

Parental Alienation and *Daubert* Gatekeeping

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1

Outline of Presentation

- Definition of parental alienation
- Generally accepted in scientific community?
- Peer review and publication?
- Testing and scientific methodology?
- Legal precedents regarding parental alienation

2



DEFINITION OF PARENTAL ALIENATION

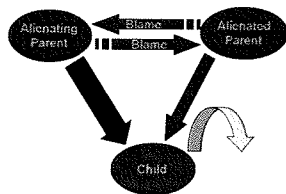
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Definition: "Parental Alienation"

- A child – usually one whose parents are engaged in a high-conflict separation or divorce – allies himself strongly with one parent (the preferred parent) and rejects a relationship with the other parent (the alienated parent) without legitimate justification.

4

Causing PA is Child Maltreatment




5

Levels of Severity of Parental Alienation

- Severity is based on the behavior of the child, *not the behavior of the alienating parent.*
- Mild: child complains about spending time with rejected parent, but goes and has a good time.
- Moderate: child complains and is oppositional before and during most of the time with rejected parent.
- Severe: child adamantly refuses to have a relationship with the rejected parent, threatens to run away.

6



**HAS THE SCIENTIFIC
COMMUNITY ACCEPTED
PARENTAL ALIENATION?**

7


AAUAP OFFICIAL ACTION

Practice Parameters for Child Custody Evaluation

Parental Alienation

There are times during a custody dispute when a child can become extremely hostile toward one of the parents. The child finds nothing positive in his or her relationship with the parent and prefers no contact. The evaluator must assess this apparent alienation and form a hypothesis of its origins and

8



**Association of Family
and Conciliation Courts**

**Model Standards of
Practice for Child
Custody Evaluation**

9

Association of Family and Conciliation Courts

- Model Standards of Practice for Child Custody Evaluations, 2006.
- "Areas of additional specialized training include ... the assessment of children's resistance to spending time with a parent or parent figure and allegations of attempts to alienate children from a parent, parent figure, or significant other" (p. 9).

10

Association of Family and Conciliation Courts

- Survey of 300 members who attended an AFCC conference on parental alienation in 2010.
- "Nearly all of the respondents to the survey (98%) endorsed the question, 'Do you think that some children are manipulated by one parent to irrationally and unjustifiably reject the other parent?'"

A. J. L. Baker et al. (2011), Brief Report on Parental Alienation Survey, *Newsletter of Association of Family and Conciliation Courts*.

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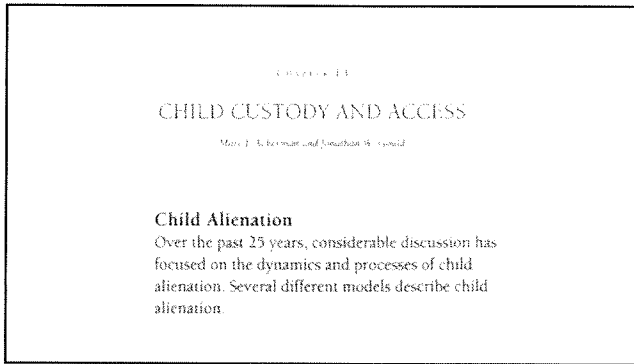
APA Handbook on Forensic Psychology

**APA Handbook of
Forensic
Psychology**

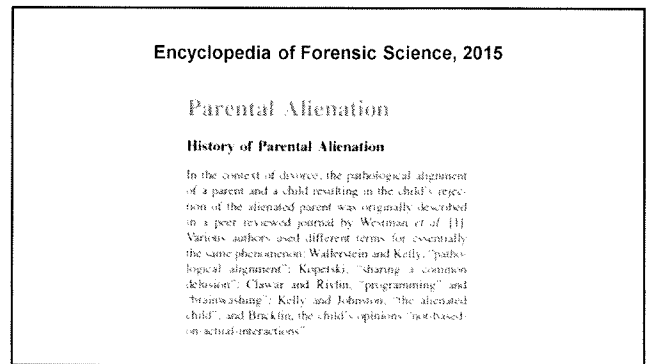
VOLUME 4
Individual and Situational Influences in
Criminal and Civil Contexts

Book Editor and Patricia A. Eggert (Series Editor)

