

The Lingering Debate Over the Parental Alienation Syndrome Phenomenon

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ABSTRACT. It's been more than a quarter century since the Parental Alienation Syndrome (PAS) phenomenon was first observed yet it remains a highly debated concept in the legal and mental health professions. In the years since its inception, judges have relied on PAS to make both short and long-term decisions in custody and visitation cases. Those who support PAS claim that there is scientific evidence to prove its existence, while those who oppose it suggest that it is pseudoscience and should not be relied upon in court to make binding decisions in custody and visitation cases. The critics believe that other factors must be considered in these cases and that PAS is too simple an explanation for complex behaviors seen in parents and children during custody and visitation proceedings. This paper presents both sides of the argument and suggests that the PAS debate lingers on and remains unsettled. It presents the position that there is scientific evidence to support a clinical claim that PAS is observed in some cases, and it presents the argument

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The author would like to thank and acknowledge Linda Gunsberg, PhD, of the Washington Square Institute for Psychotherapy and Mental Health for her invaluable input and direction and for encouraging the author to submit this article for publication, his wife Karen Landy for proofreading the article and encouraging him to see it through, and his colleagues who struggle daily with the notion of parental alienation.

Journal of Child Custody, Vol. 4(1/2) 2007
Available online at <http://jcc.haworthpress.com>
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doi:10.1300/J190v04n01_02

that not enough rigorous experimentation has been done to prove once and for all that PAS is a diagnosable phenomenon. doi:10.1300/J190v04n01_02 [Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <<http://www.HaworthPress.com>> © 2007 by The Haworth Press. All rights reserved.]

KEYWORDS. Alienation, alignment, conflict, custody, custodial parent, enmeshment, entanglement, estrangement, non-custodial parent, Parental Alienation Syndrome, visitation

Custody of 5-year-old twin sisters was awarded to their biological father despite his frequent absenteeism and his having fathered them in an adulterous relationship. In reaching her May 21, 2004 decision, Manhattan Family Court Judge Arlene D. Goldberg cited the mother's anger toward the father, and her false accusations of child sexual abuse, saying these had fostered an atmosphere that caused the children to reject their father. While not directly identifying the condition that alienated the children, the Court made reference to a mental health phenomenon that has become a widely debated topic in both the legal and mental health communities: parental alienation syndrome (PAS). The case illustrates how, regardless of which side of the debate one is on, parental alienation syndrome is both myth and reality: that is, myth in its lack of concrete scientific evidence and real in its clinical observation.

FRAMING THE DISPUTE

Parental Alienation Syndrome (PAS) is a magnet for both criticism and praise. Gardner (1985, 1987 and 1998) used the term "Parental Alienation Syndrome" to describe a psychiatric disorder in a child that arises in the context of a custody dispute. Those who praise PAS argue that it is a reasonable explanation for a phenomenon seen only in children whose parents are entangled in high conflict custody disputes, while those who criticize PAS argue that it is a flawed argument with no scientific basis.

Gardner (1985, 1987 and 1998) describes the child's behavior toward the non-custodial parent as willful (that is intentional) and malicious, and without justification or excuse. Gardner made these clinical observations solely in the context of custody and visitation disputes. More-

over, these conflicts and the PAS phenomenon are observed in only 10% of custody and visitation cases brought before the court, which is a relatively small percentage of custody and visitation disputes (Darnall, 1998). Because of the contentious nature of the parents and children involved in these disputes, these cases are categorized as "high conflict" disputes.

