

**Statement for the Record of**

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**For the Tom Lantos Human Rights Commission Hearing on The Rights of Parents and Children:  
How to Better IPCA Preventative Measures**

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## **Introduction**

To the esteemed members of the Tom Lantos Human Rights Commission, we write this letter concerning the prevention of international parental child abduction (IPCA). Each year thousands of minor U.S. citizens are wrongfully removed from the only home they have ever known and taken to a different country, depriving them of the support of the left-behind parent, family members and friends and alienating them from the only culture with which they are familiar. We firmly believe that all children have the right to be protected from wrongful removal from their home and further that all left-behind parents have the right to be with their child in accordance with United State's law.

We furthermore believe that combating the epidemic of IPCA begins right here in the United States via the prevention of the child's abduction before the removing parent has the opportunity to take said child to a foreign nation thus greatly increasing the difficulty of returning the child to the left behind parent. Proactivity has been lacking to this point in the battle against IPCA where retroactive attempts to return the child have been the focus of U.S. policy. It is now, on the verge of the world reopening from the Covid-19 Pandemic that the U.S. has an opportunity to prevent a surge of abductions and to make lasting change toward the prevention of IPCA.

For these reasons, we have endeavoured to study the ways in which children have most commonly been wrongfully removed from the U.S. by a parent or guardian and to present potential solutions aimed at reducing the effectiveness of these abduction tactics. Our research was thus conducted in a twofold manner: (1) to identify how taking parents are able to board international flights and bypass current security measures aimed at preventing IPCA and (2) to pinpoint potential solutions and understand the effectiveness of said solutions. It should be noted that some of the assertions are anecdotal due to a fundamental lack of evidence as a result of the fairly limited amount of high level research and literature available concerning International Parental Child Abduction.

## **Prevention Problems**

Air travel has long been one of the most common methods used by taking-parents to remove a child to a foreign nation. Air travel allows for a connected global community, but it also greatly increases the risk of parental abduction to foreign nations and makes the process of IPCA fairly simple for the taking parent. We believe that airlines should be required to take a more proactive stance in preventing IPCA. For this reason, the focus of our research regarding IPCA prevention is centered around air travel and preventing abductions prior to the taking parent and abducted child boarding an international flight as well as negative and positive incentives for airlines and Transport Security Administration to comply with policy suggestions. We have found numerous problem areas ripe for potential policy solutions such as accountability, training, and documentation requirements all of which we believe can be addressed to greatly decrease the likelihood of an IPCA occurrence.

Airline accountability for IPCA is fairly nonexistent. Examinations of case law regarding left-behind parents who have brought lawsuits against airlines they believed were complicit in their

child's abduction have yielded no results even when a jury of their peers has found the airline guilty. One pertinent example is the case of *Pittman v. Grayson*<sup>1</sup> in which the plaintiff, Frederick Pittman, whose daughter had been wrongfully removed to Iceland by the girl's mother alleged that Icelandair had been complicit in her abduction. The jury at the district level agreed with Mr. Pittman in finding Icelandair guilty, but a circuit appeals court dismissed the case on the grounds that the airline could not have had enough warning to be considered an aider and abettor despite numerous calls from Frederick Pittman warning of his daughters imminent abduction. Typically the courts will shield airlines behind the Airline Deregulation Act to dismiss any case regarding an abduction under the law's stipulation that no state can make rules governing airline pricing and ticket requirements. They state that any attempt to allege that an airline was complicit in the abduction is null based on the fact that this implies some interference in the process of ticket distribution by prohibiting certain passengers from purchasing tickets. This court precedent is evident in rulings such as in the case of *Bower v. Egyptair*<sup>2</sup> in which the case was dismissed almost immediately on the grounds that any ruling in the case would be overreach according to the Airline Deregulation Act. These cases and others demonstrate the need for an examination of requirements that can be implemented for airlines to safeguard minor passengers traveling with only one parent and encourage compliance with said regulations.

