



Office of Justice Programs
Summary

Using Agency Records
To Find Missing Children:
A Guide for Law Enforcement

Program Summary

A Publication of the
Office of Juvenile Justice and Delinquency Prevention

Office of Juvenile Justice and Delinquency Prevention

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) was established by the President and Congress through the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, Public Law 93-415, as amended. Located within the Office of Justice Programs of the U.S. Department of Justice, OJJDP's goal is to provide national leadership in addressing the issues of juvenile delinquency and improving juvenile justice.

OJJDP sponsors a broad array of research, program, and training initiatives to improve the juvenile justice system as a whole, as well as to benefit individual youth-serving agencies. These initiatives are carried out by seven components within OJJDP, described below.

Research and Program Development Division develops knowledge on national trends in juvenile delinquency; supports a program for data collection and information sharing that incorporates elements of statistical and systems development; identifies how delinquency develops and the best methods for its prevention, intervention, and treatment; and analyzes practices and trends in the juvenile justice system.

Training and Technical Assistance Division provides juvenile justice training and technical assistance to Federal, State, and local governments; law enforcement, judiciary, and corrections personnel; and private agencies, educational institutions, and community organizations.

Special Emphasis Division provides discretionary funds to public and private agencies, organizations, and individuals to replicate tested approaches to delinquency prevention, treatment, and control in such pertinent areas as chronic juvenile offenders, community-based sanctions, and the disproportionate representation of minorities in the juvenile justice system.

State Relations and Assistance Division supports collaborative efforts by States to carry out the mandates of the JJDP Act by providing formula grant funds to States; furnishing technical assistance to States, local governments, and private agencies; and monitoring State compliance with the JJDP Act.

Information Dissemination Unit informs individuals and organizations of OJJDP initiatives; disseminates information on juvenile justice, delinquency prevention, and missing children; and coordinates program planning efforts within OJJDP. The unit's activities include publishing research and statistical reports, bulletins, and other documents, as well as overseeing the operations of the Juvenile Justice Clearinghouse.

Concentration of Federal Efforts Program promotes interagency cooperation and coordination among Federal agencies with responsibilities in the area of juvenile justice. The program primarily carries out this responsibility through the Coordinating Council on Juvenile Justice and Delinquency Prevention, an independent body within the executive branch that was established by Congress through the JJDP Act.

Missing and Exploited Children Program seeks to promote effective policies and procedures for addressing the problem of missing and exploited children. Established by the Missing Children's Assistance Act of 1984, the program provides funds for a variety of activities to support and coordinate a network of resources such as the National Center for Missing and Exploited Children; training and technical assistance to a network of 47 State clearinghouses, nonprofit organizations, law enforcement personnel, and attorneys; and research and demonstration programs.

The mission of OJJDP is to provide national leadership, coordination, and resources to prevent juvenile victimization and respond appropriately to juvenile delinquency. This is accomplished through developing and implementing prevention programs and a juvenile justice system that protects the public safety, holds juvenile offenders accountable, and provides treatment and rehabilitative services based on the needs of each individual juvenile.

Using Agency Records To Find Missing Children: A Guide for Law Enforcement

Program Summary

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The Office of Juvenile Justice and Delinquency Prevention is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime.

Foreword

While technological advances and public awareness campaigns can aid in the recovery of children who are abducted or have run away, they are a poor substitute for the time-tested techniques of police investigative work, in which attention to detail may spell the critical difference as to whether a missing child is found.

Derived from *Addressing Confidentiality of Records in Searches for Missing Children*, a study conducted by the American Bar Association and the National Association of Social Workers, *Using Agency Records to Find Missing Children: A Guide for Law Enforcement* arms law enforcement officers with practical information on how to use agency records in the recovery of missing children. Such records may come from child welfare agencies, schools, medical care providers, and—under special circumstances—from runaway and domestic violence shelters.

The guide addresses mandated and voluntary access to children's records and discusses matters related to State and Federal laws, including confidentiality and record-flagging. The use of a standard parental consent form to expand access to a child's records is recommended and described, and a sample form is provided.

A checklist beginning with the initial interview with the reporting parent details steps that should be taken by police to secure records that may prove useful in a child's recovery.

It is my hope that the tools and techniques offered in this guide will assist law enforcement professionals in locating and returning our children to a safe and secure environment.

Shay Bilchik

Administrator

Office of Juvenile Justice and Delinquency Prevention

Acknowledgments

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Introduction

One mid-August morning, several teenagers took a train from their suburban neighborhood into a nearby city. While downtown, one of the group, who was mentally retarded, was given money by the others and sent home. Unfortunately, the boy became lost. The boy's father promptly contacted his local police. A few weeks later, city police discovered the boy, who was unable to identify himself. Unaware that a nearby police agency was seeking him, the officers took the boy to a children's center within the city. Tragically, he spent nearly 8 months in the center before being located.¹

Law enforcement agents can take several steps to more readily find and identify children who have been abducted by strangers or family members, have run away, or are lost or otherwise missing. The boy described above was finally located when staff at the children's center where the boy was staying saw him in an advertisement sponsored by the National Center for Missing and Exploited Children.² A quicker method would have been for police searching for the boy to report the child's disappearance to the FBI's National Crime Information Center (NCIC) computerized Missing Persons File, and for the police who found and could not identify him to report to the NCIC computerized Unidentified Persons File.³ Had each done so promptly, it is likely that the child could have been identified and located by a computerized data match.

Service providers as resources

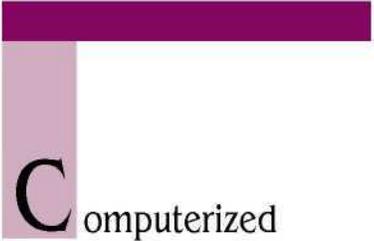
Police search techniques are crucial. Computerized networks and media campaigns cannot replace traditional police investigative work. In the case described, the assigned officer could have found the child quickly by seeking information from local agencies, including the local children's center. This route—obtaining information from human service providers—is the focus of this guide.

