

## 7 FAM 1730 CHILD EXPLOITATION

*(CT:CON-102; 02-27-2005)*  
*(Office of Origin: CA/OCS/PRI)*

### 7 FAM 1731 GENERAL POLICY

*(CT:CON-102; 02-27-2005)*

The United States Government strongly opposes the exploitation of minors in any form. The U.S. Department of State has a history of leadership in the international arena combating exploitation. The consular role in this fight against child exploitation is twofold – **first**, and foremost, to locate and protect U.S. citizen/national children abroad who are victims of exploitation or are in danger of becoming victims of exploitation, and **second**, to contribute any information on child exploitation in general that comes to your attention in the performance of your official duties, through appropriate reporting channels.

**Note:** Child exploitation is often indistinguishable from child abuse. For example, the use of children for the purposes of pornography or prostitution is, by definition, also sexual abuse. For this reason, the specific consular activities outlined in 7 FAM 1720 (Child Abuse and Neglect) apply in almost every case of child exploitation.

### 7 FAM 1732 DEFINITIONS

*(CT:CON-102; 02-27-2005)*

**Child.** Any person under the age of 18.

**Exploitation.** Exploitation can be defined as the act of involving a child for economic or other reasons in criminal activities. Exploitation may take place at the hands of parents, neighbors, schoolmates, cults, employers, etc.

**Sexual Exploitation.** This is generally defined as coercing or otherwise involving a child to participate in a sexual act for commercial gain. The two most common examples are pornography and prostitution.

**Exploitation for Fraudulent Purposes.** This involves coercing or

otherwise compelling a child to engage in activities that aid or abet the commission of fraud or of another crime. Examples could include begging, a pickpocket using a child as a distraction, a thief or burglar using a child as a lookout, etc.

## 7 FAM 1733 AUTHORITIES

*(CT:CON-102; 02-27-2005)*

The authority for protection of minors and prosecution of persons engaged in child exploitation is derived from a variety of treaties, laws and regulations.

### (1) **TREATIES**

- (a) Vienna Convention on Consular Relations (VCCR). Article 5(h) and of the VCCR provides that consular functions include protection of the interests of minors of the sending State.

#### **Article 5(h) Vienna Convention on Consular Relations**

##### **Consular functions include ...**

“(h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the **interests of minors** and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons.”

Article 37 of the VCCR concerns host country responsibilities in the event appointment of a guardian or trustee of a minor or other person lacking full capacity may be necessary.

#### **Article 37 VCCR**

“If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

- (b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments.”

- (b) United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United National Convention against Transnational Organized Crime. See also Summary of the Protocol. For a list of signatories and ratifying countries see the U.N. status page. (NOTE: The United States has signed, but **not yet** ratified this Protocol.)

- (2) **U.S. LAWS AND REGULATIONS: 18 U.S.C. 2423 – Transportation of Minors.** The "Violent Crime Control and Law Enforcement Act of 1994", as amended by the PROTECT Act of 2003, makes it a violation of U.S. law for a U.S. citizen to travel abroad in order to have sex with a minor (a person under the age of 18). This has been codified at 18 U.S.C. 2423(b). 18 U.S.C. 2423(c) further makes it a crime for a U.S. citizen or legal permanent resident alien to engage in illicit sexual conduct with a person under the age of 18 in a foreign country, regardless of whether there was intent. 18 U.S.C. 2423(c) makes it easier to prosecute a defendant who engages in illicit sexual conduct with a person abroad since a prosecutor no longer has to prove the defendant's intent to travel abroad for the purposes of engaging in illicit sexual acts. In another major change, the penalty for those convicted under the PROTECT Act has been doubled, with individuals now facing a maximum sentence of 30 years for each offense. A victim as defined in 18 U.S.C. 2423(b) is a person under the age of 18 years of age. Illicit sexual conduct, as defined in 18 U.S.C. 2423(f), means (1) a sexual act as defined in 18 U.S.C. 2246 with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act.

**18 U.S.C. 2423 is not yet available electronically, and so is reprinted here.**

Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 117. Transportation for Illegal Sexual Activity and Related Crimes

§ 2423. Transportation of minors

(a) Transportation with intent to engage in criminal sexual activity.-  
-A person who knowingly transports an individual who has not

attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title and imprisoned not less than 5 years and not more than 30 years.

