



# OJJDP

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## J U V E N I L E J U S T I C E B U L L E T I N

# Early Identification of Risk Factors for Parental Abduction

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"You'll never see your child again!" When are these words an idle threat spoken in anger and frustration and when are they a warning that a parent intends to abduct his or her child, depriving the child and the other parent of future contact?

Although custody laws vary from State to State, abducting one's own child is a crime in every State. If a parent or other family member takes, hides, or keeps a child away from a parent with custody or visitation rights, then he or she may have committed a crime.<sup>1</sup> More important, a child often is harmed by life on the run and by being deprived of his or her other parent. Prior to abduction, many of these children have been exposed to neglectful and abusive behaviors in their homes and have witnessed high levels of conflict between their parents. These children are at risk for psychological harm.

The U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, funded a research study (Johnston et al., 1998) on prevention of family abduction through early identification of risk factors to answer the following questions:<sup>2</sup>

<sup>1</sup> In some States, these actions are a crime if a custody order is in place, while in other States, these actions are a crime if the parent has a right to custody.

- ◆ What type of parent abducts his or her child?
- ◆ What role does family violence play in increasing the likelihood of abduction?
- ◆ How can one identify which child is at risk of being abducted by a parent or other family members?
- ◆ What can be done to prevent family abductions and protect the child?

This Bulletin describes the multiple discrete research projects that made up the research study and highlights the findings. The authors also recommend steps that communities can take to help protect children from family abduction.

## Research Design

The four discrete research projects that made up the study were designed to

<sup>2</sup> The research study was a collaboration between the Judith S. Wallerstein Center for the Family in Transition and the American Bar Association Center on Children and the Law. The authors encourage readers to study the full report, *Prevention of Parent or Family Abduction Through Early Identification of Risk Factors* (Johnston et al., 1998), which brings together several years of research and provides much greater detail regarding who abducts their child, what interventions are effective, and how to protect the child from family abduction. To order a copy of this report (NCJ 182791), call 800-638-8736 or send an e-mail to [puborder@ncjrs.org](mailto:puborder@ncjrs.org).

## A Message From OJJDP

While State custody laws vary, the laws of every State establish that abducting one's own child is a crime.

OJJDP has funded four research projects on preventing family abductions: a documentary study, a criminal sanctions study, an interview study, and an intervention study. The design and findings of these research projects are described in this Bulletin.

The findings provide information regarding the risk factors associated with parental kidnaping and strategies that can be used to intervene with families at greatest risk. They address such critical factors as the characteristics of parents who abduct their own children, the role family violence plays in increasing the likelihood of parental abduction, ways of identifying children at risk of being abducted by a parent or other family member, and steps that can be taken to protect children from family abduction.

Recommendations to increase parental access to legal resources, develop responses to reported family violence, provide services to families involved in custody disputes, protect children's interests, and create unified family courts are also included.

OJJDP believes that the information this Bulletin provides will enhance efforts to identify risk factors for parental abduction and help protect children from harm.

## Profiles of Parents At Risk for Abducting Their Children

### Profile 1: When There Has Been a Prior Threat of or Actual Abduction

When a parent has made credible threats to abduct a child or has a history of hiding the child, withholding visitation, or snatching the child from the other parent, there is great distrust between the parents and a heightened risk of further custody violation. This risk profile is usually combined with one or more of the other profiles. In these cases, the underlying psychological and social dynamics that motivate the abduction need to be understood and addressed. When other risk factors are present, one or more of the following are general indicators of an imminent threat of flight with the child:

- ◆ The parent is unemployed, homeless, and without emotional or financial ties to the area.
- ◆ The parent has divulged plans to abduct the child and has the resources or the support of extended family and/or friends and underground dissident networks needed to survive in hiding.
- ◆ The parent has liquidated assets, made maximum withdrawals of funds against credit cards, or borrowed money from other sources.

### Profile 2: When a Parent Suspects or Believes Abuse Has Occurred and Friends and Family Members Support These Concerns

Many parents abduct their child because they believe that the other parent is abusing, molesting, or neglecting the child. These abducting parents feel that the authorities have not taken them seriously or properly investigated the allegations. Repeated allegations increase the hostility and distrust between the parents. Parents who have the fixed belief that abuse has occurred—and will continue to occur—then “rescue” the child, often with the help of supporters who concur with their beliefs, justify their actions, and often help with the abduction and concealment. Supporters might include family members, friends, or underground networks (usually women) that help “protective” parents (usually women) obtain new identities and find safe locations.

In a large number of cases, the child has been previously exposed to neglectful, endangering, or violent environments (e.g., domestic violence or substance abuse). In these cases, the courts and child protective services may have failed to protect the child and the concerned parent or family member. They may have trivialized the allegations, dismissing them as invalid or the product of a contentious divorce. Often, however, the allegation of sexual abuse by a father or stepfather that motivates a mother to abduct her child is unsubstantiated. In these cases, the abduction can psychologically harm the child and the other parent, possibly leaving their relationship in serious need of repair.

### Profile 3: When a Parent Is Paranoid Delusional

Although only a small percentage of parents fit this profile, these parents present the greatest risk of physical harm or death to the child, regardless of whether an abduction occurs. Parents who fit the paranoid profile hold markedly irrational or psychotic delusions that the other parent will definitely harm them and/or the child. Believing themselves to be betrayed and exploited by their former partner, these parents urgently take what they consider to be necessary measures to protect themselves and the child.

Psychotic parents do not perceive the child as a separate person. Rather, they perceive the child as part of themselves—that is, as a victim (in which case they take unilateral measures to rescue the child)—or they perceive the child as part of the hated other parent (in which case they may precipitously abandon or even kill the child). Marital separation and/or the instigation of the custody dispute generally triggers an acute phase of danger for these psychotic individuals. The result can be not only parental abduction, but also murder and suicide.

