had a positive

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[51] "Terrorism Definition," FBI, accessed October 3, 2014, http://www.fbi.gov/about-us/investigate/terrorism/terrorism-definition.

[52] U.S. Department of State Bureau of Public Affairs, "Glossary," April 14, 2006, http://www.state.gov/j/ct/info/c16718.htm.

[53] Carl Miller, "Is It Possible and Preferable to Negotiate with Terrorists?," *Defence Studies* 11, no. 1 (March 1, 2011): 149, doi: 10.1080/14702436.2011.553109.

[54] Boaz Ganor, "Defining Terrorism: Is One Man's Terrorist Another Man's Freedom Fighter?," *Media Asia* 29, no. 3 (2002): 123.

[55] Ganor, "Defining Terrorism," 123.

[56] Christian Walter, "Defining Terrorism in National and International Law," presented at Conference on Terrorism, 2003, 13, https://www.unodc.org/tldb/bibliography/Biblio_Int_humanitarian_law_Walter_2003.pdf.

[57] Walter, "Defining Terrorism," 15.

[58] Bruce Hoffman, *Inside Terrorism* (New York: Columbia University Press, 2006), 3.

connotation at the time. For a while, it was associated with successful revolutionary movements, but over time it has become known as violence directed against governments and their leaders.[59] The word's positive and negative connotations have swayed back and forth throughout history depending on the regime and war taking place at the time. Currently, the word has become synonymous with evil, hate, fear, and a multitude of other negative feelings. As Carl Miller and Adrien Guelke put it, "Terrorism is a powerful member of the family of moral-descriptive vocabulary .… Indeed, it is probably one of the most condemnatory words in the English language."[60]

Terrorism as a word is subjective, and there may never be an agreed-upon definition. This absent consensus, however, does not suggest the term has no meaning, nor does it discount its negative stigma. Terrorism carries the connotation of the ultimate evil. As a result of the word's pejorative meaning and related emotions, it cannot function as a neutral descriptor.[61] Terrorism is intended to produce devastating injuries, destruction, and death. At its linguistic root is the word terror—designed to instill fear, uncertainty, and vulnerability.[62] These emotional responses to the word make it nearly impossible for people to accept that negotiating or granting concession to terrorists could be a positive thing, and it inevitably stigmatizes a hostage's plight in a negative way. Because the word and its actions are of such a subjective nature, and because of the negative association attached to them, reconsidering the word terrorism's use in U.S. policy for hostage recovery activities is merited.

B. HISTORY OF TERRORISM

Terrorism is not a new concept. Although there is no definitive date of the first terrorist act, terrorism as we know it dates back over 2,000 years. Bongar et al. suggest, "In 48 A.D., a Jewish sect called the Zealots carried out terrorist campaigns to force an

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[59] Hoffman, *Inside Terrorism*, 14.

[60] Ibid.

[61] Miller, "Is It Possible," 151.

[62] Rachel Yehuda and Steven E. Hyman, "The Impact of Terrorism on Brain, and Behavior: What We Know and What We Need to Know," *Neuropsychopharmacology* 30, no. 10 (October 2005): 1778, doi: 10.1038/sj.npp.1300817.

insurrection against the Romans in Judea."[63] The Zealots, as Bongar et al. describe, would commit terrorist acts such as kidnappings for ransoms, assassinations, and mass poisonings for the purpose of instilling terror into the Romans and Jewish sympathizers.[64] Most of the killings took place during daylight hours so people could see these horrific acts as they were happening and report back to the Romans.[65]

The Barbary pirates were the first terrorist group that America ever faced. Their actions, which included taking hostages for ransom and demanding payment for safe passage, made them a contingent terrorist group. In 1785, the United States negotiated to pay tribute to the pirates, just as every other nation at the time did, to prevent the pirates from seizing ships and taking the crews hostage.[66] Despite America's yearly ransom payments, U.S. ships were still being attacked and seized, and ransoms increased as American sailors were repeatedly taken hostage. The Barbary pirates' practice of continually demanding more money eventually resulted in the Tripolitan War of 1801.

Those who are against granting concessions to terrorists argue that events from the past, such as dealings with the Barbary pirates, demonstrate that military might overcomes terrorism, and concessions only perpetuate it. However, the reason the United States was victimized over the payment of tribute was because it no longer had the protection of the British navy after the Revolutionary War; furthermore, because the United States was a new nation, it did not have the time, money, or resources to pay for a navy that could protect its ships. The Barbary pirates exploited this weakness. The pirates repeated their actions not because the United States granted concessions, but because the United States could not retaliate.

To stop the cycle of terrorism, the United States needed to enact punishment as a deterrent. Negotiations and concessions may be the best tools to save a hostage's life, but the fear of punishment can be an effective tool in preventing and ending terrorist hostage-

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[63] Bruce Bongar et al., *Psychology of Terrorism* (Oxford: Oxford University Press, 2006), 3.

[64] Bongar et al., *Psychology of Terrorism*, 3.

[65] Mark Burgess, "A Brief History of Terrorism," Project on Government Oversight, July 2, 2003, http://www.pogo.org/our-work/straus-military-reform-project/cdi-archive/a-brief-history-of-terrorism.html.

[66] Bradley E. Smith, "America's First Response to Terrorism: The Barbary Pirates and the Tripolitan War of 1801," *Military Review* 85, no. 6 (December 2005): 65–69.

takings. After the United States built a strong navy, it was able to invade the Barbary states, demand payment for capturing U.S. ships, and negotiate treaties to prevent future attacks.[67] It was not military might alone that stopped the pirates; it was the fear of reprisal. Historic events such as this one indicate that the answer to stopping hostage-takings may be found in a policy that focuses on punishing hostage-takers rather than preventing concessions.

C.   THE NATION'S POLICY

Throughout history, the United States has dealt with both domestic and international terrorism. During the 1970s, the U.S. policy regarding hostages, according to Jenkins et al., "evolved from one in which emphasis was placed on obtaining the safe release of the hostage to one in which concessions were rejected and denounced."[68] While this policy had the benefit of returning hostages quickly and safely, it was unpopular because of the fear that it would encourage future hostage-takings.[69]

The 1980s saw an increase in attacks against the United States involving Islamic terrorists. In 1982, Hezbollah took 30 Western hostages. In 1983, terrorists bombed the U.S. Embassy in Lebanon, killing 63 people, of whom 17 were American.[70] Also in 1983, terrorists attacked the U.S. and French embassies, killing six and injuring eight. The 1980s would see several more terrorist attacks involving Americans that resulted in both military and civilian casualties. It was during this time that President Reagan created the Vice President's Task Force on Combatting Terrorism to study the issue. The Vice President's Task Force was responsible for completing a review of the "current policies,

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[67] Brendan January, *The Aftermath of the Wars Against the Barbary Pirates* (Minneapolis, MN: Twenty-First Century Books, 2009), 59.

[68] Brian Michael Jenkins, Janera Johnson, and David Ronfeldt, *Numbered Lives: Some Statistical Observations from 77 International Hostage Episodes* (Santa Monica, CA: RAND, 1977), 31, http://www.rand.org/pubs/papers/P5905.html.

[69] Gail V. Bass-Golod et al., *Options for U.S. Policy on Terrorism* (Santa Monica, CA: RAND, 1981), 5, http://www.rand.org/pubs/reports/R2764.html.

[70] "Timeline of Hezbollah Violence," CAMERA, July 17, 2016, http://www.camera.org/index.asp?x_context=2&x_outlet=118&x_article=1148.

capabilities, and resources for dealing with the terrorist threat."[71] In 1986, the Task Force returned a top-secret document, which is now unclassified, entitled *The National Program for Combatting Terrorism.* According to the report, "The policy is based on the conviction that to accede to terrorist demands places more American citizens at risk. This no-concessions policy is the best way of protecting the greatest number of people and ensuring their safety. At the same time, every available resource will be used to gain the safe return of American citizens who are held hostage by terrorists."[72] The policy was later refined by the DOS to read, "The United States Government will make no concessions to terrorists holding official or private U.S. citizens hostage. It will not pay ransom, release prisoners, change its policies, or agree to other acts that might encourage additional terrorism. At the same time, the United States will use every appropriate resource to gain the safe return of American citizens who are held hostage by terrorists."[73] These early policies created the foundational framework for the no-concessions clause that is still used today.

The policy has evolved over the years. The DOS *Foreign Affairs Manual* currently reads as follows: "The U.S. Government will make no concessions to individuals or groups holding official or private U.S. citizens hostage. The United States will use every appropriate resource to gain the safe return of U.S. citizens who are held hostage. At the same time, it is U.S. government policy to deny hostage-takers the benefits of ransom, prisoner releases, policy changes, or other acts of concessions."[74] It bears mentioning that the word terrorist in the policy has been replaced with *hostage-taker*. In the introduction to "7 FAM 1821 Hostage-taking and Kidnappings," the DOS defines hostage-taking as terrorism, and kidnapping as criminal. Even though the word terrorism is still used, the reduction of its usage seems to be a positive step toward lessening the negative stigma associated with negotiating.

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[71] The White House, *The National Program for Combatting Terrorism* (NSDD-207) (Washington, DC: The White House, 1986), 1.

[72] White House, *National Program for Combatting Terrorism*, 1.

[73] Bureau of Public Affairs, "Fact Sheet."

[74] "7 FAM," U.S. Department of State.

The Obama administration ordered a review of the nation's policy after hearing pleas from the families of journalists James Foley and Steven Sotloff. Foley and Sotloff were held hostage and later beheaded by members of the Islamic State (ISIS). Diane Foley, James' mother, said "that she felt cut off at every avenue by U.S. officials and [family members] were threatened with prosecution should they try to pay for her son's return."[75] Because the United States had previously negotiated for the release of Bowe Bergdahl, the family wanted clarification about what is and what is not permitted under the U.S. government's no-concessions policy.[76] On June 2015, the White House released a report detailing changes to the U.S. hostage policy. The report resulted in PPD-30, which in part proclaims:

> The United States will use every appropriate resource to gain the safe return of U.S. nationals who are held hostage. But the United States Government will make no concessions to individuals or groups holding U.S. nationals hostage. It is United States policy to deny hostage-takers the benefits of ransom, prisoner release, policy changes, or other acts of concession. This policy protects U.S. nationals and strengthens national security by removing a key incentive for hostage-takers to target U.S. nationals, thereby interrupting the vicious cycle of hostage-takings, and by helping to deny terrorists and other malicious actors the money, personnel, and other resource they need to conduct attacks against the United States, its nationals, and it interests. However, this policy does not preclude engaging in communications with hostage-takers. For example, when appropriate the United States may assist private efforts to communicate with hostage-takers, whether directly or through public or private intermediaries, and the United States Government may itself communicate with hostage-takers, their intermediaries, interested governments, and local communities to attempt to secure the safe recovery of the hostage.[77]

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[75] James Nye, "'As an American I'm Embarrassed and Appalled': James Foley's Mother Hits out at Obama's Efforts to Rescue Her Son and Claims She Was Threatened with PROSECUTION if Family Paid Ransom," *Daily Mail*, September 11, 2014, http://www.dailymail.co.uk/.

[76] Brian Jenkins, "Why the US Swaps Prisoners but Doesn't Pay Ransom,", *Hill*, August 29, 2014, http://thehill.com/blogs/pundits-blog/defense/216214-why-the-us-swaps-prisoners-but-doesnt-pay-ransom; The White House, *Report on U.S. Hostage Policy* (Washington, DC: The White House, June 2015) 19, https://www.whitehouse.gov/sites/default/files/docs/report_on_us_hostage_policy_final.pdf.

[77] "Presidential Policy Directive—Hostage Recovery Activities," The White House, June 24, 2015, https://www.whitehouse.gov/the-press-office/2015/06/24/presidential-policy-directive-hostage-recovery-activities.

