

COLORADO DIRECTORY OF PRO BONO CIVIL LEGAL SERVICES FOR VICTIMS OF CRIME

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Please contact Jennifer with any additions, updates, corrections or errors in this Directory.

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Alternative Horizons, Bridges of Hope Legal Project

Communities Served: Communities in the 6th Judicial District: all communities in La Plata County & San Juan County (advocacy and legal assistance) and Archuleta County (legal assistance only)

Agency Contact: Any member of staff

Phone: 970-247-4374

How to Access Legal Program: Contact AH and speak with Legal Advocate to be screened into the Project

Civil Legal Services Provided:

- Legal Advocate court accompaniment and support throughout civil cases or following perpetrator's arrest
 - Legal consultations and legal representation in the areas of protection orders, dissolution of marriage, and/or allocation of parental responsibilities
-

Alternatives to Violence

Communities Served: Larimer County

Agency Contact: Kari Clark, Executive Director

Phone: 970-669-5151, ext 105

Email: kari.clark@alternativestoviolence.org

Legal Program Contact: Jessi Colehour, Non-Residential Program Manager

How to Access Legal Program: In person, Zoom or by phone

Civil Legal Services Provided:

- Assistance/advocacy with victims compensation
 - Protection orders and court advocacy
 - We have an MOU with Bringing Justice Home in Fort Collins to refer for legal representation
-

Bright Future Foundation

Communities Served: Eagle County

Agency Contact: Sheri Mintz is CEO and Holly Kasper-Blank is COO.

Phone: General office number 970-949-7097 or 24 Hour Crisis Hotline 970-949-7086

Legal Program Contact: If initiating contact as a new client, the general office number is usually overseen by Jen Rogus. After the initial intake, the client would have an advocate assigned as point of contact from that time forward.

How to Access Legal Program: Complete intake process with advocate Monday through Friday during business hours. Intakes are generally conducted in person at our Avon office located at 1060 W Beaver Creek Blvd, Suite 201, but other arrangements have been made as necessitated by COVID considerations and according to the local COVID restrictions in place at the time.

Civil Legal Services Provided:

- Staff attorney provides assistance (consultation and limited representation as determined by staff) with civil protection orders, domestic relations (family law) issues, landlord-tenant issues.

Bringing Justice Home, project of Crossroads Safehouse

Communities Served: Larimer, Weld, Jackson, Grand, Routt and Moffat counties

Phone: 970-224-2966

Email: help@bringingjusticehome.org

Legal Program Contact: Managing Attorney, Rebekah Berry-Chaney

How to Access Legal Program: Participants can get connected to our services through our partner agencies or by contacting our office directly at the above.

Website <https://crossroadssafehouse.org/service-program/bringing-justice-home/>

We hope to have an online application process at some point in the future.

Civil Legal Services Provided:

Bringing Justice Home (BJH) is a project of Crossroads Safehouse that provides eligible low-income domestic violence, dating violence, sexual assault, and stalking survivors with:

- no-cost legal services in civil legal matters
- BJH does not provide criminal legal defense
- Representation, unbundled legal services, and brief advice are provided by two full time and one part time licensed attorneys for eligible applicants.
- We host a weekly legal clinic that is accessible only to clients of our 11 different partner agencies.
- Clients can sign up for our legal clinic through their advocate at one of our partner agencies.

Crisis Center

Communities Served: 18th Judicial District – sometimes it depends on where the client has filed civil paperwork.

Agency Contact: Shelley Reader, Advocacy Manager

Phone: 303-688-1094

Email: sreader@thecrisiscenter.org

Legal Program Contact: Shelley Reader, Advocacy Manager

How to Access Legal Program: 24-hour Crisis Line 303-688-8484

Civil Legal Services Provided:

- No legal representation provided.
 - Assistance with understanding civil processes, filing paperwork, court support, referrals
-

Crossroads Safehouse

Communities Served: We can provide supportive services to victims via phone regardless of county or judicial district.

Phone: 970-482-3505, 1-888-541-SAFE

Email: info@crossroadssafehouse.org

Legal Program Contact: Stacie Sutter, Legal Advocacy & DART Manager, 970-482-3535 or ssutter@crossroadssafehouse.org.

How to Access Legal Program: Individuals can contact us by reaching out with the contact information listed above or going online to crossroadssafehouse.org.

Civil Legal Services Provided:

- We are not attorneys and cannot provide representation or legal advice.
 - Discuss survivor's options and provide support surrounding the legal system
 - Court accompaniment
 - Civil protection orders
 - Referrals
 - Enrollment in Colorado's address confidentiality program.
-

Deaf Overcoming Violence through Empowerment (DOVE)

Communities Served: DOVE provides services statewide however works mostly in 1st, 2nd, 4th, 17th, 18th and 20th Judicial Districts.

Phone: 720-210-5648

Legal Program Contact: Al Mascarenas - Empowerment and Advocacy Coordinator

How to Access Legal Program: Hotline VP: (303) 831-7874 Hotline email: hotline@deafdove.org Non-emergency phone number: (303) 831-7932

Civil Legal Services Provided:

DOVE specializes in providing direct communication access for the Deaf, DeafBlind, DeafDisabled, and Hard of Hearing community members in American Sign Language (ASL). Survivors served by DOVE are limited to individuals that are 13 or older.

- Access to legal documents including but not limited to protective orders and divorce documents.
- We also utilize our network of Certified Deaf Interpreters (CDIs) and Certified Legal Interpreters to assist with document translation between English and ASL.
- DOVE's advocates work with both the legal system and criminal our survivors to ensure that survivors have interpreters working with them during legal procedures who have met and obtained licensure through the Colorado Commissioner for the Deaf and Hard of Hearing and DeafBlind (CCDHHDB).
- These services are offered for individuals who are going through both civil hearings.
- DOVE also works with our survivors to ensure navigation through the legal system is accessible regardless of English comprehension.

Family Tree

Communities Served: 1st Judicial District (Jefferson/Gilpin Counties)

Phone: (303)271-6100

Legal Program Contact: Jeffrey Hahn, Program Director, Legal Advocacy Program (303)271-6133

How to Access Legal Program: Call PorchLight Family Justice Center at (303)271-6100

Civil Legal Services Provided:

- Legal information and support for victims of sexual assault, stalking and domestic violence.
- Legal advocate assistance with civil protection orders, divorce and child custody issues.

Karis, Inc.

Communities Served: Mesa County

Agency Contact: John Mok-Lamme

Phone: (970) 234-1810

Email: jmoklamme@karisinc.org

Legal Program Contact: Sarah Bunting, Zoe House Program Coordinator/Case Manager

How to Access Legal Program: through a Case Manager or Youth Advocate (Karis staff)

Civil Legal Services Provided:

- Assistance in helping survivors fill out protection orders
 - Helping survivors understand their legal rights
 - Legal and court appointment
 - Contract legal services to provide attorney representation to survivors in domestic relations cases
-

Project Hope of Gunnison Valley

Communities Served: Gunnison and Hinsdale

Phone: Office: 970-641-2712 crisis: 970-275-1193

Email: info@hope4gv.org

Legal Program Contact: Jessica Wurtz

How to Access Legal Program: Call the office, call or text the crisis line, email, walk. We also respond to direct messages through our Facebook or Instagram pages @projecthopegv

Civil Legal Services Provided:

- Referrals to legal resources
 - Assistance with applying and filing for protection orders
 - Accompaniment to court proceedings/legal meetings/interviews
-

Project Safeguard

Communities Served: Adams, Arapahoe, Broomfield and Denver counties (in-house attorney services are also available in Jefferson and Douglas counties)

Agency Contact: Jennifer Eyl, Executive Director

Phone: 720-827-3281

Email: jeyl@psghelps.org

Legal Program Contact: Shae Davis, Program Director

Legal Program Phone: 720-618-3482

Legal Program Email: info@psghelps.org

How to Access Legal Program: Clients seeking attorney services must complete an intake and be referred by a legal advocate for each service. Survivors can reach an advocate by calling 303-219-7049 or emailing info@psghelps.org. No in-person services at this time.

Civil Legal Services Provided:

- Legal advocacy and attorney services for survivors of gender-based violence.
- Legal advocates provide assistance with civil protection orders, housing issues, domestic relations matters, criminal matters, safety planning, and referrals to other agencies including legal service providers.
- All legal advocates are Address Confidentiality Program Applicant Assistants.
- Virtual Divorce and Custody Clinic conducted by volunteer attorneys. Open to clients only (must complete intake with an advocate).
- Lawyers for Victims Program offers attorney representation by contract attorneys for county court permanent protection order hearings.
- Attorney Services Program provides unbundled services and representation in primarily civil protection order and domestic relations matters.
- Victims must complete an intake with an advocate to be eligible for clinic, Lawyers for Victims and Attorney Services Program.

RISE ABOVE VIOLENCE

Communities Served: Archuleta County

Phone: 24/7 Hotline and first-time callers: 970-264-9075; Specific staff member: 970-264-1129 (with menu and voicemail option).

How to Access Legal Program: 24/7 Hotline: 970-264-9075

website: <https://www.riseaboveviolence.org/#/> (includes link to doxy.me)

email: contactus@riseaboveviolence.org

FOR FAMILY LAW (NON-emergency, Wed-Fri only): Lisa Sifrit, 970-264-1129, ext 7 or lisa@riseaboveviolence.org. Application required.

Civil Legal Services Provided:

- Consultations with family law attorneys
- Contract attorneys for divorce/allocation of parental responsibilities.
- Application required for family law services.
- ALL advocates help with civil protection order filings and hearings

Rocky Mountain Victim Law Center

Communities Served: Statewide

Agency Contact: Kazi Houston, JD, MSW, Legal Director

Phone: 303-295-2001

LINC Helpline: 720-583-2929

Email: info@rmvictimlaw.org

Website: <https://www.rmvictimlaw.org/programs-services/request-intake>

Legal Program Contact: Kazi Houston, Legal Director

How to Access Legal Program: Call or Email

Civil Legal Services Provided:

- Victim Rights Legal Program: Victim Rights Act legal assistance for victims and witnesses in criminal matters
- Project Attorney Connect: Contract attorney consultation and representation in post-decree family law, housing, immigration and other limited scope matters
- Title IX Program: Legal assistance for victims navigating K-12 and high education Title IX processes.
- Legal Information Network of Colorado (LINC): Legal information on a variety of topics related to victimization. LINC website contains detailed information for victims and service providers – www.coloradolinc.org

S.H.A.R.E., Inc.

Communities Served: Morgan, Washington, and Yuma counties

Agency Contact: Jody Strouse, Executive Director

Phone: 24 hour crisis line: 970-867-4444 extension 1 from 8-5pm, and extension 2 after hours

Legal Program Contact: Alicia Fierro, Outreach Director 970-867-4444 extension 29

How to Access Legal Program: Call our 24 hour crisis line at 970-867-4444 extension 1 from 8-5pm, and extension 2 after hours

Civil Legal Services Provided:

- Advocate assistance with documents including protection orders, custody, and divorce

Safe Shelter of St. Vrain Valley

Communities Served: Boulder, Weld, Denver, Adams, Jefferson and Larimer counties

Agency Contact: Jackie List

Phone: Main Line: 303.772.0432

Crisis Line: 303.772.4422

Spanish Crisis Line: 720.530.0694

Email: info@safeshelterofstvrain.org

Legal Program Contact: Ashleigh Sketch, Legal Advocate

ashleigh@safeshelterofstvrain.org

303-772-0432, ext.106

How to Access Legal Program: 24/7 Crisis Line: 303.772.4422; Spanish Crisis Line: 720.530.0694

Website: info@safeshelterofstvrain.org

Walk-in: 82 21st Ave. Longmont 80501

Mobile Advocacy: Staff will meet with survivors at safe locations in the community

Teen Text Line: 720-340-8372

Civil Legal Services Provided:

- Information and assistance for victims engaged with the civil and/or criminal legal systems.
- Legal Advocacy for obtaining protection orders, criminal cases, fair housing disputes, child protection system, and applying for VAWA Self-Petitions and U/T Visas.
- Legal clinics and referrals to attorneys for representation.
- Court Watch places personnel in the courtroom during hearings to ensure that the rights of victims are honored.
- EXPANDED LEGAL SERVICES PROGRAM (ELSP) provides funding for clients to secure attorney representation. ELSP clients are those who cannot afford or do not qualify for traditional Legal Aid.

SPAN (Safehouse Progressive Alliance for Non-Violence)

Communities Served: Boulder and Broomfield

Agency Contact: Legal Advocacy Director - Veronica Horn (Spanish bilingual)

Phone: Outreach Center 303.449.8623 or 24/7 Crisis Line 303.444.2424 (Best way to access services is to call crisis line)

Email: veronica@safehousealliance.org

How to Access Legal Program:

Legal Advocacy Director - Veronica Horn (Spanish bilingual) 303.449.8623 Ext. 103,
veronica@safehousealliance.org

Legal Advocates - Marta Nicita (Spanish bilingual), 303.449.8623 Ext. 119, marta@safehousealliance.org
Emma James, 303.449.8623 Ext. 108, emma@safehousealliance.org

Legal Program Team Email: legaladvocacy@safehousealliance.org

Civil Legal Services Provided:

SPAN's Legal Advocacy Program:

- Help, support, and assist survivors navigate the legal system and legal processes - criminal, civil, and immigration.
- Support and assistance for civil protection orders, divorce, custody, parenting issues, child support, name change, etc.
- Attorney referrals, general referrals and resources.
- Lawyers For Victims Program: attorney representation for Permanent Civil Protection Orders for survivors of DV/IPV, SA, Stalking, family violence. (Eligibility determined by completing a legal intake)
- Address Confidentiality Program Assistance
- Criminal issues:
 - Survivor support following police intervention; support during an abuser's criminal case; support for a survivor who has a criminal case (this is assessed carefully).
 - Attorney referrals, general referrals, and resources.
 - Assistance with Victim Compensation
 - Support in working with the DA's Office, court personnel, etc.
- Immigration issues:
 - Information re rights and options.
 - Attorney referrals, general referrals, and resources.
 - Support with immigration processes.
- SPAN's Housing Program:
 - Support with landlord/tenant issues
 - Termination of leases, evictions, etc.
 - Limited housing options.

Summit Advocates

Communities Served: 5th Judicial District - Counties: Summit, Eagle, Lake, Clear Creek, and other neighboring counties. (Not limited to those listed but majority of our clients are from Summit)

Phone: 24/7 Crisis Line: (970) 668-3906 Office: (970) 668-3906

Legal Program Contact: Jessie T. Sack, Staff Attorney/Legal Program Coordinator

How to Access Legal Program:

Phone: (970) 668-3906

Email: info@summitadvocates.org

Website: <http://summitadvocates.org/>

**Survivors have to call the crisis line or email us. Then our bilingual advocate, who is the first point of contact for every client, will conduct a full intake to assess. From there, depending on what the client needs, the advocate may refer to our housing/shelter program or our legal program.

Civil Legal Services Provided:

- Permanent Protection Order Representation
- Family Law (divorce, APR, custody, child support)
 - Limited assistance representation
 - Legal advice and referrals
 - Assistance completing forms and drafting documents
 - Conduct legal research
 - Coach and prepare for hearings, mediation, and other proceedings (no court appearances)
 - Representation at mediation
 - Virtual divorce workshops coming soon
- Immigration (only affirmative cases, full representation)
 - U visa certifications and U visa applications
 - T visas
 - VAWA Petitions
 - Domestic-violence based asylum
 - DACA-Citizenship applications
 - Adjustment of status applications

TESSA

Communities Served: El Paso and Teller counties

Phone: Main: 719.633.1462 Safe Line: 719.633.3819

Legal Program Contact: Darryl Glenn, Chief Legal Officer

How to Access Legal Program: Call

Civil Legal Services Provided:

- Family Law Consultations (Divorce, Parenting Time, Visitation), Permanent Protection Order representation
 - Title IX Higher Ed sexual assault representation and legal advocacy
 - Military sexual assault legal advocacy
-

A Woman's Place

Communities Served: Weld County

Phone: crisis line: 970-356-4226

Email: info@awpdv.org

Legal Program Contact: Vanessa

How to Access Legal Program: Call our crisis line or email us for an appointment or more information

Civil Legal Services Provided:

- Assist survivors/victims navigate the civil legal system
- Assist with civil protection order applications
- Provide silent support in court
- Assist in applying for victims compensation
- Refer clients to agencies that provide legal representation.

DOMESTIC VIOLENCE IN DOMESTIC RELATIONS RELEVANT STATUTES

Criminal Code Definition of Domestic Violence: § 18-6-800.3(1), C.R.S.

Best Interest of the Child (Domestic Relations) Definition of Domestic Violence: § 14-10-124(1.3)(a), C.R.S.

Best Interest of the Child (Domestic Relations) Leaving the Home Due to Domestic Violence: § 14-10-124(4)(c), C.R.S.

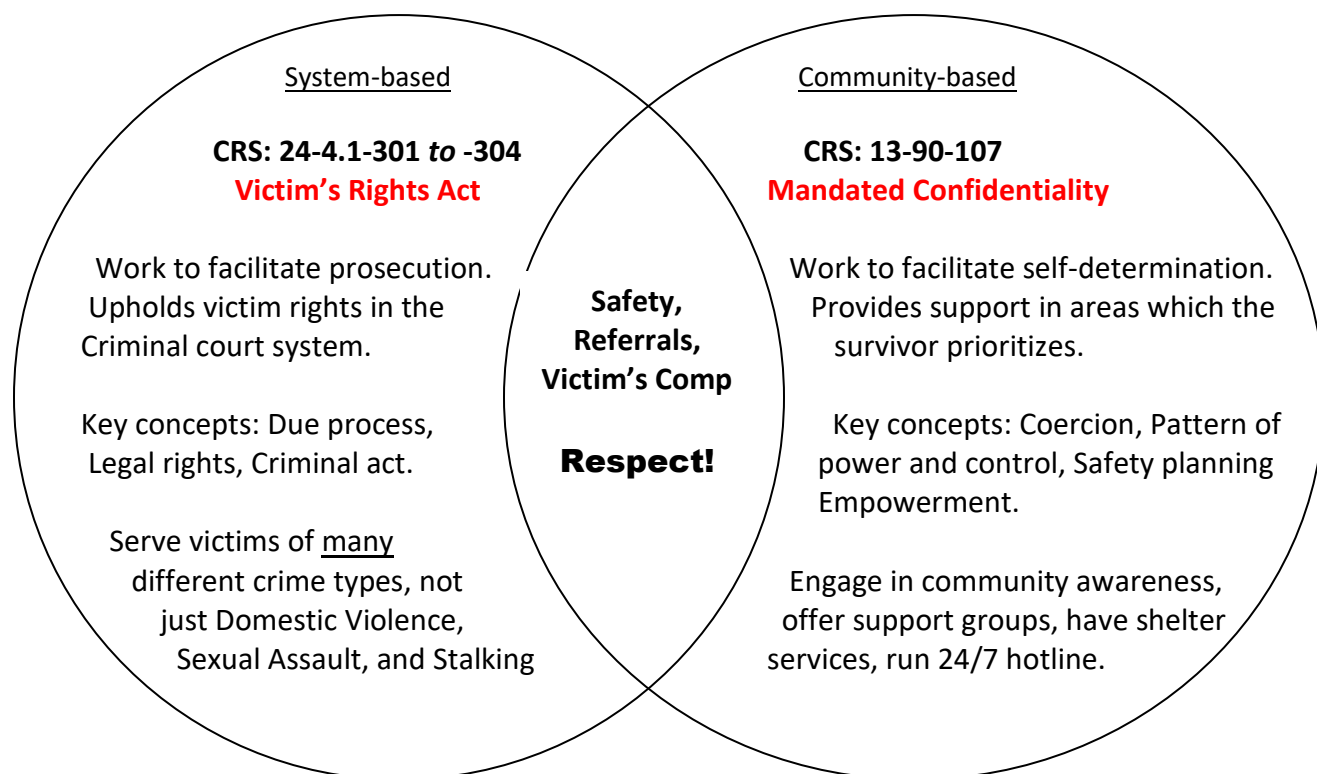
Best Interest of the Child (Domestic Relations) Domestic Violence and Decision-Making Responsibility: § 14-10-124(4)(a)(II)(A), C.R.S.

Civil Protection Order Definition of Domestic Abuse: § 13-14-101(2), C.R.S.

Mediation – Exception for victims of “physical or psychological abuse by the other party”: § 13-22-311, C.R.S. *See also* JDF 608 - Motion Re: Exemption from Mediation/ADR Order.

Community-Based Domestic Violence Victim Services Programs by County: <https://www.violencefreecolorado.org/find-help/programs-by-county/>

Differences Between System-Based and Community-Based Victim Advocates



Criminal Justice System-based advocates may work for law enforcement agencies or District Attorneys' Offices to provide victim advocacy within the context of the criminal justice system. Colorado law outlines the communications which victims of certain crimes are entitled to, and the system-based advocates work to ensure those communications happen. Any information shared by a crime victim with a system-based advocate is subject to subpoena.

Community-based advocates work for non-profit organizations that focus on services for people experiencing domestic violence, sexual assault and stalking for the purposes of increasing safety, providing support, and enhancing options. Community-based advocates work on behalf of the victim, to help them navigate safety throughout many areas of their lives. Both types of advocates may be working with the same survivor.

Differences between System-based and Community-based Advocates

- ◆ Level of confidentiality
- ◆ Who is eligible to receive services
- ◆ Types of services provided
- ◆ Availability of services (24/7 response, go to the home, etc)

If you are interested in finding your local community-based advocacy organization in order to learn more about DV, SA, or Stalking, to request a training for your organization, or to volunteer, please visit www.violencefreecolorado.org and go to the 'Getting Help' tab.

Violence Free Colorado

1330 Fox Street, Denver, CO 80204 • www.violencefreecolorado.org • (303) 831-9632 • (888) 778-7091

Violence Free Colorado works to eliminate domestic violence in all its forms.

Understanding and Addressing Domestic Violence in Domestic Relations Matters



Project
Safeguard
Justice and Safety

JENNIFER EYL, LPC, JD

AMY POHL, JD

Training Objectives

Understand why it is important to address domestic violence in DR cases

Recognize and respond to domestic violence when it is an issue in a case

Draft, negotiate and argue for appropriate separation agreements and parenting plans on behalf of victims of domestic violence

What is “Domestic Violence”

From the Best Interest of the Child Standard (§ 14-10-124(1.3)(a), C.R.S.)