### Profile 4: When a Parent Is Severely Sociopathic

Sociopathic parents are characterized by a long history of flagrant violations of the law and contempt for any authority—including that of the legal system. Their relationships with

identify the characteristics of abductors and their families and examine the effectiveness of interventions used to prevent or respond to child abductions. Research was conducted in the San Francisco Bay Area of California. This location was chosen for several reasons. First, California's criminal statute broadly defines parental abduction (also known as criminal custodial interference or child stealing) to include the following offenses:

- ◆ Abduction by a parent with rights of custody and visitation who has no custody order from the court (precustodial abduction).

- ◆ Abduction by a parent with rights of custody who has a custody order from the court (postcustodial abduction).
- ◆ Abductions by persons with no rights of custody.

Unwed, married, separated, or divorced parents and parents who have sole or joint custody or visitation or no custody rights can commit parental abduction by violating the rights of the other parent.

A second reason for choosing California is that, because they are mandated to use both civil and criminal remedies to locate and recover abducted children, district attorneys in California have extensive

files on a range of parental abductions.<sup>3</sup> Third, California is a large State with a diverse population, and fourth, comparative data on litigated custody already exist in California. Finally, California provides an affirmative defense for victims

<sup>3</sup> When this study was conducted, California was the only State in which the district attorneys acted as the enforcement arm of the family court. The Uniform Child-Custody Jurisdiction and Enforcement Act—promulgated in 1997 by the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association in 1998—includes enforcement provisions similar to California's. To obtain more information on this Act, visit [www.nccusl.org](http://www.nccusl.org) on the World Wide Web.

other people are self-serving, exploitive, and highly manipulative. These people are also likely to hold exaggerated beliefs about their own superiority and entitlement and are highly gratified by their ability to exert power and control over others. As with paranoid and delusional parents, sociopathic parents are unable to perceive their children as having separate needs or rights. Consequently, they often use their children as instruments of revenge or punishment or as trophies in their fight with the former partner. Sociopathic parents have no qualms about continuing coercive, controlling, and abusive behavior or abducting their child, nor do they believe that they should be punished for their actions. Like paranoia, a diagnosis of severe sociopathy is rare.

#### **Profile 5: When a Parent Who Is a Citizen of Another Country Ends a Mixed-Culture Marriage**

Parents who are citizens of another country (or who have dual citizenship with the United States) and have strong ties to their extended family in their country of origin have long been recognized as potential abductors. The risk of abduction is especially acute at the time of parental separation and divorce, when these parents may feel cast adrift from their mixed-culture marriage and may need to return to their ethnic or religious roots to find emotional support and reconstitute a shaken self-identity. Often in reaction to being rendered helpless or feeling rejected and discarded by the former spouse, such parents may try to take unilateral action by returning with the child to their family of origin. This is a way of insisting that the abducting parent's cultural identity be given preeminent status in the child's upbringing.

#### **Profile 6: When Parents Feel Alienated From the Legal System and Have Family/Social Support in Another Community**

Many subgroups of potential abductors feel alienated from the judicial system. Listed below are five such subgroups.

**Subgroup 1.** Parents who are indigent and poorly educated lack knowledge about custody and abduction laws and cannot afford the legal representation or psychological counseling that would help them resolve their disputes. Those parents who have extended family or other social, emotional, and economic support in another geographical community may be at risk for abducting their children.

**Subgroup 2.** Many parents cannot afford and are unaware of the need to access the court system. In addition, those who have had prior negative experiences with civil or criminal courts do not expect family courts to be responsive to their values or their plight.

**Subgroup 3.** Parents who belong to certain ethnic, religious, or cultural groups may hold views about childrearing that are contrary to the prevailing custody laws that emphasize gender neutrality and the rights of both parents. These parents instead turn to their own social networks for support and use informal self-help measures rather than the courts in disputes over the children.

**Subgroup 4.** A mother who has a transient, unmarried relationship with her child's father often views the child as her property, and her extended family supports this belief. Many of the women in this subgroup assume they have sole custody of their child and are genuinely surprised when they are informed that the father—by law in California and most other States—has joint rights to the child.

**Subgroup 5.** Parents who are victims of domestic violence are at risk of abducting their child, especially when the courts and community have failed to take the necessary steps to protect them from abuse or to hold the abuser accountable. Joint custody, mediated agreements, and visitation orders often leave victims vulnerable to ongoing violence, despite separation from the abuser. When such victims abduct their child, the violent partners may successfully obscure the facts about the abuse and activate the abduction laws to regain control of their victims.

who are fleeing domestic violence situations, thus providing researchers with an opportunity to assess to what extent and when these kinds of cases are identified and excluded from charges of parental child stealing.

In the first of the four research studies, the "Documentary Study," Inger Sagatun-Edwards (1998) studied 634 parental child-stealing cases from files opened by the district attorneys in two California counties between 1987 and 1990. From these documents, information was gleaned about each family's sociodemographic status, legal situation, abduction circumstances, and dispute characteristics and the legal system's response to parental

child stealing. Based on these records, researchers developed a general description of abductors and a summary of the legal system's response to abductions.

In the second study, the "Statewide Criminal Sanctions Study" (Statewide Study), Martha-Elin Blomquist (1998) examined data from statewide criminal history records for all 950 persons who were arrested for violating one of three sections of the California criminal code for parental abduction between 1984 and 1989. Blomquist used various statistical analyses to describe the characteristics of offenders, offenses, case dispositions, and subsequent conduct, including that of repeat offenders and serial abductions.

A subset of those arrested for multiple abductions was also examined.

In the third research study, the "Interview Study," Janet Johnston (1998c) conducted indepth interviews with a random sample of 70 parents from 50 abducting families drawn from the district attorneys' records used in the Documentary Study. The participants in this study—35 men and 35 women, half of whom were abductors and half of whom were left-behind parents—also completed psychological questionnaires. The researchers systematically compared the demographic, legal, psychological, and family dynamic characteristics of these abducting families with similar data from 114 members of 57 high-conflict

nonabducting families who were litigating custody.

