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A CONTENT ANALYSIS OF PARENT NARRATIVES IN TERMINATION OF PARENTAL RIGHTS TRIALS: EMERGENT THEMES ON THE LEGAL LOSS OF CHILDREN

DISSERTATION

Presented in partial fulfillment of the Requirements of the Degree

Doctor of Philosophy in the Graduate School of

The Ohio State University

By

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**************

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ABSTRACT

This dissertation addresses a void in the social work literature by investigating what parents communicate when they are in the process of losing the legal right to parent their children. Trial transcripts from ten termination of parental rights trials were analyzed in this descriptive, exploratory study. Following utilization of a modified form of narrative analysis, six parent narratives were identified in the data. Content analysis of these six narratives resulted in the emergence of various themes. The findings reveal that parents are actively constructing the meaning of their experiences within the courtroom environment, with the rich descriptions of these socially constructed communications serving to sensitize social workers to the perspective of this population.
To

All the women and men who are facing the legal loss of their children in termination of parental rights trials...May you find support, guidance, and fairness in the child welfare system
ACKNOWLEDGMENTS

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CHAPTER 1
INTRODUCTION

One of the most challenging tasks of the judiciary is that of determining whether the state must deprive an individual of the right to parent his or her children due to allegations of ongoing abusive and neglectful actions that fall below the societal standard for parental care and protection of children. The gravity of this decision making task is emphasized by an American legal tradition that recognizes the "permanent and irrevocable loss of one’s children" as an "intrusion into personal liberty" surpassed only by the death penalty (Hewitt, 1983, 230). Of course, it is not only the rights of parents that must be weighed in considering the parent-child relationship, but as child advocates have asserted, children have the right to the care, guidance, and protection of a responsible adult in order to develop to their fullest potential. For the court, meaningful decision making is complicated by the recognition that a termination of parental rights is not always a panacea to the problems faced by children and families.

With over 500,000 children in out-of-home care (U.S. Department of Health and Human Services, 1996) and a stated goal of permanency for every one of these children (The Adoption Assistance and Child Welfare Act of 1980), the child welfare system has seen an increase in the number of termination of parental rights actions in order to free children for adoption (Hardin, 1996). Unfortunately, according to various estimates, between 40,000 and 80,000 children have had their parental rights terminated only to find that there is no
adoptive home awaiting them and that they must remain dependents of the state (Craig, 1995; Guggenheim, 1995). It has been asserted that children in the child welfare system face formidable obstacles to healthy development (Child Welfare League of America, 1994(b); National Black Child Development Institute, 1989; Tatara, 1992). Specifically, in a review of the health status and care of children in out-of-home care it was demonstrated that these children tend to have sub-standard treatment for physical, psychological, behavioral, emotional, and educational problems (Risley-Curtiss, 1996). In effect, although contrary to the hopes and dreams after the termination of parental rights, it is often an overburdened child welfare system, not an adoptive family, that replaces the biological parent as long-term guardian.

While the child welfare literature base addresses what children have to say regarding their experiences in out of home care (Fanshel, Finch, & Grundy, 1990), no one has thought to study what the parents have to say when they experience being replaced as the legal guardian of their children. This is an interesting omission considering the emphasis that has been given to the communications of parents in the child welfare system prior to the termination proceeding. In instructing social workers in the proper manner to work within the placement process, a popular child welfare textbook emphasizes the importance of social workers listening to the parent in order to “understand them”...[and] “their life experiences” (Downs, Costin, & McFadden, 1996, p. 278). Clearly, parental communications have been valued as providing information, insight, and guidance in decision-making at earlier stages in the involvement of the child welfare system. To then disregard parental communications at a later stage may be premature. In a child welfare system that has itself been called “abused,” “neglected,” and “dysfunctional,” (Russakoff, 1997, p. 60) and under “enormous stress” (Liederman, 1997, p. 34), arguably, we can not afford to silence any of the voices of those in
the system, at any point in the system, if we are to facilitate the search for meaningful solutions to the urgent problems facing the system of care for dependent children and their families.

What individuals communicate in a trial to terminate their parental rights is the focus of this dissertation. Inherent in the legal process of terminating parental rights is the telling of stories, or the communication and co-construction of narratives. Narratives are the stories found in human communication in which persons create meaning and construct a view of the world. They have a beginning, a middle, and an end and can provide rich material for researchers as "[m]eaning is...created and altered only in a context of language and conversation" (Pocock, 1995, p. 155) and "[m]aking, apprehending, and storing a narrative is a making-sense of things which may also help make sense of other things" (Tooian, 1988, p. xiii). In a legal context, the substance and procedure of a courtroom is directed toward one goal: to allow opposing parties to tell their side of a story in order to allow the judge to reach an equitable or legal outcome. In termination of parental rights trials, stories of alleged abuse and neglect, stories of interaction between the parent and child, stories of interaction between the parent and child welfare authorities, and many other kinds of stories can be found in the parent narratives.

Appropriately, the theoretical framework that has been utilized to guide this study, symbolic interactionism, is based on understanding the individual and social construction of meaning (Blumer, 1969; Mead, 1934). Symbolic interactionism has been defined as the intersection between the self and society with the two united through the process of communication (Denzin, 1992). This communication is evidence of Mead's (1934) idea that human beings manage their environments by utilizing symbols, such as language, which are socially agreed upon representations of the world we experience. Because this symbolic
interaction between individuals must be understood as intrinsically one of perspective— and one of interpretation— the process of socially constructing meaning can be a complex one. Every individual enters an interactive situation with the potential to interpret experiences and construct meaning, and it is this situation that establishes the creative, dynamic interplay of human meaning making that was described by Mead (Vander Zanden, 1986). The goals of researchers guided by social interactionism, and likewise the goals of this study, are to investigate socially constructed meanings and discover patterns in the interactions that can provide insight into the experience of the individual within a social universe.

Symbolic interactionism emphasizes the social construction of meaning and the interpretation and communication of life experience (Blumer, 1969; Mead, 1934). This social constructionist perspective, which emphasizes language, narratives, and social and cultural processes in understanding individual constructions (Dean, 1993; Franklin, 1995), guides this study’s methodological focus on the process of social communication that results in the acquisition of knowledge and the construction of reality. In this manner, even though these stories are found in the parent narratives, because they are socially constructed, they will involve and/or incorporate dialogue between the parent and various actors in the court process. Thus, an analysis of parent narratives will necessarily reveal the parents’ direct communications with the judge and attorneys, but their testimony, and the stories contained therein, will be reflective of, and often directly responsive to, the stories of social workers and witnesses who have contributed to the action. It is in this manner that social constructionism captures the relationships that surround the parent as “[c]onstructionism replaces the individual with the relationship as the locus of knowledge” (Gergen, 1994, p. x).

Although not explicitly stated to have a narrative focus, social work research, theory, and practice has long been concerned with the stories that are relevant in a termination of
parental rights trial— especially as evidenced in the social work knowledge base related to parental abuse and neglect, the child welfare system’s out-of-home placement system, and issues of attachment and loss. Each of these subject areas has been investigated through various methodological approaches. However, while this study may have implications for these areas of scientific and practical concern as the themes that arise from the parent narratives include reflections of some of these issues, this study was not an investigation of any one of these substantive areas. Instead, this study was based on the proposal that what individuals say when they are faced with the legal loss of the ability to parent their children merited scientific investigation in its own right. In short, this dissertation asked: how do parents narratively respond to the determination made by social work and legal professionals that their parenting has fallen below the legal standard, is irremediable, and necessitates the immediate termination of their parent-child relationship?

In a broad sense, narratives can be stated to form the basis of the social worker-client relationship throughout a family’s interaction with the child welfare system. As a social worker intervenes in an abusive or neglectful parent-child relationship and strives to promote healthy functioning, the use of narrative will be critical. This is because “narrative is a primary means by which we build representations of the past, exchange objective and subjective information in the present and forecast the future” (Russell & Wandrei, 1996, p. 307). In this manner, stories of the past abuse or neglect, of visitation experiences, and of interactions between the parent and child are documented by the social worker in the period of involvement with a parent before the decision is made to terminate parental rights. Of course, all of these stories, and then others that arise during the course of the trial, will play an integral role in the final stage of child welfare involvement in a case— namely,
involvement in the court system in a termination proceeding—where the spoken word forms the basis for legal evidence and all narratives are carefully recorded.

The utilization of tapes and transcripts of trial proceedings involving termination of parental rights seemed the logical means through which parental verbal communication could be identified and investigated. As there is a dearth of empirical research in the area of termination of parental rights, and no existing research from the parent’s perspective regarding this event, it was decided that this exploratory research should begin at the source, namely, the courtroom. While social workers play a pivotal role in the legal discourse in termination of parental rights trials as a result of their significant relationship with the parents—documenting parental behavior, parent-child interactions, and parent-child welfare system interactions—social workers are reminded in a child welfare textbook that the termination of parental rights remains a “legal process, not a casework decision” (Downs et al., 1996, p. 296).

As social workers who practice in child welfare must do daily, this research considered the humanistic and social implications of a legal process. Consequently, this research involved a content analysis of themes, within and among the parental narratives from ten termination of parental rights trials, as well as some corroborating data consisting of case material. Seeking to study what parents communicate in the process of losing the right to parent their children, my experience as an attorney in juvenile court informed my decision to utilize judges and their staff and state attorneys to find the parents who verbalized their experiences during a termination trial and represented diverse elements in the spectrum of this phenomena. In this manner, selection of the trial transcripts for inclusion in the study was based on purposive sampling, which involves “selecting a sample of observations that the researcher believes will yield the most comprehensive understanding of the subject of
study, based on the researcher's intuitive feel for the subject that comes from extended observation and reflection" (Rubin & Babbie, 1997, p. G-7).

Statement of the Problem

In this dissertation I utilized content analysis as part of a qualitative research design to examine parent narratives in ten termination of parental rights trials from two counties in Indiana. In each of the ten cases the court terminated the parental rights. I explored, identified, and described themes present within and among them in order to describe what parents communicated, thematically, during the course of a trial that terminated their legal rights to parent their children, and which would add to the body of evidence in the judge's decision to terminate. The research problem can be simply stated as: What themes are present in parent narratives in transcripts of termination of parental rights trials as explored through a content analysis?

Some of the anticipated macrothematic areas included: descriptions of the abuse or neglect that originally brought the parents to the attention of the system; viewpoints expressed regarding level of attachment and bonding between the parent and child; opinions and experiences of parent-child welfare agency interactions; and expressions of personal loss upon the termination of the parent-child relationship. It is hoped that this exploration of parent narratives, resulting in a grouping of data into themes that reflect the parents' communications on the experience of termination of parental rights, will sensitize social workers to the parental perspective in such cases. By sensitizing social workers to the parents' experiences, perceptions, and outlooks it is additionally hoped that future practice and research efforts will build on this study's findings by incorporating the voices of parents who are fighting the determination of the child welfare system that their parental rights be
terminated. While these cases do not represent success in the traditional sense for the child welfare professional (for example: post-intervention, a parent and child being reunified or a parent acknowledging that they are unable to provide the necessary care and protection for a child and voluntarily relinquishing parental rights to the child) they may prove to be critical in successfully finding solutions to the problems that plague the child welfare system. It is argued that social workers may have more to learn about where the system is failing from the voices of those that we could not reach, than from those that we did.

Purpose of the Study

The purpose of this study was multifold. The primary aim was to conduct a content analysis of termination of parental rights trials through the utilization of parent narratives contained in the trial transcripts in order to explore and describe what parents communicate in interaction with others during the courtroom process. This description serves the purpose of sensitizing social workers to the perspective of parents who are experiencing an involuntary termination of their parental rights, a perspective that has never been captured in a research study. Another purpose of this research was to provide a fresh perspective on the subject of termination of parental rights, one that is representative of the social work profession's emphasis on the individual in a social environment, which will add a humanistic element to the existing literature in social work that tends to focus on the legal process of termination of parental rights. Also, a purpose of this dissertation was to conduct a research project in an area of interest to both social workers and legal professionals, in order that the spheres of intersection that exist between these two professions can be more clearly investigated and understood. Additionally, it is asserted that as this qualitative study utilizes trial transcripts to understand human behavior in a social environment, another purpose of
this research can be found in its unique contribution to the growing body of qualitative research in social work.

Significance of the Problem and Justification for Its Investigation

This dissertation research is important for many reasons, in particular, because of the increasing numbers of termination of parental rights actions and the ramifications that this increase is having on the functioning of the child welfare system. In addition, this study’s value can be found in its contributions to the limited literature about termination of parental rights, to social work practice, and to social work knowledge building in policy practice. Also, this study furthers the integration of social work and the law in social work research and creatively utilizes trial transcripts to explore dimensions of human behavior and experience. While any of these justifications for this dissertation research may singularly warrant the necessity of this study, when all of these factors are considered together, in their interrelated entirety, as they are below, the significance of the problem and the pressing need for social work research in this area becomes apparent.

Ramifications of Increase in Termination Actions

There have been increasing numbers of termination of parental rights actions in the child welfare system in recent years (Hardin, 1996). While the reasons for this increase will be explored in depth in the literature review section of this dissertation, in general, the growing use of termination proceedings has been viewed as a solution to the rising numbers of child maltreatment cases and the need for permanent placements for children (Coleman, 1993). However, as more and more parental rights have been terminated in a system that lacks sufficient numbers of adoptive placements, increasingly, children are remaining in
foster care until the age of majority, lacking any real parents and constituting a burgeoning group of “state orphans” (Guggenheim, 1995). Although a lack of national reporting on termination case statistics makes it difficult to ascertain exactly how many children have had their parental rights terminated (McGovern, 1994), recent estimates have placed the number of children whose parental rights have been terminated but who are waiting for adoptive homes between 40,000 and 80,000 (Craig, 1995; Guggenheim, 1995). In short, the solution of terminating parental rights has generated problems of its own. Additionally, and with great relevance to this study, several of the proposals that are being suggested to stem this growth of state orphans may involve the parents who have been unable or unwilling to provide the care and protection for their children required to maintain legal custody. While adoption advocates believe that the solution to the many children needing placements lies through improvement of existing adoption practices (Sheldon, 1997; Craig, 1995), other proposed changes to the system— involving increased kinship care placements, open adoption, and legal guardianship— will necessarily involve a re-evaluation of the parents’ roles in such family situations.

One of the proposed solutions to the dilemma caused by termination proceedings is greater utilization of kinship care (Ratterman, 1993; Zwas, 1993). Consistent with the Adoption Assistance and Child Welfare Act’s focus on keeping children safely in the care of their biological families through preservation and reunification efforts, kinship care has been defined as “the full-time nurturing and protection of children who must be separated from their parents by relatives, members of their tribes or clans, godparents, step-parents, or other adults who have a kinship bond with a child” (Child Welfare League of America, 1994a, p. 2). Kinship care offers a proactive approach to the problems facing the system after a termination of parental rights by alleviating the necessity of a termination of parental rights
action and offering a placement that can be secured by permanent relative guardianship. Furthermore, as long as contact with the biological parent does not endanger the children, the parent may be able to maintain contact with them (Ratterman, 1993).

However, the child welfare system’s growing reliance on kinship care to meet the needs of children and families has resulted in a growing debate over issues that include family decision making powers and level of government intrusion for child protection (Gleeson, 1995). At the center of such debates is often questions related to the appropriate role of a parent who has been unable or unwilling to provide care for a child, but who remains a part of a family system that is providing kinship care. Unfortunately, as there is no existing research on parents who can not or will not be able to continue to serve as the child’s legal parent, there is no research from which to draw expectations regarding a continued parent-child relationship after a termination proceeding or a judicial determination has resulted in child being placed indefinitely with kin. As Oppenheim and Bussiere (1996) state in an article on adoption issues in kinship care, more social science research is needed “to develop statutes and policies that provide guidance to judges while permitting flexible attention to the individual circumstances of each case” (p. 486).

Legal guardianship (McGovern, 1994) and open adoption (Zierdt, 1993) have also been proposed as viable solutions to the problems facing the child welfare system. A legal guardian is a person “who legally has the care and management...of a child during its minority” (Black’s Law Dictionary, 1979, p. 635). Using the Australian child welfare system’s approach to neglected children as an example, McGovern (1994) states that legal guardianship— either by placement in the care of an adult, or by declaring the child a ward of the state and placing the child under the care and protection of the minister in charge of the Department of Community Services until age 18— means that the child’s parental rights
never have to be terminated. In the United States, legal guardianship or custody has primarily been an issue in kinship placements. Legal guardianship may be explored by kinship caregivers in cases where the child will not be reunified with the biological parent and adoption is the recommended goal, as many kinship caregivers have been found to have mixed feelings regarding the termination of the biological parents’ rights (Thornton, 1991). Recently, it was stated that legal guardianship in kinship care relationships accomplishes the purposes of permanence in situations where it can be “very hard for grandmothers to move to terminate parental rights against their own children who are the parents of their grandchildren” (Liederman, 1997, p. 44).

While some find it beneficial that legal guardianship offers the opportunity for the parent and child to maintain contact after the parent can no longer serve as the child’s caretaker, there are criticisms of the use of legal guardianship. In the kinship literature, it is stated that the absence of termination of parental rights and adoption proceedings can result in an expensive legal battle for the relative caretakers if the parents later go to court and request that physical custody of the child be returned to them (Woodworth, 1996). Additionally, Sheldon (1997) is not convinced that legal guardianship adequately addresses permanence issues, asserting that even though “this process allows for the retention of parental rights, the issue of permanence is never [really] addressed” (p. 90).

Addressing both permanency issues and the maintenance of a parent-child relationship following the termination of parental rights, open adoption is an increasingly popular alternative to the more traditional termination of parental rights adjudication (Zierdt, 1993). In an open adoption, following the termination of parental rights, the biological parent still retains a legal right to have contact with the child, even though the child has been legally adopted by another. The terms of an open adoption can vary widely from case to case as the
parties and the court determine the quantity and quality of contact between the biological parent and the child after placement in the adoptive home. While visitation rights would be legally enforceable, the courts have generally been careful to support the adoptive parent when conflicts arise over the care of the child (Zierdt, 1993). Open adoption is also being utilized after parental rights have been terminated to facilitate continued contact between siblings. Open adoption with siblings has been applied in a variety of circumstances with the reasoning being “that contact and visitation with birth siblings is necessary to promote the adoptive child’s sense of roots and belonging and is in the child’s best interests (Carrieri, 1997, p. 91).

The prospect of an open adoption may encourage a greater movement of cases toward permanency. The biological parents may acquiesce more readily to a termination proceeding if they can keep certain rights and adoptive parents will be able to avoid the lengthy process of terminating parental rights that can discourage participation in the adoptive process. Although open adoption challenges many of the current practices and assumptions in the child welfare system it has a strong tradition in the French, Polynesian, and Eskimo cultures, where ties to biological parents and extended kin are valued as a source of identity (Zierdt, 1993). Advocates of open adoption argue that it allows children to understand and come to terms with the adoption process because they are not denied contact with their biological family. This can lessen the feelings of abandonment and increase the opportunity for the development of a functional relationship with the biological as well as adoptive family (Zierdt, 1993). Utilizing the African American community’s extended family system as a model for the complex relations inherent in adoption, Holmes (1995) argues that child-centered adoption practices must take into account the reality that an adopted child’s family structure includes both adopted and birth relatives and a refusal to acknowledge this reality
imposes an adult conceived legal fiction upon a child that is inconsistent with what children think, feel, and experience.

Opponents of open adoption contend that the continued presence of the biological parent and extended kin after there has been a termination of parental rights will have deleterious effect on the child and the adoptive process. In particular, it is asserted that adoptive parents will not be interested in adopting children who are maintaining contact with the parents and families who were unable to provide a suitable standard of care for their children. It is expected that adoptive and biological parents will experience too many clashes of morals, values, and child behavior standards to make open adoption a worthwhile endeavor. Also, when conflicts between the biological and adoptive parents arise there are currently no mechanisms in place in the child welfare system to facilitate communication and resolution of disputes. In addition, it is argued that open adoption obscures the roles of biological and adoptive parents which can cause confusion and identity crises in children (Zierdt, 1993).

Because there is an absence of research on the parents who have their parental rights terminated it is difficult to determine with any certainty how such individuals will interact with their children, adoptive parents, and the child welfare system after they have lost the right to parent their children. By investigating what parents communicate regarding these relationships and others, this study explores the insights and experiences of these individuals and lays the groundwork for further research that can inform the kinship care, guardianship, and open adoption movements. This research is critically needed to address an area of child welfare practice that is expanding faster than the research, policy, and practice guidelines so important to its development. Indeed, with one of the judges who heard termination cases included in this study referring to open adoption as the "next evolution in services for
families and children”, it is clear that professionals in the child welfare system need a scholarly base from which to derive an informed practice response to this and the other developments that may incorporate, either implicitly or explicitly, the post-termination parent.

As discussed above, the increase in termination of parental rights proceedings has resulted in an interesting situation. In causing more children to wait for permanent homes, termination of parental actions have resulted in a renewed focus on permanency for children, and a growing trend toward agencies and courts investigating options that have the effect of re-integrating biological parents and extended relatives into the child’s family structure. However, there are those who favor traditional adoption to meet the needs of the growing numbers of children without permanent homes and this focus is evidenced in recent congressional legislation, The Adoption and Safe Families Act of 1997. This legislation, which is discussed later in this literature review, was expressly designed to promote adoption. It remains to be seen how this legislation will affect the increasing numbers of kinship care placements and open adoptions, but as the stated goal of the legislation is to “move more efficiently toward terminating parental rights and placing children for adoption” (Committee on Ways and Means, 1997, p. 8), it can be predicted that regardless of any initiatives to locate more adoptive homes, the numbers of children needing permanent homes will only increase. Consequently, it is expected that agencies and judges will continue to expand the definition of permanency through the inclusion of the enduring ties to biological parents and kin. These developments in child welfare law are consistent with the emerging model, or paradigm, in permanence planning: family continuity (McFadden & Downs, 1995).
Throughout various periods in the history of child welfare services in this century there has been a prevailing model, or framework, that characterizes the general emphasis in policy, practice, and research. These models are commonly referred to as “paradigms” because they capture unifying patterns in a system of services to families and children. For example, from 1909-1970 there was an emerging, and then dominant, paradigm of “family foster care.” The emphasis for practice, policy, and research was the concept of family placements as superior to institutional ones for dependent children. Then, in the 1970’s there was an emerging paradigm of “permanency planning,” which eventually became the dominant paradigm of the day with practice, policy, and research emphasizing children’s need for permanent, adoptive homes. In promoting termination actions and adoption, the recent legislation (H.R. 867 and S. 1195) can be argued to draw from this ideological base. In the 1980’s, there was another paradigmatic shift and the focus on permanency was realigned to fit the goals of the “family preservation” paradigm. During this period it was stressed that children should remain with their biological families and reasonable efforts should be made to preserve the integrity of the family. As evidenced in the earlier periods in the history of child welfare, practice, policy, and research consistent with this paradigm became dominant. In the 1990’s yet another paradigmatic shift has been underway, called “family continuity,” that emphasizes extended family relationships and asserts that children belong in a system of interrelated family systems that continue significant relationships over time (McFadden & Downs, 1995).

Today, family continuity is exemplified in kinship care relationships and open adoptions in which children are able to continue contact with biological parents and kin. However, as was evidenced in the earlier paradigms in child welfare, it is important that practice, policy, and research develop concomitantly with the emerging paradigm to inform
social work efforts. This process is currently underway, but in a special issue of the journal of Child Welfare dedicated to kinship care issues it was stated that even "[t]hough the literature on kinship care has grown rapidly in the last two years, many questions remain" (Wilson & Chipunga, 1996, p. 387). Clearly, one of the most pressing issues facing a child welfare system operating within a family continuity paradigm, in which kinship care and open adoption relationships can allow for a continued role for the biological parent, is the need for research to guide policy and practice regarding the inclusion of the parent after parental rights have been terminated. This process of knowledge building in an era of family continuity has begun with this descriptive study that aimed to sensitize social workers to the voiced experiences, insights, and perspectives of parents in the courtroom in termination trials.

**Contributions to the Existing Literature about Termination of Parental Rights**

Considering the gravity of the implications of a decision to terminate an individual's rights to his or her children, there is a surprising lack of research in this area. In fact, there is very little data available on termination proceedings in general. McGovern (1994) states that it is currently impossible to precisely ascertain the magnitude of the practice because termination case statistics are not computed by the individual state courts or reported nationally. The social work literature base has not addressed such issues. When termination of parental rights proceedings are mentioned in social work publications it is usually within textbooks and handbooks dealing with child welfare practice issues. Such discussions are overwhelmingly focused on acquainting social workers with their role in the process leading up to and including the termination proceeding and how social workers can insure that their case records and recommendations for termination comply with legal requirements (Downs...
et al., 1996; Stein, 1991). The only existing social science investigation of termination of parental rights involved a group of child psychiatrists who analyzed 51 cases of termination of parental rights (Schetky, Angell, Morrison, & Sack, 1979). Although the Schetky et al. (1979) study focused on the role of the psychiatrist in termination proceedings, it also contained basic descriptive information on the parents and children involved in the 51 cases. Interestingly, Schetky et al. commented that they were unable to find any descriptive studies, or for that matter any research, on the parents who are facing a termination of their parental rights. This is a situation that has not been rectified in the almost twenty years following the publication of their article.

There is a greater depth of literature on termination of parental rights in the law, with articles addressing issues such as incarceration, mental disability, substance abuse, domestic violence and attachment and loss and their relation to the legal issues in termination cases. However, as is to be expected, the literature in the law emphasizes the legal dimension, focusing on how the current legal structure handles such issues, with further investigation of the personal and social factors left to the social scientists. By exploring what parents communicate in termination trials, this social work dissertation employs a methodology that gives a voice to the personal experience of such individuals, and by understanding this phenomenon as it is constructed within a social context, this dissertation is sensitive to the impact of environmental forces.

**Study's Contribution to Social Work Practice**

In fulfilling the purpose of the profession, social work practitioners strive to enhance social functioning, remedy personal dysfunction, and promote social justice when intervening with clients. While it can be challenging to achieve such purposes with
involuntary clients, such as parents who have been adjudicated by a court to be in need of services due to child maltreatment, it is important that social workers develop the skills, training, and experience necessary to increase effectiveness with clients who have not willingly sought the services of a social worker (Hepworth & Larsen, 1990). In order to achieve such practice efficacy, it is essential to develop a solid knowledge base to inform practice based decision-making.

In moving towards the development of this knowledge base, the goal of this descriptive, exploratory study was to identify and describe—through an intensive, in-depth analysis—the patterns that exist in the socially constructed interactions in termination cases in order that social workers may become sensitized to this unexamined phenomena in child welfare. While this qualitative goal of sensitization limits the ability of a social worker to take the findings of this study and directly apply them across populations of parents facing termination proceedings, this was not the goal of this study. If, as Riessman (1993) states, "[t]here is no reason to assume that an individual's narrative will, or should be, entirely consistent from one setting to the next" (p. 65), we can hardly expect the parents' individual narratives to be wholly consistent across populations of other parents. Instead, this researcher hoped to increase social workers' awareness of the parental perspective in termination cases, and by capturing the richness and complexity of this perspective in the ten selected cases, lay the groundwork for theory building efforts in this area of child welfare practice. However, even though this study was not designed to give practicing social workers specific practice interventions based on the findings, the researcher asserts that a social worker's knowledge of this study may have an impact on day-to-day social work practice as the social workers become newly sensitive to the parental perspectives on their
relationships with their children, the system, and others as they face the legal loss of their children.

This study addresses a void in the social work literature base by investigating parents in the child welfare system who have reached the point of a termination of parental rights trial. These parents were involuntary clients in the child welfare system that social workers were unable to reach. The perceptions and experiences of these parents in the child welfare system can offer a unique, first-hand account of the social worker-involuntary client relationship within a social service system. Such accounts can provide insight into areas where the current system is failing this population and provide guidance for social workers’ change efforts. For example, themes in the parent narratives that center on hostile social worker-parent exchanges would perhaps warrant a closer look at how practitioners can better address the parental hostility that is negating efforts to improve personal dysfunction and social interaction and culminating in termination proceedings. If further research supports that the parents who have their parental rights terminated do indeed demonstrate significantly more hostile interactions with social workers than other parents, specialized staff training can be developed to target and reach this “at-risk” group of parents in the system.

Today, the skills, training, and experience necessary in establishing good social worker-parent relations could also have ramifications post-termination, with proposals such as kinship care (where the parent could maintain contact with a child in a relative placement) and open adoption (where the parent would maintain visitation rights after the termination) gaining in popularity, and the social worker perhaps having a continuing role with the parent after the termination trial. Admittedly, “post-termination” services that recognize that parents can sometimes have a continuing role in their children’s lives after a termination of parental rights is not an official, funded aspect of social work practice in the child welfare
system today. However, just because the services are not officially in place does not mean that social workers in the child welfare system are not dealing with the parents post-termination in such situations. In particular, if conflicts arise with the open adoption or kinship care placement, social workers will undoubtedly become re-engaged in the case.

Wilhelmus (1998) claims that a variety of conflicts arise in kinship care placements that can necessitate a return to the courtroom, and with application to the present study, such conflicts that continue after a termination proceeding can result in renewed social worker involvement. In addition, if the parent had other children in the child welfare system whose parental rights were not terminated, which is not uncommon, then certainly social workers will continue to work with these parents following a termination action involving only one, or at least less than all, of their children.

In addition, social workers who practice outside of the child welfare system may also find research on individuals involved in trials to terminate their parental rights helpful. By investigating a phenomena that has been demonstrated to disproportionately affect so many of the vulnerable populations that social workers engage with, such as: poor, minority families and individuals who have a mental disability, are imprisoned, suffer from a substance abuse problem, or have domestic violence issues, it is likely that social workers in many different practice areas have dealt with clients who have faced a termination action. Indeed, as social workers interact with such individuals based on their having sought assistance from welfare agencies, substance abuse clinics, and prison counseling offices, the insights gained from this study, and hopefully others to follow, will enable social workers to understand a new dimension of their client’s life experience that has perhaps been impacted by the very condition that led the social worker to work with them in the first place (i.e., poverty, substance abuse, etc.).
Also, this research could have ramifications for social work practice on a larger, more systemic level. Themes that emerge from the parent narratives that implicate systemic forces hampering the success of agency involvement in their lives—such as high social worker turnover, inflexible policies regarding visitation, lack of cultural sensitivity, etc.—would involve social worker change efforts on this more macro level. If further research were to support such findings regarding the experiences of parents who have their parental rights terminated, then this may involve the social work practitioner becoming an advocate for changes in agency policy and/or focusing on instigating changes in state and federal policies in order to further the social justice concerns of the profession. In effect, the social worker would be acting as a policy practitioner (see: discussion in next section).

Clearly, there is a need for development of the social work knowledge base to inform social work practice with clients who have experienced the legal loss of their children. It is axiomatic that in order to be effective in their efforts to address personal dysfunction, problems in social functioning, and social justice concerns with clients who are poor, or from a minority group, or who have a mental disability, or substance abuse problems, social work practitioners must be prepared to handle issues related to an often neglected aspect of their life experience—that of a parent who has lost the right to parent a child.

**Social Work Knowledge Building in Policy Practice**

Whereas this study has much to offer the social work practitioner by supporting their efforts to further the general purposes of the social work profession, such as enhancing social functioning, improving personal dysfunction, and furthering social justice concerns, on a more specialized level, it also contributes to knowledge building efforts in social work’s policy practice area. Policy practice refers to social work practice efforts that operate on a
different level than traditional service provision to clients. Although policy practice may occur concurrently with activities related to service provision, it requires social work efforts that are directed at the investigation, interpretation, and support for development of laws, regulations, and policies that affect the interests of populations in need. In this manner social workers act as policy practitioners (Jansson, 1990).

In order to appreciate policy practice as an important component of social work practice in the child welfare system, the relationship between social workers and the policy framework must be understood. Social workers are predominantly employed in the field of social welfare, which strives to enhance the functioning of individuals or groups through the provision of social services. Such efforts are governed by social welfare policies, which are specifically directed to individuals and families who are unable to meet their needs through other societal structures (Zastrow, 1995). Child welfare policy refers to a policy area that is focused on the laws and regulations that facilitate the provision of services to children and their families. Child welfare policy can take the form of federal and state statutes, regulations that direct the actions of agencies and service providers, and court decisions that interpret legislation, regulations, and case law as applied to the facts and circumstances of individual cases (Stein, 1991).

It can be argued that social workers play an especially important role in the development of child welfare policy with regards to case law. Their high level of involvement is evidenced in termination of parental cases as courtroom testimony reveals that social workers have engaged with the parents through such activities as: garnering and/or providing services to support the parents, assisting and evaluating the efforts of parents in accomplishing the goals of service provision, and making recommendations to the court regarding the future custody of the children (Stein, 1991). This dissertation recognizes
the critical role social workers have in the development of child welfare policy through case law and challenges social workers to engage in research that will enable them to realize the potential inherent in such a role. By exploring what social work clients express in the courtroom social workers can gain insight into how the interplay among the laws, agency regulations, and their own actions are effectuating certain human outcomes in the courtroom. This information can be utilized to achieve powerful ends for the social work policy practitioner. In one jurisdiction, clients voiced frustration that reasonable efforts were not being made to keep their families together because the community lacked the necessary resources. Social workers listened to their clients' dissatisfaction with the system and expressed their concerns to the local judiciary. The judges became involved by beginning to routinely deny that the "reasonable efforts" standard was being met (as discussed in the literature review section, this standard is essential to continued federal support of state child welfare programs). In response, the state legislature dramatically increased the needed supply of services (Hardin, 1996). As this example illustrates, and as this dissertation asserts, policy practice in child welfare must begin by giving populations in the system a voice. It is in this manner that knowledge building efforts in policy practice can inform meaningful social work action directed at empowering clients within the policy framework.

Integration of Social Work and the Law in Social Work Research

The child welfare system is an amalgamation of efforts by social work and legal professionals on behalf of children and families. Although social workers and attorneys are commonly able to work cooperatively and productively on child welfare cases, there are distinct differences in professional training that can result in conflicting professional viewpoints on how client issues should be handled. Social workers are professionally
trained to think inferentially and social work records often do not list every observation that led to a social worker’s conclusion about a case. In addition, as part of their decision making process, social workers may take into account information that can not meet the hearsay requirements in court. In contrast, an attorney’s legal training focuses on carefully describing facts and incidents, remaining mindful of the rules of evidence and avoiding the pitfalls posed by the hearsay rules (Stein, 1991). These differences in professional perspectives can seriously affect a social worker’s confidence and efficacy in the child welfare system. Increasingly, social work training is emphasizing the importance of understanding and working in a legal environment. In a recent child welfare text for social workers it was asserted that social workers must “understand the nature of evidence and court process, become skillful in finding and organizing facts, and integrate this knowledge and skill into their social work values and approaches to helping” (Downs et al., 1996, p. 381). In short, the goal for social workers is to gain proficiency in the legal process, but to remain mindful of the unique purposes and values of the social work profession.

In order to address this need for social work knowledge regarding the role of social workers in the courtroom, there are many various publications in the literature that involve the law and social work. There are those that explore the attorney-social worker relationship and training issues (Barker, 1989; Lynch & Brawley, 1994; Skilar & Torczyner, 1991) and those that explain the law and how the law is applicable to problems of interest to social workers, including issues related to child welfare (Albert, 1986; Brieland & Lemmon, 1985; Saltzman & Proch, 1990; Stein, 1991; Howing & Wodarski, 1992). However, while this literature has much to offer the child welfare social worker in terms of understanding court procedure and professional tasks in the legal environment, this literature is devoid of research that investigates the intersection of law and social work from the perspective, and in
the authentic voice, of social work clients who are in the legal system. Thus, it is argued that social workers run the danger of gaining proficiency in the various mechanisms of the legal system, but losing the human dimension that differentiated their contribution to clients in the child welfare system from attorneys. By exploring what social work clients communicate in their interactions in the courtroom, this dissertation lays the groundwork for the next phase in the social work-law literature base, the phase where social work researchers reclaim the voices of our clients from courtroom procedure.

Methodology

This dissertation offers a unique contribution to social work knowledge building efforts. As an untapped source of data about our clients, courtroom narratives represent a fruitful area of inquiry for social work researchers. Kvale (1996) asserts that “[n]arratives and conversations are today regarded as essential for obtaining knowledge of the social world, including scientific knowledge” (p. 9). In this manner, the narratives of parents in the courtroom can offer information and insight on the parents’ perspectives as constructed and understood in a social environment. The parents’ narrative accounts of interactions with their children, partners and spouses, social workers, the agency, other helping professionals, and the court will provide a depth of understanding not offered by experimental manipulation. This is because “[a] personal narrative which is recounted at any point in the course of a life represents the most internally consistent interpretation of presently understood past” (Cohler, 1982, p. 207). It is this quality of internal consistency that instills the parent narratives with an authenticity that sensitizes the social work researcher to undiscovered dimensions in their experience.
Research framed in the symbolic interactionist perspective is concerned with the identification of the meanings that individuals construct as they communicate with others. The goal is to discover the patterns that exist in these socially constructed interactions in order to offer fresh insights into a phenomena. The methodological approach utilized by this study furthers such considerations. By taking a methodological approach that focused on parent narratives with the goal of capturing the richness and complexity of the parents’ courtroom communications, this dissertation adds to the growing body of qualitative research, which has been defined “as research that produces descriptive data based upon spoken or written words and observable behavior” (Sherman & Reid, 1994, p. 1). While the debate concerning qualitative methods versus quantitative methods continues unabated (Bloom, 1995; Haworth, 1984; Heineman, 1981; Holland, 1983; Hudson, 1982; Imre, 1984; Tyson, 1992; 1994; Wakefield, 1995), it was hoped that this study’s qualitative approach would specifically address a void in the literature base that was decried by Kvale (1996), namely, that the focus on quantitative methods has left many with a “professional competency in analyzing the social world as a mathematically constituted universe” while they “remain amateurs in the face of a linguistically constituted social world” (p. 69). In the present study, the utilization of a modified form of narrative analysis and content analysis was perfectly suited to the investigation of this linguistically constituted social world. In particular, content analysis has been applied to many forms of communication and allows for “deeper probing into subjective meanings—probes that...seek to generate new insights” (Rubin & Babbie, 1997, p. 429).

In addition, this dissertation research joins a small group of research efforts that has involved the analysis of narratives in trial transcripts. Courtroom narratives have been analyzed by a legal philosopher (Den Boer, 1990), by scholars interested in documenting
how the discourse in narratives can reveal power structures in human communication (Lind & O’Barr, 1979 cited in Toolan, 1988) and by a social work researcher investigating death penalty trials (Coconis, 1994). Each of these studies broadened the conceptualization of the viable means through which human phenomena can be investigated by emphasizing the rich potential of the spoken word for researchers. As this dissertation involved a content analysis of the parent narratives in trial transcripts, derived through a modified form of narrative analysis of the parents’ testimony (and supplemented with reading case material and listening to the tapes of the trial), this researcher asserts that it continues the aforementioned researchers’ expansion of the modes of human inquiry in a social context.

While an interdisciplinary focus for gathering data has much to offer the social work researcher exploring new territory in client experiences, venturing into the legal domain for research purposes can raise feasibility issues that may be used to justify the utilization of other methods. In particular, the child welfare researcher may find it difficult to obtain the court records necessary for analysis. By law, juvenile records are considered confidential and there are many constraints placed upon accessing them. Although state statutes may allow for researcher access after a confidentiality agreement has been signed, as was the case in the jurisdiction from which this study’s records were obtained, there may still be yet another hurdle to surmount before acquiring the case material, namely, expense. The transcription of trial records can be prohibitively expensive because of the voluminous amounts of material and the cost of transcription. In this study, this problem was creatively addressed by having only the parts of the trial transcript necessary for data analysis transcribed (the parent narratives) by the court reporter. The other portions of the tapes were accessed by the researcher by simply listening to each tape in its entirety and taking notes on the contents. However, besides the confidentiality of juvenile records and the prohibitive
cost of transcription, there were no other issues relevant to the feasibility of conducting this
dissertation research. Additionally, it is asserted that the wealth of information trial
transcripts can offer to social work researchers justifies any exertions that may be necessary
to access them.
CHAPTER 2
REVIEW OF THE LITERATURE

Most simply, termination of parental rights can be defined as a legal adjudication in which the parent-child relationship is permanently severed in the eyes of the law. This legal action frees children for adoption and may be achieved through either the voluntary relinquishment of the child by the biological parent or an involuntary relinquishment of the child by the biological parent. The latter case entails a trial in which there is a fact-finding process to determine whether the state has met its burden of proof by establishing the statutory pre-conditions for a termination of parental rights (Carrieri, 1997). In addition, because this trial involves issues regarding the parent-child relationship, and it is established in the law that parental interest in the relationship with his or her child is of fundamental importance to our society, there are constitutional protections that impact the decision-making process as well (Clark, 1988). This dissertation utilizes cases in which there was an involuntary termination of parental rights. In this manner, the data for this study will involve termination trials with a particular focus on the parents and their communications with others during this process.

Every jurisdiction in America has a termination of parental rights statute. While there is some variation among the states, in general, the statutory framework for termination cases involves parental abandonment or severe abuse or neglect that has not been remedied and will most likely not be remedied in the foreseeable future (Model Juvenile Court Act, Sec.
47, 1987). Most statutes also contain a “length of time out of custody” factor that allows for termination after a specific amount of time has elapsed and the parent has failed to remedy the situation that led to the child’s removal. While “length of time out of custody” has become the most frequent reason for terminating parental rights, because it often does not require a demonstration of other statutory grounds, such as ongoing abuse and neglect, it has been criticized for failing to take into account critical aspects of the parent-child and parent-agency relationship, such as: the biological parent-child bond, the likelihood of adoption for the child, whether reasonable efforts have been made toward reunification of the parent and child, and what precisely would be required by a reasonable effort to reunite the parent and child (Hand, 1996).

Most statutes also contain language referring to a judicial consideration of what is in the “best interests of the child,” but this standard is rarely used on its own in termination decision-making as it is commonly considered to be inadequate in meeting the constitutional standards. In accordance with language in a U.S. Supreme Court decision, the “best interests of the child” standard is generally included in state law, and in termination legal decisions, as an additional factor to be considered after the other standards enumerated in the statute have been met [Quilloin v. Walcott (1978)]. However, there have been cases that have placed greater weight on the “best interests of the child” standard than on other statutory standards in making termination decisions [See: Petition of R.H.N., (Colorado, 1985) and Washington County Department of Social Services v. Clark (1983)]. While these cases withstood constitutional scrutiny, this reasoning of the “best interests of the child” standard would cause controversy among those who believe that the standard “should never serve as the basis for terminating parental rights” (Cressler, 1994). The state of Indiana, from which the cases in the present dissertation were drawn, has a typical statutory framework in that all of
these elements are present to be weighed by the trial judge. Indiana Code 31-6-5-4(c) (1993) states that the involuntary termination of parental rights must be supported by evidence that:

1. The child has been removed from the parent for at least six months under a dispositional decree;
2. There is a reasonable probability that:
   A. The conditions that resulted in the child’s removal will not be remedied; or
   B. The continuation of the parent-child relationship poses a threat to the well-being of the child;
3. Termination is in the best interests of the child; and
4. There is a satisfactory plan for the care and treatment of the child.

In Indiana, as in almost every state, there is the requirement that proof be established on the intermediate level, or the “clear and convincing” standard that was outlined in the often cited Supreme Court termination of parental rights case, Santosky v. Kramer (1982). The “clear and convincing” standard is commonly utilized in a variety of civil cases, which includes termination of parental rights. However, arguing that a termination of parental rights implicates constitutional rights that are more in accordance with the deprivations to life and liberty found in criminal law, a few jurisdictions have incorporated the higher standard of proof that is required in criminal cases as part of their termination proceedings, or proof “beyond a reasonable doubt.” While the nuances of the standards of proof are often expounded upon at length in legal texts, it is sufficient for the present purposes to understand that the standard “beyond a reasonable doubt” signals that the state considers the parents’ interests at stake in a termination proceeding to be of the most fundamental order, and that one must be completely convinced or satisfied to a moral certainty of the facts supporting the termination (Black’s law Dictionary, 1979). It has been asserted that termination of parental rights actions demand this higher standard of proof and while there are few jurisdictions actually following this standard at this time, there has been language in recent legal decisions
in “clear and convincing” jurisdictions that indicates a willingness to explore the more stringent standard of “beyond a reasonable doubt” when parental rights are at issue (Cressler, 1994).

As this chapter continues, several areas pertinent to a fuller understanding of termination of parental rights actions will be addressed. Specifically, there will be an historical overview of the phenomena of termination of parental rights, with a special focus on the development of this cause of action within the overall system of out-of-home care for dependent children. Also, there is a review of the federal legislation that impacts the decision-making process in the child welfare system and affects outcomes in today’s termination of parental rights cases and the case law that has shaped the modern response in termination of parental rights cases.

This chapter also includes scholarly literature that has been utilized to frame the analysis and presentation of data. The literature that has been applied in such a manner comes from two distinct subject areas: research on the precipitating factors to a termination of parental rights proceeding, namely, the incidents of parental abuse and/or neglect of children that necessitate state intervention and literature on the termination of parental rights as it relates to such topics as incarceration, mental and physical disabilities, substance abuse, attachment bonds, and domestic violence. Unlike the preceding sections in the review of the literature in this dissertation, which are included to inform the reader of the process of termination of parental rights, and the section that succeeds this section, which is included to inform the reader of the approach that is utilized in the analysis of data, the literature from these two substantive areas will be applied in the final section of this study, where they will be used to compare and contrast with the themes that emerge from the investigation.
The above-stated utilization of the literature on child maltreatment and current issues relevant to termination proceedings is consistent with the aims of qualitative inquiry and differs from a quantitative approach where a "review of the literature" is deductively employed to justify the direction of research questions and hypotheses (Creswell, 1994). In addition to serving a "compare and contrast" role in relation to the themes that emerge from the study, these areas of literature have been used to formulate "sociological constructs" (Strauss, 1987, p. 33) which Berg (1994) states can "add breadth and depth to observations by reaching beyond local meanings to broader social scientific ones" (p. 177). In this manner, the literature from these substantive areas may be creatively applied to give a name to some of the parents' communication components (for example, "negative child perceptions," and "systemic barriers to reunification," from the maltreatment literature and "disturbances in attachment formation" from the research on parent-child attachment bonds).

In addition, the literature review includes a section on the decision makers in the child welfare system, with a focus on the judiciary and social workers, and how biases can enter the determinations made in cases involving a termination of parental rights. The literature review closes with a section designed to inform the reader of the process of data analysis utilized in the present study. It includes a definition of narratives, a discussion of narratives from the modernist and postmodernist perspectives and how modernist and postmodernist frameworks are reflected in the legal system, and a consideration of symbolic interactionism and its role in the present research effort. Each of these areas is thoroughly considered with an emphasis on defining their meaning and their implications for this descriptive study of parent narratives in termination of parental rights cases.
Termination of Parental Rights

There are numerous textbooks, articles, and entire journals that are devoted to research and commentary on children and their families interacting with the child welfare system. These publications cross the boundaries of individual disciplines as social workers, psychologists, physicians, lawyers, family therapists, child care professionals, law enforcement officers, and teachers contribute to knowledge building efforts on behalf of dependent children, their families, and their communities. It is not my intent to provide a synopsis of all the literature that has addressed the pressing issues facing the child welfare system. Instead, it is hoped that my selective use of the literature may serve to illuminate the larger historical and social environment impacting the development of the child welfare system, and subsequently the spread of the use of the "severe," and "irrevocable" judgment to terminate an individual’s right to parent his or her children (Hewitt, 1983), in order that the very personal and individualized experience of the legal loss of one’s children can be understood within a larger context.

Historical Overview of Termination of Parental Rights

An early history of termination of parental rights must necessarily begin with the history of the nation’s system of out-of-home care for dependent children of which it is an integral part. The genesis of the modern child welfare system can be found in colonial America’s approach to addressing the problem of needy children and their families. Also, the current practice of utilizing a legal process to permanently sever the parent-child relationship has its antecedents in a few court cases during this period, although it must be noted that formal termination proceedings were rare because the out of home placement of children typically occurred through informal means. However, as will be demonstrated
below, this lack of formal legal actions to terminate the parent-child relationship throughout the early history of this nation did not mean that needy children weren't being permanently separated from their parents, families, and communities prior to the late twentieth century. As apprenticeships, almshouses, orphanages, and orphan trains to the developing states in the West demonstrate, severed parent-child relationships can be found throughout history.

In colonial America, as today, the concept of *parens patriae* refers to the presumption that governmental entities will assume responsibility for the care of children when their parents are unwilling, or unable, to do so themselves. Based on the English common law, *parens patriae* involves the sovereign right of the king to assume authority and protection over the children in the land. This right was actually a property right and was derived from the need to control income from the estates of minor, gentry children and thus preserve the ruling class. In colonial America, the concept of *parens patriae* was applied to address the situation of children who were left orphaned and neglected as their parents struggled to survive in the new world (Costin, 1985).

However, until the early 1800's, and then in greater numbers in the early part of the twentieth century, there was little evidence that *parens patriae* was utilized by the state to justify intervention in the family to enforce parental duty or even provide substitute care (Trattner, 1989). In only two documented cases from the colonial era were children actually permanently removed from their family home due to parental unfitness. In a 1675 case, children were removed by the state because the father refused to put his older children into service as directed by the town Selectman. In a 1678 case, children were removed from their family home when the parents refused to attend public religious services (Costin, 1985). Also, there is early documentation of parents receiving warning from town authorities that
their children would be removed from their care and apprenticed out if they were not being taught a trade (Trattner, 1989).

Even though the state rarely resorted to an involuntary termination of parental rights in colonial America, there remained many poor, orphaned, or illegitimate children who were in need of care and protection. In order to understand the various approaches utilized by early Americans to address the problem of dependent children, it is important to grasp how the Calvinist social theory and theology influenced much of the social welfare interventions in early America. The Calvinist ideas regarding the utmost importance of hard work and the concomitant sin of idleness, and the Calvinist goal of avoiding high tax burdens from the state, made a great impact on later Colonial period social welfare policies and arguably continue to exert influence today (Trattner, 1989). Such Calvinist concepts placed an inordinate emphasis on the individual and thus effectively displaced much of the earlier settlers' sense of community responsibility for the care of those in need. If poverty and need could be overcome by the Lord's reward of an individual's hard work, then a community's attempts to assist individuals in need would only thwart God's plan. In short, idleness resulted in poverty, and as idleness was a sin and poverty evidence of this sin, no God fearing Christian should support such obvious immorality. The effect of such Calvinist viewpoints, and the renewed focus on the individual, would be evidenced in early child welfare programs, especially the strong support for the practice of apprenticeship (Trattner, 1989).

Borrowing from England, the American colonists established a system of apprenticeship, or indenture, that gave the townships' officer in charge of the poor the authority to place a child with a master workman. In return for the child's labor and obedience until they reached the age of legal majority, the child became a member of the
master's household and was able to learn a trade. However, critics of this system of indenture state that it was simply an effective method of relieving a township of the financial burden of caring for the youngsters. Also, it arguably served as a means of social control whereby the children could learn some of the more menial forms of employment. In addition, some historians argue that there is overwhelming evidence that the children were often severely mistreated; given only rudimentary care, education, and training; and upon reaching majority, often left a master's household without a trade and without any means to support themselves (Trattner, 1989). Other historians assert that even though there were instances where the child was treated harshly by a master, there were also many cases where the indenture program was a success. They claim that the children who were indentured fared better than the children assisted through the other means that grew in popularity: outdoor aid and almshouses (Costin, 1985).

In order to address the problems brought on by the nation's transition to industrial wage-earning, outdoor aid—or public relief—and more frequently, indoor aid—or commitment to almshouses—was relied upon to meet the needs of dependent children (Trattner, 1989). In the colonial era, outdoor aid was commonly provided through the collection of compulsory taxes which were distributed to needy families by local trustees for the poor. There was generally a compassionate attitude toward those needing assistance, with resentment demonstrated only if the individuals seeking aid were strangers to the community. However, this generous spirit would eventually erode in the face of more strict Calvinist beliefs and the creed of individual responsibility and self-help that was fostered in the period of expansion into the Western frontier (Trattner, 1989). By the time of the Industrial Revolution, relief to children and families in their own homes was meager and reflected the growing punitive attitudes towards the poor, especially the able-bodied (thus,
the "unworthy poor") parents who were often the recipients of such assistance. In general the prevailing theory of the day was to provide aid to the poor, but to ensure that the lives of those receiving assistance would be so miserable that they would rather get gainful employment than accept public relief (Trattner, 1989). However, although attenuated by the squalid conditions in the home, one obvious benefit of outdoor relief is that it allowed children to remain with their family (Costin, 1985).

In contrast to outdoor care, indoor care required the commitment of dependent children to almshouses, or "poor houses" where the children lived with other adults, which may include their parents, but most often meant sharing living quarters with various outcasts from the community, such as the mentally ill, lawbreakers, aged, and infirm (Costin, 1985). Eventually, accounts of the horrors that children were enduring in the almshouses captured the attention of the public and coincided with a burgeoning child welfare movement in America. Based in part on popular religious ideas that espoused the purity and goodness of children and the possibility of their salvation through nurturing love, and on a growing awareness of childhood as a special period of human development, the nineteenth century saw dramatic increases in the numbers of institutions created solely to save dependent children. In general, these separate children's institutions maintained the guiding principles of the almshouses, namely, that stringent discipline, oversight and training was necessary to prevent the charges from falling prey to the deleterious forces in the community (i.e., ignorance, vice, sloth, crime, etc.) that had contributed to their commitment (Trattner, 1989). It should be noted that some children were voluntarily sent to live in orphanages by their impoverished parents who hoped that the institution would offer their children educational and vocational opportunities. It was not unusual for these parents to pay the orphanages a small sum of money per week to keep their children (Smith, 1995).
Sadly, the children's institutions, or orphanages, rarely delivered on all the promises extolled by the almshouse reformers. Although the quality of the orphanages varied from state to state and even township to township, in general these institutions failed to meet the needs of dependent children. Frequently, the orphanages provided the children with poor diets, sub-standard medical care, little education, and unsanitary living conditions (Costin, 1985). The environment was often stark, punitive, and regimented. Physical punishment could be severe, and in rare cases resulted in death. Although efforts were made to control physical punishment through orphanage policies (and such efforts are reflected in countless records of orphanage board meetings), there seems to have been an acknowledgment that limiting corporal punishment was a difficult enterprise. There is also some evidence that sexual abuse was a problem in the institutions, but because much of the orphanages' activities were kept hidden from the public (and perhaps most children were too frightened to report such incidences involving their powerful caretakers), it is difficult to ascertain the actual severity of the sexual abuse problem (Smith, 1995).

Increasingly, there were reforms to improve the conditions in the orphanages, which mostly occurred as missionary-style, religious groups became even more directly involved in sponsoring the orphanages. Although the sanitary conditions generally improved, the religious run institutions focused on hard labor, strict religious instruction, and little affectional contact with adults. In these nineteenth century orphanages there was evidenced one of the earliest, organized efforts to officially terminate the parental rights of dependent children. Unlike the almshouses where the children's parents could accompany the children to the institution, or even orphanages where the institution was perceived as supplementing, not supplanting, the parental role, many of the religious based orphanages introduced the concept that parents should surrender their parental rights in order for the institution to
assume care for children. Such action was perceived as integral to the child saving efforts that would protect children from their sinful family backgrounds and provide for their futures as God-fearing, productive citizens (Lundberg, 1947 cited in Costin, 1985).

In the mid to late nineteenth century there began yet another marked shift in the historical development of child welfare services. The orphanages were coming under attack for their treatment of children. Many were run by profit-mongering managers who kept the facilities overcrowded and the outlay on services and care for the children to a minimum (Trattner, 1989). Also, as theories of child development became more widely disseminated there were concerns voiced that long-term institutionalization of children may deprive them of the essential experiences and skills necessary to succeed in life (Smith, 1995). Finally, in the midst of the growing outcry, there at last appeared to be a workable alternative: placement of dependent children in family homes. While there had been some limited use of family foster care by religious missionaries in the larger urban centers (Garland, 1994), it wasn’t until 1853, and Reverend Charles Loring Brace’s founding of the New York Children’s Aid Society, that the practice of placing-out dependent children to family homes gained widespread attention (Trattner, 1989).

Reverend Brace was concerned about America’s large influx of poor immigrant families and the rising numbers of children from these “dangerous classes” who were unsupervised, poorly fed and clothed, and allowed to run the streets of New York City (Trattner, 1989). Similar to the concept of apprenticeship, or indentured labor, that colonial America utilized to address the problem of dependent children, Brace’s ambitious plan was to transplant the children by train (hence the derivation of the name often associated with Brace’s efforts, “the orphan trains”) to the developing states in the Midwest and Great Plains regions. It was here that the children would labor in Christian farm homes until the age of
majority (Costin, 1985). Like many Americans of his day, Brace saw the agrarian lifestyle as
the ideally wholesome environment in which man's greatness could be fulfilled, and thus the
perfect solution to the problem of New York children needing care and support (Trattner,
1989). With effective advertising efforts in rural towns in the West, and the subsidization of
the operation by the city and state, over the next twenty-five year period Brace and the
Children's Aid Society sent over 50,000 children out of New York. In most cases, once
placed in homes out West, the children were never heard from again (Trattner, 1989).

During this period, the mid-to-late nineteenth century and up to the early twentieth
century, there were few barriers to outside intervention into the lives of families. This
situation was the result of the legal interpretation of the parens patriae doctrine. It was
common practice during this time to view the state as the absolute, legal head of families,
with the parents only exercising dominion and control over their children as the directors of a
trust, much like the fiduciary trusts that are created today. When parents failed to properly
execute their duties as "trustee" for the state, then outside intervention was warranted. In
addition, the modern legal cases that would establish the constitutional elements of the
parent-child relationship did not exist and this only contributed to the authority of the state in
terms of family relationships (Rendelmen, 1971). An often cited and precedent setting 1838
case is illustrative of this period. In Ex parte Crouse, a Pennsylvania case, the court applied
the parens patriae doctrine and ruled that courts were not required to follow the common
legal formalities when committing children to out-of-home placements. Later, there were
some nineteenth century cases that began to explore the limits of the application of the
parens patriae doctrine. For example, the Illinois Supreme Court case, O'Connell v. Turner
(1870), held that intervention in the parent-child relationship should be limited to "gross
misconduct" or "almost total unfitness" on the part of the parent. However, in general, the
state's interest in children was viewed as equivalent to a parents' interest in their children, with this equation tipped in the state's favor in times of conflict (Rendelmen, 1971).

During this period, a seminal event in the development of the modern child welfare system, with its partnership between legal and social services, would occur. In 1874 there was a case involving a young girl named Mary Ellen Wilson that attracted much attention from community activists. Mary Ellen Wilson had been enduring horrific abuse while in the custody of her adoptive parents. When concerned neighbors contacted the Department of Charities who had adopted her out, and other organizations as well, it was discovered that no legal means existed through which to protect the girl. Finally, the New York Society for the Prevention of Cruelty to Animals undertook the legal effort to save Mary Ellen and in the process a corollary group was founded, the New York Society for the Prevention of Cruelty to Children (SPCC), the first of its kind in the world (Costin, 1985).