One area that may be addressed to improve prevention of IPCA is that of documentation. Currently, the only documentation necessary in most cases for a minor to board an international flight with only one parent is the child's passport, U.S. or foreign. While a court may certainly "impound" a U.S. passport to prevent a parent taking a child abroad, the government at any level is powerless to prevent a foreign embassy from issuing a passport to children who are dual nationals as many of the children who are victims of IPCA are. This is the story told by multiple left-behind parents who answered a survey we conducted to gain insight on IPCA. Often, when a U.S. passport issuance was denied, the taking parent simply sought the child's passport at the embassy of the nation where the child has dual citizenship. In some cases a letter of consent<sup>3</sup> from the other biological parent may also be required (if the TSA is aware of a sole-custody order), but these are forged easily enough and do little to prevent IPCA from occurring. These holes in the documentation process and the relative ease with which they are bypassed is a cause for concern, and we believe this area can be addressed to have immediate preventative effects.

Another major problem with the current state of IPCA prevention is a lack of training. TSA officers receive one-hundred hours of combined classroom and on the job training but we could not find mention of any training regarding IPCA<sup>4</sup>. TSA and airline requirements regarding identifying and stopping IPCA are nearly nonexistent thus making intervention unlikely. The only guides that exist

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<sup>1</sup> *Pittman v. Grayson*, Docket No. 97-9066

<sup>2</sup> *Bower v. EgyptAir*, Docket No. 12-1427

<sup>3</sup> *Children - Child traveling with one parent or someone who is not a parent or legal guardian or a group*. CBP Customer Service. (n.d.). Retrieved September 21, 2021, from [https://help.cbp.gov/s/article/Article-3643?language=en\\_US](https://help.cbp.gov/s/article/Article-3643?language=en_US).

<sup>4</sup> Legal Career Path. (2021, February 10). *How to be a TSA agent: TSA careers jobs and Employment*. How to be a TSA Agent | TSA Careers Jobs and Employment. Retrieved September 27, 2021, from <https://legalcareerpath.com/transportation-security/>.

regarding IPCA are the Law Enforcement Guide on International Parental Kidnapping<sup>5</sup> and the Family Resource Guide on International Parental Kidnapping<sup>6</sup> neither of which offers much guidance in the way of prevention. Both documents dedicate only a small section to the risk factors surrounding IPCA and steps to take to stop an abduction in progress, and almost all of the suggestions that are made by these guides place all of the onus on the left-behind parent for preventing the abduction and very little on the government whose role it is to protect the rights of its citizens. This lack of training materials represents a gap in the knowledge of identifying IPCA and severely hinders the ability of TSA and airline personnel to recognize, react to, and stop an act of IPCA in progress.

### **Policy Solutions and Propositions**

The following is a list of potential policy propositions and solutions that we believe would be effective means of preventing IPCA based on the issues presented previously in this statement.

#### **Database**

Many of the child victims of IPCA stem from a parental disagreement over a custody order. Even with some suggesting mediation as a deterrent, there is no guarantee of preventing IPCA<sup>7</sup>. Children affected by a joint custody order that includes a court order not to remove said children from a certain state, region, or any defined geographical/municipal area should automatically be added to a database that tracks children that are prohibited to fly especially on international flights except under certain prescribed circumstances. This database would help prevent parents from being able to board a flight where such a court order exists, and it will be simple to maintain due to the child being enrolled immediately upon such a court order being issued by a judge.

#### **Documentation**

Addressing the issues regarding documentation, a requirement ought to exist that airlines may only allow minors to board international flights if the parent is able to produce an official certificate of birth or other legal document that matches the country shown on the child's passport. If the parent produces a U.S. birth certificate or Consular Report of Birth Abroad, the child's U.S. passport must be shown to exit on an international flight. This step will prevent parents from going to the embassy of the nation where their child has dual citizenship to bypass U.S. passport rules. These requirements do not interfere with the selling of tickets or regulating prices and therefore cannot be circumvented by citing the Airline Deregulation Act. Due to the lack of exit controls in the United States, especially those in place

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<sup>5</sup> *A law enforcement guide on International Parental Kidnapping*. Office of Juvenile Justice and Delinquency Prevention. (n.d.). Retrieved September 21, 2021, from <https://ojjdp.ojp.gov/library/publications/law-enforcement-guide-international-parental-kidnapping-0>.

