

**Testimony of Kenneth J. Stethem before the
Senate Judiciary Committee's Subcommittee on Oversight, Agency Action, Federal Rights and
Federal Courts**

Chairman Cruz, Ranking Member Coons, thank you for the opportunity to join you and the other Committee members today to participate in this hearing on "Justice Forsaken: How the Federal Government Fails American Victims of Iranian and Palestinian Terrorism." But more importantly, thank you for recognizing and addressing what I believe are two of the greatest threats to both our nation and our national security: Iranian and Palestinian sponsored terrorism.

Now is the time members of this Congress must decide whether they are going to support the sponsors or the victims of Iranian and Palestinian terrorism. America and Americans can no longer afford for national security to be a spectator sport.

By way of introduction, our family, the Stethem family, is one that has proudly served our Navy and our nation. Between my father, mother, two younger brothers and myself, we have over 105 years of service to the U.S. Navy. Both of my younger brothers were Seabee divers attached to Underwater Construction Team One (UCT-1) and I served as a SEAL and an explosive ordnance disposal (EOD) technician.

One of my brothers, SW2(DV) Robert Dean Stethem, was murdered by Hezbollah terrorists during the hijacking of TWA Flight 847 in June 1985.¹ He was 23-years old when he was tortured and killed. The Navy has commissioned a destroyer, the USS STETHEM (DDG-63), in Rob's honor. He has posthumously been awarded a Bronze Star, Purple Heart, and POW medal due for the bravery and heroism he demonstrated during the hijacking. His is a legacy of honor, courage, and commitment to our Navy and our nation. Robert is buried in Arlington, in the section designated for terrorism victims. My other younger brother was actually inside the Pentagon when it was struck on September 11, 2001. Fortunately, he survived that attack.

During my career I have seen and dealt with terrorism and terrorism related issues on personal, professional, and policy levels. I have seen many promises made and many promises broken. And I know that my family is not alone. There are others.

My remarks this morning will be brief but before I continue I feel that it is important to share with you exactly why I am here today: First, to recognize and remember my younger brother, Robert Dean Stethem, the other victims of Iranian and Palestinian terrorism, and their families.

Many times these victims had no warning of the terrorist acts before they happened. No chance to say goodbye to their fathers, mothers, brothers, sisters, sons, and daughters before they are gone forever. In other instances, such as my brother's tragedy, there is a

¹ See attachment 1, Articles about Robert Dean Stethem

little time to stop and reflect on the fact that the end of life has come. In these cases where death is delayed, their opportunity to reflect upon life and their situation is often interrupted as they are held captive, beaten, and tortured, often without mercy, for minutes, hours, days, weeks, months, and in some cases, even years.

The second reason I am here is to share with you some of the ways in which the federal government has failed to keep its promises relative to my brother's case.

We were promised that Rob's killer, Mohammed Ali Hamadi, "*would be extradited to the U.S.*" – He wasn't. We were promised that he "*would serve a full life sentence in prison in West Germany.*" – He didn't. We were told that if he was "*released he would be brought back to the U.S.*" – He wasn't. We were told that the Administration "*could not do anything about his release.*" – when they actually could have. We were told that, although he was released, "*Rob's killers would be brought to justice.*" – and yet we had to fight to even have the Department of State submit a Formal Diplomatic Request to Lebanon for his extradition – and this was during our "War on Terror."

This is the way in which the federal government recognized the sacrifice of a 23-year old American hero who looked a gun barrel and a Hezbollah terrorist directly in the eye and refused to yell into a radio mic for help. This was so that the plane could not be refueled in case a rescue attempt was going to be made.

But I think that the greatest way in which the federal government has failed terrorist victims and their families is the same way it has failed all Americans – our leaders have lacked the political will in dealing with Iranian and Palestinian terrorism.

Administrations, the current one and those before, have forgotten an all too critical principle of warfare: **Military operations are only as effective as the policies they support.** And while the brave men and women in our military, when sent into harm's way, have been very clear of their intentions, the federal government has not. And I believe it is the lack of the political will to do what is right, failing to hold Iran and the Palestinian terrorist organizations accountable for their actions, that has not only encouraged their terrorist ways but also empowered them. That which we tolerate we encourage.

