Unintended Consequences in Public Policy: Formulation and Implementation of Michigan's Safe Delivery of Newborns Law

Anne Julie Hacker
Western Michigan University

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UNINTENDED CONSEQUENCES IN PUBLIC POLICY: FORMULATION AND IMPLEMENTATION OF MICHIGAN’S SAFE DELIVERY OF NEWBORNS LAW

Anne Julie Hacker, Ph.D.
Western Michigan University, 2006

It is generally believed that social policy is the result of careful research and planning on the part of officials. Yet there often exists a gap between the formulation and implementation of many social policies. This gap brings with it conflict, which in turn may result in unintended consequences. These consequences may be so antithetical to the formulators’ original intent as to make the policy implementation paradoxical.

This qualitative research study examines the ambiguities, challenges, or boundaries that policy formulators placed on practitioners responsible for implementing Michigan’s Safe Delivery of Newborns Act and that ultimately created unintended consequences indicative of a public policy paradox. By utilizing elite interviews and content analysis of documents, the themes of moral development, social construction, decision making, and public policy issues are compared.

This research concludes that when public policies are formulated as the result of an emotional response to an issue, when there are epistemological differences between formulators and implementers, or when formulators fail to consider the
voices of those directly impacted by their decisions, there is a likelihood that a
paradoxical policy will arise.
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Anne Julie Hacker
TABLE OF CONTENTS

ACKNOWLEDGMENTS ........................................................................................... ii
LIST OF TABLES ....................................................................................................... ix
LIST OF FIGURES ...................................................................................................... x

CHAPTER

I. INTRODUCTION ........................................................................................... 1
   Statement of the Problem ......................................................................... 1
   Significance of the Research ................................................................... 3
   Research Questions ................................................................................... 4
   Public Policy .............................................................................................. 7
   The Michigan Policy-making Process ................................................... 7
   Formulation and Implementation ............................................................ 12
   Decision Making ....................................................................................... 13
   Paradox ....................................................................................................... 14
   Gap, Paradox, and Implementation Challenges ..................................... 17
   Outline of the Study .................................................................................. 20

II. BACKGROUND ............................................................................................. 22
   Significance of the Research ................................................................... 23
   Case 1: The Paradox of United Nations Sanctions, the
   Oil-for-Food Program, and Child Welfare in Iraq .......................... 26
Table of Contents—Continued

CHAPTER

Case 2: The Paradox of DOC Calculation and Foster Care Reimbursements .......................................................... 29

Case 3: The Judicial Process and Complex Trauma to Children ............................................................... 38

The Origins of the Formulation-Implementation Gap ................................................................. 41

III. THE HISTORY OF CHILD ABANDONMENT ..................................................... 47

Psychogenic States of the Parent-Child Relationship ..................................................... 50

Infanticide Phase—Antiquity to 4th Century AD ......................................................... 52

Abandonment Phase—4th Century to 13th Century AD .............................................. 54

Ambivalent Phase—14th Century to 17th Century AD .............................................. 56

Intrusive Phase—18th Century AD ................................................................. 59

Socialization Phase—19th and 20th Centuries AD .................................................... 61

All God’s Creatures ............................................................................ 63

Helping Phase—Early to Mid 20th Century AD ................................................... 66

Today—Forward or Backward? .......................................................... 67

IV. LITERATURE REVIEW ............................................................................... 72

Moral Development ................................................................................. 73

Level A—Preconventional Level ............................................................... 75

Level B—Conventional Level ................................................................. 76

Level B/C—Transitional (Non-principled Postconventional) ................................ 78

Level C—Postconventional and Principled .............................................. 78

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<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Construction of Reality, Knowledge, and Groups</td>
<td>82</td>
</tr>
<tr>
<td>Positivist Epistemology</td>
<td>83</td>
</tr>
<tr>
<td>Postpositivist Epistemology</td>
<td>85</td>
</tr>
<tr>
<td>Social Construction of Reality and Knowledge</td>
<td>86</td>
</tr>
<tr>
<td>Social Construction of Groups</td>
<td>88</td>
</tr>
<tr>
<td>Decision Making</td>
<td>94</td>
</tr>
<tr>
<td>The Rational Model</td>
<td>98</td>
</tr>
<tr>
<td>Bounded Rationality</td>
<td>99</td>
</tr>
<tr>
<td>Erotetic Rationality</td>
<td>100</td>
</tr>
<tr>
<td>Group-Think</td>
<td>102</td>
</tr>
<tr>
<td>Paradox</td>
<td>105</td>
</tr>
<tr>
<td>Summary</td>
<td>110</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>V. RESEARCH METHODOLOGY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose of the Study</td>
<td>114</td>
</tr>
<tr>
<td>Central Research Question</td>
<td>116</td>
</tr>
<tr>
<td>Methodological Design</td>
<td>116</td>
</tr>
<tr>
<td>Human Subjects Institutional Review Board (HSIRB)</td>
<td>118</td>
</tr>
<tr>
<td>Conceptual Definitions</td>
<td>119</td>
</tr>
<tr>
<td>Content Analysis</td>
<td>120</td>
</tr>
<tr>
<td>Document Data Sources</td>
<td>120</td>
</tr>
</tbody>
</table>
Table of Contents—Continued

CHAPTER

Summary .................................................................................................................... 173

VII. SUMMARY AND CONCLUSIONS .................................................................... 175

Summary .................................................................................................................... 175

Conclusions ............................................................................................................. 181

Recommendations ................................................................................................... 187

Suggestions for Future Research ........................................................................... 192

Summing Up ............................................................................................................ 194

REFERENCES ........................................................................................................... 198

APPENDICES

A. Protocol Clearance From the Human Subjects Institutional Review Board ............................................................................. 206

B. Safe Delivery Brochure ......................................................................................... 209

C. Difficulty of Care for Children in Foster Care .................................................... 211

D. Determination of Care for Children in Foster Care ........................................... 214

E. Themes, Concepts, and Conceptual Definitions ................................................... 219

F. Interview Protocol ................................................................................................ 224
LIST OF TABLES

1. Foster Care Daily Rates Effective October 1, 2003 ..................................... 29
2. DOC (Determination of Care) Supplements (October 1, 2001) .................. 31
3. Kennel Rates in Southwest Michigan ............................................................ 32
4. Psychogenic Phases of Child Rearing and Abandonment ......................... 51
5. Levels and Stages of Kohlberg’s Theory of Moral Development ............... 75
6. Typology of Social Construction and Political Power in Target Populations ........................................................................................... 90
7. List of Ethnograph Concepts and Their Occurrence in the Eight Data Sets in Descending Order of Frequency, January 26, 2000 to June 26, 2001 ............................................................... 130
8. Moral Development Theme Frequency of Occurrence Across Phase Data Sets ............................................................... 134
9. Decision Making Theme Frequency of Occurrence Across Phase Data Sets ........................................................................................... 139
10. Social Construction Theme Frequency of Occurrence Across Phase Data Sets ......................................................................................... 156
11. Public Policy Issue Theme Frequency of Occurrence Across Phase Data Sets ........................................................................................... 161

ix
LIST OF FIGURES

2. Conceptual Framework for Research Methodology ..................................... 115
3. Methodological Design .................................................................................... 117
4. Frequency of Themes Within Policy Process Phases .................................. 131
5. Occurrences of Moral Development Theme Across Data Sets ..................... 134
6. Occurrences of Decision Making Theme Across Data Sets ........................... 140
7. Occurrences of Social Construction Theme Across Data Sets ..................... 156
8. Occurrences of Public Policy Issue Theme Across Data Sets ..................... 160
9. Checklist for Minimizing FIG in Policy Making .......................................... 193
CHAPTER I

INTRODUCTION

Officer Frank Holmes cradled a small cardboard box between his chest and the steering wheel of his police cruiser. Snug inside the brown container, wrapped in two bath towels, was a naked infant, a piece of umbilical cord still attached. The red faced, teary-eyed boy was left by his mother that morning in an empty car wash bay, the police said. Holmes flipped the heat on high and the baby stopped crying as he warmed up. (MacDonald, 2000)

Statement of the Problem

Public policy is generated in response at times by emotion, at times by rationality, at times by discontent, and at times, by a combination of the three. Be it an emotional response, rational discourse, or discontent with an issue or a social problem, public policy is the product of decisions made in response to some issue that is perceived as needing the attention of decision-makers on behalf of the public. Such is the case with Michigan's Safe Delivery of Newborns Act (2000). Political and public outrage over the plight of Baby Blue and other infants in similar situations prompted a response from policy professionals to provide a safer option for parents who did not wish to raise their newborn children.

There is a tremendous responsibility placed on the actions and words of officials who have been elected to represent the public. In an ideal world, social policy is the fruit of careful research and planning. Adam Pertman, award-winning journalist and CEO of the Evan B. Donaldson Institute for Adoption, commented, "Too often it
is the case that what may seem to be an intuitively appealing solution to a problem results in an unintended consequence, or paradox, once implemented” (Pertman, 2003). The case of Baby Blue elicits an emotional response from all but the hardest of hearts. Baby Blue and other infants like him, some not so lucky as to have been found alive, became the symbol and driving force behind Michigan’s Safe Delivery of Newborns Act.

Too often there exists a disconnection or gap between the formulation of a bill and its implementation. This gap often represents contradictory interpretations, or possibly epistemologies, of factors contributing to the interest issue. If formulators and implementers are not in agreement on the fundamental contributing factors, a strong possibility exists that that the resulting legislation will produce unintended consequences or outcomes. The paradox for the public servant often lies in the person’s ability to carry out the spirit of the law, while producing outcomes that satisfy the public interest and preserve the public trust.

If considerations have not been given during the formulation phase to the social reality that a given legislative output will be impacting, the results may be fraught with difficulties. In the case of public policy addressing infant abandonment, Pertman considered the problems arising from unintended consequences of the safe haven laws (as they are collectively known) as paradoxical, a “Pandora’s box” of subsequent problems involving fathers’ rights and adoptees’ rights (Pertman, 2003).

Yet a paradox is but one type of unanticipated consequence and can have both positive and negative attributes and ramifications. Regardless, it seems that the
greater the gap between formulation and implementation realities, the more likely there will be unintended and possibly costly consequences. In essence, there evolves a discrepancy between the “what ought to be” and the “what is” (Morçöl, 2002). The problem definition in the formulation phase of policy evolution often fails to recognize the difference between “what is” and “what ought to be.” The challenge of policy analysis becomes finding out how to close the gap (Morçöl, 2002).

Significance of the Research

The gap between formulation (“what ought to be”) and implementation (“what is”) seems to be especially prevalent in policy areas that directly or indirectly affect children, thus often producing a paradox for not only the child welfare professional but for society as well.

As a practitioner with 30 years of experience in the development, implementation, and provision of services to children and their families, I am aware that child welfare policy is not an isolated arena facing this incongruity. Discussion among professional public administrators often centers on frustrations involving the disconnection or gap between the political elites and the public administrators, those elites depended upon when carrying out policies. For example, Homeland Security and post-9/11 terror risk alert levels were viewed by some as the source of jokes, and by others as being impossibly vague to implement.

This research will examine the formulation and implementation process involving one Michigan law. Special attention will be given to the factors contributing
to the gap between formulation and implementation of that single piece of legislation. Although seemingly isolated in focus, it is anticipated that the findings will be applicable to other public policy processes.

Research Questions

This dissertation examines the gap between the formulation and implementation of the legislation known as Michigan's Safe Delivery of Newborns Act (SDNA). The central question addressed by this research is: “What ambiguities, challenges, and boundaries did policy formulators place on practitioners responsible for implementing SDNA, thereby creating a public policy paradox?”

This research will explore the following critical questions in order to provide an answer to the central research question:

1. What consideration was given in the formulation process to those factors directly impacting the implementation of the law? This question will provide direct input related to the consideration formulation decision makers gave to implementation factors. Individual as well as group decision-making factors will be given voice through individual interviews and document examination.

2. What were the challenges as perceived by those responsible for implementing SDNA? A corollary to this question is whether those challenges perceived by public administrators were given consideration in the formulation stage by decision makers.
3. What are the gaps that may have occurred between the formulation and implementation of SDNA and what must practitioners do to overcome the gap? Respondents were asked to consider in retrospect what might have been done to lessen the gap between formulation and implementation of SDNA.

This research makes some fundamental assumptions. First, there is some degree of paradox existing in the policy formulation-implementation process. Child welfare policy is fraught with unintended consequences that directly and indirectly impact the welfare of children. Some of these are beneficial, as in the case of seatbelt laws. Some are not, as in the case of oil-for-food restrictions in Iraq.

Second, the policy paradox is directly related to the nature and extent of the disconnection, or gap, between the formulation and implementation stages of the public policy process. Decision makers often arrive at a group epistemology. Decision makers involved in the policy formulation stage have an understanding of the reality of an issue that may differ from the understanding of that same issue held by the policy implementation decision makers. If decision makers responsible for formulating and implementing policy interpret the underlying policy issue differently, these differing reality constructs will lead to a paradoxical policy.

Third, decision makers, while acting under certain group dynamics, have individual and fundamental moral platforms from which they consider the world around them. As such, group decision-making is the sum of individual decisions, behaviors, and beliefs as impacted by group pressures. Yet, as pointed out by Janis
(1983, 1989), the group decision-making process has inherent factors that either nullify or silence individual dissenting opinions.

Decision makers in the policy formulation stage often share a common understanding or epistemology related to the issue being considered. Likewise, decision makers in the policy implementation stage share a common epistemology. Epistemological differences between decision makers in these two groups often underlie differences in how they define or perceive the reality of the issues being considered. This may contribute to the gap in how policy is made in the formulation stage and operationalized in the policy implementation stage. It is the actions and convictions of the decision makers that result in the gap and the subsequent potential difficulties in the policy process. How formulators and implementers define the reality of the issues under consideration contributes to their individual and collective decisions related to that issue. In addition, these definitions of reality contribute to the gap between how policies are made and operationalized.

This dissertation will explore the relationship between the legislative and administrative functions of government and will hopefully develop a model or recommendations that will allow both formulators and implementers to minimize the formulation and implementation gap and, thus, reduce its paradoxical consequences. It is anticipated that the model will be generalizable to a variety of policy applications.
Public Policy

In *American Public Policy*, B. Guy Peters (1999) defined public policy as, "the sum of government activities, whether pursued directly or through agents, as those activities have an influence on the lives of the citizens."

Public policy involves decisions made by individuals who have the authority to use power to affect the lives of citizens. These decisions are commonly referred to as *public choices* and emerge as a result of three factors. First, they are made by someone in authority to do so. Second, the decisions must affect the citizenry. Finally, the decision made is operationalized. These operationalized decisions are referred to as *policy outputs* and are generically known as "programs." The effect of policy choices and policy outputs on the citizenry is known as *policy impact* (Peters, 1999).

The Michigan Policy-making Process

State legislative bodies handle many constituency issues. At each step, decisions are made that affect the continued existence of the bill. Figure 1 presents a graphic representation of the Michigan legislative process. The policy-making process often begins with an individual or group bringing an issue to the attention of a policy maker or legislator. From that point, if it outcompetes other proposals seeking attention on the legislators' agenda, the issue is drafted into a document, or bill, for consideration on the legislative agenda. Factors that cause an individual legislator to adopt an issue for development are as varied as are the individual legislators. They range from the political to the emotional.
Legislator takes interest due to Interest group/ Citizen participation/ Political elites/ Caucus

INTRODUCES BILL TO
House  Both  Senate

1st & 2nd Reading

TO COMMITTEE for Discussion and Debate

Report out of Committee 3rd Reading

Bill goes to the other house if needed Changes, if any, are ironed out

Governor signs

Bill enters the law books

Source: Michigan Legislative Services Bureau, 2004, as modified and simplified by the author

Figure 1. Michigan Legislative Process: How a Bill Becomes a Law.
Bills are introduced or filed with either the Secretary of the Senate or the Clerk of the House. The bill is assigned a number and either the bill or its title is read three times, twice in the Senate and once in the House. The bill is then printed and in the possession of each house for at least 5 days.

The bill is then presented to the appropriate committee for consideration on its agenda. If there are fiscal implications, the bill is submitted to the Appropriations Committee or the appropriate committee and then to the Appropriations Committee (Michigan Legislative Services Bureau, 2004). Many bills never make it to the committee because they are not placed on the agenda by the committee chair, or they are strategically placed so as to get “air time” but not formal, serious consideration (McCue & Gopoian, 2002; Peters, 1999). The process of agenda setting is one way the flow of bills is controlled and screened (Lewis, 2001; Swers, 2001).

Once a bill is accepted on the committee agenda, it is researched and debated by committees in both the Michigan House and Senate. The research may include public hearings, soliciting experts, or some other form of obtaining information. This may be done separately or concurrently. The committee acts on the bill in a variety of ways. The committee may:

• Report the bill with favorable or adverse recommendations.
• Amend the bill and report it with favorable recommendations.
• Report the bill with the recommendation that a substitute be adopted or that it be referred to another committee.
• Report the bill with amendments but no recommendation.
• Take no action, or refuse to report the bill out of committee.
If the bill is reported out of committee, it and the committee report are printed in the journal under the order of business entitled “Reports of Standing Committees” as a second reading in the House, and under “General Orders” in the Senate. The Senate resolves itself into a committee of the whole, and the House assumes the order of Second Reading. Committee recommendations are considered and amendments may be offered and adopted. The bill is then referred for Third Reading.

The Third Reading in the Senate requires that the entire bill be read. In the House the bill receives a Third Reading in its entirety unless four fifths of the members consent to consider the bill as being read. The bill continues to be subject to debate and amendments. At the conclusion of the Third Reading, the bill is passed or defeated by a roll call vote of a majority of the members elected and serving.

Final action may be delayed by referring the bill back to committee for additional consideration, postponing the bill indefinitely, making the bill a special order of business on the Third Reading for a specific date, or tabling the bill. A legislator may request the bill be reconsidered, but there are specific time constraints on when this may be done in both the House and Senate.

If a bill passes, it goes to the other house for the same procedure. If it is passed in the same form by both the Senate and House, it is enrolled in the House where it originated. It is then sent to the Governor for his or her signature.

If a bill is passed in a different form by the second house, the bill returns to its house of origin. Changes may be accepted, the bill enrolled and then sent to the
Governor. If changes are not accepted, the bill goes to a conference committee, which tries to resolve the differences.

The Governor has 14 days to consider a bill once it is received. The bill may be signed and becomes law 90 days sine die (at the end of the year) or at a later date specified in the bill. If the bill was given immediate effect by two thirds vote of the members, it becomes law immediately upon the Governor’s signature.

The Governor may also veto the bill. If the legislature is still in session or recess, additional actions can be taken. These may include a legislative override by two thirds vote of the members elected and serving in both houses or the bill may be tabled pending an attempt to override the veto. The bill may be referred to a committee. If it does not receive the needed two thirds votes to override the veto at this point, the bill fails.

The Governor may neither sign nor veto the bill. In this case, the bill becomes law with 14 days after reaching the Governor’s desk unless the legislature adjourns sine die. In that case the bill dies and does not become a law.

Once a bill makes it through the process to become a law, it is sent to the Executive branch for implementation. This implementation may include representation from the judicial branch of government. While this is a highly simplified explanation of the process, it provides a map for the initial phase of this research.
Formulation and Implementation

In order to bring into focus the factors that contribute to the gaps in public policy, this study will examine two phases in the policy process, those of formulation and implementation. This discussion will provide the foundation for a theoretical model by which to examine other legislative policy choices and their paradoxical relationship to public service.

According to Charles O. Jones (1984) in *An Introduction to the Study of Public Policy*, “The causes of policy failures are, at root, political” (p. 1). The formulation of public policy encompasses initiation, research, projection, and developing a plan to alleviate some public need or problem. I will use Jones' definitions of formulation and implementation for this research.

For purposes of this study, events leading up to the passage of SDNA will be referred to as the *formulation* phase. Jones (1984) defines formulation as “to develop a plan, a method, a prescription, in this case for alleviating some need, for acting on a problem” (p. 77). Formulation is political activity that includes but is not limited to partisanship. These would include factors contributing to the etiology of the bill, policy choices, and programmatic decisions.

Events following the passage of SDNA involving those individuals responsible for operationalizing the law will be referred to as the *implementation* phase. Jones (1984) notes that implementation is “getting the job of formulation done” (p. 165).
Implementation interacts with prior policy activities, in this case, formulation. Thus, the implementation phase referred to in this study would include areas such as court rule formulation, agency standard operating protocol, and legislative oversight.

Decision Making

Regardless of how the decisions are made, once a law is codified, the public administrator must develop an implementation strategy to activate the legislatively recommended solution to the publicly perceived problem. It is assumed that any flaws in legislative formulation will be addressed during the implementation of the policy. While public policies are often made in response to constituency demands for change or action, the resulting recommendations of policy makers may also impose more restrictions on the public (Harmon, 1995; Schwartz & Fishman, 1999).

Flawed reasoning may provide a partial explanation for the formulation-implementation gap. Social concerns acted upon by legislative bodies often fall victim to good intentions and flawed reasoning. The intent is to correct a perceived public problem; yet if it fails to account for the many contributing dimensions, the reasoning behind the law is flawed. This gives rise to paradoxical outcomes. While Herbert Simon would say that such decisions are made using bounded rationality, or drawing on the knowledge of many, Charles Lindblom would argue that such paradoxical outcomes are an example of erotetic rationality, and are bounded by that which is unknown by the group, or its “bounded ignorance” (Dunn, 1997; Lindblom, 1997).
These concepts of bounded and erotetic rationality will be discussed in greater detail in Chapter VI.

Paradox

The concept of paradox is not new to the human condition. To the ancient Greeks, a paradox was something that was contrary to opinion or to common sense (Reese, 1980). *Para*, meaning “contrary to,” and *doxa*, meaning “opinion,” a paradox is a problem of logic that begs for a neat solution, but the solution is elusive, or at least not so neat (Harmon, 1995). If a paradox can be resolved easily without any change in what is already known, it is likely that the resolution has come about from wrong reasoning or flawed assumptions (Mayants, 1994, p. 3).

A simple example of the difficulties found in flawed assumptions or reasoning is found in the version of the Liar Paradox first proposed by English mathematician P. E. B. Jourdain in 1913. Sometimes referred to as “Jourdain’s Card Paradox,” it presents a card. On one side of the card is written, “The sentence on the other side of this card is true.” On the other side of the card is found, “The sentence on the other side of this card is false.” This example not only demonstrates that something cannot be two different things at once, but also the self-referential circularity and contradiction in logic that are hallmarks of paradox (Casti, 1994).

Although political life is full of examples of paradoxes, definitions of paradox in the public administration or political science literature are scant. This research will use the definition found in the work of Lazar Mayants in *Beyond the Quantum*.
Paradox. He defines paradox as a “situation exhibiting contradictory, incompatible aspects, or a statement that is essentially contradictory, although based on a seemingly valid deduction from acceptable assumptions” (Mayants, 1994, p. 3).

In Policy Paradox and Political Reason, Deborah Stone (1988) presents the issue of school integration or segregation as an example of a paradoxical policy problem:

In 1981, 51 percent of whites thought black children would do better in integrated schools than in segregated ones. Seventy-two percent believed white children would not be harmed by integrated schools, yet 79 percent thought busing would be “too hard on their children.” Do whites want school segregation? (p. 3)

Public policy is the result of decisions made in an attempt to resolve or ameliorate an issue of interest. This interest may be the result of public pressure or interest groups, or may be an isolated emotional response to an event or occurrence in the public domain. Legislative decisions may satisfice, resolve, or simply provide the decision maker with leverage by which to gain votes for another issue. Public administrators are often faced with gaps between the vision that motivated the formulation of public policy and the reality of implementing the precipitant laws. At times, the gap is the result of resistance on the part of implementers to requests codified by formulators. Either way, these gaps may produce unintended consequences, which can be paradoxical in nature. The unintended consequences of formulation and implementation of public policy form the basis for this research.

The relationship between formulation and implementation of public policy is often paradoxical in that the “neat solution” sought by legislators for an issue is often
fraught with frustrations, barriers, and obstacles for the public administrator. Whether the issue is federal financing of student loans or the rehabilitation of prison populations, the intention of the legislation is often markedly different from the ultimate implementation of that legislation (Hargrove & Glidewell, 1990).

This gap between the formulation of a law and its implementation precipitates an unintended outcome, or paradox, for the public servant. In essence, there is a discrepancy between the "what ought to be" of formulation and the "what is" of implementation. The problem definition in the formulation phase of policy evolution often fails to recognize the difference between "what is" and "what ought to be." The challenge of policy analysis becomes one of finding out how to close the gap, thereby minimizing the paradox (Morçöl, 2002).

The public administrator's task is to manage that part of the public's business or resources as overseen by the legislative, executive, and judicial branches of government. The gap or disconnection between legislative formulation and administrative implementation may in fact be an accepted condition of the democratic process in the United States (Hargrove & Glidewell, 1990). Still, the unintentional consequences resulting from policy decisions that are difficult to enact in the real world provides one explanation for the current crisis in responsible government and administration (Harmon, 1995). Greater accountability of public servants, whether elected or appointed, often fails to achieve what the public wants. This is not for lack of trying, but arguably due to inherent gaps in the process that brought the policy to
life. It is the formulation-implementation process and the inherent gap that forms the focal point for this research.

What are the challenges inherent in public service, whether embodied through an elected official or an administrative bureaucrat that contribute to the gap, thereby creating the paradox of public service referred to in Harmon’s work? Do differences in the definition of reality exist between the formulation and implementation of public policy that inherently contribute to the gap? Such epistemological differences could indeed contribute to a fundamental reason for the paradoxical nature of the policy formulation-implementation process.

There is little theory in the field of policy analysis related to the etiology of this paradox. Existent theories typically relate to the isolated factors or variables contributing to the paradox. Variables such as social construction, social context, and decision-making theories may be factors contributing to this paradox.

Gap, Paradox, and Implementation Challenges

Many issues are clamoring for legislative consideration. Most are screened out at either the committee agenda-setting stage or die on the floor and are never codified as law (Little, Dunn, & Deen, 2001). Those issues that do become law become implementation challenges for public administrators. Michigan’s SDNA has posed one of these challenges to child welfare professionals, the judiciary, and emergency service personnel. This research will examine the process by which SDNA came into being.
and possible factors that have resulted in the gap between formulation and implementation of the law.

Examples of the paradoxical relationship between the formulation and implementation of public policy abound in global, national, and state policies and explain concepts vital to the examination of Michigan's Safe Delivery of Newborns Act. One indication of the paradoxical nature of SDNA is that the intent of the legislation bore unintended negative consequences in the form of placing two already high-risk populations, young women and infants, at further risk by minimizing the importance of prenatal services. It is, however, only of anecdotal interest whether or not the legislation had the desired effect of decreasing the incidence of abandoned infants. In fact, it would be difficult to determine this conclusively since data related to abandonment of infants have not been compiled with any consistency. In Michigan, this was one of the issues facing legislative researchers, who had to comb newspapers statewide in order to cull reports of abandoned infants. Therefore, definitive claims that the legislation has had the desired effect are impossible to verify.

There are many other factors that may or may not have contributed to the desired outcome of preventing newborns from being abandoned in unsafe places. Media attention on the tragedy of abandoned infants and public information provided to high schools may have played a role in SDNA cases that have occurred in Michigan since 2000.

Part of the paradox of SDNA is that it raises the specter of resource allocation. If politics is about the competition for scarce resources, the question
becomes, what resource is under consideration? Is it dumpster babies, frightened teens, infertile couples wishing to adopt a newborn, or some other politically driven factor? All of the above or none?

The case of Baby Blue (MacDonald, 2000) elicits a visceral response in all but the most hardened of hearts. It sparked public interest in the plight of a newborn found alive in an empty car wash bay after having been abandoned there by his mother. Baby Blue was found alive, yet many abandoned infants are not so fortunate. The interest in Baby Blue helped to ignite legislative involvement that resulted in SDNA. However, implementation of SDNA has proven to be challenging as the issues of adoptee rights, the physical and mental health of the birth mother, and the rights of the father are addressed by practitioners. The goal of saving newborns from abandonment by their unprepared mothers has the potential to be far more complex than was originally thought. The unintended consequence of abandoning the mother of the child, often a child herself, is but one paradox of SDNA.

Nationally, safe surrender laws are a response to the rising public outcry over occurrences of infants being abandoned in dumpsters, bathrooms, and other dangerous places. Michigan’s Public Acts 232-235 of 2000, Safe Delivery of Newborns Act (SDNA), were believed to be an answer to the problem of unsafe infant abandonment. They would protect infants while providing anonymity and immunity from prosecution to the mother of the child, often believed to be a troubled teen. Yet, the law has not had the desired effect. In fact, SDNAs nationwide have precipitated a Pandora’s box of additional problems (Pertman, 2003).
By understanding the gap between the formulation and implementation of public policy, legislators and public managers may be better able to create more meaningful and effective public policies in the future. I will use Michigan’s Safe Delivery of Newborns Act to develop a model or provide recommendations that will enhance the ability of public servants to make decisions that lessen the formulation-implementation gap, thereby minimizing the possibility of a policy paradox.

Outline of the Study

Chapter I provides an outline for the more detailed discussion in the following chapters. The terms formulation, implementation, policy process, decision-making, and paradox are briefly defined, as they will be used throughout this research. In addition, the policy process in Michigan is briefly presented so as to provide a frame of reference.

Chapter II provides background for the concepts of policy gap and paradox and examines the problem of gap in more detail. Three case studies are presented that demonstrate the consequences of the gap between policy formulation and implementation and the resulting paradoxical outcomes of those policies.

Chapter III provides a brief history of child abandonment with particular reference to societal considerations of patterns that have evolved over time as posited by Gross and Gross (1977) in their discussion of the psychogenic phases of interaction. It is hoped that this chapter will provide an awareness of the general
issues that continue to face children today, as well as the manner in which society has viewed and continues to view children.

Chapter IV reviews the existing literature related to the dimensions and themes pivotal to this research. Conceptual definitions are provided for the critical dimensions of decision making, moral development, reality, and social construction. In addition, the concept of paradox as used in this research will be presented in greater detail.

Chapter V presents the research methodology used in this qualitative study. The data used for this research are found within SDNA. It is important to bear in mind that this study is examining the process by which this particular law came into existence. This also provides one example of how an emotionally charged issue can bring about legislative action.

Chapter VI presents and discusses the research findings. Finally, Chapter VII summarizes the conclusions of the research, including suggestions to minimize the potential for gaps. In addition, Chapter VII will also present suggestions for future research.
CHAPTER II

BACKGROUND

It is not uncommon for a policy issue to be brought to the attention of policy formulators as the result of an emotional response to a social concern. In essence, the emotionality of the issue creates a window of opportunity for the policy to be developed, considered, and inculcated into law and public policy.

The definition of the problem to be addressed in the formulation phase of policy development often fails to recognize the difference between reality, or "what is," and the desired outcome, or "what ought to be." Typically, implementers are considered to exist in the realm of "what is," while formulators exist in the realm of theory, or "what ought to be." This appears to be the case in this example of legislation related to infant abandonment. The desired outcome, or "what ought to be," is that no infants will be abandoned in unsafe places. This would require a continuum of public programs to work in harmony in order to achieve this outcome. In order to have a positive impact on decreasing infant abandonment, the formulation and implementation of public policy related to preventing infant abandonment must be cohesive. This is difficult to achieve if the manner in which reality is defined by formulators and implementers is incompatible.

Using Mayants' definition of paradox from the previous chapter, "a situation exhibiting contradictory, incompatible aspects, or a statement that is essentially
contradictory, although based on a seemingly valid deduction from acceptable assumptions," (Mayants, 1994) it would seem to most child welfare professionals that the gap between formulation ("what ought to be") and implementation ("what is") is prevalent in policy areas that directly or indirectly affect children. This gap produces a paradox for not only the professional, but also for society as well. The challenge becomes finding out how to close the gap between formulation and implementation of public policy (Morçöl, 2002).

Significance of the Research

Public administration is "the process by which public resources and personnel are organized and coordinated to formulate, implement, and manage public policy decisions" (Chandler & Plano, 1982, p. 24). In other words, public administrators manage the public's resources. To that end, public administrators involved in the child welfare field manage not only resources aimed at children, but manage the resources for society's future.

Discussion among professional public administrators often involves frustration at the disconnection or gap between the political elites and the public administrators, those elites depended upon to carry out policies. The perceived incongruity in communication between government formulators and administrators responsible for implementing policy, leads to the risk of ineffectiveness.