“Domestic violence” means an act of violence or a threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship, and may include any act or threatened act against a person or against property, including an animal, *when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.*

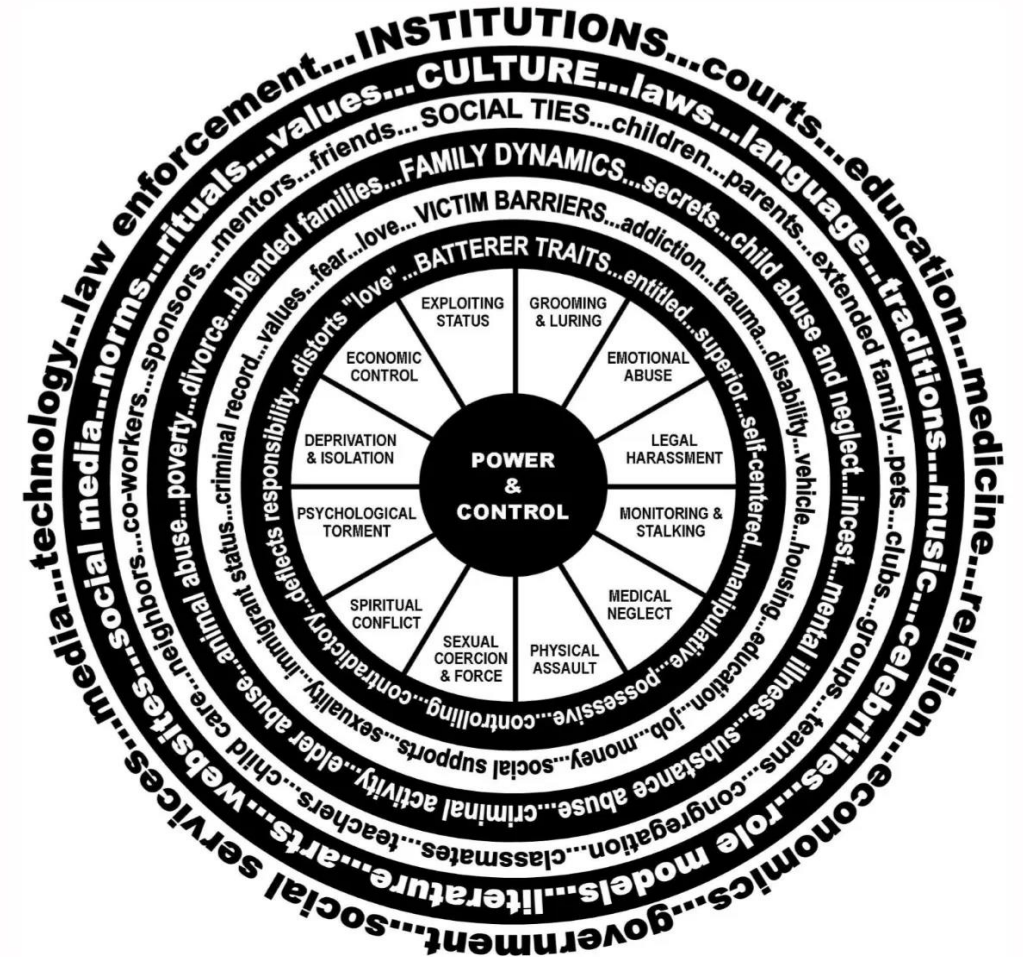
What is DV?

A pattern of behaviors used by one partner to maintain power and control over another partner in an intimate relationship

THE MAZE of COERCIVE CONTROL

The Recreated (Power and Control) Wheel

© 2011 Kathy Jones
 Domestic Violence Survivor and Advocate
 “Where Has Our Kathy Gone?” on FB



What is DV?: Lethality risk factors

Escalating Violence

Threats to Kill

Strangulation

Abuse During Pregnancy

Stalking

Access to Firearms

Child Abuse

Animal Abuse

Controlling Behaviors

Excessive Jealousy/Obsession

Abuser's Mental Status

Avoidance of Consequences

Separation!

DV-Related Gun Laws

Abusers subject to criminal and civil protection orders based on domestic violence or who have been sentenced for a crime involving domestic violence are subject to restrictions on the owning and possession of firearms and ammunition.

New procedures went into effect July 1, 2021 that are intended to create more accountability and better tracking of the relinquishment of firearms by abusers.

§ 13-14-105.5, C.R.S. (Civil Protection Orders)

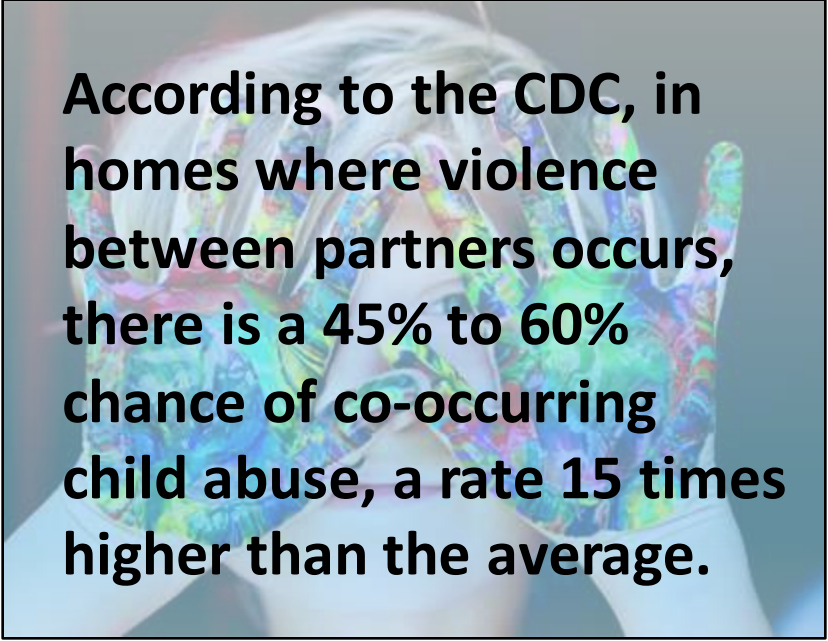
§ 18-1-1001, C.R.S. (Criminal/Mandatory Protection Orders)

§ 18-6-801, C.R.S. (Criminal Sentencing)

Impact on Children

Children may be impacted through:

- Directly abusing child
- Abusing another person or animal in the home
- Harmful parenting



According to the CDC, in homes where violence between partners occurs, there is a 45% to 60% chance of co-occurring child abuse, a rate 15 times higher than the average.

Impact on Children



Harmful Parenting

- Authoritarian
- Irresponsible, Neglectful and/or Under Involved
- Self-centered
- Manipulative
- Undermines adult victim's parenting

*Ability to Perform Well under Observation

Impact on Children

“The impact of Childhood Domestic Violence can be lifelong in terms of physical and mental health problems, such as anxiety, depression, and traumatic stress, difficulty in relationships with others, academic and employment failures, and trouble parenting.”

– **Dr. Sandra A. Graham-Bermann** Director, Child and Violence Trauma Lab Professor of Psychology and Psychiatry University of Michigan



Pre-Decree vs. Post-Decree:

Why separation and divorce don't solve the problem

The abuser may try to keep power and control over the victim by misusing the court system against the victim.

For example: filing repeated petitions or motions, requesting repeated continuances, using contempt to coerce the victim, appealing the judge's orders without a legal basis to do so, or taking other actions that make the victim repeatedly come to court or feel forced to seek the advice of counsel.

Sometimes this type of behavior is called **“litigation abuse.”**

Court-Appointed Professionals

Child and Family Investigators

Parenting Coordinators

Decision-Makers

Parental Responsibilities Evaluators

Minimal or no training requirement. No oversight regarding who provides training or training content other than very broad categories. (HB 21-1228)

Mediation

§ 13-22-311(1), C.R.S.:

Any court of record may, in its discretion, refer any case for mediation services or dispute resolution programs, subject to the availability of mediation services or dispute resolution programs; **except that the court shall not refer the case to mediation services or dispute resolution programs where one of the parties claims that the party has been the victim of physical or psychological abuse by the other party, at any time and regardless of prior participation, and states that the party is thereby unwilling to enter into mediation services or dispute resolution programs...**

Implications for Parenting Plans

Research indicates that, even when DV is identified, cases often resolve without regard to safety, power differentials and other implications of abuse.

We want to consider:

- Abuse of Victim
- Interference with Victim
- Children's Experience of Abuse
- Abuser Parenting Deficits
- Abuser Co-Parenting Problems
- Risk of Harm/Lethality
- Victim's Parental Wellbeing
- Children's Safety/Wellbeing

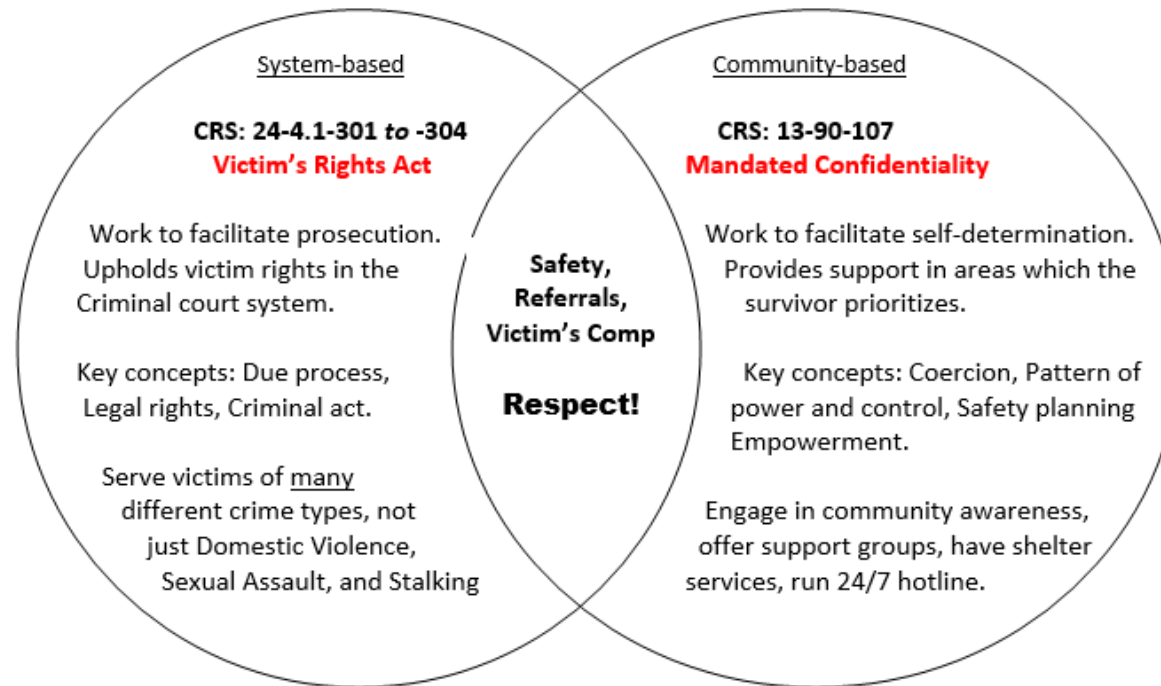
Our Goal: Orders that Protect Victims and Hold Offenders Accountable



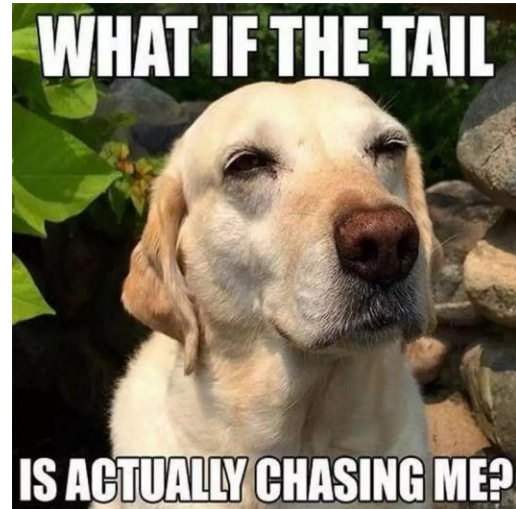
"Legal advises finger-pointing."

Using Community Based Resources for Client Support

Differences Between System-Based and Community-Based Victim Advocates



Questions?



Contact Us:

Jennifer Eyl, LPC, JD
Executive Director
720.545.4222
jeyl@psghelps.org

Amy Pohl, JD
Senior Staff Attorney
720.618.0999
apohl@psghelps.org

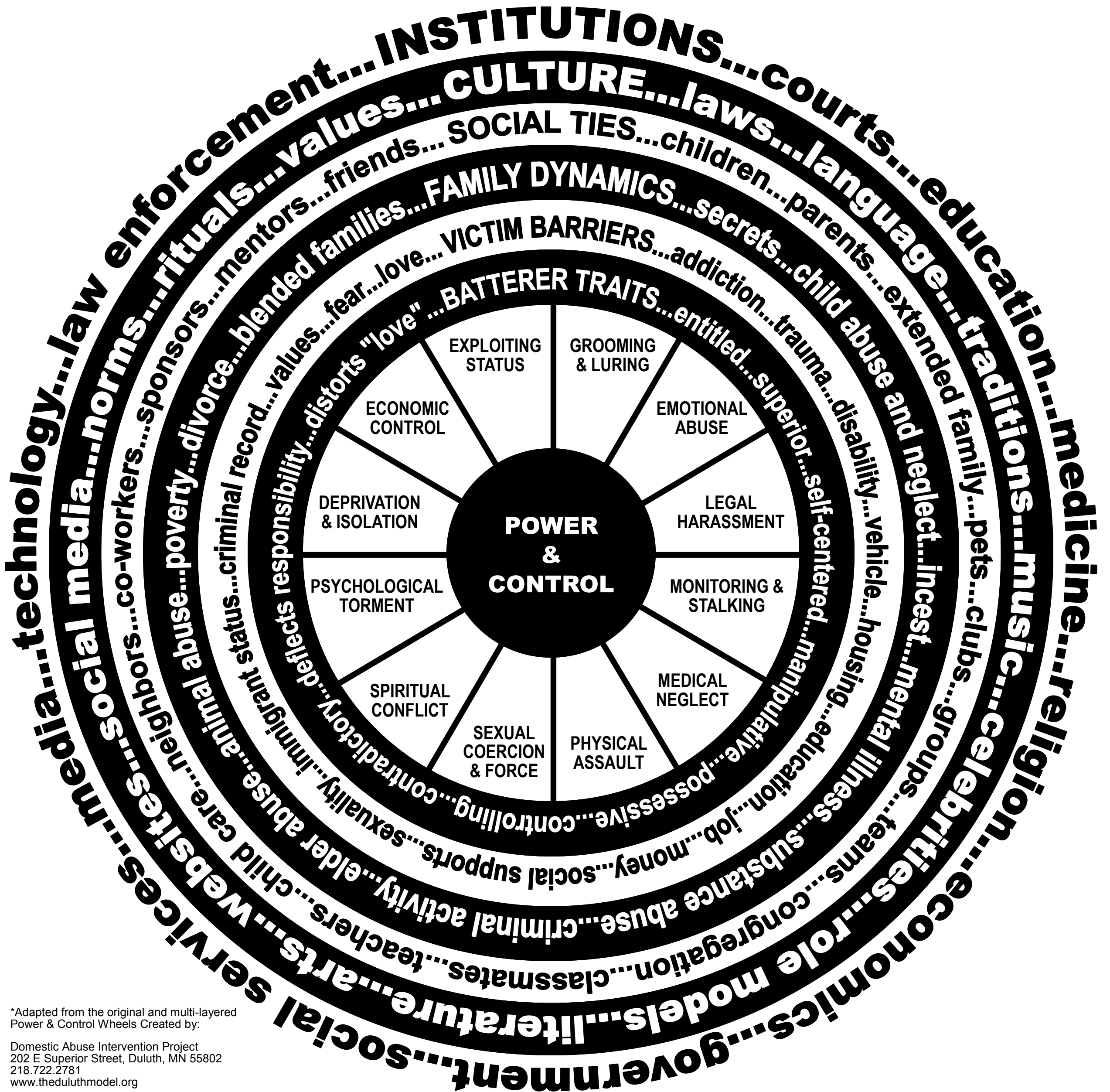


Project
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Justice and Safety

THE MAZE of COERCIVE CONTROL

The Recreated (Power & Control) Wheel*

Created by Kathy Jones, Survivor and Advocate
"Where Has Our Kathy Gone?"
dvsur5r@yahoo.com



*Adapted from the original and multi-layered Power & Control Wheels Created by:

**Parental Alienation as a Form of Emotional Child Abuse:
Current State of Knowledge and Future Directions for Research**

Edward Kruk, Ph.D.
University of British Columbia

ABSTRACT. This article examines the current state of research on parental alienation, which reveals that alienation is far more common and debilitating for children and parents than was previously believed. In extreme cases, one can make the argument that parental alienation is a serious form of emotional child abuse. Careful scrutiny of key elements of parental alienation in the research literature consistently identifies two core elements of child abuse: parental alienation as a *significant form of harm* to children that is *attributable to human action*. As a form of *individual* child abuse, parental alienation calls for a child protection response. As a form of *collective* abuse, parental alienation warrants fundamental reform of the family law system in the direction of shared parenting as the foundation of family law. There is an emerging scientific consensus on prevalence, effects, and professional recognition of parental alienation as a form of child abuse. In response, the authors discuss the need for research on effectiveness of parental alienation interventions, particularly in more extreme cases. This paper argues for more quantitative and qualitative research focused on four pillars of intervention at micro and macro levels, with specific recommendations for further study of child protection responses, reunification programs, and other therapeutic approaches.

Keywords: parental alienation, child abuse, family intervention.

Direct Correspondence to Edward Kruk at 604-822-2383

Parental Alienation as a Form of Emotional Child Abuse: Current State of Knowledge and Future Directions for Research

Introduction

Parental alienation, which most commonly occurs in the context of child custody disputes during and after parental separation, involves the “programming” of a child by one parent to denigrate the other “target” parent, in an effort to harm, damage, and destroy the relationship between a child and the target parent, whereby the target parent is demonized and undermined as a parent worthy of the child’s love and attention (Harman, Kruk, & Hines, In Press). Such denigration results in the child’s emotional rejection of the target parent and the loss of a capable, loving parent from the child’s life. Parental alienation is manifested through a child’s reluctance or refusal to have a relationship with a parent for illogical, untrue, or exaggerated reasons. Parental alienation is distinct from parental estrangement, which encompasses behaviors through which a parent damages her or his relationship with a child, typically because of the parent’s own shortcomings (Drozd & Olsen, 2004).

Parental alienating behaviors lie on a continuum, ranging from mild, subtle forms of badmouthing to more severe forms of aggression and coercive control that result in the child’s complete rejection and refusal of contact with the target parent. Such behaviors also span the range from isolated events to an ongoing pattern of abuse aimed at the target parent. There are no gender differences in regard to who is the perpetrator and who is the target of parental alienation. Custodial status, however, is a strong predictor of who is likely to alienate a child from a parent (Baker & Eichler, 2016; Harman, Kruk & Hines, In Press).

The arena of parental alienation is fraught with controversy, particularly regarding the question of whether parental alienation is a form of child abuse and family violence. Problems related to distinguishing among abuse, estrangement, and alienation, and to legal reforms and therapeutic interventions needed to address alienation, pose considerable challenges for researchers, practitioners, and policymakers (Drozd & Oleson, 2004).

There are also widely differing views toward the current state of research on the alienation phenomenon. According to Emery (2014), *no* high quality studies of parental alienation have been published to date. The idea that parental disparagement equals alienation, he writes, is an hypothesis that needs testing, not an established fact. Similarly, in their chapter on empirical studies of alienation, Saini et al. (2016) similarly maintain that parental alienation remains a hypothesis needing further empirical testing, even though their literature review included only a fragment of the existing research, totaling 45 papers and 13 doctoral dissertations. By contrast, parental alienation researchers point to more than *one thousand* existing studies on the phenomenon (Vanderbilt University Medical Center, 2017). Although most studies of alienation use qualitative and mixed research methods, some argue that the depth of the parental alienation experience can be captured only by qualitative research (Balmer, Matthewson, & Haines, 2018; Kruk, 2010).

Analysis of parental alienation research over the past decade reveals that parental alienation is more common and debilitating for children and parents than was previously believed. Despite the views of those who doubt the concept itself, an emergent scientific consensus on the definition and prevalence of parental alienation and its effects on parents and children is emerging. For example, parental alienation is recognized as a manifestation of three disorders identified in the DSM-V (American Psychiatric Association, 2013): “Parent-Child Relational Problem,” “Child Affected by Parental Relationship Distress,” and “Child Psychological Abuse.” Parental alienation is related to two symptom clusters identified in the DSM: “impaired functioning in behavioral, cognitive, or affective domains” and “negative attributions of the other’s intentions, hostility toward or scapegoating of the other, and unwarranted feelings of estrangement” on the child’s part of the child. The current draft of the World Health Organization’s *International Classification of Diseases* also contains a specific definition of parental alienation (Bernet, Wamboldt, & Narrow, 2016).

Moreover, research evidence of the many facets of parental alienation is much more robust than is often assumed. The most recent quantitative research raises some serious alarms. Harman (2017) found a staggering 13.4% of U.S. parents reporting they had been victimized by parental alienation at some point in their lives. The large body of research by Baker and colleagues (Baker & Eichler, 2016; Bernet & Baker, 2013), which focused on perspectives of now-young adult child victims of alienation and of targeted parents, details strategies of alienating parents and short- and long-term consequences of alienation. There is also concordance in the clinical and research literature in regard to core components of alienation (Clemente & Padilla-Racero, 2015). Slowly but surely, the misunderstanding and denial surrounding parental alienation is being washed away. A survey conducted at the Association of Family and Conciliation Courts 2014 conference reported 98% agreement in support of the basic tenet of parental alienation: children can be manipulated by one parent to reject the other parent, who does not deserve to be rejected (Warshak, 2015b).

At the same time, however, it is clear that significant research gaps in the field of parental alienation persist (Saini et al., 2016). The need for research on the effectiveness of different approaches to parental alienation intervention at macro and micro levels (Kruk, 2013; Kruk, 2016) is pressing. Therefore, the first part of this article reports results of research on the effects of parental alienation on fathers and mothers, along with parental perceptions of the effects of alienation on children, the perspective of those most negatively affected by parental alienation. This includes a review of recent research on parents’ experiences of severe alienation, situations where parents and children have had no contact with each other for a prolonged period. The case will be made that in such extreme cases, parental alienation is indeed a serious form of emotional child abuse. The second part of the paper focuses on the need for research on the utility and effectiveness of existing and emergent approaches to intervention in the alienation arena.

Current State of Knowledge: Emergent Scientific Consensus on Parental Alienation as a Form of Emotional Child Abuse

The current state of knowledge reflects emerging scientific consensus on the definition, prevalence, and effects of parental alienation. Saini et al. (2016) acknowledge there is basic agreement that parental alienation commonly refers to the experience of a child who has been influenced to reject and hate one parent by the other parent, and to parental behaviors that poison the child's relationship with the other parent. Parental alienation is characterized as a form of "programming" of the child: an unjustified campaign of denigration against a parent resulting in the child's own unjustified rejection of that parent (Bernet & Baker, 2013). In situations of parental alienation, children's views of the targeted parent are almost exclusively negative, to the point that the parent is demonized and seen as evil or, in extreme cases, forgotten about altogether. For the child, parental alienation is a serious mental condition based on a false belief that the alienated parent is unworthy to be a parent (ibid.).

Citing earlier work by Drozd and Oleson (2004), Saini et al. (2016) declare there are no reliable instruments to distinguish parental alienation from justified estrangement, i.e. cases where a child or parent has been victimized by child abuse or family violence, and the child fears and rejects the parent as a result. They argue that this leads to a major flaw in most parental alienation research. However, there is a vast body of child abuse research demonstrating that even the most physically abused children rarely reject an abusive parent with the vehemence that alienated children display (Clawar & Rivlin, 2013). Gottlieb (2012, p. 52) summarizes the clinical perspective of the child protection field:

Despite the abuse and neglect suffered by the three thousand foster care children who had been under my care, it was extremely uncommon for those children to refuse contact with a parent—even with an overtly abusive parent. Rather, abused children tend to protect and cling to the abusive parent. Moreover, in the rare cases in which that did appear to happen, there was always some evidence of indoctrination or programming (typically by foster parents who had the surreptitious goal of adopting the child). Thus, it is counter-instinctual for a child to reject a parent—even an abusive parent. When a professional observes a child strongly reject a parent in the absence of verified abuse, neglect or markedly deficient parenting skills—which should never be assumed based on the child's self-reporting—one of the first thoughts should be that the other parent is an alienator. Moreover, one should never assume that, because a child has rejected a parent, the parent must have done something to warrant it. Having observed thousands of genuinely-abused children during a period of twenty four years, I have concluded that a child's innate desire to have a relationship with his or her parents is one of the most powerful of human instincts, surpassed only by the instinct for survival and the instinct to protect one's young; among normal children, in the absence of an alienating influence, that instinct is seldom suppressed because a parent exhibits relatively minor flaws, deficiencies, or idiosyncrasies.