PARENTAL ALIENATION SYNDROME (PAS)

Gardner (1985, 1987 and 1998) suggests that prior to the custody dispute; the parent/child relationship was generally good and without any visible problems. He postulates that the custody dispute, in and of itself, brings about a change in the relationship between child and non-custodial parent. Instead of the good relationship that was previously shared between parent and child, one finds, during the custody dispute, a relationship of denigration. The child now vilifies the non-custodial parent at a level not seen prior to the divorce/custody proceedings. The custodial parent forces this change on the child. In addition, Gardner (1985, 1987 and 1998) states that the denigration rises to a level of pathology that is classifiable as a psychiatric disorder. Gardner (1998) enumerates eight symptoms of PAS: (1) the campaign of denigration; (2) weak, frivolous, and absurd rationalizations for the denigration; (3) lack of ambivalence; (4) the "independent-thinker" phenomenon; (5) reflexive support of the alienating parent in the parental conflict; (6) absence of guilt over custody to and/or exploitation of the alienated parent; (7) presence of borrowed scenarios; (8) spread of the animosity to the extended family of the alienated parent.

In addition to the eight symptoms and in an attempt to make the symptoms diagnosable, Gardner (1998) suggests that there are three levels of PAS: mild, moderate and severe.

In the mild form of PAS, the child is superficially alienated from the non-custodial parent. That is, the child is able to show affection for the alienated parent when he or she is alone with that parent. The child cooperates with visits, although he or she is occasionally critical and peeved with the non-custodial parent. The moderate level PAS child is more disorderly and impertinent toward the alienated parent, and the unfair criticism of that parent is continuous and relentless: the moderate level PAS child does go on visits with the non-custodial parent, in spite of his or her feelings, but may be passive and not interact with the non-custodial parent. In the severe category, the PAS child is hostile,

will refuse to go on visits with the non-custodial parent, will curse the alienated parent, and may also become violent toward that parent.

Each level requires a somewhat different legal approach. For example, in the mild category, the child willingly comes on visits with the alienated parent and a court order is not necessary. On the other hand, in the moderate and severe categories a court order is generally necessary before the child will visit with the alienated parent.

Although the mild, moderate and severe levels of the PAS are offered as diagnostic categories, it is unclear how these eight symptoms manifest themselves within each category of PAS. For example, which symptoms and how many constitute a mild level, moderate, or severe level remains unclear. However, Gardner (1998) indicates that almost all eight of the symptoms are present in both the moderate and the severe levels of PAS.

In Defense of PAS

In her dissertation, Burrill (2001) analyzed 30 court-referred cases of PAS. She found an obvious distinction between the mild and the severe groups of children. In the mild group, she notes that there are fewer negative behaviors toward the alienated parent by the children. The children in the severe group obviously had more negative behaviors toward the alienated parent. A significant finding was the visible amount of anger in the children with the severe level of PAS. Age also had an effect on the results: the minimum age for the severe group was 5-years-old while it was 2-years-old for the mild group.

While Burrell's (2001) research is limited, it does, however, offer a discernible distinction between the mild and severe levels of PAS in children, especially in regard to the degree of their negative behaviors. However, Burrell did not use a control group to test her hypothesis. Moreover, the study's criteria for distinguishing PAS in the studied children can also apply to other forms of parent-child relationship problems, not only regarding children whose parents are engaged in intractable custody dispute. For example, Burrill (2001) uses the following criteria to prove her hypothesis: visitation with the alienated parent, expression of affection for the alienated parent, positive feelings for the alienated parent, anger towards the alienated parent, and denigration of the alienated parent. Nonetheless, without a comparison group there is little chance to test Burrill's hypothesis that these criteria are limited to PAS and are symptoms of PAS, although her study concludes that "More children in the severe group had fewer visitation, less affection,

fewer positive feelings, more denigration, and more anger toward the alienated parent" (Burril, 2001, p. 74) than the mild group.

What Others Observe

Warshak (2001; 2003) supports the clinical observation of irrational alienation by children in custody cases. Warshak (2003) draws from a "wide body of scientific literature to examine disputes about the existence, conceptualization, and treatment of parental alienation" (p.273). Warshak (2003) suggests that any novel diagnosis should correctly describe a "recognizable disturbance that is not better accounted for by other diagnostic or explanatory terms" (p.283). That is, the validity of the construct refers to PAS as a theory with a particular etiology that cannot be explained by any other construct. Warshak (2001) suggests that "The scientific community, though, still awaits the publication of the type of research findings that will allow the term PAS to take its place in the official manual of diagnoses" (p.33). Warshak (2003) points out that PAS has been tainted, misconstrued, and distorted.