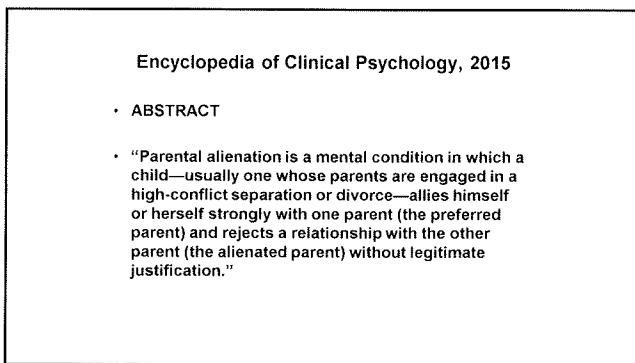
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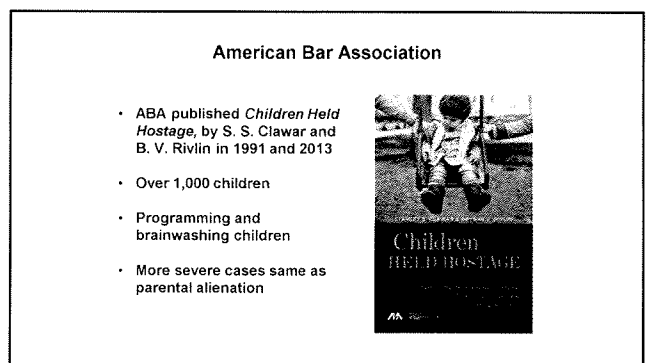
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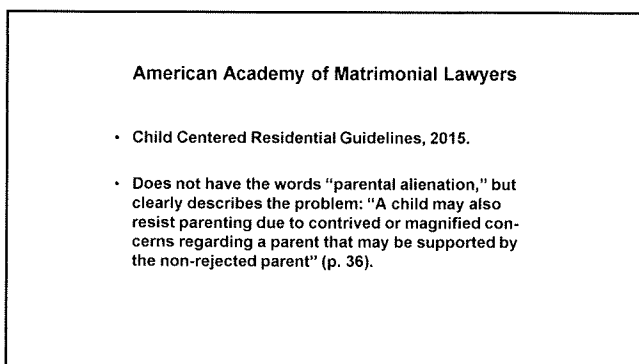
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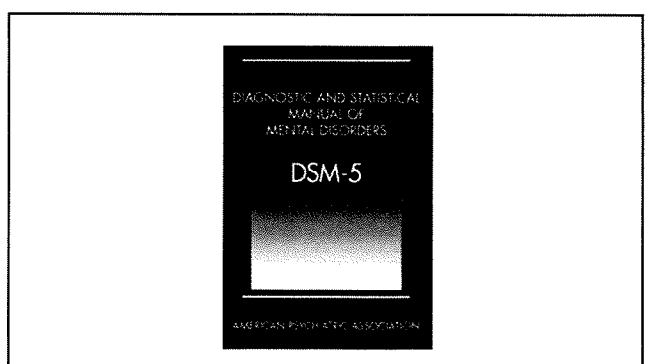
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16



17



18

American Psychiatric Association

- *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), 2013.*
- The actual words, "parental alienation," are not in DSM-5, but the *concept* of parental alienation is expressed in three diagnoses in DSM-5.

19

The Concept of PA is in DSM-5

- *Child affected by parental relationship distress* = "... negative effects of parental relationship discord (e.g., high levels of conflict, distress, or disparagement) on a child in the family."
- *Parent-child relational problem* = "negative attributions of the other's intentions, hostility toward the other, and unwarranted feelings of estrangement."
- *Child psychological abuse* = "harming/abandoning people or things that the child cares about."

20

More Signs of Acceptance of Parental Alienation

- American Academy of Pediatrics
- *Principles and Practice of Child and Adolescent Mental Health*
- *The Handbook of Forensic Psychology*
- *Comprehensive Textbook of Psychiatry*
- *Principles and Practice of Forensic Psychiatry*

21



PEER REVIEW AND PUBLICATIONS REGARDING PARENTAL ALIENATION

22

Quiz Question

Has there been much research regarding parental alienation?

23

We found articles in the professional literature of 38 countries ...

