



Los Angeles County's Child Abduction Hague Unit: A Group of Dedicated Social Workers that Travel to Foreign Countries to Seek Return of Abducted Foster Children through the Hague Process

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Overview

- Dependency law
- Definition of child abduction
- Dependency law as it relates to child abduction
- International child abduction
 - The Hague Convention on the Civil Aspects of International Child Abduction
 - Welfare and Whereabouts Visits
 - Other options



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Dependency Law

- Involves children who have been abused or neglected and made a ward of the state.
- When a child is removed from a parent the agency (CPS) becomes the custodian of the child.
- When a child is abducted the custodian or CPS is the victim.

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Deprivation of Custody or Visitation

- ▶ **California Penal Code § 278.5(a):**
 - Every person who takes, entices away, keeps, withholds, or conceals any child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation is guilty of child abduction.
- ▶ **Elements:**
 - The victim
 - Was a lawful custodian of the child, or
 - Had a right of visitation with the child; and
 - The defendant took, enticed away, kept, withheld, or concealed the child from the victim; and
 - The defendant maliciously deprived the victim of custody or visitation.

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Abduction and Dependency

- Once the court takes temporary jurisdiction from the parent, if the parents takes/hides/removes the child an abduction has occurred.
- Abduction can occur during a visit, placement, or even when the child is placed in the home of the parent.



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Abduction During a Visit

- Types of placement:
 - relative
 - non related extended family member (NREFM)
 - foster home
 - group home
 - temporary shelter
- If a parent removes the child during a visit, whether **monitored or unmonitored**, then an abduction has occurred. The parent has removed the child from the custody of CPS.



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Abduction during a Home of Parent Order(HOP)



From California Penal Code § 277(e) : In any subsequent placement of the child, the public agency continues to be the lawful custodian...

- When a parent has completed their case plan the child is returned to the parent on a trial basis.
- If the parent succeeds the court will terminate the case.
- If the parents fails the court will re-detain.
- If a parent disappears with their child during a HOP status this is considered an abduction.

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The Department of Children and Family Services (DCFS) Child Abduction Unit



DCFS Child Abduction Unit

- Three social workers, one supervisor.
- Process all child abduction referrals, monitor case, provide search assistance.
- Liaison with case carrying worker to provide support and guidance.
- Maintain current roster of stats.



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DCFS Hague Unit



- This unit was established to prevent a new worker from being trained each time we had to attend a hearing.
- Workers attend hearings in person or via phone.
- There is always a County Counsel lead on every Hague case who acts as a liaison for the traveling CSW.
- Team effort – we focus on child safety, compliance with the court orders and the Hague convention, and the safety of the CSW's.

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DCFS Hague CSW



- Must maintain a valid US Passport.
- Must speak the language of the country traveling to.
- Must maintain contact with County Counsel liaison via text and phone a **minimum** of once every two hours (excluding downtime).
- Need to be flexible, able to change course quickly, have a great attitude.

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County Counsel Child Abduction Unit



- Lead Alyssa Skolnick, Principal Deputy County Counsel.
- Four other attorneys who provide assistance.
- Process all the Hague paperwork.
- Liaison between State Department and DCFS.
- Coordinate Hague hearings.
- Provide on going support before, during, and after Hague hearing.

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International Child Abduction

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The Hague Convention on the Civil Aspects of International Child Abduction (1980)

- The Convention applies to children under 16 who are removed from one country and taken to another, thereby depriving a person or *agency* of the right to custody.
- Country must be a member of the Hague Convention on the Civil Aspects of International Child Abduction.
 - Hcch.net (#28 on the list of conventions)



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Filing a Hague Application

- Citizenship is not required, but our office policy is to only file on US Citizens.
- CPS must have custody over the child. Temporary custody is not sufficient.
- Helps to know location in the foreign country. (Mexico does not require a specific location be known.)



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Travel.State.Gov

The screenshot shows the Travel.State.Gov website interface. At the top, there is a navigation bar with the following links: U.S. Passports, International Travel, U.S. Visas, Intercountry Adoption, and International Parental Child Abduction. Below this, there is a secondary navigation bar with links for Prevention, Abductions, Country Information, and Legal Information. The main content area displays the breadcrumb trail: Travel.State.Gov > International Parental Child Abduction > Abductions > File a Hague Application. There are icons for Print and Email. The page title is 'Using a Foreign Country's Civil Courts' and the main heading is 'File a Hague Application'.