Warshak (2003) argues that despite the fact that there is widespread recognition of the phenomenon of pathologically alienated children, the use of the term 'syndrome' continues to fuel and inflame the debate. More importantly, Warshak (2003) surmise that PAS inadvertently gives the court the impression that rigorous empirical research has been conducted on the PAS phenomenon, that is to say, the type of rigorous research that offers reliability to the "degree which a statistical measurement, test result, or diagnosis is consistent on repeated trials or among different observers" (p.288). PAS has not been subjected to the kind of rigorous scientific research upon which social scientists rely. Therefore Warshak (2003) agrees that PAS does not meet the requirements necessary for a bona fide theory or clinical phenomenon: there is still the question of whether or not there is a cluster of symptoms particular to PAS that can be rigorously tested, repeated, and measured.

Darnall (1998; 1999) is another mental health professional who believes that children can be inexplicably alienated from a parent during custody proceedings. He, however, prefers to use the term "parental alienation" instead of the more heated term "Parental Alienation Syndrome." Moreover, he makes two major distinctions between parental alienation and PAS: First, parental alienation focuses on the parent's behavior whereas PAS focuses on the child's behavior. Second, parental alienation focuses on the custodial parent's degradation of the alienated parent and not the child's degradation (Darnall, 1999). Third,

Darnall (1998) defines parental alienation as any group of behaviors (i.e., conscious or unconscious) that might evoke trouble in the relationship between the child and the other parent (i.e., the non-custodial parent).

Darnall (1998; 1999) hypothesizes that either the custodial or the non-custodial parent can be the alienator; in fact, given time, the roles alternate. He believes that alienation is a process and he offers three types of alienators: naïve, active, and obsessed. Each type has its own characteristics. The naïve alienator is the least pathological of the three. The naïve alienator means well and generally understands that the child needs a healthy relationship with the non-custodial parent. The naïve alienator therefore facilitates visits between non-custodial parent and child. Darnall (1998) indicates that the naïve alienator can separate the child's needs from his or her own needs, the parent feels secure with the child's relationship with the other parent, he/she are flexible and willing to work with the other parent, and he/she does not let their anger and hurt interfere with the child having a healthy relationship with the non-custodial parent. The naïve alienator will respect court orders of visitation without hesitation.

The active alienating parent also means well and also understands that the child needs to have a healthy relationship with the other parent. This parent, however, cannot manage the frustration, bitterness, and hurt that the divorce or separation has caused. For example when something happens that triggers frustration, bitterness, or anger, he/she apt to lash out in ways that alienate the child from the other parent, or he/she may say that the child is too sick to go on the visit, or use some other plausible excuse not to facilitate the visit between the child and the non-custodial parent.

If the active alienating parent's behavior persists, it may take a court order to facilitate visits between the other parent and the child. The active alienator may lash out at the non-custodial parent in front of the child, and he/she may be rigid and uncooperative with the non-custodial parent. His/her behavior is more readily due to lack of self-control than it is to diabolical or sinister motivation, and this parent is capable of calming down and mending fences once he/she come to his senses. That is, this parent is capable of repairing the damage that his/her behavior has caused between the other parent and the child. Like the naïve alienator, the active alienator is able to distinguish his/her needs from the child's needs and consequently is able to facilitate and support the child's desire to have a relationship with the non-custodial parent. The

active alienator has some respect for the court and the active alienator generally honors court orders of visitation.

The obsessed alienator is the most pathological of the three types. The obsessed alienator's cause is to "align the children to his or her side and together, with the children, campaign to destroy their relationship with the targeted parent" (Darnall, 1998, p.13). Furthermore, this is a process that happens over time and it could be a parent or even a grandparent; especially if the grandparent has custody of the child. A major characteristic of the obsessed alienator is that the parent enmeshes the child's personality and beliefs with his/her own, and aligns the child with him/her in the alienator's efforts to destroy the relationship between the child and the targeted parent. Moreover, the children parrot "the obsessed alienator rather than express their own feelings from personal experience with the other parent" (Darnall, 1998, p.17). In addition, the obsessed alienator is delusional and irrational, enlists other family members in his or her campaign against the targeted parent, believes that they have been victimized by the targeted parent, and is not intimidated by the court.