This newly formed policy maintains much of the same text that existed in past policies but introduces groundbreaking themes such as direct negotiations with terrorists and funding no terrorism. The policy is based on an effort to help families of those held hostage.

The U.S. policy on hostage recovery activities has varied slightly over the years, but has maintained its no-concessions stipulation. More importantly, the way in which presidential administrations have chosen to apply the no-concessions policy has also varied. A strict no-concessions policy is often found not viable by the administration that implements or upholds it. Before the Obama administration ordered a review of the U.S. policy on hostage recovery activities, it firmly upheld the no-concessions policy. After the murder of James Foley, Caitlin Hayden, a spokesperson for the National Security Council, told reporters that "the United States government, as a matter of long-standing policy, does not grant concessions to hostage-takers. Doing so would only put more Americans at risk of being taken captive. That is what we convey publicly and what we convey privately."[78] Her words contradict the handling of hostage situations by the George W. Bush administration. During Bush's term, the FBI routinely assisted families during negotiations with terrorists and even condoned the payment of ransom money raised by families. According to an article by Shane Harris, National Security Directive 12 allowed for the negotiation and ransom payments to terrorists holding U.S. hostages under special circumstances.[79] While various administrations have enforced the no-concessions policy differently, the fact remains that each administration since its inception has never *changed* the policy. Moreover, they have all made public comments in support of grating no concessions to terrorists. For these reasons, this thesis analyzes the policy based on its publicly written words and support.

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[78] W. J. Hennigan, "Slaying of James Foley Revives Debate on Paying Ransom to Terrorists," *Los Angeles Times*, August 21, 2014, http://www.latimes.com/.

[79] Shane Harris, "'No One's Really in Charge' in Hostage Negotiations," *Foreign Policy*, October 8, 2014, http://www.foreignpolicy.com/articles/2014/10/08/no_ones_really_in_charge_in_hostage_negotiations.

D.   RECURRING THEMES OF THE U.S. POLICY

In analyzing the history of the U.S. negotiating policies, there are four distinctive themes that have emerged:

- **Granting no concessions**: The United States will "deny hostage-takers the benefits of ransom, prisoner release, policy changes, or other acts concession."[80]

- **Deterring hostage-taking**: The U.S. policy of not granting concessions will remove incentive and prevent future hostage-taking.

- **Funding no terrorism**: The U.S. policy of not granting concessions denies "terrorists and other malicious actors the money, personnel, and other resource they need to conduct attacks against the United States, its nationals, and it interests."[81]

- **Using every resource**: "The United States will use every appropriate resource to gain the safe return of U.S. nationals who are held hostage."[82]

With the exception of funding no terrorism, the themes have been at the heart of U.S. policy since its inception. At the center of the policy's framework is the no-concessions rule, and the justifying reasons for granting no concessions can be found in the themes deterring hostage-taking and funding terrorism. Because these themes already exist in the policy, when conducting the policy options analysis, they help to shape the criteria for determining the effectiveness of the three policy options.

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[80] White House, "Presidential Policy Directive."

[81] Ibid.

[82] Ibid.

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III. NEGOTIATING WITH TERRORISTS

To help answer the research question—how does the U.S. no-concessions policy impact hostage recovery activities when negotiating with terrorists?—it is important to understand the dynamics of negotiating with terrorists. There are many different types of terrorists, and much of the literature has different classifications for each. Building on other scholars' definitions, Miller classifies terrorists into four groups: national-separatists who want independence from governments, revolutionary left-wingers who use violence to enact change, reactionaries or right-wingers who prevent or reverse societal change, and religious groups that are motivated by theological beliefs.[83] Pruitt places terrorists into two dimensions within these categories: "(1) More or less ideological, in the sense of adhering to an integrated set of abstract beliefs; and (2) More or less representative of real constituents, in the sense of speaking for a sizeable set of people who acknowledge their leadership."[84]

Zartman and the International Institute for Applied Systems Analysis (IIASA) classify terrorist groups into two main categories; depending on their motives, they are either contingent or absolute terrorists. Contingent terrorists usually take hostages in order to negotiate for goods, usually money or comrades.[85] Absolute terrorists are usually motivated by political reasons: they seek territory, independence, and policy change.[86] Placing terrorists into these two categories does not imply that they must stay in one or the other at all times. They often cross between the two categories. Absolute terrorists, such as ISIS and al-Qaeda, often take hostages and negotiate ransom payments for their release. Somali pirates, as contingent terrorists, fight to protect their territorial fishing waters from the illegal dumping of waste and overfishing.

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[83] Gregory D. Miller, "Confronting Terrorisms: Group Motivation and Successful State Policies," *Terrorism and Political Violence* 19, no. 3 (July 4, 2007): 331–350. doi: 10.1080/09546550701424059.

[84] Pruitt, "Negotiation with Terrorists."

[85] IIASA, "Negotiating with Terrorists," 2.

[86] Ibid.

Because this thesis primarily focuses on negotiating with terrorists during hostage situations, absolute and contingent terrorists are examined. As recent examples have shown, it is possible to successfully negotiate with both during a hostage situation.

A.   ABSOLUTE TERRORISTS

Governments typically respond to absolute terrorists with violence, which oftentimes not only fails to decrease terrorism, but increases it instead.[87] An example was the French response to the National Liberation Front (FLN), in which the French deployed its military to stop terrorist violence taking place in Algeria. Early campaigns proved successful; however, over time, the violence increased.[88] The use of military tactics and force also did not prevent the FLN in Algeria from gaining independence from France. Other examples of absolute terrorists include the Provisional Irish Republican Army (IRA), Hamas, and al-Qaeda.

The best example of negotiating successfully with an absolute terrorist organization took place between the IRA and the British government.[89] The conflict began when the IRA, which represented the Catholic minority, felt discriminated against by the Protestant majority, represented by Britain.[90] Through their tactics, the IRA became the most notorious nationalist terrorist group in Europe, fighting for independence and a united Ireland.[91] In its desire for independence, the IRA conducted bombings that intentionally targeted civilians.[92] However, after 25 years of fighting and terrorism and the loss of thousands of lives, negotiations and concessions resulted in peace.

The peace process in Northern Ireland started with the negotiation process. By recognizing that the IRA had a legitimate complaint and ultimately conceding to

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[87] Miller, "Confronting Terrorisms," 338.

[88] Ibid.

[89] Neumann, "Negotiating With Terrorists," 137.

[90] Pruitt, "Negotiation with Terrorists," 379.

[91] Ibid.

[92] Michael Moran, "Terrorist Groups and Political Legitimacy," Council on Foreign Relations, March 16, 2006, http://www.cfr.org/terrorism/terrorist-groups-political-legitimacy/p10159.

legitimizing its political wing, Sinn Fein, British negotiations helped put an end to violence in Northern Ireland. Negotiations gave the IRA a non-violent communications option and allowed for moderates within the organization, who were in favor of talks, to push the group toward a peaceful resolution. Negotiations did make the IRA a legitimate entity, but doing so also encouraged the group to seek legitimacy through political means.[93] The successful talks between the IRA and British government show that negotiating and granting concessions can be an effective counterterrorism tool. Although these tools are used during non-hostage situations for absolute terrorists, the principles can be applied to contingent terrorists who are holding hostages.

B.   CONTINGENT TERRORISTS

Those who oppose granting concessions often point to contingent terrorists like the Somali pirates as an argument for not negotiating. One report estimates the pirates were paid between $339 and $413 million over the course of seven years.[94] However, ransom payments are not the main factor in encouraging hostage-taking. Somalia has been a failed state since civil war broke out over two decades ago. With no real central government, there are no real consequences for this type of terrorism. In a Congressional Research Service report, Ploch et al. point out that "the increase in pirate attacks off the Horn of Africa is directly linked to continuing insecurity and the absence of the rule of law in war-torn Somalia."[95] The country remains largely ungoverned, and it lacks the capacity to prosecute and imprison pirates.[96] While ransoms can provide some incentive, this deficiency in government and prosecution are the main causes that perpetuate this cycle of terrorism.

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[93] Toros, "We Don't Negotiate," 416.

[94] Christopher Harress, "Secret Flow of Somali Piracy Ransoms: 179 Hijacked Ships Generated Some $400M in Payments Since 2005. So Where Has it All Gone?," *International Business Times*, November 4, 2013, http://www.ibtimes.com/secret-flow-somali-piracy-ransoms-179-hijacked-ships-generated-some-400m-payments-2005-so-where-has.

[95] Lauren Ploch et al., *Piracy off the Horn of Africa* (CRS Report No. R40528) (Washington, DC: Congressional Research Service, September 28, 2009), 5, http://www.fas.org/sgp/crs/row/R40528.pdf.

[96] Ploch et al., *Piracy*, 5.

Ransoms or concessions can provide lifesaving benefits. Many cases of piracy have been peacefully resolved through the payment of ransoms. In 2009, a Ukrainian ship carrying ammunition, arms, and tanks was seized by Somali pirates.[97] The ship and its crew were released unharmed after a $3.2 million ransom was paid to the pirates.[98] The highest known ransom paid to the Somali pirates for the safe release of a ship and crew was $9.5 million, for the release of the South Korea oil tanker *Samho Dream*.[99] In these cases and many others, paying ransoms has resulted in releasing hostages and saving lives and property. Negotiating and paying ransoms do not preclude the United States from seeking the arrest and prosecution of suspects or the recovery of money as expressed in international law.[100] These alternatives are crucial components to ending the cycle of hostage-taking.

C. TACTICAL ACTION AND PAYING RANSOMS

If ransoms or concessions are not granted, then rescuing the hostage by force is one of the only limited options available. This option often results in unnecessary death and injury. The United States used force to rescue Captain Richard Phillips of the U.S. flagged vessel the *Maersk Alabama* when Somali pirates seized the ship. Initially, the ship's 20-member crew, all of whom were U.S. citizens, overtook a Somali hijacker in an attempt to free Phillips.[101] The attempt, however, was unsuccessful; the hijackers loaded Phillips into a lifeboat and abandoned the cargo ship.[102] In response to the attack, the Navy dispatched a destroyer, the *U.S.S. Bainbridge*. One of the pirates requested medical attention and surrendered immediately, leaving three pirates on the lifeboat with Captain

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[97] Ibid., 12.

[98] Sam Jones and Chris McGreal, "Somali Pirates Release Ukrainian Arms Ship," *Guardian*, accessed November 22, 2014, http://www.theguardian.com/.

[99] Ploch et al., *Piracy*, 12.

[100] Ben Saul, *International Convention against the Taking of Hostages* (New York: United Nations, 2014), 5–11, http://legal.un.org/avl/pdf/ha/icath/icath_e.pdf.

[101] Maureen Callahan, "Crew Members: 'Captain Phillips' Is One Big Lie," *New York Post*, October 13, 2013, http://nypost.com/.

[102] Callahan, "Crew Members."

Phillips.[103] Phillips attempted an escape by jumping into the ocean; however, the pirates fired their weapons and were able to recapture him. After days of negotiating, the Navy snipers felt that Phillips was in imminent danger when one of the pirates held a gun to Phillip's back. The snipers waited patiently and eventually shot all three hostage-takers at the same time, freeing Captain Phillips.[104]

It is rare for contingent terrorists to harm hostages; as mentioned by Ploch et al.: "Reports suggest that most Somali pirate groups have not wantonly harmed captives taken in the course of their raids."[105] This is because, as Zartman explains, "live hostages are better bargaining material than dead ones."[106] In the aforementioned hostage situation, the pirates would not have likely harmed or killed Captain Phillips; he was a needed bargaining chip for the pirates. Furthermore, the pirates understood that Phillips served as a shield protecting them from attack. If Phillips were dead, there would be no reason for the Navy not to attack and kill them. This was demonstrated during Phillips' attempted escape, when the pirates could have easily shot and killed him. Because they needed him alive for protection, and to negotiate for their freedom, however, they chose to fire warning shots and recaptured their hostage.