Six descriptive profiles of parents at risk for abducting their children emerged from the findings of the Interview Study (see the sidebar on pages 2–3). In the fourth study, referred to as the “Intervention Study,” Johnston (1998a, 1998b) provided instruction to Family Court Services personnel (who are mandated to mediate all custody disputes in California) on how to identify individuals who fit one or more of the descriptive profiles and encouraged the personnel to refer these individuals to the Intervention Study for special interventions developed for the profiles. Fifty families identified as fitting one or more of the risk profiles for abduction were randomly assigned to one of two counseling interventions: a brief 10-hour intervention that primarily involved diagnostic and referral services or a longer, 40-hour intervention that included more extensive counseling and mediation of the family’s impasse. Other services, such as legal representation and abuse investigations, were sought for both intervention groups as needed. Researchers evaluated the parents after 9 months to analyze and compare the outcomes of the two types of intervention models. The findings of the four component studies are summarized in the following two sections.

## Findings of the First Three Studies

The combined findings of the Documentary, Statewide, and Interview Studies that identified the characteristics of families in which abduction occurred are summarized below. In most cases, the characteristics were found by two or more of these studies, but in some cases, only one of the studies obtained relevant data.

- ◆ According to the Documentary and Interview Studies, children abducted by their parents or other family members were usually preschoolers. In the majority of cases, one child was abducted.
- ◆ According to the Documentary and Interview Studies, mothers and fathers were equally likely to abduct. The abducted child’s parent, usually in his or her midtwenties or midthirties, almost always carried out the abduction, although the child’s grandparent or step-parent occasionally was the abductor.
- ◆ The Documentary Study showed that almost two-thirds of the abductions

were postcustodial offenses; that is, the abduction occurred after the issuance of a court order dictating the custody of the child. In the Statewide Study, however, abductions were more evenly divided between pre- and postcustodial offenses.

- ◆ The Statewide and Documentary Studies found that mothers were more likely to abduct when a custody order existed, whereas fathers were more likely to abduct when no custody order existed. The Statewide Study found that fathers were twice as likely as mothers to abduct in the absence of a custody order.
- ◆ The Statewide and Documentary Studies discovered that fathers were much more likely to use force to abduct their children or to retain them by not returning them from a visitation, whereas mothers rarely used force to abduct their children. Instead, mothers were more likely to flee with the children or to deny the fathers visitation. These patterns of behavior reflect that mothers usually have physical possession of their children.
- ◆ According to the Documentary and Interview Studies, divorced parents were the largest category of abductors, followed by unwed and separated parents. When compared with custody-litigating parents in the Interview Study, abducting parents were far more likely to be unwed. This group of unwed abducting parents also included a subgroup of unwed parents who had cohabited or had brief transitory relationships.
- ◆ Both the Documentary and Interview Studies found that more than one-half of the abducting parents were poor, unemployed, unskilled or semiskilled, and poorly educated. Consequently, the poor were overrepresented in the population of abductors and their families. Compared with custody-litigating mothers in the Interview Study, mothers in abducting families were more likely to be unemployed, depend on public assistance, and receive no child support from the fathers. Many mothers had few, if any, economic incentives to remain in the geographical area.
- ◆ According to all three studies, rates of reported abductions and abduction arrests varied by race and ethnic background. The proportions of Caucasian and Hispanic abductors were similar to the percentages of these racial groups in the general population: Caucasians

were the largest group of abductors, followed by Hispanics. In cases reported to the justice system, African Americans who abduct were overrepresented and Asians who abduct were underrepresented relative to their percentage in the population. With the exception of the Caucasian group, fathers were more likely than mothers to abduct.

- ◆ According to the Documentary and Interview Studies, abductors were disproportionately unwed, low-income parents. Specifically, the Interview Study found that many of these young parents had brief relationships with one another and never developed a pattern of working together as parents. The mothers and their extended family felt that the child belonged to them and that the fathers had few, if any, custodial or visitation rights. Rather than looking to the legal system to assign physical

## An Overview of the Research Projects

- ◆ **Documentary Study.** Based on information gleaned from files opened by the district attorneys in two California counties, researchers developed a general description of abductors and a summary of the legal system’s response to abductions.
- ◆ **Statewide Criminal Sanctions Study.** Researchers examined data from California’s criminal history records and used various statistical analyses to describe offenders, offenses, case dispositions, and subsequent conduct.
- ◆ **Interview Study.** Researchers conducted in-depth interviews with a random sample of parents from abducting families and, based on their findings, developed six descriptive profiles of parents at risk for abducting their children.
- ◆ **Intervention Study.** Researchers provided instruction to Family Court Services personnel on how to identify individuals who fit one or more of the descriptive profiles. Personnel were then encouraged to refer these individuals to the study for special interventions developed for the profiles.

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possession and visitation rights to specific individuals, the mothers relied on their extended family and friends to help raise the child and make informal custody decisions. These parents did not use family courts to resolve custody disputes because they could not afford legal representation and because the legal system was largely foreign to them. Instead, they abducted their children without regard to legal ramifications.

- ◆ Records from the Documentary Study showed that about one-fourth of the abductors did not operate alone in the act of abducting. Many abductors relied on a network of family and social support to carry out and maintain the abduction. The Interview Study found that a significant proportion of abductors (almost three-fifths of women and two-fifths of men) received moral support for their actions and practical help in planning the abduction. The network of supporters provided money, food, and lodging and was willing to conceal the whereabouts of the child. This widespread support for their actions may be one reason why many abductors do not recognize that their actions are illegal.
- ◆ According to the Interview Study, parents in abducting families—especially mothers—were significantly less likely than parents in high-conflict, custody-litigating families to have legal representation. The custody-litigating families were somewhat more likely than the abducting families to have detailed custody and visitation orders, to include provisions for therapy, and to have been granted restraining (stay-away) orders. While abducting families were significantly less likely than custody-litigating families to go to family court (on custody, visitation, child support, spousal support, property, or restraining orders), they were more likely to have come into contact with the juvenile court.
- ◆ The numbers of substantiated allegations of neglect and unsubstantiated allegations of sexual abuse were higher among abducting families than among custody-litigating families. In the Interview Study, abducting parents frequently alleged that child protective services and family courts did not take their complaints seriously or failed to conduct a thorough investigation. Rates of allegations of parental substance

abuse were similar in abducting and custody-litigating families.