Children's identification with and protection of an abusive parent is evident in parental alienation situations. The child will align with rather than reject the alienating/abusive parent (Lorandos, Bernet, & Sauber, 2013).

The emergent state of knowledge about parental alienation indicates that parental alienation may well be a serious form of emotional child abuse connected to both physical abuse and child neglect. From a definitional perspective, the two core elements of parental alienation (for the child, a serious mental condition resulting from a series of alienating strategies of alienating parents) correspond to the two core components of child abuse. First, child abuse and parental alienation represent a significant form of harm and pose a serious threat to the well-being of a child. Second, the source of the abuse is attributable to human agency; it is the result of human action. This may be at the hands of an individual parent or a caregiver, and/or a form of collective action. For example, there can be social, legal, political, and economic factors that compromise children's well-being. As the result of a parent's individual action, parental alienation is a form of individual child abuse. Insofar as adversarial legal systems routinely remove a parent from the daily routines of parenting, parental alienation may also be considered to be a form of collective abuse (Giancarlo & Rottman, 2015).

Two Core Elements of Parental Alienation as a Form of Child Abuse (Cooper, 1993; Finkelhor & Corbin, 1988)

- Parental alienation involves a set of *abusive strategies* on the part of a parent to foster the child's rejection of the other parent, whereby children are manipulated by one parent to reject the other.
- Parental alienation is the child's unjustified campaign of denigration against a parent, in which children's views of the targeted parent are almost exclusively negative, to the point that the parent is demonized. For the child, parental alienation is a *significant mental disturbance*, based on a false belief that the alienated parent is a dangerous and unworthy parent.

Abusive Strategies

The first defining feature of parental alienation as a form of emotional child abuse centers on behavior of the alienator. This involves implementation of a set of abusive strategies on the part of the alienating parent to foster the child's rejection of the other parent. Children are manipulated to reject the other parent in an effort to undermine and interfere with the child's relationship with that parent. Such strategies include (a) bad-mouthing, (b) limiting contact, erasing the other parent from the child's life and mind, (c) forcing the child to reject the other parent, (d) creating the impression that the other parent is dangerous, (e) forcing the child to choose between the parents by threatening withdrawal of affection, and (f) belittling and limiting contact with the extended family of the targeted parent (Baker & Darnell, 2006; Viljoen & van Rensberg, 2014). A recent study of 126 targeted parents by Poustie, Matthewson, and Balmer

(2018) identified tactics of (a) emotional manipulation, (b) encouraging defiance and alliance, (c) disrupting time between targeted parent and child, (e) withholding information, (f) defamation of the targeted parent, and (g) erasure. Such denigration leads to the child's emotional rejection of the targeted parent and the loss of a capable and loving parent from the child's life. Tactics of alienating parents are tantamount to extreme psychological maltreatment of very young and of older children. These include spurning, terrorizing, isolating, corrupting or exploiting, and denying emotional responsiveness (Baker & Darnell, 2006).

Seventeen Strategies of Alienating Parents (Baker and Darnell, 2006)

1. **Badmouthing:** The target parent is portrayed as unloving, unsafe, and unavailable. Flaws are exaggerated or manufactured. Such statements are made frequently, intensely, and with great sincerity.
2. **Limiting contact:** The target parent has few opportunities to counter the badmouthing message.
3. **Interfering with communication:** Phones are not answered, e-mail messages are blocked, and messages are not forwarded.
4. **Interfering with symbolic communication:** Thinking about, talking about, and looking at pictures of a parent are prohibited. The alienating parent creates an environment in which the child does not feel free to engage in these activities. The child's mind and heart are preoccupied with the alienating parent and there is no room left for the child's thoughts and feelings about the target parent.
5. **Withdrawal of love:** What angers the alienating parent most is the child's love and affection for the target parent. Thus, the child must relinquish the love of the other. The child lives in fear of losing the alienating parent's love and approval.
6. **Telling the child that the target parent is dangerous:** Stories might be told about ways in which the target parent has tried to harm the child.
7. **Forcing child to choose:** The alienating parent will compel the child away from the target parent by scheduling competing activities and promising valued items and privileges.
8. **Telling the child that the target parent does not love him or her:** The alienating parent will foster the belief in the child that she is being rejected by the target parent and distort every situation to make it appear as if that is the case.

9. Confiding in the child: The alienating parent will involve the child in discussions about legal matters and share with the child personal and private information about the target parent. The alienating parent will portray him/herself as the victim of the target parent, inducing the child to feel pity for and protective of the alienating parent, and anger and hurt toward the target parent. The confidences are shared in such a way as to flatter the child and appeal to his/her desire to be trusted and involved in adult matters.
10. Forcing child to reject the target parent: Alienating parents create situations in which the child actively rejects the target parent, such as calling the target parent to cancel upcoming parenting time or request that the target parent not attend an important school or athletic event. Further, once children have hurt a parent, the alienation will become entrenched as the child justifies his/her behaviour by devaluing the target parent.
11. Asking the child to spy on the target parent: Once children betray a parent by spying on them, they will likely feel guilty and uncomfortable being around that parent, thus furthering the alienation.
12. Asking the child to keep secrets from the target parent: The alienating parent will ask or hint that certain information should be withheld from the target parent in order to protect the child's interests. Like spying, keeping secrets creates psychological distance between the target parent and the child.
13. Referring to the target parent by first name: Rather than saying "Mummy/Daddy" or "Your mummy/Your daddy" the alienating parent will use the first name of the target parent when talking about that parent to the child. This may result in the child referring to the target parent by first name as well. The message to the child is that the target parent is no longer someone whom the alienating parent respects as an authority figure for the child and no longer someone who has a special bond with the child. By referring to the target parent by first name, the alienating parent is demoting that parent to the level of a peer or neighbour.
14. Referring to a step-parent as "Mum" or "Dad" and encouraging child to do the same: The alienating parent will refer to that parent as the mother/father to the child and create the expectation that the child will do so as well.
15. Withholding medical, academic, and other important information from target parent/keeping target parent's name off medical, academic, and other relevant documents: The target parent will be at a decided disadvantage in terms of accessing information, forging relationships, being contacted in emergencies, being invited to participate, being provided with changes in schedules/locations, and so forth. This marginalizes the target parent in the eyes of the child and important adults in his/her life. They also make it considerably more difficult for the target parent to be an active and involved parent.

16. Changing child's name to remove association with target parent: The target parent may feel that the name change represents a rejection of him/her and will experience hurt, sadness, and frustration.
17. Cultivating dependency/undermining the authority of the target parent: Alienating parents develop dependency in their children rather than help their children develop self-sufficiency, critical thinking, autonomy, and independence. At the same time, they will undermine the authority of the target parent in order to ensure that the child is loyal to only one parent.

According to Baker and Darnell (2006), each of the 17 strategies serves a number of functions: (a) to further the child's cohesion and alignment with the alienating parent, (b) to create psychological distance between the child and the targeted parent, (c) to intensify the targeted parent's anger and hurt over the child's behavior, and (d) to incite conflict between the child and the targeted parent should the targeted parent challenge or react to the child's behavior.

Parental alienation exists on a continuum from mild to extremely severe and can be reciprocal and non-reciprocal. In some cases children and parents reunite; in others, they do not. As a group that is perhaps the most negatively affected by parental alienation, completely estranged parents have been the focus of recent research (Kruk, 2010a, 2010b, 2011, 2018). In three separate studies of such parents (i.e., 78 fathers and mothers who had no contact with their children for at least one year), narrative inquiry and grounded theory analysis uncovered the following as the most common indicators of severe parental alienation and as characteristics of alienation perpetrators. These constitute more serious forms of abuse when compared with less severe alienation. Less common and recognizable than the behaviors that Baker and Darnell identified, these reflect a much greater degree of pathology on the part of the alienating parent.

Indicators of Extreme Parental Alienation as Child Abuse: Characteristics of the Alienating Parent (Kruk, 2018)

1. Seizing the child by force.
2. A belief in one's entitlement as the primary or sole parental figure in the child's life, and lack of validation or recognition of the salience of the other parent as a parent.
3. Insensitivity to and disregard for the impact of one's behavior on children; lack of regard for and attunement to children's needs. Willingness to engage in conflict in front of the children. Lack of emotional depth and emotional responsiveness in relationship with one's child. Parentification of the child.

4. Overt or covert obsession with the other parent, and with hurting the other parent, to the extent that the obsession prevails over one's parental responsibilities.
5. Willingness and enthusiasm to engage in adversarial combat, and skill in the adversarial arena.
6. Refusal to communicate, or engage in a negotiation process.
7. Refusal to accept responsibility for one's own contribution to the problem situation or conflict.
8. Readiness to accuse the other party of wrongdoing.
9. Lack of guilt or remorse for one's behavior.
10. Exaggeration and dishonesty; an attitude of, "the end justifies the means."
11. Badmouthing of the other parent in front of the child, or avoiding any mention of the other parent in an attempt to erase that parent from the child's memory.
12. Monitoring and questioning the child in regard to the child's relationship with the other parent.

First and foremost, according to targeted parents, seizing the child by force includes contact denial and misuse of the legal system to undermine the other parent's participation in the child's life, aimed at removing the parent from the child's life entirely. Essentially, severely alienated parents define parental alienation as forced physical separation of parent and child: the idea of "by their actions you shall know them." Identifying alienation is simple and straightforward: an alienator is a parent who removes a parent from the life of a child. Second, belief in one's entitlement as the primary or sole parental figure in the child's life, and lack of validation or recognition of the salience of the other parent as a parent, is a feature of alienating parents' behavior. Third is a lack of understanding, attunement, and empathy to children's needs and perceptions: insensitivity to and disregard for the impact of one's behavior on children. This is evident in (a) the parent's willingness to engage in conflict in front of the children; (b) lack of emotional depth and emotional responsiveness in relationship with one's child; (c) parentification of the child, where a child is made to feel responsible for his or her parent's well-being. Fourth is overt or covert obsession with the other parent, and with hurting the other parent to the extent that the obsession dominates one's parental responsibilities. An alienating parent's need to hurt and seek revenge prevails over the child's need for the other parent's love and nurturing. The parent's hatred of the other parent essentially overrides their love for their child. Fifth is willingness and enthusiasm to engage in adversarial combat, and skill and use of power over tactics in the adversarial arena: readiness to engage in and risk a "winner take all" process. Sixth, simple refusal to communicate or engage in a negotiation process, either directly or with

third party intervention such as family mediation, is often present among alienating parents. Lack of good faith in any involvement in such processes is a common problem. Seventh is refusal to accept responsibility for one's own contribution to the problem situation or conflict: an insistence on being "right" in all matters or disagreements with the former spouse. Lack of accountability in regard to the problem situation or conflict is also evident. Eighth is readiness to accuse the other party of wrongdoing; alienating parents are quick to blame and place responsibility for the problem situation or conflict onto the other parent.

Remaining strategies include lack of guilt or remorse for one's behavior, or regret over one's actions; exaggeration, dishonesty, and an attitude of, "the end justifies the means;" badmouthing of the other parent in front of the child or avoiding any mention of the other parent in an attempt to erase that parent from the child's memory; and, monitoring and questioning the child in regard to the child's relationship with the other parent. These last strategies correspond to experiences of less severely alienated parents.

Effects on Child

Thus the first element of the definition of parental alienation as a form of child abuse relates to the abusive behavior of the alienating parent. The second constituent of the definition focuses on profoundly harmful effects on the child. In the most severe cases, these effects are profound (Balmer, Matthewson & Haines, 2018; Mone & Biringen, 2012; Mone, MacPhee, Anderson, & Banning, 2011). First, teaching hatred of the other parent is tantamount to instilling self-hatred in the child. Self-hatred is a particularly disturbing feature among alienated children, and one of the more serious and common effects of parental alienation. Children internalize hatred aimed at the alienated parent, are led to believe the alienated parent did not love or want them, and experience severe guilt related to betraying the alienated parent. Their self-hatred (and depression) is rooted in feelings of being unloved by one parent and in separation from that parent while being denied the opportunity to mourn the loss of the parent, or even to talk about the parent (Warshak, 2015b). Hatred of a parent is not an emotion that comes naturally to a child. In parental alienation situations, such hatred is taught on a continual basis. With hatred of the parent comes self-hatred, which makes children feel worthless, flawed, unloved, unwanted, endangered, and only of value in meeting another person's needs (Baker, 2005, 2010).

Second, numerous studies show that alienated children exhibit severe psychosocial disturbances. These include disrupted social-emotional development, lack of trust in relationships, social anxiety, and social isolation (Baker, 2005, 2010; Ben-Ami & Baker, 2012; Friedlander & Walters, 2010; Godbout & Parent, 2008). Such children have poor relationships with both parents. As adults, they tend to enter partnerships earlier, are more likely to divorce or dissolve their cohabiting unions, more likely to have children outside any partnership, and more likely to become alienated from their own children (Ben-Ami & Baker, 2012).

Low self-sufficiency, lack of autonomy, and lingering dependence on the alienating parent are a third characteristic of alienated children. Garber (2011) found this manifested in three ways: adultification (the alienating parent treating the child as an adult); parentification (the child taking responsibility for the parent, in a role reversal); and infantilization (the *folie a deux* relationship that develops renders the child incompetent and incapable of the life tasks of adulthood).

Alienated children are more likely to play truant from school and leave school at an early age. They are less likely to attain academic and professional qualifications in adulthood. They tend to experience unemployment, have low incomes, and remain on social assistance. They often seem to drift aimlessly through life. Alienated children experience difficulties controlling their impulses, struggling with mental health, addiction, and self-harm (Otowa, York, Gardner, Kendle, and Hettema, 2014). They are more likely to smoke, drink alcohol, and abuse drugs, often succumb to behavioral addictions, and tend to be promiscuous, foregoing contraception and becoming teenage parents (*ibid.*).

Indicators of Parental Alienation as Child Abuse: Characteristics of the Alienated Child

1. Poor self-esteem, depression and self-hatred
2. Disrupted social-emotional development: withdrawal, isolation, social anxiety
3. Low self-sufficiency; lack of autonomy; dependence on parent
4. Poor academic achievement
5. Poor impulse control; struggles with mental health, addiction and self-harm

Of the four types of child abuse, physical, sexual, and emotional abuse and neglect, parental alienation is usually considered a form of emotional or psychological abuse (Bernet et al, 2016, Clawar & Rivlin, 2013; Von Boch-Galhau & Kodjoe, 2006). However, parental alienation often co-occurs with the three other types of child abuse. First, there is neglect, because alienating parents' hatred of the targeted parent is stronger than their love from their child (they are less attuned to and thus neglect the needs of the child). There is also physical and sexual abuse, because children in situations where one parent is absent from their lives are at significantly greater risk than are children who have meaningful relationships with both parents. Therefore, alienated children (a) are five times more likely to have experienced physical and sexual abuse and emotional maltreatment (Cawson, 2002); (b) are exposed to one hundred times higher risks of fatal abuse (Daly & Wilson, 1988); (c) have higher risks of physical health problems, psychosomatic health symptoms, and illnesses such as acute and chronic pain, diabetes, asthma, headaches, stomach aches, and feeling sick (Dawson, 1991; Lundbert, 1993; O'Neill, 2002); (d) run greater mortality and morbidity risks; (e) are more likely to die as

children (Lundbert, 1993); (f) live an average of four years less over their life span (Ringbäck Weitoft, Hjern, Haglund, & Rosén, 2003); (g) are more likely to experience sexual health problems (Ellis, 2003; O'Neill 2002; Wellings, Nanchahal, & MacDowall, 2001) and to contract sexually transmitted infections (Wellings et al., 2001).

Research on the impact of father absence is extremely robust, to the point where causal effects of father absence have been identified (McLanahan, Tach, & Schneider, 2013). These include youth crime (85% of youth in prison have an absent father), poor academic performance (71% of high school dropouts have an absent father), and homelessness (90% of runaways have absent fathers). Fatherless children have higher levels of depression and suicide, delinquency and promiscuity, behavior problems, substance abuse, and teen pregnancy (Stein, Milburn, Zane, & Rotheram-Borus, 2009).

In addition, parental alienation is also becoming recognized as a form of domestic violence (Harman & Biringen, 2015; Kruk, 2013). Children witnessing this form of violence against a parent is itself a form of child abuse. There is considerable research on the devastating effects of alienation on targeted parents. The highest levels of depression occur among adults who have children under age eighteen with whom they are not living or actively involved (Evenson & Simon, 2005). The most salient loss for non-resident parents is that of their children and their parental identity (Kruk, 2011). Such parents routinely report increasing isolation, loss of employment, and inability to form or sustain new relationships. These impacts are connected to more disturbed patterns of thinking and feeling including shame, stigma and self-blame, and learned helplessness and hopelessness (Kruk, 2010a; Kruk, 2010b). A “suicide epidemic” has been identified among divorced fathers without their children in their lives (Kposowa, 2010: 993; Sher, 2015).

Future Directions for Research

There is an emergent scientific consensus on the reality, definition, prevalence and effects of parental alienation. Given the expanded knowledge base on this phenomenon, the need for effective intervention is pressing. The biggest gap in parental alienation research and the priority for future research is evaluation of existing and emergent intervention methods, models, and policies in regard to understanding and addressing parental alienation as a form of emotional child abuse.

Concerning intervention at individual, family, group (micro), community, and social policy (macro) levels, there are four basic pillars of intervention, all seen as necessary and fundamental to combating parental alienation (Kruk, 2018). These pillars fall under the headings of individual harm reduction, prevention, treatment and enforcement.

Priorities for Future Parental Alienation Research: Four Pillars of Intervention

1. Harm Reduction: Research on effective approaches in addressing parental alienation as a form of individual child abuse, and as a child protection matter.
2. Prevention: Research on addressing parental alienation as a form of collective child abuse: the impact of a rebuttable legal presumption of shared parenting on parental alienation.
3. Treatment: Reunification programs and therapeutic services for alienated parents and children: best practices and effectiveness of treatment approaches.
4. Enforcement: Addressing parental alienation as a form of domestic violence, and as a criminal matter: best practices and effectiveness of policies and practices.

First is the level of individual harm reduction. Some suggest that alienated children are no less damaged than are other child victims of extreme conflict, such as child soldiers and other abducted children who identify with their tormentors to avoid pain and maintain relationships with them, however abusive such relationships may be (Baker & Ben-Ami, 2011). Parental alienation as a serious form of emotional child abuse, which is linked to child neglect and physical and sexual abuse, clearly makes it, a child protection concern (ibid) above all else. At the same time, targeted parents routinely encounter professional misunderstanding of and indifference from professional service providers, especially child protection authorities, to alienation reports (Poustie, Matthewson and Balmer, 2018). First and foremost, we must recognize parental alienation as a form of individual child abuse requiring a child protection response. Research on effective child protection responses to parental alienation as a form of individual child abuse is a first priority. This includes effectiveness of family support/preservation programs and child removal interventions on the part of child welfare authorities.

Parental alienation as a form of child abuse is not only the result of the individual actions of a parent. It also stems from social, legal, political, and economic policies (Giancarlo & Rottman, 2015). There is strong association between legal child custody determination processes and emergence of parental alienation, since parental alienation flourishes in situations where one parent has exclusive care and control of children after parental separation (Saini, Johnston, Fidler, & Bala, 2016), and where primary residence of children is often granted to parents with serious psychological problems who make the stronger case in the adversarial arena (Kruk, 2013; McMurray & Blackmore, 1992). Legal systems that remove a parent from a child's life by means of sole custody or primary residence orders are not only contributing to parental alienation; they may also be engaging in a form of alienation (ibid.). Parental alienation thrives in an adversarial "winner-take-all" legal system where parents must denigrate the other parents as much as possible to prove they are the superior parents and more worthy of receiving sole custody or primary caregiver status. Parents seek to win their cases by disparaging the other parent as a

parent, in effect engaging in alienating behaviors. The system thereby encourages and produces alienating behavior (Kruk, 2013; Giancarlo & Rottman, 2015).

Whether parental alienation is in fact more likely to occur in jurisdictions where child residence is granted to one parent only, and less likely to occur in jurisdictions which have legislated a presumption of shared parenting, is an important question for further research. According to parents themselves, shared parenting law, a legal sanctioning of the fact that children have two primary parents, is a bulwark against parental alienation (Kruk, 2011; Kruk, 2013). The need for more robust longitudinal research is pressing in this regard.

Thus, the second pillar is that of prevention: preventing parental alienation as a form of collective child abuse through fundamental reform of the family law system. Specifically, a rebuttable legal presumption of shared parenting is needed to prevent parental alienation from occurring in the first place. Shared parenting as a legal presumption, rebuttable in situations of family violence, is strongly associated with both parents' active involvement in the day-to-day parenting of children. This, in turn, is associated with children's well-being, emotional security and positive adjustment to the consequences of divorce (Baude, Pearson & Drapeau, 2016; Fabricius, Sokol, Diaz & Braver, 2013; Kruk, 2013). At the same time, shared parenting is associated with reduction of conflict between parents and prevention of first-time family violence during the divorce transition (Bauserman, 2012; Kruk, 2013; Nielsen, 2018). Therefore, a second focus for research is effectiveness of shared parenting legislation as a means to preventing parental alienation.

The third pillar is that of treatment. It is widely recognized that research on the effectiveness of therapeutic programs, including reunification programs along with therapeutic programs for children as victims of child abuse and alienated parents as victims of domestic violence, are very much in their infancy (Balmer, Matthewson, & Haines, 2018).

The core elements and working methods of effective reunification programs have yet to be determined. However, existing programs emphasize the clinical significance of children coming to regard their parents as equally valued and important in their lives, while at the same time helping enmeshed children relinquish their protective roles toward their alienating parents (Smith, 2016). The research makes it clear that reunification efforts should be pursued in cooperation with service providers who have specialized expertise in parental alienation reunification (Darnell, 2011). Several models of intervention have been developed. The best known is Warshak's (2010) Family Bridges Program, an educative and experiential program focused on allowing the child to have a healthy relationship with both parents, removing the child from the parental conflict, and encouraging child autonomy, multiple perspective-taking, and critical thinking. Sullivan's Overcoming Barriers Family Camp (Sullivan, Ward & Deutsch, 2010), which combines psycho-educational and clinical intervention in an environment of milieu therapy, is aimed at development of agreement regarding the sharing of parenting time, and a written aftercare plan. Friedlander and Walters' (2010) Multimodal Family Intervention provides differential interventions for situations of parental alignment, alienation, enmeshment, and estrangement. When applied to reunification, family therapy and other practice theories such as

parallel group therapy and exposure-based cognitive behavioral treatment (Garber, 2011; Reay, 2015; Toren, Bregman, Zohar-Reich, Ben-Amitay, Wolmer, & Laor, 2013) use various treatment methods and report preliminary results of treatment effectiveness. More research is needed, however, before we can make significant headway in development of best practice: the core components of effective reunification programs in cases of parental alienation.

Child and family practitioners in mental health and legal fields encounter fathers and mothers, along with extended family members, who are routinely affected by parental alienation. The clinical literature in the field emphasizes the importance of validating alienated parents' identity as parents, and of encouraging them to persist and never give up in their quest to reestablish relationships with their children. In the face of hostility and rejection from their children, parents are advised to respond with loving compassion, emotional availability, and absolute safety. Patience and hope, unconditional love, and being there for one's child, are suggested as the best means to respond to children, even in the face of the sad truth that this may not be enough to bring those children back into the parents' lives. Warshak (2015b) suggests that wherever possible, alienated parents should try exposing their children to people who regard them, as parents, with honor and respect, to let children see that their negative opinion, and the opinion of the alienating parent, is not shared by the rest of the world. This type of experience will leave stronger impressions than anything the alienated parent can say on his or her own behalf. Alienated children benefit from education about dynamics of parental alienation (*ibid*). These are all important precepts, but there needs to be much more research on effective treatment methods, interventions and strategies at the individual, family and group levels with children and their parents.