Darnall (1998) offers a list of 20 combined characteristics for both the active and obsessed alienator and 12 characteristics for the naïve alienator, and he proposes a "Parental Alienation Scale" for both custodial and non-custodial parents. Both the custodial and the non-custodial Parental Alienation Scale is a 49-item self-report scale that uses a Likert Scale for measurement. The purpose of the scale is to give parents some insight into how their behaviors may cause alienation in their child. In scoring the Parental Alienation Scale, he moves from "mild" to "moderate" to "significant" alienator (why he changes the "obsessed" designation to "significant" alienator is not clear).

Nevertheless, using either scale, parents scoring in the 49-75 range are considered to be mild or naïve alienators and are told that their behavior is not harmful to their child and are thus naive alienators. Parents scoring in the 76-100 range are considered to be moderate or active alienators and are told that, at times, their behavior can be harmful to their children. Parents scoring in the 101 and above range are informed that their behavior is probably damaging to their children and that they are likely significant or obsessed alienators.

The Difference Between the Clinical Observation of PAS and Whether It Meets the Standard of a Diagnosis

While Darnall (1998 and 1999) and Warshak (2001 and 2003) argue that there are clinical observations of alienating behavior of children in-

volved in custody disputes, several important questions remain unanswered: For example, is PAS truly a syndrome? Is PAS diagnosable? Is PAS seen only in children involved in custody disputes? Is PAS admissible in court? What remedies should the court impose?

Gardner's (1985; 1992; 1998) position was that PAS was a bona-fide syndrome; thus, he hypothesized that PAS should be included in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV). In Gardner's (2001) opinion, PAS is both diagnosable and treatable. Gardner (2001) offers a differential diagnosis and treatment plan for children and parents with the PAS. He proposes the same cluster of eight symptoms, the same three levels of PAS (that is mild, moderate, and severe), and the same legal and treatment approaches as he previously proposed. For example, suggested treatment includes changing custody and court-ordered therapy by a PAS therapist in the severe PAS cases.

Science versus Pseudoscience

Misleading theories can plague the medical and mental health professions. Distinguishing science from pseudoscience is both a professional responsibility and an individual duty.

Science requires that theories should be peer reviewed and the results should be published in scientific journals. Moreover, the results should be reproducible (e.g., precisely prescribed experiments) and falsifiable (that is, have an error rate). Science persuades by evidence, and over time, more and more is learned about the theory under study.

Pseudoscience, on the other hand, is the opposite of science. In pseudoscience there is no peer review and no publication in accepted scientific journals for verification. Furthermore, there are no demands for accuracy or precision (through experimentation). There are no reliable standards. In pseudoscience, things are assumed without proper scientific investigation methods. Pseudoscience begins with a hypothesis and then looks only for things that support it (conflicting evidence is ignored).

Lilienfeld, Lynn and Lohr (2003) suggest 10 distinctions between science and pseudoscience: an over use of ad hoc hypotheses designed to immunize claims from falsification, an absence of self-correction, an evasion of peer review, an emphasis on confirmation rather than refutation (that is, proving oneself wrong), a reversed burden of proof, an absence of connectivity (that is, a connection to existing paradigms), an over reliance on testimonial and anecdotal evidence, the use of obscu-

rantist language (that is, highly technical or impressive sounding language), the absence of boundary conditions (that is, limits under which predicted phenomena do or do not apply), and the mantra of “holism” (for example, the notion that scientific claims can only be examined with the context of broader claims, such as a custody proceeding, and not in isolation).

