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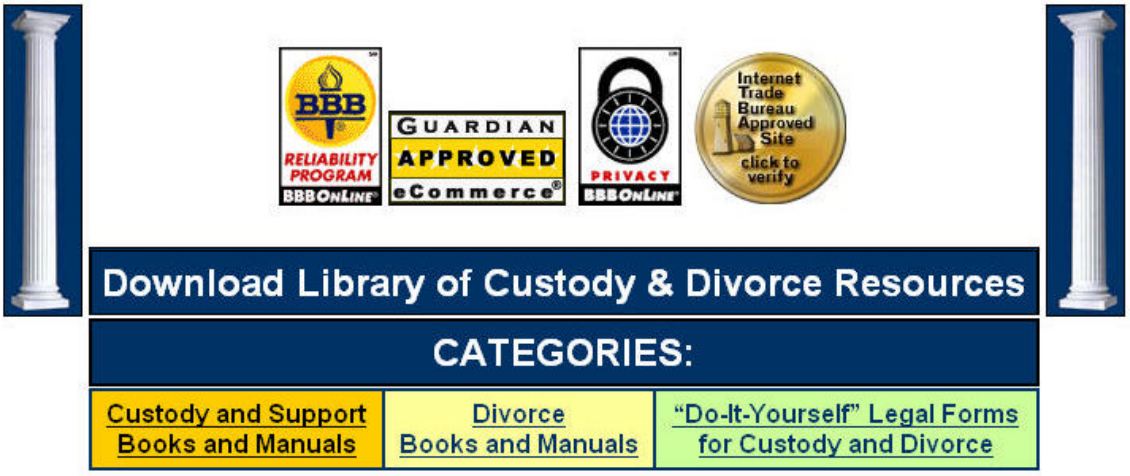

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The Custody Newsletter expresses thanks to Dr. Richard Gardner for choosing us to be among the first to publish many of the enclosed articles.

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Introduction to the PAS Issue

The Professional Academy of Custody Evaluators (PACE) continues to receive more requests for information about the Parental Alienation Syndrome (PAS) than any other topic. These requests come from mental health professionals and laypeople alike. This issue of the Custody Newsletter features several new contributions by Richard Gardner, the creator of the PAS concept, and brings together other information relevant to the topic, some pro some con.

I continue to be amazed at the black-white logic mental health professionals show in their reviews of the work of other mental health professionals. Weiner, the Rorschach expert, has been similarly amazed as he has noted in several issues of the SPA Exchange (Spring/Summer 2001; Winter 2002). Weiner describes the situation as frequently the result of the efforts of a "small but determined cadre of critic's..." who often manage to become the gatekeepers of highly visible publications. He further laments that "rebuttals, although: necessary, have minimal impact" on these determined critics. APA President-Elect Robert J. Sternberg has made very similar comments, for example in his article called "On Civility in Reviewing (The Observer, 2002 Volume 15, Number 1).

Part of my amazement comes from the fact that no scientific model is fully articulated. That is, there is no scientific model in which the author can conclusively (logically) link each component of that model to each other component. Even models that yield excellent predictions are not fully explicated. There are value-driven "leaps of faith" in every known scientific model. For example, Albert Einstein never accepted any of the models put forth as the foundation of quantum mechanics, even though it yields very good predictions. (Many other esteemed physicists joined Einstein in their reserve about these models.) Later in this issue, I will spell out at least some of the main features an adequate scientific model should contain.

Please note that even a semi-formal model (that yields no known error rate) is frequently better for decision-makers to have at their disposal than no model at all. It is

interesting that one of the most widely accepted models of all times, Darwin's model or theory of natural selection, does not yield a known error rate. Further, in contradistinction to the demands of Daubert, it is not falsifiable. Yet, as do many semi-formal models, it contributes greatly to productive scientific thinking.

Keep in mind also that there are "degrees of wrong." The theory that the planets revolve in circles around the sun yields amazingly accurate predictions, even though we know now that they are moving in elliptical formations rather than circles. Further, most of us could live our daily lives, planning trips, going back and forth from our homes to our offices, making very accurate time and distance predictions, if we were to totally accept the theory that the earth is flat. For most of us, using the flat-earth model would introduce little error into our calculations and decisions. What this means is that a model can be wrong in some important ways and still be useful.

A major way the value of a model can be expressed is in the following formula:

"The probability of reducing decision-error times the cost of the error."

Please note that no model (even those that yield known error rates) is perfect. The advantages of a semi-formal model are listed below. Keep in mind that even the detractors of Gardner's concepts (based mainly on the fact that there is no statistically articulated error rate) would have to admit that it is an excellent semi-formal model. Here are the advantages of such models to decision-makers.

1. A semi-formal model forces a decision-maker to take a much more comprehensive look at potentially relevant items than might be done in its absence.
2. A semi-formal model allows one to build an experiential database. After all, people who show the best "clinical intuition" are simply people who accumulate huge databases of information in their heads. (They are usually also good at multivariate thinking.) Along these lines, I am continually amazed at how many "purists" in the custody evaluation field use free-form interviews, where they simply ask the disputants any questions that come into their heads. This would be like giving an IQ test to different individuals and using a different set of questions each time one gives it. I fail to see how these people can compare even the major disputants in the same custody evaluation to each other, let alone learn anything as more and more different evaluations are

conducted. When one does not use at least a semi-formal model there is no way to build up an experiential database.

3. A semi-formal model can be much more fully articulated than happens when there is no model at all. This allows one to continually fine-tune and improve it.

4. A semi-formal model, since it is articulated, can more readily provoke new research.

5. Putting all of these forces together, one ends up with a greatly increased likelihood of reducing the risk of decision-error. Even if the semi-formal model did nothing more than forcing a decision-maker to consider that there are issues that may be relevant to an assessment that prior to the existence of the model were not thought of as relevant, will this benefit accrue.

I will not address here whether or not PAS is a "syndrome, because Gardner, in this very CN, addresses the issue himself.

Barry Bricklin, Ph.D., Editor

PARENTAL ALIENATION SYNDROME VS. PARENTAL ALIENATION: WHICH DIAGNOSIS SHOULD EVALUATORS USE IN CHILD-CUSTODY DISPUTES?

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Children who have been programmed by one parent to be alienated from the other parent are commonly seen in the context of child-custody disputes. Such programming is designed to strengthen the position of the programming parent in a court of law. Many evaluators use the term parental alienation syndrome (PAS) to refer to the disorder engendered in such children. In contrast, there are evaluators who recognize the disorder, but prefer to use the term parental alienation (PA). The purpose of this article is to elucidate the sources of this controversy and to delineate the advantages and disadvantages of using either term in the context of child-custody disputes, especially in evaluators' reports and testimony in courts of law. The author concludes that families are best served when the more specific term parental alienation syndrome is used rather than the more general term parental alienation.

Since the 1970s, we have witnessed a burgeoning of child-custody disputes unparalleled in history. This increase has primarily been the result of two recent developments in the realm of child-custody litigation, namely, the replacement of the tender-years presumption with the best interests-of-the-child presumption and the increasing popularity of the joint-custodial concept. Under the tender-years presumption, the assumption was made that mothers, by virtue of the fact that they are female, are intrinsically superior to men as child-rearers. Accordingly, the father had to provide compelling evidence of serious maternal deficiencies before the court would even consider assigning primary custodial status to the father. Under its replacement, the best-interests-of-the-child presumption, courts were instructed to ignore gender in

custodial considerations and focus on parenting capacity, especially factors that related to the best interests of the child. This change resulted in a burgeoning of custody litigation as fathers now found themselves with a greater opportunity to gain primary custodial status. Soon thereafter the joint-custodial concept came into vogue, reducing even further the time that custodial mothers were given with their children. This change also brought about an increase and intensification of child-custody litigation (Gardner, 1982, 1985, 1986, 1987a, 1987b, 1989). In association with the expansion of child-custody litigation, we have witnessed a significant increase in situations in which one parent has programmed a child to become alienated from the other, often with the hope that this will enhance that parent's position in the course of the litigation. Other factors may certainly be operative in motivating the" programming process, but the goal of strengthening one's position in the custody litigation is the primary one. The term to be used for this new development is the focus of this article.

DEFINITION OF TERMS

Programming and Brainwashing

I use the word programming to be roughly synonymous with what is colloquially referred to as "brainwashing." I use the dictionary definition: "To cause to absorb or incorporate automatic responses or attitudes." In recent years the term is commonly used in association with computers, wherein programming refers to writing a set of instructions (software) to direct the operation of the physical devices that make up the computer (hardware). When applied to humans, there is the implication that the responses and attitudes become embedded in thebrain circuitry and can then be retrieved in accordance with the will of the programmer. There is also the implication that the retrieved material will be verbalized and acted out in an automatic manner that circumvents the individual's own earlier desires, beliefs, and judgments. Accordingly, programmed verbalizations are often rote and have a litany-like quality. Cult indoctrinations are a well-known example. When used in this article, programming refers to the implantation of information that may be directly at variance with what the child has previously believed about and experienced with the alienated parent.

Parental Alienation

Parental Alienation (PA) refers to the wide variety of symptoms that may result from or be associated with a child's alienation from a parent. Children may become alienated from a parent because of physical abuse, with or without sexual abuse. Children's alienation may be the result of parental emotional abuse, which may be overt in the form of verbal abuse or more covert in the form of neglect. (As will be described below PAS, as a form of emotional abuse, is also a type of parental alienation.) Children may become alienated as the result of parental abandonment. Ongoing parental acrimony, especially when associated with physical violence, may cause children to become alienated. Children may become alienated because of behavior exhibited by a parent that would be alienating to most people, e.g., narcissism, alcoholism, and antisocial behavior. Impaired parenting can also bring about children's alienation. A child may be angry at the parent who initiated the divorce, believing that that parent is solely to blame for the separation. It is not uncommon for divorcing parents to be critical of one another in front of the children and even demean one another in front of the children. The children may believe these denunciations and become somewhat alienated from a parent. Elsewhere, I have described this phenomenon (Gardner, 1971, 1991). These denunciations may serve as the foundation for a PAS if the parent is prepared to escalate the denigrations to the point of complete exclusion. These and many other parental behaviors can produce children's alienation, but none of them can justifiably be considered PAS.

The Parental Alienation Syndrome

In association with this burgeoning of child-custody litigation, we have witnessed a dramatic increase in the frequency of a disorder rarely seen previously, a disorder that I refer to as the parental alienation syndrome (PAS). In this disorder we see not only programming ("brainwashing") of the child by one parent to denigrate the other parent, but self-created contributions by the child in support of the alienating parent's campaign of denigration against the alienated parent. Because of the child's contribution I did not consider the terms brainwashing, programming, or other equivalent words to be

sufficient. Furthermore, I observed a cluster of symptoms that typically appear together, a cluster that warranted the designation syndrome. Accordingly, I introduced the term parental alienation syndrome to encompass the combination of these two contributing factors that contributed to the development of the syndrome (Gardner, 1985). In accordance with this use of the term I suggest this definition of the parental alienation syndrome:

> *The parental alienation syndrome (PAS) is a childhood disorder that arises almost exclusively in the context of child-custody disputes. Its primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification. It results from the combination of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present, the child's animosity may be justified and so the parental alienation syndrome explanation for the child's hostility is not applicable.*

In the PAS, the alienating parent programs into the child's brain circuitry ideas and attitudes that are directly at variance with the child's previous experiences. In addition, PAS children frequently add their own scenarios to the campaign of denigration, from the recognition that their complementary contributions are desired by the programmer. The child's contributions are welcomed and reinforced by the programmer, resulting in even further contributions by the child. The result is an upwardly spiraling campaign of denigration. Schuman (1986) refers to this aspect of the phenomenon as a "positive feedback loop." In mild cases the child is taught to disrespect, disagree with, and even act out antagonistically against the targeted parent. As the disorder progresses from mild to moderate to severe, this antagonism becomes converted and expanded into a campaign of denigration. The PAS diagnosis is based on the symptoms of the child, but the problem is clearly a family problem in that in each case there is one parent who is a programmer, another parent who is the alienated parent, and one or more children who exhibit the symptomatology. PAS children respond to the programming in such a way that it appears that they have become completely amnesic for any and all positive and loving experiences they may have had previously with the targeted parent.

The term PAS is applicable only when the target parent has not exhibited anything close to the degree of alienating behavior that might warrant the campaign of

vilification exhibited by the children. Rather, in typical cases the victimized parent would be considered by most examiners to have provided normal, loving parenting or, at worst, exhibited minimal impairments in parental capacity. It is the exaggeration of minor weaknesses and deficiencies that is the hallmark of the PAS. When bona fide abuse does exist, then the child's responding alienation is warranted and the PAS diagnosis is not applicable. The term parental alienation would be applicable in such cases and justifiably so. However, without specifying the particular cause of the alienation the term is not particularly informative.

Is the PAS a True Syndrome?

Some who prefer to use the term parental alienation (PA) claim that the PAS is not really a syndrome. This position is especially seen in courts of law in the context of child-custody disputes. A syndrome, by medical definition, is a cluster of symptoms, occurring together, that characterize a specific disease. The symptoms, although seemingly disparate, warrant being grouped together because of a common etiology or basic underlying cause. Furthermore, there is a consistency with regard to such a cluster in that most (if not all) of the symptoms appear together. The term syndrome is more specific than the related term disease. A disease is usually a more general term because there can be many causes of a particular disease. For example, pneumonia is a disease, but there are many types of pneumonia-e.g., pneumococcal pneumonia and bronchopneumonia-each of which has more specific symptoms, and each of which could reasonably be considered a syndrome (although common usage may not utilize the term).