Enforcement, the final pillar, is perhaps the most contentious area of intervention as divergent legal and criminal justice responses have been advanced, ranging from incarceration and custody reversal to family therapy and leaving the situation alone. There is little or no research on methods of dealing with parents who continue to alienate children despite court orders to the contrary. Some commentators (Lowenstein, 2015) argue that continued exposure to the alienating parent will be counterproductive to reunification methods. Others (Kruk, 2010) suggest that using alienation from a parent to punish or deter alienation seems counter-intuitive, and that shared parenting benefits children in high conflict families (but not in situations of domestic violence). However, the most current research indicates that therapeutic interventions are most effective when there are strong legal sanctions for non-compliance with shared parenting orders (Templer, Matthewson, Haines, & Cox, 2016). There is considerable discussion on awarding primary parental responsibility to the targeted parent when parental alienation is severe as an important step in ameliorating parental alienation (*ibid.*). However, there is little conclusive research evidence on effective means of enforcement.

According to Poustie, Matthewson and Balmer (2018), current findings indicate that with regard to family violence, it may be helpful to consider alienating behaviors as a form of crime on par with physical abuse. Indeed, countries such as Brazil have already criminalized parental alienation. Research suggests that court judgments that are swift, clear, and forceful are likely to have the best chance at curbing alienation.

Conclusion

When it comes to the empirical study of parental alienation, the state of knowledge has advanced considerably. There has been an explosion of qualitative, quantitative and mixed methods research on parental alienation over the past decade, generating more than one thousand research and clinical studies reported in scientific and professional journals, books, and book chapters (Bernet et al., 2016; Vanderbilt University Medical Center, 2017). The research may be considered robust in regard to definition and characteristics of parental alienation, incidence and prevalence rates, and most importantly, effects of parental alienation on children and parents (Templer et al., 2016). Abundant research suggests that parental alienation is a serious form of both emotional child abuse and domestic violence (Baker & Ben-Ami, 2011; Bernet & Baker, 2013; American Psychiatric Association, 2013; Gottlieb, 2012).

Given the social science consensus on the reality of parental alienation (Warshak, 2015a; Harman & Biringer, 2016), the need for research on the effectiveness of different approaches to intervention is urgent. This includes research on the four pillars of parental alienation intervention: (a) addressing parental alienation by means of a child protection response (the harm reduction pillar); (b) effectiveness of family law reform in the direction of shared parenting as preventive of parental alienation (the prevention pillar); (c) treatment and reunification programs, which are rapidly being developed in response to increased professional recognition of parental alienation and its effects (the treatment pillar), and (d) the enforcement pillar, different approaches to dealing with parental alienation as a breach of the law. Given the strong foundation of research on the existence, prevalence, and effects of parental alienation, along with continued controversy surrounding directions for child and family policy and practice, and best practices in legal and therapeutic fields, the road to future parental alienation research is clear.

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**CHILD CUSTODY OUTCOMES IN CASES INVOLVING
PARENTAL ALIENATION AND ABUSE ALLEGATIONS**

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STATEMENT OF THE PROBLEM and LITERATURE REVIEW

Domestic Violence Field's Critiques of Family Courts' Unsafe Adjudications

A growing concern over the past 30 years among domestic violence scholars and practitioners has been courts' family courts' treatment of mothers and children who allege a father is abusive in custody and visitation litigation. Many scholars and advocates assert that family courts are awarding unfettered access or custody to abusive fathers, (Edleson, J., 2006; Goldfarb, S., 2008; Bancroft & Silverman, 2012), and increasingly cutting children completely off from their protective mothers. (Neustein & Leshner, 2005; Petition in Accordance with Inter-American Commission on Human Rights, 2007; Meier, 2010). This has been observed especially where mothers allege child sexual abuse. (Faller & DeVoe, 1995; Stahly et al, 2014; Neustein, A. & Goetting, A., 1999). Domestic violence organizations are being flooded with pleas for help from battered women litigating custody, because evaluators and judges do not credit their claims of abuse and seek to maximize fathers' access to children instead. (Meier, 2010). Scholars and practitioners report that custody courts commonly do not recognize domestic violence and child abuse (Jaffe, Crooks & Poisson, 2003), fail to understand their implications for children and parenting (Stark, 2009; Dalton, Carbon & Olesen, 2003), and increasingly, turn against mothers and children who insist on pressing claims of abuse by a father in custody litigation. (Neustein & Leshner, 2005; Stahly, 2013; Meier, 2009, 2010; Fernandes, 2010).

In fact, there appears to be a trend toward removal of custody from protective mothers and awards to allegedly abusive fathers, which has been estimated to occur in the tens of thousands per year. (Leadership Council, 2008). The result for children may include ongoing abuse, loss of a secure maternal-child relationship, and at worst, death at their fathers' hands.

(Bartlow, in press; Goldstein, B., 2013). Although litigants often speculate that the problem is particular to one jurisdiction or another, the problems have been observed nationwide (Jaffe, Crooks & Poisson, 2003; Dalton, Carbon & Olesen, 2003), and globally. (Gardner, Sauber & Lorandos, 2006; Meier, 2013). In response, an independent and decentralized movement of “protective parent” advocates and mother-survivors has become increasingly active both locally and federally. (Stark, 2009; Bancroft, 2010).

This study seeks to produce a database of custody and abuse and alienation cases to empirically test many of these reports from the domestic violence and protective parent fields.

Empirical Evidence is Limited but Growing

Empirical support for these observations of family court adjudications involving abuse has been sparse. Some early empirical research in particular locations identified a trend toward favoring fathers, in contrast to widespread assumptions that mothers are favored in custody litigation. (Supreme Judicial Court of Massachusetts, 1990). Additional small studies have elaborated on a pattern of family court failures to consider evidence of intimate partner violence, disrespectful treatment of battered women, gender biased treatment of mothers, and granting of physical custody to perpetrators of intimate partner violence. (Slote et al, 2005; Bemiller, 2008; Meier, 2003). Another study found that the prevalence of court preferences for joint custody and “friendly parent” principles, seems to outweigh judicial consideration of abuse claims. (Morrill et al, 2005). These principles have been adopted explicitly by many state legislatures but are also implicitly valued by most family courts.

Studies of Custody Evaluators and Abuse

In the past ten years, a handful of studies has begun to systematically and empirically analyze custody evaluation practices in cases involving domestic violence or child abuse

allegations. These studies confirm that many custody evaluators actually lack meaningful knowledge or expertise in domestic violence and child abuse, and often make recommendations that do not take abuse into account. (Saunders, Faller & Tolman, 2011; Davis, O’Sullivan, Susser & Fields, 2011; Logan, Walker, Jordan & Horvath, 2002; Pence, Davis, Beardslee & Gamache, 2012). Several studies have also independently found that custody evaluators tend to fall into two groups: those who understand domestic violence and abuse and believe it is important in the custody context, and those who lack such understanding, are skeptical of abuse allegations and believe they are evidence of alienation (Saunders, Faller & Tolman, 2011; Haselschwerdt and Hardesty, 2010; Erickson and O’Sullivan, 2010). Evaluators in the latter category tend to have “patriarchal” beliefs, which dictate their interpretations of the information they acquire. (Saunders, Faller & Tolman, 2011). One study of New York cases found that most custody evaluators’ recommendations were unsafe for children in homes where abuse was alleged, and in most cases substantiated. (Davis, O’Sullivan, Susser & Fields, 2011).

Parental Alienation Theory as Key Factor in the Discrediting of Abuse Claims

A primary mechanism which gives evaluators and courts a quasi-scientific rationale for rejecting abuse allegations is the theory of “parental alienation (PA),” originally called “parental alienation syndrome (PAS),” and more recently also called “child alienation,” or “alienation.” (Meier, 2013; Silberg, Dallam & Samson, 2013; Erickson, 2010). PAS, a construct invented and promoted by Richard Gardner, described a “syndrome” whereby vengeful mothers employed child abuse allegations in litigation as a powerful weapon to punish ex-husbands and ensure custody to themselves. (Gardner, 1992a; 1992b). Gardner claimed that child sexual abuse allegations were rampant in custody litigation, and that the vast majority of such claims are false, designed by the mother to “alienate” the child from the father and drive him out of the child’s

life. (Gardner, 1987, 1991). Gardner also characterized PAS as profoundly destructive to children's mental health and as risking their relationships with their (purportedly falsely accused) fathers for life. (Gardner, 1992a, 1992b). Recommended remedies to PAS could be "draconian," including a complete cutoff from the mother in order to "de-program" the child. (Gardner, 1992a). PAS quickly became widely incorporated into custody litigation when any abuse – not just child sexual abuse – was alleged. (Meier, 2009).

PAS was explicitly invented by Gardner as a rationale for denying child sexual abuse; he explained it in part by gender stereotypes such as "hell hath no fury like a woman scorned." (Gardner, 1987, 1992a). As a "syndrome," PAS lacked any scientific or empirical foundation, and has today been largely - although by no means completely - rejected by experts and scholars, and to a lesser degree, courts. (American Psychological Association, 1996; Myers, Berliner, Briere, Hendrix, Jenny, and Reid, 2002; Emery, Otto & O'Donohue, 2005; Dalton, Drozd & Wong, 2006; *Snyder v Cedars*, 2009; *People v. Fortin*, 2001).

However, the discrediting of PAS has not ended reliance on the concept of "parental alienation" in family courts. On the contrary, scholars and forensic evaluators continue to give substantial attention to parental alienation, which they contend is distinct from PAS. (Johnston & Kelly, 2004a; Fidler & Bala, 2010a). Whether PA is really different from PAS, particularly in how it is used in court, is debated. (Erickson, 2010; Meier, 2013). However, there is not much doubt that parental alienation¹ remains a dominant issue in many if not most custody cases in which a mother has alleged a father is abusive. (Fidler & Bala, 2010a, 2010b; Johnston, 2005;

1 Parental alienation is also spoken of as "child alienation" and "alienation;" in referring to "PA" we intend to capture all references to "alienation" of a child from a parent in custody and visitation litigation.

Johnston, Walters & Olesen, 2005; Gould, 2006; Saunders, Faller & Tolman, 2011; Bancroft & Silverman, 2012).

PA's role in custody and abuse cases has been widely decried by the domestic violence field. By re-framing a mother who claims she seeks to protect her child from abuse as a pathological or vengeful liar, who is severely "emotionally abusing" her children by falsely teaching them to hate and fear their father, PA theory makes a self-described "protective parent" *persona non grata*. (Jaffe, Crooks & Poisson, 2003; Stark, 2009; Meier, 2009, 2010). The PA label diverts courts' attention away from the claims a father is abusive to replace it with a focus on a supposedly lying or deluded mother or child. (Bancroft & Silverman, 2012). In fact, evaluators' characterizations of mothers as "alienators" appears to have a significant impact on courts, leading them to deny mothers' allegations of abuse even when the abuse has never been ruled out. (Erickson, 2010; Meier, 2013). In some cases even expert validations of child abuse (*Bhatia v. Debek*, 2007), and comprehensive Guardian Ad Litem confirmations of the validity of the abuse claims (Sealed Case, Brief in Support of Appellant, 2010) have been insufficient to overcome the seemingly irrefutable presumption of falsity that flows from the label "alienator." For all these reasons, leading commentators have called the use of "parental alienation" claims against mothers in custody and abuse litigation "a national crisis." (Bancroft & Silverman, 168, 2012).

With two exceptions, all of the above critiques of PA have been experiential and anecdotal – not empirical. However, one small study of 18 published and unpublished Minnesota parental alienation cases concluded that it appeared that these courts "exhibit anti-mother gender bias," that the use of alienation has had an unfair impact on women, and that many of the cases involved switches of custody to the father. (Berg, R., 2011). Another study in

progress holds promise as providing empirical support for the domestic violence field's claims about parental alienation. Joyanna Silberg and colleagues have been analyzing "turned-around cases," i.e., cases in which a first court refused to believe alleged abuse and sent a child into unprotected care of an abuser, and a second court corrected that ruling and validated the abuse. Silberg's and colleagues' research to date has indicated that parental alienation labeling plays a significant role in the erroneous and harmful first outcomes. (Silberg, Dallam & Samson, 2013).

The Difficulty of Challenging in Litigation the Use of PA Labels to Deny Abuse

While some advocates have sought to challenge on appeal courts' misuses of parental alienation theory to deny, minimize or penalize mothers' abuse allegations in custody litigation, these challenges have yet to be successful. (*Jordan v. Jordan*, 2010, 2011; *Bhatia v. Debek*, 2007). Ironically, in non-family criminal and civil cases, PAS has been ruled inadmissible and unscientific (*People v. Fortin*, 2001; *Snyder v Cedars*, 2009); but the admissibility of "PA" has never been adjudicated, although its scientific basis, especially as applied to abuse allegations, has been questioned. (Bruch, 2001; Erickson, 2010; Meier, 2009, 2010). One reason PA is difficult to challenge in court is that family courts are widely recognized as using less stringent legal standards for admissibility of evidence. (Murphy, 2010; Weissman, 2001) Another is that parental alienation is treated by courts as though it is fact-based and gender-neutral, and, since it is typically propounded by a purportedly "neutral expert," such as a psychologist or a Guardian ad Litem (child's representative) appointed by the court, it appears to be objective and scientific. Without a principled objective or scientific basis for rejecting the concept, advocates, scholars and lawyers have found it difficult to persuade evaluators or courts that parental alienation is being misused to deny valid abuse claims. (*Jordan v. Jordan*, 2011; *Sealed Case*, 2009). Rather,

common critiques of PA as masking true abuse can seem to non-abuse experts to be nothing more than complaints that the courts are not believing their clients' allegations of abuse.

Gulf Between Domestic Violence and Family Court Constituencies

The domestic violence community's alarms about the failure of family courts to appropriately adjudicate abuse allegations, including substantiated allegations, appear to have had minimal impact on typical family court and evaluator practices. (DV LEAP, 2014). Many mainstream family court practitioners, including leading forensic experts, judges, and private lawyers, do not accept abuse advocates' and scholars' views of parental alienation or custody and abuse adjudications as gender-biased or failing to recognize the realities of abuse. (E.g., Fidler & Bala, 2010b). The two professional spheres – domestic violence experts and advocates and family court researchers and practitioners – remain separate and apart, and disinclined to trust each others' perspectives. (Salem & Dunford-Jackson, 2008). Consequently, domestic violence and child abuse concerns remain only minimally integrated into standard family court practices. (Meier, 2003; Salem & Dunford-Jackson, 2008).

Purpose, Goals & Objectives

Purpose

The core purpose of the study is to conduct an empirical analysis of child custody cases in which abuse allegations and/or alienation allegations are made by one parent against the other, and of the extent to which allegations of parental alienation influence the custody outcomes. More specifically, the study seeks to build on and expand the results of an earlier pilot study that examined gender differences in custody cases involving allegations of parental alienation with or without concomitant allegations of abuse.

Background – Pilot Study

This proposal was developed as a result of a preliminary research study conducted by the Principal Investigator, who sought to develop an objective, empirical measure of whether, and if so, to what extent, parental alienation was distorting accurate outcomes in custody and abuse adjudications. She supervised the collection of a database of 240 electronically available custody opinions involving allegations of parental alienation; a majority also involved abuse allegations.

Findings from this pilot study indicate the following: (1) mothers who alleged child sexual abuse lost primary custody 20% more often than mothers who did not allege abuse; (2) even where courts validated abuse allegations against fathers, the fathers received a custody outcome in their favor over 40% of the time; (3) fathers who alleged alienation were over twice as likely to receive a custody outcome in their favor as mothers who alleged alienation, a statistically significant result (OR 2.32, CI 1.19-4.51); (4) when courts substantiated fathers' alienation claims, fathers were even more likely to win than mothers were when courts substantiated mothers' alienation claims. (OR 4.41, CI 1.23-15.88); (5) Even when a court specifically found that fathers' allegation of alienation was invalid, fathers were still statistically more likely to win than mothers (OR 4.97, CI 1.08-22.98); (6) Mothers alleging alienation against the father, but not alleging abuse (about 1/3 of the cases), won their alienation claims about as often as fathers. Additional preliminary results are contained in "Figures" (attached hereto).

Expanding from the Pilot Project

The present study will increase the size of the sample by adding 5 years to the time frame. Second, the study will be expanded to include a comparison group of custody cases involving abuse allegation where alienation was not alleged. A rough electronic search indicates

that this expansion should increase the database approximately tenfold. The expanded database will both facilitate more robust multivariate analysis, but will also enable the Project to more accurately assess the impact of parental alienation allegations on outcomes, by comparing outcomes in cases with alienation defenses to outcomes in cases without such defenses. In short, the project seeks to provide an objective and empirical assessment of custody and visitation outcomes by gender, in cases involving abuse and/or alienation.

Goals

The overarching **goals** of the project are to determine to what extent the widespread anecdotally based critiques of family courts are empirically supported - in particular, to determine whether there is any measurable evidence of gender bias in custody and abuse adjudications, particularly where parental alienation is alleged. Given the gulf between domestic violence experts' concerns and mainstream family court practices and beliefs regarding adjudication of abuse allegations and parental alienation claims, empirical data which provide objective evidence of whether family courts are or are not adjudicating custody and abuse cases in the gender biased manner alleged by the critics, could be a powerful bridge between the two communities, and could potentially persuade advocates on either side that the other's perspective has some objective merit. Depending on the results of the study, different recommendations for practice could emerge – for instance, domestic violence advocates might be persuaded that the problems are more localized and not so universal, thus focusing their attention on local, specific interventions. Conversely, family court professionals might be persuaded by objective and comprehensive evidence of gender bias and neglect of safety concerns (e.g., a significant number of awards of custody and unsafe visitation even after abuse has been validated) that more

fundamental changes are necessary, including possibly legal or constitutional checks of the use of parental alienation or greater control over how custody/abuse cases are adjudicated.

Objectives

Our primary **objectives** are:

- To assess the degree to which family courts can objectively and empirically be said to be awarding unsafe custody or unsupervised visitation even when abuse² has been validated, or there is objective evidence of it;
- To assess overall win³ rates by gender in cases involving abuse allegations and cases involving alienation allegations;
- To explore whether alienation is a more successful claim for fathers than for mothers, particularly where the mother has alleged paternal abuse;
- To explore whether mothers lose more or less often depending on the type of abuse (adult, child, sexual, mixed) alleged; and
- To explore how alienation defenses impact outcomes by gender, and custody courts' treatment of abuse allegations.

PROJECT DESIGN AND IMPLEMENTATION

Description of research design and methods

Research questions: To what extent are custody and abuse adjudications in the U.S. removing children from their mothers and subjecting children to unsafe visitation? What are the outcomes by gender in these cases? Does parental alienation play a significant role in these outcomes? Is parental alienation used in a gender-biased manner? Do different types of paternal abuse

² The term “abuse” is used to include IPV, CA, CSA, and combinations thereof.

³ By “win/loss” we intend simply to look at what relief was requested by each party and what relief was ordered by the court. Based on our collective experience in the field, we believe that in most cases one party or the other will clearly have “won” the case. Cases where outcomes were mixed will be examined for whether one party won more than the other, or more significantly (e.g., won physical custody but lost on legal decisionmaking for the child). We will either incorporate those into the larger database after that judgment, or will separately analyze such cases.

allegations have differing effects on mothers' risk of losing custody? To what extent do courts validate abuse and issue protective custody and visitation orders, including when there is objective evidence (e.g., official documentation or validation) or an adjudication of abuse?

Hypotheses

General

- Fathers accused by mothers of IPV, CA, or CSA (or a mix) are more likely to win their case than mothers who make such allegations;
- Allegations of IPV, CA, and/or CSA by mothers with custody are correlated with loss of maternal custody and/or loss of the case;

Parental Alienation

- Fathers who counter mothers' allegations of abuse with counter-claims of parental alienation, regardless of whether the PA is credited or not, win more often than fathers who do not raise PA;
- Fathers' counter-claims of parental alienation when accused of abuse are correlated with increased losses of custody and access by mothers;
- Fathers using parental alienation claims win their cases more often than mothers using parental alienation claims, particularly where abuse is alleged;
- Parental alienation labels applied to mothers are correlated with awards of custody or unsupervised access to fathers, even after judicial findings that the father committed adult or child abuse;

Different Types of Abuse Allegations

- Mothers' allegations of domestic violence are credited more frequently than mothers' and children's allegations of child abuse, particularly child sexual abuse;
- Mothers' and children's allegations of child sexual abuse disproportionately result in custody switches to the accused father compared to other types of abuse allegations;
- Mothers alleging domestic violence lose the case and lose custody less often than mothers alleging child abuse (or mixed adult and child abuse).

Methods - Data collection

This project seeks to develop a massive database from which to draw an empirical, objective, and non-subjective analysis of custody and abuse case outcomes. By limiting our research to published case opinions (mostly appeals) and relying solely on the courts' own report of the facts, findings, and outcomes, the study avoids any debate about the facts or interpretations

of courts' fact finding. Rather, at its most basic level, the study will tabulate outcomes by gender, looking at which parent alleged what, what findings the court made, and measuring outcomes by gender (outcomes will include simple "case wins/losses"⁴ and separately, custody switches).

The first stage of data collection will be to expand the pilot study so it spans 2000-2014, in order to enlarge the database and increase the utility of multivariate analyses. Using a variety of search terms within Google Scholar and/or LEXIS/NEXIS and WESTLAW databases, researchers will search for all electronically published decisions in the U.S. in which there were (i) abuse allegations and alienation allegations; (ii) abuse allegations but no alienation allegations; and (iii) alienation allegations but no abuse allegations. The pilot study identified 240 alienation-only cases in the ten year period prior to Summer 2013. Expanding the search an additional five years (two years forward and three years back) is expected to reveal at least another 200-300 alienation-only cases. Expanding the database to include all abuse-only, non-alienation cases will expand the database much more. Based on preliminary and rough pilot LEXIS searches we believe the researchers will need to sort through approximately 6,000 cases, resulting ultimately in a useable database of approximately 2,000 published opinions.

Because most published opinions are appellate decisions, the vast majority of the pilot database is appellate decisions; however, a small number of trial court opinions were electronically available and were included to maximize the pilot data pool. For the proposed expanded project, we will again collect all electronically available decisions, because the project

⁴ See note 3, *supra*.

is focusing on trial court decisions.⁵ As long as they are in print and publicly available both appellate and trial court opinions are a valid source of this information. To make sure that trial court opinions are not systematically different from the appellate decisions with respect to the factors of concern we will analyze them separately – if they appear to differ in a significant manner we will decide whether to include them or not.

Methods - Coding

The original database has already been coded for over 20 factors, such as:

- which parent has custody at the outset;
- which parent alleges abuse;
- kind of abuse (adult, child, or child sexual abuse) alleged;
- which parent alleges alienation;
- court’s findings re abuse;
- court’s findings re alienation;
- involvement of a neutral evaluator/GAL;
- position the neutral took on abuse and alienation;
- win/loss outcome by gender;
- custody switch or not by gender

See Appendix 2.

With the expanded database, we will add several codes, (i) including documented evidence of abuse (e.g., court orders);⁶ (ii) any concrete evidence of alienation, such as proof that

⁵ We will also code the outcomes on appeal, so we can identify rates of reversal, an interesting statistic in its own right for advocates and lawyers in the field, some of whom specialize in appeals. This data may also help shed light on the degree to which appellate courts are or are not protective against potentially unsafe trial court decisions.

