

If NHI Abduct and Injure People: Criminal Law, Government Duties, Compensation, and Proof

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Premise. Assume that nonhuman intelligences take people without consent, hold and examine them, sometimes injure them, and return them. Assume further either that the government knows of the pattern and conceals it, or that it knows no more than the public. What law can respond to the taking, to the government’s knowledge or silence, and to the needs of the people taken? Where current law has no answer, what would a statute need to contain?

Key points

- Kidnapping and assault statutes reach “whoever” or “a person”; whether an NHI is a person is the [Issue F1](#) question, and in any event there is no defendant to arrest or try. Criminal law still matters for the official record, for victim compensation, and for the reporter’s own exposure under false-report statutes, which require knowing falsity.
- No reported case treats an abduction by NHI as fact. Courts use “abducted by aliens” as their example of the incredible, and abduction statements appear in the case law mainly as evidence of mental illness ([Issue H4](#)).
- There is no general constitutional duty to protect against harm by others (*DeShaney*). The state-created danger exception needs an affirmative act, such as an official assurance or cover story that kept specific people in harm’s way.
- The Invasion Clause gives no individual remedy, and courts have treated invasion claims as political questions. Courts reading “invasion” in the Alien Enemies Act in 2025 required an organized, armed incursion by a foreign power, which describes an organized nonhuman taking of residents better than it describes migration.
- Crime victim compensation programs pay when the offender is never identified. The obstacles for an abductee are a police report that is not taken, a finding of non-cooperation, and the question whether conduct by a nonhuman actor is “criminally injurious conduct.”
- Many abduction accounts were recovered under hypnosis. Several states exclude hypnotically refreshed testimony in criminal trials, and pretrial hypnosis of a witness must be disclosed. Record the account before any hypnosis.
- A statute modeled on the HAVANA Act could pay for documented injuries without requiring proof of who caused them.

1. Summary

Question	Current law	Main obstacle	Best available step
Can the taker be prosecuted?	18 U.S.C. §1201; state kidnapping, assault, and sexual-assault statutes	“Person” element (F1); no arrest or trial possible	Police report to create a record
Is the reporter at risk?	False-report statutes (e.g., Cal. Penal Code §148.5; 18 U.S.C. §1001)	Require knowing falsity	Report sincerely and factually
Must the government protect or warn?	<i>DeShaney</i> ; state-created danger; FTCA failure to warn	No general duty; discretionary-function exception	Plead affirmative assurances or cover stories
Does the Invasion Clause apply?	U.S. Const. art. IV, §4	Nonjusticiable; no individual remedy	Advocacy and legislation
Can the person be compensated?	State victim compensation programs funded under VOCA	Police report and cooperation; nonhuman offender	Apply; appeal denials; model statute
Can the person prove it?	Evidence rules on hypnosis, experts, physical evidence	Hypnosis rules; stigma (H4)	Contemporaneous records; medical documentation

2. Criminal law

The offense. Federal kidnapping applies to “[w]hoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person” in the circumstances the statute lists, including interstate transport and the special maritime and territorial jurisdiction. 18 U.S.C. §1201(a). State kidnapping, unlawful imprisonment, assault, and sexual-assault statutes are framed the same way. The victim is plainly covered. The offender must be a “whoever” capable of criminal responsibility, and [Issue F2](#) discusses how homicide, torture, and war crimes statutes define their subjects. Even if an NHI were held to be a person, no court could obtain jurisdiction over it, and no prosecution could go forward.

Why a report still matters. A police report serves three purposes. It creates an official, dated record of the event and of injuries observed at the time. It is the usual gateway to crime victim

compensation (§4). It shows that the person sought help through ordinary channels, which matters in later disputes over credibility, competence, or custody ([Issue H4](#)).

The reporter's exposure. Statutes that punish false reports of crimes require knowledge that the report is false. California's statute applies to one who reports to police "that a felony or misdemeanor has been committed, knowing the report to be false." Cal. Penal Code §148.5(a). Statements to federal agents are punishable under 18 U.S.C. §1001 only if knowingly and willfully false. A sincere report of what the person perceived is not a false report, whatever its cause turns out to be. A Westlaw search in October 2026 found no reported prosecution for a false report of a UFO or abduction. Counsel should still advise the client to describe perceptions and injuries plainly, to separate what was seen from what is believed, and to avoid embellishment.

