

the return of children wrongfully removed to or retained in the United States or seeking access to children in the United States:

(a) Receive all applications on behalf of the U.S. Central Authority;

(b) Confirm the child's location or, where necessary, seek to ascertain its location;

(c) Seek to ascertain the child's welfare through inquiry to the appropriate state social service agencies and, when necessary, consult with those agencies about the possible need for provisional arrangements to protect the child or to prevent the child's removal from the jurisdiction of the state;

(d) Seek through appropriate authorities (such as state social service agencies or state attorneys general or prosecuting attorneys), where appropriate, to achieve a voluntary agreement for suitable visitation rights by the applicant or for return of the child;

(e) Assist applicants in securing information useful for choosing or obtaining legal representation, for example, by providing a directory of lawyer referral services, or pro bono listing published by legal professional organizations, or the name and address of the state attorney general or prosecuting attorney who has expressed a willingness to represent parents in this type of case and who is employed under state law to intervene on the applicant's behalf;

(f) Upon request, seek from foreign Central Authorities information relating to the social background of the child;

(g) Upon request, seek from foreign Central Authorities information regarding the laws of the country of the child's habitual residence;

(h) Upon request, seek from foreign Central Authorities a statement as to the wrongfulness of the taking of the child under the laws of the country of the child's habitual residence;

(i) Upon request, seek a report on the status of court action when no decision has been reached by the end of six weeks;

(j) Consult with appropriate agencies (such as state social service departments, the U.S. Department of Health and Human Services, state attorneys general) about possible arrangements

for temporary foster care and/or return travel for the child from the United States;

(k) Monitor all cases in which assistance has been sought and maintain records on the procedures followed in each case and its disposition;

(l) Perform such additional functions as set out in the "Cooperative Agreement Adjustment Notice" between the Department of State, Department of Justice, and National Center for Missing and Exploited Children.

[53 FR 23608, June 23, 1988, as amended at 60 FR 66074, Dec. 21, 1995]

§94.7 Procedures for children abducted from the United States.

Upon receipt of an application requesting access to a child or return of a child abducted from the United States and taken to another country party to the Convention, the U.S. Central Authority shall—

(a) Review and forward the application to the Central Authority of the country where the child is believed located or provide the applicant with the necessary form, instructions, and the name and address of the appropriate Central Authority for transmittal of the application directly by the applicant;

(b) Upon request, transmit to the foreign Central Authority requests for a report on the status of any court action when no decision has been reached by the end of six weeks;

(c) Upon request, facilitate efforts to obtain from appropriate U.S. state authorities and transmit to the foreign Central Authority information regarding the laws of the child's state of habitual residence;

(d) Upon request, facilitate efforts to obtain from appropriate U.S. state authorities and transmit to the foreign Central Authority a statement as to the wrongfulness of the taking of the child under the laws of the child's state of habitual residence;

(e) Upon request, facilitate efforts to obtain from appropriate U.S. state authorities and transmit to the foreign Central Authority information relating to the social background of the child;

(f) Upon request, be available to facilitate possible arrangements for temporary foster care and/or travel for the

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child from the foreign country to the United States;

(g) Monitor all cases in which assistance has been sought; and

(h) Perform such additional functions as the Assistant Secretary of State for Consular Affairs may from time to time direct.

§ 94.8 Interagency coordinating group.

The U.S. Central Authority shall nominate federal employees and may, from time to time, nominate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation. This group shall meet from time to time at the request of the U.S. Central Authority.

PART 95—IMPLEMENTATION OF TORTURE CONVENTION IN EX-TRADITION CASES

Sec.

95.1 Definitions.

95.2 Application.

95.3 Procedures.

95.4 Review and construction.

AUTHORITY: 18 U.S.C. 3181 *et seq.*; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SOURCE: 64 FR 9437, Feb. 26, 1999, unless otherwise noted.

§ 95.1 Definitions.

(a) *Convention* means the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984, entered into force for the United States on November 10, 1994. Definitions provided below in paragraphs (b) and (c) of this section reflect the language of the Convention and understandings set forth in the United States instrument of ratification to the Convention.

(b) *Torture* means:

(1) Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or in-

timidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

(2) In order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain or suffering and that mental pain or suffering refers to prolonged mental harm caused by or resulting from:

(i) The intentional infliction or threatened infliction of severe physical pain or suffering;

(ii) The administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(iii) The threat of imminent death; or

(iv) The threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

(3) Noncompliance with applicable legal procedural standards does not per se constitute torture.

(4) This definition of torture applies only to acts directed against persons in the offender's custody or physical control.

(5) The term "acquiescence" as used in this definition requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity.

(6) The term "lawful sanctions" as used in this definition includes judicially imposed sanctions and other enforcement actions authorized by law, provided that such sanctions or actions were not adopted in order to defeat the object and purpose of the Convention to prohibit torture.

(7) Torture is an extreme form of cruel and inhuman treatment and does