(b) Travel with intent to engage in illicit sexual conduct.--A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(c) Engaging in illicit sexual conduct in foreign places.--Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(d) Ancillary offenses.--Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

(e) Attempt and conspiracy.--Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) Definition.--As used in this section, the term "illicit sexual conduct" means (1) a sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person under 18 years of age.

(g) Defense.--In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years."

## **7 FAM 1734 FEDERAL AND INTERNATIONAL AGENCIES AND ORGANIZATIONS COMBATING CHILD EXPLOITATION**

*(CT:CON-102; 02-27-2005)*

There are a wide range of government entities and private organizations and interests that play an important role in attempting to halt the exploitation of children. They include, but are not limited to:

### **a. U.S. Department Of State**

- (1) **Bureau of Consular Affairs (CA):** Office of American Citizens Services and Crisis Management, Directorate of Overseas Citizens Services, Bureau of Consular Affairs (CA/OCS/ACS). This office has the lead in dealing with individual cases of child exploitation involving private U.S. citizens/nationals. CA/OCS/CI, the Office of Children's Issues, is responsible for international parental child abduction and international adoption. While the issues sometimes overlap, CA/OCS/ACS has primary responsible for this issue in Consular Affairs.
- (2) **Bureau of Diplomatic Security (DS):** Regional security officers (RSOs) provide investigative support and liaising with host government police authorities in coordination with the Department of Homeland Security, Bureau of Immigration and Customs Enforcement (ICE). RSOs promptly report to DS/DSS/IP (Diplomatic Security Service, International Programs) and DS/CR/CIL (Criminal Investigations Division, Criminal Investigations Liaison Branch) any requests for assistance on Protect Act investigations. RSOs are notified by post consular sections of any U.S. citizen arrests by local authorities on possible PROTECT Act violations. RSOs subsequently advise DS/CR/CIL via email of those incidents for tracking purposes with ICE. See ICE Operation Predator.
- (3) **Under Secretary for Global Affairs, Office to Monitor and Combat Trafficking in Persons (G/TIP)** has the lead role in monitoring the patterns and trends in international trafficking of persons for sexual and labor purposes, regardless of nationality. The G/TIP office compiles the Department's annual Trafficking in Persons Report.

### **b. Department of Homeland Security, Bureau of Immigration and Customs Enforcement (ICE):** ICE is the lead federal agency

investigating cases related to child sex tourism and pornography, alien smuggling and human trafficking. See ICE Operation Predator.

c. **U.S. Department Of Justice**

(1) **Criminal Division, Child Exploitation and Obscenity Section (CEOS)** prosecutes those who possess, manufacture, or distribute child pornography; those who sell, buy, or transport women and children interstate or internationally to engage in sexually explicit conduct; those who travel interstate or internationally to sexually abuse children; those who abuse children on federal and Indian lands; those who do not pay certain court ordered child support payments; those who transport obscene materials in interstate or foreign commerce; and international parental abduction. CEOS also works with the Department of Homeland Security, **Bureau of Immigration and Customs Enforcement (ICE)** and the United States Postal Inspection Service in dealing with the trafficking of child pornography through the use of computers and the mails.

d. **Federal Bureau of Investigation**

(1) **FBI Crimes Against Children Program (CAC):** The FBI's CAC program responds to all incidences of crimes against children using multi-disciplinary and multi-agency resource teams to investigate and prosecute crimes that cross legal, geographical, and jurisdictional boundaries. These investigations include violations of Federal statutes relating to kidnappings, such as child abductions and domestic and international parental kidnappings; sexual exploitation of children; interstate transportation of obscene material; physical/sexual abuse of a child on a government reservation; and National Sex Offender Registry matters.

(2) **FBI Innocent Images National Initiative (IINI):** An FBI program, IINI investigates online child pornography/child sexual exploitation violations. The IINI enforces statutes involving possession, production, and/or distribution of child pornography facilitated by an online computer; interstate travel for sexual activity with a minor facilitated by the use of an online computer; and sexual exploitation of children facilitated by an online computer.

## **7 FAM 1735 INTERNATIONAL ORGANIZATIONS COMBATting CHILD EXPLOITATION**

*(CT:CON-102; 02-27-2005)*

There are a wide variety of international organizations working to combat exploitation of children. Among the many such organizations, a few are highlighted here.

