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and Father of a Child Kidnapped to Japan

House Committee on Foreign Affairs

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“Bring Abducted Children Home”

Thank you, Chairman Smith and to the committee for inviting me here to share my expertise and my personal experience on the ongoing crisis and crime of international parental child abduction.

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. I am a founding partner in The Coalition to End International Parental Child Abduction, uniting organizations to work passionately to end international parental kidnapping of children through advocacy and public policy reform.

Internationally I collaborate with an alliance of representatives and organizations from Australia, Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States working together to end parental child abduction to and within Japan.

According to the U.S. Government there have been more than 500 U.S. children kidnapped to Japan since 1994. Japan is internationally known as a black hole for child abduction.

A signatory of the Hague Abduction Convention since 2014, Japan betrays its obligations to return victims and guarantee rights of access. As a senior Embassy of Japan official informed me in a May 2018 meeting, they leave it up to the kidnapping parent.

It is estimated 150,000 children per year and 3 million over 20 years are victims of loss of access to a parent in Japan. This would include American parents living there who continue to be robbed of parental rights by Japan's single custody laws.

The UN Convention on the Rights of the Child states children have the right to maintain a relationship and direct and regular contact with both parents. Japan fails to honor this.

Last year on October 13<sup>th</sup> I brief the UN Human Rights Committee in Geneva highlighting key points from our multi-national, multi-NGO report, emphasizing the traumatic impact on abducted children and parents, and called on the committee to, *"End the ongoing suffering. Hold the Government of Japan accountable."*

In their concluding observations they wrote, *"the Committee is concerned by reports received regarding frequent cases of 'Parental Child Abduction', domestic and international, and a lack of adequate responses by the State party,"* Japan.

The Goldman Act was signed into law nine years ago in August 2014. Since then, there have been at least 10 hearings to get the State Department on board with holding foreign governments accountable and increasing reunifications and returns. They have demonstrated through three administrations little commitment to do so.

23-year-old General Accounting Office reports on International Parental Child Abduction shockingly illustrate the same entrenched resistance.

On December 2, 2009 former Assistant Secretary Bernard Aronson testified to the Tom Lantos Human Rights Commission,

*“The current system to secure the return of these abducted American children does not work and will not work unless it is changed profoundly. I don’t doubt the sincerity or the dedication of the professionals at the State Department who have led responsibly for this problem. But they do not have the tools and powers to do their job effectively. And unless Congress gives them the power and the tools we will be back here in five years or 10 years with another set of hearings, another group of parents with broken hearts and devastated dreams, and we will be making the same statements we are making today.”*

Congress provided tools in 2014. They were not used as intended. Now is time to enhance them and be prescriptive with how they are used.

Empower the Office of Children’s Issues to more effectively address international parental child abduction. Establish a Presidentially appointed, Senate confirmed Ambassador-at-Large To Monitor and Combat Child Abductions who reports directly to the Secretary of State.

Standardize the process of making Welfare and Whereabout visit requests so the process continues automatically and persistently every three months after the initial request until non-abducting parent requests in writing for it to stop.

Require the Office of Children’s Issues to work in close liaison with the DOJ to enhance a whole-of-government response instead of agencies and departments cocooned in silos.

Expanding the Annual Report on International Child Abduction to include a full accounting for all kidnapped children and not just open cases is vital. As noted in their annual reports the Department of State considers a case resolved and *“closed for the following reasons:*  
*(1) the judicial or administrative authority complied with the Convention and determined not to return the child under the provisions of the Convention;*  
*(2) the parents reached a voluntary arrangement for the child to remain;*  
*(3) the left-behind parent withdrew the application or request;*  
*(4) the left-behind parent could not be located by CI for more than one year; and*  
*(5) the left-behind parent or child passed away.”*

Additionally, cases are closed when the victim reaches age 18.

When an abduction case is closed without the child being returned it is essential to know why. This will create a clearer picture of the IPCA crisis with each country and a more useful tool in prevention cases in family courts considering travel restraints. I’ve served as an expert witness in prevention cases. Time should not have to be spent explaining the numerous reasons why the State Department resolves a case without the child being returned.

The way the reports are written often give a false impression that the kidnapped child will come home; that the parent can rely on the Hague Abduction Convention, a bilateral agreement, or respect for U.S. court orders and laws. It gets misinterpreted that if a country is not placed on the

non-compliant list, then they are compliant. A tiered report with disaggregated data, modeled after the Trafficking in Persons (TIP) report will help address prevention concerns and if used with correct intent may provide incentives for foreign countries to make changes. Certainly, the State Department must want to prevent future abductions.

