

7.8 Detention and arrest

The effective management of incidents of detention and arrest requires planning and investment in local capacities and well-established response protocols. Detention and arrest situations will usually require implementation of an incident response plan (described in Chapter 4.4.). In any of the scenarios discussed here, the priority is the safe and speedy release of the staff member. To achieve this, the organisation needs an informed response approach, which is likely to include mobilising support from local stakeholders.

7.8.1 Definitions

It is important to differentiate between detention and arrest, both for reporting and for effective response.

Detention refers to the holding of a person against their will by an individual or group (e.g. community groups, local authorities, militia or military groups). While there is no intention to harm the detainee, there is also no clear condition for their release. Detention can be a frequent occurrence in aid work; both short and long detentions are common. Purported grounds for detention may include incorrect credentials or administrative documents, while underlying causes can range from discontent with programme quality or location, mistaken identity of the aid worker or organisation, suspicions and misinformation, to simple bribe-seeking. There may also be frustration that the authorities are not engaging with a particular group, or are not doing so in a satisfactory manner; aid workers can often be seen as a source of leverage.

Arrest refers to formal detention by an official authority (normally the police but also the military) or the presumptive authorities. Arrest differs from the more general type of detention mentioned above in the involvement of official authorities invoking their legal powers. The situation can be more difficult and dangerous when government authorities arrest someone extralegally (i.e. without a proper arrest warrant), or where the arrested person 'disappears'. The authorities may then deny that the arrest took place and may refuse to reveal the whereabouts of the arrestee.

7.8.2 Risks

The risk of detention and arrest increases in contexts where there is a substantial reliance on humanitarian aid, where there is negative sentiment towards an aid organisation or aid work in general and where there are political or financial incentives at play. These types of incidents carry secondary risks that must also be considered:

- Risks to the health, safety and wellbeing of detained/arrested staff, especially if they experience violence, have medical conditions or have experienced trauma in the past. Being held against their will may exacerbate existing mental health issues. They may also lack access to medical care, basic freedoms, privacy, interpreters, legal counsel or other support.
- Operational disruption, especially if key staff are held for prolonged periods. A common strategy is to withdraw and suspend programming while the release is arranged.
- Risks to the organisation's reputation and relationships with local communities, donors and partners. This could jeopardise the organisation's ability to operate.
- Risks of staff being held in inappropriate facilities, especially if they have particular vulnerabilities.
- Risks to colleagues tasked with supporting or visiting detained/arrested staff. These individuals risk intimidation and retaliation, as well as the stress of the role.

Aid organisations can plan and prepare for these types of incidents, especially in contexts where the risk is high, and have well-established response mechanisms in place.

7.8.3 Planning, preparedness and risk mitigation

Effective planning and preparedness are crucial for mitigating the risks associated with the arrest and detention of aid workers. Note that preventing an arrest that follows legal procedure is obviously not normally possible. While an arrest that does not follow proper legal procedure can be challenged, it is unlikely to be preventable.

As part of their planning and preparedness, organisations should ideally design multilayered and detailed contingency plans to protect their staff and ensure the continuity of their operations with respect to both detention and arrest risks.

Context, risk analysis and contingency planning

- **Detention and arrest risks are incorporated into security risk management.** Risk assessments and contingency planning include the risk of detention and arrest. Contingency plans include evacuation and extraction procedures. Context analyses include an overview of the political, security and legal environments in areas of operation.
- **Actor mapping** can support access and negotiation and efforts to develop relationships with local communities, authorities and other stakeholders, which can help facilitate a rapid response to an arrest or detention.

Legal preparedness

- **Understanding of the legal and political context of the operating environment.** Staff need to be made aware of the hierarchy of the national security forces or other de facto authorities in the organisation's area of operation. This can include clan and community structures, and being clear about the legal procedures governing arrest in the country.
- **Legal briefing.** Staff should be informed about local laws, their rights and procedures to follow if detained or arrested. Organisations should be clear on what kind of support may be provided to detained and arrested staff, including support after release and to family members.
- **Legal support.** It is advisable to establish connections with local legal professionals and international legal aid organisations who can provide immediate assistance.
- **Regular monitoring.** Responsible staff can review and report on detention and arrest trends in the operational context, and the actors involved.