- (1) **INTERPOL:** The General-Secretariat of Interpol established a Standing Working Party (SWP) in 1991 to bring together law enforcement experts in child exploitation from the member countries in an effort to coordinate investigations of child abuse, child pornography, sex tourism and trafficking in children for sexual purposes. The SWP meets twice a year and has produced numerous recommendations for best practices in combating child exploitation which have been adopted by the General-Secretariat. In addition, the SWP has produced an investigator's manual for child exploitation investigations. See Interpol: Children and Human Trafficking and Interpol: Crimes Against Children.
- (2) International Association of Prosecutors (IAP): DOJ/CRIM/CEOS (Criminal Division, Child Exploitation and Obscenity Section) has been a prominent participant in the International Association of Prosecutors efforts to establish best practices and guidelines for the protection of children. For example, CEOS chaired an IAP group that developed guidelines for protecting children from exploitation via the Internet. In addition, CEOS focuses on the trafficking in women and United States efforts to combat this problem, as well as the international legal standards to combat trafficking in persons.
- (3) National Center for Missing and Exploited Children (NCMEC). In 1996 the U.S. Congress established the Exploited Child Unit (ECU) within the National Center for Missing & Exploited Children (NCMEC). The ECU serves as a resource center for the public, parents, law enforcement, and others about the issues surrounding the sexual exploitation of children. See NCMEC Child Sexual Exploitation; Cybertip Line: Your Resource for Reporting Sexual Exploitation of Children.
- (4) **Organization to End Child Prostitution, Child Pornography and the Sexual Exploitation of Children (ECPAT).** ECPAT is a nongovernmental organization working against commercial sexual exploitation of children. It encourages the world community to

ensure that children everywhere enjoy their fundamental rights free from all forms of commercial sexual exploitation. See ECPAT Child Sex Tourism and What you Should Know About Sex Tourism Before You Go Abroad.

## **7 FAM 1736 CONSULAR ACTIONS IN CHILD EXPLOITATION CASES**

*(CT:CON-102; 02-27-2005)*

CA/OCS and posts abroad have growing experience with child exploitation involving U.S. citizen/national victims and perpetrators, including the use of the Internet to lure minors abroad and then subject them to sexual exploitation. We have also seen cases of U.S. citizens/nationals residing abroad placing photographs of their own children on the Internet on pornography sites. In addition, we are aware of reports of groups of U.S. citizens/nationals abroad using their children as a source of income for the group through pornography and/or child prostitution.

### **7 FAM 1736.1 U.S. CITIZEN/NATIONAL VICTIMS OF CHILD EXPLOITATION**

*(CT:CON-102; 02-27-2005)*

In most, but not all, instances of child exploitation, the circumstances generally permit a consultation with CA/OCS/ACS before taking any specific action. This does not preclude you, as the consular officer, from taking appropriate action immediately if you believe the circumstances pose an imminent danger to the child's health or safety. Except in a situation involving imminent danger, a consular officer who learns that a U.S. citizen/national child is possibly being exploited should take the following actions:

- (1) **Ascertain Status:** Confirm through post records or other means whether the child is, in fact, U.S. citizen/national. (If the child is a member of the official U.S. Embassy/Consulate community, see 3 FAM 1810 Family Advocacy Program. If not, take the following steps.
- (2) **Report To Department:** Prepare an immediate cable to CA/OCS/ACS, and include as much factual information as possible. Use CASC tags. Include:
  - (a) Full name, date and place of birth (DPOB) of child;



- (b) Passport record or other citizenship information;
  - (c) Names, DPOB's and citizenship of parents or guardians;
  - (d) Name, DPOB and citizenship of the alleged exploiter if he or she is not a parent or guardian;
  - (e) Source of allegations of exploitation;
  - (f) Brief description of the alleged exploitation;
  - (g) Indicate whether the case involves a single American child only, or an American child in a group of non-citizen children also being exploited. If a group, include G/TIP as an action addressee; and
  - (h) Current information on social services and child protective services available to nationals and foreigners in the host country.
- (4) **Recommend Action:** In the same or a follow-up cable, recommend possible courses of action based on your knowledge of the case and your experience with local officials, etc. Your proposed actions should include a recommended timetable, and could include:
- (a) Performing a welfare/whereabouts check at the child's home, school, or worksite;
  - (b) Informing the appropriate local authorities, such as social workers, labor officials, medical personnel, and law enforcement agencies of the allegations; and
  - (c) Obtaining all possible documentation of the exploitation such as statements from persons who have observed the abuse or injury to the child, police reports, medical records, etc.
- (5) **Take Privacy Considerations Into Account:** Because of the sensational aspects of such cases and privacy concerns, do not take action without Department approval except in cases where the child's health or safety is in imminent danger. See 7 FAM 060 regarding the Privacy Act.
- (6) **Take Approved Action:** Take the action approved by the Department, closely monitoring the situation and reporting all developments to the Department CA/OCS/ACS.