Benjamin Franklin cautioned against this at the close of the Constitutional Convention on September 17, 1787. He began his comments with the preamble, "I
confess that I do not entirely approve of the Constitution at present, but Sir, I am not sure I shall never approve it,” and then notes that as he has aged he has grown to doubt his judgment and may pay more heed to the judgment of others (Brands, 2000, p. 689). He observed that people tend to view truth in terms of others, and that if others have differing opinions, those opinions are considered to be erroneous. Franklin uses the example of differences between the Protestant church and the Roman Catholic church in his comment, “the Romish Church is infallible, and the Church of England is never in the Wrong.” (Brands, 2000, p. 689).

The Declaration of Independence grew out of social crisis and set the stage for new political rules. Shaped by Colonial rebellion, the Constitution shapes all other political rules in the United States (Stone, 1988). Franklin was aware of what present-day writers refer to as the “social reality” of the times. In truth, social reality, driven often by an individual’s perception of others, is one of the key constructs of how society, with its institutions, bureaucracies, rules, and mores is constructed. Franklin’s hope was that government would be “well administered” and he considered the virtue of the people to be the pivotal factor that would determine the success of the Constitution (Kennedy, 2003).

It is unlikely that Franklin was overtly considering such things as gaps between government and administration. At the time, the statelessness of the American colonies was one of its hallmarks (deTocqueville, 1994; Richardson, 1997). Still, Franklin’s vision of a well administered government is germane to the modern
public official, legislator, bureaucrat, or manager as we consider the gap between the formulation and implementation of public policy.

It is arguable that the system of government in the United States is sown with the seeds of paradox. Article V of the United States Constitution, the very foundational document of the government, contains within it a paradox. Article V gives the conditions under which the Constitution can be amended and reads:

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

(Constitution of the United States of America, Article V)

This "endo paradox" pertains to changing a rule of the system by using a rule that is itself part of the system. The paradox lies in the question: Can Article V authorize its own amendment or repeal? Furthermore, if Congress can make laws at any time, can it also limit its power to make laws? If we assume Congress can do both of these, they are omnipotent and the paradox stands (Casti, 1994, pp. 115-116).

As Stone (1988) notes, "Something cannot be two different things at once" (p. 1). Yet, if social and political realities are formed by differing perceptions of an issue, paradoxes and the troubles inherent with these logical nonsequetors will forever be part of the political and social landscape of the United States. Consequently, public
administrators are well served to be aware of such incongruities and to consider what it is in their power to change.

This is an important factor to consider; we cannot presume that administrators will faithfully carry out the intent of the formulators of any given public policy. The tension between formulators and implementers is that the former are viewed as pushing for social change that reflects perceived social desires. However, implementers may think they know how to impact the social desire in a more effective and realistic manner. Therefore, the tension between “what ought to be” and “what is” may always be part of the policy process landscape.

Three case summaries are presented below to demonstrate how the gap between formulation and implementation of public policy, or the “what ought to be” and “what is,” has contributed to a paradox involving the welfare of children. These three case summaries are: (1) the paradox of United Nations sanctions, the oil-for-food program, and child welfare in Iraq; (2) the paradox of DOC calculation and foster care reimbursements; and (3) the paradox of the judicial process and complex trauma to children.

Case 1: The Paradox of United Nations Sanctions, the Oil-for-Food Program, and Child Welfare in Iraq

In August 1990, following the invasion of Kuwait by Iraq, the United Nations enacted international sanctions against Iraq in the form of United Nations (UN) Resolution 661 (Dawood, 2003). The intent of UN 661 (what ought to be) was to force Iraq out of Kuwait by severing economic ties with Iraq with UN member
countries. The resolution was flawed because it could not enforce violations to the sanction, including those perpetrated by some American companies.

But Iraq did not leave Kuwait, and the United States did not wait for the sanction alone to work. In January 1991, the U.S. led an international coalition to force Iraq out of Kuwait through armed intervention. In 1994, UN Resolution 668 was enacted, with the intent of forcing Iraq to disarm weapons of mass destruction.

The unintended consequence of the implementation of the sanctions (what is) was that the Iraqi government, in particular the Baath party under Saddam Hussein, grew stronger while the people, particularly the women and children of Iraq, became poorer.

Prior to sanctions, the most prevalent health problem faced by Iraqi pediatricians was childhood obesity (Arnove, 2002). According to World Health Organization statistical information, 5 years following the limitation of sanctions and 1 year following the oil-for-food initiative in 1995, 55,000 children died of starvation (Arnove, 2002; Dawoody, 2003). In explanation of this unintended consequence, Denis Halliday, ex-UN humanitarian coordinator in Iraq from 1997 to 1998 stated, "Oil-for-food was never intended to resolve the humanitarian crisis," (Arnove, 2002, pp. 54, 247).

Publicly, the sanctions were intended to build on already existing Iraqi programs. But the Iraqi government did not accept the oil-for food offer because it was believed to undermine its authority. The UN sanctions committee of the Security Council in New York was second-guessing contractors concerning the content and
cost of supplies. Not being technical people, UN bureaucrats gave information to headquarters, where more politicizing and second-guessing was done, thus exacerbating the problem.

For example, the World Health Organization (WHO) approved 500 ambulances, but the United Kingdom and the United States felt there was a risk factor in that parts could be used to build weapons of mass destruction, so only 100-200 were sent over a 6- to 8-month period (Arnowe, 2002, p. 54). Any money proffered to the Iraqis under the oil-for-food program was to go for food programs, not infrastructure improvements. Funds could not be used to purchase chemicals for sanitation improvements, as again, the fear was that chemicals would be used for the development of weapons by Iraq.

A 1999 UNICEF report noted that the sanctions doubled childhood mortality, but the media placed the blame on the Iraqi government instead of the sanctions policy (Arnowe, 2002, pp. 103-104). On ABC's World News Tonight with Peter Jennings, this report was ignored. Barbara Nimri Aziz, journalist and Executive Director of the Radius of Arab American Writers, Inc., noted that “The oil-for-food scheme that the U.S. government allowed the UN to put into place keeps famine at bay so Washington and its friends cannot be accused of genocide” (Arnowe, 2002, p. 170).

Clearly, the formulation of the UN Resolution policy involving sanctions against Iraq (what ought to be) did not result in the stated intended consequence of Iraqi withdrawal from Kuwait or the disarmament of weapons of mass destruction.
Certainly the intent of UN 661 and UN 668 was not to create a humanitarian crisis, but the paradox is that the unintended consequences (what is) have been devastating to the children of Iraq over the past 13 years.

Case 2: The Paradox of DOC Calculation and Foster Care Reimbursements

Michigan foster parents who provide care for children under the jurisdiction of the court are reimbursed for the costs of care for those children. One of the misconceptions about foster care is that foster parents are motivated by money. Funding for rates is appropriated by the Michigan Legislature and established by the Michigan Department of Human Services (MDHS).  

In 2005, the Michigan Family Independence Agency became known as the Michigan Department of Human Services (MDHS). Periodic increases are provided as funds become available. Table 1 provides the daily rate reimbursement for children in foster care effective October 1, 2004.

Table 1

<table>
<thead>
<tr>
<th>Age of Child</th>
<th>Room and Board</th>
<th>Allowance</th>
<th>Clothing</th>
<th>Total Per Day</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-12 years</td>
<td>$10.78</td>
<td>$2.35</td>
<td>$1.10</td>
<td>$14.24</td>
</tr>
<tr>
<td>13-18 years</td>
<td>$13.27</td>
<td>$3.04</td>
<td>$1.26</td>
<td>$17.59</td>
</tr>
</tbody>
</table>


In 2005, the Michigan Family Independence Agency became known as the Michigan Department of Human Services. In this paper, any actions predating the 2005 name change will be referred to using MFIA, while actions that occurred after the name change will use the MDHS moniker.
In addition to the standard foster care rates, a DOC supplement may be justified when "extraordinary care or expense is required of the foster parents (or relative foster care provider) who is eligible for a Foster Care payment" (Michigan Family Independence Agency, 2001a).

The DOC rate supplement is based on one or more situations where additional care is required of the foster care provider or an additional expense exists. These cases include:

- Physically handicapped children who require measurably greater supervision and care.

- Children with special psychological or psychiatric needs that require extra time and measurably greater amounts of child care and attention in the home.

- Children requiring special diets, which require measurably extra time and work to obtain and prepare.

- Children whose severe acting out or antisocial behavior requires a measurably greater amount of care and attention.

The additional supplement allowed by the MDHS is noted in Table 2. The Children’s Foster Care Manual uses the term *measurably* to indicate that the care provided must be greater than that which would be normally provided (CFF 903-5). Yet, there is no baseline indication of what would constitute normality, thus providing a subjective target from which to determine the care needed for any given child. In other words, what might be a Level II to one foster parent might constitute a Level III or Level I to another. It is left to the child’s case monitor and foster parents to document the amount of care needed in order to justify any given DOC rating. It
should also be noted that these DOC supplements have not been adjusted to account for fluctuations in the economy or the costs of living since October 2001. Certainly, the price of feeding and clothing a child has risen during that time period.

Table 2

DOC (Determination of Care) Supplements (October 1, 2001)

<table>
<thead>
<tr>
<th>Age</th>
<th>Level I</th>
<th>Level II</th>
<th>Level III</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-12</td>
<td>$5.00</td>
<td>$10.00</td>
<td>$15.00</td>
</tr>
<tr>
<td>13-18</td>
<td>$6.00</td>
<td>$11.00</td>
<td>$16.00</td>
</tr>
<tr>
<td>Medically fragile</td>
<td>$8.00</td>
<td>$13.00</td>
<td>$18.00</td>
</tr>
</tbody>
</table>


One of the ironies of children's foster care is that the amount paid per day for the care of these children, challenged by circumstances often beyond their control, is on par or less than that which is paid by families to kennel their dogs. Table 3 provides a listing of kennel rates in the southwest Michigan area. When compared with the daily foster care rates, we find a sad comment on the value society places on the lives of children. It is only through the addition of the DOC supplement that the child's daily foster care rate raises to a rate comparable or slightly higher to that of local kennels.

This is historically relevant to this study as shall be demonstrated in Chapter III.
Table 3

**Kennel Rates in Southwest Michigan**

<table>
<thead>
<tr>
<th>Kennel</th>
<th>Rate per day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gull Lake Kennels, Richland, MI</td>
<td>$14.00</td>
</tr>
<tr>
<td>Happy Tails Boarding Kennels, Oshtemo, MI</td>
<td>$13.00</td>
</tr>
<tr>
<td>Blustery Wood Kennels, Kalamazoo, MI</td>
<td>$15.00</td>
</tr>
<tr>
<td>Crestview Animal Hospital, Kalamazoo, MI</td>
<td>$12.00</td>
</tr>
<tr>
<td>Critter Cuts Pet Resort, South Haven, MI</td>
<td>$24.00-28.00</td>
</tr>
</tbody>
</table>


Changes in the Michigan child welfare budget resulted in a change in the manner in which the DOC for children in foster care is defined and calculated. The DOC rate translates into dollars, with the intention that those dollars will allow the foster parent to assist the child in overcoming barriers to the child becoming a fully productive individual.

In 2003 the term “DOC” changed its meaning. Prior to 2003, the acronym DOC meant “Difficulty of Care.” After 2003, “DOC” became “Determination of Care.” Examples of the forms used to qualify a child for Difficulty of Care and Determination of Care are provided in Appendices C and D for comparison.

The change in the name of the form “difficulty” to “determination” is meaningful. Rhetoric, whether used in persuasion and decoration, as a technique of analysis, or as an individual or a group rhetorical signature, is important in
communicating intent (Farmer & Patterson, 2003). It appears that the focus shifted to determining the care provided to the child by the foster parent rather than determining the difficulties experienced by the child. By maintaining the same acronym, DOC, some rhetorical confusion or diversion contributed to the gap in this policy.

The pre-change Difficulty of Care for Children in Foster Care (age 1 day through 12 years), Form FIA-470 (08/01) found in Appendix C, allowed foster parents and case management staff a means by which to assess the difficulties faced by the child. The focus was on the difficulties of the child and was reinforced by prompts which began with the word “Youth.” Efforts needed by the foster parents to meet the child’s challenges were assumed. This led to a wide degree of interpretation, allowing for inflation in the reporting of assistance provided to the foster child. If a DOC could be raised, the amount reimbursed to a foster parent was directly increased to cover the reported cost of care.

Many experienced foster parents, accustomed to the pre-2003 DOC definition, found it a challenge to shift how they viewed post-2003 DOC criteria. Some foster parents were known to allow placement only of a child that required a high DOC. As the child became more stable due to the consistency of the foster home environment, the DOC was lowered. If it was anticipated that the DOC was to be lowered, some foster parents would threaten the agency with the demand that the child be removed from their home. This resulted in a strain in the relationship between the foster parent and the licensing agency. In some instances, Level III DOC’s were being provided to children for whom a Level I or II was actually warranted so the
child’s placement would not be disrupted. This is a difference of $5 to $10 per day in terms of reimbursements for care.

When faced with budget restrictions, the Michigan FIA believed that there needed to be a more objective mechanism to determine what services were actually provided by the foster parents to address the child’s individual needs and care requirements.

In 2003, the Michigan FIA revised the DOC form FIA-470 to reflect the shift in focus from the needs of the child to the activities of the foster parent. As previously noted, Difficulty of Care for Children in Foster Care became Determination of Care for Children in Foster Care to reflect this shift. The post-change DOC, found in Appendix D, consists of four pages, is more complicated, and requires that additional documentation of the foster parents’ activities on behalf of the child be made available to justify the additional cost of care.

The intent of this FIA policy shift was to focus on what the foster parent actually does to provide for the child’s needs. The previous intent focused solely on the child’s behavior. While it is reasonable to expect that costs be justified, the impact was that foster parents must now document what for them had become normal daily activities in relation to each foster child in their home.

Four unintended consequences contribute to the paradoxical nature of this policy shift. First, the name change from difficulty to determination of care preserves the acronym “DOC,” but has provided some rhetorical confusion for foster care workers and foster parents who are completing the forms. A memo was distributed by
MFIA to licensed child-placing agencies responsible for assuring that all foster homes maintain compliance with FIA rules. MFIA provided training to all direct service staff on the use of the new DOC eligibility forms. Foster parents were to be trained in the field by the child's caseworker, or by their foster care licensing worker, the latter typically having no familiarity with the DOC. Foster parents voiced their opinion that their integrity was being questioned. They found it difficult to grasp the semantic shift in what for them had been a familiar acronym. It should be noted that the post-2003 DOC acknowledges the extra effort required by a foster parent to stabilize a child in foster care. Furthermore, it allows for the fact that often the effort by the foster parent must continue at a stable level in order for the child to progress. Thus, the child's behavior may progress and become more stable, while the efforts of the foster parent are stabilized at a level that allows for that progress. This rewards foster parents who "go the extra mile" for the children in their home and, when understood, can effectively enhance the child's foster care experience. Unfortunately, this is not explained to the foster parents.

Second, an unintended consequence arises with the requirement to provide documentation for services provided by the foster parents on behalf of the child. While many of the services are easy to document, there has been some difficulty in providing documentation that is covered by the Health Insurance Protection and Portability Act (HIPPA). HIPPA regulations mandate confidentiality criteria for the release of documentation by the therapist or health care provider. While HIPPA and confidentiality of health care records have been in place for years, the compliance
deadlines for all organizations that provide services involving protected information were set in 2002. Thus, some foster parents have found it difficult to obtain documentation related to mental health visits to back up claims for higher DOC ratings. In addition, FIA, the courts, and some medical providers are clarifying who has the right to release protected information related to a child in foster care.

The third unintended consequence of the shift in the DOC calculation impacts foster family home licensing rule R400.9506 related to records management, which states, “A foster parent shall maintain a record for each child in the foster home” (Department of Consumer & Industry Services, 2001). Historically, foster parents have been encouraged to maintain a log documenting activities provided on behalf of the children, but few have done so. Foster Care Licensors review this rule with foster parents on an annual basis, but noncompliance with this rule is neither serious enough, nor is it sufficient, to sanction, much less close, a foster home license. With the change in DOC calculation resting more heavily on the foster parent’s actions on behalf of a child, the need to document activities through the use of a log or journal is now seen by foster parents as an aid instead of an additional burden. In essence, the log now has a measurable purpose for the foster parents. For those advocating increased professionalization of foster parents, the log provides a cross-reference to further demonstrate the DOC eligibility criteria.

Finally, the chief complaint by foster parents and caseworkers is that the DOC is subjective. What foster parents do on a daily basis becomes a normal part of their life-style. They do these things in order to provide the foster child with a safe, secure,
and nurturing environment in which that child might heal from past trauma and learn
to effectively interact with his or her environment in the least restrictive manner
possible.

In terms of this discussion, the goal of foster care is that children are provided
with a home in which they are able to begin healing from past trauma and possibly be
reunified with their biological family. The reality is that the foster parent who provides
care to meet the goal finds the child's crucial and therapeutic needs lessening as that
child learns to trust. This is a good thing.

Some foster parents do not receive a determination of care rate because they
are caring for a child with fewer emotional or physical needs. While they receive a
standardized daily rate, they receive no additional daily reimbursement, as the child
does not have any physical or emotional challenges that require any extra activity on
the part of the foster parents.

However, foster parents who care for children with multiple challenges do
have activities and challenges that are added to their daily lives, thus qualifying them
for the DOC rate. Yet, the longer a foster parent is involved in caring for children
who have more challenges, the more the foster parents come to normalize daily
activities in their home. They often fail to consider that what they have come to view
as normal simply is not. The unintended consequence is that without the log or a
caseworker well versed in the DOC criteria, the successful foster parent can be
negatively impacted for doing a good job by having their daily reimbursement
decreased. Thus, there is an inverse or perhaps perverse relationship between the
reimbursements for levels of care and the success of a foster parent to meet the objective of stabilizing the child. As the child becomes more stable, the foster parents’ reimbursement for difficulty of care decreases. As discussed above, this is not always the case; however, it requires a level of awareness that professionalizes the foster parent. Needless to say, without the dedication and support of foster parents, the welfare of the children is severely limited.

Case 3: The Judicial Process and Complex Trauma to Children

Trauma to children can be manifested in many external and internal domains. Due to the child’s age, they often do not have the language skills, the experiential knowledge, or the ability to connect cause and effect in a manner they can verbalize. Thus, the child’s ability to express his or her thoughts and feelings or experiences in a way that would allow the person to process trauma as an adult might in a rational, compartmentalized manner, is severely limited. Often the behaviors indicative of trauma are the tip of the iceberg. Understanding and realistic expectations and interventions based on a complex network of genetic, environmental, and social factors related to cognitive development, maturational patterns of stress systems or coping mechanisms, and behavior must be used to meet the child's needs (Henry, Blackpond, & Mack, 2004).

According to the National Child Traumatic Stress Network (NCTSN), childhood trauma involves both internal and external events that result in the child feeling vulnerable and defenseless. Typically, an overwhelming event or events create
a threat of harm or loss to the child, rendering the child helpless or powerless. These experiences are internalized and continue to impact the child's perception of self, others, the world, and their overall development (Henry et al., 2004). Complex trauma involves experiences of multiple traumatic events that occur within the child's relational system. The impact of this complex trauma is a range of clinical symptoms and manifestations including, but not limited to, loss of memory, anger, frustration, loss of mobility, terror, hypervigilence, and inability to focus or concentrate. The symptoms span multiple domains of impairment and can effect attachment, regulatory systems, self-concept, behavioral control, dissociation, and biological domains.

Historically, the treatment of complex childhood trauma has focused on identified behaviors rather than addressing the underlying causes. Judicial and child welfare systems have responded, not by considering the causes, but by treating the symptoms. This linear model of treatment does not allow for the multifaceted domains contributing to clinical and social symptomatology. The child welfare system, including the judicial system, must deal with the challenge of fitting the complex issues involving childhood trauma into a Newtonian judicial and therapeutic model. According to Henry et al. (2004), 90–95% of reported children's sexual abuse has no physical evidence. But the trauma to the child's relational network is devastating and unseen. Therefore, the issue of child sexual abuse does not neatly fit into the court process.

Court requirements insist that an assessment of the child be prepared within 30 days of intake by Children's Protective Services (CPS). Too often the children
have no expressive language or understanding of the trauma. Their frame of reference is that their relationships with family and friends has been severed. The child often assumes the blame for this separation. The behaviors exhibited by the child resulting from this separation, even separation from the abuser, are the only factors considered by the legal system during this initial 30-day assessment. Consequently, rather than examining the "big picture" and core issues that underlie complex trauma to children, only the symptoms are treated.

In short, the child welfare system in America is based on the simplification of a complex paradigm. It is adult-reactive, not child responsive, and appears to view the child as the problem, assigning the child to a diagnosis such as "Attention Deficit-Hyperactivity Disorder" or "Reactive Attachment Disorder." These labels neglect to consider the core issues that resulted in the trauma to begin with, such as alcohol abuse in utero or the child's early exposure to violence in the home (Henry et al., 2004).

For example, if a child has been the victim of sexual abuse by the mother's boyfriend, it is not uncommon for the child to be returned to the home immediately upon the removal of the boyfriend. To the rational court system, the "cause" of the problem has been removed, not to mention that to return the child home saves the state foster care dollars.

But for the child, he or she is to blame for this change. The trauma of the abuse has created a permanent change in that child's relationships, and has made the
child highly vulnerable to stress. In short, the child does not feel safe (Henry et al., 2004).

The paradox lies in policy makers’ resistance to meaningful advocacy on behalf of substantive changes in child welfare rules and laws. The legislative and judicial systems, and in many ways the child welfare system as a whole, are based on simplification. But the complexities exemplified by children who have experienced such trauma demonstrate the gap between the need for a flexible, inclusive model for children’s policy issues and the reality of a system that is too simplified to meet the needs of the intended target population.

The Origins of the Formulation-Implementation Gap

These three cases involve policy decisions affecting children on state, national, and international levels. They are no different from other areas of public policy in that the gap between formulation and implementation of policy rests in the very dynamics of the public policy process. The public policy process is heavily influenced by human nature, relationships, emotions, and perceptions of reality. What is of interest to a group one day might be of little interest the following day. Or, that interest might spawn further action in the form of advocacy, which brings it to the attention of legislators. Effectively communicating the issue at hand plays an important role in having the issue activate legislative interest, thereby placing it on the legislative agenda.
The debate phase of a bill's passage through the legislative body is the result of an attempt at rational decision making (Lerner, 1976; Sharkansky, 2002). Straightforward in design, the rational decision-making process considers known options and opinions, and, theoretically, selects the best one to fit the needs of the issue at hand.

The impact and social construction of constituency groups as well as those groups that will be affected by the passage or nonpassage of a given bill and the economic impact in terms of financial and human capital all play a role in legislative consideration. This complex set of input variables would be put to better use using the erotetic rationality model of decision making (Dunn, 1997).

The ease of implementation of a public policy for the public administrator is enhanced or reduced by the degree to which consideration was given during the formulation phase to complex variables and factors such as fiscal impact, human resource allocation, and intangible benefits in a cost-benefit analysis. In addition, consideration of the opinions of street-level bureaucrats, those who will be expected to carry out policy programs, is a crucial, but often omitted, step in policy formulation. A lack of consideration in areas that might be viewed as standards of public administration will result in a disconnection between legislative intention and implementation. Furthermore, it will give rise to unintended consequences, both positive and negative, and possibly paradoxical policy outcomes.

B. F. Skinner observed that the quality of a society or civilization could be measured by the manner in which it treated its most vulnerable citizens—the elderly,
the mentally and physically handicapped, and children. Children, having not as yet
reached the age of majority, do not vote, nor do they contribute to the economy.
While the same may be said of the elderly and disabled, programs exist that encourage
individual participation to the extent of one's abilities. Voting may be a task in which
a number of physically or mentally challenged, or an elderly individual, can
participate. Children cannot directly participate and must rely on the wisdom and
abilities of responsible and caring adults.

The value of a child in contemporary American society is often overlooked.
However, to the infertile couple desiring a child, a newborn becomes a priceless
treasure. To a developing country, children may become an abundant and exploitable
commodity, used to entice political and monetary contributions. For example, with
the 1989 overthrow of the Ceauşescu regime in Romania, the horrors of orphanages
in that country became international news headlines. Romania's children quickly
became a resource to be managed, and their adoptions a source of economic
opportunity for that country.

The international adoption community provided management and oversight of
what was to become a commodity-driven international social welfare program.
Orphanages were supported through fees paid by couples wanting to adopt a child. In
order to preserve and develop the judicial and immigration systems, pay-offs were
common between officials and adopting families in order to facilitate the adoption.
Couples are willing to pay these “hidden costs,” since for them, it is part of what they
need to do to obtain a much desired child. The adoption is deemed successful by all because the child has found a home.

Yet desire is often myopic. In addition to providing adults with a tangible and emotional outlet, children create a drain on physical, emotional, and financial resources as well. Children adopted as toddlers from Russian, Romania, and other post-Soviet countries, are showing increasingly high rates of behaviors and symptoms associated with fetal alcohol effects. Since the child was placed through a private agency, unlike domestically adopted toddlers who are typically placed through the governmentally operated child welfare system, there is no option of accessing alternative medical funding to assist in meeting the child’s needs. If the child becomes too great financial and emotional drain on the family, the adoption may be disrupted, abandoning the child again to the public child welfare system. The child then becomes eligible for assistance programs offered to any child in foster care. Should adoptive parents petition the court to dissolve their international adoption, they may be risking the label of child abandonment, once the child is placed in the care and custody of the state.

If politics is defined as the competition for scarce resources (Wildavsky, 1979), there are times when the desire for children by adults causes the child to become a resource and a possible political commodity. As such, issues related to the care, welfare, or distribution of children become issues for political and policy consideration. This is a phenomenon that is common to the history of humankind and will be discussed in the next chapter.
The history of child welfare reform in the United States has often fallen victim to well intentioned, but paradoxical rationale. While there have been significant improvements in child welfare over the years, there have also been changes based on less than adequate research as a foundation for the law.

Economically, child welfare systems have an insatiable capacity to absorb any dollars provided by federal, state, and local officials. Yet, without significant, broad-scoped reform in both its infrastructure and cultural values, reforms will continue to be temporary and superficial. New and effective strategies for reform are needed (Schwartz & Fishman, 1999). A case in point is SDNA legislation that attempts to simplify the problem of unsafe infant abandonment. The intention motivating safe delivery laws is honorable, but myopic, and has resulted in a paradox that causes the administration of such programs to be fraught with challenges, if not practically impossible.

Some tasks faced by public administrators are impossible to achieve due to the goal of the task itself (Hargrove & Glidewell, 1990; Stewart, Sprinthall, & Kem, 2002). The difficulties are too extreme, as in the case of the correctional official who is mandated to provide skill training to prisoners so they might be successfully rehabilitated and reintegrated into the community, while the community is not welcoming of the parolees’ return. Or, in the case of the public health official assigned the task of dealing with the problem of AIDS/HIV infection. These jobs are considered “impossible” in that they may be acceptably done, even though they may
fall short of their objectives (Hargrove & Glidewell, 1990). Like Sisyphus pushing the boulder up Mt. Olympus, the job is never done.

SDNA falls into this paradox of impossible jobs. But how did this come about and could it have been avoided? Of no less importance to the study of public administration are the implications of any possible reforms in terms of their future application to legislative, social, judicial, and administrative constructs. The question remains unanswered as to whether the enactment and application of SDNA simplifies a complex system or makes it worse.

There has been significant research and scholarly writing on the topics of social power, decision making, and policy implementation. There is, however, little research examining the disconnection or gap between the formulation and implementation of public policy. What can be learned from this research will provide a greater understanding of the diaspora that often exists between the theory and practice of legislation and policy implementation.

By examining the gap and exploring what factors contribute to its breadth, the answers to these questions will provide legislators with a template for decisions, thus raising their understanding of implications and decreasing the number of impossible jobs public administrators face. By understanding the gap between the formulation and implementation of public policy, legislators and public managers may be better able to create more meaningful and effective public policies.
CHAPTER III

THE HISTORY OF CHILD ABANDONMENT

Michigan's Safe Delivery of Newborns Act (SDNA) offers the parent wishing to surrender a newborn child three critical elements. First, SDNA offers an alternative to abandoning that child in a dangerous location. Second, it offers the promise of anonymity. Third, it offers an affirmative defense against prosecutions. But, is this an advance in the field of child welfare? An examination of the history of child abandonment will provide the context for this dissertation. The answer to the above question will be left for the reader to discern.

Children have traditionally been the focus of policies aimed at controlling them, empowering them, or simply enabling them to reach adulthood. Decisions made regarding the welfare of children often reflect the viewpoint of adults in response to a crisis, or an economic need, or in response to public outcry on their behalf. The place contemporary child abandonment laws have in history remains to be seen.

Abandonment is considered to be the desertion of a child by the parent or adult caretaker with no provision for the care of that child, nor any apparent intention to return to claim the child in the future (Adamec & Pierce, 1991, pp. 1-2). Child abandonment is as old as the history of humankind, but is considered a form of physical neglect by the National Center on Child Abuse and Neglect (Adamec & Pierce, 1991; Chaucer, 1972; Gross & Gross, 1977). This chapter will demonstrate
that the abandonment of children has often been culturally sanctioned or institutionalized by society.

Internationally, thousands of children are abandoned every year. Cultural or economic factors, societal pressure to limit family size while restricting the means of effective contraception, or the rejection by the father or grandparents may have precipitated the abandonment. Some children fall victim to genocide; some are abandoned to orphanages.

In the Western (American and European) mind, adoption may seem to provide a simple answer to children being abandoned. However, in some countries, particularly developing countries or those governed by a theocracy, it is not possible to voluntarily consent to an adoption or to release one’s parental rights. In countries where adoption is forbidden, abandonment of a newborn is often the only alternative to ostracism or death for a woman (Adamec & Pierce, 1991, p. 1).

Every year in the United States infants are abandoned in unsafe places such as in trashcans, in car wash bays, in shrubbery outside of homes, in cemeteries, or on the side of roads. The mother may have been a teen who sought to conceal her pregnancy or who could not take care of her child. She may have been married, and the child was the product of an extramarital affair. She may have denied the reality of her pregnancy, able to hide her fecund state under fashionably baggy clothing. She may have feared asking for information from responsible adults. The mother may be the victim of sexual assault, domestic violence, or incest. She may be unaware of the
continuum of openness in adoption that allows for options suitable to her situation (Adamec & Pierce, 1991; O'Connell, 2002; Pertman, 2003).

A darker twist to the maternal abandonment theme is that in which the child is rejected and abandoned by the father, the mother’s boyfriend, husband, or the child’s grandparents. Abduction abandonments, or those children who are abandoned against the mother’s wishes, while rare, are also part of this history.

Sometimes the deserting mother has romanticized the idea that the parents who find the baby on their doorstep will raise the baby. This is a false assumption that has often been encouraged by culture and reinforced by the media. From the story of the infant Moses being found by Pharaoh’s daughter to the made-for-TV movies, the danger to the infant and mother are glossed over as the focus is shifted to the always deserving couple who finds the infant. Regardless of the existence of safe haven laws, the reality is that abandoned infants, if they are found alive, are placed under the jurisdiction of the state in a licensed foster home, not with the doorstep couple. Efforts are made to locate biological parents or relatives before moving the child’s case towards legal termination of the unknown parents’ rights and permanency for the child through adoption.

Some young women simply abandon the newborn in the hospital following birth. These children, often born drug dependent or HIV exposed, are considered to be “border babies.” Statistical information categorizing these infants as abandoned is difficult to obtain, as these infants are typically reported under Children’s Protective Services statistics as children in need of supervision (CHINS), not under the category of being abandoned. The Michigan Senate Fiscal Agency reported that according to the National Conference of State Legislatures, 65 babies were abandoned in public places nationally in 1991 and 105 in 1998. Likewise, 22,000 babies were abandoned

The manner in which children have been considered throughout history demonstrates their position as society's most exploited and vulnerable citizens. By reviewing the history of child abandonment, it should be evident that the treatment of children by society demonstrates how social context and the continued simplification of social issues related to children impacts their role in society and effects subsequent legislation related to their welfare. It also raises the question of whether we have improved the situation for children through enacting safe surrender legislation.

