

Parental Alienation Syndrome and Parental Alienation: Research Reviews

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“Given the inherent problems with even the ‘reformulated’ concept of PA, and also the fact that (1) courts and evaluators are unlikely to abandon the concept anytime soon, and (2) alienating behavior is indeed a factual reality, most often inflicted by abusive fathers, this paper offers [a] brief outline of an approach to alienation that, if implemented conscientiously, could cabin alienation’s use to only those few cases where it is a legitimate issue.”

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

Development of PAS Theory

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 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.

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 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 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 make 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.³

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” focuses 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. This dynamic has a chilling effect in family courts, causing

many valid child abuse claims not to be seriously investigated. 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 “programming” of the child/ren (Gardner, 2002, pp. 95-97). One of the problems with Gardner’s theory is that without first objectively assessing abuse allegations, it is impossible to know if the claims are in fact mere “denigration” or true.

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 continue to be reflected in 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). In more than one case, children subjected to these procedures have become suicidal, and in some cases killed themselves, in reaction to court orders to live with the father they said abused them (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 commentators have pointed out, PAS is a defense lawyer's dream because all evidence refuting it can be simply reframed as further evidence of the "syndrome" (Bruch, 2001). In other words, if a child repeats claims of abuse that is characterized as further evidence of extreme "programming" and brainwashing by the mother. If the mother 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). If the mother calls child protection or gathers other corroboration of the allegations, this too is considered further evidence of her pathological need to "alienate" the child from the father. And, if the mother continues to assert that her child needs protection after her allegations have been ignored or deemed unsubstantiated, she is deemed an even more extreme alienator (Gardner, 1987, 1992a).

The Absence of Research Supporting PAS

While Gardner and PAS have many adherents, particularly among forensic evaluators and litigants, few, if any, researchers have contributed to the literature endorsing PAS. This is presumably because PAS is really Gardner's invention and was not derived from empirical research that can be replicated.

PAS' empirical claims are false or unsupported

The claims upon which Gardner based his PAS theory are contradicted by the empirical research. 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 that approximately 50% of the claims were deemed valid, even when assessed by normally conservative court and government-affiliated 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 "high rates of unsubstantiated maltreatment" in "circumstances that indicat[e] that abuse or neglect may have occurred" are a more prevalent problem than false claims of child sexual abuse (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 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 of these intentionally false reports was noncustodial parents (43%), 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 2% by children (Trocme & Bala, 2005).

Gardner 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. Again, there is no empirical basis or support for these offensive assertions.

Gardner's pro-pedophilic beliefs

Gardner's underlying beliefs regarding human sexuality, including adult-child sexual interaction, are so bizarre that it is hard to believe that courts would have adopted his theory if they were aware of what he had published. For instance, his writings express the view that all human sexual paraphilias (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). These sexual behaviors include pedophilia, sadism, rape, necrophilia, zoophilia (sex with animals), coprophilia (sex with feces), and other paraphilias (Gardner, 1992b; see also Dallam, 1998; Hoult, 2006).

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 (1992b) argued expressly that adult-child sex need not be intrinsically harmful to children. He claimed that adult-child sex 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). Contrary to his own claim that most sexual abuse claims in the context of custody disputes are false, Gardner also claimed, with equal lack of basis, that "probably over 95%" of all sex abuse allegations are valid because "sexual activities between an adult and a child are an ancient tradition," a "worldwide phenomenon," and "has been present in just about every society studied, both past and present" (Gardner, 1992b, pp. 47- 48). Gardner viewed Western society as "excessively punitive" in its treatment of pedophilia as a "sickness and a crime" (Gardner, 1991, p.115). He attributed this Western "overreaction" to the influence of the Jews (Gardner, 1992b). 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. He contended that reporting the molestation 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).

Gardner's attitude toward paternal child sexual abuse was evident in an interview in which he stated 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).⁴

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. This study sought to assess the "inter-rater reliability" of PAS, or 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 agree on whether five case scenarios presented to them reflect those PAS criteria or not (Rueda, 2004). Many of the therapists surveyed 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 alienation caused by real abuse and/or other conduct by the alienated parent? Notably, the author himself admits that the findings did not "differentiate PAS from parental alienation" (Rueda, 2004, p. 400). Since "parental alienation" is merely a factual description of behavior that is both more innocuous and common (see section below) than "PAS" purports to be, this admission essentially negates the usefulness of the study.

