

Justice Ignores Stolen Kids

By Timothy W. Maier

Despite recent testimony before Congress by beleaguered parents of internationally kidnapped children, State and Justice departments continue to dismiss these crimes.

After a pair of congressional hearings held this autumn about the tragedy of international kidnapping by estranged parents, victims received the latest excuse for why both the State and Justice departments do little or nothing to recover these children and bring them home. You see, it's all because of insufficient resources: Children are left in the hands of their kidnapers because Congress won't provide enough money for education, training, case workers and special prosecutors. State and Justice officials tell parents this is why they must rely on the Hague Convention, an international treaty requiring signatory countries to obey child-custody orders. But as victimized parents know, the treaty routinely is broken -- and violators are allowed to do so with impunity.

In both of the congressional hearings on these matters -- before Rep. Ben Gilman of New York, chairman of the House Committee on International Relations, and Sen. Strom Thurmond of South Carolina, chairman of the Senate Judiciary subcommittee on Criminal Justice Oversight -- one element appeared evident: Parentally kidnapped children are not a high priority for anyone in the Clinton administration and no long-term plan exists to rectify the problem.

Sen. Mike DeWine, an Ohio Republican, put it bluntly to State and Justice officials during the Senate hearing. "I don't think it is a high-enough priority with the State Department and Justice Department. All I hear you say is why you can't do things."

That they did. The Justice Department said it rarely pursues prosecutions under the 1993 International Parental Kidnapping Crime Act, or IPKA, because its prosecutors assume a U.S. indictment will prevent children from being returned. In five years, just 62 indictments and 13 convictions have resulted from the thousands of cases of abductions.

"The law is rarely used," Thurmond told a group of a dozen or so concerned parents at the hearing. "The administration discouraged the Congress from passing this statute, which is evident from the department's reluctance to enforce it," and simply ignores the law.

Likewise, the State Department does not appear to treat child thefts as seriously as violations of patent and copyright laws. DeWine says the message is that people better not steal from U.S. corporations but may steal American children and get away with it.

The sons of Lady Catherine I. Meyer, wife of the British ambassador to the United States, were kidnapped to Germany by their biological father, her former husband. Meyer testified recently before the Senate committee, arguing for the State Department to treat

these cases as human-rights abuses -- echoing Hillary Rodham Clinton's remarks this summer after Insight raised the issue (see "Kidnapped Kids Cry Out for Help," May 10). Meyer told the senators that months pass, years pass, without her being permitted to see her children, Alexander and Constantin. "Has anyone proved that I am an unfit mother?" she asked. "No. Has anyone proved that I do not love my children? No. But I am nonetheless denied the rights that even women in prison are allowed."

After an Insight cover story (see "Kids Held Hostage," March 8), Assistant Secretary of State for Consular Affairs Mary Ryan defended her office's record by asserting that these cases merely are "international parental child-custody disputes," essentially private matters, a term that infuriates victimized parents. (Ironically, in Ryan's Hague Convention Compliance Report to Congress, which identified Honduras, Mauritius, Mexico and Sweden as chief violators, Ryan noted that labeling them mere "custody disputes" is the standard line foreign governments provide to the United States.) Challenged by Gilman in the House hearing, Ryan called for more federal money.

Meyer certainly wasn't happy with Ryan's response nor in agreement that Germany should not be listed in the Hague compliance report. German courts and authorities, she says, consistently have shown bias in favor of the German parent.

"As a result," Meyer told the committee, "Rebecca Collins has not seen her children since 1994, James Rinaman since 1996, Kenneth Roche since 1991, Edwin Troxel since 1997, Mark Wayson since 1998, Anne Winslow since 1996, Donald Youmans since 1994, Joseph Cooke's children have been placed in foster care and he has not seen them since 1994 and John Dukheshere and George Uhl do not know the whereabouts of their children.... None of us have received any information on our children's welfare. And to top it all, the German courts often demand child-maintenance payments from the victim parents!"

Frustrated that the State Department even resists performing welfare checks on these children, many parents hoped a General Accounting Office, or GAO, investigation requested by Gilman would expose and document the poor record of the State and Justice departments concerning these matters and force changes. The report is due out in mid January.

But don't expect much. Jess T. Ford, associate director for international relations and trade issues at the GAO, has provided a summary of its findings to Gilman's committee, and parents already are calling it another whitewash of the kind they say they experienced earlier this year. That time it was the report to Attorney General Janet Reno prepared by the Justice Department Subcommittee on International Child Abduction of the Federal Agency Task Force on Missing and Exploited Children and the Policy Group on International Parental Kidnapping. The report suggested the department had the blessing of the National Center for Missing and Exploited Children, based in Arlington, Va., but in fact the center strongly disagreed with the findings and issued a dissenting opinion, which the task force didn't note.

The center was upset that the task force neglected to include the record of Justice Department failure to pursue criminal prosecutions under IPKA and froze them out of international cases.

In Ford's GAO summary, he, too, glossed over the dismal Justice record, saying only that some prosecutors indicate they are waiting for civil remedies to be exhausted -- hardly a solid reason considering that most of these kidnappings were initiated to thwart court rulings. Ford also makes no mention of State Department records obtained by Insight that show a pattern of abuse. This ranges from calling parents "mentally unbalanced" to a memo about a Texas father that declares: His "name is Bubba -- that should tell you something about him."

Critics charge that rather than deal with dereliction of duty and failure to enforce the law in this highly sensitive area, Ford has found more excuses, arguing that "without resource commitments, it is uncertain whether [State and Justice] will be able to take additional steps to correct most problems." A knowledgeable source says, "It's an easy way out. The GAO does not want to come down hard on [investigators at] State or Justice because they have to work with these guys."

