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International Child Abduction

A Guidebook for Left-Behind Parents

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International Child Abduction

A Guidebook for Left-Behind Parents

Published by Foreign Affairs, Trade and Development Canada

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This publication is available in alternative formats upon request.

Ce document est aussi disponible en français sous le titre

Enlèvement international d'enfants : Un guide à l'intention des parents délaissés

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Cat. No. FR5-71/2012E

ISBN 978-1-100-21479-5

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INTRODUCTION

International child abductions are difficult and complex situations. Unfortunately, they are not uncommon. Every year, hundreds of Canadian children are wrongfully taken from Canada or held in another country by abducting parents.

An international child abduction occurs when a parent, guardian or other person with lawful care of charge of a child removes that child from Canada, or retains that child outside Canada, without either the legal authority or permission of a parent who has full or joint custody rights.

If you think the other parent may be planning to abduct your child, there are things you can do to prevent it. Start by reading the manual on the reverse side of this booklet: *Preventing International Child Abduction: A Guidebook for Parents*.

But if the abduction has already happened, you should know: each international child abduction is unique—but at the same time shares much with others.

Taking certain steps will improve the chances you will find and recover your child. Consular officials, provincial/territorial and federal governments, law enforcement officials, lawyers and non-governmental organizations may all help you decide on and take those steps.

This guidebook is meant to help you understand the processes and issues involved in searching for and trying to bring back your child. It gives you information about:

- ▶ stopping an abduction in progress
- ▶ finding your child in a foreign country
- ▶ bringing your child back to Canada.

The guidebook is also meant to direct you to the right sources of help. It has a directory of resources and organizations that you can turn to for help. It also has checklists of information you will need during each stage of the process.

You may face legal and emotional difficulties as you fight an international child abduction. Despite the challenges, it is important not to become discouraged. Remember that you can take many actions to resolve an abduction.

It is also important to remember that, despite all your work to get your child back, it may be a long and complicated process—and that things do not always work out as planned.

You can be sure that the Vulnerable Children's Consular Unit of Foreign Affairs, Trade and Development Canada will be there to help. Our dedicated Consular Case Management Officers will be available to you throughout the process. They are very knowledgeable about international child abduction issues and have detailed information about specific countries. They will be key in helping with your case.

If you have questions that are not addressed in this guidebook, please contact:

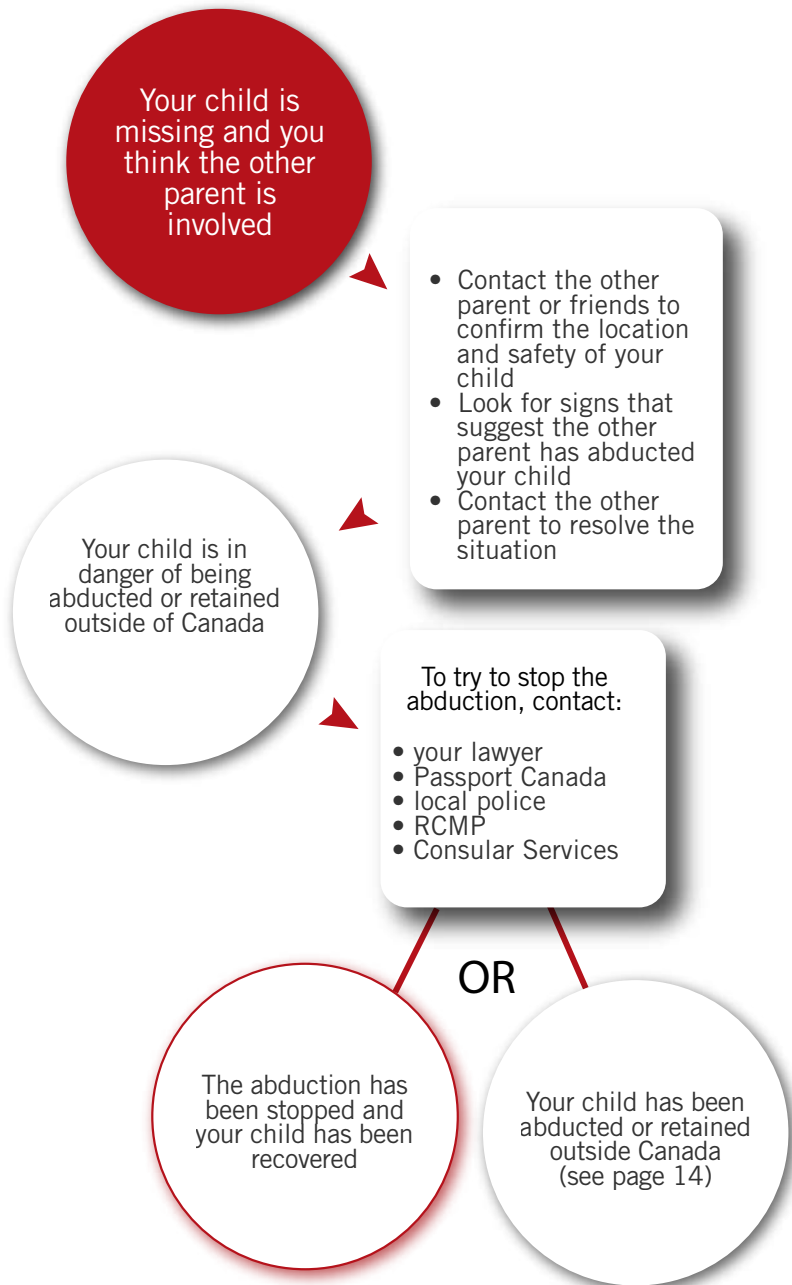
Vulnerable Children's Consular Unit, Consular Services
Foreign Affairs, Trade and Development Canada
125 Sussex Drive
Ottawa, ON K1A 0G2
Toll-free telephone (Canada): 1-800-387-3124
International telephone (collect): +1-613-996-8885
Fax: 613-944-1078

This guidebook and other information for parents of children abducted to foreign countries are available at travel.gc.ca/child.

Disclaimer

Every effort has been made to provide accurate and current information in this guidebook. None of this information should be construed as legal advice, nor is it intended to replace the advice of a lawyer or other authorities.

IF YOUR CHILD IS MISSING



What you can do

Your child is missing. You think the other parent may have taken them out of Canada.

Or your child is outside Canada and you want to bring them home—but you think the other parent will try to keep them where they are.

Either way—and even if you are not sure your child has been abducted—there are steps you can take. This section tells you about them and about the people and organizations that can help you.

Take these steps as soon as you think your child is missing.

Tell the local police

The local police will be your main point of contact.

Tell them what your child looks like—things such as age, height, weight and the colour of eyes, hair and skin.

Tell them what the abducting parent looks like.

Give them photos, if you have them.

Tell them whether the parent or child has citizenship in a country besides Canada.

Show them the most recent custody order or agreement, if you have one.

A **custody order** is a legal document, handed down by a court, that sets out which parent has custody of a child and on what terms.

A **custody agreement** (or parenting agreement), is also a legal document setting out the terms of custody. It is signed by both parents to show that they agree to its terms. Usually, an agreement's terms have been reached by the parents working together, often with help from their lawyers or mediators.

If you are in Canada, ask them to enter your information into the Canadian Police Information Centre (CPIC) and the U.S. National Crime Information Center (NCIC) computer systems. This will give every police force in Canada and the United States access to the information.

Give them any other information you think may help them find and return your child. The more information you can give the police, the better.

Give them a phone number or an address where they can reach you at all times. **Being reachable at all times is very important.**

Tell your family and friends

Ask them to call you right away if they hear anything about your child or the abducting parent. Give them the same phone number or address you gave the police.

Remember: You want to be reachable anytime, anywhere, in case someone has news.

Tell your child's school, doctor and daycare (and hospital, if need be)

Tell them you have called the police.

As you did with your family and friends, ask them to contact you if they hear anything that might help you find your child or the abducting parent.

Give them the same phone number or address you gave the police and your family and friends.

If your child gets regular treatment at a hospital, give the hospital the same information.

Contact a lawyer

A lawyer can:

- ▶ give you legal advice and represent you in court
- ▶ tell you what options you may have
- ▶ help you protect your interests when you deal with governments and organizations in Canada and other countries
- ▶ help you consider whether to get a custody order or agreement—even *after an abduction has happened*. A custody order or agreement helps when you are dealing with authorities in Canada or another country.

If you need the services of a lawyer, the law society in your province or territory will provide a referral service. A list of law societies in Canada can be found at www.flsc.ca/en/canadas-law-societies.

Contact Passport Canada (Government of Canada)

Passport Canada is a partner in the Government of Canada's efforts against international child abductions.

Ask whether Passport Canada has issued a travel document, such as a passport, in your child's name.

Tell them the details of your situation. Give them copies of legal documents concerning your child—for example, custody orders or separation agreements.