- ◆ According to the Documentary and Interview Studies, family violence and/or child abuse was a dynamic in many abducting families. Mothers—whether they were abductors or left-behind parents—more often claimed that child and/or spousal abuse had occurred. Women abductors were more likely to see the abduction as an attempt to protect their children from abusive fathers or spouses, whereas male abductors were more likely to claim that they were attempting to protect their children from neglectful mothers. Men—whether they were left-behind or abducting parents—were more likely to be accused of domestic violence and sexual abuse. The Statewide Study, however, showed little evidence that formal criminal charges of domestic violence offenses had occurred either prior to or around the time of the abduction.
- ◆ Both the custody-litigating parents and the sample of abductors and left-behind parents in the Interview Study reported similarly high incident rates of domestic violence, including severe physical aggression. Despite California's affirmative defense for parents who take their children to flee violence, not all cases involving domestic violence were identified and provided protection under this defense. For a small number of parents in the Interview Study, attempts to escape the violence by fleeing with the children backfired. For example, some women with few resources who were caught abducting their children had no place to stay after recovery and therefore resorted to returning to their abusive partners. Other mothers fitting this profile remained separated but were subject to court-ordered visitation arrangements that put them and their children at ongoing risk of being physically harmed and terrorized by their violent and controlling ex-partner.
- ◆ Compared with the general adult population, the high-conflict, litigating families and abducting families in the Interview Study demonstrated similarly higher levels of anger, lower levels of cooperation, a pervasive distrust of the ex-partner's parenting, greater emotional distress, and behaviors indicative of character disorders. This signaled that anger and spite, which are more often attributed to separation

and divorce, were not sufficient in themselves to motivate abduction.

- ◆ About one-half of the abductors and two-fifths of the left-behind parents in the Documentary and Interview Studies had criminal arrest records. The Statewide Study revealed that more than one-half of those who were arrested for criminal custodial interference had a previous arrest record. Of these, one-third had been incarcerated. Far more men than women had arrest records prior to the abduction, and ethnic and racial minorities were more likely than nonminorities to have been arrested for more serious offenses. Those with criminal arrest records were more likely to have been arrested for precustodial offenses, indicating that most had not attempted to resolve the custody dispute through the court system. The Interview Study found that abductors had high levels of narcissistic and sociopathic character disorders. People with these character disorders often have contempt for the law and feel that laws do not apply to them and, therefore, they can easily run afoul of the criminal justice system.
  - ◆ The Statewide Study showed that only about 10 percent of those arrested for criminal custodial interference were rearrested for a subsequent abduction. The Interview Study showed higher recidivism rates, with self-reports of reabductions at 30 percent. This difference is likely due to the fact that parents do not always report abductions—particularly short-term snatchings—to law enforcement or the district attorney. Also, the district attorneys' criteria for defining a complaint as an abduction case may differ from the parents' criteria. For example, a district attorney is more likely to perceive a violation as an abduction when a noncustodial parent does not return the child and is less likely to perceive a violation as an abduction when a custodial parent chronically withholds visitation.
- Together, these findings suggest a number of interrelated family risk factors that predict child abduction by a parent, especially when children are very young. Parents and family members at risk are those who make persistent allegations of child abuse/neglect and family violence, have narcissistic/sociopathic personality traits, and have a history of trouble with the law. Others who are at risk include those who are unmarried, less educated, poor, and of

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## Risk Factors and Preventive Interventions for Custody Violation and Parental Abduction

Risk Profile	Behavioral Indicators*	Interventions†
<b>When there has been a prior threat of or actual abduction</b>	<ul style="list-style-type: none"> <li>• Threatens to take child, has a history of hiding child, refuses visits, or snatches child.</li> <li>• Has no financial or emotional ties to area.</li> <li>• Has resources to survive in hiding or help from others to do so; has liquidated assets or has made maximum withdrawals of funds against credit cards.</li> </ul>	<ul style="list-style-type: none"> <li>• Obtain certified copy of custody/visitation order specifying access and jurisdiction.</li> <li>• Obtain restraining order that prohibits leaving area without permission.</li> <li>• Flag passports or school, medical, and birth records so that both parents need to approve the release of or at least be advised of the other parent's request to see these materials.</li> <li>• Supervise visits or use electronic surveillance.</li> <li>• Require that potential abducting parent post bonds.</li> <li>• Provide family counseling and mediation of impasse.</li> </ul>
<b>When a parent suspects or believes abuse has occurred and friends and family members support these concerns</b>	<ul style="list-style-type: none"> <li>• Has a fixed belief that the child is abused, molested, or neglected and that authorities will not take charges seriously and will dismiss them as unsubstantiated.</li> <li>• Has the support of friends and family.</li> <li>• Makes repetitive allegations and is increasingly hostile; distrust between parents exists.</li> </ul>	<ul style="list-style-type: none"> <li>• Undertake a timely, thorough investigation of allegations.</li> <li>• Inform concerned social network.</li> <li>• Coordinate all professionals involved to share perspectives and conclusions.</li> <li>• Implement temporary supervised visits to protect abused child or falsely accused parent. If investigation is inconclusive, appoint coparenting counselor-arbitrator to provide counseling, rebuild trust, and monitor situation.</li> <li>• Provide the child with therapy.</li> </ul>
<b>When a parent is paranoid delusional</b>	<ul style="list-style-type: none"> <li>• Is flagrantly paranoid and irrational and makes allegations.</li> <li>• Has a history of hospitalizations for mental illness and has delusions of mind control.</li> <li>• Engages in bizarre forms of domestic violence; boundary confusion observable between parent and child.</li> <li>• Makes threats of murder/suicide.</li> </ul>	<ul style="list-style-type: none"> <li>• Assess lethality!</li> <li>• Conduct emergency <i>ex parte</i> hearing for psychiatric screening; appoint legal representation for child and deluded parent.</li> <li>• Suspend visits or supervise with high security.</li> <li>• Award temporary custody to other parent or to third party.</li> <li>• Provide adult psychiatric treatment and child therapy.</li> </ul>