Examining the Captain Phillips story from a negotiator's standpoint, the negotiations were working—if continued, a peaceful resolution would have followed. The foundational principle of hostage negotiations is the concept of "contain and negotiate." Containment can come in the form of actual physical containment, which the Navy achieved by tying the pirate's boat to the *Bainbridge*. Containment can also be verbal, which occurs when verbal negotiators are occupying the hostage-takers' time. During the negotiations with the pirates, the United States was able to achieve both physical and verbal containment. Physical containment limits escape options and forces negotiations. Verbal containment keeps attention focused on the negotiators, thereby,

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[103] Robert D. Mcfadden and Scott Shane, "In Rescue of Captain, Navy Kills 3 Pirates," *New York Times*, April 13, 2009, sec. International / Africa, http://www.nytimes.com/.

[104] Mcfadden and Shane, "In Rescue of Captain."

[105] Ploch et al., *Piracy*, 11.

[106] Zartman, "Negotiating with Terrorists," 446.

lessening the probability of hostages being harmed. Obtaining both types of containment placed the U.S. negotiators in the best position for success. One of the goals during negotiations is to build trust by creating a rapport. The pirates showed that they trusted the U.S. negotiators by allowing them to approach their boat. After rapport building, behavioral change begins to take place. This was seen when the pirates abandoned the demand for ransom and started to only negotiate for their freedom.[107] Based on all of these factors, and utilizing the most basic principles of negotiations, given enough time, the release of Captain Phillips without the loss of any life would have been inevitable. According to the FBI's Hostage Barricade Database System (HOBAS), when negotiators utilize the contain-and-negotiate strategy, 95 percent of incidents are resolved without loss of life.[108] As time passes, defenses subside, fatigue sets in, and the likelihood of a peaceful resolution increases.[109]

Although Captain Phillips was successfully rescued by use of force, this tactic had underlying consequences. Escalating violence against an attacker may cause the attacker to reciprocate.[110] Vice Admiral Bill Gortney, commander of U.S. Naval Forces Central Command, conceded that killing the pirates to free Phillips could have caused the pirates to become more violent.[111] Former FBI Agent Jack Cloonan, who had negotiated with Somali pirates previously, expressed a similar concern. In an interview with journalist John Goetz, he warned, "We've never heard the word 'revenge' before and now the pirates are vowing revenge."[112] The tactical rescue of Captain Phillips appeared to be unnecessary and undoubtedly increased violence against U.S. flagged vessels.

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[107] Tristan McConnell, "How to Stop the Somali Pirates," *MinnPost*, April 15, 2009 http://www.minnpost.com/global-post/2009/04/how-stop-somali-pirates.

[108] Stuart A. Wright, "A Decade after Waco: Reassessing Crisis Negotiations at Mount Carmel in Light of New Government Disclosures," *Nova Religio* 7, no. 2 (2003): 103, doi: 10.1525/nr.2003.7.2.101.

[109] Wright, "A Decade after Waco."

[110] Ploch et al., *Piracy*, 16.

[111] McConnell, "How to Stop the Somali Pirates."

[112] John Goetz, "Negotiating with Somali Pirates," Spiegel Online, April 21, 2009, http://www.spiegel.de/international/world/negotiating-with-somali-pirates-they-know-it-s-a-successful-business-model-a-620292-2.html.

Most terrorists want to negotiate because they want to be heard.[113] Now that some have been killed during the negotiation process, they are less likely to trust the United States and more likely to seek revenge for the deaths of their friends. A news article following Captain Phillips' rescue mission reported that pirates along Somalia's coast vowed revenge.[114] Journalist Tristan McConnell reports a pirate chief as saying, "The American liars have killed our friends after they agreed to free the hostage without ransom … this matter will lead to retaliation and we will hunt down particularly American citizens traveling our waters."[115] David Gardner reports a Somali pirate leader as saying, "From now on, if we capture foreign ships and their respective countries try to attack us, we will kill the hostages."[116] Holding true to their threats, Somali pirates fired rocket-propelled grenades at the U.S.-flagged *Liberty Sun*.[117] Ploch et al. recall a pirate leader's accounts after the attack on the *Liberty Sun*: "We were not after a ransom. We also assigned a team with special equipment to chase and destroy any ship flying the American flag in retaliation for the brutal killing of our friends."[118] This attack illustrates how rescuing Captain Phillips by tactical action did not result in decreasing attacks, but rather resulted in increasing violence against Americans.

Rescue missions can be extremely dangerous for hostages. Ploch et al.'s report mentions instances in which tactical rescue attempts ended in the hostages' injury or death.[119] One of the repercussions of the tactical rescue mission involving Captain Phillips was the pirates' promise that they would kill hostages if they felt threatened. This

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[113] IIASA, "Negotiating with Terrorists."

[114] Kirit Radia, Martha Raddatz, and Jason Ryan, "Hostage's Wife Gives Emotional Thank You," ABC News, April 13, 2009, http://abcnews.go.com/International/story?id=7321378&page=1&page=2.

[115] McConnell, "How to Stop the Somali Pirates."

[116] David Gardner, "How U.S. Snipers Killed Three Somali Pirates with Just Three Shots ... in the Dark, from the Deck of a Rolling Ship," *Daily Mail*, April 13, 2009, http://www.dailymail.co.uk/news/article-1169712/Flawless-How-U-S-Navy-snipers-killed-Somali-pirates-just-shots--dark-deck-rolling-ship.html.

[117] "Pirates Vow to 'Slaughter' Americans," CBS News, April 15, 2009, http://www.cbsnews.com/news/pirates-vow-to-slaughter-americans/.

[118] Ploch et al., *Piracy*, 16.

[119] Ibid., 11–12.

fear resulted in the deaths of four American hostages aboard the *Quest*.[120] An NBC News article reported that the pirates said the American hostages aboard the *Quest* were killed because they were under attack by a U.S. warship: "We ordered our comrades to kill the four Americans before they got killed."[121] These events not only show the dangers of tactical rescues over negotiations but also show how the Somali pirates are less trusting and are now more apt to kill hostages if they feel they are being threatened. The Somali pirates' attack on *Liberty Sun* and the tragic events aboard *Quest* show how their tactics have changed as a result of aggressive tactical action taken against them. These incidents show that granting concessions or ransoms to contingent terrorists saved lives while taking tactical action resulted in death or injury.

Having a strict no-concessions policy limits negotiations and narrows options to tactical actions such as hostage rescue. These missions are the riskiest endeavors to undertake during hostage recovery activities. More hostages die from the attempted tactical rescue operation than from execution by terrorists.[122] One of the most recent incidents involved the failed rescue attempt of Luke Somers and South African aid worker Pierre Korkie, who were being held by ISIS militants. The first rescue attempt was unsuccessful and resulted in one of the rescuers being shot. The second rescue attempt also failed and resulted in the deaths of Somers and Korkie. According to Karen DeYoung, Korkie's family had just negotiated for his safe release when both Somers and Korkie were killed by their captors during the raid.[123] This case is further evidence that negotiations are a more viable option than tactical rescue.

Two of the most noted failed hostage rescue missions took place during the 1972 Munich Olympics massacre and the 2002 Moscow theater hostage crisis. During the 1972 Olympics, eight Palestinian terrorists took 11 Israelis hostage. The terrorists thought they

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[120] Ibid., 12.

[121] "Four American Hostages Killed by Somali Pirates," NBC News, February 22, 2011, http://www.nbcnews.com/id/41715530/ns/world_news-africa/t/four-american-hostages-killed-somali-pirates/.

[122] Jenkins, Johnson, and Ronfeldt, *Numbered Lives*, 2.

[123] Karen DeYoung, "The Anatomy of a Failed Hostage Rescue Deep in Islamic State Territory," *Washington Post*, February 14, 2015, https://www.washingtonpost.com/.

were being allowed to escape on an airplane when German police attempted to rescue the hostages. The attempt was a failure that resulted in the deaths of all the Israelis and five of the terrorists. The 2002 Moscow theater hostage situation was the result of Chechen terrorists seizing and barricading themselves in the Nord-Ost Theater with approximately 850 hostages. After two days, Russian forces pumped a chemical gas into the theater, then assaulted the building. The rescue mission resulted in the deaths of 129 hostages and 39 terrorists. Tactical rescue missions are high risk and can carry the unintended consequences of death and injury. While these missions are sometimes necessary, they should only be utilized after negotiations and all other alternatives fail.

Negotiating with absolute terrorists—such as ISIS—who are holding hostages has saved lives. While it cannot be claimed that negotiating would have emphatically saved Foley and Sotloff, refusal to negotiate did nothing to return them to safety. Foley and Sotloff were two of 23 hostages from 12 countries being held prisoner in Syria. The United States has a strict policy against granting concessions to terrorists; other countries such as France, Italy, and Spain have a history of successfully negotiating and paying ransoms for the release of their citizens.[124] An article in the *New York Times* by Rukmini Callimachi reported that the ISIS members who had been holding the 23 hostages sent ransom demands to all of the hostages' families.[125] As time passed, other European hostages were repeatedly invited outside of their cells to answer proof-of-life questions; however, the Americans and the Britains were not.[126] According to the article, it did not take long to realize which nations were most likely to pay ransoms, as the Spanish prisoners were released first, followed by the French and later the Italians. Of the 23 original prisoners, eventually only seven remained, all American and British citizens.[127] Callimachi references an article published by ISIS' magazine, *Dabiq*, that cites U.S. airstrikes as the justification for killing James Foley; however, the magazine also blames

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[124] Rukmini Callimachi, "ISIS Hostages Endured Torture and Dashed Hopes, Freed Cellmates Say," *New York Times*, October 25, 2014, http://www.nytimes.com/.

[125] Ibid.

[126] Ibid.

[127] Ibid.

the U.S. no-concessions policy for Foley's death.[128] The *Dabiq* claims, "As the American government was dragging its feet, reluctant to save James's life … negotiations were made by the governments of a number of European prisoners, which resulted in the release of a dozen of [ISIS'] prisoners."[129] As indicated by this article, ransom payments resulted in safe return of many of the hostages. ISIS was willing to negotiate for the release of U.S. hostages, but because the United States stood by its no-concessions policy, it resulted in Foley's death instead of his freedom.

One of the principle reasons for not paying ransoms is that doing so might set a precedent that encourages future hostage-taking and perpetuates this cycle of terrorism. David Cohen has argued this to be the case and points to evidence that countries that do pay ransoms have higher incidents of hostage-taking among their citizens; however, his statements are contrary to the statistical evidence found in the GTD, which shows the United States, despite its no-concessions, policy has the highest prevalence of citizens taken hostage when compared to the countries that are accused of paying ransoms.[130] Cohen's statements also conflict with empirical research. Peter Phillips and Gabrela Pohl conducted research based on the theoretical advances in economics designed to reveal if paying concessions makes terrorists more risk-seeking and likely to repeat their tactics.[131] They argue that conventional wisdom leads people to believe that concessions make terrorists repeat acts of terrorism; however, their research results imply that granting concessions to terrorists will not increase their pursuit to undertake riskier action for a higher payoff.[132] Moreover, they reveal that "when less risk-averse terrorists do engage in such actions and when they are successful at it, the government may use positively valued concessions to alleviate that crisis without making terrorists more risk

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[128] Ibid.

[129] Ibid.

[130] This qualitative data was drawn from searching the GTD.

