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THE JUSTICE DEPARTMENT'S RESPONSE TO INTERNATIONAL PARENTAL KIDNAPING

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE OVERSIGHT

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

ON

THE JUSTICE DEPARTMENT'S RESPONSE TO INTERNATIONAL PARENTAL CHILD KIDNAPING

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THE JUSTICE DEPARTMENT'S RESPONSE TO INTERNATIONAL PARENTAL KIDNAPING

WEDNESDAY, OCTOBER 27, 1999

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL JUSTICE OVERSIGHT,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:45 p.m., in room SD–226, Dirksen Senate Office Building, Hon. Strom Thurmond (chairman of the subcommittee) presiding.

Also present: Senators DeWine, and Leahy.

OPENING STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator THURMOND. The subcommittee will come to order. I am pleased to hold this hearing today regarding the Justice Department's response to international parental kidnaping.

Parental abduction is widely recognized in America as a serious criminal act that is very harmful to a child's well-being. It is a growing problem for America, as more and more children are taken to live in a foreign country in blatant violation of the legal rights of custodial parents in the United States.

In these situations, children are often forcefully removed from familiar surroundings and taken to another country and another culture. It can be extremely traumatic and difficult for children to adapt, especially while being deprived of their custodial parents. Meanwhile, the left-behind parents undertake long, expensive court battles in a foreign country to try to get their children back. Most never succeed.

It is a complex undertaking to work with independent sovereign nations and their judicial systems. Clearly, the preferred approach is for the parent to undertake an action pursuant to the Hague Convention. This treaty helps eliminate national bias by requiring that children be immediately returned to the country of habitual residence, where all custody determinations are to be made. Unfortunately, many countries are not signatories to this treaty. Also, many countries that are, including some European countries, do not fulfill their obligations under it.

Children are returned to the United States in only about 30 percent of these cases. I want to repeat that. Children are returned to the United States in only about 30 percent of these cases. Clearly, the Hague Convention is insufficient to address the problem and the State Department must work diligently to improve the treaty and increase the number of countries that abide by it.

The purpose of this hearing is to assess the role of the Department of Justice in addressing parental abduction. In 1993, the Congress passed the International Parental Kidnaping Act, which makes it a Federal crime to remove a child from the United States in an attempt to obstruct parental rights.

The law is rarely used. The administration discouraged the Congress from passing this statute, which is evident from the Department's reluctance to enforce it. Although thousands of children have been abducted from the United States in recent years, charges have been brought against only about a dozen people per year since the law went into effect.

Although the top priority is the return of the child, we should not underestimate the significance of bringing the abductors to justice. As with other criminal offense, enforcing IPKA could deter future parents from breaking the law. Moreover, once an abductor is convicted in America, the court may order the offender to return the child as a condition of release.

The Justice Department should develop a consistent policy of enforcing the law when the case can be proven and it will not interfere in Hague remedies. Also, the Justice Department must work closely with the State Department to extradite those charged. Currently, many countries recognize the almost certainty that they face no real world consequences or even adverse publicity from their failure to cooperate.

Moreover, the criminal process is the only effective means to stop an abduction in progress and may be critical to discovering the whereabouts of the child. Through the criminal process, the FBI, which has extensive resources and offices in many countries, can assist. Also, passports can be revoked, the abductor can be entered into the NCIC database, provisional arrest can be sought, and color notices can be issued through INTERPOL. There are many reasons to use the criminal process in many cases.

We cannot know if the statute will succeed in bringing the children home until we adopt a policy of aggressive enforcement. Abductors must not be permitted to blatantly violate American courts with impunity. They cannot be permitted to achieve through illegal means what they could not achieve legally through the child custody process.

I welcome our witnesses here today. I would also like to thank Senator DeWine for his personal commitment to this issue. I now call upon him.

STATEMENT OF HON. MIKE DeWINE, A U.S. SENATOR FROM THE STATE OF OHIO

Senator DEWINE. Mr. Chairman, thank you very much. I want to thank you for holding this hearing on this very, very important issue.

As you pointed out, this is an issue that is devastating for the families that are affected. It is devastating, though, not only for the left behind parent. It is also devastating to the child who has been denied illegally the love of one of his or her parents. Sadly, with an increasing number of cross-national marriages and divorces, international parental kidnapings are likely to occur with more and more frequency in the future.

When the international kidnaping of a child occurs, the parent left behind often has no idea where to turn or to whom to turn to for assistance. And when the parent does find where to turn, he or she often receives conflicting information from different governmental sources. Worse still, past experiences have shown that once a child is kidnaped and taken across international borders, the likelihood, as the Chairman has pointed out, the likelihood of having that child returned to the other parent diminishes over time. It is crucial that the left-behind parent receives accurate, immediate, timely information and assistance.

I learned about the difficulties that left-behind parents face when two left-behind parents from Ohio, one of whom is here with us today, came to my office for assistance. These parents have faced many obstacles in their fights to get their children back. Many of their troubles have been the result of foreign laws and cultural differences, but sadly, sadly, the conduct of U.S. Government agencies many times has been of no help in overcoming the legal and bureaucratic obstacles these left-behind parents have encountered.

Can our government do a better job on behalf of these parents? I believe that we can. I am most interested today to hear from the State Department and the Department of Justice and to hear them discuss how their efforts can be of more assistance to parents seeking the safe return of their children from abroad.

I am not alone in the belief that this government can and should and must do more for these parents. Earlier this year, Mr. Chairman, the Subcommittee on International Child Abduction of the Federal Agency Task Force on Missing and Exploited Children and the Policy Group on International Child Abduction issued a report to the Attorney General on international parental kidnapings. This report identified gaps, gaps in the Federal response to these cases, and they made some recommendations on how to fill these gaps. The report acknowledged that the Federal Government could do more for these families, and must do more.

I am interested, Mr. Chairman, in knowing how quickly the report's recommendations will be implemented. I also find it interesting that the international parental kidnaping statute and law enforcement response is not mentioned as one of these gaps, and I intend to ask some questions about this, as well.

But I especially want to hear from the parents, parents who will be testifying today, as to what they perceive are the gaps in our Federal response. It is their suggestions that I hope will lead to improved government response.

Let me thank you again, Mr. Chairman, for convening this very important hearing today. I am anxious to get to the bottom of some of these issues and to learn more from the families who have faced the tragic loss of a child from an international kidnaping. Again, I thank you, Mr. Chairman.

Senator THURMOND. Our first witness today is James Robinson, Assistant Attorney General for the Criminal Division at the Department of Justice. Following graduation from Wayne State University Law School, Mr. Robinson clerked on the Michigan Supreme Court and the Sixth Circuit. He served as U.S. Attorney for the Eastern District of Michigan during the Carter administration. Before assuming the current position, Mr. Robinson was dean and

professor of law at Wayne State University Law School. Mr. Robinson is accompanied by Mr. Richard Rossman, his Chief of Staff to the Criminal Division.

Our second witness is Ms. Jamison Borek, Deputy Legal Advisor at the Department of State, where she has worked in the office of the Legal Adviser since 1979. Ms. Borek holds a law degree from the University of California at Berkeley and a bachelor's degree from the University of California at San Diego.

I ask that the witnesses please limit your opening statements to 5 minutes. Your written testimony will be placed in the record, without objection, in full.

I want to start with Mr. Robinson. Mr. Robinson, we would be glad to hear from you.

PANEL CONSISTING OF JAMES K. ROBINSON, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC, ACCOMPANIED BY RICHARD A. ROSSMAN, CHIEF OF STAFF, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC; AND JAMISON S. BOREK, DEPUTY LEGAL ADVISER, DEPARTMENT OF STATE, WASHINGTON, DC

STATEMENT OF JAMES K. ROBINSON

Mr. ROBINSON. Thank you, Mr. Chairman and Senator DeWine. I am pleased to appear before the committee today to address the important subject of international parental child abduction, and I appreciate your receiving my prepared statement, which covers the spectrum of Department of Justice activities and programs which are underway to address this difficult subject. I will concentrate my brief introductory remarks on the Department's criminal enforcement effort.

I also appreciate the chair acknowledging the presence with me of Richard Rossman. Mr. Rossman joined me a little over a year ago in the Criminal Division. He and I go way back. He was my chief assistant when I was the U.S. Attorney in Detroit, and then succeeded me as the U.S. Attorney for the Eastern District of Michigan.

Because of the great importance of this topic to me and to the Attorney General, and one which I must say I had conversations with Senator DeWine about during my confirmation hearings in which he made it clear his very, very intense interest in this topic, I asked Mr. Rossman to lead the Criminal Division's efforts in this area on all policy and interagency initiatives on international parental abduction, and I think that reflects the importance that I place on this topic. In fact, just a few weeks ago, Mr. Rossman testified before the House International Relations Committee on these subjects.

At the end of my brief remarks today and after Ms. Borek's remarks and during the questions, Mr. Rossman and I will be pleased to answer the questions and I would defer to the superior understanding of some of the details of this to Mr. Rossman.

As the chairman noted, in 1993, Congress passed the International Parental Kidnaping Act. This statute has proven to be a very useful supplement to the laws in all 50 States, criminalizing

parental child abduction. IPKA can be particularly helpful because it reaches wrongful abduction or retention, even in the absence of preexisting custody orders, an option not always available under State parental kidnaping laws.

However, it is also crucial to understand that this Federal criminal statute is not a substitute for civil remedies in obtaining the return of internationally abducted children. Prosecutions under this statute, as with any Federal criminal statute, are brought by Federal prosecutors on their own merits, evaluating the facts of the case in relationship to the legal requirements of the law. Once Federal prosecutors determine that IPKA charges may be appropriate under the facts of a particular case, and only then is it appropriate to consider the impact of such charges on the very worthy but quite different goal of obtaining the return of the child.

We agree with Congress, as was stated in its sense of the Congress which accompanied the passage of IPKA, that when available, the Hague Convention should remain the option of first choice for a parent who actually seeks the return of his or her child. Even when the involved foreign country is not a party to the Hague Convention, it is not necessarily the case that IPKA criminal charges will facilitate rather than frustrate child recovery efforts, as the chairman indicated in his opening remarks.

For example, there is at least some anecdotal evidence that some foreign judges are reluctant to order the return of a child to the United States when one of the parents faces criminal prosecution and potential incarceration. Moreover, there are real cases in which IPKA prosecutions, even when successful, have not resulted in the return of the abducted child.

For example, in 1995, in the Eastern District of New York, a father who abducted his children and moved with them to Egypt was arrested, tried, and convicted after he reentered the United States. That is the Ahmed Amir case. He was sentenced to 24 months' incarceration followed by 1 year of supervised release with the special condition that he return the children to New York. He served his term, he was released, he violated his probation by not returning his children, and then he served additional time and he now is once again a free man and the children remain abroad.

Despite these limitations, IPKA can, in appropriate cases, provide an effective vehicle for charging and punishing abducting parents. While the number of indictments brought pursuant to this still relatively new statute, 62, as we continue to train agents and prosecutors on its existence and availability, we expect the numbers will grow. It will remain the case, however, that IPKA supplements and was not intended to preempt the State statutes which criminalize parental abduction.

Moreover, the resources of the Department of Justice, whether the investigatory resources of the FBI or the Criminal Division's resources in securing the arrest and extradition of offenders, are equally available in State cases. Thus, we will continue to seek international extradition when possible and appropriate for violations of State parental kidnaping laws and the Federal IPKA statute.

However, once again, it is important to keep in mind that extradition of the abducting parent will often not result in the return

of the abducted child. We do make efforts to coordinate the extradition process with the Hague Convention or other civil recovery efforts in the foreign country, but, of course, there are no clear guarantees.

The initial decision to seek criminal charges, whether to seek extradition, is a decision made on the merits of the facts of each case, taking into account all of the relevant considerations and the applicable laws and treaties. In each case, we will need to determine whether parental kidnaping is an extraditable offense under the applicable treaty and whether the other requirements for extradition can be met.

Thus, we are reluctant to seek extradition from countries in which we have no reasonable basis to believe the fugitive is located or from countries with which we know that our treaty does not cover the offense. Such requests would often be futile and, indeed, maybe perceived as bordering on a bad faith request.

Also, it is sometimes the case that the abducting parent is located in his or her country of citizenship and we know that the country will not extradite its own nationals. Such obstacles, however, do not mean we close our case. If the parent moves to another jurisdiction, then extradition may become possible and should be sought.

Thanks to recent action by Congress, extradition for parental kidnaping may now be possible from several countries from which we could not request such extraditions just a short time ago. Last year, Congress passed the Extradition Treaties Interpretation Act of 1998, and pursuant to it, we may now interpret the crime of kidnaping in our old list treaties to include parental kidnaping. So far, officials in 11 foreign countries have responded to a State Department survey indicating that they agree with the United States that parental kidnaping is covered by an existing list treaty. Thus, extradition may now be possible on such charges from places like Luxembourg and New Zealand and possibly soon from other countries which have not yet responded to the State Department's survey.

In short, while the Justice Department enforcement efforts targeting abducting parents cannot and should not take the place of civil efforts to obtain the return of abducted children, we will continue to make such efforts, including charging IPKA criminal violations and seeking extraditions on IPKA or State parental kidnaping charges whenever it is appropriate.

Continuous improvement is the order of the day with regard to this and many other Federal criminal law enforcement efforts, and Senator DeWine's interest and the chairman's interest in this activity, these oversight hearings certainly keep us constantly reminded of the importance of the enforcement of the statute and our other efforts.

I thank you for the opportunity to appear before the committee on this very important topic and would be happy at the appropriate time to try to respond to the committee's questions and suggestions.

Senator THURMOND. Thank you.

[The prepared statement of Mr. Robinson follows:]

PREPARED STATEMENT OF JAMES K. ROBINSON

I. INTRODUCTION

Mr. Chairman and Members of the Subcommittee: I am very pleased to appear before the subcommittee today to address the topic of international parental child abduction. This is a subject of particular importance and interest to the Attorney General. It is also a difficult subject. Difficult both because of its heartbreaking impact upon cherished personal relationships, and because of the legal and policy challenges created by the need to work with separate sovereign countries and their laws. I commend the committee for bringing additional public attention to this issue, and thank you for providing me with an opportunity to discuss the role the department of justice plays in addressing it.

II. INTERAGENCY AND POLICY INITIATIVES

One year ago, the Attorney General demonstrated the department's commitment to addressing the international parental abduction problem by appearing personally at the Senate Foreign Relations Committee's hearing on this subject. One of the lessons drawn from that hearing was the need for increased coordination between the various agencies which play a role in this area, and the development of policies to fill "gaps" in existing procedures. I am pleased to report that significant strides have been made during the past year to accomplish these goals.

Specifically, the Attorney General and the Secretary of State appointed a senior policy group—on which I asked my chief of staff, Mr. Richard Rossman, to serve—to work with the subcommittee on international child abduction of the federal agency task force on missing and exploited children. As the result of the efforts of the subcommittee and policy group, earlier this year a detailed report on international parental kidnaping was presented to the attorney general. A copy of that report was also provided to the Senate Foreign Relations Committee, and is available to this committee. That report identifies a series of problems or "gaps" which often exist in international parental kidnaping cases, and contains a series of recommendations on how federal responses to those gaps can be improved.

We are now working on an interagency basis to implement as many of the report's recommendations as possible. The policy group has developed an "action plan" setting out the tasks to be addressed, and the federal offices to address them, and has created an interagency working group chaired by the Department of State, Office of Children's Issues, to coordinate implementation of this plan. By way of example, efforts are underway to create a comprehensive case tracking system for international parental child abduction cases; develop an enhanced role for the National Center for Missing and Exploited Children; improve the overseas implementation of the Hague Convention on the civil aspects of international child abduction; further strengthen interagency coordination here in the U.S.; increase education and training on legal options available in abduction cases and how to pursue them; foster more widespread and effective use of the National Crime Information Center (NCIC) and Interpol to stop abductions in progress and to locate abducted children and abductors; and expand the services available to left behind parents. While this remains a "work in progress", we are pleased that this critical issue is now receiving the high level interagency attention and planning it deserves.

III. DOJ'S PROGRAMMATIC EFFORTS

Within the Department of Justice, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) serves an important programmatic role in addressing international parental kidnaping—and as a member of the interagency working group is actively involved in implementation of the interagency action plan. OJJDP has long provided training programs for state and local law enforcement on child protection issues, and remains the primary departmental office involved in missing and exploited children's initiatives.

Under the auspices of that office's Missing and Exploited Children's Program (MECP), new training on the roles of law enforcement, state and local prosecutors, private attorneys, and the judiciary will be developed in coordination with the working group, as will a program to promote the use of a coordinated, multi-disciplinary and community based approach for preventing, investigating, and prosecuting these cases. Input for these training courses will be obtained from the interagency working group; state, local, and federal law enforcement and judicial agencies; the National Center for Missing and Exploited Children (NCMEC or "The National Center"); and parents.

OJJDP's missing and exploited children's program is also supporting efforts within the working group to increase the services available for victim families in inter-

national abduction cases (*e.g.,* counseling, identifying legal services resources, mentoring, family mediation, translation services), and to help them identify and access more quickly and effectively the services that are already available. That office, in collaboration with others, is working to address the frustration caused by the lack of knowledge which still persists among left-behind parents, their advocates, law enforcement, and state and local authorities about remedies and resources in international abduction cases. To do so, MECP is developing resource guides which will assist parents and law enforcement agencies in the investigation process, and hopefully in the recovery of, and reunification with, abducted children.

OJJDP also provides funding for the National Center for Missing and Exploited Children. For the past few years, through a cooperative agreement with the Department of State, the National Center has played an important role in handling incoming Hague Convention applications from parents outside the United States seeking children who have been taken to this country. We are very pleased that the National Center's role is being expanded to include activities related to cases in which children have been taken from the United States to other countries. Among the technical assistance and services which may be available to parents and law enforcement in such cases are poster creation and dissemination, age progression and reconstruction technology, translation of legal documents, law enforcement liaison, international contacts, and parental support. In addition, through an interagency agreement, OJJDP may upon request transfer monies available from the department's federal crime victim assistance fund to the National Center to provide needed services through its Victim Reunification Travel program (VRT) to victims of parental kidnaping. Thus, in some instances the national center may be in a position to provide emergency transportation for American parents, crisis intervention services, assistance in participating in criminal justice proceedings, and payment for forensic medical examinations of the victim.

IV. DOJ'S ENFORCEMENT EFFORTS

International parental child abduction cases may be addressed through the Hague Convention or other civil means to recover the child, and when appropriate through criminal statutes combined with extradition procedures to prosecute and punish the abducting parent. The Department of Justice does not play a direct role in the civil mechanisms for the recovery of children internationally, but we do and will continue to support and work with the Department of State in its efforts to see that wrongfully abducted or retained children are returned to their left-behind parents.

The Department of Justice's role is more significant in the investigation and prosecution of parents who violate applicable criminal laws. The laws of the fifty states and the District of Colombia all provide criminal penalties for parents who wrongfully abduct their children. The FBI for many years has, when appropriate, obtained federal warrants for Unlawful Flight (UFAP's) for those abducting parents charged with state or local offenses who cross state or international borders. Such UFAP warrants, while themselves not providing an independent basis for extradition, may assist in the devotion of federal resources to locating abducting parents who have fled overseas. Moreover, for the past six years, international parental kidnaping has been a federal crime (International Parental Kidnapping Crime Act, 18 USC 1204). Specially trained FBI agents around the country designated as "crimes against children coordinators" serve as points of contact on exploitation, abduction, and other crimes against children. They or other agents in their field offices work with assistant U.S. attorneys to investigate and prosecute violators of the IPKCA statute.

The department's Child Exploitation and Obscenity Section (CEOS) in the criminal division maintains oversight responsibility for IPKCA, and provides advice and assistance to agents and prosecutors throughout the country who call with questions concerning investigations or prosecutions under that statute. Along with the division's office of international affairs, CEOS works closely with U.S. attorneys offices and the state department's office of children's issues to ensure that prosecutorial decisions are closely coordinated with child recovery efforts.

Records obtained from the department's Executive Office for United States Attorneys (EOUSA) indicate that since the passage of the IPKCA statute through the end of the second quarter of fiscal year 1999, United States attorneys opened files on 229 international parental kidnaping matters. As of April 30, 1999, 77 investigations were pending. Of the 62 defendants actually indicted, 23 cases have been concluded resulting in 13 convictions.

While the numbers of IPKCA prosecutions and convictions are relatively small, it is important to keep in mind that a large but undetermined number of international parental kidnaping cases are charged by state and local authorities under their own laws. We have also been informed that the number of IPKCA prosecutions

which have resulted in the return of the abducted child is very small. Here it is important to remember that while we of course hope that such prosecutions have the residual effect of facilitating the return of the victim child, the IPKCA statute was not designed, nor can it be expected to fulfill, that goal.

Both the National Crime Information Center (NCIC), and Interpol, provide considerable assistance in locating and identifying criminally charged abducting parents and their victim children.

In response to the previously mentioned report to the attorney general, the FBI is examining the possibility of seeking a change in one of the ways the NCIC maintains records. Specifically, the change would permit the name of an abducted child located abroad to remain in NCIC until issues related to where the child will ultimately reside are resolved.

Interpol's National Central Bureau (USNCB) here in Washington, D.C., which is staffed by senior agents from U.S. law enforcement agencies, facilitates the issuance of international lookouts (*e.g.,* "red notices" seeking fugitives including abducting parents, and "yellow notices" seeking missing or lost persons including victims of parental abductions). Interpol was recently instrumental in a case in which an abducting parent, who had a history of violent criminal offenses and drug abuse, brought his four year old child to the United States. At the request of Interpol Canada, the USNCB coordinated investigative actions in eight states and the District of Columbia. Thanks to those efforts, the father was arrested by the D.C. Metropolitan Police and the United States Marshals Service, and the child was taken into protective custody.

Once an abducting parent is charged by state or federal authorities and located abroad, extradition my be considered. However, it is crucial to understand that even when successful, an extradition by no means ensures the return of an abducted child. There have been sad cases in which a fugitive parent is returned for prosecution, but the victim child is hidden in the foreign country with friends or relatives, or the foreign courts fail to grant custody to the left-behind U.S. parent. It is even possible that an extradition request may complicate the return of the child under the Hague Convention (*e.g.,* should the foreign authorities be reluctant to return a child to the U.S. when one parent faces the prospect of prosecution and incarceration). In short, the decision to seek criminal charges against and pursue the extradition of an abducting parent must be made on its own merits for law enforcement reasons, and not viewed as a quick, or even an effective, means of securing the return of the child.

Extradition may be available to a state or federal prosecutor for international parental abduction if (1) an extradition treaty is in force between the United States and the country where the fugitive is located; (2) the treaty recognizes parental kidnaping as an extraditable offense; and (3) no other treaty provision would bar the fugitive's return to the United States for prosecution for the offense. When a prosecutor is interested in requesting extradition, he or she contacts the criminal division's Office of International Affairs (OIA) for advice and assistance. OIA works through the Department of State to make such requests.

There are presently over 100 bilateral U.S. extradition treaties in force. Under the most modern of those, extradition is usually based upon "dual criminality". That means if an offense is punishable in both countries by and agreed upon term of imprisonment (often at least one year), the offense is extraditable under the treaty.

Under our older treaties, extradition is provided only for crimes listed in the treaties themselves. And while most of these treaties list "kidnaping" or "child stealing" as extraditable offenses, for many years the State Department was concerned that those terms were not intended by the treaty negotiators or the Senate when it authorized ratification to cover *parental* kidnaping or abduction. Thanks to action by Congress in passing the Extradition Treaties Interpretation Act of 1998, we may now interpret "kidnaping" to include parental kidnaping. The State Department informs us that twelve of our treaty partners have already agreed with the United States that parental kidnaping is covered by our existing "list" extradition treaties. This has opened the door to possible extradition requests on such charges to those countries, (*e.g.,* Cyprus, Luxembourg, New Zealand), and possibly soon to other countries which have not yet responded to the State Department survey.

Unfortunately, even when a treaty exists and the parental abduction crime is extraditable pursuant to it, there may exist other obstacles to obtaining extradition. For example, many countries refuse, often because of a constitutional or other important public policy prohibition, to extradite their own nationals. Our treaties with such countries often do not require the surrender of nationals. Because abducting parents are often nationals of the countries to which they flee with an abducted child, they are able to avoid extradition to the United States. And although most of the countries which refuse to extradite their citizens can in theory assert criminal

jurisdiction over them for crimes committed anywhere in the world, as a practical matter this is rarely done.

This is not to suggest that we would not or should not ever request extradition knowing that the request well be denied on the basis of nationality—such decisions are carefully made taking into consideration all of the particular circumstances—but only that the existence of a treaty which seems to cover the crime is not always sufficient to ensure that the offender is brought to justice. I can assure this committee that expanding the number of U.S. extradition treaties which mandate the extradition of nationals is among the department's highest international law enforcement priorities.

V. CONCLUSION

In a shrinking world with increasing numbers of bi-national marriages, the problem of international parental child abduction will not disappear anytime soon. However, we at the Department of Justice will continue to do whatever we can to address this problem, through enhanced interagency coordination, continued programmatic initiatives, and vigorous enforcement efforts.

Again, thank you for the opportunity to appear before this subcommittee on this most important topic.

Senator THURMOND. Ms. Borek.

STATEMENT OF JAMISON S. BOREK

Ms. BOREK. Thank you, Mr. Chairman. As you have suggested, I will make briefer remarks and ask that my statement be accepted in full for the record.

Senator THURMOND. Your entire statement, of course, will be put in the record.

Ms. BOREK. Mr. Chairman and Senator DeWine, thank you for holding this hearing today to discuss the important subject of international parental child abduction. I will first give briefly an overview of the different ways the Department of State is involved with this problem.

First, of course, it grows out of our concern for the welfare of American citizens, both who are overseas or who become involved in transnational problems. There is no greater responsibility than the welfare of our children. The protection of Americans abroad, including those children victimized by international parental child abduction, is of the highest priority to the Department of State.

As the corollary to our interest in this area, we are also responsible for coordinating U.S. efforts in international organizations to develop mechanisms and laws to protect private citizens in these areas, such as the Hague Conference on private international law. It was in 1980 that the Hague Conference developed the convention on the civil aspects of international child abduction and the United States became a party in 1988.

This convention aims at providing a civil legal remedy for prompt return of a child who is either abducted or who may be retained in violation of custody rights. The latter case could be in a case where there is a court order, or it could be where there is no court order but there is simple joint custody prior to divorce. So the Hague Convention covers a broad range of cases, including not only the classic abduction, but also a situation where a mother in a bad marriage simply takes a small child and returns home, if the home happens to be a foreign country.

The underlying premise of the convention is that it is bad for children. It is not in the best interest of the child to be abducted. It seeks to deter abduction and to remedy it as a means of forum-

shopping. It is understood that every country has a mechanism for determining the custody of this child and it is based, at least in principle in most countries, on the best interest of the child. But under the Hague Convention, the decision is made that the custody determination should be in the place of habitual residence of a child, and where a child is abducted to get a different forum, the child should be sent home.

To implement this convention, the Bureau of Consular Affairs started with a small staff an effort and has constantly increased it over time. In 1994, they created an Office of Children's Issues as a formal office to be concerned not only with implementation of the Hague Convention, but other situations where children are taken by parents abroad, and protection of children in all countries, not only Hague countries.

In addition to the efforts under the Hague Convention, the Department of State is also concerned with the question of passports and travel, and recently, they have moved the function concerned with passport issuance for children into the Office of Children's Issues so that it can be better coordinated in the case of preventing and deterring international child abduction.

Finally, we also play a role with respect to the criminal aspects of international child abduction by virtue of our role in connection with extradition. Of course, we coordinate very closely with the Department of Justice, who is responsible for most operational aspects.

I might say that the Hague Convention, overall, has been a clear success story as compared to the prior situation. In the first 10 years that we have been a party, proceedings have resulted in the return of over 20,000 children to the United States. We believe, although we have no way to know, that the existence of the treaty's return mechanism has deterred a number of abductions.

The statistics, unfortunately, within the State Department have not been kept especially well or consistently over the years. We are trying to improve these efforts. In recent years, we believe that the percentage of returns under the Hague Convention is closer to 60 percent, so that there is—and, of course, it depends on the country—there is a considerable body of success under this convention.

However, it is clearly not a perfect remedy. There are a number of grounds even within the convention for non-return of the child, for example, if there is a danger of serious harm to the child or if the child is old enough to have views and objects to the return. In addition, a number of countries have created what we believe to be loopholes, taking advantage of grounds in the convention but applying it in ways that we dispute.

In addition, there are some additional problems that have grown out of either the nature of the legal systems in some countries or in some countries their commitment to implementing the convention.

Another problem is that there is ultimately the idea of a custody determination under the Hague Convention in the country which the child was abducted, and in some cases, the courts have gone to lengths to make sure that if the child is returned, both parents will be able to participate in that custody determination.

In this context, it can be a serious problem—it has been in some cases—if one of the parents is subject to arrest and prosecution on return to the United States. Some courts have said that is a reason to be concerned about returning the child because they would not be able to participate adequately in the custody determination in the country from which the child was taken.

There are other problems. I see that I am on the yellow light, so I will not go into all of them. I do want to note that we have been concerned about improving our efforts for a considerable period, and starting in late 1997, both the Departments of State and Justice embarked on a serious working-level review of all of the problems and gaps. This was the major input to the report.

In late 1988, the Attorney General and Secretary of State determined to jointly create a senior policy group that would work together with the working-level group and take an overall comprehensive look at the problems and recommendations which resulted in the report, which we have mentioned and which you have mentioned, Senator DeWine. It makes a number of recommendations for improvement, and as many as possible of them that can be implemented within existing resources, we are pursuing. But this is in very large part a question of resources and some of them are very expensive items, such as an entire new computer system, and, of course, there is the question of staff.

I might note that the Office of Children's Issues has had a staffing ratio of one person for 120 cases. Recently, we have added enough people to bring it down to 80 cases per person, but this is still a tremendous burden and, of course, sharply curtails the intensity and the level of attention that we can give to any one case.

We seek to systematize and become more aggressive in our approach to the problem of implementation. As I said, all of these things will go on, but they will go on, to a certain extent, in direct relationship to the resources that we are able to note to them. In that connection, I have to note that the funding for the State Department as a whole has become an issue and that full funding—it is not a question simply of funding this particular small part of the State Department because the overall situation is one of constraint.

I am told that I may have said that we have returned since 1988 20,000 children, or had them returned to us. I meant to say that there were 2,000 children returned to us.

I think that is it for my initial remarks, and, therefore, I would be happy to close and say that I will take any questions, and thank you again for this opportunity to testify.

Senator THURMOND. Thank you very much.

[The prepared statement of Ms. Borek follows:]

PREPARED STATEMENT OF JAMISON S. BOREK

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before the Subcommittee today to address the important topic of international parental child abduction.

ROLE OF THE DEPARTMENT OF STATE

As you know, Mr. Chairman, this is a topic that has a number of both criminal and civil aspects. Although the focus of the hearing today is on the Department of Justice's response, the Department of State is also seriously involved in this prob-

lem, in a number of ways. By way of background, therefore, I would like to give you an overview of the Department of State's involvement in this problem.

First, and most significantly, our concern about international child abduction is an extension of our responsibility and concern for the welfare of American citizens who are overseas or involved in transnational problems.

There is no greater responsibility than the welfare of our children. The protection of Americans abroad, including those children victimized by international parental child abduction, is of the highest priority to the Department of State. Matters involving the welfare and custody of children are some of the most difficult and emotional cases with which we must deal. When a parent abducts, or wrongfully retains, a child from his or her home, and prevents the child from having a relationship with the other parent, the trauma to the child is immediate and compounded each day the child is not returned home.

As a corollary to our concern for the welfare of Americans in foreign or transnational situations, the Department of State is also responsible for leading and coordinating United States participation in relevant international organizations, such as the Hague Conference on Private International Law. This is the organization that developed the 1980 Hague Convention on the Civil Aspects of International Child Abduction, to which the U.S. became party in 1988. The Convention provides a civil "legal mechanism in the country where the child is located for parents to seek the return of, and access to, their child. It applies only to cases where children resident in a Hague Convention country have been abducted to, or wrongfully retained in, another country party to the Convention.

To implement this Convention, and to focus on other relevant efforts of the Department of State on behalf of children, the Bureau of Consular Affairs created an Office of Children's Issues in 1994. This Office not only acts as the Central Authority for the Convention in the United States, but also tries to assist left behind parents of children abducted to other countries, that do not belong to the Hague Convention. This Office would also be the Central Authority for the Hague Convention on Protection of Children and Cooperation In Respect of Intercountry Adoption, if the Senate gives its advice and consent to ratification.

The responsibilities of the Department of State that are relevant to international child abduction also include those involving passports and travel from the United States. Parents may ask that they be notified if the other parent applies for a United States passport for their child, or, if they have a supporting court order, th6y may prevent issuance of a passport to a child without their consent.

Finally, the Department of State also plays a role with respect to the criminal aspects of international child abduction by virtue of its role with respect to international extradition matters. In this area, we coordinate very closely with the Department of Justice, of course, since the Department of Justice has the lead role in most operational respects.

OVERVIEW OF INTERNATIONAL CHILD ABDUCTION

The problem of international child abduction can be both tragic and complex. Even within the United States, custody battles over children can be devastating for all concerned. Translated to the international plane, every problem can multiply, and the parent victim can be faced with significant additional complication, difficulty, and expense.

The best means of protecting children from the harmful effects of international parental child abduction is prevention: through the deterrent effect of legal mechanisms, and through education and understanding of the steps that can be taken to make abduction more difficult in the first instance, so that fewer successful abductions occur. Second, we must give attention to any efforts that can be made to prevent abductors from actually leaving the United States.

International child abductions are often complicated by the fact that many abducted children are from multi-cultural relationships. They are often citizens of both the United States and the country to which they were abducted. Ultimately the fate of these children is decided by the courts of the countries to which they have been abducted or in which they have been wrongfully retained. Often custody orders entered into by U.S. State courts are not enforceable outside our country. Even when everyone involved is a U.S. citizen, these cases are often difficult to resolve once the child has been removed from the United States.

Thus, once the abductor and child are outside the United States, the only avenue for return of a child, apart from a voluntary resolution, is likely to be legal proceedings under the Hague Convention. If the abductor is in a non-Hague Convention country, there may be only limited legal recourse, if any.

A Hague Convention proceeding does not decide custody; instead, it decides in which country custody determination should be made. Basically, the Convention is aimed at using abduction as a means of forum-shopping, by providing that the courts in the country to which the child is abducted should, with very few and limited exceptions, return the child to the country of habitual residence without considering the merits of the custody dispute.

Overall, the Convention is a success story. In the first ten years that the United States has been party to the Convention, proceedings have resulted in the return of over 2,000 children to the United States. Further, we believe the existence of the treaty's return mechanism has deterred an untold number of abductions. Approximately 60 percent of the cases in which we provide assistance are now covered by the Convention. When the U.S. joined the Convention in 1988, only nine other countries were party. Today the Convention is in effect between the U.S. and 53 other countries. We have an active program to encourage countries to join the Convention as the best possible means of protecting children from the harmful effects of abduction. For example, in an August trip to Japan, which is not currently party to the Convention, Mary Ryan, the Assistant Secretary for the Bureau of Consular Affairs, discussed with a Justice Ministry official the benefits of the Convention for both our countries. As we look to improve the Convention's effectiveness, we must remember the many parents who wish that they had even this less than ideal mechanism to seek return of their children.

While the Hague Convention has facilitated the return of many children to the United States, and while it is a vast improvement over the lack of any international mechanism whatsoever, it is not a perfect remedy. There are some *bona fide* grounds for non-return under the Convention, and in some cases parents or courts have created loopholes even where there should be a return. The world has changed since the Convention was conceived 19 years ago when the majority of taking parents were fathers. Now, 70 percent of taking parents are mothers, and courts in some countries are reluctant to compel children's return to the United States when the mothers face significant obstacles to return, including possible criminal sanctions. There may also be particular problems associated with "wrongful retention" of a child, when there is no actual physical abduction, particularly in certain joint custody situations.

We have identified a number of the biggest obstacles to the effective implementation of the Hague Convention. These include:

- *Locating children:* Many countries, including Mexico and other Latin American countries, Sweden, Norway and Denmark, have difficulties locating children believed to have been taken to their country. The problem in Mexico appears to be primarily a lack of resources and infrastructure, while the problem in the Scandinavian countries may be more of a lack of interagency cooperation and coordination within the country. Often social welfare agencies do not share information with the Hague Central Authority. Other countries have laws that prohibit information sharing among government agencies.
- *Duration of cases:* Although Article 11 of the Hague Convention calls for expeditious processing of return cases, and specifies that courts may be asked the reason for delay if they have not decided a Hague case within six weeks, the courts in some countries do not proceed in a timely fashion.
- *Non-enforcement of orders:* Many civil law countries do not have effective mechanisms for enforcement of their own civil orders for the return of abducted children. The country may not have any penalty for noncompliance with a court order, may levy only a small fine, or have no authority responsible for enforcing a civil order. In some instances, a left-behind parent may have to hire a designated authority (such as a bailiff) to enforce a civil order.
- *Consent of the child:* The Convention allows judges to refuse to order the return of a child if the child objects to being returned "* * * and has attained an age and degree of maturity at which it is appropriate to take account of its views." While in the United States we would expect that judges would consider a child of perhaps ten or twelve years old to be mature enough to think independently of the taking parent's influence, we have seen the views of significantly younger children taken into account in some countries. In Germany, for instance, we have seen judges take into consideration the wishes of children as young as five.
- *Undertakings:* The courts in a number of Commonwealth countries, including the United Kingdom and Australia, often require the left-behind parent to agree to extensive "undertakings" (conditions for return) before an order for the return of an abducted child will be issued. These undertakings expand rather than limit the exceptions for return of abducted children under the Convention. Examples have included requiring the left-behind parent to pay the abducting parent's transportation costs back to the United States, providing housing costs

once the taking parent returns to the U.S., and/or furnishing the abductor with an automobile for the duration of custody hearings. In at least one instance, the left-behind parent was required to demonstrate that he had pre-paid a substantial sum to the taking parent's attorney. These undertakings are not provided for in the Convention, have the effect of rewarding abduction and impose additional hardships on the left-behind parent.

Nevertheless, overall the Hague Convention is a significant improvement. Before we became party to the Convention, return to the U.S. of abducted children was approximately 20 percent. Under the Convention about 72 percent of cases result in return or access. The rate of returns from the U.S. to other countries is even higher, approximately 90 percent, including voluntary returns.

This reality offers little comfort to the left-behind parents who have suffered the frustration and anguish of losing contact with a beloved child. Nor does it comfort the traumatized child who has been abruptly wrenched from the arms of one parent and asked in effect to choose sides. That is why we continue to work to improve the functioning of the Convention.

U.S. FEDERAL RESPONSE TO INTERNATIONAL PARENTAL CHILD ABDUCTION

Since the U.S. became party to the Hague Convention in 1988, the Department of State has worked to improve its implementation. The first year we created a new child custody division to coordinate our work in this area. In 1994, we formed the Office of Children's Issues, redoubling our efforts on this important subject and increasing the level of attention it received in the State Department. The benefits of this new office were quickly realized. In 1994, the Office was recognized by the Administration when it won a Vice Presidential "Hammer Award" for reinventing government due to its work to return children home. Our efforts have increased steadily since that time.

The new Office of Children's Issues saw the need for a comprehensive interagency coordinated response to address the scourge of international parental child abduction—from prevention, to recovery, to reunification. In 1994, it co-hosted, with the American Bar Association, the North American Symposium on International Child Abduction, funded by the Department of Justice, and aimed at improving the operation of the Hague Abduction Convention.

In an effort to coordinate assistance to abducted children and their families, the Office of Children's Issues entered into a cooperative agreement with the Department of Justice and the National Center for Missing and Exploited Children on September 1, 1995, to work together on these cases. While the National Center had always helped us locate missing children, the agreement formalized this arrangement and expanded the National Center's work to include Hague cases in which children were abducted to, or retained in, the United States.

There were other issues needing attention. One was the matter of legal costs. Although the Hague Convention provides that countries will pay the legal fees of parents in Hague return cases, the Convention allows party countries to take a reservation in this regard and the U.S. took that reservation. As a result, some Americans pursuing return of their children under the Convention were receiving free or reduced fee legal assistance in other countries, while foreign parents pursuing return of their children abducted to, or wrongfully retained in, the U.S. did not receive equal benefits.

At the 1994 intergovernmental meeting of Convention Central Authorities, the U.S. was roundly criticized by other party countries because the high cost of U.S. litigation was effectively denying parents from pursuing Hague remedies in the U.S. As a result of that criticism, the Department of Justice, in coordination with the Office of Children's Issues, agreed in 1995 to fund the American Bar Association's creation of the International Child Abduction Attorney Network (ICAAN) to expand the pool of attorneys who provide pro bono or reduced fee legal assistance in Hague cases involving children in the United States.

In 1998, the Office of Children's Issues received another award from the Administration as a member of the team, which included the Department of Justice and the National Center for Missing and Exploited Children, that created the family reunification program to help needy parents pay for the costs of returning their children home. We have a robust interagency cooperative effort and are dedicated to using every tool at our disposal.

Despite all the efforts of the Departments of State and Justice to coordinate and cooperate, both the agencies involved and, more importantly, the left-behind parents believed that the U.S. federal response to their cases was not sufficient and that more needed to be done. There were failures in coordination on cases, in part because of the inherent tension between the civil aspects of a case in which the goal

is to effect the abducted child's return and the criminal efforts to prosecute abducting parents.

The Senate Foreign Relations Committee invited the Attorney General to testify on international parental child abduction in October 1998. Prior to her testimony, the Attorney General spoke with the Secretary of State and together they committed their two agencies to taking a hard look at how the federal response to international parental child abduction could improve.

The Attorney General and the Secretary of State subsequently formed a Senior Interagency Policy Group to undertake a comprehensive review of the federal government response to international parental child abduction. The Policy Group in turn created a working group. Since they were created, the Policy Group and its Working Group have met at least once a month. The Policy Group, with the input of the Missing and Exploited Children Task Force's Subcommittee on International Parental Child Abduction, prepared "A Report to the Attorney General on International Parental Kidnapping" which the Attorney General submitted to Congress in June. The report outlined the gaps in the federal response and recommendations to improve the situation. The Policy Group developed an action plan to implement the report's recommendations, wherever possible, and to the extent resources permitted.

The action plan addresses:

- The creation of a comprehensive tracking system for international parental child abduction cases;
- An enhanced role for the National Center for Missing and Exploited Children;
- The strengthening of inter-agency coordination;
- Enhanced diplomatic initiatives;
- Increased education and training;
- Strengthened mechanisms to prevent departure of abducted children and abducting parents;
- Expansion of services for parents and children;
- Coordinated budget and resource estimates.

Implementing the international parental child abduction recommendations will be expensive, having a price tag in the millions, and taking several years. As a core function of the Department of State, the Office of Children's Issues should be funded with appropriated resources. We are concerned about inadequate overall funding for the Department, which may negatively affect our ability to implement the recommendations. * * * Additionally, we are pleased that the Senate receded on an earlier effort to zero out funding for the Hague Conference, and want to emphasize the important work that it does and the great amount of value we obtain in fully funding this important organization.

The Bureau of Consular Affairs is on its way to completing the requirement study for the interagency case tracking system. The contractor has had over a dozen meetings with Children's Issues staff and the interagency community that will be using this system. With needed funding, implementation of the first phase of this system is scheduled for this spring. The Bureau has increased the staff of the Office of Children's Issues so that country officers have fewer cases. They will soon be advertising for a management analyst to oversee further development of the comprehensive tracking system, to create accurate statistics on all abduction cases, both to and from the U.S.

The Bureau of Consular Affairs has also expanded the cooperative agreement with the National Center for Missing and Exploited Children to include additional assistance for parents and children in all international child abduction cases. The Bureau recently established a National Center coordinator position within the Office of Children's Issues. The passport custody lookout function currently in Passport Services will be transferred to the Office of Children's Issues in early 2000.

As we seek to improve services to parents, we recognize the need for continuing feedback from our customers. Recently, Children's Issues has had a number of meetings with left-behind parents to receive their input on how we might do things better. One of the new positions in Children's Issues will be specifically devoted to enhancing our service to American citizen customers. We have also established Children's Issues coordinators at our embassies and consulates around the world.

Recently, we have seen an example of how our increased interagency communication has aided the return process. Five children abducted from the U.S. to Syria were returned home following extensive interagency cooperation involving the FBI, Department of Justice, local law enforcement and the National Center for Missing and Exploited Children, efforts coordinated by Children's Issues. Children's Issues initiated numerous conference calls among the relevant organizations, ensuring that the return of these children remained the focus of all U.S. Government efforts. Fol-

lowing excellent work by our Embassy in Damascus, one of the abducting parents was arrested in Syria and all five children were returned using Justice Department "family reunification funds" and State Department repatriation loans.

In closing, Mr. Chairman, in considering the complexity of both Hague and non-Hague abductions, we must remember that these cases are all centered on children and their need to feel secure in their homes and not live in fear of abduction. Thank you, Mr. Chairman, for the opportunity to address the Subcommittee on this important topic for our children and their parents.

Senator THURMOND. We will now go to questions. Mr. Robinson, international parental child abduction is a growing problem. There have been very few prosecutions under IPKA since Congress passed the statute in 1993. The recent task force report to the Attorney General that was released earlier this year did not even mention enforcement of the statute as a gap in current efforts to address international parental kidnaping. Do you think the Department should make better enforcement of IPKA a priority?

Mr. ROBINSON. Let me say, preliminarily, that I would ask Mr. Rossman, who was involved in that project directly and reporting to me, that obviously it needs to be a continuous improvement priority. We need to get the word out. It is still a relatively new statute, but I think that within the constraints outlined in the statement that I indicated, we need to make sure that the investigators and prosecutors are trained and understand this and we have the network of information out there so people know of the availability of this resource.

But perhaps Mr. Rossman can comment directly on the question with regard to the statement in the report. Rich.

Mr. ROSSMAN. If I may, Mr. Chairman, I think the first thing to keep in mind is that each one of our 50 States and the District of Columbia have passed parental kidnaping statutes. The States, the local governments, are really the primary force in this area. The Federal statute was never meant to supplant State governments in this regard, but only to supplement it and to be available in those situations. For instance, if you have a case where there is a question about the custody situation at the time of the abduction, the Federal statute can be more helpful than some of the State statutes, which would not create a crime in those circumstances. So I think that is the first thing to keep in mind, is that the Federal statute is not the primary force in this area but really is supplemental to the ongoing efforts of each of our 50 States.

Second, I think it is worth noticing that the numbers have increased over the period of time and the involvement of the FBI, but the numbers are still low. There is no question about that. As Mr. Robinson said, we are reaching out, and I think in this regard, the policy group that I was involved in and the report that Senator DeWine mentioned does specifically reference the idea of reaching out to training our prosecutors, our State prosecutors, our Federal prosecutors, and our agents, and that training process is ongoing. OJJDP at the Justice Department is very involved in that process.

Just next week, down in South Carolina at the center that the Department of Justice uses for training, we are having all of our international reps from each of our U.S. attorney offices come in and there is going to be a segment on international parental kidnaping at that program to try to further educate our U.S. attorney

offices around the country on the importance and the priority with which we face the statute.

Senator THURMOND. Ms. Borek, the Department of Justice generally asks for a prosecution to be undertaken pursuant to UFAP rather than IPKA. Given that IPKA itself is a direct Federal offense, are there times when proceeding under the IPKA warrant rather than a UFAP warrant could be more persuasive with another country in encouraging them to extradite the abductors to the United States?

Ms. BOREK. Mr. Chairman, I am not aware of any circumstances in which we would think that a Federal charge was more important than a State charge in the eyes of a foreign government official. I think the problem here is, as has been mentioned by the Department of Justice that, and as you also noted in your speech, that this can really impede the return of the child in some cases.

When the return of the child and the enjoinment of some form of joint rights, whether it is joint custody or it is visitation, depends on both parents agreeing to share the time of the child and one parent is prosecuted, this can obviously cause problems with the ability of the parents to reach agreement on things. Unless the child is actually returned, which the extradition does not result in the return of the child, it can actually make a situation worse in some cases rather than better.

So I think the view of the foreign government is fairly straightforward as far as the Federal versus State angle. But the other considerations in a particular case may be complicated.

Senator THURMOND. Mr. Robinson, I appreciate that the best way to try to get a child returned is to use the Hague Convention. However, some signatory countries consistently fail to comply with their obligations under the Hague. For these countries, do you think the Justice Department today may be too reluctant to initiate criminal proceedings quickly?

Mr. ROBINSON. I do not think that is the case, Senator. Obviously, it is a consideration and ought to be a consideration in making a charging decision in a situation in which the alternatives for—the first choice, obviously, is to return the child, and I think that is—and to the extent that that is not a possibility, the notion of bringing the criminal charges and getting the deterrent effect for future cases is an appropriate consideration.

Mr. ROSSMAN. If I could just add, for instance, in the case that Senator DeWine is so familiar with, the Sylvester case, even though Mrs. Sylvester is in Austria, which does not extradite its nationals, and there are other problems in trying to use the criminal process in Austria, nevertheless, there is an outstanding criminal warrant out of the Eastern District of Michigan, and if Mrs. Sylvester steps into any other jurisdiction that would extradite her, then she would be subject to the criminal process and we have not hesitated to use the criminal process in that regard, although, unfortunately, it has not resulted in the return of either Mrs. Sylvester or the children.

Senator THURMOND. Mr. Robinson, I understand that the primary purpose of IPKA is to punish the abductor. However, it appears to me that enforcing the law sometimes may pressure the abductor into returning the child. Also, a judge may condition the ab-

ductor's release on the return of the child. Do you agree that criminal prosecution under the IPKA sometimes may result in helping get the child back?

Mr. ROBINSON. I think it could under certain circumstances, but as I indicated in my opening statement, there are times in which it has not made any difference at all and has complicated the situation. So I think what needs to be done is a careful judgment on a case-by-case basis, evaluating the impact of the criminal prosecution only after, of course, in the first instance, the prosecution decision has to be made on the merits of the facts, and only after that determination has been made under the principles of Federal prosecution, then I think this needs to be taken into consideration and evaluated in the context of where the parent is and what the circumstances are.

But I think that there are certainly circumstances in which this is an appropriate consideration, so I would agree and it would depend on the particular circumstances of the case, Senator.

Senator THURMOND. Mr. Robinson, I understand that sometimes local authorities do not seek a UFAP warrant because they cannot afford to pay the extradition costs associated with enforcing the warrant. However, for an IPKA warrant, the Federal Government pays the extradition costs. Do you agree that the Federal authorities should consider IPKA warrants when local authorities cannot afford the costs associated with UFAP warrants?

Mr. ROBINSON. I think it ought to be a consideration. I note that there was a provision that would have provided—in the provision of last year's crime bill, would have been helpful in allowing the Department on a case-by-case basis to assist States and localities in defraying some of the extraordinary expenses that may arise in pursuing international extraditions. These can be quite expensive and time consuming, and perhaps at an appropriate time, there could be some consideration for that.

Senator THURMOND. Mr. Robinson, one way to locate and detain abductors is to revoke their passports. I understand that the State Department denies all revoked passports when the abductor is the subject of a Federal warrant. It appears to me that the possibility of revoking the abductor's passport is a good reason to invoke the criminal process in many cases. Do you agree?

Mr. ROBINSON. I think it can, in appropriate cases. Perhaps Ms. Borek could add to that in terms of the available options from the State Department's point of view.

Ms. BOREK. Thank you. One difficulty here is that, very often, the abducting parent is a foreign national and, therefore, is traveling on a foreign passport. We do have a system for trying to control the issuance of a U.S. passport to children who might be abducted and we are trying to strengthen that. But the child often is a dual national, also, and so the passport revocation is perhaps less effective for the parent, more effective for the child, not necessarily always effective for the child. But certainly there would be some cases where this would be useful, where it is an American citizen abductor.

Mr. ROBINSON. It is my understanding, also, Senator, that the passport revocation is possible under either an unlawful flight or an IPKA charge.

Senator THURMOND. Ms. Borek, the task force's report to the Attorney General recommended that revoking a child's passport is one way to help stop an abduction in process. What specific efforts is the State Department undertaking to make it easier to revoke abducted children's passports?

Ms. BOREK. We do have a system now where, at the request of the parent or an attorney or an appropriate court, we will put the child's name in a passport name check system so that when an application is received, the parent will be notified. It will also be denied based on an appropriate court order. We have amended the regulations to provide for denial based on joint as well as sole custody.

We recognized in looking at the efforts under the senior policy group review that we could do more to improve revocation on an internal basis through, I believe, regulatory change, and this was approved as part of the policy review and is being implemented.

Senator THURMOND. Ms. Borek, I understand that some obstacle to efforts to extradite an abduction is that the country may not recognize parental kidnaping as an extraditable offense. What specific diplomatic efforts are being taken by the State Department to encourage countries that are parties with us to list extradition treaties to interpret them to include parental kidnaping as an extraditable offense?

Ms. BOREK. We have gone out to all of the countries that have this treaty to suggest to them and encourage them to agree with us to this interpretation. We have found a number of countries do not make this a crime under their national law, and one of the concerns that was raised in Congress, and we shared it, was that there be reciprocity, that we not be extraditing Americans to foreign countries for parental kidnaping when they would not be in a similar position to extradite people back to us.

We have not made specific efforts to get people to change their laws in these areas. I think we need to know more about why they have not changed them. There are some trends, especially in Europe, I think, away from the views that were reflected in the 1980 Hague Convention. Therefore, the situation is not necessarily one that is improving in all respects.

What we have been focusing on first of all, I think, in the civil area is the question of enforcing the court orders, which we have not gotten into, but this is something which has caused serious problems in a lot of cases, where people have even gotten orders in their favor for custody or visitation and they have not been enforced. So in terms of diplomatic efforts, I would say at this point that is a priority, and also encouraging people to agree with us on the interpretation of the treaty. But we have not been trying to get people to change their criminal law as of yet.

Senator THURMOND. Ms. Borek, the General Accounting Office recently noted that the Office of Children's Issues and the FBI sometimes make duplicate inquiries on the same case. Do you expect a new case tracking system to allow State and Justice agencies to know what each other is doing regarding ongoing cases?

Ms. BOREK. We certainly hope so, Mr. Chairman, at least at the basic level of knowing there is a case and certain information should be available to all to avoid making duplicative inquiries. I

think we have determined that very detailed information about criminal process, for example, or all of the contacts to the particular parent might not be entered in this for a number of reasons. But certainly, the kinds of basic inquiries and information that would lead one agency to talk to each other should be in there.

Senator THURMOND. Senator DeWine.

Senator DEWINE. Thank you, Mr. Chairman.

I think what this hearing is about today, quite candidly, is priorities and discretion and judgment, and I am going to make a statement at the beginning and then I am going to ask some questions about it. The panelists may consider this a very harsh and maybe unfair statement.

I do not think parents taking children illegally out of this country and keeping these children out of the country, away from another parent, is a high enough priority with the State Department, nor do I think it is a high enough priority with the Justice Department. Mr. Robinson, you spent almost your entire testimony, quite candidly, and you and I have discussed this before, you spent almost your entire testimony telling us why you cannot do things and all the problems that are there. I am a former prosecutor and I think I appreciate what you had to say. I am not sure I disagreed with what you had to say, but it troubles me about the emphasis, I guess.

We know there is nothing perfect in the world. We know that if a child is taken by one parent out of a State, we know there are problems with that. We know filing charges does not necessarily solve the problem, but we still file them. You still file charges when someone commits murder or someone commits rape or someone commits some other Federal offense that the Federal prosecutor decides to prosecute under, even though this person may have fled, so I am not sure that is an answer.

Let me, if I could, just talk a little bit and ask some questions about these priorities. You state, Mr. Robinson, that since the passage of the parental kidnaping law, through the middle of this year, U.S. attorneys have opened 229 files on international parental kidnaping, that 62 defendants have been indicted and 13 convicted. Now, one of the intentions of Congress in passing this statute is set forth in the House committee report, "to deter at least some abductions by ensuring that the kidnaping offender will be pursued by the U.S. Government. At present, most abducting parents have little to fear with regard to effective pursuit."

I just want to ask you whether you think 62 indictments over 5 years has been given abducting parents anything to fear as far as effective pursuit by the U.S. Government. Sixty-two—I mean, you talk about it being a new statute and we have got to get the word out to U.S. attorneys and assistant U.S. attorneys, but 5 years is a long time.

Mr. ROBINSON. I think we indicated that we expect there will be more prosecutions, and I think that as the testimony indicates, I think your emphasis is the correct one. I think the priority issue is an important one. I think there needs to be additional work, and the issue of working with the States on their prosecutions and utilizing the resources of the Federal Government and the State De-

partment on extraditions to bring people back to face State kidnaping charges in this area.

I am not going to disagree with you at all on the notion that there needs to be an additional effort, and I think that what we have been trying to do with the senior policy group is to try to get our arms around the scope of these issues and continue to press on them. But I am not going to suggest to you that more cannot be done or should not be done. I think we all agree that it should and we ought to do more.

Senator DEWINE. I appreciate that, and we understand that the Justice Department, U.S. attorneys, and assistant U.S. attorneys have to make judgment calls. You cannot prosecute every case. You cannot deal with every case. But we set our priorities. Any administration sets its priorities, or any prosecutor sets his or her priorities, by what cases you put emphasis on. County prosecutors put special emphasis and set up teams on rape cases or on drug cases or welfare fraud cases.

It just seems to me that this government needs to say this is important and there is a reason that we have this law, and yes, it does supplement State laws, but there are some advantages, and we do not have time today to go into all the advantages, but I think there are very distinct advantages to file under a Federal law as opposed to filing under a State law, which brings me to Ms. Borek's question.

Let me just make sure I understand your testimony. Your testimony was that you did not think it made any difference from a diplomatic point of view whether or not our ambassador had or could reference a State of Alabama or a State of Ohio charge or a U.S. Government charge. Now, is that my understanding of your testimony?

Ms. BOREK. Senator DeWine, when we make an extradition request, it is always a U.S. Government request.

Senator DEWINE. No, I understand that.

Ms. BOREK. So I think what I was saying is that in either case, we are presenting the foreign government with a U.S. Government request and we expect them all to be honored. I have not seen any indication that a foreign country said, oh, well, that is just a State of Alabama request. We will pay less attention to it. I think we expect them all to be honored and on an equal basis.

Senator DEWINE. The report that we have been referencing here, the internal working report, stated that one of the practical problems that was identified in this report in the diplomatic initiative section is that, "left-behind parents expect the U.S. Government to intercede directly with foreign governments on their behalf to recover their children. When diplomatic action is not taken, some may feel the government has let them down. Federal law and policy must be articulated and explained to parents."

Can you explain what Federal law and policy there is that prevents the U.S. Government from interceding directly with foreign governments? I again must say, I find that statement to be a horribly condescending statement. I know you did not write it, but it is just horribly condescending. We have to explain to these poor parents why the U.S. Government cannot do anything.

Senator THURMOND. Senator, could I have the floor for just a minute before you make your statement?

Senator DEWINE. Sure.

Senator THURMOND. I wish to note that I am pleased to have Lady Catherine Meyer as a witness on the second panel. She is an expert in the area of parental kidnaping. I plan to return later and ask questions to the second panel, but right now, I have another engagement I have to go to.

Senator DEWINE. Thank you, Mr. Chairman.

Senator THURMOND. I ask if you will take over here.

Senator DEWINE. Thank you.

Ms. BOREK. I think that——

Senator DEWINE [presiding]. Does that statement bother you at all?

Ms. BOREK. Yes. I think it is not a very clearly written statement. It is not meant to say that the government cannot do anything at all. I think what it is intended to say is that we do not press directly for return. In the Hague case, there are some reasons under the convention why a court might decide not to return a child, and we do not say, well, this parent is clearly right and this parent is clearly wrong as a matter of course. We press the foreign government and we do intervene and press to comply absolutely with the spirit and the letter of the convention as we see it.

I do not think that is a very well-written statement because it does suggest that we do not do that. All it means really is we do not sort of walk in there and say, you must give us the child now. Really, that is what the parents want, and very often, very rightly. But this is not a mechanism, unfortunately, that is quite that automatic. There are some factual disputes, and these are kinds of cases where there can be some really ugly factual disputes that ultimately do have to be resolved by the courts. A lot of the problems we have been having—not all of them, by any means, but a lot of them—are actually problems with courts and not with the governments of the countries in question.

Senator DEWINE. Let me follow up with that. Also in the report to the Attorney General, there is a section, the same section on diplomatic initiatives, that sets forth the direct actions the State Department might take in an international parental kidnaping case. These include having the U.S. ambassador meet with the leader of another country, formal communications such as diplomatic notes, and less formal communication such as an exchange of letters.

Let me ask you, are these direct actions taken only to promote and improve implementation of the Hague Convention in general, or are they taken in a specific case concerning a child in that country? Second, if taken in individual cases, how many times has an ambassador, to your knowledge, met with the leader of another country on an individual case of international parental kidnaping?

Ms. BOREK. In answer to the first question, we certainly do it in the context of individual cases and for individual cases. There have been, in addition, some efforts aimed purely at the systemic level, but those are less likely to involve the ambassador.

I cannot tell you how many times exactly the ambassador has met. Of course, this is the question in cases that seem to have problems, where this seems to be a useful thing to do. Obviously,

there are a lot of cases that go smoothly and there is no reason for the ambassador to talk to anyone. I could try to get you more information about——

Senator DEWINE. I would appreciate that. Again, it goes back to priorities and it goes back to what we emphasize and what we spend time on. All of us in government every day make choices, priority choices. How do we spend our day? How do we spend our time? It is finite. Time is finite. I guess I just would like some assurance from you or from the Department that this is, in fact, important.

I mean, your point is well taken that these are messy cases sometimes, that sometimes the facts are in dispute. A lot of times, the facts are not in dispute, frankly. A lot of times, someone just takes off and they are just gone, because they are going back to their home country and they want their baby and they are gone and that is it. It does not take a rocket scientist to figure that one out. But some, yes, there are some factual disputes.

It seems to me the question is, how involved is the State Department in trying to resolve these and to use the diplomatic skills that our diplomats are trained in and to resolve these particular cases, whether or not there is a formal charge filed or not, whether or not we are interested in actually bringing the person back, or can we just get this thing worked out. I am not suggesting that our ambassadors become domestic relations experts here, but these things are important and these are important when these children are taken. If it does not reach the ambassador's level or if the ambassador in a given embassy does not think it is important, then obviously the foreign government will not think it is important.

Ms. BOREK. I agree with you, Senator DeWine. I need to add, I think, in addition to the question of priority, which we decided we did need to make more systematic efforts to make sure we were doing everything possible in this area, I need to add two things. One is the Office of Children's Issues has no higher priority in the world, and I think the Bureau of Consular Affairs, than to be concerned about these children and, of course, Americans generally, but within the category of Americans, children call for a particularly high concern.

Second, I have to say, in addition to priority, there is also the side of it that is resources. The whole State Department has a lot of priorities, most of which are extremely important, and we will not say which are and which are not, and is operating under a situation of continuing very limited resources. I read in the paper the other day that the real value of the foreign affairs budget is like 50 percent of what it was some administrations ago. This is the factor in the overall picture. It is not to negate your point. I think your point is a very correct one. It is just that I think that also has to be said.

Senator DEWINE. Mr. Robinson, in your testimony, you stated that a large but undetermined number of international parental kidnaping cases are charged under State and local law, and I think Mr. Rossman has made that point very well, too, and I certainly agree with that. You have also stated that warrants for unlawful flight can be obtained where the abducting parent crosses State or international borders. You acknowledge these UFAP warrants do

not provide an independent basis for extradition, but they may assist in obtaining Federal resources to locate the abducting parent.

Is it not true that a lot of State, though, and local prosecutors do not follow through with State charges because of the prohibitive costs of extradition? I just anecdotally will tell you that when I was a county prosecutor, we convicted someone of murder. Unfortunately, he decided to leave the jurisdiction and ended up in a foreign country. I cannot tell you how much it cost Greene County, OH, to bring this murderer back. It would cost a fortune for our moderate-sized county. So it is something that, as Ms. Borek talks about resources, clearly, a local prosecutor is going to think long and hard about that. If that is true, is that not one reason for charging the crime at the Federal level?

Mr. ROBINSON. It is, I think, a consideration, but the resources issue is there, too. In the extradition area, as I am sure the Senator knows, because of the high visibility of some of these major cases, the Einhorn case in France, the Scheinbein case in Israel, in the Criminal Division of the Office of International Affairs, as we allocate resources and determine where we are going to go after and deploy resources, obviously, when you start with murderers and other major individuals, these need to be taken into consideration.

But I think the resources question is a real one and I think that was the reason why the notion in last year's crime bill of providing some additional resources to allow on a case-by-case basis the ability to assist the States, because as the Senator knows, the county prosecutors throughout this country are close to their constituents. That is where people go initially. There are 5,000 assistant U.S. attorneys throughout the country worrying about organized crime, public corruption, narcotics trafficking, lots of other things, and we need to have a cooperative relationship of constructive federalism with our partners.

I think, working with State prosecutors and trying to come up with ways we can work together to deal with this very important problem and, I think, some resources to assist, because it is difficult to deal—and it is very, very difficult, and my hearts go out to the parents who have to deal on an international basis with the equivalent of a custody dispute. It is hard enough to deal with that right in your own backyard, but to have to deal with it with another country with different laws is a staggering problem.

So I think that it would be wise for the policy makers in the Congress and the executive branch to address some of these resources questions that might provide some assistance to State and local prosecutors, as well as Federal prosecutors as we try to deal with all the various extradition requests we have.

One of the things that I have certainly seen since returning to the Justice Department, there has been a sea change here from when I was U.S. attorney 20 years ago on the globalization of crime. More than half the work of the Criminal Division deals with international criminal activities. This whole issue of globalization is going to find its way, as it does already, into this problem, as well, and we need to use all of our best resources and thinking to try to address these kinds of problems, and the resources would

help the States and it would help, I think, the Justice Department and the State Department in dealing with these issues, as well.

Senator DEWINE. I thank you for that answer.

Let me just read from the House report in regard to the International Parental Kidnaping Crime Act of 1993. Again, I have read parts of it, but let me read one additional part. It sets forth many reasons for creating the offense, and this is sort of legislative history. But one is that the offense will provide the basis for Federal warrants which will, in turn, enhance the force of U.S. diplomatic representatives seeking the assistance of foreign governments in returning abducted children. Apparently, the House and Congress thought this was one more tool that we would give the State Department, and in some cases, it would work. Obviously, in some cases, it might not work.

But I think we should not forget that that is a legitimate tool. It is a tool that Congress intended by the filing of charges to give for you, the Justice Department, to be giving to the State Department. I just would point that out, again with the understanding that in any given case, it may work or it may not work. That is the way the world is. But it certainly was intended as a tool, and I think in some cases it can be a tool.

Mr. Robinson, let me ask you another question. Is not another way the criminal charges could help bring about the return of a child would be through imposing sentencing conditions? These were used in the Amir case, which required the father to return to the United States.

Now, in the report to the Attorney General, it points out that, "the imposition of such conditions have proven ineffective to date. Therefore, the imposition of such conditions must be considered on a case-by-case basis." I do not disagree with that. But while sentencing conditions did not work in this particular case, is it not really too soon to totally discard this as a tactic?

Mr. ROBINSON. I think it is, yes. I think that needs to be taken into consideration, and I would expect that in the event the child is still abroad and we have the parent here convicted, I would anticipate that that should be sought as an appropriate condition. Unfortunately, as that particular case indicated, it does not always work, but that does not mean we should not stop trying or that we have enough data to conclude that we should not do it. I think it is an appropriate consideration that can make a difference. It does in other areas. Conditions often can make a difference.

Senator DEWINE. Mr. Robinson, Senator Thurmond had one additional question which I would like to ask on his behalf. American judges generally have little experience with international abduction law. Some are getting more experience than they want. But it appears to me that one way the Justice Department can help educate judges, local judges, is to file amicus briefs in potentially precedent-setting cases of international child abduction. Does the Department monitor litigation of this type to consider filing amicus briefs?

Mr. ROBINSON. Are you talking about State litigation? I am not aware offhand——

Senator DEWINE. Obviously, you could expand that question to State and the appropriate Federal, as well.

Mr. ROBINSON. I am confident that if we were aware of such a situation and could weigh in, that it is the kind of thing we ought to give serious consideration to do, because anything we can do to get the word out that this is a serious matter, that any parent that is even thinking about this ought to recognize there are not only State sanctions, Federal criminal sanctions, and that we have the resources and intend, although we have the obstacles, but I did not mean by stressing the obstacles to suggest we ought to throw in the towel. The obstacles are there, but we need to get the word out, because deterrence is a major consideration.

I know the Senator has that in mind and I think you are right in that regard. There ought to be a cost associated with doing this. There ought to be more than nothing to fear, as you suggest, and that can make a major difference.

Senator DEWINE. Mr. Robinson, on that, I think we will conclude the panel. That was a good summation. I appreciate the three of you being here very much. We look forward to working with you in the future. This is an important area and I am sure we will be all discussing it again. Thank you very much.

Mr. ROBINSON. That is right. Thank you, Senator.

Senator DEWINE. I would like to invite our second panel to now start coming up. I will be introducing you as you come up.

Our first witness on the panel is Lady Catherine Meyer, wife of the British ambassador to the United States. Lady Meyer holds a bachelor's degree from the London School of Slavonic and East European Studies and has been a successful commodities broker. She is well known for her efforts to raise awareness of parental kidnaping, which is based on her own experience regarding the abduction of her two sons by their father. She is Co-Chair of the International Centre for Missing and Exploited Children, which she helped establish earlier this year.

Our second witness is Laura Kingsley Hong, a partner in the law firm of Squire, Sanders and Dempsey. Ms. Hong has worked tirelessly for 3 years regarding her personal story of international parental kidnaping.

Our third witness is John Lebeau, Jr., who is a businessman in West Palm Beach, FL. His twin children were taken from their home by their mother in June 1996 and he eventually succeeded in getting them returned to the United States in December 1998.

Our fourth witness is Craig Stein, a graduate of Swarthmore College and Emory University School of Law. Through his work in private practice, he has considerable experience in international child abduction and holds the National Center for Missing and Exploited Children's Award of Merit.

Our final witness is Ernie Allen, President and Chief Executive Officer of the National Center for Missing and Exploited Children, which has helped recover over 48,000 children. The nonprofit center is taking an increasingly important role with the Federal Government in international parental abductions. Mr. Allen, a member of the Kentucky bar, served as Director of Public Health and Safety for the City of Louisville and director of the Louisville–Jefferson County Crime Commission before co-founding the National Center.

I would ask that the witnesses limit your opening statements to no more than 5 minutes. All of your written testimony will be

placed in the record, certainly, without objection. We will start with Lady Meyer and we will just go right down the line.

PANEL CONSISTING OF CATHERINE I. MEYER, CO-CHAIR, INTERNATIONAL CENTRE FOR MISSING AND EXPLOITED CHILDREN, WASHINGTON, DC; LAURA KINGSLEY HONG, SQUIRE, SANDERS AND DEMPSEY, CLEVELAND HEIGHTS, OH; JOHN J. LEBEAU, JR., PALM BEACH GARDENS, FL; CRAIG E. STEIN, ATTORNEY AT LAW, MIAMI BEACH, FL; AND ERNIE ALLEN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN, ALEXANDRIA, VA

STATEMENT OF CATHERINE I. MEYER

Lady Meyer. Thank you very much for having this hearing and thank you very much for inviting us. I spent, as you all know, 5½ years trying to secure the return of my abducted children and then simply to obtain what is the most elementary human right, that of seeing my children. I have been lobbying in France, in England, now in the States, to no avail.

As I stand today, I have no access whatsoever, and in 5½ years, I have only managed to see my sons for a few hours—not weeks, not days, just a few hours. In 5½ years, I have never been able to see them as a normal parent. I have never woken up with my children and I have never put them to bed. I have never received letters from them, and I have received in 5½ years one school report.

Has anybody proved that I am a bad mother? No. Has any proved that I do not love my children? No. But I am still denied the rights that even women in prison are allowed. My parents, too, have been denied this right. My father is 87 and he may never live to see Alexander and Constantine again.

But the point is that who are the ultimate victims? It is my children. They will be scarred for life. They have become confused and angry with me because they have been told from the beginning that I have abandoned them. On two occasions, in 1994 and in 1998, when I saw my sons and I told them how happy I was to see them, Alexander replied, "You lied. Daddy told us you could come and see us whenever you wanted, but you never did."

My children were abducted in 1994. There was an order by the British courts to send them back. The initial court in Germany was also reinstating the first court order for the immediate return of the children, but it was never enforced. In Germany, court orders, like in Austria, are not enforceable. So my ex-husband asked for half-an-hour to bring the children to the court, and taking advantage of this, he vanished and he managed to lodge an ex parte appeal in the higher court. The higher court, article 13b, was used not to return the children to the U.K. The children objected to the return, apparently. At that time, they were 7 and 9. I had not seen them for 4 months. The children apparently felt they were living in a foreign environment, because in England, one does not speak German.

The problem is that once the children have not been returned, all the further decisions were in the German courts, and the result

of that is that custody was transferred to my ex-husband and that I have not been able to obtain access rights. The fear of re-abduction was used, and then the fact that the children no longer want to see me. So you find yourself in a catch-22 situation. The few orders that I have got from the courts, that usually lasted for 3 hours a month, were not enforced when my ex-husband did not bring the children to the meeting place.

But I want to also talk about not my case, about all the other cases, because since I have been lobbying, I have been approached by hundreds of parents in the U.K., in England, and now in the United States. Obviously, I have been approached by many parents who have problems with Germany. The result of what I have found is that three—I explain it much more in my written statement, but there are really three main problems that article 13b has been used all the time as a reason not to return abducted children, and some children were three and five and apparently they objected to a return.

The second problem that you find in some countries, and particularly in Germany, is the slowness of the proceedings. As I always say, in children's issues, 99 percent of the law is possession. The longer the proceeding takes, the more indoctrinated the child will be for the purposes of article 13.

The third problem is that in some countries, notably in Germany and in Austria, court orders are not enforceable.

I have only managed to come up with 34 cases. Thirty-four cases still involves 46 American children who are now held in Germany. They all have been abducted or illegally retained, and those 46 children have no contact to the American parent.

One of the parents is here today, and I would like to introduce him. He is on the top of my list of the parents that I have supplied. His name is Joseph Cooke. He served as a U.S. Army officer in Germany. He met a German woman. They returned to the States. They married. They had two children. When the children were three and five, his German wife went to Germany and then phoned him saying, "I am not coming back and you will never see the children again." The wife then fell ill and the children were given away to the social services. The father was never informed. The father tried to seek the help of the FBI and everybody in America. The social services then poured the children to a foster family. The father was still not informed. This was 4 years ago. The father has no access to his children.

I have other cases, and they are all rather similar. My point is that I was very shocked today to receive a copy of the letter that the German Ministry of Justice has sent to your ambassador in Berlin, Ambassador Kornblum, and the letter says that Germany, the Ministry of Justice, is not aware of any problems between America and Germany and they are not aware that any children have no access with American parents. So I would like to point that out, because I have here some cases, and I believe there are many, many other cases because I have to point that most parents are very scared to come forward and talk.

Senator DEWINE. We will make that part of the record, if you wish to submit the letter.

Lady Meyer. Yes.

Senator DEWINE. That will be made part of the record.

[The letter from the German Ministry of Justice follows:]

GERMAN MINISTRY OF JUSTICE,
Berlin, Germany, September 9, 1999.

S.E.
Dem Botschafter der Vereinigten Staaten von Amerika,
Herrn JOHN C. KORNBLUM,
Neustädtische Kirchstrasse 4–5,
10117 Berlin.

DEAR AMBASSADOR: First I would like to thank you for your letter regarding the situation of Lady Catherine Meyer and the general situation of children living in Germany and their contact with foreign parents.

I very much regret the fact, that for some time now the legal settlement for visits between Lady Meyer and her children has not been realized. As we all know problems in the constant contacts between parents and children will have a strong negative impact in any normal family life and this will cause emotional imbalances. This is true for bi-national as well as mono-national families. One of the goals that the children's law dd. 07/01/98 intended to achieve, was to approve the legal basis for children to remain in contact with both parents after a separation or a divorce. To achieve this it is not only aimed that both parents are responsible for the education and upbringing, but also to define the right to regular visits as a right and a duty as well as to implement legal structures to guarantee the settlements actually will be realized.

In both Germany and the United States regulations concerning visiting-schedules are supervised by independent specialized courts. In the case of Lady Meyer the "Amtsgericht" Verden refused to grant an urgent appeal of coercive fine against the father in order to force him to agree to the visiting times. The children themselves refused stubbornly to see their mother without any hint of coercion by their father. Lady Meyer therefore withdrew all her applications saying she no longer trusted the court system. I do not have any authority to comment on the decision of the "Amtsgericht" Verden either favorably or unfavorably.

Other German–American cases or problems with familial alienation due to conflict over visiting schedule are unknown to me. Although it is said by the German Central Authority that law cases in connection with the Den Haag convention of children-abduction in German–American relationships are fairly high, the actual trials have resolved disputes successfully. We believe this is partly the case because of the good cooperation between German and American authorities, which is symbolized in this year's March-meeting. I would be happy to personally discuss the matter with you to provide further clarification. I would however appreciate if you could supply more detailed information about the relevant cases you would like to discuss about.

I would personally like to add another issue to our conversation, as how we both could help in avoiding and reducing the spread of right-wing extremist/fascist material via post and or email/internet coming from the United States of America.

I assume that this circumstance worries you as much as me, State Secretary Reno received various letters and proposals concerning this matter. It would be helpful and necessary especially with the Bundestags—questions on the record to move on on that issue.

Kind regards,

PROF. DR. HERTA DÄUBLER-GMELIN, MDB,
Bundesministerin Der Justiz.

Lady Meyer. Can I talk one more minute?

Senator DEWINE. Absolutely.

Lady Meyer. I am just saying that, first of all, there were a lot of U.S. Army people in Germany and that there are many, many other cases, I know, around. But the problem is, the parents do not come out and they do not come out because while judicial proceedings are ongoing in Germany, they are afraid because they know that that is going to play a bad part legally against them and that is what was with my case. As soon as I spoke to the press, as soon as I started making noises in France and in England, the German courts used it against me and they used it as a reason for me not to see my children, saying I am a bad mother.

But the problem, the issue is not really our ex-spouses, though I think the ex-spouses are still a very interesting phenomenon. A man who really loves his children, like my ex-husband, would not deny the children the love of their mother, and I think a lot of parents—I mean, we have seen in the press, also, how some—I do not know the case, so I do not comment on it, but recently, somebody murdered his children rather than allow the ex-wife to see them. It was around here.

But the point is that the problem is really not our ex-spouses, it is more the courts. The fact that in some countries, the courts make orders that are not enforceable and we find ourselves outside of Germany not being able to do anything about it, which comes back to the Hague Convention.

I think the Hague Convention is an international convention that was signed and countries should abide by it internationally. They should not hide behind their judicial independence, because in my case, as in all the other cases, for the moment, the German authorities have consistently answered that the German courts are independent and the German judicial system cannot intervene in their courts. So we are in a catch-22 situation.

I think this is the main point that I want to make, is that there is a problem of some countries not abiding by the international convention, some countries giving reasonings which I think are absolutely not acceptable, and that this basically is an issue which is a human rights issue, that a parent like Joe Cooke, like myself, and like the 34 other parents, have no access, no information, nothing on our children. This is a human rights issue and I would like some way for it to become a human rights issue officially.

Senator DEWINE. Thank you very much.

[The prepared statement of Lady Meyer follows:]

PREPARED STATEMENT OF CATHERINE I. MEYER

The 1980 Hague Convention on the Civil Aspects of International Child Abduction

I. THE PURPOSE OF THE HAGUE CONVENTION

The 1980 Hague Convention on the Civil Aspects of International Child Abduction (the Hague Convention) is a world-wide convention designed to secure the *prompt* return of abducted children who have been removed from, or retained outside, their country of habitual residence, so that any subsequent welfare issues relating to the children can be decided in the home jurisdiction.

The Hague Convention is designed to discourage child abduction and to ensure "*the protection of children against the harmful effects of their wrongful removal or retention.*" It is not intended to pass moral judgement. Most importantly it is not concerned with the merits of a custody case. Criticisms or complaints about the custodial parent or the terms of a custody award, are matters to be dealt with by the jurisdiction of the child's habitual residence. *The paramount objective of the Hague Convention is to return the child* 11promptly" *and to confirm the jurisdiction of the country of origin in custody matters.*

Save in exceptional circumstances (see Article 13b), the Convention is based on the assumption that it is in the child's best interest to be returned quickly to its country of habitual residence. This ensures that the courts of that country—which are better placed to do so—can determine the issues relating to the child's future. The abducting parent cannot then profit from the abduction by choosing one jurisdiction over another in the hope of reversing previous custody decisions.

II. THE PROBLEM: INCONSISTENT APPLICATION[1]

For the Hague Convention to work effectively in its dual purpose of discouraging abductions and returning abducted children promptly to their country of habitual residence, it must be consistently interpreted and enforced.

But, in the past few years there has been growing concern that the effectiveness of the Convention is being undermined by the failure of some signatory states to fulfill their obligations.

One of the reasons is that judicial systems lie at the heart of national sovereignty. This often inhibits cross-border co-operation, which requires the competence of national courts to be limited by international obligations. The issue of child abduction is a prime example of the limitations of international co-operation in the judicial area.

The Forum on International Child Abduction held in Washington on 15th and 16th September 1998, under the auspices of the National Center for Missing & Exploited Children (NCMEC) and opened by Chairman Ben Gilman identified the major weaknesses in the Hague Convention; weaknesses, which some signatories exploit to avoid returning abducted children to their country of habitual residence. The NCMEC's report on the Conference pointed in particular to three problems: the systematic use of the exception in Article 13b ("the loophole clause"), the slowness of proceedings and the non enforcement of court orders by some countries.

1. Article 13b defence—the loophole clause

The exception to the requirement for the immediate return of the child to the country of habitual residence is to be found in Article 13 of the Convention.

"The judicial or administrative authority of the requested State is not bound to order the return of the child if"

Article 13a: * * *.

Article 13b: *"there is a grave risk that the childs return would expose him/her to physical or psychological harm or otherwise place the child in an intolerable situation."*

Alinea 2: "The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has obtained an age and degree of maturity at which it is appropriate to take account of its views".

Grave risk: The Hague Convention provides limited defences based on welfare considerations—a court has the discretion not to return an abducted child if returning it would place the child at "*grave risk of psychological or physical harm*" or put it in an "*intolerable situation*". These are strong terms and they are meant to apply in extreme circumstances only. The precedent case of *Friedrich* v. *Friedrich* (U.S. Appeal's Court—6th District, 1996) established that "*grave risk of psychological or physical harm*" could only apply to a situation where a child would be returned to a zone of famine or war or to a situation of serious abuse or neglect.

Childs objection: The Hague Convention also provides a limited opportunity for the child to be heard provided it has obtained an "*age and degree of maturity*" at which it is appropriate to take its views into account. But a main intention of this article was to draw a clear distinction between a child's objections, as defined in the article, and a child's wishes as commonly expressed in a custody case. This is logical, given that the Convention is not intended as an instrument to resolve custody disputes per se. It follows, therefore, that the notion of "*objections*" under Article 13b is far stronger and more restrictive than that of "wishes" in a custody case.

In the United States a restrictive judicial definition to Article 13b has been given in the *Friedrich* v. *Friedrich* precedent case. In England, the Consultation paper on Child Abduction published in the February 1997 issue of the *British Family Law Journal* reported that the High Court has taken a policy decision to approach Article 13b with great caution (in particular against the risk of indoctrination by the abducting parent) and, even if a child were found to object to a return, to refuse a return only in an *exceptional case.* (See also the precedent Court of Appeal case C (a Minor) 23 April 1999 FAFMF 1999/0306/2).

But whereas the intent of the Convention is not to allow this objection except in the most narrowly defined circumstances, in some countries—notably in Germany—it has become virtually the rule. *The Lowe Report of 1996* found that *every time the child's* "objections" *was raised as a defence, a return order was refused by the Ger-*

[1] My personal experience and that of the cases I am presenting today are with Germany. This explains the focus of this paper. But of course the problem is not confined to Germany.

man courts (even when children as young as 3 and 5 apparently stated an "*objection*" to their return).

In 1996, the Lord Chancellor's Department (English Central Authority) issued a report naming Germany as the worst offender with regard to the Hague Convention. The report said that in the previous year, 17 cases (from the jurisdiction of England & Wales only) led to formal requests to Germany, yet none resulted in a judicial return. The Lord Chancellor's Department accused the German courts of hiding behind legal technicalities to override their obligation to repatriate abducted children.

In France, where the problem is substantially larger than in England (France and Germany, having a common border), President Chirac has on several occasions raised his concern over Germany's failure to return children abducted from France. In December 1998, the President talked about "*the law of the jungle*" following the violent abduction of two children from French territory by men hired by a German father. (There could be no more compelling example of the dangerous consequences of allowing possession to become 9/10th of the law in cases of international child abduction). The French Minister of Justice, Madame Elisabeth Guigou, declared in March 1999 that there were "*cultural problems*" with Germany that needed to be overcome.

Similarly, in the 34 cases of American parents (involving 42 children) that I am presenting today, the notions of "*psychological harm and/or the child's objection*" have been consistently used to *stop the return of abducted children and then to deny access to them.* In all our cases there is a striking uniformity in the arguments used by German courts and authorities. For example:

- The child is better off with the German parent (by implication, the better parent) and the victim parent is in no position to take care of the child. Therefore returning the child to the U.S. would cause it "*psychological harm*".
- The child does not want to leave Germany and it "*objects*" to returning to the USA (in the cases of Joseph Cooke, Jeffrey Cook, Joseph Howard and Edwin Troxel, the children were less than six years old).

It is interesting to note that the arguments used by German courts to justify not returning a child are often contradictory: for example "*the mother works and can therefore support the child*" when a German mother is the abductor (case of James Rinaman) but "*the mother works and therefore has no time for the child*" when the mother is the foreign victim parent requesting a return (cases of Ildiko Gerbhash and Catherine Meyer). Similarly, when a German mother is the abductor the German courts argue that it would cause the child "*severe psychological damage*" to be separated from its mother, but when the mother is the foreign victim parent this argument no longer applies. Instead, it is argued that it would cause the child "*severe psychological damage*" to be separated from its new environment.[2]

Used in this manner, Article 13b delivers children into precisely the danger from which the Hague Convention is supposed to protect them.

Indeed, a common thread in all too many cases is the sustained, vengeful effort of the abductor to deprive the other parent of contact with the child to the maximum degree possible. The aim in fleeing one judicial system to another is to reverse permanently previous custody decisions and destroy the other parent's relationship with the child.

When parents abduct children, they are obviously not going to speak well of the other parent, saying that he/she still loves them and wants to see them. On the contrary, as in my case, the children are told that their other parent is a bad mother or father, who has abandoned them and could see them at any time if only he or she wanted to.

Children who are abducted will often have already suffered from their parents' separation. But in addition they will experience the trauma of being suddenly snatched from the security of a familiar environment, friends, school, grand parents—usually at an age when the breakdown of a family relationship is hard to understand. They do not know what is happening or why. Situations are worse if the abducting parent is hiding from the police or taking precautions against re-abduction—when the child realises there is a state of war between its parents. The child becomes confused and angry. It is traumatised by the loss of one parent. Its greatest fear becomes not to lose the remaining parent.

This is similar to the "Stockholm Syndrome" when hostages identify with their captors. But in child abduction cases, the syndrome is even more severe because of

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[2] It should be noted that the precedent setting case, *Friedrich* v. *Friedrich,* Federal Dist. of Ohio (Remand Division), 1994 ruled that this objection could not apply since the mother could return with her child to its country of habitual residence and thus settle the problem of separation from her child.

the age of the child-hostage, its relationship with the captor, and the latter's ruthless psychological exploitation of the relationship.

Many studies have been done in the USA about what is known as "Parental Alienation Syndrome"—when one parent systematically denigrates the other—and its devastating effect on children. The child soon replaces the positive memories of the absent parent with hurt and anger at what it sees, and is encouraged to see, as abandonment and betrayal. In its craving to keep the love of the only remaining parent, the child ends up asserting vehemently that it does not want contact with the victim parent.

This is not just psychologists' theorising. It is my actual experience and that of the many parents who have contacted me.

What greater psychological harm, what more intolerable situation could there be for a child, than to be exposed to systematic indoctrination by one parent against the other; and, worse, to carry the main burden of responsibility in adult court proceedings for deciding between mother and father?

Apart from perverting the original intent of the Hague Convention, asking a child in effect to choose between parents is a form of child abuse.

In addition, the systematic use of Article 13b to legitimise abductions and refuse a return further extends the meaning of the Hague Convention to encompass in practice an unwarranted jurisdiction in custody matters—exactly the opposite of the Convention's aim. Certain consequences flow from this, all of them prejudicial to the victim parent.

When a child is not returned, the abducting parent has the additional advantage of having subsequent proceedings dealt with in the country of retention rather than the country of the child's habitual residence. Case studies show that such court decisions, dealing with custody and access rights, can favour the abducting parent. This, combined with the fact that in some countries (for example Austria and Germany) judges are reluctant to enforce access orders, results in a situation where a parent is often deprived of all contact with the child. On this interpretation of Article 13, the Hague Convention becomes in effect the instrument of alienation between child and victim-parent—the very opposite of what was intended.

Professor Elisa Perez-Vera provided the primary source of interpretation of the Convention in her Report of 1980: *"The Convention as a whole rests upon the unanimous rejection of the phenomenon of illegal child removals and upon the conviction that the best way to combat them at an international level is to refuse to grant them legal recognition * * * the systematic invocation of the said exceptions, substituting the forum chosen by the abductor for that of the child's residence, would lead to a collapse of the whole structure of the Convention by depriving it of the spirit of mutual confidence which is its inspiration*".

2. The delay factor—possession is 9/10th of the law

The merit of the Convention is supposed to lie in the speed of its proceedings. The unusually rigorous limits on defences cannot otherwise be justified as being in the best interest of the abducted child. Lengthy proceedings would also give abductors a further advantage by allowing them to indoctrinate the child against the left-behind parent (for the purpose of Article 13b) and by generating a new argument, namely that the child is now settled in its new environment and should not be moved again.

Since Article 13b is an exception to the requirement for the "*immediate return*" of the child, it stands to reason that an abductor will usually use it as a defence.

The abducting parent will usually try to slow down the process, and introduce issues and evidence which would expand and lengthen what should be summary proceedings. It is quite contrary to the purpose of the Hague Convention for states to permit such an expansion to impede the speedy resolution of the request for return. (See Article 11: *"The judicial or administrative authorities Of Contracting States shall act expeditiously in proceedings for the return of children". It stipulates that if an application is not determined within 6 weeks, an explanation may be required of the court of the requesting state).*

But, some countries are markedly slower in dealing with Hague applications than others. For example, judicial returns take on average 5½ weeks in England versus 26 weeks in Germany, while judicial refusals take 11 weeks versus 36 weeks (during which contact with the children is difficult, if not impossible).[3]

The length of proceedings is clearly a major problem, where complaints are commonly made about Germany. There seem to be two basic reasons for the delay: the first is that Hague applications are not accorded top priority and the second is that

[3] The Lowe Report, 1996.

Hague Convention hearings are heard by inexperienced judges and start at the *Amtsgericht* (lower court) level.

In countries where Convention cases are heard centrally—at the high court level, as in England & Wales—by a small number of specialist judges, the system works well. Cases are dealt with expeditiously, based on paper evidence and without the child's view being usually heard (i.e. approaching article 13b—"*the child's objections*"—with great caution). Judges usually make a decision to return the child, relying on the court of habitual residence to make a fair decision at any subsequent custody hearing.[4]

In countries were Convention cases are first heard at tile lower level, they tend to be slow and dealt by judges who are inexperienced and/or unwilling to uphold the difference between proceedings under the Hague Convention and normal custody cases. As a result, children are usually not returned.

Since an abducting parent will usually, within the framework of Article 13b, level allegations against the other parent and request that oral evidence be heard, it is important that courts do not treat these Article 13b objections as "a merit of custody" argument. Such considerations are meant to be reserved to the court of the child's habitual residence. But in Germany, courts have shown themselves ignorant or careless of their obligations under the Convention. Underlying this is a distrust of foreign courts.

Amtsgericht (lower court) decisions can then be appealed in the *Oberlandesgericht* (high regional court) which causes further delay in the proceedings. Appeals can take several months to decide and judges are usually not more experienced. Hague applications are again treated no differently to normal custody proceedings. But even an appeal ruling that the child should be returned does not end the proceedings, as the appellate courts have no power of enforcement.

Under German Family law, children's views are required to be taken into account and it is normal for children, even quite young, to appear in court. The child's attendance at the court lies at the judge's discretion but it is not unknown for children as young as 3 years old to participate in court proceedings. Court procedures nearly always involve the *Jugendamt* Youth Authority) who are asked to interview the children and report to the court. This causes further delay in the proceedings and gives an additional advantage to the abductor, by providing him with a new argument, namely that the child has "*adjusted to its new environment*" and that it would be "*unsettling*" to return it to its country of habitual residence. In the case of Joseph Cooke, these arguments have been taken to such extremes that a German court has committed his two children (who were 3 and 5 at the time) to the care of German foster parents rather than return them to their natural father in the USA.

In most cases, the *Jugendamt* does not make inquiries pertaining to the child's habitual residence and it is the abductor, not the victim parent, who is interviewed. But, more importantly, the involvement of the *Jugendamt* fundamentally violates the spirit of the Hague Convention. The Convention is clear: "*In considering the circumstances referred to in article 13b, the judicial and administrative authorities shall take into account the information relating to the background of the child provided by the Central Authority or other competent authority of the child's habitual residence*"—not as is the practice in Germany, of the child's country of retention.

Although listening to children is by no means the same as considering their objection under Article 13b of the Convention, the child's presence is likely not only to lengthen the proceedings, allow judges to treat the objection under Article 13b as a "merit of custody" but also put the child at risk of being indoctrinated by the abducting parent.

Indeed, when children are interviewed, it becomes of paramount importance to abductor-parents that their children say "the right thing" to the judges and the Youth Authority. This puts an even higher premium on placing psychological pressure on abducted children.[5] But, the German courts refuse to take into account the abductor's opportunity to programme the children's emotions and are unwilling to admit independent expert opinion to examine children and the degree to which they have been indoctrinated (Parental Alienation Syndrome).

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[4] In England and Wales, Convention cases are exclusively heard centrally by a small number of specialist judges—17 at present. Conversely and until very recently, all lower courts (over 800 of them) had jurisdiction to hear Convention cases in Germany. Cases were therefore heard in the locality chosen by the abductors (usually their hometown).

[5] Stanley Clawar, PhD., C.C.S. and Brynne Rivlin, M.S.S. book "Children held Hostage: Dealing with Programmed and Brainwashed Children" Published by the American Bar Association is probably the best research made to date on how easy it is to programme children.

3. Non-enforcement

Without effective enforcement, the object of the Hague Convention cannot be realised. The most critical aspect of enforcement is that when the summary process has taken place and a return has been ordered, the power exists to carry out and enforce that order.

In Germany (and I believe in Austria) Under S. 33 of the German law of Non-Contentious Matters enforcement powers are vested exclusively in the court of first instance. This means that the high court decision to return the child can only be enforced by the *Amtsgericht* judge who originally heard the case. This enforcement process can take several months and does not always end in a return being made. There have been several notable examples when an *Oberlandesgericht* ordered a return and the lower court in effect refused to enforce it.[6]

But even at the lower level, the system does not work well as it is customary for judges to make decisions without ensuring that their orders are actually enforced. This in turn allows the abductor to abscond with the child (e.g. cases of Sanjas Das, Catherine Meyer, James Rinnaman, Kenneth Roche where the Amtsgericht return orders were never enforced).

The next problem is that in several Convention countries, abduction is not considered a criminal act—again in Austria and Germany.

In England there is a criminal statute which covers child abduction. It is the Child Abduction Act of 1984. The penalty on conviction can be a substantial term of imprisonment. The act probably has a deterrent effect in itself but it also allows the full resources of the police to be employed to look for a missing child and the abducting parent. The police do not need to wait for court orders and can seek the help of Interpol. It also allows the UK to seek extradition of abductors where there is an appropriate extradition treaty. When abductors flee to a weak Hague country, with slow or irresolute courts and a poor enforcement system, it is often speedier and more effective for a UK citizen to use the criminal offence and seek an extradition warrant for the parent to be arrested and then lawfully to recover the child.

In England, there is almost always a desire at every level to search with utter and unrelenting vigour for a missing child, but there can be a reluctance to prosecute a parent for abducting, once the child has been recovered. The reason is that the imprisonment of the parent is probably a further punishment of the innocent abducted child, who probably loves both parents. That is why prosecutions need special authority, and are comparatively rare. The real use of the criminal statute is that it allows the full range of powers for the pursuit of a wanted criminal to be used to find the abductor, and more importantly, the child. Once that has been achieved, and once the family court has decided what should happen in the child's best interest, it may be unnecessary or inappropriate to prosecute.

The Lord Chancellor (as the Central Authority) tends to delegate in individual abduction cases to the lawyers appointed by him. They will certainly seek to liaise with police.

Specialist police groups, such as those concerned with extradition have highly developed expertise, which can be quickly employed. Special Branch in particular can track the international movement of abductors, and monitor and control movements at UK airports, with a high degree of effectiveness.

Finally, the Tipstaff, the enforcement arm of the High Court, will routinely act through the police, over which it has authority, and when an order is made by a High Court judge to search for a missing child (a 'SEEK AND LOCATE' order), that order can instantly be faxed to every police station in the country.

But this system does not apply in Germany since first of all it has *no extradition treaties* and secondly, abduction is *not a criminal act*—unless a child is *taken out* of Germany.

4. Additional problems with the Germany legal system

The German authorities tend to be inefficient in locating abducted children. As a result, some victim parents cannot initiate Hague proceedings (cases of John Dukesherer, Joseph Howard). Furthermore, under German law it is possible to change a child's surname without the approval of the father or for a child to be adopted without the consent of both parents.

Many victim parents complain that the Berlin Central Authority offer them little, or no help. Victim parents are also required to pay DM 2,000 by the Berlin Central Authority to allow them to initiate court proceedings. Some parents cannot afford this to begin with (Robert James, Taylor Tali). German courts also tend to charge for the hearings themselves. This, combined with the costs of lawyers, the translat-

[6] The Famous Nusair cast (with England) and Tom Silvester's case (with the USA).

ing and travel expenses, makes it impossible for most parents to continue with lengthy proceedings which may last years.

Under German law it is possible to make "ex-parte" emergency custody orders, that is to say, without the knowledge or presence of the opposing party (cases of Rebecca Collins, Joseph Cook, James Filmer, Joseph Howard, George Uhl, Donald Youmans).

The notion of German domicile can also be established in matter of months (cases of Mark Wayson, George Uhl). As a result, German courts are able to claim jurisdiction over that of the country of habitual residence and some Hague 7 applications have been rejected (case of Joseph Howard).[7]

Since German courts consider a child German if one of its parents is German, decisions tend to favour the German nationality over others. Germany still operates the "blood law", based on the 1913 Imperial Naturalisation Act which grants citizenship from parent to child on the basis of bloodline rather than birthplace or residence. This also allows German authorities to argue that the Vienna Convention governing consular access to U.S. citizens does not apply.

Access is made as difficult as possible and often denied altogether, drawing on arguments based either on the "*fear of re-abduction*" or/and "*the child's will*". Victim parents are then told that it would be "*emotionally unbearable*" and "*against the child's interest*" to have contact with them. In my own case, the German court has refused to implement access agreements made in the court itself which my ex-husband has with impunity refused to honour. Similarly, grandparents are denied all access. My 87-year-old father may never live to see Alexander and Constantin again.

The main complaints however remain, that, under German law, access rights are not enforceable; and the custodial parent has all the rights—the other parent has *none*.

V. INTERNATIONAL CHILD ABDUCTION—WHAT NEEDS TO BE DONE:

In an ideal world, a consistent, uniform and rigorous approach to enforcing the Hague Convention would solve the problem of international child abduction. But we have to be realistic. That will not happen any time soon. So, we need another remedy in the meantime.