ethnic minority status (especially those whose extended family live in another geographical area or another country). All of these factors make parents less likely to resolve custody disputes by using the formal, legal system. Instead they turn to their own families and social networks for emotional support and practical help, which may include abduction. Six profiles of separating/divorced parents at risk for abducting their children are proposed on the basis of these findings and are shown in the table on pages 6–7. To the extent that families meet the

criteria for more than one profile, the risk for abduction is probably increased. The table also lists suggested interventions that authorities and parents can take to help reduce the likelihood of abductions.

### Findings of the Intervention Study

In the Intervention Study, Family Court Services personnel used the six profiles to identify individuals at risk for abducting and then referred these individuals to one of two interventions. This study

found that, compared with baseline (precounseling) measures, all parents in the study were more cooperative, less violent, and more likely to resolve disputes over custody issues than before the intervention. In addition, custody violations and parental abductions also decreased. The brief 10-hour intervention was as effective as the extended 40-hour intervention in achieving these results. The success of both interventions was attributed to the increased attention the family courts gave the at-risk families, which led to early imposition of constraints by the court, increased use of

## Risk Factors and Preventive Interventions for Custody Violation and Parental Abduction—*Continued*

Risk Profile	Behavioral Indicators*	Interventions†
<b>When a parent is severely sociopathic</b>	<ul style="list-style-type: none"> <li>• Has multiple arrests and convictions and a blatant contempt for court orders.</li> <li>• Stalks, makes threats of domestic violence, manipulates and controls, or initiates vexatious litigation.</li> <li>• Has self-serving, exploitive, and self-aggrandizing relationships.</li> </ul>	<ul style="list-style-type: none"> <li>• Have the parent obtain appropriate restraining orders.</li> <li>• Engage decisive use of court authority; obtain explicit court orders and rapid sanctions for contempt; fine or jail.</li> <li>• Suspend or supervise access and resume unsupervised visits contingent on conforming behavior.</li> </ul>
<b>When a parent who is a citizen of another country ends a mixed-culture marriage</b>	<ul style="list-style-type: none"> <li>• See “When there has been a prior threat of or actual abduction” (above).</li> <li>• Idealizes own family, homeland, and culture after dissolution of mixed-cultural marriage and depreciates American culture; rejects or dismisses child’s mixed heritage.</li> <li>• Feels separation and divorce are severe loss/humiliation.</li> <li>• Feels homeland offers more emotional/financial support.</li> <li>• Is a high risk if from a non-Hague country.‡</li> </ul>	<ul style="list-style-type: none"> <li>• See “When there has been a prior threat of or actual abduction” (above).</li> <li>• Require that parent departing with child post bonds to ensure return from visiting homeland; hold passport and monitor airlines.</li> <li>• Obtain mirror custody orders with country of origin; inform families of consequences of aiding custody violation.</li> <li>• Provide culturally sensitive divorce counseling, including child’s need for both parents and both cultural identities.</li> <li>• Provide emotional/financial support.</li> </ul>
<b>When parents feel alienated from the legal system and have family/social support in another community</b>	<ul style="list-style-type: none"> <li>• Is undergoing severe economic hardship, is poorly educated, and never married.</li> <li>• Is a member of an ethnic minority group, has language barriers, and has cultural beliefs regarding custody contrary to U.S. legal norms.</li> <li>• Is a victim of domestic violence and is alienated from major social institutions.</li> <li>• Has family/social support in another geographic area.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide access to legal services, <i>pro se</i> clinics, and translation assistance.</li> <li>• Advocate community services.</li> <li>• Provide culturally sensitive divorce and custody counseling/mediation.</li> <li>• Educate parent and social network regarding abduction laws.</li> </ul>

\* Common to all profiles: (1) Parent dismisses value of other parent for child, (2) child is very young or vulnerable to influence, and (3) abductor has family and social support.

† General principle: More restrictive measures that curtail parents’ freedoms are warranted when (1) the risks for abduction are greater, (2) the obstacles to the recovery of the child are more substantial, and (3) the potential harm to the child is more extensive.

‡ The Hague Convention on the Civil Aspects of International Child Abduction, ratified in 1986, is an international treaty that establishes administrative and judicial mechanisms to bring about the prompt return of an abducted or wrongfully retained child, usually to his or her country of habitual residence, and to facilitate the exercise of visitation across international borders. The Convention took effect in 1988, following enactment of the International Child Abduction Remedies Act, a Federal implementing statute.

investigation and evaluation, and monitoring of resolved custody issues.

### Effectiveness of the Legal System’s Response to Family Abduction

The Documentary and Statewide Studies yielded data on the California legal system’s response in cases of family abduction and on the relative effectiveness of its response. In a multivariate analysis that controlled for custodial and marital

status, gender, occupation, race, criminal history, and family violence/child abuse allegations of the parents, the Documentary Study found that the greater the intervention by the district attorney’s office, the more rapid the recovery of the child. The intervention ranged from filing a complaint to issuance of a criminal charge, prosecution, conviction, and, finally, incarceration. Almost one-half of the children were returned within about 2 months of the filing of a complaint, and two-thirds were returned within 3 years of the abduction.

The threat of prosecution was sufficient to bring most abductors back with the child. In about 90 percent of the cases in which the child was recovered, the case was resolved informally by the district attorney’s office, often after the abducting parent had been informed that abduction is a crime under State law. Once abducting parents realized that criminal action could be taken against them, they often returned the child voluntarily and attempted to resolve the matter in family court. If the abductor attempted to obtain a custody order or modification of an order in the court with proper jurisdiction,

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then the district attorney's office did not, in general, pursue the criminal offense.

