

A B C D E F G

INTERNATIONAL CHILD ABDUCTIONS

A Manual for Parents



CONSULAR Services
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H I J K L M N

1
2
3
4
5
6
7
8
9
10
11

12
13
14
15
16
17
18
19
20
21
22



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e-mail enqserv@international.gc.ca
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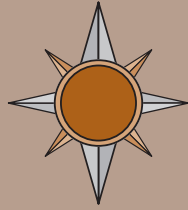
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CONTENTS

	INTRODUCTION	02
I.	PREVENTION	04
II.	SEARCH AND RECOVERY	08
III.	THE HAGUE CONVENTION	12
IV.	OTHER ACTIONS	17
V.	ASSISTANCE FROM FOREIGN AFFAIRS AND INTERNATIONAL TRADE CANADA	22
VI.	DIRECTORY OF ASSISTANCE	24
VII.	INFORMATION AND DOCUMENT CHECKLIST	29
VIII.	ACTION CHECKLIST	33



INTRODUCTION

CHILD ABDUCTIONS are difficult and complex when they occur within Canada. When they involve other countries, they are even more so. Provincial/territorial and federal governments cooperate closely in assisting parents affected by such abductions. These cases involve Canadian children who have been wrongfully removed from Canada, or who have been prevented from returning home by one of their parents. There are hundreds of active cases.

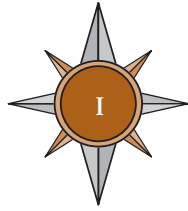
Each international child abduction is unique. It is important, therefore, that you, the parent left behind, work closely with officials to improve the chances that you can be reunited with your child. You must be directly involved in the search and the anticipated return of your child. This is a bewildering and often prolonged experience. The objective of this manual, therefore, is to help you understand the process and to direct you to appropriate sources of help.

The Hague Convention on the Civil Aspects of International Child Abduction – known as the Hague Convention – is the main international treaty that can assist parents whose children have been abducted to another country. As of August 2009, approximately 80 countries have adopted the Convention, including Canada. It offers considerable assistance in the case of children abducted to signatory countries, and over 400 Canadian children have been returned under its arrangements.

Canadian cases involving countries that are parties to the Hague Convention are managed through special offices in each of the provincial and territorial departments of the Attorney General or of Justice. These offices are called “central authorities.” Details on the use of the Convention, as well as a list of participating countries, are contained in Section III. Addresses for the Canadian central authorities are given in Section VI.

If you have any questions, please contact Consular Services of Foreign Affairs and International Trade Canada, 125 Sussex Drive, Ottawa, ON K1A 0G2; tel.: 1-800-387-3124 or 1-800-267-6788 (in Canada) or 613-996-8885; fax: 613-995-9221 or 613-996-5358. This manual, as well as other useful information, can also be found on the Consular Services website (www.travel.gc.ca).

Every effort has been made to provide accurate and current information in this manual. However, the manual should be used only as a general guide. Individuals facing a potential or actual abduction situation should seek advice and guidance from the appropriate authorities. Nothing in this manual should be construed as legal advice; nor is it intended to replace the advice of your lawyer or other authorities.



PREVENTION

Vulnerability

Your child is most vulnerable to abduction when your relationship with the other parent is broken or troubled. The vulnerability is magnified if the other parent has close family in, or other ties with, another country.

This vulnerability may be increased in situations where permission is granted for a child to visit or travel to another country. In many cases, abduction or custody issues arise when the child is prevented from returning to Canada. These cases may not be considered as abductions under the criminal laws of the other countries concerned or of Canada. Rather, they may give rise to custody or wrongful retention issues. You should bear these factors in mind when you are contemplating travel for either yourself or your child.

In some countries, children must obtain the permission of their father and women must obtain the permission of their husbands in order to travel. If you are planning to visit another country where you are unfamiliar with the laws and customs as they relate to children and women, you should acquire a thorough knowledge of them before making final arrangements for the trip. You can begin by calling Consular Services in Ottawa.

As well, if you are separated or divorced, or if there is a court order with respect to custodial arrangements for your child, you should discuss your planned visit with a Canadian lawyer experienced in such matters. In some instances, it might also be necessary to discuss your situation with a lawyer in the country you will be visiting. Consular officials can provide you with a list of lawyers in foreign countries who may be able to assist.

If at any time you believe your child may be in danger of being abducted, you should discuss the matter with your local police, your lawyer, Consular Services and other organizations that may be able to provide you with assis-

tance and advice. Remember that it is easier to prevent an abduction than it is to recover a child after an abduction has taken place. Do not ignore your fears. Act upon them and seek assistance.

Precautions and Preparations

If you have any reason to believe that your child could be abducted to or retained in another country against your wishes, you should ensure that you have detailed information about your child (including travel documents), as well as about the other parent and his or her family, friends and business associates both in Canada and in other countries. You should take colour photographs of your child every six months. A checklist of such information is given in Section VII. Further, you should teach your child how to use the telephone and practise how to make long-distance collect calls. Special attention should be given to teaching a child how to make collect calls from a pay phone.

There is often a revenge motive involved in child abductions, and abducting parents may try to convince their children that the other parent no longer wants or loves them. Therefore, it is important for you to impress upon your child that you do indeed love him or her, and that you would in no circumstances want your child to leave you.

Custody

The laws of Canadian provinces and territories generally provide for both parents to have equal legal custody of a child, as long as there is no custody order and the child is living with them. This is the law in many other countries as well. If you are considering separation or divorce, if you are already separated or divorced, or if you were never legally married to the other parent, you should discuss custodial arrangements with your lawyer. Only your lawyer can provide you with advice appropriate to your specific circumstances.