While agencies that serve children and families can be a valuable resource in helping officers find missing children, issues of client confidentiality and other agency concerns may limit the willingness of agencies to share information voluntarily. In such situations, effective legal procedures for obtaining information are essential.

Using this guide

This guide will help law enforcement officers obtain and use the records of certain types of human service providers to find missing children. Record use, access, barriers, and limitations for the following types of providers are discussed:

- Schools.
- Medical care providers.
- Child welfare agencies.
- Runaway shelters.
- Domestic violence shelters.



Computerized networks and media campaigns cannot replace traditional police investigative work.

Consent forms allow parents who report missing children to extend to law enforcement parental rights to school, hospital, or other agency records concerning their children.

The guide contains information and ideas to help increase access to records, even in States without specific laws guaranteeing such access. Both mandated and voluntary access are discussed, and Federal laws are noted when relevant. Procedures relating to common types of State laws, such as record flagging and confidentiality laws, are discussed. The guide was developed from *Addressing Confidentiality of Records in Searches for Missing Children*, a study conducted by the American Bar Association Center on Children and the Law and the National Association of Social Workers. The full 143-page report on that study, including research on relevant laws, agency policies, and agency attitudes regarding record access, is available from OJJDP's Juvenile Justice Clearinghouse. A 66-page companion document, *Listing and Description of State Laws Affecting Record Access in Missing Children Cases* is also available through the Clearinghouse in hard copy and electronically. For information on obtaining copies of these publications, see the order form at the end of the *Summary*. The companion document can be accessed from the NCJRS*BBS by modem at 301-738-8895. The BBS can also be reached by Telnet or Gopher. The addresses are:

Telnet: ncjrs.aspensys.com

Gopher: ncjrs.aspensys.com71

Parental consent

By law or agency policy, parents have access to many records concerning their children. In many cases, parents have a right to see or obtain copies of records even when law enforcement officers do not. For this reason, parental consent forms may help police gain access to many agency records.

Parental consent forms allow parents who report missing children to extend to law enforcement the rights that they may have to school, hospital, or other agency records concerning their children. Properly drafted, the forms grant to law enforcement officials the access rights that parents have.

A standard parental consent form should be developed by the law enforcement agency. It should:

- Be written in clear, simple language understandable to most parents.
- Include all types of records law enforcement may use.
- Be translated, if possible, into languages common within the local community.

It may be useful to draw on community service agencies and interagency committees in developing the consent form. For example, schools may have a form for parents to obtain their children's student records, and hospitals may have a form for obtaining medical records. These can be adapted, but the law enforcement form should be general enough for use in other States since the search may cross State lines.

A sample form, which can be adapted to fit local needs, appears on the next page. It covers all types of records discussed in this guide except records for

runaway shelters and shelters for battered women. Included are records from mental health providers and an "any other agency" category.

The investigating officer should have the reporting parent complete and sign the consent form during the initial interview. The officer should list:

- Schools the child has attended.
- Recent medical or mental health providers.
- Information regarding past child welfare services.
- Information about past incidents of running away.
- Information on past incidents of domestic violence.

This should be standard law enforcement agency policy in all missing child cases.

Parental abduction

In parental abduction cases, verification of custodial status is standard law enforcement procedure, primarily to determine whether a crime has been committed. The National Center on Missing and Exploited Children recommends that the investigating officer in a parental abduction case verify custodial status by obtaining a certified copy of the most recent custody order from the clerk of the issuing court.⁴

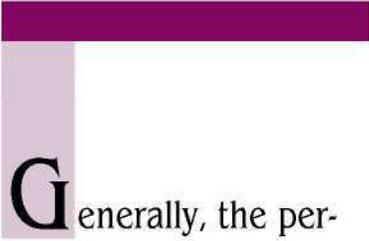
Verification of custodial status serves an important function in making records accessible. If the reporting parent has or obtains custody of the child, it may be easier to gain access to agency records based on that parent's consent. On occasion, this is due to laws that provide record access to custodial parents only. More commonly, it is because agency policy or informal custom gives greater access to custodial parents.

If a parent has abducted a child, the child's new school, health care providers, and others serving the family may have an established relationship with that parent. If they receive a request for copies of the child's records, even from law enforcement, they may automatically seek permission from the parent they know. Knowing that they need parental consent to release records, they may even think they are legally required to contact that parent before releasing the records. Such contact could cause the abducting parent to flee again. To reduce this risk, the investigating officer should:

- Emphasize to agency staff the importance of not contacting the abducting parent.
- Supply the agency with the consent to release records from the reporting parent.
- If the reporting parent is the custodial parent, provide documentation to that effect.
- Advise the agency of any State laws that prohibit the agency from providing the abducting parent with such information.



Verification of custodial status serves an important function in making records accessible.



Generally, the person registering the child must supply at least a copy of the child's birth certificate and documentation of the family's address.

Schools

Schools are a prime source of information about missing children. All children under a State-defined age (commonly 16) are required by law to attend school. School registration and transfer procedures may provide a paper trail to track a missing child.

School registration

When a child is registered in a public school for the first time, the child's name, age, and residence must be established. Generally, the person registering the child must supply at least a copy of the child's birth certificate and documentation of the family's address.

Schools may also require a vaccination record. Many schools also require documentation such as a custody decree or award of guardianship if the person registering the child is not the child's parent. Such documentation is needed to show that the child is the legal responsibility of the person registering the child.

When an older child is registered in a new public school, name, age, and residence must again be documented. Most schools also require that school records be forwarded from the child's previous school. Typically, the new school will request the name and address of the school most recently attended and will contact that school to have the child's records forwarded.

