



# CHILD ABDUCTION T.I.P.S. NEWSLETTER

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## **The Hague Convention on the Civil Aspects of International Child Abduction: District Attorney Child Abduction Unit DOs & DON'Ts**

by Bridget Billeter, Chair

Supervising Deputy Attorney General, California Department of Justice, Office of Attorney General

The Hague Convention on the Civil Aspects of International Child Abduction is an international treaty designed to promptly ensure the return of parentally abducted children to their country of habitual residence. District attorney's offices are mandated to handle international parental abduction cases under Family Code section 3455. **The following dos and don'ts will provide some initial guidance for district attorneys and district attorney investigators when a Hague case hits your desk:**

**DO** thoroughly review the application and supporting documents.

**DO NOT** assume that all relevant, necessary information is included in the original incoming application.

**DO** investigate the case just as you would a domestic child abduction case and interview the applicant/left-behind parent in the other country if possible.

**DO NOT** assume that the factual basis of the incoming application has been vetted by the State Department, the Attorney General's Office, or anyone else.

**DO** represent to the court and the parties that you appear on behalf of the court pursuant to Family Code section 3455, and sections 3130 et seq., and that you do not represent either parent in the Hague proceeding.

**DO NOT** represent to the court that you represent, appear on behalf of, or appear as a designee of the U.S. State Department or U.S. Central Authority. These phrases imply an attorney-client relationship where none exists.

**DO** contact your local Attorney General's Office Child Abduction Coordinator with any questions or requests for help, and keep the Attorney General's office notified of the status and outcome of the case.

**DO NOT** file criminal charges in a case in which a Hague application is pending, except in an extraordinary case, and only after consultation with the Attorney General's Office and State Department. If an arrest warrant was issued or criminal charges were filed before the Hague application was submitted, consult with the Attorney General's Office to determine the best approach.

**DO** handle the case promptly.

**DO NOT** notify the State Department that you will not proceed with a case. If there is any reason why you feel it would be inappropriate to handle a particular case, contact the Attorney General's Office to discuss the issue and determine how to proceed. The Attorney General's Office will communicate with the State Department about the issue.

**DO** make sure the court has all the available, relevant information, and that the court understands that a Hague proceeding is not a custody proceeding. The court must determine whether the child should be returned under the provisions of the treaty; it should not make that decision based on the "child's best interests" test applicable in custody proceedings.

**DO NOT** advocate for denying a return except in the rarest circumstances and only after discussion with the Attorney General's Office.

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## Quiz on Parental Abduction and Misconceptions About Missing-person Reporting

by Kurt Rowley

Deputy District Attorney, San Bernardino County District Attorney's Office

### Which of these statements about missing-person reporting is false?

- (a) A child may be "missing" even when safe with a familiar parent at a known location.
- (b) A child may be "at risk" even when safe with a familiar parent at a known location.
- (c) A child may be a victim of "stranger abduction" even when safe with a familiar parent at a known location.

If the answer isn't obvious, you can take comfort in knowing that many well-trained and experienced are just as confused.

### Here are some clues:

- "Missing person" includes any child who has been "taken, detained, concealed, enticed away, or retained by a parent" in violation of Penal Code sections defining child abduction. See Penal Code 14215(a), emphasis added.
- Child abduction occurs when a person "takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian." See Penal Code 278.5(a), emphasis added.
- In other words, a child doesn't have to be missing to be "missing." By law, simply depriving another parent of custody makes the child a "missing person." Now add one more twist — in child abduction cases, every "missing" child is also "at-risk." See Penal Code 14215(b).
- Bottom line — in cases of parental or family abduction set aside common sense. The best practice is to take an at-risk missing-person report for the child whenever the reporting party makes two claims, accepted at face value —

1. "I have a right to custody of my child right now."

2. "Someone else (usually another parent) is depriving me of custody right now."

Yes, there are rare occasions when you wouldn't take a missing person report, even under these circumstances. But the best practice remains — when in doubt, go the reporting route.



That way, you avoid liability for failure to fulfill a mandatory duty. See Government Code 815.6. Once you've taken the report, you can start sorting out the merits of the RP's claim. In many counties, the district attorney's child abduction unit can help. Now here's a nod to common sense — it isn't "stranger abduction" when the child is safe with a familiar parent in a known location.

**The quiz answer is (c).**

**Offered only once this year!**

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CHILD ABDUCTION INTERVENTION & RESOURCE TRAINING**  
March 5th - 6th • Sacramento, CA • 8:00 AM - 5:00 PM (PT)

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### **Course Overview**

This training introduces participants to a multidisciplinary approach to assist professionals working within all facets of child abduction. This is an opportunity for county partners to increase their understanding of the roles of each agency and network with partner agencies towards a more coordinated response for missing and abducted children.

**POST, CECs  
& MCLEs  
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### **California Child Abduction Task Force Members**

- **Bridget Billeter**, *Chair, Supervising Deputy Attorney General and Statewide Child Abduction Coordinator*, California Department of Justice, Office of the Attorney General
- **Cari Teran**, *Vice-Chair, CEO*, Healing To You
- **Cody Burke**, *Special Agent*, Federal Bureau of Investigation
- **Deanne Castorena**, *Deputy District Attorney*, Los Angeles County District Attorney's Office
- **Megan Eschleman**, *California Clearing House Manager*, Department of Justice, Missing & Unidentified Persons Section
- **Marlene Glusing**, *Legal Assistant*, Merced County District Attorney's Office, Child Abduction Unit
- **Melissa Kittell**, *Captain*, California Highway Patrol
- **Stephen Lagorio**, *Deputy Chief*, San Jose Police Department
- **Emilio Mendoza**, *Assistant Regional Administrator*, Los Angeles County Department of Children and Family Services
- **Marty Parker**, *Special Agent*, Federal Bureau of Investigation
- **Kurt Rowley**, *Deputy District Attorney*, San Bernardino County District Attorney's Office
- **Erin Runnion**, *Founding Director*, The Joyful Child Foundation
- **Bradley Sides**, *Investigator*, Oakland Police Department
- **Jannell Violi**, *Coordinator*, Orange County Department of Education