

Interprovincial Forum on Judicial Treatment of DV 2015



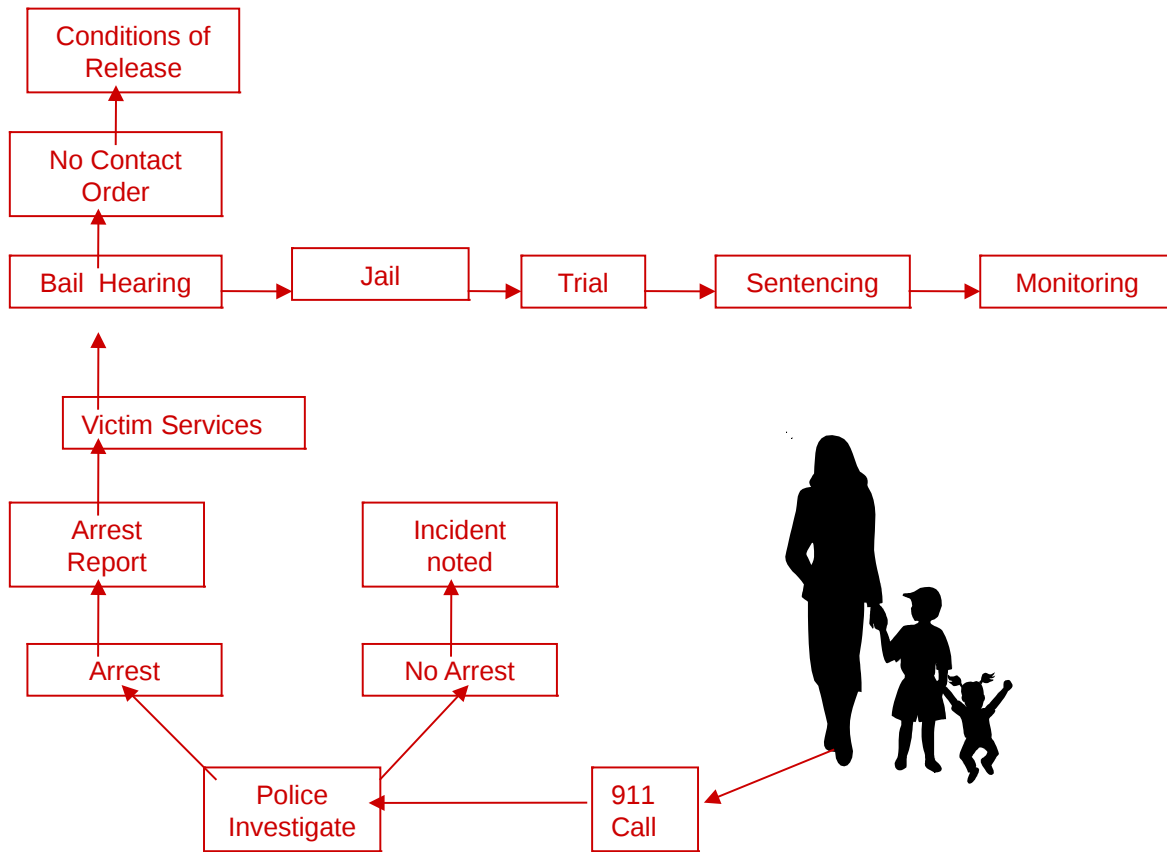
Coordination Challenges

Dr. Linda C Neilson

Let's Start With An Overview of the System

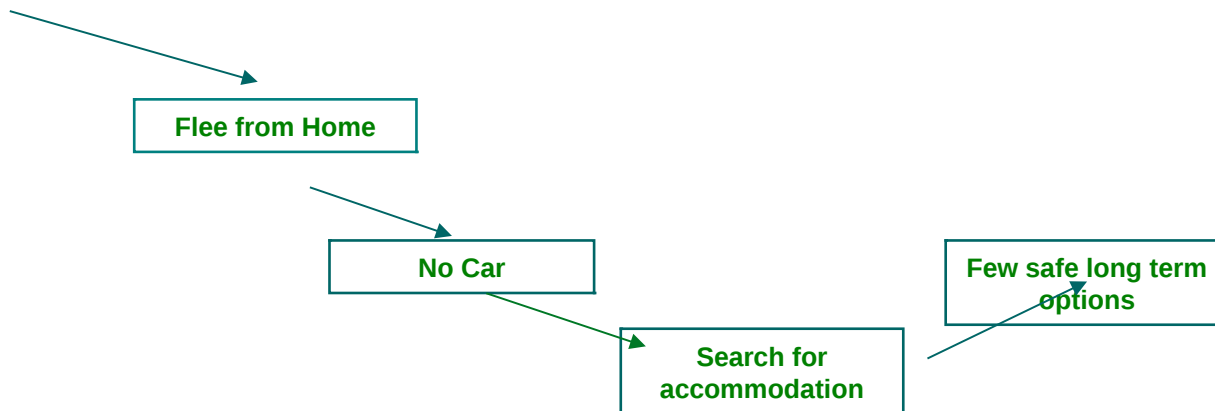
We All Work In