Over time, the duties and the powers of the New York SPCC would grow. With a stated mission of protecting children by removing them from abusive homes, the organization eventually acquired the police powers necessary to arrest individuals who were perceived as interfering with their efforts on behalf of children. In addition to these duties, the SPCC assisted the courts in their role as parens patriae by deciding which of the various placement options was most suitable for the dependent child. The growth in their powers was phenomenal, only fifteen years after the New York organization was founded it was estimated that the society controlled the intake, evidence gathering, and disposition of an average of 15,000 impoverished and maltreated children each year (Fox, 1996). Organizations similar to the New York SPCC were soon formed in various cities and townships across the nation to work with the courts in addressing the problem of child maltreatment (Costin, 1985; Fox, 1996).
The collaborative efforts of the courts and the SPCC were distinguished by an emphasis on saving children from their maltreating parents through the dogged pursuit of "justice and legal protection" (Costin, 1985, p. 43). After children were removed from their parents and placed in out-of-home care, continued parental contact and influence with the children was not pursued. The SPCC organizations were guided by the scientific theories of evolution that combined the concept of heredity with a developmental view of growth and behavior and which acknowledged the power of the environment to affect both (Trattner, 1989). Such views led to the belief espoused in SPCC literature that the allegedly maltreating parents were "unworthy descendants" who had "corrupted" the "blood of a better ancestry" and only the intervention of the SPCC and the courts could "interrupt" this "inheritance for future generations" (Costin, 1985, p. 43). In light of such a perspective, it is not surprising that the SPCC relied almost exclusively on institutional placements, preferring to solidify the separation of the child from the damaging influence of parents and extended family. The SPCC supported their use of institutions over family care by arguing that they had not had much success with foster family placements as foster children would only run away to rejoin their biological family and extended kin in their previous neighborhood, thus necessitating a costly and timely process of "recapture" (Costin, 1985, p. 44).

The efforts of the SPCC were guided toward the eradication of two kinds of acts of parental maltreatment: those that were deliberately motivated and those that evidenced "passionate habits" (Costin, 1985, p. 43). The definition of "passionate" was determined through the application of middle and upper-middle class values to the largely immigrant population that was being funneled through the SPCC and the courts. The SPCC's "coercive approach included an acceptance of the laissez-faire economy and a concern with change in personal characteristics" instead of the economic, social, and political context of the family.
(Costin, 1985, p. 43). In the communities and neighborhoods where the SPCC would often enter and remove children from their parents, extended family, and friends there was a pervading sense of fear, helplessness, and confusion. A popular children's game of the period poignantly captures the perception of the SPCC by the very population the organization aimed to protect and serve. In the hide-and-seek type game, the child playing the SPCC officer would enter the neighborhood play area, much like a growling monster, and then drag screaming children away and hide them (Costin, 1985).

Increasingly, the societies that were formed in other cities to perform child protective functions rejected the New York SPCC's police-style tactics. In particular, the New York SPCC had encouraged staking out family homes, making a series of visits at various times of the day and night, and requiring children to testify against their parents and then keeping them separate from their family until they had delivered the testimony. Also, there was a growing resistance to SPCC pronouncements that interventions with the parents would only be useless as such "ignorant and vicious people must be compelled to do what is right by the strong arm of the law" and that permanently removing children from their parents was just about "the only effectual process" through which to handle families in need of services (Costin, 1985, p. 44). One well-known and vocal critic of such an approach was the Boston Children's Aid Society and its director, Charles Birtwell (1886-1911). In asserting that there were situations where assisting children in their own home was preferable to an out-of-home placement, Birtwell laid the groundwork for the conception of foster care as a support for the natural family, as a temporary service, and as a treatment-oriented child welfare service (Wiltse, 1985). While Birtwell initiated the conceptual change in out-of-home care, it would be the emerging profession of social work that would begin active advocacy efforts directed at keeping families intact (Fox, 1996).
The burgeoning movement by social workers to keep families intact was reflective of a shift in perceptions and practices regarding the nature of the parent-child relationship after an out-of-home placement has been made. Parents were increasingly being allowed to correspond and visit with their children in the orphanages (Smith, 1995). Also, Brace’s orphan train program had drawn attention to the destructive impact out-of-home placement procedures could have on the child and family. Critics claimed that Brace’s operation was based on a bias against immigrant families and further, that children were being taken from their parents for no discernible reason. Also, as most of the children Brace was placing out West came from Catholic families and he was primarily placing them in Protestant homes, it was asserted that this was a violation of their family’s religious background (Costin, 1985).

Paradoxically, even though Brace’s efforts were guided by the belief that the family environment was preferable to an institutional one for children, the definition of such an appropriate family environment never included supporting children in their own impoverished, immigrant family (Trattner, 1989).

When social workers began to actively build on this increasing recognition and support of the parent-child relationship by mounting an aggressive attack on the forces that were contributing to the break-up of so many poor families, their efforts were considered radical (Trattner, 1989). Generally, these social workers were to be found in settlement houses in the larger cities, with some of the most influential and well-known social workers of the day located in the Chicago settlement house, Hull House. The settlement house movement was founded upon the principle that the individual was not to be viewed as a separate, isolated entity, but as part of a group. Thus, problem solving would involve a focus on the neighborhood, community, and society that surrounded an individual. With relevance to the parent-child relationship and the earlier approaches to intervening in the lives of
children and families, the social workers in the settlement house movement recognized that many of the immigrant families were encountering serious difficulties in this country because the "famed entrepreneurial ethic—the notion that with hard work, morality, and perhaps a bit of luck, anyone could prosper—was becoming less a realistic ideal than a fantasy" (Trattner, 1989). In short, they understood that many of the difficulties parents were experiencing were exacerbated, if not caused, by social and economic conditions. It was this understanding of the ravages of poverty and the sense of hopelessness that it engendered, combined with a culturally-sensitive acceptance of "immigrants on their own terms," that differentiated such social workers from charity organization work like the SPCC. Although their ideas were initially considered to be subversive, the settlement house social workers were actually the first to advocate the ideas of a new progressivism that would eventually sweep the nation (Trattner, 1989, p. 151).

By the turn of the century, this conceptual shift underway in child welfare was evidenced in practices and policies that would revolutionize how the needs of dependent children and their families were addressed. In particular, the social workers’ emphasis on the total environment surrounding the child, including the social and economic conditions that lead to poverty and contribute to unemployment, homelessness, and a family’s inability to care properly for children, led to a drive to create an entirely new system of support for dependent children and their families. These reform efforts were directed by Julia Lathrop, a social worker and a Hull House resident, who organized the successful fight for the creation of the Cook County Juvenile Court in 1899. This juvenile court was the first separate court system for children in the nation (Trattner, 1989).

To the reformers of the early twentieth century, the juvenile court seemed to be the ideal solution to addressing the problems facing dependent children and their families. With
an adjudicative process that was designed to be more friendly, less formal, and more responsive to the unique dilemmas facing the individual child, the judge was free to serve in a sort of paternalistic role that met the children's needs for "aid, encouragement, and guidance" (Trattner, 1989, p. 118). In a style that was perfected by Judge Ben Lindsey, one of the most famous and well-respected juvenile judges who presided over a juvenile court created in Denver in 1900, juvenile judges would dispense with typical court formalities and engage the child and others in conversation in order to collaboratively work towards a suitable resolution to the problem. As Judge Ben Lindsey is quoted as frequently repeating in the courtroom, "the State has come to help and not to hurt, to uplift and not to downgrade. to love and not to hate" (Trattner, 1989, p. 118).

In addition to fostering a supportive environment within the courtroom, these early settlement house social workers and various lawyers, civic leaders, and judges believed that the purpose of the juvenile court could also be found in the supporting the family, neighborhood, and community that surrounded the child. Judge Ben Lindsey argued that the juvenile judge must necessarily operate on two levels by "strengthen[ing] a child's belief in himself and mak[ing] available to him all of the support and encouragement from outside the court that the judge could harness on his behalf" (Fox, 1996, p. 35). It is in this manner that the juvenile courts embodied the settlement house social workers' ideals of personal commitment for community betterment, and the "Lindsay Model," as it came to be called, set the standard for juvenile judges for several decades. The Lindsay Model entailed a "deeply personal judicial involvement in the lives of juvenile court children...[as the] juvenile court was a vigorous machine for social engineering, reaching out to reform everything that adversely affected children, from the corruption of the police to the need for a playground" (Fox, 1996, p. 34). However, even in Judge Lindsay's day, it became apparent that it was not
realistic to expect juvenile judges to accomplish such challenging goals on their own. Thus, community based interventions were developed as social workers became involved as probation and protective services staff (Fox, 1996).

The progressive attitudes that were leading to reform of how the legal system handled its caseload of children were reflected in the new perspectives and approaches utilized by the protective services staff and others as they intervened with the children’s families. At this time, the courtroom staff often interacted with social workers who were involved with the more progressive SPCC societies across the country. By the early 1990’s various SPCC societies across the country began to break with the conservative New York SPCC and incorporate social theories such as those advocated by the social workers in the settlement houses. With particular significance to the parent-child relationship, and in contrast to the practices of the New York SPCC, many of the progressive SPCC societies decreed that children should be returned to their parents as soon as they were able to establish good homes, and that when an out-of-home placement was necessary, a family foster home was preferable to an institutional placement. In addition, recognizing that parents would need support in establishing these good homes, there was a call for parent education programs and investigation of how preventative measures could be most effectively administered to needy families at risk for maltreatment. Furthermore, and in concert with the efforts of the juvenile judges, courtroom staff, and settlement house social workers, the progressive SPCC societies would become actively involved in assisting the family to create a more healthy home environment through advocacy that was aimed at ameliorating the social and economic conditions that had led to the family coming to the attention of the authorities in the first place (Costin, 1985).
While there are no national statistics available on the numbers of children that were removed from their parent’s custody and placed in out-of-home care during this early part of the twentieth century, the progressive attitudes during this period can be argued to have at least stemmed the tide of practices, such as the orphan trains, that left no possibility of parent-child reunification. In the following years, the progressives’ focus on assisting children by providing support to their family and community and utilizing family foster care would continue to gain acceptance. Such perspectives were in strong evidence at the first White House Conference on the Care of Dependent Children in 1909, and the second conference in 1919. These conferences established that families were the best environment for the developing child, that the first priority should be to help maintain children in their own homes through mother’s aid, and that appropriately screened foster homes were the best alternative to a child’s natural home, not institutionalized care (Smith, 1995). In 1921, the Child Welfare League of America was established and C.C. Carstens, an influential child and family advocate who had served as the secretary general of the progressive Massachusetts SPCC for many years, was named its first executive officer. As the progressive approaches to conceptualizing and addressing issues related to dependent children and their families became more mainstream, the SPCC societies began a serious decline, with the remaining societies often merging with other charitable organizations, and the more progressive SPCC workers joining the protective services staff of the courts. By the mid to late 1920’s, states, counties, and cities were assuming the bulk of the responsibility for protective work (Costin, 1985).

The shifting perspectives on the role of those who intervene in the lives of dependent children and their families, and the proper manner and form of this intervention, was not only evidenced in the development of the juvenile court and in social worker interventions with
children and their families, but in legal decisions of the day. In the 1920's there were several legal decisions that added a constitutional dimension to the decisions facing judges and social workers and forever altered the role of the state in family life. These important legal decisions established a constitutional basis for recognizing parents' rights when in dispute with the state over their children.

Although various constitutional elements can be found in parents' claims in cases involving child welfare issues, in particular it was the procedural due process claims, such as a lack of notice or a failure to get the opportunity to be heard, that would challenge some of the child removal practices that had been regularly utilized throughout the early history of out-of-home placements for dependent children. It should be noted that the due process clause actually is composed of two clauses found in the U.S. Constitution. The clause in the 5th Amendment refers to the federal government, with the clause in the 14th Amendment protecting individuals from state actions. There are two types. Procedural due process refers to a guarantee of certain just procedures and substantive due process refers to a protection of one's property from unjust governmental intervention. Similar clauses can be found in most state constitutions (Black's Law Dictionary, 1979).

Although the legal decisions of the 1920's involved various factual situations, the underlying theme in their legal reasoning affirms a presumption in favor of biological parents in the care, custody, and upbringing of their children. This presumption gained a constitutional basis when a parent's unique constitutional rights were expressly mentioned in a 1923 U.S. Supreme Court decision, Meyer v. Nebraska. In Meyer, the state court had held that an instructor of German in a parochial school violated a statute forbidding the teaching of a modern foreign language to a child younger than the eighth grade. In reversing the state court, the U.S. Supreme Court stated that the statute invaded the liberties guaranteed by the
Fourteenth Amendment as it violated the "right of the individual to...establish a home and bring up children" (p. 399) part of which "is the natural duty of the parent to give his children education suitable to their station in life" (p. 400). In 1924, in a case brought by a private, religious school, an Oregon court held that a statute that compelled all children to attend public school was unconstitutional. In affirming the state court decision, the U.S. Supreme Court stated that the statute "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control" as "[t]he child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations" (pp. 534-535) [Pierce v. Society of Sisters]. In Edwards v. Cockburn (1928, Massachusetts), it was held that the Due Process Clause of the Fourteenth Amendment requires that proper notice must be given to the biological parent or an adoption decree following the termination of a parent's rights may be open to collateral attack by the biological parent.

The discovery of a constitutional basis for a parent’s right to the custody, care, and upbringing of a child provided a legal framework that was supportive of social work advocates’ efforts to address the needs of children and families at the legislative level. Primarily because of social workers’ strong national leadership and perseverance, for the first time in this nation’s history, policies and practices in furtherance of the welfare of children and families were being debated at the local, state, and national levels. Aid to mothers, funding for preventative services for families, and increased funding for out-of-home placements for children with families were being considered by legislatures across the country. The assumptions that individual and moral causes could be blamed for a family’s difficulties and that children must be “saved” from deleterious family backgrounds and
confined in institutions were effectively being challenged (Trattner, 1989). In terms of the parent-child relationship, the new constitutional guarantees and the recognition of the need for preventative services and support seemed to offer opportunities that had never before been possible for vulnerable families in this country. Unfortunately, a shift ideology would deprive families and children of the advancement promised by the progressive decade of the 1920’s.

Beginning in the late 1920’s and continuing for several decades, social workers abandoned the theories that had led to their role in defining child welfare policies. No longer did vast numbers of social workers involve themselves in advocacy efforts directed at major social reform to benefit vulnerable children and their families. In an astounding about-face, many social workers began to reconsider the responsibility that individuals had in determining their own fate, eventually distancing themselves from the focus on social and economic measures and preventative-based legislation for families. Hoping to achieve a greater sense of professionalism, social workers began to embrace casework to the exclusion of social reform efforts. The profession became consumed with activity directed at addressing individual deficits that lead to personal dysfunction. Social workers were soon discussing “ego strengths and weaknesses” rather than the strengths and weaknesses of this nation’s approach to supporting vulnerable children and their families and consequently, they began “operat[ing] on the premise that an individual in need had the inner strengths and resources which, if freed from the shackles of fear, inhibition, and other psychological impediments, could overcome his or her difficulty” (Trattner, 1989, p. 231).

The interest in casework and psychological and emotional difficulties also led to a new professional alliance with psychiatrists. Soon social workers were adapting Freud’s psychoanalytic tenets to the practice of casework and identifying themselves as part of a
psychiatric clinical team rather than as social reformers or even social caseworkers (Trattner, 1989). The impact of this change in the social work profession was immediately felt in the child welfare system. In the juvenile courts and in the communities these courts were designed to serve, psychiatric consultants and psychologists, lacking the professional orientation and training to value and perform community outreach, gained prominence in serving the children who came before the court (Fox, 1996). What had been such an essential element of the early juvenile courts was lost. Social workers "lost touch with neighborhood leaders, local politicians, union organizers, and others speaking for the poor, especially for new groups rapidly moving into the inner city" (Trattner, 1989, p. 168). Unfortunately for the many children and families living in poverty this situation would remain virtually unchanged for several decades. For many social workers, it took the "events in the 1960's" to illustrate the extent to which "social workers had isolated themselves from the mainstream of American reform and were no longer friends of the poor" (Trattner, 1989).

With the exception of the creation of Aid to Families with Dependent Children (AFDC), the next several decades would witness few events supportive of the parent-child relationship. With historical precedent reaching back to the first White House Conference on Dependent Children in 1909, and influenced by the devastation of the Depression, Title IV of the Social Security Act was passed in 1935. This legislation established AFDC, the main program designed to provide cash assistance to low income families with children (Pecora, Whittaker, Maluccio, Barth, & Plotnick, 1992), and furthered the idea that it was preferable to support children in their own homes rather than forcing impoverished families to resort to out-of-home care for their children. Although the social work profession's psychiatric-based focus was already quite prevalent by this time, it should be noted that not every social worker endorsed this direction the profession was taking. Some of the strongest
advocates for AFDC were juvenile judges and probation officers—often social workers—who were increasingly frustrated by the growth of counseling and psychiatric services in the court while only minimal community resources were available to provide economic support (Trattner, 1989).

The development of policies and practices to support children and their families by preventing unnecessary parent-child separations while also insuring that children were in secure and stable home environments when an out-of-home placement was necessitated stalled at a particularly inopportune time. The legal decisions that began in the 1920’s that recognized a constitutional dimension to a parent’s claim to their children, and the growth in family foster care over institutional care represented important reforms to a system that had been based on arbitrary child removals, discontinuance of parent-child contact after an out-of-home placement, and a reliance on “orphan trains” and orphanages. However, without the accompanying legislation that the progressive social workers of the 1920’s had advocated for and which was later abandoned, such as preventive services to keep families together and support and services necessary to assist parents in regaining custody of a child placed in out-of-home care, these same reforms would have a debilitating effect on the families and children in the child welfare system. In effect, the constitutional safeguards only insured that the parent’s legal relationship to a child would be preserved, not the actual family unit. Thus, in a system with few services for families, there was little chance of parent-child reunification even when the difficulties that necessitated out-of-home placement were remediable, and little chance of a termination of parental rights action to free a child for adoption when the difficulties were not remediable. Additionally, the move toward family foster care— in a form that would lack the elements of a family that made it preferable in the first place, such as contributing to a sense of belonging, continuity, stability, and identity in
the developing child—often left children bereft of nurturing from a substitute caregiver as well as a biological one.

It took many years for the problems in the child welfare system to gain attention. By the mid-1950’s the rapid growth in the use of foster care was guided by a belief that foster care was the ideal placement for children not suffering from a serious emotional or behavioral problem. At this time it was widely accepted that foster care was a form of “treatment” for the family in that it was supposed to serve as “a temporary substitute to remedy or replace a specific deficiency in parenting” (Wiltse, 1985, p. 570). With the publication of Maas and Engler’s (1959) study of foster children titled, Children in Need of Parents, such prevailing notions about foster care in this country would be shattered. As documented by Maas and Engler, foster care placement was anything but temporary and lacked any meaningful attempts to treat the family’s difficulties that had necessitated out-of-home placement. They discovered that if children were not reunited with their families within 18 months of entering the foster care system they stood almost no chance of ever being reunited with them. Also, it was found that if foster children did not have regular visitation with their biological families, the possibility that they would ever return home was greatly reduced. Additionally, and of great import to the facilitation of the parent-child relationship, it was found that the lack of ongoing contact between children and their parents was mirrored in the low quantity and quality of contact between agency workers and the parents. In fact, many agencies had no consistent contact at all with the parent after the out-of-home placement was made (Maas & Engler, 1959).

Although Maas and Engler’s (1959) study was widely disseminated, there was no immediate action taken to address the issues it raised for foster care services. The 1960’s brought a wave of descriptive studies that supported their findings regarding the
impermanent nature of out-of-home care and the child welfare system’s failure to support children in their own homes (or work toward reunification after a placement was made). However, only a few authors proposed actual changes to the existing system and none of these were implemented (Wiltse, 1985).

By the 1970’s the accumulation of evidence regarding the failure of the child welfare system to serve children and families in its care resulted in unprecedented advocacy on behalf of children that not only involved social workers, lawyers, and juvenile judges, but journalists, legislators, and concerned citizens as well. Specifically, there was a growing outcry over the “drift” of children in foster care placements and the lack of any systemic effort to lend permanency to these children’s lives. One of the side effects of this growing attention to America’s out-of-home placement system was the discovery that it was difficult to precisely ascertain the magnitude of the foster care system’s problems. There was an appalling lack of information available on the children and families involved with the child welfare system, at the local, state, and national levels. Many claimed that this lack of information was a direct result of the failure of the system to perform basic case management and case planning activities (Wiltse, 1985).

Adding to the outcry over the child welfare system’s mishandling of children and families was a well-publicized study by Fanshel and Shinn (1978) that found that as these children spent this extended time in the system, they were also being shuttled from one home to another. Thus, not only was there a lack of permanency in terms of being reunited with birth parents or adopted out, while in the foster care system children were experiencing multiple foster home placements. Also, even if they remained in a single foster home, children were deprived of a sense of permanence and continuity, or the feeling that the people they were living with would remain their family forever and that there would be no
more agency changes in their placement. Finally, dispelling even the notion that the very young could escape long-term foster care placement, Fanshel (1979) documented that toddlers were entering the child welfare system to spend an average of seven years in foster care.

The research findings on the drift of children in the foster care system and the resultant lack of permanence in the lives of children experiencing out-of-home care would find meaning through the application of mental health theories. Mnookin (1973) asserted that the constant change and flux, or threat of this change in foster care replacements, created a psychological barrier in the foster child’s search for stability and constancy which could have lifelong ramifications. At the close of their longitudinal study on the foster care system, Fanshel and Shinn (1978) claimed that if children in the foster care system were not adopted out, and if they were unable to return to their families, they tended to suffer from the debilitating belief that they were unloved and unwanted. In particular, Bowlby’s (1969/1982, 1973, 1980) attachment theory, with its focus on the parent-child relationship and the ill effects of numerous separations and breaks in the bonding process, would fuel the movement for child welfare system reform. The influence of attachment theory was evidenced in the widely held belief that “the indeterminacy and uncertainty of the foster condition inhibits development in foster children of self-confidence, a firm sense of identity, and an ability to risk close personal relationships” (Wiltse, 1985, p. 576). Finally, in an often-cited and popular book that continues to be updated today, Best Interests of the Child, it was asserted that the welfare of a child must prevail above other considerations, and permanent homes are an essential element of this (Goldstein, Freud, & Solnit, 1973).

The culmination of research and advocacy regarding the treatment of families and children in the foster care system was the passage of the Adoption Assistance and Child
Welfare Act of 1980 (hereafter, AACWA). The AACWA would address many of the issues that the settlement house social workers in the early part of the twentieth century stressed were important to the integrity of the vulnerable family system, in particular, preventing the need for state intervention through the provision of support and services, striving for parent-child reunification through the provision of adequate support to enable the family to achieve a suitable level of functioning and self-sufficiency, and utilizing families instead of institutions when out-of-home placements are necessary. In addition, the troubled decades following the decline of social work advocacy and activism in the child welfare system would leave their mark. The AACWA also focused on addressing the problem of foster care drift through permanency planning. While national legislation following the AACWA continues the focus on issues related to prevention concerns (for example, the Family Preservation and Support Services Program of 1993), it is the focus on permanency that defines the modern legislative initiatives regarding child welfare issues (See: the Multiethnic Placement Act of 1994; and the Adoption and Safe Families Act of 1997). As will be discussed in the following section of this dissertation, the manner in which permanency is currently being conceptualized and operationalized on the legislative level has great importance for the relationship between children and their families in terms of termination of parental rights actions.

**Modern Legislation**

The modern era of legislation in foster care and adoption commenced with the passage of the Adoption Assistance and Child Welfare Act of 1980 (AACWA). A reading of this child welfare reform law demonstrates that it was specifically intended to promote: the prevention of out-of-home placements; family foster care as the preferred out-of-home
placement; the reunification of the child in foster care with the biological parents as soon as it is safe; and the timely adoption of children when reunification is not possible. It is in this manner that the AACWA can be broadly understood in terms of four predominant themes that impact social work practice in the child welfare system: prevention, least restrictive environment, reunification, and permanency planning. Each of these themes can be said to herald back to the settlement house social workers' early efforts to assist children and families in their own homes and the 1909 White House Conference on Dependent Children. A report from this conference asserted that "[h]ome life is the highest and finest product of civilization" with removal of children from their homes commencing only upon "urgent and compelling reasons" and when such removal must occur, then these children should "be cared for in families" (cited in Trattner, 1989, p. 194).

The support for children in a family environment, especially their own, is first evidenced in the AACWA's focus on prevention. The congressional intent behind AACWA was to promote the safe maintenance of a child in his or her own family home instead of automatically utilizing a foster care placement when the family encountered difficulties. In short, the goal was to create "an incentive to keep a family together" (Rep. Brodhead, 1979).

In the law there is explicit language furthering this intent to direct child welfare efforts toward the provision of preventative services [42 U.S.C. Secs. 670 and 675(5)(1994)]. In order to protect children from being unnecessarily removed from their homes and placed in foster care, the law requires that preventative services are first made available to the family. In this manner social workers should provide a range of services that may include: respite care, day care, 24 hour crisis intervention, emergency temporary shelters, group homes, counseling, etc. [H.R. Rep. No. 136, 96th Congress, 1st Session, 46-47 (1979)].
When considering the history of child welfare services in this nation, the AACWA’s incorporation of the goal of maintaining the child in the least restrictive environment represents a dramatic shift in how services to children are conceptualized. Going back to the 1874 case of Mary Ellen Wilson, the response to children and families in need of services tended to two extremes: either a total lack of intervention on behalf of the child as a result of the belief that the state should not intervene in the parent-child relationship, or intervention that resulted in the child being placed in an institution, frequently not having contact with the parent ever again. The concept of “least restrictive environment” furthers the belief that when it is necessary for the state to intervene in family life, this intervention should take the form most able to provide care and protection for the child and least likely to disrupt the child and family. In this manner, social workers understand that the intervention and services provided to the child and family will exist along a continuum, with maintenance of the natural family considered the “least restrictive environment” for the child. When a social worker makes the decision to utilize a foster care placement to meet the needs of the child and family, foster care is perceived as being more restrictive than maintenance of the child in the biological home environment, but less restrictive and less disruptive to the child, and the sense of family, than placement of the child in an institution—a more “restrictive” environment (Ziefert, 1985).

In an attempt to address the rising concerns over foster care drift, the AACWA’s emphasis on “permanency planning” and “reunification” would impact social workers’ provision of services to children and their families at the most basic level. The legislative intent to promote permanency and reunification was stimulated by testimony that children were being abandoned by the system in long-term foster care placements with little review of their cases. Additionally, only minimal effort was being made to reunify the children with
their families or move them into permanent adoptive homes (Rep. Corman, 1979). The concept of permanence “came to mean assurance to each child...[of] permanence in his living arrangements and continuity of relationship to parenting adults” with the intent that even though “the permanent home is not one that is guaranteed to last forever,” it is supposed to “exist indefinitely” (Wiltse, 1985, p. 577). As social workers engage with children and their families in the system, the concepts of permanency and reunification set the following priorities: “where separation is necessary, providing support services to enable children to be reunited with their families” and “where reunification with their own families is not possible or appropriate, providing services that enable children to be adopted or placed in permanent foster homes with some form of legal protection” (Pecora, et al., 1992).

The emphasis on the AACWA’s permanency planning goals brought an increase in termination of parental rights to free children for adoption (Hardin, 1996) and in the years immediately following the enactment of the legislation there was a sizable drop in the numbers of children in foster care, but by the early 1990’s, the foster care population was once again burgeoning (Pelton, 1993). As child welfare professionals in the 1990’s found themselves grappling with many of the same issues that had led to the enactment of the AACWA, in particular, large numbers of children removed from their parents and placed in foster homes for indeterminate periods of time, there was a growing sentiment that this seminal piece of child welfare legislation had failed America’s dependent children and their families (Pecora et al., 1992).

Pecora et al. (1992) argue that it was not actually the legislation that failed, but rather it was the ineffectual implementation of the AACWA that led to the child welfare system’s continued difficulties. As mentioned earlier, the act itself demonstrated a recognition of the limitations of out-of-home placements by giving special priority to family preservation and
reunification efforts. In addition, the act removed a federal funding incentive that emphasized foster care maintenance services over preventative or restorative services. The disappointments in the implementation of the AACWA have been traced to the complexities involved in the interpretation the Act’s “reasonable efforts” requirements and the historically poor funding of the preventative and reunification services.

The AACWA requires that the child welfare system make “reasonable efforts” to prevent removal of children from their homes and “reasonable efforts” to rehabilitate the parent and reunite children and their families [42 U.S.C. Sec. 671(a)(15)(1994)]. The courts in each state are required to make a determination of whether or not the child welfare agency made such “reasonable efforts” [42 U.S.C. Sec. 672 (a)(1)(1994)] and for any failures by the state to follow federal law, the federal government can request reimbursement of Title IV-E money that has been given to the state [42 U.S.C. Sec. 675 (5)(B)(1994)]. Unfortunately, this legislative directive to make reasonable efforts does not always result in the actual provision of appropriate services to individual families and children (Golubock, 1985; Meddin & Hansen, 1985). Part of the problem may stem from the fact that the AACWA never defined “reasonable efforts.” Although some have claimed that state policies “may provide direction” here, state policies vary widely and are wholly dependent on the judiciary to subjectively weigh concepts like “quality of efforts made by agency” (Stein, 1991, p. 38). Thus it is not surprising that there can be great variability in services from one jurisdiction to another. Additionally, what is “reasonable” is often dictated by available resources, or agency decisions about how to allocate resources. For example, there are many families with multiple stressors impacting the family system—such as poverty, mental health problems, and substance abuse. These chronic problems indicate a need for more intensive interventions to preserve the family unit. If social workers assert that the severity of the
family’s problems necessitates immediate removal of the child, and then there is a finding by
the court [note that language to the effect that the social worker and agency made
“reasonable efforts” is commonly preprinted onto court forms (Hardin, 1996)] that the failure
to offer the needed longer-term services is reasonable given the limited resources available to
the child welfare agency, it is not surprising that those families in most need of services are
falling between the cracks. Addressing concerns such as these, there have been proposals to
create a national criterion establishing the minimal level of services necessary to satisfy the
“reasonable efforts” requirement and to recognize that the definition of “reasonable” should
be interpreted to mean more than simply the resources that are available in a jurisdiction
(Graf, 1996).

The problems with family preservation services and the “reasonable efforts” section
of the AACWA were only exacerbated by the Congress’ funding of Title IV following the
passage and implementation of the Act. In effect, the AACWA established a two tier
funding structure with additional practice and procedural requirements for greater levels of
funding. Through these funding regulations the AACWA discourages state use of custodial
care and emphasizes the objectives of prevention of unnecessary placements and permanency
planning. Within several years of the enactment of the AACWA, numerous studies were
finding that this two-tiered funding framework was serving as an impetus for changes in
states’ long-term planning for foster care. Expenditures for foster care maintenance
payments dropped by an average of 75% of all child welfare funds while preventative and
protective service funding rose from 8% to 23%. However, Congress continued to fund
foster care and adoption services (Title IV-E) at almost triple the rate of preventative and
reunification services (Title IV-B) [Pecora et al., 1992]. The reasons for Congress’ failure to
financially support what it had enacted only a few years earlier may be traced to the fact that
the AACWA was passed under Carter’s administration and then promulgated in the conservative Reagan administration, or perhaps to the lack of reliable data on foster care on a national basis that makes it difficult to document issues in service delivery to Congress (Gustavsson & Segal, 1994).

In the early 1990’s growing frustration over the perceived inability of the AACWA to meet the needs of children and families led to a broad coalition of commissions whose joint task was the development of legislative initiatives that would serve to protect and preserve the American family. This focus on the “preservation” intentions of the AACWA would differ from later attempts to address the failings of the child welfare system through a greater emphasis on the “permanency” goals of the AACWA. But at this time, the focus on preservation would lead to the construction of several pieces of legislation that would “seek innovative ways of adequately funding preventative family support services while addressing other gaps in the service delivery system” (Pecora et al., 1992). Thus, even though the legislative intent behind the AACWA and the language in the act itself covered many of the commissions’ expressed concerns, the principle source of child welfare policy, the AACWA (Title IV-B and Title IV-E), was eventually amended by the 1993 Omnibus Budget Reconciliation Act, or the Family Preservation and Support Services Program (hereafter, the FPSSP).

Title IV-B of the AACWA provided federal funding to the states for child welfare services. Title IV-B gave the states broad discretion in developing and delivering services and provided that there would be certain protections for children placed in out-of-home care. The FPSSP added a new subpart to Title-B that provides states with federal funding for family preservation and family support services. Family preservation services are provided to families at risk for maltreatment or already in crisis, and include: counseling, respite care,
and intensive services in the home to prevent foster care placement or to assist families once children have been returned home after a placement. Family support services are community based services designed to strengthen the family through child care and participation in parent support groups and family centers (Ahsan, 1996). The FPSSP also provides additional federal funding “for courts to assess and improve their handling of placement proceedings, for states to initiate automated data systems; and for training of staff, foster parents, and adoptive parents to assist children in the child-placement system and to support the parents who adopt and foster them” (Curtis, 1996, p. 162).

In the time following the enactment of the FPSSP, the problems that plague the child welfare system have continued. Most pressingly, reports of child maltreatment have increased, with the growing numbers of children who enter foster care encountering a child welfare system in crisis— at least twenty-one states are currently under federal supervision for failing the families and children in their care (Pear, 1996). From this perspective, even though there are no statistics available on how the FPSSP has specifically affected the rates of parental rights terminations that increased upon passage of the AACWA, it does not appear that the system has improved its ability to preserve the relationship between children and their biological parents. Ahsan (1996) asserts that if the FPSSP is analyzed in terms of increased availability of family preservation and support services, then the legislation can not yet be deemed a success as implementation has been slow and many of the programs that have been initiated have been built on existing service models that only continue established practices. When the enactment of the FPSSP, with its focus on “prevention,” failed to resolve the difficulties facing the system of services to children and their families, there was a growing support for another approach based in the AACWA— a “permanency” based approach. These “permanency” based approaches have involved a reliance on methods that
decrease the numbers of children in foster care, not through an emphasis on greater utilization of family preservation programs, but through increasing the numbers of children placed in adoptive homes.

With a general purpose of decreasing the time children spend in foster care by reducing barriers to adoption, one of the permanency based legislative approaches to addressing the large numbers of children in the system has been the Howard Metzenbaum Multiethnic Placement Act of 1994 (hereafter MEPA). The MEPA is intended to reduce the length of time children wait for adoption, prevent discrimination in the placement of children on the basis of race, color, or national origin, and effectuate the identification and recruitment of foster and adoptive families that can meet children’s needs [P.L. 103-382, Sec. 552(b)]. As stated in the opening of the MEPA, Congress was moved to action based on findings that there were over 500,000 children in foster care, with tens of thousands of these children waiting for an average period of 2 years and 8 months for adoptive homes. The MEPA states that child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination in the adoption and foster care recruitment, selection, and placement processes [P.L. 103-382, Sec. 552(a)]. The disproportionate numbers of minority children in the foster care system (Children’s Defense Fund, 1993) and the arguments of those in support of transracial adoption that “giving preference to same-race adoptions and foster-care placement denies thousands of minority children a permanent, loving, and stable home” (Curtis, 1996, p. 161), stimulated the enactment of this legislation. Senator Metzenbaum testified that he had introduced the legislation with the purpose of “encouraging transracial adoption when an appropriate same race placement is not available” (Sen. Metzenbaum, August 4, 1994).
However, controversy has surrounded the MEPA. In particular, it is unclear to some whether the system is adequately addressing the lack of availability of families of color for foster care and adoption placements. This recruitment issue raises questions regarding the system's ability to ensure practices consistent with Senator Metzenbaum's intent that transracial adoption be reserved for situations when same-race placements do not exist. Recently, a commentator on the situation stated that "[i]t is ironic that those espousing policies that are in the best interest of children seldom address the issues of licensing more African American families or eliminating the institutional barriers that inhibit the effective recruitment and retention of African American foster and adoptive parents; even less attention is given to addressing the economic and social conditions that prevent a growing number of families, regardless of race, to care effectively for their children" (Curtis, 1996, p. 163).

The National Association of Black Social Workers (NABSW) has continued to reiterate their position in opposition of transracial placements. As stated in their 1994 position statement, *Preserving American Families*, the "NABSW's position is to advocate for keeping families together and keeping children safe through family preservation services" as these services "can reduce the growth of the foster care and adoption system," and furthermore, the "NABSW believes it is the right of a child to be raised in a permanent, loving home which reflects the same ethnic or racial group" with "[t]ransracial placement/adoption...often used as a barrier to family preservation" (NABSW, 1994, p. 5). The journal of the NABSW also published an article challenging the findings of researchers who claimed that African-American children in transracial adoptions did not suffer cultural, emotional, and psychological harm (Abdullah, 1996).
In a statement issued July 8, 1996, the NABSW stated that “the goal of finding same race permanent homes for African American children is unquestionably achievable” but “[t]he strategies…must embrace the full range of permanency planning, rather than focus solely on adoptions (NABSW, 1996). However, this trend to emphasize adoption was already firmly in place. Just one month later, on August 20, 1996, President Clinton signed into law an amendment to the MEPA that repeals Section 553 of the Act, replacing it with new, more stringent language and tougher sanctions [part of the Small Business Protection Act of 1996]. Although there has not yet been a study of its effect on families of color, the MEPA’s emphasis on moving children into adoptive homes that may not share the same race and ethnicity of the child will certainly raise special practice issues for social workers who work with minority families where there has been a termination of parental rights. After the MEPA, there is a greater probability that the legal severance of the parent-child relationship may also result in the severance of a child from a racial and cultural environment. It will be an important task for child welfare professionals in the new millennium to gain an awareness of the complexities raised by this issue and to develop a sensitivity as to how such complexities can impact the unique life situation of a particular child and family.

The legislative focus on adoption continued with the April, 1997 passage in the House of the “Adoption Promotion Act of 1997” [H.R. 867], and the November, 1997 passage in the Senate of a revised bill (the original Senate bill was called the “Safe Adoptions and Family Environments Act”, S. 511), called the “Promotion of Adoption, Safety and Support for Abused and Neglected Children” [S.1195]. Both the Adoption Promotion Act, hereafter APA, and the Promotion of Adoption, Safety and Support Act, hereafter PASS, were intended to address concerns that child welfare efforts had become too focused on family preservation with insufficient emphasis placed on the safety of children. The stated goals
were to protect children and promote adoption as it was believed that the current system was forcing children to wait endlessly for permanent homes (Rep. Kennelly, 1997). In mid November, Congress took final action on the legislation, with the House passing a revised House/Senate compromise bill with a vote of 406 to 7 and the Senate passing the compromise bill unanimously. On November 19, 1997 the president signed the compromise bill, and The Adoption and Safe Families Act of 1997, Public Law 105-89, became law.

APA and PASS brought together advocates for children from liberal and conservative coalitions who were both determined to limit the amount of time children stay in foster care prior to being freed for adoption. Although no national children’s organizations issued statements specifically endorsing APA and PASS, many groups, including the Children’s Defense Fund and the Child Welfare League of America offered statements regarding the pressing need for a national focus on issues related to children in foster care and there seemed to be a general atmosphere of support among children’s advocacy groups surrounding the development of the legislation. Reviewing the provisions of the legislation in a recent speech before the conservative Heritage Foundation, Mary Lee Allen of the Children’s Defense Fund drew applause when she stated that “There's much more agreement here than there is disagreement” (Tumulty, 1997). Similarly, in a hearing on the APA before the House’s Committee on Ways and Means, when asked whether the CWLA would work with Congress on the legislation, David S. Liederman, Executive Director of the Child Welfare League of America answered “[w]e would love to...[w]e would be happy to do so” (p. 45). Indeed, Mr. Liederman’s testimony regarding one of the more significant aspects of the legislation, the changes in the “reasonable efforts” requirements, indicate that there was support for the manner in which the legislation was eventually crafted. Specifically, Mr. Liederman stated that he did not think it was a good idea to attempt to legislate “reasonable
efforts" and that such a task should be accomplished by HHS through input from individual jurisdictions. Also, he asserted that "reasonable efforts" does not mean "unreasonable efforts" and that it should be recognized that "[s]ometimes there isn't really family there that can provide proper care for the children" (p. 45). As will be demonstrated below, the legislation incorporated such ideas in its provisions regarding reasonable efforts.

With relevance to this dissertation's focus on individuals who are facing the loss of their parental rights, the compromise bill, The Adoption and Safe Families Act, hereafter ASFA, did extend the Family Preservation and Support Services Program, which is renamed the "Promoting Safe and Stable Families Program" (Section 305). This new name signifies the ASFA's requirement that states will consider the safety of children to be of paramount concern when intervening with families. Also, the AACWA's reasonable efforts requirements and termination of parental rights play a prominent role in ASFA. With its focus on freeing children for adoption, and consistent with Mr. Liederman's testimony that places the emphasis on reasonable efforts in terms of when they need not be applied, the bill defines reasonable efforts as they relate to moving children into permanence. This is added to the existing AACWA requirements to use reasonable efforts to prevent removal of the child or to reunify after a placement is made (Section 107). Thus, the reasonable efforts requirement is not addressed in terms of establishing a national minimum standard for what is "reasonable" in the provision of services to maintain children in their biological homes or in terms of disallowing jurisdictions to get by on providing the family with minimal services because of a lack of available resources (Graf, 1996). Instead, the legislation outlines when the reasonable efforts requirement need not even be applied, for example, when a parent has committed a felony assault that results in serious bodily injury to child or another one of his or her children; if parental rights to a sibling have been terminated; or if the court finds that
there are “aggravated circumstances” as defined in state law, which includes but is not limited to: sexual abuse, abandonment, chronic abuse, etc. In each of these cases the state is not required to use “reasonable efforts” to preserve or reunify the family. Also, in defining “aggravated circumstances” state legislatures will be allowed to specify additional circumstances in which the state would not have to demonstrate that reasonable efforts were made to preserve the child in the family or reunify the child with the family after a foster care placement has been made.

Also the legislation will have a decided impact on the parents and children who are involved with the child welfare system and face a possible termination of parental rights action. The state will be now be able to automatically terminate parental rights in certain circumstances. Section 104 requires that states initiate proceedings to terminate parental rights, and concurrently identify, recruit, process, and approve a qualified adoptive family for any child who has been in foster care for 15 of the most recent 22 months, unless the child is in kinship care, there is a “compelling reason” that such a petition would not be in the best interests of the child, or the state has not provided the family with needed services to allow the child to return home safely. Also, earlier permanency planning hearings are required, at 12 months rather than 18 months after placement, and at these hearings, there will be a determination of whether and when a child will be returned home and whether the child will be placed for adoption and a termination petition filed (Section 302). Finally, in an effort to increase the numbers of foster children who are placed in foster homes, the legislation includes an adoption incentive payment program for states that authorizes new funding for technical assistance to the states to promote adoption, such as guidelines for expedited termination of parental rights proceedings, specialized units designed to move children into adoption, encouraged use of fast tracking for children under age one into pre-adoptive
placements, and programs to place children of all ages into pre-adoptive placements prior to terminating parental rights (Section 201).

It is unclear how this adoption/child welfare bill will change the provision of services to dependent children and their families. For example, one of the bill’s provisions, the requirement that safety be specifically considered when making decisions regarding child placement, case planning, and review of cases (Sections 101 and 102) may perhaps sound helpful in print, but could the unsafe placement of children really be attributed to the lack of a legislative directive on the matter? Is it not more reasonable to think that poor decision making perhaps occurs as a result of excessive caseloads, lack of proper training, and poor funding of services for the children and families? One criticism of the bill is that even though it directs the states to establish standards to ensure quality services that protect the health and safety of children, it does not address the overall lack of resources in the system for such services and training. Making a law that child welfare professionals must consider safety is laudable, but without resources to actually implement safer practices, it is questionable whether unsafe practices and conditions will discontinue.

Perhaps the greatest question regarding the legislation is how a child welfare system that was ill equipped to handle the numbers of children needing permanent placements under the existing policy will be able to adequately deal with the growth in these numbers that will undoubtedly come with the expedited terminations. Although there are ideas scattered throughout the legislation, such as addressing the interstate and intercounty barriers to the adoption of children (Section 202), arguably, the legislation lacks a definitive plan on how to tackle the problem of children needing permanent, loving homes. Indeed it can be asserted that how this problem of growing numbers of dependent children is being conceptualized, namely, in terms of “children needing adoptive homes,” instead of “biological family
dysfunction and breakdown” may be stymieing the progress toward a meaningful solution. With a focus on the point in the system where children are already in need of an adoptive home, the efforts and energies of policy makers, social workers, and judges are effectively diverted from addressing the problem at the source, for example, at issues related to inadequate support systems for families and children and societal inequities that can be so destructive to the integrity of the family.

However, as the recent trends in child welfare practice demonstrate, such as the growing use of kinship care, legal guardianship, and open adoptions, sometimes it takes the grassroots efforts of social workers, judges, and communities to creatively address a problem of such immensity. While kinship care, legal guardianship, and open adoption would not work in every case where a parent was unable or unwilling to provide care for a child, arguably, they have the potential to begin the process of transforming the system of care for dependent children and their families. Perhaps the next legislative effort in child welfare will then explore new options, such as recognizing the enforceable rights of parents and siblings, when appropriate, to maintain contact with a child after a termination proceeding and adequately supporting the communities and families who are at special risk for out-of-home placements so that children can remain connected to them. Regardless, practices that recognize the enduring ties of biological families are growing in number, and research such as this dissertation lays the scholarly groundwork to inform this new paradigm in child welfare.

Modern Case Law

In addition to the cases of the 1920's that established a constitutional basis for a parent’s rights in his or her children, several modern legal decisions have shaped today’s
decision making process in termination of parental rights cases. Specifically, the legal reasoning and rulings in Stanley v. Illinois (1972), Wisconsin v. Yoder (1972), Parham v. J.R. (1979), and Santosky v. Kramer (1982) demonstrate a deference to parents in their right and duty to raise their children. It should be noted that the intent of this case review was not to cover all of the legal issues that are relevant in termination of parental rights cases and these four cases do not represent all of the legal issues that have been presented in cases involving termination of parental rights. However, the cases were included in this dissertation because they focus on the crux of the issue present in termination of parental rights cases, namely, the weighing of parents' rights in light of the interests of the children and the state. In addition, they continue to be the four most frequently cited cases in the area of termination of parental rights. Their continued relevance can be found in their emphasis on the controversial legal presumption that exists in favor of parents. With the legislative initiative, The Adoption and Safe Families Act (P.L. 105-89), that aims to make more children available for adoption by speeding up the process of termination of parental rights, it is likely that the interests of parents that were elaborated upon in Stanley, Yoder, Parham, and Santosky will be central in many court disputes.

In Stanley v. Illinois (1972), an unwed father, Stanley, sued to regain custody of the children he had lost upon the death of the children's mother, a woman he had been living with intermittently over a period of eighteen years. Under an Illinois statute, the children of unwed fathers are adjudicated to be dependent of the state when the mother dies, and Stanley's children were so adjudicated and placed up for adoption. Stanley argued that it had never been demonstrated that he was an unfit parent and because married fathers and single mothers can not be deprived of their children without demonstrating this, he had been effectively deprived of equal protection of the law guaranteed to him by the Fourteenth
Amendment. The Illinois Supreme Court rejected his equal protection claim, stating that his fitness as a parent was not the issue, the issue was that he had never married the children's mother.

In overruling the Illinois Supreme Court, the U.S. Supreme Court held that “as a matter of due process of law, Stanley was entitled to a hearing on his fitness as a parent before his children were taken from him and that, by denying him a hearing and extending it to all other parents whose custody of their children is challenged, the state denied Stanley the equal protection of the laws guaranteed by the Fourteenth Amendment” (p. 645). Furthermore, the court stated that “[t]he private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection” (p. 651). Although Stanley specifically involved the parental rights of an unwed father and can be narrowly construed to apply to the adoption practices in situations involving an unwed father, such a limited application of the case is not indicated by the court's language. The court claims that they have “frequently emphasized the importance of the family” and continue by listing various decisions where the rights of parents were upheld (p. 651). In fact, it is this broad interpretation of the case that lends it continuing significance in all termination of parental rights proceedings as parents are ensured a right of due process in their fight against the state to keep their family intact.

In Wisconsin v. Yoder (1972), members of the Old Order Amish religion and the Conservative Amish Mennonite Church were convicted for violating Wisconsin's compulsory school attendance law, which requires school attendance until age sixteen. The Amish people remove their children from the public schools after eighth grade. It was demonstrated that while the Amish children do not continue in the public schools, they do continue to receive vocational education that prepares them for the rural life in their Amish
communities. The Amish people sincerely believe that sending their children to public high school is adverse to their religion and continued way of life and that such action would threaten their salvation and the salvation of their children. The state supreme court held in favor of the Amish, stating that the compulsory school attendance law violated their right to practice their religion under the Free Exercise Clause of the First Amendment, made applicable to the states through the Fourteenth Amendment.

In affirming the state court decision in *Yoder*, the U.S. Supreme Court emphasized not only the fundamental rights protected by the Free Exercise Clause, but the interests of parents in the upbringing of their children which are supported by “[t]he history and culture of Western civilization[‘s] strong tradition of parental concern for the nurture and upbringing of their children” (p. 232). Because the facts of the case did not involve a situation where there was a conflict between an Amish child wishing to attend public school and an Amish parent refusing, the court analyzed the parental interest as the facts of the case presented it, in terms of competing interests between the parents and the state, and refused to consider the situation where there may be competing interests between the parents and children. In language that recalls the earlier notion of the state as *parens patriae* prior to the institution of constitutional parental rights, the court claims that if the state is going to “‘save’ a child from himself or his Amish parents by requiring an additional two years of compulsory formal high school education, the State will in large measure influence, if not determine, the religious future of the child” and thus, “this case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children” (p. 232). In deciding in favor of the parents, the Supreme Court elucidated the principle that the fundamental interest of parents can trump the interests of the state.
In *Parham v. J.R.* (1979), a child being treated in a Georgia state mental hospital sought a judgment that Georgia's voluntary commitment procedures for children under age eighteen, initiated by the parents, violated the Due Process Clause of the Fourteenth Amendment. The District Court held that Georgia's statute regarding voluntary commitment procedures was unconstitutional because it failed to sufficiently protect the child's due process rights, which were implicated because of the child's liberty interest in having freedom from the bodily restraint and emotional distress which can be caused by institutionalization. In reversing the decision of the District Court, the U.S. Supreme Court held that an adversarial proceeding was not constitutionally due to a child whose parents or guardian are seeking state administered mental health services for the child in an institutional setting. In *Parham*, it is the court's reasoning of the legal issues regarding the parent-child relationship that gives this case special resonance in termination of parental rights cases.

In pertinent part to the parent-child relationship, the Supreme Court rejected the argument "that the constitutional rights of the child are of such magnitude and the likelihood of parental abuse is so great that the parents' traditional interests in and responsibility for the upbringing of their child must be subordinated at least to the extent of providing a formal adversary hearing prior to a voluntary commitment" (p. 602). Citing *Meyer v. Nebraska* (1923), *Pierce v. Society of Sisters* (1925), and *Wisconsin v. Yoder* (1972), the court stated that parents have the right and duty to prepare their children for life's eventualities, and that this duty is inclusive of parental actions such as recognizing when their children are ill and obtaining medical attention. Also, "[t]he law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions...[and]...historically it has recognized that natural bonds of affection lead parents to act in the best interests of their children" (p. 602).
The Parham court stresses that this parental presumption is just the beginning of the analysis in cases involving the parent-child relationship and that "experience and reality," such as child maltreatment, "may rebut what the law accepts as a starting point" (p. 602). However, the court follows this discussion with the strongly worded statement that "[t]he statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to American tradition" [emphasis in the original] (p. 603). Thus, even in termination of parental rights cases where an allegation of child maltreatment has introduced the state into family life, and where many of the cases do involve established incidences of abuse and neglect, state authority should not automatically prevail over parental authority unless it is established that a specific parent, in a specific case, is unable or unwilling to adequately partake in the rights and duties of parenthood, or, will be an abusive or neglectful presence in the child's life. The child welfare system must remain careful in the current push for expedited termination actions that the state is not able to assert an authority that supersedes that of the parent simply because of the existence of other termination cases where abuse and neglect prevents a continued parent-child relationship. In short, nothing should be assumed in light of Parham's affirmation of the parental presumption.

In Santosky v. Kramer (1982), Mr. and Mrs. Santosky had their parental rights terminated to their three young children under a New York statute that required only a "fair preponderance of the evidence" to support the finding that the children were "permanently neglected" and it was necessary to terminate parental rights. The New York Court of Appeals dismissed the Santosky's appeal which argued in part that the "fair preponderance of the evidence" standard was not stringent enough to protect their constitutional rights. In vacating the decision of the lower court, the U.S. Supreme Court stated that
"[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life. If anything, persons faced with forced dissolution of their parental rights have a more critical need for procedural protections than do those resisting state intervention into ongoing family affairs. When the state moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures" (pp. 753-754).

The Supreme Court held that the "fair preponderance of the evidence" standard in the New York statute violated the Due Process Clause of the Fourteenth Amendment and thus is contrary to the parents' fundamental liberty interests. The Court stated that before the state can terminate a parent's rights to his or her children, due process requires that the state support its case against the parent by at least clear and convincing evidence. The "'clear and convincing evidence' standard of proof strikes a fair balance between the rights of the natural parents and the State's legitimate concerns" and..."[w]e hold that such a standard adequately conveys to the factfinder the level of subjective certainty about his factual conclusions necessary to satisfy due process" (p. 769).

In *Santosky*, the court was especially cognizant of several important factors that affect liberty interests in termination of parental rights cases. First, the court was careful to establish that the loss of individual liberty after parental rights are terminated is different from other civil proceedings, such as civil commitment or deportation, because these are reversible decisions by the state. In contrast, once it has been affirmed on appeal, the decision to terminate parental rights is "final and irrevocable" with "[f]ew forms of state action...so severe and irreversible" (emphasis in the original) [p. 759]. Additionally, the court stressed that the state should never presume that the parent's interests are contrary to those of the child until after parental unfitness has been established. This means that the
parent's interests and the child's interests do not diverge until the final dispositional stage where it is not necessary for the state to consider the parent in considering alternatives. Thus, the presumption must be that "until the State proves parental unfitness, the child and his parent share a vital interest in preventing erroneous termination of their natural relationship" (p. 760). The court also asserted that the higher standard of proof is necessary to fairly allocate the risk of erroneous factfinding in termination cases where the parents "are often poor, uneducated, or members of minority groups...and such proceedings are vulnerable to judgments based on cultural or class bias" (p. 763). Also, the court expresses the concern that "[t]he State's ability to assemble its case almost inevitably dwarfs the parents' ability to mount a defense. No predetermined limits restrict the sums an agency may spend in prosecuting a given termination proceeding. The State's attorney usually will be expert on the issues contested and the procedures employed at the factfinding hearing, and enjoys full access to all public records concerning the family. The State may call on experts in family relations, psychology, and medicine to bolster its case. Furthermore, the primary witnesses at the hearing will be the agency's own professional caseworkers whom the State has empowered both to investigate the family situation and to testify against the parents. Indeed, because the child is already in agency custody, the State even has the power to shape the historical events that form the basis for termination (p. 763)"

As Santosky makes clear, and buttresses further by instigating a higher standard of proof, the parental presumption that was established in other cases, such as Stanley, Yoder, and Parham, provides a legal safeguard in an area where parents' liberty interests can be quite vulnerable to interference from the state. Although such legal mechanisms have been criticized in termination cases as inappropriately focusing on the parent instead of the needs and interests of the children (Coleman, 1993), they do not foreclose the possibility that the state can prove an individual is neglectful or abusive and is unable to parent a child. Instead, they only require that the state's case against the parent be strong enough to override the
liberty interest held by all Americans in maintaining the integrity of their family. As the 
Santosky case argues, such legal protections can be necessary as the state typically has more 
resources and greater influence and power than the families that populate the child welfare 
system.

As the child welfare system grapples with the implications of recent Congressional 
action, namely, the adoption/child welfare legislation (P.L. 105-89) that aims to free more 
children in the system for adoption through speeding up the termination process, it will be 
more important than ever that the parental constitutional interests established by the Supreme 
Court decisions are respected through proper due process in the system. However, it remains 
questionable how a system that has not been able to define the meaning of “reasonable 
efforts” by the state to keep parents and children together can ascertain whether an expedited 
termination process has adequately addressed the constitutional interests of the parties 
involved. Such concerns indicate that this new millennium in child welfare services, 
following a history filled with parent-child separations to apprenticeships, orphanages, 
orphan trains, and foster care indeterminacy, may offer further challenges to vulnerable 
children and their families. It is hoped that these challenges will stimulate social workers to 
become knowledgeable about child welfare’s past and the legal context in which the state’s 
interference into family life has developed, in order that they may effectively address the 
interests of children and parents in the system and advocate for policies and practices that are 
respectful of their rights to life, liberty, and happiness.

Recent Literature Related to Termination of Parental Rights

A review of the recent literature relevant to the substantive aspects of termination of 
parental rights actions can be drawn from two areas: research on the precipitating factors in
termination of parental rights cases, or the allegations of abuse and neglect that originally brought the parent to the attention of child welfare authorities; and literature on parental circumstances impacting parent-child relationships in termination actions that can have special import for case outcomes. As mentioned earlier, these two substantive areas in the termination of parental rights literature will serve a different purpose than the other areas discussed in this review of the literature. Specifically, they will be used to compare and contrast with the themes that emerge from the investigation and will serve as a basis for creating the sociological constructs that will connect the meanings found in the trial transcripts to broader ones in the maltreatment literature and termination literature (Berg, 1995).

**Abuse and Neglect: Precipitating Factors in Terminating Parental Rights**

A determination by a court that an individual is unable or unwilling to parent a child is preceded by many events, not the least of which includes an adjudication by the court that the individual abused or neglected his or her child. This finding that the parent was abusive or neglectful is made at a hearing where the child welfare social worker and the state present evidence stating that the parent's standard of care has fallen below that required by law. Following this fact finding hearing supporting the allegations of abuse and neglect the child is adjudicated dependent and the child welfare system is imbued with the responsibility of providing the necessary services to preserve the natural family or reunify the natural family if an out of home placement occurred. If the goals of preservation or reunification can not be met, then eventually a proceeding to terminate parental rights may be brought. This proceeding will be based in part on the abuse or neglect by the parent that necessitated state involvement in the first place. The typical grounds for termination of parental rights focus
on the irreparable nature of the parent-child relationship and include permanent neglect, severe or repeated abuse, abandonment mental illness of a parent, or mental disability of the parent (Carrieri, 1997). The centrality of the parent’s abuse and neglect of the child is found in the fact that the legal standard to obtain a judgment terminating parental rights is generally not much stricter than the statutes that outline the various forms of child maltreatment (Krause, 1986). Of course, the difference between the maltreatment and termination statutes is found in the irremediable deficiencies in parenting that were not ameliorated even after state intervention.