And the summary certainly doesn't represent what the first team of GAO investigators uncovered, according to Insight sources. The first team, which worked hundreds of days and spent hundreds of thousands of dollars, was replaced by the Ford team because they were "too biased for the children," according to congressional sources. One of the leaders of the former team was grilled by his supervisor Boris Kachura after an Insight story ("State Abandons Kidnapped Kids," June 14, 1999) revealed that the GAO was being pressured by Kachura to "tone down" the report.

Parents charge Kachura is pushing the "lack of resources" line just to get Congress off his back. They say they have presented him with overwhelming evidence of State and Justice incompetence or dereliction in these matters but Kachura has showed little interest. He refused to speak to Insight and referred questions to GAO spokesman Cleve Corlett. "The work is not finished!" says Corlett, "and I won't discuss any ongoing work." Apparently concerned about their job security, none of the former GAO investigators will talk. However, sources say Kachura made it even more difficult for the first team to do its work by pulling two of the three investigators -- and subsequently the team leader -- off the project following an Insight story about the failure of GAO to allocate sufficient resources to do a thorough probe. According to a source familiar with the situation, the former team leader "was only biased against people who weren't doing their jobs."

Ford's summary did not detail any of the first team's findings -- and Gilman won't even get the first team's notes unless he orders them brought to his committee along with all the drafts of the GAO report. If he does, he will have some serious questions to ask: The first team spent 18 months on the probe; how much time did the second team spend? Did GAO base its assessments and conclusions on other reports or interviews? And why did the second team disregard the work of the first team? How many case files did the first team review, and the second team?

To get these answers Gilman would be well-advised to bring in the first GAO investigating team and question them under oath. Congressional sources say that is not likely to happen because, should Congress put GAO under fire, it could impact other investigations, such as Kosovo.

Meanwhile, Ford claims that the failure of State and Justice to pursue these cases results only from lack of resources. This means the Justice task-force recommendations calling for efforts to enforce the Hague Convention and getting access for parents longing to see their kidnapped children aren't likely to get attention. Insiders tell Insight the game is clear enough. When Gilman told Ryan that more money could be allocated for children's issues, Ryan balked. She prefers to have more money for the entire State Department -- which does not guarantee funds will go to restore the kidnapped American children.

"Change can happen without money; much has to do with attitude," says Tom Johnson, a State Department attorney whose 12-year-old daughter Amanda was illegally "retained" five years ago. "Real change can be made overnight." Johnson, who testified before Gilman's committee, says his case, like so many others in which foreign courts have refused to honor U.S. rules, is considered closed. Johnson has seen Amanda less than 50 hours in the last five years.

"As a Marine who was trained from Day 1 never to leave anyone behind and as a citizen who admires and supports the MIA effort, I find the bureaucratic closing of our children's cases particularly offensive," Johnson testified. "My understanding is that no one from the president on down has the authority to write off American citizens, especially our youngest ones." Johnson says the Justice Department should enforce the law, and State should issue a human-rights report citing countries that illegally detain children -- a move the State Department successfully resisted this year. He believes a quarterly Hague compliance report should be circulated to judges, prosecutors and law-enforcement agencies that are clueless when it comes to international-kidnapping cases.

Craig Deanto of Melbourne, Fla., adds that "the courts are causing the children to disappear." He fought for years to get his two children back after they were abducted twice by his ex-wife -- once to Canada and another time to South Africa before returning to Maryland. Deanto tried to introduce expert witnesses during his Maryland custody hearing on international child abduction, but Circuit Court Judge Dennis Sweeney told Deanto and his attorney Lee Ashmore that their testimony would have no weight.

Ashmore says "parental abduction is where domestic violence was 20 years ago -- not even on the radar screen." Until it gets noticed, the courts are not going to pay much attention to it, he says.

DeWine certainly is trying to raise awareness of the problem by grilling both State and Justice department officials. He got tired of hearing the same old excuses from James K. Robinson, assistant attorney general at the Criminal Division, for failing to enforce the IPKA. Robinson ran down the litany that Justice doesn't pursue these cases because sometimes it may prevent the child from ever being returned, that it doesn't want to interfere with possible civil remedies and that being only 5 years old, it is a relatively "new law."

To which, DeWine replied, "You still file charges in other crimes, such as murder, rape, even when there is a possibility that the person may flee the country.... 62 indictments over five years is not effective pursuit!"

"We expect more prosecutions," Robinson promised. "There needs to be more additional effort."

"The government needs to say it is important!" DeWine corrected. Then, turning to State Department Deputy Legal Adviser Jamison Borek, he demanded to know what State is doing.

"We don't press directly for the return," Borek said. "We don't walk in and say we want the child now."

"How many ambassadors have you met with?" DeWine demanded.

"I can't tell you," Borek replied.

"Doesn't it reach the ambassador?" DeWine demanded. "If it doesn't, a country would say that the U.S. doesn't think it's important."

Borek momentarily stood silent. Suddenly she began boasting about the success of the Hague treaty, first claiming 20,000 children had been returned, then 2,000, then admitting that she doesn't have reliable statistics.

What Borek didn't tell Congress is that its success rate on Hague cases is inflated because many are voluntary returns. Nor did she mention the fact that the United States returns kids to foreign countries at a staggering rate of 89 percent compared with 30 percent on Hague cases. And Borek provided no statistics about non-Hague countries where some estimate at least 1,000 U.S. children have been illegally detained in the Middle East.

As State and Justice attempted to shift blame to Congress for allegedly failing to provide adequate resources, no one from either of those federal agencies admitted what parents have learned to their deep regret: On the Clinton/Gore list of international priorities, kidnapped American children rank dead last.