The syndrome has a purity because most (if not all) of the symptoms in the cluster predictably manifest themselves together as a group. Often, the symptoms appear to be unrelated, but they actually are because they usually have a common etiology. An example would be Down's Syndrome, which includes a host of seemingly disparate symptoms that do not appear to have a common link. These include mental retardation, mongoloid facies, drooping lips, slanting eyes, short fifth finger, and atypical creases in the palms of the hands. Down's Syndrome patients often look very much alike and most typically exhibit all these symptoms. The common etiology of these

disparate symptoms relates to a specific chromosomal abnormality. It is this genetic factor that is responsible for linking together these seemingly disparate symptoms. There is then a primary, basic cause of Down's Syndrome: a genetic abnormality.

Similarly, the PAS is characterized by a cluster of symptoms that usually appear together in the child, especially in the moderate and severe types. These include:

1. A campaign of denigration
2. Weak, absurd, or frivolous rationalizations for the deprecation
3. Lack of ambivalence
4. The "independent-thinker" phenomenon
5. Reflexive support of the alienating parent in the parental conflict
6. Absence of guilt over cruelty to and/or exploitation of the alienated parent
7. The presence of borrowed scenarios
8. Spread of the animosity to the friends and/or extended family of the alienated parent

Typically, children who suffer with PAS will exhibit most (if not all) of these symptoms. However, in the mild cases one might not see all eight symptoms. When mild cases progress to moderate or severe, it is . highly likely that most (if not all) of the symptoms will be present. This consistency results in PAS children resembling one another. It is because of these considerations that the PAS is a relatively "pure" diagnosis that can easily be made. Because of this purity, the PAS lends itself well to research studies because the population to be studied can usually be easily identified. Furthermore, I am confident that this purity will be verified by future interrater reliability studies. In contrast, children subsumed under the rubric PA are not likely to lend themselves well to research studies because of the wide variety of disorders to which it can refer, e.g., physical abuse, sexual abuse, neglect, and defective parenting. As is true of other syndromes, there is in the PAS a specific underlying cause: programming by an alienating parent in conjunction with additional contributions by the programmed child. It is for these reasons that PAS is indeed a syndrome, and it is a syndrome by the best medical definition of the term.

In contrast, PA is not a syndrome, has no specific underlying _ cause, and the proponents of the term do not claim it is. Actually, PA can be viewed as a group of syndromes, which share in common the phenomenon of the child's alienation from a parent. To refer to PA as a group of syndromes would, by necessity, lead to the conclusion that the PAS is one of the syndromes subsumed under the PA rubric and would thereby weaken the argument of those who claim that PAS is not a syndrome.

The Parental Alienation Syndrome is NOT the Equivalent of Programming or Brainwashing

There are many who use the term PAS as synonymous with parental brainwashing or programming. No reference is made to the child's own contributions to the victimization of the targeted parent. Those who do this have missed an extremely important point regarding the etiology, manifestations, and even the treatment of the PAS. The term PAS refers only to the situation in which the parental programming is combined with the child's own scenarios of disparagement of the vilified parent. Were we to be dealing here simply with parental indoctrinations, I would have simply retained and utilized the terms brainwashing and/or programming. Because the campaign of denigration involves the aforementioned combination, and because the cluster of symptoms so produced had a consistency, I decided a new term was warranted, a term that would encompass all these factors. Furthermore, it was the child's contributions that led me to my understanding of the etiology and pathogenesis of this disorder. Clarification of the child's contributions is of importance not only in the proper diagnosis of the disorder (Gardner, 1998) but in its treatment as well (Gardner, 2001a, 2001b).

The Parental Alienation Syndrome is *Not*
the Equivalent of Parental Alienation

There are some who use the terms *parental alienation syndrome* and *parental alienation* interchangeably. This is an error. Parental alienation is a *more general* term, whereas the parental alienation syndrome is a *very specific* subtype of parental alienation, namely, the kind of alienation that results from a combination of parental programming and the child's own contributions that is seen almost exclusively in the context of child-custody disputes. To equate the *parental alienation syndrome* with *parental alienation* cannot but produce confusion in that the former is a subtype of the latter. This distinction is particularly important when one is considering therapeutic and legal remedies. One must first define specifically the patient's particular type of disorder before one can properly consider the various treatment options. This distinction will be referred to repeatedly in the course of this article. Failure to make the differentiation between parental alienation and parental alienation syndrome is likely to result in improper therapeutic and legal courses of action.

The Parental Alienation Syndrome
Is a Form of Child Abuse

A parent who inculcates a PAS in a child is indeed perpetrating a form of child abuse. Specifically, it is a form of *emotional abuse* in that such programming may not only produce a child's lifelong alienation" from a loving parent, but lifelong psychiatric disturbance in the child as well. A parent who systematically programs a child into a state of ongoing denigration and rejection of a loving and devoted parent is exhibiting complete disregard for the alienated parent's role in the child's upbringing. The alienating parent causes an attenuation and even total destruction of a psychological bond that could, in the vast majority of cases, prove of great value to the child - the separated and divorced status of the parents notwithstanding. Such alienating parents exhibit a serious parenting deficit, a deficit that should be given serious consideration by courts when deciding primary custodial status.

Physical and/or sexual abuse of a child would quickly be viewed by the court as a reason for assigning primary custody to the nonabusing parent. Emotional abuse is much more difficult to assess objectively, especially because many forms of emotional abuse are subtle and difficult to verify in a court of law. The PAS, however, is most often readily identified, and courts would do well to consider its presence a manifestation of emotional abuse by the programming parent.

Accordingly, courts do well to consider the PAS programming parent to be exhibiting a serious parental deficit when weighing the pros and cons of custodial transfer. I am not suggesting that a PAS-inducing parent should automatically be deprived of primary custody, only that such induction should be considered a form of emotional abuse and be given serious consideration when deliberating the custody decision. Elsewhere (Gardner, 1998, 2001a), I provide specific guidelines regarding the situations when such transfer is not only desirable, but even crucial, if PAS children are to be protected from lifelong alienation from the targeted parent.

Misuse of the PAS Diagnosis

Programming parents who are accused of inducing a PAS in their children will often claim that the children's campaign of denigration is warranted because of bona fide abuse and/or neglect perpetrated by the denigrated parent. Such indoctrinating parents may claim that the counteraccusation by the target parent of PAS induction by the programming parent is merely a "cover-up," a diversionary maneuver, and indicates attempts by the vilified parent to throw a smoke screen over the abuses and/or neglect that have justified the children's acrimony. Programmers in this category will commonly say, "He brought in on himself" and "She's only getting what she deserves." In contrast, there are some genuinely abusing and/or neglectful parents who will indeed deny their abuses and rationalize the children's animosity as having been programmed by the other parent. Such a denying parent may proclaim, "Doctor, she's (he's) a typical PAS programmer, right out of the book." When such cross-accusations occur-namely, bona fide abuse and/or neglect versus a true PAS-it behooves the evaluator to conduct a

detailed inquiry in order to ascertain the category in which the children's accusations lie, i.e., true PAS or true abuse and/or neglect. In some situations, this differentiation may not be easy, especially when there actually has been some abuse and/or neglect and the PAS has been superimposed upon it, resulting thereby in much more deprecation than would be justified in such a situation. It is for this reason that detailed inquiry is crucial if one is to make a proper diagnosis.

A common problem is the one in which examiners, after a relatively superficial interview, often without all concerned parties, come to a premature conclusion regarding whether or not bona fide abuse has taken place. Joint interviews, with all parties in all possible combinations, will generally help examiners ascertain whether PAS and/or bona fide abuse is operative and to what degree. It is in the joint interview, when one has the opportunity for face-to-face interchanges and confrontations, that the evaluator is in the best position to "smoke out the truth." Examiners who choose not to avail themselves of this important evaluative technique are depriving themselves unnecessarily of a valuable technique for more accurate data collection. Elsewhere (Gardner, 1998, 1999) are detailed the criteria I find useful for differentiating between the PAS and bona fide abuse/neglect.

There are those who claim that the PAS formulation has given genuinely abusing parents a weapon to use against their accusers. The implication of the criticism is that the PAS contribution is somehow responsible for such misuse of it by abusers. PAS exists, as does child abuse. There will always be those who will twist a contribution for their own purposes. This is indeed unfortunate. It is not justifiable, however, to criticize the PAS formulation per se. Criticisms should be directed at those abusers who misuse the contribution and those evaluators who do not properly assess their patients. It is unfortunate that there are many evaluators who claim to be knowledgeable about the PAS, but are clearly not. Whenever something becomes an in-vogue diagnosis, there will always be those who misinterpret it and misuse it. There will always be those who will be quick to use the new diagnosis in order to create the impression that they are in touch with the latest developments. The Attention Deficit/Hyperactivity Disorder (ADHD) is a good example of this phenomenon. I am certain that only a small percentage of the children so diagnosed warrant this diagnosis. Elsewhere, I have discussed this

phenomenon (Gardner, 1987c). And there will always be those who will misrepresent a contribution for their own purposes, especially in a court of law. This does not justify criticizing the PAS per se or those who properly utilize the contribution.

THE PAS AND DSM-IV

There are some, especially adversaries in child-custody disputes, who claim that there is no such entity as the PAS. This position is especially likely to be taken by legal and mental health professionals who are supporting the position of someone who is clearly a PAS programmer. The main argument given to justify this position is that the PAS does not appear in DSM-IV. To say that PAS does not exist because it is not listed in DSM-IV is like saying in 1980 that AIDS (Autoimmune Deficiency Syndrome) does not exist because it was not then listed in standard diagnostic medical textbooks. DSM-IV was published in 1994. From 1991 to 1993, when DSM committees were meeting to consider the inclusion of additional disorders, there were too few articles in the literature to warrant submission of the PAS for consideration. That is no longer the case. It is my understanding that committees will begin to meet for the next edition of the DSM (probably to be called DSM-V) in 2002 or 2003. Considering the fact that there are now at least 110 articles in peer-review journals on the PAS, it is highly likely that by that time there will be even more articles. (The list of peer-reviewed PAS articles is to be found on my website, www.rgardner.com/refs, a list that is continually being updated.)

It is important to note that DSM-IV does not frivolously accept every new proposal. Their requirements are very stringent with regard to the inclusion of newly described clinical entities. The committees require many years of research and numerous publications in peer-review scientific journals before considering the inclusion of a disorder, and justifiably so. Gille de La Tourette first described his syndrome in 1885. It was not until 1980, 95 years later, that the disorder found its way into the DSM. It is important to note that at that point, Tourette's *Syndrome* became Tourette's *Disorder*. Asperger first described his syndrome in 1957. It was not until 1994, 37 years later, that it was accepted into DSM-IV and Asperger's *Syndrome* became Asperger's *Disorder*.

DSM-IV states specifically that all disorders contained in the volume are "syndromes or patterns" (p. xxi), and they would not be there if they were not syndromes. Once accepted, the name syndrome is changed to *disorder*. However, this is not automatically the pattern for nonpsychiatric disorders. Often the term *syndrome* becomes locked into the name and becomes so well known that changing the word *syndrome* to *disorder* may seem awkward. For example, Down's syndrome, although well recognized, has never become Down's disorder. Similarly, AIDS (Autoimmune Deficiency Syndrome) is a well-recognized disease but still retains the syndrome term.

One of the most important (if not the most important) determinants as to whether a newly described disorder will be accepted into the DSM is the quantity and quality of research articles on the clinical entity, especially articles that have been published in peer-review journals. The committees are particularly interested in interrater reliability studies that will validate the relative "purity" of the disease entity being described. PAS lends itself well to such studies; PA does not. One of the first steps one must take when setting up a scientific study is to define and circumscribe the group(s) being studied. PAS lends itself well to such circumscription. PA is so diffuse and all-encompassing that no competent researcher would consider such a group to be a viable object of study. Whether one is going to study the etiology, symptomatic manifestations, pathogenesis, treatment modalities, treatment efficacy, and follow-up studies one is more likely to obtain meaningful results if one starts with a discrete group (such as PAS) than if one starts with an amorphous group (such as PA). One of the major criticisms directed against many research projects is that the authors' study group was not "pure" enough and/or well-selected enough to warrant the professed conclusions. Studies of PAS children are far less likely to justify this criticism than studies of PA children.

Whereas there is some possibility that the PAS may ultimately be recognized in DSM-V, it is extremely unlikely that DSM committees will consider an entity referred to as parental alienation. It is too vague a term and covers such a wide variety of clinical phenomena that they could not justifiably be clumped together to warrant inclusion in DSM as a specific disorder. Because listing in the DSM ensures admissibility in courts of law, those who use the term PA instead of PAS are lessening the likelihood that PAS will be listed in DSM-V. The result will be that many PAS families will be deprived of the

proper recognition they deserve in courts of law, which often depend heavily on the DSM.

RECOGNITION OF THE PAS IN COURTS OF LAW

Some who hesitate to use the term PAS claim that it has not been accepted in courts of law. This is not so. Although there are certainly judges who have not recognized the PAS, there is no question that courts of law with increasing rapidity are recognizing the disorder. My website (www.rgardner.com/refs) currently cites 51 cases in which the PAS has been recognized. By the time this article is published, the number of citations will certainly be greater. Furthermore, I am certain that there are other citations that have not been brought to my attention.