A well-written custody order is important when dealing with parental child abductions, especially if the other parent is a landed immigrant or a Canadian citizen with ties to, or citizenship of, another country. Even if your Canadian custody order would not be officially recognized in the country to which your child could be abducted, it will serve as a formal statement of your custodial rights in subsequent discussions and proceedings. Your lawyer can advise you on what is appropriate for your situation. The custody order might include some or all of the following:

- > sole or joint custody;
- > access rights;

- court-ordered supervised access;
- prohibition on travel without the permission of both parents or the court, and surrender of all travel documentation for a child by the non-custodial parent;
- deposit of passport/travel documents issued in the name of the child with the court;
- if travel is permitted to a country that is a party to the Hague Convention, a statement whereby both parents agree that the terms of the Convention and/or of the Canadian Criminal Act would apply in the event of an abduction or wrongful retention; and
- if one of the parents does not have Canadian citizenship or has dual citizenship, provisions for a bond to be posted in the event of the child travelling to another country, which would be forfeited to the other parent in case of abduction or wrongful retention.

You should obtain several certified copies of the custody order. A copy should be given to your child's school and other authorities who may be acting *in loco parentis*. Further, the school should be advised as to who has authority to collect or take charge of your child.

Canadian Passports

Canadian government regulations permit the issuance of a passport to a child under 16 years of age if the applicant is the parent, the custodial parent or the legal guardian. Effective December 11, 2001, Canadian children must have their own passport. The practice of adding a child's name to a parent's passport is no longer permitted. If parents are separated or divorced, a child will not be issued with a passport unless the application is supported by evidence that the issuance of the passport is not contrary to the terms of a custody order or a separation agreement.

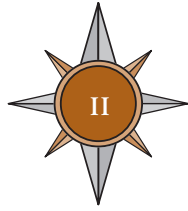
If you fear the abduction of your child, you may notify any passport office in Canada (or the nearest Canadian embassy or consulate if you are abroad) to have your child's name placed on the Passport Control List, a list that puts officials on alert. Before your child's name is included on this list, you will be asked to provide the names and birth dates of both parents and the child, as well as copies of any custody-related documents.

The address for the central Passport Canada office is given in Section VI. There are also 29 regional Passport Canada offices across Canada. Consult the federal government section of your telephone directory for the one nearest you.

Dual Nationality

Many international child abductions involve parents and children who have citizenship of other countries in addition to Canada. Dual nationality is permissible under Canadian law. The fact that the abducting parent may carry another passport could create additional difficulty for you and Canadian authorities in preventing an abduction. The Government of Canada cannot prevent diplomatic or consular offices of other countries in Canada or elsewhere from providing passport services to Canadian children who are also citizens of those countries.

You or your lawyer can request that a foreign diplomatic or consular office not provide passport services for your child. To do so, you should provide the foreign diplomatic or consular office with a written request, along with a certified copy of any court orders dealing with custody of or foreign travel by your child. In the letter you can inform the foreign government office that you have also sent a copy of your request to Consular Services. If your child has only Canadian citizenship, you can ask the foreign government office not to issue a visa (if one is required for entry) in your child's Canadian passport. There is no requirement for other countries to comply with such requests, but many countries do so voluntarily in the interest of preventing international child abductions.



SEARCH AND RECOVERY

General Advice

The discovery that one's child is missing is a traumatic experience. It is important that you stay calm and seek assistance from family, friends and appropriate professionals. Report your child's disappearance to the police and to Consular Services, and consult with your lawyer.

A determined abducting parent can make the search for and recovery of a missing child an extremely complex process. It is very difficult even when the abductor is still in Canada. When the abductor leaves Canada, the process becomes far more complicated. Search and recovery efforts can be prolonged and are often unsuccessful. Therefore, you should not have unrealistic expectations of results, or expect results in a matter of days or, in some instances, months. You should be well organized in this process, establishing reasonable goals and expectations. These may include:

- obtaining early confirmation of where your child is located;
- obtaining early confirmation of the well-being of your child;
- arranging a meeting, as soon as possible, between your child and a Canadian official;
- becoming informed about your legal situation both in Canada and in the country where your child is located;
- understanding the limitations and constraints that may affect the return of your child to Canada;
- learning about the legal process; and
- understanding the potential financial implications for you and other members of your family in the search and recovery process.

It is crucial that you be reachable at all times, in case someone tries to communicate with you about your missing child.

If you do not have a custody order, consult with your lawyer on the need for one. In cases where the Hague Convention applies, a custody order "after the fact" may not be necessary. However, for abductions to countries not party to the Hague Convention, a Canadian custody order is important.

One of the most important things you can do in the early stages of an international child abduction is to establish friendly contact with the relatives and friends of the other parent, both in Canada and abroad. The fastest and most effective way to resolve international child abductions is for the abducting parent to return the child to Canada voluntarily. While there may be good reasons for you to believe that this approach won't work, *it is important that the effort be made*. Section IV contains more information on this.

You may want to contact a local or national non-governmental organization that provides advice and assistance to parents whose children have been abducted. Such organizations can be of considerable help to you and can put you in touch with other parents who have gone or are going through the same turmoil. A list of some of these organizations is given in Section VI.

However, the first and most important element is to determine exactly where your child is. Recovery actions cannot be taken until your child's location is known. The following agencies can assist you in finding and recovering your child.

The Local Police

As soon as you suspect that your child has been abducted, contact your local police department immediately. The sooner the police network can begin to search and investigate, the better.

When you contact the local police, give them a copy of any custody order as well as photographs and descriptions of your child and the abducting parent. You should also provide any other information that may lead to the quick discovery of the location of your child. A checklist of such information is provided in Section VII.

Ask the local police to enter the information in the Canadian Police Information Centre (CPIC) computer system, so that all police forces in Canada will have access to it. Also request that the information be entered in the United States National Crime Information Center (NCIC) computer system.

If you believe that your child has been or may be taken out of the country, request that the local police immediately contact the Missing Children's

Registry of the Royal Canadian Mounted Police (RCMP). Also contact Consular Services.

Your local police may initiate some of the following, or seek your assistance in doing so:

- review with you and other authorities whether criminal charges should be laid against the abducting parent;
- notify your child's school authorities of the abduction, and ask that they advise you or your lawyer in the event that there is a request for school records; you may need to provide the school authorities with a certified copy of your custody order;
- review credit cards that the abducting parent may have and request records of purchases;
- obtain records of long-distance calls that the abducting parent may have made prior to the abduction;
- suggest to the RCMP or local police the publication of an Interpol circular;
- if your child has chronic medical problems or is on regular medication, contact the physician and/or hospital that treated your child and ask for their cooperation should there be a request for information concerning your child; here, too, you may need to provide a certified copy of your custody order; and
- if there are common credit cards or joint bank accounts, check your liability for transactions made by the abducting parent and take appropriate action.

