

**THE GOLDMAN ACT TO RETURN ABDUCTED
AMERICAN CHILDREN: REVIEWING OBAMA
ADMINISTRATION IMPLEMENTATION**

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND
INTERNATIONAL ORGANIZATIONS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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MARCH 25, 2015
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Serial No. 114–126

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Printed for the use of the Committee on Foreign Affairs



Available via the World Wide Web: <http://www.foreignaffairs.house.gov/> or
<http://www.gpo.gov/fdsys/>

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U.S. GOVERNMENT PUBLISHING OFFICE

93–916PDF

WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
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ADMINISTRATION IMPLEMENTATION**

WEDNESDAY, MARCH 25, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 o'clock p.m., in room 2172 Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The hearing will come to order.

Let me begin by thanking Ambassador Jacobs and all of our distinguished witnesses and guests for being here today, especially the left-behind parents that I see in the audience who are joining us this afternoon to continue to increase attention on international parental child abduction, whose victims include primarily children denied the love and attention of one of their parents, and parents cut off from their children that they love.

Every year, by some estimates, approximately 1,000 American children are unlawfully removed from their homes by one of their parents and taken across international borders. Less than half of these children ever come home. Most of the left-behind parents in the audience today have not seen their children in years and know all too well the financial, legal, cultural, and linguistic obstacles to bringing their children home from a foreign country.

Many of you have already been through a U.S. judicial proceeding prior to the abduction, and the courts have settled custody and visitation only to have a kidnapping spouse defy a court order. Others of you were caught completely by surprise when a spouse's vacation turned into an abduction, a phone call in the middle of the night telling you that you will never see your child again.

Your suffering is exponentially compounded by knowledge of the pain caused to your child by the separation. Child abduction is child abuse. Parentally abducted children are at risk of serious emotional and psychological problems and may experience anxiety, eating problems, nightmares, mood swings, sleep disturbances, aggressive behavior, resentment, guilt, and fearfulness. These young victims, like their left-behind parents, are American citizens who need the help of their Government when normal legal processes are unavailable or have failed.

In 1983, the United States ratified the Hague Convention on the Civil Aspects of International Child Abduction to try to address abduction and access. This Convention created a civil framework for a quick return of abducted children and for rights of access for left-behind parents. Absent extenuating circumstances, the child or children are to be returned within 6 weeks to his or her country of habitual residence for the courts there to decide on custody or to enforce any previous custody determinations.

The Convention has helped return some children, but implementation has been unpredictable and spotty at best. Susceptible to abuse by taking parents or judges who either don't understand their obligations under the Convention or are unwilling to abide by them, the Convention has too often been stretched to provide cover for the abduction rather than the recovery of the child.

Some Hague Convention parties are simply not enforcing legitimate return orders. The State Department's 2014 Hague Convention compliance report highlights four countries—Brazil, Mexico, Romania, and Ukraine—that habitually fail to enforce return orders. Other countries—Costa Rica, Guatemala, Honduras, and The Bahamas—are non-compliant with the Convention.

In other words, abducted American children are not coming home from these countries, and so many other countries where the Convention operates weakly or with which the United States has no bilateral agreement of any kind.

To give one more example, Jeffery Morehouse, a left-behind parent who will testify today, will say that there have been 400 cases of U.S. children kidnapped to Japan to 1994. We do not know of a single case in which the Government of Japan has issued and enforced an order for the return of an abducted child to the United States. That is unconscionable. And I must emphasize that since they have signed the Hague Convention, Japan's efforts have been breathtakingly unresponsive, especially for abductions that occurred prior to their ratification of the Hague Convention.

Mr. Morehouse will testify that 1 year ago, next week, at the very moment Japan acceded to the Hague Abduction Convention, parents joined us to hand deliver 30 Article 21 access applications. I would note parenthetically I joined those parents at the Japanese Embassy. They were unbelievably respectful and disciplined and very, very cordial, and yet very, very determined. None of the back-home parents, however, have received access to their kidnapped children. That is almost a year ago next week.

Japan's implementation of the Hague Abduction Convention—Mr. Morehouse will go on to say—is an abysmal failure. Sanctions under the Goldman Act will provide some of the necessary public pressures on Japan to create change to this ongoing human and family rights crisis.

Again, the status quo is simply not acceptable. Over the last 5 years, many of you who are here today helped me and my staff write and pass through the Congress the Sean and David Goldman International Child Abduction Prevention and Return Act, simply known as the Goldman Act. Today's hearing occurs more than 7 months after the Goldman Act became law and gives us an opportunity to hear from the State Department and parents about

whether the bill's key provisions are being implemented according to the law.

A brief refresher on Sean and David, David Goldman spent over five agonizing years trying to legally rescue his son Sean from abduction to Brazil, which is a signatory nation, like the U.S., to the Hague Abduction Convention. Despite Mr. Goldman's airtight case that demonstrated an egregious example of both child abduction and wrongful retention, the Hague Treaty was unavailing and the outcomes in the Brazilian courts proved mostly infuriating and firm and ineffective.

David Goldman waged his case by the book and won judgments in New Jersey courts, yet both Sean and David were made to suffer emotional pain for over half a decade as one delaying ploy after another was employed by the abducting party. In the end, because of a father's abiding love for his son, and an indomitable will, like so many of you here today who have suffered so much, the Goldmans today are united and happy, unlike you who still are separated.

To underscore, the Goldman Act was not intended to simply reform the system, but to bring about a fundamental sea-change in U.S. diplomacy, so that the State Department officials would see themselves as advocates for the return of abducted American children.

Now, under the Goldman Act, when a country fails to appropriately address an abduction case pending for more than 12 months, the law requires the Secretary of State to take action. When a country has more than 30 percent of its U.S. cases pending for more than a year, the law requires the Secretary of State to designate the country as non-compliant in the annual report and take action.

The Goldman Act specifically lists the increasingly escalating actions that Congress has in mind, from a demarche or protest through diplomatic channels to a public condemnation to a delay or cancellation of one or more bilateral visits, and even withdrawal, limitation, or suspension of foreign assistance, including non-humanitarian aid and including security assistance to the central governmental authority of a country.

These are serious sanctions. They must be seriously applied by a country that takes parental child abduction seriously. We may also request extradition, where appropriate.

If these measures sound pointed, it is because they are intended to focus the designation country on quick and accurate resolution to abduction and access cases, and we hope to find out today from Ambassador Jacobs how these tools are being used and with what frequency.

The Goldman Act was written to cover countries that have signed the Hague Convention, such as Brazil, and countries that have not signed the Convention, such as India, and countries that have a mix of open abduction cases from before and after signing the Hague Convention, such as Japan.

In 2013, India was the number 3 destination in the world for parents who abducted from the United States. Currently, there are 64 known open abduction and denial of access cases involving India, and yet the United States does not have any sort of resolution mechanism to my knowledge in India or with India. Moms and

Dads are left in the United States. They are forced to enter a foreign court system known for its incessant appeals and multi-year delays and even mega-intimidation.

But now the Goldman Act applies. India will now face real penalties for any case that has been pending for more than 1 year and will be named and shamed in the State Department's report. As with the State Department's annual Trafficking In Persons Report, there is morally suasive value in simply reporting what a country does and some countries will, I am sure, respond to such moral pressure.

Thus, we expect the State Department will apply these penalties zealously and work with India on establishing a bilateral agreement for the efficient and fair resolution of abduction and access cases. If the State Department faithfully applies the laws written, it will be in India's best interest to come to the negotiating table.

The same holds true for Japan. Even though Japan recently signed the Hague Convention, in the upcoming April report Congress expects that Japan will be evaluated not just on its handling of new abduction cases after it joined the Hague last year, but on its work to resolve all open abduction cases, including the 67 cases that I and others have been raising with State for the last 5 years.

Among such cases is that of Michael Elias, who has not seen his children, Jade and Michael, since 2008. Michael served as a Marine and saw combat in Iraq. His wife, who worked in the Japanese Consulate, used documents fraudulently obtained with the apparent complicity of the Japanese Consultant personnel to kidnap their children then aged four and two in defiance of a court order telling Michael on the phone call that there was nothing that he could do. She said, "My country"—that is, Japan—"will protect me." Her country will protect her, but what is our country doing to protect Michael and his children?

While the State Department has touted Japan's accession to the Hague Convention as an accomplishment, Japan has said the Convention would only apply in post-ratification cases. As Ambassador Jacobs knows, I and several others predicted that unless an MOU or other bilateral agreement was concluded with Japan, American children and their left-behind parents will be left behind in perpetuity.

I ask my friends at the State Department once again, what then is to happen for the parents already suffering from abductions prior to ratification? Would they be left behind again, this time by their own Government?

I know Ambassador Jacobs, who is here to testify, as recently as February 2014 in her testimony before the Senate stated that she would continue to make progress with the Japanese Government on resolving existing cases in the spirit of the Convention. We will have a chance to ask the Ambassador what progress has been made on resolving cases like those of Michael Elias, Captain Paul Toland, and so many others who are suffering every single day. And I am sure when they wake up in the morning it is the first thing they think of.

The Goldman Act requires accountability for the Japanese Government on the abduction cases open at the time when Japan signed the Convention. Unless Japan resolves scores of American

cases before the end of next month, nearly 100 percent of abduction cases in Japan will still be unresolved, and the Goldman Act penalties will apply.

The Goldman Act has given the State Department new and very powerful tools to bring Japan and other countries not to the negotiating table, but the resolution table. The goal is not to disrupt relations but to heal the painful rifts caused by international child abduction. I look forward to hearing testimony on the Department's use of the tools.

And I would now like to yield to Dr. Bera, serving as acting ranking member, for his opening comments.

Mr. BERA. Thank you, Chairman Smith, and I want to thank Ranking Member Bass for as well for calling this important hearing to discuss the issue of international child abductions and the Goldman Act. I especially want to thank the chairman for his tireless effort and work on this issue.

I also want to thank the witnesses and the left-behind parents for your heartfelt testimony today. It, obviously, cannot be easy, but it is incredibly important to hear these stories.

As we will hear today, this is a serious issue. Approximately 1,000 U.S. children are reported to the State Department as victims of international child abduction annually. These abductions are devastating to families, especially to the children. Many of these children are too young to know what is occurring and are isolated from their left-behind parent. The left-behind parent has to go through a stressful and expensive legal process, and, as we will hear today, not always successfully.

One avenue to pursue in order to combat this issue is to push more countries to sign the Hague Convention. This brings those nations into a legal framework in which they can resolve the issue in a more effective manner. This, however, is not a panacea, but it is a good first step.

In addition, just signing onto the Hague Convention doesn't solve the issue if the countries don't adhere to what is in there. I am going to implore the State Department to continue to push more countries to sign the Hague Convention and continue to work on reuniting left-behind parents with their children.

And, again, I just want to commend the chairman for your tireless work on this issue.

Mr. SMITH. Thank you, Dr. Bera.

Mr. BERA. Thank you.

Mr. SMITH. I would like to now yield to Mark Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman. And, Ambassador Jacobs, thank you for being back with us. It is good to have you here. You expressed your heart the last time that you were here, and I think that was evident, because one of the troubling things I think for parents—and I met one parent yesterday in the hallway coming between the Capitol and back to the offices.

One of the difficult things for a lot of parents is they see other things that the State Department is engaged in, not you, but other things that the State Department, as a whole, is engaged in. And what they have come to the realization, or at least the belief, is that it is not a priority for the State Department to return these children. And because of that, it is very difficult, as a dad, because

you empathize with just the thought of not being able to visit or see your children, that priority.

So I am looking forward to hearing from you today on the progress we have made since the last hearing where we had a chance to hear a little bit from your heart.

But I want to put it in the context, you know, when we see the State Department, when we see five GTMO prisoners being traded for a potential deserter, and we see that kind of priority from the administration and we don't see progress here.

What happens is there is this balance that goes out, and I am not trying to be critical of that decision or of your agency. I am just saying there is a natural assumption that says, well, if they would make the same priority for my son or daughter, I would get to see them.

And so I hope that we hear some of that from you today. I do appreciate you coming back and the emphasis that you put on it. And I will yield back to the chairman.

Mr. SMITH. Thank you very much, Mr. Meadows.

I would like to yield to Ms. Walorski, who has been working tenaciously on a case of one of her constituents out of Cyprus. Ms. Walorski.

Ms. WALORSKI. Thank you, Mr. Chairman. I am grateful for your efforts and for the help that you have given me and remain grateful. I am grateful I am allowed to come as a non-member.

The Honorable Ambassador, I actually came to seek your help. And I really, in the short amount of time in an opening statement, just want to familiarize with a case that I am working on in the State of Indiana. I have worked on this for 3 years. The case has been active for five. And I know this is small, but forgive me, this actually just came from Cyprus.

These are my constituents. This is Marla Smith-Theocharides, and her kids were kidnapped in Cyprus. And there is domestic problems in my district in Indiana. This couple was divorced. We have been working through every single legal channel there has been trying to secure the release of these kids.

And I literally came here today, and I am grateful to this chairman, I was so thrilled to hear that the Goldman bill passed and that there maybe was some help for people in my district, because, you know, I look at this, and you have done phenomenal work on this. I am here in my role, you know, as a Congresswoman representing these kids and this mother. I am also here as a fellow advocate on domestic violence and the things that we have all worked on our whole lives.

But I am appealing to you in the position that I have to say we need help. We can't move the Cypriot Government. We have used every law that we can. They are completely ignoring it. They are denying any kind of help for this woman and these kids. And it is an honor for me to actually just be able to sit here and have engaged in a conversation with you just to try to get your help, because you know what?

And, you know, my point earlier to you—and, again, for the record, is, you know, we are—I am not a believer in domestic violence. I have fought domestic violence my entire life, all over the

globe, not just my district but in places like Eastern Europe and Romania where my husband and I were missionaries.

And back to the chairman's point, these are American kids. This is a mother of two kids who has lost access to these kids, has no help whatsoever from the Government that she is trying to comply with. We have gone through every channel possible, and there is police reports filed of this estranged husband coming back, perpetrating violence on her, there is violence being perpetrated on these kids, and they are American citizens.

And I just would implore you and am grateful to you, so thankful that you are here today, thankful that I am allowed the opportunity to make this case, but just wanted to make you aware of it. And I am definitely going to follow up, but just asking for your help on behalf of these constituents in the State of Indiana.

Thank you, Mr. Chairman. I yield back.

Mr. SMITH. Thank you very much.

I would like to now introduce our distinguished Ambassador, Susan Jacobs, currently serving as Special Advisor in the Office of Children's Issues at the State Department.

Ambassador Jacobs has a long and distinguished career in the Foreign Service, in which she served around the world, including in Papua New Guinea, where she served as U.S. Ambassador. She has also held a number of senior positions with the State Department in Washington, including serving as liaison to both Congress and the Department of Homeland Security.

Ambassador Jacobs, please proceed.

STATEMENT OF THE HONORABLE SUSAN S. JACOBS, SPECIAL ADVISOR FOR CHILDREN'S ISSUES, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE

Ambassador JACOBS. Thank you very much. I am going to put on my glasses, so I can see.

Chairman Smith, Acting Ranking Member Bera, and distinguished members of the subcommittee and their guests, thank you for the opportunity to address you again regarding international parental child abduction, or IPCA, and the implementation of the Sean and David Goldman International Child Abduction Prevention and Return Act, or ICAPRA.

I ask that my full written statement be entered into the record.

Mr. SMITH. Without objection, so ordered.

Ambassador JACOBS. First, I want to say to the families that we really feel for you, that your pain is our pain, and we really are working very hard to resolve these cases with all the resources that we have available. I want you to believe that because it is the truth.

In that regard, ICAPRA represents a joint effort by the Congress and the executive branches both to resolve these difficult and painful abduction cases and to prevent their occurrence.

I would like to speak about the steps that the Department of State has taken to implement ICAPRA in the past 7 months. A team of over 80 dedicated employees chartered initiatives that built on the best practices that we and the parents have developed as we work to resolve these cases. The Office of Children's Issues, which acts as the U.S. Central Authority under the Hague Abduc-

tion Convention, helped resolve 781 international abduction and access cases last year.

We continually look for ways to improve the service we provide to abducted children and left-behind parents. ICAPRA provided an opportunity to improve our procedures and increase our effectiveness. Many of our initiatives are driven by the annual reports, new data requirements, for collecting information on all countries. Ours is a work in progress, but we have realized improvements in case management and data analysis, and after the report is published we welcome your feedback.

We also focus on education and prevention. We regularly train offices about abduction issues, and the Department instructs its diplomatic missions to engage with host governments about the Convention and to promote it through public diplomacy.

We continue to work with the Departments of Justice and Homeland Security and the Federal Bureau of Investigation on Operation Prevent Departure. I chaired the first interagency working group meeting last October, and we are having another meeting in April. And we have invited the Department of Defense to join our next meeting, so that we can include them in the planning that we do on this important issue. We have also met with the U.S. Navy Judge Advocate Generals corps and the Director of DOD's Office of Legal Policy to provide an overview of the law and its impact on the military community.

Judicial outreach is an essential part of our strategy to prevent and resolve abduction cases. We educate the broader community of judges in the United States by providing information directly to judges hearing a Convention case, and we have updated and enhanced information on our Web site. There are four U.S. judges who serve on the International Hague Network of Judges, and they assist domestic and foreign judges to resolve many Convention cases.

In the past year, U.S. officials, including me, have traveled to over 25 countries for bilateral discussions on resolving IPCA cases and promoting the Hague Abduction Convention. Our diplomatic efforts increase the likelihood that our future and current treaty partners will meet their responsibilities under the Convention.

We have begun to identify countries as candidates for bilateral arrangements and to evaluate whether non-Convention countries have demonstrated patterns of non-compliance as defined by the law. Department officials regularly engage with foreign governments of non-Convention countries to encourage those countries to become parties to the Convention and to address pending abduction and access cases.

One example is our decade-long effort to secure Japan's ratification of the Convention, and we are working to improve our relationships with the Japanese Central Authority and the Japanese Foreign Ministry, so that we can resolve all outstanding cases. We continually advocate for left-behind parents and support Japan's own development of resources for resolving cases.

The Convention also provides an excellent platform for multilateral diplomacy. In 2014, we hosted a regional symposium on the Convention in Jordan and participated in regional meetings sponsored by the Hague Permanent Bureau in Beijing and in Kuala

Lumpur. The Kuala Lumpur conference specifically addressed the compatibility of the Hague Abduction Convention with Sharia law codes and included presentations from several predominantly Muslim countries.

We have made maximum use of a few short months to begin implementing ICAPRA's requirements. We are building on a strong foundation of good practices. Your support remains essential to our success in maintaining IPCA resolution and prevention as resources in our bilateral relationships and advocating for membership in the Hague Convention. We are committed to achieving our shared goals to increase the number of children returned to their habitual residence and to create safeguards that will minimize the occurrence of international parental child abduction.

Thank you very much for the opportunity to be with you today, and I look forward to your questions.

[The prepared statement of Ambassador Jacobs follows:]



DEPARTMENT OF STATE
STATEMENT
OF
AMBASSADOR SUSAN S. JACOBS
SPECIAL ADVISOR FOR CHILDREN'S ISSUES
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL
HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

HEARING
ON
THE GOLDMAN ACT TO RETURN ABDUCTED AMERICAN CHILDREN:
REVIEWING OBAMA ADMINISTRATION IMPLEMENTATION

MARCH 25, 2015

Chairman Smith, Ranking Member Bass, and distinguished Members of the Subcommittee – Thank you for the opportunity to address you today regarding international parental child abduction, or IPCA, and the implementation of the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, or ICAPRA.

The Department of State values the ongoing interest and support on this issue from Members of Congress. We appreciate the efforts of Chairman Smith and the interest from Ranking Member Bass, as well as the many Members who advocate in support of their constituents affected by the tragedy of IPCA and parental child abduction in general. We understand and sympathize with the pain of the parents. Within the Department of State and in diplomatic missions worldwide, there are many people dedicated to helping parents resolve these difficult cases.

We share with you the goals of preventing international parental child abduction, of the expeditious return of children to their places of habitual residence, and of the strengthening and expansion of the Hague Abduction Convention to include more partner countries. We are constantly identifying new ways to strengthen our bilateral relationships to resolve individual cases and establish protocols that will prevent abductions or positively impact the resolution of future cases.

The passage of ICAPRA in 2014 represents a joint effort by Congress and the Executive Branch to both prevent and resolve international parental child abduction cases. The focus of my testimony is on how the Department is implementing the ICAPRA mandates and requirements around annual reporting, case monitoring and communicating with the general public.

When I last testified before this committee in 2013, Secretary Kerry had just extended my tenure as the Bureau of Consular Affairs' Special Advisor for Children's Issues in the office which implements certain U.S. obligations under the Hague Convention on the Civil Aspects of International Child Abduction (Convention) as the U.S. Central Authority (USCA). The USCA works closely with foreign governments, foreign central authorities, foreign judicial and administrative authorities, and law enforcement to resolve cases, including by facilitating the return of children to their country of habitual residence and assisting parents seeking rights of access to their children. In 2014, the USCA assisted in the resolution of 781 abduction and access cases worldwide of children wrongfully removed from or retained outside the United States.

On behalf of the USCA, I traveled to 16 countries in 2014 to hold bilateral discussions with foreign governments on resolving IPCA cases. In addition, other USCA officials traveled to nine other countries to discuss IPCA, Convention compliance, and progress toward becoming party to the Convention, as appropriate. I also regularly encouraged more countries to become party to the Convention in public speeches in the United States and abroad, and also when meeting in Washington with official delegations from numerous countries.

Our efforts, both in the United States and abroad, will be covered in more detail in the Annual Report due to Congress by April 30. I want to take this opportunity, however, to highlight the many initiatives that the Department of State has taken to implement this new legislation since it went into effect in August 2014.

Initiatives within the Office of Children's Issues

The country officers in the Bureau of Consular Affairs' Office of Children's Issues, or CI, are the backbone of the USCA. They provide many services to parents including – providing information about foreign and domestic IPCA-related resources; processing Hague Convention applications and monitoring Convention proceedings; coordinating with U.S. embassies and consulates to monitor the welfare of abducted children; and facilitating communication with state and federal government agencies and relevant foreign government authorities to assist in the resolution of cases.

ICAPRA has provided an opportunity to strengthen our policies and procedures, enhance the level of service provided to parents and better monitor the welfare of abducted children. As a team, we updated policies and procedures and mapped a detailed strategy for implementation that built on existing best practices.

Many of our initiatives, at present, are driven by the Annual Report's new data requirements. On the basis of multiple new data points, we completed data collection on more than 1,000 outgoing abduction cases. We also established a SharePoint tool to track all implementation efforts including bilateral engagement. The creation and organization of this data required by ICAPRA laid a solid foundation for our ability to implement the law immediately and into the future, report to the public and Congress, and encourage better compliance and cooperation with both Hague partner countries and non-Convention countries.

The Department regularly instructs its diplomatic missions in non-Convention countries to engage with host governments and encourage them to become party to the Convention. Embassy and consulate public affairs and

consular sections regularly promote the Convention through public diplomacy and outreach activities. These missions were also informed of the ICAPRA provisions and each designated a senior official to serve as the point of contact for left-behind parents and with host governments.

