

## Parental Alienation Syndrome and Parental Alienation: A Research Review

Joan S. Meier

*The willingness to pathologize capable mothers even extends to mothers' "warm, involved" parenting -- which they assert can powerfully fuel alienation in a child (Johnson et al., 2005, p. 208; Kelly and Johnston, 2001). Such discussions are more than sufficient to ensure that whenever a mother and child have ambivalence about the children's father, and certainly in most cases where mothers allege abuse, virtually any loving parenting by the mother can be labeled a form of "alienation."*

Applied Research papers synthesize and interpret current research on violence against women, offering a review of the literature and implications for policy and practice.

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Parental alienation syndrome (PAS) and parental alienation (PA) are often invoked in legal and legislative contexts addressing the rights of fathers and mothers in custody or visitation litigation. Indeed, alienation claims have become ubiquitous in custody cases where domestic violence or child abuse is alleged, as grounds to reject mothers' requests to limit paternal access to their children. This paper provides a historical and research overview of PAS and PA, identifies strategic issues for advocates working with abused women and children,\* and offers guidelines to improve courts' treatment of these issues. While PAS and PA have much in common both as theories and with respect to how they are used in court, they have distinct scientific and research bases and critiques. This paper, therefore, addresses them separately.

### Parental Alienation Syndrome

#### *Historical Background*

The notion of children's hostility to one parent in the context of divorce was first characterized as a pathology by divorce researchers Wallerstein and Kelly. They theorized that a child's rejection of a noncustodial parent and strong resistance or refusal to visit that parent was sometimes a "pathological" alignment between an angry custodial parent and an older child or adolescent and that this alliance was fueled by the dynamics of marital separation, including a child's reaction to it (Wallerstein & Kelly, 1976, 1980). Although significant, Wallerstein and Kelly's construct did not become a staple of custody evaluations or judicial determinations. Moreover, their early work does not use the phrase "parental alienation," but focuses instead on children's "alignment" with one parent against the other.

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\* *The use of gender-specific language in this paper to refer to protective and abusive parents is in response to both Richard Gardner's gendered framework for PAS and to relevant research on domestic violence.*

Beginning in the early 1980's, attention to a purported "parental alienation syndrome" exploded as the result of the dedicated efforts of Richard Gardner, a psychiatrist loosely affiliated with Columbia Medical School<sup>1</sup> who ran a clinical practice that focused on counseling divorcing parents.

Based solely on his interpretation of data gathered from his clinical practice, Gardner posited that child sexual abuse allegations were rampant in custody litigation, and that 90% of children in custody litigation suffered from a disorder, which he called "Parental Alienation Syndrome (PAS)." He described PAS as a "syndrome" whereby vengeful mothers employed child abuse allegations as a powerful weapon to punish ex-husbands and ensure custody to themselves (Gardner, 1992a; 1992b). He further theorized that such mothers enlisted the children in their "campaign of denigration" and "vilification" of the father, that they often "brainwashed" or "programmed" the children into believing untrue claims of abuse by the father, and that the children then fabricated and contributed their own stories (Gardner, 1992b, p. 162, 193; 2002, pp. 94-95). He claimed – based solely on his own interpretation of his own clinical experience – that the majority of child sexual abuse claims in custody litigation are false (Gardner, 1991), although he suggested that some mothers' vendettas were the product of pathology rather than intentional malice (Gardner, 1987, 1992b). In short, Gardner claimed that when children reject their father and they or their mother makes abuse allegations, this behavior is most likely the product of PAS rather than actual experiences of abuse. PAS theory is thus premised on the assumption that child abuse claimants' believability and trustworthiness is highly suspect.<sup>2</sup>

While acknowledging that if there was actually abuse which explained a child's hostility there could be no PAS (Gardner, 1992a), Gardner's "diagnostic criteria" focused on various personality characteristics of the accuser, accused, and the child, rather than expert assessments of abuse itself or the other reasons that might explain a child's hostility

to a parent (Gardner, 1992b; see also Hoult, 2006). Rather, Gardner's PAS theory presumes that a child's hostility to a father is pathological, which, in turn, encourages courts to suspect that mothers who make such allegations are doing so only to undermine the child's relationship with the father. Indeed, in differentiating between "fabricated" and "bona fide" abuse, Gardner uses "the Presence of the Parental Alienation Syndrome" as itself an "extremely valuable differentiating [criterion]" (Gardner, 1987, p. 109). By PAS, as previously discussed, he means a child's "campaign of denigration" of the father and the mother's supposed "programming" of the child/ren (Gardner, 2002, pp. 95-97). In short, Gardner's PAS theory essentially *presumes* PAS's existence from the mere presence of a child's hostility toward and/or fear of their father based on alleged abuse. This is unfortunately precisely how it has been applied in many courts.

It should be further noted that the "Sexual Abuse Legitimacy Scale," which Gardner invented as a means of quantifying the likelihood that sexual abuse claims were valid, was so excoriated by scientific experts as "garbage" that he withdrew the scale; however, many of the factors it contained continue to be part of his qualitative discussions of how to determine whether child sexual abuse allegations are legitimate (Bruch, 2001; Faller, 1998).

### ***Gardner's Remedies for PAS***

Gardner's "remedy" for purportedly severe PAS is extreme - including complete denial of maternal-child contact and "de-programming" the child through a concerted brainwashing effort to change the child's beliefs that they have been abused (Bruch, 2001; Gardner, 1992a; see also [www.rachelfoundation.org](http://www.rachelfoundation.org)). After being subjected to these procedures and ordered by the court to live with the father they said abused them, some children became suicidal and some killed themselves (Bruch, 2001; Hoult, 2006). In other cases, courts have ordered children into jail and juvenile homes as part of Gardner's recommended "threat therapy" which is the stock in trade of strict alienation psychologists

(Hoult, 2006; Johnston & Kelly, 2004a). In one such case, a judge ordered a frail nine-year-old boy seized by three police officers and placed in a juvenile detention facility when he refused to get into his father's car for a scheduled visitation. The son of the father's girlfriend had sexually abused the boy, and he had also witnessed the father's violence against his mother. After three days of abuse by the other boys in the detention facility, the boy agreed to cooperate with the court order. The judge concluded that his "treatment" for "parental alienation" had worked (E. Stark, personal communication, May 2007).

As critiques of PAS have pointed out, PAS is a teflon defense to an accusation of abuse, because all evidence brought to bear to support the abuse claims is simply reframed as further evidence of the "syndrome" (Bruch, 2001). That is, all efforts to gather corroboration of the allegations are simply treated as further evidence of her pathological need to "alienate" the child from the father (Gardner, 1987, 1992a). If the protective parent points to a therapist's opinion that the child has been abused, the therapist is accused of a "folie a trois" (a clinical term from the French for "folly of three") which suggests that all three parties are in a dysfunctional "dance" together (Bruch, 2001). A child's or a protective parent's repetition of claims of abuse is routinely characterized as further evidence of extreme alienation, and punished by court orders prohibiting continued reporting of abuse.