The Canadian Government's "Our Missing Children" Program

This program involves four federal government departments: the RCMP, the Canada Border Services Agency, Foreign Affairs and International Trade Canada and the Department of Justice. The program's objective is to locate and return missing and abducted children.

Following a request from the local police, customs officers can immediately have a border alert distributed to the member countries of the International Customs Union. The RCMP component, the Missing Children's Registry, is associated with the global police network Interpol, through which it will assist any Canadian police agency in coordinating investigations abroad.

Among the services offered through the RCMP's Missing Children's Registry is the Travel Reunification Program, which is designed to help parents or guardians who cannot afford to pay the cost of having an abducted child returned to Canada. To qualify for the travel assistance offered by the program, the following guidelines must be met:

- The request for assistance must come from the investigating police department, the provincial/territorial central authority or the Consular Affairs Bureau.
- The requesting agency is responsible for assessing the financial status of the family and determining if free transportation and accommodation should be provided.
- The service is available only to return a child abducted by a parent.
- A parent or guardian will not be sent overseas unless all legal steps have been taken for the return of the child to Canada and the local authorities are cooperating in the return.

The Media

Publicity can be both helpful and detrimental in international child abductions. It is important, therefore, that you discuss the matter of publicity with your local police and/or your lawyer. You should discuss the matter with Consular Services. In some countries, publicity could affect the willingness or ability of local authorities to assist in the return of your child. It may also cause the abducting parent to go into hiding and, in so doing, create further stress and danger for your child.

Search Agencies

A number of private organizations will carry out search activities on your behalf for a fee and/or expenses. You should obtain advice and guidance from professionals, including the local police and non-governmental organizations (see Section VI for addresses), before engaging such agencies to act on your behalf. If you do decide to engage such an organization, it is important to have your lawyer involved in any negotiations to protect your financial interests and to ensure that the proposed activities do not further complicate the search for and recovery of your child.



THE HAGUE CONVENTION

More than 30 years ago, the international community recognized the need for cooperation between countries to find a means to prevent and resolve cases of parental international child abductions. In 1976, the Hague Conference on Private International Law, an international organization based in the Netherlands, accepted a Canadian proposal to alleviate some of these problems. Canada, along with some 30 other countries, actively participated in the negotiations that led to the Hague Convention on the Civil Aspects of International Child Abduction. Canada was the second country to ratify the Convention, which came into force on December 1, 1983. Canadian involvement in the negotiation and ratification process was coordinated closely with provincial and territorial governments. The Convention applies throughout Canada and in approximately 80 other countries.

Objectives

The objectives of the Hague Convention are:

- to secure the prompt return of a child wrongfully removed to or retained in any contracting state, to the environment from which the child was removed; and
- to ensure that the rights of custody and of access under the law of one contracting state are effectively respected in other contracting states.

Requirements

The Convention can be of help to you if the following requirements are met:

- Your child was habitually resident in Canada immediately prior to the wrongful removal or retention.
- The wrongful removal was in breach of rights of custody or rights of access or retention within the meaning of the Hague Convention.

- At the time of the abduction or retention, the Convention applied between Canada and the country to which your child has been taken and/or, in some cases, is travelling through.
- Your child is under 16 years of age.

Application for the Return of a Child

I. WHAT TO DO FIRST

If your child has been abducted to or is being retained in a country other than Canada and you are aware of the location, you should contact the office of your provincial or territorial Attorney General and/or Minister of Justice. These departments have special sections designated as the central authority for your province or territory, which are responsible for the administration of the Hague Convention. The federal Department of Justice is also a central authority and provides assistance to the provinces and territories. A list of all the Canadian central authorities is contained in Section VI. The central authority can provide you with information on the countries that are signatories to the Hague Convention, and can advise you on how to proceed with an application.

As of August 2009, the Convention applied between Canada and the following countries:

Argentina, Australia, Austria, the Bahamas, Belarus, Belgium, Belize, Bosnia and Herzegovina, Brazil, Burkina Faso, Chile, China (Hong Kong and Macau Special Administrative Regions only), Colombia, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark (except the Faroe Islands and Greenland), Ecuador, El Salvador, Estonia, Fiji, Finland, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Luxembourg, Macedonia (known as Former Yugoslav Republic of Macedonia in UN and other international bodies), Malta, Mauritius, Mexico, Moldova, Monaco, Montenegro, the Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Romania, Saint Kitts and Nevis, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Trinidad and Tobago, Turkey, Turkmenistan, the United Kingdom of Great Britain and Northern Ireland (including Isle of Man, Cayman Islands, Falkland Islands, Montserrat, Bermuda), the United States of America, Uruguay, Uzbekistan, Venezuela, and Zimbabwe.

In some instances, the Convention may not apply to dependent territories of these countries. It is, therefore, important to verify whether the Convention will apply to your situation. The number of countries to which the Convention applies continues to increase. The website for the Hague Convention provides an up-to-date listing (<http://hcch.e-vision.nl>).

The relevant central authorities in Canada and in the foreign country will do some or all of the following to assist you:

- provide you with information on how to proceed with an application under the Hague Convention;
- provide up-to-date information on the participating countries;
- discover the whereabouts of a child who has been wrongfully removed or retained;
- prevent further harm to such a child by taking provisional measures;
- secure the voluntary return of the child; and
- provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisors.

2. HOW TO APPLY

Your provincial/territorial central authority will provide you with a copy of the Convention-approved application form and other information about issues under the Convention. The application will require the following:

- information on your identity, the identity and date of birth of the child and the identity of the person alleged to have removed or retained the child;
- all available information concerning the whereabouts of the child and the identity of the person with whom the child is presumed to be;
- a statement of the grounds proving your right to have the child returned; you must prove the wrongful removal or retention of the child and your custody rights that existed at the time of the wrongful removal or retention;
- supporting documents, such as a certified copy of the judgement or agreement granting you custody or access rights, where such a document is applicable; and
- a statement giving the foreign central authority the right to act on your behalf.