It is not for me as a non-American to say what should be done in this country. But from my experience of the last five and a half years, I am clear that certain things are necessary if these terrible miscarriages of justice are to be rectified.

It has to be understood by the authorities of the country of the victim parent that child abduction is not a private legal matter in which they have no role to play. To deny a parent access to his/her children is to deny a human right. To refuse to return a child promptly to its place of habitual residence is in the overwhelming number of cases to violate the Hague Convention. To steal a child across frontiers must be seen as a felony.

All this gives ample grounds for the government of the victim-parent to intervene forcefully with the government of the abductor, where the courts in that country are unwilling or unable to deliver justice.

As Senator DeWine said in an interview with *Reader's Digest* in September 1999: "*We go after countries that steal our products or violate patent and copyright laws, but not when they are supporting the theft of American children*." And as Hillary Rodham Clinton said at the launch of ICMEC in April 1999: "*Ultimately these matters are not just about individual children and the pain of victim parents, but they really are a question of human rights*."

In today's world it is no longer acceptable for a Government to hide behind the independence of courts when human rights abuses or gross miscarriages of justices.

What should we be saying to governments, such as the German?

First, that the miscarriages of justice the past must be reviewed and set right. In almost all cases that means, at the very least, enforceable rights of access in conditions which are not dictated by the abducting parent.

Second, that procedures and mechanisms are put in place that ensure these miscarriages of justice do not recur.

We have to remember that in virtually all these cases the problem is not so much the behaviour of ex-spouses and ex-partners, but the failure of the courts to deliver justice. The courts are the problem. It is they who are responsible for the miscarriages of justice. Governments can no longer wash their hands over them.

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[7] It should be noted that the precedent setting case of *Friederich* v. *Friederich* established that habitual residence is not the same as legal residence; that is to say the court must examine past experience and not future expectation.

In the cases I am presenting today, German courts and authorities have consistently shown themselves heavily biased towards the German parent; either ignorant or careless of their obligations under the Hague Convention; repeatedly reliant on arguments based on "fear of re-abduction" or the "children's will" severely to constrain access to children; slow to call hearings and to give judgements; ready to make "ex-parte" decisions, without informing, or hearing the witnesses from, the non-German side; unwilling to admit independent expert opinion to examine children and the degree to which they have been indoctrinated (Parental Alienation Syndrome); and unwilling to enforce access agreements made in court.

As a result, Rebecca Collins has not seen her children since 1994; Glen Gebhard since 1994; Joe Howard since 1994; James Rinaman since 1996; Kenneth Roche since 1991; Edwin Troxel since 1997; Mark Wayson since 1998; Anne Winslow since 1996; Donald Youmans since 1994; Joseph Cooke's two children have been placed in foster care and he has not seen them since 1994 and John Dukheshere and George Uhl do not even know the whereabouts of their children * * * to name but a few. None of us have received any information on our childrens welfare. And to top it all, the German courts often demand child maintenance payments from the victim parents!

VI. MY CASE

In 1984, I married a German medical doctor, Hans-Peter Volkmann, in London and our first son, Alexander, was born a year later. We then moved to Germany for the sake of my then-husband's career and I gave up my own in the City of London. Our second son, Constantin, was born in 1987. Our marriage subsequently broke up and in 1992 we agreed to a legal separation. I was awarded custody of the children (who were to live with me in London) and Volkmann was granted generous access rights.

At first, all worked well. The children continued their schooling at the French Lycee in London (Constantin coming first in his class) and they spent vacations with their father in Germany. I rebuilt my career in the City of London so that I could support my children. By 1994 I had managed to obtain a senior position in a bank and to buy a comfortable apartment for the three of us.

In July 1994, the children left as usual for their summer vacations with their father in Germany. Without warning, four days before they were due to return to London, their father informed me that he was not sending them back. He then disappeared with the boys. For the next four weeks, I had no idea of their whereabouts, despite police searches.

In August 1994, the High Court of England & Wales ordered the children's "*immediate return*" to Britain under the terms of the Hague Convention. The children were made "Wards of Court". In September 1994 the appellate court of Verden (Lower Saxony) upheld the English decision and also ordered the "*immediate return*" of the children. But in defiance of the court order, Volkmann bundled the boys into a car and vanished. The local police and the Court bailiffs were unwilling to help.

The following day, Volkmann lodged an appeal in the higher court of Celle, a nearby town. To my dismay and astonishment the judges made a provisional ruling that the children should remain in Germany until the appeal was heard because "*otherwise the mother could hide them in, England*". Still worse, the ruling was made "*ex-parte*"; that is, without informing me or my lawyers so that I was left unrepresented at the hearing.

In October 1994, the Celle court reversed the earlier English and German decisions on the grounds that it was the "*children's wishes*" to remain in Germany, so exploiting the so-called loophole clause of the Hague Convention (Article 13b). The judges expressed the view that the children were German and that they had been suffering in a "*foreign environment * * * especially since German is not spoken at home or at school; that they were taunted as Nazis.*" The judges also ruled that the children had attained an age at which it was appropriate to take their views into account "*since a 7 year old child faced with the decision to play judo or football, generally knows which decision to make*".

The Jugendamt (Youth Authority) testified at both hearings that a return to the UK would cause the children "*severe psychological harm*", again taking advantage of the Convention loophole clause. The children had, they said, adapted to their new environment, Alexander felt himself German and the mother had no time for them because she worked. The Jugendamt took evidence only from the German side. Neither I nor anyone from the children's habitual environment in London was interviewed.

At the time of the hearing, I had not seen or spoken to my children in over four months, during which they had been under the sole influence and control of their father and his family.

The Celle court decision meant that in German law all further legal proceedings on custody and access had to take place on the abductor's home territory. The consequence of this has been that since 1994, I have never been able to gain normal access to my children.

Between November and mid-December 1994, five applications to see my children were rejected on the grounds that I could "*re-abduct*" the boys and that in any case they no longer "*wished*" to see me. This went as far as to deny me access to the boys over the Christmas holidays. In January 1995, following my desperate attempt to see my boys in Verden, my ex-husband asked the court to transfer their place of residence to Germany on the false allegation that I had sought to re-abduct them. Despite a police report confirming that this was untrue, in my absence and without allowing me to file my defence, the court accepted my ex-husband's request. This was followed in March 1995 by a decision of the Verden court, giving temporary custody of the children to my ex-husband, despite their being "Wards of Court" in England. The decision gave me only three hours access to my children, once a month, to be followed after 6 months by one day a month. The access visits had to take place either in my ex-husbands house or in the office of the Jugendamt.

My ex-husband reneged on even these highly limited access arrangements. The court, far from enforcing them, cut back my visitation hours in yet another "ex-parte" decision in October 1995. Thus, a pattern was set which exists to this day: of the Court promulgating access arrangements, my ex-husband refusing to abide by them, and the Court refusing to enforce them.

Despite every guarantee on my part, including the support of the British Consul General in Hamburg, the fear of abduction was consistently used, over the next few years, to deny me and my parents normal access rights. Between the summer of 1994 and December 1998 I managed to see my sons for only 12 hours under the most harrowing conditions: either, locked in my ex-husband's secluded house, under the supervision of a third party; or in the offices of the Jugendamt. All visits were broken off after less than two hours.

In September 1997, Volkmann divorced me. My German lawyer strongly advised me not to fight for custody, saying that to facilitate access, it was in my best interest to move quickly to grant Volkmann a divorce and acquiesce in his getting custody. So, in exchange for giving him custody, it was agreed in court that I should have access to my children on "neutral territory", that is in Hamburg.

But when, six long months later, the moment finally came for me to see my sons, Volkmann backed out at the last moment, stating that it was the "*wishes*" of the children not to see me and that they feared I would "*abduct*" them. The Verden judge refused to enforce the access agreement. It was only then that I discovered that while the custody arrangement was legally enforceable, the access agreement was not. It is extraordinary that a court can rule on divorce and custody while neglecting to protect a parents rights of access to his/her children.

Further applications for access were rejected and the Verden judge ruled that she would not decide on future access rights without first holding yet another hearing. This would entail, she said, her seeing the children and once more requesting a report from the Jugendamt.

The Jugendamt took two months to file the report. I was not interviewed. Their recommendation was that I should see my children once every two months for five hours in a priest's house in Bremen. This was as inhumane as it was impractical, since by now I was living in the USA. By strange coincidence the recommendation was almost identical to a proposal Volkmann had made me the previous year.

It took until December 1998 to secure the promised hearing; i.e. 15 months after the divorce hearing which should have given me enforceable access rights. The Verden court ruled that the children should get accustomed to me "*little by little*" and that it would be too "*stressful*" for them to see their mother who after a four year separation was practically a stranger to them. The judge once again rejected my argument that the children had been deliberately programmed against me and that for us to re-establish a relationship, what was needed from the start was continuous contact over several days.

The judge established a programme of visits, each of which would be longer than the last and winch would culminate in the children visiting me in Washington in August of this year. My husband and I, travelling from the U.S., saw the boys in December (3 hours), January (one day) and February (2 days). Each visit was marked by increased tension on the part of the boys. My husband, Christopher, who had never before met his step-sons, was shocked to see how in only two months they

changed from being children increasingly excited to see their mother to becoming sullen zombies monotonously repeating the same "talking points" against me.

Predictably, a week before the April visit (the first which would involve the children being in continuous contact with me, including overnight), Volkmann sent a fax to say that he would not bring Alexander and Constantin to Hamburg because this was against the boys' "*wishes*" and that it could not be in their "*best interest*" to be forced.

The judge, once again, refused to enforce her decision, stating that a new hearing would have to be held. And before then, she needed to see the children and get another report from the Jugendamt!

We were then informed that the judge had left on indefinite maternity leave and that months would pass before a new judge would be competent to hear my case. Meanwhile, a temporary judge rejected a further application requesting the enforcement of the May and subsequent visits. He claimed to be satisfied that Volkmann was acting in good faith.

As of today, I have no access rights whatsoever since the schedule of visits established in the December 1998 decision is at an end. The German Minister of Justice recently wrote to our Ambassador in Bonn saying that the courts were independent and that she could not intervene. Since it is the courts, not my ex-husband, which are the final arbiter over whether I can see my children, I find myself in an impossible catch-22 situation.

The German courts and the German authorities have rejected all my requests to have my children examined by an independent psychologist specialising in Parental Alienation. In, five years, I have received one letter and one school report. I have no information on my children's life, well being, schooling, or any other aspects of their existence. Under German law, I have no rights as a non custodial parent so confirming a letter I received from the Bundeskanzerlei's office (German Chancellor's office) in 1995 stating that: "*Under German law, it is impossible to go against the wish of the parent who has custody*". I have no rights as a mother. In 5½ years I have seen my sons 24 hours.

So the months pass, the years pass, and my children are growing up without a mother. Before my ex-husband abducted our children, they were allowed to see and love both their parents. Now, they are not.

Has anyone proved that I am an unfit mother? No. Has anyone proved that I do not love my children? No. But, I am nonetheless denied the rights that even women in prison are allowed. My parents have been denied all access as well. My *87-year old father* may never live to see to see Alexander and Constantin again.

My children will be scarred for life and they may never recover from this experience. They have become confused and angry with me, because they have been told from the start that I have abandoned them. On two occasions, in 1994 and 1998, when I saw my sons and told them how happy I was to see them, Alexander replied: "you lie. Daddy told us that you could come and see us whenever you wanted—but you never did".

ATTACHMENTS TO STATEMENT OF CATHERINE I. MEYER

COOKE JOSEPH—NEW YORK/STUTTGART

Number of Children: 2 children
Age(s) at Abduction: 1 and 2½
Current Age(s): 8 and 9½
Hague Convention case: Yes

History

Parties married in the USA in 1989. Father was stationed in Stuttgart (from 1985 to 1989) while serving in the U.S. Army. In July 1992 mother took the two children to Germany to visit her family. Informed father that she was not coming back and that he would never see his children again. Father tried in vain to find the whereabouts of his children.

Two months after her arrival in Germany mother was admitted to a clinic and asked the Jugendamt (Youth Authority) to place the two children in foster care. Neither the mother, nor the Jugendamt informed the children's father. In January 1993 mother returned to the U.S. leaving the children behind. Father was told different stories (including that the children were with the mother in California) and only found out in September 1993 that his children had been given by the Jugendamt to a foster family (who have other children in care and receive money from the state). Father immediately notified the foster parents that he wanted to take his

children back to the USA. Foster parents obtained an "ex-parte" order prohibiting him to do so. Father had no alternative but to go to court.

Divorce pronounced by the Supreme Court of Queens County, New York in January 1994. Father awarded full custody (with mother's consent). In April 1994, Supreme Court of the State of New York ordered immediate return of the children to the U.S., under the terms of the Hague Convention. Return denied in March 1995 (a year later!) by the lower court of Singen. Judge ruled that it would cause the children "*severe psychological damage*" to be separated from the foster parents and be returned to the U.S. Court also told father that he first needed to get reacquainted with his children. The father stayed in Germany but only able to visit his children at the foster parents' house who obstructed the visits.

Appeal rejected in June 1995 by the county court of Konstanz. (The mother had now also requested that the children be returned to their father in the U.S.). Court ruled "ex-parte" that the children "*objected to a return*" (they were 4 and 5 at the time) and that it would cause them "*severe psychological damage to be returned to the U.S.*". Children were deemed to be adapted to their new environment and "to *subject the children to a language shock*" (since they don't speak English anymore) * * * "*contradicts the children's welfare most strikingly*". No specific access rights given to father.

Appeal rejected by the Karlsruhe Court (last appeal possible) in October 1995. Judges ruled that the foster parents have equal rights to the natural father and that it would cause "*severe psychological harm*" for the children to be separated from them, especially "*since they have now been in their care for the last two and half years*".

Father fought further through the German courts but to no avail.

Current status

Father has not seen his children since 1994.

GEBHARD GLENN—CALIFORNIA/HOECHST (NEAR FRANKFURT)

Number of Children: 2 children
Age(s) at Abduction: 2 years old (twins)
Current Age(s): 7 years old
Hague Convention case: No

History

Father is American and the mother is a Mexican national. Parties married in the U.S. in 1992. The children were born in Germany, moved to the U.S., and then back to Germany. In 1994 parties separated. Divorce pronounced in Germany in July 1995. The German court took jurisdiction over the case, and then gave custody to the mother. Access rights were granted to the father. The father was never able to exercise his access rights because the mother refused to present the children. Amtsgericht (local court) Hoechst refused to enforce access rights of father.

In view of his ex-wife's continual refusal to allow him court ordered visitations, and the court's unwillingness to enforce their own visitation orders, Gebhard decided to lodge an appeal at the Oberlandesgericht (High court) Frankfurt seeking a custody transfer in June 1997. His demand was rejected in September 1998 (over a year later). The judge's opinion was that father's presence would upset the children, and that he should regain contact with them "*little by little*" not "*overwhelm them*".

Current status

The father has not seen his children since August 1994 and has completely lost contact with them. He has travelled to Germany over 20 times in the hope of seeing his twins but to no avail. Father has applied for and received a Fulbright Senior Scholarship to teach at a university in the Berlin area during the 1999–2000 academic year (he is an Assistant Professor in Loyola Marymount University in Los Angeles, California) in order to be closer to his children. He refuses to give up hope.

GERBATCH ILDIKO—CALIFORNIA/OYTEN, LOWER SAXONY

Number of Children: 2 children
Age(s) at Abduction: 10 and 7
Current Age(s): 12 and 9
Hague Convention case: Yes

History

Parties married in the USA, then moved to Germany. Husband had an affair and told wife to leave. She returned to the U.S. with the children. Divorce hearing in the USA in June 1994 (father present). Mother obtained custody; father granted access rights (7 weeks per annum). In the summer of 1997 children went to Germany to visit their father. Father illegally retained them. August 1997, the Superior Court of Vista, San Diego issued a warrant and ordered "immediate return" of the children under the terms of the Hague Convention.

Return denied by Amtsgericht (lower court) Achim on basis of Article 13b in September 1997. Court ruled that the children "*objected*" to their return to the USA; that Naomi (10) was old enough to decide; and that younger sister should not be separated from her.

Jugendamt (Youth Authority) Verden stated that the children "*objected*" to a return to the U.S. (mother not interviewed); that they felt more free in Germany; that the mother had no time for them since she worked and that the children had adapted to their new environment (after 7 weeks holiday and notwithstanding that they had lived 3 years in USA).

Appeal rejected by Oberlandesgericht Celle on the basis of Article 13b in December 1997. The judges considered that the children were old enough to decide because, "*after all a 7 year old can already decide whether it wants to spend its holiday at the sea-side or the country side*". Jugendamt Verden reported the same and that it would cause them "*severe psychological harm*" to be returned to their mother in the USA.

Mother granted some visitation rights but managed to see her children only 8 hours in 1997 and 7 days in 1998. Following an access visit in Germany in August 1998, mother returned to the USA with the younger daughter.

Current status

Eldest daughter still in Germany. Father applied for sole custody in German courts (awaiting decision) and made an application under the Hague Convention for the return of Isabella. Hague application has just been rejected by the U.S. courts (on the basis that father illegally retained both children initially). Mother has not seen Naomi since August 1998.

HOWARD JOSEPH—ARIZONA/WORMS (NEAR KOBLENZ)

Number of Children: 1 child
Ages(s) at Abduction: 5 years old
Current Age(s): 10 years old
Hague Convention case: NO—Hague Convention application not possible because whereabouts of child was unknown.

History

Parties married in Germany in 1989 and moved to the USA a year later. On March 5, 1994 wife absconded from the family home with the child and all the furniture while father at work. Police, FBI and Missing Person's Bureau informed. Whereabouts of mother and child could not be traced.

Mother applied for custody as soon as she reached Germany. April 1994, Amtsgericht (lower court) Worms made an emergency order transferring temporary custody to the mother on an 'ex-parte' basis "*in the interest of the child*". The court ruled that "*in order to avoid the father's bringing the child to the USA and creating a fait accompli situation before legal proceedings had come to end, it is essential to legalise the stay of the child through the transfer of Parental Custody to the mother*". Father only advised of this decision one month later. Jugendamt (Youth Authority) wrote to father refusing to disclose the whereabouts of his child.

November 1994 Amtsgericht Worms confirmed temporary custody to mother on an 'ex-parte' basis "*because the father is so far away, his presence must be omitted for this hearing*". "*This decision is in the best interest of the child. The father lives in the USA and is therefore no longer in a position to exercise his custody rights*". No access provisions made but a demand for child maintenance served on father a month later.

Jugendamt (Youth Authority) reported that the child "*objected*" (5 year old) to a return to the USA and that it would cause it "*severe psychological harm*" to be returned. (Father not interviewed).

December 1994 divorce pronounced in the USA on an "ex-parte" basis. Custody given to father and access rights granted to mother (every two week-ends and holidays).

Amtsgericht Worms recognised U.S. divorce but ruled that it must decide on the final custody provisions: "*Since the marriage has been dissolved in the U.S., no decision regarding custody was passed*". July 1997 Amtsgericht Worms ruled that "*in the childs best interest*" sole custody should be given to the mother "*since it is feared that the Plaintiff will take the child against its will to the USA*". No access rights granted to father but a demand for child maintenance was served on him a month later.

5 Appeal rejected in December 1997 by Oberlandesgericht (High Court) Koblenz. Full and final custody confirmed to mother while access rights were to be discussed at a further hearing!

April 1998 father finally granted access rights—but only in Worms, at the office of the Jugendamt, if he surrenders his passport "*otherwise the father could take the child back to the U.S.*".

Current status

Father has not seen his child since 5 March 1994. Father does not know the whereabouts of his child in Germany.

MEYER CATHERINE—ENGLAND/VERDEN, LOWER SAXONY

Number of Children: 2 children
Age(s) at Abduction: 7 and 9
Current Age(s): 12 and 14
Hague Convention case: Yes

History

Parties married in England in 1984 and moved to Germany a year and a half later. Parties separated in 1992. Mother obtained custody father granted access rights (minimum 8 weeks per annum). July 1994, children went to Germany to visit their father. Father illegally retained them. August 1994 the High Court of England & Wales ordered the "*immediate return*" of the children under the terms of the Hague Convention and made the children "Wards of Court".

Amtsgericht (lower court) Verden ordered "*immediate return of the children*" in September 1994. But in defiance of the court order, father absconded with the children. No help from local police. Bailiffs unreachable. The following day, father lodged an "ex-parte" appeal at the High Court of Celle. Return order stayed (i.e. children ordered to remain in Germany) until the appeal is heard "*otherwise the mother could hide the children in England*".

Return order reversed by the Oberlandesgericht (High Court) Celle on the basis of Article 13b in October 1994. Court ruled that the children "*objected*" to their return; the children were old enough because, "*after all a 7 year old can already decide whether it wants to play judo or football*", Alexander was suffering in England "*because German was not spoken at home or at school*" and his younger brother should not be separated from him.

Jugendamt Verden stated (for both hearings) that a return to the UK would cause "*severe psychological harm*" (mother not interviewed). Alexander felt German; the mother had no time for them since she worked and the children had adapted to their new environment (after 7 weeks holiday and notwithstanding that they had lived 2 years in the UK).

Five demands for access rejected by Amtsgericht Verden because "*the children objected*" and the "*mother could use the opportunity of a visit to re-abduct the children*". January 1995 'ex-parte' decision changed the children's residence to Germany. March 1995 temporary custody transferred to father although the children were still "Wards of the English court". Minimal access granted to mother (3 hours per month under supervision in father's house). Because of the children's long separation from their mother, it would be too "*overwhelming*" for them to see her for "*too lengthy a period or in surroundings to which they are not accustomed*". Visits blocked by father.

Appeal (Hague proceedings) rejected by the Karlsruhe Constitutional Court (last appeal possible) in April 1995.

September 1997 final sole custody given to father, minimal access rights granted to mother. Access blocked by father. Judge refused to enforce access rights and called for a new hearing. December 1998 court grants mother minimal access rights starting "*little by little*" not to "*overwhelm the childen*". Father reneged on the third visit (the very first which would have included an overnight contact). Again, court refused to enforce access, stating that a new hearing should be held. In May 1999 judge left on indefinite maternity leave.

Current status

Mother only managed to see her children 11 hours between 1994 and 1998 (under supervision) and twice in 1999. Currently, mother has no access rights whatsoever. The German Minister of Justice said that she cannot help because local courts are independent. There is thus no remedy left within the German system.

RINAMAN JAMES—WASHINGTON DC/DUESSELDORF

Number of Children: 1 child
Ages(s) at Abduction: 15 months old
Current Age(s): 4 years old
Hague Convention case: Yes

History

Parties married in Germany in September 1993 and moved to the USA in August 1995. (father was an officer in the U.S. army until 1996. He is now an attorney-at-law based in Florida). In June 1996 mother took the baby to Germany to visit her family for two weeks. To the father's total surprise mother informed him (by fax) that she was not coming back to the USA and that she wanted a divorce. Father applied for the "immediate return" of the child under the terms of The Hague Convention.

Amtsgericht (lower court) Duesseldorf-ordered the "*immediate return of the child*" in August 1996. Mother and child were not present at the hearing and the court decision was not enforced. Mother immediately lodged an "ex-parte" appeal at the Oberlandesgericht (High Court). Return order stayed (i.e. the children ordered to remain in Germany until appeal is heard).

Return order reversed by the Oberlandesgericht (High Court) Duesseldorf in October 1996. An isolated statement (based on hearsay) was used to block the return of the child to the USA. The abductor's mother claimed that she had overheard a conversation between her daughter and her son-in-law in which he had supposedly agreed that the child could remain in Germany. (In Germany, it is possible to present new evidence on appeal). Ignoring the mother's original fax of intent (see first paragraph), the judges ruled that the child was not taken to Germany illegally after all.

Jugendamt (Youth Authority) Duesseldorf recommended that sole custody be given to the mother, adding that "*the mother works and can therefore support the child*" and that "*the child is adapted to its new environment and is learning German*". Limited or no access rights should be granted to the father "*because it would be against the child's interest to spend time with him*". Indeed, it would be "*emotionally unbearable*" in view of the child's "*age, the long distances and because its father is now a stranger to her due to their long separation*."

October 1997, Amstgericht Duesseldorf granted father limited access rights and only if he surrendered his passport to the Jugendamt. Mother did not comply and appealed against the decision. In the meantime, court did not enforce access order.

August 1998, the Oberlandesgericht Duesseldorf affirmed the Amstegricht's order of limited access to the father. Again, the mother did not comply. She then switched to another jurisdiction and the father was told that he needed to start new proceedings in Bonn to secure his access rights. In January 1999 he filed a new application at the Amstgericht Bonn. As of July 1999, father had not received a reply.

Current status

Father has not seen his daughter since 1996. As in other cases, the German courts and the German authorities have repeatedly refused to allow an independent health and welfare check on the child. The first request was made by the U.S. State Department in June 1996. Instead, father was asked to pay child maintenance.

TROXEL EDWIN—ARKANSAS/MANNHEIM

Number of Children: 2 children
Age(s) at Abduction: 4 and 2 years old
Current Age(s): 6 and 4 years old
Hague Convention case: Yes

History

Parties married in Germany in 1991 and moved to USA a year later. They separated in 1994. Divorced pronounced in the USA in November 1995. Mother obtained custody and father was granted generous access rights. At first father able to exer-

cise his access rights. On 6 March 1997, father went to pick up his children for his regular access visit but found that everything had been removed from the house and that the mother had absconded with the children. Father informed the police and filed a petition in the Chancery Court of Benton County, Arkansas for Contempt of Court which is still pending. Whereabouts of the mother and the children could not be traced for one month.

August 1997, the court of Benton County transferred primary legal and physical custody to the father and ordered the "*immediate return*" to the children to the USA.

Return denied on the basis of article 13b by Amtsgericht (Lower Court) Mannheim in October 1997. Court ruled that the children "*objected*" to their return to the USA (they were 3 and 6) and that a return would cause them "*severe psychological harm*" and bring them simultaneously into an uncertain condition. "*The father works and therefore has no time for them; the mother does not wish to return to the USA; the children should not be separated from their mother; torn from their environment, and be transferred to persons who are strangers to them * * * The personal situation of the children is favourable in Germany and they have adapted to their new environment * * * The illegally produced situation must therefore be accepted*".

The Jugendamt stated that the conditions were better in Germany: *the mother has found her own apartment and a work permit; the children have been placed in a German school; they are adjusted to their "new environment"; it would cause them severe psychological harm to be returned to the USA.* (Father not interviewed).

Appeal rejected by the Oberlandesgericht Karlsruhe on the basis of article 13b in May 1999. Judges considered that a return would cause "*severe psychological harm*". The children should not be separated from mother. The mother did not wish to return to America. The father had not seen the children for a long time. He worked and therefore could not take care of the children. The children had adapted to their new environment.

Current status

The father has not seen his children since March 1997. The last time he was able to speak to them on the telephone was in August 1997.

WAYSON, MARK—ALASKA/RIO DE JANEIRO/GUMMERSBACH

Number of Children: 1 child
Age(s) at Abduction: 2 years old
Current Age(s): 4 years old
Hague Convention case: No—Brazil/Germany

History

Parties were never married but a child was born from the union in Brazil (child is U.S., Brazilian and German citizen). Father is a U.S. citizen (formerly a policeman) who was living in Brazil at the time, mother a German citizen. In December 1996, the parties separated and in April 1997, the Brazil court granted the parents joint custody. Care and control given to mother and extensive visitation rights granted to father. But mother repeatedly blocked access and in December 1997 she absconded with the child.

Father contacted the German Consulate in Rio who advised him against filing a Hague petition. Father now suspects that the Consulate "interfered" to help the mother. He later tried to complain but was told that only a German citizen can lodge a complaint against a German official.

February 1998, mother contacted the father and between March 1998 and August 1998 they sought mediation. During that period, the father saw his daughter regularly and paid an allowance to his ex-partner.

Beginning August 1998 mother blocked access. The father flew to Germany 6 times to try and see his child but to no avail.

October 1998 court of Rio de Janiero confirmed its jurisdiction on the matter of access. "*The fact that the mother moved to Germany after the court decision does not withdraw the jurisdiction of the Brazilian court*". Brazilian court reconfirmed father's access rights.

February 1999 the father filed an application to enforce the Brazilian access order. Amtsgericht (lower court) Gummersbach rejected the father's demand and refused to establish new access rights. Father then lodged an appeal in the Oberlandesgericht Koeln (Cologne) in April 1999.

Appeal rejected July 13, 1999 on the grounds "*that although the Brazilian court had jurisdiction at the time of the separation, the fact that the mother and the child*

are now domiciled in Germany, gives the court of Gummersbach international jurisdiction".

Current status

Father has not seen his child since August 13, 1998.

DUDAKIAN JOHN

Number of Children: 1 child
Age(s) at Abduction: 2 years old
Current Age(s): 3 years old
Hague Convention: Yes—new case

History

In 1998, the mother absconded with the child to Germany. The father had custody at the time. The U.S. court ordered the "*immediate return*" of the child to the USA.

Return denied by the German court on the basis of article 13b. The court ruled that a return to the USA would cause "*severe psychological harm*" for the child to be separated from its mother. Father was not informed of the hearing.

Current status

Father re-abducted the child back to the USA. Mother has now applied for the return of the child to Germany under The Hague Convention.

CARLSEN KENNETH—FLORIDA/BARMBERG

Number of Children: 1 child
Age(s) at Abduction: 8 years old
Current Age(s): 15 years old
Hague Convention case: Yes

History

Parties married in Barmberg, Germany then returned to the USA where their child was born. The parties separated. Custody awarded to father visitation rights granted to mother. On September 10, 1993 the mother and her boy-friend picked up the child at her Florida school and absconded to Germany.

In December 1993 the Florida court ordered the "*immediate return*" of the child to the USA. Father was asked by the Berlin Central Authorities to pay DM 2,000 to initiate court proceedings in Germany. But it took fourteen months before the case was finally heard.

Return denied by Amtsgericht (lower court) Barmberg on the basis of article 13b. The court ruled that the child "*objected*" to a return to the USA and that she was old enough to decide.

The Jugendamt testified that the child was settled in its new environment and that she objected to a return to the USA. Father was not interviewed.

Current status

Since 1993 the father was only able to see his daughter twice at the Jugendamt offices and under their supervision. However, recently his daughter, who is now fifteen, has started communicating with her father through the internet.

CARR JON—COLORADO/WHERE IN GERMANY

Number of Children: 1 child
Age(s) at Abduction: 2 years old
Current Age(s): 13 years old
Hague Convention case: NO. Convention not signed between U.S. and Germany at the time.

History

In 1988, mother abducted child from the United States to Germany the day before custody hearings were to take place in Colorado.

Father received little help from agencies and police.

Current status

NCMEC is attempting to get into contact with the father for an update on the matter. However, the father's former attorney believes that Jon has had no contact with his child since the time, of abduction.

COLLINS REBECCA—NORTH CAROLINA/CLAW (NEAR KRISRUHE)

Number of Children: 1 child
Age(s) at Abduction: 7 months old
Current Age(s): 8 years old
Hague Convention case: Yes

History

Parties married in the USA in October 1989. Mother awarded temporary custody until the final divorce decree was decided. In July 1991 the father absconded with the child to Germany during a scheduled visitation. Police filed charges.

In August 1991 the White Country Court awarded mother custody and ordered "*the immediate return*" of the child to the USA.

As soon as father reached Germany, he filed for custody. Amtsgericht (lower court) Claw transferred temporary custody to the father despite the U.S. previous decision. Mother obtained access rights but father refused to abide by them. Amtsgericht Claw did not enforce her access rights.

Hague application filed too late (mother unaware of Convention) and the German court rejected her application stating that a year had gone by.

Mother was enable to pursue litigation in Germany as she was no longer entitled to legal aid.

Current status

The mother has not seen her son since 1991. Last time she was able to speak to him on the telephone was in 1997. Child was led to believe that the father's new partner is his natural mother.

COOK JEFFREY—FLORIDA

Number of Children: 1 child
Age(s) at Abduction: 4 years old
Current Age(s): 6 years old
Hague Convention case: Yes

History

In April 1997, mother abducted child to Germany in the middle of U.S. custody proceedings. Father was granted custody after the abduction and the U.S. court ordered the "*immediate return*" of the child to the USA.

Return denied on the basis of article 13b by the Amtsgericht (lower court). Court ruled that the child "*objected*" to a return and that it would cause "*severe psychological harm*" for her to be separated from her half-brother and half-sister

Currenty status

NCMEC is attempting to get into contact with the father for an update on the matter.

COX FRED—OKLAHOMA/POBLEDORF

Number of Children: 1 child
Age(s) at Abduction: 11 months old
Current Age(s): 8 years old
Hague Convention: No

History

In October 1993, mother was served with divorce papers and immediately abducted the child to Germany. Father was granted custody after the abduction.

Father attempted to apply under the Hague Convention, but he withdrew his application citing that it was too stressful a process.

Current status

NCMEC spoke with Fred Cox who informed them that while he has spoken to his son, he is still being denied access. No papers were ever filed in the German courts, as all the lawyers who were referred to the father in Germany informed him that nothing could be done.

DAS SANJAY—FLORIDA/MUNICH

Number of Children: 1 child

Age(s) at Abduction: 1 year old
Current Age(s): 3 years old
Hague Convention case: Yes

History

In 1997, the mother absconded with the child to Germany. Father applied for the "immediate return" of the child under the terms of the Hague Convention.

Return ordered by the Amstgericht (lower court) but it was not enforced. Mother immediately appealed at the Oberlandesgericht (high court). Returned order overturned on the basis of article 13b of the Hague Convention.

Current status

NCMEC is attempting to contact the left-behind father for an update.

DUKESHERER JOHN—HAWAII/SCHWAEBISCH GMUEND (NEAR STUTTGART)

Number of Children: 1 child
Age(s) at Abduction: 2 years old
Current Age(s): 3½ years old
Hague Convention case: Yes—new case

History

Parties never married but a child was born from their union. Custody order made in the USA in March 1997. Custody given to father and access rights granted to mother "*so long as she continued in therapy*" Mother not allowed to take child out of the country without prior approval of the Court, or notification of no less than 48 hours to the opposing party. August 1998, mother picked up the child for her regular visit and absconded to Germany. Arrest Warrant issued. Whereabouts of mother and child not traced.

July 1999 U.S. court confirmed sole legal and physical custody of father and ordered for the "immediate return" of the child to the USA.

Current status

Hague Convention hearing has not yet taken place in Germany as mother and child have not been located.

Father has not seen his child since August 1993 and he does not know its whereabouts.

FILMER JAMES—CALIFORNIA/TOSTEDT

Number of Children: 1 child
Age(s) at Abduction: 9 months old
Current Age(s): 1 year old
Hague Convention case: Yes—new case

History

Parties married in the USA. Parties separated and mother obtained temporary custody and father was awarded visitation rights. In October 1998, mother absconded to Germany with the baby whilst the divorce proceedings were ongoing.

U.S. court granted father custody and ordered the "*immediate return*" of the child. Return denied by the Amtsgericht (lower court) Tostedt on the grounds that the U.S. temporary custody order was unclear and the mother rightfully believed that she was allowed to leave the U.S. with the child.

Current status

Father has had no contact with the baby since the abduction.

FLEASCHMANN BERTHA—TEXAS

Number of Children: 1 child
Age(s) at Abduction: 6 years old
Current Age(s): 7 years old
Hague Convention: Yes—new case

History

In January 1999, father abducted child from school and took him to his parents in Germany. The father then returned to work in Texas, leaving the child behind with his relatives.

A warrant for the father has been issued in Texas for sexual battery again the mother, but the father has since returned to Germany. Mother has applied under the Hague Convention for the return of the child.

Current status

NCMEC is attempting to get into contact with the mother for an update on the matter.

GERLITZ SIDNEY

Number of Children: 1 child
Age(s) at Abduction: 5 years old
Current Age(s): 8 years old
Hague Convention: Yes

History

In 1996 mother absconded with the child to Germany. U.S. court ordered the "*immediate return of the child*", but the Berlin Central Authorities rejected the Hague application on the basis that the father was not able to get an Article 15 declaration; i.e. a document proving that he had custody before the time of the abduction.

Current status

NCMEC is attempting to get into contact with the father for an update on the matter.

OUTGOING GERMAN CASE

Left Behind Parent: Mark Gilgen
Children: Angela Gilgen, DOB 01/14/1990
Age(s) at Abduction: 5 years old
Current Age(s): 9 years old

History

On August 1, 1995, Claudia Bettina Svetlana White (a German citizen) abducted her child from Minnesota to Georgia. While in Georgia, the mother applied for divorce claiming she did not know where the father was living. Georgia court gave her custody, the father was informed, and he appealed the matter in the Georgia courts.

Before the appeal came to trial, the mother re-married a U.S. Army employee and moved to Germany. The father re-established jurisdiction in Minnesota and was granted sole custody from Minnesota courts.

Father applied under the Hague convention and was told by the German Central Authority that there was no hope for return because Angela was a German citizen and needed to be with her mother. The Central Authority did help arrange stringent, brief supervised access in 1999.

Current status

Father has telephone access at the mother's will, but is not allowed to visit the child in Germany without supervision, despite the Minnesota court order being the only order in existence.

HILL ASTRID—TEXAS/BREMEN

Number of Children: 1 child
Age(s) at Abduction: 3 years old
Current Age(s): 5 years old
Hague Convention case: No—access/visitation

History

Astrid Hill is the maternal grandmother. She has contacted me several months ago to report: Parties married in the USA (Mother German citizen, father British citizen). Their child was born in the USA in 1994. Parties divorced a year later. The U.S. court awarded custody to the mother and granted the father generous access rights (three months per annum). But he was unable to exercise his right and in 1997 the mother absconded with the child and her new husband to Germany without informing the child's father or her own mother.

No Hague Convention applications were made as the U.S. decision allowed the mother to go to Germany. Father was unable to obtain any access rights.

Current status

Neither the father nor the grandmother has seen the child since 1997. The grandmother (who is a German citizen) has never heard from her daughter since. She is very eloquent about the failure of the German system to protect children and enforce foreign court decisions. She feels that she has let her grandchild down.

JAMES ROBERT—MARYLAND

Number of Children: 2 children
Age(s) at Abduction: 10 months old and 2½ years old
Current Age(s): 6 and 8 years old
Hague Convention case: Yes

History

In April 1994, while the father was at work, the mother absconded with the two children to Germany.

U.S. court granted father sole custody and ordered the "*immediate return*" of the children.

Father was asked to pay DM 2,000 by the Berlin Central Authorities to initiate proceedings in Germany. Father was unable to come up with the money, so the case was closed.

Mother obtained a divorce in Germany. She was awarded sole custody on an "ex-parte" basis and no access rights were granted to the father. The father was never served notice of the hearing but found out several months later when he was ordered by the German courts to pay child support.

Current status

Father has only seen his children once when the mother allowed him a brief supervised visit several years ago because one of the children was seriously ill.

MARQUETTE N. ROBERT—TEXAS/SCHAEBISCH GMUEND (NEAR STUTTGARDT)

Number of Children: 2 children
Age(s) at Abduction: 4 and 13 years old
Current Age(s): 6 and 15 years old
Hague Convention: Yes

History

Parties married in Dallas, Texas in 1998 and separated in 1993. Parents were awarded temporary custody. The children had primary residency with the mother and the father was granted generous access rights. In 1995, father filed for divorce. Mother applied to reduce father's access rights on the grounds that the eldest child "objected" to seeing him. She also threatened to leave the country. A further decision ordered for the mother "*not to change the domicile of the children from Dallas County, Texas*" without prior approval of the court. U.S. court appointed psychologist testified in court to the presence of Parental Alienation Syndrome. Divorce proceedings lasted over two years but in June 1997 mother absconded to Germany with the children before the final decree.

In July 1997 Dallas County Court transferred custody to the father, giving restricted access rights to the mother and ordered the "immediate return of the children".

Return denied by Amtsgericht (lower court) Schaebisch Gmuend on the basis of article 13b in March 1998. The court ruled that the eldest child "*objected*" to its return and that it would cause the second child "*severe psychological harm*" to be separated from its elder brother.

Father's appeal rejected by the Oberlandesgericht (high court) Stuttgardt on the basis of article 13b in May 1998.

Father immediately retained an attorney in Germany (who was appointed to him by the German Central Authority) to file an appeal with the Constitutional Court. But the attorney failed to file the appeal within the prescribed one year time limit.

Current status

Father has not seen or been able to speak to his children since 1997. He presumes that the German courts transferred custody to the mother, but he was never notified of any hearings.

MASKALICK LINDA—MICHIGAN/LANGGONS

Number of Children: 1 child
Age(s) at Abduction: 2 years old
Current Age(s): 7 years old
Hague Convention: Yes

History

On July 19, 1993, the grandmother who had been granted custody of the child in September 1992, was having major surgery when the natural mother abducted the child to Germany.

Police filed charges and grandmother, with help from the natural father, filed under the Hague Convention. However, the child was not returned to the United States.

Current status

NCMEC is attempting to get into contact with the grandmother for an update on the matter.

PENDARVIS, LARRY—FLORIDA/DORTMUND

Number of Children: 1 child
Age(s) at Abduction: 4 months
Current Age(s): 11 years old
Hague Convention case: No—before Germany signed the Convention in 1990

History

Parties married in Tampa, Florida in August 1986. While still married, mother absconds with the baby in August 1988 to Dortmund, Germany.

On 2 February 1989, father awarded sole custody of the child by the U.S. courts.

He assumes the mother has obtained a custody order in Germany. He has not been granted any visitation rights in Germany as far as he is aware. He has never received any correspondence from the German courts, although he wrote to them on several occasions.

Current status

Father has not seen or received any communication from his child since 1988.

PETERSON JAMES—TENNESSEE/BAD KREUZNACH

Number of Chi1dren: 1 child
Age(s) at Abduction: 6 years old
Current Age(s): 6 years old
Hague Convention case: Not yet filed (new case)

History

Parties divorced in the USA in 1996. Primary custody granted to mother with extensive access rights to father. But mother continuously obstructed access. In 1999, custody reversed to father. Decision based on the mother's refusal to allow him to exercise his visitation rights and on other welfare issues. The decision, however, allowed the mother to keep the child in her care until the end of the school year. In May 1999, mother absconded to Germany with the child. Father did not know its whereabouts.

In July 1999, father received a copy of a custody transfer petition which the mother filed as soon as she returned to Germany. The wording of the petition includes statements such as "*the child speaks German fluently*" whereas the child has been living in Germany for only two months and spoke no German beforehand; that *"the child has already settled in her environment", "made friends"* and *"is enrolled in a German school"*.

These are all very familiar arguments preparing for an Article 13b defence.

Father has not been able to file a Hague petition as until last month as he did not know where his daughter has been abducted to until he received the custody transfer petition.

Current status

Father has not seen his child since May 1999. Father also feels very depressed and is hesitant about filing a Hague Convention application because of the bad performance of Germany in returning children. He is not a wealthy man.

ROCHE KENNETH—MASSACHUSETTS/DARMSTADT

Number of Children: 1 child
Age(s) at Abduction: 4 years old
Current Age(s): 10 years old
Hague Convention case: Yes

History

Parties married in Denmark in 1986 and moved to the USA. Parties separated in 1990. Divorce pronounced in the USA in July 1991 granting both parties joint legal custody. Physical custody given to mother and generous access rights granted to father. In addition, a specific clause stated that the removal of the child from Massachusetts was not authorised unless both parties agreed or a court order was obtained. In 1992 mother remarried in the USA. During that time, father regularly saw his child. Mother divorced second husband and in March 1993, she absconded with the child to Germany. Arrest Warrant issued.

April 1993 U.S. court transferred temporary custody to the father and ordered the "*immediate return*" of the child.

Amtsgericht (lower court) Darmstadt ordered the "*immediate return*" of the child to the USA but mother absconded with the child and immediately lodged an appeal at the Oberlandesgericht (high court) Frankfurt.

Oberlandesgericht Frankfurt confirmed the return order but it was not enforced. Police did not help. Father never managed to locate his child. FBI got involved in 1994 and issued a second Warrant. But, in April 1994 the Central authorities in Berlin confirmed that the investigation had been without any positive results. No further efforts were made to find mother and child.

Current status

Child living with mother in Germany. No further action has been taken by the German courts against the mother. Father has not seen his child since 1991 and does not know his whereabouts.

TALI TAYLOR—CALIFORNIA/BERLIN

Number of Children: 1 child
Age(s) at Abduction: 2 years old
Current Age(s): 3 years old
Hague Convention case: Yes—new case

History

In September 1998, mother absconded with the child while divorce proceedings were pending in the California court.

U.S. court granted father temporary sole custody and ordered for the child's "*immediate return*". Father was asked to pay DM 2,000 by the Berlin Central Authorities to initiate proceedings in Germany.

Current status

Father is currently in Germany for the court hearings. Until then he has had no contact with his child since the abduction. NCMEC will find out upon his return if he was able to see his child and secure his return to the USA.

UHL GEORGE—MARYLAND/MUNICH

Number of Children: 1 child
Age(s) at Abduction: 1 year old
Current Age(s): 2½ years old
Hague Convention case: Yes

History

Parties married in the USA. Divorced pronounced in the USA in July 1997. Baltimore County Court, Maryland awarded both parties joint custody: the child would reside 60 percent of the time with the mother and 40 percent of the time with the father. In April 1998, the mother went with the child to Germany but she never returned to Baltimore for the father's scheduled visit in June 1998.

In June 1998, the Baltimore County Circuit Court transferred sole custody to the father and ordered the child's "*immediate return*" to USA. (Final sole custody given to father in March 1999).

Return denied by the Amtsgericht (lower court) Munich in October 1998. The court ruled that the custody arrangements made in the USA had allowed the mother to go back to Germany with the child and that she therefore had the right to change jurisdiction. The court further ruled that the child's habitual residence had now been established in Germany since the mother lived there and did not intend not to return to the U.S.

The father lodged an appeal at the Oberlandesgericht (higher court) Munich. Appeal denied (without a hearing) and the Amtsgericbt's decision was upheld. No access rights were granted to the father.

Current status

The father has not seen his child since April 1998. The father has no contact with his child and does not know its whereabouts. The father believes that the German courts have transferred custody to the mother, but he was never informed.

URBAN KURT—TEXAS/BUTZPAT

Number of Children: 1 child
Age(s) at Abduction: 6 years old
Current Age(s): 12 years old
Hague Convention case: No

History

In April 1993, the mother (a U.S. citizen) absconded with the child to Germany. The parties were never married, but the father had been awarded custody of the child.

Father was told that since they were not married, he could not file under the Hague Convention for a return. Police attempted to locate the child without success.

Current status

Father has had no contact with the child since 1993.

WINSLOW ANNE—MARYLAND/FIRTH (NEAR NUERENBURG)

Number of Children: 4 children (Mary Elizabeth, Angelina, Charles, Sarah)
Age(s) at Abduction: 4, 9, 11, 12 years old
Current Age(s): 7, 12, 14, 15 years old
Hague Convention case: Hague application rejected under the terms of Article 15

History

Parties married in the U.S. On June 19, 1996 the father (an American citizen) abducted the four children to Germany. A divorce was pending so no custody determination had been made and the children were temporarily living with their father at the time.

In March 1997, the court of Maryland awarded temporary sole custody to the mother.

Mother was then told that under Article 15 of the Hague Convention, the U.S. Department of State needed a decision or other determination that the removal was wrongful within the meaning of Article 3 (i.e. a proof that the removal was in breach of her custody rights). The Maryland court refused to grant her this order on the basis that there had been no custody agreement prior to the abduction. (N.B. it seems that the mother must have been badly represented or advised of the terms of the Convention since the abduction was in breach of custodial rights—custody is shared when the parties are married).

The Hague application was withdrawn. The police dropped charges against the father as well, claiming that extradition costs would be too high.

Current status

Mother has not seen her children at all since 1996. In November 1998, father called mother to reiterate his intention of keeping the children in Germany. Mother does not know their whereabouts.

WELCH SASHA

February 11, 1998, NCMEC intaked case via the hotline. Mother apparently took child to Germany around January 15, 1999. Father was working with the DOS on a Hague Application for return of the child.

August 15, 1998, according to NCMEC report, father received notice by DOS 7 days after German Hague hearing occurred. Father's appointed German attorney attended, but had never spoken with the applicant father. Second hearing occurred August 4, 1998, father lost the case partially because psychiatrist stated child would suffer harm if separated from the mother and mother does not wish to return to Germany.

November 5, 1998, received fax from Bill Fleming at DOS. Contained the application from German mother because child was taken from Germany to U.S. on October 29, 1998. Bill informed NCMEC that this was a reabduction and that the father had lost a Hague application made to Germany during the summer. Meredith Morrison, case manager at NCMEC, was informed that the child was back with the father in Colorado. The Hague application that NCMEC received included a ruling from Germany stating that the removal from Germany was wrongful. They provided no details or documents regarding the father's Hague petition.

December 4, 1998, I requested a copy of the original German Hague decision from DOS, which was faxed to NCMEC. This fax contained a Hague decision from a German court dated August 7, 1998 denying the applicant father's petition for return. Abducting mother apparently had temporary custody of the child in Colorado, but was not allowed to leave the United States until the custody hearings were completed. Mother left with the child. Subsequently, father was given custody by the Colorado court. Germany Court seems to have denied the father's application based on the fact that the mother had temporary custody at the time of the abduction and was allowed to live in Germany.

Senator DEWINE. Ms. Hong.

STATEMENT OF LAURA KINGSLEY HONG

Ms. HONG. Thank you, Senator DeWine. Mei Mei will be 6 years old on November 4. There will be no gifts. There will be no cake. She will mark the occasion in Guangzhou, China, with her abductor, a woman whose mental illness will likely preclude her from even being aware of the child's birthday.

Mei Mei was born in Cleveland in 1993 and is an American citizen of Chinese descent. Mei Mei was abducted by her birth mother, Sue Chen, a convicted felon and chronic unmedicated schizophrenic. My rights to custody of Mei Mei have continued uninterrupted from long before the abduction to the present day. Initially, I was Mei Mei's foster parent. Now, I am her legal guardian and her legal custodian. The Ohio Eighth District Court of Appeals and the Ohio Supreme Court has upheld my custodial status and the termination of Chen's parental right.

Despite repeated requests from not only me but from you and your colleagues, the Cleveland U.S. attorney has refused to indict Mei Mei's abductor, who, unlike many parental abductors, is in the eyes of the law a stranger to the child. There is no acceptable explanation for the lack of indictment in Mei Mei's case.

The refusal of the Justice Department to enforce the Act is by now well documented. We just heard it today. In response to concerns raised in this regard, we also heard that the Justice Department claims to need resources, training, social workers, support groups, computer programs, et cetera, et cetera. None of that is required. What is required is enforcement of the International Parental Kidnaping Act as enacted by Congress, and that requires not money, but simple resolve on the part of the Justice Department to uphold the law.

Since the abduction, we have been caught in a vicious bureaucratic cycle in trying to bring Mei Mei home. The President will not help us and little Mei Mei because the National Security Council will not help us. The National Security Council will not help us be-

cause the State Department will not help us. The State Department will not help us because the Justice Department will not help us. And the Justice Department will not help us because the Cleveland U.S. attorney's office has declined to prosecute, and so it goes.

The conventional wisdom as conveyed to us by, among others, the State Department was that a Federal indictment is necessary to secure Mei Mei's return, and so immediately upon Mei Mei's abduction, we inquired of the local U.S. attorney's office. In response to our repeated inquiries as to when an indictment would be issued, we were told that the case was being carefully considered and they would let us know. We waited and waited.

In the interim, Congresswoman Mink received a telegram from the U.S. embassy in Beijing advising her that, on October 24, 1996, just days after Mei Mei's abduction, the Cleveland U.S. attorney had told the embassy not to pursue the case because it was not going to prosecute Chen. The embassy told Congresswoman Mink that without the requisite request from Cleveland to work on the case, the U.S. Government has no authority to pursue Mei Mei's case in China.

The Cleveland U.S. attorney finally responded to our inquiries on October 23, 1997, more than 1 year after Mei Mei's abduction. In a lengthy letter, she told us that she was declining to prosecute Chen because her office, "was not satisfied that an unbiased trier of fact will find Sue Chen guilty." She did not explain the basis for this assertion, nor did she explain why she employed a "will find the defendant guilty" standard when, pursuant to the U.S. Attorneys' Manual, the appropriate standard is one of probable cause.

What she did say, though, in so many words, was that she was not about to enforce a law that she did not personally buy into. In particular, she stated that an indictment of Chen for the purpose of aiding in Mei Mei's return would be an abuse of the Federal grand jury process, and that there is no reason to believe that an indictment of Chen would affect either her return or the return of the child.

In short, the U.S. attorney declined to indict under the Act because she personally did not credit the Congressional assumptions underlying its enactment, i.e., the indictments would enhance the force of U.S. diplomatic representation seeking the assistance of foreign governments in returning abducted children. Apparently, a law is a law only to the extent the local U.S. attorney wishes it to be.

In closing, we ask you and the subcommittee to do what it can to bring home Mei Mei and others similarly situated by demanding enforcement of the Act. As things now stand, the existence of the Act, coupled with the Justice Department's habitual refusal to enforce it, is having the precise opposite effect to what Congress intended by the enactment. This is so because the State Department uses the lack of an indictment under the Act as a free pass to refuse to lend assistance to international abduction cases, and quite logically, foreign governments and courts view suspiciously a private citizen's request for assistance in an abduction case when the private citizen's own government has not efficiently deemed the abductor's conduct criminal. We beg you to do what you can to break this vicious cycle. Thank you.

Senator DEWINE. Thank you very much.
[The prepared statement of Ms. Hong follows:]

PREPARED STATEMENT OF LAURA KINGSLEY HONG

Mr. Chairman, Members of the Committee: My name is Laura Hong. I am a partner at the law firm of Squire, Sanders & Dempsey, resident in Cleveland, Ohio, and am the legal guardian and legal custodian of Rhonda "Mei Mei" Lan Zhang ("Mei Mei").

At the invitation of Senator Thurmond, I provide this statement because Mei Mei was abducted by her non-custodial birth mother, Sue Ping Chen, on October 15, 1996, and taken to the People's Republic of China. And yet, despite the clear terms of the International Parental Kidnaping Act, the Department of Justice refused and continues to refuse to issue an indictment.

First, on behalf of myself, Tom Kovach and five year old Mei Mei, we thank you for giving us this opportunity to submit this statement on a matter of grave import. We also express our gratitude to Subcommittee Members DeWine, Ashcroft, Abraham, Sessions, Torricelli and Leahy who, along with twenty-eight other Senators and six Representatives, have made requests to President Clinton, The National Security Council, the Departments of State and Justice, and the Chinese government to facilitate Mei Mei's return home.

As the Subcommittee is aware, in 1993, President Clinton signed into law the International Parental Kidnaping Act, 18 USC § 1204 ("IPKA"). The statute makes it a crime for a non-custodial parent to remove a child from the United States with the intent to obstruct the lawful exercise of parental rights. The statute defines parental rights as the "right to physical custody of the child."

Mei Mei was born in Cleveland, Ohio on November 4, 1993. As a result of Ms. Chen's repeated neglect of Mei Mei, by court order dated March 8, 1995, more than a year and a half before Mei Mei's abduction, I was granted physical custody of Mei Mei. That right has continued uninterrupted through the date of the abduction and to the present day. In addition to the court order granting me physical custody of Mei Mei, after Mei Mei's abduction on October 15, 1996, the Juvenile Court for Cuyahoga County issued several orders commanding the return of Mei Mei, terminated Ms. Chen's parental rights and awarded me legal custody. Initially, I was Mei Mei's foster parent; I am now Mei Mei's legal guardian and custodian.[1] Since Mei Mei's abduction, the Ohio Eighth District Court of Appeals has upheld my custodial status and the termination of Ms. Chen's parental rights and issued a writ of habeas corpus commanding Ms. Chen to bring Mei Mei before it. The Ohio Supreme Court upheld the issuance of the writ and the order granting me legal custody of Mei Mei.

Yet despite these court orders, and overwhelming congressional and citizen support, the Department of Justice refuses to issue an indictment under the IPKA; and the State Department, citing the inaction of the Department of Justice, similarly refuses to help.

The Act clearly applies here by its terms, and the fact that the Cleveland U.S. Attorney has not enforced it sends a message that a law is a law only to the extent the local U.S. attorney wishes it to be.

A few days ago, on October 14, 1999, Jess T. Ford, Associate Director, International Relations and Trade Issues, National Security and International Affairs Division, United States General Accounting Office, testified concerning the Division's preliminary observations on the federal government's response to international child abduction. Director Ford reported that the State Department estimates that every year 1,000 children are abducted by their parents. Yet, since the enactment of the IPKA, the Justice Department has issued only 62 indictments under the IPKA.

In November 1998, the Attorney General created The Policy Group on International Parental Kidnaping which produced an April 1999 publication entitled *A Report to the Attorney General on International Parental Kidnaping.* In reference to that report, Director Ford highlighted four key problems cited by the State and Justice Departments relating to the federal government's response to international

[1] The Congress, in enacting the Hague Convention (which the IPKA is intended, in part, to supplement), explicitly stated that the return of abducted children to their home state is of paramount importance, and that "Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention." 42 U.S.C § 1161. The rights protected by the Hague Convention include the situation when a child is in the care of foster parents. "If custody rights exercised by the foster parents are breached, for instance, by abduction of the child by its biological parent, the foster parents could invoke the Convention to secure the child's return." (51 Fed. Reg. No. 58, p. 1505.)

child abduction. Not surprisingly, one of the problems cited is the Justice Department's limited use of the IPKA.

In response to problems relating to international child abductions, the Departments of Justice and State repeatedly appear before Congressional committees requesting funding for social workers, support groups, computer programs for case tracking, study groups, and policy groups designed to "deal with" international parental kidnaping. All of this smacks of being a smokescreen. It is our opinion—based on firsthand experience—that the paramount issue in dealing with international parental kidnaping is enforcement of the law as it is written and as it was intended to be enforced by Congress.

The official responses to our efforts to bring Mei Mei home underscore this. The State Department consistently called this a "private custody dispute," as there were no criminal charges against the abductor. But there is no "dispute" here; under Ohio law, Mei Mei's abductor has and had no rights whatsoever with respect to Mei Mei. Moreover, this case is susceptible to being called a "private custody dispute" only because the Cleveland U.S. Attorney declined to indict under the IPKA. If an indictment issued, then, *afortiori,* this would be a federal criminal matter, and not a "private custody dispute."

It is all part of a vicious circle. We are told the President has looked into the matter, but will not help little Mei Mei and us because the National Security Council will not help us. The National Security Council is "unable" to help us because the Department of State will not help us. The Department of State will not help us because the Department of Justice will not help us. The Department of Justice will not help us because the Cleveland U.S. Attorneys' Office has declined to prosecute. The Cleveland U.S. Attorneys' Office will not issue an indictment (purportedly) because the Department of State will not guarantee that an indictment will lead to the conviction of the abductor.[2]

Though our efforts to seek enforcement of the laws of this country, and in particular the IPKA, are detailed more fully in the attachments which I submit with my written statement into the record, I summarize for the Subcommittee our protracted and thus far unsuccessful efforts directed to the Cleveland U.S. Attorney's Office and the Department of Justice to obtain an indictment under the IPKA.

The day after Mei Mei's abduction, on October 16, 1996, I provided a statement to Cleveland FBI agents. On that same day, Cleveland Police confirmed that Ms. Chen and Mei Mei had flown from Cleveland to Chicago, Chicago to San Francisco, and San Francisco to Hong Kong. Ms. Chen was travelling on her Chinese passport, and Mei Mei was traveling on her U.S. Passport. With the assistance of the Department of Commerce, we immediately electronically transmitted photographs of Mei Mei and Ms. Chen to Hong Kong FBI agent James Wong. Unfortunately, we were too late. Ms. Chen and Mei Mei had already entered the People's Republic of China.

We were immediately advised that the Chinese authorities would assist in Mei Mei's return if we obtained a federal indictment. We were also advised that a federal indictment would facilitate an Interpol warrant, and that that, too, would facilitate Mei Mei's return. Having been so advised, we began a process that resulted in hundreds, if not thousands, of requests for an indictment.

On October 21, 1996, six days after Mei Mei's abduction, Tom Kovach, also an attorney at Squire, Sanders & Dempsey, and the only father Mei Mei has ever known, met with Cleveland First Assistant U.S. Attorney, Gary D. Arbeznik. Mr. Arbeznik requested that we prepare a memorandum of law and analysis of the IPKA in response to Mr. Arbeznik's erroneous statement to me over the telephone that the IPKA requires an underlying state indictment. Despite the incredible pressure and strain under which we were functioning, and despite the fact that we are civil, and not criminal, litigators, we provided Mr. Arbeznik with the memorandum; we did not, at the time, question why it was our obligation to explain the law to an Assistant U.S. Attorney. Nor did we question why First Assistant Arbeznik had personally taken the case when Cleveland Assistant U.S. Attorney Krista Bruntz previously had handled and issued an indictment on an international parental kidnaping case pursuant to the IKPA for that office.

During the next few days, we received incredible support and assistance from other law enforcement, particularly Hong Kong FBI, the U.S. Embassy in Beijing and the Consulate office in Guangzhou, where we had located Ms. Chen and Mei Mei. Unfortunately, with lightning speed—just nine days after Mei Mei's abduction—Mr. Arbeznik, on October 24, 1996, without any discussions with me, notified

[2] Cuyahoga County Prosecutor's Office will not issue an indictment. The head of the Cuyahoga County Prosecutor's Office's Criminal Division will not issue an indictment because, in his words, Mei Mei "looks Chinese" and "belongs in China."

the U.S. Embassy in Beijing that the Cleveland U.S. Attorney's office had declined to prosecute the case.

Though I continually called Mr. Arbeznik for a status, this information did not become known to us until more than one month later when Congresswoman Patsy Mink forwarded to me a Department of State telegram from the U.S. Embassy in Beijing advising her of Mr. Arbeznik's October 24, 1996 notification and also advising that "without the requisite request from FBI Cleveland to work the case, the U.S. Government has no legal authority to pursue [Mei Mei's] case in China." We contacted Agent John Jacobs of Cleveland FBI, who advised us that, because Mr. Arbeznik had affirmatively stated that he was not going to prosecute, Cleveland FBI could do nothing further.

Thereafter, over the next fifteen months, we were left highly insulting messages by a now-former Department of Justice Attorney allegedly responsible for "children's affairs." We were threatened with local indictments for posting a website about Mei Mei's situation, and were flatly ignored by Cleveland U.S. Attorney Emily Sweeney, with whom we left unreturned messages on at least a weekly basis.

In early 1997, in response to the hundreds of letters from us, citizens, members of the Congress, the immediate past presidents of the American Bar Association, Federal Bar Association and the National Asian Pacific Legal Consortium, we received our first response from the Department of Justice. That response was a form letter that did nothing but offer "assurances" that the Cleveland U.S. Attorney's Office ("USAO") was "thoroughly looking into the matter." Of course, this was false, because on October 24, 1996, First Assistant U.S. Attorney Gary Arbeznik had closed the matter.

The Cleveland U.S. Attorney herself did not respond to any inquiries until October 23, 1997, more than one year after Mei Mei's abduction, when she wrote me a lengthy letter advising me that the Cleveland USAO was declining to prosecute Ms. Chen. A copy of that letter is appended to my written statement. I bring to the attention of the Subcommittee, however, some highlights of the letter in which, for the first time, the USAO purported to articulate for us the basis for her refusal to pursue an indictment of Sue Ping Chen for the kidnaping of Mei Mei.

Though it would appear on its face that the letter was intended to explain her decision, we were amazed to see that, in all its 4-page length, there was not one mention of the IPKA, 18 U.S.C. § 1204 (the "IPKA"), or any other criminal statute. She stated that her "office [was] not satisfied that an unbiased trier of fact will find Sue Ping Chen guilty," but her statement was made in a vacuum, with no reference to the particular criminal statute against which the Cleveland USAO claimed to have assessed the probability of Chen being found guilty. This was quite telling.

Moreover, the Cleveland U.S. Attorney did not provide any legal authority for employing the standard she claimed to have employed—i.e., the standard that an "unbiased trier of fact *will* find the accused guilty." At the same time, though, she cited Section 9–27.220 of the U.S. Attorney's Manual, which indicates that the "threshold determination" should be whether probable cause exists to believe that a federal offense has been committed, and "that admissible evidence probably will be sufficient to obtain and sustain a conviction." Apparently, the Cleveland U.S. Attorney chose to apply a more exacting standard than that set forth in the "Manual" when it came to enforcing Mei Mei's rights.

Crimes, as we all know, have elements, and the decision as to whether to prosecute for the commission of a particular crime ought to hinge on whether the elements of that crime are met. Each element of the IPKA is clearly met in Mei Mei's case, and none of the affirmative defenses set forth in that statute are available—even arguably—to Ms. Chen. Yet, while the Cleveland U.S. Attorney spent three pages discussing collateral issues of little relevance to the issue of whether Chen violated the IPKA, she offered not one shred of information as to why she was not "satisfied that an unbiased trier of fact will find Sue Ping Chen guilty." In particular, she did not share with us which *elements* of the crime she found lacking. Her unwillingness to discuss the critical issue—i.e., why the Office felt Chen would not be found guilty under the IPKA for kidnaping Mei Mei—spoke volumes.

The Cleveland U.S. Attorney went on to state that the "seeking [of] an indictment against an individual in order to facilitate enforcement of a civil court order is not a proper use of the grand jury," that "an indictment of Sue Ping Chen for [the] purpose [of aiding in Mei Mei's return] would be an abuse of the Federal Grand Jury process," and that "[t]here is no reason to believe that an indictment of Sue Ping Chen would effect either her return or the return of the child." All of these bases, of course, put the U.S. Attorney squarely in opposition to Congress on the issue of the international abduction of American children. As the Congress made clear in passing the IPKA, one of the express purposes of the Act was "to provide the basis for Federal warrants, which will in turn enhance the force of U.S. diplomatic rep-

resentations seeking the assistance of foreign governments *in returning abducted children.*" H.R. No. 103–390, Cong. Rec. P. 2421 (emphasis added). Thus, Congress believed it eminently appropriate and advisable to use an indictment under the IPKA for the purpose of facilitating the return home of internationally abducted American children, and legislated accordingly. It was always our understanding that the American people elect the Congress to make such legislative determinations, and that U.S. Attorneys are appointed merely to enforce them. The Cleveland U.S. Attorney, however, clearly believes—with the apparent acquiescence of the Justice Department—that it is her prerogative to override the Congress.

The Cleveland U.S. Attorney then went on to note that "the state [of Ohio] has plainly indicated that it will not enforce" the order terminating Chen's parental rights and granting permanent custody of Mei Mei to me, Laura Hong, and that this, in turn, "raises a serious question regarding federal enforcement." But it was unclear which "state" she was referencing. Apparently, it was the position of the Cleveland USAO that the Cuyahoga County Court of Common Pleas, which terminated Chen's parental rights and awarded custody to me, is not "the state"; nor is the Ohio State Legislature, which enacted the laws by which Chen's parental rights were terminated and legal custody of Mei Mei was awarded to me; nor is the Ohio Court of Appeals, which upheld the order of the trial court and also issued a writ of habeas corpus directing Chen to bring Mei Mei home; nor is the Supreme Court of Ohio, which declined to vacate the writ of habeas corpus directing Chen to bring Mei Mei home; nor is the Cuyahoga County Board of Commissioners, the government entity charged with oversight of Children Services, which has publicly expressed support for the efforts to bring Mei Mei home; nor are Senator DeWine and then-Senator Glenn, who, along with more than one-third of the U.S. Senate, have, in a number of ways, manifested their support for bringing Mei Mei home.

Instead, "the state," as far as the Cleveland USAO appears to be concerned, consists of one misguided individual in the Cuyahoga County Prosecutor's Office who the Cleveland Plain Dealer labeled a "Chen proponent," and who publicly stated that he would not enforce Ohio's laws in this case, publicly condoned the abduction of children from the child welfare system, and caused the quashing of a City of Cleveland felony kidnaping warrant for Chen's arrest that had been issued upon a showing of probable cause by the Cleveland Police Department. It is troubling that, notwithstanding all of the "state" entities that spoke out in favor of bringing Mei Mei home in accordance with the laws of the "state," the Cleveland U.S. Attorney took its cue from the one public official who had, in this matter, consistently maintained a position contrary to law. It is even more troubling when one considers that another motivating factor in enacting the IPKA was to save parents of abducted children from having to rely on state law enforcement authorities who, for budgetary reasons, had traditionally been disinclined to prosecute an offender who would have to be extradited at considerable cost to the local authorities.

The remainder of the U.S. Attorney's letter was clearly geared towards convincing someone other than us—perhaps her Justice Department superiors—that the equities in this case supported her decision not to prosecute.[3] In the interests of fairness, though, the U.S. Attorney could also have shared with her extended audience the fact that the "evidence" she recited in her letter—i.e., a staged welfare visit conducted by the Guangzhou Consulate, and the representations of Chen's father as reported to to her by Children Services as to his purported willingness and ability to care for the child—was heard by Judge Patrick F. Corrigan of the Cuyahoga County Court of Common Pleas, *and rejected outright.* In the interests of fairness, the Cleveland USAO could have cited the evidence—which was, in the Judge's words, "clear and convincing"—that led the Judge to find that Mei Mei is *not* in a suitable environment, that Chen is incapable of parenting, and that neither Chen nor Chen's father (who kicked Chen and Mei Mei out of his apartment in Guangzhou on *two* occasions, documented in the court files, because he "could not handle" Chen's psychotic behavior) is capable of providing a suitable, stable home for Mei Mei.

In that letter, the Cleveland U.S. Attorney also stated that Children Services had the "parental rights" to Mei Mei at the time of the abduction, apparently to suggest that Children Services, and Children Services alone, had the right to prosecute on Mei Mei's behalf. The IPKA, however, focuses by its terms on "physical custody" of the child, and Mei Mei was, by order of the juvenile court, physically placed in my home at that time. Incredibly, the Cleveland U.S. Attorney adopted the very same position regarding Mei Mei's physical custody that was taken by Ms. Chen in our writ of habeas action—a position the Ohio Eighth District Court of Appeals flatly

[3] We note that the Cleveland USAO has ignored Section 9–27.230 of the "United States Attorney's Manual," which instructs the office to consider as a matter of primary importance the actual or potential impact of the offense on Mei Mei and me.

rejected. As I mentioned, the Ohio Court of Appeals found in the habeas action that physical custody of Mei Mei was vested in me, and that, under Ohio law, I was an appropriate entity to seek her return. The Ohio Supreme Court refused to vacate the Court of Appeals' decision to that effect. In any event, the IPKA makes it a crime to "remov[e] a child" *and* to "retain[] a child" outside the U.S. *See* 18 U.S.C. § 1204(a). Assuming *arguendo* that I was not wronged by the removal of Mei Mei by Chen, I clearly was wronged under the Act, and continue to be wronged, by Ms. Chen's continued unlawful *retention* of Mei Mei. As stated by the Court of Appeals for the Eighth District, the experts agreed that Mei Mei "was primarily bonded to [me], and the longer she remained captive in China, the more likely it would be that the child would suffer emotional harm from the separation."

Finally, the Cleveland USAO ignored the fact that Mei Mei, too, is a victim here, with her *own* right to have the laws enforced on her behalf, and that I, as legal custodian of Mei Mei, have the legal right to seek enforcement of the laws on Mei Mei's behalf. As the Eighth District Court of Appeals stated, "The best that can be said in this case is that the child welfare system failed miserably to protect the best interests of the child. [Laura Hong's] understandable bond with the child placed her in the position of being an advocate for the child when those who had the responsibility failed to execute that responsibility."

Along these same lines, the Cleveland USAO made repeated references in the letter to Mei Mei as Chen's "own child" and "her child" that are deeply disturbing. Under Ohio law—and the Cleveland USAO acknowledges that "[m]atters of family law are historically the province of state and local governments"—Chen has (and at the time of the abduction had) no parental rights whatsoever to Mei Mei, and Mei Mei is not "her child." Under Ohio law, the accident of birth should no more subject Mei Mei to abduction by a birth parent than it would any of the tens of thousands of adopted children in Ohio. The Cleveland USAO's refusal to accept this was, in essence, a refusal to recognize the authority of Ohio's legislature to legislate, and its courts to adjudicate, that those who repeatedly manifest a lack of fitness to parent will forfeit their parental rights.

Finally, contrary to the Cleveland U.S. Attorney's suggestion, Mei Mei is not a "dual citizen of the PRC and the United States." Under Chinese law, because Mei Mei was born in the U.S. to a U.S. Permanent Resident, Mei Mei, notwithstanding Chen's Chinese nationality, is barred from obtaining Chinese citizenship.

The Cleveland U.S. Attorney was correct, though, in one respect. There are no guarantees that an indictment of Chen under the IPKA will bring Mei Mei home. But Congress made a determination—with which President Clinton agreed [4]—that an indictment under the IPKA is an appropriate and useful tool in the efforts to bring internationally abducted American children home. And while the Cleveland USAO played word games with what the State Department told her office, she did not deny in her letter that she was informed of the State Department's opinion that an indictment of Chen would be helpful in the effort to bring Mei Mei home.

Whether the Cleveland U.S. Attorney and the Department of Justice acknowledge it or not, they knowingly erected a barrier to the return home of Mei Mei, a young American citizen, by their refusal to enforce the laws of Ohio and the United States on Mei Mei's behalf, and therefore inflicted on Mei Mei a grave injustice that continues to this day. As stated by the Eighth District Court of Appeals, "With that thought, the court could reasonably look to [Laura Hong] as the only remaining defender of the child's bests interests."

We ask the Subcommittee to do what it can to help Mei Mei, to champion her interests as well, and to ensure that no other children suffer Mei Mei's fate because of a U.S. Attorney's unwillingness to enforce the laws as written.

[4] In his December 2, 1993 Statement upon signing the IPKA, President Clinton made clear that, while the civil remedies of the Hague Convention should be utilized where available, where they are not available (as here), a criminal indictment under the IPKA is appropriate.

The October 16, 1996 International Kidnapping of American Citizen Rhonda Mei Mei Lan Zhang

October 23, 1997 letter from Emily Sweeney,
United States Attorney, Northern District of Ohio
And
November 8, 1997 reply to Attorney Sweeney's letter from
Laura Hong and Tom Kovach
(no further correspondence with the Cleveland USAO has occurred)

BRING MEI MEI HOME

From: Laura Hong & Tom Kovach

November 8, 1997

United States Attorney Emily Sweeney
Department of Justice
1300 Bank One Center
600 Superior Avenue East
Cleveland, OH 44114

RE: The October 16, 1996 International Kidnapping of American Citizen Rhonda ("Mei Mei") Lan Zhang

Dear Ms. Sweeney:

Thank you for your letter of October 23, 1997. The Cleveland U.S. Attorney's Office's ("Cleveland USAO") refusal to pursue an indictment of Sue Ping Chen for the kidnapping of Rhonda, though not surprising in light of the amount of time your office delayed in responding to our inquiries, nonetheless came as a blow.

Though it would appear that, in theory, your letter was intended to explain your decision, we were amazed to see that, in all its length (4 pages), there is not one mention of the International Parental Kidnapping Act, 18 U.S.C. §1204 (the "IPKA"), or any other criminal statute. You state that your "office is not satisfied that an unbiased trier of fact will find Sue Ping Chen guilty,"[1] but your statement is made in a vacuum, with no reference to the particular criminal statute against which the Cleveland USAO claims to have assessed the probability of Chen being found guilty. And we find this to be telling.

Crimes, as we all know, have elements, and the decision as to whether to prosecute for the commission of a particular crime ought to hinge on whether the elements of that crime are met. Each element of the IPKA is clearly met in this case, and none of the affirmative defenses set forth in that statute are available – even

[1]We note that you do not provide legal authority for employing the standard you claim to have employed – i.e., the "unbiased trier of fact will find the accused guilty" standard. You do cite Section 9-27.220 of the United States Attorney's Manual for your earlier statement that the "threshold determination" is whether probable cause exists to believe that a federal offense was committed, and "that admissible evidence probably will be sufficient to obtain and sustain a conviction." But apparently, the Cleveland USAO has chosen to apply a more exacting standard than that set forth in the "Manual" when it comes to enforcing Rhonda's rights.

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arguably – to Ms. Chen.[2] Yet, while you spend three pages discussing collateral issues of little relevance to the issue of whether Chen violated the IPKA, you offer not one shred of information as to why the Cleveland USAO is not "satisfied that an unbiased trier of fact will find Sue Ping Chen guilty." In particular, you do not share with us which elements of the crime the Cleveland USAO finds lacking. Your unwillingness to discuss the critical issue – i.e., why you feel Chen would not be found guilty under the IPKA of kidnapping Rhonda – speaks volumes; after all, the remainder of your letter demonstrates no reticence on your part to express the reasons underlying other aspects of your analysis.

You instead spend considerable time arguing that the "seeking [of] an indictment against an individual in order to facilitate enforcement of a civil court order is not a proper use of the grand jury," that "an indictment of Sue Ping Chen for [the] purpose [of aiding in Rhonda's return] would be an abuse of the Federal Grand Jury process," and that "[t]here is no reason to believe that an indictment of Sue Ping Chen would effect either her return or the return of the child." But when it comes to the international abduction of American children, Ms. Sweeney, Congress disagrees with you. As the Congress made clear in passing the IPKA, one of the express purposes of the Act was "to provide the basis for Federal warrants, which will in turn enhance the force of U.S. diplomatic representations seeking the assistance of foreign governments in returning abducted children."[3] H.R. No. 103-393, Cong. Rec. P. 2421 (emphasis added). Thus, Congress believed it eminently appropriate and advisable to use an indictment under the IPKA for the purpose of facilitating the return home of internationally abducted American children, and legislated accordingly. The American people elect the Congress to make such legislative determinations; U.S. Attorneys are

[2]We note that you reference in passing a meeting between AUSA Arbeznik and Mr. Kovach, presumably to establish that your office did, in fact, conduct a good faith investigation of this matter. You can only be referring to the day after the abduction (more than one year ago) when Mr. Kovach personally delivered to Mr. Arbeznik a memorandum (with the "50 pages" of attachments to which you refer in your letter) stating forth the elements of the IPKA, in response to Mr. Arbeznik's erroneous statement over the telephone (made after Mr. Arbeznik was told by First Assistant County Prosecutor Carmen Marino that Mr. Marino did not intend to indict) that the IPKA required an underlying state law indictment. Other than that, your office's "talks" with us have been limited to our weekly inquiries as to when, if ever, your office was going to take action on this matter.

[3]The Cleveland USAO also ignores the deterrent effect, referenced in the IPKA's legislative history, that Congress believed such indictments would have in the future. As your letter notes, this case has generated considerable attention, in the media and otherwise, and an indictment of Chen would send a loud and clear message to potential abductors, just in the manner Congress intended.

appointed merely to enforce them.[4] To the extent your letter can be read to suggest that the "United States Attorney's Manual" gives your office the authority to override the Congress, we can only assume that suggestion to be unintentional.[5]

You then go on to note that "the state has plainly indicated that it will not enforce" the order terminating Chen's parental rights and granting permanent custody of Rhonda to Ms. Hong, and that this, in turn, "raises a serious question regarding federal enforcement." Who, may we ask, is the "state" to which you refer? Apparently, it is the position of the Cleveland USAO that the Cuyahoga County Court of Common Pleas, which terminated Chen's parental rights and awarded permanent custody to Ms. Hong, is not "the state"; nor is the Ohio State Legislature, which enacted the laws by which Chen's parental rights were terminated and legal custody of Rhonda was awarded to Ms. Hong; nor is the Ohio Court of Appeals, which issued a writ of habeas corpus directing Chen to bring Rhonda home; nor is the Supreme Court of Ohio, which declined to vacate the writ of habeas corpus directing Chen to bring Rhonda home; nor is the Cuyahoga County Board of Commissioners, the government entity charged with oversight of CCDCFS, which has publicly expressed support for the efforts to bring Rhonda home; nor are Senators DeWine and Glenn, who, along with more than one-third of the U.S. Senate, have, in a number of ways, manifested their support for bringing Rhonda home.

Instead, "the state," as far as you appear to be concerned, consists of one misguided individual in the Cuyahoga County Prosecutor's Office who the Cleveland Plain Dealer has labeled a "Chen proponent," who has publicly stated that he will not

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[4]By the way, you characterize what we are trying to do as improperly "facilitating enforcement of a civil court order." But where do "civil court orders" end and parental rights begin? The Cleveland USAO, apparently, would decline to indict when an adopted child is abducted by a birth parent whose parental rights had been either terminated or forfeited long ago. After all, by your logic, an adoption decree is a "civil court order" which cannot be appropriately enforced with a criminal indictment.

[5]Apparently, your contemporary in Vermont – Charles R. Tetzlaff, U.S. Attorney for the District of Vermont – disagrees with you, as well. On October 31, 1997, his office issued a felony warrant under the IPKA for the arrest of one Michael Zazhos. Zazhos had (less than three weeks earlier) abducted his three small children on a visitation (he did not have custody of the children) and took them from their home in Vermont to Egypt. The Zazhos situation manifests the same traits which you apparently deem a barrier to indictment under the IPKA: Egypt, like China, is not a signatory to the Hague Convention; Egypt, like China, is not a signatory to any extradition treaties with the U.S. mandating the return to the U.S. of those who have abducted American children; and finally, the custodial parent in the Zazhos situation is seeking to enforce a "civil court order" granting her full custody of the children. Yet, the U.S. Attorney's Office in Vermont, far from declining to issue a warrant under these circumstances, appropriately recognized that these were the precise circumstances which the IPKA was drafted to address, and promptly exited the issuance of a warrant for the abductor's arrest.

enforce Ohio's laws in this case, who has publicly condoned the abduction of children from the child welfare system, and who caused the quashing of a City of Cleveland felony kidnapping warrant for Chen's arrest that had been issued upon a showing of probable cause by the Cleveland Police Department. It is troubling that, notwithstanding all of the "state" entities that have spoken out in favor of bringing Rhonda home in accordance with the laws of the "state," you take your cue from the one public official who has, in this matter, consistently maintained a position contrary to law.

The remainder of your letter is clearly geared towards convincing someone other than us – perhaps your superiors at the Justice Department – that the equities in this case support the Cleveland USAO's decision not to prosecute.[6] In the interests of fairness, perhaps you could also have shared with your extended audience the fact that the "evidence" you recite in your letter – i.e., the staged welfare visit, and the representations of Chen's father (as reported to you by CCDCFS and countered, in many instances, by the seventy-two year old man's own affidavits) as to his purported willingness and ability to care for the child – was heard by Judge Patrick F. Corrigan of the Cuyahoga County Court of Common Pleas, and rejected outright. In the interests of fairness, you could have cited the evidence – which was, in the Judge's words, "clear and convincing" – that led the Judge to find that Rhonda is not in a suitable environment, that Chen is incapable of parenting, and that neither Chen nor her father (who kicked Chen and Rhonda out of his apartment on two occasions, documented in the court files, because he "could not handle" Chen's psychotic behavior) is capable of providing a suitable, stable home for Rhonda.

You also take us to task for having informed you that, as CCDCFS and its attorney, the aforementioned Cuyahoga County Prosecutor, no longer had any legal rights at all with respect to Rhonda, your office should no longer be accepting guidance and direction from either of them with respect to your office's decision to seek or not seek an indictment on Rhonda's behalf. You appear to suggest this was an inappropriate request on our part. Yet, the remainder of your letter only underscores the advisability of our request. Indeed, from your letter, it is clear that, nearly half a year after CCDCFS's involvement in this case was terminated by court order, and all its custodial rights with respect to Rhonda terminated as well, you have declined to indict based at least in part on (1) the fact CCDCFS "finds this resolution [i.e., Chen's continued unlawful retention of Rhonda in the P.R.C.] acceptable," and (2) the fact that CCDCFS's attorney, the Cuyahoga County Prosecutor, is "of the opinion that

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[6]We note that the Cleveland USAO has ignored Section 9-27.230 of the "United States Attorney's Manual," which instructs the office to consider as a matter of primary importance the actual or potential impact of the offense on Rhonda and Ms. Hong.

Chen committed no crime by taking her child to her parents' home in China."[4] Your reliance on these entities is all the more disturbing in light of the fact that your office has known since December 16, 1996 that these entities were under court order to make all efforts to effectuate Rhonda's return home.[5]

Along these same lines, your repeated references in the letter to Rhonda as Chen's "own child" and "her child" are deeply disturbing. Under Ohio law – and you acknowledge that "[m]atters of family law are historically the province of state and local governments" – Chen has no parental rights whatsoever to Rhonda, and Rhonda is not "her child." Thus, under Ohio law, the accident of birth should no more subject Rhonda to abduction by a birth parent than it would any of the tens of thousands of adopted children in this State. Your refusal to accept this is, in essence, a refusal to recognize the authority of Ohio's legislature to legislate, and its courts to adjudicate, that those who repeatedly manifest a lack of fitness to parent will forfeit their parental rights.

Finally, Rhonda is not a "dual citizen of the PRC and the United States," as you suggest. Under Chinese law, because Rhonda was born in the U.S. to a U.S. Permanent Resident, Rhonda, notwithstanding Chen's Chinese nationality, is barred from obtaining Chinese citizenship. We would have shared this information with you, but rather than asking us, you again appear to have relied on the very "evidence" the

[4]Your statement that Chen and Rhonda are residing with Chen's parents is erroneous. As the court records indicate, Chen's mother is deceased, and Chen's father and his second wife are estranged and live apart from one another.

[5]In your letter, you also state that CCDCFS had the "parental rights" to Rhonda at the time of the abduction, apparently to suggest that CCDCFS, and CCDCFS alone, had the right to prosecute on Rhonda's behalf. The IPKA, however, focuses by its terms on "physical custody" of the child, and Rhonda was, by order of the juvenile court, physically placed in Ms. Hong's home. Incredibly, you are now adopting the very same position regarding Rhonda's physical custody that CCDCFS took in the habeas action – a position the Court of Appeals flatly rejected. As you know, the Ohio Court of Appeals found in the habeas action that physical custody of Rhonda was vested in Ms. Hong, and that, under Ohio law, Ms. Hong was an appropriate entity to seek her return. The Ohio Supreme Court refused to vacate the Court of Appeals' decision to that effect.

In any event, the IPKA makes it a crime to "remov[e] a child" and to "retain[] a child" outside the U.S. See 18 U.S.C. §1204 (a). Assuming arguendo Ms. Hong was not wronged by the removal of Rhonda by Chen, she clearly is wronged by Chen's continued unlawful retention of Rhonda.

Finally, you ignore the fact that Rhonda, too, is a victim here, with her own right to have the laws enforced on her behalf, and that Ms. Hong, as legal custodian of Rhonda, has the legal right to seek enforcement of the laws on Rhonda's behalf.

juvenile court found completely unpersuasive – i.e., the unsworn representations made to the State Department by one of Chen's proponents in China.[6]

You are right, Ms. Sweeney, that there are no guarantees that an indictment of Chen under the IPKA will bring Rhonda home. But Congress made a determination – with which President Clinton agreed[7] – that an indictment under the IPKA is an appropriate and useful tool in the efforts to bring internationally abducted American children home. And while you may play word games with what Mr. Schuler of the State Department told your office, we note that you did not deny in your letter that he did inform your office of the State Department's opinion that an indictment of Chen would be helpful in the effort to bring Rhonda home. Whether you acknowledge it or not, the Cleveland USAO has knowingly erected a barrier to the return home of Rhonda, a young American citizen, by its refusal to enforce the laws of Ohio and the United States on her behalf, and has done the child a grave injustice.

Sincerely,

Laura Kingsley Hong
Thomas G. Kovach

[6]The laws of the People's Republic of China are available on LEXIS, a legal computer database to which your office presumably has access.

[7]In his December 2, 1993 Statement upon signing the IPKA, President Clinton made clear that, while the civil remedies of the Hague Convention should be utilized where available, where they are not available (as here), a criminal indictment under the IPKA is appropriate.

U.S. Department of Justice

United States Attorney
Northern District of Ohio

1860 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600

October 23, 1997

Ms. Laura Hong
2677 East Overlook Road
Cleveland Heights, Ohio 44106

Dear Ms. Hong:

Inquiries and correspondence from you, and others on your behalf, have communicated your interest in this office pursuing federal charges against an individual, Sue Ping Chen, a citizen of the People's Republic of China ("PRC"), for the alleged abduction of her own child, Rhonda Lan Zhang, a dual citizen of the PRC and the United States, from Cleveland, Ohio, to China. It appears that you believe that the issuance of an indictment and warrant will help facilitate the return of the child to the United States. For the reasons that follow, this office does not believe that the prosecution of Sue Ping Chen would comport with the Principles of Federal Prosecution as set out in the United States Attorneys' Manual.

The threshold determination to commence or decline prosecution is a finding that there is probable cause to believe that a person has committed a federal offense within the jurisdiction and that admissible evidence probably will be sufficient to obtain and sustain a conviction. United States Attorneys' Manual, Section 9-27.220. Moreover, both as a matter of fundamental fairness and in the interest of the efficient administration of justice, no prosecution should be initiated against any person unless the government believes that the person probably will be found guilty by an unbiased trier of fact. Based upon the facts in this matter, this office is not satisfied that an unbiased trier of fact will find Sue Ping Chen guilty. Furthermore, seeking an indictment against an individual in order to facilitate enforcement of a civil court order is not a proper use of the grand jury.

There is no reason to believe that an indictment of Sue Ping Chen would effect either her return or the return of the child. Both the Department of State and the Office of International Affairs, Criminal Division, Department of Justice, have advised this office that the United States does not have an extradition treaty with the PRC. Consequently, there is no means for the United States to obtain jurisdiction over Sue Ping Chen. Further, deportation of Sue Ping Chen as an alternative to extradition is not a possibility, because the PRC has not deported its own nationals in the past. Given this legal structure, a federal indictment and warrant would not be able to secure the return of Sue Ping Chen to the United States for prosecution.

It also is clear that a state prosecution of Sue Ping Chen is not contemplated. At the time Chen took the child from the United States to China, the "parental rights" or right to physical custody of the child, Rhonda Lan Zhang, rested with the Cuyahoga County Department of Children and Family Services and with Chen. The Cuyahoga County Department of Children and Family Services has chosen not to seek Chen's prosecution and, in fact, moved the juvenile court to vest custody of the child in Chen. The Cuyahoga County Prosecutor's Office also has stated that it will not institute charges or grand jury proceedings against Chen, being of the opinion that Chen committed no crime by taking her child to her parents' home in China. Matters of family law are historically the province of state and local governments. The state's resolution of the case in this fashion raises a serious question regarding federal enforcement of a state court order that the state has plainly indicated that it will not enforce.

We are advised that the decisions of the Department of Children and Family Services not to pursue charges and to seek vesting of the child's custody with Chen were based in part upon the results of a "welfare and whereabouts" check upon the child conducted within the last few months by United States authorities in China at the behest of the Cuyahoga County authorities. Specifically, the Department of State, Consular Affairs Section, Office of Children's' Issues, has advised that a representative of the United States Consulate in Guangzhou, China, met with Sue Ping Chen, the child, Chen's father and other members of Chen's family, and reported that the child appeared healthy and cared for.[1] Further, we understand that Chen's father has advised the Department of Children and Family Services that he and his wife are able and happy to provide care for Chen and the child. Because the placement of the child with extended family would be the preferable option under Ohio family law, the Office of Children and Family Services apparently finds this resolution acceptable.

As to the possibility of the return of the child, the processes of prosecution and extradition address offenders; other vehicles facilitate the location and return of abducted children. The Office of Children's Issues at the Department of State advises that the PRC is not a party to the

[1]Your letter of August 18, 1997, states that the Juvenile Court judge "found by clear and convincing evidence" that Sue Ping Chen "is a danger to the child." Review of the judge's order of June 26, 1997 does not reveal such a finding; nor does the word "danger" appear in the order. The order makes no findings about the present circumstances of the child. If you have present information that Rhonda is in danger, I would strongly encourage you to request another "welfare and whereabouts" check.

Hague Convention on the Civil Aspects of Child Abduction, the primary vehicle for the return of an abducted child.[1] Further advice as to the possibility of the return of the child can be obtained from the Office of Children's Issues.

The Office of International Affairs, Criminal Division, Department of Justice, has been consulted in this matter and concurs with the above analysis.

Your letter of August 18, 1997, and prior correspondence to this office, contain a number of derogatory references to me, my attorneys, and my office's consideration of this matter, which you have sent not only to this office but also copied to myriad congressmen, senators, and Department of Justice personnel. You assert that one of the Assistant U.S. Attorneys reviewing this matter considered it "an annoyance," and imply that his review was somehow colored because you believe he is "a personal friend of the County Prosecutor" who has declined to seek an indictment at the state level. You state that I have "dragged out this process," that my "'deliberations' are a smokescreen," and that I am declining to give you a decision because I hope "the whole thing -- including undesirable congressional attention ... -- will 'blow over.'" In a letter written to Attorney General Janet Reno on your behalf by Attorney Casey Cooper, he states that you and Mr. Kovach "have very strong feelings regarding what [you] view as improper motivations behind the Cleveland's USAO's delay in prosecuting this matter," but, after raising this accusatory inference, Mr. Cooper leaves the charge hanging without explanation. Letters written to the Attorney General and others on your behalf also have implied that this office's actions are somehow improperly "race-based."

You further state that "no one from [my] office has even bothered to question [you and Mr. Kovach]," in spite of the fact that AUSA Arbeznik met personally with Mr. Kovach and talked with both of you. My Assistants and I also have carefully reviewed the approximately 50 pages of Factual Background and attachments you submitted to this office. It appears that you would have this office examine this matter with no information other than that which we can obtain from you, as your letter to AUSA Arbeznik of June 27, 1997, requests that he "cease all communications with the Cuyahoga County Department of Children and Family Services and its attorneys (including, without limitation, the Cuyahoga County Prosecutor's Office and Carmen Marino) concerning this matter" and that you "would view any communications between [AUSA Arbeznik] and that agency concerning this matter to be an invasion of Rhonda's and [your] own privacy."

In spite of the difficulty of thoroughly assessing this matter in this atmosphere, I felt that my complete review of available information from all sources was necessary, and I did so. I assure you that this office recognized the importance and complexity of this matter and that it was not treated lightly by any member of this office.

Very truly yours,

Emily M. Sweeney
United States Attorney

EMS:jas

[1] In your letter to me of August 18, 1997, you state that "Jim Schuler, Acting Director of the State Department's Office of Children's Issues, Bureau of Consular Affairs, informed [my] office that an indictment from [my] office is critical to the success of [your] efforts to bring Mei Mei home (emphasis added)." Mr. Schuler at no time made any such statement to anyone in my office; nor did anyone at the State Department ever "put [me] on notice" or in any way indicate that Rhonda would not be returned to the United States unless this office seeks an indictment of Sue Ping Chen. Even if an indictment would be of some assistance in returning Rhonda to the United States, the fact remains that an indictment of Sue Ping Chen for that purpose would be an abuse of the Federal Grand Jury process.

UNCLASSIFIED

ACTION

Department of State

INCOMING TELEGRAM

RECEIVED
P. MINK DC OFFICE
96 NOV 13 AM 11:03

PAGE 01 BEIJIN 42666 130601Z
ACTION H-01

INFO LOG-00 EABY-00 EAP-00 UTED-00 H-01 TEDE-00 L-00
ADS-00 SCS-01 VO-03 /010W
------------------PACFIC 130945Z /38

R 130601Z NOV 96
FM AMEMBASSY BEIJING
TO SECSTATE WASHDC 6761
INFO AMCONSUL GUANGZHOU

UNCLAS BEIJING 042666

H PASS

E.O. 12958: N/A
TAGS: CASC, CVIS, CH
SUBJ: CHILD ABDUCTION CASE: ZHANG, RHONDA LAM

REF: LETTER FROM CONGRESSWOMAN PATSY T. MINK
DATED OCTOBER 21, 1996

TO: THE HONORABLE PATSY T. MINK
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-1102

DEAR CONGRESSWOMAN MINK:

THANK YOU FOR YOUR OCTOBER 21 LETTER TO THE CONSUL GENERAL REGARDING THE CASE OF THREE-YEAR-OLD RHONDA LAM ZHANG. WE UNDERSTAND THE FRUSTRATION YOUR CONSTITUENTS, AS RHONDA'S FOSTER PARENTS, MUST FEEL REGARDING THE CHILD'S CONTINUED PRESENCE IN CHINA WITH HER BIOLOGICAL MOTHER.

WE HAVE CONSULTED WITH OFFICIALS OF THE AMERICAN CONSULATES IN GUANGZHOU AND HONG KONG AS WELL AS THE DEPARTMENT OF STATE'S OFFICE OF CHILDREN'S ISSUES WHO HAVE BEEN WORKING ON THIS CASE SINCE ITS INCEPTION. ON OCTOBER 24, 1996 THE FEDERAL BUREAU OF INVESTIGATION IN CLEVELAND, OHIO SENT A LETTER TO OUR CONSULATE IN HONG KONG ADVISING THAT ASSISTANT UNITED STATES ATTORNEY GARY D. ARBEZNIK HAD DECLINED TO PROSECUTE THIS MATTER. WITHOUT THE REQUISITE REQUEST FROM FBI CLEVELAND TO WORK THIS CASE, WE HAVE NO LEGAL AUTHORITY TO PURSUE THE MATTER IN CHINA.

FOR YOUR INFORMATION, ALL INQUIRIES PERTAINING TO THE FBI'S EFFORT OR POSITION ON THIS CASE SHOULD BE DIRECTED TO SPECIAL AGENT JOHN JACOBS OF THE CLEVELAND FBI OFFICE.

I AM SORRY THAT OUR RESPONSE COULD NOT BE MORE POSITIVE, BUT NEVERTHELESS HOPE THAT THIS INFORMATION IS HELPFUL TO YOUR CONSTITUENTS.

SINCERELY,

DAVID L. LYON
CONSUL GENERAL

AMERICAN EMBASSY
BEIJING, CHINA

SASSER

UNCLASSIFIED

UNCLASSIFIED

ACTION

Department of State

INCOMING TELEGRAM

P. MINK [illegible]
96 DEC 17 AM 3:30

PAGE 01 GUANGZ 10367 160831Z

INFO LOG-00 [illegible]
ADS-00 VO-03 /008W
------------------[illegible] 160846Z /38

R 160829Z DEC 96
FM AMCONSUL GUANGZHOU
TO SECSTATE WASHDC [illegible]

UNCLAS GUANGZHOU 010367

H PASS

E.O. 12958: N/A
TAGS: CVIS, CH, CASC, [illegible]
SUBJECT: CONGRESSIONAL CORRESPONDENCE

REF: SENATOR [illegible] DECEMBER [illegible] FAX

TO: THE HONORABLE PATSY T. MINK
2135 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1102

DEAR REPRESENTATIVE MINK:

OUR COLLEAGUES AT THE U.S. EMBASSY IN BEIJING RECENTLY FORWARDED TO US YOUR LETTER OF OCTOBER [illegible] IN WHICH YOU INQUIRED INTO THE CASE OF RHONDA LAM ZHANG, ALSO KNOWN AS [illegible]. YOU WROTE ON BEHALF OF MS. ZHANG'S FOSTER PARENTS, MS. LAURA [illegible] AND MR. THOMAS [illegible].

ON OCTOBER 5, 1996, DURING A COURT-ORDERED VISIT WITH HER DAUGHTER, [illegible] THE BIOLOGICAL MOTHER WHO IS A CHINESE CITIZEN AND A U.S. RESIDENT, LEFT CLEVELAND WITH RHONDA AND FLED TO CHINA, WHERE SHE IS CURRENTLY LIVING WITH FAMILY HERE IN GUANGZHOU. OUR AMERICAN CITIZENS SERVICES OFFICER, MS. SHELLEY [illegible], HAS BEEN IN TOUCH WITH RHONDA'S FOSTER PARENTS AND CUYAHOGA COUNTY OFFICIALS REGARDING THIS CASE.

RHONDA'S PARTICULAR CASE IS COMPLICATED BY THE FACT THAT SHE IS IN THE CUSTODY OF HER BIOLOGICAL MOTHER, AND BY THE FACT THAT CHINA IS NOT A SIGNATORY TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION. THE HAGUE CONVENTION, AN INTERNATIONAL TREATY RATIFIED BY THE UNITED STATES IN 1988, ADDRESSES THE PROBLEM OF INTERNATIONAL PARENTAL ABDUCTIONS. THE TREATY PROVIDES FOR THE PROMPT RETURN OF WRONGFULLY REMOVED OR RETAINED CHILDREN TO THE COUNTRY OF "HABITUAL RESIDENCE", BUT [illegible] CASES WHEN BOTH COUNTRIES ARE PARTY TO THE TREATY.

