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Central California's Juvenile/Dependency and Criminal Courts' Treatment of Parent-Child Contact

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Abstract

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JD, University of Houston, Texas, 1992

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Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

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Abstract

Parties to a legal action of child abuse can be prosecuted criminally as well as charged with allegations within the jurisdiction of juvenile/dependency court. This can lead to seemingly conflicting goals regarding contact and visitation between the two parties (victim and defendant; child and parent). In essence, restraining orders or visitation orders from one court can contradict the case goals of another court. The purpose of this qualitative case study was to (a) determine if there is a pattern of inconsistent goals in cases of concurrent jurisdictional child-abuse cases, (b) evaluate the effect of conflicting court orders on each jurisdiction's cases, and (c) examine the ability of these courts to process cases in a timely manner in light of both courts' goals and concerns. Previous to this study, scholarly literature surrounding no-contact orders was limited to domestic violence and criminal contexts. There is no current scholarly research addressing the treatment of no-contact orders in concurrent jurisdiction cases. This study utilized standardized surveys, one-on-one interviews, and observations to evaluate and examine the areas of inquiry. Participants were chosen for their extensive knowledge and professional duties regarding both the juvenile/dependency and criminal court systems. The results of this research indicate that many participants considered these two jurisdictions to maintain contradictory goals, which is particularly problematic in contact/no-contact orders. Participants found the issue of restraining orders in this context to manifest in unfairness, confusion, and delay. A myriad of recommendations are offered in an effort to assist this county, as well as others, in its promotion of fairness to court participants and parties of these concurrent cases.

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Dedication

This dissertation began as I sat in The Honorable Glade Roper's Drug Court as a deputy public defender a decade ago. Judge Roper always had a way of inspiring everyone to do better. So, when I heard the 'airplane' story (as I call it), I asked myself, 'what if I changed my life by one degree for the better…where would I end up in 5 years?' Well, 10 years later, here I am. Thank you Judge Roper, for inspiring me and many others to 'do better.' I am a more confident lawyer, better human being, and more compassionate person as a result of the guidance you projected from the bench.

I also want to make a dedication to my step-father, who is no longer here, Thomas C. Moore. Quite frankly, he provided the financial means to see this project to its finish. He also supported my confidence, spunk, and tenacity–three characteristics that were necessary to see this dissertation to the end.

Greg Spano is my husband. What more can I say; family suffers the ups and downs as the researcher goes through the dissertation process. Without his love, kindness, and understanding (and, sometimes fun and silliness), I wouldn't have made it. Thank you Greglette; I love you.

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This dissertation would not exist without the guidance of my committee: Dr. Deborah Laufersweiler-Dwyer, Dr. Robert Spivey, and Dr. Melanie W. Smith. Thank you all for committing to this project, staying with it, and all the expertise and value you added to it. I want to give a special thank you to Dr. Laufersweiler-Dwyer: there were many moments I needed her extra cheer, words of confidence, and motivation. She was the glue that kept this project together.

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Throughout the last 10 years, there are many people who had a substantial influence on my ability (and attitude) in completing this dissertation. I want to acknowledge the offices of The District Attorney's Office and The Probation Office. Because the county must remain confidential, I cannot reveal these names. However, without their assistance, this research would lack a large piece of information and analysis.

Mike Sheltzer, now Judge Michael Sheltzer, was a 'chief,' 'mentor,' and 'friend' as this project took shape. Thank you for your support.

Jill Jameson, Inna Petrovsky, and Erin Brooks always had to hear about the trials and tribulations. Thanks for understanding my emojies and responding to my numerous texts to vent.

I also want to acknowledge a classy lady and respected judge, Judge Juliet Boccone. I was lucky enough to be assigned to her courtroom when I first made my move to this county; her energy and enthusiasm made transitioning here much easier.

Thank you to David and Jamie Allen - I have made new friends, learned a new body of law, and found an area of study for this PhD – all that would not have happened without your belief in me. Thank you so much.

Thank you to Judge Gary Paden for assisting in bring agencies together for this study and your enthusiasm for this topic.

To all the participants: this dissertation would be nothing without you. Thank you for taking the time, and thoughtfulness in your responses, to make this a meaningful study; your encouragement and support were invaluable.

To all my friends and family. I know I have missed many events, had only 'dissertation' on my mind, or needed to vent or talk about this project ad nauseum. Thank you for your patience and listening.

I want to acknowledge all the hard-working court participants, from judges, to court clerks, to public defenders, to social workers, to county counsel, to probation officers, to court reporters, to court deputies to treatment providers to prosecutors. There are many, many, more that make our courtrooms work. I have had the privilege of working with all of you and it has been my pleasure.

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Chapter 1: Introduction to the Study

The following chapter will provide a summary of the presented study. In essence, to understand the importance of this study, and its potential positive impact on local and statewide communities, it is vital to recognize how no-contact orders in the concurrent jurisdiction occur. It is also valuable to detail the parameters of the case study approach and theoretical approach of procedural justice and why these approaches were considered and utilized in this research. Particular details are provided as to background information, limitations, and definitions are also provided in Chapter 1.

Background

According to the U.S. Children's Bureau, more than 3,358,000 investigative welfare services were received by children in the United States in 2015 (U.S. Department of Health & Human Service, 2017). Of these investigative services, the Children's Bureau believes that approximately 700,000 children were victims of maltreatment, including neglect, physical abuse, and sexual abuse (U.S. Department of Health & Human Service, 2017). The legal cases that arise from these investigations may be processed as a juvenile/dependency cases, criminal cases or both (Jong & Rose, 1991; Sheppard & Zangrillo, 1996; Spraugue & Hardin, 1997; Stroud, Martens, & Barker, 1999; Whitcomb & Hardin, 1996).

As abhorrent as any form of child abuse is, not all cases of child abuse are prosecuted in criminal courts (Cross, Walsh, Simone, & Jones, 2003; Stroud et al., 1999). Reasons vary regarding whether criminal charges are filed, and whether a case proceeds to trial—both being different stages in the criminal process (Cross et al., 2003; Stroud et

al., 1999). Some considerations are the lack of or insufficiency of evidence, credibility of victims and witnesses, availability of witnesses, corroborating evidence, the child's family's standing in the community, and the district attorney's charging criteria (Sedlak et al., 2005; Stroud et al., 1999).

As seen throughout California, Central California county courts sometimes oversee parent-on-child child abuse cases in two separate judicial jurisdictions at the same time (known as concurrent jurisdiction). The criminal court presides over criminal charges brought by the district attorney—charges that have arisen out of acts of alleged child abuse—while the juvenile/dependency court presides over actions brought by the county's child protection agency for the same alleged conduct. Both courts have jurisdiction over contact between parent (defendant) and child (victim). Sometimes these contact orders are referred to as restraining orders, stay-away orders, or visitation orders. However, each court may have different motivations and statutory policies, face differing legal arguments by counsel, and utilize differing information in deciding the provisions of these contact orders.

In this qualitative case study involving data from a county in Central California, the research involves both criminal and juvenile/dependency courts, and their decisions to allow or restrict contact between parent and child in cases where both courts share jurisdiction yet act independently of one another. For this study, I evaluated data from a standardized survey, one-on-one interviews, and court observations.

Problem Statement

In the criminal prosecution of a child-abuse case and intervention for child welfare, contact between parent and child (defendant and victim) can be handled in different ways. Criminal prosecutors usually request and receive a no-contact order from the court (Sheppard & Zangrillo, 1996; Whitcomb & Hardin, 1996). In a juvenile/dependency matter, visitation is often encouraged (*Hoversten v. Superior Ct*., 1999). These conflicting positions can be detrimental to the progress of each case and frustrate the legislative intent of each jurisdiction (Sheppard & Zangrillo, 1996; Whitcomb & Hardin, 1996).

While previous research provided some comparative analysis of the issues that arise in concurrent-jurisdiction cases, researchers have not evaluated the problems related to conflicting contact orders. The topic is important due to the limited time available for parents to reunify with children in juvenile/dependency cases and the eroding effect the lack of visitation can have on the bond between parent and child (which can impact a parent's position in a juvenile/dependency case) (Cal.Welf & I.C. 366.26; In re Breanna S., 8 Cal. App.5th 636 (2017)). On the other hand, contact between parent and child in a criminal child abuse case may be seen as problematic from a prosecutor's perspective (i.e. concerns with victim/witness intimidation and duress) (Long, Mallios, & Murphy, 2010). The question of how to balance these two interests has yet to be investigated in the social science literature.

A secondary issue is the gap in the literature pertaining to the issuance of restraining orders solely for reasons of child abuse. However, in both a child-abuse case

and a domestic violence case, there is a victim and a perpetrator and, many times, an injured party and a batterer. Child abuse and domestic violence cases can fall under the same umbrella with parallel victims, perpetrators, and injuries. Many forms of domestic violence include child abuse; it can even be a form of child abuse to expose children to domestic violence (Herrenkohl, Sousa, Tajima, Herrenkohl, & Moylan, 2008).

This study includes a summary of when, and under what circumstances, restraining orders (no-contact orders) are issued between a parent and child. This information is provided in an attempt to build an understanding of the use of criminal and/or civil restraining orders between parent and child.

Purpose of the Study

Criminal child-abuse cases and juvenile/dependency matters can be heard concurrently, but independently (Jong & Rose, 1991; Martell, 2001; Sedlak et al., 2005; Sheppard & Zangrill, 1996; Spraugue & Hardin, 1997; Whitcomb & Hardin, 1996). However, many times the goals of these jurisdictions can be at odds, which can materially impact the issue of contact between child and parent. Specifically, the criminal court matter will restrain parties, whereas the juvenile/dependency matter may encourage some visitation between child and parent (Spraugue & Hardin, 1997; Whitcomb & Hardin, 1996).

The purpose of this qualitative case study is to understand the process of the criminal court and the juvenile/dependency court participants' policy goals, experiences, observations, and ideas regarding the issuance of contact orders (or no-contact orders). Additionally, I examined whether these orders have any detrimental impact on the

progress of either jurisdiction's case progress and whether the practices in process are fair and equitable from the standpoint of the participants.

To collect data for this study, I used a standardized survey, in-depth interviews, a focus group, and observations. Participants included criminal and dependency judges, prosecutors, defense attorneys, and probation officers. This research reveals a clear and compelling public policy issue: Two different legislative agendas may frustrate each court's attempts to pursue its policy mandates and statutory purposes.

Contrary legislative mandates can result in contradictory rulings by the judiciary, giving rise to problems in providing clear guidance for lawyers, and creating difficulties following through on probation/social service recommendations to the courts. The nature of this issue can also have a significant impact on the outcome of the underlying cases: denying parents vital visits with their children, which can in turn affect their parental rights, or impact a prosecutor's ability to rely on and/or protect a victim-witness (Cal.Welf & I.C. 366.26; In re Breanna S., 8 Cal. App.5th 636 (2017); Long, Mallios, & Murphy, 2010) .

From a financial point of view, wasting time and resources due to contradictory court rulings arising out of mismatched legislative mandates is another serious problem. Misused funds take a serious toll on vital county services. This study provides evidence that illuminates an ongoing dilemma, as well as provides clarity to the issue.

Case Study

This is a qualitative case study. A qualitative study may be used to thoroughly investigate a phenomenon. The qualitative approach can express findings with rich and

colorful values, beliefs, and perspectives (Cypress, 2015). Because of the bounded nature of these two court systems and the descriptive nature of the phenomena to be explored, a qualitative case study design was chosen. Scholars have engaged in extensive dialogues attempting to clarify the components of a case study (Levy, 2008). In short, a case study is "an in-depth exploration from multiple perspectives of the complexity and uniqueness of a particular project, policy, institution, program or system in a 'real life' context" (Thomas, 2001, p. 512). Often, a researcher uses a case study approach to obtain a rich exploration of a phenomenon in its natural environment (Crowe et al., 2011; Yin, 1999). Case studies can provide comprehensive, illustrative, and investigative information and content about a program or operation (Yin, 1999).

Because information is gathered from multiple data sources (e.g., interviews, observations, documents), the design of the case study allows these multiple sources to contribute to the concept of the whole (Baxter & Jack, 2008). Data sources can take the form of questionnaires, interviews, focus groups, and observations (Crowe et al., 2011; Yin, 1999). As the data are banded together, ideas are supportive of one another, convergence occurs, and findings are strengthened (Baxter & Jack, 2008). Multiple sources of data coming together to strengthen a given conclusion is referred to as "data triangulation" (Crowe et al., 2011; Yin, 1999). Multiple sources of valid evidence can only benefit a case study and assist with convergence and triangulation. (Kohlbacher, 2006). Triangulation is also a means of internal validation (Crowe et al., 2011; Yin, 1999).

In essence, the case study brings "the case," not the individual pieces of data, into focus (Thomas, 2011). One scholar defined a case study as "an intensive study of a single unit for the purpose of understanding a larger class of (similar) units" (Gerring, 2004, p. 342). When case studies are performed using appropriate techniques for reliability, validity, and rigor, they can shed light on causal issues within the case study (Gerring, 2004). Because the phenomena are studied in a real-life context (viewing different aspects of relationships and contextual nuances), a case study offers clarity for the what may be the cause of a problem and may provide a more in-depth explanation of what those cases may mean (Flyvberg, 2006). Yin (2009) stated that case studies "explain, describe, or explore events or phenomena in the everyday contexts in which they occur" (Yin, 2009, p. 7).

This study is limited to the interaction of a Central California county's criminal and juvenile/dependency system. I applied a qualitative analysis to those cases shared between the two jurisdictions and in which visitation or no-contact rulings have been issued, with a special emphasis on instances in which contrary orders have been issued to the parties by the two separate jurisdictions. By utilizing a case study, I provided the context in which the set of events occurs and describe the human behaviors (as well as technical reasons) surrounding the phenomena (see Meyer, 2001).

This approach also assists in shedding light on judicial inequities that result from this process. In other words, does one system's goals cause such detriment to another that the sense of judicial fairness is eroded? And, if this unfairness is found, is there a reasonable, applicable, and acceptable remedy? The case study can be used to explore

situations in which proposed solutions or interventions may have multiple outcomes (Herold, 2018), so this was a fitting approach for the current study.

Research Questions

The criminal prosecution of child abuse cases can exist at the same time that a juvenile dependency case is ongoing (Sedlak et al., 2005; Whitcomb & Hardin, 1996). Some policy goals match up, whereas others do not. For the most part, the treatment of these cases differs in each court (i.e., jurisdiction). The focus of the criminal treatment child abuse is to prosecute or punish the perpetrator of a bad act. In the case of a juvenile/dependency case, the same acts may be treated with rehabilitation and treatment modalities (Sedlak et al., 2005; Whitcomb & Hardin, 1996).

The research was conducted to explore three areas of inquiry: If there are conflicting orders concerning contact between parties, (a) how are they perceived by the parties they impact, (b) what is the reaction to the orders by the parties impacted, and (c) how are the relationships between the parties impacted affected?

To address these research questions, I explored whether there are statutory, policy, and case goals in each court system that produce opposing decisions in the area of restraining or contact orders, and how these court orders are produced through these concurrent jurisdictions.

At the conclusion of the study, I evaluated whether the outcomes of these contrary orders are unforeseeably detrimental to participants, case goals, and the community at large and, if so, whether there any reasonable and appropriate alternatives.

Theoretical Foundation

The theoretical foundation affects many aspects of research. It affects what questions are asked, how phenomena are observed, what and how data are tested, and how data are interpreted (Kraska, 2006). In the social sciences, the use of theory can provide guidance in "making sense of a complex social reality" (Albert, Kuper, & Hodges, 2008, p. 6). The theoretical foundation of this study is a social-justice construct. For this study, the role of social justice theory assists in giving meaning to observed data and translating the findings into practice and policy (Bradbury-Jones, Taylor, & Herber, 2014).

Historically, and from a macro point of view, social justice encompasses ideas of equality, freedom, civil liberty, and the distribution of rights, responsibilities, and resources attached to each of these concepts. (Cook & Hegtvedt, 1983; Reisch, 2002). Aristotle considered the concept of justice as the underlying principle that kept social order, regulated the distribution of resources, and triggered disputes when there was perceived injustice (Reisch, 2002).

The Hobbesian concept of justice, taken from Thomas Hobbes' work, *Leviathan,* includes the understanding that the state (i.e., government) is necessary to enforce laws, social norms, and distribution equity (Saintevic, 2016). Otherwise, according to Hobbes, people tended to act in a state which was "lawless, cruel, and savage" (Saintevic, 2016, p. 1). Hobbes referred to this inherent agreement between people and their government as the social contract (Saintevic, 2016). A citizenry's common security, or social equity and justice, is promised through the social contract, even as some individual liberties may be

lost in exchange (Inter Quest Introducing Great Philosophers: Thomas Hobbes: Social Contract, 2002).

John Stuart Mill was another seminal social justice philosopher. Based on a utilitarian concept, Mill theorized that society achieves the highest levels of liberty, security, and equality when there is equal access to opportunity, law, and treatment to all members of that society (Clark & Elliott, 2001).

One of the most preeminent modern social justice theorists/philosophers was John Rawls (Wenar, 2017). Throughout his writings, Rawls supported the idea that people of a community are reasonable, interested in cooperation, and are willing to abide by "mutually acceptable rules" (Wenar, 2017, p. 5). Working off the concept of a citizenry accepting societal rules and norms, Rawls conceptualized a minimal justice standard that may be legitimate, but not fair. However, Rawls held that justice that is fair is the maximum standard and morally best (Wenar, 2017). Rawls premised this opinion on the foundation that all citizens should have basic rights and liberties accorded to all equally. Moreover, Rawls acknowledged that "society's basic structure has profound effects on the lives of citizens" (Wenar, p. 10). We see that idea play out in the current matter wherein the institution of courts, government agencies, and rules and obligations to these have a significant effect on people's lives.

When speaking of social justice, concepts such as distributive justice, equity justice, and procedural justice are all foundationally important. For the purposes of this study, the concept of procedural justice is most relevant to concepts of due process and equal access to governmental services (in this case, the court system). Modern

commentary regarding procedural justice, as it applies to social justice, is most closely aligned with the core of this research.

Procedural justice can be defined as "perceived fairness of [the] decision-making process" (Bies & Shapiro, 1988, p. 676). Procedural justice is known as the evaluation of the "fairness of the mechanism or procedures involved" (Cook & Hegtvedt, 1983, p. 219). Theorists contend that procedural justice is "the use of fair procedures by legal authorities promotes legitimacy, and that legitimacy encourages a healthy and mutually reinforcing relationship between the legal system and the public because it motivates voluntary compliance and cooperation" (Trinkner, Jackson, & Tyler, 2018, p. 280).

Pioneering researchers Thibault and Walker explored the idea of litigants being satisfied with dispute resolution, even if the litigants were not the "winners" in litigation, when litigants perceived the process to be fair (Blader & Tyler, 2003; Tyler, 1988). This finding was based on research that reflected that individuals wanted some amount of control during legal proceedings–referred to as control over process (i.e., opportunity to be heard) and decision control (i.e., having impact on the outcome; Bladder & Tyler, 2003; Tyler, 1987; Tyler, 1988).

Regarding process-control, researchers, following Thibaut and Walker's work, found that the majority of people consider proceedings that allow participants to communicate, versus those that do not allow participants to be verbal, to be the fairest (Bies & Shapiro, 1988; Greacen, 2008). Current research has applied these findings to a variety of settings, such as, legal, administrative, work place, organizational, police-citizen interactions, and political (Blader & Tyler, 2002; Trinkner, et al., 2018). When

participants are able to have a voice during proceedings (whatever those proceedings may be), those participants feel they have some understanding of the decision-maker's intentions, motives, and reasoning (Bies & Shapiro, 1988).

The opportunity for people to participate in decision making supports a perception of fairness, and this perception has broad impact.

According to Tyler and Smith (1995),

> Poorly resolved disputes can threaten enduring relationships. The use of procedures regarded by all parties as fair facilitates the maintenance of positive relations among group members and preserves the fabric of society, even in the face of the conflict of interest that exists in any group whose members want different things. (p. 12)

Leventhal (1980), another pioneer in the area of procedural justice research, found that if the decisions of justice were consistent in their application, lacked bias, were high quality, accurate, correctable (if a mistake was found), the parties were represented (involvement), decisions were fair and moral, and individuals considered them fair. Leventhal's research seems to include both process and decision control aspects (Tyler, 1988). For example, Leventhal argued that

> Concern about procedural fairness [as opposed to the decision fairness] is often suppressed when an individual is anxious to control the behavior of persons who are believed dangerous . . . the system satisfies the few needs it is supposed to . . . imposes consistent, stable rules of fair procedure and fair distribution. (pp. 38–40)

Leventhal's emphasis applying procedural justice on outcomes is referred to as *decision control* (Tyler, 1988).

Yale Law School Professor, Tom R. Tyler, wrote extensively on procedural justice (Yale Law School, n.d.). He applied Thibaut and Walker's theory to the employment setting, law enforcement, and the court system (Blader & Tyler, 2003; Trinkner et al., 2018; Tyler, 1989). Tyler used procedural justice research to examine its effect on the legal socialization process, determine what perceptions of procedural justice give rise to fairness, and explore the necessity for procedural justice (Blader & Tyler, 2003; Trinkner et al., 2018; Tyler, 1987; Tyler, 1988). In his findings, Tyler (2018) established several key concepts. One is that individuals give authority to others (i.e., police and the courts) due to a shared belief that procedural justice imposes dictates that individuals be treated with "respect and dignity," and decisions are made in an "open, transparent, and neutral" manner (Tyler, 2018, p. 281). By deferring to authority figures and/or institutions, individuals give legitimacy to those figures and define social rules (Tyler, 2000). Second, Tyler (1989) applied the group-value model—that people identify with particular groups, whether political, familial, or social—and found that these group identifications can have an effect on how procedural justice is perceived. Third, although researchers found that people associate a variety of characteristics with procedural fairness, Tyler concluded that the following four are fundamental to perceptions of procedural justice: (a) participation in the process, (b) neutrality of the authority figure, (c) trust in the authority to be fair, and (d) treatment with dignity and respect (Greacen, 2008; Tyler, 2000). Lastly, Tyler offered a four-component approach to conceptualize

procedural justice in the employment environment (Blader & Tyler, 2003). This paradigm extends the research of procedural justice into (a) how decisions are made, (b) quality of treatment, (c) formal rules and structure, and (d) informal rules–previous experiences of a group or individual. Tyler's model offers another way to apply individuals' experiences with procedural justice. When applying these elements to particular procedural justice events, researchers can better find the answer to why and what make decisions fair (Blader & Tyler, 2003).

In the United States today, justice between the powerful and the powerless is primarily sought through the courts (Dziech & Schudson, 1989). Thibaut, Walker, Leventhal, and Tyler's research can be applied to court participants' perception of justice.

Most of the time, one court does not have to concern itself with what another court is doing. However, in the case of concurrent jurisdiction, each court's orders can impact issues in the other court. Because of this, as well as differing intentions in each court, unintended conflicts can result. If there is no mechanism to resolve the conflicts, results can seem inequitable. Thus, the court, and its intent in the pursuit of justice, can lead to unintended consequences.

Determining whether there are any inequities within a particular process (i.e., the judicial process) requires understanding that process and what properties of that process are considered fair and unfair. Applying the procedural justice theory to this data can assist in understanding the "wider significance and applicability" of these findings, which, in turn, may translate into significant policy changes (Albert et al., 2008, p. 7).

Nature of the Study

Court treatment of child abuse and family dependency reverberates throughout a community at large. The outcomes of these cases touch not only the participants, but also family, schools, law enforcement, and many other critical components of a community. Additionally, the issue of communication between a child and parent can trigger other psychological and legal issues. This is an area in which to promote fairness, consistent strategies, and advance policy goals to maintain community health. Although criminal and juvenile/dependency policies may not advance similar goals, there should be a consistent pursuit of equitable treatment of parents who have concurrent jurisdiction cases. If one jurisdiction's court orders have the end result of undermining a party's entire case in another jurisdiction, judicial equity has clearly been destroyed. This study provides an examination of why and how these judicial inconsistencies may be better managed.

Child abuse is a community concern. It impacts societies at large through criminal conduct and leaves families broken. Providing ways to improve current court policies to better serve the needs of communities may lead to improved outcomes for all involved in these legal processes.

Definitions

Case plan (also known as *court-ordered services and reunification plan*): A comprehensive list and description of services and goals which child welfare services recommends for the purpose of reunification between parent and child (California Rules of Court, 5.5.502(8)).

Child protective services/child welfare agency: "social services agency designated (in most states) to receive reports, and conduct investigations and assessments, and provide intervention and treatment services to children and families in which child maltreatment is reported to have occurred" (Child Welfare Information Gateway, 2016, p. 8).

Juvenile/dependency court: A court of law that has specialized jurisdiction over cases involving children and families of dependent children; in California, these are Superior Courts (Juvenile Law Center, 2018).

Permanency planning: The philosophy of taking clear, and timely action to provide children in the child welfare system with an alternative to indefinite foster placement. This can mean reunification with family or adoption (Maluccio & Fein, 1983; Timmer, Urquiza, & Zebell, 2006).

Termination of parental rights: "The discontinuance of biological parent's rights that, when court-approved, enables a youth to be adopted. A parent whose rights have been terminated surrenders the right to access any information regarding the child, the right to make decisions about the youth's education or medical treatment, and the right to visit the youth" (Juvenile Law Center, 2018).

Assumptions

As part of any scholarly research or study, assumptions about underlying norms and shared beliefs are included without specific proof or supportive documentation. These assumptions can include particular beliefs, understandings about the application of known standards, relationships between the participants, and even the nature of the

problem studied (Mertens, 2016; Nkwake & Morrow, 2016). Other concepts included in assumptions are those "we make when we construct knowledge about the nature of many fundamental concepts that we use in our work like causation, generalization, and truth" (Mertens, 2016, p. 103).

I made several assumptions for this study. First, it can be assumed with great confidence that the participants to this study answered questions honestly and to the best of their ability. The participants had no motive to misrepresent facts or opinions. All participants were professionals who have extensive knowledge in the area of study. Additionally, any concerns about confidentiality or anonymity were respected, enabling participants to speak freely. Moreover, several participants (most notably, judges and attorneys) have ethical obligations to be truthful in their professional capacity. These participants were included in this study in their professional capacity.

Another assumption made is that parents want to reunify with their children and want to visit with their detained (i.e., removed) children under any and all circumstances. Of course, common sense reveals that people say one thing and do another (e.g., parents may say they will do anything to reunite with their children, but they do not engage in a case plan or visitation). However, for purposes of this research, whether a parent actually engages in a juvenile/dependency case plan and visitation is irrelevant. The issue is whether the option of visitation was offered yet prohibited by a criminal protective order. This study does not evaluate whether the visitation was attended, if the parent was appropriate during visitation, or whether visitation was later terminated. Thus, I assumed

that, if visitation is part of a juvenile/dependency case plan, the parent would want to participate.

A third assumption is that there is no comprehensive protocol, memorandum of understanding (MOU), and/or standard operating procedure in effect at the time of this study to coordinate concurrent jurisdictional child abuse cases in the court system under study. Lastly, this research includes the assumption that case planning and recommendations by the child welfare agency social workers meet criteria set forth in *California Welfare & Institutions Code*, Section 300 et al. and their normal internal policy considerations.

Scope and Limitations

There are several areas of law, social services, child development, and history that this study includes in an attempt to provide adequate background information. These areas of limited research are presented in the context of the instant research. The focus of this research is the occurrence and consequence of conflicting contact and visitation orders when both criminal and juvenile/dependency courts hear child abuse cases. Many areas of interest are involved in the development of this particular issue. However, the inclusion of these areas is not to be perceived as a full reflection of these topic areas. For instance, I does not propose to provide a complete overview of the legislative history of child welfare services. Additionally, as important as the topic of child abuse is to this study, a full exploration of child abuse and all the components of it are not included (e.g., psychological, legal, social). Included is the legal definition and the treatment of child abuse between the two courts (criminal and juvenile/dependency).

The procedures and policies of child welfare/protection services are particularly relevant to this study. A limited amount of investigation into court procedures (including the corresponding California Welfare & Institutions Code) is included. The background information for this study does not include all procedures involved in the investigation and court processing of child maltreatment cases. Although the research for this project includes information about the topic of confidentiality, it is included only as a means to give an understanding of the way it impacts information sharing and is not intended to be comprehensive. Additionally, this study is limited in its explanation and coverage of all procedures, considerations in the investigation and case filing of criminal child abuse charges.

Significance of the Study

Court treatment of child abuse and family dependency reverberates throughout a community. The outcomes of these cases not only touch the participants, but also family, schools, law-enforcement, and many other critical components of a community.

The issue of communication between a child and parent often triggers psychological and legal issues. This is an area that requires consistent strategies and policy goals that strive to maintain community health. If conflicts between criminal and juvenile/dependency policy goals do hinder overall social justice goals, this study provided an examination as to why and how these inconsistencies arise and how they may be better managed.

As courts deal with child abuse criminally and through the juvenile/dependency system, many aspects of family, community, policy-making are triggered. Court

participants, communities, and law makers, attempt to better serve the public. As part of the discussion, contact between parent and child is an important issue/concern.

Understanding the motives, intentions, and goals surrounding restraining orders issued between family members in these circumstances (i.e. concurrent jurisdiction cases) can have wide-ranging policy implications. In other words, an evaluation of these issues in a court in Central California may be used and applied throughout California and other states.