Initiatives in Training and Prevention

The Department is coordinating with other U.S. government agencies and providing training to groups and individuals to heighten awareness of IPCA issues and procedures. These efforts build on existing programs and relationships and expand the IPCA knowledgebase.

As required by ICAPRA, the USCA has organized an interagency working group to enhance child abduction prevention measures. We are working with the Department of Justice, the Federal Bureau of Investigation, and the Department of Homeland Security (DHS) in “Operation Prevent Departure,” a DHS initiative.

On October 15, 2014, I chaired the first meeting of the ‘Prevention of IPCA Interagency Working Group’ composed of participants from the State Department and the other agencies cited above. We discussed how to enhance current interagency IPCA prevention strategies and how to streamline and improve interagency cooperation on child abduction cases originating from the United States. We have also invited the Department of Defense (DoD) to join our next meeting scheduled for April.

In 2014, the USCA held a roundtable meeting with the U.S. Navy Judge Advocate Generals (JAG) corps to discuss the role of the USCA and opportunities for outreach to DoD personnel. The USCA conducted outreach to 200 JAG officers to raise awareness among the military community on international parental child abduction. The USCA also met the Director of DoD’s Office of Legal Policy to provide an overview of ICAPRA and the law’s impact on the military community. Everyone pledged to continue their ongoing collaboration and cooperation to achieve the goals in ICAPRA.

The USCA educates the broader group of domestic judges about the Hague Convention in a variety of ways. Our website contains important resources about the Convention, as well as abduction prevention tools and information. A judge hearing a case under the Convention in the United States receives a letter from the USCA highlighting important articles of the Convention, the role of the USCA, and additional resources such as the Convention’s implementing legislation in the United States, the International Child Abduction Remedies Act.

The USCA also informs judges hearing Convention cases in the United States that they may contact the USCA to speak with one of the four U.S. Network Judges who participate in the International Hague Network of Judges, known as the Judges Network. The Judges Network is one of the United States' most important tools for judicial education on the Convention, and consists of approximately 70 judges from 47 countries, who are experts in the Convention and other international family law issues. The United States currently has four U.S. judges serving on the Network, three state court judges, and one federal court judge. The USCA is grateful for the service of the U.S. Network Judges, who have helped facilitate the resolution of many Convention cases in the United States by communicating with and educating domestic judges on the Convention.

Diplomatic Initiatives

Our diplomatic efforts increase the likelihood that our current and future treaty partners will be able to meet their responsibilities under the Convention. In the spirit of strengthening and expanding the Convention worldwide, we routinely invite and welcome foreign governments to observe how we implement the Convention. Additionally, we routinely identify opportunities to work multilaterally with countries that already implement the Convention effectively to press more countries to join. Partnership among existing Convention countries has proven tremendously successful in efforts to welcome new countries into Hague partnership.

In CY 2014, the USCA, on behalf of the Secretary of State, initiated numerous actions to promote improved application of the Convention's provisions by partner countries. For example, the USCA held bilateral meetings to promote Convention implementation with Argentina, Brazil, Costa Rica, the Dominican Republic, Honduras, Japan, Korea, Mexico, Poland, Romania, Switzerland, Turkey, Ukraine, and Uruguay; delivered *démarches* about Convention compliance to foreign governments including Argentina, the Bahamas, Brazil, Costa Rica, Guatemala, and Slovakia; and sent diplomatic notes on unresolved cases to foreign governments including Argentina, Brazil, and Uruguay.

Department officials, on behalf of the Secretary of State, regularly engage with foreign governments of non-Convention countries to encourage those countries to ratify or accede to the Convention and to address pending abduction and access cases. An example of the USCA's policy of promoting Convention partnership worldwide was the decade-long effort to encourage Japan to ratify the Convention. On April 1, 2014, the Convention entered into force between the

United States and Japan and the USCA has developed a productive working relationship with the Japan Central Authority.

Though Japan's ratification of the Convention was achieved, there are over 50 non-Convention abduction cases to Japan that predate Japan's accession. Many of these cases have been pending for years. Parents with these cases are not able to seek return of their children under the Convention, although, as of December 31, 2014, parents have filed 31 Convention access applications. Nevertheless, of the few cases in which parents have sought redress in Japanese family courts, none has resulted in either meaningful parental access or the return of the child to the United States.

The Department continues to urge Japanese action on non-Convention cases. The USCA and the U.S. diplomatic mission in Japan continue to press the Japanese government for assistance in bringing about the return of abducted children to the United States or to obtain parental access. The Department's efforts have included individual requests through diplomatic channels seeking Japanese assistance in enforcing U.S. parents' rights and in persuading taking parents to provide access; organizing exchanges and training for lawyers and officials; and outreach and public diplomacy efforts to promote understanding of parents' and children's rights. The Department continues to encourage the government of Japan to remove obstacles that parents still face in gaining access to or return of their children.

Meanwhile, the Japanese government is developing its own resources to address issues related to child abduction. Many of these initiatives, such as promoting mediation and alternative dispute resolution methods as a way for parents to reach agreement; using videoconferencing to foster communication between parents and children; and engaging in public outreach activities, may assist in non-Convention cases as well. The USCA is watching these efforts closely and hopes to see them produce meaningful results for parents and children.

Additionally, there are many cases involving children abducted to countries that have not yet joined the Convention or with which the United States does not yet have a treaty relationship. One of our top priorities is to engage bilaterally and multilaterally with these foreign governments to explain why the Convention is beneficial and to encourage expanded Convention partnership throughout the world. In those cases, options for seeking the return of a child are far more limited, thus underscoring why Convention membership is so critical as we move forward.

During the reporting period and to fulfill requirements of ICAPRA, the USCA initiated a process to categorize countries for reporting purposes; identify and prioritize countries as candidates for initiating a process to develop and enter

into appropriate bilateral procedures or other protocols; and evaluate whether non-Convention countries have demonstrated patterns of non-compliance as defined by ICAPRA during the reporting period.

Egypt, for example, has been the object of repeated efforts to make an existing arrangement more effective, and to encourage them to become a party to the Convention. To date, we have 20 open cases involving 26 U.S. citizen children abducted from the United States to Egypt. In 2014, Embassy Cairo engaged in several different diplomatic efforts with the Egyptian government, including a joint effort with the European Union. Additionally, in March 2014, I met with various Egyptian government representatives in Egypt to encourage them to become a party to the Convention. In these meetings, the Egyptian government confirmed their interest in the Convention. In response to these diplomatic efforts, the Egyptian government also confirmed their current review of the Convention, noting the review is the first step towards joining the Convention.

We continually look for opportunities to educate our foreign partners on the benefits of the Convention. In October 2014, we hosted a regional symposium on the Convention in Jordan. The symposium focused on educating participants from Jordan, Egypt, and the United Arab Emirates on the Convention to encourage accession or ratification. The symposium also included participation from Canada, the Hague Conference of Private International Law and Morocco, one of the few Muslim countries to be a party to the Abduction Convention. The Jordanian, Egyptian, and Emirati delegations appeared eager to learn about the Convention and displayed interest in better understanding the Convention in hopes of joining it in the future.

The United States also participated in other regional fora hosted by the Hague Conference and designed to increase the reach of the Hague Convention. These included regional meetings in Beijing in May 2014 and in Kuala Lumpur in November 2014. The Kuala Lumpur conference specifically addressed the compatibility of the Hague Convention with Sharia legal codes and included presentations from Malaysian, Indonesian, and Egyptian judicial authorities, underscoring these non-Convention countries' interest in understanding the principles of the Hague Convention.

The Way Ahead

Our office remains committed to aiding parents to resolve these difficult and painful abduction cases. We support parents by providing them appropriate advice and guiding them to domestic and foreign resources that may help them resolve

their children's cases. As we execute the new requirement to inform Members of Congress directly of new IPCA cases, we will comply with both ICAPRA and with our responsibilities to the parents under the Privacy Act.

We raise individual cases with foreign governments, requesting through diplomatic channels that they assist with the return of abducted children to the United States and assist parents to obtain access. Our country officers in the Department and consular officers in Embassies and Consulates seek to use whatever bilateral and multilateral means available to facilitate the return of a child. Our collective efforts are the basis for assessing a country's pattern of compliance and inform our future diplomatic endeavors.

We build on CI's Prevention Branch's existing programs to routinely conduct outreach to federal and state law enforcement, third-party organizations and the general public, raise awareness of IPCA issues and stop abductions-in-progress. Closer coordination with other U.S. government agencies will increase the level of cooperation and should strengthen preventive measures.

Conclusion

Mr. Chairman, Ranking Member Bass, distinguished Members of the Subcommittee, in the Bureau of Consular Affairs, we are committed to finding a viable solution for resolving each and every abduction case. Your support continues to be a key element to our success in maintaining IPCA as a priority in our bilateral relationships and pressing for a tangible resolution to these cases. We remain committed to achieving our shared goals to increase the number of children returned to their parents, to advocate for membership in this important international treaty, and to create safeguards that will minimize the occurrence of international parental child abduction.

Thank you. I am pleased to take your questions.

Mr. SMITH. Thank you very much, Madam Ambassador. If I could begin, again, in your testimony just a moment ago, you talked about how the USCA has assisted in the resolution of 781 abduction and access cases. Can you tell us how many of those cases deemed resolved were actually returns?

Ambassador JACOBS. I do not have that number, but I can get it for you. I mean, because resolved cases to us are returns, either voluntary or court ordered or the case has been closed either by the parents or because the child has aged out and has become a different kind of case for us. It is not that we are forgetting about them.

Mr. SMITH. Oh, no. I ask that because even like an aging out issue at 16 for Hague countries, for example, what they tried and have done to so many of the abducted parents globally, including those whose children were taken to Japan, David Goldman's case was—they were running the clock on that one to try to get Sean to 16. It would be, and I would hope the press would take note of this, it is wrong to talk about that as resolution without delineating how many of those children came home. Could you—maybe someone could—

Ambassador JACOBS. I am going to—

Mr. SMITH [continuing]. Get that to us before the hearing is over?

Ambassador JACOBS. I can get you that number probably tomorrow or Friday.

Mr. SMITH. Any chance of getting it now, you know, somebody back at headquarters?

Ambassador JACOBS. I don't think we have it. I am sorry. I didn't know that you were going to go into the numbers.

Mr. SMITH. Well, that is all-important, because the headline of 781 resolved cases does sound very efficacious and very encouraging. But, again, when you talk about aging out or a parent who, after a year, hasn't been in touch with the Department, and he or she, the mom or dad, find out that—you know, that they have been dropped, we have been very concerned, and we hear from the parents that there is some concern about dropped cases. I want to know how many came back.

Ambassador JACOBS. And I am going to get you that number.

Mr. SMITH. And none from Japan, as far as you know, right?

Ambassador JACOBS. As far as I know, there have been none from Japan, but there was a court-ordered return just last month.

Mr. SMITH. You know, on the visitation issues, you point out, and properly so, as I mentioned in my opening comments about how with Japan, even on the access cases, 31 Convention access applications, none of those have been honored either, and that is—I mean, that is outrageous.

And I sat in that meeting, and the left-behind parents meeting with Japanese officials a year ago next week were like the ultimate diplomats. I was boiling listening. You know, they were respectful on the other side of that table, but it was like, please, you know, I have been in this business for too long, 35 years as a Member of Congress. Let us talk resolution. And there was talk of endless delay. And now, a year later, none of those access cases even have occurred.

Ambassador JACOBS. I know that it is frustrating, and we share your frustration. And these are issues that we continue to raise with the Japanese. We talked to them in September. There was an International Visitor Leadership Program in February, and then another visit from the Foreign Ministry, and we have raised these concerns at every one of those meetings, and we plan to go back in June. And I talked to Ambassador Kennedy yesterday, and she is energized and she is ready to launch.

Mr. SMITH. If I could ask you, in terms of the return, if you could give us that information for each country.

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE SUSAN S. JACOBS TO QUESTION
ASKED DURING THE HEARING BY THE HONORABLE CHRISTOPHER H. SMITH

Take Back Questions from Special Advisor Susan Jacobs'
Congressional Testimony

March 25, 2015
Susan Jacobs

Representative Smith: Please breakdown the return information for each country.

Ambassador Jacobs: See below for a complete breakdown of the number of children returned by country in CY 2014.

Country/Area	Number of Cases where Minors Returned in CY 2014	Number of Children Returned in CY 2014
Algeria	1	1
Argentina	1	2
Australia	1	2
Bangladesh	2	2
Barbados	1	1
Belgium	1	2
Belize	2	3
Bolivia	1	2
Brazil	3	3
Bulgaria	2	3
Cameroon	2	2
Canada	8	12
China	7	8
Colombia	5	7
Costa Rica	1	1
Dominican Republic	2	2
Ecuador	2	4
Egypt	6	9
El Salvador	3	4
Ethiopia	2	3
France	3	3
Germany	5	6
Ghana	2	4
Guinea	3	4
Honduras	7	9

Hong Kong, SAR	2	4
India	6	7
Iran	1	1
Israel	3	3
Italy	1	2
Japan	2	2
Jordan	3	6
Kenya	2	2
Lebanon	2	3
Liberia	1	1
Mali	1	1
Mexico	101	148
Morocco	2	2
Nepal	1	2
Netherlands	1	1
Nicaragua	1	2
Nigeria	5	10
Pakistan	5	6
Panama	1	1
Peru	1	2
Philippines	6	8
Poland	2	3
Russia	4	6
Saudi Arabia	2	4
Sierra Leone	2	3
Slovakia	1	1
Slovenia	1	1
South Africa	1	2
South Korea	1	1
Spain	1	2
Sudan	1	1
Switzerland	1	1
Syria	1	1
Tanzania	2	3
The Bahamas	1	3
The Gambia	1	2
Trinidad & Tobago	2	2
Turkey	2	2
United Kingdom	8	15

Vietnam	2	3
West Bank	1	3
Yemen	1	1
Zambia	1	1
TOTAL	260	374

Mr. SMITH. I mean, Japan, India, I mean, it was the NCMEC—the National Center for Missing and Exploited Children—that said the number is 64. Bindu Philips, who will testify, sitting right directly behind you, almost 7 years.

Matter of fact, she not only has had her children kidnapped, as Eamon Blanchard, who is a police officer who is with her today, as the Plainsboro Police have documented, there has been one violation of her rights, money was taken, all the furniture was cleared out, loans—I mean, it was a very high level fraud, in addition to—I mean, she was broke after this happened by the abducting father. And back in India she is being frustrated beyond words.

And, as you know, and this goes for Japan, it goes for any country, Section 201 makes clear that determination of action by the Secretary of State for each abduction or access case related to a child whose habitual residence in the U.S. that remains pending or is otherwise unresolved on the date that is 12 months after the date on which the Central Authority in the U.S. submits such a case to a foreign government, the Secretary shall determine whether the government of such foreign country has failed to take appropriate measures and that he is then, as expeditiously as practicable, told, admonished, delineated in law, to take one or more actions described in Section 202, which are the sanctions provisions.

It seems to me you have a textbook engraved invitation to be serious in implementing this law to say, “Japan, we could take any one of these cases.” Paul Toland, he served in Yokohama in the Navy, and he is the only surviving parent, not unlike David Goldman, because his wife had passed away. And he, like the others, live in agony over the loss of their child. She is I think now 11, his little daughter.

That is a textbook case for us to say, “Section 201, Japan, we are going to use this.” Because, again, the access cases should be a clear suggestion, if one is needed, that Japan is not living up to the letter or the spirit of comments that have been made, as well as signatories to the Hague Convention. In their case, they are excluded and not included in its implementation by definition.

So if you could take back, and maybe respond to it now, could you use Section 201 for Bindu Philips or for Paul Toland or any of the left-behind parents whose children were abducted to Japan?

Ambassador JACOBS. Absolutely, because we do it now. We don’t—we have not waited for that year to run. We raise these cases constantly, especially with the countries that you have named, in an effort to resolve the cases.

Mr. SMITH. Can I respectfully—

Ambassador JACOBS. Can I tell you that I share your frustration.

Mr. SMITH. Good. Thank you. Can I just say, and I really believe there needs to be a look at—I mean, there are a number of tools in the toolbox in terms of sanctions. Look at the sanctions that will have bite. I mean, a demarche is a good shot across the bow, but that is all it is, and you have done that with Brazil, for example, but I think the next step has to be, okay, you have not resolved these cases, and you tweeted back in 2011 how you have put together a working group in Brazil. Is there any fruit to that effort? Are people coming home? Children?

Ambassador JACOBS. Let me express my frustration with our progress with Brazil. I have made six visits to Brazil, and we have had one return, and it isn't enough. But we have had a breakthrough, and I have been invited to go back and to meet with judges to express our frustration, because in Brazil that is where the problem is. And we have had—we have invited judges up here, we had 10 judges here in September, we are putting together another program for judges, and we are looking at every way we can—the Ambassador is very engaged.

We are trying to work with the Brazil Central Authority, a very responsive organization, to get the judges to implement the Convention the way it is written.

Mr. SMITH. When Secretary Kerry testified on February 25 before our full committee, I asked him specifically about the meeting with Prime Minister Modi by both himself in January, and of course the President of the United States, Barack Obama.

And I asked whether or not child abduction cases had been raised, and I am not sure he answered it. And I have deep respect for the Secretary, but he said, "Any time that I visit either home or go somewhere we meet at high levels, we raise these issues by name." I am not sure he raised Bindu's case or any of these cases, but my question to you is, it would be nice to have clarification on that.

But in our newfound relationship with the Modi government, is this an issue at the top, along with other issues at the top? I mean, if we can't speak out for abducted children, American children, who will?

Ambassador JACOBS. It is an issue at the top, and let me assure you that—

Mr. SMITH. Did President Obama raise it?

Ambassador JACOBS. I don't know, because—

Mr. SMITH. Can you get back to us on that for the record?

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE SUSAN S. JACOBS TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE CHRISTOPHER H. SMITH

Given the high volume of international parental child abduction cases from the United States to India, the Department of State continues to employ a full range of diplomatic tools to improve cooperation on resolving these cases. We continually work with the Government of India to identify new avenues of cooperation and to request assistance in resolving all cases at all appropriate levels and opportunities. We refer you to the White House for questions about the President's meeting with Prime Minister Modi.

Ambassador JACOBS. I am going to be really honest with you. I don't know if that information will be given to me. But what I can assure you of—

Mr. SMITH. Is that secret?

Ambassador JACOBS [continuing]. Is that when we learn that high level people, including the Secretary and the Under Secretaries, are traveling to countries where we have problems with abduction cases, we put something into their briefing book, so that they will raise this issue. This is—

Mr. SMITH. And I deeply appreciate that, but the question is, is it delivered or is it on page 5 of what they—and they never get to it?

Ambassador JACOBS. It is—

Mr. SMITH. I mean, we found that with David Goldman at first. It was—you know, we had—there was pickets out in front of the White House to try to get a focus when Lula, the President of Brazil, was coming, and finally at long last it was raised. We are not sure if it was an afterthought or a real—I mean, foreign leaders, as we all know, look our foreign leader in the eyes and say, “Is this of high importance, or are you just putting a little check in the box?”

And I would hope—there is nothing secretive as to whether or not the meeting with Prime Minister Modi—and this would go for the Prime Minister of Japan and any other meeting—this has to be front and center, and now sanctions ought to be utilized.

If we use sanctions—and I made this point when I did the Trafficking Victims Protection Act, if you don’t use the sanctions, this becomes an unimplemented law and a toothless piece of legislation. They have to know it is a priority, and the meting out of sanctions—and I mean real sanctions, would immediately cause them to wake up and you will have tremendous successes on your hands with children brought home.

Ambassador JACOBS. If I might, I can tell you that I have already had some successes in just the threat of sanctions invoking this law. In recent meetings in Guatemala and Honduras, where we have had very little success on abduction cases, we got their attention and now there is going to be far better cooperation.

Mr. SMITH. That is encouraging, but those are very small countries that can be more easily persuaded, to use a diplomatic term. “Intimidated” might be a better word.

Ambassador JACOBS. No.

Mr. SMITH. But the big countries, the big countries—Japan, India—this has to be far more—

Ambassador JACOBS. Absolutely. They have—I am planning to go to India in May, to Japan in June, and to talk about the report. The Indians don’t want to be cited, and I do think that public shaming is a very good thing for countries that are not doing the right thing.

Mr. SMITH. Can we expect India will be on the non-cooperation list?

Ambassador JACOBS. We haven’t put together the list, but I don’t think you will be disappointed.

Mr. SMITH. Okay. Also in your testimony you say, “As we execute the new requirement, to inform Members of Congress directly of new IPCA cases,” let me just say the language is clear that all cases should be informed. Is there are more narrow reading of the text?

I mean, a new case—I mean, all of the old Japanese cases, some of them are 10 years old, it would seem to me—and I have asked many Members of Congress, is there anybody in your district that you know of? And one after the other, it is a blank stare. “No, nobody has contacted me.” Are you informing all people that their Congressman and two Senators could be tremendous advocates for the return of their children, or access, or both?

Ambassador JACOBS. In April, we will begin the notification process to Members of Congress. We have had to work through other laws to make sure that we are doing the right thing, and we will begin doing that in April.

Mr. SMITH. Okay.

Ambassador JACOBS. And thank you for that question.

Mr. SMITH. Okay. And it will include old and new cases.

Ambassador JACOBS. It will include—

Mr. SMITH. Not just since—

Ambassador JACOBS [continuing]. All the cases for which we have permission to give them information.

Mr. SMITH. Okay. That is good. So strike that “new” word in the—Ms. Bass.

Ms. BASS. Thank you very much, Mr. Chair. As usual, this is an issue that you have championed for many years. I will share with my other colleague there, I remember years ago watching the case in Brazil, long before I ever knew I would be coming to Congress, and then I get to sit next to the person that championed it, so—along with your leadership for many years.

I just have a couple of questions. I wanted to know if you could describe how our Government is engaging in efforts to prevent these abductions from taking place in the first place, and how our Government measures the effectiveness of programs to prevent the abductions. And then, what actions has the State Department taken to encourage mediation as an option for returning children? Especially to return children from countries that are not Hague Convention participants.

Ambassador JACOBS. Thank you so much for those questions. We have a number of programs to protect children from abduction, some of them of longer standing than others. All of them are really a part of the Operation Prevent Depart. So we have for children under the age of 16 a two-parent consent rule, which means both parents have to give their permission for a child to be issued a passport.

And we also have a Passport Alert Program where a parent who feels their child will be abducted can notify us, and we will put an alert in the system so that a passport will not be issued unless the parent who put the hold in is notified. And it is hard to know what the success rate is, but it is a deterrent and it works.

We also work very closely with Customs and Border Protection to prevent departures from the United States. We also have the prevention working group that I chair with members from Justice, Homeland Security, it will include Defense now, and the Federal Bureau of Investigation, and we work on new programs.

This is mandated by the law. It is something that we had started doing before, and we do work very closely with law enforcement.

And I think it is effective. As you know, it is easier to prevent the abduction than it is to get a child back.

Ms. BASS. Right.

Ambassador JACOBS. And so we need to do everything that we can, and we look forward to working with you all on strategies that will prevent children from being abducted. I mean, that is the big thing that we can do.