### ***Gardner's pro-pedophilic and misogynistic beliefs***

Gardner's underlying beliefs regarding human sexuality, including adult-child sexual interaction, are so extreme and unfounded that it is hard to believe that courts would have adopted his theory had they known. First, he asserted that the reason women lie about child sexual abuse in custody litigation is because "hell hath no fury like a woman scorned" (Gardner, 1992b, pp. 218-19), and/or because they are "gratified vicariously" (Gardner, 1991, p. 25; 1992a, p. 126) by imagining their child having sex with the father. There is of course

no empirical basis or support for these offensive assertions.

Second, Gardner's views of sexuality were disturbing. He claimed that all human sexual paraphilias, including pedophilia, sadism, rape, necrophilia, zoophilia (sex with animals), coprophilia (sex with feces), and other deviant behaviors "serve the purposes of species survival" by "enhanc[ing] the general level of sexual excitation in society" (Gardner, 1992b, p. 20; see also Hoult, 2006; Dallam, 1998.)

Further, Gardner claimed that women's physiology and conditioning makes them potentially masochistic rape victims who may "gain pleasure from being beaten, bound, and otherwise made to suffer," as "the price they are willing to pay for gaining the gratification of receiving the sperm" (Gardner, 1992b, p. 26).

Regarding pedophilia, Gardner argued expressly that adult-child sex need not be intrinsically harmful to children, and that it is beneficial to the species, insofar as it increases a child's sexualization and increases the likelihood that his or her genes will be transmitted at an early age (Gardner, 1992b). Gardner claimed, "sexual activities between an adult and a child are an ancient tradition" and phenomenon which "has been present in just about every society studied, both past and present" (Gardner, 1992b, pp. 47-48). He viewed Western society as "excessively punitive" in its treatment of pedophilia as a "sickness and a crime" (Gardner, 1991, p. 115), and attributed this "overreaction" to the influence of the Jews (Gardner, 1992b, pp. 47, 49). Gardner opposed mandated reporting of child sexual abuse and specifically described a case in which he successfully persuaded a mother not to report a bus driver who had molested her daughter, because it would "interfere with the natural desensitization process, would be likely to enhance guilt, and would have other untoward psychological effects" (Gardner, 1992b, pp. 611-12; see also Dallam, 1998). Gardner's perspective on adult-child sexual interaction can be summed up in his reference

to Shakespeare's famous quote: "There is nothing either good or bad, but thinking makes it so" (Gardner, 1991, p. 115).

Despite his assertions that pedophilia is widespread and harmless, he asserted in a filmed interview that a child who tells his mother he has been sexually molested by his or her father should be told "I don't believe you. I'm going to beat you for saying it. Don't you ever talk that way again about your father" (Waller, 2001).<sup>3</sup> This response – and his beliefs described above – suggest that the animating intention behind the PAS theory's denial of the validity of child sexual abuse reports is not a genuine belief that child sexual abuse is often falsely reported, but rather a belief that such reports should be suppressed.

### ***The Lack of Evidence Base for PAS***

While Gardner and PAS have had many adherents, particularly among forensic evaluators and litigants, there is actually no empirical research validating the existence of PAS. And there is extensive empirical proof that the assumptions underlying the theory are false.

***Sole empirical study of PAS does not validate the concept.*** Only one study has been published that purports to empirically verify the existence of PAS. Consistent with scientific standards, this study sought to assess the "inter-rater reliability" of PAS – i.e., the extent to which different observers can consistently identify PAS (Rueda, 2004). The study built directly on Gardner's criteria, taking for granted that those criteria reflect PAS. It then measured the degree to which a small sample of therapists agreed on whether five case scenarios presented to them reflect those PAS criteria or not (Rueda, 2004). The findings were that there was a reasonable degree of agreement about whether these cases indicated PAS. However, the findings do not prove its existence – rather, they prove that a small number of mental health professionals agreed on applying the *label* PAS to cases of estranged ("alienated") children. Many therapists surveyed, however, had refused

to fill out the questionnaire and some expressly stated they didn't believe PAS existed. This study thus simply presumed rather than proved the key question: is the concept of PAS actually a disorder caused by a malevolent aligned parent's efforts, or is it simply a reframing of a child's estrangement flowing from abuse, other problematic conduct by the alienated parent, or other normative reasons? The author himself admits that the findings did not "differentiate PAS from parental alienation" (Rueda, 2004, p. 400). Since "parental alienation" is merely a label that does not in itself explain the reason for the child's alienation, this admission essentially negates the study as a validator of PAS.

***PAS' empirical bases are false or unsupported.*** The claims upon which Gardner based his PAS theory are thoroughly contradicted by the empirical research. First, Gardner (1991, 1992b) claimed that child sexual abuse allegations are widespread in custody cases and that the vast majority of such allegations are false. These claims have no empirical basis, other than Gardner's interpretation of his own clinical practice. In contradiction, the largest study of child sexual abuse allegations in custody litigation ever conducted found that child sexual abuse allegations were extremely rare (less than 2% of cases) and of those, approximately 50% of the claims were deemed valid, even when assessed by normally conservative court and agency evaluators (Thoennes & Tjaden, 1990). Other studies have found such allegations to be validated approximately 70% of the time (Faller, 1998). Moreover, leading researchers have found that the dominant problem in child sexual abuse evaluation is not false allegations, but rather, the "high rates of unsubstantiated maltreatment" in "circumstances that indicat[e] that abuse or neglect may have occurred" (Trocme & Bala, 2005, pp. 1342-44).

Indeed, empirical research has found that the PAS theory is built upon an assumption which is the opposite of the truth: Where PAS presumes that protective mothers are vengeful and pathologically "program" their children, it is not women and children – but noncustodial fathers – who are most

likely to fabricate child maltreatment claims. In the largest study of its kind, leading researchers analyzed the 1998 Canadian Incidence Study of Reported Child Abuse and Neglect. They found that only 12% of child abuse or neglect allegations made in the context of litigation over child access were intentionally false (Trocme & Bala, 2005). Notably, they found that the primary source (43%) of these intentionally false reports was noncustodial parents (typically fathers); relatives, neighbors, or acquaintances accounted for another 19% of false reports. Only 14% of knowingly false claims were made by custodial parents (typically mothers), and only two cases (out of 308) fit the alienation paradigm of an intentionally false abuse allegations against a noncustodial father (Trocme & Bala, 2005).