Because of its lack of peer review, rigorous research, an error rate, and its lack of serious and independent publication, science could conclude that PAS is more pseudoscience than science. Warshak (2003) argues that the scientific community is arrogant if it takes this position (that is, that PAS is pseudoscience) without further serious study of the PAS phenomenon.

Arguments Against PAS

Several mental health professionals have been unsympathetic to Gardner and PAS as a scientific theory (Bruch, 2001; Drozd & Olesen, 2004; Johnston, 2003; Kelly & Johnston, 2001; Lee & Olesen, 2001). Dr. Paul J. Fink, a former president of the American Psychiatric Association indicated that “PAS as a scientific theory has been excoriated by legitimate researchers across the nation. Judged solely on his merits, Dr. Gardner should be a rather *pathetic footnote or an example of poor scientific standards*” (emphasis added, Bruch, 2001, p.539). Even though others have been less critical and condemning, their attacks have been unswerving.

Bruch (2001) insists that Gardner’s PAS has confounded a child’s developmental reaction to divorce with psychosis. She also points out that Gardner vastly overstates his 95% figure of high conflict divorces that experience PAS. She points out that Gardner changed his 95% figure to 40% in the second edition (Gardner, 1998) of his book. Furthermore, Bruch (2001) points out that most of Gardner’s publications, research, and peer reviews are self-promotional and are therefore more or less marketing tools, and for this reason, they are not serious or critical analysis of his theory.

Moreover, Bruch (2001) postulates that a child’s refusal to visit with his or her non-custodial parent “can probably be better explained without resorting to Gardner’s theory” (p. 534). She indicates that several studies reveal that children refuse to visit with non-custodial parents for a variety of reasons for example, they maybe angry or uncomfortable with the non-custodial parent, or in the case of adolescents, they may

want to visit with peers or do other things that are more pleasing to them than visiting with a parent.

Johnston and Kelly (2001) approach the alienation phenomenon somewhat differently by proposing that the notion of alienation be shifted away from the parent and placed on the child. They state that the alienated child's relationship with his or her parents after separation and divorce must be differentiated from other children of divorce and separation who also resist contact with a parent. They caution that youngsters refusing visits with a parent are improperly labeled as alienated when there may be a more plausible explanation for their presumed negative behavior.

They propose a family systems approach and offer a continuum involving several factors such as positive relationships with both parents, affinity with one parent, alliance with one parent, estrangement from one parent (realistic estrangement), and alienation from one parent (pathological alienation). At one end of the continuum (positive affinity), the child has a healthy and positive relationship with both parents, while alliance and estrangement with one parent denote an ambivalent relationship between child and parent; and finally, estrangement and alienation are at the extreme end of the continuum.

Johnston and Kelly (2001) are baffled by PAS because it "includes its hypothesized etiological agents" (i.e., the alienating parent and the receptive child) which "render its cause unfalsifiable and make it true by definition" (p. 249). In addition, they argue that PAS has no "commonly recognized or empirically verified pathogenesis" which makes it "improper to be considered as a diagnostic syndrome. The use of a medical term to define a family social system behavioral issue bespeaks of controversy in and of itself; and finally, PAS does not add any information that enlightens the relevant parties in a family dispute about the specific causes of the child's behavior" (p. 250).

Johnston (2003) prefers (as do other mental health professionals) to use the term "parental alienation" rather than PAS. Parental alienation is a broad notion, and can be used to incorporate all negative behaviors regardless of their origin (i.e., from either the parent or the child or if one influences the other). Johnston (2003) presents empirical data to examine both PAS and parental alienation: The data is offered as a theoretical model of factors that can presumably predict a child's response to a parent after divorce (the focus is on the child, as in her reformulated approach with Kelly (2001). She collected this longitudinal data over a ten-year period from 1981 through 1991. The study consists of 372 families with 600 children all less than 18 years of age. The study ap-

proaches the parental alienation phenomenon on a continuum of the child's relationships with his or her parents after separation and divorce.