Require the State to use multiple tools at the same time and end the entrenched practice of using demarches for countries who fail to repatriate and reunite us with our children. State views demarches as important and meaningful. When year after year they fail to move beyond them and foreign countries still don't improve, clearly demarches used alone have as much impact as junk mail.

In the Senate's annual resolution "*Countering International Parental Child Abduction Month*," they again noted,

*"the Supreme Court of the United States has recognized that family abduction—*

*(1) is a form of child abuse with potentially "devastating consequences for a child", which may include negative impacts on the physical and mental well-being of the child; and*

*(2) may cause a child to 'experience a loss of community and stability, leading to loneliness, anger, and fear of abandonment';"*

Our cases are not custody disputes. The impact from this crime on the victims is lifelong. In last week's article in The Age by journalist Eryk Bagshaw, Susumu Wataya bravely shared his experience.

*"He says he was beaten when he asked about his father. Then his last name was secretly changed, cutting him off from all future contact.*

*"I lost my identity. The pain that this Japanese system causes children is beyond description."*

Coalition leadership has met with stakeholders in the Department of Justice and FBI many times. One of the consistent points of agreement is the sentencing guideline in 18 USC 1204 International Parental Kidnapping should be higher in order for this crime to be taken more seriously.

The sentencing guideline for stranger abduction is up to twenty years. It is a moderate and reasonable change to increase it from three to ten years for "*whoever removes a child from the United States, or attempts to do so, or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights.*"

Currently the criminal statute excludes 16- and 17-year-old victims. In contrast most states set the age of majority at 18. It is moderate and reasonable to amend the law to define a child as a person who has not attained the age of 18 years.

Existing federal law and Department of Justice guidelines for missing persons to be entered and maintained in the National Crime Information Center (NCIC) database are routinely disregarded by local, state and federal law enforcement. Parents can be ignored completely, or incorrectly

informed they need a criminal complaint or a custody order. If they are lucky enough to get a response that leads to an entry into the NCIC, an officer or agent in the future who inherits a cold case might decide to remove it.

The National Center for Missing and Exploited Children acknowledged cases are routinely removed without the missing person being located. Starting last summer, I spent 10 months going back and forth with a detective in the Seattle area who decided my son was no longer missing when he turned 18 and he remove him from the missing persons database. This meant NCMEC had to remove his missing persons poster taking away a valuable tool to try to locate my son and reunite. I shared with the detective the requirements under federal law and DOJ guidelines. One of NCMEC's attorneys spoke with him to offer technical guidance. I engaged an FBI agent at the Violent Crimes Against Children Unit and staff at the AMBER Alert Training and Technical Assistance Program for their views on this. We were all on the same page, but not this detective. How many times is this repeated across America where parents of internationally kidnapped children are not receiving this bare minimum of assistance.

The solution is simple and in alignment with stakeholders. Require the FBI to enter each case of a missing child into the National Crime Information Center database and each missing person who has been removed but not located should be reentered.

The INTERPOL Yellow Notice identifying my son as a missing person was removed by request of the FBI office in Seattle, though he remains missing. Let's fix this, too. Require the FBI to enter or reenter and maintain each case with an INTERPOL Yellow Notice.

Victims of IPCA should remain in both the NCIC and INTERPOL until they are returned or after reaching the age of 21, request their removal in person to a United States consular official or Federal law enforcement officer.

Mandating the FBI to provide these tools will help victims to better understand what has occurred to them and the resources and rights they are entitled to. I was reminded of this in January when a victim contacted us, insisting they were never kidnapped. This was a State Department verified case but that was their belief, because it is what their abductor taught them. If a parent is able to locate and make first contact with their abducted child, hopefully it goes well. So often it does not. Reunification staff at NCMEC has previously shared with us that most IPCA victims are taught by their kidnapper that: 1) the other parent does not want them; 2) they are dangerous and harmful; 3) they are dead; or 4) the other parent is unknown. Maintaining the NCIC entry and INTERPOL Yellow Notice will be useful tools in aiding authorities to support parents with locating and reuniting.

Do we want to be back here in a year, in five years, in ten, discussing what needs to be done? We know what needs to be done. Amend these laws. Let's act.