ALTHOUGH RHONDA HAD BEEN IN THE TEMPORARY CUSTODY OF THE CUYAHOGA COUNTY JUVENILE COURT IN CLEVELAND, OHIO, ONCE SHE WAS TAKEN ACROSS STATE LINES, THE LOCAL COURT NO LONGER HAD JURISDICTION AND THE FEDERAL BUREAU OF INVESTIGATION WAS NOTIFIED. ON OCTOBER 24, 1996 THE FBI IN CLEVELAND, OHIO SENT A LETTER TO THE LEGAL ATTACHE'S OFFICE OF OUR CONSULATE IN HONG KONG ADVISING THAT ASSISTANT UNITED STATES ATTORNEY GARY D. ARBEZNIK HAD DECLINED TO PROSECUTE THIS CASE. WITHOUT THE REQUISITE REQUEST FROM FBI CLEVELAND TO WORK THIS CASE, THE U.S. GOVERNMENT HAS NO LEGAL AUTHORITY TO PURSUE THIS MATTER IN CHINA. FOR YOUR INFORMATION, ALL INQUIRIES PERTAINING TO THE FBI'S EFFORT OR POSITION ON THIS CASE SHOULD BE DIRECTED TO SPECIAL AGENT JOHN JACOBS OF THE CLEVELAND FBI OFFICE.

PAGE 02 GUANGZ 10367 160831Z

ALTHOUGH WE HAVE NO LEGAL AUTHORITY TO RETURN THE CHILD TO THE UNITED STATES, WE HAVE NEVERTHELESS BEEN IN CONTACT WITH A COMPANY CALLED [illegible] WHICH RHONDA'S FOSTER PARENTS HAVE HIRED TO ASCERTAIN RHONDA'S SITUATION. [illegible] OFFICIALS HAVE BEEN TO GUANGZHOU, HAVE SEEN RHONDA, AND HAVE CONFIRMED THAT SHE APPEARS TO BE DOING WELL LIVING IN THE HOME OF HER MATERNAL GRANDFATHER. WE HAVE RECENTLY LEARNED THAT RHONDA'S MOTHER HAS OBTAINED A DOCTOR'S STATEMENT SAYING THAT SHE IS COMPETENT TO PARENT HER CHILD, AND [illegible] THIS DOCUMENT IN THE CHINESE COURT SYSTEM. SINCE CHINA IS NOT A PARTY TO THE HAGUE CONVENTION AND SINCE RHONDA IS WITH HER BIOLOGICAL MOTHER WHO IS A CHINESE CITIZEN, ANY CUSTODY CLAIMS ON THE PART OF THE FOSTER PARENTS WOULD HAVE TO BE FILED IN A CHINESE COURT OF LAW. RHONDA'S FOSTER PARENTS HAVE HIRED AN ATTORNEY IN GUANGZHOU WHO IS KNOWN TO OUR STAFF, AND WE WILL CONSULT WITH HIM TO MAP OUT THE BEST STRATEGY FOR RETURNING RHONDA TO THE U.S., IF THAT IS POSSIBLE.

WE ARE PREPARED TO PROVIDE RHONDA ZHANG WITH EVERY POSSIBLE APPROPRIATE ASSISTANCE, INCLUDING VISITS TO ASCERTAIN HER WELFARE, AND THE EMERGENCY ISSUANCE OF A U.S. PASSPORT SHOULD THE [illegible] [illegible].

I HOPE THIS INFORMATION WILL ASSIST YOU IN RESPONDING TO YOUR CONSTITUENTS.

SINCERELY,
STEVE P. [illegible]
ACTING PRINCIPAL OFFICER
U.S. CONSULATE G
ENERAL
GUANGZHOU, CHINA

[illegible]

The October 16, 1996 International Kidnapping of American Citizen Rhonda Mei Mei Lan Zhang

Sampling of recent requests to the President and National Security Council

(see http://ebni.com/meimei for more information)

MIKE DeWINE
OHIO
140 Russell Senate Office Building
(202) 224-2315
TDD: (202) 224-8321
senator_dewine@dewine.senate.gov

United States Senate

WASHINGTON, DC 20510-3503

May 28, 1998

COMMITTEES:
JUDICIARY
Chairman, Subcommittee on Antitrust
LABOR AND HUMAN RESOURCES
Chairman, Subcommittee on Employment and Training
INTELLIGENCE

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As you prepare for the upcoming summit in China with President Jiang Zemin, I would request that you review the case of Rhonda ("Mei Mei") Lan Zhang. Mei Mei, an American citizen, was kidnapped by her non-custodial birth mother, Sue Ping Chen, from Cleveland, Ohio and taken to the province of Guangzhou in the People's Republic of China in October 1996.

On its face, the kidnapping is a violation of the International Parental Kidnapping Act (the "IPKA"), legislation that you signed into law in 1993. As you know, this law makes it a crime for a non-custodial parent to remove a child from the United States with the intent to obstruct the lawful exercise of parental rights, which includes the right to physical custody. Laura Hong, Mei Mei's foster mother, has had the right to physical custody of Mei Mei since March 1995, a right that has continued uninterrupted through the date of the kidnapping and to the present date.

Moreover, I believe that it is important to consider the message that is being sent to all Chinese-Americans as a consequence of the U.S. government's continued unwillingness to request the return of Mei Mei to the United States. Specifically, how long does a person have to be a citizen of the United States in order to merit U.S. intervention into her kidnapping to a foreign country?

Prior to your meeting with President Jiang Zemin last October, I sent you a letter signed by twenty-one Senators urging you to request the Chinese leader to intervene in this case and send Mei Mei home to Cleveland. I understand that the letter was received too late to include Mei Mei in your discussions. I am enclosing a copy of that letter and renewing my request for your assistance in this case.

Thank you for your consideration of this very important matter.

Very respectfully yours,

Mike DeWine

MIKE DeWINE
United States Senator

RMD/kc
enclosure

STATE OFFICES:
105 East Fourth Street, Room 1518, Cincinnati, OH 45202, (513) 684-3265
Federal Building, 200 Superior Avenue East, Room 2450, Cleveland, OH 44114, (216) 522-7272
37 West Broad Street, Room 970, Columbus, OH 43215, (614) 469-6774
200 Putnam Street, Room 522, Marietta, OH 45750, (614) 373-3317
234 North Summit Street, Room 718, Toledo, OH 43604, (419) 259-7535
265 South Allison Avenue, Room 106, Xenia, OH 45385, (937) 376-2080

United States Senate

WASHINGTON, DC 20510

October 20, 1997

The Honorable William J. Clinton
The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing regarding the abduction to China of an American citizen, Rhonda ["Mei Mei"] Lan Zhang, and to request your assistance in returning her to the United States. We would respectfully request that you alert the President of the People's Republic of China, Jiang Zemin, to this situation when you meet with him later this month.

On October 15, 1996, Mei Mei was abducted by her non-custodial birth mother, Sue Ping Chen, from Cleveland, Ohio, and taken to the province of Guangzhou in the People's Republic of China. Mei Mei is an American citizen, born in Cleveland, who has lived in the former home of Laura Hong and Tom Kovach for over two years. Sue Ping Chen is a convicted felon who has been diagnosed as a chronic paranoid schizophrenic, a diagnosis that led the Cuyahoga County Court of Common Pleas to terminate the parental rights of Ms. Chen earlier this summer.

On June 26, 1997, Judge Corrigan of the Cuyahoga County Court of Common Pleas entered an order terminating the parental rights of Sue Ping Chen and granting legal custody of the child to Ms. Hong who is pursuing the adoption of Mei Mei. Judge Corrigan further ordered the issuance of a warrant for Sue Ping Chen's arrest for her failure to comply with the Court's previous order to return Mei Mei to the Court's jurisdiction.

The U.S. State Department has been involved in this case from the beginning and made a welfare visit to Mei Mei last May. We understand that the State Department is quite limited in the action that it can take to return Mei Mei to the United States. We also recognize the complications arising from the fact that China is not a signatory to the Hague Convention. In order to facilitate Mei Mei's return to the United States, the Chinese government must intervene to have this United States citizen returned to the U.S. and we would appreciate you bringing this to President Jiang Zemin's attention during the October summit.

Very respectfully yours,

ROD GRAMS
MINNESOTA

COMMITTEES:
BANKING, HOUSING, AND URBAN AFFAIRS
ENERGY AND NATURAL RESOURCES
FOREIGN RELATIONS
JOINT ECONOMIC
BUDGET

United States Senate

WASHINGTON, DC 20510-2304

WASHINGTON OFFICE:

MINNESOTA OFFICE:

June 15, 1998

Case #: 12119

Mr. Eric Schwartz
Senior Director - Democracy, Human Rights
National Security Council
The White House
Washington, DC 20504

Dear Mr. Schwartz:

Recently I was contacted by Laura Kinglsey Hong regarding the abduction of her daughter, RHONDA "MEI MEI" LAN ZHANG.

According to Ms. Hong, the Chinese birth mother fled this country with Mei Mei and is residing in China with her currently. Ms. Hong is requesting that the return of this child to her legal parents be put on the summit agenda for the President's upcoming trip to China. There are several Minnesota constituents interested in this matter and hopeful of a positive resolution.

Should you require more information, please don't hesitate to contact my office. You may direct any inquiries to Anne Crowther in my Washington office at 202-224-4055.

Any assistance your office can provide will be greatly appreciated.

Sincerely,

Rod Grams
United States Senator

RG:acc

PATSY T. MINK
SECOND DISTRICT, HAWAII

WASHINGTON OFFICE:

DISTRICT OFFICE:

Congress of the United States

House of Representatives

Washington, DC 20515-1102

COMMITTEE ON THE BUDGET
COMMITTEE ON EDUCATION AND THE WORKFORCE
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
RESOURCES
DEMOCRATIC CAUCUS EDUCATION AGENDA TASK FORCE, Co-Chair
CONGRESSIONAL ASIAN PACIFIC CAUCUS, Chair

June 19, 1998

THE HONORABLE SAMUEL R. BERGER
ASSISTANT TO THE PRESIDENT
NATIONAL SECURITY COUNCIL
WEST WING
THE WHITE HOUSE
WASHINGTON DC 20500

Dear Mr. Berger:

Please find enclosed a memorandum concerning the abduction to China of U.S. citizen Rhonda "Mei Mei" Lan Zhang, and to request your assistance in returning her to the United States.

On October 15, 1996, Mei Mei was abducted by her non-custodial birth mother, Sue Ping Chen, from Cleveland to the province of Guangzhou in the People's Republic of China. Born in Cleveland, Mei Mei lived for more than two years in the foster home of Laura Hong and Tom Kovach. Ms. Chen is a convicted felon, diagnosed with paranoid schizophrenia, whose parental rights were terminated in mid-1997.

Because the PRC is not a signatory to the Hague Convention, the State Department has limited ability to return Mei Mei to the custody of her foster family.

For this reason, I would respectfully request that this issue be included on the agenda during the upcoming U.S.-China summit. I understand that your Office of Democracy, Human Rights and Humanitarian Affairs has heard requests from others for Mei Mei's case to be included on the agenda during the President's upcoming U.S.-China summit. I support this move and hope that it can be arranged.

Very truly yours,

PATSY T. MINK
Member of Congress

BERNARD SANDERS

COMMITTEE ON BANKING AND FINANCIAL SERVICES

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Congress of the United States

House of Representatives

Washington, DC 20515–1501

PLEASE REPLY TO VERMONT DISTRICT OFFICE

June 10, 1998

Mr. Eric Schwartz
Special Assistant to the President and Senior Director
Office of Democracy, Human Rights and Humanitarian Affairs
National Security Council
Old Executive Office Building, Room 365
Washington, D.C. 20504

Re: Rhonda (Mei Mei) Lan Zhang (a.k.a Chen)

Dear Mr. Schwartz:

I write to you today concerning Rhonda (Mei Mei) Lan Zhang, and to request that President Clinton utilize his upcoming visit to China to facilitate Mei Mei's return to the United States.

In October 1996, Mei Mei, who is citizen of the United States, was abducted by her birth mother, Sue Ping Chen, and taken to GuangZhou in the People's Republic of China. Despite the efforts of Members of Congress, the State Department, and most of all, Mei Mei's custodial parents, and while the actions of Sue Ping Chen appear to be a clear violation of the International Parental Kidnapping Act (which addresses abductions by non-custodial birth parents to countries that are not co-signatories to the Hague Convention on the Civil Aspects of International Child Abduction), this four year old girl still remains in China.

It is my understanding that Laura Hong and Tom Kovach, Mei Mei's custodial parents, have requested that your office place Mei Mei's return on the China summit agenda. I write to you today to support that request. Please do whatever is in your power to see that the Chinese authorities are petitioned to facilitate Mei Mei's return to the United States.

Given the interest this case has generated in my District, I also respectfully request that you keep my Vermont District Office apprised of your disposition in this matter.

Thank you in advance for your consideration of this matter.

Sincerely yours,

Bernard Sanders
Member of Congress

cc: President William J. Clinton, c/o Chris Escoff

SLADE GORTON

United States Senate

WASHINGTON, DC 20510–4701

June 15, 1998

President William J. Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

I am writing in regards to the abduction of an American Citizen, Rhonda ("Mei Mei") Lan Zhong, who was taken to Guangzhou China by her non-custodial birth mother, Sue Ping Chen.

Mei Mei is a natural born citizen of the United States who was the under the custody of her foster parents prior to the abduction. Further, on June 26 of 1997, the Cuyahoga County Court of Common Pleas granted the permanent and legal custody of Mei Mei to Ms. Hong, making Ms. Hong the lawful mother of Mei Mei. Mei Mei's citizenship to this country, and the fact that the Court has granted legal custody to Ms. Hong, make the abduction of Mei Mei an encroachment of the United States' sovereignty which requires action from the Federal Government.

In 1993, you President Clinton, have signed into law the International Parental Kidnaping Act, which if applied to this case, would compel the return of Mei Mei by the law enforcement agency in China. As you well know, a law is only letters on paper if the community it applies to is not compelled to enforce it. In accordance to the privilege granted to you by the Constitution of the United States, to represent the interest of this nation before other countries, please do review this case which is of great import to the people of this nation.

Please continue encourage efforts made by the State Department to bring Mei Mei home. I would also implore you to bring up this matter to President Jiang Zemin's attention on your visit to China.

Sincerely,

SLADE GORTON
United States Senator

SG:zte
cc: Mr. Eric Schwartz

The October 16, 1996 International Kidnapping of American Citizen Rhonda Mei Mei Lan Zhang

Sampling of requests to the Department of Justice and Cleveland U.S. Attorneys' Office and sampling of form letter responses to those requests

(see http://ebni.com/meimei for more information)

U. S. Department of Justice

Civil Rights Division

IKP:DCR:fmm
DJ 144-57-0

Washington, D.C. 20530

November 07, 1997

Ms. Laura K. Hong
2677 East Overlook Road
Cleveland Heights, Ohio 44106

Dear Ms. Hong:

This is in reply to your correspondence to the Department. We apologize for the delay of this response.

The matter you mentioned in your letter is one within the jurisdiction of the courts or the state. This Department has no authority to take any action in this matter.

Sincerely,

Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division

By: Diane C. Roberts

Diane C. Roberts
Civil Rights Division

BRING MEI MEI HOME

August 18, 1997

VIA TELEFACSIMILE (216-522-7545)
United States Attorney Emily Sweeney
Department of Justice
1800 Bank One Center
600 Superior Avenue East
Cleveland, OH 44114

RE: The International Abduction of American Citizen Rhonda Lan Zhang

Dear Ms. Sweeney:

On October 15, 1996, Rhonda Lan Zhang ("Mei Mei"), a three-year old U.S. citizen resident in the Northern District of Ohio, was abducted by her non-custodial birth mother and taken to the People's Republic of China.

On June 26, 1996, I was awarded legal custody of Mei Mei. That day, as Mei Mei's legal custodian, I formally requested in writing that an indictment against Sue Ping Chen issue with respect to Mei Mei's abduction. I further understand that, shortly thereafter, Jim Schuler, Acting Director of the State Department's Office of Children's Issues, Bureau of Consular Affairs, informed your office that an indictment from your office is critical to the success of our efforts to bring Mei Mei home.

It now has been nearly two months, and an indictment has not issued. On July 9, 1997, Assistant U.S. Attorney Gary Arbeznik advised me that a decision would be made in "a couple of days". At around the same time, we understood he informed Mr. Schuler of the State Department that the decision was "imminent". Shortly thereafter, he advised us that you personally were handling this matter.

Since that time, (for the past six weeks) we have been directing our phone inquiries (sometimes weekly, sometimes twice a week) to you.[1] You have not personally responded, but your First Assistant, Mr. Edwards, has returned our calls. Invariably he tells us that you are "looking into the matter," but, invariably, he tells us that he could not even hazard to guess what you intend to do, or when you intend to do it. Today, when reminded that Mr. Arbeznik had assured us the decision would be made six weeks ago, Mr. Edwards stated that, "Obviously, he was mistaken."

[1] E.g., 7/16/97; 7/18/97; 7/24/97; 8/7/97; 8/14/97; 8/18/97.

Laura Hong & Tom Kovach
2877 East Overlook Road • Cleveland Heights, Ohio 44106 • Home: 216.932.5934 • Fax: 216.397.9596
[illegible] • Hong Pager: 216.506.7267 • Kovach Pager: 216.506.7528

We have attempted to be as patient as we could be under the circumstances of knowing that Mei Mei is in China with a woman who the Administrative Judge of the Juvenile Court has found by clear and convincing evidence is a danger to Mei Mei. But frankly, you have dragged out this process so long that it is no longer plausible that you are still "looking into it"; the statute is not, after all, a complicated one, nor are the facts of this particular abduction. Indeed, though we know more about the circumstances of the abduction and this matter generally than anyone else, no one from your office has even bothered to question us. We can only conclude that your "deliberations" are a smokescreen and that you have decided not to indict, but are declining to inform us of the fact in the hopes that this whole thing – including the undesirable congressional attention that has been directed at your office's activities – will "blow over."

Ms. Sweeney, you and your office have been put on notice that the courts of Ohio have ordered that Mei Mei be brought home. In addition, the State Department has put you on notice that, in all likelihood, Mei Mei will not be brought home unless you act and cause an indictment of Sue Ping Chen to issue. Your underlings have informed us that you have assumed sole responsibility for this matter. Please advise as to when you are going to cause the indictment to issue or, if you have decided not to seek an indictment, please follow the law with respect to victim's rights and inform us of your decision. Further delay is simply unacceptable.

Very truly yours,

Laura Kingsley Hong
Thomas G. Kovach

cc: Senator Mike DeWine
Senator John Glenn
Senator Craig Thomas
Senator Wayne Allard
Senator Patrick Leahy
The Senate Judiciary Committee
Senator Orrin G. Hatch
Senator Strom Thurmond
Senator Charles E. Grassley
Senator Arlen Specter
Senator Fred Thompson
Senator Jon Kyl
Senator John Ashcroft
Senator Jeff Sessions
Senator Edward M. Kennedy
Senator Joseph R. Biden
Senator Herbert H. Kohl
Senator Dianne Feinstein
Senator Russell Feingold
Senator Robert Toricelli
Senator Richard Durbin
Congressman Dennis J. Kucinich

BRING MEI MEI HOME

July 10, 1997

VIA HAND DELIVERY
Gary D. Arbeznik, Esq.
Assistant United States Attorney
Office of United States Attorney
1300 Bank One Center
600 Superior Avenue East
Cleveland, OH 44114-2600

RE: The International Abduction of Rhonda ("Mei Mei") Lan Zhang

Dear Mr. Arbeznik:

Yesterday, you informed me that U.S. Attorney Sweeney would be making a decision within the next couple days as to whether to seek an indictment of Sue Ping Chen for her abduction of Mei Mei. As Mei Mei's legal custodian, I write again to indicate my willingness to meet at any time, night or day, to discuss the matter with your office and complete any paperwork that may be required.

In addition, I write to share with you certain provisions of the law of the People's Republic of China which may shed some light on why an indictment from your office is so critical in bringing about Mei Mei's return. I understand that Jim Schuler of the State Department already has informed you that an indictment will make it more likely that U.S. diplomatic efforts will succeed in bringing Mei Mei home. In addition, an indictment will be critical should we be forced to work through the criminal system of the People's Republic of China. Article 184 of China Law No. 39 states:

> Whoever abducts a boy or girl, thereby cutting the child off from his family or guardian, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention.

Criminal Law of the People's Republic of China (Adopted at the Second Session of the Fifth National People's Congress on July 1, 1979, promulgated by Order No. 5 of the Chairman of the Standing Committee of the National People's Congress on July 6, 1979, and effective as of January 1, 1980). China Law No. 39, Article 184.

Laura Hong & Tom Kovach
2677 East Overlook Road • Cleveland Heights, Ohio 44106 • Home: 216.932.5934 • Fax: 216.397.8525
Hong Work: 216.479.8554 • Kovach Work: 216.479.8774 • Hong Pager: 216.506.7267 • Kovach Pager: 216.506.7528

Article 5 of China Law No. 39 renders the foregoing law "applicable to any citizen of the People's Republic of China who commits a crime outside the territory of the People's Republic of China." (Id., Article 5.) However, the Article goes on to note that "this does not apply to a crime that is not punishable according to the law of the place where it was committed." (Id.; emphasis added.)

Sue Ping Chen has consistently argued to the Chinese authorities that she has not committed a crime punishable according to the laws of the United States. She has been able to do that because the U.S. Attorney in Cleveland and the United States Department of Justice have not sought to indict her. While, in the abstract, one can argue that Ms. Chen is "punishable" under the International Parental Kidnaping Act notwithstanding the absence of an indictment under that law, in reality, it will be extremely difficult to convince the Chinese authorities of this. We believe -- and, based on our discussions with Mr. Schuler, it appears he is in accord -- that the lack of an indictment will lend to the Chinese authorities a strong message of indifference on the part of U.S. law enforcement officials (and hence, the U.S. government) that will be difficult to overcome.

Of course, it is our hope that we will not have to argue Chinese criminal law to bring Mei Mei home; it is our hope that an indictment will give the State Department all the ammunition it needs to convince the Chinese government to honor Judge Corrigan's June 26, 1997 Order. We write, however, to underscore the fact that, whatever channels ultimately must be gone through, an indictment obtained by your office continues to be a critical factor in bringing Mei Mei home.

Thank you in advance for your assistance in this matter.

Cordially yours,

Laura Kingsley Hong

cc: Emily M. Sweeney, United States Attorney
William J. Edwards, First Ass't United States Attorney
J. Matthew Cain, Chief, Criminal Division
James Schuler, Deputy Director, Bureau of Consular Affairs, Office of Children's Issues

BRING MEI MEI HOME

July 2, 1997

VIA HAND DELIVERY
Gary D. Arbeznik, Esq.
Assistant United States Attorney
Office of United Sates Attorney
1800 Bank One Center
600 Superior Avenue East
Cleveland, OH 44114-2600

RE: The International Abduction of Rhonda Lan Zhang

Dear Mr. Arbeznik:

Following up on my June 27, 1997 letter which was hand delivered that day to you, U.S. Attorney Emily Sweeney, First Assistant Bill Edwards and Criminal Division Chief Matt Cain, I called you this morning to inquire what steps had been taken to pursue an indictment of Sue Ping Chen for the abduction of my child, Rhonda Lan Zhang. This letter memorializes that discussion.

You informed me that nothing had occurred in furtherance of an indictment because Emily Sweeney was on vacation, had been all week, and would continue to be on vacation through the end of next week. You informed me that in a "case of this magnitude you have to run things by the boss." I asked if U.S. Attorney Sweeney is reachable, and you replied that you thought she was "out-of-state."

I then asked if there was someone else in charge in U.S. Attorney Sweeney's absence, such as First Assistant Edwards. You told me that you had attempted to call Mr. Edwards earlier today on another matter, but that he was not available. You also informed me that you were very busy working on an important appeal.

As I understood our discussion, you were going to call Mr. Edwards today to discuss the matter of an indictment of Sue Ping Chen with him. You gave no indication as to whether you yourself were inclined to pursue such an indictment.

I later talked to John Jacobs of the FBI in Cleveland, the special agent who I understand is responsible for this matter. He informed me that James Wong of the FBI in

Laura Hong & Tom Kovach
2577 East Overlook Road • Cleveland Heights, Ohio 44106 • Home: 216.932.6934 • Fax: 216.397.9596
[illegible] • Kovach Work: 216.479.3711 • Hong Pager: 216.506.7267 • Kovach Pager: 216.506.7521

Hong Kong had called him regarding whether or not Mr. Wong now had Cleveland FBI's "blessing" to pursue this matter. Mr. Jacobs informed me that this prompted him to call you on Monday to ask whether the FBI was authorized to move forward (he is under the impression that, until you formally state a willingness to reverse your earlier decision not to prosecute, the FBI has no authority to proceed). Mr. Jacobs told me that he had yet to hear back from you in response to his Monday phone call.

Mr. Arbeznik, I am aware that you consider Mei Mei's case an annoyance, that you have your personal opinions on this matter, and that you are a friend of the County Prosecutor who has publicly manifested his opposition to bringing Mei Mei home. Nonetheless, I would hope that you would appreciate my position. You have been telling congressional leaders that the "investigation" of this matter has been on-going for eight months. Now, you inform me that two more weeks will be required before any action is even considered. With all due respect, how complicated can it be, and how much "investigation" can be required? I am the legal custodian of Mei Mei. Sue Ping Chen has no custodial rights to Mei Mei, and she has kidnapped her; it is as simple as that. Mei Mei, just like any other U.S. citizen, has the right to have the laws of this country enforced on her behalf. And she should not have to wait another day (or the duration of anyone's vacation) to have those rights enforced on her behalf.

On the other hand, if you believe that, for some reason, Mei Mei is not entitled to equal protection under our laws, and if you intend to continue to decline to indict on her behalf, I request that you let me know promptly -- and, preferably, in writing -- without the charade of another months-long "investigation." To the ultimate detriment of Mei Mei, other departments and entities have in the past awaited your action prior to acting themselves to help the child. If you now intend to do nothing, then at least endeavor to uphold that portion of the law requiring that I be informed of your decision.

I look forward to hearing from you.

Cordially yours,

Laura Kingsley Hong

cc: Emily M. Sweeney, United States Attorney
William J. Edwards, First Ass't United States Attorney
J. Matthew Cain, Chief, Criminal Division

(additional cc's not shown)

U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

Legal Liaison Office
26 Garden Road
Hong Kong
June 29, 1997

FAX TO: **Ms Laura K. Hong (216 479-8780)**

FAX FROM: James M. Wong
Phone: (852) 2841-2356
Fax: (852) 2522-6843

Re: **Rhonda Chen**

Total Number of Page(s), including this page (1)

Dear Ms Hong,

Thank you for your faxed letter of June 27, 1997. I have forwarded all pages to FBI Cleveland to the attention of Supervisory Special Agent Johnnie Jacob.

You need to discuss this matter with the U.S. Attorney's Office or the FBI's Office in Cleveland. I could not initiate unilateral action in this case without a lead from FBI Cleveland.

Sincerely,

James M. Wong
Legal Liaison Officer

Squire, Sanders & Dempsey
L.L.P.
Counsellors at Law
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114-1304

Telephone (216) 479-8500
Telecopier (216) 479-8780

Direct Dial Number
(216) 479-8554

June 27, 1997

VIA HAND DELIVERY
Gary D. Arbeznik, Esq.
Assistant United States Attorney
Office of United States Attorney
1800 Bank One Center
600 Superior Avenue East
Cleveland, OH 44114-2600

RE: The International Abduction of Rhonda Lan Zhang

Dear Mr. Arbeznik:

Enclosed is a certified copy of the June 26, 1997 Order of Judge Patrick F. Corrigan of the Cuyahoga County Court of Common Pleas, Juvenile Division, permanently terminating the parental rights of Sue Ping Chen and granting full legal custody of Rhonda Lan Zhang to Laura K. Heng.

As you know, Rhonda has been abducted by Sue Ping Chen. As legal custodian of Rhonda, I hereby request that you proceed immediately with the appropriate indictments of Sue Ping Chen and the facilitation of the issuance of an Interpol warrant.

In addition, I request that you keep me advised as this matter progresses. Along those lines, as legal custodian of Rhonda, I request that you cease all communications with the Cuyahoga County Department of Children and Family Services and its attorneys (including, without limitation, the Cuyahoga County Prosecutor's Office and Carmen Marino) concerning this matter. That agency no longer has any legal relationship to Rhonda, and we would view any communications between you and that agency concerning this matter to be an invasion of Rhonda's and our own privacy.

Squire, Sanders & Dempsey
L.L.P.

I am available any time, night or day, to complete any paperwork that may be required. Thank you in advance for your assistance in this matter.

Cordially yours,

Laura K. Heng

cc: Emily M. Sweeney, United States Attorney
William J. Edwards, First Ass't United States Attorney
J. Matthew Cain, Chief, Criminal Division

U.S. Department of Justice

Executive Office for United States Attorneys

Washington, D.C. 20530

MAY 3 1997

Ms. Lisa D. Vendetti
8896 W. 146th Terrace
Overland Park, Kansas 66221

Dear Ms. Vendetti:

Thank you for your February 6, 1997, letter to the Attorney General concerning Rhonda Lan Zhang (Mei Mei), a three-year-old child removed from her foster home in Cleveland, Ohio, and taken to the People's Republic of China by the child's natural mother.

I have spoken with the United States Attorney's office for the Northern District of Ohio and can assure you that the matter is receiving significant attention and that all appropriate and lawful avenues are being pursued. As you may be aware, the United States does not have an extradition treaty with the People's Republic of China, nor is that country a signatory to the Hague Convention on the Civil Aspects of International Parental Child Abduction. As required by Department of Justice (DOJ) policy, the district is working closely with the Office of International Affairs at DOJ in an effort to explore all appropriate means of resolving this matter.

I hope this information is of assistance to you.

Sincerely,

Juliet A. Eurich
Legal Counsel

U.S. Department of Justice

Executive Office for United States Attorneys
Office of Legal Counsel

[illegible]
[illegible]
Washington, D.C. 20530

(202) 514-[illegible]
Fax: (202) 514-[illegible]

MAY 16 1997

The Honorable Robert T. Matsui
Member of Congress
Washington, D.C 20515-0505

Dear Congressman Matsui:

Thank you for your January 23, 1997, letter to the Honorable Emily Sweeney, United States Attorney for the Northern District of Ohio, concerning Rhonda Lan Zhang (Mei Mei), a three-year-old child removed from her foster home in Cleveland, Ohio, and taken to the People's Republic of China by the child's natural mother.

I have spoken with the United States Attorney's office for the Northern District of Ohio and can assure you that the matter is receiving significant attention and that all appropriate and lawful avenues are being pursued. As you are aware, the United States does not have an extradition treaty with the People's Republic of China, nor is that country a signatory to the Hague Convention on the Civil Aspects of International Parental Child Abduction. As required by Department of Justice (DOJ) policy, the district is working closely with the Office of International Affairs at DOJ in an effort to explore all appropriate means of resolving this matter.

I hope this information is of assistance to you.

Sincerely,

Juliet A. Eurich
Legal Counsel

U. S. Department of Justice

Executive Office for United States Attorneys

Washington, D.C. 20530

MAR 13 1997

Mr. Casey Cooper, Esquire
MILLER, CASSIDY, LARROCA & LEWIN, L.L.P.
2555 M Street, Northwest
Washington, D.C. 20037-1302

Dear Mr. Cooper:

Thank you for your February 28, 1997, letter to the Attorney General concerning Rhonda Lan Zhang (Mei Mei), a three-year-old child removed from her foster home in Cleveland, Ohio, and taken to the People's Republic of China by the child's natural mother.

A member of my staff has maintained close contact with the United States Attorney's office for the Northern District of Ohio concerning this matter and I can assure you that the matter is receiving significant attention and that all appropriate and lawful avenues are being pursued. As required by Department of Justice (DOJ) policy, the district is working closely with the Office of International Affairs at DOJ in an effort to explore all appropriate means of resolving this matter.

I hope this information is of assistance to you.

Sincerely,

Juliet A. Eurich

Juliet A. Eurich
Legal Counsel

WAYNE ALLARD
COLORADO
Hart Senate Office Building
(202) 224-5941

BANKING, HOUSING, & URBAN AFFAIRS
ENVIRONMENT AND PUBLIC WORKS
INTELLIGENCE COMMITTEE

United States Senate
WASHINGTON, DC 20510-0605

March 10, 1997

Ms. Laura Hong and Mr. Tom Kovach
2677 East Overlook Road
Cleveland, Ohio 44106

Dear Ms. Hong and Mr. Kovach:

Many thanks for contacting our office regarding "The Abduction of Rhonda ('Mei Mei') Lan Zhang. The work you have done to this point is impressive.

Per telephone conversation with Laura on March 7th, I have followed up on the correspondence by contacting Attorney General Janet Reno. As soon as I receive a response, I will be back in touch. If there is anything else this office can do, please call me at (303) 220-7414.

Thank you again for contacting us.

Sincerely,

John Swanum

John Swanum
Area Representative

U.S. Department of Justice

Executive Office for United States Attorneys
Office of Legal Counsel

Main Justice Building, Room 2529
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

(202) 514-4024

FEB 21 1997

The Honorable Charles S. Robb
United States Senate
Washington, D.C. 20510-4603

Dear Senator Robb:

Thank you for your January 15, 1997, letter to the Attorney General concerning Rhonda Lan Zhang (Mei Mei), a three-year-old child removed from her foster home in Cleveland, Ohio, and taken to the People's Republic of China by the child's natural mother.

I have spoken with the United States Attorney's office for the Northern District of Ohio and can assure you that the matter is receiving significant attention and that all appropriate and lawful avenues are being pursued. As you are aware, the United States does not have an extradition treaty with the People's Republic of China, nor is that country a signatory to the Hague Convention on the Civil Aspects of International Parental Child Abduction. As required by Department of Justice (DOJ) policy, the district is working closely with the Office of International Affairs at DOJ in an effort to explore all appropriate means of resolving this matter.

I hope this information is of assistance to you.

Sincerely,

Juliet A. Eurich

Juliet A. Eurich
Legal Counsel

BERNARD SANDERS
Member of Congress
2nd Congressional District
State of Vermont
[illegible]

COMMITTEES
BANKING AND FINANCIAL SERVICES
GOVERNMENT REFORM AND OVERSIGHT

[illegible]

Congress of the United States
House of Representatives
Washington, DC 20515-4501
PLEASE REPLY TO VERMONT DISTRICT OFFICE

February 27, 1997

Emily M. Sweeney, Esq.
United States Attorney
Bank One Center, Suite 1800
600 Superior Avenue, East
Cleveland, OH 44114-2600

Re: Rhonda (Mei Mei) Lan Zhang (a.k.a Chen)

Dear Ms. Sweeney:

Please find enclosed a copy of a letter from my constituents, Richard and Marion Hong. As you can see, Dr. and Ms. Hong have requested my assistance in a matter concerning the fate of Rhonda (Mei Mei) Lan Zhang (a.k.a Chen).

Dr. and Ms. Hong report that Mei Mei, who is citizen of the United States, was abducted by her birth mother, Sue Ping Chen, and taken to GuangZhou in the People's Republic of China. The Hongs, who are the parents of Mei Mei's foster mother, Laura Hong, believe this action to be a violation of provisions of the International Parental Kidnapping Act (18 USC §1204) which addresses abduction by a non-custodial birth parent to a country that is not a co-signatory to the Hague Convention on the Civil Aspects of International Child Abduction.

I understand that the competent authorities in China are amenable to returning Mei Mei if a warrant is issued for Sue Ping Chen's arrest. The Hongs are asking that your office seek an indictment against Chen in order to secure Mei Mei's prompt return, and to protect her from further harmful effects resulting from her alleged wrongful removal from the United States.

While it is not my intention to intervene in any pending litigation, I respectfully request that you give full and fair consideration, consistent with applicable laws and regulations, to the petition before you to seek an indictment against Sue Ping Chen. Given the interest this case has generated in my District, I also respectfully request that you keep my Vermont District Office apprised of your disposition in this matter.

Thank you in advance for your consideration of this matter.

Sincerely,

Bernard Sanders
Member of Congress

BS/drow

U.S. Department of Justice

Executive Office for United States Attorneys
Office of Legal Counsel

Main Justice Building, Room 5131
10 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

(202) 514-4024

FEB 21 1997

The Honorable Charles S. Robb
United States Senate
Washington, D.C. 20510-4603

Dear Senator Robb:

Thank you for your January 15, 1997, letter to the Attorney General concerning Rhonda Lan Zhang (Mei Mei), a three-year-old child removed from her foster home in Cleveland, Ohio, and taken to the People's Republic of China by the child's natural mother.

I have spoken with the United States Attorney's office for the Northern District of Ohio and can assure you that the matter is receiving significant attention and that all appropriate and lawful avenues are being pursued. As you are aware, the United States does not have an extradition treaty with the People's Republic of China, nor is that country a signatory to the Hague Convention on the Civil Aspects of International Parental Child Abduction. As required by Department of Justice (DOJ) policy, the district is working closely with the Office of International Affairs at DOJ in an effort to explore all appropriate means of resolving this matter.

I hope this information is of assistance to you.

Sincerely,

Juliet A. Eurich

Juliet A. Eurich
Legal Counsel

PATSY T. MINK
SECOND DISTRICT, HAWAII

WASHINGTON OFFICE
2135 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1102
(202) 225-4906
FAX: (202) 225-4987

DISTRICT OFFICE
1164 BISHOP STREET, SUITE 1015
P.O. BOX 50129
HONOLULU, HI 96850-0051
(808) 541-1986
FAX: (808) 533-2023

COMMITTEE ON RESOURCES
SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS
SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON HOUSING AND MEMORIAL AFFAIRS
SUBCOMMITTEE ON BENEFITS

Congress of the United States
House of Representatives
Washington, DC 20515-1102

February 10, 1997

THE HONORABLE EMILY SWEENEY US ATTORNEY
DEPARTMENT OF JUSTICE
1800 BANK ONE CTR 600 SUPERIOR AVE EAST
CLEVELAND OH 44114

Dear Ms. Sweeney:

Re: International Child Abduction
Rhonda Lan Zhang (AKA Mei Mei Chen)

On December 31, 1996 I sent an inquiry asking what your office was doing to return kidnapped American citizen Rhonda Lan Zhang to the United States. I have not yet received a reply.

I understand that the Cuyahoga County juvenile court, the Eighth District Court of Appeals for the State of Ohio and the Ohio Supreme Court ruled in favor of returning the child to the foster parents' custody. The FBI, Department of State and (reportedly) even the Chinese authorities are standing by to help. Meanwhile, I am receiving numerous letters from Ohio and across the country, imploring me to intervene.

Please tell me when an indictment is expected to be filed against the kidnapper. If not, please advise me of the reason your office declines to prosecute.

Please respond at the earliest to my Washington, D.C. office.

Very truly yours,

Patsy T. Mink

PATSY T. MINK
Member of Congress

U.S. Department of Justice

Executive Office for United States Attorneys
Office of Legal Counsel

Main Justice Building, Room 3535 (202) 514-4023
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

FEB 11 1997

Ms. Karen K. Narasaki
Executive Director
National Asian Pacific American
Legal Consortium
1001 Connecticut Avenue N.W., Suite 522
Washington, D.C. 20036

Dear Ms. Narasaki:

Thank you for your January 16, 1997, letter to the Attorney General concerning Rhonda Lan Zhang (Mai Mei), a three-year-old child removed from her foster home in Cleveland, Ohio, and taken to the People's Republic of China by the child's natural mother. Your letter expresses concern because the United States Attorney's office for the Northern District of Ohio has not secured the child's return.

I have spoken with the district and can assure you that the matter is receiving significant attention and that all appropriate and lawful avenues are being pursued. As you may be aware, the United States does not have an extradition treaty with the People's Republic of China, nor is that country a signatory to the Hague Convention on the Civil Aspects of International Parental Child Abduction. As required by Department of Justice (DOJ) policy, the district is working closely with the Office of International Affairs at DOJ in an effort to explore all appropriate means of resolving this matter.

You state in your letter that Ms. Linda Hong, the child's foster mother, has had conversations with local officials in the People's Republic of China in which she was told that the Chinese government was willing to return the child to the United States but had not done so because no formal action has been taken by any United States official to secure her return. It would be helpful if Ms. Hong could provide the names of these local officials to the United States Attorney's office for possible assistance to the Office of International Affairs.

Finally, I am confident that the United States Attorney's office is not making any decision in this matter based on the child's race, and the fact that the state declined prosecution is certainly not dispositive of any federal resolution.

I hope this information is of assistance to you.

Sincerely,

Juliet A. Eurich
Legal Counsel

U.S. Department of Justice

United States Attorney
District of Minnesota

234 United States Courthouse
110 South Fourth Street
Minneapolis, Minnesota 55401

612/348-1500

February 5, 1997

Donald Schafer
3449 Kyle Avenue North
Minneapolis, MN 55422-2843

Dear Mr. Schafer:

Thank you for your letter regarding the concerns you have about a young child being taken to China by her birth mother who apparently has no legal custody of the child.

The facts described in your letter require the matter to be handled in the Northern District of Ohio or, possibly the Northern District of Illinois. A similar letter may be sent to the U.S. Attorney's office and the FBI in those districts.

We received several letters on the same subject and are indicating to those people where their concerns may be properly addressed. Thank you for your letter.

Sincerely,

DAVID L. LILLEHAUG
United States Attorney

By: Jeanne J. Graham
JEANNE J. GRAHAM
Assistant U.S. Attorney
Attorney ID #: 167366

MIKE DeWINE
OHIO

[illegible]

United States Senate
WASHINGTON, DC 20510-3503

COMMITTEES:
JUDICIARY
INTELLIGENCE
LABOR AND HUMAN RESOURCES

February 6, 1997

The Honorable Janet Reno
Attorney General
Main Justice Building
Room 5111
10th and Constitution Avenue
Washington, D.C. 20530

Dear Attorney General Reno:

I am writing to express my concerns regarding the case of Rhonda "Mei Mei" Lan Zhang and to request assistance from the Department of Justice in this matter.

On October 15, 1996, Mei Mei was taken by her non-custodial birth mother, Sue Ping Chen from Cleveland, Ohio to the province of Guangzhou in the People's Republic of China. Mei Mei is an American citizen, born in Cleveland, who has lived in the foster home of Laura Hong and Tom Kovach for almost two years. Sue Ping Chen is a convicted felon who has been diagnosed as a chronic paranoid schizophrenic, a diagnosis that led the Cuyahoga County Court of Common Pleas to move to terminate the parental rights of Chen.

On December 13, 1996, Judge Corrigan, of the Cuyahoga County Court of Common Pleas, entered an order finding that "the child has been unlawfully and in violation of this court's orders removed by mother from the jurisdiction". The Court further ordered that Mei Mei "is to be brought immediately before this Court for placement consistent with this court's earlier orders in the home of Laura K. Hong and further proceedings consistent with this order. The Court further orders that every effort is to be made to facilitate and ensure the child's safe return." (A copy of the order is attached). It is my understanding that the United States Attorney's office in Cleveland, Ohio has been fully briefed on this case.

I would appreciate any assistance that the Department of Justice can offer to bring about the return of Mei Mei to her foster parents in the United States, including taking any and all steps available pursuant to the International Parental Kidnaping Act.

Thank you for your assistance in this matter.

Very respectfully yours,

MIKE DeWINE
United States Senator

RMD/kc

STATE OFFICES:
[illegible]

ROBERT T. MATSUI
Fifth District, California

COMMITTEE ON
WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

SUBCOMMITTEE ON TRADE

WHIP AT LARGE

Congress of the United States
House of Representatives
Washington, DC 20515-0505

WASHINGTON OFFICE:
2311 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0505
(202) 225-7163

DISTRICT OFFICE:
501 FEDERAL BUILDING
650 CAPITOL MALL
SACRAMENTO, CA 95814
(916) 498-5600

January 23, 1997

The Honorable Emily Sweeney
United States Attorney
1800 Bank One Center
600 Superior Avenue East
Cleveland, OH 44114-2600

Dear Ms. Sweeney:

I am writing in regard to the case of Rhonda Lan Zhang.

I have been informed that the three year old Zhang has been kidnapped from the custody of a Ms. Laura Hong and Mr. Tom Kovach, where she had been placed under the authority of the County of Cuyahoga, Ohio. There appears to be substantial evidence that the child's biological mother, Ms. Sue Ping Chen, has taken her to Guangzhou, China and continues to reside with her there.

It is my understanding that the U.S. Attorney's office has declined to prosecute Ms. Chen in this case. As a result, officials of the U.S. government currently lack any authority to locate or return Rhonda Lan Zhang to her lawful residence in the United States.

One of my constituents, an acquaintance of Laura Hong, has contacted me to express her strong concerns about this situation. I would greatly appreciate any information you might be able to provide about the case.

Thank you for your attention to this matter. I look forward to your prompt reply.

Sincerely,

ROBERT T. MATSUI
Member of Congress

RTM:dz

1630 Connecticut Ave NW
Suite 511
Washington DC 20036

TELEPHONE
202 296-2300

FACSIMILE
202 296-1118

E-MAIL

BOARD MEMBERSHIP

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Legal Center

New York
Asian American Legal
Defense & Education Fund

San Francisco
Asian Law Caucus

January 16, 1997

Attorney General Janet Reno
U.S. Department of Justice
Tenth Street and Constitution Avenue, N.W.
Washington, D.C.20530

Dear Attorney General Reno:

On behalf of the National Asian Pacific American Legal Consortium, I am writing to draw your attention to a failure to take proper action by the U.S. Attorney's Office in Cleveland, Ohio on a matter involving the welfare of a young child. We received a letter from the foster mother of Rhonda Lan Zhang ("Mei Mei"), Laura Kingsley Hong, explaining that Mei Mei was abducted by her birth mother, Sae Ping Chen, on October 15, 1996. Chen, who has no custody rights to the child, has taken the child to the People's Republic of China and is believed to be hiding in the city of Guangzhou. (Enclosed is a copy of a court order regarding Ms. Hong's custodial rights.)

Mei Mei is an American citizen who has lived in the United States for nearly two of her three years of life. Chen is a convicted felon and a chronic paranoid schizophrenic who has been able to avoid being institutionalized only through forced monthly injections of psychotropic medication — injections which we now understand she is no longer receiving. Mei Mei was removed from Chen by local Chinese authorities a number of times for neglect and abuse. On September 25, 1996, the Head of the Juvenile Court Diagnostic Clinic recommended permanent termination of Chen's parental rights, and the Court accepted that recommendation, ordering the child services agency to move to immediately terminate all of Chen's residual parental rights.

Representatives in Guangzhou have told Ms. Hong that the prospects for Mei Mei's return are quite good. Local officials in Guangzhou apparently told them that the Chinese government's position is that Mei Mei is an American citizen who Chen wrongfully abducted. The Chinese government has not returned the child yet because no formal action has been taken by any U.S. official to secure Mei Mei's return.

Although we are unsure what specific action U.S. officials need to take for the Chinese government to act, Ms. Hong has been told that an Interpol warrant issued off a U.S. indictment for Chen pursuant to the International Parental Kidnapping Act, 18 U.S.C. §1204, would suffice.

The U.S. Attorney's office in Cleveland has thus far refused to seek an indictment. We understand that one reason why the U.S. Attorney has been reluctant to act is that the local state prosecutor has declined to indict. The prosecutor told Ms. Hong that he did not indict because "although she's cute, the baby looks Chinese and belongs in China."

This reason for refusing to indict is unacceptable and is based on the inaccurate and discriminating belief that those of Asian descent do not belong in this country. The inaction of the U.S. Attorney's office implicitly condone's the local prosecutor's race-based decision.

Mei Mei's guardian ad litem is also strongly advocating for Mei Mei's return. We urge you to help rectify this situation by urging the U.S. Attorney in Cleveland to seek an indictment against Chen so that Mei Mei may return home and be with the mother she has known most of her life.

Thank you for your attention to this matter. If you need additional information, please feel free to contact me.

Sincerely,

Karen K. Narasaki
Executive Director

cc: U.S. Attorney Emily Sweeney

PATSY T. MINK

COMMITTEE ON INTERNATIONAL RELATIONS
COMMITTEE ON BUDGET
COMMITTEE ON EDUCATION AND ECONOMIC OPPORTUNITY
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Congress of the United States
House of Representatives
Washington, DC 20515–1102

December 31, 1996

THE HONORABLE EMILY SWEENEY US ATTORNEY
DEPARTMENT OF JUSTICE
1800 BANK ONE CENTER
600 SUPERIOR AVE EAST
CLEVELAND OH 44114

COPY

Dear Ms. Sweeney:

Re: International Child Abduction
Rhonda Lan Zhang

Please find enclose a letter from foster parent Laura Kingsley Hong, who seeks the return of her foster daughter Rhonda Lan Zhang (AKA Mei Mei Chen), who was abducted by her birth mother and taken to China.

Also enclosed is a copy of an order issued by the local juvenile court in support of the child's return to Ms. Hong's custody.

Please advise what your office is doing to ensure the child's safe return to her foster parents in the U.S.

Very truly yours,

PATSY T. MINK
Member of Congress

CRAIG THOMAS

United States Senate
WASHINGTON, DC 20510-5003

December 25, 1996

United States Attorney Emily Sweeney
Office of the United States Attorney
1800 Bank One Center
600 Superior Avenue East
Cleveland, OH 44114-2600

Dear U.S. Attorney Sweeney:

I am writing as Chairman of the Subcommittee on East Asian and Pacific Affairs of the Senate Foreign Relations Committee to express my concerns regarding the case of Rhonda "Meimei" Lan Zhang.

As you know, Meimei was taken by her non-custodial birth mother from Cleveland to Guangzhou, People's Republic of China, where it is believed the two are presently living. A judge of the Ohio court of jurisdiction recently found that Meimei

> has been unlawfully and in violation of this Court's orders removed by [the] mother from the jurisdiction.
>
> It is therefore ordered that [Meimei] is to be brought immediately before the Court for placement consistent with this Court's earlier orders in the home of Laura K. Hong and further proceedings consistent with this order. The Court further orders that every effort is to be made to facilitate and ensure the child's safe return.

Consistent with this order, I am requesting that your office do everything in its power to facilitate the recovery and return to the United States of this child, including taking any and all steps available to you pursuant to the International Parental Kidnaping Act (18 U.S.C. §§ 1204 *et seq.*).

I greatly appreciate your close attention to this matter, and would be happy to assist your office in any way I can to help.

Sincerely,

Craig Thomas
United States Senator

LENEGHAN & LENEGHAN
Attorneys-at-Law
9500 Maywood Avenue
Cleveland, Ohio 44102-4803
(216) 651-4600
Facsimile (216) 961-4111
Patrick P. Leneghan, Jr.
Christine T. Leneghan
David M. Leneghan

December 27, 1996

Gary Arbernik, Esq.
Assistant United States Attorney
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44113

RE: In re: Rhonda Lan Zhang, a.k.a. Chen
Case number: 9411811
Before the Honorable Judge Patrick F. Corrigan

Dear Mr. Arbernik:

Confirming our telephone conversation of several weeks ago, I provide to you a certified judgment entry from Judge Patrick F. Corrigan of the Court of Common Pleas-Juvenile Division dated December 13, 1996 whereby he orders that Sue Chen, the mother, produce herself and the child before the Court and that the child be placed back in the home of the foster parent, Laura Hong.

Concerning your questions as to who has custody of my ward, please be advised that the Cuyahoga County Department of Children & Family Services (CCDCFS) has temporary custody pursuant to a previous court order (hearing held in March, 1994). However, the Court ordered that the child was to be placed in the home of Ms. Hong, which is reaffirmed in the December 13, 1996 order (see enclosed).

It is my position as the minor child's guardian *ad litem*, that Rhonda desired to remain living with Ms. Hong, especially since there was no bond between the mother and child. In fact, it was just the opposite. Nevertheless, I morally believe that parents should be afforded every opportunity to reunite with their child and I work hard assisting parents with reunification. However, once it became abundantly clear that unification was not in the child's best interest, the CCDCFS and I apprised the Court (hearing held September 25, 1996), based primarily upon the psychological report of Dr. Steven Neuhaus, that a motion for permanent custody was going to be filed, and if granted, Ms. Hong afforded the first opportunity to adopt. Ms. Chen thwarted that scenario when she absconded with the child.

As a guardian *ad litem* in over five hundred cases, I can not condone this mode of contemptuous behavior upon the Court, but more importantly the psychological trauma she continues to cause her daughter. If Ms. Chen really had her daughter's best interest in mind, she would not have gone along with this plot.

Notwithstanding the current situation, I have labored in how to handle this case for several months now. I believe that Ms. Chen must be held accountable for her actions. This includes, should your office agree, indicting Ms. Chen and prosecuting her for her actions. Should your office need a complaining party, I make myself available, as the child's guardian *ad litem*.

One might question whether a guardian *ad litem* is advocating what is best for his ward by seeking a criminal complaint against his wards mother. However, I am convinced that Ms. Chen is unable to care for herself, let alone this child. Coupled with the fact that my ward is an United States citizen, I can not just sit back and allow her to live a questionable life in China. I will point out that I demand that parents who sexually abuse their children be prosecuted, thus Ms. Chen should be held to the same standard.

Therefore, based upon the same, I must ask that your office consider filing criminal charges against Ms. Chen and demanding that she be brought before an United States Court to answer for those charges. To allow nothing less, sends the wrong message to parents that stand to lose their children due to their inability to care for their children. Should you agree with my position, I am available to further discuss this matter.

I thank you in advance for your prompt attention to this matter. Please do not hesitate to contact me at any time concerning this matter.

Very truly yours,
Leneghan & Leneghan

Patrick P. Leneghan, Jr.
Guardian *ad litem* for Rhonda Lan Zhang

PPL/ct

ENC: Certified Judgment Entry of 12/13/96

JOURNAL ENTRY - ORDER

STATE OF OHIO
COUNTY OF CUYAHOGA

IN THE COMMON PLEAS COURT
JUVENILE COURT DIVISION

IN THE MATTER OF RHONDA LAN ZHANG AKA CHEN

CASE NUMBER 9411811

THIS MATTER CAME BEFORE THIS COURT ON THE FOLLOWING MOTIONS: THE NOTICE OF SIN KIM, GUARDIAN AD LITEM FOR MOTHER, TO DISMISS BASED ON LACK OF SUBJECT MATTER JURISDICTION, WHICH MOTION IS JOINED IN BY COUNSEL FOR MOTHER; AND THE MOTION OF COUNSEL FOR RECONSIDERATION OF THIS COURT'S OCTOBER 25, 1996 ORDER.

THE COURT FINDS THAT THE MOTIONS ARE NOT WELL TAKEN.

IT IS THEREFORE ORDERED THAT THE MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION IS DENIED. IT IS FURTHER ORDERED THAT THE MOTION OF THE COUNSEL FOR RECONSIDERATION OF THIS COURT'S OCTOBER 25, 1996 ORDER IS DENIED.

THE COURT FURTHER FINDS THAT THE CHILD HAS BEEN UNLAWFULLY AND IN VIOLATION OF THIS COURT'S ORDERS REMOVED BY MOTHER FROM THE JURISDICTION.

IT IS THEREFORE ORDERED THAT THE WARD OF THIS COURT, RHONDA LAN ZHANG, IS TO BE BROUGHT IMMEDIATELY BEFORE THIS COURT FOR PLACEMENT CONSISTENT WITH THIS COURT'S EARLIER ORDERS IN THE MOKE OF LAURA K. MOMO AND FURTHER PROCEEDINGS CONSISTENT WITH THIS ORDER. THE COURT FURTHER ORDERS THAT EVERY EFFORT IS TO BE MADE TO FACILITATE AND ENSURE THE CHILD'S SAFE RETURN. THE PARTIES AND THE PROPOSED INTERVENOR ARE FURTHER INSTRUCTED TO INFORM THIS COURT IMMEDIATELY OF ANY CONDUCT OR ACTIVITY OF ANY INDIVIDUAL OR ENTITY WHICH WOULD TEND TO HINDER OR OBSTRUCT THE SAFE RETURN OF THE CHILD.

IT IS FURTHER ORDERED THAT THE HEARING ON THE GUARDIAN AD LITEM'S MOTION FOR PERMANENT CUSTODY OF THE CHILD AND PURSUANT TO R.C. 2151.415 WILL COMMENCE ON FEBRUARY 20, 1997 AT 9:30 A.M. THE CLERK IS HEREBY DIRECTED TO EFFECT SERVICE ON ALL NECESSARY PARTIES BY PUBLICATION. THE PARTIES AND THE PROPOSED INTERVENOR ARE ORDERED TO COOPERATE WITH THE CLERK TO THE EXTENT NECESSARY TO EFFECT SUCH SERVICE.

IT IS FURTHER ORDERED THAT TEMPORARY CUSTODY OF THE CHILD IS EXTENDED THROUGH MARCH 25, 1997.

FILED WITH CLERK AND JOURNALIZED
12/13/96 BK

BETTY M. SIEGRA JUDGE EX-OFFICIO CLERK

BY _____ DEPUTY CLERK

JUDGE PATRICK F. CORRIGAN

DATE Dec 12, 1996

FILE COPY

COUNTY OF CUYAHOGA

Thomas J. Hayes
County Administrator
216/443-7215

Jeri E. Chalkin
County Administrator
216/443-7215

David R. Raines
Deputy Administrator
216/443-7032

Commissioners
Mary O. Boyle
Timothy F. Hagan
Lee C. Weingart

October 24, 1996

Mr. John Jacobs
Supervisor - Third Squad
Federal Bureau of Investigation
1240 East 9th Street
Cleveland, Ohio 44199

Dear Mr. Jacobs:

Enclosed please find a copy of a letter we sent to Ms. Shalley Johnson at the American Consulate in Guangzhou, China concerning Rhonda Zheng. Rhonda is a child under the temporary custody of the Department of Children and Family Services, by order of the Cuyahoga County Juvenile Court.

We are respectfully requesting any and all assistance of the Federal Bureau of Investigation to facilitate the return of this child to Cleveland, Ohio. We will also ask the United States Consulate in Guangzhou, China for their assistance in determining the exact location of Rhonda Zheng, her health, her safety and the adequacy of the care she is receiving.

If you have any questions, or require any additional information concerning Rhonda Zheng, please do not hesitate to call me at 443-7215.

Sincerely,

Thomas J. Hayes
County Administrator

TJH/mj
Enclosure

County Administration Building 1219 Ontario Street Cleveland, Ohio 44113 FAX 216/443-8081

The October 16, 1996 International Kidnapping of American Citizen Rhonda Mei Mei Lan Zhang

Sampling of requests to the Department of State and sampling of form letter responses to those requests

(see http://ebni.com/meimei for more information)

United States Department of State

Washington, D.C. 20520

AUG 08 1997

Dear Mr. Kucinich:

Thank you for your letter to the Secretary of State inquiring into the case of Rhonda Lan Zhang, also known as Mei Mei Chen. I am replying to your letter on behalf of the Secretary of State.

Please let me assure you that international parental child abduction is an issue of great concern to the Department of State. We place the highest priority on the welfare of American citizens abroad, particularly children who have been victimized by parental child abduction.

The Department of State has been involved with Rhonda's case since October 22, 1996, when the Cuyahoga County Department of Children and Family Services requested that a U.S. consular officer make a welfare visit to Rhonda and her mother. Once Cuyahoga County requested a welfare visit we immediately sought the assistance of the Chinese authorities in setting up the visit. Ms. Sue Ping Chen, Rhonda's birth mother, refused to allow any U.S. consular officer to visit with the child. Undaunted and driven by our interest in the welfare and protection of this United States citizen child we continued our efforts to see the child for ourselves.

During an eight month period, the U.S. Embassy in Beijing sent five Diplomatic notes to Chinese authorities requesting a welfare visit with Rhonda. Our Embassy followed up with constant telephone calls to the Chinese officials. The Embassy finally requested a meeting with the Chief of the Consular Division of the Foreign Affairs Department of the Guangdon Peoples Provincial Government to convince him of the importance of facilitating a welfare visit with Rhonda. The Chinese authorities were finally able to persuade Ms. Chen to allow a U.S. consular officer to see the child in May of 1997.

On May 28 a U.S. consular officer from the U.S. Consulate in Guangzhou made a welfare visit with Rhonda. Because Ms. Chen refused to allow the meeting in her home, it took place at a hotel near the U.S. Consulate. Participants at the visit included Rhonda, the U.S. consular officer, a U.S. consular assistant, Ms. Chen, the child's maternal grandfather, an aunt and three Chinese officials. Our consular officer observed that Rhonda looked healthy, well cared for and appeared to act happy in the presence of Ms. Chen and her extended family.

The Honorable
Dennis J. Kucinich,
U.S. House of Representatives.

Our officer was notified at that time that Rhonda now had a Chinese passport and was considered to be a Chinese citizen by the Chinese government. Ms. Chen and her family expressed their desire for Rhonda to remain with them in China. We immediately reported the consular officer's observations back to Cuyahoga County, which had legal custody of Rhonda at that time.

Despite the fact that children are taken across international borders, child custody disputes remain fundamentally private civil legal matters between the private parties over which the Department of State has no jurisdiction. If a child custody dispute cannot be settled amicably between the parties, it often must be resolved by judicial proceedings in the country where the child is located. I understand that Ms. Hong has obtained legal custody of Rhonda in Ohio and has already retained private legal counsel in China. Ms. Hong's attorney in China is best able to assist her in pursuing her interests within the Chinese judicial system. We understand that at this time Ms. Hong has not initiated legal proceedings in the Chinese judicial system to obtain legal custody of Rhonda in China.

Consular officers have no legal authority to take physical custody of children and return them to the requesting party. China is not party to any multi-lateral or bilateral treaties or conventions that address international child abduction. As you are aware, courts in foreign countries, like courts in the United States, have jurisdiction over people residing in their territory, regardless of their citizenship, and decide child custody cases on the basis of their own domestic relations law.

While custody issues themselves are private civil legal matters, from the beginning of this case the U.S. Embassy in Beijing, the U.S. Consulate in Guangzhou and the Department of State have taken this matter extremely seriously and have pursued every appropriate avenue. We recognize that this matter involves a number of other issues in addition to the private civil legal matter of child custody. In this regard, we understand that Ms. Hong is continuing to pursue criminal remedies against Ms. Chen in this matter. We will continue to work closely with law enforcement authorities to provide them with whatever appropriate assistance they may request. Ms. Hong should continue to address inquiries concerning the criminal aspects of this case directly to the appropriate law enforcement authorities.

Let me assure you that we will continue to monitor this situation and provide every appropriate assistance. I hope that this information helps clarify the current situation. Please feel free to contact Mr. James Schuler in our Office of Children's Issues at (202)736-7000 ext. 0.5 if you or your staff have any additional questions on this matter.

Sincerely,

Katherine H. Peterson
Managing Director
Overseas Citizens Services

United States Department of State

Washington, D.C. 20520

97 JUL 23 AM 11:11

JUL 2 3 1997

Dear Congresswoman Mink:

I am replying to your letter of May 30 on behalf of Thomas G. Kovach and Laura K. Hong. They had written to you about the abduction of Rhonda (Mei Mei) Lan Zhang to China by her birth mother, Sue Ping Chen.

Parental child abduction is a tragedy. When the parties in an intercultural custody dispute cannot agree on where to raise a child, and when a child is taken across international borders, the difficulties are compounded for everyone involved. The Department of State considers the welfare and protection of U.S. citizen children taken overseas to be a very important, serious matter. Our embassies and consulates abroad are limited, however, in their ability to resolve these situations.

Consular officers have no legal authority to take physical custody of children and return them to the requesting party, nor can they force the abducting parent to consent to a visit by our officers. If the parties cannot reach an agreement, they must take their dispute to the court having jurisdiction. Courts in foreign countries, like U.S. courts, have jurisdiction over people residing in their territory, regardless of their citizenship, and they decide child custody cases on the basis of their own domestic relations law.

Our Consulate in Guangzhou has informed us that Mr. Kovach and Ms. Hong in the U.S. have retained an attorney in China to represent them in this matter. The Consulate staff has been in touch with the attorney and is providing all appropriate assistance. The foster parents should continue to work with their attorney in China to pursue this case within the Chinese judicial system.

The Honorable
Patsy T. Mink,
House of Representatives.

While the Privacy Act constrains us from providing specific information about Rhonda to anyone other than the legal custodian, which in this case is Cuyahoga County in Ohio, the Consulate in Guangzhou will continue to monitor the case of this American child and provide all appropriate assistance. If Mr. Kovach or Ms. Hong have any further concerns about the welfare of Rhonda, they should contact the Department of Child and Family Services of Cuyahoga County which is the legal custodian in Ohio.

Sincerely,

Katherine H. Peterson
Managing Director
Overseas Citizens Services

United States Department of State

Washington, D.C. 20520

Dear Senator Leahy:

I am replying to your letter of April 21 to Secretary Albright, regarding the abduction of Rhonda (Mei Mei) Lee Zhang to China by her birth mother, Sue Ping Chen.

Parental child abduction is a tragedy. When the parties to an international custody dispute cannot agree on where to raise a child, and when a child is taken across international borders, the difficulties are compounded for everyone involved. The Department of State considers the welfare and protection of U.S. citizen children taken overseas to be a very important, serious matter. Our embassies and consulates abroad are limited, however, in their ability to resolve these situations.

Consular officers have no legal authority to take physical custody of children and return them to the requesting party, nor can they force the abducting parent to consent to a visit by our officers. If the parties cannot reach an agreement, they must take their dispute to the court having jurisdiction. Courts in foreign countries, like U.S. courts, have jurisdiction over people residing in their territory, regardless of their citizenship, and they decide child custody cases on the basis of their own domestic relations law.

Our Consulate in Guangzhou has informed us that the foster parents in the U.S. have retained an attorney in China to represent them in this matter. The Consulate staff has been in touch with the attorney and is providing all appropriate assistance. The foster parents should continue to work with their attorney in China to pursue this case within the Chinese judicial system.

The Honorable
Patrick Leahy,
United States Senate.

While the Privacy Act constrains us from providing specific information about Rhonda to anyone other than the legal custodian, which in this case is Cuyahoga County in Ohio, the Consulate in Guangzhou will continue to monitor the case of this American child and provide all appropriate assistance.

Sincerely,

Katherine H. Peterson
Managing Director
Overseas Citizens Services

United States Department of State

Washington, D.C. 20520

Dear Senator D'Amato:

I am replying to your letter of May 5 on behalf of your constituents Thomas G. Kovach and Laura K. Hoag. They had written to you about the abduction of Rhonda (Mei Mei) Lan Zhang to China by her birth mother, Sue Ping Chen.

Parental child abduction is a tragedy. When the parties in an intercultural custody dispute cannot agree on where to raise a child, and when a child is taken across international borders, the difficulties are compounded for everyone involved. The Department of State considers the welfare and protection of U.S. citizen children taken overseas to be a very important, serious matter. Our embassies and consulates abroad are limited, however, in their ability to resolve these situations.

Consular officers have no legal authority to take physical custody of children and return them to the requesting party, nor can they force the abducting parent to consent to a visit by our officers. If the parties cannot reach an agreement, they must take their dispute to the court having jurisdiction. Courts in foreign countries, like U.S. courts, have jurisdiction over people residing in their territory, regardless of their citizenship, and they decide child custody cases on the basis of their own domestic relations law.

Our Consulate in Guangzhou has informed us that Mr. Kovach and Ms. Hoag in the U.S. have retained an attorney in China to represent them in this matter. The Consulate staff has been in touch with the attorney and is providing all appropriate assistance. The foster parents should continue to work with their attorney in China to pursue this case within the Chinese judicial system.

The Honorable
Alfonse D'Amato
United States Senate.

While the Privacy Act constrains us from providing specific information about Rhonda to anyone other than the legal custodian, which in this case is Cuyahoga County in Ohio, the Consulate in Guangzhou will continue to monitor the case of this American child and provide all appropriate assistance. If your constituents have any further concerns about the welfare of Rhonda, they should contact the Department of Child and Family Services of Cuyahoga County which is the legal custodian in Ohio.

Sincerely,

Glenda M. Conway for

Katherine H. Peterson
Managing Director
Overseas Citizens Services

United States Department of State

Washington, D.C. 20520

JUN 19 1997

JUN 23 1997

Dear Senator Santorum:

I am replying to your letter of June 2 on behalf of Thomas G. Kovach and Laura K. Hong. They had written to you about the abduction of Rhonda (Mei Mei) Lan Zhang to China by her birth mother, Sue Ping Chen.

Parental child abduction is a tragedy. When the parties in an intercultural custody dispute cannot agree on where to raise a child, and when a child is taken across international borders, the difficulties are compounded for everyone involved. The Department of State considers the welfare and protection of U.S. citizen children taken overseas to be a very important, serious matter. Our embassies and consulates abroad are limited, however, in their ability to resolve these situations.

Consular officers have no legal authority to take physical custody of children and return them to the requesting party, nor can they force the abducting parent to consent to a visit by our officers. If the parties cannot reach an agreement, they must take their dispute to the court having jurisdiction. Courts in foreign countries, like U.S. courts, have jurisdiction over people residing in their territory, regardless of their citizenship, and they decide child custody cases on the basis of their own domestic relations law.

Our Consulate in Guangzhou has informed us that Mr. Kovach and Ms. Hong in the U.S. have retained an attorney in China to represent them in this matter. The Consulate staff has been in touch with the attorney and is providing all appropriate assistance. The foster parents should continue to work with their attorney in China to pursue this case within the Chinese judicial system.

The Honorable
Rick Santorum,
United States Senate.

While the Privacy Act constrains us from providing specific information about Rhonda to anyone other than the legal custodian, which in this case is Cuyahoga County in Ohio, the Consulate in Guangzhou will continue to monitor the case of this American child and provide all appropriate assistance. If Mr. Kovach or Ms. Hong have any further concerns about the welfare of Rhonda, they should contact the Department of Child and Family Services of Cuyahoga County which is the legal custodian in Ohio.

Sincerely,

Elizabeth Conway for

Katherine H. Peterson
Managing Director
Overseas Citizens Services

April 4, 1997

BRING MEI MEI HOME

VIA FEDERAL EXPRESS MONDAY DELIVERY
James L. Schuler, Acting Director
Office of Children's Issues
United States Department of State
Washington, D.C. 20520

RE: The International Abduction of Rhonda ("Mei Mei") Lan Zhang

Dear Mr. Schuler:

Thank you for your letter of March 28, 1997. Reading between the lines of your letter, and based on my discussions with, among others, John Swartout of Senator Wayne Allard's office, we draw the following conclusions: (1) the Cuyahoga County Department of Children & Family Services ("CCDCFS") has requested that the State Department not pursue through diplomatic channels the return of Rhonda Lan Zhang ("Mei Mei") to the United States; and (2) CCDCFS has instructed the State Department not to discuss this matter with the Senators and Congresspersons who have been so kind as to offer their assistance in facilitating the return of Mei Mei to the United States; and (3) in light of the fact that CCDCFS, the entity with 'full legal custody' of Mei Mei, has told you not to pursue Mei Mei, you feel that you are compelled to cease your efforts to bring Mei Mei home.

If any of the foregoing conclusions are not entirely accurate, please forgive us; we are, as you know, working in the dark to some extent in trying to determine what representations CCDCFS is making and to whom they are being made. Nonetheless, having read your letter, and assuming that the foregoing conclusions are accurate, it is our hope that the enclosed materials will demonstrate to your satisfaction that the State Department does, indeed, have full authority to continue its efforts to secure Mei Mei's return and, to the extent CCDCFS is instructing you otherwise, CCDCFS is acting in clear violation of law and the orders of Ohio's courts.

Enclosed for your review and use are certified copies of the following orders from Ohio's courts:

(1) November 1, 1996 Writ of Habeas Corpus from the Ohio Court of Appeals directing Sue Ping Chen to return Mei Mei to the jurisdiction. The import of the order is that it reflects a judicial recognition that Laura Hong, by virtue of a March 11, 1995 Juvenile Court Order placing Mei Mei in her home, has custodial rights sufficient to justify the issuance of a writ of habeas corpus in her favor commanding the return of the child to her custody.

Laura Hong & Tom Kovach
2677 East Overlook Road • Cleveland Heights, Ohio 44106 • Home: 216.932.8934 • Fax: 216.397.8596
Hong Work: 216.479.8554 • Kovach Work: 216.479.8714 • Hong Pager: 216.506.7267 • Kovach Pager: 216.506.7528
Email: LHong@aol.com

(2) February 21, 1997 Order from the Ohio Court of Appeals denying CCDCFS motion to vacate writ of habeas corpus. In a motion to vacate filed on November 29, 1996, CCDCFS argued that 'it is the entity with legal custody and control of the child, and it is the only entity with legal authority to petition for the return of its ward. . . . While [Ms. Hong] has been an exemplary foster parent, and has clearly provided for the best interest of the child, the fact remains as a matter of law, that as a foster parent, she possesses no legal right to the custody of the child. She is not entitled to a writ of habeas corpus." By virtue of its Order denying CCDCFS' motion to vacate the writ, the Ohio Court of Appeals rejected this argument, implicitly finding that Laura Hong does, indeed, by virtue of the orders of the Juvenile Court, have sufficient custodial rights to seek the return of the child.

(3) December 13, 1996 Order from Judge Patrick F. Corrigan of the Cuyahoga County Court of Common Pleas, Juvenile Division. By this Order, Judge Corrigan commanded that "the ward of this Court, Rhonda Lan Zhang, is to be brought immediately before this Court for placement consistent with this Court's earlier order in the home of Laura K. Hong and further proceedings consistent with this order. The Court further orders that every effort is to be made to facilitate and ensure the child's safe return. The parties [which includes CCDCFS] and [Ms. Hong] are further instructed to inform this Court immediately of any conduct or activity which would tend to hinder or obstruct the safe return of the child."

(4) February 13, 1997 Order from Judge Patrick F. Corrigan of the Cuyahoga County Court of Common Pleas, Juvenile Division. By this Order, Judge Corrigan reiterates that "all parties are under obligation to make all reasonable efforts to secure the child's immediate return to this jurisdiction."

Mr. Schuler, we certainly can appreciate the fact that it is not the business of the State Department to evaluate the merits of local conflicts. In this matter, however, there is no conflict. Ohio's courts have spoken clearly on the following issues: (1) Laura Hong does, indeed, by virtue of the present lawful placement of Mei Mei in her home, have

sufficient custodial rights to petition for Mei Mei's return; (2) "every effort is to be made to facilitate and ensure [Mei Mei's] safe return to the jurisdiction"; and (3) no party is to engage in "any conduct or activity which would tend to hinder or obstruct the safe return of the child."

The import of the foregoing is clear. First, the State Department is fully authorized by the courts of the State of Ohio and by Laura Hong to immediately effectuate the return of Mei Mei to her home in the United States. Second, to the extent CCDCFS is asking the State Department to cease and desist in its efforts to bring Mei Mei home, it is, in essence, asking the State Department to aid and abet in the blatant violation of court orders. We therefore ask that, to the extent the State Department's efforts to return Mei Mei have been halted, they be resumed, and that a formal request be made of the People's Republic of China to return Mei Mei to the United States immediately.

In passing, we note that you make reference in your letter to CCDCFS' "full legal custody" of Mei Mei. We ask you to keep in mind that CCDCFS' custodial rights, much as Laura Hong's, exist by virtue of court order, and can only be altered or extinguished by court order. Unlike a "deadbeat dad" who might, for reasons of personal convenience, choose not to pursue a child of his who has been internationally abducted, it is not within CCDCFS' discretion to unilaterally terminate its custody rights and abandon Mei Mei in China; the law of Ohio requires that CCDCFS first must convince the Court that termination and abandonment is in Mei Mei's best interests. Thus far (not surprisingly), CCDCFS' efforts in that regard have been singularly unsuccessful. The lawful status quo that remains requires the placement of Mei Mei in our home.

Finally, by way of update, you suggest in your letter that we might consider pursuing additional custody rights with respect to Mei Mei, which, we gather from your letter, would greatly enhance the probability of Mei Mei's return. We have, in fact, made substantial efforts in that regard, and it is our hope that these efforts will bear fruit in the near future.

In the interim, we thank you and everyone at the State Department for the efforts made thus far on behalf of Mei Mei, and are confident that your continued efforts will bring her home. If there is anything we can do to assist you, please do not hesitate to call, day or night.

Sincerely yours,

Thomas G. Kovach
Laura K. Hong

Enclosures:

- Certified copy of the Writ of Habeas Corpus issued on 11/1/96 by the Eighth District Court of Appeals, Ohio
- Certified copy of the Order denying CCDCFS Motion to Vacate Writ of Habeas Corpus issued on 02/21/97 by the Eighth District Court of Appeals, Ohio
- Certified copy of the Order issued on 12/13/96 by Judge Corrigan, Cuyahoga County Court of Common Pleas, Juvenile Division
- Certified copy of the Order issued 2/13/97 by Judge Corrigan, Cuyahoga County Court of Common Pleas, Juvenile Division

cc (with 3/28/97 letter from J. Schuler to L.K. Hong and T. Kovach with copies of enclosures) to:

Secretary Madeline Albright
Senator Wayne Allard
Senator Alphonse D'Amato
Senator Mike DeWine
Senator Rod Grams
Congressman Gil Gutknecht
Senator Jesse Helms
Senator Patrick Leahy
Congressman Robert Matsui
Congresswoman Patsy Mink
Ambassador William Richardson
Senator Charles Robb
Congressman Bernie Sanders
Ambassador James Sasser
Consul Stephen Sena (via federal express)
Senator Craig Thomas

RE: The International Abduction of Rhonda ("Mei Mei") Lan Zhang

United States Department of State

Washington, D.C. 20520

April 1, 1997

Ms. Laura Kingsley Hong
Mr. Thomas Kovach
2677 East Overlook Road
Cleveland Heights, OH 44106

Dear Ms. Hong and Mr. Kovach:

Thank you for your letter regarding the abduction of Mei Mei. As a father of three daughters, I can understand your concern and anguish.

I have forwarded your letter to Mr. Steve Sena of Children's Issues in the Office of Overseas Citizens Services. My office has been in touch with Mr. Sena, who assures us he will be in contact with you.

My thoughts are with you during this difficult time.

Sincerely,

Nicholas Burns

Nicholas Burns
Spokesman/ Acting Assistant
Secretary for Public Affairs

United States Department of State

Assistant Secretary of State
for Consular Affairs

Washington, D.C. 10520

March 28, 1997

Ms. Laura K. Hong
Mr. Thomas G. Kovach
2677 East Overlook Road
Cleveland Heights, Ohio 44106

Dear Ms. Hong and Mr. Kovach:

I am replying to your letter of March 7th to Mr. Nicholas Burns regarding the abduction of your foster child, Rhonda (Mei Mei) Lan Zhang to China. I understand the frustration and disappointment you must be experiencing since her abduction and your untiring efforts to facilitate the return of Rhonda to her home in Cleveland. As you may know, we have received quite a few letters from a variety of Senators, Congressional Representatives and the public, each of whom has expressed their support for your efforts on behalf of Rhonda.

The Department of State considers international parental child abduction and the welfare and protection of U.S. citizen children taken overseas to be a very important, serious matter. We place the highest priority on the welfare of children who have been victimized by international abduction. The telegrams from our Consulate General in Guangzhou and the Embassy in Beijing, which you have included with your letter, explain the role of the Department of State in these cases.

Consular officers have no legal authority to take physical custody of children and return them to the requesting party, nor can they force the abducting parent to consent to a visit by our officers. Despite the fact that children are taken across international borders, child custody disputes remain fundamentally private legal matters between the parties involved, over which the Department of State has no jurisdiction. If a child custody dispute cannot be settled amicably between the parties, it often must be resolved by judicial proceedings in the country where the child is located. I understand that you have already retained an attorney in China to represent you. China is not a party to any international or bilateral treaties that address child abduction. Courts in foreign countries, like U.S. courts, have jurisdiction over people residing in their territory, regardless of their citizenship, and decide child custody cases on the basis of their own domestic relations law.

The Child and Family Services Agency of Cuyohoga County, Ohio has informed us that they have full legal custody of Rhonda. I can assure you that we will continue to provide all appropriate assistance that this agency might request as the legal guardians of Rhonda. You may wish to direct any questions you may have concerning Rhonda to this agency. You may also consider pursuing custody of Rhonda. Please advise us of any changes in the legal custody status of Rhonda in Ohio.

Let me assure you that we will continue to monitor the situation and provide every appropriate assistance. I know you are going through a very emotionally trying experience. I hope that this information helps clarify the current situation.

Sincerely,

James L. Schuler, Acting
Director
Office of Children's Issues

Senator DEWINE. Mr. Lebeau.

STATEMENT OF JOHN J. LEBEAU, JR.

Mr. LEBEAU. I would like to thank Senator Thurmond and Senator DeWine and distinguished members of the committee for allowing me to testify here today. I commend your commitment to exploring the devastating problems we are here to address, and I humbly request that you not let go of that commitment until we all achieve not just the necessary level of activity, but more importantly, fully acceptable level of accomplishment. So far, we have a long way to go.

Forgive me, gentlemen, if my testimony sounds somewhat emotional. However, I am sure you agree this is a very emotional issue for thousands of American families.

The record of the Justice Department's response to international parental kidnaping speaks for itself. Estimates show there were 10,000 cases of international parental child abduction at the time the International Parental Kidnaping Crime Act was passed on December 2, 1993. The record shows arrest warrants have been issued in less than 1 percent of those cases and all cases since then.

According to the National Center for Missing and Exploited Children, my case is perhaps the only one with both an arrest and U.S. extradition upheld. To achieve this virtually unheard of outcome, Senator, it took my own Herculean efforts, the noble and unceasing fight of a sympathetic Congressional aide, a miraculous stroke of luck or two, lots of prayers, and lots of family support, every dollar I had and could borrow, and the threat of legal action against the U.S. Government. This testimony is about why more than 9,999 other left-behind parents have not been able to do the same. It is on their behalf that I appear before you today.

Mr. Chairman and members of the committee, I worked obsessively for 2½ years, traveled 5,000 miles to Northern Europe 6 times, and spent over $160,000 in order to protect the endangered well-being of my very young children. I entered for 2½ years a virtual netherworld of multinational foreign bureaucracies where the law changes at every border and often years of legal proceedings produce nothing but frustration.

However, in all that experience, never did I encounter more hostility, ignorance, incompetence, deceit, and blatant unwillingness to protect our youngest American citizens as I did with my experience with the Department of Justice. Characteristic of their unwillingness to respond to the crime of international parental kidnaping at the demand of the U.S. Attorney's Office, I placed false trust in a foreign civil process called the Hague Convention on the civil aspects of international child abduction that by design alone does not and will not work efficiently to protect American citizens. Though they demanded I follow it, never was I informed by the U.S. Attorney's Office that this foreign civil process since its creation had been successful in returning less than 30 percent of internationally abducted children. Even to this day, DOJ has failed to reveal the facts, as evidenced by the blue ribbon April 1999 report to the Attorney General. With typical bureaucratic flair and wasted resources, this report is a pre-package with no real substance, and that is to the direct detriment of countless lost American children.

For me, the convention-mandated 6-week Hague process took 14 grueling months, precious time that could have been more productively spent by pursuing additional remedies for the return of my children. After 14 months, not only were my children not returned, worse yet, I lost all traces of them completely due to the unenforceability, thus worthlessness, of a Danish high court order of return. Following that order, it took the U.S. Attorney's Office 6 months to take action, and then only as a result of my threats of legal action against them for blatant violations of the National Child Search Assistance Act of 1990.

The U.S. Attorney's Office's demand that I initially pursue only civil remedies was not only very poor advice, but more importantly, it directly endangered the well-being of my children. The U.S. Attorney's Office's reason for not taking my case subsequent to my award of custody was based on the false statement, "By law, we are not able to pursue criminal remedies against your wife until you have completely exhausted your civil remedies, both in the United States and abroad." What they were undoubtedly referring to, I would later learn, is the sense of Congress resolution included in the President's signed statement of the International Parental Kidnaping Crime Act, and in no way can this resolution be considered law.

Even overlooking their inability to give——

Senator DEWINE. So they were incorrect?

Mr. LEBEAU. I am sorry, sir.

Senator DEWINE. They were incorrect?

Mr. LEBEAU. Yes, sir. Even overlooking their inability to give proper advice in this critical situation, I find it absolutely inexcusable that in doing so, the U.S. Attorney's Office conveniently designed their own law to accommodate their disinterest. To me, that comment above and the theory behind it is akin to advising someone not to walk and chew gum at the same time. Certainly, it might be nice to sit down and chew, but not while you are waiting years for your children to come home.

Now, in the interest of time, ladies and gentlemen, I not only invite you but I beseech you to read this testimony that I have prepared. As I do, may I leave you with this. Even apart from my own horrific experience, the facts speak miserably for themselves and the harsh reality is that the U.S. Government is successful in securing the return of less than 30 percent of internationally kidnaped children. It is only on that basis alone that I need make my appeal.

We must, for the sake of our most precious resource, take the sheer facts and statistics as a clear signal that we, as Americans, are not doing enough to protect our youngest citizens. Clearly, we must become more proactive.

Personally, though, it has taken me many years to learn so well a very important lesson. There is a big difference between activity and accomplishment. So, yes, this is a call for action, but more importantly, there is a call for results. Thank you, Senator DeWine, for allowing me to appear before the subcommittee.

Senator DEWINE. Thank you very much.

[The prepared statement of Mr. Lebeau follows:]

Open Hearing of the ***United States Senate***
Committee on the Judiciary Subcommittee on Criminal Justice Oversight
"The Justice Department's Response to International Parental Kidnapping"

October 27, 1999

OUTLINE

Open Hearing of the *United States Senate*
Committee on the Judiciary Subcommittee on Criminal Justice Oversight
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I. VERBAL TESTIMONY OF JOHN J. LEBEAU, JR:

I would like to thank Senator Thurmond and distinguished Members of the Committee for allowing me to testify here today. I commend your commitment to exploring the devastating problems we are here to address, and humbly request that you not let go of that commitment until we all achieve, not just a necessary level of activity, but more importantly, a fully acceptable level of accomplishment. So far, we have a long way to go.

The record of the Justice Department's response to international parental kidnapping speaks for itself. Estimates show there were 10,000 cases of international parental child abduction at the time the International Parental Kidnapping Crime Act was passed on December 2, 1993. The record shows arrest warrants have been issued in less than 1% of those cases and all cases since then.

According to the *National Center for Missing and Exploited Children*, MY CASE IS THOUGHT TO BE THE ONLY ONE WITH BOTH AN ARREST AND U.S. EXTRADITION UPHELD.

To achieve this virtually unheard of outcome, it took my own Herculean efforts, the noble and unceasing fight of a sympathetic Congressional aide, a miraculous stroke of luck or two, lots of prayers and family support, every dollar I had and could borrow, and the threat of legal action against the United States Government.

THIS TESTIMONY IS ABOUT WHY MORE THAN 9,999 OTHER LEFT-BEHIND PARENTS HAVE NOT BEEN ABLE TO DO THE SAME. IT IS ON THEIR BEHALF THAT I APPEAR BEFORE YOU TODAY.

Mr. Chairman and Members of the Committee, I worked obsessively for 2½ years, traveled 5000 miles to Northern Europe 6 times, and spent over $160,000, in order to protect the endangered well being of my very young children. I entered, for 2½ years, a virtual netherworld

of multi-national, foreign bureaucracies, where the law changes at every border, and often years of legal proceedings produce nothing but frustration.

However, in all of that experience, never did I encounter more hostility, ignorance, incompetence, deceit, and blatant unwillingness to protect our youngest American citizens, as I did with our own *Department of Justice*, most frequently, the *United States Attorney Southern District of Florida West Palm Beach Division*.

Characteristic of their unwillingness to respond to the crime of International Parental Kidnapping; at the demand of the USAO, I placed false trust in a foreign civil process called the Hague Convention on the Civil Aspects of International Child Abduction, that by design alone, does not, and will not, work efficiently to protect American citizens.

Though they demanded I follow it, never was I informed by the USAO that this foreign civil process, since its creation, had been successful in returning less than 30% of internationally abducted children Even to this day, DOJ has failed to reveal the facts, as evidenced by the "blue-ribbon", April 1999 *Report to the Attorney General on International Parental Kidnapping*. With typical bureaucratic flair and wasted resources, this report is a pretty package with no real substance. And that is to the direct detriment of countless lost American children.

For me, the Convention-mandated-6-week Hague process took 14 grueling months; precious time that could have been more productively spent by pursuing additional remedies for the return of my children.

After 14 months, not only were my children not returned; worse yet, I lost all traces of them completely, due to the unenforceability, thus worthlessness, of a Danish High Court, Order of Return. Following that Order, it took the USAO 6 months to take action, and then, only as a result of my threats of legal action against them for blatant violations of the National Child Search Assistance Act of 1990.

The USAO demand, that I initially pursue only civil remedies, was not only very poor advice, but more importantly, directly endangered the well being of my children! The USAO reason for not taking my case subsequent to my award of custody, was based on the false statement *"**BY LAW**, WE ARE NOT ABLE TO PURSUE CRIMINAL REMEDIES AGAINST YOUR WIFE, UNTIL YOU HAVE COMPLETELY EXHAUSTED YOUR CIVIL REMEDIES*

BOTH IN THE US AND ABROAD." What they were undoubtedly referring to, I would later learn, is the *Sense of Congress Resolution* included in the President's signing statement of the International Parental Kidnapping Crime Act. In no way can this *Resolution* be considered law.

Even overlooking their inability to give proper advice in this critical situation, **I find it absolutely inexcusable that, in doing so, the USAO conveniently designed their own law to accommodate their disinterest.**

To me, that comment above, and the theory behind it, is akin to advising someone not to walk and chew gum at the same time. Certainly, it might be nice to sit down and chew, **BUT NOT WHILE YOU'RE WAITING YEARS FOR YOUR CHILDREN TO COME HOME.**

Now, in the interests of time, I not only invite you, but beseech you, to read this testimony.

As I do, let me leave you with this.

Even apart from my own horrific experience, the facts speak miserably for themselves, and the harsh reality is that the US Government is successful in securing the return of less than 30% of internationally kidnapped children.

It is only on that basis alone ladies and gentleman that I need make my appeal. We must, for the sake of our most precious resource, take the shear facts and statistics as a clear signal that we as Americans are not doing enough to protect our youngest citizens. CLEARLY, WE MUST BECOME MORE PROACTIVE.

Personally though, it has taken me many years to learn so well, a very important lesson: THERE IS A BIG DIFFERENCE BETWEEN ACTIVITY AND ACCOMPLISHMENT.

So yes, **THIS IS A CALL FOR ACTION, BUT MORE IMPORTANTLY, IT IS A CALL FOR RESULTS!**

Thank you Mr. Chairman, members of the Committee, and distinguished guests for giving me the opportunity to appear before you today. That concludes my verbal testimony.

II. OPENING STATEMENT OF ACKNOWLEDGEMENT

I am John Lebeau, father of Ruth Emily and Luke Thomas Lebeau, my American born son and daughter, who were abducted from their home in Palm Beach Gardens, Florida on June 27, 1996 by their Danish citizen mother, Mette Lebeau. Facing possible extradition from the United Kingdom, Mette Lebeau returned the children to the US and my custody on December 18, 1998.

Before proceeding, I would like to thank Senator Thurmond and distinguished Members of the Committee for scheduling this hearing. On behalf of left-behind parents everywhere, I commend your commitment to exploring the devastating problems we are here to address, and humbly request that you not let go of that commitment until we all achieve, not just a necessary level of activity, but more importantly, a fully acceptable level of accomplishment. So far, we have a long way to go.

May I begin...

III. TESTIMONY OF JOHN J. LEBEAU, JR. ON THE INTERNATIONAL PARENTAL KIDNAPPING OF THE TWIN MINOR US CITIZENS RUTH EMILY LEBEAU AND LUKE THOMAS LEBEAU

A. INTRODUCTION

I am John Lebeau, father of Ruth Emily and Luke Thomas Lebeau, my American born son and daughter, who were abducted from their home in Palm Beach Gardens, Florida on June 27, 1996 by their Danish citizen mother, Mette Rahbek Lebeau. Subsequently, on July 25, 1996, ML kidnapped our children, absconding with them to her native hometown of Ribe, in the far reaches of western Denmark.

To bring Ruthie and Luke home again I worked obsessively for 2½ years, traveled 5000 miles to Northern Europe 6 times, and spent over $160,000.

I fought, by far, the toughest fight of my life; a war with many fronts; not the least of which was fought quite to my astonishment, right here in America, with one of the most important branches of our federal government, the *US Department of Justice*.

Mr. Chairman and Members of the Committee, in order to protect the endangered well being of my very young children, I had to enter, for 2½ years, a virtual netherworld of multi-national, foreign bureaucracies, where the law changes at every border, and often years of legal proceedings produce nothing but frustration.

However, in all of that experience, never did I encounter more hostility, ignorance, incompetence, deceit, and blatant unwillingness to protect our youngest American citizens, as I did with the *Department of Justice*, and most often the *United States Attorney Southern District of Florida West Palm Beach Division*.

From the outset, my requests to that office for help, were met not only with indifference, but a gross misunderstanding of both the law, and the full scope of their responsibilities to the citizens they serve. And, with very few exceptions, the pervasiveness of this attitude, throughout the Department of Justice, was astounding.

Characteristic of their unwillingness to respond to the crime of International Parental Kidnapping; at the demand of the USAO, I placed false trust in a foreign civil process (The Hague Convention Treaty) that by design alone, does not, and will not, work efficiently to protect American citizens.

Though they demanded I follow it, never was I informed by the USAO that this foreign civil process, since its creation, had been successful in returning less than 30% of internationally abducted children Even to this day, DOJ has failed to reveal the facts, as evidenced by the "blue-ribbon", April 1999 *Report to the Attorney General on International Parental Kidnapping*. With typical bureaucratic flair and wasted resources, this report is a pretty package with no real substance. And that is to the direct detriment of countless lost American children.

For me, the Convention-mandated-6-week Hague process took 14 grueling months; precious time that could have been more productively spent by pursuing additional remedies for the return of my children.

After 14 months, not only were my children not returned; worse yet, I lost all traces of them completely, due to the unenforceability, thus worthlessness, of a Danish High Court, Order of Return. In response to that Order, it took the USAO 6 months to take action, and then, only as a result of my threats of legal action against them for blatant violations of the National Child Search Assistance Act of 1990.

Therefore, the USAO demand, that I initially pursue only civil remedies, was not only very poor advice, but more importantly, directly endangered the well being of my children! The USAO reason for not taking my case subsequent to my award of custody, was based on the false statement *"**BY LAW**, WE ARE NOT ABLE TO PURSUE CRIMINAL REMEDIES AGAINST YOUR WIFE, UNTIL YOU HAVE COMPLETELY EXHAUSTED YOUR CIVIL REMEDIES BOTH IN THE US AND ABROAD."* What they were undoubtedly referring to, I would later learn, is the *Sense of Congress Resolution* included in the President's signing statement of the International Parental Kidnapping Crime Act of 1993, on December 2, of that year. In no way can this *Resolution* be considered law.

Even overlooking their inability to give proper advice in this critical situation, **I find it absolutely inexcusable that, in doing so, the USAO conveniently designed their own law to accommodate their disinterest.**

Finally, nearly a year later, having fruitlessly exhausted my civil remedies, I returned to the USAO. Again I was met with complete indifference, already, bordering downright hostility. It soon became obvious to me that Assistant US Attorney Carolyn Bell was hoping that my case

would simply go away. However, having no other recourse, I was forced to trust our own judicial system and those responsible for making it operate efficiently. As a result, I had to plead with the AUSA for 6 full months before she was willing to seek an indictment of the now 2-time-abductor.

Mr. Chairman and Members of the Committee, I urge you not to be mislead into thinking that my case, and the numerous bungled events concerning the DOJ, is an unfortunate, yet isolated example of their response to this most heinous crime.

Consider the recent case of Ron Chestnut from Louisiana, whose 8-year old son Christian was kidnapped and taken to Denmark by his mother in June 1998. In the wake of my inexcusably long Hague case, the Danish Central Authority assisted Ron in completing the civil process in less than 8 weeks, which, like mine, resulted in an unenforceable Danish High Court order of return.

In response, the USAO refused to present the case to a grand jury for 8½ months. Finally, they agreed to seek an indictment, only to refuse to once again when the child was returned to the US, because they now considered the matter moot. May I add, this return was accomplished only as a result of a professional rescue operation financed by Mr. Chestnut.

I humbly ask this Committee, "Would the DOJ consider a bank robbery moot if the cash was later recovered by the bank?" Or are our youngest American citizens just an expendable commodity?

The International Parental Kidnapping Crime Act cannot serve the intended purpose of deterring this rampant crime against humanity unless it is enforced. And the record shows, it is hardly being enforced at all.

Gentlemen, after more than two years of constant frustration with Justice Department officials on all levels, I can assure you, despite what is reported in the April 1999 *Federal Agency Task Force Report to the Attorney General*, **THIS IS A SYSTEM THAT IS FAILING AMERICAN CITIZENS IN A MOST MISERABLE WAY. AND IT WILL CONTINUE TO FAIL THOUSANDS OF AMERICAN CHILDREN AND THEIR FAMILIES EACH YEAR, UNLESS CONGRESS TAKES AGGRESSIVE, UNRELENTING ACTION, UNTIL DRAMATICALLY MORE FAVORABLE RESULTS ARE ACHIEVED.**

The record of the Justice Department's response to international parental kidnapping speaks for itself. There have been more than 10,000 cases of international parental child abduction since the International Parental Kidnapping Crime Act was passed on December 2, 1993. Arrest warrants have been issued in less than 1% of those cases.

According to the *National Center for Missing and Exploited Children*, MY CASE IS THOUGHT TO BE THE ONLY ONE WITH BOTH AN ARREST AND U.S. EXTRADITION UPHELD.

This, virtually unheard of outcome, took my own Herculean efforts, the noble and unceasing fight of a sympathetic Congressional aide, a miraculous stroke of luck or two, lots of prayers and family support, every dollar I had and could borrow, and the threat of legal action against the United States Government to achieve.

THIS TESTIMONY IS ABOUT WHY MORE THAN 9,999 OTHER LEFT-BEHIND PARENTS HAVE NOT BEEN ABLE TO DO THE SAME.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, IT IS ON THEIR BEHALF THAT I APPEAR BEFORE YOU TODAY.

B. SUMMARY OF RELATIVE EXPERIENCES WITH DOJ

- **(FEBRUARY 25, 1997)(DOJ)** - JL MEETS WITH THE OFFICE OF UNITED STATES ATTORNEY, SOUTHERN DISTRICT OF FLORIDA, WEST PALM BEACH DIVISION. JL'S DESPERATE PLEAS FOR HELP ARE DISMISSED WITH THE FALSE STATEMENT THAT "**BY LAW WE ARE NOT ABLE TO PURSUE CRIMINAL REMEDIES AGAINST YOUR WIFE, UNTIL YOU HAVE COMPLETELY EXHAUSTED YOUR CIVIL REMEDIES BOTH IN THE US AND ABROAD.**"

  What they are referring to is the *Sense of Congress Resolution* included in President Clinton's signing statement of the International Parental Kidnapping Crime Act of 1993, on December 2 of that year. In no way can this *Resolution* be considered law.

- **MAY 2, 1998 (DOJ)** - JL DISCOVERS **THE USAO FAILED TO UPDATE THE NCIC ENTRY IT TOOK JL 6½ MONTHS TO FINALLY HAVE ENTERED, OVER A YEAR AGO. NOT ONLY WAS THERE NO UPDATE, THERE WAS NO ENTRY AT ALL! A FLAGRANT VIOLATION OF THE NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990!**

- **MAY 27, 1998 (DOJ) - JL sends a strongly worded letter to Ms. Donna Bucella, at the Executive office of US Attorneys in Washington, D.C., regarding Assistant US Attorney Carolyn Bell of the Southern District of Florida, and her complete unwillingness to pursue a federal indictment of ML for the obvious violation of Title 18, United States Code, Section 1204(a), International Parental Kidnapping. Since AUSA Bell has previously declared to JL that she can go before a Grand Jury to seek an indictment on any given day, even on short notice, JL informs Ms. Bucella in his letter that unless AUSA Bell does seek a Grand Jury indictment of ML by June 8, he will pursue all his legal remedies (already determined to be valid and of considerable extent), and then blast the press with details of this scandalous charade put on by the USAO Southern District of Florida, West Palm Beach Division. (ATTACHMENT)**

- **JUNE 9, 1998 (DOJ)** - ORDER: UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA, IN THE CASE, *USA vs. Mette Uhre Lebeau*. A GRAND JURY CHARGES ML WITH VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1204(a), INTERNATIONAL PARENTAL KIDNAPPING. A WARRANT IS ISSUED WITHOUT BAIL BASED ON THE INDICTMENT.