⁶ We are aware that documented evidence of abuse is often overlooked in court adjudications. (Kernic, Monary-Ernsdorff, Koepsell, and Holt, 2005). Our purpose here will not be to go behind the courts’ opinions to ascertain what information was available; rather it will be simply to

a mother told a child untruths about the father; (iii) different clinical or pathologizing labels similar to an “alienation-type” defense (e.g., “Munchausen by Proxy”); and “judicial animosity/diatribe.” The reasons for the last two additions are explained below, under “Methods - Limitations.”

The existing database will be re-coded along with newly collected cases to ensure consistency across the entire dataset.

Methods - Statistical Analysis

For the pretest, a knowledgeable, skilled coder reviewed 600 cases, developed the methodology, coding guidelines, and an Excel database of about 240 cases. This process took about 5 weeks on a full-time equivalent basis. The proposed project (more years and broader selection of cases) is likely to produce about 6,000 cases for review and require most of 2015 for review and coding (after hiring of researchers, and development of an expanded coding sheet is complete. The result will be a spreadsheet on which every case is logged and coded according to a systematic list of relevant factors. The PI and researchers will consult with the data analysts at the Institute for Women’s Policy Research (IWPR) to ensure that exclusive, numeric codes are used in order to assist with the subsequent statistical analysis.

Once data collection is complete, the data will be turned over to IWPR as raw, machine-readable data (likely Excel or Access) for conversion to Stata, data verification, and cleaning by IWPR. IWPR will specify and create composite measures in Stata and documentation files will be updated. IWPR will prepare the final documentation and data file. The codebook will include case counts, variable descriptions, and exclusive and exhaustive codes and value labels

identify whether the court *acknowledged* the existence of such evidence, and to assess whether that judicial knowledge affected outcomes.

for all numeric coded fields. It is not anticipated that the data will require the construction or application of any sample weights. Additional user notes will include the Stata programs for data management and statistical analyses used in the project.

The statistical experts will then test the Project hypotheses by applying multiple logistic regression to test the relative impact of gender, different kinds of abuse claims, and other factors on outcomes when one parent alleges alienation, and in custody/abuse cases where alienation is not raised. While this analysis will help answer important questions about which factors drive outcomes in alienation and abuse cases, it will also be important to provide simpler statistical analyses such as cross-tabs and odds ratios.

As a project in translational research we also propose to perform analyses that will be easily adopted and understood by practitioners and policymakers. These analyses will compare common multi-factorial scenarios and will provide easily understood odds ratios that demonstrate the impact of gender or abuse claims on outcomes in parental alienation and abuse cases. For example, such an analysis would compare the rate of custody switches when the mother alleges child sexual abuse and she does not, assuming that in both cases the mother originally had custody of the children and the father has alleged parental alienation. These simpler statistical operations will broaden the analyses we are able to provide, help to demonstrate the extent to which common critiques of family courts are or are not empirically borne out, and will provide some empirical conclusions related to categories that are too thinly populated to warrant regression analysis. Because we hope the findings of this study will have a direct impact on practice in family courts, it is critical that our results be framed in terms that are easily understood by non-statistical practitioners and that the analyses we employ are aimed directly at recognized issues and problems in the field.

Methods – Limitations

Data

One limitation (as well as benefit) of this study is its reliance primarily on electronically available court opinions.⁷ This results in a database populated primarily by appellate decisions, because trial court decisions are often not written, and they are usually not published. However, some trial court decisions *are* written and are electronically available. In addition, some appellate decisions and some trial court decisions are denominated “unpublished” – which in this context means that the decision is not legal precedent that can be cited in future legal briefs.

These differing types of opinions may differ in systematic ways. For instance it is possible that appeals are not representative of the vast majority of cases that do not get appealed due to lack of resources or information. It is also possible that cases denominated “unpublished” are in the eyes of the deciding court, less “significant” cases, containing less important legal issues and more complicated or amorphous facts. Whether any of these differences systematically affect the factors we are interested in, such as outcomes by gender or the role played by alienation defenses, is unknown. Accordingly, we will analyze these differing types of cases separately to ascertain if they differ along any of the factors we care about. If they do we will separate out the analyses and discuss those differences. If they do not, they will be included in the total database, as we seek to acquire the most robust database we can.

⁷ The benefit of this database, which fueled the decision to analyze these opinions, is that we are relying solely on courts’ own descriptions of their findings and their decisions, so the analysis is entirely objective and empirical, and is difficult to challenge.

Assessing the Impact of the Alienation Defense by Comparison with Cases without Alienation Defense

One important question we hope to answer in this study is – to what extent does alienation defense impact outcomes for mothers alleging abuse. If the statistical comparison of cases with an alienation defense to cases without such a defense results in a clear statistical difference, we will have confirmed our hypothesis. However, if that comparison results in a finding that the two categories of cases are not very different in outcomes, we will need to go further before we can conclude that alienation does *not* impact outcomes. We expect that cases which use other quasi-clinical labels for mothers alleging abuse, such as “enmeshment,” “paranoid,” “personality disorder,” etc., can be compared quite closely to alienation cases, that is, can be treated as the same category of pathologizing labels for mothers alleging abuse. Hence, we will code for all such alternative labels, in addition to explicit reliance on the term “alienation.”

It is also possible that there will be a number of custody and abuse cases which do not use clinical/pathological labels for mothers who allege abuse but do, however, display notable animosity and attacks on the mothers’ character. The PI is aware of a number of such cases, where courts characterize mothers they disbelieve as “malicious and calculated,” (G v C, 2010). In one case the court characterized the mother as using “stealth” and continuing to have frequent painful sexual intercourse with her husband so that she could “complain she was sexually abused” and “to keep the plaintiff [husband] in the marriage until she had all of her ducks lined up to get sole custody of the children.” (Sealed Case, 2009)

Cases such as this, while not necessarily using pathological or clinical labels to deny the mother’s abuse allegations, are still indicative of a particular dynamic which the domestic violence field has identified in cases involving alienation as well: That is, the alienation label

may be effective precisely because it pathologizes and discredits a mother who alleges abuse – but there are other ways to do that. One other way is to use other pathologizing labels. Another way is to cast such a mother as “evil” “malevolent,” etc. We believe that all of these different ways of demeaning and rejecting mothers’ allegations of abuse may be found in this database (and will be separately coded), and should be analyzed separately and compared with respect to the hypotheses we are testing. If we find that each of these differing methods of dismissing mothers’ abuse allegations impacts outcomes similarly that will be an important conclusion. If we find that they differ in impacts, that too will be important.

Limits of overall database

Ideally, this study would not only examine custody cases involving abuse, and alienation, but also all other custody decisions, in order to have a comparison population for the cases involving abuse (and alienation). Unfortunately, the size of that database would be too unmanageable for the team at this time. As a result, we will not be able to draw empirical conclusions about how mothers’ abuse allegations themselves affect outcomes, as compared to custody cases without abuse allegations. Further research would be necessary to explore this question more comprehensively.

Secondly, to develop a more complete gender analysis, we would ideally like to compare outcomes in cases where fathers allege intimate partner violence by mothers, with outcomes in cases where mothers allege intimate partner violence by fathers. Unfortunately, the pilot study produced only 1-2 cases of the former, and we suspect there will not be a sufficient number of such cases even in the expanded database, to be able to do such a comparison. However, there were a somewhat greater number of cases in the pilot study where fathers allege the mothers have abused the *child*, and it may be possible to compare those to cases where mothers allege the fathers have abused the child for a slightly different but still useful gender analysis.

POTENTIAL IMPACT

Implications for Family Court Practice

The original pilot research was conceived by Professor Meier specifically in order to see if empirical research would support the widespread critiques of parental alienation's role in denying valid abuse claims in custody cases. The goal was, and remains, to develop empirical findings which will either validate those critiques in order to help persuade a broader community of concerned professionals of the need for change; or will put those critiques in perspective as potentially not representative of what goes on in a comprehensive evaluation of court practices.

Confirmatory Conclusions

Should the research empirically demonstrate some of the hypotheses – e.g., that parental alienation as it is used in the courts in abuse cases is gender-biased - the impact in the field could be substantial: First, it could impact specific trial court adjudications by allowing litigants and lawyers to convince judges not to rely on parental alienation in ways that have been demonstrated to be inequitable and inaccurate. Second, it could impact appeals of unfavorable decisions: Advocates will be able to cite this research in briefs and arguments before appellate and trial courts and it may persuade appellate courts that PA testimony or “diagnoses” are unconstitutionally biased and/or unscientific and therefore, reversible error. Objective empirical indications that PA is gender biased will significantly reduce its credibility in the courts and facilitate reversal of such decisions on appeal. Third, advocates and policymakers will be able to point to this research to support state and federal legislatures in reining in of the theory's use in court. (Several federal proposals developed by domestic violence and protective parent advocates are currently circulating in Congress. This kind of empirical research would create significant momentum to support them.) And fourth, by providing objective empirical data to

support some of the critiques of family courts this research could make training and education of trial judges and forensic experts more compelling and effective in ways that will help victims of adult and child abuse.

Disconfirmatory Conclusions

Should the research results *not* confirm most of the study's hypotheses, it will demonstrate that although the problems of which the field complains may be real, they may not be representative of the universe of family court adjudications of custody and abuse. In that case, it will be important for the domestic violence field to be educated on which, if any, of their critiques are empirically supported and which are not. This may lead to more targeted interventions with particular courts, particular judges, and/or particular evaluators who are seen to be providing problematic assessments of abuse allegations, rather than broad-brush critiques of the family court system based on gender bias or denial of abuse. It is possible that a more measured and specific critique will actually elicit more collaboration and support from the court system than the broader critique does; if so, reforms of problem areas, courts, or personnel, may become more viable, and the domestic violence field will be able to marshal its resources and focus to enact change in the particular locations and contexts where it is required.

Planned Scholarly Products

Once the empirical and qualitative analyses have been completed, Professor Meier will take the lead, with the assistance of Dr. O'Sullivan and Dr. Rosen, in drafting the Overview Summary for the NIJ. In addition the complete study will be published in at least two scholarly journals and will address a literature review, methods, data collection and analysis, statistical findings, policy and practice implications, and questions raised. The articles will be submitted to both legal and social science and specialty journals. Because this issue is widely recognized as a

problem area in the field, we are cautiously optimistic that publication in law reviews and journals such as the *Children's Rights Law Journal*, *Violence Against Women*, or the American Psychological Association *Journal of Forensic Psychology* will not be difficult. In addition, shorter papers, potentially on particular aspects of the study, will be developed for widely read practice journals and venues such as the *Family Law Quarterly*, *Family Court Review*, *VAWnet*, or the *Journal of Child Custody*. Additional journals that may be good outlets for distributing these results include *Gender & Society*, and the *Journal of Marriage and Family*. Drs. O'Sullivan and Rosen are definitely interested in authoring or co-authoring articles. IWPR's Drs. Hayes and Milli will also explore an IWPR publication.

Plan for Dissemination to Broader Audiences

The team anticipates a wide interest in this research, particularly if the study does demonstrate some degree of gender bias in how parental alienation is used or failure to adequately respond to abuse in courts' adjudications of custody and abuse. Therefore the team is committed to wide distribution of the results.

First, the PI and team will develop brief, practical research summaries for use in trial and appellate litigation, and in trainings and presentations to judges, lawyers, and others. In addition, if the PA critique is supported by the study, a tool for judges, evaluators and lawyers, designed to ensure that parental alienation is not mistakenly used to mask valid abuse claims, will be developed and disseminated widely as well. (Meier, J., 2013).

Professor Meier will distribute both the scholarship and any shorter, more practice-oriented publications through her non-profit (DV LEAP)'s⁸ website and electronic lists, the

⁸ DV LEAP specializes in appellate litigation on behalf of adult and child victims of abuse in the family. DV LEAP has devoted substantial resources to advocacy for victims in child custody litigation, through appeals, trainings and presentations, and scholarship. From 2011-2013 DV LEAP had a two year

national domestic violence lawyers' list operated by the ABA Commission on Sexual Assault /Domestic Violence ("ABA CSDV"), and protective parents' advocates' lists. In addition, she will share them with the national organizations partnering with the DOJ Office on Violence Against Women to provide Technical Assistance to the field on the issue of custody and abuse, such as the Battered Women's Justice Project ("BWJP"), and the Legal Resource Center on Violence Against Women.

We also expect to offer webinars and presentations to the domestic violence field through ABA CSDV trainings, BWJP webinars, NCADV Conferences, Jewish Women International's webinars and DV LEAP presentations. We expect to share the research with family court practitioners and judges through Association of Family and Conciliation Court (AFCC – the leading family court association) Conferences, American Psychological Association conferences, local and national judicial training conferences, etc. As a result of DV LEAP's cooperative agreement with DOJ-OVW, DV LEAP has a good number of judicial and court-related contacts who have expressed interest in presentations on such issues. Finally, the PI is also part of a number of coalitions of advocates and experts who are involved in potential federal legislative efforts to reform family court practices: Data from this study could be extremely helpful in informing the Congress and other policymakers.

CAPABILITIES/COMPETENCIES

Professor Joan Meier has been teaching and litigating domestic violence cases for over twenty years while teaching domestic violence clinics at George Washington University Law School. She is widely published on the issue of custody and abuse and is also a leading appellate lawyer

cooperative agreement with the DOJ Office on Violence Against Women to develop trainings and tools for courts, professionals, and litigants on custody and abuse. See www.dvleap.org for more information.

in the field. Professor Meier received the inaugural national “Sharon Corbitt Award” to a domestic violence lawyer from the American Bar Association’s Commission on Domestic and Sexual Violence. Her nationally operating non-profit, the Domestic Violence Legal Empowerment and Appeals Project (DV LEAP), was the first organization launched to handle appellate litigation in the domestic violence field, and has spawned a number of local projects.

Leora Rosen, PhD, is currently an Independent Professional Researcher; served as a senior social science analyst from 1998 to 2007 at the *National Institute of Justice* in the Violence and Victimization Research Division, where she spearheaded the development of the research portfolio on custody and visitation in domestic violence cases and contributed to the development of other research programs pertaining to intimate partner violence and other forms of violent victimization. She also co-edited a special issue of the journal *Violence Against Women*, containing some of the very first empirical research into custody and abuse adjudications in the U.S. On the proposed Project, Ms. Rosen will participate as a consultant in analyzing the empirical results and assisting in writing them up.

Chris O’Sullivan, PhD, is a former Psychology professor and current Research and Evaluation Consultant, has extensive experience in empirical research in the fields of domestic violence and sexual assault, including an NIJ funded review of custody evaluations in custody cases involving domestic violence. On the proposed Project she will assist with the literature review, shaping hypotheses and research design, interpretation of results, and write up and presentation for different audiences.

Sean Dickson, MPh, JD, accomplished a remarkable amount of social science statistical research in the public health field both during and before obtaining his MPh and JD. He conducted the original “pilot” research which launched this proposal. He will provide hands-on

supervision of the Senior Research Associate and Graduate Research Assistant in getting the coding sheet amended and finalized, getting their case collection launched and systematized, and will help Professor Meier resolve any questions that arise in the course of this research.

The **Institute for Women’s Policy Research** is the leading think tank in the United States focusing primarily on domestic women’s issues. For this Project, **Jeffrey Hayes, MA, PhD**, Study Director, will lead the statistical analyses of the database once all the cases have been collected and coded. Dr. Hayes managed the original data collection for the household survey of over 2700 respondents examining economic insecurity following the Great Recession. Previously he worked at the McGill Institute for Health and Social Policy and the Harvard Project on Global Working Families analyzing child and family well-being. **Dr. Jessica Milli, MA, PhD**, Senior Research Associate, is currently a Visiting Assistant Professor of Economics at Randolph College in Lynchburg, VA. Her research focuses, among other thing, on domestic violence and women’s economic status. Drs. Hayes and Milli will conduct the statistical analyses in Year 2, and assist in interpretation of the results.

Management and Organization

Oversight and Management

The Project will be managed by Professor of Clinical Law and Principal Investigator Joan Meier, who has specialized in litigation and scholarship on custody and abuse for the past 10 years, and who began this research under a grant from the DOJ Office on Violence Against Women in 2011. Her conception of the project is significantly informed by two experienced professionals in NIJ research on this topic, Drs. Leora Rosen and Chris O’Sullivan; a statistically trained lawyer who skillfully led the pilot data gathering and statistical analysis in 2013, Sean Dickson, Esq.; and the statistical experts from the Institute for Women’s Policy Research. The

expanded data collection will be conducted by retained research assistants under Professor Meier's supervision, most likely graduate students from George Washington University law or graduate schools.

Professor Meier will oversee the entire project. She will convene virtual meetings of the team by phone and Skype periodically to spell out roles and tasks, to ensure that the research is being conducted according to the established timelines, to identify and troubleshoot problems that arise, and to discuss procedures, findings, and additional statistical or qualitative analyses.

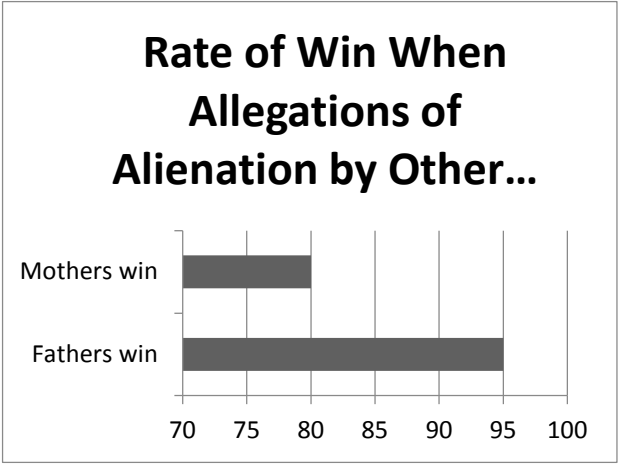
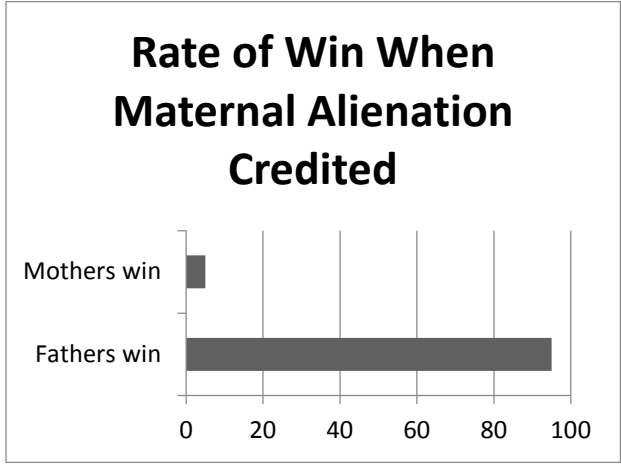
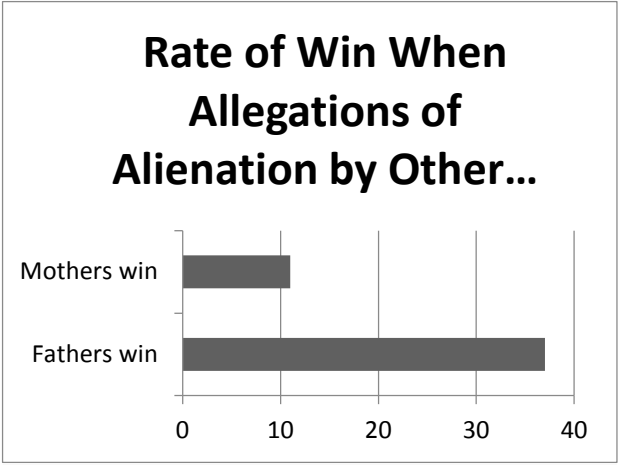
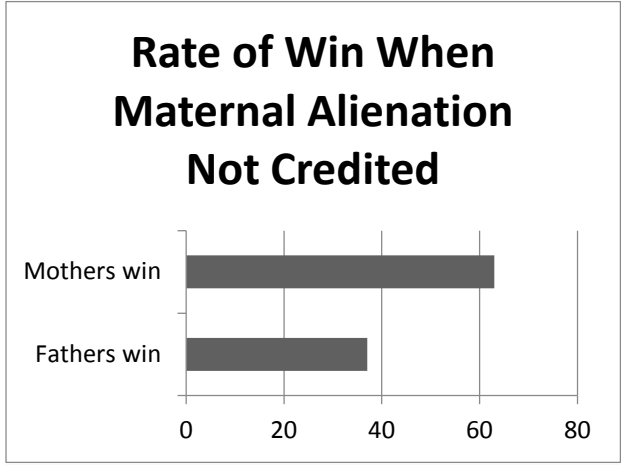
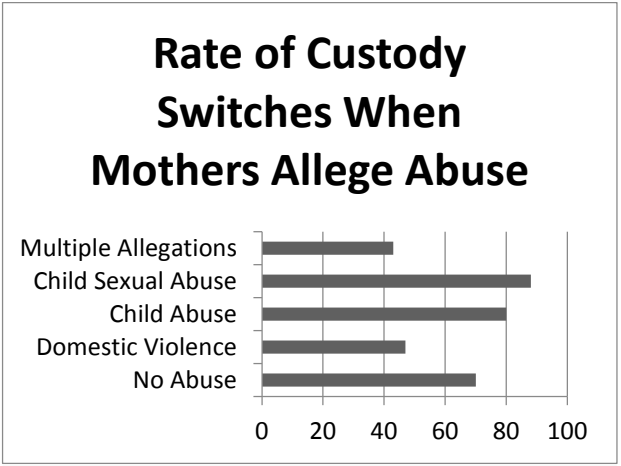
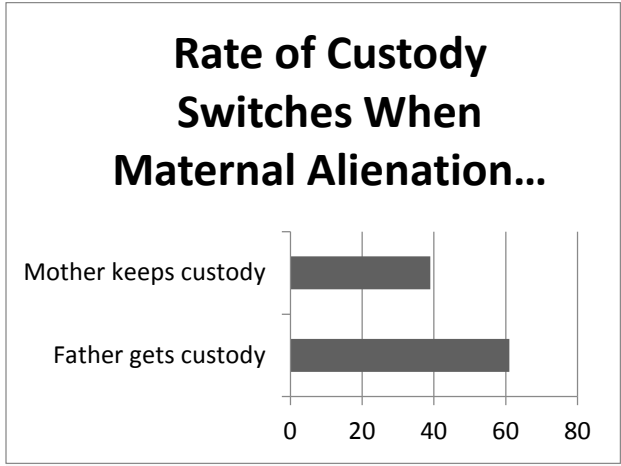
Research/Data-gathering

Research terms and searches will be developed by Professor Meier and Sean Dickson and vetted by the team before implementation. Relevant case factors by which each case is to be coded, initially identified by Mr. Dickson and Professor Meier in their 2013 preliminary work, but to be expanded for this Project, will also be discussed and vetted with the team. Sean Dickson will assist Professor Meier in advising and overseeing the research, to ensure consistency. Research will be conducted by the retained research assistants under the supervision of Professor Meier and Sean Dickson. IWPR will advise the research team on coding methods that are optimal for statistical analysis.

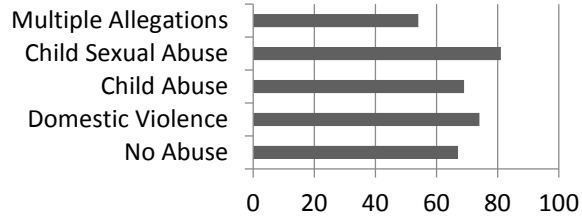
Empirical Analyses

IWPR will conduct all of the statistical analyses, with input and discussion by the rest of the team. Substantive questions about how to frame hypotheses and whether to run different statistical tests will be considered with the whole team. Ultimate discussion of the meaning of the empirical results and the conclusions that can be drawn will also be informed by the whole team.