Private schools may or may not require documentation similar to the typical public school procedures described above, and some children may be schooled at home. Typically, State law requires even home-schooled children to be registered with a public or private school, which provides oversight. Yet even some public schools, when exercising this oversight authority, may have less rigid registration procedures.

Prior schools

The school a child attended prior to becoming missing is a key resource in locating the child. First, school records may contain clues as to where a child may have gone or been taken. A runaway may have been repeatedly truant from school in the company of friends who may now know the youth's whereabouts. A parent who later abducts the child may have made promises or threats to the child about moving to a specific location, which the child in turn told a teacher or counselor.

The Federal Family Educational Rights and Privacy Act (FERPA) requires schools receiving Federal funding to give parents access to their children's student records, with limited exceptions. The investigating officer, after obtaining written parental consent, can use that form to obtain a copy of the child's recent school records. Alternatively, the parent may obtain a copy and supply it to the officer.

When a child is enrolled in a new school, most public schools and many private schools contact the prior school for past school records or require the enrolling parent to do so. Law enforcement agents can make sure that when such a request is received by the prior school, they are promptly notified.

Flagging laws

In fact, many States have flagging laws that require public schools (and, in some States, private schools) to do just that. Typically, flagging laws provide that:

- Once a school is notified that a former student is missing, school officials must let law enforcement know of any future requests for that child's student records, without advising the party requesting the records that this is being done.
- When a child is enrolled in a new school, school officials must obtain records directly from the prior school. If the enrolling parent fails or refuses to provide the name and location of the prior school, school officials must notify law enforcement.

Flagging laws help clarify and establish school responsibilities to assist law enforcement. In States without flagging laws, cooperation by the school is permitted but not required by law (except if made mandatory by use of a subpoena or court order).

Whether or not there is a State flagging law, police can obtain information from the prior school. The investigating officer should:

- Notify the principal of the child's former school that the child is missing and request an immediate interview.
- Ask that anyone else at the school who may receive and process requests for the forwarding of student records join in the interview.
- Explain that the investigating officer should be notified immediately of any recent or future requests for the student's records, and that the requesting party should not be informed that law enforcement is being contacted.
- Request information on necessary school procedures for formalizing the law enforcement request, and follow them carefully.
- Obtain agreement that the notification requested will be made.
- Verify that the student's record is flagged to ensure that it will not be inadvertently forwarded without a law enforcement notification. The flagging notation should be physically attached to the record, or written on an envelope containing the record, but not marked in such a way that a forwarded copy of the record will show the notation.
- If there is a State flagging law, advise the principal and any other relevant school officials of its requirements.

If a record request is subsequently received, the school need not refuse to forward the student's record. In fact, if the abductor, attempting to enroll a child in a new school, learns that the old school is refusing to forward records, he or she might flee again. To avoid this risk, the school should immediately notify the investigating officer of any request for the records and then forward the record without comment.

Quick law enforcement action is key to using record flagging effectively. The old school must be contacted as soon as the child is reported missing, or an



Flagging laws help clarify and establish school responsibilities to assist law enforcement.

The National Center for Missing and Exploited Children has access to a regularly updated computer listing of public school students nationwide.

abducting parent may obtain records in person before the flagging request is made. Moreover, when the old school reports that the records have been requested, immediate action must be taken to locate the child through the new school, before the abductor flees again.

Using birth certificate registries

A birth certificate may be needed to enroll the child in school or to obtain certain government benefits such as welfare. Some States have laws requiring birth certificate registries to participate in flagging records and in notifying law enforcement of copy requests. Typically, birth certificate flagging laws are an additional provision in school record flagging laws. Birth certificate flagging may be particularly important in finding a younger child who did not attend school before being abducted.

The procedures outlined for school record flagging should be adapted and used for birth certificate flagging as well. If possible, the registry holding the child's birth record should be approached directly with the flagging request.

Finding the child's new school

The missing child may already be attending a new school, which may or may not have requested past school records. The new school may have failed to request records through clerical error, because the person enrolling the child supplied previously obtained or forged records, or because of unusual school registration policies. Even so, investigators may still be able to locate a missing child through the child's new school.

The National Center for Missing and Exploited Children has access to a regularly updated computer listing of public school students nationwide. The name and birthdate of a missing child may be matched against this data base to determine if the child is enrolled in school under his own or a similar name. This is one of several types of technical assistance available in cases opened with the Center.⁵

The computer listing supplements but does not replace police investigative work. The child's name or birthdate may have been altered or may fail to appear in the computerized listing for other reasons.

An investigator who believes that a missing child may have been taken to a certain State can contact the State board of education to check whether the child is attending a school there. When clues indicate a specific city, the investigator can contact the local school board or even individual schools.

The more specific the request, the better the chance of identifying the child. The child's name may have been changed, but the school may be able to respond to photos or descriptions to identify the child. The State board of education may be able to help by sending a request with pictures to all public schools of the child's grade level.

New school records. The new school should be able to help locate the child, even if the child is no longer attending. FERPA has provisions that will allow

school officials to help locate missing or abducted children without a subpoena or court order.

Frequently, verification of the child's name, school enrollment, and address is all that is needed for location purposes. FERPA allows the general dissemination of this information as nonconfidential "directory information." Parental consent is not needed, although there is a procedure by which parents can ask the school in advance not to release the information.

If the child is no longer at the address shown by school records, other information can be obtained. For example, the school record may include emergency contact information which could help in finding the child. There may be information about a new school the child is now attending. A school counselor may have talked with the child about possible plans to move.

If record information beyond basic directory information is needed, FERPA requires the school to obtain a release from a parent before allowing this access. In these cases, obtaining the consent form from the reporting parent will be crucial. The investigating officer should:

- Learn and follow all appropriate school procedures for requesting records.
- Make a personal contact with the principal or other top official.
- Emphasize to school officials the importance of not contacting the person they have known as the parent, informing them of any relevant State laws regarding cooperation with ongoing law enforcement investigations.
- Provide the school with a copy of the written consent from the reporting parent.
- If the reporting parent has custody, include a copy of the latest custody order.