It is important to note that on January 30, 2001, after a two-day hearing devoted to whether the PAS satisfied Frye Test criteria for admissibility in a court of law, a Tampa, Florida court ruled that the PAS had gained enough acceptance in the scientific community to be admissible in a court of law (Kilgore v. Boyd, 2001). This ruling was subsequently affirmed by the District Court of Appeals (February 6, 2001). In the course of those two days of testimony, I brought to the court's attention the more than 100 peer-reviewed articles (there are 110 at the time of this writing) by approximately 100 other authors and over 40 court rulings (there are 51 at the time of this writing) in which the PAS had been recognized (www.rgardner.com/refs). I am certain that these publications played an important role in the judge's decision. This case will clearly serve as a precedent and facilitate the admission of the PAS in other cases-not only in Florida, but elsewhere.

Whereas there are some courts of law that have not recognized PAS, there are far fewer courts that have not recognized PA. This is one of the important arguments given by those who prefer the term PA. They do not risk an opposing attorney claiming that PA does not exist or that courts of law have not recognized it. There are some evaluators who recognize that children are indeed suffering with a PAS, but studiously avoid using the term in their reports and courtroom, because they fear that their testimony will not be admissible. Accordingly, they use PA, which is much safer,

because they are protected from the criticisms so commonly directed at those who use PAS. Later in this article I will detail the reasons why I consider this position injudicious.

Many of those who espouse PA claim not to be concerned with the fact that their more general construct will be less useful in courts of law. Their primary interest, they profess, is the expansion of knowledge about children's alienation from parents. Considering the fact that the PAS is primarily (if not exclusively) a product of the adversary system, and considering the fact that PAS symptoms are directly proportionate to the intensity of the parental litigation, and considering the fact that it is the court that has more power than the therapist to alleviate and even cure the disorder, PA proponents who claim unconcern for the long-term legal implications of their position is injudicious and, I suspect, specious.

THE PAS AND THE AMERICAN PSYCHOLOGICAL ASSOCIATION

One of the arguments given in courts of law against the admissibility of the PAS is that "it has not been recognized by the American Psychological Association." First, the American Psychological Association does not have a specific list of disease entities that it formally recognizes. The American Psychological Association is basically a guild with many functions, e.g., setting up standards for the training of psychologists and the psychological treatment of patients. It does not serve as a scientific body that screens for the scientific validity of clinical entities. The American Psychiatric Association serves similar functions for psychiatrists, but it does publish a list of psychiatric disorders (DSM-IV) that it recognizes as clinical entities. Accordingly, one can say that a disorder is recognized (or not recognized) by the American Psychiatric Association but one cannot justify the claim that a particular disorder is recognized (or is not recognized) by the American Psychological Association. Whereas earlier editions of the DSM were compiled mainly by psychiatrists, over the years an increasing number of psychologists have actively participated in its preparation. Accordingly, inclusion of the PAS in any future edition of DSM would be a statement of some degree of recognition by the American Psychological Association.

The American Psychological Association has, however, in a less direct way, recognized the PAS in one of its official publications: Guidelines for Child-Custody Evaluations in Divorce Proceedings (1994). Of the 39 recommended publications, the Guidelines cite 3 PAS publications. The Guidelines cite Family Evaluation in Child Custody Mediation, Arbitration, and Litigation (Gardner, 1989) wherein I describe in detail the diagnosis and treatment of the parental alienation syndrome (as I understood it at that point.) Also cited is the first edition of The Parental Alienation Syndrome (Gardner, 1992a.) Also cited is True and False Accusations of a Child Sex Abuser (Gardner, 1992b.) In that volume, as well, attention is given to the parental alienation syndrome insofar as it relates to sex-abuse accusations. Accordingly, the argument that there is no recognition by the American Psychological Association of the PAS is not valid.

THE PARENTAL ALIENATION SYNDROME AND ALLEGATIONS OF SEXISM

From the time I first began seeing PAS patients (in the early 1980s) until the mid-1990s, my observations were that more women than men were likely to be the primary alienators. During that time frame my experience had been that in 85-90 percent of all the cases in which I had been involved, the mother was the alienating parent and the father the alienated parent. And this was the experience of Clawar and Rivlin (1991) who studied hundreds of PAS cases. For simplicity of presentation, then, I often used the term mother to refer to the alienator, and the term father to refer to the alienated parent. In 1990 I conducted an informal survey among approximately 60 mental health and legal professionals whom I knew were aware of the PAS and dealt with such families in the course of their work. I asked one simple question: What is the ratio of mothers to fathers who are successful programmers of a PAS? The responses ranged from mothers being the primary alienators in 60 percent of the cases to mothers as primary alienators in 90 percent of the cases. Only one person claimed it was 50/50, and no one claimed it was 100 percent mothers. In the 1998 edition of my book The Parental Alienation Syndrome (especially Chapter Five) I discussed this gender

difference in greater detail and provided references in the scientific literature confirming the preponderance of mothers over fathers in successfully inducing a PAS in their children. My claim that more mothers than fathers were PAS indoctrinators resulted in my being branded, "a sexist."

Since the mid-1990s, I have noted an increase in the number of men who induce PAS in their children-to the point where the ratio is now approximately 50/50. In association with this gender shift I see the "sexism" criticism becoming less frequent because women are now being increasingly victimized by PAS indoctrinating husbands. Many colleagues, as well, have confirmed this shift. I believe one reason for this change relates to the fact that men are now more likely to be primary caretakers, have greater access to the children, and so have more time and opportunity to program them. In addition, with greater general recognition of the PAS, more men are learning about programming techniques. Accordingly, PAS indoctrinators are no longer gender specific. The primary determinants for becoming a PAS indoctrinator relate to access to the children, relentlessness in the programming process, and financial superiority (for lawyers and luring the children materialistically). Elsewhere I have commented on this gender shift (Gardner, 2001c).

In recent years it has become "politically risky" and even "politically incorrect" to describe gender differences. Such differentiations are acceptable for such disorders as breast cancer and diseases of the uterus and ovaries. But once one moves into the realm of personality patterns and psychiatric disturbances, one is likely to be quickly branded a "sexist" (regardless of one's sex). And this is especially the case if it is a man who is claiming that a specific psychiatric disorder is more likely to be prevalent in women, My past observations that PAS inducers were much more likely to be women than men has subjected me to this criticism. Nevertheless, this was the observation of Clawar and Rivlin (1991) in their study authorized by the American Bar Association and this was the conclusion of my own survey of approximately 60 colleagues that I conducted around the year 1990. The fact that most other professionals involved in child-custody disputes had the same observation, still did not protect me from the criticism that this is a sexist observation. The fact that I then, and still now, recommend that most mothers who are inducing a PAS should still be designated the primary

custodial parent has also not protected me from this criticism. This association between the PAS and sexism has resulted in some examiners fearing that their using PAS will subject them to the same criticism. In order to protect themselves from such taint they may substitute the PA term for PAS.

My basic position regarding custodial preference has always been that the primary consideration in making a custodial recommendation is that the children should be preferentially assigned to that parent with whom they have the stronger, healthier psychological bond. I generally recommend that PAS-inducing mothers in both the mild and moderate categories retain primary custody. When the PAS is severe, or rapidly approaching the severe level, and the mother is the primary promulgator, then I recommend a change of custody. But this represents. only a small percentage of cases. These recommendations are made in my book Therapeutic Interventions for Children with Parental Alienation Syndrome (2001a). Furthermore, as fathers are now increasingly indoctrinating PAS in their children I find myself testifying more frequently in support of women who have been victimized by their husbands' inducing PAS in their children. This development will probably lessen PAS's reputation as being a "sexist diagnosis."

THE PARENTAL ALIENATION SYNDROME AND SEX-ABUSE ACCUSATIONS

A false sex-abuse accusation sometimes emerges as a derivative of the PAS. Such an accusation may serve as an extremely effective weapon in a child-custody dispute. In fact, it is probably one of the most powerful vengeance maneuvers ever utilized by a woman whose husband has left her. Of course, there are parents who will promulgate a sex-abuse accusation for other reasons. A woman might want to remove herself from her husband permanently and has long planned the separation. The sex-abuse accusation can serve to speed up the process significantly and may result in his permanent removal. Fathers have a more difficult time utilizing the sex-abuse accusation against mothers because females are far less likely to sexually abuse their children than males. However, a sex-abuse accusation promulgated against the mother's new male companion may be quite effective. Again, the sex-abuse accusation

is a very effective vengeance maneuver, but for men, too, there may be other reasons for promulgating it, e.g., convincing the court that the mother's exposing the children to a man who sexually abuses them is such a serious deficiency that primary custody should be reverted to him. Obviously, the presence of cases of false accusations does not preclude the existence of other cases of bona fide sex abuse. In recent years, some examiners have been using the term PAS to refer to a false sex-abuse accusation in the context of a child-custody dispute. The terms have even been used synonymously. Such utilization indicates a significant misperception of the PAS. In the majority of PAS cases, the sex-abuse accusation is not promulgated. In some cases, however, especially after other exclusionary maneuvers have failed, the false sex-abuse accusation may emerge. The sex-abuse accusation, then, is often a spin-off of the PAS but is certainly not synonymous with it. Of course, there are divorce situations in which the sex-abuse accusation may arise without a preexisting PAS. Under such circumstances, one must give serious consideration to the possibility that true sex abuse has occurred, especially if the sex abuse antedated the marital separation.

My experience has been that when a sex-abuse accusation emerges in the context of a PAS-especially after the failure of a series of exclusionary maneuvers-the accusation is far more likely to be false than true. Claiming that a sex-abuse accusation may be false has been "politically" risky in recent years. Those who have publicly made such claims, both within and outside of the realm of the PAS, have subjected themselves to enormous criticism-often impassioned and irrational, e.g., that they don't "believe the children" and are "protecting pedophiles." Because a sex-abuse accusation can have such devastating consequences to the accused-including many years of incarceration-we are indebted to those who have the courage to rise above such stigma and identify false accusations when they are promulgated. Sex-abuse accusations that arise within the context of the PAS are more likely to be directed toward men than women. This is obviously related to the fact that a sex-abuse accusation made against a man is more likely to be true than one made against a woman, especially because male pedophilia is much more common than female pedophilia. Accordingly, custody evaluators who conclude that a sex-abuse accusation is false are likely to be testifying more frequently against women (the more common false accusers) than against men

(the more common falsely accused). They thereby expose themselves to the criticism of being "sexist." Accordingly, in sex-abuse cases in the context of custody disputes I am more likely to conclude that the wife's sex-abuse accusation is a false one, that the child was not sexually abused, and that the husband is innocent of the alleged crime. For some, this proves me "sexist," i.e., that I am biased against women in general. The fact that I have also testified against men in many such cases, men who falsely accused their former wives new husbands or male companions of sexually abusing their children has also not dispelled this notion.

Another derivative of this situation has been the criticism that I do not "believe the children" and rarely if ever recognize bona fide sex abuse. There is no basis for this allegation, especially when directed against someone who has written extensively on differentiating between true and false sex-abuse accusations (Gardner, 1992b, 1995a) as well as the treatment of sexually abused children (Gardner, 1996).

There are those who fear that if they use the term PAS they too will be subjected to similar criticisms. And this is especially the case if they are dealing with the sex-abuse spin-off. Accordingly, they resort to the safer term, PA, which is less likely to be linked with a false sex-abuse accusation.

SOURCES OF THE CONTROVERSY OVER THE PARENTAL ALIENATION SYNDROME

There are some who claim that because there is such controversy swirling around the PAS, there must be something specious about the existence of the disorder. Those who discount the PAS entirely because it is "controversial" sidestep the real issues, namely, what specifically has engendered the controversy, and, more importantly, is the PAS formulation reasonable and valid? The fact that something is controversial does not invalidate it. But why do we have such controversy over the PAS? With regard to whether PAS exists, we generally do not see such controversy regarding most other clinical entities in psychiatry. Examiners may have different opinions regarding the etiology and treatment of a particular psychiatric disorder, but there is usually some consensus about its existence. And this should especially be the case for a relatively "pure" disorder such as the PAS, a disorder that is easily

diagnosable because of the similarity of the children's symptoms when one compares one family with another. Why, then, should there be such controversy over whether or not PAS exists?

The PAS and the Adversary System

The PAS is very much a product of the adversary system (Gardner, 1985, 1986, 1987a, 1987b, 1989, 1992a, 1998), Furthermore, a court of law is generally the place where clients attempt to resolve the PAS. Most newly developed scientific principles inevitably become controversial when they are dealt with in the courtroom. It behooves the attorneys-when working within the adversary system to take an adversarial stand and create controversy where it may not exist. In that setting, it behooves one side to take just the opposite position from the other if one is to prevail. Furthermore, it behooves each attorney to attempt to discredit the experts of the opposing counsel. A good example of this phenomenon is the way in which DNA testing was dealt with in the OJ Simpson trial. DNA testing is one of the most scientifically valid procedures for identifying perpetrators. Yet the jury saw fit to question the validity of such evidence, and DNA became, for that trial, controversial. I strongly suspect that those jury members who concluded that DNA evidence was not scientifically valid for OJ Simpson would have vehemently fought for its admissibility if they themselves were being tried for a crime, whether they committed it or not. I am certain, as well, that any man in that jury who found himself falsely accused of paternity would be quite eager to accept DNA proof of his innocence.