[131] Peter J. Phillips and Gabriela Pohl, "Does Negotiating with Terrorists Make Them More Risk Seeking?," *Journal of Politics and Law* 6, no. 4 (December 2013): 108–120.

[132] Phillips and Gabriela Pohl, "Negotiating with Terrorists," 117.

seeking."[133] This research reiterates the point that paying ransoms can bring resolution to hostage situations without causing terrorists to repeat their actions.

The moral question during a hostage situation is: How much is a life worth? Other countries have taken an active role in negotiating and paying ransoms, which has resulted in saving their citizens' lives. Cases in which the United States and Great Britain refused to grant concessions have resulted in the deaths of their citizens. The policy failed to protect them or others from being taken hostage, and it most certainly failed to save their lives. When dealing with the two types of terrorists, granting concessions, such as ransoms, can save lives. Proponents of the no-concessions policy, like David Cohen, argue that tactical rescues are a far better option for saving lives than paying ransoms. Much research, however, counters his argument. A RAND study by Bass-Golod et al. found that tactical action resulted in 79 percent of the hostages being killed during the rescue operation.[134] Historical data according to HOBAS also show that tactical assaults result in a 78 percent injury or death rate.[135] Because of the high risk of injury or death, tactical action should not be the primary response to hostage situations.

D.   ENDING THE CYCLE OF TERRORISM

One of the justifications for the no-concessions policy is that it is designed to end the cycle of terrorist hostage-takings. However, research thus far has indicated that it has failed to achieve this objective. The surest way to prevent terrorists from taking hostages is to end the existence of terrorist groups. Bass-Golod et al. claim that all terrorist groups will eventually cease to exist.[136] Answering how and why can give insight to the formation of a hostage recovery policy that will be able to safeguard U.S. citizens from hostage-takings.

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[133] Ibid., 117–118.

[134] Bass-Golod et al., *Options for U.S. Policy on Terrorism*, 7.

[135] Wright, "A Decade after Waco," 103.

[136] Seth Jones and Martin Libicki, *How Terrorist Groups End: Lessons for Countering Al Qa'ida* (Santa Monica, CA: RAND, 2008), xiii, http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG741-1.pdf.

According to one study, terrorist groups often end because of group dynamics over time. Cronin explains, "The historical record indicates that terrorist campaigns end most often when a group implodes because of failure to pass the cause on to another generation, loss of popular support, infighting and factionalisation, failure of operational control, marginalization from their constituencies, and targeting errors that engender a backlash."[137] A study by Jones and Libicki indicates that, 83 percent of the time, groups end as a result of joining the political process and of action taken by domestic law enforcement and intelligence agencies.[138] This study indicates that using police and intelligence agencies may be a good approach for dealing with hostage-taking incidents. Because local police forces have a permanent presence and are part of the community, they have a better understanding of terrorists and are therefore more likely to bring about a terrorist group's demise.[139] The authors also point to the fact that police "have better training and information to penetrate and disrupt terrorist organizations."[140] Utilizing these resources allows for a hostage-recovery policy that can truly achieve deterrence. The chart in Figure 1 contrasts the effectiveness of using police against the ineffectiveness of using military force alone to end terrorism.

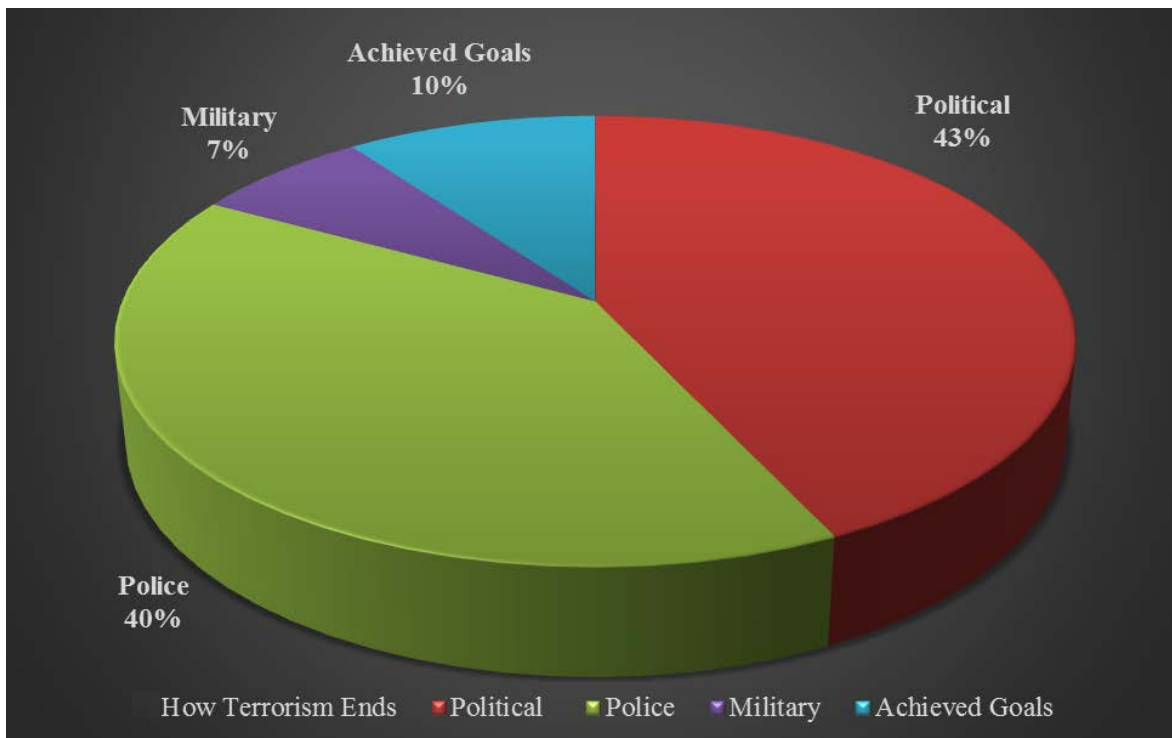[137] Audrey Kurth Cronin, "Negotiating with Groups that Use Terrorism: Lessons for Policy-Makers," in *Background Papers*, Section 2 (Geneva, Switzerland: Centre for Humanitarian Dialogue, November 30, 2007), 9.

[138] Jones and Libicki, *How Terrorist Groups End*, 124.

[139] Ibid., 124–125.

[140] Ibid., 124.

Figure 1.   How Terrorism Ends

Adapted from Seth Jones and Martin Libicki, *How Terrorist Groups End: Lessons for Countering Al Qa'ida* (Santa Monica, CA: RAND, 2008), http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG741-1.pdf.

Military tactics' inability to stop the cycle of hostage-taking was illustrated in Somalia. The Somali pirates cannot be deterred from terrorism by ransom refusals or military might alone. Even though over a dozen foreign governments have deployed warships to the region, ships are still being hijacked.[141] Many experts believe that to effectively stop piracy, the country of Somalia needs to be fixed. As Ploch et al. state, "By all accounts, pirates will likely continue to find sanctuary in Somalia until basic governance and security conditions improve."[142] In addition, the prosecution of terrorists "is considered by many to be a critical step" toward making piracy less attractive and ending this cycle of terrorism.[143]

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[141] Jones and McGreal, "Somali Pirates."

[142] Ploch et al., *Piracy*, 42.

[143] Ibid.

Fear of prosecution and retribution seem to be successful deterrents to hostage-taking; research shows how effective the police and intelligence agencies can be at ending terrorism. The U.S. policy should focus less on the no-concessions rule and more on bringing hostage-takers to justice. As the RAND study by Bass-Golod et al. concluded, "The strongest deterrent seems to be a government's demonstrated will and ability to capture and kill terrorists and destroy their organizations."[144] This counterterrorism strategy has been proven to effectively end the cycle of hostage-taking. Bringing terrorists to justice by implementing a policy to pursue, capture, or kill has the potential to stop the cycle of terrorism more effectively than refusing to pay ransoms.

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[144] Bass-Golod et al., *Options for U.S. Policy on Terrorism*, 6.

IV.   POLICY OPTIONS ANALYSIS

To evaluate the effectiveness of the United States' terrorist negotiation policy, the next steps were as follows: construct alternatives, establish criteria, and evaluate policy options. Once the alternatives were developed, they were measured against the established criteria. Thereafter, they were scored using a prescribed scale. The outcome is a recommendation for the most effective option.

A.   CONSTRUCT ALTERNATIVES

A total of three policy options were developed: the current policy, a policy that freely grants ransom payments or other acts of concessions, and a policy that removes the no-concessions language.

(1)   Option A: No Concessions

The first policy option, no concessions, means keeping the no-concessions rule in place. This option is included to allow for a complete understanding of the existing policy, which is a necessary element in policy analysis. Furthermore, it is useful for decision makers to see how the no-concessions policy compares with other alternatives so a more informed, unbiased decision can be made for proper policy selection.

(2)   Option B: Capitulation or Safe-release

The second policy option is a capitulation, or safe-release, policy wherein the United States pays ransoms, conducts prisoner releases, and offers concessions to ensure the highest likelihood of a hostage's save return. As Bass-Golod et al. explain, "A policy of safe release tries to obtain quick return of hostages by meeting the kidnappers' demands, which typically include release of prisoners, monetary ransom, and publication or broadcast of manifestos."[145] This policy has a humanitarian image, but nations have

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[145] Ibid., 5.

become reluctant to grant such extensive concessions to terrorists out of fear of increased attacks.[146]

(3) Option C: Removal of No-Concessions Language

The last policy option is to remove the no-concessions rule; this policy does not give hostages' families the ability to pay ransoms. It is important to distinguish that removing the no-concessions language does not mean all the terrorists' requests will be granted during negotiations; this policy option should not be confused with the capitulation policy. Option C closely resembles the typical methods followed by American police when dealing with hostage situations. The American policing model relies on options to materialize from the fruits of the negotiation process.

The practical principles used today in hostage negotiations were developed by Harvey Schlosberg and Frank Bolz of the New York City Police Department (NYPD) in 1972.[147] The NYPD was the first law enforcement hostage negotiation unit in the world. Their hostage negotiation principles were developed after the failed rescue attempt of the Israeli Olympic team in Munich, which resulted in the deaths of all hostage Israeli athletes and a German police officer at hands of Palestinian terrorists. Events like this, in which victims and police were killed or injured, shaped the concept of "contain and negotiate."[148] Even though the American policing model was developed to cope with terrorist hostage-taking events, police rarely negotiate with terrorists. However, the methods and principles utilized are universal in dealing with hostage situations. For the technique to be effective there can be no restrictions on the negotiation process, as negotiations require trust, patience, and leverage to be successful.

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[146] Ibid.

[147] Jeff Thompson and Hugh McGowan, "'Talk to Me': What it Takes to Be an NYPD Hostage Negotiator," Mediate.com, August 2014, http://www.mediate.com/articles/ThompsonJ11.cfm.

[148] Thompson and McGowan, "Talk to Me."

B.   ESTABLISH CRITERIA

When analyzing how the nation's policy on negotiating with terrorists developed, recurring themes and goals emerged from the different policies over time. From the recurring themes, four criteria were developed to determine the effectiveness of each policy option; the criteria measure the degree to which the options 1) fund no terrorism, 2) deter hostage-taking, 3) use every resource, and 4) apply consistency and equality. Because these themes are goal oriented and already exist in the policy, they are practical indicators for determining an effective policy. The last criterion, applying consistency and equality, was developed as a result of analyzing historical happenings of the U.S. policy as it was applied.

(1)   Funding No Terrorism

This criterion was one of the new frames that emerged from the analysis of the nation's policy. Funding terrorism is a concern because money is used by terrorists to buy weapons and conduct attacks against the United States. For this reason, anti-terrorism policies should be made to prevent, limit, or recover such funding. While the research does show that ransoms do little to fund major global terrorist organizations like ISIS and Al-Qaeda, this criterion is an important consideration for smaller terrorist groups. This measurement is a justifying reason for the no-concessions rule, and an effective policy should be designed to address all concerns in preventing terrorism.