Self-defense. Justification statutes are written for force used against another person. Arizona allows force "against another" when a reasonable person would believe it immediately necessary to protect against "the other's use or attempted use of unlawful physical force." Ariz. Rev. Stat. §13-404(A). If an NHI is not a person, the defender would rely on necessity and on the general rule that force against a non-person threat (an animal, a machine) is judged by reasonableness. Discharging a firearm near a military installation or into the air raises separate weapons and aviation offenses; [Issue F2](#) covers force against craft.

3. Government duties

3.1 Due process

The Due Process Clause does not require the state to protect people from harm by others. *DeShaney v. Winnebago County Department of Social Services*, 489 U.S. 189, 195-97 (1989). A person has no protected property interest in police enforcement of a restraining order. *Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005). Two exceptions matter.

- **Custody.** The state owes a duty to people it holds. This would matter if the government took custody of an abductee after an event ([Issue H2](#)).
- **State-created danger.** Most circuits recognize liability where officials affirmatively placed a person in a danger the person would not otherwise have faced, with deliberate indifference. In the Ninth Circuit, an officer who told a family that the police would warn them before contacting a violent neighbor, then contacted the neighbor without warning, could be liable for the resulting shooting. *Kennedy v. City of Ridgefield*, 439 F.3d 1055 (9th Cir. 2006). Affirmative false reassurance has been held insufficient where officials balanced competing duties in an emergency. *Lombardi v. Whitman*, 485 F.3d 73 (2d Cir. 2007) ([Issue D6 §2](#)).

Applied to abductions, a claim needs an affirmative government act directed at identifiable people: an official assurance to a specific family that nothing was happening, a cover story given to a household that kept it from leaving or seeking help, or ridicule by officials that deterred a specific victim from reporting a repeat event. Silence, and a general policy of secrecy, will not meet the standard.

3.2 Failure to warn under the FTCA

A tort claim against the United States for failing to warn of a known hazard runs into the discretionary-function exception, 28 U.S.C. §2680(a). Decisions about whether and how to warn the public are usually discretionary unless a statute, regulation, or policy prescribed a specific course of action ([Issue D4](#)). A claimant would need a mandatory directive, for example an agency rule requiring notice to people known to have been exposed to a hazard. *Vietnam Veterans of America v. CIA*, 811 F.3d 1068 (9th Cir. 2016) ([Issue H2](#)), shows how a specific regulation can support an order to give notice.

3.3 The Invasion Clause

“The United States shall ... protect each of them against Invasion.” U.S. Const. art. IV, §4. When states sued in the 1990s to recover the costs of unauthorized immigration, the courts of appeals held the claims nonjusticiable or read “invasion” to mean armed hostility by another political entity. *California v. United States*, 104 F.3d 1086, 1090-91 (9th Cir. 1997); *Padavan v. United States*, 82 F.3d 23, 28 (2d Cir. 1996); *Chiles v. United States*, 69 F.3d 1094, 1097 (11th Cir. 1995); *New Jersey v. United States*, 91 F.3d 463 (3d Cir. 1996).

The question returned with Texas’s border measures. A Fifth Circuit panel held in 2025 that a challenge to Texas’s immigration statute was justiciable even though Texas defended it under the State War Clause, which lets a state engage in war when “actually invaded.” *United States v. Texas*, 144 F.4th 632 (5th Cir. 2025), vacated on reh’g en banc, 173 F.4th 659 (5th Cir. 2026). The en banc court vacated the preliminary injunction because the plaintiffs lacked standing and did not reach the clause. 173 F.4th at 667. Judge Ho, concurring, would leave the existence of an invasion to the executive, state or federal, and not to the courts, *id.* at 667-68 (Ho, J., concurring); the dissenters would hold that federal statutes on alien entry and removal remain supreme even when the clause is triggered, *id.* at 731-32 (Richman, J., dissenting). No opinion in the case decides what counts as an invasion. District courts construing the Alien Enemies Act, 50 U.S.C. §21, which applies to an “invasion or predatory incursion” by a “foreign nation or government,” held in 2025 that the statute requires an organized, armed incursion by a foreign nation or government. *J.A.V. v. Trump*, 781 F. Supp. 3d 535 (S.D. Tex. 2025); *G.F.F. v. Trump*, 781 F. Supp. 3d 195 (S.D.N.Y. 2025).