A parent accused of inducing a PAS in a child is likely to engage the services of a lawyer who may invoke the argument that there is no such thing as a PAS. The reasoning goes like this: "If there is no such thing as the PAS, then there is no programmer, and therefore my client cannot be accused of brainwashing the children." This is an extremely important point, and I cannot emphasize it strongly enough. It is a central element in the controversy over the PAS, a controversy that has been played out in courtrooms not only in the United States but in various other countries as well. And if the allegedly dubious lawyer can demonstrate that the PAS is not listed in DSM-IV, then

the position is considered "proven" (I say "allegedly" because the lawyer may well recognize the PAS but is only serving his client by his deceitfulness). The only thing this proves is that in 1994 DSM-IV did not list the PAS. The lawyers hope, however, that the judge will be taken in by this specious argument and will then conclude that if there is no PAS, there is no programming, and so the client is thereby exonerated. Substituting the term PA circumvents this problem. No alienator is identified, the sources are vaguer, and the causes could lie with the mother, the father, or both. The drawback here is that the evaluator may not provide the court with proper information about the cause of the children's alienation. It lessens the likelihood, then, that the court will have the proper data with which to make its recommendations.

The Possible Dilemma of Guardians ad Litem and Children's Attorneys

The terms guardian ad litem (GAL) and attorney for the children are sometimes used interchangeably, especially because both are generally lawyers and both focus directly on serving the best interests of the children in their charge. Strictly speaking, there is a difference between the two roles. Guardians are generally appointed by the court or their

appointments are approved by the court. In contrast, children's lawyers are more likely to be chosen jointly by the parents, with less likelihood of input by the court. Children's lawyers generally do not have free and unilateral access to the judge. They are similar to the parent's lawyers in this regard. In contrast, GALs are viewed as the court's "right arm" and

usually have direct access to the judge, access not enjoyed by the parents' attorneys nor usually enjoyed by children's attorneys either.

Guardians usually have greater freedom than children's attorneys to speak to any and all parties involved in the litigation, especially each of the parents' attorneys. In the courtroom, children's attorneys are more likely to be conducting direct and cross-examinations, whereas the guardians are more likely to be sitting silently observing the proceedings.

Attorneys and GALs learn in law school that their primary obligation to their

clients is to support vigorously their position and/or cause, even if they do not have conviction for the client's situation. Some lawyers have problems with this dictum, for example, with clients who are, for example, murderers, criminal psychopaths, or pedophiles. They not only feel they will compromise their own values if they defend such clients, but if the case is brought to public attention, they may suffer stigma in family and community for representing such clients. Other attorneys do not have guilty consciences when representing such clients and claim that they are only doing what they have learned in law school, namely, that every accused party deserves zealous legal representation, no matter how repulsive the crime. PAS children are often like psychopaths and many of them are very psychopathic. This is especially the case with regard to their guiltless disregard for the feelings of the targeted parent. A GAL who recognizes the depravity of the PAS child may feel discomfort, and even suffer inner conflict, about zealously representing a client who would be so cruel to another human being, in this case a loving parent. One way of reconciling this dilemma is to substitute PA for PAS, with the implication that there could be other causes for the child's alienation, including bona fide abuse and/or neglect by the alienated parent. Using PA diffuses the situation, muddies the waters, and opens up the possibility that the court too will not recognize the specific psychopathic disease suffered by the client child. This dilemma-alleviating value of the term PA, then, may contribute to the rejection of the PAS diagnosis by GALS.

The Possible Dilemma of Family Law Attorneys

The same principle may hold for the attorney who represents the alienating parent. Acceptance of the fact that a PAS is operative in the case practically demands that one look very quickly for the indoctrinator, i.e., the perpetrator. Acceptance of the fact that the syndrome is present necessitates the search for the programmer. The analogy to AIDS is applicable here. Once the AIDS diagnosis is made one cannot deny that a specific category of virus is operating. In most PAS cases, it is not hard to ascertain who is at fault. An attorney who is reluctant to represent a client who is a PAS indoctrinator,

a parent who would perpetrate the abominable act of programming his (her) own children against a loving ex-spouse, may be able to diffuse this dilemma by embracing the PA explanation. Such an attorney cannot deny that the children are alienated because all agree that this is the case. Substituting the PA alternative confuses the situation, lessens the likelihood that the indoctrinator will be easily identified, and may raise the hope that some abuse may be found on the part of the alienated parent to explain the children's campaign of denigration.

The Possible Money Factor

It is a well-known fact of life that the poorer the client, the shorter the trial. The OJ Simpson case ("the trial of the century") is a good example of this principle. If, at that time, a poor black man were to have murdered two white people in Los Angeles, he would not have been represented by an extremely expensive "dream team" of attorneys, and he would not have had a eight-month trial. Rather, he would have been assigned a legal-aid lawyer, most likely someone just out of law school and/or with limited experience, and his trial probably would have taken a week, or even less time. One of the proverbial light-bulb jokes is applicable here:

Question: How many lawyers does it take to unscrew a dead lightbulb?
Answer: How many can you afford?

The same principle holds with regard to child-custody disputes. The more money the clients have, the longer the trial. In fact, litigated child-custody disputes are generally a prerogative of the rich and not something that most poor people can afford. Many (I did not say all) attorneys are ever sensitive to their clients' financial resources and monitor their efforts accordingly. When the clients' resources run low, they reduce their efforts. For very wealthy clients, there is no limit to the amount of work they are willing to expend in the service of working "for the best-interests-of-the-children." When the money runs out, they could not care less about what happens with the children. The PA label is likely to confuse issues and thereby lengthen the trial. In contrast, a PAS

diagnosis is more specific and is likely to shorten the trial. Although not publicly stated, I believe this is one of the important factors operative when attorneys vigorously deny the existence of the parental alienation syndrome. If PAS becomes listed in DSM-V it will result in a significant loss of money for attorneys.

It would be an error if the reader were to conclude that I believe that all lawyers are as mercenary as those described here. This is not the case. There are lawyers who take on pro bono cases, there are lawyers who accept clients at reduced fees, and there are lawyers who will continue to represent clients long after their financial resources have been depleted. Many of the attorneys in this category recognize well the validity of the aforementioned criticisms I have of their colleagues. Over the 35-year time span in which I have been involved in custody litigation, I have seen such attorneys. However, I have seen many more of the venal type, so many that the aforementioned comments about them as a group still hold. The mercenaries are the ones who most vigorously argue against the utilization of the PAS diagnosis and so enthusiastically embrace the PA explanation.

Gardner - PAS Identification

Another source of the controversy relates to the strong identification between my name and the PAS. I believe that some of the anger (and I do not hesitate to use this word) directed at the PAS is really anger directed at me. The question then is, why the anger? I believe one source relates to the fact that for many years I have been very critical of the legal profession, especially those who involve themselves in adversarial proceedings in the context of child-custody disputes. I believe, however, that my criticisms have been basically constructive, because I have always described ways of changing and improving the system, going back all the way to the training of lawyers (Gardner, 1982, 1986, 1989, 1992a, 1995b, 1998). For example, I have repeatedly described how adversarial proceedings are just about the worst way to attempt to resolve child-custody disputes. I have repeatedly recommended mediation as the more humane and civilized method for dealing with such conflict. Mediation, of course, is far less expensive than protracted litigation, so there are many attorneys who are very

unhappy about the utilization of this alternative method of dispute resolution. The comments I have made above in "The Possible Money Factor" section cannot but make many attorneys angry, anger that is directed not only at me but toward any of my contributions (both in and outside of the PAS realm).

I have also been critical of many mental health professionals with regard to the way they have conducted child-custody and sex-abuse evaluations. These criticisms have often provided important information for clients, attorneys, judges, and juries involved in such litigation. However, I am certain that many of those whose work has been criticized by me harbor significant resentment against me, resentment that becomes directed at the PAS as well as other contributions of mine. Accordingly, mental health professionals who use the term PAS may find themselves the targets of such criticism. Elsewhere I have elaborated on this point (Gardner, 2001d).

WHICH TERM TO USE IN THE COURTROOM: PA OR PAS?

Many examiners, then, even those who recognize the existence of the PAS, may consciously and deliberately choose to use the term parental alienation in the courtroom. Their argument may go along these lines: "I fully recognize that there is such a disease as the PAS. I have seen many such cases and it is a widespread phenomenon. However, if I mention PAS in my report, I expose myself to criticism in the courtroom such as, `It doesn't exist,' It's not in DSM-IV' etc. Therefore, I just use PA, and no one denies that." I can recognize the attractiveness of this argument, but I have serious reservations about this way of dealing with the controversy-especially in a court of law.

Using PA is basically a terrible disservice to the PAS family because the cause of the children's alienation is not properly identified. It is also a compromise in one's obligation to the court, which is to provide accurate and useful information so that the court will be in the best position to make a proper ruling. Using PA is an abrogation of this responsibility; using PAS is in the service of fulfilling this obligation.

Furthermore, evaluators who use PA instead of PAS are losing sight of the fact that they are impeding the general acceptance of the term in the courtroom. This is a

disservice to the legal system, because it deprives the legal network of the more specific PAS diagnosis that could be more helpful to courts for dealing with such families. Moreover, using the PA term is shortsighted because it lessens the likelihood that some future edition of DSM will recognize the subtype of PA that we call PAS. This not only has diagnostic implications, but even more importantly, therapeutic implications. The diagnoses included in the DSM serve as a foundation for treatment. The symptoms listed therein serve as guidelines for therapeutic interventions and goals. Insurance companies (who are always quick to look for reasons to deny coverage) strictly refrain from providing coverage for any disorder not listed in the DSM. Accordingly, PAS families cannot expect to be covered for treatment. Elsewhere (Gardner, 1998) I describe additional diagnoses that are applicable to the PAS, diagnoses that justify requests for insurance coverage. Examiners in both the mental health and legal professions who genuinely recognize the PAS, but who refrain from using the term until it appears in DSM, are lessening the likelihood that it will ultimately be included because widespread utilization is one of the criteria that DSM committees consider. Such restraint, therefore, is an abrogation of their responsibility to contribute to the enhancement of knowledge in their professions.

There is, however, a compromise. I use PAS in all those reports in which I consider the diagnosis justified. I also use the PAS term throughout my testimony. However, I sometimes make comments along these lines, both in my reports and in my testimony:

"Although I have used the term PAS, the important questions for the court are: Are these children alienated? What is the cause of the alienation? and What can we then do about it? So if one wants to just use the term PA, one has learned something. But we haven't really learned very much, because everyone involved in this case knows well that the children have been alienated. The question is what is the cause of the children's alienation? In this case the alienation is caused by the mother's (father's) programming and something must be done about protecting the children from the programming. That is the central issue for this court in this case, and it is more important than whether one

is going to call the disorder PA or PAS, even though I strongly prefer the PAS term for the reasons already given."

I wish to emphasize that I do not routinely include this compromise, because whenever I do so I recognize that I am providing support for those who are injudiciously eschewing the term and compromising thereby their professional obligations to their clients and the court.

Warshak (1999, 2001), has also addressed the PA vs. PAS controversy. He emphasizes the point that espousers of both PA and PAS agree that in the severe cases the only hope for the victimized children is significant restriction of the programmer's access to the children and, in many cases, custodial transfer sometimes via a transitional site. Warshak concludes that the arguments for the utilization for PAS outweigh the arguments for the utilization of PA, although he has more sympathy for the PA position than do I.

CONCLUDING COMMENTS

The conflict between those who use the term PAS and those who use PA has been formidable. The differences of opinion, unfortunately, have significant implications when they are played out in the courtroom where differences are exploited, causing thereby significant grief for PAS families. And this is what has happened with the PAS. It is my hope that this article will not only shed light on important aspects of the PAS vs. PA controversy, but prove useful to both mental health and legal professionals who deal with PAS families in courts of law. Most specifically, it is my hope that it will serve to strengthen the arguments for preserving the full term *parental alienation syndrome.*

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Parental Alienation Syndrome
Diagnosis and Treatment
Tables 1-3

Subject: New PAS Tables
To: ct39@erols.com

To the PAS Network

From Richard Gardner

As you know, I have found it useful and important to differentiate among the various levels of PAS (mild, moderate, and severe), especially when considering whether custodial transfer is warranted (See Table 1 http://www.rgardner.com/refs/3pastables.htmI)

It has become increasingly apparent that there is a similar need for specific criteria for differentiating among the various categories of PAS indoctrinators (alienators), especially with regard to the intensity and tenacity of the programming behavior. This is especially important when making court recommendations for custodial transfer. I have now developed such categorization for the alienators, again dividing them into three levels: mild, moderate, and severe. (See Table 2 http://www.rgardner.com/refs/3pastables.html)

I have always emphasized that the diagnosis of PAS should be based solely on the symptomatic manifestations in the child. In contrast, the recommendation to the court to transfer custody should be based primarily on the alienator's behavior and only secondarily on the PAS child's symptoms. (See Table 3 http://www.rgardner.com/refs/3pastables.html)

I hope you find this information useful. I would be most appreciative of any suggestions you may have-especially regarding the new Table 2, which deals with the behavioral manifestations of the alienator.