In addition to providing supporting documents in the official language of your choice (English or French), you may be required to provide translations in the official language of the country concerned.

3. PROCEDURE IN A FOREIGN COUNTRY

The Canadian central authority will transmit your application to the central authority of the country concerned. In turn, the foreign central authority will submit your application to its appropriate judicial authority. If the return of

your child cannot be arranged voluntarily, a court hearing may take place. At the hearing, your rights may be represented by a lawyer acting on behalf of the foreign central authority or by someone you have engaged privately. The other parent can have legal representation at the hearing and can contest your application.

If the conditions contained in the Hague Convention are met, and none of the exceptions apply, the decision should be to order the return of the child. However, any decision can be appealed to higher courts in accordance with the judicial process of the country concerned, or there could be delays by the police in implementing a court decision in your favour. The Hague Convention calls for fast action in recovering a child, first seeking the voluntary return of the child by the abducting parent. If this fails and legal procedures are initiated, it can take many weeks before a decision is finalized. If a decision is not reached within six weeks of the date on the application, the Canadian central authority concerned may request a statement explaining the delay. The final disposition can take considerable time, depending on the nature of the legal proceedings involved, including appeals.

The Hague Convention contains a number of exceptions that could affect the decision by the court in the foreign country. Some of the main ones are:

- The other parent proves that you were not exercising custody rights when the child was abducted/retained, or that you consented to the child's removal or later acquiesced to it.
- There is a grave risk that the child would be exposed to physical or psychological harm or would otherwise be placed in an intolerable situation if he or she were returned.
- The child objects to being returned and is old enough and mature enough to have his or her views taken into account.

If the central authority in the country that received your Hague Convention application has reason to believe that the child has been taken to yet another country, it may cease the proceedings or dismiss the application and transfer it to the country concerned.

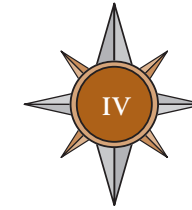
Costs

Central authorities do not impose charges for the application. There could be costs associated with court proceedings and legal counsel. Some countries will provide legal services free of charge; in other countries you may be entitled to legal aid; and in others it may be necessary for you to engage your own lawyer.

It is not essential that you travel to the country handling your Hague Convention application, but this may be desirable in some cases. If your application is successful, it would simplify matters if you, as the custodial parent, could be present to accompany the child on his or her return to Canada. You will be responsible for the travel costs involved in having your child returned to Canada. Refer to Section II for details on the RCMP's Travel Reunification Program, which may be able to provide assistance in having the child returned to Canada (website: www.ourmissingchildren.gc.ca).

Assistance in the Exercise of Access Rights

If you are having difficulties in exercising your access rights, your provincial/territorial central authority can also process an application under the Hague Convention for organizing or securing the effective exercise of those rights. In so doing, the central authorities are promoting a second goal of the Convention, which is to promote the peaceful enjoyment of access rights. You should contact your provincial/territorial central authority if you are experiencing such difficulties.



OTHER ACTIONS

In the event that your child has been abducted to a country that is not a party to the Hague Convention, it is possible for you to take other actions both in Canada and abroad that could lead to the return of your child. (Some of these actions may also be relevant if the abduction has been to a Hague Convention country.) In Canada, the civil justice system can be used to reinforce your custody rights and, if appropriate, the criminal justice system can be used to initiate criminal action against the abductor. It may be possible to take similar actions in the other country. As every situation is unique, it is important for you to seek legal and other professional advice and guidance before taking specific action.

Using the Civil Justice System

Once you have obtained a custody order from the appropriate Canadian court, the next step is to decide whether you wish to use the justice system in the country to which your child has been abducted.

Consular Services can provide you with general information on the legal system of that country, customs and practices of that country related to parental rights, and the experience of other people in seeking to use that country's justice system to have an abducted child returned.

Consular officers in Ottawa and overseas can provide advice and guidance on the laws of a foreign country or on what might be the most appropriate action to take. However, for authoritative information, you will need to retain a lawyer in that country who is knowledgeable and experienced in dealing with custody cases involving foreigners. Canadian officials in Ottawa and at Canadian government offices abroad can provide you with a list of lawyers who speak English or French, who may be experienced in parental child abduction or family law and who may have represented Canadians in circumstances similar to yours. However, as this lawyer will be working for you, it is most important that you,

and only you, make the selection. If you decide to undertake legal action in the other country, it may be necessary for you to be there in person at some stage of the proceedings.

Lawyers' fees vary widely from country to country and could be in excess of what would be paid in Canada. Therefore, you should be very direct when making arrangements for legal representation in another country: ensure that the arrangements are in writing and that you fully understand what the lawyer will and will not do, when it will be done and at what cost. If necessary, Canadian consular officials can maintain contact with your lawyer to obtain status reports and to verify that your rights, as provided for by the laws of that country, are respected.

Your lawyer will advise you on the information and documentation that will be required in order to represent you within that country's justice system. In addition to providing a certified copy of your custody order, it may be necessary to supply copies of your marriage and/or separation or divorce documents, along with copies of the relevant provincial/territorial and federal laws relating to custody and child abductions. Foreign Affairs and International Trade Canada in Ottawa can authenticate these documents before they are sent. For information, contact the Authentication and Service of Documents Section, tel.: 613-995-0119; fax: 613-944-7078. Your Canadian lawyer can assist you in gathering this material and having it delivered to your lawyer in the foreign country.

A custody order issued by a Canadian court has no automatic binding legal force beyond the borders of Canada. Nevertheless, there may be procedures and laws in place in the foreign country to have that order recognized and enforced there. In addition, such an order could be persuasive in support of any legal action that you undertake. Courts in other countries, like those in Canada, must decide child custody cases on the basis of their own domestic laws. This may give an advantage to the person who has abducted your child, if the abduction is to the country of his or her other nationality or origin. You could also be disadvantaged if the country has a legal tradition of deciding custody cases on the basis of gender and/or religious belief. If custody is given to the abducting parent in another country, you should make every effort to have the court specify your access rights. Some countries, even if they award custody to you or provide for access for you, will not permit the child to leave without the consent of the other parent.