Child maltreatment occurs so frequently in the United States that it has been referred to as a “national emergency” (Children’s Defense Fund, 1992). An estimated 3,100,000 children were reported to Child Protective Services agencies as alleged victims of child maltreatment in 1995 with 996,000 of this number eventually confirmed and the numbers of reports showing an increase nationwide of 49% since 1986 (Daro, 1996). Not surprisingly, there has been a corresponding increase in the number of children entering foster care. From 1982 to 1992 there was a 62% increase in the number of children in out-of-home placements (U.S. Department of Health and Human Services, 1996).

In order to understand the phenomena of child maltreatment and why it leads to the legal disintegration of the family in termination proceedings, it will be important to review how parental actions or inactions can result in children becoming dependents of the state, or how child abuse and child neglect are operationally defined. Also, a review of the predisposing parent and child characteristics that are associated with maltreating parent behaviors is necessary. Finally, a review of the literature related to the interventions that are utilized to address parental maltreatment of children will further an understanding of how the
child welfare system is intervening with parents and children to further the goals of family preservation.

Every jurisdiction in America has laws that apply to the abuse and neglect of children. However, it should be mentioned that while there are certainly many similarities among the various definitions of child maltreatment found in each jurisdiction, states can vary considerably in their definitions of abuse and neglect. In addition, studies have found that there can be differences of opinion regarding what constitutes abuse and neglect among various professionals (Giovannoni & Becerra, 1979) and with research documenting differences in parenting styles in various ethnic and cultural groups (Azar, 1992; McGoldrick, Preto, Hines, & Lee, 1991), it is not surprising that there have also been reported differences in opinion regarding child maltreatment among various ethnic and cultural groups (Garbarino, 1991; Giovannoni & Becerra, 1979). In particular, defining neglect has proven to be especially troublesome. Gaudin (1995) states that there is a great need for knowledge building in areas of identification of “subtypes of neglect and differences in their causes, developmental effects, and implications for intervention” (p. 17). The urgency of such definitional clarification is found in an everyday decision making process that occurs in the child welfare system and which is determinative of whether a child will be removed from a parent’s care. Namely, on a daily basis social workers must decide whether the parent is neglecting the child, or whether the parent is simply doing all that is possible within an impoverished environment, and without specific guidance from the law, such a determination may be vulnerable to cultural and class biases (Golden, 1997).

Although children have certainly experienced maltreatment at the hands of caretakers throughout the ages, it was not until the mid-twentieth century that the phenomena of child abuse was “discovered” in a groundbreaking paper discussing battered children (Kempe,
Silverman, Steele, Droegemueller, & Silver, 1962). Since then researchers have identified four main categories in which child maltreatment can occur: physical abuse, sexual abuse, neglect, and psychological maltreatment (Berk, 1994). There has been outstanding research defining and exploring the ramifications of each of these forms of maltreatment. Some of the more notable research in these four areas is covered in the discussion below. This research is by no means intended to be an exhaustive review of all the commendable research conducted in the area of child maltreatment, instead it is hoped that this selective choice of literature will provide an understanding of the various types of child maltreatment that can culminate in an individual losing the right to parent a child.

In a nation that is highly supportive of corporal means of punishing a child (Flynn, 1996), such as spanking or slapping, it can be difficult at times to define when child physical abuse warrants intervention by state authorities. Physical abuse has been defined as “beating a child to the point at which the child sustains some physical damage” (Kadushin & Martin, 1988, p. 228). However, the difficulties in defining child maltreatment are illustrated by suggestions to limit the definition of physical abuse to the infliction of serious harm or death or risk of serious harm or death (Ryczak, 1990). Research in physical abuse has tended to focus on the development of frameworks to help conceptualize the phenomena of physical abuse and design effective intervention strategies with the parents (Azar, 1991). For example, most notably, Ammerman (1990a) has enunciated a behavioral approach, Belsky (1980; 1993) has applied the ecological model, Kolko (1996) has investigated a cognitive behavioral approach, and Urquiza and McNeil (1996) have applied the social learning perspective in understanding and addressing this problem.

Additionally, research has addressed the causative factors in physical abuse (Cicchetti & Carlson, 1989). There has been a general focus on describing the parents who physically
abuse their children. Findings indicate that the parents do not tend to suffer from a major mental illness, although they do tend to have higher levels of depression, anxiety, and physical problems, and exhibit dysfunctional parenting approaches (Milner & Chilamkurti, 1991). These dysfunctional parenting approaches have been found to be inconsistent with many physically abusing parents’ knowledge and demonstration of appropriate caretaking and parenting skills, which they are clearly not applying in times of agitation and stress (Kravitz & Driscoll, 1983). The parents tend to have been abused in their own childhood (Kaufman & Zigler, 1987). However, Milner & Chilamkurti (1991) report that contrary to common belief, parents who physically abuse their children do not seem to have indirectly acquired the belief that such harsh disciplinary methods are appropriate during their own abusive upbringing, rather, the parents are directly modeling aggressive parenting behaviors that they learned in their youth. Often there is other violence in the home as well, such as spouse abuse (Jean-Gilles & Crittenden, 1990). The parents tend to be young, uneducated, and to have many children that are close in age (Maden & Wrench, 1977). Also, the parents tend to be somewhat isolated, having difficulty maintaining friendships and relationships with extended family (Crittenden, 1985).

Finally, research has begun to explore the complex dynamics of parent-child interactions in abusive families and how they impact the effect of the parental abuse. In a study of abused children and their mothers, based on self-evaluation, it was not the abuse itself that constituted a significant source of stress for children, instead it was the children’s perceived sense of overall support from their mothers and peers that affected their sense of self-worth and level of depression (Kinard, 1995). Today, there is general agreement, even among the most ardent commentators on termination of parental rights cases who have voiced concerns regarding the inadequacy of current “reasonable efforts” to preserve
families, that in situations where there is serious and ongoing abuse, the child welfare system should "bypass the reasonable efforts requirement entirely" (Graf, 1996, p. 84). This sentiment is reflected in the recent child welfare/adoption legislation where it is stated that if a parent has committed a felony assault that results in serious bodily injury, or has subjected the child to such "aggravated circumstances" as torture or ongoing abuse, the requirement that the state make reasonable efforts to reunite the parent and child will not apply (P.L. 105-89).

Child sexual abuse has been broadly defined as contact between a child and a perpetrator in which the child is being used for sexual stimulation (National Center for Child Abuse and Neglect, 1993). Again, there is legislative support for the idea that in such cases "reasonable efforts" may not be justified, with the child welfare/adoption legislation including sexual abuse in the "aggravated circumstances" category, and with some even arguing that termination of parental rights is inadequate in cases involving such serious abuse, and that compulsory sterilization is warranted (Blum, 1994). Research has found that it is sexual abuse by a parent or step-parent which also involves physical violence that has the potentially most devastating impact on children (McLear, Deblinger, Atkins, Ralphe, & Foa, 1988). In general, research in the area of child sexual abuse has focused on describing families in which there has been a reported incident of sexual abuse. Madonna, Van Scoyk, & Jones (1991) found that families in which incest had occurred tended to be highly disorganized, exhibited higher levels of dysfunction, and lacked a sense of unity when compared to the families without an incident of incest. Additionally, research has demonstrated that families in which there has been sexual abuse have difficulty communicating, demonstrate an absence of emotional connectedness that is accompanied by a rigidity in family relationship dynamics, and tend to be socially isolated (Dadds, Smith,
Weber, & Robinson, 1991). Significantly, research has shown that the response, and level of support, of the non-offending parent has a great impact on the child's reaction to the sexual abuse (Friedrich, 1990). Although the literature on the treatment of child sexual offenders demonstrates that there have been success stories through the utilization of various approaches (Becker & Hunter, 1992; Marshall, Jones, Ward, Johnston, & Barbaree, 1991; Murphy & Stalgaitis, 1987; Pithers, 1990), a major problem in this area is offender denial. It has been stated that child sex "[o]ffenders who continue in denial are not appropriate for treatment and probably cannot benefit from current treatment modalities" (Murphy & Smith, 1996, p. 186).

Child neglect is the most frequently reported and substantiated form of child maltreatment, composing about 47% to 65% of the total child maltreatment reports (American Humane Association, 1988). Child neglect has been generally described in terms of two categories: physical neglect, which involves living conditions in which children do not receive enough food, clothing, medical attention, or supervision; and emotional neglect, in which caregivers fail to meet the children's needs for affection and emotional support (Berk, 1994). Although these definitions appear to be relatively straightforward, it has been argued that the phenomena of child neglect presents unique challenges for the child welfare professional (Dubowitz, Black, Starr, & Zuravin, 1993; Gaudin, 1995). Specifically, Gaudin (1995) claims that the "elusiveness of a clear definition of neglect" remains a "formidable obstacle" to child welfare professionals and researchers working with neglectful families (p. 1). In particular, the process of defining neglect in any given family situation can raise questions of cultural relativity. Azar and Benjet (1994) cite Jellinek, Murphy, Poitrast, Quinn, Bishop, and Goshko's (1992) finding that termination cases tend to involve issues of neglect rather than abuse and assert that as the "criteria for neglect are more elusive than the
presence of bruises or broken bones” [and involve] “the evaluation of more vague practices,”... “cultural relativism may need to play a role in order to”...[avoid] “...placing too great a weight on parental practices that merely represent value differences and are not related to child outcome…” (p. 263).

Although consideration of parental intent may be helpful for the courts in analyzing a family with an alleged case of child neglect, it has been asserted that the best standard for neglect should be a consideration of a child’s unmet needs, regardless of parental state of mind (Dubowitz et al., 1993). While laudable in its aims, and understandable considering the devastating effect of neglect on children, including child fatalities (Wiese & Daro, 1995), a possible issue raised by a unitary standard of a child’s unmet needs is that children from poor families may be more likely to be permanently removed from their homes than children from middle class homes. With abject poverty implicated as a major factor in neglect cases (Jones & McCurdy, 1992), this issue would arise during the worker’s identification of the factors that would need to be addressed in order to ameliorate the physical neglect and meet a child’s needs in a home environment. Currently, this nation has not devised a policy framework that insures that poor children’s unmet needs can be met while remaining in the home with their family, with one commentator claiming that child neglect may be traced to this society’s neglect of vulnerable children and families by not providing adequate housing, health care, child care, support services, and other necessities (Hamburg, 1992).

Consistent with the above viewpoints, research has documented a connection between unemployment and neglect (Horowitz & Wolock, 1981) and the non-availability of social support systems and neglect (Garbarino & Sherman, 1980; Cameron, 1990). It can be difficult to find support in the extended family, as they also tend to be extremely poor and endorse the parent’s physically neglectful interactions with the child (Gaudin, Wodarski,
Arkinson, Avery, 1991). In addition to economic considerations, research on parents who neglect has demonstrated that they tend to think in terms of absolutes, not grasping the nuances and relativity that more accurately describe how people interact and behave (Brunnquell, Crichton, & Egeland, 1981). This level of cognition is consistent with the finding that parents who neglect have the least education of all maltreating parents and are often tested to be in the mildly retarded range (Polansky, Borgman, DeSaix, 1972). Finally, it must be noted that while it can stand alone, neglect is often embedded in other parental circumstances, such as parental physical or sexual abuse, or parental substance abuse and depression, which can complicate assessment and intervention (Gaudin, 1995).

The International Conference on Psychological Abuse of Children and Youth (1983) defined psychological maltreatment as actions “committed by individuals... who...are in a position of differential power that renders a child vulnerable...[and that] damage immediately or ultimately the behavioral, cognitive, affective, or physical functioning of the child” (cited in Hart, Brassard, & Karlson, 1996, p. 73). Psychological maltreatment involves the parent engaging in various behaviors which have been identified and organized in terms of five distinct typologies. These five categories are evidenced as the maltreating parents: spurn the child, terrorize the child, isolate the child, exploit or corrupt the child, or generally withhold emotional responsiveness from the child (Hart & Brassard, 1991). Additionally, Hart et al. (1996) created a sixth category to cover the caregiver who withholds necessary mental health, medical, and educational treatment from the child. Because psychological maltreatment often exists in tandem with the other forms of child maltreatment, experts believe it to be the most prevalent type of child maltreatment (Grusec & Walters, 1991). However, psychological maltreatment is rarely specifically addressed by the child welfare system unless it is included in the report of some other type of maltreatment.
psychological maltreatment is unlikely to be reported individually and it is even less likely that the child welfare system would warrant it as necessitating intensive interventions (Melton & Davidson, 1987).

The prevalence of psychological maltreatment can be startling. A national survey of American parents found that an overwhelming number of parents believe that harsh, aggressive comments are a required aspect of disciplining children (Vissing, Straus, Gelles, Harrop, 1991). Briere and Runtz (1988) claim that the percentage of children impacted by psychological maltreatment may even be as high as 90%. In a community control sample, researchers found that 11% to 13% of the population of children had experienced psychological maltreatment that was at least of mildly severe (Crittenden, Claussen, Sugarman, 1994). It can be difficult to identify parents who are at special risk for psychologically maltreating their children. Perhaps because psychological maltreatment is often part of other forms of abuse, it has been asserted that the risk factors associated with other forms of maltreatment, such as cultural expectations, socioenvironmental stress and lack of opportunities and family dysfunction, generally hold true for psychological maltreatment (Fortin & Chamberland, 1995). While other commentators agree that much of the psychological maltreatment in the child welfare system is found in “perpetrators and victims at the lowest socioeconomic levels of our society,” this is also the population most likely to have reported cases of child maltreatment and they “speculate that perpetration of psychological maltreatment is related differently to socioeconomic status, and at higher socioeconomic status levels, where verbal and other psychological competencies are the mechanisms of choice to control and punish others, psychological maltreatment is as likely or more likely to occur than physical abuse” (Hart et al., 1996, p. 77). These expected high levels of psychological maltreatment can have devastating ramifications as researchers have
found that the presence and severity of psychological maltreatment has the power to impact the child’s functioning even more than physical abuse (Crittenden et al., 1994).

Although some predisposing parent and environmental characteristics were addressed in relation to each of the four typologies of child maltreatment discussed above, the rich literature base on characteristics that predispose a parent or child to family relationships evidencing maltreatment merits additional discussion. This research allows for insight regarding the parents and children who may eventually become involved in a termination of parental rights action and lays the foundation for an understanding of such parents’ unique perspective on the parent-child dyad. There has been much research focusing on the parental belief systems that increase the likelihood of child maltreatment. Azar and Siegal (1990) found that abusive parents tend to have negative cognitive-attributional styles, or to perceive their children in a negative manner. Also maltreating parents have been found to perceive their parenting styles as necessary to address the high levels of dysfunction in their children, even though home observation failed to point out significant differences in behavior with a group of comparison children (Whipple & Webster-Stratton, 1991). Simons, Whitbeck, Conger, and Chyi-In (1991) found that parents who endorse strict physical discipline and have high expectations of children are more likely to engage in harsh parenting. It has been found that parents who maltreat their children expect more negative behaviors from their children (Schellenbach, Monroe, & Merluzzi, 1991), with another study finding that maltreating parents not only perceive their children in an overall negative manner, but they are also more likely to interpret their children’s behavior as being intentionally disruptive (Helfner & Kempe, 1988).

Maltreating parents are more likely to have a substance abuse problem, with the relationship between various types of parental substance abuse and the abuse and neglect of
children well documented in the literature (Famularo, Stone, Barnum, & Wharton, 1986; Leonard & Jacob, 1988; McCurdy & Daro, 1994; Tracy, Green, & Bremseth, 1993). Additionally, a parent's substance abuse problem may affect the child indirectly, but still warrant intervention of welfare system, such as in cases of cocaine exposure from breast feeding (Chaney, Franke, & Wadlington, 1988; Chasnoff, Lewis, Squires, 1987), or pre-natal exposure (Hollander, 1993; Stovall, 1993). It must also be considered that parents with substance abuse problems may be caught in the vicious cycles of recovery and relapse which can hinder a parent in complying with the directives of child welfare agencies and increase the probability that a child will be removed from the parent and remain in state custody (Famularo et al., 1986).

While researchers do not claim that a child's personality and behavior provide an explanation for parental abuse and neglect, there have been findings that a child's hard to manage temperament and manner of behaving can prove to be a powerful stressor on parent-child interactions (Webster-Stratton, 1990). Additionally, children with maltreating parents have been found to have more physical problems (Smith & Hanson, 1974), psychiatric problems (Famularo, Kinscherff, & Fenton, 1990), and academic problems (Eckenrode & Doris, 1991). However, even though these child characteristics could add stress to the vulnerable family system, Youngblade and Belsky (1990) assert that it is more likely that such problems will be the result of child maltreatment than the cause.

Transactional, or ecological models of child maltreatment have taken into account the impact of reciprocal parent-child-environment transactions in studying the causes of child maltreatment (Belsky, 1980; 1993; MacKinnon, Lamb, Belsky, & Baum, 1990; Wolfe, 1987). In particular, and as discussed in part earlier, the impact of the environment as a contributing factor in parental maltreatment has attracted research attention in terms of: the
parent's childhood history of maltreatment in a violent or non-responsive family (Kaufman & Zigler, 1987; Milner, Robertson, & Rogers, 1990; Straus, Gelles, & Steinmetz, 1980); socioeconomic factors, such as low income, unemployment, single parenthood (Belsky & Vondra, 1989; Pianta, Egeland, & Erickson, 1989); social isolation (Starr, 1988); and abject poverty (Whipple & Webster-Stratton, 1991). In short, in order to understand the parent with a history of child maltreatment who is involved in a termination proceeding, it is important to consider the dysfunctional parent-child relationship in terms of two individuals operating within the context of a larger environment. As the above research demonstrates, this surrounding environment can make significant contributions to the meaning found in the parent-child transactions.

After the state intervenes into a family's life due to parental abuse and/or neglect of a child, the child welfare system is required to make reasonable efforts to preserve the child in the family home, or if this is not necessary, then reasonable efforts must be made to work to reunify the parent and child after a placement in foster care. These reasonable efforts on the part of the child welfare agency entail the provision of services to the parent and the child. The concepts of "reasonable efforts" and the provision of services have been central to the nation's approach in handling the phenomena of child maltreatment for several decades. They were central to the Adoption Assistance and Child Welfare Act of 1980 (AACWA) and have been incorporated into every jurisdiction's mandates regarding agency intervention upon the abuse or neglect of a child. Also, although the recent child welfare/adoption legislation (P.L. 105-89) modifies the AACWA's reasonable efforts requirement somewhat by enumerating certain conditions in which reasonable efforts does not apply, states are still supposed to make reasonable efforts to preserve and reunify families in all other situations. These reasonable efforts to preserve and reunify families are evidenced in the AACWA's
clear intent that agencies should provide a range of services to the family in the child welfare system, such as respite care, day care, 24 hour crisis intervention, emergency temporary shelters, group homes, and counseling [H.R. Rep. No. 136, 96th Congress, 1st session, 46-47 (1979)].

Parents who have children in the child welfare system, and who eventually face termination of parental rights actions, tend to present with certain problems that can serve as a barrier to maintaining the child in their care and custody. These parents often have a lack of economic means, a lack of parenting skills, substance abuse problems, and a live-in relationship with a partner who is abusive. By the time they reach the action to terminate their parental rights, the state usually adds to its case that the parent failed to take advantage of services, failed to regularly visit the child, and failed to keep in regular contact with the agency social workers (Carrieri, 1997). Carrieri (1997) detailed the services that social workers may employ to support the development of a functional relationship between such parents and their children, stating that these services may include: working with the parent to develop the plan for necessary services for the child and family; setting up a visitation schedule and necessary arrangements for the parent to have contact with the child placed in foster care; ensuring that services such as psychiatric assistance, counseling and parenting classes are available if needed; and also possibly working to assist the family in obtaining housing, employment, medical assistance, and public assistance.

Additionally, the centrality of the agency’s provision of services to the entire child welfare process, including the eventual move by the state to terminate parental rights, is highlighted in the three major elements to the state attorney’s case in termination proceedings. First, the attorney must determine what abusive or neglectful conditions continue to exist that act as a barrier to reunification, then the attorney must establish the
services that were provided by the child welfare agency to ameliorate these barriers to parent-child reunification, and finally, the attorney must show the parent's response, or lack of response, to the proffered services (Carrieri, 1997).

Considering the critical role that agency interventions and services play in the determination of whether an individual will be allowed to continue to parent a child, a review of the research regarding the efficacy of such services may be helpful in gaining an understanding of child abuse and neglect and termination proceedings within the context of the child welfare system. There is little research on the efficacy of interventions to address parental neglect of children. Perhaps because of the intractable nature of the impoverished home environments of many of the parents charged with neglecting their children, interventions with parents who neglect tend to only be successful in about half of the cases, with these success stories requiring extensive and long term interventions with the family (Gaudin, 1993).

In the area of physical abuse, research has tended to focus on the effectiveness of parent education services and home based services, such as counseling and skills training. Frequently, the parent education classes and services use behavior modification approaches and involve training the parent to utilize non-violent means of disciplining the child and to apply anger management and stress reduction procedures. Such short-term interventions have been found to have some success (Azar & Siegel, 1990). However, Azar & Siegel (1990) note that a growing number of parent education programs are incorporating a more cognitively based approach to behavior modification which includes an emphasis on changing how parents think and problem-solve when issues arise in their relationships with their children. Acton & During (1992) found that these approaches to aggression management training for parents can add a potent element to the services provided with a
documented reduction in violence toward the child, a decrease in the parent’s anger levels, and fewer charges that their children are misbehaving.

Interventions have also taken a more environmentally focused approach with intensive home based services aimed at addressing the confluence of problems facing many families in the child welfare system, such as economic difficulties, lack of child care, substance abuse, lack of social support, and dysfunctional family relations. In intensive home based services, the social worker may provide counseling services and information and referrals; act as a mediator between the parent and outside entities; and just generally serve a supporting role in assisting the family as needed (Amundson, 1989). The Homebuilders program, which provides intensive in-home family preservation services, is quite well known and was designed to offer such counseling and casework services. Because social workers carry small caseloads they are able to focus considerable energy on a single family. Although there have been many success stories from the Homebuilders approach, further study is needed to investigate its approach to helping families and its efficacy (Blythe, Jiordano, & Kelly, 1991).

With research findings that indicate the services provided by agencies can be helpful in addressing problems faced by some parents in the child welfare system, the question becomes: Why aren’t more parents able to benefit from child welfare services in order to retain the right to parent their children and prevent the initiation of termination proceedings? The answer to this question is actually quite complex. Golden (1997) argues that child welfare services are “fragmented” and there is a “lack of continuity of care” (p. 4). Indeed, it has been found that few services are actually provided to many of the families where there has been an adjudication of abuse and neglect (Meddin & Hansen, 1985) with agencies “afford[ing] few of the social services needed to keep families together or to reunite them
(Pear, 1996, p. 1). Arguably, the multiple needs of so many of the poor, dysfunctional, abusive, and neglectful families in the child welfare system require more intensive services and assistance than such an overburdened system can handle. However, even if such services were to be made generally available, it would be important to address issues in service delivery. It has been asserted that it is often counterproductive to barrage the system's most vulnerable families with a multitude of services in a short period of time as the child welfare system is wont to do. The problem is that families who are facing so many stressors, both inside and outside the family system, exist in a chaotic atmosphere and are easily destabilized. Thus, what is desperately needed is long-term, stable interventions with professionals who guide the family through a carefully arranged consecutive flow of services (Crittenden, 1991). Additionally, it has been suggested that these interventions incorporate the neighborhood and community as a locus of knowledge and an ongoing resource in the process of identifying how to best meet the needs of their families and children (Golden, 1997).

Of course, long-term, intensive services with families in the system would be expensive, labor intensive, time-consuming, and favor family preservation over an expedited process of terminating parental rights to free the child for adoption. In today's political atmosphere, particularly in light of recent child welfare/adoption legislation (P.L. 105-89), such a focus in child welfare services seems unlikely. However, it has been argued that more and better services may not be the answer and that Americans are placing unrealistic expectations on child welfare services to solve the pressing social issues that implicate the living conditions of our nation's most vulnerable families (Halpern, 1990). Halpern (1990) states that "[e]ven the best services can hardly affect the contextual reality from which a child constructs a sense of what the world is like and what he or she will become...[as they]"
cannot alter the social conditions that produce or exacerbate, and ultimately reproduce, individual and family problems...[and they] cannot bridge the huge social and racial divisions that persist in American society...(p. 647).

Current Issues Regarding Parental Circumstances in Termination Actions

In the last decade, the literature on termination of parental rights actions has focused on the circumstances of the parents who are involved in such proceedings to legally sever the parent-child relationship. Perhaps as a result of the irrevocable nature of the decision to terminate parental rights, there has been an increasing interest—primarily in the legal press—in aspects of the parents’ life situations that can hinder efforts to maintain legal custody of their children. In particular, the literature on termination of parental rights actions addresses the complex social and legal ramifications of parental circumstances that often impact the decision to terminate, such as: incarceration, domestic violence, level of attachment with the child, mental disability, and substance abuse. As this growing area of the literature illustrates, the action to terminate parental rights is a legal phenomena that can have implications for areas of practice that have long been of interest to social workers.

Parents who have been sentenced to serve prison terms face special challenges in proceedings to terminate their parental rights. In general, states have been guided by two considerations related to the parent’s incarceration in making the determination of whether to sever parental rights. First, states often allow for termination based on the parent’s conviction of a felony, however, these states claim that the termination not based on the incarceration itself, but on the nature of the crime that makes them an unfit parent. Second, states can allow for termination where the parent was convicted of a felony and the length of sentence will result in the extended loss of a stable home life for the child. In these states it
is not necessary for the state to demonstrate that any efforts were made to rehabilitate the
parent. However, in a few other jurisdictions, the state must still establish by Santosky's
"clear and convincing" standard of evidence that the parent can not be rehabilitated and upon
release from prison will be unable to provide a suitable level of care and protection for the
child (Carrieri, 1997).

As growing numbers of women, often the primary caretakers for children, are
incarcerated each year, there has been an increasing interest in the effect of policies
regarding parental incarceration on parental rights and the best interests of children. Genty
(1992) argues that when mothers are incarcerated, "intact, viable" family structures are
"disrupt[ed]" as "[t]he overwhelming majority of incarcerated mothers were active parents to
their children prior to their incarceration and intend to continue in that role after their
release" (p. 759). Genty (1992) cites 1986 statistics of imprisoned mothers that demonstrate
that 78% of the mothers of minor children had legal custody of their children before entering
prison and lived with them full-time, and "more than 85% of the incarcerated mothers
intended to resume custody after their release from prison, [while only] approximately one-
half of the fathers of minor children had lived with their children prior to their imprisonment,
and an almost equal number planned to live with their children after their release" (p. 759
citing U.S. Dept. of Justice, 1980-1989 data). In addition, because of the focus on length of
imprisonment in termination actions, it is important to know the amount of time many
mothers are actually spending in prison. Genty (1992) states that in 1986 women served an
average of 16 months in state prisons (citing U.S. Dept. of Justice, 1986). However, as this
length of time is often longer than the statutorily specified maximum allowed time for
children in out-of-home care, courts are able to engage in what Genty (1992) refers to as the

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"draconian" practice of terminating parental rights “without regard to individual
circumstances” (p. 817).

Muhar (1991) commented that there is a growing trend in termination actions for
courts to have an “undertone of hostility toward the incarcerated parents” (p. 77). Indeed,
Genty (1989; 1992) claims that courts are not adequately protecting the due process rights of
incarcerated parents. For example, there are no mechanisms in the system to ensure that
parents are transported to the termination trials and thus they may never get the opportunity
to be heard. In addition, many courts are not taking into account such critical considerations
as the “extent to which the parent is able to discharge her intangible, nonfinancial parental
responsibilities”, such as nurturing the child by giving emotional support and providing a
sense of family identity, even during the crisis of parental imprisonment (Genty, 1992, p.
765). Also, even while recognizing that there are certainly parental crimes for which the
state is warranted in terminating rights, such as a conviction for a crime against a child, or
another family member, or a crime of such a reprehensible nature that the parent-child
relationship is irreparable, Genty (1992) finds it deplorable, and constitutionally suspect, that
so many states “permit parental rights to be terminated solely on the basis of past criminal
conduct without regard to the ways in which the parent may have changed while in prison
…and fail] to recognize…the duty of the state to assist the parent in her rehabilitation
through efforts to maintain and strengthen the parent-child relationship, [and] the possibility
of parental rehabilitation” (p. 803).

Even in states that do allow for considerations of parental rehabilitation, the system is
structured in such a manner that it can be difficult for a parent to establish the conditions that
are so important in termination actions. For example, parents often bear the burden of
coordinating and planning visitations even though they lack the resources of the agency and
the “logistics” of “planning visitations are largely beyond the control of the incarcerated mother,” such as, paperwork for security clearances, a rescheduled criminal hearing on the day that a visitation was scheduled, or security emergencies that necessitate a lock-down which can result in parents confined to their cells during a scheduled visitation (Genty, 1989, p. 21). These realities can have a harsh effect on parents in prison, as their rights are often terminated based on the grounds of abandonment and permanent neglect which are focused on the “amount of contact a mother has had with her child [and] incarceration severely circumscribes the mother’s ability to stay meaningfully involved with her child, and consequently, her ability to maintain her parental rights” (p. 8).

Increasingly, the family environment has become the setting for acts of violence. Today, a woman is more likely to be physically assaulted, raped, or murdered by a current or former male partner than by any other type of assailant (Browne, 1993). The former surgeon general has indicated that domestic violence is the leading cause of injuries to women aged 15-44 (Novello, Rosenberg, Saltzman, & Shosky, 1992). Recent research by the American Medical Association indicates that approximately 4 million women are the victims of domestic violence annually (Glazer, 1993). In addition, spousal abuse often correlates with acts of child abuse (Ross, 1996). In actions to terminate parental rights, the issue often becomes whether the non-abusing parent, typically the mother, was neglectful for failing to intervene and protect the children from the abuse of her partner. The courts also consider the likelihood that the mother would fail to intervene in similar situations in the future (Phillips, 1992). In termination cases involving spousal abuse as well as child abuse by the mother’s partner, the mothers often defend themselves by claiming that they were afraid to intervene because they feared that the repercussions of such intervention would only be increased violence that would further endanger their safety and the safety of their children. Ramsey
(1991) claims that this argument is uniformly rejected as courts tend to assert that the “best interests of the children” is the primary consideration and “parents have no acceptable excuse for knowingly allowing their children to suffer” (p. 1073).

Phillips (1992) asserts that the current support for terminating the parental rights of the non-abusing spouse raises many troubling issues because such action is often predicated upon unfounded assumptions and poor public policy. In particular, the courts place great weight on the propensity of abused women to become involved in a succession of abusive relationships, so even when the mother ends her relationship with the partner whose abusive behavior initiated the state involvement, the court will still consider her an unfit parent. However, Phillips (1992) refers to this as the “myth of predictability” and cites research that found that only about 10% of women will follow the experience of an abusive relationship with another one (citing Crites & Coker, 1988). Also, by favoring termination in cases with spousal abuse and child abuse, the public policy goals of furthering the best interests of children by protecting them from abuse are effectively stymied. What motivation does any mother have to reveal the domestic violence in her family, and seek help for herself and her children, if upon finding out about the abuse the system blames her for injury to the children and permanently removes the children from her custody (Phillips, 1992)? Phillips (1992) argues that the focus is all wrong in the current system, and that

"[i]n the future the emphasis should be on treating the family that survives the abuse [and] [t]he practice of blaming the adult victim for her own as well as her children’s plight must end. Women and children alike must realize that they can overcome the stigma of domestic abuse and regain control of their lives. But until the court system educates itself about family violence, the factors that keep women in the relationship will also keep them from reporting and ending the abuse."

(pp.1577-1578)
In termination of parental rights trials, an alleged lack of attachment with the child can be one of the most devastating parental circumstances in a parent's effort to maintain legal custody of a child. Unlike other parental circumstances, such as incarceration, domestic violence, and mental disability, an assertion by the state that there is a lack of attachment between the parent and child can be uniformly found in almost all actions to terminate parental rights, and it can also be one of the most difficult for the parent to overcome. Specifically, the child welfare system has incorporated the concept of attachment into termination actions in two respects: through the use of the concept of "psychological parent," which refers to a parent-child bond that may not necessarily be with the biological parent (in termination actions this psychological bond is commonly alleged to exist between the child and the foster parent); and through the extrapolation of level of attachment from parental compliance with the social service contract. In both instances, once the state has alleged a lack of attachment between the biological parent and the child, parents face a considerable challenge in overcoming the presumption that there is an absence of bonding with their children and establishing that severance of the parent-child relationship would be destructive to the children's well-being.

Attachment theory has been integral to the child welfare system's approach to families and children for over twenty-five years. In the late 1960's and 1970's, Bowlby's (1969/1982; 1973; 1980) attachment theory, with its focus on the parent-child relationship and the ill effects of numerous separations and breaks in the bonding process, would prove critical in the movement for reform of the child welfare system. Since that time, attachment theory has been integrated in some form or another into most of the therapeutic approaches designed to address issues with children (Ainsworth, 1989). In particular, research applying attachment theory has produced insights into abused and neglected children (Alexander,
1992; Crittenden & Ainsworth, 1989; Egeland, Sroufe, & Erickson, 1983; Schneider-Rosen & Cicchetti, 1984) and abused and neglected children within the child welfare system (Delaney, 1991; Grigsby, 1994; Hegar, 1993). In the courtroom, expert testimony in termination cases may contain references to attachment theory as it relates to psychological ties, or parent-child bonding (Goldson, 1987) or to testimony by social workers that the parent demonstrated a low level of attachment by failing to maintain the visitation schedule, or did not appropriately engage the child during supervised visitations. Such applications of attachment theory can be challenged within the context of termination proceedings.

Addressing the conflicts that can arise when a court weighs the child’s level of attachment with a biological parent versus a psychological parent, Milchman (1996) argues that current research may not support the manner in which attachment theory is being incorporated into proceedings to terminate parental rights. Often courts are relying on the concept of the child “rebonding” after being removed from a parent that he or she has bonded with. Milchman claims that “rebonding” is not a scientific term and that it incorrectly implies that children can simply substitute a new parent bond for one that has been lost. Also, she asserts that the use of attachment theory can be confusing in this context as the bonding process is not necessarily synonymous with caregiving activities, as demonstrated by the many children who spend long hours with a babysitter and do not develop a primary attachment bond with them. Indeed, just because a child spends a lot of time with a caregiver, this does not necessarily mean that the child has developed an attachment with them that would be indicative of a “psychological parent bond” as bonding is much more complicated than this. Actually, a child’s deep, psychological bond with a parent, or their attachment to the psychological parent, is only found when “children learn to derive their deepest emotional security from another person, not when they learn whom to ask for a glass
of milk, a ride on the swing or a bandaid” (Milchman, 1996, p. 30). In order for attachment theory to be appropriately applied, judges and social workers must begin to challenge their current notions of “bonding,” asking whether “the child [had] a secure bond with the biological parent prior to removal”…and…“not assum[ing] the answer is ‘no’ just because there were caregiving difficulties”, and asking whether… “the child [has] a secure bond with the prospective adoptive parent…and…not assum[ing] the answer is ‘yes’ just because the child has spent a long time in that person’s care” (Milchman, 1996, p. 31).

While attachment theory is commonly applied in termination cases in order to establish the identity of the child’s “psychological parent”, in addition, attachment theory is often used to imply that the separations evidenced in the parent-child relationship not only led the child to be poorly attached to the biological parent, and perhaps suffering from developmental detriments, but also impacted the parent as well. Specifically, the issue will be raised whether the parents have sufficient psychological and emotional ties to the child such that they are invested in the development of realistic plans to care for the child (Clark, 1988). In order to buttress the state’s claim that the parent lacks the requisite parent-child bond that is intrinsic to the assumption of caretaking responsibilities, evidence will be offered that the parent infrequently visited the child while he or she was in foster care, and when a scheduled visitation did take place, the parent failed to exhibit the behaviors expected by parents invested in, or “bonded” to, their children. However, studies have documented that there are many practical barriers to scheduling and maintaining visitation within the child welfare system, such as transportation difficulties, and discord between the foster parent and biological parent, and it is unclear how valid the psychological assumptions of inadequate parent-child bonding may be in these situations (Hess, 1988; Jenkins & Norman, 1975). Additionally, Azar, Benjet, Fuhrmann, and Cavallero (1995) question the conclusions
that social workers reach from their observations of supervised parent-child visitations. With the parent only spending a few hours with the child a month, and this often spent in a welfare office, they argue that it is “questionable whether parents can demonstrate skills easily under such conditions...[and] in some cases, a parent may feel immobilized by being observed, leading to stilted and artificial interaction” (Azar et al., 1995, p. 606). As the parent may be uncomfortable in showing the type of emotion and contact that the social worker is looking for in order to document “parent-child bonding”, it is unclear whether social workers are validly capturing a lack of attachment between the parent and child as much as behaviors that are to be expected in such situations.

Finally, attachment theory can inform the court’s response to the parent in another manner. Namely, during trials to terminate parental rights the parents may express their lament at a failed attempt to parent, or their feelings of grief and loss upon the severance of all legal ties to their children. In this manner, attachment theory can prove useful in understanding a parent’s perspective regarding separation from the child. Boss, Pearce-McCall, and Greenberg (1987) applied a theory of ambiguous loss to study a sample of parents facing the normative experience of an adolescent moving away from home. There has also been research studying how parents deal with the loss of a child due to death (Klass & Marwit, 1988; Kalish, 1989). Although there have been no studies directly addressing how parents communicate expressions of loss upon having their parental rights terminated, Jenkins and Norman (1972) conducted seminal research on parents’ separation experiences when a child is placed in out-of-home care and coined the term “filial deprivation” to capture the parents’ reactive expression of depression, anxiety, and loss. Communication of this experience of filial deprivation can be argued to have an influence in the courts. When parents convey a heartfelt plea of their continuing interest and attachment to a child, courts
may find it difficult to terminate parental rights (Krause, 1986). However, even when the court decides to terminate, when faced with a parent’s expression of deep loss upon the severance of parent-child ties, it may be moved to explore increasingly popular options, such as open adoption, that allow the parent some ongoing contact with the child after termination.

In termination of parental rights proceedings, mental disability on the part of the parent can play an instrumental role in the decision to terminate. Mental disability in termination proceedings may involve a parent who has been diagnosed as having a “mental illness” or a parent who is developmentally disabled, referred to as “mentally retarded” under state laws. Although a jurisdiction may include developmental disability and mental illness in the grounds to terminate parental rights, generally, the state is supposed to demonstrate that the parent’s mental disability is such that the parent would be unable to provide a suitable standard of care and protection for the minor child (Carrieri, 1997). However, it has been asserted that the parent-child relationship may be at special risk in termination proceedings when parental mental disabilities have been documented. Morrone (1994) claims that today “courts are exercising less caution when terminating parental rights of the mentally impaired” with case law containing evidence that “courts will terminate parental rights even though these parents were not at fault and had done everything possible to try to regain full custody of their children” (p. 407).

Bernstein (1991) claims that it is wrong that simple documentation of “mental illness” can serve as the sole ground for terminating parental rights and that the legislation defining who is “mentally ill” is too broadly written. He also criticizes a system that will often sever “parental rights because of an existing mental diagnosis, with no showing of neglect, cruelty, abandonment, or other traditional measures of unfitness to parent” as one that
inappropriately gives “yet another power [to] the mental health profession”… and which “has not been questioned to the extent that it should be…” (p. 1157). Also, as judges in termination proceedings attempt to discern how the mental illness will specifically affect the parent in the future and their ability to parent the child, Bernstein (1991) claims that they rely on social workers to make such evaluations and predictions which they may not have been expressly trained to do and which may not be based on any certifiable criteria.

In discussing parents with developmental disabilities in termination actions, Watkins (1995) asserts that the process of deinstitutionalizing the developmentally disabled and integrating them into the community resulted in larger numbers of them becoming parents. Consequently, there has been an increase in the numbers of developmentally disabled parents who are losing the right to parent their children, with many jurisdictions terminating parental rights solely on the basis that the parent is developmentally disabled with no showing of unfitness (Watkins, 1995). Even though current statutes state that there must be a relationship demonstrated between the disability and dysfunctional parenting behavior, the traditional presumptions of unfitness continue to affect outcomes in termination cases, with Watkins (1995) arguing that this violates the Equal Protection Clause of the 14th Amendment and Title II of the Americans with Disabilities Act.

Advocating that courts follow the same legal standard in termination actions with developmentally disabled parents as they do with other parents does not mean that “children should be kept with parents who are physically abusive or unable or unwilling to provide adequate care”… as “[c]ourts that remove children from the homes of parents labeled mentally retarded undoubtedly make the correct decision in many cases” (Watkins, 1995, p. 1420). Instead, such a standard would require that courts insure that they are dealing with each parent as an individual and ascertaining in each case with a mentally disabled parent
whether they are able to meet the needs of the child. This process is particularly critical in the most obvious form of discrimination that occurs, and the most frequent, where a developmentally disabled mother has her child removed from her at birth. In these cases, the state begins to plan for the child removal while the mother is pregnant, with one state specifically referring to the mother's wrongdoing in such cases as “prospective neglect” (Watkins, 1995, p. 1438). It has been argued that termination processes such as these simply support what the developmentally disabled have always heard— “that they are incompetent and unworthy of basic human experiences...[and they effectively rob] “loving parents of any relationship with their children” (Watkins, 1995, p. 1475).

The connection between substance abuse and involvement with the child welfare system has been documented by researchers (Famularo et al., 1986; Tracy, Green, & Bremseth, 1993). However, child welfare policy and child welfare practice have been slow to address the special needs of substance abusing parents in the system. In order to address this deficiency, the recent child welfare/adoption legislation (P.L. 105-89) requires that HHS prepare a report that describes the extent of the substance abuse problem and the services being provided so that there can be a more effective coordination of services related to substance abuse and child protection. In a survey of states, it was found that excessive use of alcohol or a controlled substance was typically included in the grounds to terminate parental rights. In each of these states, the issue of parental substance abuse impacts the child welfare case in two manners, when the parent’s addiction to substances renders them unable to provide the necessary care and protection for their children, thus necessitating an out of home placement, and in the termination action when it is alleged that the parent failed to take advantage of offered services for rehabilitation and is documented to still be abusing drugs or alcohol (Carrieri, 1997).
Although the laws in various jurisdictions contain similar provisions related to the parent with substance abuse problems, the controversy regarding substance abuse and termination of parental rights has centered on an area where it has proven difficult to legislate how the system should properly intervene. Namely, the child welfare system has struggled to create a constitutionally sound solution to the problem of pre-natal drug use.

The most frequently discussed case in the area of termination of parental rights and substance abuse was decided by the Connecticut Supreme Court in 1992, \textit{In re Valerie D.} In \textit{Valerie}, the first decision by a state supreme court regarding the question of whether an individual's parental rights can be legally severed solely based on evidence of prenatal drug use, the court held that the termination statute applied to children after they were born, not to those still in the womb. This case stimulated discussion on the proper role of the state in the lives of pregnant women who abuse drugs and alcohol with an emphasis on the constitutional dimensions of state intervention and on social policy suggestions regarding how the system can address the needs of substance abusing mothers in order to better serve the best interests of their children.

Criticizing the nations' "misguided attempts to solve the seemingly intractable and frustrating problem of substance abuse," Stovall (1993, p. 1266) cites case examples where state courts have terminated parental rights based on prenatal drug use, and claims that even though these were reversed on appeal, there is nothing to prevent state legislatures from creating legislation to this effect. Currently, many states are taking two approaches to solve the problem of women abusing substances while pregnant, criminal sanctions and civil sanctions. However, neither of these two approaches have been successful, with Stovall (1993) stating that the failure of such approaches can be attributed to the fact that they are
legally suspect and they also “driv[e] drug-addicted women away from medical care [thus] put[ting] at even greater risk the very infants such measures seek to protect” (p. 1266).

Hollander (1993) expresses concerns that using automatic termination to handle the problem of pregnant women who abuse substances is constitutionally suspect. Additionally, Hollander states that automatic termination does not even serve the best interests of the children as parent-child separations can be detrimental to children and the state should first give parents the opportunity and support necessary to quit using the drugs or alcohol. McNulty (1988) outlined the constitutional issues at stake in stating that “criminal sanctions for prenatal conduct offend constitutional due process prohibitions against vagueness and arbitrariness, threaten guarantees of liberty, including the fundamental right to privacy, and violate women’s right to equal protection of the laws” (cited in Stovall, 1993, pp. 1272-1273). There are currently only a few states that actually have a policy of automatically terminating rights in cases of prenatal substance abuse, thus overwhelmingly, in most cases, there will be a neglect adjudication first (Kimmel, 1993). However, even in these cases there needs to be a greater focus on actual harm to the child, as the tendency to focus on parental conduct opens the door to judicial biases and the effect—termination of parental rights—is almost always the same (Kimmel, 1993).

Overall, commentators on the subject of substance abuse and termination of parental rights urge that states discontinue the punitive approach and move toward one that is more supportive and rehabilitative. Treaster (1991) documented the success of an innovative program in the city of New York that discontinued the practice of automatically placing a child in foster care when born exposed to drugs and that allowed roughly 75% of the birth mothers to maintain custody as long as they abided by certain conditions, such as: attending drug counseling, parenting classes, and agreeing to unscheduled visits from social workers.
Almost 80% of the mothers in the program for at least 16 months were drug-free, with the mothers uniformly stating that being able to keep their babies motivated them to stop using drugs (cited in Stovall, 1993).

It has been argued that automatically terminating parental rights in cases of prenatal drug use, or even instituting criminal sanctions, are simply quick, legal solutions to the larger societal problem of inadequate health care and lack of available substance abuse services. This focus only takes attention away from the societal conditions that have caused the increase in high risk births and blames individual women. If the nation’s goal is truly to protect the best interests of children, then a better use of resources would be to adequately fund education, treatment, and prenatal care. Additionally, “[w]hile the use of child-protection statutes to address the problem of prenatal drug use has the virtue of at least focusing on protecting the child, rather than on punishing the mother, a decision as drastic as the one to terminate all parental rights cannot be based on that single factor [and even though] discovery of prenatal drug use might be used to trigger an investigation [it] cannot be the full extent of it” (Stovall, p. 1298). Similarly, Hollander (1993) states that the “war on drugs has created a climate of public condemnation directed toward substance abusers” and it is important to challenge the “assumption that prenatal drug-abusers are characteristically predisposed toward future neglect and that a drug-exposed newborn’s best interest is in expeditious, permanent severance from her natural parents” (p. 1019).

As the literature in termination of parental rights demonstrates, parental circumstances such as incarceration, domestic violence, level of attachment with the child, mental disability, and substance abuse, can have a decided impact on outcomes in child welfare cases. The quantity and quality of this impact is determined by the decision-makers in the child welfare system. These decision makers can have a powerful effect on the lives of
children and families in the system. In particular, the literature has focused on two of the
decision makers in the child welfare system: social workers and judges. Because social
workers and judges are human beings and they bring to their daily decisions a wealth of
information gained from professional training and education, personal experience, and
societal and cultural influences, it is important to consider these decision makers who have
such an impact on termination of parental rights cases within a larger context. This context
will necessarily include the various biases that can affect how they react to certain case
situations, for example, parental conditions such as a substance abuse problem or the cultural
or socioeconomic background of the children and families in their caseload, and can add
another dimension to the understanding of parent narratives in termination trials.

The Decision Makers in Termination of Parental Rights Cases

Various decisions made by judges and social workers in the child welfare system—such as whether to intervene, whether to provide services to the parent and children in the home, whether to remove the children, whether the parent will be determined to have been rehabilitated, whether a recommendation to terminate parental rights will be made, etc.—are reflected in the parent narratives in termination trials as part of the parents’ interactions with the system. These decisions, as well as the parent narratives in which they are found, can be argued to have been created in a synthesis of the self with society, or to phrase it in another manner, to have been socially constructed. From the social constructionist perspective meaning is composed of building blocks of social communication and interaction. Because meaning is developed and modified, or reconstructed, within a framework of language and dialogue (Pocock, 1995), social constructionism can be understood as claiming that “an evolving set of meanings” continuously arises from transactions between individuals
Thus, it is understood that the decision making efforts of those in the system and the construction of meaning in the parent narratives are processes in which “meaning arises [from a] particular context... rather than being given and then applied in [that] context...” as it is “constructed socially” (Drewery & Winslade, 1997, p. 34).

In a termination of parental rights trial, this evolving set of meanings can only be understood through consideration of the environment that surrounds and impacts the participants, such as, the parents, the judges and the social workers. On a macro level, the process of meaning making is affected by dominant societal and cultural values and beliefs. Although it is not always so evident, a clear example of how these societal and cultural beliefs enter a trial to terminate parental rights is found in the state laws that explicitly codify the normative parent-child relationship and in the accompanying child maltreatment statutes that detail deviations from this standard. In the court’s decision making process, these statutes serve as the objectified reality of community values and norms (Dunne, 1989). However, this macro level of the environment, consisting of social and cultural context, is also inextricably interwoven into the micro level of the legal environment, where individual perspectives enter into the meaning making process in termination of parental rights cases.

The individual life experiences, biases, beliefs, and values of the judges, lawyers, social workers, and other decision makers in the child welfare system are to varying degrees reflective of the larger society and culture in which they developed. The extent to which such individualized perspectives enter the legal decision making process is often debated, especially in reference to the judiciary, where it is commonly extolled that “[j]udicial interpretation of law is expected to be impartial” as “[j]udges are expected to be governed by legal principles, not by personal preferences or political pragmatism” (Vago, 1988, p. 62). However, Vago (1988) also acknowledges that “the forces that influence lawmaking cannot
always be precisely determined, measured, or evaluated" because "...a multitude of forces are in operation simultaneously" (p. 121). From the social constructionist perspective, it is important that whatever the expectations of judicial and social worker impartiality may be, all of the factors that could possibly affect how meaning is constructed are considered when gaining an understanding of the phenomena of termination of parental rights. This is because social constructionism recognizes that "[a]lthough there can be considerable consensus among people about a given aspect of a shared reality, we are constantly engaged in an individual process of selectively noticing things, of inference and interpretation, of evaluation and prediction, and of how we emotionally, psychologically, and physically experience phenomena...[which makes it important] to understand the interpretative construction that a person is operating from" (Brower & Nurius, 1993, p. 4).

In termination of parental rights trials, the meaning that is constructed in the parent narratives is reflective of the input from various decision makers in the child welfare system, in particular, judges and social workers. Judges and social workers make significant decisions throughout the course of a family's involvement in the system and as these decisions impact the movement of the family through the system, they impact the stories that are found in the parent narratives in termination of parental rights trials. As the judges and social workers engage in decision making activities throughout a child welfare case, they are statutorily given a certain latitude in order to apply their professional education, training, and experience to the task of making fact-specific determinations in individual cases. This latitude is evidenced in the judicial determinations of whether reasonable efforts were made to prevent removal of the child from the parent and whether reasonable efforts were made to reunify the parent and child and in the social worker's decisions regarding whether a parent acted cooperatively with service providers or demonstrated adequate parenting abilities.
However, it is this very quality of flexibility in the decision making process that makes the 
child welfare system’s decision makers vulnerable to claims of bias.

Possible Bias in the Judicial Decision Making Process

In a chapter titled, “The jurisprudence game: The legal construction of objectivity,” 
(Kerruish, 1991) argues that “[l]aw is part of our social reality” [and yet] “[t]here is no 
notion of standpoint in Jurisprudence...[i]t is a discourse which is blind to its own standpoint 
relativity” (Kerruish, 1991, p. 108). However, where the law may frequently be championed 
as being objective and it’s application to specific human experiences devoid of subjective 
perspectives and biases, the human element in legal decision making has become 
increasingly difficult to ignore. In particular, the social sciences can be credited with helping 
to further the idea that “justice” is just another “cultural norm based on largely man-made 
legal or social practices and historical circumstances” (Masters, 1992, p. 4). This viewpoint 
can be quite helpful in analyzing the influences on judge’s decision making processes as they 
In this manner, societal norms regarding women and parenthood; cultural and class 
assumptions; and systemic factors in the child welfare system can be considered in terms of 
how they may lead to biased decision-making by the judiciary in termination of parental 
rights cases.

Although there are no national statistics available on termination of parental rights 
(McGovern, 1994) that could verify whether women are involved in more involuntary 
termination of parental rights proceedings than their male counterparts, because these 
termination actions are taking place within the context of a larger society that has historically 
allocated the primary responsibility of child rearing to mothers, it is typically found that
women comprise the bulk of the termination population in any given jurisdiction. This situation has raised questions regarding the concept of the role of motherhood in society and how such ideas may impact decision making in termination of parental rights cases. Specifically, the issue becomes whether the construct of motherhood prevalent in society filters into the courtroom and biases outcomes. For many feminist scholars and activists such a process would be considered inevitable.

For many years now, scholars have explored and documented the development of the construct of motherhood in a patriarchal, American society that is characterized by male dominance over women (Chodorow, 1978; Chodorow & Contratto, 1982; Oakley, 1976; Rich, 1976). It has been asserted that this patriarchal concept of motherhood benefits men because it places the primary responsibility for the family upon the woman and perpetuates the overall subjugation of women in society. This concept of motherhood is distinguished by a belief system that is supportive of notions such as: women’s responsibility, and blameworthiness, for children and family dysfunction; women’s self-sacrifice on behalf of children and family; and women’s overall wholesomeness, goodness, and giving spirit as they assume the duties of motherhood (Spiegel, 1982).

Neal (1995) argues that such ideological constructions of motherhood create a mythology of mothering that can have a decided effect on judicial decision making in termination of parental rights cases, especially when judges’ unchallenged assumptions regarding motherhood cause them to view “women whose lives and interactions with their children challenge patriarchy” as inadequate, or even destructive, parents (p. 70). For example, in a termination case pivotal testimony by counselors indicated that the child treated his mother like a friend, not like a mother, and that the mother-child relationship was friendly, but did not seem like a genuine mother-child relationship (In re Luis C.). Neal
states that the *Luis C.* case reflects the idea that "mother" and "friend" are separate and distinct relationships which is consistent with a patriarchal concept of motherhood in which the mother is imbued with the responsibility of instilling the child with the importance of hierarchy in human relationships. By establishing a non-hierarchical relationship with her children, or at least one in which hierarchy is not so significant, women challenge an important aspect of the construct of motherhood in a patriarchal society which can then bias a judge’s decision in favor of terminating parental rights (Neal, 1995). Also, Neal (1995) cites a case where the judge decided to terminate a mother’s parental rights when the mother completed her education while her child remained in foster care. Even though completing this educational course had been a requirement of regaining custody, the judge decided that the child had been a “victim of the mother’s own ambitions, however laudable” (*In re Sanjivini K.*, p. 1320.). In analyzing the *Sanjivini* case, Neal (1995) challenges the judge’s decision, stating that it is axiomatic that children benefit when their parents continue their education, but even if the child could not be demonstrated to benefit in any specific way, and the only benefits that could be immediately demonstrated were on behalf of the mother, “does that mean that the child has been harmed? And why does that mean that the mother is a bad mother?” (p. 70).

In addition to biases related to the societal constructions of women and motherhood, the judiciary may also be influenced by cultural and class biases in making decisions in termination of parental rights cases. It has been stated that “[j]udges’ own conceptions of what an ‘adequate’ parent is, conceptions based on their own racial-ethnic background, may influence their findings (Azar and Benjet, 1994, p. 249). In *Santosky v. Kramer* (1982), the important case where the “clear and convincing” standard of proof was established in termination of parental rights cases, the U.S. Supreme Court acknowledged the potential for
bias in termination decisions which is founded in the court's "unusual discretion to underweigh probative facts that might favor the parent" (p. 762). The court then elaborated by stating, "[b]ecause parents subject to termination proceedings are often poor, uneducated, or members of minority groups, such proceedings are often vulnerable to judgments based on cultural or class bias" (Santosky, p. 763). The concerns of the Supreme Court have also been echoed in commentary regarding the use of the "best interests of the child" standard in termination decisions, where judges are given great discretion and may often apply personal values and class biases to resolving custody disputes (Mnookin, 1973; Guggenheim, 1994). Cressler (1994) states that it is legal error for judges to compare the potential adoptive parents against the biological family in a best interests determination because it is "a contest the natural family cannot hope to win"...and "[a]s a society, we cannot sanction the destruction of the ties between children and their natural parents because some other family can offer a better economic, cultural, or emotional environment" [as this discriminates against those] "who are economically disadvantaged" or "who do not share mainstream cultural values..." (pp. 799-800).

Recently, Howze (1996) addressed concerns of cultural and class bias in a handbook, Making Differences Work: Cultural Context in Abuse and Neglect Practice for Judges and Attorneys, which opens with the acknowledgment by a judge that cultural differences can be a driving force in child welfare actions before the courts and that culture has definitely played an important role in some of the decisions he makes. Howze (1996) claims that it is essential that judges "consciously examine when cultural considerations are at play in the case" which will enable the judges to "more effectively and speedily balance the rights of parents and determine the best interests of children" (p. 4). But Howze (1996) emphasizes that the critical nature of termination proceedings implicates all legal professionals in
addressing sensitivity to culture and class bias. In particular, attorneys should have a sense of the “cultural context...throughout a case” because if they do not, “they may fail to provide the court the facts needed to prepare findings that cannot be challenged on appeal” (p. 62) and may miss the opportunity to challenge the conclusions of mental health professionals which “appear not to be culturally competent” (Howze, 1996, p. 63).

Examples of termination actions in which considerations of culture or class improperly entered the court’s decision making process and pushed the court to reach a culturally biased outcome can be found in the child welfare case law. In the case mentioned earlier, In re Luis C., evidence upon which the judge decided to terminate parental rights also included testimony from a psychiatrist, who claimed to have a clinical expertise in cultural issues, that it would be “disastrous” to return the Hispanic child to his Hispanic family because he had spent the previous four and a half years in a white foster home (Neal, 1995). Neal (1995) states that in relating the testimony the judge failed to elaborate on how exactly Hispanic culture would be destructive to the child, instead “assum[ing] that readers of the decision would somehow know” (p. 69). In a termination cause of action where cultural knowledge on the part of the judge prevented a termination of parental rights based on cultural bias, Howze (1996) cites a case in which the mother, who had come to the U.S. from Jamaica for her education, was determined by a psychologist to be incapable of raising her child because she had already sent four of her other children back to Jamaica to live with relatives when they became teenagers. In this particular case, the judge was from a West Indian background and knew that it was common practice to send children to live with relatives in the islands until the parent was established in the U.S. In addition, the defense attorney, an African American who had worked extensively in the mother’s community,
recognized the psychologist's conclusions as biased and secured a psychologist that could provide the appropriate cultural context for the mother's parenting decisions.

Thus, in this case elaborated upon by Howze (1996), the judge was able to resist the original psychologist's "adamant" position that "transferring the children to someone else's care should be seen as a good reason to terminate parental rights" (p. 64). This mother was fortunate to have such knowledgeable and diverse legal professionals working on her case. However, in the child welfare system, the numbers of families of color in the system far outweigh the numbers of professionals from diverse ethnic and cultural backgrounds. Thus, it is critical that every legal professional, including both judges and attorneys, regardless of racial, ethnic, and cultural background, develop the skills, knowledge, and awareness required for culturally competent child welfare practice. In this manner, there will be a greater probability that cases such as those mentioned above can be meaningfully resolved in a culturally sensitive manner regardless of the cultural backgrounds of the legal professionals involved. Especially in termination cases, where a parent's constitutional right to have an ongoing relationship with his or her children is threatened, it is essential that judicial decision making remain unclouded by cultural or class biases in order to effectively weigh the facts in light of the applicable law and arrive at a decision that is truly in the best interests of the child (Howze, 1996).