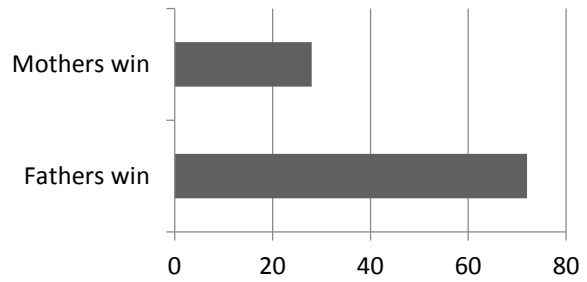
FIGURES



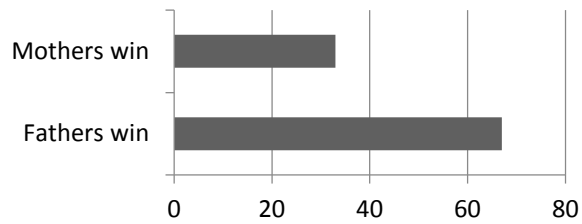
Rates of Win When Mothers Alleged Different Types of...



Rate of Win When Mother Alleges Abuse



Rate of Win When Mother Does Not Alleges Abuse



Parental Alienation: The Blossoming of a Field of Study

Jennifer J. Harman¹, William Bernet², and Joseph Harman³

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Abstract

Parental alienation has been an unacknowledged and poorly understood form of family violence. Research on parental alienation and the behaviors that cause it has evolved out of decades of legal and clinical work documenting this phenomenon, leading to what could be considered a “greening,” or growth, of the field. Today, there is consensus among researchers as to what parental alienating behaviors are and how they affect children and the family system. We review the literature to detail what parental alienation is, how it is different from other parent–child problems such as estrangement and loyalty conflicts, and how it is perpetuated within and across different social systems. We conclude by highlighting research areas that need further investigation to develop and test effective solutions for ameliorating the devastating effects of parental alienation that, we posit, should be considered and understood not only as abusive to the child but also as a form of family violence directed toward both the child and the alienated parent.

Keywords

parental alienation, divorce, separation, family violence, child abuse

Since the early 1800s, courts in the United States and England have documented volumes of family law cases involving one parent vilifying the other parent and poisoning the minds of their children against the rejected parent. By the mid-1940s, clinicians working with divorced families started publishing their observations about parents who tried to break down the child’s love for the other parent and to enlist their children as “allies” against the rejected parent (Rand, 2013). It was not until the 1980s that a label was coined for this phenomenon: *parental alienation syndrome* (Gardner, 1985). For a variety of reasons (e.g., whether it constitutes a valid syndrome; Warshak, 2001), the term most commonly used today is simply *parental alienation* (Lorandos, Bernet, & Sauber, 2013). Research on this topic has increased substantially over recent decades; today, there are over 1,000 books, book chapters, and articles in professional journals on the topic across 35 countries and six continents (Bernet, 2013).

Despite extensive historical documentation of parental alienation across legal and clinical arenas, accumulated data on this topic have been largely descriptive in nature. However, there has been extensive research on processes that constitute parental alienating behaviors (e.g., gatekeeping behaviors; Austin & Rappaport, 2018). We argue that our understanding of parental

alienation has moved from a “greening,” or what is considered a growth, stage of development into a “blossoming” stage, which is characterized by greater development and integration of theories and hypothesis testing (Simpson & Campbell, 2013).

What Parental Alienation Is

Parental alienation refers to a psychological condition in which a child allies himself or herself strongly with an alienating (or preferred) parent and rejects a relationship with the alienated (or targeted) parent without legitimate justification (Lorandos et al., 2013). Parental alienation often occurs in families in which a more powerful parental figure (the alienating parent) engages in abusive behaviors intended to damage and destroy the relationship between the other, less powerful parent (the targeted parent) and the child (Harman, Kruk, & Hines, 2018). Parental alienation is not typically an outcome that arises when both parents contribute to

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the arguing and fighting (Warshak, 2015b). When parents reciprocate conflictual behavior, they often have similar levels of power—in such cases, the outcome for the child is a loyalty conflict rather than parental alienation (Bernet, Wamboldt, & Narrow, 2016). Although parental alienation can occur or begin in intact families, it most commonly occurs after the parental relationship ends.

The manifestations of parental alienation in the child consist of (but are not limited to) the following: a campaign of denigration against the targeted parent; weak, frivolous, or absurd rationalizations for the deprecation; a lack of ambivalence; an “independent-thinker” phenomenon in which the child denies being influenced to feel negatively about the targeted parent; an apparent absence of guilt for actions and attitudes toward the targeted parent; borrowed scenarios about past events; and the spread of animosity to other people associated with the rejected parent (e.g., extended family members; Gardner, 1992). Of these outcomes, those most strongly associated with parental alienation are the first two: the child’s campaign of denigration against the rejected parent and the child’s frivolous rationalizations for the denigration. Outcomes that are readily identified objectively and measured quantitatively are the child’s rejection of the parent (Huff, Anderson, Adamsons, & Tambling, 2017) and the child’s lack of ambivalence toward the parents, namely, one parent is all good, the other is all bad (otherwise known as *splitting*; Bernet, Gregory, Reay, & Rohner, 2018).

Parental alienation outcomes are classified in the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* as a mental condition under the diagnosis “child affected by parental relationship distress” (CAPRD; Bernet et al., 2016). This condition appears in the same chapter as child sexual abuse, parent–child relational problems, and other forms of domestic violence (“other conditions that may be a focus of clinical attention”), and CAPRD can be diagnosed independently or as a modifier of a mental disorder (e.g., major depressive disorder). Estimating the prevalence of parental alienation among children is challenging because a psychological assessment is typically needed to determine whether and to what extent a child has been alienated. If we extrapolate from published research and use deductive methods, we find that an estimated 1% of all children in the United States are alienated from a parent (Bernet, 2010; Warshak, 2015a). Another estimate, albeit one based on a relatively small sample, suggests that around 29% of children from divorced homes experience alienating behaviors from a parent (Hands & Warshak, 2011).

What Parental Alienation Is Not

It is important to distinguish parental alienation from parental estrangement (Kelly & Johnston, 2001), as the

terminology used in this context is slightly different than definitions in most dictionaries, in which *alienation* is described as an emotional detachment and *estrangement* adds an element of physical disconnection (Warshak, 2010). In this article, estrangement refers to problems with a parent–child relationship that are due to issues within the relationship itself. For example, a parent may have poor parenting skills and engage in physically or emotionally abusive behaviors that make the quality of the parent–child relationship poor. Hence, the child is explicably and realistically estranged from a parent on the basis of and in reaction to the child’s lived experience. In contrast to estrangement, the cause of the parent–child problem in cases of parental alienation lies primarily with the alienating parent. Through words and actions, the alienating parent influences the child to such a degree that the child begins to reject a relationship with the targeted parent. The child’s rejection is not typically due to the actions of the targeted parent; if it is, then it is grossly exaggerated and out of proportion to his or her actual experience with the parent. Indeed, the child’s rejection of the targeted parent can be irreconcilable with and contradicted by the child’s lived experience of the targeted parent. When allegations of abuse are raised during custody disputes, this distinction between estrangement and parental alienation becomes important. If there is a substantiated history of domestic violence or child abuse over the course of the relationship, the accuser’s and child’s behaviors are explicable; if the accusation is manufactured as a strategy to gain the upper hand in a custody dispute, then the accusation is a parental alienating behavior.

How Do Parents Alienate Their Children?

Parental alienating behaviors have recently been considered a form of family violence, which has generally been understood as behaviors that coerce, control, and generate fear in the child. This behavior makes it child abuse for children as victims and intimate-partner violence for the targeted parent as the victim. Parental alienation is the result of an alienating parent’s coercion, control, and generation of fear in the child toward the targeted parent, making this a very complex form of family violence (Clawar & Rivlin, 2013; Harman et al., 2018). Hundreds of parental alienating behaviors have been documented by researchers, including badmouthing the targeted parent and his or her extended family, engaging in coercive controlling behaviors to force an alliance with the child and to reject the targeted parent, saying the targeted parent does not love the child, confiding in the child about adult matters, limiting the child’s contact with the other parent, violating court orders regarding parenting time and communication, undermining the targeted parent’s authority with the child,

letting the child choose whether to visit with the targeted parent, and making false allegations of abuse (Baker & Darnall, 2006; Harman, Biringen, Ratajck, Outland, & Kraus, 2016; Harman et al., 2018).

Obviously, no parent is perfect; an occasional negative comment or discrete action is not considered a parental alienating behavior. It is the use of clusters of behaviors over an extended period of time, commonly used with the intent to harm the relationship between the child and the other parental figure (or just the other parent because of his or her relationship with the child), that characterizes an action as a parental alienating behavior (Harman et al., 2018). Whereas the repetition of one or more behaviors over time is important for creating or cementing the child's negative and rejecting view of a parent, the nature and content of those behaviors (e.g., suggestions to the child that he or she has been sexually abused by the targeted parent or that the targeted parent has attempted to kill the child) will impact the rapidity of rejection and alienation.

More than 22 million American adults are estimated as having experienced alienating behaviors by the other parent, with over half reporting this experience as being severe (Harman, Leder-Elder, & Biringen, 2016). Fortunately, parental alienating behaviors do not always lead to the ultimate alienation of a child from a parent. Alienating behaviors (the actions of the alienating parent) are very common and can have very negative consequences for the child; parental alienation (the child's refusal to have a relationship with the targeted parent) is much less common. There may be many reasons for this discrepancy, such as the amount of parenting time the targeted parent has with the child; the quality of the parent-child relationship prior to the initiation of parental alienating behaviors; the severity and longevity of the alienating behaviors; the child's temperament, age, and birth order; the extent to which other people reinforce or counter alienating influences; and the social sanctioning of the parental alienating behaviors.

How Are Parents Who Alienate Their Children Enabled To Act This Way?

Families exist within communities, societies, and cultures that can promote or deter parental alienation. Research does not yet provide support for there being gender differences in who alienates their children; mothers and fathers appear similarly likely to be perpetrators (Harman, Leder-Elder, & Biringen, 2016), but they may use different types of behaviors (e.g., mothers may use more indirect and fathers more direct forms of aggression; López, Iglesias, & García, 2014). Gender differences do arise in how parental alienating behaviors

are perceived and addressed by third parties. For example, mothers who use parental alienating behaviors are not perceived as negatively as when a father or a gender-neutral "parent" uses them (Harman, Biringen, et al., 2016). Arguably, gender biases may have influenced how parental alienation has been handled in social institutions such as family court (Lorandos, 2017), indicating that perceptions of mental health, legal, and law-enforcement professionals; financial resources; established distribution of custody practices; and other factors can generate great disparities in terms of who is more affected by parental alienating behaviors. Therefore, gender biases, outmoded institutional practices, and other social factors play an important role in the promotion and deterrance of parental alienation.

What Impact Do Parental Alienating Behaviors Have?

The impact of parental alienation on children, the targeted parent, and the entire family system is substantial. Ongoing and unresolved conflict between parents may be associated with posttraumatic stress symptoms (Basile-Palleschi, 2002) and other negative consequences in children (Cummings & Davies, 2010). However, alienated children experience more psychosocial adjustment disorders (e.g., internalizing and externalizing problems) than children who have not been alienated (Johnston, Lee, Oleson, & Walters, 2005). Alienated children are often separated from the targeted parent for long periods of time; this separation paired with parental alienating behaviors is associated with poor psychological adjustment among children (e.g., Seijo, Fariña, Corras, Novo, & Arce, 2016). Adults who were alienated as children report severe long-term effects of this abuse (Baker, 2005; Baker & Verrocchio, 2013): low levels of self-esteem and high levels of self-hatred, insecure attachment, substance abuse disorders, guilt, anxiety, and depression. These individuals also develop fears and phobias, experience attachment difficulties, have problems communicating with their children as adults (Aloia & Strutzenberg, 2019), and develop a lack of trust in others or themselves (see Harman et al., 2018).

Perhaps more is known about the impact of parental alienating behaviors on targeted parents because they are most easily accessed for research purposes. For targeted parents, the outcomes of parental alienation appear to be similar to other forms of intimate-partner violence; targeted parents report experiencing depression (Taylor-Potter, 2015), anxiety, and high levels of suicidality (Baker & Verrocchio, 2015; Balmer, Matthewson, & Haines, 2018). In addition, targeted parents live with unresolved grief and ambiguous loss (Boss, 2016) and

face considerable social isolation caused by either the behaviors of the alienator (e.g., loss of friends) or poor emotional coping (Harman et al., 2018).

What Remains To Be Discovered

In order for a science to mature, scientific fields become action oriented and cumulative, test integrated theories, and increase our understanding of the etiology and manifestation of the problems under study (Reis, 2007). Research on parental alienation has always been action oriented because it has arisen in response to the work of legal and mental health professionals with families affected by this problem. There has been extensive scholarship on processes that constitute parental alienating behaviors (e.g., gatekeeping, false memories), so even though it superficially appears that research on parental alienation is in its greening stage, it is actually blossoming because greater attention to theoretical extension and development has been occurring. For example, attachment theories have been applied to clinical observations in order to create a better understanding of parental rejection (Garber, 2004), and more recently, the first author has been applying interdependence theory to understand how imbalanced power dynamics characterize these family systems.

New directions forward include establishing what patterns of parental alienating behaviors have the strongest association with parental alienation outcomes, developing the best methods for assessment and treatment of parental alienation at different stages of severity, identifying more direct and indirect impacts associated with this family violence and how it is different from estrangement, assessing the global prevalence of the problem, and identifying whether particular demographic groups are more vulnerable (e.g., military personnel).

Conclusion

Parental alienation is a serious form of family violence. Although there is professional consensus about what it is and what its causes are, the field is ripe for greater research attention with more extensive theoretical and integrated methodological inquiries to inform empirically validated interventions and treatments.

Recommended Reading

Bernet, W., Gregory, N., Reay, K. M., & Rohner, R. P. (2018). (See References). An article demonstrating splitting of children's perception of parents (all good vs. all bad) that is unique for alienated children in comparison with children who were not alienated.

Harman, J. J., & Biringen, Z. (2016). *Parents acting badly: How institutions and societies promote the alienation of children from their loving families*. Fort Collins, CO: Colorado Parental Alienation Project. A book written for a general audience that provides an overview of the literature on parental alienation and how it has come to be such a serious problem.

Harman, J. J., Kruk, E., & Hines, D. A. (2018). (See References). A review of research on parental alienation and how the behaviors that cause it are considered both child abuse and domestic violence.

Lorandos, D., Bernet, W., & Sauber, S. R. (Eds.). (2013). (See References). A book with chapters explaining the different levels of outcome severity in children, legal cases in which parental alienation has been at issue, and practical advice for legal and mental health professionals working with clients who are coping with this problem.

Warshak, R. A. (2010). *Divorce poison: How to protect your family from bad-mouthing and brainwashing*. New York, NY: HarperCollins. One of the most widely read books on the topic of parental alienation and a classic guide for how to prevent and overcome the problem.

Action Editor

Randall W. Engle served as action editor for this article.

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The authors would like to recognize all the families who have been affected by parental alienation. It is our hope that targeted parents will no longer be blamed for their child's rejection of them and that the scientific field can devote more attention to this problem in order to find solutions to protect children from this form of family violence.

Declaration of Conflicting Interests

The author(s) declared that there were no conflicts of interest with respect to the authorship or the publication of this article.

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Links and Resources Mentioned in Chat:

- Jennifer Eyl Email: jeyl@psghelps.org
- Alienation Researcher Joan Meier: <https://www.law.gwu.edu/joan-s-meier>
- Address Confidentiality Program: <https://dcs.colorado.gov/acp>
- Treatment Provider for Domestic Violence Offenders: <https://dcj.colorado.gov/dcj-offices/domestic-violence-and-sex-offender-management/find-a-treatment-provider-for-domestic>
- Rocky Mountain Victim Law Center: <https://www.rmvictimlaw.org/>
- Battered Women's Justice Project: <https://www.bwjp.org/>
- Violence Free Colorado: www.violencefreeco.org
- ABA Commission on Domestic and Sexual Violence: https://www.americanbar.org/groups/domestic_violence/
- The Batterer as Parent by Lundy Bancroft : <https://lundybancroft.com/articles/the-batterer-as-parent/>
- Project Safeguard: www.psghelps.org
- Metro Volunteer Lawyers: www.denbar.org/mvl
- Court related personnel DV and Child Abuse training by Dr. Debra Wingfield: <https://www.houseofpeacepubs.com/dv-training.htm>
- National Council of Juvenile and Family Court Judges (NCJFCJ): <https://www.ncjfcj.org/>



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Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations

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This paper can be downloaded free of charge from the Social Science Research Network: <https://ssrn.com/abstract=3448062>

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ABSTRACT

Arguably the most troubling aspect of justice system response to intimate partner violence is custody courts' failure to protect children when mothers allege the father is abusive. Family courts' errors in assessing adult and child abuse, and punitive responses to abuse allegations, have been widely documented.

A significant contributor to these errors is the pseudo-scientific theory of parental alienation (PA). Originally termed parental alienation syndrome (PAS), the theory suggests that when mothers allege that a child is not safe with the father, they are doing so illegitimately, to alienate the child from the father. PA labeling often results in dismissal of women's and children's reports of abuse, and sometimes trumps even expert child abuse evaluations. PAS was explicitly based on negative stereotypes of mothers and has been widely discredited. However, the term parental alienation is still widely used in ways that are virtually identical to PAS. However, because PA is nominally gender neutral (and not called a scientific syndrome), it continues to have substantial credibility in court.

The first goal of this project was to ascertain whether empirical evidence indicates that parental alienation, like PAS, is gender-biased in practice and outcome. Second, the study sought to explore outcomes in custody/abuse litigation by gender and by differing types of abuse. Analysis of over 2000 court opinions confirms that courts are skeptical of mothers' claims of abuse by fathers; this skepticism is greatest when mothers claim child abuse. The findings also confirm that fathers' cross-claims of parental alienation increase (virtually doubling) courts' rejection of these claims, and mothers' losses of custody to the father accused of abuse. In comparing court responses when *fathers* accuse *mothers* of abuse, a significant gender difference is identified. Finally, the findings indicate that where Guardians Ad Litem or custody evaluators are appointed, outcomes show an intensification of courts' skepticism toward mothers' (but not fathers') claims, and custody removals from mothers (but not fathers).

The study relies solely on electronically available published opinions in child custody cases. It has produced an invaluable database identifying 15 years of published cases involving alienation, abuse and custody, while coding parties' claims and defenses, outcomes, and other key factors by gender and parental status.

FINAL SUMMARY OVERVIEW OF FAMILY COURT OUTCOMES STUDY, Grant 2014-MU-CX-0859

In custody disputes across the country, protective parents and domestic violence professionals have long asserted that family courts frequently deny true claims of adult partner or child abuse and instead punish protective parents who seek to protect children from a dangerous other parent. The “Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations Study” (“FCO Outcomes Study” or “Study”) aimed to gather data on how family courts across the United States are deciding child custody cases when parents accuse each other of abuse and/or parental alienation. It seeks to shed empirical light on a polarized debate between professionals involved in family court and the domestic violence field, as well as litigants on both sides.

A significant part of the debate revolves around the label of “alienation” which is frequently used by professionals and accused parents, against a parent reporting abuse.¹ Anecdotal reports indicate that claims of child abuse are even more problematic in court, and that many protective parents (usually mothers) alleging child abuse are losing custody to the allegedly abusive parent. Reports of severe damage to children forced by courts to be with fathers their protective parents claimed were harmful have been growing.² These claims have gained little

¹ See, e.g., Dalton, Carbon & Olesen, *High Conflict Divorce, Violence and Abuse: Implications for Custody and Visitation Decisions*, *Juv. & Fam. Ct. Journal* 11, 23, 29 (Fall 2003). Parental alienation (or “alienation”), while lacking any universal definition, at its essence, is the theory that when a mother and/or child seek to restrict a father’s access to the child, their claims of dangerousness or harm are not true, but due to the mother’s anger or hostility, or pathology. Alienation is also used, to a lesser extent, by mothers against fathers.

² Joyanna Silberg et al, *Crisis in Family Court: Lessons from Turned-Around Cases*, Final Report to the Office on Violence against Women, Dep’t of Justice 37 (Sept. 30, 2013), <http://www.protectiveparents.com/crisis-fam-court-lessons-turned-around-cases.pdf>; Center for Judicial Excellence, *US Divorce Child Homicide Data*, <http://centerforjudicialexcellence.org/cje-projects-initiatives/child-murder-data>

traction among family court professionals and researchers, who sometimes assert that domestic violence professionals are too credulous, many of mothers' abuse claims are in fact false, and abuse experts/advocates don't appreciate that parental alienation is real, and harmful to children.³

Purpose

The purpose of the FCO Study is to bring neutral empirical data to bear on this controversy: Whether and to what extent it is true that courts are disbelieving abuse claims and removing custody from parents claiming abuse, whether and to what extent gender impacts these findings, and how cross-claims of parental alienation affect courts' treatment of mothers' and fathers' abuse claims. Specifically, the Study sought to produce data on (i) the rates at which courts credit (believe) different types of abuse allegations raised by either parent against the other; (ii) the rates at which parents win/lose the case, or win/lose custody when alleging any type of abuse against the other parent; (iii) the impact of alienation claims/defenses on (i) and (ii) above; and (iv) the impact of gender on (i), (ii), and (iii) above: that is, do rates of crediting of abuse, wins, or custody losses vary when it is a father alleging a mother's abuse, as compared to a mother alleging a father's abuse?

Overall, the Study sought to produce empirical evidence to determine whether or not the contentions of survivors and the abuse professionals who work with them are supported by the data, and if not, to identify any specific areas-- by state or topic - where there still may be troubling or concerning findings.

³ See, e.g., Leslie Drozd and Nancy Olesen, *Abuse and Alienation are Each Real: A Response to a Critique by Joan Meier*, J. Child Custody 7:4, 253-265 (2010).

Project Design and Methods

Previous smaller studies have examined outcomes within particular jurisdictions.⁴ The current Study was designed to provide a national overview to assess whether the problems identified in prior localized research are systemic and pervasive. Because there are thousands of custody courts across the country, the only way to gather *national* data on family court outcomes was to examine judicial opinions posted online. Fortunately, by 2015, most appellate court opinions were available online, and, as we learned, so were a surprising number of trial court opinions. The search for published opinions covered the 10-year period from January 1, 2005 through December 31, 2014.

To develop the search and collect the opinions, the Coders and PI reviewed states' differing laws and language to ensure the search did not miss relevant cases. Different search engines and databases were explored and compared, and different search strings were tested. Ultimately, a search string of over 10 lines of search terms was constructed and applied; the LEXIS search netted over 15,000 potentially relevant cases. From these, two Coders triaged out cases that did not pertain to *private custody* litigation (e.g., cases brought by state agencies), cases involving same sex parents, state-initiated cases, etc.⁵ Ultimately the complete dataset consisted of 4338 cases.

Although the dataset is broad, including cases addressing visitation, joint custody, relocations and other matters, we decided the best way to manage the

⁴ See Joan Zorza and Leora Rosen, Guest Editors' Introduction, *VIOLENCE AGAINST WOMEN* 11:8, 983-990 (Aug. 2005) (summarizing and contextualizing a series of empirical studies in various regions of custody and visitation outcomes where domestic violence is alleged).