***PAS has been rejected as invalid by scientific and professional authorities.*** The dominant consensus in the scientific community is that there is no scientific evidence of a clinical “syndrome” concerning “parental alienation.” Leading researchers, including some who treat “alienation” itself as a real problem, concur, “The scientific status of PAS is, to be blunt, nil” (Emery, Otto, & O’Donohue, 2005, p. 10; see also Gould, 2006; Johnston & Kelly, 2004b; Myers, Berliner, Briere, Hendrix, Jenny, and Reid, 2002; Smith and Coukos, 1997; Wood, 1994). The Presidential Task Force of the American Psychological Association on Violence in the Family stated as early as 1996 that “[a]lthough there are no data to support the phenomenon called parental alienation syndrome, in which mothers are blamed for interfering with their children’s attachment to their fathers, the term is still used by some evaluators and Courts to discount children’s fears in hostile and psychologically abusive situations” (p. 40). Dr. Paul Fink, past President of the American Psychiatric Association, describes PAS as “junk science” (Talan, 2003, line 9). Nonetheless, defenses of PAS against critiques have led even some respected social scientists to mis-cite and distort the research (Lasseur & Meier, 2005).

Thus, PAS has been rejected multiple times by the American Psychiatric Association as lacking in

scientific basis and therefore not worthy of inclusion in the Diagnostic and Statistical Manual of Mental Disorders. The most recent all-out campaign by PAS proponents for inclusion of (the re-named) “Parental Alienation Disorder” (PAD) was flatly rejected by the DSM-V committee in 2012 (Crary, 2012).

Echoing the scientific consensus, a leading judicial body, the National Council of Juvenile and Family Court Judges (NCJFCJ), has published guidelines for custody courts stating:

[t]he discredited “diagnosis” of “PAS” (or allegation of “parental alienation”), quite apart from its scientific invalidity, inappropriately asks the court to assume that the children’s behaviors and attitudes toward the parent who claims to be “alienated” have no grounding in reality. It also diverts attention away from the behaviors of the abusive parent, who may have directly influenced the children’s responses by acting in violent, disrespectful, intimidating, humiliating and/or discrediting ways toward the children themselves, or the children’s other parent (Dalton, Drozd, & Wong, 2006, p. 24).

The American Prosecutors’ Research Institute and National District Attorneys’ Association have also rejected PAS (Ragland & Field, 2003).

***Court rulings on admissibility.*** Most family courts accept PAS contained in an opinion offered by an evaluator or Guardian Ad Litem (GAL) (legal representative for the child) without ever questioning its scientific validity or admissibility. Where it has been formally challenged on appeal, appellate courts have also avoided directly ruling on the issue. *See e.g., Hanson v. Spolnik*, 685 N.E.2d 71 (Ind.App. 1997), *Chezem, J.* dissenting (castigating both trial court and appellate court for reliance on “pop psychology” of PAS). As a result there are as of the date of this writing only three trial-level published opinions actually analyzing and ruling on the legal admissibility of PAS. Each opinion has concluded it lacked sufficient scientific validity to meet admissibility standards (*Snyder v. Cedar*, 2006 Conn.

Super. LEXIS 520, 2009; *People v. Fortin*, 2001; *People v. Loomis*, 1997). Four trial level decisions have ruled it was admissible, but the appeal of each decision resulted in no ruling on the PAS issue. No published decision exists for several of the purportedly favorable trial court opinions (Hoult, 2006).

### ***PAS Continues to Garner Public and Judicial Attention***

While the robust critiques and rejections of PAS as a “syndrome” have reduced the use of this label in court and in the research literature, it has continued to garner popular and political recognition. For example, the American Psychological Association and state and local bar associations continued to sponsor workshops on PAS during the first decade of the century. Since approximately 2005, roughly fifteen governors have issued proclamations concerning the purported problem of PAS at the urging of a relatively small group of PAS proponents (Parental Alienation Awareness Organization-United States, n.d.).

### **Parental Alienation**

The many critiques of Gardner’s PAS have resulted in a shift among leading researchers and scholars of custody evaluation from support for PAS to support for a reformulation of PAS to be called instead “parental alienation” or “the alienated child” (Johnston, 2005; Steinberger, 2006). Most recently, Johnston and Kelly (2004b) have clearly stated that Gardner’s concept of PAS is “overly simplistic” and tautological, and that there are no data to support labeling alienation a “syndrome” (p. 78; 2004a, p. 622). Instead, they speak of “parental alienation” or “the alienated child” as a valid concept that describes a real phenomenon experienced by “a minority” of children in the context of divorce and custody disputes (Johnston, 2005, p. 761; Johnston & Kelly, 2004b, p. 78; see also Drozd & Olesen, 2004).

Johnston (2005) defines an alienated child as one

who expresses, freely and persistently, unreasonable negative feelings and beliefs (such as anger, hatred, rejection and/or fear) toward a parent that are significantly disproportionate to the child’s actual experience with that parent. Entrenched alienated children are marked by unambivalent, strident rejection of the parent with no apparent guilt or conflict (p. 762).

What is the difference between PAS and PA? The primary shift appears to be away from Gardner’s focus on the purportedly alienating parent and toward a more realistic assessment of the multiple sources of children’s hostility or fear of a parent, including behavior by both parents and the child’s own vulnerabilities (Johnston, 2005; Johnston & Kelly, 2004b; Kelly & Johnston, 2001). Johnston and Kelly (2004b) state,

In contrast to PAS theory that views the indoctrinating parent as the principal player in the child’s alienation, this study [their own] found that children’s rejection of a parent had multiple determinants . . . [another study of theirs also] supported a multi-dimensional explanation of children’s rejection of a parent, with both parents as well as vulnerabilities within the child contributing to the problem. Alienating behavior by an emotionally needy aligned parent (mother or father), with whom the child was in role-reversal, were strong predictors of the child’s rejection of the other parent. Just as important as contributors were critical incidents of child abuse and/or lack of warm, involved parenting by the rejected parent (pp. 80-81).

Johnston also differentiates her approach from Gardner’s by rejecting his draconian “remedies,” including custody switching to the “hated” parent. Characterizing Gardner’s prescriptions as “a license for tyranny,” Johnston and Kelly (2004b, p. 85) call instead for individualized assessments of both the children and the parents’ parenting, maintaining focus on the children’s needs rather than the parents’

rights. In theory, the goal is a more realistic and healthy relationship with both parents, rather than reconciliation with the hated parent as the only desirable goal (Johnston, 2005). Unfortunately, the common practice in court is far less nuanced and individualized (see below).

The notion that some children are alienated from a parent is both a less scientific and more factual assertion. It is thus easier to raise “alienation” in court without triggering a battle over the admissibility of scientific evidence (Gardner, 2002). However, debate continues to rage in research and advocacy circles over the extent to which parental alienation is something that can be measured, is caused by a parent, and/or has truly harmful effects, or whether it is simply a new less objectionable name for the invalidated PAS. To the extent that PA is widely used almost identically to PAS in court, it may not matter in practice what the theoretical differences are.

### ***Critique of PA - Lack of Evidence Base***

Questioning the scientific basis of parental alienation and PAS is challenging because these theories are described and referenced in a substantial social science literature (Turkat, 2002). Many of these materials make assertions about PAS and PA without any citation to scientific literature – yet their “publication” on the Internet and their association with apparently credentialed authors and/or supporters, give them an aura of credibility. Some articles do cite research selectively, but contain numerous unsupported assertions as well, about PAS, PA, and how they operate.