(2)   Deterring Hostage-taking

Deterring hostage-taking and ending the cycle of violence and terrorism has been at the forefront of the nation's policy since its inception. The purpose of the policy is to protect U.S. nationals from being taken hostage. Because it is the defining justification for the current policy, it is important to use it as a measure of effectiveness.

(3)   Using Every Resource

Is every resource available being used to bring American citizens home? A policy that limits the use of every resource is detrimental to the effective recovery of U.S.

nationals being held hostage. Resources can include the ability to conduct effective negotiations or grant minor concessions in order to secure the safe release of hostages.

While negotiating does not necessarily mean granting concessions, the United States and other countries have successfully used prisoner exchanges to free hostages. Negotiation is an empathetic understanding of another's feelings and problems. Empathy should not be confused with agreement. By negotiating with terrorists, we accept only that their concerns and not their methods are legitimate. This opens communications, which allows negotiators to build a rapport and affect behavioral change by exerting influence. Negotiating does not simply mean making deals, concessions, and compromises.[149] It is an important counterterrorism tool that allows for intelligence gathering and quicker conflict resolution.

(4)   Applying Consistency and Equality

Policies should be designed in a way that allows them to be consistently followed. If the policy is applied inconsistently, there is no way to determine its true effectiveness. Moreover, a policy that cannot be applied consistently may be inherently flawed. Having consistency furthermore helps maintain the significance of the message.

In addition to consistency, an effective policy should allow for equality; it should be enacted equally to all hostages who are taken abroad. Every hostage should be granted the same resources during the recovery process. The current policy is criticized for its contradictory application between Bowe Bergdahl's negotiation, and those of James Foley and Steven Sotloff. Consistent, equal policies reduce confusion and promote fairness.

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[149] Adam Dolnik and Keith M. Fitzgerald, "Negotiating Hostage Crises with the New Terrorists," *Studies in Conflict & Terrorism* 34, no. 4 (April 2011): 268, doi: 10.1080/1057610X.2011.551718.

C.   EVALUATE POLICY OPTIONS

Each policy's potential effectiveness was evaluated against the criteria using the construct in Table 1.

Table 1.   Policy Evaluation Template

Policy	Policy A No Concessions	Policy B Capitulation	Policy C Remove Language
Criteria			
Funding No Terrorism			
Deterring Hostage-taking			
Using Every Resource			
Applying Consistency & Equality			
Score Total			

The three policy options are listed at the top of the table, and the five criteria are listed to the left. Each policy alternative was assigned a scoring unit of measure ranging from -1 to 1. The policy option scored a -1 for a given criterion if it did not meet the criterion's objective, a 0 if the objective could not be determined, and a 1 if the policy option met the criterion. Once the policy options were scored, they were calculated and ranked. The highest number indicated the most effective policy while the lowest number indicated the least effective policy. The result yielded the recommended policy option for the United States to consider for terrorist hostage-takings.

1.   Option A: No Concessions

The current policy stresses a no-concessions rule while allowing for direct negotiations between terrorists and families, who have the ability to pay ransoms to secure the safe return of their family members. While this policy does make great strides by allowing negotiations, retaining the no-concessions rule and openly allowing families to pay ransoms may hinder negotiations. In addressing these concerns, three questions need to be answered. First, does having a no-concessions policy deter hostage-taking?

Second, does paying ransoms really fund terrorism? And third, does the policy allow for consistency and equality?

a. *Does the No-Concessions Policy Deter Hostage-taking?*

Throughout the history of the U.S. policy on negotiating with terrorists, refusing to give into terrorists' demands and granting concessions has been at the foundation. Behavioral logic, based on a system of performance and rewards, lends credence to the belief that removing incentives deters hostage-taking and ends the cycle of terrorism. Although this has been a long-standing U.S. policy, hostage-takings are still happening.

A RAND study conducted in 1977 by Jenkins et al. contains evidence that a no-concessions policy is ineffective at deterring hostage-taking.[150] From 1968 to 1975, Jenkins et al. examined 77 hostage incidents and found "there were cases in which governments refused to negotiate concessions and yet there were future kidnappings; and there are contrary cases in which government concessions were not followed by future kidnappings."[151] The latter is exemplified by the Brazilian government, which regularly granted concessions to terrorists in exchange for their citizens. Despite these concessions, Brazil's anti-terrorism campaign was able to apprehend or kill many of the terrorist group's members, and the hostage-taking incidents ended as abruptly as they began.[152] In contrast to Brazil, countries that shifted from a concessions policy to a firm no-concessions policy still experienced a pattern of hostage-takings.[153] Moreover, countries such as Argentina, Israel, and Uruguay, which have always refused to grant concessions, continue to fall victim to terrorist kidnappings.[154] The evidence from this study indicates that a no-concessions policy does nothing to protect people from hostage-taking. However, the study did determine that the most effective deterrence factor was "the

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[150] Jenkins, Johnson, and Ronfeldt, *Numbered Lives*, 28.

[151] Ibid.

[152] Ibid., 29.

[153] Ibid.

[154] Ibid.

capacity of the local security forces to destroy the organization and apprehend its members."[155]

Several other studies by economists also indicate a no-concessions policy does not protect American citizens from being taken hostage. Lapan and Sandler used economic equations and analysis in a simple game-theory framework to prove that having a no-negotiations strategy does not work.[156] As they explained, "The conventional wisdom regarding the no-negotiation strategy does not withstand theoretical scrutiny except in a limited number of contrived cases."[157] Lapan and Sandler's work illustrates that a no-concessions policy may be insufficient to deter an attack if other benefits, such as publicity, can be gained.[158] They do note that strictly enforced no-concessions policy—one that is never violated—would deter attacks if the terrorists were motivated solely by concessions.[159] Because the United States has continually violated its policy, and because no terrorists are solely motivated by concessions, it is highly unreasonable to believe that a firm no-concessions policy will work in the United States.

Economics professors Muhammad Islam and Wassim Shahin used economic methodology to examine what effects the Iran-Contra affair had on political hostage-taking in the Middle East.[160] Their research shows that the past U.S. policy was not only against negotiating and granting concessions, but also sought to not actively pursue and punish terrorists who participated in hostage-taking.[161] They assume in their research, as others have, that hostages have the value of publicity. Therefore, videotaped hostages shown by the media and publicly open negotiations provide benefits for hostage-

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[155] Ibid., 28.

[156] Harvey E. Lapan and Todd Sandler, "To Bargain or Not to Bargain: That Is the Question," *American Economic Review* 78, no. 2 (1988): 16–21.

[157] Ibid., 16.

[158] Ibid., 18.

[159] Ibid.

[160] Muhammad Q. Islam and Wassim N. Shahin, "Economic Methodology Applied to Political Hostage-Taking in Light of the Iran-Contra Affair," *Southern Economic Journal* 55, no. 4 (April 1989): 1019.

[161] Islam and Shahin, "Economic Methodology," 1020.

takers.[162] In the end, Islam and Shahin's research bears the same results as Lapan and Sandler's: a no-concessions policy will not work to deter hostage-taking. They concede that the policy could work in the complete absence of media coverage, and if the terrorists have a strong perceived threat of punitive action from the United States.[163] With the advent of social media, it is impossible to comprehend a world in which terrorists will receive no publicity from hostage-taking. Moreover, terrorist groups such as ISIS, which has formed its own self-proclaimed state, have made it almost impossible to enforce strong punitive action.

In addition to economic models, quantitative research from the Global Terrorism Database (GTD) was explored. This research comes from the National Consortium for the Study of Terrorism and Response to Terrorism (START)'s database at the University of Maryland. START researched and documented terrorist-related events from news sources in order create the GTD. According to the organization's website, START has been compiling terrorist attack data since 1970.[164] The GTD provides historical data on the number of hostages taken, and is one of the most comprehensive terrorism databases that exists today. Analyzing this information yielded the graph in Figure 2 and provided insight into the ineffectiveness of a no-concessions policy.[165]

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[162] Ibid., 1021.

[163] Ibid., 1023.

[164] "Global Terrorism Database," National Consortium for the Study of Terrorism and Response to Terrorism (START), accessed March 14, 2016, https://www.start.umd.edu/gtd/about/.

[165] "Global Terrorism Database," START.

Figure 2.   Hostage-Taking Incidents over Time

Data derived from the Global Terrorism Database. See https://www.start.umd.edu/gtd/about/History.aspx.
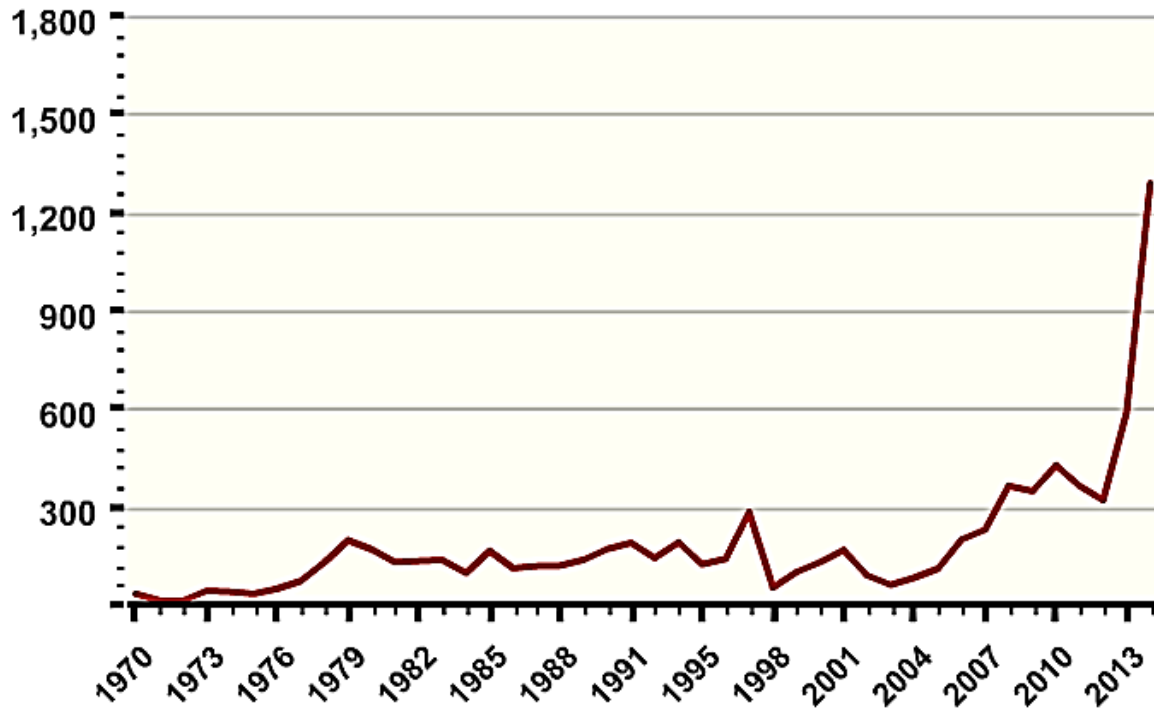
This data was gathered using specific search criteria established by the GTD between the years 1970 and 2014. Incidents were only included if there was no doubt of terrorism, the attacks were successful, and the attacks encompassed only hostage-taking incidents. The results indicate that hostage-taking has been on the rise, increasing over time; furthermore, the figure shows a dramatic spike in hostage-taking from 2012 to 2014. Because most countries claim to have a no-concessions policy, Figure 2 illustrates that people are still being taken hostage at increasing rates despite this policy.

