

**TESTIMONY OF**

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**and**

**THE INTERNATIONAL CENTRE FOR MISSING & EXPLOITED CHILDREN**

**for the**

**TOM LANTOS HUMAN RIGHTS COMMISSION**

**“INTERNATIONAL CHILD ABDUCTION AND PARENTAL ACCESS”**

**December 2, 2009**

Distinguished Members of the Commission, as President of the National Center for Missing & Exploited Children (NCMEC) and its sister organization, the International Centre for Missing & Exploited Children (ICMEC), I thank you for this opportunity to appear before you to discuss the issue of international child abduction and how we can continue to strengthen international cooperation in this arena. Chairman Wolf and Chairman McGovern, I commend you and your colleagues for being tireless advocates for children, for your leadership and initiative, and for bringing us together today to discuss what more we can do to protect our children.

As you know, the National Center for Missing & Exploited Children is a not-for-profit corporation, mandated by Congress and working in partnership with the U.S. Department of Justice. NCMEC is a true public-private partnership, funded in part by Congress and in part by the private sector. For 25 years, NCMEC has operated under Congressional mandate to serve as the national resource center and clearinghouse on missing and exploited children.

For 11 years the International Center for Missing & Exploited Children has worked to increase the global awareness of these issues. At the launch of ICMEC in 1998, then-First Lady Hillary Clinton declared that international parental abductions are not just disputes about the law, they are matters of human rights. We applaud now-Secretary of State Clinton for her insight and for her advocacy on what we agree is a human rights issue. We're confident that under her leadership we will see real progress in these cases.

ICMEC's international policy work and affiliations help raise the awareness of policy-makers, law enforcement, and parents worldwide. In its affiliation with the Permanent Bureau of the Hague Conference on Private International Law (Permanent Bureau) ICMEC has supported the following efforts:

- more consistent and uniform implementation of the Hague Convention on the Civil Aspects of International Child Abduction (the Hague Convention);
- Good Practice Guides to advise countries on how best to organize their judiciary and systems that deal with international child abduction in order to best fulfill their obligations under the Hague Convention and the goal of the swift return of abducted children;

- cooperation among countries that have signed the Hague Convention and those that have not; and
- a Legal Training Institute to educate judges on the unique legal concepts necessary to resolve these complex international disputes.

NCMEC's statutory authorization (see 42 U.S.C. §5773) includes 19 specific operational functions authorized by Congress, among which are:

- operating a national 24-hour toll-free hotline, 1-800-THE-LOST® (1-800-843-5678), to intake reports of missing children and receive leads about ongoing cases;
- coordinating public and private programs that locate, recover, or reunite missing children with their families;
- providing technical assistance and training to individuals and law enforcement agencies in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children;
- providing assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and, in cooperation with the Department of State, internationally;
- tracking the incidence of attempted child abductions;
- providing forensic technical assistance to law enforcement;
- facilitating the deployment of the National Emergency Child Locator Center during periods of national disasters;
- working with law enforcement and the private sector to reduce the distribution of child pornography over the Internet;
- operating a child victim identification program to assist law enforcement in identifying victims of child pornography;
- developing and disseminating programs and information about Internet safety and the prevention of child abduction and sexual exploitation;
- providing technical assistance and training to law enforcement in identifying and locating non-compliant sex offenders; and
- operating the CyberTipline, the "9-1-1 for the Internet," that the public and electronic service providers may use to report Internet-related child sexual exploitation.

NCMEC's 24-hour toll-free hotline, 1-800-THE-LOST, is our longest running program. We intake reports of missing children and assign the cases to NCMEC Case Managers who work the cases, coordinating with law enforcement in an effort to recover the missing child. From 1995 through 2008, per a cooperative agreement with the Departments of State and Justice, NCMEC handled cases in which a child was wrongfully brought into the United States and subject to the Hague Convention. While NCMEC no longer serves this role, we continue to provide legal technical assistance to attorneys and judges handling international child abduction cases as well as technical assistance and resources to parents, law enforcement, and professionals involved in these matters.

We believe that parents and law enforcement should have all available tools to prevent a child from being abducted. We provide training to law enforcement on issues related to abductions as well as abduction-in-progress situations. We advise parents who believe that their children might be at risk of abduction to obtain a valid custody order, at least naming them as the primary residential custodian. We suggest that parents consider seeking the assistance of a mediator who may help parents develop workable cross-cultural, child-rearing strategies. Finally, NCMEC suggests that parents inquire about the Department of State's Passport Alert system.

Just how big is this problem?

According to the latest research from the Department of Justice, there are more than 200,000 family abductions per year. In these situations, a non-custodial relative abducts a child from his or her custodial parent. This is a crime under both state and federal law. Family-abducted children suffer extreme emotional abuse, ranging from lack of identity to grief over the loss of a parent. In many instances the abductor tells the child that the left-behind-parent is dead or no longer wants the child. Abductors frequently move the child from city to city, or take the child to another country, making it difficult for law enforcement and the searching parent to locate and recover the child.