Be aware: Passport Canada will have to decide how much they can legally tell you. The information you give them will help them decide.

Ask them to add your child's name to the Passport Canada System Lookout List. This will alert Passport Canada officials if they receive a passport application for your child.

Call Passport Canada at 1-800-567-6868 (Canada and the United States toll-free) or visit passportcanada.gc.ca for more contact information.

What Passport Canada may do

- ▶ Invalidate your child's Canadian passport or other travel document.
- ▶ Refuse to issue a new passport if that would contradict a court order or separation agreement.

Contact Consular Services (Government of Canada)

Consular Services is part of Foreign Affairs, Trade and Development Canada, a government department that is a partner in the Government of Canada's efforts against international child abductions.

In Canada, call Consular Services toll-free at 1-800-387-3124. Inside or outside Canada, call 613-996-8885, collect where available and direct where not. Emergency assistance is available at those numbers 24 hours a day, seven days a week.

If you are outside Canada, you can also contact the nearest Canadian government office abroad. For a list of locations and phone numbers, see the Directory of Canadian Government Offices Abroad at www.travel.gc.ca/offices.

What to expect when you contact Consular Services

When you contact Consular Services, you will be dealing with people in the Vulnerable Children's Consular Unit.

A Consular Case Management Officer (CMO) will be assigned to work with you. Your CMO will follow up with you, by phone or email, whenever you have questions. But in an emergency after regular office hours, call the numbers above.

The **Consular Case Management Officer (CMO)** will be very knowledgeable about issues regarding international child abductions and have detailed information about specific countries.

Your CMO will always talk with you before taking any action in your case.

If the international abduction has not yet happened, the CMO will work with other government departments to help keep it from happening.

Consular Services will ask you, among other things:

- ▶ your name, date of birth and citizenship
- ▶ your child's name, date of birth and citizenship
- ▶ the other parent's name, date of birth and citizenship
- ▶ to give a detailed description of the situation and the background to it
- ▶ what documents (for example, passports or visas) your child and the other parent would use to travel
- ▶ to provide copies of legal documents, such as a court order, mediated agreement or signed consent letter for children travelling abroad
- ▶ for information on the other parent's ties to the other country
- ▶ the other parent's travel plans, if you know them
- ▶ when you last had contact with the abducting parent and your child
- ▶ what steps you have taken already, such as calling the police or consulting a lawyer
- ▶ for your consent to speak with other people and organizations that can help get your child returned to Canada.

Consular Services can:

- ▶ help you contact another country's diplomatic or consular offices in Canada to find out whether they have issued travel documents or a visa that your child may have used to leave Canada
- ▶ contact authorities in other countries and ask for their help—this help can vary greatly, depending on the country
- ▶ help you work with Passport Canada to find out whether they have issued your child a Canadian passport
- ▶ try to contact the other parent, if the other parent refuses to speak with you directly.

Consular Services cannot:

- ▶ pay your legal fees or other expenses
- ▶ give you legal advice, act as your lawyer or represent you in court
- ▶ mediate with the other parent on your behalf.

Contact non-governmental organizations

Canada has many organizations that can help when a child is missing. They help in many ways, from giving emotional support to searching for the child.

If you contact one of these organizations, tell your lawyer. Your lawyer can help you make sure the organization does not take steps that get in the way of your other efforts to find your child.

See page 42 for a list of non-governmental organizations. You will have to decide whether their services are appropriate for you.

Contact the other parent's family and friends

As you did with your own family and friends, ask them to contact you if they hear anything that might help you find your child or the other parent.

Be sure to keep the contact friendly.

Give them the same phone number or address you gave the police and your family and friends.

The other parent's family and friends may be able to tell you where your child is—the most important information in a child abduction investigation.

Media

You may decide to contact the media about your child's abduction. You should consider this decision carefully. You may wish to discuss the possibility of contacting the media with a lawyer to help you consider all implications for your case.

Media attention may not be helpful. Sometimes it may let abducting parents know people are looking for them. That could make them go into hiding, making them harder to find and making the situation more stressful and dangerous for the child.

What authorities can do

Local and national authorities in Canada, as well as those from other countries, will do their best to keep an international abduction from happening. They will try to keep the abducting parent and child from leaving Canada or stop them when they arrive in another country.

Be aware:

Canada does not have "exit controls"—people leaving the country do not go through an immigration check. This makes it hard for authorities to keep people from leaving.

The abducting parent may leave Canada with your child very soon after abducting them. This means authorities may have only a short time to keep the abduction from happening.

What follows describes what the different authorities may do.

Local police

Local police may:

- ▶ check the abducting parent's credit card reports and records of purchase
- ▶ check what long-distance calls the abducting parent may have made
- ▶ seek cooperation from a doctor or hospital that has treated your child, if your child needs prescription medicine or regular medical treatment
- ▶ get the Royal Canadian Mounted Police and Interpol involved (see below)
- ▶ issue an Amber Alert (see below)
- ▶ enter your information into the Canadian Police Information Centre (CPIC) and the U.S. National Crime Information Center (NCIC) computer systems.

Be aware: Police can do some of these things only after a judge has determined that there is enough evidence to reasonably believe that police require the authority to carry out such actions. Also, police may require a copy of your custody order or agreement to carry out some of these actions.

Royal Canadian Mounted Police

The Royal Canadian Mounted Police (RCMP) is Canada's national police force. The RCMP's National Missing Children's Operations helps other police forces find and return missing children to their parents.

The RCMP may:

- ▶ at the request of your local police, put your child's description on a website that gives the public information on missing children across Canada
- ▶ request that Interpol publish a notice (see below) that lets police forces in Interpol member countries know an international child abduction may have happened.

Interpol

Interpol is the world's largest international police organization. It has about 190 member countries. Interpol lets police around the world work together to solve crimes.

Through Interpol, the RCMP may:

- ▶ issue notices to all member countries that a child is missing
- ▶ ask police in member countries to look for an abductor or to look for a child and ask about the safety and well-being of that child.

Interpol notices

Interpol issues notices to police forces around the world to search for abductors or children. The notices are colour-coded.

Red notices seek people wanted on an arrest warrant.

Blue notices seek people who may or may not have committed a crime (including abductors).

Yellow notices seek missing people (including children).

For more information, visit Notices at www.interpol.int/INTERPOL-expertise/Notices.

Amber Alerts

Amber Alerts help find abducted children fast. Every province has an Amber Alert program; the territories do not.

Amber Alerts appear in media such as television, radio, the Internet and newspapers, and through SMS, as soon as police think a child might have been abducted. The alerts ask the public to get involved in finding the child.

Police issue Amber Alerts only when they think a child may be in serious danger. This means they are issued less often when a child has been abducted by a parent.

Your local police will decide whether to issue an Amber Alert for your child.

Canada Border Services Agency (Government of Canada)

The Canada Border Services Agency (CBSA) can:

- ▶ issue border alerts to watch for a missing child whose parent may be taking them from the country; often these are part of an Amber Alert.

Be aware:

- ▶ *CBSA does not check everyone leaving the country, because Canada does not have exit controls.*
- ▶ *It takes time to organize efforts to stop an abductor from leaving Canada. If an abductor and child leave the country quickly, authorities may not be able to stop them.*

Other countries' border services

The Canadian government may:

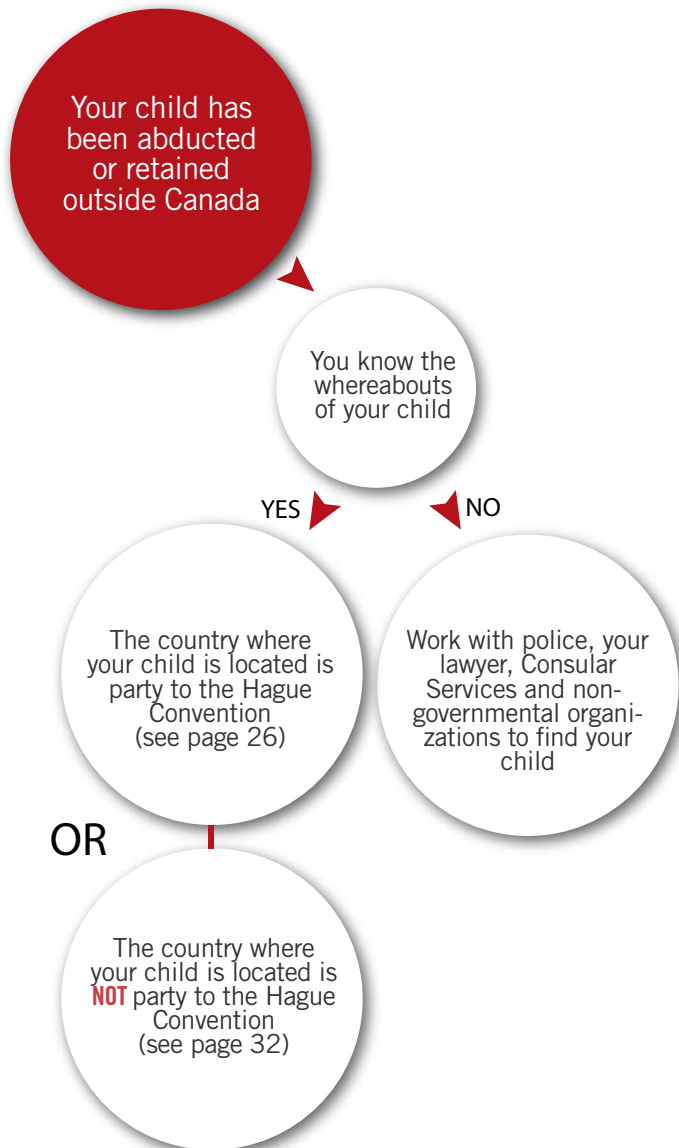
- ▶ ask another country to stop a parental abductor and child as they try to enter that country.