- | | | |
|------------------|-------------|------------------|
| • Algeria | • France | • Netherlands |
| • Argentina | • Germany | • Norway |
| • Australia | • Hong Kong | • Poland |
| • Austria | • India | • Portugal |
| • Belgium | • Israel | • Romania |
| • Brazil | • Italy | • South Africa |
| • Canada | • Japan | • Spain |
| • Columbia | • Latvia | • Sweden |
| • Chile | • Lithuania | • Switzerland |
| • Cuba | • Malaysia | • Turkey |
| • Czech Republic | • Malta | • United Kingdom |
| • Denmark | • Mexico | • United States |
| • Finland | • Morocco | |

24

Qualitative and Quantitative Research

- Qualitative research: data are collected in the form of descriptions from systematic observations, from which conclusions are drawn.
- Quantitative research: data are collected in the form of numerical values and analyzed statistically, from which conclusions are drawn.
- Parental Alienation Database
 - 800 references to qualitative research
 - 200 references to quantitative research
 - <https://ckm.vumc.org/pasg>

25

Quiz Question

When was the first publication regarding parental alienation in the professional literature?

26

In the legal literature ...

Perhaps *De Manneville v. De Manneville*, 32 Eng. Rep. 762 (1804).

In the clinical literature ...

Perhaps *Maternal Overprotection*, by David M. Levy (1943).

27

PA Described Independently x 6

- Judith Wallerstein and Joan Kelly, California
 - "Pathological alignment," 1976.
- Richard Gardner, New York
 - "Parental alienation syndrome," 1985.
- Leona Kopetski, Colorado
 - Her observations "were remarkably similar to Gardner's conclusions regarding the characteristics of the syndrome," 1998 (based on work during the 1970s and 1980s).

28

PA Described Independently x 6

- Stanley Clawar and Brynne Rivlin, Pennsylvania
 - *Children Held Hostage*, 1991 (based on work during the 1970s and 1980s) (2nd edition 2013).
- Janet Johnston et al., California
 - "Strong alliance," 1985, *JAACAP*
 - "Strong alignments related to behaviors Gardner referred to as parental alienation syndrome," 1993.
- Barry Bricklin, Philadelphia
 - "Not-Based-On-Actual-Interactions (NBOAI)," 1984.

29

Qualitative Research - Gardner

- Richard A. Gardner, *Recent Trends in Divorce and Custody Litigation* (1985).
- Conducted child custody evaluations, made observations of many divorcing and divorced families.
- "The primary manifestation [of PAS] is the child's campaign of denigration against the parent, a campaign that has no justification. The disorder results from the combination of indoctrination by the alienating parent and the child's own contributions to the vilification of the alienated parent."

30

Qualitative Research - Gardner

- Critics of PAS incorrectly say, "Gardner had no empirical evidence."
- Gardner's methodology – collecting data from his medical practice and organizing it into a clinical syndrome – is what physicians have done for hundreds of years.
- George Huntington – chorea – 1872.
- Leo Kanner – childhood autism – 1943.

31

Qualitative Research - Warshak

- Richard A. Warshak, *Divorce Poison*, 2001, 2010.
- Most widely read book in the world regarding parental alienation. Published in U.S., Croatia, Czechia, Finland, Japan, and Korea.
- Contains no statistics, but dozens of interesting, distressing, and provocative case vignettes.
- Explains the appearance and causes of parental alienation – and what to do about it.

32



HAS PARENTAL ALIENATION THEORY BEEN TESTED WITH A SCIENTIFIC METHODOLOGY?

33

What are the signs of parental alienation?

A Construct Study of the Eight Symptoms of Severe Parental Alienation Syndrome: A Survey of Parental Experiences

Amy J. L. Baker
Douglas C. Darnall

Published 2007

- Studied 68 alienated parents whose children "want nothing to do with the parent and the parent's access to the child was minimal at best" (i.e., severe parental alienation).
- Confirmed the 8 common behavioral symptoms of parental alienation.

34

What are the signs of parental alienation?

- Eight symptoms of parental alienation occurred "often" or "always" in large percent of families:

• Campaign of denigration:	88%
• Weak, frivolous reasons:	98
• Lack of ambivalence:	97
• Insists not influenced by others:	95
• No guilt or remorse:	89
• Always sides with preferred parent:	100
• Uses borrowed phrases:	79
• Rejects extended family:	77

35

What are the signs of parental alienation?

- CONCLUSIONS
- "In general, these findings support Gardner's observations regarding the constellation of the eight symptoms of parental alienation syndrome ...
- ... and should pave the way for the development of reliable and assessment tools for identifying parental alienation syndrome."