In addressing sources of potential sources of bias in judges' decisions regarding termination of parental rights cases, it must be acknowledged that not all judicial biases necessarily stem from the judges' personal perspectives, such as the impartiality that can originate in the constructs of motherhood and viewpoints on culture and class. Additionally, judicial bias can arise from a systemic source—the structure of the child welfare system. As mentioned earlier, the construction of meaning in a termination of parental rights trial must
be understood within a larger context, and this context is inclusive of the framework of child welfare services and providers within a given community. Thus, the judicial decision making process— and the construction of narratives— in a termination of parental rights proceeding must be considered an event that is the cumulative result of many documented experiences, incidents, and even legal proceedings involving the child and family and the system. Also, as judges are increasingly reminded through the media attention given to sensationalistic child welfare cases, the community at large retains an interest in the processing of children and families through the system with accountability for the judge’s decisions arising from all stages in the child welfare process. These qualities of the child welfare system have been argued to cause a distinct kind of judicial bias.

Asserting that the very nature of the child welfare system’s structure is conducive to judicial bias, Davis and Barua (1995) emphasize that they do not perceive judges as intentionally biased, but that the system produces biased judicial decision making as a result of: the cumulative nature of child welfare proceedings in which custody decisions made at earlier stages tend to impact later custody decisions; the human tendency for decision makers to maintain the status quo; that fact that greater resources often means an increased ability to inform the court regarding facts and circumstances favorable to one’s case; and the sensitivity of the judiciary to public opinion that makes them likely to take interventive measures rather than risk inaction that can later prove wrongful (cited in Hand, 1996). Hand (1996) argues that these factors evidencing a systemic form of judicial bias lead to a greater tendency for judges to terminate parental rights than not, stating that “[t]he judge would prefer the status quo of the child’s remaining out of the parent’s custody, the state would be likely to have more resources than the parent and thus be able to draw more attention to its
evidence, and the judge would be more vulnerable to criticism about harm to the child that resulted from a decision not to terminate than a decision to terminate” (p. 1275).

When this possible systemic bias in favor of termination of parental rights is considered in addition to the possible judicial biases related to motherhood constructs and culture and class biases, it can be argued that this nation’s female-headed, poor, families of color, with children in out-of-home placements may be especially vulnerable to a judge’s decision to sever the parent-child relationship. Indeed, this vulnerability would be consistent with past research that has indicated that there may be differential service provision and outcomes for families of color: Stenho (1982) found that more African American children tend to receive services in the public sector, rather than the private sector and that Caucasian parents receive more support services than others; Olsen (1982) found that native American families have the least chance of having service recommendations made and that African American and Latino children were less likely to have service plans to initiate contact with their families, even though these families were available; and Close (1983) found that children of color had less family visitation, less contact with the child welfare worker, and fewer services overall. Finally, Pinderhughes’ (1986) finding that judge’s are terminating African Americans’ parental rights sooner than Caucasians’ parental rights lends a sense of urgency to the researcher’s assertion that our nation must begin to “deal with our ever-increasing cultural diversity” (Pinderhughes, 1991, p. 604). Considering that “judicial officers have a critical role in ensuring that cultural...context is factored into the cases before them” (Howze, 1996, p. 83), it can be argued that judges in the child welfare system are in a unique position to address potential biases in the decision making process and challenge the forces that are stymieing progressive approaches to meet the needs of an increasingly diverse child welfare population.
Possible Bias in Social Workers' Decision Making Process

Although the final decision of whether to terminate parental rights rests with the judge in the child welfare system, social workers are integrally involved in making critical decisions regarding the role of the state in the lives of vulnerable children and their families. These decisions can affect the child and family from the moment an allegation of child maltreatment is made, until the completion of the trial to terminate parental rights. Specifically, social workers may be involved in making decisions that regard: the investigation of an alleged case of child maltreatment; the assessment of a parent, child, family, and home environment; the allegations to be included in a petition of dependency; the services to be provided to a child and family; the child's out of home placement; negotiating a performance contact with the parent; assessing parent performance while the child's in an out of home placement; and conducting an analysis of the outcome of state intervention and making a recommendation for permanency (Stein, 1991). Similar to the judge as a decision maker in the child welfare system, the social worker is able to exercise a certain amount of discretion in making determinations that involve the child and family. This flexibility empowers social workers to make the decisions that can be necessary to the child welfare system's efforts to protect the safety of children. However, as in the case with judicial discretion, the discretionary aspects of social worker decision making can increase the possibility that cultural and class biases will affect their determinations of what it is in the best interest of the child and family.

Indeed, the discretionary aspects of social worker decision making have made social workers vulnerable to claims of bias in a system that is heavily populated with low income families and families of color. In the child welfare system, it has been estimated that minority children represent 46% of the total number of children in out of home placements
In some jurisdictions the disproportionate number of children of color in the out of home placement system is staggering. In New York City for example, over 90% of the foster care population is composed of children of color (Russakoff, 1997). Specifically related to assertions of social worker bias in the system, it has been demonstrated that low income families (Pelton, 1978; Garrison, 1983; Guggenheim, 1984) and families of color (Long, 1986) are more likely to be identified as being abusive or neglectful. As mentioned earlier, there has also been research indicating that there is differential service provision among various ethnic and racial groups (Stenho, 1982; Olsen, 1982; Close, 1983). It has also been found that African Americans have their parental rights terminated sooner than non-minority parents (Pinderhughes, 1986).

The issues surrounding children and families of color in the child welfare system have led to outcry against a society and child welfare system accused of an inability to handle the implications of the nation's growing diversity. Abney (1996) warns that the dramatic increase in the country's ethnic diversity that has occurred in the last several decades, and which is expected to continue into the next millennium, indicate that the "likelihood of intercultural problems in service delivery [will only] increase" (p. 411). Over twenty five years ago, in the classic child welfare text, *Children of the Storm*, (Billingsley and Giovannoni, 1972) questioned whether the child welfare system was structurally capable of delivering racially sensitive child welfare services. These concerns about the system were reflected in the recent comment that the "ethnocentric design and implementation of the [child welfare] system, and its symbiotic relationship with the American legal system, are central to its failure to deliver culturally sensitive and relevant child welfare services" (Gleeson, 1995, p. 186). Also, Jackson (1996) asserts that "the cultural nuances of minority client populations are not fully accepted and are often misunderstood by child welfare
administrators and practitioners” (p. 597). As Jackson’s (1996) statement implies, a lack of
cultural awareness, and the accompanying “misunderstandings” may contribute to biased
decision making. Other commentators have been more explicit on the cultural and class
biases of social workers that can impact children of color in the child welfare system.

Golden (1997) expresses frustration with a child welfare system that is failing to
adequately address issues related to class and culture bias that permeate the delivery of
services to vulnerable children and families. Specifically, Golden questions how these class
and cultural biases are impacting the efficacy of one of the child welfare system’s stated
goals, namely, that of ensuring that children are not unnecessarily removed from their homes
and families. Golden (1997) questions the viability of family preservation efforts in a system
where

“[o]ne basic decision of the child welfare system is whether a child is
being intentionally neglected by parents or whether the family is living
in such poverty that they are doing the best they can under the
circumstances [and] [judging that situation can unleash the forces of
racial and middle-class prejudice. Too often it is not the actual family
that is being “saved” but the ideal of the white middle-class nuclear
family. When families living in poverty do not conform to that standard
especially families of color or families headed by single mothers, then
they do not ‘deserve’ preservation”

(p. 18)

Golden’s (1997) statements echo the concerns of child welfare advocates of the past
who were concerned that the system of care for dependent children and their families had
become little more than an organized program of child removal. In order to prevent today’s
child welfare system from becoming the modern equivalent of Brace’s orphan trains for
immigrant children, it is important that child welfare professionals heed the lessons of the
past and gain an awareness of cultural and class biases that can enter decision making. This
process may be facilitated by identifying specific points in the social worker’s provision of
services that provide critical information to the judiciary in their determination of whether to
terminate parental rights and which are especially vulnerable to the introduction of personal
perspective. Specifically, because of the active role social workers play with children and
families in the system, a social worker’s testimony on aspects of the parent-child relationship
and parent-agency relationship, such as: the parent’s level of compliance with the service
goals in the permanency planning contract; the child visitation patterns; the parent’s level of
cooperation with various service providers; the parent’s progress in various treatment
approaches; and the quality of parenting skills, can be pivotal in the court’s decision to
terminate. Azar and Benjet (1994) assert that these areas of evidence in termination cases
are rife with possibility for class and cultural biases.

Social worker documentation of parental input or behavior is utilized in the courtroom
to determine whether the parent achieved the goals in the permanency planning contract.
One of the strongest arguments made against a parent retaining the custody of a child can be
found in a social worker’s assertion that the parent was not compliant with the agreed upon
goals in the service contract. However, Azar and Benjet (1994) question a negotiation
process in creating the contract that may be “culturally influenced,” as increasingly seen in
the negotiations with “[i]mmigrants from countries from repressive regimes” who “may not
see themselves as equal partners in negotiations,” and consequently, social workers may need
to consider the “uncooperativeness” that follows within this context (p. 254).

Frequently, a social worker’s testimony that the parent failed to maintain a regular
visitation schedule or that the parent was often tardy to scheduled visitations can be used to
support the contention that a parent’s rights to his or child should be terminated. However,
studies have found that using a parents’ visitation patterns as an indicator of commitment to
a child may be problematic in the child welfare system because there are systemic barriers
present in accomplishing parent-child visitations, such as inconvenient visiting times set up by the agency, lack of cooperation with the foster parents, and expense and travel difficulties that the child welfare worker may be unwilling or unable to address by providing transportation (Jenkins & Norman, 1975; Hess, 1988). Azar and Benjet (1994) claim that cultural issues may be impacting the degree to which these systemic factors affect a particular case as “[a] parent who is continually late, cannot make small talk, and who appears resistant is less likely to have a caseworker who is willing to drive her to visits or a foster parent who ensures that visits are comfortable and conveniently scheduled” (p. 254).

In determining whether the parental rights should be terminated in a certain case, social workers also make judgment calls related to a parent’s degree of cooperation and overall response to the efforts made to improve their level of functioning as parents. These assessments include how regularly the parent attended parenting classes and counseling, but they primarily focus on how well the parent interrelated with various child welfare professionals and other service providers in the community, the degree to which they are applying the new parenting information, and their demonstration of a willingness to continue to seek help. However, Azar and Benjet (1994) assert that this is an area vulnerable to the introduction of cultural biases as well because “[s]ubtle factors such as tolerance of strangers within one’s home (especially from another culture), the ability to communicate in another language, cultural ease with seeking help from nonfamily members, and sensitivity to cultural differences in parenting values may color the impression formed by service providers” (p. 255). Additionally, they argue that assessments that are founded on the relationship the parent is able to form with service providers may be faulty because the “historical and community context of the family may also subtly affect [the] relationships formed [with social workers as] working with minority members of our culture may involve
going into violent neighborhoods and interviewing angry and suspicious individuals [and] the feelings engendered may result in psychological distancing and, thus, a poorer ability to form a relationship” (p. 255).

Also, social workers are often called upon to make a determination regarding a parent’s progress after the administration of various treatments, such as parenting classes and counseling. Azar and Benjet (1994) claim that many parent education programs are not culturally relevant because of assumptions that they make regarding the parent-child relationship which may be inconsistent with cultural perspectives on child rearing within ethnically and racially diverse communities. For example, one of the basic tenets of most parenting education programs is that parents learn to appropriately handle their child through child management training. This concept is often “foreign to some ethnic groups who may not view children’s development as something to be “managed” by the parent and they may “vary as to the amount of independence they feel children should have” (p. 257).

Additionally, social workers should be aware of the lack of therapeutic services available in the child welfare system that are specifically designed to address the concerns of children and families of color (Berkowitz & Sedlak, 1993 cited in Azar & Benjet, 1994). This lack of available services puts additional pressure on the social worker to ensure that the services that families of color do receive are culturally sensitive and that the outcomes of various treatments are considered in light of their relevance to parenting in ethnically and racially diverse communities.

Finally, social workers are also actively involved in making determinations regarding an individual’s achievement of a certain level of parenting skills. Clearly, in termination of parental rights actions the ability of a parent to adequately meet the needs of a child in his or her care will be essential to the decision making process. These assessments of parental
fitness are based on parenting models that guide an analysis of what constitutes competent parenting. However, Azar and Benjet (1994) argue that the theories that are behind current conceptions of competent parenting “are heavily rooted in the values of dominant, middle class, Anglo-American culture, and little attempt has been made to examine their validity for diverse groups, [and it must be remembered that] each focuses on the qualities of optimal parenting environments, not minimally adequate ones, the threshold applied in termination cases” (p. 259). Thus, for social workers who are in a position to assess an individual’s level of parenting skills it is important that they critically analyze the framework they are utilizing to evaluate the parent in order to ensure that cultural and class biases do not impact the decision of whether the parent is able to provide an adequate living environment for a child.

The cultural and class biases that may enter social work decision making throughout the various aspects of a parent’s involvement with the system are reflective of the larger society in which the child, family, social worker, and system are constructing the narratives that are played out in a termination trial. Historically, the social work profession has been identified as the professional group with an overriding commitment to address societal injustices based on cultural and class biases. Indeed, in Howze’s (1996) book to address cultural context in maltreatment proceedings for judges and lawyers, it is stated that one of the greatest difficulties in raising cultural issues with many legal professionals is that they assume that such concerns in the child welfare system are the responsibility of social workers. This general knowledge of social work’s tradition in working to ameliorate human suffering based on differential treatment can be a source of pride for the profession, but it also endows social workers with a special responsibility to ensure that perspectives and practices related to serving children and family of color are culturally sensitive. It is suggested that an important step for social workers in achieving cultural competency in child
welfare practice will be to acknowledge the existence of biases, myths, and stereotypes related to culture. In discussing this point, Abney (1996) stated that the

"professional’s value base must include room for the fact that individual and institutional biases do exist and that these biases slant toward the worldview, well-being, and desires of the majority culture. Accepting this fact will positively influence the care delivered at two levels. It allows the clinician to better meet particular needs of an individual client and offers the treating institution an opportunity to explore its own biases that directly affect a community’s use of [their services].

(p. 415).

Theoretical Perspective

This investigation of what parents communicate in the legal process of terminating their parental rights has been shaped by a postmodern, symbolic interactionist theoretical perspective. However, this qualitative study’s incorporation of symbolic interactionism is not to be confused with the quantitative researcher’s application of theory in which the objective is to test a theory and develop hypotheses with measurable variables (Creswell, 1994). Instead, as was done in the present study, a researcher guided by symbolic interactionism, which emphasizes the self and society interacting through communication processes and the social construction of meaning (Mead, 1934; Blumer, 1969) may develop sensitizing concepts, or questions, at the beginning of the research effort in order to guide the researcher (Blumer, 1954). As this example illustrates, it is not always as clear in qualitative studies how theory impacts the research process. For this reason, this section of the literature review was designed to illuminate the reader as to how the postmodern, symbolic interactionist perspective informed the manner in which the parent narratives, and the legal context in which they were created, were approached and comprehended by the researcher.
In order to explicate how symbolic interactionism informed this study’s design, it was necessary to first define what narratives are and how they can be understood from both a modern and postmodern, symbolic interactionist perspective in the legal environment. Also, there is a discussion of how the legal system, similar to the social sciences, has been affected by the debates regarding modernism and postmodernism. In closing, it is revealed that symbolic interactionism can also be understood from each of these two perspectives and it is considered how a postmodern, symbolic interactionist perspective can provide insight into the social interactions that are embodied in the trial transcript’s parent narratives. While this in depth examination of the theoretical background for this study may seem overly extensive, arguably, it is critically important because it discloses the conceptual lens from which the parents’ communications were perceived, identified, and described.

Narrative: Defined

As this study is based on the analysis of parent narratives found in termination of parental rights trials, it is critical that a definition of “narratives” be established to guide this study. At its most basic, a narrative can be defined as “a story of events, experiences, or the like” (Random House Dictionary, 1988, p. 885). It has been stated that “[n]arratives are everywhere, performing countless different functions in human interaction...[as] everything we do, from making breakfast to making the bed to making love...can be seen, cast, and recounted as a narrative—a narrative with a beginning, middle and end, characters, setting, drama (difficulties or conflicts resolved), suspense, enigma, ‘human interest’, and a moral [and it is] from such narratives [that] we learn more about ourselves and the world around us” (Toolan, 1988, p. xiii). Additionally Toolan (1988) notes that this storied experience can be understood in terms of basically “unshaped story material” that comprises
events, characters, and settings (p. 12). While Toolan (1988) is describing narratives from the perspective of a literary linguist, the field from which the study of narratives originated, the concept of narrative has recently been utilized by various researchers addressing issues of relevance to the child welfare system (Klein & Janoff-Bulman, 1996; Saywitz, Snyder, Lamphere, 1996).

Joining the growing numbers of studies that have discovered the utility of narratives in understanding and investigating child welfare phenomena, this study investigated the socially constructed communications that can be found in parent narratives in termination trials. Specifically, in this study, parent narratives are located in the sections of a trial transcript where parents are actually testifying, thus involving the parents' original testimony and their cross examination in the course of a trial, and they contain the stories of events and experiences that parents expressly detail in their testimony. In addition, parent narratives in this study contain the stories of experiences that the parents make an abbreviated reference to in their direct or cross examination testimony that can only be fully fleshed out, in effect given a "beginning, middle, and end" (Toolan, 1988), by reviewing other parts of the trial transcript or case material. These narratives contain a variety of experiences, such as stories about visitation experiences and extended family experiences and because they are considered within a symbolic interactionist perspective, they also are understood as interpretations of human experience that are constructed and shaped within the context of social interaction (Blumer, 1969; Mead, 1934). Thus, this study of parent narratives took into account the courtroom communications of others that were directly evidenced in the trial transcript, such as the questioning attorneys, and also considered how evidence presented by other actors in the child welfare process, such as social workers, entered and impacted the parents' narratives in the courtroom.
By eschewing an approach to the parent narratives that values objective, quantifiable scientific facts, and focusing instead on the deeper meanings to be found in the interpersonal interaction evidenced within the parent narratives, this study utilized narratives from a postmodernist perspective. It is important to distinguish courtroom narratives based in the modernist perspective from those based in a postmodernist one. The primary distinction can be found in the manner in which the courtroom narratives are understood to represent objective reality and further an ideal of truth. Narratives from a modernist perspective are developed and utilized according to a correspondence theory of reality. From this viewpoint there is an assumption that individuals make objective contact with reality through sensory perceptions that are branded on the mind like newsprint on paper. In this manner, it can be argued that the courtroom process aims to facilitate the parent’s ability to communicate this replica of objective reality that has been left in their mind and this is where the utility of the narratives is found (Mahoney, 1988 cited in Franklin, 1995). Thus, the narratives further the court’s mission to uncover the truth, or to discern an accurate picture of reality as revealed through the parent’s stories. This search for truth in the parent narratives is based on the premise that within parents’ communications of their memory of events there will be language that is representational of the truth, and this truth will add to a body of evidence, composed of other individuals’ communications representing the truth (i.e., other testimony), that will culminate in knowledge of objective facts and a resultant, impartial decision based on such accumulated certainties (Anderson, 1995). These conceptualizations of knowledge and reality, and the resultant narratives, are founded in the assumptions of modernism.

Modernism can trace its roots to the eighteenth century philosophers of the Enlightenment, the Age of Reason, who confidently asserted the limitless possibilities of
science and logic to solve the problems of humankind. Such laudatory aims were to be achieved through the development of an objective science which would be grounded in an absolute trust in knowledge and reason to uncover universal truths. As the term "uncover" implies, there will necessarily be an inquiry for deeper levels of meaning beyond those obvious at superficial levels (Durant, 1964; Pocock, 1995). Pocock (1995) claims that the outgrowth of such a philosophical approach is the assumption that some individuals "will accumulate objective knowledge about the world— they will come to know more than most about how things work at a deeper level and, therefore, how to put them right when they go wrong" (p. 152). For the social worker operating from a "modern" model for therapy, or even a judge or a child welfare system, this results in a focus on process, rules, and structure as a search commences for the underlying understanding of what is actually going on. Of course, it is assumed that this inquiry will directly lead to a comprehension of an objective reality from which, quite naturally, action can be taken to achieve a solution (Pocock, 1995).

**Narrative in the Courtroom: Postmodernist Perspective and Social Constructionism**

In contrast to modernism, postmodernism, within which social constructionism and this study's use of narratives can be stated to have a philosophical home, has underpinnings in the later writings of Kant and the work of Nietzsche and Heidegger, among others. Kant challenged the conviction that an objective reality in the world can be known, as it actually exists, by the human mind. He is quoted in Matson (1968) as stating, "...all cognition assumed to be 'a priori' is nothing but a long habit of accepting something as true, and hence of mistaking subjective necessity for objective" (p. 403). According to Nietzsche, what we refer to as "truth" is inclusive of highly questionable elements and has attributes that are spurious because they are simply bias and wish fulfillment (Matson, 1968). These
philosophical challenges to traditional theory and practice regarding how human beings come to acquire knowledge, and in what form this knowledge may take in relation to human experience, eventually would ferment into what is now called postmodernism. The ideas of postmodernism are found in the notion of social constructionism (Hoffman, 1990).

Although there are many theoretical threads that can be said to be interwoven into the conceptualization of social constructionism, most commentators today trace the origin of this approach to the publications of Berger & Luckman (1966) and Gergen (1985) and the field of sociology (Franklin, 1995; Pocock, 1995). From the social constructionism perspective, knowledge of the external world is composed of building blocks of social communication and interaction. Reality exists only to the extent that persons are able to achieve congruence and understanding with others as to the construction of those building blocks. Thus, because meaning is developed and modified—or reconstructed—within a framework of language and dialogue (Pocock, 1995), social constructionism can be understood as claiming that “an evolving set of meanings” continuously arises from transactions between individuals (Hoffman, 1990, p. 3).

Understanding the “manner in which...reality is constructed” is essential to any inquiry seeking to obtain knowledge about individuals in society (Berger & Luckman, 1966, p. 18). For example, social constructionists would assert that the testifying parents would be (as all human being would be) unable to retrieve and deliver to the questioning attorney in the termination trial that encoded bit of objective reality in their brain because it is not there, and it never was. This experience with the external world was received and “structur[ed]” in consonance with the “cognitive structures, subjective or linguistic meanings, and unique social experiences” of each parent (Franklin, 1995, p. 396 citing Mahoney, 1988). As Franklin notes, although there is some variation in the extent to which this viewpoint is
espoused, in general social constructionists hold that it is simply not possible for human beings to ever objectively know a reality that exists external to themselves. By not taking for granted the existence of objective facts, and reality, and the concomitant capacity of the human mind to know them, social constructionism gently reminds theorists and practitioners alike that what we assume to be “facts” and “real” are really only expedient constructions to facilitate understanding of phenomena. Even one of the great positivist philosophers, Ernst Mach, warned against falling into such a trap, stating “[t]he concept [of the atom] is to the physicist what a musical note is to a piano player” (Matson, 1968, p. 453).

This emancipatory stance taken by social constructionism frees individuals from the objective, reductionistic reality that has traditionally defined the sense of self and the process of understanding the meaning of life experiences. It is this characteristic that allows the narratives in this study to be investigated and understood not with the goal of determining their “truth value,” but with the goal of gaining insight into the parents’ constructed meanings from human interactions in order to describe the patterns and themes of these interactions. Indeed, social constructionism provides a much needed framework for investigating narratives as these narratives involve the process of “letting symbols stand for or take the place of the primary experience, to which we have no direct access” and thus, “[m]eaning is ambiguous because it arises out of a process of interaction between people: self, teller, listener and recorder, analyst, and reader” and it “[c]an not [be] fixed and universal” (Riessman, 1993, p. 15). Additionally, when meaning is not understood to be fixed and universal, and is understood within a context of interaction— as in this study— the utility of a symbolic interactionist perspective becomes clear, as “careful attention [is paid] to the contexts that shape [the narratives’] creation and to the world views that inform them” (Personal Narratives Group, 1989, p. 261). Here, the creation of the narratives in the
termination trials, and the process of interpreting and embuing them with meaning, was
shaped by the surrounding context of the legal system.

The Legal System: Modernism and Postmodernism

In understanding the narratives that are created during the course of a termination
trial, it is necessary to place them within the context of the legal system. In order to
accomplish this, it must be recognized that the philosophical and theoretical debates in the
social sciences regarding postivism and postpostivism, and the impact of these debates on
understanding narratives, are also reflected in the legal domain. Within the legal system
these debates have centered on the legal profession’s ongoing struggle over varying
perspectives on law and society. Arguably, this struggle directly impacts how human
narratives will be perceived and given meaning within the legal system. As discussed below,
these conceptualization issues in the legal system clearly implicate social and political
relationships and the relative power of various narratives in the courtroom.

In tracing the foundations of law, an important concept is that of “natural law”—or
the idea that law exists separately from the society in which it is found. Arising in ancient
Greece, the concept of natural law was explained by Aristotle as having “a universal validity
and [being] based on reason that is free from all passion” (Vago, 1988, p. 30). Similar to the
modernist concepts of an objective reality and knowledge that exists external to human
beings, natural law has been interpreted to mean that “law in any given society was a
reflection of a universally valid set of legal principles based on the idea that, through reason,
the nature of man can be ascertained...and [t]his knowledge could then become the basis for
the social and legal order of human existence” (Vago, 1988, p. 30).
Although the above stated purist interpretation of natural law has been diluted throughout the centuries, the idea of a rule of law that can be objectively determined still forms the basis for much theoretical debate. The American legal system is stated to be organized along Max Weber's (1954) "rational" typology of legal systems, which entails utilization of "logic and scientific methods" to achieve particular goals (Vago, 1988, p. 36). However, in the 1920's and 1930's legal realists made the controversial argument that since decisions made in individual cases were affected by the inclinations of the judge presiding over the matter, it was inconceivable that the law could be viewed as a science, with a systematic decision making process based on objective facts and a universal concept of reality. The legal realists argued that law is inextricably interwoven with the political, social, and economic context in which it is found (Vago, 1988).

Arguably, these parallels to the postmodern paradigm in the social sciences persist in the assertions made by critical legal scholars beginning in the late 1960's and continuing today. The impact of the legal realists is evidenced in the work of these critical legal scholars as they contend that law is value-laden and very much a part of the political fray of society. They also claim that the "reality" of neutrality and objectivity espoused by traditional legal scholars is only an illusion. Laws are simply a reflection of the values that predominate in a society and thus they can only serve to "legitimize the status quo" as "law is actually a part of the system of power in society rather than a protection against it" (Vago, 1988, p. 55).

This idea that the language of the law is inherently a statement of power has direct implications for parents' narratives in a termination trial. In discussing the relationship between discourse and power, Drewery & Winslade (1997) comment that "[w]ithin human communities, what can be said, and who may speak, are issues of power" (p. 35). In our
society, and in a legal system organized in a manner consistent with a modern perspective rather than a postmodern one, which includes: support for societal and familial structures that are organized hierarchically; views the parent as existing independent of the observer—for example, the court system (or the social worker employing a modernist based approach to counseling); and perceives the actors in the legal system (or the social worker employing a modernist approach to counseling) as maintaining an expert opinion (Lax, 1992)—impoverished, poorly educated, minority parents—predominantly the caseload in termination actions—are rarely in a position to control the meaning making activities in human discourse. However, although they lack the power to structure the discourses that control relations in a legal environment, this study aimed to give parents in termination actions a voice in describing the events and relations that have meaning in their lives. Hopefully the findings of this study will sensitize social workers to the perspectives of this vulnerable population and improve efforts to empower the parents in their efforts to affect the socially constructed meanings, including those within the courtroom, that define them.

Symbolic Interaction: Modernism and Postmodernism

Because “one does not begin with a theory to test or verify” in qualitative research (Creswell, 1994, p. 94), it may seem that a theoretical perspective has little to offer this descriptive study of themes and patterns in the communications found in parent narratives in termination trials. However, the many uses of theory—in particular, its utility in organizing phenomena (Hagan, 1993)—demonstrate that theory can serve an important function in many types of research, including this dissertation. This study views the data, the communications found in parent narratives, through the conceptual lens of symbolic interactionism. Berg (1995) explains that symbolic interactionism
“involves a set of related propositions that describe and explain certain aspects of human behavior. Human beings are unique animals. What humans say and do are the results of how they interpret their social world... Human beings communicate what they learn through symbols, the most common system of symbols being language. Linguistic symbols amount to arbitrary sounds or physical gestures to which people, by mutual agreement over time, have attached significance or meaning. The core task of symbolic interactionists as researchers, then, is to capture the essence of this process for interpreting or attaching meaning to various symbols.”

(p. 8)

Before it is possible to discuss how symbolic interactionism can have utility in the process of identifying and describing the communications found in parent narratives, the school of symbolic interactionism that is applicable to this study’s design must be established. Such a task is necessary as the modernist and postmodernist perspectives discussed earlier have also shaped the development of symbolic interactionism. In short, the philosophies and methodologies guiding symbolic interactionism can be viewed from a more postivist perspective, in which case the work of Manford Kuhn would have prominence and there would likely be an association with what has been termed the “Iowa School,” or they can be viewed from a postmodernist perspective, where the works of Mead and Blumer are emphasized and the school of thought has been termed the “Chicago School” (Turner, 1988). As noted throughout this literature review, this dissertation has been influenced by works of Blumer (1969) and Mead (1934). However, while discussions of the two schools of symbolic interactionism may be helpful in making very general distinctions between the types of methodologies that have been employed by researchers incorporating symbolic interactionism, the concept of the two schools can be misleading in that there are certainly more aspects of symbolic interactionism that are agreed upon by theorists and practitioners than are a source for disagreement. Among the features of symbolic interactionism where there is general agreement and which have had a direct impact on this research effort, are the
ideas that "human interaction form the central source of data" and that "participants' perspectives" and their taking the "role of the other...are key" (Berg, 1995, p. 9).

The symbolic interactionists' stance that human interaction comprises the primary source of data focused a conceptual lens on the social construction of meaning that takes place in the courtroom and which is reflected in part in the "question-response" style of dialogue found in the parent narratives. Arguably, without such a conceptual focus, the researcher utilizing trial transcripts in termination trials to study parental communications could be left with the singular voice of the parent for analysis, devoid of the surrounding context and social interaction which embody the parents' communications with a richness and depth of meaning. Clearly, the type of data in this study, trial transcripts, would make such a research effort difficult. Transcripts would most likely preclude the application of the kind of theory such a researcher may employ in a study of parents, for example, a theory of ego psychology. Here, the symbolic interactionist perspective, grounded in postmodernism, allows for the use of a social constructionist approach. In this manner, the meaning in parent narratives is understood from a postmodernist viewpoint where the emphasis is on the processes of transaction and interpretation that take place in constructing meaning in a social environment and which are acknowledged to be impacted by culture, values, norms, conversation, and interaction, among other things.

Specifically, in this study of parent narratives in trial transcripts, the symbolic interactionist ideas of perspective and the taking of the role of another provided a conceptual framework in understanding the data. Central to the ideas of perspective and role taking is the highly interactive manner in which reality is constructed. Holzner (1968) emphasizes the importance of considering human interaction and the resultant transactions as a sort of reciprocal action where two actors have an awareness of each other and in their
communication “through shared symbols” are pursuing their own (almost never the exact same) objectives (p. 60). In this manner, the actors “are guided by different intentions and somewhat different values, and therefore by different perspectives on the situation...[and they attempt] to form, on the basis of whatever clues are presented...as accurate an image as [possible] of the other person, his background, his characteristics, and his likely intentions which would include an assessment of how the other views him” (Holzner, p. 60). Clearly, this idea of individuals in social interaction evaluating one another, and wondering how one is likewise being evaluated, and acting in the face of these interactions in pursuit of individual objectives, has direct relevance to the process of constructing meaning that occurs in a courtroom trial. The parents bring their own perspectives of events to the courtroom and they are cognizant of the other actors in the termination process and that they too have brought their own perspectives to the process of constructing meaning. Additionally it is recognized by the state attorney, the judge, the social workers, and the parent that each may ascribe different meanings to significant events in the case. As this symbolic interactionist perspective suggests, the social process of meaning making is by its very nature “fluid” and “dynamic” and the “subtle” and “easily misread cues” of human interaction and communication can lead to frustration and misunderstanding (Holzner, p. 62).

This idea of “cues” that communicate one’s perspective and can further an individual’s objectives, are especially important in a trial to terminate parental rights. As Holzner (1968) states, individuals in social interaction are constantly trying to control the cues that inform others about themselves. Each “will try to present a more or less stylized image of himself in line with his objectives, his identity, and his situational context” (Holzner, 1968, p. 62). Thus, in this manner, the parent whose objective is to maintain custody of a child will be guided by this objective and in the process of socially constructing
meaning during the course of the trial will try to communicate an image of self that is capable of performing parenting duties. This is not to say that the parents will lie about themselves or their past actions, only that in trying to achieve their objectives they will attempt to manage the impression that they create in the courtroom to their advantage. Likewise, the state attorney who is bringing the case to terminate parental rights will not be expected to lie about aspects of the state’s case, but she will be presenting her case in a manner most favorable to the accomplishment of the objective of winning the trial and terminating parental rights.

As this discussion indicates, and as mentioned earlier, this dissertation’s utilization of the symbolic interactionist perspective, founded in the ideas of postmodernism, was not concerned with uncovering the truth in the actors’ statements in the trial transcript. Instead, consistent with such a conceptual background, the goal was to understand a socially constructed perspective on a critical life event—the legal loss of one’s children. Thus, a focus is evidenced on what Mead (1934) referred to as “role taking,” in which the parent and the attorney each put themselves in the role of the other in order to understand where the other is coming from, or their “cues,” in order that they may more effectively present themselves—and their perspective—and achieve their objective. For example, the attorney may ask herself, “If I were a parent in this situation, how would I respond to this question?” and the parent may ask, “If I were that attorney, what would I be thinking, deciding, etc.” As this highly interactive process of meaning making suggests, this inquiry has been shaped by the conceptual lens of symbolic interactionism with a social constructionist perspective, and in this manner, it will be the “relationship” rather than “individual” that will serve as the “locus of knowledge” (Gergen, 1994, p. x).
Summary of Literature Review

As was mentioned earlier, the numbers of termination of parental rights cases have been on the rise, and with provisions in recent Congressional legislation— the Adoption and Safe Families Act of 1997— designed to expedite the termination process, it is likely that this increase will continue. Historically, from Colonial times until the mid twentieth century, when a child was removed from a parent’s care and custody, there was a good chance that the two would not share a home life ever again. Because of an ideology that decreed that children must be permanently removed from their parents in order to “save” them, the severance of the ties between parent and child when the parent was unable, or unwilling, to provide care was commonplace. While indeterminacy in foster care placements in the 1970’s replaced the orphan trains of over a century earlier, the end result was often the same, a child removed from a parent only to face instability and a lack of loving, permanent custodial care.

When the Adoption Assistance and Child Welfare Act of 1980 was signed into law it was intended that foster care would be used sparingly and thus, as a part of this overall design, termination of parental rights would be a rare action of last resort (Guggenheim, 1995). During this period, a series of legal decisions elaborated upon the Constitutional dimensions of an individual’s right to parent and established a presumption in favor of the parent when contesting the state over the custody of a child. However, the increasing numbers of termination actions, and the legislative emphasis on utilizing termination of parental rights and adoption to address the burgeoning group of children in foster care, arguably only creating more children experiencing “parental limbo”—parental rights terminated but no adoptive parents waiting—demonstrate that the legislative and judicial intent of the 1970’s and 1980’s is far from being realized. Indeed, as in the earlier periods of
American child welfare history, it is becoming increasingly likely that when children are removed from a parent’s care, they will not return.

Guggenheim (1995) argues that in a system where “foster care is overused” and where "policymakers do not take into account the circumstances under which children are separated from their parents” and where “the proposals to terminate parental rights of children in foster care are the only features of a comprehensive foster care reform that are assiduously enforced, one must ask whether the termination provisions are appropriate” (p. 140). Arguably, part of the task of considering the appropriateness of the current termination standards would be to gain an understanding of the affected parties to such actions. At the minimum, such knowledge would inform social work practice in the growing areas of kinship care, legal guardianship, and open adoption that are increasingly being considered when the parent can no longer serve as the child’s legal caretaker but which to varying degrees can provide for a continued parent-child relationship. Most importantly, a study of parents in termination of parental rights trials has the power to stimulate social work practice efforts in furtherance of social justice concerns. As Guggenheim states, “[n]ow is the time to re-examine a child protection system that relies on foster care as the most prominent child protection mechanism and that also creates more legal orphans than it appears to have the capacity to place in permanent, adoptive homes” (p. 140).
CHAPTER III

METHODS

With a stated goal of sensitizing social workers to the perspective of parents who are experiencing an involuntary termination of their parental rights, this research utilized trial transcripts as a preliminary forum in which to explore and describe this nascent area of inquiry. This use of trial transcripts from ten termination of parental rights proceedings, in conjunction with listening to tapes of the trial and accessing case material, provided for an in-depth analysis of the parental communications located within the narratives constructed during the course of the trials. In this manner, the method of research in the present study allowed for the thick description essential in capturing both typical and divergent themes in the data and facilitated the elucidation of a socially constructed meaning of the phenomena of interest. Thus, the parental communications were analyzed within the context of their co-construction with others with whom they interacted during the course of the trial. This method enabled the researcher to develop a rich, detailed description of the parents' lived experience through the use of narrative analysis and then a content analysis of the parent narratives themselves.

This study's qualitative approach, generating "descriptive data based upon spoken or written words and observable behavior" (Sherman & Reid, 1994, p. 1), is framed in the symbolic interactionist perspective which focuses on the identification of meanings that individuals construct as they communicate with others. The aim is to discover the patterns
that exist in these socially constructed interactions in order to offer fresh insights into a phenomena, in the present case, parental communications of the experience of the legal loss of children. While this methodology may seem foreign to a social work researcher more familiar with a quantitative approach, it is actually quite compatible with the long established definition of social work practice. Indeed, in Boehm's (1958) classic definition, social work is defined as "...seek[ing] to enhance the social functioning of individuals...[through an emphasis] upon their social relationships which constitute interaction between individuals and their environments" (p. 18).

It is important to stress that this study's application of the symbolic interactionist perspective to the investigation of parent narratives in the termination trials is founded in a post-modernist, rather than a modernist approach. This distinction is critical to all phases of this research project, from the development of the approach to the data, to the analysis of emerging concepts and the consideration of connections among concepts. In effect, the court took a modernist approach, with the assumptions of a rigid, structured decision making process based on objective facts and a universal concept of reality. In the courtroom, the parent narratives were utilized to further the court's mission to uncover the truth and in these ten cases—where the state was victorious in their claim against the parent— the outcome of this process was the dominance of the voice of the child welfare system and the parents' loss of their claim to retain their parental rights. By taking a post-modernist stance, the investigator was freed from the modernist-based emphasis on weighing the veracity of various communications—indeed the court had already done this task—and could focus on the deeper meanings to be found in the interpersonal interaction evidenced in the parent narratives. As Guba and Lincoln (1989) assert in their post-modernist, naturalistic approach, the truth is a socially constructed meaning, not something that is found to conform to an
objective reality. Thus, this study was never a search for the truth in the parent narratives, but was simply a search for the voices of the parents, long silenced in a system entrenched in a modernist perspective.

Following this discussion of the post-modernist, qualitative foundation of this study, it must necessarily be clarified how this methodology can impact the objectivity and bias of the investigator. This is customarily done in qualitative research where the exploratory, descriptive nature of a study may be asserted to be especially susceptible to the proclivities of the researcher. With the recognition that all research may in some manner be perceived as being encumbered in its “objectivity” (Watson, 1968; Bernstein, 1983), the investigator acknowledges that while she may not harbor a vested interest in a specific outcome of this study, a certain bias may be found in the investigator’s motivation to study the experiences of parents who have lost the right to parent their children. Certainly it is a subject that no one has thought worthwhile of investigation until this point. Indeed, the researcher believes that it is long overdue for social workers to begin to listen to the voices of these clients that have been silenced for so long. However, perhaps this bias, or over-riding interest, can be argued to be essential to undertaking any research effort.

In addition, it should be mentioned that the researcher’s professional background in the law may have led to a focus on certain observations, concepts, and themes. But it should also be noted that the investigator has education, training, and experience as a social worker and it could likewise be asserted that this background has in some manner influenced the focus of the study. Having openly expressed the possibility of bias in this research effort, the researcher emphasizes that numerous steps have been taken to ensure the trustworthiness of this study, which are elaborated upon in a later section of this chapter.
Design

This study was designed to explore and describe what parents communicate, in interaction with others, during the experience of losing the right to parent their children in a termination trial. The qualitative design was particularly compatible to these aims because of qualitative research’s traditional focus on descriptive data based on human communication and interaction. The qualitative methodology was also supportive of the theoretical framework that was integral to accessing the data in a manner most likely to generate rich, detailed descriptions of the parental communications without getting bogged down in determinations regarding the truth value of various courtroom communications. In this manner, the research was designed with a symbolic interactionist perspective, one that inherently understood “truth” as a consensus achieved among those who are socially constructing the meaning of events and interactions (Guba & Lincoln, 1989).

It was originally planned to observe the actual termination trials, although it was soon realized that this research design was impractical for a dissertation project considering the many postponements and continuances that occur in scheduling the adjudication of a child welfare case. Indeed, most of the decisions to postpone or continue a case are not even made until the actual day of the trial, which would necessitate the researcher showing up for many trial dates upon which no trial takes place. In addition, since the investigator was interested in termination trials where the parent testified, this approach would have entailed attending countless trials where the parent elected not to testify once the trial started, or decided at the last minute to relinquish parental rights without a trial. Also, as the researcher was interested only in cases where parental rights were terminated, it would have necessitated watching many trials and waiting, sometimes weeks, for the court’s final decision of whether the parental rights would be terminated in order to determine a case’s inclusion into the study. It
was finally decided that it would not be feasible to obtain ten termination cases in this manner and the investigation of what parents communicate when they are losing their parental rights was addressed through more reasonable means— the transcripts of the termination hearings.

The decision to study parent narratives through the use of trial transcripts, not by attending each of the termination trials, resulted in a study that somewhat removed the parental communications from their natural context. The investigator could not describe the context of each trial in full, such as: what the parent was wearing to court, how the parent gesticulated, or the reactions of others in the courtroom to various testimony. Although the investigator buttressed the data found in the trial transcripts with information from the case files, and listened to tapes of the trials, certainly it can be argued that details and nuances that would have contributed to the richness of the data were forever lost.

However, it is asserted that the design of the present study did retain critical elements of a naturalistic approach in order that the most authentic meaning possible could emerge from the parent narratives. In particular, this study design incorporated at least three elements of the naturalistic approach. First, the researcher was utilized as the primary data-gathering instrument, which is advantageous because “it would be virtually impossible to devise a priori a non-human instrument with sufficient adaptability to encompass and adjust to the variety of realities that will be encountered” (Lincoln & Guba, 1985, p. 39). Second, there was the use of an emergent design, which is cognizant of the “complexity of any human setting...and allows structure to build only as [the researcher’s] understanding of that context and of the [subject’s] construction of reality allows the design to emerge” (Erlandson, Harris, Skipper, & Allen, 1993, p. 73). Finally, this study employed purposive sampling— discussed in greater detail below— which “increases the scope of range of data exposed (random or
representative sampling is likely to suppress more deviant cases) as well as the likelihood that the full array of multiple realities will be uncovered" (Lincoln & Guba, 1985, p. 40).

Focus

While this study involved the use of an emergent design, which involves the researcher entering the "setting with only as much design as he or she believes is faithful to the context and will help to answer questions about it" (Erlandson et al., 1993, p. 73), there was a general focus for the inquiry established at the outset. This focus was reflective of the exploratory, descriptive nature of the study and enabled the researcher to adapt the design as commensurate with the researcher's expanding understanding of the phenomena of parents losing their parental rights in termination proceedings.

The focus for this study can be expressed in terms of five general parameters involved in its design. The first four parameters were reflected in the dissertation proposal for this study. The fifth is illustrative of this study's emergent design as it was added to the study's structure after it was realized to be necessary in order to fully understand the parents' and the courts' construction of meaning during the termination trials. All were supportive of the research aim of this study which was to identify, explore, and describe the themes that are present in the parent narratives found in termination trials. These five study parameters were:

1. Parent-court communications, found in the examination and cross examination of parents during the trial, that emerged within each separate trial as constructed by parents and others in the courtroom process of terminating parental rights.

2. Parent narratives, or stories that express the parents' experience, that emerged from the parent-court communications constructed during the course of the trial.

3. Themes that emerged from the parent narratives and which reflected the parents' communications during the process of co-constructing meaning with the court.
4. In comparing across cases, emergent themes that were typical among the parent narratives on a given subject and emergent themes that were divergent among the parent narratives on a given subject.

5. Descriptions of the parents as found in case materials.

Site of the Study

This study of parent narratives in termination of parental rights trials was based upon the analysis of the written documentation of the courtroom proceedings, or the trial transcripts. Other than these trial transcripts, and to a lesser degree, the accompanying case materials, there was no formal site for this study. There was no foray into the natural courtroom environment during any of the ten trials included in this study, thus there were no direct observations made of the parents or the other courtroom participants. However, the researcher did augment the use of written documentation by listening to the tapes of the trials and there were contacts made with a person involved in the peer review and independent coding processes.

Selection of Transcripts and Data Selection

The selection of trial transcripts and data collection for this study were accomplished through means consistent with this investigation’s qualitative design. Specifically, purposive sampling was utilized to select all ten trials. Purposive sampling has been defined as a type of non-probability sample which involves “selecting a sample of observations that the researcher believes will yield the most comprehensive understanding of the subject of study, based on the researcher’s intuitive feel for the subject that comes from extended observation and reflection” (Rubin & Babbie, 1997, p. G-7). In addition, Erlandson et al. (1993) state that “[p]urposive sampling requires a procedure that is governed by emerging insights about
what is relevant to the study based on the focus determined by the problem and purposively seeks both the typical and divergent data to maximize the range of information obtained about the context” (p. 148).

Based on the researcher’s experience as an attorney in cases where termination of parental rights issues were present, at the outset it was realized that each case would present a unique family situation with various factual scenarios. Also it was recognized that even in cases in which the parents did testify at the termination trial, there would be various degrees of parent participation and communication. Thus, the researcher’s two-fold goal was to find cases that not only represented the typical termination case, but that also had a diversity in case characteristics, for example, the reason for entering the system (sexual abuse, unsuitable home conditions, etc.) or the parent attributes (substance abuse issues, mental illness, etc.) and to find cases in which the parents actively communicated their experience during the course of the trial. Because this study was dependent on the courtroom communications of parents in termination trials, parents who took their case to trial and then remained silent, or at best only gave monosyllabic responses, were not actively pursued for inclusion into the study.

The researcher’s experience as an attorney informed the decision to obtain meaningful data for the study by interviewing judges and their staff— and a state attorney in one jurisdiction— regarding the appropriate cases for inclusion into the study. Having been responsible for hearing the case in the trial, recording the documentation of the trial, and issuing a decision in the trial, it was believed that the court could offer special insight into which cases the parents actively constructed meaning during the course of the trial. Also, as the courthouse is the repository for storing the cases, it made the task of verifying case characteristics easier. For example, in one case, in addition to remembering a parent who
had argued and vocalized her position in court, the judge thought that she recalled there having been allegations of spousal abuse in the case. It was only a short trip for her court reporter to go to the file cabinet and retrieve the file to verify this information. In another jurisdiction, the state attorney was actually a referral from the court to serve as the “point person” in obtaining cases. This particular attorney had served the county for many years and it was asserted by the court that he would be the best source of information on the termination cases heard in that jurisdiction. After interviewing this attorney and obtaining information regarding two termination cases that fit the above criteria, the court provided the case materials and trial transcripts.

The interviews of the court personnel, including a court reporter and a judge in one jurisdiction and the state attorney and court reporter in another jurisdiction, began with the question of whether they could recall termination cases in which the parents were remembered as having a lot to say. Almost immediately after this question, those interviewed would recall names, usually not a full name, but at least the name of the children, and fact situations and details about the course of various termination trials. As the judge interviewed stated, “some of these termination cases really stick with you, they can be quite memorable...the parents may end up losing their kids, but they definitely have something they want to get across to [the court]”.

The cases that were obtained from these interviews were then transcribed by the court reporter in each jurisdiction. Because of the prohibitive cost of transcription, only the parent narratives, or those parts of the transcripts where the parents were actually testifying (i.e., direct examination and cross examination), were transcribed. However, at a later date, the researcher did listen to the tapes of the trials, and read the case file, to further flesh out the context of these parent narratives. In total, eight cases in the study came from one county—
the county where the judge and court reporter were interviewed— and two cases came from a second county— the county where the state attorney and court reporter were interviewed. The decision was made to go to the second county after repeated interviews with the court personnel in the first county revealed that the researcher had obtained all of the cases possible from that jurisdiction, that she had, in effect, reached the saturation point in that county.

Juvenile records are not considered to be public information and there can be obstacles in accessing them. For this study, following state law, the researcher was required to provide written information to the court regarding: the purpose of the study, any intent to publish the findings, the data to be collected and how it will be analyzed, and the safeguards that will be taken to ensure that the identity of all persons included in the record will be protected. According to state law any researcher who complies with the safeguards may not be denied access to the juvenile court records. A failure to comply with the agreement to honor the confidentiality of the juvenile record could result in criminal sanctions. In accordance with the statutory requirements, the researcher did not use the names of any of the parties contained in the trial transcript or case file during the study. After the cases were transcribed, names were blacked out and replaced with first name only pseudonyms. The case files were read at the courthouse (similar to the transcription cost, the cost of copying each file was prohibitive as the price of each page copied was stipulated in state law) and the notes taken from them were altered to reflect the pseudonyms assigned for the purposes of this study.

Although compliance with the statute seems relatively straightforward, the researcher had to expend considerable effort overcoming the various misgivings of court personnel. For example, there was a concern raised that the researcher may hear other confidential court
matters contained on the tapes with the termination trials, such as paternity hearings, when
listening to the tapes of the trials. In order to avoid this, the court reporter set the tapes at the
beginning point of the termination trials before the researcher could listen to them. Also,
because the termination trials were heard in small counties with relatively low populations,
one of the judges believed that it may not be difficult for a reader of the study, upon learning
the name of the town or county, to find out the names of the persons involved. In respect of
this concern, names of towns, agencies, roadways, etc. that could be used to identify the
location of the termination trials included in the study were either deleted altogether or a
substitute name was fabricated.

Data Organization, Reorganization, and Analysis

The trial transcript data from the ten termination cases constituted a fair amount of
information to be analyzed by the researcher. There was a total of 566 double-spaced pages
of data consisting of the parent-court communications constructed during the course of the
trial. As mentioned earlier these communications could include testimony from both a
parents’ examination and cross-examination in the courtroom. In addition, information was
obtained from the case material and was used to create parent profiles that could further
illuminate the parent-court communications during the course of the trial. It should be
mentioned that this case material was specifically developed by the child welfare system in
relation to the parents’ children, not the parents themselves. Indeed, the termination cases
are categorized by cause numbers referring to the children, a system established by the child
welfare system when the children are originally determined to be children in need of
services. However, amidst the reports and evaluations related to the children, there were
case reports that detailed the interventions with the parents and other reports and evaluations
completed by various professionals in regard to the parents. These case materials averaged about one hundred pages per case. Also, the researcher listened to the audiotapes of the trials, which lasted anywhere from a couple of hours to about six hours in total length (the longer tapes tended to involve cases that had been continued and heard on different days).

As mentioned earlier, the only instrument that was utilized during the course of this study was the researcher herself. As Erlandson et al. (1993) state, "[r]elying on all [her] senses, intuition, thoughts, and feelings, the human instrument can be a very potent and perceptive data gathering tool" (p. 82). As the researcher interacted with the written data, the activities of data gathering, data organization and reorganization, and data analysis were all occurring simultaneously. In this manner, the processes of data collection, organization, and analysis did not occur in a linear progression. As the researcher was conducting interviews to obtain cases for the study, some cases had already been transcribed and coding had begun, and as coding was initiated on these early cases, notations were made and tentative observations and concepts were identified, and this information was then introduced into the interviews with the court personnel to inform the ongoing data gathering process. As more cases were coded, and the case material was accessed as well, and as the tapes were being listened to, the researcher’s interaction with the data intensified, and soon inductive analysis was utilized to sort the data into tentative, broad-based categories—later formally constructed through narrative analysis as the parent narratives on various subjects—which were used to provide descriptive information on the context of a termination proceeding. As the researcher, or the human instrument, continued the interaction with the data, and the parent narratives were constructed, themes emerged from the parent narratives and were soon sorted according to their consistencies and disparities. Throughout this research endeavor, such categories would often be re-arranged, or even discarded altogether, as the evolution of the
researcher's understanding of the study context progressed and as the constant process of comparison among the emergent themes continued.

In conducting this research project, the investigator strove to gather the data, organize the data, reorganize the data, and analyze the data in a manner that was authentic to the meanings constructed by parents during the courtroom process of losing the right to parent their children. The means to achieving this authenticity was provided by analytic techniques commonly found in qualitative approaches to understanding phenomena: narrative analysis and content analysis. After a discussion of these two types of analysis, the specific application of these analytical methods to the present study will be elaborated upon in the following section, titled “progression of analysis.”

Narrative Analysis

In this investigation of themes found in parent narratives in termination trials, a modified form of narrative analysis was applied to the trial transcripts in order to uncover the narratives necessary for content analysis. Adapting the tenets of narrative analysis allowed the researcher to study what the parents were interpreting and communicating from their life experience without addressing the mechanics of their speech, or how the parents were doing this interpretation and communication, which is the traditional domain of the narrative analyst (Bruner, 1990).

Narrative analysis can be simply defined as the study of personal narratives. This researcher, similar to many researchers who investigate narratives, understood the term “narrative” to be interchangeable with the term “stories”. These narratives, or stories, are created, and likewise can be found, within every context of human experience as they embody an individual's attempt to express their subjective, interactive life experience with
others and give it meaning. Brower and Nurius (1993) state that it is “evolutionarily adaptive for us to make sense of our world” through stories and these life stories “contain the rules that we use to figure out how we behave when we enter various situations” (p. 34).

As Reissman (1993) asserts in her excellent text on narrative analysis, it has been difficult to achieve a consensus regarding a more precise, globally operational definition of “personal narratives.” Some researchers and theorists argue that the definition of personal narratives must necessarily be kept very broad and remain inclusive of almost every form of human communication used to describe and give meaning to life experience. Others would strictly limit the definition of personal narratives to those storied communications that adhere to a specific structure, for example, containing certain properties or following a prescribed sequence of communicated events. Additionally, there is a wide range of analytical techniques utilized to study personal narratives, with researchers using content analysis, discourse analysis, and conversation analysis, among many other techniques, to investigate personal narratives. Perhaps this diversity in conceptualizing and approaching the personal narrative can be attributed to the many different types of professionals currently studying the personal narrative. As Riessman notes, researchers in sociology, social work, education, medicine, law, and anthropology—to name only a few—have utilized personal narratives to address questions of concern in their various disciplines (Riessman, 1993).

This study incorporated an approach to personal narratives that is based on a very specific definition of narrative structure. Developed by Labov (1972; 1982) and Labov and Waletzky (1967) and recognized as one of the most influential perspectives on the narrative, narratives are viewed in light of their organizational structure and the speaker’s evaluation of the expressed personal experience. Narratives are defined in terms of six components, each of which serves an important role in the communication of human experience within the
story format. There is an “abstract”, which summarizes the meaning of the story and an
“orientation”, which orients the story in regards to person, place, and time. In addition,
narratives contain a “complicating action,” in which the events that occurred are expressed
and an “evaluation,” whereby speakers imbue the story with their personal interpretation of
the significance of the events. Finally, narratives contain a “resolution,” in which the
speaker tells how the event was concluded, and a “coda,” a device that allows the speaker to
return to the present after this expression of events that occurred in the past (Labov, 1972;

According to Labov, the components do not necessarily have to occur in sequence, for
example, although “orienting information is usually concentrated at the beginning... some
orienting information can be placed later in the narrative” (Labov, 1982; p. 226). It should
be noted that Labov’s approach emphasizes the function of these six components in narrative
structure. Thus, the researcher who strictly adheres to Labov’s structural approach could be
concerned with whether a certain component serves a “referential” or “evaluative” function.
However, in the present study, the six components were the only element derived from
Labov’s theory (in order to identify the narratives within the transcripts) as the researcher
was not so much concerned with how the parents communicated their experience, as what
they communicated.

Additionally, it is asserted that the use of Labov’s approach to the structure of
narratives in this study enabled the researcher to avoid a serious pitfall— that of reducing the
transcripts to simply question and answer exchanges. Question and answer exchanges are
typically not considered to be “narratives” by narrative analysts (Riessman, 1993), and
narrowly defined, trial transcripts could be viewed as a series of extended question and
answer exchanges. However, similar to the interview format, in termination trials, the
parents are often asked open ended questions that allow them to create fully fleshed out narratives regarding their life experience. Also, as mentioned earlier, in trials, the attorneys may return repeatedly to a single event, enabling the parent to more completely explicate their storied perspective with each new round of questions.

**Content Analysis**

Content analysis was also utilized as a data analysis technique in this study. Content analysis “classifies textual material, reducing it to more relevant, manageable bits of data” which enables the researcher to make inferences about the text (Weber, 1990, p. 5). Content analysis “may be applied to virtually any form of communication...[i]t consists primarily of coding and tabulating the occurrences of certain forms of content that are being communicated” (Rubin & Babbie, 1997, p. 421). It may involve quantifying the communications to make them “amenable for statistical treatment” (Kvale, 1996, p. 69) and/or utilization of “more flexible approaches that permit deeper probing into subjective meanings—probes that usually seek to generate new insights more than they seek to test hypotheses” (Rubin & Babbie, 1997, p. 429). This dissertation had a decidedly qualitative focus and the latter approach to content analysis was taken by the researcher as themes found in the parent narratives were examined and “grounded...to the data” (Berg, 1995, p. 176).

The use of content analysis in the present study had several advantages. It was uniquely appropriate to the purpose of the study and the data utilized. Weber (1990) asserts that content analysis allows the researcher to “operate directly on text or transcripts of human communication” which is a “central aspect of social interaction” (p. 10). This is consistent with the social constructionist framework that guides this study as it is through social processes that people describe, explain, and impart meaning to their world (Gergen,
1985). Also, it provided an unobtrusive measure in that the participants in the trials—the parents, the attorneys, the judges, the witnesses, etc.—were unaware that they were being studied and thus there was no danger that the researcher was influencing their communications (Weber, 1990).

