5-02/160.10 - Child Concealment

Section 278.5(a) PC provides for a felony/misdemeanor punishment when “every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation...”

This section applies to either parent who violates any provision of a custody decree or a lawful custodian which includes a parent where a legal relationship exists between a child and the child’s natural adoptive parent (Family Code ' 7600) even if no custody decree exists.

If the court order appears to be valid and the concerned parties are not willing to comply, a report shall be written alleging the violation of section 278.5(a) PC. Because of the emotional involvement of the concerned parties, the deputy should thoroughly and carefully explain the need for obeying the conditions of the court order, and the possible ramifications of noncompliance.

Arrest of parties refusing to comply with a custody decree would normally occur after a complaint and warrant have been obtained, but that does not preclude the deputy from making an arrest should circumstances so indicate. For example, if a parent, in the presence of the officer, persists in refusing to comply with the court order, then an on-sight arrest would be appropriate.

Parental abduction cases shall be filed with the District Attorney's Special Crimes Division, Child Abduction section, unless otherwise directed by that section. No filings shall be presented to local station/unit area district attorney's offices.