  [N.B. Immediately preceding the hearing, AUSA Carolyn Bell sits JL down in a tiny room and proceeds to lecture him on the reason they were finally going before a Grand Jury on that specific day. **AUSA BELL MAKES THE RIDICULOUS ASSERTION THAT IT WAS ONLY BECAUSE THE DEPARTMENT OF STATE SAID IT WOULD BE O.K. TO GO AHEAD WITH PURSUING THE INDICTMENT, AND ADAMANTLY DECLARES TO JL THAT IT HAD ABSOLUTELY NOTHING TO DO WITH HIS MAY 27, 1998 LETTER TO MS. DONNA BUCELLA IN WHICH JL DEMANDS A GRAND JURY HEARING BY JUNE 8! (ATTACHMENTS)**

- **AUGUST 4, 1998 (DOJ) - JL once again writes to Donna Bucella at the Executive Office of U.S. Attorneys in Washington, challenging the June 15, 1998 response by Marcia Johnson of that office to JL's previous letter of May 27, 1997.**

  [N.B. THOUGH HE FAXED THE CORRESPONDENCE TWICE, RECEIVED TWO HARD COPY CONFIRMATION REPORTS OF TRANSMISSION, VERBALLY CONFIRMED ITS RECEIPT WITH MARCIA JOHNSON, AND WAS TOLD BY HER ON THIS DAY THAT HE COULD EXPECT A REPLY *"BY THE END OF THE MONTH"*, JL NEVER RECEIVED A RESPONSE FROM DONNA BUCELLA OR ANYONE FROM HER OFFICE.] (ATTACHMENTS)

- **(AUGUST 10, 1998) (DOJ) - JL phones Assistant U.S. Attorney Carolyn Bell requesting an explanation of why, (since he has taken great pains to secure an internal document of the Department of Justice in the form of an application for a *Request for Provisioanl Arrest* and fax it to AUSA Bell directly, and purely for her convenience), she has not even filled in the blanks on the 2-page application. Once again JL's conversation with Assistant US Attorney Carolyn Bell proves a useless exercise in semantics, accompanied by her rote chorus of empty promises and assurances. [EG. *"MR. LEBEAU, I WANT YOU TO KNOW THAT EVERY TIME I LOOK AT MY CHILD'S PICTURE ON MY DESK I THINK OF YOUR CHILDREN."*** At least to JL, that seems a bit too devotional, if not a bit odd, even under these circumstances. Then, with a wild shift of emotions, AUSA Bell completely abandons her false compassion and, with her usual, blatantly hostile and condescending attitude, she indicates her extreme displeasure at JL having done what he thought was a helpful gesture (faxing the application). **By this time it has long been obvious to JL that AUSA Bell is just not clear on how to do her job, or at least the full scope and authority of it.**

- **AUGUST - SEPTEMBER 1998 (DOJ)** - As the case heats up under the pressure of a threatened rehearing of it (courtesy of Bertha Lund) by the Danish Magistrate Court in Esbjerg (a.k.a. Anne Beneholt), JL makes numerous desperate pleas to Assistant US Attorney Carolyn Bell to apply to the DOJ's Office of International Affairs, for a *Request for Provisional Arrest,* and with considerable effort manages to secure himself a copy of this Department of Justice internal application which he faxes directly to AUSA Bell, purely for her convenience.
  In response, IN HER USUAL CONDESCENDING TONE **AUSA BELL BARKS, *"MR. LEBEAU, I KEEP TELLING YOU THAT YOU DON'T NEED A 'Request for Provisional Arrest' BECAUSE YOU ALREADY HAVE A 'RED NOTICE' IN PLACE."***

- **(SEPTEMBER 22, 1998) (DOJ)** - Special Agent Wilcox is given the unpleasant duty of informing JL that, **"THERE'S BEEN A BIT OF A 'GLITCH'. IT SEEMS THAT THE *Red Notice* HAS NOT YET BEEN APPLIED FOR."**

  This is completely disturbing to JL, with ML already successfully in hiding for over 9 months. In addition, he also knows that APPLYING FOR THE *RED NOTICE* WAS THE

SOLE RESPONSIBILITY OF AUSA BELL, AS WELL AS HER COMMON SENSE DUTY TO CONFIRM ITS RECEIPT AT THE US NATIONAL CENTRAL BUREAU (USNCB), AND FOLLOW UP ON IT PERIODICALLY WHILE AWAITING ITS ISSUE AND DISTRIBUTION. **INSTEAD, AUSA BELL DOES ABSOLUTELY NOTHING IN REGARD TO THE ISSUANCE OF A *Red Notice*, THOUGH REPEATEDLY ATTEMPTS TO PERSUADE JL THAT ONE HAS ALREADY BEEN ISSUED, WHEN IN FACT, AUSA BELL HAS NEVER SUBMITTED, OR EVEN COMPLETED, AN APPLICATION FOR ONE!**

- **OCTOBER 8, 1998 (DOJ)** - JL asks AUSA Bell to hold herself accountable for this gross dereliction of duty and at least give an explanation for her failure to do the job we American citizens call upon her, honor her with, and depend on her to do at the utmost of her abilities, ASSISTANT US ATTORNEY CAROLYN BELL RESPONDS BY TELLING JL THAT THE REASON SHE HAD PREVIOUSLY, ON NUMEROUS OCCASSIONS, TOLD HIM A *Red Notice* WAS ALREADY ISSUED, WAS BECAUSE SHE HAD AGAIN **"BEEN TOLD BY REPRESENTATIVES OF THE STATE DEPARTMENT, THAT AN INTERPOL *Red Notice* HAD BEEN ISSUED BASED UPON A REQUEST FROM THE DANES"** (DESPITE IT BEING HER THAT WAS RESPONSIBLE FOR COMPLETING THE APPLICATION, AND FOLLOWING UP ON IT.)

- **OCTOBER 8, 1998 (DOJ)** - JL sends fax to AUSA Carolyn Bell, requesting written confirmation of her statement on the phone minutes before that she had "been told by representatives of the State Department" that a *Red Notice* had been issued. She faxes back soon after with the opening remark that JL's understanding of their previous conversation was "ENTIRELY INCORRECT", yet just a few lines later, **AUSA BELL ASSERTS** PRECISELY WHAT JL ASKED HER TO CONFIRM. THAT IS, **THAT REPRESENTATIVES OF THE STATE DEPARTMENT TOLD HER THAT AN INTERPOL RED NOTICE HAD BEEN ISSUED BASED UPON A REQUEST FROM THE DANES,** WHEN, **IN FACT, NO *Red Notice* EXISTED OR WAS APPLIED FOR, NOT EVEN A YELLOW NOTICE FOR THE CHILDREN WAS APPLIED FOR! (ATTACHMENT)**

  AUSA BELL FURTHER STATES THAT IT WAS HER "UNDERSTANDING THAT THIS NOTICE HAD BEEN ISSUED IN APPROXIMATELY JANUARY OF THIS YEAR" *(Yet obviously, there had not been a single instance of follow up in 10 long months, or, quite logically the non-existence of the* Red Notice *would have been discovered)* "AND HAVE SINCE LEARNED" (10 LONG MONTHS LATER), "THAT THE STATE DEPARTMENT WAS MISTAKEN."

  [N.B. Anyone familiar with the Executive Branch structure of our government knows, that the State Department is a Diplomatic branch of government, and the Justice Department is a Law Enforcement branch of government. Any freshman employee in either of those branches knows that an INTERPOL *Red Notice* is a *law enforcement tool. Nevertheless, AUSA* Bell repeatedly claims, even in writing, that all of her

miniscule knowledge of the existence or status of the elusive *Red Notice*, COMES FROM THE STATE DEPARTMENT. (ATTACHMENT)

- **(OCTOBER 30, 1998)(DOJ)** - Congressman E. Clay Shaw's aide, Claudine Fontaine-Marrero works on JL's case for 4-5 hours a day, during which she becomes very urgent and inquisitive with various Department of Justice officials. Finally, she makes her way via telephone to the office of Mr. Richard A. Rossman, Chief of Staff, Criminal Division, in an attempt to have Attorney General Reno intervene in JL's case.

  Not long after finally reaching Mr. Rossman, **MS. MARRERO RECEIVES A CALL FROM A MS. TERRY SCHUBERT OF THE OFFICE OF INTERNATIONAL AFFAIRS DEMANDING THAT SHE BACK OFF ON JL'S CASE, LEST SHE FIND HER JOB IN JEOPARDY!**

- **DECEMBER , 1998 (DOJ)** - EXTRADITION HEARING: AUSA CAROLYN BELL IS UNPREPARED LACKING EASILY OBTAINED BIRTH CERTIFICATES FOR THE CHILDREN. JL IS COMPELLED TO PROVIDE HIS ONLY PERSONAL COPIES. **HAD JL NOT INTERVENED, AUSA BELL WOULD HAVE MISSED THE 60-DAY DEADLINE TO FILE THE EXTRADITION PACKAGE! Without the threat of extradition, ML would likely never have returned the children, especially with the upcoming possibility of the case being reopened in Denmark.**

C. OVERVIEW OF A US JUSTICE DEPARTMENT RESPONSE TO I.P.K.

1) PERSONAL EXPERIENCE

My first experiences with the Justice Department began as miserably frustrating as they ended some two years later.

In February 1997, after months of constant and urgent pleas for assistance, and now armed with a recently obtained custody order, I finally persuaded the local USAO to meet with me. I met with Assistant US Attorney Mr. Neil Karadbil, Attorney in Charge, and Assistant US Attorney Carolyn Bell of the United States Attorney Southern District of Florida West Palm Beach Division. Also attending was FBI Special Agent William W. Thurman, Jr.

My desperate pleas for help were dismissed with the false statement that "*by law we are not able to pursue criminal remedies against your wife, until you have exhausted your civil remedies both in the US and abroad.*"

To me, that comment above, and the theory behind it, is akin to advising someone not to walk and chew gum at the same time. Certainly, it might be nice to sit down and chew, but **NOT WHILE YOU'RE WAITING YEARS FOR YOUR CHILDREN TO COME HOME.**

Reluctantly, I continued following only the Hague Convention civil process, which failed miserably, costing me 14 months of separation from my children.

Nearly a year later I completed that process which, not only did not return my children, but, resulted instead, in their 2nd abduction in 18 months. This time I had no idea where in the world they were. Accordingly, I again contacted the AUSA and for 6 months had to plead with them to take on my case.

When the AUSA finally took action, it was with a direct violation of the National Child Search Assistance Act by failing to keep critical information on the abductor in the National Crime Information Computer (NCIC) system. Unconscionably, the only reason any action was taken at all, was because of my threats to the Executive Office of US Attorneys to uncover this fiasco with legal action against the USG. (ATTACHMENT).

As a result, a grand jury charged ML on June 9, 1998 with violation of Title 18, United States Code, Section 1204(a), International Parental Kidnapping. (ATTACHMENT). At that time, **AUSA Bell makes the ridiculous assertion that they were convened on that specific day only because the Department of State said it would be O.K. to go ahead with pursuing**

an indictment, and adamantly declares to me that it had absolutely nothing to do with my May 27, 1998 letter to Ms. Donna Bucella, in which I demand to appear before a grand jury by June 8!

Subsequently, I incorrectly assumed that a *Red Notice* and *Yellow Notice* had automatically been issued for ML and the children respectively. My next fight with the AUSA was a battle to get her to file an application for a *Request for Provisional Arrest*, with the Office of International Affairs. **Although I was told repeatedly that a *Red Notice* had been issued, NONE OF THESE IMPORTANT LAW ENFORCEMENT TOOLS WERE EVER EVEN APPLIED FOR BY ASUA BELL. In fact, I was told that I didn't need the *Request for Provisional Arrest* because I already had a *Red Notice***, yet no such notice existed.

Finally, with rapidly brewing suspicion of the honesty and qualifications of AUSA Bell, I learned that there was never a *Red Notice* issued or even applied for. Unabashedly, this dereliction of duty was explained away with the excuse that, AGAIN, it was "representatives of the State Department" that told her, the AUSA, that this law enforcement tool had been issued.

Having previously, on numerous occasions, shared my experiences and frustrations with the local Congressional Office of Congressman E. Clay Shaw, that office began to see there were real problems occurring in the handling of my case. The unrelenting, valiant efforts of a sympathetic, congressional aid, Ms. Claudine Fontaine Marrero, eventually led to the office of a Mr. Richard A. Rossman, Chief of Staff, Criminal Division.

Not long after contacting Mr. Rossman, **MS. MARRERO RECEIVES A CALL FROM A MS. TERRY SCHUBERT OF THE OFFICE OF INTERNATIONAL AFFAIRS DEMANDING THAT SHE BACK OFF ON MY CASE, LEST SHE FIND HER JOB IN JEOPARDY!**

These are just some of my personal experiences with the Department of Justice. I, and thousands of other left-behind parents, undoubtedly have countless more. And that is exactly the intention of this testimony. To point out, without a shadow of a doubt, that a great miscarriage of justice is being perpetrated upon our youngest American citizens. As horrific as my story may be, IT DOES NOT STAND ALONE. I'm merely one of a few who have been given an opportunity to tell the story.

2) PROBLEMS

a) No mechanism for inducing the USAO and FBI to take action in these cases.

b) The reason they do not want to take action is because they are incredibly misinformed as to the scope and context of the problem. Namely, that **these are not private custody disputes, but rather insidious crimes against humanity.**

There is an extreme lack of continuing educational requirements for IPK case investigation and management within DOJ. DOJ blaming DOS for their lack of knowledge of law enforcement tools being used in DOJ casework is inexcusable.

c) Using the Sense of Congress Resolution, that the civil process is a method of first choice, is used all too often as an excuse by DOJ for not responding to this crime.

d) There is no step-by-step, universal protocol within DOJ to assure law enforcement officials they are following the proper procedures, at the proper time, when handling these cases.

e) The IPKA is used more often as a threat to American left-behind parents, frustrated by an ineffective civil process, who are clearly warned that if they attempt the return of the child through non-judicial means, they will certainly face possible extradition from the US to face charges in the foreign country that virtually welcomes the abductor!

f) The IPKA is not used early on and with decisiveness, in order to gain important legal leverage against the abductor that becomes invaluable in negotiating the return of a child. In doing so, DOJ is sending a clear message to all abductors that there is no threat of penalty for their actions, and thus no detriment to the thousands of others that will follow in their footsteps. (ATTACHMENT)

g) The April 1999 task force report to the Attorney General, and the similar report and testimony of the General Accounting Office have whitewashed this issue, and no one has so far been held accountable. There is an obvious need for more objective and accurate research and analysis as to the true scope of this travesty, from an independent reporting agency outside of the Executive Branch.

3) EVALUATING THE PERFORMANCE AND RESPONSE OF DOJ IN IMPLEMENTING THE INTERNATIONAL PARENTAL KIDNAPPING CRIME ACT

The statistics are frightening and dangerous; and they reflect real life tragedies that effect countless people sometimes for a lifetime. **I declare, anything less than a 100% return rate of children, and subsequent prosecution of the abductor, means the unnecessary loss of a child.**

From that point of view, the performance and response of DOJ to IPK, is shameless and inexcusable. Can anyone imagine a land where bank robbers were guaranteed success in over 99% of their heists? Such an environment would crumble a nation, yet this is the comfortable world of the abductor; who acts with complete impunity, following a psychologically questionable personal agenda, which disregards the best interests and well being of a precious child.

It is in this environment that the DOJ responds to the crime of IPK. Knowing the odds of getting a prosecution are 1 in a 100, the USAO is reluctant to press for one, thus further decreasing the ratios, which in turn increases the DOJ tendency and/or desire to use such faulty logic to begin with.

The time for task force reports and formal evaluations of DOJ is over. This problem is rampant and debilitating. For thousands of illegally retained children today, time is running out; as it will eventually for thousands more to come. Let's stop the paralysis of analysis. It is time for government officials on all levels to better spend their time instead, educating themselves on the realities facing left-behind American parents, with plans for daily action to turn this horrendous situation around.

4) WHAT WORKED AND WHY

My case involved many procedural elements.

As confirmed by other left-behind parents; in my case also, it was the attention given to this issue by Congress, the media, and fellow Americans everywhere that gave the most hope for change.

In addition, without the noble and unrelenting efforts of a sympathetic Congressional aide, I would not, alone, have been able to get so much attention to my case in Washington. This was instrumental in my children's return.

Without question, the countless hours spent early on, throughout my case, and to this day, networking with other left-behind parents has proven invaluable.

However, in an ironic way, the most impact on the case came with a miraculous stroke of luck, when I discovered the USAO in violation of the National Child Search Assistant Act. It was that dereliction of duty that gave me the leverage I needed to force the USAO to seek an indictment. It was ultimately that indictment and pending prosecution, that forced ML to waive possible extradition and return to the US with the children. Had I not been pushing so intensely hard to uncover the facts in the US government's case against ML, I would never have discovered this bungle, and quite possibly be still fighting with DOJ about *Red Notices* and such.

Instead, every night for almost a year now, I am kissing my dear Ruthie and Luke goodnight.

5) RECOMMENDTIONS

a) Remand DOJ's ability to extradite US citizens who rescue their children, back to foreign countries that have a poor record for returning children and/or refuse to extradite their own nationals.

b) Commission an independent organization to do the following:

1. Develop a plan of action to educate government officials on all levels on the facts concerning this issue. This education should be targeted most directly at the DOJ network of USAO, and their corresponding FBI agencies. It should combat the pervasive attitude throughout DOJ that these are private custody matters.

2. In outlining this plan, special attention should be made to the various law enforcement tools available to agents and prosecutors,

with detailed procedures stipulated for their proper application, issuance and follow-up.

3. Provide more widespread dissemination of information concerning the realities facing left-behind parents seeking civil remedies. Namely, that this process is successful in returning less than 30% of internationally kidnapped children.

4. Audit the DOJ response to this crime on a case-by-case basis, and make the results available to the public, especially left-behind parents.

b) Absolutely necessary is a dramatically diminished emphasis on maintaining diplomatic grace at the expense of lost American children. This posture only serves to provide DOJ with an excuse to passively avoid its law enforcement duties.

By their very nature, diplomacy (*Webster's def.* 2. Tact and skill in dealing with people.) and law enforcement (*Webster's def.* 2. Bringing about by force.) must remain mutually exclusive.

c) More personal diplomacy and professionalism amongst DOJ officials on all levels. No one wants to deal with a totalitarian, bureaucratic, law enforcement official, let alone place their child's future in one's hands.

D. CLOSING REMARKS

I can think of many ways that a child's world can be torn apart; among them:

- Perhaps, just a family relocation to a new city and new school.
- Or, more severely, from the death of a parent, or even a grandparent.
- Then, catastrophically, there are the ravages of war and the atrocities of families being torn apart like chafe and grain. Such images are still fresh in our minds after such horrific events as we saw in Kosovo not long ago.

To varying degrees, each of these scenarios should, to any concerned parent, be a call for added attention to the balance, stability, and overall well being of a child.

However, I would like to take the liberty to assume that, there are few if any individuals here today that could give a professional and qualified analysis of the considerable effects on a child of being torn away from one of his/her parents; then kidnapped and taken to another part of the world. Usually with no truthful explanation, if at all, the child is dropped down, sometimes within hours, into a foreign country and culture with the expectation that the child adapt to this usually unfamiliar world, as easily as does the parent. It is almost always infinitely easier for the parent who kidnaps the child, since, in nearly every case the parent who kidnaps, absconds to a country in which he/she has close ties; it is their country of birth and/or they have family and friends there to assist them.

Thus, when a left-behind parent hears from various branches of government, especially *Department of Justice* officials on all levels, that they are "actively" pursuing the return of his/her child, it is only natural for that parent to acquiesce, however slightly, into a false sense of "being in good hands."

However, even apart from my own horrific experience in dealing with *The Department of Justice's US Attorney, Southern District of Florida, West Palm Beach Division*, the facts speak miserably for themselves, and the harsh reality is that the US Government is successful in securing the return of less than 30% of internationally kidnapped children.

It is only on that basis alone ladies and gentleman that I need make my appeal. We must, for the sake of our most precious resource in the world, take the shear facts and statistics, (which dramatically show an increasing rate of US international parental kidnappings) as a clear signal

that we as Americans are not doing enough to protect our youngest citizens. CLEARLY, WE MUST BECOME MORE PROACTIVE.

Personally though, it has taken many years for me to learn so well, a very important lesson: THERE IS A BIG DIFFERENCE BETWEEN ACTIVITY AND ACCOMPLISHMENT.

So yes, **THIS IS A CALL FOR ACTION, BUT MORE IMPORTANTLY, IT IS A CALL FOR RESULTS!**

Thank you Mr. Chairman, members of the Committee, and distinguished guests for giving me the opportunity to appear before you today. That concludes my testimony.

IV. DETAILED CHRONOLOGY OF THE INTERNATIONAL PARENTAL KIDNAPPING OF THE TWIN MINOR US CITIZENS RUTH EMILY LEBEAU AND LUKE THOMAS LEBEAU

(Kidnapped June 27, 1996 from Palm Beach Gardens, Florida, USA to Ribe, Denmark by their Danish citizen mother, Mette Rahbek Lebeau)

NOTE: THIS CHRONOLOGY HAS BEEN WRITTEN WITH CAREFUL CONSIDERTION TO INNUMERABLE RELEVANT DETAILS. THEREFORE, A GENEROUS USE OF UPPER CASE, **BOLD**, AND *ITALIC* LETTERING HAS BEEN USED TO BOTH DISTINGUISH AND EMPHASIZE MANY OF THE MOST IMPORTANT STATEMENTS AND EVENTS.THE ENTRIES OF ALL COURT PROCEEDINGS ARE IN UPPER CASE LETTERS. DATES IN PARENTHESES ARE APPROXIMATE. DATES FOLLOWED BY "**(DOJ)**," ARE OF STATEMENTS AND/OR EVENTS PARTICULARLY PERTINENT TO THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY SUBCOMMITTE ON CRIMINAL JUSTICE OVERSIGHT HEARING, ENITILED *"THE JUSTICE DEPARTMENT'S RESPONSE TO INTERNATIONAL PARENTAL KIDNAPPING,"* HELD OCTOBER 27, 1999. DATES FOLLOWED BY **(DOS)** ARE OF STATEMENTS AND/OR EVENTS PARTICULARY PERTINENT TO RELATIVE ISSUES AT HAND WITH THE US DEPARTMENT OF STATE. NOT ALL ATTACHMENTS NOTED IN THIS CHRONOLOGY NECESSARILY APPEAR IN ANY PUBLICATION. ADDITIONAL DOCUMENTS MAY BE MADE AVAILABLE UPON WRITTEN REQUEST AND APPLICATION.

(JANUARY 15, 1996) (5:30PM EST) - Just days after her parents return to Denmark following their first visit with their newborn grandchildren in Florida, Mette Lebeau claims to her husband John Lebeau on his way to work this morning that she has misplaced her house key, and asks to have his to use that day. At precisely the time JL is due to arrive home from work 9 hours later, ML plans to call the police, citing a domestic dispute as the reason for a request to have an officer come to the house. Surprising her, John comes home from work 15 minutes early today, so ML uses a series of ridiculous excuses to keep him locked out until two officers arrive. The first officer goes inside while the other remains outside the front door with John and chats nicely with him about what has transpired. Still quite shocked by what is happening, JL states that he has no idea what is going on, as he has been at work since approximately 8:30 that morning. The second, infinitely more understanding officer offers the possibility that ML is suffering from post-partum depression as a result of her 2-month-premature delivery of the twins just 3½ months before. Then, much later, the first officer comes out and with considerable hostility orders JL into his own home only to gather some clothes and a few belongings. As JL does so, he is utterly dumbfounded to find along with ML and Luke, one of ML's girlfriends, Kathy Novas (whom ML would always complain was making blatant sexual advances towards her) hunched over 3½-month-old Ruthie (named in honor of JL's deceased mother), as if to protect Ruthie from her own loving father. The officer then orders JL to leave his home for an indeterminate period.

JUNE 27, 1996 (Thursday) (10:45PM EDT) - JL and ML become embroiled in an emotional, verbal sparring as a result of an extreme build up of tension between the couple. ML again becomes physically aggressive, though this time continues this display of behavior while following JL into the twin's nursery as JL rushes to respond to the cries of just-then-awakened daughter Ruthie. While sustaining repeated verbal attacks from his wife, JL lifts his daughter out of the crib and manages to console her enough that she soon falls back to sleep. JL leaves the room with ML on his heels hounding him until the never-to-be forgotten threat she screams to him at that moment. **"Do you realize that I've already set precedent back in January, and all I have to do is pick up the phone and call the police and you're out of here?"** Immediately John realizes that she very likely is scheming something. Quickly he responds by offering to call the police himself for he has nothing at all to hide or even be ashamed of. **(Contrary to what Assistant US Attorney Carolyn Bell would allude to in her statement to the *Associated Press* on January 27, 1999), it is, in fact, JL, not ML, who picks up the phone and dials 911** as ML's aggressiveness becomes more violent. JL speaks to the person responding for a mere moment before ML smashes down the phone, disconnecting the call. Eventually the police (obligated to respond,) arrive at the couple's home. Two officers suggest that one of the couple sleep somewhere else for the night and ML responds with an offer to go to a girlfriend (Eileen Fagan's) home with the children. JL explains that the children would be fine at home and suggests not waking them up and driving them across town at 11:30PM on a Friday night. ML refuses and **demands to take the children with her**, to which JL concedes, provided that he be given Eileen's telephone number, since her home was in a closed gated community to which he would not have open access. While dictating the number to one of the officers, ML awakens the children, and proceeds to load them into her car. Palm Beach Gardens Police Officer Tuman (I.D. #188) writes Eileen Fagan's number on the back of his calling card and hands it to JL as ML gets in her car and drives away with the twin children Ruth and Luke. This single event becomes the entirety of PBGPD Case #96-17936.

LITTLE DOES JL REALIZE AT THAT TIME THAT HE WILL HAVE TO WAIT 2½ LONG, AGONIZING YEARS, TRAVEL 5000 MILES TO NORTHERN EUROPE 6 TIMES, AND SPEND WELL OVER $100,000.00 TO BRING HIS CHILDREN HOME AGAIN!

JUNE 28-30, 1996 - With still no contact with JL, ML fails to return home with the children.

JULY 1, 1996 (Monday)(1:20PM) - JL phones Eileen Fagan, who claims to have no knowledge of ML and the children's whereabouts or ML's intentions.

JULY 1, 1996 (Monday)(4:30PM) - JL GOES TO PALM BEACH GARDENS POLICE DEPARTMENT TO FILE MISSING PERSONS REPORT. **A female officer tells him that to file such a report he would have to wait 24 hours. [N.B. Unbeknownst to JL at that time, PBGPD has just broken a very important federal law; A FLAGRANT VIOLATION OF THE NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990.** This section was enacted as part of Act Nov. 29, 1990, (P. L. 101-647), Title XXXVII, and not as part of Act Sept. 7, 1974 (P. L. 93-415), Title IV which generally comprises this chapter.

JULY 2, 1996 (Tuesday)(4:30PM) - **JL returns to PBGPD and is told by both Sergeant Leffler and Officer Rick Moretti (I.D. # 205) that JL cannot file a missing persons report on his children and their mother unless he has sole custody of the children. They say, "they are really not missing, they are with their mother." AGAIN A DIRECT VIOLATION OF THE NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990.** Case # 96-18804 is officially opened.

JULY 5, 1996 - JL visits the home of ML's closest friend; the illegal Danish alien Jeanette Hansen, in Delray Beach. With many of ML's possessions in plain view in Ms. Hansen's apartment, JL begs for information on his family, but to know avail. JL believes that ML and the children are simply hiding in a back room.
[N.B. In sworn testimony in Denmark the following March, ML would allege that on this occasion JL violently threatened Ms. Hansen, upon which the Delray Beach police were summoned. From Denmark JL contacts this police department, and receives from them shortly thereafter, via fax to Copenhagen, written confirmation that no such call by Ms. Hansen was made or responded to, at any time.]

JULY 6-25, 1996 - ML IS AIDED AND ABBETTED BY THE ***Aid to Victims of Domestic Abuse Shelter*** **in Delray Beach, FL,** WHICH ACCEPTS HANDS DOWN AN ELABORATELY FABRICATED STORY OF ABUSE WITHOUT THE SLIGHTEST EFFORT TO CORRARBORATE IT, AND EVEN **ASSISTS ML IN OBTAINING AIRLINE TICKETS FOR A FLIGHT OUT OF THE USA ON JULY 25, WITHOUT HER OR THE CHILDREN'S NAMES APPEARING ON THE PASSENGER LIST.** During her last few days in the US, ML learns that the Palm Beach Gardens Police are making inquiries as to her whereabouts, as a result of JL's pleading with them to do something. As a result, THE SHELTER SENDS HER AND THE 9-MONTH-OLD TWINS TO A REMOTE HOTEL ROOM, AND ARRANGES FOR HER STAY UNDER A FALSE IDENTITY. There she hides out until their departure from the US on July 25.

(JULY 6-25, 1996) - ML contacts Attorney Billy Sosa of *Victims Services* at the court house in Delray Beach, FL, and **ML IS URGED BY ATTORNEY SOSA TO LEAVE FOR DENMARK AS SOON AS POSSIBLE SINCE SHE "JUST HAD A SIMILAR CASE."** [This is according to repeated sworn testimony given by ML.]

(JULY 8, 1996) - JL sends a Western Union telegram to his in-laws, desperate for information on ML and Ruthie and Luke.

(JULY 15, 1996) - JL telephones his in-laws home in Ribe, Denmark unable to wait any longer for a response to the telegram. He speaks with his brother in-law Steen, who sympathetically informs JL that his in-laws are in South America on vacation and he has no knowledge of where ML and the twins are.

(JULY 19, 1996) - **JL sends a request (via fax) to the U.S. Department of State's Office of Passport Policy and Procedures, requesting a name check be made indicating whether**

there have been passports issued or there are applications for passports on file for Ruthie and Luke.

JULY 25, 1996 - ML SUCCESSFULLY KIDNAPS RUTHIE AND LUKE LEBEAU, BOARDING A PLANE IN MIAMI WITHOUT QUESTION; USING RECENTLY OBTAINED US PASSPORTS FOR THE CHILDREN (ISSUED JULY 17, 1996).

JULY 26, 1996 - ML and the children arrive at the home of ML's parents in Ribe, Denmark.

(JULY 29, 1996) – Still with no idea where ML and the twins are, JL visits with PBC Bar Association referral attorney Toni Hulme. Ms. Hulme states that she cannot be of much help but recommends a Jerald M. Smith, a private investigator in Boynton Beach. Mr. Smith urges JL to immediately contact the National Center of Missing and Exploited Children, informs JL to get and submit Applications for Assistance Under the Hague Convention On Child Abduction, as soon as possible. He also gives JL a host of other helpful assignments and tips.

JULY 31, 1996 - JL succeeds in getting through via telephone to his in-laws by having the international operator check for trouble on the line, as it had been continuously busy throughout the entire day (very unusual in the rural home of ML's parents). JL is connected only for an instant before the operator disconnects, indicating no trouble on the line; yet not too soon before JL distinctly hears the babbling of his daughter Ruthie, so clear that he can only presume she was in the arms of his youngest brother-in-law as he answered the phone just before the call was terminated. JL immediately phones back and is instantly hung-up on by ML's father, Sven Rahbek.

Later that night JL begins having severe chest pains. They become intense enough that he decides to drive himself to the hospital, where he is immediately admitted following an examination, and is later diagnosed with a clear case of *post-traumatic stress syndrome*, manifested as *pericarditis*, an inflammation of the thin layer surrounding the heart, which sometimes happens as a result of too much stress. While relating to the doctor the cause of so much stress in his life, JL melts into a sobbing, on-the-knees, emotional breakdown, and is kept in the hospital for 5 days, and prescribed a regular dose of anti-inflammatory medication for his heart, as well as daily consultations with a board-certified psychiatrist regarding his trauma.

AUGUST 5, 1996 - JL emerges from the hospital feeling stronger than ever and makes a solemn vow to himself never to give up fighting for the return of his children, for HE IS ABSOLUTELY CERTAIN THEIR RETURN TO THE US IS IN THEIR ABSOLUTE BEST INTERESTS!
Immediately upon his return home from the hospital JL finds in his mail a letter from his father-in-law in Denmark, Sven Rahbek. It is a reply to JL's telegram of weeks before.
With a cold, abrupt, and hostile tone JL's father-in-law writes that he has *"no idea where ML and the children are, but what's more important, they are out of the state of Florida, but where I do not know. We will never see you or speak to you again. Do not contact us."*
Had JL not just spent 5 days in the hospital re-strengthening his mind and body, this very letter could have been a real blow. Instead, it only made him stronger.

AUGUST 7, 1996 - JL has a consultation with general practice attorney James R. Rich who cannot even address the issue of abduction, and speaks only of divorce as a natural step in achieving custody of the children. JL spends 15 minutes in his office. Cost: $100.00, for nothing.

AUGUST 20, 1996 - JL VISITS THE OFFICE OF THE STATE ATTORNEY FIFTEENTH JUDICIAL CIRCUIT IN WEST PALM BEACH and after reciting a nutshell version of the problem at hand and numerous pleas for help, JL IS ONLY AFFORDED A GREETING IN THE BUILDING LOBBY BY A RAYMOND G. MAGNO, INVESTIGATOR. MR. MAGNO ADAMANTLY DECLARES THAT HE CAN BE OF NO ASSISTANCE TO JL UNLESS HE HAS A VALID COURT ORDER GRANTING JL SOLE RESIDENTIAL AND PHYSICAL CUSTODY OF HIS CHILDREN.

AUGUST 21, 1996 - JL obtains replacement birth certificates for Ruthie and Luke from the Palm Beach County Public Health Unit, since ML, in her usual calculating manner, has previously taken the only copies, in order to apply for the children's passports.

AUGUST 23, 1996 [SEE ALSO (JULY 19, 1996)] (DOS) - JL RECEIVES LETTER FROM WILLIAM B. WHARTON, DIRECTOR, US DEPARTMENT OF STATE PASSPORT POLICY AND PROCEDURES OFFICE DATED AUGUST 19, 1996 STATING, " *PURSUANT TO YOUR REQUEST, YOUR CHILDREN'S NAMES WERE ENTERED IN OUR PASSPORT NAME CLEARANCE SYSTEM. THIS SHOULD ENABLE US TO NOTIFY YOU IF PASSPORT APPLICATIONS ARE EXECUTED ON THEIR BEHALF." "A SEARCH OF OUR RECORDS FAILED TO LOCATE AN APPLICATION FOR EITHER CHILD*." IN REALITY, PASSPORTS HAD INDEED BEEN ISSUED OVER 1 MONTH BEFORE! The letter is signed by Louis B. Harris. (ATTACHMENT)

SEPTEMBER 6, 1996 - JL DELIVERS TO THE DEPARTMENT OF STATE, BUREAU OF CONSULAR AFFAIRS, OFFICE OF CHILDREN'S ISSUES (US CENTRAL AUTHORITY), APPLICATIONS FOR ASSISTANCE UNDER THE HAGUE CONVENTION ON CHILD ABDUCTION. **(ATTACHMENT)**

SEPTEMBER 27, 1996 - After relating his situation over and over to numerous attorneys, JL retains general practice attorney Gary Israel, of West Palm Beach, based solely on JL's ability to pay his modest retainer request. It will be 2½ years before JL realizes just how much of a mistake this truly is.

(OCTOBER , 1996) - ML and the twins leave her parent's home in Ribe, and move into a new flat in Esbjerg, DK, about 20 miles away. Almost immediately ML BEGINS RECEIVING EDUCATIONAL BENEFITS UNDER SECTION 43 OF THE DANISH SOCIAL ASSISTANCE ACT. IN ADDITION, SHE RECEIVES THE HIGHEST RENT SUBSIDY RATE, THE GENERAL FAMILY ALLOWANCE, AND A MULTI-CHILD BENEFIT. HER MONTHLY NET INCOME IS THUS APPROXIMATELY $2,000 PER MONTH, BEFORE ADDING EMPLOYMENT EARNINGS AND OTHER BENEFITS.

OCTOBER 26, 1996 - ON BEHALF OF JL, GARY ISRAEL COMMENCES CUSTODY PROCEEDINGS IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL DISTRICT IN AND FOR PALM BEACH COUNTY, FAMILY DIVISION. (An entire month after being retained).

JANUARY 13, 1997 - ORDER: JOHN LEBEAU RECEIVES TEMPORARY PRIMARY RESIDENTIAL AND PHYSICAL CUSTODY OF RUTH AND LUKE LEBEAU FROM THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT, IN AND FOR PALM BEACH COUNTY, FLORIDA, FAMILY DIVISION. **(ATTACHMENT)**

JANUARY 14, 1997 - FOR THE THIRD TIME JL GOES TO THE PALM BEACH GARDENS POLICE DEPARTMENT TO FILE AN ENTRY INTO THE NCIC (NATIONAL CRIME INFORMATION CENTER) COMPUTER, ON ML. This time he is armed with his recently awarded custody order. Accommodating him is Officer Fantuzzi (I.D.#200). Case # 97-1749 is opened. **FINALLY, AFTER 6½ MONTHS, OFFICER FANTUZZI ENTERS ACCOMPANYING RELEVANT DATA ON ML INTO THE NCIC COMPUTER.**

(FEBRUARY 14, 1997) - Pursuant to their inordinately delayed demand, JL gives written authorization to the Danish Central Authority for them to act on his behalf. ALREADY 7 LONG, AGONIZING MONTHS HAVE GONE BY SINCE JL HAS SEEN RUTHIE AND LUKE, YET THE HAGUE PROCESS IS JUST BEGINNING. **LITTLE DOES JL REALIZE AT THAT TIME, THE FOLLOWING DANISH CIVIL PROCEEDINGS WILL TAKE 14 EXCRUCIATING MONTHS!**
[N.B. – THIS PROCESS IS LITERALLY MANDATED BY THE RATIFYING SIGNATORY COUNTRIES TO THE HAGUE CONVENTION TO TAKE NO LONGER THAN 6 WEEKS, WITHOUT A FORMAL EXPLANATION FROM THE RECEIVING CENTRAL AUTHORITY, JUSTIFYING THE DELAY.]

(FEBRUARY 25, 1997)(DOJ) - JL MEETS WITH ASSISTANT US ATTORNEY MR. NEIL KARADBIL, ATTORNEY IN CHARGE, AND ASSISTANT US ATTORNEY CAROLYN BELL, OF THE OFFICE OF UNITED STATES ATTORNEY, SOUTHERN DISTRICT OF FLORIDA, WEST PALM BEACH DIVISION AT THE USAO IN WEST PALM BEACH. ALSO ATTENDING IS FBI SPECIAL AGENT WILLIAM W. THURMAN, JR. JL'S DESPERATE PLEAS TO ALL THREE OF THEM FOR HELP ARE DISMISSED WITH THE FALSE STATEMENT THAT "**BY LAW WE ARE NOT ABLE TO PURSUE CRIMINAL REMEDIES AGAINST YOUR WIFE, UNTIL YOU HAVE COMPLETELY EXHAUSTED YOUR CIVIL REMEDIES BOTH IN THE US AND ABROAD.**" **What they are undoubtedly referring to is the *Sense of Congress Resolution* included in President Clinton's signing statement of the International Parental Kidnapping Crime Act of 1993, on December 2 of that year. In no way can this *Resolution* be considered law.**

MARCH 5, 1997 - JL writes to Congressmen Foley and Shaw with pleas for help in the form of letters from their offices to the Magistrates Court in Esbjerg, Denmark, urging the Court to uphold the provisions of the Hague Convention, and order the return of Ruth and Luke.

MARCH 11, 1997 - JL writes to Senator Connie Mack, also urging his support with a letter to the Court in Esbjerg.

MARCH 12, 1997 - JL writes a second letter to President Clinton urging his support.

(MARCH 18, 1997) JL FLIES TO COPENHAGEN, DK to meet his recently hired attorney Helga Madsen of Esbjerg, and prepare a legal strategy in Denmark.

MARCH 19, 1997 - JL is greeted the following morning at Kastrup airport in Copenhagen, by his long-time Danish friend and correspondent Mai-Britt Mikkelsen. Twelve hours after his arrival, JL boards a night train from Copenhagen to the western province of Jutland.

MARCH 21, 1997 (05:30 CET) - JL arrives by train in the small harbor town of Esbjerg as a wet spring snow quietly blankets the still dark countryside.

MARCH 21-24, 1997 - JL spends much of this time in his hotel room, anxiously awaiting news from his attorney regarding a proposed meeting with ML. **[N.B. 8 months later JL would discover that while he sat there for days, Ruthie and Luke were a mere 10 minute walk away at ML's Danish-government-protected secret address!]**

MARCH 25, 1997(10:00 CET) - JL meets with ML and her father along with his attorney Helga Madsen, in Ms. Madsen's office in Esbjerg. After 4 hours of negotiating, with ML and her father vigorously trying to persuade JL, completely in Danish, to abandon the Hague proceedings, and using the children as pawns by denying his access to them if JL does not comply, the parties come to a meeting of the minds. After nine long months of separation from now 18-month-old Ruthie and Luke, JL reluctantly agrees, (for HE HAS NO CHOICE), to see his children for only **2 hours** in exchange for staying the Hague case for **4 months,** with the resulting guarantee of not seeing his children again for at least that long if not much longer.

(15:00 CET): AFTER 9 MONTHS OF BEING SEPARATED FROM HIS CHILDREN, JL VISITS RUTHIE AND LUKE AT ML'S PARENTS HOME IN RIBE. Despite the 3 of them being confined to the kitchen/dining area, JL and the twins play happily together, and JL takes lots of pictures. Then, **EXACTLY 1 HOUR AND 59 MINUTES LATER, JL IS SHUFFLED OUT THE DOOR** by ML's father.
IT WOULD BE 7 LONG MONTHS BEFORE JL WOULD SEE DEAR RUTHIE AND LUKE AGAIN.

MARCH 26, 1997 - Helga Madsen informs JL that he has been approved for legal aid assistance, and returns to him his retainer.

MARCH 31, 1997 - After 2 weeks in Scandinavia, and only 2 hours spent with Ruthie and Luke, JL FLIES BACK TO THE US.

APRIL 3, 1997 - As a consequence of the agreement between the parties of March 25, the Magistrate Court in Esbjerg decides to postpone the case until August 3. At the request of JL, a hearing is held and the case subsequently set down for trial on September 10, 1997.

APRIL 3, 1997 - HEARING: IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR PALM BEACH COUNTY, FAMILY DIVISION. ML APPEARS BY TELEPHONE ALONG WITH HER ATTORNEY IN AN EFFORT TO ABATE THE CIVIL CUSTODY PROCEEDINGS THAT JL HAS COMMENCED IN THIS COURT.

APRIL 10, 1997 - ORDER: IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR PALM BEACH COUNTY, FAMILY DIVISION: ML'S MOTION TO ABATE FURTHER CIVIL PROCEEDINGS IN FLORIDA IS DENIED.

JUNE 19, 1997 (DOS) - JL makes applications to the Department of State for passports for Ruthie and Luke, using enlarged, self-cropped, photos of the children taken during his visit with them in March. Several weeks later, the **DOS PASSPORT OFFICE DENIES ISSUANCE OF PASSPORTS FOR RUTHIE AND LUKE** BASED ON THEIR QUESTIONING OF JL, WHO, QUITE HONESTLY ADMITS THAT THE CHILDREN ARE IN DENMARK.

JULY 31, 1997 (DOS) - JL ARRIVES BACK IN DENMARK, and later this day, **RECEIVES PASSPORTS FOR THE CHILDREN FROM THE AMERICAN EMBASSY IN COPENHAGEN**, again using the personally cropped photos of the twins taken during his brief visit with them in March.

AUGUST 4, 1997 - With the extensive and gracious assistance of his wonderful Danish friends, JL writes a plea to the Magistrate Court in Esbjerg, which is translated precisely into Danish, and both the original English version (to be used for the court record), and the Danish version (purely for the convenience of judge Anne Beneholt) are sent via certified mail. In his plea, JL urges the Court's compliance with the provisions of the Hague Convention. Included are supportive letters from Senator Mack, and Congressmen Shaw and Foley also urging the Dane's compliance. **(ATTACHMENT)**

AUGUST 6, 1996 - ML phones JL in Copenhagen, and suggests they meet in Esbjerg 6 days later. She makes such assurances as,

> "Oh, they're just fine, and you're going to see them soon." Then, "John, don't worry, we're going to work this out; everything is going to be alright."

A bit naively, with a glimmer of hope, JL agrees to the meeting.

AUGUST 12, 1997 - ML and JL meet at a café in Esbjerg to discuss the possibility of an agreed settlement. After several hours of pleasant chatting, ML SURPRISES JL WITH A DEMAND THAT HE SIGN PAPERS AWARDING HER SOLE CUSTODY OF THE CHILDREN, WITH THE PROVISION THAT JL ACCEPT THAT THE CHILDREN LIVE WITH HER IN DK **AND THAT SHE WOULD NEVER BRING THEM TO THE US**. SHE STATES THAT IF HE DOES NOT ACCEPT THIS OFFER, SHE WILL DO ANYTHING TO PREVENT HIM FROM EVER HAVING CONTACT WITH THE CHILDREN, AND WOULD

MAKE SURE THAT THEY NEVER EVEN LEARNED HIS NAME. JL calmly explains to her that he will not make this decision right away, to which ML responds with the question, should she hang him or shoot him? JL asks ML if she would return to the US with the children if it were decided by the court that they should be returned. To this **ML replies that no matter what would happen, she would never return to the US, and that furthermore, should the children be ordered returned, her father would probably have JL killed!** Miraculously, he manages to get ML to come to his hotel room to collect numerous gifts for the children, since she now refuses to give him any visitation with the children whatsoever. While JL is in the bathroom, ML uses this opportunity to steal from JL's case file the letter her father wrote to JL a year earlier regarding his complete lack of knowledge of the whereabouts of ML and the children.
JL IS NOW THOROUGHLY CONVINCED THAT ML IS PSYCHOLOGICALLY UNBALANCED AND BECOMES MORE DETERMINED THAN EVER TO PROTECT HIS CHILDREN.

AUGUST 18, 1997 - HEARING: MAGISTRATES COURT, ESBJERG, DK. JL'S ATTORNEY HELGA MADSEN MAKES DETAILED TESTIMONY, FOCUSING ON THE PROVISIONS OF THE HAGUE CONVENTION, AND CITING THE OBVIOUS WRONGFUL REMOVAL AND RETENTION OF THE CHILDREN BY ML. ML'S ATTORNEY, UFFA SKALBORG HANSEN MAKES AN ELABORATE AND UNNECESSARILY, LONG REBUTTAL IN A PITIFUL ATTEMPT TO JUSTIFY ML'S ACTIONS. HE HAS NEVER IN HIS ENTIRE CAREER HANDLED A HAGUE CONVENTION CASE.
JL HIMSELF GIVES TESTIMONY AND IS LATER BARRAGED BY AN INORDINATELY LONG, INSULTING AND REPETITIVE CROSS-EXAMINATION BY UFFA SKALBORG HANSEN.

AUGUST 20, 1997 - AFTER 3 WEEKS IN DK, JL FLIES BACK TO THE US. IN ALL THAT TIME, HE WAS NOT PERMITTED TO SPEND 1 MINUTE WITH HIS CHILDREN. IT HAS ALREADY BEEN 5 LONG MONTHS SINCE JL AND THE TWINS HAVE SEEN EACH OTHER.

SEPTEMBER 10, 1997 - HEARING: WITH THE FINAL TESTIMONY OF ML (CONVENIENTLY ARRANGED TO BE GIVEN IN JL'S ABSENCE; FOR JUDGE ANNE BENEHOLT REFUSED TO SCHEDULE A HEARING DURING JL'S 3-WEEK STAY THE PRECEEDING MONTH), THE CASE IS HEARD IN THE MAGISTRATES COURT IN ESBJERG.

SEPTEMBER 17, 1997 - ORDER: THE **VERY YOUNG JUDGE ANNE BENEHOLT** WHO, IN HER SHORT CAREER, **HAS NEVER HEARD A HAGUE CONVENTION CASE, ACTING ALONE ON BEHALF OF THE MAGISTRATES COURT IN ESBJERG, DENIES RETURN OF THE CHILDREN TO THE USA.** SHE BASES HER GROSSLY UNQUALIFIED DECISION ON THE UNPROVEN, UNEVALUATED PRESUMPTION THAT THE CHILDREN ARE ALREADY SETTLED IN THEIR NEW

ENVIRONMENT, AND THAT A RETURN TO THE US WOULD BE PSYCHOLOGICALLY DAMAGING.

(SEPTEMBER 22, 1997) - With the support of his attorney Helga Madsen, and still backed by Convention-mandated legal aid, JL hires a new attorney in Copenhagen, Ms. Kirsten Reimers-Lund. Ms. Reimers-Lund has considerable Hague case experience, and in fact has presented 6 Hague cases and been successful with court ordered returns of children in 5 of them.

(SEPTEMBER 25, 1997) - APPEAL: ATTORNEY KIRSTEN REIMERS-LUND FILES AN APPEAL ON BEHALF OF JL, IN THE WESTERN DIVISION OF THE DANISH HIGH COURT IN VIBORG, DK FOR THE RETURN OF THE CHILDREN TO THE USA, UNDER THE PROVISIONS OF THE HAGUE CONVENTION. Subsequently, a date for the appeal hearing is set for October 29, 1997 in Viborg.

OCTOBER 1, 1997 - JL RETURNS TO DK FOR THE THIRD TIME THIS YEAR, and, in a hopeful attempt to gain as much access and visitation with Ruthie and Luke as possible plans a stay of one month; all made possible by the generous hospitality and support of his long-time Danish friend Mai-Britt Mikkelsen and several of her family members.

(OCTOBER 3, 1997) - JL contacts various Danish government offices in Copenhagen, to research the feasibility of obtaining work and residence permits. His back-up plan, should the appeal case also order the children to remain in DK, is to move to DK, with the sole intention of keeping the children in as much contact with both of their parents as possible. He begins circulating his resume among various firms in Copenhagen, all of which tell him he must learn Danish to be considered.

(OCTOBER 5, 1997) – JL has an initial consultation in Copenhagen with his new attorney Kirsten Reimers-Lund. **Alarmed by his efforts to secure Danish residency and work permits just in case the Hague appeal is unsuccessful, Ms. Reimers-Lund informs JL that to do so would surely alert the Danish Courts and the Danish High Court would likely deny an appeal for return of the children based on the presumption that JL had conceded to the children living in DK, by inquiring about the feasibility of relocating there himself! She is sure of this because of another case she cites not long ago, where exactly that happened to an unfortunate, left-behind, foreign father!**

OCTOBER 1997 - Throughout this entire month, while JL is residing in Copenhagen, Ms. Reimers-Lund makes repeated telephone calls to ML's attorney Uffa Skalborg Hansen, in an attempt to get JL visitation with his children. Knowing JL is in Denmark, he never once during that entire month returns Ms. Reimers-Lund's calls. Ms. Reimers-Lund's numerous written requests via certified mail and fax also go unanswered.

OCTOBER 27, 1997(15:45 CET) - Attorney Kirsten Reimers-Lund urgently summons JL to her office to read a fax just received from ML's attorney Skalborg Hansen. The fax suggests that if JL wants to see his children, he may do so the following day, provided he travel again to the home of ML's parents for a visit between 15:15 CET and 17:30 CET; knowing full well that JL

is in Copenhagen, clear across the country, a half-day train ride away. Ms. Reimers Lund informs JL that it is obvious that their strategy is to make it as difficult as possible for JL to see his children, knowing he is staying in Copenhagen, and surely hoping that he will not be up for the round trip to the far west the next day, when he must travel to Viborg, in the far north, the next following morning to appear before the Danish High Court. Immediately JL schedules a same-day, round-trip flight for the following morning from Copenhagen to the west coast of Denmark, while Ms. Reimers-Lund schedules a same-day, round-trip flight for both of them to fly from Copenhagen to Viborg, the morning after that, to appear before the Western Division of the Danish High Court.

OCTOBER 28, 1997 - JL flies from Copenhagen to Esbjerg, then takes a train to Ribe to visit the children again at ML's parents home. Unfortunately due to transportation delays, JL is a few minutes late, and as JL's taxi approaches the parent's home, ML's father is seen in his car racing away down the street in the opposite direction. Later, JL is told in a hostile manner by ML, that due to JL's nominal tardiness, and her father's inability to reach her attorney via phone, he was on his way by car to the attorney's office in a raging attempt to have the visitation officially cancelled, 7 minutes after its scheduled commencement. Luckily, JL arrives at precisely that time and ML's father aggressively swings his car around and rushes to his front door before JL steps out of the taxi. Once inside, ML's father immediately locks the door behind JL, and pockets the key.

Obviously distressed at having to admit JL into their home once more, even for the sake of the children's contact with their father, the visitation agenda is dictated to JL by ML and her father. JL is ordered to feed the children first, then prepare for changing their diapers. It is soon obvious to JL that the children's diapers have been inordinately neglected, and a change is long overdue. Yet ML and her father insist on feeding the twins first, which does not take a parent to realize should best be done with the children comfortably in clean diapers. As a result of their loaded nappies, the children are uninterested in eating, and ML and her father cite the reason as being the children's obvious fear of their father. JL proceeds to prepare for the diaper changing, and is absolutely gleeful at the opportunity to do even this with his children after only spending **2 hours** with them in the past **15 months.** However, ML refuses to be present for the changing, and instead walks out the front door where she stands smoking a cigarette out of sight of the children. The twins naturally become restless not knowing why their mother has walked out on them, and when JL mentions this to her she begins shouting at JL and soon her father chimes in as well. JL politely mentions to the father that this matter is not really his business, and asks him to exclude himself from the conversation, to which he shouts, "SHUT-UP!" Then as the children both begin to cry as a result of ML and her father's shouting at JL, JL calmly tells them that EVEN IF HE HAS TO SACRIFICE OVER AN HOUR OF UNIMAGINABLY PRECIOUS MOMENTS WITH HIS CHILDREN, **HE KNOWS THAT IT IS IN THEIR ABSOLUTE BEST INTEREST TO SPARE RUTHIE AND LUKE FROM THE HOSTILITY OF ML AND HER FATHER**. Sadly, JL concludes the visit after spending only 40, unnecessarily and severely strained, minutes with his children. As he clears the threshold departing from the parent's home, ML'S FATHER SHOUTS ONE LAST ASSAULT AT JL. **"AND THAT'S THE LAST TIME YOU'LL EVER SEE YOUR CHILDREN AGAIN!"** In the midst of this epitome of hate, JL cannot help but notice the much improved use of English by ML's father, and suspects that he

has most likely practiced such hostile remarks, as the threat he has just made. Two hours later, JL is on a plane back to Copenhagen.

OCTOBER 29, 1997(07:20 CET) – HEARING: IN THE WESTERN DIVISION OF THE DANISH HIGH COURT. JL and Attorney Kirsten Reimers-Lund fly from Copenhagen to Viborg, where proceedings commence at 09:30 (CET) and continue until 18:10. Missing their return flight as a direct result of the once-again, overly extended deliberations of Uffa Skalborg Hansen, JL and Ms. Reimers-Lund luckily are able to board the last flight back to Copenhagen at approximately 21:45.

OCTOBER 30 – NOVEMBER 3, 1997 - JL suffers from severe flu symptoms, and other than a brief and uncomfortable visit to a reluctant Danish doctor, spends these entire days in bed, unable to make his scheduled return flight back to the US.

NOVENBER 3, 1997 – Though reluctant to do so, as now there is only 9 days until the High Court hands down a decision, and JL has already been in DK for over a month, he accepts the experienced advice of his attorney who advises him not to wait for the decision. She explains that if it is a return order, they still face the final hurdle of an enforcement hearing, which according to her experience in dealing with this court, may take weeks for the Magistrate Court in Esbjerg (a.k.a young judge Anne Beneholt) to schedule.

NOVEMBER 4, 1997 - AFTER 5 WEEKS IN DENMARK, A MERE 40 MINUTES OF WHICH IS SPENT WITH RUTHIE AND LUKE, JL FLIES BACK TO FLORIDA.

NOVEMBER 12, 1997 - ORDER: WESTERN DIVISION OF THE DANISH HIGH COURT IN VIBORG, DENMARK OVERTURNS JUDGE ANNE BENEHOLT'S DECISION OF SEPTEMBER 17, 1997, AND ORDERS THE RETURN OF THE CHILDREN TO THE US. Subsequently, an enforcement hearing is set for December 5, a full 3 weeks later. **(ATTACHMENT)**

DECEMBER 2, 1997 - Unbeknownst to all but her parents and the underground network of individuals that assist her, ML secretly flees Denmark with the children, and the same day conveniently arrives in a ready made apartment in Portsmouth, England, complete with a new identity, and soon a new job.

DECEMBER 3, 1997 - With no knowledge of ML's 2nd abduction of the twins the day before, (this time out of her own country), JL flies to Copenhagen for the fourth time this year, to appear at the enforcement hearing in Esbjerg, the morning after his arrival.

DECEMBER 5, 1997(09:30 CET) - The enforcement hearing is held in Esbjerg. Though absolutely required to by the court, ML does not appear, having fled Denmark 3 days before. Her attorney Uffa Skalborg Hansen appears on her behalf. The thirty-something peer of ML's, again presiding judge Anne Beneholt questions Skalborg Hansen as to the whereabouts of his client. Attorney Hansen responds by saying that he has no idea where his client is because all his contact and correspondence in the case has been through ML's father Sven Rahbek. The hearing

is concluded with the drafting of a warrant for the arrest of Mette Lebeau for violation of the Nov. 12, 1997 Danish High Court ruling, ordering the return of the children to the US.
JL spends the rest of the morning attempting to determine exactly what the Danish police can or intend to do to locate ML and the children. Fortunately he comes upon a sympathetic police officer that was once a left-behind parent himself, his ex-wife having kidnapped his children to Greenland. Politiassistent Nymark Poulsen tells JL to "be patient; no one can hide in DK for very long." When asked how long was "very long", JL is told "six months at most." In addition, he warns JL that even finding ML does not guarantee finding the children, and cites **a recent case of an abducting Danish mother who refused to disclose the whereabouts of her kidnapped children even after 6 months in jail! After that the police set her free, and never recovered the children!**
A STROKE OF LUCK FINDS JL STARING AT SOME FORMS ON OFFICER POULSEN'S DESK; THE TOP ONE CLEARLY REVEALING ML'S **DANISH-GOVERNMENT-PROTECTED SECRET ADDRESS. THAT ADDRESS HAD, UNTIL THAT POINT, BEEN REFUSED TO BE REVEALED BY THE DANISH AUTHORITIES, <u>EVEN AT THE REQUEST OF THE AMERICAN EMBASSY.</u>**

Instantly memorizing the address, JL quickly leaves the police station. JL immediately walks the few short blocks to Hermodsvej 21, surprised to find parked in plain view out front, the car of ML's father! JL runs as fast as he possibly can back to the Esbjerg Police Department and is met with surprising indifference when he relates what he just saw. JL manages to persuade the police to investigate, and reluctantly, a patrol car is sent to ML's address. Indeed the police do find ML's father in the now nearly vacant apartment, obviously packing ML and the children's remaining belongings. When politely questioned by the police as to the whereabouts of his daughter and the twins, with no need for cunning, he merely lies to them by AGAIN professing a complete lack of knowledge of where his daughter and grandchildren are. The police thank him, comfortable in the fact that they have done what their duty requires of them.

Upon reflection of the days events, JL becomes solemnly infuriated over the fact that **on 3 previous trips to this very town of Esbjerg, while desperately trying to gain access to his children, he sat for days on end, alone in his hotel room, while, unknowingly, the whole time, his dearest Ruthie and Luke were just a 10 minute walk away. In fact, 2hours and 40 minutes with his children in a year and a half, (including spending 2½ <u>months</u> of that time in Denmark), is all he is able to achieve.**

Again, JL is completely unaware that he will have to endure 11 more long, agonizing months before he will see his beloved children again. Indeed, these next horrifying months prove to be the most excruciating for JL, for <u>NOW HE HAS NO IDEA WHERE IN THE WORLD HIS CHILDREN ARE.</u>

Later that night, from his hotel room in Esbjerg, JL phones his new friend Paul Marinkovich (another left-behind parent from California with a son believed to be in Denmark or Sweden), and Paul urges JL to take up his own investigation, because from his experience both with the Danish and Swedish police, he asserts that it is foolish to depend on the abilities and willingness of the Danish police. After only one day of experience with those police, JL agrees, and for

several days and nights surveils ML's apartment in Esbjerg, but to no avail. LITTLE DOES JL REALIZE AT THE TIME, THAT ML IS ALREADY COMFORTABLY SETTLED IN TO HER NEW APARTMENT IN PORTSMOUTH, ENGLAND, HUNDREDS OF MILES AWAY, AND THAT RUTHIE AND LUKE HAVE BEEN PLACED IN A SALVATION ARMY DAYCARE IN PORTSMOUTH, WHILE ML BEGINS A NEW JOB.

DECEMBER 9, 1997 - JL flies back to the US

DECEMBER 15, 1997 - JL phones Assistant US Attorney Carolyn Bell urging her to open the case.

JANUARY – APRIL 1998 - DANISH POLICE FOLLOW A PAPER TRAIL OF ML LEADING CONSISTENTLY TO PORTSMOUTH, ENGLAND, although **THIS ABSOLUTELY CRUCIAL EVIDENCE IS NOT REVEALED BY THE DANISH POLICE (VIA THE CENTRAL AUTHORITY) UNTIL AUGUST '98** FOLLOWING REPEATED URGINGS BY JL TO THE STATE DEPARTMENT TO HOLD THE DANES ACCOUNTABLE FOR THEIR ACTIVITY IN SEARCHING FOR ML AND THE CHILDREN.

(FEBRUARY , 1998) - ANDERS KAPPEL OF TV 2 DENMARK TRAVELS TO AN UNDISCLOSED LOCATION TO INTERVIEW AND FILM A TELEVISION NEW STORY OF ML WHILE IN HIDING.

(FEBRUARY , 1998) - **DIPLOMATIC DEMARCHE**: THE DEPARTMENT OF STATE SENDS A DIPLOMATIC NOTE TO THE DANISH FOREIGN MINISTRY POLITELY REQUESTING EXPLANATIONS WHY ML CAN APPEAR ON DANISH NATIONAL TELEVISION, WHILE DEFYING A DANISH FEDERAL ARREST WARRANT FOR HER FAILURE TO APPEAR AT THE DECEMBER 5, 1997 ENFORCEMENT HEARING IN ESBJERG, THAT WAS TO EFFECTUATE THE RETURN OF THE CHILDREN TO THE US.

(FEBRUARY , 1998) - ANDERS KAPPEL FLIES TO FLORIDA TO INTERVIEW JL AND SEVERAL LOCAL LAW ENFORCEMENT OFFICIALS WHILE **BRAZENLY WITHHOLDING THE WHEREABOUTS OF THE FUGITIVE, ML.**

MAY 2, 1998 (4:30 PM)**(DOJ)** - A phone conversation with Charles Pickett, of the *National Center for Missing and Exploited Children*, reveals the fact that in the transfer of case data from the Palm Beach Gardens Police Department, **THE USAO FAILED TO UPDATE THE NCIC ENTRY IT TOOK JL 6½ MONTHS TO FINALLY HAVE ENTERED OVER A YEAR AGO. NOT ONLY WAS THERE NO UPDATE, THERE WAS NO ENTRY AT ALL! Hardly believable, but AGAIN A FLAGRANT VIOLATION OF THE NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990!**

MAY 27, 1998 (DOJ) - JL sends a strongly worded letter to Ms. Donna Bucella, at the Executive office of US Attorneys in Washington, D.C., regarding Assistant US Attorney Carolyn Bell of the Southern District of Florida USAO, and her complete unwillingness to

pursue a federal indictment of Mette Lebeau for the obvious violation of Title 18, United States Code, Section 1204(a), International Parental Kidnapping. Since AUSA Bell has previously declared to JL that she can go before a Grand Jury to seek an indictment on any given day, even on short notice, JL informs Ms. Bucella in his letter that unless AUSA Bell does seek a Grand Jury indictment of ML by June 8, he will pursue all his legal remedies (already determined to be valid and of considerable extent), and then blast the press with details of this scandalous charade put on by the USAO Southern District of Florida, West Palm Beach Division. (ATTACHMENT)

JUNE 9, 1998 (DOJ) - ORDER: UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA, IN THE CASE, *USA vs. Mette Uhre Lebeau.* A GRAND JURY CHARGES ML WITH VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1204(a), INTERNATIONAL PARENTAL KIDNAPPING. A WARRANT IS ISSUED WITHOUT BAIL BASED ON THE INDICTMENT. [N.B. Immediately preceding the hearing, AUSA Carolyn Bell sits JL down in a tiny room and proceeds to lecture him on the reason they were finally going before a Grand Jury on that specific day. She must believe JL is extremely gullible, for **AUSA BELL THEN MAKES THE RIDICULOUS ASSERTION THAT AGAIN IT WAS ONLY BECAUSE THE DEPARTMENT OF STATE RECENTLY SAID IT WOULD BE O.K. TO GO AHEAD WITH PURSUING THE INDICTMENT, AND ADAMANTLY DECLARES TO JL THAT IT HAD ABSOLUTELY NOTHING TO DO WITH HIS MAY 27, 1998 LETTER TO MS. DONNA BUCELLA IN WHICH JL DEMANDS A GRAND JURY HEARING BY JUNE 8! (ATTACHMENTS)**

JULY 2, 1998 - FINAL ORDER: IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR PALM BEACH COUNTY, FAMILY DIVISION, JL IS GIVEN SOLE PARENTAL RESPONSIBILITY FOR THE CHILDREN AND IS DESIGNATED AS THEIR PRIMARY RESIDENTIAL CUSTODIAN. **(ATTACHMENT)**

AUGUST 4, 1998 (DOJ) - JL once again writes to Donna Bucella at the Executive Office of U.S. Attorneys in Washington, challenging the June 15, 1998 response by Marcia Johnson of that office to JL's previous letter of May 27, 1997. Again, using very strong words, JL demands an explanation of the actions of AUSA Carolyn Bell and the USAO Southern District of Florida Office in West Palm Beach. [N.B. THOUGH HE FAXED THE CORRESPONDENCE TWICE, RECEIVED TWO HARD COPY CONFIRMATION REPORTS OF TRANSMISSION, VERBALLY CONFIRMED ITS RECEIPT WITH MARCIA JOHNSON, AND WAS TOLD BY HER ON THIS DAY THAT HE COULD EXPECT A REPLY "BY THE END OF THE MONTH", JL HAS, TO THIS DAY, NEVER RECEIVED A RESPONSE FROM DONNA BUCELLA OR ANYONE FROM HER OFFICE.] (ATTACHMENTS)

(AUGUST 10, 1998) (DOJ) - JL phones Assistant U.S. Attorney Carolyn Bell requesting an explanation of why, (since he has taken great pains to secure an internal document of the Department of Justice in the form of an application for a *Request for Provisioanl Arrest* and

fax it to AUSA Bell directly, and purely for her convenience), she has not even filled in the blanks on the 2-page application. Once again JL's conversation with Assistant US Attorney Carolyn Bell proves a useless exercise in semantics, accompanied by her rote chorus of empty promises and assurances. [EG. *"MR. LEBEAU, I WANT YOU TO KNOW THAT EVERY TIME I LOOK AT MY CHILDS PICTURE ON MY DESK I THINK OF YOUR CHILDREN."* At least to JL, that seems a bit too devotional, if not a bit odd, even under these circumstances. Then, with a wild shift of emotions, AUSA Bell completely abandons her false compassion and, with her usual, blatantly hostile and condescending attitude, she indicates her extreme displeasure at JL having done what he thought was a helpful gesture (faxing the application). **By this time it has long been obvious to JL that AUSA Bell is just not clear on how to do her job, or at least the full scope and authority of it. JL seriously ponders the possibility that AUSA Bell is psychologically unbalanced or otherwise incapable of meeting the requirements of her position.**

AUGUST 11, 1998 - IN THE MAGISTRATES COURT IN ESBJERG: ML'S NEW ATTORNEY, BERTHA LUND, FILES AN APPLICATION FOR REVISION OF THE NOVEMBER 12, 1997 DANISH HIGH COURT RETURN ORDER, STATING THAT, "ACCORDING TO LEGAL PRACTICE IN DENMARK, THERE MUST BE MAJOR REASONS FOR SEPARATING CHILDREN UNDER 2 YEARS OF AGE FROM THEIR MOTHER. [N.B. THE CHILDREN WERE NEARLY **3** YEARS OF AGE AT THAT TIME.]

AUGUST , 1998 - After months and months of silence, in a rare moment of frank correspondence, the Danish Central Authority reveals to the State Department that the Danish police have been following a paper trail **for 8 months**, consistently leading from the outset, to the likelihood that ML is in Portsmouth, England. **UNCONSCIONABLY, THE DANISH CENTRAL AUTHORITY NEVER REVEALED THIS ABSOLUTELY CRUCIAL EVIDENCE UNTIL NOW.**

AUGUST 28, 1998 - US Department of State (US Central Authority) contacts CAU (Central Authority for the United Kingdom) informing them of the likelihood that ML is in England.

AUGUST - SEPTEMBER 1998 (DOJ) - As the case heats up under the pressure of a threatened rehearing of it (courtesy of Bertha Lund) by the Danish Magistrate Court in Esbjerg (a.k.a. Anne Beneholt), JL makes numerous desperate pleas to Assistant US Attorney Carolyn Bell to apply to the DOJ's Office of International Affairs, for a *Request for Provisional Arrest,* and with considerable effort manages to secure himself a copy of this Department of Justice internal application which he faxes directly to AUSA Bell, purely for her convenience.
In response, IN HER USUAL CONDESCENDING TONE **AUSA BELL BARKS, "MR. LEBEAU, I KEEP TELLING YOU THAT YOU DON'T NEED A *'Request for Provisional Arrest'* BECAUSE YOU ALREADY HAVE A 'RED NOTICE' IN PLACE."**

SEPTEMBER 1, 1998 - Danish Central Authority forwards application for the return of the children to the CAU (Central Authority of the UK).

SEPTEMBER 9, 1998 - MOTION: ML'S NEWLY HIRED REPLACEMENT ATTORNEY, BERTHA LUND, FILES A MOTION IN THE MAGISTRATES COURT IN ESBJERG, DENMARK TO HAVE THE CASE REOPENED IN DENMARK, ON AN EX-PARTE BASIS, ON THE GROUNDS THAT TEN MONTHS HAVE GONE BY SINCE THE DANISH HIGH COURT ORDERED THE RETURN OF THE CHILDREN.

SEPTEMBER - OCTOBER, 1998 (DOJ) - Congressman E. Clay Shaw's aide, Claudine Fontaine-Marrero works on JL's case for 4-5 hours a day, during which she becomes very urgent and inquisitive with various Department of Justice officials. Finally, she makes her way via telephone to the office of Mr. Richard A. Rossman, Chief of Staff, Criminal Division, in an attempt to have Attorney General Reno intervene in JL's case.

Not long after finally reaching Mr. Rossman, **MS. MARRERO RECEIVES A CALL FROM A MS. TERRY SCHUBERT OF THE OFFICE OF INTERNATIONAL AFFAIRS DEMANDING THAT SHE BACK OFF ON JL'S CASE, LEST SHE FIND HER JOB IN JEOPARDY!**

(SEPTEMBER 15, 1998) - JL asks the USAO, through FBI Special Agent Charles K. Wilcox (one of the few shining stars in Mr. Lebeau's universe of experience with the Department of Justice) for a copy of the *Red Notice* AUSA Carolyn Bell has on numerous occasions assured JL has already been issued.

(SEPTEMBER 22, 1998) (DOJ) - Special Agent Wilcox is given the unpleasant duty of informing JL that, **"THERE'S BEEN A BIT OF A 'GLITCH'. IT SEEMS THAT THE *Red Notice* HAS NOT YET BEEN APPLIED FOR."**

This is completely disturbing to JL, with ML already successfully in hiding for over 9 months. In addition, he also knows that APPLYING FOR THE *RED NOTICE* WAS THE SOLE RESPONSIBILITY OF AUSA BELL, AS WELL AS HER COMMON SENSE DUTY TO CONFIRM ITS RECEIPT AT THE US NATIONAL CENTRAL BUREAU (USNCB), AND FOLLOW UP ON IT PERIODICALLY WHILE AWAITING ITS ISSUE AND DISTRIBUTION. **INSTEAD, AUSA BELL DOES ABSOLUTELY NOTHING IN REGARD TO THE ISSUANCE OF A *Red Notice*, THOUGH REPEATEDLY ATTEMPTS TO PERSUADE JL THAT ONE HAS ALREADY BEEN ISSUED, WHEN IN FACT, AUSA BELL HAS NEVER SUBMITTED, OR EVEN COMPLETED, AN APPLICATION FOR ONE!**

OCTOBER 8, 1998 (DOJ) - JL asks AUSA Bell to hold herself accountable for this gross dereliction of duty and at least give an explanation for her failure to do the job we American citizens call upon her, honor her with, and depend on her to do at the utmost of her abilities, ASSISTANT US ATTORNEY CAROLYN BELL RESPONDS BY TELLING JL THAT THE REASON SHE HAD PREVIOUSLY, ON NUMEROUS OCCASSIONS, TOLD HIM A *Red Notice* WAS ALREADY ISSUED, WAS BECAUSE SHE HAD **"BEEN TOLD BY REPRESENTATIVES OF THE STATE DEPARTMENT THAT AN INTERPOL *Red Notice* HAD BEEN ISSUED BASED UPON A REQUEST FROM THE DANES"**

(DESPITE IT BEING HER THAT WAS RESPONSIBLE FOR COMPLETING THE APPLICATION, AND FOLLOWING UP ON IT.)

OCTOBER 8, 1998 (DOJ) - JL sends fax to AUSA Carolyn Bell, requesting written confirmation of her statement on the phone minutes before that she had "been told by representatives of the State Department" that a *Red Notice* had been issued. She faxes back soon after with the opening remark that JL's understanding of their previous conversation was "ENTIRELY INCORRECT", yet just a few lines later, **AUSA BELL ASSERTS** PRECISELY WHAT JL ASKED HER TO CONFIRM. THAT IS, **THAT REPRESENTATIVES OF THE STATE DEPARTMENT TOLD HER THAT AN INTERPOL RED NOTICE HAD BEEN ISSUED BASED UPON A REQUEST FROM THE DANES,** WHEN, **IN FACT, NO *Red Notice* EXISTED OR WAS APPLIED FOR, NOT EVEN A YELLOW NOTICE FOR THE CHILDREN WAS APPLIED FOR! (ATTACHMENT)**

OCTOBER 8, 1998 - JL receives word from the Danish Central Authority that a Magistrate Court hearing will be held in Esbjerg, Denmark on November 4, to decide whether or not the case will be re-opened. ML is to be represented at this hearing ex-parte by her new Danish attorney, **Ms. Bertha Lund of Odense, Denmark, notable as a consistent defender of abducting Danish mothers.**
(N.B. IT IS IMPORTANT TO NOTE THAT THE ONLY REASON THIS HEARING COULD EVEN BE POSSIBLE IS BECAUSE THE DANES THEMSELVES WERE UNABLE TO ENFORCE THEIR OWN HIGH COURT RETURN ORDER OF NOVEMBER 12, 1997.)

(DOJ) It is important to note once again, that in response to JL's fax confirming his understanding of their earlier conversation, AUSA BELL RESPONDS BY TELLING HIM THAT THE REASON SHE COULD NOT COMPLY WITH HIS REQUEST TO PRODUCE A COPY OF THE INTERPOL *Red Notice* SHE HAD PREVIOUSLY TOLD HIM WAS ALREADY ISSUED, WAS BECAUSE SHE HAD **"BEEN TOLD BY REPRESENTATIVES FROM THE STATE DEPARTMENT THAT AN INTERPOL *Red Notice* HAD BEEN ISSUED BASED UPON A REQUEST FROM THE DANES." AUSA BELL FURTHER STATES THAT IT WAS HER "UNDERSTANDING THAT THIS NOTICE HAD BEEN ISSUED IN APPROXIMATELY JANUARY OF THIS YEAR" *(Yet obviously, there had not been a single instance of follow up in 10 long months, or, quite logically the non-existence of the* Red Notice *would have been discovered)* "AND HAVE SINCE LEARNED" (10 LONG MONTHS LATER), "THAT THE STATE DEPARTMENT WAS MISTAKEN."**

[N.B. Anyone familiar with the Executive Branch structure of our government knows, that the State Department is a Diplomatic branch of government, and the Justice Department is a Law Enforcement branch of government. Any freshman employee in either of those branches knows that an INTERPOL *Red Notice* is a *law enforcement tool. Nevertheless, AUSA* Bell repeatedly claims, in writing, that all of her miniscule knowledge of the existence or status of the elusive *Red Notice*, COMES FROM THE STATE DEPARTMENT. (ATTACHMENT)

OCTOBER 8, 1998 - **JL RECEIVES A CALL FROM HIS NEWLY APPOINTED ENGLISH SOLICITOR, KIM FINNIS, WHO, RATHER MATTER-OF-FACTLY STATES THAT ML HAS BEEN SUCCESSFULLY TRACED TO 6 QUEENS ROAD, PORTSMOUTH, ENGLAND BY RETIRED SCOTLAND YARD DETECTIVE MR. KEITH BOUGHTON, ACTING SOLELY IN A PRIVATE CAPACITY AT THE ENLISTMENT OF JL!**

OCTOBER 14, 1998 - JL FLIES TO EUROPE FOR A 5TH TIME, to begin new legal proceedings in the Royal High Court of Justice in London.

OCTOBER 15, 1998 - HEARING: JL ARRIVES IN LONDON AND WITHIN TWO HOURS IS BEFORE JUSTICE SUMNER IN THE ROYAL HIGH COURT. ALSO IN ATTENDANCE ALONG WITH JL, HIS BARRISTER, MICHAEL NICHOLS, AND SOLICITOR, KIM FINNIS, ARE TWO SCOTLAND YARD TIPSTAFF (SPECIAL POLICE). TOGETHER BEFORE THE COURT, **THEY PLAN FOR THE ARREST OF ML IN PORTSMOUTH AT PRECISELY 07:00 EET THE FOLLOWING MORNING**.

OCTOBER 16, 1998 - AS PLANNED, ML IS ARRESTED AT HER FLAT AT 6 QUEENS ROAD, PORTSMOUTH AT PRECISELY 07:00 (EET). Ironically, her parents are there as well. This proves to work to the advantage of the Tipstaff as they have arrived in two separate cars, intending to bring ML and the children to London separately to avoid any chance of a third abduction, and now have a grandparent to accompany the children on the 2-hour drive back to London.

OCTOBER 16, 1998 - ML IS BROUGHT BEFORE THE BOW STREETS MAGISTRATES COURT IN LONDON TO FACE POSSIBLE EXTRADITION TO THE USA.

LATER THIS DAY ML APPEARS BEFORE THE ROYAL HIGH COURT AND IS APPOINTED BARRISTER HENRY SETRIGHT WHO SUCCESSFULLY ARGUES FOR AN ADJOURNMENT OF THE CASE UNTIL MID NOVEMBER.

OCTOBER 17, 1998(08:00) - JL TRAVELS TO PORTSMOUTH BY TRAIN TO ANXIOUSLY AWAIT HIS COURT MANDATED VISITS WITH RUTHIE AND LUKE. IT HAS BEEN 1 WEEK SHY OF A YEAR SINCE JL AND THE TWINS LAST SAW EACH OTHER IN RIBE, DK. Accompanying him on this trip and the first and second visit today is JL's Swedish friend of 25 years, who has now lived in London for over 15 years with her Scottish husband and four boys.

OCTOBER 18, 1998 - JL HAS A THIRD AND FOURTH VISIT WITH HIS CHILDREN, WITH ONLY ML'S MOTHER PRESENT.

[N.B. To his absolute delight, all of these visits go spectacularly well and JL thanks God that his children obviously remember him, and that ML has not been successful in destroying the deep, spiritual bond JL shares with Ruthie and Luke.]

NOVEMBER 14, 1998 - AFFIDAVIT: JL MAKES AN AFFIDAVIT, **AS REQUIRED** BY, AND IN SUPPORT OF, HIS APPLICATION TO THE ROYAL HIGH COURT OF JUSTICE, FAMILY DIVISION, PRINCIPLE REGISTRY, LONDON ENGLAND **FOR THE RETURN OF THE CHILDREN. UNDERTAKINGS! (ATTACHMENT)**

NOVEMBER 19, 1998(05:56am EST) - Attorney Michael C. Berry of Clearwater, Florida faxes ML's appointed British Solicitor Ms. Anne Marie Hutchinson during final Royal High Court proceedings, in session at that moment, in London. **MR BERRY BOLDLY STATES, WITH VERY LITTLE KNOWLEDGE OF THE CASE,** (especially in regard to the separate case of USA vs. Mette Lebeau), **THAT "UPON ARRIVAL IN TO THE UNITED STATES, (ML) WOULD BE ARRESTED, SCHACKLED, AND INCARCERATED. THE CHILDREN WOULD BE REMOVED AND TURNED OVER TO SOCIAL SERVICES." "UNDOUBTEDLY THE MOTHER WOULD BE ARRESTED UPON FIRST ENTRY INTO THE UNITED STATES..."(ATTACHMENT)**

This is particularly disturbing to JL as he has made great efforts to persuade AUSA Bell to confirm in writing to JL's Solicitor, Kim Finnis, the interest of the USAO in doing exactly the opposite as Mr. Berry has foolishly attempted to convince the court would be the automatic and immediate outcome of ML's return to the USA. **(ATTACHMENT)**

NOVEMBER 24, 1998 - JL RETURNS FROM HIS 6TH TRIP TO EUROPE.

DECEMBER , 1998 (DOJ) - EXTRADITION HEARING: AUSA CAROLYN BELL IS UNPREPARED LACKING EASILY OBTAINED BIRTH CERTIFICATES FOR THE CHILDREN. JL IS COMPELLED TO PROVIDE HIS ONLY PERSONAL COPIES.

DECEMBER 18, 1998 - ML AND THE CHILDREN RETURN TO THE USA FROM ENGLAND ACCOMPANIED BY ML'S MOTHER DORTHE RAHBEK AND ARE MET AT MIAMI AIRPORT BY .... FBI SPECIAL AGENT CHARLES K. WILCOX, ML'S NEWLY HIRED ATTORNEY, THE INFAMOUS MICHAEL C. BERRY, AND OF COURSE, JOHN LEBEAU.

IT'S BEEN 876 DAYS SINCE RUTHIE AND LUKE LEBEAU HAVE BEEN ON US SOIL, AND 903 DAYS SINCE THEIR ABDUCTION.

JANUARY 15, 1999 - JL uncovers an elaborate plan by ML and her Danish boyfriend, Ulrik , (whom she has been hiding for over a week in the apartment JL has rented for her and the

children). Together they plan to kidnap the children for a third time via the Canadian border with Ulrik alone driving the 1500+ miles with the children, while ML remains innocently confined to her apartment with an electronic monitor secured to her ankle. JL does not return the children to ML following their weekend visitation.

[N.B. THE CHILDREN HAVE BEEN PERMANENTLY RESIDING WITH THEIR FATHER EVER SINCE, AND ARE NOW OVER 4 YEARS OLD!]

JANUARY 27, 1999 (DOJ) - USAO: *"No Penalty for Mom Who Fled With Twins"* **(ATTACHMENT)**

MAY 21, 1999 - ML DECLARES TO JL THAT THIS IS THE LAST WEEKEND SHE WILL BE SEEING THE CHILDREN! SHE EXPLAINS, *" I JUST DON'T WANT TO LIVE IN THE STATES!"* This is unfathomable to JL, as he thinks back a year and a half, to his initial employment inquiries in Copenhagen, with the thought of having to relocate to Denmark to be closer to his children.

MAY 23, 1999 -While ML hastily loads the children's every possession she has into JL's car, JL emphasizes to her, "Mette, you are obviously very distraught by all of this, so I want you to know that you can always reverse this decision to leave; and even if you don't, you will always have an open line of communication to Ruthie and Luke. You can call anytime and ask for them and I'll put them right on." ML then says goodbye to her only children and husband for the last time, with the sterile comment, *"WELL MR. LEBEAU, YOU SAID YOU'D NEVER TAKE THEM AWAY FROM ME AND YOU DID; YOU WON; GOOD LUCK."* With that, she retreats into the home of her friend Kathy Novas. Now numb to yet another irreprehensible action of ML's, ***JL DRIVES AWAY WITH RUTHIE AND LUKE CHEERILY CHIRPING, AND WAVING TO A NOW EMPTY FRONT YARD, "BYE MOMMY. BYE MOMMY."***

JOHN LEBEAU AND HIS CHILDREN HAVE NOT HEARD A WORD FROM METTE LEBEAU SINCE.

DIVORCE PROCEEDINGS ARE SCHEDULED FOR DECEMBER 1999.

ON OCTOBER 5, 1999 RUTHIE AND LUKE CELEBRATED THEIR 4TH BIRTHDAY, WITH A TRIP TO DISNEYWORLD, WASHINGTON, D.C., AND NEW JERSEY TO VISIT THEIR ENTIRE EXTENDED FAMILY. IT WAS THE FIRST TIME THEY HAD SHARED A BIRTHDAY WITH THEIR FATHER.

V. BIOGRAPHIES

A. BIOGRAPHY OF JOHN JACOB LEBEAU, JR.

John J. Lebeau, Jr. was born in Philadelphia, on January 1, 1959, to his French-German father, John J. Lebeau, Sr., and his Swedish mother Ruth Arenberg Lebeau. Raised by his parents in southern New Jersey, he went on to attend Muhlenberg College.

Subsequent to college, Mr. Lebeau spent approximately 6 years in the securities industries in New York, with the firms E.F. Hutton, and Sanford C. Bernstein & Co.

Relocating back to South Jersey in 1986, he spent the next 2½ years as the owner of a real estate brokerage in Haddonfield, NJ. Since 1989, Mr. Lebeau has been self-employed as an independent insurance agent *(Asset Management Systems, Inc.)*, and now lives in Palm Beach Gardens, Florida, where he is currently completing course requirements for the *Certified Financial Planner* designation. In addition, he owns a small company *(Ortho-Systems, Inc.)* that manufactures and distributes orthopedic medical supplies.

Mr. Lebeau married Mette Rahbek Johansen on June 3, 1995, in North Palm Beach, Florida. Their first and only children, twins Ruth Emily and Luke Thomas Lebeau were born October 5, 1995.

B. BIOGRAPHIES OF RUTH EMILY AND LUKE THOMAS LEBEAU

Twins **Ruth Emily and Luke Thomas Lebeau** were born October 5, 1995, in West Palm Beach, Florida. They were born a full two months premature, and remained in a neonatal intensive care unit for 5 weeks.

On June 27, 1996 they were abducted from their home in Palm Beach Gardens, Florida, and subsequently kidnapped to Denmark by their Danish citizen mother.

Seventeen months later, they were again abducted by their mother from Denmark to England, where they spent 11 months in the town of Portsmouth.

On December 18, 1998, their mother returned them to the US and the custody of their father John Lebeau with whom they have been living since January 15, 1999.

In May of 1999 their mother returned to Denmark. Neither they or their father have heard from her since.

On October 5, 1999, Ruthie and Luke celebrated their 4th birthday with a 2-day trip to Disney World. The following week they visited Washington, D.C. where they sat in on hearings of the House International Relations Committee on the subject of International Child Abduction. The next day they traveled to New Jersey to visit their entire extended family. IT WAS THE FIRST TIME THEY HAD SHARED A BIRTHDAY WITH THEIR FATHER.

C. BIOGRAPHY OF METTE RAHBEK LEBEAU

Mette Rahbek Lebeau, was born in Ribe, Denmark December 31, 1970, as Mette Uhre Lebeau. Her Danish parents had lived in that area most of their lives and it is where they raised their daughter and her two brothers. Schooled in the surrounding area as well, Ms. Rahbek achieved the equivalent of an Associates Degree in the early 1990's. She spent a brief time living in Spain before returning to Ribe. She then moved to Florida in 1992 with a Danish boyfriend, whom she married later that year, 2 days before her *visa* was to expire. After 14 months, the couple divorced, in late 1993.

Ms. Lebeau met Mr. Lebeau in April 1994, while employed as an executive secretary by business associate of Mr. Lebeau. She married Mr. Lebeau on June 3, 1995. Her first and only twin children, Ruth and Luke, were born October 5, 1995 in West Palm Beach, Florida.

On the night of June 27, 1996, Ms. Lebeau abducted Ruthie and Luke from their home, eventually kidnapping them to Denmark on July 25, 1996. For 17 months she lived with the children in Denmark. Subsequently, facing an adverse ruling from the Danish High Court, she AGAIN kidnapped the children on December 2, 1997 absconding from Denmark to Portsmouth, England, via ferry from Hamburg, Germany. After 11 months in hiding, she was arrested at her home in Portsmouth by Scotland Yard detectives, on October 16, 1998. Facing possible extradition to the US, she returned with the children on December 18, 1998.

After 5 months in America, with the children in the custody of Mr. Lebeau, Ms. Lebeau abandoned her generous visitation rights and her children entirely, and has not been heard from since.

VI. THE RUTH AND LUKE LEBEAU INTERNATIONAL CHILD RIGHTS LEAGUE, INC.(RLL ICRL):

On October 5, 1999, in honor of the first birthday he spent with his now 4-year-old children, John J. Lebeau, Jr. formed this Florida, non-profit organization.

The organization's mission is to assist in the reunification of illegally abducted or retained children with their left-behind parents, on a case-by-case basis. Through a well-formed network of attorneys and other professionals, and an impressive Board of Directors, it will assist parents in negotiating the complex maze of both civil and criminal processes both here and abroad. It will work with parents to help attract media attention to their cases, which can prove invaluable.

The league will make proposals and assist in the implementation of better procedures to assist lawmakers, diplomats, attorneys, and law enforcement officials in recognizing the horrific nightmare of child abduction as the insidious form of child abuse that it is.

In addition, the organization hopes to play a significant role in the fund-raising and other efforts of the recently formed *International Center of Missing and Exploited Children.*

However, WE CANNOT DO IT ALONE. WE NEED YOUR HELP!

If you find this subject and the countless children and families it affects, worthy of your contribution, I'd like to here from you.

As the RLL ICRL is still in its organizational stage, please contact me directly c/o:

RLL ICRL
9880 Gardens East Drive
Palm Beach Gardens, FL 33410-4917
Phone: 561-624-8350
Fax: 561-624-1270

Thank you and God Bless,

JOHN J. LEBEAU, JR.

VII. KEY CONTACTS

1. JOHN J. LEBEAU, JR.
   9880 Gardens East Drive
   Palm Beach Gardens, FL 33410
   Tel : 561-624-8350
   Fax: 561-624-1270
   E-mail: johnlebeau@hotmail.com

2. Craig Edward Stein, P.A.
   1164-B Normandy Drive
   Miami Beach, Florida, 33141
   Tel: 305-867-3663
   Fax: 305-867-3662
   E-mail: AsiaLaw@aol.com

3. Mathew S. Nugent, Attorney at Law
   501 South Olive Avenue
   West Palm Beach, Florida 33401
   Tel: 561-833-6644
   Fax: 561-833-8842

4. Advokat Kirsten Reimers-Lund
   Advokataerne
   Sankt Peders Straede 36
   Copenhagen, Denmark
   Tel: (45) 33 15 92 15
   Fax: (45) 33 32 44 83

5. Mary Banotti
   Fine Gael Member of the European Parliament
   Dublin Euro Constituency
   Euro Offices:

43 Molesworth Street	97 Rue Belliard
Dublin 2	B-1040 Brussels
Tel: 353-1 662-5100	Tel: (32)-2-2845225
Fax: 353-1-662-5132	Fax: (32)-2-2849225

6.

To be completed....

VIII. ATTACHMENTS

#1 - US Department of State, Office of Passport Policy and Procedures Office, Aug. 19, 1996

#2 - Applications for Assistance Under the Hague Convention on the Civil Aspects of Child Abduction.

#3 - **JOHN J. LEBEAU**, to Ms. Donna Bucella, Executive Office for US Attorneys, May 27, 1998

#4 - UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA, *United States vs. Mette Uhre Lebeau*, June 9, 1998

#5 - **U.S. Department of Justice**, Executive Office for United States Attorneys, June 15, 1998

to be continued...

United States Department of State

Washington, D.C. 20520

In reply refer to:
PPT/PAS - LEBEAU, Ruth and Luke

Mr. John Lebeau
9880 Gardens East Drive
Palm Beach Gardens, FL 33410

AUG 19 1996

Dear Mr. Lebeau:

Reference is made to your recently received "fax" which requested passport information concerning your above listed minor children.

Pursuant to your request, your children's names were entered in our passport name clearance system. This should enable us to notify you if passport applications are executed on their behalf. In order to have a passport denied to a minor child, we must be provided with a certified court order which has awarded the objecting parent sole legal custody of the child or a restraining order which prohibits the child's removal from the court's jurisdiction or the United States. Absent either of these documents, we may only notify the requesting parent if or when an application is received for the child.

Notices entered in custody cases remain active until the minor child reaches the age of 18 and then automatically canceled. A search of our records failed to locate an application for either child.

The enclosed brochure, "International Parental Child Abduction", explains what assistance the Department of State can provide parents involved in child custody disputes. Your attention is directed to the information listed on page 3, under Foreign Passports - the Problem of Dual Nationality.

Although we make every effort to comply with the wishes of parents concerning their children, we cannot assume legal responsibility for the accommodations provided.

Sincerely,

William B. Wharton, Director
Office of Passport Policy
and Advisory Services

by Louis B. Harris
Louis B. Harris

Enclosure:
As stated.

The Secretary of State
of the United States of America
hereby requests all whom it may concern to permit the citizen/
national of the United States named herein to pass
without delay or hindrance and in case of need to
give all lawful aid and protection.

Le Secrétaire d'Etat
des Etats-Unis d'Amérique
prie par les présentes toutes autorités compétentes de laisser passer
le citoyen ou ressortissant des Etats-Unis titulaire du présent passeport
sans délai ni difficulté et, en cas de besoin, de lui accorder
toute aide et protection légitimes.

Luke LeBeau

SIGNATURE OF BEARER/SIGNATURE DU TITULAIRE

NOT VALID UNTIL SIGNED

UNITED STATES PASSPORT

PASSPORT
PASSEPORT

USA

Type/Catégorie: P
Code of issuing State: USA
Code du pays émetteur
PASSPORT NO./NO. DU PASSEPORT: 044699712

Surname / Nom
LEBEAU

Given names / Prénoms
LUKE THOMAS

Nationality / Nationalité
UNITED STATES OF AMERICA

Date of birth / Date de naissance
05 OCT/OCT 95

Sex / Sexe: M

Place of birth / Lieu de naissance
FLORIDA, U.S.A.

Date of issue / Date de délivrance
17 JUL/JUI 96

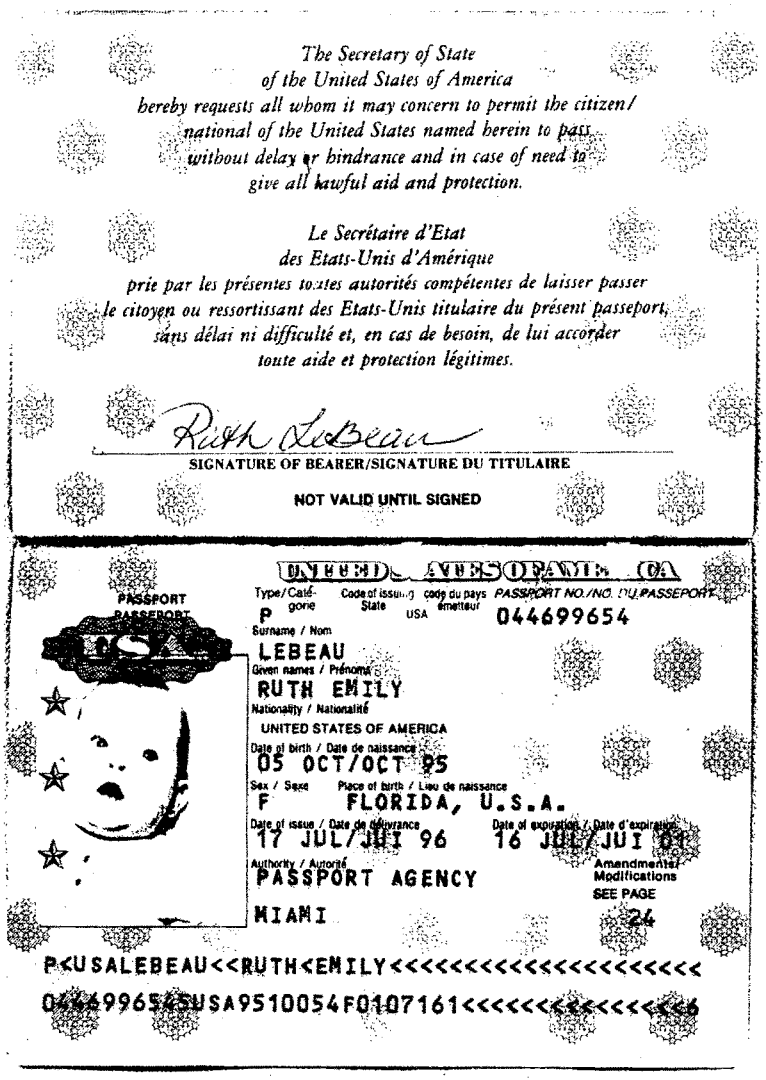
Date of expiration / Date d'expiration
16 JUL/JUI 01

Authority / Autorité
PASSPORT AGENCY
MIAMI

Amendments/
Modifications
SEE PAGE
24

P<USALEBEAU<<LUKE<THOMAS<<<<<<<<<<<<<<<<<<<<<<

0446997128USA9510054M0107161<<<<<<<<<<<<<<<<D



The Secretary of State
of the United States of America
hereby requests all whom it may concern to permit the citizen/
national of the United States named herein to pass
without delay or hindrance and in case of need to
give all lawful aid and protection.

Le Secrétaire d'Etat
des Etats-Unis d'Amérique
prie par les présentes toutes autorités compétentes de laisser passer
le citoyen ou ressortissant des Etats-Unis titulaire du présent passeport,
sans délai ni difficulté et, en cas de besoin, de lui accorder
toute aide et protection légitimes.

SIGNATURE OF BEARER/SIGNATURE DU TITULAIRE

NOT VALID UNTIL SIGNED

PASSPORT
PASSEPORT

UNITED STATES OF AMERICA

Type/Catégorie: P
Code of issuing State: USA
Code du pays émetteur
PASSPORT NO./NO. DU PASSEPORT: 044699654

Surname / Nom: LEBEAU
Given names / Prénoms: RUTH EMILY
Nationality / Nationalité: UNITED STATES OF AMERICA
Date of birth / Date de naissance: 05 OCT/OCT 95
Sex / Sexe: F
Place of birth / Lieu de naissance: FLORIDA, U.S.A.
Date of issue / Date de délivrance: 17 JUL/JUI 96
Date of expiration / Date d'expiration: 16 JUL/JUI 01
Authority / Autorité: PASSPORT AGENCY
MIAMI
Amendments/ Modifications
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P<USALEBEAU<<RUTH<EMILY<<<<<<<<<<<<<<<<<<<<<<
0446996545USA9510054F0107161<<<<<<<<<<<<<<<6

OFFICE OF PASSPORT POLICY & ADVISORY SERVICES
(FAX) 202-955-0230

TO WHOM IT MAY CONCERN:

MY NAME IS JOHN LEBEAU. I AM WRITING REGARDING THE ABDUCTION OF MY CHILDREN BY MY WIFE, A RESIDENT ALIEN FROM DENMARK.