Moreover, these are the days of evidence-based policy making (Pew Charitable Trusts, 2014; Sanderson, 2002). Evidence-based policy making demands that government entities show improvement by data and/or evidence (Sanderson, 2002). Sanderson (2002) described evidence-based policy making as "what matters is what works" (p. 3). As explained in "Evidence-Based Policymaking: A Guide for Effective Government,"

> Evidence-based policymaking uses the best available research and information on program results to guide decisions at all stages of the policy process and in each branch of government. It identifies what works, highlights gaps where evidence of program effectiveness is lacking, enables policymakers to use evidence in budget and policy decisions, and relies on systems to monitor implementation and measure key outcomes, using the information to continually improve program performance. (Pew Charitable Trusts, 2014, p. 2)

With this study, I hope to provide ample, in-depth data and evidence by which these Central California courts may find if it is currently implementing the best procedural practices and explore policy changes it deems appropriate.

Chapter 2: Literature Review

In order to begin to fully understand all the components of this study, it is crucial to appreciate the rational of each jurisdiction and the reasons why the criminal venue may seek to restrain parties, while the juvenile/dependency may seem to promote contact between them. Also important is to be aware of the underlying history of both the child welfare agency and criminal prosecution agencies. Both these areas of comprehensively covered in Chapter 2.

There is no scholarly literature available on the specific issue of 'no-contact/contact orders in concurrent jurisdiction cases,' however, there is an ample amount of other relevant sources which impact the outcomes of this issue. Those literature sources are also provided and reviewed in the following chapter.

Literature Search Strategy

For the literature search for this study, I consulted Walden University's library and was assisted by Walden's library staff. The electronic databases I used included Academic Search Complete, Criminal Justice Databases, ERIC, Expanded Academic ASAP, Findlaw, LexisNexis Academic, ProQuest Central, Sage Journals, Thoreau Multi-Database Search, and Walden Library Books.

Additional internet searches included Google Scholar, The United States Social Security Administration, HHS.gov, National Institute of Justice, and New York Society for the Prevention of Cruelty to Children. Searches in both Walden's electronic databases and the internet were not time limited. Several studies critical to this research were

developed in the 1970s and 1980s. However, the most recent developments in the literature have also been incorporated.

Key search terms included the following: child abuse and restraining no-contact (or restraining orders), juvenile court and visitation, criminal no-contact (or restraining orders), juvenile court and child welfare services and child abuse, history and child abuse, child abuse and crime, and domestic violence and child abuse.

Background of Child Welfare Agency and Criminal Prosecution of Child Abuse

History of Children as Property

The issue of child abuse has always existed in the United States. The acceptance of physical, emotional, and sexual abuse has permeated both European and American history (Dziech & Schudson, 1991; Messing, 2011). Legal constructs going back to the Roman legal code (e.g., *patria potestas*, which considered children to be chattel and property) laid the foundation for this complex and difficult societal issue (Bogacki & Weiss, 2007; Dziech & Schudson, 1991; Levy, 1953; Pfohl, 1977).

Sexual abuse of children was rampant throughout Greek and Roman societies (Dziech & Schudson, 1991; Gray, 1993). Although by the time of the Renaissance children had more protections, attitudes toward sexual abuse and children have been described as "ambivalent;" according to one scholar, "[t]hey were told they must keep adults from molesting them" (Gray, 1993, p. 7).

Adding to the complex nature of the history of child treatment and intervention is the notion (based, again, on ancient principles that gained legal acceptance) that parents had inalienable rights towards their own children. These rights include the parents' right

and duty to discipline their children (Pfohl, 1977). In the Middle Ages, it was common to use whipping as a form of punishment, utilizing tools such as a cat-o'-nine tails, shovels, canes, or iron and wooden rods (Dziech & Schudson, 1991). Additionally, the idea of government intruding into the lives of families, especially on the issue of parenting, seemed extreme (Pelton, 1987). This produced a lack of legal involvement in cases of child beating until there was a death involved (Dziech & Schudson, 1991).

As the centuries progressed, child treatment did not improve. Throughout the 1800s, whipping a child was readily accepted as means of punishment. This meant the possible use of a buggy whip or tree branch, with the child's hands tied (Pleck, 1987). Sexual assaults on female children were both psychologically and physically damaging as many of these assaults were perpetrated by their own fathers and uncles (Pleck, 1987). Although many jurisdictions in the United States were authorized to prosecute abuse as child neglect, they failed to go forward. (Pleck, 1987). Rather, abuse was justified as necessary punishment (Pleck, 1987).

Religious zeal in the 17th century turned severe punishment into something that was considered "sacred" and essential to child-rearing (Pfohl, 1977, p. 311). Privacy rights of the family also trumped any concerns over maltreatment of children in the 19th century (Pleck, 1987). Another factor contributing to a lack of compelling concern for children's health and welfare was the fact that, before the 19th century, most children were not expected to live beyond age 5 due to disease (Poole & Lamb, 1998).

Historically, children have been victims of sex and exploitation (without legal consequences) until modern times. During ancient times (the Greek and Roman Periods),

"children who survived infancy were frequently sold or used as security for debts and political hostages… sexual abuse of children was common" (Dziech & Schudson, 1991, p. 42-43). Later in history, Europe was filled with brothels full of young girls, and it was not uncommon for men to marry girls as young as 13 (e.g., Edgar Allen Poe; Dziech & Schudson, 1991; Semtner, 2014). The appetite for child prostitutes has only grown bigger and more advanced through the twentieth century (Dziech & Schudson, 1991).

Attempts to place limits on the freedom to injure children in the name of property rights and parental discipline were seen throughout the United States from the early 1800s to the early 1900s (Messing, 2011; Myers, 2008). The first wave of these efforts came from individual state prosecutions of parents who murdered their children, sexually abused them, or had beaten or neglected them, including slave children and children who were placed with relatives acting as caregivers (Myers, 2008; Pfohl, 1977).

Private Interventions

Although the defense of allowing parents to raise children as they deemed appropriate, even if this led to death, was fading, the only organized system of child protection was that overseen by the New York Society for the Prevention of Cruelty to Children (NYSPCC) beginning in 1875 (McGowan, 2005; Pfohl, 1977).

Interestingly, the case that led to the formation of the NYSPCC reads like a modern-day child welfare removal case. In a New York neighborhood called Hell's Kitchen, a church worker was informed out about a child, Mary Ellen, undergoing horrible cruelty (Costin, 1992). The church worker notified the man who had founded the American Society for the Prevention of Cruelty to Animals (ASPCA) in 1866, Henry

Bergh (McGowan, 2005; NYSPCC, 2017). With Bergh's assistance, the ASPCA was able to obtain legal standing on behalf of Mary Ellen and intervene for her in the court system (McGowan, 2005; NYSPCC, 2017). "Within forty-eight hours of . . . the initial reporting, an investigation was conducted, a petition filed, a protective removal effected, a hearing commenced, a temporary placement arranged, and a criminal prosecution initiated" (NYSPCC, 2017, p. 2).

Government Action

America was experiencing accelerated industrial growth and increasing immigrant populations at the time the NYSPCC was founded. Communities were balancing learning new cultural norms while being threatened with the downside of industrial capitalism: unemployment, crime, overcrowding, and lack of protection for vulnerable populations (Gordon, 1985). Times of economic struggle tend to lead to a decline in the quality of care children received (Poole & Lamb, 1998). Thus, society's interest in these years of a child's life was marginal due to inability to significantly change outcomes (Poole & Lamb, 1998).

Into the early 1900s, hundreds of chapters of NYSPCC and other nongovernmental organizations were operating throughout the United States in a quasijudicial capacity to remove children from dangerous homes (Meyers, 2008). In 1899, the first juvenile court was created in Chicago (Costin, 1992; Meyers, 2008; Pelton, 1987; Pfohl, 1977). Juvenile courts were given jurisdictional authority to intervene in cases of child abuse and neglect (Costin, 1992; McGowan, 2005; Meyers, 2008).

In the late 19th and early 20th centuries, a number of legal protections for children emerged. For example, legislation was growing to protect children in factories and other work environments during the late 1800s (Poole & Lamb, 1998). In addition, the federal government developed legislation in 1912 establishing the U.S. Children's Bureau (Social Security Administration, 2017). The key for child welfare in this legislation was the focus on investigating and issuing reports "upon all matters pertaining to the welfare of children and child life among all classes of our people" (Social Security Administration, 2017).

A 1930 White House conference also outlined issues of additional forms of abuse and neglect discovered by welfare agencies: "failure to provide sufficient food, suitable clothing, proper living conditions, needed medical and surgical treatment, and the exposure of children to immorality and immoral conditions" (Costin, 1992, p. 184). Thus, the concept of child maltreatment and abuse was expanded dramatically.

The early 1900s saw America experiencing both private and government intervention in efforts to protect children from cruelty. Although the Great Depression brought widespread economic disaster to both the public and private funding for child protective services, the Social Security Act of 1935 authorized federal grants to states to establish and maintain child welfare services (Meyers, 2008; Murray & Gesiriech, 2004). One such grant of the Social Security Act was Title IV, known as *Aid to Dependent Children* (ADC), which assisted states in support of their own "aid-to-mothers" laws (Gordon & Batlan, 2011). The authors of the ADC bill wanted "to provide aid to all children whose mothers lacked support of a breadwinner" (Gordon & Batlan, 2011, p. 1).

Efforts to prevent child maltreatment were bolstered indirectly by other federal programs such as ADC and maternal and child health programs funded by the Social Security Act of 1935 (Thomas, 2012).

In 1946, the Children's Bureau was moved under the umbrella of the Social Security Administration with the hope that the transfer would strengthen child-care programs (Social Security Administration, n.d.). The first federal policy manual for states was published by the Children's Bureau in 1951, and was followed by training (Thomas, 2012). Although these were positive steps, they were falling short. A pivotal study in 1956 by the Director of the Children's Division of the American Humane Association revealed that there was a significant decline in nongovernmental agencies providing child welfare services, and 32 states had no services—although transition measures were in process (Meyers, 2008). Surprisingly, as recently as 1965, there was no consistent child protection system throughout the counties in California (Meyers, 2008).

The problem seemed to be one of coordination of services, rather than a lack of willingness to combat this complex problem. By the early 1960s, federal and state laws protecting children had been strengthened (e.g., child labor laws), foster care programs were receiving federal support (e.g., Aid to Families with Dependent Children), and the Children's Bureau was in full-swing with a strong focus on training (McGowan, 2005). Most states had plans to design publicly run child protection agencies (Meyers, 2008; Murry & Gesiriech, 2004; Thomas, 2012). Juvenile courts were also expanding. These courts included specially trained child-abuse investigators, and promoted legal debates concerning children's rights and needs (Pleck, 1987).

Medical advancements and the proliferation of information through media also highlighted child maltreatment issues in the 1960s. In a seminal article, "The Battered Child Syndrome," Dr. Henry Kempe began a large-scale medical and social services discussion on what is currently called shaken-baby or broken-baby syndrome (Kempe, 1962; Meyers, 2008; Phohl, 1977; Pleck, 1987). Dr. Kempe and his colleagues refuted the assumption that many childhood injuries seen in emergency rooms throughout the United States were mere accidents (Kempe, 1962; Phohl, 1977). This conclusion was considered by many to be the "discovery of child abuse" (Pelton, 1987, p. 48). Following Kempe's study, Pleck (1987) wrote,

> It is likely that [the battered-child syndrome] will be found to be a more frequent cause of death than such well recognized and thoroughly studied diseases as leukemia, cystic fibrosis and muscular dystrophy and may well rank with automobile accidents. (p. 170)

Media coverage also assisted with awareness. Dr. Kempe's report was given attention through national news outlets such as *Time*, *Good Housekeeping*, and *Life* (Meyers, 2008). Prior to Dr. Kempe's article,

> Relevant professions (medicine, law, education, and the social sciences) produced only nine articles on child abuse. In the decade following Kempe's discovery, 260 articles appeared, and during the 1980s there have been thousands of publications and media presentations on the issue. (Dziech & Schudson, 1991, p. 10)

Reports concerning child abuse had finally received a national stage, which continues today (Hove & Cole, 2013). By 1967, each state had reporting laws that

required doctors to report cases to law enforcement that they believed to be the result of child abuse (Messing, 2011).

The Child Abuse Prevention and Treatment Act (CAPTA) was enacted in 1974. This federal legislation authorized funding to states to "investigate, prevent, assess, treat, and prosecute child abuse" (Yarrow, 2009, p. 22). The act was in response to ongoing research and concerns about child abuse, domestic violence, and battered child syndrome (Yarrow, 2009). Senator Walter Mondale, who introduced the legislation, described in detail the shock he felt after witnessing the evidence of child abuse. He described infants and small children "who had been whipped and beaten with razor straps; burned and mutilated by cigarettes and lighters; scalded by boiling water; bruised and battered by physical assaults; and starved and neglected and malnourished" (Pleck, 1987, p. 176).

Family Rehabilitation, Preservation, and Permanency

The 1980s witnessed significant policy changes concerning removal of children from their homes for neglect and abuse. In previous decades, social workers, sometimes known as child rescuers, did their best to place children outside of homes as a way to distance victims from the problem (Costin, 1992). This approach was seen as sometimes culturally insensitive to new immigrant populations, and intruded on family decision making (Costin, 1992; Gordon, 1985). Adding to the problem was the utilization of orphanages (Meyers, 2008). Foster care, although a safe alternative to abusive and neglectful environments, was becoming over-used and had its own problems (Meyers, 2008).

Family preservation programs were initiated in the mid-1970s, as reunification efforts were being explored in the face of rising of foster care rates. The idea behind family reunification was that children fared better with their natural parents, and interventional services could be cost-effective and successful in keeping children safe (Gelles, 2000; McGowan, 2005).

By the late 1970s, policies focused on bringing consistency in the way child welfare services were being delivered to the public, including training of providers, and permanency planning through reunification or adoption (McGowan, 2005; Murray & Gesiriech, 2004). The passage of the Indian Child Welfare Act in 1978 gave Native American children preferential placement with extended family or into Native American foster homes (McGowan, 2005; Murray & Gesiriech, 2004).

After years of increasing the foster care population and extending the time children remained in foster care, the Adoption Assistance and Child Welfare Act was passed in 1980 (McGowan, 2005; Murray & Gesiriech, 2004; Pelton, 1987; Thomas, 2012; Yarrow, 2009). This federal legislation provided funding to assist states with family reunification efforts or adoption efforts—in other words, permanency planning (Hooper-Briar, Broussard, Ronnau, & Sallee, 1995; Pelton, 1987; Yarrow, 2009). One of the most important aspects of the legislation was the requirement that states make reasonable efforts to assist families to reunify (McGowan, 2005). Moreover, this act was the first step toward mandated review of all child welfare cases by a juvenile court system (Murray & Gesiriech, 2004).

In 1993, in an effort to prevent over-reliance on foster care placement and emphasize the importance of making reasonable efforts to reunify families, Congress authorized the Family Preservation and Family Support Services Program (Murray & Gesiriech, 2004). Again, this was additional legislation to build more support for families in communities (McGowan, 2005). Especially important were continued efforts centered on family preservation programs (McGowan, 2005). However, by the mid-1990s, these programs began to come under fire due to increasing numbers of child abuse complaints, problem family placements, and failures of family preservation cases leading to excessive foster care placement (McGowan, 2005).

The Family Preservation and Family Support Services Program was enacted as part of the Omnibus Budget Reconciliation Act (Child Welfare Information Gateway, 2016; Hooper-Briar et al., 1995). Funding within this legislation encouraged states to continue to create and develop supportive services for families at risk (Child Welfare Information Gateway, 2016; Hooper-Briar et al., 1995). Juvenile and family courts were also included in hopes of improving approaches and performance (Murray & Gesiriech, 2004).

Concern over child safety culminated in the passage of the Adoption and Safe Families Act of 1997 (Thomas, 2012). This act clearly made the safety of children the priority in all child-welfare decision making, as opposed to placing such a high priority on family preservation (Wu, 2015). Family reunification continued to be one of the aims for child welfare agencies; however, the circumstances under which reasonable efforts were to be made was outlined (or limited) by this legislation (McGowan, 2005; Murray &

Gesiriech, 2004). Additionally, time limits were placed on providing family reunification services by child welfare agencies (McGowan, 2005; Murray & Gesiriech, 2004; Wu, 2015). Congress authorized funding for states' efforts for child welfare through several pieces of legislation. These included the Promoting Safe and Stable Families Amendments to the Children and Families Safe Act of 2003 (which reauthorized CAPTA), Child and Family Services Improvement Act of 2006 (which reauthorized the Promoting Safe and Stable Families Program), the CATPA Reauthorization Act of 2010, and the 2011 Child and Family Services Improvement and Innovation Act (Child Welfare Information Gateway, 2016).

In essence, federal and state law required that child welfare services have three priorities: the protection of children, preservation of families, and a permanent placement of the child within a year (Edwards, 2003; Whitcomb & Hardin, 1996). In California, these mandates are reflected in both case law and statutory law, which now make up the child welfare system (Pellman, 2015).

Criminal Prosecution of Child Abuse – A Historical Perspective

While child protective services (also known as child welfare services) may intervene in a case of child abuse, a local prosecution agency can also be involved in handling a child abuse case. At the time of the case of Mary Ellen in 1874, there were no laws specifically addressing child abuse, neglect, or maltreatment (Markel, 2009). In the end, Mary Ellen's case overcame the 1800s sensibility of "spare the rod and spoil the child," and Mary Ellen's mother was criminally charged with several counts of assault and battery (Markel, 2009).

Some legal advocacy—specifically, limiting the right of parents to harm children—was making its way through the courts as well. Through the mid-1800s, appellate courts were making decisions on what actions by parents were cruel and, thus, punishable (Pleck, 1987). However, many courts considered injury to a child, short of being permanent or serious, tolerable as long as it was administered in the name of parenting. One illustrative case is *State v. Pendergrass* (1837), which was heard by the Supreme Court of North Carolina. As was consistent with that time, the court ruled that a parent (or, in this case a teacher) may punish, and such punishment may be severe enough to "produce temporary pain only and no permanent ill…since it may have been necessary for the reformation of the child" (*State v. Pendergrass*, 1837, p. 366). In the *Pendergrass* case, a teacher had whipped a 6- or 7-year old girl with a switch and a larger instrument leaving marks that disappeared in a few days (Levy, 1953; *State v. Pendergrass*, 1987, p. 365).

A significant decision in this area was handed down in 1869 when the Illinois Supreme Court tempered the ability of parents to discipline by ruling that their "authority must be exercised within the bounds of reasons and humanity. If the parent commits wanton and needless cruelty upon his child, either by imprisonment of this character or by inhuman beating, the law will punish him" (*Fletcher v. People,* 1869, 397; Myers, 2008, p. 450).

Court cases continued to limit what cruelty parents would be allowed to mete out on their children in the name of discipline. One such case was *State v. Mahly* (1878), in which a 3-year old Missouri girl was killed by her stepfather (*State v. Mahly*, 1878).

Evidence produced at the trial showed that the child was held in front of a fire by her stepfather "perfectly nude . . . until [her] skin was burnt red, and she writhed in her torture like a worm" (*State v. Mahly*, 1878, p. 315). The Missouri Supreme Court found that the lower court erred in allowing the jury to consider a second-degree murder finding. In explaining its reasoning, the court stated there could be no mitigation when there is a finding that a child was "starved, flogged, kicked, roasted by the fire day after day for months, and finally murdered" (*State v. Mahly*, 1878, p. 316).

The Appeals Court of West Virginia addressed the assault of a 6-year-old boy by his stepfather (with the aid of his mother) in the case of *State v. McDonie* (1924). The assault came in the form of throwing the child in hot water, throwing him into walls, and beating him with switches (*State v. McDonie*, 1924, p. 221). Although the stepfather claimed he engaged in these acts as his right as a parent, and did so with no malice or ill intent, the court was not moved. Rather, the court found that

> A parent can no more commit a brutal attack upon his child resulting of serious injury upon it, than he can commit such injury upon a stranger, and when he does so, and the jury is satisfied that the punishment inflicted has resulted in such serious injury, such fact, when found, may be treated as proof of malice upon the part of such parent as well as of guilty intent. (*State v. McDonie*, 1924, p. 223)

The *McDonie* appeals court affirmed the judgment of the trial court, which sentenced the stepfather to 2 years in state prison.

These cases exemplify a general shift in society regarding child abuse. First, the prosecution of acts of child abuse as a crime was becoming more prevalent. Second, the

courts were limiting what they were willing to tolerate from parents as forms of discipline. The 1940s saw a revamping of laws in the name of child abuse. Statutes known as “cruelty statutes,” made it a crime to “torture, torment, cruelly punish, or willfully deprive [a child] of necessary food, clothing or shelter” (Levy, 1953, p. 723). These statutes were adopted throughout the nation (Levy, 1953, p. 723).

In California, specific child molestation laws were in place beginning in 1939 (Gray, 1993). These laws mandated “people convicted under this statute were committed to psychiatric treatment facilities for the long term, or at least until they were deemed no longer dangerous to society” (Gray, 1993, p. 11).

Reporting laws promulgated during the 1960s assisted in reporting child abuse cases to law enforcement (Pleck, 1987). Since Mary Ellen’s case, the prosecution of child abuse has become complex and specialized (Cross et al., 2003). Although the research is unclear as to how many child abuse cases are actually criminally prosecuted, it is clear that prosecutions of child abuse have increased in the last several decades (Cross, Chuang, Helton, & Lux, 2014; Cross et al., 2003).

Today, many prosecuting offices throughout the country have dedicated units or attorneys specializing in child abuse cases (Cross et al., 2003). Rather than assess the child's (or children’s) need for services, removal, and/or assist a family with treatment, a prosecutor is looking to determine whether a crime occurred, and whether there is enough evidence to move forward to trial, and to punish the offender (Cross et al., 2003; Newman & Dannenfelser, 2005; Sedlak et al., 2005; Sheppard & Zangrillo, 1996).

Restraining Orders in the Prevention of Child Abuse

As previously stated, there is little research evaluating the circumstances and conditions by which restraining orders are issued in child abuse cases. However, research is abundant in the area of domestic violence restraining orders (Brame, Kaukinen, Gover, & Lattimore, 2014; Carlson, Harris, & Holden, 1999; Holt, Kernie, Lumley, Wolf, & Rivera, 2002; Jordan, Pritchard, Duckett, & Charnigo, 2010; McFarlane et al., 2004). These orders were referred to as "restraining orders, civil protection orders, orders of protection, stay-away orders, protection from abuse orders, domestic violence restraining orders, civil harassment restraining orders" (Benitez, McNiel, & Binder, 2010, p. 376).

Researchers found that those who seek protection by this means have been victims of abuse in the forms of physical assault, beating and choking, threats of harm or death, sexual abuse, and threats with weapons, stalking, and harassment (Benitez et al., 2010; Carlson et al., 1999; Gondolf, McWilliams, Hart, & Stuehling, 1996; Ptacek, 1999; Zoellner et al., 2000). The majority of these acts occur between partners in a relationship (i.e., domestic violence) (Meiers, 2005). In these domestic acts of abuse, children are also the victims of the abuse or observe the abuse, which often causes traumatic injury (Fleury-Steiner, Miller, Maloney, & Postel, 2014; Herrenkohl et al., 2008; Meiers, 2005). Researchers found that children are also more likely to be abused by men who batter their partners (Campbell et al., 2003; Fleury-Steiner et al., 2014).

The terms of a no-contact (or restraining) order can vary. These orders can prohibit violence, prohibit the abuser from entering or being near the shared residence, forbid the abuser from any contact with the victim, restrain the abuser from visiting

children, require visits with children to be supervised by a third party, and prohibit the abuser from removing children from the court's jurisdiction (Gondolf et al., 1994; Holt et al., 2002).

Researchers showed that in abusive circumstances, children can become targets of threats and physical harm (Ptack, 1999). This behavior is reflected in research by Mahoney (1991). As one participant in her research explained, "He then became extremely abusive after I told him I didn't like his language and how he was treating my daughter – with his language…he then kicked her. I was also physically abused." Another shared,

> He called [our daughter] names…I asked him to stop because she started to cry and got scared…He then went into our bedroom and started to smash things. All our pictures of the children, lights…When he was doing all this he was screaming. Terrible dirty, dirty words to me. (Ptack, 1999, p. 83, as cited in Mahoney, 1991)

Women are more likely to obtain civil orders to restrain another party because of past harm and perceived future harm (Zoellner et al., 2000). These protective orders are seen as a means for a citizen to respond to domestic violence (Brame et al., 2014). Women can file for these orders themselves, without the aid of an attorney (Fleury-Steiner et al., 2014). Civil protective orders can include protection of children (Meiers, 2005; Sorenson & Shen, 2005;).

Civil protection orders are obtained in two stages. The first a temporary restraining order is issued. This occurs during an emergency hearing that does not have to

be attended by the respondent (alleged abuser). The protection lasts from 10 to 14 days (McFarlane et al., 2004; Meiers, 2005; Sorenson & Shen, 2005; Zoellner et al., 2000).

The second stage a permanent restraining order is issued. To issue this order, the court must find that the respondent had notice of the hearing and an opportunity to respond to the allegations (McFarlane et al., 2004; Meiers, 2005; Sorenson & Shen, 2005; Zoellner et al., 2000).

When a party violates a restraining order, the penalties vary. Some jurisdictions consider a violation of a restraining order as civil contempt and some consider it a criminal misdemeanor (Benite et al., 2010). Penalties can range from fines to jail (Benitez et al., 2010). Study results vary as to whether women who obtain no-contact orders perceive themselves or their children as safer or protected because of those orders being in effect (Benitez et al., 2010; Carlson et al., 1999; Holt et al., 2002; Jordan et al., 2010; McFarlane et al., 2004; Zoellner et al., 2000).

Most researchers in this area focused on the circumstances for issuing restraining orders, how often permanent restraining orders are actually granted, and the protection petitioners (victims) actually feel from having a restraining order for themselves or their child (Carlson et al., 1999; Jordan et al., 2010; McFarlane et al., 2004; Zoellner et al., 2000). For purposes of this research, the consequence of having restraining orders that allow visitation with shared children is relevant. The resulting actions and interactions found to have occurred between victim and perpetrator (through the child during allowed visitation) gives some insight as to why—during a criminal prosecution—prosecutors do not want any contact, including visitation, between parties involved in the abuse. Clearly,

visitation opens up opportunities for a perpetrator to commit more violence on a victim (Fleury-Steiner et al., 2014).

Researchers concluded that men who abuse, batter, and assault their partners are regularly granted visitation with their children by civil or family law courts (Fleury-Steiner et al., 2014). Of course, without some treatment for domestic violence, anger management, or supervision during the visitation period, these visits can carry with them the real possibility of violence (Fleury-Steiner et al., 2014). Thus, in circumstances of child abuse and extensive domestic violence, the juvenile/dependency venue would call for a variety of services as well as supervision for visitation (Edwards, 2003; Sedlak et al., 2006).

Involvement of Child Protection Services

Families become involved with child protective services (also known as child welfare services) in several ways. Certain professionals, such as childcare providers, educators, and law enforcement are required to report suspicions of child abuse pursuant to the Child Abuse and Neglect Reporting Act (McCulloch, 2012). Citizens and children can call hotlines when they believe abuse is occurring (National Child Abuse Hotline, n.d.). These hotlines not only offer a place to report abuse, but also provide crisis intervention, referrals for emergency social services, and other supportive resources (Childhelp, n.d.). Calls to these hotlines are confidential.

Federal and state authority to usurp a parent's right to make decisions on behalf of their own child occurs when a child's "physical or mental health is jeopardized" (*Parham v. J.R,* 1979, 603). The cases in this area presume that a parent's "natural bonds of

affection lead [them] to act in the best interests of their children" (*Parham,* 1979, p. 602). However, the courts acknowledged that, at times, parents do not act in the best interest of their children, noting the "incidence of child neglect and abuse cases" (*Parham,* 1979, p. 603).

Once an investigation is initiated, the child protective agency is legally responsible for initially evaluating the circumstances reported. The agency decides whether the report has any merit and, if so, whether there are services available to allow the child to stay with one or both of the parents safely (Edwards, 2003). Once a report of child abuse is confirmed by child protective workers, and a decision is made to remove (i.e., "detain" a child), child welfare workers (also referred to as "social workers") will place the child with a pre-approved, licensed foster family, or a family member who has passed a background check (Foster, 2001). Most of the reported cases do not result in a decision to remove or a subsequent court case (Edwards, 2003). However, when there is a removal, a petition is filed by the agency and a juvenile/dependency court determines whether the allegations are true (Edwards, 2003). If family reunification is recommended by the agency, a case plan is crafted to assist with this goal, including visitation (Edwards, 2003).

If child abuse is found during a child welfare investigation, law enforcement is also notified (Cross et al., 2005; Jong & Rose, 1991; Sedlak et al., 2006; Sheppard & Zangrill, 1996; Spraugue & Hardin, 1997; Whitcomb & Hardin, 1996). However, inasmuch as law enforcement and child protection agencies initially attempt to share and coordinate information, the child protection agency's mandate is much different (Cross et

al., 2005; Newman & Dannenfelser, 2005; Sheppard & Zangrillo, 1996; Sprague & Hardin, 1997; Whitcomb & Hardin, 1996).