Be aware: The Canadian government can only ask for help from another country's government. The government of the other country will decide what action to take.

Your Consular Case Management Officer will manage the request (see the section "Contact Consular Services [Government of Canada]" above for more information).

SEARCHING FOR YOUR CHILD—AND AFTER YOU FIND THEM

This section explains how to organize an international search for your child and steps to take when you find them. It also lists obstacles you may encounter.



Searching for your child

What you can do

- ▶ Contact **relatives and friends**. Check with them regularly, write down what they tell you and keep that information in one place.
- ▶ Tell your child's **school, doctor and hospital** (if your child receives regular treatment at a hospital) about the abduction. Give them your phone number. Ask them to call you immediately if they are contacted by the other parent.
- ▶ Identify **other sources of information** that could reveal where your child and the abducting parent are. These sources will be different in every situation, but we have put together a list to get you started—see page 17. Your local police and your lawyer can also help you identify sources that might help.
- ▶ Get an email account if you don't already have one.
- ▶ Consider, with your lawyer, whether or not to get a **custody order**.
- ▶ Make several **copies of your custody order** (or custody agreement), if you have one. Have the copies **certified** by a notary public or embassy or other official, and keep those copies on hand.
- ▶ Do not give up—but be realistic about the process: it may be long and hard.

Organizations that can help you search

Many of the people and organizations that can help stop an international abduction can also help you find a child after an abduction has happened. If you have not already contacted them, you should do so now. (See the section "If your child is missing," page 4, for more information on the police and Consular Services.)

Local police and the Royal Canadian Mounted Police

Local police will be your main official contact in Canada during your search. They will ask for help from the RCMP if they need to. If you are in another country, your main contact will be the local police force there.

Consular Services (Government of Canada)

The Vulnerable Children's Consular Unit (part of Foreign Affairs, Trade and Development Canada) will work with you as you search. The person you will deal with at Consular Services is called a Consular Case Management Officer (CMO).

In Canada, call Consular Services toll-free at 1-800-387-3124. Inside or outside Canada, call collect at 613-996-8885.

While you are searching, your CMO may help you:

- ▶ ask another country's government whether your child has entered that country

Be aware: The other country's authorities may not have this information. If they do have it, they may not give it to you or to Consular Services.

- ▶ work with other organizations in Canada and abroad.

Be aware: CMOs do not personally search for missing children.

Non-governmental organizations

Some non-governmental organizations have investigators who can help find a child, whether in Canada or in another country.

Sources of information for your search

There are many sources that could give you useful information as you search for your child. These sources may be people, organizations, records or lists. It is usually a good idea to check as many sources as you can.

Be careful though: it may not be a good idea to contact some people or organizations. For example, a person or organization you contact might help the other parent abduct your child or might in some way put your child in danger. Ask your local police or lawyer for advice if you are unsure whether to contact someone.

Be aware: Some organizations have privacy regulations that will not allow them to give you information. In those cases, the police may be able to help you.

Take notes as you search: who you contact, when you contact them, what you find out. Keep those notes in one place, so you have a record of what you have done and know.

Sources you can explore:

- ▶ friends and relatives
- ▶ after-school activities
- ▶ places where the other parent or your child goes to "hang out"
- ▶ clubs and organizations the other parent belongs to
- ▶ places of worship
- ▶ preschools and daycares
- ▶ medical and dental records
- ▶ veterinary records
- ▶ school records
- ▶ phone books, email directories and other contact lists

After you find your child

Once you have found your child, your next steps will be to find out what you need to do to have them lawfully returned to you in Canada.

Get as much information as you can on the family and child welfare laws and customs of the country your child is in. You may wish to seek legal assistance or contact the Central Authority in your province or territory (for information on the Hague Convention, turn to "If the Hague Convention applies" on page 26) for help in gathering such information.

You particularly want to know:

- ▶ what legal processes you may have to go through, in both Canada and the country where your child is
- ▶ what your legal status is in both Canada and the other country.

Tell your contacts

Notify every person, police force, organization and government office that you have asked for help.

Talk to your Consular Case Management Officer

Now that you have found your child, there are many ways your Consular Case Management Officer (CMO) may help you. There are also things your CMO cannot do.

Your CMO may:

- ▶ help you contact officials in the country where your child is
- ▶ ask officials in that country to inquire into the safety and well-being of your child
- ▶ give you information about the country, including its local customs and practices
- ▶ give you a list of local lawyers, notaries and legal translation services that can help you get your child back
- ▶ refer you to general information on travelling to the country and make sure Canadian consular officials can provide consular services if you go there
- ▶ give you advice on steps you can take to recover your child, or refer you to other organizations or Canadian government offices that can advise you.

The **Hague Convention on the Civil Aspects of International Child Abduction** is the main international treaty that can help parents of children abducted to certain countries get their children returned. Hundreds of Canadian children have been returned under the arrangements of the Hague Convention.

A court decision under the Hague Convention can order the return of your child to the country of “habitual residence”; however, it cannot rule on issues of custody and access.

For more information, visit the Hague Convention’s Child Abduction Section at www.hcch.net/index_en.php?act=text.display&tid=21.

A **Central Authority** is a government department that is designated to administer the Hague Convention. Central Authorities in different countries cooperate with each other to resolve child abduction cases.

In Canada, each provincial and territorial government has a Central Authority. They carry out the following actions, among others:

- ▶ exchange requests with other Central Authorities for the return of children or the enforcement of orders
- ▶ give people information about the laws of the country where their child has been abducted.

The Central Authority in your province or territory will be your main point of contact in your Hague Convention application. Page 40 has a list of Canadian Central Authorities.

Central Authorities will work with CMOs at Foreign Affairs, Trade and Development Canada.

Your CMO—and other Government of Canada officials—cannot:

- ▶ give you legal advice
- ▶ intervene in your private legal matters or in any legal processes in the other country
- ▶ enforce a Canadian custody agreement in the other country
- ▶ force another country to make any decision in your custody case
- ▶ force another country to enforce its own laws in a particular way
- ▶ help you violate the laws of the other country
- ▶ help you re-abduct your child, even if your child is Canadian
- ▶ take charge of your child, whether physically or legally.

Obstacles

Parents seeking the return of their children face many obstacles. Some of these obstacles are predictable. This section tells you a little about some of the difficulties you may encounter and offers some ideas that may help you deal with them.

Time

Time can be on the side of the abducting parent.

In countries that are states parties to the Hague Convention, courts may refuse to order your child's return if you have not started legal proceedings within a year of the abduction and if the child is settled in their new environment. (There is a section on the Hague Convention later in this guidebook. For a list of states party to the Convention, visit www.hcch.net/index_en.php?act=conventions.status&cid=24.)

If the abductor has enough time to get a custody order in the other country, it may be even harder for you to have your child returned.

Recovering your child may take a lot of time. Here are some obstacles that may slow the process down:

- ▶ it may take a long time for you to find your child
- ▶ the other parent may be unwilling to give up your child
- ▶ local laws, regulations and customs
- ▶ the other country may not be a party to the Hague Convention
- ▶ authorities in the other country may not cooperate
- ▶ legal proceedings may be slow and costly.

What you can do

- ▶ Act as quickly as you can.
- ▶ Get a core team of people working together on your case.

Your emotions

Finding and recovering your child is hard. Dealing with your own emotions as you do it is also hard.

You can expect to feel overwhelming worry and fear because you do not know whether your child is safe and well.

You can expect to feel anger toward the abducting parent—and toward officials who do not seem to care.

Once you find your child and the abducting parent, you may not be able to communicate with them—a frustrating situation. If there is a battle over custody, your child may take one side or the other—either situation will be hard for you to cope with.

What you can do

Look for emotional support. There are many places where you may find it. We have put together a directory of resources on page 42.