36

What are the causes of parental alienation?

Behaviors and Strategies Employed in Parental Alienation: A Survey of Parental Experiences

Amy J. E. Baker
Douglas Damsel

Published 2006

- Studied 97 alienated parents, who identified the strategies that the alienating parent had used to indoctrinate the children.
- Identified about 20 common alienating behaviors

37

Do alienating behaviors (in the parent) cause symptoms of parental alienation (in the child)?

- Studied 30 families with intractable custody disputes
- Classification of 59 children:
 - Mild (22): child parrots negative statements, but visits
 - Moderate (17): vilification and anger, resists visits
 - Severe (20): "hates" parent, refuses visits

Parental Alienation Syndrome in Court Referred Custody Cases

Janelle Burrill

Published 2001

38

Do alienating behaviors (in the parent) cause symptoms of parental alienation (in the child)?

- Classification of 30 alienating parents:
 - Mild: desire for vengeance; slight programming; strong preference for primary custody of child, but believes alienated parent should be involved.
 - Moderate: rage from feeling rejected; withholds child; repeated negative comments about other parent; suggests the other parent is dangerous.
 - Severe: obsessed with rage; fanatically prevent visits; often paranoid; will not comply with court orders.

39

Do alienating behaviors (in the parent) cause symptoms of parental alienation (in the child)?

- CONCLUSIONS
 - "The more negative symptoms the parents had, the more negative the behaviors of the child."
 - "Children in the severe group present as more disturbed than children in the mild group."
 - "The results of this study appear to support the existence of PAS."

40

**FORENSIC
SCIENCE**
PAPER
PSYCHIATRY & BEHAVIORAL SCIENCE
William Bernet, M.D., Stephen C. Grayson, Ph.D., Kathleen M. Bernet, Ph.D., and Richard P. Adams, Ph.D.
An Objective Measure of Splitting in Parental Alienation: The Parental Acceptance-Rejection Questionnaire*

"Severely alienated children engaged in a high level of splitting, by perceiving the preferred parent in extremely positive terms and the rejected parent in extremely negative terms."

41

Quantitative Research – Bernet *et al.*

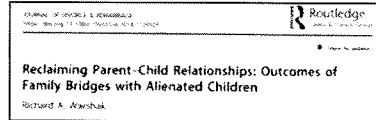
- Alienation = rejection of a parent without a good reason – rejection is very strong.
- Neglect = rejection of a parent for a good reason – feelings are ambivalent.
- PARQ clearly distinguished alienated children from other children.
- Results are counterintuitive, but convincing.

42

Quiz Question

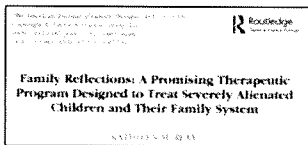
What is the success rate of interventions for parental alienation?

49



- Published 2018 – involving 83 children.
- Family Bridges – 95% successful after 4 days.
- Some children relapsed within 1 or 2 years, because of early contact with alienating parent.

50



- Published 2015 – involving 22 children.
- Family Reflections – 95% successful after 4 days.

51

Reviews of Published Research

- M. Saini et al., Empirical studies of alienation. In *Parenting Plan Evaluations*, 2016. Review of 58 research studies.
- A. J. L. Baker (2020), Parental alienation and empirical research. In *Parental Alienation – Science and Law*. Review of 22 research studies.
- T. M. Marques et al. (2020), Empirical research on parental alienation: A descriptive literature review. *Children and Youth Services Review*. Review of 43 research studies.

52

Review of Quantitative Research

- Review of 58 quantitative research studies published in peer reviewed journals.
- "There is remarkable agreement about the behavioral strategies parents can use to potentially manipulate their children's feelings, attitudes, and beliefs in ways that may interfere with their relationship with the other parent. The cluster of symptoms or behaviors indicating the presence of alienation in the child can also be reliably identified."

M. Saini et al., Empirical Studies of Alienation. In *Parenting Plan Evaluations*, edited by L. Drozd et al., 2016.

53

Review of Quantitative Research

- Review of 22 quantitative research studies published in peer reviewed journals.
- "The purpose [of this chapter] is to provide legal and mental health professionals with enough information for them to be able to explain and defend the scientific merits of the key concepts in PA theory."