In California, juvenile/dependency cases are governed by the California Welfare and Institutions Code 300 et al. (Cal. Welf. & I. C.). The position of agency workers in these circumstances is given in Cal. Welf. & I. C. 300.2, "Purpose of Chapter:"

> The purpose of the provisions of this chapter relating to dependent children is to provide maximum safety and protection for children who are currently physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm.
>
> The safety, protection, and physical and emotional well-being may include providing a full array of social and health services to help the child and family, and to prevent further abuse of children. *"The focus shall be on the preservation of the family as well as the safety, protection, and physical and emotional well-being of the child*." (Cal. Welf. & I. C., Sec. 300.2, *emphasis added*)

This statutory mandate guides social workers in what decisions they will make as to whether a case plan for family reunification will be offered to the family, what types of services will be a part of that case plan, and what limitations, if any, will be included in visitation. Services that are provided to families include "counseling, referrals to self-help groups or assistance in obtaining medical care, emergency shelter, transportation or a temporary in-home caretaker" (Office of Child Abuse Prevention, 2006, p. 4). Not only are these service recommendations made in an effort to protect children, they are also

made as a means to keep families in place, and safe, when possible (Office of Child Abuse Prevention, 2006).

Although California's Welfare & Institutions Code sets forth circumstances when reunification services will *not* be offered, these circumstances do not necessarily mean that child (victim) and parent (perpetrator) will not be granted visitation. Visitation is denied if those interactions are found to be "detrimental" to the child (Cal. Welf. & I. C., Sec. 361.5(f)).

The philosophy of maintaining children with their own families (when assistance /intervention is found necessary) was prevalent as early as 1909 (Pelton, 1987). During the 1909 White House Conference on the Care of Dependent Children, the following conclusion was made:

> Home life is the highest and finest product of civilization…Children should not be deprived of it except for urgent and compelling reasons. Children of parents of worthy character, suffering from temporary misfortune, and children of reasonably efficient and deserving mothers who are without support of the normal breadwinner, should as a rule be kept with their parents, such aid being given as may be necessary to maintain suitable homes for the rearing of the children … Except in unusual circumstances, the home should not be broken up for reason of poverty, but only for considerations of inefficiency or immorality. (Pelton, 1987, p. 37-38).

In an effort to implement stability in child placement, the federal Adoption Assistance and Child Welfare Act was passed in 1980 (Timmer et al., 2006). Multiple moves in foster care can expose children to the risk of "poor outcomes in academic achievement, socio-emotional health, developing insecure attachments, and distress" (Timmer et al., 2006, p. 1). The more a child moves during the juvenile/dependency process, the possibility increases that distress and negative emotional impacts occur, such as "a sense of loss and not belonging" (Timmer et al., 2006, p. 2).

Research in this area has shown that law enforcement and social workers have different impressions of each other's role (Newman & Dannenfelser, 2005). For instance, some social workers see law enforcement as focusing on prosecution of an offender versus a social worker's interest in protecting the child (Newman & Dannenfelser, 2005). Social workers may perceive law enforcement as treating families they work with too harshly, while law enforcement sees the social worker's interviews with family members as potentially damaging to future criminal cases because witnesses can leave the scene and/or change statements (Newman & Dannenfelser, 2005).

What Constitutes Child Abuse in Juvenile/Dependency Court

Because this study's focus is on the treatment of contact between parents and children in child abuse cases, it is important to highlight what circumstances are considered child abuse. For purposes of this study, child abuse in the juvenile/dependency setting will encompass the following acts: Serious physical harm inflicted non-accidentally (Sec. 300(a)); serious physical harm or illness as a result of the failure to adequately supervise or protect (Sec. 300(b)(1)); willful failure to provide the

child with adequate food, clothing, shelter, or medical treatment (Sec. 300(b)(1); the child being sexually trafficked (Sec. 300(b)(2); serious emotional damage as a result of a parent (Sec. 300)(c); sex abuse (Sec. 300(d) (Cal. Welf. & I. C., Sec. 300 et al.). In sum, child abuse occurs when a child is intentionally physically injured (even for purposes of punishment), is sexually abused or exploited, or neglected by failing to provide necessary food, clothing, shelter, or medical care (Office of Child Abuse Prevention, 2006).

It is also important to note that all juvenile/dependency court proceedings, records, transcripts, reports, and filings are confidential (Cal. R. Ct, 5.530 & 5.552; Cal. Welf. & I. C., Sec. 827 et al.). For a family involved in the dependency process, this means that each case is heard separately by the court, and only close family members who have an interest in the child's life may be present (as well as court staff, attorneys, social workers, etc.). The corresponding criminal matter is open to the public (*Richmond Newspapers, Inc. v. Virginia*, 1980). The Supreme Court, in *Richmond Newspapers, Inc*., found that the First Amendment (applied to the states through the Fourteenth Amendment) "protect[s] the right of everyone to attend trials" *(Richmond Newspapers, Inc. v. Virginia*, 1980, p. 556).

Child Abuse in Criminal Court

The acts described above in Cal. Welf. & I. C., Sec. 300 et al. are also criminal offenses under California Penal Code, Sections 270; 273a, and 273d. The main difference between the two codes is the standard of proof by which the acts of the perpetrator must be proven by the agency/prosecuting entity alleging the act or crime. Specifically, in a juvenile/dependency case, the child protective agency must prove the allegations against

the parent(s) by a "preponderance of the evidence" (Cal. R. Ct., Rule 5.682(5)9f); Clark, 2015, p. 1220). This is usually done from evidence gathered by the social worker on the case and/or admitting the social worker's report on the case into evidence during the hearing (Clark, 2015; Cross et al., 2003; Office of Child Abuse Prevention, 2006).

In a criminal prosecution, to obtain a conviction, the prosecutor must prove the elements of the criminal charge of child abuse "beyond a reasonable doubt" (Cross et al., 2003, p. 326).

In essence, the type of child abuse cases this researcher examined were abuse cases severe enough to rise to the level of criminal prosecution.

Visitation and its Importance to Reunification

Because of the California Welfare & Institution Code's time limitations for family reunification, parent-child visitation can be essential to a parent's case plan, as well as to retaining their parental rights. When a child is removed from the home of his or her parents and a case plan for reunification is recommended, there is a presumption in California law that those services will be completed and the child returned within 12 months (Cal. Welf. & I. C., Sec. 366.21(f); Cal. R. Ct., Rule, 5.715(b)(1); Clark, 2015). If the child is not returned within this time, reunification services will be terminated unless particular exceptions can be shown by the parent. Specifically, if the child is not returned at the 12-month mark, reunification services will be ended and parental rights may be terminated, unless the parent can show "there is a substantial probability that the child can be returned within 18 months of the date the child was originally taken from the physical custody of his parent or legal guardian" (Cal. Welf. & I. C., Sec. 366.21(g)(1*)*.

To satisfy this code section, the court must find several factors—one being "that the parent or legal guardian has consistently and regularly contacted and visited with the child" (Cal. Welf. & I. C., Sec. 366.21(g)(1)(A)). The legal foundation of visitation is based on a series of legal opinions in which the court has found that "visitation rights arise from the very 'fact of parenthood' and the constitutionally protected right 'to marry, establish a home and bring up children'" (Edwards, 2003, p. 5, as cited in *In re Jennifer G.*, 1990).

If additional reunification services are not granted at the 12-month review hearing (or parents have failed to reunify after an extended 6 months of services pursuant to Cal. Welf. & I. C., Sec. 366.21(g)(1)), reunification is no longer a statutory goal. Instead, a Cal. Welf. & I. C., Sec. 366.26 hearing is set with the purpose of providing a permanent plan/placement for the child outside the parental home (Cal. Welf. & I. C., Sec. 366.26; Barnett, 2015; *In re Jason E.*, 1997). As stated in the case *In re Jason E.*, the court made clear that at the Sec.366.26 hearing, "the goal of the proceedings changes from reunifying the family to locating a permanent home for the child apart from the parent (*In re Taya C.* (1991) 2 Cal. App. 4th 1)" (*In re Jason E*., 1997, p. 1548). At this point in the process, the state's interest is to provide "stable, permanent homes for children who have been removed from parental custody" (*In re Breanna S.,* 2017, p. 645).

During the permanency planning hearing, parental rights will be terminated if the permanent plan is adoption (Cal. Welf. & I. C. 366.26(b)(1)). Although a court may set a Sec.366.26 hearing with a plan to terminate parental rights, visitation between child and parent must be continued unless this is found to be detrimental to the child. (Barnett,

2015; Cal. Welf. & I. C. 366.21(h)). California courts see parent-child visitation as "an element critical to promotion of the parents' interest in the care and management of their children, even if actual physical custody is not the outcome" (*In re Luke L., et al.*, 1996, p. 679, citing *In re Monica C.,*1995).

At the Sec.366.26 hearing, parents can attempt to stop the termination of their rights (and, thus, adoption) by showing specific statutory circumstances that would mandate that the court decide that terminating parental rights would be deleterious to the child. One of these exceptions allows the court to order an alternative plan to adoption if "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship" (Cal. Welf. & I. C. 366.26(c)(1)(B)(i); *In re Breanna S.*, 2017, 636). It is the parents' burden to produce evidence showing the court that this exception applies to their situation. Clearly, continued visitation during a juvenile/dependency case is essential for parents trying to prevent the loss of their parental rights.

In short, without visitation, parents can find themselves at great risk of losing their parental rights: "The absence of visitation will not only prejudice a parent's interest at a section 366.26 hearing but may 'virtually assure the erosion (and termination) of any meaningful relationship' between mother and child" (In re *In re Dylan T.*, 1998, 65 Cal.App.4th 765, p. 769, citing *In re Monica C.*, 1995).

The importance of visitation is also reflected in the statutory and case law treatment of this issue when parents become incarcerated and find themselves before a juvenile/dependency court. Incarceration alone will not prevent parents from receiving

visitation when there is an ongoing juvenile/dependency case (*In re Christopher H*., 1996, 50 Cal. App. 4th 1001, 1010; Cal. Welf. & I. C. Sec., 362.1(e)(1)(C)). As set forth in the California Appeals Case *In re C.C*., "[w]ithout visitation of some sort, it is virtually impossible for a parent to achieve reunification" (*In re C.C.*, 1481, p. 1491).

Visitation: A Complex Factor for Parent and Child

> [A] parent's failure to comply with the service plan almost invariably leads to termination of parental rights. If a parent cannot avail himself or herself of reunification services because of incarceration, it is a fait accompli that the parent will fail to comply with the service plan. … While 'use a gun, go to prison' may well be an appropriate legal maxim, 'go to prison, lose your child' is not' (*In re Dylan T.*, 1998, p. 771, as cited in *re Brittany S*., 1993).

It is important to understand why juvenile/dependency courts have a priority of maintaining visitation between parent and child, even in situations of abuse. For a child welfare agency, visitation between parent and child is not only a statutory mandate, but important to both the child and parent as they progress through the juvenile/dependency process—regardless of the end result.

A child who has been removed from her family may experience feelings of abandonment, depression, and extreme fear (Edwards, 2003). These feelings can be experienced even in the worst situations of abuse (Edwards, 2003). In a 1999 study, Mathews provided detailed descriptions of what children experience when separated from one or both parents. Although Mathews' research pertained to divorce, it can be applied to children's reactions to being separated from parents. Mathews (1999) noted that

because children are at an age where development of cognitive and social skills have not yet matured, they have difficulty comprehending, coping with, and managing the anxieties that come with leaving their mother or father, or both. For example, a child at age 2 is normally preoccupied with being separated from his mother (Johnston & Roseby, 1997). Anxiety and stress will result from a 2-year-old child's separation from her parent (Johnston & Roseby, 1997).

For children between ages 3 and 4, switching between one parent and another for visitation (in cases of divorce) can be traumatic:

> They are generally more likely to whine, cry, verbally complain, and cling to one parent or the other, usually the mother. Young children are normally more likely to react with anxiety and to protest being separated from the parent with whom they have a primary psychological attachment. (Johnston & Roseby, 1997, p. 197)

Some experts believe that separation from even one parent:

> Can cause a period of grieving similar to the death of the parent. In addition, the home environment will be highly stressful due to the reordering and restructuring which accompanies the departure of one parent. Finally, the child may feel responsible and subsequently experience guilt or a sense of abandonment. (Mathews, 1999, p. 415)

These feelings could also apply to a child removed from his or her home because of abuse allegations, or one who is left in a home with one parent when the other was removed due to child abuse allegations.

To assist in coping and adjustment, children do best with these stressful life events when they continue being in contact with both parents (American Academy of Pediatrics, 2000; Mathews, 1999). Child development researchers have also found that a connection with at least one parent is essential for normal development (Edwards, 1999). The connection between parent and child provides the child with the foundation of a "continuing stable human relationship" (Edwards, 1999, p. 3). This feeling of connection is also essential to a child's cognitive development (Mathews, 1999). Although out-of-home placement is done to remove the child from dangerous situations, emotional and developmental damage may still occur (Edwards, 2003). Many experts in the field of child development believe strongly that

> A solid and healthy attachment with a primary caregiver appears to be associated with a high probability of healthy relationships with others while poor attachment with the mother or primary caregiver appears to be associated with a host of emotional and behavioral problems later in life. (Perry, 2013, p. 2)

The act of breaking a family apart, even one having abuse and neglect issues, can have a harmful effect on a child's sense of connectedness (Edwards, 2003). Not only is a child emotionally distressed, but also moral gaps (e.g., lack of empathy), cognitive delays, and negative behaviors such as self-harm, can result (Edwards, 2003). These stress-induced situations can also reflect in smaller children as "apathy, poor feeding, withdrawal, and failure to thrive" (American Academy of Pediatrics, 2000, p. 1146). In older children, this stress may show up as "motor hyperactivity, anxiety, mood swings, impulsiveness, and sleep problems" (American Academy of Pediatrics, 2000, p. 1146).

A piece of critical writing in this area is *Developmental Issues for Young Children in Foster Care* published by the American Academy of Pediatrics. The Academy believed continued visitation to be in a child's best interest:

> Pediatricians and other professionals with expertise in child development should be proactive advisors to child protection workers and judges regarding the child's needs and best interests, particularly regarding issues of placement, permanency, planning, and medical, developmental, and mental health treatment plans. For example, maintaining contact between children and their birth families is generally in the best interest of the child, and such efforts require adequate support services to improve the integrity of distressed families. (American Academy of Pediatrics, 2000, p. 1145)

For these reasons, the courts of California find that "visitation must be as frequent as possible, consistent with the well-being of the minor. Absent a showing of detriment caused by visitation, ordinarily, it is improper to suspend or halt visits even after the end of the reunification period" (*In re Luke*, 1996, p. 679). Because of both the legal and psychological support for visitation, visitation will be ordered by juvenile/dependency court even in situations where "the child expresses an unwillingness to visit where the parent is incarcerated" (Edwards, 2003, p. 5). Additionally, it is important to note that Cal. Welf. & I. C., Section 362.1(1)(A) reflects that, subject to exceptional circumstances, "[v]isitation shall be as frequent as possible, consistent with the well-being of the child" (Cal. Welf. & I. C., Sec. 362.1(1)(A)).

Of course, visitation orders are not made without oversight. Visitation will be based on behaviors, abilities, progress, or non-compliance; court orders will be adjusted as visits take place (Edwards, 2003). As Judge Leonard P. Edwards advises in his 2003 study, *Judicial Oversight of Parental Visitation in Family Reunification Cases*, visitation should also be creative in its process: "We should not think of visitation as including only parent-child face-to-face meetings or family counseling or therapy sessions. Parent-child contact can include letters, phone calls, e-mail, pictures, gifts, and audio or videotape exchanges" (Edwards, 2003, p. 10). Moreover, visits with parents should also be effective. According to the American Academy of Pediatrics, visits between parent and child must be "long enough to enhance the parent-child relationship" (American Academy of Pediatrics, 2000, p. 1148).

Ample visitation can also aid parents who are separated from their children. During this period of separation and intervention by social services, parents can experience their own forms of trauma and worry. Like any parent, they worry about things such as "where the child is, who is taking care of her, whether her special needs (medicines, diet, clothing …) are being addressed and by whom" (Edwards, 2003, p. 2). Additionally, parents are less likely to feel irrelevant or minimalized as to their child's activities. Visitation can develop appropriate caretaking and parent-child interaction while providing a safe environment in which to exercise those skills (Edwards, 2003).

If reunification is not a long-term goal, parents who continue to visit can better adjust (and progress through any grieving process) to the concept of adoption (Edwards,

2003). In sum, the juvenile/dependency statutory scheme highlights the many times visitation is vital to parents' reunification efforts.

Detrimental Visitation

The law that encourages visitation between parent and child in the juvenile/dependency context is not without limits. In both reunification and non-reunification cases, visitation can be terminated under particular circumstances. When a case plan calls for parent-child reunification, visitation may be terminated when those visits prove to be harmful to the child's safety, including their emotional well-being (*In re C.C.*, 2009, 172 Cal. App. 4th 1481; Cal. Welf. & I. C. 362.1(a)(1)(B)).

In the case of a situation wherein no reunification services are offered, visitation may be terminated if the court finds that visitation between parent and child is detrimental to the child (*In re C.C.*, 2009; Cal. Welf. & I. C., Sec. 366.21(h); Cal. Welf. & I. C., Sec. 366.22(a)). Case law has noted the California Legislature's chief factors in assessing whether visits with a parent have become detrimental to a child. These factors include

> The minor's age, the degree of bonding between parent and child, the length of the parent's sentence or the nature of her treatment, the 'nature of the crime or illness,' the detriment to the minor if services are not offered, the views of minors 10 years of age or older, and 'any other appropriate factors (*Dylan*, 1998, p. 773, as cited in *re Jonathan M*., 1997).

The *In re Dylan T*. Court finalized their ruling by explaining that "any one factor or a combination of factors might result in a finding of detriment" (*In re Dylan T.*, 1998, p. 774).

Prosecuting Child Abuse

Law enforcement's role in investigating and prosecuting child abuse is an effort to build a criminal case with a goal of punishing the perpetrator. It is clear that law enforcement and prosecuting agencies pursue their work to protect the children who are abused. Yet, the process by which these cases are handled do not parallel the priorities of child protection agencies.

Crimes against persons, such as child abuse, are crimes against the state for purposes of a criminal prosecution. Technically, "the injury suffered by the victim of child abuse is prosecuted because of the harm it causes to society" (Martell, 2001, p. 16, as cited in Wilber, 1987). Criminal prosecutions take place without concern for family reunification, visitation, or even if they may break families apart (Shepard & Zangrillo, 1996).

Not all cases that are referred to the prosecutor's office by law enforcement are filed against the offender and/or brought to trial (Stroud et al., 1999). After a prosecutor is alerted to a possible criminal case by law enforcement, several factors are involved in making the decision to prosecute a child abuse case. Prosecutors must evaluate witnesses, including the child victim, other corroborating evidence, and the probability of obtaining a conviction (Cross et al., 2003; Gray, 1993). Issues surrounding the victim's ability to testify, the child's emotional stress, family support, and the child's ability to relate the

event(s) also have a significant impact on whether a prosecutor may bring a case to trial (Cross et al., 2003; Gray, 1993). If a case has weaknesses, such as a child who may be afraid to testify or may be further damaged by testifying, a prosecutor could offer a defendant a lesser charge to settle the case or dismiss it altogether (Cross et al., 2003; Gray, 1993).

Stroud et al. (1999) offered insight into reasons prosecutors may not file charges. Stroud et al. cited a national study (Gray, 1993) that found that prosecutors decline filing charges in child sexual abuse cases for the following reasons: lack of corroborating evidence, the child victim changed his or her version of facts, lack of family support, and the child's age (Stroud et al., 1999). Gray (1993) provided additional factors that impact a prosecutor's decision to file charges in a molestation case: age of the child; perpetrator's criminal history, and available medical evidence of the crime.

A criminal filing in a child-abuse case can be resolved in several ways; only a fraction of criminal cases resolve by trial (Tafoya & Nguyen, 2015). In California, during fiscal year 2013-2014, just 2% of felony cases were resolved by trial (Tafoya & Nguyen, 2015). According to that same year's data, 70% of the cases not settled by trial still resulted in convictions (Tafoya & Nguyen, 2015). Diversion programs, which can be either formal court-ordered treatment programs or a period of time to show compliance with particular court orders and lack of further criminal behavior, can also resolve these cases (Cross et al., 2003).

Restraining Orders in Criminal Prosecution

There are instances when law enforcement will arrest and jail an offender because of a belief that child protective services cannot adequately protect the child (Shepard & Zangrillo, 1996). If a perpetrator is not arrested, or is released on bail, a prosecutor may request a restraining order between the parent (defendant) and child (victim). Again, using an example from the area of domestic violence, if a defendant (parent) is released pending trial, a prosecutor will most likely request a no-contact order for the child. The reasons are to keep the child safe and prevent the child from being "threatened or intimated by their abusers" (Long, Mallios, & Murphy, 2010, p. 4).

The prosecuting agency in a criminal matter must prove the elements of a criminal charge "beyond a reasonable doubt" (Cal. Penal Code, Sec. 1096). The California Penal Code includes a definition of reasonable doubt: "It is not a mere possible doubt; because everything relating to human affairs is open to some possible or imaginary doubt. It is that state of the case, which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in that condition that they cannot say they feel an abiding conviction of the truth of the charge" (Cal. Penal Code, Sec. 1096).

To obtain a belief or feeling which rises to "an abiding conviction of the truth," a prosecutor must have a relatively strong case before proceeding to trial. Thus, prosecutors are quick to protect the evidence they do have in a child abuse case. Child sex abuse cases are especially difficult to prosecute because there is usually "little to no physical evidence to support victims' claims" (Dziech & Schudson, 1991, p. 3). Many victims of

both physical and sexual abuse will disclose the crimes reluctantly and slowly due to the shock and shame with which many families respond (Dziech & Schudson, 1991). Thus, the risks of allowing a defendant (parent) access to the victim (child) with potential consequences of influencing and/or compromising that victim's testimony are usually too great to take. As explained in *Child Placement and Criminal Prosecution: A Study of the Relationship Between Criminal Justice and Protective Service Interventions in Cases of Child Abuse*:

> If a physical abuse perpetrator is immediately arrested, the child may be freed from the pressure of an abusive parent and the Assistant District Attorney can work with the child on testifying and assist in getting services provided to the nonoffending parent. When physically abusive parents are not arrested but are called into court for an arraignment at a later date, it is likely that the child will refuse to testify due to pressure from the alleged perpetrator and out of fear for his or her physical safety. (Martell, 2001, p. 22)

Additionally, it is important to note here, what a prosecutor does not necessarily have to include in the pursuit of justice. The child's best interest is not going to be a prevailing factor for a prosecutor. That is the job of a social worker and the child protection agency. Thus, the visitation with an offending parent (both because at the procedural juncture of the case, the law mandates it, and, the juvenile/dependency court finds it is in the best interest for the child[ren]), does not necessarily assist in making a conviction in criminal court. Protection of the victim/witness is a priority for a prosecutor, but this protection

may take place by sequestering the victim from the defendant and protecting the victim from any and all risk of recantation of testimony and possible intimidation (Long et al., 2010).

There is also an issue of case goals. While the arm of law enforcement and prosecution may seek prison for the alleged crime of child abuse, child protective agencies may continue to seek rehabilitative services and supervised visitation for the parent(s). Even in cases wherein child protective services may recommend termination of parental rights, visitation between parent and child will still be contemplated unless that visitation proves detrimental to the child (Cal. Welf. & I. C., Sec. 361.5(f)). For a prosecutor, if prison is the end goal, there is no need for family reunification services or family counseling. Simply put, when a child is removed from the home (depending on the allegations of child abuse) and contact is restricted with the defendant, thus, alleviating the possible pressure from the alleged perpetrator. On the other hand, if the juvenile court allows and encourages contact between the defendant and the child victim pursuant to a reunification plan, this contact could adversely affect the criminal prosecutor's case because it could weaken the child's testimony" (Sprague & Hardin, 1996, p. 295). Thus, "protection of the child" manifests differently in the criminal court and the juvenile/dependency court.

Collaboration between Law Enforcement and Social Workers

The Idea of Sharing Information

Attempts at collaboration between law enforcement and child protection agencies, in the investigation of child abuse cases, is ongoing throughout the United States

(Newman & Dannenfelser, 2005; Sheppard & Zangrillo, 1996). Investigations of child abuse by law enforcement and child protective agencies can overlap (Cross et al., 2005). Several jurisdictions pursue collaborative associations in an effort to coordinate and maximize both agencies' efforts (Cross et al., 2005; Cross et al., 2014; Newman & Dannenfelser, 2005; Sheppard & Zangrillo, 1996). At its core, the idea is to share such items such as court orders, social worker and probation reports, therapist reports, to engage in investigative tasks jointly, and participate in defining case goals together (Hardin, 1996). The format through which information is shared is usually referred to as a multidisciplinary team.

To assist in agency coordination, several models for multidisciplinary participation have been developed. Child Advocacy Centers, organized by the National Children's Alliance, work to bring all aspects of a child abuse investigation (including medical professionals, mental health professionals, prosecutors, child welfare services, and victim advocates) together in an effort to reduce the trauma to child victims. This is done by seeing these professionals concurrently and/or consecutively in the same venue (National Children's Alliance, 2014; Sheppard & Zangrillo, 1996).

Memorandums of understanding (MOUs) between law enforcement and child welfare agencies detail how joint investigations will be conducted, what information will be shared, and other forms of protocol (Cross et al., 2005). Yet, as much as working together can benefit cases by conserving resources, limiting duplicate work, and reducing emotional upset to the victim, one agency's mandate can sometimes be at cross-purposes with another's interest (Cross et al., 2005). For instance, struggles over case control,

conflicting mandates (law enforcement's goal of arrest and prosecute; child welfare's goal of child safety and family reunification), and lack of time and training on either side of this equation can limit and stifle these team approaches (Newman & Dannenfelser, 2005).

Professional Constraints on Information Sharing

Although a multidisciplinary team approach sounds practical, it can be weighted down with its own internal barriers. To begin, dealing with two different court jurisdictions can mean dealing with two different statutory schemes - each complicated and serving different purposes. One very serious difference between an adult criminal court and a juvenile/dependency court is the confidentiality of juvenile/dependency proceedings. Court hearings, filings, and documents pertaining to a juvenile/dependency case are confidential (Cal. R. Ct., Rule 5.530 et al; 5.552 et al.; Cal. Welf. & I. C., Sec. 827). Thus, attempting to share information between professionals, agencies, and even court personnel, not directly involved with the juvenile court proceeding (without statutory authority), would be impossible.

Other differences can also make coming together as one difficult. For example, in juvenile-delinquency matters, children have a constitutional right to be represented by an attorney (Lee, 2017). This right is interpreted by most states to allow counsel for children in juvenile/dependency proceedings (Glynn, 1994). However, if there is a corresponding adult criminal case in which the child is the victim, the child does not have a constitutional right to representation. Thus, the child's attorney in the juvenile/dependency case has no standing as a party in the criminal matter. Additionally,

depending on the circumstances, the issues as a party to the case versus a victim can be extremely different.

When there are a multitude of professions and agencies involved in problem solving (e.g., social services, physicians, therapists, attorneys, probation officers, judges, etc.), ethical concerns over confidentiality arise. For instance, communications between an attorney and his/her client are protected by what is known as the attorney-client privilege (Glynn, 1994). Additionally, states also protect communications between physician and patient or a psychotherapist and patient (courts will usually include additional forms of counselor-patient confidentiality in mental health relationships (Boyd & Heinsen, 1971; Diamond & Weihofen, 1953; Glynn, 1994). Social workers' and probation officers' professional communications are also included as protected communications under many state statutes (Alexander, 1997; Glynn, 1994). Additional issues regarding confidentiality occur when one of these professionals is acting as an agent for another (Ashford, Macht, & Mylym, 1987; Glynn, 1994).

In an effort assist in understanding all aspects of this study, particular court documents (with redacted personal and identifying information) were referenced and attached as Appendices. These included actual restraining or no-contact orders (attached as Appendix A). These materials were only utilized to give meaning and context to the research.

Conclusion

As the above analysis makes clear, some goals of the criminal and juvenile/dependency system are shared, some are in conflict. Conflicts between these two

jurisdictions arise when a case plan calls for visitation between child and parent, and there is a criminal protection order in effect which restricts contact. The balancing of these two interests when there is concurrent jurisdiction, and to what extent these contradictory goals effect how these cases are processed in each court by key participants, is a matter that has been unexplored. There is no current legislative or local process to assist in untangling orders which may cause irreparable damage to either sides' position.

Chapter 3: Research Method

Introduction

Just as the research topic provides an overview of the study, the research method provides the road map and direction. In Chapter 3, complexities of the research method will be discussed. Areas of discussion include, participant selection, data collection, trustworthiness, and protection of data.

Purpose

As previously stated, the purpose of this qualitative case study was to determine if there is a pattern of inconsistent goals in cases of concurrent jurisdictional child-abuse cases, the effect on each jurisdiction's cases when inconsistent court orders on visitation are issued, the ability of participants to process cases appropriately and in timely fashion because of contrary goals and contact orders arising out of each jurisdiction, and the possible unforeseen detriment that parties may face as a result of these inconsistencies.

This section includes a discussion of the qualitative research design and rationale of the study, starting with the research questions. In summary, the three areas of inquiry center on (a) whether court system procedures create conflicts by issuing orders of contact that are incompatible with the directives of other courts within the same system, (b) if that is the case, the impact on the participants, and (c) whether the impact results in unforeseen detriment to the progress of cases. The research questions are followed by a discussion of the role of the researcher, who has pre-established professional contacts with the participants. The Methodology section follows, including an explanation of participant selection and sample size, as well as the issue of saturation. In the section

titled Instrumentation: Data Collection Tools and Methods, I describe the standardized questions and in-person interviews I used for data collection. I also collected samples of the documents generated by the parties in the course of doing their work for inclusion in the study. The topic of trustworthiness is then discussed, along with confirmability and transferability, which are all important issues in a qualitative study such as this one. Finally, ethical procedures are reviewed.