Psychogenic Stages of the Parent-Child Relationship

Beatrice and Ronald Gross's 1977 work entitled, *The Children's Rights Movement: Overcoming the Oppression of Young People*, presents six psychogenic phases of parent-child evolution originating from the works of Lloyd DeMause. These phases are: (1) Infanticide, (2) Abandonment, (3) Ambivalent, (4) Intrusive, (5) Socialization, and (6) Helping. The phases present a psychogenic theory of history that implies the source of human personality is the psychological interaction between generations. Each time a child challenges an adult to meet its needs and the adult fails to meet those needs and history freezes, often at the parent's level. When the adult responds successfully, it is called psychogenesis. Table 4 provides a brief summary of these stages (Gross & Gross, 1977).

It should be noted that Gross and Gross (1977) did not consider the impact of children on economic, political, or resource management per se. This was not the
Table 4

Psychogenic Phases of Child Rearing and Abandonment

<table>
<thead>
<tr>
<th>Dates</th>
<th>Psychogenic Phase</th>
<th>Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>To 4th century AD</td>
<td>Infanticide Phase</td>
<td>Children have no rights apart from parents</td>
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<tr>
<td></td>
<td></td>
<td>Child owes duty to parent and is unit of exchange</td>
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<tr>
<td></td>
<td></td>
<td>Children controlled by stories of ghosts</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Infanticide due to a variety of reasons</td>
</tr>
<tr>
<td>4th century to 13th</td>
<td>Abandonment Phase</td>
<td>Children were verging on being evil</td>
</tr>
<tr>
<td>century AD</td>
<td></td>
<td>Chaucer’s Griselda typifies stories of the day;</td>
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<tr>
<td></td>
<td></td>
<td>ghost stories replaced by witches and devils</td>
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<tr>
<td></td>
<td></td>
<td>Dangers of parenting were escaped by</td>
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<tr>
<td></td>
<td></td>
<td>abandonment of children</td>
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<tr>
<td></td>
<td></td>
<td>Visigoth Kingdom gave children statutory rights</td>
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<tr>
<td></td>
<td></td>
<td>Council of Vaison (422 AD)—abandoned children</td>
</tr>
<tr>
<td></td>
<td></td>
<td>announced in church</td>
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<tr>
<td></td>
<td></td>
<td>787 AD—first asylum of abandoned infants</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Elizabethan Poor Laws</td>
</tr>
<tr>
<td>14th to 17th century AD</td>
<td>Ambivalent Phase</td>
<td>Parents are now responsible for molding the child,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>who is still viewed as a vessel of evil</td>
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<tr>
<td></td>
<td></td>
<td>16th c. England legislated protection of children</td>
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<tr>
<td></td>
<td></td>
<td>from sexual abuse</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guardian ad litem appears</td>
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<tr>
<td>18th century AD</td>
<td>Intrusive Phase</td>
<td>Child is no longer the vessel of evil</td>
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<tr>
<td></td>
<td></td>
<td>Child was to be raised by mother, not swaddled.</td>
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<tr>
<td></td>
<td></td>
<td>Pediatrics began</td>
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<tr>
<td></td>
<td></td>
<td>Children became an extension of American colonial responsibility</td>
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<tr>
<td></td>
<td></td>
<td>In Europe, infanticide or abandonment of girls common</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Foundling homes opened</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wet-nurse becomes a form of abandonment</td>
</tr>
<tr>
<td>19th and early 20th</td>
<td>Socialization</td>
<td>Move from repression to fostering independence of children</td>
</tr>
<tr>
<td>centuries AD</td>
<td>Phase</td>
<td></td>
</tr>
<tr>
<td>To mid 20th century AD</td>
<td>Helping Phase</td>
<td>Presupposes that the child knows better than the parent what it needs at each stage of life</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Parents are fully involved in the child’s life as they work to meet the needs of the child</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No discipline or punishment</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Parent as servant to the child</td>
</tr>
</tbody>
</table>

Source: Summarized by the author from Gross & Gross, 1977
focus of their argument, but it can be implied and will be included in the discussion as it relates to the substantive issues related to the paradox brought about by the formulation-implementation gap in child welfare policy evolution. These substantive issues are social construction of reality and knowledge, moral development, and decision making and will be further discussed in the literature review section of this research.

Infanticide Phase—Antiquity to 4th Century AD

Adults historically have had a limited ability to empathize with the experiences of children. Societies that did not recognize children as having rights separate from their parents, evolved a cultural mythology that included a mythical patron for children who had been abandoned (Gross & Gross, 1977; Government of Newfoundland and Labrador, 2002). Mesopotamian orphans in 6000 BCE had their own patron, the Sumerian Goddess, Nanshe, who took care of orphans and widows (Tomison, 2001).

Parental anxieties about taking care of children were reflected in the Myth of Medea, where the duties of caring for children were resolved by killing them. The Code of Hammurabi, written in Babylon at approximately 2150 BCE, is the first known compilation of civil law containing sections codifying parent-child relationships in which children owed a duty of respect to their parents. If children fulfilled this duty, they were entitled to receive care and good treatment from their parents. If the child’s duty to his or her parents was violated, the parents owed the
child nothing, and the child's status reverted to that of property as a slave or a non-family member.

In ancient Rome the concepts of good citizenship, morals, and integrity were presented by Plato, Cicero, Aristotle, and Plutarch. As the Roman Republic declined, children became important political resources. Marcus Aurelius Antonius was adopted by his uncle, Antonius Puism, in order to perpetuate the aristocratic lineage and succession of the Roman Empire (Aurelius, 2002).

The concept of *pater familias*, or male head of the family, developed in Roman civilizations as an early expression of the pervasive cultural value that paternal rights superseded those of children. Until the father formally accepted the child as his own, the child had no status. These tenets of the parent-child relationship remained in force until the father died (Government of Newfoundland and Labrador, 2002).

The child's status as the target of societal protection was linked to the status he or she brought to parents. In simple economic terms, the child had status as determined by its value as a unit of exchange, to be sold, traded, or married off at the discretion of the parent. The child became a fungible resource to be managed. This concept has persisted for more than 3,000 years. Without inherent rights and protections, children could suffer abuse without state interference. Children were considered property and became resources to be managed, similar to livestock, but with more subtle and intimate value to the parent (Gross & Gross, 1977; Government of Newfoundland and Labrador, 2000).
Infanticide in ancient times occurred for a variety of reasons: illegitimacy, gender, physical imperfections, crying, and overpopulation. In Ion, Euripides writes of children potted into jars to starve to death, thrown into rivers and onto dung heaps, exposed on hillsides and fed to birds (Gross & Gross, 1977; Tomison, 2001).

In 228-220 BCE, Milesian citizenry statistics indicated a surplus of boys. Male children were preferred over female children because of their ability to contribute to the family’s financial welfare through their ability to work. Female children, both illegitimate and legitimate, were usually killed. Philo was the first to clearly speak out against infanticide in ancient Greece, with Polybius blaming the depopulation of that country on the killing of legitimate children by their wealthy parents (Gross & Gross, 1977).

Abandonment Phase—4th Century to 13th Century AD

A 374 AD law considered killing an infant a crime, and in the two centuries after Augustus some parents were paid to keep their children alive. It was thought that the crying of an infant was indicative of its sinfulness. The early Church Fathers reversed this belief, opposing infanticide based more on concerns for the parent’s soul than for the life of the child (Gross & Gross, 1977).

In regard to the abandonment of children, the Council of Vaison in A.D. 442 dictated that the finding of an abandoned child was to be announced in church. The Visigoth Kingdom (476-711 AD) with its Roman, Germanic, and Christian influences was unusual in its humane treatment of children. It codified the duties, rather than the
powers, of the parent. The Visigoth law held that children had statutory rights to life and to other legal protection. Dateo of Milan founded the first institution or asylum for abandoned infants in 787 AD (Gross & Gross, 1977).

In 1215, King John signed the Magna Carta at Runnymede in England. This placed the responsibility on the king to rule with respect to the legal rights of the people. Still, it was not specified whether children were considered “people.” It was during the 13th century AD that parents accepted their child as having a soul, albeit full of their parents’ evil projections. The only way to escape the projected dangers of parenting the child was to abandon them, either to a wet-nurse, a monastery for boys, a nunnery or convent for girls, a foster family, or to the homes of nobles as servants. If the parents were not able to physically leave their child with someone else, they would abandon them emotionally.

This abandonment period is symbolized by the story of Griselda in Geoffrey Chaucer’s “The Clerk’s Tale” from the Canterbury Tales. Though the essence of Chaucer’s idea of womanly virtue, patience, and goodness, Griselda abandons her children to please her husband, Walter (Gross & Gross, 1977; Hagen, 1993). As her husband’s sergeant seizes her first child, she calmly requests that he, “bury the child’s body deep enough so the beasts and birds won’t eat it” (Chaucer, 1972, p. 212).

The welfare of people has been a concern as far back as the Middle Ages, and probably further. Pope Innocent II, aware of women throwing their babies into the Tiber, began the hospital of Santo Spirito in Rome at the end of the 12th century. It was during the Middle Ages that the Elizabethan Poor Laws were constructed to deal
with the welfare of the poor. It is this idea of government concern for the welfare of the people that began the series of events leading up to the child welfare laws we have today (VanSant, 1999).

*Ambivalent Phase—14th Century to 17th Century AD*

Ambivalence towards children marked the phase lasting from the 14th to the 17th century AD. The child was still considered a vessel for the dangerous projections or his or her parents. However, the parent was now responsible for molding and at times beating the child into shape if needed. Needless to say, this produced a great deal of ambivalence between the parent and child.

Child abandonment continued largely due to economic necessity, the desire for male children to carry on the family trade. Male children contributed to the economy of the family, and in 1527, a priest noted that “the latrines resound with the cries of children who have been plunged into them” (Gross & Gross, 1977). It is presumed that the majority of these children were female.

John Robinson (1575-1625) stands as the bridge between the ambivalence of the 13th through 16th centuries and the intrusiveness of the next two centuries. A Calvinist who remained in England when the Puritan Separatists came to the new American colonies, he continued to serve as religious leader and spokesman (Greven, 1973). Robinson writes of children, “They are a blessing great, but dangerous,” citing their many hereditary physical and mental conditions (Greven, 1973). This was a continuation of the long-held belief that children were vessels of sin. He discusses at
length whether it is better to raise a child with severity or indulgence. He quotes the Bible to justify the severe means needed to control children: “Foolishness is bound in the heart of a child; but the rod of correction shall drive it far from him” (Proverbs 22:15, KJV).

The perennial favorite, “He that spareth his rod hateth his son: but he that loveth him chasteneth him betimes,” (Proverbs 13:24, KJV) was evoked to justify breaking a child of his spirit and will (Greven, 1973). Beating children in order to keep stubbornness in control was viewed as a way to further hone the child’s will, according to Robinson (Greven, 1973).

Ironically, the etiology of many laws related to child welfare in the American colonies seemed to lie in this theological paradigm. Robinson also linked child rearing with societal welfare, using Plutarch’s Themistocles as an example of bringing great good or great hurt to the commonwealth. Good education and the grace of God were viewed as a means to purge evil and serve the common good. Robinson likens the child to the horse with bit in his mouth. The theme of control and breaking the child’s will or spirit is prevalent in his writing. The parent was not to allow the child to strain too high, to achieve too great a thing as is appropriate for his station in life, as this would be against God’s will (Greven, 1973).

The concept of guardian ad litem, or court appointed next friend, first appeared in early English Law to ensure that the rights of children were safeguarded. However, this independent representation was not automatic or assured. The doctrine of Parents Patriae, literally the king as the father of his country, also came into
existence at this time and defined the relationship between the parent and the child as a legal trust. The state would act as a guarantor of the trust and intervene when a child’s rights were jeopardized. Both of these concepts continue to appear in current American law with functions performed by the Courts and the child welfare system (Government of Newfoundland and Labrador, 2002).

Crime and punishment also changed during the colonial period and varied from region to region. The “Stubborn Child Act” enacted in Massachusetts in 1628 stated that a stubborn or rebellious son, old enough to understand, who will not obey his parents could be put to death (Greven, 1973).

Children were still viewed as property and vessels for potential evil. Connecticut enacted laws that imposed the death penalty on unruly children, although public whipping was more commonly used as a substitute. In 1672, Connecticut enacted a law that made incest punishable by death for the adult. However, not to abrogate the child’s responsibility, the child was also whipped, being viewed as holding “part of the blame” (Tomison, 2001).

The Massachusetts Colonies enacted the Massachusetts Bay School Law of 1642 without resistance from England due to the civil war in that country. If children or servants became stubborn, unruly, or rude, they would be taken from the master and given to another who could meet the legal expectations held to the master of the house. Since male children were still viewed as having more proprietary value than female children, this law affected boys until they were 21 years of age, and girls, until they were 18 (Geocities, 1642).
Intrusive Phase—18th Century AD

Parents attempted to conquer the child’s mind in order to control the entire child: insides, anger, needs, and will. The child was no longer viewed as the vessel of evil, so it was now safe to be raised by its mother, not swaddled. It was given enemas, toilet trained early, prayed with but not played with, hit but not regularly whipped, punished for masturbation, and made to obey through the use of threats and guilt. True empathy was possible, but not necessarily practiced.

The medical field of pediatrics began during this period, and with it came a decrease in infant mortality. The demographic transition of the 18th century had begun (Gross & Gross, 1977).

In the 18th century there continues to be evidence of abandonment and infanticide in every country in Europe, with newborn girls at particular risk. More foundling homes for abandoned children were opened in each country in Europe. In 1741 Thomas Coram opened the Foundling Hospital because he could not bear to see the dying babies in the gutters and on the dung heaps in London (Gross & Gross, 1977).

Later, wealthy parents abandoned their infants to the wet nurse to be raised. The wet nurse was a familiar form of longstanding institutionalized abandonment and is referred to in the Bible, the Code of Hammurabi, Egyptian papyri, and early Greek and Roman literature. Doctors and moralists have denounced this practice since the time of Galen and Plutarch, but it persisted into the 18th century (Gross & Gross, 1977).
The American Republic was predicated on certain assumptions about human nature that allowed personal liberty to control or temper political action and ambition (Wilson, 1991). The rebellion of the American colonies was a response to what were viewed as the abuses of King George as itemized in the Declaration of Independence. In the debate on the Constitution, children were considered by only a few individuals and were still viewed as property to be protected or as having intrinsic or inherent value.

In his 1997 book, Democracy, Bureaucracy, and Character: Founding Thought, Richardson (1997) considers the fundamental regime values of individualism, acquisitiveness, and reputation as pivotal to the development of the American political and cultural character. Thus, it is not difficult to see how children became an extension of colonial responsibility. Colonial Americans were greatly concerned with the proper upbringing of children so as to ensure the continuation of the regime, both colonial and familial.

The Constitutional debates hint at the status of children as shifting from that of an acquisition or property to that of a more reputational nature. Oliver Ellsworth III, a Connecticut landholder, advocated the use of power to protect the fundamental rights of the Constitution. To demonstrate the dangerous power of taxation, he compared it to parents’ rights over their children. In his contribution to the Hartford Connecticut Courant, writing on November 19, 1787, he observed:

The same town officers have equal authority where personal liberty is concerned, in a matter more sacred that all the property in the world, the disposal of your children. When they judged fit, with the advice of one justice of the peace, they may tear them from the parents embrace, and place them
under the absolute control of such masters as they please; and if the parents’ reluctance excites their resentment, they may place him and his property under overseers. (Ellsworth, 1787/1993)

Ellsworth’s primary concern was the right of the legislature to ordain laws and then to inflict punishments. He was concerned with power and its authority to oppress the innocent. To tear a child from the parents’ embrace evoked an emotional response to the taxation debate and superseded the objections of “carping and jealous men” (Ellsworth, 1787).

Small bits of the welfare ideal sifted into early America. As the country evolved, so did the ideas of the people. Children came to be regarded as important, more so than property or livestock (VanSant, 1999). Just as at one time the place of children in society had shifted from being a tool by which the parents’ reputation could be measured, the role of children was again shifting. They were beginning to be considered as individuals that needed nurturing and raising so they could carry on the Founders’ vision.

*Socialization Phase—19th and 20th Centuries AD*

In 1861, Samuell Halliday brought the beatings of some children by sadistic parents to the attention of the public in New York City. This started to sway public opinion against corporal punishment (Tomison, 2001). The antithesis of hitting children was to hug them. But in mid 19th century America, this was still not a popular consideration (Gillogly, 1997).
This attention to child rearing, education, and socialization spans two and a half centuries. But many of the assumptions that drive modern child welfare continue to harken back to Puritan-evangelical traditions upon which the country was founded. The Puritan-evangelical tradition was concerned with controlling and supervising the autonomy of children. In short, there was one best way to raise children into fruitful and productive adulthood. The overriding tone was one of repression, and became a cultural value, rooted in religious belief, and passed from generation to generation (Greven, 1973).

The 1830s through the 1880s was a period of growth. The publication of Alexis deTocqueville’s *Democracy in America* in 1831 noted that American public administration was “stateless” in comparison to the European model of well-established rules, regulations, and protocol. America lacked most national functions, structures, and positions that defined the science of public administration. He also claimed that what distinguished America from other nations were the customs and habits of the people, what he called the “habits of the heart.” These habits are what, for deTocqueville, made America unique.

Some habits grew slowly though, as in the case of American child welfare. By 1830, the movement had turned from repression, towards fostering the independence of children. The Puritan-evangelical tradition continued to reflect concern for parents who spoiled their children (Wilson, 1991). With the economic growth of the late 1800s came the ability to consider the welfare of others. Rapid urbanization and
growth were shifting industry from the rural areas to the cities. Technology and industry were progressing, and with it, international competition and influence grew.

In the 19th and 20th centuries, raising children became more a matter of training, guiding, teaching, and socializing, rather than the conquering of their will. Due to innovative thinkers and investigative reports, organizations and movements for the support of children grew and child welfare came into existence. Laws were being passed against child abuse. The well being of the child was considered and looked after by society. Foster homes, adoptions, and aid to children who were poor became part of life. There were still many problems such as children dying of abuse, being adopted by uncaring parents, growing up in inhumane orphanages, and then being thrown into a world where they did not posses the skills to survive (VanSant, 1999). The American industrial revolution in the late 19th century recognized that the neglect of a child's physical needs was a concern. Child protection societies led to the first legislation designed to protect children. In addition, the child's father began to take a role in child rearing and training (Tomison, 2001).

*All God's Creatures*

A landmark event that changed the status of children in the United States involved the formation of the Society for the Prevention of Cruelty to Animals. Henry Bergh, born in 1813 to a prominent shipbuilder, was a well-educated and wealthy man. Bergh was appointed in 1863 by President Abraham Lincoln to be the secretary of the American delegation to St. Petersburg in Russia (Coren, 2002).
While in St. Petersburg, Bergh saw an open four-wheeled carriage pulled by a horse for public transportation. He heard a cry of pain and thought one of the passengers had fallen out. Upon inspecting the scene of the cries of anguish, he found the cries were coming from a horse that was being beaten by its owner. This event became his epiphany (Coren, 2002).

On his way back from Russia, Bergh stopped in London to visit with friends who were patrons of the Royal Society for the Prevention of Cruelty to Animals to discuss how they arranged for the passage of legislation to form their organization. He returned to New York, committed to animal welfare and ready for political action. He began speaking out for the “dog on the street” and would ask for signatures for his Declaration of the Rights of Animals. He was appalled at the condition of the “spit dogs.” These little dogs were harnessed to meat spits and would walk in circles, thus turning the meat in front of a burning fire. The dog’s fur would be singed off and eventually the dog would die of exhaustion, heat exposure, severe burns, or all three.

On April 10, 1866, the New York state legislature granted Bergh the charter for the American Society for the Prevention of Cruelty to Animals (Coren, 2002).

This was the death knell for the spit dog industry. But there was still meat that needed roasting. The meat spit owners turned to children to fill their need for cheap, expendable labor. Ten years earlier, slavery had been abolished in the United States. Negro children began to turn the meat spits once turned by dogs. It seemed natural at the time to interchange dogs and children. Bergh was now convinced there were similarities between animal and child abuse (Coren, 2002).
In 1873, Margaret Bingham, a landlord in a poor tenement neighborhood in New York City, brought the treatment of a little girl named Mary Ellen, who had been abused at the hands of her mother, to the attention of Mr. Bergh. Her appeal was based on the grounds that the child was an “unfortunate little animal of the human race” (Coren, 2002).

Bergh’s day in court on behalf of Mary Ellen was well covered by the press. He pointed out that the State of New York had laws to protect animals. He argued that “the child is an animal. If there is no justice for it as a human being, it shall at least have the rights of the dog in the street. It shall not be abused.” (Coren, 2002; Government of Newfoundland and Labrador, 2002; Tomison, 2001). The court agreed and passed laws to protect children from abuses. Bergh had successfully extended the dog laws to protect children.

Between 1845 and 1921, the Orphan Trains began as a way to alleviate urban poverty and crowding, transporting abandoned or orphaned children from the East Coast to various places in the Midwest and across the United States. Foster parents would be provided an annual stipend for the care of the child as long as they could prove that the child was still alive. Many people fostered children to gain access to cheap labor. The children were off the streets, and thus became a silent and hidden social and political issue (Coren, 2002).

As the 20th century dawned, children and their welfare played an even more important role in society (Tomison, 2001). The Social Security Act of 1935 and Aid for Dependent Children established a national policy regarding the poor, the disabled,
and the children. The Child Welfare service was created. Eventually, more reform and amendments came about, leading to greater awareness of the abuse and needs of children, and concern for the family (VanSant, 1999).

*Helping Phase—Early to Mid 20th Century AD*

The mid 20th century presupposed that the child knew better than the parent what it needed at each stage of life. It took an enormous amount of time and energy to raise the child through the first six years of life, with both parents fully involved in the child's life as they worked to empathize and meet the needs of the child. Unfortunately, at the point in a child's psycho-social development when the child needs the guidance and direction of his or her parents the most, the helping-parent abandoned the child to assume the role of servant to the child. Discipline was minimal; rather, the parent catered to the child.

In 1975, Senator Walter Mondale pointed out a myth related to child hunger. During a joint Congressional committee hearing he stated, "Our national myth is that we love children. . . . Yet we are starving thousands" (Gross & Gross, 1977). Medical care, education, and housing lapses were noted as other ways we fail our children.

The rights of children are an abstract, legalistic, and general concept. For example, Child Protective Services has the right to investigate abuses of children and remove the child from parents if needed (Gross & Gross, 1977). Yet the process by which parents might have their children returned is simplified in such a way that the precipitating factors that led to the abuse are rarely mitigated.
Child advocacy during this period focused on the systems and institutions that affect and impact children. It is this system that must be changed. Child advocacy often means working against the systems that adversely affect children (Gross & Gross, 1977; Pasquerella, Killilea, & Vocino, 1996).

Today—Forward or Backward?

The legal system in the late 20th and early 21st centuries tends to treat children in a simplified, linear, cause-effect paradigm. Yet the complex issues and consequences of childhood trauma do not lend themselves to such a linear mode of thought. To the legal system, the child who has been sexually molested by mother’s friend can of course be safely returned to mother’s home once the perpetrator is no longer in the home. Yet, the child rarely sees things this simply. Issues of trust and safety have not been addressed, so the child’s return home is challenged by psychological obstacles, fears, and unspoken anxiety. And quite often, the “friend” returns for visits. Without the developmental means to voice feelings or thoughts, the child is emotionally abandoned by the legal system (Henry et al., 2004).

Media interest has brought issues of child abandonment to the public’s awareness. Public concern has resulted in a cadre of professionals who deal with these issues, but there are no clear guidelines to protect child welfare workers. Child welfare work is limited by policy. This creates an impossible job for the street level worker and the public administrator (Hagedorn, 1995; Hargrove & Glidewell, 1990; Kane, 2002; Wilson, 1991).
It is an assumption of this research that policy issues related to children do not lend themselves to simple solutions. Conflicts existing between legislation and the practice of child welfare are part of human history. The legalistic, legislative framework lends itself to linear thought and rational decision making. However, this simple model does not always blend with the reality of practice. Outcomes are often mandated by the legislature, with funding tied to the successful accomplishment of those outcomes (Kathlene, 1991).

Society continues to use children as instruments of power and pride instead of seeing them as individuals with needs of their own. Children represented economic and social security in agrarian societies. In urban societies, children served a role for parental pleasure. They became instruments of adult aggrandizement. Being a “joy to one’s parents” is a heavy burden for any child (Gross & Gross, 1977).

Rena Uvikker of the American Civil Liberties Union argues in an article entitled “Doing Well by ‘Doing Good’” that children deserve a permanent home. Adoption of children, however, deprives the lucrative childcare industry of income by putting an end to ongoing foster care payments (Gross & Gross, 1977). Permanency is not as lucrative as maintaining the child in foster care. Thus, the best interests of the child are often at odds with the very industry designed to protect that child’s best interests. Foster care agencies control the criteria for adoption, thus further decreasing the numbers of families deemed suitable to adopt (Gross & Gross, 1977).

The child welfare profession is brimming with individuals who profess to have devoted their lives to helping children. Could it be that these adults are exploiting
children as well? David Gotlieb considers how well intentioned adults become entangled in their own needs and desires and lose sight of the needs of the children. Children are "victims who seek political power, victims of those who seek release from their own frustrations, victims of those who seek to perpetuate their own personal and professional ideologies" (Gross, 1977, p. 174). Children are politically unorganized. While typically represented by parents and professionals, they are too often exploited by both in the world of interest group politics.

The further back we look in history, the more likely we will find children killed, abandoned, terrorized, and mistreated in all ways. It is clear from this discussion that the abandonment of children was at times socially accepted or tolerated and at other times vilified and hidden. Now, with the advent of safe haven laws, abandonment is legalized.

In 1999, Texas became the first state to enact “safe surrender legislation.” On January 1, 2001, Michigan enacted the Safe Delivery of Newborn Program, intended to provide a safe place for unwanted newborns abandoned by their parents. SDNA was intended to protect infants while affording anonymity and an affirmative defense to the parent believed to be a frightened teen (Long & Ruffin, 2000).

By May 2005, 45 states had passed laws that address the abandonment and safe surrender of infants (Pertman, 2003). Bill analysis provided by the Michigan Senate Fiscal Agency in September 1999 discussed the rationale for the passage of the legislation as originating in a desire for by the public to provide young pregnant women with a safe and confidential alternative to abandoning their infants in places
such as dumpsters, parking lots, ditches, or public restrooms. It is believed that young women or girls who do not know they are pregnant are in a state of self-denial about their pregnancy, or are afraid of telling anyone they are pregnant. They are the ones most likely to take such drastic action. In the words of a Senate Fiscal Agency Report, “Their psychological state may lead them to act irrationally in deciding what to do for themselves and for their babies” (Senate Fiscal Analysis, 2000).

It bears repeating that public policies are often made in response to a public outcry for change or action. Michigan and other states do not keep official statistics on abandoned newborns. But to protect children, ease the fears of unprepared mothers, and address the pressure of interest groups, the legislature has provided a legal solution to what is without argument a tragic potential outcome of unintended pregnancies. In addition, personal beliefs as well as party affiliation have an impact on legislative decision making (Arnold, Deen, & Patterson, 2000).

Michigan’s SDNA was the first to include a public awareness campaign. But what message does this media attention carry? In one southwestern Michigan high school, the brochure FIA-Pub-864 entitled “What Am I Going to Do: Safe Delivery” has been presented to all students, apparently with little additional information. This brochure, developed by a committee with input from teens, is certainly eye-catching (Appendix B). Yet, one of the paradoxes is that it tells young people they neither need to take responsibility for their actions, nor tell anyone of their pregnancy. In legitimizing infant abandonment, it appears the law is not only legalizing the abandonment of infants, but it is also abandoning teens.
The impetus for Michigan's SDNA is not a difficult one to understand. Infants found abandoned in unsafe places are an infrequent occurrence but intolerable in a society that claims to be "modern." Yet infants are still abandoned in unsafe places. The next chapter will discuss the substantive issues examined in this research.
CHAPTER IV

LITERATURE REVIEW

The nature of policymaking is such that participants cannot know what outcomes their actions or statements will produce. Policy actors often simplify their lives by taking shortcuts, co-opting, or satisficing, rather than considering multiple options and planning carefully for each possible contingency. Naturally, there are limitations to the number of “possible contingencies” that might be considered. Therefore, these simplifications are considered reasonable accommodations to the complexities that hinder fuller analysis (Sharkansky, 2002). At times though, attempts to simplify a public problem lead to unintended consequences or paradoxes, some positive and some negative. One of the skills policy makers must hone is to be able to tell if an issue needs a simple or more complex approach.

The focus of this study is to examine the gap between the formulation and implementation of public policy, in this case, SDNA. This literature review consists of four sections that examine the themes which are critical to this research: moral development, social construction, decision making, and public policy issues. Each dimension is heuristic, but insufficient in and of itself to explain unintended consequences.

Individuals are constrained by their experiences, as well as their affective (emotional), behavioral, and cognitive (thinking) responses to a variety of stimuli. The

72
moral development of individuals influences how they will interact in groups. Individual moral development and the social construction of knowledge, reality, and groups impact the manner in which decisions are made. Consequences of these decisions may be either positive or negative, but if the consequences are unintended, whether they are positive or negative, they may be considered antithetical to the groups' intent. If the outcome of the decision is contradictory to the decision, it may be paradoxical, according to Mayants' definition of paradox.

Moral Development

Decision making rarely occurs in a vacuum. Environment, experiences, and the satisfaction of wants, desires, and needs shape the cognitive behavior of human beings. Theories of moral development in the social and psychological sciences are numerous. This discussion will be limited to those that address to how individuals contribute to the group's social reality. It is important to have a basic understanding of moral development in order to envision how individuals, and subsequently groups, make decisions.

In 1971 John Rawls showed that the moral principles used to judge public disagreements are necessary in order to shield society from the emotive expressions of our private selves that would infect public discourse. Rawls' notion of the veil of ignorance was one in which rational individuals suspend their selfish interests to comprehend and understand universal principles of justice (Harmon, 1995).
Kohlberg's six stages of moral development have provided a foundation for volumes of thought and research related to decision-making. In his work, Lawrence Kohlberg argues that moral change fits a pattern. Using multiple empirical studies, he presented 25 moral concepts to form dilemmas to which the study's subjects responded. He demonstrated that ethical and moral reasoning were sequential and could be conceptualized as a hierarchy of reasoning patterns that go from lesser to greater levels of moral cognition. Stage growth is stimulated by posing real or hypothetical dilemmas that give rise to uncertainty and discussion (Kohlberg, 1983).

An example of this from the field of education is found in the Socratic method of teaching where the teacher focuses listening on the student's reasoning. Through reflective questioning of the student, the teacher is able to create dissatisfaction in the student about the student's knowledge of the topic. The teacher points the way to a deeper understanding of the issue in question. This dissatisfaction, in turn, stimulates growth in the student's ability to reason, thereby stimulating learning (Kohlberg, 1983, pp. 27, 47).

Kohlberg also demonstrated that an adult's behaved cognitive response was similar when presented with general moral dilemmas in real-life situations. These responses were consistent with social justice, fairness, and the "golden rule" from the perspective of taking competencies needed to understand and act with a veil of ignorance (Stewart et al., 2002).

Kohlberg's stages of cognitive moral development were developed in a bifurcated manner with the oral aspect, or language, and the cognitive aspect, or
learning, developing in tandem (Rich & DeVitis, 1994). The four levels and six associated stages of Kohlberg’s theory of moral development are summarized in Table 5 and discussed as follows.

Table 5

*Levels and Stages of Kohlberg’s Theory of Moral Development*

<table>
<thead>
<tr>
<th>Level</th>
<th>Stage</th>
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<tbody>
<tr>
<td>Level A—Preconventional</td>
<td>Stage 1 — “Do what you are told”</td>
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<td></td>
<td>Stage 2 — “Let’s make a deal”</td>
</tr>
<tr>
<td>Level B—Conventional</td>
<td>Stage 3 — “Be nice and get along”</td>
</tr>
<tr>
<td></td>
<td>Stage 4 — “What if everyone did it?”</td>
</tr>
<tr>
<td>Level B/C—Transitional/Non-principled Postconventional</td>
<td>Transitional stage</td>
</tr>
<tr>
<td>Level C—Postconventional and Principled</td>
<td>Stage 5 — “Greatest good for the greatest number”</td>
</tr>
<tr>
<td></td>
<td>Stage 6 — “Universal ethical principles”</td>
</tr>
</tbody>
</table>

*Level A—Preconventional Level*

*Stage 1—“Do what you are told.”* Based on the avoidance of punishment, the individual conforms to get rewards or to have favors returned. There is a literal obedience to rules and authority in order to avoid punishment, physical harm, and the power of authorities. To do what is right means to obey for the sake of obedience. What is right avoids breaking rules, does no damage to other people’s property or person. The social perspective of Stage 1 is egocentric. The interests of others are not
considered. Actions are judged in terms of physical consequences, not the psychological interests of others. The individual views their perspective as that of authority.