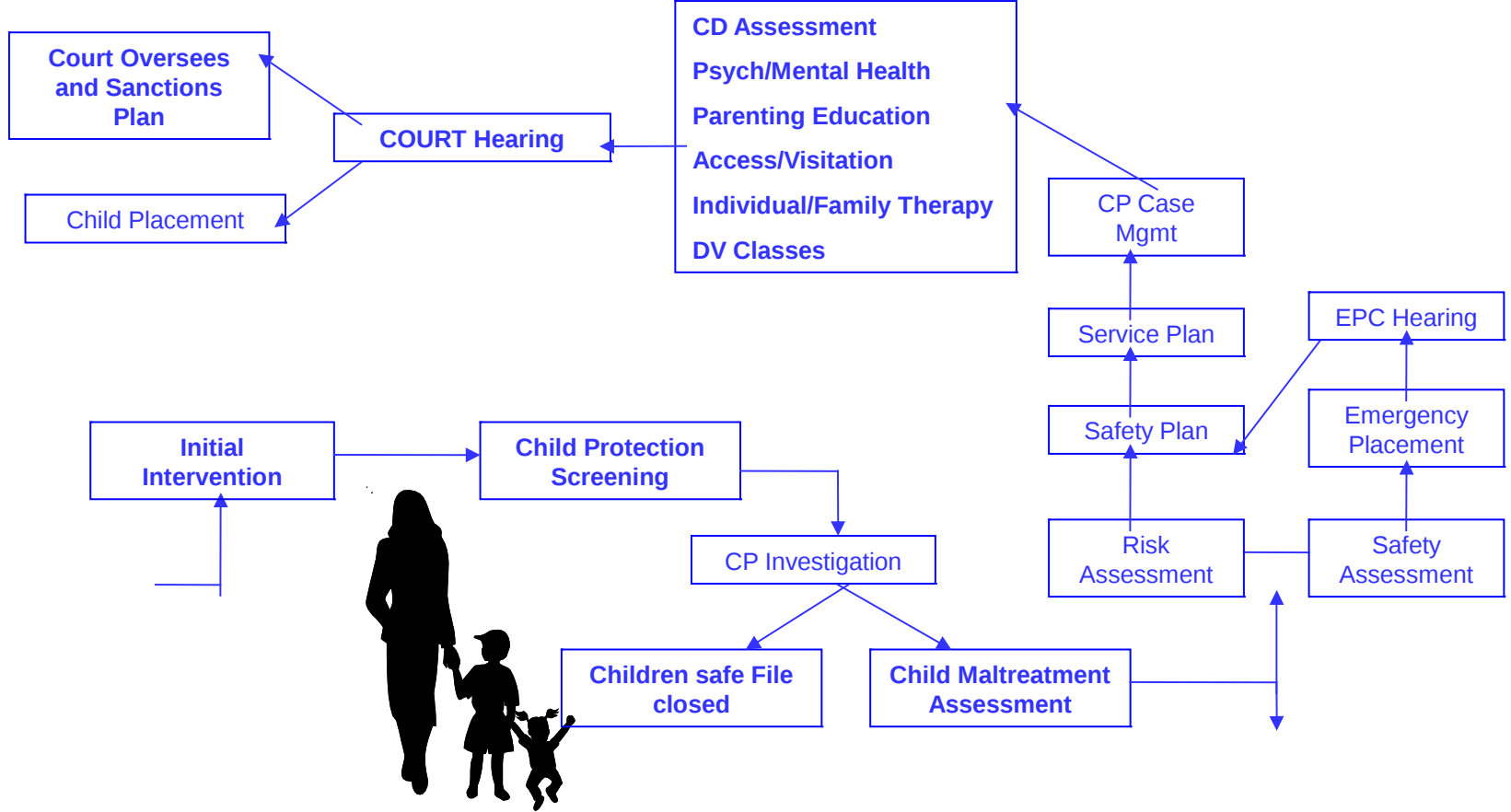
The next six slides are a reconstructed Canadian version of conceptual slides originally created by Praxis International (a non profit research institute on violence against women & children in the US)