Money

Finding a child who has been abducted and bringing that child back to Canada can cost a lot of money. Your expenses may include:

- ▶ hiring a lawyer in Canada and the other country
- ▶ paying court and other legal costs
- ▶ travelling to the other country
- ▶ hiring a private organization to find your child
- ▶ paying for your child's return to Canada.

What you can do

In Canada, you may be eligible for financial aid or other support. This may also be true in the country your child has been abducted to.

In Canada, the provincial and territorial legal-aid organizations will give you more information. In the other country, the Hague Convention Central Authority (see "Seeking the return of your child," page 23) or a Canadian consular officer may be able to help.

Citizenship

If the other parent is a citizen of another country, your child may automatically be a citizen of that country. The other parent may also have gotten citizenship for the child without your consent.

This can cause problems when you try to return your child to Canada. The other country might not recognize your child's Canadian citizenship—and might think the best place for the child is with the other parent.

Culture

Every country has its own set of laws, customs and beliefs about children and about the abduction of children by a parent. Sometimes these laws and customs even vary from region to region inside the same country. You may find it difficult and frustrating to understand what is happening as you try to recover your child.

What you can do

Learn as much as you can about the country and region where your child has been taken. Find out about its customs and beliefs, as well as its laws.

SEEKING THE RETURN OF YOUR CHILD

You know where your child is. Now you want to bring them back to Canada. This section tells you about the different ways you can do that, the steps you need to take and some of the people and organizations that can help you.

But first, an important note: There are many different ways you can seek to have your child returned to you. Often, you may want to try more than one way at the same time. Make sure to discuss your situation with your lawyer to determine what avenue is right for you.

For instance, the first thing you try should almost always be negotiating with the abducting parent. If it works, negotiating is the easiest and least complicated way to have your child returned. But even while you are negotiating, you can also begin other procedures, such as making an application under the Hague Convention (you'll find information on the Hague Convention on page 26).

Look at the flow charts in this section (“If the Hague Convention applies,” page 26, and “If the Hague Convention does not apply,” page 32). Each shape in a chart is one step in the process. Where it says “AND/OR” between shapes, it means you can or should be taking all three steps at the same time.

Voluntary return

Sometimes a parent who has abducted a child changes their mind about what they have done. You may be able to convince them to return the child—to make a “voluntary return”—by talking to them or negotiating with them through someone else.

Be aware: You should consult with your lawyer about applying for a return under the Hague Convention at the same time as you are negotiating with the other parent.

Why? If you have not applied to have your child returned under the Hague Convention within a year of the abduction, a court in a Hague Convention country may have more discretion to not return your child if it is demonstrated that your child is settled in a new environment.

Things you can do to bring about a voluntary return

If you think you can reach an agreement with the other parent out of court, in a friendly way, you should try. Everyone involved—your child, you, the other parent, the families—will be better off. What follows are suggestions on how to make this “best result” happen.

Hold negotiations in a safe, neutral place

Neither you nor the other parent should feel as though you are in “enemy territory” when you are trying to reach an agreement.

Get the other parent’s friends and family involved

They may be able to help you communicate with the other parent to find a solution. They may also make it possible for you to visit your child.

Talk to police and prosecutors

Police officers may negotiate with the other parent to find a solution.

Even if they do not, and you do your own negotiating and reach an agreement, you may have to clear the agreement with them or with the prosecutor.

For example, let’s say police or prosecutors have laid a criminal charge against the other parent because you made a formal complaint. Later, the other parent may agree to return the child—but only if the charge is dropped. In Canada, only the police and prosecutors can decide to drop a criminal charge once it is laid.

Be aware: They will likely not drop the charges just because you ask them to.

Keep in touch with your Consular Case Management Officer

Tell your Consular Case Management Officer (CMO) as soon as you decide to try negotiating a voluntary return. Keep in touch throughout the process.

Your CMO and consular officers in Canadian government offices in the other country can help you contact the abducting parent. If the other parent refuses to talk directly with you (or vice-versa), consular officers can try to make contact.

Be aware: Consular officers at Canadian government offices in another country must follow that country’s laws. They cannot help you break the law; for example, they cannot help you re-abduct your child. Nor can they take charge of your child.

Hire a mediator

A mediator works to help two sides resolve a conflict in a way they can both accept. Mediation happens out of court. In Canada, you can find a qualified mediator through an online directory.

Hire lawyers in Canada and in the other country

A lawyer in Canada may be able to give you advice on dealing with authorities and lawyers in the other country. You may also find it useful to retain the services of a lawyer in the other country who can provide advice on the country’s legal system and how to pursue your objectives in that system.

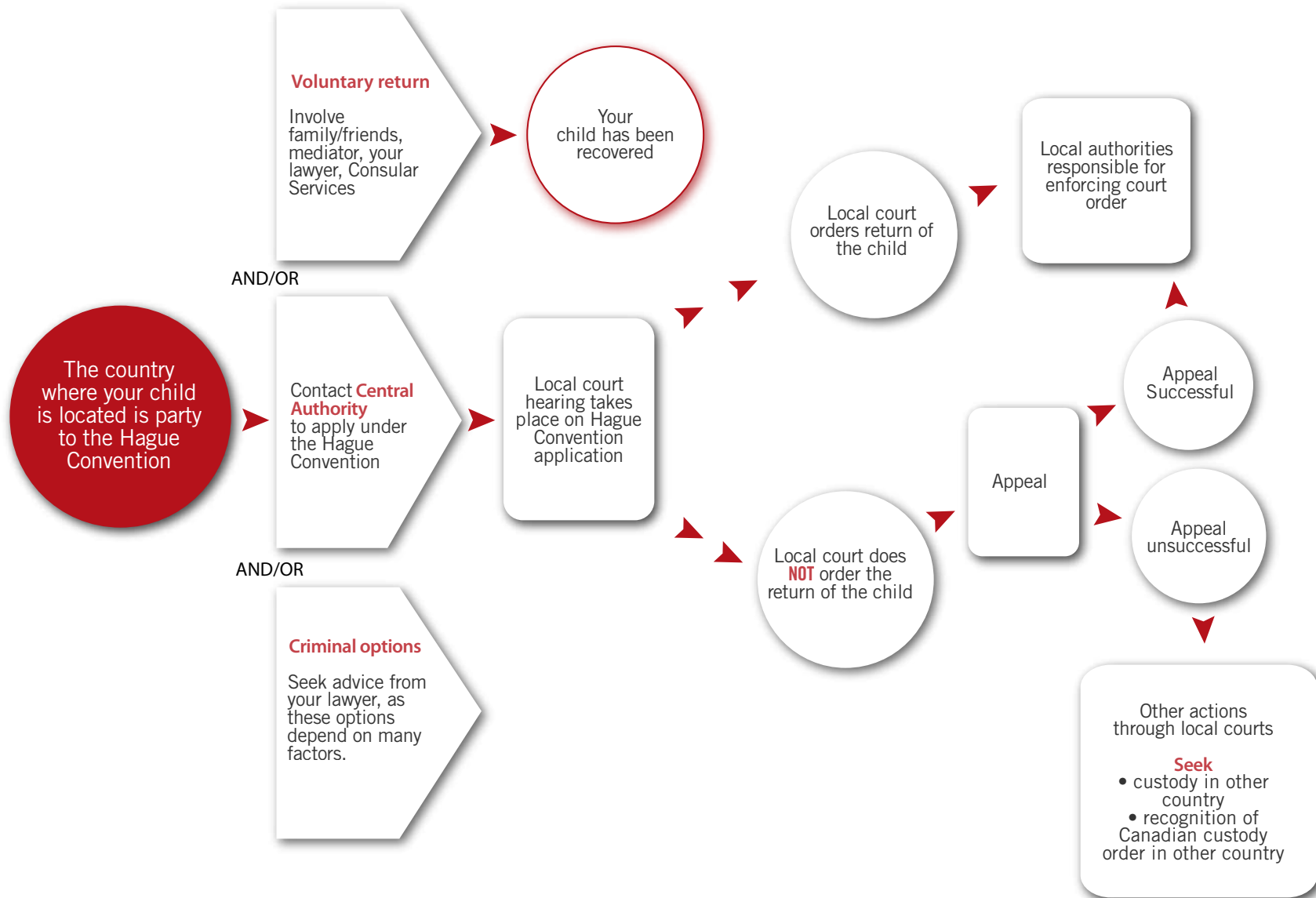
Even if you have not gone to court in the other country to have your child returned, you may still want to hire a lawyer to give you advice on the country’s legal system.

And if you have applied under the Hague Convention or started a court case, the other country may require you to hire a lawyer.

