

**UNITED STATES RESPONSES
TO INTERNATIONAL PARENTAL ABDUCTION**

HEARING
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

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UNITED STATES RESPONSES TO INTERNATIONAL PARENTAL ABDUCTION

THURSDAY, OCTOBER 1, 1998

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met at 10:05 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Jesse Helms, chairman of the committee, presiding.

Present: Senators Helms, Biden, and Robb.

Also Present: Senator DeWine.

The CHAIRMAN. The committee will come to order.

I would say preliminarily that this is a right busy time up here. All the committees are meeting, trying to finish up whatever bills they can before adjournment, *sine die*, as Senator Byrd refers to it.

Madam Attorney General, we are so glad to welcome you here this morning, and I am glad that your first appearance before this Committee this morning is the first time in 9 years that any Attorney General has appeared before the Foreign Relations Committee. So, that makes it a double pleasure to work with you. The last time, by the way, for anybody taking notes, was 1989 when Dick Thornburgh visited this committee.

Madam Attorney General, your coming here this morning to discuss the growing problem of international parental kidnapping is a very good measurement of your personal interest in this matter.

Following your testimony, the committee will hear from a number of parents, each of whom will have heartbreaking stories about how their former spouses unlawfully took their children to foreign countries and about the subsequent search to find and seek the return of those children. I was surprised to learn, by the way, that these children were taken not to the closed societies of the Middle East, but to European countries with democratic and open societies.

Now, the parents who will testify today will describe many long and expensive court battles in efforts to get their children back. For example, they will tell stories of hiring lawyers in foreign courts that favor their own citizens despite the existing treaty requirements that the children be returned, stories of futile or insufficient diplomatic efforts by the United States, and stories of the failure by the United States to issue arrest warrants or seek extradition of the former spouses who unlawfully spirited the children away.

But it needs to be emphasized, I think, that this frustration with the existing process is not uniquely American. Our committee will hear today from a well-known British citizen, the wife of the Brit-

ish Ambassador to the United States, Lady Catherine Meyer. Lady Meyer has spent the past several years seeking the return of her sons from their father in Germany.

It would be an ideal circumstance, Madam Attorney General, if we could have you sitting side-by-side with the distinguished Secretary of State discussing how the United States can better respond to the thousands of cases of international parental kidnapping every year.

The question, of course, is what exactly is the problem? For many years in the United States, the kidnapping of a child by a parent was considered a family matter, not a criminal matter. Today, all 50 States do have criminal statutes that require the return of any child taken across a State line by a parent.

During this hearing, parents are going to recite how the process breaks down when a child is taken across foreign borders. The Hague Convention on the Civil Aspects of International Child Abduction requires that children be returned to the habitual resident from which the child was taken. Each year—and you will amplify on this—U.S. Courts send an estimated 90 percent of kidnapped children back to foreign countries, but that statistic for returns to this country is not nearly as perfect. Only some 30 percent of kidnapped children are returned to the United States.

Parents have reported to me the failure by the United States to initiate vigorously diplomatic and law enforcement tools seeking the return of their children. These parents report a sense of frustration—and I can understand that—with the obviously low priority placed on the return of abducted children compared to other diplomatic relations.

Unfortunately, in most cases the kidnapping parents often flee U.S. borders with the children before law enforcement officers are even made aware of the unlawful act. Even in instances where local law enforcement is brought in, officers often are not aware of the process of tracking the kidnapper parent at the international level.

The next step of issuing international arrest warrants for or requesting the extradition of the kidnapping parent can become a maze of bureaucracy for parents and local law enforcement officials. Even when they succeed in persuading the Justice Department to seek extradition, the State Department may very well refuse to go forward with the request.

In one case documented by the United States Information Agency (USIA) Crime Alert Program, one United States mother, whose son was abducted by her ex-husband to Prague in the Czech Republic, had a Federal arrest warrant sworn against her ex-husband. She made repeated efforts to have the FBI contact the U.S. embassy and the Czech authorities to carry out the warrant. Then, after months of no response by the FBI, the mother left her job and went to Prague, and in short order, she learned that her ex-husband and son indeed had been in Prague and had recently left on passports renewed by the State Department. The State Department claimed to have had no knowledge of the warrant or the kidnapping.

Now, I have gone to great length with this prelude because this is a matter of great concern, as I know it is to you, and I doubly appreciate your coming here.

These are the kinds of cases that should not occur and reflect a breakdown in coordination. So, I hope that you and I, as well as the Secretary of State—and I think Madeleine will work with us—can agree to work with this committee to coordinate better diplomatic and law enforcement efforts to assist parents seeking the return of their children. U.S. efforts to return kidnapped children who are brought to the United States are admirable and must be supported, but that same degree of proficiency and coordination must be brought to the return of children. There is no excuse for countries like Sweden, Austria, and Germany to violate existing treaty obligations that require the return of children.

I have devoted more time than I intended to my opening statement, but in closing I believe it is appropriate that I share with you an excerpt of one of hundreds of sad letters I receive every year. This one is written to me by James Rinaman, who is a lawyer for the U.S. Army and a father from your home State of Florida. He has been battling the German legal system unsuccessfully since 1996 to gain the return of his child. He wrote to me as follows, and I am quoting him from now on.

My mother raised four children, educated them, and loves my daughter as her first grandchild. She is tortured by a complete lack of information about my daughter, and wakes up in the night to write letters on her computer to save and give to my daughter. My parents are now in their sixties. They expected to live a peaceful, contented life. You might expect such a glued together outfit would be able to resolve the problem of my daughter's abduction. Instead, the law has failed us. Our government has been unable to offer any resolution. We have never felt so powerless. For a Government like Germany to scoff at an agreement they entered into should be viewed for what it is, a slap in the face. This is something to be expected from Third World countries, and we expect to have to deal with them as such.

Now, these sentiments, I think, speak for many other parents seeking assistance from the U.S. Government in the return of their children.

Pardon me for taking so long to make a matter of record my own thoughts on this. Madam Attorney General, welcome again and you may proceed.

[The prepared statement of Senator Helms follows:]

PREPARED STATEMENT OF CHAIRMAN JESSE HELMS

Thank you Madam Attorney General, for being with us this morning. I am glad to see your first appearance before the Foreign Relations Committee and the first time in nine years that an Attorney General has appeared before this Committee. That was in 1989 when Attorney General Richard Thornburgh visited us.

Your coming here today to discuss the growing problem of international parental kidnaping is a measurement of your personal interest in this issue.

Following your testimony, the Committee will then hear from a number of parents, each of whom will have heartbreaking stories about how their former spouses unlawfully took their children to foreign countries, and about the subsequent search to find and seek the return of their children. I was surprised to learn that these children were taken not to the closed societies of the Middle East, but to European countries with democratic and open societies.

The parents testifying today will describe many long and expensive court baffles in efforts to get their children back. For example, stories of hiring lawyers in foreign courts that favor their own citizens despite the existing treaty requirement that the children be returned; stories of futile or insufficient diplomatic efforts by the United States; and stories of the failure by the United States to issue arrest warrants or seek extradition of the former spouses who unlawfully spirited the children away.

But it needs to be emphasized that this frustration with the existing process is not uniquely American. Our Committee will hear testimony today from a well-known British citizen—the wife of the British Ambassador to the United States, Lady Catherine Meyer. Lady Meyer has spent the past several years seeking the return of her sons from their father in Germany.

It would be an ideal circumstance, Madam Attorney General, if we could have you sitting side-by-side with the distinguished Secretary of State discussing how the United States can better respond to the thousands of cases of international parental kidnaping each year.

The question, of course, is what exactly is the problem? For many years in the United States, the kidnaping of a child by a parent was considered a family matter—not a criminal matter. Today, all fifty states have criminal statutes that require the return of any child taken across state lines by a parent.

During this hearing, parents will recount how this process breaks down when a child is taken across foreign borders. The Hague Convention on the Civil Aspects of International Child Abduction requires that children be returned to the habitual residence from where the child was taken. Each year U.S. courts send an estimated 90 percent of kidnaped children back to foreign countries. The statistics for returns to this country are not nearly as perfect. Only some 30 percent of kidnaped children are returned to the United States.

Parents have reported to me a failure by the United States to initiate vigorously diplomatic and law enforcement tools seeking the return of their children. These parents report a sense of frustration with the obviously low priority placed on the return of abducted children, compared to other diplomatic relations.

Unfortunately, in most cases the kidnaping parents often flee U.S. borders with the children before law enforcement officers are even made aware of the unlawful act. Even in instances where local law enforcement is brought in, officers often are not aware of the process of tracking the kidnapper parent at the international level.

The next step of issuing international arrest warrants for, or requesting the extradition of; the kidnaping parent can become a maze of bureaucracy for parents and local law enforcement officials. And even when they succeed in persuading the Justice Department to seek extradition, the State Department may refuse to go forward with the request.

In one case documented by the USIA Crime Alert Program, one U.S. mother—whose son was abducted by her ex-husband to Prague in the Czech Republic—had a federal arrest warrant sworn against her ex-husband. She made repeated efforts to have the FBI contact the U.S. embassy and the Czech authorities to carry out the warrant.

After months of no response by the FBI, the mother left her job and went to Prague. In short order she learned that her ex-husband and son had indeed been in Prague and had recently left—on passports renewed by the State Department! The State Department claimed to have had no knowledge of the warrant or the kidnaping.

These are the kinds of cases, Madam Attorney General, that should not occur and reflect a breakdown in coordination. I hope that you and I, as well as the Secretary of State, can agree to work with this Committee to coordinate better diplomatic and law enforcement efforts to assist parents seeking the return of their children. U.S. efforts to return kidnaped children who are brought to the United States are admirable, and must be supported. But that same degree of proficiency and coordination must be brought to the return of children. There is no excuse for countries like Sweden, Austria, and Germany to violate existing treaty obligations that require the return of children.

In closing, I believe it appropriate that I share with you an excerpt of one of hundreds of sad letters I receive each year on this subject. This one is written to me by James Rinaman, who is a lawyer for the U.S. army, and a father from your home state of Florida. He has been battling the German legal system unsuccessfully since 1996 to gain the return of his child. He wrote to me as follows:

“My mother raised four children, educated them, and loves my daughter as her first grandchild. She is tortured by a complete lack of information about my daughter, and wakes up in the night to write letters on her computer to save and give to my daughter. My parents are now in their sixties. They expected to live a peaceful, contented life. You might expect such a glued together outfit would be able to

resolve the problem of my daughter's abduction. Instead, the law has failed us. Our government has been unable to offer any resolution. We have never felt so powerless ... For a Government like Germany to scoff at an agreement they entered into should be seen as a slap in the face. This is something to be expected from third world countries, and we expect to have to deal with them as such."

These sentiments, I suspect, speak for many other parents seeking assistance from the U.S. Government in the return of their children.

Again, Madam Attorney General, welcome.

**STATEMENT OF HON. JANET RENO, ATTORNEY GENERAL, U.S.
DEPARTMENT OF JUSTICE**

Attorney General RENO. Thank you so much, Mr. Chairman.

I would like to acknowledge the presence of Mary Ryan, the Assistant Secretary for Consular Affairs at the State Department, who is here representing the State Department, along with one of her colleagues, Mr. James Schuler.

I just want to tell you, as I told you before, how much I appreciate your focus on this issue. I think this is one of the most troubling issues that I know, whether it be a domestic matter or something on an international scale. Your willingness to take the time to focus on this issue I think means so much. I would like to work with you and your staff in the months ahead to continue to address the problem and not just make it a one-shot appearance before the committee.

The CHAIRMAN. Madam Attorney General, I thank you and it is a joy to work with you.

Attorney General RENO. Thank you.

The CHAIRMAN. You may proceed.

Attorney General RENO. I would also like to thank you, Mr. Chairman, for bringing on for hearing the many important law enforcement treaties. We believe that these treaties will serve critical United States law enforcement interests through the extradition and mutual legal assistance mechanisms that they establish. I understand that we have one more question to answer and we will get that back to you just as soon as possible, and I hope that they can be ratified shortly.

The CHAIRMAN. Good.

Attorney General RENO. As I indicated, some of the most difficult, heartbreaking, and just wrenching cases that I know are child custody cases. As a lawyer in Miami, as the State Attorney in Miami, I dealt with these cases, and I put a lot of emphasis on them. Even then, I sometimes could not get justice done. There is nothing more heartbreaking than to have to tell a parent that you cannot do anything more under the law.

When there is a kidnapping involved, that makes it all the more difficult, and when it is on an international scale, it is an even more difficult task because we have factors to consider which we may not be able to control due to the sovereignty of the foreign state.

In a domestic abduction, as you well know, Mr. Chairman, the civil orders regarding custody are now granted by law full faith and credit from State to State. Moreover, State and Federal criminal warrants reach across our interstate boundaries.

But in the international arena, custody orders entered by State courts in the United States are not enforceable outside the United States. Furthermore, State or Federal criminal warrants reach only

as far as our extradition treaties take us and as far as the domestic law of our extradition treaty partner permits. In both civil and criminal process in these international abductions, as in many matters that exceed our borders, the reach of the United States is ultimately limited by decisions of separate sovereign states and their independent judiciaries.

Although the Department of Justice does not play a direct role in the civil mechanisms for the recovery of children internationally, we are deeply concerned about this problem and how we can best support the Department of State which has the lead in recovering abducted children.

Now, two mechanisms apply in cases of parental abduction: As you have pointed out, the Hague Convention or other civil means for recovery of the child, and the second, of course, are the criminal statutes for prosecution of the offender. But as I learned full well from my experience as State Attorney, bringing charges and even successfully completing the charges so that I get a conviction, does not mean that I am going to get the child back too.

I would like for just a moment to discuss the civil process.

The United States has long been a leader in creating mechanisms for the retrieval of children abducted internationally. The United States and Canada were instrumental in the negotiation of the convention on the civil aspects of international child abduction done at the Hague October 25th, 1980. This Hague Convention provides for the return of a child abducted internationally by his or her parent pursuant to an application by the left-behind parent and a subsequent civil lawsuit filed in the country where the child is located.

According to the convention, a Hague proceeding does not decide custody. Instead, it should, in most cases, result in an order for the return of the child so that the parents may pursue the resolution of custody in the best interests of the child in a civil court located where the child resided prior to the abduction. In the first 10 years of its operation, proceedings under the Hague Convention have resulted, I am told, in the return of over 2,000 children to the United States. Today 50 countries are party to the convention.

The Department of State's Office of Children's Issues is the United States Central Authority for the Administration of the Hague Convention. The Department of Justice supports this office in its role as the Central Authority and coordinates with it when a case has both civil and criminal aspects.

Furthermore, the Department of Justice substantially funds the National Center for Missing and Exploited Children. It is called sometimes NCMEC and sometimes the National Center, and it does wonderful work for parents and for children in this country. NCMEC, under a cooperative agreement with the Department of States, performs certain functions regarding children who are brought into the United States after having been abducted.

While the Hague Convention has facilitated the return of many children and while it is a vast improvement over the lack of any international instrument whatsoever, it does not guarantee a satisfactory result in every case. Implementation of the convention varies among foreign jurisdictions. It depends sometimes just on the court in the foreign country. Even in cases in which a left-behind

parent has timely filed the application, hired legal counsel, and literally done everything exactly right, that parent and our Government cannot be assured that we can get that child back.

As a prosecutor, I have had the experience of a judge or a jury returning a decision that I thought was totally wrong, and I know the frustration. In these Hague cases as well, there are some decisions which we think and know are wrong. Ultimately these decisions, both in the United States and abroad, are made by independent judiciaries in independent sovereign states.

That reality, however, offers little comfort to the parent who is seeking to recover the child. Sometimes they cannot locate the child. Sometimes they are frustrated by the court. In any instance it is an agonizing situation.

The Department of Justice will continue to work with the Department of State in any way it can to support efforts under the Hague Convention. Further, in countries that are not party to the Hague Convention, we will try to assist in locating the child and providing whatever support we can.

I would now like briefly to discuss the criminal process, including extradition and the role of the Department of Justice in the criminal processes.

The terms "parental kidnapping" and "parental abduction" have come to encompass a variety of scenarios involving separation between a child and a left-behind parent or other person with custodial interests. The fact patterns range from a wrongful retention or overstay of lawful visitation or custody to an impulsive taking or to a kidnapping involving premeditated fraud or violence. Often, particularly in wrongful retentions or overstays, the whereabouts of the parent and child are known. Other cases involve layers of false identification, false passports, and a helpful underground.

The Department of Justice is charged with the investigation and prosecution of crimes under the International Parental Kidnaping Crime Act of 1993. We are involved in the location and apprehension of abducting parents charged with State or local offenses who are also subject of a Federal warrant for unlawful flight to avoid prosecution, and with the Department of State, we are responsible for securing the extradition of offenders charged under either State or Federal law.

Most parental kidnapping or interference with custody cases are charged under State law. By comparison, the number of Federal prosecutions involving these offenses is much smaller. At this time, our U.S. Attorneys' offices have 26 open cases involving parental kidnapping and 66 matters pending investigation, the FBI reports having opened 260 cases under the act since its enactment in 1993. In addition, from 1994 to 1998, the FBI opened over 800 cases to assist in locating abductors charged under State and local statutes.

As I mentioned at the outset, I want to make clear that criminal prosecution and the apprehension of the abductor does not necessarily result in the recovery of the child. Indeed, the Congress also recognized that one of the facts that should be considered when determining how to proceed, was that the procedure under the Hague Convention should be the option of first choice for a parent who seeks the return of a child.

Now, two recent Federal cases illustrate the point that I am trying to make. In both the Al-Ahmad prosecution in the District of Colorado and the Amer prosecution in the Eastern District of New York, Federal prosecutors apprehended and obtained convictions against the abducting parent. However, in both cases, the children remain in the Middle East with extended family while the abductor serves the sentence imposed. Again, in both these cases, the Department of State endeavors to ascertain the welfare and whereabouts of the child and to assist the parent in making sure that the child is OK, but it is not a perfect solution.

Problems with extradition may be another reason that criminal cases are not pursued. Extradition is not an option in all parental kidnapping cases. Many older "list" style extradition treaties, treaties from an era when abduction of a child by his or her parent was not recognized as a crime, as you noted earlier, are not interpreted to encompass this offense. Further, some countries will not extradite their nationals. Finally, some countries do not recognize such abduction as a crime at all.

With the help of this committee, we can make some real progress I think in addressing these problems. The extradition treaties pending before the committee will allow extradition for parental kidnapping whenever both countries recognize the offense as a crime. This committee—and I thank you for it—also took the lead in crafting legislation, Senate 1266, to address the problem of the limited interpretation of terms under the older "list" treaties. We appreciate your continued support in ensuring that our extradition treaties will encompass the offense of parental kidnapping to the fullest extent possible.

But in addition to enforcement efforts, the Department of Justice is supporting the recovery of children internationally on a program basis. Our Office of Juvenile Justice and Delinquency Prevention, which we call OJJDP, serves a larger agenda involving the welfare of missing and exploited children. As I previously noted, the Department of Justice funds many activities of the National Center for Missing and Exploited Children. These activities include training law enforcement, prosecutors, and judges on domestic missing children cases, research projects, and the distribution of information regarding the prevention and response to parental abductions.

Through the funding by OJJDP, the State Department relies on the Center to handle most of the issues relating to those incoming abduction cases.

In addition, OJJDP and our Office for Victims of Crime have established a fund to assist parents with travel costs when they recover their children. These funds are administered by OJJDP in coordination with the National Center. Beginning this year, a representative of the Office for Victims of Crime will be physically located at the Department of State to assist that Department with United States citizens who are victims of crime overseas, including these children who are the victims of an international parent kidnapping. But, Mr. Chairman, I am the first person to tell you, as I told you at the outset, that there is much more to do.

In June 1997, OJJDP, in conjunction with the National Center, held a parents focus group to identify issues and needs in this area. I have found from long ago that it is far better to listen to the peo-

ple who have to struggle with the system rather than to think that we know it all. We obtained input and recommendation from State and local law enforcement agencies to improve the handling and response to international abduction through a number of research efforts.

Based on this, in January 1998, we created an interagency committee to specifically focus on international parental kidnapping and how we can better respond to the victims in these cases, both the left-behind parent and the child. The committee has and is receiving input from Federal, State, and local law enforcement agencies in order to make recommendations to improve the services and system response to parents. As part of this effort, committee members have participated in additional parent focus groups, attended working group meetings, and listened directly to the questions and the needs of left-behind parents. The work of this committee is ongoing. It is addressing the full range of issues from efforts to educate lawyers, prosecutors, law enforcement, and judges on the Hague Convention and on international child abduction cases through detection and recovery, to prosecution and punishment. The interchange to date has helped in coordination of the many agencies which may need to be involved in any given case.

Now, I expect a report on the committee's activities and recommendations to improve services and responses for parents. I expect that report right after the first of the year, and we will look forward to sharing it with you and working with you in that effort.

Among the many issues we are addressing is the functioning of the Hague Convention. While all agree that this treaty is a valuable tool, we are committed to making sure it works even more effectively. This task rests primarily with the State Department, but the Justice Department can and will assist.

I expect the report, when we receive it right after the first of the year, to address the following and make recommendations with respect to the following.

First, ways in which the Justice Department through OJC and OJJDP can expand outreach and education programs to prosecutors, judges, and social services on international parental kidnapping. The police officer in Miami does not know what to do when a parent calls. The prosecutor gets confused where they go from the Department of Justice to the State Department. We have got to make sure that we get the message out in clear and concise ways.

Second, I expect it to address ways in which we can manage these cases more effectively on an interagency basis and perhaps develop a protocol that can serve as a model.

Third, I expect it to address ways in which we can improve our systems for keeping complete and accurate statistics and for following the cases so that they do not fall between the cracks.

Fourth, together with the State Department, we will be reviewing how best to focus our efforts abroad. Over half of all family abductions are to countries not party to the Hague Convention. We need to consider whether there are other countries we should encourage to join the convention. 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.

The fifth report that I expect is what can we do in terms of preventing the problem in the first place. I would like to hear from people as to how—and I expect the committee has already heard information on how—foreign courts take a State order and construe it one way when, if the order had been framed in a certain way, we might have had a stronger case before that foreign court.

I want to make sure that the dissemination of information regarding legal and practical steps to help prevent abductions can be made available on a regular basis through the Internet and through other resources.

Most importantly, we had an experience this year that I think will serve us well here. Through the National Center, we developed what we called a Family Survival Guide for Parents of Missing Children. I got to know a number of parents whose children were missing and some were recovered. Some were tragically found dead. This was not in the international kidnapping context. I listened to them and I thought we can do so much, but people were a step ahead of me. They were already involving these parents in developing a manual of questions and answers and feelings and recommendations as to how parents cope. This Family Survival Guide for Parents of Missing Children became probably the most popular publication the Department of Justice has ever put out.

I would like to work with the State Department, with parents, with State and local law enforcement to review what has been done by the State Department and to publish an international parental abduction guide that involves the parents and see if we cannot get this out in a way that can be readily available on the Internet, at police departments, in prosecutors offices, at local libraries. The first effort with missing children was successful, and I think that this will be very important.

Now, that is going to be what I get from the committee.

Secretary Albright and I have already talked, and we have asked our senior policy staff to review several policy issues regarding international child abduction. One issue we want to review, together with OMB, is the level of resources we can and should be devoting to these cases. They are critically important cases, and we have got to address the issue.

I want to talk with Director Friehe and follow up on issues with respect to the LEGATT's and what they are doing in terms of assisting and locating the child. What can we do better? How can we better allocate resources to ensure that there is a full performance in this area?

We also need to explore making better use of diplomatic initiatives and how we at Justice can support State in these efforts. But one thing I have learned, when the judge rules, the diplomat often has their hands tied, and so we have got again to recognize that there is no perfect solution to the problem.

We need to review at a senior level the recommendations made by the committee to us about what the role of the National Center should be. Perhaps the National Center can do more in terms of assisting. How can we work together to achieve that? Because they

have done so much in terms of dealing with children coming into the United States.

We are committed to doing everything that we can and we would like to work with the committee to do it. I would only say the most wonderful cases in the world are when the child comes home. The saddest cases are when you cannot get the child home. There is no perfect answer, but I will work with you every way I can to make sure that we have done all that can be expected of us to do the right thing.

Thank you, Mr. Chairman, for focusing on this issue and for giving me the opportunity to share thoughts with you.

[The prepared statement of Attorney General Reno follows:]

PREPARED STATEMENT OF JANET RENO

I. INTRODUCTION

Mr. Chairman and members of the committee:

I am pleased to appear before the committee today to address the important topic of international parental kidnapping. Mr. Chairman, I want you to know how much I appreciate your focus on this issue for it is so important that we do everything we reasonably can to protect our children.

I would also like to thank you, Mr. Chairman, and the members of the committee for going forward on the recent hearing regarding the many important law enforcement treaties pending before you. We believe that these treaties will serve critical United States law enforcement interests through the extradition and mutual legal assistance mechanisms they establish. Many of those treaties can also serve us in the topic before you today, the international abduction of a child by his or her parent. I understand the State Department has transmitted the answers to your follow-up questions, and we hope that the Senate will ratify these treaties as soon as possible.

Some of the most difficult and critical cases our legal system faces are those involving the custody and welfare of a child. When a parent takes the drastic measure of removing a child away from the other parent, the cases become more complex and heartbreaking.

Addressing these matters in the international arena is usually an even more difficult task because we have factors to consider which we may not be able to control, due to the sovereignty of foreign states. In a domestic abduction of a child by his or her parent, civil orders regarding custody are now by law granted full faith and credit from state to state. Moreover, State and Federal criminal warrants reach across our interstate boundaries.

In the international arena, custody orders entered by State courts in the United States are not enforceable outside of the United States furthermore, State or Federal criminal warrants reach only as far as our extradition treaties take us and as far as the domestic law of our extradition treaty partner permits. In both civil and criminal process in these international abductions, as in many matters that exceed our borders, the reach of the United States is ultimately limited by decisions of separate sovereign states and their independent judiciaries.

Although the Department of Justice does not play a direct role in the civil mechanisms for the recovery of children internationally, we are deeply concerned about this problem and how we can best support the Department of State, which has the lead in recovering abducted children. Thus I want to say a few words about the civil mechanisms for child recovery, before moving to the Justice Department's enforcement and programmatic role in international abduction cases.

II. CIVIL RECOVERY

The United States has long been a leader in creating mechanisms for the retrieval of children abducted internationally. The United States and Canada were instrumental in the negotiation of the convention on the civil aspects of international child abduction, done at the Hague, October 25, 1980 ("Hague Convention"). This "Hague Convention" provides for the return of a child abducted internationally by his or her parent, pursuant to an application by the left-behind parent and a subsequent civil lawsuit filed in the country where the child is located.

According to the convention, a "Hague proceeding" does not decide custody; instead, it should, in most cases, result in an order for the "return" of the child so

that the parents may pursue the resolution of custody and the best interests of the child in a civil court located where the child resided prior to the abduction. In the first ten years of its operation, proceedings under the Hague Convention have resulted in the return of over 2000 children to the United States. Today, 50 countries are party to the convention.

The Department of State's Office of Children's Issues is the United States' central authority for the administration of the Hague Convention. The Department of Justice supports this office in its role as the central authority, and coordinates with it when a case has both civil and criminal aspects. Further, the Department of Justice substantially funds the National Center for Missing and Exploited Children ("NCMEC" or "The National Center"). The National Center, under a cooperative agreement with the Department of State, performs certain functions regarding cases of children "abducted to" the United States.

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 instrument whatsoever, it does not guarantee a satisfactory result in every case for every parent. Implementation of the convention varies among foreign jurisdictions. Even in cases in which a left-behind parent has timely filed an application, hired legal counsel, and literally done everything "right," that parent, and the United States, may be bitterly disappointed with the result in a particular case.

As a prosecutor, I have had the experience of a judge or jury returning a decision with which I did not agree, which I believed was the wrong decision. In these Hague cases, as well, there may be some decisions which we think are wrong. Ultimately these decisions, both in the United States and abroad, are made by independent judiciaries in independent sovereign states.

That reality, however, offers little comfort to the left-behind parents who have suffered the frustration and anguish of losing contact with a beloved child—either in situations in which the whereabouts of the child are unknown, or in situations in which the whereabouts are known, but access is limited or denied entirely. My heart goes out to those parents.

The Department of Justice will continue to work with the Department of State in any way it can to support efforts under the Hague Convention. Further, in countries that are not party to the Hague Convention, our resources are, there too, committed to assist these children and the left-behind United States parents.

III. JUSTICE EFFORTS; CRIMINAL PROCESSES AND EXTRADITION; JUSTICE PROGRAMS

I would now like to briefly outline the Justice Department's role in these difficult cases.

The terms "parental kidnaping" and "parental abduction" have come to encompass a variety of scenarios involving separation between a child and a left-behind parent or other person with custodial interests. The fact patterns range from a "wrongful retention" or "overstay" of lawful visitation or custody, to an impulsive taking, to a kidnaping involving premeditated fraud or violence. Often, particularly in wrongful retentions or overstays, the whereabouts of the parent and child are known; other cases involve layers of false identification, false passports and a helpful "underground."

In addressing these cases of parental abduction, two mechanisms can be called upon for two separate but related ends: First, the Hague Convention or other civil means for recovery of the child; and, second, criminal statutes for prosecution of the offender.

The Department of Justice can have a more direct role on the criminal side. We are the agency charged with the investigation and prosecution of crimes under the International Parental Kidnaping Crime Act of 1993 (IPKCA); we are involved in the location and apprehension of abducting parents charged with State or local offenses who are also subject of a Federal warrant for unlawful flight to avoid prosecution; and, with the Department of State, we are responsible for securing the extradition of offenders charged under either State or Federal law.

Most parental kidnaping or interference with custody cases are charged under State law. By comparison, the number of Federal prosecutions involving these offenses is much smaller. At this time, our United States Attorneys' Offices have 26 open cases involving parental kidnaping and 66 matters pending investigation. The FBI reports having opened 260 cases under the Federal International Parental Kidnaping Crime Act (IPKCA) since its enactment in 1993 in addition, from 1994 to 1998, the FBI opened over 800 cases to assist in locating abductors charged under State and local statutes.

I want to make clear that the criminal prosecution and apprehension of any abductor does not necessarily result in the recovery of the child. Indeed, the Congress,

when it enacted the Federal Parental Kidnaping Statute, noted that the Hague Convention ought to remain the preferred means for child recovery.

Two recent Federal cases illustrate this point. In both the Al-Ahmad prosecution in the District of Colorado and the Amer prosecution in the Eastern District of New York, Federal prosecutors apprehended and obtained convictions against the abducting parent. However, in both cases, the children remain in the middle east with extended family while the abductor serves the sentence imposed. Again, in both these cases, the Department of State endeavors to ascertain the welfare and whereabouts of the children and to assist those left behind.

Problems with extradition may be another reason that criminal cases are not pursued. Extradition is not an option in all parental kidnaping cases. Many older "list" style extradition treaties—treaties from an era when abduction of a child by his or her parent was not recognized as a crime—are not interpreted to encompass this offense. Further, some countries will not extradite their nationals. Finally, some countries do not recognize such an abduction as a crime at all.

With the help of this committee, we can make progress in addressing these problems. The extradition treaties pending before the committee will allow for extradition for parental kidnaping whenever both countries recognize the offense as a crime. This committee also took the lead in crafting legislation—S.1266—to address the problem of the limited interpretation of terms under our older "list" treaties. We appreciate your continued support in ensuring that our extradition treaties will encompass the offense of parental kidnaping to the fullest extent possible.

In addition to enforcement efforts, the Department of Justice supports the recovery of children internationally on a programmatic basis. Our Office of Juvenile Justice and Delinquency Prevention, known as OJJDP, serves a larger agenda involving the welfare of missing and exploited children, including funding many activities of the National Center for Missing and Exploited Children. OJJDP funds training of law enforcement, prosecutors, and judges on domestic missing children cases, research projects, and the distribution of information regarding the prevention of and response to parental abductions.

In addition, OJJDP and the Office for Victims of Crime have established a fund to assist parents with travel costs when they recover their children. These funds are administered by OJJDP in coordination with the National Center and the Office of Children's Issues. Beginning this year, a representative of the office of victims of crime will be physically located at the Department of State, to assist that Department with United States citizens who are victims of crime overseas, including these children.

IV. INTERAGENCY EFFORTS

Mr. Chairman, we have been working hard to address concerns in this area. In June 1997, OJJDP in conjunction with the National Center held a parents focus group to identify issues and needs in this area. We obtained input and recommendations from State and local law enforcement agencies to improve the handling and response to international abduction cases through a number of research, training, and technical assistance efforts.

In January 1998, we also created an interagency committee to specifically focus on international parental kidnaping and how we can better respond to the victims in these cases, both the left-behind parent and the abducted child. The committee has received input from Federal, State, and local law enforcement agencies in order to make recommendations to improve the services and system response to parents. As part of this effort committee members have participated in parent focus groups, attended working group meetings, and listened directly to the questions and needs of left-behind parents. The work of this interagency committee is ongoing and is addressing the full range of issues, from efforts to educate lawyers, prosecutors, law enforcement and judges on the Hague Convention and international child abduction cases, through detection and recovery, to prosecution and punishment. The interchange to date has helped in coordination of the many agencies—local, State, and Federal—which may need to be involved in any given case. A report on the committee's activities and recommendations to improve services and response to parents affected by international abductions is expected after the first of next year.

I strongly believe that assistance and guidance would be of great benefit both to law enforcement personnel who must quickly respond these cases as well as to left-behind parents in international abduction cases.

Therefore, I will be asking through the interagency committee that OJJDP, the Department of State, and other entities, review the valuable international parental child abduction guide recently re-issued by the Department of State. The goal of this review is to ensure that in its next publication it is more user friendly and includes

information provided by the parents themselves. I will also ask the committee to explore ways to increase the circulation of this guide. I have learned how valuable this type of information can be to desperate parents. OJJDP's family survival guide for parents of missing children, because of its content, has been one of the most popular documents ever produced by the Department of Justice. The International Parental Child Abduction Guide, jointly produced by the Justice and State Departments, in conjunction with parents, Federal, State and local law enforcement agencies, and other organizations concerned with missing children, can be a vital resource for a parent whose child has been removed from the United States.

V. AREAS FOR RENEWED EFFORTS

While I have already described efforts that are ongoing in this area, the Justice and State Departments are, collectively, taking a hard look at what more we can do. I have discussed this with Secretary Albright.

Among the many issues we are addressing is the functioning of the Hague Convention. While all agree that this treaty is a valuable tool for the recovery of children, we are committed to making sure it works even more effectively. This task rests primarily with the Department of State. However, the Justice Department can assist in the education and training of law enforcement agents, prosecutors, practitioners and judges, all of whom must become more familiar with the Hague Convention. The Office of Justice Programs and OJJDP are examining how we could expand outreach and education programs to train law enforcement, prosecutors, judges, and social services on international parental kidnaping.

Together with the Department of State, we are reviewing how best to focus our efforts abroad. Over half of all family abductions are to countries not party to the Hague Convention. We need to consider whether there are other countries we should encourage to join the convention. 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 in locating the children and the abducting parents.

Another area for attention is prevention. Efforts made in the State and local jurisdictions as to the type of orders entered regarding custody, the dissemination of information regarding legal and practical steps to help prevent abductions, as well as additional measures, such as surrender to the family court of both U.S. and foreign travel documents for the children, will well serve as a deterrent to these abductions.

Also, we need to manage these cases more effectively on an interagency basis and explore ways to improve our systems for keeping complete and accurate statistics. State Department personnel, Federal and State prosecutors and investigators, and child welfare agencies need to work together and be better informed, so we make timely and effective decisions about the civil and criminal remedies in these cases, and in order to better respond to the left-behind parent.

Moreover, coordination at a working level must be supported by coordination at a policy level. Secretary Albright and I have asked our senior policy staff to review several policy issues regarding international child abduction. One issue we want to review—together with O.M.B. if appropriate—is the level of resources we can and should be devoting to these cases. We also need to explore making better use of diplomatic initiatives and how we at Justice can support State in these efforts. We also need to review, at a senior level, the role of the national center and, in particular, current suggestions to expand its role in prevention, case management, case processing, and support to left-behind parents.

VI. CONCLUSION

These cases present difficult challenges. The Justice Department is committed to continue and to improve its partnership with the Department of State, and with State and local authorities, to insure that every case is addressed effectively. While there can be no guarantees we will have the desired result in every case, we must assure that we have done our best to recover children wrongfully separated from their parents, and to enforce the laws and lawful orders of our courts.

Again, I appreciate the opportunity to appear before the committee concerning this most important topic.

The CHAIRMAN. Madam Attorney General, I have been around the Senate for a while. I have heard a lot of witnesses on various subjects, but I will say to the Senator from Virginia who has just joined us, Senator Robb, that I have never had one who was more

comprehensive in not only discussing the problem, but laying out and identifying in detail what she intends to do about the problem. That is sort of a novelty around this place. Madam Attorney General, I just appreciate so much your coming.

Attorney General RENO. Mr. Chairman, do not give me any credit until we get something done.

The CHAIRMAN. Who was it said a journey of a thousand miles has to start with the first step? You are there and then some.

We have been joined by the distinguished Ranking Member, Senator Biden, and I will welcome him and suggest that we will be glad to hear from him.

Senator BIDEN. Mr. Chairman, I apologize. I was down on the floor that the Attorney General is very accustomed to being in, the Judiciary Committee. We had our executive committee meeting down there. So, I will just ask my statement be placed in the record.

If you were about to excuse the Attorney General, I will not have her stay on my behalf because I can drop the questions I have—

The CHAIRMAN. I wish you could have heard her statement. I know you will read it.

But we will be glad to hear from you on this.

Senator BIDEN. No, no. I will not take the committee's time, but I would ask unanimous consent my statement be placed in the record.

The CHAIRMAN. Without objection.

[The prepared statement of Senator Biden follows:]

PREPARED STATEMENT OF SENATOR BIDEN

Mr. Chairman, I commend you for focusing attention on the issue of international parental abduction.

The act of taking a child in violation of a custodial order—whether across States' lines or across international borders—is a heinous crime which is extremely heart-wrenching for the parent left behind and for the child or children affected.

There are two means of addressing the problem. The first is for a parent to seek a civil remedy through a foreign court.

Ten years ago, the United States became party to the "Hague Convention on the Civil Aspects of International Child Abduction," a fancy name for a treaty which imposes an obligation on nations party to it to return a child to the rightful custodial parent, subject to certain limitations and exceptions.

After a decade of experience, it is timely for the Committee to review the operation of the treaty, although I am somewhat mystified why we are not hearing from the Department of State on that aspect of the issue.

The *second* means of addressing the issue (though it does not guarantee the return of the child) is to pursue the perpetrator—the act of parental abduction is a crime in every State, and it is a federal crime to take or retain a child outside of the country in violation of a custody order.

In the latter case, a criminal suspect may be extradited—provided, of course, that we have a bilateral extradition treaty with the country where the suspect may be found.

Last year, this Committee took a small but important step in approving legislation, S. 1266—the "Extradition Treaties Interpretation Act"—which will authorize the Executive to utilize older extradition treaties to cover this crime. Unfortunately, the bill has languished in the other body, for reasons I cannot fathom, and so I hope the attention to this issue here today will spur positive action on that legislation.

I welcome the Attorney General and our witnesses and look forward to their testimony.

Senator BIDEN. I will say how good it is to see the General. Do not scare us again, OK?

The CHAIRMAN. Senator Robb.

Senator ROBB. Mr. Chairman, I thank you.

I am actually playing hooky from both the Armed Services Committee where we are considering the testimony of the Secretary of Energy on nuclear matters and the Intelligence Committee where we are discussing covert action matters.

But the hearing, the topic, and particularly the witness interested me, and I wanted to stop by for just a minute. I agree fully with the chairman's assessment of that portion of the Attorney General's testimony that I heard and the obvious interest and commitment to resolving a very vexing challenge for the international community is certainly very evident from the—I do not like to use the word "passion," but the commitment to attempting to deal with this particular issue. I join the chairman in saying to the Attorney General thank you for a very comprehensive review and for her obvious dedication to results, not just rhetoric.

The CHAIRMAN. Very good.

Senator BIDEN. If you have answered this question, General, please, I will read it in the record. But how many cases, if you know, do you have pending now that this legislation we are talking about would affect? Do you have any idea of that?

Attorney General RENO. Which legislation are you talking about? The Kidnapping Act or the Hague Convention?

Senator BIDEN. The interpretation bill, S. 1266, The Extradition Treaties Implementation Act.

Attorney General RENO. Senator, I do not have the numbers on that, but we will furnish that to you. It is enough so that it causes me problems, and when I go to our executive working group meeting with prosecutors and others, they are fussing at me as to why we have not done more.

Senator BIDEN. Thank you, Mr. Chairman.

The CHAIRMAN. Now, let me review your testimony and try to fit in my own understanding, such as it is, of the enormity of the problem.

Your agency handles all of the law enforcement aspects, such as Federal arrest warrants and initiating extradition requests. That is correct, is it not?

Attorney General RENO. Yes, sir.

The CHAIRMAN. Now, the State Department, I am informed, tracks civil law requests under the Convention on Child Abduction, and the Center for Missing and Exploited Children, with a large grant from the Justice Department, which you mentioned, tracks cases of parents who abduct children to the United States.

Now, it seems to me that one of the most frustrating aspects of this problem is fragmentation, and I think you emphasized that very adequately in your statement. Do I gather that you would support a consolidation of these activities, all of them, into the Justice Department?

Attorney General RENO. I am going to wait and see what the committee recommends. I would not support it now and let me tell you why. If—just if—somebody decided that was the right thing to do and we took the applications and worked with the National Center for Missing and Exploited Children on the outgoing cases and then handled the incoming cases, we would still have to rely a very great deal on the missions around the world. I can tell you from

my own experience in criminal cases where I have to rely on the State Department and its missions around the world to try to find somebody or make contact or nudge a minister of justice a bit, they can be absolutely invaluable. So, no matter where you put it, Mr. Chairman, the two Departments are going to have to work together, and I think the best thing to do is to look at how we can really work together so it is a seamless process. But I want to see what the committee recommends.

The CHAIRMAN. Fair enough. I think that is a wise course.

Staff has provided something I did not know. They say that California has implemented a system with some success where the civil and criminal aspects of parental kidnapping are unified. Is this some sort of model for a beginning of how to handle our problems?

Attorney General RENO. I have heard of the California system. I have never explored it. Let me explore it and let me make sure that the working interagency committee has the information concerning it.

The CHAIRMAN. Last year Joe Biden and I cosponsored a bill, as you mentioned, 1266, the Extradition Treaties Interpretation Act of 1997, which would include parental kidnapping as an extraditable offense under our existing extradition treaties. Now, this bill has languished in the House since it was passed unanimously by the Senate. I think I know the answer to this. Would you support this legislation?

Attorney General RENO. Absolutely, Mr. Chairman, and we are very grateful to you for your leadership in pushing it.

The CHAIRMAN. Well, I know you have a busy schedule. Everybody on this committee is probably going to ask permission to file a written question or so with you. I may have one or two myself.

Attorney General RENO. We would be happy to, and not just at this time. If you have any questions—I have been working with Senator DeWine, and it is helpful for us to know about problem cases so we can address issues of what can be done better. After meeting with him, I have gone back and looked at what we can do to be more effective in terms of determining whether the case should be prosecuted federally or in the State court. We just welcome and continuing suggestions.

The CHAIRMAN. Good.

Mike, first I want to ask your forgiveness for not seeing you when you came in. Second, I am going to insist that you ask a question or make a comment.

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

Senator DEWINE. Mr. Chairman, first let me thank you for allowing me to sit with the committee. I arrived late. I was with Senator Biden. He had me detained in the Judiciary Committee. So, we were together there.

But I want to thank you for holding a hearing on what I think is a very important issue. This issue came to my attention I guess the same way a lot of things come to our attention as Senators, and that is, we have constituents who call us or write us who have specific problems. This is a problem that the Attorney General and I have talked about, in fact, talked about just last week, that I think

we are just seeing the tip of the iceberg. It is estimated—I looked at the testimony—a thousand of these potential cases. My guess is there may be many, many more that we are just not hearing about. But with the increase in international marriages—we know that half of all marriages in this country, at least, break up. We just know statistically that this is going to continue to be a major problem, and it is a problem that every Senator is going to see in his or her constituency in his or her State. There is nothing sadder than these cases. These are just heart-wrenching cases.

So, I look forward, Attorney General, to working with you, and Mr. Chairman, just appreciate your interest in this in holding this hearing today.

Senator BIDEN. Mr. Chairman, may I make one brief observation? One of the reasons why the Attorney General is probably happy to be here and probably does not want to leave is this is a lot friendlier than another committee, is it not?

Senator BIDEN. We have not asked you any questions about those other subjects. You are welcome to stay, Janet. I realize this may be a momentary safe haven for you to talk about this. In case you are wondering why she is smiling so much, it is not the Judiciary Committee. That is why she is smiling.

Attorney General RENO. Mr. Chairman?

The CHAIRMAN. Yes, ma'am.

Attorney General RENO. The reason I am so happy to be here is because this is an area where everybody can work together in a bipartisan way.

Let me just add two thoughts to the general problem.

Nothing frustrated me as much as to have somebody commit a murder in Dade County, flee to another country, the country of which he was a national, and be told that that country would not extradite its national, and if I wanted to prosecute, I would have to send witnesses and everybody down to the country.

Well, that has created one of the major issues for me, which is if we are going to live in a world of trust, if we are going to have trade agreements and other arrangements with people, then we are going to have to trust each other enough to recognize that any case should presumptively be tried in the place where the crime was committed. You should not ask a child who has been molested to go a thousand miles away to prosecute. It is just wrong. Now, there are certain situations where there is a change of venue even in our country, but our great presumption is in favor of prosecuting the crime where it took place.

So, one of the things that I have engaged in is a continuing campaign with my colleagues, the ministers of justice, to say, look, let us work this out so that we build a world based on trust and that everybody knows there is no safe place to hide. This is important here because some of these cases are stymied because the country where the child is and the parent is will not extradite the parent because the parent is a national of that country.

We have made some progress. Sometimes I think it is four steps forward and five steps back, but it has been a slow process. I think we would like to work with the committee in pursuing that as much as we can.

The second issue is a problem I want to point out. One of the reasons that people do not sometimes get involved in this in State and local jurisdictions is that they will not seek an extradition because they cannot pay for it, or if they seek the extradition, they are worried that once the child is here, the people will not want to prosecute.

I would like to explore legislation that would authorize the Attorney General to designate funds to defray expenses incurred by State and local jurisdictions in an extraordinarily limited number of cases, but important cases that go to very significant problems like this. This tool would be helpful, but it is not intended to shift the entire burden. It is just attempting to create a proper balance between the Federal system and the State system.

Again, child custody is basically a State issue under our Federal system. The Federal system should not be impaired because we cannot afford it. So, Senator DeWine and I had talked about it. Should more cases be brought in Federal court? Is that the best way to do it? I would like to continue to explore with you what the appropriate balance is between the Federal and State side and how that is affected by resources and what the final answer should be.

The CHAIRMAN. Do you have any comments, Senator Biden?

Senator BIDEN. I do not.

The CHAIRMAN. Well, one of the things that bothers me most is that so often the governments that refuse to cooperate are the ones that have signed treaties saying that they would cooperate. I guess I learned from Sam Ervin who learned from Will Rogers that the United States never lost a war up until that time or won a treaty. So, maybe we better look at the treaties a little bit that we sign around this place instead of race horsing them through the Senate with a two-thirds vote.

But thank you, ma'am, for coming.

Attorney General RENO. Thank you so much, Mr. Chairman.

The CHAIRMAN. Anytime you need a safe haven, you come on up here.

Attorney General RENO. Thank you, sir. I may be calling on you.

The CHAIRMAN. The second panel, distinguished citizens all, Mr. Thomas R. Sylvester of Cincinnati, Thomas Johnson of Alexandria, Virginia; Lady Catherine I. Meyer of the British Embassy in Washington; and Mr. Paul Marinkovich of Simi Valley, California. If you gentlemen and lady will take your seats, we will proceed.

My southern upbringing compels me to say, ladies first, and so we will recognize you, Lady Meyer, and welcome you to the committee.

**STATEMENT OF LADY CATHERINE I. MEYER, BRITISH
EMBASSY, WASHINGTON, D.C.**

Lady MEYER. Sir, I have prepared a proper statement that I have written, and I just wanted to do a short summary.

Sir, my name is Catherine Meyer and I am a French and British citizen. I was married to a German citizen in 1986. We separated in 1992. We had a contractual agreement by which I had custody of the children and the children would visit their father during the holidays.

We live in London. Everything works well. In 1994, I sent the children on holidays, and 4 days before they are due back I receive a letter from my ex-husband saying, I am not sending them back.

Well, I was, like most people in my situation, completely distraught. I had never heard about child abduction within democratic societies. I only heard of the Bahti Makhmudi case. Suddenly I was faced with losing my children and having to fight through a legal system in my own country. I had actually no idea of the law before. I had to fight in Germany to try and seek the return of my children.

So, this took some time. There were court orders made in Britain for the immediate return of the children who were illegally retained in Germany under Article 3 of the Hague Convention.

We had a first hearing in Germany. About a month later, the German courts initially ordered the return of the children, but my ex-husband asked for half an hour to say good-bye to the children. My lawyers naively agreed and instead of returning the children, he put the children in a car and vanished.

A month and a half later, there was an appeal hearing in Germany, by which time I had not seen my children for 4 months. In the appeal hearing, my ex-husband called the Article 13, which is the only exception in the Hague Convention, as a defense for not returning the children.

One of the problems in this Hague Convention is actually this exception clause because once you have an exception, it basically defies the rule. Unfortunately, my studies of all the cases of some countries that have not returned children, it was always on the basis of Article 13b, which is supposedly the will of the children. So, on this basis my children were not returned.

What I really want to say now is that since 1994 I have been fighting very hard to try and first have the return of my children. Then I have tried simply just to see my children. My children were taken away 4 and a half years ago. In 4 and a half years, I have never seen my children on my own. In 4 and a half years, I have spent 11 hours with my children, locked in a secluded house under the supervision of a third party. My last visit was in February. The visit before that was 2 years ago. It is a very, very difficult thing to live with.

So, one of the major, major issues about this Hague Convention—we had recently the forum in Washington to try and help parents like me try and make the Hague Convention work better because, as we have discovered, it is a good piece of legislation, but it was written 18 years ago. Many things have changed in 18 years, and we also have discovered that whereas some countries abide by the spirit of the convention, other countries really do not. There are some countries that are specific problems and they do not return children.

Then comes the added additional problem, as I was just saying, can we just even see our children. I think all of us here basically all have our own stories which is in essence very similar, and whether it is a father or whether it is a mother, I find that in modern society to be denied access to your children is quite outrageous.

So, I call very strongly and I really appreciate that we are here to testify because I find this is a huge issue. I realized it was a

huge issue when I started fighting. I had some articles in the British and the French press, and I started being approached by other parents. I realized this is enormous, and a lot of parents do not know where to go. They do not know how to get a lawyer. They do not have enough money. So, the numbers that we have, which NCMEC talks about a thousand cases, probably two and a half children per case—so, let us say 2,500 cases per annum of U.S. children taken abroad to Hague Convention countries. I think those figures do not show the reality. I think the real figures are tens of thousands.

[The prepared statement of Lady Meyer follows:]

PREPARED STATEMENT OF LADY CATHERINE MEYER

My paper is drawn from my personal tragedy and my knowledge of the situation in Britain and in Germany.

MY CASE

In 1984, I married a German doctor, Hans-Peter Volkmann, in London and our first son, Alexander, was born a year later. Volkmann then decided that we should move to Germany for two years. I abandoned my city career to follow my husband, and our second son, Constantin, was born in 1987. But our marriage broke up and in 1992 we legally separated: the children would live with their mother in London and visit their father during their school holidays.