A. J. L. Baker, Parental Alienation and Empirical Research. In *Parental Alienation – Science and Law*, edited by D. Lorandos et al., 2020.

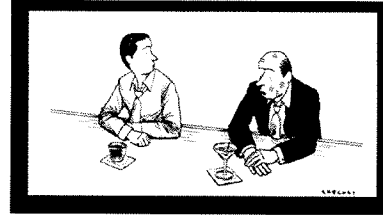
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Summary of Presentation

- **ACCEPTED IN SCIENTIFIC COMMUNITY?**
 - TEN NATIONAL AND INTERNATIONAL ORGANIZATIONS
- **PEER REVIEW AND PUBLICATION?**
 - HUNDREDS OF PEER-REVIEWED PUBLICATIONS
- **TESTING AND SCIENTIFIC METHODOLOGY?**
 - DOZENS OF PUBLISHED RESEARCH STUDIES

55

Parental Alienation in Popular Culture



Since we don't have any children,
my ex turned the cats against me.

56



LEGAL PRECEDENTS INVOLVING PARENTAL ALIENATION

57

Quiz Question

How many times has parental alienation
been accepted in U.S. family courts?

58

FAMILY COURT REVIEW

An Interdisciplinary Journal
Volume 58 Number 2
April 2020

PARENTAL ALIENATION IN U.S. COURTS, 1985 TO 2018

(circumstances) / precedents

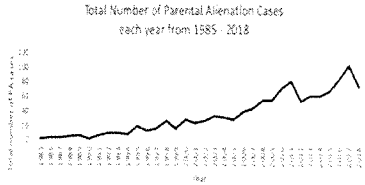
This article first appeared in the Summer 2020 issue of Family Court Review, an interdisciplinary journal of family law. The journal is published by the American Academy of Matrimonial Lawyers (AAML) and the American Academy of Family Therapy (AFT). The journal is published quarterly and is available to members of both organizations. The journal is published by the American Academy of Matrimonial Lawyers (AAML) and the American Academy of Family Therapy (AFT). The journal is published quarterly and is available to members of both organizations.

59

Between 1985 and 2018, courts accepted parental
alienation as an acceptable topic 1,181 times
in trial and appellate courts in the U.S.

60

Trial and appellate courts accept testimony regarding parental alienation, 1985-2018.



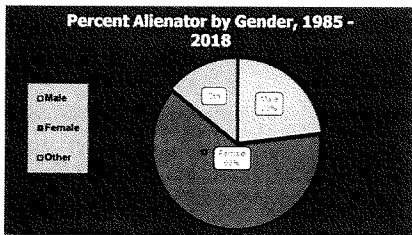
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Quiz Question

Is the alienating parent usually the Mom, the Dad, or someone else?

62

Percent Alienator by Gender, 1985 - 2018



63

Tennessee Court of Appeals

- *Duke v. Duke*, Williamson County, 2014
- COA quoted Dr. William Bernet: "Many of the mental health professionals who have studied and written about this topic concluded that parental alienation is a form of psychological abuse of the child victims, which is why this pattern of behavior needs to be identified and addressed."
- COA agreed with trial court's decision to limit "Father's parenting time with the children to four hours of supervised visitation every other weekend."

64

Tennessee Court of Appeals

- *McLain v. McLain*, Washington County, 2017
- COA quoted Dr. Thomas Schacht: "The phenomena of parental alienation are well recognized internationally and, sadly, are frequently alleged or encountered in custody and visitation litigation"
- COA said: "This Court has previously recognized parental alienation as a development that may rise to the level of a material change in circumstance."

65



FIVE-FACTOR MODEL FOR THE DIAGNOSIS OF PARENTAL ALIENATION

66

Five-Factor Model for the Identification of Parental Alienation

- *One:* Child manifests contact refusal.
- *Two:* Prior positive relationship with rejected parent.
- *Three:* Absence of abuse, neglect, or highly deficient parenting by rejected parent.
- *Four:* Multiple alienating behaviors by preferred parent.
- *Five:* Behavioral manifestations in the child.

[Five-Factor Model Video](#)

67

Factor One: Child Manifests Contact Refusal

- Based on statements of the child to preferred parent, target parent, therapists, evaluators, judge, etc.
- Behaviors of the child prior to, during, and after transitions.