Research Design and Rationale

Research Questions

As previously discussed, the research was conducted to explore three areas of inquiry:

> If there are conflicting orders concerning contact between parties, how are they perceived by the parties they impact, what is the reaction to the orders by the parties impacted, and how are the relationships between the parties impacted affected?

As part of the above question, I explored whether there are statutory, policy, and case goals in each court system that produce opposing decisions in the area of restraining or contact orders, and how these court orders are produced through these concurrent jurisdictions.

At the conclusion of the study, I evaluated whether the outcomes of these contrary orders are unforeseeably detrimental to participants, case goals, and the community at large, and if so, whether there any reasonable and appropriate alternatives.

My task as a researcher was not taken without specific guidance and protocol. The research design, methodology, and theoretical approach should complement the problem studied, available data, and overall framework (Devadas, 2016). I used a qualitative case-study design pursuant to the theoretical construct of procedural justice. The data for this study were only derived from one location: a county within Central California.

Qualitative studies are traditionally used in two circumstances: when the research seeks to provide an avenue toward understanding the deeper foundations which form a basis for attitudes and motivations behind various human behaviors, and when it is useful to draw out themes from retrieved data which can later be used in additional research or survey tools (Rosenthal, 2016). In other words, qualitative research can convey *why* people have thoughts and feelings that might affect the way they behave while discovering possible foundations and bases for future quantitative studies (Sutton & Austin, 2015). It lends a further, more complex understanding of a phenomenon than the numbers and statistics of quantitative research (Cypress, 2015). The current research draws from several of these schools: sociology, social work, law, and management.

Role of the Researcher

The role of the researcher in this particular study is to have personal contact with each participant throughout each phase of the study. The participants in the study include both criminal and juvenile/dependency court judges, attorneys who practice both defense and prosecution in both courts, and probation officers, who oversee criminal matters.

Although I have professional relationships with several participants, these relationships are based on my current law practice and previous 8 years as county deputy

public defender. My credibility and professional reputation depend on clear, honest, and consistent exchanges of information. Trust and reliability are core values of these relationships. These values are vital to the interview process and data analysis. Additionally, as a member in good standing with the California Bar, I am mandated to partake in training in subject matters related to confidentiality, ethics, bias, and trust, all of which impact the interview research and data analysis process.

Because of my ongoing relationship with the juvenile/dependency court system as an attorney, I designated and accessed all "information-rich" participants for this research.

As part of the research design, standardized surveys are followed by recorded, one-on-one interviews. I provided transcripts of those interviews to the participants for review. Thus, no single type of data from participants is collected for examination. Data from each participant is verified by the participants themselves and confirmed via alternative sources (Pannucci & Wilkins, 2011). Thus, although the role of the researcher is hands-on, researcher bias is reduced.

Lastly, it should be noted that most participants in this research are professionals and advocates in some capacity. Clearly, lawyers advocate for their clients. Judges are lawyers until taking the bench. Those who work with social services and probation must advocate for their office's position whether or not the recommendations are fair and accurate. Additionally, all have had to deal with confrontational situations in their professional capacity. There should be little to no concern that this particular group of

participants was made uncomfortable or felt intimidated by one-on-one contact with the researcher.

Methodology

Participant Selection Logic

Given that the intent of this study is to take a select group experiencing a similar event (i.e., the effect of contradictory policies that impact two separate but concurrent court jurisdictions), sampling was strategically purposeful to capture those participants with the most relevant information aligned with this research (see Patton, 2015). More specifically, I selected the participants because I had identified them as holding key information and knowledge about the research questions (see Patton, 2015). By understanding who these information-rich participants are, research resources are better focused and the information gathered pertained to the select window of people who experienced the phenomena under study. Purposeful sampling not only demands knowledge of these participants, but also expects that the researcher has adequate access to them (Suri, 2011).

Additionally, this study focuses on a closed system: one county in Central California. It is further defined by studying only those child abuse cases that arise in both criminal and juvenile/dependency jurisdictions: cases with concurrent jurisdiction. The fact that this research has a conceptual beginning and end point gives it a pre-defined boundary. A case study reflects well-defined boundaries, clarified time and place, specific social group or organization, and the data to be collected and considered in the analysis (Crowe et al., 2011).

The anticipated participants to this research were the following: criminal court judges (4 participants), juvenile/dependency judges (4 participants), criminal defense attorneys (4 participants), criminal prosecutors (4 participants), juvenile/dependency defense attorneys (4 participants), county counsel representing the Child Welfare Agency (4 participants), social workers for child welfare cases (4 participants), and probation workers in criminal cases (4 participants). Pools of potential participants were to be designated by the agencies for which they work. For instance, a supervisor of the court unit of the Child Welfare Agency of Tulare County will decide which individual social workers can potentially engage in the study. By allowing agency chiefs to make the choice of the several potential participants, not only does the study obtain employees that are familiar with the content of the study, but researcher bias (selection bias) is also mitigated. In addition, with multiple individuals presenting from each group, any one type of position or opinion being held in one group is hoped to be avoided.

The following is a list of agencies that were anticipated to be involved in this study:

1. Child Welfare Agency
2. Probation Office
3. County Counsel
4. District Attorney's Office

Other participants, judges and private attorneys, were chosen directly (via email or face-to-face request). I made 10 requests and selected the first four individuals who accepted

the invitation to participate in the study (again, adding to the random nature of the participants to the extent possible).

The request for participation for all potential agencies and private professionals was made using the Interview Guide (see attached Appendix B). The Interview Guide includes a brief description of Walden University (including contact information), a summary of the proposed research, and the researcher's contact information. I emailed or personally delivered the Interview Guide to agency chiefs/directors and those individuals who received invitations (if names from agencies are provided, Interview Guides were submitted to those individuals).

In the case of juvenile/dependency judges, this central California county jurisdiction has three sitting juvenile/dependency judges, and one who has recently moved to a criminal division (but could speak to the issue at hand). All four sitting judges with juvenile/dependency experience were extended an invitation to participate in the study.

Why Parties to the Actions Are Not Included

There are specific reasons not to include the actual parties to the actions in this study. For example, these parties do not argue these cases; they are represented by counsel. Any relevant, nonconfidential information can be ascertained through the lawyers involved. Second, this research's focuses on the legislative intent and frustration of policy goals. This study is not an in-depth study of a family's experience in these systems.

As interviews proceed and data are collected, the researcher provided a glimpse of the inner-workings of the juvenile/dependency and criminal child abuse cases as they affect visitation between parent and child and the detriment contrary court orders can cause on cases as they proceed through the court process.

Saturation

It is important to collect an adequate amount of data to cover the multitude of issues that the study addressed; it is just as important to have enough data to justify identifiable patterns and support developing theories (Mason, 2010; Morse, 1995). The collection of data beyond the point of obtaining new information is sometimes considered the saturation point in research or a particular study (Morse, 1995). Collecting too much data can prove "repetitive and, eventually, superfluous" (Mason, 2010, p. 1). Simply put, in a qualitative study, sample size should be "determined based on informational needs" (Devadas, 2016, p. 123).

As previously explained, I evaluated the effect of dual policy goals and inconsistent court orders on court participants in concurrent jurisdiction cases concerning child abuse. Thus, I proposed to submit questionnaires and engage in interviews with each group that is affected in the courtroom (other than parties to the case) and four representatives from each of those groups. Gathering data from these multiple data sources and using multiple sources for each grouping provided not only a substantial amount of data but is varied enough (e.g., different job roles) that the data should vary in fundamental areas.

For instance, it is anticipated that judges' perspectives would differ from those of prosecutors, prosecutors would have different opinions from defense attorneys, judges would have different perspectives from defense attorneys, etc. It is also anticipated that there would be some shared beliefs, but none that rise to problems of saturation.

Instrumentation: Data Collection Tools and Methods

Instrumentation fundamental to data collection in qualitative research are questionnaires and interviews (Abawi, 2013). A brief discussion of the proposed instrumentation to be implemented in this study is reflected below.

Standardized Surveys

The researcher used a standardized set of questions for all participants. Data collection that includes a set of standard set of questions can minimize bias. It is a means of keeping a study design and maintaining structure to the research (Bornhoft et al., 2006). This gave the study a baseline of questions and responses for all involved in the study. Additionally, these questions were answered by written response in an effort to avoid distraction, follow-up that could change an answer, or tone that could reflect any attitude which may indicate an opinion. The participants remained confidential. One-on-one interviews followed with confirmation and discussion of responses. The standardized questions proposed were as follows:

All Participants (Standardized Survey Questions/Not Role Relevant)

1. How long have you been a ([criminal or juvenile/dependency] judge defense attorney/prosecutor; probation officer/social worker; court administrator)?

2. Have you had an opportunity to read the research question? [If not, allow time to read]
3. Do you believe there is an issue regarding contact orders involving child-abuse cases when there is concurrent jurisdiction?
4. What are your concerns [if any] with the way the courts are handling concurrent jurisdiction orders on contact issues now?
5. Has this issue impacted your job directly?
6. Have you been in a situation where you were unable to adequately advise court participants on what to do or what procedure to follow based on an order from [criminal /civil court] that contradicted the goals of the court you are in?
7. Has a contact order from another court been contrary to the goals of the court you are in?
8. If 'yes' to the above, if you were 'frustrated,' what was the level of frustration on a scale of 1 through 10, 10 being extremely frustrated, 0 being not frustrated at all (if you want to add an explanation, please do so).
9. Have there been any steps taken by any participants to assist with guidance when orders from another court contradict the orders of the court you are in? If yes, what are outcomes?
10. What are your thoughts about a multi-agency approach to this issue (i.e. one court for all cases? Or all parties having input into significant issues involving parties) What do you see as the problems with such an approach? What do you see as some positive outcomes with such an approach?

11. What is your main concern about this issue – court orders which impact visitation coming from two different courts with different goals (if you have a concern)?
12. What do you see as some challenges going forward?
13. What do you see as positive results or lessons learned from dealing with this issue in the past?

These questions are also provided as an Appendix to this study (see attached Appendix C).

The Interview Guide (Appendix B), noted above, provides email and phone contacts, confirmation of the study's intent, and gives a brief overview about Walden University. A formal consent form was also provided to all participants at the same time they are given the Interview Guide (Appendix B).

Once participants formally consented to the process, standardized surveys were provided. The standardized questionnaires were requested for return within 3 to 5 days of receipt. They were hand-delivered to the agency or to the individuals involved. The reason for hand delivery is so that any last-minute questions can be answered and to provide a sense of importance about the matter. The questionnaires were delivered in envelopes which included return-addressed, stamped, enveloped to be returned directly to the researcher. A tickler system, similar to that used in law firms to track when legal filings and when discovery is due, was used to organize what participants have and have not turned in questions. It is anticipated (given participants' schedules) that one-on-one interviews would be scheduled within 10 days to 2 weeks of a participant returning his or

her questionnaire. The time between the two processes was utilized to review results, and the results were used during the one-on-one interviews.

Face-to-Face Individual Interviews

As previously noted, four major sets of participants were anticipated: (a) judges, (b) lawyers, (c) social workers, and (d) probation officers. It is anticipated that many of their schedules were full in the mornings with court appearances. Thus, interviews were scheduled in the afternoons or during weekends. It is the intent of the study to accomplish face-to-face interviews with all participants. As previously noted, coordination began with a brief explanation of the research study via the Interview Guide (reflecting important information and phone contacts, and lastly, confirmation of their participation).

Each interview was digitally recorded. At the scheduling of each interview and prior to conducting each interview, participants were advised that recording equipment would be utilized. Participants remained confidential. All participants were required to sign a waiver form which included a statement that the participant understands that the interview could be featured, in full or in part, in the final dissertation, that the transcript may be reviewed by members of this researcher's dissertation committee, and that this research study would be a public document that may be placed on the Internet, in university libraries, and used to defend a thesis as part of Walden University's PhD Program.

Interviews were open-ended, semistructured, and in-depth. Because this study calls for answers beyond yes or no, the questions are open-ended. That is, the questions are designed to allow a participant to provide any answer he or she chooses. Additionally,

the participant may elaborate on his or her answer and the participant may disagree with the premise of the question (Rubin & Rubin, 2012). The main purpose of these questions is to spark a conversation and discussion in order to maximize the reporting of relevant data. Many are "how" and "why" questions; this is the preferred type of question when engaging in a case study (Zucker, 2009, as cited in Yin, 1994).

For purposes of illustration, the following is offered as a sample of the type of questions proposed for criminal judge participant interviews. Similar questions were tailored for the particular group participants who are being interviewed (i.e. probation officers, criminal defense attorneys, prosecutors).

1. How do you find out if a defendant before you has a corresponding juvenile/dependency case?
2. Have there been times when you would want more information on that dependency case and couldn't obtain it?
3. If the answer is yes, what effect did this have on how you crafted the order regarding contact?
4. What are your thoughts on the position of juvenile/dependency and CWS in relation to the information they have as it concerns a criminal case and orders of contact?
5. Have you had problems with attempts to allow the juvenile/dependency court discretion to modify your 'no contact' orders?
6. Can you imagine better ways of handling cases with concurrent jurisdiction (after reviewing handwritten language that is currently utilized)?

7. Can you elaborate on some of the thoughts you may have on a multiagency approach to this area, concurrent jurisdiction cases? What do you see working and what do you see as barriers?
8. Do you have any thoughts on making this area better or is this the best we can do given some of the inherent constraints (i.e. confidentiality, two different courts, civil and criminal jurisdictions)?

In-depth interviews were comprised of deep, rich, experience-filled, narrative responses (Rubin & Rubin, 2012). When choosing participants for in-depth interviews, individuals were selected who hold material information about the subject matter and have relevant and/or key facts concerning information related to the study.

Patton (2015) indicated that in-depth interviews can sometimes fatigue people due to their length (several hours to a full day). Additionally, the intensity of the subject matter is likely to have a similar effect. The participants in this study had experience with long days in court discussing critical issues with others. There is a high level of confidence that the interviews were not overly compromising or disturbing to the participants' normal day-to-day topics of discussion.

One of the benefits of doing research based in a local environment is the ease of access to participants for face-to-face interviews. Face-to-face interviews allow a researcher to evaluate "voice, intonation, and body language" (Opdenakker, 2006, p. 2). These pieces of information can tell a separate story and give the interviewer ways to follow-up with questions (Opdenakker, 2006).

Interviews were based on semistructured questions. Semistructured interviews are an open-ended questioning technique involving several topic areas and questions to guide the direction of the interview (Petty, Thomson, & Stew, 2012; Rosenthal, 2016). These interviews covered areas including participants' backgrounds and professional history, knowledge, experiences, and observations in the area of research, and their opinion about the relevant issues to be explored.

Individuals with a high level of expertise in their field of work, and familiarity with working under stressful circumstances participated in this research. Thus, this research does not involve a highly vulnerable population. Additionally, the subject matter of the study does not include topics of a personal or potentially embarrassing nature.

Observation of Criminal and Juvenile/Dependency Court

It is during the proceedings of both criminal court and juvenile/dependency court where the participants experienced the phenomena and basis of this research. It is important to this study that the researcher include some description of the court proceedings, including people's behaviors and actions. "Observational methods used in social science involve the systematic, detailed observation of behavior and talk: watching and recording what people do and say...it takes place in natural settings not experimental ones" (Mays & Pope, 1995, p. 182). Also particular to observational data is the purpose in conducting the study (Kawulich, 2005). Because the crux of this study is centered around data from participants, the researcher's visual observations of courtroom and courtroom practices were added to provide context to the study. Kawulich (2005)

suggested that an observer make note of regular and irregular activities, note variation, note exceptions, and plan observations in a systematic way to promote consistency.

The observational instrumentation were handwritten notes and were done on a week-by-week basis as the study was conducted. Names of individuals were not used; rather, a description of the court, the process, and the court participant's roles. For organization and recordation, an Observational Protocol form was utilized (attached as Appendix D).

Issues of Trustworthiness

Because of the nature of quantitative research, testing for reliability and validity is different than that used in quantitative research (Sutton & Austin, 2015, p. 229). Howe and Eisenhardt (1990) set forth a variety of means of validating qualitative research, including (a) using techniques to test whether the data drove the analysis (versus the researcher driving the data), (b) re-examining the competency of the data (e.g., re-check the accuracy of codes applied to which participants; having participants confirm their transcribed audios), (c) disclosing and addressing any possible bias or assumptions from the researcher, (d) question if the researcher has pursued the issue with the vigor the issue deserves to warrant a reliable finding, and (e) after all is said and done, evaluate the information for its effect on public policy and the greater good (Howe & Eisenhardt, 1990). Each of these factors was readdressed during the research, data collection, and data interpretation process.

A researcher's knowledge and immersion in the field assists the researcher in fully understanding the area of study (Anney, 2014; Shenton, 2004). "Prolonged

engagement in the fieldwork helps the researcher to understand the core issues that might affect the quality of the data because it helps to develop trust with study participants" (Anney, 2014, p. 276).

As was made clear in the discussion regarding the role of researcher (above), I have an 8-year history within the county as a deputy public defender, and currently work among many of the groups from which participants were selected. Understanding the participants' working environment and having credible, trusting relationships with court personnel aided in the progress and dependability of this research.

It should be noted that I do not work for any of the agencies listed as participants. The researcher does not hold any supervisory roles to any participants. All agencies and participants have separate jobs and duties to fulfill in these court systems.

Creswell (2013) addressed the quality of qualitative research by referring to several categories used by Straus and Corbin (1990). The basic premise of these categories is to have the researcher ask, "where did this come from?" (Creswell, 2013, p. 260). By continuing to ask this about emerging themes, ideas for sample selection, and conceptual relationships, the researcher reconfirms that the quality of the study is appropriate (Creswell, 2013, p. 262).

Because of the qualitative nature of these interviews, implementing tools to avoid bias is especially important. In other words, any attempt by the researcher to reinterpret the meaning of what the interviewee discloses must be held back. Assumptions, prejudices, and biases must be suspended, as well as the inclination to "fill in the gaps" (Hycner, 1985). Measures to limit researcher bias were implemented. These include

utilizing means of randomization for participant selection, transcribing interviews for accuracy and recall, and providing supportive documentary court materials.

In addition, and also relevant to bias, are the several groups reporting data in multiple mediums (written questionnaires and oral interviews). Using these various data sources led the researcher to review all of the pertinent issues that Creswell found key to quality. When multiple sources of data align, provide themes, and renders insight into serious issues, the data are more reliable as a foundation for the researcher's results. Having a variety of data sources assists in preventing the researcher's bias and opinions over-reaching into the data.

Another consideration is the on-going supervision of this study. Research is rarely done in a vacuum. For instance, as part of this research, there was a dissertation committee that assisted in critiquing, commenting, and confirming this study throughout each step. Advice, commentary, and peer review are means to ensure trustworthiness of data and data interpretation (Anney, 2014). The dissertation committee was composed of experts in the field of study and methods (in this case, Dr. Deborah Laurfersweiler-Dwyer, Dr. Robert Lance Spivey, and Dr. Melaine W. Smith). In a sense, having this oversight is akin to incorporating an internal audit to each phase of the study (Shenton, 2004). The dissertation committee's own expertise and review made each phase of this study more reliable, trustworthy, and dependable.

Confirmability and Transferability

A case study design, done appropriately, should include data from a variety of sources (if available), including interviews, surveys, questionnaires, documents, and

observations (Crowe, et al., 2011; Zucker, 2009). By providing these rich descriptions, data then becomes more trustworthy (Anney, 2014). These thick descriptions enable the data in one context to be used in other contexts (Anney, 2014). In other words, the complexity and detail of the data make the findings more dependable, and more easily applied to similar situations.

It is anticipated that the results of this study will be applicable to jurisdictions with similar issues and concerns. The tools utilized to avoid the risks of bias in data collection assisted the study's confirmability and transferability as well (Shenton, 2003).

Ensuring rigor during the course of research and at the conclusion of one's study is as important as the study itself. Without establishing tools to eliminate bias and increase dependability and trustworthiness, "research is worthless, becomes fiction, and loses its utility" (Morse et al., 2002, p. 14). Within the instant research, these factors are appropriately addressed to result in a reliable and useful study.

Ethical Procedures

Confidentiality of Participants

Confidentiality is extremely important and needs to be appreciated at every stage of this project. Ensuring that each participant understands the parameters of the research they engage in and that confidentiality is protected is essential to performing an ethical, fair, and voluntary study (Schulte & Sweeney, 1995; Turkington, 1997). These efforts also help mitigate participants' false expectations and any chance of coercion (Schulte & Sweeney, 1995).

As noted above, all participants remained confidential. While this study included examples and facts of particular court cases, facts were presented in a generalized manner order for no particular person or case to be identified. This research involves working with probation officers, social workers, prosecutors, county counsel, judges, and defense attorneys. These groups are bound to keep victim and client confidentiality in their own day-to-day practice.

Ethical Practices in Data Storage

The way in which data and information concerning the instant research is treated also impacts the ethical strength and confidentiality of the study (Princeton University, 2017). Protocols for research data storage include the following:

1. Securely Storing Paper and Computer Memory Devices:

   This includes consent forms, tracking sheets, organizational charts, and personal identifying information, were stored in locked filing cabinets when not in use (ICPSR, 2012).

2. Protection of Computer Passwords:

   Passwords must be stored securely and locked in filing cabinets. The ability to access these cabinets will only be available to the researcher (ICPSR, 2012)

3. Engage Lock-Out Feature on Computer:

   Screen savers on computers used for this study and any research data, organization, and compilation of information will be placed on the lock-out mode after 20 minutes of inactivity (Princeton University, 2017).

4. Preserve Data on Multiple Mediums:

> In an effort to protect data, both paper and computer, data were copied and placed in a separate secured area. This was not a working source, but rather a means of archiving materials that would be detrimental to the study if lost or destroyed (ICPSR, 2012). The storage area was held in this researcher's own home office, and only the researcher had access. Weekly deposits to the storage area were made.

Simply stated, confidentiality and data protection are core values that drive integrity and trust in research (Turkington, 1997). These actions preserved the ethical foundation of this study.

Summary

Due to the professional level of the participants, their relationships to the court system, and this researcher's continued relationship with the agencies involved with this study, there were many opportunities for data collection. Multiple layers of data sources (i.e. surveys, interviews, and observations) gave the study not only confirmability, but dependability and trustworthiness.

As the research headed into data collection and processing, I transcribed the interviews myself. As I became immersed in the data, I examined an organization of key codes and themes. When codes and themes were repeated, becoming patterns, I evaluated whether there was a relationship to one another. This examination is detailed in Chapter 4.

Chapter 4: Results

Introduction

In this research, I used a qualitative case study to determine if criminal courts issue parent-child contact orders that are inconsistent with juvenile court orders, or vice-versa, in cases where both courts have overlapping jurisdiction in a child abuse case. For example, an inconsistency could arise if a criminal court issues a protective order that prevents, or limits, a parent from having contact with their child, thereby making it impossible for the parent to comply with a juvenile court order granting the parent visitation or custody of the child. As part of the inquiry, I evaluated the goals of each court, taking into consideration the statutory rules and general policies that govern each type of court. The intent of this study is to assess and consider how conflicting parent-child contact orders may affect the proceedings and participants in each court.

Data for this research were obtained through standardized surveys, interviews, and court observations. The use of data from such sources is a classic and distinctive quality of case study research. Using multiple sources provides an opportunity for the researcher to check and recheck validity and confirm findings (Kohlbacher, 2006). The type and quality of data convergence, or triangulation, is an important outcome during case study data collection as "establishing converging lines of evidence . . . will make [the] findings as robust as possible" (Kohlbacher, 2006, p. 13).

Setting

As previously noted, the need for this research arises from court proceedings in a Central California jurisdiction. All participants are employed and engage in either the

criminal or juvenile/dependency courts involved in this research. No participant was paid for their time.

I obtained letters of cooperation from the Probation Office and the District Attorney's Office via email (in response to my email explaining the intended research). As for the Child Welfare Agency and County Counsel's Office, I was directed to one supervisor who would make the decision for both offices. I attempted to contact this supervisor twice (via personal delivery and email of materials briefly explaining the intended research) but received no response. As such, these research groups, social workers and county counsel, were not included in this study.

Demographics

Study participants were selected because of their day-to-day association with court proceedings in criminal courts and juvenile courts, which handle child dependency cases. The following participant groups make up the population of the study: The Probation Office, The District Attorney's Office, Defense Attorneys for the Juvenile Court, Defense Attorneys for the Criminal Court, Judges for the Juvenile/Dependency Court, Judges for the Criminal Court.

As detailed below, some anticipated participants did not complete the standardized survey, the interview, or both. Specifically, two standardized surveys were not completed: one juvenile/dependency judge and one criminal defense attorney. Six interviews were not completed: two juvenile/dependency judge, two criminal defense attorneys, one prosecutor (who moved locations), and two probation officers (one

probation officer did not have any information to offer according to his standardized survey answers).

The reasons for lack of engagement by these anticipated participants are varied. Some became very difficult to track down (i.e., they were nonresponsive to email and I did not see them face-to-face); some continued to have time constraint issues (e.g., vacations, change of office location); and for some, it was a combination of both access to the participant and the participant's time. In all, there was an approximately 91% return rate for the standardized surveys (21 of 23) and an approximately 74% participation rate for the interviews (17 of 23).

Data Collection

Each participant was chosen by one of two methods. If a participant worked for one of the noted agencies (i.e., Probation or The District Attorneys Office), a supervisor (chosen by the head of the agency) dispersed materials regarding the study to the participants provided for the research. Materials included the Interview Guide (Appendix B) and a consent form. Participants from both agencies were screened by their own agencies for knowledge in concurrent jurisdiction child abuse cases. Ultimately, three participants were included in the study from the District Attorney's Office and four participants were provided by the Probation Office. In total, seven participants represented the Probation Office and District Attorney's Office.

Participants who are self-employed or make their own decisions on whether to participate (i.e., judges and private lawyers) were treated in a "first agreed, first accepted" fashion. I sent 10 invitations out to potential participants in each group, and the first four

that accepted were placed into the study. Invitations to join in the study were initially made by either email or in-person. After a participant expressed interest in the research, I delivered a consent form either by hand or via email. Ultimately, four participants were obtained for the groups of criminal judges, criminal defense attorneys, and juvenile/dependency defense attorneys. These groups made up 12 participants.

I used a slightly different selection process for the group of juvenile/dependency judges. As noted in Chapter 3, there are only three current judges overseeing the juvenile/dependency dockets in this Central California county. In order to keep the participant groups balanced, I requested involvement of all juvenile/dependency judges (either personally or via email). Additionally, a judge who had recently been a sitting juvenile/dependency judge, but is now overseeing a criminal court, was also invited to participate (via email). Invitations always included an Interview Guide and consent form. All four dependency judges agreed to participate, bringing the total number of initial participants to 23.

As participants were confirmed, they began returning their signed consent forms (some via email, some hand delivered when I saw them in day-to-day court activities). Some consent forms were signed and returned immediately; some took more time due to the participant's busy schedule. All consent forms were returned within approximately 2 weeks from delivery.

I assigned every participant an alphanumeric identifier. For example, criminal judges were referenced as CJ1, CJ2 and so on; juvenile/dependency attorneys were referenced as JD1, JD2, and so on. A date was scheduled to personally deliver the

standardized survey (Appendix C) and an anticipated pickup was made within 3 to 5 days of that delivery. I scheduled interviews within approximately10 days to 2 weeks of receipt of the standardized survey responses.

Data Collection

Multiple sources of data collection were utilized as part of the case study methodology (Kohlbacher, 2006). The analysis of the data is most often referred to as *qualitative content analysis* (Hsieh & Shannon, 2005; Mayring, 2000). Qualitative content analysis aids the researcher in classifying large amounts of data (verbal, print, narrative, observations) into categories that provide meaning to the phenomenon being studied (Hsieh & Shannon, 2005). Categories and themes are found within the data and can be captured or characterized into key concepts often referred to as *coding*; "coding refers to reducing text into smaller categories by devising labels that reflect the topics or ideas found within the words (or images) representing the data" (Rudestam & Newton, 2015, p. 218). As categories are derived, theoretical approaches can be applied which may lead to inductive and deductive subcategories (Mayring, 2000).

As noted in Chapter 3, I have current contact with several of the participants in my role as an attorney in juvenile/dependency court matters. My activities during court hearings (usually as an attorney representing a parent) place me in a position to negotiate, advocate, and discuss current matters and cases on behalf of clients with other court participants. Involvement as an attorney in day-to-day juvenile/dependency hearings assists me in understanding the context and circumstances in which data are generated. I

am not employed by any agencies participating in the study, nor do I hold a supervisory position over any of the participants.

Standardized Surveys

The majority of surveys were distributed personally to all participants, left for pick-up at their work location, and a handful were emailed (the surveys that were emailed were due to difficulties being able to meeting the participant personally). Most surveys were completed and returned within 3 to 5 days; however, some took up to 10 to 14 days to be returned. Two surveys remain outstanding and not returned.

The reasons for the delay in return of the surveys included participants' varying work locations and schedules. Moreover, this researcher did not want to place any undue pressure on completion and return of the survey. If the participant simply stated they "had not had a chance to get to it," the researcher told them to take their time and the researcher would check back in a few days. Overall, most of the surveys were completed within approximately 5 to 10 days from distribution. Six came in between approximately10 days and 2.5 weeks. Although the anticipated time for completion of this phase was slower than expected, approximately 91% of the surveys were completed (one juvenile/dependency judge and one criminal defense attorney did not complete the surveys). However, even without these remaining responses, the data are rich and informative with regards to conflicting orders in concurrent jurisdiction child abuse cases.