This study used both manifest and latent content analysis strategies. While manifest content involves those aspects of communication that are “physically present and countable,” latent content involves “an interpretative meaning of the symbolism underlying the physically presented data” (Berg, 1995, p. 176). The interpretations of latent content from the data are accompanied by detailed excerpts from relevant parent communications that serve to document the interpretations. In addition, in order to better ensure the trustworthiness of the interpretations, another coder independently examined such passages (Berg, 1995). Following Strauss (1987), the naming of the categories created by the manifest and latent content analysis strategies was accomplished through both “in vivo codes”—derived directly from the language of the parents in the transcripts—and “sociological constructs”—derived from a substantive field of knowledge (for example, a code was labeled ‘failure to protect’, a term derived from the legal and social work literature) [pp. 33-34].

Progression of Analysis

The analysis of the trial transcripts had two distinct phases. This approach became necessary when the researcher encountered difficulty in clearly establishing what would constitute a “narrative” for the purpose of analyzing themes in parent communications in the termination trials. As Berg (1995) states, before undertaking a content analysis of data, it is advisable that the researcher clearly outline in advance exactly where the themes under study will be located. For this reason, a modified form of narrative analysis was employed to
systematically identify the parent narratives and then content analysis was utilized to analyze these narratives. Narrative analysis was adapted to the purposes of this study with Labov (1972; 1982) and Labov and Waletzky’s (1967) approach to understanding narrative structure utilized to identify the parent narratives in the transcripts. Then, following this narrative analysis, content analysis (Glaser & Strauss, 1967 and Strauss, 1987) was applied to the parent narratives and the emerging themes contained within them were identified and classified.

Additionally, the processes of narrative analysis and content analysis were informed by data from the case materials and the trial tapes as a whole. This information was essential in filling in the missing components of the narrative structure, alluded to during the parents’ testimony, but not elaborated upon during the parents’ time on the stand. Knowledge of these missing narrative components was typically just assumed by the speakers in the parent narratives because they had been communicated in testimony during other parts of the trial or could be found in the case materials (filed into evidence). However, in the findings section, and consistent with this study’s purpose to investigate parents’ communications when they are involved in a trial to lose their parental rights, only the parents’ communications made during the course of the trial were directly quoted to support the findings.

As in many qualitative studies, “data analysis [was] conducted as an activity simultaneously with data collection, data interpretation, and narrative report writing” (Creswell, 1994, p. 153). In this manner, the researcher was reading and coding several of the transcripts and making preliminary notes and observations, and also reading the case materials and listening to the taped transcripts of the trials while waiting for the court reporters to complete other transcripts. However, it should be noted that at the early phases of data collection, the researcher was careful to fully read through the transcripts and the
accompanying case material of each case many times prior to moving on to another case. This practice ensured that the researcher would become wholly familiar with all of the individual case characteristics and helped to prevent confusion among the various cases.

The modified form of narrative analysis utilized in this study initiated the formal analysis of the data. The researcher’s reading of the case materials had led to a preliminary identification of various stories told by the parents while they were testifying during the termination trials. As stated earlier, while the researcher had originally planned to simply identify these parent stories, or narratives, and then progress to a content analysis of them, it became apparent that a more systematic method was necessary to identify what actually constituted a “parent narrative.” For this reason, the researcher employed Labov (1972; 1982) and Labov and Waletzky’s (1967) approach to understanding narrative structure that is often used in narrative analytic procedures.

Following Labov (1972; 1982) and Labov and Waletzky (1967), the researcher analyzed the various parent communications contained in the transcript. Through this process, the parent communications that would be termed “parent narratives” for the purposes of this study soon emerged from the data. In order to be a “parent narrative,” the stories told by the parents generally had to contain the six elements outlined by Labov and Waletzky (1967) and Labov (1972; 1982): abstract, orientation, complicating action, evaluation, resolution, and coda. The above statement includes the word “generally” for a couple of reasons. Labov’s approach is based on stories that have already occurred, in effect, “the recapitulation of past experience” (Labov, 1982, p. 225). In the termination trials, and included in this study, there are story components that defy this framework, for example, as the parents infuse their stories of substance abuse and imprisonment with scenarios from the future. Also, there may not always be a “coda” in the strict sense of the term. In a
termination trial, where the story of their past interactions with their children and the system are paramount, parents may not conclude with a “coda” as they may be limited by the attorney and the legal format to answering the question asked of them, namely, to recount the past event. Also, as stated earlier, gaps in the parents’ narratives in the transcripts, or what the researcher referred to as “missing components” of Labov’s narrative structure, were remedied through reference to case materials or other testimony during the trial. However, notwithstanding these limitations, the researcher found that Labov’s approach proved to be aptly suited to the task of assisting the researcher in defining “parent narratives”.

As the fully formed narratives were identified in the trial transcripts they were highlighted with colored markers. Each color corresponded to a different parent narrative subject, for example, a yellow marker was used to highlight the substance abuse parent narratives and a blue marker was used to highlight the domestic violence parent narratives. The colors were randomly assigned and held no particular meaning regarding the parent narratives. The color highlights served several purposes. They enabled the researcher to better piece together the components of a narrative as the narrative may have been splintered into various parts during the course of the parent’s testimony. For example, the parent and the attorney would often revisit the subject matter of a narrative repeatedly during testimony or even add to the narrative as the trial progressed to a cross examination.

Additionally, the color coded narrative components facilitated the researcher’s efforts to re-construct the parent narrative after removing it from the rest of trial transcript. After all of the parent narratives had been located following Labov (1972; 1982) and Labov and Waletzky’s (1967) structural approach, and marked with their corresponding color, the researcher cut them out of the trial transcript and reassembled them on poster board. After this had been completed, the researcher had six (one for each of the parent narratives’ subject
matter) oversize poster boards with the parent narratives arranged according to the narrative structure outlined by Labov. If components of the narrative had been added from the case materials or taped transcript, they were written in longhand, highlighted in the appropriate color, and then added to the poster board. Alongside each of the complete narratives, on each poster board, was the name of the parent from whose transcript the narrative had been found. It should be noted that the parent names were fictitious, given by the researcher to protect the confidentiality of the records. Ten first names were assigned to the study population, with the first letter of each name corresponding to the first ten letters of the alphabet. This assignment of names was random and held no special meaning regarding the substance of the study. However, the alphabetical arrangement did assist the researcher in the organizational process.

After the narratives had been identified in the trial transcripts and removed and reassembled according to subject matter, the researcher utilized content analysis to study what the parents were communicating in the narratives. Although Weber (1990) asserts that “[t]here is no simple right way to do content analysis” (p. 13), he states that the general goal of this method of analysis is to classify “the many words of the text... into much fewer content categories” (p. 12). This goal of classification can be accomplished through coding. As conceived by Glaser and Strauss (1967) and Strauss (1987), this coding process involves moving toward the goal of higher levels of theoretical abstraction.

Advancing to a higher level of theoretical abstraction through coding posed a dilemma for the researcher in the present study. When the researcher had originally conceived of the idea for a study of termination cases, there was a desire to develop a grounded theory about the interactions of participants in termination of parental rights trials and how these interactions influence judicial decision making— with the constant comparative method and
the coding processes outlined in Glaser and Strauss (1967) and Strauss (1987) to be utilized to achieve this goal. However, as the goals and design of this dissertation were modified, the researcher developed a more realistic view of the study's contribution to theory development. Similarly, the methodological approach, involving the coding and analysis of the data, reflected the goal of simply analyzing and describing the parent communications. It should be noted that although there was not a strict adherence to the approach designed by Glaser and Strauss (1967), Strauss (1987) and Strauss and Corbin (1990), the coding processes of "open coding" and "axial coding" and the constant comparative method were utilized to analyze the narratives. Additionally, the researcher remained committed to laying the groundwork for future theory development in the area of judicial decision making and termination of parental rights actions. This commitment is evidenced in the hypotheses that were developed throughout the course of this investigation, found in the discussion and implications section later in this dissertation.

Coding of the parent narratives began with "open coding," moved into "axial coding" and incorporated the constant comparative method throughout the analytical process (Glaser & Strauss, 1967; Strauss, 1987; Strauss & Corbin, 1990). The process of open coding initiated the researcher's content analysis of the termination trials' parent narratives. Open coding has been defined as "unrestricted coding of the data" (Strauss, 1987, p. 28). Following Strauss (1987), when beginning the process of open coding, the researcher read through all of the parent narratives with an eye to every minute detail contained in the transcribed communications. At this initial phase, the data was approached with a basic, specific question that was mindful of the study's purpose: What do individuals say when they are in the process of losing the right to parent their children? Not surprisingly, this broad based coding process led to the development of a quite large number of notes.
observations, and categories. However, this immersion into the data proved to be extremely important as it facilitated the development of provisional concepts that seemed consistent with the data. In later phases of coding these provisional categories would be refined, especially when they were considered in light of the literature base regarding termination actions, but at this early phase they remained in a rather "raw" state.

The researcher was also careful to read and re-read the transcripts and the emerging, provisional categories with Strauss' (1987) question in mind: "What category does this incident indicate?" (p. 30). This one question reminded the researcher to consider emerging phenomena as they were related to each other, instead of simply viewing aspects of the parent narratives as singular entities. I completed open coding when I discovered that every detail in the parent narratives had been coded and I had progressed to the stage where the narratives were saturated with repetitive codes.

Although axial coding followed the initiation of open coding, axial coding is actually a part of the open coding process. Strauss (1987) states that axial coding involves "intense analysis done around one category at a time" (p. 32). It is an important aspect of coding because it enables the researcher to become fully immersed in understanding one category while also heightening a researcher's awareness of how other categories may relate to the category under consideration. It should be noted that the entire coding process was a very fluid one and the axial coding process reflects this aspect of the analysis. Often, the researcher would move from the more broad-based open coding into axial coding around a single category, only to move back into open coding when fresh insights emerged from data. During this entire coding process, the constant comparative method was employed as the researcher compared various indicators (such as behaviors, events, etc.) which "forced [the researcher] into confronting similarities, differences, and degrees of consistency of meaning
among indicators…[which] generates an underlying uniformity, which in turn results in a coded category" (Strauss, 1987, p. 25).

The researcher’s coding of the data resulted in an intensive analysis of the parents’ communications as found in their courtroom narratives on various subject matters, such as substance abuse and domestic violence. The insights that emerged from this analysis are reflected in the findings sections devoted to the display of these communications, titled according to the subject matter of each of the narratives. This display further demonstrates the utility of the processes of open coding, axial coding, and the constant comparative method in identifying the similarities and differences among what the parents communicated in these narratives during the course of the termination trials. It is hoped that these findings, capturing each parents’ narrative expression of experiences that would enter the decision to terminate parental rights, may hold potential for future theory development regarding the decision making process in termination actions.

Data Trustworthiness

In a discussion on data trustworthiness, Erlandson, Harris, Skipper, and Allen (1993) claim that in order to be of value, scientific inquiry “must guarantee some measure of credibility about what it has inquired, must communicate in a manner that will enable application by its intended audience, and must enable its audience to check on its findings and the inquiry process by which the findings were obtained” (p. 28). The manner in which quantitative and qualitative researchers address this issue of data trustworthiness, and meet the criteria of truth value, applicability, consistency, and neutrality can vary. Lincoln and Guba (1985) claim that while quantitative researchers incorporate terms such as internal validity, external validity, reliability, and objectivity, qualitative researchers often rely on the
use of terms like credibility, transferability, dependability, and confirmability. But it is not just the terms that may differ between these two methodological approaches to trustworthiness as the terms invoke very different means of achieving trustworthiness. The discussion below illustrates each of these qualitative approaches to achieving trustworthiness and how they were applied in the present study.

Credibility

Whether a researcher is conducting a quantitative or qualitative study, an emphasis exists on the achievement of a criterion of “truth value.” In conventional research methodologies this criterion is addressed through the concept of internal validity and techniques such as control groups and randomization may be utilized. In a qualitative study, truth value may be achieved in a different manner. With the qualitative concept of “credibility” serving as the counterpart to internal validity, techniques such as reflexive journaling, triangulation, and peer debriefing— which were used in this study— are often applied instead of the more traditional techniques. A reflexive journal is a record kept by the researcher, much like a diary, where regular entries are made regarding the researcher, events that occurred during the course of the research, insights made as the study progressed, and the reasons for various methodological decisions. This enables another researcher to follow the research process and validate that the decisions made along the course of the project were solid ones (Lincoln & Guba, 1985). In the present study, entries were made at least once a week, sometimes more frequently, depending on the level of activity occurring on the project. Also, the researcher utilized the process of triangulation, which involves the use of multiple sources of data. Here, the study was informed not only by reading and analyzing the
trial transcripts containing the parents' testimony, but by listening to the tapes of the entire trials, and reading the entire court record on each of the parents' cases.

In addition, the credibility of this dissertation research was supported by the technique of peer debriefing. Peer debriefing is a procedure whereby "a professional outside the context and who has some general understanding of the study...[will] analyze materials, test working hypotheses and emerging designs, and listen to the researcher's ideas and concerns" (Erlandson, et al., 1993, p. 140). The peer debriefer for this study was a social worker in child welfare who had considerable experience working on termination cases. She was familiar with the trial process in termination cases and also had research experience. Although it was somewhat of a limitation, the peer debriefer and the researcher did not have face-to-face contact during the course of the study, instead communicating by telephone and mail. The peer debriefer provided insights throughout the analysis process. In addition, she analyzed three of the transcripts independently of the researcher and her observations served as the basis of several of the discussions. The peer debriefer was in agreement with the researcher on the emerging themes from the transcripts. After the debriefing sessions, the researcher entered a summary of the issues discussed in the reflexive journal.

Transferability

Researchers also emphasize the achievement of applicability of their study. In a quantitative study, this criterion may be termed "external validity" and addressed through a random sample. However, in a qualitative study, the goal is often not to be able to generalize the findings but to achieve a deeper understanding of subjective human experience. For this reason, in a qualitative study, applicability may be referred to as "transferability" and techniques such as thick description, purposive sampling, and a reflexive journal may be
used to support the study. In the present study of themes in parent narratives at termination trials, there are limits to generalization, arising from the inherent limits of representation of communicated experience. Riessman (1993) states that “[a]ll we have is talk and texts that represent reality partially, selectively, and imperfectly” (p. 15). For this reason, the achievement of transferability became focused on engaging in thick, rich description of the study’s context and the emerging findings (Lincoln & Guba, 1985). This richness, or depth, of study context can be furthered through purposive sampling, which involves developing a sample through special knowledge of the population to be studied so that both similar and divergent members of the population are evidenced in the sample. The goal is “not to focus on the similarities that can be developed into generalizations, but to detail the specifics that give the context its unique flavor” (Lincoln & Guba, 1985, p. 210). With a sample gathered through purposive sampling techniques, this dissertation does not assert that generalizations about all termination trials, or even all parents who participate in termination trials, can be made from the findings of this study. Instead, it was this researcher’s goal that the thick, rich description of the parents’ communications in such trials will provide insights in this unexplored area of research and lay the groundwork for further investigation and theory development. The reflexive journal recorded the processes of thick description and purposive sampling during the course of the study and served as a guidepost in addressing issues that arose related to the limited generalizability of findings that emerged in the analysis of the data.

Dependability

The scientific criterion of consistency is also essential to the trustworthiness of research efforts. In conventional research designs, the concept of reliability is often used to assess the consistency of study with the use of techniques such as test-retest or parallel forms
reliability. In qualitative studies, such as this one, the term dependability is found in discussions of a study’s consistency. Techniques that are applied in a qualitative study to help ensure dependability are the dependability audit and the reflexive journal. The dependability audit involves providing all the information necessary for an auditor to assess the dependability of a study. This audit process is also used to establish the confirmability of a study (discussed below). As part of the audit trail, the researcher in the present study adapted the audit trail suggested by Lincoln & Guba (1985) [which they based on the work of Halpern (1983)]. The audit trail for this dissertation research includes five items: the raw data of the trial transcripts; the data reduction and data analysis materials, such as notecards developed on each parent from the case records and peer debriefing notes; data reconstruction materials, such as the data analysis sheets and the narratives poster boards; the reflexive journal; and the dissertation proposal. The last item mentioned by Lincoln & Guba (1985)—any instrument that was developed during data analysis—did not apply to this research project. Finally, in addition to the dependability audit, this researcher had the peer debriefer independently code three of the cases in order to determine the dependability of the coding of latent meanings in the parent narratives. The results of this independent coding process are discussed in the reflexive journal where it is noted that there was overwhelming agreement between the researcher and the peer debriefer regarding the coding of the data.

**Confirmability**

Science also places an emphasis on the neutrality of the research process. The conventional term for this criterion of neutrality is objectivity. Qualitative researchers may instead use the term “confirmability.” Techniques used to help ensure confirmability are the audit trail, here, used for the confirmability audit, and the reflexive journal. As Erlandson et al. (1993) note, the audit trail is important because it helps prevent the researcher from
reporting a finding without “noting its source” and thus, from “making...assertions without supporting data” (p. 150). In this dissertation, the researcher was careful to document the specific correspondence between the raw data and the data reduction products and the final report. In particular, the audit trail components of the data re-construction materials and the reflexive journal demonstrate this process. In this manner, the reflexive journal also supported the researcher’s efforts to establish the confirmability of the study.

Protection Issues

As discussed earlier, identifying information regarding the termination trials was altered or omitted to ensure the confidentiality of the juvenile records. This process was required by state law, with failure to do so resulting in criminal penalties for the researcher. In addition, one of the judges also requested that the location of the trials, such as the county and city, not be named because of the nature of the cases and the relatively small size of one of the counties in which they were heard. The researcher honored this request and identifying information regarding location— which besides city names could include the names of local restaurants, streets, judges, etc.— was blacked out of the trial transcripts as well as the names of the participants. The parents in each of the ten cases were given fictitious names, with the first letter of each of the mothers’ assigned names corresponding to one of the first ten letters in the alphabet. The fathers were just assigned a random fictitious name. This process was done for purely organizational reasons and held no special meaning in regards to the data.

Expected Implications

The researcher expected that the primary implication of this study would be the development of a new area of inquiry in child welfare research— one that effectively captures the intersection of law and social work— which would hold promise for future research,
practice, and education efforts in social work. The researcher did not expect this
dissertation's methodological approach to support generalizations to other settings about the
termination of parental rights process. Instead, framed in a symbolic interactionist
perspective, this dissertation investigated the socially constructed meanings in termination
trials in order to explore and describe the patterns in these interactions and provide insight
into the experience of the individual parents within their social universe. By providing this
insight it was hoped that social workers may become sensitized to the parents' perspectives
in such cases. This sensitization is critical for many reasons. Parents who have lost the right
to parent their children, and who have been involuntary clients of the child welfare system,
are often also social work clients in other settings, such as substance abuse facilities,
homeless shelters, prisons, and mental institutions. Thus, in addition to learning more about
this population in order to better address issues regarding these involuntary clients in the
child welfare system, there is a need for social workers in a variety of settings to become
informed regarding this unexplored dimension of their clients' life experience— that of legal
failure in the parental role— in order to holistically conceptualize the needs of their clients.

Also, with the increasing numbers of termination actions in the child welfare system
today, there will be more of these parents than ever before. Additionally, with increasing use
of post-termination placements such as kinship care and open adoption, these parents, whom
social workers have never studied, may have continuing contact with their children. The
implications of these evolving practices in child welfare can only be discovered through
inquiry into the people and systems impacted by such change. By sensitizing social workers
to parents' experiences, perceptions, and outlooks as they fight the determination of the child
welfare system that their rights be terminated, this study incorporates a new voice into the
knowledge building efforts in child welfare.
The utilization of a methodology that gave a voice to the lived experience of parents incorporated the understanding of this phenomena within a social universe. Thus, by exploring and describing the communications as they were socially constructed, through the rather uncommon approach of analyzing trial transcripts, this research was sensitive to environmental context and utilized a type of data that could perhaps be one of the greatest untapped sources of data for social workers investigating the “person-in-environment.” In the present study, it is hoped that this research will serve as a foundation towards theory development regarding these parents and their surrounding environments. For example, one area of proposed theory development would be theories regarding the interactions of parents in termination trials and their possible influences on judicial decision making, or more broadly speaking, the interactions of parents in their social environments as a whole and their possible influences on decision making in the child welfare system. This researcher believes that there are many possibilities for knowledge building in this unexplored area of child welfare, that there are many voices social workers have yet to hear, and that a socio-intracational focus on the stories parents communicate during their termination trials was a good place to begin listening.

**Strengths and Limitations**

This qualitative study, involving a content analysis of parent narratives in termination trials, has many of the expected strengths and weaknesses that any such type analysis would have. For example, the unobtrusive nature of a content analysis could be understood as a strength, as no one needed to be interviewed or put through a battery of tests or experiments, but by the same token it could be understood as a weakness, as this lack of direct contact or prolonged engagement with the parents in these cases limits the scope of inquiry to parental
communications with others in the courtroom. Because of this, the researcher did not have access to such information as what a parent wore to court, their overall demeanor, and how they used non-verbal communication such as hand gestures. In addition, the trial transcripts and the case materials did not contain identical kinds of information on each parent. For example, the researcher may have been able to include particular descriptors in some of the cases, such as level of education obtained, race of family members, etc. but not in others. Thus, the study's attempt to use "thick description" was limited to the language contained in the trial transcripts and tapes and case materials. However, notwithstanding these limitations, because content analysis is so useful in studying documents and communications (Abrahamson, 1983), it is argued that in this dissertation study content analysis provided an excellent tool to investigate a research question involving what parents say during the course of a trial to terminate their parental rights. Such a good fit between the research question and the mode of analysis instills confidence that this content analysis will be applied to its best use.

The use of a qualitative methodology for this descriptive, exploratory study can be viewed as a strength as it enabled the researcher to take a more holistic approach to the context of the data rather than utilizing the reductionist approach of more conventional research designs. This kind of inquiry made it possible to focus on the interactive, subjective experience of the parents and provided a depth and richness to the study that would have been lacking otherwise. This is an area of child welfare practice that is filled with many complexities and seeming contradictions— for example, parents who profess love for their children, but are allegedly unable to maintain the legal standard of care of them and laws and regulations that state a preference for keeping families together while parents claim that the state only acts in ways designed to separate them from their children. Because of these and
other intricacies, research into this area can be fraught with many difficulties, and it is asserted that the use of a qualitative methodology allowed the researcher to attend to and describe the particularities of each case while remaining mindful of the surrounding environmental context. However, choosing to utilize an exploratory, descriptive approach to study how the parents socially constructed meaning through interaction with others did limit the generalizability of the findings. Thus, while a limitation of this study may be seen in the fact that the findings can not be generalized across populations facing termination actions, the researcher believed that the ability to become immersed in the richness of these ten cases, with the goal of sensitization to the perspective of this unexplored population, was appropriate to the newness of this area of inquiry and more than compensated for the loss of generalizability. The researcher asserts that another strength in this study may lie in its provision of a foundation for future research efforts and theory building, which may create the kind of findings, based on a more conventional research design, that can be generalized to other populations.

Another limitation may be found in that there was only a single coder. The researcher is an attorney and her legal experience may have clouded how the data was perceived and interpreted and the themes that subsequently arose from the data. However, the researcher is also a social worker, and it could be argued that this professional background similarly affected the themes that were uncovered in the data. In order to address this potential limitation, the researcher had a peer debriefer, a social worker with extensive experience in child welfare and termination actions and research experience, independently code the data. Additionally, this peer debriefer was utilized throughout the study to discuss with the researcher any emerging findings from the data.
Additionally, a limitation of this study may be found in the rather homogeneous population from which this study population was drawn—primarily, poor, non-minority, rural or small town residents. Of course, termination of parental actions affect urban minority populations as well, and it is regrettable that this qualitative inquiry was unable to capture this kind of diversity in the study population. However, within the confines of the geographical area from which this study population was drawn the researcher made every effort to ensure that there was a diversity in case characteristics in order to further the goal of thick description of the phenomena of interest. The richness of data, in terms of the many parental life experiences represented, is asserted to be a strength of this study. Finally, it is acknowledged that a limitation of the study may be found in the lack of “member checking” (Erlandson et al., 1993) whereby the researcher could assess the trustworthiness of the data by asking members of the population under study, here, parents in termination trials, to review the findings. Unfortunately, the above mentioned constrictions on the data foreclosed this possibility.

Summary

In this dissertation research, a description of what parents say when they are in the process of losing the right to parent their children was attempted through the utilization of a qualitative methodology. A modified form of narrative analysis, as well as content analysis, was applied to the data in this study in order to identify, explore, and describe the themes that were present in the parent narratives that emerged from the ten trial transcripts included in this study. Through a focus on the socially constructed narratives, the researcher framed the inquiry in a symbolic interactionist perspective which placed the parents’ communications within their surrounding context and contributed to a richness and depth of meaning in the parents’ communications that would have been absent otherwise. It was
hoped that the thick description of the parents' communications, captured as part of the processes of interaction and interpretation that take place when constructing meaning in a social environment, would sensitize social workers to the perspective of these parents within an environmental context. Additionally, the researcher hoped that this process of sensitization would lead to further research and theory building in this nascent area of inquiry.
CHAPTER 4

TEN CASES INVOLVING LEGAL LOSS OF PARENTAL RIGHTS:
PARENT PROFILES

The researcher utilized case materials, found in the juvenile records, to inform the process of the study. Although the case materials were organized around each of the parents’ children, they contained a variety of information about the parents and the events that surrounded placement of the children in out of home care and the family’s interactions with the child welfare system and other various professionals. The case materials fully fleshed out each of the parents’ stories, often providing background information on their own upbringing, and completing many of the parent narratives that were told in the courtroom during the course of the termination trials. In this section of the dissertation, profiles of each of the parents included in this study are provided. It was the researcher’s belief that inclusion of this information would further the goal of thick description and enable the readers of the study to approach the themes that emerged from the narratives from a more enlightened perspective. Finally, it must be noted whenever possible the researcher provided descriptive information regarding the parents’ age, race, level of education obtained, marriage status, etc. However, the case materials, trial tapes, and trial transcripts did not always contain the same information on all of the parents, and thus, certain descriptors may be missing from a case. Unless otherwise noted, to the best of the researcher’s knowledge, the parents and their children are non-minorities.
Annie's Case

Annie married Leo immediately following her sixteenth birthday. Almost ten years older than Annie, Leo had a criminal record, was always jealously possessive of Annie and often demonstrated a volatile personality. After she married Leo, Annie dropped out of school in accordance with Leo's wishes. Leo and Annie had five children together: Cathy, Kenny, Robby, Darla, and Leah. Annie and Leo's life together was often chaotic. They had violent arguments, numerous break-ups and reconciliations, moved frequently, and repeatedly came to the attention of child welfare authorities in various jurisdictions for sub-standard home conditions. Leo had trouble holding down a job and for a period of time the family lived in an abandoned school bus on a friend's land. As the years progressed, Leo became increasingly violent toward Annie and restricted her from leaving their home. He also physically abused the children. In addition, Leo was paranoid about the government and feared that the government was trying to control his life. He did not believe that his children should attend school and he did not believe in immunizations.

Allegedly, Leo sexually abused his children as well. Also, he kept pornographic materials around the house. Near the end of their marriage, Leo moved a girlfriend into the home and encouraged her to interact in a sexual manner with the children. Annie and the children were quite afraid of Leo. While cleaning his rifles, Leo would threaten to take them to a faraway place and kill them all. It is unclear whether Leo left Annie and the children to live with his girlfriend or whether Annie kicked him out, but after fifteen years of marriage, Leo moved out. When he moved out, leaving Annie mid-way through another pregnancy, he took the four children with him. The children allege that during this time they were physically and sexually abused although Annie denies knowledge that they were ever abused by Leo. Eventually, child welfare became involved with the family due to a report on the
filthy, crowded condition of Leo's home. When Leo heard that the state was intervening, he took all four children and left the state. He returned after a short time, and the four children entered out of home care (Annie had given birth to Leah at a friend's house during their separation and had custody of her). Kathy and Kenny were placed in a youth home and Robby and Darla in a foster home.

After waiting for a period of time to determine whether Leo would return and they would reconcile, Annie realized that her marriage was over and filed for divorce. Anxious to have her children returned to her, Annie worked diligently on the case plan and within several months all of her children were returned to her care. Leo's whereabouts were unknown at the time. In fact, he would never attempt to have contact with his children again.

During this period, Annie obtained employment at a fast food restaurant, where she would continue to work for the next two years. She had dreams of someday becoming the manager. Because she received no support from Leo, money was tight, but she did manage to get food stamps to supplement her income. Also, after her break-up with Leo, Annie dated frequently and she soon had another child, Leslie.

After a period of time, child welfare once again was notified of problems in Annie's home. The children were arriving at school dirty, with untreated illnesses and injuries, and with head lice. Their school attendance was dismal. Neighbors reported that they were poorly supervised, and often engaged in life threatening behaviors, such as playing in the busy street. This time, Annie demonstrated less commitment to comply with the case plan. Annie was working long hours and in her free time she had begun to date a man from work named Edward. The two older children, Cathy and Kenny, had taken over the bulk of the caretaking and homemaking activities. Caseworkers stated that when Annie was home from work all she did was sleep. Often they would come for a home visit to find Annie in bed
with Edward, reportedly an angry and abusive man, and the home in total disarray. The four younger children were eventually removed from her care (Cathy had recently married and left the home, and Kenny was not removed because of his age and the belief that he was not in any danger).

Annie would not regain custody of her children again. In time, she had a daughter, Christy, with Edward. Months before Christy was born, Darla stated that she had been sexually molested by Edward. Edward was convicted for sexually molesting Darla and served over two years in prison for the crime. In opposition to the caseworkers, and even the entreaties of her son, Kenny, Annie refused to believe that Edward had sexually abused her daughter. She begged Darla to recant her story. In violation of a court order she showed up at Edward’s trial and spoke to Darla. Annie also violated a court order that forbade her to allow any of her children to have contact with Edward. One day she was seen with him at a restaurant and getting into a car with him while holding Christy in her arms. Christy was removed from her custody and placed in foster care.

In the months before the trial to terminate her parental rights to Robby, Darla, Leah, and Leslie, Annie moved to the same small town where Edward had moved after his release from prison and gained employment at the same business, although she asserts that she and Edward are not currently in a relationship. Caseworkers have noted that Kenny and Annie have a reversed sort of relationship. Kenny is very protective of his mother and assumes responsibility for taking care of the family. When their apartment building burned down, Annie was unable to deal with the situation and for a period of time they became homeless. It was Kenny who worked with community groups and social service agencies and secured them a new place to live.
Bridget and Rusty’s Case

Bridget and Rusty married when Bridget was eighteen and Rusty was nineteen. Bridget has been tested to be in the borderline mentally retarded range. Her husband, Rusty, has tested in the mildly mentally retarded range. When Rusty was a young boy he was in a tragic car accident in which one of his siblings and his father were killed. He's drawing SSI for total disability and he sometimes has to use a wheelchair. Bridget had a son, Terry, from a first marriage she entered when she was sixteen years old. Since they have been married, Bridget and Rusty have had two daughters, Candi and Deanna. Bridget has worked at fast food restaurants and a car wash in the past, but at the time the children entered out of home care, she was unemployed.

The family first came to the attention of child welfare authorities when Terry’s teacher reported that he had bruises on his legs and chest. When confronted by child welfare authorities, Rusty admitted that he was responsible for the bruises, although he and Bridget would later deny that he had ever inflicted any harm on Terry. Terry, Candi, and Deanna were removed and placed in foster care. Eventually, the children were reunited with their parents.

Not long after their return, a courthouse employee reported that Bridget and Candi, then about two years old, were spending long hours of each day on the courthouse lawn. The employee noted that Bridget would leave the child for long periods of time unsupervised. Also, the child was being fed junk food the whole time, such as candy bars and soda. When child welfare investigated they found Bridget and Rusty had moved into a one bedroom apartment. The apartment was crowded and had sub-standard living conditions. Rusty and Bridget indicated that they had been planning to move and thus family preservation services were provided in their new home. However, reports indicate that the living conditions in the
house were never much better than in the apartment. It was often filthy, and the cupboards were always filled with junk food, such as candy bars, potato chips, and sodas. The children appeared underweight and malnourished, had severe head lice that Bridget seemed unable to treat, and were rarely appropriately dressed even though they had been provided with clothes. Reportedly, they cooked meals on a hot plate, they didn’t have running water, the toilets were backed up, and the house was infested with bugs. Bridget and Rusty showed no improvement in their parenting or homemaking skills over the course of intervention and the in-home services were deemed to be unsuccessful. Terry, Candi and Deanna were placed in foster care. Eventually Terry would be placed in his paternal grandparents’ house.

When they entered out of home care, all of the children were seriously developmentally delayed which case reports attributed to the lack of stimulation and nourishment in their parent’s custody. The children were all reported to have happy dispositions, although they were somewhat shy, and each of them adjusted well to their foster home placement. However, even though they appeared content in their foster placement, Candi and Deanna frequently asked for their parents. Caseworkers noted that during visitations the children and their parents interacted well and seemed to be bonded to each other. However, visitations did raise some concerns regarding parenting issues. While Bridget and Rusty played well with the children, they seemed confused and unable to respond when discipline issues arose. Also, according to case reports, even though they were working with homemaking services and taking parenting classes, Bridget and Rusty were still unable to demonstrate an understanding of the distinction between healthy foods and junk foods. They continued to bring candy and sodas to the visitations even though they had been specifically instructed to bring certain healthy snacks. When they were informed by the caseworker that the candy bars were not the healthy foods that they had been instructed to
bring, Bridget became angry and would cry and Rusty would attempt to negotiate with the caseworker, insisting that they were “good food.” Indeed, case reports indicate that Bridget became increasingly withdrawn and volatile as the case progressed.

Although Bridget and Rusty regularly attended parenting classes, neither seemed able to recall the lessons they had learned, other than repeating the statement that “hitting a child is not right.” Bridget and Rusty experienced difficulty complying with the housing requirements in the case plan, moving frequently, with continued problems at each residence. Also, they began to experience marital difficulties. Bridget began to drink occasionally and she eventually moved in with a friend she knew from working at the car wash. At visitations, Bridget and Rusty engaged in noisy arguments in front of the children, often regarding issues inappropriate for children’s ears, such as sexual problems. Both Bridget and Rusty tried to draw their children and the caseworker into these arguments. In time, Bridget filed for divorce. According to case reports, neither Bridget nor Rusty was ever able to meet the reunification requirements in the case plan, such as suitable housing and demonstration of adequate parenting skills.

Carli’s Case

Carli entered foster care when she was a young girl due to sexual abuse and lack of supervision. Reportedly Carli was sexually abused by one of her mother’s boyfriends and a neighborhood child. She resided in a series of foster homes. When she was fourteen years old Carli gave birth to her first child, Brittany. Described as a forthright, sometimes cold, unemotional person, Carli openly admitted that she drank heavily and used drugs while she was pregnant with Brittany. Brittany’s father was addicted to drugs and paternity was never legally established. At her birth, Brittany was made a ward of the state and placed in the same foster home as Carli. However, Carli ran away from the foster home several months
after Brittany’s birth. When she returned, Carli gave birth to a second daughter, Crystal. Crystal’s putative father was African-American and had a drug problem. He had no contact with Crystal and died a year after her birth from AIDS related complications. Crystal resided with Carli and Brittany in the same foster home.

In counseling at this time, Carli admitted that her life felt out of control and that she was desirous of making changes. While Carli made some progress during this period, her commitment to sobriety and gaining the capability to care for her children was often compromised by her forays back into drug use and indiscriminate sexual activity. When Carli was seventeen she gave birth to a boy, Taylor. Taylor’s father was an African American seventeen year old, Thomas, who lived with his mother. Thomas was excited about the birth of his son and regularly visited Carli and the three children at the group home where they resided. When Carli ran away from the group home and moved in with a friend she contacted Thomas and told him that he could visit with the children anytime. Thomas alleges that one afternoon Carli dropped off the three children at his mother’s home and never returned. Carli claims that Thomas picked up the three kids and would not return them to her. The record shows that Thomas did call the police from his mother’s house and allege that Carli had abandoned the children. The police arrived and removed Brittany and Crystal, leaving Taylor in Thomas’ care as he claimed to be the child’s father. However, the state later issued an emergency order to remove Taylor from his custody until paternity could be established. This was never done. While Thomas had initially shown a keen interest in gaining custody of Taylor he failed to follow through on the requirements necessary to make this a reality. Over a year after being placed in foster care, Carli and Thomas’ parental rights to Taylor were terminated and he was placed for adoption. Neither parent showed up for the termination trial.
At this time, now eighteen years of age and no longer in the foster care system herself, Carli was reportedly abusing drugs and living on the street. She refused any contact with people who had known her in the system, including her foster parents and a foster sibling that she had grown close to during her years in placement. In the time that followed the termination of her parental rights to Taylor, she was difficult to contact. She resided for some time in a Salvation Army Program in another city out of state, where she gave birth to her fourth child, a daughter. Currently, she has returned to the area, is living with a friend, and holds down jobs in fast food restaurants for short periods of time. She has not maintained regular visitation with her children or complied with any of the other requirements necessary to regain custody of her children. During the trial to terminate her parental rights to Brittany and Crystal, the subject of the action included in this study, Carli gave short, even brusque answers to questions by the attorneys. However, she can be heard crying softly throughout her testimony on the tape of the trial.

Donna’s Case

Donna, described as having a warm, generous personality, has been successful in her jobs as a caretaker for the elderly and a babysitter for other people’s children. This success has not been mirrored in her relationship with her own children. Suffering from extremely low self esteem, Donna is morbidly obese, has a speech impediment, and has had debilitating periods of depression since her late teens. She has been diagnosed as having a major depressive disorder. In addition, Donna has had problems with alcohol and has been through a detoxification program at a local hospital. Both of Donna’s parents were alcoholics and they often gave her whiskey to put her to sleep at night. She admits that she still finds it difficult to fall asleep without a drink of whiskey before bedtime. Case reports indicate that Donna is at high risk for self-medicating her depressive symptoms with alcohol.
Donna married John in her early twenties and they had three children, Jimmy, Ellie, and Linda. Ellie was born with spina bifida and requires special care and Linda has been found to have severe learning disabilities. During their marriage, John was occasionally violent toward Donna, with these episodes of violence followed by his apologies and Donna forgiving him. Before the children entered out-of-home care, Donna obtained a restraining order (he obtained one on her also) and terminated their relationship. They are currently divorced, but they remain in regular contact with each other, and it is unclear whether the reunification so desired by John will someday occur.

Donna has always struggled as a parent. When Jimmy was a young boy Donna turned him over to John’s family, claiming that she never really knew how to raise a boy. Jimmy spent a couple of years with his paternal grandmother and then lived in the home of his paternal aunt. Likewise, Ellie and Linda spent extended periods of time, sometimes as long as six months, in the home of Donna’s mother. Indeed, Donna herself often spent extended periods of time living in her mother’s home with them, particularly after disagreements with John. Because of the proximity of Donna and John’s extended family, with most of their family members residing in the same neighborhood, Donna and John were able to maintain contact with their children even though they lived in the homes of relatives. The death of Donna’s mother was a devastating event for Donna and her daughters, as all of them agreed that she had been the one person who could take care of them all. Soon after Donna’s mother died, John’s extended family decided that it was time to return Jimmy to their care. Donna and John seemed unprepared for this turn of events.

Child welfare eventually became involved with the family based on reports that the home was dirty, the children were improperly supervised and not attending school regularly, the children had head lice that was left untreated, and a suspicion that Donna was drinking
heavily and/or abusing drugs. By this time John was no longer living with Donna and the children, although he had maintained frequent contact with the children. Family preservation services were provided but the children were eventually removed after a caseworker made a home visit and found Donna in a lethargic state laying on her living room floor. The caseworker asserted that Donna was inebriated and had passed out. While Donna admitted that she had had difficulties with alcohol in the past, she claimed that she was lying on the floor because she was depressed and overheated.

Once the children entered foster care, Ellie and Linda informed their foster parents that they had been sexually molested by a man, named Pete, that their mother had known briefly and had met through the personal ads in the paper. Pete had a history of sexually abusing young girls and he was wanted by the authorities for participation in child pornography activities. Pete was later convicted for molesting Ellie and Linda. Donna was upset by the news that her daughters had been molested and claimed to not have had any knowledge of the molestation. She stated she did not allow men to stay over for the night but Pete told her that he had locked his keys in the car and asked if he could sleep on the couch. She gave her permission. This happened twice and on both occasions he sexually molested Ellie and Linda.

During most of the period the children were in out-of-home placement, both Donna and John were homeless. Donna denied that she was homeless, stating that she preferred to move in with friends as she could not bear to spend time alone. Even though John was employed full-time and earned a good living, he chose to live out of his big, new truck, angrily telling a caseworker that his income is consumed by car payments, child support, and Donna's legal fees. Although they had difficulty maintaining adequate living conditions, their visitations with the children were largely a success. Donna regularly attended
visitations which the foster parents noted were highly anticipated events by the children. Donna was commended for her creativity in making the visitations special. For example, on Ellie’s birthday, Donna brought an easy bake oven and cake decorating supplies to the agency visitation room and she and John and the children baked and decorated a birthday cake. Although Donna was initially distrustful of the foster parents, feeling depressed sometimes because she felt they were replacing her and John in the children’s affections, the foster parents made an effort to reach out to Donna and John. Currently they enjoy a warm—albeit somewhat still guarded—relationship. In fact, Donna and John have been included in holiday dinners at the foster parents’ home and in other family activities. The children have been delighted at this arrangement and all are flourishing in foster care.

Following the termination of Donna’s parental rights (John voluntarily surrendered his parental rights), an open adoption was initiated with the foster parents adopting all three children. The open adoption will allow the biological parents, Donna and John, visitation access to the children. It was supported by all parties to the action.

Erin’s Case

Erin has a long history of mental health problems. Since her teen years she has suffered from depression and psychotic symptoms that include hallucinations, delusional thinking, confusion, and inability to care for her own basic needs. In addition, she has a problem with substance abuse, in particular, alcohol and marijuana, which she tends to abuse when she is not taking her medication. When she was sixteen years old she became pregnant with her first child, Adam. Adam’s paternity was never established. Adam, now twelve, is currently in the custody of the state and resides at an in-patient treatment facility. He has been diagnosed as suffering from mental illness and has engaged in criminal behavior.
Almost three years after Adam’s birth, Erin had another son, Benny, and two years later a daughter, Carrie. Similar to Adam, the paternity of Benny and Carrie was never established.

Benny and Carrie were first removed from Erin’s care when Benny was six and Carrie was three. They were placed in foster care due to Erin’s inability to maintain appropriate home conditions, including a lack of food and clothing, and her lack of supervision of the children. At this time, it appeared that Erin was not taking her medication as prescribed. Both children appeared to be bright and well behaved and they adjusted well to their foster care placement. Erin visited with them regularly and complied with the case plan for reunification, including keeping her appointments for her medication. The foster parents and the caseworkers were impressed with her friendly, kind personality and how closely attached she and the children were. Reunification seemed inevitable.

However, a little over a year after the children were first removed from her care, and shortly before reunification was planned, the foster parent observed dramatic changes in Erin’s demeanor and behavior toward her children. The children would return from visits inappropriately clothed for the cold weather and on one occasion, Carrie returned from a visit with a deep cut on her head that Erin had not taken of, nor had she informed the foster mother of it upon returning Carrie. In addition, Erin seemed distracted and made strange comments to the foster mother. When asked if she had discontinued taking her medication, Erin stated that she was still taking her medication, but that it did not seem to be working anymore. Days after this last visit, Erin admitted herself into the hospital with severe symptoms of schizophrenia. Her condition deteriorated and she spent close to a year recovering. After her condition improved, Erin resumed visits with the children, and once again she was observed to be a warm, loving individual who shared a close bond with her children. However, nine months later, Erin again entered the hospital, this time stating that
she could no longer stand to live in her condition anymore. She was placed on suicide
watch. Her recovery from this last hospitalization took well over a year.

Erin has always struggled to maintain housing. During her episodes of mental illness
and hospitalization she often loses the apartment or trailer in which she had been living. At
times Erin has lived on the street. However, she has usually managed to locate some form of
housing following her release, her preference being to move in with friends. After her last
hospitalization, Erin met and married a man named Joe. Joe has never left his parents’ home
and when he and Erin married, she simply moved in with Joe and his father. By all accounts
Joe is a quiet, sensitive man who is highly supportive of Erin’s efforts to regain custody of
her children. He is receiving social security benefits due to a back injury and he supplements
this income by doing mechanic work, selling herbs he gathers, and collecting cans. Erin
receives social security benefits as well. Both Erin and her new husband attend Benny’s and
Carrie’s sporting and school events when they are able and maintain fairly regular visitation.
They often plan an event for their visitation, such as ice skating, swimming, etc.

Remaining very close to their mother, both of the children are reported to worry about
their mother and her illness. The foster mother reports that they are relieved after a visit in
which they can ascertain that she is doing well and when she not doing well and is in the
hospital, they spend considerable time making get-well cards. They understand that their
mother is not able to provide the kind of care necessary in order to regain custody of them,
but they are anxious to maintain contact with her. The foster parents, who have been
especially careful to facilitate Benny’s and Carrie’s relationship with their mother over the
last several years, will not be able to adopt them. However, Erin and the children have
spent time with another couple who have expressed an interest in adopting the children. The
prospective adoptive parents state that they are supportive of an open adoption.
Fran grew up an only child, raised by her mother after her father left them when she was only a few years old. She did not leave her mother's home until her late twenties when she married Richard. She gave birth to a daughter, Mandy, when she was thirty years old and a son, Lonnie, was born a year later. She admits that she was very dependent on her mother, who died soon after Lonnie was born, to make decisions in her life and that she was similarly dependent on Richard. Fran describes herself as a loner and has suffered from obesity and health problems her entire life. When Mandy was four and Lonnie was five, Richard died of cancer. His death devastated Fran and the children, with Fran entering a deep depression after his death. Although her work history prior to marriage included long term employment at a gas station and a restaurant, after Richard's death Fran found it difficult to look for work and she simply lived off of the benefits from her husband's death.

Fran originally came to the attention of the child welfare authorities almost three years after her husband died of cancer. Her apartment was in a state of disrepair and was filthy. Also, her children were unsupervised and were often seen playing in the street late into the night. Caseworkers reported that Fran seemed depressed and tended to spend all day in bed eating and watching television. With intensive family preservation services Fran began to keep the home cleaner and in a better condition and to assume responsibility for supervising her children. While she was somewhat inconsistent in attending counseling services, she demonstrated a knowledge of parenting skills and her depression seemed to have improved considerably over the course of services.

Three years later, neglect was once again substantiated, with Fran's home often dirty and the children not properly supervised. In addition, Mandy and Lonnie were both acting out in school in a destructive manner. During the course of this second intervention with the
family, Mandy was hospitalized for depression and oppositional defiant disorder. After treatment, she was released to her mother. However, there were soon reports that Mandy was running around the neighborhood unsupervised, smoking cigarettes, and engaging in sexual acts for money with neighborhood children. She was also suspended from school during this period for destruction of school property. During this same time, Lonnie, who was tall for his age and suffered from obesity, was expelled from school for fighting with children, smoking, and physically threatening a teacher. Both children were finally placed in foster care.

After disrupting several foster care placements the children were placed in specialized foster care in another town. Both of the children exhibited unresolved and intense grief reactions over the death of their father. In addition, they also reported being sexually molested by a neighborhood boy who had lived in their mother’s neighborhood. Fran’s inability to address her children’s needs was evidenced during her infrequent visitations. She seemed overwhelmed by their behavior reports and unprepared to handle oppositional behavior and expressions of grief. Indeed, her typical reaction was simply to cry or shout louder than they did and demand their attention. One caseworker noted that the parent-child relationship seemed inverted. The children would inquire about her health and express concern over how she was getting along, while she never asked about them or their behavior unless a report was handed to her. Also, she was caught bringing them cigarettes, arguing “but they asked me to” when told that this behavior was inappropriate. Fran did not admonish Mandy and Lonnie when they boasted about behaviors such as drinking, beating up other children, and committing small crimes. At every visit she would ask the children if they had brought her a gift and when they replied that they had not, she would pout. In addition, she frequently begged Mandy and Lonnie for money.
Fran has a long history of evictions from her apartments for failure to pay rent. On one occasion, she was evicted because she and the children yelled so much that the neighbors complained. Recently, Fran lost her social security income and was fired from the job she obtained shortly thereafter. She has moved in with a male friend, their relationship is unclear, and she has not yet located another job. Fran did not follow through with the recommended services in the case plan. At the time of the termination trial, Mandy had made dramatic improvements in foster care and Lonnie was seeing some small improvements after being placed on medication in an in-patient treatment facility.

Gerri’s Case

Gerri is moderately mentally retarded, suffers from depression and has anti-social personality traits. Gerri struggles to master basic life skills, such as telling time, and can read at only the most elementary level. Although the termination trial included in this study only involved her daughter, Cissy, fifteen years prior to this trial she had her parental rights terminated to a son, Ricky. Following this termination trial involving Cissy, she will go on trial for her parental rights to her three younger children.

Having had a quick temper her entire life, a teenaged Gerri lost her parental rights to Ricky shortly after her release from jail on a conviction for physically assaulting her grandmother. Five years after losing her parental rights to Ricky, Gerri gave birth to Cissy. Cissy’s paternity was never established. The man that Gerri claimed to be Cissy’s father was considerably older than herself and suffered from a debilitating, life threatening disease. It is unclear whether he is still alive. Gerri has a history of entering relationships with men who manipulate her, are abusive, and are addicted to drugs and alcohol.

Gerri and Cissy first came to the attention of child welfare authorities when Cissy was about four years old. Cissy was suffering from head lice, the home conditions were dirty,
and Cissy was inadequately supervised. Caseworkers noted the close relationship between Gerri and Cissy and found that although Gerri was resistive at first, she soon demonstrated a commitment toward improving the home conditions. However, Gerri would soon demonstrate the faulty decision making skills that would contribute to the eventual termination of her parental relationship with Cissy. Over a year after state involvement, Gerri accepted a ride from an ex-boyfriend that she knew to be highly intoxicated. Later she would admit that she was aware of the fact that it was dangerous to drive a car after drinking. Gerri had Cissy and her newborn son with her. She did not put seat belts on herself or her children. After a high speed chase with police, her ex-boyfriend ran the car off the road, seriously injuring Cissy and her baby brother. After the accident, Gerri went to jail for a short time and her children were placed in foster care. Upon Gerri’s release the children were returned to her care under the supervision of the state.

Six months after the children were returned to her care, Cissy reported that she had been sexually molested by Roy, the father of Gerri’s son. After the report was investigated and substantiated it was believed that Gerri could adequately protect Cissy from further abuse and Cissy was left in her care. However, Gerri violated her agreement to keep Cissy away from Roy, visiting his trailer one day with Cissy where she was once again molested (Roy had instructed Gerri to go take a long shower after she and Cissy arrived, and even though Gerri protested that she had already showered that morning, she went ahead and took the shower only to find Roy and Cissy in bed together when she got out). At this time Cissy was removed from Gerri’s care and placed in foster care. However, Gerri diligently complied with the case plan for reunification and Cissy was returned to her custody.

Soon after Cissy was returned to Gerri’s care, serious problems became apparent. It became clear that Cissy, now about age eight, was basically in charge of the household.
Gerri depended on Cissy to make decisions for the family, even asking for Cissy’s guidance regarding her relationships with men. Cissy’s foster parents had enrolled her in a Girls, Inc. program which she continued participating in after returning to live with Gerri. However, Girls, Inc. employees noted that Cissy never had transportation back home after afternoon activities and that she had to walk the long distance home, crossing various congested roadways. On one occasion, a Girls, Inc. employee found Cissy leaving a convenience store, her arms loaded down with bags containing basic foods like milk and cereal, and starting to make the long walk home. Additionally, Cissy’s school performance was deteriorating. She often arrived at school hours late, exhausted and dirty. She told her teacher that she didn’t like to let her mother help her brush her hair because no matter how many times she demonstrated how to do it differently, Gerri would brush too hard and accidentally hurt her.

When caseworkers investigated they found that Gerri was clearly overwhelmed at her parenting duties, mainly focusing her energies on controlling her son, who had serious behavioral difficulties, and taking care of a newborn daughter. When caseworkers gave Gerri an alarm clock, to help facilitate her keeping a schedule and getting the kids to school on time, Gerri seemed enthusiastic and committed, but it did not result in any changes in Cissy getting to school on time. One day, Gerri broke down in front of a caseworker and admitted that she had difficulty handling all of the children and wondered if perhaps Cissy would not be better off in an adoptive home.

Eventually Cissy was removed from Gerri as it was believed that Gerri was unable to provide the necessary care and protection for her daughter. During this time, it was noted that the visitations between Gerri and Cissy, held in Gerri’s home, were a positive experience for Cissy, with Cissy clearly awaiting her visitation days with much anticipation. Cissy was once again flourishing in foster care. She no longer had the temper tantrums that had been a
regular occurrence in order to get her mother’s attention, and she was excelling in school once again. However, it became clear that Gerri was unable to supervise her children even during a time-limited visitation. An unannounced visit by a caseworker during a visitation found Cissy and her siblings playing ball in the busy street during lunch-time, rush hour traffic while Gerri slept inside on the couch. Also, it was alleged that Gerri had often allowed the children to ride in the back of a pick-up truck on a busy highway. When confronted about these situations, Gerri became belligerent and defensive, typically denying their occurrence at first, and then stating that even if they had occurred, she failed to understand how these activities posed any danger to the children. A report on Gerri stated that one of the major barriers to reunification, one that arose time and time again when Cissy was removed from Gerri’s care, is that Gerri is functioning at such a low level that there are few services available to her.

_Holly and Tommy’s Case_

Described as intelligent and personable, Holly was raised by her alcoholic mother and her mother’s alcoholic boyfriend. As a young child she was encouraged to consume alcohol to help her relax. Alcohol was available to her anytime she wanted while growing up in her mother’s home. By her early teens she was drinking everyday. She dropped out of school as soon as she was able and she often joined her mother in alcoholic binges that lasted for weeks at a time. While relatives took in some of her siblings, she and two of her sisters remained with her mother. Holly states that her mother was never reported to child welfare authorities. Today, all but one of her siblings is an alcoholic, with only her oldest sister currently sober for any extended period of time, due to the onset of liver disease related to her drinking. Holly and her mother remain close, in fact, Holly’s mother has often resided with her for extended periods of time. Even though she has serious health problems as a
result of her life-long drinking habit, and is not expected to live much longer, Holly’s mother continues to drink. She has not been particularly supportive of Holly’s attempts to stop.

Holly has four children, all of whom were the subject of the termination action. All of her children are reportedly intelligent and have good dispositions. Her high school boyfriend, Tommy, is the father of the two oldest children and the youngest child. The third child is the son of her first and only husband, Jerry, whom she was married to for a very brief period, during which time he was severely physically abusive toward her. His whereabouts are unknown and he has not paid any support for the child. Addicted to drugs himself, Tommy is currently in prison for dealing in illegal substances, with his release date about three years from the date of the termination trial. His parental rights were also the subject of this action. Holly and Tommy have had a tumultuous relationship, with frequent break-ups and reconciliations throughout the years.

Child welfare authorities first became involved with Holly and her children about four years prior to the termination trial. One day in early winter, an obviously inebriated Holly called the sheriff’s office and stated that she had no food in her home and was not going to be able to feed her children dinner. When a child welfare investigator arrived, Holly was found passed out at the kitchen table with empty bottles of alcohol strewn around the apartment. There was no food in the home, and the children were dirty, improperly clothed for the weather, and malnourished. The children were removed from her care and placed in foster care. A case plan was initiated between Holly and the state. After she made significant progress in complying with the terms of the agreement, including getting sober and regularly attending AA meetings, Holly’s children were returned to her custody close to a year after their removal. Holly was able to remain sober for about one year.
The end of Holly’s sobriety came to the attention of the authorities when she left her children home alone one night to go to a convenience store to buy some cigarettes. Holly admits that she had been secretly drinking for weeks and a disagreement between Tommy and her set her off on a drinking binge that night. She admits that she has no idea how long she left the children alone because she was having a “black-out” that night. When Holly did not return, her oldest son and one of her daughters went to the convenience store to locate her. When they did not find her there, they explained their situation to the store clerk who then called the police. When Holly returned home later that evening, claiming that she had taken a new route home because she wanted to go through garbage cans, the police were at her apartment, documenting the condition of her apartment by taking photographs. Her apartment was dirty, infested with roaches, had broken bottles of alcohol on the floor, and open bottles of alcohol in various places. Holly’s children were once again removed from her care.

After this second removal, Holly unsuccessfully struggled to meet the case plan goals. She would go through detox and attend several AA meetings only to begin drinking, and later to do drugs as well, shortly thereafter. In addition, she was dating a variety of men, many of them violent, some of whom would make threatening phone calls, allegedly on Holly’s behalf, to the foster family that had taken in all four children. However, in the midst of these days lost to addiction, there were periods of time, albeit not very long, where Holly would regain her sobriety and attend the scheduled visitations with her children. These were reportedly good times for Holly and her children, and the caseworkers noted how well she and the children interacted during this visits. But these times never lasted for long, and as her periods of sobriety became more and more infrequent, the foster parents began to express fear and concern over the threatening phone calls and Holly’s erratic behavior. Indeed, it
soon became clear that Holly was almost constantly inebriated, failing to appear for case
conferences, not calling anymore to inquire after her children, not attending drug/alcohol
screenings, and unable to maintain employment. One day she showed up at the child welfare
offices and became engaged in a noisy disagreement with a caseworker whom she accused of
making sexual advances at Tommy. Holly later claimed to have no recollection of this event.
At this time a no contact order was issued by the court until Holly could demonstrate that she
was making some progress.

A report filed with the court six months prior to the termination action stated that
Tommy was in prison and that Holly had not had contact with her children in over a year.
She was last known to be drinking heavily and using drugs and living at times in a homeless
shelter. However, at the termination trial, Holly appeared to be sober and lucid and she
stated that she had been clean for over four months. She had obtained employment at a
grocery store, where she had been working for a few days, and was living in an apartment
with a new boyfriend.

Irene and Robert’s Case

Irene met Robert when she was thirteen years old and married him after dropping out
of high school at age sixteen. Irene has always had physical health problems, such as asthma
and muscle disorders. When they married, Robert was twenty three years old and had just
been released from prison for sexually molesting his ten year old step-daughter from a
previous marriage. He has refused any treatment as a sex offender. Irene and Robert have
three sons, Doug, Bryan, and Nathan. Robert admits that he has been physically abusive to
Irene in the past, and that especially in the early years of their marriage he had a bad temper
and could be controlling. He states that he does continue to get angry about certain
situations, for example, he does not like it when Irene spends money on the children and it
infuriates him when Irene plays with the children as he thinks this is “childish” behavior on 
Irene’s part. Irene states that she has learned to work around Robert’s demands. For 
example, when Robert leaves for his job at a fast food restaurant, she plays with the children. 

However, Irene does admit that some of Robert’s other demands are more difficult to 
circumvent. For the most part, the family has always resided in trailers on the outskirts of 
town. Robert has never been supportive of Irene leaving the home to go into town, and if 
groceries and supplies are needed, he makes the trip to the stores. Robert is vehemently 
opposed to Irene working or getting her driver’s license. When their financial situation 
necessitated Irene getting a job, she gained employment at the same fast food restaurant 
where Robert was employed and he transported her to and from work. He also does not like 
to let the children play outside. The children are developmentally delayed which has been 
attributed in part to the lack of stimulation they have received. In the past, Irene and the 
children have been locked in a room for extended periods of time. Robert refers to these as 
“family time outs” and states that he uses the technique to avoid physical punishment. 

