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One Hundred Eighteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

May 2, 2023

The Honorable Jake Sullivan
National Security Advisor
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear National Security Advisor Sullivan,

We are deeply concerned that the Taliban is detaining innocent American citizens, and we implore the Administration to do more to secure the release of all Americans in Afghanistan, including by immediately classifying the detainees as hostages.

While testifying before the House Foreign Affairs Committee on March 23, 2023, Secretary of State Antony Blinken stated that “several Americans” are “being detained by the Taliban.” And although it is a legal requirement that the Office of the Special Presidential Envoy for Hostage Affairs (SPEHA) notify Congress of instances of “unlawful or wrongful” detention of U.S. nationals abroad, “regardless of whether the detention is by a foreign government or a nongovernmental actor”¹, for many Members, Secretary Blinken’s testimony was the first they learned that Americans were detained in Afghanistan.

As you know, the detainees in Afghanistan have yet to be classified as either “wrongfully detained” or as “hostages,” leaving them in a kind of limbo. In the absence of an official classification, it is unclear whether SPEHA, the Hostage Recovery Fusion Cell (HRFC), or some other office has the lead in securing the release of these Americans. As far as we know, no senior official from the State Department or Federal Bureau of Investigation (FBI) has briefed Members on these cases or clarified the extent of the U.S. government’s engagement with the Taliban on this issue. We are forced to wonder if SPEHA Roger Carstens and HRFC Director Christopher O’Leary have been allowed to do their jobs or have been prevented

¹ 22 U.S.C. § 1741(b)(1)(B).

from acting to save these Americans in order to avoid unwanted complications for the White House.

We recognize that there are instances where classification of detainees as either “wrongfully detained” or as “hostages” is not immediately possible. However, the American detainees in Afghanistan have gone unclassified for an unacceptable period of time. This is not the first instance that there has been an effort to avoid classifying U.S. detainees abroad, which is at odds with why SPEHA and HRFC were created and skirts the intent of the Robert Levinson Hostage Recovery and Hostage-taking Accountability Act (“Levinson Act”), which governs how SPEHA and HRFC must conduct their activities.

As a result of this and other instances, we intend to pursue legislative changes to the Levinson Act that will ensure definitive classifications in all cases of Americans detained abroad and keep Congress and the families of detainees informed every step of the way. In addition, we will seek to clarify differences between SPEHA and HRFC and codify how both offices should deconflict efforts to rescue detained Americans.

To reiterate, we urge immediate classification of all Americans detained by the Taliban as “hostages” so that HRFC can take action. In addition, due to the uniquely difficult realities of dealing with the Taliban, we request that SPEHA, in coordination with HRFC, maintain full engagement and active participation in securing the release of these hostages and that SPEHA Carstens be empowered to take on a more significant role in this effort.

Furthermore, we require a written response to the following questions and requests no later than May 31, 2023.

1. How many U.S. citizens or lawful permanent residents are detained by the Taliban?
2. Please provide a detailed explanation of the delay in designating American detainees in Afghanistan as “wrongfully detained” or as “hostages.”
3. Has the Secretary of State not classified the detainees in Afghanistan as “wrongfully detained” in order to avoid inadvertently legitimizing the Taliban as the official government of Afghanistan?
 - a. If the answer is yes, please clarify how these cases differ from the cases of Americans classified as “wrongfully detained” in Venezuela.
4. Has a request, from the White House or any other department or agency, been made to the Department of Justice to launch a hostage investigation into the cases of detained Americans in Afghanistan?
 - a. If the answer is yes, please provide the date that such request was made.
 - b. If the answer is no, please explain why.
5. Please describe the typical process of how an American detainee abroad becomes classified as a “hostage” and the legal requirements for such a designation.

6. As of today, May 2, 2023, has an interagency group been convened to discuss the cases of American detainees in Afghanistan?
 - a. If the answer is no, please explain why.
 - b. If the answer is yes, please provide dates of all such meetings and list all participating agencies, departments, and offices.
7. Pursuant to Executive Order No. 14,078 (2022), has the Hostage Recovery Group (HRG) identified or recommended “options and strategies to the President [...] to secure the recovery of hostages or the return of wrongfully detained United States nationals” in Afghanistan?
 - a. If the answer is yes, please provide dates that President Biden was briefed on the American detainees in Afghanistan and please submit a classified summary of the “options and strategies” that were presented.
8. Pursuant to Executive Order No. 14,078 (2022), has HRG coordinated “the development and implementation of policies, strategies, and procedures for the recovery of hostages or the return of wrongfully detained United States nationals” in Afghanistan?
 - a. If the answer is yes, please explain what specific actions HRG took to facilitate this coordination.
9. Pursuant to Executive Order No. 14,078 (2022), has HRG received “regular updates from the HRFC, the Office of the SPEHA, and other executive departments and agencies [...] on the status of United States nationals being held hostage or wrongfully detained abroad and measures being taken to effect safe releases” regarding the American detainees in Afghanistan?
 - a. If the answer is yes, please describe the format and date that these updates and measures were provided and the specific department, agency, or office which submitted these updates.
10. Since the U.S. withdrawal from Afghanistan, has SPEHA Carstens ever directly engaged with the Taliban on cases of Americans detained in Afghanistan?
 - a. If SPEHA Carstens has engaged with the Taliban, please explain which cases he has directly engaged the Taliban on.
 - b. If SPEHA Carstens has not ever directly engaged the Taliban, please explain why.
11. Since the U.S. withdrawal from Afghanistan, has HRFC Director O’Leary ever directly engaged with the Taliban on cases of Americans detained in Afghanistan?
 - a. If HRFC Director O’Leary has engaged with the Taliban, please explain which cases he has directly engaged the Taliban on.
 - b. If HRFC Director O’Leary has not ever directly engaged the Taliban, please explain why.
12. Please provide an unclassified list of all U.S. government officials who have directly engaged the Taliban on the issue of American detainees since the U.S. withdrawal from Afghanistan.

13. Has President Biden been briefed on the case of the American detainee in Afghanistan who is experiencing potentially life-threatening health problems? If yes, please provide dates of such briefs on this case.

- a. Please also submit a classified explanation of what actions HRG, including all actions taken by the departments, agencies, and offices of the “regular members” of HRG as defined in Executive Order No. 13,698 (2015), have taken since March 31, 2023, to secure the release of this specific detainee.

If necessary, please submit responses in a classified format.

Sincerely,



MICHAEL T. McCAUL
Chairman
House Foreign Affairs Committee



JOE WILSON
Chairman
Subcommittee on Middle East,
North Africa, and Central Asia