Ms. BASS. And I am wondering if some of the procedures that you are describing are new. I have to tell you, while you were describing the thing about the passports, there is all of these heads behind you shaking no. And so I don't know if that is a new procedure.

Ambassador JACOBS. The two-parent consent rule was instituted in 2008.

Ms. BASS. I see. That is relatively new.

Ambassador JACOBS. It is new, and it is something that we encourage other countries to do.

Ms. BASS. Have you ever had a situation where you were able to—you know, one of the problems with prevention is that it is hard to document something that didn't happen, right? But I am wondering if you ever had a situation where you were able to literally stop it versus—do you understand what I am—

Ambassador JACOBS. Yes. Absolutely. In a couple of—we have—we are fortunate enough to be able to use passport agencies, especially in California, to place prevention officers, so that—and we also have officers in Europe. So we have almost 24-hour coverage where parents can report an abduction in progress, and last year we stopped one in San Francisco.

Ms. BASS. Oh. While they were trying to board—

Ambassador JACOBS. While they were trying to get into Canada. They were trying to get on a plane to get into Canada.

And I am sure you all read about the case at Dulles where a mother was trying to take her child to China, and they turned the United Airlines flight around.

Ms. BASS. No. When was that?

Ambassador JACOBS. The father—I am sure the other passengers were annoyed, but we thought it was a great success.

Ms. BASS. When did that happen?

Ambassador JACOBS. It happened last fall sometime.

Ms. BASS. Wow. Okay.

I yield back, Mr. Chair.

Ambassador JACOBS. And you asked about mediation.

Ms. BASS. I did.

Ambassador JACOBS. We participate in a mediation working group that consists of Sharia law countries and non-Sharia law countries, and mediation does work, and it is something that we suggest to parents. I don't think it is a substitute for the legal recourse that is available in the Hague Convention, but it is something that parents should try if they think it will work.

Mr. SMITH. Thank you very much, Ms. Bass.

Mr. MEADOWS.

Mr. MEADOWS. Thank you, Ambassador, for being back with us. And as I go into this, I want to ask just a couple of questions as a follow up of some of the other things that have been mentioned.

And I guess for me, when we talk about open cases, and we talk about the breadth of this problem, is it growing, or is that number going down?

Ambassador JACOBS. It is about the same. Now, you have to remember, though, that it is all self-reporting. If somebody doesn't notify us about a case, then we are not going to—

Mr. MEADOWS. You can't know about it if you are not—

Ambassador JACOBS [continuing]. We can't—

Mr. MEADOWS [continuing]. Notified.

Ambassador JACOBS. Right.

Mr. MEADOWS. But what you are saying is that we have the same number of open cases. It has been flat.

Ambassador JACOBS. I can get you real numbers.

Mr. MEADOWS. Which I guess—well, let me ask the logic. If it is staying flat, and what is that number? I mean, about what are we talking about, how many?

Ambassador JACOBS. It is about 1,000 cases that are open.

Mr. MEADOWS. So if we have about 1,000 cases, and as the chairman was talking about, some of those are aging out and being closed, so we have new ones coming in and I guess the same number going out, that is not necessarily a direct result of successes within your department. Is that—I mean, what percentage I guess is your actions versus just they are growing old or they are closing the case or they worked it out on their own?

Ambassador JACOBS. I would argue that a lot of it is due to our actions. I think that membership in the Hague Convention, even while it is slow and often frustrating, does provide a legal framework and a way to work with countries, both bilaterally and multilaterally, to get their attention and to get them to enforce the Convention.

In a lot of countries, like Brazil, we do work with other countries to present the same message to the Brazilians that we are giving them, and that becomes a strong message. I think laws like ICAPRA also help us, and they are—kidnapping is a crime in the United States, and I think people often look to a civil remedy rather than a criminal remedy, so that if a taking parent is found out of compliance with the law and the child is returned, they would still be able to visit their child in the United States under some circumstances.

So I think that it is a combination of a lot of things, but I think that the Hague Convention remains our best tool for helping to ensure the return of abducted children.

Mr. MEADOWS. All right. So we have some tools. We have the law that the chairman has referred to, we have, you know, a department that is committed to this particular issue, we have a number of tools that are out there. I am sure you will get to hear from Ms. Walorski here in just a few minutes. How do we, as Members of Congress, come alongside you to make this a priority?

Because I am very sensitive to the fact that you have got a difficult job at the State Department, and there are a number of moving parts. And I try to stay out of that as much as I can, even though it is a passion. But does it require a few Members of Congress getting on the plane and going down? I mean, would that be

helpful? Or the next trip that you have that we come in and we show that it is a priority more than we have.

Ambassador JACOBS. I think it would be great if when you all travel that this is one of the points that you raise with foreign legislators and others that you meet. I think it is an incredibly important issue, and we want to be your partner in resolving these cases. So I would welcome that.

Mr. MEADOWS. But I will say the other side of that, though, Ambassador, is this, that if we had these tools and we never plan to use them, then the threats, or their persuasive power you might say, becomes a lot less because what happens—a lot of these countries don't believe that we ever plan to sanction them. They don't believe that we are ever going to cut off foreign aid. They don't believe that it is really a priority.

And let me go a little bit further, because one of the concerns I have is that when I talk to people in the State Department, regional, bureau, Assistant Secretaries, and people with regional—they don't even know that the problem exists, you know, or so they claim. So I would love you to respond to that.

Ambassador JACOBS. Well, if they don't, then that is a failing on our part, because we have certainly done our best to educate them about the importance of this issue.

Mr. MEADOWS. All right. So do you meet with them regularly and give them a list of priorities in terms of people—you know, children that have been abducted? Do you have regular meetings with the different regional Assistant Secretaries?

Ambassador JACOBS. I certainly meet with them as necessary. And when there are cases that need to be resolved, I pick up the phone and I call them.

Mr. MEADOWS. Yes. But if you are not doing that as a part of your regular—here is what happens is you pick up the phone, and it becomes a priority for that day. And if you are not coming back, just like with you getting prepared for this hearing, the fact that you are coming back, I assume that you did a little bit of prep. I mean, I may be surprised, but it is the same kind of thing with the Assistant Secretaries.

And what I am hearing is is, you know, from a—whether it is the Asia Bureau, or wherever it may be, is they are not hearing the priority. And so do we have your commitment that you are willing to start scheduling those meetings in those troubled areas? I am not talking about all over the world, but we know where the biggest source of the problem is. And if you would have those regular meetings where they say, "Well, gosh, here comes Ambassador Jacobs again. You know, we have got to get some"—it makes it a priority. Are you willing to do that?

Ambassador JACOBS. I certainly am, and we actually have a meeting scheduled with the Western Hemisphere countries on April 22.

Mr. MEADOWS. Okay. Then—

Ambassador JACOBS. But let me—can I just add one more?

Mr. MEADOWS. Certainly.

Ambassador JACOBS. Our country—

Mr. MEADOWS. We are looking for solutions, so you add whatever you can add.

Ambassador JACOBS. Our country officers in Children's Issues speak with their counterparts on the desk, the regional desk officers, every day. So they know, and this message gets carried up. And our Assistant Secretary, our Acting Assistant Secretary, speaks out at the meetings that she goes to with the Secretary. So this is an issue that everyone is aware of. When we know that the Secretary is traveling, we get a point into his briefing book on that country.

Mr. MEADOWS. But having an awareness—and I am following your words—having an awareness and making it a priority are two different things. I mean, I have an awareness that my feet hurt, but until I do something about it, you know, I mean, and that—and I don't want to continue to press you on this. And I am—

Ambassador JACOBS. Okay.

Mr. MEADOWS [continuing]. Trying to take off my oversight and be kind and compassionate about this, because I do know your heart. But I guess what I am saying is, I don't want to have another hearing a year from now and us to have a flatline in terms of the number of cases.

Ambassador JACOBS. And I appreciate that. But let me assure you that for the Secretary, having been a Senator, he knows how important this issue is, as did Secretary Clinton who had also been a Senator. And, you know, they truly care about this issue. And so the Secretary has made it a priority to resolve cases everywhere around the world.

Mr. MEADOWS. All right. I have—

Ambassador JACOBS. And I promise you that we will hold those meetings, and we will do it regularly.

Mr. MEADOWS. And if you can just give us maybe every 6 months—

Ambassador JACOBS. I will give you the highlights.

Mr. MEADOWS. Well, if you will just give us a report of who you have met with and the highlights, that will help us figure out if we need to get other Members of Congress to follow up on it. But thank you so much.

Ambassador JACOBS. Absolutely.

Mr. MEADOWS. I yield back, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Meadows.

Ms. Walorski.

Ms. WALORSKI. Thank you, Mr. Chairman, again.

Ambassador Jacobs, Marla, Katerina, and Marcus, again, these are my constituents. They are in a desperate situation, and I am here again on behalf of them, and in my role as well, is basically to ask you in your position—and, yes, I know you have done great work, and I know that there is, like you have said, 1,000 cases open. These two happen to be my responsibility.

So what is the State Department's overall strategy in Cyprus? Is this a trend? Do you see more of this happening? Are my two constituents and three constituents the only people trapped in this whole kidnapped children, desperate situation, violence in another country? What is the overall situation in Cyprus that you know of?

Ambassador JACOBS. I don't know of any case other than yours, but I will certainly check. I know that our counsel there, Steve Royster, has been very active on your behalf and on behalf of the

children, and we will continue this pressure. And, as I told you when we met before the hearing, I will go to Cyprus. My daughter was born there, so I have a special affinity for Cyprus. And I will also meet with the Cypriot Ambassador here and impress upon him the necessity to resolve this case for Mrs. Theocharides.

Ms. WALORSKI. I really appreciate it. I am grateful, and they are grateful, and I am sure the families are watching today.

And I know that, again, when it comes to how helpless these families feel, and for all the families that are in this audience today, about how helpless we all feel when—these are American citizens. We would not tolerate this kind of violence in our country. And when things become desperate like this, I am just grateful.

And I will tell you that Ambassador Steve Royster, although I have never met him, has taken my call in the middle of the night many times. I look forward to meeting him. He has been an incredible help. The State Department overall has been helpful, but it just seems like it has just been nothing—in dealing with the Cypriot Government, one roadblock after another after another after another.

So in your position of authority, and based on what we are talking here today, with this issue of being able to sanction, I mean, I look at that as an open door that we really have not had before. So I appreciate it.

And I just have one other question.

Ambassador JACOBS. Yes, ma'am.

Ms. WALORSKI. I have another issue that I just want to bring up quickly. It is the Democratic Republic of the Congo. On these issues where the President suspended the adoptions, I have got also adoptive parents in my district that have a heart of gold that have adopted these children. They legally went through. They are trapped in the nation. They have shut it down. I have dealt with that with Romania before.

What is the status right now? Is it a Presidential issue? Are you working on it? Where are we on this, on the issue of the Congo?

Ambassador JACOBS. I can't tell you how frustrating this issue is for me. I went to Congo in December to talk to them about this. They promised that there would be an interministerial meeting that would make me very happy. The government changed 2 days later. The meeting never happened, and I am still really unhappy.

Our Acting Assistant Secretary was there last week. They promised the same thing and nothing has happened. We are reassessing what we do. We have bent over backwards to meet some of their demands to show them how loving families can make such a huge difference in the lives of children that are living under terrible conditions in foster homes and orphanages in the Democratic Republic of the Congo, and we are not getting a lot of traction.

And we have allies in all of the other countries that are seeking to help children find permanency. We are hoping that they will attend the Special Commission meeting in the Hague in June, so that they can hear from all of us together in person, that adoption can be a great thing for a child, and especially for children who are unable to find permanency and a loving family in their own country.

Ms. WALORSKI. Well, I will just echo—because I have had first-hand experience in the nation of Romania when we were there and

there was a moratorium on adoptions. And I think it is an outrage when there are willing parents, and I think it is an outrage as a Government to use children as political pawns and tools. We see it all over the world for all kinds of different things, but I just would echo I guess your frustration as well.

If there anything—and to my colleague, Mr. Meadows, if there is anything we can do as Members of Congress to put additional pressure on these nations to be able to comply and to not use these kids a political pawns, you know, they sell them multiple times, they never release them, they suspend them, there is so much gimmickry that goes on, I would just appreciate, if there is anything else that we could do to assist you, I would welcome it and definitely be an advocate.

Ambassador JACOBS. Thank you.

Ms. WALORSKI. Thank you very much.

I yield back, Mr. Chairman. Thank you.

Mr. SMITH. Thank you very much, Ms. Walorski.

Just a few final questions. What is the number right now of open abduction cases, and how many children are we talking about as of today's date?

Ambassador JACOBS. You are going to be angry with me, but I don't have the number. I am going to get it to you as quickly as I can.

Mr. SMITH. Okay. Could anybody behind you maybe get that from headquarters, too?

Ambassador JACOBS. We will get it for you.

Mr. SMITH. Okay. You know, again, Jeffery Morehouse, in his testimony, and I do hope if you can't stay to hear it you will take it and read it, as well as that of our other distinguished witnesses, but he goes through specific cases, including Henrik Teton, who—a request for interim access to his children under the Hague was ignored by the court and goes—I mean, the obstacles that are placed in front of these parents are almost insurmountable unless our Government establishes, in my opinion, an MOU to finally, at long last, have a mechanism that works, that is predictable, that is effective, and does not bankrupt the left-behind parent, which many of these offending parents know will happen over time because they just can't—they have run out of money, and their hearts are so broken that they collapse with exhaustion.

Are MOUs being considered? And I have been pushing this. You know I went to Japan with Michael Elias' mother, so I went with the grandmother of the two children, Jade and Michael, who have been abducted. And the whole pushback was no MOU, no MOU. You and others have suggested that this wouldn't be helpful.

We now know that there has been no relief for these parents and these children. These are American children, and it seems to me that a mechanism that could be invoked to expeditiously bring those kids back is—and that goes for India, a non-Hague country. If they sign the Hague anytime soon, we will be right in that same boat, and Bindu Philips will see 7 years become 8 years become 9 years become 10 years.

And, again, I strongly ask you, take her case. Meet with her, please. But take her case and use that to invoke Section 201. You only need one case, and you only need one case from the folks who

have had their kids abducted to Japan. And then implement the sanctions. Until we do sanctions, I do believe, respectfully, they will think this is a paper tiger and we are just going through the motions rather than being serious about this.

And, again, security aid can be sanctioned. While Japan doesn't get a dime, I am sure, of foreign aid because they are a very, very mature democracy, and they are a donor of foreign aid to refugee causes, another very, very laudable commitment by Japan, but they do rely on a security—and, as we know, we have had witnesses here—and, of course, Paul Toland, he had shinken invoked against him—and I do hope there is something we are doing to say. The sole rights over the child, and in this case Paul's child, his daughter, is in the hands of a grandmother. There is no mother. She has passed, sadly, but she has passed. And Paul still now, a decade later, has not been able to get his daughter back.

And I just want to add one other thing. You know, Patrick Braden is here. I joined him at Melissa's birthday party; I believe she was four at the time. We couldn't even get in to see the Japanese leadership or Embassy people at that time. Now that is, what, 6 years ago. Every one of these wonderful mothers and dads that I meet and you meet, they have put through an agonizing process. So an MOU and a prioritization, sanctions, and say, "Look, we are not kidding."

The Goldman Act—and I don't call it the acronym you do—it is the Goldman Act. You know, once there is more than four letters, I usually think, whether it is "wah-vah" or something else after that, it is better to go with Goldman Act. It just seems to me that the time has come.

And if we invoke sanctions, name the name, you know, put them on the non-compliance, and all three of those countries—Brazil, India, and Japan, and there are others—certainly fit the bill for that. It is easy to sanction Honduras, frankly. But the countries where there is a superpower status, as we have with India and Japan, I mean these are very strong countries. That is when you say, "We speak truth to power."

And I implore you to do this. And I hope the report will clearly name them as offending countries, non-compliant countries, but then take that next step with sanctions, and then get the MOUs established, please.

Ambassador JACOBS. Can I tell you that we have 917 open cases as of March 17, 2015.

Mr. SMITH. And that is open abduction cases?

Ambassador JACOBS. Yes.

Mr. SMITH. Okay.

Ambassador JACOBS. Abduction and access. Sorry.

Mr. SMITH. Have you gotten word back perhaps on how many of the cases cited in your testimony were resolved with a return? I mean, just so members here and the press and all, because, again, it sounds like a much better number than it is.

Ambassador JACOBS. We had 260 returns in 2014.

Mr. SMITH. Okay. So about a third, approximately, of the cases were returned. The rest were not.

Ambassador JACOBS. Right. But they might have been access. I don't have the numbers on the access.

Mr. SMITH. And none from Japan?

Ambassador JACOBS. No. None from Japan.

Mr. SMITH. And India?

Ambassador JACOBS. I don't think so.

Mr. SMITH. And Brazil?

Ambassador JACOBS. I know there were none from Brazil.

Mr. SMITH. Okay.

Ambassador JACOBS. Let me——

Mr. SMITH. And the numbers, how many children are we talking about with abductions?

Ambassador JACOBS. I do not have that.

Mr. SMITH. Okay. Please get back to us as soon as you can.

Ambassador JACOBS. I will.

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE SUSAN S. JACOBS TO QUESTION
ASKED DURING THE HEARING BY THE HONORABLE CHRISTOPHER H. SMITH

Take Back Questions from Special Advisor Susan Jacobs'
Congressional Testimony

March 25, 2015
Susan Jacobs

Representative Smith: How many children were abducted in 2014?

Ambassador Jacobs: In CY 2014, the Department of State's Office of Children's Issues received 597 new reports of abductions involving 897 children.

Country/Area	New Abduction Cases Reported to CA in CY 2014	Number of Children Reported to CA in CY 2014
Albania	2	2
Algeria	1	1
Antigua and Barbuda	2	4
Armenia	1	2
Australia	8	13
Austria	2	3
Bahrain	1	1
Bangladesh	2	2
Barbados	2	2
Belarus	1	1
Belgium	1	1
Belize	4	7
Bolivia	3	5
Bosnia-Herzegovina	1	2
Brazil	11	14
Bulgaria	4	6
Burkina Faso	1	1
Cameroon	1	1
Canada	22	38
Chile	2	2
China	7	8
Colombia	14	16
Costa Rica	6	9
Cyprus	1	1
Denmark	2	3

Dominican Republic	4	7
Ecuador	4	8
Egypt	11	15
El Salvador	6	6
Ethiopia	2	5
Finland	1	2
France	8	8
Germany	38	51
Ghana	3	3
Guatemala	3	4
Guinea	3	3
Honduras	11	11
Hong Kong, SAR	2	4
Hungary	1	1
Iceland	1	2
India	19	22
Indonesia	1	1
Iran	3	5
Iraq	2	7
Ireland	1	1
Israel	11	16
Italy	6	10
Ivory Coast	1	1
Jamaica	4	6
Japan	10	16
Jordan	7	12
Kazakhstan	1	1
Kenya	2	2
Kiribati	0	0
Kosovo	1	1
Lebanon	3	8
Liberia	1	1
Mexico	169	251
Moldova	1	1
Morocco	3	3
Namibia	1	1
Nepal	1	2
New Zealand	2	3
Nicaragua	1	2

Nigeria	5	10
Norway	1	1
Oman	1	1
Pakistan	10	13
Panama	2	2
Peru	7	10
Philippines	11	13
Poland	5	7
Portugal	1	1
Qatar	1	1
Romania	1	1
Russia	12	13
Saudi Arabia	2	6
Sierra Leone	1	1
Slovakia	2	3
Slovenia	2	2
South Africa	2	3
South Korea	4	4
Spain	5	6
Sudan	2	2
Suriname	0	0
Switzerland	2	2
Syria	2	2
Taiwan	1	2
Tanzania	2	2
The Bahamas	1	1
The Gambia	2	3
Trinidad & Tobago	3	5
Turkey	9	13
Ukraine	3	3
United Arab Emirates	4	5
United Kingdom	26	36
Uruguay	1	2
Venezuela	2	2
West Bank	1	2
Yemen	6	14
Zambia	2	3
Zimbabwe	2	2
TOTAL	597	847

Ambassador JACOBS. But let me assure you that we will do everything we can to resolve all the cases, to help every left-behind parent. You have my commitment.

Mr. SMITH. Thank you.

Anybody else have anything to add? No.

Thank you, Ambassador. Appreciate it. And, again, as you leave, I just again will say for the third time, please establish those MOUs. The mechanism doesn't exist to—

Ambassador JACOBS. We intend to approach those governments to do that. But remember that they have to be willing to negotiate with us. We need willing partners.

Mr. SMITH. Again, I think that is where the sanctions will sharpen the mind and they will say—

Ambassador JACOBS. I hope so.

Mr. SMITH [continuing]. “Hmm, the Americans mean business.” I remember when we did the trafficking bill. It took 3 years to get the Trafficking Victims Protection Act enacted into law in 2000, and it took 5 years to get the Goldman Act enacted into law.

I will never forget meeting with members of the Russian Duma, and when we told them and showed them the sanctions provisions, one of the members who has been outspoken on combatting human trafficking in Moscow said, “Oh, you guys do mean business. And will you implement it, though?” And I said, “That remains to be seen. It is an executive branch function.”

But my plea to you is to use the tools in the toolbox, and we will get children back, and the custody will be decided at the place of habitual residence.

Ambassador JACOBS. We will implement this law. You have my commitment.

Mr. SMITH. Thank you so much.

Okay. I would like to now welcome our second panel, if I could, beginning first with Ms. Bindu Philips, mother of abducted children to India, Albert and Alfred, twin boys, who are United States citizens and were born in New Jersey in 2000. Albert and Alfred lived in New Jersey, just outside of my district, prior to their abduction to India by their father, who took the family to India on the pretext of a family vacation.

In spite of being granted custody of the children in the U.S. by the Superior Court of New Jersey in 2009, Ms. Philips is unable to see or communicate with her children. She has been seeking justice in the U.S. and in India, to be reunited with her precious children, for the last almost 7 years.

We will then hear from Mr. Jeffery Morehouse, who is the sole custodial parent in both the U.S. and Japan of his son, who remains kidnapped in Japan. He volunteers much of his time as Executive Director of Bring Abducted Children Home, which is a non-profit organization dedicated to the immediate return of internationally abducted children being wrongfully detained in Japan.

Through BAC Home, he works to increase public awareness through outreach in the general community, on the crisis of international parental child abduction, and he believes it is important for parents of internationally kidnapped children to strategically engage in raising the level of awareness of this human and family rights crisis.

We will then hear from Devon Davenport, who is a research scientist from a biopharmaceutical company in North Carolina. But, most importantly, he is a left-behind father of Nadia Lynn, who was abducted to Brazil by her mother in February 2009. He filed a Hague return application immediately, which he won, and which has withstood appeals in court. But 6 years later, Nadia is still in Brazil.

Although the special appeal at the Superior Court was finally rejected earlier this month, the taking parent continues to use delay tactics in order to prevent the inevitable return of Nadia back to the United States.

And then we will hear from Mr. Scott Sawyer, who is a father of a child kidnapped to Japan in December 2008. In 2009, he became an officer of the parents organization Global Future, which has successfully, safely, and legally brought five kidnapped children back to their lawful homes in the U.S., as well as assisted in kidnapping prevention.