To help illustrate the scope of the problem of international child abduction, I'd like to share some additional statistics with you. NCMEC is currently working cases involving 1,214 children who were abducted by a non-custodial parent from the United States to a foreign country. The majority of these children were taken to the following countries: Mexico (533 children); Japan (54 children); India (32 children); Egypt (30 children); the United Kingdom (24 children); and Canada (23 children).

While the United States has made some notable strides – including signing reciprocal agreements with 68 Hague signatory countries – the current situation is not acceptable. This is a significant problem affecting United States citizens *right now* and as such it should be taken seriously at the highest levels of the Administration.

NCMEC and ICMEC are committed to doing what we can to fight for improvements in our global response to international abduction cases. These cases can present even greater complexities than domestic abduction cases because law enforcement and government officials are often dealing with a plurality of ethnicities, religions and ideas. However, decades of work have established a firm foundation that offers hope for continued progress.

I would like to highlight some recommendations for what we can do to build upon existing efforts:

First, we must continue to encourage those countries that have not yet done so to ratify the Hague Convention. Every time a government's leadership changes, we have an opportunity to try to encourage the new leaders to ratify the Hague Convention. For example, it is my sincere hope that the newly-elected government in Japan will join the Hague Convention as a full and energetic partner as soon as possible. In an effort to encourage Japan's ratification, ICMEC's Senior Policy Director met with Japanese government officials in June of this year.

By ratifying the Hague Convention, a country can show the world that it recognizes the severity of these crimes and is amenable to cooperating with other nations in an effort to quickly resolve these cases.

Second, we must hold all signatory countries to the standards and obligations of the Hague Convention. Despite the expectations that accompany ratification, some countries have not fulfilled the obligations or met the standards expected of signatories. The Good Practice Guides provide invaluable assistance to Hague countries seeking to improve their handling of these cases. One of the Guide's recommendations is for signatory countries to dedicate a subset of judges to review Hague petitions. Consolidating this authority will create a group of experienced judges who are well-equipped to handle these complex cases.

In addition, Good Practice Reports can help monitor implementation and track results. A valuable tool in global efforts would be an annual review of Hague compliance in all signatory countries. Having an

accurate measurement would enable us to identify problem areas and better target and coordinate our efforts.

Third, we should encourage countries who are not Hague signatories to adopt policies consistent with those outlined in the Hague Convention. In an ideal world all 194 countries in the world would ratify the Hague Convention. Of course, the reality is that not all countries will do so. However, even if a country chooses not to ratify the Hague Convention, we should engage and educate them on the benefits of Hague-consistent policies, such as the Malta Process to improve resolution of child abduction cases in Islamic countries. The biggest obstacle are policies that permit repeated delays in the judicial process, resulting in further harm to the child and complicating both the process and the final determination. Time is the enemy – the best interest of the child is not served by unwarranted and unnecessary delays in resolving these cases.

Fourth, we should educate all judges – both in the U.S. and internationally - about their responsibilities under the Hague Convention. This training should focus on how swift resolution of these cases best serves the child victims. Further, we should encourage dialogue among all judges who handle these cases, providing opportunities for both informal exchanges of ideas and more formal international judicial conferences. The cooperation and communication fostered by such discussions helps all child victims of international abduction.

Fifth, we can play an important role in encouraging other countries to return abducted American children by reciprocating when their children are abducted into the United States. As we seek to find the best ways to resolve abductions involving American children who are taken abroad, we must be equally vigilant in resolving cases in which children are abducted from another country and brought into the United States. To better fulfill this responsibility, we should educate U.S. state and local law enforcement about the issue of international child abduction and the obligations of the United States under the Hague Convention.

Finally, I believe we should amend the federal definition of ‘missing child’ that was established by the Missing Children’s Assistance Act of 1984 and codified at 42 U.S.C. §5772. In parental abduction cases, law enforcement may be hesitant to classify the child as ‘missing’ since the child does not technically fit within the current federal definition of ‘missing child’: a child whose whereabouts are unknown to the child’s legal custodian. Parental abduction cases are unique -- the left-behind parent

may know the exact whereabouts of the 'missing' child but is unable to bring the child home. This problem can be solved by adding the description "or who was removed from the control of such individual's legal custodian in violation of law or judicial order" to the federal definition of 'missing child.' This not only reinforces law enforcement's jurisdiction over these criminal cases, it also ensures that they will be given the same resources and support as non-family abductions. In addition, clarifying the definition of 'missing child' to include family-abducted children ensures that law enforcement will enter these cases into the FBI's National Crime Information Center (NCIC) database. NCIC entry of these children is critical to ensuring that law enforcement resources are dedicated to these abductions. Approximately one-third of NCMEC's current international abductions have not been entered into NCIC.

Members of the Commission, I do not come before you today with a quick, easy solution to the problem of international child abduction. However, I can unequivocally state that no country is immune from this problem, and it will take a concerted effort from all parties to ensure that the world's children are protected. It is critical that the United States continue to improve our response to international child abduction so that we are able to serve as a model for other countries. We are encouraged by the Department of State's improvements to build capacity to handle these cases. The United States plays an important role in the world community. Once we ensure that our own house is in order – that our law enforcement officers and judges consistently apply the policies and best practices of the Hague Convention – we can stand on the world stage and bring others to the table for the benefit of all children.

We must act, for the children of the United States and for the children of the world.

Thank you.