Interviews

Interviews with each participant occurred at a location chosen by the participant. Locations included the participants' offices and courthouse interview rooms. Interviews

lasted an average of 38 minutes; the longest interview lasted approximately 55 minutes and the shortest lasted approximately 20 minutes. Participants were asked to sign an additional consent form for the interview. Once the consent form was signed, the interview began with the researcher reminding the participant about the topic of the study.

Interviews took place over approximately 3 months (late August, September, October, 2018). One probation officer participant was not scheduled for an interview because his survey responses showed no current job connection (which included opinions) to the subject matter of the study; one probation officer was on vacation; one prosecutor participant was moved to a different office (scheduling was problematic). Collectively, a total of 17 interviews were completed indicating a 74% collection rate (other participants did not engage in interviews did not engage for a myriad of reasons, mostly due to scheduling).

The interviews followed an outline of semistructured, open-ended questions, which were focused on exploring information relevant to the research question. The outline of questions assists in organization and focus (Jamshed, 2014). Throughout the interviews, prompting was used when needed to assist in eliciting a deeper and more content-rich response. The prompts included, “can you elaborate on that,” “what did you mean by that,” “what reaction do you have to that,” and “tell me about that.” Participants were always told that it was perfectly fine if there was no more on the subject that he or she could offer.

Observation Data

The observation data were detailed on a formalized Observational Protocol Instrument (see Appendix D). This document required the observer to note the date, time, length of observation, location of observation, participants (by job and/or duties), description of physical setting, description of physical layout, descriptive notes, reflective notes, and ideas going forward. As noted by Kohlbacker (2006), "making direct observations in a field setting….is one of the most distinctive features in doing case studies" (p. 11).

As interviews were taking place, this researcher conducted 3 observation periods in both the juvenile/dependency courts and criminal courts. These observations took place for between 30 minutes to an hour in each court. The purpose of these observations was to gain an understanding of how the issues related to the study arise in day-to-day practice. The most notable takeaway from every observation period was the congenial and professional relationships all participants maintained with one another. Even in the midst of a serious and compelling argument by attorneys or agency representatives, everyone remained respectful. It was also apparent that all the agency representatives (probation, social workers, court clerks), attorneys, and judges regularly problem solved together on a variety of issues. They discussed (and sometimes debated) what new facts had developed, the future course of the case, the options open to the parties, and what efforts each party could make to move the case toward a resolution (even if just procedurally).

During one notable juvenile/dependency observation, this researcher watched all the parties interpret a criminal order which reflected 'no contact' information involving the parent and child, yet allowed some discretion to the juvenile/dependency court by way of a handwritten note at the top of the order

The first criminal order at issue during the observation included handwritten language as follows: "If family services wants child to be seen by parent they may modify CPO (criminal protection order) as CPO states issued on [date given]." A second minute order included handwritten language stating, "order subject to comply with CWS orders as to visitation & custody and by family or juvenile court order." (Both orders are attached as Appendix E). The handwritten portions of the first order were too close to the edge of the sheet and had been cut-off during photocopying. After some discussion, it became clear that the parties did not agree on what the notes said, and the court clerk retrieved a clean copy from the computer. Once this was done, the parties disagreed on the meaning of the second handwritten note. The judge finally resolved the question by considering what she knew about the issuing judge's (from the criminal court) 'usual practice' in the type of case before the court, and she made a final ruling on the interpretation. The result was contrary to the desire of one of the parties, as was evident by their comments.

Because these hearings are confidential, the public is not allowed to attend. Thus, a diagram of the court and where the participants are located in relationship to one another and the court is included as Appendix F.

Observations were also made in the criminal court as well. These observations took place in another county courthouse, approximately 15 miles away from the location of the juvenile/dependency hearings. The parties were professional and respectful to one another. Depending on the day, and the Department, the amount of volume in each court varied. During the three observations, no issues of 'contact' were brought before the court.

Data Analysis

The crux of this study revolved around the main research question:

If separate courts issue conflicting orders concerning contact between parties, how are the orders perceived by the impacted parties, what is their reaction to the orders, and how are the relationships between the parties affected?

As part of the above question, the researcher explored whether conflicting orders are created because each court system follows different statutory mandates, policy considerations, and/or mandated goals. The researcher also explored how the judges and the parties operating under overlapping court jurisdiction manage the conflicting directives.

The responses to the surveys generated data, which was used as a beginning measure for the later interviews. The surveys allowed participants to elaborate and explain answers in more detail, further assisting in answering the above inquiry. As data were reviewed and analyzed, several core themes and patterns emerged from participants' responses.

From the survey responses, participants believed the nature and the consequences of this issue are problematic, but not without some current remedies in action. Breaking down these responses into 'big picture' themes, the surveys reflected areas of Acknowledgement of Cooperation; Unfairness; and Lack of Communication/Confusion.

The themes of Acknowledgment of Cooperation; Unfairness, Need for Better Communication/Confusion are drawn from more detailed statements reflected in the survey data. These are set forth in the following Table (Table 1):

Table 1

Theme and Pattern Development

Theme	Occurrence
Acknowledgement of Cooperation	
Understand there is an agreement	3
Solution on a case-by-case basis	3
Cooperation with Justice Partners	3
Unfairness	
Delay in Family Reunification	4
Extra time; Extra Court Dates	3
Blocking of Necessary Court Orders	2
Limited Ability to Return Child to Family	1
Undermines Access to Visits with Child	3
Adds Additional Procedural Layers	2
Need for Better Communication/Confusion	
Lack of Communication Between Justice Partners	10
Need for Better Coordination/Efficiency	7
Need for Information/No Access to Information	9
Unable to Provide Requested Information	8
Confusion – Procedural and Substantive	8

Note. This table represents responses from all 23 surveys.

Table 1 includes the transformation of data from raw data (descriptions) into interpretation (after analysis) (Vaismoradi, Turunen, & Bondas, 2013). As previously mentioned, the raw data are systematically reviewed for reoccurring patterns and themes which are then categorized as such (Vaismoradi et al., 2013). Here, themes and patterns were found to fit under three main headings, Acknowledgement of Cooperation, Unfairness, and Need for Better Communication/Confusion. The amount of times the 'phrases' or 'word group," or "description" occurred is noted in Table 1. In essence, these groupings capture significant, meaningful, and interesting ideas reflected in the data that is relevant to the research question (Maguire & Delahunt, 2017).

Table 2, includes summaries of participants' responses, according to their group affiliation, in relation to the noted patterns.

Table 2

Survey Response Matrix

	CJ	JDJ	P	JDA	CDA	PO
Ave. years in the field	28.5	20.5	7	19	18	23
Ave. level of frustration with process	9	6	7	8	9	7
Number of participants who believe orders from 'other' court counter to goals of participant's court	1	3	4	4	2	2
Number of participants who perceive a problem with contrary orders regarding 'contact'(small or large)	4	3	4	4	2	1
Participant believes that issue has been addressed	4	3	0	3	0	1
Participant believes that issue has been *adequately* or *sufficiently* addressed	0	3	0	0	0	0
Participant believes that issue continues to causes problems in communication (small or large)	4	0	4	4	4	1
Participant believes that issue results in some form of unfairness (small or large)	2	0	1	4	4	0
Participant is interested in the info from the 'other' court	4	2	4	4	3	3

Note. CJ: Criminal Judge, JDJ: Juvenile Dependency Judge , P: Prosecutor, JDJ: Juvenile Dependency Judge, CDA: Criminal Defense Attorney, PO: Probation.
*There are less notations than survey participants because some of the participants did not answer all survey questions. Some of the reasons given were that a particular question did not pertain to the individual or the participant did not have a response to give.

A distinct theme is the theme of due process, social justice, and procedural justice. As Table 2 indicates the responses vary given the different participant groups. This should not be a surprise. The interests, responsibilities, and duties of each group are different, which affect the way they experience (and the group they represent) this phenomenon. For example, it is the defense attorney participants (both in the criminal and juvenile/dependency courts) that see the contrary court orders, not only leading to communication problems, but resulting in some form of unfairness. Although the criminal judges deal with part of this issue, they did not respond to the same questions with the same concerns (per the survey answers). However, this issue was further explored in interviews and some criminal judge participants found certain aspects of the current process to resolve the issue 'unfair.'

These themes and patterns are described in full in the 'Results' section in this Chapter.

Evidence of Trustworthiness

Credibility

Data for the instant research were collected among a professional, nonvulnerable, and educated population. The majority of the participant population were licensed professionals, active in their field of inquiry for over 15 years (see Table 2). Thus, participants who provided data, provided it with confidence, fully informed, and with extraordinary levels of expertise. This level of 'quality' lends itself to the vigor and reliability of results and findings (Howe & Eisenhardt, 1990; Shenton, 2004).

One of the ‘markers’ of credibility of a study is that data are relevant to what is being studied; in other words, does the population sampled hold the necessary information and are the appropriate questions being asked to draw out that information (Shenton, 2004). In the instant study, not only were standardized surveys used, but in-depth interviews were conducted. These interviews and the ‘highpoints’ were outlined in this chapter. The use of these dense characterizations and explanations gives the research more meaning and strengthens the credibility of the research (Morrow, 2005).

The use of interviews and survey responses gave participants an opportunity to add, elaborate, and fully explain an area of previous inquiry. This enriched the previous data, confirmed the adequacy of the data, and confirmed via triangulation (Morrow, 2005; Shenton, 2004). Combining methods for data sources can lead to triangulation, thus, elevating the validity and trustworthiness of data (Golafshani, 2003).

Transferability

Not only is the quality of this study credible and relevant for policy considerations in the county it was conducted in, it can also be used for other similarly situated counties, giving it a transferable quality. “Transferability refers to the degree to which the results of qualitative research can be transferred to other contexts with other respondents – it is the interpretive equivalent of generalizability” (Anney, 2014, p. 277). By using multiple sources of data and participants with a variety of perspectives who provided rich and detailed descriptions, the information related from the instant study is more dependable and more likely transferable (Anney, 2014). Many counties throughout California and the nation grapple with issues similar to those explored in this study -judicial systems that are

pressed to balance many competing interests. Because this study included judges', attorneys', and probations officers' viewpoints in two mediums (surveys and interviews) with observation data to provide context, it is a reliable resource for information on this topic and other associated areas.

Dependability

Dependability of a study "refers to the stability of findings over time" (Bitsch, 2005, p. 86). Some scholars consider the idea of 'dependability' to be akin to that of consistency (Korstjens & Moser, 2017). Because each participant was treated in a similar manner during the research process, and the results were analyzed using accepted standards (i.e. thematic and pattern coding), the current research has a high probability of dependability. It would be expected that this same data, over time, would remain consistent and repeatable.

Confirmability

Objectivity is the foundation of confirmability (Shenton, 2003). Research findings are more likely to be found objective, and thus, confirmable, if there are steps taken to alleviate researcher bias and preferences (Shenton, 2003). In the current study, participants responded to this area of research and the issues associated with it in multiple settings. Additionally, as indicated above, these participants were professionals in the field of inquiry. There should be no concern of intimidation, pressure, or coercion in their responses to the survey or interview questions (or their participation in the research). Additionally, each medium, whether it be in the type of group the participant represents,

survey responses, interview quotes, has an inherent effect of testing for confirmability (Golafshani, 2003).

Results

From the outset, this research set forth to ascertain data hoping to answer whether there are conflicting orders pertaining to contact between parents (in juvenile/dependency and criminal cases) which 1) conflict, and 2) how that conflict impacts all parties involved in these concurrent jurisdiction cases. The research also anticipated exploring the statutory and policy differences in each jurisdiction and examining how those constraints impacted this issue.

Many of the policy and statutory differences between juvenile/dependency and criminal court have been addressed in Chapter 2. However, the actual impact of the issuing of orders by both courts on the same parties is taken up by the participants in this study. Thematic Headings as described in Table One and Two are weaved throughout many survey responses and discussions by participants. These themes and patterns are namely: Current Attempts at Cooperation; Need for Better Communication; Confusion; Unfairness; Delay.

The answer to the initial research question is, ‘yes,’ there are conflicting orders between these courts. How these orders impact the quality of jurisprudence and justice sometimes depends on how one perceives ‘best practices.’ It is not an easy or clear answer, but one that is clearly best detailed by all who experience the phenomena.

The following is a detailed discussion of the results reflected in the data.

Standardized Survey Results

All participants agreed that there is a need for better information exchange given the needs of the two courts. However, these needs are stifled by confidentiality laws and protections of the juvenile/dependency courts. Many participants recognized that efforts were being made to standardize language in criminal protective orders to give juvenile/dependency courts some discretion to modify these orders. However, the majority of participants believe that parents continue to be delayed and cases are detrimentally impacted by the conflict in court goals/orders. Their responses are explored below:

In sum, given the main focus of this research, it can be concluded that the majority of the study's participants found problems with 'contact/no-contact' orders involving concurrent jurisdiction child abuse cases. According to the survey data, the majority of participants believed that judges with concurrent jurisdiction issue contradictory contact orders in child abuse cases and that problems result. The participants were affected differently, and as a result their descriptions of the issue, it's gravity, and how it manifests also differed (See Table 2). The survey included a question asking respondents to rate their frustration (with this issue) from 1 to 10 – 10 being extremely frustrated, 0 being not frustrated at all. Although some declined to answer, those that responded rated it no lower than 4, and several rated their frustration at a level 10. For the most part, the 'issue' was described as, "different courts making opposite orders" (quoted from a criminal defense attorney participant, CDA1).

It is also important to recognize that many participants acknowledged the use of 'similar' language by courts in attempts to formalize the modification process. Additionally, some participants recognized that these issues are being addressed on cases by case basis. As one juvenile/dependency judge, JDJ3, explained, "we have established agreements among the judges involved. However, the main challenge is communication among the parties and their attorneys."

Prosecutors encountering this problem or issue described it occurring from "at times," (DA2) to "very much so" (DA1). One juvenile/dependency attorney, JDA3, described the situation as causing "problems for all the participants," and another, JDA4, emphasized their frustration in trying to explain the situation to parents. One criminal defense attorney, CDA2, observed, "no one is handling this issue…everyone just seems to shrug and not want to figure out a solution."

The problem may stem from the different focus and practice area of each court. As one criminal judge participant, CJ1, explained, "frequently, the criminal court will know more about the facts of the particular [underlying] incident, but the juvenile court has much more accurate information or sense of what it actually going on with the family dynamic."

The themes and patterns of Acknowledgement of Cooperation, Unfairness, and Need for Better Communication/Confusion, were ascertained from the descriptions provided in surveys. The following illuminate those findings.

Acknowledgement of cooperation. Several participants acknowledged cooperation efforts as the remedy for the above research question. One

juvenile/dependency judge participant, JDJ1, noted, “we now have an agreement with the criminal court to grant the family and juvenile court discretion to allow for peaceful contact.” This ‘agreement’ was recognized by several other participants. Another juvenile/dependency judge participant, JDJ3, sees resolving this issue not only with the adoption of the agreed upon language, but also on a “case by case basis; communication among the parties … judges talking to judges, attorneys talking to their clients and their clients talking to other attorney.”

With communication in mind, another juvenile/dependency judge participant, JDJ2, related that “the courts and justice partners work well together to solve issues such as this (research question).” This same participant explained, “the courts have done a better job of tailoring the CPOs (criminal protective orders) to allow visitation, while still protecting the children in relation to the goals of the criminal court.”

Cooperation, agreements between justice partners and on-going efforts at coordination are all tools and processes that address concerns raised in some of the data.

Unfairness. A main concern for many participants was perceived unfairness that is a consequence of each court relying on different information and goals in order to make decisions about contact between an adult (the parent) and child (the victim). The juvenile/dependency court may make a decision that carefully monitored visitation between the parent and the victim-child is in the best interests of the child, and issue an order permitting the visitation. In the criminal case presided over by a different judge, wherein the child is a named victim, the court may have already forbidden contact in order to protect the child. By statute, the criminal protective order is given the highest

priority. Social workers who are responsible for the protection of the child will not, and cannot, permit visitation to occur if the criminal court has forbidden contact.

A parent who receives permission to visit with a child from the juvenile/dependency court will usually find it very difficult to petition the criminal court to modify its order so that the visitation can take place. One juvenile/dependency attorney participant, JDA3, explained, "it's the whole process of having the client put themselves on calendar to change an existing order that's most difficult, as this is time consuming and not easy." Another criminal defense attorney, CDA3, commented:

> Restraining orders in the criminal court block judges in the dependency court from making otherwise normal and necessary orders regarding contact and visitation which are an essential component in reunification. If I have a client trying to figure out how to modify a criminal order, they risk getting lost in the 'no system' system.

In the words of juvenile/dependency attorney JDA4, "the [criminal] order stops visitation. Visitation is the most basic of family reunification services…lack of visitation can have a huge impact on family reunification."

If the criminal court judge is aware that there is a juvenile/dependency case pending, in some cases the criminal court will modify a standard 'no contact' order at the time of issuance. The judge may make a needed, but ultimately insufficient, modification at the outset. For example, the criminal court judge may add a handwritten note to the protective order permitting supervised visitation under the aegis of the juvenile/dependency court. However, the reunification process in the

juvenile/dependency court progresses in stages past supervised visitation. If the parent follows through on the case plan services (e.g., engaging in parenting education, domestic violence counseling, drug rehabilitation), then the juvenile/dependency court will eventually permit unsupervised visitation, to be followed by overnight stays, and finally placement of the child back with the parent. The initial modification by the criminal court only allows the first stage, unsupervised visitation, and prevents the reunification process from moving forward through the subsequent stages. In effect, reunification efforts by the parent and the juvenile/dependency court are blocked.

As juvenile/dependency attorney JDA1 opined, "[this issue] has placed limits on our ability to lift supervision, or allow for return of children [to the home]." The same attorney noted that even when counsel is informed by a social worker or parent that there is a protective order, no copy of the actual paperwork is available. The attorney must wait for the next hearing, or attempt to obtain a copy by making a request for records. One criminal judge participant, CJ1, acknowledged the delay, stating that, "eventually, usually a couple of court appearances later the courts get in sync."

The above commentary describes one end of the spectrum of 'unfairness,' usually of the kind complained of by parents, counsel for the parents, social workers who favor reunification in a particular case, and judges who may share that view in a given case. On the other end of the spectrum are parties who are mainly concerned with protecting the child from any further direct harm by the offending parent. Social workers and judges who are less supportive of a reunification effort in a particular case, and prosecutors more generally, believe that the criminal protective order should not be changed lightly.

Participant prosecutor, DA1, used an example to generally support this opinion, stating that "a child was forced to have supervised visitation with her biological father she had accused of molesting her and it was extremely emotionally taxing."

Need for better communication/confusion. The responses of the criminal judges reflected a general consensus that the protocol for issuance of orders by different courts results in a lack of consistency and efficiency. One criminal judge, CJ4, stated "there is no automatic communication between dependency and criminal courts." He further characterized this lack of communication as an "inefficiency" which leads to extra [wasted] time and additional hearings. However, this criminal judge participant acknowledged that there is a "court policy of making criminal protective orders issued in criminal courts subject to the modification by the juvenile and family law court."

Another criminal judge, CJ3, supported this observation by commenting that there is no communication between the two courts, yet, the orders from the juvenile/dependency court have "affected the handling of the criminal case." A similar opinion was noted by a criminal judge participant in the observation that, "frequently, in these cases, the criminal court does not have enough current information about contact issues and recommendations. We don't see social worker's reports, for example. There is no good method to share this information between the courts." Criminal judge CJ1stated that he tries to tailor his criminal protective orders around the juvenile/dependency orders, believing that "[the juvenile/dependency court] are in a better position to evaluate [the contact] issue."

One prosecutor participant, DA2, stated she encountered confusion at times regarding what other orders are in effect, and how those other orders will impact the order that is coming from the criminal court in which she appears.

The lack of communication affects probation officers in a different way. In their attempt to make recommendations to the court, probation officers are lacking juvenile/dependency visitation orders, social worker recommendations, and are lacking viable and consistent means to obtain them. One officer, PO4, commented:

> If the police report lists that children were turned over to the mother or grandparent, I will try to contact them. If CWS took them, I have nothing to report [to the judge] …There is no central clearing phone number available to us where we can find out who the worker is and how things are going and [CWS] is sometimes reluctant to share information.

Another probation officer participant, PO2, had some difficulty "trying to coordinate CWS case planning into probation recommendations," especially when a 'no contact order' is later modified or resolved through a CWS case plan.

Communication problems manifest in other ways. Criminal defense attorney participant CDA2 noted that the client sometimes doesn't understand juvenile/dependency proceedings well enough to advise their lawyer about what happened (if they mention the proceedings at all) or remember who their juvenile/dependency attorney is. This participant stated that "in the past, juvenile/dependency attorneys have rarely reached out to me or even called me back."

One juvenile/dependency judge found that the efforts made between criminal court judges to "grant the family and juvenile court discretion to allow peaceful contact" [this is a note that is written directly onto the protective/no contact order] solved most of the problems. This policy was noted by another criminal judge participant.

However, one criminal defense attorney, CDA3, referenced this 'policy' and indicated, "at times, the criminal court will hand-write in some amount of permission for the dependency court to modify restraining orders. The type and scope of the permission, written on the margin, is often debated later in the dependency court." In other words, participants did not all agree that a directive allowing the juvenile/dependency court to modify the order of the criminal court was consistently utilized.

Most notable is the impact on the juvenile/dependency judge's ability to make orders. For example, one juvenile/dependency judge, JDJ2, noted that "there were several cases in which I was unable to allow supervised visitation for the parents and children, which frustrates the reunification process."

Attempts to remedy the issue and thoughts on a multi-agency or 'one-stop' approach. Several participants noted that the criminal and juvenile/dependency courts have made efforts to better understand the issue as it plays out across both courts. There have been attempts to standardize the language used by the criminal court judges in order to eliminate the ad hoc creation of modifying language on a case-by-case basis. For instance, juvenile/dependency court judge JDJ1 explained, "I think we have solved most of the problems by working with criminal court judges to allow juvenile and family law

judges the discretion to address visitation and reunification issues." Another juvenile/dependency judge participant, JDJ2, opined that:

> The courts have worked together to make sure that CPO's are tailored to fit the needs of the juvenile court and reunification. Along with the cooperation of justice partners in CWS, dependency attorneys, prosecutors and defense attorneys, we have managed, in most cases find a way to reach [juvenile/dependency] goals.

In some instances, a judge stated that he was able to "pick up the phone to call my former court colleagues and work out a solution on an ad hoc basis" (Criminal judge, CJ1)

Information exchange seemed to be at the crux of the problem for many of the participants. The research survey asked about whether a multi-agency or 'one-stop' approach could be a solution. Responses to this question were insightful and meaningful. Probation officer PO4 was concerned that combining both courts could risk the children seeing parents taken into custody. This same probation officer participant felt that educating those in the criminal courts about what happens in juvenile/dependency court could prove effective. She noted that it "helps to have a criminal judge with dependency experience."

Most respondents agreed that having one court to process these cases or a multi-agency approach would lead to more consistency. One criminal judge participant, CJ3, suggested that "except for the worst serious cases of abuse, I think most should just be handled in dependency court. If reunification is desirable/reasonable; adding [separate] criminal court proceedings and sanctions (fines/jail) does little to benefit the parties involved."

This notion seems to be in line with another criminal judge participant who attempts to "try to tailor my [no contact] orders to coincide with [juvenile/dependency] orders." On the other hand, prosecutors saw the criminal court as the preferred court:

> The only appropriate court for all cases in my opinion would be the criminal court. Parental reunification is not an option in my cases (i.e. child molest). Problems with this approach involve emotional trauma to the child and non-enforcement of criminal protective orders. I fear the benefit/best interest of the child may be compromised (Prosecutor participant, DA1).

The concerns with a 'one-stop' approach or multi-agency approach were several: Some participants questioned how courts would resolve the two separate and distinct standards of proof and nuances in evidentiary rules and had concerns with how to integrate confidential proceedings (juvenile/dependency) and public proceedings (criminal). Participants also saw built-in barriers in the ability to process the amount of cases that would end up being set in such a court.

Prosecutors, understandably, were concerned that their criminal investigation/prosecution would be compromised with a multi-agency approach: "My main concern is other agency involvement (i.e. CWS or family courts) compromising the emotional well-being of the child as well as compromising the criminal investigation/prosecution" (Prosecutor participant, DA2).

Participants' concerns with a multi-agency or 'one-court' approach is summarized as follows:

1. Problems with different standards of proof;

2. Integration of confidential proceedings (juvenile/dependency) with public (criminal) proceedings;
3. Lack of ability to deal with volume;
4. Criminal aspect compromising CWS intent; CWS aspect compromising criminal intent;
5. Concern with the effect on child if mother/father are arrested during hearing with child present;
6. Handling of different evidentiary rules;
7. Coordination of all parties and scheduling;
8. Time limitations of juvenile/dependency proceedings and their impact different statutory timing concerns in criminal proceedings;
9. Balancing the focus of the 'best interest of the child' in juvenile/dependency with 'punishment' of the offending parent in criminal proceedings;
10. Getting all stakeholders to the table and coming to an agreement.

Although there were many perceived barriers to a one-court approach, most participants approved of the idea for consistency, having better informed participants of the process and efficiency for all involved.

Survey responses were analyzed and placed in a matrix highlighting a variety of topics that arose directly and indirectly from the survey responses. For the latter, qualitative data analysis was applied to the survey, which produced themes and characterizations to particular issues and circumstances surrounding this issue. For example, questions such as, "has this issue impacted your job directly?" and "what are

your concerns, if any, with the way the courts are handling concurrent jurisdiction orders on contact issues now?" produced responses either touching upon subjects of 'unfairness' and/or 'communication.' Thus, these were named as categories and coded for throughout the survey. The remaining topics named in the matrix were coded in a similar fashion.

One-On-One Interviews – Results

In the interviews this researcher attempted to obtain data pertaining to whether there are conflicting orders concerning contact between parties in juvenile/dependency and criminal cases and how those orders are perceived by participants in these courtrooms.

Interviews supported the basic concerns revealed by the survey responses. That is, as defined by one criminal attorney participant, CDA1:

> In the criminal arena you could have a no contact order from a defendant who has physically abused a child. And the court can make an order that the defendant, mom or dad, have no contact with the minor child, who's classified the victim. Now, if CWS gets involved, … the CWS court could offer reunification services to the parent… and says, 'ok, now you can have services and you can actually have contact with the victim'… So, by having two different courts issue two different rulings, it could mess up either the CWS case or the criminal case.

As the interviews progressed, the following five themes and patterns emerged:

1. Lack of Communication
2. Confusion
3. Delay / Detriment

4. Reliance on Juvenile/Dependency Expertise
5. Multi-agency approach/One-court approach concerns

Lack of communication. The need to know pertinent information and the frustration in not obtaining that information was voiced from a majority of the participants. Participants in all roles, probation officers, attorneys, and judges, informed this researcher that they needed more information, either from the criminal court or the juvenile/dependency court.

The lack of communication is not intentional, as seen through the eyes of juvenile/dependency judge JDJ1. It clearly stems from the difference inherent in the two courts, (criminal and juvenile/dependency):

> The reason the criminal court issues the restraining orders is because there is a criminal case before them and they're concerned about the suspect harming the protected party so they impose a restraining order to keep that person away from those that the court feels are in danger of his criminal behavior.

If the criminal court had not included discretion to the juvenile/dependency court to modify the criminal court restraining order, this participant explained:

> We ask [the party] to go before the criminal court judge to ask the criminal court judge if they are willing to grant the juvenile court discretion to modify. Sometimes it's a case of where the criminal court judge is not aware of the issue, so they don't make the order granting the juvenile court discretion, and in some instances if the criminal behavior is so serious they may not want to grant

> discretion. But, many times, they are not aware of the issue, they haven't thought about it and they haven't addressed that issue.

One juvenile/dependency judge, JDJ2, commented that at early stages in criminal proceedings, there may be orders made that neither the judge nor the criminal defense lawyer realize have negative consequences for later participation in a reunification plan through juvenile/dependency:

> And I won't know that in the early case disposition [referring to a criminal case]. So, I might make a custody order for the defendant to serve time in custody that really hampers the dependency case. And their attorney won't know, they won't understand, so we might be doing things that are affecting the dependency case unknowingly. So, I think we need to look at how do we get that information early so that the attorney representing the adult criminal defendant knows what they're getting into . . . so they don't do something that affects the dependency case.

For one criminal defense attorney, CDA2, the lack of communication abounds. It manifests in her client's misunderstanding or lack of knowledge about their own juvenile/dependency hearings, the criminal court's inability to look at the juvenile/dependency file due to confidentiality laws, and problems with locating information from other sources:

> When you explain to the judge in the criminal court that there are orders made by the juvenile or family court, sometimes they will want to address it, sometimes they will want proof, sometimes the response is, 'I'm not going there, I'm not touching it' and they won't do anything at all . . . The

> issue isn't resolved, the client is frustrated . . . they (i.e. client) get confused, some are illiterate, they don't even know who their (i.e. juvenile/dependency) attorney's name is, and now there are two orders. They are thinking, 'there are two orders, what do I do, who do I listen to?

This same criminal defense attorney participant attempted to reach out to the juvenile/dependency attorneys, but without a name or an on-going relationship, contact is difficult: "It has been difficult in the past to get information, so they (i.e. criminal defense attorneys) were just kind of stuck with not knowing how to proceed or how to advise." A current criminal judge, CJ1, saw the problem as well and stated:

> If the party in the juvenile case is represented by the public defender [criminal defense attorney appointed by the court] in the criminal case, the court relies on the party to contact their lawyer to communicate the situation to get the matter back on calendar to address the protective order, . . . the attorneys . . . it's not the same people, so there's a risk of communication, so it creates problems for the juvenile court. Sometimes it happens that the juvenile judge will contact the criminal court judge to say, 'hey this case is coming here, we're anxious to start reunification, can you modify that order,' and there are less communication issues when that occurs. But it's a cumbersome process and there's no consistency in the process.

