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**Civics 101**

**Episode 117 - HOSTAGES**

**Virginia Prescott:** [00:00:23] I'm Virginia Prescott and this is Civics 101, the podcast refresher course on the basics of how our democracy works. Hollywood has lodged a phrase in the American vocabulary when it comes to hostages. We don't negotiate with terrorists.

**Movie clips:** [00:00:38] As you are aware. We do not negotiate with terrorists. We do not negotiate with terrorists. Go to town man, go to town! No. In the meantime and as usual, go beep yourself. No. We don't negotiate with terrorists. This is insane. You cannot negotiate with terrorists.

**Virginia Prescott:** [00:01:01] But is that true? The U.S. does have specific policies for handling hostage situations. And since 9/11 several hundred Americans have been captured and held hostage. Which is a dramatic increase over the past few decades. So what exactly is U.S. policy on hostage negotiation? My guest is Chris Mellon, he's a policy analyst at New America. That's a nonpartisan think tank. Chris welcome to Civics 101.

**Chris Mellon:** [00:01:27] Virginia thanks for having me.

**Virginia Prescott:** [00:01:28] So what is the official U.S. government policy; we don't negotiate with terrorists is that it?

**Chris Mellon:** [00:01:35] Not quite. The difficulty is that we don't make substantive concessions to terrorists. And as you can imagine that that sometimes has been interpreted as we do not negotiate because it's hard to negotiate if you're not willing to concede anything.

**Virginia Prescott:** [00:01:46] So what would be an example of concessions, is that like paying ransom?

**Chris Mellon:** [00:01:50] Yeah that's that's the most common concession that would be demanded. Prisoner exchanges would be another.

**Virginia Prescott:** [00:01:56] Prisoner exchanges have happened in U.S. history though haven't they?

**Chris Mellon:** [00:01:59] They have. And notably Bowe Bergdahl, the U.S. Army soldier who was kidnapped by the Taliban, was released in exchange for five Taliban prisoners held at Guantanamo Bay. The U.S. government would contend that is not actually an exception to the policy because it has always been the practice to exchange prisoners in sort of wartime conditions with state and nonstate adversaries.

**Virginia Prescott:** [00:02:21] So if somebody like you know in the past you know, an executive might have been taken hostage in Colombia or something like that or a ship captain by Somali pirates that would be considered differently than somebody who is in the military.

**Chris Mellon:** [00:02:34] Yes absolutely. And there's another crucial distinction to be made here which is whether or not the group holding the hostage is a designated foreign terrorist organization as determined by the U.S. State Department. So for example if you were kidnapped by a criminal gang in Mexico for ransom while you were on business and they're demanding that your company pay you know a certain amount of money in order to secure the release, the U.S. government still will not pay that money for you or make any sort of concession directly, but they will help to negotiate and they certainly would not interfere if you're say private security company that your that your family or your employer has engaged wants to make that payment.

**Chris Mellon:** [00:03:14] Where the U.S. government policy starts to creep into private responses and efforts to release hostages is when the hostage is held by a designated foreign terrorist organization. One of the primary motivating factors behind the no concessions policy is the idea that it deters future kidnappings and that's a pretty simple idea to get your head around that if you reward bad behavior it will be repeated. But there's an additional consideration which is the funding of terrorist groups funding future attacks. And this really came to the fore after 9/11.

**Virginia Prescott:** [00:03:49] Yeah so how many American hostages are taken every year and how much of a jump was there after 9/11?

**Chris Mellon:** [00:03:55] After 9/11 it wasn't so much that there was a there was a big jump in the numbers, and the numbers vary enormously based on you know typically local conditions. I mean if you have an area with a lot of aid workers and journalists it's undergoing a crisis it becomes destabilized you tend to see an uptick. And you know when situations become more stable it falls.

**Virginia Prescott:** [00:04:14] So walk us through what happens in a hostage situation. Say it is a terrorist group calls up the government to make their demands. Who picks up the phone?