At first, all worked well. The children adapted quickly to their London life. They continued their schooling at the French Lycee and spent holidays with their father in Germany. I struggled to rebuild 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.

On 6 July 1994, the children left for their summer holidays. Without warning, four days before they were due to return to London, their father announced that he was not sending them back to England. He then disappeared with the boys.

I had no choice but to apply to the English courts. The High Court of England & Wales ruled that the "retention of the children is illegal" and ordered their "immediate return" to Britain under the terms of the Hague Convention. Initially, a local German court upheld the English decision. But Volkmann requested half an hour to say good-bye to the boys. My lawyers naively agreed. Taking advantage of this, and in defiance of the court order, Volkmann bundled the boys into a car and vanished. The local police were unwilling to help and by the time Court bailiffs were located, it was too late.

The following day, Volkmann lodged an "ex-parte" (i.e. the judges did not inform my side) appeal in the higher court of Lower Saxony, in the nearby town of Celle. Astonishingly, the judges made a provisional ruling in his favor. The children should remain in Germany until the appeal was heard.

When this took place, in October 1994, the Celle court reversed the earlier English and German decisions on the grounds that it was the children's wish to remain in Germany, and that they had been suffering in a "foreign environment . . . especially since German is not spoken at home or at school" . . . The judges ruled that the children had attained an age at which it was appropriate to take their view into account, . . . since "a 7 year old child faced with the decision to play judo or football, generally knows which decision to make . . ."

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

The Celle court decision also meant that all further legal proceedings on custody and access took place—and are still taking place, four years later—on the abductors home territory. The second consequence was that despite numerous applications to the German court since 1994, I have never been able to see my children alone.

In November 1995, several applications were rejected on the basis that I might re-abduct the boys and that they no longer wanted to see me. In December 1995 a further hearing was held in Verden: access was again denied on the grounds that I could re-abduct the children if we were to spend Christmas together. In January 1996, following a desperate attempt to see my boys in Germany, I was falsely accused by my ex-husband of trying to abduct the children. Despite a police report confirming this was untrue, immediately thereafter and in my absence the court transferred the residence of the children to Germany. 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.

In September 1997, Volkmann divorced me. In exchange for giving him custody, it was agreed in court that I should have access to the children on "neutral territory".

But when the moment finally came, six long months later, for me to meet my sons in Hamburg, Volkmann backed out at the last moment, stating that it was the wishes of the children not to see me. The judge refused to enforce the access agreement. It was only then that I discovered that while the custody arrangement was enforceable, access was not. (In the UK it is not possible to get a divorce or a custody order without enforceable access arrangements).

This took place in February of this year. Since then a further application to see my children has been denied on the grounds of "lack of urgency." Now, I am awaiting another hearing in Germany to which I have been summoned on 25 November.

In the last four and a half years, not only have I never been alone with my children, but I still have no enforceable access rights. In this period, I have been able to spend only 11 hours in the company of my children. (2 visits in December 1994; 1 in October 1995 and 5 more by May 1996 and 1 in February 1998). All were held under the most harrowing conditions: locked in my ex-husband's secluded house and under the supervision of a third party. All were broken off after less than two 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.

If anything is trans-national, it is the interests of the children. Sadly, children's issues remain an area where national interest is too often allowed to assert itself. Co-operation between some Hague Convention countries is practically non-existent. Judges often do not know the treaty well enough to enforce it and nationalism takes precedence over the Hague Convention rules.

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 86-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 that I have abandoned them. On two occasions, 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".

My children, as thousands of others, do not deserve to have their lives destroyed in this way.

THE PROBLEM

Most people associate child abduction with countries where laws and customs are very different from ours. But, child abduction within western societies is much more common than supposed and there has been an explosion in the number of incidents since the mid-1970s.

There is an obvious link between this phenomenon and the decline in marriage as a stabilizing factor in our societies. The sharp rise in divorce rates and children born outside marriage provide fertile ground for disputes about custody and access.

At the same time, the problem of child abduction has over the last two decades acquired a new and sometimes insoluble dimension. Statistics point to an increase in marriage between people of different nationality. This is hardly surprising. With the explosion of international travel and tourism, the social consequences of a global economy, and the increasing irrelevance of national frontiers, especially in Europe, traditional impediments to trans-national marriages have fallen away. But those unions are no less prone to divorce and to quarrels about children.

Whenever marriages break down, a decision has to be taken on where and with whom the children will live. This can be a bitter and contentious business. But when parents of different nationalities are involved, disputes over custody and access can be further exacerbated by differences in culture and in the legal systems of the two countries involved. Some of these situations result in cross-frontier abductions by one of the parents. When this happens—in contrast to abduction within a single national jurisdiction—experience shows how difficult it is to secure the safe return of children and to protect them from the psychological damage inflicted by abduction.

Judicial co-operation between states can be a highly contentious area as the recent negotiations on an International Criminal Court have shown. One of the rea-

sons 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.

There are no international conventions regulating custody matters. Every country has its own judicial system. Custody orders made in one country are not necessarily recognized in another. When non-custodial parents abduct their children from the state in which custody has been given (usually heading to their home country), the chances of recovering them through judicial process can be slim. Every year, more and more children find themselves separated in the most harrowing circumstances from one of their parents.

The effect on children can be devastating. But the victim parents themselves are also plunged into a bewildering world where helplessness, despair and disorientation compete. The emotional trauma is compounded by the daunting practical obstacles to retrieving the children, or even to gaining access to them. Simply finding out where to get help can be very difficult. Parents often face unfamiliar legal, cultural and linguistic barriers. Their emotional and financial resources can be stretched to the limit. In the meantime, the abducted child is often led to believe that the victim parent has abandoned it, so leading the child, in its anger and hurt, to assert that it does not want contact with the victim parent. This vicious circle complicates still further a resolution, and will continue to do so until courts recognize that there is such a thing as Parental Alienation Syndrome, PAS. As the years pass, the chances of recovering children before their adulthood become progressively more remote. Many victim parents feel that it would be easier to come to terms with the shock of bereavement than with a situation marked by prolonged uncertainty and anxiety.

Some parents may believe that their actions have an objective justification (e.g. to rescue their children from domestic violence). But 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 is to flee one judicial system, in favor of another in order to permanently reverse previous custody decisions and destroy the other parent's relationship with the child.

The International Hague Convention on the Civil Aspects of International Child Abduction of 1980 was designed to ensure *"the protection of children from the harmful effects of their wrongful removal or retention"*. Should one parent break a custody agreement either by illegally retaining (on an access visit) or abducting a child, the Hague Convention requires its immediate return to the country where the original custody agreement was made.

The purpose of the Hague Convention was to provide a simple and straightforward procedure. In this, it has largely failed. Different national approaches to implementing the Hague Convention, the slowness of procedures, the lack of legal aid in some countries, and the excessive recourse to the loop-hole clause, has meant that most cases of international child abduction remain unresolved. Some children are never located. Others are simply not returned to their country of origin.

The exact figures for trans-national child abduction are not known. Many parents are reluctant to go to the central authorities. Others are not even aware of the existence of the Hague Convention. The official figures could well understate the problem. Even so they are alarmingly high. In the United States alone, the National Centre for Missing and Exploited Children reports over 1,000 American cases (on average two children per case) of cross-border abduction every year and the number is growing sharply. In England, Reunite, the National Council for Abducted Children, has recorded a 50% increase since 1995 in the number of children abducted abroad by an estranged parent. In France, a similar upsurge has been recorded.

Despite the rapid increase in abduction cases, there is too little awareness of the phenomenon in the governments and legislatures of Convention signatories. Nor is there much awareness among the populations at large. As a result, very little is being done to tackle the issue and to make The Hague Convention work as originally intended.

THE HAGUE CONVENTION: WHAT IT DOES AND WHAT IT DOES NOT DO

The Hague Convention on the Civil Aspects of International Child Abduction is an international treaty currently in force between 49 countries.

The objectives of the Convention are *"to secure the prompt return of the children wrongly removed to, or retained in, any Contracting State; and to ensure that rights of custody and access under the law of the Contracting state are effectively respected in the other Contracting states"* (Article 1). The Convention is not concerned with the "best interests of the child", that is to say, 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 to the country of habitual residence and to confirm that country's jurisdiction.

The Hague Convention provides for a civil proceeding to be brought by the country from which the child was removed or retained, if proceedings are filed within one year, the judge of the country of retention is mandated to order the return of the child to the country of habitual residence. (Return is discretionary if more than one year has elapsed and the child is settled in the new environment). The abducting parent can raise objections to the return. But the intent of the Convention is not to allow these objections except in the most narrowly defined circumstances.

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 13b) there is a grave risk that the child's return would expose him/her to physical or psychological harm or otherwise place the child in an intolerable situation. 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.

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. A failure by courts to grasp this distinction, and to see it as a key defense against the manipulation of a child by the abductor-parent, is a root cause of the difficulties described below in the implementation of the convention.

To sum up:

1. By allowing an exception, the Hague Convention does not set an absolute rule. Children are not automatically returned.
2. Article 13, in constituting this exception, can offer abductors a way of legitimizing their actions.
3. Whether or not article 13 serves this purpose depends on how the judge interprets its meaning.

IV. THE HAGUE CONVENTION: WHAT HAS GONE WRONG

The discretion given to judges has in practice resulted in a wide variation between signatory states in the outcome of proceedings. The American Bar Association reports that judicial returns vary between 5% and 95% from country to country. Article 13b, originally intended as an exception, has in some countries become virtually the rule. This is jeopardizing the Convention's effectiveness and perverting its original intent.

1. *The exception is made the rule*

Evidence is accumulating that a major cause for the discrepancy in rates of return orders is the level of court allowed to hear Convention cases. When cases are heard *centrally* by High Court judges, return orders are usually made. But, the system tends to fail, when the courts hearing Convention cases are local family courts without Convention experience. This is particularly significant when Article 13b is raised as an objection.

In England and Wales, Convention cases are exclusively heard centrally by a small number (seventeen at present) of specialist High Court judges. The High courts of England and Wales usually hear cases expeditiously based on paper evidence and without the child's view being heard. Judges usually make a decision quickly to return the children, relying on the foreign court to make a fair decision at any subsequent custody hearing.

The Consultation paper on Child Abduction published in the February 1997 issue of the British Family Law journal reported that in England and Wales, the "consistent approach has been to draw a clear distinction between children's objections under article 13b and children's wishes in ordinary domestic custody cases". The English High Court has taken a policy decision to approach Art. 13b with caution (for example against the risk of indoctrination by an abducting parent) and, even if a child were found to object to a return, to refuse a return only in an *exceptional case*.

Conversely, in countries where Convention cases are first heard in local courts without Convention expertise, the results can be very different. For instance, in Germany, all *Amtsgerichte* (small family courts that can be found in towns which have as few as 20,000 inhabitants) have jurisdiction to hear Convention cases. Cases are heard in the locality where the abductor has taken the children (usually his home town) and it is impossible to change jurisdictions.¹

The risk here is of inexperienced judges, who may misinterpret the meaning of the Hague Convention. The 1996 Lowe report found that in Germany, no single *Amtsgericht* court had heard more than one case and that *every time that the child's objections were raised as a "defense" for abduction or retention, a return order was refused*

A feature of many such cases is that they are allowed to become a discussion on the merits of custody arrangements. Frequently, an abducting parent will, within the framework of Article 13b, level allegations against the other parent and request that oral evidence be heard. Judges, who are inexperienced, treat these Article 13b objections as "a merit of custody" argument. This is exactly what the Convention was supposed to avoid: such considerations are meant to be reserved to the court of the child's habitual residence, which is best placed to decide on questions of custody and access. But local family courts are too often unable or unwilling to uphold the difference between proceedings under the Hague Convention and arguments over custody arrangements. Underlying this is a distrust of foreign courts.

There is the added risk of a vicious circle, if family court judges are seen to favor local residents. Abductors will be readier to take the law into their own hands, if they believe that their judges will *ex-post facto* legitimize what they have done.

2. The danger of delay

The merit of the Convention is supposed to lie in the speed of its proceedings. But, some countries are markedly slower in dealing with Hague applications than others. This is particularly the case where, as described above, court proceedings become in reality an argument over custody. (The problem of delay is compounded when cases are first heard in lower courts and appeals can then be lodged in higher courts).

In some countries, the involvement of the local Youth Authority or Social Services, plays a major role in proceedings. Local judges tend to rely on their evidence, and hold up matters by asking to see welfare reports and the children. While in principle this could give a more complete picture of the children's situation, it is nonetheless a major factor for delay. In the meantime the child is more and more under the influence of the abducting parent and further alienated from the absent parent. There is another problem. Youth Authority reports are usually based on information available only in the country of retention and there is little direct investigation into the environment from which the child has been taken. The result, therefore, can be an in-built bias in favor of the abductor. Finally, the passage of time will eventually generate a new argument, which favors abductors, namely that the children are now settled in their new environment and should not be moved yet again.

3. Perversion of the Convention's intent

In a number of countries, therefore, interpretations of the Hague Convention extend its meaning to encompass in practice an unwarranted jurisdiction in custody matters. Certain consequences flow from this, all of them prejudicial to the victim.

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 these court decisions, dealing with custody and access rights, tend to favor the abducting parent. This, combined with the fact that in some countries (for example in Germany,) judges are reluctant to enforce access orders, results in a situation where a parent is often deprived of all contact with the child, or at best, has contact in only the most harrowing circumstances (e.g. a government office with a third party present). 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*

¹ This is currently under discussion in Germany and a proposal has been put forward to reduce the number of courts eligible to hear Convention cases (at present more than 300).

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".

4. Child trauma and parental alienation syndrome

Children who are abducted will have already suffered from their parents' separation. But, in addition, they will experience the trauma of being suddenly cut off from their familiar environment—from a parent, grandparents, school and friends.

This experience is already bad enough: many children do not understand what is happening or why. But things are often made even worse, when the abducting parent is hiding from the police or taking precautions against re-abduction; when the child realizes that there is a state of war between its parents. The child has already been traumatized by the loss of one parent; its greatest fear becomes that it will lose the other parent. This fear itself then becomes an obstacle to resolving the situation, since it is central to what is known as Parental Alienation Syndrome (PAS).

Studies of PAS have established the severity of psychological damage done to abducted children, suddenly separated from a parent. The studies have also shown how susceptible the child is to being systematically alienated by the abductor-parent from the victim-parent.

This susceptibility bears comparison to the "Stockholm Syndrome", when hostages start to identify with their captors. In the case of an abducted child the identification will be the stronger, because of the age of the "hostage" and the child's relationship with the "captor." For fear of losing the abducting parent as well, the child will not only be eager to please, but ready to believe allegations that it has been abandoned by the victim parent.

This is fertile ground for systematic indoctrination by the abducting parent and/or a professional psychologist. Since under some judicial systems, children—sometimes as young as three—may be required to appear in court, it becomes of paramount importance to abductor-parents that their children say "the right thing" to judges. This puts an even higher premium on placing psychological pressure on abducted children.

The irony—and tragedy—is that the Hague Convention, in judicial systems like these, delivers children into precisely the danger from which it is supposed to protect them. Again Article 13 b is the crux. It can only be invoked if returning the child would expose it to grave risk of "physical or psychological harm" or place it in an "intolerable situation". 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? When placed in this context "the will of the children" becomes nothing less than a vehicle for legitimizing the actions of the abductor-parent.

5. Enforcement

Another problem lies in the alarming number of return orders, which have not been enforced. In several Convention countries, abduction is not considered a criminal act. Returns orders are not enforceable. In other countries, the enforcement process can take several months and does not always end in a return order being made. (The case of Tom Sylvester -US/Austria—is but one such example).

6. Legal Aid

The lack of legal aid provisions in some countries is another major problem. Victim parents are often unable to bare the costs associated with these expensive procedures. In England & Wales, for instance, the legal aid provisions are extremely generous. But there should be no reason why each Contracting State should not underwrite the application under the Convention itself. It would also be helpful to judges if they knew that legal aid will be available in the Contract State to a parent whose child the judge is returning under the Convention.

CONCLUSION

Eighteen years of experience with The Hague Convention leads inevitably to the conclusion that it is a seriously flawed instrument, which at worst prejudices the welfare of abducted and illegally retained children. The heart of the problem lies in the failure of national legal systems to implement the Convention in a uniform fashion, consistent with its spirit. As a result the Convention appears to be no deterrent to child abduction.

It is arguable that, in so far as Article 13 can be exploited to justify abduction or retention, it has made the situation worse. It is also striking that, according to research by Dr. Linda Girdner, a parent is more likely to secure a return order

through a non-Convention proceeding than through a Hague Convention proceeding (Dr. Girdner quotes an 80% success rate with the former compared with 33% under the latter).

This is not an argument for dismantling the Hague Convention. It is an argument for improving it. The international community needs an international treaty based on the rejection of illegal abductions or retentions across frontiers and the need to return children to their usual place of residence. The fact that, as in England & Wales, the

Convention can be made to work as intended shows its potential. The task is to come up with remedies to deal with those situations where the Convention does not work.

This task will not be easily or quickly accomplished. That would require the establishment of some kind of supra-national legal body, to which signatory states would defer. That is not going to happen any time soon. The raw material with which we have to work is 52 signatories, with different judicial systems. By definition, as long as this situation remains, the proper implementation of the Hague Convention will depend in large part on a willingness to co-operate in good faith.

But there are a number of steps, which we can begin to take straightaway and which should set in motion an incremental process of improvement.

A Hague Convention Review Conference needs to be called as soon as possible to debate and introduce improvements in the following areas:

1. The Convention should make trans-national abduction and retention of children a criminal offense, notifiable to Interpol, Europol and national police agencies.

2. At the same time, so as to co-ordinate action and information, there should be "hot lines" between Central Authorities and police; between national organizations, such as NCMEC and Reunite, on the one hand and Central Authorities and police agencies on the other; and between members of the public and national organization.

3. Governments should fund information campaigns to make the public aware of these arrangements.

4. The staff and resources of the Permanent Bureau in The Hague and of Central Authorities should be increased to meet the need for more effective action to tackle international child abduction. In particular the Central Authorities should notify the Permanent Bureau of all abductions or illegal retentions brought to their attention, as well as of the outcome of Hague Convention proceedings on their territories. The Bureau should keep a comprehensive database of these cases.

5. While an exception clause cannot be dispensed with altogether, Article 13 should be re-drafted in a way, which narrows its use to genuinely exceptional circumstances. As currently drafted, it can too easily become the rule and not the exception.

6. In parallel, strict limitations should be placed on the age and circumstances in which children can be called to appear before the court. As a general rule, since Convention hearings are not about custody, children should not appear in courts at all. To require young children to appear in court and to make a choice between parents is a form of child abuse, inflicting extreme cruelty. The confusion and stress involved are for most children beyond description, and empty the notion of the "will of the children" of any significance. There may be rare cases when it is important to hear the child at first hand. But no child below a certain age should have to endure this ordeal.

7. Article 13 should incorporate a clause dealing with access provisions. Namely, if a court refuses a return, it should automatically make the necessary provisions for enforceable access rights, with a fair division of travel costs.

8. Article 21 should be entirely revised. Experience has shown that it does not work.

9. Provisions for legal aid should be addressed and a common policy should be established by all signatory countries.

Many of these points were discussed at the recent NCMEC conference on 15 and 16 September 1998. The recommendations which will be put together shortly, cover much of the above ground.

The CHAIRMAN. Well, thank you very much.

I hope you are encouraged, at least somewhat, by the testimony of the Attorney General. There seems to me to be a maximum in-

terest in the problem, one that has bothered me for a long time and, of course, has bothered you. I have not had anything happen to me of that sort. To the limit of my capability, I am going to try to encourage the administration to come up with a solution that will be helpful to you.

Now we will go back to the regular order, as we say in the Senate. Mr. Sylvester, we welcome you and we will be delighted to hear your testimony.

STATEMENT OF THOMAS R. SYLVESTER, CINCINNATI, OHIO

Mr. SYLVESTER. Thank you, Senator Helms, all members of the Senate Committee on Foreign Relations, and Senator DeWine, for your interest in the international parental child abductions and providing me this opportunity to make a statement and submit materials regarding the abduction of my daughter, Carina Sylvester, to be entered into the public record.

Carina, my precious 4-year-old daughter, is my only child. My Austrian ex-wife, Monika Sylvester, unlawfully abducted our American-born daughter from the United States to Austria on October 30th, 1995 when she was just 13 months old. Every day since then has been driven by my continuing efforts to seek enforcement of the various U.S. and Austrian court decisions granting me custody of my daughter and her return to the United States. Unfortunately, even after nearly 3 full years, my efforts have failed. Despite my unceasing attempts to be a part of Carina's life, I have not been able to participate at all in her life. The facts are that I have seen my daughter in a supervised setting for less than 10 hours over the past 3 years.

It is my understanding that the focus of this hearing is the response of the U.S. to international parental child abductions from the United States into other nations. It is also my understanding that you are seeking information from left-behind American parents like me specifically on the effectiveness of the responses of the State Department and the Justice Department to our pleas for assistance in obtaining the return of our children. I appreciate your inquiry because, unfortunately, in my experience the response has been of no assistance in obtaining enforcement of the valid orders I have for the custody of my daughter and for her return from Austria.

The reason why it is so important for the U.S. to respond effectively to the needs of left-behind parents involved with countries who are party to the Hague Convention is because the Hague Convention does not always do what it is designed to do: Promptly reintegrate parentally abducted children into their environments of habitual residence for a custody determination. Sometimes, as in my case, even when there is an order entered for the child's immediate return and affirmed all the way through the Supreme Court, the child is still not returned.

I can, of course, speak to you only of my own experience. I can say, however, that from the moment I came home to discover my baby daughter gone on October 30th, 1995, my life has been consumed with the process of fighting to maintain a life with my daughter. Unfortunately, the bottom line to my story is that had I known in the beginning what I know now, I would have taken

immediate steps to personally retrieve Carina back to the United States and avoid the emotionally and financially testing legal process entirely. That would have provided the swift return of the child to her environment of habitual residence for a custody determination here. Instead, my initial moves, however, were to the police and a lawyer.

Through the lawyer, I learned of the Hague Convention and its civil remedy for the return of a parentally abducted child. Having a highly developed sense of right and wrong and being a law respecting and law abiding person myself, I put my faith in the workings of the legal system, that applying the terms of the Hague Convention would bring my daughter home.

What I had not counted on was that Carina's mother would not comply voluntarily with the order for return and that the Austrian legal system would provide no mechanisms for enforcing its own orders to coerce her to do so.

I received a prompt order from the Austrian trial court that Carina be returned to her home in Michigan in 1995 which became valid and final when affirmed by the Austrian Supreme Court upon its delivery to the trial court on May 7th, 1996. However, because of the completely ineffectual system for enforcement of orders in Austria, Carina was never voluntarily returned.

The one and only opportunity for civil enforcement was given only after the order was affirmed by the Supreme Court. An early morning surprise coercive enforcement was permitted because of the mother's well publicized refusal to allow the child to be returned to the States.

When this enforcement was attempted in May 1996, with the assistance of a court officer, local police, a social worker, and the trial judge herself, in the end it was merely the classic knock on the door and a request for compliance. The answer to the knock on the door was that, of course, the baby was not home, but in reality she had gone out a back window in the arms of her grandmother.

Once that enforcement failed, there was no voluntary compliance and no available means to try again. Instead, Carina's mother took an offensive position launching every legal maneuver imaginable. Finally, one of those maneuvers stuck and it was fatal to my case. That was her motion to reopen the Hague Convention case due to the passage of time and the assimilation of my daughter into the Austrian environment during that period of time. Unbelievably, the same Austrian Supreme Court that had affirmed the order for return in 1996 affirmed first the decision of the trial court to reopen the Hague case, then its decision not to enforce the order for return as in the child's best interest. With that decision, all doors to my daughter slammed shut.

Thus, due to the passage of time and the ineffectiveness of the Austrian courts to enforce its own orders, the Austrian judiciary has now taken the position that Austria will not enforce its own valid and final order for my daughter's return.

The situation is best described with circular logic: The child has not been returned because the order was not enforced; now the order will not be enforced because the child was not returned.

On April 16th, 1996, I obtained a judgment of divorce in Michigan and was awarded custody of my daughter until further order

of the court. The Austrian Administrative Supreme Court refused to acknowledge that judgment. My appeal is still pending before the Supreme Administrative Court for a final determination.

In the meantime, the Austrian trial court has awarded custody to my wife and has further ordered me to pay support. However, I have had only the scantiest opportunity to see my daughter since she was taken from me. Over the past 3 years, I have had to petition, argue appeals, and request special writs, all for the opportunity to see my daughter in a public building, supervised by no fewer than six people for a total of less than 10 hours.

Imagine yourself in my shoes, for example, awaiting one such visit ordered at Christmas 1995 which was to have given me my first glimpse of Carina since she had been abducted. I arrived at the Institute for Learning in Graz with a bag of gifts on Christmas eve only to have the mother ignore the order. I left the Institute still with the gifts in hand returning to my hotel room to spend the rest of Christmas there alone. It is a pitiful situation for a parent, but consider why it is necessary to deny Carina the opportunity to share these wonderful times with her father. There is no sanction for her failure to provide the child on that day or any other.

The visitation has deteriorated to such a point that I was forced to file a petition for rights of access under Article 21, which has resulted in so many appeals that by the time each set of appeal is complete, the requested visitation time has passed and the issue is moot.

As a result of the very frustrating legal situation in Austria, I sought all possible assistance here in the States. Very little that happened here in the States had any effect whatsoever on my situation. Naturally I worked with and spoke regularly to the Office of Children's Issues people who were working on my case, and I must say that on a whole I have been extremely frustrated with the results. Perhaps my expectations were unrealistic, but as the U.S. Central Authority, I would have hoped for swift and aggressive action in Carina's behalf under its obligations in Article 7 of the Hague Convention. Instead, I was told I would have to wait, that the issue would be addressed to the Austrians, for example, in 6 months at the conference meeting, or I would hear, my hands are tied, or you are just upset because you are not getting what you want.

My attorney was simultaneously making calls and writing letters to State and receiving a similar response. The time delays in the preparation of letters, notes, and de marches is astounding and I feel they lose all effectiveness as a result of their delay. Although some strongly worded letters went out on my behalf, my overall impression is that the case workers are diplomats whose overall objectives were not those articulated under the Hague Convention, but international relations at the expense of children.

My experiences with the Justice Department began well with the entry of an international warrant in May 1996 under the International Parental Kidnapping Crime Act. This led to the red and yellow notices by Interpol. However, my case went nowhere. Even inquiries into the matter were surprisingly met with contention. Initially I was told that the criminal approach would be put on hold to see how the civil proceedings under the Hague would un-

fold. I was also told that Austria does not extradite its citizens, but the U.S. does. So, if I were to go over to Austria to retrieve Carina myself, then I would run the risk of being extradited back to Austria to face criminal charges there. Clearly an unlevel playing field.

Now, nearly 3 years later, we have seen how the civil proceedings have unfolded. Still nothing. 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. Not understanding this position or being satisfied with it, I continued to press for information and answers or even some interest in the warrant of any kind. For example, my recent request to the Assistant Attorney General on the case that an extradition request be issued, even if impossible to achieve, was denied.

Therefore, I believe the United States is not responding adequately through law enforcement tools to assist American parents in internationally abducted U.S. children. Such legal action by the U.S. Department of Justice would serve to apply pressure on the Austrians to comply with its international treaty obligations and perhaps the abductor take accountability for the wrongful, illegal behavior. With the current situation of lack of support from the U.S. Department of Justice, the abductor continues to get away with complete impunity.

Now, here I am a left-behind father with an international warrant under the International Parental Kidnapping Act and all I was asking what could be done to follow up on the warrant. For example, what is the next step? Can we request extradition? I still, after more than 2 years, do not have an answer to these questions. As U.S. citizens, are Carina and I not entitled to U.S. law enforcement? My experience with Justice was borderline hostility rather than helpfulness. My questions concerning extradition requests were constantly answered that Austria does not extradite its own citizens. Now I have learned that a request could have gone out, nonetheless, to send a message, but I was able to get nowhere in my request that this be done.

Over the past 3 years, I have requested the involvement of senior officials in the Department of State, the Department of Justice, Congressmen, Senators, diplomats, the FBI, and people at the National Center for Missing and Exploited Children. My attorney talked to Janet Reno in person early on about my case. In June 1997, I met personally with Swanny Hunt, the U.S. Ambassador to Austria, in her office in Vienna.

I have paid attorney fees both here and in Austria in excess of \$200,000. I have attended workshops and rallies. I have networked with other parents who are similarly situated. I believe I am doing all I can and feel that some days I devote most of my day to my efforts to get some assistance to enable me to have a life with my daughter. I have sought this assistance from only those persons I believe to be holding themselves out as those who can help: The Department of State and the Department of Justice. I have long felt abandoned by both.

Carina Sylvester is an American born U.S. citizen with rights which are being violated. Who in the United States is working to protect Carina's rights? Furthermore, Carina has rights which continue to be violated. According to the Austrian's own agreement to

the U.N. Convention on the Rights of the Child, Carina has a right to know both parents, both extended families, and both nationalities. 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 a continuing relationship with me, her father. Carina was taken from her home in the U.S. nearly 3 years ago. Since then, every day I feel like I have been fighting with both the Austrian and U.S. Governments in order to be a substantial part of Carina's life.

I love Carina with all my heart and soul. I am committed to a loving relationship with my daughter. With positive persistence and enduring patience, I have learned that I have misplaced my trust in the judicial system. I do not want to lose Carina. She is the most important part of my life. Please help to bring Carina back to the United States and allow her the opportunity to enjoy the normal relationship that a child is entitled to have with her father.

There are no words which can adequately describe my feelings of loss and pain. I wish that I could convey the daily anguish and the deeper feelings of sorrow, sadness, anger, despair, and hurt. These feelings are always present for me. The moment I became aware that my daughter was taken from me, I felt like someone had reached inside my chest and ripped my heart out of my body. Since then, I think about her always. Every child I see reminds me of her. There is not a day that goes by that she is not paramount on my mind. Through Carina, I felt the joy and wonder of being a father. Then, after only 13 months, I felt the sorrow of her being taken away from me. If you are a parent yourself, perhaps you can imagine the heartbreak of being without your child.

There is an immediate need for both the Department of State and 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 they themselves do not bring the children home. A strongly staffed U.S. Central Authority must take an aggressive, nondiplomatic posture with uncooperative Central Authorities like the Austrian Ministry of Justice. The Department of Justice must vigorously pursue these fugitives from justice as they would serious crimes 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 to be granted or not.

I hope and pray that productive action results for our children from these hearings today. I have submitted extensive written materials to support my short presentation here this morning and hope that you will read and consider them. I thank you for listening to my story and my concerns.

[The prepared statement of Mr. Sylvester follows:]

PREPARED STATEMENT OF THOMAS R. SYLVESTER

INTRODUCTION

I am Tom Sylvester, father of Carina Sylvester, my precious four-year old daughter who is my only child. My Austrian ex-wife, Monika Sylvester, unlawfully abducted our American-born daughter, Carina, from the United States to Austria on

October 30, 1995, when she was only 13 months old. Every day since then has been driven by my continuing efforts to seek enforcement of the various U.S. and Austrian Court orders granting me custody of my daughter, the arrest of her mother and her return to the United States. Unfortunately, even after three full years, my efforts have failed. Despite many unceasing attempts to be part of Carina's life, I have not been successful. The facts are that I have seen my daughter in a supervised setting for less than 10 hours over the past three years.

There are no words which can adequately describe my feelings of loss and pain. I wish that I could convey the daily anguish and the deeper feelings of sorrow, sadness, anger, despair and hurt. These feelings are always present for me. The moment I became aware that my daughter was taken from me I felt like someone had reached inside my chest and ripped my heart out of my body. Since then, I think about her always. Every child I see reminds me of her. There is not a day that goes by that she is not paramount on my mind. Through Carina, I felt the joy and wonder of being a father. Then, after only 13 months, I felt the sorrow of her being taken away from me. If you are a parent yourself, perhaps you can imagine the heartbreak of being without your child.

PROCEDURAL BACKGROUND

On October 31, 1995 I filed an Application for Assistance with the State Department under the Hague Convention on the Civil Aspects of International Child Abduction to which both the U.S. and Austria are party. I also filed a Complaint for Divorce in Oakland County Michigan Circuit Court. The Application for Assistance made its way through the Austrian Ministry of Justice to the court of the first instance in Graz, Austria where hearings were conducted by Judge Christine Katter. Both the mother and I appeared at the hearings, and the mother raised her defenses to return the child under the terms of the Hague Convention Treaty. On December 20, 1995, Judge Katter entered an Order for the immediate return of Carina to me in Michigan. The mother, however, did not comply with the court order.

Thereafter, Judge Katter ordered specific supervised visitation for me at the Institute of Family Learning in Graz on Christmas Eve and December 27, 1995. The mother did not bring the child to the appointed place for visitation on either date denying Carina the opportunity to share the fun of opening Christmas presents with her Father.

Instead, the mother took an appeal to Judge Katter's Order to the Austrian Court of Appeals. This initiated an automatic stay of enforcement of the December 20, 1995 Court Order which ultimately continued through May 7, 1996. The Austrian Court of Appeals affirmed the decision of Judge Katter and again directed Mrs. Sylvester to return the child to me for a custody determination here in the United States.

The mother still would not return the child and instead took an Extraordinary Writ to the Austrian Supreme Court. The Austrian Supreme Court, although rendering its decision on February 27, 1996 in favor of the return of the child, did not "deliver" its Order until May 7, 1996. Once delivered, all stays were then lifted in this case and the Order of December 20, 1995 became finally enforceable. On May 10, 1996, two local attorneys assembled a group in Graz, Austria to assist in effectuating civil enforcement of Judge Katter's Order. That group included local police, Judge Katter herself, an enforcer from the court and others, including my Michigan counsel and me. Unfortunately, the well-intentioned enforcement failed when the mother stated that Carina was not at home and that she was with her grandmother somewhere "in the mountains." I believe that Carina's grandmother escaped from the house with Carina out a back window.

There was much drama in the attempted enforcement in that a gun was drawn by the child's Austrian grandfather on the court officials. However, the local police on the scene made no arrests. To date, despite efforts by my Austrian counsel, there has been no criminal matter against the mother lodged by Austrian officials.

The mother, still not in compliance with the court's order for return, responded to the attempted enforcement by first admitting herself into a hospital for "injuries" allegedly sustained during the benign attempted enforcement. She then retaliated with a barrage of actions against the trial court including a motion for disqualification of the judge alleging an amorous connection between the judge and my Austrian counsel, and a motion to change venue based on a false change in her address, both of which were denied. The mother then lodged criminal charges and grievances against my attorney. The most damaging of all, however, was her petition to "re-open" the Hague Convention case due to change of circumstances resulting from the passage of time. This motion was denied by the trial court, but was reversed and remanded on appeal. The Supreme Court of Austria determined that the order to

return, entered more than a year earlier, may not itself be changed since it is both valid and final. However, with the services of an expert in child psychology, the trial court was to determine if circumstances had changed sufficiently due to the passage of time to warrant that the child not now be separated from her mother under the "grave risk of harm" analysis. The trial court was further to consider if the child were to be returned, the proper mode of enforcement for the order.

On remand, the trial court held that the order for return would not be enforced. This decision was made with no input from me and was based on a best interests of the child analysis "since the specific welfare of the child takes precedence over the purposes of the Hague Convention." This decision was made despite the assurances of a "Safe Harbor" order from the Michigan court, the scheme of which the trial court dismissed as not in the child's best interest since it would remove her from Austria and could allow for my retaining custody in Michigan. Both situations, the court concluded, would be detrimental to the child. With this analysis, the court effectively determined custody in clear violation of Article 16. This decision was subsequently affirmed on appeal.

I filed two applications with the European Commission on Human Rights against Austria on behalf of both Carina and me but have no official word as yet as to their acceptance for presentment to the court.

In Michigan, the divorce case proceeded to a Default Judgment of Divorce granting me sole physical and legal custody of Carina. The mother was granted supervised visitation in Michigan. The Judgment was entered on April 16, 1996. One week later, Judge Breck entered an Order sealing court records. The Austrian Ministry of Justice refuses to acknowledge the Michigan Judgment of Divorce, such refusal based in part of an Affidavit submitted by the mother's Michigan counsel. This decision was affirmed on appeal and is currently pending before the Supreme Administrative Court.

The FBI, through Special Agent Scott Wilson, took an Affidavit to the U.S. District Court and Magistrate Morgan has signed a Warrant in Criminal Complaint No.96-80432, that being the case of *The United States of America v. Monika M. Sylvester* brought under the International Parental Kidnapping Act, 18 USC 1204. The case was assigned to Assistant U.S. Attorney Jennifer Gorland. In the meantime, the FBI and the West Bloomfield, Michigan Police have submitted reports to Interpol. It is my understanding however that Interpol itself officially takes no affirmative steps to locate anyone or enforce anything.

THE PROCESS OF SEEKING ASSISTANCE

In an attempt to move the Austrian authorities to assist in either the civil or criminal enforcement of Judge Katter's Order, I sought the assistance of the American Consulate in Vienna. The U.S. Ambassador personally delivered a U.S. government *de marche* to the Austrian Ministry of Foreign Affairs in June, 1997. I asked the State Department, Bureau of Consular Affairs to correspond with the Ministry of Justice, the Central Authority in Austria. In response, the Minister of Justice has declined to assist in the enforcement of the Hague Convention.

I have requested the involvement of literally hundreds of people including President Clinton, Mrs. Hillary Clinton, Attorney General Janet Reno, Senators Abraham and Levin, Representatives Knollenberg and Postman, Nancy Nayak and others within the International Division, National Center for Missing and Exploited Children, David Hobbs, Deputy Assistant Secretary of State for Overseas Citizens Services, U.S. Department of State, Randy Toledo, Terri Schubert, Debra Caruth and Ernestine Gilpin of the Office of International Affairs, U.S. Department of Justice, Jennifer Gorland and Saul Green, the U.S. Attorneys for the Eastern District of Michigan, U.S. Department of Justice, Scott Wilson, Special Agent, Federal Bureau of Investigation, in the U.S. Department of Justice, Ellen Conway, Jim Schuler, Ray Clore, Bureau of Consular Affairs, Office of Children's Issues, U.S. Department of State, Jim Preach, Interpol, John Baliff and Guyle Cavin, General Counsel, U.S. Embassy in Vienna, and I met with Swanee Hunt, U.S. Ambassador to Austria in Vienna.

Nothing done has made a difference. The child was not returned because the order was not enforced, now the order will not be enforced because the child was not returned. The delay engendered both by the stubborn refusal of the mother not to comply with the order for return and the unending number of ancillary motions and other legal maneuvers brought by the mother coupled with the unlimited number of appeals to each decision, was fatal to my relationship with my daughter.

THE U.S. CENTRAL AUTHORITY: THE STATE DEPARTMENT

As a result of the very frustrating legal situation in Austria, I sought all possible assistance here in the States. Very little that happened here in the U.S. had any effect whatsoever on my situation. Naturally, I worked and spoke regularly to the Office of Children's Issues people who were working on my case. And I must say that on a whole, I have been extremely frustrated with the results. Perhaps my expectations were unrealistic, but as the U.S. Central Authority, I would have hoped for swift and aggressive action in Carina's behalf under its obligations in Article 7 of the Hague Convention. Instead, I was told I'd have to wait—that the issue would be addressed to the Austrians for example in six months at the Conference Meeting. Or I'd hear "my hands are tied", or "you're only upset because you are not getting what you want". My attorney was simultaneously making calls and writing letters to State and receiving a similar response. The time delays in the preparation of letters, notes and de marches is astounding and I feel they lose all effectiveness as a result of their delay. Although some strong-worded letters went out on my behalf—my overall impression is that the case workers are diplomats whose overall objectives were not those articulated under the Hague Convention, but international relations, at the expense of the children.

THE JUSTICE DEPARTMENT

My experiences with the Justice Department 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, the case went nowhere. Even inquiries into the matter were surprisingly met with contention. Initially, 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 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. Now nearly three years later, we've seen how the civil proceedings have unfolded and still nothing. 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. Not understanding this position or being satisfied with it, I continued to press for information and answers or even some interest in the warrant of any kind. For example, my recent request to the Assistant Attorney General on the case that an extradition request be issued—even if impossible to achieve—was denied. Therefore, 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 U.S. Department of Justice 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 from the U. S. Department of Justice, the abductor continues to get away with complete impunity.

Now, here I am a left-behind father with an international warrant under the IPKA and all I asked was what can be done to follow up on the warrant—for example, what's the next step? My experience with Justice was borderline hostility rather than helpless. My questions concerning extradition requests were constantly answered that Austria doesn't extradite its own citizens. Now I have learned that a request could have gone out nonetheless to send a message but I was able to get nowhere in my requests that this be done.

ONE CAUSE OF THE PROBLEM

Had Austria been able to provide some mechanisms for enforcement of the return order for Carina, the Department of State and the Department of Justice would need to pay no significant role. Therefore, Austria plays a significant role in the bizarre result of my case that looked so hopeful from the start. As a treaty partner to the Hague Convention, Austria has indicated its interests in and dedication to complying with the terms of the Convention and its implementation there. Nonetheless, its legal system works in direct opposition to the goals of the Convention—that being the prompt return of the parentally abducted child into its environment of habitual residence.

First, the Austrian legal system fails to provide for any significant and hard-hitting enforcement procedures, relying instead on the polite knock on the door and a request for voluntary compliance. Second, the Austrian legal system provides no end to any issue before it, allowing for unlimited appeals and motions until an original decision is bent so far out of shape that is no longer the same decision. This creates the serious problem of extensive delay, i.e., when the court file is in a higher

court, no proceedings can be had on any interim matter requiring resolution not related to the issue on appeal.

Third, the Austrian Central Authority is intractable. There is no real evidence of any interest or dedication to compliance with its duties under Article 7. In my case, when correspondence was sent from our Central Authority to the Austrian Central Authority requesting information as to what affirmative steps had been taken under Article 7, the response was that the Minister of Justice declined to answer on the basis that the question did not promote good Austrian-American relations.

Unfortunately for parents who put their faith in the legal system, the Hague Convention sometimes does not work even between parties to the Convention and even when orders for immediate return of the child are entered. It is because of this failure that American parents desperately need the assistance of the Department of State and the U.S. Central Authority, and the Department of Justice as our center of federal law enforcement.

THE HARSH REALITY

The harsh reality of my situation is that I have paid attorney fees both here and in Austria in excess of \$200,000. I have attended workshops and rallies. I have networked sometimes does not work even between parties to the Convention and even when orders for immediate return of the child are entered. It is because of this failure that American parents desperately need the assistance of the Department of State and the U.S. Central Authority, and the Department of Justice as our center of federal law enforcement.

Carina Sylvester is an American-born U.S. Citizen with rights which are being violated. Who in the U.S. is working to protect Carina's rights? Furthermore, Carina has rights which continue to be violated. According to the Austrian's own agreement to the U.N. Convention on the Rights of the Child, Carina has a right to know both parents, both extended families, and both nationalities. Carina is being denied her rights. 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. Carina was taken from her home in the U.S. nearly three years ago. Since then, every day I feel like I have been fighting with Austrian and U.S. governments, in order to be a substantial part of Carina's life.

I love Carina with all of my heart and soul. I am committed to a loving relationship with my daughter. With positive persistence and enduring patience I have learned that I have misplaced my trust in the judicial system. I do not want to lose Carina; she is the most important part of my life.

Please help to bring Carina back to the United States and allow her the opportunity to enjoy the normal relationship that a child is entitled to have with her father.

There are no words which can adequately describe my feelings of loss and pain. I wish that I could convey the daily anguish and the deeper feelings of sorrow, sadness, anger, despair and hurt. These feelings are always present for me. The moment I became aware that my daughter was taken from me I felt like someone had reached inside my chest and ripped my heart out of my body. Since then, I think about her always. Every child I see reminds me of her. There is not a day that goes by that she is not paramount on my mind. Through Carina, I felt the joy and wonder of being a father. Then, after only 13 months, I felt the sorrow of her being taken away from me. If you are a parent yourself; perhaps you can imagine the heartbreak of being without your child.

WHAT CAN BE DONE

There is an immediate need for both the Department of State and 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. A strongly staffed U.S. Central authority must take an aggressive, non-diplomatic posture with uncooperative Central Authorities like the Austrian Ministry of Justice. The Department of Justice must vigorously pursue these fugitives from justice as they would "serious" crimes 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.

I hope and pray that productive action results for our children from these hearings here today. I have submitted extensive written materials to support my short

presentation to you this morning and hope that you will read and consider them. I thank you for listening to my story and my concerns.

[Additional information submitted by Mr. Sylvester appears in the appendix.]

The CHAIRMAN. Thank you, Mr. Sylvester. We are going to try. Mr. Johnson.

STATEMENT OF THOMAS A. JOHNSON, ALEXANDRIA, VIRGINIA

Mr. JOHNSON. Thank you, Mr. Chairman. Mr. Chairman, before proceeding, I would like to express my deep appreciation to you and to other members of the committee for their interest in this subject, for your willingness to schedule hearings on the subject, and for your untiring commitment to assisting American children and their parents in this awful situation. In addition, the dedication and hard work of the committee staff in preparing for this hearing merits the admiration and thanks of all left-behind American parents. Among the only rays of hope in this situation for most of us have been the work of your committee and other congressional initiatives on the House side under Chairman Gilman and the House Caucus on Missing Children. So, for all of us, thank you.

Mr. Chairman, I need to say that this statement is submitted solely in my personal capacity as an American citizen and as the father of Amanda Kristina Johnson, an American child wrongfully retained in Sweden. Although I have been an attorney for the U.S. Department of State for 19 years, I make this statement as a private citizen and do not in any way purport to represent or speak for the Department of State. I have taken annual leave to be here today and have not used Government resources to prepare or reproduce this statement.

Mr. Chairman, in the June 29th *Washington Post* article on Lady Meyer that most of us have seen, there was consensus among most of those quoted, including U.S. Government personnel, that the system does not work. Having spent more than \$200,000 in Amanda's case, litigating against the deep pocket of the Swedish Government in nine courts in two countries, I fully agree that the system does not work. This committee is to be commended for trying to find out why the system does not work and for being willing to do something about it.

Mr. Chairman, as you indicated earlier, there is less than a 30 percent return rate for American children under the Hague Convention and quite frankly that percentage is probably skewed by the very high return rate from certain countries such as the United Kingdom. So, if a country like the United Kingdom were eliminated, the average would be much lower.

The situation is only getting worse for left-behind parents at the moment because of the difficulties of getting the Justice Department to implement the 1993 act when Hague remedies are inapplicable or have been exhausted, the worst offending countries emboldened by the feeling that there is no risk in their current conduct, and the absence of adequate preventative measures.

Mr. Chairman, the truth is that American citizens cannot rely on foreign government compliance with the international legal obliga-

tions they have undertaken in ratifying the Hague Convention and applicable human rights treaties.

I will briefly try to summarize my rather lengthy statement, covering the subjects of foreign government involvement in and support for parental child abduction and wrongful retention, foreign legal systems that cannot or will not control the conduct of their citizens, the need for preventive and remedial measures to protect American children from the increasing threat, the importance of not writing off American children for the sake of good relations or any other reason, and some specific recommended congressional actions, most of which require only political will rather than tangible resources.

With regard to foreign government support of these offenses, Mr. Chairman, I will be using some information on my daughter Amanda's case and my experience with the Swedish system, but those are provided primarily as case studies or examples.

I would identify five pillars of a governmental child abduction system, and in particular I would list extreme gender or national bias in the courts, payment of unlimited legal fees for the child abductor at home and abroad, no enforceability of visitation or parental rights for the non-local parent, no principle of comity or respect for foreign law, foreign court orders, and the legal system in question, and criminal legislation that protects parents who abduct or wrongfully retain children.

Despite the best efforts and intentions of Congress and some individuals in the executive branch, the truth is that all too often American parents are up against the full weight of foreign governments in these cases. Without the help of Congress along the lines I suggest below in the statement, more American citizens will continue to be victimized by foreign parents and their governments determined to abduct or retain American children, withhold them abroad, and ignore United States and international law.

Mr. Chairman, as a preliminary matter, it is very important to stress this matter of no enforceable visitation or access to children in European civil law countries. The point is that if an American child is not returned under the Hague Convention, the consequence is that that child is likely to be completely lost to their American parents and families. In essence, the exercise of regular child custody jurisdiction in Sweden or Austria or Germany or Denmark effectively terminates the parental rights of the American parent because in Sweden, for example, a non-Swedish, non-custodial parent has no enforceable rights of any kind. So, for those reasons, I have spent the money I cited before in an effort to avoid Swedish custody jurisdiction because of those consequences.

Amanda is not the first American child to be in this situation. She is not the only one at the moment. There is the child of Mark Larson of Orem, Utah, the children of Greg O'Donohue of Burbank, California, and she will definitely not be the last child without sweeping reforms of Swedish legislation, policy, and attitudes. But Congress can do a great deal to reduce the risks for American children and their parents, while increasing the risks of wrongful conduct for governments like Sweden and their citizens.

Mr. Chairman, these are not private child custody disputes. Until the Post article mentioned appeared on June 29th, it is unlikely

that many of us would have thought possible what Germany has done to the relationship between Lady Meyer and her children, and that is the key point. It is Germany, its governmental, legal, and social welfare systems, that has committed these human rights violations just as it is Sweden that has done everything possible to destroy Amanda's relationship with her American family, friends, home, and familiar environment in Virginia.

Individual parents capable of abducting or wrongfully retaining their children exist everywhere, including the United States. The key question is whether their governments will do anything to control their conduct and protect the parental rights of foreign parents, especially in light of the international legal obligations of all countries under either the Hague Convention or 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. All of these countries we are talking about are parties to the Convention on the Rights of the Child, which has 9 or 10 articles trying to guarantee the role of both parents in every child's life, the role of both countries when parents live in different countries, et cetera.

Mr. Chairman, the disinformation inherent in the false claim of "private child custody dispute" is particularly infuriating to American parents who have spent much of their savings fighting against the deep pocket of a foreign government in both United States and foreign courts simply to maintain any sort of contact with their children, while at the same time obeying all applicable laws in both countries.

Mr. Chairman, my statement contains a summary of the Swedish Government system of international child abduction. I will come back to it if there is time, but the purpose of inserting it in my statement was to give an example of the kind of country-by-country information in narrative form that should be readily available to Congress, U.S. courts, attorneys, and parents.

The CHAIRMAN. Well, I certainly agree. Let me say at this point that I want each of the four of you to submit additional printed or written material to be made a part of the printed record so that it can be made available.

At the conclusion I am going to say a few things that I hope will be encouraging to you.

You may proceed.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Chairman, concerning the details of Amanda's case, voluminous documentation has already been given to committee staff, and several items are appended to this statement, including the unanimous decision of the Virginia Court of Appeals in the case, a Swedish Government demand for reimbursement of legal fees and child support that it has paid the abductor, a Swedish criminal law which is intended and used to protect Swedish child abductors and punish non-Swedish parents, photographs showing Swedish police participation in the continuing Federal and State felonies against Amanda and me, and a two-page outline of the Swedish Government system of supporting and financing parental child abduction.

Mr. Chairman, the facts of the case are set forth in my statement. I would like to get to my proposed remedies, so I will not

spend too much time on the facts except to say that four Swedish courts either ordered Amanda's return under the Hague Convention or held that Sweden did not have jurisdiction over her because she was only in Sweden temporarily as agreed.

After an endless Hague process of 17 months, rather than the 6 weeks envisioned in the Hague Convention, the highest court concerned reversed all the lower court rulings and declared that Amanda would not be returned to the United States.