⁵ See Coding Manual at 3, describing categories that were excluded from the study.

complexity of the dataset would be to start by limiting our focus to three core outcomes (crediting of abuse, custody outcomes, and wins (i.e, which parent won the case, regardless of the requests involved)). We also wanted to start by analyzing only the cleanest, most paradigmatic cases involving abuse and alienation claims, i.e., where one parent accuses the other of abuse or alienation. We therefore excluded from the first set of analyses cases with “third party” victims (e.g., a new or old partner), “mutual abuse” cases, “non-specific”⁶ abuse claims, and “AKA”⁷ claims. This reduced, cleaner “**analytic dataset**” consists of 2351 cases.

After completing the analyses of the analytic dataset, we then constructed an expanded dataset consisting of all cases containing abuse (intrafamilial and extrafamilial) claims, the “**all abuse**” dataset, which consists of 2794 cases. While this dataset rolls in cases where a parent is accused of abusing an outside individual (i.e., not in the family at issue in the litigation), it continues to exclude all cases in which both parents accused the other of abuse (“mutual abuse”).

Important caveat: Since our “data” consists of judicial opinions, which sometimes fail to specify all allegations by each party, it is likely that some of the 3669 “non-alienation” cases included alienation claims which were not deemed significant enough for the court to mention; the same is likely true with regard to abuse in the 357 opinions we coded as “non-abuse” (or “pure alienation”). It is

⁶ This code was used when it was not possible to identify whether the abuse alleged was domestic violence, child physical or sexual abuse, or mixed forms.

⁷ Although the study focuses on cases with abuse or alienation claims, it does include opinions which described a parent’s negative behavior in a manner similar enough to an alienation analysis to be coded as “AKA” (“also known as”) cases.

likely that if a court does not mention it in the opinion, the factor played little role in the outcome.

Coders analyzed each opinion and coded 45 items (most with multiple sub-options), such as which parent started out with physical possession of the children, whether either parent alleged alienation or abuse, whether the court credited the abuse or alienation claims, and what the court ordered. They also coded for the presence and opinions of custody evaluators or Guardian Ad Litem, for evidence of corroboration of abuse claims, and many other items. Definitions of coded items are all contained in the Coding Manual. See DOCUMENTATION Appendix B.

Data Analysis

Once the coding process was complete, the spreadsheets of coded data were transmitted to the statistical consultant who entered them into Stata for quantitative analysis. The PI and consultant Dickson developed analyses for the statistical consultant to complete, reviewed the output, and, through numerous iterations, refined, corrected, and amplified on the particular analyses. New codes were created by the statistician in order to perform these analyses. All codes used in the quantitative analyses conducted are described and defined in the separately submitted Codebook, which indicates inclusions, exclusions and newly created variables for the quantitative analyses. See DOCUMENTATION Appendix C.

In addition to running frequencies and simple correlations between factors and outcomes, logistic regression was used (primarily with the **All Abuse** dataset) to control for factors that may affect key outcomes, such as differences between trial court and appellate court opinions; differences among states; and the role of gender in custody switches when various forms of abuse or alienation were claimed.

While the majority (84%) of cases in the dataset are appeals, hundreds of trial court opinions are also included. The regression analyses indicate, not surprisingly, that parents who lost custody are over-represented in appeals - *i.e.*, the frequency at which custody switches occur is lower (for both genders) among trial court opinions. However, the impact of gender on outcomes is the same among cases that were appealed and those that were not.

Findings

Cases were coded for partner abuse (DV), child physical abuse (CA) and child sexual abuse (CSA), as well as mixed forms of abuse, *i.e.*, DV + CA or CSA (DVCh) and CA + CSA (CACSA). Altogether, these five categories constitute the coded abuse types. In addition, two primary **outcomes** were analyzed: **Custody switches**, in which one parent started with primary custody, and the other parent was awarded primary or full custody by the court; and **win rates**, where winning captured the parent who “substantially won,” *i.e.*, received all or part of their own custody/visitation request, or defeated the other parent’s request.

DOCUMENTATION Appendix B (Coding Manual) at 7. For purposes of this report, we focus primarily on crediting of abuse and custody switches. Win rates will be discussed in future publications where there is greater opportunity to contextualize.

The following findings are summarized below:

Analytic Dataset (only intrafamilial abuse and alienation):

- (1) What happens when mothers report fathers’ intrafamilial abuse to family court (where there is no alienation defense)?
 - i. Rates of courts’ crediting abuse claims
 - ii. Rates of custody losses

- (2) What happens when mothers report fathers' intrafamilial abuse to family court, and fathers cross-claim alienation ("PARADIGM" CASES)? Comparison to AKA cases
- (3) Selected Reverse-Gender Comparisons of the above

All Abuse Dataset (all cases with claims of abuse by a parent, including extrafamilial victims)

- (4) What happens when either parent reports abusive conduct by the other parent – including alienation, "aka" cases, and non-alienation cases
 - i. Rates of crediting of abuse (by type)(both genders)
 - ii. Rates of custody losses (both genders)
 - iii. Presence of corroboration, GALs, custody evaluators

The following text reports our findings for the above four categories.

ANALYTIC DATASET (intrafamilial abuse only)

(1) ABUSE CASES – No Alienation Cross-claim

This portion of the dataset contains 1946 cases in which abuse was alleged by a mother, but alienation was not alleged by the father.⁸

A. CREDITING OF ABUSE

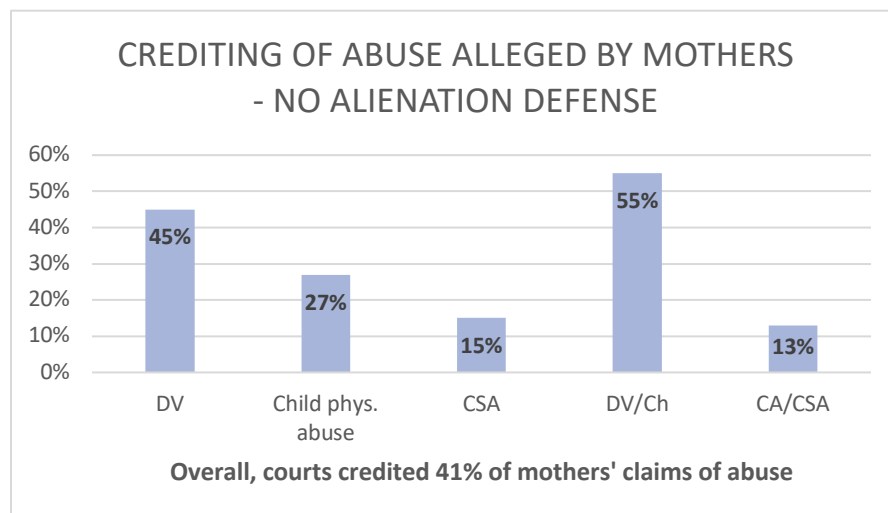
Rates at which courts credited Mothers' claims of Fathers' abuse:

Domestic violence (DV) ⁹ :	45% (517/1137)
Child physical abuse (CPA):	27% (73/268)
Child sexual abuse (CSA):	15% (29/200)
Mixed DV with CA or CSA (DVCh):	55% (165/302)

⁸ The study contains data on reverse-gender cases, but the numbers are very small because it is relatively rare that fathers have physical possession of the children when the case begins. Selected gender comparisons are made below.

⁹ The categories "domestic violence," "child physical abuse" and "child sexual abuse" include only cases where that was the sole type of abuse claimed. Where different types of abuse were alleged, they are captured in the "mixed" categories (DVCh or CACSA). When coding whether abuse claims were credited, coders coded mixed abuse cases as "credited" if *one or both* of the types of abuse was credited.

Mixed CA & CSA (CACSA): 13% (5/39)
 Overall: 41% (789/1946)



Commentary: Several conclusions can be drawn from these data: First, looking at mothers' claims of abuse, generally, less than half (41%) of any type of abuse claims are credited. This is a low rate of crediting overall. Moreover, mothers' claims of child abuse are credited even less often than their claims of partner abuse. The odds of a court crediting a child physical abuse claim are 2.23 times lower than the odds of its crediting a domestic violence claim (CI 1.66-2.99). Overall, child sexual abuse is very rarely accepted by courts (15%). Research indicates that child sexual abuse claims in custody litigation have been found valid at far higher rates.¹⁰

These findings support protective parents' complaints that courts are not protecting at-risk children from future abuse. The data also refute assertions that women frequently succeed in falsely claiming abuse in court; on the contrary, the data indicate that women's reports of even intimate partner violence are *disbelieved more often than not*. While this study does not determine the accuracy of courts' beliefs or disbelief in mothers' abuse claims, other research can be brought to bear on that question. (This issue will be addressed in future publications).

B. CUSTODY LOSSES - no alienation defense

Focusing on cases where it was determined that mothers started with possession of the children, and alleged some type of abuse by the father, the data show mothers

¹⁰ Objective outside research has concluded that child sexual abuse claims made in custody litigation are likely valid more than half the time. See Kathleen Colbourn Faller, *The Parental Alienation Syndrome: What is it and What Data Support it?* Child Maltreatment 3:2 100, 107 (1998) (describing variety of studies finding that 50-72% of child sexual abuse claims are likely valid).

losing custody in 26% (284/1111) of cases. Broken down by type of abuse alleged¹¹:

Custody Switch to Father by Type of Abuse Mother Alleged

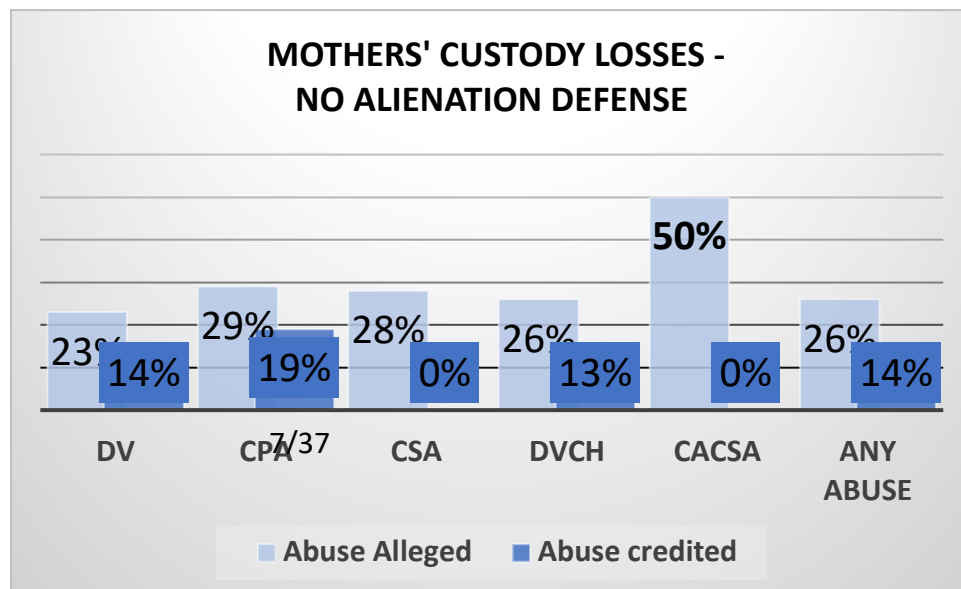
DV: 23% (149/641)
 CPA: 29% (39/135)
 CSA: 28% (37/131)
 DVC: 26% (48/182)
 CACSA: 50% (11/22)
 Any: 26% (284/1111)

Remarkably, 14% (63/443) of mothers lost custody **even when the court credited the father’s abuse**:

Custody Switch to Father when Courts Credited Fathers’ Abuse

DV: 14% (43/303)
 CPA: 20% (7/35)
 CSA: 0% (0/23)
 DVC: 13% (13/103)
 CACSA: 0% (0/4)
 Any: 14% (63/468)

One interesting finding: When courts believe a father had sexually abused his child, they do not switch custody from the mother to the father. However, when they believe the father committed child physical abuse or intimate partner violence, they do switch custody to him approximately 1.4 out of every 10 times.¹²



¹¹ "Alleged" means the abuse claim may or may not have been credited.

¹² Odds ratios are included herein only when statistically significant.

Commentary: These data powerfully affirm the reports from the field, that women who allege abuse - particularly child abuse - by a father are at significant risk (over 1 in 4) of losing custody to the alleged abuser. (Importantly, this rate applies even in cases where the fathers appear not to have claimed alienation to defeat the abuse claim.) Even when courts find that fathers **have** abused the children or the mother, they award them custody 14% of the time. **In cases with credited child physical abuse claims, fathers win custody 19% of the time.**

It is also notable that when mothers report mixed types of child abuse (sexual and physical) their custody losses skyrocket (from under 30% (39/135) up to 50%)(11/22). In effect, mothers have 2.5 times the odds of losing custody when alleging both forms of child abuse than when they allege child sexual abuse alone.¹³ This finding diverges from the pilot study finding of a "child sexual abuse" penalty.¹⁴ The pilot study, however, did not differentiate between cases where multiple types of abuse were - and those where only one type of abuse was - alleged. Therefore the pilot data analysis may have masked what this study suggests -that it is the combination of child physical and sexual abuse claims that creates a notable "penalty" against mothers.

(2) PARADIGM CASES: Mother alleges abuse; Father claims alienation

A. CREDITING OF ABUSE

There were 669 cases in which one parent made an alienation¹⁵ claim against the other. In 312 of these there were cross-abuse-and-alienation claims. Two hundred and twenty two (222) of these met our definition of paradigmatic cases: mothers accused fathers of abuse and fathers accused mothers of alienation.¹⁶ In these paradigm cases, mothers' abuse claims were credited at

¹³ This finding is significant at the $P < .05$ level (CI 1.01 - 6.36).

¹⁴ See Joan S. Meier and Sean Dickson, Mapping Gender: Shedding Empirical Light on Family Courts' Treatment of Cases Involving Abuse and Alienation, 35 J. Law & Inequality 311, 329 (2017)(finding that mothers were 5.3 times more likely to lose custody if they alleged the father sexually abused their child than if they alleged he abused themselves).

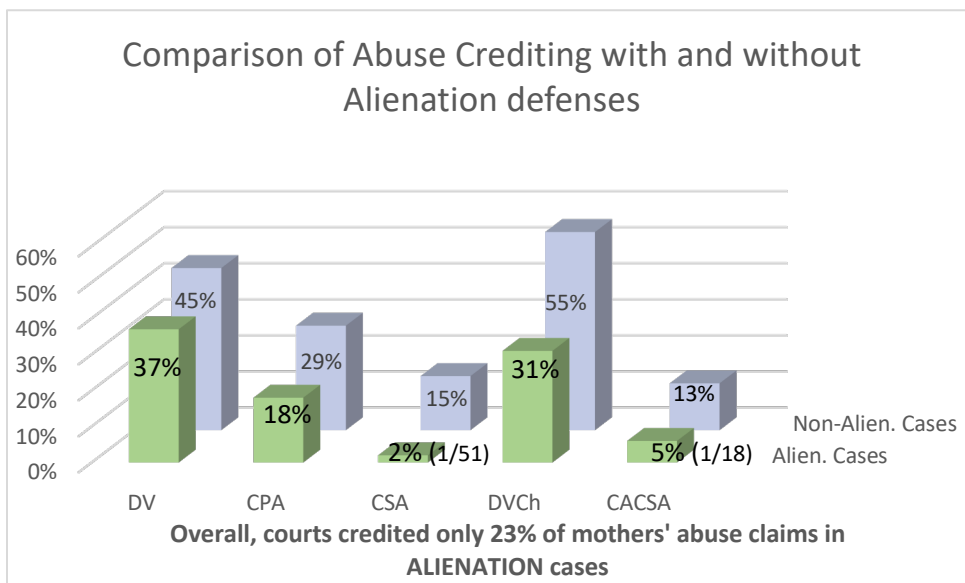
¹⁵ We conservatively only coded cases as alienation cases if the court used that word. When courts used similar analyses but different language, cases were coded as a.k.a. ("AKA") cases. AKA cases included in the study were limited to those in which courts expressly found one parent *committed* such conduct, not those in which it was claimed but not found by the court. While we do not include the AKA cases in our alienation analyses because the AKA cases are limited to credited cases, some limited observations about AKA cases can be made. See pp. 14-15, *infra*. These cases are also ripe for secondary analyses.

¹⁶ The small number of paradigmatic cases (222) - and of cases with explicit alienation claims by either parent (669) in the entire dataset - is surprising to the researchers, and warrants discussion in future publications. There were also 304 pure AKA cases (and

even lower rates than in the cases discussed above (when the father made no alienation claim):

Rates at which Courts Credited Mothers’ Abuse Claims when Fathers Claimed Alienation, by type of abuse:

DV: 37% (28/76)
 CPA: 18% (4/22)
 CSA: 2% (1/51)
 DVCh: 31% (17/55)
 CACSA: 5% (1/18)



The comparison of rates of crediting of abuse claims when fathers cross-claim alienation to the rate of crediting abuse claims when the father does not claim alienation can be seen in the chart above. These data indicate that

- When Fathers cross-claim alienation, courts are more than twice as likely to **dis**believe Mothers’ claims of (any) abuse than if fathers made no alienation claim; and
- When Fathers cross-claim alienation, courts are almost **4 (3.9) times more likely to disbelieve** Mothers’ claims of **child abuse** than if fathers made no alienation claim.

Commentary: This comparison shows that courts are significantly less likely to credit abuse claims when fathers invoke parental alienation. Among these cases, there is also an even greater drop in the crediting of child abuse than in

another 43 which also contained explicit alienation claims, and were therefore included in the alienation analyses).

the non-alienation cases: Rates of crediting of child abuse in this population are so low as to be approaching zero. In short, these correlations show that fathers' alienation claims are remarkably effective in undermining (discrediting) mothers' allegations of child abuse. When a father claims a mother is alienating the children from him, a mother's abuse claim is 2.3 times less likely to be credited than when he doesn't.

Given that parental alienation syndrome ("PAS") was created specifically as a rationale for rejecting child sexual abuse claims, it is perhaps not surprising that alienation theory continues to be particularly powerful in application to precisely those cases. Current proponents of the concept of alienation, however, have asserted that it is different from PAS and should not be used in the same way.¹⁷ These data make clear that the operation of the theory in court has not changed: Neither courts nor professionals who inform the courts seem to have¹⁸ received that message.

The **impact** of courts' extreme skepticism of child abuse claims by mothers is seen in the next section findings in regard to mothers' custody losses.

B. CUSTODY LOSSES¹⁹

There were 163 cases in which mothers had physical possession of the children at the outset of the litigation and raised abuse claims in court, and fathers alleged mothers were alienating. Similar to the above data on the impact of alienation claims on courts' rates of crediting of abuse, fathers' alienation cross-claims significantly increase the rate of courts' removals of custody from mothers.

Mothers' Custody Losses when Father Claims Alienation by Type of Abuse Alleged by Mother

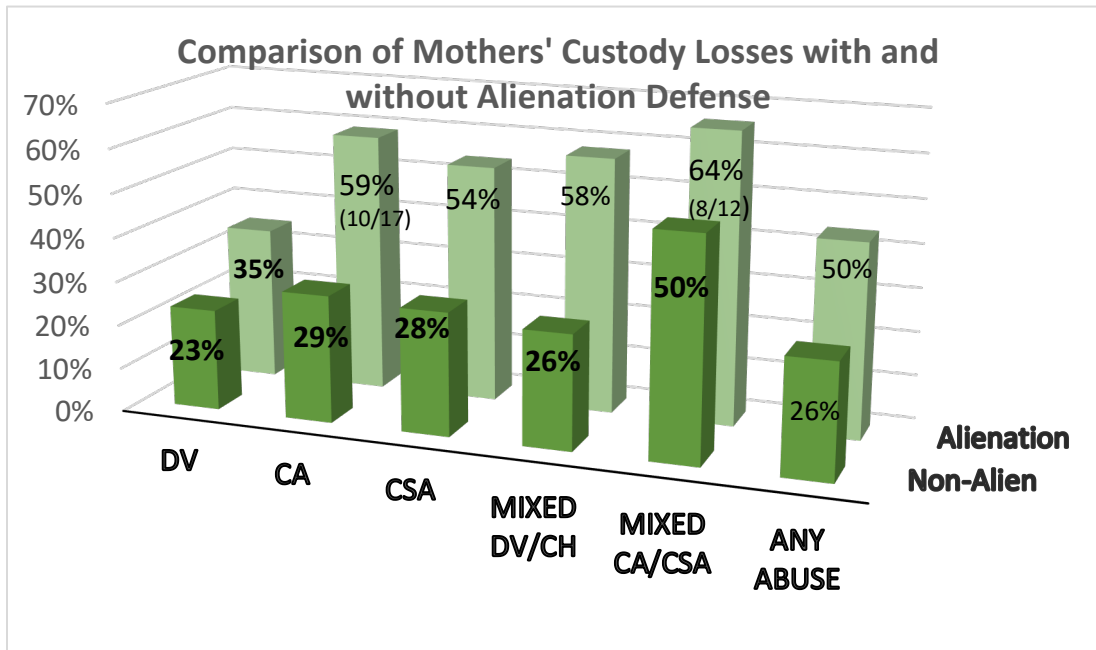
DV:	35% (20/57)
CPA:	59% (10/17)
CSA:	54% (19/35)
DVCh:	58% (25/43)
CACSA:	64% (7/11)
Any:	50% (81/163)

¹⁷ See, e.g., Joan B. Kelly & Janet R. Johnston, *The Alienated Child: A Reformulation of Parental Alienation Syndrome*, 39 Fam. Ct. Rev. 249, 251 (2004).

¹⁸ Not only judges but GALs and evaluators contribute to this pattern: The findings in section (4) below indicate that the participation of GALs or evaluators – frequent proponents of the alienation label - *reduce* courts' crediting of child abuse claims and *increase* mothers' losses of custody.

¹⁹ See n. 10, *supra*.

The following chart compares rates at which mothers lose custody in cases with and without an alienation claim by the father:



As the chart indicates, when fathers claim alienation, the rate at which mothers lose custody shoots up from over 25% to over 50%. That is, fathers' alienation claims roughly double mothers' rates of losing custody.

When courts **credit the alienation claim**, rates of maternal losses of custody increase more drastically:

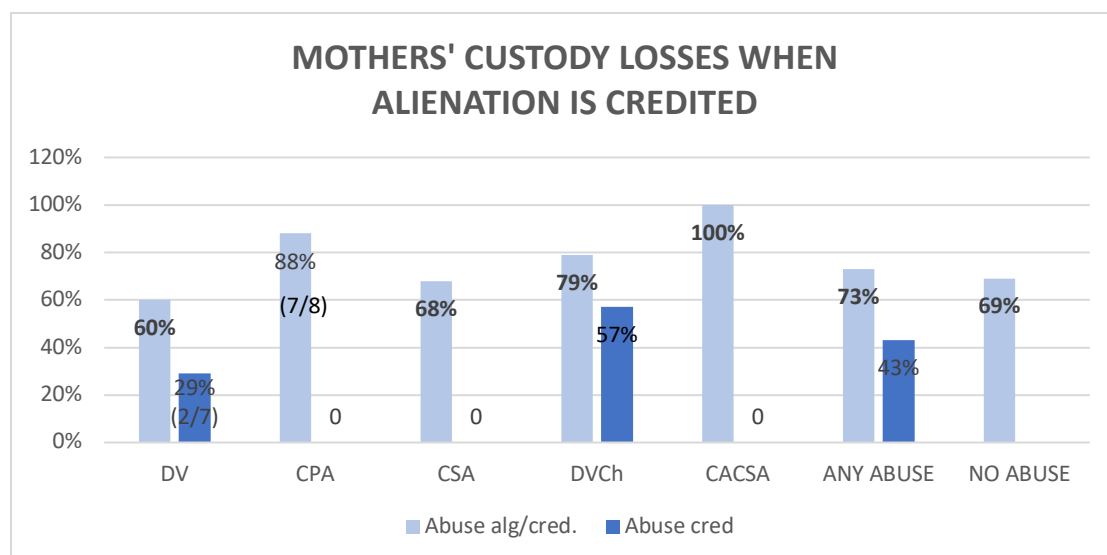
Mothers' Custody Losses When Courts Credit Fathers' Alienation Claims

Type of Abuse Alleged	Mother Lost Custody
DV:	60% (15/25)
CPA:	59% (10/17)
CSA:	68% (13/19)
DVCh:	79% (19/24)
CACSA:	100% (6/6)
Any:	73% (60/82)

Finally, while the numbers are small, the impact of credited alienation is apparent in the finding that it can negate even **credited abuse**. **Even when courts believe a father has abused a mother, if they also believe the mother is alienating, some mothers still lose custody to the abusive fathers:**

Mothers' Custody Losses When She is Found to be Alienating and He is Found to be an Abuser

Type of Credited Abuse	Mother Lost Custody
DV:	29% (2/7)
CPA:	0% (no cases where abuse & alienation were both credited)
CSA:	0% (" ")
DVCh:	57% (4/7)
CACSA:	0% (no cases where both were credited)
Avg:	43% (6/14)



As is indicated by the zeros for credited child physical or sexual abuse, no courts were prepared to believe that both a father's child abuse and a mother's alienation were true. That alienation and child abuse are a "zero sum game" in the eyes of the courts is consistent with the original PAS theory – which framed alienation as using false child abuse claims to undercut father's parenting rights. It is, however, *not* how modern "alienation theory" is described in the literature.²⁰

C. CUSTODY LOSSES IN AKA CASES

To expand the relatively small numbers in Section (2)(B) above, we add here a brief discussion of the "AKA" cases: those in which a court viewed a mother as alienating in her behavior but did not use the term "alienation."²¹

²⁰ See e.g., Johnston & Kelly, *supra* note 17.