Johnston's (2003) research is a serious attempt at explaining and predicting a child's behavior after a divorce. The child's response to the parent is the independent variable which is derived from two sources: direct observation of the child's attitude during visits at her office and parental reporting of the child's behavior at home before and after each visit. Johnston (2003) notes that "in contrast to Gardner's view, the milder forms of parental alignment with one parent and mild rejection of the other are seen as relatively normal . . . children can gravitate toward one parent more than the other . . ." (p. 159). After ten years, 215 children remained in her final sample size, 108 girls and 107 boys who ranged in ages 5 to 14. The study concluded that the findings "support the idea that aligned parents (mother in particular) contribute to alienating a child's affection from the father" (p. 169). Thus, Johnston's (2003) study analyzing the relationship of children to their non-custodial parent suggests that a mother's behavior "can sabotage the father-child relationship more effectively than can the father's behavior sabotage the mother-child relationship" (p. 169). Johnston (2003) considered this study to be "preliminary and exploratory."

The Legal Dilemma with PAS

Some argue that neither PAS nor parental alienation phenomenon's are ideally suited to serve the Court's understanding of a child's rejecting behavior toward the non-custodial parent. Williams (2001) points out that both PAS and parental alienation present a dilemma to the Court.

The admissibility of scientific evidence (especially novel scientific evidence such as PAS) has evolved since the *Frye* (*Frye v. United States*, [1923] 54 App. D.C. 46) decision. Under the *Frye* decision, the general rule for the admissibility of scientific evidence in a court of law is its general acceptance in its discipline. *Frye* has a two-prong test: first, the theory is tested to determine its reliability; and second, once the theory is determined to be reliable, the court can determine whether to permit its use as scientific evidence. This test came to be known as the *Frye Standard*.

In 1972, the Federal Rules of Evidence (*FRE*) Rule 702 adopted a similar standard but did not necessarily focus on reliability, rather it focused on who could qualify as an expert witness and whether or not the evidence/testimony presented was relevant to the matter at hand. In other

words, it asks the question, does the testimony facilitate an understanding of the scientific evidence at hand with regard to the issue before the court? This approach gives the judge a gatekeeping responsibility.

Daubert (*Daubert, Et Al v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579; 113 S. Ct. 2786) went further and actually clarified the *FRE*. Under *Daubert*, the court substituted a “reliability” test for a “relevancy” test. It held that scientific testimony/evidence must pass a four-prong test in addition to the judge’s gatekeeping responsibilities: the scientific evidence must be empirically tested, it must be subject to peer review, it must have an error rate, and it must be capable of being replicated by other experts. The first factor tests the premise that hypotheses can be developed and tested to determine their reliability. The second factor recommends that judges determine the degree to which the theory has been the subject of peer review. The third factor applies to the error rate of the theory (that is, is it falsifiable?). The fourth factor is the general acceptance factor of the theory as outlined in *Frye*.

Finally, under the *Kumho Tire* (119 U.S. 1167) decision the court held that the trier of fact (the judge) does not have to apply the entire Daubert standard to the admissibility test but may use part of the standard in determining the relevancy and the reliability of expert evidence/testimony (which indicates that all or some of the four criteria may be used).

Williams (2001) warns “. . . the concepts of Parental Alienation Syndrome and/or Parental Alienation face considerable difficulty if examined closely with respect to principles of admissibility. Courts have been less than vigilant in exercising their ‘gate keeping’ role. The admissibility of Parental Alienation Syndrome and/or Parental Alienation should not be benignly taken for granted” (p. 278).

Supplementary Arguments in the PAS Debate

Walker, Brantley and Rigsbee (2004) also looked at the admissibility of PAS in the family court. They contend that PAS is a flawed construct and that there is no scientific basis for PAS nor has any empirical evidence been offered to support it. Moreover, Walker et al. (2004) “. . . challenges the theory that PAS or any form of alienating behaviors observed during divorce is actually an attachment disorder” (p. 57). They suggest that there is no empirical evidence to support the notion that a child’s access to both parents is necessary for the child’s healthy development.