Your chances of having your Canadian custody order recognized and enforced in another country are subject to all these factors and conditions. While it may appear that the deck is stacked against you, it is important to accept that recourse

to the courts of another country may be the only hope for the safe return of your child. Each country is unique, and it is up to you to decide whether to proceed with legal action.

Using the Criminal Justice System

Parental abduction is a criminal offence under sections 281, 282 and 283 of the Canadian Criminal Code. In many situations, the criminal justice system can prove to be a very useful instrument in locating and recovering a child, especially when the person suspected of perpetrating the abduction has not yet left Canadian soil.

Since the administration of criminal justice is a provincial/territorial responsibility, criminal justice may be administered in a slightly different way from one province/territory to another. Thus, in the abduction of children, some provinces/territories require authorization from the Crown Attorney before proceedings can be set in motion, while in others proceedings can be initiated by the police themselves.

Use of the Criminal Code makes it easier for the police to search for and locate a child. An arrest warrant is generally issued, often improving cooperation among police forces both nationally and internationally. If necessary, an extradition request may be made if there is an extradition treaty with the country in which the alleged abductor is located.

Extradition

Extradition may be worth considering in some cases of international abduction, but may be of no value in others. There is no guarantee that the child will be returned by foreign authorities even if they should permit the extradition of the alleged abductor. When threatened with extradition, some abducting parents have hidden the child or have gone into hiding themselves with the child.

In addition, not all countries regard child abduction by one of the parents as a criminal act. Consular Services can provide information on the criminal justice system in the country in question, and on whether it is likely to cooperate in parental child abduction cases.

Other reasons why extradition is not frequently used in connection with parental child abductions include:

- Very few extradition treaties between Canada and other countries include parental child abduction or custodial interference as extraditable offences. In recent treaties, efforts have been made to include the concept of "dual

criminality” as the basis for extradition. However, this requires that parental child abduction be considered a crime in both the countries that have signed the treaty.

- Many civil law countries – in contrast with common law countries such as Canada (with the exception of the province of Quebec), Australia, the United States and the United Kingdom – will not extradite their own nationals. Nearly all the countries of Latin America and Europe are civil law countries. Experience has shown that foreign governments are often unwilling to extradite anyone for parental child abduction.

While it is important to report the abduction of your child to the police as soon as possible, your complaint will not necessarily result in child abduction charges. Whether at the level of the police, the Crown Attorney’s office or the federal Department of Justice, which is responsible for extradition questions, such decisions are made in accordance with the particular circumstances of each situation and the possible repercussions on the return of the child. Protection of the child is the primary objective.

For the police and the Crown Attorney to do the optimum job in dealing with your complaint, it is essential that you provide all the information available to you at the time of the complaint and any new information that subsequently arises. Based on this information, the best possible decisions can be made in the interests of you and your child.

Communication and Compromise

As the foregoing information illustrates, legal approaches to dealing with international child abductions can be prolonged and expensive and are often inconclusive. Before pursuing legal solutions, you should carefully consider and explore alternative approaches, such as negotiation with the abducting parent. In some cases, it may be possible to have relatives or friends of the abductor assist you in establishing contact and help to promote a compromise. As well, community or religious leaders may be willing to intervene on your behalf.

Such actions might not produce immediate results but could reduce tensions, promote the welfare of your child and increase the chances of your being able to visit the child and participate in some way in decisions affecting his or her well-being. Sometimes, compromise and reconciliation will be the only solution.

Information on the Welfare of Your Child

If your child has been found and it is not possible for you to establish direct communication, Canadian consular officials in the country concerned can try on your behalf to make arrangements to visit the child. If they succeed in seeing your child, they will provide you with reports on his or her health, living conditions, schooling and other information. Sometimes, consular officials are also able to deliver letters and photographs to your child and send you the same in return. If the abducting parent will not permit such a visit, the Canadian government office abroad can request the assistance of the local authorities, either to arrange such a visit or to have a local social worker involved.

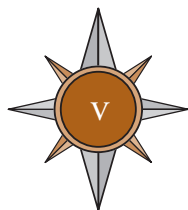
If information on possible abuse or neglect of your child becomes available to consular officials, the matter will be discussed, with your permission, with local child welfare and law enforcement officers. The nearest Canadian government office abroad can ask local authorities to become involved and ensure that the child is protected.

Re-abductions

The trauma and difficulties associated with international child abductions have led many parents to consider self-help measures, such as the re-abduction of the child. Foreign Affairs and International Trade Canada strongly advises against such desperate and often illegal measures. Such action could further endanger your child and others, prejudice any future legal efforts and result in your arrest and imprisonment in another country. If you are tried and convicted in that country, the foreign court will not necessarily give any weight to your custody rights in Canada when imposing its sentence.

Canadian officials, whether in Ottawa or in other countries, cannot take possession of a child abducted by a parent or assist others in acting in violation of the laws of a foreign country. Officials must act in accordance with the laws of the country concerned.

If you were to succeed in having your child returned to Canada in such circumstances, there would be no guarantee that you would not be subject to further attempts by the other parent to re-abduct your child. It is also possible that Canadian courts might recognize the rights of the other parent and order the child returned to the foreign country.



ASSISTANCE FROM FOREIGN AFFAIRS AND INTERNATIONAL TRADE CANADA

When a Canadian child is abducted to another country, Consular Services works closely with Canadian government offices abroad, the local police, the RCMP, the Hague Convention central authorities and others. Our assistance will be provided only at your explicit request, made personally or by a person authorized in writing to act on your behalf. All planned actions will be discussed with you in advance.

You can contact Consular Services 24 hours a day, seven days a week, at 1-800-387-3124 or 1-800-267-6788 (in Canada) or 613-996-8885. These emergency numbers will put you in contact with a case officer, who will remain in charge of your case. When you call, you should have available the information detailed in Section VII.