²¹ Cases were coded "AKA" only when courts expressly found a mother to have engaged in an alienating-type behavior. Mere allegations are not included.

Mothers' Custody Losses when Found to have Committed AKA

Custody Losses by Type of Abuse Alleged		Custody Losses When Abuse was Proven
DV	62% (24/39)	60% (3/5)
CPA	61% (17/28)	50% (1/2)
CSA	58% (25/43)	-
DVCh	55% (16/29)	-
CACSA	78% (7/9)	100% (1/1)
Any	60% (89/148)	63% (5/8)

These data show that courts' application of alienation-type thinking (that a mother has interfered with the father's rights) without the alienation label, results in similarly high - but not quite as high - rates of custody losses for mothers: Mothers found to be alienators lost custody **73%** of the time; those found to have committed something similar (AKA) lost custody **60%** of the time. This indicates that when mothers are found to be alienators they have 1.8 times the odds of losing custody compared to when they are judged to have committed similar behavior without the "alienation" label. Thus, while the alienation label is a bit more harmful to mothers, the negative impact of being found to have committed something similar is also great. Among cases where mothers succeeded in proving abuse, while the numbers are too small to hold power, the fact that 63% of these "AKA" mothers also lost custody shows that not only the alienation label, but simply being perceived as undermining a father's parenting rights, can also trump even proven abuse by a father.

(3) SELECTED GENDER COMPARISONS²²

We have not completed all the data analyses of the relatively small numbers of gender-reversed cases, but some interesting comparisons are provided here.

Gender differences are particularly notable within the alienation dataset:

First, fathers' and mothers' rates of custody losses differ significantly when one or the other alleges alienation: Across all alienation cases (with and without abuse claims), when fathers alleged mothers were alienators they took custody from her 44% of the time (166/380). When the genders were reversed, mothers took custody from fathers only 28% of the time (19/67). This means that when either parent is accused of alienation, mothers have twice the odds of losing custody compared to fathers in cases with alienation claims.

²² More robust gender analyses are available in the "All Abuse" dataset described in (5), below.

Second, within the cases where one party alleged abuse and the other defended with alienation, mothers accused of alienation lost custody to the fathers they accused of abuse 50% (81/163) of the time, fathers who were accused of alienation by the mother they accused of abuse lost custody only 29% (5/17) of the time.²³

There are also some interesting gender *parities*:

First, when a parent's claim of **alienation is credited** (across abuse and non-abuse cases), the genders fare equally: Both mothers and fathers lose custody at identical rates when the court deems them an alienator (71%). *Surprisingly, this parity does not carry over to the "AKA" cases, i.e., those where courts found one parent had committed alienation-like behaviors: Where mothers were found to have committed AKA, 63% (155/246) lost custody; where fathers were found to have committed AKA, only 47% (9/19) lost custody.*

Second, "win"²⁴ rates are identical (89%) for mothers and fathers when the other parent is found to have committed alienation. Win rates are also very close when one parent *alleges* alienation in the **non-abuse** cases (F 58%, M 56%). This parity shrinks²⁵, however, when abuse and alienation are both alleged (fathers win 66%; mothers 52%)

Comment on gender differences and parities: The gender parities in alienation cases *without abuse claims* suggest a nuanced, compelling, and "something-for-everyone" potential explanation of the highly contested matter of how alienation operates in custody litigation. First, the presence in this dataset of more alienation cases *without* abuse claims (357) than with abuse claims (312), as well as the apparent gender neutrality in courts' handling of these non-abuse cases supports the assertions of some alienation specialists that alienation claims are not intrinsically gender-biased and that alienation should not be considered simply a strategy for denying abuse claims. At the same time, however, the contrast between these non-abuse cases and the gendered outcomes in cases where alienation and abuse are cross-claimed, supports the complaints of protective mothers who have sought to prove a father was abusive but were defeated by alienation claims which seemed to negate any validity to the abuse, especially when the alienation was credited. That the same dynamic does not appear in abuse/alienation cases when the genders are reversed, i.e., fathers do not see a statistically significant lower rate of crediting of their abuse claims when mothers cross-claim alienation, suggests that alienation *in abuse cases* continues to be deeply gendered and, in fact, continues to be used effectively to deny mothers' abuse claims.

²³ This difference is not statistically significant.

²⁴ Winning is defined as the parent who "substantially won," i.e., received all or part of their own custody/visitation request or defeated the other parent's request. DOCUMENTATION Appendix B (Coding Manual) at 7.

²⁵ The difference is not statistically significant at the .05 level, but it is at the 0.1 level.

(4) **ALL ABUSE DATASET**

This dataset consists of all 2794 cases where abuse by one parent was alleged, both intrafamilial and extrafamilial, including both alienation and AKA cases. It also includes cases that were excluded from the analytic database because they did not identify a specific type of abuse; here in the "All Abuse" dataset we categorized these as either adult or child physical abuse. We chose to analyze this expanded dataset both to enlarge some data cells, especially in the reverse-gender cases, and because we deem it important to be able to make generalizations about what happens in custody litigation where abuse is alleged in general, without necessarily knowing whether cases involve alienation claims or not.

With this larger dataset, we were able to include consideration of corroboration, and the impact of GALs and Evaluators on crediting of abuse and custody losses.

Two interesting general findings indicate that among all abuse cases, fathers win more than mothers (50% v 47%), and that mothers lose custody more than fathers (32% v 22%).

I. CREDITING OF MOTHERS' ABUSE CLAIMS against FATHERS

A. In general

When mothers report abuse by fathers, courts credit abuse claims at the following rates:

DV:	43% (459/1077)
CPA:	21% (71/341)
CSA:	19% (59/304)
DVCh:	48% (197/413)
CACSA:	16% (9/55)
Any:	36% (795/2189)

Comment: On average this dataset indicates a lower rate of crediting (36%) than the abuse-no-alienation analytic dataset (41%); this makes sense since this fuller dataset includes alienation cases where rates of crediting are even lower (26%).

As with the Analytic Dataset, these data demonstrate that courts are much less likely to credit mothers' claims of child abuse than domestic violence: They are 2.8 times less likely to credit child physical abuse and 3.1 times less likely to credit child sexual abuse - than domestic violence.

B. Crediting of Mothers’ Claims of Abuse – Corroboration

Corroboration was coded for a filed or granted protection order, an arrest, or a prosecution for interpersonal violence or abuse.²⁶ Thus, for example, a claim of child abuse was coded as “corroborated” if there was a CPO or arrest or prosecution for **adult** domestic violence or assaults on other individuals, as well as for **child** abuse.

Crediting of M’s abuse claims when corroboration

DV: 36% (123/340)
 CPA: 23% (9/40)
 CSA: 19% (10/53)
 DVCh: 45% (71/159)
 CACSA: 0% (0/7)
 Any: 36% (213/599)

Crediting of M’s abuse claims when no corroboration

DV: 33% (202/603)
 CPA: 19% (56/295)
 CSA: 10% (22/224)
 DVCh: 36% (71/199)
 CACSA: 11% (5/44)
 Any: 26% (356/1364)

Comment: As would be expected, when comparing cases with no corroboration to cases with corroboration, rates of crediting increase slightly, except among the mixed CACSA category, though this difference is not statistically significant. While rates of crediting are still quite low in general, some form of corroboration increases the likelihood of crediting of mothers’ abuse claims by 1.56 (2.68 for any type of child abuse).

C. Crediting of Mothers’ Claims of Abuse – GALs

Protective parents and their attorneys have claimed that GALs fail to recognize abuse – especially child abuse - or the risk of such abuse. The data are consistent with this critique in that they indicate that the presence of a GAL reduces the rates at which courts credit mothers’ abuse claims.

Crediting of M’s abuse claims When No GAL

DV 44% (340/779)
 CPA 23% (50/218)
 CSA 21% (38/181)
 DVCh 47% (131/278)
 CACSA 20% (6/30)

Crediting of M’s abuse claims when GAL Present

40% (119/298)
 17% (21/123)
 17% (21/123)²⁷
 49% 66/135)
 12% (3/25)

²⁶DOCUMENTATION, Appendix B(Coding Manual) at 15-16. Where there was a criminal conviction we coded the abuse as “credited”, so those are not included in this analysis.

²⁷ The surprising identical numbers in the CPA and CSA categories here were double-checked and are correct.

Any 38% (565/1486) 33% (230/703)

Overall, abuse is 1.26 times more likely to be credited *without* a GAL than *with* one (38% v 33%). In contrast, data not included here show that the presence of a GAL has no material impact on the crediting of abuse when alleged by fathers against mothers (32% v 31%).

D. Crediting of Mothers’ Claims of Abuse – Evaluators

The study coded the presence of court-appointed neutral custody evaluators.²⁸ Anecdotal complaints and research have reported that many custody evaluators fail to recognize abuse or its implications for safety of the children. The data provide support for this critique.

Crediting of M’s Abuse Claims When No Evaluator	Crediting of M’s Abuse Claims When Evaluator Present
DV 44% (372/853)	39% (87/224)
CPA 22% (57/256)	16% (14/85)
CSA 23% (47/207)	12% (12/97)
DVCh 50% (139/277)	43% (58/136)
CACSA 28% (9/32)	0.4% (1/23)
ANY 38% (624/1624)	30% (171/565)

These data indicate that mothers reporting abuse by a father do not benefit when there is a court-appointed evaluator in the case. Abuse is 1.44 times more likely to be credited by the court if there is no evaluator (38% v 30%). The difference is particularly strong when it comes to child sexual abuse, which is **half as likely to be credited** (reduced from an already low rate) if there is an evaluator in the case. Future publications will discuss the reality that most neutral custody evaluators lack expertise in child sexual abuse, indicating that their skepticism is not a product of greater knowledge.

Gender: Again, as with GALs, the impact of Evaluators on mothers’ credibility stands in contrast to the virtually complete lack of impact of an evaluator’s presence on the crediting of fathers’ claims of abuse against mothers (33% v 32%).

²⁸ See Coding Manual at 22-23.

II. LOSS OF CUSTODY – Gender Comparisons

There were 1353 cases in which mothers started with physical possession of the children, and alleged some type of abuse by the father in the custody litigation. In this all-abuse dataset, they lost custody a bit more often but close to the rates found in the analytic dataset in cases without alienation defenses (approximately 25%). There were 127 cases in which fathers started with physical possession of the children, and alleged abuse by the mother.

A. Custody Switches Overall

Mothers' Custody Losses when Alleging Abuse

DV:	22% (146/656)
CPA:	34% (62/185)
CSA:	32% (68/211)
DVCh:	32% (89/276)
CACSA:	56% (20/36)
Any:	28% (384/1353)

Fathers' Custody Losses when Alleging Abuse

DV:	14% (6/43)
CPA:	11% (7/65)
CSA:	33% (2/6)
DVCh:	0% (0/12)
CACSA:	0% (0/1)
Any:	12% (15/127)

Here, as in the analytic dataset, mothers who report abuse in custody litigation face significant risks of losing custody to the alleged abuser, ranging from 22% to 56%. As also seen earlier, mothers' risks of losing custody are significantly higher when they allege child abuse than when they allege adult abuse: When a mother alleges any type of child abuse she is 1.8 times more likely to lose custody than when she alleges DV; when she alleges *mixed physical and sexual child abuse*, her odds of losing custody increase to 4.4 times higher than when she alleges DV.

The gender contrast here is also stark: Mothers are nearly 3 (2.9) times more likely than fathers to lose custody when alleging abuse by the other parent; when they allege child abuse their odds of losing custody increase to 4.2 times more than fathers'.

B. Custody Switches to Proven Abuser

Mothers' Custody Losses Despite Proven F Abuse

DV:	12% (35/285)
CPA:	24% (8/34)
CSA:	2% (1/46)

Father's Custody Losses Despite Proven M Abuse

DV:	10% (2/20)
CPA:	0% (0/23)
CSA:	0% (0/1)

DVCh: 14% (19/133)
CACSA: 17% (1/6)
Any: 13% (64/505)

DVCh: 0% (0/6)
CACSA: 0% (0/1)
Any: 4% (2/51)

Perhaps the most notable entry here is the comparison between fathers and mothers who prove the other parent committed child physical abuse. While fathers who are proven to have committed child physical abuse still take custody from the mother 24% of the time, mothers proven to be child abusive *never received custody*. While it is surprising that any parent proven to have committed child abuse would receive custody, it is possible to conceive of facts that could justify this; however, the 0 under fathers' custody losses reflects the more logical, yet apparently gender-biased reality.

C. Custody Switches – GALs

Mothers' Custody Losses - With GAL

DV 28% (50/180)
CPA 51% (35/69)
CSA 36% (30/83)
DVCh 37% (34/92)
CACSA 79% (11/14)
Any 36% (159/437)

Without GAL

DV 21% (96/466)
CPA 23% (27/116)
CSA 30% (38/128)
DVCh 30% (55/184)
CACSA 41% (9/22)
Any 25% (225/916)

Fathers' Custody Losses – GALs

DV 8% (1/12)
CPA 13% (3/24)
CSA 0% (0/2)
DVCh 0% (0/4)
CACSA - -
Any 10% (4/42)

Without GAL

DV 16% (5/31)
CPA 10% (4/41)
CSA 50% (2/4)
DVCh 0% (0/8)
CACSA 0% (0/1)
Any 13%

As in the analytic dataset, GALs hurt protective mothers' cases: Mothers are 1.76 times more likely to lose custody when a GAL is present, increasing to 3.4 times when alleging physical child abuse and **5.3** times when alleging mixed physical and sexual child abuse.

In contrast, GALs have no significant impact on protective fathers' likelihood of losing custody. The net effect is that GALs greatly intensify gender differences in these cases: Without a GAL a mother alleging any abuse is 2.2 times more likely to lose custody than a father; with a GAL, that same mother is **5.4** times more likely than a father to lose custody. When alleging

any type of child abuse, without a GAL, mothers are 3.2 times as likely to lose custody as fathers; with a GAL those odds increase to **6.6**.

D. Custody Switches – Evaluators

Mothers’ Custody Losses – with Evaluator Without Evaluator

DV	34% (47/140)	DV	20% (99/506)
CPA	52% (26/50)	CPA	27% (36/135)
CSA	48% (35/73)	CSA	24% (33/138)
DVCh	40% (40/99)	DVCh	28% (49/177)
CACSA	80% (12/15)	CACSA	38% (8/21)
Any	42% (160/377)	Any	23% (224/976)

Mothers are 2.48 times more likely to lose custody when an evaluator is present than not, increasing to nearly 3 (2.98) times more likely when alleging physical child abuse, and **6.5** times more likely when alleging both physical and sexual child abuse.

Fathers’ Custody Losses – with Evaluator Without Evaluator

DV	25% (2/8)	DV	11% (4/35)
CPA	14% (2/14)	CPA	10% (5/51)
CSA	50% (1/2)	CSA	25% (1/4)
DVCh	0% (0/6)	DVCh	0% (0/6)
CACSA	- -	CACSA	0% (0/1)
Any	17% (5/30)	Any	10% (10/97)

These data indicate that the presence of an evaluator has no statistically significant effect on protective fathers’ custody losses. (While the fathers’ custody losses are more “frequent” with evaluators, the frequencies lack power given the very small numbers.)

Thus, the presence of evaluators also exacerbates the gender difference in custody cases where a parent alleges abuse: When there is no evaluator, a mother alleging abuse is 2.6 times as likely to lose custody as a father; *with* an evaluator, they are 3.7 times as likely to lose custody. When alleging physical child abuse, mothers are 3.3 times as likely to lose custody as fathers when there is no evaluator; when there is an evaluator, mothers their odds of losing custody are 6.5 times higher than fathers’.

Brief Summary of Findings

The core findings from this study provide strong support for the critiques of family courts' handling of cases involving mothers' claims of abuse by fathers. The data show that courts are excessively skeptical of child physical and sexual abuse reports, are likely overly skeptical of domestic violence claims, and sometimes award custody to known abusers. Overall, mothers reporting abuse - particularly child abuse - are losing custody at high rates.

The data also support the critiques of parental alienation theory as it is used in custody litigation. Alienation virtually doubles the rates of mothers' custody losses while halving the rate at which mothers' abuse claims are believed. It operates powerfully as a defense for fathers accused of abuse, but not mothers accused of abuse.

Finally, the data also support protective parents' critiques of GALs and custody evaluators - these purportedly neutral professionals tend to benefit fathers accused of abuse, and increase rates of mothers' custody losses to such fathers.

Policy Implications

These findings warrant action in several domains.

Education of Court Professionals

Many family court judges and affiliated/appointed professionals see themselves as neutral, while entertaining a general skepticism toward women alleging abuse. The study's data indicated that there is widespread gender bias in courts' handling of these abuse claims. They also indicate that child abuse claims are extensively under-validated, putting children at great risk. Courts and affiliated professionals should therefore be educated about these data and encouraged to

challenge their own and others' implicit biases, through mandated and voluntary trainings. In addition, such professionals should be required to participate in training on child physical and sexual abuse, to refute common misconceptions that are used to deny such claims. Alienation theory plays a significant role in the denial of child abuse reports. This study should be used to deconstruct those misconceptions and develop new and mandated trainings to return courts to their most important mission: protecting at-risk children.

Family courts continue to rely on parental alienation theory in large part because it is endorsed by respected, mental health professionals considered leaders in the field. Workshops and conferences sponsored by the Association of Family and Conciliation Courts, and attended by family court professionals from around the nation and around the world, include training sessions on parental alienation. Such professionals must be educated on the biased application of that theory where abuse is concerned. The results of this study should be included in seminars and training materials for judges and all court professionals who deal with custody of children.

Child Welfare Professionals

Child welfare agencies also regularly discredit child abuse claims when raised by a mother in custody litigation, often based on alienation theory. It is critical for social service professionals who deal with child maltreatment to be educated on the biases implicit in alienation theory and its application to parents in custody litigation. The federal government can legislate the terms on which state child welfare agencies operate through federal funding streams authorized by the Child Abuse Prevention and Treatment Act (CAPTA). Therefore, Congress should consider

amending CAPTA to prohibit child welfare agencies from applying alienation theory in assessing child maltreatment reports, and to require education about these data and the scientific and logical flaws in alienation theory.

Lawyers

Lawyers handling cases at trial for survivors of abuse and protective parents need to be aware of these data to prevent or prepare for unfavorable outcomes. They may want to consider presenting some of the findings from this study to educate judges who are weighing the opinions of GALs and evaluators and are themselves trying to adjudicate hotly contested claims of abuse and alienation. Lawyers in appeals of such cases should consider citing these data in their appellate briefs, and especially, briefs of *amici curiae*. Lawyers may need to frame these data expressly in terms of gender bias in order to obtain serious review by courts.

Federal and State Legislation

The study findings lend themselves to myriad legislative changes. State legislators should consider excluding or constraining the use of parental alienation in custody cases where abuse is alleged. They should consider requiring judges and any other appointed neutral professionals to complete expert training on child physical and sexual abuse, including the ways alienation theory is improperly used to deny abuse and to fuel misconceptions about how abused children and abusing parents behave. They should consider adopting requirements for such training and a minimal degree of expertise in child abuse and domestic violence before an individual may be appointed as a neutral professional in a custody case.

The U.S. House of Representatives has already passed H.Con.Res.72, stating that child safety should be the primary concern of family courts in making custody

decisions. The Resolution urges state courts and policymakers to ensure that only valid scientific evidence is considered in family courts and that abuse/danger claims are resolved before considering other “best interest” factors (such as “friendly parent” or alienation-type considerations). This Resolution can and should be used in state legislatures to push more protective statutes such as those described above.

Review and Modifications to government-funded programs

A number of Access and Visitation (AV) programs funded by the Office of Child Support Enforcement of the Department of Health and Human Services have drawn on parental alienation theory. For example, AV contracts obtained from certain grantees in the State of Texas listed parental alienation as one of the services allowed by the AV program, and claimed that that parental alienation theory was endorsed by the enabling federal legislation. That language was ultimately removed after it was brought to the attention of a program manager, and discovered that the legislation had been distorted.

Another program (in Arizona) permitted courts to require parents who failed to comply with court-ordered visitation to attend a four-hour class on parental alienation (sometimes under other names).²⁹ Another common program required by courts and sometimes funded by federal agencies may involve “reunification counseling,” a method spawned by alienation theory, which has been subject of even greater critique.

²⁹ Jessica Pearson & David Price, *Access and Visitation Programs: Promising Practices*, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, 2004, pii, and p. 64.

Other federally funded fatherhood programs also use a variety of terms (“AKAs”) for parental alienation, in particular “gate-keeping.” For instance, recently, a federally-funded evaluation of fatherhood programs mentioned abuse as a possible reason for “gate-keeping,” but did not ask survey respondents whether abuse had been a factor, despite the fact that 95% of them had had contact with the criminal justice system. The report also echoed the fathers’ claims that the mothers had made false domestic violence claims against them. Consistent with what we see in courts, in this context again we see alienation theory being taken for granted and fathers treated as victims. The study recommends more legal services for noncustodial fathers to establish parenting time agreements.³⁰

It is therefore important for OCSE and other federal agencies to educate federally funded programs about both the lack of scientific evidence supporting the alienation theory and the findings of this study regarding its deleterious effect on child safety. The federal government should establish clear policies prohibiting funding of services by or referrals to providers guided such theories. And federally-funded program evaluations should be mandated to explore whether abuse is an underlying reason why a mother may resist a father’s access to their children.

³⁰ Pamela Holcomb et al., *In Their Own Voices; The Hopes and Struggles of Responsible Fatherhood Program Participants in the Parents and Children Together Evaluation*, OPRE Report 2015, Mathematica Policy Research, June, 2015, and p. 46, available at https://www.acf.hhs.gov/sites/default/files/opre/pact_qualitative_report_6_17_2015_b508_3.pdf. While acknowledging that domestic violence and child maltreatment can be legitimate reasons for “gate-keeping,” the Report nonetheless identifies that as the overarching problem and reason why such fathers need more lawyers.