Once the record copy is obtained, leads should be pursued immediately. It is important to find the child before the abductor hears that the police are talking to the school.

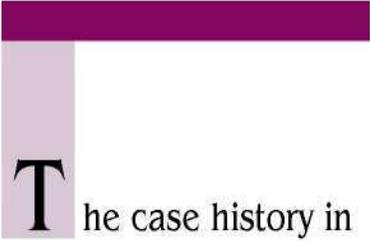
If, after all appropriate procedures have been followed, local school officials do not cooperate voluntarily, higher level contacts may be necessary. To resolve an immediate problem, for example, the chief of police may need to talk with the superintendent of schools. It may also be appropriate to seek a court order to obtain cooperation. To work together well over the long term, interagency committees may be useful (see discussion beginning on page 17 for more on interagency committees).

Medical care providers

Hospitals, clinics, and other medical care providers are a frequently overlooked resource in searching for missing children. Runaway youth and abducting adults may avoid many agencies, such as counseling centers, youth or family shelters, and even schools. Yet, in an emergency it may be impossible to avoid medical care.



If the child is no longer at the address shown by school records, other information can be obtained.



The case history in the child's medical record may contain clues as to where he or she may have gone or been taken.

The case history in the child's prior medical record may contain clues as to where he or she may have gone or been taken. If the child was treated while missing, medical records may contain address information, parent or abductor job information, or other clues as to the child's whereabouts. Specific medical information from any treating facility, before or after the child became missing, may be useful. Blood type, dental records, or unusual physical characteristics, for example, can help in identifying a child who was very young when abducted and whose identity has been altered.

Access to medical records in missing children cases is not defined by law in most States. Nonetheless, law enforcement officers can take several steps to maximize medical record use. When requesting records from a hospital or other medical facility, the investigating officer should follow that facility's procedures for requesting medical records.

Parents ordinarily may obtain copies of their children's medical records, although this is more by professional custom than by law. As soon as a child is reported missing, the reporting parent(s) should be directed to obtain and supply to the investigating officer copies of the child's medical and dental records. Alternatively, the investigator can obtain the records by use of the parental consent form.

When patients are treated for serious long-term medical conditions, many treating facilities seek past medical records for reference. This creates an opportunity for following a paper trail similar to that created by school procedures for forwarding school records.

Whenever a child becomes missing, the investigating officer should ask the reporting parent whether the child has a serious medical condition requiring regular treatment, such as, for example, allergies, diabetes, kidney malfunction, or thyroid malfunction. A primary reason is to assess the danger to the child while away from regular medical care. Additionally, the presence of such a condition may create a tracing opportunity.

Any physician who has recently treated the child for the condition should be contacted by the investigating officer and asked:

- To immediately notify the officer if records are requested by another care provider.
- To *not* tell the other care provider that the child is missing or that law enforcement has been notified.
- To forward the records to the requester.

If the treatment was through a hospital or other medical facility, medical record forwarding requests may be handled by medical records personnel. If so, the medical records director, not the individual physician, should be contacted by the officer. As with student records, the child's medical record should be physically flagged with instructions for notifying law enforcement.

A medical care provider who has provided regular vaccinations to a preschool child should also be contacted and asked to flag the child's medical records. Since many schools require vaccination records for children beginning kindergarten or first grade, there may later be a request for this information.

Hospital records

If a child is believed likely to be in a certain city or area, the reporting parent or the investigating officer can regularly contact the local hospitals to determine if the child has been treated. If the investigator makes these contacts, the parental consent form should be used.

Possible access problems

Release of medical records is generally not covered by Federal or State law. Most professions providing medical care, however, have codes of ethics that forbid them to betray patient confidences. Unfortunately, these codes of ethics tend not to define exactly what patient confidences include. With the law silent and codes of ethics raising confidentiality concerns, many care providers hesitate to release records or information, or to notify law enforcement of record forwarding requests.

Even the consent form from the reporting parent, or a request from that parent directly, may not be effective. If the child is an older runaway, the medical care provider may consider the child the patient, with confidentiality concerns separate from those of the parents. If a younger child is brought for treatment by one parent (the abductor), the care provider may consider the child and that parent the clients whose privacy should be protected. This may be especially true if the abducting parent is also a patient of the same care provider.

There are several ways to address this problem. If a State has a law allowing law enforcement access to medical records for an investigation or to protect an endangered child, the investigator should so advise the care provider. Unfortunately, few States have such laws.

The investigating officer can also try to narrow the request as much as possible. For example, the fact that the child was seen, and the most recent address given, may be all that is needed. Many care providers who would not release private medical information will release this limited information. Codes of ethics only forbid releasing confidential medical information, and it is hard to argue that an address is confidential medical information. (If the nature of the service provided is confidential, however—as is the case for a clinic providing only birth control, venereal disease treatment, and abortions—the provider may assert that even confirming that the child was seen would violate confidentiality.)

In the case of record flagging requests, medical providers should be reminded that they are not being asked to reveal a patient confidence or an observation about the patient. Rather, they are simply being asked to report if a third party, such as a doctor, a school, or the abductor, requests the record.



With the law silent and codes of ethics raising confidentiality concerns, many care providers hesitate to release medical information or to notify law enforcement of record forwarding requests.

A medical provider who learns during a medical examination that a child may have been abused is required by law in every State to report the information to the child welfare agency or law enforcement or both.

It may help to remind the care provider that patient confidentiality is not absolute. A medical provider who learns during a medical examination that a child may have been abused, for example, is required by law in every State to report the information to the child welfare agency or law enforcement or both. A missing child, who may be endangered, is in a similar category.

Medical providers also do not want to be sued. A provider who refuses to reveal information that could help locate a missing child could be sued if the child is later killed or injured while missing. The investigator may need to remind the provider of the possibility of later liability if information is withheld.