Parental Alienation Syndrome Diagnosis and Treatment Tables 1-3

Table 1: DIFFERENTIAL DIAGNOSIS OF THE THREE LEVELS OF PARENTAL ALIENATION SYNDROME (PAS) CHILDREN **Note: The diagnosis of PAS is based upon the level of symptoms in the child, not on the symptom level of the alienator**		CHILD'S SYMPTOM LEVEL		
		MILD	MODERATE	SEVERE
PRIMARY SYMPTOMATIC MANIFESTATIONS	The Campaign of Denigration	Minimal	Moderate	Formidable
	Weak, Frivolous, or Absurd Rationalizations for the Deprecation	Minimal	Moderate	Multiple absurd rationalizations
	Lack of Ambivalence	Normal Ambivalence	No ambivalence	No ambivalence
	The Independent-Thinker Phenomenon	Usually absent	Present	Present
	Reflexive Support of the Alienating Parent in the Parental Conflict	Minimal	Present	Present
	Absence of Guilt	Normal guilt	Minimal to no guilt	No guilt
	Borrowed Scenarios	Minimal	Present	Present
	Spread of the Animosity to the Extended Family and Friends of the Alienated Parent	Minimal	Present	Formidable, often fanatic
ADDITIONAL DIFFERENTIAL DIAGNOSTIC CONSIDERATIONS	Transitional Difficulties at the Time of Visitation	Usually Absent	Moderate	Formidable, or visit not possible
	Behavior During Visitation	Good	Intermittently antagonistic and provocative	No visit, or destructive and continually provocative behavior throughout visit
	Bonding with the Alienator	Strong, healthy	Strong, mildly to moderately pathological	Severely pathological, often paranoid bonding
	Bonding with the Alienated Parent Prior to the Alienation	Strong, healthy, or minimally pathological	Strong, healthy, or minimally pathological	Strong, healthy, or minimally pathological

Parental Alienation Syndrome Diagnosis and Treatment Tables 1-3

Table 2: DIFFERENTIAL DIAGNOSIS OF THE THREE LEVELS OF PARENTAL ALIENATION SYNDROME (PAS) ALIENATORS **NOTE: Whereas the diagnosis of PAS is based upon the level of symptoms in the child, the court's decision for custodial transfer should be based primarily on the alienator's symptom level and only secondarily on the child's level of PAS symptoms**	ALIENATOR'S SYMPTOM LEVEL		
	MILD	MODERATE	SEVERE
Frequency of Programming Thoughts	Occasional	Frequent	Obsessive
Frequency of Programming	Occasional	Frequent	Persistent
Frequency of Exclusionary Maneuvers	Occasional	Frequent	Whenever possible
Violation of Court Orders	Occasional	Occasional to frequent	Repeatedly
Success in Manipulating the Legal System to Enhance the Programming*	Minimal attempts	Occasional to moderate success	Repeatedly successful
Risk of Intensification of Programming After Gaining Primary Custody	Very low	Mild to moderate	Extremely high, to the point of being almost inevitable

Table 2

* The alienator can rely on court delays and court reluctance and even refusal to penalize the alienator with such measures as posting a bond, fines, community service, probation, house arrest, incarceration, and custodial change.

Table 3: DIFFERENTIAL TREATMENT OF THE THREE LEVELS OF PARENTAL ALIENATION SYNDROME (PAS) CHILDREN **NOTE: Whereas the diagnosis of PAS is based upon the level of symptoms in the child, the court's decision for custodial transfer should be based primarily on the alienator's symptom level and only secondarily on the child's level of PAS symptoms**	CHILD'S SYMPTOM LEVEL		
	MILD	MODERATE	SEVERE
Legal Approaches	***For Alienators in the Mild Category*** Court ruling that primary custody shall remain with the alienating parent	**Plan A** **(Most Common)** 1. Court ruling that primary custody shall remain with the alienating parent 2. Court appointment of PAS therapist (see note 1 and 2, below) 3. Sanctions: a. Post a Bond b. Fines c. Community Service d. Probation e. House arrest f. Incarceration **Plan B** ***For Alienators in the Severe Category*** **(Occasionally necessary)** 1. Court ruling that primary custody shall be transferred to the alienated parent 2. Court appointment of PAS therapist (see note 1 and 2, below) 3. Extremely restricted visitation by the alienating parent, monitored to prevent indoctrinations	***For Alienators in the Severe Category*** 1. Court ruling that primary custody shall be transferred to the alienated parent 2. Court-ordered transitional-site program
Psychotherapeutic Approaches	None usually necessary	**Plans A and B** Treatment by a court-appointed PAS therapist[1,2]	Transitional-site program monitored by court-appointed PAS therapist[1,2]

Table 3

[1]. Gardner, R.A. (1998) The Parental Alienation Syndrome, Second Edition. Cresskill, NJ: Creative Therapeutics, Inc.

[2] Gardner, R.A. (2001) Therapeutic Interventions for Children with Parental Alienation Syndrome. Cresskill, NJ: Creative Therapeutics, Inc.

UNPUBLISHED MANUSCRIPT

ACCEPTED FOR PUBLICATION

DENIAL OF THE PARENTAL ALIENATION SYNDROME ALSO HARMS WOMEN

What's Good for the Goose is Good for the Gander
- Old Proverb

What's Bad for the Gander is also Bad for the Goose
- Richard A. Gardner

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Denying reality is obviously a maladaptive way of dealing with a situation. In fact, denial is generally considered to be one of the defense mechanisms, mechanisms that are inappropriate, maladaptive, and pathological. In the field of medicine to deny the existence of a disease seriously compromises the physician's ability to help patients. If a physician does not believe that a particular disease exists, then it will not be given consideration when making a differential diagnosis, and the patient may then go untreated. This is in line with the ancient medical principle that proper diagnosis must precede proper treatment. Or, if for some external reason the physician recognizes the disorder, but feels obligated to use another name, other problems arise, e.g., impaired communication with others regarding exactly what is going on with the patient, and

hence improper treatment. This is what is occurring at this point with the parental alienation syndrome, a disorder whose existence has compelling verification.

In this article I discuss the reasons for denial of the PAS and the ways in which such denial harms families. Particular emphasis will be given to the ways in which this denial harms women, although I will certainly comment on the ways in which the denial harms their husbands and children. In the past, denial of the PAS has caused men much grief Such denial is now causing women similar grief.

Since the 1970s, we have witnessed a burgeoning of child-custody disputes unparalleled in history. This increase has primarily been the result of two recent developments in the realm of child-custody litigation, namely, the replacement of the tender-years presumption with the best interests-of-the-child presumption and the increasing popularity of the joint-custodial concept. Under the tender-years presumption, the assumption was made that mothers, by virtue of the fact that they are female, are intrinsically superior to men as child rearers. Accordingly, the father had to provide the court with compelling evidence of serious maternal deficiencies before the court would even consider assigning primary custodial status to the father. Under its replacement, the best interests-of- the-child presumption, the courts were instructed to ignore gender when adjudicating child-custody disputes and evaluate only parenting capacity, especially factors that related to the best interests of the child. This change resulted in a burgeoning of custody litigation as fathers found themselves with a greater opportunity to gain primary custodial status. Soon thereafter the joint-custodial concept came into vogue, eroding even further the time that custodial mothers were given with their children. Again, this change also brought about an increase and intensification of child-custody litigation.

THE PARENTAL ALIENATION SYNDROME

In association with this burgeoning of child-custody litigation, we have witnessed a dramatic increase in the frequency of a disorder rarely seen previously, a disorder that I refer to as the parental alienation syndrome (PAS) In this disorder we see not only programming ("brainwashing") of the child by one parent to denigrate the other parent, but self-created contributions by the child in support of the alienating parent's campaign

of denigration against the alienated parent. Because of the child's contribution, I did not consider the terms brainwashing, programming, or other equivalent words to be applicable. Accordingly, in 1985, I introduced the term parental alienation syndrome to cover the combination of these two contributing factors (Gardner, 1985, 1987a). In accordance with this use of the term I suggest this definition of the parental alienation syndrome:

The parental alienation syndrome (PAS) is a disorder that arises primarily in the context of child-custody disputes. It's primary manifestation is the child's campaign of denigration against a good, loving parent, a campaign that has no justification. It results from the combination of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present, the child's animosity may be justified, and so the parental alienation syndrome diagnosis is not applicable.

The alienating parent's primary purpose for indoctrinating into the children a campaign of denigration against the target parent is to gain leverage in the court of law. The child's alienation has less to do with bona fide animosity or even hatred of the alienated parent, but more to do with the fear that if such acrimony is not exhibited, the alienating parent will reject the child.

These are the primary symptomatic manifestations of the parental alienation syndrome:

1. A campaign of denigration
2. Weak, absurd, or frivolous rationalizations for the deprecation
3. Lack of ambivalence
4. The "independent-thinker" phenomenon
5. Reflexive support of the alienating parent in the parental conflict
6. Absence of guilt over cruelty to and/or exploitation of the alienated parent
7. The presence of borrowed scenarios

8. Spread of the animosity to the friends and/or extended family of the alienated parent

There are three types of parental alienation syndrome: mild, moderate, and severe. It goes beyond the purposes of this article to describe in full detail the differences between these three types. At this point only a brief summary'is warranted. In the mild type, the alienation is relatively superficial, the children basically cooperate with visitation, but are intermittently critical and disgruntled with the victimized parent. In the moderate type, the alienation is more formidable, the children are more disruptive and disrespectful, and the campaign of denigration may be almost continual. In the severe type, visitation may be impossible so hostile are the children, hostile even to the point of being physically violent toward the allegedly hated parent. Other forms of acting-out may be present, acting-out that is designed to inflict ongoing grief upon the parent who is being visited. In some cases the children's hostility may reach paranoid levels, e.g., they exhibit delusions of persecution and/or fears that they will be murdered. Each type requires a different psychological and legal approach. Further details about the diagnosis and treatment of the parental alienation syndrome have been described elsewhere (Gardner, 1992, 1998, 2001a).

MOTHERS AS ALIENATORS

In the early 1980s, when I first began seeing the PAS, in about 85% to 90% of the cases the mother was the alienating parent and the father the targeted parent. Fathers were certainly trying to program their children to gain leverage in the custody dispute; however, they were less likely to be successful. This related to the fact that the children were generally more closely bonded with their mothers. Recognizing this, I generally recommended the mother to be designated the primary custodial parent, even though she might have been a PAS indoctrinator. It was only in the severe cases (about 10 percent)-when the mother was relentless and/or paranoid and unable to cease and desist from the programming that I recommended primary custodial status to the father. I was not alone in recognizing this gender disparity, which was confirmed during that period by others. In my experience, the time frame during which mothers were the

primary alienators was from the early 1980s (when the disorder first appeared) to the mid-to-late 1990s (when fathers became increasingly active as PAS indoctrinators). The largest study confirming the preponderance of mothers as PAS alienators during the 1980s was that of Clawar and Rivlin (1991).

During this early period, it was quite common for mothers, with the full support of their attorneys, to not only deny that they were PAS programmers, but even went further and denied that the PAS existed. And this denial was especially common in courts of law where their attorneys would argue that there was no such thing as a PAS, and therefore, their clients could not be suffering with a disorder that does not exist. In many cases, neither the mothers nor their attorneys could deny that the children were alienated, but would claim that the alienation was the result of abuse and/or neglect to which the children were subjected by their fathers. Under such circumstances, confusion prevailed and "the waters were muddied," especially in the courtroom. The PAS diagnosis demands the identification of the specific alienator. Other sources of abuse and/or neglect do not produce this particular constellation of symptoms and do not focus so clearly on a specific alienator. In this more confused environment, the mother's diagnosis as a PAS programmer might never come to the attention of the court especially if the lawyer was able to convince the court that there was no such thing as a parental alienation syndrome.

"PAS is Not a Syndrome"

Often, the mother's lawyer would argue that PAS was ' not a syndrome, with the implication that it does not exist. A syndrome, by medical definition, is a cluster of symptoms, occurring together, that characterize a specific disease. The symptoms, although seemingly disparate, warrant being grouped together because of a common etiology or basic underlying cause. Furthermore, there is a consistency with regard to such a cluster in that most (if not all) of the symptoms appear together.

Accordingly, there is a kind of purity that a syndrome has that may not be seen in other diseases. For example, a person suffering with pneumococcal pneumonia may have chest pain, cough, purulent sputum, and fever. However, the individual may still have the disease without all these symptoms manifesting themselves. A syndrome is

more most (if not all) of the symptoms in the cluster predictably manifest themselves. An example would be Down's Syndrome, which includes a host of seemingly disparate symptoms that do not appear to have a common link. These include mental retardation, mongoloid-type facial expression, drooping lips, slanting eyes, short fifth finger, and atypical creases in the palms of the hands. There is a consistency here in that the people who suffer with Down's Syndrome often look very much alike and typically exhibit all these symptoms. The common etiology of these disparate symptoms relates to a specific chromosomal abnormality. It is this genetic factor that is responsible for linking together these seemingly disparate symptoms. There is then a primary, basic cause of Down's Syndrome: a genetic abnormality.

Similarly, the PAS is characterized by a cluster of symptoms that usually appear together in the child, especially in the moderate and severe types. Typically, children who suffer with PAS will exhibit most (if not all) of the eight symptoms described above. This is almost uniformly the case for the moderate and severe types. However, in the mild cases one might not see all eight symptoms. When mild cases progress to moderate or severe, it is highly likely that most (if not all) of the symptoms will be present. This consistency results in PAS children resembling one another. It is because of these considerations that the PAS is a relatively "pure" diagnosis that can easily be made. Due to this purity the PAS lends itself well to research studies, because the population to be studied can easily be identified. Furthermore, I believe that this purity will be verified by interrater reliability studies. As is true of other syndromes, there is an underlying cause: programming by an alienating parent in conjunction with additional contributions by the programmed child. It is for these reasons that PAS is indeed a syndrome, and it is a syndrome by the best medical definition of the term.