I later obtained a sole custody order in Virginia, which the Swedish Government then challenged in the courts of Virginia, as I will mention in a moment.

In terms of an update, I have only seen Amanda for 12 hours since December 1996, and the last time I was under police supervision at her school. That gives an indication of the resources that the Swedish Government is willing to utilize to benefit their child abductors.

For the summers of 1997 and 1998, creative efforts by my Swedish and American attorneys to arrange visitation in the United States with guaranteed return to Sweden, because U.S. court orders will be enforced against me, 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, and the Swedish 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 terms of the U.S. Government response, Mr. Chairman, when an American parent faces this situation today, he or she does so alone in many respects. Legal fees can quickly mount to tens of thousands of dollars, and there is still no central repository of information and expertise that can quickly and effectively supply accurate, basic data on the legal system, child custody institutions, law enforcement systems, 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.

Mr. Chairman, prevention and deterrence are what is needed and really is the key to eliminating much of the secrecy and ignorance that leads to successful child abductions and retentions. Effective vehicles already exist, such as the annual human rights report and a country-by-country Hague compliance report that may be enacted in the future.

Mr. Chairman, currently the counselors available to left-behind parents have roughly a case load of 150. At present there is no real advocate for left-behind American parents who must deal with a hostile foreign government and an often unresponsive U.S. Government, whereas foreign parents whose children are abducted or retained in the U.S. have access to the superb capabilities and staff of the National Center for Missing and Exploited Children. Left-behind American parents would greatly benefit if the National Center were allowed to play the same role for outgoing cases, abductions from the United States, as it plays for incoming cases.

There is no monitoring of litigation in the United States financed by foreign governments so that statements of interest or amicus briefs could be filed in landmark cases. We are not talking about

great resources here. The burden, of course, would be on the American parent to notify the U.S. Central Authority that an appeal of a particular custody order is pending and to see if there are interesting issues for the Federal Government to address.

Mr. Chairman, foreign Central Authorities often work just as hard to assist their nationals who abduct or retain children as they do for their nationals who are victimized. I can give several examples, but would like to get on to the International Parental Kidnapping Crime Act of 1993.

Mr. Chairman, this act should either be revised, if that will result in greater willingness of U.S. Attorneys' offices to utilize it, or be enforced as it stands. In my opinion it can be enforced as it stands. Today, however, the 1993 act is not only a failure generally in helping Americans, there have only been one or two prosecutions nationwide, few indictments, and fewer still provisional arrest requests to foreign governments. This has become a very effective tool for foreign child abductors both in United States courts and foreign courts. 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 in the United States and abroad. Attorneys for child abductors, including those hired and instructed by foreign governments that are United States treaty partners, have argued that the fear of prosecution under the 1993 act justifies the denial of applications for return of American children under the Hague Convention, as well as the refusal of foreign abductors to appear in U.S. custody proceedings. This latter argument concludes with the demand that U.S. courts defer to the jurisdiction of the foreign court.

Mr. Chairman, in terms of the interpretation of the act by U.S. Attorneys' offices, I have several comments on that, but I know that I am running out of time here.

The CHAIRMAN. We are going to have some votes in just a minute, and I want Mr. Marinkovich to have some time too. If you would wind up as quickly as you can, bearing in mind that all of this is in writing and we are going to give it further circulation. We have given it to the media who are present this morning. I happen to be personally interested in this thing, and I have got a few comments about the Attorney General. So, if you will conclude when you can. I am not rushing you, but—

Mr. JOHNSON. Well, I will conclude as quickly as possible, Mr. Chairman. Thank you.

Several additional preventive and remedial actions by Congress are needed to level the playing field for American parents. Congress is faced daily with many competing demands that have serious resource implications. For the most part, measures that will help in this area do not.

In particular, Mr. Chairman, I think there should be general objectives: Dissemination of information to alert U.S. courts, law enforcement authorities, family law practitioners, and parents to what is going on in this field; the sending of a clear worldwide message that the U.S. Government will not tolerate the abduction or wrongful retention of American children under any circumstances, and will make foreign governments pay a price if they essentially encourage and reward such conduct through financial and other di-

rect support to abductors; third, a reform of current U.S. law and practice may be useful in certain areas.

Specially, Mr. Chairman, with regard to the U.S. Central Authority, the committee, Congress should look at such factors as training and expertise of personnel, continuity, and institutional memory of personnel, case load, legal support available, and so on.

As indicated, the National Center should be given a role to help American parents in the situation.

Prevention, publicity, and accountability is important, annual human rights reports. I have described in detail how those could be utilized.

Hopefully a requirement that there be reporting on Hague Convention compliance from the executive branch.

In my statement I list criteria that this committee may wish to consider in terms of what kind of countries we want to have bilateral law enforcement relationships with.

With regard to child support enforcement, Mr. Chairman, I would ask that the committee look at pages 17 and 18 of my statement to take measures to ensure that left-behind American parents are not on the receiving end of foreign government demands for child support for abducted children that are then enforced by the U.S. Government against left-behind parents. That is a possibility under current legislation. I have several safeguards that I list in that area.

The Privacy Act and the Freedom of Information Act are often used to deny information and documentation to American parents. It seems to me that people like us have an absolute right to know everything that our Government is doing or failing to do in these cases.

Finally, Mr. Chairman, I would just propose an exception to the Foreign Sovereign Immunities Act so that individual Americans who are the victims of crimes supported and financed and facilitated by foreign governments be able to take those governments into U.S. district court.

To sum up, Mr. Chairman, it seems to me that to a large extent these crimes of human rights violations against American children and their parents succeed to a large extent because the foreign governments concerned are confident that there is no down-side risk. This guarantees future cases.

As a father who came within 18 hours of regaining his daughter only to have a last minute stay from the Swedish court change our lives forever, I can only express the hope that this committee and Congress in general will ensure that there will be consequences in the future for governments that facilitate, finance, otherwise support, and reward the international parental child abduction or wrongful retention abroad of American children.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF THOMAS A. JOHNSON

The Response of the United States to International Parental Child Abduction and Wrongful Retention of American Children Abroad

This statement is submitted solely in my personal capacity as an American citizen and as the father of Amanda Kristina Johnson, an American child wrongfully retained in Sweden. Although I have been an attorney for the U.S. Department of

State for nineteen years, I make this statement as a private citizen and do not in any way purport to represent or speak for the Department of State. I have taken annual leave to be here today and have not used government resources to prepare or reproduce this statement.

Before proceeding, I would like to express my deepest appreciation to Senator Helms for his interest in this subject, for his willingness as chairman of the Committee to schedule a hearing on this subject, and for his untiring commitment to assisting American children and their parents subjected to the tragedy of international parental abduction and wrongful retention. I am also grateful to other members of the Committee for their interest and involvement in addressing this subject. Finally, the dedication and hard work of the Committee's staff in preparing for this hearing merits the admiration and thanks of all left-behind American parents. In the midst of an otherwise terrible experience for all such parents, the Committee's work and other recent Congressional initiatives have been among the few rays of hope.

In the June 29, 1998 *Washington Post* article on the wrongful retention in Germany of Lady Catherine Meyer's children, there was consensus among those quoted that "the system" does not work. Having spent more than \$200,000 in Amanda's case litigating against the deep pocket of the Swedish Government in nine different courts in two countries, I fully agree. This Committee is to be commended for trying to find out WHY the system does not work and for being willing to do something about it.

Congress estimated the number of internationally abducted or wrongfully retained American children at 10,000 when it passed the International Parental Crime Act of 1993. With the increasing failures of the Hague Convention on the Civil Aspects of International Child Abduction (less than a thirty percent return rate for American children), the virtual refusal of the U.S. Justice Department to utilize the 1993 Act when Hague remedies are inapplicable or have been exhausted, the worst offending countries rightly emboldened by the present certainty that they generally risk no real-world consequences or even adverse publicity, and the absence of adequate preventive measures, the situation is only getting worse for left-behind parents who play by the rules in both countries concerned. They need to know that foreign government compliance with the international legal obligations they have undertaken in ratifying the Hague Convention and applicable human rights treaties cannot be relied upon.

This statement addresses:

- Direct foreign government involvement in and support for the abduction and wrongful retention abroad of American children, in violation of international treaty obligations;
- Foreign legal systems that cannot or will not control the conduct of their citizens in child custody matters and cannot or will not protect the parental rights of American parents;
- The need for preventive and remedial measures to protect American children from the increasing threat of international parental child abduction and wrongful retention abroad, and for accountability within the United States Government concerning the handling of these cases;
- The two front war facing American parents and the importance of not "writing off" American children for the sake of "good relations" or any other reason;
- Specific recommended Congressional actions, most of which require only political will rather than tangible resources;

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, the following information on my daughter Amanda's case and my experience with the Swedish legal and social welfare systems is provided primarily as a case study or as an example of what often confronts left-behind American parents.

1. Five 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. This does not include the United Kingdom, of course, which is often cited as a model of how the system should work. In contrast, the Swedish system happens to include all of what could be called the Five Pillars of governmental child abduction and retention: no principle of comity in the legal system, extreme gender or national bias in the courts, payment of unlimited legal fees for the child abductor at home and abroad, no enforceability of civil court orders (including child return orders and visitation orders), and criminal legislation that protects parents who abduct or wrongfully retain children. In a given case, only one of these five "pillars" may be enough to ensure a successful abduction or retention.

Regrettably, Amanda is only one of many American children abducted or wrongfully withheld abroad. As Congress recognized in passing the International Parental Kidnapping Crime Act of 1993 ("the 1993 Act"), Amanda's case and Sweden's indefensible conduct are not unique, although the facts and circumstances of Mandy's case are particularly aggravated. Despite the best efforts and intentions of Congress and some individuals in the Executive Branch in recent years to combat the continuing tragedy of international parental child abduction, the fact remains that American parents whose children are abducted or wrongfully retained abroad are all too often up against the full weight of foreign governments (including Parties to the Hague Convention such as Sweden) prepared to supply virtually unlimited financial and other resources (e.g., government child psychiatrists and psychologists) to assist their citizens who abduct or wrongfully retain children. What has happened to Amanda and me can happen to any American citizen, already has happened to many, and will unquestionably happen to more in the future, unless Congress acts to prevent "business as usual" with the governments involved and to provide other remedies. Without the help of Congress along the lines suggested below, more American citizens will continue to be victimized by foreign parents and their governments determined to abduct or retain American children, withhold them abroad, and ignore U.S. and international law. This statement is submitted in the hope that Congress will act quickly and decisively to help other Americans avoid the nightmare to which my family has been subjected.

2. No Enforceable Visitation or Other Parental Rights

As a preliminary consideration concerning any child abduction or retention involving Sweden (and most other European civil law countries), it must be noted that children not returned under the Hague Convention are likely to be completely lost to their American parents and families. The parental rights of an American parent may be effectively terminated by the inevitable grant of sole custody to the local national when a court in a European civil law country exercises regular child custody jurisdiction. In Sweden, for example, a non-Swedish, non-custodial parent has no enforceable parental rights. The Swedish legal system and individual judges cannot control the conduct of Swedish parents (or otherwise protect the rights of foreign parents) because there is nothing comparable to contempt of court or any other effective means of enforcing visitation or access under a Swedish custody order. For Amanda, who lived with me half the time for several years and travelled freely with me both in the U.S. and Europe, even supervised visitation in Sweden is totally unenforceable and at the whim and mercy of the child abductor. A new Swedish law entering into effect today, ironically, will permit Swedish judges for the first time to impose joint custody over the objections of one parent. However, just as other seemingly progressive elements of Swedish child custody law and policy only apply when both parents are Swedish (e.g., shifting sole custody away from a parent that withholds a child unless, of course, the consequence is that the child leaves Sweden), it is highly unlikely that this new law will be applied in cases involving non-Swedish parents. But even if it were, the terms of any future Swedish joint custody order are just as unenforceable as any visitation awarded under Swedish sole custody orders. Nothing has changed in that regard, although intense and sustained international pressure on Sweden might bring about reforms that include mechanisms comparable to contempt of court.

For the reasons just given, I have spent more than \$200,000 of my savings to avoid Swedish custody jurisdiction because of the consequences: a court order that even some U.S. authorities may view as giving the "color of law" to termination of the child's American life and my parental rights. Amanda is not the first American child to be subjected to these violations of her human rights by Sweden, she is not the only one at the moment (e.g., the child of Mark Larson of Orem, Utah and the children of Greg O'Donohue of Burbank, California), and she will definitely not be the last without sweeping reforms of Swedish legislation, policy, and attitudes. As discussed below, Congress can do a great deal to reduce the risks for American children and their parents, while increasing the risks of wrongful conduct for governments like Sweden and their citizens.

3. *These Are Not "Private Child Custody Disputes"*

Until the *Washington Post* article mentioned above concerning Lady Meyer appeared on June 29, it is likely that few Washington decision makers and opinion leaders would have thought possible what Germany has done to the relationship between Catherine Meyer and her children. And that is the key point. It is Germany (its governmental, legal, and social welfare systems) that has committed these human rights violations, just as it is Sweden that has done everything possible to destroy Amanda's relationship with her American family, friends, home, and familiar environment in Virginia.

In short, these are NOT "private child custody disputes," as Germany and Sweden try to claim in these cases, and as those who may wish to write off the children concerned and do business as usual with such countries would like to believe. 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 or 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.

The disinformation inherent in the false claim of "private child custody dispute" is particularly infuriating to American parents who have spent much of their savings fighting against the deep pocket of a foreign government in both U.S. and foreign courts simply to maintain contact with their children while obeying all applicable laws in both countries. As indicated above but worth repeating, this "private child custody dispute" red herring (an appropriate description taking into account the conduct of some Scandinavian and Northern European countries) also attempts to cover up what can only be described as sophisticated and very well-financed governmental child abduction systems, for example, in some European countries (other than the United Kingdom and Ireland) that may include some or all of the following:

- (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);
- (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.

Because it is nearly impossible for Americans 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 sole custody to the non-American abducting parent) 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, noncustodial parents have no legally enforceable rights of any kind in such countries.

4. *Summary of the Swedish Government System of International Child Abduction and Wrongful Retention of Children*

The following is an example of the kind of country-by-country information in narrative form that should be readily available to Congress, U.S. courts, attorneys, and parents:

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 fathers. 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 I 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 have 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 most Swedish nationals. This exhausts the resources of most non-Swedish parents, and, in any event, Swedish authorities will not enforce or otherwise respect foreign appellate judgments against Swedish parents. Non-Swedish parents with very low incomes may be provided legal aid for proceedings in Sweden, but this does not help anyone with an income of more than \$30,000. Moreover, Swedish authorities aggressively seek reimbursement from the left-behind parent for the legal aid and child support it has provided to the abductor. Examples are attached.

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: the undeniable bias of Swedish courts in favor of Swedish mothers, the absence of anything comparable to contempt of court to enforce visitation for fathers, the unlimited financial support received in Sweden and abroad by Swedish child abductors, enforcement by Swedish law enforcement authorities of a criminal law that effectively protects and rewards Swedish child abductors, the lack of comity with respect to non-Swedish court orders, and the refusal of Sweden to extradite or effectively prosecute Swedish child abductors. Most notably, Sweden's legal and social welfare system 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 following articles of the Convention: 2, 5, 8, 9, 10, 11, 16, 18, 29, and 35.

5. *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 four 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 *Regeringsrätten*) reversed all the lower court rulings in a May 1996 decision declared by the U.S. Government in diplomatic notes to be a violation of the Convention and 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 has never been a Swedish custody order of any kind concerning Amanda. The Virginia Custody Order remains the only one 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).

Since December 1995, Amanda has been able to see me on four occasions, for a total of 12 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, 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 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 on 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 have not seen each other since that demeaning experience in December 1996. Telephone contact ceased in August 1997. 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 more than a year, and I do not know if they have been received. 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.

UNITED STATES GOVERNMENT RESPONSE TO 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 recently supplied to this Committee by the Executive Branch is 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. Moreover, the frequent claim 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 discouraging. This information is 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.

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.

As suggested below, effective vehicles such as the annual human rights reports already exist, and Congress has also passed legislation that would require an annual country-by-country Hague Convention compliance report that should be broadened to include cases not resolved within six months, cases involving non-Hague countries, and lists of countries that have any of the 5 Pillars of a governmental child abduction stem mentioned above. Maximum use should be made of the Internet and other established channels in the family law and consular affairs fields to ensure that U.S. courts, attorneys, and parents with children at risk are aware of the likely consequences of an abduction to or wrongful retention in a given country.

Left-behind parents often find themselves more knowledgeable in many ways than those in the Executive Branch who are supposed to help them, especially in view of the fact that case officers now are responsible for around 150 cases, according to a recent statement by the Assistant Secretary of State for Consular Affairs. If those who are supposed to help (or their superiors) are primarily interested in maintaining "good relations" with the other countries concerned or declare that they do not work for the American people but rather for the Secretary of State or are fearful that pressing too hard in a current case will jeopardize assistance from a particular country in future cases, the plight of the children involved and their left-behind parents worsens. In the latter case, such a classic policy of appeasement is no more successful in dealing with child abduction than it has historically been in any other field.

At present, there is no real advocate for left-behind American parents, who must deal with a hostile foreign government and an often unresponsive U.S. Government, whereas foreign parents whose children are abducted or retained in the United States have access to the superb capabilities and staff of the National Center for Missing and Exploited Children (NCMEC) because of its role in dealing with "incoming" cases (i.e., abductions to or retentions in the United States). Left-behind American parents would greatly benefit if NCMEC were allowed to play the same role for "outgoing" cases.

There is no monitoring of U.S. litigation financed by foreign governments against left-behind American parents so that U.S. Government statements of interest or *amicus curiae* briefs can be filed in landmark cases. In fact, this 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 one case, the American parent prevailed in upholding a custody order in the highest courts of his state for an abducted child, but only at considerable expense. In the other case, the American parent 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 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. Other activities of the Swedish Central Authority have included release of documents and information to Swedish abductors and their attorneys, refusal to respond to important U.S. Central Authority inquiries (a July 1995 Hague Application for access to Amanda and a 6-page memorandum from the U.S. Central Authority in August 1995 have never been formally answered), 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, 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 four 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 "legat" 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."

In many respects, an improved United States response requires a change in attitude so that senior officials acknowledge that foreign legal and social welfare institutions which permit the successful commission of crimes against American children and their parents are not "private child custody disputes" or merely the errors of an "independent judiciary." Regarding the latter point, the judges are not particularly independent in some European countries. They become judges relatively early in their careers, do not have life tenure, and depend on the Ministry of Justice for future assignments. In any event, evidence of foreign government involvement in and support for parental child abduction or retention by their nationals should not be ignored.

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 only been one or two prosecutions nationwide, few indictments, and fewer still 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 I (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 prosecution, 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, as described above.

Ironically, the record of U.S. courts under the Hague Convention in recent years is nearly perfect concerning returns of children to some of the worst violators of the Convention, including Sweden. There have in fact been essentially voluntary returns of children to the United States from such countries. But a determined Swedish or Danish or Austrian or German child abductor/retainer (among others) will almost never have to comply with return orders from their own courts. Again, there are no truly effective means of enforcing civil court orders in European civil law countries, including Hague Convention return orders. Police assistance to enable an American or other non-local parent to take a child out of the country is virtually impossible. Moreover, European abductors/retainers have the possibility of further delaying and frustrating the Hague Convention process by utilizing the European Human Rights Commission and Court in Strasbourg.

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 States 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.

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 faced 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 international parental kidnapping, especially when such conduct is directly supported by foreign governments.

Taking into account that the high rate of return from a very few countries (e.g., the United Kingdom) makes even the overall return average of thirty percent misleading, the Hague Convention success rate with certain countries is so low that the reality facing many American parents is a stark choice between abandoning their children or conducting a rescue operation. That reality and the country-by-country details behind it need to be comprehensively disseminated to all U.S. courts, family law practitioners, law enforcement authorities, and the general public.

PROPOSED CONGRESSIONAL ACTIONS AGAINST INTERNATIONAL CHILD ABDUCTION

Congress may wish to give serious consideration to specific proposed actions listed below in order to accomplish three general objectives:

- (1) Dissemination of sufficient information to alert U.S. courts, law enforcement authorities, family law practitioners, and parents in bi-national situations concerning the difficulties of gaining the return of American children from particular countries;
- (2) The sending of a clear worldwide message that the U.S. Government will not tolerate the abduction or wrongful retention of American children under any circumstances and will make foreign governments pay a price if they essentially encourage and reward such conduct through financial and other direct support to abductors; and,
- (3) Reform of current U.S. law and practice (both civil and criminal) that can work against American citizens, thus aiding and abetting the abduction of American children by foreign citizens and their governments.

Under the circumstances, the following proposals do not constitute micro-management.

(1) U.S. Central Authority

PROPOSALS: (A) Consider whether it is fair to all parties concerned for the CA to remain in the State Department, taking into account such factors as:

- training and expertise of personnel;

- continuity and institutional memory of personnel;
- number of personnel available;
- caseload of personnel;
- legal support available;
- the balance between child abduction/retention cases and “good relations” in bilateral relations;
- the role of regional bureaus and American embassies, and
- general openness and a willingness to provide left-behind American parents with all available information and documentation.

(B) Consider the vital assistance and support for both the U.S. Central Authority and left-behind American parents if the National Center for Missing and Exploited Children (NCMEC) is given the same role for “outgoing” cases (i.e., abductions from the U.S. and retentions of American children abroad) as it now has for “incoming” cases.

(2) Prevention, Publicity, and Accountability

PROPOSALS: (A) 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.

(B) If the President signs H.R. 1757, amend Section 1803 (Reporting on Hague Convention Compliance) to cover retention cases and any case 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. If the President does not sign the bill, transform Section 1803 into stand-alone legislation with the suggested revisions.

(3) Bilateral Relationships

PROPOSAL: Review what type of relationship the United States should have with governments that:

- 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, and
- 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) Mutual Legal Assistance Treaties (MLATs)

PROPOSAL: 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 which has been used against several American parents of abducted/retained children).

(5) Child Support Enforcement

PROPOSAL: Amend P.L. 104–193 (Section 459A) or take other action 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; and

(B) prohibit any child support enforcement agreement 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 at any time been:

- 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, and
- an inability or refusal by the foreign government/courts to protect and promote the exercise of parental rights by the American parent.

(6) Implementation of the International Parental Kidnapping Act of 1993, 18 US 1204

PROPOSAL: Consider remedial actions based on Justice Department response, if any, to Senate Judiciary Committee questions:

- Require annual DJ report on number of requests from parents or their counsel for indictments, number of indictments, number of extradition requests, number of actual prosecutions, etc.

(7) 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, and
- 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.

(8) 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.

(9) 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.

(10) 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).

(11) 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.

In an era of budget constraints, it is reasonable for Congress and the American people to ask what U.S. Government interest is more important than protecting our youngest citizens from the impact of crime. And international parental child abduction or wrongful retention of children are crimes, as well as human rights violations. The Hague Convention is a noble effort to remedy criminal conduct by civil means, but all too many countries (notably European civil law countries) knew at the time they ratified the Convention that their basic child custody laws and institutions were (and still are) incompatible with full compliance.

All of us are well aware that there are many ways to lose a child, none of them acceptable. But foreign government support for and participation in the loss of a child is intolerable. To a large extent, these crimes and human rights violations against American children and their parents succeed because the foreign governments concerned are confident that there is simply no downside risk; i.e., no real-world consequences for ignoring or dismissing the U.S. Governments interests and views. This guarantees future cases. As a father who came within 18 hours of regaining his daughter only to have a last-minute stay from a Swedish court change our lives forever, I can only express the hope that this Committee and Congress in general will ensure that there will be consequences in the future for governments that facilitate, finance, otherwise support, and reward the international parental child abduction and wrongful retention abroad of American children.

[Additional information submitted by Thomas Johnson appears in the appendix.]

The CHAIRMAN. Mr. Marinkovich.

**STATEMENT OF PAUL MARINKOVICH, SIMI VALLEY,
CALIFORNIA**

Mr. MARINKOVICH. Thank you, Mr. Chairman.

The CHAIRMAN. By the way, I have been sitting here looking at the pictures of your little boy and your little girl, Mr. Sylvester. I happen to be the father of three and grandfather of seven. I have got at least 10 good reasons to thank God that I am not in your place. That is the undergirding of my interest in this thing.

I have some further comment about the Attorney General and her sincerity which may encourage you.

You may proceed.

Mr. MARINKOVICH. Thank you, Mr. Chairman. I should hope that no one should have to go through what the people at this table are.

I wish to thank this committee for the honor of speaking about America's most precious resource. The most precious resource that we have in America are children.

I brought my 14-year-old son Michael here today—he is videotaping me—because he has a great interest in seeing his brother again.

The CHAIRMAN. Where is Michael?

Mr. MARINKOVICH. Michael is right here.

The CHAIRMAN. Michael, come up here.

Senator BIDEN. You can bring your camera, Michael.

The CHAIRMAN. You sit down here and you be judge of your father. How about that?

Mr. MARINKOVICH. Mr. Chairman, you are going to get me in trouble now. He is the boss. You look good up there, Mike.

My 6-year-old son Gabriel was lost to an act of international parental abduction on August 19th, 1996. Over the last 773 days, I have been engaged in a battle on many different fronts to ensure his safe return.

As both a father and as the Executive Director and co-founder of the International Child Rescue League, I find it important to hold the proper context in both my case and when I interact with others, and I want to share that with you. It is the mission statement that hangs on our walls of both our east coast office with Mr. John LeBoe in Florida and our west coast office in southern California. It is as follows.

By holding the sacred bond of parent and child in its highest regard, we stand for the rights of all children to receive the love of both their parents. We have faith that all parents really want to do what is best for their children, but realize that sometimes decisions are made out of anger rather than out of love. It is our firm belief that through individual case support of missing and abducted children and by enrolling the people of every nation in this vision, that a miracle is indeed possible. We work toward the day when children everywhere will be blessed with a world in which parental kidnapping is no longer a threat to their growth, development, and stability.

Mr. Chairman and committee, I am here today in support of creating that miracle.

Let us first look at the actual act of parental abduction itself and how it relates to children. The National Center for Missing and Exploited Children, who I have a lot of respect for, created a federally funded publication to educate and advise law enforcement officials in their investigation of parental abduction cases, and that publication is called Missing and Abducted Children: A Law Enforcement Guide to Case Investigation and Management. It advises law enforcement personnel who are involved in this type of case as follows, and I quote. "The emotional scarring that is caused by these events," child abduction, "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."

Now, in 1993 the American people and this Congress spoke their will and passed into law the International Parental Kidnapping Crime Act of 1993 and set something into motion. It states—and I quote—"Whoever removes a child from the United States or retains a child outside of the United States with the intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned for not more than 3 years, or both."

Now, according to an August 31st, 1998 news article in the Ventura County Star about my case, Nancy Nayak, who is the Assistant Director of the National Center for Missing and Exploited Children, quoted the following, and I quote. "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 cannot be determined today, experts acknowledge that it is significantly higher. Also since 1993, approximately 10 arrest warrants have been filed for these parents, and only one has been successfully prosecuted." And we heard a number of 26 today, so the number might be altered a little bit, but it is still just a mere handful, less than 1 percent.

Now, I visited Washington, D.C. In June of this year and I talked to several Members of the Senate and Congress. I have both written and called on the phone and faxed and everything that we have to do as parents to get a hold of you lawmakers. I have been incredibly pleased with the response that I have been getting.

I was told that we were a Nation of laws. I was also informed that laws are 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 1 one-hundredth of 1 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 1 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 believe that some, if not most, of this increase can be directly attributed to the inexcusable disregard for enforcement of the International Parental Kidnapping Crime Act of 1993 by our own Justice Department.

In my case, after a long emotional and financial strain, I was able to join the ranks of that less than 1 percent of the cases that resulted in a parental abduction warrant. This was only achieved after a 6-month full background check by the FBI into my own personal affairs, having to fly my present family out from California to Texas to be interviewed by the FBI, and drumming up support through the lawmakers in Congress and local media and thousands of man-hours and at least a hundred letters. I believe it was my persistence that persevered in obtaining this warrant and not the willingness of my U.S. attorney to cooperate.

My son has been abducted into an underground organization in Sweden. I have won the Hague cases in Sweden and have full custody in both the United States and Sweden. The Swedish Government has uncovered conclusive proof that my son was registered in Sweden under a fraudulent birth certificate and a fraudulent United States passport that was obtained as a result of this fraudulent birth certificate. Both the Swedish Government and myself have provided proof beyond a shadow of a doubt of this action. I have requested that my U.S. attorney issue a charge of passport fraud to not avail. Passport fraud, by the way, is extraditable from almost any country. The evidence is included within the handouts.

The Swedish prosecutor indicated that with an issuance of passport fraud, he could expand the scope and search for my son to include obtaining the phone and bank records of those known to be illegally hiding him. Without the passport fraud warrant, he will do nothing. He indicated to my attorney—I hear this a lot—that if the United States is not willing to address this issue, then why should Sweden? I think this makes a lot of sense. It is a question we need to ask ourselves. Why should other countries take child abduction seriously if we are not willing to?

Now, if we can prosecute parents who abduct children on more than one crime, then we can increase the chances of extradition. If we can have their passports revoked, then we can have the possibility of deportation which has worked in the past. If we show these other countries that we are serious by our actions and our 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 do not treat the abduction of our children as a serious matter, then how can we expect those other countries involved to fight for our children's return?

Up until recently, the huddled masses of left-behind parents and their abducted children in their patient suffering. Every day these parents experience the agony that only a parent can feel when their child has been stolen away from them. They become bitter at the indifference they experience from the Government officials that are sworn to uphold the laws of their country. They have been kept at bay by hundreds, perhaps thousands of U.S. Attorneys who refuse to issue international parental abduction warrants. How much longer will the U.S. Justice Department remain deaf to futile cries of these left-behind parents and their abducted children?

The tide is changing left-behind parents of abducted children are standing up and starting to be heard, thanks to lawmakers such as you who are listening. We are crawling out of our isolated existence and realizing that we are no longer alone. We are now networking together and finding we share a common injustice at the hands of our own Justice Department. It is evident that it is the will of the American people to do something drastic about this growing problem, and I am happy to say that I understand that you are listening.

The miracle that we can create here today is for the Justice Department to start taking this crime seriously and to support the wishes of the American people and this Congress by strictly enforcing the International Parental Kidnapping Act of 1993 and to start cooperating with parents.

Ms. Reno has the unique honor of being part of the growing tide of change and becoming a part of the solution to this problem. She has before her an opportunity to send out a clear message that the United States is not going to stand for the abduction of their children. Period.

In a recent July 30th, 1998 article in the Los Angeles Daily Journal, featuring my case, Nancy Nayak from the National Center for Missing and Exploited children quoted that "The Hague process is very lengthy and expensive and at best it can take 6 months to a year," not 6 weeks as was quoted to me in the publication that I received from the OCI. "Even with the Hague Treaty, the State De-

partment reports there is only a 30 percent chance of getting your child back." Most of that 30 percent are made up of voluntary returns. In some countries such as Sweden, Germany, and Austria, the percentage rates are far worse.

I can sit here and complain about the Swedish Government who granted the abductor of my son secrecy protection, which is the equivalent of the witness protection program here in the United States, because she presented the Swedish authorities with false documentation and false claims that her life was in danger. I can complain about the lack of police effort in Sweden to find my son when in fact he was attending a local public school three blocks from the police station under his correct name and Swedish ID number. I can even complain about the releasing of police investigation files to the abductor's attorney detailing the scope and the methodology of their search for her. I can complain that the Swedish Government financially assists the abductor, who is an American citizen, with legal aid and welfare, but yet claims to not know where she is. But today is not the forum to complain only about Sweden. I have directly confronted the Swedish Government with these issues and will continue to do so.

We are here today with many other left-behind parents questioning the lack of compliance of our Hague Convention by other countries, as we should, but it is equally disturbing that our own State Department Office of Children's Issues is sending a clear message out to all the Central Authorities involved that we are not adequately concerned for our children. This is shown by the lack of returned correspondence, by their constant turning over of personnel, their ridiculously vague and soft treatment of violations by other Central Authorities, their inherent lack of knowledge and training regarding foreign laws, and their overall lack of concern for the parents they are supposed to support. If I can use my terribly mismanaged case as a barometer as to how the OCI is doing, then I cannot begin to imagine the lack of support that other parents with softer voices are receiving from the OCI.

As I understand it, new counselors have little formal training in their new posts and are taking on an incredible workload. My counselor had 3 days of on-the-job training before taking the post over. After writing to Ms. Ryan, who is here with us today, the Assistant Director of Consular Affairs, about these concerns, she indicated that a counselor handles between 140 and 150 cases. I know these parents here could join me in knowing that handling one case is almost too much. How could anyone handle that many cases? It is impossible. It is an impossible workload even for an experienced counselor who has been in their post for a couple of years. But to turn that level of workload over to an inexperienced person with no formal training is tragic because it concerns the welfare of missing and abducted children, and each mistake that they make, each lack of quick action, each unanswered correspondence directly relates to a child's life. The Department is left to relearn the lessons that they have already learned. The price paid for those lessons were the souls and the loss of childhood that countless numbers of past abducted children have already paid.

Now are we to rob countless others again because we simply have an inefficient system of inadequate training that clearly does

not work? It is perfectly clear to me that we have a very serious problem here, and it is our children who will once again pay the price. Please name another area within the State Department that handles a commodity that is more precious than our children.

As a world leader, other nations look to us for that leadership and to deliver an example in which to follow. It is any wonder that we have such a problem with Hague Convention compliance abroad? If we are sending out a message that we are soft on the international parental abduction of our own children, then how can we possibly expect other countries to hold the higher standard that is going to be necessary to increase returns above 30 percent? Every child who is not returned is subject to a flagrant violation of their human rights as American citizens. 7 out of every 10 children abducted out of this country through the Hague Convention will never again see American soil.

I have come up with a couple of solutions as I have seen it. I am not a lawmaker. I am not a lawyer, but it just some things, after 2 and a half years, that make some common sense to me.

First of all, we need strict enforcement by the Justice Department of the International Kidnapping Crime Act of 1993. 1 one-hundredth of 1 percent prosecution rate is inexcusable, and it sends a message out to every parent who is thinking about abducting their child that no one is going to prosecute them. It makes international child abduction a viable option for every parent who is going through a divorce, and it needs to stop.

We need to educate our U.S. Attorneys about parental abduction and to instruct them to take an aggressive stance in prosecuting these cases.

We need a person right here in Washington, D.C. At the Justice Department's Office of International Affairs who has the sole job to be in charge of international parental kidnapping. If we are having 1,200 kids leaving a year out of this country—or more—1,200 cases, then I would think that would warrant having an individual in charge of that. They would provide a consistency that we do not have now for left-behind parents to get a universal answer and a solution to their problems and a forum for U.S. Attorneys to ask the needed questions that they need to know.

We need to have every international abduction case broadcasted worldwide. In a bold and heroic effort by the International Broadcasting Bureau of the U.S. Information Agency, a program is now underway to broadcast our search for these fugitives who abduct our children. These broadcasts represent a two-front war against international abductions and illustrates one attempt of direct action by the U.S. Government to solve this problem. I am happy to say that I am seeing a branch of the U.S. Government that is taking action, and I applaud them.

This first front offers a very real chance to provide the international public with the information needed to effect the successful returns of these abducted children, but the second front represents a much larger stage for a much larger picture. These broadcasts will serve as a forum for the United States to deliver how serious they intend to deal with international abduction of their children.

Mr. Charles Goolsby and the International Broadcasting Bureau of the U.S. Information Agency is to be commended for their val-

iant effort toward assisting in the return of these abducted children and should stand as an example of what real change looks like for all Justice Department officials everywhere.

The CHAIRMAN. Mr. Marinkovich, we must ask you to conclude in the next couple of minutes, if you will.

Mr. MARINKOVICH. I have got about 45 seconds left.

The CHAIRMAN. That will be fine.

Mr. MARINKOVICH. I agree with Tom Johnson that we need to move the Office of Children's Issues from the State Department to the Civil Branch of the Justice Department or to a private organization such as the National Center for missing and Exploited Children who are pioneers in this field. If that is not possible, then we need to do what we need to do to at least double the number of counselors handling existing cases. 140 to 150 cases per counselor is unmanageable, and it is our children that suffer.

We need to have studies into individual compliance records of each country which we deal with. We absolutely should not pass any further treaties with countries who are not currently in compliance with the Hague Convention because if they are not supporting our end of the treaties at this point, what makes us think that they are going to comply with mutual legal assistance treaties?

We should impose some further duty on imports from countries that put money into a fund to help these searching parents who are taxed hundreds of thousands of dollars looking for their children in relationship to how flagrantly the countries violate the Hague Convention.

In closing, again I want to acknowledge that I am not a lawyer, that I am not an attorney, that I am not a lawmaker. I guess by right I was invited here because I am the father of Michael and Gabriel and a man that has been involved in a 2½ year struggle to get them back. I pray that we can create the miracle that I discussed in the beginning of this testimony here today by starting the ball rolling and by all of us changing the way in which we think about international parental abduction and to send a very strong and serious message out as the world leaders that we are not going to stand for it anymore. Even if we put an extradition request out there and it will not be honored, the context of us putting it out creates action.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Marinkovich follows:]

PREPARED STATEMENT OF PAUL MARINKOVICH

I wish to thank the Committee for the honor of speaking about America's most precious resource, our children.

My 6-year-old son Gabriel was lost to an act of International Parental Abduction on August 19, 1996. Over the last 773 days I have been engaged in a battle on several fronts for his safe return. As both a father and as an executive director and co-founder of the International Child Rescue League, I find it important to hold the proper context in both my case and interacting with others. Our mission statement is as follows:

By holding the sacred bond of parent and child in its highest regard, we stand for the right of all children to receive the love of both their parents. We have faith that all parents really want to do what is best for their children, but realize that sometimes decisions are made out of anger rather than love. It is our firm belief, that through individual case support of missing and abducted children and by enrolling the people of every nation in this vision, that a miracle is indeed possible. We work toward the day when

children everywhere will be blessed with a world in which parental kidnapping is no longer a threat to their growth, development, and stability.

I am here today in support of that miracle. One dictionary defines a miracle as "an event believed to be an act of God or of a supernatural power." I contend that a miracle is a shift in one's perception or their thinking. If we can start to change the way we all think about International Child Abduction then we can indeed create a miracle here today.

JUSTICE DEPARTMENT

Lets first look at the actual act of parental abduction itself and how it relates to children. 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.

In 1993, the American people and this 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 that 3 years, or both.

According to a August 31, 1998 newspaper article in the Ventura County Star about my case, Nancy Nayak who is the Assistant Director of 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, only 10 arrest warrants have been filed for these parents, and only one has been successfully prosecuted.

I visited Washington DC in June of this year and talked to several members of the Senate and Congress. I was told that we are a nation of laws. I also was informed that laws are 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 1/100th of 1 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 1/10th of 1 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 believe that some, if not most, of this increase can be directly attributed to the inexcusable disregard for enforcement of the International Parental Kidnapping Act of 1993 by our Justice Department.

In my case after a long emotional and financial drain, I was able to join the ranks of the 1/10th of 1 percent of the cases that result in a warrant. This was only achieved after a 6 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.

My son has been abducted into an underground organization in Sweden. I have won my Hague cases in Sweden and have full custody in both the United States and Sweden. The Swedish Government has uncovered conclusive proof that my son was registered in Sweden under a fraudulent birth certificate and a fraudulent United States Passport that was obtained with this fraudulent birth certificate. Both the Swedish Government and myself have provided proof beyond a shadow of a doubt of this action. I have requested that the U. S. Attorney issue a charge of

Passport Fraud to no avail. The evidence is included within the handouts of the written account of my testimony.

The Swedish prosecutor indicated that with an issuance of passport fraud he could expand the search for my son to include obtaining the phone and bank records of those known to be illegally hiding my son. Without the Passport Fraud warrant he will do nothing. He indicated to my attorney, that if the United States is not willing to address this issue then why should the Swedes. His request makes sense. Why should other countries take child abduction seriously if we are not willing to?

If we can prosecute parents who abduct on more than one crime, then we can increase the chances of extradition. If we can have their passports revoked, then we have the possibility of deportation which has worked in the past. 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, then how can we expect those other countries involved to fight for our children's return.

Up until recently, the huddled masses of left behind parents and their abducted children have been isolated in their patient sufferance. Every day these parents experience the agony only a parent can feel when their child has been stolen away. They become bitter at the indifference they experience from the government officials sworn to uphold the laws of their country. They have been kept at bay by hundreds, perhaps thousands, of U.S. Attorneys who refuse to issue International Parental Abduction Warrants. How much longer will the United States Judicial System remain deaf to the futile cries of these left behind parents and their abducted children?

The tide is changing. Left behind parents of abducted children are standing up and starting to be heard. We are crawling out of our isolated existence and realizing that we are not alone. We are now networking together and finding we share a common injustice at the hands of our own Justice Department. It is evident that it is the will of the American people to do something drastic about this growing problem.

The miracle we can create today, is for the Justice Department to start taking this crime seriously and to support the wishes of the American people and this Congress by strictly enforcing the International Parental Act of 1993 and start cooperating with parents.

Ms. Reno as the Attorney General, you have the unique honor of being part of the growing tide of change and becoming a part of the solution. You have before you, an opportunity to send out a clear message that the United States is not going to stand for the abduction of children, period.

STATE DEPARTMENT

In a recent July 30, 1998 article in the Los Angeles Daily Journal (a well recognized legal newspaper) featuring my case, Nancy Nayak from the National Center for Missing and Exploited Children quoted that, "The Hague process is very lengthy and expensive and at best it can take from 6 months to a year" (not six weeks as quoted by the publication I received from the OCI). She further states, "Even with the Hague Treaty, the State Department reports there is only a 30 percent chance of getting your child back." Most of that 30 percent are made up of voluntary returns. In some countries, such as Sweden, Germany, and Austria, the return rate is even worse. I was never informed that my chances of getting my son back via the Hague Convention are less than 30 percent. Is that level of return acceptable to the United States?

I can sit here and complain about the Swedish Government who granted the abductor of my son secrecy protection (the equivalent to our witness protection program) because she presented the Swedish authorities with false documentation and false claims that her life was in danger. I can complain about the lack of police effort in Sweden to find my son, when in fact he was attending a local public school three blocks from the police station under his correct name and Swedish ID number. I can complain about the releasing of police investigation files to the abductor's attorney detailing the scope and methodology of their search for her. I can complain that the Swedish Government financially assists the abductor, who is an American citizen, with legal aid and welfare but yet claims they do not know her location. This is not the forum to complain about Sweden. I have directly confronted the Swedish Government with these issues and will continue to do so. Already, some changes are taking place.

We are here today with many left behind parents questioning the lack of compliance of the Hague Convention by other countries, as we should, but it is equally disturbing that our own State Department Office of Children's Issues is sending a clear message out to all the Central Authorities involved that we are not concerned

about our children. This is shown by their lack of return correspondence, their constant turning over of personal, their ridiculously vague and soft treatment of violations by other Central Authorities, their inherent lack of knowledge and training regarding foreign laws, and their overall lack of concern for the parents they are supposed to support. If I use my terribly mismanaged case as a barometer as to how the OCI is doing, then I can't begin to imagine the lack of support other parents with softer voices are receiving from the OCI.

As I understand it, new consulars have little formal training in their new post and are taking on an incredible work load. My consular had three days of on the job training before taking the post over. After writing to Mary A. Ryan, the Assistant Director of Consular Affairs about these concerns, she indicated that a consular handles between 140 to 150 cases. This is an impossible workload even for an experienced consular who has been in that post for two years. To turn over that level of workload to an inexperienced person with no formal training is tragic because it concerns the welfare of missing and abducted children and each mistake, each lack of quick action, each unanswered correspondence directly affects a child's life. The Department is left to relearn the lessons already learned. The price paid for those lessons were the souls and the loss of childhood that the countless numbers of past abducted children have already paid. Now are we to rob countless others again because we simply have an inefficient system of inadequate training that clearly doesn't work? It is perfectly clear to me that we have a very serious problem and it is our children who will once again pay the price. Please name another area within the State Department that handles a commodity more precious than our children.

Other nations look to us for world leadership and to deliver an example in which to follow. It is any wonder that we have such a problem with Hague compliance abroad? If we are sending out a message that we are soft on the international parental abduction of our children, than how can we expect other countries to hold the higher standard necessary to increase returns above 30 percent? Every child who is not returned is subject to a flagrant violation of their human rights. Remember 7 out of 10 children will never see American soil again.

Our miracle here is for the United States to stand as a world leader with an aggressive context that we are not going to stand for the abduction of our children. This can be put forth by every State Department official in every letter and phone call. We must change the way in which we lead the world for the benefit of our children.

SOLUTIONS

(1) We need strict enforcement by the Justice Department of the International Kidnapping Crime Act of 1993.

(2) We need to educate our U. S. Attorneys about parental abduction and instruct them to take an aggressive stance in prosecuting these cases.

(3) We need a person in Washington D.C. at the Justice Department's Office of International Affairs who is only in charge of International Parental Kidnapping. They would provide a consistency so that left behind parents can get a universal answer and solution to their problems and strict enforcement can be assured.

(4) We need to have every international abduction case broadcasted worldwide. In a bold and heroic effort by the International Broadcasting Bureau of the United States Informational Agency, a program is now under way to broadcast our search for these fugitives who have abducted our children. These broadcasts represent a two front war against international abductions and illustrates one attempt of direct action by the United States Government to solve this problem. The first front offers a very real chance to provide the international public with the information needed to affect the successful returns of these abducted children but the second front sets the stage for a much larger picture. These broadcasts will serve as a forum for the United States to deliver how serious they deal with the international abduction of their children. Mr. Charles Goolsby and the International Broadcasting Bureau of the United States Informational Agency is to be commended for their valiant effort towards assisting in the return of these abducted children and should stand as an example for all Justice Department officials everywhere.

(5) We need to move the Office of Children's Issues from the State Department to the Civil Branch of the Justice Department or to a private organization such as the National Center for Missing and Exploited Children. If that is not possible, we need to at least double the number of consulars handling these cases.

(6) We need to have studies into the individual compliance records of each of the countries in which we deal with. We absolutely should not pass further treaties with countries who are not currently in compliance with the Hague Convention.

(7) We should impose further duty on imports from countries and put that money in a fund to help searching parents in those countries in direct relation to the amount of non-compliance they are exhibiting.

The CHAIRMAN. Very good. Thank you, sir.

Now what I hope is good news. I have been interested in this matter for a long time. Senator Biden just leaned over to me and said we have got to get the State Department off the dime.

Now, you can lay the blame either way, but the blame should exist in the first place.

Let me say in defense of a lady who does not belong to the same party that I do, but the Attorney General has mentioned this thing to me voluntarily at functions which she and I have attended. One of them was a state dinner. I know it is on her mind, and I know she wants to do something. This Government is so big, unless people make themselves heard, as you have, nothing much happens. But something is going to happen and I think Joe Biden feels the same way about it.

Senator BIDEN. Mr. Chairman, all four cases are different. All four cases are tragic. All four cases make any parent think, oh, my God, what would I do?

I would like to say I admire your restraint. I mean that sincerely. I admire your restraint.

The CHAIRMAN. Amen.

Senator BIDEN. I am not certain that I would possess that same restraint. I hope I would but I do not know what I would do.

The second point I would like to make is, since the cases are different, some of the action we can take legislatively and by attempting to change interpretations of treaties would help some of you, would not help others of you. There is not a single legislative solution that would solve all four of your problems, and you represent all the same end result but four different circumstances.

The country in question has overruled you in the end. Well, they have. The most recent ruling in Sweden—I mean in—excuse me.

Mr. SYLVESTER. In Austria.

Senator BIDEN.—in Austria, the Supreme Court reversed itself on the grounds that she is now settled. Right?

Mr. SYLVESTER. Well, in reality, if I can clarify, the Supreme Court—there is, was, and will always remain a valid and final order under the Hague Convention Treaty to return Carina to the United States. The distinction is on the second round, when the Supreme Court received the review about a year later, what they have decided is to not enforce their valid and final order for return. Perhaps a subtle difference, but I think a distinction. They did not reverse themselves.

Senator BIDEN. The bottom line is under the treaty they are allowed to conclude the child has become settled, so you are at a disadvantage legally compared to where you were legally before you were at substantive disadvantage from the day this began.

The only point I am trying to make is not any one of you are better or worse positioned in terms of what you are entitled to as a matter of God given right. What I am suggesting is one solution would not solve all your problems.

Case in point. Yours, sir, seems to me to be an easy one for us. I am not as gentlemanly, and I mean this sincerely, and I am not

as subtle as the chairman. I think the chairman and I should tell the Secretary of State and the Attorney General very simply, if the facts as you stated them to us are true and that is that the State Department—this passport fraud has occurred, then I am prepared to say to the Secretary of State personally and to the Attorney General personally, if the chairman is willing to do this, if you do not issue that forthwith, immediately, the next 48 hours, you are going to play hell with me on every single thing you want, everything you want. I imagine we can get their attention. That is a relatively easy thing for us to do.

Now, it is much more difficult for us to solve the other problems that are here. It does not mean they are not able to be solved. What I am suggesting to you is that you have raised—and I particularly appreciate, Mr. Johnson, your specific recommendations as to how to better facilitate the application of American law in a fair implementation of the Hague Treaty. All of you have made specific recommendations.

I know we are going to have to go vote in just a second, so I will not take any more of the chairman's time except to say this. Where there is a specific, explicit thing we can do, like that old joke about the way you get the donkey's attention is a 2 by 4 across the head, where that works, I am willing to apply the 2 by 4. It seems to me, subject to my independently verifying what you have told us, that a 2 by 4 may work in your case. It is going to take a little bit more in the other three cases.

But I am prepared to work with the chairman and with the Senator from Ohio to figure out how we make the Government—we provide the agencies in question with the manpower and resources so they cannot say that it was a lack of resources, they cannot say it was a lack of support that they were getting for them to do their job. If that includes moving from one Department to another, I am willing to entertain that as well.

I am sorry to take so much time, Mr. Chairman. I will cease and desist.

The CHAIRMAN. Is this not the good news that you wanted?

Lady MEYER. Can I make one comment?

The CHAIRMAN. You may have the last word because you talked briefly.

Lady MEYER. Thank you.

I completely agree with you. Each of our individual cases are different, but we have one point in common, that in all our cases our children were not returned to our countries for different reasons. But since then, because we are dealing with particular countries that do not have enforcement of access rights, none of us have been able to see our children, and I think that is a very, very unfortunate issue, not only the non return of the children, but access.

Senator BIDEN. I agree with you.

Lady MEYER. I can list which countries. In France, for instance, if there is no access, the parent is immediately arrested, put in jail. In Britain, access is also enforceable. In Germany, Austria, I think Sweden and Denmark, it is not, and that is another huge issue for us.

Senator BIDEN. It is and I appreciate it. I did not mean to belittle the other—

Lady MEYER. No, no. Not at all.

The CHAIRMAN. Very well. I take note of the fact that we have two Michaels here at the dais.

I know you will not hesitate to respond to questions filed in writing by Senators who were unable to be here but who have an interest in this. Now, make haste to respond to those so that we may make the record as complete as possible.

I know you appreciate what Senator Biden has said. That is the way he operates, and I am glad to be working with Joe Biden.

Thank you very much, and if there be no further business to come before the committee, we stand in recess.

[Whereupon, at 12 p.m., the committee was adjourned, subject to the call of the Chair.]

APPENDIX

RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED FOR THE RECORD BY THE COMMITTEE

UNITED STATES DEPARTMENT OF STATE,
WASHINGTON, D. C.,
February 8, 1999.

Hon. Paul Coverdell,
United States Senate.