PAS has been rejected 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 that “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 et al., 2002; Smith & Coukos, 1997; Wood, 1994).

The Presidential Task Force of the American Psychological Association on Violence in the Family (APA, 1996) stated that

although 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). Additionally, a psychiatrist heading up the revision of the profession’s Diagnostic and Statistical Manual stated that PAS “would never be taken seriously in DSM... It isn’t a mental disorder” (Talan, 2003, lines 34-5).

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

the 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). And, despite more than one attempt by Gardner and other adherents of PAS, PAS has not been accepted into the Diagnostic and Statistical Manual (DSM), the encyclopedia of recognized psychological disorders published by the American Psychiatric Association (N. Erickson, personal communication, May 16, 2007). At most, PAS is a conclusory label that offers a particular explanation for a breach in the relationship between a child and parent. However, insofar as the same condition can stem from numerous other legitimate reasons, it is not in itself a psychological diagnosis so much as a purely legal claim or argument (Hoult, 2006).

PAS in Practice

Despite its questionable pedigree, Gardner’s theory has powerfully influenced custody courts and forensic evaluators. In these venues, it has become a virtual article of faith, albeit a mistaken one, that child sexual abuse in particular, and abuse in general, are widely and falsely alleged by mothers in custody litigation (Alford, 2003; Pearson, 1993).⁵

Unfortunately, a similar inappropriate skepticism has infiltrated even child protection agencies. Many agencies have unwritten or written policies of discounting the credibility of sexual abuse claims when raised in the context of custody litigation. Although Gardner repeatedly asserted that claims raised in this context are mostly false, as noted above, the empirical research refutes that claim. Nonetheless, PAS theory has legitimized stereotypical ideas about vengeful ex-wives, resulting in many child welfare agencies’ skepticism toward such allegations when made by mothers in custody or visitation litigation (Leshner & Neustein, 2005; Neustein & Goetting, 1999).

PAS is also regularly invoked in contexts far beyond its original focus on child sexual abuse. It is commonly raised in any custody litigation where either adult or child abuse is alleged and is often raised whenever a mother objects to full shared custody with the father for any reason. At least one expert reports that PAS allegations result in a high rate of custody awards to documented spouse abusers (Childress, 2006).

PAS may be raised by a parent accused of abuse, but it is raised equally often by court appointed custody evaluators who are charged with providing an objective assessment of the children's best interests. The National Council of Juvenile and Family Court Judges states:

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 this 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. The research 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).

Even where no child abuse is alleged, evaluators (and state social workers) may be skeptical of allegations of partner abuse for any number of reasons, including the lack of witness corroboration, the compelling and sympathetic persona of the accused, an unappealing personality of the accuser, the timing of the allegations, and so forth. Alienation then becomes the explanation of choice for why a mother would be making false abuse allegations in a custody case: she is doing it in order to minimize the father's access to the children. This viewpoint presumes, as did Gardner, that many women are vengeful and use child custody to hurt their expartners. Evaluators often do not share the views of domestic violence experts, including the beliefs that abuse is often kept secret for years until the family separates and women rarely fabricate abuse. Alternatively, some evaluators and judges fail to see discrete acts of minor violence as serious enough to constitute "abuse" or to signal real risk to the children. Given their lack of understanding of power and control dynamics and reluctance to believe that seemingly decent or nice men genuinely pose a danger to their children, such professionals often turn to alienation as an easy or convenient explanation for the mother's claims of danger.

The tendency to minimize or deny mothers' claims of danger or abuse is powerfully reinforced by the sometimes explicit, and always implicit, emphasis in family courts on the importance of fostering children's relationships with noncustodial parents (Zorza, 1992). As the National Council of Juvenile and Family Court Judges notes, "evaluators 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).

Court rulings on admissibility

Very few appellate courts have actually published opinions regarding the scientific validity and

admissibility of PAS. The two primary cases (both in New York) that actually analyzed and adjudicated the legal admissibility of PAS in a criminal proceeding found that PAS lacked sufficient scientific validity to meet admissibility standards (People v. Fortin, 2001; People v. Loomis, 1997).