Ms. Philips, if you could—

Mr. MEADOWS. Mr. Chairman, if you don't mind, I just—just briefly, I would just like to say to each of you thank you for being here. And I want to apologize ahead of time; I have got to step out for another meeting. It is nothing personal. I will be here just for a few minutes. I do have staff here who will be monitoring it, taking notes, but I didn't want you to think that it was out of a lack of empathy or concern.

I thank you, Mr. Chairman.

Mr. SMITH. Ms. Philips.

STATEMENT OF MS. BINDU PHILIPS (MOTHER OF ABDUCTED CHILDREN TO INDIA)

Ms. PHILIPS. Thank you, Mr. Chairman, and distinguished members of the committee. It is my honor and privilege to testify before you today, and I thank you for your time to hear of my plight.

My name is Bindu Philips, and it is my ardent hope that my story will capture your attention today. While I have held many roles in life, none has been more meaningful to me than that of motherhood. Fourteen years ago, I was blessed to be the mother of twin boys, my precious children, Albert Philip Jacob and Alfred William Jacob.

When my children were born, my ex-husband, Sunil Jacob, and I made a joint decision that I would stay home with them and be their primary caretaker. I was an active and loving mother in every aspect of our children's lives. My children came first in everything I did and in every decision I made.

Tragically, my world, and that of my innocent children, was violently disrupted by my ex-husband, Sunil Jacob, in December 2008 when he orchestrated the kidnapping of the children during a vacation to India. I would note that the children, my ex-husband, and I are American citizens, and the children were born in America, which is the only nation they identified with as home.

Sunil Jacob worked in the financial industry and was terminated by his employer, Citi Group, late in 2008. My ex-husband pressed me to agree to a family vacation to India during the children's winter break. My ex-husband was both physically and emotionally abusive to me, and I feared the consequences of refusing him. I had seen the return tickets dated January 12, 2009, and I had every reason to believe that we would be home in a few weeks to resume our life back in the United States. Had I known what would follow, I would have never boarded that flight to India.

On reaching India, I was not only physically and emotionally abused by my ex-husband, but also by his parents. I was, finally,

very cruelly separated from my children with no means to communicate with them.

I could not bear the separation of my children, and on learning that my children were admitted to a local school in India I approached the principal requesting that I be allowed to see my children, and I was granted permission. As soon as my husband learned about this, he transferred them to another school and gave the school strict orders that the mother or any material relatives should not be allowed to see or communicate with the children.

Unable to communicate with the children, I ultimately returned to the United States 4 months later on April 9, 2009. I literally came home to an empty house. Our residence in Plainsboro was devoid of all furniture and possessions and both the cars were gone from the garage. While in India, my ex-husband had three of his friends strip the entire house of everything inside. They took everything, leaving me with not even a single photograph of my children.

He had not paid the mortgage on the Plainsboro home, nor the utilities, or the equity line of credit, which he had transferred to India, and left me with this additional financial burden.

Heartbroken and impoverished, I had to start from nothing and survived initially on the graciousness of good people. My neighbors allowed me to move in with them briefly, and a local church provided me a car. Shortly thereafter, I found employment, secured an apartment, and purchased a car of my own.

Over the last 6 years, I continue to uncover information that shows how deceptive my ex-husband, Sunil Jacob, is. The investigation reports from the Plainsboro Police show that he had planned the move to India as early as March 2008. He had communicated his intentions to the principal of the children's elementary school, without my knowledge.

In November 2008, 1 month before the trip to India, Sunil Jacob obtained an Indian visa for him and the children, known as OCI, Overseas Citizen of India, that would allow him and the children to stay for an extended period of time in India, since the children are American citizens, and without an OCI visa they can stay in India only for 6 months.

An Indian OCI visa is granted to minor children only after the approval of both parents. Sunil Jacob obtained the visas by fraudulent means, as I have not signed on any OCI application for my children. Sunil Jacob, an American citizen, deceptively abducted my American citizen children and is staying in India, out of my reach, and that of the Hague Convention, indefinitely. Please note, India does not honor dual citizenship.

I also came to know that he has remarried. In 2013, Sunil Jacob's family member confirmed with the Plainsboro Police that the separation of the children from me was planned well in advance.

Frustrated, but determined, on May 14, 2009, I filed a petition with the Superior Court of New Jersey for the custody of our children. Sunil Jacob tried to delay the matter by arguing that the U.S. did not have jurisdiction to hear the case, but the American courts, both the Superior Court and the appellate levels, have held that the jurisdiction was indeed proper with the Superior Court family part.

My ex-husband was in contempt of the court order granting me parenting time over the children's winter break, although he participated in this hearing over the phone. The flight information was conveyed to Sunil Jacob. The Honorable Superior Court of New Jersey granted me residential and legal custody of the children in December 2009. The U.S. court order was served to Sunil Jacob by the U.S. Court and the Ministry of Law and Justice, New Delhi, India.

The Plainsboro Police and the FBI have issued arrest warrants against Sunil Jacob. Please note, in 2007, while Sunil Jacob was working at Citi Group, he was involved in an unknown incident at his office that resulted in an FBI inquiry on him. His colleague told me when I returned that he had an affair with an Indian woman at his office.

Despite having kidnapped our children, Sunil Jacob filed for custody of the children in the Indian courts after the U.S. child custody was filed. The case is currently pending at the Honorable Supreme Court of India.

In addition to wrongfully keeping the children from me, Sunil Jacob has thwarted every effort I have made to speak to our children and let them know I love them. Beyond kidnapping, Sunil Jacob continues to file false cases against members of my family and me in India and is brainwashing and alienating the children from their own mother. He believes that if his campaign for harassment becomes too much for me to bear, we will back away from the quest for me to regain custody of our children. He must learn that this will not happen. He must be held accountable for his reprehensive actions.

My children have lost 6 years of their mother's love and care, and I have lost 6 years of my children's childhood that neither of us will ever get back.

Every day I awaken with the heart-wrenching reality that I am separated from my children that I love more than anything in this world. I have done everything I can think of to do in this nightmarish situation, and I will never give up on my children. Yet I am here because I can no longer fight the good fight on my own. I respectfully request that you, the Members of the Congress, help me to make my voice heard in a way that shall be meaningful and allow me to be reunited with my children who need the love and nurturing of their mother.

Please help me put an end to the nightmare that Sunil Jacob has created for my family. Please help my precious children and me. I do not want to know, and cannot imagine, a meaningful life without them. Please act not just on the benefit of two innocent children and their broken-hearted mother. Please think of all of the other children and parents caught in similar nightmarish situations due to the hostile-minded parents who abduct children to overseas nations.

I am very thankful to Congressman Chris Smith and his staff for working so hard and passing the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014. I thank Congressman Chris Smith for being a champion for the noble cause of reuniting the children and their left-behind parents

and for being an angel to our children and to us, the left-behind parents.

The Goldman Act was signed into law by President Obama on August 8, 2014. Goldman Act instructs the State Department to take serious action when the case is pending for over a year, and my case has been pending for over 6 years, and I am waiting for the State Department to reunite me with my precious children. The State Department can also apply Section 201, which is high level diplomacy and extradition of my children on my case now, and I am hoping and trusting that they will do so without any further delay.

I request the State Department and the Office of Children's Issues to take speedy action, and to please implement the law as soon as possible and put a smile back on the faces of our children and us, the left-behind parents.

Thank you from the bottom of my heart for accepting my humble request during your otherwise pressing schedules. Thank you so much.

[The prepared statement of Ms. Philips follows:]

Bindu Philips

United States House of Representatives Committee on Foreign Affairs

The Goldman Act to Return Abducted American Children: Reviewing
Obama Administration Implementation

March 25, 2015

Mr. Chairman and distinguished members of the Committee, it is my honor and privilege to testify before you today and I thank you for taking your valuable time to hear of my plight. My name is Bindu Philips and it is my ardent hope that my story shall capture your attention today.

While I have held many roles in my life, none has been more meaningful to me than that of motherhood. Fourteen years ago, I was blessed to become a mother of twin boys – my precious children, Albert Philip Jacob and Alfred William Jacob. When my children were born my ex-husband, Sunil Jacob, and I made a joint decision that I would stay home with them and be their primary caretaker. I was an active and loving mother in every aspect of our children's lives. My children came first in everything I did and in every decision I made.

Tragically, my world and that of my innocent children, was violently disrupted by my ex-husband, Sunil Jacob in December of 2008, when he orchestrated the kidnapping of the children during a vacation to India. I would note that the children, my ex-husband and I are American citizens and that the children were born in America, which is the only nation they identified with as home.

Sunil Jacob worked in the financial industry, and was terminated by his employer, Citi Group, late in 2008. My ex-husband pressed me to agree to a family vacation to India during the children's winter break. My ex-husband was both physically and emotionally abusive to me, and I feared the consequences of refusing him. I had seen return plane tickets dated January 12, 2009, and I had every reason to believe that we would be home in a few weeks to resume our life in the United States. Had I known what would follow I would never have boarded that flight to India.

On reaching India I was not only physically and emotionally abused by my ex-husband but also by his parents. I was finally, very cruelly separated from my children with no means to communicate with them.

I could not bear the separation from my children and on learning that they were admitted to a local school in India, I approached the Principal requesting that I be allowed to see my children and I was granted permission. As soon as my ex-husband learnt about this, he transferred them to another school and gave the school strict orders that the mother or any of the maternal relatives should not be allowed to see or communicate with the children.

I contacted the US Consulate in Chennai, India, for assistance. Yet absent an order granting me custody of the children, there was little that the consulate could do for me.

I would like to point out that Sunil Jacob's plan to kidnap the children and sequester them in India out of my reach was not a decision that was quickly or lightly reached. Subsequent events showed how carefully he had planned his actions.

Unable to communicate with the children, I ultimately returned to the United States four months later on April 9, 2009. I literally came home to an empty house. Our residence in Plainsboro was devoid of all furniture and possessions and both cars were gone from the garage. While in India, my ex-husband had his 3 friends strip the entire house of everything inside. They took everything, leaving me with not even a single photograph of my children. He had not paid the mortgage on the Plainsboro home, nor the utilities or nor an equity line of credit which he had transferred to India, and left me with this additional financial burden.

Heart broken and impoverished, I had to start from nothing and survived initially on the graciousness of good people. My neighbors allowed me to move in with them briefly and a local church gave me a car. Shortly thereafter, I found employment, secured an apartment and purchased a car of my own.

Over the last six years I continue to uncover information that shows how deceptive my ex-husband Sunil Jacob is. The investigation reports from Plainsboro Police Station show that he had planned the move to India as early as March of 2008. He had communicated his intentions to the principal of the children's elementary school, without my knowledge. In November of 2008, one month before the trip to India, Sunil Jacob obtained an Indian visa for him and the children, known as OCI, Overseas Citizen of India that would allow him and the children to stay for an extended period of time in India, since the children are American citizens and without the OCI visa they can stay in India only for 6 months. Indian OCI visa is granted to minor children only after the approval of both parents. Sunil Jacob obtained this visa by fraudulent means as I have not signed on any OCI application for my children. Sunil Jacob, an American citizen, deceptively abducted my American citizen children and is staying in India, out of my reach and that of the Hague Convention, indefinitely. (Please note India does not honor dual citizenship.) I also came to know that he has remarried. In 2013, Sunil Jacob's family member confirmed with the Plainsboro police that the separation of the children from me was planned well in advance.

Frustrated but determined, on May 14, 2009, I filed a petition with the Superior Court of NJ for custody of our children. Sunil Jacob tried to delay the matter by arguing that the US did not have jurisdiction to hear the case, but the American Courts, both at the superior court and appellate levels, have held that jurisdiction was indeed proper in the Superior Court Family Part. My ex-husband was in contempt of the court order granting me parenting time over the children' winter break although he participated in this hearing over the phone. The flight information was conveyed to Sunil Jacob by the US consulate, my American attorney, my father and me. The Honorable Superior Court of New Jersey granted me residential and legal custody of the children in December 2009. The US Court order was served to Sunil Jacob by the US Court and the Ministry of Law and Justice, New Delhi, India. The Plainsboro police and FBI have issued arrest warrants against Sunil Jacob. Please note in 2007, while Sunil Jacob was working at Citi Group, he was involved in an unknown incident at his office that resulted in an FBI enquiry on him. His colleague told me when I returned that he had an affair with an Indian woman at his office.

It is significant that the Honorable Barry A. Weisberg, Judge of the Superior Court Family Part in New Jersey, not only granted me sole custody of the children and demanded their immediate return to the United States, but also held that Sunil Jacob must comply with a psychiatric evaluation and a risk assessment upon his return of the children. Clearly, Judge Weisberg, an experienced jurist in the Family Part, felt that Sunil Jacob's conduct was evidently that of a man who was disturbed. I fear for the safety of our children and their emotional wellbeing in their father's care.

Despite having kidnapped our children, Sunil Jacob filed for custody of the children in the Indian Courts after the U.S child custody was filed. This case is currently pending at the Honorable Supreme Court of India. In addition to wrongfully keeping the children from me, Sunil Jacob has thwarted every effort I have made to even speak to our children and let them know that I love them. Beyond the kidnapping, Sunil Jacob continues to file false court cases against members of my family and me in India and is brain washing and alienating the children from their own mother. He believes that if his campaign of harassment becomes too much to bear, we will back

away from the quest for me to regain custody of our children. He must learn that this will not happen; he must be held accountable for his reprehensible actions.

On my children's birthday in December 2013, I had birthday wishes published in a local Indian newspaper, since Sunil Jacob has not allowed me to communicate with my children even on their birthday. I also created a website (<http://albertalfredbindu.blogspot.com/>) so that I could send my love, motherly advice and let my children know that I am trying my best to be reunited with them. The Superior Court of New Jersey awarded me sole legal and residential custody of the children in December 2009 and I am not able to see or communicate to my own beloved children. My children have lost 6 years of their mother's love and care and I have lost 6 years of my children's childhood that neither of us can ever get back.

I have put everything I have into my mission to be reunited with my children. I have rebuilt myself financially and made a viable career path for myself. I have made a new home for the children to return to, as I was forced to sell the marital home to satisfy the debts my ex-husband created. I implore the Congress to assist me in righting the wrongs that have been done to the children and me by my ex-husband, Sunil Jacob.

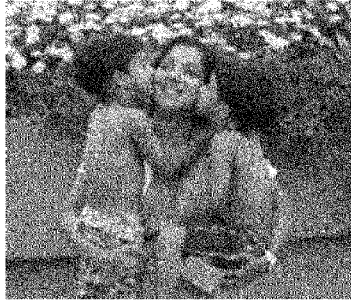
Every day I awaken to the heart-wrenching reality that I am separated from the children that I love more than anything in the world. I have done everything that I can think to do in this nightmarish situation, and I will never give up on my children. Yet, I am here because I can no longer fight the good fight on my own. I respectfully request that you, the members of the Congress, help me to make my voice heard in a way that shall be meaningful and allow me to be reunited with my children who need the love and nurturing of their mother

Please help me to end this nightmare that Sunil Jacob has created for my family. Please help my precious children and me – I do not want to know and cannot imagine a meaningful life without them. Please act not just for the benefit of two innocent children and their broken-hearted mother; please think of all the other children and parents caught in similar nightmarish situations due to hostile-minded parents who abduct children to overseas nations.

I am very thankful to Congressman Chris Smith and his staff for working so hard and passing the Sean and David Goldman International Child Abduction, Prevention and Return Act 2014. I thank Congressman Chris Smith for being champion for the noble cause of reuniting the children with their left behind parents and being an angel to our children and us, the left behind parents.

The Goldman Act was signed into law by President Barack Obama on Aug 8 2014. Goldman Act instructs the State Department to take serious action when the case is pending for over a year and my case has been pending for more than 6 years and I am waiting for the State Department to reunite me with my precious children. The State Department can apply section 201, which is high level diplomacy and extradition of my children on my case now and I am hoping and trusting they will do so soon without any further delay. I request the State Department and the Office of Children's issues to take speedy action and to please implement the law as early as possible and put back the smile on the faces of our children and us, the left behind parents.

Thank you from the bottom of my heart for accepting my humble request during your otherwise pressing schedules.



Mr. SMITH. Thank you so very, very much for your testimony and your example, which encourages all of us to do more.

Mr. Morehouse, you are recognized.

STATEMENT OF MR. JEFFERY MOREHOUSE, EXECUTIVE DIRECTOR, BAC HOME (FATHER OF ABDUCTED CHILD TO JAPAN)

Mr. MOREHOUSE. Thank you to the chairman and the committee for inviting me here today. I will be summarizing my written testimony for you.

There have been 400 cases of U.S. children kidnapped to Japan since 1994. The Japanese Government has returned zero children.

On behalf of the 71 kidnapped children listed on the BAC Home Web site, who have been rendered voiceless by their abductors, for my fellow parents of internationally kidnapped children who feel marginalized by the lack of active, engaged, transparent assistance from the Office of Children's Issues in recovering their loved ones, I implore Congress to ensure that the Department of State finds Japan non-compliant and imposes sanctions under the Goldman Act.

One year ago next week, at the very moment Japan acceded to the Hague Abduction Convention, parents joined together to hand-deliver with us 30 applications for access under Article 21. This was supposed to be an efficient path to see our children again. Though we parents may have applied for access under Article 21, as we were encouraged to do so by the Department of State, our collective cases remain abduction cases.

Over the past 12 months, the Office of Children's Issues time and again insisted that we must give Japan time. We must wait and see. Well, we have waited and we have seen. None of the BAC Home parents have received any access to their children. Japan's implementation of the Hague Abduction Convention is an abysmal failure. Sanctions under the Goldman Act will provide some of the necessary public pressure on Japan to create change in this ongoing human and family rights crisis.

It is crucial that Members of Congress be made aware of the first Hague Article 21 access case to make it through the Japanese family court process. This case is typical of what parents are encountering in their attempts to gain access to their kidnapped children. Under Article 21, the central authorities are bound to promote peaceful enjoyment of access rights and fulfillment of any conditions to which the exercise of those rights may be subject.

The central authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights. Now, instead of removing obstacles, the Japanese Government has erected multiple barriers interfering with the exercise of parental rights. These actions are prejudicial and designed to prevent victimized parents from gaining access to his or her children.

The actions by the court in this pioneer case include: One, a request by Henrik Teton for interim access to his children under the Hague, which was ignored by the court. Two, the judge walked out of the room when the father, who was representing himself, asked questions of the court. And, three, the father, who was denied the use of his own translator, was forced to use a court-appointed

translator with no ability to ensure that the translations were accurate. Number four, the judge refused to provide his name; therefore, making accountability of his rulings impossible. And, five, the judge ruled that no observers, including Embassy officials, were allowed to witness the proceedings.

In my written testimony, I will also outline what some of the other parents have faced in their failed attempts to gain access.

Now, in consulting with Japanese lawyers, it has become very clear to BAC Home that Japan's implementation provides no reasonable, enforceable means for victimized parents to access or obtain the return of their children. They are simply violating the Hague Abduction Convention and non-compliant, as a country, under the Goldman Act.

There are numerous clear-cut cases of abduction, such as Paul Toland and Paul Wong. Though they are both the only living parent, the grandparents in Japan are holding their daughters from them. There are cases like Randy Collins, whose ex-wife was ordered to surrender the child's passport to the court, and instead she kidnapped him.

Douglass Berg's children were kidnapped from their habitual and legal residence in the United States in 2009 violating his parental rights to access. And Christopher Savoie's ex-wife violated the divorce decree, State, and Federal statutes, when she kidnapped their children.

Now, in my own case, I was granted primary custody of my son in the State of Washington in May 2007. Three years later, in June 2010, I dropped my son Mochi off to begin a week-long visit with his mother. He was 6½ years old. This is where my endless nightmare began.

Six days later, I received a phone call that no parent wants to receive. It was the police. My son and ex-wife had been reported missing. I knew immediately what had happened. She had succeeded in what she had intended on doing, which was kidnapping him to Japan. In that moment, my life was shattered. My days would become consumed with dealing with local law enforcement, the U.S. Department of State, Japanese consular officials, and anything I could think of to try and find my boy.

Now, how could this happen to my child? I did everything I could think of to prevent this. There were even passport and travel restraints in the court order, which barred her from leaving the State of Washington with him. Well, I came to learn the hard way that restraints are only effective if somebody is willing to abide by them. For someone intending to commit kidnapping, restraints have true little power.

When the Seattle Consulate of Japan denied my ex-wife's attempt to obtain a passport, she simply went to the Consulate in Portland, and they issued her one in violation of the Ministry of Foreign Affairs' passport issuance policy.

Some people over the past several years have said to me, "Well, you know, at least you know where he is. He is safe with his mother." But he is not safe. He is at risk. She has willingly and intentionally kidnapped him to a foreign land with the intent of permanently alienating him from me and everyone he knows.

Imagine, just for a minute, being a child and your mother steals you away to a foreign country, and tells you your father doesn't want you anymore or that he is dead. Your whole life is now built on a foundation of lies. This is not what a healthy parent does. This is child abuse.

Every morning I wake up twice. The first time I have this feeling I have to rush out of bed and get my son ready for school, and I can hear his voice and he is saying, "Daddy, can I have toast and honey for breakfast?" And I have to get him ready for school. And then my heart skips a beat, and I wake up for real, and I realize he is still missing and that the nightmare continues.

The last time I held his hand, the last time I heard my son's voice, was on Father's Day of 2010.

Last year in my case I won a landmark ruling in Japan where the court acknowledged my U.S. custody order and recognized me as the sole custodial parent under Japanese law. My ex-wife has no legal custody rights there. They also cited her admission of committing illegal acts under Japanese law in order to abduct my son. However, they are still not telling me where he is. He is still being help captive.

Private, back room diplomacy has failed. It has failed to return my son and any of the other kidnapped American children. Public statements by Secretary Kerry, Ambassador Kennedy, and President Obama, could have meaningful effect, but to date we have only heard silence.

It has been Congress that has led the charge on this abduction crisis with Japan, and I urge Members of Congress to ensure that the Department of State finds Japan non-compliant and that sanctions are imposed under the Goldman Act. Without public consequences, there will be no incentive for Japan to change. It will remain a black hole for child abduction.

Now is the time for Japan to demonstrate they are serious about changing course on this ongoing crisis of international parental child abduction. Next month, Prime Minister Abe will come visit Congress and address Congress here in Washington. In addition to non-compliance and sanctions, I am here to ask Congress to tell the Prime Minister that it is not acceptable to continue to hold "Mochi" Atomu Imoto Morehouse, or any of the 400 kidnapped American children, anymore.

Thank you for your time today.

[The prepared statement of Mr. Morehouse follows:]

Mr. Jeffery Morehouse
Executive Director, Bring Abducted Children Home

House Committee on Foreign Affairs

Wednesday, March 25, 2015
The Goldman Act to Return Abducted American Children:
Reviewing Obama Administration Implementation

Bring Abducted Children Home is a nonprofit organization dedicated to the immediate return of internationally abducted children being wrongfully detained in Japan and strives to end Japan's human rights violation of denying children unfettered access to both parents. We also work with other organizations on the larger goal of resolving international parental child abduction worldwide.