Your case officer in Canada will supply the information to a consular official in the relevant Canadian government office abroad, who, working with the local authorities or other people, will assist in the efforts to find your child. The first step is to attempt to confirm the entry of your child into the country. Unfortunately, some countries may not be prepared to release the information, especially if the child or the abducting parent is a citizen of that country.

What Foreign Affairs and International Trade Canada Can Do

- in cases where the Hague Convention applies (see Section III), assist you in making direct contact with the relevant Canadian provincial/territorial central authority, and assist the central authorities both in Canada and abroad;
- in cases where the Hague Convention does not apply, attempt to locate and visit the child and report on his or her welfare;
- work with the central Passport Canada office in establishing what travel documentation may have been used by your child;

- contact foreign diplomatic or consular offices in Canada to establish what travel documentation may have been used, or whether a visa was issued;
- provide you with information on the country concerned, including its legal system and family laws;
- provide you with a list of lawyers in the country concerned, who may be willing to act on your behalf in the return of your child and assist in the authentication of needed documents;
- should you decide to travel to the country to which the abduction took place, provide you with advice and guidance before departure and ensure that officials from the Canadian government office there are available to assist you upon your arrival;
- provide you with a point of contact for information;
- follow judicial and administrative proceedings overseas and provide you with information on developments;
- assist you in contacting officials in other countries or contact them on your behalf;
- provide information and advice on things that you can do or that other organizations or offices of the Canadian government can do; and
- provide foreign authorities with any evidence of child custody, abduction, abuse or neglect.

What Foreign Affairs and International Trade Canada Cannot Do

- intervene in private legal matters;
- enforce a Canadian custody agreement overseas;
- force another country to decide a custody case or to enforce its laws in a particular way;
- assist in violating foreign laws or in the re-abduction of a child;
- take possession of an abducted child;
- pay legal or other expenses; or
- provide legal counsel, act as a lawyer or represent parents in court.



DIRECTORY OF ASSISTANCE

“Our Missing Children” Program

www.ourmissingchildren.gc.ca

FOREIGN AFFAIRS AND INTERNATIONAL TRADE CANADA

Consular Services

125 Sussex Drive
Ottawa, ON K1A 0G2
Tel.: 1-800-387-3124 or
1-800-267-6788 or 613-944-6788 or
613-943-1055
Fax: 613-995-9221 or 613-996-5358
Website: www.travel.gc.ca

Passport Canada

Gatineau, QC K1A 0G3
Tel.: 1-800-567-6868 or 819-994-3500
Fax: 819-953-5856
Website: www.passportcanada.gc.ca

CANADA BORDER SERVICES AGENCY

Border Alerts: Tel.: 1-888-502-9060
Website: www.ourmissingchildren.gc.ca

DEPARTMENT OF JUSTICE CANADA

Family, Children and Youth Section

Tel.: 613-946-2222
Fax: 613-952-9600
E-mail: fv-vf@justice.gc.ca

ROYAL CANADIAN MOUNTED POLICE

National Missing Children Services

890 Taylor Creek
Orléans ON K1A 0R2
General Enquiries:
Tel.: 1-877-318-3576

Provincial, Territorial and Federal Central Authorities (for Hague Convention Cases)

ALBERTA

Reeva Parker, Section Head
Vanita Pillay, Barrister & Solicitor
Alberta Justice
Family Law, Edmonton
5th Floor, J.E. Brownlee Building
10365 – 97th Street
Edmonton, AB T5J 3W7
Tel.: 780-422-3715
Fax: 780-427-5914
E-mail: reeva.parker@gov.ab.ca
E-mail: vanita.pillay@gov.ab.ca
Website: www.gov.ab.ca

Jonathan Nicholson, Q.C.
Section Head
Department of Justice
Family Law, Calgary
#1660, Standard Life Building
639 – 5th Avenue S.W.
Calgary, AB T2P 0M9
Tel.: 403-297-3360
Fax: 403-297-6381
E-mail: jonathan.nicholson@gov.ab.ca
Website: www.gov.ab.ca

BRITISH COLUMBIA

Penelope Lipsack
Legal Services Branch
Ministry of Attorney General
P.O. Box 9280, Stn. Prov. Gov't
Victoria, BC V8W 9J7
Tel.: 250-356-8419
Fax: 250-356-8992 or 250-356-9264
E-mail: penelope.lipsack@gov.bc.ca
Website: www.gov.bc.ca

MANITOBA

Janet Sigurdson (Crown Counsel)
Department of Justice
1230 – 405 Broadway
Winnipeg, MB R3C 3L6
Tel.: 204-945-2850 (J. Sigurdson)
Fax: 204-948-2004
E-mail: janet.sigurdson@gov.mb.ca
Website: www.gov.mb.ca

NEW BRUNSWICK

Catherine Berryman
Coordinator of Family Cases
8th Floor, Assumption Place
770 Main Street, P.O. Box 5001
Moncton, NB E1C 8R3
Tel.: 506-856-3844
Fax: 506-856-2625
E-mail: catherine.berryman@gnb.ca
Website: www.gnb.ca

NEWFOUNDLAND AND LABRADOR

Brian F. Furey, Q.C.
Manager – Social Unit
Department of Justice
Newfoundland and Labrador
4th Floor, East Block
Confederation Building
Prince Philip Drive, P.O. Box 8700
St. John's, NL A1B 4J6
Tel.: 709-729-2887
Fax: 709-729-2129
E-mail: brianf@gov.nl.ca
Website: www.gov.nl.ca/just

NORTHWEST TERRITORIES

Mike Reddy, Senior Policy Analyst
Laura Seddon, Director
Department of Justice
Government of the NWT
4903 – 49th Street, P.O. Box 1320
Yellowknife, NT X1A 2L9
Tel.: 867-920-3131 (*M. Reddy*)
Tel.: 867-920-3225 (*L. Seddon*)
Fax: 867-873-0659
E-mail: mike_reddy@gov.nt.ca
E-mail: laura_seddon@gov.nt.ca
Website: www.gov.nt.ca