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Application Process

- Complete Hague application. Include court orders, birth certificate, photos, any other pertinent information.
- All documents must be translated in the language of the Country.
- Application is submitted to the State Department, Office of Children's Issues (Central Authority for the US).

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Forms

- Hague Application Form DS-3013.
- Article 28 Statement.
- Privacy Act Waiver Form DS-5505.
- Entry into the Children's Passport Issuance Alert Program Form DS-3077.
- Location Questionnaire.



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Hague - Emily Cornejo.pdf (201412) - Adobe Acrobat Pro

File Edit View Window Help WebSite

Create

Please fill out the following form. If you are a form author, choose Distribute from the Forms panel in the Tools Pane on the right to send it to your recipients. Highlight Ending Fields

U.S. Department of State

OMB NO. 1405-0076
EXPIRES 10-31-2009
Estimated Burden - 1 Hour*

APPLICATION UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

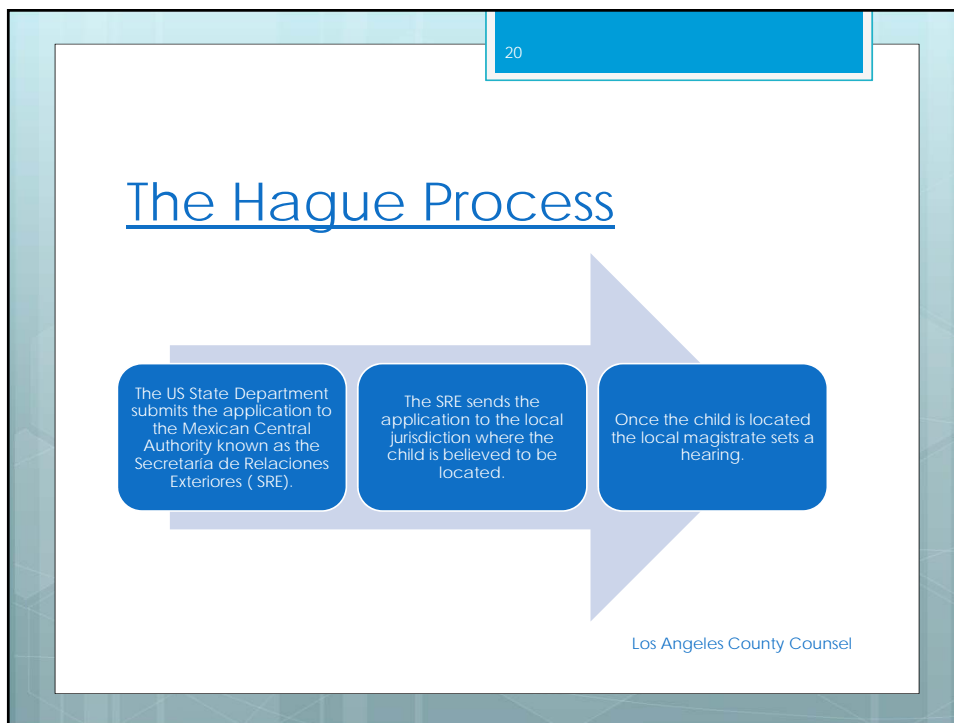
FILL OUT ALL SECTIONS ON BOTH SIDES
*Provide Information Below to the extent that it is available.

This is an application for the Return Access to the child/children listed below.

I. FIRST CHILD SUBJECT OF APPLICATION

Child's Name (Last, First, MI.) [REDACTED] Emily		Date of Birth (mm-dd-yyyy) [REDACTED]	Place of Birth Los Angeles, CA
Address (At Time of Removal) [REDACTED]		U.S. SSN*	Passport/Identity Card* Country Number
Address and Telephone Number of Child's Current Location (if Known) [REDACTED]			Citizenship (s) United States
Height 3'2"	Weight 30 pounds	Color of Hair Black	Color of Eyes Black

2014 AM 10/26/2014



Locating Children

- Children are located through school registries.
- Interpol is often assigned to locate the children and take them into custody.
- Children taken into custody will be placed in an orphanage pending the hearing.