Police, Arrest, Criminal System

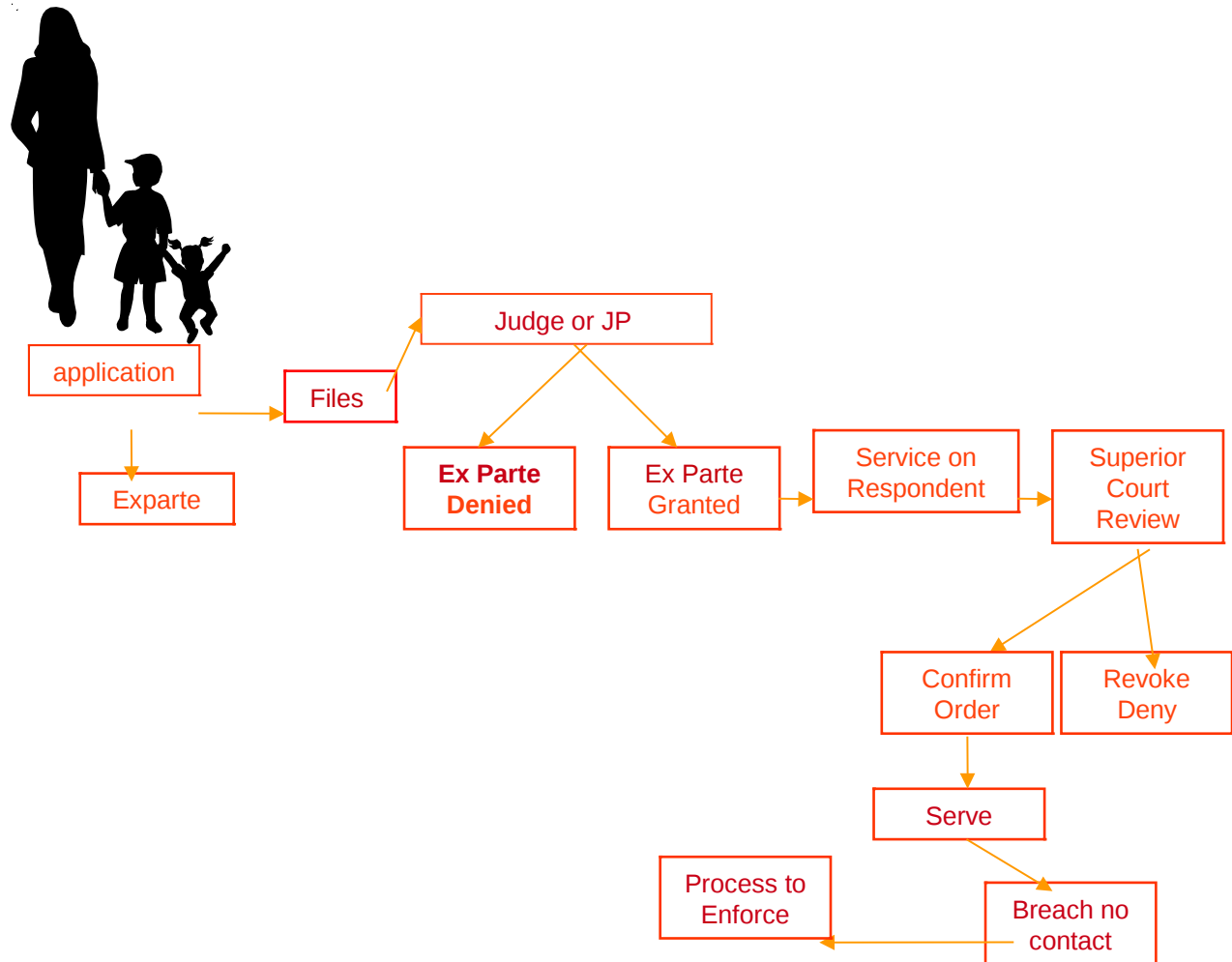
Housing & Transport Map