Custody evaluators and psychologists frequently insist as an anecdotal matter that alienation is present and is a terrible thing. However, the only empirical basis for this assumption of alienation’s harmfulness at this time is limited to “clinical observation” (Johnston & Kelly, 2004b; see also Ackerman & Dolezal, 2006). Of course clinical observations are subjective, and do not constitute empirical evidence. Moreover, these statements do not indicate whether

the relationship breaches between children and parents observed by these clinicians are a healthy or developmental response to their relationship with that parent, or if the “alienation” is wrongfully instigated by a favored (“aligned”) parent (Johnston & Kelly, 2004b). Indeed, even if the clinical observers attempted to make the distinction, there would be no objective way of discerning whether their judgment was correct (short of a comprehensive assessment of the child-parent relationship, including any abusive, neglectful or cold, indifferent or hostile parenting by the disliked parent).

In fact, what the empirical evidence Johnston et al. (2005) have amassed indicates both that (i) actual “alienation” of a child is quite rare despite many parents’ derogatory conduct or statements about the other parent and (ii) when children are estranged from a parent there are always multiple reasons, some of which are that parent’s own conduct. Their widely published research has found that, despite the alienating behaviors of both parents in most of the families participating in their study, only 20% of children were actually “alienated” and only 6% were “severely alienated.” Even among the children who rejected a parent, all had multiple reasons for their hostility, including negative behaviors by the hated parent, such as child abuse or inadequate parenting, or the children’s own developmental or personality difficulties (Johnston, 2005; Johnston et al., 2005).

The fact that only a small fraction of children subjected to inter-parental hostilities and alienating conduct by their parents have been found to actually become “alienated” suggests that the focus on alienation is a tempest in a teapot – one that continues to distract from and undermine the accurate assessment of abuse and concomitant risks to children.

### ***Lack of Evidence Base for Long-term Impact of Alienation***

Johnston and others have acknowledged that “there is very little empirical data to back up their “clinical observations” that alienated children are significantly

undermined in their emotional and psychological development. In fact, Johnston and Kelly (2004b) forthrightly state that “there are no systematic long-term data on the adjustment and well-being of alienated compared to non-alienated children so that long-term prognostications are merely speculative” (p. 84). And, contrary to the common assertions of evaluators and alienation theorists that alienation is a devastating form of emotional abuse of children, Judith Wallerstein, the groundbreaking researcher of divorce who first pointed out the problem of children’s sometimes pathological alignment with the custodial parent after divorce, found in her follow-up study that children’s hostility toward the other parent after divorce was in every case temporary, and resolved of its own accord, mostly within one or two years (Bruch, 2001; Wallerstein et al., 2000).

#### ***Links between PA and Domestic Violence – Reversing the PA Paradigm***

Johnston and Kelly’s (2004b) research also reveals some interesting evidence about the relationship of domestic violence to alienation:

While a history of domestic violence did not predict children’s rejection of a parent directly . . . [m]en who engaged in alienating behaviors (i.e., demeaning a child’s mother) were more likely to have perpetrated domestic violence against their spouses, indicating that this kind of psychological control of their child could be viewed as an extension of their physically abusive and controlling behavior (p. 81).

Coming from researchers who specialize in alienation, this empirical statement – that men who batter are often also men who intentionally demean the mother and teach the children not to respect her – is powerful confirmation of the experiences of many battered women and their advocates. Perhaps just one example from the author’s caseload will suffice: In this case, the batterer would call the children out of their rooms where they were cowering, to make them watch him beat their mother while telling them he had to do this because she was a “whore”

and a “slut.” Other custody experts and researchers have also suggested that batterers are in fact the most expert “alienators” of children from their other parent (Bancroft & Silverman, 2002). The dilemma that this creates for battered women and their advocates with respect to the use of parental alienation as a claim is discussed in the section on “Strategy Issues” below.

***Qualitative critique – PA denies abuse and is used, like PAS, in conclusory fashion.*** By recognizing the many reasons and ways children can become alienated from a parent, the new “alienation” theory is, in principle, more reasonable and realistic than the old PAS theory. Nonetheless, given the shared belief at the root of both theories – that abuse allegations are typically merely evidence of an aligned parent’s campaign of alienation – the differences between “alienation” and PAS are, at best, unclear to many lawyers, courts, and evaluators.<sup>4</sup> Indeed, this author was involved in a case in which the court’s forensic expert, over time, substituted the label “parental alienation” for her earlier suggestion of PAS, without changing anything else about her analysis. When queried about the differences between PA and PAS, she had little to say. It is not surprising, then, that even while trying to explicitly shift the focus from PAS to PA, proponents of the “new” PA continue to rely on PAS materials (Bruch, 2001; Steinberger, 2006).

Perhaps the most disturbing misuse of PA is seen when PA adherents fail to distinguish between children who are estranged from a non-custodial parent due to abuse or other negative behavior from children who have been wrongly influenced by their favored parent to hate or fear the other. Thus, leading adherents to PA theory including Johnston and colleagues sometimes describe children’s symptoms and psychological harms and attribute them to “alienation,” while simultaneously acknowledging that their research shows that “alienated” children include those who are *justifiably* estranged due to the disfavored parent’s conduct. Cases worked on by this author have shown that abused children display many of the symptoms that are frequently attributed

to “alienation” both in the courts and in the literature (Compare Johnston, Walters, & Olesen, 2005; Johnston & Kelly, 2004b with Kathleen C. Faller, 1999; Righthand, 2003). Such discussions attribute to alienation harms which, in fact, may well be due to the disfavored parent’s own behaviors (Meier, 2010).

This failure to distinguish between whether harm to children – or their hostility to their father – is caused by alienation or abuse sets up a paradoxically disastrous dynamic: So long as an abuser can convince a court that the children’s attitudes can be labeled “alienation,” he can *benefit* from the very impact of his abuse. In *Jordan v. Jordan*, the trial court found (based on two alienation psychologists’ testimony) that the older of two children was severely alienated from her father, who had been found to have twice committed intrafamily offenses against the mother. Therefore, the court ruled that the legislative presumption against joint custody to a batterer was rebutted – by the child’s alienation, which, the court stated, would cause her emotional damage, and which it was presumed could best be cured by more time with her father (who she adamantly refused to see). The problem with this analysis was that neither the experts nor the judge considered the possibility that the child’s “alienation” may have been at least in part a reaction to the father’s violence toward the mother and in front of the child, as well as his known manhandling of the child herself. As a result, the father won joint (and eventually, sole) custody, even though the possibility that the child’s hostility was a function of *his own abusive behaviors* was *never ruled out* (Jordan, 2010). When this argument was put before the Court of Appeals, that Court also ignored the fact that such reasoning makes *battering a sure path to an award of custody* – so long as the children become alienated as a result. The Court simply affirmed that the alienation label is sufficient grounds to rebut the presumption against custody to batterers, without regard to whether it is the batterer’s own abuse which may have caused the child’s “alienation” (Jordan, 2011).