Probation officers are also assisted by obtaining information from juvenile/dependency information. One participant probation officer, PO2, noted that when dealing with a child abuse, generally:

> We want to know if CWS is involved in the case and if they have some kind of case plan for reunification; if they have no-contact orders, anything like that . . . Typically, we just call CWS and ask them. The problem is, I'm sure they're busy and sometimes they don't get back to us. So, we don't get the information, . . . it's a no-contact.

Criminal judge participant CJ4 considered the lack of information problematic to effectively considering all aspects of the criminal case and explained:

> Quite frankly, if I have a criminal case before me ….the only people that would probably know what's going on in the dependency case are the litigants ... the defendants and a lot times they don't say anything and the lawyers don't know…my clerk doesn't know, I don't know, …so, often times, I will make a no contact order …and there's a box to check that … 'reasonable visitation …but they have to obey other court orders'…and that's the best I can do. But I should know, as a judge I should know what's going on and most of the time I do not. Frustrating.

In terms of clients making multiple court appearances, one juvenile/dependency attorney, JDA3, explained:

> Well, a lot of them don't have a lot of means, they are working one or two jobs, and at times it's very difficult to get down there [criminal court] at 7:30 in the morning to criminal court to get themselves on calendar to see the judge [criminal] that day. That takes a lot …. They can be there all day long; some don't have the mental wherewithal to know how to do all that.

The problems related to transmitting this relevant information are also evident in the other direction, as when there is a lack of clarity about the 'no contact' order from the criminal court to the juvenile/dependency court. One juvenile/dependency defense attorney, JDA1, explained:

> The issues are the wording on the protective order not being clear as to what we [juvenile/dependency] can allow and not allow, the other issue is the availability of the actual document…sometimes we are told that the document exists but we don't get actual copies of the document or we don't see the documents until much later."

Probation Officers have also seen a problem in the ability of defendant/parents to juggle and understand the meaning of multiple orders from multiple court appearances. One of the probation participants, PO2, mentioned that defendants/parents expressed conflicting information from what the officer found in court records and noted, "the defendant, half the time, wouldn't know necessarily what the order said from dependency court…and if they (defendant/parent) did, they weren't always truthful."

One officer stated that some defendants will mitigate their circumstances, if problematic, when describing the situation with their children in dependency court (Probation Officer Participant, PO3).

Confusion. Lack of communication appeared in all interviews as an important concern of all participants. For the most part, the juvenile/dependency attorneys believed that handwritten wording is confusing and poses risk for misinterpretation. Several examples of these handwritten notes are attached as Appendix 1. For instance,

juvenile/dependency attorney participant JDA3 pointed out that the word 'modification' can be interpreted to mean different things to different people: "Does that mean that the kids can go back to the parents, does that mean they can be placed in their custody without having to have this order entirely taken off or eliminated?"

Another juvenile/dependency attorney participant, JDA4, considered the handwritten language ambiguous. This participant recalled the handwritten language of "If Family Services wants child to be seen parent they may modify CPO as CPO states issued on **/**/****" as being confusing to the court and some of the attorneys on the case. This participant emphasized:

> The judges (juvenile/dependency) may look at [the handwritten language] and say it still has limits on them as well as the social workers not understanding the language that's written on the orders themselves or thinking that they can't go forward until they have an order from the juvenile court that puts aside the criminal protective order.

One criminal judge participant, CJ1, experienced the following situation:

> Where juvenile court social workers who are implementing reunification plans or visits won't take the modified order from the criminal court if there's any type of protective order in place, in other words, I've had the situation where as a criminal court judge I've said, I want visitation to occur consistent with, even when I've had the juvenile case number which I frequently do where you can write the case number, I've had the juvenile court staff, like social workers, disregard those orders and say no, as long as there is any protective order in place,

> we're not going to allow for there to be visitation because there's a conflict, in their way of thinking, in the protective orders.

A criminal defense attorney participant, CDA1, commented that the besides that language problems, the print is difficult to read, many use inconsistent language, and that writing in modifying instructions "is not the normal protocol."

Some judges indicated the written language was sufficient and that they were satisfied with the process:

> It says here on number 15, "This order is subject to modification by the modification by the Juvenile Court or Family Law Court." I would think that's enough for them to know that and that's supposed to be our thoughts on that. And the reason we say that or we generally say that is because we generally don't have the full case file or send it them and whatever they recommend is fine with me…"
>
> I don't believe I've ever got anything back from the juvenile or family court saying what I will allow; I'm leaving that up to them because they have a hearing with all the supporting documents. I don't get those, so for me to make a decision… it would be, I would leave it at no contact if they left it up to me until at least I hear the prelim and until I check the age of the child, that's very important (Criminal judge participant, CJ2).

As to the handwritten language, there seems to be a misunderstanding as to which judges and attorneys are aware of using 'designated language' to allow the juvenile court discretion.

Criminal court attorney CDA2 has been practicing in the county's criminal courts for over 14 years and considers this issue serious and without a solution:

> Surprisingly, this is an issue that comes up a lot and hasn't been resolved and no one really wants to take it on and say how can we improve this, or what can we do or what are some ideas. It just seems like we have the juvenile court and we have the criminal court and as far as I know there has been no communication on how to resolve the issue.

A similar problem in this area is the confusion that comes from very few attorneys and judges having experience with juvenile/dependency court. One dependency judge, JDJ3, commented:

> I think we can probably better job of incorporating the criminal prosecution and the dependency prosecution later in the stages, and I think that's something we need to look at, is how do we incorporate those two together so that the prosecutor and the criminal judges understand what's going on in dependency because very few judges have served in juvenile and understand how dependency works.

This participant finds the idea of allowing the juvenile/dependency court discretion to modify contact orders favorable due to several mechanisms overseeing children's 'best interest':

> [CPS] understands the children because they're with the children. And the children in dependency have an attorney and many times they have a CASA advocate as well, they need to be involved. So, from the criminal perspective as a judge, again, the judges need to understand what goes on in dependency. And I

> think we need to get that out to the judges because we are making orders in cases that may have serious repercussions in family reunification.

One criminal judge participant, CJ4, found the handwritten language helpful, despite seeing a handful of problems return for clarification, and seemed satisfied. The judged stated, "I can think of a handful of times where I've dealt with defendants coming back multiple times to deal with modifications, or requests for modification of the order for these types of reasons. But that's out of thousands of cases."

Delay/Detriment. In cases where there is confusion and lack of communication, the result is delay. *Delay* in this case can mean different things for different participants. For one criminal court judge participant, CJ1, he saw the delay manifesting in the reunification process: "when there is a conflict in those orders, it stops the work of the juvenile court to quickly begin reunification… but with any of them … it can delay proceedings for weeks." Another juvenile defense attorney, JDA1, added that the delay can hold up reunification when there is a lack of information available from the criminal court:

> If we don't have the wording [modifying language from the criminal court] that lets us feel that we can lift supervision, or allow for overnights or allow for return, …we have cases where we wanted to do that much earlier and it gets delayed because we need clarity on what's allowed or not allowed by the protective order that's in place.

Juvenile/dependency judge JDJ1 also acknowledged that if:

> The criminal court has not addressed the issue and we have to send the family back to criminal court or the victim ... in this case, usually the spouse, … to go back and ask the criminal court judge to give us [juvenile/dependency court] the discretion and that usually delays the case until they are able to do that.

A juvenile/dependency attorney, JDJ2, participant related concerns with the statutory timelines as part of reunification: "if [parents] don't get this (reunification/case plan) done in a certain amount of time, the chance is they will not reunify with their child or get their parental rights terminated."

Another juvenile/dependency attorney participant, JDA4, noted that visitation is one of the main pillars of accomplishment in a case plan, "when [parents] miss visits, it shows up in the reports… it puts them behind … sets them back." Criminal defense attorney CDA2 expressed similar concerns about the serious consequences that these delays can cause for clients:

> The limited knowledge I have of juvenile/dependency, is that if the clients don't do what they are ordered to do within a certain period of time, the courts will look at that negatively or the kids can be taken away permanently and that's something that can't be reversed and that's a huge deal.

Reliance on juvenile/dependency expertise. The majority of criminal defense attorney and criminal court judge participants were willing to rely, to some extent, on the expertise of the CWS social workers, child attorneys, and juvenile/dependency court rulings. To some extent, probation officers were also willing to give weight to the

knowledge and information the juvenile/dependency courts (along with CWS) could make available.

One criminal court judge, CJ1, defers to the juvenile/dependency courts for information about family and child safety because:

> As a general proposition I think the juvenile court, because of the type of investigation they do has more in depth information about the family dynamic that the criminal court either does not have or doesn't care about that much because it's not all that pertinent especially in the early stages of the criminal proceedings, it may have some bearing on sentencing, but the dynamic doesn't necessarily make a difference in the criminal court where it's very important in the juvenile court….there's more follow-up and a lot of monitoring.

Criminal defense attorneys would like the criminal courts to know their clients' progress in the dependency case as well. In regard to the issuance of no-contact orders without the consideration of progress in a client's juvenile/dependency case, one criminal defense attorney participant, CDA2, replied:

> So, it is something that is important because it disrupts the families, and if they are on a path to reunite or do classes and the criminal court comes in without really knowing anything about the families child the circumstances, they make this order, they say by law they have to issue this order, they have to issue this order when its charged, and they have no discretion and they don't have the information that the juvenile court has so I think it really should be in the discretion of the juvenile court or the family court because they have all the

information, they have CPS involved they have way more information and they have access to the criminal file, that that would be the court to address the issue because it does impact the client's lives.

As the themes emerged, each was found to be distinct, yet affected the other. This is because as each theme plays out, it has the potential of triggering or impacting the others. For instance, if there are barriers to communication, this will usually cause some delay. If there is some confusion on a factor pertinent to the no-contact orders, this may also lead to delay. Where there may be confusion, there may be communication problems. Thus, it is clear, if one 'emerging theme' gets worse, the others are impacted as well. One the other hand, if just one of these items are improved upon, all areas of concerns may see improvement.

Conclusion

It is clear that the surveys, interviews, and observations revealed significant issues regarding no-contact orders in the concurrent jurisdiction child abuse circumstance. Most significantly is a lack of communication between the juvenile/dependency court. Built into the problem is the confidential nature of juvenile/dependency proceedings. Yet, the juvenile/dependency information is clearly relevant to the criminal courts and the criminal court's decision on these orders clearly impacts the juvenile/dependency case.

Importantly, research participants made positive efforts in regard to this barrier and understand the consequences. The participants were open to making the substance and process involving no-contact orders (which impact juvenile/dependency cases) more effective and efficient. In Chapter 5 this researcher evaluates the results of the research

with theory and policy considerations. Additionally, several recommendations and implications for local change and social change are addressed.

Chapter 5: Discussion, Conclusions, and Recommendations

Introduction

As Chapter 4 reflects, I obtained information in relation to this study's inquiry through surveys, interviews, and observation. Not only was the initial question of whether contradictory contact/restraining orders are issued in concurrent child abuse jurisdiction cases answered, but participants referenced a plethora of additional factors. The data collected as a result of standardized surveys, interviews, and observations provided a strong foundation for consideration and recommendations.

Again, at the inception of this study, data collection was focused on the following research question: If there are conflicting orders concerning contact between parties, how are they perceived by the parties they impact, what is the reaction to the orders by the parties impacted, and how are the relationships between the parties impacted affected? To answer the research question, I explored whether there are statutory, policy, and case goals in each court system that produce opposing decisions in the area of restraining or contact orders and how these court orders are produced through these concurrent jurisdictions. At the conclusion of the study, it was determined if the resulting outcomes of these contrary orders are unforeseeably detrimental to participants, case goals, and the community at large and if there are any reasonable and appropriate alternatives.

These questions are not simply answered with a *yes* or *no* response. The best way to understand this issue is to evaluate all participants' responses and consider them individually and collectively. Individually, each participant group has a duty and responsibility to a group or client base; collectively, because these orders are not issued

(or should not be) without consideration of the other participants' positions on the matter; the orders also impact others' positions on the case.

I chose a qualitative case study because it was best suited to respond to the dynamics of this research. Data collection through surveys, interviews and observations delivered complex and rich descriptions that gave meaning to this inquiry. Data revealed several baseline attitudes and opinions between the several participant groups. Additionally, details behind these opinions were explored and concepts were confirmed.

Interpretation of Findings

The survey responses reflect several areas of interest surrounding the research question. These are Acknowledgement of Cooperation; Unfairness; and Lack of Communication/Confusion. Interview responses provided similar results, but provided more depth in the responses. Additionally, the focus of the responses varied enough from the survey responses that the topic headings changed to the following: Lack of Communication; Confusion; Delay/Detriment; Reliance on Juvenile/Dependency Expertise.

In general, although progress has been made via communication between the participants (i.e., an understanding that the modification language is available and utilized), the majority of participants, especially attorneys representing parents in the criminal courts and juvenile/dependency proceedings, indicated that there is a need for better communication and access when a modification of a no-contact order is sought.

Multi-Agency Approach

As noted in the literature, one answer to issues of cases involving several agencies, jurisdictions, and professions is a multi-agency approach, or collaborative partnerships (Newman & Dannenfelser, 2005; Sheppard & Zangrillo, 1996). As discussed in Chapter 2, the fundamental drive to these programs is empowering the process and participants by exchange of information. Some of the final products are court programs such as diversionary or treatment court, wherein cases are sent from a criminal docket and handled in a court set up for treatment specific purpose, or in the form of advisory boards or steering committees.

Initially, this issue seems to be one well served with something akin to a multi-agency approach, the idea being that the cases that share concurrent jurisdiction could be heard by one court. However, as the data reveal, this solution is not well founded. The most serious problem is how one court/judge would deal with the application of criminal rules and procedure and juvenile/dependency rules and procedure. Proof issues and evidentiary issues are at the core of every case and are raised at different times during the case. These same issues could be an overwhelming task to solve in a court dealing with both criminal and juvenile/dependency cases. Coordination and scheduling of all interested parties was also a concern to participants.

Participants Positions Related to No Contact Orders

In order to better understand the theoretical applications, recommendations, and social implications, it is helpful to review and consider the participants' positions in relation to the research question.

Prosecutors. In this study, the prosecutorial position of protecting a victim (for a myriad of reasons noted in Chapter 2) was confirmed. To start, prosecutors of child abuse not only want to protect the victim physically and emotionally, they also want to protect their case. It is important to recall that the standard of proof in criminal court is "beyond a reasonable doubt" (Cross et al., 2003). Thus, each piece of evidence becomes important. The risks of possible undue influence, pressure, and/or emotional consequences that could stem from visits with a parent who is charged with a crime against that child are too great to allow visitation–even supervised visitation (Martell, 2001). These concerns were supported by the data collected in this study. The concerns that one prosecutor participant spoke of included child/victim safety, protection against consequential "bad acts" arising from the charges (i.e., domestic violence, witness tampering), and avoidance of any pressure or undue influence to change the child's story (Prosecutor participant, DA1). These considerations also support Newman and Dannenfelsen's (2005) finding that law enforcement focuses on the prosecution role of these cases (versus the health and welfare of the family).

The Central California county from which the participants (and thus, data) come has dedicated units/attorneys for the prosecution of child abuse and crimes related to child abuse within the county's District Attorney's Office (Prosecutor participant, DA1). Abuses include child homicide, sexual abuse (victim under age 14 for separate sections of the county), child abuse (physical and sexual for separate sections of the county), rape/stalking, human trafficking, and domestic violence homicide and felony.

Additionally, according to prosecutor participant interviews, victim advocates assist victims and witnesses through the litigation process.

As noted in the literature, there is little research indicating the particular condition/circumstance for the issuance of no-contact orders in child abuse cases. This study may have provided some insight into the lack of literature in this area. From the information collected as part of this study, most judges issue no-contact orders on a criminal child abuse case. In other words, it is usually an automatically issued order between defendant and victim. According to the interview data from criminal defense attorneys, prosecutors, and criminal court judges, unless a criminal judge knows of reasons to modify a no-contact order, the court will issue a no-contact order and may hear evidence on why it should be lifted or modified at later stages of the case. In order to modify a no-contact order, the sources need to be reasonable, credible, legitimate, and valid.

Criminal Defense Attorneys. When criminal defense attorneys appear before the criminal judges who are considering issuing a no-contact order, most would like the judge to know about their client's progress in the corresponding CWS case (in juvenile/dependency court). Unfortunately, as noted by the responses in the interviews, this is difficult. Not only is the information not in the criminal file, it is not available through the court system because the juvenile/delinquency proceedings are confidential. Obtaining the information from their clients can also be challenging. One reason is that, because having two separate proceedings can be confusing, clients do not necessarily know all the legal terms and may be nervous when court is in session when they are

being ordered particular terms. Thus, relying on a client for history is not always the best option. Additionally, because the client is considered an interested party, they may not be considered a reasonable source for the courts for information without documentation.

Juvenile/Dependency Attorneys. During a juvenile/dependency proceeding, when a client gets a recommendation for visitation as part of their case plan (from the social worker assigned to their case), there can be delay in beginning the visitation part of the case plan when there is a no-contact order issued from the criminal court. Juvenile/dependency attorneys are looking for a way to avoid multiple court appearances to obtain a modification of the no-contact order from the criminal court, especially if the criminal court already indicated that the juvenile/dependency court can modify or is inclined to allow contact given the social worker's recommendation.

Probation Officers. Probation officers are in the position of disclosing current facts and circumstances of the parties and judges in the criminal courts. Based on these factors, probation officers make recommendations about safety to the court. When pertinent information is unavailable to these officers, as participants acknowledged, their ability to inform the court is limited.

Criminal Judges. The data reflected that, in general, criminal judges will issue a no-contact order in a child abuse case if there is no other credible information with which to base modifying language. The court is willing to hear evidence on the modification issue as long as it is reliable. Most criminal judges do not want to interfere with what is going on with the process in juvenile/dependency court. Additionally, the majority of criminal judge participants interviewed believed that juvenile/dependency investigations

and their processes have more information about the dynamics and circumstances of a particular family. Thus, they feel comfortable with giving the juvenile/dependency court discretion to make the appropriate modifications to the no-contact order issued by the criminal court.

These findings are consistent with the historical literature found in this area. Modern criminal courts would rather protect the child than protect the right of parental contact if abuse was at issue (Cross et al., 2003; Gray, 1993; Levy, 1953). Criminal courts are aware of how important the work done by the juvenile/dependency court is, as well as the child protection agency.

Juvenile/Dependency Judges. Just as with criminal judges, juvenile/dependency judges focus on the safety of the child. Additionally, because of the nature of juvenile/dependency cases, judges in these courts focus on family relationships, family reunification, and permanency decisions for children. Thus, as noted in the participant responses, the discretionary language criminal courts add to 'no-contact' orders can be extremely beneficial in furthering the juvenile/dependency process (i.e. visitation, reunification).

Expanding Roles of Courts While Protecting Their Independence

It is important to understand that independence among the trial courts is an important and necessary element in our judicial process; each judge's decision is his or hers to make based on the facts and evidence before them (Llano, 2013). The court must make its decisions without "restriction, improper influence, inducement, pressure, threatening or obstacle" (Llano, 2013, p. 109). Protecting the independence of the courts

strengthens the sanctity of the decisions made and the willingness of 'the people' to depend on its decisions:

> The Constitutional protections of judicial independence were instrumental and expedient to secure a steady, upright, and impartial administration of the laws. Judges need independence, not for their own sake, but because an essential protection of public liberty was having judges decide cases on the basis of legal principles alone. (Alexander Hamilton as cited by Lefever, 2010, p. 68)

At the same time, each court works among a larger judicial system. The current study is a good example, the criminal court's orders of 'no-contact' having a direct effect on the concurrent cases in the juvenile/dependency courts. Thus, the need for judicial administration to be uniform and expeditious. In fact, even when the autonomy of the courts is being contemplated, the processing and facilitation of court business was also being considered. Chief Justice Warren E. Burger voiced this sentiment when he stated:

> There can, of course, be no disagreement among us as to the imperative need for total and absolute independence of judges in deciding cases or in any phase of the decisional function. But it is quite another matter to say that each judge in a complex system shall be the absolute ruler of his manner of conducting judicial business . . . Can each judge be an absolute monarch and yet have a complex judicial system function efficiently? (Lefever, 2010, p. 66).

The idea of judicial efficiency was addressed by the National Center for State Courts in their publication, Principles for Judicial Administration (July 2012). In that guide, the several governing principles were set forth for effective judicial administration

– relating directly to the courts and judicial activity. The principles that touch upon the issue, in some manner, are the following:

> Principle 10: Court leadership should exercise control over the legal process.
>
> Principle 11: Court procedures should be simple, clear, streamlines and uniform to facilitate expeditious processing of cases with the lowest possible costs.
>
> Principle 12: Judicial officers should give individual attention to each case that comes before them.
>
> Principle 13: The attention judicial officers give to each case should be appropriate to the needs of that case.
>
> Principle 14: Decisions of the court should demonstrate procedural fairness.
>
> (National Center for State Courts, 2012, p. 2)

There is no question that judicial roles have changed and are changing as more responsibilities are given to courts. Judges are seeing more complex matters in their courts to resolve with a variety of community concerns (mental health, domestic violence, family health, etc.) falling into their purview (Hanson, 2002). Studies have shown that judges consider themselves fitting into a variety of roles. From several studies, the following roles were named (among others):

The Task Performer – includes “maintaining smooth court operations;”

The Law Maker – includes "interpreting the law to fit changing circumstances and technologies;"

The Administrator – includes an emphasis on "procedural goals and precedent" if they "expedite case resolution;"

The Mediator – "emphasizes the individual and deemphasizes the importance of precedent;"

The Policy Maker – "emphasizes the public and deemphasizes the importance of precedent" (Hanson, 2002, pp. 11-13).

Modern courts are not shy about reform efforts. In the last 25 years, nationally, our countries state courts have seen the addition of pretrial release policies, alternate dispute resolution efforts, treatment and problem-solving courts (i.e. drug court, domestic violence courts) (Hanson, 2002).

The following recommendations in this chapter necessitate accessing many of these leadership characteristics for implementation.

Application of Theory

To reiterate, the theoretical foundation of this study is a social justice construct. More specifically, this study uses the concept of procedural justice (a foundation of social justice) to assist in the treatment of the research data. The use of a theoretical foundation provides a means of translating what is observed and moves findings into policy and practice (Bradbury-Jones et al., 2014).

In this case, social justice provides a pillar to community cohesion and strength, setting forth rules and laws that benefit the citizens in a society (Wenar, 2017). When

citizens agree to abide by these parameters, a more stable and consistently reliable society can evolve. “The rule of law is at the heart of the relationship between society and the state. It is the basis for creating trust and accountability and forms the social contract between a government and its citizens” (Phyu, 2017, p. 1).

Procedural justice is part and parcel to the idea of social justice. When procedural justice is applied or considered, ‘fairness’ of the procedure or mechanism by which participants seek to be heard is evaluated (Cook & Hegtvedt, 1983). The following are indicators of procedural justice:

1) Participants believe they have a voice (Bies & Shapiro, 1988);
2) Participants understand decision makers’ reasoning (Bies & Shapiro, 1988);
3) Decisions were consistent in application (Leventhal, 1980; Tyler, 1980);
4) Decisions lack bias (Leventhal, 1980; Tyler, 1980);
5) Decisions were correctable if a mistake was found (Leventhal, 1980; Tyler, 1980);
6) Participants perceive they were treated with respect and dignity (Greacen, 2008; Tyler, 2000).
7) Participants consider the judge neutral and trustworthy (Greacen, 2008; Tyler, 2000).

Applied to this study’s findings, participants understood judges’, attorneys’, and agencies’ reasoning in each jurisdiction (criminal and juvenile/dependency)(#2); no participants complained of bias (#4); decisions were correctable (i.e. the process of going back to obtain a modification) (#5); participants never indicated they were treated with

disrespect or lack of professional conduct by the judicial bench, involved agency, or attorney group (#6); no participant mistrusted the agencies, attorneys, or court (#7).

Factor #1, 'having a voice', was not fulfilled by the current processing of contact /'no-contact' orders. Participants who did not have the necessary information to present all the facts to the court did not feel that they had a full voice during the hearing and were prejudiced by the lack of information. This is reflected by defense counsel in juvenile/dependency court, criminal court, and prosecutors. For instance, as participants highlighted in interviews, criminal defense attorneys see the lack of information about their client's juvenile/dependency case progress as a barrier to providing the court with a full picture. Parents' attorneys in juvenile/dependency court also want judges to have this information. Otherwise, their juvenile/dependency clients may end up being delayed engaging in visitation while attempting to obtain a modification of a 'no-contact' order issued.

As a consequence of an issued 'no-contact' order, juvenile/dependency lawyers are left with an order that detrimentally effects their clients without being able to present mitigating evidence (until a later modification hearing). Prosecutors also believe that their case victims/witnesses are impacted by decisions which are made wherein they are not present. Although prosecutors understand that the juvenile/dependency courts usually only order *supervised-visitation* in these cases (where there was an outstanding no-contact order that is being modified for contact via discretion to the juvenile/dependency), they continue to have concerns about the protection of their witness/victim.

Second, the findings of the research reflect Factor #3 lack fulfillment. Data reflects that some participants perceived that decisions, whether deferring to juvenile/dependency court for visitation decisions, using the same language for modification, or making consistent inquiries about the status of a possible juvenile/dependency hearing, are not consistent in application. This was especially notable in circumstances wherein the court, either due to lack of access to file materials or procedural preferences, did not want to evaluate/consider the 'concurrent court's' findings.

Additionally, although there is some effort to use standardized language that allows juvenile/dependency judges to modify no-contact orders issued by criminal courts, the language used is not always the same and sometimes the option is not utilized (even when the court does feel a confidence with the juvenile/dependency court's expertise in the area of family/child relationships). In all fairness, it is typical for courts to make different orders using different language; each case should be reviewed according to its own facts and circumstances. However, when a particular set of circumstances repeats enough (i.e. concurrent jurisdiction cases), and effects other courtrooms, it may require more consistency and formal protocol.

Lastly, when parties bounce between courts to enact a valid order, it delays a case's progress. To some extent, these parties are being harmed by the lack of coordination between these concurrent courts. Without better means of expediting the modification of the no-contact order (if needed to enact a visitation order in

juvenile/dependency court), these parties have been given an additional procedural burden to overcome (as compared to other parties in juvenile/dependency court).

Some may suggest that, given the concurrent case circumstances (being in criminal and juvenile/dependency), the parents in these cases should have additional burdens placed on them. However, those extra steps should be addressed in a case plan, not by trying to figure out the vague, inconsistent, procedures in modifying court orders.

Limitations of the Study

As noted in Chapter 1, several factors place limitations on the scope of this research. In addition to the boundaries set up from the outset (i.e. limitations on the extent of the applicable law, social services policies, historical accounts, etc.), several developments during the research process also impacted the execution of the study.

Most importantly, and as noted in Chapter 4, social workers and county counsel (the attorneys that represent CWS in juvenile/dependency court) did not take part in this study. The participants who provided data explained many facets of the research question including, challenges, legal positions, conflicts, means of resolution, concerns, and experiences. It is anticipated that through these participants' reflections, the study provides a thorough and in-depth overview of the issues associated with these concurrent jurisdiction 'contact/'no-contact' orders. However, without the perspectives of social workers and their counsel, the research is limited.

A second limitation that was encountered during the research process was the reduction in anticipated interview participants. A total of 17 interviews were completed (77% collection rate) and 21 standardized surveys were completed (91% collection rate).

Although some participants did not engage in the interview process, most provided standardized survey responses. The standardized survey included open-ended questions which these participants answered with narrative responses. Moreover, multiple participants provided extensive interviews from each participant group (i.e. judge, attorney, probation officer). Thus, the data, as presented, provides a strong representation of all group positions.

Lastly, it is clear that the juvenile/dependency court is cloaked in confidentiality, which hinders the criminal court from easily accessing information. The exchange of that information can be complicated and legally technical. An examination of statutes and case law in this area beyond the limits and scope of this proposed study.

In the following Recommendations Section, this researcher attempts to provide ideas to ease the constraints of these laws and assist counties to better serve their communities.

Recommendations

The following section provides suggested tools and processes to assist in communication and expedite modification hearings. These recommendations are based on the concerns and opinions raised in the data retrieved through this research process. Ideas suggested also incorporate the limitation of juvenile/dependency jurisdiction confidentiality.

1) *An Accepted Informational Form from Juvenile/Dependency Court to Criminal Court:*

There continues to be circumstances wherein criminal courts are not inclined to leave a ‘no-contact’ order open for modification or word a ‘no-contact’ order open for limited modification (e.g. prohibiting the parties from residing together).

Parties in these concurrent jurisdiction cases seeking modifications from one court or the other (usually criminal court after progress is made in the juvenile/dependency court), can be assisted with tools that make the process of obtaining a modification (if circumstances arises to do so) easier.

From the information related by the participants, one of the areas that could use improvement is the logistics of bringing the information (progress) from the juvenile/dependency court to the correct criminal court (the court that issued the no-contact order or the court that now has the case) at the appropriate time (placing the case on calendar when the judge is willing to hear the matter).