Repeated, organized taking of residents by a nonhuman power would fit those readings more closely than migration does. The clause still gives no remedy to an individual, and a state’s suit to compel federal protection would face the political-question holdings above. Its value is in legislation and in a state’s own emergency powers.

3.4 International human rights law

The International Covenant on Civil and Political Rights protects life (art. 6), freedom from cruel treatment, including medical or scientific experimentation without free consent (art. 7), and liberty and security of person (art. 9). The Human Rights Committee reads article 6 to require states to take reasonable positive measures against reasonably foreseeable threats to life, including threats from private actors. General Comment No. 36 (2018). The European Court of Human Rights finds a violation where authorities knew or ought to have known of a real and immediate risk to the life of an identified person and failed to take reasonable measures within their powers. *Osman v. United Kingdom*, 1998-VIII Eur. Ct. H.R. 3124. The Inter-American Court holds states responsible for failing

to prevent, investigate, and punish violations by actors not directly attributable to the state. *Velásquez Rodríguez v. Honduras*, Inter-Am. Ct. H.R. (ser. C) No. 4 (July 29, 1988). The United States treats the ICCPR as non-self-executing, so these sources support advocacy, foreign proceedings ([Issue F6](#)), and the design of a statute. Concealment of a known pattern of abductions would also engage the right to truth ([Issue A4](#)).

4. Compensation and care

Victim compensation. Every state runs a crime victim compensation program, partly funded by federal grants under the Victims of Crime Act, 34 U.S.C. §20101 et seq. California's program is at Cal. Gov't Code §13950 et seq.; Arizona's is administered under Ariz. Rev. Stat. §41-2407 and Ariz. Admin. Code R10-4-101 et seq. Programs routinely pay where the offender was never identified. *In re Sikute*, 61 Ohio Misc. 2d 512, 580 N.E.2d 520 (Ohio Ct. Cl. 1990) (assault by unidentified assailant); *In re Application of Mines*, 48 Ill. Ct. Cl. 666 (1996) (unknown offenders). They usually require a timely police report and cooperation with law enforcement, and they deny claims for non-cooperation. *In re Application of Oguniana*, 52 Ill. Ct. Cl. 667 (1999).

For an abductee the questions are:

1. whether the police took a report at all;
2. whether the program treats the conduct as “criminally injurious conduct” or a “crime” when the actor cannot be charged. Several programs define the term by the conduct and the hypothetical offender. California covers an offense “that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult.” Cal. Gov't Code §13951(b)(1). Arizona covers conduct that constitutes a crime “regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted,” and conduct that “would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime.” Ariz. Admin. Code R10-4-101(9). Under definitions of this kind, seizing and injuring a person qualifies whoever or whatever the actor was. Ohio defines the term in Ohio Rev. Code §2743.51(C);
3. whether a program will treat a report that officers dismissed as a failure to cooperate.

Applications should include the police report or a record of the attempt to make one, medical records made close in time, photographs of injuries, and witness statements. A denial should be appealed on the ground that the program's text covers injury from conduct that would be a crime if committed by a person with capacity.

A statutory model. The HAVANA Act, Pub. L. No. 117-46, 135 Stat. 391 (2021), pays covered personnel for qualifying brain injuries from “anomalous health incidents” without requiring proof of the cause. [Issue D5](#) §5 sets out a compensation program for UAP-related injuries. Abductees fit within it as a category: documented injury, presumptions for listed conditions on proof of a qualifying event, access to classified records, and review under the APA.