It should be noted that, while alienation researchers do not discuss child witnessing of adult domestic violence as a form of emotional child abuse, research has unequivocally found that child witnesses to adult abuse can be profoundly negatively affected and/or traumatized, even if they are not themselves the direct target of physical or sexual violence (Lewis-O’Connor, Sharps, Humphreys, Gary, & Campbell, 2006; Bancroft & Silverman, 2012). Therefore, even where children have not been directly abused themselves, their fear or hostility toward the batterer of their mother may be entirely expected.

The fact that courts are not nuanced in applying alienation theory would not in itself be sufficient to indict the theory itself. However, discussions of PA within the scholarly literature supporting the concept demonstrate that these applications of the theory are quite consistent with the way it is understood by its researchers and theorists. For instance, while on the one hand conveying a more reasonable awareness of the many factors that contribute to a child’s alienation from a parent, Johnston and collaborators continue to pathologize mothers whose children are hostile or afraid of their fathers. In some of their earlier work they even go so far as to pathologize the “aligned” parent who “often fervently believes that the rejected parent is dangerous to the child in some way(s): violent, physically or sexually abusive, or neglectful” (p. 258). They go on to describe the pursuit of legal protections and other means of assuring safety as a “campaign to protect the child from the presumed danger [which] is mounted on multiple fronts [including] restraining orders...” (p. 258). Finally, like Gardner, these purported rejectors of PAS continue to assert that a parent can “unconsciously” denigrate the other parent to the child “as a consequence of their own deep psychological issues” which cause them to “harbor deep distrust and fear of the ex-spouse...” (p. 257; see also Meier, 2010). This willingness to pathologize capable mothers even extends to mothers’ “warm, involved” parenting – which they assert can powerfully fuel alienation in a child (Johnston et al., 2005, p. 208; Kelly and Johnston, 2001). Such discussions are more than sufficient

to ensure that whenever a mother and child have ambivalence about the children's father, and certainly in most cases where mothers allege abuse, virtually any loving parenting by the mother can be labeled a form of "alienation."

In short, parental alienation as a theory has been built – not by scientific or empirical research, but by repeated assertions – at first more extreme assertions by Gardner, and now less extreme but still distorted assertions by more sophisticated psychological professionals. Unfortunately it has been used virtually identically to PAS in family courts, to simply turn abuse allegations back against the protective parent and children (Meier, 2010). Anecdotal experience is now being confirmed by cutting edge research into "turned around" cases, i.e., those in which a court initially disbelieves a father is dangerous and, after some harm to the children, a second court corrects the error. Preliminary results of this research have identified PA labeling as one of three primary factors leading to erroneous denials of an accused abuser (usually a father)'s dangerousness, and orders subjecting children to ongoing abuse (Silberg, 2013; Silberg & Dallam, 2013). These preliminary results indicate that at least 37% of initial case errors (10 out of 27) were attributable to PA/PAS labeling. If an additional 12 cases in which the protective parent (usually a mother) was pathologized in similar manner (without the PA label) are included, the percentage becomes 66%. Opinions of evaluators and Guardians Ad Litem (GALs) were a key factor in the court's unprotective erroneous decision in 67% of cases (Silberg, 2013; Silberg & Dallam, 2013).

### ***PA and PAS Labeling by Child Protection Agencies***

Despite the mission of child welfare agencies to protect child safety, many such agencies appear to have adopted PAS/PA reasoning. Anecdotal reports from the field suggest that many child welfare agencies are highly skeptical of any abuse claims raised within the context of custody litigations and discount their credibility.<sup>5</sup> Although Gardner asserted that sexual abuse claims raised in the custody

litigation context were mostly false, as noted above, the empirical research demonstrates the opposite. Nonetheless, the widespread acceptance of PAS and PA theory has legitimized many child welfare agencies' skepticism toward such allegations when made by mothers in custody or visitation litigation (Leshner & Neustein, 2005; Neustein, A., & Goetting, A., 1999). In fact, in some jurisdictions, the same custody evaluators propounding PAS and PA are working with the child welfare agency.<sup>6</sup> This author has been involved in and learned of numerous cases in which the child welfare agency has refused to believe or even seriously investigate mothers' and children's allegations of a father's abuse, when the case was in custody litigation. It seems that some trainings delivered to caseworkers focus on identifying and weeding out false allegations as much or more than understanding the dynamics of child abuse in the family. In one highly regarded instruction manual, two factors listed as helpful in identifying false allegations are (i) ongoing custody/visitation litigation and (ii) the accused's denial of the abuse (Pennsylvania Child Welfare Resource Center, 2011).

### ***PA and PAS Labeling by Custody Evaluators***

NCJFCJ Guidelines for judges state:

In contested custody cases, children may indeed express fear of, be concerned about, have distaste for, or be angry at one of their parents. Unfortunately, an all too common practice in such cases is for evaluators to diagnose children who exhibit a very strong bond and alignment with one parent and, simultaneously, a strong rejection of the other parent, as suffering from "parental alienation syndrome" or "PAS." Under relevant evidentiary standards, the court should not accept this testimony. . . (Dalton et al., 2006, p. 24).

In one case with which the author is familiar, the court's forensic evaluator posited alienation as an explanation for the mother's and child's sexual abuse allegations, after observing a single brief visit in the court supervised visitation center, in which the father

and child were observed to be warm and enthusiastic. This evaluator, who was highly regarded by the court as an expert, did not believe that such affectionate interactions would occur if the sexual abuse allegations were true. However, expert research into child sexual abuse indicates the opposite: One cannot assess the veracity of such allegations by observing the parties' interactions. Most abused children continue to love their abusive parents, and crave loving attention from them. Particularly when they know they are in a safe setting, their affection for their parent and the parent for them, may be evident (Anderson, 2005; Bancroft & Silverman, 2002).

Recent major research has now confirmed that many neutral custody evaluators actually lack meaningful knowledge or expertise in domestic violence and abuse (Saunders, Faller & Tolman, 2011). In particular, many (especially private) custody evaluators do not understand the risks to adults and children *after* separation from the abuser, do not use an objective screening instrument and do not apply knowledge from the domestic violence field about assessing dangerousness. Those lacking this information tend also to believe: "(1) DV victims alienate children from the other parent; (2) DV allegations are typically false; (3) DV victims hurt children if they resist co-parenting; (4) DV is not important in custody decisions; and (5) coercive-controlling violence in the vignette was not a factor to explore" (Saunders, Faller & Tolman, 2011). These same evaluators were found to hold "patriarchal" norms (Saunders, Faller & Tolman, 2011). Both this study and other smaller ones have consistently found that custody evaluators fall into two groups: those who understand domestic violence and abuse and believe it is important in the custody context, and those who lack such understanding, are skeptical of abuse allegations and believe they are evidence of alienation (Saunders, Faller & Tolman, 2011; Haselschwerdt and Hardesty, 2010; O'Sullivan, 2011; Erickson and O'Sullivan, 2010). The fallability and ideology of custody evaluators is perhaps best summed up by one of these researchers: "The study showed that what the evaluator brings to the case has more influence on the family's fate than

the facts of the case" (O'Sullivan, 2011). Particularly if actual physical violence was not extreme, many such evaluators (and judges) conclude that the perpetrator is not particularly dangerous and that women's and children's fears are overstated or simply fueled by vengeance.

