March 2004

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AUSTRALIAN FEDERAL POLICE

Sydney Office - Family Law Team

Family Law Kit

AUSTRALIAN FEDERAL POLICE

Sydney Office

© Family Law & Currency Team
Australian Federal Police
110 Goulburn Street, Sydney NSW

Locked Bag A3000, Sydney South, NSW, 1232

Monday to Friday (8.00am – 4.00pm)
Phone (02) 9286 4000 • Fax (02) 9286 4837

After Hours (AFP Sydney Airport)
Phone (02) 9669 1424 • Fax (02) 9693 1270

The following information has been compiled by the Australian Federal Police (AFP) Family Law Team, Sydney Office, to assist persons involved in Family Law matters. The information relates to the AFP's role in family law matters for residents of New South Wales, particularly preventing a child being removed from the Commonwealth of Australia**.**

The AFP and Family Law matters

The AFP's role in the family law process is to act upon specific orders of the Court. Those orders are recovery orders, warrants of arrest and writs of possession. The AFP can not enforce residency, care or contact orders. The AFP Family Law Team will endeavour to assist you where we can and act as quickly as possible in the execution of Orders. We understand that Family Law matters are sensitive and an emotional time for all involved.

If you would like more information or need to contact the AFP Family Law Team in New South Wales, we are located at 110 Goulburn Street, Sydney NSW 2000 or we may be contacted on the numbers listed at the end of this kit.

For information about Family Court and Federal Magistrates Court procedures and forms we recommend you look at the Family Court of Australia's web site at: **www.familycourt.gov.au** or **www.fmc.gov.au.** The contact number for the Family Court at Sydney is (02) 9217 7111 and at Parramatta is (02) 9893 5555.

Airport Watch List

This system is designed to prevent children whose parents are involved in Family Law proceedings being removed from Australia without the consent of the Court or the consent of any or one of the parties involved in the Court proceedings.. Sections 65Y and 65Z of the *Family Law Act 1995* provides that a child who is subject to family law proceedings not be removed from the Commonwealth of Australia, subject to Section 65Z(2). A party who removes or attempts to remove a child from the Commonwealth of Australia may be sentenced up to three (3) years imprisonment.
The watch list is in effect at all international sea ports and airports.

HOW TO PLACE A CHILD'S NAME ON THE AIRPORT WATCH LIST

To place a child's name on the watch list you will be required to obtain a court order that directs the AFP to place the name of the child on the watch list. The direction from the Court must be specific and not implied.

The original court sealed order must be provided to the AFP.

The court order can be issued by the Family Court of Australia, the Federal Magistrates Court or a Local Court that exercises jurisdiction under the Family Law Act. The AFP Family Law Team requires the following wording for the court order:

> **Each party (*or either party*) be and hereby are restrained from removing and/or causing or allowing the child/ren, …… (*child's name*) …… born …… (*child's date of birth*) …… to be removed from the Commonwealth of Australia.**
>
> **The Australian Federal Police place the name of the said child/ren on the Airport Watch List in force at all international points of arrival and departure in the Commonwealth of Australia and maintain the child/rens name/s on the Watch List until further Order of the Court.**

A child's name may be placed on the airport watch list once an Application for Final Orders (Form 1), Application in a Case (Form 2) or a response to those applications (Forms 1A & 2A) is filed with a Court that exercises Family Law

jurisdiction under the *Family Law Act 1995*. For this to happen, you must provide to the AFP the original court sealed **application** seeking those specific orders, as suggested above, as well as seeking a residence, care or contact order in respect of the child.

If you have a current residence, care or contact order in respect of the child you should make that order available to the AFP with your original court sealed application for orders as above.

You must also complete the AFP Information Sheet, Statement of Obligations and Statement of Fears, located at the back of this kit.

WHAT ARE MY OBLIGATIONS ?

In the event that your child presents at an international port of departure and is restrained by the Australian Federal Police, you may be required to attend at such place and time (to be advised by the AFP) to take delivery of the child. All costs incurred in effecting the delivery (ie. travel, sustenance for yourself, your agent and the child/ren) **WILL NOT** be met by the Family Court or the Australian Federal Police.