I NEED TO KNOW IF PASSPORTS HAVE BEEN ISSUED FOR MY CHILDREN: RUTH E. LEBEAU } BOTH D.O. BIRTHS 10-5-95
LUKE T. LEBEAU } BORN IN WEST PALM BEACH, FL

I HEREBY REQUEST PASSPORTS BE DENIED TO MY CHILDREN OR I BE INFORMED IMMEDIATELY IF THEY HAVE ALREADY BEEN ISSUED.

JOHN LEBEAU
9880 GARDENS EAST DRIVE
PALM BEACH GARDENS, FL 33410
(561) 775-1434 @ WORK, WEST MARINE

SINCERELY,
John LeBeau

UNITED STATES DEPARTMENT OF STATE

OMB NO. 1405-0076
EXPIRES: 6-91
Estimated Burden - 1 Hour

APPLICATION FOR ASSISTANCE UNDER THE HAGUE CONVENTION ON CHILD ABDUCTION

SEE PRIVACY STATEMENT ON REVERSE

I. IDENTITY OF CHILD AND PARENTS

CHILD'S NAME (LAST, FIRST, MIDDLE)	DATE OF BIRTH	PLACE OF BIRTH
LEBEAU, RUTH EMILY	10-05-95	West Palm Beach, Florida

ADDRESS (Before removal)	U.S. SOCIAL SECURITY NO.	PASSPORT/IDENTITY CARD COUNTRY: NO.:	NATIONALITY
9880 Gardens East Drive Palm Beach Gardens, Florida 33410	589-57-5129		Danish-American

HEIGHT	WEIGHT	COLOR OF HAIR	COLOR OF EYES
approx. 30 inches	as of 07-05-96 15lbs.,11ozs.	Brown	Blue

FATHER	MOTHER
NAME (Last, First, Middle)	NAME (Last, First, Middle)
LEBEAU, JR., JOHN, JACOB	LEBEAU, METTE, UHRE, RAHBEK(maiden name)
DATE OF BIRTH: 1-01-59	DATE OF BIRTH: 12-31-70
PLACE OF BIRTH: Philadelphia, Pennsylvania	PLACE OF BIRTH: , Denmark
NATIONALITY: American	NATIONALITY: Danish
OCCUPATION: Marine product sales/service	OCCUPATION: None
PASSPORT/IDENTITY CARD COUNTRY: NO.:	PASSPORT/IDENTITY CARD COUNTRY: Denmark NO. 5948304117
CURRENT ADDRESS AND TELEPHONE NUMBER: 9880 Gardens East Drive Palm Beach Gardens, Florida 33410 (407)775-1434 @ work	CURRENT ADDRESS AND TELEPHONE NUMBER: Unknown
U.S.SOCIAL SECURITY NO.: 590-43-6086	U.S.SOCIAL SECURITY NO.: 590-25-2516
COUNTRY OF HABITUAL RESIDENCE: United States of America	COUNTRY OF HABITUAL RESIDENCE: United States of America

DATE AND PLACE OF MARRIAGE AND DIVORCE, IF APPLICABLE

Married June 3, 1995 in North Palm Beach, Florida (see enclosed document)

II. REQUESTING INDIVIDUAL OR INSTITUTION

NAME (Last, First, Middle)	NATIONALITY	OCCUPATION
LEBEAU, JR., JOHN, JACOB	American	Marine products sales and service

CURRENT ADDRESS AND TELEPHONE NUMBER	PASSPORT/IDENTITY CARD
9880 Gardens East Drive Palm Beach Gardens, Florida 33410 (407)775-1434 @ work	COUNTRY: U.S.A. NO.:

COUNTRY OF HABITUAL RESIDENCE: United States of America

RELATIONSHIP TO CHILD	NAME, ADDRESS, AND TELEPHONE NO. OF LEGAL ADVISER, IF ANY
Father	Have not yet retained legal counsel (to follow under separate cover)

III. INFORMATION CONCERNING THE PERSON ALLEGED TO HAVE WRONGFULLY REMOVED OR RETAINED CHILD

NAME (Last, First, Middle)	KNOWN ALIASES
LEBEAU, METTE, UHRE, RAHBEK(maiden name @ birth)	METTE JOHANSEN (name from 1st marriage)

DATE OF BIRTH	PLACE OF BIRTH	NATIONALITY
12-31-70	, Denmark	Danish

OCCUPATION, NAME AND ADDRESS OF EMPLOYER	PASSPORT/IDENTITY CARD	U.S. SOCIAL SECURITY NO.
None	COUNTRY: Denmark NO.: 5948304117	590-25-2516

CURRENT LOCATION OR LAST KNOWN ADDRESS IN THE U.S. Current location unknown (believed to be in Ribe, Denmark)(last address in U.S.)9880 Gardens East Dr. Palm Beach Gardens

HEIGHT	WEIGHT	COLOR OF HAIR	COLOR OF EYES
approx. 5ft.5in.	approx. 120lbs.	Blond (see photos)	Blue (see photos)

FORM DSP-105

UNITED STATES DEPARTMENT OF STATE

OMB NO. 1405-0076
EXPIRES: 6-91
Estimated Burden - 1 Hour

APPLICATION FOR ASSISTANCE UNDER THE HAGUE CONVENTION ON CHILD ABDUCTION

SEE PRIVACY STATEMENT ON REVERSE

I. IDENTITY OF CHILD AND PARENTS

CHILD'S NAME (LAST, FIRST, MIDDLE)	DATE OF BIRTH	PLACE OF BIRTH
LEBEAU, LUKE, THOMAS	10-05-95	West Palm Beach, Florida

ADDRESS (Before removal)	U.S. SOCIAL SECURITY NO.	PASSPORT/IDENTITY CARD COUNTRY: NO.:	NATIONALITY
9880 Gardens East Drive Palm Beach Gardens, Florida 33410	589-57-5130		Danish-American

HEIGHT	WEIGHT	COLOR OF HAIR	COLOR OF EYES
apprx. 30 inches	as of 07-05-96 19lbs., 14 ozs.	Blond	Blue

FATHER	MOTHER
NAME (Last, First, Middle)	NAME (Last, First, Middle)
LEBEAU, JR., JOHN, JACOB	LEBEAU, METTE, UHRE, RAHBEK(maiden name)
DATE OF BIRTH: 01-01-59	DATE OF BIRTH: 12-31-70
PLACE OF BIRTH: Philadelphia, Pennsylvania	PLACE OF BIRTH: , Denmark
NATIONALITY: American	NATIONALITY: Danish
OCCUPATION: Marine product sales/service	OCCUPATION: None
PASSPORT/IDENTITY CARD COUNTRY: NO.:	PASSPORT/IDENTITY CARD COUNTRY: Denmark NO.: 5948304117
CURRENT ADDRESS AND TELEPHONE NUMBER: 9880 Gardens East Drive Palm Beach Gardens, Florida 33410 (407)775-1434 @ work	CURRENT ADDRESS AND TELEPHONE NUMBER: Unknown
U.S.SOCIAL SECURITY NO.: 590-43-6086	U.S.SOCIAL SECURITY NO.: 590-25-2516
COUNTRY OF HABITUAL RESIDENCE: United States of America	COUNTRY OF HABITUAL RESIDENCE: United States of America

DATE AND PLACE OF MARRIAGE AND DIVORCE, IF APPLICABLE

Married June 3, 1995 in North Palm Beach, Florida (see enclosed document)

II. REQUESTING INDIVIDUAL OR INSTITUTION

NAME (Last, First, Middle)	NATIONALITY	OCCUPATION
LEBEAU, JR., JOHN, JACOB	American	Marine products sales and service

CURRENT ADDRESS AND TELEPHONE NUMBER	PASSPORT/IDENTITY CARD COUNTRY: NO.:
9880 Gardens East Drive Palm Beach Gardens, Florida (407)775-1434 @ work	U.S.A.

COUNTRY OF HABITUAL RESIDENCE: United States of America

RELATIONSHIP TO CHILD	NAME, ADDRESS, AND TELEPHONE NO. OF LEGAL ADVISER, IF ANY
Father	Have not yet retained legal counsel (to follow under separate cover)

III. INFORMATION CONCERNING THE PERSON ALLEGED TO HAVE WRONGFULLY REMOVED OR RETAINED CHILD

NAME (Last, First, Middle)	KNOWN ALIASES
LEBEAU, METTE, UHRE, RAHBEK(maiden name @ birth)	METTE JOHANSEN (name from 1st marriage)

DATE OF BIRTH	PLACE OF BIRTH	NATIONALITY
12-31-70	, Denmark	Danish

OCCUPATION, NAME AND ADDRESS OF EMPLOYER	PASSPORT/IDENTITY CARD COUNTRY: NO.:	U.S. SOCIAL SECURITY NO.
None	Denmark 5948304117	590-25-2516

CURRENT LOCATION OR LAST KNOWN ADDRESS IN THE U.S. Current location unknown. (believed to be in Ribe, Denmark) last address in U.S. 9880 Gardens East Dr. Palm Beach Garden Florida 33410

HEIGHT	WEIGHT	COLOR OF HAIR	COLOR OF EYES
approx. 5ft.5in	approx. 120lbs.	Blond (see photos)	Blue (see photos)

FORM 6-88 DSP-105

OTHER PERSONS WITH POSSIBLE ADDITIONAL INFORMATION RELATING TO THE WHEREABOUTS OF CHILD
(Name, address, telephone number)

SVEN & DORTHE RAHBEK (Mette Lebeau's parents)
Fasanvej 9 6760 Ribe, Denmark
(45)75-420149

IV. TIME, PLACE, DATE, AND CIRCUMSTANCES OF THE WRONGFUL REMOVAL OR RETENTION

On the night of June 27, 1996 at approximately 11:15 P.M., in an effort to keep our children as calm and undisturbed as possible, it became neccesary for me to call the police as Mette my wife was again displaying violent behavior and making threats. The officer that arrived suggested that she go to a friend's house for the night. As her violent behavior was mostly directed to me though uncontrollably spilling over to the children, I reluctantly agreed that she could take them along with her, for one night and that they were to return the next day. They have not been heard from since.

V. FACTUAL OR LEGAL GROUNDS JUSTIFYING THE REQUEST

As we were still married at the time of the wrongful removal, and I have never been served any notice of dissolution of the marriage, I am by state and federal law not to be denied access to my children.

I will follow up this statement with the citing of the specific Florida state statute subsequent to retaining legal counsel.

VI. CIVIL PROCEEDINGS IN PROGRESS, IF ANY

None, as of this date.

VII. CHILD IS TO BE RETURNED TO:

NAME *(Last, First, Middle)*	DATE OF BIRTH	PLACE OF BIRTH
LEBEAU, JR., JOHN JACOB	01-01-59	Philadelphia, Pennsylvania

ADDRESS	TELEPHONE NUMBER
9880 Gardens East Drive Palm Beach Gardens, Florida 33410	@ work (407)775-1434

PROPOSED ARRANGEMENTS FOR RETURN TRAVEL OF CHILD

I prefer to have the children returned to me here in Florida by my wife. If she refuses I will make arrangements to travel to Denmark to retrieve them.

VIII. OTHER REMARKS

I am hereby applying for the return of both children.
Also, please see enclosed copy of letter from Sven Rahbek, acknowledging that Mette and the children are out of the state, though denying knowledge of there whereabouts.

IX. DOCUMENTS ATTACHED (PREFERABLY CERTIFIED)

☐ DIVORCE DECREE ☒ PHOTOGRAPH OF CHILD ☒ OTHER marriage certificate
☐ CUSTODY DECREE ☐ OTHER AGREEMENT CONCERNING CUSTODY letter from Sven Rahbek, etc.

SIGNATURE OF APPLICANT AND/OR STAMP OF CENTRAL AUTHORITY	DATE	PLACE
	09-05-96	Palm Beach Gardens, Florida, U.S.A.

PRIVACY ACT STATEMENT

THIS INFORMATION IS REQUESTED UNDER THE AUTHORITY OF THE INTERNATIONAL CHILD ABDUCTION REMEDIES ACT, PUBLIC LAW 100-300. THE INFORMATION WILL BE USED FOR THE PURPOSE OF EVALUATING APPLICANTS' CLAIMS UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION, LOCATING ABDUCTED CHILDREN, AND ADVISING APPLICANTS ABOUT AVAILABLE LEGAL REMEDIES. WITHOUT THE REQUESTED INFORMATION, U.S. AUTHORITIES MAY BE UNABLE EFFECTIVELY TO ASSIST IN LOCATING ABDUCTED CHILDREN.

Comments concerning the accuracy of the burden hour estimate on page 1 may be directed to OMB, CIRA, State Department Desk Officer, Wash., D.C. 20503

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT OF FLORIDA IN AND FOR
PALM BEACH COUNTY FAMILY DIVISION

CASE NO. CD 96-6643 FC

JOHN J. LEBEAU, JR.,
Petitioner,

and

METTE R. LEBEAU,
Respondent.
_____/

FINAL JUDGMENT ON PETITION FOR CUSTODY WITHOUT DISSOLUTION OF MARRIAGE

THIS MATTER, having come before the Court upon Petition for Custody Without Dissolution of Marriage, and the Court took testimony of Petitioner, and the Court being otherwise fully advised in the premises hereby makes the following finding of facts:

1. That Respondent has disappeared with the parties' minor children: Luke Thomas Lebeau and Ruth Emily Lebeau, born October 5, 1995.

IT IS THEREFORE ORDERED AND ADJUDGED as follows:

1. That it is in the best interest of the children that Petitioner shall have sole parental responsibility for the children and he is designated as the primary residential custodian for the children.

2. There shall be no child support awarded at this time.

3. That the court reserves jurisdiction tot award child support and on the remaining matters in the Petition.

DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida, this July 2, 1998.

Roger B. Colton

ROGER B. COLTON
CIRCUIT COURT JUDGE

Copies furnished to:

Gary S. Israel, Esq., 315 11th Street, West Palm Beach, FL 33401

Mette R. Lebeau c/o Sven Rahbek, Fasanvej 9
Ribe 6760 Denmark

FLORIDA

July 10 98

D.C.

EUROPEAN LANGUAGE INSTITUTE
Founded 1938
3844 Carnation Circle South
Palm Beach Gardens, FL 33410-5636-44
Phone: (561) 622-1442 • Fax: (561) 622-1442

Translation from Danish

Videotape

A MOTHER FLEEING

METTE UHRE LEBEAU

Danish Susanne Kraes is not the only one breaking the law to keep her children. During the most recent 3 years more than 20 Danes have kidnapped their own children in order to prevent that the children will be handed over to foreign spouses.

Here you are going to meet one who is living underground, so hidden away that we only were able to meet with her and have her appear on the News, if we were willing to not disclose where she is living in hiding.

Mette is living in Esbjerg where she is staying underground with her two children, fleeing from the father of the twins, wanted by both the American and Danish police. We met far from her hiding place in all secrecy and after three months of flight.

Mette: "Every mother would do what I have done, and that is the way I answer those who ask me, 'why are you go- ing underground with your children?' 'You would do li- kewise!"

In Esbjerg Mette's parents are taking care of her apartment. It is in the condition in which she left in in a hurry in the middle of November.

On the video Mette's father, a teacher, is standing in the apartment, saying: "Well that is, how it looked. We hope they shall return within a foreseeable future."

That is a doubtful hope, to which the parents are clinging.

Translation from Danish

Page 2
of Danish video

Video

It all started in the middle of 1991, when Mette got a job as the secretary to the manager of an insurance company. 3 years later she fall for the agent, John LeBeau, they move in together, and in 1995 she becomes pregnant and they get married.

Mette speaking, hardly audible:"---after I became pregnant, and after we aere married, he changed. Alcohol ---abuse---------"

Then two years without any money for food, with medical bills, and lots of problems, and constantly moving. But after threats and abuse, Mette leaves John and anters a home with advice and help for abused women.

At home in Denmark Mette contacts Family Court in Ribe. She wants to divorce John and live with her twins.

In the meantime the father has filed a case against Mette in USA. He has been granted temporary custody, because she has kidnapped the children and taken them to Denmark.

The Court in Esbjerg rejects the American judgment, but in November the bomb comes: the children are to be sent to the United States, in accordance with The Hague Convention concerning the Children's Law.

Mette's parents receive photos of the twins from the underground.

(The rest of the videotape is in English, John LeBeau speaking, or various persons repeating sentences, quoted above)

#01/04 OF PAGES

It is mentioned on the Danish videotape that legally, after 3 years of hiding, or if it is obvious to the courts the courts that the father is a stranger to the child, the father has no right to take the child away from the mother.

EUROPEAN LANGUAGE INSTITUTE
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Translation from Danish

Videotape

A M O T H E R ~~FELLEEEIINNGG~~

METTE UHRE LEBEAU

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*017

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EMBASSY OF THE
UNITED STATES OF AMERICA

No. 299

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and has the honor to inform the Ministry of the U.S. Government's concern regarding the case of the minor U.S. citizen children, Ruth and Luke Lebeau, which was heard in Danish courts pursuant to the Hague Convention on the Civil Aspects of International Child Abduction.

The 12th Department of the Western Division of the Danish High Court on 12 November 1997 upheld the order to return the children to the U.S. Before the order could be executed, however, the mother of the children, Mette Uhre LeBeau, went into hiding with them. She recently took her case to the media in Denmark, at the same time that she was defying a Danish court order.

The U.S. Government wishes to express its concern at the lack of enforcement of this court order and the fact that the mother can openly defy the order on national television, in an effort to gain public support for her refusal to hand over the children--contrary to Danish law.

The U.S. Government is also concerned that this case will follow the unfortunate pattern of the Hague Convention case of Dana Curry, the minor U.S. citizen child whose mother kept her hidden in defiance of a valid Hague return order, until four years had passed and the Danish court finally reversed the Hague order on grounds difficult to reconcile with the plain text of the Convention. Mr. Curry still hasn't seen his daughter.

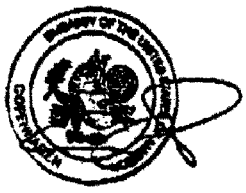
The U.S. Government would like the Ministry to ask the Ministry of Justice to request that all possible legal means be used to locate the children and enforce the Danish court order. To the extent possible, the U.S. Government would like to know what methods are being used to locate the children.

In addition, the U.S. Government requests the Ministry's intercession in obtaining consular access to the LeBeau children for a routine welfare and whereabouts visit.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Affairs assurances of its highest consideration.

Embassy of the United States of America,

Copenhagen, February 25, 1998



[illegible] Pain Center [illegible]
[illegible] U.S. Highway 1
North Palm Beach, FL [illegible]

QTY	PRICE	TAXES
1	1.00	0.00

PAY RECEIVE .

SUB 1.00 TX 0.00 TOT
CASH SALE
CHG

CUS 2# TK 102/91 RG 3 05/27/98
Visit us @ http://www.kinkos.

NNNN
0073 15:40:34 05/27/98

6364 15:40:38 05/27/98

!! 01NCMSA V9007019W
V9007019W
NO RECORD MEETING DISSEMINATION CRITERIA:
DOB/100595 NAM/LEBEAU, RUTH SEX/F RAC/W

0220 15:40:38 05/27/98

NNNN
0042 15:54:29 01/21/97

4594 15:54:32 01/21/97

1L01NCMEA VA007019W
VA007019W

MKE/MISSING PERSON - JUVENILE
ORI/FL0502600 NAM/LEBEAU,RUTH E SEX/F RAC/W POB/FL DOB/100595
DOE/100513 HGT/200 WGT/050 EYE/BLU HAI/BRO
SOC/589575129 MNP/MP DLC/070196 OCA/97-1749
ORI IS PALM BEACH GARDENS PD FL
NIC/M993158210
IMMED CONFIRM MISSING PERSON STATUS WITH ORI

MKE/MISSING PERSON - JUVENILE
ORI/FL0502600 NAM/LEBEAU,LUKE T SEX/M RAC/W POB/FL DOB/100595
DOE/100513 HGT/202 WGT/050 EYE/BLU HAI/BLN
SOC/589575130 MNP/MP DLC/070196 OCA/97-1749
ORI IS PALM BEACH GARDENS PD FL
NIC/M993156411
IMMED CONFIRM MISSING PERSON STATUS WITH ORI

JOHN J. LEBEAU
9880 Gardens East Drive
Palm Beach Gardens, FL 33410-4917
561-624-8350 - phone
561-691-4436 - fax
johnlebeau@hotmail.com

MS. DONNA A. BUCELLA, Director
Executive Office of U.S. Attorneys
U.S. Department of Justice
950 Pennsylvania Avenue NW - Room 2259
Washington, D.C. 20530 - 0001
202-514-2121 - phone
202-000-0000 - fax

May 27,1998

Re: United States Attorney Southern District of Florida's case investigation of international parental kidnapping of Ruth and Luke Lebeau to Denmark

Dear Ms. Bucella:

I am writing in an effort to combat an obvious aura of complacency that prevails within the U.S. Department of Justice; specifically and most obviously within that Department's office of the United States Attorney, Southern District of Florida in West Palm Beach. In accordance with that purpose, I am presenting, and trust you will accept, this letter as a formal complaint against that office and their handling of the above referenced case.

In this case, not only is that office (Ms. Carolyn Bell, Mr. Neil Karadbil, et al) not doing the job the American taxpayers are paying them to do (namely, issuing an arrest warrant for a known and proven violator of a federal crime), **but they have broken the law in doing it, at my immeasurable expense!** And please know Ms. Bucella that I would never make such an accusation if I were not able to prove it.

I first met with Ms. Bell, Mr. Karadbil, and now retired FBI special agent William Thurman in early March 1997. Even though the crime they are now investigating took place some 8 ½ months prior to that meeting, with absolute proof thereof, and despite my pleadings for help, **Ms. Bell refused to even investigate this federal crime** until my civil remedies were exhausted, i.e. Hague Convention proceedings.

Eight months later and 14 months into the 6-week Hague process, I received a Danish High Court Order, ordering the return of my children to the U.S. and my sole custody. Unfortunately, Mette Lebeau has defied that High Court Order and once again

kidnapped Ruthie and Luke. This time she has fled into a sophisticated "underground" which continues to hide them, keeping them on the run somewhere in Europe, or possibly even back here in the U.S. In fact, we suspect that she was, and possibly is still being, assisted by a Faye Yaeger of Atlanta, or one of her many counterparts abroad (see *Time* magazine May 11, 1998; cover story).

The point is Ms. Bucella, that this irrational, personal agenda that Mette Lebeau continues to carry out for exactly 23 months now is a **blatant disregard of the best interests of these innocent children. In fact, it puts Ruthie and Luke in grave danger,** not to mention the serious medical condition of Ruthie's, which Mette Lebeau brazenly admits has had to go unattended.

Thankfully, at least the Danes understand that every child deserves the right to know and have access to both of their own responsible **and** loving parents. Thus, Mette Lebeau's own judicial system in Denmark immediately issued warrants for her arrest throughout the country as of Dec. 5, 1997.

I ask you Ms. Bucella, is it common practice for the Department of Justice **not** to pursue violators of **federal** crimes by avoiding to issue warrants for their arrest? If that is not the case, then there is an obvious prejudice involved here, and either way, I know already that the American taxpayers will want to hear about it.

I find it absolutely appalling that Mette Lebeau's own judicial system has criminalized her, **yet I** as the left-behind-parent with sole custody **cannot get my own government to act responsibly on behalf of these innocent children by also criminalizing the violator of this irreparable crime**.

In fact, according to the National Center for Missing and Exploited Children's *Law Enforcement Guide to Case Investigation and Program Management*, **"The emotional scarring caused by these events requires that officers recognize family abduction not as a harmless offense where two parents are arguing over who 'loves the child more,' but instead as an insidious form of child abuse."** That alone Ms. Bucella should give just cause enough for getting a warrant!

Now, no longer will I accept from Ms. Bell, false explanations of diligent activity, or any other excuses for not proceeding with the issuance of a federal warrant. I **frankly am not going to tolerate her lack of activity any longer!** What's important to me is accomplishment; and **in 6 months on this case, Ms. Bell has accomplished NOTHING towards serving, a supposedly common goal, the best interests of Ruthie and Luke Lebeau**.

Finally, I will be perfectly clear. **I demand that, pursuant to the International Parental Kidnapping Crime Act of 1993 (Public Law 103-173; 107 Stat. 1998; 18 U.S.C. 1204) the**

United States Attorney Southern District of Florida issue a warrant for the arrest of Mette Lebeau for the federal crime of international parental kidnapping!

If this warrant is not issued by June 8, 1998, I will not only pursue my legal remedies against the U.S. Attorney and Ms. Bell directly for violation of the National Child Search Assistance Act (Public Law 101-647; 42 U.S.C. 5779, 5780), but I will oblige their repeated requests and release all of the above information and more to the local and national media.

Sincerely,

JOHN J. LEBEAU, JR.

JJL/jjl
cc: Mrs. Hillary Clinton
Ms. Janet Reno, Attorney General
Ms. Madeline Albright, Secretary of State
Mr. Raymond Clore, Director, Office of Children's Issues, Department of State
Thomas E. Scott, U.S. Attorney
Congressman Mark Foley
Congressman E. Clay Shaw
Senator Connie Mack
Congressman Nick Lampson
Congressman Marian Berry
Benjamin Gilman, Chairman, Committee on International Relations

MARY BANOTTI

EUROPEAN PARLIAMENT

MEMBER OF THE EUROPEAN PARLIAMENT

European Parliament
43 Molesworth Street,
Dublin 2.
Telephone: 353-1-662 5100
353-1-662 5134
Fax: 353-1-662 5132
Brussels
Telephone: 322-284-5225
Fax: 322-284-9225
E mail: mbanotti@europarl.eu.int

9 June 1998

Mr John Lebeau,
9880 Gardens East Drive
Palm Beach Gardens,
FL 33410-4917
Florida

Dear Mr Lebeau,
A copy of your letter to Ms Donna Bucella has been forwarded to me by Mr John Herzberg, Professional Staff Member, Majority Staff of the office of Congressman ben Gilman.
Following our conversation yesterday I wish to re-iterate that I will make contact with the Danish Central Authorities immediately.
My role in cases such as your own is as the European Parliament President's Mediator for Transnationally Abducted Children.
In this context I try, under the rules of the Hague Convention to assist in cases of transnational abduction.
My office numbers are as follows:-
Brussels 00 32 2 284 5225/7225 Fax 00 32 2 284 9225 e mail: mbanotti@europarl.eu.int
Dublin 00 353 1 662 5100 Fax 00 353 1 662 5132

My associate in Brussels is Ms Eva Nordin ands can be contacted in Brussels on 00 32 2 284 4661
I confirm that I will be at the ANA Hotel in Washington between the 22nd of June and the 24th of June.
I look forward to hearing from you.

With every good wish,
Yours sincerely,

RP Mary Banotti MEP

Mr John Lebeau,
9880 Gardens East Drive,
Palm Beach Gardens
FL 33410-4917 FLORIDA.
U.S.A.

33410/4917

171

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,	)	Case No. 98- 8072 CR-Zloch
v.	)	18 U.S.C.1204
METTE UHRE LEBEAU,	)	Magistrate Judge MAGISTRATE JUDGE SELTZER
Defendant.	)	INDICTMENT

FILED by D.C. JUN -9 PM 1:03 CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLA.-W.P.B.

The Grand Jury charges that:

From on or about November 12, 1997, to on or about June 9, 1998, at Palm Beach County, in the Southern District of Florida and elsewhere, the defendant,

METTE UHRE LEBEAU,

did knowingly and intentionally retain children who had been in the United States, to wit, Ruth Emily LeBeau and Luke Thomas LeBeau, outside the United States with the intent to obstruct the lawful exercise of parental rights.

All in violation of Title 18, United States Code, Section 1204(a).

A TRUE BILL

FOREPERSON

THOMAS E. SCOTT
UNITED STATES ATTORNEY

CAROLYN BELL
ASSISTANT UNITED STATES ATTORNEY

United States District Court	DISTRICT: SOUTHERN DISTRICT OF FLORIDA
UNITED STATES OF AMERICA v. METTE UHRE LEBEAU	DOCKET NO.: 98-8072-CR-WJZ MAGISTRATE CASE NO.: NAME AND ADDRESS OF INDIVIDUAL TO BE ARRESTED: METTE UHRE LEBEAU W/F DOB: 12-31-70 SSN: 590-25-2516
WARRANT ISSUED ON THE BASIS OF: ☒ Indictment ☐ Information ☐ Complaint ☐ Order of Court	DISTRICT OF ARREST CITY
TO: U.S. Marshal or Other Authorized Personnel	

YOU ARE HEREBY COMMANDED to arrest the above-named person and bring that person before the nearest available magistrate to answer to the charge(s) listed below.

DESCRIPTION OF CHARGES

INTERNATIONAL PARENTAL KIDNAPPING

IN VIOLATION OF	UNITED STATES CODE TITLE: 18	SECTION: 1204(a)
BAIL FIXED BY COURT: No Bond	OTHER CONDITIONS OF RELEASE	
ORDERED BY: ANN E. VITUNAC UNITED STATES MAGISTRATE JUDGE	SIGNATURE (JUDGE)[1]/U.S. MAGISTRATE):	DATE: 6/8/98
CLERK OF COURT: CARLOS JUENKE CLERK OF COURT	(BY) DEPUTY CLERK: Faye L. Smith	DATE ISSUED: 6/9/98

RETURN

This warrant was received and executed with the arrest of the above-named person.

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE EXECUTED		

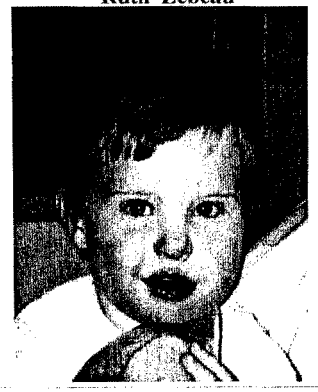
[1] United States Judge or Judge of a State Court of Record

Family Abduction

Luke Lebeau

Birth: 10/5/95 **Race:** White
Missing: 6/28/96 **Ht:** 2'11" **Wt:** 25 lbs
Eyes: Blue **Hair:** Blonde **Sex:** Male
Missing From: Palm Beach Gardens, FL
Age Now 2 Yrs United States

Ruth Lebeau



Birth: 10/5/95 **Race:** White
Missing: 6/28/96 **Ht:** 2'11" **Wt:** 25 lbs
Eyes: Blue **Hair:** Brown **Sex:** Female
Missing From: Palm Beach Gardens, FL
Age Now 2 Yrs United States

Mette Lebeau

Abductor

Birth: 12/31/70 **Race:** White
Ht: 5'07" **Wt** 120 lbs **Sex:** Female
Eyes: Blue **Hair:** Blonde

The children were abducted by their non-custodial mother, Mette Uhre Rahbek Lebeau. A felony warrant for Kidnapping was issued for the abductor on June 9, 1998. The abductor has an inoculation scar on her upper left arm. The abductor may use the alias names of Mette Rahbek, Mette Rahbek Johansen or Mette Uhre Johansen. The abductor and children may be in Denmark.

NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN
WWW.MISSINGKIDS.COM

ANYONE HAVING INFORMATION SHOULD CONTACT
The National Center for Missing and Exploited Children
1-800-843-5678 (1-800-THE-LOST) OR
Federal Bureau of Investigation (West Palm Beach, Florida)
1-305-944-9101 or Your Local FBI

Color courtesy of **Tektronix**

U.S. Department of Justice

Executive Office for United States Attorneys

Legal Counsel

Suite 2200, Bicentennial Building
600 E Street, N.W.
Washington, DC 20530

(202) 514-4024
FAX (202) 514-1104

JUN 15 1998

Mr. John J. LeBeau, Jr.
9880 Gardens East Drive
Palm Beach Gardens, Florida 33410-4917

Dear Mr. LeBeau:

This responds to your letter to Donna A. Bucella, Director, Executive Office for United States Attorneys, dated May 27, 1998, voicing your concerns regarding the investigation of the alleged retention of your children, Ruth and Luke LeBeau, in Denmark by your wife, Mette LeBeau, in violation of a Hague convention order.

Assistant United States Attorney (AUSA) Carolyn Bell as well as Special Agent Charles Wilcox of the Federal Bureau of Investigation (FBI) have been in regular contact with you, and have been keeping you informed of their efforts on behalf of the United States Department of Justice. As you know, the United States Attorney's office (USAO) for the Southern District of Florida and the FBI have been actively investigating the matter involving your wife's retention of your children in contravention of the Hague convention order for some time. They have been coordinating with the State Department, Office of Children's Affairs, to pursue all diplomatic measures possible in order to effect the return of the children to the jurisdiction of the Florida courts. This has been a delicate matter as they did not want any criminal actions we might take to interfere with the diplomatic process and thereby delay or prevent the return of the children to Florida. As you are aware, by law, AUSA Bell and Agent Wilcox were unable to begin their investigation until after you had exhausted your civil remedies under the Hague convention. The investigation has also been delayed as they were obligated to investigate the allegations of abuse which were made by your wife, as it would be an affirmative defense to the kidnaping offense if your wife was fleeing from domestic violence.

As of June 9, 1998, the USAO sought and the grand jury returned an indictment of Mette LeBeau for a violation of the International Parental Kidnaping and Retention Statute. The indictment was sought at that time because the State Department had recently indicated that pursuing the indictment would not inhibit the diplomatic process. As you are aware, the Danish authorities have already issued their equivalent to a warrant in this case, and they have already notified Interpol that your wife and the children should be detained when they are found. A United States indictment or warrant in this case will essentially duplicate the Danish requests for international cooperation that has already been made.

I understand that AUSA Bell and Agent Wilcox have explained to you that Denmark does not extradite its citizens for violations of United States international parental kidnaping or retention laws. Therefore, unfortunately, an indictment or warrant in this case may not have any great effect unless and until your wife returns to the United States.

The USAO will continue to coordinate with the State Department in attempting to return your children to the jurisdiction of the Florida courts. AUSA Bell and Agent Wilcox will also continue to keep you apprised of their efforts. If you wish to discuss this matter further, please contact Agent Wilcox at (561) 833-7517 and he will coordinate a meeting with the USAO in the Southern District of Florida.

I hope this information is helpful to you.

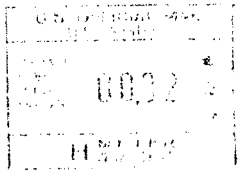
Sincerely,

Marcia W. Johnson
Legal Counsel

cc: Carolyn Bell
Assistant United States Attorney
United States Attorney's Office
Southern District of Florida
500 Australian Avenue, North, Suite 400
West Palm Beach, Florida 33401

U.S. Department of Justice
EOUSA/Legal Counsel
Bicentennial Building
600 E Street, NW, Room 2200

Washington, DC 20530



Mr. John J. LeBeau, Jr.
9880 Gardens East Drive
Palm Beach Gardens, Florida 33410-4917

33410-4917 13

THE DANISH CENTRAL AUTHORITY
HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Fax No: 001 202 647 2835

Date: 18 JUNI 1998

To: Office of Children's issues
US Department of State
2201 C Street, NW
Room 4811
Washington DC 20520
United States of America

Att.: Ellen Conway

No of pages (including this page): 2

From: Ministry of Justice, Department of
Private Law
(CIVILRETSDIREKTORATET)
Fax Number: 39 27 18 89
Niels Carstensen

File no.: 1998-7010-16

Re: John Jacob LeBeau. Your file no.: 657.658.

Please be informed that we have just received answers from the Department of Justice, Section for the Police, to the questions concerning the efforts to locate the children, you posed in your fax of May 8, 1998.

Section for the Police has made inquiries at the Chief of Police in Esbjerg and at the National Police Commissioner.

Both the police in Esbjerg and the National Police (Rigspolitiet) is involved in the search for Mette LeBeau and the children.

The national police is watching an address in Copenhagen, where Mette LeBeaus brother is living.

The Chief of Police in Esbjerg has informed that they watch Sven Uhre Rahbeks address and that they are going to court to get permission to tap the phones belonging to persons believed to be in contact with Mette LeBeau.

The Chief of Police in Esbjerg has informed us that it will not hinder the Danish investigation if a warrant for the arrest of Mette LeBeau is issued in the United States, but on the other hand he is unable at the moment to see any positive effect either.

Finally please be informed that our department is not aware of the existence of an underground network helping people escape the police in abduction cases.

Sincerely,

K. Thoustrup Sørensen

Pia Thoustrup Sørensen

DEPARTMENT OF STATE

BUREAU OF CONSULAR AFFAIRS
OFFICE OF CHILDREN'S ISSUES
FAX NO. (202) 647-2835 TEL. NO. (202) 736-7000
Home page: http://travel.state.gov
U.S. CENTRAL AUTHORITY FOR THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Thursday, June 25, 1998

PAGES 1

FROM: ELLEN M. CONWAY

1693

TO: JOHN LEBEAU, JR.

CASE FAX #

FAX NUMBER: (561) 691-4436

Concerning - LUKE
LEBEAU

Country - DENMARK

Here are statistics on Danish cases that we currently have in our database.
8 Closed cases in 1997-98
5 court-ordered returns; 3 court-denied returns. In 2 of the 5 court-ordered returns, the left-behind parent made the decision to allow the children to remain in Denmark; the other 3 children returned to the US.
In the 3 court-denied returns: in 1 case the court overturned the original Hague return order because it had been over four years since the original abduction and the court felt it would be harmful for the child to be returned. In the other 2 cases, the court said that Denmark was the habitual residence and therefore the Convention did not apply.

Open cases: Six (One of these is an access case under Article 21; the left-behind parent does have access to the child but we have kept it open until we're satisfied that the access is regular and fairly problem-free.) Two open cases are on hiatus pending action from the left-behind parent; the other two cases are yours (counts as two cases because each child has his/her own case number) and Mr. Chesnut's.
I'll be working on your case on Friday. I'll call you back then. Hope you had a successful trip to DC. Thanks for stopping by. Jim and I agreed that it was a really useful meeting.

Fax number: (561) 691-4436

Kinko's - the copy center (561) 626-4401
12050 U.S. Highway 1
North Palm Beach, FL 33408

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			CASH SALE		5.00
			CHG		4.00

CW 24 TR 100458 RG 3 06/26/98 12:51
Visit us @ http://www.kinkos.com

JOHN J. LEBEAU
9880 Gardens East Drive
Palm Beach Gardens, FL 33410-4917
Tel: 561-624-8350
Fax: 561-691-4436
johnlebeau@hotmail.com

Ms Donna A. Bucella, Director
Executive Office of U.S. Attorneys
U.S. Department of Justice
950 Pennsylvania Avenue NW – Room 2259
Washington, D.C. 20530-0001
Tel: 202-514-2121
Fax: 202-616-2278
VIA FAX: 5 Pages

August 4, 1998

Re: United States Attorney Southern District of Florida's case investigation of the international parental kidnapping of Ruth and Luke Lebeau to Denmark

Dear Ms.Bucella:

It is with great regret that I must write to you once again regarding the above referenced case and the way it is being handled by the (USAO) for the Southern District of Florida in West Palm Beach.

To begin, I would first like to comment on the letter I received from a Marcia W. Johnson of your office dated June 15, 1998. I am particularly offended by both the tone and content of Ms. Johnson's letter. First, by not responding to my letter of May 27, 1998 yourself, Ms. Bucella, you are clearly implying that it's purpose is not of significant importance relative to your other daily activities, and I am taking that as a personal insult to my intelligence, a determined avoidance by your Southern District office to follow through with this investigation to the best of their abilities and with the full power provided by federal statutes, and a grave lack of human empathy for my twin children who have been seriously victimized by this heinous crime.

Accordingly, please explain why Ms. Johnson uses the term "alleged" to describe the illegal, international retention of my children by Mette Lebeau. As I can assure you that Ruth and Luke Lebeau are not back in the U.S. and in my custody, as per the Danish High Court Order of November 12, 1997, a copy of which was furnished to (AUSA) Carolyn Bell over seven months ago, the illegal retention that Ms. Johnson has referred to in the third line of her letter, is indeed a fact, and not merely an allegation.

Secondly, Ms. Johnson states that the (USAO) and the FBI "have been actively investigating the matter involving your wife's retention of your children...for some time." That statement Ms. Bucella, is so ridiculously vague that it again is an insult to my intelligence, for I know as a fact through my conversations with other law enforcement officials that the (AUSA)'s investigation was begun a mere 19 days before my letter to you of May 27, 1998. This despite my urging Ms. Bell and Mr. Neil Karadbil of her office to initiate an investigation since March 1997. Their excuse for not doing so at that time, and as

per Ms. Johnson's letter, was that "by law," I had to exhaust all of my civil remedies first. This statement I have also discovered to be either an outright lie, or a gross misunderstanding of the authority of their positions. Ms. Bucella, in response to this letter, please prove to me that the law required me to exhaust my civil remedies before a federal investigation for violation of the International Parental Kidnapping Crime Act of 1993 could commence.

As if that is not intolerable enough, when they finally did begin to investigate this case some 14 months later, they began with a direct violation of the National Child Search Assistance Act (Public Law 101-647; 42 U.S.C. 5779, 5780); and, may I remind you, that I have the facts to prove it.

Thirdly, Ms. Johnson states that the case was further delayed due to the necessity to investigate allegations of abuse which were made by my wife, "as it would be an affirmative defense to the kidnapping offense if (my) wife were fleeing from domestic violence." Ms. Bucella, please prove to me that specific allegations of violent abuse were made by Mette Lebeau. I think you will find that extremely difficult for the only allegations that Mette Lebeau ever made were emotional in nature, and had absolutely no relevance to domestic violence. That again was merely another excuse to avoid doing the job we American taxpayers are paying the (USAO) to do, (namely, pursuing the issuance of an indictment and arrest warrant for a known and proven violator of a federal crime). And again, as I stated in my last letter, they have done all this **at my immeasurable expense**.

On page two of her letter, Ms. Johnson refers to the "International Parental Kidnapping and Retention Statute." Please inform her that there is no such statute. What she is no doubt referring to is called the International Parental Kidnapping Crime Act of 1993 (Public Law 103-173; 107 Stat. 1998; 18 U.S.C. 1204). She could have easily and correctly identified this statute simply by referring to the very same letter I wrote to you that she is attempting to respond to. Also, how ridiculous of her to inform me six days later of the June 9 grand jury indictment of Mette Lebeau. Had she properly investigated this matter before responding to my letter she surely would have learned that the indictment came as a direct result of my personal testimony before that grand jury and that I was, in fact, present at the time it was returned.

In addition, I would like the name of the person at the State Department that "indicated that pursuing the indictment would not inhibit the diplomatic process." I trust that if you are even able to provide me with that persons name, he/she will be of Legal Counsel to the State Department, for no one in the Office of Children's Issues at the State Department where my case is being handled is of the authority to provide legal advice to anyone, especially a United States Attorney. In addition, I have been working with the State Department for almost two years now, and am in contact with them several times per week. I can assure you Ms. Bucella, that with the exception of one diplomatic note from the American Embassy, that took the Danes over two months to respond to, and contrary to the belief of (AUSA) Bell, and the corresponding statements in Ms. Johnson's letter, there is not, and never has been any ongoing "diplomatic process." There has been only the 14-month legal process, that according to the Hague Convention is mandated to take no longer than six weeks, followed by the still-ongoing criminal process. Thus, I can only conclude that this so-called "diplomatic process" that does not exist is merely another creation of a clearly deceitful (USAO).

Next, I will address the following statement on page 2; paragraph 1 of Ms. Johnson's letter: "A United States indictment or warrant in this case will essentially duplicate the Danish requests for international cooperation that has already been made." While I can easily overlook this and previous incorrect uses of the English language by your Legal Counsel in this letter Ms. Bucella, I must ask you again as I did in my letter to you of May 27, ... is it common practice for the Department of Justice **not** to pursue violators of

federal crimes by avoiding to pursue warrants for their arrest? From my numerous conversations over the past two years with other left-behind parents, public officials, and legal professionals, I can only assume that this is indeed true, unless you would like to answer my question this time and inform me otherwise.

In paragraph 2 on page 2 of Ms. Johnson's letter she makes the following statement: "Therefore, unfortunately, an indictment or warrant in this case may not have any great effect unless and until your wife returns to the United States." In response to that Ms. Bucella I have the following question. Since Mette Lebeau has herself stated repeatedly in the Danish media that she is being harbored by an "underground" organization and that no one in the world but she and the people assisting her know where she is, I ask you this. How has the Department of Justice been able to acquire factual evidence that Mette Lebeau has not already returned to the U.S.? Surely you cannot prove that this has not occurred or will not occur in the future, thus making the indictment and subsequent warrant I fought for six months to get, of absolute critical importance to the safe return home of Ruthie and Luke Lebeau!

Accordingly, I am going on record as stating emphatically that if I discover that Mette Lebeau has indeed returned to the U.S. at any time during the period between my second plea for the pursuit of an indictment to (AUSA) Bell in December 1997, and June 9, 1998 (the date it was finally returned), I will, with all my resources and energy, pursue a legal claim against the United States government and the Executive Office for United States Attorneys for violation of the National Child Search Assistance Act (Public Law 101-647; 42 U.S.C. 5779, 5780).

In the final paragraph of her letter, Ms. Johnson indicates that the (USAO) is "coordinating" with the State Department in attempting to return my children. For your information Ms. Bucella, the (USAO) has coordinated nothing with the State Department. Throughout her tenure with the Office of Children's Issues, Ms. Ellen Conway of that office has done an exemplary job of assisting me in the return of my children, and I have formally acknowledged her efforts and professionalism in a letter to the Director of that office. However, in contrast, the (USAO) has done nothing but work against me since my first phone call to them a year and a half ago. And to this very day they continue to do so with not only an unacceptable level of professionalism, but also with an unfathomable lack of knowledge of how to properly handle an investigation such as this.

For example, several weeks ago I learned from sources at the Office of International Affairs, that applications for a Request for Provisional Arrest should have been applied for subsequent to the federal warrants that were issued as a result of the indictment returned by the grand jury on June 9, 1998. (OIA) confirmed at that time that such application had not been applied for as of that date, already over one month after the indictment was returned.

Since this apparently standard procedure had not even been mentioned to me by (AUSA) Bell, I took it upon myself to have an application faxed to her directly, for her convenience. Several days later, I received a call from (AUSA) Bell. Obviously quite disturbed by the receipt of the application, she informed me in her usual condescending tone, that I had no reason to have that application forwarded to her. Ms. Bell told me that she not only would not, but could not complete the application. She told me that the only way they would complete and file the application was with specific and factual evidence of the exact location of Mette Lebeau, factual evidence indicating an exact date of travel outside Denmark, and a specific destination. I responded by saying that if I knew all that specific information about the whereabouts and activities of Mette Lebeau, I could make one phone call to the Danish authorities and my traumatic two-year struggle would be over, and my children safely returned to the U.S. However, not having any reason to believe otherwise, as I am not a legal professional or law enforcement officer, I accepted her statements as

true based on the authority of (AUSA) Bell's position. I accepted that she knew the full scope and power of that authority better than I did. After all, she is the (AUSA) and I earn my living in a field that requires no knowledge of law enforcement methods. In addition, Ms. Bell also informed me that since Interpol had issued a "red notice" for Mette Lebeau, a Request for Provisional Arrest was completely unnecessary.

Now either (AUSA) Bell thinks I am a gullible ignoramus, or she is terribly unsure how to do her job, for ten minutes after that conversation with Ms. Bell, with one phone call to Washington, I determined that everything she had just told me was **again**, either an outright lie, or a gross misunderstanding of the authority and responsibilities of her position. First, her statement regarding the detailed information on Mette Lebeau that must be obtained with evidence thereof, before the application could be made, is simply untrue. In fact, I have learned that contrary to what (AUSA) Bell led me to believe, following an indictment such as this, the filing of the application without having such specific information is actually standard procedure at OIA.

Now Ms. Bucella, will you please explain to me why the information regarding this standard Justice Department procedure is so readily available to me, yet completely unknown by your very own (AUSA), supposedly a legal and law enforcement professional handling such matters almost on a daily basis?

As if to add insult to injury, with that very same phone call to Washington to corroborate Ms. Bell's statements to me, I learned something that absolutely infuriated me. You'll recall that Ms. Bell told me that the Request for Provisional Arrest was unnecessary anyway because of the "red notice" that was already in place. Well, Ms. Bucella, that again was easily proven untrue. To this very day there is absolutely no "red notice" in place, and in fact, at the time Ms. Bell told me there was, the application for that notice had not even been filed! It was only after I asked the FBI to provide me the date the notice was issued that they informed me a week later that there had been a "mix-up" and that there was no red notice in place. So tell me, is Ms. Bell's standard operating procedure such that she makes such bold declarations without even having the facts to back them up? In light of the way this case has been handled from the beginning, these actions are unconscionable!

Finally, after again contacting Ms. Bell via the FBI (the only way she will accept any contact from me), to further discuss the application for Request for Provisional Arrest, and to share with her the information I learned regarding the standard OIA procedure of filing it, I was left a message on Wednesday July 29, that Ms. Bell and Special Agent Wilcox would together telephone me "first thing" the following morning to further discuss the application for Request for Provisional Arrest. I have yet to hear from them, and already, almost another week has gone by.

Now once again Ms. Bucella, I will be perfectly clear. **I demand that in keeping with the full authority of the United States Attorney, that the Southern District of Florida's West Palm Beach office file an application for the "Request for Provisional Arrest" of Mette Lebeau, and that this application be filed with the Office of International Affairs by Friday August 7, 1998. If this application is not made by that date with absolute proof thereof delivered to me at the above address or fax number, I will pursue my legal remedies, which I have already determined to be "valid and of considerable extent." In addition, I have already learned that such a case would be of extreme interest to the various local and national media contacts I am in regular communication with.**

May I humbly suggest that this time you give my letter your personal attention.

Sincerely,

JOHN J. LEBEAU

JJL/jjl
cc: Mrs. Hillary Clinton
The Honorable Janet Reno, U.S. Attorney General
The Honorable Madeleine K. Albright, U.S. Secretary of State
Ms. Mary Marshall, Director, Office of Children's Issues, U.S. Department of State
Thomas E. Scott, United States Attorney
Senator Jesse Helms, Chairman, Senate Committee on Foreign Relations
Congressman Benjamin Gilman, Chairman, House Committee on International Relations
Ms. Mary Banotti, Fine Gael Member of the European Parliament
Mr. Ernie Allen, President, National Center for Missing and Exploited Children
Lady Catherine V. Meyer
Congressman Nick Lampson
Congressman Bud Cramer
Congressman Bob Franks
Congressman Marion Berry
Congressman E. Clay Shaw
Ms. Mary Jo Grotenrath, Director, Fugitive Unit, Office of International Affairs,Department of Justice
Mr. Charles Goolsby, Office of Policy, U.S. Information Agency
Mr. Ronald C. Laney, Director, Missing Children's Division, OJJDP, U.S. Department of Justice
Mr. Gary Israel, P.A.
Mr. William R. Boose, III, P.A., Boose Casey Ciklin Lubitz Martens Mcbane & O'Connell
Mr. John Boykin, P.A., Boose Casey, et. al.
Mr. Joseph L. Ackerman, Jr., Boose Casey, et. al.
Ms. Mary Grady, *CBS News*
Ms. Ceil Sutherland, *ABC Prime Time*
Mr. Dan Moffitt, *The Palm Beach Post*

REQUEST FOR PROVISIONAL ARREST

Date: _____

IDENTIFICATION OF FUGITIVE

Name (include aliases): _____

Country(ies) of citizenship: _____

Date of birth: __/__/__ (month/day/year)

Place of birth: _____

Physical Characteristics:

Race: _____ Photograph available?

Sex: MALE ____ FEMALE ____ Yes ____ No ____

Height: _____

Weight: _____ Fingerprints available?

Hair color: _____ Yes ____ No ____

Eye color: _____

Other characteristics (e.g., scars, tattoos, etc.):

Documentation:

Passport no.: _____

Date & place issued: _____

Other ID:

PRESENT LOCATION OF FUGITIVE

(1) Country: _____

(2) Specific address and location:

(3) Explanation of urgent circumstances requiring provisional arrest:

If in custody in country:

(1) Foreign Charges: _____

(2) Anticipated date of release: __/__/__ (month/day/year)

Law enforcement contacts (U.S. or foreign) in country with knowledge of fugitive's location:

(1) Name, title: _____

(2) Agency: _____

(3) Telephone: _____

U.S. CHARGING DOCUMENT (check applicable choices and provide pertinent information for each choice)

___ (1) indictment ___ (2) superseding indictment

___ (3) complaint

Number: _____ Date filed: __/__/__

Name and location of court: _____

Federal district or state requesting extradition: _____

List criminal offense(s), including name of offense(s), number of counts & statute(s) violated for each (attach additional page if necessary):

U.S. ARREST WARRANT

Issued by (name and title): _____

If issued by other than a judge or magistrate, explain issuing official's authority to do so:

Number: _____ Date issued: __/__/__

Wanted in U.S. (check applicable choices):

____ to stand trial
____ to be sentenced
____ to serve sentence
____ to serve remaining sentence

U.S. STATUTE OF LIMITATIONS (prosecutor confirms by initialling)

_____ I have checked the applicable statute(s) of limitations

_____ no offense for which provisional arrest is requested is barred by a statute of limitations

FACTS OF THE CASE (provide one or two paragraphs simply and clearly describing who, what, when and how in narrative form; briefly state source of knowledge of facts, attach additional page if necessary)

D O N O T U S E I N D I C T M E N T L A N G U A G E

FINANCIAL INFORMATION (Prosecutor's office is responsible for all costs incurred in preparation, translation, and forwarding of extradition documents)

For **FEDERAL** request:

Account classification code: _____

Appropriation code: _____

Document control no. _____

Express delivery account no.: _____

For **STATE** request:
Letter agreeing to pay all costs (usually translation, forwarding of documents, and transfer of fugitive) MUST BE ATTACHED.

Approving financial authority:

Name: _____

Phone: ( ) - _____ Fax: ( ) - _____

Federal delivery account no.: _____

Billing address:

AUTHORIZATION (prosecutor confirms by signing below that the prosecutor and the prosecutor's office:
(1) authorize this provisional arrest request;
(2) commit to prepare formal extradition documents, within deadlines imposed by OIA, IN DRAFT (normally due within 10 days of arrest) and IN FINAL FORM (normally due within 20 days of arrest); and
(3) accept responsibility for all extradition-related costs)

Prosecutor's name: _____

Title: _____

Address: _____

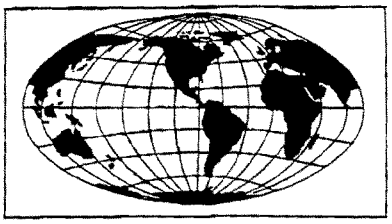
Phone: ( ) - _____ Fax: ( ) - _____ E-mail: _____

Prosecutor's signature: _____

RETURN COMPLETED FORM TO:
Office of International Affairs Phone: (202) 514-0041

Committee on
International Relations

United States
House of
Representatives



2170 Rayburn House Office Building
Washington, D.C. 20515-6128
Telephone: (202) 225-~~5821~~ 8095
Facsimile: (202) 226-0913

Date/Time: 8/12

From: John Herzberg
Professional Staff Member
Majority Staff

To: John LeBeau

Notes: Hope this helps shake things up at Justice!

This cover sheet is the first of 3 pages.

ONE HUNDRED FIFTH CONGRESS
CONGRESS OF THE UNITED STATES
COMMITTEE ON INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

TELEPHONE: (202) 225-5021

August 12, 1998

The Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
2110 RHOB
Washington, DC 20515

Dear Henry:

I am writing on behalf of Mr. John LeBeau who is the father of two children who have been illegally abducted from the United States by their mother, Ms. Lette LeBeau, a citizen of Denmark. The Danish authorities have, under The Hague Convention on the Civil Aspects of International Child Abduction, determined that Ms. LeBeau has wrongfully retained the two children and ordered her to immediately return them to their father in the United States. Ms. LeBeau has thus far defied the Danish Court's order, and the Danish authorities have issued a warrant for her arrest, but have not been successful in locating her.

As you can see from the enclosed correspondence from Mr. LeBeau, our own Justice Department has apparently failed to diligently apply the International Parental Kidnapping Crime Act of 1993 (18 U.S.C. 1204) and provide Mr. LeBeau with remedies that may have enabled him to regain custody of the children, such as "red flagging" his wife with Interpol in the event that she traveled outside of Denmark.

I am calling your attention to Mr. LeBeau's case because it represents a particularly egregious example of our own government failing to take all available measures to adequately protect young U.S. citizens from abduction with all its hurtful consequences. This case, however, is not the only such example of DOJ failing to enforce fully the above-mentioned Act. I am informed that U.S. Attorneys routinely turn down requests for the issuance of a warrant under this Act until long after the crime is committed. I would hope that as part of your Committee's oversight of DOJ you may find it advisable to look into this problem. There are hundreds of American parents and children that have been victimized by international child

abduction, and Congress intended the Act to afford them some measure of legal recourse. The will and the intent of Congress should not be thwarted because of bureaucratic considerations. I would very much appreciate your reviewing this issue.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN
Chairman

BAG:jmh/kpr
Enclosures

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 Australian Avenue, North, Suite 400
West Palm Beach, FL 33401
(561) 820-8711
(561) 820-8777 (Fax)

October 8, 1998

John J. Lebeau
9880 Gardens East Drive
Palm Beach Gardens, FL 33410
561-691-4436 (fax)

Re: United States v. Mette Lebeau

Dear Mr. Lebeau:

Your understanding of our call to you this morning, as relayed in your letter of this date, is entirely incorrect. If you have specific information about the whereabouts of Mette Lebeau, please contact FBI Special Agent Charles Wilcox immediately. We will evaluate any information you forward to us, along with any information we develop on our own, to determine whether there is probable cause sufficient to legally justify the issuance of a provisional warrant for your wife.

We have already made application for a "red notice" with Interpol based upon our indictment of your wife. I had previously been told by representatives from the State Department that an Interpol "red notice" had been issued based upon a request from the Danes. It was my understanding that this notice had been issued in approximately January of this year. I have since learned that the State Department was mistaken, and, as we informed you at the time, we made application immediately upon discovering this error.

We will continue to use our best efforts to resolve this matter.

Sincerely yours,

THOMAS E. SCOTT
UNITED STATES ATTORNEY

Carolyn Bell.

By: CAROLYN BELL
ASSISTANT UNITED STATES ATTORNEY

U.S. Department of Justice

United States Attorney
Southern District of Florida
99 N.E. 4th St.
Miami, Florida 33132

Official Business
Penalty for Private Use $300

John J. Lebeau
9880 Gardens East Drive
Palm Beach Gardens, Florida 33410

33910+4317

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 Australian Avenue, North, Suite 400
West Palm Beach, FL 33401
(561) 820-8711
(561) 820-8777 (Fax)

October 8, 1998

John J. Lebeau
9880 Gardens East Drive
Palm Beach Gardens, FL 33410
561-691-4436 (fax)

Re: United States v. Mette Lebeau

Dear Mr. Lebeau:

Your understanding of our call to you this morning, as relayed in your letter of this date, is entirely incorrect. If you have specific information about the whereabouts of Mette Lebeau, please contact FBI Special Agent Charles Wilcox immediately. We will evaluate any information you forward to us, along with any information we develop on our own, to determine whether there is probable cause sufficient to legally justify the issuance of a provisional warrant for your wife.

We have already made application for a "red notice" with Interpol based upon our indictment of your wife. I had previously been told by representatives from the State Department that an Interpol "red notice" had been issued based upon a request from the Danes. It was my understanding that this notice had been issued in approximately January of this year. I have since learned that the State Department was mistaken, and, as we informed you at the time, we made application immediately upon discovering this error.

We will continue to use our best efforts to resolve this matter.

Sincerely yours,

THOMAS E. SCOTT
UNITED STATES ATTORNEY

Carolyn Bell.

By: CAROLYN BELL
ASSISTANT UNITED STATES ATTORNEY

United States Attorney's Office
Southern District of Florida
500 Australian Ave., Suite 400
West Palm Beach, FL 33401

DATE: 10-8-98

TO: John Lebeau

ORGANIZATION:

FAX#: 561-691-4436

SUBJECT: US v. Mette Lebeau

FROM: Carolyn Bell

Tel: (561) 659-4772
Fax: (561) 659-4526

NUMBER OF PAGES, INCLUDING THIS PAGE: 2

COMMENTS:

Oiginal document: ☒ *To follow via reg. mail*
☐ *To follow via Fed. Exp.*
☐ *To follow via hand delivery*
☐ *Nothing to follow; FAX = original*

E. CLAY SHAW
22d DISTRICT, FLORIDA

2267 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3026

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PALM BEACH COUNTY
523 LAKEVIEW AVENUE, #167
WEST PALM BEACH, FL 33401
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DADE & PALM BEACH COUNTIES
TOLL FREE
888-7828

COMMITTEE
WAYS AND MEANS
SUBCOMMITTEES:
CHAIRMAN
HUMAN RESOURCES
TRADE

Congress of the United States
House of Representatives
Washington, DC 20515–0922

October 19, 1998

Ambassador Christopher Meyer
British Embassy
19 Observatory Circle, N.W.
Washington, D.C. 20008

FAX (202) 588-7860

RE: LEBEAU, JOHN
INTERNATIONAL ABDUCTION

Dear Mr. Ambassador:

I would like to call your attention to an International Child Abduction case currently being examined by a magistrate in London. My constituent, Mr. John Lebeau, has received full custody of his twin children, Ruthie and Luke Lebeau, by the United States court of jurisdiction and has complied with all Hague convention requirements. He has also received full parental rights by the high court in Denmark. His wife, Mette Lebeau, aka Mette Johansen, is a Danish citizen. She has ignored each court order and has evaded a warrant for arrest.

With the great assistance of Scotland Yard, Interpol and the Danish police, Mrs. Lebeau (Johansen) was arrested. The magistrate released her on bail and she is currently, without surveillance, in Portsmouth, England, with her children. Mr. Lebeau is allowed visitation while the case continues. Although court has seized her passport, Mr. Lebeau is in great fear that his wife will flee elsewhere in Europe where a passport may not be commonly requested.

Also of concern is the decision by the court for extradition. My office has confirmed with Agent Chuck Wilcox, at the Federal Bureau of Investigations (FBI) in West Palm Beach, Florida, that at this time, the FBI and State Attorney General's office does have intentions of prosecuting Mrs. Lebeau in the United States if extradition is granted.

Mr. LeBeau has asked us to urge the United Kingdom to recognize the Danish Court Order and to release the children in his care.

E. CLAY SHAW
22d DISTRICT, FLORIDA

2408 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3026

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1512 EAST BROWARD BOULEVARD
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(954) 522-1800

PALM BEACH COUNTY
222 LAKEVIEW AVENUE, #162
WEST PALM BEACH, FL 33401
(561) 832-3007

DADE & PALM BEACH COUNTIES
TOLL FREE
930-7429

Personal Information

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CHAIRMAN
HUMAN RESOURCES
TRADE

CHAIRMAN
FLORIDA CONGRESSIONAL DELEGATION

Congress of the United States
House of Representatives
Washington, DC 20515–0922

FACSIMILE COVER SHEET

TO: Mr. John Lebeau

FROM: Congressman Shaw ___
Victoria Duxbury ___
Claudine Marrero X

Office of Congressman E. Clay Shaw, Jr.
222 Lakeview Ave., Ste. 162
West Palm Beach, FL 33401
(561)832-3007 Phone
(561)832-0227 Fax

Date: 10/19/98

Pages to Follow: 2

Message: Remember to eat a Snup!

I have enclosed the copy of the release by the National Center for Missing & Expoloited Children. Our file on this case is extensive and includes copies of various legal documents. Please feel free to contact my Aide, Claudine Fontaine Marrero, at my West Palm Beach office at (561) 832-3007 or FAX (561) 832-0227, with any questions you may have or to request additional information for your review.

I thank you for your valuable time and look forward to receiving a response.

Sincerely,

E. CLAY SHAW, JR.
Member of Congress

cc: William J. Crowe
U.S. Ambassador to Great Britian

ECS/cfm
Enclosure

From the Ambassador
Sir Christopher Meyer KCMG

British Embassy
Washington

3100 Massachusetts Ave. N.W.
Washington, D.C. 20008-3600

Telephone: (202) 588-6512
Facsimile: (202) 588-7870
www.britain-info.org

20 October 1998

The Honorable E Clay Shaw
US House of Representatives
2267 Rayburn House Office Building
Washington DC 20515

Dear Congressman,

Thank you for your letter of 19 October about the case of your constituent, Mr John Lebeau.

The Embassy is consulting the authorities in the United Kingdom about the case as a matter of urgency. I will let you know as soon as we hear from them.

Sincerely,
Christopher Meyer

Christopher Meyer

From the Ambassador
Sir Christopher Meyer KCMG

British Embassy
Washington

3100 Massachusetts Ave. N.W.
Washington, D.C. 20008-3600

Telephone: (202) 588-6512
Facsimile: (202) 588-7870
www.britain-info.org

20 October 1998

The Honorable E Clay Shaw
US House of Representatives
2267 Rayburn House Office Building
Washington DC 20515

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Sincerely,
Christopher Meyer

Christopher Meyer

E. CLAY SHAW
22d DISTRICT, FLORIDA

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WASHINGTON, DC 20515
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930-7429

Congress of the United States
House of Representatives
Washington, DC 20515–0922

COMMITTEE:
WAYS AND MEANS
SUBCOMMITTEES:
CHAIRMAN
HUMAN RESOURCES
TRADE

CHAIRMAN
FLORIDA CONGRESSIONAL DELEGATION

FACSIMILE COVER SHEET

TO: J. Lebeau, Jr.

FROM: Congressman Shaw ____
Victoria Duxbury ____
Claudine Marrero ✓

Office of Congressman E. Clay Shaw, Jr.
222 Lakeview Ave., Ste. 162
West Palm Beach, FL 33401
(561)832-3007 Phone
(561)832-0227 Fax

Date: 11/16/98

Pages to Follow: 1

Message: _____

From the Ambassador
Sir Christopher Meyer KCMG

British Embassy
Washington

3100 Massachusetts Ave. N.W.
Washington, D.C. 20008-3600

Telephone: (202) 588-6512
Facsimile: (202) 588-7870
www.britain-info.org

29 October 1998

The Honorable
E Clay Shaw Jr
2408 Rayburn House Office Building
Washington DC 20515

Dear Congressman,

MR LEBEAU

Thank you for your letter of 19 October. I have consulted London about Mr LeBeau's case.

As you know, the High Court is now considering the abduction of the LeBeau children; for that reason, I can provide only limited information.

Mrs LeBeau and the children were located in mid-October. The Hague Convention application came before the High Court on 16 October and the matter was adjourned for seven days. In response to an extradition request, Mrs LeBeau was arrested and then released on bail. The Metropolitan Police are holding Mrs LeBeau's passport. The High Court is holding the children's passports. Injunction orders are in place to prevent Mr and Mrs LeBeau from removing the children from England and Wales. Mrs LeBeau's bail conditions require her to remain living in Portsmouth and not to apply for passports or travel documents.

Mr LeBeau's solicitor has three applications before the High Court: an application for the return of the children under the Hague Convention; an application seeking recognition of the Danish Court order; and an application for the return of the children under the Court's inherent jurisdiction and the principles of comity.

When the case came before the High Court on 23 October, the judge gave directions for the filing of evidence and the conduct of future access between Mr LeBeau and the children. The case is listed for final hearing on 19 and 20 November.

At this stage, there is little more I can add. But Mr LeBeau asked you to urge the UK to recognise the Danish Court order without the need for a new legal action in the English system. The lawyers in London tell me that there is no provision under the Hague Convention which allows the implementation of the Court order of another signing nation without the need for a separate English case. I am sorry.

Sincerely,
Christopher Meyer

Christopher Meyer

TO JOHN JACOB LEBEAU and METTE UHRE LEBEAU:

TAKE NOTICE that if you neglect to obey this order (which includes the undertakings or stipulations that you have given to the Court) you may be held in contempt of Court and liable to imprisonment

---

No. CA 243 of 998

IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

PRINCIPAL REGISTRY

BEFORE THE HONOURABLE MR JUSTICE WILSON, Knight, one of the Justices of the High Court sitting in Chambers at the Royal Courts of Justice, Strand, London

IN THE MATTER OF RUTH EMILY LEBEAU and LUKE THOMAS LEBEAU (Children)

AND IN THE MATTER OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

AND IN THE MATTER OF CHILD ABDUCTION AND CUSTODY ACT 1985

BETWEEN:

JOHN JACOB LEBEAU

Plaintiff

-and -

METTE UHRE LEBEAU

Defendant

UPON HEARING Counsel for the Plaintiff Father and Counsel for the Plaintiff Mother

AND UPON READING the documents filed herein

AND UPON THE PLAINTIFF FATHER UNDERTAKING that he will cause either this order or an order in like terms (including the undertakings or stipulations set out in the First and Second Schedules hereto) to be registered or made in the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County such that it becomes an enforceable order of that court AND that upon the arrival of the Defendant Mother and the children RUTH EMILY LEBEAU and LUKE THOMAS LEBEAU ("the Children") in the State of Florida in the United States of America he will carry out the obligations set out in the First Schedule to this order

AND UPON THE DEFENDANT MOTHER UNDERTAKING that she will make the children available for visitation by the Father in the terms set out in the Second Schedule to this order and will comply with the other provisions thereof

AND IN SUPPORT OF THE obligation and power conferred on this Court under Articles 12 and 18 of the Hague Convention on the Civil Aspects of International Child Abduction ("the Convention") this Court accepts the undertakings or stipulations given to this Court by the Plaintiff Father JOHN JACOB LEBEAU and the Defendant Mother METTE UHRE LEBEAU set out above and in the First and Second Schedules attached hereto and being part of this order, such undertakings or stipulations constituting binding and enforceable obligations and in consequence of such undertakings or stipulations ORDERS THAT

IT IS ORDERED

1. that within seven days of the Defendant Mother or her solicitors receiving a copy of the order of the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County incorporating this order or an order in like terms, the children shall return to the United States of America (and shall do so with the Defendant Mother, unless she refuses to accompany them);

2. that a transcript of the judgment delivered herein today be prepared urgently at public expense and copies thereof and of this order be made available to each party by their solicitors and to the Lord Chancellor's Child Abduction Unit, being the Central Authority for England & Wales, the Office of Children's Issues, being the Central Authority for the United States of America, the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County, the Crown Prosecution Service International Division and the Bow Street Magistrates' Court;

3. that there be leave to both the Plaintiff Father and the Defendant Mother to disclose this order, the transcript of the judgment aforesaid and any other papers filed herein to their legal advisers and any court of competent jurisdiction seised of proceedings relating to the custody of the children or criminal proceedings relating to the removal of the children from the United States of America by the Defendant Mother;

4. that the passports of the Defendant Mother and of the children be released forthwith to the Plaintiff Father's solicitors, Heald Nickinson, to be held by them to the order of the court and to be handed to the Defendant Mother in pursuance of paragraph 1 of this order at the airport of departure immediately prior to her embarkation on the date of the children's return to the United States of America. In the event of the Defendant Mother refusing to accompany the children on their return to the United States of America, the Plaintiff Father's solicitors shall hand the children's passports to the adult responsible for accompanying the children to the United States of America and shall thereafter within forty-eight hours deliver the Defendant Mother's passport to the court;

5. that there be leave for the judgment delivered herein today in chambers to be reported provided that all reasonable steps are taken to preserve the anonymity of the children in any such report;

6. that there be no order for costs, including any costs reserved, save that the costs of the Plaintiff Father and the Defendant Mother be taxed in accordance with the provisions of the Legal Aid Act 1988

DATED THIS 23rd. DAY OF NOVEMBER, 1998

PREAMBLE TO THE FIRST AND SECOND SCHEDULES

The undertakings or stipulations (which terms shall be used interchangeably) set forth in the First and Second Schedules below have been accepted by the Court to achieve the objects of Article 12 of the Convention and for the limited purpose of returning the children to the United States of America and securing their welfare until such time as the courts of the United States of America shall exercise jurisdiction over them AND HAVE BEEN OFFERED by the Plaintiff Father and the Defendant Mother having both been advised by solicitors and counsel about their nature and effect and being fully aware of their binding and enforceable nature both in England and Wales and the courts of the United States of America. The undertakings or stipulations shall have effect until such time as the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County or some other court of competent jurisdiction in the United States of America shall exercise jurisdiction over the children and in any event for a period of not less than twenty-eight days from the date of the children's arrival in the United States of America. Nothing in the undertakings or stipulations set forth in this order shall be construed as usurping the jurisdiction of the courts of the United States of America.

THE FIRST SCHEDULE

The Plaintiff Father undertakes or stipulates that:

(i) he will support any application on the part of the Defendant Mother for a visa enabling her to enter and remain in the United States of America;

(ii) he will provide one-way air tickets for the Defendant Mother and the children to return to the United States of America;

(iii) he will inform the appropriate authorities concerned with the prosecution of the Defendant Mother under the terms of the indictment handed down by the Grand Jury in the United States District Court, Southern District of Florida, on the 9th. June, 1998 that the children having returned safely to the protection of the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County which shall now exercise jurisdiction over them, the criminal proceedings have served their purpose, and that if as the children's Father he has a voice in the continuation of those proceedings he asks that they be discontinued, or if not discontinued, that the Defendant Mother should be treated as leniently as possible, both before and after the trial. In particular, he will ask that the conditions of the Defendant Mother's release before trial as suggested in the letter of Carolyn Bell, the Assistant US Attorney of the 6th. November, 1998 should be

implemented;

(iv) he will not enforce the custody order made by the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County on 2nd. July, 1998 until either that court or another court of competent jurisdiction deals with the issue of the children's custody inter partes, such hearing not to take place before the expiration of 28 days from the date of the children's arrival in the United States of America;

(v) pending such a hearing he will not seek to remove the children from the care of the Defendant Mother except for periods of visitation as hereinafter defined;

(vi) he will provide accommodation, which he will not occupy, for the exclusive use of the Defendant Mother and the children AND provide for the reasonable cost of the accommodation, services and medical insurance for the Defendant Mother and the children and also pay her maintenance at the rate of not less than $200-00 (two hundred dollars) a week;

(vii) he will not with a view to any media publicity discuss with any person any legal proceedings relating to the removal or retention of the children from or away from the United States of America by the Defendant Mother or permit photographs of the children to be taken for the purposes any publicity relating to those proceedings

THE SECOND SCHEDULE

The Defendant Mother undertakes or stipulates that :

(i) she will make the children available for visitation by the Plaintiff Father for two hours a day in the first week after their arrival in the United States of America, and for the second week and thereafter for a period of four hours a day for six days of each week; in addition, she will make the children available for visitation by the Plaintiff Father for the days 25th. to 27th. December, 1998 inclusive for the purposes of visiting his parents if such a visit be feasible;

(ii) she will not with a view to any media publicity discuss with any person any legal proceedings relating to her removal or retention of the children from or away from the United States of America or permit photographs of the children to be taken for the purposes any publicity relating to those proceedings;

(iii) she will not remove the children from the jurisdiction of England & Wales save in accordance with the terms of this order

Signed
Plaintiff Father

Solicitors for the Plaintiff Father

Signed
Defendant Mother

Solicitors for the Defendant Mother

Dated this 23rd. day of November, 1998

November 5, 1998

The Honorable Benjamin A. Gilman
Chairman
Committee on International Relations
2170 Rayburn House Office Building
Washington, DC 20515

Dear Ben:

Thank you for your recent letter regarding John LeBeau who claims his children have been wrongfully abducted by their mother, Mette LeBeau. I have also been contacted by Representative Clay Shaw's office regarding this matter.

Not knowing all the facts, I cannot comment on the merits of this case. It appears Mr. LeBeau has contacted a great many people, including other members of Congress and the Attorney General, regarding what he alleges to be a failure on behalf of our government. I also note that Mr. LeBeau has recently sought legal counsel and that this matter is pending a court review in late November.

I have written to the Department of Justice to inquire what the status of the LeBeau case might be. I will certainly share that response with you when I receive one. In the interim, I am also forwarding a copy of this correspondence to Chairman Bill McCollum of the Committee's Subcommittee on Crime, for his review.

Best regards.

Sincerely,

Henry J. Hyde

HENRY J. HYDE
Chairman

Dear Claudia —
Will be back in touch. DT was hard warming to talk — Take care

HJH/es

cc: The Honorable Bill McCollum
The Honorable Clay Shaw

United States Department of State

Washington, D.C. 20520

November 9, 1998

RECEIVED
NOV 0 9 1998

10:30 am 501)624-8350

Ms. Andrea Dye
Central Authority for England and Wales
Lord Chancellor's Department
Child Abduction Unit

Dear Ms. Dye:

I am writing with regard to the Hague case of John LeBeau and his efforts to secure the return of his children to the place of their habitual residence in the United States. I would like to raise two concerns. The first deals with the failure of the courts in the United Kingdom to recognize the validity of the Danish court order to return the children to the United States. I understand that the Danish Government has even sent to the Central Authority of the United Kingdom a document confirming its view of the enforceability of its return decision in the United Kingdom. We believe if the Hague Convention is to retain credibility and act as a deterrent to child abduction, an abducting parent should not be able to expect that he/she can move to another Hague Country and be confident that a wholly new process will ensue which, in effect, will negate the decision of the original Hague country. We urge you to bring every argument and precedent to bear to uphold the Danish court decision for return.

Our second concern is perhaps the more urgent. With the passage of time since the arrest of Mrs. LeBeau and pursuit of the Hague case in the United Kingdom, it becomes more likely that she will seek to flee with the children. This is not an unfounded concern, but results from a common sense contemplation of what Mrs. LeBeau has done in the past in the face of adverse court decisions. We urge you to take whatever measures are necessary to prevent the departure of Mrs. LeBeau and the children from the United Kingdom until the case is resolved. Existing measures such as the collections of passports are not of course adequate to protect against departure from the United Kingdom. We request that the police take action to maintain a reasonable surveillance of Mrs. LeBeau during the period her case is being litigated.

We would very much appreciate your help in addressing these concerns, so that Mr. LeBeau's case may be finally and fairly resolved. Thank you for your assistance.

Sincerely,

Mary B. Marshall
Director
United States Central Authority

E. CLAY SHAW
22d DISTRICT, FLORIDA

2267 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3026

DISTRICT OFFICES
BROWARD COUNTY
1512 EAST BROWARD BOULEVARD
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PALM BEACH COUNTY
213 LAKEWAY AVENUE, #102
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(407) 832-3007

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TOLL FREE
800-7629

WAYS AND MEANS
SUBCOMMITTEE ON
CHAIRMAN
HUMAN RESOURCES
TRADE

Congress of the United States

House of Representatives

Washington, DC 20515–0922

November 12, 1998

The Honorable Janet Reno
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

RE: LEBEAU, JOHN
INTERNATIONAL CHILD ABDUCTION
EXTRADITION PROCEEDINGS

Dear Attorney General Reno:

Enclosed please find a copy of a letter I have received from my constituent, Mr. John Lebeau. Mr. Lebeau is a "left behind" parent, as his twin 3 year-old children, Luke and Ruthie were abducted by their mother, Ms. Mette Lebeau. Mr. Lebeau has completed all legal requirements in the United States and Denmark, the original country the children were abducted to in June 1996. Mr. Lebeau has also complied with all Hague Convention requirements to obtain his children as the full custodial parent.

Mr. Lebeau has specifically requested a response from the your office in reference to the "bargaining" of expedition, criminal proceedings.

I would greatly appreciate it if you would review the enclosed material, address its concerns and advise me accordingly.

Please forward your response to my Aide, Claudine Marrero, at my West Palm Beach office. If you have any questions or need additional information Claudine will be happy to assist you at (561) 832-3007.

Sincerely,

Clay

E. CLAY SHAW, JR.
Member of Congress

ECS/cfm
Enclosure

*** TRANSMISSION REPORT ***

NOV-12-98 16:15 ID:5616914436 N P BCH KINKOS

JOB NUMBER			416
INFORMATION CODE			OK
TELEPHONE NUMBER	8320227		
NAME(ID NUMBER)	5618320227		
START TIME	NOV-12-98 16:14		
PAGES TRANSMITTED	002	TRANSMISSION MODE	G3
RESOLUTION	STD	REDIALING TIMES	00
SECURITY	OFF	MAILBOX	OFF
MACHINE ENGAGED	00'51		

THIS TRANSMISSION IS COMPLETED.

LAST SUCCESSFUL PAGE 002

JOHN J. LEBEAU
9880 Gardens East Drive
Palm Beach Gardens, FL 33410
561-624-8350 – phone
561-624-8350 – fax
johnlebeau@hotmail.com

CONGRESSMAN E. CLAY SHAW, JR.
222 Lakeview Avenue
West Palm Beach, FL 33401
561-832-3007 – phone
561-832-0227 – fax

November 12, 1998

Re: The international child kidnapping of the minor U.S. citizens Ruth and Luke Lebeau

Dear Congressman Shaw:

First, may I thank you once again from the bottom of my heart for the incredible support I have received from your office through the outstanding efforts of your aide Ms. Claudine Fontainne Marrero. Ms. Marrero has continually reached above and beyond the call of duty in assisting me with this most difficult tragedy involving my twin children.

The reason for my letter today is to address some recent correspondence I received and my grave concern for what its contents mean, not only to my own case, but for the tens of thousands of Americans who find themselves in my position each year.

Specifically, I am referring to a letter from Ms. Mary Marshall of the U.S. Department of State, Office of Children's Issues sent to Ms. Andrea Dye of the Lord Chancellor's Department in England regarding my case (copy enclosed). It is the response to Ms. Marshall's letter that it most disconcerting. Please note that on the second page of that response in the fourth and fifth paragraphs beginning with "Finally..., the message is clear.

Can you believe Great Britain, our closest ally, is bullying me and our own Justice Department into negating the only mechanism that has led to locating my children after there mother took them not once but twice and fled into hiding in direct violation of a High Court Order? I am speaking of course of the criminal process that has resulted from violation of the International Parental Kidnapping Crime Act of 1993.

Congressman Shaw, would it be possible for you to make an inquiry to the Justice Department's highest level. I would like to know what the Justice Department's (and The Honorable Madame Reno herself) position is in this matter. That is, what is Madame Reno's response to signatory countries to the Hague Convention, boldly declaring that they will not return children that have been illegally removed and retained because of our IPKCA of 1993? Being that the very nature of this crime and the Act involve the cooperation of foreign governments, how does the Justice Department respond to the DEMANDS that we toss out the very law our Congressmen have designed in hopes of deterring the escalating crisis of international child kidnapping?

Invoice

11/12/98

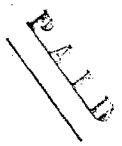
Session

UserID	johnlebeau	**Start**	1998/11/12 15:04:44.00	**Minutes**	
Description	Workstation #3 PC	**End**	1998/11/12 16:10:52.00	**Rate**	$12.0
				SubTotal for Session	$13.
				Tax	$0.7
				Session Total	$13.9

Prints

Printer Name	Price Breaks	Break Rate	PrintChar
IBM Network Printer 24\\'LASERWRITER\IBM NETWORK PRINTEI	2	$0.49	$0.
	0	$0.25	$0.0
	0	$0.25	$0.0
	0	$0.25	$0.
	2		$0.9

SubTotal for Prints	$0.
Tax	$0.
Prints Total	$1.0



TOTAL

SubTotal for Session	$13
SubTotal for Prints	$0
Total for Tax	$0.8
GrandTotal	$15

LORD CHANCELLOR'S DEPARTMENT

Child Abduction Unit
81 Chancery Lane London WC2A 1DD
Telephone Direct Lines 0171-911 7115 Mr M I Hinchliffe
General Enquiries 0171-911 7127
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Ms Mary B. Marshall
United States Department of State
Office of Children's Issues
CA/OCS/CI - Room 4811
Washington DC 20520
USA

Your Ref

Our Ref CAU23602/cau

Date 12 November, 1998

RECEIVED
NOV 12 1998
11:40 John LeBeau

Dear Ms Marshall,

Re: Ruth and Luke LeBeau

You wrote on 9 November to my colleague, Miss Dye, regarding Mr John LeBeau's Hague Convention application for the return of his two children, Ruth and Luke. Your letter has been passed to me for reply. You may know that I have taken over responsibility for the Child Abduction Unit from Michael Nicholls.

Mr LeBeau's solicitor, Ms Kim Finnis at Heald Nickinson, has filed with the High Court of Justice in London applications on two levels. Firstly an application under the Hague Convention for the immediate return of the children to the United States of America. Secondly, on counsel's advice, applications under the European Convention (European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children) for the recognition and enforcement of the Danish court order, and other arguments which counsel may deploy.

Doubts have been expressed by this office, the Danish Central Authority and your own department, about the enforceability of the Danish court order under the European Convention. It is thought by our respective offices that it is unlikely that an order made under the Hague Convention for the return of a child, could be considered a custody order for the purposes of the European Convention. However, I am sure that you will agree that there is nothing to be lost by having the European Convention argument in reserve.

The applications are listed for final hearing before the High Court on 19 and 20 November 1998. In my view the legal complexities of this particular case have not delayed the listing of the final hearing. Initially, as you know, the case was delayed by the difficulties in locating the mother.

Moving to your second concern. Mrs LeBeau's passport is being held by the Metropolitan Police in relation to the extradition proceedings. I understand that Mrs LeBeau's bail conditions require her to remain in Portsmouth and not to apply for new passports or travel documents. The children's passports are held by the High Court pending the conclusion of the Hague Convention application. Ms Finnis has obtained injunction orders to prevent the children's removal from the jurisdiction.

The Child Abduction Unit will speak to Ms Finnis today to ensure that the question of new or alternative passports has been fully addressed. Also to discuss the possibility of placing the children's names on the 'Port Alert' list. A port alert will only be initiated if the police are satisfied that the threat of abduction is 'real and imminent'. I have some doubts whether this case will satisfy that test because Mrs LeBeau no longer has her passport or the children's.

As to police surveillance, I believe that the only grounds for this kind of supervision would be where there is a risk of harm to the children. In an earlier fax from Mr Fleming at your office (13 October), the suggestion that Mrs LeBeau may' take desperate measures that would endanger the children' was raised. If Mr LeBeau has serious concerns about the children's safety while they are in Mrs LeBeau's care, he will need to produce evidence so that appropriate action can be taken.

Finally, I wish to mention the extradition proceedings which I think may prove to be an issue that could affect Mr LeBeau's chances of success in this case. Miss Dye has spoken to Mr Fleming about the criminal charges Mrs LeBeau faces in the United States and the view the English court may take when considering whether or not to return the children. Our concerns are detailed in a fax to your office dated 21 October. Those concerns are based on our experience in a case our offices previously shared (Centeno) where the court refused to order the return of a child, following the applicant's failure to do everything in his power to have criminal proceedings in the United States withdrawn.

I understand that Mr LeBeau can ask the Department of State to make representations on his behalf to the Department of Justice, requesting that, given the sensitive nature of the Hague Convention proceedings, consideration is given to withdrawing criminal charges against Mrs LeBeau. On the face of it, these children are twins aged only 3 years who have always been in the care of their mother. I believe that if Mr LeBeau is asked by the High Court to demonstrate that he has done all that he can to remove the threat of criminal proceedings against Mrs Lebeau, and cannot do so, there is every chance that the English court will refuse to return the children. No doubt you can pass these observations to Mr LeBeau.

I do hope that the contents of this letter have gone some way to alleviate your concerns regarding this case. As soon as

the Child Abduction Unit has any new information about the court proceedings, or the precautions in place to protect the children's safety while they remain in England, they will of course inform your department.

Yours sincerely,

Mike Hinchliffe
Child Abduction Unit

Office of
Children's Issues

US Department of State • Office of Children's Issues • 2201 C Street, NW
Room 4811 • Washington, DC 20520

RECEIVED
NOV 12 1998

FAX

Date: 11/12/98
Number of pages including cover sheet: 2

To: John LeBeau
Phone: (561) 624-8350
Fax phone: [redacted]
CC:

From: William Fleming
Phone: (202) 736-7000. Ext. 07
Fax phone: (202) 647-2835

REMARKS: ☑ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment

John -
This came in 3 minutes after I left the message for you. We'll have to talk.
B.F.

U.S. Department of Justice

Executive Office for United States Attorneys
Office of the Director

Main Justice Building, Room 2244A
950 Pennsylvania Avenue, N. W.
Washington, D.C. 20530

(202) 514-2121

DEC 15 1998

RECEIVED
DEC 17 1998
Congressman E. Clay Shaw Jr.
Palm Beach District Office

The Honorable E. Clay Shaw, Jr.
Member, U.S. House of Representatives
Palm Beach County
222 Lakeview Avenue, #162
West Palm Beach, Florida 33401

Dear Congressman Shaw:

Thank you for your letter to the Attorney General on behalf of your constituent, Mr. John Lebeau. Mr. Lebeau's children were abducted by their mother, Matte Lebeau, and taken to Denmark.

As you know, the United States Attorney for the Southern District of Florida and the FBI have been actively investigating the matter involving the abduction of the Lebeau children. They have been coordinating with the State Department, Office of Children's Affairs, to pursue all diplomatic measures possible in order to effect the return of the children to the jurisdiction of the Florida courts.

The status of the case is that the United States Attorney is going forward with extradition, and the extradition packet was recently sent to the Criminal Division, Office of International Affairs (OIA). OIA will forward the packet to London. In the meantime, John Lebeau has been pursing civil remedies in British court. The British court ordered Mette Lebeau to come to the United States with the children within the next few weeks.

The United States Attorney will continue to work diligently with the State Department to ensure the safe return of the children. If Mr. Lebeau has any further questions, he should contact Assistant United States Attorney Carolyn Bell, Office of the United States Attorney, Southern District of Florida, 500 Austrialian Avenue, North, Suite 400, West Palm Beach, Florida 33401.

We hope this information is helpful to you in responding to your constituent.

Sincerely,

Donna A. Bucella by LD
Donna A. Bucella
Director

MUSIC & MASSES
Neil Diamond sparkles when singing his hits, and Vince Gill shines with personality.
REVIEWS, 3-4C

LOCAL NEWS

SEA COW SIDESHOW
Despite the absence of warm power plant water, manatees return to Moore's Creek.
STORY, 6C

Final chapter of father's quest – a happy ending

By Dan Moffett
Palm Beach Post Staff Writer

The moment John LeBeau had lived the last 2¼ years of his life for came Friday night at the end of a passenger runway in Miami International Airport.

He knelt between his 3-year-old twins, Luke and Ruthie, and asked them a question that wavered with apprehension:

"Do you know who this is?"

"Dah-ddeee," the twins replied, their voices rising in a European ring.

LeBeau had his children back, something he'd had much reason to believe might never happen.

On June 27, 1996, he and his wife, Mette, had a furious argument in their Palm Beach Gardens home. She left with the twins, then 8 months old. John LeBeau thought it would be for a cooling-off period, a long weekend. It would be for a long nightmare.

What he didn't know was that Mette LeBeau, a Danish citizen, was about to flee the country and take the children to her homeland.

What he didn't know was that to see Luke and Ruthie again, he would need to work obsessively for two years, pushing himself to the brink of bankruptcy.

An insurance agent by trade, LeBeau would teach himself international law and learn the workings of the Hague Convention and the Danish and British courts. He would found a not-for-profit corporation to counsel other parents in similar positions.

On that Friday his wife left, LeBeau had no idea that waiting in his future were FBI agents, Interpol officers, Scotland Yard detectives and European private eyes. Or, that he'd have to lobby Congress, the state department, the justice department and Attorney General Janet Reno herself.

"I knew that if I ever wanted to see them again, I would have to pursue this on all fronts within the legal system," said LeBeau, 39. "It became like trying to eat an elephant one bite at a time."

The challenge before him was complicated by daunting political and legal barriers between nations. Once his children were out of the United States, retrieving them meant entering a netherworld of foreign bureaucracies.

"The basic problem you face is not having any mechanism to force one sovereign state to enforce the orders of an-

Please see LEBEAU / 7C

Mette LeBeau: Took twins to homeland after breakup.

John LeBeau: Spent two-plus years retrieving his kids.

Frank Cerabino

Bombings, Bush and Big Burp in store for '99

Predictions for next year:

January

5 — In clumsy stab at folksy charm, Gov. Jeb Bush refers to himself as the ty-coon.
15 — South Florida Fair begins. Planes flying into Palm Beach International diverted from dangerous grease cloud.
31 — Super Bowl held in Miami. Former city Mayor Xavier Suarez voted as game MVP in ballot irregularity.

February

2 — NASA announces search for another senior citizen to launch into outer space.
10 — Florida files landmark lawsuit against nation's beer manufacturers — Big Burp.

Father spent $100,000, took six overseas trips

LEBEAU
From 1C

other," he said. "The law changes at every border."

Two months after his wife left him, LeBeau contacted the state department and asked whether she had applied for passports for the children. He was told she had not. In reality, passports had been issued July 17, 1996.

In January 1997, a Florida circuit judge awarded custody of the children to John LeBeau after their mother failed to appear for a hearing in Palm Beach County. Mette LeBeau was living with the twins near her parents in Esbjerg, Denmark, a port city of 72,000 on the country's west coast, five hours by train from Copenhagen.


Marrero

Four times, LeBeau flew to Denmark and sought the twins' return in Danish courts. He began proceedings under the Hague Convention, an international treaty calling for custody hearings in the nation the children were living before their parents separated.

LeBeau sought to have the twins returned to him in the United States, but a Danish magistrate ruled in September 1997 they should remain in Denmark.

"The judge said it would be too stressful for the children to leave Denmark," LeBeau said. "The ruling ignored the Hague treaty."

The Danish high court reversed the lower court two months later, however, upholding the Hague treaty and ordering the children to Florida.

Three weeks after the reversal, Mette LeBeau took the children and went underground, fleeing Denmark and disappearing within a network of shelters for single mothers.

She failed to appear at a Dec. 5, 1997, court hearing in Esbjerg that would have established arrangements for the children's return to the United States. The judge ordered Danish police to began a nationwide search.

For 11 months, John LeBeau did not know where his wife had taken his children.

"I think this was the lowest point," he said, "the not knowing."

LeBeau was hospitalized for five days in '97 with a stress-related heart ailment.

A critical court victory for LeBeau came last June. A Florida grand jury indicted Mette LeBeau on charges of parental kidnapping under the International Parental Kidnapping Act of 1993. Arrest warrants were issued.

Yet, LeBeau's search remained stalled. Danish police couldn't find the twins, and the U.S. arrest warrants carried little weight in Europe. LeBeau found out even a technological gaffe was working against him. Interpol had used an incorrect filing number when it entered the case in its computers, leaving information on the abductions lost in cyberspace.

While on the Internet one day last spring, LeBeau happened to trade stories with Paul Marinkovich, a Simi, Calif., father who was searching for his son Gabriel, 6, who had been taken to Sweden by his Swedish mother. The rapport between LeBeau and Marinkovich, 37, was immediate.

Within weeks of their meeting, they founded the not-for-profit International Child Rescue League. Their plan was to create a network within which information on overseas parental kidnappings could be shared and lawmakers influenced.

On Father's Day, LeBeau and Marinkovich met face-to-face for the first time in Washington. Together they made the rounds of the capital, telling their stories to whomever would listen.

Rep. E. Clay Shaw, the Republican congressman from Fort Lauderdale, was listening, so was Claudine Fontaine Marrero, a Shaw aide in West Palm Beach.

"I spent five hours a day on it for three months," Marrero said. "I've done this job for six years, and this was the most exhausting case I've worked on."

Marrero talked to the FBI and the Justice Department, urging them to intensify the search in Europe for the LeBeau twins; she pressured the state department.

Rep. Benjamin Gilman, R-N.Y., chairman of the House Committee on International Relations, called the LeBeau case an "egregious example" of the justice department "failing to enforce the federal kidnapping act."

In October, the Senate Foreign Relations Committee, chaired by Sen. Jesse Helms, R-N.C., held hearings on international parental abductions. Helms said the United States returns 90 percent of kidnapped children to foreign nations but only 30 percent are returned here.

The committee called Attorney General Janet Reno to testify and asked her why.

"Even in cases in which a left-behind parent has . . . literally done everything right, that parent, and the United States, may be bitterly disappointed with the result," Reno told the committee.

Helms said he'd block foreign nations' extradition requests unless they honored U.S. requests.

"My case came to a head after Janet Reno testified to the senators," LeBeau said. "I think I became the first precedent for what the committee wanted."

A week after the hearings, Danish police picked up a paper trail that led them to the south coast of England. The FBI contacted private investigator Keith Boughton, a former Scotland Yard detective, and he found Mette LeBeau living in Portsmouth. On Oct. 16, she was arrested by Scotland Yard officers.

With the threat of U.S. extradition looming, Mette LeBeau agreed last month to return to the United States and bring the children back to Florida, where permanent visitation and custody arrangements will be decided.

Of the 10,000 cases of abduction since the 1993 International Parental Kidnapping Act was passed, only 10 times have felony arrest warrants been issued, according to the National Center for Missing and Exploited Children.

The LeBeau case is thought to be the only one with both an arrest and U.S. extradition upheld.

"I poured my heart into this case," said Marrero, Shaw's aide. "I saw the tears in his eyes. The more I dug into it, the more I understood there were problems with the system."

Mette LeBeau's British solicitor, Sian Williams, said the decision not to oppose extradition did not mean she would admit the U.S. charges awaiting her here.

On Christmas morning, John LeBeau plans to fly the twins to Philadelphia to visit family. After six trips to Europe, spending $100,000, borrowing and maxing his credit cards — after enduring dozens of disappointments — this has become a holiday with much to celebrate.

"The only reason I have my kids back is because I was extremely aggressive," he said. "And I also had an incredible amount of luck."

A father's quest

John LeBeau made six trips to Europe in 2½ years to get his children back. They were returned to him Friday.

1 Palm Beach Gardens: July 1996 — Mette LeBeau takes 8-month-old twins Luke and Ruth to Denmark.
2 West Palm Beach: Jan. 13, 1997 — Florida family court gives custody of children to John LeBeau.
3 Esbjerg, Denmark: March 1997 — John LeBeau makes first trip to Denmark. Stays six days within a mile of children without knowing they were there.
4 Esbjerg: September 1997 — Danish magistrate contradicts Hague order and finds in favor of Mette LeBeau.
5 Copenhagen, Denmark: Nov. 12, 1997 — Danish supreme court overturns lower court and orders children returned.
6 Portsmouth, England: Dec. 2, 1997 — Mette LeBeau takes children and flees to England. Oct. 16 — She is arrested by Scotland Yard detectives. Nov. 20 — A British court upholds extradition of her and twins to the United States.
SOURCE: Court records from Palm Beach County and England

MARK HEGARTY/Staff Artist

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA	CASE NO. 98-8072-CR-ZLOCH
	Magistrate Judge Seltzer
v.	
METTE UHRE LEBEAU, Defendant.	
	PRE-TRIAL DIVERSION AGREEMENT

The United States Attorney for the Southern District of Florida and Mette Uhre Lebeau, by herself and by and through her attorney, with the accord of the United States Pretrial Officer for the Southern District of Florida, believing that the interests of the United States and Mette Lebeau and the interests of justice will best be served by the following, hereby jointly and independently agree to the following disposition of this case, in which Mette Lebeau has been charged in a one count indictment with a violation of 18 U.S.C. 1204.

1) Mette Lebeau agrees that she shall be subject to supervision in a Pretrial Diversion Program by the United States Pretrial Services Officer for the

Southern District of Florida, for a period of twelve months, and agrees to abide by any conditions of supervision set by her pretrial diversion supervisor. The United States Attorney reserves the right to recommend conditions of supervision to Mette Lebeau's pretrial diversion supervisor.

2) As part of this supervision, Mette Lebeau agrees to refrain from violating any law (federal, state or local).

3) Mette Lebeau also agrees that she shall follow the orders of all courts, including any foreign courts, and specifically any orders relating to the custody of her children, Ruth Emily and Luke Thomas Lebeau. To the extent there is a conflict between the orders of any courts relating to custody of the children, Mette Lebeau agrees she shall abide by any orders issued in accordance with the Hague Convention on the Civil Aspects of International Parental Child Abduction.

4) By this Agreement, Mette Lebeau admits that she violated the provisions of 18 U.S.C. 1204, international parental kidnaping, by retaining her children, Ruth Emily and Luke Thomas Lebeau, who had been in the United States, outside the United States with the intent to obstruct the lawful exercise of the parental rights of John Lebeau, the father of Ruth Emily and Luke Thomas Lebeau. Mette Lebeau reserves

the right to raise any affirmative defenses she may otherwise have to this charge, including that she was fleeing an incidence or pattern of domestic violence.