DEAR SENATOR COVERDELL: Following the October 1, 1998, hearing on international parental child abduction at which the Attorney General testified, additional questions were submitted for our response. We apologize for the long delay in this response. However, please be assured that we have been in continuous contact with Mr. Goldstein and have also pressed the Swiss Central Authority for a rapid resolution of the process for enforcement of the court order to return Kelly to her father.

If we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,

BARBARA LARKIN,
ASSISTANT SECRETARY,
Legislative Affairs.

Enclosure:
As stated.

QUESTIONS SUBMITTED BY SENATOR COVERDELL

HAGUE CONVENTION CASE OF KELLY GOLDSTEIN

Question. What is the status of this case and what steps are being taken by the USG (United States Government) to assist Mr. Goldstein in enforcing the court orders pertaining to his daughter?

Answer. Mr. Goldstein's daughter Kelly was abducted by her mother on or about September 4, 1996. Mr. Goldstein filed for return of Kelly pursuant to the Hague Convention on October 1, 1996. In November, 1996 an initial Swiss court decision refused to return Kelly based on Article 13 of the Hague Convention. Article 13 stipulates that the judicial authorities of a given state may refuse to order the return of a child "if there is grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation." Mr. Goldstein successfully appealed this decision and on March 6, 1997 his daughter was ordered returned to the U.S. Kelly's mother appealed this decision but the Appeals court turned her down on April 25, 1998. Enforcement of the court order was subsequently suspended when the mother appealed to the Swiss Federal Court—the highest court in Switzerland. This court rejected appeal in September and decided in favor of Mr. Goldstein.

Mr. Goldstein's case was then sent to the appropriate cantonal court for execution of the return order. The Swiss Central Authority, (SCA) responding to inquiries by the U.S. Central Authority, has said the case is being prolonged by the need to make the best arrangements for the return of the child. Further confusing the issue are accusations of abuse against Mr. Goldstein, which he has been trying to get investigated in order to clear his name and be able to go to Switzerland to get Kelly. The Swiss Central Authority has said that such accusations can play a role in the decision of the cantonal authorities regarding enforcement of return.

The most recent development is the apparent withdrawal of the presiding cantonal judge in the case because, as related by Mr. Goldstein, he had a conflict of interest.

Question. What additional steps could the USG undertake to assist in this case, if any? If other measures are available, why have they not been taken to date?

Answer. The United States Central Authority for the Hague (the Office of Children's Issues in the Department of State) has been in regular contact with the Central Authority in Switzerland. We have encouraged a rapid resolution of the case and have requested explanations for the continuing delays and appeals. In Switzerland, as in other European countries, the national and local laws permit the kind of dilatory appeals process in civil matters that we have seen in Mr. Goldstein's case. The only other action that could be taken in the short term by the U.S. Government would be a diplomatic note. We have not yet sent such a note because it is likely the Swiss Government would answer that the case was still subject to an ongoing legal process. We will, however, watch closely how the new judge handles the enforcement process, and consider further whether a diplomatic note might yet be an effective way to proceed.

Question. Is the apparent lack of cooperation by Swiss authorities in this case typical? Is Switzerland generally cooperative in these cases and in compliance with the Hague Convention?

Answer. There is no typical case since circumstances vary. As a private civil legal matter between the parents, the progress of each Hague case depends on the individuals involved and the circumstances of the case, including complex factors such as the resources of the private parties involved, claims by either parent, the operation of the legal system in the country where the child is located, the age of the children, the passage of time, etc.

The Swiss Central Authority has monitored and facilitated the process in this case, and has been responsive to our concerns, but it does not have authority to determine the actions of the judiciary. The Appeals court overturned the trial court's denial of return. The Swiss Supreme Court has upheld the return of the child to the United States. Statistically, since July 1, 1988, when the Convention became effective between the United States and Switzerland, 39 abduction cases have been closed; 20 of these were closed by agreements or court decisions to allow either return of or access to the child. The remaining 9 cases were closed for reasons other than return of or access to the child. Currently, 6 cases are pending: 4 involving applications for access and 2 seeking return, including that of Kelly Goldstein.

ABDUCTION OF CARINA MARIA SYLVESTER BY MONIKA ROSSMANN (AKA MONIKA SYLVESTER) AND THE GOVERNMENT OF AUSTRIA

Chronology

- 10/30/95 Carina Sylvester is taken by her mother from the United States to Austria.
- 10/31/95 Thomas Sylvester files Application for return of the child with U.S. State Department under the Hague Convention Treaty on the Civil Aspects of International Child Abduction ("the Hague Convention Treaty") to which both the United States and Austria are signatories. In separate litigation, Thomas Sylvester files a Complaint for Divorce in the Oakland County Michigan Circuit Court and an Ex Parte Order for joint custody is entered.
- 11/08/95 Austrian Central Authority confirms receipt of the Hague Application.
- 11/21/95 Ex Parte Interim Order for Custody of Carina Sylvester is amended. Thomas Sylvester granted temporary physical custody of Carina Sylvester and Monika Sylvester supervised visitation in Michigan.
- 12/15/95 Application for Assistance makes its way through the Austrian Ministry of Justice to the court of the first instance in Graz, Austria where hearings were conducted by Judge Katter. Monika Sylvester raises her defenses to return the child under the terms of the Hague Convention Treaty.
- 12/18/95 Thomas Sylvester travels to Austria to participate in the legal proceedings.
- 12/20/95 Thomas Sylvester participates in proceedings with District Court of Graz. District Court of Graz Judge Christine Katter enters court order for Carina to be returned to the United States pursuant to the Hague Convention. Monika Sylvester did not comply with the Order of the Austrian Court.
- 12/22/95 Graz court specifically orders supervised visitation for Thomas Sylvester to see Carina in Graz on Christmas Eve, 1995 and on December 27, 1995. In separate litigation, Monika Sylvester is served with documents on Michigan court proceedings in accordance with Michigan law.
- 12/24/95 Thomas Sylvester arrives at Family Institute for Learning in Graz, Austria in accordance with supervised visitation scheduled by Austrian court order. Monika Sylvester does not comply with the Austrian court Order and does not bring Carina to the appointed place for this visitation.
- 12/27/95 Thomas Sylvester arrives at Family Institute for Learning in Graz, Austria in accordance with supervised visitation scheduled by Austrian court order. Monika Sylvester does not comply with the Austrian court Order and does not bring Carina to the appointed place for this visitation.
- 12/28/95 Thomas Sylvester returns from Austria to the U.S. without seeing Carina.
- 01/19/96 The Austrian Court of Appeals affirms the December 20, 1995 Graz Court Order for the immediate return of Carina to the United States. This filing of the Appeal however, initiated an automatic stay of enforcement of the December 20, 1995 order which ultimately continued through May 7, 1996.
- 1/23/96 A Default is taken by Monika Sylvester in the Michigan court proceedings.
- 2/27/96 Austrian Supreme Court affirms the lower court order for return of Carina. However, the Order is not official until it is "delivered". It was delivered to the District Court of Graz on May 7, 1996. Once delivered, all stays were lifted and the initial order from the Graz Court dated December 20, 1995 became finally enforceable.
- 3/7/96 Motion filed for Entry of Default Judgment of Divorce in Michigan court.
- 3/13/96 Appearance of Monika Sylvester in Michigan court proceedings through counsel and filing of a Motion to Set Aside the Default.
- 3/14/96 United States Central Authority forwards to Thomas Sylvester's lawyer, Jan McMillan, a copy of the Austrian court of first instance order and a copy of the decision of the Austrian appellate court, upholding the lower court's decision to order return of the child pursuant to Hague Convention.
- 4/5/96 Following extensive hearing in Michigan Circuit Court, Order entered denying Monika Sylvester's Emergency Motion for Order Preventing Removal of Minor Child from Custody of Defendant Pending Hearing and for Temporary Spousal Support and Travel Expenses.
- 4/16/96 Order entered in Michigan Court proceedings denying Monika Sylvester's Motion to Set Aside the Default. Default Judgment of Divorce entered in Michigan court. Thomas Sylvester granted sole legal and physical custody of Carina. Monika Sylvester granted supervised visitation in Michigan. No appeal taken.
- 5/1/96 Order to Seal Michigan Court Record pursuant to MCR 8.105(D) entered.

Chronology—Continued

- 5/06/96 Austrian Central Authority acknowledges United States Central Authority faxes of April 17 and May 1 asking if the Austrian Supreme Court had made a decision and informs the United States Central Authority that no decision had yet been made.
- 5/07/96 Austrian lawyer informs Thomas Sylvester the Austrian Supreme Court order was delivered to the Graz court and requests Thomas Sylvester travel to Austria to participate in a recovery attempt orchestrated by Judge Katter.
- 5/08/96 Thomas Sylvester and Jan McMillan travel from United States to Austria.
- 5/09/96 Thomas Sylvester and Jan McMillan meet with Dr. Stephan Moser in Graz to discuss arrangements for the child recovery as arranged by the court.
- 5/10/96 Failed attempt at civil enforcement of the Austrian court orders at the home of Monika Sylvester's parents, Werner and Gertraud Rossmann in Austria.
- 5/15/96 Monika Sylvester submits a petition to the District Court of Graz to remove Judge Katter from the case.
- 5/16/96 United States Central Authority asks Austrian Central Authority to confirm that the Austrian Supreme Court had made a decision on this matter in favor of the applicant and asks for assistance in enforcing this order.
- 5/29/96 The United States of America V Monika M. Sylvester, Criminal Complaint No.96-80432 for international parental kidnapping under 18 USC 1204 issued in U.S. District Court. Red and Yellow Notices issued by Interpol.
- 5/30/96 United States Central Authority forwards to lawyer Jan McMillan the Austrian Central Authority fax confirming that on February 27, 1996 the Austrian Supreme Court had dismissed Monika Sylvester's appeal and stating that "the decision of the district court of Graz of December 20, 1995 has become final".
- 6/10/96 The supervisory court in Austria dismisses Monika Sylvester's petition for removal of Judge Katter of the Graz court from the case due to prejudice.
- 6/18/96 Austrian lawyer for Thomas Sylvester, Dr. Stephan Moser, files a second application for civil enforcement of the December 20, 1995 court Order.
- 6/25/96 Court of the first instance in Graz transfers jurisdiction to court of the first instance in Obergralla based on Monika Sylvester's allegations that she resides in Obergralla. Monika Sylvester is actually hiding with the child.
- 6/26/96 United States Central Authority asks the Austrian Central Authority what steps are being taken to enforce the December 20, 1995 court return order. Monika Sylvester files a request that the Austrian Ministry of Justice not recognize the Michigan Judgment of Divorce.
- 6/27/96 United States Central Authority asks Embassy Vienna to attempt a welfare and whereabouts visit with the child. Austrian Central Authority informs the United States Central Authority "it is up to his attorney-at-law (Moser) to take all further steps to enforce the decision of the District Court of Graz".
- 6/29/96 Austrian Court of Appeals decides in favor of Reopening the Hague Convention case.
- 7/03/96 United States Central Authority informs the Austrian Central Authority that it was up to Austrian authorities to enforce Austrian court orders.
- 7/05/96 Embassy Vienna faxes Jan McMillan report on consular investigator visit to Graz to try to locate Carina and to speak with the police and others involved in this case. Embassy also informs Jan McMillan that United States Ambassador had personally written to the Governor of Styria, Austria, to ask for her assistance in returning Carina to the United States.
- 7/10/96 Thomas Sylvester requests via letter the assistance of President Bill Clinton for the return of Carina to the United States. In a separate letter addressed to the First Lady Hillary Rodham Clinton, same request is made for Canna.
- 7/12/96 United States Central Authority writes to head of the Austrian Central Authority to express U.S. concern and frustration over the difficulties encountered in enforcing the December 20, 1995 order and asks what measures they are taking to enforce their order.
- 7/17/96 Austrian Central Authority informs United States Central Authority that the mother and child moved from Graz to Obergralla and that therefore the district court of Leibnitz would be the court of competent jurisdiction.
- 7/26/96 Thomas Sylvester appeals District Court of Graz decision of June 25, 1996 transferring the venue to Obergralla.
- Date unknown Monika Sylvester submits a petition to Re-open Hague Convention case.

Chronology—Continued

- Date un- known Motion to Re-open Hague Convention case denied by Judge Katter and appealed to Austrian Court of Appeals by Monika Sylvester.
- 8/21/96 United States Central Authority again writes detailed letter to Austrian Central Authority asking that they assist in enforcing the December 20, 1995 order. The Austrian Central Authority responds on August 28, 1996 that it is the sole task of the court to enforce its order.
- 9/03/96 Embassy Vienna reports results of a medical examination of Carina done by Dr. Dieter Schmidt. Carina appears in good health.
- 9/08/96 Austrian Central Authority informs United States Central Authority (and United States Central Authority informs Thomas Sylvester) that on August 29 the court of appeal in Graz overruled the order of the district court to transfer the case to the district court of Leibnitz. The court of appeals also set aside the parts of the May 8 order regarding enforcement measures for return of the child. The appeals court also allowed for further appeal to the Austrian Supreme Court.
- 9/10/96 Embassy in Vienna sends letter to Austrian Central Authority asking that Carina be visited by social worker; Austrian Central Authority replies that local judge sees no reason for such a visit and again states that Austrian Central Authority cannot interfere in court proceedings
- 9/11/96 United States Central Authority speaks with the Austrian Embassy Officer about this case.
- 9/16/96 Decision of Graz Court to suspend divorce proceedings until such time as decision is made on the recognition of the Michigan Judgment of Divorce.
- 9/19/96 United States Central Authority sends cable to Embassy Vienna instructing them to demarche Government of Austria to express United States Government interest in quick resolution of this case and request enforcement of return order.
- 9/23/96 United States Central Authority contacts United States Interpol to see if Austrian Interpol has located mother and child. United States Interpol says several requests have been sent but no reply from Austrian Interpol.
- 9/26/96 Decision of the Ministry of Justice not to recognize the Michigan Judgment of Divorce as valid and enforceable in Austria.
- 10/10/96 Embassy Vienna reports that they visited Government of Austria Ministry of Foreign Affairs and Ministry of Justice (Austrian Central Authority) to discuss case. Both ministries say delay is unfortunate but believe case is being properly handled by the independent judiciary, emphasizing that the administrative branch cannot instruct judicial branch. Says delay is result of "careful and effective lawyering" on both sides.
- 10/15/96 Austrian Supreme Court enters decision to reopen Hague Convention case.
- 10/22/96 Attorney Jan McMillan sends letter to United States Central Authority asking for update on demarche to Austrians. The United States Central Authority calls Jan McMillan to discuss demarche.
- 10/26/96 Jan McMillan faxes copy of Appeals Court decision to reopen case.
- 10/30/96 Jan McMillan files Freedom of Information Application request on all records regarding the return of any children to Austria from the United States under the Hague Convention since October 1995. United States Central Authority gives copy of request to Central Authority/PRI
- 11/19/96 Jan McMillan sends letter to Adair Dyer at the Hague Permanent Bureau about case and asks for his assistance in resolving matter. Also calls United States Central Authority director to discuss case. Wants United States to threaten not to return Austrian children if Carina is not returned. United States Central Authority advises that threat is ill-conceived and possibly illegal.
- 11/26/96 Jan McMillan calls Adair Dyer about case. Tries to contact Austrian Central Authority Schutz but is unable; sends him letter asking if Ministry of Justice would represent father if he no longer retains Austrian lawyer.
- 12/3/96 United States Central Authority sends lengthy query to Austrian Central Authority about the Supreme Court decision, the lack of enforcement, the lack of access, and rewarding the abductor.

Chronology—Continued

- 12/5/96 Austrian Central Authority Werner Schutz replies to United States Central Authority letter. Austrian Central Authority says December 20, 1995 order is still “valid and final”. The court, he says, will only address the question of enforcement of the order, taking into consideration the best interests of the child. Reiterates that Ministry of Justice can not interfere in judicial process. Says father has to petition the court to get access to Carina while case “drags on”. Lastly, says child is not in danger and court will not arrange for social worker to see child.
- 1/2/97 Austrian Supreme Administrative Court denies Thomas Sylvester’s appeal of the Austrian Ministry of Justice position not to recognize the Michigan Judgment of Divorce. United States Central Authority forwards to Austrian Central Authority letter from Jan McMillan regarding reopening of the enforcement issue, separation of powers, access to child and refusal to have child seen by social workers.
- 1/10/97 Jan McMillan says Austrian attorney petitioned court of visitation rights of father in early December 1996.
- 1/21/97 Thomas Sylvester asks United States Central Authority for information on approach by United States Delegation to March Hague meeting regarding the case. United States Central Authority informs Thomas Sylvester that United States Delegation will generally discuss the enforcement of civil judgments and Article 13(b) delays in plenary session, and will have side meeting with the Austrian Central Authority Schutz to discuss this case specifically. United States Central Authority asks the Austrian Central Authority for update on pending visitation request.
- 2/03/97 Thomas Sylvester and Jan McMillan ask for follow-up to Austrian Central Authority on Jan McMillan’s January 2 letter which has not been answered.
- 2/12/97 Decision of the Graz Court on remand directing the child psychologist three weeks to conclude his investigations.
- 4/2/97 Report and recommendation of Dr. Kraft submitted to Graz Court.
- 4/22/97 Response to report of Dr. Kraft filed by Thomas Sylvester.
- 4/29/97 Opinion and Order regarding Visitation. Opinion and Order on Remand granting Monika Sylvester’s petition not to enforce the Order for Return under the Hague Convention.
- 5/28/97 Order of the Austrian Court of Appeals denying Thomas Sylvester’s appeal of the Order Not to Enforce the Order for Return.
- 5/31/97 Thomas Sylvester travels to Austria for visitation with Carina Sylvester.
- 6/2/97 Thomas Sylvester exercises supervised visitation with Carina Sylvester for one hour at the Family Institute for Family Learning in Graz, Austria.
- 6/4/97 Thomas Sylvester exercises supervised visitation with Carina Sylvester for one hour at the Family Institute for Family Learning in Graz, Austria.
- 6/5/97 Thomas Sylvester meets with Swanee Hunt, U.S. Ambassador to Austria in her office at the U.S. Embassy in Vienna. Ambassador Hunt hand-delivers U.S. diplomatic note prepared by the U.S. State Department to the Austrian Ministry of Foreign Affairs.
- 6/6/97 Thomas Sylvester exercises supervised visitation with Carina Sylvester for one hour at the Family Institute for Family Learning in Graz, Austria.
- 6/7/97 Thomas Sylvester returns from Austria to the United States.
- 6/9/97 U.S. Department of State delivers diplomatic note to the Austrian Embassy in Washington, D.C.
- 9/9/97 Order of the Supreme Court of Austria denying Thomas Sylvester’s appeal from the decision of the Court of Appeals on the Reopening of the Hague Case issue.
- 9/10/97 Order issued regarding Austrian divorce case.
- 9/30/97 Austrian Central Authority informs U.S. Department of State that the Austrian Supreme Court decided on September 9, 1997 not to accept the extraordinary Appeal, and that no enforcement measures will be available to return the child to the United States. The Austrian Central Authority closes its file on the original Hague Application.
- 12/9/97 Thomas Sylvester travels to Austria for visitation with Carina Sylvester. Thomas Sylvester and Monika Sylvester meet with Dr. Helga Baumann at the Institute for Family Learning to discuss upcoming visitation matters.
- 12/10/97 Thomas Sylvester exercises supervised visitation with Carina Sylvester for two hours at the Family Institute for Family Learning in Graz, Austria.

Chronology—Continued

- 12/11/97 Thomas Sylvester exercises supervised visitation with Carina Sylvester for two hours at the Family Institute for Family Learning in Graz, Austria
- 12/12/97 Thomas Sylvester exercises supervised visitation with Carina Sylvester for two hours at the Family Institute for Family Learning in Graz, Austria.
- 12/15/97 Dr. Stephan Moser sends letter to Dr. Brigitte Birnbaum, legal counsel for Monika Sylvester, outlining a plan for Thomas Sylvester to see Carina four times in 1998 (during the Easter holiday, a week in June, time during Carina's birthday in September and the Christmas holiday period).
- 12/22/97 Dr. Birnbaum sends a reply to Dr. Moser letter stating that Monika Sylvester wants Thomas Sylvester to pay child support of OS10,000 (\$1,000/month).
- 12/24/97 Thomas Sylvester speaks with Carina on the telephone for Christmas 1997.
- 12/29/97 District Court of Graz order awards Monika Sylvester custody of Carina. The court order does not even address Thomas Sylvester's rights at all.
- 1/13/98 Monika Sylvester notifies Thomas Sylvester via fax of the court order with regard to custody of Carina. Monika Sylvester requests Thomas Sylvester for a suggestion on payment of child support.
- 1/14/98 Thomas Sylvester replies via fax to Monika Sylvester regarding visitation, mirror custody orders in both Austria and the United States, financial and other support for Carina, Monika's statements which are untrue and need to be corrected for Carina's sake, and agreement for future action plans.
- 1/20/98 United States Central Authority sends Jan McMillan the State Department translation of the Austrian custody order. United States Central Authority points Out that the court order does not even address Thomas Sylvester's rights at all, not even visitation, and questions if this is usual in Austria.
- 1/21/98 Monika Sylvester sends fax to Thomas Sylvester emphasizing her position that the plan for 1998 was only to be applied if Thomas Sylvester accepted the Austrian custody order and started child support payments right away. Monika states that visiting rights are to be applied for at the Austrian court. Monika Sylvester states this will be the last letter she sends to me directly.
- 1/22/98 Thomas Sylvester sends fax to Dr. Stephan Moser requesting to proceed with a formal petition to Court for further visitation with Carina.
- 1/27/98 Jan McMillan sends fax to Dr. Stephan Moser requesting advise as to how and when he recommends the petition be brought to the court for visitation.
- 2/2/98 Austrian Court of Appeals order denies Thomas Sylvester's appeal of the custody award to Monika Sylvester.
- 2/4/98 Thomas Sylvester sends a fax to Dr. Stephan Moser to provide thoughts regarding the letter from Dr. Birnbaum of December 22, 1997. Highlights include holiday stay for Carina in the United States, a plan for 1998, child support payments, and a proposal to structure a workable legal solution.
- 2/11/98 Jan McMillan sends fax to Dr. Stephan Moser to discuss a strategy for Thomas Sylvester's formal request for visitation with Carina this Easter.
- 2/16/98 Letter signed by Dr. Brigitte Birnbaum in German stating that a visitation for Thomas Sylvester with Carina at Easter is not possible. Furthermore, Dr. Birnbaum requests Thomas Sylvester to stay in the United States and take money that would be spent in travel and send it to Monika Sylvester.
- 2/27/98 Austrian Court of Appeals denies the appeal from Thomas Sylvester to the District Court of Graz decision on custody dated December 29, 1997.
- 2/25/98 Thomas Sylvester receives Dr. Birnbaum letter dated February 16, 1998.
- 2/26/98 Thomas Sylvester submits 1998 requested visitation dates to Jan McMillan. Thomas Sylvester and Jan McMillan draft the Application for Assistance under Article 21 of the Hague Convention for Rights of Access.
- 3/3/98 Thomas Sylvester signs and faxes Application for Assistance documents to Jan McMillan to proceed with appropriate process of formal submission of the Hague Convention Application for Assistance for Rights of Access.

Chronology—Continued

- 3/4/98 Jan McMillan faxes signed documents to United States Central Authority on the Application for Assistance under Article 21 the Hague Convention on the Civil Aspects of International Child Abduction. In the Application, Thomas Sylvester requests visitation and other access to Carina under the Hague Convention according to a schedule which includes the Easter 1998 holiday and the last week of June, 1998. This request in no way is meant to diminish Thomas Sylvester's prior request for Carina's return under the Hague Convention, which although ordered, has not as yet been honored.
- 3/4/98 United States Central Authority acknowledges receipt of the Hague Application for access to Carina, and forwards the application to the Austrian Central Authority for processing.
- 3/6/98 Austrian Central Authority requests United States Central Authority to provide German translations of the application and the other documents. Austrian Central Authority states a new authorization according to Article 28 of the Convention is needed because this is a new application under Article 21 of the Convention. Before receiving the complete application, the Austrian Central Authority is unable to send it to the competent court.
- 3/9/98 Jan McMillan sends the original signed Application for Assistance to the United States Central Authority which was faxed on March 4, 1998.
- 3/11/98 United States Central Authority sends the Austrian Central Authority fax dated March 6, 1998 to Thomas Sylvester along with a German access application, and requests an Article 28 authorization be signed and returned to the United States Central Authority. Jan McMillan sends a letter via fax to Dr. Stephan Moser including the appropriate Application for Assistance under the Hague Convention for access and letter from Werner Schutz requesting that the American Application written in English be translated to German. Jan McMillan requests Dr. Moser complete the form in German incorporating same information as set forth on the English language version. Time is of the essence and correspondence is forwarded accordingly.
- 3/12/98 United States Central Authority replies to the Austrian Central Authority March 6 fax and forwards the Article 28 Authorization via fax while the original follows by mail. The United States Central Authority also informs the Austrian Central Authority that the German translation of the Hague Access Application will be submitted directly to Austrian Central Authority by Dr. Stephan Moser, the applicant's attorney in Austria. The United States Central Authority requests the Austrian Central Authority to advise what the next steps will be once all the necessary paperwork is received.
- Thomas Sylvester signs the Article 28 Authorization form to empower the Central Authority of Austria to act on Thomas Sylvester behalf or to designate another representative to act, according to the Hague Convention on the Civil Aspects of International Child Abduction. Article 28 document is faxed to Jan McMillan and original sent via express mail for processing.
- 3/13/98 Original signed Article 28 Authorization from Thomas Sylvester received by Jan McMillan and forwarded to the United States Central Authority.
- 3/17/98 Original signed Article 28 Authorization from Thomas Sylvester sent by United States Central Authority via mail to the Austrian Central Authority.
- 3/20/98 Jan McMillan faxes correspondence from United States Central Authority dated March 12 to Austrian Central Authority on to Dr. Stephan Moser and states the need to proceed with this matter quickly so that Thomas Sylvester may have the possibility of visiting with Carina in April. Jan McMillan also asks Dr. Moser to speak with the Austrian Central Authority concerning who is responsible for initiating the court action.
- 3/24/98 Dr. Stephan Moser sends a letter with Jan McMillan's letter dated March 4 to the Austrian Central Authority for reply to process application promptly.
- 3/27/98 Austrian Central Authority replies to Dr. Moser by requesting clarification regarding the dates of the access and the manner in which such access is requested, specifically, the "digitized and normal unsupervised access".
- 3/31/98 Austrian Supreme Court dismisses appeal to enforce original return order.
- 4/1/98 Jan McMillan sends fax to Dr. Moser requesting that he prepare a response to the Austrian Central Authority and provides explanations to help the Austrian Central Authority understand the application along with advice that April 10 rapidly approaches and the Hague Convention requires that the Central Authority proceed with all due speed on processing the request.

Chronology—Continued

- 4/2/98 Dr. Moser provides Austrian Central Authority with clarification on access.
- 4/3/98 Austrian Central Authority informs the United States Central Authority that the German version of the application, signed by Dr. Moser on March 24 has been received on March 26 by the Austrian Central Authority, and the application along with the additional documents are sent to the President of the District Court of Graz today.
- 4/6/98 United States Central Authority sends the Austrian Central Authority fax dated April 3 to Jan McMillan.
- 4/7/98 Graz court enters statements against access submitted by Monika Sylvester.
- 4/9/98 Austrian Central Authority informs the United States Central Authority that the competent court in Austria, the District Court of Graz, has not yet been able to decide the case as the whole file had to be transmitted to the High Court of Appeal in Vienna for decision on an extra-ordinary appeal, and stated that the court tried to reach a friendly settlement with the mother, yet it has not been possible to get into contact with the mother's lawyer. Dr. Stephan Moser informs Jan McMillan that Monika Sylvester's attorney, Mrs. Birnbaum, has sent no message in reply to the request for access, and therefore it is not possible to arrange for some visitation on Easter weekend.
- 4/11/98 Jan McMillan sends letter to United States Central Authority expressing disappointment that Thomas Sylvester was unable to have visitation with Carina as hoped over the Easter weekend, and requests the United States Central Authority forcefully demand that the Austrian Central Authority cooperation to handle this matter in accordance with the terms of the Hague Convention that call for expeditious resolution of applications.
- 4/15/98 Graz court enters statements against access submitted by Monika Sylvester.
- 4/16/98 United States Central Authority sends fax to the Austrian Central Authority to point out that the current request for access is a new, separate case that has nothing to do with the "whole file" that is with the High Court in Vienna for the appeal on the custody/divorce case; and requests the access case be brought before the Graz court immediately so that the question of access to Carina not be entirely controlled by the mother and her attorney.
- 4/17/98 Robert Gasser in Austria submits report identifying activity taken in attempts to hand-deliver court documents to Monika Sylvester. He went to the house where Monika Sylvester was reportedly living and was told documents would not be accepted "because there might be some bomb in the letter".
- 4/22/98 Austrian Central Authority responds to United States Central Authority fax of April 16 on the handling of the court file. Austrian Central Authority states "at the time when the application under 21 of the Convention has been received by the district court the court file was not present and the judge acting in the absence of the competent judge had no knowledge at all of the case and in particular of the content of the court file. The judge's point of view that he had not sufficient information regarding the case to decide immediately on the access-right was justified and must be respected in the light of the independence of the judiciary."
- 4/27/98 Dr. Stephan Moser faxes to Jan McMillan a District Court of Graz decision dated April 22 to reject the Hague Application for Rights of Access.
- 4/29/98 Austrian Central Authority sends fax to the United States Central Authority stating "The Austrian Central Authority wants to inform that the District Court in Graz has by its order of April 22, 1998 rejected Mr. Sylvester's application according to Article 21 of the Hague Convention because of procedural reasons. A copy is attached. It is up to Mr. Sylvester to instruct his attorney-at-law to lodge an appeal."
- 5/4/98 United States Central Authority sends fax to Thomas Sylvester which states "as requested, here's the fax I received from the Austrian Central Authority last week. I'll let you know as soon as we have 'come up with a strategy here.'"
- 5/14/98 United States Central Authority sends fax to Austrian Central Authority to express disappointment and dismay at Graz court interpretation of Article 21 and states "our legal adviser is researching this matter and we will inform you of our next steps." Also asks how many Article 21 access cases have been filed in Austria, how many have been denied, and the legal basis for these denials.

Chronology—Continued

- 5/22/98 Austrian Central Authority replies to United States Central Authority stating “the applicant’s attorney-at-law has lodged an appeal against the order of April 22 and the court files have been transmitted to the appeal court on May 19. It is up to the appeal-court to decide concerning the interpretation of Article 21 of the Convention given by the court of the first instance.”
- 5/25/98 Austrian Court of Appeals enters decision which rejects the appeal with respect to the application for rights of access for April 10, 11, and 12, 1998; the appeal is granted for the rest. The court of the first instance is instructed to enforce the recent ruling, setting aside the previous grounds for rejection.
- 6/1/98 Thomas Sylvester requests United States Central Authority to define when to expect its legal adviser to finish researching the matter and when to expect another letter to inform the Austrian Central Authority of its next steps. Also requests United States Central Authority to identify its strategy in this case.
- 6/2/98 United States Central Authority sends a memo to Thomas Sylvester stating “we’re preparing a letter to William Duncan at the Hague Permanent Bureau concerning your case. We all agree the Bureau needs to know what Austria is doing. We don’t know what action the Bureau can or will take. We decided a diplomatic note to the Austrians won’t do any good”. Thomas Sylvester writes to United States Central Authority to request Welfare and Whereabouts checks on Carina Sylvester be conducted by the United States Department of State.
- 6/3/98 United States Central Authority sends fax to Thomas Sylvester stating “we are in the middle of preparing a letter to the Hague Permanent Bureau regarding the original court decision. I think there’s no reason not to send it even if the appeals court overturned. It’s still an appalling decision.”
- 6/4/98 Austrian Central Authority informs U.S. Department of State that Austrian Appeals Court has overturned the Graz Court of Graz decision on Access.
- 6/7/98 Jan McMillan sends fax to Dr. Stephan Moser to provide a listing of dates through 1998 that Thomas Sylvester has prepared pertinent to request for Rights of Access to Carina.
- 6/15/98 Thomas Sylvester requests United States Central Authority to provide update on developments regarding the Welfare and Whereabouts check on Carina.
- 6/24/98 Thomas Sylvester is informed by Dr. Moser that due to proceedings in Austria, Thomas Sylvester will not be allowed to see Carina next week, as requested. Thomas Sylvester informs United States Central Authority and requests action. United States Central Authority sends urgent fax to Austrian Central Authority asking for assistance immediately and to confirm Carina’s whereabouts. It was noted in the fax that the appeals court’s decision instructed the Graz court to facilitate the visitation request.
- 6/30/98 Jan McMillan informs Thomas Sylvester the United States Central Authority stated Welfare and Whereabouts check failed miserably. United States officials in Austria contacted the opposing legal counsel, who said the child is fine and gave no other information. Reportedly, Austrian Central Authority informed United States Central Authority that if we had concrete evidence to prove to that Carina is not living with the mother, it would be appropriate to go to the Austrian courts for assistance to locate the child. In the absence of concrete evidence, Austrian government/legal system is unwilling to provide assistance. Thomas Sylvester requests the United States Central Authority to instruct the United States Embassy in Vienna to re-do the Welfare and Whereabouts check.
- 7/2/98 Thomas Sylvester sends fax to Dr. Stephan Moser identifying a schedule of dates to be identified in the court Order for Access as follows: September 6–14 and December 20–31, 1998. United States Central Authority again instructs the Embassy in Vienna to make an attempt to see Carina.
- 7/3/98 Austrian Central Authority sends fax to the United States Central Authority stating “I want to inform you that Dr. Moser has lodged—on July 2, 1998—a modified application concerning visitation rights with the District Court of Oraz. On behalf of Mr. Sylvester he requested an unsupervised access for the period from 6 to 14 September 1998 and from 25 to 31 December 1998. As soon as the court renders an order I shall inform you immediately.”
- 7/7/98 Administrative Court in Oraz enters decision that child support payments are to be paid by Thomas Sylvester to the mother in specific amounts beginning October 30, 1995 and continuing to the present and ongoing into the future.

Chronology—Continued

- 7/8/98 Thomas Sylvester requests United States Central Authority to address this case in its entirety with Hague Permanent Bureau and report violations by Austria.
- 7/13/98 Thomas Sylvester asks United States Central Authority when it will send letter to the Hague Permanent Bureau on the developments in my case.
- 7/15/98 United States Central Authority sends a doctor's report dated June 29, 1998 sent by United States Embassy in Vienna. The report from the Austrian doctor, Dr. Dieter Schmidt in Feldkirchen, Austria states that Carina is 104 centimeters tall and weighs 21 kilograms, and the necessary immunization has been given. Thomas Sylvester requests Jennifer Gorland, Assistant U.S. Attorney to issue a Provisional Arrest Request pertaining to the Warrant for Arrest 96-8043 issued by United States District Court Eastern District of Michigan on May 29, 1996.
- 7/21/98 Jennifer Gorland informs Thomas Sylvester the Office of International Affairs will not approve extradition requests in parental kidnapping cases with Austria. Austria will not extradite a citizen for these charges. The Criminal Complaint remains pending but is of limited value unless Monika Sylvester leaves Austria.
- 7/22/98 Dr. Stephan Moser faxes District court of Graz document dated July 7, 1998 to Thomas Sylvester which contains a statement from Monika Sylvester that she will submit her position regarding access to the child within 14 days.
- 7/27/98 District Court of Oraz enters an order on Access. According to this decision, Thomas Sylvester will have the right to see his daughter at the mother's residence during the period of September 6 to September 14, 1998 and during the period of December 20 to December 31, 1998 on Mondays, Wednesdays, and Fridays from 4:00 pm to 6:00 pm, with the mother being present all times. In separate litigation, Dr. Moser submits an appeal to the Administrative Court against the Austrian court decision of May 7, 1998 regarding child support.
- 8/4/98 Austrian Ministry of Justice informs the United States Central Authority of the District Court of Graz decision of July 27, 1998 regarding access and further notifies the United States Central Authority "the order is not yet enforceable as the mother has still got the possibility to lodge and appeal against it which will then be decided as quickly as possible by the Court of Appeal of Graz. There would then still be the possibility to lodge an extra-ordinary appeal to the Supreme Court against the decision by the Court of Appeal of Graz."
- 8/7/98 Office of Public and Congressional Affairs, Federal Bureau of Investigation, Fugitive Publicity Unit issues notice to all field offices that the International Crime Alert, Voice of America will profile this child kidnapping case.
- 8/10/98 International Crime Alert issued by the International Broadcasting Bureau, Voice of America at the Office of Policy in Washington, D.C. Contents of the international public service announcement should be used by August 17, 1998 by worldwide English and all services in the European division.
- 8/13/98 Monika Sylvester lodges an appeal to the Austrian Court of Appeals against the decision by the District Court of Graz regarding the access to Carina.
- 8/17/98 Thomas Sylvester sends fax to the United States Central Authority to express disappointment in the level of support provided by Office of Children's Issues.
- 8/21/98 Thomas Sylvester requests United States Central Authority to provide status on follow-up letter to Austrian Central Authority on next steps, as promised in United States Central Authority correspondence dated May 14, 1998.
- 8/24/98 Thomas Sylvester sends fax to United States Central Authority to follow-up on unanswered matters including a letter to the Hague Permanent Bureau, another diplomatic note to the Austrians, Whereabouts check and the delays on Access.
- 8/25/98 United States Central Authority informs Thomas Sylvester that the letter to the Hague Permanent Bureau has not yet been done but is being drafted this week.
- 9/1/98 Dr. Stephan Moser sends fax to Jan McMillan to inform her that "due to the fact that there does not exist so far any legally valid decision of the court which grants some rights of access according to the Hague Convention, the planned visit of Thomas Sylvester would have to be postponed". Dr. Moser tried in vain to contact the court of appeals judge who is on vacation and he tried to contact Mrs. Birnbaum in order to ask her whether her client would be willing to give some visitation right to Thomas Sylvester but she refused. Therefore, as Dr. Moser says, "I can not advise our client to come over."

ABDUCTION OF AMANDA KRISTINA JOHNSON BY ANNE FRANZEN (AKA ANNE FRANZEN JOHNSON) AND THE GOVERNMENT OF SWEDEN

Chronology

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|--------------|---|
| 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 (Lansrätten) on Thomas Johnson's Hague Application with both parties and witnesses present |
| 5/19/95 | Lansrätten 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 (Kammarrätten) 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 Kammarrätten on Anne Franzen Johnson's appeal with both parties present |
| 6/19/95 | Kammarrätten 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 |

Chronology—Continued

- 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
- 2/20/95 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"

Chronology—Continued

- 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

Chronology—Continued

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 summer

STATEMENT SUBMITTED BY SENATOR TOM DASCHLE

Mr. Chairman and members of the committee, thank you for providing this important opportunity to focus on the problem of international parental kidnapping and to begin the development of policies to address this growing problem.

Each year over 1,000 children are abducted from their homes and taken to a foreign country. Too often, these children are permanently out of reach of U.S. law and are never returned home. It is my hope that the committee's work here today will help us to address this serious problem, reunite children with their families, and prevent similar kidnappings from happening in the future.

This problem became particularly important to me after I was contacted by Kristine Zeledon of Watertown, South Dakota, last February. Kristine and her husband Alban were finalizing their divorce when Alban fled to Costa Rica with the couple's two children, Aidan and Alen. Seven months later he is still there, beyond the reach of U.S. laws, and Kristine has not seen her children since their abduction.

As a father of three children, I understand how painful these months have been to Kristine. As a Senator, I am deeply concerned and frustrated that the United States—the most powerful nation in the world—cannot reunite two small children with their mother.

Unfortunately, American jurisdiction over this crime often ends at our border. Many nations have not traditionally recognized parental kidnapping as a crime. Others will not cooperate with U.S. extradition efforts when the abductor is a native of the country to which he or she has fled. And while I am pleased that an international agreement, the Hague Convention, addresses this tragic problem by directing its signatories to return children to their country of residence, I am concerned that many countries still have not ratified the convention, and that others are not strictly enforcing its provisions.

As the committee members consider possible legislation to reduce the incidence of international parental kidnapping and ways to help reunite families, I hope you will consider the following ideas and recommendations:

First, we must redouble our efforts to encourage other nations to ratify the Hague Convention and to enforce its provisions. While over 2,000 children have been returned to the United States through proceedings under the Hague Convention, these represent only a fraction of those that have been taken overseas. Indeed, over half of the nations to which abducted children are taken are not party to the convention.

We should also consider strengthening the Hague Convention to make it retroactive. You can imagine the frustration felt by Kristine and her family when they discovered that Costa Rica signed the Hague Convention only after the boys were kidnapped and taken to that country. Under the terms of the convention, it cannot be used to secure the return of the boys because Costa Rica was not a party to the treaty when the kidnapping occurred.

Second, we must educate our law enforcement officials and attorneys so that they are better able to respond to cases of international parental abduction. Too often, state and local law enforcement agencies face a steep learning curve when an abduction is reported to them. This limits the ability of these agencies to respond quickly and effectively to a kidnapping. In many cases, better education would help to prevent abductors from leaving the country in the first place.

In Kristine's case, had the judge had the opportunity to review the American Bar Association's profiles of potential child abductors or Kristine been advised to place a hold on the issuance of new passports for her children, the abduction might have been avoided.

Third, we need to improve our ability to give parents like Kristine the help they need to navigate the difficult and confusing maze of agencies they must contact for assistance under these circumstances. In the weeks following the abduction, Kristine sought help from her local police department, local police in the state of New York, the Federal Bureau of Investigation, the National Center for Missing and Exploited Children, the U.S. Department of State, Interpol and my office in the United States Senate.

We need to provide straightforward guidance to the parents of abducted children. I understand that Attorney General Janet Reno has asked that the International Parental Child Abduction Guide, published by the Department of State with the assistance of the Department of Justice, be updated with the input of parents and brought into expanded circulation. I applaud the Attorney General for her efforts, and will support her in whatever way I can to meet these goals.

It is past time for us to move forward with new strategies to address this problem. It is a common refrain now that the world is becoming more interconnected, and as it does, I believe international kidnappings will become more commonplace. It is essential that we develop the means to resolve these abductions and return children to the parent who has rightful custody.

Thank you again, Mr. Chairman, for your willingness to hold a hearing to discuss this important issue. I look forward to working with you in the development of legislation and in the recommendation of any administrative measures that will prevent international abductions from occurring and reunite children with their parents.

STATEMENT SUBMITTED BY LAURA KINGSLEY HONG

MEMORANDUM

To: Committee on Foreign Relations
Copy: Senator Mike DeWine
 Doris O. Matsui, Deputy Assistant to the President
From: Laura Kingsley Hong
Date: October 31, 1998
Re: The International Abduction of Rhonda Mei Mei Lan Zhang
 Statement to the Committee on Foreign Relations

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 former foster mother and current legal guardian and custodian of Rhonda Mei Mei Lan Zhang ("Mei Mei").

At the invitation of Senator Helms, I submit this statement to be entered into the public record 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 has refused to issue an indictment.

First, on behalf of myself Tom Kovach and four 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 Chairman Helms, Committee Members Coverdell, Smith, Thomas, Grams, Dodd, Kerry, Robb and Wellstone who, along with twenty-six 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 Committee is aware, in 1993, President Clinton signed into law the International Parental Kidnaping Act, 18 USC § 1204. 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 has issued several orders commanding the return of Mei Mei, has terminated Ms. Chen's parental rights and has awarded me legal custody. Initially, I was Mei Mei's foster parent; I am now Mei Mei's legal guardian and custodian. Also, since Mei Mei's abduction, the Ohio Eighth District Court of Appeals issued a writ of habeas corpus commanding Ms. Chen to bring Mei Mei before it, and the Ohio Supreme Court has upheld the issuance of that writ.

Yet despite these court orders, and the overwhelming congressional and citizen support, the Department of Justice refuses to issue an indictment under the International Parental Kidnaping Act; 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.

The Congress, in enacting the Hague Convention, 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.)

I now direct the Committee's attention to the responses to our efforts to bring Mei Mei home that we have received. The State Department has consistently called this a "private custody dispute." But it is susceptible to being called that only because the Cleveland U.S. Attorney has declined to indict under the International Parental

Kidnaping Act. If an indictment issued, then, *a fortiori*, this would be a federal criminal matter, and not a “custody dispute.” Moreover, there is no “dispute” here at all; under Ohio law, her abductor, Sue Chen, has no rights whatsoever with respect to Mei Mei.

Despite the overwhelming congressional support, which has been ongoing for over two years, the President 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, Ohio U.S. Attorneys’ Office has declined to prosecute. The Cleveland U.S. Attorneys’ Office will not issue an indictment because the Cuyahoga County Prosecutor’s Office has not issued 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.”

Though our efforts to seek enforcement of the laws of this country, and in particular the International Parental Kidnaping Act, are detailed more fully in the attachments, I will summarize for the Committee below 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 International Parental Kidnaping Act.

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 Assistant U.S. Attorney, Gary D. Arbezniak. Mr. Arbezniak requested that we prepare a memorandum of law and analysis of the International Parental Kidnaping Act in response to Mr. Arbezniak’s erroneous statement to me over the telephone that the International Parental Kidnaping Act 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. Arbezniak 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.

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. Arbezniak, on October 24, 1996, without any discussions with me, notified 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. Arbezniak 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. Arbezniak’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.” Agent John Jacobs, of Cleveland FBI advised us that because Mr. Arbezniak 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 web site 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.

The first Department of Justice response we received 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 was in early 1997. Unfortunately, all these form letter responses did was offer "assurances" that the Cleveland Office of the U.S. Attorney was "thoroughly looking into the matter" despite the fact that on October 24, 1996, Assistant U.S. Attorney Gary Arbezniak had closed the matter, and announced that the U.S. Attorney was not going to prosecute.

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 U.S. Attorney's Office was declining to prosecute Ms. Chen. A copy of that letter is appended to my written statement. I bring to the attention of the Committee, however, some highlights of the Cleveland U.S.A's letter in which she articulated to us for the first time the "basis" for the Cleveland U.S. Attorney's Office's refusal to pursue an indictment of Sue Ping Chen for the kidnapping of Mei Mei.

Though it would appear that, in theory, the letter was intended to explain her decision, we were amazed to see that, in all its length (4 pages), there was not one mention of the International Parental Kidnapping Act, 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. And we found this to be telling. Moreover, the Cleveland USAO 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." Yet she also cited Section 9-27.220 of the United States 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 USAO 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 International Parental Kidnaping Act 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 U.S. Attorney spent three pages discussing collateral issues of little relevance to the issue of whether Chen violated the International Parental Kidnaping Act, 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 International Parental Kidnaping Act for kidnapping Mei Mei—spoke volumes.

The Cleveland USAO 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 International Parental Kidnapping Act, 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." 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 International Parental Kidnaping Act 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.

This U.S. Attorney, however, clearly believes that she has the authority 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 termi-

nated 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 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 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 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 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 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.

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.¹ 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., the staged welfare visit conducted by the Guangzhou Consulate, and the representations of Chen's father as reported 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 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 International Parental Kidnaping Act, 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. Incredibly, the 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 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 International Parental Kidnaping Act makes it a crime to "remov[e] a child" and to "retain[] a child" outside the U.S. See 18 U.S.C. § 11204 (a). Assuming *arguendo* that I was not wronged by the removal of Mei Mei by Chen, I clearly was wronged, and continue to be wronged, by Ms. Chen's continued unlawful *retention* of Mei Mei.

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. 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 no parental rights whatsoever to Mei Mei, and Mei Mei is not "her child." Thus, 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 this State. The Cleveland USAO's refusal to accept this was, in essence, a refusal

¹ 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 Ms. Hong.

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. Moreover, contrary to the 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 International Parental Kidnaping Act will bring Mei Mei home. But Congress made a determination—with which President Clinton agreed²—that an indictment under the International Parental Kidnaping Act 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. We ask the Committee to do what it can to help Mei Mei, 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.

LAURA KINGSLEY HONG

²In 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.

LETTERS AND COMMENTS SUBMITTED FOR THE RECORD BY PARENTS ON THE SUBJECT
OF INTERNATIONAL CHILD ABDUCTION

CENTER FOR MIDDLE EAST WOMEN'S RIGHTS,
50 JUSTIN DRIVE,
San Francisco, CA.

Senator JESSE HELMS,
Washington, D.C.

DEAR SENATOR HELMS: This is my statement to be included in the record for the Foreign Relations Committee Hearing scheduled for October 1, 1998.

My daughters, Alia and Aisha Gheshayan, are two United States citizens who were kidnapped from the United States in 1986. They have been in Saudi Arabia for the past thirteen years and are held incommunicado with their mother, their family, and their country. They are deprived of all their rights and privileges as U.S. citizens as guaranteed under the Constitution of the United States.

As adult women living in Saudi Arabia (my daughters are now 16 and 20 years of age) they have no freedom of choice, no freedom of religion, no freedom of movement, no freedom to choose a marriage partner, no freedom to choose a career and must be submissive to any whim of their father or male relative of their family.

In my thirteen years of separation from my daughters I have been psychologically and emotionally tortured by the Saudi government repeatedly. What they have done to me and my daughters is not even human and is in violation of all human rights and all of God's laws. Due to my efforts the United States signed the Hague Treaty, the International Child Abduction Crime Act was passed and the Children's Issues section of the State Department was opened in 1987. A letter signed by 54 U.S. Senators to the Saudi King asking for the release of my daughters was never responded to by the Saudi government. The Saudi government never gave me a visa to visit my daughters until 1995 (ten years after they stole my little girls). This was due to the pressure from former U.S. Ambassador to Saudi Arabia, Raymond Mabus. I was "allowed" to see my girls in a hotel lobby in Riyadh for two hours after ten years of separation. My daughters were almost grown and begged me to take them out of there and home with me. I was guarded like a criminal at the hotel and the Saudis then took my daughters away again and I never saw them again. Such cruelty is beyond human belief.

I was not invited to speak at this Hearing and I believe the witnesses that were called are not representative of the true tragedy of International Child Abduction. I have offered several witnesses like Mrs. Ethel Stowers, Monica Stower's mother, to speak about the torture her grandchildren have had to endure at the hands of the Saudis. The staff on the Committee is obviously not interested in our horrific stories about the Saudi rape, torture and beating of U.S. children.

Sincerely yours,

PATRICIA ROUSH.

CENTER FOR MIDDLE EAST WOMEN'S RIGHTS,
50 JUSTIN DRIVE,
San Francisco, CA, August 18, 1998.

Hon. WYCHE FOWLER, JR.,
Ambassador, Embassy of the United States
Riyadh, Saudi Arabia.

RE: AMERICAN CITIZEN CHILDREN ABDUCTED TO SAUDI ARABIA

DEAR AMBASSADOR FOWLER: As you are aware, since you have taken over the post from Ambassador Raymond Mabus in August 1996, you have done nothing to continue the pressure on the Saud family princes to release my two U.S. citizen daughters from Saudi Arabia. In fact you are calling the Saudis your friends as is quoted by the Associated Press in the article about you and your Scottish girlfriend.

March 3, 1997
Associated Press

WASHINGTON (AP)—The State Department is seeking clarification from former Sen. Wyche Fowler about how much he is telling a young Scottish woman about his new role as U.S. Ambassador to Saudi Arabia.

In a letter uncovered in a Scottish newspaper, Fowler, 55, tells his 24-year-old pen pal that the Saudis are "elegant, candid and have a good sense

of humor. We trade tales and laugh." U.S. officials confirmed the authenticity of the letter.

Fowler, who was posted to Saudi Arabia last August, says in the letter he has been "meeting influential Saudis, including the King, Crown Prince and his cabinet." He adds: "I've been working very hard."