Stage 2—"Let's make a deal." Individual instrumental purpose and exchange are the hallmarks of this stage. The individual conforms to get rewards and have favors returned. Exchanges must be fair and concrete, though ultimately serving one's own needs. Thus, the concepts of "equity" and "fairness" continue to be oriented towards the individual. To be considered "right" is to follow rules when it is in one's own immediate interest. The individual acts to serve their own interests and needs and allows others do the same. There is recognition that others have interests as well, but the reason for doing right is to serve one's own needs or interests in a world where one must recognize other people have interests too. From a social perspective, the interests of the individual are separate from those of authorities and others. Right is relative in a concrete individualistic sense because everyone has individual interests to pursue. The individual integrates conflicting individual interests to another through instrumental exchange of services, need for the other and the other's good will, or through giving each person the same amount.

Level B—Conventional Level

Stage 3—"Be nice and get along." The concern in this stage is to conform in order to avoid disapproval and dislike by others. Relationships and mutual
interpersonal expectations provide the foundation for considerations of what is “right” or “good.”

The content of decisions made at Stage 3 involves being good or nice. “Right” lives up to expectations of people close to one or what is generally expected in one’s role, i.e., son, sister, friend, etc. “Being good” means having good motives and showing concern about others, keeping mutual relationships, maintaining trust, loyalty, respect, and gratitude. The reasons for doing right are somewhat self-serving: needing to be good in one’s own eyes and in the eyes of others.

Stage 3 also shows the beginnings of caring for others. Individual begin to view themselves in relationship to other people, thereby developing a social perspective. There is an awareness of shared feelings, agreements, and expectations, which begin to take precedence primary over individual interests. The “Golden Rule” becomes concrete with the individual putting oneself in the other’s shoes. However, as yet, there is no generalized system perspective.

Stage 4—“What if everyone did it?” Individual relations are factored in terms of their place in the system. The individual now feels a duty in society, upholding social order and welfare of the group or society. This duty becomes important to the individual, who now conforms in order to avoid censure by legitimate authorities in order to avoid the resulting guilt.

What is right is to fulfill the duties to which one has agreed. Laws are upheld except in extreme cases where they conflict with fixed social duties and rights. Doing right is considered a way to contribute to society, the group, or institution. The
reasons for doing right are to keep the institution going as a whole. Meeting one’s defined obligations influences self-respect.

From the social perspective, viewpoints and interpersonal agreements or motives are differentiated. The Stage 4 person takes the viewpoint of the system, which defines the roles and rules of its participants.

*Level B/C—Transitional (Non-principled Postconventional)*

Considered by Kohlberg to be Stage 4½, this transitional stage is where choice is personal, subjective and based on emotions. Conscience becomes arbitrary and relative, as are ideas like “duty” and “morally right.” This is a transitional social perspective with the perception of the individual standing outside of his own society, considering himself as an individual making decisions without a generalized commitment or contract to society. Obligations can be selected and are defined by particular societies, but there are no principles for these choices.

*Level C—Postconventional and Principled*

The postconventional level is one in which moral decisions stem from rights, values, and principles that are agreeable to all individuals. The ideal is that this will create a society designed with fair and beneficial practices for all members.

*Stage 5—“Greatest good for the greatest number.”* In Stage 5 of moral development there is a sense of social contract or utility. Conformity is the result of a desire to maintain the respect of an impartial spectator who judges in terms of
community welfare. "Rightness" is to uphold the basic values and legal contracts of society even if they conflict with the concrete rules and laws of the group.

People hold a variety of values and opinions; most are relative to one's own group. These "relative rules" should be upheld in the interest of impartiality and because they are the social contract. Nonrelative values and rights, such as life and liberty, are upheld regardless of the majority opinion.

Reasons for doing right are a feeling of obligation to obey the law because one has made a social contract to do so for the good of all. Family, friendship, and work obligations are commitments or contracts freely entered into and require respect for the rights of others.

From a social perspective, this necessitates a prior-to-society perspective held by a rational individual aware of values and rights prior to social attachments and contracts. Perspectives are then integrated by formal mechanisms such as contracts, agreements, objective impartiality, and due process. The moral and legal points of view are considered, conflict between the two is recognized, but the person may find it difficult to integrate them. Thus, laws and duties are based on rational calculation of the overall utility "the greatest good for the greatest number."

*Stage 6—"Universal ethical principles."* The desire to conform to avoid self-condemnation, as opposed to the condemnation of the other, is the hallmark of Stage 6 of Kohlberg's moral development theory. There is an assumption that individuals and society are guided by universal ethical principles that all humanity should follow.
Laws or social agreements are valid presumably because they rest on these universal ethical principles, which include justice, equality of human rights, and respect for the dignity of human beings as individuals. When laws violate these universal ethical principles, one still acts in accordance with the principle. Universal ethical principles are not merely values, rather they are principles used to generate particular decisions. Right is done because as a rational person the principles are seen as valid and one is committed to them.

James Rest further enhanced Kohlberg’s developmental dimensions and found that the most moral judgment claims are asserted by a cognitive development approach. Thus, moral judgment is developmental, is governed by cognitive processes, and has a role in real-life decision making. (Rest, 1979).

Kohlberg’s and Rest’s stages and developmental dimensions are identified in individuals following the administration of a standardized psychological test. This test is neither feasible nor necessary for this research. Rather, we can glean from the well-established stages levels of moral development that contribute to group decision making.

For purposes of this research, we will combine Stages 1 and 2 of Kohlberg’s Preconvention Level A and refer to that combination as low moral development. Similarly, Kohlberg’s Stages 3 and 4, the Conventional and Transitional Levels, will be considered as moderate moral development. Kohlberg’s Stages 5 and 6, or the Postconventional Level, will be considered as high moral development.
These stages of individual moral development become important when considering concepts related to the manner by which groups make decisions. From a group standpoint, the concept of dominance and consensus might indicate the combined moral development of the individuals within the group. Group behavior that searches for concurrence may be an indicator of moderate to high group moral framework. But, as noted by Janis, it may best be understood as a "mutual effort among the members of a group to maintain self-esteem, especially when they share responsibility for making vital decisions that pose threats of social disapproval and self disapproval" (Janis, 1972). Again, referring to Kohlberg’s stages of moral development, this would place the group decisions made according to Janis’s group-think hypothesis as low to moderate, with moral considerations made to avoid punishment or disapproval.

In 1776, 55 men in Philadelphia agreed that the laws imposed upon the American colonies violated the universal ethical principles that were outlined in the Declaration of Independence. Their signing of the Declaration was an act of high treason against the King of England, punishable by death. The social arrangement we now know as the United States of America is grounded in Kohlberg’s Stage 6 moral development. Any rational individual recognizes the nature of morality or the basic moral premise of respect for others as an end, not a means.

It is important to remember that an individual’s moral stage is characterized by his or her ability to make moral judgments. Legislative decision making is made by individuals in a group setting. The moral decisions of individuals and the group...
progressively consider the needs of those not in the group in an increasingly inclusive and empathetic manner. As demonstrated in the previous chapter, decisions about the welfare of children have often resulted in children being, paradoxically, lost or trivialized in the process.

Social Construction of Reality, Knowledge, and Groups

Human beings are social creatures, requiring social interaction in order to thrive and grow. From the time we are born until the moment of our death, we exist within an intricate web of humanity. The interaction of individuals, each with different experiences, understandings, and cultures, creates a rich diversity from which to learn or withdraw.

Social reality, as distinct from biological or cognitive reality, consists of the accepted social tenets of a group or community (Wikipedia, 2005b). Some, notably John Searle, believe social reality can be established separately from the individual and surrounding ecology (Searle, 1995). The best known principle of social reality is the concept known as the “big lie,” which states that it is easier to convince people of an outrageous lie than a less outrageous truth. The claim that the Roman Emperor was in fact a “god” is one example of this concept. This consideration is relevant to the discussion of the findings of this research in terms of how groups perceive reality.

Reality constructs contribute to each individual’s unique understanding of what they believe to be true about the world around them. Each individual’s reality construct or epistemology in turn contributes to that of the group in which they
belong, thus making an examination of the notion of the social construction of reality, knowledge, and groups essential to this research. I will first consider two epistemological assumptions related to the social construction of reality, positivist epistemology and postpositivist epistemology.

**Positivist Epistemology**

The positivist epistemology is that the acquisition of knowledge is based on a linear model of science, is external to the observer, is empirically verifiable, and can be literally interpreted as one way of viewing social reality (Morçöl, 2002, p. 18).

The scientific management theory of Frederick Taylor is an example of this epistemological assumption in the field of public administration. Taylor presented his principles of scientific management as a more effective management tool than that of management by initiative and incentive (MI&I). In management by initiative and incentive, managers give workers large incentives, and in return, workers respond by working to the best of their ability at all times in the interests of their employers. Practically all of the work is done by the workers. Taylor noted two advantages with the theories of scientific management. First, it was practical, and second, it produced more reliable results than MI&I. Management assumed new duties and responsibilities. These comprise the four principles of scientific management (Taylor, 1978):

1. Management gathers knowledge traditionally held by the workers. Information is recorded, tabulated, and condensed into laws, rules, and formulas.
These in turn are applied uniformly, resulting in an increase in productivity, wages to
the worker, and profit for the employer.

2. Management must scientifically select and develop ongoing education and
training to progressively develop the workforce.

3. Science and scientifically selected workers are brought together.

4. There is an almost equal division of the actual work between the workers
and management. (Taylor, 1978)

Taylor envisioned that this cooperation between the workers and management
would pass on understanding and teamwork, the hallmarks of scientific management.
With this "intimate, close, personal cooperation between the two sides, it becomes
practically impossible to have a serious quarrel" (Taylor, 1978, p. 20).

For the positivist, the question of whether reality exists independent of the
knowing subject is critical. Does social reality exist independent of the observer or is
it simply a social construction? The social construction of teen pregnancy allows for
the existence of pregnant teens, but too often the observers believe that teen
pregnancy only happens to other people's children. If the object, teen pregnancy, is
not part of the reality or knowledge of the observer, then there is the risk of the
observer believing that the social policy problem of teen pregnancy can be solved
conclusively by policy directives. So too, the issue of infant abandonment can be
resolved by a seemingly simple policy mandate such as SDNA.
Postpositivist Epistemology

In contrast, the postpositivist epistemology posits partial and varying degrees of dependence on the observer to reality. It recognizes that the relationship between the observer and the observed is complex and interdependent. The universe is a continuum, with limited predictability. Social problems are not easily resolved. Critics decry the postpositivist methodology as being unscientific and empirically invalid.

For the postpositivist, policy analysis is not a straightforward process. The postpositivist assumption is that there are varying degrees of dependence on reality for each participant. This allows a discrepancy to exist between the “what ought to be” and the “what is.” The problem definition or identifying issue of the policy process becomes a recognition of the differences between the two, while the task of policy analysis is to find out how to close the gap. Policy problems become socially constructed entities and have more to do with subjectivities and negotiated orientations than with objectives and organizational goals (Morfö, 2002, p. 109). According to Dunn, standard, rational (positivist) policy analysis assumes policy problems are well defined. Yet most are not. The result is that more often the wrong policy problem is resolved, or unintended consequences result (Dunn, 1997). When applied to SDNA, it becomes apparent that if the epistemological views of the formulators differed from those of the implementers of the Act, the gap would result in an ineffective and inefficient public policy.
Social Construction of Reality and Knowledge

When considering the social construction of public policy, Peter Berger and Thomas Luckman consider that reality itself is socially constructed. They define reality as, “a quality pertaining to a phenomenon that we recognize as being independent of our own volition.” In other words, we cannot wish it away (Berger & Luckman, 1966).

Socially constructed reality stresses the development of global views by individuals in dialectical interaction with society at any time. This results in many realities being created. Institutions crystallize around and are legitimated by common factors such as language, mythology, religion, or philosophy. Socialization maintains these socially constructed realities, which are internalized subjectively by upbringing and education, thus becoming part of the social identity of individual citizens (Wikipedia, 2005a). In other words, the relationships between the experiences of individuals bring about a shared group experience.

The process by which this social construction operates is examined by the sociology of knowledge. Man’s consciousness is determined by his social being and his thought is expressed in activity. All human events are relative and no historical situation is understood except in context. Reality becomes a quality pertaining to the context or phenomenon that we recognize as being independent of our own existence. In other words, we cannot wish reality away. Knowledge is the certainty that phenomena are real and possess certain definitive characteristics. However, the
knowledge of an object, say an elephant, is different for the man in America than for a Tibetan monk. So too are their realities.

These knowledge constructs translate into individual and group communication patterns and are symbolized by language and rhetoric (Foss, Foss, & Trapp, 2002). Language enables us to understand and articulate the ways we create and interact within the worlds in which we choose to live. In short, language creates reality, and is thus integral to our lives (Foss, Griffin, Foss, Foss, & Trapp, 1999). Intergroup and intragroup communication are socially constructed and articulated as the social problems and possible solutions evolve.

Of methodological importance to this study is the consideration that language is both metaphorical and literal. Literal language is considered to be the language of science and consists of logical statements with empirical referents (Morçöl, 2002, p. 20). Metaphorical language provides ornament. It expresses emotions and values and is used in cognitive psychology and complexity theory to understand the process of specific phenomenon. This provides a balance to the decontextualized generalizations to which literal language is prone (Morçöl, 2002, pp. 57, 203, 211, 218-219). If public policy is to be meaningful, it must account for both literal and metaphorical means of communicating an issue.

Berger and Luckman (1966) state that language is the most important element in society (p. 35). The literal-metaphorical distinction discussed by Morçöl, Foss, and others is the dominant theory of language today. It may also shed light on the central question related to this research, namely, the factors contributing to formulation-
implementation gap in public policy. For example, if the formulators of SDNA were using metaphorical language, and implementers of SDNA were using literal language to translate the formulators’ intent, a gap would develop, giving way to paradoxical policy outcomes.

Language encourages patterns of behavior that may have as a result, unintended consequences. For example, an annual event at one Michigan high school is “Bring Your Baby to School Day.” The event was intended to highlight parenting teens who were good students. The resulting community outcry questioned the educational system condoning what is considered to be inappropriate teen behavior, i.e., premarital sex, and demonstrates a paradoxical relationship between those formulating the policy and those implementing the program.

Social Construction of Groups

Individual social reality influences interactions with others; therefore, it is understood that individual realities intersect when the context is that of a group setting. How intergroup and intragroup communication occur and are constructed is subjective and based on the reality construct of the particular issue under consideration. Therefore, in terms of this research, it is assumed that groups responsible for formulation and implementation of SDNA each had their own understanding of the target population.

It is not assumed that those responsible for the formulation of SDNA and those responsible for implementing SDNA shared a common understanding of the
population that the policy was attempting to address. In the case of SDNA, the target population was emotionally disturbed teen girls experiencing the birth of a child they did not wish to parent. If this is the case, it is possible that they may have had differing ways of viewing the substantive factors constructing this policy issue.

Social groups vary in what they believe to be important. This is true for the issue that precipitated the formulation of the policy. It also is true for implementation and how results are deemed as being successful. For SDNA, these factors include how the relevant groups viewed abandoned newborns, teen mothers, infertile couples, and adoptees.

The concepts of social construction of reality and knowledge are important to this research because of their ability to contribute to or possibly explain the gap between formulation and implementation phases of the policy. Just as a group of blind men standing around an elephant will offer differing descriptions of the elephant, so too may groups differ in defining a public policy issue. The individual and collective knowledge of an issue will naturally lead to different assumptions regarding the reality of that issue. In the case of the formation of public policy in general and SDNA in particular, if the group formulating SDNA based its decisions on information or knowledge that was different from the information or knowledge held by the group responsible for the implementation of SDNA, a gap will exist. This formulation-implementation gap would result in unintended consequences, making the implementation of the policy difficult, if not impossible.
In their 1993 article entitled "Social Construction of Target Populations," Anne Schneider and Helen Ingram consider how social construction influences the policy agenda and the selection of policy tools as well as the rationales that legitimate policy choices. Populations targeted for political action are constructed along a matrix of social construction and political power. This matrix produces four categories of constituent groups or target populations: advantaged, contenders, dependents, and deviants. Table 6 presents this matrix with examples provided for each target population. Policy design impacts on different target populations in terms of message and orientation and participation (Schneider & Ingram, 1993).

Table 6

Typology of Social Construction and Political Power in Target Populations

<table>
<thead>
<tr>
<th>Group</th>
<th>Political Power</th>
<th>Social Construction</th>
<th>Control over Benefits</th>
<th>Burdens</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advantaged</td>
<td>High</td>
<td>High</td>
<td>High</td>
<td>Undersubscribed</td>
<td>Elderly, businesses, veterans</td>
</tr>
<tr>
<td>Contenders</td>
<td>High</td>
<td>Low</td>
<td>Sub-rosa</td>
<td>Overt &amp; Symbolic</td>
<td>Minorities, the wealthy, large unions</td>
</tr>
<tr>
<td>Dependents</td>
<td>Low</td>
<td>High</td>
<td>Symbolic</td>
<td>Oversubscribed</td>
<td>Children, the disabled, mothers</td>
</tr>
<tr>
<td>Deviants</td>
<td>Low</td>
<td>Low</td>
<td>None</td>
<td>Oversubscribed</td>
<td>Criminals, drug addicts</td>
</tr>
</tbody>
</table>

Note: Adapted from Link & Oldendick, 1996; Schneider & Ingram, 1993.
When a target group is considered to have positive social construction and strong political power, the group is considered to be “advantaged.” This group often has oversubscribed benefits and few burdens in that they have a great deal of control over their resources and capacity to shape their destiny. This group finds it easy to place issues on the legislative policy making agenda.

When social construction is negative, but political power is strong, the group is considered to be a contender for policy choices. It has some control over the benefits and burdens of policies. While they are able to effectively ease the imposition of burdens, they do not always have the ability to gain visible benefits. Policy makers grant benefits to contenders only if they are noticed by the target population and hidden to others. For example, policies favorable to the wealthy are often not highly publicized.

When construction is positive and power is weak, the group is viewed as consisting of dependents. It has no control over the benefits and resources resulting from policy decisions and finds it difficult to direct resources because it lacks political power. Policies often become symbolic, allowing public officials to exploit this target population. Typically, there are eligibility requirements established by policy makers for entry into this group.

Finally, when social construction is negative and power is weak, the group is viewed as consisting of deviants. The people who comprise this group have no control over the benefits and burdens of policies. Deviants are discouraged from organizing and are therefore subject to the authority of others.
One of the challenges facing the public servant is that target populations may shift. When applying Schneider and Ingram’s social construction and political power typology to the SDNA target population, it would initially appear that young pregnant women, by abandoning their newborns, are part of the deviant group. They have no political power and are not organized. Their shadowy existence clearly places them in the deviant target population. By applying SDNA to this population, their social construction appears to shift to more of a dependent population. They are now ascribed literal reality in society as their benefits and burdens are addressed by SDNA.

The same holds true for infants, typically defined as a dependent population. Following the enactment of SDNA, they too became advantaged in the above matrix. Potential adoptive parents become contenders in regard to SDNA. Clearly, public policy formulators and implementers must contend with uncertainty as to the accurate identity of target populations when considering the impact of policy decisions.

Finally, it should be noted that the gender construction of groups may impact the public policy process. It is generally accepted that men dominate the legislature, while women dominate child welfare systems. Politics is the art of influencing government policy. Representative bureaucracy theory states that the personnel composition of the bureaucracy affects the nature of governmental outputs. This line of thought affirms that women have to participate in parliamentary assemblies, foreign affairs, local representative bodies, and employment at administrative and managerial levels (Chapandama, 1995).
The demographic composition of the public affects the nature and substance of governmental outputs or policies. Men and women have different life experiences and, therefore, will hold differing attitudes and values. These will in turn affect decision making and governmental outputs (Dolan, 2002).

Women in elective office bring new influence to what has been until recently an underrepresented group. Women's presence is transforming legislative politics in ways that are not typically conceptualized in research on governance processes (Kathlene, 2002). One has to bear in mind that contrary to the "critical mass" theory, it does not automatically follow that bringing more women into politics will not translate directly into a proportionate amount of female influence. Nevertheless, it would seem plausible that the more women are involved in the legislative personnel pool, the more likely there will be an increased emphasis on issues traditionally relevant and important to women, including those related to child welfare.

SDNA was proposed and enacted during the 1999-2000 Michigan legislative session. The composition of the Michigan House of Representatives at that time was that 29% percent of the legislators were women and 71% were men. Politically, Republicans held a slim margin of 53%, with Democrats holding 47% of the House seats. During the same period, the Michigan Senate consisted of 16% women and 84% men. The political composition of the Senate was 61% Republican and 39% Democrat.

While this research does not focus on gender, it is a fact that the bills which resulted in SDNA were originally proposed in the Michigan House of Representatives.
and Senate by female legislators. Indeed, since SDNA is about giving birth and abandoning the newborn in an unsafe location, it is considered by some to be a woman's issue.

Decision Making

For this discussion, we will use the definition of decision making found in the work of McGowan and Wittmer (1998). Accordingly, decision making is "the process of exercising judgment in any particular situation" (McGowan & Wittmer, 1998, p. 293). This definition is inclusive of the concepts of individual moral development and social construction of reality.

The process of decision making can be either of a routine or nonroutine type. Routine or "programmed" decisions are made in a prescribed manner. The amount of information processed to make the decision matches the required input format. An example of a routine type of decision-making form is one in which there are eligibility requirements that coincide with preset categories. An example of this routine decision making is in eligibility applications for AFDC payments.

Conversely, nonroutine or "ill-structured" decisions involve complex problems and issues for which there is no precedent. There is limited information, objectives may be in conflict, the problem may be linked to other problems, and emotions of the individual decision makers may conflict with one another, resulting in further complexity (McGowan & Wittmer, 1998).
Regardless of the type of decision process, decision making typically involves a series of actions or steps taken by individuals or groups. These steps are taken from McGowan and Wittmer (1998, p. 296):

- Step 1 – Problem identification
- Step 2 – Development of alternatives
- Step 3 – Evaluation of alternatives
- Step 4 – Selection of solutions
- Step 5 – Implementation of solution
- Step 6 – Evaluation and feedback

The group decision-making process typically involves the feedback of many individuals in order to make a judgment or decision (Lahti, 1996). Decisions occur at all phases of the policy process, both formulation and implementation, and have a great impact on the quality of our lives.

The problem or issue that is first identified may entail a diagnosis of the problem. In order to distinguish the symptoms of the problem from the diagnosis, patterns of cause and effect are critical to note (McGowan & Wittmer, 1998, p. 296). Second, alternative solutions are developed. The manner in which a problem is defined will influence how alternative solutions are generated. Issues of scope, time, and resources must be considered. The approach to this stage of the decision-making process can be rational, incremental, or a blend of the two, referred to as logical incrementalism (Quinn, 1980, cited in McGowan & Wittmer, 1998, p. 297).
The third step in the process involves the evaluation of alternatives. These are compared, often through the use of analytical tools, with hopes that the best solution is selected (Eastman, 2000). However, when attempting to apply a rational approach to a complex issue, the solution may be at cross-purposes, or paradoxical. Frequently, alternatives are evaluated with little or no attention to standards, performance, or goals.

The fourth step involves the selection of the solution and is dependent on the methods used in the previous step. Efficiency, expediency, equity, and economy are considerations that may muddy considerations, forcing in an intuitive or emotional choice by high-ranking administrators or decision makers (McGowan & Wittmer, 1998, p. 298).

The fifth step involves implementing the solution and following up on outcomes. Rosenbloom (2000) suggests that legislative-centered administration involves no separation between politics and administration, and as such, legislative oversight becomes part of implementation. Agencies are extensions of the legislature and share core values of participation, transparency, limited intrusiveness, and individual rights. Consideration of efficiency, economy, and effectiveness become secondary to these core values (Rosenbloom, 2000).

The final step in the decision-making process involves necessary, but rarely or effectively used, evaluation and feedback. Although many governmental and nongovernmental organizations such as United Way, community mental health boards, or state and federal offices of management and budget are utilizing outcomes-
based measurement and feedback mechanisms, the data collected, and consequently feedback provided, is often rudimentary. At times, contractors, vendors, or other implementation entities are left to their own devices to develop a meaningful tool to measure program outcomes.

The decision-making process occurs at both the formulation and implementation phases of the policy process. Following the decision-making activity, the solution must be implemented, or the issue that precipitated the decision-making event will remain unresolved. This problem-solving step involves the previous decision-making process, plus the implementation, maintaining, and monitoring of the chosen solution. Many decisions made at the formulation phase fail because they are never implemented (Eastman, 2000). Those that are implemented, but still fail to achieve their intended results, fall into the category of impossible jobs. It is likely that decisions made at formulation differed from those made by implementers, thereby resulting in a gap indicative of policy paradox.

The notion of causation is vital to the process of valuing alternatives, yet there are many philosophical difficulties involved in the meaning of causation. Complex policy alternatives are often evaluated in terms of the consequences a particular choice evokes. It is difficult for us to think in terms that ultimately the sum of all the effects must be considered (Axelrod, 1976). And, in reality, our decision making is limited by the combined individual realities of the decision makers.

While there are many group decision-making models, this research will discuss the rational decision-making model and two subtypes of this model, bounded
rationality, and its relatively unknown opposite, erotetic rationality. In addition, the concept of group-think in relation to group decision making will be presented.

The Rational Model

The rational model is based upon an economic view of decision making. It presumes that all the facts about the issue under consideration are known and that there is one best solution to the issue or problem. The assumption is that decision makers assess the advantages and disadvantages of alternatives with goals and objectives in mind. This model requires an environment in which decisions can be made based on optimization of information. The consequences of selecting or not selecting an alternative solution are also weighed, which in theory allows for the optimal choice to be made (Axelrod, 1976; Eastman, 2000; Lahti, 1996). Cost-benefit analysis is a typical example of the rational model.

The advantage of the rational model is that it is simple, logical, and sequential. Decisions can be understood by considering the goals and objectives desired, evaluating possible alternatives based on the information available, and choosing the one best way. However, there is a disadvantage to this model. It assumes that there are no individual biases to the decision-making process or among the decision makers themselves. Yet individuals do bring their own perceptions and realities to the process.
**Bounded Rationality**

Herbert Simon's concept of bounded rationality is to policy science what knowledge of reality is to physics (Morçöl, 2002, p. 146). The limited span of attention, uncertainty of outcomes, lack of reliable information and knowledge, and evocation of frames of reference establish the limits of rationality. Decisions made under conditions of uncertainty and with conflicting interests results in a constrained choice called *satisficing*.

Public sector decision making constitutes an unusual set of circumstances. Typically, the set of alternatives is not given in a sense that is practically relevant. We satisfice by looking for alternatives so that we can find an acceptable one after a moderate search. SDNA may fit into this category of decision making. The target population is uncertain, although for political expediency, it might be considered to be infants abandoned in unsafe places. Yet there are secondary populations consisting of pregnant teens, infertile couples, and adoptees that enter into the mix. All are potentially impacted by the formulation and implementation of SDNA.

When data about the target population are limited, it is difficult to determine the position and momentum of policy issues with accuracy. Bounded rationality becomes the strongest example of the uncertainty principle in the social sciences (Morçöl, 2002; Pasquerella et al., 1996). It represents what might be considered to be the best guess for resolving the issue under scrutiny.
Erotetic Rationality

The consideration that choices are limited, not by what is known about an issue, but rather by the lack of knowledge or ignorance about that issue, forms the basis for the concept of erotetic rationality. This unbounded ignorance forms the essence of the concept of erotetic rationality (Dunn, 1997). Charles Lindblom viewed decision making as a fundamental problem of adapting to constraints. Adaptation becomes the key to survival in the face of complexity.

Dunn (1997) considers unbounded ignorance to be the central characteristic of why the process of problem structuring takes priority over the process of problem solving in policy analysis. Erotetic rationality, as opposed to bounded rationality, is a normative model of reasoning and decision making about complex problems. Erotetic reasoning involves questions and answers that probe the boundaries of a complex problem. It is designed to generate new knowledge in place of ignorance (Dunn, 1997). Erotetic rationality has become to decision making what quantum physics has become to cosmology. It stretches the boundaries of knowledge and explores the possibilities.

Lindblom (1990) argues that social problem solving is actually the process of probing what to do in the presence of ignorance. Ignorance limits the questions or probes made by decision makers. Ignorance a product of cognitive impairment and is a result of conformity imposed on members of government entities. Standard methods of policy analysis presume the boundaries of the problem have been defined. This
rational decision-making model provides no way to generate the new knowledge needed to succeed in the goal of solving the problem.

To understand the situation faced by the public sector decision maker, one must take into account humankind's limited problem-solving capacity, the inadequacy of information and knowledge, and subsequent costliness of analysis. Multiple variables and the policy analyst's need for strategic sequence of moves in order to construct and complete a rational deductive system becomes hindered by the lack of information.

Both Simon and Lindblom would presumably agree that the ends of public policy are governed by the means available. Lindblom notes that stable long-term aspirations will not appear as dominant values for policymakers. Thus, decision making is fundamentally remedial. Incremental moves are made by the decision maker without taking upon himself the difficulties of finding a solution (Hennessey & Leigninger, 1996).

According to Dunn, social problem solving does not involve the application of knowledge in decision making. Instead, social problem solving is a process of what to do in the presence of ignorance (Dunn, 1977, p. 277). What is unknown about the issue, not what is known, determines the parameters of knowledge. Probing the boundaries of ignorance results in cognitive empowerment and, theoretically, meaningful decisions. Conversely, the notion of bounded rationality results in cognitive impairment, which in turn limits the initiation of social change. Some moves
are disregarded because they were too costly in terms of time, energy, and money. Some were to be left up to the implementers of the legislation.

*Group-Think*

Legislative decisions, by virtue of the fact that they are made by a group, are not simple processes. One significant danger to effective group decision making is the concept of group-think. The work of Irving L. Janis on the concept of group-think is of interest when considering the factors that might lead to gaps in the formulation and implementation process of SDNA.

Briefly, group-think is a phenomenon that occurs when illusions of invulnerability in the group create false optimism that encourages risk-taking behavior without careful consideration of risk factors (Janis, 1972).

The eight symptoms of group-think as follows:

1. Illusions of invulnerability.
2. Collective rationalization.
3. A belief in the group's inherent morality.
4. Stereotypes that the enemy is evil and not to be negotiated with.
5. Direct pressure is exerted by the group for members to be loyal.
6. Self-censorship occurs regarding deviations from the group consensus.
7. Shared illusions of unanimity and the belief that the silence of individual members equates to consent with the group decision.
8. The emergence of self-appointed “mind guards” who protect the group from information that might shatter the shared complacency about the effectiveness and morality of their decisions. (Janis, 1972, 1983, 1989)

Assuming that group-think exists in the policy process, the likelihood that a well considered decision will be made is further lessened. Emotionality, often a precipitant for the policy issue being considered, is preserved into the decision-making process. Diverse options for consideration are squashed and the status quo is preserved. The group’s moral epistemological framework settles in what Kohlberg might consider to be the preconventional level, striving to survive and avoid punishment or negative consequences. While the group may be cohesive, term limits force decision-making groups to refresh its members. This may serve to diminish member complacency (Janis, 1972, p. 4).

Strategic decision making in the purest sense becomes impossible when all options are not able to be, or are not, considered. In essence, the decision is rationally bounded. In an ideal world, all alternatives would be considered through a survey of the range of objectives and their corollary values. The costs and risks of negative and positive consequences would be considered with new information sought to further evaluate options. Consequences would be reexamined given new information, and detailed provisions for implementation would be chosen along with contingency plans made (Hennessey & Leighninger, 1996, p. 152). In an ideal world, this would allow for the decision to be of an erotetic nature.
The concept of group-think in legislative decision making is not insignificant. Term limits, sunsetting, and possibly gender issues may all be linked to group dynamics in a way that gives voice to metaphorical rhetoric without losing the literal language. Men and women have historically been found to make decisions based on fundamental psychological and ethical differences (Gilligan, 1993; Rich & DeVitis, 1994; Wilson, 1991). While men tend more towards an ethics of justice, women lean towards an ethics of caring.

