

Conflicting Orders
Why They Occur and How to Avoid Them

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Beyond the Bench, 12-3-13



One Family: Multiple Orders

- 1) Protective orders that issue from Family, Juvenile and/or Criminal Court with different terms;
- 2) Custody/visitation orders from the above three courts;
- 3) Orders from courts in another jurisdiction;
- 4) Probation terms;
- 5) Tribal Court orders.

Why Do Courts Issue Orders That Conflict?

- 1) Ignorance of law or rules of precedence;
- 2) Lack of knowledge that another case exists;
- 3) Misinformation as to what happened in another court or which parties were included;
- 4) Different reasons for issuing and different lengths of time for enforceability.

Easier to Prevent than Undo How?

- Ask: The parties (consider getting releases of information);
- The professionals (who can talk to who?)
- What are the rules as to existing conflicting orders?
- What are the rules as to what information can be obtained from who?

Rules for Conflicting Orders PC 136.2(2)

- Criminal Protective Order takes precedence over all other orders except new EPO or Protective Order from any court that has "no contact" provision (new 1-1-14).
- Juvenile court order takes precedence over Family court order;
- Family court order takes precedence over Civil court order.
- If multiple orders are from the same court, the most recent order prevails.

Parties/Professionals Can't Change Orders

- “The terms and conditions of the protective order remain enforceable, notwithstanding the acts of the parties, and may be changed only by order of the court (PC 13701(b)).
- Protective orders are effective when made, shall be enforced immediately upon receipt, and are enforceable anywhere in California (FC 6224).

California Rules of Court, Rule 5.440 Related Cases

“Where resources permit, courts should identify cases related to a pending family law case to avoid issuing conflicting orders and make effective use of court resources.”

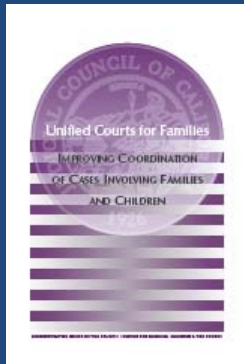
Rule 5.445, Court Communication Protocol

Every superior court must, by January 1, 2004, adopt local rules containing, at a minimum, the following elements:

- Court communication
- Modification
- Penal Code section

California Rules of Court, rule 5.445

- Share information
- Be aware of the existence of any criminal court protective orders & child custody and visitation orders
- Permit appropriate visitation but at the same time provide for safety
- Protect the rights of all parties and enhance the ability of law enforcement to enforce orders
- Establish regional communication systems with courts in neighboring counties



<http://www.courts.ca.gov/documents/ImprovingCoordination.pdf>



Information Sharing and Confidentiality