State Department spokesman Nicholas Burns said Friday the U.S. officials are seeking clarification about the matter from Fowler, a former Georgia senator. Other officials said they wonder how much Fowler shared with his friend about his work.

The friend is Josephine Morton, 24, a physiotherapist and sports-shop manager, whose relationship with Fowler was first disclosed in November by the *Glasgow Evening Times*, which sent a copy to *The Washington Post*. The Scottish newspaper said they had met on an airplane last summer.

"I do hope we will see each other soon," the letter said, "I will work on it. I would love to see Scotland through your laughing eyes".

He said he will visit "when I have no agenda—such as asking permission to launch air strikes against other Islamic nations from Saudi territory."

That was an apparent reference to the Saudi refusal to allow use of their territory for air strikes against Iraq last summer.

Fowler, who is married, began the letter by saying, "it was wonderful to hear your voice last night—your accent being more lifting and lovely than mine."

You should have been removed from your post at that time, but I suppose you and your congressional friends consider this type of unethical behavior just normal. After all, what is adultery among all the other vices you have learned in your political career? While Mr. Clinton is on television begging for his political life due to his sexual affairs, you enjoy not even a reprimand from your superiors. Are your Saudi friends inviting you to their little sex slave parties in the Kingdom?

I was not effective in convincing the Foreign Relations Committee not to confirm you to that post in October 1997. You made all kinds of promises about my case to get yourself back into the loop in the Kingdom.

San Francisco Examiner—September 27, 1997

By Erik Tanouye

Examiner Washington Bureau

NOMINEE FOWLER SAYS HE WILL HELP S.F. WOMAN GET BACK HER DAUGHTERS

WASHINGTON—President Clinton's nominee to be ambassador to Saudi Arabia has promised to help a San Francisco woman whose two daughters were abducted from the United States by their father, a Saudi national.

Wyche Fowler told the Senate Foreign Relations Committee in written testimony this week that he would "work for a long term satisfactory solution to this case."

Fowler's promise came after Patricia Roush, opposing his nomination in a letter to Foreign Relations Committee Chairman Jesse Helms, criticized Fowler for failing to do enough to help her get her children returned to her.

In her letter to Helms, Roush noted that former Ambassador Raymond Mabus had pressured her ex-husband to give up the children by refusing to grant visas to members of his family who wanted to visit the United States, but that Fowler had lifted the ban on the visas.

Fowler wrote the committee in response this week that withholding the visas would most likely do little to guarantee the return of the children.

He also called the Saudi government "determined and helpful within the possibilities of Saudi law" in trying to resolve the issue.

You, Mr. Fowler, lost my daughters after Ambassador Mabus left the Kingdom. He had it all set up with the Crown Prince to have them released. I have all those conversations on tape with Dick Herman and Ray Mabus when this was being arranged. YOU ARE RESPONSIBLE FOR DROPPING THE NEGOTIATIONS TO HAVE THEM RELEASED.

My daughters are now twenty and sixteen years of age and have no allies in that Embassy in Riyadh that you are in charge of. All the efforts of Ray Mabus are lost. My daughters are not the only victims of U.S./Saudi political collusion. The list is long as you know. My friend, Monica Stowers, who came to you to help rescue her and her young daughter from torture and condemnation and who wrote the following affidavit at the Embassy beseeching you to get them out of that kingdom of torture, tells me that you wouldn't even meet with her to discuss her inhuman situation. She continues to live with her fifteen-year-old daughter in constant fear in

some back room in Riyadh. Her husband hired a "hit team" to kill her last year and sold her daughter to a mutawa. Did you care? The answer is "NO". You are too busy with your Saudi friends and girlfriends.

The following is an affidavit signed by Monica Stowers, at the United States Embassy-Riyadh December 16, 1996.

"I am imploring my government and President Clinton to rescue us from this dire situation. We need help to get out of Saudi Arabia and you Must help us! If you don't, I may never see my daughter again.

I am writing this affidavit as an appeal to my government to take us out of here because I have no legal recourse and as a Christian, I am discriminated against in the courts. As a woman it is the same.

My daughter and I are U.S. citizens and we are appealing to President Clinton to get us out of here before it is too late.

I've been in jail here before for refusing to leave my children. They are U.S. citizens, born in Houston, Texas. Their country should not turn its back on them.

WE WANT HELP. WE NEED HELP.

I want a written response as to what you will do for me. What will happen to my daughter when I don't come home one day because I've been arrested by the authorities? My daughter stays alone all day at home because her father will pick her up.

If you refuse to help us, I hold you, the U.S. government, responsible for what happens to my daughter. She could also be arrested for trying to leave the country on her own."

Monica Stowers

Mr. Fowler, I am demanding the release of all the American citizen children of the following U.S. citizen women:

Patricia Roush, Monica Stowers, Miriam Hernandez, Margaret McClain, Diana Woodruff, Jennifer Martin, Peggy Mohammad, Kim Eckrockt, Laura Butterfield Phillips, Vickie Melko, Dawn DiBenedetto, Gracie Khan, and Kristine Uhlman.

This letter will be forwarded to all members of our organization worldwide and also to all members of our other organization, P.A.R.E.N.T. which now reaches forty countries. Our lobbying power grows daily and Ambassador Prince Bandar and his Washington retainers and "torture lobbyists" will not be able to stop us.

Did you know that on May 26, 1998, I was at the Saudi Embassy in Washington and asked to speak with Adel Jubair and Rehab Mahsoud and that they ordered the doors at the Embassy to be locked. That's right, they locked me out of the Saudi Embassy. Rather than invite me in to discuss this matter, they chose the "honorable" thing to do and locked me out. Just like you locked Monica Stowers and her daughter out.

We are demanding action now, or we will demand your resignation from that post.

PATRICIA ROUSH,
DIRECTOR,

Center for Middle East Women's Rights.

BARBARA DOOLEY,
P.O. BOX 5281,

Santa Rosa, CA, February 11, 1997.

Senator JESSE HELMS,
Chairman, U.S. Senate Committee on Foreign Relations.

ABDUCTION OF U.S. AMERICAN BORN ZAID ZIADEH (BIRTHDATE 10/3/89) TO JORDAN

I am asking for your help. As Chairman of the Foreign Affairs Committee, attention should be given to the problem of abducted children to Jordan, especially since President Clinton has established such friendly relations with King Hussein of Jordan, the U.S. gives them Foreign Aid and sixteen F-16 planes this past July, and the U.S. considers Jordan our ally.

This is a long commentary, but it is difficult to condense the details of the past—the six year attempt with the U.S. government, Jordanian government, United Nations, celebrities, news media, etc. to draw attention to this heartbreaking drama of the January 12, 1991 abduction of ZAID ZIADEH from his American mother by his Palestinian-born Jordanian father.

My daughter, Kathleen, met Jamal Ziadah in San Francisco, in the summer of 1988. He was very attentive to her, and both of them were cosmetologists and had

much in common. They discussed the cultural and religious differences between them, but there was a way to work them out because they were in love! Jamal said he had "left his Islamic faith", and more than anything else, he wanted to become a U.S. Citizen. He worked hard in Amman for 2 years to obtain a "green card" to come to this country, and arrived here in November 1986, and his goal that he wanted more than anything was to become a citizen of the U.S. five year later in November 1991, as three of his brothers, Mohammed, Salah, and Naser, had already done. (Mohammed currently works for Lockheed-Marietta in Sunnyvale, Salah works for LifeScan, a diabetic supply company, in Milpitas, Naser is a Reserve Deputy Sheriff in Los Angeles County, and a fourth brother, Mahamood, is attending college in Southern California—all of them have been educated in the U.S.)

Kathy and Jamal eloped to Nevada, and were married by a Christian minister on November 2, 1988. The "honeymoon" was over three months later when Kathy found out she was pregnant. Immediately, Jamal put pressure on her to convert, and wanted them to be married in the Moslem Mosque, and Kathy would not agree to this. Then Jamal insisted on Kathy having an abortion, and she left him for two months. He begged her to come back to him, even though he realized she would not have an abortion. Kathy took excellent care of herself while she was pregnant, and on October 3, 1989, she gave birth to a beautiful, healthy boy, ZAID JAMAL. She nursed ZAID, and was always the sole caregiver to ZAID, while Jamal was away from the home working or attending his Palestinian meetings in San Francisco. Jamal continued to isolate Kathy from her family, friends, and kept her captive in their home, with no money or no transportation. In August 1990, when Iraq invaded Kuwait, Jamal "turned" on Kathy, and anything that bothered him about her, he blamed on her being an American, and would say, "you are just like President Bush!"

Kathy became very depressed, withdrawn, and the only light in her life was her little ZAID, and the joy he brought to her. When she developed a mitro valve prolapse heart condition, and would have severe anxiety attacks, she realized she was in danger from his continual emotional abuse, and determined to leave him, for her own sanity, and safety, as well as ZAID's continued well-being.

She left Jamal in September 1990, and continued to be fearful of him. She allowed him to see ZAID, fearing if she did not, he would take him, even if he had to break in the house in the night. She filed for a legal separation, and the court hearing was scheduled for January 16, 1991. On January 11, Jamal asked Kathy to have an overnight visit with ZAID, claiming his family was having a reunion, because Mohammed, who works for Lockheed, and as a principle contributor to the space shuttle project, had just returned home from Cape Canaveral. By the time on January 12, 1991, he was to return ZAID, he and ZAID were on a plane to Jordan, where his father, three brothers and two sisters lived (there are ten children in Jamal's family). His brother, Mohammed, told Kathy that she was "lucky Jamal did not kill her before he left with ZAID, because he could have done it and gotten away with it!"

Immediately after the abduction, letters were sent to United States government officials, United Nations officials, Jordanian Government officials and every organization associated with the abduction of children, many were not answered, and those answered brought no result. No contact could be made with Jamal and ZAID, and Kathy was totally cut off from the most precious person in her life—ZAID!

In June 1991 Kathy met with the Jordanian Ambassador Hussein Hammami who came through Santa Rosa on a speaking tour. He stated "young children belong with their mother", and assured her he would "do all he could" to have ZAID returned.

There were contacts with the Jordanian Government in Queen Noor's Office, and a recommendation from them that Kathy retain a Jordanian Attorney, Advocate Zuhair Abu Shamma. A Power of Attorney Document, and a copy of the California Superior Court Order, awarding Kathy sole legal and physical custody of ZAID, were forwarded to Jordan. Kathy had no further input into the preparation of this court case.

Three court hearings were held (September 5, 22, and 29, 1992) and the decision was reached that ZAID should remain in Jordan, even though the Moslem law states a child under 7 years of age should be with their mother. There was an appeal to a higher court, and as the records prove, the Jordanian court proceedings are so lengthy that the outcome arrived at is always "in the child's best interest to remain where they are, in Jordan," and that was the result determined. No court papers were ever received by Kathleen from the attorney or the Jordanian Government, and this information was obtained only by verbal contact from a friend we have in Amman, Jacob Ammari, telling us of the court results. In Jordan the gov-

ernment and the Moslem religion are one, and Moslems look at, and judge non-Moslems as infidels.

On January 21, 1994, I talked with Najeeb Halaby, the father of Queen Noor, on the telephone, and on February 1, 1994, Jamal "suddenly" called the U.S. Embassy and allowed the first health and welfare visit with the Embassy and little ZAID. Pictures were taken and sent to Kathy, and they were so bittersweet—such joy to know he is alive, and a beautiful, healthy little boy, but so sad to see him, to know he is being told someone else is his "mother", and not being able to hold him, to nurture him, or to love him. I see my daughter continue to "die" daily because of her loss of ZAID.

A second health and welfare visit was made in June 1994, and Kathy said, with tears in her eyes, "it's as though I have willfully given my precious ZAID up for "adoption" and I receive 'progress reports' on his development!" It is absolutely more hurt than she can bear.

I cannot tell you how the hours, days, months and years since January 12, 1991 have affected our family. My daughter did not die as Nina Abequa died in July 1994 at the hand of Mohammad Abequa, but Kathy died emotionally, and spiritually when this precious little ZAID was taken from her. She is cutoff from him just as though she were dead. She has not remarried, and does not want other children, because ZAID is the one she loves, and all she thinks about. Jamal has remarried, has three more children, and he has gotten on with his life, even though he did not divorce Kathy.

I contacted Anna Quindlen, the *New York Times* newspaper columnist who wrote the article about Mohammad Abequa, who killed his wife on July 4, 1994, and abducted their two children to Jordan. I read where these two children were returned to the U.S. shortly after their abduction, with the assistance of the Jordanian Royal Palace and the New Jersey Senators Lautenberg and Bradley.

Ms. Quindlen wrote an article on ZAID on September 14, 1994, and she was appalled that the U.S. Government allows these little American-born children to be held hostage, against their will. Currently Mr. Abequa is being tried in Jordan, but we have no news of this given in the U.S.—Jordan knows how to protect their own.

Also, in August 1994, Naser Ziadeh, Jamal's brother called for Kathy—the first contact he has made with her in over 3 years. He lives in the Los Angeles area. He told Kathy he made a visit to Amman in June, and saw little ZAID. Naser says ZAID is an extremely bright little boy, and very sweet. Naser further says he "does not want ZAID to go to school in Jordan because ZAID will not get a good education there, and would like ZAID to go to school here in the U.S."

He further said that he and ZAID grew very close while he was visiting in Jordan, and he took ZAID to a museum, and spent special time with him. Naser says ZAID saw a picture of his mother that had fallen from a box onto the floor, and knows that she lives in the U.S. The night Naser was to leave, ZAID "cried and threw a fit" because he wanted to "come home with his Uncle Naser". ZAID would not stay in his own home, but insisted on staying with Naser and stayed awake until 2:30 a.m., until Naser was taken to the airport to return to the U.S., and all this time ZAID was still begging and hoping to return to the U.S. with his Uncle Naser.

This is a sad story, because it means ZAID is not happy there, but it was an encouraging story to Kathy because she feels he is not "settled" there, and that there is something inbred in ZAID that he knows about his mother, and wants to return to her, and that it would not be too traumatic if and when ZAID is able to return to her.

In October 1994, when plans were being made for the signing of the peace treaty between Israel and Jordan, President Clinton, Secretary of State Warren Christopher, California Senators Dianne Feinstein, and Barbara Boxer, and Congresswoman Lynn Woolsey from our District, became involved in letter writing campaigns in an attempt to obtain the release of these approximately 37 to 40 U.S. American born children who have been abducted by their fathers to Jordan. (It is impossible to get any information on the exact number of abducted children from the State Department because they say it would violate confidentiality). If you call Jim Schuler, Office of Children's Issues, (202) 647-2688, he will tell you Jordan is a sovereign country, which allows dual nationality, who has not signed the Hague Convention, the treaty of extradition, and will give you every other reason why Jordan is right in keeping ZAID there. Evidently, our country has no policy or makes any policy with regard to abducted children—they just accept what Jordan dictates!

Many letters, telephone calls, etc., have taken place, but the "thirty-second sound byte" of attention paid to this matter passes quickly, and the "political" focus passes even faster. On August 11, 1994, President Clinton was quoted in the news with regard to his "worldwide campaign to erase Jordan's \$6.5 billion debt". Why not ask for these abducted children to be returned in exchange for this foreign aid. To my

shock, I discovered a Bill was quickly passed by the House and Congress within a few days and our U.S. American born abducted children were not even thought of or considered as part of the negotiations. Jordan was "unhappy" over the amount of foreign aid Vice President Al Gore in his March 1995 visit promised they would receive from the U.S. (\$488 million write off of debts owed by Jordan plus more than \$43 million in military and economic aid) because it is only a "fraction" of the \$3 billion Israel receives and the \$2.2 billion promised Egypt. On July 29, 1996, sixteen (16) F-16's were "given" to Jordan and when the U.S. wanted to land troops in Jordan during the current Iraq confrontation, Jordan would not let the U.S. use their soil!

On January 18, 1993 we watched the true story of Cathy Mahone, in "Desperate Rescue", who went 'outside the law' to hire mercenaries to return her daughter from Jordan to the U.S. We do not want to go 'outside the law' but want to believe that the United States, as the last remaining super power, as they go to great lengths to protect the human rights of citizens in other countries, will set the priority for a little U.S. born child as Zaid is, who cannot speak for himself, who has been denied his right to the love and nurturing of his birth mother by being totally cut off from her, and his U.S. citizenship by a violent, selfish, spiteful act of his father. The world is too small today, and we must all work together to create a truly 'human' race of people.

Does the U.S. ever put any conditions, such as the return of U.S. American born children to just "giving" away our U.S. dollars? It makes me feel very unwilling to pay my taxes by my hard-earned money to have it go to the country that is holding my grandson, Zaid, and the country which has caused our family such grief, pain and heartache.

I believe the U.S. has abdicated the U.S. citizenship of Zaid to the country of Jordan, and as I quote the U.S. Ambassador to Jordan, Mr. Wesley J. Egan, in his letter to Najeeb Halaby (father of Queen Noor), dated October 20, 1994, a copy of which is attached, along with my comments. I believe a thorough investigation should be made into the actions of the U.S. State Department, and the U.S. Embassy in Jordan with regard to abducted children.

Also since Mr. Egan attached a copy of the March 1993 Appeals Court decision to his letter to Mr. Halaby, I know Jim Schuler in the State Department has a copy of this decision, and he ignores our request for this. This decision obtained in Amman, Jordan by Zuhair Abu Shamma, an advocate recommended by Queen Noor's Office to represent KATHLEEN, (she was not contacted by the attorney for any input at all) for which my husband and I paid for his services. We never heard from the court or the advocate with a result to the case. An acquaintance we have in Jordan, obtained an Arabic copy of the court decision, that no one seems to be able to translate, and my daughter was never given any information except that she lost custody of Zaid.

Did the court say she "rides with hell's Angels, or is a prostitute"? These are lies told by some Jordanian fathers, and the American mother never knows what is said in court and has no defense. My daughter is one of the finest mothers I have ever seen, and we have hours of videos with her and Zaid, where you see love and devotion showered on Zaid.

The Congress passed a *PUBLIC LAW 103-173*, dated December 12, 1993 (considered and passed House and Senate) which amends Title 18, United States Code, with respect to parental kidnapping, "(a) *Whoever removed 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*". The U.S. Government should insist on extradition of JAMAL, and other fathers, who have abducted American born children and return the children to their mothers—or no more foreign aid to Jordan!

Because as a diabetic, my vision and health are failing very quickly, and I wanted to see Zaid one more time before I go blind, so I traveled alone to Jordan in June 1995 to see Zaid, and his father allowed me to stay in their run-down third-story apartment, with no hot water, and the conditions of my visit to see Zaid was that he would not be told about his mother, or that I was his grandmother! What a bittersweet experience! It just about killed me to see him in these deprived conditions, and to have to go away and leave him behind. The video pictures I took of him while I was there—a little, skinny, frail, large-eyed boy without a smile, are very sad. KATHLEEN cannot go to Jordan, because the State Department says in a memo, that JAMAL could force her to stay there as his wife, because he has not divorced her, and the U.S. could not guarantee her safe exit out of Jordan!

One further thing, in September 1996, JAMAL sent a video of Zaid, who was 7 years old on October 3rd. JAMAL was trying to make Zaid jump rope by having

ZAID stand inside the rope, while two people were turning the ends. ZAID could not jump, because he could not establish the rhythm of the rope, and his father called him "chicken" in English, and ZAID walked away, wiping tears from his eyes, and his father was running along behind, taping this awful scene! It broke my daughter, Kathleen's heart and she sobbed and screamed in disbelief when she saw ZAID treated this way.

Kathy received a recent (undated) Health and Welfare visit report, (only the fourth visit made in 6 years) and it was very upsetting to me that they are made at the home of Jamal's father, which is a palace compared to ZAID's home, where he lives 24 hours a day. The clothes, shoes, and socks described in the report are items we sent to ZAID for his birthday in October. It is a frustrating mixed message we give by sending Jamal clothing for ZAID. We care very much about ZAID, but by helping, we are supporting Jamal in his ability to keep ZAID from his mother! Kathy received a card from Jamal stating he told ZAID "*that this gef (Kathy sent ZAID) was from my girfreid. Zaid chous this card and stickrs for his father girfreid he asked when she is going to viset us. I told hem I don't know. maybe soon.*" [sic]

As the ancient prophet, Isaiah said, "Can a mother forget the baby at her breast and have no compassion on the child she has borne?" The answer resounds every time I see my daughter, NO, she can never forget her precious son, ZAID and in the same sense, I cannot forget my daughter, and see and feel her deep loss, as well as my own personal loss of my grandson, ZAID!

Kathy is my ONLY child, and ZAID is her ONLY child, so you see how precious he is to us—we have lost an entire generation! I mentioned Kathy's mitro valve prolapse heart problem, aggravated by stress, and I, as ZAID's Gramma, since his abduction, have been diagnosed with diabetes, and am insulin dependent. This condition has been brought on by the stress of ZAID's abduction.

I would like to request that you give attention to ZAID's plight and other U.S. American born children held in Jordan, to try and bring the tragedy of these children to the hearts of caring Americans. I know it is an old, often told story, but until these little ones are "home", the story is not over. Everyone to whom I tell this story cannot believe the U.S. Government allows these abductions to go on, and why the government does not "force" Jordan with all the negotiations they are involved in, to bring these children home!

BARBARA DOOLEY
ZAID's brokenhearted Gramma

September 29, 1998.

Hon. JESSE HELMS,
Chairman, Senate Foreign Relations Committee,
Washington, DC.

DEAR MR. CHAIRMAN: I understand that on Thursday, October 1, your committee plans to hold a hearing on international child abductions. I commend you for examining this difficult issue which, sadly, affects a large number of American parents.

One of my constituents, Ms. Nicole Faulkner, is one such parent. In 1995, her 9 year-old son was taken from Florida to the Bahamas by his father, Mr. Khalil Moses. Mr. Moses, who is a Bahamian citizen, is wanted on Federal and State kidnapping charges. For the past 3 years, Ms. Faulkner, who had been awarded custody of her son prior to the abduction, has been seeking assistance through Bahamian authorities to get her son back, but so far has been unsuccessful. She has been repeatedly stonewalled by the Bahamian government. The Bahamas ratified the Hague Convention in 1994. I have enclosed some information about her case.

Ms. Faulkner's name was submitted as a possible witness for your hearing through the Center for Missing Children and her attorney Mr. Michael Berry. If you have questions, you can contact Mr. Berry at 813-447-0533.

I know there are tight time constraints governing every hearing, but I would appreciate it if you would consider adding Ms. Faulkner to the panel of witnesses. Three of the four witnesses scheduled to appear are fathers. Perhaps it would be good to hear a mother's perspective.

I would be grateful for anything you can do to accommodate Ms. Faulkner. Thank you and best wishes.

Sincerely,

FRANK R. WOLF,
MEMBER OF CONGRESS.

MICHAEL C. BERRY AND ASSOCIATES, P.A.,
ATTORNEYS AND COUNSELORS AT LAW,
September 29, 1998.

Seantor JESSE HELMS,
United States Senate, Washington, D.C.

RE: Abduction of Khalil S. Moses, Jr. to the Bahamas, Senate Foreign Relations Committee Hearing, October 1, 1998, Public Records Submittal.

DEAR SENATOR HELMS: Enclosed is a letter to you from my client, Suzette Faulkner, whose child was abducted to the Bahamas in December 1995. My client has made diligent efforts to retrieve the child without success and finds as I do that the U.S. Government has lost focus in pursuing abducted children. It is the view of Ms. Faulkner and myself that your committee is serving a valuable purpose by forcing the State Department to exert pressure on non-cooperating countries. I stand ready to assist you in any way in this matter.

Yours sincerely,

MICHAEL C. BERRY, SR.

SUZETTE NICOLE CHRISTENSEN FAULKNER,
43196 WAYSIDE CIRCLE, ASHBURN, VA ,
September 28, 1998.

Representative FRANK R. WOLF,
241 Cannon House Office Building, Washington, D.C. .

(Edited for updating)

RE: Abduction from the United States of my son Khalil S. Moses, Jr.

DEAR REPRESENTATIVE WOLF: I am writing to you about my eleven-year-old son, Khalil S. Moses, Jr., who was abducted from Tarpon Springs, Florida to the Bahamas by my former husband Khalil S. Moses, Sr. My son is an American citizen. He was born in Florida and lived in Alabama and Florida. His father is a Bahamian citizen who has lived and worked intermittently in the United States. The purpose of this letter is to request your involvement in this matter due to the facts of mischievous and suspicious dealings by the Bahamian law enforcement agencies, government and legal system.

JANUARY 16, 1997 HAGUE CONVENTION TRIAL IN NASSAU, BAHAMAS ON INTERNATIONAL CHILD ABDUCTION

After much anticipation, a trial had been set in Nassau, Bahamas on January 16, 1997 but after traveling there and expending more funds the trial was cancelled. The trial is based upon the "Hague Convention On International Child Abduction" which was ratified by the Bahamian government in 1994. It is commonly referred to as the "Hague Treaty". The U.S. has been a signatory country since July 1, 1988. The treaty has been incorporated into Federal law under 42 U.S.C. 11601 *et seq.* There are approximately forty-five countries that have signed the treaty to date. The treaty basically states that the Bahamian courts must abide by a valid U.S. court order concerning custody of the child, order the prompt return of the child, and most importantly not relitigate the custody issues but remand the matter to the U.S. Court which had already determined custodial rights. Under the treaty, if the Bahamian courts had entered rendered a custody order and the child was abducted into the United States, upon application to the court in the United States, that court would have the reciprocal duty to honor the Bahamian court order. On April 1, 1996, the Sixth Circuit Court in Clearwater, Florida awarded primary residential custody of my son to me. The venue has been changed for any subsequent action in the United States to my place of residence, Ashburn, Virginia. The order culminated many years of litigation with my former husband who continues to hide the child from me through a combination of trickery, threats and abuse. In this effort I was and still am represented by my Florida attorney, Michael C. Berry, Sr. In order to petition the Bahamian courts I retained a Bahamian attorney in Nassau without effect. The case number in the Bahamian court is 95196.

ABDUCTION

In December 1995, just a few weeks before the final trial in Clearwater, Florida, to extend my custody rights to uninterrupted custody and supervised visitation only for Khalil, Sr. due to his prior acts, after 2 years of litigation, my former husband,

who was represented by attorneys the entire time, abducted the child and disappeared in violation of a direct court order directing him not to leave Pinellas County, Florida. No information was provided to me by anyone as to his location or well being. A county show cause warrant, state criminal abduction warrant and Federal kidnapping warrant were issued for his arrest. On July 1, 1996, an informant divulged information that Khalil, Sr. and Khalil, Jr. had been seen in Nassau, Bahamas. I immediately flew to the Bahamas and discovered he had filed some court papers ex-parte which were fraudulently seeking to keep me from getting the child. He had been living with his unemployed father, hiding on boats and in Bahamian hotels. Since December 1995 until September 1996 he had not attended school nor had he received medical attention for a bone cyst in his leg. I sought the assistance of local law enforcement and legal counsel in a fruitless attempt to obtain my child.

BAHAMIAN LOCAL LAW ENFORCEMENT AND GOVERNMENT

Upon arrival in Nassau my husband and I went to the local law enforcement office with my U.S. attorney and Bahamian attorney. We met with an inspector who reviewed our United States documentation, his position, and he agreed to take a statement from me which apparently served as probable cause to arrest Mr. Khalil S. Moses, Sr. onsite. Apparently there were corresponding laws which caused the wrongful retention of a child to be a crime, Bahamian Penal Code (Ch. 77, Sect. 308). In addition, in reviewing my documents my Bahamian attorney took a gun list and presented it to another police officer that I subsequently visited because apparently possession of firearms in the Bahamas is illegal. We were told that if we found Khalil to call them and they would proceed to arrest him. At the same time my U.S. attorney visited and informed the local embassy officials of the status of the case. I was advised by my attorneys to follow the letter of the law and let the legal system proceed. Soon afterward an informant disclosed the whereabouts of Khalil. He was hiding in a hotel room which was under the name of an individual from Tarpon Springs, Florida. During the same time an FBI agent who covered the Bahamas from Miami was on the island and informed me of the location of Mr. Moses. Coincidentally, he was staying at the same hotel as Khalil. The FBI agent declined to get involved. We called the police and Khalil was arrested and both he and my son were taken to the police station. We called my Bahamian attorney who informed us that a hearing was set by Khalil's attorney for custody and I must go to the courthouse immediately. I did. My U.S. attorney was not allowed in the courtroom. The court declined to issue a custody order and we proceeded to the police station for what we thought would be the pick-up of my son. Upon our arrival I asked to see my child alone and was refused. I was taken upstairs to where they hold the criminals, and there sat my son and my former husband. My former husband was being interrogated by another police officer apparently taking his statement under oath. I remember that they required him to sign the document. My son was in between my former husband and myself.

No one else was permitted to accompany me. I tried to talk to my son but he was scared and confused in view of the surrounding environment. I pleaded for privacy and to get my son out of this turmoil but was refused. My U.S. Attorney did likewise. Within 15 minutes an attorney came in to represent my former husband; apparently, he was tied to the ministry of the government. He had a private talk with the inspector. After the talk, the inspector told my U.S. attorney that we would not get the child, we were to leave the island and if we followed or harassed Khalil at all we would all be arrested. My ex-husband's father, Joseph Moses, is a member of a very influential and very wealthy Bahamian family of Lebanese descent, and it appeared as if there was some form of third-party intervention, especially in view of the fact that upon the appearance of what appeared to be a high-powered official, we were told that any further actions on our part would lead to our arrest. While this was transpiring, the FBI official associated with the case did nothing to assist us. We also found out that the local law enforcement official, the FBI agent, and the opposing counsel attended a Fourth of July party that evening at the embassy. Faced with what appeared to be a corrupt environment, my U.S. attorney advised that we leave the country immediately and he requested that a Hague Treaty petition be filed by our Bahamian counsel immediately.

BAHAMIAN LEGAL SYSTEM

After that incident we suddenly found it very difficult to contact our attorney in the Bahamas. This was true even for my U.S. attorney. He would not return phone calls or answer letters. After much consternation he finally filed the Hague Treaty Petition. At the same time we were told that some accusations were being made

about our activities in the Bahamas when we went there initially in July and that there may be warrants for "someone(s)" (?) arrest. Was it me, my husband, my attorney or what? It scares me to think that I could be arrested upon arrival in Nassau for the trial this month. Were they trying to keep my attorney off the island? I don't know. The embassy informed us that the Bahamian attorneys are a unique group, very independent and have little if any client contact. Nonetheless our suspicions were raised and enhanced when we requested copies of the court pleadings by phone and by letter. Finally my U.S. counsel retained a documents retrieval company in the Bahamas to get the documents which are supposed to be public records, as is the case in the U.S., but much to our surprise the documents retrieval company told us the court would not release any copies and that only if requested by counsel of record would they be released. We requested by letter and phone that our Bahamian attorney get the copies or issue a letter to let the documents retrieval company get the documents, but that has not worked. Consequently we have been unable to obtain any of the court documents pertaining to the upcoming case. There is obviously some reason, as yet unclear, that the files are not available for public inspection. In our opinion this is an attempt by the father, and his family, to conceal what has historically been highly fraudulent statements in the pleadings. This pattern of misrepresentation and concealment of information is consistent with our experience in initially locating the child.

COMMUNICATIONS WITH MY SON

In the months since July 4, 1996, when I located my son in Nassau, Bahamas, I have talked with him on the phone as often as I can but now my communication has been cut off and the court has held proceedings of which I have no knowledge. He is always in the presence of his father and I am sure he is scared and confused. I know that my former husband has spent a lot of time with statements that typically lead to alienation of affections with me. I am very concerned about him and oddly enough, recognize that he has a right to see his father (under supervised conditions to avoid another abduction) if I prevail in this matter. We are also strongly concerned that he will be hidden again prior to or after the hearing as his father has a pattern of moving without any notification to avoid enforcement of any orders. This is not the first time he has run to the Bahamas. Oddly enough his father did the same thing to his mother when he was a little boy.

UNITED STATES EMBASSY

We have asked the U.S. Embassy to investigate. The investigation resulted in the consulate of the U.S. Embassy meeting with opposing counsel, the father and child in the opposing counsel's office. The meeting was inappropriate in that the child was not interviewed privately and was undoubtedly subject to the stresses of a legal discussion. My former husband has not attempted to shield my son from the circumstances of this case. Quite the opposite he has used him as a pawn. This pattern of involving the child in legal discussions continues to disregard the emotional well being of the child. There are indications that the State Department and the FBI are treating this matter as just another family law dispute. There is a lack of emphasis or appropriate pressure placed on the Bahamian government to treat this matter with the necessary attention. This can be offset by your involvement. It is very likely that the father and his family are using their influence with the local police, attorneys, and government.

Sincerely,

SUZETTE NICOLE CHRISTENSEN FAULKNER.

MAUREEN DABBAGH,
EXECUTIVE DIRECTOR OF P.A.R.E.N.T.,
308 General Gage Rd., Virginia Beach, VA .

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR HONORABLE SENATOR: In regards to the Foreign Relations Committee Meeting next week in which you ask Madam Secretary to address specific questions regarding international parental kidnapping . . . BRAVO!

As the parent of a child who has been abducted, abandoned and is now being held by a terrorist group in Syria . . . I can tell you I am so tired of this issue being swept under the rug and the U.S. Department of State, Division of Children's Issues

using limited resources and manpower to BRING FOREIGN CHILDREN INTO the U.S. via their adoption assistance.

Please let us know what we can do to support remedies to abduction. P.A.R.E.N.T. is an International coalition (Parents Advocating for Recovery Through Education by Networking Together) with over a dozen non-profit member support groups. We have chapters in France and in the mid-east. I am the author of "RECOVERY OF INTERNATIONALLY ABDUCTED CHILDREN".

Regards,

MAUREEN DABBAGH.

September 28, 1998

Re: Oct. 1 Senate Foreign Relations Hearing/International Abduction (The Following to be entered into record)

From: Maureen Dabbagh

DEAR HONORABLE SENATOR HELMS: I am the mother of an 8-year-old American child who has been illegally abducted to Syria.

My child is not with her father. I do have a legal custody order from Syria. I also have U.S. and Syrian warrants for the arrest of the man that kidnapped my child originally . . . her father, Mohamad Hisham Dabbagh, a Syrian National.

I have not seen my beloved daughter since she was 2 years old. Nadia Alexandra Dabbagh is being held in Damascus, Syria. Her abducting father is working and living in Saudi Arabia?

Law Enforcement authorities have worked aggressively in my case, i.e., Interpol, FBI as well as Voice of America, the National Center for Missing and Exploited Children our U.S. embassies in both Syria and Saudi Arabia and numerous other agencies. The only agency that I am terribly disgusted with is the U.S. Department of State, Division of Children's Issues. Whoever set that office up is either a complete idiot or they know nothing about international abduction or they do not want the office to bring children home.

One Caseworker at Children's Issues actually told me that he "preferred" doing the international adoptions! As the parent of a child who has been illegally taken from the U.S., I was appalled at this man's lack of sensitivity. Bringing foreign children INTO the U.S. to be adopted by American families should not be a priority over the recovery of American children taken to foreign countries.

We are now seeing second generation abductors. My ex-husband's father abducted his own children and took them to another country. It was not until his two oldest children were nearly 50 years old, did they learn that their mother was actually alive and they found her.

This is not just about custody. Terrible things happen to children when they are taken into cultures that do not recognize even the most basic fundamental practices that keep children safe. Abducted children may face:

- Female genital mutilation—otherwise known as castration
- Sold into marriage
- Abandoned into orphans
- Abandoned on the streets in foreign countries
- Killed by their abductor

This may seem rather exploitive of the subject, but in truth I am a first-hand witness to the above atrocities. These things are not just happening in Non-Hague countries. They are happening in Hague countries too!

Currently, Senator Charles Robb (VA) is sponsoring a "Sense of the Senate Resolution" in an effort to rescue my daughter, Nadia.

As I said earlier in my letter, Nadia is not with her father and I have legal custody from the courts in Syria. So why can I not bring my child home or even see her . . . it is because my child is being held by a terrorist group known as the Muslim Brotherhood?

No Mother should endure the heartache of having a child abducted. No parent should have to deal with the frustrations of a system that is ill-equipped to handle the problem, and even worse, ignore the experts that are doing something about this. **NO MOTHER SHOULD PICK UP THE TELEPHONE AND BE TOLD TO HAND OVER MONEY IN RETURN FOR HER CHILD . . . this is not suppose to happen in America.**

I recently went on National TV and disclosed my child's plight after years of silence. The State Department called me and "demanded" to know why I told all of America! They inferred I had misrepresented my child's plight. I told them, to go

to the Justice Department for proof. . . they even have a web page up on the Internet telling of Nadia's plight. They shut up real fast. Now, why would the State department be upset because I told all of America that Nadia is being held by Terrorists?

I want my child. I want my child home in America where she belongs. I do not want her to stay in Damascus for another day.

If Nadia were the daughter of a U.S. Senator . . . she would have been home a long time ago!

I have tried to remain positive over the course of the last 6 years. I have written a reference book on "RECOVERY OF INTERNATIONALLY ABDUCTED CHILDREN" 1997, McFarland & Co., Inc.

I have started an international organization called P.A.R.E.N.T. We are 10 million strong and have members in France, Belgium, Switzerland and the U.K. We are going to the U.N.

Politics has no place in Human Rights! We do not compromise American citizens for the sake of "commerce".

America belongs to the people, and thanks to Bill Gates, the average American now has the ability to let their voice be heard in mass numbers.

I admire your efforts to bring about solutions to this most difficult problem. If you are truly interested in knowing how many of these solutions are being successfully implemented by P.A.R.E.N.T., please feel free to give me a call.

Sincerely,

MAUREEN DABBAGH,
MOTHER OF NADIA DABBAGH,
Executive Director of P.A.R.E.N.T. International.

GEORGE MASSIE,
INTERNATIONAL KIDNAPPING TO CHILE,
September 28, 1998.

Hon. JESSE HELMS,
*Chairman, Committee on Foreign Relations,
United States Senate.*

THE STORY OF GEORGIE

These days TV., magazines and newspapers are full of stories of parents kidnapping their children and taking them from the other parent without warning. Most of these have shown the father abducting children from mothers. My story is different but altogether too common where the mother has taken the children. The most surprising aspect has been the authorities, through incompetence, honest mistakes, transparent conspiracy in the case of a Chilean judge, and confusion have assisted the mother and her in this and continue to assist her.

My story starts four years ago when my wife fled the U.S. without warning. Before that I had a family, children, a nice home, two new cars, my own lucrative business and money in a savings account. Very much in love I married Gabriela Marcenaro Landa a divorcee with two children from a previous marriage in 1989. In 1990 we had our first child my only child a boy so we named him George Welton Massie IV and we called him Georgie. Life could nor have been better. There were some problems between her and my stepchildren's father because she continually blocked his visitation, a mode of behavior she later turned against me. But life was good until that fateful day in November 1993 when she ran away and kidnapped my son. What happened after that is a tale of dishonesty cruelty and pain, pain that continues to this day. Two fathers, myself and Salvador Landa do not have our children anymore and no right anyone will enforce to be able to see them. How in this modern world of communications, legal systems, and international law could this have happened?

On November 3, 1993 my aged mother living in Dallas was forced for health reasons to sell the family home and move to Arizona where she could get medical care. I drove the 1,400 miles from Miami to help her. While I was driving, unknown to me, my wife was packing the children's toys and clothes, taking the money from our savings account and buying airplane tickets to her native Chile. Just as I arrived in Dallas she called and said "I am sorry but I have taken your son (Georgie then 3½ years old) and gone to Chile you probably won't see him again". She also took the children from her previous marriage Salvador's children Gabriella 9 and Nicolas 6. There was no warning for me or Salvador, the shock was tremendous.

That same night in disbelief and despair I flew back to Miami to see if it could be true, to see if something could be done. I was picked up at the airport by Georgie's Godfather Florida State Fire Marshall Antonio Samper and we went to my home. The emotional strain as we approached the house was unbearable, hoping against hope that somehow it wasn't true. The house was dark and as the front door was opened. Whether by the wind or curious fate, Georgie's wind up mobile started playing a forlorn "Old McDonald Had a Farm" in a dirge as only a windup toy, spring force almost depleted, can sound. But the house was empty not just empty but empty in a way only a house that had once been full of children's laughter can be. I wept uncontrollably in shock and pain.

That same night I called the Metro Dade Police (Miami) and asked them to come make a report. They told me it wasn't their problem because we were still married it was a domestic issue. Anthony Samper picked up the phone and demanded they make a report, again they refused. The next day I called the Florida State Attorney's Office the U.S. Attorney's office and was told the same thing it's a domestic problem they couldn't help. I contacted lawyers both here and in Chile and was told the same thing. There was nothing I could do . . . nothing. Much later I found that this advice was terribly wrong, it is a sad fact that so many people in authority have no idea how to handle this problem and that their advice forced me to do things that would make justice even more difficult, if not impossible, to obtain. It seemed the only way I could ever see my son was to go to Chile to live close enough to help him to somehow be his Dad.

I was frantic my wife's actions were clearly not of a mentally balanced person. Recent psychological evaluation of her was very clear in stating she has deep problems. Georgie and the other kids were in danger. If there were problems with the marriage there is simple separation and divorce, certainly not taking an action as radical as this. I tried to reach her by phone but she had gone into hiding near Chillan, Chile with the help of her brother Jorge.

In Chile Gabriela had entered the country illegally, she had used a Chilean passport but she is a naturalized U.S. citizen and dual nationality isn't allowed there, although I found out later their laws are "flexible". She had registered Georgie under another name and had registered him as an illegitimate child for his "new" Chilean birth certificate. All of this I discovered later. After she arrived there she found that the money she had taken with her (she removed \$25,000 from our joint savings account before she left) wouldn't last very long. Without a place to live or a car her future there was not bright. Later she agreed that if I were to ship her a car to her I could visit George, could see him and be with him. Clearly the pattern of blackmail was beginning with a 3½ year old child and his father's love for him the tools she would use. I believed I had no choice but to comply.

Over the next months I traveled to Chile and during that period she allowed me to see Georgie more and more. She agreed that, provided I would invest in a business and a farm in Chillan, Chile I could move there and we could try to work things out. To do this, to raise the money, I had to sell all the personal things I could, withdraw all the savings we had left and move all my family belongings to Chile. Perhaps, I reasoned, over time I could convince her to return to the U.S. Because of what all the authorities had said if I was really to help my son Georgie this was the only way. I couldn't kidnap him as she did, he had been through enough and I believe all kids deserve a Mom and a Dad. If there is any possibility to give him both I would.

I financed the purchase of a store and its inventory a farm and a truck at a cost of \$200,000. I was told by the Chilean Consulate in Miami that before I could put anything in my name or be involved in any financial transactions I had to have Chilean residency so I applied for that. Because Chile has community property laws I was advised by Chilean lawyers it wasn't important that the property I paid for prior to obtaining residency was in her name, her Chilean name. Later I found out how wrong that was. Being desperate to be with my only child and reunite my family I moved to Chillan, Chile in August 1994.

For a short while we had a family again. In a strange land, in a Third World country, but nevertheless a family. The family lasted until my U.S. money ran out in February 1995. When that happened she called the police and said we weren't married legally (she had not registered our U.S. marriage in Chile as she said she had). They demanded I leave the apartment immediately. They also said I wasn't Georgie's legal father because she had registered him as illegitimate in Chile so I had no right to see him. But it got worse, much worse. The shop, the farm, the truck, were hers not mine! I was on the street, no money, no transportation, no son. She even took the only cash money I had from my locked brief case along with my passport and other personal papers. This was all condoned in Chile, the police sup-

ported her actions. A country that is striving to be a part of the modern industrial group of nations.

If the story ended here it would relate enough pain but it doesn't. Because she had signed all the documents for our farm as a single person she was able to sell it to her brother and keep the money. Because when she set up the children's pre-paid college fund in Florida in 1991 she listed herself as the sole beneficiary she was able to take their money and keep it for herself. Stealing their future. After forcing me from our apartment she blocked me from visitation with my son. It seemed I had no place to turn for help.

Again I tried to get legal help. It was impossible to believe that this could happen in any civilized country, that I had lost everything but the most important thing to me was that my son was kept from me. I hired a Chilean lawyer just to be able to see my son. But the local Judge was sick so nothing happened. Later I learned from her that the Family Court Judge was a friend of hers. Gabriela still kept Georgie from me. Surely I thought this kind of total disregard of a son's rights, a father's rights, rights of a legal marriage and its responsibility wasn't possible.

A glimmer of hope the Hague Convention, an international treaty for the return of abducted children was explained to me by the U.S. State Department . . . again a dead end Chile didn't sign it until July 1994. No help to me because it isn't retro-active, she kidnapped the kids to Chile scant months before Chile signed it. But there is part of the Convention that provides for return of children for visitation, another glimmer of hope. But although this does apply Chile has refused to honor the treaty it signed. Not just in my case but in all cases, so much for Chilean honorability and a just place in the nations of the world.

Chile that requires both parents to sign before a Chilean child can leave the country—a country zealously guarding against abduction is obviously hypocritical and not concerned about other countries parent's rights because of this case and many others where they have failed to react. In fact they have not honored this treaty in one case on three years. Chile also signed the UNICEF agreement about children's rights, again a country that wants to look good to the world but does not want to honor its pledges.

Not being able to help my son in Chile and on the advice of lawyers both in the U.S. and Chile I returned to the U.S. Here I was told there could be justice and again that turned out to be a mirage. Because I was blackmailed with Georgie as a hostage, blackmailed to going to Chile and living in the apartment with my wife some legal opinions are that Chile has jurisdiction, the same country that couldn't even help me get any visitation! Back in the United States, despite all I have been led to believe, despite what she has done, there appears to be little hope, little hope for Georgie. After spending over \$18,000 here and \$6,000 in Chile in legal fees there still there is no end in sight I still cannot see my son let alone have him with me. The specifics of this are documented facts and it is puzzling because in spite of them and the obvious fraud they clearly expose, Georgie is severed from his father and lost in a Third World country.

How can a U.S. judge not have jurisdiction? Georgie was born in the U.S. to two U.S. citizens. Citizens legally married in the U.S. He was undoubtedly abducted, there are too many witnesses, too much evidence for there to be doubt. In Chile he has no rights he is illegitimate because of her falsely registering him and must bear the stigma of that throughout his life there. She has stolen money here both from me and from Georgie by taking his college fund and from the other children too. Sal Landa has two children, my step children, he hasn't seen for over 2 years. A U.S. Court, as is customary here awarded joint custody to him and Gabriela. Later without advising him of the hearing a Chilean Judge, her friend, overruled the U.S. Court and awarded Gabriela full custody. She has lied in almost every document she has signed, she has falsely denied a legal marriage exists, she has taken property and money both in the U.S. and Chile.

The story isn't ended and may never be. I cannot stop trying to give my son a good life. I cannot stop trying to be a good father. Not until justice of some reasonable sort is obtained. Should kidnapping be rewarded? Should fraud be rewarded? Apparently for now both are and the children and father continue to suffer. As for my case the minors Georgie, Nicolas and Gabriella need to be returned to the United States where they were born and have spent most of their lives. Then custody, visitation and the children's welfare could be decided by a Judge who can be aware of all the facts without bias. In the larger view how can this kind of crime be stopped? So other parents, fathers and mothers alike, do not have to go through something like this. Simple, minors under 12 years cannot leave the U.S. without the written approval of both parents just as Chile does just as most countries do.

Post script

The above was written in 1995 what has happened since? Today is September 1998.

The U.S. Court failed to do anything so I moved back to Chile to see Georgie. I went to a judge here and got some visitation, terrible by U.S. standards but I do see him.

The Hague convention has proved worthless, Chile has refused to honor it although they have signed it. Our State Department seems powerless. So if you do international business get cash or product first. They sign papers they do not honor.

I did register Georgie legally in Chile so he is not a bastard anymore.

I must pay her support to see him or go to jail, the support for him is OK but she is legally married to me and now is pregnant with another child by another person.

I am told no property can be regained by me, Chile supports her fraud.

As a last point I found out she had been married 4 times in the U.S. and lied on the marriage license with me, that seems unimportant here.

GEORGE MASSIE.

Hon. JESSE HELMS,
Senator, United State Senate,
Washington, D.C.

Via Fax form Chile

DEAR SENATOR: Previously I sent the story of my son, George Massie, however here is another I am working on to help the father. As I have to be here in Chile to continue my fight I also help others in the same situation.

The below is an email from Jim Staley to me I felt I should share with you as it shows the problem we face.

Sincerely,

GEORGE MASSIE.

StaleyJim@aol.com wrote:

Hi George, I am having another sleepless night here in Virginia. I have so many things going through my head and I really miss my son. I just can't believe my wife would go to these limits. Taking all the photos, all the memories, the household furnishings, and then disappearing from the face of the earth. I can't believe she felt like she had to run off like this.

At this point in time I don't even know where she and my son are. This is making me very worried and giving me a great amount of anxiety. The FBI said they searched the Customs data base and don't have her listed leaving the country. A few of her friends said they had no idea she was leaving. I called her mother's house and her mother turned on the radio and put the phone next to the radio for 5 minutes and then she hung the phone up. I called several more times and her mother does other strange things.

I got a lawyer and got an emergency temporary custody order for my son. However, the hard thing is finding her and my son. My lawyer has handled several cases like this that involved Jordan and Argentina. He told me that he would now work with the FBI to try to find her. He feels very confident and this makes me feel a little better. He also connected me with a therapist that has experience in these cases. I visited him last week and I will go visit him tomorrow. Basically he helps me cut down on the anxiety pressure created from this awful situation.

I just received a duplicate copy of my marriage certificate from PA, but I still would like to get my son's birth certificate. I feel so stupid that I didn't make a copy of his birth certificate and passport, but I also would have never thought a person (my wife) could ever do such a terrible thing to another person. Would you be able to get his birth certificate with the following information?

I don't have my sons R.U.N. The only information that I have is the following:

My sons name: James Gregory Staley Marusic

DOB: 22 September 1996

Born at: Clinica Tabancura (I don't have it yet but I will get the doctors name)

My wife's name: Victoria Susana Marusic Jara

DOB: 23 November 1965

R.U.N: 9.607.363-1

Nro. Incripcion: 1.007

Her mothers name: Silvia Manuela Jara Alegria

Her fathers name: Antonio Mirko Marusich Martinich

Also, does Santiago have phone books like we do in the USA? Do they have them on CDs? I would like to look up the people connected to several phone numbers that my wife made to Santiago in the past month. I'm thinking that this may give me a lead to my son.

Thank you very much and may God take care of our children,
Jim

September 18, 1998.

George,

I wrote you about a year ago and told you my pregnant Chilean wife of 7 month's abandoned me on June 3, 97 and returned to Santiago. I was devastated!

You replied with advice and I still can't believe although we are married in the USA we are not in Chile. After you told me about this I played stupid with my wife and it appears that she knew this all along. Stupid me!

Then, I made a very surprise visit to Santiago on 21 September 97. I brought about \$1,500.00 of baby things and stated that I was there to pay for the birth of the child. So, my wife and her family kindly let me take part in the birth of the Child and I stay with her at Clinica Tabancura for 5 days. My son Little Jimmy was born at 3 AM on September 22, 97. It was such a great feeling and the best five days of my life. However, when I returned to her parent's house they put me out after 3 days. Her mom and sister insisted that I should not touch the baby because they didn't want him to get attached to me. I constantly argued with them for my rights, but in the end my wife agreed with her mom and sister. Plop! After getting thrown out of their house I was so expired that I ended up at the airport and waited there for 1.5 days and got a flight back to Wash D.C. I was lucky to have a free ticket from the miles I gained over the past several years because this ticket allowed me to change the dates very easily and without any penalties. 30 minutes into the flight I got up to use the restroom and collapsed on the floor of the isle. The flight attendants used oxygen to revive me and later said that I was pale white and they could not read my pulse. They actually thought I was dead and was going to land the plane.