"PAS Does Not Exist Because It Is Not in DSM-IV"

Commonly, the mother's attorneys would argue that PAS does not exist because it is not in DSM-IV (1994). The DSM committees justifiably are quite conservative with regard to the inclusion of newly described clinical phenomena and require many years

of research and publications before considering inclusion of a disorder. This is as it should be. Lawyers involved in child-custody disputes see it repeatedly. Mental health professionals involved in such. disputes are continually involved with such families. They may not wish to recognize it. They may refer to PAS by another name (like "parental alienation") (Gardner, 2002a). But that does not preclude its existence. A tree exists as a tree regardless of the reactions of those looking at it. A tree still exists even though some might give it another name. If a dictionary selectively decides to omit the word tree from its compilation of words, it does not mean that the tree does not exist. It only means that the people who wrote that book decided not to include that particular word. Similarly, for someone to look at a tree and say that the tree does not exist does not cause the tree to evaporate. It only indicates that the viewer, for whatever reason, does not wish to see what is right in front of him (her).

DSM-IV was published in 1994. In the early 1990s, when DSM committees were meeting to consider the inclusion of additional disorders, there were too few articles on the PAS in the literature to warrant its submission for consideration. That is no longer the case. It is my understanding that committees will begin to meet for DSM-V in 2003. At this point, DSMV is scheduled for publication in 2010. Considering the fact that there are now more than 135 articles on the PAS in peer-review journals, it is highly likely that by that time there will be many more. Furthermore, considering the fact that there are now more than 65 rulings in which courts have recognized the PAS, it is probable that there will be even more such rulings by the time the committees meet. These lists are being continually updated and can be found on my website (www.rgardner.com/refs). At the time the DSM-V committees meet, these lists will be in the proposal to include PAS in DSM-V. Elsewhere (Gardner, 2002b) I have discussed the various alternative diagnoses that therapists might use in courts that stringently refuse to accept the PAS diagnosis at this time.

It is important to note that DSM-IV does not frivolously accept every new proposal. Their requirements are quite stringent, and justifiably so. Gille de la Tourette first described his syndrome in 1885. It was not until 1980, 95 years later, that the disorder found its way into the DSM. It is important to note that at that point, "Tourette's Syndrome" became Tourette's Disorder. Asperger first described his syndrome in 1957.

It was not until 1994 (37 years later) that it was accepted into DSM-IV and "Asperger's Syndrome" became Asperger's Disorder.

DSM-IV states specifically that all disorders contained in the volume are syndromes, and they would not be there if they were not syndromes. Once accepted the name syndrome becomes changed to disorder. However, this is not automatically the pattern for nonpsychiatric disorders. Often the term syndrome becomes locked into the name and becomes so well known that changing the word syndrome to disorder may seem awkward. For example, Down's syndrome, although well recognized, has never become Down's disorder. Similarly, AIDS (Autoimmune Deficiency Syndrome) is a well-recognized disease, but still retains the syndrome term.

"Believe the Children"

Lawyers for the mothers would often say to the judge, "Your Honor, why don't we really listen to what these children are saying. If you don't feel comfortable putting them on the witness stand, then bring them into your chambers. They will tell you how they feel. Let's respect their opinions." Judges not familiar with the PAS might be taken in by these children, and actually believe that they were subjected to the terrible indignities that they described. As far back as 1987 I wrote an article advising judges about this problem and providing them with guidelines
for interviewing these children (Gardner, 1987b). Although there are certainly judges who are now more knowledgeable about the PAS than in the late 1980s, judges still play an important role in the etiology and promulgation of the PAS, especially with regard to their failure to impose reasonable sanctions on PAS indoctrinating parents. Elsewhere (Gardner, submitted for publication), I have elaborated on this problem. The believe-the-children philosophy was-and still is-espoused by therapists ignorant of the PAS. Many therapists sanctimoniously profess that they really listen to children (as opposed to the rest of us who presumably do not). They profess that they really respect what children want (with the implication that the rest of us do not). What they are basically doing is contributing to pathological empowerment, which is a central factor in the development and. perpetuation of the PAS (Gardner, 2002c). Again, it is beyond the

purposes of this article to describe therapists' role in the development and perpetuation of the PAS. PAS indoctrinators know well that they can rely upon most therapists to empower children's PAS symptomatology, and that they are readily duped into joining the PAS indoctrinator's parade of enablers and supporters. Such therapists are often brought into the courtroom to support the mother and her lawyer's denial of the existence of the PAS and to encourage the court to "really listen" to the children.

"Those Who Make the PAS Diagnosis Are Sexist"

Because mothers were the primary alienators during this early period, PAS was viewed as being intrinsically biased against women. And I, as the person who first wrote on the phenomenon, was viewed as being biased against women and as being "sexist." The facts are that during this time frame women were the primary alienators. Labeling those who diagnose PAS as sexist is the equivalent of saying that a doctor is biased against women if he claims that more women suffer with breast cancer than men. And the sexist claim has also been brought into courts of law. Fear of being labeled "sexist" has been one factor in many evaluators' eschewing the PAS diagnosis.

Denial of the PAS Has Caused Permanent Alienation

The denial of PAS has caused many men to suffer formidable psychological suffering. The lawyers of women who have been PAS indoctrinators have convinced courts that PAS does not exist, and therefore the children's animosity against their fathers is justified. The fact that women are increasingly suffering as target parents gives these men little solace, because many of them have lost their children permanently. In my recent follow-up of 99 PAS children, I provide compelling confirmation that the denial of PAS by courts has resulted in permanent estrangement in the vast majority of cases (Gardner, 2001 c).

In the last few years, starting in the late 1990s, there has been a gender shift. Fathers, with increasing frequency, are also indoctrinating PAS into their children (Gardner, 2001b). At this point, my own extensive experiences with PAS families have

led me to the conclusion that the ratio is now 50/50, with fathers being as likely as mothers to indoctrinate children into a PAS. And colleagues of mine in various parts of the country are reporting a similar phenomenon.

Why this shift? One probable explanation relates to the fact that fathers are increasingly enjoying expanded visitation time with their children in association with the increasing popularity of shared parenting programs. The more time a programming father has with his children, the more time he has to. program them if he is inclined to do so. Another factor operative here probably relates to the fact that with increasing recognition of the PAS, fathers (some of whom have read my books) have learned about the disorder and have decided to use the same PAS indoctrinational maneuvers utilized by women. It is probable that other factors are operative as well in the gender shift, but these are the two best explanations that I have at this point.

With the gender shift of PAS indoctrinators, there has consequently been a gender shift in PAS target parents. Mothers are increasingly finding themselves victims (I use the word without hesitation) of their husbands' PAS indoctrinations of their children. Such mothers know well that PAS exists. They read my books and say, as have the father victims before them, "It's almost as if you've lived in my house. You're describing exactly what has been going on." These mothers find themselves helpless. They cannot get help from therapists who are still mouthing the old mantras, "PAS is just Gardner's theory," "PAS doesn't exist because it's not in DSM-IV," "PAS is not a syndrome." Their lawyers, too, will tell them, "PAS might exist, but the court will not recognize it. I can't use the word syndrome in the courtroom. It's the `big S' word." Worse yet, many leaders in the Women's Rights movement are reflexively chanting the same incantations, thereby abandoning the women whose cause they profess to espouse. These mantras have become deeply embedded in the brain circuitry of most of the people the alienated women are looking to for help therapists, lawyers, guardians ad litems, and judges. And these groups cannot even turn to the Women's Rights groups because they have long ago stridently taken the position that PAS does not exist, that PAS is not a syndrome, etc., etc. We see here how those who deny the existence of PAS are adding formidably to the grief of women. Women's past denial and discrediting of PAS has now come back to haunt them. Women are now being injured

by their own weapons, or, as the old saying goes, they are being "hoist by their own pitards."

THE RELATIONSHIP BETWEEN PAS AND BONA FIDE ABUSE

In recent years, with increasing frequency, mental health and legal professionals have been seeing cases in which one parent (more often the father) has accused the other parent (more often the mother) of inducing a PAS in the children. In response, the responding parent (usually the mother) accuses the other parent (usually the father) of abusing and neglecting the children. In short, then, the children's alienation against the father is considered by him to be the result of the mother's PAS programming, and the mother considers their alienation to be the result of the father's abuse/neglect. I have no doubt that some abusing/neglectful parents are using the PAS explanation to explain the children's alienation as a cover-up and diversionary maneuver designed to deflect exposure of their abuse/neglect. However, there is no question that some PAS-inducing mothers are using the argument that it is the father's abuse/ neglect that is causing the children's campaign of denigration, and thereby denying any programming whatsoever. In short, such programming mothers are basically saying: "He's getting what he deserves, and I'm not programming them." Elsewhere (Gardner, 1998, 1999) I have described criteria for differentiating between PAS and bona fide abuse/neglect.

Of relevance to this article is the common phenomenon in which genuinely abusing husbands use the argument that the children's alienation has nothing to do with their abuse, but is the result of the mother's PAS indoctrinations. Such mothers will invoke the argument

that this deceitful maneuver is not going to work, especially because there is no such thing as the PAS. This is a handy argument, and they will easily find legal and mental health professionals who will support them in this denial. Although I am sympathetic with these falsely accused women, their contributions to the denial of the existence of the PAS are not serving well other women who are indeed PAS victims. And this factor has been operative in increasing the grief suffered by women who are indeed PAS

target parents. Their PAS indoctrinating husbands are now waving the same "PAS-doesn't-exist" flags that PAS indoctrinating women were waving in the 1980s and early 1990s. Wives who were being falsely accused by their husbands of being PAS indoctrinators would have done much better to agree that PAS does exist, but they themselves are not indoctrinators, that the children's symptoms are not those of PAS children, but symptoms of children who have been genuinely abused.

THE EFFECTS ON CHILDREN

The denial of PAS in the early period resulted in many children living primarily with their programming mothers, with the result that they became permanently estranged from loving fathers. They were deprived, therefore, of all the benefits that could have come from their father. There is no question that follow-up studies of these children will reveal significant psychopathological residua from these early experiences. One cannot grow up and be a healthy person if, throughout the course of one's childhood, one was taught that a previously loving and dedicated father was really loathsome and vicious. This inevitably will affect their relationships with other males-dates, boyfriends, teachers, employers, friends, etc. In the more recent phase, with men as increasingly frequent indoctrinators, we will have a similar group of children growing up believing that their previously loving mothers were vile, loathsome, and noxious. Similarly, one cannot become a healthy person believing that the primary maternal figure has been and still is a despicable and loathsome human being. Such a distortion of reality cannot but affect future relationships with other females-dates, employers, friends, etc.

THE SOLUTION

The first step in the treatment of denial is the acceptance of reality. The first step, then, must be the recognition that PAS exists, even if there are thousands of people, both husbands and wives, who claim that it does not. PAS exists, even though there are thousands of lawyers who will claim that it does not. PAS exists even though there are

thousands of mental health professionals who claim that it does not. It exists even though there are Courts of Appeal who rule that it does not exist. It exists even if all nine members of the U.S. Supreme Court were to rule that it does not exist. It exists even though it is not in DSM-IV, and it will continue to exist even if the DSM-V committees choose not to include it. The first step, then, must be to recognize and stop denying its The first step in the treatment of denial is the acceptance of reality. The first step, then, must be the recognition that PAS exists, even if there are thousands of people, both husbands and wives, who claim that it does not. PAS exists, even though there are thousands of lawyers who will claim that it does not. PAS exists even though there are thousands of mental health professionals who claim that it does not. It exists even though there are Courts of Appeal who rule that it does not exist. It exists even if all nine members of the U.S. Supreme Court were to rule that it does not exist. It exists even though it is not in DSM-IV, and it will continue to exist even if the DSM-V committees choose not to include it. The first step, then, must be to recognize and stop denying its existence. Mental health professionals should be free to diagnose the disorder when it is present, and not have to worry about whether the diagnosis will be accepted in a court of law. They should recognize that in the adversarial system there will always be attorneys who will try to discredit whatever they say, because this is what they have learned to do in law school. Mental health professionals should not worry about whether they are in the minority or the majority with regard to the diagnosis. Rather, they should not be concerned with those who may irrationally label them sexist or biased against either men or women if they make a diagnosis of PAS. Whenever some external considerations operate or affect one's diagnostic objectivity, there is bound to be some contamination and bias. Worse, it will inevitably not serve well the patient whom is evaluating and treating. If this point is reached, it is likely that the frequency of PAS will be reduced because would-be indoctrinators will recognize that they will not have available mental health professionals to help them manipulate the legal system.

CONCLUDING COMMENTS

Denial of PAS has caused significant psychological suffering to many men, many women, and many children. And its denial has only added to the burden of families in which this disorder has been present. Furthermore, the denial of PAS will lessen the likelihood of ultimate inclusion in DSM-V. And this will have a negative impact on all those who are afflicted with this disorder. The more PAS is recognized, the greater the number of research articles will be written. This will, in turn, enhance the receptivity of the DSM-V committees. The more courts of law that have accepted PAS, the greater the likelihood that the DSM-V committee will recognize the disorder. Mental health professionals, especially, should take this factor into consideration when they eschew the diagnosis.

In closing, I quote from the concluding comments in my follow-up study of 99 PAS children:

When I embarked upon this study, I expected that most of the PAS children would continue to be alienated from the target parent in situations in which the court neither transferred custody to the target parent nor reduced the alienating parent's access to the children. What I did not expect was the high rate of completely destroyed relationships and the enormous grief suffered by the alienated parents. I expected the average follow-up conversation to last five minutes, during which I would get the basic data. It turned out that most conversations lasted between 15 and 30 minutes, because the parents needed me at that point for some kind of ventilation of their painful feelings. I did not expect such a degree of grief. However, on looking back upon the study, I should not have been surprised. I consider losing a child because of PAS to be more painful and psychologically devastating than the death of a child. A child's death is final and there is absolutely no hope for reconciliation. Most bereaved parents ultimately resign themselves to this painful reality. The PAS child is still alive and may even be in the vicinity. Yet, there is little if any contact, when contact is feasible. Therefore, resignation to the loss is much more difficult for the PAS alienated parent than for the parent whose child has died. For some alienated parents the continuous heartache is similar to living death.

