

AUSTIN OFFICE:
P.O. Box 12068, Room 3E.2
Austin, Texas 78711
(512) 463-0108
(512) 463-7579 (Fax)
Dial 711 for Relay Calls

DISTRICT OFFICE:
5005 Addison Circle
Addison, Texas 75001
(972) 385-9876
(972) 385-9877 (Fax)



*The Senate of
The State of Texas*

SENATOR FLORENCE SHAPIRO
DISTRICT 8

COMMITTEES:
Education, Chair
Finance
Infrastructure Development
and Security
Natural Resources

May 22, 2003

RECEIVED
MAY 27 2003

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0057-GA

OPINION COMMITTEE

ATTN: Opinions Committee
RE: Definition of a missing child.

FILE # ML-43110-03
I.D. # 43110

Dear General Abbott:

I respectfully request your opinion regarding the definition of a "missing child." More specifically, can a child still be ruled a "missing child" if the guardian knows where the child is?

One of my constituents raised this concern in response to his interaction with the Dallas Police Department. My constituent reported his seventeen-year-old daughter as a missing child. She had left home voluntarily. The constituent soon realized the location of his child and relayed that information to the police. However, the police department declined to take possession of the child, arguing that since the whereabouts of the child were known, she could no longer be reported as missing and the department had no authority to act.

As defined in Article 63.001 of the Code of Criminal Procedure, a "missing child" is "a child whose whereabouts are unknown to the child's legal guardian." In Opinion No. JC-0229, General Cornyn determined that Article 63.009(g) of the Code of Criminal Procedure requires a law enforcement officer who locates a seventeen-year-old who has been reported as a missing child to take possession of that child and deliver the child to his or her guardian. An officer may use force to take possession of the child, and the detention of an unemancipated child against his or her wishes for the purposes of returning the child to his or her guardian does not violate the constitutional rights of that child.

While this opinion clarified what role law enforcement may take in the case of a missing child, there is still a question as to how law enforcement may respond in a situation where a seventeen-year-old child is unemancipated and reported missing by the legal guardian who knows the whereabouts of the child.

I appreciate your consideration of this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Florence Shapiro".
Florence Shapiro

33488