Over the next 11 months and 3 weeks I tried to get my wife to register my Son as an American Citizen and to submit her immigration papers. I sent all the paperwork and all she had to do was bring them to the Embassy and get a medical physical. The Embassy agreed to review all the documents and they suggested that I remain in the USA in case they needed more information.

They stated that when the time came to sign the citizen papers (2 weeks) that they would call me and I would have to return to Chile. I agreed to this. But, my wife would not take the papers to the Embassy. Later I would find out why!

On May 21, 98 my wife made an unannounced return visit to Wash D.C. She said she had a fall out with her family and that she wanted to make a new start because of the baby. At the time I was so happy to see my Son that I let her back into the house. I should have at least made her register our marriage in Chile and make her sign the immigration documents to allow my Son to become an American. I did tell her that I wanted her to do the above things with my help, but she always put them off and started a huge argument or fight. She became very violent and would break my things. Over the next four months I spent about 4K on baby things and bought her a new Camry.

Over the next four months I formed a very strong bond with my Son. The only word he would say was Dada. He actually would wakeup in the morning and yell Dada, Dada, Dada. We did everything together. Camping, hiking, biking, and he loved the outdoors. He became my total life. I loved giving him a bath, feeding him his milk, reading to him, changing his diaper, and especially playing with him. I loved when we watched Sesame Street together and when he used to want to hug me.

On Monday September 14, 98 I came home from work and my house was almost completely empty. My wife took about 8K worth of stuff. She kidnapped my Son. My Little Jimmy! The house was a wrecked like it got hit

by a hurricane. I was in such a state of shock. Where is my Son! How can anyone do such a terrible thing? I cried, I collapsed on the floor, and I felt like someone had just ripped out my heart and smeared the blood on my face. How cruel can a person be? Why?

I have not slept for 4 nights and I feel terrible. It took me 2 painful days to cleanup my house and I filled 8 large sized garbage bags of paper, food, broken items, and boxes. The most painful area was Little Jimmy's bedroom. He had his own master bedroom and I had it fixed up with a playhouse, train set, and many other toys. It was all gone except the crib, dresser, and changing station. My eyes are tearing and I feel like I'm going to vomit at this very minute. How could she do this?

I talked with the neighbors and it appears that her sister and brother-in-law came to Wash D.C. and helped her pillor my home and rob my Son. The audacity of these people. How could they? I filed a police report that that's all the police could do. They told me that it was perfectly legal what my wife did to me and that she is allowed to take my Son anywhere because we did not have any custody orders and a divorce papers in place. I contacted the FBI and they were very sympathetic but said that they could not attempt to stop my wife or find her because she didn't have a child custody warrant for her arrest and that the local court system would have to put a warrant out on her. Now the local judge is stating that I have to file for custody it could take up to 6 months and cost 15K. I now feel this country's legal system is terrible. I contacted the Children's Office at the State Department and talked with Drew Haldane. He told me that I had to complete the forms for the Hague Convention. I asked how long this would take and he said 6 months. I then told him to read your URL story and that I didn't believe him. I can't believe he did not even know about your URL Site.

What to do now?

My wife is hiding somewhere in Chile and I don't know where my Son is. I think she is at her parent's house at Manuel Rodriguez 1020, Maipu, Santiago but I really don't know.

Right now the only options I seem to have are:

1. Go to Santiago and hire a detective to find her. But, then what do I do if I find her? Get a lawyer in Santiago and fight for custody of the Child?
2. Wait 6 months to get a custody warrant so that the FBI can attempt to locate her?
3. Complete the Hague Convention forms and then fight for custody in Chile?

Can you give me any advice? Do you know a great lawyer that can help me in Santiago? Do you know how I can obtain my Son's birth certificate in Santiago?

Any help would be great for my emotions right now.

Thank You,

JIM STALEY.

July 29, 1998.

Hon. JESSE HELMS,
Chairman of the Senate Foreign Relations Committee,
Washington, DC

RE: Rinaman Child Abduction—Germany

DEAR SENATOR HELMS: I understand you are investigating Hague Convention Compliance. With this letter, I am providing you with some documents and facts that may assist you regarding Germany.

I was married to a German woman while I was a Judge Advocate in the Army in Europe. We lived in Italy, and then in Germany for one year, where our daughter, Julia was born. Five months after Julia was born, we moved to Washington, D.C., purchased a home, and I planned to leave the Army for a civilian job in D.C. My wife's mother came to visit for several months. During that time, my wife was apparently convinced by her mother to leave our marriage and return to Germany.

On June 1, 1996, about ten months after we moved to D.C., my wife went to Germany for a "two week visit". Ten days later, I received the enclosed letter, telling me our marriage was over. I called the State Department, learned about the Hague

Convention, filled out the petition in English and German, and filed the petition in July 1996.

The first court in Germany ordered that Julia be returned to the United States. My wife appealed, and offered her mother's testimony to say I had given permission for her to keep Julia in Germany because the mother had overheard an argument in which I allegedly was told my wife wanted a divorce, and I told her to take the baby and her things and go to Germany. This was a total fabrication. There was never any such discussion—never any talk about divorce, separation, or child custody. In fact, my wife abandoned almost everything she owned, including her childhood photos and many other personal effects. Although I appeared in that court and told them this was a complete lie, they said they believed my wife's mother, and overturned the lower court's order. I note that even if there had been such an argument, the case law, which was provided to the German court, does not support this defense to return, and the decision is contrary to the spirit and intent of the Hague Convention.

Since the upper court overturned the return order, I have been to court again on one visit, along with my mother and father and two of my siblings, and also to a counseling/mediation on another occasion in an effort to see my daughter. I have received only resistance from the court. My ex-wife has told me that she is living with another man and my daughter is calling him 'papa', so that she does not want to "disturb" my daughter with my presence, or my telling her I am her father. As you might imagine, I am entirely distressed with this situation, and I do not intend to allow it. To date, I have worked entirely within the law, dealing with the State Department, and paying nearly \$50,000.00 since 1996 in attorney fees, travel expenses, and other associated costs to reunite my daughter with myself and the rest of her family. At this point, I firmly believe I would have been much more successful hiring someone to re-abduct my child. I relied completely upon the law, and now I know it was a mistake.

As you will see from the enclosed summaries of cases dealing with Germany from 1990–1993, that country's courts consider the treaty to be only advisory. The German courts regularly decide cases "in the best interest of the child" (staying with the mother), with complete disregard for the child's interest in knowing the other parent. You will also find a copy of an article from the London Times describing Germany as the "worst offender" non-compliance with Hague cases.

If you will force the issue with the State Department, they will admit that out of about 90 cases, only about 35 were returned through 1996. I am confident the same dismal track record will prove true from 1996 to present. The lower courts, "Amtsgericht" sometimes appear to follow the law, as in my case. The problem is that the Germans will waive these decisions in your face to prove they follow the law, all the time knowing that the cases are appealed and overturned at the OLG. It is a well coordinated fraud. If they do not intend to comply with the treaty, why do we recognize them as signatories?

As for my case, I am going to Germany for what I consider the "last straw" with their courts in September 1998. I found three years of letters faxed to my wife by her mother, all in German, in which Frau Breitbach brags about her tax evasion, social welfare fraud, and other deceitful things. She even lied in what she describes as her "sad voice" just days after my wife and I moved to D.C., that my wife and I had marital problems, and my wife had returned to Germany, so that she needed to be "registered" for social welfare purposes. Meanwhile, we were in the midst of purchasing a home in Washington. I intend to ask the Court to reverse their decision, which was based wholly upon the testimony of a practiced liar and fraud.

I have provided a complete copy of these letters to my Representative, Tillie Fowler, as well as to our Ambassador to Germany, Mr. Kornblum. I realize I must present these letters to the court, and I fully intend to do so in September, but I do not expect relief from the German courts. I am hoping that the State Department will provide these letters to the German authorities who oversee Hague Convention compliance, to show them that my child has been literally kidnaped, and kept from me for over two years. I would also like to offer to help you in any way I possibly can to ensure compliance with the Hague Convention in Germany and other countries as well. I have been in contact with many other devastated parents, several of whom have children who were taken to Germany and have suffered a similar experience to mine.

My grandfather served in the Army in WWII. He was a doctor, and was a prisoner of war in Japan for several years. He valued his citizenship in the United States very much. My father retired as a Brigadier General after 37 years in the Florida National Guard. He continues to practice law in a civilian firm in Jacksonville. My brother is a Captain in the Florida National Guard. He was deployed for Hurricane Andrew, and he recently deployed for the wildfires we experienced in Florida. He

is an environmental engineer in his civilian employment, and has been educated at Vanderbilt and Georgia Tech. My sisters were educated at Tulane and Southern Methodist University. One is an Architect, the other works in Public Relations. I attended the University of Florida and Florida State University Law School. I am now a Captain, Judge Advocate in the Florida National Guard, and I am promotable to Major. However, because of the significant time I have been required to spend in Germany, I have found it necessary to resign from the National Guard and enter the Army Reserve, because I cannot take an additional two weeks off from my civilian law practice to attend annual training. I have worked for a Chicago Law firm in their Jacksonville, Florida office since I left D.C.

My mother raised four children, educated them, and loves my daughter as her first grandchild. She is tortured by a complete lack of information about my daughter, and wakes up in the night to write letters on her computer to save and give to my daughter. My parents are now in their sixty's. They expected to live a peaceful, contented life. You might expect such a glued together outfit would be able to resolve the problem of my daughter's abduction. Instead, the law has failed us. Our government has been unable to offer any resolution. We have never felt so powerless.

I entreat you sir, please do not allow our State Department to compromise on this issue. For a government like Germany to scoff at an agreement they entered into should be seen as a slap in the face. This is something to be expected from third world countries, and we expect to have to deal with them as such. We must however, demand compliance from Germany. That country relies upon us for protection and trade. We should be able to expect better treatment of our citizens—Julia is both American and German, in spite of the German's claim that she is a German National. If you desire any further information from me, or if I can in any way otherwise assist you, please do not hesitate to contact me.

Very truly yours,

JAMES C. RINAMAN, III.

WALTER PAUL BENDA,
MAX MEADOWS, VIRGINIA,
September 27, 1998.

Hon. JESSE HELMS,
*U.S. Senate, Committee on Foreign Relations,
Washington, D.C. 20510-6225*

DEAR SENATOR HELMS: My family and I were greatly excited to receive your September 21 letter advising us of the special hearing of the Senate Foreign Relations Committee on October 1 regarding international child abduction. Being victims of this, we have felt extremely frustrated by the indifference shown by our government, as well as foreign governments, about this problem. We are deeply appreciative that someone of your stature finally has the courage and compassion to publicly address this problem.

I apologize in advance that much of my letter sounds negative, but please understand that I and my family have been emotionally and financially drained by the abduction of my two American born daughters, Mari and Ema, for over 3 years now. We have had no direct contact with them whatsoever since the day they were abducted. We still do not know their whereabouts, even though my wife, Yoko Mizuno Benda, was indicted for international parental kidnapping over 2 years ago, and supposedly is being searched for by the FBI, Interpol, and our State Department.

Here is a quick round-down of my experiences:

1.) *Japanese Police*: I have personally gone, usually with my own paid interpreter, to various Japanese police departments in Tokyo and Chiba about half a dozen times during the past 3 years. Each of these experiences has been most unpleasant, and there has never been any concrete help of any kind offered. They have ridiculed me, ignored factual evidence I have presented to them, spoken behind my back with my interpreter (trying to get her to just make me leave), and basically been rude and uncooperative. From my experience, the Japanese police are lazy, insensitive, ignorant, and racist. They will not lift a finger to help foreigners in these kinds of cases.

2.) *Japanese courts*: I been involved in Japanese court proceedings in family court, district court, high court, and in the very near future, I will be pleading my case before the Japanese Supreme Court. From my experiences, these courts do not follow standard legal procedures that would be expected in the U.S. court system. For example, despite the fact that I was properly communicating with the Japanese

family court, keeping them informed of my whereabouts, they never acknowledged any of my communications, and did not keep me notified of hearings that were scheduled. As a consequence, my wife's Japanese attorney rammed my case through family court without me being given any opportunities for mediation which are guaranteed under Japanese law before a case can be heard in district court. I definitely feel I received discriminatory treatment from the family court because I was a foreigner and they felt they could circumvent my legal rights without me being able to do anything about it.

Many legal irregularities also occurred at the district court level. At the first hearing, for which I had to take off over one week from work, and spend lots of my personal funds to travel to Japan, my wife and her attorney showed up one hour late. The judge said nothing about this, and let them present their side during the remaining 30 minutes, without giving my Japanese lawyer an opportunity to say anything. When my Japanese lawyer suddenly resigned 2 weeks before the next hearing, the judge refused to reschedule the hearing, even though I made an official written request in Japanese and was assured by Japanese attorneys that normally a hearing would be rescheduled when a lawyer suddenly resigned like this. Because of the lack of time, I was unable to find a qualified Japanese attorney willing to take on my case, and ended up having to represent myself in Japanese district court. Throughout this whole case I have presented exhaustive evidence (including dozens of documents, photos, tape recordings, videotapes, affidavits signed by 25 friends of my daughters, etc.), which has been brushed aside by all the judges and officials who are responsible for determining these cases. Japanese judges have made custody rulings regarding my children without once having seen them or even independently verifying that they are attending school or are even physically present in Japan.

3.) *Japanese Bureaucracy*: I have visited all the Japanese bureaucracies that I can think of, that might be able to lend me assistance in locating my daughters, or making some kind of progress in resolving this matter. I have gone to the city office, where my wife and daughters are fraudulently registered (with my daughters' names falsified), and filed a report that their address is fraudulent. This was to be investigated, but it has been almost one year now since I filed the report and nothing has happened. I have met with bureaucrats of the educational system, and they have told me there is no national computer database for locating my children. They also said that even if they had knowledge of my children, they would not share it with me because of the children's privacy rights. I have met with an official in the Japanese National Health Insurance Agency, to obtain any health records they would have about my children, and he refused to cooperate in any way, again citing the children's privacy rights. I have met with officials at the Japanese Embassy in Washington, as well as at the Japanese Delegation to the United Nations in New York, and despite their assurances they would try to help, they have done nothing.

4.) *U.S. Embassy in Tokyo and the U.S. State Department*: Their attitudes and lack of cooperation have sometimes been even worse than that of the Japanese officials I have dealt with. Despite numerous phone calls and letters to Ambassador Mondale, requesting a 5 or 10 minute meeting with myself and another American father whose children had been abducted in Japan, I never received any sort of response from Ambassador Mondale whatsoever. Members of my family also wrote letters to him, and he never even had the courtesy to reply. His total indifference to this problem was reflected throughout the U.S. Embassy in Tokyo. During one of my frequent visits to the Embassy, I was brought into the office of the Consul General, Mr. Wayne Griffith. Before I had barely said a word, he began to lecture me in a very arrogant fashion that he had a staff of Embassy Marines at his disposal, ready to throw me out of the Embassy if I was disruptive in any way. He was totally ignorant about the most basic aspects of international parental kidnapping. He angrily argued with me when I read him excerpts from a NCMEC publication which cited obligations the U.S. Embassy has in these cases. I found Mr. Griffith's assistant, Margaret Uyebara, whom he assigned to deal with me, to also be very ignorant and inexperienced with these cases. She was also very arrogant and very rude. I have a tape recording of a phone conversation I had with her where she slammed the phone in my face, after saying she was too busy to deal with me because they were having a snow storm in Tokyo.

Just like Ambassador Mondale, Secretary of State Madelyn Albright also has never dignified my family or me with a response to any of the numerous letters we have written her. Her attitude is also reflected in the Office of Children's Issues in the State Department in Washington. They do practically no follow-up whatsoever with parents, and rarely bother to return phone calls or faxes. I still have evidence of all the phone calls and faxes I have made to the Office of Children's Issues which were ignored and never returned. When they do speak to parents, it is very con-

descending and designed to deflate parents' hopes of ever seeing their children again.

5.) *U.S. Police*: The local police in Virginia are basically ignorant about international kidnapping laws, and were not of any help. The FBI office in Roanoke, however, has been helpful, at least in cooperating with the indictment of my wife for international parental kidnapping. However, they do not seem to have any interest in aggressively pursuing this case with Japanese Interpol. Nothing has happened even though my wife was indicted over 2 years ago.

6.) *Virginia Courts*: I pursued this case all the way up to the appeals court level in Virginia, and it was always thrown out. My wife and I both attended college in Virginia, we both held Virginia drivers licenses, my wife had signed a legal certificate in Virginia that she was a Virginia resident, and she listed a Virginia address with INS while we were temporarily residing in Japan, but the Virginia courts ignored all this and felt there was no significant connection to Virginia. Basically the Virginia judges did not want to get entangled in an international case, and took the easy way out by pushing it away.

7.) *National Center for Missing and Exploited Children (NCMEC)*: Even though my children are missing, and are being psychologically, if not physically, exploited, for the first 3 years NCMEC has refused to register them in their system, because I did not have a U.S. custody order. It has pretty much been a "Catch-22" situation for me, because I could not get U.S. courts to hear my case, and so it's been impossible to get a custody order in the U.S. NCMEC needs to recognize that international cases are different from domestic cases, and adapt accordingly.

As you can see, all the various systems that are supposed to help parents in these kinds of cases are largely ineffective. My experiences are not unique. Through an organization that I co-founded in Japan, called Children's Rights Council-Japan, I have come across dozens of cases like mine in Japan, and in practically all these cases the left behind parents have been unsuccessful in maintaining regular personal relations and direct contacts with their children, as guaranteed by the United Nations Convention on the Rights of the Child, which Japan ratified in its entirety on April 22, 1994. In my own case over a dozen articles of this convention have been violated by Japan, including my children's rights to both of their parents, both of their extended families, both of their nationalities, both their religions, as well as the right to their native language, English.

What do I recommend that the Committee on Foreign Relations do, that would effectively address this problem of international parental kidnapping?

As a member of the United Nations, I think the U.S. should be adamant that countries which sign a United Nations treaty, do so with sincerity. If a country does not sign a treaty in sincerity, then it should be forced to withdraw from it. Accordingly, I respectfully ask your committee to introduce a resolution in the United States Senate calling on Japan, as well as other countries that have signed the United Nations Convention on the Rights of the Child treaty and are not abiding by it, to withdraw from it. Furthermore, I believe Japan's application to become a member of the U.N. Security Council should be denied. I really think this would have an immediate impact upon Japan to clean up its act. No country wants to have an international reputation for violating children's rights.

When I moved to Japan in November of 1992 with my wife and children, I assumed I was moving to a civilized country which respected children's rights like they are respected in the United States. I now know that Japan, and many other countries as well, have no respect for children's rights as defined in the United Nations Convention on the Rights of the Child treaty. These countries are sanctuaries for child abductors, and they should be forced to withdraw from the treaty. At least this would give fair warning to Americans thinking of marrying citizens of those countries, or moving to those countries with their American born children.

Thank you very much for giving me this opportunity to present my experiences and views.

Sincerely,

WALTER BENDA.

SYNOPSIS OF BARLOW CASE

(1) Mark William Barlow and Ruth Bruegger Barlow were married to each other on March 5, 1988 in Clemmons, North Carolina, United States, and lived together as husband and wife until May 9, 1991. Three children were born of the marriage of Mr. and Mrs. Barlow: Dwight Ernest Barlow, born September 2, 1988; Jeffrey

Daniel Barlow, born December 6, 1989; and Brian Roger Barlow, born November 20, 1990.

(2) In January, 1991, shortly after the birth of their third son in November, 1990, Mrs. Barlow traveled with the three children to Switzerland for a visit with her family. Mrs. Barlow was to return approximately five weeks later. However, she did not return until ten weeks later and brought both of her parents with her. Upon Mrs. Barlow's return, her father, Mr. Ernest Bruegger, a retired district court judge in Olten-Gösgen, Switzerland, confronted Mr. Barlow with a demand that his daughter and grandchildren reside in Switzerland. Due to the unhappiness of Mrs. Barlow, Mr. Barlow agreed to move to Switzerland. Mr. and Mrs. Barlow rented their home in Guilford County, North Carolina, sold all of their furniture, furnishings, and other belongings, and Mr. Barlow quit his employment in anticipation of the move to Switzerland. Shortly before their departure, Mrs. Barlow claimed that she and the children needed to go to Switzerland a week before Mr. Barlow in order to obtain work permits and other documents for him. Mrs. Barlow left North Carolina with the three children on May 9, 1991.

(3) On May 13, 1991, on the first business day after returning to Switzerland, Mrs. Barlow filed in Olten-Gösgen, Switzerland, a temporary petition for divorce, custody, child support, maintenance for herself, and sought to bar Mr. Barlow from having visitation with the three minor children. Mrs. Barlow was represented by her cousin, Dr. Arthur Haefliger.

(4) On May 14, 1991, three days before Mr. Barlow was to depart for Switzerland, Mrs. Barlow informed him by telephone that she had filed for divorce in Switzerland and intended to keep the children there with her.

(5) On May 15, 1991, Dr. Laemli, a District Court Judge in Olten-Gösgen, granted Mrs. Barlow's request for temporary custody and set a hearing for support for May 29, 1991.

(6) On May 16, 1991, Mr. Barlow filed a complaint for custody of the minor children in Guilford County, North Carolina. At the same time Mr. Barlow filed an Application for Assistance under the Hague Convention on the Civil Aspects of International Child Abduction. (hereinafter Hague Convention). On said date, Mr. Barlow received an emergency custody order from the District Court in Guilford County awarding him temporary custody of the three children.

(7) On May 27, 1991, the Swiss Central Authority formally contacted the District Court in Olten-Gösgen requesting the return of the three children to the United States.

(8) On June 3, 1991, Mr. Barlow requested the return of the three children to the United States in a motion before the District Court in Olten-Gösgen.

(9) On June 13, 1991, the District Court in Olten-Gösgen held a hearing regarding Mrs. Barlow's request for divorce, temporary support and temporary custody. Mr. Barlow was not present although he was represented by counsel. The Court, over the objections of Mr. Barlow's counsel, granted Mrs. Barlow temporary custody of the minor children and established support for the minor children and Mrs. Barlow.

(10) On June 24, 1991, Mr. Barlow appealed the order of June 13, 1991, of the District Court of Olten-Gösgen to the Supreme Court of the Canton of Solothurn as a violation of Article 16 of the Hague Convention.

(11) On July 8, 1991, a hearing was held in the District Court in Olten-Gösgen regarding the return of the minor children under the Hague Convention. The District Court refused to order the return of the children, although the Court found that Mrs. Barlow's actions were illegal. The Court denied the request for return of the children to the United States finding that the children would be harmed by separating them from Mrs. Barlow because she did not want to return to the United States.

(12) On August 12, 1991, the Supreme Court of the Canton of Solothurn reversed the June 13, 1991, decision of the District Court in Olten-Gösgen finding that the District Court had violated Article 16 of the Hague Convention in determining the custody of the minor children when a Hague application was pending.

(13) On August 20, 1991, Mr. Barlow appealed the July 8, 1991, decision of the District Court in Olten-Gösgen for its refusal to order the return of the children to the United States to the Supreme Court of the Canton of Solothurn. Mr. Barlow appealed on the grounds that Mrs. Barlow's refusal to return to the United States did not create an intolerable situation for the children to prevent their return to the United States and Mrs. Barlow should not be able to create the situation and benefit from her own bad conduct.

(14) On September 19, 1991, the Supreme Court of the Canton of Solothurn reversed the July 8, 1991, decision of the District Court of Olten-Gösgen and ordered the minor children to be returned to Kernersville, North Carolina, within 30 days

after the order takes legal effect or Mr. Barlow may get the children within 30 days after the order takes legal effect.

(15) On October 24, 1991, Dr. Laemmli, the District Court Judge in Olten-Gösger who had previously granted temporary custody of the children to Mrs. Barlow and had been reversed by the Supreme Court of the Canton of Solothurn, again ordered custody of the children to Mrs. Barlow during the duration of the divorce proceedings.

(16) On October 29, 1991, Mr. Barlow petitioned the Administrative Clerk of the District Court in Olten-Gösger for execution of the order of the Supreme Court of the Canton of Solothurn in which the children were ordered to be returned to Kernersville, North Carolina.

(17) On November 5, 1991, Mrs. Barlow filed a petition for divorce and requested a divorce, custody, spousal support, child support and division of marital property.

(18) On November 15, 1991, Dr. Laemmli, the District Court Judge in Olten-Gösger, wrote to the Supreme Court of the Canton of Solothurn. The Judge wrote that it was impossible not to decide about custody of the children because there needed to be an execution proceeding and considerable time may elapse before the children are returned.

(19) On November 25, 1991, Mrs. Barlow petitioned the Supreme Court of the Canton of Solothurn for a rehearing of the order for the return of the children to Kernersville, North Carolina. Mrs. Barlow offered a report from the Department of Social Services in Switzerland written on October 21, 1991, a report of an investigator regarding Mr. Barlow's conviction for avoiding arrest in 1985 prior to the marriage) and two affidavits from friends. All of the documents were not previously before the Court.

(20) On November 29, 1991, the Administrative Clerk of the District Court of Olten-Gösger suspended the execution of the September 19, 1991, Order until the Supreme Court of the Canton of Solothurn decided if it would grant the rehearing requested by Mrs. Barlow.

(21) On December 17, 1991, the Supreme Court of the Canton of Solothurn suspended execution of its order of September 19, 1991, until it decided on Mrs. Barlow's petition for rehearing.

(22) On January 17, 1992, the Supreme Court of the Canton of Solothurn made its own motion not to have live witnesses at the hearing regarding the petition for rehearing unless the parties replied by January 24, 1992.

(23) On January 24, 1992, Mrs. Barlow objected to not having live witnesses at the hearing regarding her petition for rehearing and requested that the Court hear the live testimony of her father, Mr. Bruegger.

(24) On January 31, 1992, Mr. Barlow's counsel sent a letter to Supreme Court of the Canton of Solothurn objecting to any live testimony, including the testimony of Mr. Bruegger.

(25) On February 5, 1992, Mr. Barlow filed a complaint and counterclaim in the divorce proceedings.

(26) On March 16, 1992, there was a hearing before the Supreme Court of the Canton of Solothurn regarding Mrs. Barlow's petition for rehearing. Mr. and Mrs. Barlow were present as well as Mrs. Barlow's father, Mr. Bruegger and Mr. Barlow's mother, Mrs. Lightcap.

(27) On March 24, 1992, the Supreme Court of the Canton of Solothurn denied Mrs. Barlow's petition for a rehearing finding that there was no new evidence to change its September 19, 1991, decision. The September 19, 1991, decision was reinstated.

(28) On March 26, 1992, Mr. Barlow requested that the Administrative Clerk of the District Court of Olten-Gösger execute on the September 19, 1991, order of the Supreme Court of the Canton of Solothurn.

(29) On March 30, 1992, the Supreme Court of the Canton of Solothurn reversed the portion of the October 24, 1991, order of Dr. Laemmli granting Mrs. Barlow custody of the children during the duration of the divorce proceedings.

(30) On April 1, 1992, the Administrative Clerk of the District Court in Olten-Gösger lifted the suspension of the execution proceeding and set a hearing for April 9, 1992.

(31) On April 8, 1992, Mrs. Barlow petitioned the Administrative Clerk of the District Court of Olten-Gösger to suspend the execution order until the Federal Supreme Court of Switzerland heard her petition.

(32) On April 10, 1992, Mrs. Barlow appealed the decision of March 24, 1992, of the Supreme Court of the Canton of Solothurn to the Federal Supreme Court of Switzerland.

(33) On April 14, 1992, the Supreme Court of the Canton of Solothurn refused to suspend the proceedings pending Mrs. Barlow's appeal to the Federal Supreme Court of Switzerland.

(34) On April 16, 1992, the Administrative Clerk of the District Court of Olten-Gösgen ordered that the September 19, 1991, order from the Supreme Court of the Canton of Solothurn be enforced. The Administrative Clerk ordered that if Mrs. Barlow refused to obey, she could receive a 5000 franc fine, imprisonment of three months, or both. The Administrative Clerk refused to use force to get the children returned to the United States.

(35) On April 29, 1992, Mr. Barlow appealed to the Administrative Supreme Court of the Canton of Solothurn regarding the decision of the Administrative Clerk of the District Court in Olten-Gösgen to impose sanctions but not use force.

(36) On May 1, 1992, the Supreme Administrative Court of the Canton of Solothurn refused to stay the order for the return of the children pending Mrs. Barlow's appeal to the Federal Supreme Court of Switzerland.

(37) On June 11, 1992, the Supreme Administrative Court of Canton of Solothurn denied Mrs. Barlow's request for additional time and gave Mrs. Barlow until June 22, 1992, to take a position with respect to Mr. Barlow's appeal from the decision of the Administrative Clerk of the District Court of Olten-Gösgen regarding the use of force.

(38) On July 10, 1992, the Supreme Administrative Court of the Canton of Solothurn suspended the execution proceedings until the Federal Supreme Court of Switzerland had decided Mrs. Barlow's appeal from the March 24, 1992, decision refusing the rehearing and ordering the reinstatement of the September 19, 1991, decision.

(39) On July 10, 1992, the Federal Supreme Court of Switzerland suspended all efforts to execute the judgment of the Supreme Court of the Canton of Solothurn until the Federal Supreme Court of Switzerland had decided the matter.

(40) On August 20, 1992, the Federal Supreme Court of Switzerland denied Mrs. Barlow's appeal from the March 24, 1992, Order of the Supreme Court of the Canton of Solothurn. Mr. Barlow requested that the Supreme Administrative Court of the Canton of Solothurn order the Administrative Clerk of the District Court of Olten-Gösgen to proceed with the order of execution and lift the suspensions that had been previously entered.

(41) On November 6, 1992, the Supreme Administrative Court of the Canton of Solothurn ordered that force be used if Mrs. Barlow did not obey the order to return the children to the United States. Mrs. Barlow was given until November 28, 1992, to obey the Court's order.

(42) On November 21, 1992, Mrs. Barlow appealed to the European Court on Human rights in Strausburg, France, claiming a violation of her human rights in having the courts of Switzerland order the children returned to the United States.

(43) On November 26, 1992, Mr. Barlow requested the suspension of the children's passports.

(44) On November 27, 1992, the Administrative Clerk of the District Court of Olten-Gösgen refused to suspend the children's passports since Mrs. Barlow might comply with the Court's order on November 28, 1992, and give the children up.

(45) On December 2, 1992, the Administrative Clerk of the District Court of Olten-Gösgen ordered suspension of the children's passports until Mrs. Barlow obeys.

(46) On December 3, 1992, the Federal Supreme Court of Switzerland ruled that Mrs. Barlow's appeal to the European Court on Human Rights in Strausburg, France, would have no effect on the order of the execution.

(47) On December 10, 1992, the Administrative Clerk wrote to the Swiss Central Authority allowing Mr. Barlow to pick up the children in Switzerland provided that:

(a) Mr. Barlow is accompanied by someone educated in caring for small children who has a command of the Swiss German language;

(b) that someone with the command of the Swiss German language accompany the children in the United States until the children are accustomed to their new circumstances and can represent their interests in court; and

(c) that if Mrs. Barlow desires to travel to the United States, that Mrs. Barlow will have the protection of the United States Central Authority during her stay.

(48) On December 16, 1992, the Swiss Central Authority wrote to the Administrative Clerk of the District Court of Olten-Gösgen stating that the demands of the Administrative Clerk were outrageous and that Mrs. Barlow had brought the situation on herself.

(49) On December 21, 1992, Mrs. Barlow was ordered to surrender the passports of the children on or before December 24, 1992, at 11:00 a.m. or the police would seize them.

(50) On January 5, 1993, the Administrative Clerk of the District Court of Olten-Gösgen, Switzerland informed Mr. Barlow's attorney that a secret police action would take place on January 12, 1993 at approximately 8:00 a.m. whereby the three children would be taken by the police and a social worker from the home of Mrs. Barlow and her parents. The children were to be taken to a children's home in Luzerne, Switzerland and reunited with Mr. Barlow at the children's home. The Administrative Clerk of the District Court of Olten-Gösgen revealed that Mrs. Barlow's father, Mr. Bruegger, had made threats against him and Mr. Barlow's attorneys.

(51) On January 11, 1993, Mr. Barlow and his mother met with the Administrative Clerk of the District Court of Olten-Gösgen, Switzerland, the social worker who had written a report about Mrs. Barlow and the Barlow children in October, 1991, and a social worker from the children's home in Luzerne. Said officials attempted to dissuade Mr. Barlow from returning to the United States with his children and queried if Mr. Barlow would take responsibility for the physical injury to his children if Mrs. Barlow's father should become violent.

(52) On January 12, 1993, the Olten police went to the home of Mrs. Barlow's parents (Mrs. Barlow and the children have stayed in the Bruegger home since May, 1991.) The entire family had left sometime before the arrival of the police. The neighbors were questioned and no one claimed to know the whereabouts of the family. One neighbor had been left a key to the home but claimed to know nothing about the location of the family. A search for the family was activated and national and international warrants were in the process of being issued for the arrest of Mrs. Barlow and her parents. The whereabouts of Mrs. Barlow and her parents became known during this time and the warrants were canceled.

(53) On January 13, 1993, a meeting was held. In attendance were authorities from the Swiss Central Authority, the Administrative Clerk of the District Court of Olten-Gösgen, a representative from the Department of Justice of the Canton of Solothurn, and the attorneys for Mr. Barlow and Mrs. Barlow. Mrs. Barlow's attorney revealed that he knew the location of Mrs. Barlow, her parents and the children but would not reveal it. Mrs. Barlow's attorney was given until January 14, 1993, to reveal the location of the children. Mrs. Barlow's attorney was informed that Mrs. Barlow must decide by January 15, 1993, if she will return to the United States or the children will be taken from her.

(54) On January 14, 1993, the Administrative Clerk of the District Court of Olten-Gösgen informed Mrs. Barlow's attorney that Mrs. Barlow must decide by 12:00 noon on January 15, 1993, if she will return to the United States. If Mrs. Barlow agrees to return, she must leave no later than the evening of January 19, 1993. If Mrs. Barlow refuses to return or refuses to respond, then the police will take the children on January 19, 1993, for Mr. Barlow to return with them to the United States. The Administrative Clerk of the District Court of Olten-Gösgen knows the location of the family. He has refused to disclose the location to Mr. Barlow's attorney and has refused to order police surveillance believing that Mrs. Barlow will not flee with the children. However, all international airports and border officials have been alerted to the situation. Mrs. Barlow has hired an attorney from the United States who is in Switzerland and will be meeting with her on January 15, 1993.

(55) On January 15, 1993, Mrs. Barlow agreed to return to the United States no later than January 20, 1993. She was ordered to disclose her itinerary for her return as soon as she knew it.

(56) On January 15, 1993, after agreeing to return to the United States on or before January 20, 1993, Mrs. Barlow and two children were admitted to the Villain Park in Rothrist, in the Canton of Aargau, a private hospital. Attached hereto as Exhibits A & B are certified copies of the doctor's certificate dated January 15, 1993, regarding the psychological state of Mrs. Barlow and Dwight Barlow. On said date Mr. Hug expressed concern to plaintiff's attorney, Mr. Steinegger that Mrs. Barlow and others may commit "collective suicide." Mr. Steinegger requested police intervention and the presence of a social worker in the home to monitor the possible suicide-homicide of the Barlow-Bruegger family. The request was denied by Mr. Hug.

(57) On January 18, 1993, Mrs. Barlow indicated that there could be problems if she leaves for the United States. The Swiss Central Authority gave its assurance that the problems would be immediately resolved in cooperation with the Embassy of the United States in Berne. Mr. Brian Flora, Consul General of the United States confirmed with the Swiss Central Authority that Mrs. Barlow would be given a 6 month visa for the United States and that said visa could be prolonged if necessary.

(58) On January 19, 1993, Mrs. Heidi Koch informed Mr. Hug, the Administrative Clerk of the District Court of Olten-Gösgen, that she represented the interests of

Mrs. Barlow and the children. She sent the Exhibits A & B to Mr. Hug. On January 19, 1993, Mr. Haefliger withdrew as Mrs. Barlow's attorney.

(59) On January 19, 1993, Mrs. Koch announced that Mrs. Barlow and two of the children were in a hospital. Mr. Hug confirmed this information. The Swiss Central Authority insisted that Mr. Hug obtain an independent medical check-up of the children and to inform the police of the status of the situation in the Canton of Solothurn and Aargau.

(60) On January 20, 1993 the authorities involved in obtaining the transfer of the children ascertained that the transfer of the children to the United States would not take place. Mr. Hug confirmed that he would not have the order executed so long as there were medical reasons against it.

(61) On January 20, 1993 Mr. Hug requested a meeting of authorities under the auspices of the Federal Office of Justice with the participation of plaintiff and defendant for January 22, 1993. Mr. Keller, the Director of the Federal Office of Justice consented to lead the meeting.

(62) On January 21, 1993, Mr. Hug arranged a meeting for January 22, 1993, to discuss the Barlow matter. Mr. Hug, Dr. Keller, Mrs. Jametti-Greiner, Mr. Barlow and his attorney, Dr. Steinegger, Mrs. Barlow and her attorney were to attend. Although Mr. Hug wrote a strongly worded letter to Mrs. Koch, he stated that the meeting would be canceled if Mrs. Koch and Mrs. Barlow did not attend.

(63) On January 21, 1993, Mr. Hug was informed by defendant's counsel, Mrs. Koch, that Mrs. Koch was not in a position to attend the January 22, 1993 meeting.

(64) On January 22, 1993, Mr. Hug informed the Swiss Central Authority that a police action was planned for January 25, 1993 to take the children away and to use physical force if necessary. Mr. Hug again expressed concern about a "collective suicide." Mr. Hug requested and obtained police surveillance of the home where defendant and the children were staying.

(65) On January 25, 1993, the police and three social workers took the three Barlow children from the home of Mrs. Barlow's parents where Mrs. Barlow and the children had been staying and brought them to Mr. Barlow in Bern, Switzerland. The children were taken in their pajamas and shoes. Mrs. Barlow did not send any clothing, toys, blankets or any other items with the children. After being examined by a medical doctor, the children were permitted to leave the country with Mr. Barlow and his mother. The children arrived in the United States at 8:00 p.m. on Tuesday, January 26, 1993. They are currently staying with Mr. Barlow, his mother, Mr. Barlow's brother and sister-in-law, and their two children (ages three and four) while Mr. Barlow sets up house for himself and his children.

The defendant wrongfully abducted the children and had taken every step possible to avoid returning the children to the jurisdiction of North Carolina. Defendant has asserted that the children would be harmed if separated from her. However, defendant chose not to return with the children to the United States. Defendant checked herself and two of the children into a private hospital due to the extreme psychological stress she was under. The psychological stability of the plaintiff and defendant and other psychological factors need to be addressed and would be useful in the custody proceeding.

27 December 1994.

OFFICE OF CHILDREN'S ISSUES, BUREAU OF CONSULAR AFFAIRS,
United States Department of State, Washington, DC.

DEAR COLLEAGUE: First of all, let me thank you for your cooperation during this year which has been really satisfying. I hope sincerely that we might continue in 1995 on the same basis.

Allow me to draw your attention to a case on child custody pending before an American court. The Swiss Central authority has some concerns about the lawsuit in re *Barlow v. Brugger*, where after a divorce pronounced in Switzerland and a decree stating the return of the abducted children to the United States—the custody of the children and the access for a right to visit is pending before a court of North Carolina.

As you may remember, in the present case, the Swiss tribunals decided the return of the three Barlow children in last instance after a very long procedure, avoiding nevertheless any relevance to the final attribution of the parental authority, this being considered, after a decision in favour of a return of the children to the United States, as being of the resort of the U.S. Courts.

In the current procedure before the American court it has now to be decided to whom and under which conditions the parental custody will be attributed. As we

were informed through our representation in Atlanta, there might be some possibility that the custody over the three little boys will be attributed to the mother, but that she will have to stay within the jurisdiction of that court (or at least within the United States) in order to give the father the opportunity to keep some contacts with his children. The Swiss Central Authority feels the need to underline that such a decision could create an important precedent. In the present case, the Swiss tribunals—in conformity with the Hague Convention—have ordered the return of the children to the USA although the later—owing to the many appeals lodged by Mrs. Barlow against the return—have already long been living in Switzerland.

By ordering the compulsory enforcement of the return decree the Swiss authorities have shown more than clearly that they consider the correct implementation of the convention requirements as having absolute priority.

Without interfering in the American procedure, we would like to stress the point that there are no objective reasons for any restrictions in the custody as far as the mother is concerned. Should the American tribunals nevertheless come to the conclusion that in the actual lawsuit the children should not be entrusted to the mother, or that she must necessarily exercise her rights of custody in the USA because otherwise the father and the children won't be able to get in contact with each other, this would certainly be interpreted in Switzerland as a rejection of the system set up by the Hague Convention. It would then hardly be conceivable that under similar conditions a Swiss judge would again order the return of American children. Such an attitude would be all the less understandable as the Swiss authorities had even resorted to police power in order to ensure the enforcement of the order for return and therefore scepticism about in the manner in which the Hague Convention functions in no way seems justified.

Taking into account the numerous cases between Switzerland and the United States which have been settled in the spirit and in the respect of the Hague Convention, the Swiss Central Authority would deeply regret such a development. We thus encourage you to underline to the court the mutual functioning of the Hague Convention between our two states in order to preserve this fruitful cooperation.

Very truly yours,

NICOLETTE RUSCA-CLERC,
FEDERAL OFFICE OF JUSTICE,

Central Authority in Matters of International Child Abduction.

Defendant's Exhibit 4

BARLOW/BRUGGER

Return

The conditions which led to the compulsory enforcement of the order for return of the children follow from the summary of the circumstances which the Swiss Central authority sent the American Central authority on 25 January 1993 (s. annex).

Indeed, it was necessary to resort to police power in order to ensure the enforcement of the Order as the members of the Brugger family and the mother of the children also resisted this order physically.

The return was foreseen for January 21, 1993, at 9 o'clock in the morning. I presume that the police chose that time of the day because one could then assume that the children were already awake, dressed and had had their breakfast, but that it would be too early in the day for the children to have left the house together with their mother and/or grandmother. In fact the children were already awake at that time, but they were "still in bed". Besides the "Oberamtmann" Hug (the former collaborator of M. Brugger), the Head of the Cantonal police and several policemen of which some were women (constables or social welfare workers?) as well as the Cantonal doctor took part in this action, the doctor having rapidly ascertained whether the children were in a state to be removed from their home. Upon his positive medical diagnosis, the children were fetched out of the house despite the violent verbal abuse and physical resistance of the Brugger parents and of Mrs. Barlow-Brugger. At that moment the children were wearing pajamas or trainers and slippers. One of the women who were participating in the "action" quickly grabbed the clothes and jackets which seemed adequate to them. I can't remember exactly anymore if all the children really had jackets on.

The children were immediately brought to the Cantonal hospital, where they were examined very thoroughly as to their state of health. This time the check-up was made in order to find out if the children would be able to travel to the USA. The

children received a meal in the hospital. After a positive diagnosis the children were driven to Bern and there they were entrusted to their father.

Personal opinion: The people who participated in this return action took very great pains indeed in order to ensure that the return of the children take place in the most calm and civilized manner possible, but the members of the Brugger family put up so many obstacles that this was not possible. Had one entirely renounced ensuring the return by physical coercion this would have meant that according to the events occurring till now the judicially confirmed decrees of last instance ordering the return of the children would not have been enforced.

Of course, in this "inferno" it is understandable that the children were frightened. I then took care of one of the little boys and I was able to reassure him on the whole; I could also observe the same thing with the two other children.

Juridical considerations

In the present case, the Swiss tribunals decided the return of the three Barlow children in last instance; an enforcement injunction obtained by Mrs. Barlow according to which the return could only take place if no coercion was resorted to, was rejected upon an appeal filed by Mr. Barlow, so that the legal position was clear. The Solothurn authorities let several months go by, before they enforced the judicial decision. During that time the "Oberamtmann" tried several times—however in vain—to bring the defeated party to comply voluntarily with the judicial decision.

The Swiss Central Authority for matters of international child abduction is not empowered to express an opinion about the functioning of Swiss justice; that authority also does not officially comment on (or criticize) any decision which is given in application of the Hague Convention on the civil aspects of international child abduction or of the European Convention on custody decrees.

However, on the basis of the international Conventions the Swiss Central authority must see to it that the necessary and adequate measures are taken in order to ensure the safe return (ordered by the tribunals) of the children. It can therefore not tolerate that orders for return of children which have been given by Swiss Tribunals are not enforced.

The precedent created by the Barlow/Brugger lawsuit

The current procedure creates an important precedent. In conformity with the Hague Convention the Swiss tribunals have ordered the return of the children to the USA—although the latter—owing to the many appeals lodged by Mrs. Barlow against the return—have already long been living in Switzerland. By ordering the compulsory enforcement of the return decree the Swiss authorities have shown more than clearly that they consider the correct implementation of the convention requirements as having absolute priority. Should the American tribunals come to the conclusion that in the actual lawsuit the children should not be entrusted to the mother, or that she must necessarily exercise her rights of custody in the USA, because otherwise the father and the children won't be able to get in contact with each other, this would be interpreted in Switzerland as a rejection of the system set up by the Hague Convention. It would then hardly be conceivable that under similar conditions a Swiss judge would again order the return of American children. Such an attitude would be all the less understandable as the Swiss authorities had even resorted to police power in order to ensure the enforcement of the order of return and therefore skepticism about the matter in which the Hague Convention functions in no way seems justified.

TY CUNNINGHAM,
AUSTIN, TX .
September 30, 1998.

Hon. JESSE HELMS,
United States Senate, Committee on Foreign Relations.

DEAR SENATOR HELMS: I understand you are going to chair a Senate Foreign Relations Committee Meeting and Public Hearing on International Child Abduction tomorrow, October 1, 1998 at 10:00 AM. Please enter my story, following, into the official record.

I beseech you to speak on behalf of me and the other U.S. Citizen's whose children have been kidnapped from American homes and parents against U.S. Court Orders. Too often the countries these are taken to are members of the United Nations and have signed the Hague Treaty, but refuse to acknowledge U.S. Court rulings and refuse to help return the kidnapped children back to America.

This is especially troubling to me because of the illegal abduction of my U.S. American-born children to Brazil by their Brazilian National mother.

Geneva and Felipe Cunningham were kidnapped to Goiania Brasil by their non-custodial mother 16 months ago. This was the third time that their mother kidnapped them, against U.S. court orders. I was awarded sole custody by Travis County, Texas Courts in my July 1997 final divorce decree. The Travis County District Attorney's Office has issued a felony arrest warrant for their mother, Vilma Lopes de Silva Cunningham.

Even though I have been awarded full custody, Vilma Lopes da Silva Cunningham has filed a custody lawsuit petition through Letters of Rogatory in Brazilian courts, which were processed by our very own U.S. State Department, against me and my U.S. citizen children. My only choices are: to answer the lawsuit (effectively overturning U.S. Court jurisdiction) or to default in the Brazilian Court. The Brazilian courts are not recognizing jurisdiction over U.S. citizens, and the U.S. State Department is assisting Brazil in service of process against me.

Again, I implore you and all of Congress to help in the return of internationally abducted, U.S. citizen children to their homes in America. Thank you for your sincere efforts.

Cordially,

TY CUNNINGHAM.

SUMMARY OF THE ABDUCTIONS OF MARK LARSON'S DAUGHTER, JULIA LARSON, FROM THE U.S. TO SWEDEN BY HER SWEDISH MOTHER

My Swedish ex-wife, Sofia Ohlander, has unlawfully abducted our American-born daughter, Julia Larson, from the U.S. to Sweden 3 times. When we got married in Utah in 1989, Sofia assured me that she was in full agreement that we would live here in the U.S. and raise our family here. Our daughter Julia was born in Utah a year later. Julia will turn 8 years old on August 13, 1998, and her mother has successfully prevented us even from seeing each other since Julia was 3½ years old.

The first abduction took place at the end of a family vacation in Sweden during the Christmas/New Year holiday in 1990/1991. Sofia had been quite depressed after Julia was born, and upon her insistence we went on a visit to Sweden for the holidays to show Sofia's mother our new baby. However, instead of returning with me to Utah at the end of the visit, Sofia kidnapped Julia and went into hiding with her, and Sofia's family threatened me with physical violence if I didn't leave Sweden immediately. I contacted the Swedish police, but they said there was nothing they could do to help me. As I found out later, this forced retention of our daughter in Sweden was a violation by Sofia of the Hague Convention on the Civil Aspects of International Child Abduction.

After 5 months I had managed to re-establish contact with Sofia and persuaded her to return with our daughter to the U.S. For the next 7 months we again lived together as a family in our Utah home. Then one day, without my permission or foreknowledge, Sofia took Julia and hopped on a plane with her to Sweden. This abduction was Sofia's second violation of the Hague Convention.

Sofia cut off all contact with me for several months, and would only communicate through her Swedish attorney, through whom she was demanding a divorce and sole custody of Julia. I attempted to negotiate a custody and visitation arrangement with her, but the only arrangement she was willing to agree to was sole custody and child support for her, with no visitation for me other than a vague provision that I could come see Julia at Sofia's apartment in Sweden on the occasions when I "happened to be in Sweden." After consulting with numerous attorneys, law-enforcement officers, and government officials in both countries, none of whom informed me about the Hague Convention, I finally came to the understanding that the state of Utah—which is the only place our family had ever lived and the only place Julia had ever lived with the agreement of both of her parents—was the proper jurisdiction for the divorce and custody case. I filed a divorce and custody suit in Utah, and a few months later I went to Sweden and managed to retrieve Julia and bring her back to Utah with me.

Two months later Sofia filed a Hague Convention case against me (fully funded on her behalf by the Swedish government) in the federal court in Utah, alleging that I had violated the Hague Convention by "abducting" Julia from Sweden to the U.S., and making no mention of the facts that Julia was born in the U.S. and was abducted from our family home in the U.S. by her mother and wrongfully held in Sweden, and that I was actually returning Julia to the country from which she had originally been abducted. Instead of serving me with notice of her Hague Convention

filing. Sofia's lawyer had the record of the filing sealed and petitioned the court to issue an *ex parte* order (i.e. an order made without giving me any prior notice or opportunity to be heard) requiring any peace officer within the state of Utah to immediately seize my daughter from my physical custody and temporarily place her with Sofia pending the outcome of her Hague Convention case. The order also set the case for a prompt hearing and ordered Sofia not to remove Julia from the state of Utah. The alleged "emergency" falsely sworn to by Sofia as grounds for such an extreme *ex parte* measure was that, if the court did not have my daughter immediately removed from physical custody and turned over to Sofia without affording me any advance notice or opportunity to be heard, my daughter would somehow "suffer some irreparable injury" and/or "be carried out of the jurisdiction of the Court" before the Hague Convention case could be properly adjudicated.

Less than 48 hours after Sofia obtained physical possession of Julia from me via the enforcement of the *ex parte* order which she had fraudulently obtained from the court, she hopped on a plane and fled with Julia to Sweden in willful, calculated violation of the order. Sofia was greeted at the airport in Sweden by a large gathering of the Swedish media, where she bragged about how she managed to sneak Julia out of the U.S. with the inadvertent help of the U.S. authorities. (According to the Swedish media, the plane tickets Sofia used for this abduction were purchased by a collection fund established for Sofia in her hometown of Sandviken, Sweden.) This abduction occurred 4½ years ago, and Sofia has illegally prevented me and my daughter from seeing each other ever since then.