The family first came to the attention of child welfare authorities when Doug was nine 
months old. Irene left him in the bathtub unsupervised and he almost drowned. Irene 
administered CPR and called an ambulance. When Doug arrived at the hospital he had 
bruises on his buttocks. Irene stated that she had caused the bruises and Doug was removed 
for several months until Irene and Robert successfully completed the case plan goals for 
reunification. 

The next time the family came to the attention of child welfare authorities, Doug was 
about five years old, Bryan was about two years old, and Nathan about one year old. A 
visiting nurse discovered that Doug had human bite marks covering his arms and there was 
evidence of hand prints on his face. After the nurse made this discovery Irene acknowledged
that Robert had been severely abusive to her recently and had made the marks on Doug. However, later she would recant this statement and claim that she had never witnessed Robert abusing the children. Following this disclosure, Irene took the children with her to a shelter for abused women and their children. Only days after arriving at the shelter, Irene began to complain about the program. In particular, she stated that she found the rules confining and did like that she had to get a babysitter for her children if she wanted to go outside and smoke a cigarette. After two or three weeks, she left the shelter and returned to Robert. Prior to leaving the shelter Irene was informed that if she returned to Robert, the state would place her children in foster care. Upon leaving, Irene told a worker at the shelter that she knew her children would be taken away from her, but that she had to return to Robert because she had no other person she could turn to.

After the children were removed, Robert and Irene presented a united front, claiming that Doug had inflicted most of the injuries on himself. They claimed that Doug has always had behavior problems, and has a history of head butting and picking at scabs and sores until they bleed. In addition, they claim that Doug is a chronic bed wetter, which they claim only shows improvement after physical punishment is administered. Also, Irene and Robert report that they admitted Doug into a hospital program where he was diagnosed with an attention deficit, hyperactive disorder. Because of this diagnosis, Robert and Irene argue that he must frequently be physically restrained. Interestingly, the foster parents state that Doug never once wet the bed, engaged in head butting behaviors, picked at sores, or exhibited behaviors consistent with an attention deficit, hyperactive disorder while in foster care, even though he has been on no medication for behavioral difficulties since entering out-of-home care.
One afternoon during a home visit, Irene revealed to a caseworker that there was a possibility that Doug is not Robert's biological son. Although the subject is never discussed, it is generally understood among their respective families that Doug is actually the biological son of Robert's brother, Jimmy, who was Irene's boyfriend prior to Robert. Later Irene denied making this statement and fearfully asked that it not be repeated in Robert's presence.

Robert and Irene did not complete their parenting classes and marital counseling and they repeatedly missed visitations with the children. During the period of state intervention they were both sentenced to jail for fifteen counts of theft when they were convicted of a hotel scam whereby they would stay at motels at a reduced rate, claiming that their house had burned down, and then leave without paying the bill. After their release, Irene once again left Robert, telling no one of her whereabouts for months. She eventually moved in with a new boyfriend and filed a restraining order against Robert. However, Irene and Robert both showed up at a visitation a month later and stated that they had reunited for good. They are currently living in a trailer that they have rented on and off for two years. Residing in the same foster home, the three boys have all expressed the wish to be adopted out. They are all quite open regarding their overriding fear and distrust of their father. Doug states that if being reunited with their mother would entail living with him again, then he thinks it would be best if they were all to have a new mom as well as a new dad.

Jackie's Case

Jackie has had a drinking problem since her late teens. In the small town where she was raised Jackie has a reputation for hanging out in the bars everyday, engaging in bar room fights, and becoming involved with hard drinking men who have violent tendencies. Jackie's first husband, Calvin, fit the first of these criteria, he is a chronic alcoholic who has never been able to hold down a job, but unlike other men in Jackie's life, he is also known to
be a kind hearted man. Jackie and Calvin were married for only a short period of time and they only had one child, Sara, but Calvin continued to be actively involved in Jackie's life and the lives of her other two daughters, Susie and Samantha. Susie and Samantha's father, Nick, a truck driver, was an alcoholic and he also had violent tendencies, often physically abusing Jackie. However, the three girls all developed a close relationship with Nick, having never witnessed his physical abuse towards their mother and remaining unaware of the threats he made against their mother and her friends. Indeed, Nick eventually developed an obsession with Jackie, and even after she attempted to terminate their relationship and obtain a divorce, he continued to threaten and stalk her and harass her friends and acquaintances.

Jackie and her children first came to the attention of the child welfare authorities when Jackie's new boyfriend, Chris, called the police to say that he could no longer take care of Sara, Susie, and Samantha, that Jackie had left them with him for several weeks and her whereabouts were unknown. In particular, he stated that he had been receiving death threats from Nick and no longer felt that it was safe for the children to stay in his home. The girls were placed in foster care. Jackie first contacted child welfare services over three weeks after the children had been placed in foster care to say that she had gone into hiding because of repeated threats from Nick. She also admitted that she had been drinking heavily and residing in a motel near a bar. Working hard to regain custody of her children, Jackie began attending AA meetings, kept all of her visitation appointments with the children, and complied with other conditions in the case plan for reunification. The girls were returned to their mother six months later. Once again, they resided with Chris, who had asked Jackie to marry him once her divorce to Nick became final.

Six weeks after the children were returned to her, Jackie was arrested for a DUI and a month after this arrest, she was arrested for public intoxication. At this time, she dropped
her daughter Sara off at her mother's house, stating that since Sara had spent a lot of time with her grandmother when she was younger, Sara's grandmother seemed better able to discipline her. She then ended her relationship with Chris and again disappeared. When she did not return, her two younger children were placed in foster care. Several months later, child welfare services received a call from Jackie's mother asking that Sara also be placed in foster care as Jackie had returned to town, was having long drinking binges, and was physically threatening herself and Sara. Also, Jackie was taking Sara out of the home at night without her permission and bringing her to all-night parties where drugs and alcohol were present. Jackie's mother stated that she had realized that she was too old to take care of a child, particularly under such stressful conditions.

When Jackie learned that Sara had been placed in foster care also, she voluntarily checked herself into a detox unit at a local hospital. However, even though she completed the mandatory two week treatment at the hospital she failed to follow up on the outpatient treatment as required in her case plan for reunification with her children. Also, she did not attend AA meetings. After her release Jackie had moved in with her mother. Within two months she was drinking again heavily and she was missing most of her visitations with her children. Soon, the child welfare agency canceled her visitations with her children on the condition that she get sober and stay sober.

Soon after the agency canceled Jackie's visitations, Nick was shot and killed in a bar room brawl. During this time, Jackie reunited with Calvin, and caseworkers reported that he was a comfort to the three girls who were grieving the loss of their father (and step-father). Although Calvin promised the girls that he was going to remain sober and keep their mother sober also, it wasn't long before he and Jackie were back to drinking. Within a couple months, Jackie ended the relationship with Calvin and quickly married a man that she met in
a bar one night. This was a short-lived marriage with both drinking heavily throughout the time they were together. The children reacted to Nick’s death, and the chaos in their mother’s life, by acting out in their foster placements and in school.

Suddenly, Jackie showed up at the child welfare agency, declaring that she had given up drinking and would willingly submit to random drug and alcohol screenings. At counseling sessions she began to attend with her daughters, they worked on issues related to alcoholism and grieving and loss. For nine months her random urine screenings came back clean. However, before reunification could be explored, Jackie once again disappeared. Her mother reported that she had received a call from Jackie, she sounded inebriated and stated that she was in Washington, D.C. and needed some money. While she was in Washington, D.C., Susie had to be hospitalized as she was suffering from depression, anxiety attacks, and had suicidal ideations. Susie was asking repeatedly for her mother. No one could locate her. Six months later, termination proceedings were initiated. Although she showed up at the termination hearing sober, claiming that she was finally free of alcohol for life, and had obtained an apartment and a job, Jackie’s parental rights were eventually terminated.
CHAPTER 5

PARENT NARRATIVES FROM TEN TERMINATION TRIALS

When individuals are facing the termination of their parental rights in a courtroom trial, they are actively engaged in the social process of constructing a self that integrates narratives from the past with current attitudes, beliefs, feelings, and behaviors. While the narratives from the past are somewhat dictated by state laws and agency procedures, for example, stories regarding missed visitations over the course of state intervention, stories of substance abuse that interfered with the ability to parent, and stories of domestic violence, the highly interactive process through which meaning is given to these events guarantees that each parent’s narratives will be distinct and original. Indeed, because construction of this “parental self” is a social process and occurs through the interaction of attorneys, social workers, judges, and other witnesses in the courtroom, it may be surmised that the parent’s individual voice would be lost in the confluence of more powerful voices, such as representatives of the state like social workers and lawyers, and courtroom procedure. As this study demonstrates, this is not the case. Although the structure of the discourse, and thus the narrative form, may be somewhat dictated by agency and court procedure, parents imbue the courtroom interactions with personal meaning and interpretation.

Guided by symbolic interactionism, the task of this researcher was to capture the “essence of [the parents’] process [of] interpreting [and] attaching meaning” to these interactions in order to describe what they communicate when they are losing the right to
parent their children (Berg, 1995, p. 8). As demonstrated in this chapter of the dissertation, the researcher made the decision to integrate the attorneys’ questions into the analysis and description of the narratives when appropriate. Researchers who study narratives disagree on the manner in which interview context, and the relationship between the communicants, can be incorporated into a study (Riessman, 1993). As Riessman notes, some researchers decide to bring the interviewer into the study by including their questions, comments and reactions while others decide to exclude such material. Consistent with the symbolic interactionist perspective, in which human interaction comprises the primary source of data, the attorneys’ communications were included in the findings section of the present study in recognition of the collaborative manner in which the parent narratives were constructed with the child welfare system.

This “parent narratives from ten termination trials” chapter is composed of the six parent narratives that emerged from the data following narrative analysis: narratives on substance abuse, narratives on domestic violence, narratives on housing, narratives on attachment issues, narratives on health and mental capacity, and narratives on the child welfare system-parent relationship. Content analysis was used to analyze these parent narratives, drawn from various cases, and the themes that emerged within each narrative and the results of this analysis are detailed in this section. The page numbers that follow each parental quote refer to the page numbers of the trial transcript in which the statement was found. Finally, as mentioned earlier, the hypotheses that were generated throughout the research process and which will hopefully serve as the foundation for further research and theory building in this area are outlined and discussed in the discussions and implications section of this dissertation.
Parent Narratives on Substance Abuse

The problem of substance abuse impacted the parents in this study in a plethora of ways. Perhaps they grew up in homes with alcoholic parents, such as Carli, Donna, and Holly did, or perhaps their own addiction problem led them to expose an unborn child to drugs and alcohol, as Carli did, or perhaps the substance abuse problem directly limited attempts to establish their capabilities as a parent to the state, as in the cases of Holly and Tommy and Jackie. Additionally, narratives of substance abuse are often intertwined with other parental narratives, such as housing problems, domestic violence, and parental ability to provide care and protection for their children. Indeed, the pervasiveness of substance abuse issues in the lives of these parents and children is indicated by the fact that in all but one case, involving Annie and Leo, there is some mention of drugs and alcohol, either in the courtroom or in the accompanying case materials, and how they have negatively impacted family life. In analyzing what parents said in the trial to terminate their parental rights, the parental narratives on substance abuse offer a unique insight on how addiction to drugs and alcohol can not only impair the individual in meeting the day to day demands of parenting, but can also devastate the definition of self and negatively impact the ability to construct a competent “self as parent” during a termination trial. This is particularly highlighted in the theme “parenting and substance abuse as mutually exclusive activities” and the theme regarding substance abusing parents’ “revelations.” Finally, the theme of “impediment of incarceration” reveals how substance abuse problems may lead to involvement with the criminal justice system as well as the child welfare system.
Theme of Parenting and Substance Abuse as Mutually Exclusive Activities

Parents with substance abuse histories in the termination trials verbalized the experience of living life in two distinct and separate spheres: one as a parent and one as a substance abuser. This situation was exacerbated by the cycle of addiction which often results in periods of drug and alcohol abuse followed by periods of sobriety. Thus, the parents with substance abuse problems were able to experience periods of time in which they could provide care and protection for their children and engage in loving, supportive interactions with them. However, once the parent began using again, they were completely unable to meet the demands of custodial parenthood. This led to behaviors such as abandonment, whereby the parent would leave town and completely abrogate their responsibilities and identity as a parent by immersing themselves in the lifestyle of a substance abuser, or neglect, where the parent may still retain custody of the children for a short time after beginning drinking again, but have a primary alliance and identification with the substance abusing self, not the “parental self.” In short, for these parents, if one was drinking, one could not parent, and if one was parenting, one could not drink.

Jackie illustrated this conceptual theme when she became indignant at the state attorney’s suggestion, after he had outlined her drinking related failings, that her “life and/or circumstances have been confused for fifteen years at least” (p. 36). She responded by recalling a period of her life where she was not engaging in such behaviors and was highly focused on her role as a parent:

Jackie: “There are certain times and years in my life that I was very happy. And through my first divorce with Calvin as you mentioned, I raised Sara alone. I remarried Nick and I had two more little girls and I was a very good mother and at [this] one part in my life I was very happy” (p. 36).
However, Jackie acknowledges that this period came to an end when she was no longer able to provide for them as she “would have liked to have been able” (p. 37). At this time, she effectively departed the world of parenting, abandoning the girls at her boyfriend’s home, and ending the aforementioned stretch of happy parenting that she asserts continued “as long as [me and my children] were together” (p. 36). When she heard the call of her addiction, and she decided that she could no longer live together with her children, she would leave her children in the custody of others and then immerse herself in the world of substance abuse.

This inherent conflict between active substance abuse and the duties of parenthood is further explicated by Holly, who admitted in the termination trial that at the time her children were placed in foster care she was too intoxicated on a regular basis to adequately provide care or supervision for her children. At the time the children were removed from her custody, Holly had recently ended a long period of sobriety and exemplary parenting. She describes an incident that occurred when she attempted to combine the two alternating spheres in her life, parenting and drinking:

Holly: I was drinking that night, and me and Tommy had an argument and he left. I was there with the kids and I didn’t have no cigarettes, and, uh, I was drinking, and, uh, allls I could think of was Tommy and a cigarette, and I, I put my kids to bed. I checked on ’em twice before I left...I scraped some money together to get me a pack of cigarettes. I figured that would calm me down if I could have some cigarettes. I was trying to get him off my mind, uh, and, anyway I checked on the kids again before I left, and I walked to 7-11 and got a pack of cigarettes, and I walked a different way on the way back, and I seen some toys in a trash can, and I thought they looked pretty good, in pretty good shape, and at the trash can I had a blackout, and allls I remember is waking up, walking down the alley with the toys, and when I got there, there was like four cop cars in my yard. I didn’t know what to do or what to think. I was scared. I seen my kids out with the cops...[later] I just couldn’t get it off my mind, any of it. Anyway, so I sat at the table and cried half the night, most of the night, and drank” (p. 13).

After her children were removed, and the parenting sphere of her life was no longer operative, Holly completely immersed herself in the world of substance abuse. Soon, she
states, "everyone I knew and hung around with, they always drank or done drugs" (p. 46).

Holly now was in an environment far removed from the duties, responsibilities, and joys of parenting. She admits that this environment not only tolerated her serious substance abuse, but actively encouraged her to drink and use drugs again. Her friends would frequently come over with alcohol, and she states, "I just went ahead and drank with them, I mean, cause I had a problem and always have had a problem with it, but it was kind of really hard to turn it down when they brought it in" (p. 46). Indeed, Holly states that during this period of time, subsumed in a world where drinking was the norm, she even became convinced that there was not anything particularly wrong with drinking and drug use as "everyone was doing it" (p. 47) and "I grew up knowing, knowing it wasn’t a problem, I mean, that’s the way I was raised, that’s the only life I knew" (p. 43).

However, even while Holly existed in this netherworld of weeks long drinking and drug binges, she could not wholly leave behind her life as a parent. Eventually, five months before the trial to terminate her parental rights, she made a decision to once again shift her sphere of existence, this time, back to the world of parenting. When questioned by an attorney regarding her decision to exit the drug world and go into treatment, Holly states that she made this change, "cause I wanted my children back, and I wanted to become a good parent...because I knew this was my last chance, and I would lose ‘em if I did not straighten up" (p. 47).

Tommy also expresses this sort of mutually exclusive relationship between substance abusing and parenting, admitting that while he was able to develop a close relationship with the children when they were younger, "right after the kids were taken out of the house" (p. 8) he began to have problems with drugs and alcohol from which he would not emerge for quite some time. Entering completely the world of substance abuse, Tommy states that he
“dropped out” (p. 9) of participation in his job training program and visitation and contact with his children, eventually being convicted for dealing drugs and sentenced to six years in prison. He also tells the court:

Tommy: “I have no problem with [the children] being turned back over to their mother [Holly]...as long as she follows, you know, uh, her programs and sticks with what she is doing...but whichever the court decides is appropriate would be okay with me” (p. 11).

As Tommy is aware, “what [Holly] is doing” is staying sober, avoiding her previous sphere of existence that involved immersing herself in an environment of substance abuse, and in effect, she has re-entered the parenting sphere of her life once again. However, the dynamic interplay between these two spheres of existence for substance abusing parents is also recognized by Tommy as he qualifies his supportive statement with the comment “as long as she...sticks with what she is doing.” While there is an understanding that Holly can not do both activities, parenting and drinking, that they are mutually exclusive activities for the parent with an addictions problem, there is a deeper understanding communicated by Tommy that the pull of both worlds on the parent with an addiction can result in frequent deflections to the other side.

Theme of Revelation

For the substance abusing parent, much time has been spent dwelling in the world of substance abuse and thus considerable time has been lost in their attempt to establish themselves in the parenting sphere of their lives. Not surprisingly, as the larger system has begun to define them in terms of their substance abuse, so have they begun to define themselves. An analysis of how parents spoke about substance abuse revealed the extent to which the substance abuse had hampered the development of their sense of personal identity.
Indeed, the parental narratives indicate that their primary construction of self was as a substance abuser, not as a mother, father, employee, etc. As a result, the parents with substance abuse histories are eager to communicate to the court that the substance abuse narratives they currently have before them, typically involving bar room brawls, abandonment or neglect of the children during long drinking binges, etc., and the meaning that has been constructed from them—namely, that this individual is unable to parent due to an addiction—must now be re-narrated to incorporate the new, happy ending of a sober, competent self. A self that is capable of providing suitable care and protection for minor children.

This theme has been titled “revelation” as the parents are asserting that they have had a revelation of sorts since the termination action was filed, and have redefined their sense of self, and changed their lives for the better. In addition to communicating to the court that the substance abuse narrative now closes with “sobriety,” the parents are actively engaged in constructing a parental self that takes into account the newly, and allegedly permanently, sober self. In this manner, they are stating that new behaviors, beliefs, and attitudes have resulted in a new self with implications far beyond even substance abuse, (i.e., they will stay employed, they will be able to maintain housing, etc.) and that construction of the parental self during the course of the trial must take into account these changes.

This theme of “revelation” is aptly illustrated by Jackie. Attempting to explain why she had last abandoned her children, she states,

Jackie: “At the time I left [town], I was going through an identity crisis. That is the only other word I know for it. I was not stable. Yes, I had a very, I was very much dependent on alcohol for whatever reason...I depended upon alcohol at one point in my life to where without it, I didn’t feel I could even stand alone” (p. 9).
Later she discusses the resolution of this “identity crisis” and how that period of abandonment had led to her discovery of self and sobriety.

Jackie: “I couldn’t provide for [the children] at that time as I would have liked to have been able to. And at that time I felt like they were better off [without me] but now, I am a better person and I did it for myself and for them but first I had to care for me again which took a long time and a lot of space between me and where I am from…” (p. 37).

She stresses to the court the importance of not overly emphasizing the past, in effect asking them to recognize a new ending to the substance abuse narrative, and thus the narratives explicating her failures as a parent, as she claims she is different today in her sobriety: “I can’t always look back at …my reflection of my past to make me… [what] I am today because…you got to shake [the past] off and you have got to go on and [this] gives you strength and it makes you a better person and that is why I am here today” (p. 37).

This revelation of self found in the parental narratives on substance abuse can be expressed in very concrete terms or can be constructed in a more sophisticated manner, applying the insights that have been gained to living a more productive, responsible life. For example, Tommy, incarcerated for dealing drugs and an admitted addict himself, communicates a very basic kind of revelation, one with religious overtones. He tells the court that he is different now, and that the old stories— such as those involving his inability to maintain housing due to drug use and repeated jail time for dealing— just don’t apply to him anymore.

Tommy: “I’ve had a lot of time to think about my situation and my situation back then. I’ve learned a big lesson on my mistakes, and while I’ve been incarcerated I’ve been baptized, and I’ve been going to church daily” (p. 19).

Having been sober for about four months preceding the termination trial, Holly takes a more sophisticated approach in communicating her revelation to the court. Holly first discusses the revelation of getting sober and the impact it has had on her, stating, “…it’s
great, I mean, I can remember what I do from day to day now... and I love being sober and
not on drugs, and I mean, I can do a lot more stuff than I've ever done, and I'm more happier,
and there's things, you know, I couldn't even do before" (p. 48). Then, in reply to a query
from counsel, she translates this insight into specific skills she has gained, such as "the
coping skills to deal with anger, depression, and just how to live in life the right way and not
drinking and drugging...(p. 49)." She also reassures the court that this time she will remain
sober because her new boyfriend is helping her out, and states, "I do go to [A.A.] meetings,
and I got a sponsor, and I don't hang around people that does drugs anymore or drink" (p.
31).

Not surprisingly, these revelations of self in regards to a history of substance abuse
are often met with skepticism by a system that has heard many promises from these
individuals in the past, only to find that they once again relapse into the destructive use of
drugs and alcohol. This fact is not lost on the testifying parent, and they often strive to
clarify why their recent revelations regarding themselves and sobriety, will result in life-long
change. When challenged by an attorney regarding the authenticity of her recent revelation
and her subsequent promises for the future considering that she had reneged on so many
promises in the past, Holly becomes indignant and states that things are different this time
"because I don't drink, and I don't do the drugs, and I'm being honest, and I feel that I will
do this" (p. 54). Likewise, Jackie is reminded by the state's attorney that the last time the
children were returned to her, many of the same conditions were in place for reunification,
for example, she was attending AA and getting back clean urine samples, and yet she
eventually began drinking again and could not take care of the children. In response, Jackie
asserts that this time is different because she has changed at a more deep, fundamental level
than simply maintaining outward appearances. Jackie explains that on the earlier occasion
when her children were returned to her, things were only functional "on the surface, sunny and unruffled...[b]ut within, it was a mess" (p. 26). Today she claims she is different because:

Jackie:  “I can now say that I am where I am today by my own needs. I didn’t use someone else and their home or name or whatever to make myself what it is. What I have done today, I have done myself” (p. 27).

However, the court’s skepticism regarding the degree to which these parental revelations in the narratives on substance abuse can actually be equated with lifelong changes in attitudes, beliefs, and behaviors may also be founded in parental statements during the trial that compromise their stated commitment to change. While she acknowledges that alcoholism is a disease that she must deal with her entire life, and claims that she is aware of the necessity of learning to “build your world around that” (p. 24), Jackie also admits that she has “not been going [to AA] as frequent as I was because I have been pretty busy” (p. 12). Similarly, Holly admits that she has failed to follow through with meetings at an alcohol treatment center, stating that she did so for about one week, but then “I really wanted to go stay at home and fix my house up for my children...[and] I didn’t think I needed [the treatment center]” (p. 29).

The Impediment of Incarceration Theme

The problems faced by a substance abusing parent in the child welfare system are many, and were experienced by the parents in this study, for example: the long absences from their children and neglect of their children due to alcohol and drug binges; the struggle to regain custody of their children when relapses compromise the parent’s ability to maintain counseling appointments, parenting classes, and visitations; and the impact of substance
abuse on the parent’s ability to maintain employment, suitable housing, and even supportive family ties. Arguably, these problems are only compounded by the substance abusing parent’s incarceration during the period of state involvement. While the parent with a substance abuse problem faces the formidable task of convincing the court in a termination trial that they have left behind their life of abusing drugs and alcohol and they can now ably parent a child, the incarcerated parent must not only establish these conditions but hope that their expected release date is not so far in the future as to disallow the possibility of reunification. Even if the release date is not prohibitive to the parent regaining custody, the time spent in prison hampers their ability to effectively meet case plan goals in a timely manner. For example, visitations may be more difficult to set up and the time spent in prison may delay the parent in establishing that they can secure suitable housing and employment. These concerns are often foremount for the incarcerated parent, particularly today, with the emphasis on expedited termination actions to free children for adoption, and they were evidenced in the data of this study.

There were two parents, Tommy and Jackie, who were incarcerated during their involvement with the child welfare system. During this time, both spent time behind bars for criminal activity related to their addictions. Tommy served prison time for dealing drugs and Jackie was sentenced for a DUI and public intoxication. During the course of the trial to terminate his parental rights, Tommy expressed an acute awareness of time, in particular as it related to his incarceration and his relationship with his children. When the state’s attorney noted how long he had been in prison and said, “you haven’t actually seen the children now for about twenty months, is that correct? (p. 5),” Tommy responded that in fact it had been exactly twenty-two months since he had last seen his children. Tommy was also eager to discuss his release date, explaining to the court that it could even be earlier than he expected,
stating that, “at the latest [my release date] would be probably around February of 2000” (p. 10) and that since he did “not have any priors at all...we’re working on it” (p. 21). He accurately recounted the ages of the children when asked by the state’s attorney and stated that “at most” (p. 10) they would have another two or two and a half years without him, during which time he thought they could stay with their mother or remain in foster care, whichever the court decides. After his dates of incarceration were covered in his examination and cross examination, and his expected release date confirmed, Tommy appealed to the court and stated that he believed he now had the ability to take care of his children which he promised he would do once he was released from prison. He admitted that while it was impossible for him to prove he could provide a home for them currently, and the exact date when he would be released and be able to do so was uncertain, he still cared deeply for his children:

Tommy: “They mean everything to me. That’s my only, basically, my only reason for living. I love them very much. I miss them a great deal” (p. 20).

Jackie also expressed in her testimony the impact of incarceration on her relationship to her children. Indeed, taking the offense, Jackie attempted to cast her time spent behind bars as demonstration of a positive aspect of her commitment to her children. She states that after leaving town and abandoning her children, turning herself in to the authorities was the first step in letting go of her past life and assuming the responsibilities of parenthood. In explaining her incarceration to the court she says:

Jackie: “I came home to turn myself in to get my children” (p. 8). “[Because] I didn’t come to the probation office to sign up when I was supposed to have started and I was on a three month suspended sentence... when I returned to turn myself in, I spent 79 days in jail...[I] then went before the judge and ...he left me out to return on probation and another three month suspended sentence” (p. 32).
She tells the court that she had carefully planned her return to town, calling the child welfare agency and informing them that she would soon be back and that she intended to set up visitations with her children:

Jackie: “I had called three weeks prior to my return to [to town] and explained to the welfare that I was coming back and upon my return I requested to see my children because I did want custody. I was very stable now” (p. 9).

However, the difficulties of coordinating visitations at prisons impacts Jackie’s plans. In fact, she reports to the court that she only had a single visitation with one of her daughters during this time.

Parent Narratives on Domestic Violence

Violence permeated the parent narratives in the termination trials. The parents communicated to the court their painful experiences in abusive marriages and relationships. They told stories of children getting sexually and physically abused, often with no assistance from the non-abusing adults in their lives. The parent narratives also contained expressions of fear, loneliness, and desperation that resulted from living with violence, day after day. The effect of this violence on the ability to parent was marked, devastating the abused parents’ sense of self-esteem and competency, and resulting in faulty decision making that jeopardized the safety and well-being of children in their care. Two of the themes that emerged from the parent narratives on domestic violence reflect these realities, “Spousal Abuse,” and “Failure to Protect the Children.” The third theme, “The Revelation,” echoes the revelations made by substance abusing parents, with the parents communicating to the court newfound insights regarding themselves and their relationships with their children and promises for a stable life free of violence.

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**Theme of Spousal Abuse**

The parent narratives regarding violence in the home had a recurring theme of spousal abuse. These violent relationships found among the parents in the termination trials were discovered to have certain distinguishing characteristics. Perhaps they involved a marriage, entered into at a very young age, with a man who had a violent past, as in the cases of Irene and Robert and Annie and Leo. Perhaps they involved physical and emotional violence so severe that the non-abusing parent eventually sought assistance at a battered women’s shelter, as in the cases of Irene and Jackie. However, more often than not, these violent relationships were expressed in terms of their durability, for even though there may be years of abuse, the road to a permanent dissolution of the relationship was a long one, marked by break-ups, recriminations, apologies, and periods of reunification.

As the only couple with a history of spousal abuse still together, Irene and Robert communicated to the court the story of a violent relationship that diminished the significance of the abuse and seemed blind to its effect on the children. This approach is in direct contrast to other parents, such as Jackie, Annie, and Donna who were no longer involved in the abusive relationship, and dramatically expressed to the court the destructive impact the violent relationship had on their lives and lives of their children. In her testimony, Irene avers that the level of physical abuse she has endured at the hands of Robert is, contrary to the reports of others, actually quite minimal. She tells the court that “[Robert] had slapped me maybe once,… [he] didn’t beat me, ” and in fact, she admits that he only hit her, and even that was only once in a while (p. 22). Robert, in his own testimony, tells the court that he has only “struck her twice” (p. 55). Irene also downplays the effect of this abuse on her children, stating that she finds it improbable that the children witnessed these incidents, even though she admits that “[one of her sons] could have heard” (p. 23). Irene communicates her
belief that Robert, although perhaps abusive enough to have warranted her going to the shelter in the first place, was an integral element of their parenting efforts. While Irene acknowledges that she went to the abused women shelter because she was trying to get away from him, she states that the shelter was ill-prepared to address the needs of a mother and her children:

Irene: “I couldn’t handle the stress. I was in a really small room with three small children, and I had to handle them all on my own, and I couldn’t handle it. I needed somebody else. I needed help” (p. 14).

Upon this realization, Irene returned to Robert, whom she states does not pose any danger to herself or to the children. Indeed, even though Irene would detail for the court her other attempts to leave the relationship, she was careful not to state that she left him because of abuse, stating, “I don’t remember [why I left him]...[i]t was different reasons” (p. 19).

The women who were no longer involved in the violent relationship, and who certainly did not have their abusive partner in the courtroom as they gave their testimony, were less sanguine about the men who had abused them and they actively constructed for the court a view of spousal abuse that they admitted had also had an impact on their children. Jackie states that the father of her two younger children, her ex-spouse, Nick, physically abused her during the course of her marriage and once even destroyed their home in a fit of anger. She states:

Jackie: “He destroyed our whole home. I mean, no one could even live in it after he got finished the way he did it. But I walked out of that marriage with the clothes on my back and the children...” (p. 4).

However, similar to Irene, Jackie also did not find the abused women’s shelter where she sought assistance upon leaving Nick to be the best place for her children. She left soon after arriving:
Jackie: “...[t]hey told me that I could check in with my three children and I would have a certain time that I could be there and then I would have to leave to go look for work...and then I could check back in late of night. Well, I thought what kind of stable environment is that for children and in combination with that [I had] my own problems...[for example, the employees at the shelter] spoke with Nick personally and every time that he knew that someone was sitting for my children when I would be out looking for employment, there would be calls made to the welfare that my children needed to be picked up because they weren’t being taken care of and their mother was nowhere to be found” (p. 5).

After their break-up, Jackie tells the court that his abusive, threatening behavior continued. She also states that he threatened and intimidated her friends and acquaintances who were aware of his violent tendencies and what he had done to their home. She tells the court that even the children were not free from his threats:

Jackie: “...[M]y husband was trying to do everything he could to hurt me at that time [and] he threatened my children numerous amount of times about putting them in foster care...[He] found out that [name omitted] had died and [he] had been a long time friend of my family’s. My mother had taken care of him for about 15 years so he was just like a grandfather to me...[To go to the funeral] I had left my children at [my boyfriend Chris’ house] to take them to [a female friend’s house, name omitted] ...[when he got] called into work...Nick and one of his friends had saw them en route [to her house] in Chris’ car. Nick went down to [her house] and caused a big stink. Then Nick leaves and goes and calls the welfare department to go pick up his children because their mother is not there. It scared my friend...she knew [what] Nick...had...done...” (p. 6).

Jackie states that it continued to be difficult to free herself of Nick long after their break-up.

Jackie: “And he continued, every place he knew of my whereabouts, it didn’t matter where I was living or who I was staying with for even the night. If he knew my car was there, he was making everybody miserable. He was threatening...” (p. 7).

In addition, and in contrast to Irene and Robert, Jackie communicated to the court that she was aware of the detrimental effect this abusive relationship was having on her children.

Jackie: “[I admitted that my children were in need of services] because of Nick and the threats that he had [made]. I am saying at that time, it was a threat for me to even have the children in my possession where he was concerned. I was endangering them because, it was detrimental to their well being...” (p. 25).
Similarly, Annie openly admits in court that her ex-husband, Leo, was a bad man. She states:

Annie: “Well, I wasn’t, when I was with him, I was not allowed to leave my house without his permission. Everything he said was the truth, and nothing I said made any difference. He used to hit me, putting bruises on me” (p. 9). [He] wouldn’t let me go out or anything like that. I had no transportation to go anywhere…” (p. 13).

Annie continues to be fearful of her ex-husband, especially in relation to her children. She has heard that he may be back in town and she expresses to the court her feelings on this situation:

Annie: “He will get to [the children] eventually, wherever they live [in this town], cause he knows they’re here” (p. 75). It frightens me that he, though he might be smart...he’s stupid in ways. He’s also very sneaky and conniving. He can look at a person and make them think that he’s the sweetest person on earth, but the other side, he’s got a double personality” (p. 74).

As seen with Jackie’s fear of Nick, which led her to admit that her home may not be the safest environment for children to child welfare authorities, fear of the abusive spouse, even after the relationship has been terminated, can affect the decisions that parents make regarding their custodial relationship with their children. When questioned early in the trial as to whether she had considered an open adoption in her case, which of course entails terminating her parental rights even though some visitation privileges will be maintained, Donna admits that she has and states that she even considered this possibility:

Donna: “[B]ecause my ex-husband was causing me trouble. And he was wanting me to come back and I wasn’t willing to take him back. And I was afraid of getting him back because I was afraid of what he would do, or what kind of trouble he would cause” (p. 5).

Theme of Failure to Protect the Children

The parent narratives on domestic violence also contained the recurrent theme of parental failure to protect the children from physical or sexual abuse. In termination trials, the concept of “failure to protect” is not limited in a temporal sense, it means much more
than whether a parent failed to protect a child from abuse and neglect in the past as the court is attempting to ascertain from the parent whether they would be unable to protect the child once again in the future. One of the common elements of the parents' communications regarding their failure to protect their children from physical or sexual abuse is denial. This denial can have many faces. Generally, it involves the parent denying that the abuse ever occurred, or it involves a recognition that the abuse did in fact occur, but a denial of their knowledge of these violent events at the time they were perpetrated. Additionally, as the parents construct narratives of domestic violence with the court, they may also communicate the motivation behind this denial. Perhaps their love or attraction for the abuser has compromised their ability to comprehend and effectively handle potentially abusive situations. For example, Gerri admits that after finding her daughter in bed with her child molesting boyfriend, her primary objection was that he was paying more attention to her daughter than her (p. 83). Or perhaps it is a sense of fear and helplessness instilled by the abusing partner that makes the non-abusing parent deny the abuse. Irene admits that she could only sit and watch and cry when Robert would spank the children (p. 13).

However, there may be another dimension to the parent's denial. Denials of physical and sexual abuse of children in their care are also motivated by parental dependence upon the abuser. The non-abusing parent may express that they are dependent on the abuser for housing, food, clothing. Irene admits that she left the sanctity of the shelter for abused women, and frequently returned to Robert after leaving him, because she had no other place to live (p. 15). It must be stated that denial in any form, instead of acceptance of responsibility for the abuse of a child, seriously handicaps the parent in their efforts to prevent severance of their ties to their children. For if the parents are unable to recognize
that they failed to protect their children in one set of circumstances, the courts often deem it unlikely that they will be able to protect them in others.

In the domestic violence narratives, some of the most emotionally charged communication exchanges between a parent and the state attorney involve questions over whether the parent believes the child’s account of abuse or whether the parent denies that the abuse occurred. This is evidenced in Annie’s case where it is alleged that she failed to protect her daughter from being sexually abused by her boyfriend and then, even after his conviction for the molestation, denied that the sexual abuse ever occurred. Annie had consistently testified at review hearings that she did not believe her daughter’s account. However, although she is still refusing to outright support her daughter, by the time of the termination trial, she is waffling somewhat on her position.

Annie: “I didn’t deny [that the molestation had occurred], nor did I, nor did I say it happened. All I was saying, telling people, was when Edward [her boyfriend, the convicted molester] actually came into the house, when he actually met the kids, which was not until September of 1994...[h]e briefly saw them one time at my house during a visit, but they were leaving at the time when he got there. But I was not saying he either did it or he didn’t do it” (p. 25).

Later in Annie’s termination trial, the subject of her daughter’s molestation by Edward is raised once again. This time, the state’s attorney moves beyond a demonstration that Annie failed to protect her daughter and then aggravated the situation by denying the veracity of her daughter’s account, and introduces evidence that Annie violated a court order not to speak to her daughter when she showed up at Edward’s trial. Although she at first denies having spoke to her daughter at all at the trial, saying, “I just hugged her,” she finally does admit that she spoke to her, saying, “I told her, I love you, that’s all I said” (p. 38). She admits that she attended the trial because Edward’s attorney had told her that “…I could be there just to be behind her on the stand” (p. 37). Whether Annie was truly motivated by an urge to lend support to her daughter in this situation seems questionable based on her statement:
Annie: “[A supportive mother], [t]hat’s what I am. I love my children, and I try to support them as much as I can, even though some of them might have crazy ideas. Somebody has got to stand behind them” (p. 38).

In a similar vein, at times during their termination trial, Irene and Robert denied that parental abuse caused their son Doug’s injuries. Such denials directly contradict earlier statements that Doug’s injuries, including bite marks and bruising, were the result of Robert’s abuse. However, Irene now states that she does not know whether Robert ever abused the children because:

Irene: “I wasn’t, I wasn’t present at the time. I was in bed asleep, and I don’t know” (p. 12).

These statements are quite similar to Annie’s responses when questioned regarding her ex-husband Leo’s physical and sexual abuse of the children. She simply denies any personal, first-hand knowledge of the abusive events:

Annie: “I’ve been told [Leo hit the children]...and [my daughter] told me [that her father fondled her breasts]” [but] I wasn’t [aware of either]” (p. 9).

These denials may also involve situations where the parent failed to protect the child by introducing them to a dangerous situation. However, no matter how it may strain credibility in such situations, the parents are similarly denying that they lacked knowledge of the abusive events. When Gerri violated a court order and took her daughter on a visit to her boyfriend’s house, the same man who had allegedly molested already her daughter on at least one occasion, she recalls the visit to the court and emphasizes that she had no idea of the implications of a situation that occurred on that visit:

Gerri: “[I took her over to his trailer] and he told me to go take a shower...[even though] I had already taken a shower before I left my place. ...[When I got out of the shower they were in bed together but] she had her t-shirt on and her underwear on...I didn’t know what they was doing...I didn’t know what they was doing. I was in there taking a shower” (pp. 81-82).
She also asserts that “they didn’t have sex” but when opposing counsel presses her and asks if he “put his finger inside her vagina” Gerri says “yes” (p. 82). However, when questioned later whether her daughter told her about him putting his finger in her vagina, Gerri states, “I don’t know” (p. 88).

Donna allowed a man she had met through the personal ads to spend two nights in her home, and he used both opportunities to molest one of her daughters for which he was convicted. When questioned about her failure to protect her children on these occasions, Donna denies knowledge of the abusive events:

Donna: “I did not [know that he was molesting her]...[he spent the night] not...with my daughter...[h]e spent the night with me...[b]ecause he lost his keys and he asked if he could spend the night. And after we had been out to eat and and went to a movie and went shopping, he lost his keys and wanted to know if he could spend the night. It was cold, and I was like, well, I don’t usually let anybody spend the night, but I guess it’s okay if you leave first thing in the morning. And he said he would take care of it first thing in the morning. And he did. And he left that morning...[the girls] was back in the bedroom together. And I was in my room...and he slept on the sofa...I would never let anybody in my daughter’s bedroom” (p. 30).

When the parent denies knowledge of abuse in order to counter claims that the parent failed to protect the child, the parent’s testimony may reflect the conflicts inherent in this position. For example, denying first hand knowledge of the abuse, Irene tells the court that the only reason the authorities thought Robert had abused Doug in the first place was because Doug had told them:

Irene: “What happened was the nurse came in that usually sees [my other son], and she saw something on Doug and questioned him, and I had no idea about it. I didn’t have any knowledge of it, and [Doug] told the nurse that Daddy did it...” (p. 10).

However, even though she does not tell the court that she believes Doug’s account of events, she does admit that when she asked Robert if he had left the marks on Doug:
Irene: "...[A]t first [Robert] denied it. He said, no, he didn't do it...Later on, he changed and said he did it" (p. 16).

In addition, she admits that her first thought when she saw the injuries on Doug was that Robert had inflicted them. When asked why she would assume something so horrible about her husband, Irene claims that Robert had ordered her to spank the children when they were only babies and adds that:

Irene: "[there were] other times he had spanked Doug, and I didn't like it. I would sit and cry. I would get terribly upset over it" (p. 13).

For his part, Robert completely denies that he inflicted the injuries on Doug and denies any knowledge of how those bite marks, on at least two separate occasions, and assorted bruises were inflicted.

Robert: "No, I don't [have an explanation for the marks on my son]. I was at work, and I come home and that's when the kids and my wife was gone, and I had the police officer and [child welfare investigator] come to my door and said that I was filed with charges for battery. That's all I know" (p. 56). "I don't hurt my kids. I've never bit 'em. I never put a bruise on 'em" (p. 58).

While not admitting that he abused his children, Robert does concede that "[anger management to control himself around the children] would help" (p. 58). Indeed, Irene tells the court that:

Irene: "I kind of understood and sympathized with Robert because he got so angry and upset and it frustrated him, which I got frustrated, too, but I didn't take it out on the children" (p. 17)... "I don't know [if Robert took it out on the children]. I can't say he did or didn't. There has been numerous occasions when Doug...did things to his ownself" (p. 17).

However, Robert later denies that he even gets angry at the children, directly contradicting testimony by child welfare professionals that he became enraged when Doug wet the bed. Indeed, Robert states that he does not get angry at his children, even when they wet the bed, claiming, "I don't have a problem with it, I mean, the boy, I mean, I've got an older sister that done that" (p. 64). He then asserts that "...Doug don't do nothing to make
me angry”...”[i]t’s just that I don’t understand why he hurts hisself” (p. 65). Echoing Robert’s testimony, although not specifically addressing the bite marks and bruises, Irene states that she now believes it is possible that Doug inflicted the injuries on himself:

Irene: “...[Doug] would sit and scratch his head until it would bleed. He had a big hole in his head. He would fidget. He couldn’t sit still. He wouldn’t sit five minutes to watch a TV program. I tried get him interested in different activities. I tried to read to him. He wouldn’t sit still to listen to a book. Uh, I tried to get him interested in the alphabet and numbers and coloring books and crayons. He just had no interest for any of that kind of thing. I’d just, I tried, and I couldn’t do anything with him. He would sit and scratch his legs until they would bleed” (p. 18).

In Bridget and Rusty’s case, and in Donna’s case, there were domestic violence narratives that were unique from the others. In both cases, the parents communicated stories of how their children were allegedly harmed while in their care, but they assert that the injuries were not the result of parental abuse or neglect. In addition, both of these cases are different from the others in that the stories of harm to the children do not involve issues of violence between the parent and an adult partner. Bridget’s case can further be differentiated from all of the others in that it contains expression of parental concern over physical punishment administered not by a parent-- but by the state-- in the form of school corporal punishment of her son. Early on in her trial, Bridget tells her account of the major abusive event in her case, one that she claims Rusty unknowingly confessed to:

Bridget: “I had Terry up at the sink trying to wash his head and we got these wooden chairs that go with the wooden table and they got backs to them and he kept beating his chest up against it and his leg and I smacked him and he still wouldn’t listen to me and when I said, Terry, quit,... you are going to have bruises, he wouldn’t stop. Rusty took him out of the chair and told him to go stand in a corner, which he stand in the corner...[Terry] kept saying, I didn’t get finished washing my hair. I want to try to wash his hair again because I had almost all the soap out and he started beating himself again, his leg and chest against the wood of the chair” (p. 69).

Bridget then introduces to the narrative her history with Terry’s teacher:
Bridget: “...I told Rusty two days later, I said it is turning into bruises and I told Rusty, I said I didn’t know what to do because [of]... the bruises and we sent him to school...I didn’t get along with his school teacher because she had paddled Terry, and she wrote me a note that said she had paddled him and I could never get [her] to tell me why she paddled Terry...[S]o I wrote her a note and told her the next time she used a paddle on Terry, [and] he come home and told me, I was going to take the same paddle and I’d use it on her...[S]he never responds when I wrote her letters...If I went out there, she was always busy” (p. 69).

She closes this narrative with her assessment of why Rusty was reported by the teacher and supports her denial of his committing this abusive act with a story she hopes will illustrate his devotion to his step-son:

Bridget: “[The teacher] would never tell me why she whipped him and two weeks later. I know Terry had bruises [from the hair washing incident]. [Then] this abuse charge came up on Rusty. I knew she couldn’t put them on me because I knew that she knewed it wouldn’t look right and she knew Rusty was his step-father... I know how Rusty loves Terry. One Christmas I told Terry he couldn’t have a train set. It was $149.00. He had to have that train set. And Christmas come, he got up and he was unhappy, he didn’t get his train set. Rusty walked out to the closet and here he come with a train set...[W]hen I asked Rusty, Rusty said I have been mowing grass, picking up aluminum cans, anything...[H]e had paid so much every week to buy that train knowing that I said we couldn’t afford to buy it...” (p. 70).

Near the end of her testimony, when Donna is asked if she has anything else she would like to tell the court, she gives an unsolicited account of an allegedly abusive experience with her children. This final communication is hardly a confidence-inspiring close to Donna’s argument for the return of her children.

Donna: “...[The social worker] said that I abused Ellie with a belt. I would never abuse my kids with a belt. But Ellie and them was fightin’ that day, and there was a belt layin’ beside me and I was tryin’ to tell Ellie to, you know, clap my hands and get their attention, and they was totally ignoring me. So I grabbed the belt and I started to swing it. And when I swunged it Ellie ran in front of me and I hit her. And I even reported [this] to [the child welfare agency] and told [them] how upset I was and uh, you know, how sorry I was because I would never put any marks on, uh, my kids...I never told them that I’d beat em to death or anything...I’d you know, get mad at them a lot and uh, but I never cussed at
em. I would never hit em with a belt. I mean, I slapped em with my hands a couple times. But as far as really layin' marks on em and stuff or bruisin' em bad or hittin' em in the head, I would never do anything like that" (pp. 46-47).

Theme of Revelation

In the parent narratives on domestic violence in the termination trials, a theme of revelation emerged. Having detailed for the court their experiences in abusive relationships, a couple of the parents were also eager to communicate their newfound insights on these abusive relationships and perhaps also explain how they were now able to adequately protect and care for their children. In each instance, the parent articulated their belief that they were now capable and sensitive parents, that the violence that had so devastated their lives, and the lives of their children would no longer be tolerated. By focusing on the dramatic changes they believe they have made in their lives, the parents were striving to alter the socially constructed stories on themselves. Instead of constructing the parent as a helpless, perhaps even a contributory, party to the abuse of a child, the parents were urging the court to reconstruct the narratives of domestic violence, to incorporate the story of the parent as a newly insightful, stalwart protector of the child.

As the narratives on domestic violence demonstrated, and as further illuminated by the recurring themes of spousal abuse and parents' failure to protect the children, the mother's relationship with an abusive partner often compromised the safety and well being of her children. In such situations, freeing oneself from the abusive partner may lead to meaningful revelations regarding personal identity and identity as a parent. For example, after communicating that she had been afraid of her ex-husband, John, and was particularly afraid of what he would do if she allowed him back into her life, Donna tells the court that she has finally terminated her relationship with him. She emphasizes the length of time she has maintained her distance from him and the revelatory effect this has had on her life:
Donna: "[H]e’s been out of my life for uh, I think, you know the first year that he really kept trying to hold me back, which that’s what he’s always done, is held me back, and this past year I’ve done everything on my own and uh, not depended on him. And, I didn’t think I could depend on...couldn’t make it without him, but I did. And I have” (p. 6).

She also expresses to the court the newfound insight she has gained regarding the negative, draining effect John has had on her life:

Donna: “John, he wants to get back together but then, you know, he really hasn’t been supportive and he really hasn’t, you know, done anything. So I mean, if he wasn’t willing, I’m not willing to goof up stuff for him, I mean, I can’t take responsibility for what he does or doesn’t do…” (p. 44).

Donna then ties these revelations she has had regarding herself and her long-term abusive relationship with John to her relationship with the children:

Donna: “I guess I was feelin’ that I couldn’t make it by myself. And I felt like I needed to depend on some man, but there ain’t no man on this earth that’s worth my kids. My kids are more important than any man on this earth. I mean, if I had to choose between a man and my kids, I’d throw the man out. “Cause I’d never throw my kids out or turn my kids away” (p. 44). ...I would never ever abuse my kids...I would never hurt em...(pp. 46-47).

Annie also bases her revelation on her personal growth and development in the time since she was freed from her relationship with her abusive husband. She states:

Annie: “Since I’ve been on my, away from my ex-husband and I’ve been able to do things for myself, I’ve been able to be, to learn to be aware of my surroundings” (p. 76)...I have changed a lot. I feel better about myself. I’m more sure of myself...I have more confidence...I’ve learned from my past mistakes to be bold, to be strong, and to be patient...(p. 58).

Then, similar to Donna, Annie ties this experience of self-revelation to the changes she envisions in her relationship with her children, especially as related to her ability to protect them. Specifically, she discusses the problem of violence in society and asserts that:

Annie: “I know for sure now that I’m more than capable of protecting my children, not only that, but I want to. My children are first in my life. They always will be. The police station is not far from my house. So if something would to happen, were to happen, I can dial 911 or the
local police station, and the police, the police will be there within five minutes at the most” (p. 59)...I want my children to be safe, that means I also want them to be, I want to be the one who protects them and not somebody else...I want it to be known that I do want to protect them (p. 61).

Later, Annie adds to this statement by giving a specific example of how this revelation she has had regarding her ability to protect her children would play out in a real life situation.

Annie: “I will have a protection plan for my children so that they will remain safe at all times. I will enforce this protection plan. This is something that I, a little bit of what I came up with for a protection plan. What should I do if I take the children to a restaurant and a sad person such as Edward [the man who molested her daughter] was there? First of all I can take the children, I could tell the children that I changed my mind and that I want to go eat at another restaurant...Also, the same thing, if I went to a park, and he was at the park, I would tell the kids that there is a better park, let’s go to another park” (p. 66).

Parent Narratives on Housing

The ability of a parent to consistently maintain suitable housing is critical to a parent’s efforts to regain and maintain custody of a dependent child. However, for the parents in this study, facing a legal action to terminate their parental rights, there had been many impediments to overcome as they attempted to secure a decent place to live with their children. Indeed, of the ten cases, nine contained narratives related to housing difficulties. Such difficulties were often traceable to the parents’ substance abuse problems, mental illness, or financial problems which resulted in frequent moves and poor home conditions. Such parental circumstances are directly contrary to the aims of the child welfare system as it works to insure that the child resides in a stable home environment that meets standards for cleanliness, and provides the food, clothing, and shelter from the elements necessary to promote healthy development. Consistent with these systemic goals, from the parent narratives on housing there emerged two themes: “lack of stability in housing,” and “substandard home conditions.”

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Theme of Lack of Stability in Housing

For many of the parents in this study, “home” meant wherever you happened to be staying the night. It could be a motel room, a couch at a friend’s house, a homeless shelter, or the house of a boyfriend, or even his parents’ house. Although many of the parents were technically homeless at various points in their involvement with the system, they were quick to deny this fact. One parent, Donna, now residing in Section 8 housing, indignantly told the court after it was reported that she had basically moved in and out with friends over the years, that she felt she had had a stable home throughout, “I’ve never been homeless…I mean…I always had someplace to go” (p. 13). Donna’s case was not unique. Indeed, the commonality among all of the parents’ housing narratives was not only the difficulty in establishing the stable home environment required by the child welfare system, but the demonstrated lack of parental understanding of the centrality of this issue in the trial court’s construction of the able parent.

At the time of the termination trial, most of the parents have secured some form of housing. However, they do not seem to comprehend the nuances of why their housing situation is still deemed relatively unstable, or at least they do not anticipate and address such concerns in their courtroom communications. Admitting that she has moved around a lot (p. 9), Fran reports to the court that she has now has a place to live. She was laid off from her job and has been living for the last four months in an apartment with her boyfriend of eight months. She describes the apartment as having a “living room, two bedroom, kitchen, bath” (p. 4) and tells the court that until two weeks ago, her boyfriend’s grown son, and his grown daughter and her boyfriend all lived there as well. Now that her boyfriend’s children have moved out, Fran claims that she has a plan to create the necessary room for her
children, a girl aged about thirteen and a boy almost fifteen. She says that she will “put [my boyfriend] on the couch, and my daughter and I would share a bedroom” (p. 5).

Similarly, Erin, having suffered from bouts of mental illness, has found it difficult to maintain an address for any length of time and she tells the court that she is now residing in a stable home environment. She and her new husband have moved in with his father who resides in a two bedroom home. When questioned as to how she would accommodate her two children, Erin states “Well, me and [my husband] would sleep [on] the living room [couch], and his Dad would live with his mom, and the kids would have their rooms” (p. 10).

When questioned about her living plans should the children be returned to her Jackie tells the court:

Jackie: “…[R]ight now, I have a one bedroom and it is an efficiency. It has a kitchenette. It doesn’t have a large kitchen and I would like to reside at my mother’s until I could get a larger place to live” (p. 13).

Although not addressed in their termination trials, perhaps because the court constructed from Fran’s, Erin’s, and Jackie’s communications the instability of such arrangements, it does remain unclear how the owners of these residences feel about sleeping on a couch; or moving back in with an estranged wife; or taking back in the grandchildren, one of whom had personally been turned over to child welfare authorities—in order to accommodate the parent regaining custody of the children. More importantly, even if they complied, the question remains how long such arrangements would last.

Perhaps in an attempt to retain some feeling of control over their lives, but clearly evidencing that they do not recognize the weight that is placed on stability in housing in the child welfare system, parents may openly confess to the court that their housing situations have lacked stability because they have so chosen. This approach was taken by three parents, Annie, Donna, and Jackie during some point in their trials. All three seemed to have
a lot of pride and they rejected the state’s attorney’s suggestions that their unstable housing situations were the result of problems such as financial difficulties, or even their own fecklessness. For example, in the process of Annie revealing that there has been much instability in her living arrangements, both when she was still residing with her ex-husband, Leo, and after their divorce, the state attorney inquires about a period of time when she and Leo and the children were between homes and had allegedly spent a summer living outdoors in a neighboring county. Annie states that “Well, we just, we didn’t, we weren’t going to be living there...[because] [a]ll we were doing was camping out...we were, like a summer, like a vacation, you know when a family takes a vacation...[the plan was] to camp out for a week” (p. 6).

Donna also expressed an explanation for her housing instability that made the situation seem part of a plan, one that was consistent with her personal likes and dislikes. Upon being reminded that her case plan had required her to maintain a home, Donna states:

Donna: “That’s what I did. I mean, I was in [name of small town] for six months...then I went to a friend who had cancer. And I was livin’ in with her because she was not supposed to...she had a doctor order her not to stay by herself... (p. 10)...[Then] I was livin’ on Columbus Road...And I lived there for about three months (p. 11)...After I moved off Columbus, I moved in with that lady...the eighty-four year old. And I was live-in help there...[Then] I moved in with a friend...” (pp. 11-12).

After she recounted her numerous living situations, the state attorney asked her if she often did not find herself without a place to live and thus was forced to move in with friends. Donna became indignant:

Donna: “No, I had money to get my own place but I just didn’t wanna be alone. Because, I mean, when I was [living alone in the small town], I went crazy in that place...[I had money]...I moved in...for companion or something, or friendship (p. 12).

Although she had repeatedly and vehemently denied that financial hardship had affected her housing decisions, when pressed once again by the state’s attorney, Donna admitted that she
“was just more or less waitin’ for [her] Section 8 to come in” (p. 13). However, when her own attorney did the cross examination, Donna seemed to relax and she described with pride the process of getting her Section 8 apartment:

Donna: “...I went to the CAP office and applied. And just was...was put on a waiting list. And then uh, I had been applying for these other apartment places, but then every time my name came up they was like, “Well what do you want? A three bedroom or a one bedroom?” And they was like, “Well you could have a one bedroom.” But I was like, “I don’t want a one-bedroom. I need more than a one bedroom because I have got too much stuff”...[t]hen when my Section 8 came in, They was...I was still only qualified for a one bedroom. But I said, “Well I’ll go...be willing to pay the extra, since I’ve had the extra money, then I’ll just go ahead and pay the extra bedroom...I have a two bedroom. But it’s pretty big...[I’m paying my own bills and I live]... alone. No one’s with me. (pp. 37-38).

Similar to Donna, Jackie has had difficulty demonstrating to child welfare authorities that she could establish stable living conditions for her children. The situation was exacerbated when she left town once again just prior to regaining custody of her children from the state. The state’s attorney returns to this incident several times during his examination of Jackie. Although she makes allusions to the fact that her alcoholism had probably influenced her decision to leave, Jackie wants to make it clear that leaving was her voluntary decision, seemingly made in a well considered effort to achieve personal growth. When the state attorney accuses her of leaving town and obtaining employment out of state just “to get away,” Jackie agrees, stating, “Yes, I did...I got to know myself a little better and realized [my] self esteem...” (p. 9). When she is asked where she was for this entire year, a year in which her hospitalized daughter needed her, Jackie responds:

Jackie: “During that period of time I was in Washington, D.C.”...[I was unaware that my daughter was in a mental hospital]...because no one told me her condition at any time” (p. 20).

However, later Jackie admits that she had not informed the child welfare department of how “[t]o contact me in case of an emergency” (p. 21) and in any case she states that “I did not go
to Washington, D.C. until [mid way through the year] (p. 22). Jackie becomes indignant when then asked by the state’s attorney why she basically “disappeared for a year” (p. 27). She answers:

Jackie: “...I didn’t disappear, I just left [name of county]. I left the state actually because I felt there would be room for me to grow out of here. I had been through a lot” (p. 28).

In contrast, Holly, who has been sober for a little over four months by the time of the termination trial, seems to have an almost confessional approach. She does not contradict evidence offered regarding her unstable housing situations in recent years, and does not even attempt to cast her frequent moves and stays in detox centers in a more favorable light, for example, by stating that they were some sort of voluntary plan for personal growth.