There have been 400 cases of U.S. children kidnapped to Japan since 1994. The Japanese Government has returned zero U.S. children.

BAC Home and Parents of Internationally Kidnapped children are still waiting for dignified, unfettered visits with, and expect the return of the following children from Japan:

Baros, Sarah	Hickman, Saki Faith	Moline, Misaki
Berg, Gunnar	Hirata, Koki	Morehouse, "Mochi" Atomu Imoto
Berg, Kianna	Hornia, Ami Elga Nakagawa	Nagatomi, Jouji
Bocchetti, Reon Sean	Hornia, Shintarou Amadecus	Nagatomi, Nina
Bunnell, Anna Karen	Nakagawa	Osar, Alicia Mari
Bunnell, Hannah Sakura	Ishida, Shanonyuma	Peterson, Diona Maria
Burgess, Misoi Hime	Ito-Byrd, Aimi Rehana	Prager, Rui
Cameron, Stella Yoko Saya	Johns, Takeshi Cole	Reizenhan, Marcus
Collins, Keisuke	Johns, Tetsuaki Wayne	Rose, Kaia Sedona
Cooper, Soren Shou	Kimika, Sarah	Savoie, Isaac
Davtyan, Ishkhan Lio	Kinder, James	Savoie, Rebecca
Donaldson, Michiru Janice	Kinder, Mizuki	Sigal, Luna Kubota
Duke, Riki Joy	Kinoshita, Wilson Atsushi	Storms, Kiley Jean
Easley, Ryosci Michael	La Far, Genevieve Marian	Suzuki, Rion
Endo, Kai	Lewis, Cody	Tanaka-Nielsen, Leo
Fukuda, Serena Miharuru	Lewis, Jasmyn	Toland, Erika
Fukuyama, Mine Whitney	Lui, Ezra	Walker, Jake Joseph
Gessleman, David Nari	Martin, José	Walker, John Joseph
Gessleman, Joshua Koa	Massaquoi, Martin	Washington, Maximus Riku
Gherbetti, Lauren	Massaquoi, Sally Kikuchi	Weed, Takoda
Gherbetti, Julia	McCoy, Yuki Patrick	Weed, Tiana
Halpern, Dylan	McPike, Kai Sugamoto	Wong, Kaya Summer Xiao-Lian
Hayes, Julia Lillian	McPike, Koh Sugamoto	Yoshida, Jack
Hickman, Hana Jean	Meehan, Ashley Ayaka	Yoshida, Luke

On behalf of the 71 kidnapped children listed on the BAC Home website who have been rendered voiceless by their abductors, for my fellow parents of internationally kidnapped children who feel marginalized by the lack of active, engaged, transparent assistance from the Office of Children's Issues in recovering our loved ones, I implore Congress to ensure the Department of State finds Japan "non-compliant" and that sanctions are ordered under "The Sean and David Goldman International Parental Abduction Prevention & Return Act of 2014."

One year ago next week, at the very moment Japan acceded to The Hague Abduction Convention, parents joined us to hand-deliver 30 Article 21 Access applications. BAC Home leadership met that same day with senior Embassy of Japan officials to express grave concerns about how they would handle our applications to exercise our rights to access. Congressman Smith and members of his staff kindly joined us for that important meeting. This was supposed to be an efficient path to see our children again. Though we parents may have applied for access under Article 21, as we were encouraged to do by the Department of State, our collective cases remain abduction cases.

Over the past twelve months The Office Of Children's Issues time and again insisted we must give Japan time. We must wait and see. We'll we've waited and we've seen. None of the BAC Home parents have received access to their kidnapped children. Japan's implementation of the Hague Abduction Convention is an abysmal failure. Sanctions under the Goldman Act will provide some of the necessary public pressure on Japan to create change to this ongoing human and family rights crisis.

It is crucial that members of Congress be made aware of the first Hague Article 21 access case to make it through the Japanese family court process. This case is typical of what parents are encountering in their attempts to gain access to their kidnapped children. Under Article 21, "*The Central Authorities are bound ... to promote the peaceful enjoyment of access rights and the fulfillment of any conditions to which the exercise of those rights may be subject. The Central Authorities SHALL TAKE STEPS TO REMOVE, AS FAR AS POSSIBLE, ALL OBSTACLES TO THE EXERCISE OF SUCH RIGHTS.*" Instead of removing obstacles, the Japanese government has erected multiple barriers interfering with the exercise of parental rights. These actions are prejudicial and designed to prevent the victimized parent from gaining access to his or her children.

Actions by the court in this case include:

1. A request by Henrik Teton for interim access to his children under The Hague was ignored by the court;
2. The judge walked out of the room when the father, who was representing himself, asked questions of the court;
3. Father was denied use of his own translator and was forced to use a court appointed translator with no ability to ensure the translations were accurate;
4. The judge refused to provide his name, thereby making accountability of his rulings impossible; and
5. The judge ruled that no observers, including embassy officials, were allowed to witness the court proceedings.

Other parents faced significant obstacles in seeking Hague access, too. Daryn Peterson filed for access under The Hague Abduction Convention and the kidnapping parent was non-responsive. He was advised to hire a lawyer in Japan. This would be at great expense without assurance that it would lead to enforceable access.

Victimized father, Brett Weed was advised that he would have to spend upwards of \$20,000 in legal fees and still have no access to his children because Japan has no enforcement mechanism. In addition his ex-wife could tie up the case in the Japanese courts until his daughter reaches the age of 16 and The Hague no longer applies. Mr. Weed has come to understand that there are no reasonable legal options available to gain access to his children.

The Japanese Central Authority tried to get Paul Wong to withdraw his application after the lawyer for the abducting grandparents said their agreement that was completed two years ago in mediation was access. That agreement was done before Japan's accession to The Hague Abduction Convention and it only allowed Mr. Wong to send a card to his daughter four times a year. He argued that this is not access by any stretch of the imagination as what is envisioned under The Hague -- access, meaning physical access, video conferences, telephone calls, or letters when the parent is unable to visit the abducted child. The Japanese central authority then backed down and said he can use Alternative Dispute Resolution (a form of mediation) or the court but informed him that he would likely get the case dismissed if using the court.

Michael Easley was able to establish distant contact through the State Department and the Japanese Central Authority to his ex-wife. However it was used to deny Skype and FaceTime access. Mr. Easley was later informed that he would not be able to see his son because he is going to be confused at the situation and it is not good for him.

In Michael Halpern's case, once his application was filed and accepted he requested Alternative Dispute

Resolution. His ex-wife rejected the offer and three weeks later he was informed his ex-wife and son are no longer living in Japan. Later he finds out that she has changed the child's name and her current husband has adopted his son. None of this was done with the knowledge or consent of Mr. Halpern.

In consulting with Japanese lawyers it has become clear to BAC Home that Japan's implementation provides no reasonable, enforceable means for victimized parents to access or obtain the return of their children. They are simply violating The Hague Abduction Convention and a non-compliant country under the Goldman Act.

There are numerous clear-cut abduction cases, such as Naval Captain Paul Toland and Paul Wong. Though they are both the only living parent, the grandparents in Japan are holding their daughters from them. There are cases, like Randy Collins, whose ex-wife was ordered to surrender their child's passport to the court. Instead she kidnapped him. Douglass Berg's children were kidnapped from their habitual and legal residence in the United States in 2009 violating his parental rights to access. Christopher Savoie's ex-wife violated the divorce decree, and state and federal statutes when she kidnapped their children.

In my own case I was granted primary custody of my son in the State of Washington in May 2007. Three years later, on June 20, 2010, I dropped my son, Mochi, off to begin a weeklong visit with his mother. He was 6 ½ years old.

That is where the endless nightmare began. Six days later, I received a phone call that no parent wants to receive. It was the police. My son and ex-wife had been reported missing. I knew immediately what happened. She succeeded in what she had threatened to do. She had kidnapped our son to Japan.

In that moment my life was shattered. My days would become consumed with dealing with local law enforcement, the U.S. Department of State, Japanese consular officials and anything I could think of to try to find my little boy.

How could this happen to my child? I did everything I could think of to prevent it. There were even passport and travel restraints in the court order to bar her from going outside the state Washington with him. Well, restraints are only effective when one chooses to abide. For someone intending to commit kidnapping, restraints have little true power. When the Seattle Consulate of Japan denied her passport request she simply went to the consulate in Portland, which issued her one in violation of the Ministry of Foreign Affairs Passport issuance policy.

Sometime people say to me, at least you know he is safe with his mother. He may be somewhere in Japan with her, but he is not safe. He is at risk. She has willingly and intentionally kidnapped him to a foreign land with the intent of alienating him from me and everyone he knows.

Imagine being a child and your mother steals you away to a foreign country and then tells you your father does not want you anymore or that he is dead. Your whole life is now built on a foundation of lies.

This is not what a healthy, nurturing parent does. It is child abuse.

Every morning I wake up twice.

The first time, to rush out of bed to get him ready for school. I can hear his voice, "Daddy, can I have toast and honey for breakfast?"

My heart skips a beat.

And then I really wake up. He is still missing. The nightmare continues.

The last time I held his hand, the last time I heard his voice was Father's Day 2010.

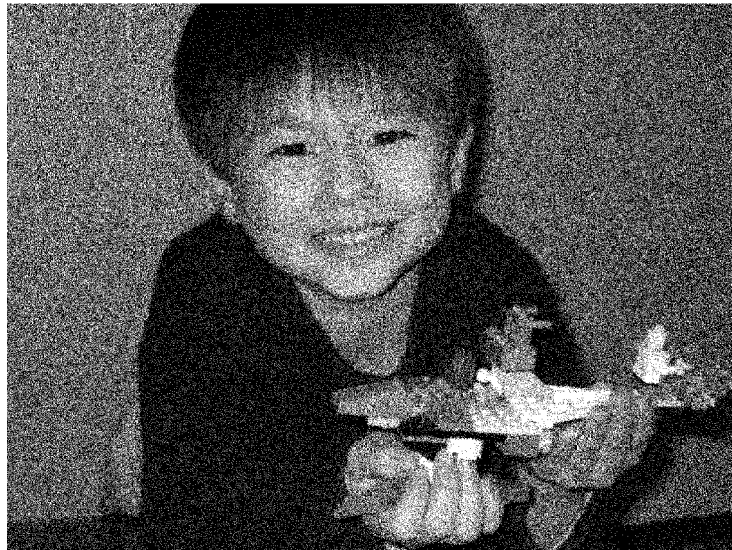
This past year I won a landmark ruling in Japan. Their court acknowledged my U.S. custody order and recognized me as the sole custodial parent under Japanese law. My ex-wife has no legal custody rights there and they also cited her admission of illegal acts under Japanese law.

However, they still aren't telling me where my son is being held captive.

Private, backroom diplomacy has failed to return my child or any of the other kidnapped American children. Public statements from Secretary Kerry, Ambassador Kennedy, and President Obama could have a meaningful effect; to date we have only heard silence.

It has been Congress that has led the charge on the abduction crisis with Japan. I urge members of Congress to act to ensure the Department of State finds Japan "non-compliant" and that sanctions are imposed under The Goldman Act. Without public consequences there will be no incentive for Japan to change. It will remain a black hole for child abduction.

Now is the time for Japan to demonstrate they are serious about changing course on the ongoing crisis of International Parental Child Abduction. Next month Prime Minister Abe will visit Washington and address Congress. In addition to non-compliance and sanctions, I am heard to ask Congress to tell the Prime Minister it is not acceptable to continue to hold my son, "Mochi" Atomu Imoto Morchouse or any of the 400 U.S. children kidnapped to Japan.



Mr. SMITH. Mr. Morehouse, thank you very much for your very moving testimony.

I would like to now recognize Mr. Davenport.

STATEMENT OF MR. DEVON M. DAVENPORT (FATHER OF ABDUCTED CHILD TO BRAZIL)

Mr. DAVENPORT. Hello. Thank you for having me here today.

In the words of David Goldman on February 27, 2014, at the U.S. Senate Committee on Foreign Relations Hearing on International Parental Child Abduction,

“My foundation has been assisting a father by the name of Devon Davenport of North Carolina, whose daughter Nadia was abducted to Brazil in 2009, just a few weeks after her birth. Mr. Davenport has fought admirably to bring Nadia home. In September 2010, a Federal court first ordered her return to the United States. Since then, the return order has been upheld by numerous appeals courts and the legal case is effectively over, yet Devon is still waiting, as I did, for Brazilian courts to enforce their own return order and put Nadia back on a plane to the United States. Our Government should be demanding, not asking, that Nadia be returned.”

I am Devon Davenport, the 28-year-old father of Nadia Lynn, and I still happen to be waiting for justice concerning her illegal abduction to Brazil some 6 years ago.

I believe that it has been made evident in the past via various testimonies from left-behind parents and politicians that the issue of international child abduction is a great concern. However, it is absurd that after the immense effort to pass Chris Smith’s Goldman Act that we must convince the U.S. Department of State, the sole governmental department responsible for assisting left-behind parents, systematically navigate legally through the Hague Convention Treaty to effectively utilize the rhetoric, equipping them with necessary tools to increase resolutions for international abduction cases.

The U.S. Department of State no longer lacks the necessary tools needed in order to optimize and create an efficiently robust pipeline for handling Hague cases and distributing pertinent information between left-behind parents and central authorities from opposing countries.

Countless times throughout my 6-year legal battle, I have been the one to provide updates and ask follow-up questions in hopes of obtaining valuable information toward an actual resolution of my case. The Department of State is notorious for providing me with the exact same information I provide them with. Hardly do I ever obtain any new information, and I believe that derives from the fact that they are not proactive in their question for justice of behalf of left-behind parents.

An example is today when you asked how many cases, how many returns. They don’t even know this type of information. They will get it once you prompt them, but they should have come prepared with that type of information. They should know these numbers. This is what left-behind parents deal with on a daily basis, dealing with the Department of State.

The inability and lack of foresight to initiate constructive yet progressive inquiries to the opposing central authority is not acceptable. Case officers working for the U.S. Department of State should not only be able to predict the questions and concerns of left-behind parents, but also take appropriate measures in obtaining the answers to those questions and concerns while providing feedback to those of us fighting the lengthy battle.

The reason for this inability is the lack of empathy, initiative, and urgency; no longer the tools. Herein lies the issue. Until case workers at the Department of State are able to anticipate the next steps in a given Hague case based on years of internal evidential information from various left-behind parents in each country, then there will be no progressive action taken by them to provide information that some parents never think to ask, but deserve to know, as we look to the Department of State as a source of information and mental solidarity.

Since birth in August 2008, my daughter Nadia Lynn resided with her mother, Larissa Drummond, in Cary, North Carolina. Due to parental alienation and prior threats to leave the country with my daughter to Brazil, a court order was filed and established August 20, 2008, restricting the removal of my daughter outside of the State, as well as confiscation of my daughter's passport to prevent abduction.

At the same time, a custody order was filed and signed on October 8, 2008, by District Court Judge Walczyk, and went into effect on October 14, 2008, notifying each parent that it is a felony to transport the minor child outside of the state. The court order also states that it shall remain into effect until replaced by another parenting agreement or court order pertaining to custody.

According to the signed court-ordered visitation schedule between Larissa Drummond and I, October 14, 2008, our daughter Nadia Lynn was scheduled to have visitation at my residence on Mondays, Tuesdays, and Saturdays. On Saturday, February 7, 2009, my daughter was not brought to my residence for visitation scheduled at 8 o'clock a.m.

At 8:07, I immediately contacted Larissa asking where she was. After getting no response, I contacted her mother. I then called the Cary Police Department. Upon their arrival, I provided the court-ordered visitation, and the officer and I went to Larissa's residence and found the house empty.

With knowledge of prior threats made by Larissa to leave the country with my daughter back to Brazil, we contacted the U.S. Department of State to inquire about a possible abduction and were informed that I would receive a call on Monday, February 9, 2009, from the abduction officer who handles cases to Brazil, who happened to be Ms. Daisy Cardiel at the time. Soon after, I received from NCMEC a protocol number for my daughter, as well as a kidnapping case number for my daughter.

There was a court order calendared by Wake County Courthouse to have my name added to my daughter's birth certificate. On February 10, 2009, I filed to have an emergency order granting me sole legal and physical custody of my daughter Nadia, as well as immediate return of her back to her habitual residence in North Carolina, which Judge Walczyk signed on February 12, 2009.

April 20, 2009, the Department of State emailed me saying, "The Brazilian Central Authority would like me to inform you that your case was sent to Interpol on 2009, April 2. Furthermore, despite the fact that the child has not been located, the Brazilian Central Authority sent the file to the Federal Attorney's Office in order to commence an analysis on your case."

April 19, 2009, I receive a message on the Bring Sean Home Foundation forum from a 21-year-old law student asking me about information on my daughter and the mother. I provided the last name, first name, and possible state that my daughter would be in. Eight days later he provides me with the address of my daughter in Brazil, while it had taken Interpol and the FBI, what, 4 months. They still hadn't found her.

I provided this information to the U.S. Department of State May 6, 2009. It took them 3 months later to confirm the address that I provided them.

April 14, 2010, I arrived in Brazil for the first instance hearing on the international abduction of my daughter Nadia Lynn. September 14, 2010, I received a favorable ruling, which issued the return of Nadia back to the United States. I was ordered to spend a 15-day transition period in Brazil before returning. During this transition period, the mother filed an appeal, ultimately suspending the return as well as the transition period between Nadia and I, on September 26, 2010.

November 30, 2011, the TRF Federal Court of Brazil rejected the mother's appeal by a majority panel. She appealed again within the Federal Court. March 23, 2012, the Federal judge upheld the first instance court order for the return of Nadia back to the United States. The mother filed another appeal to the Superior and Supreme courts.

May 21, 2012, Special Advisor for Children's Issues, Ambassador Susan Jacobs, spoke to the Brazilian Central Authority directly and requested that my case be expedited and expressed her concerns on the delays and appeals that my case has received. April 11, 2013, TRF President rejected the appeal filed by the mother before the STJ and STF. And I was told that the request for the enforcement of my daughter to return back to the United States will be filed on April 30. It was not.

August 14, 2013, Ambassador Susan Jacobs and Scott Renner traveled to Brasilia, Brazil, to speak directly with proper personnel to have my case expedited and ruled on. However, I received no official report on this meeting. I have no clue what was discussed, with whom the discussion occurred, and what the outcome of said meeting was, although I was told that I would receive a formal detailed summary within 3 weeks. I was never sent that information.

August 27, 2013, a hearing at the first instance court in Criciuma was scheduled in which the charge of the enforcement order would decide the logistics of the return. Instead, they postponed this, and the appeal was dismissed at the STJ Court in Brasilia, Brazil. September 6, 2013, the appeal was dismissed by the sitting judge at the STJ Court in Brasilia. Being that it was a monocratic decision, the mother appealed again.

September 27, 2013, the Brazilian Central Authority and OAG filed a motion on the first instance court for the temporary execu-

tion of the enforcement order. This was a request that the judge not wait until the appeals were decided upon. The judge was to formally respond to this motion with a decision.

October 11, 2013, I was informed that my case would be heard on October 17. It wasn't. October 17, instead of ruling on the appeal, it was removed from the agenda.

April 14, 2013, the STJ and STF appeals to the return order were rejected by the TRF president and were yet again appealed only once again to be dismissed by the STJ on September 10, 2013, ultimately allowing Nadia to return to the United States once and for all following a 15-day transition period in Brazil set to occur in 2014.

June 17, 2014, I traveled to Brazil to complete the 15-day transition period with my daughter, with the expectation to return home once and for all to the United States. Upon arrival to Brazil, I was immediately served with another appeal stating the transition period and the return order had been suspended by a last-minute injunction filed by the taking parent. I was able to have the suspension of the transition period overturned. However, the courts are still pending a ruling on the suspension of the return order at the STJ.

December 15, 2014, Minister Rosa Weber of the STF Court ruled in a monocrotic decision to dismiss the special appeal. January 23, 2015, the taking parent filed a motion for clarification on the dismissal of the special appeal, a well-known delay tactic. January 28, 2015, I called the STF and asked that Minister Rosa Weber decide on this case as quickly as possible, and to note the constant delay tactics being used by the taking parent.

On February 11, 2015, I received an email from the Department of State stating that the ministers at the STF converted the mother's declaratory motion to an agravo regimental. According to the OAG, this is a good sign, as it shows a tactic from the court to accelerate the process.

March 4, 2015, the special appeal of the STF was finally rejected. However, the taking parent continues to use delay tactics in order to prevent the inevitable return for my daughter back to the United States by filing yet another motion for clarification.

I am here today not to ask, but to demand, that my daughter Nadia be returned immediately to the United States without delay. This case has literally taken its legal course and justice is now overdue.

I want to thank you for your time, and I hope that my daughter Nadia will soon be returned to the United States and her habitual residence, once and for all.

Thank you.

[The prepared statement of Mr. Davenport follows:]

Statement of Devon Davenport
Hearing on International Parental Child Abduction
March 25, 2015

In the words of David Goldman on February 27 2014 at the U.S. Senate Committee on Foreign Relations Hearing on International Parental Child Abduction.

“My foundation has been assisting a father by the name of Devon Davenport of North Carolina, whose daughter Nadia was abducted to Brazil in 2009, just a few weeks after her birth. Mr. Davenport has fought admirably to bring Nadia home. In September 2010, a federal court first ordered her return to the U.S. Since then, the return order has been upheld by numerous appeals courts and the legal case is effectively over, yet Devon is still waiting, as I did, for the Brazilian courts to enforce their own return order and put Nadia back on a plane to the U.S. Our government should be demanding, not asking, that Nadia be returned.”

My name is Devon Davenport, the 28 year old father of Nadia Lynn and I happen to still be waiting for justice concerning her illegal abduction to Brazil some 6 years ago.

I believe it has been made evident in the past via various testimonies from left behind parents and politicians that the issue of international child abduction is one of great concern; however, it is absurd that after the immense effort to pass David Goldman and Chris Smith's: Sean and David Goldman International Child Abduction and Return Act (H.R. 3212), we must convince the US Department of State, the sole governmental department responsible for assisting left behind parents systematically navigate legally through the Hague Convention Treaty, to effectively utilize the rhetoric equipping them with the necessary tools to increase resolutions for international abduction cases.

The US Department of State no longer lacks the necessary tools needed in order to optimize and create an efficiently robust pipeline for the handling Hague Cases and distributing pertinent information between Left Behind Parents and Central Authorities from opposing countries.

Countless times throughout my 6 year legal battle, I've been the one to provide updates and ask follow up questions in hopes of obtaining valuable information towards an actual resolution of my case. The Department of State is notorious for providing me with the exact same information I provide them with; hardly do I ever obtain new information and I believe that derives from the fact that they are not proactive in their quest for justice on behalf of left behind parents. The inability and lack of foresight to initiate constructive yet progressive inquiries to the opposing Central Authority is not acceptable. Case officers working for the US Department of State should not only be able to predict the questions and concerns of left behind parents, but also take appropriate measures in obtaining the answers to these questions and concerns while providing feedback to those of us fighting this lengthy battle. The reason for this inability is the lack of empathy, initiative, and urgency; no longer the tools. Herein lies the issue. Until case workers at the Department of State are able to anticipate the next steps in a given Hague Case based on years of internal evidential information from various left behind parents in each country, then there will be no progressive action taken by them to provide information that some parents never think to ask, but deserve to know the answers to, as we look to the Department of State as a source of information and mental solidarity.