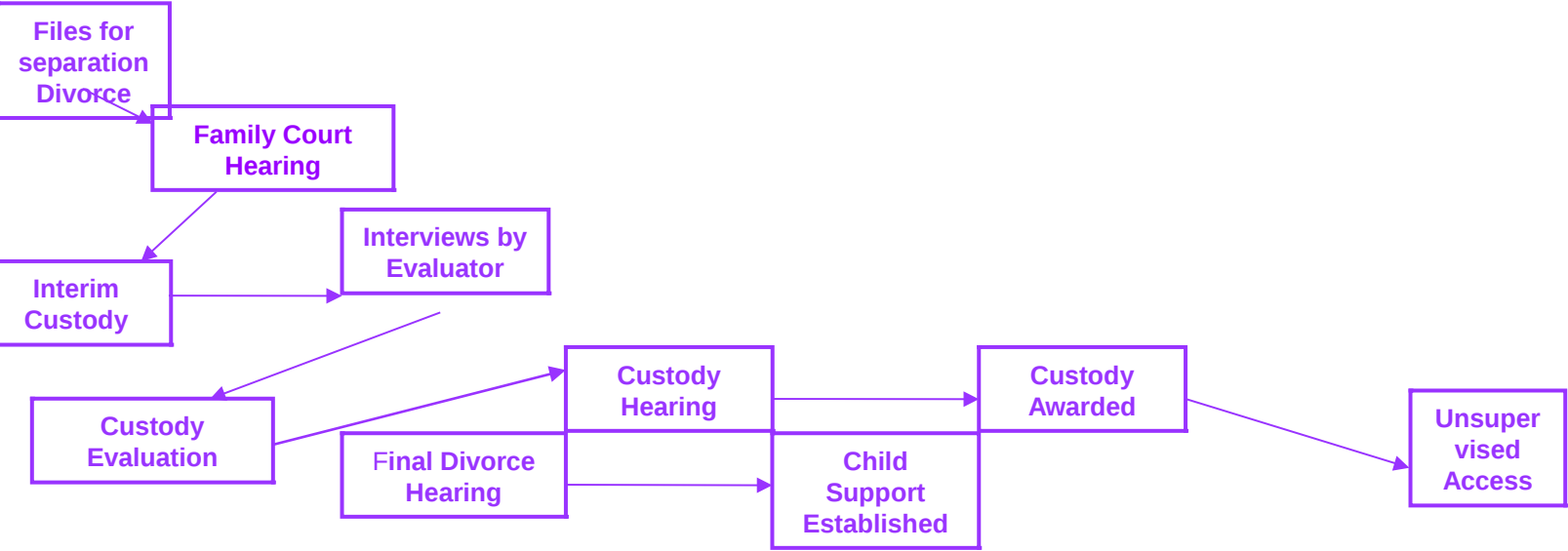


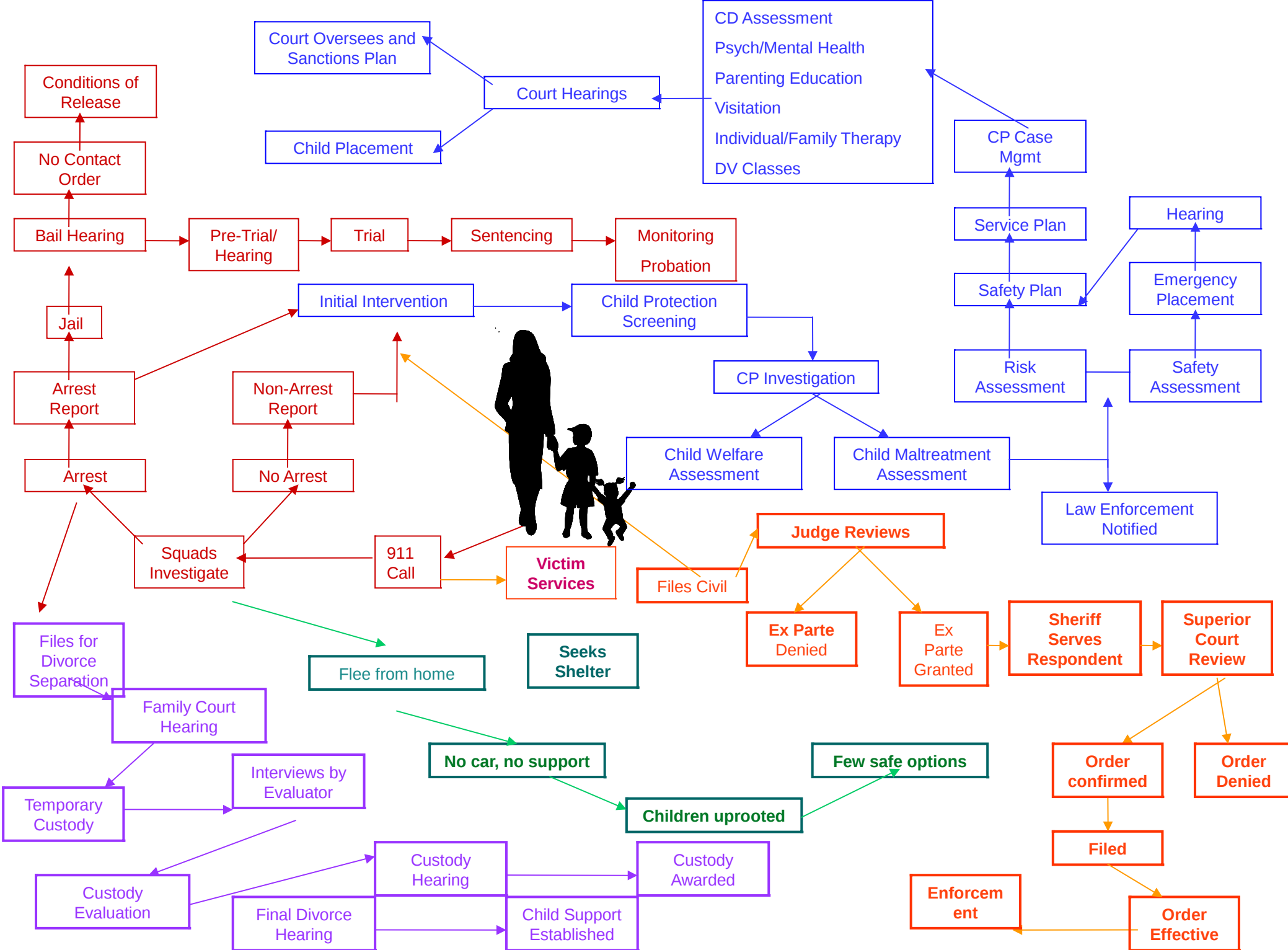
Child Protection Map

