

# 7 FAM 1770

## RETURN OF CHILDREN

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

### 7 FAM 1771 INTRODUCTION

#### 7 FAM 1771.1 Summary

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

Consistent with Articles 5 (h) and 37 (b) of the Vienna Convention On Consular Relations and Department guidelines, consular officers have a special responsibility to protect the interests of minors. This responsibility comes into sharp relief in the case of children who are returning to the United States after having been abducted/wrongfully retained by a parent, kidnapped by a non-parent, abandoned and/or abused, or who are runaways. The Department takes this responsibility extremely seriously, recognizing that the children involved have almost always been subjected to a traumatic experience, are emotionally very vulnerable, and need compassionate and careful -- and often expeditious -- attention. As a result, at diplomatic and consular missions abroad consular managers have the lead among all mission elements to do everything lawfully possible to provide support and assistance to returning children. This subchapter outlines the critical issues that consular managers should take into account when helping a minor U.S. citizens/nationals return to the United States. 7 FAM 180 provides guidance on the granting of temporary emergency protection.

#### **Article 5(h) of the VCCR provides that consular functions include ...**

"Safeguarding ... 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(b) of the VCCR generally requires the ...**

"Competent authorities of the receiving state" (i.e., the country in which a foreign national is found) "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."

**Article 24 of the International Covenant on Civil and Political Rights of 1966, to which the United States more than 140 countries are parties, provides that ...**

“Every child shall have ... the right to such measures of protection as required by his status as a minor, on the part of his family, the society and the state.”

## **7 FAM 1771.2 Whom To Contact In CA/OCS**

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

Given the issues and procedures involved in coordinating the child’s return, various offices in CA/OCS will work with post to return a child to the United States, with either CA/OCS/ACS or CA/OCS/CI taking the lead depending on the circumstances of the child’s presence in the foreign country. CA/OCS/CI takes the lead in cases involving the return of a child who was abducted or wrongfully retained abroad by a parent. CA/OCS/ACS takes the lead in cases involving abandoned, abused, runaway, or kidnapped (non-parental) U.S. citizen/national minors. Many cases require close coordination between CI, ACS and often include CA/OCS/PRI and L/CA, which provide support and guidance from attorneys and Victims Assistance Specialists.

## **7 FAM 1771.3 Checklist**

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

There are many issues that may arise in the context of a minor U.S. citizen/national’s possible return to the United States. Very often, these cases involve children who are the victims of an international parental child abduction, or who were abandoned abroad by their parent(s). The following checklist (7 FAM 1772-1779) is designed to help you address such cases, working in consultation with CA/OCS and other offices on specific steps as necessary. This is intended to be a useful but not all-inclusive checklist of issues that consular officers should consider when returning a U.S. citizen/national minor to the United States.

## **7 FAM 1772 HAND-OVER OF THE CHILD TO CUSTODIAL PARENT OR OTHER CUSTODIAL ADULT**

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

Who will be present? Will the custodial parent travel to the host country and, if so, will local authorities recognize his/her custody rights? If the custodial parent is not present, is there someone in country, authorized (under the host country's laws) to take charge of the child? Consular officers cannot take legal custody of a child, but should be present when the child is turned over to another person, to monitor the act and the child's welfare. In many countries, the host government's social services authorities will be involved and their assistance will be essential for coordinating the child(ren)'s return. In countries where social services either do not exist or do not offer protection to foreigners, post should consult immediately with CA/OCS on ways to best ensure the child's protection until the child can be handed over to a custodial parent or other appropriate adult.

## **7 FAM 1773 SOCIAL SERVICES/TRANSITION**

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

If the child has not seen the custodial parent for some time, does not speak the custodial parent's language, or might be upset by events, is there someone from host country social or child services that can be present to help the child understand what is happening?

## **7 FAM 1774 TRAVEL AND VICTIMS' ASSISTANCE FUNDS**

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

Has a custodial parent or relative in the United States already purchased a ticket or made funds available for the child's travel? Does the child require an OCS/Trust or repatriation loan? Repatriation funding may also be available through victims' assistance funds (including state and federal programs, such as the FBI's Crime Victims' Assistance program) or from non-governmental organizations. CA/OCS, through its Victims' Assistance Specialists, will assist the post to access victims assistance funding, when appropriate. See 7 FAM 1900 Crime Victim Assistance.

## **7 FAM 1775 PASSPORTS, VISAS, PAROLE, EXIT PERMITS**

## **7 FAM 1775.1 Passports**

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

If the child is a U.S. citizen/national, does he/she have a valid U.S. passport? If not, has the parent or guardian been advised about how to apply for the child's passport? Has a passport application been completed in advance? Keep in mind that many return cases are time sensitive in nature and may require immediate action. In exigent circumstances, Department regulations authorize consular officers to issue passports to children under age 14 even in the absence of the application signatures by the child's custodial parents and/or documentary support normally required. Whenever possible, post should consult with CA/OCS/ACS for guidance if it relies or intends to rely on exceptions to the two-parent signature requirement. See 7 FAM 1300 Passport Services.