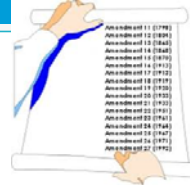
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Setting a Hearing

- The foreign court can set a hearing date. On the day of the hearing they can look for the children and if the children are not located they will cancel the hearing on the day of.
- The foreign jurisdiction can look for the children and if the children are located then a hearing date is usually set within three days of locating the children.
- Hearings can be set and then cancelled for a variety of reasons – children not located, not enough local police available, holidays, power outages, floods, etc.
- There is no time line for when a hearing must be set. We are at the mercy of local magistrates.
- The time frame between when we send the application to the State Department and a hearing being set can be anywhere from three months to two years.

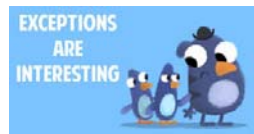
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Article 12

- If a period of less than one year has elapsed from the date of the wrongful removal or retention, the court shall order return forthwith.
- If more than one year has elapsed, the court shall return, unless it is demonstrated that the child is now settled in its new environment.
 - No equitable tolling of the one year period - time doesn't start running when the child is located.

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Exceptions

- Article 13
 - (a) the left behind parent was not actually exercising custody at the time of removal
 - (b) there is a grave risk that return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.
 - (c) the child objects to return and has obtained an age and degree of maturity at which it is appropriate to take account of its views

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Attending a Hague Hearing in a Foreign Jurisdiction

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Travel

- All CSW's travel with a Department of Justice Law Enforcement Liaison (DOJ). CSW's never travel alone. The DOJ Liaison advises us on travel protocols and arrangements. They assist the CSW with the actual hearing, the return, and even things such as where to stay and eat while in Mexico.
- For safety reasons, the DOJ has decision power as to whether we travel to the Hague hearing. If the hearing is being held in a "hot spot" (a no travel zone) then we do not travel to the hearing. We request to appear by phone.
- The DOJ has the final word on all matters related to safety for the CSW and the child.

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Travel

- All travel arrangements are made with **full flexible** tickets to allow the Hague CSW to make modifications as necessary for safety reasons.
- Travel modifications are necessary due to change of hearing date, child not having US Passport, other emergencies.

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Hague Hearings

Hearing Outcomes



- Return Granted
 - If a hearing is held and a recovery is ordered the CSW and the child must leave the country immediately. We always have an exit strategy in case of a return order.
 - Most children do not have US Passports. The Hague CSW will attempt to begin the passport process before the hearing. If there is time after the hearing the CSW and child will visit the US Embassy to obtain a passport.
 - If there is no time to obtain a US Passport for the child, return travel will be via Tijuana and crossing at the border.
- Return Denied
 - If the court denies our request for return then the CSW returns without the children and DCFS has to request that the case be terminated. Once a denial is issued we have no legal means of ever having the child returned to the US.
 - DCFS can appeal but we have to hire a lawyer in Mexico to handle the appeal. Cost is very expensive, \$10,000 retainer required up front.

Hearing Outcomes



- Decision Held
 - If a hearing is held and the Judge holds the decision in abeyance the CSW either remains in Mexico if the time frame for a decision will be within a few days or the CSW returns home and we wait for a decision to be rendered.
- Voluntary Return
 - On rare occasions a parent agrees to a voluntary return. (Sometimes these are forced on the parent.) In that case no hearing is held but the CSW is given the children and returns to the US with them.



Amparo Filing

- In Mexico Hague hearings are held at the state level. If a return is granted a parent can file an amparo. This is equivalent to a habeas corpus motion in the US.
- An amparo takes place at the federal level and stops all proceedings. This means the child could no longer be removed from the country.
- Therefore if a return is granted it is important to leave immediately with the child.

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Alternative Options

Petition for Access

- Access rights are the equivalent of visitation rights.
- Perhaps the parent does not have full custody but only the right to visitation.



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Embassy Assistance

- Contact the local embassy in your jurisdiction and ask for their assistance in making contact with the parent and/or child.



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Welfare and Whereabouts Visit

In welfare and whereabouts cases, the Consular Section of the local US Embassy tries to obtain all pertinent data available on the individuals, and based on the information available, attempts to locate the individuals, determine their welfare, pass on any urgent messages, and, consistent with the Privacy Act, report back the results of their search efforts.



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Case Review

Stats

- April 2014 – present
 - 11 appeared in person in Mexico
 - 3 appeared by phone
- Currently we have two active Hague cases
 - All in Mexico
- Other countries we have dealt with:
 - Ghana
 - Philippines
 - Spain
 - Russia
 - Ukraine



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