The district attorney formally prosecuted only 10 percent of the abductors. Of these, one-fourth were convicted with no incarceration, one-fourth were convicted and incarcerated, and the remaining half were released because charges were dismissed. The Statewide Study found similar rates of conviction and incarceration, with repeat offenders more likely to be convicted.

The Statewide Study included an examination of parents who were charged for abducting more than once. It found that the greater the sanctions employed by the court at the initial abduction, the more likely the abductor was to reabduct, controlling for other factors. That is, those convicted of abduction were more likely than those not convicted to subsequently reabduct their children. Not enough is known about the psychological characteristics of those who were convicted to understand why they were more likely to reabduct. This group, however, represents a very small and extreme subset of all family abductions (about 2–3 percent). Within this group, conviction of criminal custodial interference is not a successful deterrent to further abductions, a fact that left-behind parents greatly fear.

Both the Documentary and Statewide Studies found that the criminal justice system was more likely to pursue postcustodial offenders. When a parent violates an existing written custody order issued by the court, it is easier for prosecutors to prove the offense was a knowing violation. When no such document exists, as in precustodial abductions, it is harder to prove in court that the abducting parent knew he or she was violating the law.

The Statewide Study found a divergence in the criminal justice system's treatment of men and women. Men were more likely than women to be arrested for abduction, but the women who were arrested for abduction were more likely than men to be convicted and incarcerated. This difference appears to relate to the specific criminal codes that men and women usually violate. Women were more likely to abduct after a custody order existed, a criminal offense that is easier to prove to be a knowing violation. On the other hand, men were more likely to abduct in the absence of a custody order, a criminal

offense that is more difficult to prove to be a knowing violation. In addition, violating an existing custody order constitutes contempt of court, which judges are less likely to tolerate. This apparent lack of tolerance is more prevalent when the offender is a Caucasian woman, possibly because the court expects her to be more law-abiding than nonwhite women or male offenders. The court, therefore, may treat her more harshly than female offenders of other races or male offenders, because her behavior is contrary to societal expectations.

The Documentary Study found no differences in the district attorneys' treatment of abduction cases with regard to the abductor's gender, race, or ethnic background. The Statewide Study, however, found that the criminal courts treated Caucasians more harshly than ethnic and racial minorities in case dispositions. This may have been because the Caucasians more often had child custody orders and, therefore, violated the section of the code that was easiest to prove. Another explanation for the disparity in treatment is that the court expects Caucasians to be more law-abiding—that is, the courts more severely sanctioned Caucasians who violated the law because this group had fallen out of role expectations. Another interpretation is that Caucasian left-behind parents pressed the justice system to pay more attention to their cases and, in turn, obtained it.

The Documentary Study found that the left-behind parents with higher occupational status were more likely to obtain severe sanctions against the abductor. One explanation for this is that more of these parents have skills that enable them to deal effectively with a government agency. Examples of such skills include persistence and organization and the ability to provide information in a businesslike fashion, to gain cooperation, to expect action, to keep track of conversations, and to take the initiative to follow up.

Both the Documentary and Statewide Studies found that the criminal justice system acted more harshly when responding to abduction cases that included allegations of child abuse or family violence by the abductor toward the child or other parent. Prior criminal history, however, did not influence the district attorneys' or the criminal courts' intervention.

## What Children At Risk for Abduction Deserve From Their Communities

What can be done to help parents at risk for abducting their children make better choices? What can the courts, public agencies, and private and nonprofit organizations do to help families resolve their disputes amicably while addressing their legitimate concerns about protecting their children to reduce the risk of abduction and the possibility of the children being harmed?

### Increased Parental Access to Legal Information and Representation

**Problem 1: Parents generally lack knowledge of or access to legal information.** Most parents are not familiar with custody and visitation laws. Many of them do not know that moving to a new location without going to court to obtain a custody order or to modify an existing order can be a crime when it violates the rights of the other parent. Unwed parents often do not know they should have a custody order. Grandparents, stepparents, and others who support parents in abducting their children generally do not know that they may be committing a felony by aiding and abetting the abductor.

**Recommendation: Develop public education programs that discuss relevant laws for parents.** Communities or organizations should develop public education campaigns, including public service announcements, to educate the public about custody and visitation laws and the crime of parental abduction. These campaigns should provide information—via radio, television, the Internet, and printed materials—that will increase public awareness. For example, programs or organizations that target at-risk populations can provide informational brochures to parents in these programs. Examples of such programs or organizations include public welfare offices, child support enforcement offices, programs for unwed parents, organizations serving immigrant and ethnic communities, mental health agencies, the courts, and missing children's organizations and clearinghouses.

**Problem 2: Parents and children are unable to obtain affordable legal representation.** Educating parents about the need for custody orders and ways to

prevent abductions does little good if they are unable to access the legal system. Most low-income parents are unable to find affordable representation in custody and visitation cases. Many middle-class parents in the midst of a divorce cannot afford to hire attorneys for the period of time needed to resolve contested custody cases. Legal services offices often do not represent parents in custody cases, unless the case fits under a separate priority set by the office, such as the prevention of domestic violence.<sup>4</sup> Unwed mothers who seek public assistance are required to cooperate with welfare agencies in determining paternity and child support, yet neither the mothers nor the fathers receive help in obtaining a court order that specifies their custody and visitation rights.

**Recommendation: Develop community-based programs that increase the parents' access to legal representation.**

The courts should appoint custody evaluators, guardians *ad litem* (legal representatives), or attorneys who represent children to provide the parents with information and recommendations. More programs that provide legal representation on a *pro bono* or sliding scale basis should be developed. Parents who do not have legal representation should still be able to obtain legal information and advice. Barriers that prevent attorneys from offering partial services should be removed to enable parents to get the help they most need from attorneys. Courts should also be more user-friendly by allowing the offices of the clerks of the court to assist the expanding population of *pro se* parents (i.e., parents who do not retain a lawyer and represent themselves in court).