A form, agreed upon and recognized by all participants to this process, that indicates the juvenile/court judge, juvenile/dependency case number, date, recommendation (visitation, type of visitation – supervised, unsupervised, overnights, etc.), attorneys representing parties and phone numbers, and social worker would most likely assist the parents in presenting the request to their defense attorney. In turn, the defense lawyer, being familiar with the ‘form,’ will know what the client is asking and, thus, know what the protocol is immediately. The criminal courts, also being a part of the understanding, can place the matter on calendar on the correct day and time for the hearing. There is no reason to include children’s names or details of the

juvenile/dependency case – just the recommendation and the judge's intended order regarding contact between the child and parent.

2) Maintenance of a Current Attorney Roster

Some communication issues relevant to participant groups may be assisted by use of current attorney rosters for all attorneys representing parties in criminal and juvenile/dependency hearings. This contact information is not provided in order to share the details of cases (protected by confidentiality statutes), but rather to better process cases procedurally from one court to another. These lists could be provided to the Public Defenders Office, Conflict Attorneys Office, Supervisor to the Juvenile/Dependency Attorneys, District Attorneys Office, and Presiding Judges for (Felony, Misdemeanor, Juvenile/Dependency, and Family Court).

3) Standardized Language and Placement of Language

According to many participants, the current standardized language for modification, when used, has been helpful in avoiding the multiple court appearances. The language that participants see as the most regularly used language discretion to the juvenile/dependency court is as follows: "this order subject to modifications by the juvenile court or family law court."

Participants noted that problems arise when someone in the chain of process is not familiar with utilizing the language. As evidenced in Appendix 1, language that is similar to the above is currently being used by the criminal courts: "order subject to comply with CWS orders as to visitation and custody and by family or juvenile court ord" and "to be consistent w/juvenile court case regarding COP -deft to have supervised visitation" and

"If Family Services wants child to be seen by parent they may modify CPO as CPO states on [date given]" and "CPO does not inter w/reunification."

Efforts by participants to utilize standard language in these concurrent orders have been made. It is recommended that those efforts continue and be strengthened. A decision might be made by presiding judges in the juvenile/dependency and criminal courts to use one version of standardized language. The 'intent' of such language must be established with the participants of these jurisdictions either through memorandums (MOU: Memorandums of Understanding) or stakeholder meetings. Language, if used, should be legible, and placed in the same place in the orders for consistency.

4) Use of Addendum or Attachment to No-Contact Orders

Along the same lines as above is the use of an Addendum or Attachment Sheet which would be attached to the 'no-contact' order. This document could be used to outline the extent of discretion the criminal court allows for the juvenile/dependency court (if that discretion was granted). One such document is utilized in Family Court. An example is attached as Appendix 8.

As with above, the presiding judges to these concurrent jurisdiction cases must agree to the use and meaning of any language in the addendum/attachment. The addendum/attachment should also be referenced on the face of the 'no-contact' order (in the same place when used for this purpose). Referencing the addendum/attachment helps prevent parties from missing the added language, and notifies parties that there in fact is additional language to the order (in case the addendum/attachment is not attached to the order at some point).

5) A Means for Probation and Social Workers to Exchange Recommendations

There is no doubt that probation officers (who provide information to the criminal judges on the facts and circumstances concerning defendants who come before them) could better craft recommendations to the court if they knew what the defendant's progress was in the defendant's on-going case in juvenile/dependency court (if there is one). Probation officers and social workers hold similar positions in their respective courts. If probation officers and social workers could exchange progress of the same client, they would be assisted in making their recommendations. Again, keeping confidentiality statutes in mind, criminal probation officers could not disclose the names of the children or details of the juvenile/dependency case in their probation recommendation. However, some information exchange giving these agencies and officers better ability to inform their respective courts should be available.

6) Education

Criminal court and criminal procedure are clearly different than juvenile/dependency court and juvenile/dependency procedure. For judges, lawyers, probation officers, and social workers, who all share the same parties (punishment/community safety vs. child safety, permanency, and family reunification), it may be prudent for all participants to have an opportunity to better understand some of the more critical pieces from each jurisdiction. For instance, one of the concerns related by prosecutors in the surveys and interviews pertained to the level of protection involved in orders for supervised visitation by the juvenile/dependency court involving victims in their cases. In an educational setting (e.g. panel discussion, presenting during a legal

lunch meeting) this issue could be discussed in more detail and questions about what supervised visitation *really means* could be asked. Juvenile participants (as well as criminal participants) can learn about prosecutor concerns. Discussion may lead to better crafted case plans and more willingness to rely on the juvenile/dependency courts discretion.

7) Alternative Resolution

As the standardized surveys and interviews reflected, a multi-agency approach (i.e. a court dealing with cases that have both criminal and juvenile/dependency cases) for these concurrent jurisdiction cases would prove too challenging. Although all participants liked the idea initially, many concluded that there were too many barriers to make the idea a realistic alternative. Some problems participants saw as obstacles to such a court were as follows (as reported in Chapter 4):

- Integration of confidential proceedings (juvenile/dependency) with public (criminal) proceedings;
- Lack of ability to deal with volume;
- Criminal aspect compromising CWS intent; CWS aspect compromising criminal intent;
- Concern with the effect on child if mother/father are arrested during hearing with child present;
- Coordination of all parties and scheduling;
- Time limitations of juvenile/dependency proceedings and their impact different statutory timing concerns in criminal proceedings;
- Balancing the focus of the 'best interest of the child' in juvenile/dependency with 'punishment' of the offending parent in criminal proceedings;
- Getting all stakeholders to the table and coming to an agreement.

As one can imagine, balancing these concerns and staying effective and efficient would be a challenge. The noted barriers are not only found in this multi-agency, multi-jurisdictional situation, but are noted in the literature as problematic in other similarly situated cases (Cross et al., 2005; Newman & Dannenfelser, 2005).

Although one court dealing with 'on-going' criminal and juvenile/dependency cases may not necessarily be a reasonable choice, one judge provided a persuasive option. In this criminal judge participant's experience, CJ3, defendants in low-level, criminal misdemeanor cases are usually required to successfully complete any case plan as ordered in juvenile/dependency court. The idea to better resolve these particular concurrent jurisdiction cases would be to offer a diversion program or deferred prosecution program. In other words, the District Attorney could withhold filling criminal and chose *not* to file with *proof of successful completion* of the defendant's juvenile/dependency cases. Again, this would be something only offered to low-level, misdemeanor cases because of the similarity of resolution of the criminal case and the juvenile/dependency case. With this type of diversion or deferral court, one judge would oversee the 'contact' issues among the parties.

Another option, which was proffered by one dependency judge participant, JDJ2, is to include recommendations of the child's attorney and the child's advocate during the criminal hearing on a restraining or 'no-contact' order. These recommendations could come in the form of memorandums to the court or personal appearances by counsel or the advocate. The downside to this option is the time it takes to receive an additional court pleading (proper notice should be given to all parties) or schedule additional hearings in

order for appearances to be made. Of course, for more serious cases of abuse, these forms of information may be appropriate and well founded.

Implications

The previous recommendations were made with the participants' concerns in mind, to bridge some of the gaps in information exchange noted by the participants, and to address some of the barriers that are inherent in systems protected by confidentiality statutes. Some of these suggestions may seem simplistic; some more complex. The main idea is to provide recommendations for participants to better serve their clients and interests. Thus, many of the ideas are structured to provide parties with a better means of accessing information (which were noted as themes in the interview data).

Even if the parties cannot have the information due to confidentiality protections, tools and procedures can be implemented to make what can be exchanged easier and faster. Moving forward, both courts may want to work together to keep statistical information about these cases. This qualitative research, in addition with any quantitative evidence, could be used as the foundation for diversion/deferral programs, costs associated with additional steering committee meetings among agency members, and use of additional forms for 'no-contact' orders in these concurrent jurisdiction cases.

Continued communication will be a key component in the continued resolution of the issues noted by participants. Several participants indicated in the standardized surveys and interviews that communication must be on-going between the juvenile/dependency courts and criminal courts. These communications are not in order to divulge confidential communications, but for both jurisdictions to understand each court's concerns, time-

sensitivities, and processes. Thus, a quarterly steering committee meeting is highly recommended for work in this, and all areas, of mutual concern.

This qualitative study contributed to a positive social change by determining key contributors that may be unnecessarily causing perceived unfairness, confusion, delay, and related problems to an otherwise effective court system. Although the area studied occurs in a limited amount of cases in the overall cases processed through a county court system, they are an important piece of the expression of social justice – especially for those who are directly impacted by these decisions. As noted by some of the research participants, the circumstances of contrary orders concerning 'contact' occur enough to be familiar to the participants and moderately frustrating when it occurs. Thus, all participants, and the groups they represent, are benefited by any impediments to a more efficient approach.

It is also important that all court processes reflect efforts to pursue fair and impartial means of due process. As court systems take on these challenges, the participants in the courtrooms and relevant agencies will help define due process. It is anticipated that this study will reflect that open attitudes to communication and working with others to problem solve is a means to resolving challenges.

Conclusion

The tools suggested in this chapter are recommendations to aid in the process of obtaining modifications of 'no-contact' orders and strengthen due process. It is anticipated that these recommendations will encourage additional ideas and more conversation among the participants and agencies involved in these cases. It is anticipated

that this study's findings can be utilized by other jurisdictions in anticipation and correction of issues they may experience in similar circumstances.

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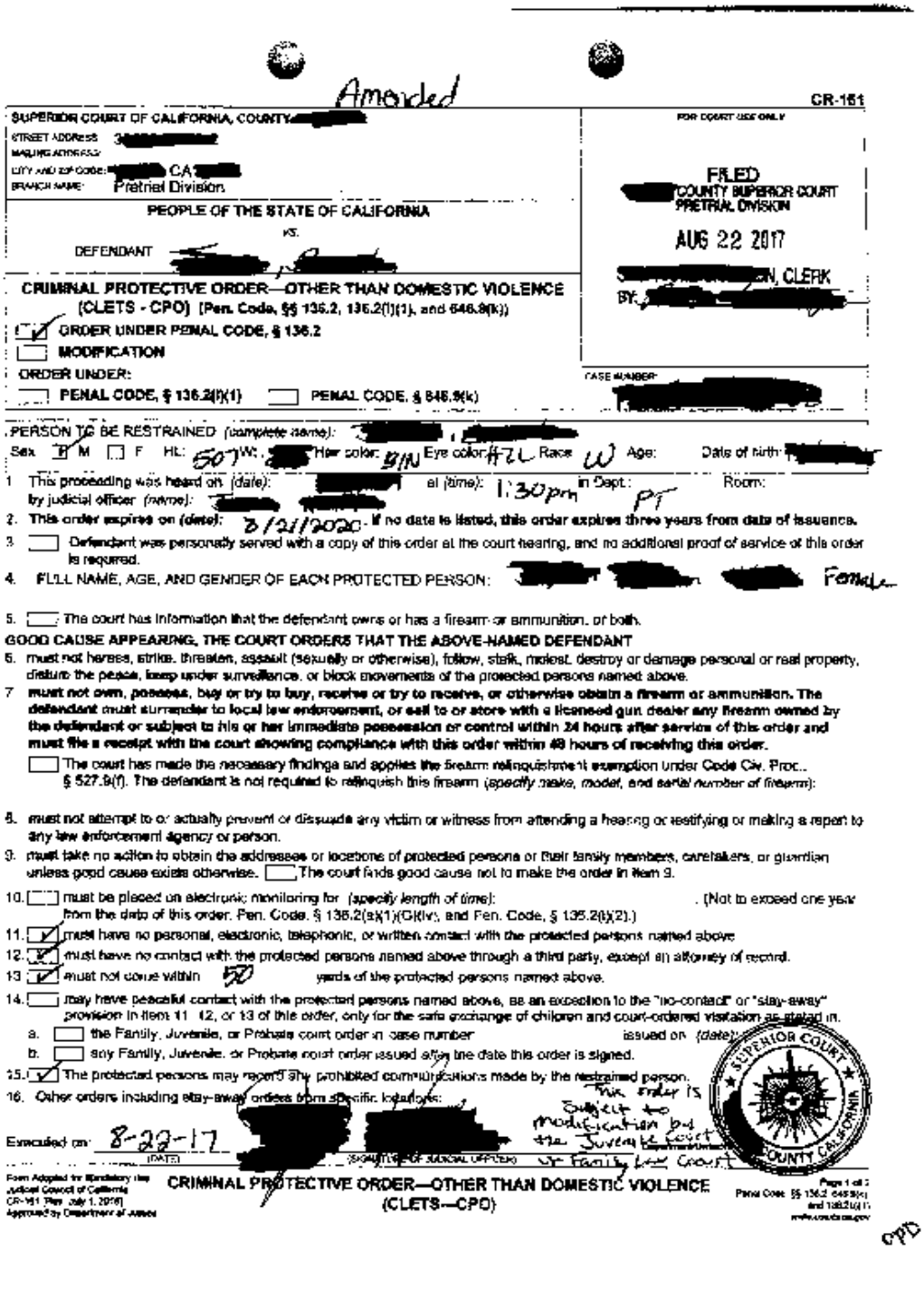
Appendix A: Sample Handwritten Modification Language



Amended

CR-161

SUPERIOR COURT OF CALIFORNIA, COUNTY [redacted]
STREET ADDRESS: [redacted]
MAILING ADDRESS:
CITY AND ZIP CODE: [redacted] CA [redacted]
BRANCH NAME: Pretrial Division

FOR COURT USE ONLY

FILED
[redacted] COUNTY SUPERIOR COURT
PRETRIAL DIVISION
AUG 22 2017
[redacted]N, CLERK
BY: [redacted]

PEOPLE OF THE STATE OF CALIFORNIA
vs.
DEFENDANT [redacted]

CASE NUMBER: [redacted]

CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE
(CLETS - CPO) [Pen. Code, §§ 136.2, 136.2(i)(1), and 646.9(k))

☑ **ORDER UNDER PENAL CODE, § 136.2**
☐ **MODIFICATION**
ORDER UNDER:
☐ **PENAL CODE, § 136.2(i)(1)** ☐ **PENAL CODE, § 646.9(k)**

PERSON TO BE RESTRAINED (*complete name*): [redacted]
Sex: ☒ M ☐ F Ht: 5'07" Wt: [redacted] Hair color: B/N Eye color: HZL Race: W Age: [redacted] Date of birth: [redacted]

1. This proceeding was heard on (*date*): [redacted] at (*time*): 1:30pm in Dept.: PT Room:
by judicial officer (*name*): [redacted]
2. **This order expires on (*date*): 8/21/2020. If no date is listed, this order expires three years from date of issuance.**
3. ☐ Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
4. FULL NAME, AGE, AND GENDER OF EACH PROTECTED PERSON: [redacted] Female
5. ☐ The court has information that the defendant owns or has a firearm or ammunition, or both.

GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT

6. must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
7. **must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or ammunition. The defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer any firearm owned by the defendant or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**
☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., § 527.9(f). The defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*):
8. must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
9. must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian unless good cause exists otherwise. ☐ The court finds good cause not to make the order in item 9.
10. ☐ must be placed on electronic monitoring for (*specify length of time*): . (Not to exceed one year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), and Pen. Code, § 136.2(i)(2).)
11. ☑ must have no personal, electronic, telephonic, or written contact with the protected persons named above.
12. ☑ must have no contact with the protected persons named above through a third party, except an attorney of record.
13. ☑ must not come within 50 yards of the protected persons named above.
14. ☐ may have peaceful contact with the protected persons named above, as an exception to the "no-contact" or "stay-away" provision in item 11, 12, or 13 of this order, only for the safe exchange of children and court-ordered visitation as stated in:
a. ☐ the Family, Juvenile, or Probate court order in case number issued on (*date*):
b. ☐ any Family, Juvenile, or Probate court order issued after the date this order is signed.
15. ☑ The protected persons may report any prohibited communications made by the restrained person.
16. Other orders including stay-away orders from specific locations: This order is subject to modification by the Juvenile Court or Family Law Court

Executed on: 8-22-17 (DATE) [redacted] (SIGNATURE OF JUDICIAL OFFICER)

SUPERIOR COURT ★ [redacted] COUNTY CALIFORNIA

Form Adopted for Mandatory Use
Judicial Council of California
CR-161 [New July 1, 2016]
Approved by Department of Justice

CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE
(CLETS—CPO)

Page 1 of 2
Penal Code §§ 136.2, 646.9(k), and 136.2(i)(1)
www.courts.ca.gov

CPO

CR-161

SUPERIOR COURT OF CALIFORNIA, COUNTY OF [redacted]
STREET ADDRESS: [redacted] AVE
MAILING ADDRESS:
CITY AND ZIP CODE: [redacted]
BRANCH NAME: [redacted] ...IST...E CENTER

FOR COURT USE ONLY

FILED
[redacted] SUPERIOR COURT
[redacted] Y JUSTICE CENTER
APR 17 2018
[redacted], CLERK
BY [redacted]

PEOPLE OF THE STATE OF CALIFORNIA
vs.
DEFENDANT [redacted]

CASE NUMBER: [redacted]

CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE
(CLETS - CPO) (Pen. Code, §§ 136.2, 136.2(i)(1), and 646.9(k))

☑ ORDER UNDER PENAL CODE, § 136.2
☐ MODIFICATION

ORDER UNDER:
☐ PENAL CODE, § 136.2(i)(1) ☐ PENAL CODE, § 646.9(k)

PERSON TO BE RESTRAINED (complete name): [redacted]
Sex: ☑ M ☐ F [redacted] Hair color: BLK Eye color: BRO Race: UNK Age: [redacted] Date of birth: 5[redacted]

1. This proceeding was heard on (date): 4-17-18 at (time): 8AM in Dept.: [redacted] Room:
by judicial officer (name): [redacted]
2. This order expires on (date): . If no date is listed, this order expires three years from date of issuance.
3. ☑ Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
4. FULL NAME, AGE, AND GENDER OF EACH PROTECTED PERSON: [redacted], Male, [redacted]
5. ☐ The court has information that the defendant owns or has a firearm or ammunition, or both.

GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT

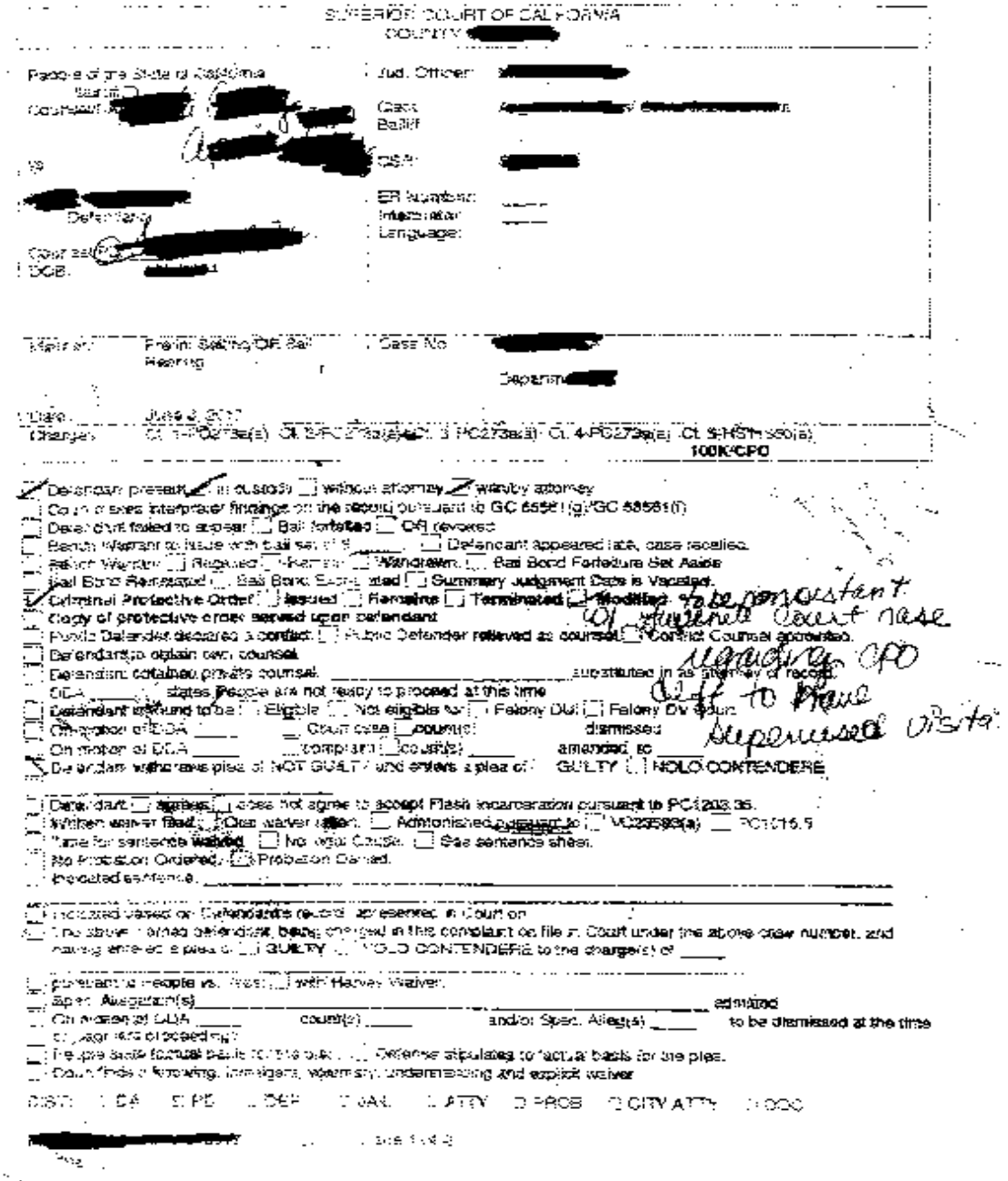
6. must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
7. **must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or ammunition. The defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer any firearm owned by the defendant or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**
☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., § 527.9(f). The defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*):
8. must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
9. must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian unless good cause exists otherwise. ☐ The court finds good cause not to make the order in item 9.
10. ☐ must be placed on electronic monitoring for (*specify length of time*): . (Not to exceed one year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), and Pen. Code, § 136.2(i)(2).)
11. ☑ must have no personal, electronic, telephonic, or written contact with the protected persons named above.
12. ☑ must have no contact with the protected persons named above through a third party, except an attorney of record.
13. ☑ must not come within 50 yards of the protected persons named above.
14. ☐ may have peaceful contact with the protected persons named above, as an exception to the "no-contact" or "stay-away" provision in item 11, 12, or 13 of this order, only for the safe exchange of children and court-ordered visitation as stated in:
a. ☐ the Family, Juvenile, or Probate court order in case number: issued on (*date*): THIS ORDER IS
b. ☐ any Family, Juvenile, or Probate court order issued after the date this order is signed. subject to modifications
15. ☑ The protected persons may not send any prohibited communications made by the restrained person. by the juvenile court or family law court
16. Other orders including stay-away orders from specific locations:

Executed on (date): 4/17/18 [redacted]
(SIGNATURE OF JUDICIAL OFFICER) Department/Division: [redacted]

Form Approved for Mandatory Use
Judicial Council of California
CR-161 [Rev. January 1, 2017]
Approved by Department of Justice

CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE
(CLETS—CPO)

Page 1 of 2
Penal Code, §§ 136.2, 646.9(k), and 136.2(i)(1)
www.courts.ca.gov



SUPERIOR COURT OF CALIFORNIA
COUNTY [redacted]

People of the State of California
Plaintiff
vs.
[redacted]
Defendant

Jud. Officer: [redacted]
Clerk
Bailiff
DSP: [redacted]
ER Number:
Interpreter
Language:

Appearance: Preliminary Hearing/OR Bail Hearing
Case No: [redacted]
Department: [redacted]
Date: June 6, 2017
Charge(s): Ct. 1-PC273a(a) Ct. 2-PC273a(a) Ct. 3-PC273a(a) Ct. 4-PC273a(a) Ct. 5-HST11550(a)
100K/CPO

- [x] Defendant present [x] in custody [ ] without attorney [x] with/by attorney
- [ ] Court makes interpreter findings on the record pursuant to GC 68561(g)/GC 68561(i)
- [ ] Defendant failed to appear [ ] Bail forfeited [ ] OR revoked
- [ ] Bench Warrant to issue with bail set at $_____. [ ] Defendant appeared late, case recalled.
- [ ] Bench Warrant [ ] Recalled [ ] Quashed [ ] Withdrawn [ ] Bail Bond Forfeiture Set Aside
- [ ] Bail Bond Reinstated [ ] Bail Bond Exonerated [ ] Summary Judgment Date is Vacated.
- [x] Criminal Protective Order [ ] Issued [ ] Remains [ ] Terminated [ ] Modified. to be consistent of Juvenile Court case
- [ ] Copy of protective order served upon defendant
- [ ] Public Defender declared a conflict [ ] Public Defender relieved as counsel [ ] Conflict Counsel appointed.
- [ ] Defendant to obtain own counsel
- [ ] Defendant obtained private counsel. _____ substituted in as attorney of record
- [ ] DDA _____ states People are not ready to proceed at this time
- [ ] Defendant arraigned to be [ ] Eligible [ ] Not eligible for [ ] Felony DUI [ ] Felony DV Court
- [ ] On motion of DDA _____ [ ] Court case [ ] counts(s) _____ dismissed
- [ ] On motion of DDA _____ [ ] complaint [ ] count(s) _____ amended to _____
- [x] Defendant withdraws plea of NOT GUILTY and enters a plea of GUILTY [ ] NOLO CONTENDERE

- [ ] Defendant [ ] agrees [ ] does not agree to accept Flash incarceration pursuant to PC1203.35.
- [ ] Written waiver filed [ ] Oral waiver taken [ ] Admonished pursuant to [ ] VC23593(a) [ ] PC1016.5
- [ ] Time for sentence waived [ ] No legal Cause [ ] See sentence sheet.
- [ ] No Probation Ordered [ ] Probation Denied.
- [ ] Revoked as follows: _____

- [ ] Indictment waived. Defendant arraigned in Court on _____
- [ ] The above named defendant, being charged in this complaint on file in Court under the above case number, and having entered a plea of [ ] GUILTY [ ] NOLO CONTENDERE to the charge(s) of _____

- [ ] pursuant to People vs. West [ ] with Harvey Waiver.
- [ ] Spec. Allegation(s) _____ admitted
- [ ] On motion of DDA _____ count(s) _____ and/or Spec. Allegation(s) _____ to be dismissed at the time of sentencing/proceeding.
- [ ] The plea has factual basis (see transcript) [ ] Defense stipulates to factual basis for the plea.
- [ ] Court finds a knowing, intelligent, voluntary, understanding and explicit waiver

DIST: 1 DA 2 PD 3 DSP 4 JAIL 5 ATTY 6 PROB 7 CITY ATTY 8 DOC

[redacted] Page 1 of 2

SUPERIOR COURT OF CALIFORNIA
COUNTY OF [redacted]

People of the State of California Plaintiff, Counsel/DA [redacted]	Jud. Officer: [redacted]
	Clerk: [redacted]
vs	Bailiff:
[redacted] DOB: 02/10/1987 Defendant,	CSR: [redacted] EA Number: ____ Interpreter Language: ____
Counsel/PD [redacted]	
Nature: Preliminary Hearing Setting	Case No. [redacted] Department [redacted]
Date: July 24, 2013	

Charges: Ct. 1-HS11378 Ct. 2-PC29800(a)(1) Ct. 4-PC12025(a)(1), Ct. 7-PC135 [illegible]

☒ Defendant present ☐ in custody ☐ without attorney ☐ with/by attorney
☐ Court makes interpreter findings on the record pursuant to GC 68561(g)/GC 68561(f)
☐ Defendant failed to appear ☐ Bail forfeited ☐ OR revoked
☐ Court finds good cause not to forfeit bail Bond
☐ Bench Warrant to issue with bail set at $ ________ ☐ Stayed to ________
☐ Cite Only Warrant ☐ Defendant may be cited ☐ Do not cite – Defendant must appear
☐ Bench Warrant to issue with bail set at $ ____
☐ Defendant appeared late, case recalled. ☐ Bench Warrant ☐ Recalled ☐ Remain ☐ Withdrawn
☐ Bail Bond Forfeiture Set Aside ☐ Bail Bond Reinstated ☐ Bail Bond Exonerated
☐ Summary Judgment Date is Vacated. ☐ Bench warrant stayed ________
☒ Criminal Protective Order ☐ Issued ☒ Remains ☐ Terminated ☐ Modified
☐ Copy of protective order served upon defendant.

CPO does not interfere w/ reunification

☐ Public Defender declares a conflict. ☐ Public Defender relieved as counsel.
☐ Conflict Counsel appointed. ☐ Defendant to obtain own counsel.
☐ Defendant obtained private counsel ________ substituted in as attorney of record.
☐ DDA ____ states People are not ready to proceed at this time.
☐ Defendant is found to be ☐ Eligible ☐ Not eligible for ☐ Felony DUI ☐ Felony DV Court
☐ On motion of DDA ____ ☐ Court case ☐ count(s) ____ dismissed.
☐ On motion of DDA ____ ☐ Complaint ☐ count(s) ____ amended to ____
☐ Defendant withdraws plea of NOT GUILTY and enters a plea of ☐ GUILTY ☐ NOLO CONTENDERE
☐ ________
☐ Defendant ☐ agrees ☐ does not agree to accept Flash Incarceration pursuant to PC1203.35
☐ Written waiver filed ☐ Oral waiver taken. ☐ Admonished pursuant to ☐ VC23593(a) ☐ PC1016.5
☐ Time for sentence waived. ☐ No Legal Cause. ☐ See sentencing sheet.
☐ No Probation Ordered. ☐ Probation Denied.
☐ Indicated sentence: ________
☐ Indicated based on Defendant's record represented in Court or
☐ The above named defendant, being charged in this complaint on file in Court under the above case number, and having entered a plea of ☐ GUILTY ☐ NOLO CONTENDERE to the charge(s) of ____ ________
☐ pursuant to People vs. West ☐ with Harvey Waiver.
☐ Spec. Allegation(s) ________ admitted.
☐ On motion of DDA ____ count(s) ____ and/or Spec. Alleg(s) ____ to be dismissed at the time of judgment proceedings.
☐ Court finds a knowing, intelligent, voluntary, understanding and explicit waiver
☐ Court finds Factual Basis for Plea ☐ Counsel stipulate based on police report.
☐ Defendant waives time ☐ 10 day rule ☐ 60 day rule for PH. ☐ Previous/Continued time waiver

DIST: ☐ DA ☐ PD ☐ DEF ☐ JAIL ☐ CITY ☐ PROB ☐ CITY ATTY ☐ DOC

If Family Services wants ~~[illegible]~~ child to be seen by parent they may modify CPO as CPO states issued on 2/28/18.