The US Department of State has failed to effectively demonstrate an ability to operate in an optimal manner regarding the procedural resolution and legal execution of a return order for abducted children to

return to their country of origin.

Considering they themselves as an entity, are incapable by law of actually enforcing justice, I believe it is necessary to elevate their responsibilities in other areas of which they do have power, such as communicative pressure.

I believe the Central Authorities in both the country of abduction and country of origin should make every effort to contact the sitting Judges at every level of the judicial process and request an expeditious ruling on all processes leading to a Final Certificate of Due Process, as well as the actual logistical execution of the Enforcement Order for return, as they are well within their right to do so.

Article 11 of the Hague Convention Treaty specifically states that:

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay.

Central Authorities must utilize the rhetoric of this Article enumerated in the Hague Treaty as well as the tools they've recently been equipped with via the HR 3212 Bill to ensure that justice is served in a timely manner. I ask that the Department of State make every effort to reach out and question any delays with extreme vigilance in order to ensure the successful and timely return of abducted children to their habitual residence. This type of pressure is vital and should not be suppressed until the process is completed. It serves in no one's best interest to pull back at any point from the beginning of the process until its resolution, as every step forward in the legal process is a critical step and should be treated as such. Therefore, a level of extreme urgency should remain consistent throughout the legal journey in order to adhere to the intent of the Hague Convention Treaty, which is to return children expeditiously to their habitual residence.

Since birth on August 5, 2008 my daughter Nadia Lynn Drummond resided with her mother Larissa Melo Drummond in Cary North Carolina. Due to parental alienation, and prior threats to leave the country with my daughter to Brazil made by Larissa, a court order was filed and established August 20, 2008 restricting the removal of my daughter outside of the state, as well as a confiscation of my daughters' passport to prevent abduction. At the same time a custody order was filed and signed on October 8, 2008 by District Court Judge Walczyk which went into effect on October 14, 2008 notifying each parent that it is a felony to transport the minor child outside of the state. The court order also states that it shall remain into effect until replaced by another Parenting Agreement or Court Order pertaining to custody. According to the signed court ordered visitation schedule between Larissa Drummond and I issued October 14, 2008, our daughter Nadia Lynn was scheduled to have visitation at my residence on Monday's, Tuesday's, and Saturday's at my apartment located in Cary. On Saturday February 7, 2009 my daughter was not brought to my residence for visitation scheduled at 8:00am. At 8:07AM I immediately contacted Larissa asking where she was. After getting no response, I called her mother Mara Bell twice and received no answer. I then called the local Cary Police Department. Upon their arrival, I provided the court ordered visitation and the officer and I went to Larissa's residence and found the house empty. With knowledge of prior threats made by Larissa to leave with my daughter back to Brazil, we contacted the U.S. Department of State to inquire about a possible abduction and were informed that I would receive a call on Monday February 9, 2009 from the abduction officer who handles cases to Brazil, Ms. Daisy Cardiel. I also contacted the National Center for Missing and Exploited Children (NCMEC) and reported the incident and received an NCMEC case number:

TA1115752 for my daughter. On Monday February 12, 2009 Daisy Cardiel contacted me and confirmed my daughter Nadia had been taken to Brazil on February 5, 2009 by Larissa via a United States passport issued in August 2008. It was then confirmed that Larissa had lied about not having a passport for my daughter, violating the court order issued August 20, 2008, and since Larissa did not add me to my daughters birth certificate, and withheld my daughters social security number and other legal documentation concerning my daughter, she was able to obtain a passport for my daughter and fly back to Brazil without my consent. There was a court order calendared by the Wake County Court House in January 2009 to have my name added to my daughters' birth certificate, which was scheduled for April 3, 2009. On February 10, 2009, I filed to have an emergency order granting me sole legal and physical custody of my daughter Nadia, as well as the immediate return of her to her habitual residence in North Carolina, USA, which was signed by District Court Judge Walczyk on February 12, 2009. February 12, 2009 Cary Police entered Nadia into the NCIC as a missing child with case number M487951823, and a kidnapping case, number 09-656 was also opened against Larissa for illegally abducting and transporting Nadia out of the country. My Hague Application was sent and received at the Brazilian Central Authority on March 12, 2009.

April 20, 2009 The US Department of State emailed me stating:

The Brazilian Central Authority (BCA) would like me to inform you that your case was sent to INTERPOL on April 2, 2009. Furthermore, despite the fact that the child has not been located the BCA sent the file to the Federal Attorney's Office in order to commence an analysis on your case.

April 19 2009 I receive a message from a 21 year old law student and member of the Bring Sean Home Foundation forum:

Hi, do the Brazilian authorities know your ex-wife's entire name, info about her address? What do they know about her? Could you give me your ex-wife's entire name and her birthdate and also your daughter's name? I will ask some of my friends who work for the government if they can get some info from the federal computer system archives.

April 27 2009 I received my daughters location from this person with the message "Do not tell anyone how you got this info. Good luck!"

May 06, 2009 I provided the address of my daughter to the US Department of State.

August 10, 2009 Three months later this address was confirmed by INTERPOL

October 5 2009 The Brazilian Office of Attorney General (OAG) filed to the Federal Justice of the State of Santa Catarina for the return of my daughter to the United States.

April 14 2010 I arrived in Brazil for the first instance Hague hearing on the international abduction of my daughter, Nadia Lynn.

September 14 2010 I received a favorable ruling, which issued the return of Nadia back to the United States. I was ordered to spend a 15-day transition period in Brazil before returning. During this transition period, the mother filed an appeal ultimately suspending the return as well as the transition period

between Nadia and I on September 26 2010.

November 30 2011, the TRF-4 Federal Court of Brazil rejected the mothers appeal by a majority panel of judges. She appealed again within the Federal Court.

March 23 2012 the Federal Judge upheld the first instance court order for the return of Nadia back to the United States. The mother filed another appeal to the Superior (STJ) and Supreme (STF) Courts.

May 21 2012, Special Advisor for Children's Issues, Ambassador Susan Jacobs spoke to the Brazilian Central Authority (BCA) directly and requested that my case be expedited and expressed her concerns on the delays and appeals that my case has received.

April 11 2013, the TRF-4 President rejected the appeal filed by the mother before the STJ and STF. I was told that the request for the enforcement order for the return of Nadia back to the United States would be filed on April 30 2013. It was not.

August 14 2013 Ambassador Susan Jacobs and Scott Renner (Children's Issues Division Chief) traveled to Brasilia Brazil to speak directly with the proper personnel to have my case expedited and ruled on, however I received no official report on this meeting. I have no clue what was discussed, with whom the discussion occurred, and what the outcome of said meeting was, although I was told by Margarete of Senator Kay Hagan's Office that I would receive a formal detailed summary within three weeks. On this day I also notified the Office of Children's Issues of the STJ court docket containing yet another appeal by the mother. This appeal was in correspondence to her being found guilty of crimes against the State of Santa Catarina for illegally attempting to change my daughter's last name. She was found guilty and was sentenced to two and a half years of community service plus fines. I requested this information be sent to Susan Jacobs, as surely it would help expedite the ruling on my case.

August 27 2013, a hearing at the first instance court in Criciuma was scheduled in which the Judge in charge of the enforcement order would decide the logistics of the return. Instead of this, they decided to postpone the enforcement order and wait until the appeal was dismissed at the STJ Court in Brasilia, Brazil.

September 6 2013, the appeal was dismissed by the sitting Judge at the STJ Court in Brasilia. Being that it was a monocratic decision, the mother then appealed again, this time requesting a panel of Judges decide on the appeal.

September 27 2013 the Brazilian Central Authority and OAG filed a motion with the first instance court Judge, for the temporary execution of the enforcement order. This was a request that the Judge not wait until the appeals were decided upon. The judge was to formally respond to this motion with a decision.

October 11 2013 I was informed that my case would be heard on October 17 2013. I was later informed by the Brazilian Central Authority that the OAG requested my case be heard first, and that the Brazilian Central Authority Chief Coordinator would be present for the hearing.

October 17 2013, instead of ruling on the appeal, my case was actually removed from the agenda.

Repeated requests for updates as to what is going on with my case were either ignored, or forgotten by the US Department of State. I found myself constantly trying to figure out what was actually going on, as one would think if all the efforts to expedite my case were true, that surely a decision would have been made on October 17 2013.

April 14, 2013, the STJ and STF appeals to the return order were rejected by the TRF-4 President and were yet again appealed only to once again be dismissed by the STJ on September 10 2013, ultimately allowing Nadia to return to the United States once and for all following a 15 day transition period in Brazil set to occur in 2014.

June 17 2014 I traveled to Brazil to complete the 15-day transition period with my daughter with the expectation to return home once and for all to the United States. Upon arrival to Brazil, I was immediately served with another appeal stating the transition period and the return order had been suspended by a last minute injunction filed by the taking parent. I was able to have the suspension of the transition period overturned, however, the courts are still pending a ruling on the suspension of the return order at the STJ.

December 15 2014, Minister Rosa Weber of the STF Court ruled in a monocratic decision to dismiss the special appeal.

January 23 2015, The taking parent filed a motion for clarification on the dismissal of the special appeal, a well known delay tactic.

January 28 2015 I called the STF and asked that Minister Rosa Weber decide on this case as quickly as possible and to note the constant delay tactics being used by the taking parent. Fabiom (the assistant asked me to email my concerns so that he may present it to Minister Weber) and so I did.

February 11 2015 I received an email from the US Department of State stating:

“The panel of Ministers at the STF converted the mother’s declaratory motion to an “agravo regimental” (a motion that is not in the civil code but exists within the internal regulations of the court) and then denied the motion. According to the OAG, this is a good sign, as it shows a tactic from the court to accelerate the process. The OAG said that private attorneys usually first file the declaratory motion so that they can later can appeal on the agravo regimental which, of course, delays the final decision. Since the STF made the move to convert the declaratory motion to the agravo regimental (and subsequently denied it), the OAG believes the court is trying to move the case forward.

March 4 2015, the Special Appeal at the STF was finally rejected, however, the taking parent continues to use delay tactics, in order to prevent the inevitable order of return for my daughter Nadia back to the United States by filing yet another motion for clarification before the STF.

I am here today to not ask, but to demand that my daughter Nadia be returned immediately to the United States without delay. This case has taken its legal course and justice is now overdue.

Thank you for your time, and I hope that my daughter Nadia will soon be returned to her habitual residence here in the United States once and for all.

Mr. SMITH. Mr. Davenport, thank you very much, and thank you for going through the process that you have followed. Like our other witnesses and so many left-behind parents, you have done it all by the book.

Mr. DAVENPORT. Yes.

Mr. SMITH. And justice delayed is justice denied. Again, the three countries—and there are many others, but especially Brazil, Japan, and India—absolutely fit the criteria of non-compliant countries. And if sanctions are not imposed, and significant sanctions at that, again, they will take view of that, take the view of that that we are not serious about this child abuse, as Mr. Morehouse so aptly put it, that is being committed against your daughter and all of the other children.

I would like to now recognize Mr. Sawyer. The floor is yours.

STATEMENT OF MR. SCOTT SAWYER, VICE PRESIDENT OF OPERATIONS, GLOBAL FUTURE (FATHER OF ABDUCTED CHILD TO JAPAN)

Mr. SAWYER. Thank you, Mr. Chairman, and Ranking Member Bass, for your ongoing support in this matter. I ask the chairman's consent to submit my entire written testimony for the record and submit additional parents' testimony as well.

Mr. SMITH. Without objection, so ordered. And it goes for the others. Anything you want to affix to your testimony, please feel free to do it.

Mr. SAWYER. Thank you. Although his mother and father were divorced, my son Wayne benefitted from the Los Angeles Superior Court's orders for equal time with both parents. I dropped him off to visit his mother on Sunday, December 14, 2008, expecting to see him again on Thursday, and then on the weekend bring him over to the 26th Street Park in Santa Monica where we would feed the ducks, which was something he enjoyed to do quite a bit.

But he was kidnapped from Los Angeles and taken to Japan the next day at the age of 2 years, 4 months old. I have not been able to see him or speak with him since, and intermittent communications with his mother have not produced any change in that status.

There are other aggravating factors in Wayne's case, including repeated deceptions by Japanese diplomats in the United States about the false passport that Wayne traveled under, along with his mother's on-camera confession to ABC News in February 2011, in which she chuckled about how easy it was to defeat the passport surrender orders of the Los Angeles Superior Court, deceive the U.S. authorities, and to get away to Japan.

The government response to Wayne's kidnapping represents a perfect storm of failure. The L.A. Superior Court's custody, travel ban, and passport surrender orders, designed to prevent his kidnapping, were defeated easily by organized criminal activity. The court cannot, in reality, enforce its orders outside of the walls of the court. The DHS, TSA, and Customs and Border Protection do not have any serious system in place to interdict such kidnappings at the airports.

The State Department has been discussing cases like Wayne's for over 20 years with Japan with no results, even with all of the pressure and attention that this committee has generated over the

years, the last several years in particular. There is, I believe, an obvious institutional drift regarding the roles of the Justice Department and State Department in international child kidnappings. And perpetrators exploit the absence of an integrated U.S. Government response with little fear of facing justice.

Let us, for example, contrast the governmental response to domestic interstate kidnappings. There are Amber Alerts, interstate police mobilizations, special FBI teams, systematic investigation, arrest, and leveraging of accomplices, apprehension of perpetrators, and frequent returns of the children. It is an integrated response and there are prosecutions and deterrence.

People would rightly be outraged if the states handled domestic kidnappings like the Federal Government and the Hague handles the international ones, for good reason. The law says that children like Wayne are victims of crime, no different than children kidnapped from California to Texas. On the State level, the Uniform Child Custody Jurisdiction and Enforcement Act says that international child kidnappings are to be treated the same as domestic ones across State borders.

The legislative notes in the 1993 International Parental Kidnapping Crime Act state that the Justice Department should have primacy in international child kidnappings, with the Department of State in a subservient role.

Now, since ICAPRA passed, the defined roles have gradually reversed to the point where the State Department, which is not a law enforcement agency, has taken the lead, and the Justice Department has filed fewer and fewer IPCA cases. A 2008 FBI Inspector General report found that the IPCA cases declined by half from 2000 through 2007.

The FBI has the same affirmative duty under the law to investigate and prosecute international child kidnappings, just as they do domestic child kidnappings. But because State, as a practice, does not file extradition warrants for IPCA cases, FBI agents are disincentivized from working up the cases.

Now, State has received this quietly surrendered authority over the crimes. In addition to that, 11 sections of the International Child Abduction Remedies Act, which was the U.S. Hague implementation law, has been removed from the U.S. Code and put under the State Department. We should also consider that the Hague's best practices guide states that when there is a new contracting state, the first and primary choice for the Central Authority should be the Ministry of Justice, or its equivalent.

This opportunity was apparently missed when the United States acceded to the Hague and then named the State Department as its Central Authority. I believe this might have made a difference in the criminal kidnapping cases had the Justice Department, in the first place, been there.

There is also the issue of conflict of interest. And to paraphrase attorney Patricia Apy in a previous hearing, the client of the State Department is not the American citizen crime victim in the street. The client of the State Department is the U.S. Government and its foreign policy objectives.

I suggest that this chamber build on its expertise and its formidable work, and that future legislative goals of this chamber will

be enhanced if it can fuse the successful approaches of the domestic kidnapping law enforcement model, and the root principles of UCCJEA, IPCA, and Hague best practices, into a rapid response whenever a criminal international child kidnapping takes place. In kidnapping crimes against children, I believe that the long arm of the law has produced more consistent results than the long conversations of diplomats.

In 2009, I became an officer of Global Future. In 2010, we helped bring the two Mendoza children home to New Jersey from South Korea. New Jersey law enforcement took the lead, with a very significant assist from the State Department. And, in 2011, we helped bring Karina Garcia home to Wisconsin from Japan. She was the first kidnapped child ever returned from Japan through the criminal law enforcement process. Since then, we have helped three other children return from Asia, Europe, and South America.

Of course, Japan's overdue accession to the Hague in April 2014 was not retroactive, and return applications could not be filed in cases like Wayne's. Since then, parents have been asked to then file access cases in Japan's new Hague courts. And, for me, I find this particularly on the offensive side. Wayne would not be in Japan in the first place were it not for criminal acts committed on U.S. soil and from the mischief of a foreign government.

The State Department has not demonstrated an inclination over the years to serve law enforcement warrants or extradition requests. By accepting this scenario, the U.S. Government has converted crimes against children into civil procedures, and, in effect, conceded the criminal acts to the kidnapers.

The Assistant Secretary of State at the time, Kurt Campbell, said a few years ago that talk of extradition made Japan nervous. Then by all means, let us start talking about extradition again, and have law enforcement and the State Department working lock-step, in tandem, side by side.

Wayne is the victim of a crime with ongoing constitutional rights to due process in the justice system, and all departments of the U.S. Government should treat him as such. The Constitution entitles him to equal protection under the law. He deserves justice like any other crime victim. He is not diplomatic chattel to be traded in exchange for unrelated geopolitical considerations.

The President is also the nation's top law enforcement officer, and I would like to someday hear that all U.S. Government departments are committed to enforcing the laws as a strategy, as one of the tools in the box, to return kidnapped children.

In conclusion, I hope that the committee will take up the suggestion a Congressman made in one of the previous hearings of this committee, that the Foreign Affairs and Judiciary Committees should have a joint "no holds barred" discussion and develop an integrated, sustained, and timely way to respond to international child kidnapping crimes.

I believe the expertise and knowledge of this committee, and of the Judiciary Committee, is vast, separately and together. I have every confidence that the two committees working together will produce a plan of action that will build on your formidable body of work in this area and leave a legacy of fewer and fewer kidnapped children for generations to come.

I would add that, of course, we have heard a lot about the parents suffering on this, but I would always remind people that no one loses more from these crimes than the children. Speaking for myself, I had a childhood. I have fond memories of both parents. My son does not have that, because a crime was committed against him and so far has gone unanswered.

Again, I implore both committees to work together, and I look forward to great success from both to come.

Thank you.

[The prepared statement of Mr. Sawyer follows:]

DRAFT

March 25, 2015

TESTIMONY OF SCOTT SAWYER

Thank you Mr. Chairman and Ranking Member Bass, for your ongoing support in this matter. I ask the Chairman's consent to submit my entire written testimony for the record and submit additional parents' testimony as well.

Although his parents were divorced, my son Wayne benefitted from court orders giving him equal time with both parents. I dropped him off to visit his mother on Sunday December 14, 2008, expecting to see him on Thursday and then bring him over the weekend to the 26th Street Park in Santa Monica, where he enjoyed feeding the ducks. But he was kidnapped from Los Angeles and taken to Japan the next day, at the age of two years, four months old. I have not been able to see him or speak with him since. There are other aggravating factors in Wayne's case, including repeated deceptions by Japanese diplomats in the U.S. about the false Japanese passport Wayne traveled under, and his mother's on-camera confession to ABC News in February 2011, in which she chuckled on-camera at how easy it was to fool the U.S. authorities, while Wayne played in the background.

His kidnapping represents a perfect storm of failure across all levels of government. The LA Superior Court's custody, travel ban and passport surrender orders, designed to prevent his kidnapping, were defeated by organized criminal activity. The court cannot in reality enforce its orders outside of its walls. DHS, TSA and Customs and Border Patrol do not have any serious system in place to interdict such kidnappings at airports. U.S. diplomats directly discussed return cases with Japan for over two years without result for Wayne, but the discussions apparently ceased, after Japan's accession to the Hague Convention on the Civil Aspects of Child Abduction. There is apparent institutional drift regarding the roles of the Justice Department and State Department in international child kidnappings. Undeterred perpetrators exploit the absence of an integrated U.S. government response, with little fear of ever facing justice.

Let's contrast the governmental response to domestic interstate kidnappings. There are Amber Alerts, interstate police mobilizations, special FBI teams, systematic investigation, arrest and leveraging of accomplices, apprehension of perpetrators, and frequent returns of the children. It is an integrated response and there are prosecutions and deterrence.

People would be rightly outraged if the states handled domestic kidnappings like the federal government and the Hague handles international ones, and for good reason. The laws say that children like Wayne are victims of crime, no different than children kidnapped from California to Texas. On the state level, the Uniform Child Custody Jurisdiction and Enforcement Act says that international child kidnappings are to be treated the same as domestic ones that cross state borders. The legislative notes in the 1993 International Parental Kidnapping Crime Act state that the Justice Department should have primacy in international child kidnappings, with Department of State in a subservient role.

Since IPKCA passed, the defined roles have gradually reversed, apparently due to institutional drift. The Department of State, which is not a law enforcement agency, has taken the lead, and the Justice Department has filed fewer and fewer IPKCA cases. A 2008 FBI Inspector General report found that IPKCA cases declined by half from 2000 through 2007. The FBI has the same affirmative duty under the law to investigate and prosecute child kidnappings, whether they are domestic or international. Because State does not as a practice file Extradition warrants for IPKCA cases, FBI agents are disincentivized from working up the cases. Now, State has received even more authority over the crimes, because 11 sections of the International Child Abduction Remedies Act, which was the U.S. Hague implementation law, has been removed from the U.S. Code and put under the State Department. We should also consider that The Hague's Best Practices Guide states that when there is a new contracting state, the first and primary choice for the Central Authority should be the Ministry of Justice, or its equivalent.

There is also the issue of conflict of interest. To paraphrase attorney Patricia Apy in a previous hearing, the client of the State Department is not the American citizen crime victim in the street. The client of the State Department is the U.S. government.

I suggest that the future legislative goals of this chamber will be enhanced if it can fuse the successful approaches of the domestic kidnapping law enforcement model, and the root principles of the UCCJEA, IPKCA, and Hague Best Practices, into a rapid response whenever a criminal international child kidnapping takes place.

In 2009 I became an officer of Global Future. In 2010, we helped bring the two Mendoza children home to New Jersey from South Korea. New Jersey law enforcement took the lead, with an assist from the State Department. In 2011, we helped bring Karina Garcia home to Wisconsin from Japan. She was the first kidnapped child ever returned from Japan through the criminal law enforcement process. Since then, we helped return three other children from Asia, Europe and South America.

Japan's overdue accession to The Hague in April 2014 was not retroactive; return applications could not be filed in open cases like Wayne's. As Japan's implementation of the treaty neared, the State Department distributed information and instruction to U.S. parents on how they could petition the new Hague courts in Japan for limited "access" to their children in Japan.

