

Abduction

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Policy statement and principles

What

This chapter focuses on the [Crimes Act 1961](#) offences of abducting a person for marriage or sexual connection, and abducting a young person under 16 years.

Why

Abduction has serious consequences for the victim and in the interest of public safety Police have a responsibility to investigate, prevent harm and apprehend abductors.

How

Police will ensure:

- they continue to work pro-actively with partnerships, prevention first and victim focused strategies involving abduction, and
- abduction offences are investigated thoroughly and resolution action taken as deemed appropriate.

Overview

Introduction

This chapter outlines the action to be taken when dealing with the offences of abducting a person for marriage or sexual connection, and abducting a young person under 16 years.

For kidnapping offences see the '[Kidnapping for ransom](#)' chapter.

Definitions

Term	Definition
Consent	Consent must be full, free, voluntary and informed, and freely/voluntarily given by a person in a position to form a rational judgement. R v Cox
Detained	<p>'Detaining' is an active concept meaning to "keep in confinement or custody" and is to be preferred to the passive concept of "harbouring" or mere failure to hand over. R v Pryce [1972] Crim LR 307</p> <p>A person is detained when there is a taking over of control of the person who is hindered, retarded, and restrained from proceeding by intimidation. Boyd v R (1992) 8 CRNZ 661, 664</p>
Fraud or duress	<p>'Fraud' is where an offender may deceive a victim into agreeing to a proposition by misrepresenting the facts of their intentions.</p> <p>'Duress' occurs where a victim acquiesces to an offender's demands based on fear. This may arise from actual or implied threat of force to the victim or another person and can also include forms of pressure and coercion.</p>
Sexual connection	<p>'Sexual connection' means:</p> <ul style="list-style-type: none"> - connection effected by the introduction into the genitalia or the anus of one person, otherwise than for genuine medical purposes, of: <ul style="list-style-type: none"> - a part of the body of another person, or - an object held or manipulated by another person, or - connection between the mouth or tongue of one person and a part of another person's genitalia or anus, or - the continuation of connection as described the bullet points above. <p>Crimes Act 1961 s2(1)</p> <p>For the purposes of the first bullet point of the definition, introduction to the slightest degree is enough to effect a connection. Crimes Act 1961 s2(1A)</p>
Unlawfully	In this context the word 'unlawfully' means no more than "without lawful justification, authority or excuse". Where lawfulness is raised, it is for the prosecution to prove beyond reasonable doubt that the kidnapping was unlawful. R v Chartrand

Health and safety duties

The expectation of the Commissioner and the [Health and Safety at Work Act 2015](#) is that employees investigating abduction offences will take reasonable care to ensure that their acts or omissions do not adversely affect the health and safety of themselves or others, comply as far as they are reasonably able to with any reasonable instruction that is given to adhere with the Act and its regulations.

A key enabler is the application of the [TENR-Operational threat assessment](#) in the workplace. See also '[Health, safety and wellbeing](#)' for keeping our communities safe, and ensuring our people are safe and feel safe.

Related information

See the '[Investigation](#)' section in this chapter for a list of related chapters that may assist you with investigating abduction offences.

Offences

This table details abduction offences under the Crimes Act 1961, elements to be proven and penalties relevant to this chapter.