<sup>6</sup> Author(s) Fox Valley Technical College. "Family Resource Guide on International Parental Kidnapping." Office of Juvenile Justice and Delinquency Prevention. Accessed September 21, 2021. <https://ojjdp.ojp.gov/library/publications/family-resource-guide-international-parental-kidnapping-0>.

<sup>7</sup> Hegar, R. L. (1990). Parental Kidnapping and U.S. Social Policy. *Social Service Review*, 64(3), 407–421. <http://www.jstor.org/stable/30012106>

for IPCA, not a lot can be done for a parent that is already in crisis.<sup>8</sup> Changing passport laws and terminating the ability for a child to leave the country without their U.S. passport would be a crucial first step to preventing IPCA.

Also related to issues of documentation, there should be a requirement for proof of Form I-94 entry on a child's foreign passport. Form I-94 exists to track entry and exit of foreign visitors to the United States, and as such, any individual entering the U.S. as a foreign national with a foreign passport must have a Form I-94 associated with the individual's passport<sup>9</sup>. Taking this into consideration, no child should be allowed to exit the United States with a foreign passport that does not have an associated Form I-94 on file as this indicates the passport was obtained in the U.S. at a foreign embassy. Any such attempt to remove a child from United States soil using a foreign passport that has no associated Form I-94 should be considered an immediate red flag and be followed up by a thorough investigation in order to determine why a foreign passport with no entry Form I-94 is being used to board an outbound international flight. The infrastructure to use Form I-94 as a means to verify that a passport was not simply obtained from a foreign embassy to bypass an impounded U.S. passport already exists as the form has been tracked digitally since 2013. All that is required to make this preventative measure work is to require that the foreign passport be verified as having associated Form I-94 entry documentation to allow departure.

## **Training**

Training is another area of prevention that could greatly benefit from an overhaul. Improved training for TSA and airline personnel to understand and identify the difference between child traffickers and International Parental Child Abductors would allow said personnel to recognize signs of and aid in preventing IPCA. This training would greatly decrease the number of children that are taken from the United States every year. Upon surveying parents who have been the victim of IPCA, we find that the majority of the children were abducted using air travel to assist the taking parent, but in no case was the taking parent ever stopped and questioned regarding their departure. Highlighting the importance of stricter guidelines and adequate training would delay or prevent the ability to take a child. This prevention or delay in the place of departure could allow for police intervention to occur and stop the abduction. The training and exposure to IPCA would allow personnel to become more comfortable with the warning signs, action plan, and rapid appropriate communication with other officials. This training should be research based and mandatory for all airlines operating within the United State as well as for all TSA employees.

## **Financial Penalties for Airlines**

Financial penalties for airlines that fail to comply with training and exit checklist requirements is a fairly straightforward way to ensure compliance from airline companies with these proposed regulations. Studies such as those by Anton Schevchinko who have studied the response to financial penalties concerning environmental regulations have found that, on the whole, companies do tend to

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<sup>8</sup> Morley, J. D. (2011). PARENTAL TUG-OF-WAR: PREVENTING INTERNATIONAL CHILD ABDUCTION. *GPSolo*, 28(3), 50–53. <http://www.jstor.org/stable/23630521>

<sup>9</sup> *Arrival/departure forms: I-94 and I-94W*. U.S. Customs and Border Protection. (n.d.). Retrieved September 21, 2021, from <https://www.cbp.gov/travel/international-visitors/i-94>.

respond positively to said penalties<sup>10</sup>. Shevchenko and much of the literature to which he refers demonstrate that companies who faced financial penalties for failing to comply with environmental regulations have generally been more compliant with said regulations so as to avoid eating into their profits and so as to keep from drawing the attention and ire of the public at large. These findings indicate that a similar approach may be prudent in enforcing regulations on airlines concerning their role in the prevention of IPCA. If airlines believe that they will have to sacrifice a large sum of money if they are found to be noncompliant with safety requirements and fail to prevent IPCA from occurring on their flights, they will be more likely to comply with said regulations thus greatly reducing the likelihood of a taking-parent successfully executing a kidnapping scheme on one of these international flights.