In addition, jurisdictions should streamline procedures for obtaining custody and visitation orders to make them available to low-income, unwed parents. Programs for parents, starting with the birth of the child, should clarify custody rights and responsibilities. Parents should be able to obtain readily enforceable custody orders and acquire legal assistance to obtain child custody and visitation orders when courts determine paternity and child support.

**Problem 3: Enforcing custody orders is time-consuming and costly.** When a child is abducted after a custody order is

<sup>4</sup> Custody cases are ineligible to receive free legal aid because it is too costly. This type of aid is available only if a parent can prove that his or her case includes domestic violence.



obtained, the left-behind parent often questions the usefulness of the custody order. The left-behind parent faces the prospect of hiring two attorneys (one attorney in each State if the abducting parent traveled to another State), filing enforcement proceedings with the court, and waiting for a court date. Meanwhile, the abducting parent may flee again with the child. Many left-behind parents know where their child is, but they are unable to recover him or her.

**Recommendation: Pass State laws that mandate district attorneys to enforce custody orders.** California is the only State that currently has an expedited enforcement measure for child custody orders. The measure mandates that the district attorney take whatever civil and criminal remedies are necessary to locate and recover children abducted by family members and to enforce child custody orders. In July 1997, the National Council of Commissioners of Uniform State Laws approved the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), which contains a similar provision. As of February 2001, 21 States and the District of Columbia had enacted the UCCJEA, and it had been introduced in the legislatures of 10 other States.<sup>5</sup>

<sup>5</sup> The States that have enacted the UCCJEA are as follows: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Idaho, Iowa, Kansas, Maine, Minnesota, Montana, North Carolina, North Dakota, Oklahoma, Oregon, Tennessee, Texas, Utah, and West Virginia and the District of Columbia. The UCCJEA has been introduced in the legislatures of Delaware, Florida, Illinois, Maryland, Missouri, New Jersey, New York, Rhode Island, Virginia, and Washington. For any updates, visit [www.nccusl.org/uniformact\\_factsheets](http://www.nccusl.org/uniformact_factsheets).

**Development of Prompt and Effective Responses to Allegations and Acts of Family Violence**

**Problem 1: Parents feel that child protective services and the courts do not treat child abuse and neglect allegations seriously or address them promptly.**

Whether or not they lead to abductions, allegations of child abuse and neglect fuel many custody battles. When child protective services and the courts do not treat these concerns seriously or address them promptly, they exacerbate an already contentious environment. Some forms of abuse, such as emotional abuse or allowing a child to witness domestic violence, do not meet child protective services' criteria of direct harm to the child. Nonetheless, the child is at considerable risk of continued abuse or the psychological damage caused by unfounded allegations.

**Recommendation: Conduct thorough and prompt child abuse and neglect investigations.** Child protective services and the courts need sufficient funding to hire and train staff to conduct thorough and prompt child abuse and neglect investigations. If these concerns are addressed quickly, it is less likely that the child will be harmed and that the parents will continue to make allegations against each other. It is critical that professionals coordinate their efforts to arrive at a sound conclusion.

**Problem 2: Many victims of domestic violence find that separation and divorce do not provide them with the safety they sought by leaving the abuser.**<sup>6</sup> Abusive husbands are more likely to seriously harm or kill their wives during marital separation (Wilson and Daley, 1993; Feld and Straus, 1990). Even after divorce, custody and visitation orders that do not address safety for the survivor of domestic violence and her children provide the abuser with continued opportunities to harm them.

**Recommendation: Provide community-based responses that protect victims and make abusers accountable for their actions.** Domestic violence survivors who have left their abuser should be able to live in safety with their children without having to leave their communities. Judges, lawyers, mediators, and custody evaluators need to know how to identify domestic violence and understand its impact on the victim and her children. Courts must consider custody and visitation orders that protect the victim and the children from physical and psychological abuse. Communities should establish supervised visitation centers so that, when necessary, parents can safely drop off and pick up their children and visitations can be properly supervised.

### **Services for High-Risk and High-Conflict Families Disputing Custody**

**Problem 1: The traditional processes for determining custody are not sufficient or appropriate for many high-conflict families—especially those who are also at risk for abduction.** Custody mediation as usually practiced is not effective with highly contentious families. They often return to court to relitigate custody and visitation issues—not to resolve parental conflicts. Adjudication can result in a well-crafted order, but high-conflict parents often do not carry out the terms of the order (e.g., accessing services ordered to help them with various problems). Consequently, the children continue to be exposed to harmful and conflictual situations.

**Recommendation: Offer high-risk and high-conflict families innovative approaches that address custody conflicts.** Courts, family attorneys, and mental

health professionals working collaboratively can modify existing approaches and develop new procedures and services to better suit these families (Johnston, 2000). For example, parent education programs—a popular innovation in many jurisdictions—need to be adapted to meet the needs of multicultural families from different economic strata and highly conflictual and violent families. Most parent education programs target the middle-class divorcing population, but they do not address the situations that unwed, low-income parents face. This population cannot afford the services of mental health professionals or attorneys; therefore, parent education may be the only context in which they will learn about the impact of their conflict on the children and about the laws pertaining to custody and visitation. If seminars portray lifestyles and circumstances that are not reflective of their own, parents can be further alienated as a result of the experience. Similarly, custody mediation and custody evaluations should demonstrate cultural sensitivity, particularly in mixed-culture marriages where there may be a risk of international child abduction.

Innovative adaptations of custody mediation have been developed for use with high-conflict and high-risk families. Impasse-directed therapeutic mediation or a briefer diagnostic and referral intervention for groups or for individual families, as utilized in the Intervention Study, is an effective means of reducing conflicts and the possibility of abduction, particularly when paired with legal constraints (e.g., restraining orders) and needed services (e.g., legal advice or substance abuse treatment). Counselors who have conducted impasse-directed mediation with groups have found that this intervention has reduced conflict and relitigation and is less costly than the individual family model (Johnston and Campbell, 1988; Johnston and Roseby, 1997).