**Chris Mellon:** [00:04:23] So that was actually a big problem prior to 2015 is that there was not a single dedicated body within the United States government to coordinate response to hostage taking. After the deaths of the American hostages held in Syria by ISIS in 2014.

**Virginia Prescott:** [00:04:41] So you're thinking of maybe like James Foley the the independent journalist from New Hampshire by the way who was captured and beheaded.

**Chris Mellon:** [00:04:48] There was quite a lot of public pressure after the deaths of those American hostages especially because they were held together literally in the same prison with a large group of European hostages who were released for ransom. So the discrepancy between the outcomes for people following the no concessions policy and people who know countries that are willing to either pay ransoms or allow third parties to pay them became really really apparent and put some pressure on the administration. So they conducted a policy review in 2015. They didn't actually review whether or not to stick with the no concessions policy that was that was a given. But they were trying to find ways to improve their response to these hostage taking incidents and also to engage better with the families. Diane Foley. in fact the Foley family were threatened with prosecution. They were told they might be prosecuted for material support of terrorism if they tried to negotiate a settlement with ISIS to get their loved ones home.

**Virginia Prescott:** [00:05:46] Has anybody ever actually been prosecuted for paying ransom?

**Chris Mellon:** [00:05:50] No it has never happened. And it's an interesting point. So one of the things that came out of this policy review was that the government committed that it would not threaten families with prosecution in the future but practically speaking the policy still prohibits private parties from making payments to foreign terrorist organizations because you know it's not the case that a family has the requisite amount of cash available to them and outside the United States to hand over to the hostage takers. There are a lot of other third parties private parties that would have to be involved; private security companies, negotiators, the banks, potentially people donating money, right? Because the average American is not going to have a couple million dollars to pay ransom and none of them are covered by this family exemption.

**Chris Mellon:** [00:06:39] So practically...it was interpreted by some as being a change a real substantive change to the policy making it easier for the families to privately negotiate. But I don't think that's really accurate.

**Virginia Prescott:** [00:06:58] So there is a, I think I read about this inter agency office called the Hostage Recovery Fusion Cell, was that one of the Obama era reforms?

**Chris Mellon:** [00:07:07] Yes. So this is an interagency cell that's comprised of elements from Defense Department from the intelligence community the State Department Department of Justice the FBI all sort of working under one shop to have a real coordinated response to hostage taking incidents.

**Virginia Prescott:** [00:07:24] Well I've read of cases and seen cases where the families are doing you know online gofundme or some other kind of campaign to raise money to get their loved ones released. Would there be interaction with the hostage recovery fusion cell or other aspects of the government in that kind of case?

**Chris Mellon:** [00:07:41] Potentially. I mean but but that's a case where again that would have to be in essentially a criminal context. If so if your loved one was taken hostage by al Qaeda for example that sort of crowdfunding would not be permitted and certainly there would be no cooperation from the fusion cell.

**Virginia Prescott:** [00:07:57] Let's get Chris to the question that you have studied. Does the no concessions policy actually deter hostage taking and what kind of evidence do you have to evaluate it?

**Chris Mellon:** [00:08:10] Yes it is an extremely thorny question a difficult one because it deals inherently with counterfactuals. The idea of you know deterrence if you if you presume that it is functioning then the really pertinent evidence is all of the cases that never occurred.

**Chris Mellon:** [00:08:26] So I should start with that I think important caveat. The evidence though has been mounting and there's been a renewal of interest again since 2014 in this issue. There really is no evidence that this policy has any substantial deterrent effect. In fact the U.S. and the U.K. which are really the only major Western countries that pursue a strict no concessions policy have their citizens kidnapped really at very high rates in high numbers. In our data set, we based our research on a set of about twelve hundred cases of Westerners who were taken hostage abroad between 2001 and 2017. The Americans actually were the biggest sample I think 225 at the time we published this paper and the number continues to grow. And the British were you know on par with countries of similar populations that do actually pay ransoms directly. Countries like Italy and France.