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Editor's Introduction to the PAS article by Dr. Jerome H. Poliacoff

IMPORTANT NOTE

Since the Custody Newsletter, has become the prime means for members of the Professional, Academy of Custody Evaluators to communicate among themselves, it has been editorial policy not to edit the articles we receive (other than for routine grammar, etc.). Hence this issue features a rather blistering attack by Pace member, Jerome H. Poliacoff Ph.D., on the work of Richard Gardner,

While the issues raised in Dr. Poliacoff s article certainly deserve to be considered, I am always a bit surprised by how psychologists write reviews about other mental health professionals. I was once told by an insider at NW{ that non-psychologists on their staff were continuously amazed at how "different" the reviews of psychologists are compared to those of, say, physicians or social workers. By "different" he made it clear he meant "nasty." It is as if we psychologists write as though those with whom we disagree are not only wrong, but evil. This is not meant to be. a criticism of Dr. Poliacoff's issues. As a matter of fact, the issues and the tone ,in this article are exceedingly representative ("modal," if you will) of many of the pieces I have recently read about Gardner's work, as well as the tenor of many conversations I have had with custody experts around the country i.e., the tenor is nasty.

I have asked several of PACE's experienced members who share views opposite to those of Dr. Poliacoff to comment on his article. Following the article, I will attempt to summarize what they told me. One further note; many professionals with lots of experience do not really fully understand Dr. Gardner's work. This is probably because they have never really taken the time to read his books. For example, experienced clinicians still think that the parental alienation syndrome, hereafter abbreviated PAS, refers to a campaign on the part of a parent to alienate or denigrate the other parent. Gardner has always made the point that in addition to this campaign of denigration,

other operational criteria must be present for one to diagnose PAS. These include not only the negative campaign, but also the following: weak or trivial rationalizations for the deprecation, a lack of ambivalence in the child; the child's claim that he or she is a so-called "independent thinker," that is, that the campaign is entirely the child's own idea; an unyielding support for the alienating parent against the target parent; a seeming absence of guilt over the extreme position taken; the mouthing of words, phrases and concepts obviously "borrowed" from alienating individuals; a gradual spread of animosity to the friends and/or extended family of the alienated parent. Further, he points out that there must be an "add-on" piece by the child he or she (i.e., the child) rejects the target parent with "emphasized" energy i.e., perhaps much more than would be expected, given the alienating parent's manipulation.

The issues raised in Dr. Poliacoff's article are quite important. Whatever one chooses to call these phenomena, we certainly deal with them m our custody work. We urgently seek further input from our members on these issues. Here is Dr. Poliacoff's article.

PARENTAL ALIENATION SYNDROME:
Frye v Gardner in the Family Courts

Jerome H. Poliacoff, Ph.D., P.A.-Marriage and Divorce

In 1990 the marriage rate was just double the divorce rate (approximately 2.4 million marriages and 1.2 million divorces). Following the literally millions of divorces during the preceding decade approximately 35% of the minor children in the United States were affected by the divorce of their parents.

Despite the spousal conflicts leading to divorce, almost ninety per cent of divorcing parents are able to reach a mutual agreement regarding custody and visitation with little or no intervention from the Court. Because the other ten per cent of the divorcing parents cannot agree on custody and visitation issues initially, they are likely not to be able to agree on parenting issues in the future. Courts strive to help these families by creating flexible arrangements that will hopefully work as families grow and change.

Unfortunately, the adversarial nature of the system that is supposed to provide relief serves only to become an alternate forum for the expression of conflict.

For instance, Sullivan (FNI) (1997) studied sixty-one divorcing families with children over a five year period. After five years many of the parents were still fighting and nearly one third of the children continued to be subject to intense bitterness between the parents.

Children become the prize to be won or lost in what often becomes an escalating conflict. And the courts, often at a loss as to what determination to make for which children, turn to mental health experts for advice.

With increasing caseloads and limited time to assess a divorcing parent's claim for designation as either residential or responsible parent the courts have responded to simplistic accusations which cast blame on one :parent in order to make it easier for the other parent to prevail.

Notable among the allegations made by counsel in representing their client's claim for "sole ownership" of the "prize" is that of "parental alienation syndrome". The popularity of such a claim has been enhanced by the prolific writing and public appearances of Richard Gardner, M.D. as originator of this "syndrome" (FN2) (Gardner, R.,1992).

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In this article we will challenge both the scientific and legal legitimacy of this syndrome. After first defining "parental alienation syndrome" (PAS) we will review the criteria by which expert testimony may be accepted into evidence and explore the shortcomings of PAS under Frye and Daubert. We will then delineate the mental health expert's ethical obligation when serving as an expert before the court as it relates to PAS. We will review the relevant case law as it pertains to the admissibility of PAS before the courts. Finally we will offer alternative areas for inquiry into the source of impaired parent child relationships occurring in the context of child custody litigation.

PAS

Termination of a spousal relationship without attendant damage to the parental relationship is a difficult task. When one parent refuses to allow the other parent to be involved in the child's life, conflict ensues and a return to court becomes inevitable. Where one parent sabotages (intentionally or unintentionally) the other parent's role in the child's life or a child becomes estranged from a parent the term "parental alienation" is used.

The term has its historical roots in the common law tradition where the tort of alienation of affection was a cause of action against a third party adult who "steals" the affection of the plaintiff's spouse.(**FN3**) (Niggemyer, K., 1998).

More recently: Richard Gardner (**FN4**) (1992) coined the term "Parental Alienation Syndrome" to describe the situation in which, he asserts, a child is brainwashed solely by an alienating parent's actions.

Wood (**FN5**) (1994) notes that in developing the PAS "the criteria Dr. Gamer uses to determine whether PAS is present are essentially borrowed from and built upon his earlier— and now widely discredited objective test for determining whether children were fabricating allegations of sexual abuse, the "Sex Abuse Legitimacy Scale" (SALS).

Gardner believes that PAS arises almost exclusively in the context of child custody disputes. Gardner further asserts that, while a child contributes to the development of the alienation process, the predominant source of alienation is one parent, generally the mother.

Unfortunately, again, too many courts and too many of the mental health professionals upon whom they rely have blithely accepted in iota Gardner's theoretical writings without the critical examination requisite either under the law or the ethical standards of professional psychological practice.

Before accepting PAS as science in family litigation it behooves both the family practitioner and the court to have a clearer understanding of what is more hyperbole than substance.

Frye v. Daubert: A Consensus Nevertheless

Among the legal tools available to aid the court in determining the value and utility of expert testimony in deciding a particular case are the Federal Rules of Evidence and the Frye rule.

The Frye rule is derived from a 1923 Federal Court of Appeals (**FN6**) (Frye v. United States, 293 F.1013,1014,. D.C. Cir.1923) decision which holds that for scientific evidence to be admissible in court it must be gathered using techniques that have gained general acceptance in their field.

In 1993 the U.S. Supreme Court issued a decision in Daubert v. Merrell Dow Pharmaceuticals, Inc. (**FN7**) (Daubert v. Merrell Dow Pharmaceuticals, Inc., 113 S. Ct. 2786, 2792-93,1993) (hereinafter Daubert) that provided a more clear cut, albeit sometimes ambiguous, set of guidelines for the admissibility of scientific expert testimony.

In setting forth the factors that should be considered when determining if a theory or technique qualifies as scientific knowledge that will assist the trier of fact the Court did .not forgo Frye. The factors enumerated in Daubert are: (a) Is the theory or technique based on methodology that can or has been tested? (b) Has the theory or technique been the subject of peer review and publication? (c) What is the known or potential rate of error? (d) Does the technique enjoy general acceptance within the scientific community? (the *old* Frye rule!)

The court held that the Frye rule, including general acceptance as the primary determinant of admissibility of evidence based on scientific techniques, had been superceded by the revised Federal Rules of Evidence (**FN8**) (1974).

Rotgers and Barrett (**FN9**) (1990) cogently argue that the Daubert decision (and the Frye decision before it) has 'important implications for...psychologists and other health care professionals....whose professions have taken on the mantle of science".

They point out that mental health practitioners (psychologists, psychiatrists), despite the doubtful scientific status of many theories and assessment techniques in the field, have held themselves out to the public (and to the courts) as utilizing scientifically

valid theories and methods of practice and therefore should be held to the same standards by courts as other professions that have done the same.

What then are the courts' standards?

In Daubert, the Supreme Court sought to clarify the criteria for the determination of admissibility of expert testimony. According to Rule 702 of the Federal Rules of Evidence "If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise".

That the evidence must be reliable is implied by the use in Rule 702 of the term "scientific knowledge". According to the Supreme Court the term "scientific knowledge" "implies a grounding in the methods and procedures of science." In a similar vein, "the word knowledge' connotes more than subjective belief or unsupported speculation." In any case Involvin9 scientific evidence "evidentiary reliability will be based on scientific validity."

This approach allowed, in Daubert, sound science (based on sound scientific methodology) to prevail even though it was new science and not yet widely accepted among the scientific community from which it sprang.

Writing in the Journal of the American Medical Association Gold (**FN10**) (1993) and his colleagues warn that the implication for medical (or mental health) practitioners under Daubert, and Frye before it, is "first and foremost.... that there is a difference between science and pseudoscience, and that it is the judge's role to ensure that testimony offered as 'scientific' meets a minimum test of validity before it may be put to the jury".

How then does Gardner's PAS meet the standard of scientific knowledge under the criteria set forth in either Frye or Daubed?

(a) Is the theory or technique based on methodology that can be or has been tested?

There are many competing theories of human behavior on which mental health professionals have drawn in reaching diagnoses and treatment recommendations. There is also a large scientific literature that has addressed empirically testable predictions based on those theories.

However, many theoretical constructs are presented by clinicians as expert testimony for which there is no scientific validation. Gardner's PAS is one of these "syndrome" theories for which the scientific basis is non-existent.

Rotgers and Barrett (**FN11**) (1996) note that "although it is possible to identify common behavior patterns among persons who are known to have suffered traumatic experiences of various types, syndrome theory, and often the testimony based on it, goes well beyond this possibility to state that "all" persons who suffer particular types of trauma show characteristic behaviors."

These authors-go on to cite Gardner's PAS as the exemplar of "some practitioners (who) have been willing to engage in reverse logic is and state that because an individual demonstrated a particular behavior pattern, trauma must have occurred'. They go on to acknowledge that the fit between syndrome theories and particular legal questions is often good but, they point out, these theories have not been scientifically tested.

Referring to the exhaustive and erudite critique of PAS by Wood (**FN12**) (1994) they note further that the lack of scientific testing "makes any conclusions or accounts of events that are based on syndrome theories problematic. Even if the data relied upon are gathered using scientifically valid methods, if the theoretical explanation underlying the data is faulty, the data may be presented in a fashion that misleads the trier of fact'.

(b) Has the theory or technique been the subject of peer review and publication?

Berliner and Conte (**FN13**) (1993) scathingly note "Indeed the entire scale (the SALS) and the Parental Alienation Syndrome ndrome on which it is based have never been subjected to any kind of peer review or empirical test'.

Less kind have been comments such as Conte's (**FN14**) (Moss, D C 1988 quoted in when referring to the SALS "...is probably the most unscientific garbage I've seen in the field in all my time... to base social policy on something as flimsy as this is exceedingly dangerous."

Stephanie Dallam (**FN15**) (1998) examined Gardner's counter-claim that his work has been published in peer-reviewed journals, a list of which is provided at Gardner's website.

She reports that two publications were chapters in books, two other articles were published in a newsletter of the American Academy of Psychoanalysis, and the two remaining articles were published in legal journals - none of these six being peer reviewed journals!

This author's exploration of Gardner's website reveals that he cites thirty (30) cases in which PAS has been introduced as evidence before a family court.

A more thorough investigation reveals that one case (in interest of T.M.W. 553 So. 2nd 260, 262, Fla. Dist. Ct. App., 1988) is cited three times! In fact, PAS was not accepted as scientifically valid!

(c) What is the known or potential rate of error?

The known or potential rate of error refers to the psychometric properties of a test or assessment methodology. In developing a predictive measuring tool one is concerned with both the **reliability** and **validity** of the instrument or. theory.

As defined in classical test theory **reliability** consists of the extent to which an obtained score (or value or assertion) corresponds to the "true" (or real world) score. Is what is measured being measured accurately (reliably)? Are the results consistent when the same case is examined by different evaluators? The “true" score is an abstraction

that can never be known for sure, the obtained score is a statistical measurement of the combination of this unknowable score and some error variance.

The manner in which an estimate of a score's reliability is derived (parallel form, split half, test-retest, and internal consistency methods), that is, whether it yields scores on which one can rely as providing a true picture of the property being measured, have crucial implications for forensic testimony.

A test is considered to have face validity if its items have some clear and obvious relationship to the purpose of the test (If, for example, the test is a measure of depression, we would expect to see items like “Are you feeling depressed?" as indicative of it having face validity).

A more important measure would be criterion related validity. This is a measure that consists of the relationship between a test or test score and some other measured (or known) variable.