You or lawyer must notify the Australian Federal Police, personally or by registered mail (letter) of any of the following **as soon as practicable** :

a) Results of Court Proceedings ;
b) Variations or cancellations of Orders, Warrants etc ; and
c) Private arrangement affecting Orders (eg. consent for child/ren to leave the country).

You or lawyer must notify the Australian Federal Police, personally or by registered mail (letter) of overseas travel arrangements 14 days prior to the intended travel. It is a requirement of law that the consent in writing of the other parent/parties is obtained prior to the travel being undertaken and the written consent must be supplied to the Family Law Team with the travel arrangements.

HOW TO REMOVE A CHILD'S NAME FROM THE AIRPORT WATCH LIST

A child may only be removed from the airport watch list by a court order. Once you have obtained an order from the court, it will be necessary to provide an original sealed order of the Court to the AFP. That order must direct either the removal of the child's name from the airport watch list, discharge or vacate the original court order which placed the child on the airport watch list. A child's name will automatically be removed from the airport watch list upon the child attaining the age of eighteen (18) years.

CHILDREN ALREADY TAKEN OVERSEAS

ATTORNEY-GENERAL'S DEPARTMENT

When a parent believes a child has already been removed from the Commonwealth of Australia, an application can be made for the return of the child under the provisions of an International treaty known as the **Hague Convention (Civil Aspects of Child Abduction)**. The contact number for New South Wales Department of Community Services Hague Convention Unit is (02) 9716 2307. Proceedings can only be instituted if the country to which the child has been taken is a signatory to the Hague Convention.

To find out if a particular country is a signatory to the Hague Convention, you can call the Commonwealth Central Authority on 1800 100 480 (free call) or you can check on the website of the Hague Conference on Private International Law, the body which administers the Convention. The website is at **www.hcch.net.**

Further information regarding the Hague Convention can be found at **www.law.gov.au/childabduction**

Location & Recovery of Children

A Recovery Order is a court order that directs the Police to locate and return the child named on the order to the person nominated in the order. A Recovery Order is issued by the Family Court of Australia, the Federal Magistrates Service or by the Local Court of New South Wales exercising Family Law jurisdiction, under Section 67Q of the *Family Law Act 1975*. A Recovery Order is valid for twelve (12) months from the date of issue unless otherwise stated.

Even though a person may have a Court order giving the person residence, care or contact of a child, the Police are unable to become involved when the child is removed or not returned to the person unless a Recovery Order has firstly been obtained. Breaches of a residence, care or contact order can be reported to the Court. The AFP will only act on a Recovery Order that is received from the Court. The AFP will not accept a Recovery Order that is received from a party to the proceedings.

At the same time of issuing a Recovery Order, the Court may also order a Location Order or Commonwealth Information Order that directs a Commonwealth Agency, such as Centrelink, to furnish information regarding the Respondent. This order is issued should the whereabouts of the Respondent and subject be unknown.

The Location Order or Commonwealth Information Order will be served upon the addressed Agency and any reply will be forwarded to the issuing Court. The Court will then forward that information to the AFP. Any information received under a Location Order or Commonwealth Information Order can not be conveyed to any other party or Agency.

Recovery Orders also contain an order prohibiting the person (generally the respondent) from again taking or removing the child. If the person again removes the child, they may be arrested without warrant.

AFP will not recover the child until the person to whom the child is to be returned is in a position to receive the child and is close by. This is especially so if the child is very young or does not speak English. If the child is interstate the Applicant must still be as close as possible to receive the child. This reduces the stress on the child and the necessity for the child to remain in police care. You may also arrange for the child to be handed over to the care of the States respective Department of Community Services (speak to the AFP Officer in Charge of your Recovery Order for more detail.)

The applicant will not be permitted to be present during the execution of the Recovery Order .

Publication Orders

Publication Orders are an order that permits a person to publish in a newspaper or periodical publication or by radio broadcast or television an account of family law proceedings. If a Recovery Order has been issued, the AFP may request that you obtain a publication order to permit the AFP to seek assistance from the public, especially when the location of the child is not known. Please speak to your AFP Case Officer regarding a publication order.