☐ FDUI ☐ PDV Suitability/ Sentencing Report. ☐ Recovery Court Referral Form given to defendant.
☐ Referred to Probation for ______ ______ ☐ Restitution Report ☐ OR bail report
☐ Defendant to Contact Probation to schedule interview. ☐ Arbuckle Waiver Taken
☐ Defendant in custody, Probation to interview Defendant while in custody.
☐ Defendant ☐ admits ☐ denies ______ ☐ Probation ☐ reinstated ☐ terminated ☐ revoked
☐ extended ☐ under original terms and conditions.

(X) Deft Requesting Modification on CPO for victim which is a minor -- Granted/(Denied)

Deft shows proof of classes attended

(X) Prool Date on 04-25-19 in Dept. 18 - (Remains)/Vacated

☐ Defendant to pay a fine in the sum of $ ______ + SUP $ ____ + $ ____
☐ Defendant to pay $ ____ for Court Operations Assessment fee.
☐ Defendant to pay $ ____ for Attorney Fees. ☐ Court finds no ability on attorney fees
☐ All Fines and Fees to be paid ☐ forthwith ☐ in full on or before ____/____/
☐ All Fines and Fees to be paid at $______ per month commencing ____/____/____ and $ ____ on a corresponding day of each month thereafter until paid in full. ☐ Consecutive to case ________
☐ Defendant to serve ______ days in jail, with credit for ______ Actual days plus ______ CT/WT days served.
☐ PC4019 (1/2) time credits to be imposed.
☐ Sentence to be served ☐ consecutively ☐ concurrently with
☐ Stay of execution granted until ____/____/____ at ____ ☐ am ☐ pm to be served at ☐ DRC- Visalia
☐ DRC- Porterville TODO ☐ PTS ☐ May do weekends ☐ Take ID & Paperwork. Be on time.
☐ Contact BWAP immediately to enroll 733-1971. ☐ Contact MONITOR to enroll 713-2825
☐ Enroll ☐ Re-enroll and complete ____ volunteer hours at Tulare County Referral Program, to be completed by ____/____/____. ☐ Contact Tulare County Referral Program at (559) 683-0559 or 219 N "M" St, Ste 105 Tulare
☐ REMANDED Forthwith. ☐ Bail $________ ☐ REMANDED, Serving Time.
☐ Remain at liberty on bail. ☐ Released ☐ Discharged as to this case. ☐ Released on OR.
☐ Remain on O.R. ☑ Remain on Prob.
☐ Court advises defendant he/she is prohibited from owning, purchasing, receiving, possessing or having in his/her custody or control any firearms, ammunition and ammunition feeding device including but not limited to magazines pure to PC§29810.
☐ Court orders defendant to relinquish all firearms pure to PC§29810 ☐ Prohibited Firearm Packet has been provided to the defendant in open court. ☐ Matter is referred to Probation for Firearm Relinquishment Report.
☐ Report to the Probation Department forthwith located on the ☐ 1st Floor ☐ 2nd Floor Room 206
☐ CONDITIONS OF O.R. RELEASE: ☐ Defendant not to use or possess drugs.
☐ Defendant to submit to search of ☐ person ☐ residence ☐ automobile
☐ Defendant to submit to ☐ narcotic/chemical testing upon request of any peace officer.
☐ To attend ____ NA/AA Meetings. ☐ Defendant to have no contact with victim in this case.
☐ Defendant to report to Tulare County Adult Probation Dept. at ☐ 100 East Center, Visalia CA
☐ Room 204 2nd Floor County Court House 221 S Mooney Blvd, Visalia CA.
☐ Pretrial release ☐ Requested ☐ Granted ☐ Denied ☐ In Compliance ☐ Not in Compliance
☐ Defendant is ☐ placed ☐ remain on the Pre-Trial/Pre-Sentence Supervised Release Program and is to follow all instructions given by the Probation Officer and all terms associated with any electronic monitoring device. The defendant is advised that failure to comply with these instructions will result in a Violation of a Court Order and return to custody.
☐ Defendant is to report at 1:00PM the following business day to the Probation Office located at:
☐ 3709 E Fairway Street, Visalia, CA 93277 (559) 713-2625 ☐ 1055 W Henderson Avenue, Suite 7, Porterville, CA 93257 (559) 788-4330

RELEASE ON OWN RECOGNIZANCE

[illegible]

Executed on ______________ by _____________________________________ Defendant

_____________________________________ Address

CR-161

SUPERIOR COURT OF CALIFORNIA, COUNTY [redacted]
STREET ADDRESS: [redacted]
MAILING ADDRESS:
CITY AND ZIP CODE: [redacted]
BRANCH NAME: South County Justice Center

FOR COURT USE ONLY

FILED
[redacted] SUPERIOR COURT
[redacted] JUSTICE CENTER
FEB 26 2018
[redacted] CLERK
BY [redacted]

PEOPLE OF THE STATE OF CALIFORNIA
vs.
DEFENDANT: Herman [redacted]

CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE (CLETS - CPO) (Pen. Code, §§ 136.2, 136.2(i)(1), and 646.9(k))

☐ ORDER UNDER PENAL CODE, § 136.2
☐ MODIFICATION
ORDER UNDER:
☑ PENAL CODE, § 136.2(i)(1) ☐ PENAL CODE, § 646.9(k)

CASE NUMBER: [redacted]

PERSON TO BE RESTRAINED (complete name): Herman [redacted]
Sex: ☑ M ☐ F Ht.: 5'4" Wt.: 155 Hair color: BLK Eye color: BRN Race: H Age: Date of birth: [redacted]

1. This proceeding was heard on (date): 2/26/18 at (time): 8:30 am in Dept.: 23 Room:
by judicial officer (name): [redacted]
2. **This order expires on (date): . If no date is listed, this order expires three years from date of issuance.**
3. ☑ Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
4. FULL NAME, AGE, AND GENDER OF EACH PROTECTED PERSON: Jaydon [redacted] (M)
5. ☐ The court has information that the defendant owns or has a firearm or ammunition, or both.

GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT

6. must not harass, strike, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
7. **must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or ammunition. The defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer any firearm owned by the defendant or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**
☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., § 527.9(f). The defendant is not required to relinquish this firearm (specify make, model, and serial number of firearm):
8. must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
9. must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian unless good cause exists otherwise. ☐ The court finds good cause not to make the order in item 9.
10. ☐ must be placed on electronic monitoring for (specify length of time): . (Not to exceed one year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), and Pen. Code, § 136.2(i)(2).)
11. ☑ must have no personal, electronic, telephonic, or written contact with the protected persons named above.
12. ☑ must have no contact with the protected persons named above through a third party, except an attorney of record.
13. ☑ must not come within 50 yards of the protected persons named above.
14. ☐ may have peaceful contact with the protected persons named above, as an exception to the "no-contact" or "stay-away" provision in item 11, 12, or 13 of this order, only for the safe exchange of children and court-ordered visitation as stated in:
a. ☐ the Family, Juvenile, or Probate court order in case number: issued on (date):
b. ☐ any Family, Juvenile, or Probate court order issued after the date this order is signed.
15. ☑ The protected persons may record any prohibited communications made by the restrained person.
16. Other orders including stay-away orders from specific locations:

order subject to comply to CWS orders as to visitation & custody and by family court

Executed on: 2/26/18 [redacted]
(DATE) (SIGNATURE OF JUDICIAL OFFICER) Department/Division:

Appendix B: Interview Guide

Walden University

I have been attending Walden University's online PhD program for several years. Walden is a university headquartered in Minneapolis, Minnesota. The university has been in existence since 1970 and is currently a part of the Laureate Education, Inc. group of schools which span the globe. Walden holds accreditations from the Higher Learning Commission and the North Central Association of Colleges and Schools, as well as individual accreditations for particular degree programs.

Some more notable graduates of Walden University: Thomas Andrew Drake, Former Senior Executive of the U.S. National Security Agency; Chandra Dillard (democratic party), South Carolina House of Representatives, serving since 2009; Nancy Appleton, nutritionist and author; John Antonakis, professor and Editor and Chief of The Leadership Quarterly.

I choose Walden University because I could not leave my job and 'go back to school.' Walden has worked with me through this degree process 'one class at a time.' This has been a challenging, but very rewarding process.

My Dissertation

The following *Research Topic* will explain what the core conceptual issues and concerns are in this study. By reading it, you may better understand my interest in speaking to you and why I need to digitally record our conversation. I anticipate interviewing many people. I will be looking for similarities, differences, examples, opinions, regarding all of your experiences. I hope you find the subject matter interesting and in need of exploration. All participants' identities will remain confidential.

Research Topic

The County of Tulare, California sometimes oversees 'parent-on-child' child abuse cases in two separate judicial jurisdictions at the same time (known as concurrent jurisdiction). The criminal court presides over criminal charges brought by the District Attorney which have arose out of acts of alleged child abuse; the juvenile/dependency court presides over actions brought by the county's child protection agency for the same alleged conduct. Both of these courts will have jurisdiction over 'contact,' between parent (defendant) and child (victim). However, each court may be driven by very different motivations, statutory policies, legal argument by counsel, and information in deciding the provisions of those contact orders.

This qualitative study anticipates collecting data (in the form of interviews, questionnaires, and observations) from criminal and dependency judges, prosecutors and child welfare attorney, defense attorneys, social workers, and probation officers. It is anticipated that this research will expose a clear and compelling public policy issue. That is, two different legislative agendas which may frustrate each court's attempt to pursue its policy mandates and statutory purposes. Data will be collected using in-depth interviews, open-ended survey questions, court observation, and group/round-table discussions.

Contrary legislative mandates can result in contradictory rulings by the judiciary, problems providing clear answers for lawyers, and difficulty with following through on

probation/social service recommendations to the courts. This research is especially important due to the unique time-limits placed on families attempting to reunify in juvenile/dependency court. In the end, this research hopes to provide evidence-based research upon which alternatives and remedies may be developed.

My Information

If you ever need to contact me for questions, rescheduling or follow-up, here are some ways to contact me:

1) Cell: XXX-XXX-XXXX
2) Office: XXX-XXX-XXXX (usually my secretary will answer and try get me a msg between 10 am and 3:30pm; many mornings, I am in the Juvenile Dependency Courts, A, B, or C)
3) Email: XXXXXX
4) For information regarding your rights as a participant/interviewee, you may speak to Dr. Leilani Endicott of Walden University: XXX-XXX-XXXX

Sample Interview Questions

Note: These questions provide an outline for the first interview. All questions also are open for follow-up questions (which are anticipated and will be encouraged). This is also a first draft. I expect this list to change and grow as the study takes shape.

All Participants (Standardized Questions/Not Role Relevant)

1. How long have you been a [criminal or juvenile/dependency] judge (defense attorney/prosecutor; probation officer/social worker; court administrator)
2. Have you had an opportunity to read my research question? [If not, allow time to read]
3. Do you believe there is an issue regarding contact orders involving child abuse cases when there is concurrent jurisdiction?
4. What are your concerns [if any] with the way the courts are handling concurrent jurisdiction orders on contact issues now?
5. Has this issue impacted your job directly?

6. Have you been in a situation where you were unable to adequately advise court participants on what to do or what procedure to follow based on an order from [criminal /civil court] which contradicted the goals of the court you are in?
7. Have there been any steps taken by any participants to assist with guidance when orders from another court contradict the orders of the court you are in? If yes, what are outcomes?
8. What are your thoughts about a multi-agency approach to this issue? What do you see as the problems with such an approach? What do you see as some positive outcomes with such an approach?
9. What is your main concern about this issue (if you have a concern)?
10. What are your thoughts on a specialty court; one in which deals with the criminal case and hears the dependency issues at the same time? (hints: lawyers not specialized; judges not specialized; separation of intent of law may get lost)
11. Name the problems that have arisen from having no clear policy in regards to 'visitation' and 'contact' when parents are being faced with criminal and dependency cases?
12. What do you see as some challenges going forward?
13. What do you see as some positive outcomes going forward?

Appendix C: Standardized Questions

All Participants (Standardized Survey Questions/Not Role Relevant)

1. How long have you been a ([criminal or juvenile/dependency] judge defense attorney/prosecutor; probation officer/social worker; court administrator)?
2. Have you had an opportunity to read the research question? [If not, allow time to read]
3. Do you believe there is an issue regarding contact orders involving child-abuse cases when there is concurrent jurisdiction?
4. What are your concerns [if any] with the way the courts are handling concurrent jurisdiction orders on contact issues now?
5. Has this issue impacted your job directly?
6. Have you been in a situation where you were unable to adequately advise court participants on what to do or what procedure to follow based on an order from [criminal /civil court] that contradicted the goals of the court you are in?
7. Has a contact order from another court been contrary to the goals of the court you are in?
8. If 'yes' to the above, if you were 'frustrated,' what was the level of frustration on a scale of 1 through 10, 10 being extremely frustrated, 0 being not frustrated at all (if you want to add an explanation, please do so).
9. Have there been any steps taken by any participants to assist with guidance when orders from another court contradict the orders of the court you are in? If yes, what are outcomes?

10. What are your thoughts about a multi-agency approach to this issue (i.e. one court for all cases? Or all parties having input into significant issues involving parties) What do you see as the problems with such an approach? What do you see as some positive outcomes with such an approach?
11. What is your main concern about this issue – court orders which impact visitation coming from two different courts with different goals (if you have a concern)?
12. What do you see as some challenges going forward?
13. What do you see as positive results or lessons learned from dealing with this issue in the past?

Appendix D: Observational Protocol Form

Observational Protocol

Date: _____
Time: _____
Length of activity: _____ minutes
Location: _____
Participants :

_____

_____

Description of Physical Setting:

_____

_____

_____

_____

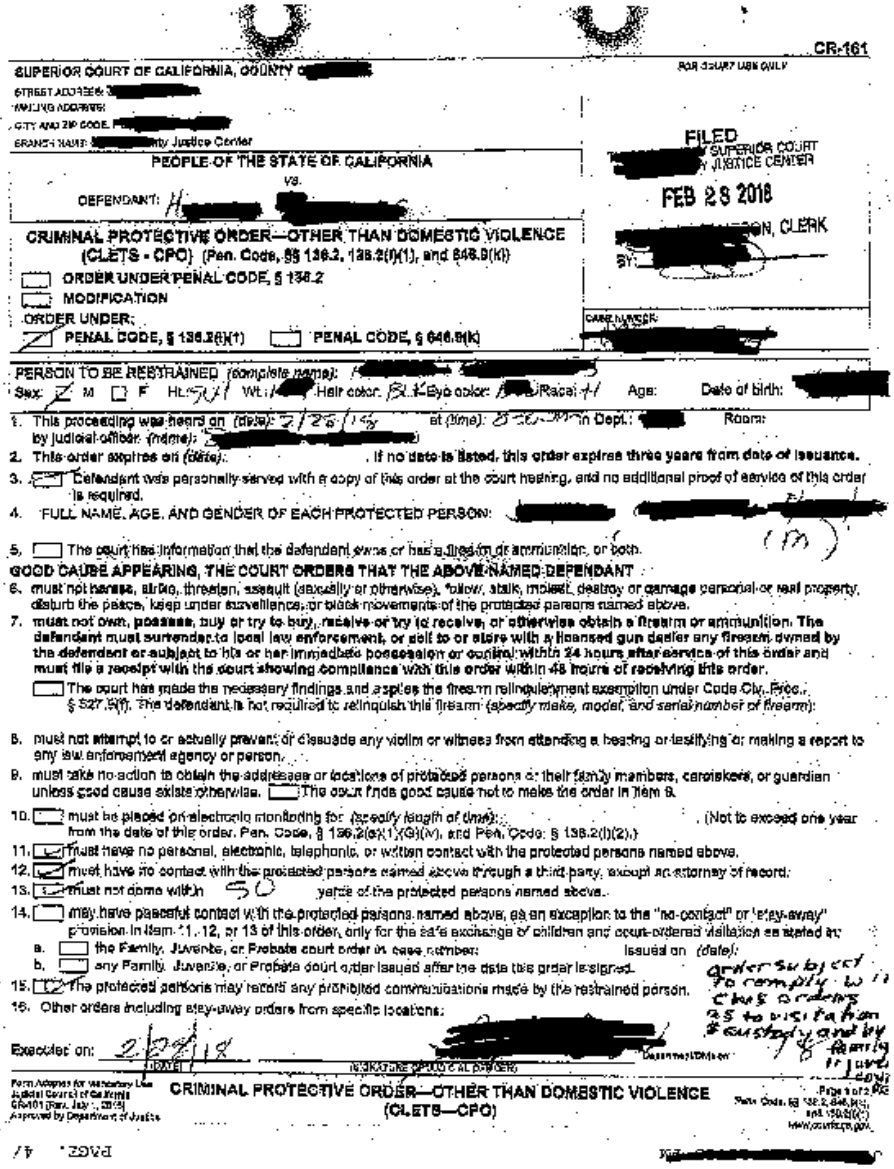
Drawing of Physical Layout:

Descriptive Notes: Include – description of participants, activities, what activities each participant is engaged in, sequence of activities, interaction between participants, unpanned events, participant comments

Reflective Notes – Researcher's own interpretations, considerations, conclusions

Ideas going forward – questions that need to be answered, information that needs to be added, contacts that need to be made

Appendix E: Two Orders Referred to in Observation



CR-161

SUPERIOR COURT OF CALIFORNIA, COUNTY OF [redacted]

FOR COURT USE ONLY

STREET ADDRESS: [redacted]
MAILING ADDRESS:
CITY AND ZIP CODE: [redacted]
BRANCH NAME: [redacted] County Justice Center

FILED
[redacted] SUPERIOR COURT
COUNTY JUSTICE CENTER
FEB 28 2018
[redacted]ON, CLERK
BY: [redacted]

PEOPLE OF THE STATE OF CALIFORNIA
vs.
DEFENDANT: [redacted]

CASE NUMBER: [redacted]

CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE
(CLETS - CPO) (Pen. Code, §§ 136.2, 136.2(i)(1), and 646.9(k))

☐ ORDER UNDER PENAL CODE, § 136.2
☐ MODIFICATION
ORDER UNDER:
☑ PENAL CODE, § 136.2(i)(1) ☐ PENAL CODE, § 646.9(k)

PERSON TO BE RESTRAINED (complete name): [redacted]
Sex: ☑ M ☐ F Ht: 5'01 Wt: [redacted] Hair color: BLK Eye color: [redacted] Race: H Age: Date of birth: [redacted]

1. This proceeding was heard on (date): 2/28/18 at (time): 8:30 AM in Dept.: [redacted] Room:
by judicial officer (name): [redacted]
2. This order expires on (date): . If no date is listed, this order expires three years from date of issuance.
3. ☐ Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
4. FULL NAME, AGE, AND GENDER OF EACH PROTECTED PERSON: [redacted] (1M)
5. ☐ The court has information that the defendant owns or has a firearm or ammunition, or both.

GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT

6. must not **harass**, stalk, threaten, assault (sexually or otherwise), follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, or block movements of the protected persons named above.
7. must not own, **possess**, buy or try to buy, **receive** or try to receive, or **otherwise obtain a firearm** or ammunition. **The defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer any firearm owned by the defendant or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.**
☐ The court has made the necessary findings and applies the firearm relinquishment exemption under Code Civ. Proc., § 527.9(f). The defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*):
8. must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person.
9. must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardian unless good cause exists otherwise. ☐ The court finds good cause not to make the order in item 9.
10. ☐ must be placed on electronic monitoring for (*specify length of time*): . (Not to exceed one year from the date of this order. Pen. Code, § 136.2(i)(1)(G)(iv), and Pen. Code, § 136.2(i)(2).)
11. ☑ must have no personal, electronic, telephonic, or written contact with the protected persons named above.
12. ☑ must have no contact with the protected persons named above through a third party, except an attorney of record.
13. ☑ must not come within 50 yards of the protected persons named above.
14. ☐ may have peaceful contact with the protected persons named above, as an exception to the "no-contact" or "stay-away" provision in item 11, 12, or 13 of this order, only for the sole exchange of children and court-ordered visitation as stated in:
a. ☐ the Family, Juvenile, or Probate court order in case number: issued on (*date*):
b. ☐ any Family, Juvenile, or Probate court order issued after the date this order is signed.
15. ☑ The protected persons may record any prohibited communications made by the restrained person.
16. Other orders including stay-away orders from specific locations:

order subject to comply w/ this ordering as to visitation & custody and by Family if issued

Executed on: 2/28/18 [redacted]
(DATE) (JUDICIAL OFFICER) Commissioner

Form Adopted for Mandatory Use
Judicial Council of California
CR-161 [Rev. July 1, 2016]
Approved by Department of Justice

CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE
(CLETS—CPO)

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Penal Code, §§ 136.2, 646.9(k), and 1509(d)(1)
www.courts.ca.gov

PAGE 4/4 [redacted]

[redacted]

If Family Services wants child to be seen by parent they may modify CPO as CPO states issued on 2/28/18.

☐ PDUI ☐ PDV Suitability/ Sentencing Report. ☐ Recovery Court Referral Form given to defendant.
☐ Referred to Probation for __________ ☐ Restitution Report ☐ OR bail report
☐ Defendant to Contact Probation to schedule interview. ☐ Arbuckle Waiver Taken
☐ Defendant in custody, Probation to interview Defendant while in custody.
☐ Defendant ☐ admits ☐ denies ______, ☐ Probation ☐ reinstated ☐ terminated ☐ revoked
☐ extended ☐ under original terms and conditions

(X) Deft Requesting Modification on CPO for victim which is a minor – Granted/Denied (Denied circled)

Deft Shows Proof of Classes attended.

(X) Proof Date on 04-15-19 in Dept. 18 – Remains/Vacated (Remains circled)

☐ Defendant to pay a fine in the sum of $ __________ + SRF $ ____ + $ ____
☐ Defendant to pay $ ____ for Court Operations Assessment fee.
☐ Defendant to pay $ ____ for Attorney Fees. ☐ Court finds no ability on attorney fees
☐ All Fines and Fees to be paid ☐ forthwith ☐ in full on or before ____/____/
☐ All Fines and Fees to be paid at $ ______ per month commencing ____/____/____ and $ ____ on a corresponding day of each month thereafter until paid in full. ☐ Consecutive to case __________
☐ Defendant to serve __________ days in jail, with credit for __________ Actual days plus ____ CT/WT days served.
☐ PC4019 (1/2) time credits to be imposed.
☐ Sentence to be served ☐ consecutively ☐ concurrently with
☐ Stay of execution granted until ____/____/____ at ____ ☐ am ☐ pm to be served at ☐ DRC- Visalia
☐ DRC- Porterville TCUO ☐ PTF ☐ May do weekends ☐ Take ID & Paperwork. Be on time.
☐ Contact SWAP immediately to enroll 735-1921. ☐ Contact MONITOR to enroll 713-2825
☐ Enroll ☐ Re-enroll and complete ____ volunteer hours at Tulare County Referral Program, to be completed by ____/____/____. ☐ Contact Tulare County Referral Program at (559) 688-0639 or 219 N "M" St, Ste 105 Tulare
☐ REMANDED Forthwith. ☐ Bail $ __________ ☐ REMANDED, Serving Time.
☐ Remain at liberty on bail. ☐ Released ☐ Discharged as to this case. ☐ Released on OR.
☐ Remain on O.R. ☑ Remain on Prob.
☐ Court advises defendant he/she is prohibited from owning, purchasing, receiving, possessing or having in his/her custody or control any firearms, ammunition and ammunition feeding device including but not limited to magazines pursuant to PC§29810.
☐ Court orders defendant to relinquish all firearms pursuant to PC§29810 ☐ Prohibited Firearm Packet has been provided to the defendant in open court. ☐ Matter is referred to Probation for Firearm Relinquishment Report.
☐ Report to the Probation Department forthwith located on the ☐ 1st Floor ☐ 2nd Floor Room 206
☐ CONDITIONS OF O.R. RELEASE: ☐ Defendant not to use or possess drugs.
☐ Defendant to submit to search of ☐ person ☐ residence ☐ automobile
☐ Defendant to submit to ☐ narcotic/chemical testing upon request of any peace officer.
☐ To attend NA/AA Meetings ☐ Defendant to have no contact with victim in this case.
☐ Defendant to report to Tulare County Adult Probation Dept. at ☐ 100 East Center, Visalia CA
☐ Room 206 2nd Floor County Court House 221 S Mooney Blvd, Visalia CA.
☐ Pretrial release ☐ Requested ☐ Granted ☐ Denied ☐ In Compliance ☐ Not in Compliance
☐ Defendant is ☐ placed ☐ remain on the Pre-Trial/Pre-Sentence Supervised Release Program and is to follow all instructions given by the Probation Officer and all terms associated with any electronic monitoring device. The defendant is advised that failure to comply with these instructions will result in a Violation of a Court Order and return to custody.
☐ Defendant is to report at 1:00PM the following business day to the Probation Office located at:
☐ 3303 S. Fairway Street, Visalia, CA 93277 (559) 713-2825 ☐ 1851 W. Henderson Avenue, Suite 7, Porterville, CA 93257 (559) 782-4350

[illegible]

Executed on __________ by __________ Defendant

__________ Address

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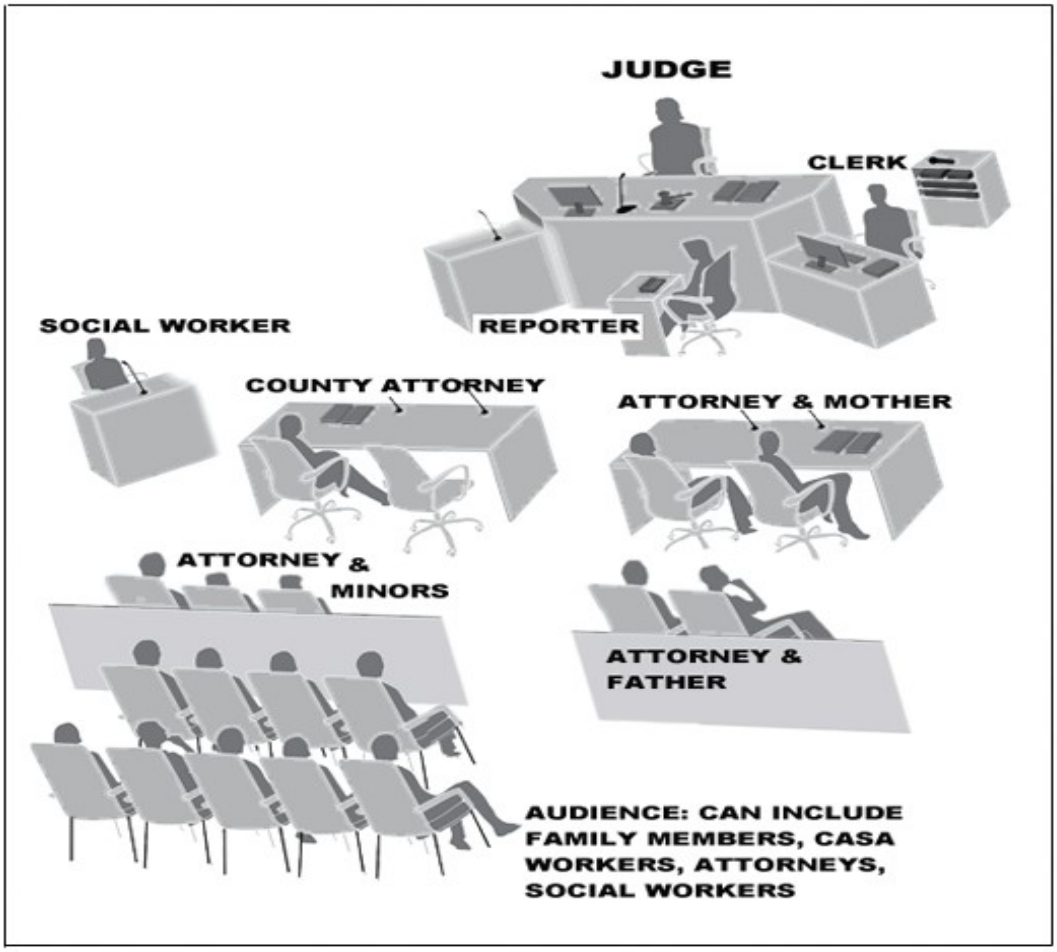
Appendix F: Court Diagram



Appendix G: Example of Attachment/Addendum

ATTACHMENT TO ORDER

Pending the hearing:

Visitations to father every Saturday and Sunday from 4:30pm to 6:30pm.

Both parties shall ~~meet~~ exchange at Porterville Police department.

Both parties are ordered to not make any derogatory remarks about each other in the presence of the children nor allow others to do so.