### **Safety Ratings**

In addition to financial penalties, airlines should also be given a safety rating that is dependent upon their implementation of and adherence to the above requirements; these score would function similarly to those of restaurant letter grading in that they would be mandatory and the airline would be obliged to post the score in a public space where it is easily seen by customers. In the research article *What a Difference a Grade Makes: Evidence from New York City's Restaurant Grading Policy*<sup>11</sup>, the authors examined the effect that letter grades had on the closure of over fifteen thousand restaurants in the state over a twenty eight month period. Upon the conclusion of their research, the authors noted that restaurants receiving the worst grade of a C were significantly more likely to close and reported a greatly decreased revenue when compared to those receiving establishments receiving grades of B while those receiving a grade of A actually performed better than the other two grades in revenue and rate of closure. The authors conclude and we concur that this indicates the effectiveness of government grades on ensuring compliance with regulations. We further maintain that airlines should be required to report the exact number of children kidnapped on their international flights within a calendar year alongside the letter grade they receive in order to add context to the grading for the consumer. These grades would place pressure on airlines to act more diligently in preventing IPCA from occurring on their flights so as to keep from damaging public opinion.

### **Alert Systems**

Alert systems like the AMBER alert system can also be beneficial to notifying the general public about a crime in progress and what they should be watching for rather it be for a person or a vehicle. The alert systems being able to display information easily on a cell phone allows there to be an instant wave of knowledge across a given area. An alert system dedicated to IPCA would greatly benefit in decreasing

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<sup>10</sup> Shevchenko, A. (2020). Do financial penalties for environmental violations facilitate improvements in corporate environmental performance? An empirical investigation. *Business Strategy and the Environment*, 30(4), 1723–1734. <https://doi.org/10.1002/bse.2711>

<sup>11</sup> Rothbart, M. W., Schwartz, A. E., Calabrese, T. D., Papper, Z., Mijanovich, T., Meltzer, R., & Silver, D. (2019). What a difference a grade makes: Evidence from New York City's Restaurant grading policy. *Public Administration Review*, 79(5), 651–665. <https://doi.org/10.1111/puar.13091>

abductions; this conclusion can be drawn from the success of the AMBER alert system<sup>12</sup>. The ability to quickly notify airports, highway patrol, and citizens will aid in the decrease of cases of IPCA that we see.

### **Data Collection**

The collection of data from previous and current IPCA cases would benefit those cases that have yet to occur. Allowing there to be some generalized knowledge on what did and did not work in previous cases would allow appropriate successful actions to occur first. A data collection bank that many federal agencies have access to will allow there to not be as many gaps in communication and for there to be the most up to date information for all parties involved. The lack of a federal data collection and alert system makes IPCA look as if it is not important or a priority to our government. The lack of support does nothing to prevent IPCA but only shows taking-parents the lack of control that the government has over this issue.

### **Conclusion**

The United States government has thus far spent too much time focusing solely on returning internationally abducted children to the United States and far too few resources and far too little time in preventing such acts from occurring from the start. A proactive and prudent response is to address this violation of human rights at its source by preventing the crime from occurring in the first place. There is now presented to this body a straightforward list of problem areas concerning IPCA prevention, and a lengthy but not exhaustive list of solutions to all of them which are within the capabilities of the U.S. government to pass into law and execute. The government's primary role is to protect the rights of its citizens, and as such, there is no room for the passive role that to this point the government has chosen to play. International Parental Child Abduction is a preventable violation of human rights that affects the most vulnerable members of society: children. As international travel begins to open again with the dwindling of the Covid-19 pandemic, the time to get in front of the issue and greatly increase the preventative capabilities and requirements of both the government and airlines is now.

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<sup>12</sup> *Statistics*. AMBER Alert. (n.d.). Retrieved September 21, 2021, from <https://amberalert.ojp.gov/statistics>.