Civil IPV Protection



Family Court, Custody & Access

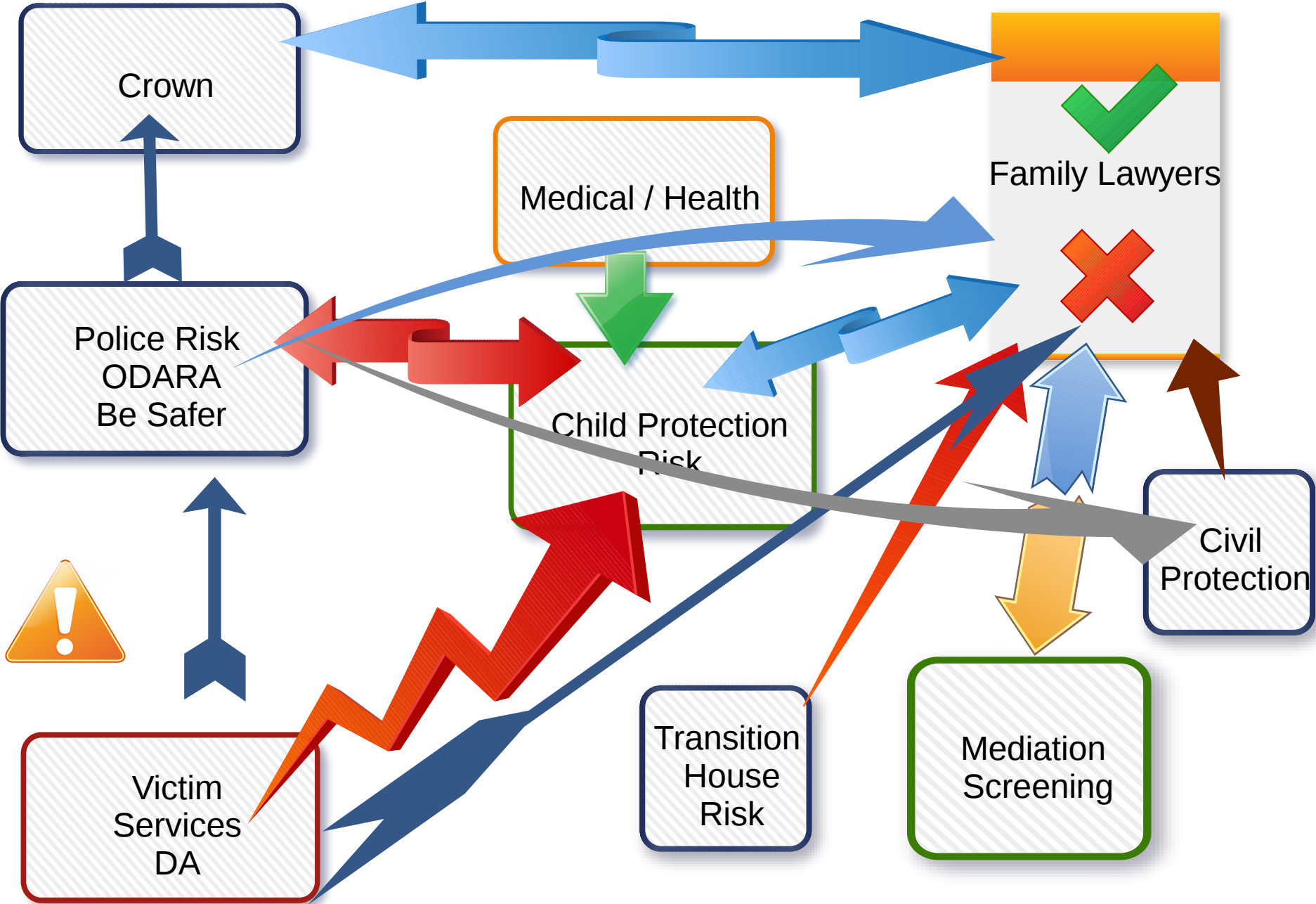