**Virginia Prescott:** [00:09:20] But American hostages I'm reading here more than twice as likely to die in captivity or remain captive as hostages from other Western nations.

**Chris Mellon:** [00:09:29] That's correct. And and when it comes to jihadist terrorist groups you know eight out of 10 European hostages overall are freed. And it's one in four for the United States and one in three for the United Kingdom.

**Virginia Prescott:** [00:09:41] So we talked a little bit about the formation of this hostage recovery fusion cell, an Obama era invention around 2015. But did the policy actually change at all with the institution of this cell.

**Chris Mellon:** [00:09:54] No not this element of the policy. The no concessions policy remains in place.

**Virginia Prescott:** [00:09:59] Is it though at this point even feasible for the U.S. government to suddenly start paying ransom without it looking like capitulation. You know how committed are, is the U.S. to this no concessions policy?

**Chris Mellon:** [00:10:13] I mean the U.S. is strongly committed and the primary motivating factor for that is a good one which is that they don't want to be funding terrorist activity with U.S. taxpayer dollars. And actually I would not advocate for the United States government paying directly because you know the deepest pockets of any organization in the world. I mean those negotiations are not going to go well if you're trying to minimize the amount of money going to these dangerous groups which obviously is something we ought to do. It's a separate question to me whether the families should be allowed to make their own arrangements or to handle things privately. There is actually quite an efficient industry built around that, with kidnapping and ransom insurance and profession you know response professionals who are doing this all around the world.

**Virginia Prescott:** [00:11:02] What do you wish the American public knew about our hostage policies when this issue enters and such a often gruesome way into the public view.

**Chris Mellon:** [00:11:12] I think there are there are a couple of things that they need to know in order for us to have kind of an honest national conversation about this. One of them being that the deterrent effect of the no concessions policy is really not well-established. It's based on a certain amount of anecdotal evidence that the majority of researchers just don't see when you look at these incidents in the aggregate and it's for a variety of reasons.

**Chris Mellon:** [00:11:34] One being that you know hostage takers can see things like what we discussed earlier with the Bowe Bergdahl swap and very you know and not and failed to understand that that's from our perspective not a violation of the policy. Also because you know we can't control the muddying of the perception of the policy right now. Theo Padnos for example is an American who was held hostage by al Nusra in Syria and was released after what appears have been a ransom payment by the government of Qatar and their intervention. So it's a policy that we don't we can't even really control or enforce very strictly. So I think having a public airing of the evidence would be really important and valuable.

**Virginia Prescott:** [00:12:16] One of course the efficacy of a policy like this depends upon people knowing that the United States does have a no concessions policy. I think there may be the perception that well if you want to if you want a high value person go to someone from the U.S. They won't, the government will let that happen.

**Virginia Prescott:** [00:12:33] Yeah, really the deterrent effect does presume that the kidnappers really understand U.S. policy and that they you know they believe policy statements around hostage taking generally, because even the countries that do pay ransoms do not do so officially. They've made public international commitments at forums like the G8 not to do so. And it's very much under the table. So when everyone is dissembling about their real policy and practices I think it's sort of it clouds perceptions about who is really serious.

**Virginia Prescott:** [00:13:07] Chris Mellon thank you very much for speaking with us.

**Virginia Prescott:** [00:13:10] Thanks Virginia.

**Virginia Prescott:** [00:13:11] Chris Mellon he's a policy analyst at New America and he's part of the future of property rights initiative that is it for Civics 101 today. The show was produced by Ben Henry and our executive producer is Erica Janáček.

[00:13:27] Our staff includes Nick Capodice Hannah McCarthy Jimmy Gutierrez Justine Paradis and Taylor Quimby, music from Broke for Free. I'm Virginia Prescott. Civics 101 is a production of New Hampshire Public Radio.