NOVA SCOTIA

Tilly Pillay, Senior Solicitor
Nova Scotia Department of Justice
Legal Services
P.O. Box 7
5151 Terminal Road, 4th Floor
Halifax, NS B3J 2L6
Tel.: 902-424-6793
Fax: 902-424-4556
E-mail: pillaytp@gov.ns.ca
Website: www.gov.ns.ca/just

NUNAVUT

Sandra Inutiq, Legal Counsel
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Government of Nunavut
P.O. Box 1000, Station 500
Iqaluit, NU X0A 0H0
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Fax: 867-975-6195
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ONTARIO

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Tina Kapoor
(incoming applications)
Shane Foulds, Counsel
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E-mail: tina.kapoor@ontario.ca
E-mail: shane.foulds@ontario.ca
Website: www.gov.on.ca

PRINCE EDWARD ISLAND

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Manager, Family Law Section
Office of the Attorney General
P.O. Box 2000
Charlottetown, PE C1A 7N8
Tel.: 902-368-4886
Fax: 902-368-6934
E-mail: llmacaulay@gov.pe.ca
Website: www.gov.pe.ca

QUEBEC

France Rémillard
Direction du droit administratif
Ministère de la Justice du Québec
1200, route de l'Église, 2^e étage
Sainte-Foy, QC G1V 4M1
Tel.: 418-644-7153
Fax: 418-646-1696
E-mail: enlevement.enfant@justice.gouv.qc.ca
Website: www.justice.gouv.qc.ca

SASKATCHEWAN

B.A. Pottruff
Department of Justice
Policy, Planning and Evaluation
Branch
3rd Floor, 1874 Scarth Street
Regina, SK S4P 3V7
Tel.: 306-787-8954
Fax: 306-787-9008
E-mail: bpottruff@justice.gov.sk.ca
Website: www.gov.sk.ca

YUKON

Judith M Hartling
Legal Services Branch
Government of Yukon
Box 2703 (J-2)
Whitehorse, YT Y1A 2C6
Tel.: 867-667-5856
Fax: 867-393-6379
E-mail: judith.hartling@gov.yk.ca
Website: www.gov.yk.ca

FEDERAL GOVERNMENT

Sandra Zed Finless
Counsel and Federal Representative
for the Hague Convention on
the Civil Aspects of International
Child Abduction
Justice Legal Services (JUS)
Foreign Affairs and International
Trade Canada
125 Sussex Drive, Tower C, 7th Floor
Ottawa, ON K1A 0G2
Tel.: 613-996-1300
Fax: 613-992-6485
E-mail: sandra.zedfinless@international.gc.ca
Website: www.international.gc.ca

Non-Governmental Organizations

The following organizations offer a variety of services with respect to child abductions. You should establish direct contact with them to discuss your own situation. Foreign Affairs and International Trade Canada does not take any responsibility for the services and actions of these organizations.

CHILD FIND CANADA

Suite 212 – 2211 McPhillips Street
Winnipeg, MB R2V 3M5
Tel.: 204-339-5584
Fax: 204-339-5587
24-hour service: 1-800-387-7962
E-mail: childcan@aol.com
Website: www.childfind.ca

PROVINCIAL CHILD FIND CANADA

Child Find Alberta (Calgary)
403-270-3463

Child Find British Columbia
(Victoria)
1-888-689-3463 or 250-382-7311

Child Find Manitoba (Winnipeg)
204-945-5735

Child Find New Brunswick
(Barter Settlement)
506-469-0141

Child Find Newfoundland and
Labrador (St. John's)
709-738-4400

Child Find Nova Scotia (Halifax)
902-454-2030

Child Find Ontario (Mississauga)
905-712-3463 or 1-866-543-8477

Child Find Prince Edward Island
(Charlottetown)
902-368-1678

Child Find Saskatchewan
(Saskatoon)
306-955-0070

For Quebec or Yukon, contact
Child Find Canada. For the North-
west Territories, contact Child
Find Manitoba. For Nunavut,
contact Child Find Alberta.

THE MISSING CHILDREN'S NETWORK

7101 Parc Avenue
Montreal, QC H4G 2X1
Tel.: 1-888-692-4673 or
514-843-4333
Fax: 514-843-8211
Website: www.enfant-retourquebec.ca

MISSING CHILDREN SOCIETY OF CANADA

(Head Office)
Suite 219, 3501 – 23rd Street N.E.
Calgary, AB T2E 6V8
Tel.: 1-800-661-6160 or 403-291-0705
Fax: 403-291-9728
Website: www.msc.ca

MISSING CHILDREN SOCIETY OF CANADA

(Eastern Branch)
Suite 814, 99 Bronte Road
Oakville, ON L6L 3B7
Tel.: 1-800-661-6160 or 905-469-8826
Fax: 905-469-8828
Website: www.msc.ca

OPERATION GO HOME
(OTTAWA)
176 Rideau Street, 2nd Floor
Ottawa ON K1N 5X6
Tel.: 1-800-668-4663 or
613-230-4663
Fax: 613-230-8223
Website: www.operationgohome.ca

VICTIMS OF VIOLENCE CANADIAN CENTRE FOR MISSING CHILDREN

211 Pretoria Avenue
Ottawa, ON K1S 1X1
Tel.: 613-233-0052
Fax: 613-233-2712
Website: www.victimsofviolence.on.ca

The names, addresses and contact
information listed above are sub-
ject to change. If you experience
difficulty in reaching any of
these organizations, please consult
the Internet version of this manual
on the Consular Services website
(www.travel.gc.ca). Updates will be
made as soon as they are received.



INFORMATION AND DOCUMENT CHECKLIST

Whether or not the country to which your child has been abducted is a party to the Hague Convention, it is important that you develop and maintain a complete file of information and documentation concerning your child and the abduction. You should ensure that all people acting on your behalf provide you with copies of written correspondence and, where appropriate, you should maintain records of telephone conversations. To the extent possible, you should maintain a file of certified legal documents.