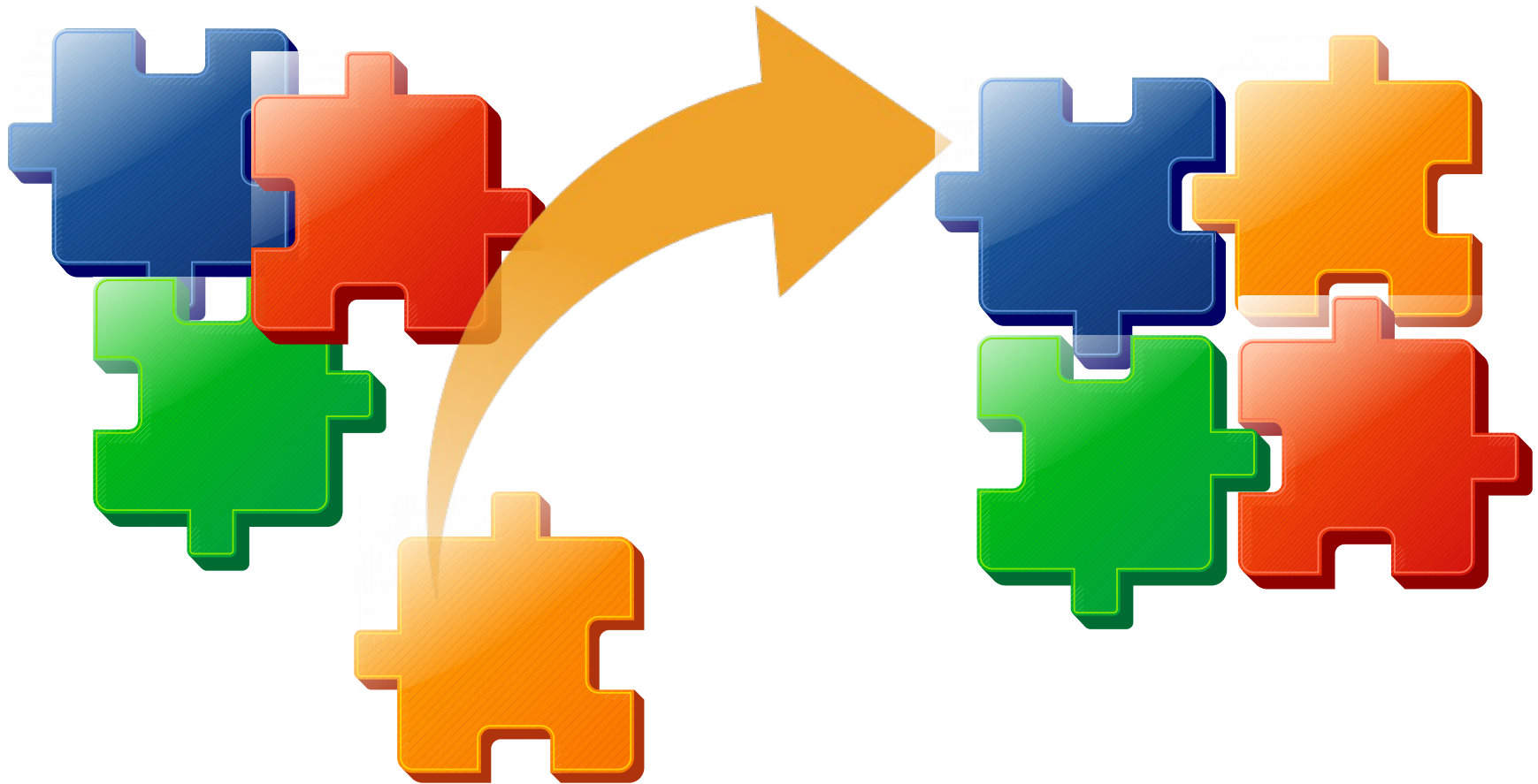
**Does it Look Any Better
From
Inside?**