In response, Johnston and Kelly (2004) point out that “. . . we have never attempted to use attachment theory in our reformulation of PAS, nor have we used attachment constructs or their derivatives in any of our writing about this problem . . . We are at a loss to understand where these authors have derived this notion” (p. 78).

Walker, et al's (2004) response to Johnston and Kelly's (2004) commentary is that they are “. . . pleased that Johnston and Kelly have stated that their work should not be confused with attachment theories that are in the psychological literature . . .” (p. 92). Nevertheless, Walker et al. (2004) go on to say that “Through the years of their research, there has been criticism of the inadequacy of their assessment of domestic violence by the domestic violence community” (p. 93), thus, raising the debate to a higher level by criticizing the study for not considering domestic violence as a critical factor in the PAS phenomenon.

Other mental health professionals also note that domestic violence is a significant factor in PAS cases. Jaffe, Lemon and Poisson (2003) indicate, “. . . the high incidence of such allegations [that is, PAS] in domestic violence cases is grounds for examining such allegations very closely. It is quite possible that the children are alienated from a parent because they are afraid of him (or her?), having witnessed his emotional or physical abuse of the other parent” (p.115-116). In fact, Jaffe et al. (2003) point out “cases in which PAS is raised frequently involve domestic violence.” Nonetheless, Johnston and Kelly (2001) do indicate that domestic violence is a reasonable cause for a child's estrangement from a parent.

Walker et al (2004) also argued that Kelly and Johnston (2001) used Bowlby's (1969) attachment theory beyond its scope. Garber (2004) believes that this is not the case; he contends that Bowlby (1969) recognized that parental divorce/separation would force a child to accommodate his/her internal working model of one or both parents and in doing so disrupt the continuity of the child's attachment security to one or both parents. Furthermore, Garber (2004) points out that “Any discussion of alienation presupposes the existence of an emotional bond between a child and each of her caregivers” (p. 51); he insists that the quality (that is, whether or not the attachment is secure, insecure, avoidant or disorganized) of the child-caregiver attachment has to be taken into account.

We Would Like to Help

Drozd and Olesen (2004) suggest using a decision making tree in assessing for PAS. They propose that ‘This decision tree is the basis of an

evaluation protocol developed for use in evaluations in which there are both allegations of abuse or neglect and allegations of alienation . . . we focus only on the differential analysis of allegations of alienation and allegations of spousal abuse" (p. 69).

Drozd and Olesen's (2004) decision tree relies on three hypotheses: normal developmental variations, poor parenting, and abuse. Within the normal developmental variation premise they suggest "affinity and alignment." Under the poor parenting hypothesis they offer "too rigid," "too lax," "absent (emotionally or physically)," and "alienating" (i.e., with dimensions of alienating behaviors, e.g., mild, obvious, situational, unaware, aware, severe, and subtle). Under the abuse hypothesis, Drozd and Olesen (2004) offer both child and parent variables (which tend to be numerous), and show their ultimate effects on the child (e.g., secure, resilient, anxious, depressed, withdrawn, estrangement with PTSD, and identification with the aggressor). Presumably, the use of the decision making tree will assist the evaluator in determining whether the observed behavior is abuse, alienation and/or estrangement.

The decision making tree can be somewhat cumbersome. Nonetheless, Drozd and Olesen (2004) invite us "... to use new terms to explain the reasons that any given child might reject a parent"; while cautioning that "The categories that we set forth are theoretical and, for the most part, not researched" (p.101). In fact, they present the sobering idea that "People get lost in the argument as to whether or not PAS, alienation, and/or alienating behaviors exist at all and then they fail to look at the unique dynamics of each case" (p. 94).

Judge Goldberg Is Reversed

On March 31, 2005, the Appellate Division, First Department of the Supreme Court of New York State, reversed Judge Goldberg's decision to give custody of the twin girls to their non-custodial father. The Appellate Division held that child custody disputes must be determined on a case-by-case basis. Furthermore, there is no pro-forma rule that requires the transfer of custody from one parent to another when it is established that one parent has caused a child to form a negative opinion of the other parent and thereby affected negative behaviors in the child. The Appellate Division surmised that the children enjoyed a loving relationship with their father despite the mother's alleged alienating behavior. Moreover, through therapy, the mother had desisted from the alienating behavior. And, in its totality, the remedy of changing custody was inappropriately applied to the facts/merits of this particular case.