As women become more involved in the policy process as both formulators and implementers, decisions made may be subject to an increase in caring, responsibility towards others, inclusiveness, and consensus. Conversely, an ethics of justice is of a more exclusive nature. No less responsible, it lends itself towards a more authoritarian, dogmatic, and dominant style of decision making (Biernat & Fuegen, 2001; Chapandama, 1995; Crews, 2000; Ellickson & Whistler, 2000; Gilligan, 1993; Kathlene, 1990; Kathlene, 1994; McCue & Gopoian, 2002; Rest, 1979; Stewart et al., 2002).

It is possible that group-think nullifies or mollifies some of the erotetic arguments brought to the formulation and implementation process by factors such as gender, term limits, and rhetoric. While this research is not specifically targeting these considerations, it may provide grounds for future study.
Deborah A. Stone (1988) opens her book *Policy Paradox and Political Reason* with the sentence, "I like to think that discontent, long before dire necessity, drives us to invention" (p. vii). Discontent with the *status quo* in society has provided the catalyst for many social or political changes.

As to the issue of paradox in public policy, Stone writes:

Paradoxes are nothing but trouble. They violate the most elementary principle of logic: Something cannot be two different things at once. Two contradictory interpretations cannot both be true. A paradox is just such an impossible situation, and political life is full of them. (Stone, 1988)

According to Dunn, defining the problem, also known as problem structuring, affects all phases of policy analysis. He remarks that "unfortunately, we seem to fail more often because we solve the wrong problem than because we get the wrong solution to the right problem" (Dunn, 1997, p. 281).

When analyzing the policy process, the traditional assumption is that knowledge has external referents and that truth can be verified and may lead to another truth. This is considered to be a fact-value dichotomy and is the fundamental assumption of a positivist mindset. These positivist policy analysis values are considered nonnegotiable and accepted only as inputs to the analytical process. The fact-value dichotomy is often the basis of the policy analysis-politics dichotomy (Morçol, 2002).

The ontological, epistemological, and methodological assumptions of the positivist mindset as well as the very different assumptions of the postpositivist
mindset are important in order to understand the methodology for this research. These assumptions are still influential in the theory and practice of policy analysis. Ontological assumptions, or those that are considered to be universal truths, are those of realism and determinism with causality and complete predictability.

Epistemological assumptions, those related to what is known, are those of the previously noted fact-value dichotomy and involve a literal interpretation of language as opposed to a metaphorical one. Furthermore, the epistemological assumption in a positivist mindset is that truth and knowledge are empirically verifiable and governed by universal laws. The methodological assumptions of the positivist mindset are therefore of a reductionist and analytical nature and lend themselves towards quantification.

The postpositivist mindset holds different ontological, epistemological, and methodological assumptions from its positivist brethren. These lead the postpositivist to the consideration of multiple causalities. The ontological assumption is of a cognitive evolutionary nature. Ornstein and Ehrlich (1989, 2000, cited in Morçöl, 2002, p. 4) believe that the human mind is evolving, but not yet compatible with the complex realities of our time. The postpositivist mindset allows for methodological assumptions that recognize multiple causalities.

Complexity is customarily defined in terms of the number of elements that comprise the system and the number of interactions among them. The higher the number of events, the greater the complexity (Morçöl, 2002, p. 150). Complex
systems cannot be fully understood because the interactions among constituents and between the system and external factors cannot be fully described.

The previously discussed concepts of bounded rationality and erotetic rationality provide a foundation for an understanding of the concept of paradox. Simon explained that the limited span of attention, uncertainty of outcomes, lack of reliable information and knowledge, and evocation of frames of reference establish the limits of rationality. It is not possible to determine the position and momentum of policy issues with accuracy. Instead, we do the best we can with what we know; we satisfice. The late E. Sam Overman, a pioneer in the field of the new management sciences, believed that bounded rationality is the strongest example of the uncertainty principle in the social sciences (Morçöl, 2002, p. 146).

As noted previously, paradox is a problem of logic that begs for a neat solution, but the solution is elusive. Responsibility as paradox explains the crisis of responsible government and administration by showing why the demands for greater accountability of public servants to authority often fail in achieving public wants. The three-fold meaning of responsibility outlined by Harmon (1995) in his book Responsibility as Paradox includes the dimensions of agency, accountability, and obligation.

The dimension of agency includes the freedom of the will that makes people the authors of their actions (Sartre, 1956, p. 553, as cited in Harmon, 1995). Decisions that are based on group-think are fraught with pitfalls as the voices and
knowledge of individuals are sequestered in favor of the group norm. Consensus may be reached, but possibly at the price of forced or coerced co-optation.

Accountability might be equivocal to Kohlberg's conventional or transitional level of moral development in which the individual conforms to the law as a social obligation in order to avoid censure by legitimate authorities and in order to avoid any resultant guilt from not conforming. This is a transitional stage where choice becomes personal and subjective, based on emotions, perceived moral correctness, and duty. Obligations to society are selected by the society, with no principles for choices.

Harmon's third dimension of responsibility is obligation. Moral action is determined by its correspondence to external principles and standards to the acting agent. According to Kohlberg, Rest, and others, the individual conforms to avoid self-condemnation. Universal principles of justice, human rights, and dignity of human beings are not merely values; they are principles used to generate decisions.

Yet too often this is where the problem of paradox enters in the policy process. Public policy is about communities trying to do things as communities. In the polis there are factors that affect the community as a whole. These could be individual interests, individual goals, citizens' public interests, or private interests. The concept of public interest is to the polis as self-interest is to the market (Stone, 1988, p. 15).

But public interests are fleeting. SDNA was based on a rational decision-making model with a series of well-defined steps. The objective was identified using a three-point formula: Is the goal good, worthwhile, and desirable? Is it something we
do not have enough of and therefore a problem? How can we get more of it, thereby creating a possible solution? (Stone, 1988, p. 10).

This rational decision-making model does not always work. Were alternatives identified by which the objective could be obtained? Were consequences for each alternative action predicted and evaluated? Was the alternative that maximized the possibility to attain the objective selected? If societies were consistently based on a market model, it might be sufficient. But society is too often modeled on the political community and, therefore, the policy-making process is not wholly rational.

Groups and organizations are the building blocks of the polis. Because the polis pursues the public interest, the problem of how to combine self-interest and collective benefits exists. Collective action problems are those in which social and public costs and benefits are often at odds. This is important because people make up institutions or organizations. Their opinions are quite often shaped by these organizations and groups.

One function of policy making is about solving public problems. These policy-making groups coalesce and divide over policy issues (Stone, 1988, p. 16). Simplification is necessary in order for policy makers to make rational and effective decisions. Participants cannot always act with certainty, but they make reasonable accommodations to the complexities that might hinder fuller analysis (Sharkansky, 2002).

Decisions of the polis are collective as well as competitive. Information becomes critical and, in an ideal market, information is accurate, perfect, and available
at no cost to all. It is also strategically created in groups. But this ideal is never the case. Secrecy and revelation are tools of political strategy. In the case of SDNA, it was admitted that there was no statistical information about the number of infants abandoned annually (Long & Ruffin, 2000). In addition, public health data do not include the number of infants born to children less than 14 years old. Had this information been available, the formulation and implementation of SDNA in Michigan might have been altered.

Summary

The substantive issues discussed in this literature review form a pattern of decision characteristics driven from decision-making methods and contextual frameworks resulting in contradictory assumptions, and are thus self-referential. In other words, one could just as easily begin with moral development as with decision making or social construction. Perhaps it is no surprise that this research is of a postpositivist nature, allowing for inclusion of multiple factors for examination and analysis.

The moral development of individuals within a group contributes to the epistemological framework of the group's decision-making process. In the policymaking process, if the epistemological framework of the group responsible for formulating decisions is substantially different from that of the group implementing decisions, a gap will exist in the output or product of the process. This gap may, under certain conditions, indicate a public policy paradox.
Contradictory assumptions are hallmarks of a paradox (Casti, 1994). If the outcome of a policy contradicts its intent, the policy may be considered paradoxical. This leads to unintended consequences, and so, impossible jobs for the public official (Hargrove & Glidewell, 1990; Harmon, 1995; Sharkansky, 2002; Stone, 1988).

Human beings interact in small groups, larger organizations, and communities. Social construction exists in relation to reality, knowledge, and target populations. The theory of the social construction relationship to reality, group knowledge, and behavior within political and administrative systems is used to develop the operational theory for this research (Berger & Luckman, 1966; Kathlene, 1994; Link & Oldendick, 1996; Rest, 1979; Schneider & Ingram, 1993; Stewart et al., 2002).

Both formulation and implementation of public policy rely on decisions made by individuals and groups of people at various steps in the process. A discussion of moral development in relation to individual decision making will include the works of Kohlberg, Rest, Rich, and Stewart in order to lay a foundation for the discussion of decision making in the policy process venue (Kohlberg, 1983; Rest, 1986; Rich & DeVitis, 1994; Stewart & Sprinthall, 1991).

How decisions are made is reflective of various combinations of the moral development of individuals and the social construction of the reality and knowledge of those combined individuals. Differing epistemological frameworks or models were discussed in order to develop an understanding of the complexity of the process that gives birth to public policy. These models for decision making included the bounded and erotetic rationalities, and the group-think model.
The final section of this literature review focused on the issue of paradox and public policy. Deborah Stone’s work on public policy provides the basis for the discussion of paradox as it relates to the formulation and implementation of public policy. Also included in this discussion was the complexity work of Casti (1994), Harmon’s (1995) theory of responsibility as paradox, Mayants’ (1994) discussion of paradox as it relates to personality and society, and Morčöl’s (2002) consideration of the epistemology of complexity and paradox. It is the themes of paradox, social construction, decision making, and moral development that drive this research.
CHAPTER V

RESEARCH METHODOLOGY

The central question this research addresses is, "What ambiguities, challenges, and boundaries did policy formulators place on practitioners responsible for implementing the Safe Delivery of Newborns Act (SDNA), thereby creating a public policy paradox?" While there are many factors that contribute to the policy-making process, this research focuses on those issues related to decision making, moral development, social construction, and public policy issues.

This research makes some basic assumptions. The first is that all public servants work under what can be considered paradoxical circumstances. This paradox stems in large part from a gap between the formulation and the implementation of public policy. Public administrators struggle with the paradoxical nature of legislation that is seemingly fraught with gaps, thereby making effective and efficient policy implementation challenging, if not impossible.

The second assumption this research makes is that many decisions made by legislative bodies bring about either positive or negative unintended consequences. These unintended consequences are an indicator of what might be a conflicted relationship between formulation and implementation of policy. This may lead one to consider that all legislation is paradoxical, as there are always unintended consequences to any decisions codified. Indeed, it is not that the paradox exists, it is
the etiology of the paradox and the question as to whether the paradox can be 
minimized that drives this research.

The data that were used to examine the gap between formulation and 
implementation of public policy is the transcriptions and documents about the process 
that gave rise to the SDNA. In that it is this researcher's belief that all legislation is 
paradoxical, this too is a basic assumption of this research. SDNA is the product of a 
process that includes formulation and implementation phases. The resulting law and 
subsequent public policy are indicative of the incongruence or gaps between these 
phases.

Purpose of the Study

The difficulties faced by the public servant in relation to any given set of 
legislative actions and administrative implementations is directly related to the gap 
existing between the formulation and implementation of any given legislation 
(Morçöl, 2002).

The purpose of this research is to determine what program ambiguities, 
limitations, challenges, or obstacles the Michigan legislature placed on practitioners 
responsible for implementing SDNA, thereby creating a public policy paradox. The 
assumption of this research is that SDNA is an example of a gap between the 
formulation and implementation phases, and as such is a paradoxical public policy.

The problem definition in postpositivist policy analysis is not straightforward. 
A policy problem exists when there is a discrepancy between the “what ought to be”
and the "what is." The problem definition is only a recognition of the gap between what is and what ought to be. The rest of policy analysis is about finding out how to close the gap (Morçöl, 2002, p. 109). This provides the conceptual framework for this research and is presented in Figure 2.

![Conceptual Framework for Research Methodology](image)

*Figure 2. Conceptual Framework for Research Methodology.*

This framework includes some of the internal and external factors that may or may not contribute to the gap. When the difference between the formulation (what ought to be) and implementation (what is) of a public policy is evident, a paradoxical relationship exists. Internal influences might include considerations such individual
epistemology, term limits, fiscal issues, human resource allocation, or social welfare. External influences might include social construction, interest group pressures, constituency conflict and tractability, and agency accountability and responsibility. A nonparadoxical relation exists when factors are in minimal conflict, have been addressed during the policy formulation phase, or are easily remedied at the initial implementation of the policy.

Central Research Question

What ambiguities, challenges, or boundaries did policy formulators place on practitioners responsible for implementing the Safe Delivery of Newborns Act (SDNA), thereby creating a public policy paradox?

Methodological Design

This research consists of a qualitative methodology that examined the formulation and implementation of SDNA in Michigan. The multi-step methodological design for this research is found in Figure 3. The following questions were explored at each step in order to analyze the central research question:

1. What consideration was given during the formulation phase to those factors directly impacting the implementation of SDNA?

2. What were the challenges perceived by those responsible for formulating and implementing SDNA?
3. What are the common themes underlying substantive concerns that may have occurred between the formulation and implementation of SDNA that indicate the existence of a gap?

![Figure 3. Methodological Design.](image)

Figure 3. Methodological Design.
Step 1 collected data related to the formulation of SDNA using content analysis of documents and records related to the formulation of SDNA in Michigan as well as face-to-face and telephone interviews of officials involved in the formulation of the law.

Step 2 utilized the same methodologies, but focused attention on those responsible for implementing the law.

Step 3 analyzed the data, examining themes and considering commonalities and discrepancies between the formulation and implementation phase of the policy process. Data collected from interviews and document analysis was collated for common emergent themes. These were analyzed, triangulating themes with the dimensions mentioned heretofore.

Developments in social and human research over the past decade have found that a mixed methods approach provides depth and richness to the research (Creswell, 2003; Tashakkori & Teddlie, 1998). In addition, this multi-step approach minimized potential methodological bias, thereby enhancing the validity of the findings. Triangulating data sources allowed convergence to occur that added depth to the data and facilitated future quantitative research.

*Human Subjects Institutional Review Board (HSIRB)*

Since there was a target population of human subjects that participated in one-on-one interviews, approval from Western Michigan University’s Human Subjects Institutions Review Board (HSIRB) was obtained prior to collecting data.
Participants were informed of the purpose of the study, the risks that might occur, the voluntary nature of their participation, confidentiality, why they were selected, and what would be done with the information they provide. Informed consent was obtained from each participant.

The research design was such that participants are protected from physical harm, discomfort, embarrassment, loss of privacy, or abuse. The participants were able to weigh the benefits and risks of their participation in order to determine their voluntary participation. An incentive to participating in a one-on-one interview was to have the opportunity to discuss the policy issue of SDNA. The intention of this research was to protect the confidentiality of the participants unless specifically waived in writing by the individual participant. Please refer to Appendix A for this research's protocol clearance from the Human Subjects Institutional Review Board at Western Michigan University.

Conceptual Definitions

In order to provide consistency for the analysis of documents, interviews, and emerging themes, a code book consisting of conceptual definitions is recommended (Neundorf & Naccarato, 1998). The conceptual definitions for each theme and concept used in this research is in Appendix E. Each concept has been described in the literature review section of this study. A short code was assigned to each theme or concept. This code was used in The Ethnograph, a qualitative, text-based, data-sorting program. By using a computer-based coding and sorting program, the process
of coding large amounts of data was simplified. Emergent themes were systematically noted so as to recode previously coded documents for these themes.

Content Analysis

Content analysis of documents provides a qualitative description of artifacts that document societal events. The strength of the content analysis of documents is that it is unobtrusive and nonreactive. Data can be analyzed without impacting the setting in which it is created. The procedure for analysis is clear and replicable and in many cases can provide a starting point for new research. Data are richly descriptive and as such useful for classification and triangulation with other data (Marshall & Rossman, 1999; Reinharz, 1992; Weber, 1990).

The weakness of content analysis lies in the span of inferential reasoning or interpretation by the researcher. As noted by Marshall and Rossman (1999), it is possible to “miss the forest for the trees” (p. 117). The ability of the researcher to remain objective and to stay within the coded definition of the terms being analyzed is essential in countering this weakness. The logic for interpretation of coded data must be clearly delineated by the researcher and stringently adhered to (Kolbe & Burnett, 1991; Marshall & Rossman, 1999; Rosenberg, Schnurr, & Oxman, 1990).

Document Data Sources

Selection criteria for data sources in this step of the research included public and obtainable private documents pertaining to SDNA. Documents dating from 6 months prior to the first introduction of the bill into the Michigan legislature until 1
year following the enactment of SDNA in Michigan on June 26, 2000, were collected and analyzed. This range allowed the researcher to consider documents related to external and internal factors that may or may not have impacted the initiation of SDNA. Any documents were considered for inclusion in this step of the study as long as they met the selection criteria. Data sources for the document analysis portion of this research included newspaper articles, press releases, audio transcripts, and public records of the Michigan Legislature. Additional private, archival data was analyzed. Privately held notes, memoranda, and written materials were provided by those participating in interviews.

Interviews

Practitioners are often faced with the dilemma of implementing legislation that is contrary to best practice, contrary to other existing laws, or which presents obstacles to implementation that doom it to failure (Hargrove & Glidewell, 1990). This is not to say that legislators do not consider the practical aspects of their actions, only that the dynamics that exist between the initiation of a law and its subsequent implementation are rarely seamless.

This research interviewed a sample of those responsible for formulating and for implementing SDNA. This is considered to be “elite interviewing,” as those individuals interviewed were considered to be influential and well-informed and were selected for participation on the basis of their expertise (Marshall & Rossman, 1999). This has advantages in that the positions held by the individuals being interviewed

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were such that they were able to provide legal, political, historical, organizational, and practical perspectives that the general public would be unable to do.

The advantage of face-to-face interviewing is that one is able to elicit responses in a natural setting. For an experienced interviewer, the intimacy of the face-to-face interview also allows for a more natural flow to the discussion. It also affords the researcher with ability to see when the interview is not flowing. Complex interactions or descriptions can be obtained with the allowance for clarification if needed. Contextual information becomes part of the "story" that the participant is providing in response to the interview question or prompt. With an elite population, this is important as they are more inclined to have strong opinions (Marshall & Rossman, 1999, pp. 134-135).

A disadvantage to elite interviewing is that it may be difficult to gain access to the subjects. Potential respondents are often busy and operate under demanding time constraints. In addition, initial contact may be difficult. This challenge is addressed in this research by the use of a letter of introduction, followed by a telephone call to the potential respondent.

When interviewing elite participants, the structure of the interview must be intelligent and well-planned, and must contain open-ended questions that will allow the individual respondent to use their knowledge and imagination. These open-ended questions may bring about cultural inferences in the responses that must be accounted for by honest, systematic, and culturally sensitive analysis.
Interview Data Sources

Individuals interviewed were selected from the participants who were originally involved in formulating SDNA and in its implementation and represented a variety of elected and appointed officials, as well as those from the private, nonprofit sector of the child welfare system. Individuals who provided input during the formulation phase of SDNA were available from the legislative journal records and statewide advocacy groups’ archival materials.

A purposive nonprobability sample including legislators, public and private sector administrators, emergency service personnel, educators, and other service providers was drawn from the primary list. The rationale for this sampling type is tri-fold. First, this is an exploratory qualitative study and as such did not need to estimate parameters for statistical purposes. Second, individuals selected for interviews were experts with a high level of familiarity with SDNA and are representative of the population immediately impacted by any gaps between formulation and implementation of SDNA (O’Sullivan & Rassel, 1999). Finally, a purposive sample allows for a broad range of experience in a given topic for study.

It is important to be reminded that this research focused on the process by which SDNA evolved. The use of a purposive nonprobability sample will not lend results applicable to the overall population for indicators related to SDNA itself. However, in that this research examined the gap, there was potential for the findings to be generalized to other policy mandate processes (Kolbe & Burnett, 1991).
The initial pool of interview candidates involved in formulating SDNA consisted of 25 people. The initial pool of interview candidates involved in implementing SDNA consisted of 30 people. The final interview sample consisted of 5 individuals being interviewed who participated in either the formulation or implementation phases of SDNA.

Initial contact with participants was through direct mail of a letter of introduction. The purpose of the research was explained and assurances of confidentiality provided. An opportunity was provided to opt out of the study to ensure that participation was voluntary. Participants were also instructed that they could withdraw at any time. Emotional and professional risks were noted, and attempts to diminish risk outlined. They were also notified that they would be contacted by telephone to set up an interview time.

Potential participants were contacted by telephone, and if willing to proceed with being interviewed, a time and place was agreed upon. Interview protocol was followed and a protocol sheet used for each interview. Each interview was tape recorded, with individual tapes labeled. The Interview Protocol for this research is found in Appendix F. The Interview Protocol contains a section to record the date, place, and time of the interview, and the coded reference of the individual being interviewed. All participants were asked the same reference questions.
Interview Questions and Rationale

The interview questions were designed so that they could be used for participants who were involved with the formulation or the implementation of the law. They were structured so that they elicited responses related to the themes and concepts central to this research.

Each interview question was developed considering the four primary dimensions of moral development, social construction, decision making, and public policy issues. There was overlap existing with the interview protocol, which served to provide balance and veracity to the interview structure. The theme of moral development was considered in questions 2, 8, and 15. The theme of social construction was considered by questions 1, 3, 11, 12, and 13. Decision making was addressed in the interview protocol by questions 1, 3, 5, 8, 9, 10, 11, 12, and 14. Finally, public policy issues were addressed by questions 4, 5, 6, 16, and 17.

Data Analysis

Initially, documents were collected and manually sorted into theme areas and where they fell in the policy process. The first reading of documents noted areas to be coded for analysis. Ethnograph computer software was used to code documents.

Documents were digitized if they were not found in that format in order to be coded using the computer software. Digitizing was done using scanning software with text bridging capability. Manual entry of data was also done. The results of this data
analysis were thematic in nature and lent themselves to the final analysis of the research.

While Ethnograph facilitated document coding and sorting, one of the criticisms of this type of software is that it leads the researcher to count the number of times a particular code occurs through the documents being analyzed, thus mechanically weighing the themes. While this might lend a quantitative flavor to the research, it was the intent of this study to examine and evaluate all themes that occurred or emerged. The surprises in qualitative research often occur in those areas that do not occur often. This also adds richness to the study that might not be found in a quantitative study.

The first step in analyzing data was to amass the majority of the documents required for analysis. The use of computerized sorting software facilitated coding documents for multiple themes. In order to minimize the number of times each document must be reviewed for coding purposes, a manual review of the documents was done prior to entry into the software program. Relevant portions of the documents were entered into the coding software. An example of irrelevant information would be introductions of the respondents.

Once documents were entered into Ethnograph, they were coded. The software was queried to sort themes, with all themes considered for analysis.

Verbatim transcriptions of tape-recorded interview data were reviewed and relevant portions entered into the Ethnograph computer software. Data were coded and the software queried to sort themes, with all themes considered for analysis. Tape
recordings will be destroyed in accordance with HSIRB protocol, and transcriptions will be stored in a secure place for 3 years.

The software was queried to sort themes in terms of frequency of occurrence. All themes commonly occurring in steps 1 and 2 were considered for analysis. Data analysis consisted of triangulating the thematic data from the previous two phases used in relation to emerging super-themes.

The final two chapters of this research present the findings resulting from the data collection, as well as recommendations for practical applications by public administrators responsible for formulation and implementation of public policy.
CHAPTER VI

FINDINGS

The central research question is: What ambiguities, challenges, or boundaries did policy formulators place on practitioners responsible for implementing the SDNA, thereby creating a public policy paradox?

In addressing the central research question, the three operational questions are discussed in terms of the concepts within each theme area. The three operational questions are:

1. What consideration was given during the formulation phase to those factors directly impacting the implementation of SDNA?

2. What were the challenges perceived by those responsible for those formulating and those implementing SDNA?

3. What are the common themes underlying substantive concerns that may have occurred between the formulation and implementation of SDNA that indicate the existence of a gap?

The four data sets, collected from interviews; media archives, including news print, television, and radio; government documents; and workgroup documents; are further broken into whether they are found in the formulation or implementation time frames. Events occurring 6 months prior to June 26, 2000 are considered to be part of the formulation phase. Data drawn from sources occurring up to 1 year after June 26,
2000 are considered to be part of the implementation phase. The June 26th date is when the package of bills, consisting of Public Acts 232, 233, 234, and 235 and collectively referred to as the Safe Delivery of Newborns Act, was presented to the Governor of the State of Michigan for signature, and thus provides a natural demarcation date.

The data are drawn from media archives, government documents, workgroup documents, and interviews. These four types of data are examined separately before and after June 26, 2000, thereby resulting in a total of eight data sets.

These eight data sets were analyzed in terms of the four substantive themes in this research. Each theme—moral development, decision making, social construction, and public policy issues—consists of concepts, which further aid in identifying the themes.

Ethnograph software is used to facilitate the process of determining the frequency of the various concepts found in the entire project, as well as within each phase, data set, theme, and concept. There are 68 concepts representing the four themes. The total occurrences of the 68 concepts in the eight data sets are 1,561. Some concepts have higher occurrences than others, and Ethnograph validates those concepts that have a higher frequency than others. In addition, there are some concepts that Ethnograph failed to validate due to their low occurrence in the eight data sets. Table 7 lists the 68 concepts and their frequency of occurrence in the eight data sets.
Table 7

List of Ethnograph Concepts and Their Occurrence in the Eight Data Sets in Descending Order of Frequency, January 26, 2000 to June 26, 2001

<table>
<thead>
<tr>
<th>Concept</th>
<th>#</th>
<th>Concept</th>
<th>#</th>
<th>Concept</th>
<th>#</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal</td>
<td>108</td>
<td>Advantaged</td>
<td>19</td>
<td>ICWA/MICWA</td>
<td>7</td>
</tr>
<tr>
<td>Paradox</td>
<td>106</td>
<td>Policy output</td>
<td>18</td>
<td>Infant psychological development</td>
<td>6</td>
</tr>
<tr>
<td>Public awareness/education</td>
<td>91</td>
<td>Erotetic rationality</td>
<td>18</td>
<td>Prenatal care</td>
<td>6</td>
</tr>
<tr>
<td>Goal</td>
<td>72</td>
<td>Moderate moral development</td>
<td>17</td>
<td>Sunset</td>
<td>6</td>
</tr>
<tr>
<td>Gap</td>
<td>72</td>
<td>Group-think</td>
<td>17</td>
<td>Social construction (general)</td>
<td>6</td>
</tr>
<tr>
<td>Implementation</td>
<td>63</td>
<td>Abuse neglect</td>
<td>17</td>
<td>Resistance</td>
<td>5</td>
</tr>
<tr>
<td>Economics</td>
<td>64</td>
<td>Mother’s rights</td>
<td>16</td>
<td>Public health</td>
<td>5</td>
</tr>
<tr>
<td>Anon-Con</td>
<td>57</td>
<td>Fraud</td>
<td>15</td>
<td>Women’s issue</td>
<td>5</td>
</tr>
<tr>
<td>Birthparent psychological state</td>
<td>55</td>
<td>Grandparent’s rights</td>
<td>14</td>
<td>Agency issues</td>
<td>5</td>
</tr>
<tr>
<td>Stats</td>
<td>47</td>
<td>Dependent</td>
<td>14</td>
<td>Term limit</td>
<td>4</td>
</tr>
<tr>
<td>Father’s rights</td>
<td>44</td>
<td>Reality</td>
<td>14</td>
<td>Constitution</td>
<td>4</td>
</tr>
<tr>
<td>Emotion</td>
<td>41</td>
<td>Policy choice</td>
<td>14</td>
<td>Public interest</td>
<td>4</td>
</tr>
<tr>
<td>Formulation</td>
<td>39</td>
<td>Metaphorical reality</td>
<td>14</td>
<td>Attitude</td>
<td>3</td>
</tr>
<tr>
<td>Low moral development</td>
<td>38</td>
<td>Gender</td>
<td>14</td>
<td>Competition</td>
<td>3</td>
</tr>
<tr>
<td>Adoptee’s rights</td>
<td>37</td>
<td>Advocacy group</td>
<td>13</td>
<td>Machiavelli</td>
<td>2</td>
</tr>
<tr>
<td>High moral development</td>
<td>36</td>
<td>Positivist</td>
<td>12</td>
<td>Knowledge</td>
<td>2</td>
</tr>
<tr>
<td>Literal reality</td>
<td>35</td>
<td>Disagreement</td>
<td>11</td>
<td>Noncustodial parent</td>
<td>2</td>
</tr>
<tr>
<td>Dominance</td>
<td>33</td>
<td>Infant mortality</td>
<td>11</td>
<td>Abortion</td>
<td>1</td>
</tr>
<tr>
<td>Promiscuity</td>
<td>30</td>
<td>Contenders</td>
<td>11</td>
<td>Public input</td>
<td>1</td>
</tr>
<tr>
<td>Bounded rationality</td>
<td>28</td>
<td>Postpositivist reality</td>
<td>10</td>
<td>Snowball effect</td>
<td>1</td>
</tr>
<tr>
<td>Media</td>
<td>25</td>
<td>Contextual reality</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consensus/Agreement</td>
<td>24</td>
<td>Teen input</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adoptive parent’s rights</td>
<td>24</td>
<td>Senate aide</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest groups</td>
<td>20</td>
<td>Deviants</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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The most frequently occurring concepts are those reflecting "legal," "paradox," "public awareness/education," "goal," and "gap." The concepts which did not occur with a degree of frequency greater than once throughout the entire project were "abortion," "public input," and "snowball effect." All of these occur within the policy issue theme.

Theme Analysis

By examining the frequencies of concepts related to the four themes of decision making, moral development, social construction, and public policy issues within each phase, a pattern begins to emerge. Figure 4 presents the frequency of occurrences of the four primary themes in relation to the policy process phases of formulation or implementation.

Figure 4. Frequency of Themes Within Policy Process Phases.

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Policy issues were a strong focus for both formulation and implementation phases. Those occurring within the implementation phase have a higher frequency of occurrence (541) in comparison to occurrences within the formulation phase (429). This differs from the themes of moral development, social construction, and decision making, which had higher frequencies of occurrence expressed within the formulation phase.

Considerations of the theme moral development in phases appeared equal in the frequency of occurrence in all data sets at this preliminary level of analysis. A look at the actual frequencies of the occurrence of this theme in each phase shows that formulators had 49 occurrences of this theme, while implementers had 42.

The theme involving decision making indicates that the formulation phase data have a greater occurrence of coded concepts than implementation phase data (121/72). It might be reasonable to conclude that those involved in the formulation phase of the policy-making process are more acutely aware of the decisions they are making, and are therefore more likely to discuss this part of the process. Implementers may minimize or not be aware of the decisions they make in order to operationalize SDNA.

The theme of social construction indicates that there was approximately twice the number of concept occurrences among the formulators (152) as opposed to implementers (82). Again, formulators may be more aware that their considerations must take into account constituency groups, while implementers are simply carrying out the wishes of the formulators.
Analysis of Themes Within Data Sets

This research examines the differences and similarities between the concerns during the formulation and implementation phases of the public policy process that resulted in the enactment of the Safe Delivery of Newborns Law (SDNA). In order to determine possible causes of the gap in emphasis and values between phases, it is important to be able to compare the frequencies that concepts occur within each theme, and between each phase. Furthermore, by examining the individual data sets of interviews, media articles, government documents, and workgroup documents, the contrast of the four themes within the two phases of the policy process becomes more evident. The following four sections will examine each of the major themes in relation to the data sets that contribute to them.

Moral Development

The theme of moral development comprises indicators of psycho-social development of individuals. This individual moral development contributes to how each person interacts within a group. Figure 5 presents a graphic representation of this theme across data sets.

The theme of moral development appears to one of extremes, with coded segments occurring in the concepts of low and high moral development in all data sets. This may be indicative of the emotional response the topic of abandoned infants elicits in most people. There seems to be few moderate responses occurring within the
data. In fact, the concept of moderate moral development had no coded segments in either formulation or implementation government documents, or implementation workgroup documents (Table 8).

Table 8

<table>
<thead>
<tr>
<th>Concept</th>
<th>Formulation</th>
<th></th>
<th></th>
<th>Implementation</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Interview</td>
<td>GOV DOC</td>
<td>MEDIA DOC</td>
<td>WORK DOC</td>
<td>Interview</td>
<td>GOV DOC</td>
</tr>
<tr>
<td>Moral Development</td>
<td>30</td>
<td>2</td>
<td>11</td>
<td>6</td>
<td>17</td>
<td>3</td>
</tr>
<tr>
<td>Low</td>
<td>10</td>
<td>1</td>
<td>4</td>
<td>5</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>Moderate</td>
<td>7</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>High</td>
<td>13</td>
<td>1</td>
<td>6</td>
<td>0</td>
<td>4</td>
<td>2</td>
</tr>
</tbody>
</table>

It appears that both formulation and implementation interviewees had more indicators of moral development than did any of the secondary data sources.