Most medical care providers are aware of a leading case in which a therapist and his employer were held liable for failing to report information gained from a counseling session. In that case, *Tarasoff v. Regents of the University of California*,⁶ a client revealed during therapy his plan to kill a particular person. There was no law requiring therapists to report such threats, and the therapist believed he had an ethical duty to protect the client's confidences. The therapist did not warn law enforcement or the intended victim. Thereafter, the client did kill his intended victim. The agency employing the therapist was found liable for the therapist's failure to warn the victim or law enforcement, on the grounds that the known danger created a clear professional duty.

Finally, an investigating officer who has reason to believe that a certain hospital has information regarding a missing child can seek a subpoena or court order.

Because law enforcement's access to medical records is not well defined by law or policy in many States, interagency committees representing law enforcement and human service agencies may have a role to play. Such committees can help define shared goals, develop clear guidelines regarding record access, and, if necessary, develop forms and streamlined procedures for requesting records (see discussion of interagency committees later in this guide).

Child welfare agencies

Every State has among its governmental departments a public child welfare agency, which works to protect children from abuse and neglect. The child welfare agency receives and investigates complaints of abuse or neglect of a child by a parent or other caregiver, offers services to families to help them address problems that may endanger children, and provides foster or residential care for children who cannot safely live at home. Typically, many families are served under court-ordered protective supervision by the agency, whether or not the parents consent.

Child welfare agencies can be an important resource in searching for missing children. Although these agencies serve only a small percentage of the families within any given State, the families they serve are often multiproblem families. Families with a history of abuse or neglect may be more likely to have a child who runs away or is abducted. A child who is abducted may later be abused, neglected, or abandoned by the abductor. A runaway may also later be exploited by a person posing as a caretaker. For all these reasons, child welfare agencies may have information about a missing child.

Legal access to records

Laws in most States have provisions regarding information sharing between law enforcement and child welfare agencies. While most such laws do not specifically address missing children, they may still allow access in such cases.

Typically, State laws recognize the private nature of child welfare services and protect families served by child welfare agencies against most breaches of confidentiality. Law enforcement can have access, however, under various specific provisions. For example:

- In a few States, statutes specify that law enforcement agents investigating missing children cases are entitled to record access.
- Some States specify that law enforcement may have access whenever a crime against a child is being investigated. (An officer investigating the crime of child abduction would therefore have access.)
- In many States, the child's parents are entitled to receive a copy of most of the child welfare agency record involving the child. The investigating officer should use the parental consent form to request records under this provision.
- In most States, law enforcement officers investigating possible criminal abuse or neglect against a child have access to child welfare agency records. An investigating officer who has reason to believe that a child may have been abused or neglected while missing could use these provisions.

The law governing access to child welfare agency records is often broadly stated, with more specific standards left to child welfare agency policy. In those States, agency regulations or policy manuals must be consulted to determine who may gain record access. In almost every State, agency regulations or policy control the procedure for requesting records, including whom to contact.

The reporting parent

When a child is reported missing, whether by abduction or running away, an important first step in investigation is meeting with the reporting parent(s). Experienced investigators know that this interview must touch on many sensitive family matters to obtain workable leads in finding the child. Among these sensitive issues are whether the family has been receiving services from the local child welfare agency and whether there are reasons to believe that an abducting family member might later abuse, neglect, or abandon the child. These issues should be explored late in the interview session, when trust and rapport may be better established.

Possibly, questions will flow naturally from other issues that arise. For example, a parent who is asked why a child may have run away may describe a family fight involving physical violence. A reporting parent describing an abducting parent may state concerns for the child's safety based on past incidents of abuse. In either case, the investigator may ask:



When a child is reported missing, whether by abduction or running away, an important first step in investigation is meeting with the reporting parent(s).

If a family has recently received services from the local child welfare agency, that agency's records may contain clues as to where the child is now.

- Whether the family has received any services to help solve the problem.
- Whether the reporting parent has ever reported the problem to the local child welfare agency.
- Whether the parent knows if anyone has ever made a report to the child welfare agency.

In talking with parents, investigators should be aware that the official name of the local child welfare agency may not be the name by which it is known in the community. It may be known by initials (such as DSS), a shortened name (such as Family Services), or a generic term (the welfare people). Miscommunication can be avoided by learning and using the vocabulary familiar within the community.

Prior child welfare agency

If a family has recently received services from the local child welfare agency, agency records may contain clues as to where the child is now. The investigating officer should be able to obtain record information by one of these routes:

- The officer has written consent from the reporting parent (and State law allows record access to parent).
- The officer is investigating possible abuse and neglect of the child, as well as seeking to find the child (and State law allows access for investigations of criminal abuse or neglect).
- The officer is seeking a missing child (and State law allows access on this basis).

In rare cases, a subpoena or court order may be needed.

If the family has received services for a long period of time, the record may be extremely large. If agency policy will allow the officer to view the original record, copying only relevant portions, this may be useful. Another strategy may be to specify what information is needed and ask the agency staff to supply it from the record.

New child welfare agency

In some cases, the child has been abducted by a parent or other known person, and case history suggests that the child may be abused or neglected while in the care of the abductor. If there is also reason to believe that the abductor may have chosen a certain State—for example, past ties to the State, or expressed intention—it may be appropriate to find out if the child has become known to the child welfare agency in that State. If the agency can supply the child's current address, access to the entire record will not be needed to locate the child. To gain information quickly, investigators may wish to start with this narrow request.

Even if the entire record is needed, access to the child welfare agency record may be clearly justified under law. As stated above, most States allow record access to law enforcement officers investigating possible criminal abuse or neglect of the child. If a child has been abducted and there is reason to believe

the child may also be being abused or neglected by the abductor, it is appropriate to extend the investigation to include possible crimes against the child during the abduction period.