These gaps in evaluators' and judges' appreciation of abuse dynamics and risks are reinforced by the strong emphasis in family courts and mental health training on the importance of children retaining robust relationships with their noncustodial parents after divorce. This leads to a dominant emphasis on "co-parenting" as the prime value by which custody litigants are judged. Thus, the National Council of Juvenile & Family Court Judges in its guide for judges on custody evaluations states, "[e]valuators may ... wrongly determine that the parent is not fostering a positive relationship with the abusive parent and inappropriately suggest giving the abusive parent custody or unsupervised visitation in spite of the history of violence..." (Dalton et al., 2006, p. 25). Alienation theory perfectly and problematically reinforces this emphasis on litigants agreeing to "share" parenting rather than restricting the other parent.

### **Strategy Issues for Litigants in Specific Cases**

#### ***Expert Witnesses***

The ideal strategy for combating PAS/PA claims leveled against an abuse survivor is the production of an expert to testify that PAS is not valid "science." Such an expert should also explain how PAS and PA are widely used to distract from and undermine an objective assessment of past abuse and future risk. Such expert testimony may be effective in persuading the trial judge to discount PAS or PA claims where there is evidence of abuse. The expert can also help the court understand the dynamics of the particular abuse alleged in the case, including the counter-intuitive aspects of child sexual abuse, or the controlling and coercive tactics used by abusers, which may help a court understand why a lack of severe overt violence does not make abuse

allegations fraudulent. However, even if expert testimony does not result in success at trial, the creation of a strong scientifically based record at trial will increase the chances that a PAS or PA-based ruling can be overturned on appeal.<sup>7</sup> Litigants and their advocates and experts should argue that PA should be treated – at most – as merely a behavior that does not by itself indicate anything other than the need for an individualized assessment of each child, their attitudes toward their parents, and the reasons therefor. Abuse allegations must be thoroughly and independently assessed, regardless of alienation claims (Drozd & Olesen, 2004; Meier, 2010). Ideally, alienation claims should be excluded unless and until abuse is *ruled out*. Otherwise, the alienation label is too easily used to cut short any serious consideration of abuse, and to re-frame true abuse as alienation, a dangerous error, as recent research indicates. For this reason, a popular “decision tree”<sup>8</sup> by leading scholars and forensic psychologists, which invites evaluators to assess *both abuse and alienation* simultaneously, is likely to simply continue the same problems already seen with the misuse of alienation (Meier, 2010).

However, it is the rare custody litigant who can locate and afford to pay a genuine expert on these subjects. Moreover, not all courts are persuaded by such testimony, and PAS and PA claims in custody litigation can be particularly tenacious and difficult to refute. Because PAS theory is so circular – deeming all claims, evidence and corroboration of abuse allegations merely to be further evidence of the “syndrome” – direct rebuttal is virtually impossible. Advocates and survivors in such situations have sometimes concluded that backing off of abuse allegations may be the only way to reduce the courts’ focus on purported alienation by the mother. A troubling number of mothers have lost custody and even all contact with their children as a result of seeking to protect them from their fathers’ abuse (Leshner & Neustein, 2005; Petition in Accordance, 2006). In this context, painfully tolerating unsupervised visitation or even joint custody with an unsafe father may be seen as the lesser of two evils. However such a resolution may not be permanent, as many abusive parents keep returning to court

until they can wrest custody from the protective parent, which is frequently the punishment inflicted on protective parents who continue to report their children’s complaints of abuse after being with their other parent.

### ***Alienation by Batterers***

Another strategic dilemma arises for victims of domestic violence (typically women) who have observed their abuser (typically men) to be actively alienating the children from their victim-parent. This is most common where the abusive parent is awarded full custody; however, it can also happen to a lesser extent whenever an abuser has unsupervised access to the children. As most advocates for abuse survivors know, what courts call “alienation,” i.e., undermining a child’s relationship with the other parent for illegitimate reasons, is a common behavior of abusers (Bancroft & Silverman, 2002; Johnston, 2005). In such cases, the survivor and her advocate must decide whether to invoke “parental alienation” against the perpetrator. On one hand, to do so would be to validate a concept of dubious validity which has been widely misused against female victims of abuse, and which has been vigorously opposed by domestic violence experts and advocates. One advocate has coined the term “maternal alienation” to distinguish batterer-perpetrated alienation from the much maligned “parental alienation” which is most often used against mothers (Morris, 2004). This term has yet to catch on in the field, and it seems this phrase could also easily be misconstrued as describing mothers who alienate their children. Given many courts’ hostility to alleged alienation, as well as the genuine harm that abusers’ combination of intimidation and terror with alienating conduct can engender by undermining children’s safe relationship with their protective parent, the decision as to whether to allege alienation against an abusive father is not easily made. An alternative term that advocates for abuse victims may wish to use is “Domestic Violence by Proxy,” a phrase which captures the way adult batterers may abuse children to hurt the children’s mother (Leadership Council, 2009). However it is not clear whether this term captures non-violent alienating conduct.

### **An Abuse-Sensitive Approach to Adjudicating Parental Alienation Allegations**

Given the inherent problems with even the reformulated concept of parental alienation, and given also the facts that (1) alienating behavior is indeed a factual reality, most often engaged in by abusive fathers, and (2) courts and evaluators are unlikely to abandon the concept, this paper seeks to provide an approach to alienation that, if implemented conscientiously, would cabin alienation's use to those cases where it is a legitimate issue. Such a proposal is currently most relevant to forensic evaluators and Guardians Ad Litem, but ideally, it would also become judicial practice to require that abuse be ruled out before alienation is considered. This approach could be adopted through state legislation, court policy, or individual judicial practice. The steps are the following:

1. **Assess abuse first.** Abuse should always be assessed – first – whenever there are allegations of abuse. If abuse claims are verified, or substantial risk exists, the remainder of the evaluation should be guided by safety and protection as the dominant concerns, with relationship preservation as only the secondary concern.
2. **Require evaluators to have genuine expertise in both child abuse and domestic violence.** Evaluators who lack such expertise should be required (as is implied by the APA's ethical custody evaluation guidelines, 1994, 2009) to bring in an outside expert. Real "expertise" requires more than one or two continuing education seminars. It requires in-depth training in abuse and/or in working with abused children and/or adults. The new and extensive research consistently shows that custody evaluators' opinions and recommendations are largely determined by their pre-existing beliefs and biases: in particular, those lacking meaningful domestic violence knowledge cannot be trusted to accurately assess abuse allegations and their implications for child well-being.
3. **Once abuse is found, an abuser's alienation claims against the victim should not be considered.** Virtually every article about alienation and abuse – including Gardner's – gives lip service to the principle that if abuse is real, then alienation is not. However, the current trend propounded by both Johnston and Kelly (2004a, 2004b) and Drozd and Olesen (2004) toward a "multivariate" approach, which evaluates abuse and alienation simultaneously, unavoidably gives too much weight to alienation claims in a manner which inevitably undermines accurate assessment of the validity and impact of real abuse claims (Meier, 2010). Alienating conduct bound up with a batterer's pattern of abuse should be identified as part of the abuse.
4. **A finding of alienation should not be based on unconfirmed abuse allegations or protective measures by the favored parent.** Consider a small thought experiment: When fathers allege that mothers or their new partners are abusing the child, and courts do not confirm the allegation, would it be normal to treat the father as a pernicious alienator from whom the child must be protected? In this author's experience, it is unlikely that experienced family lawyers or evaluators would expect – or advocate for – such treatment. The same standard should hold true for mothers alleging the father is an abuser. In short, alienation should not be linked to abuse allegations at all. If alienation is a

Rather, the research proves that these evaluators bring inaccurate presumptions to these cases, including an assumption that women's abuse allegations are often false and merely a form of alienation, along with a lack of appreciation of the genuine danger posed by the abuser and the need for objective risk assessment. Precisely because assessments of abuse are empirically demonstrated to be dependent on the assessor's predispositions to believe or not believe such claims, actual training and *experience working with abused populations* should be a necessary pre-requisite for a valid assessment.

serious concern, then it must be one independent of abuse allegations. To treat abuse allegations as the hallmark of alienation, as is normally done in courts today, is simply to fall into the trap illuminated above – of misusing a claim of alienation to defeat, neutralize, or undermine the seriousness or validity of allegations of abuse. The two concerns should stand or fall – if at all – on their own.

- 5. Alienation claims should be considered only under two conditions: If (i) other developmental or understandable causes of the child's hostility are ruled out, and (ii) there is specific concrete behavior by the favored parent which was intended to cause the child to dislike his/her father.** The alienation researchers consistently acknowledge that children may be alienated from a parent for a multiplicity of reasons, almost always including the disfavored parent's own behavior. Therefore it is critical to avoid leaping to the "alienation" label, as a means of attributing blame to the mother, unless and until other explanations for a child's hostility are ruled out. This approach excludes cases where the parent is engaged in some degree of alienating conduct (e.g., remarks) but the child is not in fact alienated (the vast majority of children, according to Johnston's research). It excludes cases where the preferred parent is hostile to the other parent but does not intentionally and concretely seek to alienate the child. It also excludes cases where the child is unreasonably hostile but the preferred parent is not the cause. Finally, it excludes cases where the child's hostility is understandable in light of his or her experiences with the disliked parent. These exclusions follow logically if we are to eliminate the misuse of alienation theory to blame protective parents and/or silence abused children. In short, as noted above, true "alienation" – in the sense of a child's estrangement malevolently or pathologically cultivated by the preferred parent – is at issue in only a tiny fraction of cases, i.e., some fraction of the 6% of severely

alienated children Johnston et. al. identified in divorcing/separating families.

In these rare cases, if a child is found to be unreasonably hostile to the other parent (i.e., the child refuses to visit or is incorrigibly resistant when visiting), the evaluation must seek to determine a cause for the unreasonable hostility. In addition to the above potential reasons (abuse, neglect, batterer-instigated alienation), emotional betrayals by the disliked parent, and developmental and situational causes, e.g., the divorce itself, must be considered. In seeking to identify parentally-caused estrangement/alienation, evaluators should be precluded from giving weight to protective measures such as filing court protective petitions or reporting to child protection. Otherwise, the alienation label becomes once again nothing more than a penalty for disbelieved abuse allegations.

- 6. A parent may be called an alienator only where the parent consciously intends the alienation and specific behaviors can be identified.** In one case described earlier, the court explicitly found that the mother was not coaching the child, but posited that her own personal hostility to the father (due to his abuse) was unconsciously causing the child to invent sexual abuse scenarios (W v F, 2007). (Of course, this theory would be sufficient to negate all children's reports of abuse – since inter-parental hostility can be inferred in most custody battles.) Such unfounded judicial or evaluator theorizing has been legitimized by the widespread acceptance of the pop psychology attached to the PAS theory and propounded by Gardner and other PAS proponents. The best cure is a clean one: Psychoanalyzing should be prohibited; only identifiable behaviors should be considered in assessing for alienation.
- 7. Remedies for confirmed alienation are limited to healing the child's relationship with the estranged parent.** Under this proposal, in the rare cases where problematic alienation is found

(again, after neglect, abuse, batterer-instigated alienation, and other destructive behaviors are ruled out), evaluators should not seek to undercut the child's relationship with the preferred parent, but rather, to strengthen the child's relationship with the parent from whom s/he is estranged. Thus, family therapy between the child and the estranged parent, therapy for the child, and/or therapy for the preferred parent, might be appropriate. Orders to both parents to cease any derogatory discussion of the other parent may be appropriate. Forced change of custody is not appropriate, unless the child's relationship with the estranged parent is sufficiently healed to make the child comfortable with such a prospect (Johnston, 2004b, 86-87).

Despite the problems in some of Johnston's writings, her research also confirms what many in the field already knew: Children are resilient, and they are not easily brainwashed into rejecting another parent, at least not without active abuse, coercion and terrorizing. Courts and evaluators should operate from a healthy appreciation for the range of imperfect parenting that children everywhere survive, and for the strength of children's hard-wired love for both parents. They should ensure that safe and loving relationships are made available and invited to flourish, and should trust that children will discern the truth about their loving parents so long as they are able to experience them directly. This is especially true given that courts' over-reaction to alleged alienation is resulting in widespread disbelief of abuse claims, many of which are valid, and subjection of children to the parents they fear, who are in many cases their or their mothers' abusers. The risks and harms to children from this extreme reaction to alienation concerns – now being scientifically documented – far outweigh the risks of inaction, even when a child hates or fears a parent for illegitimate reasons.

**Author of this document:**

Joan S. Meier, J.D.