## **7 FAM 1736.2 U.S. CITIZEN/NATIONAL ALLEGED PERPETRATORS OF CHILD EXPLOITATION**

*(CT:CON-102; 02-27-2005)*

Consular officers should be especially alert to individuals in their district who may have violated U.S. laws prohibiting the exploitation of children. If you have information that a U.S. citizen/national or legal permanent resident violated or may have possibly violated the foregoing sections of the U.S. Code concerning the exploitation of minors, you should provide this information immediately to the regional security officer (RSO).

## **7 FAM 1736.3 PRIVACY ACT AND CHILD EXPLOITATION**

*(CT:CON-102; 02-27-2005)*

- a. A Department of State Privacy Act's "routine use" permits consular officers to release information to law enforcement officials, whether foreign, federal, state or local, where there is reason to believe that the information relates to a U.S. citizen/national's commission or suspected commission of a crime. You should provide such information immediately to the RSO who will take the necessary measures to ensure that the proper law enforcement officials are notified. You may also disseminate such information to DS based on the Act's intra-agency condition of disclosure. See 7 FAM 060 for additional information about the Privacy Act and American Citizens Services (ACS) work. See also STATE-05 on the Department of State Internet page for conditions of disclosure for ACS work.
- b. You are not required to, nor should you, comb through your files in search of individuals who may or may not have violated or potentially violated U.S. law.
- c. Consular officers may also release Privacy Act protected information to foreign, Federal, state, or local law enforcement authorities who set forth in writing that the information is needed to investigate or prosecute an individual for a violation or potential violation of the law and that there is reason to believe that the individual has violated the law. In the case of foreign authorities, the release is authorized by the routine use described in 7 FAM 1736.3(a). In the case of Federal, state, or local law enforcement authorities the release is authorized by the "law enforcement" exception to non-disclosure. Consular officers should keep records of all disclosures, (see 7 FAM 060).

- d. Questions regarding the Privacy Act may be addressed to CA/OCS/PRI at ASKPRI@state.gov or by cable. PRI is the component of CA/OCS responsible for Privacy Act issues. You may also consult your country officer in CA/OCS/ACS.

## **7 FAM 1737 COMBATING SEXUAL TOURISM**

### **7 FAM 1737.1 REPORTING SEX TOURISM**

*(CT:CON-102; 02-27-2005)*

If you become aware of any organized sex trade involving children and foreign visitors, address a reporting cable with the significant details to CA/OCS/ACS. Include CASC, CJAN, KCRM and ASEC tags. You should also alert the RSO.

### **7 FAM 1737.2 CONSULAR INFORMATION SHEET**

*(CT:CON-102; 02-27-2005)*

Work with CA/OCS to determine the advisability of entering an appropriate caution in the Consular Information Sheet for your post,(see 7 FAM 050). Language could include:

- (1) The fact that traveling abroad with the intent of engaging in sex with a minor is against U.S. law, and can result in extradition to, or arrest upon return to, the United States;
- (2) The fact that it is against local law, if this is the case, and the probable penalties;
- (3) Any heightened possibility of sexually transmitted diseases; and
- (4) Any history of assaults, robberies, or blackmail associated with sex tours.

### **7 FAM 1737.3 Department Publications and Other Sources of Information**

*(CT:CON-102; 02-27-2005)*

There are a variety of Department of State publications concerning child exploitation, including:

- Brochure – To End Child Sex Tourism: Fighting Trafficking in Persons (September 2, 2004)
- Fact Sheet – Ending Child Sex Tourism: Fighting Trafficking in Persons (September 2, 2004)
- Fact Sheet - The Optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (December 24, 2002)
- Be Smart, Be Safe (January 2001)

**See also the Department of State Internet home pages for:**

- Consular Affairs, Child Protection Services
- Global Affairs, Office to Monitor and Combat Trafficking in Persons

**7 FAM 1738 THROUGH 1739 UNASSIGNED**