Nope



*Yet We Know The Whole System Fails
When Any Link is Out of Line*



Conditions of Information Flow in the Maze Map

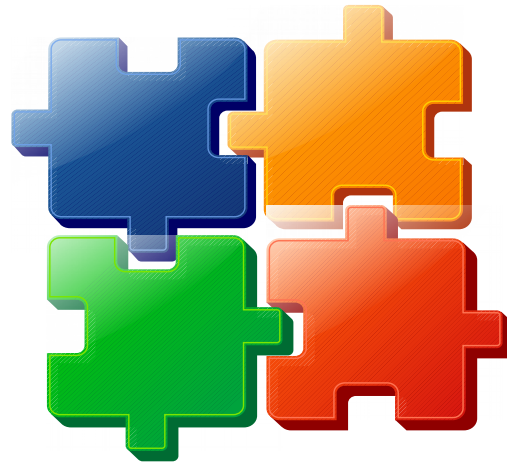
Each Legal System Needs:

- ▶ Reliable Information
- ▶ Swift, Seamless flow, coordination
- ▶ Information specific to each system's needs
- ▶ Information not to be used inappropriately

Individualized Justice and:

- ★ Fair, Due Process & Accountability & services - Perpetrators
- ★ Confidentiality, Safety, Autonomy - Victims
- ★ Safety, Resilience, Attachment - Children