Information

I. THE CHILD

- Full name, including all alternative spellings and nicknames
- Date of birth
- Place of birth, including hospital, town, state or province and country
- Address prior to the abduction or retention
- Canadian social insurance number, if issued
- Canadian passport number, along with place and date of issue
- Details on other passport or travel documents that might have been used
- Nationality (include all possible nationalities of the child, even if you are not certain)
- Height (specify measurement and date)
- Weight (specify measurement and date)
- Gender
- Colour of eyes
- Colour of hair (keep hair strands for DNA testing)
- Most recent photograph

- Blood type
- Identifying features (marks, scars, glasses, braces, etc.)
- Medical information
- Fingerprint record/dental records

2. THE FATHER

- Full name, including all alternative spellings and arrangements of the family name
- Date of birth
- Place of birth
- Nationality; include legal status in Canada (e.g., citizen, permanent resident, student)
- Full details on passport or other identifying documents; if more than one passport is used, ensure that details on all passports are recorded (i.e. number, date of issue, issuing office and expiry date)
- Occupation, including any professional certifications
- Other work experience
- Current address and telephone numbers; if a street address is not available, location information that is as specific as possible
- Canadian social insurance number
- Names and addresses of relatives and friends in Canada and in other countries
- Date and place of marriage or dates of common-law relationship
- Date and place of separation or divorce and details of courts involved and documents issued
- Marital status at the time of the abduction or retention
- Height
- Weight (specify measurement and date)
- Colour of eyes
- Colour of hair (keep hair strands for DNA testing)
- Most recent photograph
- Blood type
- Identifying features (marks, scars, glasses, tattoos, etc.)

- Medical information
- Fingerprint record/dental records

3. THE MOTHER

- Full name, including all alternative spellings and arrangements of the family name
- Date of birth
- Place of birth
- Nationality; include legal status in Canada (e.g., citizen, permanent resident, student)
- Full details on passport or other identifying documents; if more than one passport is used, ensure that details on all passports are recorded (i.e. number, date of issue, issuing office and expiry date)
- Occupation, including any professional certifications
- Other work experience
- Current address and telephone numbers; if a street address is not available, location information that is as specific as possible
- Canadian social insurance number
- Names and addresses of relatives and friends in Canada and in other countries
- Date and place of marriage or dates of common-law relationship
- Date and place of separation or divorce and details of courts involved and documents issued
- Marital status at the time of the abduction or retention
- Height
- Weight (specify measurement and date)
- Colour of eyes
- Colour of hair (keep hair strands for DNA testing)
- Most recent photograph
- Blood type
- Identifying features (marks, scars, glasses, tattoos, etc.)
- Medical information
- Fingerprint record/dental records

Note: If the abduction or retention involves other people, ensure that the information detailed above is collected on them as well.

4. THE ABDUCTION/RETENTION

Record the full details, to the extent known, of the following:

- The date the child left Canada or when the wrongful retention began
- The location from which the child was taken, the circumstances and who was involved
- The means and route taken
- The legal relationship between you and the abducting parent at the time of the abduction and the living arrangements for you, the other parent and the child
- Your knowledge or suspicions of where the child might be, along with complete details of other people who may have provided assistance in the abduction or who may be providing assistance now in Canada or in another country

Documentation

- Birth certificate for the child
- Marriage certificate
- Separation or divorce agreements
- Custody order, along with any special arrangement for visitation and travel
- Provincial/territorial laws and regulations concerning child welfare and custody
- The Hague Convention on the Civil Aspects of International Child Abduction
- Sections of the Canadian Criminal Code relating to parental child abductions



ACTION CHECKLIST

As the parent of an abducted child, you are facing a very difficult situation. The first thing you should do is enlist the support of family and friends to help you cope with the trying and complex efforts of recovering your child.

This checklist assumes that your child has been or is suspected of having been abducted abroad, to a country that is not a party to the Hague Convention. If the country in question is a signatory country to the Convention, one of your first steps should be to contact the provincial/territorial central authority. If you are unsure, contact the central authority for your province/territory, the federal central authority or Consular Services (contact information is given in Section VI).

Emergency Action — What to Do Right Away

- Contact your local police and file a missing persons/abduction report.
- Contact Consular Services. Explain the circumstances and request that a search be initiated to find your child and determine his or her welfare.
- Advise the RCMP's Missing Children's Registry in Ottawa.
- If you do not have a judicial custody order or one that prohibits your child from travelling without your permission, contact a Canadian lawyer. Such an order can be obtained even after a child is abducted and, while not essential under Canadian law, will be valuable in dealing with foreign authorities.
- Contact the central Passport Canada office (or Consular Services) to see whether a passport was issued for your child and to have your child's name placed on the Passport Control List.
- If you have joint credit cards or banking facilities with the other parent, find out your liability and take appropriate action.
- If your child is a dual national, inform the diplomatic or consular office of that country in Canada of what has happened and enquire whether a

passport was issued for your child or whether the child was included in the other parent's passport. Consular Services can do this if you so request.

- If your child has only Canadian citizenship but the other parent has close ties to a particular country, inform the diplomatic or consular office of that country in Canada of what has happened and enquire whether a visa was issued for your child. Again, Consular Services can do this if you so request.

The Search

- Ensure that you have several certified copies of your custody order from the issuing court.
- Obtain information on the family and child welfare laws and customs of the country to which your child has been abducted.
- Find out the various legal aspects of your situation under Canadian law.
- Establish contact with relatives and friends of the other parent in Canada and abroad and try to enlist their support.
- Advise your child's school, doctor and hospital that he or she has been abducted and request that they inform you if they are contacted by the abducting parent.
- In consultation with your lawyer and the local police, consider whether it would be beneficial to obtain information from telephone and credit card companies on the whereabouts of the abducting parent.

After Your Child Has Been Located Abroad

- Obtain advice and guidance as to the necessity of retaining the services of a lawyer in the country where your child is located.
- If a foreign lawyer is retained, ensure that you fully understand what will be done, how much time it is likely to take and what costs will be involved.
- Provide the foreign lawyer with certified copies of all relevant documents.
- Consult with Consular Services to determine whether it would be appropriate for you to travel to the country concerned.

Legal Proceedings in Canada

- Seek advice and guidance on how to proceed from the Crown Attorney, your lawyer and/or your provincial/territorial central authority.