The federal court immediately ordered Sofia to return to Utah with Julia, which she refused to do, as a result of which the federal court found her in contempt and issued a warrant for her arrest. The court then made a second order which required Sofia to return Julia to Utah within 30 days and formally requested the assistance and cooperation of the Swedish Ministry of Foreign Affairs, as Sweden's Central Authority for the Hague Convention, in enforcing and facilitating Julia's return to Utah. The order was sent to the Swedish Ministry of Foreign Affairs by the U.S. State Dept., with an official request for Sweden's cooperation and assistance under the international treaty. The Swedish mother again simply thumbed her nose at the U.S. court, and the Swedish Ministry of Foreign Affairs' response to the United States' formal request for assistance was a one-sentence fax stating "I would like to inform you that despite [sic] Ms. Ohlanders [sic] actions we cannot find any prerequisite of returning Julia to Utah according to the Hague-convention [sic]."

At that point I filed a request for a final ruling by the federal court in Sofia's Hague Convention case, to which Sofia's lawyers responded by filing a motion to dismiss the entire case, based upon the disingenuous argument that there was no longer any need for the case since Sofia had already accomplished her purpose for filing the case, namely getting Julia out of the U.S. and back once more to Sweden. The court denied her motion, and after several more delay and avoidance tactics by Sofia's lawyers, I was finally able to get the case heard. In June 1995 the federal court entered its final Hague Convention judgment, ruling that all of Sofia's abductions of Julia from the U.S. were unlawful violations of the Hague Convention, that Julia's proper residence as viewed by the Hague convention was in the state of Utah, U.S.A., and had been so since her birth, and that my return of Julia to Utah was a lawful restoration of Julia to her proper residence. The judgment ordered both Sofia and myself to "take all steps necessary" to secure Julia's return to Utah, and formally requested Sweden to recognize and enforce the judgment under the Hague Convention. As before, this judgment was sent to the Swedish Ministry of Foreign Affairs by the U.S. State Dept., with an official request for Sweden's cooperation in its recognition and enforcement under the international treaty.

Because Sofia continued to thumb her nose at the federal court, and the Swedish Ministry of Foreign Affairs continued in its stance of non-cooperation, I was forced to travel to Sweden in the summer of 1995 to seek enforcement via a Hague Convention court action there. In that action, Sofia's lawyer argued that the U.S. Hague Convention ruling had no legal effect in Sweden and was not enforceable there, and that the Swedish courts had to ignore the ruling and "independently try the case from the standpoint of Swedish law." I spent 2½ months in Sweden pushing the case through the trial and appellate court levels, during which time Sofia kept Julia in hiding and defied all efforts by me, my attorney, the U.S. Embassy, and the U.S. State Dept. to arrange for contact between me and my daughter.

During the entire span of the court battles in the U.S. and Sweden, Sofia and her friends actively engaged in a very extensive media campaign for public support in Sweden, painting a picture of a poor, innocent Swedish mother and her Swedish daughter (without my knowledge Sofia had even officially registered Julia in Sweden as a Swedish citizen, with her birthplace listed as Sandviken, Sweden, and the Swedish authorities were totally uncooperative with my attempts to correct that

false information) who were being harassed and terrorized by a powerful foreign-father ogre whom the daughter didn't even know and whose only motivation for trying to tear the poor Swedish girl away from the bosom of her Swedish mother and her Swedish "homeland" was to increase his own status and dominion. Instead of portraying the legal battle as being between the two parents, with the child being the subject thereof, the Swedish media consistently portrayed it as Sofia and Julia on one side (e.g., Sofia's lawyer was constantly referred to as "Sofia's and Julia's lawyer") heroically battling for their rights against the harassments of the "foreign father" and his imperialistic country on the other side. Sofia was repeatedly quoted as saying that all she wanted was "to be left in peace" so that she and her daughter could "live a normal life." the image was so compelling that it led to well over a hundred newspaper articles and television interviews, at least one full-length feature article in a popular national Swedish women's magazine, and a half-hour prime-time television docudrama which aired throughout Scandinavia, in which Julia was used as an actress to play herself in professional "re-enactments" of Sofia's rendition of Julia being "abducted" by her brutal American father and "rescued" by her Swedish mother, both of whom were played by professionals.

In accordance with Sofia's arguments for non-recognition of the U.S. Hague convention judgment, the Swedish trial court completely disregarded the U.S. judgment and ruled not to return Julia to the U.S. The Swedish appellate court also failed to grant recognition to the U.S. Hague Convention judgment, but rightly reversed the Swedish trial court's decision and ruled substantially in accordance with the U.S. judgment, ordering Sofia to turn Julia over to me within 6 days for return to the U.S.

Sofia continued to hide Julia from me, and she and her family and friends sharply escalated their campaign for public support through the Swedish media. Instead of portraying the Swedish appellate court ruling as the return of a wrongfully abducted child to her habitual residence and homeland, the Swedish media painted it as the "extradition" of a terrified little "Swedish girl" from her Swedish homeland and her heartbroken Swedish mother. The Swedish regional and national television news broadcasted daily updates on the "heroic" efforts being made by thousands of Swedish citizens to "save" Julia from the appellate court ruling, which efforts included daily protest demonstrations in the mother's hometown of Sandviken, mass visits to influential leaders in the Swedish government appealing for their intervention and thousands of signatures on petitions protesting the ruling and requesting the Swedish Supreme Administrative's Court to accept the mother's appeal and reverse the ruling.

On August 28, 1995, Sofia filed her appeal in the Swedish Supreme Administrative Court, accompanied by the protest petitions she had solicited. Two days later, on the day before Sofia was required to turn Julia over to me pursuant to the appellate court's ruling, Sweden's Supreme Administrative Court granted Sofia leave to appeal and stayed enforcement of the appellate court ruling.

Four months later, the Swedish Supreme Administrative court reversed the appellate court judgment, ruling that the Swedish courts must categorically disregard prior Hague convention judgments from other countries and independently re-adjudicate those cases (in other words, free the forum-shopping Swedish parent from the adverse ruling and allow them a fresh re-litigation in Sweden). In re-adjudicating the case, the Swedish Supreme Administrative Court completely disregarded and contradicted the recognized body of international Hague convention case law and the official commentary on the Hague convention, ruling that Sweden did not have to return Julia to the U.S. because the Swedish mother had succeeded in unilaterally changing Julia's residence from Utah to Sweden by virtue of her unlawful abductions of Julia from Utah and her success in forcibly retaining Julia in Sweden against my wishes for more than a year.

Despite Sweden's refusal to recognize the U.S. Hague Convention judgment, the Swedish government fully funded an appeal by Sofia of that judgment to the federal court of appeals. The Swedish government also funded a concurrent extraordinary motion to have the federal district court set aside its own Hague Convention judgment, based upon the disingenuous argument that the Hague Convention requires the U.S. courts to recognize and defer to the Swedish ruling (even though the Swedish ruling explicitly refused to recognize or defer to the already-existing U.S. ruling). After this extraordinary motion was denied by the federal court, the Swedish government funded an appeal of that denial to the federal court of appeals.

The enormous sums of money which Sweden poured into Sofia's litigation in the federal court of appeals were not in vain, since that court ended up ruling, with a 2 to 1 majority to vacate the U.S. Hague Convention judgment and dismiss Sofia's U.S. Hague convention case, which the appellate court majority reasoned was necessary in order to "resolve" the conflict which existed between the U.S. and Swedish

Hague Convention rulings. Instead of fulfilling the accepted function of the federal court of appeals, namely reviewing the lower courts' judgments for their legal correctness, the majority expressed the view that it was the federal court of appeals' responsibility in this case to "untangle the Gordian knot" created by subsequent, conflicting Swedish ruling (which, of course, meant that they had to come up with a way to reverse the U.S. ruling, since that was the only side of the "knot" they had any control over). In other words, by categorically refusing to recognize any U.S. Hague Convention judgments and be re-adjudicating the entire case in their own citizen's favor, the Swedish courts succeeded in strong-arming the federal court of appeals and getting them to back down. The majority ruling also completely ignored the inherent Constitutional due process issue associated with their dismissal ruling, namely that the courts of this country are not allowed to deprive an American parent of his or her children without affording that parent legal notice and the opportunity to be heard, and without a proper adjudication of the merits of the deprivation. The majority's decision to vacate the federal district court's Hague convention judgment and dismiss the whole case (in essence, to forget it ever happened) after the federal district court had forcibly deprived me of my daughter *ex parte*, is equivalent to permanently depriving me of my daughter without affording me any notice, any opportunity to be heard in defense, and without any adjudication of the merits of the deprivation. This ruling, which is a published, binding precedent upon all federal courts in the 10th Circuit, was explicitly intended by the majority "to provide courts with guidance in future similar cases." The majority concludes its arguments with the astonishingly backwards assertion that "Failing to grant [the Swedish mother's] motion to dismiss also could create a new incentive for parents to flee Hague Convention proceedings in the hope of obtaining a second, more favorable Convention determination in another country." The very well reasoned dissent, which pointed out that the court of appeals is not allowed to base its review of the lower court ruling upon subsequently occurring circumstances which were not in existence at the time the lower court ruled (i.e. upon the subsequent, conflicting Swedish ruling), characterized the majority's ruling as "unjustifiably abandon[ing] the rights of a United States citizen in the name of international comity."

The Swedish government has also fully funded Sofia's participation in the custody action in the Utah state court, where I have been awarded permanent sole custody of Julia, based upon a determination of the "best interests of the child." The Swedish government also funded an appeal of the custody decree to the Utah Court of appeals, and extraordinary motion to set aside the custody decrees, and an appeal of the denial of that extraordinary motion. The Utah court of Appeals has recently dismissed both of Sofia's appeals, and I am currently waiting to see if the Swedish government will force me to expend even more money by funding an appeal for Sofia to the Utah Supreme Court. Of course, Sofia is in open violation of the custody decree and associated money judgments from the Utah state court, where she has been cited for contempt on 4 separate occasions and a warrant has been issued for her arrest. Also, the Swedish courts have recently ruled that they will not recognize or hold Sofia in any way bound by the Utah custody ruling, and that Sofia may pursue her own custody ruling in Sweden, where she will undoubtedly be awarded sole custody and child support.

So far Sofia and Sweden have forced me to expend over \$80,000 in attorney fees and over \$25,000 in lost wages and other expenses in defending against the harassing litigation which Sweden continues to fund against me in the courts of my own country, which litigation is explicitly aimed at depriving me of the parental rights which Sofia has already illegally robbed me of. Although Sofia has been ordered to pay me several thousand dollars in damages for her harassing litigation and her deliberate defiance of the ensuing court orders and rulings, I have no possibility of collecting any of those damages or of protecting myself against the continuing financial drain of defending my rights against this litigation. Because the Swedish government is only funding the litigation and is not an actual "party" to it, I have no legal recourse against them in this litigation, and because they continue to protect their citizen-litigant against all of the ensuring orders and judgments, I have no effective recourse against her either. In effect, Sweden is supplying its citizen with an endless supply of "bullets" to attack my legal rights in my own country, while at the same time erecting a "bullet-proof" wall of protection around her. She can thus with total impunity engage in endless, risk-free, cost-free litigation against me, with my only recourse being to irretrievably expend enormous amounts of money and time trying to prevent her from "legally" robbing me of the parent rights which she has already illegally robbed me of. As a result, my wife and I are more than \$45,000 in debt, and because of monthly loan payments and lawyer bills, my family (myself, my wife, our 2½ year-old daughter Natalie, and our 7 month-old son Benjamin) have been forced to live for the past 4 years on a budget that effectively

places us below the poverty level as defined by the U.S. government. On top of all this, the Swedish government has been demanding that I pay Sofia monthly child support and that I pay the Swedish government over 7 years of "back child support," including for periods of time during which Sofia and I were still married and we were living together as a family here in Utah.

More importantly, the once close father-daughter relationship which Julia and I shared has been destroyed by Sofia, with the active help and support of her country. Due to Sweden's well-established stance in favor of Swedish child-abducting parents, especially Swedish mothers, and against "foreign fathers" in general, there appears to be no mechanism available to help me even be able to see my daughter again.

DEAR SENATOR JESSE HELMS: Please, present my case to the Foreign Relations Committee hearing held on Oct. 1. I have not heard from or about my children since January 1991. I want the U.S. Embassy to do more than simply tell me they don't know where my children are. I have heard most recently from a friend in Egypt that my children are and have been residing in Cairo all along. Neither the U.S. Embassy nor the Other government agencies have done any welfare and whereabouts checks in the last several years. They only sent back the birthday cards I sent them to hold onto for my children. The Vice Consul stated in his letter "We have no place for such things and will let you know if we hear anything about your children." This is a cold and cruel response to send to a mother whose been waiting for seven years to hear anything that the Embassy is doing about locating my children. It is more than disappointing, it is "Child Neglect."

Sincerely,

BARBARA MEZO.

Where are My Children

BY BARBARA MEZO

I remember when my son Mohammed was first born. He was a forceps delivery and when he cried his little face only moved on one side. I sat with him everyday holding him while he was in the Neonatal Intensive care unit at Brooklyn Hospital, in New York. I did not worry or cry. I knew that he would be okay. I held him and tried to feed him through a small tube until he was healed and able to breast feed. These memories are all that I have now since his father AbdelAziz kidnapped him to Egypt in May 1988. Along with my little girl Leila, who was just learning how to speak in full sentences when she was taken. They were only age six and two at the time. It's been ten years now of pain and tears, Holiday after Holiday, after Birthday has gone by where I am not able to spend the precious moments of my childrens' growing.

The last time I saw my two children was in Cairo, Egypt, January 15, 1991, two days before Saddam Hussein of Iraq fired the first missiles on Israel causing the Middle East Gulf War. I did not know then that my children would also be taken to Libya in their father's defiance against my Egyptian custody order. I already had custody from the United States, but the State Department told me the U.S. had no jurisdiction in Egypt since there is no treaty with regards to child abduction. I believed the custody orders I obtained would be enforced, but they were not and I was led down a trail of tasks and documents which to date still leave me not knowing or having contact with my two American children.

Dr. AbdelAziz Elmergawi, my ex-husband, is a U.S. Felon under the Parental Kidnapping Act. However, even so, there is no Provisional Arrest Warrant that enable authorities in a Foreign country anywhere to arrest him. He travels freely on both U.S. and Egyptian passports without restriction. He could be in your town too! I need help from caring and concerned people. I am asking that people write, or fax letters to the U.S. Attorneys office in Washington D.C., and demand that a provisional arrest warrant be issued so that my two children and I can be reunited again.

FROM THE PARENT OF PRISCILLA HOWARD

Impact Statement

My child was illegally abducted out of the United States between the 05th of March 1994 and 06 March 1994 to Germany.

Germany demands parental kidnappers fleeing to the United States be extradited back to Germany and they are. Germany however will not extradite her citizens for Parental kidnapping to Germany.

Germany does not honor the Hague Treaty with the United States. Had I applied for a Hague petition to recover my abducted child it would have a cost of \$10,000.00 and Germany would have refused the return of my kidnapped child.

Another ploy my assailant used was to keep her whereabouts unknown. Once a child is settled in Germany for a year a Hague Petition will not return the child. All I had to go on was that my child as at a Temporary address in Germany for 3 months. It took over 18 months to determine my child was settled in Germany after her abduction. I have had no contact what so ever with my child since 1994. I have U.S. Custody of my child. I just received a letter from the U.S. Postal Service and the letter just verified I still have no address for my abducted child.

My Parental kidnapping case is therefore a non Hague Parental Abduction to Germany. NCMEC Case No# 847890 NCIC Case No MO4981559

The abductor of my child, Elfriede Howard, is guilty of violating the United States Parental Kidnapping Act that became law in December of 1993.

The United States has been forced to adopt new laws because of Germany and other countries do not honor the Hague Treaty with the United States regarding the return of American Citizen Children illegally removed from the United States. House Res. Bill #224, is titled the International Parental Abduction Bill. I encourage everyone to vote for this necessary and essential bill.

I was Awarded U.S. Custody of my Child Priscilla Howard on 05 December 1994. This Decision was decreed from the Cochise County Court in Arizona DR94000284.

The German Children's Social Services is under orders from my child's abductor to provide me with "keine Auskunft" "No information whatsoever" regarding my child. I sent them a certified copy of my American Custody order with a translation. My child does not receive gifts or letters I send to her. I do not believe the address that appears on German court documents is where my child resides. Germany will not allow the U.S. Consulate to perform a welfare check of my daughter. Parent Alienation Syndrome is profoundly supported by the German government. Germany does not honor American Custody orders. Germany always gives custody to the German Abductor despite standing custody orders from other countries.

On 01 June 1998 I received from a U.S. Marshal a German court summons to attend a hearing to determine how much child support I must pay the abductor of my child. I have U.S. Custody and I am certain that Germany has no jurisdiction over me as a U.S. Citizen living in Arizona.

Germany has bilateral agreements with all states and they specifically stipulate that American courts cannot alter in any way German Court decisions. Germany does not honor the Hague Treaty and going to a German civil court is even more profoundly unfair to Non-Germans. I do not know if Courts in Sister states would uphold a German court decision regarding child support for an illegally abducted child. It is becoming more and more difficult to have a provisional warrant issued by the FBI since Germany will not extradite her citizens for Parental Kidnapping. Without a warrant for parental kidnapping how would future left behind parents be treated when Germany uses these bilateral agreements for kidnapped American citizen children? Using American civil courts could be a way abducting Felons could siphon American Dollars out of the United States.

France is having the same problem with Germany. Here is an e-mail from a French woman who asked people in our support group to help her in her fight to prevent her child from being sent to Germany for court ordered visitation. We all banded together and sent Faxes and letters to President Chirac begging him not to allow this child to be sent to visit the non-custodial parent in Germany since it would result in lost custody. The German courts, I reiterate are unfair to Non-Germans!

Here is a request from a French Woman asking us for action regarding Germany's reputation for Parental Kidnapping. I do know if I agree with her action to go on a hunger strike. Her fear that Germany does not comply with the Hague Treaty and that she will never see her daughter again are very real! Her call for action follows:

CALL FOR ACTION

Dear Friends and fellow victims,

Karine Koch from France has been ordered by a French Court to return her 9 months old daughter Ann-Valerie to Germany on September 11, 98. Everybody knows that if she does return Ann-Valerie, SHE WILL NEVER SEE HER AGAIN.

Germany does not comply with the Hague Convention, never gives custody to the non German parent and does not enforce rights of visitation while other countries do. If the Alien parent is given custody in his own country, the child will not be returned after the first visitation in Germany and the German parent will obtain custody in Germany. No matter what is the legal decision, IN DEALING WITH GERMANY YOU ALWAYS END UP SCREWED UP!!! Enough is enough! Germany and our weak governments need a lesson. "SOS Children's Abductions by Germany" has created a Support Committee for Karine who refuses to return Ann-Valerie. Karine will start a hunger strike on Monday, September 7, 1998, Place Vendôme in Paris right at the Ministry of Justice which serves at the Central Authority for France. Until the decision is reversed she will not feed herself; this is very courageous and she's putting her life in line.

The media have been alerted and will cover Karine's fight for her baby. The TV will be following her from the beginning until the end. This will bring a lot of attention to our cause. Karine is not doing this only for her or for German cases: she fights for our common cause: Internationally Abducted Children. "SOS Children's Abductions by Germany" is an official member of the P.A.R.E.N.T. Coalition. They need our help and support.

Please, starting now, write or call massively to: President Jacques CHIRAC, Palais de L'Elysée, 55 et 57, rue du Faubourg Saint-Honoré, 75008 Paris, France.

I shared my experiences with President Chirac along with many American left behind parents. I am told France required the German parent to go to France for visitation because of concerns with Germany's reputation.

In closing I would like to say that one of the most appalling things I have ever experienced trying to enforce my American custody order in a German court. Germany typically awards custody to the German citizen abductor regardless of justice! American Left behind parents are treated unfairly in German courts. Germany has essentially torn up the Hague Treaty with the United States and other European countries! I feel we should do the same with Germany! I believe that is the only way we are going to correct this problem by forcing Germany to come to our courts to resolve problems. This suggestion would ensure fairness. Germans are not fair to non-German left behind parents. That is why this hearing is being held.

One thing Germany has done to me that I know has happened to many other American left behind parents. America needs to address this; When the custodial American parent goes to a German court in an attempt to recover a kidnapped child, Germany serves the searching parent with a subpoena. It is a motion to transfer custody to the victim's German assailant! Americans should be warned, NEVER SUBMIT TO GERMAN COURT JURISDICTION! German courts always give the German abducting parent custody. This is a total disregard for American law! The purpose of House Resolution Bill 224 is to address the problem that civil means of recovering an Internationally Abducted child never brings the child home! I believe that bilateral agreements courts have with Germany need to take full jurisdiction over all issues. The clause that prohibits German Decrees from being altered by American courts should be stricken. Germany disregards American Court decisions. American Courts should therefore take jurisdiction over issues of custody, visitation and child support in this country.

As a victim of Parental Kidnapping I am enclosing letters to Senators, and Lawmakers that point out problems I have encountered. I have included suggestions to fix the overwhelming dilemma of International Parental Abduction.

I will provide this panel with any document requested. I will send any document I have to any lawmaker for the asking.

I Sincerely thank you for your interest in this very emotional matter.

JOSEPH R. HOWARD,
PRISCILLA'S DAD.
Sept. 23, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State.

DEAR MADAME SECRETARY: I'm writing to you about the illegal abduction of my daughter (Namet Beydoun) over 4 years and 9 months ago, she was taken to Sidon, Lebanon. I was not allowed to see or even talk to my daughter until December 1997.

Sept. 10–16 was my most recent and 2nd visit to see my daughter. God is good! This time her heart was more open and receptive to me.

The case file is active with the Office of Children's Issues, U.S. Dept. of State; thus, I will not go into greater details, other than in the past. I have had very little positive action with the office, instead, it has been mostly confrontational.

However, now I have a very important request. I wish action to be taken from your office to recognize an employee who has done her job and done it with all diligence. Ann McGahuey, who now handles my daughters case has and is doing everything in her prescribed capacity to enable communication between me and the American Embassy in Beirut, between me and my daughter and her family in Lebanon. IT IS WORKING! The family in Lebanon mentioned to me during my recent visit, perhaps they will let my daughter visit me in the U.S. (I'm sure this will take more visits and trust building time). Four years and nine months is a long time of propaganda to be fed to a child. (This is why I desperately needed communication advocacy from the above mentioned.)

Ann McGahuey has literally been terrific! On my recent trip to Lebanon, Sept. 9–16, 98, I was bumped on my return flight; due, to previous death threats in past years, by my ex-husbands family to me, my family here in Texas went frantic when I did not return. Ms. McGahuey went into action, tracked me down and possibly saved my mother from a severe physical attack or problem.

In the past I have openly complained to our U.S. media about the inaction of the Office of Children's Issues. Now I want to give credit where and when it is greatly due, as well, to our U.S. media.

However or whatever your process of recognition is for an employee who has done a job well done please do it.

This is extremely important to me. My daughter is my life and for years I have struggled just to see her.

Whatever your procedure of recognition for Ms. McGahuey, please send a hard copy to me, as I am in personal need to know she has been recognized.

If you should need any additional, please contact me.

Sincerely,

TERRI BEYDOUN.

September 29, 1998.

Hon. Jesse Helms,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC*

DEAR SENATOR: I am submitting for the record my statement about the difficulties involved in the illegal abduction of my daughter, Namet Beydoun, (now age 14) to Sidon, Lebanon, by her father 4 years and 9 months ago.

At the time I filed for divorce, I requested supervised visitations, for her father, until my daughter reached the age of 12, because of previous threats from him, that he would take her. (My request was denied). At one time I refused to give my daughter to her father for his weekend vacation. I had a feeling he was going to take her. The police were called and I was advised by my attorney and the police officer; that I could and would be found in contempt of court: thus, the father would gain custody of my daughter, and then he could take her anywhere he wanted. (The police officer offered in his written report; that I appeared paranoid.)

Due to fact I had been married to my ex-husband for many years, I was aware of the fact that my ex-husband could not obtain passports for my daughter without physical presentation, in person to the Embassy of Lebanon and the Embassy of Cyprus, or a notarized statement by me telling the Embassies that I gave my permission that they issue her passports for their countries. He forged my signature, both for the Embassy of Lebanon and the Embassy of Cypress and obtained passports for her. An employee of the STATE OF TEXAS, notarized these forgeries. (I sued the State of Texas, for money needed to try to recover her. The State of Texas acknowledged the negligence but claimed immunity, the case was denied). I had possession of her USA passport and had requested that Passport Services not issue another one.

At the time my daughter did not come home from her weekend visit with her father and I had checked all other possibilities, I went to the Police station, The officers there treated me in a belligerent, demeaning way, not wanting to report her missing. One officer even had the audacity to tell me, "Well honey, you made your bed, now lay in it." Finally after pleading, begging and crying, the police did put her in the NCIC. The police investigator assigned to the case was either on vacation

or sick. No one ever was really sure which. (At the time bad weather had closed Kennedy down and time was of great importance). After a battle with the police dept. I went to the local media and then the FBI took over and warrants were then issued.

Until 2 years ago I didn't have any contact with any support groups, or advocacy organizations for parents of Int'l Abducted children. I was unable to get any information about them. The National Ctr hadn't even told me there was an international division, within their organization.

Until 1 year ago I had no personal contact with our United States Embassy? Beirut, Lebanon. Certainly not for my lack of trying!

With the *exception* of Ann McGahuey, Office of Children's Issues, U.S. Dept of State, (who took my case) any contact with this office were confrontational and emotionally devastating. I would FAX information to this office and repeatedly be told I needed to FAX the same information. With FAX confirmations in my hand, I was told I had not done it. After reading the handbook on International Parental Abduction, by the U.S. Dept. of State, I was very aware our government was in no way going to try to recover my daughter. Time after time, I had to listen to the case-workers in the Office of Children's Issues tell me this. Again as I have complained about my treatment from this office, I must once again put into statement that Ms. Ann McGahuey, has done every thing I believe that she could do under official directives. (Her treatment to me and help on my case has been wonderful).

My own U.S. Texas Senator, Kay Bailey Hutchison's office, (constituent staff aide, Carolyn Kobey, sent me a letter and said my problem was of a personal nature and there was nothing they could do). At this time I was only trying to get someone to try to facilitate some type of communication with the Lebanese or someone of influence to help talk with the family in Lebanon, so that I might just see my daughter, not physically recover her. Thus I was forced to stage a demonstration around the Fed. Building, Lubbock, Texas, just to get any reaction from my Senators offices. It did not work. However, I have had many concerned citizens call me and tell me just what Carolyn Kobey of Kay Bailey Hutchison's office told them, that I was crazy out of my mind and unemployed. I have testimony from these individuals on this fact. I had to go to the media every time I needed any reaction from my own elected government officials. All I was looking for was a way to communicate with my daughter, or just merely establish a relationship with the U.S. Embassy in Beirut. I have never been sure what the office of Senator Phil Gramm has done. I would ask them to tell me what was being done and the staff aides would tell me, "just be assured the Senator is doing all he can."

As my telephone and correspondence records well reflect, I have tried to contact everyone from the United Nations to Ross Perot. My list of lamentations goes on and on.

As far as our U.S. government help goes, only the office of the Honorable Jesse Helms, the office of U.S. Rep. Larry Combest and Ann McGahuey of the Office of Children's Issues, have done anything to help in any way. However, *I did get to see my daughter*, for the time in December 1997 and then again in September of this year. The visits were very short, well supervised. Not until this last visit was I even able to sit with the child that was born from my own body.

THE GREAT HAND OF GOD, REACHED OUT! He knew the desires of my heart and allowed me to see my daughter, not once but twice. As you can see I had tried everything I could, even a mercenary organization. Now I believe it is a matter of time and once again pressure on the family where my daughter lives. Finances have become a very big issue. Throughout almost 5 years, I as most parents of int'l abducted children have nothing but debts. and it seems there is no help for a parent to help re-establish a relationship their rightful relationship. No help with the Airlines, accommodations, transportation, etc. God willing I will find the finances that need to keep an knocking on the door of the house my daughter lives.

I am at this time concerned about some of the advocacy organizations, that continue to represent us parents. In the recent past I have seen almost fraudulent behavior out of these groups.

I thank the Committee on Foreign Relations for allowing this to be put into public record. Honorable Senator Helms, I thank God for you and your office.

Suppose one of you has a hundred sheep and loses one of them. Does he not leave the ninety-nine in the open country and go after the lost sheep until he finds it, he joyfully puts it on his shoulders and goes home. then he calls his friends and neighbors together and says, 'Rejoice with me; I have found my lost sheep.' Luke 15:4-6

Sincerely,

TERRI BEYDOUN,
LUBBOCK, TEXAS.

Senator JESSE HELMS,
United States Senate,
Committee on Foreign Relations.

DEAR SENATOR HELMS: My name is Mitchell Goldstein and I am a left-behind Parent in Georgia. I understand that on Oct. 1, you have called a special meeting of the Committee on Foreign Relations to hear the matter of International Child Abduction.

It is my understanding that parents are invited to submit their story to be placed on the record. I would be very interested in not only having my story made part of the record, but also having the opportunity to speak about my case before the committee or at this late date attend the meeting. My case is a classic example of a contracting country (Switzerland) not complying with the Hague Treaty. I am ready, willing and able to testify before this committee if so asked and at a minimum would request that you would speak on my behalf and assist me in the recovery of my daughter.

To follow is a brief outline of my nightmare:

On or about September 4, 1996 my Swiss ex-wife abducted our then 4-year-old daughter, Kelly Goldstein (whom I have custody of) and took her to Switzerland.

Since that time I have been in the Swiss Courts seeking the return of Kelly via the Hague Convention on the Civil Aspects of International Parental Child Abduction. After numerous failed appeals filed by my ex-wife, the Supreme Court of Switzerland ordered her to return Kelly to the USA in a final decision rendered 9/97.

In September, I traveled to Switzerland to bring Kelly home. Once there, my ex-wife again took Kelly and went into hiding. After three frustrating weeks trying to bring closure to this nightmare, I was left with no choice but to return home alone.

On October 15, 1997 I returned to Switzerland to bring Kelly home after Swiss authorities had informed me that her mother had turned herself in. However once there my former wife again refused to comply with the Court order and authorities refused to enforce the order. I was almost arrested at the Zurich airport after my former wife made a scene during what was supposed to have been her compliance with the court order.

After this attempt to bring Kelly home, my ex-wife had her put in a foster care facility in Switzerland against my wishes. Swiss authorities seemed unconcerned that there was a verdict from the highest Court in the country ordering Kelly be returned to the USA.

Prior to the date Kelly was to be released from the foster care facility (approximately two weeks later), I returned to Switzerland to bring her home. I was to meet with her for three days to get reacquainted before returning to the U.S. with her. On the day prior to bringing her home, my ex-wife trumped up new allegations and petitioned the courts to re-open the case. Once again I was forced to leave Switzerland without my daughter.

My ex-wife then filed new appeals based on these latest allegations. After another year went by, the Supreme Court on September 7, 1998 upheld all lower court decisions denying my ex-wife's attempt to reopen the case. I am now faced with trying to have the order enforced again.

Just prior to the abduction, my ex-wife remarried. Her new father-in-law, Thomas Pfisterer is a politician in Switzerland and is assisting her in ignoring the court orders. After the foster care episode, my ex moved to the same Canton in which her father-in-law resides and is in office. Obviously in an attempt to further hinder the return of Kelly.

Your assistance in the return of Kelly would be hold me forever in your debt. You may contact me at my office (770) 308-3320, home (404) 233-6498 or by mail at 3636 Habersham Road Condo 2110 Atlanta, GA .

Sincerely,

MITCH GOLDSTEIN.

VIOLAINE DELAHAIS,
 MESA, AZ ,
September 29, 1998.

U.S. Senate Foreign Relations Committee

Re: October 1, 1998-Hearing on International Child Abductions

DEAR MEMBERS OF THE FOREIGN RELATIONS COMMITTEE: Thank you for trying to actually do something about our missing children.

I am part of the P.A.R.E.N.T. International coalition for which I am the Director of Affairs for France. I am a French citizen and a permanent resident of the United State of America. I will be an American citizen in two years as well as my son Rayan El Kadi and I am proud of it. Parents among our advocacy group struggle together, along with organizations worldwide, to bring our children home. I was in Arlington, Virginia on September 15 and 16, 1998 attending the NCMEC Forum on the Uses and Abuses of the Hague Convention.

I understand that you need statements on the subject of International Child Abductions for your next hearing and I would like to take this opportunity to give you some details on my case which is the result of an incredible miscarriage of the American justice.

My son, Rayan, age 7, was abducted by his non-custodial father, Imad Nadim El Kadi for the second time on October 17, 1997. I have had no contact with Rayan since; however, he has been located in Beirut, Lebanon, the native country of my former husband.

Imad El Kadi was indicted by a Maricopa Grand Jury in May 1997 for the first abduction that occurred in 1994 and while he was on bail, Judge Barry C. Schneider from the Mesa Superior Court of Justice, issued an ex-parte Emergency Temporary Custody Order in his favor on October 16, 1997, without previous notice to me. Judge Schneider simply ignored the case's history of four years of litigation in three different countries and made the biggest mistake.

On October 17, 1997, El Kadi, who is not and has never been a legal resident of the United States of America, with the help of his lawyer and four men, violently snatched Rayan from school and disappeared with him. His Temporary Custody Order was quashed by Judge Sherry Hutt from the Phoenix Superior Court on October 23, 97 but it was too late.

After the first abduction, in November 1994, I went to Lebanon and retrieved Rayan with the help of private services. A warrant for questioning has been issued against me in Lebanon although El Kadi had not and still does not have a Lebanese Custody Order granting him custody of Rayan. There is no way that I can go back to Lebanon without being arrested.

The second time, Rayan was abducted with the assistance of an American Judge. I filed a complaint against Judge Schneider and he appeared for a confidential hearing before the Commission on Judicial Conduct on January 16, 1998. My complaint was dismissed and the case was closed with no explanation.

I have filed a Bar Complaint against El Kadi's lawyer, Cheryl L. Sivic who claimed her Fifth Amendment Privilege when she was questioned by Judge Sherry Hutt about the possible location of my son on October 23, 1997; she committed perjury in the Mesa Court in order to obtain the ex-parte Order. My complaint is still pending.

However, these proceedings will not bring Rayan back. I need all the help and the assistance I can get to bring my son home. The UFAP Warrant was issued eight months after the abduction when it took less than three months in 1994! This allowed the FBI to finally request a red notice from Interpol in June of 1998. But last week the request for extradition was officially denied by the County Attorney's Office because "extradition is too expensive". Therefore, Interpol will only be able to issue a yellow notice (last priority).

Obviously, I did not succeed in explaining that I am just trying to secure the future. With the many friends and relatives that my ex-husband has in Europe, it is very conceivable that he will try to enter a country where Interpol could arrest him. Knowing that a request for extradition had been issued, it could prevent him from traveling again. I had long talks with my FBI Agent and we agreed that my part is to bring my son back because nobody else will do it for me and I always knew that. Law enforcement's job is to protect us from a third abduction once Rayan is back. That why I wanted so bad a "request for provisional arrest" as a threat that would keep the abductor a prisoner in his own country. There is very little chance that the abductor will ever be arrested and actually extradited. The State of Arizona does not have to fear for it's money.

Why should we victims have to beg, cajole, and grovel, before public officials to get them to do their jobs?

My FBI Agent, Bob Caldwell, who is doing a great job, always faces the same obstacles:

- (1) No cooperation or communication is possible between U.S. and Lebanon,
- (2) A lot of avenues are not available because I am not yet an American citizen.

Yet, I feel that I deserve some consideration from a system that has allowed my son to be kidnapped for the second time and has taken eight months to issue a basic warrant. Imad El Kadi has defied the American system, the American Justice and the American laws twice and that should be sufficient to motivate this country to stop him regardless of my son's citizenship. Senator John McCain has taken interest in my case and I am grateful for that.

My point is: in most of the abduction cases that I know of, a pattern can be found: they could have been prevented. And knowing that, you understand the deep frustration of the left-behind parents. Prevention can be done through information (most of the judges and lawyers are ignorant about this issue) and SANCTIONS. Why should an abductor think twice before committing this terrible crime when he/she and his/her accomplices have to fear no consequences of their act?

We need awareness about this issue and strong measures need to be taken against abductors and their accomplices as well as measures against the countries who protect these criminals.

The way Saudi's Embassy employees treated the grieving American mothers on September 23, 1998 in front of an horrified American crowd shows the cruel and sad reality: America is no longer respected and that is not tolerable.

America is the most courageous country in a lot of areas: I wish France would have the initiative to bomb terrorist countries instead of welcoming terrorist leaders from all over the world and provide them with medical care and nice castles paid with the taxes of the French people.

America can and needs to be a leader in becoming an example in the issue of International Child Kidnapping: show the world that you will not accept that children will be taken out of their country and away from their family.

If other countries would know that when a child is taken from America and wrongfully detained somewhere in the world, these countries would stop receiving any help from America and that a rescue team would immediately come and get this children back home, I bet abductions would become exceptions instead of an ever growing problem.

I know these are extreme measures but remember: we are dealing with extreme people. Holding children as hostages and as a means of blackmail against the other parent is a terrorist act and when we face terrorism the regular rules are not applicable because they are not effective.

I might sound naive to you but America is the world's leader: what are you waiting to implement new rules and have them enforced by and means? You will only get more respect from your fellow Americans and everlasting gratefulness from our children and left-behind parents.

I sincerely thank you for your time and your effort in helping our children. We need more politicians like you.

Very truly yours,

VIOLAINE DELAHAIS,
P.A.R.E.N.T., DIRECTOR OF AFFAIRS FOR FRANCE,
Mother of Rayan El Kadi, 7, abducted to Lebanon for the second time on 10/17/97.

JOHN J. LEBEAU,
PALM BEACH GARDENS, FL,
August 10, 1998.

Senator JESSE HELMS,
*Chairman, Senate Committee on Foreign Relations,
Washington, DC.*

Re: Your June 3, 1998 letter to Madeleine Albright; and my struggle with the Justice Department regarding the international parent kidnapping of Ruth and Luke Lebeau to Denmark.

DEAR CHAIRMAN HELMS: Thank you for your outstanding efforts on behalf of missing and abducted children throughout the world, and specifically those being illegally retained in several European countries. I am speaking of course of those countries such as Denmark that are signatories to the Hague Convention, but are, in numerous cases, in direct non-compliance with the unambiguous terms of this treaty.

In addition to the problems we are experiencing overseas, left-behind parents such as myself are fighting a different, but no less exasperating battle right here at home, in our efforts to have our children returned. We are experiencing an almost inconceivable resistance from the Justice Department to pursue violators of the

International Parental Kidnapping Crime Act of 1993. And in my own case it has gone to the extreme level of having now to initiate legal action against the United States government, as per my enclosed letter of August 4, to Ms. Donna Bucella.

In addition, I would like to second Mr. Paul Marinkovich's support of your efforts as per his letter to you of July 30, 1998. Paul and I are Co-Executive Directors of a non-profit organization called International Child Rescue League, Inc. which we have formed to help resolve these monumental problems which are victimizing countless children throughout the world.

Finally, I would like to offer my time to appear in Washington for any or all meetings, conferences, or even congressional hearings that may take place in regards to this issue. I would even Sir be willing to come visit with you alone to share more detailed information regarding my specific experiences and insight in an effort to alleviate this tragic situation.

Sincerely,

JOHN J. LEBEAU.

JOHN J. LEBEAU,
PALM BEACH GARDENS, FL,
August 4, 1998.

Ms. DONNA A. BUCELLA,
*Director, Executive Office of U.S. Attorneys,
U.S. Department of Justice, Washington, DC.*

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 its 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 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 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, I could make one phone call to the Danish authorities and my traumatic two-year struggle would be over, and my children safety 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" *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 Inter-

national 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.

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*

KRISTINE UHLMAN/UMHANI,
SPARTA, NEW JERSEY,
September 16, 1998.

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: My perspective is the result of events and experiences over the past 20 years, which include:

- Smuggling myself and my two American born children out of Saudi Arabia (June 23, 1981). My actions resulted in the deportation of American Embassy personnel;
- The violent and professional abduction of my two children, 2 and 4 years old, in violation of a Colorado court order granting me custody (Sept. 11, 1981);
- My return to Saudi Arabia under contract to work as a single-status engineer and effort to litigate for custody in the Islamic court (1983-1984);
- My experience as the first American woman to be arrested and imprisoned in the Central Riyadh Women's Prison (May, 1983);
- My experience as the first American woman allowed to litigate for custody in Saudi Arabia (Sept. 1983). I lost;
- My testimony before Congress on the Unified Child Custody Law (Sept. 22, 1981) and Human Rights Violations against United States Citizens by the Government of Saudi Arabia (June 15, 1987);
- My experiences during 5 visits to Saudi Arabia over 15 years to visit my children;

- My work with Senator Alan Dixon towards the establishment of the Office of Children's Issues at the Department of State (1987-1990);
- My work with Betty Mahmoody (author of *Not Without my Daughter*) towards preventing international custody abductions. I have provided expert testimony on Women's and Children's rights under Islamic law during divorce and custody disputes across the United States and in Canada; and
- The perspective of my son, now 19 years old, on his return to the United States after 17 years in Saudi Arabia.

I believe I am in the position to have an opinion on the situation in Saudi Arabia as it relates to the custody abduction of dual-national children, the imprisonment of American citizens, and the Islamic, Shariah Court approach to an American woman litigating for custody.

Custody disputes and child abduction is a widespread problem that takes on horrendous implication when the parents are of different cultures and religions. International laws are inadequate to address many custody situations, especially those within the Islamic world. To reduce the number of these abductions, we must educate our courts, the lawyers, and the parents. Educate them with facts, which honor and respect that the Islamic religion delineates a parent's rights and responsibility to the child differently than our western traditions. Educate them to identify the risks and remedies unique to each cross-cultural custody dispute.

I was the first Western woman granted a single-status work permit and visa in Saudi Arabia so as to litigate for access to my children in the Islamic, Shariah court. Although the year I spent in the Kingdom was difficult and included a five day interment in the Central Riyadh Women's Prison, I came to understand that the Saudi Government makes every effort within the constraints of their religious and cultural traditions.

Cross-cultural miss-interpretations of an individual's actions or intent are common. Within the intimate arena of family domestic disputes and the widespread gender disequity basic to the Shariah Law, custody disputes over dual-national children takes on immense proportions.

I have worked with hundreds of victim parents over the past fifteen years. Most of these parents have been mothers; young women who married their Moslem partner with the intent to provide their children the best of both our worlds—the East and the West. Many of the women overcame intense displeasure within their own families because of these cross-cultural pairings, and their strength and commitment must be admired.

Many of these victim parents have expressed concern that the support they receive from the community during their custody disputes, or after abduction, is fueled by intolerance of the Muslim people. What a paradox. To produce children that are the product of religious and cross-cultural tolerance (exhibited by the marriage between the two parents), and to call out the bigots when the family breaks down. The children have a right to both worlds, to both parents.

The perspective of any custody dispute should be from the right of the child to have access to both parents. When a child has been taken into the Kingdom of Saudi Arabia, for example, I have recommended that the mother contact the Saudi Embassy and make very effort to visit her child. The Saudis have been cooperative, within their own cultural and religious constraints, to honor a child's right to the mother. It should be noted that the cultural and religious traditions within the country honor the bond between mother and child to the extent that if a mother is imprisoned, her young children accompany her in her cell. It was my experience that over half the population of the Riyadh Woman's Prison consisted of children and infants during my stay there in 1983.

If a family is litigating custody/visitation here in the United States, I recommend that the child(ren) remain within the jurisdiction of the American courts. The reason for this is that it has been my experience that a spiteful abducting parent can, and will, prohibit a victim parent from access to the child(ren). Until the Islamic courts can assure equal access to a disputed child to both the mother and the father within the foreign jurisdiction, I will continue to recommend that the parent not be given the opportunity to take the child(ren) outside of the United States. The United States courts have been shown to protect the right of the child to access to both parents.

I also work on maintaining contact with an abducted child by working with the government of the country in which the child is held. Again, with my own personal experience and the few limited contacts I had with my abducted children gave them the incentive to find me seventeen years after they were stolen. I insist on access through legal means, I do not believe in 'recovery' by other means.

The risk of abduction can be thought of as an equation consisting of two parts: likelihood and remedy. Likelihood is specific to the unique circumstance of the indi-

vidual family. Remedy refers to the process and obstacles to the return of an abducted child. There are no legal remedies available to a victim parent to return the child once that child is taken into Saudi Arabia, or most other Islamic countries.

I have been accepted as an expert in several jurisdictions across the United States on issues relating to American women's experience in Shariah court, and the Shariah Law as it relates to divorce and custody issues in Islamic countries. I provide expert-witness testimony during custody disputes in an effort to establish supervised visitation in high-risk cases, as well as to identify protective measures appropriate for unsupervised visitation. I emphasize tolerance and respect for the Islamic traditions. Only by working within the framework of our common desire to do what is best for our children can we address this complex issue of international abduction.

I am uncomfortable with the level of attention the media gives to some of the louder advocates of intolerance to the countries in which their children have been retained. Abduction is a harmful, egregious act, a crime against a child, but it is an act of an individual who has chosen to commit this crime against his (her) own child. Unfortunately, the Shariah delineates the responsibility for the physical custody of a child in a manner differently than our own. As a result, the abductor often finds legal support for his actions within his homeland, and that legal disparity is taken advantage of by the abducting parent. And, unfortunately, the victim parent sometimes feels compelled to distribute miss-information about the abductor's religion and homeland to garner support for her cause. The media's attention should be focused on how best to mediate these disputes, and to focus on prevention through education. And we must proceed with facts, diplomacy, and respect for other's beliefs.

I feel it is wrong to present only one side of the story, that it is far more important to present facts and examples of diplomacy and respect. It is only through negotiating with the Saudi's that one can gain access to our abducted children, because the laws and traditions of the Saudi people identify these children as Saudi citizens. The mother's citizenship is not recognized, and American court orders defining custody have no legal bearing. We cannot expect the Saudi's to violate their own religious and cultural beliefs by removing these children from their fathers. Although I made every effort to return my children here to the United States, I honor and respect their dual heritage and have accepted that, due to circumstances beyond my control, they have been raised in Saudi Arabia. Throughout these past years of separation from my children, the Saudi Government helped me a great deal in negotiating with my ex-husband towards visitation. When I was imprisoned, I was treated just like the other women both Saudi nationals and ex-patriots alike. More importantly, my son recognizes that I have done more than the impossible and, in the process, have not condemned his religion or nationality.

Please contact me if you have any questions or if you are in need of additional information.

Very truly yours,

KRISTINE UHLMAN/UMHANI.

JEFFERY A. WAYMIRE,
INDIANAPOLIS, INDIANA,
September 28, 1998.

Senator JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: The following is a very brief compilation of the events surrounding the international abduction of my daughter Celia Ann Waymire. I would very much appreciate having my case submitted and placed on the record as part of the proceedings on the October 1, 1998 special meeting on the matter of International Child Abduction held by the Committee on Foreign Relations.

Please contact me with any questions on this matter or if you wish to discuss it further.

Thank you.
Sincerely,

JEFFERY A. WAYMIRE.

Submitted by Her Father, Jeffery A. Waymire, September 28, 1998

I have been attempting to gain access to my daughter Celia Ann Waymire since October 13, 1996, to no avail. I have encountered various hurdles in the process that have ultimately led to the mother of my daughter taking her and fleeing the state of Indiana and the United States. While ideally a joint custody arrangement would have been the best for Celia, her mother has chosen otherwise. Therefore, Celia will be the one who suffers the most from her mother's actions. Recovering Celia is the concern. These efforts have been pursued for Celia's benefit, not with any concern of the consequences or impact or affect this will have on her mother. I love my daughter and miss her very much.

Celia was born on November 10, 1994. In May 1997, my daughter was taken to San Luis Potosi, Mexico, as a means to keep myself and my family (and even her mother's family) away from Celia. Celia's mother, Lisa Lee Russell, didn't even trust her own mother enough to let her watch Celia. Lisa's paranoia about others trying to have power or control over or affect on Celia caused her to flee to Mexico as a solution to raise Celia all by herself and to have Celia love her unconditionally. Never mind that Celia had been in numerous living locations. Never mind that Celia was not under the care and guidance of only one relative in a country where she was far removed from any other relatives or friends. All of this was done because of Lisa's repeated statement that this is "what is best for Celia."

In December 1996, I filed for paternity. In early May, Lisa left the United States with Celia for Mexico to avoid the paternity hearing. In mid May 1997 I was awarded paternity and at the hearing, Lisa's mother, Lillian Russell appeared on my behalf and verified my testimony. In June 1997 I filed for custody. In July 1997 I was awarded custody of Celia Ann Waymire. In October 1997 I had filed for an Article 15 Determination. In December 1997 I was awarded an Article 15 Determination by Judge James Payne of Marion Superior Court, Juvenile Division in Indianapolis, Indiana, to aid in my proper filing of the Hague Convention Application. On December 15, 1997, I forwarded my completed Hague package to Mr. Christopher Lamora of the U.S. State Department, Office of children's Issues. Mr. Lamora in turn forwarded my Hague package to the Mexican Central Authority on December 17, 1997.

Since December 1997, Mr. Lamora and I, along with assistance from Embassy staff in Mexico have been attempting to ascertain the status of my Hague Application. The latest update I have from Mr. Lamora from September 11 of this year is as follows:

"I've asked Rosa Isela Guerrero three times now within the past two and a half weeks for any further information, and each time, she says she'll get it to me ASAP. My last written communication from her, as I told you over the phone at the time, was on the 19th of August, when she told me that Celia's file had been forwarded to the San Luis Potosi (SLP) court. In that same fax, she also stated that the Mexican Central Authority had spoken with the DIF attorney handling the case, Ms. Magdalena Gonzalez Vega, who said that she would expedite the case. She has supposedly tried to follow-up since then, but not been able to get Ms. Gonzalez on the phone."

"The Mexican Central Authority is currently moving offices, and I've been unable to reach them by phone since last Friday. They are supposedly going to retain the same phone numbers they've always had. We'll see. If I can get them by mid-week next week and they haven't sent me new contact information, I'll have the consular folks from our Embassy get in touch with the SRE (Foreign Ministry) to find out the new contact info."

"I do agree with you that there is an increased risk of Lisa's finding out about what's going on the longer this drags on, but there's not a lot I can do to force the SLP court's hand. For now, I think, we've got to assume that no news, while frustrating, is good news."

I have not seen or held or talked to my daughter since October 13, 1996. The last photograph I have of her is nine months old. I have sole custody of my daughter. My Hague Application has been in the hands of the Mexican Central Authority for nine months. For the record, I would like the case of Celia Ann Waymire placed as part of the special meeting to be held October 1, 1998, by the Committee on Foreign Relations as a matter of International Child Abduction that needs to be discussed and resolved.

I realize that the Hague Application for my daughter is just one of many outstanding cases at this time. Any and all efforts you make on my behalf on this matter are greatly appreciated.

Thank you.

JEFFERY A. WAYMIRE.

JEAN HENDERSON,
MIAMI, FLORIDA ,
November 30, 1998.

Senator JESSE HELMS,
*U.S. Senate Foreign Relations Committee,
Dirksen Building, Washington, D.C. .*

DEAR SENATOR HELMS: As the parent of a child who is the victim of an international parental abduction, I thank you for your time and efforts on the behalf of children and "left-behind" parents. Our case is one that you referred to in your opening remarks to the Senate Foreign Relations Committee on October first of this year. I am the mother who traveled to the Republic of Czechoslovakia in search of my child.

His father, Randell Lamar Henderson, abducted our son, Roman Lamar Henderson in early June of 1994. I have had no contact with my little boy since that time.