Imagine what the Iranians and Palestinians must think when they see the U.S. government defend the very people responsible for killing American citizens and prevent these victims from collecting the very judgments that the federal government, through legislative action, encouraged the victims and families to pursue.

I would then ask you to imagine how the victims and their families must feel.

After enduring years of struggling through the court system, reliving the tragedies, the memories, the loss of their loved ones, these families then have to endure watching the very federal government that encouraged them to seek justice through the court system – defend Iran and the Palestinian terrorist organizations – those responsible for these evil acts.

The federal government's actions have robbed these victims and their families from the very justice and closure they promised to ensure.

So I ask each of you here today: Who are you and the U.S. Congress going to support - victims of terrorism or terrorists?

We all know which the Administration supports. There has been no Administration to date that has supported Iran and the Palestinian terrorist organizations more than the Obama Administration. He has made his choice and has cleared the way for Iran to become a nuclear power while still designated on the State Sponsor of Terrorism. And while this Administration has decided to "separate" Iran's nuclear issue from its terrorism issue – Iran has not. And there is no guarantee Iran will.

Consider the following:

- 1) Iran has been found guilty of financially supporting and committing acts of terrorism against America and Americans.
- 2) Iran is designated by the Department of State as a State Sponsor of Terrorism.
- 3) Iran has not had a fundamental change in its leadership.
- 4) Iran has not renounced the use of, or support for, terrorism.
- 5) Iran has not provided credible assurances that it will not continue to support terrorism in the future.
- 6) Iran has not been held accountable for the terrorist acts that resulted in the loss of life for many Americans.

And yet, the Obama Administration is supporting Iran and Palestinian terrorist organizations in court more than it is the victims and their families. While the Statement of Administration Policy claims that, "The Administration continues to work to explore all possible avenues of compensation" its results have been negligible.

Immediately after terrorist incidents, Presidents often meet with the families to console them and make promises that, in my experience, have rarely kept.

It is past time for American Presidents, politicians, and citizens to realize that if we do not defeat radical fundamental Islamic terrorists, they will defeat us. With the release of 100 – 150 billion USD in sanction relief the Obama Administration is on the verge of becoming the single largest financial supporter of Iranian terrorism in the world today. And Iran, until recently, has irrefutably been the most destabilizing factor in the Middle East (ME) since 1979.

So I sincerely hope that as each of you on the Committee today considers how the federal government has failed the victims of Iranian and Palestinian terrorism and what you can, and should do about it, that you will ask yourself one thing:

Has the radical fundamental Islamic regime of Iran retracted its "Islamic Jihad" or "Holy War" it declared against America in 1979?

If the answer is no, then the Iranians must still be in a state of declared war with the U.S. And, if this is the case, why would the federal government support terrorists over victims?

If the answer is yes, then I would ask you, where is the proof? Has Iran declared “peace” with America? Has Iran showed any good will by renouncing its terrorism tactics or rejecting its terrorist strategy? Has Iran released the American hostages it is currently holding? Has peace and prosperity broken out in the ME since the signing of the Joint Comprehensive Plan of Action (JCPOA) this past July?

Multiple and flagrant violations of several United Nations sanctions immediately following the signing of the JCPOA should have sent this Congress a clear message:

Not only is Iran willing to violate U.N. sanctions, but the lack of any protests by the P5+ “partners” shows that none of these nations, including the Obama administration, are willing to hold Iran accountable for these violations. And, if none of the P5+ nations are willing to hold Iran accountable for violating these sanctions where is the motivation for Iran to forego its support and involvement in terrorist operations?

The answer is: There is none.

In fact, there is plenty of evidence to the contrary. Trying to separate the radical fundamental Islamic regime of Iran from its terrorist policies and support is like trying to separate heat from a fire or light from a flame. It cannot be done. Terrorism is not just a matter of policy or strategy for the radical fundamentalist Islamic regime but it is justified in this regime’s core belief, values, dogma, and very nature. Consider that the radical fundamentalist Islamic regime’s interpretation of the Koran is that Islam is a religion of war and not peace. Their belief is that it is also permissible to lie in order to defeat infidels.