5) In deference to the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida, Family Division, which currently has jurisdiction over the issue of the custody of Ruth Emily and Luke Thomas Lebeau pursuant to the Hague Convention on the Civil Aspects of International Child Abduction, the United States Attorney takes no position on any issues involving custody of the children, or on what custodial circumstances may be in the best interests of the children.

6) In the spirit of international cooperation and comity on matters arising under the Hague Convention on the Civil Aspects of International Child Abduction, the United States Attorney acknowledges its awareness of the rulings of the High Court of Justice, Family Division, Principal Registry, sitting in Chambers at the Royal Courts of Justice, Strand, London, England. Specifically, the United States Attorney acknowledges its awareness of the November 23, 1998 ruling of the English High Court, ordering the return of Mette Lebeau and the children, Ruth Emily and Luke Thomas Lebeau, to the United States upon certain undertakings and stipulations by John Lebeau and Mette Lebeau, in

particular, the undertaking and stipulation by John Lebeau ordered in the First Schedule, Paragraph iii, as follows:

> [John Lebeau] will inform the appropriate authorities concerned with the prosecution of [Mette Lebeau] under the terms of the indictment handed down by the Grand Jury in the United States District Court, Southern District of Florida, on the 9th, June, 1998 that the children having returned safely to the protection of the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County which shall now exercise jurisdiction over them, the criminal proceedings have served their purpose, and that if as the children's Father he has a voice in the continuation of those proceedings he asks that they be discontinued, or if not discontinued, that [Mette Lebeau] should be treated as leniently as possible, both before and after the trial.

7) In the interests of justice, the United States Attorney agrees that upon the signing of this Agreement, the indictment in this case shall be dismissed without prejudice.

8) Upon the successful completion of the term of supervision by Mette Lebeau, the United States Attorney agrees that the indictment in this case shall be dismissed with prejudice.

9) In the event Mette Lebeau violates any of the provisions of this Agreement, the United States Attorney specifically reserves the right to reinstate the instant charges against Mette Lebeau, and to file

any additional charges deemed appropriate, without notice to Mette Lebeau. The United States Attorney also reserves the right to take any other action he may deem appropriate, including waiving, canceling or modifying any of the conditions enumerated in this Agreement. If there is to be any change in status as a result of any violation short of indictment, the United States Attorney shall be obliged to promptly furnish Mette Lebeau with written notice specifying the provisions of this Agreement which have been violated. In the alternative, the United States Attorney may waive the violation and have Mette Lebeau continue in this program.

10) If requested, Mette Lebeau agrees to provide statements to law enforcement personnel regarding the events underlying the charge at issue. In the event the instant charge is reinstated, or additional charges are brought against Mette Lebeau, Mette Lebeau agrees that all statements she provides to any government or law enforcement personnel are to be treated as having been given freely, and without benefit of immunity, regardless of the circumstances under which the statements were originally given. Mette Lebeau further agrees and acknowledges that all such statements may be used for any purpose in any proceedings against her brought by the United States, including as substantive.

case-in-chief evidence in any prosecution or proceeding. Mette Lebeau specifically waives any rights she may otherwise have pursuant to Federal Rule of Criminal Procedure 11.

11) Mette Lebeau acknowledges that she has been fully informed of the fact that (a) the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial; (b) Rule 48 (b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment for unnecessary delay in bringing a defendant to trial; (c) the Speedy Trial Act of 1974 assures all defendants an early trial. As an inducement to the United States Attorney to defer prosecution of this case, Mette Lebeau agrees and consents that any delay in the prosecution of this case from the present to the date prosecution is again commenced shall be deemed to be necessary delay at her request for which she waives any defense grounded on the premise that the delay operated to deny her any right to a speedy trial under Rule 48 (b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974, and the Sixth Amendment to the Constitution of the United States.

12) Mette Lebeau further acknowledges that she has been informed of her right under the Sixth Amendment to the

Constitution to a Trial by Jury on the charges pending against her as referenced above. Knowing this, and as an inducement to the United States Attorney to enter into this Agreement, Mette Lebeau stipulates and agrees through her signature below, that, in the event that she violates the terms and conditions of this Agreement, Mette Lebeau agrees to waive indictment and allow the United States to proceed by information in bringing any charges against her, and, should the United States thereafter proceed to trial on any charges, that she hereby waives her right to a jury trial.

13) Mette Lebeau acknowledges that she has read this Agreement, discussed the Agreement with her attorney, and fully understands it. This Agreement constitutes

the entire agreement between the United States Attorney, Mette Lebeau, and her attorney. There are no other agreements or promises, except as set forth herein.

SO STIPULATED AND AGREED:

THOMAS E. SCOTT
UNITED STATES ATTORNEY

Date: 4/26/95 By: Carolyn Bell
CAROLYN BELL
ASSISTANT UNITED STATES ATTORNEY

Date: 1-26-99 By: Robin Farnsworth
ROBIN FARNSWORTH,
ASSISTANT FEDERAL PUBLIC DEFENDER
ATTORNEY FOR METTE UHRE LEBEAU

Date: 1/26/99 By: Mette LeBeau
METTE UHRE LEBEAU

Date: 1-26-99 By: Joan Balis
JOAN BALIS
SENIOR UNITED STATES PRE-TRIAL
SERVICES OFFICER

U.S. Department of Justice

United States Attorney
Southern District of Florida

99 N.E. 4 Street
Miami, FL 33132
(305) 961-9000

January 26, 1999

NEWS RELEASE: INTERNATIONAL PARENTAL KIDNAPING RESOLVED

Thomas E. Scott, United States Attorney for the Southern District of Florida, and Hector M. Pesquera, Special Agent in Charge, announced today the resolution of charges against Mette Uhre Lebeau. Ms. Lebeau, a citizen of Denmark, was indicted on June 9, 1998, for a violation of 18 U.S.C. 1204, international parental kidnaping. The charges stemmed from her retention of her twin toddlers, Ruth Emily and Luke Thomas Lebeau, outside the United States in violation of an order under the Hague Convention requiring that the children be returned to Florida for custody determination by the Florida state court.

The charges were resolved pursuant to a Pre-Trial Diversion Agreement. Under the terms of the Agreement, Ms. Lebeau admitted to having violated the international parental kidnaping statute, reserving the right to raise any affirmative defenses, and was placed on twelve months of supervised release. During her release, Ms. Lebeau agreed to comply with all laws and court orders, specifically, any orders regarding custody of her children. In exchange, the United States agreed to dismiss the charges against her, subject to reinstatement if she fails to comply with the terms of the Agreement.

The Agreement notes that the United States "... takes no position on any issues involving custody of the children or on what custodial circumstances may be in the best interests of the children." "The United States Department of Justice is not a family court," said U.S. Attorney Scott in regard to this provision. "We are not in a position to make determinations on the merits of custody situations, and give great deference to the court with jurisdiction over the Lebeau custody matter. It is in the best position to investigate and judge the issues as they relate to custody of the Lebeau children."

Mette and John Lebeau were married on June 3, 1995, in Palm Beach County, Florida. Their twins, Luke Thomas Lebeau and Ruth Emily Lebeau, were born on October 5, 1995, also in Palm Beach County. After at least two domestic disturbances to which local police responded, Mette Lebeau left John Lebeau in June, 1996. After a short stay at a local Women's Shelter, she and the children left the United States for Denmark in July, 1996. (As noted, if charges are reinstated, Mette Lebeau specifically reserves the right to raise any affirmative defenses, including that her flight with the children was premised on an incident or pattern of domestic violence.)

No court has yet ruled on the merits of the Lebeau's custody situation. John Lebeau originally obtained default custody orders for the children in the Florida family court, based in part on Mette Lebeau's failure to appear before that court. Mette Lebeau obtained a similar, competing custody order

from a Danish court. The matter was then heard in a Danish trial court pursuant to the Hague Convention. The Danish trial court found that it was in the best interests of the children for them to stay with their mother in Denmark. John Lebeau appealed that decision. The Danish appellate court, looking solely at legal jurisdiction, ruled that the custody determination should be made by the Florida court rather than the Danish court. They did not, however, make any determination about what would be in the best interests of the children, or any other determination on the merits of the custody situation.

After receiving this ruling, Mette Lebeau and the children fled from Denmark to Great Britain. In October, 1998, Mette Lebeau and the children were found in England. Mette Lebeau was arrested on the pending U.S. criminal charges, but was released without bond by order of the British criminal courts pending a hearing on extradition.

At the same time, John Lebeau initiated civil hearings under the Hague Convention in the High Court of Justice, Family Division, Principal Registry, sitting in Chambers at the Royal Courts of Justice, Strand, London, England. On November 23, 1998, the British High Court ordered that Mette Lebeau return to the United States with the children, maintaining custody of the children, but allowing daily visitation with their father. In return, John Lebeau agreed to seek dismissal of the criminal charges against his wife. John Lebeau sought and received an order from the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida adopting and confirming the British order in its entirety, signed and ordered by Circuit Court Judge Roger B. Colton on December 7, 1998. Based upon the British order, the Florida order, and the sworn promises of John Lebeau, on December 18, 1998, Mette Lebeau waived the extradition proceeding and voluntarily returned to the United States with the children.

On January 15, 1998, John Lebeau, through his attorney, filed a motion to void the Florida court's order adopting the British order. In the motion, Mr. Lebeau claims he agreed to the provisions of the British and Florida orders under duress. The next day, after picking up the children for a visit, John Lebeau failed to return them to Mette Lebeau, as he was required to do under their visitation agreement. John Lebeau did not inform Mette Lebeau of his or the children's whereabouts until ordered to do so by the Florida court. After an emergency hearing on the matter, Judge Colton issued a temporary order allowing the children to remain with John Lebeau for the present time.

According to U.S. Attorney Scott, "Diplomats and other experts in international child abduction agree that, absent Mr. Lebeau's promise to seek dismissal of criminal charges against his wife, the English court may well have denied his request to return the children to the United States, or to extradite his wife on these charges. If we are to have credibility in the international arena in international parental kidnaping cases, and if foreign courts are to order the return of children and their parents in the future, it is important that we act in the spirit of international cooperation and comity in matters arising under the Hague Convention. Our Agreement with Mette Lebeau should be viewed as a step to this end."

"Our Agreement represents a careful balancing between the serious crime of international parental kidnaping, the need for international cooperation under the Hague Convention, and

deference to the state court," said U.S. Attorney Scott. "I feel that our Agreement with Ms. Lebeau is an appropriate and just resolution to the criminal aspects of this case and I have great faith that the Florida state court will resolve the remaining issues in a fair and just manner."

THE PALM BEACH POST WEDNESDAY, JANUARY 27, 1999 3C

No penalty for mom who fled with twins

The Danish mother, who left with the 9-month-olds in '96, was found in England.

By Val Ellicott
Palm Beach Post Staff Writer

WEST PALM BEACH — A Palm Beach Gardens woman who took her twin children to Denmark in 1996 has admitted to international parental kidnapping as part of deal that will allow her to escape prosecution if she breaks no laws during the next year, federal prosecutors said Tuesday.

Mette LeBeau, a citizen of Denmark, left the United States with her two 9-month-old children, Luke and Ruth, in July 1996 after police responded at least twice to domestic disputes between LeBeau and her husband, John, according to court records.

John LeBeau spent the next two years teaching himself enough international law to pursue his wife and children through courts in Denmark and later in England, where his wife fled with the children after an adverse ruling in Denmark. Along the way, LeBeau founded a not-for-profit corporation to counsel other parents in similar positions.

In October, his children were discovered with their mother in England. The three returned to the U.S. on Dec. 18 after John LeBeau agreed to seek dismissal of the criminal charges against his wife.

He later filed court papers to vacate his agreement. But federal prosecutors opted to drop the kidnapping case against his wife anyway, assuming she remains out of trouble for the next year. They noted that the courts in England might have denied John LeBeau's request to return his children to the U.S. had he not agreed that dismissing the kidnapping case was proper.

Senator DEWINE. Mr. Stein.

STATEMENT OF CRAIG E. STEIN

Mr. STEIN. Thank you, Senator DeWine. It is a privilege and an honor to be asked to speak to you and your committee today concerning some of my experiences with the implementation of the Hague Convention on international child abductions. I understand that your committee is especially interested in the interface between the Justice Department and the individuals most affected by these unfortunate cases, the left-behind parent. I believe this is a very important matter that needs immediate attention and I am pleased that the Oversight Subcommittee is reviewing this issue.

So that you will understand my perspective, unlike Mr. Lebeau and Ms. Hong and Lady Meyer, I have my children at home. Of course, Mr. Lebeau has his back now, too, but I am an attorney in private practice. I have a background in international law and have taken on a number of these child abduction cases, both incoming and outgoing, usually on a pro bono basis, over the past few years. No two cases are alike. The main difference is depending largely upon the country to which the child has abducted from or to and the attitude of the absconding parent.

Although the laws implementing this aspect of the Hague Convention have now been on the books for several years, you should understand that this treaty is still a work in progress, on the civil side, at least. Judges in the United States and the private bar are continually getting experience with this treaty. However, its acceptance as a tool to affect the speedy return of a kidnaped child can no longer be denied. It may be imperfect, but it is helping.

Nevertheless, those of us who take on these cases can state with certainty that while the civil aspects of this law are being refined and utilized on an increasing basis, the criminal side of the enabling legislation has not been used to its fullest potential. Indeed, I can state with absolute certainty that it is the feeling among attorneys familiar with these cases that it is not even worth the effort to bring these cases to the attention of the Federal law enforcement agencies as no useful action will be undertaken. I am sorry to see that the first panel has already left the hearing room. Obviously, the testimony preceding me in this sort of contradicts some of the perceptions, or the gap in perceptions that we have here in dealing with these issues.

Frankly, this is unfortunate. As you have heard through Mr. Lebeau's testimony, one of the most helpful tools he had in his effort—or in his written statement—to have his children returned was the pending indictment he successfully obtained against the absconding mother, but not without great difficulty. Indeed, from my experience, it is my opinion that having an indictment pending in the United States tends at a minimum to catch the attention of those authorities overseas who are charged with enforcing the Hague Convention in their respective countries.

I do not want to belabor problems individuals have faced in getting the appropriate Federal authorities to institute criminal proceedings in these matters. Rather, I would like to spend the few minutes I have in a constructive manner. In short, here are what I perceive to be the problems.

Number one, there does not seem to be a designated person, either in Washington or in those U.S. attorneys' offices which appear to experience a greater proportion of these cases, who is specifically charged with enforcing IPKA and other Hague Convention issues. If there is a person in charge, those of us who need to know who that person is are in the dark.

Senator DEWINE. You have not found him yet, then, or her?

Mr. STEIN. We are still looking.

Senator DEWINE. You are still looking?

Mr. STEIN. We are still looking, Senator. I am glad to hear the Justice Department is beginning some training programs. As far as we know, there has been little or no training either within Justice or the respective U.S. attorneys' offices about the procedures that should be implemented in these matters.

Three, as far as we can ascertain, or my colleagues can ascertain, we are unaware of any written guidelines in the Justice Department or various U.S. attorneys' offices to handle these types of matters.

Number four, the review and handling of these cases appears to be accomplished on an ad hoc manner. I think Ms. Hong's testimony really points that out. There is no discernable procedure or philosophy in carrying out the relevant statutes.

Now, why do these problems persist? In my opinion, there are a variety of factors that come into play, Senator. First, there is a natural reluctance of a prosecutor to take cases from the public rather than a law enforcement agency. Unlike other crimes, however, the most valuable resource in parental kidnaping cases is the victim, the left-behind parent. Therefore, this natural hesitancy must be addressed and overcome.

Second, because there is no one individual either at Justice or at specific U.S. attorneys' offices responsible for these matters, or accountable, for that matter, there is no coordinating effort, no one person to look for for assistance, and no centralized training program.

Third, and I think this is underscored by the testimony this morning in panel number one and on page 35 of the report that has been referred to quite often today, there is a perception that the criminal enforcement mechanisms do not assist in bringing back children. However, there is really no empirical evidence to substantiate this theory because, thus far, the criminal laws have just not been enforced.

I would argue that indictments should be brought in most instances. It should be the rule, not the exception, and here I agree with you, Senator DeWine. Bring the indictments and let us see what happens. Depending on the circumstances, after the indictment is brought, then we will see how we will handle the criminal charges.

Finally, what should be done to address these problems? I believe the answers are quite simple. First, the Department of Justice should designate an individual to oversee these cases and name that individual. Because the number of cases is on the rise, I believe it should be a full-time position.

Second, persons should establish a training program for assistant U.S. attorneys in those districts that are experiencing more than a random case of international parental kidnaping.

Third, in each such district, U.S. attorneys should be required to designate on AUSA in his or her office to handle these applications. It should be clearly understood, however, and I must emphasize, that the policy of the Justice Department should be that the efficacy of bringing criminal proceedings in these matters is not a matter for debate that would sideline these cases. Rather, we should explore the efficacy issue after several years of experience that we gain in bringing these indictments.

Thank you for your time and attention, Senator. I would welcome any questions you might have concerning these matters.

Senator DEWINE. Thank you very much.

[The prepared statement of Mr. Stein follows:]

PREPARED STATEMENT OF CRAIG STEIN

Mr. Chairman, it is a privilege and an honor to be asked to speak to you and your committee today concerning some of my experiences with the implementation of the Hague Convention on International Child Abductions. I understand that your Committee is especially interested in the interface between the Justice Department and the individuals most effected by these unfortunate cases, the left behind parent. I believe this is a very important matter that needs immediate attention and I am pleased that your Oversight Committee is reviewing this issue.

So that you will understand my perspective on these matters, I am an attorney in private practice. I have a background in international law and have taken on a number of these child abduction cases, both incoming and outgoing, usually on a *pro bono* basis, over the past few years. No two cases are alike. The main differences depend largely upon the country to which the child has been abducted from or to, and the attitude of the absconding parent. Although the laws implementing this aspect of the Hague Convention have now been on the books for several years, you should understand that this Treaty is still a work in progress. Judges in the United States and the private bar are continually gaining experience with this Treaty. However, its acceptance, as a tool to effect a speedy return of a kidnaped child can no longer be denied.

Nevertheless, those of us who take on these cases can state with certainty that while the civil aspects of this law are being refined and utilized on an increasing basis, the criminal side of the enabling legislation has not been used to its fullest potential. Indeed, I can state with certainty that it is the feeling among attorneys familiar with these cases that it is not worth the effort to even bring these cases to the attention of the federal law enforcement agencies as no useful action will be undertaken.

Frankly, this is unfortunate. As you have heard through Mr. LeBeau's testimony, one of the most helpful tools he had in his effort to have his children returned was the pending indictment against the absconding mother. Indeed, from my experience, it is my opinion that having an indictment pending in the United States tends, at a minimum, to catch the attention of those authorities overseas who are charged with enforcing the Hague Convention in their respective countries.

I do not want to belabor the problems individuals have faced in getting the appropriate federal authorities to institute criminal proceedings in these matters. Rather, I would like to spend the few minutes I have in a constructive manner. In short, here are what I perceive to be the problems. (1) There is no one designated either in Washington or in those U.S. Attorney's offices which appear to experience a greater proportion of these cases who is specifically charged with enforcing Hague Child Abduction proceedings. If there is a person in charge, those of us who need to know who that person might be are in the dark. (2) There has been little or no training within Justice or the respective U.S. Attorneys' offices about the procedures that should be implemented in these matters. (3) There are no written guidelines in the Justice Department or the various U.S. Attorney's offices to handle these matters. (4) The review and handling of these cases appears to be accomplished in an *ad hoc* manner. There is no discernable procedure or philosophy in carrying out the relevant statue.

Why do these problems persist? In my opinion, there are a variety of factors that come into play. First, there is a natural reluctance of a prosecutor to take cases from "the public" rather than a law enforcement agency. Unlike other crimes, however, the most valuable resource in parental kidnaping cases is the left behind parent. Therefore, this hesitancy must be addressed and overcome. Second, because no one individual at Justice is responsible for these matters (or accountable for that matter) there is no coordinating effort, no one person to look to for assistance and no centralized training program. Third, there is a perception that the criminal enforcement mechanisms do not assist in bringing back children. However, there is no empirical evidence to substantiate this theory because, thus far, the criminal laws have not been enforced. I would argue that indictments should be brought in most instances. Then, depending on the circumstances, how that indictment is eventually handled or resolved will depend upon the cooperation of the absconding parent in returning and the sanctuary country in cooperating with our efforts to have children returned.

Finally, what should be done to address these problems? I believe the answers are quite simple. Indeed, I came here today not to criticize any individual or agency, but rather to help fix what can be an important tool in the efforts to return missing children. First, The Department of Justice should designate an individual to oversee these cases. Because the number of cases is on the rise, I believe this should be a full time position. Second, this person should also establish a training program for Assistant United States Attorneys in those Districts that are experiencing more than a random case of international parental kidnaping. Third, in each such District, the United States Attorney should be required to designate an AUSA in his or her office to handle these applications. It should clearly be understood, however, and therefore the policy of the Justice Department that the efficacy of bringing criminal proceedings in these matters is not a matter for debate that would sideline these cases. Rather, we should explore the efficacy issue after a year or two of experience is gained in bringing indictments and prosecutions.

I have not even addressed the follow-through, or lack thereof, in prosecuting these matters. Perhaps that is a subject for another day. For now, it is enough if, through your committee and these hearings, we can work together with the Department of Justice to insure that the criminal aspects of the law implementing the Hague Convention on International Child Abduction are vigorously enforced.

Thank you for your time and attention. I would welcome any questions you might have concerning these matters.

Senator DEWINE. Mr. Allen.

STATEMENT OF ERNIE ALLEN

Mr. ALLEN. Thank you, Senator. I remember vividly almost a decade ago having the opportunity to testify before the counterpart committee in the House in support of your efforts to make international parental kidnaping a crime. In fact, I stood with you at a press conference shortly thereafter in which you advocated that that step be taken. I think it was the right step then and I think it is the right law now. Yet many of the same obstacles that we talked about a decade ago are still with us today.

Perhaps first and foremost, we still face the attitude among policy makers and many others that this is a private legal matter. This belittles the fact that it is a crime in every State, as well as a Federal crime. We believe that central to this problem is the convergence of civil and criminal law, and it is our view that we should use all existing legal remedies in the most creative and effective way possible to serve that dual purpose.

Warrants should be issued when the facts support issuance. Then every effort should be made to use those warrants in conjunction with other efforts—diplomatic, family negotiations, and the use of intermediaries. We think it is appropriate to issue far more Federal warrants in these cases. A Federal warrant speaks for the Nation in a way that a State warrant never can, and it says that

the country cares that this law has been broken and that we want to exercise our lawful right to protect child victims.

In addition, we believe that it strengthens the hand of diplomatic personnel when negotiating for the return of these children. We now have Federal prosecution for flight to avoid payment of child support, an implicit recognition of the Federal Government's appropriate role in issues of child protection.

At that hearing 9 years ago, the Justice Department testified that without meaningful prosecutive activity, the deterrent value of such legislation would be minimal. We agree. And while we applaud the intensified attention to this problem among the key Federal agencies and we work with the State Department and the Justice Department in partnership on this effort, in our judgment, we have not yet reached the point of meaningful prosecutive activity. Thirteen convictions in 5 years is not meaningful prosecutive activity.

We believe that the International Parental Kidnaping Crime Act is a necessary tool, and we believe that we cannot rely solely on UFAP warrants for three basic reasons.

First of all, as has been noted earlier, some States simply do not issue warrants because they cannot afford extradition.

Second, the International Parental Kidnaping Crime Act is written far more expansively than many State statutes, allowing many more cases to fall within its framework.

And third, it provides a strong statement from the U.S. Government that can be used as a negotiating tool.

In my written testimony, I have cited a number of cases. I would just like to briefly mention two that I think illustrate the fact that the threat of criminal sanctions and criminal warrants work in these cases, if utilized.

Just Monday of this week, a 6-year-old child was recovered from the Philippines. Abducted by a court order, she had traveled to the Philippines for visitation with her father, who decided then to resist, that he would not honor the court order and refused to return the little girl and her 12-year-old brother. About a month ago, the FBI obtained a felony warrant for the father. We at the center worked with the FBI and the State Department, which resulted in the return of the child to the United States, the arrest of the father, and criminal actions against him are still being pursued.

In addition, another case involving Taiwan, a non-custodial father who had abducted his 1-year-old daughter after an altercation with the mother. The father took the child first to another State and eventually left the country and took the child to Taiwan. The father was named in a Federal warrant. His passport was revoked. He was arrested by Taiwanese law enforcement and returned to the United States by the U.S. Marshal. The use of law enforcement resources and criminal sanctions in these cases works, but it has to be used.

Let me say just a word about the civil side. Lady Meyer and others have talked about the Hague Convention. Let me say that we support the Hague Convention as an effort to create a more uniform, consistent international process. In 1995, the State Department and the Justice Department asked the center to take a lead role in handling incoming cases, children abducted to the United

States under the Hague. That was done because of the concern of foreign governments that we do more in ensuring comity and cooperation.

We are pleased that since 1995, our resolution rate in incoming cases has now climbed to 89 percent, and as a result of the report that has been mentioned, we have been asked to expand our role on outgoing cases.

However, there are some troubling problems with the Hague. It is slow. It is cumbersome. In many cases, it is hindered by parochial application and national prejudices. There is a lack of uniformity from country to country. There are too many courts hearing cases, too few judges that really understand the Hague. And Lady Meyer mentioned the exceptions under article 13. The reality is, in some countries, the exceptions have become the rule. Access for left-behind parents has become a nightmare for enforcement.

It is expensive. If you do not have the ability to generate the kinds of resources that John Lebeau talked about, the reality is you are probably not going to see your child again. There is inadequate research and limited involvement of international law enforcement.

We believe it is imperative that we work to create greater consistency in the application of the Hague and that, not just for Hague countries but particularly for those many countries that are not signatories to the Hague, that we use the law enforcement resources and the ability to use the International Parental Kidnaping Crime Act as leverage and as a tool to bring children home. There needs to be a strong policy statement by all affected agencies and departments that this is a priority, that we are going to use the resources available to help these searching families. Thank you, Mr. Chairman.

[The prepared statement of Mr. Allen follows:]

PREPARED STATEMENT OF ERNIE ALLEN

Mr. Chairman and Members of the Committee, as President of the National Center for Missing and Exploited Children, I appreciate the opportunity to appear before you today on an issue of great importance to children and parents across the nation. Nearly a decade ago I had the pleasure to testify before the Subcommittee on Criminal Justice of the House Judiciary Committee in support of making international child abduction a federal crime. I still remember vividly standing with then-Congressman Mike DeWine at a press conference shortly thereafter in support of that step.

That bill, the International Parental Kidnapping Crime Act became law and has produced positive change. Yet, there is much more to do. And, unfortunately, many of the obstacles to the return of internationally abducted children identified at that hearing a decade ago are still with us today.

By way of background, I would like to explain the role of the National Center for Missing and Exploited Children (NCMEC) in this issue. As you know, NCMEC is a private, non-profit organization, working in partnership with the U.S. Department of Justice to find and recover missing children and prevent child victimization. NCMEC is a public-private partnership, receiving half of its operating budget from Congress and half from the private sector. We are granted access to unique tools and resources, including online access to the FBI's National Crime Information Center (NCIC) and the National Law Enforcement Telecommunications System (NLETS). Our public funding through the Office of Juvenile Justice and Delinquency Prevention supports the operation of a national toll-free hotline and our core functions and services as the national resource center and clearinghouse on missing and exploited children.

Since we opened our doors in 1984, NCMEC has worked cases of international child abduction. Nothing in our Congressional mandate said that we were to cease efforts to locate missing U.S. children when they crossed a national border. Thus, while lacking the kind of direct mandate and support we have had on domestic

cases, we have tried nonetheless to assist searching U.S. parents wherever their child might have been taken.

In 1995 that role expanded. At the request of the State Department and the Justice Department, we entered into a formal partnership to handle cases under the *Hague Convention on the Civil Aspects of International Child Abduction* (Hague Convention) when children are abducted *into* the United States, The underlying premise for that request was that in order to ensure full comity and cooperation from foreign governments in our search for U.S. children, we needed to do more to locate and return their children brought to the United States.

We were willing to undertake this new task, and are proud to report that since 1995 our resolution rate in those cases has climbed to 89 percent. NCMEC has received thanks and commendations from governments around the world. Nonetheless, this unique role of acting as the agent of the State Department on "incoming" Hague cases has presented a challenge and dilemma for NCMEC. While the underlying premise was to build stronger international cooperation on all missing child cases, it could appear that, acting on behalf of the U.S. government, NCMEC is doing more for foreign families than for U.S. families.

Thus, recently, as a result of the Attorney General's Task Force on this issue, NCMEC, as part of its current agreement with the State Department, has been asked to expand its role in "outgoing" cases as well. Specifically, the expanded role we have been asked to play centers around support services to both parents and the State Department. NCMEC will continue to provide technical assistance and support from our individual case managers, but have also hired a clinical social worker to identify existing counseling resources in the field and help develop protocols for providing assistance to parents. In addition to emotional support, NCMEC has agreed to assist in identifying legal resources for U.S. parents faced with fighting legal battles both here and abroad. We will also assist parents to collect the information and prepare the paperwork necessary to submit their Hague applications to the State Department.

Thus, NCMEC is doing more and there is greater attention on this problem than ever before. However, a primary challenge in responding effectively is the focus by so many policy makers and officials on the civil element of the problem, frequently characterizing international child abduction as a "private legal matter." This perception belittles the fact that international family abduction is a crime in every state as well as a federal crime.

It also fails to fully acknowledge the harmful effects of abduction on children. Family abductions are a result of high-conflict situations. A look at the newspaper in any major city reveals cases that have resulted in suicide and/or homicide. Even at its most benign, Professor Geoff Grief's research has shown that "some children who were recovered were described by the recovering parents as having been physically abused (23 percent), sexually abused (7 percent), and both physically and sexually abused (5 percent) * * * Overall functioning was believed to have declined in more than half of the children between the time they were taken and the time they were returned to the searching parent * * * With time, a majority (approximately 66 percent) of the children had been seen for psychological counseling" (Grief, *Impact on Children of International Abduction,* p. 3–4).

Assisting with abductions into *and* out of the U.S. has put NCMEC in a unique and often frustrating position of seeing firsthand how useful U.S. laws and procedures have been to foreign nationals while being frustrated in our attempts to help U.S. parents in their struggle to find resources to return their children from abroad.

At the time of the 1989 hearing, I expressed NCMEC's support for the creation of a new tool to resolve cases of international child abduction, the International Parental Kidnapping Crime Act. Today, I am here to express not only NCMEC's continued support of that tool, but to urge that existing federal laws and resources be utilized to the greatest extent possible to bring more abducted children home.

NCMEC is currently working on 697 active cases of children abducted internationally. Yet, recent testimony before the House Committee of Foreign Relations from the General Accounting Office indicated that just 13 persons have been convicted of international parental kidnaping since 1993. From this, it is clear that we are utilizing the force and sanctions of the International Parental Kidnapping Crime Act on only a small percentage of the total number of international abduction cases.

Many changes that have occurred since the 1989 hearing and the 1993 enactment of the International Parental Kidnapping Crime act reinforce this necessity. The first, and perhaps most important change is the increase in the number of cases. NCMEC began keeping track of international abductions separate from domestic abductions in 1995. The number of international cases worked by NCMEC since 1996 (the first year for which we have complete data) has increased 120 percent. We have more complete data on family abduction generally. Indeed, the number of family ab-

ductions reported to NCMEC has increased each year since 1994 and show a 30.4 percent increase over an eight-year period from 1990–1998. Given that, according to a study of family abduction cases by Grief and Hegar, as many as one-fifth of family abduction cases go international, these caseloads increase in tandem.

With increases in the number of international marriages, divorces, we have every reason to believe that these cases will continue to increase. Better research is needed, not only to quantify the problem, but to determine the practical outcomes of cases. Law enforcement and the public need better guidance on the best ways to solve these cases. NCMEC is currently undertaking, with the assistance of the State Department, a study of the outcomes of abduction cases to select Hague Convention countries. Our goal is to look not only at the court decisions in these Hague hearings, but also to identify the practical outcomes of these cases—was the child ever returned?, does the left-behind parent currently have any visitation with the child? Similar information needs to be collected and analyzed for all cases—including those with a primarily criminal focus.

When the State Department requested that NCMEC process cases in which children are abducted into the United States under the Hague Convention, the theory was that if the United States improved its track record of returning children under the Convention, other countries would follow suit and return children abducted from the U.S., Indeed, the transcript of the 1989 House hearing is filled with references to the success of the Hague Convention, then in its infancy. In the years since, we have realized that the Hague Convention has not turned out to be the panacea we all hoped. Interestingly, the House hearing was held prior to the ratification of the Convention by Germany and Mexico—two countries regarding which there has been most concern about inadequate implementation of the treaty.

We support the purpose and intent of the Hague Convention, and it is a positive, compelling resource in theory. Yet, there are troubling problems in practice:

- While speed is essential in these cases, in most countries, the processes are slow, cumbersome, complex, and bureaucratic.
- In many cases successful implementation is hindered by parochial applications of the treaty and national prejudices.
- There is significant lack of uniformity from country to country.
- There are too many courts hearing cases, and in most instances, few cases per court. Thus, many judges lack knowledge and experience on Hague cases.
- There is a lack of adequate training for judges.
- Key exceptions provided with the Hague Convention have become the rule, and are frequently used as justifications for the non-return of the child. Perhaps the best example is Article 13, "Risk of harm to the Child" and the ability of judges to take into account the wished of very young children.
- It is virtually impossible to enforce access rights for parents under Article 21 of the Convention.
- Parents need significant personal financial resources in order to obtain legal representation and proceed under the Convention. Yet, there is little help for parents who lack financial resources.
- There is limited involvement of international law enforcement due to the civil nature of the process.
- There is inadequate research on the psychological impacts of international child abduction on children, and inadequate data on the Hague process.

When the treaty is not working, and certainly in the many cases involving children abducted to non-Hague signatory countries, IPKCA must fill in the blanks by providing law enforcement involvement and international warrants to recover children through the criminal process. Our support of the federal recognition of child abduction as a criminal offense comes out of our 15 years of experience working on domestic family abduction cases.

In this country's own history of family abduction, the trend has been toward the recognition of parental kidnaping as a crime. Every state in the U.S. considers family abduction a crime. We continue to encourage individual states to amend their laws to ensure that pre-decree abductions fall within their statutes as well as interference with visitation. The Missing Children Act of 1982 required, for the first time, that law enforcement enter missing children into the National Crime Information Center (NCIC) even if the abductor has not been charged with a crime—recognizing law enforcement's obligation to assist in the location of a missing child prior to the issuance of warrants. Best practices indicate that criminal warrants should be used—criminal warrants are extremely useful and may be necessary when there is a need to locate the abductor and, therefore, the child.

NCMEC administers a grant from the Office of Victims of Crime that provides financial assistance to reunite internationally-abducted children with their search-

ing parent. In many of these cases, the successful resolution has depended upon a Federal warrant and the active intervention of Federal law enforcement.

The following cases are examples of the positive effects of criminal warrants:

- Phillipines: A six-year-old child, 'Jennifer' was recovered this Monday (10/25/99) from the Philippines and returned to her custodial mother in the United States. In this case 'Jennifer' and her twelve-year-old brother, 'Michael' were allowed per court order to travel to the Philippines for visitation with their father. The court ordered that 'Jennifer' be returned to her mother in July, whereas 'Michael' was to remain with his father until mid-August. As the time for 'Jennifer's' return approached, the father decided he would not honor the court order. 'Jennifer' was reported missing and entered into NCIC. No warrants were issued at the time because the various law enforcement agencies believed the father would return her along with her brother in August. When 'Michael' was told he would not be, allowed to return to the U.S., he objected. His defiance ultimately lead to his voluntary return to the U.S. in mid-August. One month later, in mid-September, the FBI obtained a felony warrant for the father. NCMEC coordinated with the FBI and the State Department to pick up the child at the same time as the planned arrest of the abducting father on federal charges. The child was picked up from school and returned to the United States. Criminal action against the abducting father is still being pursued.
- Lebanon: 'Joseph' was abducted by his non-custodial father on November 13, 1992 from Massachusetts at the age of six. The child was later located in Lebanon. In 1993, the abducting father returned to the United States without the child. The father was named in a felony warrant and ordered by the probate court of Massachusetts to return the child to the United States. After refusing, the father was held in contempt and incarcerated. In May of 1997, the father and his family agreed to return the child to the mother on the condition of the father's release. The child was reunited with the mother in February 1998. The father was released from jail and deported to Lebanon.
- Scotland: The father was awarded full custody of the child by the State of Pennsylvania. The mother abducted the children taking them to Scotland. She was named in a State Parental Kidnapping and UFAP warrant. Upon being located, the mother was apprehended and transported to London for criminal proceedings and to await extradition. The father was reunited with the children on September 3, 1998.
- Taiwan: The non-custodial father abducted one-year-old 'Nina' after a physical altercation with the mother. Due to the husband's abusive and intimidating behavior the mother was unable to stop the father from taking the child first to another state in the U.S. and eventually Taiwan. The father was named in a federal Warrant. The father's passport was revoked and he was arrested by Taiwanese Law Enforcement and turned over to U.S. Marshals who proceeded to extradite him to the United States. He is currently awaiting trial on both federal and state charges.

We are unable to provide a fuller picture of the uses of IPKCA because of the small number of indictments. Indeed, it is hard to draw conclusions from the two prosecutions under the law—one did not result in the return of the children, but has provided excellent case law for future prosecutions and the second is still ongoing. We believe that IPKCA is a necessary tool—we cannot rely solely on Federal involvement through an Unlawful Flight to Avoid Prosecution warrant or UFAP for three reasons:

(1) Some states do not issue warrants because they cannot afford extradition.

(2) IPKCA is written more expansively than many state statutes—allowing more cases to fall within its framework.

(3) It provides a strong statement from the U.S. government that can be used as a negotiating tool.

It is abundantly clear that these cases involve a convergence of civil and criminal law We should use our existing legal remedies in the most creative and effective way possible to serve that dual purpose. Warrants should be issued when the facts support issuance. Then every effort should be made to use these warrants in conjunction with other efforts—diplomatic efforts, family negotiations, and the use of intermediaries are among some of the most useful. A federal warrant speaks for the nation in a way that a state warrant never can. It says the U.S. cares that this law has been broken and we want to exercise our lawful right to protect the child victim.

While much has changed in the past 10 years, one fact, unfortunately, has not—international parental abductions remain among the most difficult, frustrating, and damaging cases and deserve the full attention of this committee and others who have taken up this issue over the past several months. The issue before us is ensur-

ing that we are using all of the resources of this great nation to protect our children against the wrongdoing of adults—including their parents.

At the time of IPKCA's enactment, the concern existed that other countries discounted the U.S. government's commitment to this issue when we did not consider it serious enough to warrant inclusion in our Federal Code. I believe that this perception validly remains if we do not aggressively pursue these warrants as contemplated by Congress, and strengthen the hand of our diplomatic personnel when negotiating the return of these children. We now have federal prosecution for flight to avoid payment of child support—implicit recognition of the federal government's appropriate role in issues of child protection.

At the hearing nine years ago, the Justice Department testified that without meaningful prosecutive activity, the deterrent value of such legislation would be minimal. We agree. While I applaud the intensified attention to this problem among key federal agencies, in our judgment we have not reached the point of "meaningful prosecutive activity." I wholeheartedly encourage the committee to help make our existing statute as strong as it can be.

In conclusion, I submit the following recommendations to the Committee for your consideration:

(1) That research be undertaken on the methods used in successful resolution of international abduction cases.

(2) That there be a strong policy statement to all affected agencies and departments that the U.S. government should utilize all available remedies, civil and criminal, to resolve cases of international child abduction.

(3) That the Justice Department encourage the expeditious issuance of IPKCA warrants and extradition requests.

(4) That the State Department encourage prompt and active diplomatic efforts on individual cases, in addition to addressing broad policy issues.

(5) That reports be prepared on the legal systems of other countries including a realistic, practical assessment of how they have responded to Hague applications and criminal warrants seeking the return of U.S. children.

(6) That we pursue greater uniformity in our state child abduction statutes to ensure that legal recourse is available before a custody decree has been issued and when visitation rights are violated.

(7) That we increase efforts to develop a model for federal reaction in International Child Abduction cases. The Uniform Law Commissioners have developed a model (UCCJEA) for civil/criminal interaction in domestic family abduction cases. The same needs to be done for international cases.

We are making progress as a nation on this complex, difficult problem. However, much more needs to be done. A key step is to make sure that we are making full use of the tools presently available.

Senator DEWINE. Let me thank all the panel members very much. I think you have brought a human face to the tragedy that we have heard about, and I think you have had some very good specific suggestions and comments.

Let me maybe start with Mr. Lebeau. What suggestions would you make for parents who find themselves in the position you found yourself?

Mr. LEBEAU. An excellent question, Senator. I thank you for asking it, and I do have some explicit suggestions in my written testimony. To answer your question here today, the number one thing that absolutely helped me more than any other was networking with other left-behind parents. Unfortunately, that is very hard to do because you do not know who they are. If we had some formal system of putting left-behind parents in touch with each other so that they may share their ongoing experiences, I think that would be invaluable. That would save a lot of time that these parents waste and, consequently, a lot of money, in helping return their children.

Second, I think, as Mr. Stein, my attorney who was instrumental in the return of my children from England approximately a year ago today, I think that there is an absolute desperate need to have at least one individual, if not a team of individuals, within Justice

that is specifically trained and on a daily basis works to actively reduce the numbers of children that are being not only abducted by illegally retained.

I think, almost above all of those, is the need for education among U.S. attorneys and Justice Department officials on all levels. I was absolutely astonished to find that in handling my case, red notices were not applied for when they should have been. Requests for provisional arrest applications were not made in a timely manner, if at all. I do not feel that this was any one person's animosity against me or even lack of interest in the issue itself, I just think that due to the sheer fact that they are not educated and aware of the absolute atrocities and the level that this problem has risen to.

So I think those three things, as an outset, would be an excellent start, and where we go from there, hopefully, would be somewhere quite far away from where we are today, Senator.

Senator DEWINE. Your testimony and the testimony of several of the other witnesses I think clearly points out that the use of criminal sanctions can be an effective tool. It is absurd, I think, and again, I share your comments, Mr. Stein, I wish the Justice Department officials were still here, but I just find it absolutely absurd, the thought that this really does not help. They did not say it in so many words, but the attitude was we are really not sure how effective it is, and I guess we are not going to know for sure until we start doing it. If you do it at such a low rate that we are doing it today, you certainly cannot tell whether it is going to have any effect at all.

Mr. Lebeau, how did you find Mr. Stein?

Mr. LEBEAU. That is an excellent question.

Senator DEWINE. That is a serious question. One of the problems is, how do you know where to go to for help?

Mr. LEBEAU. I spent 2½ years searching for the right attorney, and after that 2½ years——

Senator DEWINE. I guess you found him.

Mr. LEBEAU. Well, I absolutely had the wrong attorney before I found Mr. Stein. In my desperate attempt to find the right person, I was in London at the time, last October, appearing before the Royal High Court of Justice and I realized that I needed an attorney that could help me far beyond what I was already receiving from my local attorney in Florida, a general practice attorney with absolutely no experience in these types of cases.

Mr. Stein, thank God, was referred to me by the National Center for Missing and Exploited Children as being the best and the absolutely most experienced attorney that they knew handling these issues, and coincidentally, he was in Florida, as well, so it has been a boon for me. It has been very, very helpful.

May I add also, Senator, that we do in this courtroom today have proof that the prosection, or at least the threat of prosecution of the International Parental Kidnaping Act does work, and they are sitting there with my father and his wife and their names are Ruth and Luke Lebeau.

Senator DEWINE. Ms. Hong, in your testimony, you state that you were advised that the Chinese authorities would assist in Mei

Mei's return if you obtained a Federal indictment. Were you ever told that by the State Department?

Ms. HONG. We were told by the U.S. embassy in Beijing—oh, sorry, in Guangzhou—that the Chinese authorities would assist, and we were also told that from several other sources, as well.

Senator DEWINE. What assistance has the State Department provided you as you seek the return of Mei Mei?

Ms. HONG. Absolutely none. The State Department has consistently maintained that this is a private custody dispute. I have seen that language in other statements by other individuals. What I did not understand earlier today, Senator, was if—obviously, it is a private custody dispute because there is no criminal indictment. If there was a Federal criminal indictment, then it would be a public dispute, if you will.

And yet the woman from the State Department did not seem to have the opinion that a Federal indictment would work. So, therefore, she was really washing her hands from my perspective by saying we do not need a Federal indictment. Therefore, it will not be a State Department problem. It will be a private custody matter. So, therefore, I do not have to go to work.

Senator DEWINE. And in your case, as well, the issue has been litigated even on the civil side, though. I mean, this is not a pending matter. You have testified that you today technically have, or you do have by the courts in Ohio, custody of this little girl, right?

Ms. HONG. Absolutely, Senator. That has gone through the trial court, through the court of appeals, and the Supreme Court, as well, both on a habeas corpus action and on a regular custody action.

Senator DEWINE. Mr. Stein, I think your suggestion that there has to be someone in the Justice Department who is focused on this, I think is absolutely correct. You have to have someone who wakes up every day and says, this is what I do. You have to have someone in every U.S. attorney's office—it may not be something that comes in every day, but you have to have someone who is designated as the person who is going to deal with that, just as U.S. attorneys do it for other areas, as well. It makes the whole area of training, it seems to me, a lot simpler. You have one person for every U.S. attorney's office. They get the training. We do not have to have everybody understand it, but somebody has to understand it. So these are things, it seems to me—I mean, if I look at your written testimony, these are very practical things that could be done and it would not be done with very great expense.

Mr. STEIN. Senator DeWine, like you said, it does not take a rocket scientist. I do not even think that the legal issues under the Hague, as we have been working them in the United States, or the criminal issues, are that complex. It is pretty straightforward stuff. I mean, they took the kid or they did not take the kid. Did they do it illegally? Getting an indictment is not that difficult to do in those situations. You have the facts in front of you and what prosecutorial discretion is being weighed. We need the tool. Go get the indictment, and as we proceed forward with this case, if we determine it is going to be a detriment, the indictment, we will deal with that. We can do that. That happened in the Lebeau case.

Senator DEWINE. We run into cultural problems in law enforcement, and I saw it when I was a prosecutor, and we change over the years. There are certain cases that, culturally, we think, well, gee, it is a technical violation, but is that really——

Mr. STEIN. Like DUI and a child——

Senator DEWINE. Absolutely. We went through a whole change in DUI in my career. I am old enough to have seen a huge change in the DUI culture in the law enforcement community. It seems to me that it is a cultural problem that we have or an attitudinal problem. And just as we changed our attitude about DUI, just as we changed our attitude about domestic abuse, domestic crimes, that police 30 years ago when I first started, or 20 years ago, they just really did not want to deal with them. Someone could be beaten up. Someone could be in clear violation, a clear assault. Well, if it occurred within the home, we do not know if we want to get involved. This is a cultural problem.

What we need to be saying is, U.S. attorneys, Justice Department, from the top down, this is important. These are kids. These are kids who are yanked out illegally from their parent and taken away and some never to be seen again. I think we have to talk about it. One of the reasons I wanted to have this hearing is because I want to try to keep hammering away at this.

Quite frankly, I am going to bring the Justice Department in here every 6 months, every 12 months, and they are going to have to tell me what their statistics are and they are going to have to explain to me why in the world they are not doing more in this area.

Mr. STEIN. I think your comment about the cultural issue may be very true, and I am glad to hear that you are going to be staying on top of this because that is exactly what we need. Each of us can do a little bit here, and hopefully, Congress will continue to oversee this and encourage the Justice Department to make this a priority.

Senator DEWINE. I do have some questions that Senator Thurmond would like to have asked, and I will go through these. Mr. Stein, do you believe that many cases of international parental kidnaping are never reported to the Federal authorities, and if so, why?

Mr. STEIN. Absolutely. Why? Because either attorneys who do not know the procedures do not understand that they can bring criminal actions or initiate the proceedings to start criminal actions, and those of us who do are reluctant to do it because we do not think we are going to get the cooperation in any event.

Senator DEWINE. It is circular, then.

Mr. STEIN. Yes. It is a non-starter.

Senator DEWINE. Mr. Allen, as you know, a task force report to the Attorney General on international parental kidnaping was issued in April. Do you have any concerns about whether the report is sufficiently detailed and specific in its recommendations on exactly how the government can better address this problem?

Mr. ALLEN. I think, in all candor, Senator, we would have liked to have seen greater detail. I do think it is an important first step. It represents a convergence of a lot of agencies and a lot of interest. As a result of that, there is going to be some action taken. As I

mentioned, we at the center have been asked to play a more substantial role in outgoing cases.

I think it was Mr. Lebeau who said it best. I think the test of the task force is going to be the action that flows from the report. I would hope that this committee would call us back and say, what have you done as a result of those actions, and we are certainly willing to be evaluated on that basis.

Senator DEWINE. This is back to my questions now. Mr. Lebeau, just let me conclude, you and Mr. Stein. What finally broke this through? How were you finally able to get the return of your children?

Mr. LEBEAU. Through the threat of prosecution of the Act, Senator. It was as simple as that. In fact, up until the time the U.S. attorney's office asserted to the British Royal High Court of Justice in London that they would, in fact, seek extradition if the problem was not resolved civilly or through the voluntary return of the children, it was up until that moment that I did not know whether I was going to even lose them for a third time.

Senator DEWINE. I want to thank all of you very much. You have been patient and I appreciate your testimony very much today. It has been very helpful. This is something that we are going to continue, the subcommittee, this committee is going to continue to look at, we are going to continue to examine. It is a problem that, frankly, is only going to grow in this country as we have more international marriages, as we live in a more open world and people traveling more. This problem is not going to go away. These are horrible, horrible human tragedies and I think that we have to say as a government, this is a priority. Yes, there are a lot of things that are important, but this is important and we need to be focused more on it.

The record will be kept open for 1 week for any questions members may wish to submit for the record.

Again, you have shed a lot of light on this. I appreciate it and look forward to working with all of you in the future. Thank you very much.

Lady Meyer. Thank you.

Ms. HONG. Thank you.

Mr. LEBEAU. Thank you, Senator.

Mr. STEIN. Thank you.

Mr. ALLEN. Thank you.

Senator DEWINE. The subcommittee is adjourned. [Whereupon, at 3:40 p.m., the subcommittee was adjourned.]

APPENDIX

QUESTIONS AND ANSWERS

RESPONSES OF JAMES K. ROBINSON TO QUESTIONS FROM SENATOR THURMOND

Question 1. The Federal Agency Task Force on Missing and Exploited Children's April 1999 Report to the Attorney General on International Parental Kidnaping ("Task Force Report") does not recognize the use of the criminal process, such as the International Parental Kidnaping Crime Act ("IPKCA"), as a gap in how the government currently addresses this issue. Why was the IPKCA's lack of enforcement not cited as such a gap?

Answer. United States policy, as expressed in the IPKCA, is that where the procedures of the Hague Convention are available, they should be the option of first choice for a parent who seeks the return of a child removed from that parent. The Task Force Report focused first on the return of the child, then the use of the criminal process, such as the IPKCA, in an international parental kidnaping was examined. Because the IPKCA was a relatively new statute at the time the report was drafted, and state and local criminal proceedings were used in many of these cases when applicable, the consensus was that use of the criminal process was not a gap. Rather, it was determined that these situations needed to be handled on a case-by-case basis consistent with the facts of the matter. When a state or local authority has issued its own warrant, there may be no need to overtake a valid state warrant with federal charges. Unlawful Flight to Avoid Prosecution (UFAP) procedures bring the FBI into state and local cases to assist in the apprehension of fugitives overseas. Successful cases intercepting abductions in progress, based upon a joint state and federal law enforcement partnership, speak to the efficacy of such an arrangement.

Question 2. The Justice Department has traditionally been reluctant to use the criminal process to prosecute parental kidnaping, and it has been especially reluctant to prosecute abductors under IPKCA. How will we know that the criminal process, especially IPKCA prosecutions, will not help deter future international child abductions as well as facilitate the return of abducted children unless we adopt a policy of aggressive enforcement?

Answer. The Department of Justice looks at each case individually in determining whether to prosecute in accordance with the guidelines set forth in the Principles of Federal Prosecution. Deterrence is but one consideration. Other considerations include whether the state has filed charges, whether the country is a Hague signatory, or whether filing a UFAP would produce the desired results.

Filing charges routinely may not deter abducting parents, but may defeat any possibility of return of the child. By looking at each abduction on a case-by-case basis, the determination can be made how best to proceed to get the child back. Ultimately, it may be decided that filing Federal criminal charges may be appropriate.

Question 3. How does the Department's Office of International Affairs ("OIA") currently provide information to Federal prosecutors? If such information is transmitted over the phone, couldn't OIA more efficiently communicate it by maintaining a secure Internet web site?

Answer. The Office of International Affairs is able to communicate with the United States Attorney Offices (USAO) in a variety of ways. Via e-mail they can send messages through the Justice communications system. They may use telephone and facsimile. In addition, a National/International Security coordinator has been designated in each USAO with whom OIA regularly communicates on extradition, mutual legal assistance treaty and other international issues.

Question 4. You stress in your testimony that one obstacle in using criminal charges is the difficulty of obtaining extradition. Even if extradition is not available, issuing criminal warrants will mean that any attempt by the abductor parent to return to the United States will result in his or her arrest. Doesn't this restriction on re-entry into the United States constitute a punishment of sorts, and do you agree that vigorous prosecution of IPKCA will deter future violations?

Answer. The United States makes extradition requests based on both state and federal criminal charges. Thus, while the federal parental kidnaping statute may be the basis for a request, state charges are no less effective for that purpose. Although procedures associated with extradition are complex and the issues that arise in parental kidnaping cases are particularly troublesome, extradition remains a viable alternative in appropriate cases where the prosecutor, whether state or federal, makes a decision to make such a request.

The passage of federal legislation to interpret older list treaties so as to include parental abductions within the definition of the extraditable offense of "kidnaping" has helped to alleviate one of the obstacles to extradition. The State Department is making every effort to obtain the agreement of treaty partners to afford the same recognition of parental kidnaping in their interpretations of the treaties.

An outstanding arrest warrant, when coupled with an Interpol Red Notice, is likely to inhibit travel to any country where that notice might trigger an arrest. Prosecution under IPKCA may have some deterrent effect. However, many of the abductors do not intend to return to the United States, may not be extraditable, and therefore are unlikely to ever be prosecuted.

Question 5. How is the Department encouraging States to allow victims of parental kidnaping—both left-behind parents and children—access to crime victim assistance funds?

Answer. The Vanished Children's Alliance (VCA) in San Jose, California received VOCA victim assistance grant funds from 1993–1998 to provide counseling to families whose children have been abducted, as well as counseling to abducted children once found. In addition, they assist families with filing for victim compensation, and information and referral regarding local resources. VCA has shared information with other agencies on use of OVC funds to recover and assist kidnaped children.

Other nonprofit organizations, such as the National Center for Missing and Exploited Children, also assist families in providing information and referral services.

Question 6. The Task Force Report noted that there are some cases where abducted children are entered into the National Crime Information Center ("NCIC") database and then promptly removed the moment they are located, even though they have not yet been returned to the place from which they were abducted. This can cause law enforcement authorities to lose track of future movements of children who have been technically located but, in reality, still remain abducted. How are you addressing this problem?

Answer. The issue will be discussed by the NCIC Working Group that meets in March, 2000. It will then be on the agenda for the Advisory Policy Board (APB) subcommittee meeting in May. The recommendations from the subcommittee will then be put on the agenda for the APB to change the process so that the child is not removed until there is a resolution of the matter. Final action is anticipated at the summer 2000 meeting of the APB.

INTERPOL has frequent contact with state and local police regarding U.S. missing/abducted children. It encourages those agencies to leave the NCIC entry in the system until the custody issues is settled.

Question 7. I understand that U.S. Attorneys generally will not indict a parent until civil remedies are exhausted under the Hague Convention. However, there appears to be a need to determine a realistic point of exhaustion in practice. For example, if, as routinely happens, Hague proceedings last many months (far in excess of the six-week time frame explicitly stated in the treaty itself) before they are technically exhausted, abducting parents are then effectively able to argue that the child has become settled in the new environment and that returning the child will be harmful. In view of this reality, how long should the Hague process be allowed to drag on before the criminal process is invoked? And in cases of countries that routinely fail to comply with our treaty or whose legal systems have no mechanisms for enforcing civil court orders or any kind of visitation rights, why should invocation of criminal proceedings depend on the Hague process at all?

Answer. We cannot set an arbitrary time frame in Hague cases when criminal proceedings should begin. As previously stated, these matters need to be considered on a case-by-case basis based on the particular facts of the case. Setting a time limit will not necessarily achieve the desired result.

Question 8. The NCIC system is an important tool in finding abducted children. As the system is being upgraded pursuant to the NCIC 2000 program, some have argued that the abductor parents as well as abducted children should be designated in the system as missing, even if an arrest warrant is not outstanding, because such action would help authorities locate the abductor if he or she attempts to reenter the United States. Do you believe we should consider entering abductors into the NCIC system?

Answer. Currently, no category exists to permit the entry of adults as missing unless there is reason to believe that they are in danger. In most of these cases, the whereabouts of the abductor is quickly identified so they are technically not "missing." The name of the abductor should be included in the text information of the child's NCIC entry. As to whether the abductor should be entered into the NCIC even when there is no warrant, the subject needs to be explored further. Any proposed change would be subject to the review process of the NCIC Advisory Board as discussed in the response to Question 6.

Question 9. During an October 1, 1998, hearing on United States Responses to International Parental Abduction before the Senate Foreign Relations Committee, Attorney General Reno testified that "United States law enforcement officials located overseas, particularly our FBI legal attaches, can help to emphasize to their foreign colleagues the seriousness with which the United States takes these cases and the need for effective responses to locating the children and the abducting parents." How is this suggestion being implemented?

Answer. United States law enforcement resident in foreign countries do not directly exercise law enforcement powers abroad. The influence of these law enforcement personnel, however, can be great. They may be able to assist Department of State personnel in inquiries regarding the welfare and whereabouts of the abducted child, through their relationship. with law enforcement contacts in the host country. In several countries, the FBI legal attaches have provided substantial assistance in these cases. The FBI Legal Attaches met in Washington in June, 1999. International parental kidnaping was one of the topics on the agenda at that training meeting. We hope this topic will continue to be discussed at future meetings.

Question 10. As you know, some foreign states provide unlimited payment of legal fees for their nationals who have abducted American children, thus enabling them to pursue appeals to the highest courts of their country and of the United States. How are the Crime Victims Assistance Fund or other Federal victim assistance resources being used to pay for costs associated with returning stolen children?

Answer. As you are aware, Crime Victims Assistance and other victim assistance resources are not used to pay legal fees in any kind of case. Title 18, United States Code, Section 10602(b)(1) specifies expenses to be covered, including medical expenses, mental health counseling, loss wages, and funeral expenses. Most of the victim assistance funds are passed on to the states in grants. Currently, no state programs cover legal fees. However, the Office of Victims of Crime has designated a fund to assist parents cover the costs of travel to return children to the United States. The selection of families that may qualify for this assistance is made through consultation between the National Center for Missing and Exploited Children and the Office of Children's Issues. Since the program began in 1996 through fiscal year 2000, OVC has provided $225,000 to the National Center for Missing and Exploited Children to fund travel requests.

Question 11. What specific efforts is the Department making to educate and train Federal prosecutors regarding international parental kidnaping?

Answer. Information on the topic was included in the last revision of the United States Attorney's Manual (USAM) which is available in every United States Attorney's Office. The topic was included the National/International Security Coordinators conference held at the National Advocacy Center in December, 1999. It is anticipated that a presentation on the topic is to be included in the joint Office of Legal Education (OLE) training with National District Attorneys Association (NDAA) on international issues scheduled for April 18–20, 2000, at the National Advocacy Center. The Child Exploitation and Obscenity Section (CEOS) includes the topic in training it provides on the issues under the supervision of the Section, and provides assistance to prosecutors who call the Section regarding international parental kidnaping cases. Additionally, material on the topic of parental kidnaping will be included in the forthcoming manual for federal prosecutors on child support enforcement matters. And finally, the topic is regularly included in training for the FBI Crimes Against Children coordinators.

Question 12. In *United States* v. *Amer,* 110 F.3d 873 (2d Cir.), *cert denied* 522 U.S. 904 (1997), the Court of Appeals upheld the trial court's imposition of a special condition of supervised release as part of its sentencing the defendant to two years im-

prisonment and one year of supervised release for violating the IPKCA. The special condition was that "[t]he defendant [must] effect the return of the children to the United States to Mona Amer [the left-behind, victim parent]." *Id.* at 882. As the court explained, "The 'return' condition is obviously closely related to 'the nature and circumstances of the offense' of child abduction and 'the history and characteristics' of [defendant Amer]. Indeed, it is difficult to imagine a condition more closely tailored to the crime and the criminal in question than this one. Moreover, the requirement that [Amer] return the children serves the goal of general deterrence. * * * The condition also serves the function of specific deterrence. It deters [Amer] both from committing the offense of the unlawful retention of the children in Egypt after his release from prison, and from attempting to kidnap his children again after they have been returned to the United States." *Id.* at 883. Although Amer ended up violating the special condition of his supervised release, which was promptly revoked after a hearing, *see United States* v. *Amer,* No. 97–1442, 1998 WL 639262 (2d Cir. Mar. 26, 1998) (unpublished disposition), do you agree that the technique of imposing such a condition as part of a pattern of aggressive enforcement of the IPKCA would have a deterrent effect and prove helpful in effecting the actual return of abducted children in at least some cases?

Answer. Using special conditions, such as those used in the *Amer* case, probably have little deterrent effect. However, such conditions might be helpful in effecting return in at least some cases.

For example, in a case currently pending in the Eastern District of Washington, the magistrate judge set return of the children from Germany as a condition of bond. Unfortunately, the district court judge reversed this special condition and permitted the abductor's release on bond. The abductor, however, remains incarcerated because the state court judge subsequent to the bond hearing found the father in contempt for refusing to return the children in violation of the parenting plan (custody order).

Question 13. What is the status of the Office of Juvenile Justice and Delinquency Prevention's grant to the American Bar Association's Center on Children and the Law for the preparation of a report, now if a draft form entitled "Issues in Resolving Cases of International Child Abduction?"

Answer. As a standard practice prior to releasing any report or publication, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) conducted a product review by experts in the field of the report *Issues in Resolving Cases of International Child Abduction,* which was prepared by the American Bar Association's Center on Children and the Law. Revisions were made to the text based upon this peer review process, the document was approved for publication, and the final copy is now being prepared for publication and distribution.

RESPONSES OF JAMES K. ROBINSON TO QUESTIONS FROM SENATOR DEWINE

Question 1. What is the reason for not filing International Parental Kidnapping Act charges routinely in an abduction to a non-Hague country?

Answer. Decisions to file federal charges in international parental kidnaping matters must be made on a case-by-case basis in accordance with guidelines set forth in the Principles of Federal Prosecution. The facts of each case differ and must be considered before charging. Additionally, when a state or local authority has issued its own warrant, there may be no need to overtake a valid state warrant with federal charges. The Federal government can support state and local governments by charging the abductor with Unlawful Flight to Avoid Prosecution (UFAP) to bring in the FBI to assist in the apprehension of fugitives overseas. Successful cases intercepting abductions in progress, based upon a joint state and federal law enforcement partnership, speak to the efficacy of such an arrangement. Further, depending on the facts of the case, a state statute may be more suitable or offer more rigorous penalties.

There may be an insufficient factual basis to merit the issuance of a criminal warrant at either the state or Federal level. For example, there may have been a finding under state law that the left-behind parent lacked "custody rights." Because the Federal law rests upon this determination under state law, there may be no basis to file charges.

A prosecutor may also have a well founded basis to believe that the prosecution is sought merely to achieve a civil result, that is, the return of the child. Automatically filing criminal charges may compromise any efforts to secure the return of the child. If the ultimate goal is the return of the child, measures other than prosecution may be more effective.

Question 2. It's my understanding that in the case of Mexico, a country that has been identified by the State Department as not in compliance with its obligations under the Hague Convention, that law enforcement has been able to obtain the return of children, while parents have been largely unsuccessful in obtaining return of their children under the Hague Convention. In cases where the Hague signatory country is found to be routinely noncompliant with its obligations under the convention, does it make sense to wait for resolution under the Hague Convention before pursuing criminal charges? Should that be a consideration for parents and prosecutors, or do you think that the Sense of Congress that Hague procedures should be followed in every case, including where the State Department has found the country to be noncompliant?

Answer. Since this obligation to report noncompliance under the Hague Convention on the Civil Aspects of International Child Abduction first began in fiscal year 1999, only one report has been filed. Prosecutors are urged to work together with the Office of Children's Issues (OCI) on international parental kidnaping cases, which can keep the prosecutor informed about OCI's experience with a particular country. Again, the decision process must be made on a case-by-case basis consistent with the individual facts of the case.

Question 3. In many Hague countries, the Ministry of Justice is the central authority for the Hague Convention on the Civil Aspects of International Child Abduction. Should the full responsibilities of the U.S. Central Authority be transferred to the Department of Justice?

Answer. No. The responsibilities of the Central Authority can be overwhelming. Rather than looking at alternatives to the current Central Authority, an examination of the resources allocated to the Office of Children's Issues (OCI) should be made to determine if they are adequate to carry out the duties of the office. OCI is in the process of expanding its staff to handle these cases more effectively. Further, State Department is already charged with handling issues concerning the welfare of American citizens overseas and thus have a network available through the embassies and consulates worldwide to work on international parental kidnaping cases.

The Department of Justice stands ready to assist the Department of State in whatever way it can to carry out its duties as Central Authority. For example, an agreement between the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and OCI was extended last year to have the National Center for Missing and Exploited Children (NCMEC), an OJJDP grantee, handle incoming Hague petitions on behalf of OCI and to expand identifying services available for left behind families in the United States.

RESPONSES OF JAMISON BOREK TO QUESTIONS FROM SENATOR THURMOND

Question 1. Does the United States keep records on (a) how many formal extradition requests are made to foreign states pursuant to the International Parental Kidnapping Crime Act ("IPKCA!") and (b) how many extradition requests are received by the United States pursuant to foreign criminal laws prohibiting international child abduction? If so, will you provide this information to the Subcommittee?

Answer. State Department records reflect that the United States has made twelve formal international extradition requests since the beginning of 1998 citing violations of the International Parental Kidnapping Crime Act (18 U.S.C. § 1204), and many more such international extradition requests citing violations of state and local criminal law on parental kidnaping. In the same two-year time period, our records reflect that the United States has received eleven international extradition requests for parental kidnaping from other countries.

Question 2. The Federal Agency Task Force on Missing and Exploited Children's April 1999 Report to the Attorney General on International Parental Kidnapping ("Task Force Report") states that the United States should expand and intensify diplomatic efforts to better resolve parental kidnaping. What specific diplomatic actions has the State Department taken since the Report was issued regarding countries that do not comply with their obligations under the Hague Convention?

Answer. The Office of Children's Issues, as the United States Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction (the Convention), has called in Embassy officials from each of the five countries that we found non-compliant (Sweden, Austria, Mexico, Honduras and Mauritius). We provided each country with copies of the report and discussed in detail the reasons for finding them non-compliant.

The Director of the United States Central Authority, Mary Marshall, and a representative of the Department's Office of the Legal Adviser traveled in March 1999 to meet with their counterparts in the Swedish, German, Swiss, and Austrian Central Authorities. They discussed the need for fuller compliance with the Convention and improving implementation of the treaty. They also met with a representative of the Permanent Bureau of the Hague Conference an Private International Law in The Hague to discuss enhancing treaty implementation for all party countries.

Assistant Secretary for Consular Affairs Mary Ryan raised child abduction in discussions at the June 1999 Mexican Binational Commission Meeting, citing six specific cases as examples in which significant delays had occurred. She raised the issue and the six cases again at the September 1999 follow-up meetings to the Binational Commission. State Department officials have also met with the Director of the Mexican Central Authority and supervisors of that office twice since July 1999. Officials from the Mexican and U.S. Central Authorities have given joint presentations at conferences in California and Texas to U.S. and Mexican judicial and governmental authorities involved in child abduction issues.

Our Ambassador in Stockholm, Lyndon Olson, met with Swedish Prosecutor General Klas Bergenstrand regarding two child abduction cases on June 18, 1999. (Prosecutor General is just under "Cabinet-level" rank). In October 1999, Ambassador Olson was interviewed on the Swedish TV program "Efterlyst", the equivalent of "America's Most Wanted." The interview dealt mainly with the abduction to Sweden of Gabriel Marinkovich, which was also one of the featured cases.

Question 3. The Task Force Report (page 14) states: "Preventing the issuance of a passport to a child may deter some abductions. A parent with a valid custody order may put a hold on the issuance of a passport to his or her child(ren) by contacting the Department of State." I have been informed that in certain cases, the State Department refused to put such a hold on the issuance of an abducted child's passport in the absence of a court order requiring it to do so. How in fact does the State Department handle requests by parents to put a hold on the issuance of passports to their child(ren), and if the abduction has already taken place before such action can be taken, will the Department, at the left-behind parent's request, revoke the child's passport? Which official would make such a decision?

Answer. The Department has an effective program to provide requesting parents with information about their children's United States passports and to deny issuance in appropriate situations. At the request of a parent, an attorney or an appropriate court, the Department will place a child's name in the passport name check system so that when an application is received, the parent will be notified before approval of the application. Moreover, the passport will be denied based on an appropriate court order. The governing regulation was amended in 1996 to provide for denial based on joint as well as sole custody and to permit worldwide action based an orders of competent courts of any nation.

At this time, there is no provision in our regulations for revoking a child's passport once an abduction occurs. However, we plan to pursue regulatory changes in the near future to allow passport revocation for minors who are the subject of a parental abduction where this would assist in the return of the child.

Question 4. The Task Force Report (page 14) states: "At present there is no requirement for the Passport Office to notify a foreign government when it denies a passport for a dual national child. Nor is there a formal mechanism to inform foreign governments about lookouts placed in the system for passport applications for these children." Will the State Department impose such a requirement and create such a formal mechanism?

Answer. The Department plans to institute procedures whereby a foreign government's embassy will be notified when the Department enters a child's name into the passport lookout system based on a request by the custodial parent. We will notify the foreign government's embassy only with permission of the custodial parent.

Question 5. Many observers, including the General Accounting Office, have recognized that the State Department needs a comprehensive, computerized database and case-tracking system that can accurately list the number of abduction cases and how the Government responds to each one. What is the status of developing such a system, and is it a top priority?

Answer. The case management tracking system was designated top priority by the Bureau of Consular Affairs.

The Bureau of Consular Affairs is working with a contractor on the development of a computerized case management tracking system that will collect data more accurately and provide improved case management capabilities. We have seen an initial prototype of the system and will begin testing a pilot version in May–June. We expect the system to be ready for operations in July–August. The system will also

include a Web-interface that will allow interagency data sharing; this component will follow the final installation of the internal Department of State system by several months.

Question 6. I understand that the State Department opposes a provision in the Senate-passed fiscal year 2000 State Department Authorization Bill (S. 886, § 203) urging that each signatory's record of compliance with the Hague Convention be included in the State Department's annual country reports on human rights. Why does the State Department oppose bringing attention to a country's record of compliance with the Hague Convention as a human rights issue?

Answer:

- The State Department shares Congressional concern about the treatment of children who are removed from the U.S. by a parent. We will work with Congress to help victimized parents and children.
- The Department of State does not oppose bringing attention to a country's record of compliance with the Hague Convention. In fact, the Office of Children's Issues in the Bureau of Consular Affairs already provides, Congress with reports on Hague Convention compliance. The Hague Convention is not, however, a human rights treaty.
- The *Country Reports* is a snapshot in time of human rights conditions in all countries around the globe. It is not a report on treaty compliance. It is not in the best interest of the United States Government's human rights mission to shift the focus of the report from truth telling on human rights country conditions to treaty compliance. This new potential mandate for reporting on treaty compliance would create new complications for the Bureau of Democracy, Human Rights and Labor (DRL) and the human rights report. An example of the type of complications that would result is the fact that since many countries are not party to the Hague Convention, for the first time DRL would be reporting on some countries but not others. The countries reported on might well be relatively "good" countries with regard to international child abduction and respect for the rights of children, in relation to those countries that are not parties to the Convention. DRL has always maintained the same standards for all countries, and has parallel coverage for all countries. Further, we believe that this new mandate could deflect attention from objective reporting on country conditions and lead to arguments over technical compliance with the treaty. Deflecting attention from a country's poor human rights record would not be helpful to our democratization and human rights mission.
- In sum, we fear that the annual *Country Reports* would badly suffer from this mandate. Reporting on an area for which DRL has no expertise will have serious repercussions not only for the quality of the report, but also for DRL and the larger human rights mission. For clarity's sake, and to best address the needs of abducted children while raising the visibility of the issue, we strongly recommend that this issue be handled through reporting procedures already established by Congress, and by the report that is submitted by the Bureau of Consular Affairs on behalf of the Department.

Question 7. In deciding whether to negotiate child support arrangements with a country, does the State Department consider that country's record of compliance with the Hague Convention, particularly those cases in which the government of the country to which the American children have been abducted or in which they have been wrongfully retained demands child support from the left-behind parent?

Answer. Reciprocal child support arrangements are being negotiated under the authority of 42 U.S.C. § 659a. That section authorizes the Secretary of State, with the concurrence of the Secretary of Health and Human Services, to declare any foreign country to be a foreign reciprocating country (in the enforcement of child support orders or obligations) if that country meets certain specified standards for foreign support enforcement procedures. These reciprocal arrangements do not impose any obligation on courts or authorities in the United States to enforce support orders or obligations where a child was abducted to or is being wrongfully retained in a foreign country in violation of custody decrees issued by a U.S. court.

A variety of factors are considered in determining whether reciprocal arrangements should be sought with a particular country under 42 U.S.C. § 659a. These factors include whether there have been issues regarding child support enforcement in connection with child abduction cases.

Question 8. You noted in your testimony that some countries may be more reluctant to return a child to the United States if our government seeks extradition of the parent on criminal parental abduction charges. However, a draft report by the American Bar Association's Center on Children and the Law entitled "Issues in Resolving Cases of International Child Abduction" listed only four countries that are

less likely to cooperate in returning abducted children when criminal charges against the abductor are pending. The draft report also stated that one-third of countries responding to its survey slated that criminal charges are sometimes helpful in effecting a favorable resolution of Hague Convention proceedings. Do you disagree with these findings Please explain.

Answer. As you mention, this report is a draft that has never been finalized or published. Therefore, we prefer to hold comment on any of this draft report's findings until the report is finalized. However, a number of Hague party countries have indicated that in certain circumstances criminal charges against an abducting parent may provide an obstacle to return of the child. Courts in Australia, Germany, Mexico, the United Kingdom, Israel and the United States have indicated that criminal proceedings against the abductor would complicate a child's return pursuant to the Hague Convention. Our primary concern is for the welfare and return of the abducted child. We also note that the International Parental Kidnapping Crime Act of 1993 (18 U.S.C. § 1204) includes the sense of the Congress that the Hague Convention should be the option of first choice for a parent who seeks return of a child who has been removed from, or retained outside of, the United States.

Question 9. I understand that one obstacle to efforts to extradite an abductor is that some countries to which abductors flee do not recognize parental kidnaping as an extraditable offense. What specific diplomatic efforts is the State Department taking to encourage countries that are parties with the United States to list-type extradition treaties to interpret such agreements as including parental kidnaping as an extraditable offense?

Answer. Following the enactment of the Extradition Treaties Interpretation Act of 1998 (Title II of Public Law 105–323), the United states approached the approximately 70 countries with which we have extradition list treaties that include the word "kidnaping" to inform those countries of the U.S. Government's updated interpretation of the word "kidnaping" and to ask if they shared our interpretation. We have posed the question twice through our Embassies abroad, once to all concerned countries in January 1999, and then again in January 2000 to those countries that not yet responded.

As of February 25, 2000, the United States has received positive replies, from twenty of these countries indicating that they shared the U.S. Government's interpretation. (A few of these were still confirming the interpretation with others within their governments.) Some of the countries we consulted replied that they have not criminalized parental child abduction and do not share our interpretation. Some countries have indicated that they are still studying the issue and have not yet provided a substantive reply.

Question 10. The General Accounting Office recently noted that the Office of Children's Issues and the FBI sometimes make unnecessarily duplicative inquiries on the same case. Do you anticipate that the new case-tracking system will allow the State and Justice Departments to know about each other's parallel efforts regarding ongoing child abduction case?

Answer. The new interagency database for international parental abduction cases being developed by the Office of Children's Issues in the Bureau of Consular Affairs at the Department of State will greatly increase coordination among the various agencies, including the Justice Department, involved in these cases. This increased coordination will not only reduce duplication of effort and improve our efficiency on individual cases, it will also provide us with the comprehensive statistical reporting necessary to target specific problems with implementation of the Hague Abduction Convention.

Question 11. The Department of Justice generally appears to prefer that prosecutions be undertaken pursuant to an Unlawful Flight to Avoid Prosecution ("UFAP") Warrant, pursuant to the Fugitive Felon Act (18 U.S.C. § 1073), rather than the IPKCA. However, I understand that many foreign states do not recognize mere flight to avoid prosecution by a State of the United States for a State crime to be extraditable offense. Are there countries that find U.S. Federal crimes more persuasive regarding extradition than State crimes?

Answer. We have consulted with the Department of Justice regarding this question. The Justice Department disagrees with an assertion that it "prefers" Unlawful Flight to Avoid Prosecution charges to IPKCA charges in child abduction cases. It notes that if the United States or a state or local jurisdiction intends to try a fugitive located abroad on parental kidnaping charges, the United States will seek extradition for such charges. Absent the consent of the country that has extradited the fugitive, we will not try the fugitive on other charges such as unlawful flight to avoid prosecution, in light of the rule of specialty obligations in our extradition treaties.

In this connection, the Federal Bureau of Investigation often encourages the filing of the federal charge of Unlawful Flight to Avoid Prosecution (UFAP) in order to assist in the investigation of charges under state and local laws. It is our experience that a person extradited to the United States on either state or federal parental kidnaping charges would be unlikely to be prosecuted on UFAP charges. With regard to the final issue raised in the question, it has not been the Executive Branch's experience that countries find U.S. federal crimes more persuasive regarding extradition than state crimes.

Question 12. Some have raised concerns that the State Department withholds too much information from American parents relating to what their government is doing or failing to do to gain the return of their abducted children. Are you fully cooperative with parents in this regard?

Answer. The Department is fully cooperative with parents who seek information relating to our efforts to gain return of or access to their abducted children. That said, as a federal agency, we must ensure that our efforts to inform are consistent with the requirements of the Privacy Act when the information concerned relates to an individual other than the requesting parent. Additionally, in order to ensure that a country with whom we have exchanged diplomatic correspondence regarding an abduction case will be free with information and assistance in the future (both with regard to that case and any other), the Department will obtain that country's concurrence before releasing diplomatic correspondence generated by that country.

Question 3. What is the official policy of the United States Government regarding whether to extradite a left-behind American parent who rescues his or her child from a country that (a) will not return the child under the Hague Convention; (b) otherwise refuses to extradite or prosecute the abductor; or (c) will not or cannot guarantee enforceable visitation rights in the U.S. or anywhere else?

Answer: The State and Justice Departments consult on the facts and circumstances surrounding each extradition request. We regret we are not in a position to speculate on the outcome of hypothetical extradition requests.

Question 14. What is the official policy of the United States Government regarding whether to enter into new law enforcement treaties with countries that are already violating their treaty obligations to the U.S. under the Hague Convention and that directly or indirectly facilitate or support criminal conduct against American children and their left-behind parents, in some cases through their police or prosecutors?

Answer. As a preliminary matter, we note that the Hague Convention creates a mechanism for the return of children and has resulted in the return of thousands of children to their parents—many more are returned each year than before the Convention entered into force. In some cases, children are not returned because the Central Authority or the courts of the country where the child is located determine that the Convention does not govern the situation or one of the Convention's exceptions apply (such as a grave risk of harm to the child). In this connection, the fact that a Hague Convention party denies a return application does riot necessarily mean that the requested country has violated the Hague Convention.

More generally, however, we would assess the benefits of law enforcement treaties on the merits on a case-by-case basis, in order to determine what is in the best interests of the United States. Treaty compliance in one area is not necessarily a predictor of compliance in other areas, and bilateral law enforcement treaties frequently are of greater benefit to the United States than to the other country. The allegations of "direct or indirect facilitation or support of criminal conduct" must also be carefully considered. Some of the allegations that have been made in that regard are extremely tenuous and do not concern intentional conduct such as would entail any culpability on the part of the foreign government.

Question 15. I understand that the German Minister of Justice recently wrote to the U.S. Ambassador to Germany, John C. Kornblum, that "German-American cases [other than Lady Catherine Meyer's case] or problems with familial alienation due to conflict over visiting schedule [sic] are unknown to me." I also understand that the State Department has in its possession details of 34 U.S.-German cases of child abduction or illegal retention, some of which involve unresolved Hague Convention proceedings and others of which involve German courts that sought to resolve the cases under the Hague Convention by not returning the children and denying victim parents normal access rights to them. Are you concerned about the sufficiency of the German Minister's answer?

Answer. In July 1999, the U.S. Ambassador to Germany wrote to the German Minister of Justice about problems that have arisen with regard to German implementation of the Hague Convention on the Civil Aspects of International Child Abduction, specifically referring to the case of Lady Catherine Meyer. In her response,

the German Minister noted that the decisions in Lady Meyer's case were made by independent courts. The Minister added that she was unaware of German-American cases under the Hague Convention on access rights. The Department of State has summaries of 33 U.S.-German cases, both Hague and non-Hague, that were submitted by Lady Meyer at the time of her testimony before the Senate Judiciary Subcommittee on Criminal Justice and Oversight on October 27, 1999.

The Department of State believes that the response of the Minister of Justice is insufficient because it reflects an incomplete understanding of the dimensions of the problems regarding access that arise in cases of international parental child abduction. In a number of cases there have been difficulties in enforcement of German court orders of access in Germany. The Department will continue to raise Hague Convention implementation in general, and with respect to access in particular, with German officials in hopes of finding practical solutions.

RESPONSES OF JAMISON BOREK TO QUESTIONS FROM SENATOR DEWINE

Question 1. The report to the Attorney General suggests that denying visas to parents who keep a child outside the U.S. in violation of a U.S. custody order may be another way to encourage the return of children. How often has the U.S. made use of visa denials under these circumstances?

Answer. Figures for the last two fiscal years show that there were thirteen refusals in 1999 (of non-immigrant visas), and a total of seven refusals in 1998 (two of immigrant visas and five of non-immigrant visas) pursuant to section 212(a)(10)(c) INA.

Question 2. At the hearing on October 27, 1999, I asked you how many times has an Ambassador met with the leader of another country on individual cases of international parental kidnaping. Could you tell me how many times that has happened in the past year?

Answer. International parental child abduction is an issue of very great concern to the Department of State, and staff at our Embassies and Consulates raise this issue often with their host country counterparts in general and in specific cases as most appropriate. We have included a number of examples of our efforts over the past year. While this is not a comprehensive list, we hope that it demonstrates the seriousness with which we take this issue.

- Our Ambassador in Stockholm met with the Swedish Prosecutor regarding two cases of international parental child abduction on June 18, 1999. (Prosecutor General is just under "Cabinet" level rank.)
- Our Ambassador in Tokyo is personally engaged in the issue of international parental child abduction. Within the past few months, he has met with the Minister of Justice and the Vice Foreign Minister to urge that Japan accede to the Hague Abduction Convention.
- In San Jose, Costa Rica, our Deputy Chief of Mission called on the Foreign Minister the week of February 14, 2000, to discuss a case of international parental child abduction and the effect its handling will have on whether or not the United States might accept Costa Rica as a Hague Convention partner. Furthermore, on February 17, 2000, the Ambassador discussed the same case with the Costa Rican Minister of Justice.
- In Switzerland our Chief of Mission spoke with the Direktor des Bundesamtes fur Justiz in October 1999 concerning international parental child abduction cases between our two countries. The Direktor's rank is equivalent to an American undersecretary, and he is a senior career official in the cabinet department for justice and police matters.
- Our Ambassador to the Bahamas has met with the Foreign Minister and former the Attorney General on the Hague Abduction Convention.
- Our Ambassador to Mauritius has met with their Minister of Justice on two cases where the courts in Mauritius have incorrectly refused to apply the Hague Convention.
- Most recently our Ambassador to Madrid met on February 18 with a senior official in the Ministry of the Interior to urge continued efforts to locate and return an abducted child.

RESPONSES OF LADY MEYER TO QUESTIONS FROM SENATOR THURMOND

Question 1. Based on your experience, do you believe that the international community is increasingly seeing parental abduction as an illegal act and a human rights violation rather than as merely a private family matter? Please explain.

Answer. I believe that until very recently, most people were totally unaware of international parental child abduction and that as a result, no one had focused on the issue or any of its consequences. Betty Mahmoudy's case (U.S./Iran) was probably the first time that the problems associated with international marriages came to public notice. But Betty Mahmoudy's case was not, in itself, parental child abduction. It also concerned a country where laws and customs are very different from ours. The publication of her book "Not Without My Daughter" brought other stories to the fore. But, again they concerned Muslim countries. It was not until a few years ago that people began to be aware that child abduction within western society was becoming an increasingly common problem.

Because international child abduction cases are complex and difficult to resolve, the typical reaction of many governments has been to absolve themselves of the responsibility for intervening. They have done this either by deeming these cases a private legal matter ("tug of love") or by claiming that they cannot interfere with the independence of the courts. But it is becoming increasingly difficult for governments to assert that they have no role to play. This is the result of recent publicity given to the most egregious cases and the realisation that several signatory countries—where the rule of law is supposed to prevail—are in breach of their Hague Convention obligations. This has led in turn to the notion that the illegal removal or retention of minors abroad is not only a criminal act but also a human rights violation.

At the launch of ICMEC at the British Embassy in Washington on April 1999 Hillary Rodham Clinton clearly reinforced this view when she said: "*These matters are not just about individual children and the pain of victim parents, but they are really a question of human rights*". A landmark in this regard was the precedent set by the very recent European Court of Human Rights' decision of January 25, 2000 (see attached press release). The ECHR ruled that a state's failure to enforce a court order to return a child to its country of origin under the Hague Convention is a violation of the ECHR. "*Specifically, the Court found that respect for family life guaranteed by Article 8 of the ECHR includes a right for parents to have effective measures taken to return children to the country from which they have been abducted*."

Many governments are now more sensitive to the issue of international child abduction—for example, the British Foreign Office has just created an international child abduction desk. But they have yet to acknowledge formally that basic human rights are at stake. This is why we need your help. Things will not change until the human rights dimension is recognised at the political level, so taking control of the issue out of the hands of bureaucracies guided by ultra cautious legal advice. This recognition is also indispensable to the correction of miscarriages of justice that take shelter behind the argument that there can be no interference with the independence of local courts. This for example is the routine reaction of the German authorities to complaints about the bias and incompetence of their decentralised judicial system.

Question 2. As you know, many Hague Convention signatories have designated their justice ministries as the Central Authority, while the United States' Central Authority is the State Department. What, in your opinion, are the relative advantages of placing responsibility for this treaty's compliance in a government department that handles legal and justice issues as opposed to a department that handles foreign policy issues?

Answer. In reality it should not matter. What is more important is that the Central Authority is efficient, speedy, resolute and dedicated to the Hague process. One must also remember that victim parents can be extremely emotional, in need of special help and support—which government institutions are not equipped to provide. Most of the American victim parents I have dealt with feel that the NCMEC is in fact the best-equipped organisation to take over abduction cases. They are specialists in children's issues and have the necessary support network for left-behind parents.

If I were to examine the pros and cons of each Ministry, I would come to some obvious conclusions. A justice department should have a close relationship with domestic courts; it should be familiar with litigation and geared up to the prosecution of criminal offences. Therefore it ought to act faster and more efficiently. Unfortunately, most European Central Authorities which are based in the justice Ministries are legalistic and bureaucratic. They are often inflexible and impenetrable in their dealings with other Central Authorities. My personal experience, and that of most victim parents I have had dealings with in Europe, is that justice Ministries are unsympathetic and difficult to deal with. These problems are compounded when parents in one state have to deal with the Central Authority of another.

Foreign Ministries are usually more receptive and accessible to victim parents. They are also better geared up to speedy international communication, including

with left behind parents and other Central Authorities. They are better able to make the right approaches to resolve problems on immigration, passports, international travel and other matters that may need urgent attention. They have ready-made links with diplomatic and consular services abroad—but they are far less equipped and knowledgeable in matters of litigation than a Justice Department. I should also add that, according to Henry Setright (one of England's most prominent specialist in Hague Convention cases) English lawyers have had fewer problems with the U.S. Central Authority than with most.

In principle, it should not matter where the central authority is located so long as these two Ministries work closely together. My experience is that victim parents need the expertise of both departments. My strong recommendation is that in every Hague Convention signatory state, there should be a joint unit or bureau staffed by officials from both the justice and Foreign Ministries. Their role among other things should be to work closely with the relevant NGO's.

Question 3. In your experience with analyzing international child abduction cases under the Hague Convention, to what extent do you believe the criminal justice system should intervene to prosecute the abductor? Could such timely intervention sometimes help expedite the return of the abducted child?

Answer. Unless child abduction is considered a criminal act and unless the criminal justice system intervenes to prosecute the abductor, more and more people will be willing to take the law into their own hands. There is no doubt that there can be no better deterrent to child abduction than a criminal statute. But the real advantage of the criminal statute is that it allows the full range of powers to be employed to locate the abductor and more importantly the missing child through the mobilisation of the police and the assistance of INTERPOL. It also allows the extradition of abductors.

If the use of the criminal statute is a useful deterrent and extremely helpful in bringing the child back, the question then arises that if this leads to the successful prosecution of the abductor, how severe should the penalty be? If one has the childs best interest to the fore there is a strong prima facie argument against a custodial sentence which will only add to the trauma of the situation. Indeed, the imprisonment of the parent is probably a *further* punishment for the innocent abducted child, who needs both its parents and probably feels guilty at what has happened (as children always do in cases of conflict). So, judges will have to decide case by case on what is appropriate: prison, a fine, community service etc * * * This is a further argument for ensuring that these cases are tried by specialist judges.

But, there is one serious drawback to the criminalisation of international child abduction. This arises when the country to which the child is taken, or in which it is retained, does not consider child abduction a criminal act and/or has no extradition treaty with the country of origin. For example Germany has no extradition treaty with France or the UK. There have been cases where the German courts have refused a return on the grounds that the abducting parent, who is not regarded by them as a criminal, could be imprisoned when accompanying the child back to its country of habitual residence, or visiting it there.

Hopefully the recent decision by the ECHR might encourage "all" signatory countries to put in place effective measures to return the child. But, again we need your help to ensure that some countries' practice of retaining abducted children and refusing to grant enforceable access rights is rightfully challenged.

NEWS RELEASE THE AIRE CENTRE—ADVICE ON INDIVIDUAL RIGHTS IN EUROPE

[January 25, 2000]

European Court of Human Rights Strengthens Enforcement of International Child Abduction Treaty

STRASBOURG, 25 JANUARY 2000—Today, for the first time, the European Court of Human Rights ruled that a state's failure to enforce a court order under the Hague Convention on the Civil Aspect of International Child Abduction is a violation of the European Convention on Human Rights.

In the United Kingdom, it is estimated that an average of four children a week are wrongfully taken or kept in other Hague Convention countries, In the last three years alone, the UK has seen a 58 percent increase in the number of international child abductions.

The Hague Convention was created in 1980. It is a multilateral treaty which seeks to protect children from the harmful effects of abduction across international boundaries by providing a uniform procedure to bring about a prompt return of

these children to their country of origin but not necessarily to the left behind parent. Custody of the child is for the courts to decide. Fifty-seven nations are now signatories to the Hague Convention. But the responses to these abduction cases have been uneven.

The European Court ruled today in *Ignaccolo–Zenide* v. *Romania* that a state's failure to enforce a court order to return a child to its country of origin under the Hague Convention is a violation of the European Convention of Human Rights. Specifically, the Court found that respect for family life guaranteed by Article 8 of the European Convention includes a right for parents to have effective measures taken to return children to the country from which they have been abducted. Since children can easily form new attachments, the Court emphasized the necessity for states to act quickly so that the abducting parent cannot claim that returning the child would be harmful.

This decision has significant global implications as from now on, European states will be responsible ordering the return of children to the country from which they have been abducted and enforcing those judgments.

JUDGMENT IN THE CASE OF IGNACCOLO-XENIDE V. ROMANIA

In a judgment delivered at Strasbourg on 25 January 2000 in the case of *Ignaccolo-Zenide* v. *Romania,* the European Court of Human Rights held by six votes to one that there had been a violation of Article 8 (right to respect for family life) of the European Convention on Human Rights. Under Article 41 (just satisfaction) of the Convention, the Court awarded the applicant 186,000 French francs (FRF) for non-pecuniary damage and for legal costs and expenses.

1. Principal facts

The applicant, Rita Ignaccolo-Zenide, a French national, was born in 1953 and lives at Metz (France).

Following her divorce a French court ruled, in a judgment that had become final, that the two children of the marriage were to live with her. In 1990, during the summer holidays, the children went to stay with her former husband; he held dual French and Romanian nationality and lived in the United States. However, at the end of the holidays, he refused to return them to the applicant. After changing addresses several times in order to elude the American authorities, to whom the case had been referred under the Hague Convention of 25 October 1980 on International Child Abduction, he managed to flee to Romania in March 1994, where he has lived ever since. On 14 December 1994 the Bucharest Court of First Instance issued an injunction requiring the children to be returned to the applicant. However, her efforts to have the injunction enforced proved unsuccessful. Since 1990 the applicant has seen her children only once, at a meeting organised by the Romanian authorities on 29 January 1997.

2. Procedure and composition of the Court

The application was lodged with the European Commission of Human Rights on 22 January 1996. Having declared the application admissible, the Commission adopted a report on 9 September 1998 in which it expressed the unanimous opinion that there had been a violation of Article 8 of the Convention. The case was brought before the Court by the Romanian Government on 27 January 1999.

In accordance with the transitional provisions of Protocol No. 11 to the Convention, a panel of the Grand Chamber of the Court decided on 31 March 1999 that the case should be examined by a Chamber constituted within the first Section of the Court. On 14 September 1999 the Chamber held a hearing in public.

Judgment was given by that Chamber, composed as follows:

Elisabeth Palm (Swedish), *President,* Gaukur Jörundsson (Icelandic), Riza Türmen (Turkish), Josep Casadevall (Andorran), Wilhelmina Thomassen (Dutch), Rait Maruste (Estonian), *Judges,* Ana Diculescu-□ova, ad hoc *Judge,* and also Michael O'Boyle, *Section Registrar.*

3. Summary of the judgment[1]

Complaint

The applicant complained that the failure of the Romanian authorities to enforce the injunction issued by the Bucharest Court of First Instance on 14 December 1994

[1]This summary the registry does not bind the Court.

constituted a breach of her right to respect for her family life, as guaranteed under Article 8 of the Convention.

Decision of the Court

Article 8 of the Convention

The Court reiterated that although the essential object of Article 8 was to protect the individual against arbitrary action by the public authorities, it also imposed positive obligations inherent in an effective "respect" for family life. Article 8 included a right for parents to have measures taken with a view to their being reunited with their children and an obligation for the national authorities to take such measures. That obligation was not absolute, since some preparation might be needed prior to the reunion of a parent with a child who has been living for any length of time with the other parent. The nature and extent of the preparation depended on the circumstances of each case and any obligation the authorities had to apply coercion in this area was limited, since the interests and rights and freedoms of all concerned, and in particular the paramount interests of the child and his rights under Article 8 of the Convention, had to be taken into account. Where contact with the parent might threaten those interests or interfere with those rights, it was for the national authorities to strike a fair balance between them.

The Court considered that the positive obligations which Article 8 of the Convention imposed on the Contracting States to help reunite parents with their children had to be construed in the light of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. That approach was particularly relevant to the case before the Court, since the respondent State was a party to that instrument.

The decisive factor for the Court was therefore to determine whether the national authorities had taken all reasonable steps to facilitate the enforcement of the order of 14 December 1994.

Although first attempts at enforcement of the injunction were made promptly, in December 1994, the Court noted that as from January 1995 the bailiffs made only two further attempts: in May and December 1995. It noted, too, that the authorities took no action between December 1995 and January 1997 and that no satisfactory explanation for that inactivity had been forthcoming from the Government.

Moreover, the authorities had not done the groundwork necessary for the enforcement of the order, as they had failed to take coercive measures against D.Z. or to prepare for the children's return by, for example, arranging meetings of child psychiatrists and psychologists. No social workers or psychologists took part in the preparation of the meeting on 29 January 1997. The Court noted, lastly, that the authorities had not implemented the measures set out in Article 7 of the Hague Convention to secure the children's return to the applicant.

The Court found that the Romanian authorities had failed to take adequate and sufficient steps to comply with the applicant's right to the return of her children and had thus infringed her right to respect for her family life, as guaranteed by Article 8. The Court therefore concluded that there had been a violation of Article 8.

Article 41 of the Convention

The Court held that the applicant must have sustained non-pecuniary damage as she alleged. Ruling on an equitable basis, it awarded her FRF 100,000 under that head.

It awarded the applicant FRF 86,000 for costs and expenses.

Judges Maruste and Diculescu-□ova. expressed dissenting opinions and these are annexed to the judgment.

The Court's judgments are accessible on its Internet site http://www.echr.coe.int).

The European Court of Human Rights was set up in Strasbourg in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. On 1 November 1998 a full-time Court was established, replacing the original two-tier system of a part-time Commission and Court.

RESPONSES OF LADY MEYER TO QUESTIONS FROM SENATOR DEWINE

Question 1. In your written testimony, you discussed the British criminal statute, the Child Abduction Act of 1984. You stated that where abductors flee to a weak Hague country that it is often speedier and more effective for a UK citizen to use the criminal offence than follow the Hague process. Is there a reluctance on the part of the British law enforcement to go forward under the criminal statute when the child has been abducted to a Hague country?

Answer. In England there is a reluctance to resort to criminal prosecution.

The Child Abduction Act of 1984 criminalises child abduction, including some classes of parental child abduction. Cases can be tried summarily before magistrates or on indictment before a jury, depending on their seriousness. But because of the sensitivity of cases of this kind, a high level of authority has to be given for any prosecution, and prosecutions are relatively rare.

The Crown Prosecution Service (Director of Public Prosecutions) scrutinise prosecution's under the 1984 Act with great care before action is authorised, and the fact that there is prima facie evidence that an offence has been committed is not the only factor they consider when deciding whether or not to pursue a charge of parental child abduction.

The three main factors for this reluctance are:

(a) There is a culture among lawyers—criminal and civil—that to introduce criminal proceedings into a family (and especially a child-related) situation is counter-productive, except where a very serious crime (murder, serious physical or sexual abuse) has been committed. Imprisoning a parent (especially if that parent is a primary carer) is not usually seen to be in the child's best interest. As a result, English lawyers will usually advise left-behind parents that the bringing of criminal proceedings, especially where there is an effective Hague remedy, is likely to be counter-productive. (Protection, for example by civil injunctions, is another matter entirely and is often applied).

(b) This culture reflects the approach of most ordinary people. Most left-behind parents are far more interested in the return of the child than in the punishment of the abducting parent. In turn, they usually follow the advice of their lawyers.

(c) English judges hate returning children abducted by primary carers, if they think that there is a risk of criminal prosecution (and possible imprisonment) which may deprive the child of that parent as a potential carer.

Therefore, because starting the criminal process requires a vertical referral to the Crown Prosecution Service, and because there is consultation with the left-behind parent, who almost certainly has a lawyer acting for him or her, there has been a consensus in most Hague cases that a prosecution is best avoided. This, you will appreciate, is anecdotal. What is not is that prosecutions so far have been rare—though this may be changing.

However, from the inquiries I have made, I do not think there has been any case where the CPS has refused to prosecute where a left-behind parent has a good case in law, and is anxious to prosecute.