Many high-risk and high-conflict families need ongoing oversight and monitoring. For the children's sake, there needs to be a means of checking whether parents are honoring the terms of the custody and visitation orders. Are parents going to court-ordered counseling or drug treatment? Have parents attended to the child's special medical needs? Have court-ordered parental visitations been carried out without incident? Have there been further allegations of abuse? Has supervised visitation been properly supervised? Have the

parents attempted to snatch or actually snatched the child? Does the order need to change to reflect the parent's new work hours or the child's summer schedule? Programs that monitor visitation arrangements are one type of innovative approach.

Some jurisdictions use a coparenting arbitrator or coordinator, as stipulated by an agreement between the parents or by court order, to decide on various issues relating to the children. In one model, the coparenting arbitrator is involved only when parents are unable to agree, usually despite the involvement of other professionals. In another model, the coparenting arbitrator acts as the parenting counselor, mediator, or child therapist on an ongoing basis and exercises his or her right to arbitrate only when parents fail to agree on a specific matter. In both models, the arbitrator seeks to develop trust with family members and a depth of understanding of the family dynamics.

In other jurisdictions, a family court judge is responsible for managing the high-conflict custody cases. The judge can order periodic review of the case and can monitor adherence to the custody and visitation orders. Although the discretion to undertake greater case management responsibilities has always been available to the courts, few have taken advantage of this power on a systematic basis with high-conflict families.

### **Protection of Children's Interests and Needs**

**Problem 1: Under current Federal and State law, abduction is not a crime against the child.** Under current law, the parent whose custody or visitation rights have been interfered with by the abduction of his or her child is the victim of family abduction. The law casts abducted children as possessions that parents have rights in, not as victims of a crime.

**Recommendation: Modify laws so that family abductions are crimes against the child.** In lieu of, or in addition to, criminal custodial interference laws that recognize the rights of the left-behind parent, laws should recognize that family abduction is a type of abuse against the child. Child victims of abduction should be eligible for services under the Victims of Crime Act, 42 U.S.C. § 10601.<sup>7</sup>

<sup>6</sup> Although men can be victims of domestic violence, the majority of these victims are women.

**Problem 2: Children can be harmed by recoveries, postabduction placements, and custody orders that abruptly disrupt their relationship with their primary parent.** Although society increasingly recognizes that the child is harmed when his or her relationship with a caring left-behind parent is disrupted, society may not fully understand the problems that arise when the bond between the child and his or her abducting parent is disrupted. The child should not inadvertently be punished for the parent's actions, particularly if the child's primary bond is with that parent. In some instances, the child is more traumatized by these disruptions than by the actual abduction. In cases of long-term abduction, the child may be returned to a parent who is virtually a stranger and be cut off from the only known parent.

**Recommendation: Involve social services at each phase of decisionmaking that affects the child and minimize the disruption to the child's relationship with a primary parent.** Law enforcement officers and social services should coordinate their efforts when the officers plan to recover the child or arrest the abductor. These two groups should know enough about the case to assess whether the child would experience harm if unaccompanied by the abducting parent during the recovery and return or to determine whether the abducting parent presents a potential physical or flight risk to the child. A mental health or social services professional should also be present when the child is reunited with the left-behind parent or soon after. This professional can help facilitate the child's transition and ease the feelings of anger, guilt, and fear that often accompany it.

If the left-behind parent obtained an *ex parte* (without notice to the other party) custody order after the abduction, then

there was no full hearing on the best interests of the child. In these cases, a hearing should be scheduled promptly after the child is recovered to determine custody and visitation, as *ex parte* orders are meant to be temporary. As appropriate, judges should consider alternatives to abrupt shifts in the child's caretaking arrangements, so that the child can gradually enter into new arrangements, building the parent-child relationship over time.

## Creation of Unified Family Courts

**Problem 1: Currently, judges often lack access to information about other legal proceedings affecting the child or the parents.** Spousal abuse and child abuse and neglect are factors in many abducting families or those at risk for abducting, yet there is little or no coordination among the courts that handle child custody, child abuse and neglect, spousal abuse, substance abuse, and criminal custodial interference cases. Lack of information from the juvenile, other civil, or criminal courts can lead to inappropriate and unsafe custody arrangements that may increase risks for children, including abduction risk.

**Recommendation: Establish unified family courts that have an integrated approach to cases involving the same family.** Unified family courts allow for systematic case management, integration of evaluation and treatment services, and coordinated decisionmaking in cases involving the same family. This system produces better decisions, reduces the confusion of parties, and uses resources more efficiently than current systems. Both the American Bar Association and the National Council of Juvenile and Family Court Judges have long been committed to the unified children and family courts concept. A unified family court would reduce many of the problems already described.

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## Supplemental Reading

The following sources provide additional information on parental abduction:

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<sup>7</sup> In 1990, the Crime Control Act, Pub. L. No. 101–647, tit. V, §§ 502–503, 104 Stat. 4820 (codified at 42 U.S.C. §§ 10606–10607 (1990)), established a new framework for victims' rights by creating the first Federal bill of rights for victims of crime. This legislation, referred to as the Victims' Rights Act (or the Victims' Rights and Restitution Act of 1990), requires Federal law enforcement officers, prosecutors, and corrections officers to use their "best efforts" to ensure that victims receive basic rights and services. In 1994, the Violent Crime Control and Law Enforcement Act, Pub. L. No. 103–322, tit. IV, §§ 40113, 40221, 40503, tit. XXV, § 25002(a), tit. XXIII, § 230101(g), 108 Stat. 1904–2078 (codified at 42 U.S.C. § 10607(c)7, 14011(g); 18 U.S.C. §§ 2263–2264, 2248, 2259; and at Fed. R. Crim. P. 32 (1994)), created additional new rights for victims of sexual assault, domestic violence, and child abuse.

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