Consider that Iranian Foreign Minister Mohammad Javad Zarif, Secretary of State John Kerry’s partner in the nuclear talks, has actually paid homage at the Beirut tomb of Imad Mugniyah, the terrorist who masterminded the Beirut Barracks bombing, the TWA Flight 847 hijacking and many other deadly terror attacks. Imad Mugniyah was not only the Hezbollah security chief when he was killed in a 2008 bomb blast but was also the terrorist coordinator between Iran, Syria, and Hezbollah. Mugniyah is remembered by Iran and honored by Zarif as a “heroic martyr.”²

So the support for Iranian terrorist and terrorism operations reaches into even the highest levels of Iranians participating in the JCPOA.

I would submit to everyone here that there is much more evidence to believe that Iran will continue to fund and finance terrorism in the future than to stop it.

² House Passes Bill Banning Sanctions Relief Until Iran Pays Damages to U.S. Terror Victims *available at* <http://cnsnews.com/print/400358>

Although the intentional killing of a member of a state's armed forces is an act of war, which requires a response from that nation state, the United States took no action against the Iranians in response to my brother's death.³ As we have seen, the result has been an emboldened Iran in supporting mass terrorist attacks, resulting in decades of Americans dead at the hands of terrorism. That which we tolerate we encourage.

Another example is on October 12, 2000, the U.S. Navy destroyer the *U.S.S. Cole* was attacked by a suicide boat bombing in the harbor of Aden, Yemen.

Seventeen American service members were killed and thirty-nine others were wounded. Our ship was seriously damaged. The attack has been widely characterized as a "boat bomb" adaptation of the truck-bomb tactic used by Hezbollah, with the support of Iran, to attack the U.S. Marine Corps barracks in Beirut in 1983 and the Khobar Towers U.S. military residence in Saudi Arabia in 1996.⁴ Al Qaeda claimed responsibility for the attack, but as a federal judge has found, it could not have done so without the support of Iran, including through the provision of weapons training and facilitation of travel.⁵ And again, although the attack on a U.S. warship is no doubt an act of war, the U.S. did not respond.

Less than a year later, on September 11, 2001, 3,000 Americans lost their lives in the greatest terrorist attack of our time. And as the 9/11 Commission has found, Iran's involvement in that attack cannot be questioned. Yet, the U.S., although declaring a "war" on terrorism and recognizing Iran as an "Axis of Evil," did not confront Iran. As a result, Iran has continued to support terrorist groups and activities in both Afghanistan and Iraq.

For example, Dr. Patrick Clawson, Director of Research of the Washington Institute for Near East Policy, has explained that Iran has continued to provide significant support, including cash, weapons, and safe haven to several terrorist groups, including Hezbollah, HAMAS, al-Qaeda, and armed insurgents in Iraq and Afghanistan. Dr. Clawson opines that Iran spends **at least \$300 to \$500 million dollars a year on funding terrorism.**⁶

This Senate Subcommittee on Oversight has a unique opportunity, and duty, to work together in a non-partisan way to effectively send a message to Iran, Palestinian terrorists organizations, and terrorists throughout the world: ***Terrorism does not pay, will not be tolerated, and you will be held accountable for killing Americans in every way possible.***

Nearly all of the American measures that had effectively severed Iran's economy from the international financial system will be waived under the deal, **permitting somewhere in the realm of \$100 to \$150 billion in Iranian assets that had been held**

³ Iran's support of Hezbollah resulting in the death of Robert Dean Stethem would be considered an illegal act of aggression under international law. See U.N. Resolution 3314 (XXIX) (Dec. 13, 1974) available at <http://www.un-documents.net/a29r3314.htm>

⁴ CRS Report for Congress Terrorist Attack on U.S.S. Cole, Background and Issues for Congress (Jan. 30, 2001) available at <http://nsarchive.gwu.edu/NSAEBB/NSAEBB55/crs20010130.pdf>

⁵ *Flanagan v. Isl. Rep. of Iran*, 87 F.Supp.3d 93 (D.D.C. 2015)

⁶ See *Affidavit*, Dr. Patrick Clawson, *Flanagan v. Islamic Rep. of Iran* (Aug. 5, 2014).

in overseas accounts to flow back into the hands of Iranian leaders. This is 300 times more than the annual funding Iran spends on terrorist activities.