This is offensive. Wayne would not be in Japan in the first place if not for criminal acts committed on U.S. soil and the mischief of a foreign government. The State Department is not inclined to serve law enforcement warrants or extradition requests. State apparently gave up on direct talks for his return, possibly in exchange for Japan's Hague accession, which is not retroactive for returns in open cases like Wayne's. State is offering his legal custodial-parent father submit an application to a foreign court in the home country of a fugitive, and plead for a couple weeks of undefined and unenforceable access. These are the same Hague courts that accept 'best settled' argument against returns when the child is settled in the new environment after one year. Hague judges sometimes also deny returns when the abductor has warrants on them. In this way, the Hague judges aid and abet fugitives and are accessories after-the-fact. None of this would be acceptable if the kidnapping occurred within the United States. Why does

the federal government think this should be acceptable to American parents of children kidnapped to countries abroad?

Wayne is the victim of a crime, with ongoing Constitutional rights to due process in the justice system and all departments of the U.S. government should treat him as such. The Constitution entitles him to equal protection under the law. He deserves justice like any other crime victim. He is not diplomatic chattel to be traded in exchange for another country's accession to The Hague. In kidnapping crimes against children, the long arm of the law has proven more effective than the long conversations of diplomats.

In conclusion, I hope the committee will take up the suggestion a Congressman made in one of the chairman's previous hearings, that the Foreign Affairs and Judiciary Committees should have a joint "no holds barred" discussion and develop an integrated, sustained and timely way to respond to international child kidnapping crimes. The expertise and knowledge of this committee and of Judiciary is vast. I have every confidence that the two committees working together will produce a plan of action that will build on your formidable body of work and leave a legacy of fewer and fewer kidnapped children for generations to come. Thank you.

Mr. SMITH. Thank you so very much for your testimony.

Ms. Bass.

Ms. BASS. Yes. I am, unfortunately, going to have to leave, but I am dying to ask you a question, because, you know, after listening to the testimony of the three individuals and hearing your story, I wanted to know if you could please explain how law enforcement could do that. I mean, today, what—you know what I mean? You described a couple of cases, but in your case what would happen, what would law enforcement do? In Santa Monica, they would go over to Japan? I don't—

Mr. SAWYER. Well, it was something that some of us parents talked at great length with Kurt Campbell about when he was the Assistant Secretary of State. The problem is that the FBI has been disincentivized from working up the cases.

And what I have heard from the FBI is, if they are going to work up a case, they want to see it end with an extradition warrant. And if they are going to prepare the warrant and the State Department won't serve it, then why go work up the warrant? And then it is—and the parents were—

Ms. BASS. Well, why does the State Department have to—because you described—I understand—I think I understand what you are saying in the sense that if we go along the track of the State Department, then that disincentivizes. You are suggesting that we go along the track of the DOJ, and so why would they be disincentivized?

Mr. SAWYER. Well, that is it. They work up the case. The FBI agents are busy in these child abductions. They have got domestic ones. They have got international ones. And then on the state-to-state abductions, they have vast success with getting extradition warrants from another State.

They prepare a foreign extradition warrant, and the State Department won't serve them in Japan, and—

Ms. BASS. So what can we go to change—now, you proposed a hearing, but beyond a hearing what are you suggesting that we do to remedy the situation, to send it on that other track?

Mr. SAWYER. I think that, then, your committee could bring its influence to bear and get together with the Judiciary Committee. It is important to communicate that this drift that has happened has to be reconciled and brought back under the original intent of the IPCA laws and the UCCJEA. The United States has continuing jurisdiction in these cases, and our children's rights as crime victims do not change because they have been taken overseas.

It is then with the committees working together and basically reminding each other that there is an affirmative duty for law enforcement to execute its duty, and then with those warrants, it will be what Kurt Campbell had said; talk of that made Japanese nervous.

Executing a warrant that is delivery ready, then gets the attention of the foreign government to where you can bargain. And the President is also the nation's top law enforcement officer. He says, "I have got extradition warrants out for"—

Ms. BASS. So new legislation is not necessarily needed; it is just a new focus?

Mr. SAWYER. Yes. I think better working together, the players, the players on the field work together as a team, and we will get better results.

Ms. BASS. Thank you. Appreciate it.

Mr. SMITH. Thank you very much, Ms. Bass.

Let me just conclude, just a couple of questions. Ms. Philips, first of all, Eamon Blanchard is with you from the Plainsboro Police Department. I just would like to recognize him and thank him for the wonderful police work that his office and his fellow officers, he himself did, especially at your time of most vulnerability when everything had been ripped off. And not only had you lost your children, you had a major act of theft occur against you. So I just want to acknowledge him and thank him.

And let me just ask you, you did say that when you contacted the American Consulate in India, one of the consulates, they said there was little they could do for you without an order giving you custody of the children, which you subsequently did get. Was there a change of effort on their part, an earnestness of, you know, a vigorous effort to facilitate a resolution to your case after that?

Ms. PHILIPS. Thank you, Mr. Smith. I did submit the custody order to the U.S. Embassy in India, and though they were very touched about my case there was nothing they proceeded to do to help me get my children back. And I have also visited the Indian Consulate in New York and spoken to the Indian Consulate in Washington, DC, and they advised me go to the U.S. Embassy and seek help from the U.S. Embassy in Chennai to get your children back, because all of you are American citizens and we can't do anything about it. I did forward that letter to the U.S. Embassy, too, but I still haven't got my children back.

Mr. SMITH. I just want to remind—and I do hope the press captures this, if they include it in their stories, but the idea that there are 781 resolved cases. It does convey a false notion of resolved in terms of bringing children home. The number that—with the update from Ambassador Jacobs was that there were 261, so that means two-thirds of the cases have not resulted in a child being returned home. And we know with Japan it is zero; zero for 400.

Let me just ask you, all three of the countries that you have had your children abducted to, cry out as an engraved invitation for sanctions to be imposed after the report, which should be received by Congress or issued no later than April 30 pursuant to the law, to the Goldman Act.

What would be your reaction if the countries, like Japan, like Brazil, like India, were not so designated and significant sanctions not imposed?

Mr. MOREHOUSE. Mr. Congressman, Congressman Smith, I think parents in our organization would be absolutely outraged if Japan is not found non-compliant. There has been no progress with the cases submitted for access over the past year. There have been significant roadblocks. Even today, when Ambassador Jacobs spoke about a return case where she suggested that it was imminent, my sources in the case are telling me that is in appeals. And we have seen appeals in Japan bogged down for a significant amount of time. So until cases are returned, Japan absolutely must be found non-compliant.

Mr. SMITH. Yes, Mr. Davenport?

Mr. DAVENPORT. As far as Brazil is concerned, and I know you have a lot of experience with Brazil in helping David Goldman, as far as I know no other children have really been returned successfully via the Hague. And we know what it took for Sean to return. And when you think about that effort and the immense amount of pressure that was necessary to be placed on Brazil for Sean to return, whose mother died, you know, it is crazy to assume that they would return a child whose mother is still alive.

Without the same or more pressure from Congress and the United States, I believe that my case—for example, I have gone through the entire process, I mean, with every appeal that can be filed has been filed. It is essentially over, and my daughter is still over there. There is no enforcement.

So you have a situation where you can win a case, and I am pretty sure the Department of State will call that a resolution or a soft case. But the actual child has not literally been returned to the habitual residence. And that is the essential goal of the Hague Convention Treaty, to actually have that child returned.

And so until children are coming home, and it is still boggles me that they don't know a number, or know no numbers. It is all "I will get back to you." I think that goes to show that there really probably aren't any cases where you can literally say a child has traveled from the country of abduction back to the country of origin.

Mr. SAWYER. If I may, Congressman, sanctions is a fine idea. I always believed that hitting Japan in the wallet is going to ultimately help us get further. But it also brings up another opportunity for this committee to work with others. There are a lot of outstanding and unresolved issues with Japan over non-tariff trade barriers, and the beef, apples, and rice industries are not too happy with Japan's policies in those areas, as are auto makers and electronics makers.

And after the sanctions, coordinating with other committees to focus on trade policy will be yet another lever to get Japan's attention.

Ms. PHILIPS. I hope India will treat the child abduction cases as a criminal case and not a civil case. I wish the U.S. Government could educate the Indian authority and the officials there to have a speedy return of the children. And if they are having a case to have it held quickly, because, as you said, justice delayed is justice denied. And my last hearing was in April 2013, and I am still waiting for the Government of India to help me.

Mr. SMITH. One of the questions or a series of questions I posed in July 28, 2011, to Ambassador Susan Jacobs was about the closure of cases, because always have had trouble with clarity in the numbers. Time and time again, I remember when we had meetings with David Goldman and Ambassador Jacobs regarding Brazil. We got different numbers, always different numbers, and it was hard to say, "What is the number? How many children?" And hopefully the report will be very clear on the numbers issue.

But I think it needs to be underscored, and for the record I will put with this answer from the Office of Children's Issues into the record, that closure of cases follow when a child turns 16 in a

Hague case. That has certainly not been any positive resolution. It just means the child aged out, and, as we all know, that is what many of the abducting parents do through their endless appeals like you are going through, Mr. Davenport, and all of you.

The child turns 18 in a non-Hague case, the child is returned to the country of habitual residence, that would be a positive outcome for sure. But as number 3 on the list, maybe there is no reason for the juxtaposition, but it is number 3.

The left-behind parent notifies the Office of Children's Issues that assistance is no longer required. The child or the left-behind parent is deceased. After multiple attempts, the Office of Children's Issues is unable to locate or communicate with the left-behind parent in order to obtain updated information or confirm that our assistance is still required.

You know, so there—you know, cases drop off the table because, again, a child turns 16 and ages out. When it is presented in an aggregated form, it would be very easy to have a takeaway, oh, the cases are going down, or these have been resolved successfully, when that is absolutely not the case.

Let me also just say that I think, again, all three of your cases, absolutely your individual cases, not the larger numbers which you all represent, Section 201 could be applied to every one of them, and ought to be. I mean, this is a serious attempt, the Goldman Act, to hold countries to account.

Unfortunately, we have four votes pending. I am going to have to end the hearing very shortly. Your comments, Mr. Morehouse, about Henrik Teton's case, that the judge refused to provide his name. I have had 15 hearings on human rights in Northern Ireland, on policing and on Diplock courts. I can't think of another instance in a country, particularly Japan, a mature democracy, where a judge will not utter his name in his own courtroom.

I mean, in the Diplock courts, they used to shroud the judges so nobody knew who it was that was deciding a case. Here in Japan, Mr. Teton had to put up with the five points you made, which were devastating, one of which was the judge was refused to provide his name. That is outrageous. That is almost laughable, but it is certainly not funny.

So if any of you would like to provide any further comment before we have to close down. I do want to just acknowledge, first of all, that David Goldman is here. David Goldman, as I said at my opening, has been a tenacious, like you, father, mother, who cares so much about his son or sons or daughters that he fought and, in his case thankfully, yielded fruit, and Sean is doing extraordinarily well.

I meet with him all the time, as well as with David. He and Mark DeAngelis are both here, and Mark has spent so much time volunteering and doing work for the Bring Sean Home Foundation. And, Mr. Davenport, as you know, they have been helpful to you, so I want to thank them.

Patricia Apy, who is not here, but a lawyer who helped us with many of the finite details of the bill, particularly as related to DOD, and she had extraordinary expertise to bring to bear on that.

David Feimster, and Gail, his wife, who were successful. Sometimes a Foreign Service Officer is dogged, and that was the case

in Tunisia. And I just want to acknowledge that we are grateful for the work that their Foreign Service Officer did, Mr. Sweeney, Michael Sweeney, I did talk to him on the phone a few times and he was absolutely locked onto the case, and those kids came home.

So I want to thank all of you for—oh, let me conclude, and then you all will have the final word. At one of our hearings in 2009, Bernie Aronson, the Assistant Secretary of State for Inter-American Affairs between 1989 and 1993 provided some very powerful testimony. But one of his points which I thought was just so telling, here is a man, Assistant Secretary, sat in that very important influential position with U.S. Department of State and he said, let me quote in pertinent part, “Let me be blunt. A diplomatic request for which there are no consequences for refusal is just a sophisticated version of begging. And there are no consequences today for Brazil”—and, I would add, for these other countries as well—my own addition—“or any other nation which refuses to return American children.”

Those words are no less true today, but now we have the Goldman Act where there can be, and must be, significant consequences for refusal. And to end the sophisticated version, as Bernie Aronson put it so eloquently, begging.

Final comments, very briefly if you could, and then the hearing will adjourn.

Bindu? If you would like. If you don't, that is fine.

Ms. PHILIPS. Yes. I would like to thank you so much for helping us. And I would like to request the Indian Government to please help us get reunited with our children, and to understand our pain, and to understand that the little and helpless children have no choice but to listen to the abductive parent, because that is the only family they know and they can't do anything against the abductive parent, so to please help us. And the same with all the countries where the children have been taken.

Mr. SMITH. Thank you, Bindu.

Ms. PHILIPS. Thank you.

Mr. SMITH. Mr. Morehouse?

Mr. MOREHOUSE. Yes. I would like to just reiterate for the committee that although we have applied for access, our cases do remain abduction cases. There have been no children returned. And until they are returned, they are still kidnapped.

Mr. MOREHOUSE. Thank you.

Mr. Davenport.

Mr. DAVENPORT. I would just like to say that sanctions are absolutely necessary, especially for countries that are non-compliant. And the risk of diplomacy is definitely necessary to apply that to these countries in order to bring the children back.

One instance will set an example, and maybe threats from there on out will be enough. But you have to make good on a sanction, at least one time, at least bring a child home. Sean Goldman is the only one I know of.

Thanks.

Mr. SMITH. Thank you, Mr. Davenport.

Mr. Sawyer.

Mr. SAWYER. I remember Mr. Aronson's testimony quite well, too. That was really outstanding.

I would say, speaking of consequences, sanctions are terrific. I would say with sanctions and with the coordination with law enforcement serving extradition warrants, those two things together are mutually supportive of each other. You will get more bang out of whatever sanctions diplomatically, by enforcing extradition warrants, and vice versa. I think it is a really terrific idea. And putting those two together will really get Japan's attention.

And as far as extradition warrants, we saw that legal extradition process work in the Karina Garcia case in Milwaukee, and that is a model to build on. And I look forward to those two departments cooperating.

Thank you.

Mr. SMITH. Thank you. This is the first in a series of hearings, so I want to thank you for your extraordinary testimony, love for your children, and we will never quit in trying to bring your children home.

The hearing is adjourned.

[Whereupon, at 4:13 p.m., the subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE RECORD

**SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128**

**Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
Christopher H. Smith (R-NJ), Chairman**

March 25, 2015

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <http://www.ForeignAffairs.house.gov>):

DATE: Wednesday, March 25, 2015

TIME: 2:00 p.m.

SUBJECT: The Goldman Act to Return Abducted American Children: Reviewing Obama Administration Implementation

WITNESSES: Panel I
The Honorable Susan S. Jacobs
Special Advisor for Children's Issues
Bureau of Consular Affairs
U.S. Department of State

Panel II
Mr. Jeffery Morehouse
Executive Director
BAC Home
(Father of Abducted Child to Japan)

Ms. Bindu Philips
(Mother of Abducted Children to India)

Mr. Devon M. Davenport
(Father of Abducted Child to Brazil)

Mr. Scott Sawyer
Vice President of Operations
Global Future
(Father of Abducted Child to Japan)

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5921 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Africa, Global Health, Global Human Rights, and International Organizations HEARING

Day Wednesday Date March 25, 2015 Room 2172 Rayburn HOB

Starting Time 2:02 p.m. Ending Time 4:12 p.m.

Recesses 0 (to) (to) (to) (to) (to) (to)

Presiding Member(s)

Rep. Chris Smith

Check all of the following that apply:

Open Session

Electronically Recorded (taped)

Executive (closed) Session

Stenographic Record

Televised

TITLE OF HEARING:

The Goldman Act to Return Abducted American Children: Reviewing Obama Administration Implementation

SUBCOMMITTEE MEMBERS PRESENT:

Rep. Mark Meadows, Rep. Ami Bera, Rep. Karen Bass

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

Rep. Jackie Walorski*

HEARING WITNESSES: Same as meeting notice attached? Yes No
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

Statement of Scott Sawyer, submitted for the record by Rep. Chris Smith
Statement of Robert Makielski, submitted for the record by Rep. Chris Smith
Statement of Keith White, submitted for the record by Rep. Chris Smith

TIME SCHEDULED TO RECONVENE _____

or
TIME ADJOURNED 4:12 p.m.

Gregory B. Simpson
Subcommittee Staff Director

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTER-
NATIONAL ORGANIZATIONS

March 25, 2015

Subcommittee Hearing on Africa, Global Health, Global Human Rights, and International
Organizations/The Goldman Act to Return Abducted American Children

FULL WRITTEN TESTIMONY OF SCOTT SAWYER

Thank you Mr. Chairman and Ranking Member Bass, for your ongoing support in this matter. I ask the Chairman's consent to submit my entire written testimony for the record and submit additional parents' testimony as well.

Although his parents were divorced, my son Wayne benefitted from court orders giving him equal time with both parents. I dropped him off to visit his mother on Sunday December 14, 2008, expecting to see him on Thursday and then bring him over the weekend to the 26th Street Park in Santa Monica, where he enjoyed feeding the ducks. But he was kidnapped from Los Angeles and taken to Japan the next day, at the age of two years, four months old. I have not been able to see him or speak with him since, and intermittent communications with his Mom have not produced any change in that status.

There are other aggravating factors in Wayne's case, including repeated deceptions by Japanese diplomats in the U.S. about the false Japanese passport Wayne traveled under, and his Mom's on-camera confession to ABC News in February 2011. While Wayne played in the background, she chuckled at how easy it was to defeat the passport surrender orders of the Los Angeles Superior Court, deceive the U.S. authorities, and get away to Japan.

The government response to Wayne's kidnapping represents a perfect storm of failure. The L.A. Superior Court's custody, travel ban and passport surrender orders, designed to prevent his kidnapping, were easily defeated by organized criminal activity. The courts cannot, in reality, enforce their no-travel orders outside of their walls. DHS, TSA and Customs and Border Protection do not have any serious system in place to interdict such kidnappings at airports. The State Department has been discussing cases like Wayne's with Japan for over 20 years with no results, even with all of the attention that this committee has generated over the years, the last several in particular.

Unlike domestic child abductions, in which law enforcement springs into action, the U.S. government expresses no sense of urgency in international kidnapping crimes. Instead the State Department takes the lead, with the cases put on an open-ended, indefinite path to non-resolution. The U.S. State Department can take months, or even years, before making initial contact with the authorities of the countries where the fugitives landed. Meanwhile, in the absence of any strong formal complaint or law enforcement consequences, kidnapper fugitives and their governments become more comfortable in the knowledge that they will never be pursued and that the U.S. government does not consider their crimes, or their child victims, to be a priority.

The unyielding failure endures because in international kidnappings, the U.S. government's handling of the problem does not follow the law and has fallen into the hopeless funk of

institutional drift. On the state level, the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) says that international child kidnappings are to be treated the same as domestic ones that cross state borders. The legislative notes in the 1993 International Parental Kidnapping Crime Act (IPKCA) state that the Justice Department should have primacy in international child kidnappings, with Department of State in a subservient role. Yet after IPKCA's passage, the defined roles have gradually, and extra-legally, reversed. The Department of State, which is not a law enforcement agency, has taken the lead on criminal child abductions, while the Justice Department has filed fewer and fewer IPKCA cases.

A 2009 FBI Inspector General report found that IPKCA cases declined by half from 2000 through 2007. The FBI has the same affirmative duty under the law to investigate and prosecute child kidnappings, whether they are domestic or international. Because State does not as a practice file Extradition warrants for IPKCA cases, including those involving Japan, FBI agents are disincentivized from working up the cases.

Now, State has continued to receive more of this quietly surrendered authority over the crimes. Recently, 11 sections of the International Child Abduction Remedies Act, which was the U.S. Hague implementation law, have been removed from the U.S. Code and put under the State Department. We should also consider that The Hague's Best Practices Guide states that when there is a new contracting state, the first and primary choice for the Central Authority should be the Ministry of Justice, or its equivalent.

This opportunity was apparently missed when the United States acceded to The Hague and then named the State Department as its Central Authority. I believe it might have made a difference for the children in countless international cases of criminal child abduction, had the Justice Department been designated as the U.S.' Central Authority for The Hague.

There is also the issue of inherent conflict of interest. To paraphrase attorney Patricia Apy in a previous hearing, the client of the State Department is not the American citizen crime victim in the street. The client of the State Department is the U.S. government.

Like any domestic kidnapping crime, Wayne has a right to enforcement of the law on his behalf and restoration of his right to both parents. However, once children like Wayne are criminally removed from American soil, the U.S. government, foreign governments, and The Hague, all suddenly disregard that premise, which accrues to the benefit of the abductors. For its part, the State Department Foreign Affairs Manual recommends staff to educate parents about foreign courts and customs, but conspicuously absent are recommendations to direct them to U.S. law enforcement.

The word "Civil" in the Hague's title provides prima facie evidence that it is a deficient and inappropriate instrument for *criminal* kidnapping cases. The Hague's treatment of criminal cases frequently heaps only more injustice and disaster onto the children. Inherent in the Hague process is the contemptuous and rude presumption that existing court rulings of sovereign states in criminal matters are mistaken, and that Hague judges are better able to evaluate and adjudicate entire family law cases in which courts of competent jurisdiction heard the facts and became familiar with the individuals, many times for several years before the Hague's involvement.

The U.S. government's reliance on The Hague as a solution is an immediate disservice to criminally kidnapped children. Furthermore, the Hague process puts a legal custodial parent in the onerous position of filing a Hague case in a foreign land that unilaterally conferred custodial rights on a fugitive and confessed child abductor, with the best outcome being limited, undefined, unenforceable "access"—in Japan. A new international treaty on the *Criminal* aspects of child abduction, composed by police agencies and prosecutors, would better serve the child victims of crime.

The Hague today encourages judicial anarchy. Hague courts accept the 'best settled' argument against returns when the child is held in the new environment over one year. Hague judges sometimes also deny returns when the abductors have warrants out on them. In this way, the Hague judges aid and abet fugitives and are accessories after-the-fact. The Hague's very existence provides criminal fugitives with the benefit of an extra-legal, de facto appellate forum, where they can obtain the imprimatur of an international judicial body on their lawbreaking. A 2011 U.S. General Accountability Office study found that the central reason parents kidnap their children is to unilaterally alter standing court orders. When its esoteric processes frequently result in contradicting previously established court custody orders, The Hague thus joins the kidnapers in undermining the properly issued orders of courts of competent jurisdiction worldwide.

As it applies to Japan, the Hague process, which purports to be pro-child, unilaterally, and without accountability to U.S. courts, the U.S. government, Wayne or his American family, ordains that he will forever be denied that right, and never be made whole, legally or otherwise. For example, before his kidnapping, the California court had guaranteed Wayne enforceable equal time with both parents. When Japan finally acceded to The Hague in April 2014, its signing was not retroactive to open cases like Wayne's. As Japan's implementation of the treaty neared, the State Department relayed from Japan's Foreign Ministry, information and instruction to "non-custodial" U.S. parents, on how they could petition the new Hague courts in Japan for limited "access" to their children in Japan, and obtain MOFA's assistance with navigating the Japanese legal system. Before and since Wayne's kidnapping, I have always been his primary custodial parent, pursuant to the orders of the Los Angeles Superior Court. Apparently, the Japanese government considers all U.S. 'left-behind' parents to be 'non-custodial,' never-minding that Wayne would not be in Japan in the first place if not for several criminal acts committed on U.S. soil by its nationals, with the complicity of the Foreign Ministry.