Training and awareness

- **Keeping updated local response plans.** Clear protocols should be maintained and staff should know the procedures for reporting and responding to detention and arrest incidents, which stakeholders to notify, and roles and responsibilities within the organisation. Plans should include communication protocols and escalation procedures, as well as measures to ensure continuity of operations if key personnel are detained or arrested.
- **Security training.** Orientation and training should be provided to staff on personal security measures, situational awareness, risk avoidance and protocols during interactions with authorities.

- **Scenario drills.** Regular drills and simulations allow staff to practise response procedures in case of detention.
- **Documentation.** Staff should be made aware of the documentation they need to carry and other measures they need to follow in order to gain access to and travel safely in operational areas.

Advocacy and networking

- **Communication roles and responsibilities.** Aid workers should be able to explain their roles and the organisational mission in simple and engaging terms. This may need regular practice.
- **Stakeholder engagement.** Staff should engage with local authorities, community leaders and other stakeholders to build relationships and reduce the likelihood of an incident.
- **International advocacy.** Organisations can work with each other and through diplomatic channels to advocate for the protection of aid workers.

Staff care

- **Staff care protocols** (including mental health support and counselling) can be established covering staff before, during and after an incident.

▶ See Chapter 5.4 on staff care.

Family liaison

- **Working with families** is critical in effectively responding to medium- to long-term situations. Relatives may be responsible for feeding and maintaining the health of their detained/arrested family member. They are also likely to have to manage bail and payments of fines. Consider establishing protocols for support of and communication with the families of detained/arrested staff, including what financial or legal support can be provided, and under what conditions.

Monitoring and evaluation

- **Regular reviews and reporting.** Organisations can conduct regular reviews and updates of risk assessments, contingency plans and training programmes. This helps to identify progress and acts as an early warning for future risks.
- **Incident analysis.** Interviews and reviews of arrest or detention incidents can help identify lessons and improve future responses.

Some staff may be detained or arrested for reasons extraneous to their work or that of the aid organisation. Factors that may play a role include social or cultural affiliations, power dynamics and political or criminal activity. Aid organisations should have a clear policy about how much support they will provide in the case of non-work-related arrests or detentions. If the detention or arrest is due to political circumstances, aid organisations may be wary of being seen as meddling in local politics. This should not, however, be an automatic barrier to assuming responsibility for staff in this situation, and making every effort to ensure their safe return.

7.8.4 Responding to an incident

When staff members go missing, the first challenge is to find out and report the exact nature of the situation. This might take hours, days or even weeks. Basic information needs to be established and communicated in an incident report that is then shared with appropriate staff.

Good practice involves being clear on who has been or should be notified, and who already knows about the incident outside the organisation, including whether the police, security forces or authorities are aware, have been or will be informed; whether the press or any third parties are aware of the incident; and whether next of kin have been notified. Information management can be challenging but should be carefully considered and addressed by staff leading on the response. Monitoring of the press, social and other media should also be considered; this can include local, national, regional and international media.

Organisations need to consider privacy and confidentiality around reporting or sharing information. During longer-duration situations, an organisation may decide to elevate their response and start a public advocacy campaign to secure the release of a staff member or highlight their condition. This should ideally be done with the staff member's permission.

Incident response procedures are discussed in more detail in Chapter 4.4. Below are some more detailed considerations.

In the event of detention or arrest

In the event of a detention, a heavy-handed approach is likely to be counterproductive, and can increase antagonism towards the staff member and the organisation. The detention may be designed to force the organisation or another entity to pay attention and engage in serious dialogue, in which case responding to this expectation can be enough to end the incident.

In some cases the detainee may be able to negotiate their own release, and organisations should train staff accordingly. Emphasising their humanitarian work and the neutral, impartial and independent nature of their organisation and its activities is often an important first step, and some organisation staff carry with them aide-memoires or other documentation to clarify the role of the organisation. Carrying emergency contact information is also helpful in the event of a detention.