Question 2. In your written testimony you also stated that the "real use of the criminal statute is that it allows the full range of powers for the pursuit of a wanted criminal to be used to find the abductor, and more importantly, the child". Are you familiar with the case with which criminal proceedings are instituted in the UK and if there are delays in proceeding with the criminal cases? Do you know how many children have been returned as a result of the enforcement of the Child Abduction Act?

Answer. Criminal proceedings are relatively easy to institute in the UK and the process should be a speedy one. But it is not always the case. Furthermore, the police are not always properly trained in these matters and are often reluctant to get involved.

To start a criminal prosecution, the left-behind parent must first convince the police that an offence has been committed. Then following whatever police investigation is appropriate, the matter goes to the Crown Prosecution Service (Director of Public Prosecutions) for a decision as to whether to prosecute or not. The question of the viability of extradition will be a further consideration. The decision is taken (criminal child abduction being one of a particular class of offences where this is required) at a high level. In some cases, the decision can take a very long time, but most decisions are taken with appropriate speed to allow the criminal process to be of real use (assistance by the UK police, special branch, INTERPOL etc) in locating a missing child.

For the left-behind parent, the process is not particularly complicated because it does not require much action by him or her once the original complaint has been lodged.

In the past few years, the Home Office has worked to provide assistance to the police at various levels. It has provided information on both the problem of international child abduction and which tools are available to them to deal with it. Special police groups, such as those concerned with extradition, and Special Branch, have specialist and highly developed expertise, which can be quickly employed. Special Branch in particular can track the international movement of abductors and monitor and control movements at UK airports with a high degree of effectiveness.

But, bear in mind that the UK, like most EU states, has dismantled exit controls and passport checks for ordinary travellers.

Unfortunately, I do not think that there are any reliable statistics on the number of children who have been returned as a result of prosecutions being instituted under the 1984 Act.

Question 3. What is the role of the International Centre for Missing and Exploited Children in international child abduction cases?

Answer. The National Center for Missing and Exploited Children, as the first organisation of its kind, has increasingly been called upon to assist other countries struggling with issues of child abduction and dislocation. It is clear that national boundaries are no barrier to the transportation and victimisation of children. The International Centre for Missing and Exploited Children (ICMEC) addresses the need for a more comprehensive, international approach to issues of child abduction and exploitation and provides a model that other countries can adapt to their own needs.

ICMEC is initially focusing on three primary areas:

1. Expanding our existing international website project to all countries of the world. This project enables appropriate entities in other countries to share images of missing children with the public for the purpose of generating leads and in order to recover missing children;

2. Implementing our agenda to improve outcomes for families whose cases are brought under the Hague Convention on the Civil Aspects of International Child Abduction. ICMEC has created an international steering committee to implement an eight-point action agenda designed to increase knowledge and uniformity in the implementation of the treaty. Our strategy includes working with government entities and the Hague Permanent Bureau to help reach our objectives;

3. Providing training to law enforcement, the judiciary, lawyers, prosecutors and others involved with issues of child abduction. A key area of training is the promotion of best practices for cases arising under the *Hague Convention.* ICMEC also anticipates offering training on responding to cases of missing children, the use of international treaties and laws to promote the return of children, as well as training in the evolving area of exploitation of children through the Internet.

RESPONSES OF ERNIE ALLEN TO QUESTIONS FROM SENATOR THURMOND

Question 1. The Federal Agency Task Force on Missing and Exploited Children's April 1999 Report to the Attorney General on International Parental Kidnapping ("Task Force Report") does not recognize the use of the criminal process, such as the International Parental Kidnaping Crime Act ("IEPKCA"), as a gap in how the government currently addresses this issue. Do you think the Justice Department should make a greater effort to use the criminal process, such as more aggressive enforcement of the IPKCA, as a tool to help address international parental kidnaping?

Answer. Yes. In both domestic abduction cases and international abductions, criminal charges can be of great assistance in locating the child. In addition, these charges are often used successfully as a bargaining chip in negotiations for return of the child. We have seen cases in which the threat of charges convinced an abductor to return to the United States with the child. The reality is that these cases are not just "private legal matters." Research suggests that in as many as 80 percent of these cases, the motive for taking the child is not love, it is anger or revenge. These children are at risk, and suffer harm in many ways. We believe that the criminal process is a vital and important tool that should be used far more extensively.

Question 2. You note in your testimony that the *Amer* case in the Second Circuit provided excellent case law for future prosecutions. Do you think that conditioning an abductor's release on return of the child could help solve some cases?

Answer. Yes. The *Amer* case is a good example of the recognition of the dual civil and criminal aspects of international parental kidnaping and willingness to fully utilize the legal tools available. Although the children were not successfully returned in *Amer,* conditioning release on the return of the child may be effective in another case.

Question 3. The Department of Justice generally appears to prefer that prosecutions be undertaken pursuant to an Unlawful Flight to Avoid Prosecution ("UFAP") Warrant, pursuant to the Fugitive Felon Act (18 U.S.C. 1073), rather than the

IPKCA. However, the Subcommittee has found that many foreign states do not recognize mere flight to avoid prosecution by a State of the United States to be an extraditable offense. Also, many States decline to pursue UFAP's because they cannot afford the costs of extradition. Do you agree that proceeding under an IPKCA warrant would be more effective in persuading foreign states to extradite parental abductors to the United States because such a warrant reflects how seriously the United States, as a nation, views this conduct?

Answer. While some countries may extradite based on a federal IPKCA warrant *or* a state warrant attached to a federal UFAP, the free-standing federal IPKCA charge sends a message from the Federal government in a way a UFAP does not. The primary purpose of an IPKCA warrant is to arrest, extradite and prosecute the abductor. Congress understood when passing IPKCA that the domestic laws of other countries and the limitations of extradition treaties may be obstacles to extradition. As the legislative history of IPKCA shows, however, Congress felt an important purpose of an IPKCA warrant was to send a message to the governments of other countries that addressing international child abduction is a priority of the U.S. government. Congress fully intended these warrants, carrying the full weight and authority of U.S. federal law, to be used by U.S. Ambassadors and diplomatic personnel in negotiating the return of individual children.

Question 4. Do you think that aggressive enforcement of the criminal process, including more charges under the IPKCA, could deter some international child abductors?

Answer. Yes. For a criminal law to act as a deterrent, it must be used. Without aggressive pursuit and prosecution, the act loses its deterrent effect.

Question 5. What has been the rate of increase in international parental abductions in recent years, and do you expect this trend to continue in the foreseeable future?

Answer. NCMEC's family abduction caseload (both domestic and international) has increased over the past several years. We believe that the increase in the number of cases reported to NCMEC reflects an increase in cases nationwide. The actual number of international family abductions occurring in the U.S. has not been studied, therefore the rate of increase cannot be stated with accuracy. There is no indication that family abductions are leveling off—the divorce rate remains approximately 50 percent. International family abduction, as a subset of family abduction will certainly follow suit especially with our increasingly mobile and multicultural society.

Question 6. Deputy Legal Advisor Borek testified that the return rate *to* the United States is approximately 60 percent under the Hague Convention. Do you think the actual return rate may be lower than this figure? Does the inconsistency regarding estimates of the true return rate illustrate the need for a comprehensive case-tracking system?

Answer. There has been some disagreement regarding return rates and the appropriate way to define and measure success in Hague Convention cases. A comprehensive case tracking system will certainly help keep track of the number of children affected by international abduction. To better measure the problem, however, we must carefully define what the United States considers a successful resolution of a case and make sure we are tracking success, not just numbers. For example, we have seen cases in which a foreign court orders the child's return, but somehow the child never gets returned. If the court order is the measure of compliance, it obviously falls well short of what the intended purpose is. To address this gap, the National Center for Missing and Exploited Children is undertaking a study of the outcomes of cases between the United States and several key Hague signatory countries. This study is the first of its kind and will tell us how cases are actually resolved and whether the treaty is applied in a reciprocal fashion.

RESPONSES OF ERNIE ALLEN TO QUESTIONS FROM SENATOR DEWINE

Question 1. Assistant Attorney General James Robinson, in his written testimony, stated that efforts are underway to develop an enhanced role for the National Center for Missing and Exploited Children in international parental kidnaping cases. As part of this enhanced role, do you think it would be helpful for the National Center for Missing and Exploited Children to be officially sanctioned by the Federal government to contact foreign entities."

Answer. NCMEC is not legally restricted from contacting foreign entities, the greater the official sanction held by NCMEC, the greater our ability would be to reach the right people, advocate effectively on behalf of searching U.S. parents, and

return children. Our current contacts are not made with an "official sanction" by the U.S. government. We work to establish relationships with foreign entities and organizations when it may help foster cooperation on cases of international child abduction. We probe. We seek allies and resources to aid or assist a searching U.S. parent. We seek to be a credible, aggressive but responsible advocate, and to utilize every possible resource to bring a child home.

NCMEC has also launched an International Centre for Missing and Exploited Children to address the issues NCMEC addresses on a world-wide scale. It is our view that in many ways, the world faces the same sort of global challenge regarding the problem of child abduction that we faced in this country two decades ago. We believe there is a significant need to building networks, sharing information, utilizing every resource to build a comprehensive, coordinated, meaningful response to this serious problem.

We welcome U.S. government collaboration on these efforts, and seek to work in tandem with all appropriate agencies.

Question 2. At this time, what services does the National Center for Missing and Exploited Children provide for left-behind parents and what services would you like to be able to provide?

NCMEC's basic services are not limited by national boundaries. Our mandate from Congress is to assist in the search for U.S. missing children, and we do that whether a child is taken across town or around the world. Our case managers work with law enforcement and searching families to attempt to locate missing children. Our photo distribution network includes worldwide distribution of posters, and our hotline receives leads and sightings on children globally. We are building a global network via the worldwide web, so that missing children's images can be searched and seen in many countries. Today, NCMEC's website receives 3 million "hits" per day, and we have built companion sites in Canada, the United Kingdom, Belgium, the Netherlands, Italy, Argentina, Brazil and Chile, with many other countries preparing to join the network.

We provide technical assistance to parents, their attorneys and law enforcement personnel working the case. We also provide referral services to identify counseling and legal advice for parents and referrals to parent-mentors who have cases in the same country. We also network with law enforcement officers who are inexperienced working cases of international abduction together with law enforcement who have handled cases in a particular country. We publicize cases in partnership with Voice of America and through international poster distribution. In addition, we administer the Victim Reunification Travel Program, funded through the DoJ's Office of Victims of Crime and pay the travel costs for U.S. children returning after being abducted overseas. The program funds also enable U.S. parents to travel abroad to attend custody-related court proceedings or proceedings under the Hague Convention.

We need and want to do more. NCMEC seeks to continue and enhance existing services and to expand direct services to parents in the areas of legal assistance both in the U.S. and abroad and counseling services in order to help families defray the costs associated with international family abduction.

In 1995 we were asked by the State and Justice Departments to assume a lead role on the cases of foreign children abducted to the United States under the Hague Convention. While we had some trepidation about appearing to do more for foreign parents than U.S. parents, we agreed to take on the challenge based on the concept of comity. Other governments were suggesting that if U.S. agencies and officials didn't do more to locate and return children abducted to the United States, foreign governments would be far less willing to assist in cases of U.S. children abducted to their countries.

We undertook the task because we thought it was the right thing to do, and because we felt it was essential if we were to ensure that every possible resource would be used to help U.S. families. We are pleased with the progress, but are committed to working with the State and Justice Departments to continually enhance NCMEC's role on behalf of left-behind U.S. parents. It is not our aim to either duplicate or supplant the important services delivered by government agencies, but it is our commitment to continually seek ways to provide better, more timely and effective assistance to every searching U.S. parent.

We appreciate your interest in this issue and stand ready to assist the federal government and others to improve the outcomes for U.S. families facing international abduction.

ADDITIONAL SUBMISSIONS FOR THE RECORD

PREPARED STATEMENT OF THOMAS A. JOHNSON, PARENT OF WRONGFULLY RETAINED CHILD

Thank you for giving me the opportunity to submit this written statement as the parent of an American child wrongfully retained in Sweden. I understand that it will be published in the record of the Subcommittee's hearing of October 27, 1999 concerning international parental kidnaping. Although I am an attorney with the Department of State, this statement is submitted solely in my personal capacity as an American citizen and as the father of Amanda Kristina Johnson, an American child literally held hostage in Sweden for nearly five years.

I greatly appreciate the hard work of your staff on this subject and your willingness to schedule a hearing to learn how and why the Executive Branch has failed so many abducted American children and their left-behind parents. Specific Congressional actions of the kind suggested below are the only hope for these American citizens because the Justice and State Departments are determined to maintain the status quo to keep foreign governments happy, and have consequently opposed, obstructed, or ignored all Congressional initiatives to date, including the International Parental Kidnaping Crime Act of 1993 (IPKCA), 18 USC 1204. Unsuccessful with their disinformation campaign that these are "private custody disputes," the latest party line from Justice and State is that a lack of resources is the problem. Nothing could be further from the truth. The problem at both Justice and State is a lack of interest in assisting and protecting American citizens, even our youngest ones,

As indicated by the attached example, of my correspondence with the U.S. Attorney's Office for the Eastern District of Virginia in Alexandria. Virginia (I never received a written response to my various written communications) and by the discussion of the IPKCA below, the Justice Department showed extraordinary creativity in its excuses for refusing to enforce the Act. Not impressed either by evidence of direct foreign government support for the commission of Federal felonies against American citizens or by the attempts of foreign governments to use the mere existence of the IPKCA against American citizens in litigation (adding insult to injury in view of the Justice Department's refusal to enforce the Act in most cases), the Justice Department intentionally misinterprets the Act, as noted below, and refuses to expend the minimal resources required to secure an indictment and make provisional arrest and extradition requests. (See Pages 10–11)

Thanks to the refusal of the Justice and State Departments to take meaningful (and generally cost-free) preventive and remedial actions, the norm for American parents in the vast majority of these cases is no return of the child under the Hague Convention on the Civil Aspects of International Child Abduction or otherwise, no possibility of gaining extradition and prosecution of the abductor because the Executive Branch has negotiated one-way extradition treaties and the Justice Department ignores the will of Congress by failing to enforce the IPKCA, no possibility of enforceable access to or visitation with the child because most foreign legal systems have nothing comparable to contempt of court, and no effective assistance from the U.S. Government, which in fact stands ready to assist the abductor and his/her supporting government through enforcement of foreign child support orders and extradition of American parents who rescue their children.

A summary of my daughter's individual case and far more extensive remarks on this subject are contained in my testimony and written statement (71 pages including attachments) submitted to the House International Relations Committee and published in the record of its hearing on October 14, 1999. This statement concentrates on systemic problems and remedial actions concerning all Americans, although attachments address my negative experience with the Justice Department and some details of Amanda's case. Nevertheless, it is important at the outset to note the human impact of these cases and the truly barbaric conduct of governments such as Austria, Germany, and Sweden that facilitate, directly support, and ensure the success of their citizens who abduct and wrongfully retain American children with impunity. Amanda has not seen her American family, friends, school, church, and home environment for more than five years. She has several grandparents here, but none in Sweden. She has two baby sisters here whom she has never met, with another due next month, but no brothers or sisters in Sweden. Amanda's abductor could not have succeeded without the Swedish Government's comprehensive financial support and other forms of assistance. And governments such as Sweden that virtually encourage child abduction and retention by their citizens could not succeed without Justice and State Department dereliction of duty, refusal to make them pay

any price for their treaty violations and human rights abuses, and failure to protect American citizens.

This Subcommittee and Congress as a whole can do a great service to American citizens by directing the Justice Department to transform its contract with the National Center for Missing and Exploited Children (NCMEC) so that it concerns only assistance to American citizens in "outgoing" cases and mandating that NCMEC shift from helping foreign parents in "incoming" cases to helping Americans in "outgoing" cases (as NCMEC prefers), hold the case files instead of the Department of State, and play an assertive advocacy role on behalf of American children and their parents. Today, left-behind American parents must deal with hostile bureaucrats at Justice and State while foreign parents benefit from NCMEC's superb capabilities at U.S. taxpayer expense.

This Subcommittee can also do much to reject the "private custody dispute" disinformation campaign, eliminate the two-front war presented to left-behind American parents by the Executive Branch (the threats of extradition and child support enforcement), and halt the effective abandonment or "writing off" of American children through State Department closure of their cases. In addition, the Subcommittee can insist on Executive Branch preparation of items such as the attached Summary of the Swedish Government System of Abduction and Wrongful Retention of Children (as an example of what the U.S. Government should be drafting and disseminating to all U.S. courts, law enforcement authorities, family law specialists, and the public on each Hague and non-Hague country that facilitates or supports international child abduction and wrongful retention).

The past year has been a very good one for the abductors of American children. With all too few exceptions, they have enjoyed great success, thanks to the foreign governments that support them in a variety of ways and the U.S. Government that fails to provide effective assistance to its citizens who are the victims of these crimes and human rights abuses. At the same time, the U.S. Government and courts keep foreign governments happy by generally returning children to foreign parents, thus helping to maintain the status quo. Abductors of American children will continue to succeed, unless Congress takes specific actions detailed later in this statement to:

- establish accountability (e.g., annual abduction and human rights reporting to Congress as proposed in the State Department Authorization Bill)
- require effective preventive measures (e.g., dissemination of reports and advisories on foreign legal systems via the Internet and all other possible means to U.S. courts, family law specialists, law enforcement authorities, and the public)
- promote full compliance by foreign governments with the Hague Convention and other relevant international instruments, and
- ensure remedial measures in response to treaty violations.

Today, there is no accountability within the Executive Branch, few preventive measures to educate American courts and law enforcement authorities (let alone the public), no strategy to achieve full compliance with the Hague Convention and other applicable treaties, and no political will in the Executive Branch to take effective remedial measures. The reality is that foreign governments provide far more financial, law enforcement, and other assistance to their citizens and others who abduct or retain American children abroad than does the U.S. Government to the left-behind American parents. Worse still, the U.S. Government provides far more assistance to foreign citizens whose children are in the United States, often with good reason as discussed below, than it does to Americans whose children have been abducted or wrongfully retained abroad. U.S. tax dollars permit NCMEC to assist foreign parents in a variety of ways, while the American parents in those cases generally face extreme gender and/or national bias in the foreign courts concerned, and will not be able to obtain enforceable access or visitation with their children except perhaps in a few common law countries. It appears that the Executive Branch cares only about U.S. compliance with its treaty obligations and is unwilling to take any effective measures to ensure that there are negative consequences for foreign governments that consistently fail to comply with their treaty obligations to the United States and that support, in a variety of ways discussed in this statement, the commission by their citizens of Federal and state felonies against American children and their parents.

The situation for foreign left-behind parents is very different. According to statistics supplied to the General Accounting Office (GAO) by the National Center for Missing and Exploited Children (NCMEC), the combined efforts of the State Department, the Justice Department, U.S. courts, and U.S. law enforcement have ensured that more than 90 percent of children abducted to or retained in the United States

in recent years have been sent back to foreign countries. In some cases, U.S. law enforcement agencies have wrongfully assisted foreign parents and simply taken children from American citizens without a hearing or any other form of due process of law. Ironically, the U.S. returns virtually 100 percent to some of the worst offending. countries, such as Sweden and Austria. Moreover, as explained below, many of these children were brought to or retained in the United States for valid reasons, such as the impossibility of their American parents receiving fair treatment or even enforceable visitation of any kind from the foreign courts concerned. These children should not be sent away from the United States. But they are, because the Executive Branch has failed to educate American courts and family law practitioners about the grave risks (within the meaning of Article 13b of the Hague Convention) of sending them to countries where they will be denied any contact with their American parents unless the foreign parent decides otherwise.

As described below, foreign government support for abduction and wrongful retention of American and other children continues unabated. Because American lawyers and U.S. Government officials continue to have great difficulty in comprehending or even believing the point, it cannot be repeated too often that parents in our position cannot gain legally enforceable access to or visitation with our children in the countries where they are held hostage, let alone the United States, unless the abductor permits it.

In other words, the reality that would be helpful for this Subcommittee and Congress in general to address is that the problem goes well beyond the fact that foreign governments are violating their treaty obligations to the United States with impunity, refusing to return American children under the Hague Convention, stealing custody jurisdiction from American courts, and awarding sole custody to their citizens who have committed Federal and state felonies. Even at that point, one might reasonably assume, as I did, that the worst case scenario is being a noncustodial parent with only 4 to 6 weeks of visitation in the United States each year. Regrettably, the fact is that most American children are completely and permanently lost to their American parents, families, friends, and home environments.

Accordingly, American parents of abducted children are, in most cases, faced with a clear choice: abandon their children or conduct a rescue operation. For those who make the latter choice, it is hoped that Congress will ensure that they are fully supported by the U.S. Government and that the current practice of subjecting them to a two-front war (e.g., by means of extradition) is, terminated.

Immediate Remedies

This intolerable and indefensible situation would begin to improve literally overnight, if the Executive Branch took several actions that cost nothing. The first such action is simply to begin publicly telling the truth about these cases. If nothing else, however, the conduct of the State and Justice Departments during the past year has conclusively demonstrated that they will not take such actions voluntarily. Among other things, the Hague Convention Compliance Report submitted to Congress by the State Department violates both the letter and spirit of the statutory reporting requirement in P.L. 105–277, the Task Force Report to the Attorney General is an attempted fraud on Congress that has nothing to do with reality, all pending legislation (Section 203 of H.R. 2415 and Sections 201–203 of S. 886) has been subjected to unprincipled opposition without any constructive alternatives suggested, NCMEC has been successfully pressured by the State and Justice Departments into continuing to assist primarily foreign parents at U.S. taxpayer expense with only limited help and information provided to American parents, and the senior State Department official responsible for this area (Assistant Secretary Mary Ryan) has declared in an appalling letter to Insight Magazine that these cases are essentially mere private child custody disputes and that we should be encouraged by a return rate for American children of well under 50 percent. In her April 1999 letter, which is an insult to the memory of all abducted American children, Ryan claimed that there were returns, some form of visitation, or consular access in 52 percent of the cases. Since the latter two categories are unenforceable, that means the actual return rate is way below 50 percent. More recently, in her October 14 testimony to the House International Relations Committee on this subject, Ryan suddenly claimed a return rate of 72 percent, which is false. The only real hope for American children and their parents is that Congress will enact legislative directives that:

- require the Justice Department to report every 6 months on its enforcement of the IPKCA (indictments, convictions, extradition requests, countries involved, etc.)
- require the State Department to address family rights and parental child abduction in each country report of the annual human rights reports, in accord-

ance with Section 203 of S. 886 as supplemented by subjects covered in the original version of Section 203 of H.R. 2415 (e.g., whether a country can and will enforce a child's right to have access to both parents even if they reside in different countries, whether a country provides financial support to its abductors, whether a country recognizes the principle of comity and respects the laws and court orders of other countries on custody and visitation, whether a country has criminal legislation that effectively shields its abductors and targets foreign parents attempting to exercise their custody rights, whether statistics show that a country's legal system demonstrates gender or national bias in child custody cases)

- require the State Department to disseminate an interpretation of Article 13b of the Hague Convention to all U.S. courts (with notice to all Hague Convention Parties and announcement at the next Hague Convention Review Conference) that "grave risk" to the child as a basis for nor-return includes situations where the child(ren) would be returned to a country with a legal system that has no effective means of enforcing visitation in the United States (or anywhere else) for the American parent or enforcing any other aspect of its civil court orders (i.e. a legal system that has nothing comparable to contempt of court)
- require the State Department to conclude bilateral agreements with the worst offending countries concerning access and visitation
- prohibit the State and Justice Departments from assisting foreign parents in domestic litigation until they uniformly assist American parents in Federal or state court litigation financed by foreign governments and brought to challenge or subvert U.S. court orders
- require the State and Justice Departments to inform all extradition treaty partners that the United States will not extradite its citizens for the offense of parental child abduction to any country that does not extradite or effectively prosecute its nationals for that offense and does not consistently return requested children under the Hague Convention
- require the Executive Branch to transform its contract with NCMEC to process "incoming" of cases into a contract for NCMEC to assist only with "outgoing" cases, to transfer all "outgoing" case files from the State Department to NCMEC, and to inform all Hague Parties that NCMEC will no longer assist with "incoming" cases
- mandate that NCMEC take an assertive advocacy role on behalf of American children and parents with BOTH foreign governments and the U.S. Government
- terminate the State Department's authority under P.L. 104–193 (Section 459A) to conclude reciprocal child support enforcement agreements and require the State Department to inform the states that foreign child support orders should not be enforced in cases where the American parent has no enforceable visitation in the United States or there has been a violation of U.S. law or court orders, Federal or state felonies, failure to return a child under the Hague Convention, and so on.

Recent Executive Branch Performance—Report to the Attorney General

"We cannot push too hard in the Johnson case because that might jeopardize the return of children in other cases."

(Assistant Secretary Mary Ryan)

"I don't work for the American people, I work for the Secretary of State."

(Assistant Legal Adviser Catherine Brown)

"Why are you calling about the Johnson case? That case is closed."

(Response to NCMEC by Ellen Conway of the Office of Children's Issues)

These are actual statements concerning my daughter's case or child abduction generally made to me or others by State Department officials who are supposed to be responsible for obtaining the return of abducted American children. They will give you some idea of what American parents experience when they deal with the State Department, and why this function needs to be shifted elsewhere, with the Department placed in receivership in this area by Congress in the interim. The first statement is a classic expression of appeasement. The second may confirm many suspicions about the State Department, but was also both honest and sincere, which is precisely the problem. And the third raises the issue of the State Department writing off American children by closing their cases as soon as the foreign government makes a final denial of the U.S. request for return. You know about this matter because the State Department told you that there were only 56 "unresolved" Hague cases in its Hague Convention Compliance Report to you last spring. As a Marine who was trained from Day 1 never to leave anyone behind and as a citizen who admires and supports the MIA effort, I find the bureaucratic closing of our chil-

dren's cases particularly offensive. My understanding is that no one, from the President on down, has the authority to write off American citizens, especially our youngest ones.

Rather than alleging dereliction or incompetence at the State and Justice Departments, it is really only necessary to look at Executive Branch actions and inaction during the past year. particularly with regard to three matters: the State Department's Report to Congress on Hague Convention Compliance, the so-called Task Force Report to the Attorney General, and State Department opposition to proposed legislation. All three are addressed in my October 14 testimony to the House International Relations Committee. This statement concentrates on the Report to the Attorney General because the Justice and State Departments are attempting to portray it as something other than just a repackaging of the status quo.

The Attorney General promised this report to the Senate Foreign Relations Committee last fall in order to gain the release of 38 law enforcement treaties being held up because of the poor performance of the Executive Branch in the child abduction area. The Report submitted to Congress has virtually nothing to do with the realities facing American parents and is a blatant attempt to perpetrate a fraud on Congress by giving the impression that the Executive Branch intends to do something other than maintain the status quo. The Report is an example of the oldest game in Washington: production of a "blue ribbon" report by bureaucrats under fire to get Congress, the media, and the public off their backs WHILE CHANGING NOTHING. This Report is noteworthy only for what it omits and conceals. NCMEC recognized this early in the drafting process and withdrew from the project in a hard-hitting written dissent available to the Committee, but the fails to make clear that NCMEC is NOT one of the drafters. Any credible GAO Report would have to evaluate this Report in detail and should discuss the facts that the Report does not explain the discrepancies between the Report's rhetoric and actual Executive Branch conduct (opposition to legislation, thorough reporting, release of documents to parents) and the innumerable gaps, ambiguities, and cover-ups in the Report, including:

- no game plan for diplomatic and other responses to foreign government Hague violations or other forms of support for abduction/retention of American children
- no mention of the central importance of the absence of anything comparable to contempt of court in most Hague countries, thus ensuring total loss of children not returned under the Convention
- no indication that anything other than the status quo will be maintained with business as usual even with the worst violators of the Hague Convention and worst non-Hague countries
- no revelation of the largely successful effort to freeze NCMEC out of "outgoing" cases
- no clear recognition that these are not "private custody disputes"
- no disclosure of how bad the numbers are (see NCMEC memorandum to GAO)
- no recognition that a "grave risk" within the meaning of Article 13 of the Hague Convention exists from countries that cannot effectively enforce access or visitation
- no recognition of the consequences of failing to educate U.S. courts about the nature of foreign government support of child abduction and retention
- no hint of DOJ refusal to enforce the 1993 International Parental Kidnapping Crime Act
- no hint of general DOJ refusal to request extradition
- no acknowledgment of the human rights standards that are being violated and the differing approaches of the First Lady (who is legally and morally right) and the State Department
- no mention of foreign government threats and demands against American parents concerning reimbursement of child support and legal fees paid to abductors
- no mention that the Executive Branch fails to monitor domestic litigation against American parents financed by foreign governments
- no strategy for dealing with extortionate demands by even the best Hague countries (e.g., the UK) for costly "undertakings" by the American parent, as in the Lebeau case
- no acknowledgment that foreign governments claim "private custody disputes" while hiding behind their sovereign immunity in hiring and paying American lawyers to represent abductors in abusive litigation in U.S. courts intended to exhaust American parents financially
- no hint of State's negotiation of child support enforcement agreements with foreign governments without safeguards or exclusions to protect left-behind American parents
- no revelation of State's policy of closing cases and compartmentalizing them at the lowest level to avoid any impact on bilateral relations.

GAO REPORT: Senator DeWine of this Subcommittee is among those who have requested a GAO report on the performance of the Executive Branch in this area. As indicated above, a credible GAO report must thoroughly evaluate the Task Force to the Attorney General along the lines suggested and address those issues wholly apart from the context of the Report to the Attorney General. GAO has been supplied with the names and addresses of dozens of American parents, attorneys, and others familiar with the performance of the Executive Branch concerning international child abduction and retention. GAO needs to interview these people and form its own conclusions. Among other things, a GAO report should include:

- Scope of the problem with complete statistics
- Adequacy of existing legislation
- Adequacy of cooperation with NCMEC and American parents
- Refusal of State to include the subject in the Human Rights reports
- Adequacy of the Hague Convention Report to Congress
- Adequacy of Executive Branch cooperation
- Disparity between return rates from the U.S. versus to the U.S.
- Review of case files to ascertain adequacy of State services to parents
- State's criteria for closing cases
- Executive Branch strategy for dealing with violator countries
- Treatment of American parents (access to documents, protection from foreign child support demands, frequency of contact)
- Cooperation and support from embassies and the State Department overall.

Foreign Government Support for International Parental Child Abduction and Wrongful Retention of Children

The principal purpose of this statement, as indicated above, is not only to discuss individual cases or countries, but rather to provide a general description of foreign government support for the abduction and retention of American children, the response of the United States Government, and proposed Congressional actions to assist American children and parents affected by the crime of international parental child abduction and retention. Accordingly, information on my daughter Amanda's case and my experience with the Swedish legal and social welfare systems is only provided as an example of what often confronts left-behind American parents.

SIX PILLARS OF GOVERNMENTAL CHILD ABDUCTION OR WRONGFUL RETENTION

While the present overall Swedish legal and social welfare system may well be one of the worst adversaries that a left-behind American parent can face, at least some elements of that system exist in many other countries, especially in European civil law countries. The Swedish system includes all of what could be called the Six Pillars of governmental child abduction and retention:

(1) undeniable bias against foreign parents by the courts (compared to the very high rate of returns of abducted children from the U.S. ordered and enforced by U.S. courts);

(2) no enforceable visitation or other parental rights for foreign parents (owing to the absence of anything comparable to our contempt of court mechanism);

(3) no concept of comity (reciprocal enforcement of foreign court orders, including custody orders agreed to by their nationals);

(4) payment of unlimited legal fees for their nationals who abduct or retain children in all litigation at home and in the U.S. (in both Hague Convention and regular custody proceedings);

(5) aggressive action by police and prosecutors against foreign parents in enforcing criminal legislation specifically drafted and intended to protect their child abductors/retainers;

(6) "address protection" programs that enable abductors/retainers and the children involved to disappear even from U.S. consular officers, with the aid of the police and social welfare agencies.

In short, these are NOT "private child custody disputes," as Germany and Sweden try to claim in these cases, and as Executive Branch officials who may wish to write off the children concerned and do business as usual with such countries would like to believe. The following are not "private": treaty violations, Federal and state felonies, human rights abuses, government payment of legal fees and other financial support, foreign government failure to provide civil or criminal remedies to left-behind American parents, foreign government refusal to respect U.S. laws and court orders.

American parents in such cases are often essentially alone against the power and wealth of the governments concerned. Of course, individual parents capable of internationally abducting or wrongfully retaining children are to be found in every country. The question, therefore, is whether their governments will control their conduct and protect the parental rights of foreign parents, especially in light of the international legal obligations of all countries under either (or both) the Hague Convention and human rights treaties that guarantee the role of both parents and the right of children with parents of different nationalities to spend time in both countries.

Because it has proven nearly impossible for Executive Branch officials and other Americans (especially judges and lawyers) to believe, it must be repeated that, as a practical matter, the exercise of jurisdiction over an abducted or wrongfully retained American child in a regular child custody proceeding by a German or Swedish or Austrian or Danish court (with the inevitable grant of effective sole custody to the non-American abducting parent whether or not it is called "joint" custody) is equivalent to termination of the parental relationship between the child and the American parent. Even if some form of access or visitation is awarded on paper, American parents have no legally enforceable rights of any kind in such countries.

INTERNATIONAL PARENTAL KIDNAPING CRIME ACT OF 1993

This Act should either be revised (if that will result in greater willingness of U.S. Attorney's offices to utilize it) or be enforced as it stands when Hague Convention remedies are exhausted or inapplicable, or the left-behind parent so requests. At present, despite the best intentions of Congress, the 1993 Act is not only a failure in helping Americans (there have been few indictments, and fewer still convictions and provisional arrest requests under the Act), but it has become an effective tool for foreign child abductors and retainers. Under some extradition treaties, it actually creates dual criminality where none existed before, so that American parents who rescue their abducted children can be extradited to countries that refuse to extradite their nationals for parental child abduction or any other offense and also refuse to return children consistently (or at all) under the Hague Convention.

Moreover, to add insult to injury for the victims of child abduction or wrongful retention who know that the Department of Justice will generally not implement the 1993 Act, its mere existence (and the purely theoretical possibility of prosecution of foreign abductors or retainers) is being used against American parents in Hague Convention and regular custody litigation in the U.S. and abroad. Attorneys for child abductors/retainers, including those hired and instructed by foreign governments that are U.S. treaty "partners," have argued that the fear of prosecution under the 1993 Act justifies the denial of applications for return of children under the Hague Convention, as well as refusal of abductors/retainers to appear in U.S. custody proceedings. This latter argument concludes with a demand that U.S. courts defer to the jurisdiction of the foreign court.

That was precisely the argument made in Virginia to the trial court and the Court of Appeals in my daughter's case by the attorney hired by the Swedish Government. Fortunately, the Virginia judge cut through the argument by asking whether the abductor would immediately return to Virginia with the child if given immunity from prosecution. This bad faith argument fared no better in the Court of Appeals. But the argument that the children should not be sent back to the U.S. under the Hague Convention if the local parent faces criminal charges will almost certainly succeed in many foreign courts.

With regard to implementation of the 1993 Act, the approach being taken by some U.S. Attorney's offices concerning the Act cannot possibly be consistent with the intent of Congress. Although the Act places both wrongful removal (or abduction) of a child from the United States and wrongful retention abroad on the same level, as does the Hague Convention, wrongful retention abroad is effectively being read out of the Act by some prosecutors as not serious enough to merit indictment.

Moreover, some prosecutors have unilaterally added as an affirmative defense that a child abductor or retainer is attempting to obtain a local custody order abroad and would already have succeeded so but for Hague Convention proceedings freezing the local custody process. In like manner, some prosecutors are incorrectly asserting that a foreign court order denying return of the child(ren) under the Hague Convention constitutes a defense under the Act. Disregarding the entire object and purpose of the Hague Convention in Article 1 (respect for the custody laws of other Parties to the Convention), such prosecutors apparently have no difficulty with individuals who clearly violate U.S. court orders and custody rights, as long as they are also attempting to persuade a foreign court to ignore the orders and unilaterally take jurisdiction over the case. In essence, this approach gives immunity from prosecu-

tion, so long as abductors are using the legal process in their home country, no matter how corrupt, incompetent, or biased against foreign parents it may be.

Even when Hague Convention remedies are inapplicable or have been exhausted, and thus utilization of law enforcement mechanisms will not jeopardize return of the child(ren), left-behind parents hear a litany of excuses for failure to implement the Act or to use it in any way to pressure abductors into returning the child(ren). The latter approach does not constitute misuse of the criminal process to achieve a civil law objective, as some might argue. Rather, it would constitute use of a criminal law to bring a halt to criminal conduct, which is presumably what Congress intended. At the moment, the point is moot because the 1993 Act is being used far more by foreign governments against Americans than by the U.S. Department of Justice.

In litigation financed by foreign governments, as noted above, its mere existence is cited as a reason not to return children to the United States in European courts and as a reason to defer to European jurisdiction in U.S. courts. Adding to the irony of the general refusal by U.S. law enforcement authorities to implement the 1993 Act is the very aggressive enforcement by some European law enforcement authorities of laws or policies that protect local child abductors and target foreign parents who attempt to exercise their sole or joint custody rights. An example of such a criminal law from the Swedish penal code is attached to this statement. It has been used as a justification for aggressive Swedish police action against several American fathers, including me.

Especially in Scandinavia, mothers also increasingly have the option of going "underground" or otherwise stalling long enough to have the case reopened, with the best interests of the child(ren) then being found to require remaining in place because they are fully resettled. Of course, in social welfare States where the governments continue to pay legal fees, child maintenance, and other allowances to child abductors, the authorities can easily find those who go "underground" if they want to.

While a few countries that provide legal aid to both parties in Hague cases without regard to need (e.g., the United Kingdom) may have a valid complaint about the failure of the United State's to provide legal aid to anyone, the situation is far worse where a government pays unlimited legal fees at home and abroad for its child abductors, so that left-behind American parents are confronted by the deep pocket of a foreign government not only in foreign courts but also in U.S. courts. The point is that foreign parents are not in any way up against the U.S. Government in abduction cases here.

United States Government Response (or lack thereof) To Foreign Government Support of International Parental Child Abduction and Wrongful Retention of Children Abroad

Today, when an American parent faces the nightmare of international child abduction or wrongful retention abroad, he or she does so alone in most respects. Legal fees and other expenses can quickly mount to tens of thousands of dollars. A decade after U.S. ratification of the Hague Convention on the Civil Aspects of International Child Abduction, there is still no central repository of reliable information and expertise in the Executive Branch that can quickly and effectively supply accurate basic data on the legal system, child custody institutions, law enforcement system, social welfare system, legal aid program, and Hague Convention performance of the abductor's country. The left-behind American parent thus has little basis for evaluating the options available.

Some of the information supplied by the Executive Branch last year to the Senate Foreign Relations Committee in order to obtain the release of 38 law enforcement treaties was inaccurate, incomplete, and misleading, particularly the implication that "everybody does it" and that the United States is no better than most other countries. That implication is false, and the Executive Branch knows it. Moreover, the frequent claim by the Executive Branch that elementary but essential information on a variety of matters concerning foreign legal systems in connection with child abduction or child custody is "not available" to the Executive Branch is untrue. This information is readily available and could be obtained without difficulty or expense from American embassies, experts in the field, local attorneys, and American parents who have learned the hard way. The Executive Branch simply does not want Congress to have this information because of the likely Congressional reaction.

Although all concerned would presumably agree that prevention and deterrence of child abduction or wrongful retention are the ultimate goals, little is being done in this area. Dissemination of information on the key institutions, laws, and child custody practices of other countries is the key to eliminating much of the secrecy

and ignorance that leads to successful child abductions and retentions. Countries whose legal systems and child custody institutions guarantee frequent non-compliance with the Hague Convention or no visitation or other rights for American parents need to be publicly identified and analyzed in depth.

There is no monitoring by the Executive Branch of U.S. litigation financed by foreign governments against left-behind American parents (or responsiveness to reports of such litigation), so that U.S. Government statements of interest or amicus curiae briefs can be filed in landmark cases. Instead, the Executive Branch participates in Hague Convention and perhaps other litigation on behalf of foreign parents while failing to help Americans up against the deep pocket of foreign governments trying to reverse or undermine U.S. court orders. Assisting Americans would not require a significant increase in resources. In two recent cases, statements of interest from the U.S. Government of only a page or two would have been invaluable. In my own case, I prevailed in upholding the U.S. custody order in the highest courts of Virginia, but only at a personal cost of more than $20,000 while the Swedish Government financed this bad faith litigation to exhaust my financial resources while having no intention of respecting any result adverse to the Swedish abductor. In the other case, Mark Larson of Utah lost in the 10th Circuit for acting precisely in accordance with U.S. Government policy and advice in Hague Convention cases. In view of the strong dissenting opinion, literally a few sentences in a U.S. Government statement of interest might have made a difference.

In contrast, foreign Central Authorities often work just as hard to assist their nationals who abduct or wrongfully retain children as they do for their nationals who are victims of these offenses. In the case of the Swedish Central Authority, its support of child abduction and wrongful retention include such means as coordination of litigation strategy in both Sweden and the U.S. against American parents. This has included creative attempts to:

(a) use the Uniform Child Custody Jurisdiction Act in U.S. courts to obtain for Sweden the status of an American state for purposes of jurisdiction and enforcement of Swedish custody orders, and,

(b) use the mere existence of the 1993 International Parental Kidnapping Crime Act in both Swedish and U.S. courts as a justification for not returning children to the U.S. on the pretext that the Swedish abductor might be prosecuted (which adds insult to injury in view of the fact that the Justice Department will only rarely enforce the Act).

Other activities of the Swedish Central Authority have included automatic distribution of Swedish and U.S. Government documents and information to Swedish abductors and their attorneys (while the State Department tells Americans to file Freedom of Information Act requests), informing the Swedish police and prosecutors that American child custody orders have no validity in Sweden in contravention of the whole object and purpose of the Hague Convention set out in Article 1, translation only of court decisions and other documents favorable to the Swedish abductor, and so on. Such conduct by a foreign government, especially its Central Authority for an international convention *against* child abduction and wrongful retention, should receive the widest possible exposure and censure.

Litigation in the United States financed by foreign governments against Americans who are already the victims of crimes committed by nationals of those governments should at least raise some serious questions about possible abuse of sovereign immunity. For example, the Swedish Government attempts to put a legal gloss on the abductions and wrongful retentions committed by its citizens by pursuing frivolous appeals of U.S. custody orders all the way to the supreme court of the states concerned even when the children have been held hostage in Sweden for years. Roughly five years ago, Julia Larson was abducted to Sweden from Utah for the third time and my daughter Amanda was wrongfully retained in Sweden. Neither child has been in the United States nor been allowed normal contact with their American families, but the Swedish Government has considered it necessary to try to make everything look "legal" by attacking the Utah and Virginia custody orders in extremely expensive and time-consuming litigation. An effort in Virginia to satisfy a money judgment against the abducting mother by garnishing the retainer paid to her attorney was blocked by an affidavit (attached) declaring that all funds held by the law firm are directly from "the Kingdom of Sweden's legal aid agency."

Several additional preventive and remedial actions by Congress are needed to "level the playing field" for American parents facing off against foreign governments. Congress is confronted daily with many competing demands that have serious resource implications. This request does not. It seeks only the requisite political will to accomplish the objectives of better protecting American children from inter-

national parental kidnaping, especially when such conduct is directly supported by foreign governments.

Proposed Congressional Actions Against International Child Abduction

In view of the overall poor performance of the State and Justice Departments for many years, receivership is necessary. Accordingly, the following proposals do not constitute micro-management.

(1) U.S. Central Authority

PROPOSALS: (A) Amend ICARA if necessary or otherwise direct that the U.S. Central Authority for the Hague Convention be shifted immediately from the State Department to the Civil Division of the Justice Department (with the State Department directed to provide all support and assistance requested), taking into account the need to improve such areas as:

- training and expertise of personnel
- continuity and institutional memory of personnel
- number of personnel available
- caseload of personnel
- quality, quantity, and nature of legal support available
- the balance between child abduction/retention cases and "good relations" in bilateral relations
- the role of regional bureaus and American embassies
- general openness and a willingness to provide left-behind American parents with all available information and documentation.

(B) Direct that NCMEC cease handling incoming cases and play the same role for "outgoing" cases (i.e., abductions from the U.S. and retentions of American children abroad) that it has been playing for "incoming" cases, with a mandate for assertive advocacy on behalf of American parents on all fronts.

(2) Human Rights and Prevention, Publicity, and Accountability (See also pages 43–53)

PROPOSALS: (A) Human Rights: In the "children's rights" section of the annual human rights report on each country, direct that the child custody system be summarized, including gender bias or bias against foreigners based on statistical evidence, enforceability of visitation/access for noncustodial parents (i.e., is there anything comparable to contempt of court?), payment of legal fees for host country nationals in custody or abduction cases, criminal legislation that protects abductors/withholders, compliance (or not) with the relevant provisions in the Convention on the Rights of Child on the role of both parents, the right of children in international cases to spend time in both countries, etc. The U.S. is not a Party but has signed and complies with the relevant provisions to a far greater extent than most States Parties.

- Each year, the annual human rights report is eagerly awaited, widely disseminated, and, unlike most government reports, widely read throughout the world. One important function that the annual human rights reports should perform is prevention, as "human rights advisories" comparable to travel advisories; i.e., to alert potential victims of current and/or ongoing, systemic human rights abuses. If just one child from ANY country is saved from being lost because a judge, attorney, parent, or family friend reads or hears about government-supported child abduction/retention in a given country, then an accurate and complete report will have accomplished something both worthwhile and right. An accurate and complete report on countries such as Sweden would constitute a great service to American and other parents who might be warned in time to avoid losing their children.
- This subject belongs in the Human Rights Reports on its merits based on the numerous provisions in international human rights instruments that are violated by foreign governments in these cases. The First Lady has been right morally and legally in repeatedly declaring that international child abduction and retention are a human rights matter. State Department opposition is ludicrous, especially in view of what IS covered in the reports already and the fact that this is a systematic human rights abuse against Americans, whereas the current reports are devoted almost exclusively to what foreign governments do to their citizens.

(B) Enact a permanent annual reporting requirement on Hague Convention Compliance to cover retention cases and any case where the child is not returned to the United States not resolved within 6 months, and to include lists of countries that do not have anything comparable to contempt of court and cannot enforce their own

civil court orders, that pay the legal fees of their abductors/retainers, that have criminal legislation which effectively protects their abductors/retainers, etc.

(3) Bilateral Relationships

PROPOSAL: Review what type of relationship the United States should have with governments that engage in the following conduct and attach consequences such as no new law enforcement treaties or child support enforcement agreements if they:

- are directly engaged in facilitating, financing, otherwise supporting, and rewarding criminal conduct against American citizens
- have in place any elements of a governmental child abduction system
- have refused return of American children abducted/retained in violation of U.S. law or court orders
- have unresolved cases of abduction/retention of American children with no meaningful or enforceable access for the American parent
- use their law enforcement authorities aggressively against American parents whose children have been abducted/retained and rarely if ever use them to assist American parents
- have failed to compensate American parents of abducted/retained children for their legal and other expenses
- abuse their sovereign immunity by financing litigation in U.S. courts against American parents while claiming that the cases are private custody disputes and refusing to respect/enforce results adverse to their citizens.

(4) Extradition

PROPOSAL: Direct that the United States inform all extradition treaty partners that the U.S. will not extradite its nationals for the offense of parental child abduction or related offenses to any country that will not extradite or effectively prosecute its nationals and will not fully comply with its obligations under the Hague Convention.

(5) Mutual Legal Assistance Treaties (MLAT's)

PROPOSALS: (A) Consider whether the United States should provide assistance against a left-behind American parent in any case where there has been a child abduction/retention in violation of U.S. law or court orders AND whether the United States should provide assistance under any foreign law that criminalizes the attempts of custodial parents (sole or joint) to exercise their parental rights in response to abduction/retention of their child(ren). (e.g., See attached Swedish penal law that has been used against several American parents of abducted/retained children).

(B) Refuse to sign or ratify an MLAT with any country that consistently supports international child abduction such as Sweden, in view of participation by Swedish police and prosecutors in the commission of Federal and state felonies against American citizens, Sweden's blatant and continuing violations of its obligations under related treaties, the unacceptable elements of Sweden's legal and social welfare system (summarized above), and the current and past cases of criminal conduct and human rights violations against American children and their parents directly facilitated, financed, rewarded, and supported in every conceivable way by the Government of Sweden.

(C) Deliver a message comparable to the following one that should be delivered to Sweden to any country that engages in similar conduct; i.e., that no further consideration will be given to moving forward on a mutual legal assistance treaty (MLAT) until the Government of Sweden:

- terminates its comprehensive participation in ongoing Federal and state crimes against American citizens, in particular the International Parental Kidnapping Act of 1993 (18 USC 1204) and the comparable laws of each state
- acknowledges that American children over whom Swedish courts exercise custody jurisdiction are completely lost to their American parents unless the Swedish parent decides otherwise, and takes effective remedial actions
- eliminates the Swedish Government Child Abduction System (see above), starting with acknowledgment and elimination of the 5 pillars of the System (no principle of international comity in the Swedish legal system, undeniable bias by Swedish courts against non-Swedish fathers in regular custody proceedings and guaranteed sole custody awards for Swedish child abductors, nothing comparable to contempt of court to enforce access/visitation, unlimited government financing of legal fees and other expenses of Swedish abductors, and aggressive Swedish law enforcement use of a criminal statute that targets non-Swedish fathers)

- resolves satisfactorily all pending cases of child abduction/retention by Swedish citizens through return of the children to the United States and putting in place immediately enforceable criminal remedies against the Swedish citizens involved to prevent any recurrences
- implements and demonstrates the effectiveness of reforms of its legal and social welfare system to deter or quickly resolve in an acceptable manner all future cases, including in particular unsupervised and immediately enforceable access to the children concerned guaranteed by something comparable to criminal contempt, termination of legal aid for child abductors in civil proceedings, and streamlining its legal system to prevent endless appeals and delays
- repeals its criminal law directed against non-Swedish fathers attempting to exercise sole or joint custody rights over children abducted or withheld by Swedish mothers
- directs its police and prosecutors to cease harassing and attempting to intimidate American and other parents of abducted/retained children who attempt to exercise their custody rights
- compensates American parents of abducted/retained children for all expenses of litigation financed by the Swedish Government in both Sweden and the U.S., as well as all other costs and damages resulting from Sweden's failure to comply with its treaty obligations under the Hague Convention on the Civil Aspects of International Child Abduction and the family/parent provisions of the Convention on the Rights of the Child
- halts its abuse of sovereign immunity in aggressively litigating against American parents in U.S. courts with no intention of respecting or enforcing results adverse to the Swedish citizen
- demonstrates that it will extradite or effectively prosecute Swedish parents who engage in child abduction/retention.

(6) Child Support Enforcement

PROPOSAL: Terminate the State Department authority in P.L. 104–193 (Section 459A) or at least amend it to:

(a) prohibit any child support enforcement arrangement with a country that does not have a legal system providing prompt, adequate and effective enforceable, unsupervised access/visitation IN THE UNITED STATES by means of something comparable to contempt of court

(b) prohibit any child support enforcement arrangement unless it contains ironclad guarantees that no American parent of an abducted/retained child will be affected, harassed, or penalized in any way AND it expressly excludes any case where there is or has been at any time:

- a violation of a U.S. custody order or U.S. custody law
- a violation of a Federal or state criminal law
- a denial of a request for return of the child(ren) under the Hague Convention or a failure of the foreign Central Authority to comply with other Convention obligations
- termination or reduction of any support obligation by a U.S. court
- an unpaid judgment or fine imposed by a U.S. court on the foreign parent
- a failure by the foreign government or its courts to provide rapidly enforceable, unsupervised, and generous visitation in the United States with police assistance and with no legal aid provided to the foreign parent violating a foreign or U.S. custody order
- an inability or refusal by the foreign government/courts to control the conduct of the foreign parent through contempt of court or other effective means
- an inability or refusal by the foreign government/courts to protect and promote the exercise of parental rights by the American parent

(7) Implementation of the International Parental Kidnaping Act of 1993, 18 US 1204

PROPOSAL: Either mandate Justice Department enforcement of the Act or repeal it, in view of the foreign government efforts to use the Act against Americans noted above. At present, the law is primarily used against Americans and rarely enforced by the Justice Department.

- If not repealed, require an annual DOJ report on the number of requests from parents or their counsel for indictments, number of indictments, number of extradition requests, number of actual prosecutions, etc.

(8) Privacy Act

PROPOSAL: Require that left-behind parents be provided with the option (in writing) to waive all Privacy Act rights so that their names can be given to parents

involved with the same country and to organizations (such as NCMEC) that can help.

- Prohibit use of the Act to withhold any information or documents from left-behind American parents
- Prohibit use of the Act on behalf of abducted American children or abductors (even if U.S. citizens) as a basis for withholding information or documents from left-behind American parents

(9) Freedom of Information Act (FOIA)

PROPOSAL: Prohibit use of FOIA as a basis for refusing release of ANYTHING and EVERYTHING to American parents in child abduction/retention cases (information, documents, diplomatic and other government-to-government correspondence, etc.)

- these are not matters of national security; a left-behind American parent has an absolute right to know everything that his government has done or failed to do to obtain the return of the American children concerned

(10) Exception To Foreign Sovereign Immunities Act

PROPOSAL: Create an exception to the FSIA giving American citizens a cause of action in U.S. district courts against foreign governments (and all their assets in the United States) that directly engage in, facilitate, or otherwise support criminal conduct against them and their children.

(11) Bilateral Claims

PROPOSAL: Consider the use of bilateral U.S. Government claims on behalf of American children and their parents against foreign governments that have permitted their nationals to abduct/retain American children (and perhaps provided assistance and support).

(12) Office of Foreign Missions

PROPOSAL: Require OFM to: (A) regulate and monitor the hiring and payment by foreign governments of American attorneys in cases of abduction/retention of American children where U.S. civil/criminal law or U.S. court orders have been violated, and (B) monitor and discourage any harassment of American citizens by foreign government agencies demanding either "child support" for abducted/retained American children or reimbursement to the foreign government of the legal fees it has paid for someone who has abducted or retained American children.

(13) Interpretation of the Hague Convention

PROPOSAL: Direct that the Executive Branch inform all U.S. courts and Hague Convention countries that the term "grave risk" in Article 13 of the Convention (as a grounds for not returning a child) should be interpreted to include situations where the country concerned cannot provide enforceable access or visitation owing to the absence of anything comparable to contempt of court in its legal system.

ATTACHMENTS: As noted

THOMAS A. JOHNSON,
Alexandria, Virginia, April 25, 1997.

Subject: International Parental Kidnaping of Amanda K. Johnson

ROB CHESTNUT, ESQ.,
Chief, General Crime Section,
Office of the U.S. Attorney,
Eastern District of Virginia.

DEAR ROB: Thanks again for returning my call. Sorry I missed you on my way out of town. I will be back in the office on May 12.

As I indicated in my message on Friday, the intent and language of Congress and the President in enacting and signing the International Parental Kidnaping Crime Act of 1993 were clear, and the reasons that you have given thus far for not proceeding are not consistent with the letter and spirit of the Act. Rather than repeating and supplementing previous arguments, I would simply ask at this point that you and the U.S. Attorney look over the materials I am faxing. Combined with the items you already have, the contrast could not be greater between the direct support that Swedish nationals who commit felonies against American citizens receive from the Swedish government and law enforcement authorities on the one hand, with the situation of their American victims on the other hand.

The first item consists of pertinent pages from the appellate brief in Virginia financed and supervised by the Swedish government. Last August, I informed you that the attorney hired by Sweden, Richard Crouch, tried to make an "inconvenient forum" argument in the Alexandria Court by asserting that the abducting mother would be prosecuted under the 1993 Act. When the judge expressed skepticism, Crouch tried to gain ground by lying to the Court, claiming that one of his clients was "being prosecuted under the Act." You told me that no one has been charged or prosecuted in your district under the 1993 Act and that you had not heard of any cases nationwide. (There has apparently been at least one conviction under the Act since last summer.) In any event, you will note from the marked portions of the brief that Crouch (and the Swedish government) are adding insult to injury by attempting to use the mere existence of the law that your Office refuses to enforce in order to consolidate the successful commission of a crime covered by the Act. There is something terribly wrong if you and the U.S. Attorney do not have a problem with a foreign government notorious in the child abduction field making such a mockery of U.S. law (and the U.S. law enforcement system generally) in a case involving a child from your district who is literally being held hostage, as the other items demonstrate.

The second item (circled portion) is the Swedish penal code provision under which I was arrested in September after picking up my daughter at her school, going to McDonalds, and returning to our hotel. A Swedish prosecutor authorized my arrest, and I was held for 48 hours as pure intimidation. Since there was insufficient evidence of any crime even under the Swedish system, I was released and returned home. But the "investigation" was dragged out for two months, during which I was not allowed even to speak with Mandy by telephone because she was "a potential witness." I trust you agree that the "law" in question would be unconstitutionally vague and against public policy here. Its only purpose is to protect Swedish child abductors. Two senior Swedish prosecutors have told me that it is intended for use against "fathers from the South" (Arabs and Africans), but conceded that it is also useful against other lesser breeds such as Americans. Suffice it to say that Swedish prosecutors take care of their own.

The third item is a translation of the police orders for the supervision of my visitation with Amanda just before Christmas. There is no Swedish custody order. The only custody order in the world gives me sole and exclusive custody. But the Swedish police were willing to devote two officers for guard duty on three different days in furtherance of criminal conduct. Your office is apparently unwilling to devote relatively minimal time to paperwork in response to criminal conduct. In view of the Swedish government's acknowledgment in the appellate brief that the mother has violated the 1993 Act, this action in December constituted direct participation by the Swedish police in an ongoing felony. The fourth item is photographic evidence of that criminal conduct.

The fifth item constitutes mail fraud and attempted extortion, and is probably covered by RICO. The Swedes determined the monthly amount by taking one provision from the Virginia order that they are otherwise completely violating and extrapolating a weekly amount of child support that was to be paid only about 55 percent of the time until Mandy's 18th birthday to cover 100 percent of the time. There has been no Swedish custody hearing, but the Swedes are proud to be able to state the results in advance and to recognize reality in assuming 100 percent of the time with the mother, since there is no enforceable visitation under the Swedish "legal" system.

I hope that the sum total of these items will cause you to reconsider. Some cases do come down to a clear choice between right and wrong. This is one of them.

SUMMARY OF THE SWEDISH GOVERNMENT SYSTEM OF INTERNATIONAL ABDUCTION AND WRONGFUL RETENTION OF CHILDREN

In both domestic and international situations, cases of abduction and wrongful retention of children by a Swedish parent are not merely "private custody disputes," in view of the lack of effective remedies provided by the Swedish legal and social welfare systems to the left-behind parent and the extensive Swedish government financial, law enforcement, social welfare, and other support supplied to Swedish parents who engage in abduction/retention of children.

In international cases where only one parent is Swedish (particularly where the mother is Swedish), children not returned under the Hague Convention on the Civil Aspects of International Child Abduction are, as a practical matter, completely lost to their non-Swedish parents unless the Swedish mother decides otherwise. This is the result of the Swedish legal system's *inability* to effectively control the conduct

of Swedish parents and protect the rights of non-Swedish parents in the absence of any judicial power comparable to contempt of court. In regular child custody proceedings, Swedish courts invariably grant sole custody to Swedish mothers and, as noted, have no power to enforce visitation for non-custodial parents. Although a new Swedish law entered into force on October 1, 1998 permitting Swedish judges for the first time to impose joint custody over the objections of one parent, this law will not be applied with any practical effect when a foreign father is involved. Moreover, the terms of any such joint custody order will be just as unenforceable in Sweden as the visitation provisions of a sole custody order. Similarly, although Swedish legal principles permit sole custody to be shifted from a parent who denies access to a child on the grounds that such a parent is unfit per se, it is highly unlikely in such a case that custody would ever be shifted from a Swedish mother to a non-Swedish father when the consequence would be that the child leaves Sweden to reside elsewhere.

Even in cases where a foreign parent has sole or joint custody under a non-Swedish custody order and no Swedish custody order exists, there is no concept of comity in the Swedish legal system, (despite Sweden's obligation under Article 1 of the Hague Convention to ensure respect for the rights of custody and access under the law of other States Parties). Swedish law enforcement authorities, having been informed by the Ministry of Foreign Affairs that foreign custody orders "have no validity in Sweden," aggressively interfere with any effort by a foreign parent to exercise his custody rights in Sweden and may arrest and prosecute him under a unique Swedish penal law that effectively protects and rewards Swedish child abductors/retainers.

In both Hague Convention and regular child custody litigation in Sweden and abroad (including all possible appeals in Sweden, the other country concerned, and the European system), the Swedish social welfare system provides unlimited payment of legal fees for Swedish citizens, thus significantly reducing the incentive for the Swedish child abductor/retainer to compromise or otherwise settle the case. This enables the Swedish citizen to pursue appeals to the highest courts of Sweden and the other country concerned at no expense, while exhausting the financial resources of most non-Swedish parents. In any event, Swedish authorities will not enforce or otherwise respect foreign appellate judgments against Swedish parents.

In non-Hague cases, as demonstrated by the now leading decision of Sweden's supreme court in the *Ascough* case during 1997 (children of Australian/British father and Swedish mother residing in Singapore), the Swedish courts will take jurisdiction and award sole custody to a Swedish mother even in cases where the children were born outside of Sweden, clearly reside outside Sweden, have never resided in or even visited Sweden, and were unquestionably abducted to Sweden.

In summary, Sweden's overall legal and social welfare *system* concerning child custody and parental child abduction/retention does not comply with numerous provisions of human rights treaties to which Sweden is a Party, notably the Convention on the Rights of the Child, the European Convention on Human Rights, and the International Covenant on Civil and Political Rights as a result of six factors:

(1) the undeniable gender and national bias of Swedish courts, especially in favor of Swedish mothers

(2) the absence of anything comparable to contempt of court to enforce visitation or other parental rights for fathers (i.e., non-custodial parents)

(3) the unlimited financial support received in Sweden and abroad by Swedish child abductors

(4) enforcement by Swedish law enforcement authorities of a criminal law intended to protect and reward Swedish child abductors

(5) the lack of comity with respect to non-Swedish court orders, and

(6) the refusal of Sweden to extradite or effectively prosecute Swedish child abductors.

Most notably, Sweden's legal and social welfare systems are inconsistent with both the letter and spirit of Sweden's obligations under the Convention on the Rights of the Child to ensure contact with both parents and, in international cases, with both countries. Thus, Sweden cannot ensure compliance with the provisions of the Convention most relevant to child custody and child abduction/retention: Articles 9, 10, 11, and 18. The United. States has signed but not ratified the Convention, but complies with these articles in practice to a far greater extent than Sweden.

AMANDA'S CASE

Voluminous documentation concerning Amanda's wrongful retention in Sweden by a Swedish diplomat and the Government of Sweden, as well as information on other

American children abducted to Sweden, has already been supplied to Committee staff. An updated chronology of the case is attached to this statement, along with:

- the unanimous decision of the Virginia Court of Appeals upholding the Virginia Custody Order
- the Virginia Supreme Court Order dismissing further appeals
- Swedish Government demands for reimbursement of legal fees and child support paid to the abductor
- a Swedish criminal law intended and used to protect Swedish child abductors and punish non-Swedish parents who attempt to exercise their custody rights
- photographs showing Swedish police participation in the continuing Federal and state felonies against Amanda and me, and
- an outline of the Swedish Government's System of supporting and financing parental child abduction.

With full support in every conceivable way from the Government of Sweden, Amanda has literally been held hostage in Sweden since early 1995, in violation of:

- U.S. civil law and court orders to which the mother agreed in open court
- U.S. Federal and state criminal law
- Sweden's international legal obligations under several treaties (The Hague Convention on the Civil Aspects of International Child Abduction, the Convention on the Rights of the Child, the European Convention on Human Rights, and other human rights instruments)
- Sweden's own civil and criminal laws on joint custody and child abduction (which are never enforced against Swedish mothers), and
- the eligibility requirements for payment of all legal fees in Sweden and abroad by the Swedish Government (which are apparently conveniently waived for Swedish abductors).

The facts of the case are clear. Amanda, a U.S. citizen and resident from birth (November 11, 1987), is also a Swedish citizen. She was a U.S. Government dependent during her first two years while I was posted at the U.S. Mission in Geneva. Mandy then lived with me in Virginia roughly fifty percent of the time until age 6, attending three years of preschool and kindergarten at Browne Academy in Alexandria, Virginia. She spent the rest of her time in New York with her mother, Anne Franzen, who was the lawyer at the Swedish Consulate with lead responsibility for child abduction and custody matters, and who was actually offered the position of Head of the Swedish Central Authority for the Hague Convention upon leaving New York. Despite being wrongfully withheld outside the U.S. for nearly five years now, Amanda has still lived longer in an American diplomatic community or the U.S. itself than in Sweden. She should have been living again in the U.S. since the spring of 1995 under the agreed terms of a December 1993 Virginia custody order and subsequent enforcement orders, which make clear that Amanda's habitual residence continues to be Virginia, that the Virginia courts have continuing exclusive jurisdiction over her case, and that the parents are prohibited from seeking custody modification in any court anywhere in the world without the consent of the Virginia court.

The case against Anne Franzen (Deputy Assistant Under Secretary for Human Rights in the Swedish Foreign Ministry at the time) was so strong that four Swedish courts either ordered Amanda's return under the Hague Convention or held that Sweden did not have jurisdiction over Amanda because she was only in Sweden temporarily in accordance with the Virginia Custody Order to which the mother had agreed. After endless delays, stays of execution, appeals, and litigation financed for the mother by the Swedish Government in 8 separate proceedings in 6 courts (a Hague process that lasted 17 months instead of the 6 weeks set forth in the Convention), the final court from which there was no appeal (the Swedish Supreme Administrative Court or Regeringsratten) reversed all the lower court rulings in a May 1996 decision that has been declared by the U.S. Government in diplomatic notes to be a violation of the Convention and that has been rejected by the highest courts of Virginia.

On August 9, 1996, with the abducting mother represented by counsel paid by the Swedish Government, the Virginia Court granted me sole and exclusive custody, made contempt findings, and issued several other forms of relief. There was never a Swedish custody order of any kind concerning Amanda until an interim joint custody order was issued by a Swedish court in February 1999. The Virginia Custody Order has withstood costly challenges in the highest courts of Virginia financed by the Swedish Government, and remains the only final order in the world. But Amanda continues to be wrongfully withheld from me, the rest of her American family, her home and familiar environment, and her country by her mother and by the Government of Sweden through a legal and social welfare system that fails to meet even

minimal standards of due process of law (e.g., no rules of evidence and no prohibitions on ex parte communications with judges).

Between December 1995 and June 1999, Amanda was able to see me on only five occasions, for a total of 15 hours. On the second occasion (September 16, 1996), after picking Amanda up at her school as a custodial parent unwilling to subject the two of us to the continued degradation of supervised visitation that had unlawfully been imposed for nearly two years at the time, I was wrongfully detained in her presence four hours later at our hotel (where I had informed the mother we would be) by four Swedish policemen at the abducting mother's request. I was held in solitary confinement for nearly 48 hours, despite (or actually because of) the fact that I have sole custody under the only final Custody Order in the case and have joint custody even under Swedish law. Although I was released, never charged with any offense, and compensated by the Swedish Government for wrongful detention, the incident has done incalculable harm to Amanda and to my relationship with her.

On the third and fourth occasions, in December 1996, I was only allowed to see Mandy under police guard at her school, with the police challenging the presence of the Vice Consul from the American Embassy an one occasion and making a further mockery of my joint custody "rights" in Sweden (see attached photographs of Swedish police car at Amanda's school). Amanda and I did not see each other after that demeaning experience in December 1996 until February 1999 when the abducting mother supervised some brief visitation.

Every element of joint custody has been violated: no school or medical records, no photographs, no information on activities or general welfare have been provided to me. There has been no response to any of the countless letters and packages sent to Amanda. For the summers of 1997 and 1998, creative efforts by my Swedish and American attorneys to arrange visitation in the United States with guaranteed returns to Sweden (U.S. court orders ARE enforceable) or any type of supervised or unsupervised access in Sweden were summarily rejected by the mother and her attorney. No assistance was provided by the judge now assigned to the case. The judge who previously dismissed the mother's petition for sole custody and upheld the Virginia Order has, not surprisingly, been removed from the case.

In February, an interim joint custody order was issued over the mother's objection because joint custody is now the norm in Sweden, although it has no practical enforceable meaning in Sweden. The terms of the order gave the mother de facto sole custody, with only supervised visitation in Sweden. Even this meaningless "joint custody" was reversed by the same judge in June 1999 at the mother's request. Several hours per day of supervised visitation took place for a few days in June 1999. The good relationship between Amanda and me has survived despite all efforts by the abductor and the Swedish Government to destroy it, but serious damage has been done to the child (a nervous tick in both eyes). Amanda lived alone with me in Virginia and attended three years of school roughly half the time for nearly 4 years, but everything possible has been done to de-Americanize her and eliminate her relationship, with me.

In September 1999, an appeals court reversed part of the June 1999 interim order, restoring joint custody-and saying that visitation (still limited to Sweden) does not need to be supervised. Like everything else in the Swedish system, this is not enforceable, and an effort for contact between Amanda and me during the October 8–10 weekend therefore collapsed over the issue of supervision.

INTERNATIONAL CHILD ABDUCTION AND WRONGFUL RETENTION IN SWEDEN

Name of Child: Amanda Kristina Johnson
Date and Place of Birth: November 11, 1987, Geneva, Switzerland
Current Location: Radjursstigen 14, 17072 Solna, Sweden
Telephone in Sweden: (8) 851436
ID Number in Sweden: 871111–0547
Wrongfully Retained in Sweden since January 1995
Four Swedish courts either ordered Amanda's return under the Hague Convention or denied Swedish jurisdiction
Final denial of return by Supreme Administrative Court (Regeringsrattan) in May 1996
Father: Thomas A. Johnson, 907 Dalebrook Drive, Alexandria, Virginia

- primary custodian since June 1995
- sole and exclusive custody of Amanda since August 1996

Mother: Anne Franzen or Anne Franzen Johnson (address and telephone above)

- no custody order but given de facto sole custody rights by Swedish law enforcement and social welfare authorities

Mother's employer: Swedish Ministry of Foreign Affairs

- she is former Deputy Assistant Under Secretary for Human Rights

Proceedings: 14 separate proceedings in 10 different courts in New York, Virginia, and Sweden with the Swedish Government paying the mother's legal fees in ALL Pillars of the Swedish Government Child Abduction System:

- no comity for foreign law or court orders despite Sweden's obligations under Articles 1 and 2 of the Hague Convention
- extreme gender bias and nationalistic bias in Swedish courts
- payment of all legal fees for Swedish abductors/ retainers in all proceedings in Sweden and abroad by the Swedish Government
- nothing comparabLe to contempt of court in the Swedish legal system, so that Swedish courts cannot control the conduct of Swedish parents or protect the parental rights of non-Swedes
- criminal law that targets non-Swedish parents with sole or joint custody rights who attempt to exercise those rights.

Bergshamra School
Solna, Sweden
December 18-19, 1996

Direct Participation by Swedish law enforcement authorities in Federal and state felonies against American citizens


POLIS


POLIS
ATB 254

Chapter 7 SWEDISH CRIMINAL CODE

On Offences against Family

Section 1

Section 4

If a person, without authorization, separates a child under fifteen years of age from the person who has the custody of the child, he shall, unless the offence is one against personal liberty, be sentenced for dealing arbitrarily with a child to pay a fine or to imprisonment for at most one year.

This also applies if a person having joint custody of a child under fifteen years of age without good reason arbitrarily removes the child or if the person who is to have the custody of the child without authorization seizes the child and thus takes the law into his own hands. For use against non-Swedish fathers

A person is also liable under the first paragraph who without authorization separates a child under fifteen years of age from the person who has the custody of the child by virtue of the Care of Young Persons (Special Provisions) Act (1980:621), unless the offence is one against personal liberty or of furtherance of flight.

If the offence stated in the first or second paragraph is to be regarded as grave, the offender shall be sentenced to imprisonment for at least six months and at most two years. (SFS 1993:207)

Section 5

FÖRSÄKRINGSKASSAN
STOCKHOLMS LÄN

Handling officer, Tel.No. (direct in-dialing)	Date	Reference No.
Anna Wallgren, 08-676 1485	1997-01-07	470785-2457

Mr Thomas Arthur Johnson
5711 Heritage Hill Court
Alexandria, VA 22310
USA

Payment of maintenance

Since you are resident outside Sweden, the matter of your maintenance liability is being handled by our INTERNATIONAL DIVISION.

The debt you have incurred for the child(ren) indicated below is currently 10 840 US dollars.

Child	Pers. id. no.	Maintenance/month
Amanda Kristina Johnson	871111-0547	542 US dollars

The Insurance Office is empowered by virtue of agreements (conventions) with a number of other countries to apply for assistance in enforcing payment of maintenance even though the maintenance debtor may be resident in a country outside Sweden.

Payments may be enforced by deducting a certain sum from your wages or salary or by selling some of your property. Any money which may thus be raised can then be used towards paying off your debt for unpaid maintenance.

To avoid the unpleasantness associated with enforcement, we recommend you both to settle your debt and to start paying your regular contributions without delay. Please get in touch with us if you wish to discuss some form of payments plan. We are enclosing information on how to pay maintenance. ./.

FÖRSÄKRINGSKASSAN STOCKHOLMS LÄN

Anna Wallgren Anna Wallgren

CONVENTIONS EMPOWERING SWEDEN TO APPLY FOR ASSISTANCE IN ENFORCING PAYMENT OF MAINTENANCE CONTRIBUTIONS

Convention on the recovery abroad of maintenance, signed in New York on 20th June, 1956.

Convention concerning the recognition and enforcement of decisions relating to maintenance obligations towards children, signed in the Hague on 15th April, 1958.

Convention on the recognition and enforcement of decisions relating to maintenance obligations, signed in the Hague on 2nd October, 1973.

RECIPROCITY

USA, 1st May 1991.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

THOMAS ARTHUR JOHNSON
Complainant

v.

Chancery No. 920010

ANNE FRANZÉN JOHNSON
Defendant

AFFIDAVIT

My name is John Crouch. I am member of the Virginia State Bar. I am also a member of Crouch & Crouch, 2111 Wilson Boulevard, Suite 550, Arlington, Virginia 22201. Ms. Anne Franzén Johnson is our client. I am executing this affidavit at the request of Christopher Schinstock, Esquire, Counsel for the Complainant, and sending an original of it to him on the day before the hearing date on his garnishment summons in this case.

1. On the date of the service of the garnishment summons and from then to present, our law firm did not hold and has not held any funds on deposit or on retainer on behalf of Ms. Anne Franzén Johnson.

2. Ms. Anne Franzén Johnson is not entitled to any funds or personal property held by our firm on or since the date of the service of the garnishment summons.

3. All such funds or personal property received by our firm pursuant to our representation of Ms. Anne Franzén Johnson in the currently pending Johnson custody dispute have been paid by the Kingdom of Sweden's legal aid agency, and not by Ms. Anne Franzén Johnson.

Respectfully submitted.

John Crouch

RÄTTSHJÄLPSMYNDIGHETEN

DATUM	DNR
97-05-26	730 5410/95

THOMAS JOHNSON
5711 HERITAGE HILL COURT
ALEXANDRIA
VIRGINIA 22310
USA

ÄRENDE: PÅMINNELSEKRAV

I DOM HAR KAMMARRÄTTEN I STOCKHOLM ÅLAGT ER ATT BETALA 24 398 KR AVSEENDE RÄTTEGÅNGSKOSTNADER TILL RÄTTSHJÄLPSMYNDIGHETEN.

FÖR ATT UNDVIKA EXEKUTIVA ÅTGÄRDER UPPMANAS NI ATT INOM 20 DAGAR BETALA BELOPPET TILL;

RÄTTSHJÄLPSMYNDIGHETEN
UTOMLANDS ÅTBS
BOX 853
851 24 SUNDSVALL
SWEDEN

RÄTTSHJÄLPSMYNDIGHETENS SVENSKA POSTGIRONUMMER ÄR 950611-4.

PÅ BETALNINGSKORTET SKALL NR 730 5410/95 ANGES.

PÅ RÄTTSHJÄLPSMYNDIGHETENS VÄGNAR

LARS ERIKSSON

THE WEEK'S OPINIONS

Full Text
Call 1-800-933-5599

■ U.S. Bankruptcy Court

Cont'd. from page A-11

cated by counsel. The court is constrained to conclude that since the agreements comply with the formal requirements of § 524(c), and since the requirements of the statute for court approval do not apply and there are no extraordinary circumstances justifying the exercise of the court's equitable powers to protect the integrity of the bankruptcy system, this court may not disapprove the reaffirmation agreements simply because the court might think them unwise.

Objections of debtor's ex-wife and son are overruled.

In re Bauer (Mitchell) No. 97-13034-SSM, Nov. 12, 1997; USBC at Alexandria, Va.; Barry R. Lenk for debtor; Scott A. Surowell for plaintiffs ★ VLW 097-4-070, 16 pp.

Bankruptcy
Dalkon Shield Claimants Trust - ADR - Referee Bias

A claimant who alleges the referee who heard her Dalkon Shield claim was "biased" and used "simplistic" reasoning may not set aside the $4,000 award the referee made to her, and the trust is directed to again forward the check for $4,000 to claimant.

Higgins v. Dalkon Shield Claimants Trust (Merhige) No. 85-01307-R, Dec. 2, 1997 ★ VLW 097-4-071, 8 pp.

Bankruptcy
Dalkon Shield Claimants Trust - Disqualification Of Judge

Kidd v. Dalkon Shield Claimants Trust (Merhige) No. 3:96v642, Sept. 13, 1996; Glenna F. Kidd, pro se; Orran L. Brown for trust ★ VLW 097-4-069, 7 pp.

■ Va. Court of Appeals

Domestic Relations
Custody - Mom's Move To Sweden - UCCJA

A mother who violated a 1993 Virginia consent decree, which provided that the parties' child alternate her time with mother in Sweden and with father in Virginia, by filing in Sweden to change custody and by refusing father visitation, loses her challenge to the Virginia court order awarding sole custody to the father and finding mother in contempt.

The father is an attorney with the U.S. Department of State, and the mother is an attorney with the Swedish Ministry of Foreign Affairs. The parties met in Switzerland and were married in 1986, and their child was born there. In 1990, the father was posted to Washington, D.C., and moved to Virginia, and the mother was posted to New York City. The child split her time equally between both parents' homes. The parties separated in 1990 and signed a settlement agreement in 1991 providing for joint custody. In 1993, the father moved for modification of the custody decree because of his concern that the mother intended to relocate to Sweden with the child.

The Virginia trial court's December 1993 consent decree set out a schedule for shared custody and several other provisions, including an agreement that neither party would initiate related proceedings elsewhere without the permission of the trial court. Both parties agreed to be bound by these terms. When mother filed for custody in Sweden in January 1995, the Virginia trial court clearly had jurisdiction to consider this violation and to enforce its ongoing decree.

Mother argues that the child's connections with Virginia dissipated during the time she was in Sweden throughout 1994 and thus rendered these provisions unenforceable. This argument ignores the fact that the child was located in Sweden pursuant to the Virginia trial court's custody schedule, which allocated equal time to each of the parents. At no time did the child's "residence," as agreed to by the parties, change. The mere fact that mother received her scheduled time first under the order did not invalidate the remainder of the agreed-upon schedule or the other court-ordered provisions.

Here, mother, who had consented to the custody order and schedule, denied father his court-ordered visitation and refused to return the child to Virginia, as the consent decree directed. These actions do not support her contention that she has acted "in good faith and in orderly fashion." Rather, they provide apt justification for the trial court's enforcement of its decree. To hold otherwise would allow any dissatisfied custody litigant to divest a court of its inherent power to enforce a valid order by simply taking the child to another jurisdiction. Such an outcome is not contemplated by either historical analysis or statutory authority.

Also, applying the Uniform Child Custody Jurisdiction Act, Va. Code § 20-130, we find the trial court did not err in refusing to decline jurisdiction under the facts of this case. Virginia was and is the child's home state by agreement. The parties agreed to this place of residence designation in anticipation of the child's stay in Sweden. The child was to have equal time in both homes.

Based on the factors enumerated in the UCCJA and the trial court's clear continuing jurisdiction to modify its initial consent decree, we cannot say that the trial court abused its discretion in refusing to defer jurisdiction to the Swedish court as a more convenient forum.

The trial court also did not err in finding the mother in contempt and granting sole custody to the father. Mother's contention that fear of a federal kidnapping prosecution excuses her failure to appear and shields her from a finding of contempt has no merit.

We affirm the trial court's change of custody, finding of contempt, imposition of fines, and award of father's costs and fees. Additionally, we remand for an

THE WEEK'S OPINIONS

■ VA. COURT OF APPEALS

Cont'd. from page A-12

award of further costs and counsel fees incurred by father in this appeal.

*Johnson v. Johnson (Fitzpatrick) No. 2200-96-4, Dec. 9, 1997; Alexandria Cir. Ct. (Haddock) Richard E. Crouch for appellant; James R. Cottrell for appellee * VLW 097-7-762, 21 pp.*

CRIMINAL

Severance Of Charges - Firearm & Larceny

A trial court's refusal to sever defendant's charge of possession of a firearm by a felon from the grand larceny and burglary charges defendant faced was harmless error where defendant testified at trial in his own defense.

In *Johnson v. Commonwealth*, 20 Va. App. 49 (1995), we held that the trial court abused its discretion by refusing to sever the charge of possession of a firearm after having been convicted of a felony from charges related to possession of cocaine. We held that under Rule 3A:10, justice required severance of the charges. However, in *Kirk v. Commonwealth*, 21 Va. App. 291 (1995), we held that a refusal to sever was harmless error where defendant placed his credibility and character at issue by taking the stand, and his prior felony convictions were relevant and admissible for impeachment purposes.

Defendant here attempts to distin- [illegible] at bar. He

As in *Kirk*, defendant chose to testify in his own defense. Evidence of his prior convictions became relevant and admissible to impeach his credibility as a witness. Assuming, as we did in *Kirk*, that defendant would have elected to testify in separate trials on each of the charges, the prior conviction evidence would have been admissible to impeach his testimony in each trial. As in *Kirk*, we hold that the trial court's refusal to sever the charges is harmless error.

Although *Kirk* controls our harmless error ruling in this case, we are troubled by the trial court's disregard for the clear holding in *Johnson* and in *Long v. Commonwealth*, 20 Va. App. 223 (1995), that the charge should have been severed. The error here is rendered "harmless" only because defendant decided to testify in one or more of the cases, a dilemma he should not have been required to confront had the trial court applied the *Johnson* and *Long* holdings. Nevertheless, we are bound by *Kirk*, unless this court should determine en [illegible] clear error

stole the rifles, and this exclusive possession sufficient to convict him of grand larceny.

Finally, the trial court did not err in refusing defendant's proposed jury instruction regarding recent exclusive possession.

Firearm and theft convictions affirmed.

Concurrence & dissent

Benton, J.: I dissent to that part of the majority opinion holding harmless the trial judge's error in refusing to sever the charge of possession of a firearm by a convicted felon from the charges of grand larceny and burglary. I would reverse the convictions and remand for separate new trials.

*Hackney v. Commonwealth (Coleman) No. 2165-96-3, Dec. 9, 1997; Buchanan County Cir. Ct. (Williams) David L. Epling for appellant; Eugene Murphy, AAG, for appellee * VLW 097-7-764, 19 pp.*

Workers' Comp

suffered an episode of vision to his heart disease in 199 quently missed work for su rect blockages in his circula

The commission found th ical records sufficiently e presence of coronary art under Va. Code § 65.2-40 treating physician testified um scan showed inadequa through the coronary arteri mony provides credible evi port of the commission's fin not hold that the commis finding that claimant estal pensable occupational disc presumption in Code § 65.

However, in *Augusta Co Dep't v. Overbey*, [VLW 0 Supreme Court said that statute or court decision rebuttal of the statutor suggests that the employ den of excluding the "poss stress may have been a co tor to heart disease.

Here, a physician indi "probable cause" of clain is "genetic and enviro another physician attrib cardiovascular disease to disposition in combinatio tors." Under the standa *Overbey*, this evidence of sufficiently rebutted the sumption that claimant's work-related.

The evidence was insu lish "to a medical cert heart disease arose out ment. We are required award and dismiss cla tion.

Award of benefits reve [illegible] and Bal

VIRGINIA:

... In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 3rd day of March, 1998.

Anne Franzen Johnson, Appellant,

against Record No. 980060
Court of Appeals No. 2200-96-4

Thomas Arthur Johnson, Appellee.

From the Court of Appeals of Virginia

Finding that the appeal was not perfected in the manner provided by law, the Court dismisses the petition for appeal filed in the above-styled case. Rule 5:17(a)(2).

A Copy,

Teste:

David B. Beach, Clerk

By: Jennifer S. Parrish
Deputy Clerk

CHRONOLOGY: ABDUCTION OF AMANDA KRISTINA JOHNSON BY ANNE FRANZEN AKA ANNE FRANZEN JOHNSON AND THE GOVERNMENT OF SWEDEN

8/94 Amanda last in Virginia and the United States

11/94 Last exercise of Thomas Johnson's custody rights permitted by Anne Franzen Johnson (Amanda in Paris for Thanksgiving)

6/94-2/95 Repeated attempts by Thomas Johnson to schedule 4 weeks of 1995 Easter vacation in the U.S. in accordance with the Virginia Order are ignored or rejected by Anne Franzen Johnson

1/95 Repeated attempts by Thomas Johnson to schedule visitation in Sweden in accordance with the Virginia Order during early February are ignored or rejected by Anne Franzen Johnson

1/25/95 Anne Franzen Johnson secretly files for sole custody of Amanda and complete elimination of all Virginia Orders Virginia jurisdiction in the Solna District Court, Solna, Sweden

2/1/95 In a telephone call initiated by Thomas Johnson only to speak with Amanda, Anne Franzen Johnson refuses contact with Amanda and suddenly demands without previously raising the subject that Thomas Johnson agree to immediate psychiatric treatment for Amanda; Thomas Johnson responds negatively with an immediate fax requesting an explanation in writing (none is ever received, but Anne Franzen Johnson had raised the subject in her secret filing for sole custody on 1/25)

2/8-2/10/95 Thomas Johnson travels to Sweden for visitation but is allowed by Anne Franzen Johnson to see Amanda only under supervision

2/13/95 Thomas Johnson receives Anne Franzen Johnson's petition for sole custody by registered mail

3/7/95 Anne Franzen Johnson refuses in writing via her Swedish attorney to comply with the Custody Order by allowing Amanda to return to the U.S. for 4 weeks of Easter vacation

3/14/95 Thomas Johnson files an Application for Amanda's return on June 10, 1995 under the Hague Convention on the Civil Aspects of International Child Abduction

3/27/95 Initial hearing in Circuit Court of Alexandria on Thomas Johnson's motion for an order finding Anne

Franzen Johnson in violation of the Custody Order for Amanda and wrongfully retaining Amanda in violation of his custody rights

4/5/95 Solna District Court dismisses Anne Franzen Johnson's petition on the grounds that Amanda has spent most of her life in the U.S., that the agreed terms of the Virginia Orders are that Amanda's stay in Sweden is not permanent, and that she is thus not domiciled in Sweden

4/12/95 Hearing before the Circuit Court of Alexandria and issuance of an Order that Amanda's habitual residence remains in Alexandria, Virginia, that Anne Franzen Johnson has wrongfully retained Amanda in violation of the Hague Convention and has violated Thomas Johnson's custody rights, and that Anne Franzen Johnson is ordered to relinquish custody of Amanda to Thomas Johnson on June 10, 1995

4/24-4/27/95 Thomas Johnson present in Sweden

4/25/95 Thomas Johnson allowed the only overnight visit with Amanda since 11/94, but only after surrendering her passport and only because of Anne Franzen Johnson's desire to disrupt his trial preparations and exploit his jet lag

4/26/95 Hearing in Stockholm, Sweden before the County Administrative Court (Lansratten) on Thomas Johnson's Hague Application with both parties and witnesses present

5/19/95 Lansratten finds that Amanda has her domicile in the U.S. and that Anne Franzen Johnson has violated Thomas Johnson's custody rights, and orders Amanda's return as requested on June 10 in accordance with the Hague Convention

6/7/95 Administrative Appeals Court (Kammarratten) issues a stay on execution of the return order

6/10-6/20/95 Thomas Johnson present in Sweden (no contact with Amanda)

6/13/95 Hearing in Stockholm before the Kammarratten on Anne Franzen Johnson's appeal with both parties present

6/19/95 Kammarratten fails to respect the Virginia Orders and reverses the return order on erroneous grounds that only Thomas Johnson's rights of access, not his custody rights have been violated until 8/20/95

7/14/95 U.S. Central Authority transmits two Hague Applications by Thomas Johnson, one for Amanda's return on 8/20/95 and the other for access to her under Article 21, along with concerns about Swedish compliance with the treaty

7/19/95 Thomas Johnson's Hague Application for return on 8/20/95 filed with the Lansratten

Swedish Central Authority dismisses U.S. concerns, sends translations of the psychiatric reports unlawfully obtained by Anne Franzen Johnson and ignored by 3 Swedish courts, and essentially urges Thomas Johnson to submit to Swedish jurisdiction

8/15/95 U.S. Central Authority transmits a six-page memorandum to the Swedish Central Authority raising concerns about Swedish compliance with the treaty (never answered)

8/21-9/8/95 Thomas Johnson present in Sweden (no contact with Amanda)

9/7/95 Regular Appeals Court (Svea Hovratt) ignores Article 16 of the Hague Convention (regular custody proceedings must be frozen during pendency of a Hague application), applies Swedish domestic law, decides that Amanda's residence in Sweden is permanent, and reverses the Solna District Court's dismissal of Anne Franzen Johnson's sole custody petition

9/26-10/1 Thomas Johnson present in Sweden (access to Amanda only at her school for 1 hour on 9/28)

9/28/95 Hearing (lawyers only) in Stockholm before the Lansratten on the Hague Application for return of Amanda on 8/20/95

10/6/95 Lansratten upholds the Virginia Orders and orders Amanda's return on 11/11/95, finding that her stay in Sweden is limited under the Virginia Orders and (expressly rejecting the Svea Hovratt decision) that she is thus not a resident of Sweden

10/95 Thomas Johnson petitions the regular Supreme Court (Hogsta Domstolen) for leave to appeal the Svea Hovratt decision on jurisdiction (petition not acted upon as of 8/8/96)

10/27/95 Kammarratten issues a stay on the return order for 11/11

11/10/95 Kammarratten refuses to lift the stay

12/13/95 Hearing (lawyers only) in Stockholm before the Kammarratten on Anne Franzen Johnson's appeal of the return order

12/18-12/24/95 Thomas Johnson present in Sweden (access to Amanda only at her school)

12/19/95 Kammarratten orders Amanda's return at 10 A.M. on 12/22/95, finding that Amanda's stay in Sweden was limited under the Virginia Orders, that Amanda's domicile on 8/20/95 was still in Virginia, and (agreeing with previous courts) that there is no support for Anne Franzen Johnson's claims of psychological risks in returning Amanda and thus no need for a child psychiatric evaluation

12/20/95 Administrative Supreme Court (Regeringsratten) reverses the 8/95 return order for Julia Larson, daughter of American father Mark Larson abducted 3 times from Utah by her Swedish mother

12/21/95 Without explanation, the Regeringsratten issues a stay on the return order for Amanda less than 18 hours before the time ordered for the return

1/30/96 United States Government Statement of Interest filed with Regeringsratten via the Swedish Central Authority

12/95-5/96 Repeated denials by Regeringsratten of requests by Thomas Johnson's attorneys for a hearing, lifting of the stay, an immediate decision, etc.

5/9/-5/11/96 Thomas Johnson present in Sweden (access to Amanda only for 2 hours at her school on 5/10)

5/9/96 Regeringsratten reverses the return order for Amanda, finding that Amanda's residence is Sweden by applying Swedish domestic law and ignoring the Virginia Orders, the Hague Convention, the U.S. Government Statement, the reasoning of the lower courts, and pertinent decisions by third country courts

6/20/96 Diplomatic Note from the United States Government is delivered to the Swedish Government by the American Embassy in Stockholm declaring that:
--the Regeringsratten decision of 5/9 "represents a serious departure from Sweden's obligations under Articles 1, 3, and 16 of the Hague Convention" and "threatens the greater objectives of the Convention"
--"the United States considers Sweden to be in violation of its obligations under the Hague Convention"

--the "Regeringsratten decision can be expected to have an immediate, negative effect on transnational custody disputes among nationals of Hague Convention States--a result manifestly and significantly contrary to the Hague Convention and to the best interests of the affected children"
--the United States "strongly urges" the Government of Sweden to "remedy the inconsistency between Sweden's hemvist law and its obligations under the Hague Convention, and to take all other necessary steps to correct the Regeringsratten decision of 9 May 1996."

6/26/96 Request for Status Conference by the Alexandria Court continued until 7/2/96

7/2/96 Status Conference

8/9/96 Hearing by the Circuit Court for the City of Alexandria on Rule to Show Cause and Motion for Order of Sole Custody filed by Thomas Johnson

Order of Contempt and Change of Custody issued by the Circuit Court for the City of Alexandria finding Anne Franzen in willful/multiple/continuing contempt of court, ordering her to produce the child so that custody may be given to Thomas Johnson, terminating any child support obligation to Anne Franzen, imposing a fine of $500 per day against Anne Franzen until she returns the child to Thomas Johnson, granting Thomas Johnson sole and exclusive custody, ordering Anne Franzen to pay $75,000 in attorneys fees and other costs to Thomas Johnson, enjoining Anne Franzen from proceeding further in Sweden with any aspect of a custody or child support petition, and reserving jurisdiction

9/16/96 Thomas Johnson exercises joint custody rights in Sweden by picking up Amanda at her school and spending 4 hours with her, and is arrested in her presence at their hotel by 4 Swedish policemen upon the request of Anne Franzen

9/16/96-9/18/96 Thomas Johnson detained in solitary confinement without charges and released from custody

9/20/96 Thomas Johnson returns to the United States

11/96 Swedish prosecutor refuses to file charges

12/16/96 Swedish supreme court (Hogsta Domstolen) refuses without issuing an opinion to hear Thomas Johnson's

appeal against Swedish jurisdiction (i.e., an appeal against the 9/95 reversal by the court of appeals of the 4/5/95 dismissal by the Solna district court of Anne Franzen's petition for sole custody)

12/19/96-12/20/96 Direct participation by Swedish police in criminal conduct by "supervising" Thomas Johnson's visitation with Amanda, interfering with his custody rights under both Swedish and United States law, and aiding and abetting child abduction by Anne Franzen

1/97 Appellate brief financed and supervised by the Swedish Government is filed in Virginia against the 12/28/93 and 8/9/96 Orders, and argues that Sweden is a "more convenient" forum to litigate custody because Anne Franzen would be prosecuted for committing the felony under United States federal law of international parental kidnapping

2/97 Order by the Circuit Court for the City of Alexandria authorizing Thomas Johnson to participate in any Swedish proceedings without prejudice to U.S. jurisdiction and court Orders

5/97 Order by the Circuit Court for the City of Alexandria imposing additional damages and fines on Anne Franzen

6/97 Swedish judge (Hans Frostell, Solna Tingsratt) defers to vacation schedules of Anne Franzen and her attorney (Susanne Johansson), and refuses to schedule a hearing to arrange some kind of summer visitation using "mirror" court orders and other safeguards

9/97 Oral argument before the Court of Appeals of Virginia on the appeal financed by the Swedish Government

12/97 Unanimous decision by the Court of Appeals in an opinion written by Chief Judge Johanna Fitzpatrick that upholds the Virginia Custody Order, finds that Virginia continues to be Amanda's residence and continues to have jurisdiction, refuses to defer to Swedish jurisdiction, upholds the finding of contempt against Anne Franzen based on her wrongful conduct, and rejects Anne Franzen's fear of a kidnapping prosecution as an excuse for her misconduct

3/98 Supreme Court of Virginia dismisses Swedish appeal

6/98 Swedish judge reportedly willing to speak by telephone with the Virginia judge to discuss solutions but allows Anne Franzen and her attorney to veto the proposed contacts

Anne Franzen refuses any form of supervised or other access or visitation when Thomas Johnson is in Stockholm on 19 June, and also rejects any contact of any kind for the entire summe

THE SWEDISH GOVERNMENT'S SYSTEM OF SUPPORTING AND FINANCING PARENTAL CHILD ABDUCTION BY SWEDISH CITIZENS

--Overall refusal to extradite Swedish citizens

--No possibility of effective Swedish prosecution of Swedish citizens who commit parental child abduction or custodial interference

--Payment by the Swedish Government of ALL but a token amount of the Swedish abductor's legal fees and related expenses in Sweden OR abroad in Hague Convention cases, except that the victim parent (instead of the Swedish Government) is ordered (in violation of Article 26 of the Convention) to pay the abductor's legal fees and related expenses when a Swedish court refuses to grant a Hague Convention Application

--Either no return from Sweden of abducted children under the Hague Convention or returns only after extraordinarily costly, lengthy, and burdensome proceedings for the victim parent (e.g., full trials at both the trial and appellate levels), with the danger of last-minute stays and interference by Sweden's Social Welfare Authorities

--Payment by the Swedish Government of ALL legal fees and related expenses of Swedish parents in the regular child custody battles in Sweden or abroad against non-Swedish parents which usually follow resolution of a parental child abduction, further disadvantaging and intimidating non-Swedish parents

--Payment by the Swedish Government of child support not paid by foreign fathers (i.e., Swedish Government elimination of any practical impact of Swedish citizens ignoring foreign custody orders, as well as its elimination of any legal risks)

--No requirement of testimony under oath by the abducting parent (i.e., no perjury risk) in Hague Convention proceedings

--No rules of evidence in Hague Convention proceedings in Sweden (especially no hearsay rule), along with no requirement that the authors of documents appear as witnesses to be cross-examined, thus ensuring that the content of testimony, legal briefs, and documents submitted to the Swedish courts is regulated only by the integrity and ethical standards of the Swedish child abductor and the abductor's lawyer

--Free psychiatrists and psychologists from the Social Welfare Authorities for psychiatric/psychological evaluations of children in Sweden (with pro-Swedish results a certainty)

--Swedish law which gives Swedish child abductors a "right of protection" over abducted children and permits the abducting parent to deny the child access to the victim parent, while at the same time, contrary to U.S. law in this area, purporting to criminalize any efforts by a non-Swedish parent with primary or sole custody to attempt to exercise that right without a Swedish court order

--Total support for Swedish child abductors by the Swedish Central Authority under the Hague Convention, combined with the Swedish CA's refusal to assist non-Swedish victims despite its obligations under the Convention

--Virtually unlimited paid leave from work for Swedish child abductors claiming a need to care for the child(ren) but actually working on their cases against non-Swedish parents

--"Address protection" (i.e., legalized disappearance and cut-off of even consular access to children) granted by Swedish authorities with no questions asked, based only on unilateral accusations by the Swedish parent against the non-Swedish parent

--Swedish social welfare laws with no right of appeal which permit the abducting Swedish parent to initiate custody investigations, psychiatric evaluations, and commitment of abducted children to child psychiatric hospitals without consulting the non-Swedish parent, without regard to joint custody and habitual residence outside Sweden, and in violation of the Hague Convention's stay on custody proceedings in the abducting parent's country

--Issuance of replacement Swedish passports on demand (no questions asked) to any Swedish citizen at any Swedish embassy or consulate worldwide (i.e., surrender of a Swedish passport to non-Swedish judicial or other authorities provides no protections or safeguards whatsoever)

--No concept of "contempt of court" or anything comparable, and thus no effective means of enforcing court orders in Hague Convention or child custody cases on behalf of non-Swedish parents

--No effective enforcement of visitation or access under Swedish custody orders and no implementing legislation for Article 21 of the Hague Convention concerning rights of access

--Children with a Swedish mother fraudulently (but automatically) registered in all Swedish records as born at the place in Sweden where the mother is registered, even if the birth occurred in Australia or Brazil or Canada, with Swedish passports perpetuating the same fraud

--Use of laymen (who outnumber the judge 3 to 1) in the trial court (Lansratten) that deals with Hague Convention cases (a practice that raises concerns about bias and competence, especially in connection with interpreting an international treaty)

PREPARED STATEMENT OF PAUL MARINKOVICH, PARENT OF ILLEGALLY ABDUCTED SON

Dear Chairman Thurmond: I greatly appreciate your invitation for my testimony before the Subcommittee on Criminal Justice Oversight on October 27, 1999. Having just returned from my testimony before the House Committee on International Relations on October 14, 1999, I regret that I can't physically attend. I respectively ask my testimony be entered into the record for your hearings as I feel that we have a very serious problem with the United States Justice Department and the way they have treated America's illegally abducted children.