New York State is a state in which alienation is considered a plausible legal argument.

On June 1, 2005, the mother in the above case filed a law suit against the psychiatrist who wrote the custody evaluation for the Family Court. In her petition, the mother alleges that it was the psychiatrist's forensic evaluation that ultimately caused her to lose custody of her daughters. Further, she alleged that her daughters suffered enormously because of the results of the report. Her suit alleges that the psychiatrist's work was biased, negligent and unprofessional. Her suit points out that her daughters have suffered permanent physical and emotional trauma and mental anguish (Gregorian, 2005). The suit is alleged to be the first of its kind in New York State. At the time this article was written, the suit was unresolved.

CONCLUSION

PAS offers a number of dilemmas. Shopper (2005) suggests that PAS is confusing and perplexing for both the legal and the mental health professions (especially given that it can occur under different circumstances and in a variety of settings). For example, alienation can occur in intact marriages; it can occur during adolescence or childhood; it can occur in divorce and custody disputes; and, it can occur in stepfamilies between a stepparent and a stepchild. There is no empirical evidence to confirm the etiology of PAS (much of what we do know about PAS has been self-published by its originator). There is widespread doubt that PAS is a syndrome at all; and, there is equal doubt about how to diagnosis PAS.

PAS does not meet established legal standards for the admissibility of expert testimony (especial the 'general acceptance' test and the 'reliability standard' outlined in Frye and Daubert respectively); nevertheless, PAS remains unchallenged in some Family Court systems.

EPILOGUE

The arguments, ideas, and opinions presented in this paper are only a few of the many views, thoughts, and points of view presented over the past two decades regarding PAS. Although PAS does not meet rigorous scientific standards nor does it meet the legal standard for expert testimony, Family Courts continue to make decisions based on the PAS phe-

nomenon. Further, mental health professionals believe there is clinical evidence for a range of parental alienating behaviors, both in the parent and in the child.

Emery (2005) offers a unique and refreshing perspective on the PAS dilemma: "According to the rules of science, Gardner is free to offer his hypothesis about alienating parents. But his hypothesis should not be believed, in public forums like the courtroom, until proven true by scientific research" (p. 8). Emery goes on to state that "My experience tells me that some extremely angry parents alienate children from their other parent. . . . I do find clinical experience enriching and rewarding in numerous ways . . . clinical work can be the best place to develop creative hypotheses. . . . To put the point more formally, case studies are valuable for generating hypotheses but not for confirming hypotheses" (p. 9).

Gould (1998) suggests that the "use of the concept of PAS within a clinical setting presents few problems for practitioners . . . When the concept of PAS is presented in a court of law, one must ask, upon what empirical foundation does the syndrome exist?" (p.172). However, since PAS is a family phenomenon, and has been acknowledged as a clinical phenomenon in the clinical setting, the question remains as to how to transfer a clinical phenomenon to the level of experimental evidence, and then present it as relevant in a court of law. Moreover, McCann, Shindler and Hammond (2003) suggest that mental health professionals should stick to DSM-IV diagnoses because these diagnoses reflect a consensus agreement within the mental health profession especially in regards to their expert testimony in court.

Finally, Kuhn (1970) indicates, "The man who is striving to solve a problem defined by existing knowledge and technique is not, however, just looking around. He knows what he wants to achieve, and he designs his instruments and directs his thoughts accordingly" (p. 96). The implication is that we need to figure out what it is we want to prove or disprove about our observations regarding PAS otherwise the debate will continue to linger on without resolution.

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SUBMITTED: July 6, 2006

REVISED: January 7, 2007

ACCEPTED: March 29, 2007

doi:10.1300/J190v04n01_02

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