

# Child Abduction

(Reviewed 02/12/21)

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## Forms

The following form is referenced in this file:

- 04-51A Critical Incident Report

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## Definition of child abduction

The Penal Code defines child abduction as follows:

| Penal Code Section | Definition   |
|--------------------|--|
| 278                | Every person, not having a right to custody, who maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian. |
| 278.5              | Every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or right to visitation.                             |

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## Responsibility of Law Enforcement and DA's Child Abduction Unit

The primary responsibility of the:

- **Law Enforcement Agency** is to pick up or assist in the pick-up of the child when the child is located.
  - **DA's Child Abduction Unit** is to locate the child and, in certain circumstances, prosecute the alleged abductor. The Child Abduction Unit (CAU) does have the authority to pick up a child. However, when a child is located, the SW should notify law enforcement to pick up the child.
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**Children abducted to Mexico**

When both parents abduct a child who is a dependent of the Juvenile Court and take the child to Mexico, it is very difficult to prosecute. The Mexican authorities will not cooperate with the CAU. The SW should contact the International Liaison for assistance in working with Desarrollo Integral de la Familia (DIF), to do a home evaluation and determine if the child is at risk.

The SW **must** make a request of the Juvenile Court, the same day the SW learns that a child has been abducted, to issue a warrant for the parents’ arrest via a Special Hearing. If the parents attempt to cross the border, the warrant will be on file.

**SW responsibility**

The SW must follow the policy and procedures outlined in Absent Client - No Contact on the same day the SW learns the child has been abducted.

Additionally, the SW will **immediately** follow these procedures when a child has been abducted:

| Step | Action   |
|------|--|
| 1    | <p>If the SCP has not made the report, make a telephone report of a “missing person” immediately to the Communications Center of the law enforcement agency having jurisdiction of the place where the child abduction is known, or alleged to have occurred.</p> <ul style="list-style-type: none"><li>• Advise the law enforcement officer that:<ul style="list-style-type: none"><li>○ The missing person report is being made pursuant to Penal Code section 14205 (which requires law enforcement to accept any report of a missing person without delay), <i>and</i></li><li>○ PC Section 14215 defines “missing person as including “...a child who has been taken, detained, concealed, enticed away, or retained by a parent.</li></ul></li><li>• Provide information required by law enforcement to investigate the case in accordance with policies and procedures for sharing information with law enforcement agencies, described in the Confidentiality Guide.</li><li>• Provide all details to law enforcement, e.g., car license, possible destination, etc. The law enforcement agency contacted usually will make all necessary contacts with other law enforcement agencies, e.g., California Highway Patrol, etc.</li><li>• Notify other law enforcement agencies, if requested.</li></ul> |
| 2    | <p>Create a contact in CWS/CMS documenting either that the missing report was made or that it was attempted.</p> <ul style="list-style-type: none"><li>• <b>If the report was made</b>, document the date the report was made, name/jurisdiction of law enforcement representative receiving report, and summary of information provided.</li><li>• <b>If the report was attempted</b>, document the date/time of contact, name of law enforcement officer, jurisdiction, and rationale given by law enforcement for not accepting report).</li></ul> <p><b>NOTE:</b> See Absent Client - No Contact for additional CWS/CMS entries.</p>   |

**SW responsibility  
cont.)**

| Step | Action  |
|------|---|
| 3    | Notify the child’s parents, caregivers and all attorneys that the child is missing as soon as possible but within one working day after discovering the child is missing.   |
| 4    | If the alleged child abductor is a parent, relative or person known to the family, make a referral to the CAU after the missing person report to law enforcement has been made.<br><br>The referral to the CAU <b>must</b> be made, whenever possible, the same day the missing person report to law enforcement was made, but in no instance no later than the next working day that the CAU is available to accept referrals. |

**SW testimony in  
court**

SW staff who are called to testify in the prosecution of a child abduction case need not present the “Points and Authorities” (P&A’s) prepared by County Counsel (CC) regarding issues of confidentiality when they have been working with the CAU and sharing information regarding the case.

**How to obtain  
required Juvenile  
certified court  
orders**

See the Pick-Up and Detain Orders file for procedures on how to obtain a “Pick-Up and Detain Order.”

Whenever possible, the SW must complete an ex parte requesting a pick-up and detain order on the same day the SW discovers the child is missing.

The SW must also schedule a Special Hearing following the procedures in the Types of Hearings - Special file to obtain certified copies of the “pick-up and detain” order and the order removing custody from the parent, and any other order/warrant required by the jurisdiction where the child is or may be located.

After the Special Hearing, the SW must go to the Juvenile Court Business Office and obtain certified copies of the orders.

**When Pick-up and  
Detain Orders are  
issued**

The following occurs when a pick-up and detain order is issued:

- The Sheriff’s Juvenile Court Office forwards all pick-up and detain orders to the Sheriff’s Warrant Office for entry in their warrant system.
- SWs can check online on the [Sheriff’s website](#) to determine if a pick-up and detain order has been entered into the warrant system or contact the Sheriff’s Office. The Sheriff’s Office identifies these orders as Juvenile Detention Orders (JDO) and the number corresponds to the petition number.

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**When Pick-up and Detain Orders are issued (cont.)**

- SWs who need to have a JDO tele typed to a law enforcement agency outside of San Diego County **must**
  - call the Warrant Office.
  - inform the Warrant Office that they need a JDO tele typed to a law enforcement agency outside San Diego County.
  - provide the Warrant Office with a residential address outside San Diego County where the SW believes the child can be found.
- SWs are responsible for **immediately notifying** law enforcement and the CAU **if** the child is located and returned prior to the pick-up and detain orders being issued.

**NOTE:** The Hotline will accept collect calls from out-of-state law enforcement agencies who are calling to confirm receipt of the telex.

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**Reporting to National Center for Missing and Exploited Children (NCMEC)**

In addition to reporting to the appropriate law enforcement agency, CWS staff must also report any missing child to the National Center for Missing and Exploited Children (NCMEC) within 24 hours.

See the process for reporting section in the Absent Client - No Contact PM file.

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**Critical Incident Report**

Child abduction is a critical incident and requires that a Critical Incident Report be completed pursuant to the Critical Incident Protocol.

The SW who first received notice of the child abduction incident is responsible for **immediately** completing the 04-51A.

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**Procedures when child is located**

On the same day a child is located, the SW shall:

- Immediately notify parents, caregivers, and all attorneys, the DA and CAU.
  - Schedule a "Special Hearing," cancel the pick-up and detain order, and order to locate.
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**Alignment with SET**

This policy supports [Value 5](#):

- Always maintaining primary focus on children's best interests.
  - Collaborating with law enforcement to ensure safety and effective coordination of services.
  - Value teamwork and coordination of CWS investigations throughout the life of the case.
  - Understand confidentiality with regard to legal partners.
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