It has been claimed that only the United States and Great Britain stand by their no-concessions policies, and other European countries, such as Italy, Spain, France, and Germany, secretly pay concessions, thereby putting their citizens at risk for increased hostage-taking. Information from the GTD dataset (which included only citizens from these countries who were taken hostage by terrorists) indicated that the United States has the highest incidents of hostage-taking, even with a strict no-concessions policy in place (see Figure 3).

Figure 3.   Hostage-Takings by Country

Data derived from the Global Terrorism Database. See https://www.start.umd.edu/gtd/about/History.aspx.
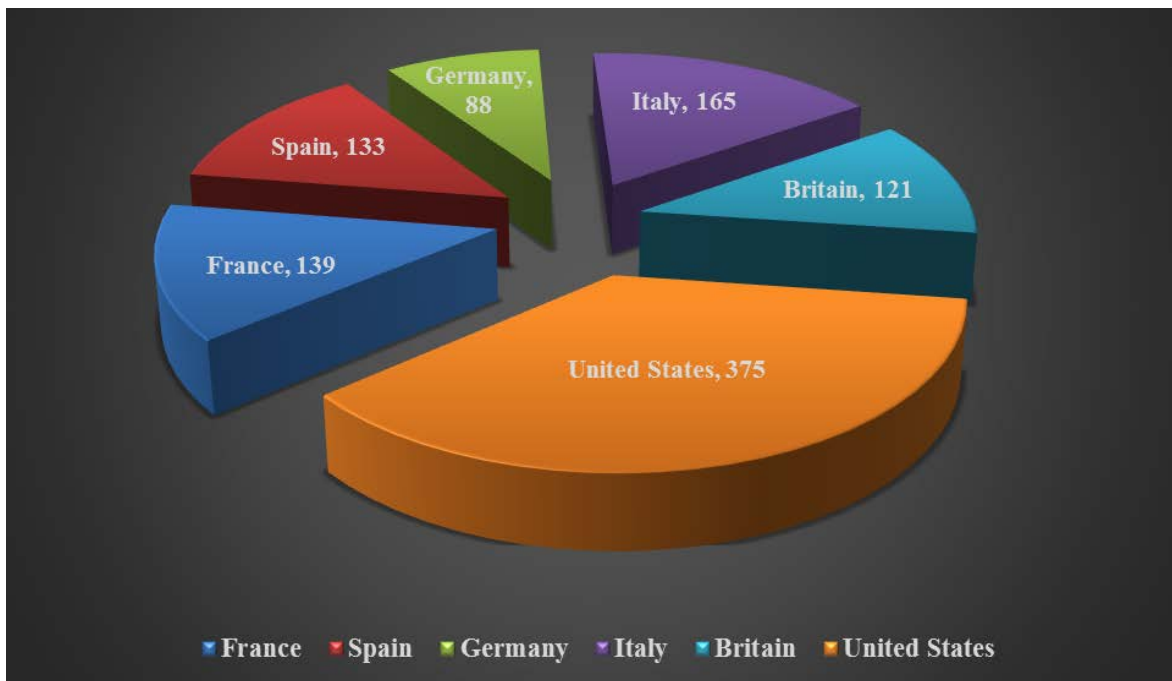
The no-concessions policy is designed to deny hostage-takers the rewards they request, such as ransom payments and prisoner exchanges. The research has shown that denying concessions does not prevent hostage-taking. One of the reasons discussed was that hostages have the value of publicity. Even when terrorists' demands are not met, they are able to derive this benefit. For example, video recordings of hostages being beheaded or otherwise brutally executed have a very high chance of achieving global notoriety, which gives hostages value outside of monetary considerations. The onset of any hostage situation quickly becomes real-time global news. This was evident during the 2015 Paris terrorist attacks and hostage situation at the Bataclan Theatre that resulted in the death of 89 hostages.[166] Many people witnessed the police raid on the theatre by means of instantaneous streaming media from cell phones.

According to a report by the Human Rights Council, which interviewed over 300 Syrians, ISIS publicizes its brutality and beheadings to convey its authority over its areas

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[166] Joshua Berlinger and Ed Payne, "Inside the Bataclan: 'A Bloodbath,' Witness Says," CNN, November 14, 2015, http://www.cnn.com/2015/11/13/europe/bataclan-paris-shooting-witness/index.html.

of control, to show its strength, and to attract recruits.[167] The influential messages that are publicized by the media serve to build ISIS' brand. By using the media, ISIS builds and reinforces the fact that it is the leader in the global jihadist movement. Media outlets that routinely conduct stories on ISIS' ruthlessness advertise for them by allowing them to demonstrate their power. Knowingly or not, the media plays an important role in helping ISIS recruit more terrorists and raise money, allowing them to continue their campaigns. Because of this, hostages, especially Western ones, will continue to be valuable to terrorist groups.

For terrorists, there is always a value in obtaining hostages; a no-ransom policy does not diminish that value. Since the inception of the U.S. no-concessions policy, there has been no drop in the frequency of hostage-takings of American citizens. Having a no-concessions policy potentially endangers hostages by reducing the flexibility in the negotiations process. This can ultimately limit negotiators' ability to effectively bring American citizens home safely. Moreover, the research found no evidence that a no-concessions policy prevents future hostage-takings. These findings question the necessity of keeping the no-concessions clause in the U.S. policy.

b.   *Does Paying Ransoms Really Fund Terrorism?*

The newest justification for having a no-concessions policy is that granting ransoms funds terrorism. This discourse was reinforced in PPD-30, which explains that prohibiting ransom payments denies "terrorists and other malicious actors the money, personnel, and other resources they need to conduct attacks against the United States, its nationals, and its interests."[168] Under Secretary for Terrorism and Financial Intelligence David Cohen reinforces this, claiming, "Kidnapping for ransom is one of the most

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[167] Independent International Commission of Inquiry on the Syrian Arab Republic, *Rule of Terror: Living under ISIS in Syria* (GE.14-22356) (Geneva, Switzerland: Human Rights Council, November 19, 2014), 2, http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ HRC_CRP_ISIS_14Nov2014.doc.

[168] "Presidential Policy Directive," White House.

significant terrorist financing threats today."[169] While terrorists do receive some money through kidnappings, it is far from their greatest or most significant source of revenue. According to Patrick Johnston of RAND, ISIS is funded primarily through oil sales, antique looting, donations, and internal extortion and taxation.[170] Johnston confirms that RAND has been researching the ISIS finances since 2011 based on seized ISIS payroll documents, memos, and ledgers. Nowhere in his report does Johnston list ransom payments as a primary funding source. Revenue from ransoms likely pales in comparison to ISIS' overall revenue.

In a *New York Time*s article, Rukmini Callimachi claims that terror organizations receive about $20.8 million a year in ransom payments.[171] David Cohen reinforces this estimate by stating in a 2014 speech that "ISIL has taken at least $20 million in ransoms this year."[172] Several sources cite ISIS' annual oil revenue alone at $365 million to $1 billion.[173] When ISIS' oil sales are added to its revenue generated from taxes/extortion, agriculture, looting, and donations, their estimated yearly income is $2 billion.[174] In context, ransoms make up approximately one percent of ISIS' average annual income. After taking this into consideration, money from ransoms is inconsequential to the overall funding of terrorism.

The *Report on U.S. Hostage Policy* indicates that the government allows families to negotiate with terrorists, and it indirectly states that they can pay ransoms.[175] The

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[169] David Cohen, "Remarks of Under Secretary for Terrorism and Financial Intelligence David S. Cohen at The Carnegie Endowment For International Peace, 'Attacking ISIL's Financial Foundation,'" U.S. Department of the Treasury, October 23, 2014, https://www.treasury.gov/press-center/press-releases/Pages/jl2672.aspx.

[170] Patrick Johnston, *Countering ISIL's Financing* (Santa Monica, CA: RAND, 2014), 1–2.

[171] Rukmini Callimachi, "Paying Ransoms, Europe Bankrolls Qaeda Terror," *New York Times*, July 29, 2014, http://www.nytimes.com/.

[172] Cohen, "Remarks of Under Secretary for Terrorism."

[173] Johnston, *Countering ISIL*, 2; Janine di Giovanni, Leah McGrath Goodman, and Damien Sharkov, "How Does ISIS Fund Its Reign of Terror?," *Newsweek*, November 6, 2014, http://www.newsweek.com/2014/11/14/how-does-isis-fund-its-reign-terror-282607.html.

[174] John Hall, "New Study of ISIS Income Suggests $2billion a Year Estimate Is Too low," *Daily Mail*, March 20, 2015, http://www.dailymail.co.uk/news/article-3003919/Are-ISIS-earning-2billion-year-New-study-terror-group-s-income-suggests-previous-estimates-far-low.html.

[175] White House, *Report on U.S. Hostage Policy*, 7.

report declares that the U.S. government will ensure families are not defrauded by terrorists; "The U.S. Department of Justice does not intend to add to families' pain in such cases by suggesting that they could face criminal prosecution … [by providing] material support to designated foreign terrorist organizations."[176] This allows families the ability to pay ransoms with the implicit support of the U.S. government. While ransoms only make up a small part of the terrorist funding source, a policy that condones ransom payments contradicts the no-concessions language and sanctions the funding of terrorism.

It is without question that any money given to a terrorist organization helps fund that organization; however, the research shows that the impact of ransom payments in the overall income of a terrorist organization is greatly exaggerated. When comparing the overall budgets of terrorist organizations like ISIS, eliminating ransoms does nothing to prevent them from obtaining more members, acquiring additional resources, or conducting attacks against the United States or its citizens—key justifications for the no-concessions policy.

c.   Policy in Practice: Has a History of Negotiating Allowed for Consistency and Equality?

In his book *Negotiating with Evil: When to Talk to Terrorists*, Mitchell Reiss reveals that the United States has negotiated with terrorists. Reiss writes, "American Presidents have negotiated with terrorists and rogue regimes to secure the release of hostages, to arrange temporary cease-fires and to explore whether a more permanent truce might be possible."[177] Reiss' book covers many high-profile incidents involving hostage-takings. One incident involved the hijackings of airplanes belonging to Pan Am and Swissair, which were seized by the Popular Front of the Liberation of Palestine. During the hostage siege, the United States encouraged Israel, Switzerland, West Germany, and Britain to release Palestinian prisoners in their jails so the terrorists would free the hostages on the two hijacked airliners.[178] In another incident, Jimmy Carter spent

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[176] Ibid.

[177] Mitchell B. Reiss, *Negotiating with Evil: When to Talk to Terrorists* (New York: Open Road Media, 2010), 9 ,10.

[178] Reiss, *Negotiating with Evil*, 9–10.

the last year of his presidency negotiating with Iran for the release of American diplomats who had been taken hostage, finally agreeing to return $8 billion in frozen Iranian assets.[179] Researching and discussing cases like these helps determine the consistency and equality of the application of the U.S. hostage negotiation policy.

(1)   The Iran-Contra Affair

One of the best-known cases of granting concessions to terrorists was during the Iran-Contra affair. Iran, which was at war with Iraq, brokered a deal with the United States to buy arms. According to excerpts from the *Tower Commission Report*, the United States did in fact negotiate a deal to sell arms in exchange for hostages.[180] This arms-for-hostages proposal directly countered U.S. policies; according to the report, "The United States had announced a policy of neutrality in the six-year-old Iran–Iraq war and had proclaimed an embargo on arms sales to Iran. It had worked actively to isolate Iran and other regimes known to give aid and comfort to terrorists. It had declared that it would not pay ransom to hostage-takers."[181] By negotiating and exchanging weapons for hostages, the United States violated all three of these proclaimed policies. President Reagan and many others would later deny that selling arms to Iran was an arms-for-hostages deal; however, excerpts from the *Tower Commission Report* indicate otherwise.[182] The report details a complex plan to sell and deliver tube-launched, optically tracked, wire-guided (TOW) missiles to Iran in exchange for seven U.S. hostages being held by the terrorist group Hezbollah.[183]

Between August and September of 1985, 508 TOW missiles were delivered to Iran in exchange for one hostage.[184] In an attempt to free the remaining hostages, direct negotiations with the Iranians took place in Frankfurt, Germany. These negotiations were

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[179] Ibid., 10–11.