68

Factor One

- Severity of PA based on the statements and behavior of the child.
- **MILD:** child complains about spending time with rejected parent, but goes and has a good time.
- **MODERATE:** child complains and is oppositional before and during most of the time with rejected parent.

69

Factor One

- **SEVERE:** child adamantly refuses to have a relationship with the rejected parent, threatens to run away; child's hostile or indifferent behavior persists for months or years.
- **SEVERE:** some children who have parenting time with rejected parent may be considered **SEVERE** if: child is persistently oppositional; child manifests most or all of behavioral symptoms; preferred parent continues alienating behaviors; and/or no improvement after traditional therapy.

70

Factor Two: Prior Positive Relationship with Rejected Parent

- Based on reports of family members, collateral informants, photographs, videos, diaries.
- Rejected parent is not expected to be a perfect or ideal parent; all parents are imperfect.
- Close bond between child and parent, prior to current breach, despite that parent's normative flaws.

71

Factor Three: Absence of Abuse, Neglect, or Highly Deficient Parenting by Rejected Parent

- Based on interviews of family members, collateral informants, records from medical personnel, child protection, law enforcement.
- The child's rejection of target parent is far out of proportion to anything that parent has done.

72

**Factor Four: Multiple Alienating Behaviors
by Preferred Parent**

- Denigrating and criticizing the other parent
- Limiting contact with the other parent
- Interfering with communication between child and parent
- Limiting mention and photographs of the other parent

73

Factor Four

- Communicating disapproval when child shows affection for other parent
- Implying that other parent was unloving
- Allowing child to choose between his or her parents
- Creating the impression that the other parent is dangerous

74

Factor Four

- Forcing the child to reject the other parent
- Asking the child to spy on the other parent
- Asking child to keep secrets from the other parent
- Referring to the other parent by his/her first name

75

Factor Four

- Referring to the new spouse as Mom or Dad
- Withholding medical, social, or academic information from the other parent; keeping other parent's name off such records
- Changing the child's name to remove connection to the other parent

76

Factor Four

- Confiding in the child about adult matters related to the other parent and the divorce
- Cultivating the child's dependency on the favored parent and undermining the other parent's authority

77

Factor Four – Research

Baker AJL, Chambers J (2011). Adult recall of childhood exposure to parental conflict: Unpacking the black box of parental alienation. *Journal of Divorce and Remarriage* 52(1), 55-76.

Baker AJL, Darnall D. (2006). Behaviors and strategies employed in parental alienation: A survey of parental experiences. *Journal of Divorce & Remarriage* 45(1-2), 97-124.

Harman JJ, Matthewson ML (2020). Parental alienating behaviors. In: Lorandos D, Bernet W (Eds.), *Parental Alienation – Science and Law*, pp 82-141. Springfield, IL: Charles C Thomas.

78

Levels of Severity of Alienating Behaviors

- **MILD:** the preferred parent transiently or inadvertently makes statements that may undermine the child's relationship with the other parent.
- **MODERATE:** the preferred parent purposefully tries to undermine the child's relationship with the other parent; the behavior improves with counseling.
- **SEVERE:** the preferred parent is obsessed with the desire to destroy the child's relationship with the other parent; the behavior does not respond to typical outpatient counseling.

79

Factor Five: Behavioral Manifestations of Parental Alienation in the Child

- Campaign of denigration of the rejected parent
- Weak, frivolous rationalizations for rejection
- Lack of ambivalence
- "Independent thinker" phenomenon

80

Factor Five

- Reflexive support of one parent against the other
- Absence of guilt toward the rejected parent
- Presence of borrowed scenarios
- Animosity for the extended family of target parent

81

Factor Five

- These 8 symptoms of parental alienation are widely discussed and generally accepted by mental health professionals.
- More severe cases of parental alienation manifest all 8 symptoms.
- Less severe cases of parental alienation manifest fewer symptoms.

82

Factor Five

- Sequence of mental events:
- FALSE STATEMENTS
- FALSE BELIEFS
- FALSE MEMORIES
- Alienated children act in a convincing manner, but they are driven by false beliefs and false memories.

83

Factor Five – Research

Baker A.J.L., Darnall D (2007). A construct study of the eight symptoms of severe parental alienation syndrome: A survey of parental experiences. *J. Divorce Remarriage*, 47(1-2):55-75.