Gardner's website, as well as other PAS adherents' materials (see e.g., Rueda, 2004), tout over 50 cases in which they assert PAS was found admissible. Custody evaluators and lawyers often rely on these assertions and cite these cases to support their PAS arguments (Licata v. Licata, 2003). However, as of 2006, a thorough review of the cases cited by these sources revealed that not one precedent-bearing decision ruled PAS admissible. Four, not 50, trial level decisions held it 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 critiques of PAS have made its invocation slightly less common in court and in the research literature, it has continued to gain popular and political recognition. For example, the American Psychological Association, as well as state and local bar associations, continued to sponsor workshops on PAS through the first half of the decade. Since approximately 2005, roughly fifteen governors have issued proclamations concerning the purported problem of PAS (Parental Alienation Awareness Organization-United States, n.d.). Moreover, the media continues to popularize PAS (De Moraes, 2007).

Parental Alienation - Moving Away From a "Syndrome"

The many critiques of Gardner 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) 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). 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 can be measured, is caused by a parent, has harmful effects, or whether it is simply "old wine [i.e., PAS] in new bottles."

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 their parents, 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 and Kelly's (2004b) research also revealed 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 . . . men 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 this 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." This is not an unusual case. It has been 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.

Another notable difference between PAS and Johnston's reformulated PA is Johnston's renunciation of Gardner's draconian "remedies," including custody switching to the "hated" parent. Characterizing Gardner's prescriptions as "a license for tyranny," (Johnston & Kelly, 2004b, p. 85), Johnston and Kelly 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. The goal then becomes a more realistic and healthy relationship with both parents, rather than reconciliation with the hated parent as the only desirable goal (Johnston, 2005). Johnston's approach is consistent with the understanding of child development experts that children's relationships with their parents change as their own developmental stages change. For instance, teenagers naturally pull away from their parents as part of the individuation that is necessary as they approach adulthood. This is why experts in children and divorce agree that children's alienation from a parent, when not driven by an abusive parent's coercion, typically resolves naturally over time (Wallerstein, Lewis, & Blakeslee, 2000).

A Research Critique of Parental Alienation (PA)

Qualitative critique – PA still obscures abuse

This new approach to alienation blunts some of the most disturbing elements of Gardner's theory, and, by recognizing the many reasons and ways children can become alienated from a parent, places the concept of alienation in a more reasonable light. Nonetheless, the differences between "alienation" and PAS are, at best, unclear to many lawyers, courts, and evaluators. 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). Indeed, Gardner himself acknowledged that many evaluators use "parental alienation" in court to avoid the attacks that use of "PAS" would

invite (Gardner, 2002). In practice, then, it seems that many practitioners conflate the two concepts. Indeed, this author was recently involved in a case in which the court's forensic expert 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).

Of particular relevance here, PA adherents, like PAS adherents, sometimes fail to appreciate the role of abuse in "alienating" children. They frequently discuss the damage caused by "alienation" without adequately distinguishing between children who are suffering because they are victims of "alienation" and children who are suffering because of abuse – abuse which may itself have caused both the psychological damage and the child's alienation (Johnston, Walters, & Olesen, 2005; Kelly & Johnston, 2001). Strikingly, Johnston's own research studies have found that even among the children who rejected a parent, all had multiple reasons for their hostility. These reasons included negative behaviors by the hated parent, such as child abuse or inadequate parenting, or children's own developmental or personality difficulties (Johnston, 2005; Johnston et al., 2005). Yet these articles tend to discuss "alienated" children and the difficulties they experience *without distinguishing* between those who were hostile because of abuse or neglect and those who were alienated because of an aligned parent's wrongful alienating conduct (Johnston, 2005; Johnston & Kelly, 2004b). This common conflation unavoidably contributes to the obscuring of abuse as a reason for children's rejection of a parent, and the tendency to erroneously characterize abused children as pathologically "alienated" while ignoring the reality that they are actually abused. 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

domestic violence can be profoundly and negatively affected, even if they are not themselves the target of physical or sexual violence (Lewis- O'Connor, Sharps, Humphreys, Gary, & Campbell, 2006).