If a staff member is arrested and their whereabouts are unknown, the first priority is to establish where they are and under whose authority. This may entail visiting relevant local authorities, informing the embassy (in the case of a foreign national), and using local networks to gather details. It is important to remember that a staff member may be arrested for legitimate reasons and may have to account for their actions. Either way, organisations may consider engaging a good local lawyer who knows the local languages and the local system, has experience with this type of situation, and has useful connections.

When it is clear who has detained or arrested the staff member and where they are, organisations should seek to ensure that their rights are protected. Organisations should consider advocating with local authorities for the fair and humane treatment of affected staff, including access to medical care, legal counsel and due process. This can be done after an assessment and conversations with stakeholders, as the attention of an international organisation may exacerbate the situation. Additional actions may be considered if these requests are not met. Any mistreatment or rights violations should be documented, and accountability pursued if appropriate (being mindful that this can cause more harm than good).

Arrests can be made without formal charges being brought, in which case the organisation might advocate for a charge to be articulated within a specified period of time. The charge may relate to the individual (for example, they are accused of being involved in a crime) or the organisation (for example, an accusation of spying under cover of humanitarian work). In any scenario, the

main priority is to work towards the safe and speedy release of the staff member. In most circumstances, only once a staff member is freed from wrongful charges should efforts be made to clear the name of the individual or the organisation.

As part of a broader contingency plan, the organisation may need to discuss what administrative and financial support will be provided to the affected staff member and their family. Under what circumstances would legal support be arranged or bail paid? By what means and who would be responsible? Many organisations will have insurance covering some of these contingencies. Consideration may need to be given to whether the cover is applicable and extends to all staff or just key individuals. This may be considered at the policy level as part of a broader risk management position.

► See Chapter 5.4 for more on insurance.

Organisations may want to provide additional support to individuals whose role it is to visit detained/arrested staff and liaise with authorities, as this can be a challenging task with many potential repercussions on the staff member (e.g. their mental health, as well as their relationships with local authorities or groups). This role should not randomly fall to an individual based on their proximity to the context. It is also critical to liaise with, and manage, the staff member's family in the event of an arrest or a detention. They should ideally be informed of the steps being taken; organisations should aim to maintain a direct regular line of communication, remain aware of what steps the family intends to take or has taken, and warn them if what they plan to do has the potential to disrupt, complicate or be counterproductive to the organisation's planned response.

► See Chapter 4.4 for more on family liaison.

It is likely that support from the local community and stakeholders will be influential in securing the release of a detained/arrested staff member. Clan and social dynamics might be mapped and interlocutors identified to support enquiries and requests. Organisations that are not local to the area may find information from local actors useful in maintaining a check on the condition of affected staff and passing on informal messages.

Post-incident considerations

Released staff members and those closely involved in the incident, such as family members or the incident management team, may require additional support following an incident. This can include a break from work, medical support and counselling.

- ▶ See Chapter 5.4 for more on post-incident staff care.

It may be helpful to talk to relevant authorities, stakeholders and community leaders as to why the detention or arrest took place, and what can be done to avoid a similar incident in the future.

Many organisations will hold a formal factual debrief session or after-action review.

- ▶ See Chapter 4.4 for more on after action reviews.

Further information

Guidance and resources

Buth, P. (2010) *Crisis management of critical incidents*. EISF (www.gisf.ngo/resource/crisis-management-of-critical-incident/).

Davidson, S. (2013a) *Family first: liaison and support during a crisis*. EISF (www.gisf.ngo/resource/family-first/).

Davidson, S. (2013b) *Managing the message: communication and media management in a security crisis*. EISF (www.gisf.ngo/resource/managing-the-message/).

Hostage International (n.d.) *Best practice in family support* (<https://hostageinternational.org/resource/best-practice-in-family-support/>).

Hostage US (n.d.) *Hostage US guides* (<https://hostageus.org/resources/hostage-us-guides/>).