[180] "Excerpts from the Tower Commission's Report," The American Presidency Project, University of California Santa Barbara, accessed December 13, 2015, http://www.presidency.ucsb.edu/PS157/ assignment%20files%20public/TOWER%20EXCERPTS.htm.

[181] "Excerpts from the Tower Commission's Report," American Presidency Project, 4.

[182] Ibid.

[183] Ibid.

[184] Ibid., 6.

conducted by Oliver North. During the negotiations, North agreed to persuade Kuwait to release 17 convicted terrorists being held in Kuwaiti prisons.[185] These terrorists were members of Al Da'Wa, a Shiite group, who were responsible for bombing attacks on American and French embassies that killed four people and injured many others.[186] The negotiations involving the release of the Da'Wa terrorists were in direct conflict with the United States' support of Kuwait in resisting terrorist demands to releases prisoners.[187] It also violated the U.S. policy against grating prisoner releases to terrorists.

The operations, plans, and direct negotiations that were presented throughout the *Tower Commission Report* clearly indicate that the United States was negotiating with Iran for the release of hostages. During these negotiations, it was clear that the United States was willing to grant a number of concessions in exchange for the hostages. What made the Iran-Contra affair even more egregious, as divulged by the report, is that, "The Regan Administration … had come into office declaring a firm stand against terrorism … [and] a major study under the chairmanship of the Vice President resulted in a vigorous reaffirmation of U.S. opposition to terrorism in all its forms and a vow of total war on terrorism whatever its source."[188] When the United States has inconsistent policies, and when it violates those policies, future policy statements are difficult to trust.[189]

(2)　　Prisoner Exchanges

Another example of the United States violating its no-concession policy was the release of U.S. Army Sergeant Bowe Bergdahl from Taliban captivity in exchange for five Taliban detainees who were being held at the U.S. prison camp in Guantanamo Bay, Cuba.[190] Bergdahl, who was stationed in Afghanistan, left his outpost without telling anyone. He was captured by the Taliban and held prisoner for five years while the United

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[185] Ibid., 11.

[186] "Iran-Contra Hearings; Shadow of DaWa Prisoners," *New York Times*, July 24, 1987, sec. World, http://www.nytimes.com/.

[187] Ibid.

[188] "Excerpts from the Tower Commission's Report," American Presidency Project, 14.

[189] Ibid., 15.

[190] Hennigan, "Slaying of James Foley."

States negotiated his release. In several news articles, the White House describes the event as a prisoner exchange, and in no way a violation of U.S. policy against granting concessions to terrorists; however, White House National Security Council spokesperson Caitlin Hayden admitted that the Taliban was added to the list of Specially Designated Global Terrorists by executive order in 2002, thereby making them a terrorist group.[191] Furthermore, according to a 2008 Pentagon dossier on inmates at Guantanamo Bay, the five Taliban detainees released were likely to commit attacks against the United States if liberated.[192] The release of these high-risk detainees and the Taliban's designation as a terrorist group indicates that the United States did, in fact, violate its policy.

A lesser-known hostage exchange, though not involving a U.S. military prisoner or citizen, occurred in Iraq in 2010 when British civilian Peter Moore was kidnapped by the terrorist group known as Asa'ib Ahl al-Haq (AAH).[193] Moore, an information technology (IT) consultant, was working for an American IT company in Baghdad. He was setting up a data system at the Ministry of Finance when he and his four bodyguards, who were also British citizens, were kidnapped.[194] While in captivity, Moore's four bodyguards were killed by AAH. AAH has conducted thousands of bombings against the United States and Iraqi forces, targeted kidnappings of Westerners, conducted rocket and mortar attacks on the U.S. Embassy, murdered American soldiers, and assassinated Iraqi officials.[195] The leader of AAH, Qais al-Khazali, and his brother, Laith al-Khazali, were captured by American and coalition forces in Basra. Qais al-Khazali is accused of being one of the masterminds responsible for an ambush attack in Karbala in which five U.S.

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[191] John Parkinson and Lee Ferran, "White House: Yes, the Taliban Is a Terrorist Organization," ABC News, June 4, 2014, http://abcnews.go.com/Politics/white-house-taliban-terrorist-organization/story?id=23981888.

[192] Eli Lake Josh Rogin, "Here Are the Taliban Terrorists Obama Released to Free POW Bowe Bergdahl," *Daily Beast*, May 31, 2014, http://www.thedailybeast.com/articles/2014/05/31/us-pays-high-price-for-last-pow-in-afghanistan.html.

[193] Martin Chulov, "British Hostage in Iraq Peter Moore Is Released," *Guardian*, December 30, 2009, sec. World news, http://www.theguardian.com/.

[194] Kim Sengupta, "Peter Moore: 'I Feel Guilty I'm the Only One Alive,'" *Independent*, February 13, 2012, http://www.independent.co.uk/.

[195] Sam Wyer, *The Resurgence of Asa'ib Ahl Al-Haq* (Washington, DC: Institute for the Study of War, December 2012), 6, http://www.understandingwar.org/report/resurgence-asaib-ahl-al-haq.

soldiers were killed.[196] According to an American military spokesman, the brothers and a 22-page document on the Karbala attack were seized. The seized document revealed the detailed surveillance that the terrorist group conducted on the American soldiers prior to the attack.[197]

The chief negotiator for the Iraqi government, Sami al-Askari, said that the exchange of the Kahzali brothers for the British hostages had been under discussion for months.[198] Because the Iraqi, U.S., and British governments' policy is not to exchange hostages for prisoners, negotiating is a delicate issue.[199] The governments could not "participate in the political process," al-Askari said, "while they are holding hostages. And we mentioned to the American side that they cannot join in the political process and release their hostages while their leaders are behind bars or imprisoned."[200] The deal was eventually made, and both Khazali brothers were traded for Peter Moore, who was the only surviving hostage. Hundreds more AAH members were freed in exchange for the bodies of the murdered hostages.[201] In this case, the United States clearly released terrorists back to their group in exchange for a British civilian. This prisoner exchange was a direct violation of the U.S. no-concessions policy.

In a *USA Today* article, Bruce Hoffman, director of Georgetown University's Center for Security Studies, agrees with Mitchell Reiss: "We have long negotiated with terrorists. Virtually every other country in the world has negotiated with terrorists despite pledges never to."[202] Hoffman goes on to list many of the same high-profile cases that Reiss mentions in his book. History demonstrates that the United States has clearly contradicted its policy against granting concessions to terrorists. It is this contradiction

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[196] Chulov, "British Hostage in Iraq Peter Moore Is Released."

[197] Alissa J. Rubin and Michael R. Gordon, "U.S. Frees Suspect in Killing of 5 G.I.'s," *New York Times*, June 8, 2009, http://www.nytimes.com/.

[198] Rubin and Gordon, "U.S. Frees Suspect."

[199] Ibid.

[200] Ibid.

[201] Wyer, *The Resurgence of Asa'ib Ahl Al-Haq*, 11.

[202] Alan Gomez, "Is It Ever Right to Negotiate with Terrorists?," *USA Today*, June 1, 2014, http://www.usatoday.com/story/news/world/2014/06/01/bergdahl-release-taliban-prisoner-trade/9835759/.

that leads to confusion and limits the United States' ability to effectively use negotiations in conflict resolution. As Neumann concludes, "When it comes to negotiating with terrorists, there is a clear disconnect between what governments profess and what they actually do. But the rigidity of the 'no negotiations' stance that has prevented any systematic exploration of how to best conduct negotiations."[203]

Past policy violations cause confusion and mistrust not only with other governments, but also with U.S. citizens. It also introduces unnecessary scrutiny of the policy and, as seen in the Bowe Bergdahl prisoner exchange, it questions the policy's equitability. Many questioned why the United States negotiated a prisoner release for Bowe Bergdahl but did nothing for James Foley. The new U.S. policy was an attempt to address these inequities, but maintaining a no-concessions policy appears to hinder any efforts for equality. History has demonstrated that a no-concessions policy will continue to be violated and, as such, equality will remain intangible.

d. *Evaluation*

In measuring the current policy's effectiveness, the United States has failed to meet any of the criteria. These failures are mostly due to the rigid no-concessions rule. Having this rule in the policy limits the flexibility needed to conduct negotiations. It reduces options and limits outcomes. If negotiators are not allowed to discuss the possibility of ransom payments, prisoner releases, or other acts of concessions, negotiations can be one-sided and ineffective.

The strict guidelines also open the policy to violations. History has proven that the United States and other countries are apt to violate firm no-concessions policies. Whether it is Israel's release of over 1,000 prisoners for one citizen, or the United States' and the United Kingdom's prisoner exchanges involving Bowe Bergdahl and Peter Moore, this type of policy will continue to be violated. Every hostage situation is different, and having a blanket policy, especially one that is restricting, does not allow for the safe return of hostages. In addition, rigid policies that cannot be upheld make the countries appear weak. A no-concessions policy sounds strong, but when nations are forced to

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[203] Neumann, "Negotiating With Terrorists," 128.

violate their own policies, they lose credibility. When Ronald Reagan made the pledge, "We do not negotiate with terrorists," it sent a message that the nation was unyielding to terrorists; when this statement was violated, it showed weakness, defeat, and untrustworthiness.[204]

A policy that bans prisoner releases also prevents the use of every resource available to save hostages. Prisoner exchanges can be valuable leverage during negotiations, as proven by past events, including the recent nuclear talks with Iran. Negotiators in the United States and Iran were able to parlay a successful prisoner exchange, resulting in Iran's release of five detained American citizens in exchange for seven Iranian prisoners being held by the United States.[205] The current U.S. policy still prohibits such exchanges despite their effectiveness as a negotiation strategy.

One of the major premises in justifying the no-concessions policy is that paying ransom money funds terrorism. As previously discussed, although technically a form of funding, the degree to which ransom payments contribute to a terrorist organization's overall income is nominal. The current policy is designed to allow families the ability to pay ransoms. Openly allowing families to pay ransoms not only contradicts the no-concessions message, but also contradicts the policy's goal to not fund terrorism.

Another core reason for justifying the policy is that it deters hostage-taking. This thesis has proved with empirical evidence that having a no-concessions policy does not deter hostage-taking. The research has shown that hostages have value other than monetary gains. Paying or refusing to grant concessions will not prevent hostage-taking. Moreover, a no-concessions policy by itself will not stop the cycle of terrorism. Multiple policies that use a combination of conciliatory practices with harsh punishments will work to stop hostage-taking; however, because the U.S. global reach is limited, as claimed in PPD-30, it is almost impossible to maintain an effective counter-terrorism strategy that can enact harsh punishment.[206]

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204 "Excerpts from the Tower Commission's Report," American Presidency Project, 15.

205 Bradley Klapper and Matthew Lee, "Triumph or Travesty, US-Iran Ties Warming over Nuclear Deal," *Washington Post*, January 16, 2016, https://www.washingtonpost.com/.

206 White House, "Presidential Policy Directive."

Based on this research and the scoring method previously described, option A received a total score of -4 (see Table 2), failing to meet any of the criteria.