Holly: “I stayed in there in detox [that time] I think about twenty-one days, I think it was, uh, and I came out, uh, I think at the time I stayed with Tommy for a while, I’m not real sure on that, uh...I did [go back to drinking and] I was smoking dope, and a little, little...doing White and Zanex (p. 17)...[then] I did [live with a man who resides in a neighboring town]...[then I moved in with my current fiance] (p. 24).

At various points in their involvement with the child welfare system, several of the parents’ home address has been a motel, for example, Jackie, Irene and Robert, and Rusty. Indeed, at the trial to terminate his parental rights, Rusty gave a local motel as his current residence. Irene and Robert, who have rented a friend’s trailer on and off for two years and state this to be their current residence at the trial, have had financial difficulties that have made consistently residing in the trailer difficult. Having resorted to living in motels at various points in their relationship, during a particularly bad period financially, Robert devised a scheme whereby they would stay in motels and leave before paying the bill. Both were convicted of theft and served a sentence. However, when they were released, they still did not have a solution to their housing problem. For Irene, the stress of her housing
dilemma was compounded by her decision to finally leave Robert. After her release she
learned that Robert, enraged that she had left him, had immediately sold all of her belongings
after having gotten out of prison himself. She describes to the court how lost, lonely, and
desperate she felt during this time:

Irene: "[I did not go back to Robert]...I don't remember [where I went]. I walked
all over town, made phone calls (p. 24)...[Then] I met someone [and I lived
with him] (p. 25)...I felt like I had lost everything, that I didn't have anything
anymore. I felt like, I thought maybe we lost our home, lost everything that
belonged to the kids, uh, I didn’t think that I had anything. I couldn’t find
Robert when I got out of jail. I tried to call his mom, and I couldn't find her.
I tried to make phone calls, and I couldn’t find anybody. I had no where to
go (p. 26).

This experience of loss and dislocation, and the subsequent instability, was mirrored
in the housing narrative of another parent, Annie. As Annie recounted the experience of
losing her apartment in a fire, it became clear that even though a parent may finally secure
stable, affordable housing, there are no guarantees. For these families living on the brink,
from monthly paycheck to paycheck—or disability check, or AFDC check—a calamity such
as a fire can mean homelessness, as it did for Annie and her son. Relaying her disbelief, fear
for the safety of her son, and finally resignation as she and her son watched the blaze, Annie
tells the court what happened recently to her apartment:

Annie: "Well, I was at work, and my friends told me that my apartment was on fire,
and when I...another friend of mine was taking me home, and we went
around, as we approached the apartment, I could see that the apartment was
actually on fire, because it hadn't actually hit me when she told me that my
apartment was on fire until I actually saw it. When I saw it, the first thing
I thought was, where's my son? When I got out of the car, I went to the
fireman, and I said, where's my son? He said he's probably out in the back
with all of the other people. So I was going to the back. [My son] started
coming around to the front. I saw him as he was coming around the
corner, and I knew he was fine. Well, it was real cold outside, and [my
son and I] we were watching the fire” (p. 32).
Although all of the above mentioned parents in the termination trials experienced various levels of instability in their housing situations, each of these parents could at least tell the court that they had established a home at some point in their lives. Perhaps they later abandoned this home, perhaps they lost the home due to financial hardship, mental illness, or a calamity, but they had experienced, with varying degrees of longevity and sufficiency, living in a home to call their own. This experience was not one shared by Carli, whose trial narratives on her housing situation, while sharing the instability of the other parents, can be differentiated from the others in that she had never once experienced stability in her housing situation. In short, Carli has never had a place to call her own. She was raised in a series of foster homes. After her children were born she resided with them in foster care and then later in a group home. In the trial to terminate her parental rights, Carli argues for the chance to maintain custody and establish a home for her children. She tells the court, “I do believe I could care for my children” (p. 4) and affirms her belief that she was making progress in developing her parenting skills at the group home (p. 9). However, Carli’s one attempt to apply these skills outside of the controlled environment of state care failed. At the trial, she could only answer tearfully, “I don’t know, I, I don’t know” (p. 10) when she was asked why she left the group home with her children. Although she claims that she was trying to take care of them during this time, she admits that she was unable to successfully establish a home with them. They briefly resided “at a friend’s house” (p. 11) until her children were permanently removed from her custody.

Sub-standard Home Conditions Theme

The child welfare system requires that parents not only establish that they are able to provide a stable home environment for their children, but that they also ensure that this home
environment is clean, safe, and well-supervised. In addition, the parents must demonstrate that they can meet the children’s needs in terms of food, clothing, education, and hygiene. In meeting these standards, the parents in this study struggled with problems like head lice, cupboards filled with junk food or no food, a lack of winter clothes for the children, unsafe home conditions, poor personal hygiene, roach infestation, clogged sinks and toilets, broken water pipes, tardy and absentee notices from schools, and a lack of proper supervision. As the parents and the courts constructed the meaning of such home conditions, there was often conflict. This conflict involved more than a simple denial by the parent of the sub-standard home conditions. Indeed, the narratives on housing demonstrate that in constructing the stories related to parenting ability, the courts and the parents rarely reached a consensus regarding what it means to have suitable housing and more importantly, how this meaning can be equated with ability to parent.

In particular, Bridget and Rusty struggled to acquire and maintain housing that met the standards of the child welfare agency. After they came to the attention of child welfare authorities for the second time, they left their one bedroom apartment, which was reported to be crowded and with squalid conditions, and tried to buy a house on contract. In his testimony, Rusty described the house and his work on it with pride:

Rusty: “We was buying a white house and it is a four room house and we was buying it on contract and it is a nice home...I drawed disability...[and my wife] she drawed ADC...[i]t needed some water pipes fixed. Water pipes went bad when it froze up...Me and a preacher got under the house trying to fix the water pipes...We went under the house...We tried to fix them pipes. We sure did (pp. 4-5).

Rusty contradicts the testimony offered by the child welfare worker, claiming that the house had running water, heat, electricity, and a working commode. When questioned further
Randy acknowledges that perhaps these utilities and appliances were not in perfect working order at all times, but he believes that they were serviceable:

Rusty: “Not as, I can’t say that was all true about the commode [being stopped up and not working]...But underneath the house I had a water leak, I will say that. I ain’t going to, that is what I will say, the water leak...you could pour water down [the commode] and flush it, yeah (pp. 9-10).

Rusty then states that they had a functional kitchen as well, but states that their problems with the house and utilities contributed to the loss of their daughters:

Rusty: “My brother bought me a brand new refrigerator, my brother, Rick. Brand new refrigerator, yes we did...kept good food in it...[but]...we had a problem. We had a hot plate to be honest with you and my brother bought me a gas stove but I couldn’t hook it up. But we did get it hooked up. Because they took the little girls out for thirty days...we didn’t feel we needed to hook the gas stove up. They was supposed to give us thirty days on the water but they didn’t do that. Two weeks they took the little girls out...Supposed to give us thirty days...We cooked on [that hot plate] quite a bit to be honest with you. I ain’t going to lie...[but] we able to cook good meals. Yes, we was (pp. 10-11).

With one of the state’s main allegations against Bridget and Rusty being their inability to provide healthy meals for the children, Rusty was eager to tell the court that they had often prepared “good food”:

Rusty: “…[F]or dinner time, she has cooked potatoes and beans and stuff like that, good food. Potatoes, stuff like that, wholesome food. I didn’t, we didn’t go hungry…[s]he good biscuits on the plate, hot plate…[She’d go to the store and] buy like potatoes, beans, corn, canned stuff and eggs, bacon, meats, wholesome food” (pp. 16-17).

Bridget also contributed to the discussion on this issue:

Bridget: “When me and Rusty got food stamps, I would go to the store. My mom took me every day...[in case I] ran out of milk or some kind of meat, bread, basic...Well, on, me and Rusty always spent what food stamps we had and then every week we was buying like $50 worth of groceries plus I’d buy the things that I thought we’d run out during the day each day...I have been shopping for groceries since I was eighteen” (pp. 44-45)...I cooked every morning which they went to pre-school and they eat at pre-school during their lunch and I cooked supper for them”...[I learned to cook] when I was in high school...I fix almost anything that is cookable...” (p. 48).
Similarly, Donna had allegedly failed to prepare adequate meals for her children, with the child welfare worker alleging that she was so depressed at times that she could not get herself out of bed to perform her household tasks. Donna admits that she was having difficulties but claims that they did not affect her ability to feed her children:

Donna: “Uh, I was tired a lot. But I’ve always got up and got the kids something to eat...they’ve always had everything to eat. I mean, we never had any...been without anything...I mean, there was times when we ran short, but we never starved to death, or never had to go a solid day without a meal. I mean, we always had somethin’” (p. 7).

Rusty and Bridget tell the court that after the children were removed child welfare workers made comments to them regarding the home environment and the return of their children:

Rusty: “[They said] [i]f we got a decent home, maybe they would think about giving them back to us, you know. You know, like if you have a home they thought was presentable you know. They just say they was going to take them from us” (p. 18).

Bridget: “Well, I asked the welfare and they said that I could move to a different house where the water pipes wasn’t tore up and they would try to have weekend visits with the two girls for me” (p. 53).

It was their understanding that the house they were buying on contract was not good enough so they eventually moved into another house in the hope that this would improve their chances of being reunited with their children. Rusty claims that:

Rusty: “...we did rent another house, tried to fix it up but either one, what there ain’t nothing, they are hard to please, you know, rent another house but that didn’t solve the problem (p. 18)...[and with the house I was buying on contract] I [had] kept my payments paid up. All that money I lost too. I ain’t proud to say” (p. 6).

Rusty describes the new house and his efforts to make it a home:

Rusty: “It was kitchen, had two bedrooms and a big front room and we painted all the walls in it too. I did. I painted it, painted the walls so it would be presentable and that was all painting too that wore me out. You know what I mean, sure did. And that, you know that was the best I could do. Painted all the walls, remodeled, bought, I bought the paint. That cost me money...[i]t was clean, it was a clean home...[with electricity]...[and] running water, no problem with the water...[had]
Bridget tells the court that it was her understanding that after leaving the first house, her homes have met the approval of the child welfare workers:

Bridget: “She, when she visited, she come twice and said that it was sure a change from [the old house to the new]... [S]he told me to keep up the good work” (p. 54).

In addition, Bridget tells the court that her current housing situation, a trailer in which she resides with her boyfriend has also been found to be acceptable by a visiting child welfare worker:

Bridget: “I bought bunk beds and then I put stuffed animals and dolls all the way across the counter which [the lady] that worked for public welfare come to the home and she said she thought the bedroom didn’t look like a bedroom, it looked like a doll house (pp. 75-76).

In some cases, the parents in the termination trials openly admitted to the court that their houses were not always perfectly clean, but they also explained the circumstances that had hindered their efforts to regularly maintain a certain level of cleanliness. Bridget and Rusty emphasize that Bridget’s diabetes and related physical health problems made it difficult for her to keep their home clean and Annie states that her work schedule and her ex-husband’s laxity contributed to the problem:

Bridget: “Well, [our home] got messy sometimes, I can’t say it was perfect all the time...[my health affected my ability to do housekeeping]...like when I would go to wash dishes, I’d get dizzy, have to go sit down. I couldn’t pick up nothing, just seemed like when I would pick up stuff, my arms would give out...I tired out easy. I could wash so many dishes and I felt like I had done a day’s work (pp. 38-39)...I am admitting I didn’t [do a good job cleaning when I was sick but] last time I went to the doctor I am doing better (p. 52).

Rusty: “[My wife was ill with diabetes and]...she was operated on...[she was ill for some time afterwards]...she wasn’t [able to do heavy housework]” (pp. 15-16).

Annie: “The house would be, it wouldn’t be perfect, but it would be fairly clean. Well, when I got home in the morning, the children would have already messed the house up. So what would happen was my exhusband let
them do anything they wanted. They never had to clean up after themselves. So I was not only working and trying to keep the house clean, I was also trying to give a good example to my children of how to keep the house clean” (p. 19)...[One time when the child welfare came out] I was pregnant...I was doing the best as I could to get it cleaned up and also have to go to work at the same time” (p. 21).

Bridget also claims that she was open to suggestions from child welfare workers and followed their guidance and made improvements:

Bridget: “I [kept the bathroom clean and operable]...[the child welfare worker] showed me one day to put bleach in it...And she showed me how much to put in it and she showed me how to put it in the sink which I already knew that you could put bleach in the sink. My mom told me that bleach was the cheaper thing that you could buy to clean the sink and bathroom stool with...[and there was running water to the toilet]...[w]hen you turn it on, the water on the outside, it would fill up the stool...then we would flush and then Rusty would let it fill up again before he shut it off” (pp. 45-46). [After he filled everything up] he [had to] go back out and turn it off because under the house, it just poured water out” (p. 47).

In addition, Bridget discusses their attempts to rid their home of the bugs that were prominently mentioned in their case plan and how she worked with the child welfare worker:

Bridget: “[Our house] had flies and fleas...Cause my kids had a cat that they kept letting in and out...it would come in during the day and they’d let it in and out all the time...They owned it from a kitten until it was grown...[the child welfare worker] told me to get fly traps and she went with me and we bought stuff to kill them with...[the pesticide] seemed to help” (p. 42).

The parents in the termination trials often disagreed with the narratives regarding their housing conditions that had been constructed prior to the trial in their interactions with child welfare workers.

Annie: “A woman had made allegations that we lived in an abandoned house with no running water or electricity. They came into my house when I was doing spring break, spring cleaning. I was trying to get rid of a bunch of the old stuff that the kids didn’t need anymore, broken toys and stuff like that, and I had it all in my living room. She came in and an hour later she came back with a court paper saying that she could take the kids...the living room [was just slightly messy]” (p. 3). [On another occasion where allegations were made],...I had thrown the trash out the night before...There was no [rotting] food in the kitchen. I had washed the dishes the, uh, that morning...There
was no...rotting food in the refrigerator...In the bathroom upstairs, there was no clogged sinks. In the one downstairs, it had the, uh, the drain was, there was nothing on top of it to keep things from falling through it, and sometimes the kids would drop things, like say a toothbrush or something...it would clog up very easily. So I was constantly fixing it” (p. 22)

Bridget: “[We did not at any time keep the electric skillet on the floor]...Rusty once put it in the chair...I had been cleaning the kitchen and Rusty sit the skillet into the chair for me to clean the table and I didn’t pick the skillet out of the chair...it was not [plugged in or turned on or hot]” (p. 49-50).

Holly disagrees with the police officer’s account, written the night she had returned to her home after going to the 7-11 in a drunken stupor, that cock roaches had to be knocked off the baby’s bottle in order to feed the baby. Holly asserts:

Holly: “No, [it] is not true...there might have been cock roaches there, but it wasn’t on my baby’s bottle...Yes, I remember that...I mean, I just barely remember parts of it. But I remember that night about the bottle” (p. 8).

The parents may also be eager to describe their new and improved living conditions and their skill in keeping them clean. After the fire that destroyed her apartment, Annie and her son eventually moved into a two bedroom apartment. Annie has brought pictures of her apartment to the trial and she describes the apartment with pride:

Annie: “Okay. This is my kitchen. It’s quite compact. It’s a little small, but it does, it does the job. Again, this is another view of my kitchen and part of my dining room. As you can see, my dining room table is really nice. There’s another picture of my kitchen, which shows that it’s clean, and I’ll go through some, several pictures of my kitchen until I get to my dining room, which shows I have a very nice dining room table...[It is] very clean...Dishes don’t even go for a couple hours...before they’re washed. Usually they’re washed right away...I, uh, I get up early enough that I can eat breakfast and wash my dishes and put them away before I go [to work]...[and] I encourage my son to keep his room clean” (pp. 68-70).

Similarly, as Holly tells the court how sobriety has changed her life, she includes a statement on how clean she now keeps her home.

Holly: “Yes, it’s clean... We clean, me and [her new fiance], we probably clean it, uh, we clean it, uh, we clean together, uh, probably once a week if it really needs it or, you know, I’d say once a week” (p. 49).
Parent Narratives on Attachment Issues

Nine of the ten cases in this study contained parent narratives regarding the attachment between themselves and their children. The frequency with which this narrative appeared is not surprising when it is considered that the process of terminating the parent-child relationship inherently involves the legal severance of the parent-child attachment as well. While it is questionable whether a legal process can sever the emotional bond between a parent and child as easily as it can sever the bond recognized by law, the legal process is cognizant of the ramifications of termination on attachment relationships and searches for ways to construct the meaning of the parent-child relationship. For example, as evidenced in the termination trials in this study, communications regarding who has served in the primary caretaker role, such as a grandparent or aunt, are often are instrumental in constructing the substance and meaning of a particular parent-child bond. Additionally, as the parent narratives on attachment demonstrate, attachment between a parent and a child is often understood by the child welfare system in terms how this attachment bond can be equated with parenting behaviors that meet the legal standard for care and protection of children. If a parent continues to endanger a child by allowing her to play in the street, walk home along a busy highway, remain poorly fed and clothed, or live in a home infested with insects, the system is apt to infer, among other things, that the parent-child bond, or attachment, is not sufficient to ensure that the parent will act in the child’s best interests and maintain the standards of care required by law. In such instances, the child welfare system is able to overcome the legal presumption in favor of the biological parent as legal custodian, and the societal expectation that a child will be best cared for by her own parent, and terminate parental rights.
However, just because the child welfare system has determined that the attachment relationship between the parent and child fails to ensure the safety, protection, and well being of a child, and termination is thus decreed to be warranted, the parents may not necessarily agree. Indeed, they may not even share the same standards of evaluation of the parent-child relationship. The first theme emerging from the parent narratives, “non-conventional attachment relationships” demonstrates this point. Also, the parents in the termination trials expressed an overriding sense of the primacy of biological relationships, which may have conflicted at times with the system’s focus on psychological parents and use of non-relative placements for children. These communications are found in the second theme, “biological relationships supercede non-biological relationships.” Finally, the disagreement between parents and the system regarding their ability to provide custodial care for their children, and the subsequent decision by the system to terminate the parent-child relationship and legally sever the attachment bond, resulted in a strong theme in the parent narratives on attachment, a theme of “separation, loss, and grieving.”

**Theme of Non-conventional Relationships/ Conventional Declarations of Love**

In the parent narratives regarding attachment issues, parents may have expressed a non-conventional understanding of the parent-child relationship— one that does not place importance on the child’s primary bond being with the mother— while maintaining the rather conventional expressions of maternal and paternal love and connection to them. In this manner, the parents communicated to the court the active role extended family members may have played as caretakers for their child, but did not tell the court that this diffusion of parenting behaviors and parenting responsibilities among extended family in any way diminished their attachment to the children or their love for them. In addition, the parent narratives on attachment also contained the parents’ communications regarding the non-
hierarchical aspects of their parent-child relationship. This conceptualization of their relationship to their children, and its expression in the courtroom during the trial, often defied the normative expectations of the parent-child attachment bond. The parents’ communication of such non-conventional ideas and behaviors regarding their relationship with their children contributed to the construction of meaning in the courtroom that was directly contrary to the parents’ hopes of regaining custody of their children.

When Donna tells the court that she would like to have her children returned to her, the attorney for the state immediately begins to question her regarding the amount of time she allowed her oldest son to reside with his father’s extended family. Donna’s communications regarding this subject reveal that she does not place the same value upon having had her son reside exclusively in her home, and not in the homes of extended kin, as the child welfare system does. When the state’s attorney accuses her of not having taken care of him, Donna replies:

Donna: “I took care of him while his [paternal] grandma had him too. I mean, [my son] went back and forth between me and his grandma...[He] lived with me quite a bit. I mean, he stayed like two or three years with her. Because I was pregnant [with my daughter]. And [my daughter] ended up in [the children’s hospital]. I mean there was just times that she’d kept him for a couple years...Not for several years, a couple...because she knew that I had him when he was in kindergarten and then she took over when he was, uh...before he ended kindergarten. And then she enrolled him in the first grade, and she enrolled him in the second grade, but in the third year she got sick and I went after him...he just wasn’t happy. He was worried about his grandma being in the intensive care and...he wasn’t concentrating on anything...[because] his grandma wasn’t able to take care of him...[and] he wanted to be close to his Dad and his family...he went to stay with, uh, his [paternal aunt], Ruby (pp. 25-27).

Similarly, when the state’s attorney asserts that Erin has not been actually caring for her children herself, that they have been residing with others, including family members, during the past few years, Erin disputes the assumption that just because her children often resided with relatives, she was not involved in caring for them. She states:
Erin: “I feel that my kids need to be with me because, you know, like when I had [my oldest son], and I didn’t really watch him that much cause I was real young when I had him, and my mom watched him most of the time...[but] I watched... [my children until] I got put in the [mental] hospital (p. 6B)... I did [care for them], [even] when they stayed with my sister. [For example], for a little while on weekends, [I helped out]...(p. 5A)

Perhaps this discrepancy between the state’s conception of the suitable caretaking arrangement and the parent’s conception is best illustrated by Donna’s response when the state attorney first mentions to Donna that her son was often in the custody of “other people.” Seemingly puzzled, Donna responds:

Donna: “Not with other people. His, uh...his grandma took care of him.”
(p. 25).

The parents’ non-conventional take on the parent-child relationship is also evidenced in the expression of a non-hierarchical relationship with their children. However, even though these non-hierarchical conceptualizations of their parent-child relationship defy convention, they may still contain expressions of concern and the parental belief that they are acting in the best interests of the child. For example, when Donna is asked why she allowed her son to spend extended periods of time living in the homes of relatives, Donna states that she based her decision on her son’s own preferences, that he genuinely seemed to want to reside with others. This egalitarian style approach to family decision making is reflected in her comments:

Donna: “We thought he was happy with his Dad and his in-laws. Or my in-laws... it is [important to me that his wishes be respected] (p. 27).

However, these parents who endorse a non-hierarchical approach to parenting young children have encountered difficulties in their dealings with the child welfare system. As Fran tells the court:

Fran: “[My children were taken from me] [c]ause I wasn’t providing for them... Well they were like, uh, the boss and I wasn’t” (p. 5).
Once they are in the child welfare system, this kind of relationship where the child's wishes are given equal respect as those of the parent can be viewed by the system as an abrogation of parental responsibility, and even a threat to a child's safety in certain instances. For example, Gerri admits to the court that she thought it was dangerous for her daughter to walk alone to the convenience store which necessitated crossing a busy street. However, Gerri does not feel that allowing her daughter to do so was an inappropriate decision because, "[her daughter] wanted to [do it]" (p. 3B) and she stresses that the child was proficient in crossing the street by herself as Gerri had ascertained that "she looks both ways" (p. 4B).

Notwithstanding such non-conventional expressions of the parent-child relationship in the attachment narratives, parents in termination trials also communicate to the court some very conventional expressions of love, caring, and attachment that they have toward their children and that their children have toward them. Indeed, even though their attachment to the child may not be readily apparent by conventional standards, the parents communicate quite common sentiments when they tell the court how they feel about their relationship with their child.

Annie: "...Everyone knows how much I love my children, because I love my my children with all my heart. I miss [names her five children] more than anyone will ever know...I miss seeing them laugh. I miss seeing them smile. I miss hugging them and laughing with them, as they run around, acting like silly little kids, as all children do..." (pp. 61-62).

Rusty: "I sure did enjoy [my visits with the children]. I thank God today for [them]...[The children enjoyed visiting with us because] they love us, they was happy as can be (pp. 21-22).

Bridget: "[Rusty] gets along with [the children] good...They love him (p. 67)... [The children want to return home to me], [my daughter] always asks me on my visits when she got to come home" (p. 83).

Carli: "No, I don't [think termination is in my children's best interest because I love them].

Holly: "[I wish I had gotten help for my alcoholism sooner] [b]ecause my children, I really love my children, and they don't deserve to grow..."
up like I did, and they deserve a lot better" (p. 52).

Fran: “I do not want my parental rights terminated] because I love my children” (p. 6).

Donna: “I love my kids...I don’t think anybody could ever take that love away for me...(p. 43)...I’m a lot better off without my [ex-husband]. I need the kids more than I need [him]” (p. 44).

Tommy: “[I had a close relationship with my children] ever since they were born until, uh, until the visitation was cut off” (p. 15). [The children] mean everything to me, that’s my only, basically, my only reason for living. I love them very much. I miss them a great deal” (p. 20).

Sometimes the parents may express their attachment to and longing for their children in terms of activities they used to do together.

Irene: “...We had toys for them [and] we spent time with them, played with them, took them out...[We] took them fishing”

Annie: “...I miss being able to take them places, like to the park and to the pool, to the beach, or to McDonald’s, [one of my daughter’s] favorite place [to go]. All she said was, I want to go to Mickey D’s. Her other favorite place was at Taco. We’d take her to Taco Bell, and she’d go, Mommy, this is my Taco Bell, because Mommy worked there, so it was her Taco Bell” (p. 62).

Rusty: “Me and Bridget would get down and we’d put puzzles together and they’d play ball with us, you know what I mean, put puzzles together, played ball, write on the paper and they’d run around you know, want me, wanting me to sing songs, you know, sing about Jesus and we’d sing songs together you know, stuff like that, we had a good time. Played ball and sing...I always took them dolls or bought them some pop or something, candy [on the scheduled visits]. I enjoyed that too. I always made a point to buy something 2 or 3 days before I’d go see them because I had something to look forward to, you know. That made me happy (p. 25).

In only one case— that of Fran and her two children— does the parent communicate conventional expressions of love and attachment while also admitting an incapacity to perform parenting duties. When the state attorney acknowledges that Fran has expressed love for her children and the desire to spend time with them, but questions her regarding the appropriateness of termination in her case, Fran states, “I know that [termination would be in
their best interest]” (p. 9). Needless to say, after this statement is made, Fran’s trial for custody of her children is quickly concluded in the state’s favor.

**Biological Relationships Supersede Non-Biological Relationships Theme**

The parent narratives regarding attachment issues revealed a theme of parental communication of the primacy of biological relationships over non-biological relationships. While parents may express this quite clearly in terms of their inalienable, custodial right to their biological offspring, or in terms of a stated preference for extended kin, rather than non-relatives, as permanent placements for their children, the idea that biological family ties should be honored before other concerns is demonstrated in other ways as well. It is seen in the parents’ expression of concern over the effect of out-of-home placement, and termination of parental rights, on sibling relationships. Additionally, it is seen in one of the parent’s courtroom communications regarding the effect of such state actions on the grandparent-grandchild relationship. Indeed, this theme that emerges from the data lends support to the earlier theme of non-conventional attachment relationships as the parents are actively constructing the meaning of biological bonds in a manner that moves beyond their individual parent-child relationship and encompasses the impact of state action on the attachment relationships of the entire family system.

The parents in the termination trials may state their belief that they should retain their parental rights because of a kind of inalienable right to their children that they presume all parents naturally have. Erin states:

**Erin:** “I mean, where they’re at, I mean, they might like it, but still yet I’m their mom, you know, I need to be with them, and they need to be with me... [T]hey need to grow up with me. That’s all I need to say. That’s all I know to say” (p. 6B-7B).
Also, more blatantly, Donna tells the court why she believes she has an inalienable right to parent her children:

Donna: "[I would like the children returned to me] [b]ecause they’re my kids, and I had ‘em...And I didn’t have ‘em [just] to give ‘em up. If I wanted to give ‘em up, I’d a gave ‘em up when I, uh, had ‘em. But I had ‘em because I wanted ‘em... They belong to me, yes [they are my property] (p. 30).

This inalienable right that they have can also be extended to their relatives, whom often the parents may state should be the only considered placement for the children. Erin tells the court that she “didn’t want them to be adopted outside of my family” (p. 6A).

Similarly, Annie states:

Annie: "...I would want my children to be placed with relatives...If my relatives wanted to adopt them” (p. 51).

The parents may also express a sensitivity to the effect of family involvement in the child welfare system on the biological ties of siblings. At the outset of her testimony, Jackie expresses her concern over the system’s inability to preserve sibling attachments in her case:

Jackie: "Well, as of right now, I know that two of [my daughters] are together. I know that all three of them were separated when I first returned in June and I asked that since they be sisters that they should at least be together. And the home that has my oldest daughter said that they would like to have all three of the children, but for some reason, the welfare didn’t see that they should have all three of them” (p. 1).

Similarly, Rusty emphasizes the close attachment that exists among his children:

Rusty: "Why, they get along fine, they love to play together, they hug each other because they love each other with all their hearts” (p. 22).

The termination proceeding before the court only involves Rusty and Bridget’s two younger daughters, Bridget’s son (and Rusty’s step-son), Terry, is in placement with his paternal grandmother. When the issue is raised how this termination proceeding will affect Terry, Bridget states that she believes he understands the proceedings will also terminate his right
as a brother to the two girls, and claims that he is opposed to this action. She states that it
would not be in her children’s best interest to sever this sibling attachment because:

Bridget: “Well, he loves, he loves them very much. He tries to play the big brother
part with them... before the welfare department took them, they got along
real good... He visits them some at the church [where visitations are held]
but he ain’t seen them since they terminate the rights for me” (p. 91).

The significance that Bridget places upon this sibling relationship is communicated to the
court when Bridget is challenged by the state’s attorney for allowing Terry to miss school to
watch the court proceedings. Based on this decision, the attorney claims that Bridget does
not value an education for her son. In reply, Bridget states:

Bridget: “[School] is very important. I do [think it is one of the most important things
child can do]... School is important but I also think this involves his sisters
and I think that is important to him too... it is not [more important than going
to school]. Maybe not more important, but to him, he wants to know where
his sisters is going to be and that is important... I reckon he [could find out when
the hearing is over]... [but] it helps [for him to be here]... Well, I don’t know
how you feel, take a ten year old boy that don’t know much, cries himself to
sleep over two girls... because he has got hopes that, that his two sisters can
be returned to him” (pp. 112-113).

Jackie tells the court that terminating her parental rights will have ramifications that extend
beyond her attachment relationship with her children, specifically, that her mother’s
relationship with the children will be affected as well.

Jackie: “[My mother] is [very attached to the children] and I am an only child... She
has four children. I am an only child and I have three daughters and she loves
us all the same... Yes, she loves all my children very much... [these are the
only grandchildren she will ever have]” (p. 14).

Theme of Separation, Loss, and Grieving

As the parents co-constructed meaning with the court during the termination trials, the
narratives regarding attachment issues revealed parental communication of the experiences
of separation, loss, and grieving. The emotional pain accompanying the removal of their
children from their care and the legal severance of their parent-child relationship was often expressed through parents' recall of incidents and experiences in which the magnitude of their loss was strongly felt. For some of the parents these sorrowful incidents were a revelation of sorts. In this moment they realized that the state's removal of their children could be permanent and the separation and loss they were experiencing could continue indefinitely.

In the termination trials, the parents communicated the pain of separation from their children through the telling of incidents that occurred after their children were placed in out of home care. In the small, mid-western towns where these parents live, it is often unavoidable for them to see their children when they are in the care of others. Bridget relates a particularly traumatic experience that affected her and the children:

Bridget: “I seen [the children] once [when]...the [foster mother] had them down at [the] grocer[y]...Rusty was at the cashier getting cigarettes and I was standing back by the milk when [the foster mother] had [one of my daughters] on the bottom of the crate pushing it...[the children] did [recognize me] and [one of my daughters] took off running toward me and [the foster mother] grabbed a hold of her and said, you can’t go there, you got to come back and [one of my daughters] said, that is my mommy, and then [my other daughter] tried to get off the bottom of the crate and [the foster mother] made her stay on it” (p. 87).

After the children were placed in another foster home, Bridget and Rusty had a similar experience. As they were driving with a friend through town, Bridget recalls:

Bridget: “...I come... to a house and seen a little blond headed girl come out the door and when I did Rusty said [their daughter’s name] and when the little girl turned around, it was [our daughter] and she came out [but we had to] just [keep] driving down the road...Rusty wanted...to stop and let him get out and go up and ask [the foster parents] if he could see the kids just from a distance but I told him that we couldn’t do it because we wasn’t permitted to be on the premises” (p. 88).

As Bridget and Rusty communicated to the court the difficult experience of seeing their children and not being able to even talk to them because they were in the custody of
foster parents, Holly communicated to the court her experience of hearing her children refer to the foster parents as “mommy” and “daddy:”

Holly: “Well, the visitations was hard, because the first time I went to see my kids, they was calling them mommy and daddy, and my kids just, I know that they wouldn’t call, uh, them mommy and daddy like that...[It hurt my feelings] very much” (p. 19).

Sometimes the grief and loss experienced by parents when they are separated from their children is compounded by the difficult life circumstances surrounding them. One parent, Jackie, even communicated to the court that all the losses in her and her children’s life had amounted to a kind of emotional abuse:

Jackie: “Emotionally, yes [there has been abuse]. We all went through a crisis because we lost our home, they ended up [in foster care], in the end they lost their father, emotionally, yes [there has been abuse]...” (p. 16).

Similarly, Bridget had a miscarriage after the initial involvement of the state led to the removal of her son. She states that the many losses she was facing soon became too much to bear:

Bridget: “Well, I couldn’t cope with losing [my son] and then the welfare kept coming out there and telling me to do this and do that or I was going to lose [my daughters] and on top of that I couldn’t cope with losing [my son], losing a baby and then turn around and losing my two little girls...I did [go through a mourning process]. I imagine it lasted for about five months...The caseworker at the time, I don’t know, me and her couldn’t get along so I just didn’t explain nothing to her” (p. 41).

When parents are first told that the state will be moving ahead with the action to terminate their parental rights, their reaction may be one of uncontrollable grief. The possibility that they will be reunited with their children now appears to be a remote one, a revelation to the parents who may have not have contemplated permanent separation from their children until this moment. Erin describes her experience:

Erin: “Yesterday [at visitation with the children] we had a hard time...[the child welfare worker] talked to me. She said I wasn’t going to get ‘em back, and it upset me, and I started crying, and [the children] started crying, and I kind of left, but I told [the child welfare worker] that I’d see ‘em again, but I
couldn't stay cause I was just upsetting them" (p. 8).

Bridget: "[The child welfare worker] said that it was time to terminate parent rights... She told it to me and Rusty... at the Presbyterian Church... That was my last visit... She said that, that was to be the last visit that we had with them... Well, Rusty tried to talk to me but I run off crying and I called [our counselor], the woman who was helping us at the time and she did talk to me. I think she talked to me for an hour and a half trying to calm me down. To me, I wanted, to me, I didn't know what I was... doing. I felt like I didn't have no one to turn to, to talk to, so I called [the counselor] and she told me to get a hold of myself, that she would see what she couldn't do to get the welfare to go ahead and let me see the two kids" (p. 84).

**Parent Narratives on Health and Mental Capacity**

In the trials to terminate their parental rights, the parents may have constructed with the court narratives regarding their health and mental capacity. These narratives contained communications of the experiences of mental and physical illness, and mental disability, which have been identified as the two themes to emerge from this data. As demonstrated in the parent narratives on health, the state of the parents’ mental and physical health can doubly impact the parents’ interactions with the child welfare system: first, as the parents are affected in their ability to provide a suitable standard of care for their child; and second, as the parents are affected in their efforts to comply with the agency’s case plan for reunification. The theme of mental disability can be differentiated from the theme of mental and physical illness, and from the themes that emerged from all of the other parent narratives as well, in that its derivation from the data is based on subtle cues from the parent-court interactions and knowledge of the parents’ background gleaned from the case material. Notwithstanding this technique of identifying the theme of mental disability, it is believed that this theme, like all of the others, can stand alone based on the communications in the courtroom narratives. However, the silence in the trial transcripts regarding the motivation behind such communications as the state attorney requesting a reading test of the parent or
information on grade level attained—while never speaking of the parent’s diagnosed mental disability—necessitated this course of action in identifying this particular theme.

**Mental and Physical Illness Theme**

The debilitating effect of mental and physical illness on an individual’s ability to meet the day-to-day demands of parenting had a decided impact on the parents with such health difficulties. They may have been unable to clean the house, or get out of bed to prepare meals, or provide proper supervision which eventually led to the intervention of the state. However, regarding mental illness, once the state intervened in the life of the family, an interesting paradox occurred. While the parent's mental illness often resulted in substandard care and protection of the children, and failure to meet the case plan goals during active and severe periods of mental illness, the parents also enjoyed periods of mental health and stability in which they were able to establish that they had close, loving relationships with their children and were capable of meeting their needs for care and protection. Such vicissitudes of mental illness, and the effect on parenting ability, posed complications for the child welfare decision makers. In two cases in this study—Erin’s case, in which there was a diagnosis of schizophrenia and Donna’s case, in which there was a diagnosis of major depression—the dilemma was resolved through the implementation of an open adoption following the termination action.

The parents with mental illnesses communicated to the court the meaning they had ascribed to their illness and the effect it had on their ability to care for their children. Donna tells the court that her depression was accentuated by sad events in her life. During these times caretaking activities were difficult, but Donna is conflicted in deciding whether her depression necessarily meant that she was unable to care for the children:

Donna: “In ’94 when my mom passed away I was real stressed out and uh, just, I don’t know, totally stressed...I could care for [my children], but uh, I was
feeling overwhelmed with the responsibility I think. It was just too much and uh, not having any support was...I wasn’t getting any support that I needed...I was tired a lot...But I always got up...” (pp. 6-7)...I don’t think that I was ever that depressed. I mean, [I] was some, but I was depressed. I was depressed...[I admitted in a court hearing that I was too depressed to care for the kids]. I mean, I was feelin’ pretty well stressed out...But I wasn’t too stressed...to take care of the kids...But...I was feeling overwhelmed with everything” (p. 17).

Similarly, Erin communicates to the court that she has schizophrenia, for which she has been taking medication. However, Erin is also unwilling to make a definitive statement that her mental illness has meant that she has been incapable of caring for her children. She states:

Erin: “[My children would be better off] with me...[There have been times throughout the last five years when I have been able to care for them such as] ...After they were taken away from my sister, Sue, and I was getting ‘em on weekends, and I was taking care of ‘em, and then when they got taken away...I realized then I could take care of them...[Because I suffer from a mental illness] it used to be true [that I was mentally incapable of caring for them at times but] yes, [I am doing better now]” (pp. 12-13).

The parents’ mental illness also impacted the interactions they had with the child welfare system. Donna angrily disputes the allegations by a child welfare caseworker that she had been drinking or using drugs when she was found lying on her living room floor during an unannounced visit soon after her children had been removed from her custody. She does however admit that the event occurred and attributes her condition to a severely depressive state:

Donna: “No [it is not fair to say that I was passed out on the floor]. [The caseworker] didn’t find me passed out on the floor, because when she came over I didn’t have a telephone or didn’t have transportation. So I told [the caseworker], I said, “Just drop by anytime you want to because I’m always here and I don’t have nothing to hide, so come on by when you want to.” When she stopped by, ...it was in the summertime, and I was layin’ on the floor on a blanket with the radio on. And she just walked in the door and uh, she asked me if I was okay, and I just told her that I wasn’t feelin’ very well. And that I want to be left alone...she said [later] that I could...have been passed out. Well, if I was passed out she woulda smelled alcohol. She didn’t know if I smelled like alcohol. She didn’t find any empty container of alcohol in my home. And then she thought I took some pills. [S]he should have asked me, or tried to get some help, but she said nothin’...I was depressed and I was
also over-heated, and with the summer, and just sick at my stomach and everything” (pp. 15-16).

Erin also expresses feelings of frustration and powerlessness at how her mental illness has been interpreted by the child welfare system and also how this interpretation has affected her family. She tells the court that the system made a decision regarding her ability to parent, in short, she says that “[the welfare] wouldn’t let me [care for my kids anymore]” and while she agreed to allow her sister to assume guardianship for her children, she says, “I never agreed to the whole thing, it’s just, it just happened, they took [my children]” (p. 6). She asserts that her statements of compliance with the decision to remove the children were based on the children’s placement with her sister, that she had not anticipated that the system would place them “outside her family” (p. 6).

Similarly, Holly and Tommy have had difficulties with depression that have impacted their ability to care for their children and comply with the mandates of the child welfare system. Holly admits to the court that she has had a history of suicide attempts, specifically, by cutting her wrists (p. 27). In his testimony, Tommy states that they were so depressed at times that they were unable to do much of anything. This would cost Tommy a job that he had been especially proud of:

Tommy: “...I ended up dropping out...[I didn’t contact my caseworker or try to find out how the kids were doing]...I was, we were both going through some bad depression and didn’t know what to do, didn’t know where to turn” (p. 9)...I [also] failed to show up and failed to call into work and that had happened two or three times just close to, you know, within a month or two, and they ended up terminating me...[I was undergoing this bad depression]...I [had] loved this job very much” (p. 16).

For the parents with mental illnesses, an important aspect of their courtroom narratives involved their compliance with the medications that had been prescribed to address the symptoms of their illness. Both Erin and Donna have had histories of failing to properly take their medications and have endured subsequent episodes of severe mental
illness. In Erin’s trial, this subject is raised at the outset and Erin clearly uses the opportunity to emphasize how her current medical regime supports her contention that her condition has improved:

Erin: “[I am currently on] [j]ust Haldol...Fifty milligrams...[for] [s]chizophrenia... [I am doing okay now]...They knocked me down to fifty. I was on a hundred and fifty, but they’ve knocked it down...Yeah [I feel better]” (pp. 3-4).

Conversely, Donna tells the court that she has recently decided to stop taking her medication, and that she is no longer attending her counseling sessions for depression, seemingly in her own attempt to convince the court that her situation has improved. Donna seems unaware of the negative effect this sort of approach will have on the court. Addressing the allegation that she had been suicidal only months before the trial, Donna states:

Donna: “No, I wasn’t threatening suicide...[but] I was depressed because the kids was not in my care. That I was lonely and, you know, missin’ them a lot... I did not [threaten to kill myself]...[but I admit I had gone off my medication at that point]...because I didn’t feel like the medication was doin’ me any good” (p. 35)...I was doin’ [the counseling for depression] some, but [I have not complied with the court order on this]” (p. 14)

When Donna is later questioned regarding her decision to cease taking her medication, she confidently responds:

Donna: “I don’t have any problem...I’ve been off my medication for about three months. And I haven’t really uh...I mean, I’ve been under a lot of stress but I just really haven’t been like I was before. I mean, I...I’ve been seeing a doctor at uh, Mental Health. I quit seeing the one out there at [another clinic]. I went to him about four or five times, I think. And then I just finally decided not to go since I was seeing [the counselor] at Mental Health. I might as well see the doctors at Mental Health...[the doctor] gave me some [medication]. And every now and then I just take some [of the medication] and go to sleep. But, uh, I don’t usually have trouble falling asleep anymore like I use to...” (p. 42).
The implications of physical illness were also communicated by the parents in the termination trials. Bridget tells the court that her diabetic condition was exacerbated by her interactions with the child welfare system:

Bridget: "[I was quite ill]. I was a diabetic and I was pregnant and [my doctor] said with all the strain that I was having, he didn't see how [I] could carry my baby...I was weak and dizzy, my sugar would go up, just someone there harassing me all the time about my kids and things like that, [my doctor] said it wasn't good for me...I had to go, [my doctor] started me on insulin. I took it twice a day...I took it for a long time...I lost the baby...I spent 34 days altogether in the hospital...when I went in [the doctor] said I was having too much strain, people harassing me over my kids, keeping me upset" (p. 34).

Also, Bridget relates how her physical health exacerbated her problems with the child welfare system. She admits that she was not able to do a very good job as a housekeeper when she was sick (p. 52). In addition, Bridget's communications to the court regarding her illnesses reveal that they may have affected her interactions with child welfare workers in another way as well, as she states that she was not exactly welcoming service providers into her home when she was feeling ill:

Bridget: "The homemaker service, well, [they were] like coming to your home and seeing if it was clean and things like from, you know, the home...I tried to listen to them...[u]p until I got pregnant and got sick, then I wanted the homemaker woman out of my life" (pp. 57-58)

Irene communicates to the court that she is suffering from a physical disorder, but because of her inability to fully explain her condition, and its implications for the termination proceeding in terms of its effect on her ability to function in her parental role, it is summarily discussed and then the court moves onto other matters. It does not appear that Irene's limpid communication of her health problem has much of an impact on the construction of meaning in her trial. In answer to the state attorney's question of whether she is suffering from a physiological abnormality or condition, Irene states:

Irene: "I have fibro myalgia syndrome...It's with my muscles, and I'm on medication for it...I have a tendency to forget. I forget things. My medication [does not
Mental Disability Theme

In analyzing the parent narratives regarding health and mental capacity it became apparent that even though parental mental disability was never expressly discussed in the courtroom, acknowledging its presence could be important in fully understanding what was being communicated during the course of a trial. The case files revealed that three of the parents, Bridget, Rusty, and Gerri had been evaluated and found to have diminished mental abilities, with all of them scoring at the borderline mentally retarded level or below. Not one of these parents was specifically questioned during the trial regarding these test results and there was no overt attempt to construct a meaning of their failure to meet suitable standards of care based on their mental disability. However, analysis of Bridget, Rusty, and Gerri’s courtroom communications reveal that it would be naïve to assume that this dimension of the parents’ life situation did not enter the meaning-making process during the trial. Each of these parents was asked to answer questions that were directed at ascertaining their mental ability, for example, did they know how to read, or how to count, etc., seemingly in an attempt to determine their ability to perform the tasks of daily living. From the parents’ perspective, the significance of their mental disability can be found in their expressed confusion over the workings of the child welfare process. At times it is unclear whether they have fully understood the implications of their involvement in the system. Additionally, it is equally unclear how the system has dealt with their diminished mental capacity.

There is ample evidence in the termination trial transcripts that the court was aware of the parents’ mental disability. The narratives of the parents with diminished mental capacity contained communication exchanges not found in the other trials. For example, the state
attorney questions Bridget regarding the authorship of a complaint letter signed by her and sent to the child welfare agency. Bridget has to repeatedly assert that she did in fact write the letter:

Bridget: “I went to ninth grade [in school] (p. 58)...I can’t remember [how old I was then], it is too far back (p. 111)...I did [learn to read and write]... I wrote [the] letter to [the child welfare agency]...I did [the handwriting myself]...[the thoughts in the letter were mine]...from my heart...I did [write the letter myself]...It is a letter where I wrote the [child welfare agency]...two pages [long] is the letter I wrote...I did [write it myself]” (pp. 58-60).

Bridget is also asked whether she can count money and add and subtract to which she answers that she is able to do these tasks. However, the state attorney later asks Bridget to read a passage from the parenting class instructor’s report to the court which contained an unfavorable review of Bridget and Rusty’s progress. Bridget has great difficulty doing this:

Bridget: “...Neither party to be able to apply on basic to their parenting issue or even to (indiscernable) issue that may be. Bridget did not practice in any open discussions and did respond to questions and Rusty responds it was (indiscernible) remarks and whether (indiscernable) continue...(pp. 98-99).

After reading this, Bridget has no idea what it means, and the state attorney has to read the paragraph to her. When he finishes and asks Bridget to read out loud the name of the instructor who wrote the letter, Bridget is unable to do so, stating, “I don’t know what that first word is” (p. 99).

When Rusty is questioned regarding the payments he made on the house they were buying on contract, much more is revealed than simply his record of consistent payments, namely, he reveals that his ex-wife Bridget had also served as his guardian. When asked if he kept the payment book in his custody, Rusty states:

Rusty: “My wife was my guardian that had it in her name, she is my guardian, Bridget...We sure did [keep the payment book]. We made the payments. Everytime she, we made a payment, they would mark it down” (p. 13).
While not involving such clear examples of parental mental disability during the course of the termination trial, Gerri's case raises interesting questions regarding the appropriateness of a child welfare worker's intervention in light of her established mental disability. Gerri often had difficulty getting herself and her daughter up early enough so that she could catch the school bus. The child welfare worker provided Gerri with an alarm clock, but her daughter still did not ride the bus. The question is raised whether Gerri could even tell time. Gerri tells the court:

Gerri: “Because I wasn’t use to getting up that early [my daughter was late for school sometimes] (p. 6B)...[the case worker gave me an alarm clock but I still had the problem]...she did go to school, [just] in [a] cab” (p. 98).

The ramifications of the parents' mental disability goes beyond being able to read, write, count, tell time, or even to open a bank account in one's own name without a guardian. It may also mean that the parent with a mental disability is unable to fully comprehend the child welfare process and thus ability to actively and knowledgeably participate in decision making may be compromised. At the beginning of her testimony, Gerri is asked to respond to questions regarding her first son, whom she lost custody of years ago. After getting his age wrong by ten years—she stated that his birthdate was in 1994 instead of 1984—Gerri breaks down into sobbing and expresses confusion over how she lost her parental rights to this son:

Gerri: “…I went to jail...[and] they made me sign a paper...I signed a paper while I was in jail...I don’t know [what the paper said]...they didn’t tell me what it was...they made me sign a paper and I didn’t know what I was signing...they did [have a hearing and I attended but] no [I did not know what was going on]” (pp. 61-63)

Rusty's courtroom communications reveal that he is an amiable, trusting person, eager to please, and not someone who is prone to confrontation. His discussions on the visitation
schedule demonstrate his willingness to cooperate with the system and even believe that the
system is "fair." He states:

Rusty: "We visit them, yes. That is what I liked about it... [v]isited [the children] down there behind [that restaurant] at that church...[W]e visited [about] once a week I think, something like that. But I was happy doing that... [T]he visits lasted [about] an hour and a half, something like that but I thought it was fair...I sure did [enjoy the visits]...[and] they sure did [too], they love us, they was happy as can be" (pp. 21-22).

Later, although Rusty communicates a comprehension of the purpose and outcome of the
termination trial, he seems to be struggling to understand why the visitation with his children
was stopped:

Rusty: "They decided to take visitation rights away because I guess they thought that
it was causing the little girls a problem, you know, coming and seeing us and
being with us and going home, you know, something like that. Might [be]
causing some kind of problem. You know what I mean...I don't remember
exactly what [the child welfare agency] did say and the reason they took
the visitation away, they wanted to come to this, what we are doing here
now, you know, adopt them out. You know, just to get us away from
them is what I think. I am sorry to tell you that...[T]hey did not exactly
[explain] to me, I never did catch on to that exactly why they would
[terminate visitation]. I still don't understand it today. I never read the
book on that" (pp. 22-23).

Parent Narratives on the Child Welfare System-Parent Relationship

In the termination trials, the relationship between the child welfare system and the
parent formed the basis for parent narratives that communicated the parents’ construction of
meaning regarding their experiences within the system. A central element of the parent
narratives on the child welfare system-parent relationship is the parents’ interactions with the
child welfare workers. In the narratives, the parents expressed how the child welfare
workers served as liaisons between themselves and the state. In this manner, the parents’
compliance or non-compliance with case plan goals, and their overall progress in achieving
the standard of care required by law, was assessed in large part by the child welfare workers assigned to their case. However, as the parents often communicated during the trials, the process of working toward the achievement of the case plan goals established with the child welfare workers was rarely a mechanical one—devoid of personal feelings and likes and dislikes. Indeed, the human element of the child welfare worker-parent relationship loomed large in the parents’ courtroom communications. This was especially evidenced in the theme of persecution that emerged from the parent narratives on the child welfare system-parent relationship. As the parents detailed their interactions with the child welfare workers, they may have communicated that they were being unfairly targeted as needing state intervention and that the goal of this state intervention was not to reunite them with their children, but to effectuate a campaign for permanent removal. The other theme that emerged from the narratives on the child welfare system-parent relationship was the parents’ communications of the poorness of fit between their life circumstances and the demands of the child welfare system. In each of these themes, “persecution by the state,” and “poorness of fit,” the parents communicated to the court the obstacles they faced in achieving reunification with their children.

Theme of Persecution by the State

In the parent narratives regarding the child welfare system-parent relationship, the parents may have communicated to the court that the intervention of the child welfare system in their family life was, in effect, little more than an unfair program of persecution by the state. The parents communicated to the court that they had been harassed, lied about, and conspired against as they engaged in interactions with the child welfare system. While the parents do not state that these alleged oppressive actions were due to parental adherence to
certain principles or practices, they do imply that they are being persecuted because the state is interested in obtaining custody of their children. Thus, in the parent narratives on the child welfare system-parent relationship, the parents may express to the court their understanding of the system as one that is biased and dishonest and that has perpetrated a grave injustice against themselves and their children.

The parents’ relationships with the child welfare workers are often pivotal to their experience in the child welfare system. The parents may communicate to the court that this relationship seemed less than supportive at times, for example Jackie states, “I worked with the department and we got along just fine except for, I don’t know, it seemed like there was a lot of doubt involved…” (p. 25). Annie tells the court that when she had emergencies that necessitated her missing a visitation, “I don’t think [the child welfare workers] believed me…[I feel that I was] judged and convicted [by them]” (pp. 83-84). Tommy states that at his final meeting with child welfare authorities—after he had informed them that he had lost his job and “they were pretty upset with me at the time” (p. 23)—he did not have the feeling that they were trying to work with him to reunify him with his children. The meeting did not focus on the services that were available to enable him to regain custody and when he inquired about visitation, he was coldly told, “…it was canceled and that’s all it was to it” (p. 24). The parents may also express the feeling that they have been unfairly singled out by authorities. Bridget tells the court that the only negative comments she has ever heard regarding the manner in which she takes care of her children have come “[j]ust from the welfare department” (p. 81).

However, the narratives also contain bold expressions that this relationship was tainted with an aura of persecution, especially when the worker perceived situations differently than the parent. Foremost to a parent’s sense of fair play is the child welfare
worker’s perceived integrity and honesty, with the absence of these qualities indicative of the bias present in the system. Gerri tells the court that she did not believe that she needed the services provided under the case plan “[b]ecause most of [what was reported by child welfare workers was] a bunch of lies” (p. 91). Indeed, Gerri states that she was “mad” when they removed her daughter the second time “[b]ecause they didn’t have no reason to take her” (p. 114). She contradicts an incident relayed by a child welfare worker as incorrect because, “she lies,” and continues by stating that another worker lied about her as well, claiming that these lies are consistent with her past experiences with them as, “they [both lie about me]” (p. 95). She asserts that she does not know why they have lied about her, only that they did (p. 96). Similarly, Donna tells the court that a caseworker who has long been assigned to her case has not always been honest, especially in regards to her interactions with Donna’s children. Donna asserts that the caseworker’s interactions with them have been consistent with the system’s negative view of her, not her actual situation:

Donna: “Well, I mean…uh, I feel like she hasn’t been honest with me or been honest with my kids. I mean, because she keeps telling my kids things that I don’t feel like she should’ve been telling ‘em…[like] that they might not get to come home or that I’ve got problems and uh…[but] that’s what everybody else is wantin’. I mean that’s what the welfare is for and that’s what everybody is saying. That I’m not good enough, that I’m unfit. But I know I am [fit]” (pp. 21-22).

This assertion that the child welfare system was more interested in its own version of events than what the parents believe to be true was echoed in the testimony of Bridget. Bridget expresses her frustration regarding the abuse charge made against Rusty.

Bridget: “[Rusty] did not [abuse my son]…they didn’t [listen to my story or his story]. They just had Rusty guilty and he took whatever they was willing to give him” (p. 70)…[I]t did not [happen even though]…Rusty told the court it did happen” (p. 101).
The parents may have attempted to explain what motivated the child welfare workers to act so unfairly towards them. Donna believes that it was personal. She asserted that the caseworker had always had something against her, but she was not exactly certain what this may be:

Donna: “[She] probably just don’t like my personality or just don’t like something about me. I don’t know what it is” (p. 23).

Rusty believed that the caseworkers’ mistreatment of Bridget and him could be traced to the simple fact that the system had never intended to allow them to keep the children, with the system’s goal all long being the adoption of the children. Rusty tells the court that the child welfare workers had just “wanted to adopt them out” (p. 23).

The parents also assert that they have been generally wronged by the system in a myriad of ways. Although they may not assert that they have been outright lied to, they may claim that the child welfare workers have been less than forthright in their dealings with them. Their communications to the court reveal that they have understood their interactions with the system to be marked by disrespect and harassment, which is consistent with their belief that the system has conspired all along to permanently remove their children from their care. Jackie tells the court that she wasn’t even personally informed of the action to terminate her parental rights, she had to read about it in the paper:

Jackie: “I learned about [the termination petition] in the paper when I was in jail. I read it in the back of the paper. When I [had] called to speak with whoever I spoke with at the welfare upon my returning [to town] two weeks prior, they mentioned nothing of the fact...[I remember that I spoke to Tina Brown, a child welfare worker], [she is not here today. Tina Brown told me that I needed to get in touch with her as soon as I came into town. They didn’t say that they had filed any papers on me. [But I know] [t]hese papers were drew up within the three weeks that I had prior to coming here...they had not [told me anything]. [And] this was all prepared [for] when I came home (pp. 13-14).
Later Jackie emphasizes that even though she also got personal service of the termination papers in jail, she felt betrayed by the way the system had handled the movement to terminate her parental rights:

Jackie: “I was served those papers but [I was] made aware [by] the notice of publication [regarding] the termination [of my children]...[T]hey had them in there like, they were a piece of property. [I]n the back of the paper...[I]t was brought to my attention, ‘was this not my children??’” (p. 28)...[Weei^ earlier] [w]hen I spoke to Tina Brown [the child welfare worker], I said, do you know if there is anything based upon the children returning to me, if I can prove my establishment and that I am drug free and, well, I wasn’t on drugs, I was an alcoholic. I said is there any reason why I shouldn’t be able to get my children back and be able to visit them until I did, and she says, well you need to get in touch with this office (p. 30)...[and] from the time that she [and I] had this phone call, I contacted her, until the time that I did return” (p. 29).

Similarly, Donna tells the court that while various professionals in the system were acting “goody, goody” to her face, behind her back there were machinations designed to remove her children from her care:

Donna: “No, [I did not know that the guardian ad litem was supporting termination of my parental rights], because when I talked to him, he said that if I could prove myself to show that I have a stable home and have a job, that he would go against the court. That’s what he told me...Because talkin’ to him on the phone, he was goody, goody. But see, that’s what the [child welfare workers] was actin’ too. Was to be goody, goody, then turn around and stab me in the back. So, you know, that’s not surprising to me that [the guardian ad litem] did that...[the child welfare workers stabbed me in the back when] they tried to be nice to me but then turn around and uh, treated me like I was some kind of mental case” (pp. 24-25).

When Gerri is questioned by the state attorney regarding the day she broke down in front of two child welfare workers and told them that she thought it might be in her daughter’s best interests to be adopted out, she expresses her sense of betrayal that this incident was not kept between herself and the worker who reported it.

Gerri: “I just said [that it might be best for her to be adopted], I didn’t mean it...She don’t want to be adopted...I just said it, but I didn’t mean it...[the worker] didn’t have to tell what I said...[I don’t think she’d be better off adopted]. You just think she would” (p. 108).
Likewise, while Bridget did tell the court that there was a caseworker who was helpful and understanding regarding the effect of her physical problems on her ability to do housework (p. 39), both Bridget and Rusty communicate to the court their belief that the system was conspiring to get their children away from them. Regarding the removal of his daughters, Rusty tells the court:

Rusty: "[Child welfare] was supposed to give us thirty days on the water but they didn't do that. Two weeks [later] they took the little girls out" (p. 11).

Bridget tells the court that they faced pressure to sign adoption forms at the visitations:

Bridget: "[E]very time we would go to a visit, [the child welfare worker] would always say me and Rusty would be better off to sign papers to put [our daughters up] to be adopted. She asked us once to sign them and Rusty said yes. I called Rusty out in the hall and I said you don't sign no papers until...the lawyer that was representing us, I said until she tells you to. If she tells you to sign them, then that is fine with me but I said you don't sign them...[This] happened about four or five times. She was asking me and Rusty to sign papers giving our parent rights up" (p. 100).