Be aware:

- ▶ *It may be necessary to hire a lawyer, both in Canada and the country to which your child has been abducted. Recovering your child may mean going through a long court battle. You need to know your legal options.*
- ▶ *Lawyers’ fees may be much higher in the other country than in Canada. You may want to have a contract that clearly sets out your lawyer’s services and fees.*
- ▶ *The other country’s Central Authority may arrange free or reduced-fee legal representation for you. (See the next section, “If the Hague Convention applies,” for information on Central Authorities.)*

If the Hague Convention applies



If your child is in a country that applies the Hague Convention with Canada, you may be able to file an application to have your child returned under the Convention. For more information, visit the Hague Convention's Child Abduction Section at www.hcch.net/index_en.php?act=text.display&tid=21.

Be aware: When you apply to have your child returned under the Hague Convention, you are not asking authorities in the other country to decide who has custody. Rather, you are asking them to return your child to the country of habitual residence so that the courts there can decide on issues of custody and access.

Can you apply under the Hague Convention?

You may make an application to have your child returned to Canada under the Hague Convention if all of these conditions are true:

- ▶ Your child is less than 16 years old.
- ▶ Your child normally lived (habitually resided) in Canada before being wrongfully taken to or retained in another country.
- ▶ The Hague Convention applied between Canada and the country your child was taken to or retained in when abducted.
- ▶ You had and were actually exercising your custody or access rights at the time the child was taken.

Under the Hague Convention, a court will determine a child's **habitual residence**. The court will take into account factors including the parents' intentions, how long a child has lived in a country and the child's relationship with a country.

How to apply under the Hague Convention

Your Hague Convention application will be managed through Central Authorities in Canada and the country your child is in.

Contact your provincial/territorial Central Authority as soon as you can after your child has been abducted or retained. Your provincial/territorial Central Authority will be your main point of contact in the application process.

The Central Authority will give you information on making an application, including details on other steps you will have to take and documents you will have to provide.

Be aware: You do not necessarily need a custody order to apply under the Hague Convention. What you do need are custody rights. However, a custody order may help the authorities in the other country decide whether your child was abducted illegally. You may want to discuss your particular situation with a lawyer.

What happens after you apply

Central Authorities

The Canadian Central Authority sends your application to the Central Authority in the country your child has been abducted to or retained in. The Central Authority in that country will take up several duties, such as helping to find your child and starting judicial proceedings.

The two Central Authorities work together and with other authorities in their countries to bring about the quick return of your child or, at least, to give you access to your child.

The two Central Authorities will also, either directly or indirectly:

- ▶ find out where your child is
- ▶ make sure your child stays safe and well
- ▶ help arrange the voluntary return of your child or help you and the other parent come to an agreement you can both accept
- ▶ exchange information with each other relating to the social background of the child
- ▶ give you general information about local laws relating to the Hague Convention
- ▶ make administrative arrangements needed to secure the safe return of the child
- ▶ give you legal aid and advice or help you get them
- ▶ keep each other informed on your case
- ▶ work to remove any obstacles that keep the Hague Convention from being applied.

If a voluntary return or agreement cannot be arranged, the next step may be a court hearing. The court will decide whether your child should be returned to Canada.

The Central Authority in the other country may appoint a lawyer to represent you in court, or you may hire your own. In some countries, lawyers may not be involved in the court hearing—the Central Authority will tell you if this is the case.

Consular officials

Canadian consular officials, both in Canada and abroad, work with parents, local police, the Royal Canadian Mounted Police, Hague Convention Central Authorities and other organizations to help you get your child returned.

When you decide to apply under the Hague Convention, your Consular Case Management Officer (CMO) can:

- ▶ help you contact the provincial/territorial Central Authority
- ▶ give you information about the other country
- ▶ give you lists of lawyers, notaries and legal translation services in the other country
- ▶ give you other guidance and help.

Your CMO, and other consular officials, cannot:

- ▶ give you legal advice
- ▶ interfere in your private legal matters or in another country's judicial affairs.

If your Hague Convention application is refused

A court may refuse to return a child under the Hague Convention. But even if the application is refused, you still have other legal options to consider with your lawyer to keep seeking your child's return.

Why your application may be refused

The Hague Convention has exceptions that a court may apply to refuse the return of a child. Some of them follow:

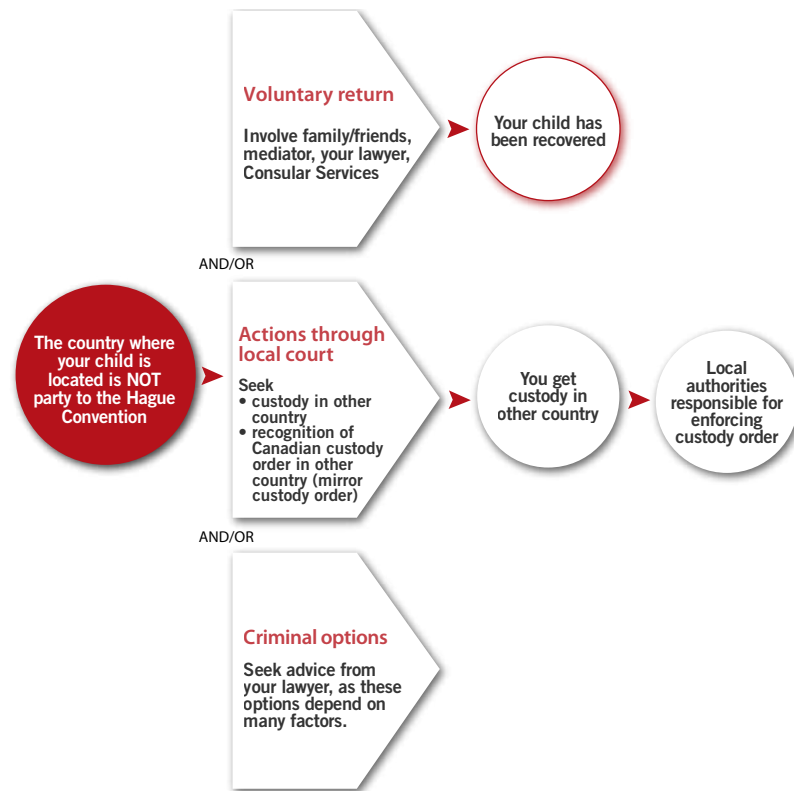
- ▶ More than a year has passed since the abduction, and the child has settled into the new environment.
- ▶ It can be established that you were not exercising your custody or access rights when the other parent abducted or retained the child.
- ▶ It can be established that you agreed that the other parent could take the child.
- ▶ The court determines that there is a serious risk that if the child is returned to you, they will be physically or psychologically harmed, or put in an unbearable situation.
- ▶ The child does not want to be returned and is old and mature enough to have a say in the decision.

What you can do if your application is refused

If the court refuses the return of your child, you may be able to appeal your case to a higher court in the same country. You may also try other, different legal actions in that country; for example, you may ask a court to give you custody of your child under the laws of that country. You may wish discuss your situation with a lawyer to determine what avenue is right for you.

The next section gives more detail on legal steps you can take outside the Hague Convention.

If the Hague Convention does not apply



Your child may be in a country that is not a party to the Hague Convention. Or you may have applied for your child's return under the Convention, and your application was refused. Or you may simply choose not to apply under the Convention.

Child abductions to countries that do not apply the Hague Convention with Canada are challenging. These countries often differ from Canada in their politics, culture and religion, and this can make recovery very difficult or impossible.

There may be other distinct processes that you can pursue to seek the return of your child. For example, you may wish to have a custody order recognized by a foreign court. Alternatively, you may wish to seek a new custody order under the laws of that country. A lawyer from that country may assist you in exploring all of your options.

Get good advice

Talk to Consular Services, to other organizations involved in your case—and to your lawyer. In this situation, hiring a lawyer is a very good idea. In fact, you may need to hire a lawyer not only in the country where your child is retained but also in Canada.

Getting a custody order in the other country

Discuss with your lawyer whether you should ask a court in the other country to give you custody of your child. Even if your Hague Convention application has been refused, it should not affect custody hearings—Convention decisions determine habitual residence only and are not based on the merits of a particular custody case.

If you have a Canadian custody order, it may help you in the other country.

A custody order issued by a Canadian court may not be recognized in a foreign country. A **mirror order** is one that recognizes your Canadian custody order and enforces it in another country. You will need a lawyer in the other country who has expertise in family law to get a mirror order issued.

This can be a very long process. In many countries, the courts will not issue mirror orders.

Competing custody orders happen when a Canadian court has given you custody of your child, but a court in the other country has given custody to the abducting parent.

These situations are extremely common and can be very difficult to resolve. Seek legal advice, both in Canada and in the other country. The custody order from that country will likely be the only one that is enforceable, since that is where the child is. You will likely have to travel to the other country to resolve this issue.

You may ask a court in the other country to enforce your Canadian order—by issuing a “mirror order.”

If the court will not, you may file for a custody order or visitation rights based on the laws of the country. The court may take your Canadian custody agreement into account when deciding the case.