Working From the Top Down



*We Know We Need Consistent Court Orders
& We Know Why*

Helpful Solution



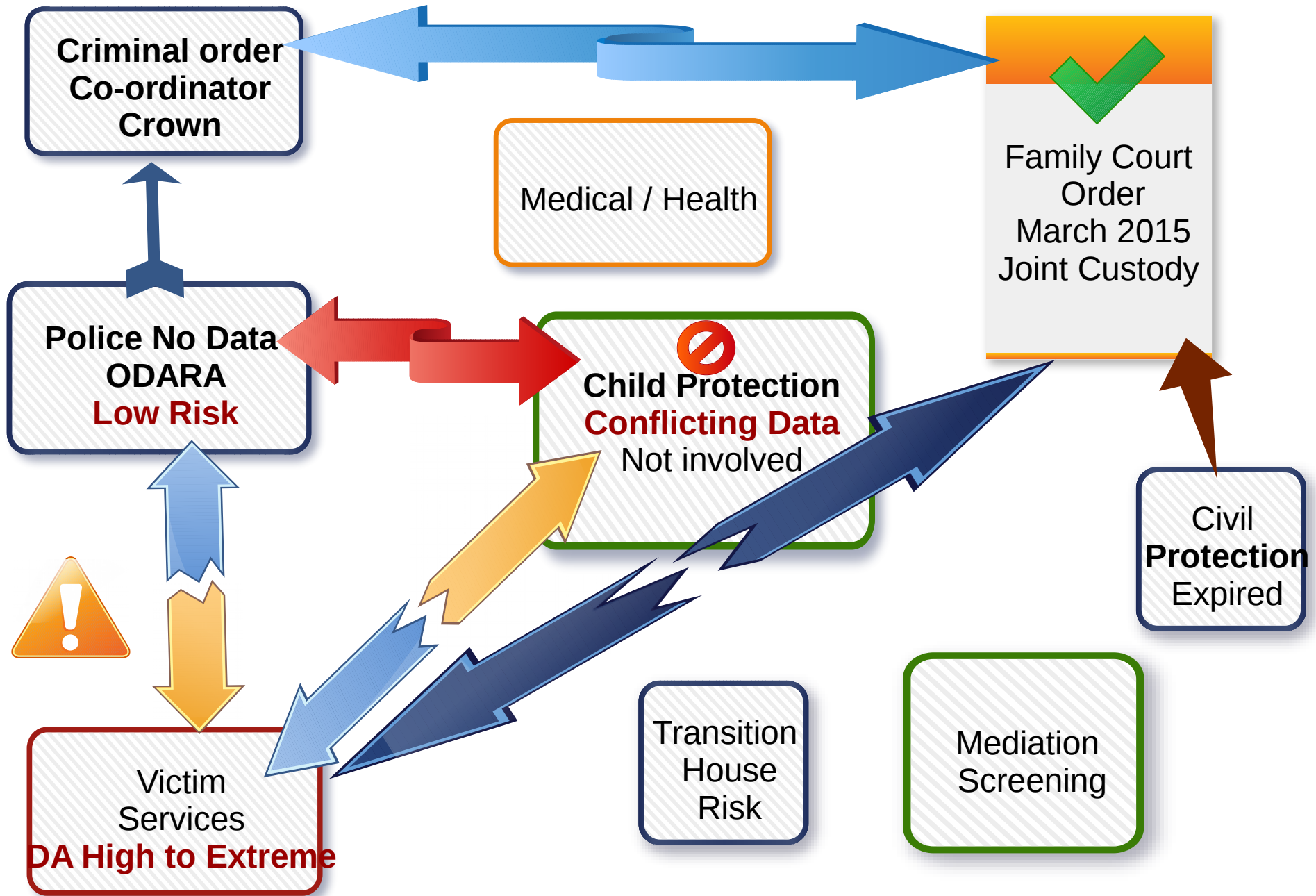
Judicial Communication Across Systems

Building Foundations & Support

For

Courts & Inter-court Communication

Here is Why: Case Illustration



“No contact with the victim except indirectly through X specified third party to arrange access with the children, in accordance with the family court order”

We have Consistent Orders

But What about the Children?



Children: Another reason to Assess Both (Risk & Danger)



- ✓ **Ontario Coroner's Report**
- ✓ **Peter Jaffe's homicide child research**
- ✓ **Child death reviews**
- ✓ **Research in the US**



When Parents are in grave danger, children are in danger too

**Mechanisms to identify, share, respond
to risk & danger across legal systems
while protect confidential victim/child**

*Image from Dr. Jeffrey Eddleson files, permission
granted to Linda Neilson to use for education
purposes*

Information Exchange High Danger Cases

Can exchange now when imminent risk of bodily harm/death:

- *Smith v Jones*, [1999] 1 S.C.R. 455
- *CBA Code of Professional Conduct; Model Code of Professional Conduct*
- 'Privacy and Freedom of Information Statutes' safety and services exceptions

Improve safety (government & service providers) by amending 'Privacy and Freedom on Information Statutes':

- Express provisions dealing with IPV and gender violence to enhance safety (BC)
- Information exchange across coordinated, designated services

Addressing Challenges

Speed. No time to consult:

What is imminent? What is danger? What is risk?

IPV complexity – how to ensure all parts in each system know risk, danger, & connection to children?

- ✓ Implement risk assessment & danger assessment tools – improved prof. Judgment alone – improve consistency
- ✗ Each tool has major limitations (physical, FN, gender, unusual circum.)
 - 📘 - thorough collection of facts & evidence
 - educate, risk & danger indicators, not just tools
- ✗ Risk assessments rely on police data - miss potential homicide, suicide cases ✓ danger assessments as well
- ☑ Better than now (absent everyone a DV/IPV/child development specialist).

Constructing Information Flow In Support of Court Decisions

Complex considerations:

- **Protect Confidential info that can increase risk**
 - Implications of Freedom of Information Acts
 - Disclosure from victims: consider separate VS collection from police
- **Enhance victim choice / empowerment / consent**
- **Separate protocols for high/risk danger cases – eg. no consent & children are involved**
- **Disclose only that necessary (Privacy – perpetrator, victim, child)**
- **Avoid high potential for misuse of information gathered for one purpose in one legal system in other legal systems**
- **Anticipate and respond to disclosure requirements across systems – eg will the abuser be able to use broad disclosure requirements in the fam/cp system to gain access to information shielded in the criminal system – and vice versa.**
- **FRAUGHT WITH DANGER & COMPLEXITY**

Details, Details, Details

- ▶ When, when not
- ▶ What
- ▶ Who to whom
- ▶ How



Community by Community, Jurisdiction by Jurisdiction



DV experts important; front line **essential**

Going to Take Us All Working Together to Fix This