## **7 FAM 1775.2 Visas/Parole**

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

In some exceptional cases, a child may not be a U.S. citizen/national. In such instances, is the child properly documented for entry into the United States? CA/OCS will work with CA/VO/F/P to assist post in identifying appropriate options in such cases.

## **7 FAM 1775.3 Exit Permits**

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

In countries where exit permits or other permission is required before the child and/or custodial parent can depart, have the necessary permits been granted? If not, in consultation with the Department and as needed, post should approach the host government for assistance in obtaining permits, stamps, or waivers.

## **7 FAM 1776 EVIDENCE OF ABUSE**

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

Abuse of U.S. citizen/national children is a matter of grave concern. 7 FAM 1720 (Child Abuse), 7 FAM 1730 (Child Exploitation), 7 FAM 1932.4 (Crime Victim Assistance), 3 FAM 1810 Family Advocacy Program (Child Abuse, Child Neglect and Domestic Violence), the CA/OCS Intranet Crime Victim Assistance Resource Notebook Child Abuse Guidelines, Background and

Referrals and other Department guidance address the consular officer's role in assisting U.S. citizen/national children when allegations of abuse are present. Documenting the alleged abuse to the extent possible may be essential to gaining the assistance of host government officials in facilitating the return of American children. For example, if time permits, post may consider asking third parties who might have first-hand knowledge of the child's circumstances (family members, neighbors, teachers, etc.) whether they have information relevant to abuse allegations. Information about the abuse of a child is sensitive and is shared by the Department on a strictly need-to-know basis with third parties, subject always to the Privacy Act and other potentially applicable protections. Normally, it is appropriate to share allegations of abuse with host government officials if necessary to seek their assistance in protecting the child and/or returning the child to the United States. Whenever possible, posts should consult closely with the Department in such circumstances.

## **7 FAM 1777 TRAVEL, TRANSPORT AND TRANSIT**

### **7 FAM 1777.1 Escorts**

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

If the custodial parent or guardian will not travel to the host country to assume custody and escort the child back to the United States, who will accompany the returning child? Where no appropriate private individual known to the child or assigned by the host government is available, a consular officer should accompany the child to the United States, in recognition of the special consular responsibility for the protection of minors. Consular officers may not delegate this responsibility to other mission offices. If necessary, CA/EX, in consultation with CA/OCS, will provide funds for escort travel by a consular officer. If a consular officer cannot accompany the child, consider whether it would be appropriate to send a consular associate or an American consular assistant. In the rare case in which no consular escort is possible, the post should inform CA/OCS and seek guidance.

### **7 FAM 1777.2 Transit Arrangements**

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

Once travel plans are confirmed, notify the Embassy or Consulate in every transit country of the child's itinerary. Where appropriate, CA/OCS will ask

the transit country post(s) to coordinate with local authorities to ensure the child's transit goes smoothly. When returning children are old enough and able to travel alone, transit posts should be prepared to meet the child upon arrival, assist him or her in the transit process, and confirm the child's onward travel.

## **7 FAM 1777.3 Take-Away Kits**

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

Children who return suddenly to the United States may have no or few personal possessions with them. Posts should consider putting together a "take-away" kit of toiletry samples, age-appropriate books, playing cards, snacks, and other suitable items to give to the child for the trip.

## **7 FAM 1778 ARRIVAL IN THE UNITED STATES**

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

- a. **Port of Entry:** Post should work with the lead office in CA/OCS to coordinate the child's arrival with the relevant Port of Entry (POE). Children who have been reported missing by law enforcement authorities will appear in the National Criminal Information Center database, and may also be the subject of Interpol notices. Coordinating with the POE in advance of the child's arrival will help avoid delays and other difficulties upon the child's re-entry into the United States.
- b. **Child Protective/Social Services:** Have arrangements been made for a representative from local (U.S.) child protective services or social services to meet the child upon arrival, if appropriate? If the child is being returned to his/her parent(s) after a long or traumatic separation, CA/OCS can work through the National Center for Missing and Exploited Children (NCMEC), the National Children's Alliance, National Foundation for Abused and Neglected Children or local victims' assistance and Children's Advocacy Centers to arrange for a reunification expert to assist the parent and child to re-establish their relationship. These services can be more extensive than the repatriation reception and resettlement typical in repatriation cases. See 7 FAM 300 Financial and Medical Assistance.

## **7 FAM 1779 PRESS/PUBLIC STATEMENTS**

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

Post should consult with CA/OCS and CA/P when developing press guidance or other public statements. In some instances, post may decide in consultation with CA that all media inquiries will be referred to the Department.