None of this would be acceptable if the kidnapping crime occurred within the United States. Police agencies do not punt domestic interstate kidnapping crimes to civil administrative bodies. Why does any department of the federal government think this should be acceptable to American parents of children who were criminally kidnapped to countries abroad? The perpetrators of international kidnapping crimes against children continue to exploit the dysfunction of the U.S. government and The Hague, with little fear of ever facing justice.

Let's contrast the governmental response to domestic interstate kidnappings. There are Amber Alerts, interstate police mobilizations, special FBI teams, systematic investigation, arrest and

leveraging of accomplices, apprehension of perpetrators, and frequent returns of the children. It is an integrated response and there are prosecutions and deterrence.

The laws say that children like Wayne are victims of crime, no different than children kidnapped from California to Texas. People would be rightly outraged if the states handled domestic kidnappings like the federal government and The Hague handles international ones.

The State Department has not demonstrated an inclination over the years to serve law enforcement warrants or extradition requests. Through its lack of serious response, the U.S. government has in effect converted statutory crimes against children into civil procedures, and conceded the criminal acts, and the child victims, to the kidnapers.

Then-Assistant Secretary of State Kurt Campbell said a few years ago that talk of extradition made Japan nervous. Then by all means, let us start talking about extradition again, and have law enforcement and the State Department working in tandem, to serve the children's need for robust law enforcement action on their behalf.

The federal government exhibits more commitment, resources, and coordinated, robust law enforcement activity for wild animals and paintings than it does for kidnapped children like Wayne. In 2011, the U.S. Fish and Wildlife Service, with assistance from the United States Postal Inspection Service, U.S. Immigration and Customs Enforcement's Homeland Security Investigations, and U.S. Customs and Border Protection, in an undercover mission dubbed "Operation Flying Turtle," arrested two Japanese nationals on federal animal smuggling charges at Los Angeles International Airport, after they brought approximately 55 live turtles and tortoises into the United States. Fish and Wildlife issued the following statement about the arrests:

Individuals who participate in the illegal take and trade of protected animals are irreparably harming natural populations and, sadly, contributing to the decline of many types of fragile and delicate species worldwide. The U.S. Fish and Wildlife Service will diligently pursue those individuals who profit from their involvement in the illegal wildlife trade.

Human children are fragile and are irreparably harmed by kidnappings, frequently arranged by and with people who profit from producing false birth records, false passports, and assisting in the getaways and evasions of authorities. Unless the turtles' parents called to report the crimes, we can deduce that Operation Flying Turtle was conceived and executed by the initiative and proactive efforts of the numerous federal agencies that participated. By contrast, the U.S. Justice Department and State Department, DHS and CBP have yet to show any similarly impressive gumption to obtain the same justice for kidnapped children that the wild turtles and their families received.

Child kidnapping is always a crime, whether it is domestic or international in scope. No crimes, including international child kidnappings, stop being crimes when the perpetrators land in other countries. As such, international child kidnappings are transnational crimes.

It is a peculiar, inexplicable dichotomy, that while the State Department regularly takes a subservient, supporting role to FBI in other transnational crimes, such as human trafficking, money laundering, art theft, and trafficking in arms and other illicit goods, it insists on primacy over child kidnapping crimes, which are lodged deep in its diplomatic portfolio. According to the State Department, the White House recognizes that transnational criminal networks are not only expanding, "but also diversifying their illicit activities." International child abduction is one of these diversified organized criminal activities. In kidnappings to Japan, abductors have allegedly been assisted by the same birth record and passport forgers who assist organized crime in human trafficking. And while would-be child abductors participate in U.S. family courts, attorneys in Japan often serve as undisclosed "shadow counsel" who have allegedly assisted in arrangements for the abductions.

If CBP declared Wayne to be an artwork, he might be home already, considering how the FBI's website trumpets its impressive efforts to police and prosecute the theft of art:

It's like stealing history.

Art and cultural property crime—which includes theft, fraud, looting, and trafficking across state and international lines—is a looming criminal enterprise with estimated losses in the billions of dollars annually.

To recover these precious pieces—and to bring these criminals to justice—the FBI has a dedicated Art Crime Team of 15 special agents, supported by three special trial attorneys for prosecutions. And it runs the National Stolen Art File, a computerized index of reported stolen art and cultural properties for the use of law enforcement agencies across the world.

International child abduction also encompasses looming criminal enterprise, with inestimable losses to the children and their families. There is no similar dedicated allotment of law enforcement personnel and resources to recover the internationally kidnapped children, or bring the perpetrators to justice. Nor is there a comprehensive law enforcement database for internationally kidnapped children—and hence no definitive count, in any year, by any department of the federal government, of how many American children are criminally kidnapped from the United States and taken to, or remain in, foreign countries.

An international child abduction database would serve the same effective investigatory goals the FBI describes for precious art objects:

The NSAF is a computerized index of stolen art and cultural property as reported to the FBI by law enforcement agencies

throughout the United States and the world. The NSAF consists of images and physical descriptions of stolen and recovered objects, in addition to investigative case information. The primary goal of the NSAF is to serve as a tool to assist investigators in art and cultural artifact theft cases and to function as an analytical database providing law enforcement officials with information concerning art theft.

The children already meet most of the FBI's criteria that qualifies art objects to be eligible for entry into the NSAF:

- The object must be uniquely identifiable and have historical or artistic significance. This includes fine arts, decorative arts, antiquities, Asian art, Islamic art, Native American art, ethnographic objects, archaeological material, textiles, books and manuscripts, clocks and watches, coins, stamps, musical instruments, and scientific instruments.
- The object must be valued at least \$2,000, or less if associated with a major crime, and
- The request must come through a law enforcement agency accompanied by a physical description of the object, a photograph of the object if available, and a copy of any police reports or other information relevant to the investigation.

Police agencies classify child kidnappings as major crimes. After the kidnappings, local police departments across America have collected descriptions, photos, reports and investigation information on the crimes.

In February 2015, upon the 10th Anniversary of the establishment of the Art Crime Team, FBI Art Theft Program Manager Bonnie Magness-Gardiner said:

But really all credit to the agents. They are the ones who follow the leads. And I have to say they are the most dogged, determined, and persistent set of people I have ever met. Once they get their teeth into one of these investigations they will follow it to its logical conclusion.

It will be a much better day for internationally kidnapped children, when all departments of the U.S. federal government demonstrate the same high spirit of determination to enforcing the law on their behalf of, as it does for wild animals and inanimate objects.

It appears that many diplomats and members of Congress and across the federal government do not recognize that while recovering kidnapped children is a low priority for the U.S. government, minimizing exposure on the child kidnapping issue is a national imperative for Japan. In the 1970s, North Korea kidnapped 17 Japanese from Japan. Since then, Japan has received goodwill and geopolitical benefits from many countries, which joined in condemning North Korea for the

horrible crimes. Japan cannot risk returning hundreds of kidnapped children en masse and being seen in the world community as moral equivalents of the god-awful regime in North Korea. It is also interesting that parental child abductors in Japan and around the world, use basically the same brainwashing techniques the North Koreans used on their kidnapping victims—telling the victims repeatedly that their relatives and their government at home don't care about them, gave up on them, and the captors are the only ones who are looking out for them. Until the United States puts the same energy, time and commitment towards kidnapped children as Japan does in fending off aggrieved foreign parents and their governments, there will be little progress and few if any returns of kidnapped American citizen children.

Law enforcement is the proven model for resolving international child kidnappings. In 2009 I became an officer of Global Future. In 2010, we helped bring the two Mendoza children home to New Jersey from South Korea. New Jersey law enforcement took the lead, with an assist from the State Department. In 2011, we helped bring Karina Garcia home to Wisconsin from Japan. She was the first kidnapped child ever returned from Japan through the criminal law enforcement process. Since then, we helped return three other children from Asia, Europe and South America.

Wayne Sawyer is the victim of a crime, with ongoing Constitutional rights to due process in the justice system and equal protection under the law. All departments of the U.S. government should treat him as such. He deserves justice like any other crime victim. He is not diplomatic chattel to be traded in exchange for another country's accession to The Hague, or other unrelated geopolitical matters.

Recommendations

To prevent future crimes, the Congress must complete the push for a system that uplinks state court no-fly orders directly to DHS, CBP and TSA, so kidnappings can be interdicted at airports.

To remedy future crimes, the U.S. government must create a rapid-response action plan for international child kidnappings, which is commensurate with the instant and well-coordinated responses to domestic abduction. Immediately upon an American citizen child's kidnapping to a foreign country, FBI should gather the phone, banking and travel records of suspects and accomplices. The foreign government should immediately hear unified howls of outrage and declarations of resolve from U.S. authorities.

To better evaluate the scope of the problem and prospective policy responses, the U.S. government must establish an international child abduction database, no less sophisticated than the FBI's Art Crime database.

Legislatively, these goals could be achieved by building onto IPKCA, and establishing dedicated allotments of agents, resources and funding commensurate with the FBI's domestic child abduction and art crime units, with the express mission to follow international child kidnapping cases to their logical conclusions, by investigating, arresting and prosecuting accomplices and perpetrators, and producing ready-to-serve extradition warrants.

To more justly serve criminally kidnapped children in the future, the Justice Department must immediately start work on an international law enforcement treaty that specifically addresses *criminal* abductions. The treaty should be run by sitting prosecutors and police officials accountable to the U.S. public, so that American citizen children's rights to law enforcement no longer get trampled, as they often do in the current Hague civil process. Equivalent composition of representatives would be expected from any international partners that join the treaty.

The Committee should take up the suggestion a Congressman made in one of the chairman's previous hearings, that the Foreign Affairs and Judiciary Committees should have a joint "no holds barred" discussion, to develop such an integrated, sustained and timely way to better protect the underserved child victims of kidnapping crimes.

Enabling legislation would be necessary for these steps.

Without legislation, Congress could immediately begin to forge a unified front against international child kidnapping, if the Judiciary and Foreign Affairs Committees would also strategize with the various trade, agriculture and manufacturing committees, which regularly take issue with Japan's non-tariff trade barriers in products like beef, apples, rice, cars and electronics. This would also help shrink the U.S. government's commitment deficit on the kidnapping issue, which kidnapers the world over now exploit it with impunity.

Conclusion

The robust support and exercise of law enforcement will create significant movement in cases like Wayne's. Wayne will be nine years old in August. His childhood is moving by quickly. In kidnapping crimes against children, the long arm of the law has proven more expeditious than the long conversations of diplomats.

As you work to integrate and improve the U.S. government's response to international child abductions, please keep in mind that the children always suffer from these crimes more than anyone. Their loss is inestimable. Wayne has no life lessons or formative memories of one of his parents, for six and a half of his almost nine years. For anyone who has fond memories of both parents, this is an unimaginable loss. And it will continue until the U.S. government answers the crime.

Decades of the diplomacy-alone approach has forfeited generations of kidnapped American citizen children to criminal acts and foreign governments. The answer to this enduring failure is not more diplomacy. The time is long past due to try a fresh approach. At long last, the U.S. government must, as the law requires, put law enforcement back in the lead and treat international child kidnappings the same as domestic ones, with the State Department returning to its proper secondary, supporting role.

The passage of legislation that creates a coordinated system of interdiction, mandates law enforcement to take the same affirmative steps that it takes in domestic kidnappings, turtle smuggling and art theft, and to maintain definitive data about the crimes, will help routinely return internationally kidnapped American citizen children like Wayne to the United States in a

The complete version of this statement can be accessed at:

<http://docs.house.gov/meetings/FA/FA16/20150325/103249/HHRG-114-FA16-Wstate-SawyerS-20150325-SD001.pdf>

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTER-
NATIONAL ORGANIZATIONS

March 25, 2015

Written Testimony of Robert Makielski

**Subcommittee Hearing on Africa, Global Health, Global Human Rights, and International
Organizations/The Goldman Act to Return Abducted American Children**

During March 2015, the Dominican Republic's Foreign minister, Andrés Navarro, traveled to the US Capitol. He met with the Western Hemisphere Subcommittee of the House of Representatives Foreign Affairs Committee. He also met with the Department of State and Democratic Rep. Nancy Pelosi. The legislation states, "It is the sense of Congress that the United States should set a strong example for other Convention countries in the timely location and prompt resolution of cases involving children abducted abroad and brought to the United States." As the Dominican Republic is a signatory to the Convention, such a strong example should be communicated during these meetings.

The kidnapping crime committed against my children started in January 2011. Isabel and Gabriel, were taken by their mother, Maria Rivera-Estevez, to the Dominican Republic without notice to me or the court. At the time of the abduction, prior court orders from Culpeper County Virginia were in effect. A September 3, 2009 Order of the Juvenile and Domestic Relations District Court detailed custody and visitation, including defining the U.S. as the Habitual residence for the children. An Agreed Order on Appeal of Custody and Visitation dated May 18, 2010 adjudged, ordered and decreed that the September 3, 2009 Orders of the Juvenile and Domestic Relations District Court Order shall remain in full force and effect.

The Culpeper County Sheriff's Department filed formal charges (Kidnapping KID-1017-F6) against Maria Rivera-Estevez. On October 4, 2011, the Dominican Hague court released its decision to deny the return of the children based on Article 13 of the Hague treaty (that there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation). I have no Criminal Conviction record, sex offender or an arrest record. The Court of Appeals upheld the trial court's ruling adding that children are settled in the Dominican Republic. Although an appeal was filed with the Dominican Supreme Court, it has not taken any action to move this case forward since July 24, 2012.

On December 11, 2012 Culpeper County Circuit Court awarded me sole physical and legal custody of both children (Court order signed in February 27, 2013). The Court findings include:

- There was a material change in circumstances since the custody order of May 2010 including the abduction of the children by the Mother, to the Dominican Republic, without notice;
- The Court does not have to give Full Faith and Credit to the finding of the Dominican Republic Hague Court;
- The Hague Court cannot decide custody;
- The wrongful removal of the children does not give The Hague Court a basis to find that the children are settled in the Dom Republic;
- The Court does not find a risk of grave harm to the children if they are returned to Virginia;
- There is no evidence of abuse of the children.
- The Hague Court does not have subject matter jurisdiction.; and
- The Mother had the protection of the Virginia Court and should have come to the Court for assistance as opposed to fleeing.

As to date, my children are still victimized by this crime.

A Hague court that fails to recognize legal instruments and act with expediency diminishes The Hague Convention on the Civil Aspects of International Child Abduction to moot. Prior to a parent illegally crossing an international boundary, a court order defining habitual residence from the proper jurisdiction should be one the most powerful tools to ensure a child's prompt return to their home. To protect child victims from the abductor, the US criminal Justice system along with executive and legislative support must be leveraged in its fullest capacity.

Isabel Makielski was enrolled in a gifted student program at the time she was illegally removed from the United States. Gabriel Makielski was about to turn five years old. From birth, both children only knew Culpeper Virginia as their home. For the last four years, they have been denied all access to their American family, heritage, and culture in exchange for a life below the poverty line in the Dominican Republic. I pray my children will have the lives, they once knew, restored promptly. Thank you.

Robert Makielski
Culpeper, Virginia

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NATIONAL ORGANIZATIONS

March 25, 2015

Subcommittee on Africa, Global Health, Global Human Rights, and International
Organizations/The Goldman Act to Return Abducted American Children

Written Testimony of Keith White

My name is Keith White. Currently I reside in New York City, New York. My son, Skye Gabriel White, was abducted by his mother in 2005 to Germany when he was three years old. Ever since I have been trying to bring my son home. I am submitting this testimony as part of my ongoing efforts to recover my son and in the hope that it will help other left-behind parents recover their abducted children from wherever those children are being held.

My Involvement in the Issue

At the beginning I must start at the end. I've read the Hague Convention on the Civil Aspects of International Child Abduction. I've also read two complementary legal interpretations of the Convention. One of the interpretations is the Explanatory Notes published with the Convention. The other is the legal analysis published by the State Department. I had to read these documents, which are consistent in the extreme, because no one else I encountered in the long and heretofore unsuccessful campaign to recover my son to his home had bothered. Attorneys who represented me in New York State Supreme Court failed to enter the order issued by The Hague Court into evidence prior to custody proceedings in New York. Consequently the status quo ante has never been restored and custody decisions were based on artificial facts created by the abductor, exactly the situation The Hague is structured to prevent. Tremendous psychological pressure was directed at me and as a result my health suffered. Attorneys — who had not read the Convention or any of the other related documents -- advocated for sustaining and compelling me to pay for the ongoing abduction of my son. That was the easiest way for them, as well as the abductor, to benefit financially from the wrongful retention of my son. Members of the bench invented, and this is on the record, nonexistent statutes of limitations and other mechanisms for contravening the Convention to frustrate my recovery of my son. Local police refused to take police reports because the abductor was a parent. The FBI collected information but never followed up. (In Europe, in contrast, both local and federal police were mobilized when the abductor fled the Court's jurisdiction with our son in search of a friendlier venue.) The US Attorney's office never returned calls.

Despite the negativity, I persisted. The Convention, ICARA, and its interpretative documents are written in clear, simple language. Also I read news reports in 2013 about the Goldman Act. They suggested to me that someone was paying attention to the issue. So I held out hope of recovering my son. Over the years I've spent hundreds of thousands

of dollars filing cases with local and federal courts. When they all refused to finish the Hague process and return my son to me I asked for Certiorari. My request was denied on the basis that the focus of the Convention, at least in the United States, has been redirected from the convention's objective of restoring the pre-abduction status quo to simply returning abducted children to some or any US border. In other words what I've been told by the US State department as well as the US Courts is that the US has effectively withdrawn from the Convention in the sense that no branch of the federal government pursues the Convention's core objective.

There are six Circuit Court decisions that all hold that the objective of the Hague is to restore the status quo that existed before the abduction. And that was all I wanted. Had I known that the Convention was not fully implemented in the United States as a matter of policy I would have invested my limited resources differently. The opposition to recovering abducted American children to left behind parents is well funded and ferocious. The psychological aggression that is actively employed to compel left behind parents to give up on recovering their children is unrelenting.

Child abduction is good business for some. Monies invested by left behind parents to recover their children do not lead to that result. At the same time not-for-profit organizations that receive millions in public funding as well as multi-million dollar law firms advocate on a pro bono basis for sustaining abductions, or at least, that is what happened to me. As a result of government obfuscation supported by private sector activism on behalf of abductors, I have come away from the entire frustrating experience with a clear sense that preventing the recovery of abducted children is policy. There appears to be that there are those, besides the abductors themselves, including foreign attorneys, who can profit more from sustaining an abduction than by ending one.

The Hague Convention Still Fails to Deliver Actual Returns Despite the Goldman Act

The Hague Convention is failing by its own standards. By way of returning children who have been abducted in the sense of Article 3 of the Convention, the treaty is intended to discourage future international child abductions in countries that have implemented it as law. The key point to success in both remedy and deterrent is ensuring the uniform and complete implementation and enforcement of all parts of the treaty. That means returning children to the left behind parent whenever possible, wherever that parent may be. However since the US Congress enacted the Treaty as law in 1988 the number of international child abductions per annum has increased steadily. Analysts cite two reasons: The first is the lack of inter-departmental commitment to full implementation and enforcement. The second is the primary reliance on the State department, which is the fourth agency of choice in the Hague Convention Best Practice guide ranking for hosting of the central authority.

Therefore the Convention has never been fully tested. The foundation and structure of HR 3212 assigns primary stewardship of the Convention to the State department, which lacks any jurisdiction to complete or compel the return of a child once the abducted child reappears anywhere inside US borders. According to an email I received on 20 March 2015 from the State Department, once a child is back in the US, regardless of where, regardless of how, the State Department says, "the Department of State has no role." During the Subcommittee Hearing: The Goldman Act to Return Abducted American Children: Reviewing Obama Administration Implementation, the Honorable Susan S. Jacobs, reaffirmed the email when she testified that the State Department criteria for closing case files is broader than return of an abducted child to the left behind parent.

This stunted implementation nullifies the Convention return mechanisms. Congressman Chris Smith was persistent in his questions on this point when he repeatedly asked how could the data in the annual report be accurate when that information does not reflect actual Hague returns? Negotiated settlements are not returns. Age-outs are not returns. Returns are, according the State Department Legal Interpretation and Analysis of the Convention, reestablishment of the "status quo ante," the return of the child to the left-behind parent. That is also how the Perez-Vera report describes returns. The Goldman Act must require that level of clarity and transparency in the State Department reporting or the number of international child abductions will continue to increase. The Goldman Act must also hold the US Central Authority accountable for the complete return of left behind children. Half measures that leave the abduction in place are harmful both to the abducted child and the left behind parent.

Goldman Act Must Frustrate Abductor's Attempts to Profit from "Bad Acts"

Consistent enforcement and interpretation are the hallmarks of "effective" implementation. The reason consistency is important is because the Convention is only as strong as its weakest procedural and jurisprudential links. Without effective implementation abductors can circumvent the Convention's return remedies and profit from the abductions. And they do. In my case the abductor has been awarded residential custody without my son having ever been returned home to me in New York. The abductor has received hundreds of thousands of dollars in financial support in the form of pro bono legal services from a publicly funded organization styling themselves as "Sanctuary for Families" and from Davis, Polk, and Wardwell LLP. Left behind parents are met with glacial bureaucracy, lack of priority, politicization of child-abduction cases, apathy, and even active resistance by advocates for international parental abduction. U.S. children and parents desperately need meaningful assistance from their own government, but they find failure, ill preparedness, and sometimes willful obstruction at every level. These deficiencies all serve the purposes of child abductors. The so-called "left-behind" parent finds that local, state and federal authorities do not rush forward to help. On the contrary, as reflected in the 20 March 2015 State Department email, many in the executive branch and judiciary

appear to look for any way to close cases as quickly as possible. These shortcomings constitute contraventions of the Convention and the Goldman Act, consistent with Congressman Smith's questions, must hold the State Department accountable for actual returns.

To Fulfill Accurately Goldman Act Reporting Obligations State Department Dependent

Weak links in the implementation chain can be embedded anywhere in any of the three branches of the federal government because all three branches are stakeholders in the implementation. In fact dependencies exist. The State Department, lacking jurisdiction within US borders, must rely on other government agencies to ensure The Hague return process is completed. For example a state judiciary could be responsible for registering Hague orders and ensuring that abducted children are returned to their left-behind parent after a stay abroad. The Goldman Act must require that level of follow-up from the State Department. However State Department jurisdiction is limited to external relations and therefore it cannot fulfill its reporting obligations without going to the judiciary or some other internal government entity for accurate information. Also while the Goldman Act funds training for international partners, the State Department has no authority to ensure training is provided to federal and local employees.

Summary

What is supposed to be certain following the passage of an *international parental child abduction prevention and remedy act* is that children victimized by international abduction like my son Skye, will be returned to the left behind parent; that abductors will not profit from their abduction by being rewarded with custody and financial awards; that abductions will be consistently opposed as practice by federal and local government. What is actually certain is that child abductors are demonstrating every day that this crime pays.

Thank you.
Keith White
New York, NY