Private child welfare agencies

In many States, some services to families under child welfare agency supervision are provided through private child welfare agencies such as Catholic Charitable Bureau, Jewish Family and Children Services, or other local agencies. Such subcontracting agencies may also keep extensive records regarding the families they serve.

The first point of contact in obtaining information from a private child welfare agency will generally be the public agency, which typically maintains case management and/or supervisory control of the case. If the public agency records show that services are received through a private agency, the latter may be considered as a resource. The same rules regarding record access typically apply.

Runaway shelters

Shelters for runaways seem a natural source for information on runaway youth, since this is the population they serve. Yet public policy is mixed on whether shelters should provide this information. These policy issues affect legal and practical access to shelter information.

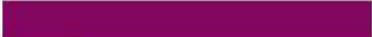
On the one hand, youth may typically stay in a shelter only a limited time and face continuing danger on the street. Police could assist in returning them to their families, where danger may be less and supervision greater. On the other hand, many youth have run from abuse at home and fear having to return. If youth know that shelter personnel will report their presence to police, and that police will return them to their parents, they may avoid using shelter services.

Legal responsibilities

These conflicting issues have been balanced both under Federal law and the law of many States by requiring notification to the parents but not to law enforcement. If shelter personnel believe that parental notification may endanger the child, they may also notify the State child welfare agency.

The Runaway and Homeless Youth Act, the Federal legislation following this general scheme, requires States with shelters that receive Federal funds to develop procedures for shelter staff to notify parents within 24 to 72 hours of the youth's admission to the shelter. Beyond this notification, the confidentiality of shelter records must be protected.

States may develop specific guidelines under the Federal legislation, and State law does, in fact, reflect some diversity. Some States require parental notification except where there are compelling circumstances to avoid it; some require notification either to the parent or the State child welfare agency; and others require only a good faith effort to notify parents. Very few require or even specifically allow runaway shelter personnel to provide information to law enforcement.



If youth know that shelter personnel will report their presence to police, and that police will return them to their parents, they may avoid using shelter services.



In many cases juveniles run away because of parental abuse. It is important that they be located and protected against future abuse.

Typically, State law applies to all runaway shelters within the State, whether or not Federal funds are received. In the many States without statutes governing runaway shelter record access, State administrative regulations may control.

Parental notification

The typical requirement that runaway shelters notify parents can be effective in resolving a runaway case. Careful law enforcement attention is needed, however. The reporting parent should be clearly instructed to notify the investigating officer on learning of the child's location. While this seems obvious, not all parents do so. They may assume the shelter has informed law enforcement or may not realize that law enforcement is still actively searching for the youth.

The investigator can also help ensure that the parents are properly notified. In many cases, youth supply incomplete or misleading information to the shelter, making notification impossible. The investigator can help avoid this risk by providing complete case information to all runaway shelters in any area where the youth is believed to have gone. Information supplied should include a complete description of the runaway youth, a photo of the youth, if available, and information for contacting the parents if the youth comes to the shelter.

Parental abuse

In many cases juveniles run away because of parental abuse. It is important that they be located and protected against future abuse. In some States, shelter staff must notify the child welfare agency rather than, or in addition to, the parent if the youth alleges parental abuse. Also, in many States, runaway shelter staff are required under other State laws to report suspected child abuse to the State child welfare agency. (The relevant provision may not be in the State statute concerning runaway shelters but rather in the one concerning mandated reporters of child abuse.)

Investigators may need to make special efforts to be informed in cases involving allegations of parental abuse. A parent informed of the youth's presence at the shelter but also informed of an abuse complaint may hesitate to notify law enforcement. The child welfare agency may also not notify law enforcement either through an oversight or because of confidentiality concerns.

To avoid this problem, cooperative agreements among runaway shelters, child welfare agencies and law enforcement may be needed. This may be best addressed through interagency committees, as discussed later in this guide.

Youth crime

A substantial number of youth are runaways not only from their families but from law enforcement as well. A different set of considerations apply in these cases.

If the juvenile is wanted for a crime, it is not safe to assume that parents will notify law enforcement if they learn of his or her whereabouts. Thus, parental notification requirements under law may be of little use to the police. At the same time, legal protections of shelter client confidentiality may prevent shelter staff from reporting the youth's presence to police.

State law and law enforcement agency policy will control in these cases. This issue is also an important one for interagency committees to address. Since criminally wanted youth may pose a danger to runaway shelter staff and clients, shelter staff will probably be well-motivated to resolve the issue. Under appropriate guidelines, they may even talk with the youth about surrendering to law enforcement.

Domestic violence shelters

Shelters for battered women and their children, like runaway shelters, present a mix of public policy and legal issues that affect access to client information. Many women in such shelters are running from an abusive partner, who may be the father of one or more of their children. If the father reports the child as abducted, law enforcement may be seeking the mother and child. Shelter staff, who know whether or not the child is at the shelter, seem an obvious source of information.

Yet client confidentiality is basic to the function of a domestic violence shelter. Women frequently flee in an emergency situation. There may or may not have been time to obtain a custody order or a protection order, or even to report to a court about incidents of violence. If protective shelters open their doors to women fleeing severe abuse in emergency situations and help return the children to the very person who victimized the family, the purpose of the shelters is undermined.

Despite this apparent conflict, law enforcement and domestic violence shelters do share at least one crucial goal—protection of the child. This shared goal provides a basis for developing a cooperative relationship.

Legal protection of shelter client confidentiality

Since it reflects public concern for victims of domestic violence, the confidentiality of domestic violence shelters is generally heavily protected by law. The Federal Family Violence Prevention and Services Act of 1984 provides that States receiving Federal funding for their domestic violence prevention programs must develop and implement procedures for protecting the confidentiality of shelter clients. No exception is provided for reports to law enforcement.

Additionally, most States have laws that specifically protect shelter records against disclosure. A few particularly strong laws allow no exceptions to confidentiality of communications between the shelter and the client, even in civil or criminal court cases.