Comments related to the opinion of why someone would abandon a baby typically
pointed to an avoidance of negative consequences on the part of the abandoning parent. A common example of coded segments indicating low moral development is: “Fearful of telling friends or whatever, social pressures leading to trying to keep that while pregnancy secret and making a judgment that would end up endangering the baby” [INTER-1 Lines: 361-365]. The perception of the psychological state of the abandoning parent is that the individual is acting to avoid the negative consequence of someone finding out she is pregnant. The media further reinforced this view by reporting that “FIA Director Doug Howard said parents who want to abandon their newborns are motivated by ‘denial, shame, fear, panic and just a desire to get through the experience’” [MEDIA 056 Lines: 18-22].

Conversely, when formulation and implementation interviewees were speaking to their own motivation in regards to SDNA, or the motivation of their particular group, they typically spoke in terms of some universal moral principle. A typical comment indicating consideration of high moral development is:

It comes down to the focus on the issue and the willingness of some groups, whether it is nonprofit, or foundations, so make an effort to really publicize, setting aside political beliefs, the alternatives to an abortion, or the alternatives to leaving a newborn child abandoned. [INTERVF Lines: 149-158]

The frequency of low and moderate segments increased after SDNA was implemented. This may be due to the dissatisfaction with the law by those responsible for implementing it. One implementation interviewee commented that “People were misusing the law. People can misrepresent themselves…” [INTERI Lines: 178-180]. One example of how SDNA might have negative consequences by decreasing the
numbers of abandoned babies is found in the concern expressed that “Morally it [the law] says there aren’t any consequences” [INTERI Lines: 228-229].

The concern for little or no consequences carried over into discussions of whether SDNA promoted promiscuity. The media picked up on this concern during formulation, stating “some observers and legislators have expressed the concern that this legislation could be viewed as promoting personal and parental irresponsibility” [010 Lines: 59-63]. The concept of promiscuity itself played a role in both implementation and formulation. The concept appeared to include the danger of encouraging promiscuity of teens, who elected to have unprotected sexual intercourse, have a baby, and then abandon it unsafely. SDNA was criticized by implementers as encouraging irresponsible behavior on the part of adolescents. There was added concern on the part of the formulators that unsafe sex would have a snowball effect, encouraging other teens to be promiscuous.

By advertising that “No One Needs to Know,” the title of the brochure promoting SDNA and found in Appendix B, and by making it available to high school students in Michigan, concerns were raised that there would be a snowball effect. While more babies might be abandoned safely, it might also encourage risky or promiscuous behavior on the part of adolescents. “It may encourage disrespect for babies by legitimatizing their being left at drop off place to discard of them [WORKGRPF Lines: 1600-1606].

Emergency service providers, considered to be individuals with fairly high ethical standards, were concerned with their liability and competency if presented with
a newborn. "I do fires, I do drunk drivers and I catch robbers. I don't do babies” [LOW MD Lines: 59-61]. Still, formulators believed it to be important to consider that some individuals in the process of abandoning an infant might feel more comfortable leaving a child at a fire station or a hospital rather than in a dumpster. “That's valuable,” commented one formulation interviewee [INTERVF Lines: 131-135].

Media documents made a notable shift from the formulation viewpoint indicative of high moral development to the implementation stage where these documents pointed to low moral development. During the formulation phase, one media article pointed out that parents should take responsibility for their teenagers. The universal appeal to this line of thought is exemplified by the following quote from one newspaper article. We cannot count on scared teenagers to do the reasonable thing. Parents must be the responsible ones. They can assure their teenage daughters that THEY won’t be abandoned if they come home some night and say, “Mom, Dad — I'm pregnant.” [MEDIAF Lines: 955-961]

During the implementation phase of SDNA, the media, possibly in an attempt to garner public attention for the new law, published articles that gave the impression that teens were being selfish by abandoning their infants. The rationale was based on the numerous infertile couples wishing to adopt. “The choices that Lauren made were tremendously outrageous... Look at all these women who can’t have children, and here Lauren is throwing hers away” [MEDIAI Lines: 1065-1070].

The emotionally charged nature of the issue lying at the heart of SDNA, abandoned babies, cannot be minimized. It provides a catalyst for action. Yet, it may
have also clouded decisions made in the formulation and implementation of the law itself. As one interviewee stated:

Hard cases make bad law. When you pass a law like those they are precipitated by emotion and some legislator that wants their name on something that will get them press. Everyone wants their name on a law about children so it can go on campaign literature and they can run for another office. It's all about getting votes. They are whores. Country club representatives and Christian rights representatives. [INTERJ Lines: 64-70]

**Decision Making**

This research defined the theme of decision making as being the process of exercising judgment in any particular situation (McGowan & Wittmer, 1998, p. 293). The number of sequences found in the formulation and implementation phase workgroup documents might indicate that formulators were trying to achieve a limited goal, saving one child.

The frequency of occurrence of concepts generally attributed to the decision-making theme are found in Table 9, while Figure 6 provides a graphic representation of the frequencies.

An analysis of the theme frequencies within the data sets might indicate that there is a higher frequency of decision making occurring among those individuals who were interviewed and who were part of the formulation phase (94), in comparison with those interviewees who were part of the implementation data set (23). It is arguable that formulators would be making more decisions in the policy-making process than their implementer counterparts. Implementers, in turn, would simply be carrying out the formulators directives, and therefore would not be expected to make
Table 9

Decision Making Theme Frequency of Occurrence Across Phase Data Sets

<table>
<thead>
<tr>
<th>Concept</th>
<th>Formulation</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Interview</td>
<td>GOV DOC</td>
</tr>
<tr>
<td>Decision making</td>
<td>94</td>
<td>5</td>
</tr>
<tr>
<td>Bounded rationality</td>
<td>22</td>
<td>0</td>
</tr>
<tr>
<td>Dominance</td>
<td>20</td>
<td>1</td>
</tr>
<tr>
<td>Policy choice</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>Erotetic rationality</td>
<td>12</td>
<td>0</td>
</tr>
<tr>
<td>Competition</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Disagreement</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Group-think</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Senate aide</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Consensus-agreement</td>
<td>13</td>
<td>2</td>
</tr>
<tr>
<td>Emotion</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>Public interest</td>
<td>3</td>
<td>0</td>
</tr>
</tbody>
</table>

as many decisions. Yet government document and media data indicate that implementers were involved in decision making more frequently than formulators. Furthermore, there is no indication at this level of data analysis as to how the decision-making process occurred, what factors were considered in the process, and if those concepts differed between phases in the policy process. We will need to further analyze the individual concepts that comprise this theme in order to present any conclusions.
Figure 6. Occurrences of Decision Making Theme Across Data Sets.

Table 9 provides the frequency of individual coded segments related to the concepts indicating the decision making theme. The concept of bounded rationality was the most frequently coded concept associated with this theme. Within the formulation interview data set there were 94 segments coded for decision making. Implementation media data sets were coded slightly more frequently (30) than implementation interview data sets (23). Government documents within the implementation phase continued to register more occurrences of decision making than did government documents within the formulation phase.

**Bounded Rationality**

The concept of bounded rationality is defined by this research as “decisions made based upon limited knowledge.” In other words, decisions are made based on what the decision maker knows about the issue, or can ascertain within a given period...
of time. Segments within the data sets indicating decisions made based on what was felt to be limited knowledge are exemplified by the following samples.

One formulation interviewee acknowledged that “I think first of all it was trying to address a problem that involved a very small percentage of individuals or situations” [INTERVF Lines: 99-102]. Another formulation interviewee stated, “There was a reaction to such a small percentage of the instances that it was perhaps not necessary” [INTERVF Lines: 740-746]. Both of these formulators agreed that SDNA was not going to have an impact on a significant percentage of the public.

It appears that implementers agreed with the notion that formulators made the decision to approve SDNA with limited information. One implementation interviewee stated:

It was a spur of the moment type of thing. This is what is happening; so let’s get something out there to address this. They didn’t think about whether there was already something that does address the issue and what are the ramifications if we do this. [INTERI Lines: 3011-3018]

In this case, the interviewee was referring to the adoption code and child protection statute, which were viewed by some formulators as being a sufficient place to incorporate a safe delivery of newborns clause, rather than writing new law.

One interviewee involved in the policy formulation stage spoke to the process by which he made decisions:

The process was similar to what I would do in any policy situation. That is I pull together several of our member agency staff to review the proposed legislation and to get ideas for them as to what they saw. Positives, negatives, problems, and so forth. I then became involved in the meetings that were convened by legislative staff on behalf of the sponsors where several people who the staff knew had interest in having input in the legislation. We met to discuss how could/should this bill be fashioned, proposed amendments and so
This process may seem to be postpositivist in nature, taking information from is stated as being a variety of sources and discussing them prior to making a decision. However, the reality construct stems from a linear model of fact gathering prior to making a decision, and is therefore more positivist in nature. This apparent conflict leads to an initial challenge between formulators and implementers. The very nature of the policy making process is not as it seems. The public’s perception of the process is different from the reality of how public policy decisions are made. Such a conflict can be inferred by a statement made by a person involved in the policy formulation stage. One can envision a checklist of items that must be addressed nominally, possible resolved, possibly not, and then checked off in order to move to a decision or resolution.

I don’t know what the public thinks, but by in large legislators don’t write much legislation at all. You have the staff from the legislative services bureau. They are the drafters, the literal writing technicians. Like Jen Zambiazi, who is an attorney. They write language. I write language. They sit at a table and it’s like sausage making. What about this, naaa, what about this and we make it right there, in a room. There isn’t any legislator to be seen. Then it goes through the formulation process with the Legislative Services Bureau and the legislators say all right what is it that we’ve written . . . what are the amendments? It says this and it does that. Have these problems with such and such group been addressed? Yeah we took care of it. Okay, we like this version then. And that’s how bills and laws are really written. [INTERVF Lines: 2653-2675]

Formulators admit that all circumstances were not accounted for in making their decisions. One formulation interviewee stated, “They were envisioning that middle class, white, female person who had social things going on in their lives and
would make poor judgments for whatever reasons at that time” [INTERVF Lines: 415-420].

The stated target population for SDNA was desperate, adolescent females. Formulators appeared to have relied on experts and the media for their information. They admit that they did not have any public forum to obtain information from those practitioners directly involved in working with pregnant women or abandoned babies.

One formulator shared a document with this researcher indicating, “We had an intern in my office and she went out on the web and pulled a lot of the information” [INTERVF Lines: 4632-4634]. The same document was shared by an implementer as a workgroup document with the following comment:

Attached are two surveys from law students in the Chicago area . . . [who] surveyed legislation nationwide to determine which states have adopted statutes to provide a method for birth mothers or fathers who wish to safely abandon their birth children shortly after birth with an ESP [Emergency Service Provider]. [WORKGPI Lines: 1145-1153]

The date for the document and the preparers’ names were noted. It appears that the formulator’s copy had been redacted.

It appeared that the impetus for SDNA was motivated by good intentions. But many interviewees, reacting to making law based on an emotional issue, reiterated a common cautionary theme. One formulation interviewee stated emphatically:

... this was an overreaction. Well, differences in the sense that the legislature didn’t know how you get from point a to point b, so in that sense, yes there were differences from [our normal process of] figuring out, lots of discussion with the legislative aides who do a lot of research work and so on. [INTERVF Lines: 2076-2082]
Erotetic Rationality

Erotetic rationality is defined as “decisions made based on a desire to find out what is not known.” In other words, decisions derived from erotetic rationality are those in which it is recognized that the decision makers are themselves not going to have a sufficient amount of information, but they will make an effort to obtain as much as possible from as many sources as possible. Indicators of erotetic rationality in the decisions leading to SDNA appeared to be primarily related to the lack of data related to the numbers of babies abandoned annually. This was simply data that were not collected by any public entity. Formulators stated, “There wasn’t really anything there data wise. We went a lot with the anecdotal evidence” [INTERVF Lines: 2769-2771]. “Anecdotal evidence” in this case meant that an individual did a meta-analysis of media article appearing in Michigan and the numbers of abandoned infants appearing in newspapers became the number used to validate any abandonment discussion.

One implementer commented that “One has made an action; the other is in ignorance and not getting any notification of anything” [INTERI Lines: 2631-2633]. Implementers, although represented by top-level officials during the formulation process, critiqued that process, specifically as it related to legislators with, “They don’t want the facts to interfere” [INTERI Lines: 2789-2790].

In truth, both formulators and implementers in regards to the data supporting the decision to promulgate SDNA repeated some variation of the statement “If we save the life of one baby, it will be worth it.” This became the motto for SDNA.
When asked by this researcher how they would determine the success of the bill, one legislator commented, "We don’t know. And again I made the statement that Shirley Johnson said in the newspaper that I don’t care how many it is; if we can save one child’s life the bill is worth it" [INTERVF Line: 734].

This was echoed in a media article printed in the implementation phase quoted the then-Michigan Family Independence Agency Director Doug Howard as saying, "… parents who want to abandon their newborns are motivated by ‘denial, shame, fear, panic and just a desire to get through the experience. The numbers may not be large, but even one is too many’" [MEDIAI Lines: 305-310].

In one media article, Nina Williams-Mbengue, a policy analyst tracking infant abandonment for the Organization of State Legislatures, stated, “The bottom line is that we know little about the whole issue. We don’t even know if it’s increasing or decreasing” [MEDIAI Lines: 722-728]. But the speed of the laws’ acceptance left little time for a thorough discussion of the dimensions of the problem they were intended to address, much less whether the problem existed. One formulator stated, “Well, the wheel was somewhat invented by the time it got to us which is customary when legislation is drafted. It is drafted by people who typically don’t know” [INTERVF Lines: 1316-1320].

Workgroup participants in both the formulation phase and the implementation phase struggled with this lack of accurate information. One workgroup document noted, “In conclusion, I’m not sure draft 6 has materially improved the identified shortcomings of draft 5. Perhaps we need to go back to the drawing boards and start
with the basic premise and recraft the roles and responsibilities of everyone”

[WORKGRPF Lines: 301-307]. This recommendation was not followed.

The SDNA bills had a sunset clause that was considered to be a way for any problems in the law to be corrected, or for the bill to be automatically withdrawn from public policy. Instead of going to the drawing board, they would wait to see what happened. The concepts of sunset legislation and term limits occurred primarily in the formulation phases. SDNA originally had a sunset clause, which required that the law be evaluated for effectiveness, or discontinued. Formulation interviewees brought this issue up four times, and workgroup documents mentioned it once. The only mention of sunsetting the legislation was found in government implementation documents.

**Emotion**

The reality of infants being abandoned in garbage cans in 21st century Michigan is difficult to accept. In fact, according to numerous newspaper articles published both during the formulation and implementation phases, SDNA was drafted in response to the powerful image of babies in trash cans, which heightened the urgency of the need for such legislation. Consequently, when faced with a decision on whether or not to make an effort to stop the problem of abandoned babies, there was virtually no opposition—it was a “no brainer.”

Yet, there were some formulaters who believed that SDNA was an overreaction. “We were reacting to a bad situation that may have occurred once in a
lifetime, but by God it was so serious that we have to have a law that says you can’t
do it again” [INTERVF Lines: 2153-2157]. Implementers agreed that the law was a
reaction to what was an emotional issue. “My personal impression was that this was
kind of a knee-jerk reaction to there ought to be a law. We ought to have a law. So
suddenly we have a law” [INTERI Lines: 1350-1354].

The media played no small role in perpetuating the emotionality of the
abandoned baby issue. From the case of Baby Blue to continued comments such as,
“‘We want to offer an alternative to the disposal of that infant,’ said Sen. Shirley
Johnson (R) . . . ” [MEDIAF Lines: 517-519], it appeared that SDNA was destined to
become law. Legislators used the media to propagate the agenda of SDNA. “Baby
Blue was released from the hospital Monday. . . . Meanwhile a package of bills won
approval in the state Senate Tuesday providing immunity from prosecution for
parents who abandon newborn babies at hospitals or other designated places” [070
Lines: 1-9].

Implementers struggled with practical issues related to the application of the
new law. The media reported stories such as:

Mason’s city administrator gasped when he opened a letter directing the city
police and fire departments to accept unwanted newborn babies. Martin
Colburn, reacting to a FIA notice effective 1/1/00 stated, “Reality is we would
have to provide service to a baby without the law. It’s a liability that concerns
me. What if the baby put in an officer’s arms is ill and dies while in our care?”
[MEDIAI Lines: 1335-1349]

The law also provides a hold harmless clause for Emergency Services
Providers and other designated personnel who are acting in a responsible manner. Yet
the notice to this one provider did not make this clear, thereby resulting in heightening the emotional impact of the law, which was reported in the newspapers.

Consensus

There was little opposition to the concept of SDNA. One formulator recalled that “It was a matter of—we met, everybody signed on, and then it was just a matter of moving it through the floor and so on. I don’t know that there was any major opposition to the bill” [INTERVF Lines: 329-333]. In fact, there was little opposition to the SB 1052, SB 1187, and SB 1053. HB 5543 faced opposition during its Second Reading in relation to certain definitive sections. During the Second Reading of HB 5543, an amendment providing that “An individual who surrenders a newborn for adoption as provided in this chapter shall not be prosecuted for . . .” was declined with a vote of 57 Nays, to 49 Yeas. HB 5543 passed unanimously at the Third Reading, giving it immediate effect. This was the only opposition the entire package of bills referred to as SDNA had in the Michigan legislature.

This is not to say there was unanimous regard for the bills. As noted earlier, many of those responsible for formulating SDNA did not believe it was going to impact a large number of people. One formulation interviewee stated:

There were people with lots of concerns, but nobody was saying flat out we shouldn’t pass this bill. The concept was so universally accepted that I don’t think there was debate. Most of it was the hard slogging work in the work group. [INTERVF Lines: 2642-2646]
As if to underscore the apparent universal agreement on the package of bills, the comment was made that there were “No public hearings. It was all inside baseball stuff” [INTERVF Lines: 2651-2652].

It was reported by formulators that staff from the Adoption Program Office of the then Michigan Family Independence Agency (FIA), the Michigan Children’s Institute, the Department of Community Health and the Michigan Fire Chiefs, the office of the Michigan State Police, and the Federation of Private Child and Family Agencies looked at the child protection statute (CPS), the adoption code, and the child custody code to inform formulators as to how the policy pieces would play out in the final SDNA. This does not imply consensus with the bills. It simply demonstrates that high-level or “elite” officials from those offices considered the bills before they became law. One formulator commented, “When you take all those different interests and you have people with different competencies, you just write better law” [INTERVF Lines: 3075-3078].

The media considered SDNA to be a success, stating, “It’s refreshing to see bipartisan support for this life-and-death issue” [MEDIAF Lines: 582-584]. Comments such as these further underscored the emotionality of the law.

Dominance

While formulators appeared to view their decision on SDNA as being based on consensus, implementers saw the process as one that was typified by legislative dominance. A law that was viewed as having minimal practical application was forced
upon public administrators. As one interviewee stated, “I don’t think they listened to the professionals” [INTERI Lines: 2348-2349]. One implementation interviewee speculated that “the people who had the power weren’t there and their representatives were in and out and not really paying attention” [INTERI Lines: 2676-2679]. As was demonstrated in the previous section, formulators pieced together legislation as if in cookie cutter form.

One formulator noted that SDNA was precipitated by “a string of one or two [cases] that got Shirley Johnson on her high horse and everybody jumped on” [INTERVF Lines: 2333-2335]. To underscore the dominant nature of the formulation process, another formulator noted, “I don’t even recall attending the committee meetings to tell the truth because it was kind of worked out before committee” [INTERVF Lines: 338-341]. Concerns about the need to open the discussion to a larger audience were dismissed. According to one formulator, “there was a general feeling that if we got a bunch of attorneys in the room they will nit-pick this thing forever” [INTERVF Lines 1038-1041]. Any opinion contrary to that held by the sponsors was nullified by obfuscation.

When one fire chief told a member of the Michigan legislature that he “didn’t do babies,” that legislator responded, “Oh yes, you do.” She when on to say to the fire chief as if to drive home her point:

Well, you need to overcome those problems. I was a woman on a mission. Looking back on it, I still can’t believe I was a strong as I was. We’re going to save these babies and you bureaucrats work out the rest of it. I know you can do it. [INTERVF Lines: 4708-4882]
Any obstacles potential implementers were raising were of no concern to one of the bill sponsors.

I have a choice here. I'm going to save the lives of these babies or I'm going to let the bureaucrats say they can't do this. Well to me, the bureaucrats' argument that this as an obstacle has absolutely no standing when this is a baby, this is a life, and I'm going to let this child live. [INTERVF Lines: 4514-4526]

The focus on the baby as opposed to the distraught, frightened, teenage parent, continued to be touted in the media by the bill's sponsors.

Asked how doctors, police officers and firefighters are supposed to fulfill the law's requirements in cases where mothers or fathers walk away, State Sen. Shirley Johnson, R-Royal Oak, said that issue was raised but not resolved during the bill's debate. "The group tried to stay focused on the baby. There are 57 babies thrown away each day in this nation, and we didn't want that to be the case in Michigan," said Johnson, the bill's main sponsor. [MEDIAI Lines: 1969-1981]

The public was presented with statistics regarding the frequency of abandonments occurring daily in the United States.

According to Kids Count, abandoned children (under age 17) increased 48 percent in Michigan, from 764 in 1993 to 1,136 in 1998. In FY 1996-97, 1,063 children under the age of 17 were found alive and abandoned in MI. No stats are kept by the state to record how many abandoned children are found ... [007 Lines: 8-15]

These had been used by formulators in good faith, even thought, as previously noted, experts in the area of infant mortality and public health had stated that the magnitude of the problem of abandoned babies is unknown.

After SDNA became law, bill sponsors abandoned the use of statistics, finding them to be inconsistent and possibly inaccurate. One workgroup document noted:

It is not possible to estimate the exact number [of abandoned infants] ... less than 10 documented cases per year of infants abandoned in the manner
targeted by the bills . . . the actual number is probably higher due to the likelihood that some abandoned infants are never found or documented. [WORKGRPF Lines: 1284-1292]

Term Limits

The time period that SDNA was making its way through the policy process was the late 20th century, and 1999 was not a legislative election year. In the mind of many, it was a pretty ordinary political year.

You had competing efforts going on and for a short while I had attempted to see if we could make it a bipartisan, bicameral thing. I had made some forays with Senator Johnson and with the leaders in both chambers as to whether we could mix and match senate and house bills, but there wasn’t going to be any of that. It is because we are the party in the majority and we are going to call the shots and this is going to be a Republican package, so . . . in the end it really didn’t matter at all. In the end what mattered was that the law passed. What was remarkable was that the bill passed in the senate and we were working on it in the house and boom right here in Lansing there was another abandoned baby in a car wash and we were voting on it 2 days later. [INTERVF Lines: 3105-3128]

SDNA was also believed to be a great issue for everyone to jump on, political bickering aside.

Group-Think

The code book definition of group-think is a “collective illusion of invulnerability that creates a false optimism and encourages risk-taking behavior without careful consideration of known risk factors. There is a belief in the group’s inherent morality.” Examples of this form of decision making were found throughout the data. For example, “Getting on the bandwagon, Gov. Dick Posthumous today
joined state lawmakers, public health and welfare officials, and emergency service providers to announce Michigan’s new SDNA law” [GOVDOCI Lines: 737-741].

SDNA was legislation that everyone could support. Still, it is important to recall that the process by which a bill becomes a law is not straightforward. As one formulator stated, “It happened behind the scenes and the people don’t recognize that the legislators that pontificate in committee and on the floor of their chamber didn’t really write any of this” [INTERVF Lines: 3078-3083]. In truth, policy elites and legislative assistants write laws, with the vision established by the legislator. It is hoped that the legislator will be acting on behalf of the public good, and not out of self-interest.

The measurement of success for SDNA was established early. “If only one infant is protected in this way, that would make the law a success in many minds” [GOVDOCI Lines: 974-976]. “‘Whatever mortality you’re debating in Michigan, a live baby beats a dead baby every time,’ said John Tyson, Mobile County’s district attorney” [MEDIAI Lines: 368-371]. Sen. Johnson, SDNA’s leading proponent, stated, “‘The priority here is to save the baby’s life by placing them in a safe and secure environment,’ she said. ‘Even if Michigan had one abandoned baby because the parents are scared of prosecution, that would be too many’” [MEDIAI Lines: 1006-1011]. The prevalence of this rationale became the motto for SDNA: One baby saved.

Inconsistencies, or gaps, between the formulators’ concept or epistemology of SDNA and how implementers viewed the reality facing them by the enrolled law,
were referred to as "gaps," "holes," or "paradoxes" in the data. For example, one implementer told the media, "'There seems to be some holes in it,' Vandercook said. 'They could have been covered if others had been involved'" [MEDIAI Lines: 1177-1179].

Fixing it after the fact is one way formulators or legislators use to justify the support and passage of a bill that has perhaps not had enough research done during the formulation phase. Implementers are then faced with fixing practical matters inherent in the new law, through the use of policies, protocol, and the courts. "We hope the policies we set will clarify parts of the statute that are unclear," said Lisa Symula, family division administrator in the OCPC. "We support the law. We hope to save babies' lives" [MEDIAI Lines: 1240-1245]. Again we can see that the motto denotes the group think modality of decision making related to the formulation and implementation of SDNA.

The collective illusion of invulnerability creating a false optimism and encouraging risk-taking behavior without careful consideration of known risk factors, as well as the group's belief in its inherent morality, indicates that the group-think model may be critical to the process by which SDNA was formulated and implemented. The motto of "hoping to save babies' lives" seems to mollify the fact that SDNA was motivated by good intentions, but riddled with gaps. One formulation document notes, "This bill is probably flawed in a number of ways and we may have to fix it in coming years" said Sen. Tom Neuville, R-Northfield. "But on balance we should support it" [WORKGRPF Lines: 1651-1655].
The option of SDNA was to do nothing to stem the perceived crisis of abandoned infants. "It's not perfect, but Michigan's safe haven law for newborns is a lot better than doing nothing to help save an infant from abandonment" [MEDIAI Lines: 1463-1466]. It is doubtful that anyone would argue with this.

One of the indicators of a group-think model of decision making is the existence of "mind guards." While in the classic model proposed by Janis (1972) these mind guards are self-appointed, in the case of SDNA, this individual rose from the ranks of formulators. Both formulators and implementers indicated how pivotal this individual was to the process. This individual, identified in this research as "Senate Aide," was not available for interviewing, but was included in this research as a subconcept.

Social Construction

How knowledge, reality, and society were considered as a theme for this research may be seen in Figure 7. It indicates that such sequences in the data sets occurred more frequently during formulation interviews than in any other data set, 93 times. The second most frequent occurrence of this theme appeared in the formulation workgroup documents, which made reference to the theme of social construction 36 times. The frequencies of occurrence of concepts generally attributed to the social construction theme are found in Table 10.

It appears that formulators considered the various concepts indicating the social construction theme more frequently than implementers. Overall, interest group
Figure 7. Occurrences of Social Construction Theme Across Data Sets.

Table 10

Social Construction Theme Frequency of Occurrence Across Phase Data Sets

<table>
<thead>
<tr>
<th>Concept</th>
<th>Formulation</th>
<th>Implementation</th>
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<td>Postpositivist reality</td>
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concerns were considered more frequently by formulators than by implementers. The interest groups that were included by formulators in discussions included representatives from Right to Life, Planned Parenthood, Family Independence Agency, Department of Community Health, and those from the emergency services providers, including the hospital association and fire and police officials. These representatives provided an elite group of advisors for formulators. An example of this focus was stated by one formulation interviewee as follows: “There were a lot of passionate people involved and a lot of people put a ton of effort into it. The hospitals were there, the police were there, we had adoption specialists there” [INTERVF Lines: 3998-4003]. This would be expected, since the presumption is that formulators are acting on behalf of interest groups or constituents, while implementers are acting in accord with the instructions of formulators.

Similarly, it would be expected that the formulation workgroup would consider interest groups more frequently than its implementation counterpart. This too was the case. In terms of SDNA, the interest group most frequently mentioned in both phases of the policy process was the advantaged group, which primarily consisted of prospective adoptive parents. An advantaged group, as defined in this research, is one that has strong social construction and political power, and has high social benefits and low social burdens.

Contenders and advocacy groups held equal voice during the formulation phase. For this research, contenders were those who had strong political power, but negative social construction. Their social benefits are in large part, symbolic.
Advocacy groups could be considered a subgroup of the contender group. They often provide an oversight function for this interest group.

It was not until the implementation phase that the "voice" of the putative father came into focus. In fact, during the formulation phase, the father was marginalized. One implementer stated, "I don't think the drafters contemplated kids who have legal dads" [INTERI Lines: 1929-1930]. This was verified by one formulator who responded to whether consideration was given to father's rights during formulation with, "I can tell you if it did come up my initial reaction would be, oh well, those are the breaks because fathers don't have any rights" [INTERVF Lines: 2896-2899].

Implementers, on the other hand, were faced with less pressure from interest groups, reflected in the lack of coded segments related to that area. Workgroup documents indicated a concern for constituency groups, but again, these were primarily focusing on the advantaged population. "I think it is ridiculous to pit adoptive parents against a surrendering parent in a custody fight" [WORKGPI Lines: 692-695]. The implementation phase saw an increase in the number of coded occurrences of statistics found in media documents.

During implementation, the media articles also began to make use of the metaphorical codes or those describing values and emotions. Examples of such phrases from newspaper articles include, "State officials are racing to let people know about a new law that allows parents to abandon their newborns in certain places without fear of prosecution" [MEDIAI Lines: 1410-1414]. The word "racing" lends a
rhetorical urgency to the sentence. In addition, one newspaper article evoked outrage at the perceived failure of SDNA to stand up for those who are dependents, or who have weak political power.

In these times of prosperity, we will be judged by how we treat the most helpless and needy in our society. In the midst of riches, we have failed the mentally ill, who have no one to speak for them, and the unwed mother, who has been forced to hide in shame and act out of guilt. Shame on us, and shame on the governor for pushing this on the people of Michigan. [MEDIAI Lines: 1560-1569]

The contextual reality for the formulators was largely derived from the statistical information provided by the media and workgroups. This literal viewpoint drove the formulation of the bill package. If, as one formulator stated, there are It is of interest to note that while SDNA appears to have been driven by the literal interpretation of nominal information provided by the media, it was later discovered that this information was flawed. Legislators, who had previously been quoting figures indicating the numbers of infants abandoned annually, suddenly ceased using these hard numbers, and shifted to the softer, metaphorical approach.

Public Policy Issues

The policy issue theme takes into consideration the greatest number of coded concepts of this research. Figure 8 indicates that implementers in all but the workgroup document data set considered the public policy issue theme more frequently than formulators. Formulation workgroup documents mentioned public policy issues more frequently than did their implementation counterparts.
A preliminary analysis of Figure 8 raises questions in terms of what policy issues were of importance to the different participants in each phase. By considering individual concepts within each theme, we are able to analyze the data in relation to the central research question.

Table 11 provides the frequency of the coded policy issue concepts within each data set. Additional analysis will divide this theme into the subthemes of economics, legal, formulation issues, implementation issues, paradox, public health, public awareness and education, child development, and miscellaneous. These concepts appear to be of significance. Other concepts, while occurring within the data sets, appear to contribute, or enrich the veracity of the data.

The concept that was most frequently mentioned in all data sets was that of legal issues. Of particular interest to this research are the subconcepts of constitution, noncustodial parent’s rights, father’s rights, mother’s rights, and ICWA/MICWA.
Table 11

Public Policy Issue Theme Frequency of Occurrence Across Phase Data Sets

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<tr>
<th>Concept</th>
<th>Formulation</th>
<th>Implementation</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Interview</td>
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<tr>
<td>Grandparent’s rights</td>
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<tr>
<td>ICWA/MICWA</td>
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<td>Term limit</td>
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<tr>
<td>Misc. implementation</td>
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<td>Paradox</td>
<td>29</td>
<td>3</td>
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<tr>
<td>Gap</td>
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Implementers faced with operationalizing the law struggled with this policy issue and the subconcepts of constitution, economics, and anonymity/confidentiality.