But even if you have custody in Canada, you may face difficulties when filing for custody or visitation rights in the other country:

- ▶ The country may have a cultural bias in favour of either the mother or father, or laws that will keep a court from giving you custody.
- ▶ A court may give you custody or visitation rights but have no way to enforce the order if the abducting parent refuses to give up the child or let you visit them.
- ▶ The country may have restrictions on travel that will keep you from reaching your child or your child from reaching you.
- ▶ If the court denies you custody, it may deny you visitation rights at the same time.
- ▶ Even if you are granted visitation rights, there is no guarantee that your child will be able to visit you in Canada.

Laying criminal charges against the abducting parent

In Canada

It is against the law in Canada for a parent to abduct their child. Laying criminal charges in Canada against the parent might be an option you want to explore with your lawyer.

But laying charges may harm your efforts to get your child back.

Be aware: Police or prosecutors decide whether to lay charges after you file a complaint. They may decide not to lay charges. They will make their decision based on your particular situation and the possible impact on the return of your child. Their main concern will be to protect your child.

In the other country

Not all countries regard parental child abduction as a criminal act. However, when they do, they can prosecute their citizens for abductions the citizens have committed abroad. Your Consular Case Management Officer can give you general information on the country's criminal justice system and whether it is likely to cooperate in child abduction cases.

Possible benefits

The main benefit of laying criminal charges is that it lets police in Canada ask authorities in the other country to help find and possibly arrest the other parent.

Other advantages:

- ▶ a Canadian judge can issue a nationwide warrant for the abductor's arrest, improving the chances of finding and arresting the abductor
- ▶ Passport Canada may cancel the abductor's Canadian passport, which may result in the other country deporting them back to Canada (unless they also hold another country's passport)
- ▶ the abductor may decide to return your child voluntarily when informed of the criminal charges
- ▶ posters of your missing child may be sent out via public broadcasts
- ▶ the abductor may be extradited to Canada (see "Extradition," below).

Possible harm

Criminal charges against the abductor may hurt your legal efforts to recover your child. The process can be complex and difficult. It may lead to results you did not expect or want. You may want to consider the following:

- ▶ Laying charges in Canada may actually keep your child from being returned to you. For example, judges in other countries have refused to order a child's return under the Hague Convention because the abductor faced criminal charges in Canada.
- ▶ If the abductor is arrested, it does not mean that your child will automatically be returned to your care.
- ▶ Your child's feelings toward you may change if you cause the other parent to be arrested, put on trial or imprisoned.
- ▶ You may not be able to stop the criminal process once charges are filed. The abductor may agree to return the child—but only if the criminal charges are dropped. But that decision is up to the Crown prosecutor and police in Canada.

- ▶ You, your child and your family may need to testify in court if the case goes to trial. This can be a long, difficult process and may make it harder for you and your child to recover from the abduction.
- ▶ A criminal conviction does not automatically restrict the abductor's visitation rights or protect against another abduction. You will still have to go to family court to make permanent changes in the custody agreement.
- ▶ Once criminal charges are laid, there is no guarantee that the abductor will be arrested immediately or that the other country will be able to locate and arrest them.

Extradition

Extradition is the process of an accused being removed from one country to face criminal charges in another country.

A parental abductor may refuse to return to Canada to face criminal charges. In that case, and if Canada and the other country have an extradition treaty, Canada may ask the other country to force the abductor to return.

But this rarely happens in international child abduction cases, because:

- ▶ many countries do not consider parental child abduction to be a crime
- ▶ many countries will not extradite their own citizens.

Be aware: Abducted children cannot be extradited. If the country extradites the abductor to Canada, your child may not come with them. Authorities in the other country will follow the laws and customs of the country after an extradition. This means they may return the child to you, but they may also call on local child protection services to take temporary custody of your child until a court decides on permanent custody.

Be prepared to travel on short notice to take custody or participate in legal proceedings in the foreign country.

Re-abduction

Re-abducting your child to return them to Canada is not recommended.

Remember:

- ▶ Re-abduction may be a crime in the other country, and even if you succeed the other country may issue arrest warrants and extradition requests.
- ▶ Trying to re-abduct your child could harm future legal steps to seek the return of your child.
- ▶ You could be arrested, imprisoned or deported from the country, and prohibited from visiting your child there again.
- ▶ Re-abduction could provoke yet another abduction by the other parent.

REUNITING WITH YOUR CHILD

This section describes what may happen at the end of the search and recovery process. It also points to problems you may discover when you reunite with your child. You, your child and your family are beginning a period of readjustment.

Bringing your child back to Canada

If your child does not have a valid passport, the Canadian embassy, high commission or consulate can issue a travel document if all other requirements are met. This will let you bring your child back to Canada with little delay.

If airline tickets for you and your child are hard to afford, the RCMP and the Air Canada Foundation may be able to help through their joint travel reunification program. The police or provincial/territorial Central Authority will apply to the program for you. But they must first decide if you qualify.

The program covers only the cost of the flight returning you and your child to Canada from the other country. It may also help you with the cost of getting there.

Psychological issues

Getting used to each other

You, your child and the rest of your family will have to get used to each other again after an abduction. Many factors can affect how easy or difficult this process is:

- ▶ the length of time the child was gone
- ▶ how close your child was to the parent who abducted them, and how much your child felt part of the other country's way of life
- ▶ whether and how much the child was brainwashed against you or Canada
- ▶ how familiar you and your family are to your child (this depends on many things, including the child's age when the abduction occurred, how much time has passed since then and how close they were to a step-parent or to brothers and sisters in the other country)

- ▶ religious, cultural or linguistic differences that may have developed on either your side or your child's during your separation.

Difficult emotions

Some children make a smooth transition back to their left-behind parents and families. Others have a hard time with it. Children may feel many different and conflicting emotions:

- ▶ guilt for not contacting you or trying to come home
- ▶ anger at you for not rescuing them earlier
- ▶ anger at you for separating them from the other parent
- ▶ guilt about the affection they feel toward the other parent
- ▶ confusion about everything that has happened and the conflicting stories they may have been told
- ▶ loneliness from being a "stranger in a strange land."

But the abducted child is not the only one who may have a hard time with the reunification. You, your new spouse if you have one (the child's new step-parent) and your other children may barely know or have just met the returned child.

Reunification can be stressful for all of you.

Psychological or family counselling may help. See page 42 for a list of organizations that can help you with counselling.

Leftover legal problems

Once you and your child are reunited, there may be ongoing legal issues. Depending on the steps you took to bring your child home, you may still have to go to court to fight a custody battle. Or you may have to act as a witness against the abductor in criminal court.

To try to keep another abduction from happening, you may wish to discuss various options with your lawyer, such as seeking a custody order.

Be sure to inform anyone you contacted during the search and recovery process that your child has been returned to you: all individuals, organizations, media, the local police, RCMP, lawyers, Crown prosecutors, consular officials and—if you applied for the return of your child under the Hague Convention—the Canadian Central Authority.

DIRECTORY OF RESOURCES

Main Government of Canada contacts

VULNERABLE CHILDREN'S CONSULAR UNIT

Foreign Affairs, Trade and Development Canada

125 Sussex Drive
Ottawa, ON K1A 0G2
1-800-387-3124
International collect:
+ 1-613-996-8885
Fax: 613-944-1078
travel.gc.ca/child

ENFORCEMENT - PARTNERS IN MISSING CHILDREN PROGRAMS CANADA BORDER SERVICES AGENCY

www.cbsa.gc.ca/security-securite/omc-ned-eng.html

PASSPORT CANADA

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

NATIONAL MISSING CHILDREN OPERATIONS

Royal Canadian Mounted Police
www.canadasmissing.ca

Provincial, territorial and federal Central Authorities (for Hague Convention cases)

www.hcch.net/index_en.php?act=authorities.details&aid=75

ALBERTA (EDMONTON)

Alberta Justice
13th floor, Oxford Tower
10025-102A Avenue
Edmonton, AB T5J 2Z2
780-415-1876
Fax: 780-427-5914

ALBERTA (CALGARY)

Alberta Justice / Calgary Family Law
Suite 1660, Standard Life Building
639-5th Avenue SW
Calgary, AB T2P 0M9
403-297-3360
Fax: 403-297-6381

BRITISH COLUMBIA

Ministry of Justice / Legal Services
1001 Douglas Street
PO Box 9280, Station Provincial Government
Victoria, BC V8W 9J7
250-356-8433 or
250-356-8449
Fax: 250-356-8992

MANITOBA

Manitoba Justice / Family Law
1230-405 Broadway
Winnipeg, MB R3C 3L6
204-945-0268
Fax: 204-948-2004
flb@gov.mb.ca

NEW BRUNSWICK

Coordinator of Family Cases
14th floor, Assumption Place
770 Main Street PO Box 5001
Moncton, NB E1C 8R3
506-856-3844
Fax: 506-869-6148