Table 2.   Policy Option A Evaluation

	Policy	Option A No Concessions
Criterion		
Funding No Terrorism		-1
Deterring Hostage-taking		-1
Using Every Resource		-1
Applying Consistency & Equality		-1
Score Total		**-4**

- **Funding No Terrorism:** Option A received a -1 score for the funding no terrorism criterion. The policy declares that it will not pay ransoms to terrorists, but allows families with government assistance to pay ransoms. Regardless of who pays, the policy allows for the payment of ransoms; as such, it failed to meet the criterion.

- **Deterring Hostage-taking**: According to the research, option A does not deter hostage-taking; it received a score of -1.

- **Using Every Resource:** When the United States maintains a no-concessions policy, it undermines any efforts to use every available resource to bring American citizens home. This clause reduces options and limits latitude during the negotiation process. The no-concessions rule clearly implies that it will deny terrorists any acts of concessions. This could be something very small or it could present itself in the form of ransom payments or prisoner releases. Having a policy that restricts negotiations places limits on using every resource to bring hostages home; therefore, policy A received a score of -1 for this category.

- **Applying Consistency & Equality:** History has proven that a no-concessions policy will be broken. This was seen in the Iran-Contra affair and in past U.S. prisoner exchanges. It also reduces the chance of applying the policy in an equitable manner. Because option A has been proven to lack consistency and equity in application, it received a score of -1.

2. Option B: Capitulation or Safe-Release

A policy of capitulation or safe-release is one of the most effective methods used to guarantee the quickest and safest return of hostages.[207] The policy is based on acceding to all terrorist demands in hopes that terrorists will then return hostages safely. The policy allows for nations to use every resource for the safe return of their citizens, such as ransom payments and prisoner releases, which has been proven to save lives. It allows for a standard, equitable policy that applies to every person taken hostage. Capitulation removes the confusion that was seen when the United States chose to negotiate and conduct a prisoner exchange for Bowe Bergdahl but appeared to do nothing to help Foley and others.

Notwithstanding its effectiveness to save lives, option B is politically unpopular because it appears weak on terrorism; without an effective counter-terrorism strategy of pursue, capture, or kill, and with no negotiation process, it could lead to repeated tactics. In the RAND study discussed previously, Brazil always paid concessions to secure the safe release of hostages; however, they were able to effectively prevent more hostages from being taken by actively pursuing and punishing hostage-takers. While this method works well within the confines of a nation's own boundaries, it is hard to apply on a global level. Global terrorist organizations such as ISIS and Al-Qaeda operate outside the reach of many states, which makes an effective prevention counter-terrorism strategy difficult to implement. As the *Report on U.S. Hostage Policy* asserts, "hostage-takers increasingly operate in ungoverned spaces and unstable environments where access to U.S. officials is denied."[208] In spite of these obstacles, the new policy states that it will do everything in its power to bring hostage-takers to justice. PPD-30 specifically promises that the United States will deter hostage-taking by aggressive interdiction, investigation, and prosecution.[209] This type of counter-terrorism strategy is necessary for policies that allow for the granting of concessions.

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[207] Bass-Golod et al., *Options for U.S. Policy on Terrorism*, 5, http://www.rand.org/pubs/reports/R2764.html.

[208] White House, *Report on U.S. Hostage Policy*, 4.

[209] White House, "Presidential Policy Directive."

In evaluating option B, the overall score was 0 (see Table 3).

Table 3.   Policy Option B Evaluation

Policy	Option B Capitulation
Criterion	
Funding No Terrorism	-1
Deterring Hostage-taking	-1
Using Every Resource	1
Applying Consistency & Equality	1
Score Total	**0**

- **Funding No Terrorism:** Its ability to pay all ransoms to guarantee the safe-release of hostages means that it will fund terrorism. Option B received a score of -1 in this category.

- **Deterring Hostage-taking:** This policy will not deter hostage-taking. Its primary focus is on hostage recovery by conceding to demands; option B received a score of -1 in this category.

- **Using Every Resource:** Option B allows use of every resource to ensure the safe return of hostages. It allows the payment of ransoms and other concessions. Because of this, it received a 1 in this category.

- **Applying Consistency & Equality:** Capitulation polices are not complicated; they only require one thing, the granting of concessions to terrorists. Because of its simplicity it can be applied consistently and equally, and therefore received a 1 in this category.

3.   Option C: Removal of No-Concessions Language

Option C scored well during the analysis. Policy option C removes the no-concessions language and families' ability to pay ransoms while strengthening America's resolve in capturing or killing terrorists who participate in hostage-takings. This policy meets almost all of the criteria, save for deterring hostage-taking. As discussed throughout the thesis, and shown in data from the GTD, hostages will always be taken regardless of the policy, unless there is an existent fear of prosecution and punishment.

This policy option allows for effective negotiations and gives the United States the best capability of bringing hostages home safely without jeopardizing its credibility or image, making it a politically popular option. Conceding to concessions while having a rigid no-concessions policy not only opens an administration up to criticism, but also weakens convictions against terrorism. Removing the no-concessions rule eliminates the possibility of this policy violation.

One of the main frames of the nation's current policy is utilizing every resource— "The United States will use every appropriate resource to gain the safe return of U.S. nationals who are held hostage."[210] Removing the no-concessions language allows this statement to be accurate. Using every resource does not mean automatically granting concessions. It gives negotiators the flexibility to use suitable tactics. Negotiation is an art form designed to build trust and establish a rapport in order to change behavior. Beginning negotiations with a list of non-negotiable items—like ransoms and prisoner exchanges—before a rapport is built is detrimental to the process and hinders resource use.

Eliminating the no-concessions stipulation abolishes the possibility of inequalities that families have experienced. It allows for negotiations to treat every hostage situation equally. The *Report on U.S. Hostage Policy* stresses a holistic approach to hostage recovery.[211] Allowing the U.S. government to directly negotiate with terrorists is a critical leap in this approach's success; keeping the no-concessions policy in place permits violations for some but not others.

The first established crisis negotiation team was founded in America based on police experiences with terrorist hostage-takings; however, even though police rarely negotiate with terrorists, the founding principles have been overwhelmingly successful when utilized. According to HOBAS, when negotiators utilize the contain-and-negotiate

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[210] White House, "Presidential Policy Directive."

[211] White House, *Report on U.S. Hostage Policy*, 4.

strategy, 95 percent of incidents are resolved without loss of life.[212] This policy option follows the proven successful American policing methods.

In evaluating option C, the overall score was 1 (see Table 4).

Table 4.   Policy Option C Evaluation

	Policy	Option C Language Removal
Criterion		
Funding No Terrorism		0
Deterring Hostage-taking		-1
Using Every Resource		1
Applying Consistency & Equality		1
Score Total		**1**

- **Funding No Terrorism:** Option C received a 0 in this category because the outcome could not be determined. Removing the no-concessions language does not necessarily mean granting concessions. All topics, such as ransoms and prisoner releases, may be discussed during negotiations, though not necessarily agreed to. As such, it is undetermined if negotiations will lead to paying ransoms and funding terrorism.

- **Deterring Hostage-taking:** As discussed previously, none of the policy options can truly eliminate all hostage-taking; therefore, policy C received a score of -1 for this criterion.

- **Using Every Resource:** Policy C follows American policing methods for negotiating. By removing the no-concessions rule and the families' ability to pay ransoms, it allows for the use of every resource. By allowing open negotiations that are not limited by a no-concessions rule, the United States will be able to negotiate effectively and use every resource to ensure the safe return of hostages. While tactical action should be used sparingly, it is part of negotiations, and as such is part of using every resource. Negotiations are useful in gathering intelligence and stalling for time so tactical teams can plan an assault that increases the likelihood of success. Removing the no-concessions rule and following American policing methods allows for the use of every available resource; therefore, policy C received a score of 1 in this category.

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[212] Wright, "A Decade after Waco," 103.

- **Applying Consistency & Equality:** American policing methods treat every hostage situation the same way; the techniques and applications are applied consistently and equally to all hostages. For these reasons, option C scored a 1 for this criterion.

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V.   CONCLUSIONS AND RECOMMENDATIONS

Terrorist hostage-takings have existed for over two millennia. With the invention of television, the news media, and the Internet, which provides instant social interaction, this type of terrorism has gained global notoriety in the past few decades. Many nations around the world, including the United States, have been battling terrorist hostage-takings by instituting no-concessions policies. The hope is that denying terrorists their demands will remove all incentives for hostage-taking, thereby eliminating it as an option. However, since the no-concessions policy has been instituted, research has shown that hostage-takings have steadily increased. This raises questions about whether or not this type of policy is deterring hostage-taking. More importantly, in light of the recent, highly publicized beheadings of hostages held by ISIS, would it not be a better policy to protect U.S. citizens who are being held hostage?

The justifications for a no-concessions policy are based on the conviction that denying terrorists the "benefits of ransom, prisoner release, policy changes, or other acts concession" will interrupt the cycle of hostage-taking by removing all enticements and funding needed to continue attacks against the United States.[213] However, hostages have value beyond these concessions, such as publicity; denying terrorists tangible benefits is insufficient to protect people from being taken hostage. Furthermore, as research has shown, the money that major terrorist groups receive from ransom payments is inconsequential compared to their overall funding sources. As a result, paying—or choosing not to pay—ransoms does little to prevent terrorists from continuing attacks. In addition, the research also revealed that the current U.S. policy for hostage-taking situations vis-à-vis terrorist funding is flawed. The U.S. policy now allows families the ability to negotiate directly with terrorists and pay ransoms with government assistance. While it has been proven that paying ransoms does not fund major terrorist organizations on a grand scale, the policy as written contradicts its mission.

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[213] White House, "Presidential Policy Directive."

Further contradictions to the no-concessions policy exist when examining the overall history of U.S. negotiations with terrorists. The United States has repeatedly violated its no-concessions policy. This was never more evident than in the Iran-Contra affair, during which the United States sold weapons in exchange for hostages, or the prisoner exchange of U.S. Army Sergeant Bowe Bergdahl for five Taliban detainees being held at Guantanamo Bay. Despite these glaring contradictions, the U.S. government chose to uphold its no-concessions policy when ISIS captured James Foley and Steven Sotloff—who were publicly beheaded after the United States refused to negotiate ransoms. The choice to negotiate for the release of Bergdahl but not of Foley and Sotloff has caused confusion and distrust over the policy's equitability. Policies are put in place to be followed; when they are not, their integrity is jeopardized. These past events illustrate that the United States has violated its own policy. Recent policy changes attempted to address these inequities, but maintaining a no-concessions policy appears to have hindered such efforts. Contemporary U.S. history has demonstrated that a no-concessions policy will continue to be violated; as such, it can never be consistently and equally applied during hostage situations.

The research has exposed many flaws with the current U.S. policy. A policy options analysis was performed to determine how the new U.S. policy had impacted hostage recovery activities and what other policy options might best help the United States protect its citizens. Upon completion of the analysis, it was apparent that policy option B, removing the no-concessions language, was the best option for protecting U.S. citizens, as shown in Table 5.

Table 5.   Policy Options Evaluation

Policy	Option A No Concessions	Option B Capitulation	Option C Language Removal
Criteria			
Funding No Terrorism	-1	-1	0
Deterring Hostage-taking	-1	-1	-1
Using Every Resource	-1	1	1
Applying Consistency & Equality	-1	1	1
Score Total	**-4**	**0**	**1**

As a result of this thesis, it is strongly recommended that the U.S. policy be reevaluated and designed to be more in line with the American policing methods; the no-concessions language should be removed from the policy. In addition, because the research indicated that the fear of retribution can be a deterrent to hostage-taking, the United States should stress a pursue, capture, or kill policy for terrorists who commit hostage-takings. While it is impossible to prevent every hostage-taking incident, these recommendations will reduce the likelihood that U.S. citizens are taken hostage and, more importantly, better assist U.S. citizens when they are abducted.

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