Offence	Elements of the offence...	Penalty/offence category
<p>Abducting a person for marriage or civil union or sexual connection (s 208)</p>	<ul style="list-style-type: none"> - the suspect took away or detained a person - the taking or detention was intentional - the taking or detention was unlawful - the taking or detention was without the person's consent (or with consent induced by fraud or duress) - the suspect knew that there was no consent to the taking or detention - the suspect intended to <ul style="list-style-type: none"> - go through a form of marriage or civil union with the person taken or detained; or - have sexual connection with the person taken or detained; or - cause the person taken or detained to go through a form of marriage or civil union, or to have sexual connection with some other person. <p>Note: A person under the age of 16 years cannot consent to being taken away or detained. (s 209A)</p> <p>See the commentary in Westlaw NZ for further explanation of the terms applied to section 208 of the Crimes Act 1961.</p>	<p>14 years imprisonment</p> <p>Category 3</p>
<p>Abducting a young person under 16 (taking, enticing or detaining young person) (s 210(1))</p>	<ul style="list-style-type: none"> - the suspect took, enticed or detained a person under the age of 16 years - the taking, enticement or detention was intentional - the taking, enticement or detention was from a parent or guardian or other person who had lawful care of the young person - the suspect knew the other person had lawful care, or charge of the young person - the taking, enticement or detention was unlawful - it was done with intent to deprive a parent, guardian or other person having lawful care or charge of the young person of possession of that young person. <p>See:</p> <ul style="list-style-type: none"> - Special provisions applying to section 210 abduction, and - the commentary in Westlaw NZ for further explanation of the terms applied to section 210 of the Crimes Act 1961. 	<p>7 years imprisonment</p> <p>Category 3</p>
<p>Abducting a young person under 16 (receiving young person) (s 210(2))</p>	<ul style="list-style-type: none"> - the suspect received a young person under the age of 16 - the receiving was intentional - the suspect knew that the young person had been unlawfully taken, enticed away or detained by another from a parent or guardian or other person having the lawful care or charge of them who had lawful possession of the young person - the suspect intended by reason of the receiving to deprive the person with lawful care of the possession of that young person. <p>See:</p> <ul style="list-style-type: none"> - Special provisions applying to section 210 abduction, and - the commentary in Westlaw NZ for further explanation of the terms applied to section 210 of the Crimes Act 1961. 	<p>7 years imprisonment</p> <p>Category 3</p>

Note: For kidnapping offences see: [Kidnapping for ransom](#).

Special provisions applying to section 210 abduction

For an offence of abduction under section [210](#):

- It is immaterial whether the:
 - young person consents, or is taken or goes or is received at his or her own suggestion
 - suspect believes the young person to be of or over the age of 16.

([s210\(3\)](#))

- For this offence a young person means a person under the age of 16 years.
([s210\(4\)](#)).

- A person who claims in good faith a right to the possession of a young person cannot be convicted of an offence against section [210](#) because they get possession of the young person.

([s210A](#))

Note: Where the defence is raised, it is for the prosecution to negate 'claim of right' beyond reasonable doubt.

Offences reported and recorded

Offences reported to, or discovered by Police must be recorded

[The National Recording Standard \(NRS Section 1.3\)](#) contains rules and principles governing recording of offences.

[Recording offences](#) intranet page provides an overview of these rules and contains links to training and resources.

Note: NRS section [Offences against the Person Coding Guide](#) provides a coding guide for offences against the person.

Code book - charge wording, penalties and more

The [Legislative Reference Table \(LRT - Code Book\)](#) is a search tool that links to information about all offence, incident and task codes.

The code book provides the following information for each offence code:

-
legislative reference details, for example:

- offence code description
- offence category
- charge type
- legislative reference
- specimen charge narrative
- minimum charge age
- statutory limit
- DNA relevance

-
penalties and fines

-
information requirements relating to:

- victim
- family violence
- traffic
- file retention
- classification.

Investigation

Related investigation information

See these chapters for guidance with investigating abduction offences:

- [Adult sexual assault investigation \(ASAI\) policy and procedures](#)
- [Case management](#)
- [Charging decisions](#)
- [Child protection](#)
- [Crime scene examination](#)
- [DNA sampling](#)
- [Family violence](#)
- [Crime scenes and forensics](#)
- [Homicide and serious crime investigations](#) (particularly initial action)
- [Identification of offenders](#)
- [Intelligence](#)
- [Interviewing](#)
- [Kidnap for ransom](#)
- [Managing conflicts of interest](#)
- [Media and communications](#)
- [National Recording Standard](#)
- [Prosecution file and case preparation](#)
- [Search](#)
- [Sexual offences](#)
- [Solicitor-General's Prosecution Guidelines](#)
- [Surveillance](#)
- [Victims \(Police service to victims\)](#).

Laying charges

When laying charges under section [210](#) of the Crimes Act, consider section [78](#) (contravening parenting or guardianship order) or section [80](#) (taking child from New Zealand) of the Care of Children Act 2004. Exercise caution in considering charges of kidnapping in custody matters and refer to a supervisor before instituting prosecution.

In cases of abduction where sexual intercourse has occurred, consider laying additional indecency charges.

Do not lay a charge of abduction in situations of sexual violation unless all of the ingredients of abduction are satisfied and the charge is appropriate in the circumstances.

See also the '[Charging decisions](#)' chapter.