Moreover, Johnston, the leading alienation researcher, states that even where the vast majority of both parents used alienating behaviors, only 6% of children were "extremely rejecting" and only 20% "showed indication of being consistently negative" (Johnston et al., 2005, p. 206). Some of those children were actually alienated from their *mothers* by abusive or battering *fathers*, whose alienating conduct was part of their pattern of abuse (Johnston et al., 2005; Johnston & Kelly, 2004b). Insofar as disparaging the mother is typically part and parcel of a pattern of male battering, those children are more accurately termed victims of abuse, rather than victims of alienation per se (Bancroft & Silverman, 2002). Thus, of the 20% of children found by the researchers to be alienated, more than one fourth were understandably hostile due to the disliked parent's conduct and some other unknown percentage were alienated from their mother by a battering father. Putting aside alienation which is part of an abuser's pattern of abuse (which does not match the traditional "alienation" paradigm of a vengeful mother), this suggests that no more than 10% of all children were alienated in a way that fits the alienation paradigm, for example, alienating conduct by an otherwise non-abusive aligned parent. In short, alienation theorists' own research demonstrates that wrongful "child alienation" (that which is not simply part of a pattern of abuse) is *remarkably rare* in divorcing and separating families. Given this empirical finding, proponents' tendency to treat alienation as the dominant problem afflicting children of divorce/separation continues the trend initiated by PAS theory – toward the marginalization and masking of genuine abuse and neglect.

Finally, while taking pains to distance themselves from Gardner's belief that pathological alienation is caused solely by bad custodial parents, Johnston and collaborators continue to emphasize the unconscious or subconscious factors that they believe affect

mothers' alienating behaviors. For example, they continue to assert the counterintuitive position that a mother's "warm, involved" parenting can powerfully fuel alienation in a child (Johnston et al., 2005, p. 208). Kelly and Johnston (2001) also, like Gardner, state that a parent could "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, in press). In fact, in an early article on alienation, Kelly and Johnston (2001) even pathologize "aligned" parents. "The aligned parent often fervently believes that the rejected parent is dangerous to the child in some way(s): violent, physically or sexually abusive, or neglectful" (Kelly & Johnston, 2001, 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..." (Kelly & Johnston, 2001, p.258).

In short, although discussions of "alienation" by such researchers are somewhat more moderate and less focused on demonizing the "aligned" parent, the alienation literature appears to continue the trend toward pathologizing victims and survivors who allege abuse and obscuring the relevance or impact of abuse or neglect on children's feelings about their parents.

Quantitative critique – minimal data on existence and impact of PA

Custody evaluators and psychologists frequently insist, as an anecdotal matter, that alienation is known to be present and to be harmful as a matter of "clinical observation" (Johnston & Kelly, 2004b; see also Ackerman & Dolezal, 2006). However, these statements do not indicate whether the relationship breaches which these clinicians observe between children and parents are a healthy or natural response to circumstances, or if the "alienation" is caused by a disorder instigated by the wrongful influence of a favored parent. And of course, clinical observations do not constitute empirical evidence (Johnston & Kelly, 2004b).

In fact, the empirical evidence Johnston et al. (2005) have amassed actually indicates that evaluators' and family courts' extraordinary focus on alienation is out of proportion to the prevalence of the problem. As noted above, Johnston et al. (2005) found that despite the alienating behaviors of both parents in most of the families in the study, only 20% of children in their study were actually "alienated" and 6% were severely alienated. And as noted above, even these 20% had multiple causes for their alienation, including abusive, neglectful, or other destructive behaviors by the disliked parent.

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.

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 (Johnston & Kelly, 2004b, p. 84). 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). Evaluators and alienation theorists commonly assert that alienation is a devastating form of emotional abuse of children. To the contrary, 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 or separation, found in her follow-up study that children's hostility toward the other parent after divorce was temporary, and resolved of its own accord, mostly within one or two years (Bruch, 2001; Wallerstein et al., 2000).

As a final note, questioning the empirical basis of PAS and PA is especially challenging because these theories are addressed by an extensive literature (see Parental Alienation Awareness Organization, n.d.). 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 (see Stahl, 2004), but also contain numerous unsupported assertions about PAS, PA, and how they operate. This field appears to be one that has been created by psychologists’ repeated assertions that PAS and PA exist, drawing on Gardner’s views of his own clinical population. In this author’s experience, even leading social science researchers have mis-cited and distorted the research in order to defend PAS against critiques (Lasseur & Meier, 2005).

Strategy Issues for Advocates

In Specific Cases

The ideal strategy for combating PAS/PA claims leveled against an abuse survivor requires producing an expert to testify that PAS is not valid “science” and explicating the limited science surrounding PA. 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. However, even if it 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.⁶ Advocates and experts should argue that PA 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 therefore. Abuse allegations must be thoroughly and independently assessed, regardless of alienation claims (Droz & Olesen, 2004; Meier, in press).