NEWFOUNDLAND AND LABRADOR

Attorney General of Newfoundland and Labrador
4th floor, East Block
Prince Philip Drive
PO Box 8700
St. John's, NL A1B 4J6
709-729-2887
Fax: 709-729-2129

NORTHWEST TERRITORIES

Department of Justice / Policy and Planning
PO Box 1320
4903-39th Street
Yellowknife, NT X1A 2L9
867-920-3248
Fax: 867-873-0234

NOVA SCOTIA

Department of Justice / Legal Services
5151 Terminal Road, PO Box 7
Halifax, NS B3J 2L6
902-424-7788
Fax: 902-424-7158

NUNAVUT

Department of Justice
Box 1000, Station 540
Iqaluit, NU X0A 0H0
867-975-6354
Fax: 867-975-6349

ONTARIO

Ministry of the Attorney General
5th floor, Building B
1201 Wilson Avenue
Downsview, ON M3M 1J8
416-243-1900
Fax: 416-240-2411

PRINCE EDWARD ISLAND

Justice and Public Safety Programs and Services
Family Law Centre
1 Harbourside Access Road
Charlottetown, PE C1A 7J8
902-368-4886
Fax: 902-368-6474

QUEBEC

Ministère de la Justice
2nd floor, 1200 route de l'Église
Québec, QC G1V 4M1
418-644-7153
Fax: 418-528-9716

SASKATCHEWAN

Ministry of Justice / Policy, Planning and Evaluation
310-1874 Scarth Street
Regina, SK S4P 4B3
306-787-3481
Fax: 306-787-9008

YUKON

Deputy Minister of Justice

PO Box 2703

Whitehorse, YT Y1A 2C6

867-667-5856

Fax: 867-393-6379

DEPARTMENT OF JUSTICE CANADA

*Federal Authority for the Hague
Convention on the Civil Aspects of
International Child Abduction*

613-996-1300 or

613-944-0016

Fax: 613-992-6485

Non-governmental organizations

The following organizations offer a variety of services with respect to child abductions. Foreign Affairs, Trade and Development Canada takes no responsibility for the services or actions of these organizations.

CANADIAN CENTRE FOR CHILD PROTECTION

615 Academy Road

Winnipeg, MB R3N 0E7

204-945-5735 or

1-800-532-9135

Fax: 204-948-2461

info@protectchildren.ca

missingkids.ca

MISSING CHILDREN'S NETWORK

Suite 420, 6830 Park Avenue

Montréal, QC H3N 1W7

514-843-4333 or

1-888-692-4673

Fax: 514-843-8211

www.enfant-retourquebec.ca

MISSING CHILDREN SOCIETY OF CANADA

Suite 219, 3501 23rd Street NE

Calgary, AB T2E 6V8

403-291-0705 or

1-800-661-6160

Fax: 403-291-9728

info@mcsc.ca

www.mcsc.ca

OPERATION COME HOME

150 Gloucester Street

Ottawa, ON K2P 0A6

613-230-4663 or

1-800-668-4663

Fax: 613-230-8223

info@operationcomehome.ca

www.operationcomehome.ca

VICTIMS OF VIOLENCE CANADIAN CENTRE FOR MISSING CHILDREN

340-117 Centrepointe Drive

Ottawa, ON K2G 5X3

613-233-0052 or

1-888-606-0000

vofv@victimsofviolence.on.ca

www.victimsofviolence.on.ca

CHILD FIND CANADA NATIONAL OFFICE

110-105 12th Avenue SE

Calgary, AB T2G 1A1

1-800-561-1733 or

1-800-387-7962

info@childfind.ab.ca

www.childfind.ca

CHILD FIND ALBERTA

110-105 12th Avenue SE

Calgary, AB T2G 1A1

1-800-561-1733

CHILD FIND BRITISH COLUMBIA

Suite 208, 2722 Fifth Street

Victoria, BC V8T 4B2

250-382-7311 or

1-888-689-3463

Fax: 250-382-0227

childvicbc@shaw.ca

CHILD FIND NOVA SCOTIA

PO Box 523

Halifax, NS B3J 2R7

902-454-2030 or

1-800-682-9006

childns@aol.com

CHILD FIND ONTARIO

Suite 303B, 75 Front Street E

Toronto, ON M5E 1V9

416-987-9684 or

1-866-543-8477

mail@childfindontario.ca

CHILD FIND PRINCE EDWARD ISLAND

106 Kensington Road

PO Box 21008

Charlottetown, PE C1A 9H6

902-368-1678

Fax: 902-368-1389

childfind@pei.aibn.com

CHILD FIND SASKATCHEWAN

202-3502 Taylor Street E

Saskatoon, SK S7H 5H9

306-955-0070 or

1-800-513-3463

Fax: 306-373-1311

childsask@aol.com

*For Quebec, Yukon, Nunavut and the
Northwest Territories, contact Child
Find Canada's national office (see
above).*

In addition to the resources listed above, the Department of Justice Canada's Inventory of Government-Based Family Justice Services includes resources that may be helpful to parents of abducted children. Resources are searchable by province or territory and type of service. The online version of this inventory can be found at www.justice.gc.ca/eng/pi/fcy-fea/lib-bib/tool-util/apps/fjis-rsgjf/rep-rap/index.asp.

The names, addresses and contact information listed above are subject to change. For the latest updates, consult the online version of this manual at travel.gc.ca/publications.

CHECKLISTS

This section will help guide you through the process. It will ensure you gather all the information you need and take all necessary steps.

Information and documentation checklist

It is important to have a complete file of information and documentation about your child, the other parent and details relating to the abduction. Ask anyone acting on your behalf, including lawyers, to give you copies of written correspondence.

Child

- Full name, with alternative spellings, variations and nicknames
- Date of birth
- Place of birth, including hospital, town, province/territory or state and country
- Address before abduction
- Canadian social insurance number
- Canadian passport number, along with place and date of issue
- Details on foreign passport or other travel documents that may have been used
- Nationality (include all possible nationalities, even if you are not certain)
- Height (measurement and date)
- Weight (measurement and date)
- Gender
- Eye colour
- Hair colour (keep hair strands for DNA testing)
- Most recent photograph
- Blood type
- Identifying features (such as marks, scars, glasses, braces)
- Medical information
- Fingerprint/dental records

Abducting parent / other person

- Full name, including alternative spellings, variations and nicknames
- Date of birth
- Place of birth
- Nationality, including foreign citizenship and legal status in Canada (such as citizen, permanent resident, student)
- Details on Canadian and/or foreign passport and other identification documents (such as document number, issuing office, date of issue, expiry date)
- Occupation, including professional certifications
- Information on past or present workplace
- Phone numbers and current address or other location information
- Canadian social insurance number
- Names and addresses of relatives and friends in Canada and abroad
- Date and place of marriage or start of common-law relationship
- Date and place of separation or divorce, details of courts involved and documents issued
- Marital status at the time of abduction
- Height
- Weight (measurement and date)
- Eye colour
- Hair colour (keep hair strands for DNA testing)
- Most recent photograph
- Blood type
- Identifying features (such as marks, scars, glasses, tattoos)
- Medical information
- Fingerprint/dental records

Abduction details

- Date of departure from Canada or beginning of wrongful retention
- Location where child was taken, circumstances and persons involved
- Means of transport and route
- Legal relationship between you and other parent and living arrangement when abduction occurred
- Knowledge or suspicions of where the child might be
- Details about other people who may have assisted, or continue to assist, in the abduction in Canada or abroad

Documentation

- Child's birth certificate
- Marriage certificate
- Separation or divorce agreements
- Custody order, along with any special arrangements for visitation and travel
- Provincial/territorial laws and regulations concerning child welfare and custody
- Text of Hague Convention on the Civil Aspects of International Child Abduction
- Text of sections 281, 282 and 283 of the Criminal Code of Canada relating to parental child abductions

Action checklist

This checklist assumes that your child has been, or is suspected of having been, abducted to a country that is not party to the Hague Convention. If the country is party to the Hague Convention, one of your first steps should be to contact your provincial/territorial Central Authority. For a list of states parties to the Convention, visit www.hcch.net/index_en.php?act=conventions.status&cid=24.

Emergency action

- Contact local police and file a missing persons/abduction report.
- Contact Foreign Affairs, Trade and Development Canada's Consular Services and ask for assistance.
- If you do not have a custody order or one that prohibits your child from travelling without your permission, contact your lawyer to obtain one.
- Contact Passport Canada to see whether a passport has been issued to your child and to have your child's name placed on the System Lookout List.
- If you and the other parent have joint credit cards or bank accounts, find out whether you are liable for unwanted expenditures and take appropriate action.
- If your child has dual citizenship, or if the other parent has ties to another country, tell a diplomatic or consular office of that country in Canada that your child has been abducted and ask whether a passport or visa has been issued to your child.
- Seek the support of family and friends to help you cope with the situation.