The George Washington University Law School  
[jmeier@law.gwu.edu](mailto:jmeier@law.gwu.edu)

**Endnotes**

1. Gardner was “an unpaid volunteer” who taught at times in the Columbia Medical School's division of child and adolescent psychiatry. The New York Times (June 14, 2003, correction), <http://query.nytimes.com/gst/fullpage.html?res=9F05E0DB1539F93AA35755C0A9659C8B63>
2. Over time, Gardner expanded the theory to address any case where a child has been “programmed” by one parent to be “alienated from the other parent” – and even stated that sexual abuse claims arise in only a minority of PAS cases (Gardner, 2002, p. 106).
3. Gardner's mental instability was tragically revealed when he committed suicide in 2003 by stabbing himself to death. The New York Times (June 14, 2003) <http://query.nytimes.com/gst/fullpage.html?res=9F05E0DB1539F93AA35755C0A9659C8B63>; [http://en.wikipedia.org/wiki/Richard\\_A.\\_Gardner](http://en.wikipedia.org/wiki/Richard_A._Gardner)
4. One lawyer's website says “PAS--sometimes called Parental Alienation (PA)—is a disorder that arises primarily in the context of child-custody disputes.” (The Custody Center, n.d., line 1-2). Gardner himself acknowledged that many evaluators use “parental alienation” in court to avoid the evidentiary attacks that use of “PAS” would invite (Gardner, 2002). In practice, then, it seems that many practitioners conflate the two concepts.
5. One agency is known to treat Sunday nights as “custody night” because of the bump up in hotline calls that are received when children return from visits with their noncustodial fathers. Child welfare agencies' discounting of child abuse claims in the context of custody litigation is hard to find in written policy documents, but it is common experience among litigants, lawyers, and child welfare workers, that the credibility of such claims are discounted and that investigations are often declined in deference to the custody court.
6. This was true in one of the author's cases: *Oates v. Oates*, 2008 (documents on file with author). No matter how many reports were made of the children's abuse, the child welfare agency consistently rebuffed them. Not until after the litigation was it discovered that the custody evaluator who had “diagnosed” PAS, was also a primary advisor to the child welfare agency.
7. Surveys have indicated that appeals in domestic violence cases are surprisingly successful: an unscientific survey by this author of appeals in custody cases where

domestic violence was alleged found that 2/3 of awards to accused or adjudicated batterers were reversed on appeal (Meier, 2003). This is a staggering reversal rate, given the deference that appellate courts normally give to trial courts in custody cases.

8. Access the “decision tree” in: Drozd, L.M. & Olesen, N.W. (2004). Is it abuse, alienation, and /or estrangement? A decision tree. *Journal of Child Custody*, 1(3), 65-106. Available at: [http://www.drozd.com/articles/DrozdOlesenJCC1\(3\)2004.pdf](http://www.drozd.com/articles/DrozdOlesenJCC1(3)2004.pdf)

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3605 Vartan Way • Harrisburg, PA 17110 • 800.537.2238 • TTY: 800.553.2508 • Fax 717.545.9456

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## In Brief: Parental Alienation Syndrome and Parental Alienation

Joan Meier

**P**arental Alienation Syndrome (PAS) and Parental Alienation (PA) are commonly raised to combat a mother's allegations that a father is abusive and that his access to the children should be restricted. While PAS and PA are sometimes used interchangeably, they have separate origins, and are pointedly distinguished by their originators. They are also not equally subject to legal challenge.

PAS was invented by Richard Gardner in the 1980's to explain what he considered to be an epidemic of child sexual abuse allegations in custody litigation. Gardner claimed, with no empirical basis, that the vast majority of such allegations are false, but were fabricated by vengeful or pathological mothers. Credible and extensive empirical research has demonstrated that the assumptions underpinning PAS, including that child sexual abuse allegations are rampant, and generally false, are themselves entirely false. Over time, the strange assumptions underlying Gardner's theory have been critiqued and the validity of a scientific "syndrome" has been roundly rejected by numerous legal and psychological professional and expert bodies and researchers. Gardner's apologist attitude toward pedophilia has contributed to the discrediting of PAS. While this has not ended reliance on PAS within courts and policymakers, it has reduced its use. To date, the only published opinions addressing the admissibility of PAS have ruled against it.

However, Parental Alienation has risen from the ashes of PAS. PA (or "child alienation") has been defined by leading well-regarded researchers, many of whom have rejected the validity of PAS, as addressing cases where a child expresses "unreasonable negative feelings and beliefs" (including fear) about a parent "that are significantly disproportionate to that child's actual experience with that parent." The key difference between this definition and the way PAS has been understood is that PA recognizes the different factors that can cause a child to be alienated from a parent. These researchers have also found that the disliked parent often contributes to a child's alienation.

In theory, this broader and more balanced approach to children's estrangement from a parent should be less likely to undermine abuse allegations and protective parents' attempts to keep their children safe. In practice, however, PA has been used in court in largely identical fashion to PAS: to penalize mothers who allege that the father is unsafe for the children, and to label them "alienators." While the research demonstrates no correlation between alienating conduct and being a victim of battering, these writers and many evaluators still often treat battered mothers as alienators when they allege that a father is unsafe.

### Helpful New Research

Recent federally funded research has demonstrated that custody evaluators tend to fall into two categories: those who know about domestic violence and consider it important in custody litigation, and those who do not. This research confirms that those who do not have an in-depth understanding of domestic violence also tend to label abuse allegations "alienation" and rarely identify abuse as a serious concern. Sadly, alienation labeling has also entered child welfare agency practices, who frequently discount and sometimes even turn against mothers who report child abuse by a father, particularly in context of custody or visitation litigation. Consistent with these findings, preliminary results of very new research into "turned-around" cases (i.e., those in which a first court fails to believe abuse and protect a child, and a second court recognizes abuse and protects the child) is demonstrating that alienation labeling plays a substantial role in courts' refusals to believe abuse and protect children.

For all these reasons, once the alienation label is applied either in a court or child welfare proceeding, it is extremely difficult to achieve safety for at-risk children and the risk of mothers losing custody increases.

### **An Abuse-Sensitive Approach to Parental Alienation**

The full paper lays out a seven-step approach to addressing PA allegations in a case where abuse is also alleged. The core premise is that abuse must be fully adjudicated or evaluated before alienation theory may be considered. If followed faithfully, this approach would exclude PA labeling from all valid abuse cases, except insofar as alienation is a part of a batterer's abusive pattern.

### **Strategic Considerations**

It is critically important for litigants to make an explicit record challenging the scientific validity of PAS as a theory, and of PA where it is applied to deny abuse allegations. This will normally require an expert witness with background in domestic violence, child abuse, and parental alienation theory. While such testimony may not succeed at trial, it may help make a record that could support a reversal on appeal. And while such experts can be costly, occasionally a pro bono expert can be found with the help of national organizations with this expertise.

A second strategy consideration concerns the fact that many batterers are themselves alienators of the children from their mother. It is difficult for domestic violence advocates, lawyers, and litigants to adopt this concept even where it might help their case, given that the label is used to deny abuse most of the time. However, it is to be hoped that courts will take alienation at least as seriously when an abuser commits it, as when a mother alleging abuse is viewed as an alienator. Individual litigants must come to terms with their own comfort level on this issue. However, an alternative term, "domestic violence by proxy" may be useful.

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