Not once in the four formulation data sets were issues related to the constitutionality of SDNA or the rights of noncustodial parents raised. This stands in sharp contrast to the implementers’ interviews and media documents data sets related

<table>
<thead>
<tr>
<th>Concept</th>
<th>Formulation</th>
<th>Implementation</th>
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</thead>
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<tr>
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</tr>
<tr>
<td>Women’s issue</td>
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</table>
to these concerns. These themes were mentioned a total of six times in these interviews and media documents. The difference points to a gap between the formulation and implementation of the SDNA. Implementers felt issues of which court should be involved in the termination hearing (jurisdiction) and the constitutional right to due process and notification were of importance. One implementation interviewee stated, “I think I could have the law declared unconstitutional; I can get a Court of Appeals panel. Would have had a shot at having that. No client, no notice, can’t solicit cases. Hands are tied” [INTER-10 Lines: 138-143]. Judge Brennan of the Oakland County Family Court stated to the media, “I don’t want to sign an order terminating their [the parents] rights until there has been sufficient notice . . . I’m not sure you have constitutionality” [MEDIAI Lines: 205-209]. The delays caused by the questions of constitutionality and the lack of court rules and required court forms resulted in the effectiveness of SDNA being tested. The first SDNA case appearing in the State of Michigan took 9 months to complete because of these questions related to due process and constitutionality. “Judge Brennan ruled that Providence Hospital failed to comply with the ‘Safe Delivery Act’ by not apprising the mother of her rights, and for failure to notify the mother” [005 Lines: 5-9].

Is it necessary to consider the constitutionality of a law being considered in the formulation phase? It seems the general consensus of formulators was it was not. The primary concern of the SDNA was to save the lives of babies. One formulation
The interviewee stated, “If we only saved one child, it’s been worth the effort and legislation” [047 Lines: 17-19].

The concept of noncustodial parent also did not occur in any of the formulation data sets. In implementation data sets, it is only noted twice. This may be explained by the distinction that the concepts of mother’s rights, and father’s rights, as well as grandparent’s rights, are essentially subsets of the concept “noncustodial parent.” Father’s rights were clearly discussed in all of the data sets except in government documents. Concerns about the father being notified, while discussed in formulation, were not considered to be germane relative to the overriding goal of saving babies. One formulation media article stated, “Because it provides for anonymity, the bill doesn’t allow for a father or grandparents to claim the infant,’ he said. ‘Again, as usual, we’ve eliminated the dad,’ said Seum, who nevertheless voted for the bill” [019 Lines: 18-23].

The rights of the mother likewise, were discussed in both phases. “They felt very strongly that by informing her of her rights and her ability to try to attempt to regain custody of her child the due process end” [INTER-3 Lines: 586-590]. Greater media attention was given in the implementation phase to the rights of mothers who may be abandoning infants. “This mother, on three separate occasions, said she wanted this child adopted out” [MEDIAI Lines: 154-156].

In relation to the rights of the grandparents, it was discussed more in terms of their responsibility to talk with their teenage children. “What a sad day when a
helpless baby has to die because a teenage mother is too scared or embarrassed to tell her parents” [120 Lines: 1-4].

Another potential gap in the legal concept exists in the area of federal statutes related to Native Americans, specifically the Indian Child Welfare Act and the Michigan Indian Child Welfare Act (ICWA/MICWA). The ICWA/MICWA concept was noted in a formulation work group documents four times. One segment noted that “There is no reference to the Indian Child Welfare Act. Consensus at 6/26/01 meeting seemed to be not to amend laws, but to add a question to Form 4820 used when seeking information” [150 Lines: 48-53]. This avoided any formulation conflicts with regards to potential gaps between SDNA and the federal law concerned with Indian child welfare.

Implementers, however, viewed this concept differently. One implementation phase document states, “The Indian Child Welfare Act needs to be addressed, and the Tribe needs to be notified. Maybe there should be specific procedures for a potential Indian child” [148 Lines: 129-133]. Further concerns were expressed in terms of the biological parents being held liable for damages or neglect charges if giving away an Indian child. “If so, should they be told?” [148 Line: 83]. Implementers struggled with their duties to operationalize SDNA while upholding federal law related to Indian children.

The concept of anonymity/confidentiality was critical to both formulators and implementers of SDNA. Twenty-one segments in the formulation phase and 26 segments in the implementation phase mention the concept. Yet there are differences
in how this concept is viewed. One formulator stated, "We will jeopardize the good things we did with this law if the word gets out that they can be prosecuted. They may go back to putting the baby in the garbage dumpster," said House Speaker Pro Tem Patricia Birkholz, R-Saugatuck [MEDIAI Lines: 2020-2031]. One implementer noted, "The dilemma was if you don’t have any information about the identity of the parent or the child, how are you going to verify that is the parent?" [INTERI Lines: 616-620]. On one hand there is concern that if anonymity is not preserved, babies will once again be put in dumpsters. On the other hand, you can’t verify the surrendering parent is the parent without information. Beyond that, the ability to provide medical and social history for the adoptee is nonexistent if there is no information.

Formulation phase segments indicate:

Under the rules of the new program, a mother who anonymously brings in a newborn would be asked to volunteer medical information about the infant, but the hospital would not require it for fear the mother who is abandoning her infant would feel shame. [MEDIAF Lines: 207-213]

Even among formulators, there was recognition of the possible gaps in this concept.

“That’s where the whole discussion of confidential versus anonymous came in because the intent of it was to encourage as much information as possible” [INTERVF Lines: 3587-3591]. “That’s the problem with this legislation. To do it right we have an adoption code where we could just do it. But you can’t guarantee anonymity, that total anonymity with the code” [INTERVF Lines: 2097-2101].

Discussion was held as to how to define the concept:

We did initially talk about that, what that really meant. What the statute and what the drafters of the law really intended was not that just that the information would remain confidential as it is in the adoption code, but that a
person who surrendered their child would be guaranteed anonymity. It is too shaky when you actually get to the hearing. The only really sure way you actually have anonymity under this law is if you do not give information about who you are. [INTERVF Lines: 1674-1687]

Finally, one formulator noted awareness that the concept of anonymity weakened the SDNA. "One of the weaknesses is the fact that it permits anonymity on the part of the pregnant mother and doesn’t address what kind of services are going to be there for her. It basically permits her to walk . . ." [INTERVF Lines: 456-461]. Yet, the concept was felt to be an essential part of SDNA: "This will not require that any questions be asked of the woman, simply that she knows where she can get answers to questions she may later have" [WORKGRPF Lines: 1492-1496]. Furthermore, in instances of possible abuse or neglect of the infant, information received from the surrendering parent would not be held confidential due to the requirements of the Child Protection Act. "Any indication the info will be “non-public’ is at best misleading and more likely is false" [WORKGRPF Lines: 278-279].

Implementers found some difficulties with the concept of anonymity and confidentiality across the board. While the media was touting anonymity as an advantage, "They say the new law’s success depends on making sure teens know they are protected from prosecution if infants are taken to one of three designated safe havens: hospitals, police stations or fire houses" [MEDIAI Lines: 1726-1731]. Interviewees in the implementation government documents and work group documents data sets struggled with operationalizing this concept. "The Safe Delivery Act does not address the ability to close the hearing, disposition of adoption records, copy of new birth certificate, etc. Suggested amending [the law] to require records
and proceeding be closed (see MCL 710.67 and MCL 722.904)” [WORKGPI Lines: 902-908].

One implementer stated, “The dilemma was that if you don’t have any information about the identity of the parent or the child, how are you going to verify that is the parent?” [INTERI Lines: 616-620]. To overcome this potential gap involving informed consent and jurisdictional issues, one court developed the following language for public notification of a hearing in the matter of an abandoned infant: “There will be a public notice of this hearing; however, the notice will not contain your names. You will not receive personal notice of the hearing” [GOVDOCI Lines: 441-445].

Perhaps the most striking gap between the formulation of SDNA and its implementation in terms of the concept of anonymity/confidentiality was noted by one interviewee:

There was a concern the mother is being asked to provide identity information. You find that the mother has been told this is going to be confidential. We find that the mother has totally complied with the safe delivery. The judge says all right, the mother’s rights are terminated under the safe delivery. We now have to deal with the father’s rights. That’s being dealt with in a neglect petition. The neglect petition is a public document. Suddenly the mother’s name and address is public record. We had the case here where Catholic Social Services tried to file to terminate the father’s rights. [INTERI Lines: 1841-1856]

The concept of adoptive parent’s rights was on the minds of participants in both the formulation and implementation phases. The needs and perceived rights of potential adoptive parents were found in many of the newspaper articles. These comments were often similar to the following: “Mothers who throw away their
children are crazy... A lot of people would have liked to have that baby. We have people who have to go to Russia and Asia to adopt babies" [MEDIAF 026 Lines: 19-24], and “How could anybody have thrown that baby away when there’s thousands of people just waiting in line, people who can’t have children, just dying to give them a good life?” [MEDIAF 118 Lines: 15-19].

One formulation interviewee mused about what leads women to abandon their infants, stating a belief that the cause for such an action is not known:

... but I’ve had several friends who have adopted and they literally went through hell. First of all, now this was several years ago, first of all going through the process of trying for years and not being able to get pregnant. And then going to physicians and going through the medical procedures that are available. Then coming to the conclusion that they can’t get pregnant and are going to adopt. Then going through the adoption process, which was, just the application process and the interviews usually took, at that time they took up to two years. Then they had to wait, if they wanted a baby, they had to wait for a baby. I thought, you know, these friends were wonderful, religious, solid people in the community who have the financial means, the house, were able to care and love and give this baby the warm and nurturing home that it deserved. [INTER-6 Lines: 57-80]

It appears that there is a collective agreement on the issue of abandoned infants and the needs of the families waiting to adopt infants. This belief was most succinctly expressed in one implementation phase media article that stated, “It is outrageous... Look at all these women who can’t have children, and here Lauren is throwing hers away” [MEDIAI Lines: 1067-1069].

The central concern was to make “that child available as quickly as possibly for adoption” [INTER-3 Lines: 166-168]. This does not necessarily mean that the best interests of the child are being considered. It appears that the collective belief is that if even one baby is saved it is worth the effort. This conviction overrules the
concerns for accurate cultural, medical, and social history of both the mother and baby. This information, generally viewed by adoption professionals as critical to the long-term best interests of the adoptee and adoptive parent, is severely limited in SDNA cases due to the very structure of the law.

Public Health

The psychological state of the abandoning parent, believed to be the mother in most instances, was of concern to both formulators and implementers. However, the concern expressed by formulators involved the teen mother who was “disturbed.” “Children are abandoned for many reasons—shame, fear, desperation, rape, mental illness, addiction, or poverty” [006B Lines: 1-3]. It was believed that young mothers were in a fragile mental state, desperately seeking a way out of raising an infant. The factors of rape, mental illness, substance abuse, incest, and poverty are critical public health and public policy issues. Yet, these issues do not appear to have been actively considered by key formulators as issues impinging on SDNA.

Implementers seemed to be more likely to identify the complex factors facing what appeared to be a simple, straightforward issue. For example, in regard to the teen mother leaving her baby at a designated safe place, one implementer stated, “A scared teen-ager who has managed to hide for her pregnancy is not likely to take the infant to a public place, but might be more inclined to notify someone of the baby’s whereabouts by phone” [129 Lines: 21-27]. It is possible that because implementers were responsible for operationalizing SDNA, discussion of those critical public health
and policy issues were not actively considered unless they had direct implications for the implementation of the law.

The concept of abuse/neglect was one concept that occurred more frequently during the formulation phase of the process than during implementation. This might have been because after SDNA was passed, implementers were concerned primarily with the practical aspects of the law. Formulators stated that SDNA was meant to protect the newborn, but omitted comments related to the possible abuse or neglect of the biological parent or mother.

_Economics_

As found in the code book based on themes, concepts, and definitions found in Appendix E, the concept of economics is defined as, “Considerations of fiscal impact of SDNA.” The second most frequently repeated concept in the theme of public policy issues involves the coded concept of economics, which has a frequency of 64 occurrences.

Repeatedly, formulation documents indicated that fiscal impact was not viewed as a concern. Formulation government documents indicate that “the bills also set aside $150,000.00 during the next two years for a media campaign to promote the option of confidentially giving up newborn infants” [019 Lines: 12-16]. Yet this conflicted with other formulation government and workgroup documents indicating that

The bill will have no fiscal impact on the Department of State Police.
HB5543 - . . . bill might have an indeterminate fiscal impact on FIA regarding
administrative costs for info distribution... . . . effort will be shared with DCH, who will share in the costs. [106 Lines: 203-227]

Implementers admitted that by placing abandoned newborns into pre-adoptive homes, there would be a savings to the state\'s foster care system and avoided the cost of adoption subsidies. But implementers also questioned a number of neglected items, including how the requirements under the act would be funded. As one implementation workgroup document noted, "the need for a speedy disposition and the importance of placing healthy infants into the adoption system as opposed to the child protection system which would add unnecessary time, increased cost and potential legal complications" [109 Lines: 64-70].

SDNA also required that the Departments of Human Services and Community Health produce a public awareness campaign. Yet funding was not directly allocated for this purpose. Implementation government documents clarify this issue "while the boilerplate section (654) requires us to spend up to $100,000 for public service info related to the Safe Delivery project, no funding was actually added for this purpose" [088 Lines: 9-14]. One formulator admitted that funding was taken from another departmental line item to cover SDNA expenses.

This lack of appropriated funding for the mandated SDNA public awareness campaign resulted in a gap. This gap resulted in one of the first safe delivery cases being held up in the courts due to concerns about proper notification being given to the surrendering parent. The mandated release and notification forms simply had not been published in time for the law to take effect on January 1, 2001. When the first
surrendered newborn case occurred on February 14, 2001, the hospital had not as yet received the approved forms for the SDNA procedure.

A subconcept of economics is "Machiavelli" and defined for this research as "the end justifies the means." Two segments, one in formulation interviews, and one in implementation media documents demonstrate the differences in the approach between the two phases. A formulation interviewee stated, "In some instances the women used the law per se even though they arrived in labor and delivered, They said I'm surrendering the baby via that law. It works for me" [INTER-3 Lines: 253-257]. The individual was speaking to abandonments that had been done in states other than Michigan, as the SDNA had not at that time been made part of the Michigan law. Still, it was not the intent of the law that it provide an avenue for women to drive in, deliver, and walk away from their newborns. But SDNA opens the door for surrenders to be done in this manner.

Another unintended consequence of SDNA is that it is possible for someone to deliver in another state, drive to Michigan with 72 hours of the baby's birth, hand the baby over to an ESP or hospital employee, and walk away. This effectively nullifies federal interstate laws related to the placement of children.

Summary

This chapter has discussed the various themes and concepts that have been raised during this research. The final chapter summarizes the findings resulting from this research. Second, the overall conclusions are indicated. Third, recommendations
for resolving gap issues that may lead to paradoxical policy outcomes are provided.

Finally, recommendations for future research are made.
CHAPTER VII

SUMMARY AND CONCLUSIONS

In an ideal world, social policy is the product of decisions made in response to an issue that is believed to need the attention of decision makers. That resulting policy is implemented on behalf of the public. Occasionally changes are needed, and the policy-making process will have the capacity to adapt to these changes

Summary

The public may believe that the development of social policy involves careful research and planning on the part of officials. Yet there often exists a disconnection or gap between the formulation and implementation of many social policies. The gap brings with it conflict, which in turn may result in unintended consequences or policy outcomes. These consequences may be so antithetical to the formulators' original intent as to make the policy implementation paradoxical.

This qualitative research study examines the ambiguities, challenges, or boundaries that policy formulators placed on practitioners responsible for implementing Michigan's Safe Delivery of Newborns Act (SDNA) and that ultimately created unintended consequences indicative of a public policy paradox. As used in this research, the term paradox is defined as "a situation exhibiting contradictory,
incompatible aspects, or a statement that is essentially contradictory, although based
on seemingly valid deduction from acceptable assumptions” (Mayants, 1994).

The political and public outrage over infants abandoned in unsafe places
prompted a response from some members of the State of Michigan legislature to
provide safe options for parents who did not wish to raise their newborn children. The
problems arising from unintended consequences of the Michigan's Safe Delivery of
Newborns Act (SDNA) resulted in subsequent policy dilemmas involving
jurisdictional issues such as in which county the termination hearing should occur.
Was it to be in the county where the child was surrendered, or the county in which the
child was placed in pre-adoptive care? In addition, the issues of father’s rights, and
the rights of the adoptee to have medical and social history, created implementation
challenges.

This research explores an area of the policy process that is often overlooked,
that being the area between the formulation and implementation of public policy. Too
often there exists a disconnection or gap between the formulation of a bill and its
implementation. If formulators and implementers are not in agreement on the
fundamental contributing factors, the resulting contradictory interpretations can result
in a gap, which in turn leads to the strong possibility that the resulting legislation will
produce unintended consequences or outcomes. These outcomes may be paradoxical
in terms of their consequences.

One assumption of this research is that there is some degree of paradox
existing in the policy-making process. Second, this paradox is related to the gap
between formulation ("what ought to be") and implementation ("what is") phases of the policy process. One challenge for policy makers and public administrators is to close this gap between the formulation and implementation of public policy. This seems to be especially prevalent in policy areas that directly or indirectly affect children. Child welfare policy is not an isolated arena facing this incongruity. Discussion among professional public administrators often centers on frustrations involving the gap between the policy makers and the public administrators responsible for carrying out policies.

The gap is especially prevalent in policy areas that directly or indirectly affect children, although child welfare policy is not alone in facing this incongruity. Chapter II of this dissertation provides examples of this gap by highlighting the oil-for-food embargo in Iraq, deadlines established by the court to “fix” children who have experienced complex trauma, or the confusion brought about for foster parents by changing the acronym “DOC” from “difficulty of care” to “determination of care.” Paradox, as defined in this study, is prevalent in international, national, and local policy dynamics. Discussion among professional public administrators often centers on frustrations involving the gap between the policy makers and the public administrators responsible for carrying out policies.

Finally, the social reality and moral development of the individuals involved in the policy-making process impacts the decisions made by the group. If those formulating and implementing policy decisions are defining the object of their policy efforts differently, the result of their efforts will be at odds. Fallibility in the policy
making process is inescapable simply because there is no universal truth when working with human beings. Social reality is dependent on the knowing subject (Morçöl, 2002, p. 249). In making policy decisions, there must be a tolerance for ambiguity. Without this tolerance, there is a tendency to stereotype and categorize, which is apparently the case with SDNA. In essence, if the social reality or underlying epistemology of those responsible for formulating public policy and those responsible for implementing those policies differs fundamentally, these differing reality constructs will give rise to a paradoxical policy in relation to SDNA.

This research consists of a two-step qualitative methodology comprised of interviews and document content analysis. Four data sets, consisting of interviews, government documents, media archive materials, and workgroup documents, were analyzed within the formulation phase and implementation phase of the SDNA policy making process. The formulation phase is considered by this research to be the period of time from 6 months prior to the introduction of the package of bills that became SDNA until June 26, 2000. The implementation phase consisted of activities that took place from June 27, 2000, until 1 year later or June 26, 2001.

The themes of moral development, decision making, social construction, and public policy issues, as well as the concepts related to these themes, were coded using Ethnograph coding software. The frequencies for each concept were noted and compared across the data sets.

In this research, the theme "moral development" is defined as "the individual cognitive response of reasoning patterns developed from childhood to adulthood."
This definition is based on the work of Lawrence Kohlberg (1983), who theorized that there is a pattern of cognitive responses to moral dilemmas. These responses fall into three categories of preconventional (avoidance), conventional (get along with everyone), and postconventional (universal principals) patterns. James Rest (1979, 1986) further developed Kohlberg’s developmental dimensions, noting that most moral judgments are governed by cognitive processes, and therefore have a role in decision making.

The theme of “social construction” is divided into three subconcepts: reality, knowledge, and interest groups. The social construction of reality, as distinguished from cognitive reality, consists of the social tenets of a group and is easily separated from those of the individual (Searle, 1995). The social construction of knowledge, or the epistemological framework underpinning the individual’s and group’s realities, are either of a linear (positivist), or a nonlinear (postpositivist) nature.

Individual social reality influences interactions with others. The work of Ann Schneider and Helen Ingram (1993) and Michael Link and Robert Oldendick (1996) provides the basis for the consideration of the group in relation to the theme of social construction. The social construction of groups consisted of factors involving their cohesiveness, political power, control over benefits and control over burdens. These groups are categorized into subgroups of advantaged, contenders, deviants, and dependents.

The theme of “decision making” was defined in the context of this research as “the process of exercising judgment in any particular situation” (McGowan &
This decision-making process could be rationally bounded, unbounded, or influenced by group pressure. Models of group-think as well as both bounded and erotetic rationality were considered. In essence, bounded rationality considers what is known about an issue, while erotetic rationality considers what is not known; bounded rationality considers what is in the circle of knowledge. Erotetic rationality considers not only that which is known by the group, but that which is unknown as well. This drives innovation and creative problem solving. The group-think model presented by Irving Janis (1983, 1989) provides a model by which collective rationalization and illusions of invulnerability provide pressure to make a decision in line with the collective consensus of the group, and without critical input.

The theme of "public policy issue" includes those factors that are typically germane to the practice of public administration. This is a catchall theme and includes issues critical to those implementing public policy. Included in this theme are concepts relating to resource management, statutory or legal mandates, public input and awareness, and the general implementation of SDNA.

Through the use of interviews and document analysis, three operational questions were examined:

1. What consideration was given during the formulation phase to those factors directly impacting the implementation of SDNA?
2. What were the challenges perceived by those responsible for formulation and implementing the law?

3. What were the common themes underlying the concerns that may have occurred between the formulation and implementation of SDNA that indicate the existence of a gap?

Conclusions

This research concludes that paradox is a function of the size of gap between the formulation and implementation of public policy. Hereafter referred to as FIG, this formulation/implementation gap represents the possible degree or strength of the conflicts, contradictions, and incompatibilities between the formulation and implementation phases. These in turn give rise to the unintended consequences found in SDNA.

In regard to what consideration was given during the formulation phase to factors directly impacting the implementation of SDNA, it appears that both formulators and implementers reacted similarly to the concepts related to public policy issues of adoptive parent’s rights, anonymity/confidentiality, and Indian Child Welfare issues. Therefore, content analysis revealed a similar frequency in the number of times that these themes were mentioned by both sets of policy actors. This might be expected as both groups shared the focus on saving babies, providing common ground for consensus.
Formulators and implementers did not have similar occurrences of coded
segments regarding the legal concepts of father’s rights, mother’s rights,
constitutional issues, or the rights of the adoptee. Hence, it would appear that they
did not share a common legal framework for a law that would ultimately have impact
on the Family Courts in Michigan.

There were ambiguities in coded segments involving how the formulators and
implementers defined the goal of the SDNA. The original opinion was that teen
mothers, who were afraid and desperate, would be the primary users of the law. Yet,
as implementers found, the average age for those who used the law was 20 years. In
addition, these women were able to manipulate the law to avoid notifying the father
of the baby, something required by the adoption code if they were to use adoption as
an alternative to raising the infant. This was done by either coming to Michigan from
another state within the 72 hours following the child’s birth, or by simply not being
required by SDNA to provide any information at all.

Decisions based on the perception that mothers would use SDNA in order to
avoid prosecution presumes the mothers are making decisions based upon a low level
of moral development. SDNA was formulated with high intentions, the universal
standard of saving babies. This gap in the perception of the psychological state and
moral development of surrendering parents could have been avoided by obtaining
information from street-level bureaucrats, those professionals who work directly with
those experiencing an unintended pregnancy.
Legal challenges involving issues related to anonymity and confidentiality were a stated primary concern for formulators. Yet, implementers cited issues such as which county or court would be involved in the legal termination of the rights of the surrendering parent, the manner and venue for publishing the notification to the nonsurrendering parent, and the rights of the noncustodial parents, typically the father, as being primary challenges to effectively implementing the law.

The heart does not necessarily make good public policy. The emotionality surrounding the issue of abandoned infants, and the predominance of low moral development indicators throughout the SDNA policy process provided a backdrop that encouraged group thinking, overriding any possibility of consensus in the decision-making process. Any attempt at using a broader scope for formulation decision making was quashed in favor of "saving the life of one baby."

Fiscal implications were believed by formulators to be insignificant, while implementers continue to struggle for sufficient funding to facilitate ongoing public awareness of the availability of SDNA services.

Concepts such as anonymity/confidentiality, the perceived psychological state of the birthmother, the goal of saving the lives of babies, and the economics of making the public aware of the issues were factors that directly related to the implementation of SDNA. Yet, it appears that insufficient resources were gathered to make a significant determination of the social reality of the issue in general, much less make an informed policy decision or law. In short, the formulators missed their target in terms of the critical issues. It is possible that this could have been avoided by
collecting information from those involved in the field as direct service providers. But such an effort would have taken time, and although SDNA does not appear to have been driven by partisan politics, there are comments that would lead one to consider that political reputations were involved. The implementation of SDNA was a "feel good" piece of legislation that had consequences that continue to confound implementers.

The challenges perceived by those responsible for formulating SDNA included the perceived increasing number of babies left in unsafe places. Formulators felt it was of vital importance to include a public awareness campaign so that those at risk of abandoning an infant would be aware of their SDNA option. In addition, the need to assure the surrendering parent of anonymity and an affirmative defense against prosecution under the child protection statute was felt to be a critical area to include in the law.

The challenges perceived by those responsible for implementing SDNA include those related to jurisdictional authority, implementing the required public awareness campaign, the economic considerations inherent in implementing SDNA, and balancing conflicts between anonymity and confidentiality. Implementers also were challenged by what was believed to be a need to obtain medical and social background for the infant and possible adoptive parents.

There is a FIG relating to the metaphorical versus literal audience for SDNA. Formulators felt the primary user of SDNA would be distraught teens. Implementers found that the typical user abandoning infants under SDNA was a legal adult.
Discussions with child-placing agency professionals indicated frustration that their opinions were not taken into consideration when formulating the law. For example, in regard to mixing the existing adoption and child protection statues, one implementer who contributed a written opinion during formulation notes:

Mixing direct placement adoption procedures and child protection procedures is troubling. The “surrendered newborn” becomes neither fish nor fowl. If the intention of SDNA is to handle this as a variation on a direct placement adoption, the change should not be to the Juvenile Code. If this is a new variety of non-culpable neglect, the references to the direct placement adoptions should be removed from the draft.” [WORKGRPF Lines: 286-296]

Repeatedly, this research found that those formulators championing SDNA turned away from considerations that challenged their belief that infants were abandoned by distraught adolescents who would welcome a safe place to hand over their newborn. For their part, however, implementers claimed they did not agree with the portrait of the abandoning parents, but that their voices were not heeded. Implementing SDNA became, for them, highly problematic.

SDNA cobbled together parts of the Adoption Code, the Juvenile Code, and the Child Protection Code. Each of these has different burdens of proof and legal presumptions. In addition, there were no court rules to govern procedures under SDNA. For example, there was nothing about notification to the nonsurrendering parent, who might be the legal father of the child. The constitutionality of the law was challenged on this front, as well as in terms of whether or not the surrendering parent was making an informed consent surrender. Hospitals did not have the required information to present to the surrendering parent, and when the court eventually considered one such case, the judge denied the petition, citing failure to comply with
the law. As one implementer stated, "Public policy on this law is horrible" [INTERI
Lines: 98-160].

Would closing this FIG by waiting to enact SDNA until the relationship
between the proposed SDNA and the existing law and court rules was more
thoroughly analyzed have made a difference to the development of SDNA? Most
certainly. However, the American system of jurisprudence does not allow for court
rules to be written in response to a law before it is enacted.

The emotionality of the issue of "dumpster babies" and what ultimately
became the motto that saving one baby would make the law worthwhile made SDNA
legislation difficult to criticize and impossible to slow down. Both of these conditions
are hallmarks of the group-think model of decision making.

If there had been input from the street-level bureaucrats, the court, and
emergency service provider personnel, and not just their elite representatives,
including lobbyists or agency directors or their representatives, there might have been
a greater awareness of the practical application of the law once enacted. This would
have possibly resulted in a smaller FIG.

In 2005, the Department of Community Health convened a task force to
examine and remediate gaps in SDNA. This group is working on changing the
legislation, alternative funding, redesigning and implementing a public awareness
campaign, and, in essence, fixing the law after the fact.

It does not appear that the theme of moral development has a significant
bearing on the FIG of SDNA. This could be due to the apparent consensus that the
abandoning parent was distraught and her decisions were intended to avoid any negative personal consequences. By taking the high road and offering these individuals a "safe haven" for their newborns, there seemed to be agreement that the universal, high moral standard of "saving babies" would be upheld.

It was stated that SDNA would have little impact on the majority of the citizens of Michigan. Using this argument, it could be said that there was no need for SDNA. Given that the House and Senate fiscal analysis stated that there would be minimal fiscal impact resulting from the bill, and SDNA would keep infants out of the state's foster care system, thereby saving money, the package of bills passed.

Recommendations

The FIG evident in the policy process involving SDNA provides those responsible for managing the public's trust with some important lessons. In fact, the dynamics involving FIGs are important considerations to account for in any decision-making process, be it in public or private life, mega corporations, or individual relationships. Since this research focuses on public policy, the focus here is on recommendations in the public sector. However, it is worth keeping broader applications in mind rather than simply those of the public administrator.

The following recommendations are made in regard to decreasing the formulation/implementation gap, or FIG.

First, decisions made solely on emotion are generally proven to be fraught with challenges. For individuals, rushing into commitments based on limited
information, poor moral or psycho-social development, or because it “feels good” has resulted in high divorce rates, increasing personal debt, and increases in the markers of stress-related illnesses such as obesity, heart disease, and alcoholism.

When policy formulators in groups attempt to develop policy based on an emotionally motivated issue, they would do well to ask themselves the following questions:

1. Do we believe we are right and others are wrong in their analysis of the issue?

2. Is there a sense that the decision must be made quickly? In other words, is there an acute need for the decision to be made now?

3. Are we open to gathering information from those persons who will be directly affected by our decision, not just elite policy professionals?

4. Are we open to giving those persons directly impacted by SDNA a voice in the formulation of the policy?

5. Are we, as decision-makers, coercing, forcing, or putting pressure on others to silence their opposing views?

6. Do we believe that if someone is silent, they are agreeing with us?

7. Are we able to provide a comfortable venue for those quiet voices to be heard, and then listen knowing they might not agree with us?

8. How do we, as decision makers, censor our own zealots?

Asking and answering these questions will slow down the process by which decisions are made either by individuals or groups. It would require an erotetic
rationality to explore those areas unfamiliar to the initial, emotionally provocative focus. Had formulators done this with SDNA, they might have put into place public policy that did not need to be reinvented 5 years later.

But this erotetic decision-making model does not always work. Were alternatives identified by which the objective could be obtained? Were consequences for each alternative action predicted and evaluated? Was the alternative that maximized the possibility to attain the objective selected? Society is too often modeled on the political community, and therefore, the policy-making process is not wholly rational. If societies were consistently based on a market model, it might be sufficient to do so as there is a linear, cost-benefit, relationship to the factors under consideration. SDNA had more dimensions than could be considered using linear or bounded rationality.

Second, information must be gathered from a variety of sources. The use of information drawn solely from elite or academic sources can be deadly to effective policy. Through the application of erotetic instead of bounded rationality, two problems are avoided. First, by recognizing that the critical information is outside of the knowledge of the elite audience, policy makers are acknowledging their own collective ignorance and seeking out a broader base of applicable information about the issue under consideration. Second, by doing so, the potential for group-think decisions is minimized, giving rise to richer data or information upon which to base a policy decision.
In the case of Michigan’s SDNA, nontraditional sources such as Bastard Nation, local pregnancy counselors (not their administrators), and infant mortality review teams might have been useful in drafting the legislation. These organizations may have been invited to the formulation process. But their absence calls this invitation into question, or at least begs the question of these organizations’ consent by absence. Another option would have been to seek out individuals who themselves had been abandoned as infants in order to obtain their thoughts on the proposed legislation.

Public hearings, while cumbersome and time consuming, are another way to elicit information from those constituents who will be most impacted by any given public policy. While SDNA was an emotionally laden issue, public hearings might have assisted policy makers in obtaining accurate and current information on which issues were critical to the public’s best interest. SDNA may not have been one.

Third, formulators should invite criticism of a proposed policy idea. Often such critical attention is made possible by the print media. The public should be made aware in this instance of how they can contact their legislator or someone on the formulation team or legislative services bureau. This can be done, in the case of the print news media, by placing a call-out box in the article containing this information. In the case of television broadcasts, a scrolling banner can alert viewers as to how they can make their voice heard regarding the issue.