In general, the only legal exceptions to domestic violence shelter client confidentiality tend to be if a shelter client is abusing or neglecting a child within the shelter or commits a crime against another shelter client or staff member. Even these very limited exceptions are not uniformly specified under State law.



Law enforcement and domestic violence shelters do share at least one crucial goal—protection of the child.

Clients fearing for their children's safety will not acknowledge their location if they believe that law enforcement will reveal it to an alleged abuser or physically return the child to that person.

Gaining the cooperation of shelter staff and clients

Most shelter staff do not reveal the identity of any shelter clients, except by the client's permission. Winning the permission of shelter clients may thus be a critical task of law enforcement in obtaining information.

Except in rare cases, shelter residents cannot hide forever. They must at some point submit their concerns to a court process. Shelter staff typically realize this, and so do many shelter clients.

Clients fearing for their children's safety will not acknowledge their location if they believe that law enforcement will immediately reveal it to an alleged abuser or physically return the child to that person. If, however, they are reliably assured that they may submit their claims to a judge *before* their location is revealed or the children taken, they may have some incentive to consider coming out of hiding.

To encourage cooperation, the investigating officer could tell a local shelter:

- The name of the child and mother being sought.
- That the officer recognizes issues of protection may need to be addressed.
- The time and place of any scheduled court hearings the father has initiated.
- That the mother has a right to seek a court order for custody (if not previously granted), for change of custody (if the father has legal custody), or for an emergency protection order (if available under State law).
- That law enforcement will not advise the father of the shelter location at any time.
- That if the mother wishes to acknowledge her presence at the shelter and promptly seek a court ruling, law enforcement will refrain from taking any action until after the court ruling.
- That a police escort can be provided to protect the mother on her way to and from scheduled court hearings (if feasible).
- What actions law enforcement will take to locate the child and mother if the mother does not reveal the child's presence.

This notice may be given orally or in writing or both. Oral notice may help encourage rapport between shelter staff and law enforcement, while written notice is helpful to avoid misunderstanding.

Once representations are made, it is crucial that law enforcement uphold them. Over time, as trust develops, more and more cases may be resolved as shelter residents voluntarily acknowledge their whereabouts. This type of cooperation between law enforcement and domestic violence shelter clients has been effective in many localities. In a few States, it is required by law.

The role of interagency committees

While cooperation of this type may be negotiated on an individual basis, a proactive approach is far more likely to be effective. As noted, domestic violence

shelters share many areas of concern with law enforcement. Joint committees have been effective in many localities for developing protocols on this and other issues, such as staff training, law enforcement response to domestic calls, and legislative proposals. They may be especially useful in building the trust needed to persuade shelter clients to acknowledge their presence to law enforcement.

Interagency committees

Children who become missing are served by many agencies. Police, schools, medical care providers, child welfare agencies, mental health providers, and runaway, protective, or family shelters may all play a role in the child's life.

If each of these agencies operates independently, with little communication with the others, services will be scattered and inefficient. The most basic information—such as where the child is—may be known to some but not to others. Clear procedures for sharing information, agreed upon by all, may not exist. This is of serious concern to police searching for a missing child.

Many cities, metropolitan areas, counties, and States have established interagency committees representing a range of law enforcement and human service agencies. These committees develop joint policies and initiatives on a range of public service issues. They may focus specifically on missing children or may address other common concerns (such as abused, neglected, or exploited children) as well.

Interagency committees improve communication and cooperation between agencies and improve delivery of services to children and families. They also reduce duplication of services and efforts, develop existing resources, and identify new ones.

An interagency committee can develop procedures for access by law enforcement to agency records in missing children and other cases. Standard forms, procedures, and protocols allow investigating officers to act quickly and efficiently in gaining record access, an important contribution to finding a missing child.

M/CAP assistance

The Missing and Exploited Children Comprehensive Action Program (M/CAP), a training and technical assistance program of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), can help communities develop or improve interagency committees. Where communities already have strong multidisciplinary committees, M/CAP can help these committees improve services in missing children cases. In addition to training and technical assistance, M/CAP provides:

- Networking opportunities with other M/CAP teams or interagency committees.
- Access to resources such as crime analysis tools and case management software.
- Specialized publications and other resource materials.²



Interagency committees enhance communication and cooperation between agencies and improve delivery of services to children and families.

Record access is one of several key issues interagency committees may need to address. The focus should be on ensuring the maximum access allowed by law, in the most efficient manner possible.

Access to records

Record access is one of several key issues interagency committees may need to address. The focus should be on ensuring the maximum access allowed by law, in the most efficient manner possible. To help reach this goal, law enforcement representatives should:

- Clearly communicate why specific information is needed, and why it is needed quickly.
- Be sensitive to agency concerns regarding client confidentiality.
- Be well informed on any applicable law requiring or allowing record access to law enforcement, bringing copies to meetings and explaining them as needed.
- Recognize any areas where law enforcement does not have access under law, and be prepared to work toward solutions based on client consent.
- Tactfully identify past problems in obtaining record access.
- Seek solutions that allow access to information useful to locate a child but avoid disclosure of unnecessary personal or treatment information.

Agency records can be a valuable source of information in searches for missing children. Law enforcement can increase access to that information by learning, developing, and using basic steps for obtaining it.

A checklist

Law enforcement agencies may find it advisable to develop a checklist for obtaining agency records in locating missing children. Exact procedures will vary according to State and local policy, but the following elements should be included in directions to investigating officers. Ideally, the instructions should be incorporated into the department's more comprehensive checklist addressing all aspects of case investigation. (Some steps have dual functions but are included if they relate to record collection.)