Building on Bridget and Rusty's communications, Annie tells the court that parents in the system are facing an outright conspiracy, an organized effort to deprive certain parents of their rights. When the state attorney questions her regarding a comment that she made that the caseworkers were paid on the basis of the number of children they took away from parents, Annie admits that she made the statement and that "it is [correct]...[as] I've read it in many articles...and newspapers...[it] was [in]...uh, the magazine that I read is from, was a government funded magazine...the (name of magazine not discernible)" (p. 36).

While Irene did not describe her relationship with the child welfare system in terms of the existence of an outright conspiracy to keep her children from her, she did communicate that the system's mandates regarding her relationship with her husband appeared to be designed to place her at a disadvantage in regaining custody of her children.
Irene: “...There’s been a number of times that I left Robert. There’s one time I remember I went and stayed at the other end of the trailer park with an older woman, and I don’t remember who, but somebody said that if I were to leave Robert and stay away from him and get a job, then I could have the children back. I tried to do that, and it never happened. I kept feeling like I was being torn, I was with Robert and then I’d be told, if you leave Robert and do this and that, then you can have the children back. I felt like I was being toyed with” (p. 47).

For many of the parents it was also the small injustices committed against them that convinced them that the system was patently unfair. Bridget expresses frustration over the child welfare workers’ resistance to giving her a photograph of her children. When her attorney attempts to introduce a photograph of her children into evidence that Bridget brought into the courtroom, she is asked how she acquired the photograph.

Bridget: “It is a picture that [the foster father] brought that [the child welfare worker] promised me and Rusty...I received it this morning before court...when they first started visits, I think I asked [the child welfare worker] four times and she finally got, they were billfold size picture[s] of each one, they were living with [the last foster family placement]. They were just billfolds which I took and had bigger pictures [made] of them” (p. 85).

Gerri tells the court that while she resisted the idea of respite care that was included in her case plan, she did follow up on it as required. However, when she requested repite care, she was told that the child welfare agency had not been able to locate a sitter for her. She is frustrated that what has entered the trial narrative through the interrogation of the state attorney is her resistence, not the system’s failure to provide a sitter.

Gerri: “[Respite care was part of the case plan] but they didn’t find a babysitter... [I admit I didn’t want to do this but] they didn’t have a babysitter anyway... I signed to do it...[and] I called the lady and told her I wanted to do it, but they didn’t have a babysitter at the time. She didn’t have nobody to do it” (p. 100).

During the trial, the parents communicated their experiences with service provision that was disrespectful, poorly administered, and insensitive to their unique life situation.

Donna expressed that she experienced disrespectful treatment by child welfare workers. She
tells the court that her visitations had been delayed because one of the child welfare workers was late and that the child welfare workers were often more interested in what other child welfare workers had to say than what she did.

Donna: "...[A]t first [a certain child welfare worker] was late for visits. And I felt like she was trying to cheat me out of my visitation with the kids...[Then another child welfare worker] would not give me a chance to talk. She only wanted to hear what [another child welfare worker] had to say. And [once] she heard what she had to say, she wouldn’t let me have a chance to tell my side. At least [a child welfare worker she had conflicts with] has give me a chance to talk with her" (p. 23).

Gerri communicates to the court her disappointment in the quality of services she received by claiming that these services were infrequent, did not seem tailored to helping her improve her parenting skills, and were a waste of time.

Gerri: "[The child welfare worker came by] [n]ot that often...[really only] once in a while (p. 99)...[The child welfare workers and I didn’t talk a lot about my parenting skills]...All they did was play games...card games...Sometimes we’d go out to Sam’s Club and shop” (pp. 101-102)...Yes, [my work with them was a waste of time](p. 109).

Annie also expressed frustration with the service provision in her case, although unlike Gerri, her problem was not with a lack of services or insufficiency of services, but with services that were administered in a manner insensitive to her life responsibilities, and thus, inherently designed to record her failure.

Annie: “From the [child welfare worker’s] standpoint [I did not successfully follow the family preservation program]...[the child welfare worker] would come into my house every day of the week when she was supposed to come once a week...[S]ee, I worked from anywhere from four o’clock at night until eight o’clock in the morning...I got less sleep [when she came so often]...because when I would get home about, say I’d get home at six o’clock in the morning, it took me an hour to go to sleep. Well [my daughter] would sleep until eleven o’clock in the afternoon, ten to eleven, and so I’d just try to sleep for, you know, until she would wake me up, and then I would clean up the house as much as I could and then go to work. What happened was, [the child welfare worker] would come over to the house just as I was almost falling asleep, and so I would have to get up and talk to her, which I didn’t really mind...[but I would not clean then until] after the [child welfare worker] would leave (p. 18).
Theme of Poorness-of-Fit between Parent and Child Welfare System

The theme “poorness-of-fit between parent and system” derives its name from the “goodness-of-fit” model developed by Thomas and Chess (1977). This model proposed that when there is a good match between a child’s distinctive manner of responding to stimuli and the requirements of the surrounding environment then optimal development is promoted. A child’s caregiver can promote goodness-of-fit through sensitivity to each child’s temperament while also working to stimulate more functional behaviors. Adapted to the present study of parents in termination actions, the theme of poorness-of-fit captures many of the parental communications in the parent narratives on the child welfare system-parent relationship. An analysis of these parent communications reveal that parents often express the experience of a bad match between their life conditions and modes of response and the child welfare system environment. The parents may also assert that the child welfare system lacked a sensitivity to their manner of responding to its requirements which subsequently hampered the child welfare workers’ effectiveness in achieving the system’s goal of promoting more functional parenting behaviors. This poorness-of-fit between the parents and the child welfare system is often evidenced in the parent communications regarding the visitations with their children while they were in out of home care and the economic constraints faced by the parent.

As the parents communicated in the termination trials, a parent’s style of responding to the demands of the child welfare system can often be traced to their life conditions. Perhaps the parents responded slowly, or not at all, to child welfare system mandates and court motions because of difficulties such as having no telephone, mailbox, or car for transportation. Perhaps economic considerations impacted the parent’s failure to comply with the case plan. Perhaps a parent’s manner of responding, for example, not reading and
keeping abreast of the case reports filed in their case, hampered their ability to address problematic issues in a timely manner. Perhaps a parent did not fare well on home visit evaluations because the visits were poorly timed in relationship to the parent’s other life responsibilities. Finally, perhaps the structure of the system itself, and its subsequent demands, such as in establishing parenting capabilities through the visitation schedules, is incongruent with the parents’ style of responding to such situations. Indeed, in a system that is increasingly facing pressure to insure that a child’s foster care experience is time limited, any delays caused by a parent’s life conditions and modes of responding to the child welfare system requirements can be devastating to a parent’s case.

The parents’ life conditions were often a bad match with the established operations of the child welfare system. Jackie expresses to the court her current life conditions that can make contacting her, and facilitating a timely response to child welfare demands, quite difficult.

Jackie: “No, I don’t have [a telephone at my apartment]...[there is a phone at work] (p. 11)...Right now I am a certified nurses aid at [a nursing home] (p. 2)...[but I don’t want to be called there because they put it in my record which can jeopardize my employment]” (p. 11).

Likewise, when Tommy is questioned by the state attorney regarding a period of time when he “sort of dropped off the face of the earth insofar as the department or his kids knew,” (p. 6) Tommy responds:

Tommy: “Uh, back then we were having problems as far as getting back and forth, car trouble, we were having trouble, uh, keeping our phone in service...” (p. 6).

When he is later asked to explain why he missed an earlier court hearing, and the state attorney questions whether his absence at the hearing was due to drug use, Tommy states:

Tommy: “Uh, the problem was, I was being evicted, and the mailbox I was using was taken down, so my mail, I couldn’t, I wasn’t being able to receive my mail, and so I didn’t know exactly when my hearing was rescheduled...[but by this point I had pretty much cleaned myself up]” (p. 8).
Holly also expresses to the court her experience of not getting letters of notification for case conferences and court hearings, which has had a clearly detrimental effect on her case.

Holly: “I don’t even remember getting a letter on a case conference...I don’t [think I could have], no, I don’t really think I did...Some of the letters I didn’t get” (p. 21).

When she is asked why she missed a twelve month review hearing earlier that week, Holly becomes upset:

Holly: “Monday when, Monday what?...I didn’t even know there was a hearing this Monday. I didn’t get no letter or anything saying anything about a hearing Monday” (p. 35).

Considering that Holly has informed the court that she has been sober now for less than five months, the state attorney questions whether her absence at some of the critical meetings regarding the welfare of her children was not due to her past alcohol abuse. Holly replies, “...it could have been, but I, I can’t really say positive, because sometimes I didn’t get no letters on the visitation or conference” (p. 22). It is unclear whether she was still in her relationship with Tommy at the time and affected by the problems he mentions such as eviction and loss of a mailbox.

Transportation problems are frequently mentioned by the parents as a major barrier to meeting the requirements of the case plan. Donna tells the court that complying with her case plan was difficult in the beginning because, “…at that time I was havin’ transportation problem of gettin’...havin’ a car” (p. 9) and she later states that it was “car trouble” that prevented her from keeping her appointments for psychological evaluations (p. 20).

Similarly, Annie tells the court why she missed almost three months of visits with her youngest daughter:

Annie: “I had transportation problems. The car kept acting up and wouldn’t start, and I would call down and tell [the child welfare agency] I was having problems with my car” (p. 47)...[C]an I explain it?...One of my visits,
the first visit that I missed, I had six dollars shy of twenty dollars to pay my friend to take me here. She’d only take twenty dollars, she wouldn’t take anything less than twenty dollars to take me. The second visit, I couldn’t get here because [a town she had to pass through] was closed because of the snow, because of the weather. I tried to get ahold of [a certain child welfare worker], but they wouldn’t accept my collect calls. I tried to call [another child welfare worker] several times that day, but she wasn’t in there or she would just leave prior to me calling. On the third...visit that I missed, I had the money to go, but the person who told me that she would take me anytime I wanted to go to see my daughter said that she couldn’t because she had to work, and I tried my darnedest to find a way down there. But everybody was either working or they were too darned busy to take me anywhere...and I had told [the agency] that I might not be able to find a ride down there, previous to that” (p. 50)

While Annie’s transportation problems, and the distance that she must travel to visit with her children in out of home care, were exacerbated by her move to a town over an hour away from where her children were placed, it was not always the parent’s relocation that made visitations difficult. Erin’s earlier visitation schedule of once a week was difficult to maintain when her children were placed in a new foster home that was located further away. She tells the court:

Erin: “[I am visiting with the children about once a month]...now as they’ve been moved...[C]ause it’s been hard for me to get to visit” (p. 7A).

Building on Erin’s statement that her less frequent visitation can be traced to the system’s decision to move her children, the parents may also tell the court that the onus for failing to meet case plan requirements was not always on them. In this manner, they assert that the agencies they obtained services from did not always make it possible for them to fully comply. Bridget tells the court that she missed some of the “better living” classes that were required in her case plan.

Bridget: “I attended every one of them except when I moved [to a small town about a half hour away]. [The agency] sent me papers on them but I didn’t have a way to get back and forth on time. Sometimes I’d get the papers [notifying her of date and time], they’d have one like on a Thursday and I wouldn’t get [the letter] until on a Friday so I couldn’t make it” (p. 56-57).
Similarly, Irene tells the court that the parenting classes did not maintain a regular schedule.

She states:

Irene: “[There was a problem with the parenting classes]...they kept cancelling... we would call the night before, the evening before, to check and make sure that the parenting class was still going on, and she would tell us they were cancelled due to child care” (p. 45).

Robert states that it was difficult for him to meet the counseling mandates in his case plan.

Robert: “I’ve tried [to comply]. But...we called [the counseling agency], set-up a appointment for the counseling and that’s when I think they cancelled due to something. I forget what it was...[I didn’t fail to appear for several appointments]... because I’m the one that made the phone call to them and set it up...[I only missed] one appointment...[then] I got started up with [another agency]...[but I have still] not completed [the counseling requirement]...(p. 68).

Economic considerations may also enter the narratives on the parent-child welfare system relationship. The parents may express an inability to pay for services that are part of their case plans. Donna communicates to the court how economic considerations had caused her to drop out of a program designed to help parents develop independent living skills.

While Donna’s focus is primarily on explaining her sporadic attendance at the program in answer to a query from the state attorney, she also provides one of the few non-accusatory statements made by a parent regarding a professional in the child welfare system, here, a counselor who supports her square dancing during this troubling time.

Donna: “Yeah. I was first in [the program] last year when I moved...I was fired and then I got a bill that, you know, I couldn’t continue. So my counselor... suggested that I go do square dancing. Because that’s what I was involved in and that’s what made me happy and until, I can get the financial situation worked out. She encouraged me to go ahead with square dancing. So I went ahead with the square dancing and once I completed square dancing I went back to [the program]. But I kept in touch with [the counselor] the whole time...that...I was square dancing” (p. 38).

Tommy was also involved with this same program and he tells the court that financial difficulties precipitated his leaving the program as well.
Tommy: “I did some time with the [program] until early 1996, and when I lost my job, I was unable to pay fees and stuff. I ended up dropping out of it” (p. 63).

When the state attorney questions Annie regarding her failure to pay a $5 per week fee to the child welfare agency, Annie responds:

Annie: “No, I haven’t [paid anything]. I was trying to pay rent and buy food at the same time. I wasn’t on food stamps. I was having three to four dollars left after I paid rent and buy food for the house, and anything else, say the children would need new outfits or something (p. 20)...[my ex-husband never paid me child support]...not a red dime” (p. 72).

Indeed, financial considerations seem to weigh heavily in Annie’s mind, to the extent that even when her attorney is encouraging her to state that she would leave her job in the small resort town where she is living and return to the town where her children are placed to better facilitate visitations and other case plan services, Annie can’t see beyond her economic concerns.

Annie: [I don’t know if I would try to move back to town and get a job at a motel or hotel]...It would depend on how much they pay per hour, because if they would pay less than what I got now, then it really wouldn’t be worth it” (p. 78).

The theme of poorness-of-fit between the parents and the child welfare system is also evidenced in the parental communications that demonstrate their failure to read reports that impact their case and to generally keep abreast of the major issues impacting the return of their children. In a system that is based on information that is documented in various written reports and evaluations, the parents’ unawareness of the content of these reports, and a frequent reliance on oral communications between themselves and workers regarding case recommendations, seriously hampers their ability to respond in an appropriate manner to the allegations contained within them regarding parenting ability and other issues. The state attorney sounds surprised to discover that Donna is not aware of the guardian ad litem’s final report and recommendation to terminate her parental rights. After she twice assures him that

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she had no knowledge of such information, he asks her again, "You didn’t know…you didn’t
know that he was requesting this termination also on behalf of the kids?" (p. 24). Donna has
clearly not read the guardian ad litem's report. However, since Donna has a job and a home
at the time of the termination trial— the conditions she remembers the guardian ad litem
telling her were critical to his support of her— she seems to have expected him to "go against
the court" because "[t]hat's what he told" her he would do (p. 24).

Two of the parents with mental disabilities, Rusty and Gerri, also relate to the court
that they have not familiarized themselves with the written reports in their case. Clearly this
has affected their comprehension of outcomes in their cases and lessened the degree to which
they have been able to contribute to the decision making process leading to these outcomes.
This is a serious deficiency in a system where information confers the power to affect
decision making. Rusty tells the court that he doesn’t know why visitation with his children
was stopped because they didn’t explain it “exactly to [him]” and he did not read the reports
regarding this decision in his case file, or what he refers to as the “book” (p. 23). Likewise,
Gerri also seemed to be waiting for someone to explain things to her. She communicates to
the court her complete ignorance regarding the contents of the written reports in her case.

Gerri: “Yeah [I know there were documents from the agency and the court appointed
advocate but] no, [I didn’t read them and], no [I didn’t talk about them with
my caseworker so] no, [I never knew what anyone had said about me] (p. 113).

The poorness-of-fit between the parents' style of responding and the demands of the
child welfare system is also illustrated in the parent communications regarding visitations
with their children. Some of this poorness-of-fit is certainly related to certain parents’ failure
to respond in good faith to the mandates requiring visitation in order to work towards
reunification with their children. For example, in light of her poor record of attending
visitations, Carli admits to the court, “No, I wasn’t [able to visit with the children on a
regular basis” (p. 15). Similarly, facing allegations that over a two year period she did not visit with her children very often, Fran half-heartedly claims that she made an effort to do so, and then blames the system for not giving her the dates she requested. She states, “Well, I made, I thought we had, uh, a appointment to see ‘em on the twenty-third of March, but it didn’t happen till the thirtieth...I usually try to see my children when I can...[months may go by but] I try to visit with them sometimes and then they can’t get ‘em” (p. 6).

However, other parents communicate that they are making a concerted effort regarding the visitations, but their actions do not seem to coordinate with the demands of the child welfare system, especially in regards to the visitation period being used as an opportunity to gauge parenting skill and promote the parent-child relationship. Bridget tells the court that the visitation environment was not conducive to the sort of relaxed interactions with her children that would establish her parenting proficiency.

Bridget: “[During visitations the child welfare worker] would sit in a chair by the door or somewhere in the room with a piece of paper and pencil in their hand...they would sit and listen to see what we’d say, and what the children would say, and what we do...they did [write things down during the visits]...Yes, we was [aware that they was monitoring us]...I didn’t try [to put into practice the parenting skills I had learned]...when you see your kids for an hour that’s not much...I would, well, if [the children] come up and ask me to color or something I would do it but I sit mostly quiet...I sit still because I was always afraid if I get up and do something I would be doing something wrong...” (pp. 63-64).

Donna tells the court that she has regularly attended visitations even though the structure of the visitations has not been especially helpful in her attempt to maintain the relationship with her children.

Donna: “My visitation is only like an hour long. It’s not really long enough to really get to sit down and talk to ‘em. And I mean I can...I don’t feel like I’ve got enough time to spend with ‘em, or enough time to get to know what they did all week because all three wants to talk at one time...an hour a week is not long enough for three kids to tell me what they’ve done in a week...[but] I’ve made visitation as much as I could. I mean, I don’t think I’ve ever failed to make a visitation” (p. 40).
CHAPTER VI
DISCUSSION AND IMPLICATIONS

This final chapter of the dissertation will discuss the findings of the investigation and the implications of these findings for social work theory, research, and practice. The conclusions will be discussed in terms of perspective and role taking in the narratives with a view towards what these parents were communicating in the courtroom, and the import of these communications. The study implications are discussed in terms of their utility in developing a deeper understanding of the decision making processes in the child welfare system and at termination trials; specific directions for future theory building and research in this area; and policy making in this area of social work and legal practice.

Review of Methods

This dissertation research was an exploratory, descriptive study of ten trials involving the termination of parental rights with accompanying case materials and trial tapes also utilized. The purpose was to identify and describe themes present within the parent narratives in order to describe what parents communicated during the course of a trial that terminated their legal rights to parent their children, and which would add to the body of evidence in a judge’s decision to terminate. The trials were selected through purposive sampling, which involved utilizing judges and their staff and a state attorney to find the
parents who verbalized their experiences during a termination trial and represented diverse elements in the spectrum of this phenomena.

Symbolic interactionism provided the theoretical framework that guided this researcher's analysis of the data. Narrative analysis and content analysis were utilized to organize and analyze the trial transcripts in a manner informed by the symbolic interactionist perspective. Specifically, a modified form of narrative analysis was applied to the parents' testimony in order that the parent communications that would be termed “parent narratives” could emerge from the data. These parent narratives were then analyzed through the application of content analysis. The processes of analyses in this study were mindful of the context of the parents' communications—recognizing that the narratives were co-constructed in interaction with others in the parents' surrounding environments—which facilitated the elucidation of a socially constructed meaning of the phenomena of interest. This integration of a symbolic interactionist perspective is further evidenced in the discussion of findings section below, where perspective and role taking in the parent narratives is discussed in depth.

In a study such as this, a question often arises regarding the manner in which themes were identified. The researcher in the present study relied on the constant comparative method, which involved identifying an indicator of a certain behavior or event and then comparing this indicator with other such indicators found in other narratives and noting the similarities and differences. For example, the theme of “failure to protect the children” in the domestic violence narratives, involved coding certain behaviors, such as Irene failing to intervene on behalf of her child during an abusive event with Robert and Annie denying that molestation of her daughter had occurred. In both cases, the researcher would be looking for similarities, such as they both involve inaction on behalf of their child. While the differences
were noted by the researcher between these two incidents, and the others that would eventually be categorized under the theme of "failure to protect", the similarities along a single indicator of failing to help their child resulted in the emergence of the theme. In addition, the sheer repetition of an indicator could also result in the identification of a theme. For example, regarding the theme found in the attachment narratives, titled "non-conventional relationships/conventional declarations of love," the indicator used—parental expression of love and attachment—occurred so consistently and repetitively that it emerged as a theme.

Finally, quotes from the parents' courtroom communications were utilized to support the thematic findings. These quotes were selected based on their power to illuminate the findings and appeal to the reader on an emotional level as well. While taking such quotes from the transcripts can be argued to remove them from their context and thus alter their meaning, the researcher was careful to include a descriptive summary of the context of each quote as originally found within its trial transcript.

Review of Findings

Chapter 5 provides an in-depth description of the themes present within each of the six parent narratives that emerged from the trial transcripts involving the termination of the parents' rights to their children. This chapter comprehensively answers the research question posed at the beginning of this study that asked what themes were present in the parent narratives in termination trials as explored through a content analysis. These descriptions account for the primary findings of this study.

As one reads through Chapter 5 it becomes clear that the ten termination cases represented in this study did not involve the kind of parenting failures that grab the
newspaper headlines. While all of the parents in this study experienced, at one time or another, significant and severe parenting deficiencies that compromised the safety and well being and their children, their primary failing could be argued to be deficiencies in managing their lives as a whole. Indeed, the parents’ narratives relate lives of constant struggle: to overcome substance abuse, to free themselves from abusive relationships, to cope with illnesses such as major depression and diabetes and mental disabilities, to find housing where the toilets flush, and so on. Indeed, their inability to maintain a suitable standard of care for their children seems to be almost subsumed by their inability to maintain a suitable standard of care for themselves. In all six of the parent narratives, and reflected in all of the themes that emerged from these narratives, are parent communications that express the pain of this struggle to survive and the toll that it has taken on them and those that they love. Their surprisingly candid, often introspective, communications reveal that the parents are actively involved in constructing meaning regarding their past life events and constructing meaning regarding the import of these past events for the future.

The substance abuse narratives made a powerful comment on the state of affairs for the child welfare system’s substance abusing parents. Severe substance abuse problems rendered several of the parents incapable of consistently performing parenting duties, yet periods of sobriety often meant that they were able to perform these duties for various stretches of time. This bouncing back and forth from a substance abusing lifestyle to a parenting lifestyle was not one that the parents’ would have recommended, but it seemed to be one that they were unable to avoid. In the theme “parenting and substance abuse as mutually exclusive activities,” Jackie recalls a happier, sober period of time in her parenting past, during which she was a “very good mother” (p. 36) and supporting her statement, the case file reveals that there was no state involvement in her life for this stretch of years.
However, Jackie would once again begin drinking, causing her to leave the children as she knew she was no longer an “able” parent (p. 37). There is great sadness in this recapitulation of a life of a substance abusing parent. Holly talks about sitting at a table and crying, as she was drinking, on the night her children were removed from her care (p. 13). Not surprisingly, and consistent with the cycle of drinking, gaining sobriety, and relapse that is common among substance abusers, the parents’ testimony regarding their sobriety at the time of the termination trial, and their revelations (see: theme of revelation) regarding the positive changes in their lives, could not forestall the termination of their parental rights in a system that has heard many such promises in the past. Exacerbating the difficulties of the substance abusing parents in the study was the theme of “the impediment of incarceration.” In a child welfare system where every day, every month, in an open case file counts, the time lost to a period of incarceration is irretrievable, and only compounds the time lost to years of substance abuse.

The domestic violence narratives highlight the various levels upon which violence can permeate the lives of a family and enter the courtroom construction of meaning in a termination trial. While violence in the form of severe physical abuse of the children was not a major issue in all of the cases, issues related to violence and the safety and well being of the children in the face of various acts of violence were certainly an integral aspect of the construction of meaning in many of the cases. Most commonly, mothers communicated to the court their involvement in violent relationships that compromised the safety and well being of their children. In the theme of spousal abuse, parents expressed to the court the nature of a violent relationship—for example, seen as Jackie explained how she endured not only physical abuse, but stalking behaviors as well, as her “husband was trying to do everything he could to hurt me” (p. 6). They also relate how difficult these violent
relationships can be to exit, as evidenced in Irene’s downplaying Robert’s abuse of her, and Annie’s ongoing fears regarding the husband she left behind, stating that she continues to be “frightened” (p. 74).

In addition, in the domestic violence narratives, the theme of failure to protect the children captures the parents’ communications regarding another facet of the violence in their lives, namely, their inability to shelter their children from it. This is clearly evidenced in the denials of the violence and abusive situations that impacted their children. Whether the parents chose to endure the violence in their lives or to deny its existence or even to take active steps to eradicate it from their lives, by the time of the termination trial, revelations to the effect that they are now able to effectively address issues of violence were not powerful enough to prevail over the stories of past violence in their lives. Finally, it must be noted that violence entered the courtroom construction of meaning in others ways as well, such as Bridget’s story of her son’s paddling by a teacher and Jackie’s story of her ex-husband’s death by shooting. Clearly, parents in the termination trials were communicating life circumstances that are often defined by various acts of violence.

In the housing narratives, the parents communicated the chasm that exists between their living situations and the requirements of the child welfare system. In the theme regarding the lack of stability in housing, the parents expressed to the court their frequent moves from residence to residence, and even periods of time where they had no residence at all. In constructing the meaning of their housing situations, the parents do not seem to place an inordinate emphasis on their apparent instability, with Donna’s comment that she’s “never been homeless” because she “always had someplace to go” (p. 13) typical of the parents’ analysis of their living situations. Similarly, in the theme of sub-standard home conditions that emerged from the parents’ housing narratives, the courtroom construction of meaning
revealed that the parents' conception of suitable housing differed from the child welfare system's. The parents' communications reveal confusion over the state's intervention regarding their housing situations, especially in terms of how these alleged substandard conditions were believed to interfere with their parenting duties. Rusty told the court about his broken toilet and lack of working stove, emphasizing that these were minor inconveniences as they could still "pour water down [the commode to] flush it" and they were able to "cook good meals" on their hot plate (pp. 9-11). Donna argues that even though there were days when they "ran short," no one ever "starved to death" (p. 7). Such testimony, offered by parents who were clearly befuddled by the system's mandates on their home conditions, may have been open and candid, but it did not inspire confidence in the parents by the system's decision makers.

Similar to the parent narratives on housing, the parent narratives on attachment issues demonstrate that the parents' were communicating a different meaning of what is acceptable, or normative, in terms of their parent-child relationship. Like living with stopped up toilets, or cooking for the family on a hot plate, the parents seemed puzzled by the system's disapproval of their construction of the parent-child relationship and failure to recognize the attachment relationships that sprung from these atypical constructions. This is best illustrated by the theme of non-conventional relationships/conventional declarations of love in which the parents communicated a conceptualization of the parent-child relationship whereby the child may have a primary bond with another family member or have a non-hierarchical relationship with the parent, but the parents still communicate the conventional feelings of love and attachment for their children. For example, Donna states that she allowed her son to reside for several years with his grandmother, who lived down the street from her and her husband, primarily because he had wanted to do this and she wanted to
respect her son’s wishes, and yet, even in light of this unusual separation, Donna claims that she loves her kids, and that no one “could ever take that love away from me” (p. 43).

In addition, the theme “biological relationships supersede non-biological relationships” in the attachment narratives finds parents communicating that they are constructing the meaning of biological bonds in a manner that moves beyond their individual parent-child relationship and encompasses the impact of state action on the attachment relationships of the entire family system. This is seen in Jackie’s concern that her three daughters be placed in the same home, when she states, “since they be sisters...they should at least be together” (p. 1) and Bridget’s testimony that it would be detrimental to her son’s best interest to sever his attachment to his siblings as “he loves them very much” (p. 91). Jackie also told the court that terminating her parental rights would have ramifications beyond her own attachment to her children as it would affect her mother’s attachment relationship to the three girls as she “loves all [her] children very much” (p. 14). These concerns regarding the effect of the termination proceeding on their loved ones mirror their concerns about their own processes of separation, loss, and grieving that have occurred since state intervention in their lives. Interestingly, and consistent with this study’s focus on the stories people tell to communicate their life experience, the parents most moving accounts of how the loss of their children had affected them came from the small stories of everyday life. For example, the parents accidentally driving by their child’s foster care placement and seeing their child but knowing they are unable to talk to her, or hearing their children call the foster parent “mommy” for the first time. In a child welfare system that is designed to record their parental failures in order to build a case for the termination proceeding, such stories reveal the human beings behind the laundry list of failures, an
essential component in socially constructing the meaning of the parent-child attachment in termination cases.

The parent narratives on health and mental capacity reveal that in addition to communicating substance abuse problems, domestic violence issues, and housing problems, the parents expressed yet another handicap in their efforts to regain custody of their children, namely, that of mental and physical illness and mental disability. As stories of mental and physical illness and mental disability entered the courtroom construction of meaning in the termination trials, it became clear that the parents were experiencing many disadvantages in day to day living that negatively impacted their ability to provide a suitable standard of care for the children and following the removal of the children— their efforts to comply with the agency's case plan for reunification. Having had a history of depression, Donna tells the court that after her mother died she was “overwhelmed with the responsibility” of child care (pp. 6-7) and was “depressed” (p. 17). The removal of Donna’s children from her care would be permanent, with her goal of regaining custody of her children hampered by her debilitating incidents of depression, as evidenced in Donna’s story of the case worker finding her immobilized on her living room floor in a severely depressed state. Likewise, Bridget communicates that her physical health problems, diabetes in particular, prevented her from doing the household tasks necessary in the care of her home and children and that the illness also made it difficult for her to keep her home up to the standard required by the child welfare authorities for the return of her children. Similarly, Bridget, Rusty, and Gerri had mental disabilities that may have compromised their ability to care for their children prior to the state’s intervention, but which certainly had an impact on their ability to comply with the child welfare mandate's following removal of their children. The parents with mental disabilities were especially disadvantaged in terms of their ability to keep up with the action
being taken in their cases. When Rusty says, “I never read the book on that” and when Gerri tearfully tells the court, “I signed a paper while I was in jail... I don’t know [what the paper said]” (pp. 61-63), it can be argued that their mental disabilities have affected their comprehension of the child welfare process and thus compromised the degree to which they were able to actively and knowledgeably participate in their cases.

The parent narratives on the child welfare system-parent relationship reveal parental communications that focus on the failings of human relationships within the child welfare system and the poorness of fit between their impoverished, chaotic life circumstances and the demands of the child welfare system. In the theme “persecution by the state” parents state that they have been harassed, lied about, and conspired against as they engaged in interactions with the child welfare system. While the lies the parents are referring to are almost uniformly the result of differing opinions between the parents and the workers regarding factual situations, these parental expressions of disappointment and anger with the system and its workers can sometimes be traced to basic human miscommunication. Jackie was upset that she wasn’t informed of the termination action during a phone conversation with a worker; Donna was upset that a guardian ad litem didn’t inform her of his recommendation to terminate and that workers didn’t seem to listen to her side of events; Gerri didn’t understand that it was the social worker’s job to report her comments, including her desire to have her daughter adopted out, to the court; Rusty was unclear about the timetable for the removal of his girls; Irene thought that temporary separations from her abusing husband would garner the return of her children and of course they did not; and so on.

Similarly, in the parent narratives on the child welfare system-parent relationship, the parents expressed frustration with a system that operated in a manner quite opposite to their
modes of response. This is evidenced in the theme “poorness-of-fit between parent and child welfare system.” For example, the child welfare system relies on mailed letters of notification for court dates, and most of the parents had trouble keeping a mailbox as they were often evicted for failure to pay rent and moved frequently. Indeed, the parents rarely had telephones and were difficult to contact in this manner as well. In addition, they rarely had cars or friends with cars and had great difficulty making appointments at the agency or other professional offices from their mostly rural living situations. Also, all of the parents were at various times uninformed about aspects of their case, revealing that failure to keep abreast of case activity by reading case reports was not limited to the parents with mental disabilities. Finally, the structure of the system, which relies on short, supervised visitation periods to help assess parenting proficiency, was not well matched to the parents’ modes of responding in such situations. Nervous under such scrutiny, Bridget tells the court that she just could not relax and provide the social worker with the kind of interactions she knew was looking for as she “was always afraid…” she would “do something…wrong” (pp. 63-64).

Donna tells the court that while she probably didn’t miss a visitation with her children during their time in out-of-home, but these visitations were inadequate in her attempts to maintain her relationship with her children, as the visitations are not “long enough to really get to sit down and talk to ‘em” (p. 40). Arguably, such parental communications reveal, not surprising in a population of clients whom the system was unable to reunite with their children, that these parents and the child welfare system were never able to overcome a poorness of fit.

Whether due to failings on the part of the system, or failings on the part of the parents, the fact remains that these parents entered the child welfare system—with both parties stating that reunification of parent and child was the shared goal—only to find themselves sometime
later in a courtroom, socially constructing the meaning of the parent-child relationship, with a legal outcome of termination of parental rights. In the analysis of what parents communicate during this process to terminate their parental rights it became clear that the onetime communication of a shared goal of reunification does not necessarily equal a shared interpretation and attachment of meaning to significant life experiences. As explored in more detail in the discussion of findings section below, the parents’ communication of their life experiences as individuals, as parents, and as clients in the child welfare system may have been directed at achieving a social construction of them as competent parents, but the processes of transaction and interpretation evidenced in these courtroom communications reveal that much of what the parents were contributing to the meaning-making process was unlikely to further such a goal. In accordance with the symbolic interactionist perspective that guided this study, the concepts of perspective and role taking will be discussed in terms of their impact on this courtroom construction of meaning in the termination trials. Finally, the implications of these findings for social work practice, policy making, research, and theory building will be discussed.

Discussion of Findings

In order to understand what the parents communicated during these ten termination trials, and the import of these communications, it is important to return to the theoretical framework that guided this study. Berg (1995) notes the centrality of perspective and taking the role of the other to the symbolic interactionist framework, and it is these concepts that provide unique insight into the parental communications during these trials. Additionally, once the findings of this study have been thoroughly discussed, the implications of these findings for decision making in the child welfare system and termination trials, and for future
theory building, research, and policy making in this area of social work and legal practice will be examined.

**Perspective**

The perspective of participants can often be a defining element of the meaning-making process. Research guided by the symbolic interactionist framework recognizes that even though participants may be communicating through shared symbols, the interaction of self and society is inherently one of perspective. Thus, in the present study, in order to understand what the parents were communicating in the termination trials, it is important to understand these communications in terms of the parents’ perspectives. While it would be a distortion of the study findings, and inconsistent with symbolic interactionism, to assert that all of the parents in this study shared a uniform perspective on their life situations as they socially constructed meaning during the course of the ten termination trials—the parental communications, supplemented with information from the case materials, do indicate a shared perspective of the parents on at least one important dimension. Namely, the parents all communicate to the court, in one narrative or another, and/or evidence in their case materials, that they operating from the perspective of the “consummate outsider.” In effect, through various means of disconnection from the people, events, communities, etc. that surround them, the parents remain supremely distanced from the environmental contexts that define them as individuals and parents in the social construction of meaning in a termination trial. This outsider perspective permeates the courtroom communications of these parents—and in a child welfare system that emphasizes very specific ties of the parent to child, family, and community—disempowers the parents’ construction of meaning regarding themselves as competent parents.
Specifically, the disconnected, outsider perspective of the parents is often seen in the parents' expressed lack of emotional connection, lack of physical connection, and lack of social connection within their life environment. Thus, to varying degrees, the parents' communications revealed that they were interpreting their personal and social worlds in a manner that defied societal expectations, embodied in the mandates of the child welfare system, of individuals within a social environment. This disconnected, outsider perspective was communicated to exist at different levels of the parents' life experience. For example, at the personal level of experience, parents expressed that they had distanced themselves from incidences of domestic violence, had experienced isolation from others due to substance abusing behaviors, and were unable to fully participate in the interactions that surrounded them due to mental and physical illness and mental disability. At a more physical level of experience, parents disconnected themselves from their families, neighbors, and communities through running away, repeatedly moving, living in a trailer on the outskirts of town, or even imprisonment.

Evidence of this disconnected, outsider perspective is pervasive in the study findings detailed in chapter five of this dissertation. For example, the parents expressed this outsider perspective in the courtroom through their communications regarding their physical removal from life circumstances. In her narrative on substance abuse issues, Jackie discussed her abandonment of her children—a physical disconnection as she deserted her home and children—and she told the court that she had found it necessary to put "a lot of space between me and where I am from..." (p. 37). In addition, this separation from others was communicated to involve separating oneself from surrounding events. Several of the parents disconnect themselves from abusive events involving their children by expressing a physical distance that results in a lack of personal knowledge. For example, when discussing the
abuse of their children by other family members in their domestic violence narratives, Irene tells the court, “I wasn’t, I wasn’t present at the time. I was in bed asleep, and I don’t know” (p. 12) and Gerri states, “[When I got out of the shower they were in bed together but] she had her tee-shirt on and her underwear on…I didn’t know what they was doing…I was in there taking a shower” (pp. 81-82).

This parental perspective of disconnection is also communicated in the parent narratives on housing. Within the context of housing situations, the parents generally express a lack of ties to any one home, neighborhood, or community. While this absence of ongoing connection in living circumstances was present in all of the parent narratives on housing, the parents communicate a variety reasons for this state of disconnect in living conditions. In many cases it appeared to be financially motivated. While Donna claims that her nomadic lifestyle was not the result of money problems, stating, “I had the money to get my own place but I just didn’t want to be alone” (p. 12), she later admits that she was “waitin’ for [her] Section 8 to come in” (p. 13). Holly expresses how her substance abuse problem has prevented her from establishing a home, stating “I did [go back to drinking and] I was smoking dope, and a little, little…doing White and Xanex (p. 17)…[then] I did [live with a man who resides in a neighboring town]…[then I moved in with my current fiance]” (p. 24). Jackie admits that she willingly disconnected from her family, stating that “I left the state actually because I felt there would be room for me to grow out of here” (p. 28).

However, the parents may have found themselves removed from home and community due to circumstances beyond their control, such as a calamitous event. In Annie’s case it was a fire in her apartment building that left her homeless for a period. In Bridget and Rusty’s case it was a cold winter freeze that caused the “water pipes [to go] bad” (p. 5) and when they were unable to repair them, forced them to relocate to another home. Indeed, very few
of the parents were even able to connect with a stable home and community prior to the termination trial, for example, at the time of the trial Rusty was living in a motel.

Quite significant in these termination trials, the parents’ outsider perspective was also communicated in the disconnection between themselves and conventional notions of the parent-child relationship. In the narratives on attachment, Donna expresses to the court that even though she allowed her son to live with extended relatives for several years, and her daughters would live intermittently with her mother as well, there is no subsequent diminishment in her love for her children or ability to provide care for them. Erin asserts that just because her children often resided with relatives this does not mean that she did not provide care for them or that she does not love them. In addition, the parents’ construction of the parent-child interaction could defy normative standards, such as when Donna and Fran expressed non-hierarchical relationships with their children. Arguably, these constructions of the parent-child relationship were so outside the realm of what is considered normative in the child welfare system, that the parents more conventional expressions of love and attachment and grief and loss could not overcome the presumption that these were non-normative—and sub-standard—parent-child relationships.

Finally, it should be noted that this parental perspective as the outsider—alienated from the surrounding environmental context—was also imposed by parental characteristics, such as a substance abuse problem or a physical or mental illness or disability. The parents who suffered from a substance abuse problem found themselves physically and emotionally disconnected from their children as they experienced periods of active substance abuse. For example, when she was drinking, Jackie repeatedly left town and deserted her children. On one occasion, her absence made it impossible for her to provide support to her daughter when she entered the hospital due to severe emotional problems. Additionally, Donna’s depression

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left her often immobilized, as evidenced in the incident where she was found laying on her
living room floor, and unable to engage in activity with her children, family, and neighbors.
Rusty’s mental disability placed a distance between himself and others as he struggled
unsuccessfully to comprehend the dynamics of the situation around him and actively
participate in the child welfare process. Also, Fran’s depression led her to spend long
periods of time in bed, unable to interact with her children and the world around her.

Arguably, as parents communicated their perspective as outsiders in the courtroom
construction of meaning in the termination trials—demonstrating to the system’s decision
makers their disconnection from familial and social norms— the ultimate “disconnect,” that
of severance of the parent-child relationship, was a forgone conclusion. As outsiders, the
parents were often unable to avail themselves of the support of others that can be critical to
providing care not only for yourself, but for your children as well. Existing in a society that
is founded upon this notion of interconnectedness, the child welfare system emphasizes the
connection of a parent to his or her child, family, home, and community. Not surprisingly,
when the system is unable to facilitate the development of such connections in a parent’s life,
the parent-child relationship may be terminated.

In part, the findings of this study described how parents in termination trials express
their isolation in abusive relationships, substance abuse problems, housing difficulties,
mental and physical illness, etc. and thus raised the question as to how the child welfare
system can re-integrate this disconnected population of parents in the child welfare system
back into their families and communities. Of course, this question raises the issue of how a
system that perhaps socially constructs the parent-child relationship in a manner so diverse
from this population of parents can reach a socially constructed meaning of the parent-child
relationship that makes this re-integration possible. Perhaps a starting point for positive
change will include not only the parents and the system understanding the perspective that each brings to the meaning making process, but a willingness of each party to consciously "take the role of the other" in this process of socially constructing the meaning of these vulnerable parent-child relationships. As the findings of this study indicate, and as discussed below in the "role-taking" section, the parents in the termination actions evidence efforts to do this. The question remains to what extent society, and the child welfare system, is willing to do the same.

Role-taking

The symbolic interactionist perspective also provides a focus on role-taking. In the present study, role-taking occurred when the parties—typically the attorneys for the state and the parents—put themselves in the place, or the role, of the other as a part of the interactive process of meaning making that occurred during the termination trials. While taking the role of the other can facilitate a better understanding of the other's perspective—and further a speaker's objectives—during the course of the termination trials, the parents' role-taking efforts did not result in the achievement of their goals of reunification with their children. Perhaps the reason for this can be found in the dynamics of the role-taking that occurred in these termination trials. In these ten cases, and evidenced in the findings reported in chapter six of this dissertation, when the parents took the role of the other, such as the judge, child welfare worker, attorney, etc., they in effect joined these parties' in their efforts to construct the parent-child relationship as being irreparable. In particular, parents frequently took the role of the state attorney as they offered unsolicited information that revealed them to be struggling to maintain a level of care for themselves and their children and living lives that
were cut-off from traditional sources of support. In this willingness to prosecute themselves, the parents often rendered examination by the state attorney superfluous.

The parents' communications reveal that they often interpreted and communicated their life experience by taking the role of the state. This role-taking evidenced in the trial transcripts may have occurred at an earlier stage of state involvement in the lives of the parents. For example, the parents may have made the assessment that their children were in need of services and contacted the authorities themselves. This is seen in Holly's case, with her phone call to the sheriff stating that she had no food to feed her children and that she was unable to care for them. Additionally, the parents may take the role of the state during the trial by interpreting their family situation as dangerous for children. Jackie tells the court that state intervention was necessary in her case because “it was a threat for me to even have the children in my possession...I was endangering them because, it was detrimental to their well-being...” (p. 25). In another case, Donna reported to the child welfare authorities that she had struck her daughter Ellie with a belt (p. 46). In cases that revolved around the ability of parents to provide clean, safe living conditions the parents often interpreted their living conditions as falling below standard and communicated this to the court. In their narratives on housing, Bridget told the court that their home got “messy sometimes” and wasn’t “perfect all the time” (p. 38) and Annie reported that her home “wouldn’t be perfect” at times (p. 19).

In order to understand other parental communications involving role-taking, it is important to keep in mind that the goal of the state is to present a case for termination by providing evidence to the court that the parent is unable to provide a suitable standard of care for the child. In these termination cases, the parents often took the role of the state, offering information that could only serve to weaken their case for reunification with their children.
For example, in Holly’s case, a major issue is her history of alcoholism. Holly claims that she is now sober, but freely informs the court that alcohol was not her only problem, stating, “I did [go back to drinking and] I was smoking dope, and a little...doing White and Xanex…” (p. 17). At the close of her trial, Donna offers an unsolicited account of an allegedly abusive event to the court. It is as if Donna, acting as a tough state attorney, has asked herself to relay the most damaging story regarding her parenting past, replete with every detail of her philosophy on discipline and violence toward children. In this part of her testimony, Donna states that she would never abuse her kid with a belt, but admits that on one occasion she “grabbed the belt and...started to swing it...and [my child just] ran in front of me and I hit her” (p. 46). Donna continues this domestic violence narrative by stating that she never said she’d “beat her children to death or anything” but she had “slapped em with [her] hands a couple times” (p. 47). In addition, Fran’s argument that her children should be returned to her care is effectively squelched when she states that she loves her children and wants to be with them but she “knows that” termination of her rights may be in their best interest (p. 9).

Taking the role of the state, by reporting their sub-standard parenting behaviors as an investigating child welfare professional would, or delivering damaging testimony as if questioned by the most aggressive of state attorneys, demonstrated the parents’ faculty in inhabiting the roles of those who would eventually remove their children from their care. While the parents’ role-taking behaviors contributed to the evidence that supported the permanent removal of their children, there is no evidence of the state taking the role of the parent in a similar manner by offering exculpatory evidence of their parenting pasts. The transcripts reveal that the state attorneys may take the role of the parents by acknowledging the parents’ affection and love for a child or that they have had financial difficulties, but
these lead-ins are always followed by a question designed to elicit information regarding the breakdown of the parent-child relationship as evidenced in specific incidences of parental failure. The attorneys are not utilizing role-taking to illuminate stories of love and affection between the parents and their children even though the narratives on attachment demonstrate that these stories do exist, as much as the stories on parental failure do.

Of course, it is to be expected that the state attorneys and child welfare professionals would not engage in role-taking that would be contrary to their objective of winning the case and terminating parental rights. Why the parental communications reveal evidence of role-taking that is directly adverse to their objectives of maintaining custody of their children poses an interesting question. The researcher surmises that the parents who took the role of the investigating child welfare worker and informed the state of their parenting failure were motivated by concern for their children’s welfare. During the course of the trial, the parents may have believed that role-taking that involved revealing to the state their personal or parenting failures would demonstrate to the court an added capability that they have as parents, namely, that they have the ability to effectively assess their parenting behaviors and comprehend when they fall below a legal standard thus establishing that oversight by the state in their lives is unnecessary. However, in the courtroom construction of meaning regarding the parent-child relationship during a termination trial, the motivation behind such role-taking by the parents is immaterial. The information provided by such examples of parental role-taking simply contributes to the body of evidence that supports the denial of reunification of the parents with their children.

Implications of the Study

By identifying and describing the patterns that existed in the socially constructed interactions in termination cases, this researcher hoped to sensitize social work practitioners
and researchers and policy-makers to the perspective of parents who face the legal loss of their children. Arguably, such sensitization has great utility in developing a deeper understanding of the decision making process that occurs in the child welfare system when dealing with troubled parents and their children. As this study found, the parents in these ten cases expressed the difficulty that they have in meeting their own day-to-day needs in living environments that are compromised by poverty, substance abuse, violent relationships, and housing shortages. They also communicated how these chronic conditions have detrimentally impacted their ability to provide a suitable standard of care for their children. In addition, they often expressed their frustration and confusion over the workings of the child welfare system.

Many of these parental communications were shaded by the perspective of society’s perennial outsiders—parents often separated from neighborhoods and communities by poverty, calamity, and violent relationships and distanced from loved ones due to emotional and psychological problems, disabilities, and substance abuse issues. However, even though these parents were disconnected from their surrounding environments in a variety of ways, they were still able to engage with others and actively construct the meaning of their parent-child relationship during the termination trials. In part, this is evidenced in the examples of role taking in the parent communications, but it is also simply demonstrated in the raw urgency of their voiced experiences. These findings reveal the parents expressing to the court in a multitude of ways that they were acutely aware of the ramifications of the legal loss of this connection to their children.

The researcher believes that this study has utility for social work practitioners. While the qualitative nature of this study prevents broad generalizations, it is hoped that in the rich descriptions of what parents communicated during the trial, practicing social workers will
recognize echoes of the problems their own clients in the child welfare system are facing. Indeed, in facilitating a greater awareness of the perspectives of this heretofore unresearched population, social workers may be reminded that any of the troubled parents who are currently in their caseload could eventually end up facing a termination trial. The parents in this study were not unusual or outstanding in any way. In this manner, perhaps this study will motivate social workers in the system to consider how their current clients could someday be sitting in the witness stand defending their right to parent their children.

Social workers in the child welfare system, newly sensitive to the voices of this population after reading the parents’ communications, may find themselves asking a multitude of questions about the care and services they are providing to parents after reading this study. These questions could include, but are in no way limited to the following list:

How are my clients—parents in the system whose care for their children has fallen below the legal standard required by law—affected by substance abuse issues? How have the cycles of substance abuse impacted their ability to meet the requirements for reunification? How has the system dealt with this? What sort of attachment relationships do I consider normative? Why? Is my client mentally disabled? How has this affected his or her relationship with the children? Can the system meet the needs of a mentally challenged parent? If not, why, and how can I design an intervention more likely to succeed with this population? Is my client having difficulty finding secure housing? If my client has housing, how likely is this housing situation to last? Has my client ever even resided in the kind of housing required by the child welfare system for safe, suitable child rearing? If not, how can I creatively facilitate my client understanding this standard and achieving this? Is my client in a violent relationship? If so, how can I provide special support to this client who may not readily adjust to life in a shelter?
Such questions stimulated by this study could continue. Each of the questions simply requires that the child welfare professional challenge current assumptions, biases, and practices that enter the construction of meaning regarding the parent-child relationship in the child welfare system. However, in order to move beyond this sensitization to the voices of this population and the stimulation of resourceful thinking, the researcher acknowledges that further research is necessary in this nascent area of inquiry.

Interestingly, directions for future theory building and research in this area of child welfare arose from the data itself. When the researcher had originally conceived of the idea for a study of termination cases, there was a desire to develop a grounded theory about the interactions of participants in termination of parental rights trials and how these interactions influence judicial decision making. As the goals and design of this study were modified the researcher developed a more realistic view of the study’s contribution to theory development. However, there remained a commitment to laying the groundwork for future theory development in the area of judicial decision making and termination of parental rights actions. This commitment is evidenced in the following eight hypotheses which emerged during the researcher’s analysis of the data and which were further developed as the investigation progressed.

1. In contrast to parents who retain the legal right to parent their children, parents who lose the right to parent their children in a termination action tend to have more pervasive substance issues that have detrimentally impacted the parent at all levels of their environment, such as housing, employment, family relationships, etc.

2. In contrast to parents who retain the legal right to parent their children, parents who lose the right to parent their children in a termination action tend to be involved in more personal relationships that are violent in nature.
3. In contrast to parents who retain the legal right to parent their children, parents who lose the right to parent their children in a termination action have experienced more moves from one home to another prior to their involvement in the system and while they are involved in the system.

4. Parents with documented mental disabilities who lose the right to parent their children receive minimal or no services in the child welfare system that take into account a mental disability.

5. In contrast to parents who retain the legal right to parent their children, parents who lose the right to parent their children in a termination action demonstrate less understanding of the state's standards for clean, suitable housing.

6. In contrast to parents who retain the legal right to parent their children, parents who lose the right to parent their children demonstrate fewer actions that are consistent with conventional notions of parent-child attachment.

7. In contrast to parents who retain the legal right to parent their children, parents who lose the right to parent their children lack a positive, ongoing relationship with a child welfare professional.

8. In contrast to parents who have their parental rights terminated and no open adoption is recommended, parents whose rights have been terminated in which an open adoption is recommended have established a positive relationship with the foster care parents, or the prospective adoptive parents.

These hypotheses also provide a framework for understanding the implications of this study for policy making in this previously unexplored area of social work and legal practice. Of course, as stated earlier, this qualitative study was designed to sensitize social workers to the perspective of this population and the researcher makes no assertions that these ten cases
are representative of all parents facing possible loss of their parental rights. However, the
voices of the parents in these ten cases did raise the consciousness of certain pressing issues
which—following further investigation and research—could have an impact on policy
making in this area. While the above stated hypotheses that emerged from the data raise a
variety of issues related to domestic violence, lack of housing, etc. in the parent population in
this study, in particular, the researcher notes the potential for future policy efforts as found in
the parents’ communications on substance abuse and the two cases that involved open
adoptions.

In this study, in which nine out of the ten cases evidenced substance abuse issues, the
parents communicated the experience of living their lives in two spheres, one as substance
abusers and one as parents. Traditionally, the child welfare system has also viewed the
solution to substance abusing parents as existing through the compartmentalization of the
services such parents need. Namely, the child welfare system handles issues related to the
parenting sphere of their lives and other service providers, such as detox centers, Alcoholics
Anonymous, etc. handle the substance abusing sphere of their lives. In effect, the system
echoes the communicated experience of these parents in these trials by conceptualizing these
parenting/substance abuse services as mutually exclusive. As the parents in these trials
communicated the lack of success they have experienced through this dichotomous approach.
likewise, the child welfare system has also largely failed. Today, the intractability of
substance abuse problems remains one of the most pressing problems in the child welfare
system.

Emerging from the voices of the parents in this study, this researcher proposes that
social workers and policy-makers challenge the existing paradigm and explore ways in which
the child welfare system can integrate care for the substance abuser and care for the at-risk
parent. The urgency of this situation is magnified by the requirements of the federal Adoption and Safe Families Act of 1997 which may establish a timeline for permanency than is shorter than many parents may need for effective substance abuse treatment—thus making it imperative that the child welfare system design a timely response to parents’ substance issues. Clearly, the pervasiveness of the substance abuse problem in the child welfare system, and the system’s inability to successfully address it as reflected in the parents’ communications in this study, demands novel approaches. Perhaps child welfare workers should also be required to be educated in substance abuse issues and trained in substance abuse counseling and interventions. By isolating the substance abuse problems from the parenting problems in its interventive approach, arguably, the child welfare system neutralizes one of its most powerful tools in facilitating healthy parenting behaviors.

In two of the ten cases in this study—the cases involving Erin and Donna—open adoption was recommended following the termination of parental rights. Further research is needed to flesh out the reasons why some cases are recommended for open adoption and others are not and the implications for open adoption on the parent, child, adoptive family, and the child welfare system. Additionally, certain broad-based policy making issues raised by open adoption following a termination action can be discussed in light of the two cases in this study. While the courts in both Erin’s case and Donna’s case eventually terminated parental rights after answering the question of whether the parents were able to provide a minimum standard of care for their children, the courts then initiated an open adoption without explicitly asking a corollary question. Namely, the courts did not specifically ask the question of whether the parent could ably serve in an ongoing role in their children’s lives following the termination. Clearly, in both Donna’s and Erin’s cases, the courts assumed the answer to be in the affirmative, and other court hearings will undoubtedly investigate the
matter further in their cases. However, this is a developing area of child welfare practice, and for policy reasons, it is important to establish that this question of whether the parent can ably serve in an ongoing role following termination be specifically asked in every case following termination. It may not always be answered in the affirmative. In Donna’s and Erin’s cases, good relationships between the biological parents and prospective adoptive parents had been facilitated beforehand and it was believed that the open adoptions would progress rather smoothly. However, failure to directly initiate the construction of meaning of the post-termination parent-child relationship is certainly denying some parents and children the possibility of this ongoing relationship.

A policy that would direct parties to investigate, and possibly even facilitate, a post-termination relationship between parent and child would inherently involve re-engaging the parent and the child welfare system in many of the narratives that filled the termination action. For example, in Erin’s case, the child welfare system would more than likely have to consider how her mental illness would affect an ongoing relationship with her children. In Donna’s case, the child welfare system may have to consider how her mental illness or even substance abuse issues, may impact a post-termination relationship. Indeed, the development of policy to guide party interactions following a termination action would only highlight the significance of what is communicated during the course of the termination trial. This researcher argues that in cases not only involving open adoptions, but in those in which a kinship care relationship is planned following termination of parental rights (and the parent will more than likely have some ongoing contact with the relative placement and the child), it is simply good policy for this corollary question—of whether the parent can serve in an ongoing role post-termination, and if so, in what manner—to be asked directly. Such a policy is supportive of the child welfare system’s goals of protecting children and promoting their
best interests as it acknowledges the complexity of these parent-child-family relationships, values the strong ties to biological kin, openly acknowledges the ongoing contact that is often occurring anyway in kinship care placements, and makes it possible for the assignment of an ongoing role for the state in supervising these delicate post-termination relationships.

Summary

There is a pressing need for further research of parents who lose their parental rights. Child welfare professionals, both social workers and attorneys, have tended to view the termination action as the final chapter of the system's involvement in the lives of such parents. However, such a shortsighted approach fails to recognize that individuals who have lost the right to parent their children may have a continuing role in the lives of their children, and thus remain a continuing interest to child professionals interested in promoting the safety and well being of children. Today, most commonly, this can occur through open adoption proceedings following the termination action, or in a kinship care placement where the parent may have some level of contact with the relative placement and the child. Additionally, the failure of researchers to investigate this area has left social workers who intervene with such individuals in settings such as prisons, substance abuse centers, domestic violence shelters, etc. without a solid knowledge base from which to operate therapeutically. There seems to be a pervasive assumption that once the court has legally severed an individual's right to parent, the value of an individual's perspective on experiences as a parent in the child welfare system, in a family system, and in the larger society is terminated as well. Arguably, by assuming that such voices have nothing to offer, social workers have missed a valuable opportunity to add the perspectives of these involuntary clients in the child welfare system to the system's search for answers to its current state of crisis.
While many questions remain unanswered from this dissertation research, in particular, one point emerged. By exploring what parents communicate in termination trials, this social work dissertation employed a methodology that gave a voice to the lived experience of parents facing the legal loss of their children, and by understanding this phenomenon as it was constructed within a social context, this dissertation was sensitive to the impact of environmental forces. Thus, in this manner, the parents' communications revealed narratives of poverty, social isolation, substance abuse, violence, imprisonment, and homelessness that entered the courtroom construction of meaning regarding their parent-child relationship. Such parent narratives in the courtroom emphasize to social workers the importance of understanding the parental perspective within an environmental context and offer special insight into the critical role social workers can have in the development of various kinds of policies that will impact parents and children in the system. This study challenges social workers to realize the potential of such a role by gaining insight into how the interactions among the larger society, agency regulations, and their own actions are effectuating certain outcomes in the courtroom. Indeed, by re-integrating the voices of individuals who lose their right to parent their children into the construction of meaning in the child welfare system, social workers could potentially become sensitized to not only the perspective of this neglected population, but the multitude of ways in which legislative and judicial policies can affect the lives of their clients. It is in this manner that this study contributes to knowledge building efforts in policy practice which can inform meaningful social work action directed at empowering clients within the policy framework.
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