Fourth, the use of technology can provide a means to tighten the information gap. In an age of electronic and digital technology, an alternative to the tradition town
meeting or public forum is to conduct virtual town meetings. Through the use of a web-based forum, input can be made on issues relevant to the public. Perhaps in the future, kiosks for such purposes may be found in public areas such as libraries, shopping malls, or grocery stores. It would be important to develop a mechanism to ensure that respondents or participants are truly constituents, and not troublesome hackers.

Fifth, in considering a given policy decision, resource allocation in monetary and human terms must be considered. While SDNA considered the cost of printing brochures for the public awareness campaign, little consideration was given regarding the time needed in order to train emergency service providers and those first responders to a SDNA baby surrender.

Formulators deduced that fearful mothers were abandoning infants. They saw SDNA as a way to give these mothers a safe alternative to abandoning their infant in an unsafe place. They also wanted to provide the abandoning parent anonymity, without fear of adverse consequences resulting from their actions. The goal was to save the baby.

However, not only were babies continuing to be abandoned in unsafe places, but the women utilizing SDNA in the first few months were attempting to use it as a way to sidestep the adoption code. This was one of the unintended consequences of SDNA.

The checklist found in Figure 9 may prove useful to policy formulators and implementers interested in minimizing the FIG and enhancing the possibility that the
outcome of the policy process will result in an efficient and effective policy. Some of
these questions apply more appropriately to formulators, some to implementers, and
some to both. These applications are noted following each question.

Suggestions for Future Research

The consideration of the formulation/implementation gap and the development
of mechanisms that will minimize that gap or FIG, are worthy of further research. The
resulting possibility of more effective or more efficient policy is intriguing.

Two suggestions for further consideration of the FIG come to mind. First, the
themes and concepts used in this qualitative study are readily adaptable to a
quantitative methodology such as a regression analysis. This would allow for
measurable factors to be assigned to critical themes. In turn, this may result in
clarifying which themes or concepts are most critical to minimizing FIG.

The second suggestion for future research rests in the consideration of the
area of how moral decisions are made by groups. The moral development of
individuals and how they interact within groups have been explored in the work of
Rest (1979, 1986), Janis (1972, 1983, 1989), and others (Lerner, 1976; Rich &
DeVitis, 1994; Stewart & Sprinthall, 1991). Yet, the application to the field of public
policy making in general and legislative decision making in particular has not received
sufficient attention.

Finally, not only does emotion skew the potential for laws or public policies to
be effective or meaningful, but emotion also adds a dimension to research that may be
As a formulator or implementer:

- Are you aware of your own interest or motivation related to the issue? Is it focused on self-interest, or the greater good? (F & I)
- Is there a common vision or goal for the group? (F & I)
- Is there a common understanding or definition of the target audience that will be impacted by the policy? (F & I)
- Is there the sense that the decision must be made quickly? Is the deadline arbitrary or is it flexible? (F)
- Can the process be slowed down in order to gain input from a variety of sources? (F)
- Do we believe that others are wrong in their analysis of the issue? (F & I)
- Do we believe that if someone is silent, they are agreeing with us? (F & I)
- Are we forcing others to silence their opposing voices or views? (F & I)
- Are we willing to give those persons directly affected by the proposed policy a voice in the process? (F & I)
- Are we able to allow a comfortable way for quiet voices to be heard, and then listen knowing they might have a different opinion from us? (F & I)
- Are we willing to listen to those who don’t share the same view as we do? Can we find value in what they have to say? (F & I) Do we have a plan to censor our own zealots? (F & I) Have we obtained information from non-traditional, as well as traditional, sources? (F & I)
- Have we considered the consequences for as many alternatives as possible? (F)
- Have we considered creative input, not just that which adheres to the status quo? (F & I)
- Have there been any public hearings or meeting on the proposed policy? (F)
- Have we invited criticism of the proposed policy? (F)
- Has existing technology been utilized, such as internet or fax, to elicit input from previously unheard voices? (F)
- Have we realistically considered resource allocation in terms of dollars and human costs? (F)

Figure 9. Checklist for Minimizing FIG in Policy Making.
problematic for the researcher as well. In the case of this study, it is easy to blur the focus needed to be placed on the policy process because the abandonment of infants is such an emotional issue. Indeed, this researcher's own biases regarding the SDNA were at times difficult to set aside.

Summing Up

The history of child abandonment outlined in Chapter III of this study serves as a baseline for the broader interaction between policy makers and the public. In this modern world of technologically assisted communication, we have lost the intimacy gained through face-to-face interactions. The FIG evident in SDNA appears to be the result of group-think decision making. While the rationale given by formulators for SDNA was to save the lives of infants, the larger issues of the health and circumstances of the birth parents were overlooked. Formulators considered the abandoning parent to be emotionally distraught and wanting to avoid the ramifications of being discovered with the product of an unplanned pregnancy. Implementers were faced with the dilemma of pregnancies that were the result of rape or incest, children born to mothers with little or no prenatal care, and little ability to provide postpartum assistance, should it be needed.

The courts were faced with concerns related to the due process rights guaranteed to all citizens under the Constitution. The FIG related to providing public awareness and information required under the law resulted in an inability of emergency service providers to provide surrendering parents with material that would
allow for an informed consent. This prolonged the stay of the infant in the pre-adoptive home, contrary to one of the goals of the law, namely, to allow permanency for these infants more quickly.

It seems that SDNA, while having the best of intentions, abandoned the parents of those infants it was striving to save. Often those parents, barely out of childhood themselves, would have benefited from having the assurance that not only would their baby be safe, but they also would receive caring and compassionate assistance prior to birth through adoption services already offered throughout the state.

SDNA institutionalizes abandoning babies. The brochure promoting the option of SDNA says it all: "No one needs to know." Adoptees have fought for the right to have medical and social history—the right to know who they are. By saying no one needs to know, SDNA abandons the very children it seeks to help. This harkens back to the 13th century when children were abandoned by parents who wanted to escape the dangers of parenting (Gross & Gross, 1977).

The public policy process that gave the State of Michigan its Safe Delivery of Newborns laws began with noble intentions. If more care had been had taken during formulation to consider issues related to the implementation of the law, the FIG would be lessened and the law would not have provided implementers with the challenges presented. In short, SDNA would not fit into the category of paradoxical public policies.
This research began with the consideration of paradox. The impact of policy decisions made by adults on behalf of children continues to be of interest and concern. The history of child welfare and of child abandonment continues to be written. Sadly, it would seem that the abandonment of children in the 21st century has been recodified and institutionalized into the fabric of our society with the advent of laws such as SDNA. This is in and of itself paradoxical in an age where society considers itself to be “enlightened” and where the practice of open adoption has become established as a compassionate option for birth parents, adoptive parents, and the child.

Debra Stone (1988) writes in the conclusion of Policy Paradox and Political Reason “while the interpretations divide people, the aspirations unite us” (p. 310). While it is not always possible or practical to do detailed research on every policy issue presented for consideration, the division in interpretation would be lessened through reasoned and inclusive discussion of those interpretations. In the case of SDNA, while there was reasoned discussion, the inclusivity needed to minimize the gap between formulation and implementation was cursory.

Consider any current political or policy issue. Consider a decision that is being made in your own life, whether it is in your family, on your job, or within a group of friends. Could an unintended consequence be avoided, or the potential for it minimized, if decision makers actively sought out information, voices, and ideas that broadened perspective, instead of strictly adhering to one best way? By allowing active consideration of such interpretations and considering those interpretations in
terms of their practical application to the issue at hand, the aspiration shared by the majority of those impacted could bring unity, justice, and community. While the possibilities would be endless, the potential for conflict, gap, and paradox in public policies would be lessened.
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Appendix A

Protocol Clearance From the Human Subjects
Institutional Review Board
Date: June 1, 2004

To: Peter Kobrak, Principal Investigator  
Anne Hacker, Student Investigator for dissertation

From: Mary Lagerwey, Ph.D., Chair

Re: HSIRB Project Number: 04-05-27

This letter will serve as confirmation that your research project entitled “Unintended Consequences in Child Welfare Policy: a Qualitative Analysis of the Formulation and Implementation of Michigan’s Safe Delivery of Newborns Act” has been approved under the expedited category of review by the Human Subjects Institutional Review Board. The conditions and duration of this approval are specified in the Policies of Western Michigan University. You may now begin to implement the research as described in the application.

Please note that you may only conduct this research exactly in the form it was approved. You must seek specific board approval for any changes in this project. You must also seek reapproval if the project extends beyond the termination date noted below. In addition if there are any unanticipated adverse reactions or unanticipated events associated with the conduct of this research, you should immediately suspend the project and contact the Chair of the HSIRB for consultation.

The Board wishes you success in the pursuit of your research goals.

Approval Termination: June 1, 2005
Date: August 27, 2004

To: Peter Kobrak, Principal Investigator
   Anne Hacker, Student Investigator for dissertation

From: Amy Naugle, Interim Chair

Re: HSIRB Project Number: 04-05-27

This letter will serve as confirmation that the change to your research project “Unintended Consequences in Public Policy: Formulation and Implementation of Michigan Safe Delivery Laws” requested in your memo dated August 26, 2004 (include possible telephone interviews) has been approved by the Human Subjects Institutional Review Board.

The conditions and the duration of this approval are specified in the Policies of Western Michigan University.

Please note that you may only conduct this research exactly in the form it was approved. You must seek specific board approval for any changes in this project. You must also seek reapproval if the project extends beyond the termination date noted below. In addition if there are any unanticipated adverse reactions or unanticipated events associated with the conduct of this research, you should immediately suspend the project and contact the Chair of the HSIRB for consultation.

The Board wishes you success in the pursuit of your research goals.

Approval Termination: June 1, 2005
Source: Michigan Family Independence Agency, 2001b
Appendix C

Difficulty of Care for Children in Foster Care
**ASSESSMENT OF DIFFICULTY OF CARE FOR CHILDREN IN FOSTER CARE**  
(Age one day through twelve years)  
Michigan Family Independence Agency

**NOTE:** If this is a medically fragile child, please do not fill out this form. Use a FIA-1945

**INSTRUCTIONS:**
Items 1-6 - Check the statement that most accurately describes the child/placement. Enter the number in the box marked "Score."
Item 7 - Add scores from items 1-6.
Item 8A - Enter the age appropriate rate
Item 8B - Enter the Difficulty of Care rate based on the level determined by the score.
Item 8C - Add 8A and 8B.
Item 8D - Enter the administrative rate, if any.
Total Per Diem Rate - 8C plus 8D.

### 1. Behavior Management:
- **No special need.**
  - Youth has mild emotional impairment and/or behaviors which require special and extensive involvement by the foster parent(s) in scheduling and monitoring of time and/or activities, and/or crisis management at least weekly.
  - **Score:** [ ] 15
- Youth has moderate emotional impairment and/or behaviors which require special and extensive involvement by the foster parent(s) in scheduling and monitoring of time and/or activities, destructive behaviors and/or crisis management on at least a daily basis.
  - **Score:** [ ] 30
- Youth has severe emotional impairment and/or behaviors which require special and extensive involvement by the foster parent(s) in scheduling and monitoring of time and/or activities, destructive behaviors and/or crisis management on a constant basis.
  - **Score:** [ ] 45

### 2. Therapy/Counseling:
- **No special need.**
  - Youth attends therapy sessions requiring foster parent participation at least monthly.
  - **Score:** [ ] 0
- Youth attends therapy sessions requiring foster parent participation at least twice per month.
  - **Score:** [ ] 7
- Youth attends therapy sessions requiring foster parent participation at least weekly.
  - **Score:** [ ] 14

### 3. Education Intervention:
- **No special need.**
  - Regular education requiring intervention with the school and at least 1/4 hour of daily foster parent intervention at home.
  - **Score:** [ ] 0
  - Regular or special education requiring intervention with the school and at least 1/4 hour to 2 hours of daily foster parent intervention at home.
  - **Score:** [ ] 18
  - Regular or special education requiring intervention with the school and at least more than 2 hours of daily foster parent intervention at home.
  - **Score:** [ ] 36

### 4. Transportation:
- **No special need.**
  - Transportation by the foster parent(s) two to seven times a month for one of the following: therapeutic or medical treatment, emotional or social counseling, etc., as outlined in the treatment plan.
  - **Score:** [ ] 0
  - Transportation by the foster parent(s) eight to twelve times a month for one or more of the following: therapeutic or medical treatment, emotional or social counseling, etc., as outlined in the treatment plan.
  - **Score:** [ ] 3
  - Transportation by the foster parent(s) thirteen or more times a month for one or more of the following: therapeutic or medical treatment, emotional or social counseling, etc., as outlined in the treatment plan.
  - **Score:** [ ] 6

**Score**: [ ]

FIA-470 (Rev. 06-01) Previous edition may be used. MS Word
5. Personal Care:
- Youth has mild level of impairment which requires a minor level of foster parent in home assistance (less than 10 hours per week) because of:
  - Impairments requiring assistance beyond age appropriate needs with feeding, bathing, grooming, physical, and/or occupational therapy.
  - Youth requires assistance beyond age appropriate needs with feeding, bathing, grooming, and/or occupational therapy.
- Youth has a severe to complete level of impairment which requires an intensive foster parent assistance (over 20 hours per week) because of:
  - Impairments requiring assistance beyond age appropriate needs with feeding, bathing, grooming, and/or occupational therapy.

6. Medical Items/Dis/Excessive Damage:
- No special need.
- Youth has a minor need for medical supplies not covered by Medicaid, such as: medically required medication, bandages, and splints, special diet requirements, and/or causes excessive damage (under $14.00 a week).
- Youth has a moderate need for medical supplies not covered by Medicaid, such as: medically required medication, bandages, and splints, special diet requirements, and/or causes excessive damage ($14.00 - $26.00 a week).
- Youth has a severe need for medical supplies not covered by Medicaid, such as: medically required medication, bandages, and splints, special diet requirements, and/or causes excessive damage (over $28.00 a week).

Score:

7. Add scores from Question 1-6 TOTAL SCORE

8. Level I Score 11-50
   Level II Score 61-90
   Level III Score 91-170

Age Appropriate Rate

Difficulty of Care (if appropriate)

TOTAL FOSTER PARENT RATE (RA + RB) $;

ADMINISTRATIVE RATE (if appropriate) $;

TOTAL PER DIEM RATE (RC + RD): $;

SIGNATURES: Supplements above level II require an exception request with additional documentation/justification.

Direct Service Worker Signature Date

Direct Service Supervisor Signature Date

FIA Monitor Signature Date

FIA Office Director Signature (Required for Level III & IV) Date

Zone Manager Signature (Required Above Level III) Date

Michigan Family Independence Agency

Source: Michigan Family Independence Agency
Appendix D

Determination of Care for Children in Foster Care
INSTRUCTIONS:

Items 1-6 - Check the statement that most accurately describes the foster parent activity. Enter the number in the box marked "Score." Do not check the same activity more than once. Specify the foster parent activity for each item scored.

Item 7 - Add scores from Items 1-6.

Item 8A - Enter the age appropriate rate.

Item 8B - Enter the Determination of Care rate based on the level determined by the score.

Item 8C - Add 8A and 8B.

Item 8D - Enter the administrative rate, if any.

Total Per Diem Rate - 8C plus 8D

Signatures: The worker completing the form must sign and date in the appropriate box.

The foster parent is to sign and date the appropriate box.

Level I and II require the supervisor's signature and date.

Level III and IV requires the Local office director's or designee's signature and date.

Level IV requires the zone manager's signature and date.

The term foster parent as used on this form includes licensed foster parents and relatives of state wards eligible for state ward board and care payments.

NOTE: If the youth is medically diagnosed with a chronic or acute condition of a critical nature threatening health, life or independent functioning, please do not complete this form. Fill out the FIA-1945.

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1. Behavior Management: All foster parents are expected to manage behavior. This section evaluates foster parent involvement above and beyond what would normally be expected of a foster parent to manage age-appropriate behaviors. Children 8-2 years of age generally do not require special involvement in behavioral management.

No special involvement provided by the Foster parent. Child actions are age appropriate. □ 0

The Foster parent provides special and extensive involvement in scheduling and monitoring of time and/or activities, and/or crisis management at least weekly. At least 1 hour per week of direct foster parent involvement in scheduling, behavior charting, monitoring, redirecting, supervising and/or managing behaviors. □ 15

The Foster parent provides special and extensive involvement in scheduling and monitoring of time and/or activities, and/or crisis management on a daily basis. At least 1 hour per day of direct foster parent involvement in scheduling, behavior charting, monitoring, redirecting, supervising and/or managing behaviors. □ 30

Foster Parent Activities:

SCORE ▶

2. Mental Health Participation: Therapy/counseling is defined as a clinical or outreach session provided by a master level or above mental health professional. This does not include case management contacts and/or visits. Children age 0-2 generally do not require special involvement in mental health participation.

Foster parent does not participate in the child's mental health services or the child is not in counseling/therapy. □ 0

Foster parent participates at least monthly in consultation with the therapist/counselor or with the therapeutic process for the child. The foster parent is involved in a (at least twice per month) formal discussion with the therapist by phone or in person, focused on the child's treatment plan, behavior, progress, and/or implementation of the therapeutic plan. This does not include brief and/or casual conversation with the therapist. □ 7

Foster parent participates at least twice per month with the therapy sessions or with the therapeutic process for the child. The foster parent is involved in a (at least twice per month) formal discussion with the therapist by phone or in person, focused on the child's treatment plan, behavior, progress, and/or implementation of the therapeutic plan. This does not include brief and/or casual conversation with the therapist. □ 14

Foster parent participates at least weekly with the therapy sessions or with the therapeutic process for the child. The foster parent is involved in a (at least weekly) formal discussion with the therapist by phone or in person, focused on the child's treatment plan, behavior, progress, and/or implementation of the therapeutic plan. This does not include brief and/or casual conversation with the therapist. □ 21

Foster Parent Activities:

SCORE ▶

3. Education Participation: This category is for school-aged children and/or those children who are part of a child development program due to a certified disability or diagnosed condition. An educational need must be identified which requires foster parent participation in regular appointment with the school, specialized training in specific subjects, and follow-through on the in-home portion of a treatment plan, Individualized Education Plan or equivalent. Routine age-appropriate assistance and supervision of homework does not qualify. If the foster parent chooses to home school a child, this does not qualify unless home schooling is documented as a child need and is part of the treatment plan.

Foster parent participation not required at home or school beyond regular age-appropriate expected education intervention. □ 0

Foster parent participation requires collaboration with the school personnel and at least 1/2 hour of daily intervention beyond age-appropriate expectation. □ 18

Foster parent participation requiring collaboration with the school personnel and more than 1/2 hour to 2 hours of daily intervention at home, beyond age-appropriate expectations. □ 36

Foster parent participation requiring collaboration with the school personnel and more than 2 hours of daily intervention at home, beyond age-appropriate expectations. □ 54

Foster Parent Activities:

SCORE ▶
4. Transportation: Routine transportation is not to be included. Routine transportation is defined as school and social activities normally expected for children placed in foster care, and includes sibling visits, parental visits, routine medical, dental appointments, and age appropriate extracurricular activities. These activities do not qualify, unless identified as a need in the treatment plan. Transportation for exceptional medical needs is covered under medical transportation. See PAM 128.

| Foster parent is required to transport child two to seven times a month for therapeutic or medical treatment, emotional or social counseling, as outlined in the treatment plan. | □ 3 |
| Foster parent is required to transport child eight to twelve times a month for therapeutic or medical treatment, emotional or social counseling, as outlined in the treatment plan. | □ 0 |

Foster Parent Activities:

5. Personal Care: This section is generally not applicable to children under the age of 4. The child must have a physical or a mental condition that limits his/her ability to perform age appropriate personal care tasks.

| Foster parent provides in home assistance 4 to 10 hours per week because of impairments requiring assistance beyond age appropriate needs with feeding, bathing, grooming, physical and/or occupational therapy. The child has a medically documented physical and/or mental impairment that renders him/her incapable of performing the described tasks without 4-10 hours of foster parent assistance per week. | □ 0 |
| Foster parent provides in home assistance 11 to 20 hours per week because of impairments requiring assistance beyond age appropriate needs with feeding, bathing, grooming, physical and/or occupational therapy. The child has a medically documented physical and/or mental impairment that renders him/her incapable of performing the described tasks without 10-20 hours of foster parent assistance per week. | □ 6 |
| Foster parent provides in home assistance over 20 hours per week because of impairments requiring assistance beyond age appropriate needs with feeding, bathing, grooming, physical and/or occupational therapy. The child has a medically documented physical and/or mental impairment that renders him/her incapable of performing the described tasks without over 20 hours of foster parent assistance per week. | □ 3 |

Foster Parent Activities:

6. Medical Items/Dev/Excessive Damage: Diapers for children age 5 and under and life treatment products, not prescribed by a physician, do not qualify. Receipts are required for medical items. Items damaged by a foster child must be documented and verified by a caseworker. Receipts are required and the expense must be prorated over a 6 month period to qualify.

| Foster parent provides medical supplies not covered by Medicaid, such as medically required medications, bandages, special diet requirements, and/or excess wear and tear damage of at least $20 per week. | □ 0 |
| Foster parent provides medical supplies not covered by Medicaid, such as medically required medications, bandages, special diet requirements, and/or excess wear and tear damage between $21 and $35 per week. | □ 16 |
| Foster parent provides medical supplies not covered by Medicaid, such as medically required medications, bandages, special diet requirements, and/or excess wear and tear damage over $36 per week. | □ 48 |

Foster Parent Activities:

7. Add scores from Questions 1-6

| TOTALSCORE | □ 6 |

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<table>
<thead>
<tr>
<th>Level</th>
<th>Score</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level I</td>
<td>Score 11-50</td>
<td>$ (5.50)</td>
</tr>
<tr>
<td>Level II</td>
<td>Score 51-90</td>
<td>$ (10.00)</td>
</tr>
<tr>
<td>Level III</td>
<td>Score 91-170</td>
<td>$ (15.00)</td>
</tr>
</tbody>
</table>

**TOTAL FOSTER PARENT RATE (BA + BD):**

**ADMINISTRATIVE RATE:**

<table>
<thead>
<tr>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ (if appropriate)</td>
</tr>
</tbody>
</table>

**TOTAL PER DIEM RATE (BC + BD):** $

**SIGNATURES:** Supplements above level III require an exception request with additional documentation/justification

<table>
<thead>
<tr>
<th>Role</th>
<th>Signature/Location</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Service Worker</td>
<td>Signature</td>
<td>Date</td>
</tr>
<tr>
<td>Direct Service Supervisor</td>
<td>Signature</td>
<td>Date</td>
</tr>
<tr>
<td>FIA Monitor</td>
<td>Signature</td>
<td>Date</td>
</tr>
<tr>
<td>FIA Monitor Supervisor</td>
<td>Signature</td>
<td>Date</td>
</tr>
<tr>
<td>Zone Manager</td>
<td>Signature</td>
<td>Date</td>
</tr>
</tbody>
</table>

**The Family Independence Agency will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, political beliefs or disability.**

*If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you are invited to make your needs known to an FIA office in your county.*

**AUTHORITY:** PA 280 of 1930

**COMPLETION:** Required by policy

**CONSEQUENCE:** Correct reimbursement may not be received by the foster parent.

Source: Michigan Family Independence Agency
Appendix E

Themes, Concepts, and Conceptual Definitions
<table>
<thead>
<tr>
<th>Theme</th>
<th>Concept</th>
<th>Conceptual Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moral Development</td>
<td>Low Moral Development</td>
<td>Avoid punishment and conform to obtain rewards (Kohlberg, 1983).</td>
</tr>
<tr>
<td>Moral Development</td>
<td>Moderate Moral Development</td>
<td>Conform to avoid being disliked. Live up to expectations set by society (Kohlberg, 1983).</td>
</tr>
<tr>
<td>Moral Development</td>
<td>High Moral Development</td>
<td>Act on behalf of the greatest good or universal ethical principles. Conform to avoid self-condemnation (Kohlberg, 1983).</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Reality</td>
<td>The generally accepted social tenets of a community or group.</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Positivist reality</td>
<td>Rational, linear, logical, Empirically verifiable (Morçöl, 2002, p. 18)</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Post-positivist reality</td>
<td>Complex, chaotic, relationships between actors are interdependent (Morçöl, 2002).</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Context</td>
<td>The general, special and temporal environment in which a reality is situated (Berger &amp; Luckman, 1966).</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Knowledge</td>
<td>The process by which a community determines its reality (Berger &amp; Luckman, 1966)</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Metaphorical Rhetoric</td>
<td>Language that describes values and emotions (Morçöl, 2002, 57)</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Literal Rhetoric</td>
<td>Language that describes logic and scientific thought (Morçöl, 2002, 20)</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Interest group</td>
<td>Formal group that expresses interest in a particular issue on behalf of a group.</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Advocacy Groups</td>
<td>Often providing an informal oversight function for interest issues.</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Media</td>
<td>Includes print, audio, video, web-based or any venue that provides the public with information regarding SDNA.</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Public Interest</td>
<td>Issues brought to light by a portion of the public</td>
</tr>
<tr>
<td>Theme</td>
<td>Concept</td>
<td>Conceptual Definition</td>
</tr>
<tr>
<td>--------------------</td>
<td>-----------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Advantage</td>
<td>Social construction and political power are strong. The group has high control, oversubscribed benefits, undersubscribed burdens. (Schneider &amp; Ingram, 1993; Link &amp; Oldendick, 1996)</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Contenders</td>
<td>Social construction is negative and political power is strong. The group’s burdens are symbolic and overt; have some control; benefits are subrosa and they have low control over benefits (Schneider &amp; Ingram, 1993; Link &amp; Oldendick, 1996).</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Dependents</td>
<td>Social construction is positive, but political power is weak. The group has no control over burdens, which are oversubscribed. In addition, they have little control over benefits, which are undersubscribed (Schneider &amp; Ingram, 1993; Link &amp; Oldendick, 1996).</td>
</tr>
<tr>
<td>Social Construction</td>
<td>Deviants</td>
<td>Social construction is negative and political power is weak. They have no control over either benefits, which are undersubscribed, or burdens, which are oversubscribed (Schneider &amp; Ingram, 1993; Link &amp; Oldendick, 1996).</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Policy Choice</td>
<td>Decisions made and operationalized by individuals who have the authority to use power to effect the lives of citizens (Peters, 1999).</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Public Interest</td>
<td>Issues brought to light by a portion of the public</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Bounded Rationality</td>
<td>Decisions made based upon limited knowledge or what is known (Dunn, 1997).</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Erotetic Rationality</td>
<td>Decisions made based on a desire to overcome ignorance (Dunn, 1997).</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Formulation decision-making</td>
<td>Decisions made related to SDNA that occurred six months prior and up to the signing of the bill into law on June 26, 2000.</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Implementation Decision-making</td>
<td>Decisions made related to SDNA that occurred twelve months after the signing of the bill into law on June 26, 2000.</td>
</tr>
<tr>
<td>Theme</td>
<td>Concept</td>
<td>Conceptual Definition</td>
</tr>
<tr>
<td>-----------------------</td>
<td>---------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Dominance</td>
<td>Decisions made by individuals without group consensus</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Consensus</td>
<td>Decisions made by the group based on agreement.</td>
</tr>
<tr>
<td>Decision Making</td>
<td>Group think</td>
<td>Unified position held by members of any small cohesive group typified by a shared illusion and norms that interfere with critical thought and testing of reality (Janis, 1972, 32-35).</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Abuse/Neglect</td>
<td>Issues considered that relate to the potential that the infant was a product of rape, incest, or abuse/neglect.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Adoptee’s Rights</td>
<td>Issues considered that relate to the movement in the adoption field towards open records and the impact on the adoptee’s right to know their social and medical history.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Economic impact</td>
<td>Issues considered that relate to the fiscal impact of SDNA.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Education</td>
<td>Issues considered that relate to public awareness in the schools, primarily the SDNA brochure.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Father’s Rights</td>
<td>Issues considered that relate to protecting the rights of the unknown, putative, or legal father.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Formulation Phase</td>
<td>Any activity involving SDNA that occurred six months prior and up to the signing of the bill into law on June 26, 2000. Involves rational planning (Jones, 1984, 77).</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>HIV/AIDS</td>
<td>Issues considered that relate to HIV/AIDS exposure and other risk factors.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Implementation Phase</td>
<td>Any activity involving SDNA that occurred 12 months after the signing of the bill into law on June 26, 2000. Involves organizing, interpreting, and getting the job done or achieving the established goal (Jones, 1984, 164-165).</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Individual Rights</td>
<td>Consideration of rights of individuals directly effected by SDNA.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Infant Mortality</td>
<td>Issues considered that relate to infant mortality rates.</td>
</tr>
<tr>
<td>Theme</td>
<td>Concept</td>
<td>Conceptual Definition</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Psychological welfare – infant</td>
<td>Issues considered that relate to the impact of infant-parent bonding.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Birth mother</td>
<td>Issues considered that relate to the needs of the pregnant mother.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Paradox</td>
<td>Something that is contrary to opinion or to common sense. A problem of logic that begs for a neat solution, but the solution is elusive (Reese, 1980).</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Grandparent’s Rights</td>
<td>Issues considered that relate to the rights of the parents of the surrendering parent, or grandparent of the infant.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Public Health</td>
<td>Issues considered that relate to the impact of pregnancy on teens.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Policy Output</td>
<td>Policy choices that have been operationalized and are generically known as “programs” (Peters, 1999)</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Psychological welfare – parents</td>
<td>Considerations of long-term psychological consequences to birth parent abandoning infant under SDNA.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Public Awareness</td>
<td>Issues related to the public awareness campaign required under SDNA.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Teens</td>
<td>General issues considered that relate to teens.</td>
</tr>
<tr>
<td>Public Policy Issues</td>
<td>Youth Input</td>
<td>Issues considered that relate to input provided by in the formulation or implementation of SDNA.</td>
</tr>
</tbody>
</table>
Appendix F

Interview Protocol
Opening comment:
Thank you for agreeing to meet with me today. The topic for our discussion is Michigan’s Safe Delivery of Newborns Act. I am going to ask you a series of open ended questions regarding the formulation and implementation of this law and related policies. Remember, you can decline to answer any question, or defer your answer to later on in this interview.

Do you have any questions?

Let’s begin!

Interview prompts:
1. Tell me how you became involved with SDNA?
2. What first sparked your interest in SDNA issues?
3. What made you believe the bill was necessary?
4. What conditions or forces existed contributed to the legislation?
5. What was your role in SDNA: formulation or implementation?
6. What issues did you feel were particularly important to include in the bill?
7. Did you feel there were any particular challenges to implementing the legislation?
8. What did you hope would occur as a result of this legislation?
9. Did it happen?
10. What difficulties were encountered in passing this legislation?
11. Do you recall any committee debates that stand out as memorable?
   a. IF YES: for what reason is it memorable?
12. How did the public participate in the various phases of the development of this legislation?
13. In your opinion, what was the primary target population or interest group affected by this legislation?
14. From the dialogue held during the process, what kind of person did people have pictured in their mind that might abandon a newborn?
   a. Age
   b. Characteristics
   c. Socio-economic status
   d. Ethnicity
   e. Education
   f. Family structure
   g. Other factors?
15. How did this impact the process?
16. What individuals or groups were your primary sources of information regarding SDNA?

17. To what extent were those responsible for implementing the legislation involved in the formulation of the law?

18. What interest groups were consulted or surfaced during the development of the legislation?

19. Did they have particular concerns and if so were they addressed in the legislation?

20. In your opinion, how is the Safe Delivery Law doing in terms of achieving its goals?
   a. Are there any particular sources that led you to feel that way?
      i. Public health figures?
      ii. FIA?
      iii. Book and articles?
      iv. Newspapers?

21. What research was done on the issue, ie: other State legislative acts and experiences in formulating the bill?

22. Did this research influence the Bill Draft?

23. Was there something unique or different in Michigan’s law from other State’s Laws?

24. On what do you base this opinion?
   a. Public Health figures
   b. FIA stats
   c. News articles
   d. Books and articles

25. In your opinion, what have been the implementation challenges in carrying out the bill’s intent?

26. In your opinion, what were unintended results of the enactment of SDNA?

27. What differences do you see between what legislators intended and how the department or agencies are trying to implement it?

28. How have those unintended results impacted the adoption, judicial, and legal practice?

29. Do you have any other thoughts you would like to share?

Closing comments:

That concludes our interview. Thank you very much for participating.