NOTES

The search

- Contact local police.
- Ensure you have certified copies of your custody court order or agreement.
- Get information on the family and child welfare laws and customs of the country to which your child has been taken.
- Investigate the legal aspects of your situation under Canadian law.
- Contact relatives and friends of the other parent in Canada and abroad and seek their support.
- Tell your child’s school, doctor and (if appropriate) hospital about the abduction and ask them to let you know if the other parent contacts them.
- Consider obtaining information on the location of the abducting parent through various organizations.
- Contact non-governmental organizations that could help you.

After you find your child

- Seek advice on whether you need to hire a lawyer in the foreign country.
- Have a clear idea what the foreign lawyer will do, how long it will take and how much it will cost.
- Give the foreign lawyer certified copies of relevant documents.
- Consult with Consular Services to find out whether you will need to travel to the foreign country.

Legal proceedings in Canada

- Seek advice on how to proceed from the Crown attorney, your lawyer and/or your provincial/territorial Central Authority.



Foreign Affairs, Trade and
Development Canada

Affaires étrangères, Commerce
et Développement Canada

Canada

Preventing International Child Abduction

A Guidebook for Parents

Travel.gc.ca



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PREVENTING THE ABDUCTION OF YOUR CHILD

How do you know the other parent is planning an international child abduction? What can you do to keep it from happening? This section gives you some answers to those questions. It also tells you what information you should gather before an abduction happens—just in case it does. And it gives some advice on what to say to your child.

Warning signs

Many signs might warn you that the other parent is planning to abduct your child. Be on the lookout if the other parent:

- ▶ has abducted your child before
- ▶ has threatened (directly or indirectly) to take or harm the child, you, or himself or herself
- ▶ has a history of violence or controlling behaviour
- ▶ shows hostility, anger or resentment toward you or your family
- ▶ fights with you often
- ▶ harasses you or is obsessive about you (for example, shows up without warning or phones constantly)
- ▶ criticizes or lies about you to your child, or tries to come between you and your child in other ways
- ▶ repeatedly raises unreasonable concerns about your child’s safety and well-being while in your care
- ▶ is angry about a decision
- ▶ has citizenship in or strong ties to another country
- ▶ shows interest in moving or returning to a country other than Canada (or your child talks about a possible move)
- ▶ has made major life changes, such as quitting a job or selling a home
- ▶ is financially independent and has no ties to Canada
- ▶ has closed bank accounts, is gathering records or seems to be preparing for a move
- ▶ has immigration problems in Canada.

Be aware: If the other parent is a citizen of a country other than Canada or has close ties to one, there is a greater risk that they will try to abduct your child internationally. It is even more likely if the child goes to visit that country with the other parent.

If the parent is a citizen of another country, it may also be harder for you to keep them from abducting or retaining your child there—and to seek the return of your child if they do.

Preventive tools and tips

Try to maintain a friendly relationship with the other parent if possible. Limiting access to the child or creating conflict can result in extreme reactions. And remember that children are most vulnerable when the relationship between their parents is troubled or broken.

Get information and advice

If you feel your child's other parent might abduct them, contact authorities and organizations that can help you and give you advice. A list of contacts is available on page 40 of the booklet on the reverse of this one.

Get mediation and counselling

Professional counsellors and mediators can help both parents make a smooth transition through a separation or divorce. Their job is to work with both parents to help them reach agreement on such things as custody arrangements.

Both forms of help can minimize the tensions that can lead to a child abduction.

Arrange for a custody agreement or order

If you are thinking about a separation or divorce, you may want to discuss custody arrangements with a lawyer.

Custody orders may be important when dealing with international child abductions. In cases where the Hague Convention applies, a custody order is not necessarily required but can be helpful. A Canadian custody order may not be automatically recognized in the country to which your child could be abducted, but it does formally state your custodial rights.

You may want to discuss with your lawyer what a custody order may include. For example, a custody order may contain provisions:

- ▶ giving sole custody to one parent or joint custody to both
- ▶ giving one parent the right of access to their children
- ▶ ordering supervised access for a parent
- ▶ prohibiting the child from travelling without the permission of both parents or the court
- ▶ ordering that all of a child's travel documents be given to the custodial parent, to the court, to one parent's lawyer or to Passport Canada
- ▶ stating that both parents agree to the terms of the Criminal Code of Canada and the Hague Convention (if travel is permitted to a country that has signed the Convention) and that criminal charges may be laid under the authority of a Canadian Crown prosecutor if the agreement is breached
- ▶ requiring a parent to post a bond if the child travels abroad (the parent would lose the bond money if they abducted or retained the child).

When you discuss custody matters with your lawyer, you may wish to cover some of the following issues:

- ▶ the need to be specific about custody, access and visitation
- ▶ the need to avoid vague language—it is hard to enforce
- ▶ whether to include a statement of the penalties a parent will incur for violating the custody agreement or order
- ▶ getting certified copies of the custody agreement or order to give them to the child's school and to any other authorities who may take care of the child
- ▶ whether restrictions on the other parent's mobility are necessary
- ▶ whether passport issuance restrictions can assist in prevention of a child abduction
- ▶ the need to be very specific about where the child will live (if it is a joint custody arrangement).

The **Hague Convention on the Civil Aspects of International Child Abduction** is the main international treaty that can help parents of children abducted to certain countries get their children returned. Hundreds of Canadian children have been returned under the arrangements of the Hague Convention.

A court decision under the Hague Convention can order the return of your child to the country of “habitual residence” (see page 28 of the guidebook on the reverse side of this one for details); however, it cannot rule on issues of custody and access.

For more information, visit the Hague Convention’s Child Abduction Section at www.hcch.net/index_en.php?act=text.

Passports and travel

Canadian passports

A Canadian child who travels out of the country must have their own passport. Unless one parent has clear sole custody of the child, both parents will likely need to participate in getting a passport for their child.

If you think the other parent may be planning to abduct your child, you may ask to put your child’s name on Passport Canada’s System Lookout List. This will not prevent Passport Canada from issuing a passport to the child, but it will prompt the agency to do a secondary review if it gets a passport application for your child.

When you ask to put your child’s name on the System Lookout List, you must give Passport Canada copies of all legal documents related to the custody, access and mobility of your child. Passport Canada will keep these copies on file.

You can ask to have your child’s name added to the list at any passport office in Canada or Canadian government office abroad. For further details, visit Child Safety at www.ppt.gc.ca/protection/16-.aspx?lang=eng.

Foreign passports

Your child may be the citizen of another country besides Canada. That country may issue them with passports or visas, but you can ask it not to (just as you can ask the Canadian government).

Many—but not all—countries comply with such requests in order to prevent international child abductions.

Make your request in writing to a diplomatic or consular office of the country. Include certified copies of any court orders dealing with custody or foreign travel by your child. Send a copy of the request to Foreign Affairs, Trade and Development Canada’s Consular Services (see the contact information on page 40 of the booklet on the reverse of this one). Tell the foreign diplomatic or consular office that you have done so.

Consent letter for children travelling abroad

It is a good idea for a parent planning to visit a foreign country with a child to ask for consent from the other parent. A “consent letter” proves the travelling parent has asked for and gotten that approval.

Immigration authorities in a country other than Canada may ask to see a consent letter when a child enters or leaves that country with only one parent or without any parent. Consult the embassy of the country you are visiting to see if this is required for entry and exit in that country.

For more information, a sample consent letter and an interactive form that you can use to create a customized consent letter, visit travel.gc.ca/letter.

In Canada, call Consular Services toll-free at 1-800-387-3124. Inside or outside Canada, call 613-996-8885, collect where available and direct where not. Emergency assistance is available at those numbers 24 hours a day, seven days a week.

If you are outside Canada, you can also contact the nearest Canadian government office abroad. For a list of locations and phone numbers, see the Directory of Canadian Government Offices Abroad at www.travel.gc.ca/offices.

Consular Services is part of Foreign Affairs, Trade and Development Canada, the main federal government department that deals with international child abductions.

Gather information

If you think your child could be abducted, it is a good idea to keep up-to-date, detailed information that will help you find and recover them. Information that might be useful includes your child's height and weight and the current addresses of the other parent's family and friends—in both Canada and the other country.

Keep recent photographs of your child, too, as well as certified copies of legal documents, such as a custody order, having to do with the child.

See page 44 of the booklet on the reverse of this one for detailed checklists of information to keep on hand.

Talk to your child

- ▶ Teach your child how to use the phone and how to make long-distance collect calls and emergency calls from another country.
- ▶ Let your child know how to get hold of you by phone or email, and how to reach family or friends.
- ▶ Tell your child the difference between harmless secrets and harmful ones (secrets that make them feel uncomfortable, scared, sad or confused). Make sure they know they should tell you about any harmful secrets.
- ▶ Abducting parents often try to convince their child that the other parent no longer wants or loves them. Make sure your child knows this is not the case.

NOTES