Medical records and their consequences. An abductee who seeks treatment creates records that can follow the person into security clearance reviews ([Issue C5](#) §4.1), custody disputes, insurance,

and employment. [Issue H4](#) covers how a report of an abduction comes to be recorded as a delusion and how to contest that. A federal firearms disability arises only from an adjudication of mental defectiveness or an involuntary commitment, 18 U.S.C. §922(g)(4), and voluntary treatment alone does not trigger it.

5. Proof

Hypnosis. Many abduction accounts were recovered or expanded under hypnosis, beginning with Betty and Barney Hill in the 1960s. Courts differ on hypnotically refreshed testimony.

- A per se rule excluding a criminal defendant's own hypnotically refreshed testimony violates the defendant's right to testify. *Rock v. Arkansas*, 483 U.S. 44 (1987).
- For other witnesses, California excluded hypnotically induced testimony in *People v. Shirley*, 31 Cal. 3d 18 (1982), and now admits testimony about matters recalled and stated before hypnosis if statutory safeguards were followed. Cal. Evid. Code §795.
- New Jersey abandoned the procedural safeguards of *State v. Hurd*, 86 N.J. 525 (1981), and now treats hypnotically refreshed testimony as generally inadmissible in criminal trials. *State v. Moore*, 188 N.J. 182 (2006).
- Other courts apply a totality-of-circumstances test (*State v. Phelps*, 192 Ohio App. 3d 484, 949 N.E.2d 567 (2011)), and military courts admit enhanced or recovered memories only on a showing of reliability (*United States v. D.W.B.*, 74 M.J. 630 (N-M. Ct. Crim. App. 2015)).
- The prosecution must disclose that a witness was hypnotized before trial. *Sims v. Hyatte*, 914 F.3d 1078 (7th Cir. 2019).

These rules arise mostly in criminal cases, but civil courts borrow them, and an opponent in any dispute will use hypnosis to attack an account. The practical rules are to write down or record the account before any hypnosis, to keep complete recordings of any session, and to rely where possible on what the person remembered independently.

Physical and medical evidence. Contemporaneous medical examinations, photographs, and preserved clothing and objects carry more weight than later recollection. Chain of custody should be kept for any object said to have been removed from the body. [Issue D5](#) §3A discusses expert causation testimony under the amended Rule 702, and [Issue D5](#) discusses the *Cash-Landrum* case, where documented injuries failed for lack of proof of who controlled the object.

Government records. Radar, satellite, and other sensor data may corroborate an event. Requests under FOIA ([Form B1-1](#)) and preservation demands should be sent promptly; [Issue A1](#) covers the state secrets privilege.

Credibility. Stigma is the largest practical obstacle. [Issue H4](#) sets out the case law treating abduction reports as symptoms and the arguments for treating a sincere report as an observation to be weighed like any other.

6. NHI as legal actors

Whether NHI are persons with rights and duties is [Issue F1](#). Whether a pattern of abductions is an armed attack justifying force under the UN Charter and domestic war-powers law is [Issue F2](#) and [Issue F6](#). Accounts that the government has agreed with an NHI group to permit abductions in exchange for technology raise a constitutional point worth stating: a treaty or executive agreement cannot authorize what the Constitution forbids, *Reid v. Covert*, 354 U.S. 1 (1957), and no government power exists to consent on a citizen's behalf to the citizen's seizure and injury. [Issue F5](#) discusses agreements with NHI groups.

7. Practice points

1. Write down the account, the timeline, and the physical symptoms as soon as possible, and date the record. Keep it separate from later interpretation.
 2. Obtain a medical examination promptly, describing physical findings and symptoms. Request copies of the records.
 3. Make a police report, or record the attempt and the officer's response. Keep the report number.
 4. Apply for crime victim compensation within the program's deadline, attaching a factual statement, and appeal a denial in writing ([Form H1-1](#)).
 5. Avoid hypnosis before the account is recorded. If hypnosis is used, record every session in full.
 6. Report to AARO through its public channel so that an official record exists, but do not rely on AARO to investigate; the site treats it as part of the concealment ([Issue F4 §2A](#)).
 7. Before seeking mental health care, understand how the records may be used (Issues C5 and H4), and choose providers who will record the experience accurately.
 8. Send FOIA requests and preservation demands for sensor and incident records for the date and place.
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