

United States Senate

WASHINGTON, DC 20510

July 1, 2009

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama:

We are deeply concerned by recent news reports that suggest your administration may be negotiating directly or indirectly with terrorist organizations for the release of dangerous terrorist detainees. It has long been the policy of the United States that our government does not negotiate with or provide concessions to terrorists. We strongly believe this is a wise policy for the long-term security interests of the United States and believe it should not be changed.

On January 20, 1986, President Ronald Reagan issued National Security Decision Directive Number 207, which prohibits negotiations with terrorist organizations regarding the release of hostages. The Directive sets forth in unequivocal terms the United States' "firm opposition to terrorism in all its forms" and makes clear the government's "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." The Directive continues to say: "The [United States government] will pay no ransoms, nor permit releases of prisoners or agree to other conditions that could serve to encourage additional terrorism. We will make no changes in our policy because of terrorist threats or acts." This policy is further articulated in Department of State Publication 10217, which makes clear the United States "will not support the freeing of prisoners from incarceration in response to terrorist demands."

We would like to know if it remains the policy and practice of the United States not to negotiate with or make concessions to terrorists, especially as it relates to the release of detainees or hostages. This question is prompted by news reports from a wide range of outlets that show your administration may have violated this longstanding policy by releasing a dangerous terrorist in Iraq in response to the demands of Asa'ib Ahl al-Haq, a terrorist group that is holding British hostages.

Last month, a United States official whose identity remains unknown ordered the release of terrorist detainee, Laith al Khazali, whom the *New York Times* labeled "a senior Shiite insurgent said to be backed by Iran who was accused of playing a leading role in a group that

killed five American soldiers in Karbala[, Iraq,] in a sophisticated attack in 2007. . . .” Press reports suggest that al Khazali’s release was the first phase of a detainee-for-hostages swap involving five British civilian hostages who were kidnapped by Asa’ib Ahl al-Haq in 2007. In its June 9, 2009 story on this remarkable release, the *New York Times* reported that the release of al Khazali “appears to involve the release of British hostages who are being held by the [terrorist] organization.”

A United States military spokesman has reportedly confirmed that the release of al Khazali was tied to negotiations with the Asa’ib Ahl al-Haq terror group, allegedly for some “reconciliation effort.” This “reconciliation” concept appears to be a new label for terrorist negotiations. According to the *New York Times*, a spokesman for the Iraqi government conceded that the release of the British hostages had been part of the negotiations for the release of al Khazali. The spokesman, Sami al-Askari, suggested that the “reconciliation” notion was adopted as the public face of any detainee-for-hostages negotiations:

This is a very sensitive topic because you know the position that the Iraqi government, the U.S. and British governments, and all the governments do not accept the idea of exchanging hostages for prisoners. . . . So we put it in another format, and we told them that if they want to participate in the political process they cannot do so 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.

According to a June 9, 2009 *New York Post* article, “secret negotiations have been under way for months” with Asa’ib Ahl al-Haq – also known as the League of Righteousness – for the release of the British hostages. Iraqi lawmakers reportedly told the *Post* “the kidnapers had agreed to free the hostages in exchange for the phased release of League members, starting with Laith al-Khazali.”

Within days of al Khazali’s release, British press outlets began reporting that the release of at least one British hostage was imminent. Tragically, on June 21, 2009, Asa’ib Ahl al-Haq sent the dead bodies of two of the five British hostages to the British embassy in Baghdad. Before the terrorist group handed over the two dead Britons, a source close to the group made clear that the release of Laith al Qazali was not enough to gain the release of the five British hostages. This person told the British paper *The Times*, “[n]one of the original conditions have changed. . . . It has always been the five men in exchange for the prisoners including Qais and this remains the same to this date.”

The foregoing events have been reported by numerous outlets in the United States and Europe. If these reports are accurate, they confirm that your administration released a major terrorist detainee in connection with hostage negotiations with a terrorist group. Aside from the fact that a terrorist and war criminal was released without charges, the negotiations surrounding

the release suggest a major shift in the United States' approach to hostage negotiations and terrorist demands which, as we have learned, will only lead to more kidnappings, extortion, and hostage release demands.

Due to the very serious nature of this matter, we ask that you answer the following questions to clarify the policy your administration will follow in dealing with terrorist organizations' demands:

- (1) Has your administration negotiated directly or indirectly with any terrorist organization for the release of detainees held by the United States government?
- (2) Was the release of Laith al Khazali related in any way to obtaining the release of one or more of the British hostages held by Asa'ib Ahl al-Haq, and what is the name of the highest ranking United States official who approved the release?
- (3) Prior to approving the release of Laith al Khazali, did your administration evaluate whether a criminal indictment or military commission charges could be brought against him, including for violating the federal war crimes statute? If so, what was done?
- (4) While reconciliation has been floated as a basis for al Khazali's release, please state to what extent the leaders of Asa'ib Ahl al-Haq have seriously discussed giving up their efforts and history of attacking United States' and Iraqi interests?
- (5) Did your administration make any effort to consult the family members of the five slain servicemen who were killed in the January 2007 Karbala attack before the release of Laith al Khazali? According to a *New York Post* article, the father of one of the slain soldiers was surprised by the release.
- (6) Does your administration adhere to the "no-concessions" policy described in National Security Decision Directive Number 207, including its statement that the United States does not "permit releases of prisoners or agree to other conditions that could serve to encourage additional terrorism[?]"

Very truly yours,



Jeff Sessions
United States Senator



Jon Kyl
United States Senator