Bernet W, Gregory N, Rohner RP, Reay KM (2020). Measuring the difference between parental alienation and parental estrangement: The PARQ-Gap. *J Forensic Sciences*, 65(4):1225-1234.

Gardner RA (1985). Recent trends in divorce and custody litigation. *Academy Forum*, 29(2):3-7.

84

**What is the difference between
alienation and estrangement?**

- ALIENATION = child rejects a parent without a good reason. The child's rejection is far out of proportion to anything the rejected parent has done.
- ESTRANGEMENT = child rejects a parent for a good reason, such as history of abuse or neglect.
- However, alienated parents are not perfect. They may react out of frustration to their children's negative and oppositional behavior and to repeatedly being put in no-win situations.

85



**MISINFORMATION
REGARDING
PARENTAL ALIENATION**

86

**BLATANTLY FALSE
PERSONAL ATTACKS**

87

PERSONAL ATTACKS

- "[Parental alienation theory], launched by American child psychiatrist Richard Gardner (an adherent of pedophilia)"
Book published by Norstedts Juridik, Stockholm, Sweden, 2013
- Richard Gardner "was implicated as being a proponent of pedophilia."
Journal of Child Custody, 2019

88

**AN ARMY
OF STRAW MEN**

89

ARMY OF STRAW MEN

"Thus, if a child states that she does not want to see her father, this is explained as fruit of the mother's manipulation, and the mother would be accused of being a manipulative mother. However, the hypothesis that the child is being physically or even sexually abused by her father is not contemplated and therefore not investigated."

Miguel Clemente and Dolores Padilla-Racero
Psychologists in Spain
Child and Youth Services Review, 2015

90

ARMY OF STRAW MEN

IN FACT, IT IS FLATLY INCORRECT TO SAY ...

... that experts who evaluate a child for PAS or PA do not consider the possibility that the rejected parent actually abused the child.

91

QUOTATIONS THAT MISQUOTE

92

QUOTATIONS THAT MISQUOTE

"PA proponents have been guilty of circular reasoning since Gardner's day ... in that they have omitted the collection of data about one parent's persuasive efforts but have nevertheless assumed that [visitation resistance or refusal] is in itself evidence that the preferred parent has carried out a campaign of denigration against the non-preferred parent."

Jean Mercer, Ph.D., Professor of Psychology
Journal of Child Custody, 2019

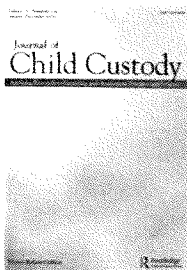
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QUOTATIONS THAT MISQUOTE

IN FACT, NO PROPONENT OF PA ...

... *assumes* that contact refusal "is in itself evidence that the preferred parent has carried out a campaign of denigration against the non-preferred parent."

94



IMPORTANT
SOURCE OF
MISINFORMATION

95

SOURCE OF MISINFORMATION

PUBLISHER OF *JOURNAL OF CHILD CUSTODY* SAYS ...

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96

QUIZ QUESTION

HOW MANY TIMES HAS THIS MISINFORMATION OCCURRED IN PROFESSIONAL PUBLICATIONS OR PRESENTATIONS?

PA theory assumes that the preferred parent has caused PA in the child simply because the child refuses to have a relationship with the rejected parent, without identifying or proving alienating behaviors by the preferred parent.

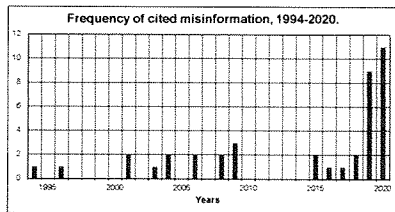
HOW MANY TIMES SINCE 1994 = 28 YEARS?

97

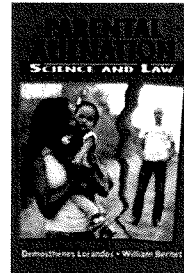
QUIZ QUESTION

... AT LEAST 40 TIMES ...

98



99

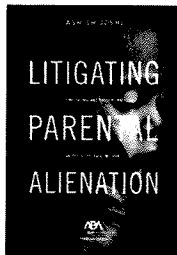


EXTENSIVE
DISCUSSION OF
MISINFORMATION

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Published April 2020

100



CHAPTER ON
MISINFORMATION

===

Published February 2021

101

If you are interested in learning more about parental alienation, consider joining the Parental Alienation Study Group.

www.pasg.info



102