During the initial interview with the reporting parent(s), the investigating officer should:

- Obtain written consent extending to law enforcement any right to the child's records that the parent may have, including school, medical, dental, mental health, and child welfare agency records.
- In a parental abduction case, determine what the parent believes to be the current custody order and from what court it was issued.
- Request that the parent obtain and supply copies of the child's recent medical, dental, and school records.
- Ask what school the child attended most recently.
- Ask where the child was born.

- Obtain the name and phone number of the child's regular treating physician.
- Ask whether the child has a serious medical condition requiring continuing treatment and, if so, obtain the names and phone numbers of treating physicians.
- Ask whether the family has recently received services from the State child welfare department.
- Ask whether there have been past incidents or reports of violence within the family.

During the initial investigation:

- Enter the child into the FBI's National Crime Information Center (NCIC) computerized Missing Persons File.
- Contact the National Center on Missing Children.
- Contact the principal at the child's most recent school. Ask to be notified immediately if a request is received to forward the student's records.
- Contact the birth certificate registry in the county and State where the child was born. Ask to be contacted immediately if a copy of the child's birth certificate is requested.
- In a parental abduction case, obtain a certified copy of the most recent child custody decision from the court with jurisdiction, and keep it in the case record.
- Follow up to ensure that the records requested from the parent are obtained, and examine them for clues.
- If the child has a serious medical condition, contact the most recent treating physician to arrange to be immediately notified of a request to forward the medical records.
- If the child is of preschool or younger school age, contact the child's regular physician. Ask to be notified if vaccination or other medical records are requested by any person.
- If the family has recently received services from a child welfare agency, contact the office to obtain access to the agency records regarding the family, and search it for clues.
- If the child is a runaway, contact shelters for runaways in nearby cities, giving them the child's name and photograph and the parents' names and phone numbers.
- If there is reason to believe that the child is with the mother in a shelter for battered women, contact shelter officials to advise them of any pending court dates and to ask if arrangements can be made for the mother to acknowledge her presence at the shelter and to seek a protective or custody order or both.

During the initial investigation, the child's information should be entered into the FBI's National Crime Information Center computerized Missing Persons File.

When there is reason to believe the child is in a specific State or locality:

- Contact the local schools or State board of education to determine whether the child is enrolled in school, using the parent's consent if needed, and the court order showing custody if applicable.
- Contact local hospitals to determine whether the child has recently received treatment, using the parent's consent if needed, and the court order showing custody if applicable.
- If the child was abducted and there is reason to believe he or she may be abused or neglected in the new location, contact the public child welfare agency to determine whether it has knowledge of the child. The most likely basis for record access will be if the investigation includes possible criminal abuse or neglect after the abduction.
- If the child is a runaway, give the local runaway shelters information to help them contact the parent if the youth comes to the shelter.
- If the child may be with the mother in a domestic violence shelter, enlist the help of local law enforcement to obtain the cooperation of the shelter in providing information.

Notes

1. Patterson, J.C. *Investigator's Guide to Missing Children Cases*. Arlington, VA: National Center on Missing and Exploited Children, 1987, pp. 33-34.
2. Media exposure is one of several important forms of technical assistance offered in cases opened with the National Center. Law enforcement may open a case for technical assistance by calling the National Center at 800-843-5678.
3. Law enforcement agencies are required by the National Search Assistance Act (42 USC §§ 5779) to immediately enter all missing children cases into the NCIC.
4. Patterson, 13. Note that verification of custodial status is *not* needed to determine whether to open a missing child case, since the Federal Missing Children Act and the National Missing Children Search Assistance Act require entry of the child's description into the National Crime Information Center without regard to the custodial status of the reporting parent.
5. The National Center can be reached at 800-843-5678.
6. 17 Cal. 3d 425, 551 P. 2d 334 (Cal. 1976).
7. Information on M/CAP is available from the Special Projects Office of the Public Administration at 703-235-3892.

Researchers
 Planners
 Policymakers



More detailed information about how to use agency records to find missing children is available through the Juvenile Justice Clearinghouse.

The 143-page report *Addressing Confidentiality of Records in Searches for Missing Children*, a study conducted jointly by the American Bar Association Center on Children and the Law and the National Association of Social Workers, includes research on the law, agency policies, and agency attitudes regarding cross-referencing records. A 66-page companion document, *Listing and Description of State Laws Affecting Record Access in Missing Children Cases* provides details of the policies in each State.

For copies of these materials, complete and return the order form below with your payment.

For further information on this or other juvenile justice topics, call the Juvenile Justice Clearinghouse at 800-638-8736.



To order copies of **Addressing Confidentiality of Records in Searches for Missing Children (NCJ 155183)** or the **Listing and Description of State Laws Affecting Record Access in Missing Children Cases (NCJ 155107)**, please complete the following:

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Family Strengthening in Preventing Delinquency—A Literature Review. 1994, NCJ 150222 (76 pp.), \$13.00.

Matrix of Community-Based Initiatives (Program Summary). 1995, NCJ 154816 (51 pp.).

OJJDP and Boys and Girls Clubs of America: Public Housing and High-Risk Youth. 1991, NCJ 128412 (5 pp.).

Strengthening America's Families: Promising Parenting Strategies for Delinquency Prevention. 1993, NCJ 140781 (105 pp.), \$9.15.

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The Compendium of the North American Symposium on International Child Abduction: How To Handle International Child Abduction Cases. 1993, NCJ 148137 (928 pp.), \$17.50.

Missing, Abducted, Runaway, and Thrownaway Children in America, First Report: Numbers and Characteristics, National Incidence Studies (Full Report). 1990, NCJ 123668 (251 pp.), \$14.40.

Obstacles to the Recovery and Return of Parentally Abducted Children. 1994, NCJ 143458 (21 pp.).

Obstacles to the Recovery and Return of Parentally Abducted Children (Full Report). 1993, NCJ 144535 (877 pp.), \$22.80.

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Innovative Law Enforcement Training Programs: Meeting State and Local Needs. 1991, NCJ 131735 (4 pp.).

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