To provide you with a brief history, I have been involved in a three and a half year battle to try and retrieve my illegally abducted son from an act of International Child Abduction that took place on August 19, 1996. In that time I have worked with many different agencies including; the courts of Sweden and Denmark, the Central Authorities of Sweden and Denmark, the local and national police in Sweden and Denmark, the Swedish and Danish social systems, the Swedish Minister of Justice, the Swedish Tax Authority, the European Parliament, the United States Embassies in Sweden and Denmark, the courts of California and Texas, police departments in California and Texas, the United States State Department, the Federal Bureau of Investigation, the United States Attorney's Office and the Office of International Affairs.

In addition, I have testified before the Senate Foreign Relations Committee along side of Attorney General Janet Reno and just completed testimony before the House Committee on International Relations. I have flown to Sweden eight times, to Denmark two times, to Washington four times and to Texas twelve times.

My case has been the subject of a Cbs Special Assignment, I have had 18 newspaper articles in the United States (and am in process of working on the 19th and 20th), 16 newspaper articles in foreign papers (with 4 additional pending articles due out this week), 10 television news shows in the United States (with 2 additional shows pending), 8 television news shows (with the 9th airing at the same time as your Committee hearings today), and have been the subject of an ABC internet article.

Over this time, along with John Lebeau from Florida (who is testifying today), I have started a non-profit corporation to help in the fight for our nations abducted children and have worked at every angle, nationally and internationally, to help change the systems of government that keep American citizens from their abducted children.

With all my experience both here and abroad, I have never encountered an organization so arrogant, so unwilling to help, so untruthful, so unsympathetic, and so unaccountable for their lack of effort as the *United States Justice Department.*

I testified on October 1, 1998, before the Senate Foreign Relations Committee, at the invitation of Senator Jesse Helms. I was awarded sole legal custody of my son by a Texas State court on October 21, 1996, but my son was abducted by his non-custodial mother to Sweden. An indictment was subsequently issued by the Grand Jury for the abductor's arrest on May 28, 1997 for violation of Title 18, United States Code, Section 1204(a). The case is further identified as criminal no. C–97–129.

On October 20, 1998, I had a telephone conference with my legal council, Mr. Howard Fox, Assistant United States Attorney from Corpus Christi, Texas, Mr. Tim Hammer, Special Agent Abel Pena of the Federal Bureau of Investigation in Corpus Christi, Texas, and Ms. Terry Schubert of the Office of International Affairs at the Department of Justice.

It was my and my attorney's distinct impression that Mr. Hammer and Ms. Schubert were attempting to verbally club me into silence by threatening to open false sexual abuse allegations against me. They then warned me never to contact Mr. Hammer or Ms. Schubert about my son's case. I was then bluntly informed that I have no right to know anything about the Red Notice that was already supposed to be in place. It was further implied that the Department of Justice would not issue a provisional arrest warrant against the abducting parent because of my testimony before the Senate Foreign Relations Committee.

I have been exonerated of the false sexual abuse charges by courts in both this country and Sweden, have passed lie detector tests and court ordered psychological evaluations, as well as having undergone extensive investigation by the Federal Bureau of Investigation, and yet Mr. Hammer and Ms. Schubert attempted to use these false allegations as leverage to silence me.

Then, to add insult to injury, Mr. Hammer explicitly informed me that he would no longer approve any deal to facilitate the return of my son in exchange for the abducting parent being charged with a lesser offense. Just two months prior, Mr.

Hammer offered to drop all charges if the abducting parent would return my son. In essence, Mr. Hammer and my Justice Department have informed me that the prosecution of the abducting parent takes precedence over the return of my son and the assurance of his health, safety and welfare. This decision was made after I testified before the Senate Foreign Relations Committee and participated in extensive media coverage.

The message so very clearly conveyed to me is that my punishment for being persistent in my exhaustive attempt to protect my son takes precedence over my Justice Department insuring the health, safety and welfare of nine-year-old American citizen, Gabriel Marinkovich.

The Justice Department has placed little priority on my case. After three years they have no clue where my son is. The abductor is not a professional criminal, she is just an American citizen who decided to take the law into her own hands. Recently, Mr. Dale Mitchell, the supervisor of the Corpus Christi FBI office, decided it was alright to completely take my agent off the search for my son for over two months without assigning anyone else to handle it in his absence. Agent Pena was assigned to Delaware for training and was unreachable by telephone or pager. I was never informed of this management decision and I called their office in desperation 37 different times before threatening to file another complaint with the Inspector General and to fly to Texas with a California news crew who was doing a story on my case.

Prior to this I asked the secretary answering the phone just who was in charge. She indicated that no one was in charge and that the agents rotated the supervision of the office. On my 38th phone call after delivering my ultimatum, I was then transferred to Agent Dale Mitchell who was the Supervisor in charge (he too was absent from the office for the prior two weeks). Only then was I informed that no agent was handling my son's kidnaping case, and only then was I able to deliver the valuable and timely leads that I had been trying to deliver for two months.

Even as I write this testimony, I find myself distracted because of the five unreturned calls into my FBI agent. I urgently need to give him information from the sister program of "America's Most Wanted" in Sweden called "Efterlyst" which aired my case on Thursday of last week (5 days ago). It took three hard years to convince the Swedish government with demands from our U.S. Ambassador to Sweden and several members of Congress to get this show aired. Now there are several good time sensitive leads that need to be retrieved from the Swedish Police that are being completely ignored by our Justice Department.

I have been assured by both members of the House of Representatives and Senate that my case should be of the highest priority because it involves the health, safety, and welfare of a kidnaped American child. The Congress and Senate's words have once again been completely trampled on, as evidenced by the inherit lack of action exhibited by the Corpus Christi FBI. They have been entrusted by the American people to put America's laws into action and they are failing miserably at the expense of our children.

I have tried to understand the attitude behind the actions of the Justice Department. After the last three and a half years I think I have finally understood their misguided attitude towards international parental kidnaping. I have been repeatedly told by members of the Justice Department ranging from my FBI Agent Able Pena to high level Justice Department officials that parental abduction is a private matter and that the Justice Department does not want to get involved in it.

Everyone in America is entitled to their opinions, but when these opinions are placed into Justice Department policy, we are left with the opinions of our highest law enforcement officials being converted into actions and lack of results. The problem is that their actions and lack of results are in direct conflict with American law. Since the International Parental Kidnapping Law of 1993, the Justice Department has operated as an anarchy at the expense of the over 10,000 abducted American children and their parents.

Their actions and lack of results directly contradicts laws passed by our Congress and instructions within their own training manuals. The National Center for Missing and Exploited Children created a federally funded publication to educate and advise law enforcement officials in their investigation of parental abduction cases called *Missing and Abducted Children, Law Enforcement Guide to Case Investigation and Management.* It advises law enforcement officers as follows: "the emotional scarring caused by these events requires that officers recognize family abduction not as a harmless offense where two parents are arguing over who 'loves the child more,' but instead as an insidious form of child abuse." The money appropriated by Congress for this manual and the research put into it might as well been tossed to the wind because the Justice Department is unwilling, by their past record, to lift a finger to stop this "abuse" of American children.

In 1993, the American people and the United States Congress spoke their will and passed into law the International Parental Kidnapping Crime Act of 1993. It states, and I quote, *"Whoever removes a child from the United States or retains a child outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both."*

According to a August 31, 1998 newspaper article in the Ventura County Star about my case, the National Center for Missing and Exploited Children quoted the following, *"In 1993, case workers estimated about 10,000 children were abducted in the United States and taken abroad in parental abductions. While the exact numbers can not be determined today, experts acknowledge that it is significantly higher."* Also since 1993, it appears that only 62 arrest warrants have been filed for these parents, and less than five have been successfully prosecuted.

I visited Washington D.C. four times, testified before the Senate Foreign Relations Committee on October 1, 1998, testified before the House Committee on International Relations on October 14, 1999, and have intimately engaged in talks with several members of the Senate and Congress. I was almost unanimously told that we are a nation of laws and that our system of laws were created more as a deterrent to crime rather than a punishment for crime. It was also explained to me that the stricter a law is enforced, the higher percentage of compliance is achieved. So if strict enforcement of laws are a deterrent to crime, then what type of message is our Justice Department giving the American people by prosecuting only a fraction of one percent of those who violate the International Parental Kidnapping Crime Act of 1993? How effective of a deterrent to the crime of International Parental Kidnapping is the issuance of a warrant for less than one percent of those who violate the International Parental Kidnapping Crime Act of 1993?

Is it any wonder that the National Center for Missing and Exploited Children report that International Child Abduction out of the United States has *tripled since 1986*? While some are quick to point that the rise in international marriages in the United States have fueled this dramatic increase, I am certain that most of this increase could have been avoided if not for the inexcusable disregard for enforcement of the International Parental Kidnaping Act of 1993 by our Justice Department.

Every child that has been abducted since 1993 has had their inherit birth rights as American citizens selectively stripped from them. Ironically, the institution that has stripped their rights is the very organization that has been entrusted by the American people to faithfully uphold the laws of this nation without prejudice.

The brilliance of our founding principles, the constitutional system, and the birth rights our Declaration of Independence guarantees for every American to life, liberty and the pursuit of Happiness has been trashed by a few Justice Department officials who feel they are above the law. Instead, new principles have been created, the constitutional system has been selectively interpreted, and a new set of laws and priorities have been born in the hallways and cubicles of the Justice Department. They have selectively chosen to remove the birth rights to life, liberty, and the pursuit of happiness that every American is guaranteed from those children unlucky enough to be the victims of parental abduction.

One only has to look at any maternity ward across this great nation to see that every child born today will be at greater risk of being abducted out of this country then those born yesterday. This is because of the clear message the Justice Department is sending the American people by not prosecuting this crime aggressively.

In my case after a long emotional and financial drain, I was able to join the ranks of the far less than one percent of the cases that resulted in a warrant. This was only achieved after a six month full background check into my affairs, having to fly my present family out from California to Texas for an FBI interview, drumming up support from my Congressman and local media and thousands of man hours and at least one hundred letters. I believe it was my persistence that persevered and not the willingness of my U.S. Attorney to cooperate.

I talked just today to the Swedish Police officer in charge of my case. I asked him if he was willing to share the recent leads gathered from the investigative Swedish television show with the FBI. He indicated that in three years, the FBI has never inquired about the case. He further stated, that if the United States Justice Department isn't interested in this case, then why should he. He indicated that he was glad to live in a country who stood up for their children, and for the first time in my 38 years of life, I was ashamed of my government. I vowed to help change a bad system.

The United States is the most powerful nation on earth and with that power comes tremendous responsibility as well as opportunity. American Democracy delivers awesome power in the hands of its citizens, but sadly today it is not engaged fully and it is our children who harness the repercussions. Our U.S. Justice Depart-

ment has taught Sweden, by their actions, that we do not care about our illegally abducted American children.

If we show these other countries that we are serious by our actions and requests, then they start getting serious about the return of our children. The context very clearly starts here with our own Justice Department. If we don't treat the abduction of our children as a serious matter, than how can we expect those other countries involved to fight for our children's return.

The miracle we can create today, is for the Justice Department to start taking this crime seriously and support the wishes of the American people and this Congress by strictly enforcing the International Parental Kidnapping Crime Act of 1993.

If we are a country who neglects to protect our children, what good is the material prosperity in which we have been blessed? It is high time that we reclaim the sense of special destiny and purpose that our founding fathers created in our great country. It is time that we stand as world leaders by first enforcing the laws we have created to protect our youngest citizens, our children. This precious ideal lives in the hearts of many and our capacity to give it full expression can only be realized through the work of your committee in forcing the Justice Department to conform with a law that they do not wish to enforce. You are America's last hope. The voices of America's abducted children and those children destined to be abducted, are screaming out for your help. Can we dare pretend we do not hear as the Justice Department has, or can act boldly as the heroes these children desperately need? Thank you for your consideration.

FRONT PAGE ARTICLE FROM THE VENTURA COUNTY STAR IN SOUTHERN CALIFORNIA

ACTIVIST SAYS GOVERNMENT IS TRYING TO SILENCE HIM

Speaking Out: Critic Of International Abduction To File Formal Complaint

[By Phillip W. Brown, *Staff Writer]*

(October 22, 1998)

A Simi Valley man who has criticized the U.S. Department of Justice's efforts to recover American children taken overseas illegally said Wednesday the agency has delayed attempts to regain his son in retaliation.

Paul Marinkovich, founder of Simi Valley's International Child Rescue League, and his attorney will file a complaint with the department this week claiming federal officials are trying to "intimidate and silence." In testimony before the Senate Foreign Relations Committee this month, Marinkovich was highly critical of the agency's assistance during his search for his abducted child.

Marinkovich and his attorney claim that during a Tuesday conference call with officials from the Justice Department, U.S. Attorney's Office and the FBI, officials threatened they would not cooperate with Marinkovich's investigation because of his recent criticism of the Department.

"They threatened to re-open false child abuse allegations against me and said they wouldn't deal with the Swedish government about my case," Marinkovich said. "They said I was ruining people's lives by my testimony before the committee."

"I want to get my son back, but I want to change a bad system also," he said.

In 1996, after a divorce and custody battle, Marinkovich's ex-wife, Sindi Graber, took their son Gabriel to Sweden. She changed their names, remarried and went underground.

Since then, Marinkovich has devoted his life to finding his son. His search has been restrained by bureaucracies in the United States and Sweden, even though he has court orders granting him full custody.

Graber has been charged with felony parental abduction and child endangerment, and faces possible charges of passport fraud.

Terry Schubert, with the Justice Department's Office of International Affairs, was a part of that telephone conference. She declined to comment Wednesday.

"This is a law enforcement agency that handles sensitive matters, therefore I cannot say anything," she said.

The complaint follows Marinkovich's Oct. 1 testimony before the Senate Foreign Relations Committee. He criticized U.S. and foreign officials for ignoring and "not taking seriously" the problem of international child abduction.

Marinkovich also criticized the Justice Department for its "ineffectiveness" in issuing provisional arrest warrants in international parental abduction cases. Only one arrest warrant has ever been issued in more than 10,000 reported cases since 1993, according to the National Center for Missing and Exploited Children.

In the complaint filed with the Justice Department's Inspector General, Marinkovich's attorney, Howard J. Fox, urges an investigation of "these government officials who are deviating from their duties and using their powers to threaten citizens into silence."

"It's time the department of Justice stopped treating the suffering, left-behind parents as criminals and instead focus its efforts on retrieving this nation's missing children," Fox said.

NOTE: The statement that "Only one arrest warrant has ever been issued in more than 10,000 reported cases since 1993, according to the National Center for Missing and Exploited Children," is inaccurate. Recent reports indicate that approximately 62 warrants have been issued.

INTERNATIONAL CHILD RESCUE LEAGUE,
17068 Chatsworth St.,
Granada Hills, California, October 21, 1998.

RE: Complaint regarding the conduct of the Justice Department in relation to Paul Marinkovich

Inspector General MICHAEL BROMWICH,
United States Department of Justice,
Office of the Inspector General,
10th and Constitution Avenue, NW,
Washington, DC.

DEAR INSPECTOR GENERAL BROMWICH: I am Paul Marinkovich's personal attorney and the Director of Legal Affairs for the International Child Rescue League, Inc. Mr. Marinkovich has been engaged in a legal battle to liberate his son, Gabriel Marinkovich, from a life of international parental kidnaping.

Mr. Marinkovich testified on October 1, 1998, before the Senate Foreign Relations Committee, at the invitation of Senator Jesse Helms, regarding his two-year battle to get his son back. Mr. Marinkovich was awarded sole legal custody of his son by a Texas State court on October 21, 1996, but the boy was abducted by his non-custodial mother to Sweden. An indictment was subsequently issued by the Grand Jury for Ms. Graber's arrest on May 28, 1997 for violation of Title 18, United States Code, Section 1204(a). The case is further identified as criminal no. C–97–129.

On October 20, 1998, I was present on a telephone conference with Mr. Marinkovich, Assistant United States Attorney Tim Hammer, Special Agent Abel Pena of the Federal Bureau of Investigation, and Ms. Terry Schubert of the Office of International Affairs at the Department of Justice.

It was my distinct impression that Mr. Hammer and Ms. Schubert were attempting to verbally club my client into silence, threatening to open false sexual abuse allegations against him and warning him to never contact Mr. Hammer or Ms. Schubert about his son's case. Mr. Marinkovich was bluntly informed that he had no right to know anything about the Red Notice that was already supposed to be in place. It was further implied that the Department of Justice would not issue a provisional arrest warrant against the abducting parent due to Mr. Marinkovich's testimony before the Senate Foreign Relations Committee.

Mr. Marinkovich has been exonerated of the false sexual abuse charges by courts in both this country and Sweden, has passed lie detector tests and court ordered psychological evaluations, as well as extensive investigation by the Federal Bureau of Investigation, and yet Mr. Hammer and Ms. Schubert attempted to use these false allegations as leverage to silence Mr. Marinkovich.

Ominously, Mr. Hammer explicitly informed Mr. Marinkovich that Mr. Hammer would no longer approve any deal to facilitate the return of Gabriel by which the abducting parent would be charged with a lesser offense. Two months ago, Mr. Hammer offered to drop all charges if the abducting parent would return Gabriel. Now, Mr. Hammer has informed Mr. Marinkovich that the prosecution of the abducting parent takes precedence over the return of the child. This decision was made after Mr. Marinkovich testified before the Senate Foreign Relations Committee and participated in extensive media coverage.

Thus, the punishment of Mr. Marinkovich for being persistent in locating his son takes precedence over the return of the child, a United States citizen.

Please note that we were asked repeatedly at the outset of the conversation whether we were taping the conversation. By the end of the conversation, we understood the Justice Department's concern that there be no recording.

Mr. Marinkovich has requested that a provisional arrest warrant be sent to Sweden where the abductor is suspected to be in hiding with the child. He has provided evidence clearly showing that Ms. Graber would met all the standards required for

extradition. This would provide the Swedish authorities with the authority they need to expand their investigation and would further show that the United States is serious about the return of Gabriel Marinkovich. Ms. Schubert stated that this request would have to come from Mr. Hammer. Mr. Hammer stated that Mr. Marinkovich has no right to even inquire about a provisional arrest warrant.

We were told that such an application is already at the Office of International Affairs but it has not, and will not, be sent to Sweden. I again believe that this is another punishment for Mr. Marinkovich's Senate Foreign Relations testimony and the resulting news coverage.

The warrant must be sent immediately because the last appeal in Sweden is set to be heard in the high courts on November 9, 1998. The Swedish police have very recently observed furniture being moved out of the abductor's husband's house in preparation of a move following the hearing. They believe that this move will most likely result in placing the child further underground and exposing him to adverse conditions. We need this request sent to Sweden before the hearing date so the Swedish Police have the full authority from the United States Government to trace the abductor's husband's movements immediately after his November 9, 1998 appearance in the high courts.

I have practiced law since 1985. It is my professional opinion that Mr. Hammer and Ms. Schubert were threatening Mr. Marinkovich with dire consequences if he continued to pursue looking for his son. It is further my opinion that these malicious efforts are a direct result of Mr. Marinkovich's testimony to the Senate Foreign Relations Committee and his ability to obtain publicity for his son's case in the media. *The problem is that Mr. Marinkovich's effort to locate his son far outstrip the efforts made by the Department of Justice, thus causing political embarrassment.*

It is imperative for the health, safety and welfare of Gabriel Marinkovich and other missing children that you thoroughly investigate this matter to document why these government officials are deviating from their duties and using their governmental powers to attempt to threaten citizens into silence.

Mr. Marinkovich has abided by the letter of the law and has not engaged in any, self-help measures despite being continually offered such services from many sources. I do not know that I would have had the same restraint if it were my child, given the open hostility and lack of effective effort that Mr. Marinkovich has encountered from his Department of Justice.

I pray that you will join Mr. Marinkovich and myself in investigating these offenses and bringing the grievous facts to Congress and the American people. It is time that the Department of Justice stopped treating the suffering left-behind parents as criminals and instead focused its efforts on the international investigation and prosecution of those who violate the International Parental Kidnapping Crime Act of 1993, and to assist in the retrieval of this nation's missing children.

Very truly yours,

HOWARD J. FOX,
Director of Legal Affairs,
International Child Rescue League, Inc.

PREPARED STATEMENT OF ATTORNEY JAN REWERS MCMILLAN, ON BEHALF OF THOMAS R. SYLVESTER

Senator Thurmond and Members of the Subcommittee: I am the Michigan attorney representing the left-behind parent, Thomas R. Sylvester, whose only child, Carina, was abducted from Michigan in Austria on October 30, 1995 by her mother, an Austrian native. Mr. Sylvester and I have experienced first-hand the difficulties in dealing with the Department of Justice in our quest to obtain a criminal remedy against Carina's abductor under the International Parental Kidnaping Act, 18 USC 1204 ("IPKA"). In the process we have been educated as to the shortfalls of both the criminal procedure and the underlying criminal remedy of IPKA. It is for these reasons that I sincerely regret that due to prior commitments I was unable to be present and participate in your hearings on October 27, 1999 on international parental kidnapping, I commend your interest in this matter and greatly appreciate your consideration of a problem experienced by many left-behind parents and guardians like Mr. Sylvester. I am also particularly grateful to Senator Mike DeWine for his outrage at the handling of the Sylvester case and his unflagging efforts to give Mr. Sylvester and other similarly-situated parents the assistance of the federal government they deserve.

In addition to the compelling testimony of Lady Meyer, you were fortunate to hear the testimony of two American left-behinds, John LeBeau and Laura Hong. Their cases represent opposite ends of the spectrum on the effectiveness of a warrant and

indictment under IPKA. In the LeBeau case, a warrant was ultimately issued and the abducting parent and children returned to the U.S. in its shadow, In the Hong case, no indictment or warrant was issued and neither the abductor nor the child were returned. These cases provide a good example to the Subcommittee of the value and effectiveness of a warrant and indictment under the IPKA in bringing back *both* the abductor and the abducted children even though the remedy intended is punishment of the criminal alone. However, it is important that the Subcommittee be apprised that an indictment and warrant under IPKA alone is insufficient. It must be acted upon swiftly and aggressively before it can be turned on the American parent as a basis for the court of the other country to deny the return of a child.

My experience with the Sylvester warrant is obviously unique. However, there are similar elements in each and every case which has been brought to my attention and this Subcommittee's attention. These are as follows.

1. AN INCONSISTENCY IN THE RESPONSE BY THE U.S. ATTORNEY'S OFFICE TO A REQUEST FOR AN INDICTMENT AND WARRANT UNDER IPKA

Mr. Sylvester was fortunate in obtaining a warrant under IPKA from the U.S. District Court for the Eastern District of Michigan when the information was, presented. He had waited to do so until the finalization of the civil proceedings in Austria and after the abductor had refused to voluntarily comply with the order for return of Carina affirmed on appeal. Ms. Hong in her testimony refers to an IPKA warrant issued from her very district prior to her own request. Ease of obtaining an IPKA warrant was obviously not the case for Mr. LeBeau and Ms. Hong along with others such as Paul Marinkovich. Their stories, presented to this Subcommittee and the Senate Foreign Relations Committee last year, tell of a U.S. Attorney's Office (USAO) clearly under-informed on IPKA and willfully remaining so. Thus the availability of a warrant under IPKA varies from Cleveland to California, from Florida to Michigan. The determination of whether a warrant will be issued in any particular case is less a matter of the thoughtful discretion of the USAO than a matter of dumb luck.

It is important to note to the Subcommittee that the standard for issuance of a warrant under IPKA should be consistently applied in all 50 states and should be based on a clear understanding of 1PKA. Mr. LeBeau was incorrectly informed that a warrant could not issue under IPKA until all civil remedies had been exhausted, Ms. Hong was given a good deal of misinformation for the refusal of the issuance of a warrant in her case, most notably that a issuance of a state warrant was a condition precedent to the issuance of a federal warrant. The Cleveland U.S. Attorney even memorialized USAO ignorance of IPKA by writing that to seek an indictment against an individual in order to facilitate enforcement of a civil court order would be improper use of the grand jury.

These circumstances suggest a lack of education on IPKA in the USAO and the absence of protocols in the U.S. Attorney's Manual on IPKA. These shortcomings could be remedied by the Department of Justice with an informational program as to IPKA followed up with the implementation of policy as to the handling of such cases with their inclusion in the U.S. Attorneys' Manual. This simple step appears not to have been covered in either the recent Joint Report to the Attorney General or in Mr. Robinson' s statement to this Subcommittee.

2. ONCE OBTAINED IPKA CRIMINAL WARRANTS ARE NOT PURSUED BY THE USAO

For three years after the Sylvester warrant was obtained, nothing was done to act on it toward the ultimate end of obtaining a conviction. Even obtaining information from the USAO as to the options available and next steps was impossible. It was subsequently learned that the stumbling block for pursuing the warrant was Austria's ban on extraditing its own nationals. Without extradition of the abductor, no conviction could follow. Bearing this in mind, it seemed reasonable that "provisional arrest requests" could be made by the U.S. to the countries neighboring Austria to which the abductor traveled. After three years of pursuing this avenue, Mr. Sylvester just recently learned of such a request being made to Italy, which denied the request. Unfortunate as the response of Italy is, it is incomprehensible why it took three years for the request to be made. Interestingly, I myself learned of the availability of a "provisional arrest request" to neighboring countries not in response to my requests to the USAO for information as to options available but rather through Mr. Sylvester's networking with other parents.

As found in the Sylvester case, if an IPKA warrant remains in effect in the States, but is not vigorously pursued, its existence will be used by the court of the country into which the child has been abducted to justify that court's *not* returning the child.

The reasoning of those courts is that to return the child with the abductor would mean the abductor would be tossed in jail, necessarily separating the child and the abductor for some extended period of time. This, the court concludes, would not be in the child's best interests. As a result, the very existence of the IPKA warrant, the issuance of which is so hard fought by left-behind parents, if unpursued, will work against the left-behind parent in the courts of the country into which the child has been abducted. Further, in the Sylvester case, the lifting of the IPKA warrant is being demanded by the abductor before she will consider granting Mr. Sylvester any meaningful visitation with his daughter. Therefore, to avoid hindering the return of the child and even jeopardizing visitation with the child, an IPKA warrant must be acted on swiftly and urgently for the protection of all American citizens involved.

3. THE ABSOLUTE BAN ON THE EXTRADITION OF THE NATIONALS OF MANY COUNTRIES RENDERS IPKA WARRANTS FOR THE ARREST OF ABDUCTORS RETURNING TO THOSE COUNTRIES WHOLLY INEFFECTIVE

The success of an IPKA warrant, once issued and pursued, is dependant entirely on the ability of the abductor to be extradited to face trial here. Since the abductor is usually a national of the country into which he or she flees, the bilateral extradition treaty with that country controls. These treaties often contain a general bar against the extradition of the nationals of that country, thwarting entirely the usefulness of the warrant and, more broadly, the underlying criminal remedy. Although available and the extradition process underway, the warrant under IPKA in the LeBeau case worked only because of the threat of extradition from England, Had the abductor not fled from Denmark to England, the warrant would have been less effective and extradition no threat whatsoever. Because a suit was already underway to re-open the Hague Convention case, it is indeed quite possible that the LeBeau children never would have been returned had the abductor simply stayed in Denmark. This is the unfortunate reality of the Sylvester case.

Therefore, the criminal remedy sought by IPKA is impossible to achieve in a large number of abduction cases. In order to effectuate the intended criminal remedy of IPKA, the Congress must look to the extradition treaties negotiated between the U.S. and those countries who refuse to extradite for a means of re-negotiation of those treaties to provide for some method for the return of these abductors.

On behalf of Mr. Sylvester and all parents left-behind after international parental abductions, I express my gratitude to the Subcommittee and my hopes that these hearings will result in positive steps taken to improve the implementation of IPKA.

PREPARED STATEMENT OF THE INTERNATIONAL CENTRE FOR MISSING AND EXPLOITED CHILDREN

First Lady Hillary Rodham Clinton and Cherie Booth, wife of British Prime Minister Tony Blair, were the principal speakers at the launch of the International Centre for Missing and Exploited Children in Washington DC in April 1999. The purpose of this new organisation is to find and return missing children worldwide and end international child abduction, an abuse Mrs. Clinton called "a human rights issue."

The International Centre for Missing and Exploited Children is a subsidiary of the U.S. based National Center for Missing and Exploited Children[1] which has helped to return thousands of missing or abducted children to their families since 1984. The International Centre will have offices in the U.S. and in Great Britain. It will provide instantaneous dissemination of pictures and information on missing children through the Internet, advocate stronger laws to protect children, assist other non-governmental organisations, and offer training to professionals and law enforcement agencies around the world.

Another goal of the International Centre is to improve the working of the Hague Convention on the Civil Aspects of International Parental Abduction. The Conven-

[1] NCMEC is a private, nonprofit organization mandated by the United States Congress, which serves as a national resource center and clearinghouse for information on missing children and child protection issues. Founded in 1984, NCNMC is located in the Washington, DC-area and works closely with the United States Department of Justice to assist families of missing children and the law-enforcement and social-service professionals who serve them. Since NCMEC's inception, it has assisted police in more than 65,000 cases of missing children playing a role in reuniting more than 46,000 children with their families. NCMEC has been referred to as a "high-tech search center" by the national news media in the U.S. and is routinely visited by world leaders from around the globe who view it as a model for the creation of similar centers in their own nations.

tion is designed to discourage child abduction and to secure the prompt return of abducted children who have been removed from, or retained outside, their country of habitual residence, so that any subsequent custody decision can be made in the home jurisdiction. In the past few years there has been growing concern that the effectiveness of the Convention is being undermined by the failure of some signatory states to fulfil their obligations.

The International Parental Kidnapping Act of 1993 makes it a federal crime to remove a child from the U.S. or retain a child outside the U.S. with intent to obstruct the lawful exercise of parental rights. Similarly, the Child Abduction Act of 1984 makes it a criminal offence in England. In some signatory countries, however, parental child abduction is not considered a crime.

International child abduction is a growing problem. The recorded figures, which almost certainly understate the problem, are alarmingly high. The National Center for Missing and Exploited Children reports that over 1,000 American children are illegally transported or retained abroad every year (over 3 children every day). In Britain, Reunite (the National Council for Abducted Children) has recorded a 58 percent increase since 1995 in the number of children abducted or retained abroad by an estranged parent.

International child abduction separates children not only from their families but also from their native countries. Putting an end to this abuse will require the cooperation of govemments and the public at large. The establishment of an international missing children's organisation is a good first step.

National Center for Missing & Exploited Children

Internationally Abducted Children

Have You Seen These Children?

Mohammed Elmergawi
D.O.B. 1-7-82
Abducted from NY, USA
Last seen in Egypt

Machel Al-Omary
D.O.B. 7-11-92
Abducted from AR, USA
Last seen in Saudi Arabia

Christine Sheikh-Attar
D.O.B. 7-21-88
Abducted from NJ, USA
Last seen in Columbia

Rayan El Kadi
D.O.B. 2-23-91
Abducted from AZ, USA
Last seen in Lebanon

Sarah Elgohary
D.O.B. 5-26-97
Abducted from HI, USA
Last seen in Egypt

Brittny Alahmad
D.O.B. 9-18-85
Abducted from CO, USA
Last seen in Jordan

Adel Bjouat
D.O.B. 12-17-87
Abducted from MO, USA
Last seen in Morocco

Amir Sheikh-Attar
D.O.B. 6-22-90
Abducted from NJ, USA
Last seen in Columbia

Gabriel Marnikovich
D.O.B. 12-13-90
Abducted from TX, USA
Last seen in Sweden

Jesus Castellanos
D.O.B. 8-8-81
Abducted from CA, USA
Last seen in Mexico

Marcella Naranjo
D.O.B. 12-23-88
Abducted from VA, USA
Last seen in Columbia

Rayna Harris
D.O.B. 6-12-94
Abducted from PA, USA
Last seen in Japan

Hannah Tate
D.O.B. 1-26-87
Abducted from WA, USA
Last seen in Mexico

Javier Lopez
D.O.B. 11-23-94
Abducted from CA, USA
Last seen in Mexico

Abdel-Hamid Hasheesh
D.O.B. 4-10-86
Abducted from IN, USA
Last seen in Egypt

Nadia Dabbagh
D.O.B. 2-3-90
Abducted from OH, USA
Last seen in Saudi Arabia

Carina Sylvester
D.O.B. 9-11-94
Abducted from MI, USA
Last seen in Austria

Amanda K. Johnson
D.O.B. 11-11-87
Abducted from VA, USA
Last seen in Sweden

Hatam Al-Shabrami
D.O.B. 6-4-91
Abducted from AR, USA
Last seen in Saudi Arabia

Leila Elmergawi
D.O.B. 7-22-85
Abducted from NY, USA
Last seen in Egypt

Christopher Fulcher
D.O.B. 11-8-94
Abducted from MD, USA
Last seen in El Salvador

Saif Ahmed
D.O.B. 11-29-95
Abducted from TX, USA
Last seen in Egypt

1-800-THE LOST

NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN
www.missingkids.com

SEPTEMBER 1999

SPECIAL REPORT

AMERICA'S Stolen Children

Why has Washington turned its back on thousands of abducted kids?

By DANIEL LEVINE

WHEN Barbara Mezo of Brooklyn, N.Y., separated from her husband, she was granted temporary custody of their two children, and he was awarded visitation rights. One month before a final divorce hearing, he whisked the kids to JFK Airport and fled to his homeland in

Forced Apart– Amanda Johnson is illegally retained in Sweden by her mother. Her American father rarely sees her.

Egypt. For years Mezo sought help from the U.S. State Department, which is supposed to help citizens with these conflicts. It said it could do little.

Again and again Mezo tried to get State to act. But when she requested documents in her case, she discovered that one Foreign Service officer had written that she "gives the impression of being mentally unbalanced" and "unusually combative and demanding" in seeking the return of her children. In another memo, a consular officer had remarked that Mezo wanted "to appear on talk shows as the spokesman for all righteous women." She still does not have custody of her kids.

When the daughter of a Texas man was abducted to Honduras by the girl's grandmother, he sought assistance from the State Department. It was no help. In an internal e-mail, an official commented, "Dad's name is Bubba—that should tell you something about him."

Cavalier Treatment

THE UGLY DISRESPECT shown to American citizens in these child-custody cases—as well as the government's cavalier treatment of their legal rights—is not uncommon. Thousands of American children have been abducted abroad by estranged spouses, but when their parents turn to Washington, they are far too often met with delays, empty promises, even outright hostility. Many spend years trying to get their children back. Most never do.

It isn't supposed to be this way. In 1988 the United States signed a treaty, called the Hague Convention on the Civil Aspects of International Child Abduction, that requires the United States and 48 other signatories to "secure the prompt return of children wrongfully removed to or retained in," another member country, and "to ensure that rights of custody are effectively respected." Congress also passed the International Parental Kidnapping Crime Act in 1993, making it a federal offense to take or retain a child outside the United States in violation of a custody order. This enables the government to seek extradition of the parent in any country.

Nevertheless, the United States rarely puts much pressure on other countries to abide by the treaty. For example, Mexico orders return or access to parents in less than three percent of the cases that make their way through its courts. By comparison, when asked to do so by other countries, the United States issues such orders more than 80 percent of the time.

David Thelen, CEO of the Committee for Missing Children, Inc., a

nonprofit parent-advocacy group, speaks for many when he charges that "the State Department considers these children expendable in the name of maintaining good diplomatic relations." State denies this charge. "We deal with children's issues first and foremost," Mary Marshall, the director of the department's Office of Children's Issues, said in an interview. "What more can we do within the law?"

A lot more, says Ray Mabus, a former U.S. ambassador to Saudi Arabia. When he was ambassador, Pat Roush of San Francisco came to him for help. Her two daughters had been taken to Saudi Arabia by her ex-husband, a Saudi citizen. Like most countries in the Middle East, Saudi Arabia has refused to sign the Hague Convention and is widely regarded as one of the most difficult countries in the world from which to recover an abducted child.

Mabus tried. He suspended the visas of Roush's ex-husband and his family for travel to the United States, met with numerous Saudi officials, including the Saudi ambassador to Washington, and even got an agreement in 1996 to allow Roush's daughters to spend summers living with her in the United States.

Then, just as the deal was about to go through, Mabus resigned, and it collapsed. "Embassies take pretty good care of Americans who lose their passports overseas," he told Reader's Digest. "But if you lose your kids, it is going to be harder than it ought to be to get anybody to listen. It doesn't have to be this way."

The State Department says it has handled about 13,000 child-abduction cases since 1977. State also says it "closed" about 900 child-abduction cases between May 1997 and May 1999. But it considers a case closed when a foreign government denies a return request. State does not know how many kids have actually been returned.

No Justice

THE STATE DEPARTMENT is not the only government agency whose performance falls short. The Department of Justice is the other.

In September 1994 Tom Sylvester and his Austrian-born wife had a daughter they named Carina. But his wife became increasingly homesick and critical of the United States. In October 1995 she fled from their home in West Bloomfield, Mich., to her hometown of Graz, Austria, taking Carina with her.

Sylvester sought help under the Hague Convention. His wife suddenly claimed "abuse." After a hearing, an Austrian court ruled that Carina should be returned to her father. Two more courts, including the country's supreme court, agreed. But she wasn't sent home.

Sylvester then filed federal criminal charges under the international parental kidnapping statute. After more than two years of waiting, he

learned that the Justice Department had not even forwarded an arrest and extradition request, because Austria typically does not extradite its citizens.

Nevertheless, Sen. Mike DeWine (R., Ohio) wondered why our Justice Department doesn't even try. Writing a letter to Attorney General Janet Reno, DeWine stated, "I am concerned that a small child would be taken from a parent in violation of the law without any law enforcement intervention." It took Justice nearly five months to respond, and even then it would still not say if it was planning to try extradition.

Says a veteran FBI special agent who has worked in several parental kidnapping cases and who requested anonymity, "This is happening more and more often. Our government has to pick up the ball and run with it." But prosecutors and law enforcement officials often don't want to get involved with these cases, because they are time-consuming and costly. Since the kidnapping law was passed in 1993, the Justice Department has issued all of 49 indictments and gotten 15 convictions.

In any event, indictments do not matter unless prosecutors file an extradition document known as a request for provisional arrest (PAR), describing the crime committed and explaining why the person should be detained. These PARs go to the Justice Department, which is supposed to forward them to foreign governments. Claiming that foreign countries rarely extradite for parental kidnapping, prosecutors often do not even file requests.

Shifting the Blame

EVEN IN CASES where the government seems to try to help a parent, the results are unimpressive. In June 1994 Jean Henderson's eight-year-old son, Roman, was abducted by her ex-husband, Randell Lamar Henderson. A warrant was issued for Randell's arrest, and Henderson says she was told that "holds" were put on both his and Roman's passports.

Then Henderson learned that on two separate visits in 1996 Randell and Roman had walked into the U.S. embassy in Prague and renewed their passports. The State Department claims it had no knowledge of the kidnapping or arrest warrant and blames the FBI. Says Henderson, "It was ridiculous. Nobody knew what anybody else was doing, and they were all blaming each other."

THE STATE DEPARTMENT publishes a handbook for parents of internationally abducted children explaining the options available to them, such as retaining an attorney overseas, but makes clear that "you, as the deprived parent, must direct the search and recovery operation yourself." Four pages later it reads as though the Hague Convention did not exist: "Child-custody disputes remain fundamentally private

legal matters between the parents involved, over which the Department of State has no jurisdiction."

That is misleading, notes Thomas A. Johnson, a State Department attorney who has negotiated dozens of international agreements. "Crimes and international treaty violations are not private matters. These are also human-rights violations, and these are facts the State Department has been trying to avoid."

Ironically, Thomas Johnson's own 11-year-old daughter, Amanda, was illegally retained by his ex-wife in Sweden in 1995. A Virginia court order granted him "sole legal and physical custody." But the Hague Convention provides that a child should be in his or her place of habitual residence, and by the time the case reached Sweden's Supreme Administrative Court, Amanda had been in the country two years. The court claimed that this made her a "habitual resident" of Sweden and ruled that she should remain there. Sweden says it has fulfilled its treaty obligations.

Johnson says it has not, and feels that he has received no effective support from his own government. "If this can happen to me, an expert in the field," he says, "it can and will happen to other parents unless sweeping changes are made in U.S. policy."

Senator DeWine notes that the government has no more important responsibility than to stand up for the rights of American citizens, especially when they cannot stand up for themselves. "We go after countries that steal our products or violate patent and copyright laws," he says, "but not when they are supporting the theft of American children. What does that say about us as a country?"

FOR REPRINTS SEE PAGE 208.

Thomas R. Sylvester
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Cincinnati, Ohio 45241
Telephone: (513) 469-6135 Facsimile: (513) 932-7975

October 26, 1999

The Honorable Strom Thurmond
Chairman
Subcommittee on Criminal Justice Oversight
Committee on the Judiciary
United States Senate
224 Dirksen Office Building
Washington, D.C. 20510-6275

Re: 1) Senate Hearing on The Justice Department's Response to International Parental Kidnapping
2) United States District Court Warrant for Arrest of Monika Sylvester Case Number 96-80432
3) Interpol Red Notice File Number 20077/96; Interpol Yellow Notice File Number 20080/96

Dear Senator Thurmond,

I am Tom Sylvester, father of Carina Sylvester, my American-born daughter and only child, who was abducted by her Austrian mother from Michigan to Austria on October 30, 1995. That was her last day on American soil. Carina was then just 13 months old. She recently celebrated her fifth birthday in Austria. In the intervening four years, I have worked unceasingly to obtain the enforcement of the various U.S. and Austrian court orders granted in favor of Carina's return to the U.S. in 1995 and 1996. Unfortunately not one of the hundreds of people I have contacted and nothing they or I have done has made a difference. I spoke at a hearing of the U.S. Senate Committee on Foreign Relations one year ago and the situation today is the same.

My experiences with the Justice Department (DOJ) began well with the entry of an international warrant in May of 1996 under the International Parental Kidnapping Crime Act. This led to the red and yellow notices by Interpol. However, that is essentially where the participation of DOJ ended. Even my inquiries into the matter were surprisingly met with contention and hostility. The sole exception was Mary Jo Grotenrath at the Office of International Affairs who was uniformly pleasant and informative. Initially however, I was told that the criminal approach would be put on hold to see how the civil proceedings under the Hague Convention would unfold. I was told that Austria does not extradite its citizens but the U.S. does. So that if I were to go over to Austria to retrieve Carina myself, that I would run the risk of being extradited to Austria to face criminal charges there. The excuse of Austria's refusal to extradite its own nationals was used to explain away any further work on the warrant. After three years we had seen how the civil proceedings have unfolded and still nothing was forthcoming from DOJ on the warrant. In fact, after a very short period of time it became clear that the official position of the Department of Justice was to "remain neutral" on the warrant.

Neither understanding this position nor being satisfied with this situation, I continued to press for information and answers or even some interest in the warrant of any kind. For example, last year I made a request to the Assistant U.S. Attorney on the case that an extradition request be issued to Austria– even if impossible to achieve. I was denied that request. Just recently I have learned that a provisional arrest request was presented a short while ago to Italy. Italy denied the request.

I believe the United States is not responding adequately through law enforcement tools to assist American parents and internationally abducted U.S. children. Such legal action by the DOJ would serve to apply pressure on the Austrians to comply with its international treaty obligations, and perhaps the abductor to take accountability for the wrongful, illegal behavior. With the current situation of lack of support on international parental kidnapping warrants from DOJ, Carina's abductor continues to get away with complete impunity.

Ironically, the existence of the international parental kidnapping warrant, as useless as it is as a law enforcement tool, is however used as a weapon by the abductor and the Austrian courts to justify their not returning Carina to the U.S. In theory, the Austrians believe the abductor must accompany the child here upon her return or on a visit. At that time, theoretically, the abductor would be arrested and jailed and I would have free reign to enforce my valid Judgment of Divorce entered in Michigan Court proceedings granting me sole legal and physical custody of Carina.

As a result, the warrant on which very little has been attempted and nothing accomplished is in fact a detriment to Carina's return. Swift action on the warrant on the part of DOJ could have restored the balance of power in the case early and would also have been perfectly in keeping with DOJ's role as our federal law enforcement agency.

Senator Mike DeWine wrote to the Attorney General Janet Reno on September 21, 1998: "While I understand that pressing for extradition in cases where it would be fruitless is not a wise use of the Department of Justice's resources, I am also concerned that a small child would be taken from a parent in violation of the law without any law enforcement intervention."

The recent report to the Attorney General from the joint task force, formed as a result of the hearing on October 1, 1998 before the United States Senate Committee on Foreign Relations on the DOJ's response to international parental kidnapping cases, was a disappointment to me and other similarly situated parents. It lacks backbone, relying essentially on fact that the International Parental Kidnapping Act was meant as a last resort after civil recourse under the Hague Convention failed. I perceive at least two problems with this approach.

First, a prompt criminal response allowing for the arrest of the abductor, even though theoretically leaving the child behind, is essential for re-establishing the balance of power. As time drags on, the American laissez-faire policy on these warrants looks weak and insincere. The warrant is also used as a weapon in the argument against return. Therefore, if it is to be available and of any benefit whatsoever to left behind parents, it must be utilized swiftly to its maximum effect.

Second, the proposals for law enforcement response to international parental kidnapping under the International Parental Kidnapping Act are weak and will result in no further assistance to parents of America's stolen children. For example:

a. The report does not adequately reflect existing difficulties that reduce the efficacy of these arrest warrants when abductors flee to countries such as Austria from which nationals are not extradited;

b. The report focuses on the fact that the arrest and extradition of the abductor does not return the abducted child. This reads as justification for not vigorously pursuing the warrant, since it is assumed that the primary purpose of the warrant and the criminal act on which it is based is the return of the child. Naturally, left-behind parents are desperate for the return of their lost children. In many cases however, the civil remedy under the Hague Convention has been so abominable an arrest and incarceration under the act may provide the only means by which to resolve the balance of power between the parents to allow for a negotiation as to how the child will be cared for.

It appears never to have been the intention of the legislature to seek the return of the child with the implementation of the International Parental Kidnapping Act. The perpetrator under the act is the abductor. The International Parental Kidnapping Act criminalized the abduction itself and seeks redress for the criminal behavior. There should be no concern by DOJ in pursuing criminals under the International Parental Kidnapping Crime Act as to whether or not the child is returned. This simply isn't relevant to the performance of the job of our federal law enforcement agency;

c. The emphasis by DOJ in the report on the fact that a conviction under the crime act does not return the child reinforces the same institutional misunderstanding held by DOS – that being that the remedy sought by the Hague Convention and the International Parental Kidnapping Act is a private custody matter; and

d. The report fails in providing a swift and defined protocol for prosecuting cases and pursuing warrants under the International Parental Kidnapping Act.

There is an immediate need for the Department of Justice to prioritize these parental child abduction matters and assist with the enforcement of American orders and American arrest warrants to give some support to parents like me who obtain affirmed valid and final orders for return under the Hague Convention which don't themselves bring the children home. The Department of Justice must vigorously pursue these fugitives from justice as they would "serious" criminals and never again remain neutral on a warrant for arrest of an abductor. Extradition should be requested in every appropriate case whether it is believed it will be granted or not.

There has been no remedy to the wrongful removal of Carina. The abductor has gotten away with complete impunity. Now I am being confronted with demands from the abductor. I am told that I must meet these demands, which include the removal of the Warrant for Arrest, or I risk never seeing my daughter again. As an FBI agent said to me, I am being extorted for my own child. The real choice for me now is to "write off" the child, carry out a rescue operation, or participate in hostage-like negotiations with the person who committed the hostile, deviant and illegal behavior. The system has failed miserably.

Carina is being denied her most basic human right - that of having both parents in her life. If you have rights that are not able to be exercised, it is as if you have no rights at all. She is not being exposed to this country, her native language or her extended family. She has the right to have a continuing relationship with me, her father.

I urge you to do everything possible to end this miscarriage and travesty of justice so that my daughter and I can enjoy the normal relationship that a child is entitled to have with her father. I thank you for taking the time to address my situation. I ask for your continued interest and support.

Sincerely,

Thomas R. Sylvester
Father of Carina Sylvester

Enclosures

cc: Senator Mike DeWine
Senator Charles Schumer

AO 442 (Rev. 12/85) Warrant for Arrest

AUSA Jennifer Gorland [illegible]

United States District Court

Eastern DISTRICT OF Michigan-SD

UNITED STATES OF AMERICA
V.

Monika Maria Sylvester

WARRANT FOR ARREST

CASE NUMBER: 96-80432 ~~26408-96~~

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest Monika Maria Sylvester
Name

and bring him or her forthwith to the nearest magistrate to answer a(n)

☐ Indictment ☐ Information ☒ Complaint ☐ Order of court ☐ Violation Notice ☐ Probation Violation Petition

charging him or her with (brief description of offense)

International Parental Kidnapping

A TRUE COPY
CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
BY [signature]
DEPUTY CLERK

in violation of Title 18 United States Code, Section(s) 1204

VIRGINIA M. MORGAN
Name of Issuing Officer

VIRGINIA M. MORGAN
Signature of Issuing Officer

MAGISTRATE JUDGE VIRGINIA MORGAN
Title of Issuing Officer

May 29, 1996 Detroit, Michigan
Date and Location

Bail fixed at $ _____ by _____
Name of Judicial Officer

RETURN

This warrant was received and executed with the arrest of the above-named defendant at _____

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

AO 91 (Rev. 5/85) Criminal Complaint

AUSA Jennifer Gorland 226-9707

United States District Court

Eastern DISTRICT OF Michigan-SD

UNITED STATES OF AMERICA
V.

Monika Maria Sylvester

(Name and Address of Defendant)

CRIMINAL COMPLAINT

CASE NUMBER: 96-80432

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about May 10, 1996 in Oakland county, in the Eastern District of Michigan defendant(s) did, (Track Statutory Language of Offense) knowingly, willfully and unlawfully retain a child, to wit: Carina Maria Sylvester, outside the United States with intent to obstruct the lawful exercise of parental rights

in violation of Title 18 United States Code, Section(s) 1204

I further state that I am a(n) Special Agent - FBI (Official Title) and that this complaint is based on the following facts:

See attached affidavit.

I hereby certify that the foregoing is a true copy of the original on file in this Office.
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
By L.L. Mullins
Deputy

Continued on the attached sheet and made a part hereof: ☑ Yes ☐ No

Scott T. Wilson
Signature of Complainant
Scott T. Wilson, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

May 29, 1996 (Date) at Detroit, Michigan (City and State)

MAGISTRATE JUDGE VIRGINIA MORGAN
Name & Title of Judicial Officer
U.S. Magistrate Judge

Signature of Judicial Officer

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN

DETROIT, MICHIGAN

A F F I D A V I T

Scott T. Wilson, Special Agent, Federal Bureau of Investigation, after being duly sworn, deposes and states the following:

1. On May 21, 1996, Thomas R. Sylvester, born 09/14/52, contacted the Detroit Office of the FBI, Oakland County Resident Agency. Sylvester is the father of Carina Maria Sylvester, born 09/11/94. Sylvester provided the following details regarding the international parental kidnapping of his daughter:

2. On October 30, 1995, Monika Maria Sylvester, who at the time was residing at 5851 Cherrywood Drive, Apartment 1912, West Bloomfield, Michigan, wife of Thomas Sylvester, took her daughter, Carina Maria Sylvester, and left the United States to Graz, Austria. Monika Sylvester is a citizen of Austria and Carina Sylvester, who was born in Royal Oak, Michigan, is a citizen of the United States and Austria. Monika Sylvester contacted Thomas Sylvester and told him she would not be returning to the United States and neither would their daughter, Carina.

3. On October 31, 1995, Thomas Sylvester filed for divorce and custody of his daughter in the Circuit Court for the County of Oakland. Sylvester also applied for assistance under

the Hague Convention on Child Abduction with the United States Department of State.

4. On November 21, 1995, Judge David F. Breck, Circuit Court for the County of Oakland ordered temporary custody of Carina Sylvester to Thomas Sylvester.

5. On December 20, 1995, the Honorable Dr. Christine Katter, The District Court of Civil Action Graz, Division 17, Graz, Austria, ordered the return of Carina Sylvester to the father, Thomas Sylvester. This order was appealed by Monika Sylvester to the Supreme Court of Austria and the child was not returned. Also ordered by the court was visitation by the father on December 24 and 27, 1995. The child was not brought to the location agreed upon on either date.

6. On April 16, 1996, Judge David F. Breck, Circuit Court for the County of Oakland grants a default judgement of divorce and orders sole legal and physical custody of Carina Sylvester to Thomas Sylvester.

7. On May 7, 1996, the order of the Honorable Dr. Katter, District Court of Civil Action, Graz, Austria, becomes valid and affirmed by the Supreme Court of Austria, and again the child is ordered to be returned to the father, Thomas Sylvester.

8. On May 10, 1996, Thomas Sylvester goes to the residence of Monika Sylvester in Graz, Austria, with Austrian Authorities to take custody of the child. Carina Sylvester is not present at the residence and the mother, Monika Sylvester,

refuses to turn the child over to the custody of Thomas Sylvester or provide the present location of the child to Austrian Authorities.

9. The above is known to the undersigned to be true through personal interview and investigation.

Scott T. Wilson
Scott T. Wilson, Special Agent
Federal Bureau of Investigation

Subscribed to and sworn
before me this 29 day
of May, 1996.

Virginia M Morgan
United States Magistrate Judge

SYLVESTER Carina Maria
F-3/1-1997



PRESENT FAMILY NAME: SYLVESTER FORENAMES: Carina Maria SEX: F

DATE AND PLACE OF BIRTH: 11th September 1994 - Royal Oak, Michigan, United States

FATHER'S FAMILY NAME AND FORENAMES: SYLVESTER Thomas R.

MOTHER'S MAIDEN NAME AND FORENAMES: ROSSMANN Monika Maria

IDENTITY CONFIRMED - DUAL NATIONALITY: UNITED STATES CITIZEN AND AUSTRIAN (CONFIRMED)

DESCRIPTION: Height 74 cm, weight 11 kg, brown hair, brown eyes.

TEETH: Good condition.
IDENTITY DOCUMENT: United States Social Security No. 375-17-6986.

AREAS/PLACES FREQUENTED OR COUNTRIES LIKELY TO BE VISITED: Austria (Neuseiersberg, Graz), United States.

LANGUAGE SPOKEN: German.

CIRCUMSTANCES OF DISAPPEARANCE: On 30th October 1995, SYLVESTER Monika Maria took her daughter SYLVESTER Carina Maria and left the United States for Graz, Austria. On 20th December 1995, the court in Graz ordered that SYLVESTER Carina Maria be returned to her father, SYLVESTER Thomas R.; SYLVESTER Monika Maria appealed against this order and the child was not returned. Visits by the father on 24th and 27th December were also ordered but the child was not brought to the location agreed upon on either date. On 16th April 1996, the court in the County of Oakland, Michigan, United States, granted default judgement of divorce and ordered sole legal and physical custody of SYLVESTER Carina Maria to SYLVESTER Thomas R.. SYLVESTER Monika Maria refuses to return the child.

ADDITIONAL INFORMATION: Her mother, SYLVESTER Monika Maria, born on 29th April 1962, is the subject of red notice File No. 20077/96, Control No. A-26/1-1997 (see photograph).

PURPOSE OF NOTICE: Issued at the request of the United States authorities in order to locate this person. If traced, please place her in the care of a child welfare organization and contact her country's nearest diplomatic representative. Please send any information available to INTERPOL WASHINGTON (Reference 96-05-05496/JRP of 17th January 1997) and the ICPO-Interpol General Secretariat.

File No. 20080/96 **Control No.** F-3/1-1997

SYLVESTER Monika Maria
A-26/1-1997

PRESENT FAMILY NAME: SYLVESTER FAMILY NAME AT BIRTH: ROSSMANN

FORENAMES: Monika Maria SEX: F
DATE AND PLACE OF BIRTH: 29th April 1962 - Graz, Austria

FATHER'S FAMILY NAME AND FORENAME: ROSSMANN Werner
MOTHER'S FORENAME: Gertraud

IDENTITY CONFIRMED - NATIONALITY: AUSTRIAN (CONFIRMED)
DESCRIPTION: Height 173 cm, weight 70 kg, dark brown hair, brown eyes.
DISTINGUISHING MARKS AND CHARACTERISTICS: Mole on left side of chin.
IDENTITY DOCUMENTS: United States Social Security No. 375-17-6462; Austrian passport No. W-0282151.
OCCUPATION: Secretary.
COUNTRIES LIKELY TO BE VISITED: United States, Austria (Neuseiersberg, Graz).
LANGUAGES SPOKEN: German, English.
ADDITIONAL INFORMATION: Her daughter, SYLVESTER Carina Maria, born on 11th September 1994, is the subject of yellow notice File No. 20080/96, Control No. F-3/1-1997 (see photograph).

SUMMARY OF FACTS OF THE CASE: On 30th October 1995, SYLVESTER Monika Maria took her daughter SYLVESTER Carina Maria and left the United States for Graz, Austria. On 20th December 1995, the court in Graz ordered that SYLVESTER Carina Maria be returned to her father, SYLVESTER Thomas R.; SYLVESTER Monika Maria appealed against this order and the child was not returned. Visits by the father on 24th and 27th December were also ordered but the child was not brought to the location agreed upon on either date. On 16th April 1996, the court in the County of Oakland, Michigan, United States, granted default judgement of divorce and ordered sole legal and physical custody of SYLVESTER Carina Maria to SYLVESTER Thomas R.. SYLVESTER Monika Maria refuses to return the child.

REASON FOR NOTICE: Wanted on arrest warrant No. 96-80432, issued on 29th May 1996 by the judicial authorities in Detroit, Michigan, United States, for international parental kidnapping. EXTRADITION WILL BE REQUESTED FROM ALL COUNTRIES WITH WHICH THE UNITED STATES HAS AN EXTRADITION TREATY CURRENTLY IN FORCE WHICH PERMITS EXTRADITION FOR THE OFFENCE CHARGED. If found in a country from which extradition will be requested, please detain; if found elsewhere, please keep a watch on her movements and activities. In either case, immediately inform INTERPOL WASHINGTON (Reference 96-05-05496/IRP of 17th January 1997) and the ICPO-Interpol General Secretariat.

File No. 20077/96 **Control No.** A-26/1-1997

CHILDREN'S RIGHTS COUNCIL,
Washington, DC, October 27, 1999.

Re: Oversight Hearing on Justice Department's Response to International Parental Kidnaping

Senator STROM THURMOND, *Chairman,*
Criminal Justice Oversight Subcommittee,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN THURMOND AND MEMBERS OF THE SUBCOMMITTEE: This is a statement for the record regarding your important hearing on The Justice Department's Response to International Parental Kidnapping.

Catherine Meyer, the new honorary president of the Children's, Rights Council, will testify at the hearing, as well as other witnesses concerned about the International Parental Kidnaping Crime Act of 1993.

The Children's Rights Council has spoken out spoken out against parental kidnaping of children since our inception in 1985. Abduction often occurs in the context of custody battles. The sudden move to foreign countries remote from friends and other family members can have a lifelong negative effect on children.

When Congressman George Gekas was preparing legislation that led to passage of the 1993 law, CRC was invited to be part of the planning for that legislation. We were pleased when denial of access (visitation) was included as one of the grounds for invoking criminal penalties under the statute.

We urge the subcommittee to make certain that the Justice Department and other authorities charged with enforcing this law are aware that violations of court ordered access are forms of kidnaping and child abuse, and the perpetrators need to be punished, accordingly.

A parent should not have to travel half way around the world so that the child can have court-ordered access to that parent. CRC does not favor arrests for minor infractions, such as a delay of a day or two in returning the child; however, intentional withholding of a child abroad during scheduled visits with the other parent are serious violations and should be prosecuted.

While America moves to more effectively enforce anti-kidnaping laws, we must seek ways to PREVENT parental kidnaping from occurring in the first place. These ways include:

(1) Require the states and foreign countries to create uniform laws against parental kidnaping. At present, all states treat interference by the non-custodial parent as a crime; but less than half the states (although this number is growing) treat kidnaping by the custodial parent as a crime;

(2) Require the states and foreign countries to create a presumption for shared parenting when parents separate or divorce. Parents who seek to be actively involved in a child's life are less likely to kidnap if they are assured of such active involvement;

(3) When parents are of two nationalities, require them to have a parenting plan in place approved by a court stipulating an access (visitation) schedule before allowing one parent to leave the country with that child;

(4) Tighten the loophole in the Hague Convention Against Parental Child Abduction, by making it more difficult for a young child to claim that he or she wants to stay in the country to which the child has been taken. Having a child of 5 or 6 saying he likes his new country so much he wants to stay there, makes a mockery of child interviewing techniques;

(5) Publicize the actions of countries like Germany, Sweden, and Arab states which favor their own nationals—be they mothers or fathers—rather than adhering to provision of the Hague Convention.

The Children's Rights Council supports this subcommittee's efforts and offers to assist in any way we can. Thank you.

Sincerely your,

DAVID L. LEVY,
President CRC.

CASE OF DANNY AND MICHELLE COOKE

Two American-born children, two innocent and defenseless U.S. citizens, Danny Cooke, nine years old, a New Yorker, and Michelle Cooke, eight years old, a Bostonian, remain since 1992 held in a remote German village, Benningen, to reach which one takes a plane to Zurich, a train to Singen, and a bus to Binningen; or from Zurich, a train to Konstanz, another train to Singen and a bus to Binningen.

In brief, this is the way that incredible injustice is being perpetuated:

Christiane Koch (a German national) and Joseph Cooke (a U.S. American-born citizen) married here in Flushing, on September 1, 1989. (They met while Joseph was in the U.S. Army serving in Germany.) On February 8, 1990, their first child, Daniel Joseph, was born in North Shore Hospital in Manhasset, NY. On May 23, 1991 Michelle Natalie their second child, was born in Framingham Hospital, Boston, Massachusetts.

In July of 1992 Christiane took Danny and Michelle to Germany to visit her family. Shortly after she called Joseph and told him that she was not returning to the United States and that he would never see his children again. In October Chrstiane, without Joseph's knowledge or consent, placed their children in foster care in Germany. Joseph), despite his efforts, could not locate his children for over one year.

In February of 1994 Joseph and Christiane finalized their divorce in the New York State Supreme Court in Queens County. Judge Simeon Golar awarded Joseph full legal custody of his children.

In April of 1994 Joseph appeared in Court in Singen, Germany, before Judge Dallinger with an order from the Supreme Court of New York ordering the return of these American children to their natural father. The German Court admitted that the German Youth Agency had erred in not contacting Joseph although they knew where he was through the children's passport. Judge Dallinger requested Joseph to stay in Germany for two months to get reacquainted with his children. Joseph complied. At end of the two months Judge Dallinger refused to return the children to their natural American father as ordered by the Supreme Court of New York.

In July of 1994 Joseph returned to Germany to request Judge Dallinger to hold a hearing in the case. Successful, in September, Joseph returned to Germany to the German court. The German judge still refused to reach a decision. The German Court requested that Joseph be investigated. All reports and investigations found Joseph a stable citizen capable and willing to raise in the United States his American-born children. In March of 1995 Judge Dallinger rendered his decision: his order of September 17, 1993 should remain; the children should continue to reside in Germany. On May 22, 1995, by letter, the children's mother, Christiane Koch, petitioned Judge Dallinger to return the children to the care of their natural, American-born father, Joseph Cooke. It was ignored.

In April of 1995 Judge Simeon Solar issued an order for the return of Danny and Michelle to their custodial parent, Joseph Cooke. Judge Dallinger's decision was appealed to the court in Konstanz. A hearing was set for May 1995. Judge Dallinger's decision was upheld. The decision in Konstanz was appealed to the court in Freiburg. The decision in Konstanz was upheld: Joseph was a fit father but too much time had passed to return the children. The excessive time now argued as a reason for holding two innocent American citizens in Germany was created by the very same government now using it as an excuse.

German legal counsel advised against any further appeals and Joseph by now had run out of money and was not receiving any help from anyone in the U.S. government.

Joseph was asked twice by the German government to send money for the support of his children. Twice he answered such impudence by refusing and stating that he was ready, willing and able to support them right here in their own country where they belong.

For the Christmas of 1997 their paternal grandmother, Patricia Alfaro Cooke, sent her grandchildren some Christmas gifts. They were returned to her in February of 1998 because $20.00 had to be paid in customs duties. In February of 1997 Patricia sent a birthday present. Unopened, the package was returned in late April.

In June of 1998 Patricia Alfaro Cooke, the children's grandmother, was allowed to visit her grandchildren for an hour. She brought back to the children the Christmas gifts that had been returned. In November of 1998, she was permitted to visit them for two hours on two different days. Mr. Ritter, possibly a social worker, agreed to allow her son Arthur, the children's paternal uncle, to accompany her on the coming 1999 June visit to the children. In March of 1999 Patricia was allowed to visit her grandchildren for two hours and a half. Mr. Ritter suggested that Patricia should bring something to the other children living in the foster home. In June of 1999 Patricia and Arthur went to Germany to visit as agreed. Arthur was not allowed to see the children. Patricia was permitted to visit them for two hours and a half on two different days. At a meeting of Mr. Ritter, Patricia and Arthur, Mr. Ritter promised three times to Patricia and Arthur that Arthur could visit the children in November and asked Arthur to write to the children, introduce himself to them and ask them if they wanted to see him. Arthur did and the children replied that they wanted him to visit them. Shortly after Mr. Ritter wrote to Patricia that the foster parents would not allow any other visitors and that another meeting

should be held in November of 1999 to discussed the concerns of the foster parents, concerns which were taken very seriously.

In November 1999, Patricia and Arthur went to Germany. A meeting with Mr. Ritter, Mr. and Mrs. Weh and a German interpreter provided by Mr. Ritter took place. She was made to sign a promise not to "kidnap" her grandchildren. Arthur was now denied permission to see the children. One month after that meeting Patricia received from Mr. Ritter a mendacious confirmation of the meeting that she was requested to sign. In it, it was said, contrary to fact, that she had agreed to leave her grandchildren to live in Germany. She refused to confirm such a lie in her reply to him. He wrote to her, in an insolent, threatening undertone, that she should write German correctly and get herself a female translator to do it.

MICHAEL C. BERRY & ASSOCIATES, P.A.
Attorneys and Counselors at Law
1106 N. Fort Harrison Avenue
Clearwater, FL 33755

Telephone: 727/447-0533
Facsimile: 727/446-3033
E-mail:mcberry@intnet.net
Web Page: www.berrylaw.com

October 26, 1999

TO: Senator Strom Thurmond
c/o Alex Vincent, Esq.
United States Senate
217 Russell Office Building
Washington D.C. 20510

By Fax to: 1-202-224-1300

RE: **Criminal Justice Oversight Committee Hearing October 27, 1999**
Case Experience with 18 U.S.C. 1204 International Parental Kidnapping Act and 42 U.S.C. 11601 et seq. International Child Abduction Remedies Act.

Dear Senator Thurmond:

Please accept this letter as additional input, for the record, at the hearing on October 26, 1999 concerning the Justice Department's response to International Parental Kidnapping. I would appreciate it if it were read into the record. I have litigated numerous 42 U.S.C. 11601 International Child Abduction Remedies Act cases in both the United States and in foreign countries. I have, as a result, had first hand experience with the application of 18 U.S.C. 1204 International Parental Kidnapping Act applications that frequently are interwoven with the civil actions.

John LeBeau v. Mette LeBeau

One of those cases was the John LeBeau v. Mette LeBeau matter where Mette LeBeau had moved with two 6 month old twins born of the parties, without malice or criminal intent, and upon erroneous advice from former counsel, from West Palm Beach, Florida to her parents in her home country, Denmark. Subsequently, Mr.

LeBeau invoked his right to file an application under the 42 U.S.C.11601 International Child Abduction Remedies Act. The Danish lower court ruled in favor of the mother, Mrs. LeBeau and the Danish High Court reversed the decision and ordered the Mother to return the children to Florida. Unfortunately, Mrs. LeBeau did not seek or perhaps did not apply for the return of the children under her care to Florida, and she refused to return the children to the care as ordered by the High Court of Denmark to Mr. LeBeau's care. Instead, in a gross error of judgment, Mrs. LeBeau fled to England with the children. Mrs. LeBeau was then charged with violating 18 U.S.C. 1204 International Parental Kidnapping Act. Mr. LeBeau was forced to find Mrs. LeBeau, and after one year he was successful. Upon locating her an extradition warrant requesting the return of Mrs. LeBeau was issued and Mr. LeBeau began another 42 U.S.C.11601 International Child Abduction Remedies Act, proceeding in England. Mrs. LeBeau was brought before the High Court of London. It was at this point that I was retained by Solicitors for Mrs. LeBeau in London, England for purposes of assisting in arranging a safe, expeditious and most common sense non-litigious return of the parties to the Unites States through negotiations with the United States Attorney's Office. As a result, in London, England, where both parties were afforded competent Solicitors and Barristers, without charge, in open court, both Mr. LeBeau and Mrs. LeBeau consented to a "Stipulated Order" of return where Mrs. LeBeau would appear before the Federal Court in Florida, and submit to the jurisdiction of the Family Court in West Palm Beach, Florida. The net result was that the mother and the father returned with the children to the United States for further hearings with the State of Florida Courts on the custodial care of the two children, and the mother would answer to the Federal Court for her error in judgment, the fleeing to England.

The Justice Department

The Justice Department was extremely competent in the manner in which the LeBeau case was handled specifically, Assistant Attorney Carolyn Bell, of West Palm Beach, Florida, and FBI Special Agent Charles Wilcox. Both persons acted in the best interest of the citizens of the United States and more importantly the children by arranging for the peaceful, uncontested return of Mrs. LeBeau and the children to the United States. This effort considerably minimized the time, expense and emotion associated with such matters if heavily litigated, and resulted in a common sense agreement for the safe return of all involved. In this case the 18 U.S.C. 1204 International Parental Kidnapping Act, served a useful purpose and was both competently and professionally administered. Upon further investigation, it was learned that Mrs. LeBeau had valid defenses under the federal criminal law involving domestic violence of Mr.; LeBeau and a plea bargain was entered into which then left the matter to be decided by the Family Law Courts of Florida. Mrs. LeBeau, after protracted litigation successfully voided a sole parental custody order of Mr., LeBeau, but then suffered from a nervous condition and was forced to return to Denmark leaving both her children with Mr. LeBeau at the present time. It should be pointed out that the Danish Government closely monitored this case and has found the action of the Justice Department and the Florida Court to be consistent with due process and fair play. The High Court of London concerned over the looming criminal action also thought the solution was an appropriate response demonstrating a careful weighing of the both the facts and the law. This can only further the positive enforcement of both the 18 U.S.C. 1204 International Parental Kidnapping Act and 42 U.S.C. 11601 et seq. International Child Abduction Remedies Act.

Other Cases

Based upon my personal experience, unfortunately the enforcement of the 18 U.S.C. 1204 International Parental Kidnapping Act is not consistent in the United States. Frequently the competence displayed by Assistant U. S. Attorney Carolyn Bell, of West Palm Beach, Florida, and FBI Special Agent Charles Wilcox in the LeBeau case is not repeated. There appears to be a need for common guidelines for the application of the criminal law. All to often the FBI Agents and U.S. Attorneys, lacking thorough guidelines, treat this as a "Family Law Matter" and decline to get involved. Sometimes it is rationalized that the criminal law under review should not be involved because:

1. It is a vehicle or tool for return of the children and therefore it should not be applied.

   Response: This is frequently used as an excuse for noninvolvement. The criminal law becomes a positive vehicle for the return of children due to the mere fact that it exists. It is part of the process that it is applied and it should be applied depending upon the nuances associated with the country involved. It's application serves as a valid deterrent and warning for those contemplating such action. The lack of enforcement is well known and understood and therefore more takings occur.

2. It will cause the returning court to refuse to return the parent and children because of the pending criminal charges.

   Response: That is an accurate factor to be used to determine its application. Many countries will not return a parent and children if the returning parent is going to be incarcerated vitiating his/her right to their due process. The agreement obtained in the LeBeau matter demonstrates how this problem can be overcome in some foreign jurisdictions.

3. There is not enough manpower to investigate and prosecute such cases since the frequency is on the rise inherent with the increased international mobility of people.

   Response: Due to the absence of coordinated efforts in the Justice Department this real problem is accentuated. If Congress sees fit to spend as much as it has on Special Prosecutors certainly it may find a way to fund this are of the law.

In closing, I recommend that this Senate subcommittee direct that the Office of Children's Issues of the United States State Department along with the United States Justice Department develop uniform guidelines for the competent enforcement of the underutilized 18 U.S.C. 1204 International Parental Kidnapping Act and it's corresponding relationship with 42 U.S.C. 11601 et seq. International Child Abduction Remedies Act, consulting with the National Center for Missing and Exploited Children and litigation practitioners for it's well deserved application.

Thank you for the courtesy and privilege of allowing my participation.

Respectfully,

Michael C. Berry, Sr.
Attorney at Law

CC: Carloyn Bell, Asst. U. S. Attorney
Charles Wilcox, Special Agent FBI
Charles K. Wilcox, Special Agent
Anne-Marie Hutchinson, Solicitor, London, England
Anne-Lise Dirks Gustafson, Consul of Denmark
Ambassador Hans Grunnet, Consul General of Denmark
Ernie Allen, Pres. NCMEC
Nancy Hammer, Esq. International Law Director, NCMEC

they left while, at the same time, contacting relative of aliens to demand payment of money for their release. U.S. v. Carrion-Caliz, C.A.5 (Tex.) 1991, 944 F.2d 220, rehearing denied, certiorari denied 112 S.Ct. 1573, 503 U.S. 965, 118 L.Ed.2d 217.

5. Expert witnesses

District court could properly allow expert testimony by clinical psychologist employed by Federal Bureau of Investigation concerning "Stockholm Syndrome" in action involving, inter alia, taking of a hostage; testimony was admissible to explain victim's conduct after she was kidnapped and held hostage, and was not offered to prove that victim was kidnapped. U.S. v. Peralta, C.A.9 (Cal.) 1991, 941 F.2d 1003, amended on denial of rehearing, certiorari denied 112 S.Ct. 1484, 503 U.S. 940, 117 L.Ed.2d 626.

§ 1204. International parental kidnapping

(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

(b) As used in this section—

(1) the term "child" means a person who has not attained the age of 16 years; and

(2) the term "parental rights", with respect to a child, means the right to physical custody of the child—

(A) whether joint or sole (and includes visiting rights); and

(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

(c) It shall be an affirmative defense under this section that—

(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

(2) the defendant was fleeing an incidence or pattern of domestic violence;

(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

(Added Pub.L. 103–173, § 2(a), Dec. 2, 1993, 107 Stat. 1998.)

HISTORICAL AND STATUTORY NOTES

References in Text

The official text of the Uniform Child Custody Jurisdiction Act, as approved in 1968 by the National Conference of Commissioners on Uniform State Laws and the American Bar Association, is set out in Uniform Laws Annotated (U.L.A.), Matrimonial, Family and Health Laws, Volume 9, Part I.

Sense of the Congress Regarding Use of Procedures Under the Hague Convention on the Civil Aspects of International Parental Child Abduction

Section 2(b) of Pub.L. 103–173 provided that: "It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent."

Legislative History

For legislative history and purpose of Pub.L. 103–173, see 1993 U.S. Code Cong. and Adm. News, p. 2419.

LIBRARY REFERENCES

Parent and Child ⇐2(5), 2(18), 2(19).

C.J.S. Parent and Child §§ 32, 43 to 48.

WESTLAW Topic No. 285.

103D CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPORT 103–390

INTERNATIONAL PARENTAL KIDNAPPING CRIME ACT OF 1993

NOVEMBER 20, 1993.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 3378]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3378) to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

SUMMARY AND PURPOSE

H.R. 3378 is intended to deter the removal of children from the United States to foreign countries in order to obstruct parental rights. It creates a Federal felony offense of international parental kidnapping. Offenders may be punished by a fine under title 18, imprisonment for not more than 3 years, or both.

BACKGROUND

Every year hundreds of children are taken from the United States to foreign countries by parents who do not have legal custody. The rate of such cases has increased in recent years. The State Department reported a total of 515 international parental child abduction cases from the United States during 1992.[1] That number capped a steady series of increases from 320 such abduc-

[1] U.S. Department of State, *Statistical Report of the United States Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction* (January 1993).

tions during 1987.[2] Some experts believe that these figures are low and that the actual rate may be several times higher.[3]

These parental kidnappings seriously affect both the children and the parents deprived of rightful custody. Some child psychologists believe that the trauma children suffer from these abductions is one of the worst forms of child abuse.[4]

Parental kidnapping is a criminal offense in all 50 states,[5] and a felony in the majority of these.[6] But it is not a federal offense.

In the international cases which are the subject of this bill, the lack of a federal offense—and the federal criminal justice system consequences that would flow from such an offense—handicaps the pursuit of an effective remedy by the custodial, or "left-behind," parent. This is primarily because violations of state parental kidnapping statutes—even though they may be felony offenses—do not in international practice provide an adequate basis for effective pursuit and extradition.

In theory, an abducting parent who takes a child abroad may be pursued through a federal warrant for unlawful flight to avoid prosecution (UFAP).[7] In practice, however, UFAP warrants are often neither practicable nor effective in international kidnapping cases.

State prosecutors may obtain UFAP warrants from U.S. Attorneys by tendering a state felony warrant for the child's abduction and showing probable cause that the abducting parent has fled the state.[8] However, this process requires that the state prosecutor also agree to extradite the alleged abductor. Many state prosecutors are reluctant to spend the limited funds they have available for extradition on parental abduction cases in general, and even more reluctant to expend those funds for the more costly international extraditions.[9]

Moreover, even if a UFAP warrant is obtained, it is of limited value in international flight cases. This is because (1) the United States does not have extradition treaties with all countries; (2) many countries with whom we have extradition treaties will not extradite their own nationals; (3) unlawful flight to avoid prosecution is not, itself, an extraditable offense; and, (4) the underlying state offense of child abduction is often not an extraditable offense.[10]

There is thus little effective legal process with which to enforce the criminal sanctions of state law in international child abduction cases.

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[2] Ibid.

[3] See "International Parental Child Abduction Act of 1989," Hearing Before the Subcommittee on Criminal Justice of the Committee on the Judiciary, 101st Cong, 2d Sess. (Sept. 27, 1990) (testimony on Sen. Alan J. Dixon, D-Ill., and Ernest E. Allen, President, National Center for Missing and Exploited Children).

[4] Id., (testimony of Sen. Alan J. Dixon, D-Ill., and statement of Thomas E. Harries).

[5] Id., (testimony of Ernest E. Allen, President, National Center for Missing and Exploited Children).

[6] Id., (testimony of Sen. Alan J. Dixon, D-Ill., and Peter Pfund, Assistant Legal Adviser for Private International Law, U.S. Department of State).

[7] 18 U.S.C., Section 1073.

[8] "International Parental Child Abduction Act of 1989," Hearing Before the Subcommittee on Criminal Justice of the Committee on the Judiciary, 101st Cong, 2d Sess. (Sept. 27, 1990) (testimony of David Margolis, Acting Deputy Assistant Attorney General, Criminal Division, Department of Justice).

[9] Id., (testimony Ernest E. Allen, President, National Center for Missing and Exploited Children).

[10] Id., (testimony of David Margolis, Acting Deputy Assistant Attorney General, Criminal Division, Department of Justice).

There is an international civil mechanism relating to these cases, the Hague Convention on International Parental Child Abduction, for which Congress passed implementing legislation in 1988. As a result of this convention, the signatories will recognize the custody decrees of other signatories, thereby facilitating the return of abducted children. However, most countries are not signatories to the Convention, thus leaving individual countries to take whatever legal unilateral action they can to obtain the return of abducted children.

Creating a federal felony offense responds to these problems in four ways.

First, making international parental kidnapping a federal crime provides a direct basis for the United States to request extradition of the kidnapping parent from those countries with which we have extradition treaties.

Second, the federal criminal penalty will deter at least some abductions by ensuring that the kidnapping offender will be pursued by the United States government. At present, most abducting parents have little to fear with regard to effective pursuit.

Third, the offense will provide the basis for Federal warrants, which will in turn enhance the force of U.S. diplomatic representations seeking the assistance of foreign governments in returning abducted children.

Fourth, enacting such a felony offense will make clear to other nations the gravity with which the United States views these cases.

BRIEF EXPLANATION OF H.R. 3378

H.R. 3378 adds the offense of international parental kidnapping to title 18, United States Code.

The offense consists of taking a child from the United States, or keeping outside of the United States a child who has been in the United States, with intent to obstruct parental rights. A "child" is a person under 16. "Parental rights" means the right to physical custody of the child, arising from court order, operation of law, or a legally binding agreement.

The bill provides three affirmative defenses: (1) acting under a valid court order, (2) flight from domestic violence, and (3) circumstances beyond the defendant's control.

H.R. 3378 also authorizes $250,000 for training and educational programs dealing with parental child abduction. The funds will be administered by the State Justice Institute in the form of grants, cooperative agreements, or contracts under the State Justice Institute Act of 1984.

LEGISLATIVE HISTORY

A bill to provide penalties for the international parental abduction of children, H.R. 3759, was introduced by Mr. Gekas of Pennsylvania in the 101st Congress. A hearing on the bill was held before the Subcommittee on Criminal Justice on September 27, 1990.[11] The bill was subsequently included, as amended, as Sub-

[11] "International Parental Child Abduction Act of 1989," Hearing Before the Subcommittee on Criminal Justice of the Committee on the Judiciary, 101st Cong, 2d Sess. (Sept. 27, 1990).

title B, Title XIV, of H.R. 3371, "The Omnibus Crime Control Act of 1991," as reported by the Committee on the Judiciary during the 1st Session of the 102d Congress.[12] It was accepted in the conference report on H.R. 3371, the "Violent Crime Control and Law Enforcement Act of 1991,"[13] which was adopted by the House on November 27, 1991 but was not voted on by the Senate prior to adjournment of the 102d Congress sine die.

103D CONGRESS

H.R. 3378 was introduced on October 27, 1993, by Mr. Gekas. Its language is identical to that of the relevant part of the Conference Report on H.R. 3371 in the 102d Congress.

The Subcommittee on Crime and Criminal Justice reported H.R. 3378 to the Committee on the Judiciary favorably by voice vote on November 16, 1993.

On November 17, 1993, the Committee on the Judiciary met to consider H.R. 3378. A reporting quorum being present, the Committee by voice vote ordered H.R. 3378 favorably reported to the House.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Short title: International Parental Kidnapping Crime Act of 1993.

SECTION 2(a)

Section 2(a) amends Chapter 55 of title 18 of the United States Code, which governs kidnapping, by adding a new section at the end, Section 1204 (to be codified at 18 U.S.C., Section 1204) entitled "International Parental Kidnapping."

The new Section 1204(a) provides for title 18 fines, or imprisonment for not more than 3 years, or both, for anyone who removes a child from the United States, or keeps outside of the United States a child who has been in the United States, with the intent of obstructing the lawful exercise of parental rights.

Section 1204(b)(1) defines "child" as a person who has not yet attained the age of 16.

Section 1204(b)(2) defines "parental rights" as the right to physical custody of the child, whether the right is joint or sole, and whether the right arises by operation of law, court order, or legally binding agreement of the parties. These "parental rights" are to be determined by reference to State law, in accordance with the Hague Convention on the Civil Aspects of International Parental Child Abduction.

Section 1204(c) provides three affirmative defenses. They are (1) acting within the provisions of a valid court order obtained pursuant to the Uniform Child Custody Jurisdiction Act and in effect at the time of the offense; (2) fleeing an incidence or pattern of domestic violence; and (3) having physical custody pursuant to a court

[12] Rept. 102–242, "Omnibus Crime Control Act of 1991," Report of the Committee on the Judiciary on H.R. 3371, 102d Cong., 1st Sess. (October 7, 1991).

[13] Report 102–45, "Violent Crime Control and Law Enforcement Act of 1991," Conference Report (November 27, 1991).

order but failing to return the child because of circumstances beyond the defendant's control, provided that the defendant attempted to notify the lawful custodian within 24 hours after the visitation period expired and returned the child as soon as possible.

Section 1204(d) makes clear that nothing in this section is to be construed as detracting from the provisions of the Hague Convention.

SECTION 2(b)

Section 2(b) expresses the sense of the Congress that, where applicable, the procedures under the Hague Convention should be the option of first choice of a parent whose child has been abducted.

SECTION 3

Section 3 authorizes $250,000 for national, regional and in-State training and educational programs dealing with criminal and civil aspects of international and interstate parental child abduction. The funds are to be administered through the State Justice Institute Act of 1984.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(2) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditure.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 3378 will have no significant inflationary impact on prices and costs in the national economy.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(C)(3) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 3378, the following estimates and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 19, 1993.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3378, the International Parental Kidnapping Crime Act of 1993, as ordered reported by the House Committee on the Judiciary on November 17, 1993. CBO estimates that implementation of H.R. 3378 would result in enforcement costs of $15,000 a year, as well as increases in federal receipts and direct spending of less than $500,000 annually. Because this bill would affect receipts and direct spending, it would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. In addition, H.R. 3378 would authorize appropriations of $250,000 in fiscal year 1994 for the State Justice Institute to conduct training and educational programs related to child abduction. CBO estimates that the bill would impose no costs on state or local governments.

H.R. 3378 would make it a federal offense to remove a child from the United States with the intent to obstruct the lawful exercise of parental rights. Enforcing this legislation would consume staff time and other resources of the federal government. Under current law, the federal government has the authority to assist most states in their pursuit of alleged kidnappers. Any costs incurred by the federal government are reimbursed by the state that sought its assistance. According to the Department of Justice (DOJ), enactment of this bill would enable the federal government to handle international child abduction cases where it normally would not be involved because a state could not afford to reimburse the federal government for its assistance. Because most states have been able to provide funding for this type of assistance when needed, DOJ expects that it only would handle no more than three additional cases annually. CBO expects that it would cost DOJ an additional $15,000 a year to support this additional caseload.

The bill establish criminal penalties for violations of its provisions. CBO estimates that the government would collect less than $500,000 a year in fines, which would be recorded in the budget as governmental receipts, or revenues. The fines would be deposited in the Crime Victims Fund and spent in the following year. Thus, enactment of H.R. 3378 would affect both receipts and direct spending. Because the increase in direct spending would be the same as the amount of fines collected with a one-year lag, the additional direct spending also would be less then $500,000 a year. Therefore, the pay-as-you-go impact of this bill, with regard to both receipts and direct spending, would be negligible.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne Mehlman, and Melissa Sampson.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 55 OF TITLE 18, UNITED STATES CODE

CHAPTER 55—KIDNAPING

§ 1204. International parental kidnapping

(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

(b) As used in this section—

(1) the term "child" means a person who has not attained the age of 16 years; and

(2) the term "parental rights", with respect to a child, means the right to physical custody of the child—

(A) whether joint or sole (and includes visiting rights); and

(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

(c) It shall be an affirmative defense under this section that—

(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

(2) the defendant was fleeing an incidence or pattern of domestic violence;

(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

○

Compiled United States Attorney and Federal Bureau of Investigation Statistics for Cases Brought Under the 1993 International Parental Kidnapping Crime Act

Fiscal Year	*1994*	*1995*	*1996*	*1997*	*1998*	*1999 (1st & 2nd Quarter)*
USAO Matters Against Individuals Opened Per Year	15	27	50	49	57	31
USAO Matters Against Individuals Pending At Year End	10	17	37	51	73	77
USAO Criminal Defendants Charged Per Year	5	7	11	12	16	11
USAO Criminal Defendants Whose Charges Remain Pending At Year End	4	10	15	20	31	39
Defendants Convicted	0	1	5	2	4	1
Number of Defendants Whose Cases Were Disposed Per Year	1	1	6	7	7	1
FBI Files for Assistance to State and Local Authorities for Domestic and International Fugitive Apprehension Opened Per Year[1]	207	203	174	148	164	77
FBI IPKCA, 18 USC 1204 Investigations Opened Per Year	20	42	68	65	98	38

Source: Office of International Affairs, Criminal Division, U.S. Department of Justice; July 1999

[1] Excluding 18 USC 1204 FBI investigations.

INVESTIGATIVE REPORT

Justice Ignores Stolen Kids

By Timothy A. Maier

Despite recent testimony before Congress by beleaguered parents of internationally kidnapped children, State and Justice departments continue to dismiss these crimes.

After a pair of congressional hearings held this autumn about the tragedy of international kidnapping by estranged parents, victims received the latest excuse for why both the State and Justice departments do little or nothing to recover these children and bring them home. You see, it's all because of insufficient resources: Children are left in the hands of their kidnappers because Congress won't provide enough money for education, training, case workers and special prosecutors. State and Justice officials tell parents this is why they must rely on the Hague Convention, an international treaty requiring signatory countries to obey child-custody orders. But as victimized parents know, the treaty routinely is broken — and violators are allowed to do so with impunity.

In both of the congressional hearings on these matters — before Rep. Ben Gilman of New York, chairman of the House Committee on International Relations, and Sen. Strom Thurmond of South Carolina, chairman of the Senate Judiciary subcommittee on Criminal Justice Oversight — one element appeared evident: Parentally kidnapped children are not a high priority for anyone in the Clinton administration and no long-term plan exists to rectify the problem.

Sen. Mike DeWine, an Ohio Republican, put it bluntly to State and Justice officials during the Senate hearing. "I don't think it is a high-enough priority with the State Department and Justice Department. All I hear you say is why you can't do things."

That they did. The Justice Department said it rarely pursues prosecutions under the 1993 International Parental Kidnapping Crime Act, or IPKA, because its prosecutors assume a U.S. indictment will prevent children from being returned. In five years, just 62 indictments and 13 convictions have resulted from the thousands of cases of abductions.

Innocence lost: *A Washington vigil this year generated sympathy, not action.*

"The law is rarely used," Thurmond told a group of a dozen or so concerned parents at the hearing. "The administration discouraged the Congress from passing this statute, which is evident from the department's reluctance to enforce it," and simply ignores the law.

Likewise, the State Department does not appear to treat child thefts as seriously as violations of patent and copyright laws. DeWine says the message is that people better not steal from U.S. corporations but may steal American children and get away with it.

The sons of Lady Catherine I. Meyer, wife of the British ambassador to the United States, were kidnapped to

Germany by their biological father, her former husband. Meyer testified recently before the Senate committee, arguing for the State Department to treat these cases as human-rights abuses — echoing Hillary Rodham Clinton's remarks this summer after **Insight** raised the issue (see "Kidnapped Kids Cry Out for Help," May 10). Meyer told the senators that months pass, years pass, without her being permitted to see her children, Alexander and Constantin. "Has anyone proved that I am an unfit mother?" she asked. "No. Has anyone proved that I do not love my children? No. But I am nonetheless denied the rights that even women in prison are allowed."

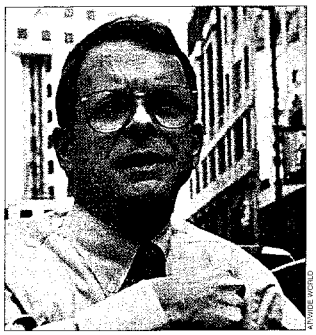
After an **Insight** cover story (see "Kids Held Hostage," March 8), Assistant Secretary of State for Consular Affairs Mary Ryan defended her office's record by asserting that these cases merely are "international parental child-custody disputes," essentially private matters, a term that infuriates victimized parents. (Ironically, in Ryan's *Hague Convention Compliance Report to Congress*, which identified Honduras, Mauritius, Mexico and Sweden as chief violators, Ryan noted that labeling them mere "custody disputes" is the standard line foreign governments provide to the United States.) Challenged by Gilman in the House hearing, Ryan called for more federal money.

Meyer certainly wasn't happy with Ryan's response nor in agreement that Germany should not be listed in the Hague compliance report. German courts and authorities, she says, consistently have shown bias in favor of the German parent.

"As a result," Meyer told the committee, "Rebecca Collins has not seen her children since 1994, James Rinaman since 1996, Kenneth Roche since 1991, Edwin Troxel since 1997, Mark Wayson since 1998, Anne Winslow since 1996, Donald Youmans since 1994, Joseph Cooke's children have been placed in foster care and he has not seen them since 1994 and John Dukheshere and George Uhl do not know the whereabouts of their children.... None of us have received any information on our children's welfare. And to top it all, the German courts often demand child-maintenance payments from the victim parents!"

Frustrated that the State Department even resists performing welfare checks on these children, many parents hoped a General Accounting Office, or GAO, investigation requested by Gilman would expose and document the poor record of the State and Justice departments concerning these matters and force changes. The report is due out in mid January.

Rather than deal with dereliction of duty and failure to enforce the law, GAO director Jess Ford has found more excuses, critics claim.



Asking questions: *DeWine, left, and Meyer blasted unresponsiveness.*

But don't expect much. Jess T. Ford, associate director for international relations and trade issues at the GAO, has provided a summary of its findings to Gilman's committee, and parents already are calling it another whitewash of the kind they say they experienced earlier this year. That time it was the report to Attorney General Janet Reno prepared by the Justice Department Subcommittee on International Child Abduction of the Federal Agency Task Force on Missing and Exploited Children and the Policy Group on International Parental Kidnapping. The report suggested the department had the blessing of the National Center for Missing and Exploited Children, based in Arlington, Va., but in fact the center strongly disagreed with the findings and issued a dissenting opinion, which the task force didn't note.

The center was upset that the task force neglected to include the record of Justice Department failure to pursue criminal prosecutions under IPKA and froze them out of international cases.

In Ford's GAO summary, he, too, glossed over the dismal Justice record, saying only that some prosecutors indicate they are waiting for civil remedies to be exhausted — hardly a solid reason considering that most of these kidnappings were initiated to thwart court rulings. Ford also makes no mention of State Department records obtained by **Insight** that show a pattern of abuse. This ranges from calling parents "mentally unbalanced" to a memo about a Texas father that declares: His "name is Bubba — that should tell you something about him."

Critics charge that rather than deal with dereliction of duty and failure to enforce the law in this highly sensitive area, Ford has found more excuses, arguing that "without resource commitments, it is uncertain whether [State and Justice] will be able to take additional steps to correct most problems." A knowledgeable source says, "It's an easy way out. The GAO does not want to come down hard on [investigators at] State or Justice because they have to work with these guys."

And the summary certainly doesn't represent what the first team of GAO investigators uncovered, according to **Insight** sources. The first team, which worked hundreds of days and spent hundreds of thousands of dollars, was replaced by the Ford team because they were "too biased *for* the children," according to congressional sources. One of the leaders of the former team was grilled by his supervisor Boris Kachura after an **Insight** story ("State Abandons Kidnapped Kids," June 14, 1999) revealed that the GAO was being

pressured by Kachura to "tone down" the report.

Parents charge Kachura is pushing the "lack of resources" line just to get Congress off his back. They say they have presented him with overwhelming evidence of State and Justice incompetence or dereliction in these matters but Kachura has showed little interest. He refused to speak to **Insight** and referred questions to GAO spokesman Cleve Corlett. "The work is not finished!" says Corlett, "and I won't discuss any ongoing work." Apparently concerned about their job security, none of the former GAO investigators will talk. However, sources say Kachura made it even more difficult for the first team to do its work by pulling two of the three investigators — and subsequently the team leader — off the project following an **Insight** story about the failure of GAO to allocate sufficient resources to do a thorough probe. According to a source familiar with the situation, the former team leader "was only biased against people who weren't doing their jobs."

Ford's summary did not detail any of the first team's findings — and Gilman won't even get the first team's notes unless he orders them brought to his committee along with all the drafts of the GAO report. If he does, he will have some serious questions to ask: The first team spent 18 months on the probe; how much time did the second team spend? Did GAO base its assessments and conclusions on other reports or interviews? And why did the second team disregard the work of the first team? How many case files did the first team review, and the second team?

To get these answers Gilman would be well-advised to bring in the first GAO investigating team and question them under oath. Congressional sources say that is not likely to happen because, should Congress put GAO under fire, it could impact other investigations, such as Kosovo.

Meanwhile, Ford claims that the failure of State and Justice to pursue these cases results only from lack of resources. This means the Justice taskforce recommendations calling for efforts to enforce the Hague Convention and getting access for parents longing to see their kidnapped children aren't likely to get attention. Insiders tell **Insight** the game is clear enough. When Gilman told Ryan that more money could be allocated for children's issues, Ryan balked. She prefers to have more money for the entire State Department — which does not guarantee funds will go to restore the kidnapped American children.

"Change can happen without money; much has to do with attitude," says Tom Johnson, a State Department attorney whose 12-year-old daughter Amanda was illegally "retained" five years ago. "Real change can be made overnight." Johnson, who testified before Gilman's committee, says his case, like so many others in which foreign courts have refused to honor U.S. rules, is considered closed. Johnson has seen Amanda less than 50 hours in the last five years.

"As a Marine who was trained from Day 1 never to leave anyone behind and as a citizen who admires and supports the MIA effort, I find the bureaucratic closing of our children's cases particularly offensive," Johnson testified. "My understanding is that no one from the president on down has the authority to write off American citizens, especially our youngest ones." Johnson says

Parents charge that on the Clinton/Gore list of international priorities, kidnapped American children rank dead last.

the Justice Department should enforce the law, and State should issue a human-rights report citing countries that illegally detain children — a move the State Department successfully resisted this year. He believes a quarterly Hague compliance report should be circulated to judges, prosecutors and law-enforcement agencies that are clueless when it comes to international-kidnapping cases.

Craig Deanto of Melbourne, Fla., adds that "the courts are causing the children to disappear." He fought for years to get his two children back after they were abducted twice by his ex-wife — once to Canada and another time to South Africa before returning to Maryland. Deanto tried to introduce expert witnesses during his Maryland custody hearing on international child abduction, but Circuit Court Judge Dennis Sweeney told Deanto and his attorney Lee Ashmore that their testimony would have no weight.

Ashmore says "parental abduction is where domestic violence was 20 years ago — not even on the radar screen." Until it gets noticed, the courts are not going to pay much attention to it, he says.

DeWine certainly is trying to raise awareness of the problem by grilling both State and Justice department officials. He got tired of hearing the same old excuses from James K. Robinson, assistant attorney general at the Criminal Division, for failing to enforce the IPKA. Robinson ran down the litany that Justice doesn't pursue these cases because sometimes it may prevent the child from ever being returned, that it doesn't want to interfere with possible civil remedies and that being only 5 years old, it is a relatively "new law."

To which, DeWine replied, "You still file charges in other crimes, such as murder, rape, even when there is a possibility that the person may flee the country.... 62 indictments over five years is not effective pursuit!"

"We expect more prosecutions," Robinson promised. "There needs to be more additional effort."

"The government needs to say it is important!" DeWine corrected. Then, turning to State Department Deputy Legal Adviser Jamison Borek, he demanded to know what State is doing.

"We don't press directly for the return," Borek said. "We don't walk in and say we want the child now."

"How many ambassadors have you met with?" DeWine demanded.

"I can't tell you," Borek replied.

"Doesn't it reach the ambassador?" DeWine demanded. "If it doesn't, a country would say that the U.S. doesn't think it's important."

Borek momentarily stood silent. Suddenly she began boasting about the success of the Hague treaty, first claiming 20,000 children had been returned, then 2,000, then admitting that she doesn't have reliable statistics.

What Borek didn't tell Congress is that its success rate on Hague cases is inflated because many are voluntary returns. Nor did she mention the fact that the United States returns kids to foreign countries at a staggering rate of 89 percent compared with 30 percent on Hague cases. And Borek provided no statistics about non-Hague countries where some estimate at least 1,000 U.S. children have been illegally detained in the Middle East.

As State and Justice attempted to shift blame to Congress for allegedly failing to provide adequate resources, no one from either of those federal agencies admitted what parents have learned to their deep regret: On the Clinton/Gore list of international priorities, kidnapped American children rank dead last. •