I have made an attempt to make this letter to you as brief as possible. However, it is difficult to summarize nearly four and one half years of personal experiences. I cannot fully express the pain and heartache that the "disappearance" of my only child has caused. The bits and pieces of information that have been gathered over the past years have compounded my concern. While reading this information, please keep in mind that my son Roman, his father Randell and I are citizens of only the U.S.A.

Throughout my search, I have discovered that I must be the driving force and, basically, lead investigator in our case. Please do not misunderstand. I would do ANYTHING to bring Roman safely home. However, there are certain issues that must be handled by U.S. law enforcement and governmental entities. It is in this respect that I have encountered some problems. Sir, please bear with me as I give you an overview of our case.

- December 8, 1993: Judge Jennifer Bailey, as an alternate for Judge Eugene Fierro in the Circuit Court for the 11th Judicial Circuit in and for Dade County, Florida signed a restraining order "preventing" Randell from removing Roman from Dade County. This Judge denied my attorney's motion to require Randell to surrender Roman's passport to the court, as she believed that the restraining order was sufficient. Our court case number is: 93-27043 FC 26.
- *June 5-14 of 1994*: Randell fled from the U.S.A. while I was attending my brother's wedding in Massachusetts. His attorney had filed a motion preventing Roman from traveling to Massachusetts with me as had previously been planned.
- *June 14, 1994*: I filed a missing person report with the Miami City Police Department—Missing Juveniles' Division. At this time, I gave Detective Bernabe photographs and several names, addresses and telephone numbers as contacts for Randell's acquaintances here in Miami. Repeatedly, to this date, Detective Bernabe has told me that he has not had the time to investigate our case. He appeared to be of the opinion that, since I believed that Roman had been taken from this country, there was little that he could do. Therefore, I went to speak to these people on my own. All that I learned was that they had, indeed, left the U.S.A. However, their destination and mode of travel remained a mystery.
- *June of 1994*: I contacted the National Center for Missing and Exploited Children (NCMEC) and was told that I must have full custody of my child before this organization could become involved in our case.
- *November 18, 1994*: Two unidentified men went to a store where I had been working when Roman was last in Miami. They told a horrifying story about how Roman had approached them in a park and had pleaded with them to "put him in their bags and take him to his mother in Miami". Finally, the men agreed to attempt to find me and to inform me of Roman's whereabouts. Roman told these men that his father was "doing more drugs than ever before" and had threatened to kill him if he tried to contact his mother again. Unfortunately, a language barrier led the store employees to believe that Roman was in Lon-

don or Paris at that time. We later learned that he was in Prague in the Republic of Czechoslovakia. I have an affidavit from one of these employees.

- *November 18, 1994:* With the affidavit in hand, my attorney requested an emergency meeting with Judge Eugene Fierro. The Judge signed a court order giving me full temporary custody of Roman along with a request that all law enforcement officers (both nationally and internationally) cooperate in the search for Roman and his return to me in Miami. He included a pick-up order for Roman.
- *November of 1994:* Meredith Morrison, who is our caseworker at the NCMEC, became involved in our case. She put me in touch with reunite, a missing children's organization in London. These people were very thorough and helpful. However, Roman and Randell were not there. Please note that Meredith, along with all of the staff at the NCMEC, has been incredibly supportive, concerned and knowledgeable throughout these past years.
- *November of 1994:* I contacted the FBI in Miami. Special Agent Clay Price, although he generally does not handle international cases, became involved in our case. I was later informed that the FBI did not, initially, believe that Roman had been taken from the U.S.A. At this time, I began, under this agent's direction, to document all contacts that I have made concerning my search for Roman.
- *March 27, 1995:* Detective Bernabe completed an affidavit that was the basis for a third degree felony warrant for Randell's arrest. This warrant (#95000522) was issued by the State of Florida for "unlawful removal of a child from the state contrary to court order". Barbara Pineiro, who is an Assistant Attorney for the State Florida, told me that Florida has agreed to pay any and all extradition costs. She also told me that most abducting parents receive "only a slap on the wrist" for their crime(s). However, due to the extenuating circumstances in our particular case, she would personally do her best to ensure that Randell is prosecuted to the fullest extent of the law.
- *April of 1995:* I had been calling the numbers of Randell's friends throughout the world. I learned from Marco Martinovic in Denmark that Randell had called him from Brussels, Belgium in the summer of 1994. Randell had told him that he and Roman would be coming to Denmark soon and asked if they could stay with him for a short time. Sadly, they never arrived there. However, this man has agreed to contact me if he should hear from them again. He and another friend named Holly told me that Randell had not given Roman proper medical treatment when he was injured by a fall. They said that Randell preferred to "sit around and smoke marijuana". Only when an infection led to a high fever, did Randell seek medical assistance for our child. I contacted the Danish Central Authority. A quick and thorough investigation was performed. To our dismay, no further information was learned other than that Roman often "appeared to be depressed".
- *August 1, 1995:* Cynthia Clark, a woman who lives in Miami, called after seeing a missing child poster that I had placed in a local store. She had known Roman and Randell in Prague in the Republic of Czechoslovakia while vacationing there throughout the summer of 1994. She told us that Roman and his father were sleeping in parks, under a bridge, in youth hostels and with anyone who would take them in. She gave me a photograph of Roman with a Rastafarian man, which was taken in a park in Prague. This man told Cynthia that he had taken it upon himself to take care of Roman as his father did not always do so properly. Randell, who was doing hair wraps (i.e. braiding hair with colored string and beads) on the Charles Bridge was friendly toward her until he learned that she was from Miami. After he learned this, he would not allow Roman to speak with Cynthia at all. Cynthia also told us that Randell spent his free time smoking marijuana with a group of people. Roman, who should have been attending school, was with him. I related this information to Agent Price. He felt that this was a "cold lead". Who would expect a father and son to continue to live on the streets for more than one year? They must have been in transit. Therefore, this was never investigated.
- *Christmas of 1995:* A few days after Christmas, Randell's sister, Pam McMahon, called me from Alabama to tell me that an unidentified woman had called their mother on Christmas day. This woman continued to call for a few minutes each time over the next several days. Martha Henderson, Randell's mother, told her that there is a warrant for Randell's arrest in Florida and that the FBI had interviewed his family. Randell never spoke directly to a family member. They did not speak to Roman either. Martha Henderson suggested to this woman that Roman be returned to Alabama and she would then attempt to obtain legal

custody of our child because Randell did not want me to have custody of him. Mrs. Henderson and Randell's brother, Lawrence, did not want Pam to call me with this information. Not long after I had reported this information to the FBI, I received a telephone call from Pam. She told me that her family would sue me for harassment because the FBI was bothering them to the extent that her mother was physically ill. Although Randell's family and I had gotten along well until this point, I was now the "enemy". I requested that Agent Price have a tap and trace placed on the Hendersons' telephones and that their bank account records be subpoenaed. He told me that a tap and trace requires expensive and sophisticated equipment that our "case does not warrant". Agent Price said that we must have a "very good reason" to request bank records. He also told me that Western Union drafts, etc. couldn't be tracked without a specific draft number.

- *January 16 and 18, 1996:* Randell made five separate telephone calls to me at home. He kept the calls very brief each time as he said he feared that my telephone line was being traced. During the first two calls, Randell was very disoriented. He could not maintain a conversation and was continually repeating himself and stuttering. Basically, he told me that "this has to end", "Roman needs to be in school", "Roman misses and loves me" and "Roman is angry with me because I am responsible for the issuance of the arrest warrant for his father. There was no reasoning with him. I told him that all he had to do was return to Florida with Roman and all of the charges would be dropped. Randell told me that he and Roman "have a wonderful life in Columbia, South America" and that he was only calling me now because they were away from home on "holiday". He said that he would call me again in two or three weeks when he was away from home "on business". He has never called me again. I asked Agent Price to tap and trace my telephone line and was told, once again, that our case does not warrant this type of action. I even offered to pay for it myself! I called Florida Assistant State Attorney Barbara Pineiro who drafted a letter to Randell that explained that all charges would be dropped if he were to return Roman to my custody in Miami. I sent a copy of this letter to Randell's sister.
- *April 15, 1997:* Agent Clay Price told me that he had requested that the blue notice for Randell be upgraded to a red notice. This should take about six weeks.
- *May 8, 1997:* Kim, a Canadian citizen, called the Missing Children's Network in Canada. She had seen a poster of Roman in a Subway restaurant in Montreal. Kim had known Roman and Randell in Prague throughout 1995 and had spoken to Randell again in the summer of 1996. (NOTE: Kim did not see Roman in the summer of 1996. She was told that Rome was in a summer camp and also was told that he was with friends in a more northern part of the Czech Republic). This woman provided us with an incredible amount of information! Kim had a photograph of Roman and herself, which she gave to Patrick Bergeron at the Canadian Missing Children's Network. She said that Roman and his father were living within a hippie-type community and lived what would be considered to be a Bohemian lifestyle. She said that many people told her that they had taken it upon themselves to take proper care of Roman. Randell purchased only the least expensive foods for Roman (i.e. bread and cheese). Roman, who speaks the Czech language fluently (his father does not), rarely played with other children, had only a borrowed soccer ball as a toy and did not attend school. Kim also said that she is nearly certain, based on his appearance and demeanor, that Randell is a heroin addict. Randell had invited her to visit an underground bar with him. This bar was "by invitation only" and Kim was given the impression that this was a place where illegal drugs were used and, possibly, dealt. It was her personal opinion that this "establishment" was connected in some manner with the Mafia. Kim also stated that Randell appeared to be involved with a Czech woman named Katia. She said that Roman and Randell stayed with Katia at times, with other people and were known to be "squatters," who are individuals who sleep in abandoned homes in Prague. Randell also told Kim that he and a friend would soon be opening an Indian import/export business in Prague. She gave us business cards that she believed were from establishments that Randell frequented and also mentioned a few bars, stores and parks where Roman and Randell often went. When Kim met them, Randell was earning money doing hair wraps. I regret that this same information from Cynthia Clark in August of 1995 had not been investigated.
- *May 8, 1997:* I contacted Agent Price with this information. He said that he must contact the FBI legate in Vienna, Austria. The legate will, in turn, contact INTERPOL in Prague. The major concern was that the Republic of Czecho-

slovakia did not, at that time, recognize parental abduction as an extraditable crime. (Note: The Republic of Czechoslovakia became a Hague signatory in October of 1998.) Agent Price hoped that we could have Randell deported, hopefully with Roman, as an “undesirable” due to his fugitive status in the U.S.A. He sent color photographs and all pertinent information to Vienna. Agent Price told me that the investigators in Vienna had ninety days to investigate and report any information that was learned. He urged me not to go to the Czech Republic “on a wild goose chase”. Let the officials determine if my son was presently in Prague.

- *July 3, 1997:* Agent Price received the first report from Prague (via Vienna). They had learned that Randell had been granted a document (visa) which allowed him to stay in the Czech Republic for one year. This document had expired on January 3, 1997 and had not been renewed. Roman was not mentioned on this document. All inquiries in Prague were being made discreetly so as not to alert Randell. Much to our astonishment, Randell and Roman were using their full, legal names. We were perplexed as to what travel identification documents they were using because their U.S. passports had expired. Agent Price told me that there was no information from U.S. Passport Services in regard to the renewal and/or use of their passports. I began planning to travel to the Czech Republic. Too much time was passing.
- *July 15, 1997:* I contacted Barbara Pineiro at the Florida State Attorney's Office. She gave me an updated letter, which was addressed to Randell. Mrs. Pineiro said that it might be helpful if I should speak to Randell. She also told me that she would be willing to speak with Randell and/or the Czech authorities.
- *July 20, 1997:* Agent Clay Price told me that the Czech authorities had reported to Vienna that the address Randell had written on the application for a long-term stay was that of a general area and that they could not find any school records for Roman. Agent Price also told me that, due to the red notice for Randell, INTERPOL had sent information and photographs of Roman and his father to all Czech border officials. The FBI has Randell's fingerprints on file due to juvenile offenses for assault with a deadly weapon and drug charges. Agent Price said that he is very frustrated by the rate at which our case is moving along and, if he were allowed to do so, he would travel to Prague. He believed that he could locate Roman and Randell in an afternoon!
- *July 22, 1997:* I spoke to Meredith Morrison (NCMEC) who had just had a conversation with Cynthia Quinn, (INTERPOL). Ms. Quinn had told Meredith that the FBI had sent her a request for an upgrade to a red notice in April of 1997. This process requires about six months before it is completed! Ms. Quinn also told Meredith that she had sent out a diffusion notice with the information that the blue notice would be upgraded to a red one. Cynthia Quinn said that I could not speak with her because she is not allowed to speak directly with parents.
- *July 30, 1997:* I asked Agent Price to contact Detective Steven Yoder who handles international extradition cases for the Metro-Dade Police Department. Detective Yoder had contacted the U.S. Office of International Affairs and was told that they had no information on Roman and Randell, so he had sent the information to Mary Jo Grottenrath.
- *August 4, 1997:* I was put into contact with Mr. Bruce Berckmans who does private investigation work. He made several telephone calls and faxed information to the Czech Prime Minister and Czech Minister of the Interior along with the U.S. Ambassador to the Czech Republic. Mr. Berckmans did this without compensation.
- *September 3, 1997:* Agent Clay Price spoke, for the first time, to Kim, the Canadian woman who had called in May of 1997, to report the sighting of Roman and Randell in Prague. Each time one of us had spoken to Kim, we had learned more information.
- *November 3, 1997:* Mr. Charles Goolsby, who is with the Voice of America (VOA), contacted me. He told me that he would air VGA and Worldnet radio and television broadcasts featuring Roman and Randell in the Republic of Czechoslovakia and throughout Eastern Europe. He told me that when he had contacted the Miami City Police Department—Missing Juveniles Division, he was told that they had no such case! I called Detective Bernabe and explained this to him. He said that he would make certain that would never happen again. I thought that I would tell you this to help to make it clear how difficult it is for “left-behind” parents. There is always something to be done, clarified, etc. I have learned that I must always keep “on top of” our case and constantly

monitor what has been done or what more could be done. Mr. Goosby has been incredibly helpful, supportive and knowledgeable throughout my search,

- *November 10, 1997:* Agent Price told me that he had recently attended a U.S. Department of Justice conference in Toronto, Canada. When he had asked about the International Parental Kidnapping Crime Act of 1993 (IPKCA), he was told that, due to the UFAP warrant that has been issued, this additional federal warrant would be placing Randell in double jeopardy. Agent Price also told me that the UFAP allows for a provisional arrest request to be issued. He pointed out to me that the penalties in Florida are higher than those with the federal warrant. Therefore, he has not requested this particular warrant. Cynthia Quinn told him that the red notice has not been issued yet. It was now seven months since this upgrade had been requested.
- *November 22, 1997:* Friends and I held a benefit car wash to help me to raise money for travel to the Republic of Czechoslovakia. NBC local news gave us a lot of coverage.
- *December 1, 1997:* I called Mary Jo Grotenrath with the U.S. Office of International Affairs. She was shocked and dismayed to learn that, although it had been received two weeks beforehand, the request for a search and arrest had never been sent to the Republic of Czechoslovakia. She said that this was inexcusable and she would take care of it immediately.
- *December 12, 1997:* I called Mr. James Bacigalupo, who is the Regional Security Officer (DSS) at the U.S. Embassy in Prague. He transferred my call to Kimberly Krhounek, who was the Assistant Consul General in the U.S. Embassy there. Mr. Bacigalupo told me that, if I was not satisfied with the aid given to me, I should call him again.
- *December 12, 1997:* Ms. Krhounek suggested that I travel to Prague. The child protective service there would intervene if a truant, endangered, neglected, and/or abused child's actual whereabouts were reported to them. She told me to feel free to call her at any time. She would help in any way that she could. In the meantime, Ms. Krhounek would work with Mr. Bacigalupo to involve the local police to ensure that a thorough investigation was performed. She also said that the Republic of Czechoslovakia is not a part of the European Union (i.e. Free Europe), therefore a passport is required to travel to and from that country. Additionally, all aliens are required to have a green card to work in the Czech Republic.
- *December 15, 1997:* I called Mr. Scott Stewart, who was then working for the U.S. Department of State (DSS) in Miami, Florida. He told me that Roman and Randell had renewed their U.S. passports in the U.S. Embassy in Prague in May of 1996! He gave me the new passport numbers along with the expiration dates. It appears that Randell had gone to the U.S. Embassy on two separate occasions as Roman's new passport expires on 6/19/2001 while Randell's expires on 6/11/2006. I gave these numbers to Detective Bernabe so that he could enter them into the NCIC. Mr. Stewart could not help too much more because he handles only cases involving passport fraud. However, he did request copies of the passport renewal applications.
- *December 15, 1997:* I called FBI Agent Price to tell him that Roman and his father had renewed their passports more than one and a half years ago! He was astonished and doubtful. He told me that there must be a mistake because, with the yellow and blue notices in place, the FBI would have been alerted. I gave him the new passport numbers for verification.
- *December 15, 1997:* I called Mr. Bacigalupo about the passport renewals. He said that the yellow and blue notices had never been entered into the U.S. Department of State databank. They were only in the FBI databank. This explained how Randell was allowed to renew their passports without any problems.
- *December 15, 1997:* I called Agent Price about the yellow and blue notices not being entered in the U.S. Department of State databank. He told me that these notices were not in effect when the passports were renewed (i.e. 1996), so it's irrelevant. This is incorrect. Cynthia Quinn and Mary Jo Grotenrath had verified that these notices were effective as of June of 1995! I saw no point in arguing the issue with Agent Price. It was already too late. My son could (and should) have been found and, hopefully, returned home in May of 1996. So that there would be no interference with the Czech investigation, Agent Price asked me to have all of the people who I had involved "back-off" because, with the most recently received information, Roman should be home within two to three weeks. I did so.

- *January 12, 1998:* I called Agent Price again. He said that he doubts that a provisional arrest warrant has been issued because this requires that the exact location of the fugitive be known. He also told me that he knows for certain that the local Czech authorities are investigating and not to worry because Randell will be arrested based on the red notice. I asked Clay to be certain that Roman and Randell's new passport numbers had been entered in the databanks of the U.S. Department of State, INTERPOL, etc.
- *January 16, 1998:* Meredith Morrison (NCMEC) called to tell me that she had just spoken to Cynthia Quinn (INTERPOL). The request for an upgrade to a red notice was still sitting on her supervisor's desk awaiting his signature. Hopefully, this will be accomplished within the next week. In the meantime, Ms. Quinn had sent out cables to all European countries requesting that they track any activity on Roman and his father's new passport numbers.
- *January 20, 1998:* Detective Bernabe (Miami Police Department) told me that he had passed information to Agent Price about a tip that they had received that Roman was in Prague.
- *January 23, 1998:* A man named John, who is Jennifer Litschewski's (U.S. Office of International Affairs) legal assistant, called me on her behalf to ask about the information that I have in regard to Roman and Randell's "alleged" passport renewals. Although dismayed that I must provide this information to these people, I gave him the new passport numbers, expiration and renewal dates. He said that his office could find no indication that their passports had been renewed! John told me that the U.S. Department of State was planning to revoke Roman and Randell's passports.
- *January 26, 1998:* I called Agent Price and he told me that the revocation of the new passports is moving along quickly. If the revoked passports are presented, Randell will, most likely, be sent to the nearest U.S. Embassy where he will be arrested. The current "look-out" on their passports with the U.S. Department of State will not allow for their being detained, but the FBI will be alerted as to their location. When I asked if INTERPOL had run a trace on the new passport numbers, Agent Price said that he had no idea if that had been done, but "red-flagged" fugitives have escaped detection many times in the past.
- *Late January of 1998:* I sent letters to Florida Senator Bob Graham and to the U.S. Secretary of State, Madeline Albright, who is a Czech national. To date, these requests for aid have not been answered.
- *January 28, 1998:* I purchased two roundtrip tickets to fly on February 4, 1998 from Miami to Prague. I felt that the eight months that had passed since it had last been reported that Roman was in Prague were more than sufficient time to allow for a thorough investigation by authorities! A friend, David Solomon, agreed to accompany me. These tickets cost a little under \$1000.00, which is considered to be a very low fare due to the off-season in Prague. I was told that Roman's return fare, if needed, would cost \$800.00 if I purchased a roundtrip ticket and \$1800.00 for a one-way fare. I then contacted Agent Price, the U.S. Embassy in Prague, Jennifer Litschewski, The Missing Children's Network in Canada and Meredith Morrison, who I asked to relate the information about my travel plans to Cynthia Quinn. I made it clear to everyone that we were not going to attempt a "snatch-back" or violate any laws. I would not do anything to endanger my son. Mr. James Bacigalupo and Kimberly Krhounek invited us to meet with them at the U.S. Embassy in Prague.
- *February 5, 1998:* David Solomon and I arrived in Prague. We got a room in a bed and breakfast establishment. The receptionist gave us a detailed map of Prague along with directions to many of the places where Cynthia Clark and Kim had told us Roman and/or Randell had often gone. We did not disclose our reason for visiting these locations. David, who has never met either Roman or Randell, and I decided that, if questioned, it would be best for him to represent himself as "a friend of a friend" of Roman and Randell's. Roman's mother would never be mentioned.
- *February 6, 1998:* David and I went to the U.S. Embassy and met with Ms. Krhounek and Mr. Bacigalupo. We inquired about local laws and Ms. Krhounek told us that there is no Czech law against searching for anybody. On a map, we found the physical address that Randell had used on his passport renewal application. Mr. Bacigalupo expressed concern that our activities may interfere with the local investigation and, therefore, asked that we proceed cautiously. He also told us that he would try to arrange for us to meet with Ing. Radek Prchal (INTERPOL), who has been assigned to our case in Prague.

- *February 6, 1998:* David went to Old Towne Square, a major tourist area, which precedes the Charles Bridge where Randell had been working as a street vendor. David, who carried a photograph of Roman that had been taken when he was eight years old, asked the vendors for Roman and Randell. Incredibly, in less than twenty minutes, David had spoken to three vendors who recognized them immediately! These vendors described Randell as having shoulder-length brown hair and a scar between his eyes. These men also said that Randell leaves Prague in the winter and “goes to sea where it is warm”. Due to language barriers, David could not determine if these men knew if Roman had traveled with Randell or the name and/or type of vessel that he/they had traveled on. Most of their communication was accompanied by hand and body gestures. These individuals all stated that they had not seen either Roman or Randell in four to six months. I was very upset to learn this. If I had not waited so long for the official investigation, I would have arrived in Prague when my son was still there. I could, at the very least, have had contact with my child, if not have convinced Randell to allow Roman to return to the U.S.A. with me. David then went to the Charles Bridge where, in no time at all, he had spoken to several vendors (mostly artists) who knew Roman and his father well. Fortunately, many of these men spoke fluent English. From these individuals, David learned that Roman and Randell had been living in an apartment on the other side of the bridge, which is an area of Prague called Male-Stranna. We recognized this as an area where Kim (Canadian caller) had reported that Randell and Roman sometimes lived, went grocery shopping and was where the underground bar was located. These people also said that Randell and Roman “go to sea” in the winter. One man told David that, recently, the local police had been preventing Randell from braiding hair on the Charles Bridge, as they did not consider this to be art. Therefore, Randell had begun braiding hair on side streets. Also, Randell would begin to braid hair, at times, on the bridge and would simply walk away if a police officer approached.
- *February 7, 1998:* David and I purchased tickets for the Metro (i.e. underground train) to travel to Za-navsi 2451, which is the physical address that Randell had given on his passport renewal application. I stayed in a local restaurant while David went to the apartment building. Please note that I, for the most part, did not accompany David while he spoke to people. We did not want to take a chance that Randell, if nearby, would recognize me. Outside of this apartment building, David, initially without any success, asked two separate people if they knew Roman and Randell. He then went to a nearby gymnasium where he spoke to a group of children. One boy recognized Roman and led David back to the apartment building. David then approached a couple in their mid-fifties. David said that the woman “nearly fell over” when he showed her Roman’s photograph. Using broken English and hand gestures, the woman told David that Roman and his father had lived in their apartment with their daughter. She adamantly stated that her daughter and Randell “were no more—never again to be together”. She also said that Roman and Randell had left for Poland about six months ago. The man refused to speak to—or even acknowledge—David at all. Both of these people became very upset at the mention of Randell’s name and the woman had tears in her eyes when she looked at Roman’s photograph. This woman identified herself as “Yitka”.
- *February 8, 1998:* I stayed on the “Prague side” of the Charles Bridge while David went to Male-Stranna. He spoke to a thirteen-year-old girl, who in exchange for a cigarette, offered to take David to a bar where Randell and Roman often went. When David went into a nearby store to buy cigarettes, he discovered that the clerks also knew Roman and Randell! The girl took David to this bar, which is named Malostranska Beseda. With the girl translating for him, David learned from the bar’s owner that Randell was in his bar every night when he was in Male-Stranna. Also, he pointed in a certain direction to indicate a flat where Randell had been living. However, the owner of the bar said that Randell had told him that he had “given up his flat” and was “leaving Prague”. He was not certain of the time frame and had no idea where Randell was going.
- *February 9, 1998:* I called Mr. Bacigalupo and he said that he had arranged for us to meet with INTERPOL Agent Prchal on February 11. Mr. Bacigalupo was upset that David had asked so many questions and asked us to do no more until after our meeting with INTERPOL.
- *February 9, 1998:* I called Meredith Morrison and she said that Cynthia Quinn had told her that the red notice request had not been signed as of yet! As I feared that the FBI/INTERPOL would cancel the investigation if it was learned

that Roman and his father were, supposedly, not currently in Prague, I decided not to contact Agent Price at this time.

- *February 11, 1998:* David and I went to the U.S. Embassy to meet with Mr. Bacigalupo and Kim Krhounek for our meeting with INTERPOL. We exchanged photographs and information with Ing. Prchal. He told us that Randell had been arrested for "assault with a deadly weapon" in Prague in 1995, but did not go into detail as to the results of this arrest. Ing. Prchal also told us that Randell was a known heroine abuser/dealer in Prague, but this information was given to us in a "matter-of-fact" manner. Apparently, heroin use is not a serious crime in the Republic of Czechoslovakia. Ing. Prchal told me that the legate in Vienna, Austria had requested that his investigation be very discreet. He was not to do anything that would possibly alert Randell that he was being sought. Therefore, he was limited to inquiring through government channels as to Roman's enrollment in school, social services (including orphanages), medical and dental records, any visas, marriage licenses, etc. This would not allow him to request that any local investigators question individuals. He also said that, without a red notice, his "hands are tied". Ing. Prchal made it very clear to me that he was willing to thoroughly investigate and to arrest/extradite Randell and return Roman to my custody once the red notice was in place. He agreed to contact INTERPOL Agent Cynthia Quinn directly. I gave Ing. Prchal many contact numbers in the U.S.A. Ing. Prchal told me that, if Randell re-enters the Republic of Czechoslovakia without applying for a long-term stay, he will be in the country illegally and will, therefore, be subject to deportation. I must mention that I was shocked to see the "photographs" of Roman and Randell that had been sent to Ing. Prchal. They were wallet-sized, blotchy, blurred, black-and-white facsimile images. I would be hard-pressed to recognize my child or Randell from those images! At the conclusion of our meeting, Mr. Bacigalupo and Ing. Prchal told us that, although we had given them very valuable information, it would be best for us to not make any more inquiries to avoid interfering with the local investigation.
- *February 12, 1998:* I called Agent Price to give him an update. He said that he is very frustrated by the lack of progress and action on our case. Also, he had learned last week that the U.S. Department of State had revoked Roman and Randell's new passports. Additionally, Cynthia Quinn had recently told him that the request for an upgrade to a red notice was still sitting on her supervisor's desk awaiting his signature. They are too backlogged to get to this! Agent Price told me that he had attempted to impress upon Ms. Quinn how important the red notice is due to the fact that I was presently in Prague and to remind her that he had requested this upgrade ten months ago. Agent Price suggested that, perhaps, Meredith Morrison and/or Ing. Prchal could obtain quicker results from Cynthia Quinn. He gave me the emergency number for the Miami FBI Office in case I should need to contact him urgently.
- *February 12, 1998:* I called Ing. Prchal to explain how important it was that he contact Cynthia Quinn. He said that he would do so as soon as the time difference allowed and that he would straighten this out with her. He reiterated that I should feel free to contact him at any time with any problems and/or questions that I should encounter.
- *February 15, 1998:* Special notation: Today was Roman's twelve birthday. The fourth birthday that had passed since I last saw my son.
- *February 16, 1998:* Ing. Prchal called me at our hotel to ask if I would be willing to sign a release form that would allow for Roman's photograph and information to be aired on Czech television. This was the first time in the history of the Republic of Czechoslovakia that a missing child would be featured on television! As no red notice/provisional arrest warrant or request had been issued for Randell, he could not legally include photographs of him. Please recognize, once again, that my personal difficulties have not been with foreign governments, but with my own country! Ing. Prchal told me that he had spoken to Cynthia Quinn who had assured him that the red notice application would be signed within the next day or two. Cynthia Quinn had told Ing. Prchal that both Roman and Randell's U.S. passports had been revoked on April 15, 1997. One must wonder why the FBI agent had only learned of these revocations in early February of 1998? Which passports had been revoked? The initial, expired ones or the new ones?
- *February 17, 1998:* David and I flew back to the U.S.A.
- *February 19, 1998:* Meredith Morrison (NCMEC) contacted Ing. Prchal via e-mail. Ing. Prchal told Meredith that Roman's search information had already

been broadcast on television and had been printed in the Czech national newspapers.

- *February 19, 1998:* Patrick Bergeron (Missing Children's Network in Canada) had spoken to his contact in Poland. This individual said that it is unlikely, in any European country, that a revoked U.S. passport will be detected unless its owner travels on an airplane. He agreed to distribute posters of Roman and his father in Poland.
- *February 19, 1998:* Charles Goolsby called to tell me that VOA can air broadcasts throughout the Mediterranean and has already aired broadcasts in Poland in both English and Polish. Mr. Goolsby has always reacted very quickly to the changes in our case!
- *February 23, 1998:* I called Jennifer Litszewski. She said that she believes that both Roman and Randell's passports have been revoked. She does not know what happens when a revoked passport is presented other than that the passport holder would not be allowed to travel. However, the cable that she had sent out explained why the passports were revoked. The U.S. Embassy in Prague will detect the revocations.
- *February 23, 1998:* I called FBI Agent Price to ask him if he thought that I should attempt to contact Mr. Luke Von Johnston and his associate, Costas, in Johannesburg, South Africa. These people have been sailing companions of Randell's for many years. I had an address and telephone number for Mr. Von Johnston. Agent Price said that it is worth a try. He will try to determine what contacts the FBI has on the African continent. He also told me that a revoked passport will be confiscated and that Randell will be detained while Roman is placed in protective custody until I arrive to bring him home. Agent Price said that this should "hold true on a worldwide basis" due to the information in the U.S. Department of State databank. He also told me that he would contact Ing. Prchal in Prague.
- *February 23, 1998:* I was unsuccessful in my attempt to contact Mr. Von Johnston. The telephone number that I had was disconnected. The operator in Johannesburg told me that there is no listing under his name and that it is not possible for her to find a telephone number by an address only.
- *March 12, 1998:* Agent Price called to tell me that Patrick Bergeron, the Director of Search for the Missing Children's Network in Canada, had written a "nasty" letter to Janet Reno about how our case had been handled by the FBI. This letter had been forwarded to Agent Price's supervisor in Miami. There will be a congressional inquiry. Mr. Price was very upset about this. He told me that he had done his best but was "only as good as the people backing him". Although he understood my frustration and had felt the same frustration, this was causing him a lot of "personal grief. Agent Price said he believes that he has given me "a fair shot". I expressed doubt that Mr. Bergeron had intended to harm anyone by writing a letter. I was not even aware that it had been written. I told him that I would discuss the letter with Mr. Bergeron.
- *March 13, 1998:* Samantha Edwards, who was with reunite (a missing child organization in London, U.K.) called to tell me that she had received my letter. She had given the new passport information to the proper authorities in her country. Ms. Edwards also said that she would arrange for The National Missing Person's Helpline (NMPH) to, once again, distribute posters depicting Roman and Randell throughout Europe. The NMPH would also air radio and television broadcasts.
- *March 13, 1998:* Meredith Morrison (NCMEC) called to tell me that she had spoken to a man who is with the U.S. Dept. of State (DSS) about what action would be taken in a case in which a citizen's passport had been revoked and a red notice had been issued. Basically, he told her that the passports are only revoked on paper. Therefore, the revocation will only be detected if the document is run through the computer system. Upon detection, Randell must be "convinced" to go to the nearest U.S. Embassy at which time he would be detained. This man also said that the red notice is crucial and should have been requested much earlier in our case. He was kind enough to contact Mr. Bacigalupo (DSS) and Ing. Prchal (INTERPOL) in Prague. These men assured him that Randell would be arrested there if a red notice were in place. Additionally, this DSS officer spoke to Cynthia Quinn (INTERPOL) who stated that it would take another two to three months before the red notice was issued!
- *March 16, 1998:* Mr. Goolsby told me that he had spoken to Mr. Pat Donovan (DSS) who had said that the Czech authorities had sent information as to my child's whereabouts to the FBI legat in Vienna and had not received a response

as of this time. Mary Jo Grotenrath (U.S. Office of International Affairs) had made the statement that there was “no hurry” with the red notice because Roman and Randell had already been located!

- *March 23, 1998:* I called Ing. Prchal (INTERPOL) and he told me that a thorough investigation had now been performed in Prague. The resulting information had been sent to the legate in Vienna as well as to Cynthia Quinn (INTERPOL) in Washington, D.C. Ing. Prchal expressed dismay that the red notice had not been effective back in May of 1997 when the sighting was first reported. After my visit to Prague, the local investigators had questioned Randell’s ex-girlfriend and her parents. Her parents had said that they were headed to Poland. Katia, the former girlfriend, said that they were on their way to Israel! Katia seemed to believe that they were sailing. It appears that they may have traveled down the east coast of the African continent, rounded the cape and then headed up to the Mediterranean. Ing. Prchal also told me that my visit to Prague had been very helpful to him and to the local investigators. The color photographs that I had given him were especially helpful.
- *March 30, 1998:* Detective Steven Yoder (Metro-Dade Police Dept.—Extraditions Office) called to tell me that all of the necessary paperwork for issuing a provisional arrest request had been completed by the Florida State Attorney’s Office. However, his contact at the U.S. Office of International Affairs—Children’s Issues has told him that a red notice is not enough to allow for Randell’s arrest in the Republic of Czechoslovakia. This is confusing because Ing. Prchal and Mr. Bacigalupo in Prague have stated several times that a red notice is all that will be needed to take such action.
- *April 8, 1998:* I spoke to Ann Macegahuey (U.S. Dept. of State—Children’s Issues) who told me that, although we are not certain that my child is in Israel, she has initiated Hague action there. She faxed me the required paperwork and told me we must rush because Israel will “shut down” for Passover soon. These documents included a list of attorneys in Israel. If Roman is located in Israel, I must hire an attorney there! I am not eligible for legal aid in Israel because I am ineligible in Florida. One must have an annual income of \$7,000 or less to receive legal aid in this state! Personally, I don’t understand how a civil proceeding in any country other than the U.S. A. will help us (if it is even allowed) because we do not have a legal standing elsewhere. Leslie Kaufman, who is with the Central Authority in Israel, will retain the paperwork for the Hague application and will pass it along to any Hague signatory country if need be. Ann Macegahuey said that she would contact Mark Klein, my private attorney, to discuss any information and/or documents that she may require from him. I went to the courthouse in Miami and purchased the required certified court documents.
- *April 14, 1998:* Meredith Morrison (NCMEC) called to tell me that her DSS contact had said that the “unofficial” report from Israel indicates that there is no information that Roman and his father had ever entered or left this country. However, an open inquiry, as opposed to a one-time check, had been requested in Israel and South Africa.
- *April 17, 1998:* Ann Macegahuey called to tell me that alerts had been cabled to South Africa and Israel. There was no record of Roman and Randell with airport customs in these countries. She also said that she needs information on the boat’s registry in order to be more thorough. Ms. Macegahuey also told me that Randell’s passport had definitely been revoked.
- *April 22, 1998:* Ann Macegahuey called again to tell me that she had sent a cable with copies of Roman and Randell’s photographs to South Africa, Israel and the Republic of Czechoslovakia. She also said that, due to manpower cutbacks, she could not send an alert cable anywhere unless there was a “legitimate reason” to do so! In other words, we must have specific information as to their current whereabouts. I don’t mean to sound bitter but, if we had that information, we wouldn’t be in this situation to begin with! When I reiterated that it is highly likely that they are somewhere in the Mediterranean on a vessel of some kind, Ms. Macegahuey told me that she couldn’t alert port posts without having the name and/or registration information of the vessel upon which they are traveling. This is something that I cannot understand. A cable and/or FAX could help to find my son. In the computerized age in which we now live, I don’t see why an electronic message would overly “strain” manpower resources. But what do I know of these bureaucratic issues? I am simply a mother who is desperately searching for her only child. Ms. Macegahuey said that she believes that Roman and his father are using false identification and travel documents

and, therefore, are not being located. This theory makes no sense at all to me. If Randell had intended to use falsified documents, why would he risk entering a U.S. Embassy to renew their passports and have been consistently using Roman's and his legal names? It appears to me that they have not been located through their passports because they are not flying and/or because a thorough trace is not being performed. It is doubtful that Randell would have the money to spend on airline tickets. Randell and I had lived on a sailboat for nearly twelve years. Throughout our extensive travels, customs officials often required only identification from the vessel's captain along with the boat's registry information. This is why I adamantly believe that if photos and information were sent to the "targeted" port posts, they may be recognized. My next goal is to send information to all of the port posts where I feel that they may travel. I will do this by utilizing a publication entitled, "Ports of the World". However, I am somewhat doubtful as to what the reaction from these authorities will be when a request is received by a private citizen and not by U.S. officials. Perhaps I am "grasping at straws", but I will not sit idly by when my son's welfare is at stake.

- *April 28, 1998:* After I had read Patrick Bergeron's letter to Janet Reno, I sent my own letter to her today with a synopsis of our case. I was hoping to make it clear to Mrs. Reno that all of the delays, problems, misunderstandings and oversights that have been encountered in our case could not be attributed solely to the FBI. I also mentioned that the entire issue of international parental kidnappings could be dealt with more effectively if changes were made.
- *May 11, 1998:* I called Maureen Dabbaugh (P.A.R.E.N.T.). She told me that her experience, as well as that of other parents with whom she has had contact, has lead her to believe that the "left-behind" parent must personally contact customs, border and port authorities with the information and photographs of the child and the abductor. I requested one hundred posters from the NCMEC to accomplish this goal.
- *May 13, 1998:* As I had been required to send my only official copy of Roman's birth certificate to Israel with the Hague application, I went to the Dept. of Vital Statistics in Miami to obtain more copies. The clerk told me that "there is a block on this birth certificate". I must have a court order to obtain a copy. I then called Darlene Newman in Jacksonville at the Florida State Dept. of Vital Records. She told me that the Florida Dept. of Law Enforcement (FDLE) had flagged Roman's birth certificate. I pointed out that this flag would have been completely ineffective if Randell or his representative had requested the birth certificate. Upon being transferred to Priscilla Smith, a supervisor, I learned that I NEVER should have been told about the flag on Rome's birth certificate. Ideally, the clerk would have "stalled" me while she contacted the FBI or another law enforcement agency. Mrs. Smith said that she would speak with the individuals in the Miami office about this. Quick calculations of my attorney's \$275/hour fee, court costs, processing, etc. lead me to believe that this \$6.50 copy could easily cost me as much as \$500.00! I decided to attempt an alternate approach to this problem.
- *May 19, 1998:* I was able to reach Gwen Johnson at the FDLE. She told me that she would ask Pat Rutherford, who is assigned to our case with FDLE, to request that a copy of Roman's birth certificate be released to me. I explained that I was more than willing to show photo identification so as there would be no concern that I was representing my ex-husband.
- *May 26, 1998:* Meredith Morrison (NCMEC) called to tell me that she had received a FAX, which was dated May 21, 1998, from INTERPOL in Lyon, France. It stated that Randell's blue notice had been upgraded to a red notice. This was a full thirteen months after Agent Price had requested the upgrade! The reasons that were given for this upgrade were that: Randell is a "known drug addict, violent, dangerous and is considered to be armed and mentally ill". Please note that Randell had suffered a mental breakdown in St. Thomas in the U.S. Virgin Islands in March of 1993 after he had learned that his current girlfriend had, allegedly, spent the night with another man. He had called me to say that he was going to kill three people and then himself Between his family and myself, we had managed to convince him to return to the U.S.A. with Roman and to undergo therapy. After two weeks of Gestalt Re-decision Therapy, Randell proclaimed himself to be "cured". I later learned that his therapist had suggested that he continue in therapy. Randell's mother and sister told me that they were gravely concerned about Randell. His father was a diagnosed paranoid schizophrenic who had committed suicide. They said that Randell had

begun, in their opinion, to exhibit many of the behaviors that his father had shown in the past.

- *May 27, 1998:* Pat Rutherford (FDLE—Missing Children’s Clearinghouse) told me that my request for a copy of Roman’s birth certificate was very “unusual”. A flag (block) on a birth certificate is never lifted until after the child has been located. I explained how important this document would be when I am able to take physical custody of Roman.
- *May 28, 1998:* Detective Steven Yoder (Metro-Dade Extradition) told me that he will make certain that the passport revocations are in effect and that the information has been entered into all of the appropriate databanks. I was very concerned that they may “slip through the cracks” again.
- *June 3, 1998:* I spoke to Mr. Kenneth Jones (Dept. of Vital Records in Jacksonville, FL.) who told me that he absolutely couldn’t release a copy of the birth certificate to me without a court order.
- *June 8, 1998:* FBI Agent Clay Price called to tell me that he had received another “nasty” letter which was, this time, written to Janet Reno by me! I told him I had written that letter intending to clarify any misunderstandings as to the FBI’s role surrounding the difficulties with our case. Agent Price asked me to meet with his supervisors and him at the FBI Headquarters in Miami. He said that he wanted to demonstrate to me how much he had done to help to resolve our case. I have no doubt that he did his best based on his knowledge of these types of cases. However, regardless of who made errors, my child should have been home at least by 1996 when his father had renewed their passports in Prague. These types of errors must be prevented from occurring in any case. I saw no point in meeting with these people. There are certain issues upon which we will never agree. Honestly, this conflict only served to add to my emotional distress.
- *May 9, 1998:* Charles Goolsby called to tell me that Mary Jo Grotenrath had said that Roman is not on the FBI’s missing child web page and that I should ask Agent Price why he is not featured there and if he ever had been placed on that site.
- *May 22, 1998:* I mailed a certified letter to Judge Eugene Fierro which explained my need for a court order to obtain a copy of Roman’s birth certificate.
- *May 25, 1998:* I received a letter from Mr. Charles Barry Smith who is the Supervisory Special Agent Unit Chief with the FBI’s Office of Public and Congressional Affairs in Washington, D.C. Mr. Smith basically wrote to me that he regrets that my child has not been found and that he understands my frustration. However, extradition and national sovereignty issues are factors and the FBI has followed and will continue to follow all leads and that I may feel free to contact the Special Agent in charge of my case at any time. Perhaps I am ignorant of these affairs, but I do not understand how national sovereignty has any relevancy in a case in which three U.S. citizens are involved.
- *July 22, 1998:* I received a court order from Judge Fierro which I mailed to Mr. Jones in Jacksonville along with copies of my identification and the appropriate fee. Within three weeks, I received two official copies of Roman’s birth certificate. It had taken me three months and a great deal of difficulty to obtain these copies! I can understand that certain measures are necessary to prevent the abductor from receiving these copies, but I don’t understand why, as the “left-behind” parent, I must continue to be “punished” for my ex-husband’s actions. After all, I’m not the “bad guy” in our case.
- *October 1, 1998:* Mr. Charles Goolsby and I discussed that there is not a warrant for Randell’s arrest based on the Federal International Parental Kidnapping Crime Act of 1993 (IPKCA).
- *October 9, 1998:* I discussed the IPKCA with Meredith Morrison (NCMEC). She said that, recently, the Center has experienced difficulties with particular countries that do not recognize parental abductions as crimes. Nancy Nyak at the NCMEC said that, if the passport revocations and red notice are truly in place, nothing else is necessary. These leads me back to the same question of as to whether or not all of this has, indeed, been done and properly documented where necessary.
- *November 11, 1998:* When I called FBI Agent Price today, I heard a different agent’s voice mail message. I have learned that Special Agent Deborah J. Cool has been assigned to our case. I have left a voice mail message for Agent Cool, but have not received a reply as of yet.

- *November 16, 1998*: Patrick Bergeron (Missing Children's Network in Canada) called to tell me that he had been speaking to RCMP Officer Lameer about a different case when this man had told him that a new lead had been received on our case. A woman had called the RCMP in British Columbia about three weeks ago to say that she had met Randell in Greece in May of this year. Officer Lameer did not have many details on this latest lead. However, he did say that this information had been passed along to INTERPOL in Washington, D.C. and to the FBI in Miami. Although I do not want to interfere with any official investigation, I cannot help but have grave concerns as to how this lead is being followed. Past experience with the sightings in Prague have left me with many doubts as to if a thorough investigation will be performed in a timely manner. I have, therefore, contacted Paul Stevenson, who is the U.S. ambassador to Greece and asked that he help us in any way that he can. To be quite honest, a part of me feels that I should go to Greece right away before too much time has passed. However, we are waiting for a more detailed statement to be made by this caller.
- *November 23, 1998*: Meredith Morrison (NCMEC) told me that she has learned from the U.S. Department of State that flags on passports are not automatically brought up when the passport number and/or name of the citizen is entered into the system. To receive this particular information, an individual must run a further check into the system. How can we be certain that individuals will take this extra step on a worldwide basis? Additionally, a DSS officer told Meredith that Randell will not be immediately detained and/or arrested even in a U.S. Embassy when the revocation and red notice has been detected. He will be asked, on some sort of pretense, to return later so that the Embassy officials will have time to involve the local police before making an arrest. A man, who is on the run from federal authorities, will be leery and may not return at all. Senator Helms, I apologize for taking so much of your time. However, I believe that my case is an example of the typical problems that must be faced within our own system so that more of our children who have been victimized by an abducting parent can be brought home. Perhaps, by sharing our story with you, you will have more information with which you can help to spare other parents similar difficulties in their searches. I am sad to say that my faith in our "system" has been shaken. I will continue to do whatever is humanly possible to give my son the life that every child deserves. I am committed to this battle for life—or until Roman is home.

Sincerely,

JEAN HENDERSON.

ORRIN G. HATCH,
U.S. SENATE, WASHINGTON, DC,
February 25, 1997.

Hon. JESSE HELMS,
*Chairman, Committee on Foreign Relations,
Washington, DC.*

DEAR MR. CHAIRMAN: It may interest your committee to review the materials I have received from Mr. Thomas A. Johnson as it concerns his efforts, not only in finding an answer to his own case, but also in addressing the larger problem confronting other American citizens when a child is abducted by the other parent.

Contrary to the spirit of the Hague Convention treaties, there are examples where foreign governments are actually aiding and abetting such practices even when there is a clear violation of a court order. I understand that the State Department currently has on record some 75 such cases in Sweden alone.

Mr. Johnson has consulted with attorneys at the U.S. Department of Justice expecting that the International Parental Kidnapping Act of 1993 should provide some relief through extradition. The response he has received, however, suggests that there is little, if any, enforcement of the Act. The Justice Department apparently defers to the State Department and the Hague Convention treaties presumably for diplomatic purposes.

The extent of U.S. Department of State involvement has been to provide a list of attorneys in the foreign country and to report on the whereabouts and welfare of the child who has been kidnapped. Needless to say, American parents find this limited support inadequate, particularly as foreign governments are alleged to go as far as to provide counsel for the parent who has violated the court order. Greater

cooperation between the U.S. Department of State and the Justice Department in representing the interests of American citizens in such cases may be desirable.

While I understand that the Foreign Relations Committee has a full agenda, I am forwarding Mr. Johnson's materials to you for your perusal. Inasmuch as you have a long record of supporting families, I believe you will find Mr. Johnson's personal story as well as his observations and research of interest.

Sincerely,

ORRIN G. HATCH,
United States Senator.

July 23, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State,
Department of State, Washington, DC.

DEAR MADAME SECRETARY: It has come to our attention that Senator Jesse Helms has written you a letter expressing his concern that a number of members of the Hague Convention on the Civil Aspects of International Child Abduction are not adhering to this treaty. We would like to second Senator Helms and express our grave concern that, despite the requirements of this treaty, too many countries are disregarding it, and make no attempt to enforce the obligations under the treaties they have signed.

We have been visited in recent weeks by a number of parents whose children have been abducted to Germany, Sweden and Denmark, by the non-custodial parents. There are current felony arrest warrants outstanding.

We understand that the Senate Foreign Relations Committee has pending before it a number of extradition and mutual legal assistance treaties. We believe, as Senator Helms does, that these treaties are useful only if they are fully enforced by both parties to the treaty.

We would very much appreciate answers to the following questions:

- Please state the policy of the United States with regard to entering into a treaty relationship with a country that is in violation of the Hague Convention on the Civil Aspects of International Child Abduction.
- Please list each country that has agreed to extradite its own nationals.
- Please list all provisions—including extradition of nationals—in the treaties that are unilateral concessions, that is, the United States will undertake an obligation that the treaty partner will not.
- Please list all outstanding parental abduction cases with European countries.
- Please list all countries with which the United States has reciprocal child support enforcement agreements and the legal authority for entering into those agreements.
- Please provide those countries of the pending treaties that protect parents who abduct or wrongfully retain their children and punish parents who attempt to exercise their sole or joint custody rights.
- Please list those countries which lack the legal basis such as contempt of court provisions to enforce court decisions in civil cases.

We look forward to a reply in the near future.

Sincerely,

Nick Lampson,
Member of Congress.

Ben Gilman,
Member of Congress.

Bud Cramer,
Member of Congress.

Bob Franks,
Member of Congress.

Marion Berry,
Member of Congress.

cc: Senator Jesse Helms

LIST OF ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD WHICH WILL BE
MAINTAINED IN THE COMMITTEE'S FILES

- International Parental Child Abduction*—A publication of the U.S. Department of State, Bureau of Consular Affairs (Revised 1997)
- International Parental Child Abduction: Islamic Family Law*—A publication of the U.S. Department of State
- Abduction: Saudi Arabia*—A publication of the U.S. Department of State (1996)
- Saudi Arabia: Marriage to Saudis*—A publication of the U.S. Department of State (1996)
- Hague International Child Abduction Convention; Text and Legal Analysis*—U.S. Department of State [Public Notice 957]; Federal Register, Vol. 51, No. 58, March 26, 1986, pages 10494–10516
- Hague Convention (Multilateral Treaty) on International Child Abduction Enters Into Force on July 1, 1988*—U.S. Department of State [Public Notice 1067]; Federal Register, Vol. 53, No. 122, June 24, 1988, page 23843
- Cooperative Agreement Adjustment Notice*—Text of an agreement by the the U.S. Department of Justice, The U.S. Department of State, and the National Center of Missing and Exploited Children
- Procedures for Handling Incoming Cases Under the Hague Convention on the Civil Aspects of International Child Abduction*—A publication of the National Center for Missing and Exploited Children
- Hague International Child Abduction Convention: A Progress Report*—by Linda Silberman; Published in *Law and Contemporary Problems*, School of Law, Duke University, Vol. 57, No. 3 (Summer 1994)
- Getting Them Back: The Disappointing Reality of Return Orders Under the Hague Convention on the Civil Aspects of International Child Abduction*— by Jan Rewers McMillan; Published in *Journal of the American Academy of Matrimonial Lawyers*, Vol. 14, No. 1 (Summer 1997)