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. 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, alienation is indeed a common behavior perpetrated by abusers (Bancroft & Silverman, 2002; Johnston, 2005). In such cases, the survivor and her advocate must decide whether to invoke an alienation claim against the perpetrator. To do so would be to validate a concept of dubious validity which has been widely misused against female victims of abuse and 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. However, given many courts’ hostility to alleged alienation, as well as how abusers’ combination of intimidation and terror with alienating conduct causes genuine harm 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.

A Policy Proposal

Given the inherent problems with even the “reformulated” concept of PA, and also the fact that (1) courts and evaluators are unlikely to abandon the concept anytime soon, and (2) alienating behavior is indeed a factual reality, most often inflicted by abusive fathers, this paper offers the following brief⁷ outline of an approach to alienation that, if implemented conscientiously, could cabin alienation’s use to only those few cases where it is a legitimate issue. Such a proposal could most obviously be adopted by forensic evaluators and guardians ad litem, but it might also be of use to lawyers and to educate judges and legislators.

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 a secondary concern.
2. Require evaluators to have genuine expertise in both child abuse and domestic violence. Evaluators who lack such expertise should be required to bring in an outside expert. This is a requirement of the APA’s ethical custody evaluation guidelines (APA, 1996). “Expertise” requires more than one or two continuing education seminars. It requires in-depth training in abuse and/or in working with abused children or adults. Evaluators who have worked with families primarily in the context of litigation may operate from the same inaccurate assumptions which are widespread in family courts; That is, that many mothers falsely allege abuse out of vengeance, that children are capable of being brainwashed to an extraordinary extent, and so forth. Precisely because assessment of abuse is notoriously dependent on the assessor’s predispositions to believe or not believe such claims, actual training and experience working with abused populations is a necessary prerequisite for a valid assessment.

3. Once abuse is found, alienation claims by the accused abuser should not be considered. Virtually every article about alienation and abuse, including Gardners’, 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 both abuse and alienation simultaneously, unavoidably gives too much attention to alienation claims. This approach undermines recognition of the validity and impact of real abuse claims (Meier, in press). 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 mothers’ new partner 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 abuse. In short, alienation should not be linked to abuse allegations at all. If alienation is a serious concern, then it is one independent of abuse allegations. To treat abuse allegations as the hallmark of alienation, as is normally done today, is simply to fall into the trap illuminated above: That is, to misuse 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 evaluated only under two conditions: if (i) the child is actually unreasonably hostile to the other parent and resistant to visits, and (ii) there is active alienating behavior by the “aligned” parent. This approach excludes cases where the parent is engaged in alienating conduct, but the child is not in fact alienated (the vast majority of children, according to Johnston’s research). 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 is an issue in only a tiny fraction of cases: less than 10% of children in divorcing/separating families.

In these rare cases, if a child is determined 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), developmental and situational causes, such as divorce, 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 going to child protection. Otherwise, the alienation label becomes, once again, nothing more than a penalty for disbelieved abuse allegations.

6. A parent may be accused of alienation only where the parent consciously intends the alienation and specific behaviors can be identified. In the case described earlier, the court explicitly found that the mother was not coaching the child, but posited that her hostility to the father was causing the child to invent sexual abuse scenarios. Of course, this theory is sufficient to negate all abuse allegations in all cases, since hostility can be inferred in most. 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 and 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, and batterer-instigated alienation are ruled out), evaluators should not seek to undermine 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 until the child's relationship with the estranged parent is sufficiently healed to make the child comfortable with such a prospect.

Johnston's research confirms what many in the field already knew: that children are resilient and that they are not easily brainwashed into rejecting another parent, at least not without active abuse, coercion, or 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.

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Endnotes

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² Gardner was “an unpaid volunteer” who taught at times in the Columbia Medical School’s division of child and adolescent psychiatry (Lavietes, 2003).

³ 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).

⁴ Gardner’s mental instability was tragically revealed when he committed suicide in 2003 by stabbing himself to death (Lavietes, 2003; “Richard A. Gardner,” 2008).

⁵ Not only is incest equally distributed across races and classes, but some research suggests that it is more prevalent among more affluent families (American Psychological Association, 1996). It is thus possible that judicial skepticism of such allegations is related in part to inaccurate class-based stereotypes.

⁶ 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 two-thirds 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.

⁷ This proposal is amplified in greater depth in Meier (in press).

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