

# Unregulated Custody Transfer/Re-homing of Adopted Children

## **i** TIP SHEET for Child Protection & Child Welfare Professionals

### UCT/Re-homing Defined

Unregulated custody transfer (UCT), also known as “re-homing,” is the practice of adoptive parents transferring custody of a child to another individual or group without involvement of relevant authorities. UCT/re-homing is inclusive of all types of adoptions: public/foster, private, and intercountry. The practice of “re-homing” was brought to light in the fall of 2013 through the Reuters News Agency investigative article series, *The Child Exchange: Inside America’s Underground Market for Adopted Children*, by Megan Twohey (<http://www.reuters.com/investigates/adooption/#article/part1>). The five-article series reported on how adoptive families used the Internet to “advertise” and facilitate placements of their children with nonrelative strangers, exposing these vulnerable children to unsafe environments and exploitation.

### Best Practice Intake Screening Questions

#### 1 Is the child adopted?

If you determine the child is adopted, find out if the child is living with the original adoptive family or another caregiver/family. If the child is living with another caregiver, determine if it is a temporary arrangement with the intention of the child returning to the original adoptive family or intended as a long-term or permanent living arrangement.

#### 2 Does the person with physical custody have legal authority over the child?

Is there a legal agreement or an informal agreement? Try to determine the legalities of the child's current living arrangement, including the existence of a power of attorney, notarized letter, or temporary legal guardianship. Depending on State laws, all could indicate a UCT situation.

### Risk of Harm

UCT places children at risk of harm because:

- Most adopted children are already vulnerable and have experienced trauma (i.e., separation and loss) and the disruption and additional placement in another home creates additional trauma and instability. (<https://www.childwelfare.gov/topics/outofhome/placement/>)
- Children are unilaterally placed with families who have not completed child welfare or criminal background checks or clearances.
- Social services and courts are unaware of the placement and thus do not conduct assessments on the child's safety and well-being in the new home.
- Lack of appropriate placement oversight increases the likelihood children may experience neglect of their medical, development, emotional, and/or educational needs; physical, sexual or emotional abuse; placement in an unsafe environment; exposure to unsafe adults or other children/youth in the home; or experience an isolated lifestyle that could put them at risk for future abuse or exploitation.
- The new caretakers often have no legal responsibility for a child placed in their home through UCT, and the child is at risk for additional unregulated moves and may not receive appropriate care, including immediate medical care.

### ICPC Violations

■ The Interstate Compact on the Placement of Children (ICPC) requires a signed contract between the sending State and the receiving State for children placed across a State line for the purpose of a permanent custody transfer. Violations of ICPC are “subject to punishment or penalties in both jurisdictions in accordance with their laws.” (American Public Human Services Association, *Guide to the Interstate Compact on the Placement of Children*: <http://www.childsworld.ca.gov/res/pdf/ICPCGuidebook.pdf>)

■ ICPC is to be initiated for all out-of-State permanent child placements with the exception of “the sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.” The only other exception is if “any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.”



**Alert:** If there are no apparent safety concerns and yet an adopted child is not living with his/her adoptive family, alert others by cross reporting to the State adoption manager, Interstate Compact on Placement of Children (ICPC) if the child was moved across State/jurisdictional lines. For intercounty adoption, alert the U.S. Department of State (DOS) and the Adoption Service Provider (ASP).

## Challenges with Recognizing UCT

- It may be difficult to distinguish UCT from an informal temporary arrangement within parents' rights. An important step in recognizing UCT is to determine the relationship between the legal parent/guardian and the person with whom a child has been placed.
- UCT alone may not meet the criteria for most States' definition of child abuse or neglect and on its surface, might not indicate that a child has suffered harm. Asking questions to understand the child's circumstances may help to clarify whether UCT has occurred and placed the child at risk of harm.
- A report of an adopted child/youth now living with his/her birth parent may not be recognized as a UCT or the safety of this living situation might be minimized.
- If a caller reports a missing child, child welfare might only refer or direct the caller to contact law enforcement without additional inquiry because a missing child is often seen solely as a law enforcement issue. Therefore, child welfare's screening assessment might be skipped.
- When a caller reports that a child is being moved to a different State without his/her parents, that alone may not be considered child abuse, so child welfare may not conduct a

screening assessment or have the legal authority to intervene unless a child safety concern or risk is articulated by the caller.

- A UCT report may be referred to another state without further assessment. When a caller reports that a child is being moved to a different State without his/her parents, child welfare might inform the caller to contact the State where the child is placed. Or, if the caller is reporting from the new State, child welfare might inform the caller to contact the State where the parents are located.
- Requirements to transfer parental authority may vary from State to State; therefore, what constitutes UCT in one State may not in another.
- In most States, a power of attorney is not usually sufficient to constitute transfer of permanent legal custody of a child. However, lack of awareness on this may lead to challenges in recognizing UCT.

### Special Concerns of Intercountry Adoptions (ICA)

Reuters reported that 70 percent of UCT cases it investigated involved children adopted from another country.

- The U.S. Department of State's (DOS) Office of Children's Issues is a valuable resource for child welfare professionals seeking information about intercountry adoption. Contact the Office of Children's Issues, [adoption@state.gov](mailto:adoption@state.gov),

or visit the web page

[www.adoption.state.gov](http://www.adoption.state.gov) for more information about intercountry adoption.

- U.S. Citizenship and Immigration Services (USCIS) is responsible for processing adoption-related immigration applications and petitions and for issuing proof of citizenship or legal permanent residence for children adopted from other countries.
- Under the Intercountry Adoption Act and the Universal Accreditation Act, all intercountry adoptions to the United States must involve an accredited agency or approved person, who acts as the primary adoption service provider (ASP). ASPs help ensure the child's placement is in the child's best interests and may be able to provide relevant information about a child's or family's background.
- Many ASPs provide postadoption services, but this is not required by law. Services available to an adoptive family may vary, depending on the ASP and whether or not the adoption has been finalized.
- Many children placed through UCT do not know if they are a U.S. citizen and/or have not had access to their immigration and identity documentation.
- While parents who place a child through UCT may claim they revoked, annulled, or voided the adoption or legal custody for the purposes of emigration and adoption, whether or not this actually occurred will depend on the law in the child's country of origin.

- Neither a family nor an ASP should return a child to his/her country of origin without the written approval of the Secretary of State and central authority/competent authority of the country of origin.

## Prevention of UCT/ Postadoption Services Support

- When an adoptive parent contacts intake screening to report difficulty with an adopted child, this is the earliest opportunity for child welfare intervention to prevent a possible future UCT situation. Assess for safety or harm and then contact, consult, and/or connect with the appropriate State adoption manager about postadoption services availability.
- Guiding questions to ask an adoptive parent who is reporting difficulty with an adopted child:
  - a. What agency facilitated the adoption?
  - b. Have you reached out to them for support and/or resources?
  - c. Are you connected to postadoption services? Visit the Child Welfare Information Gateway (<https://www.childwelfare.gov/>) to find [postadoption services by State](#) and [adoption program manager assignments by State](#).