Writs of Possession

A Writ of Possession, also known as a sequestration order, is a Court Order that directs that the estate of the person against whom the decree has been made be sequestrated. This order will direct Police to remove nominated persons from the premises and to secure that premises.

Emergency Orders

There is an after hours service available through which a Judicial Officer of the Family Court may be contacted to consider making emergency orders. However this is available only in cases of extreme urgency. The AFP will give priority to emergency orders.

To obtain emergency orders, the Judicial Officer must be satisfied that there is an **immediate risk of a child being removed from Australia, an immediate risk of destruction of substantial property or the removal of property or a substantial amount from Australia.**

The Family Court Emergency Line number is **1800 622395**. The Judicial Officer does not have immediate access to a Court file and will not be able to answer questions in relation to your particular Family Court matter.

Emergency Orders are faxed to the AFP at Sydney Airport. The phone number for the AFP at Sydney Airport is **(02) 9669 1424**. The Deputy Registrar or Justice will advise the AFP at Sydney Airport of the order so that immediate action can commence.

If the above circumstances relate to you, you can contact the Family Court Emergency Line on **1800 622395**.

Privacy

Section 121(1) and 121(5) of the *Family Law Act 1995* provides that a person shall not print or publish any information regarding matters before the Family Court or any other Court exercising Family Law jurisdiction.

THE AFP CAN NOT PROVIDE YOU WITH LEGAL ADVICE.

Contact Details

Australian Federal Police Family Law Team
Australian Federal Police Sydney Headquarters
110 Goulburn Street, SYDNEY

Phone Number: (02) 9286 4000
Fax Number: (02) 9286 4837
Email address : ER-Family-Law@afp.gov.au

Australian Federal Police Sydney Airport
Arrivals Level, Sydney International Airport

Phone Number: (02) 9669 1424
Fax Number: (02) 9693 1270

Family Court of Australia –
Sydney Registry
Lionel Bowen Building
97 - 99 Goulburn Street, SYDNEY

PO Box : GPO Box 9991 Sydney, 2001
DX Box : DX 1015 Sydney

Phone Number: (02) 9217 7111
Fax Number: (02) 9217 7133
AFP Office: (02) 9217 7185

Family Court of Australia –
Wollongong Registry
43 Burelli Street, WOLLONGONG

PO Box : GPO Box 9991 Wollongong, 2500
DX Box : DX 5238 Wollongong

Phone Number: (02) 4226 0200
Fax Number: (02) 4228 4770

Family Court of Australia –
Parramatta Registry
Commonwealth Law Courts
1 - 3 George Street, PARRAMATTA

PO Box : PMG CC10 Parramatta, 2123
DX Box : DX 8231 Parramatta

Phone Number: (02) 9893 5555
Fax Number: (02) 9893 5000
AFP Office: (02) 9893 5579

Family Court of Australia –
Newcastle Registry
61 Bolton Street, NEWCASTLE,

PO Box : GPO Box 9991 Newcastle, 2300
DX Box : DX 7884 Newcastle

Phone Number: (02) 4926 1255
Fax Number: (02) 4926 5204

Family Court of Australia –
Coffs Harbour Registry
26 Gordon Street, COFFS HARBOUR

Phone Number: (02) 6651 5395
Fax Number: (02) 4926 5204

Family Court of Australia –
Lismore Registry
29 – 31 Molesworth Street, LISMORE

PO Box : PO Box 9 Lismore, 2480
DX Box : DX 7792 Lismore

Phone Number: (02) 6621 8977
Fax Number: (02) 6622 0377

Family Court After Hours Emergency Line:
1800 622 395
Family Law Hotline:
1800 050 321

Relationships Australia
(02) 9418 8800

Attorney Generals Department (Cth)
Central Office : (02) 6250 6666
Mediation :(02) 6250 5631

Centacare
Sydney : (02) 9283 3099
Newcastle : (02) 4979 1330
Wollongong : (02) 4227 1122

Legal Aid Commission of New South Wales
Sydney : (02) 9219 5000
Gosford : (02) 4324 5611
Newcastle : (02) 4929 5482
Penrith : (02) 4732 3077
Wollongong : (02) 4228 8299