Although the House of Representatives has passed the “Justice for Victims of Terrorism Act,” which would make sure that victims of terrorism, like our family and the victims of the *U.S.S. Cole* bombing, had their judgments against Iran satisfied before the release of these assets, the Obama Administration has unsurprisingly threatened to veto it.⁷ In my opinion, providing long overdue justice for victims of terrorism while at the same time limiting the amount of money at Iran’s disposal to kill more Americans is paramount. The Justice for Victims of Terrorism Act accomplishes both of these long-standing Congressional goals.

No state-sponsor of terrorism should have its assets released until outstanding judgments against that state have been paid.

Indeed, this would not be the first time Congress has expressly directed the payment of judgments for victims of terrorism from Iranian Assets. In 2000, Congress, as part of an Omnibus bill The Victims of Trafficking and Violence Protection Act of 2000 (“VTVPA”) (P.L. 106-386) liquidated some frozen Iranian assets to satisfy some portion of the judgments held by victims of Iranian terrorism. Some U.S. funds were also used.⁸

Our failure to fight radical Islamic terrorism properly, effectively, and thoroughly, when it first took place in recent times (1979) has allowed it to grow from a single source in a single place, to multiple entities and places.

I am extremely concerned that if we do not start now developing a comprehensive and coherent strategy against this menace of mankind, not only on the battlefield but also financially and socially, we will be unnecessarily suffering the effects of radical Islamic terrorism for generations to come. This need not be so. We should be careful to not allow political opinions, agendas, or personal legacies to replace political science and the natural laws of compensation and accountability.

The failure of the current Administration to have a coherent security strategy for the ME or terrorists should not preclude the U.S. Congress from developing one.

I would humbly remind each of you that peace does not come through confusion but through clarity. And when dealing with an enemy we must be clear. Iran and the Palestinian terrorist organizations have, are, and will continue to support and participate in terrorist activities as long as we allow them to do so without any accountability.

⁷House Passes Bill Banning Sanctions Relief Until Iran Pays Damages to U.S. Terror Victims
<http://cnsnews.com/print/400358>

⁸ CRS Report For Congress, Suits against Terrorist States by Victims of Terrorism *available at*
<https://www.fas.org/sgp/crs/terror/RL31258.pdf>.

We must hold the radical fundamental Islamic regimes and organizations accountable on every front, on every quarter, and in every way. Failure to do the right thing at this critical time in our history will only result in more lives lost, more chaos, and lead us further down a destructive path that we need not and should not go.

Rep. Patrick Meehan (R., Pa.), Sens. Pat Toomey (R., Pa.) and Mark Kirk (R., Ill.) in the Senate have introduced legislation called the Justice for Victims of Iranian Terrorism Act. It is my hope that each of you will seize this opportunity and can give your unwavering support for justice and national security.

The choice before Congress is a simple one: Side with the victims of terrorism or our President who is intent on funding the single largest sponsor of terrorism in the world today.

I sincerely hope that you will show Americans and people throughout the world that the United States Congress has its own will and resolve. That America will no longer tolerate terrorism nor support terrorist activities on any level, in any way, including business and banking operations. And that Congress will side with the victims of terrorism and not terrorists.

I would like to close with two quotes that resonate deeply with me. These statements ring as true today as when they were spoken so long ago. The first captures the very essence of my brother, "I love the man that can smile in danger, gather strength from distress, and grow brave by reflection. 'Tis the business of little minds to shrink, but he whose heart is firm, and whose conscience approves his conduct, will pursue his principles unto death."⁹ And the second accurately reflects our duty to those who have gone before us and to our posterity. "We will always remember. We will always be proud. We will always be prepared, so we may always be free."¹⁰

Thank you very much.

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⁹ Thomas Paine, "The American Crisis" Philadelphia, Pa. 1776

¹⁰ Ronald Reagan, "D-Day Speech" Normandy, France, 1984

— STETHEM LEGACY —

HONOR

COURAGE

COMMITMENT



SW2(DV) Robert Dean Stethem November 17, 1961 to June 15, 1985
American Hero and U.S. Navy Diver (1984)