Substantial correlation between test findings and current status, behavior or condition demonstrates concurrent validity. Substantial correlation between test findings and future events, conditions or behaviors provide evidence of their predictive validity. Finally construct validity consists of the extent to which observed relationships between test findings and present or future events, conditions or behaviors can be conceptualized in terms of a sound theoretical rationale that accounts for both the test findings and the extra-test behaviors or states.

Commenting on the poor test construction of the SALS Berliner and Conte (**FN17**) (1993) commented that "there are no studies which have determined if the Scale can be coded reliably. Many of the criteria a re poorly defined. There have been no scientific tests of the ability of the SALS to discriminate among cases."

In assessing the SALS criteria for reliability Campbell (**FN18**)(1997) notes that the SALS criteria are "vague and ill defined” and that as a result they invite a wide range of subjective opinion and therefore “Gardner's criteria cannot support expert testimony in legal proceedings."

Deed (**FN19**) (Sherman, R., 1993) applied Gardner's SALS (Sex Abuse Legitimacy Scale), from which PAS theory is derived, to confirmed cases of sexual abuse and found that the SALS produced inaccurate assessments.

Gardner (**FN20**) (1993) himself, in summing up whether PAS should be properly admitted in court, admitted that "PAS is an initial offering and cannot have pre-existing scientific validity."

(d) Does the technique enjoy general acceptance within the scientific community? (the old Frye rule!).

Gianelli (**FN21**) (1980) asserts that the principal justification for the Frye test is that "*it establishes a method for ensuring the reliability of scientific evidence*". This serves to take the responsibility of determining the validity of a scientific principle away from the trial judge and leaving the determination to experts who know most about it.

In the case of PAS Gardner has based his theory entirely upon the observation of his own patients. It is for the most part self-published which circumvents peer review, and has not attracted wide acceptance in the scientific community (**FN22**) (Campbell, T.W., 1997; Dalian', S., 1998; Moss, D.C.1988).

In refusing to admit PAS into evidence a Florida court (**FN23**) (In the Interest of T. KW., 553 So 2n 260, 262 Fla. Dist. Ct. App., 1988) noted that "no determination was made in the order or on the record as to general professional acceptance of the 'parental alienation syndrome' as a diagnostic tool."

The Court went on to caution that "when considering the theory of expert testimony… it is vitally important to avoid the confusion engendered by reference to syndromes... At the present time experts have not achieved consensus on the existence of a psychological syndrome...use of the word syndrome leads only to confusion, and to unwarranted and unworkable comparisons to battered child syndrome"

The Expert's Obligation

For better or worse there is an inherent conflict between the goals of lawyers and the goals of ethical experts: the legal system is adversarial, science is not. Attorneys need partisan experts to persuade the trier of fact, be it judge or jury. Lawyers, according to Champagne and his colleagues (**FN24**) (1991) "seemingly want articulate, partisan experts with integrity"

Sales and Shuman (**FN25**) (1993) argue that "to the extent that ethics governs all scientific and professional behavior – which it does – it is only appropriate that it become the first metric against which to judge the expert witnessing of scientists and professionals."

Sales and Shuman point out that the most obvious case of the applicability of the ethics code to expert witnessing is the obligation to be competent (**FN26**) (American Psychological Association, 1992).

By becoming familiar with the applicable ethical standards governing the professional behavior of psychologists and psychiatrists a more reasoned judgment can be made about the admissibility of PAS in the courtroom. While we rely primarily on the ethical standards for psychologists (**FN27**) (American Psychological Association, 1992) in the following discussion it should be apparent to the reader that these standards speak to expected ethical professional behavior of any designation when one agrees to appear as a mental health expert before the courts.

Section 1.06 *Basis for Scientific and Professional Judgments* calls for psychologists to "rely on scientifically and professionally derived knowledge when making scientific or professional judgments". Not having met the standards inherent in Daubert and in Frye renders PAS unable to pass muster under this brief, but indispensable, ethical dictum.'

Rotgers and Barrett (**FN28**) (1996) have made an effort to guide psychologists in their considerations concerning serving as an expert witness. They point out four standards of professional conduct (**FN29**) (American Psychological Association 1992) that appear to be clearly applicable to psychologists' expert testimony that are specifically reinforced by the Daubert decision. These include, in addition to Standard 1.06, the following:

- Standard 2.02 "Competence and Appropriate Use of Assessments and Interventions" requires psychologists to select assessment instruments on the basis of research indicating the appropriateness of the instruments for the specific issue at hand and further enjoins psychologists from misusing those instruments.

- Standard 2.04 "Use of Assessment in General and With Special Populations" requires familiarity with the psychometric properties and limitations of assessment instruments used in the practice of psychology.
- Standard 2.05 "Interpreting Assessment Results" requires psychologists to directly state reservations they may have about the accuracy and limitations of their assessments.

As has been noted in the section above, PAS does not meet the courts' threshold requirement to qualify as scientific. Clearly then, the offering of PAS to the courts as an explanatory construct, let alone a basis for making recommendation about the future of children's lives, does not meet the minimal set of ethical standards incumbent on experts appearing before the court.

The Courts View

While there are a few 'hold out' jurisdictions which continue to preserve the notion of alienation of affection most states have abolished the cause of action for alienation of affection and consequently a cause of action for parental alienation has effectively been precluded. In their rejection of the construct of alienation of affection various courts have ruled in the following fashion:

The Minnesota Supreme Court rejected an appellate court's creation of the "Intentional interference with custody rights" noting that "children can be devastated by divorce" and that "the law should not provide a means of escalating intra-family warfare" (FN3O) (Larson v. Dunn, 460 N.W. 2nd 39, 45-46 Minn. 1990) but that other remedies exist when a parent or other relative interferes With custody arrangements, and that "creating a tort of this nature is the job of the legislature, not the court".

Florida courts (**FN31**) (In the Interest of T W., 553 So. 2nd 260, 262, Fla. Dist. C. App. 1989) have noted that there has been no claim of general professional acceptance of PAS as a tool for diagnostic evaluation, and in fact that there is no consensus by experts that such a syndrome even exists.

she did not have a

In Bartanus v. Lis (**FN32**) (Bartanus v. Lis, 480 A.2nd 1178, 1181, Pa. Super. Ct 1984) the court held that a cause of action for alienation of a child's affection is not recognized in Pennsylvania. In so ruling the court quoted The Restatement (Second) of Torts ,para 699, "one who, without more, alienates from its parents the affections of a child, whether a minor of full age, is not liable to the child's parents"

The Missouri Court of Appeals recognized a tort of alienation of affection of a minor or adult child (**FN33**) (R.J v. S.LJ., 801 S.W.2nd 608, 609, Mo. Ct. App. 1991) but in ruling opined that although the mother had a moral duty not to alienate the children's affections with respect to the father, she did not have a legal duty.

Despite expert testimony by a psychologist who asserted that the situation in question was the" worst case of PAS he had ever seen" a Wisconsin. Court of Appeals held that there was "limited research data" to support, as "a successful cure" for children suffering from PAS, the removal of such children from their mother's custody in affirming the trial court's refusal to transfer custody to the father (**FN34**) (Weiderholt v. Fischer, 485 N.W. 2nd 442, 444, Wis. Ct. App. 1992).

The PAS criteria used by Gardner, as noted above, are essentially borrowed from and *built upon his earlier (and now widely discredited) test for determining whether children were fabricating allegations of sexual abuse, the "Sexual Abuse Legitimacy Scale" (SAL Scale) (**FN35**) (Gardner, R.,1992).

The only appellate court to rule on the admissibility of the SAL Scale held it inadmissible because there was no showing that it had "some reasonable degree of recognition and acceptability among the spectrum of scientific or medical experts in the field" (**FN36**) (Page v. Zordan, 564 So. 2nd 500, Fla. Dist. Ct. App. 1990).

Wood (**FN37**) (Wood, C.L.,1994) very appropriately, comments that "although it might be argued that this court properly ignored the PAS testimony, the problem is that the court even admitted it at all. The Mere admission of unreliable and untested testimony into evidence in the first place means that courts admitting evidence of this theory may rule on it differently, creating results that range from potentially very dangerous to inconsistent."

Finally, in her comprehensive review of PAS Wood was unable to find a single reported case where PAS testimony was introduced on behalf of the mother.

Assessing the Utility of PAS

Dallam (**FN38**) (1998) exhorts in her review of Gardner's theories that "all psychological evidence upon which a child's safety will turn must be subjected to empirical testing".

As we have hopefully made clear, straightforward observation, confirmed by a consensus of experts, reveals that rather than subjecting his theories to scientific review Gardner has published through his own press or in nonscientific journals. Because his theories are based on his clinical observations (not on scientific data) they should be understood in the context of his atypical views concerning parent child relations (For a greater explication on his theories concerning pedophila as a "part of the natural repertoire of human sexual activity" (Richard A. Gardner, M.D., True and False Allegations of Child Sex Abuse, 1992) or that child abuse allegations are "third greatest wave of hysteria" the nation has seen, following the Salem witch trials and the McCarthyite witch hunting for communists in the 1940's, the reader is referred again to the very excellent reviews by Dallam (Stephanie Daliam, The Evidence for Parental Alienation Syndrome: An Examination of Gardner's Theories and Opinions, Treating Abuse Today, 1998) or Wood (Cherri L. Wood, The Parental Alienation Syndrome: A Dangerous Aura of Reliability, 1994).

It would be far better for the courts, in their deliberations as to parental fitness when making custody determinations, to utilize the work of Benjamin D. Garber (**FN39**) (1996). Garber has noted that PAS theory confuses cause and effect, whereas science has demonstrated that a cause can not necessarily be inferred from an effect (In the realm of statistics "correlation does not imply causation". It is often noted, with great fanfare in the press, that fashion hemlines or the winning league in the Super Bowl or the World Series correlate with either a rise or fall in the Dow Jones Industrial average but that correlation does not imply causation!)

He cautions that it is very easy for a presumption of alienation "to take on a life of its own without proper consideration of the many alternative (and often more likely) causes of a child's distress during parental separation and divorce"

That parental conflict and the custodial parent's ability to function have profound impact on children's adjustment to divorce has been recognized in legal opinions. For instance, In re: Marriage of Carney (**FN40**) (Carney, 598 P. 2nd 37, Cal 1979) the California Court recognized the child's need for stability in its primary parenting relationship.

Johnston's (**FN41**) (1989,1994,1995) research finds that where there is high conflict, or evidence of domestic violence, between the parents, children can deteriorate dramatically.

The ambivalence towards or rejection of one parent may be related to any number of factors (**FN42**) (Garber, B.D., 1996; Waldren, K.H. and Joanis, D. E., 1996) and not necessarily the psychopathology of one parent.

Among the many alternative factors to PAS for an expert to consider are:

- developmentally normal separation problems,
- deficits in the non-custodial parent's skills,
- oppositional behavior,
- high-conflict divorce proceedings,
- other serious emotional or medical problems of one family member,
- child abuse,
- inappropriate, unpredictable, or violent behavior by one parent,
- incidental causes, such as the child's dislike of a parent's new roommate or lover,
- alienation by third parties,
- the child's unassisted manipulation of one or both parents, or
- fears for the absent parent's welfare.

The value of an expert's contribution to the courts' deliberations regarding children's welfare should be based on clinically sound reasoning formulated from

empirically derived data that will serve the best interest of the child and not on unsubstantiated hyperbole.

Footnotes

FN1: Mathew J. Sullivan, Parental Alienation Processes in Post-Divorce Cases, Association of Family Conciliation Courts Newsletter, Summer :1 997, at 4.

FN2: Richard A. Gardner, The Parental Alienation Syndrome and the Differentiation Between Fabricated and Genuine Child Sexual Abuse, 992.

FN3: Kathleen Niggemyer,. Parental Alienation is Open -Heart Surgery: It Needs More Than a Band-Aid to ' Fix. it, 34 Cal. w. L. Rev 567-589.

FN4: See Gardner, supra note 2.

FN5: Cherri L. Wood, The Parental Alienation Syndron e: A Dangerous Aura of Reliability, 27 Loy. L. A. L Rev. 1367, 1994.

FN6: Frye:v. United States, 293 P.1013,1014 (D.C. Cir.1923).

FN7: Daubert v. Merrell Dow Pharmaceuticals, Inc., 113 S. Ct. 2786, 2792-93 (1993).

FN8: Federal Rules of Evidence of United States Courts and Magistrates, West, 1975.

FN9: Frederick Rotgers and Deirdre Barrett, Daubert v. Merrell Dow and Expert Testimony by Clinical Psychologists: Implications and Recommendations for Practice, Professional Psychology. Research and Practice, 1996, at 467-474.

FN10: J. A. Gold, M.J Zaremski, E.R. Lev and D.H. Shefrin, Daubert v. Merrell Dow, The Supreme Court Tackles Scientific Evidence in the Courtroom, AMA, 270, 2964.

FN11: See Rotgers and Barrett, supra note 9.

FN12: See Wood, supra note 5.

FN13: L. Berliner and J.R. Conte, Sexual Abuse Evlauations: Conceptual and Empirical Obstacles, Journal of Child AbuSe and Neglect, 1993, at 111.125.

FN14: See D.C. Moss, Abuse Scale: Point System for Abuse Claims, American Bar Association Journal, 1988 (December 1).

FN15: Stephanie Dallam, The Evidence for Parental Alienation Syndrome: An Examination of Gardner's Theories and Opinions, Treating Abuse Today, 1998 (March/April), at 25-34.

FN16: Ann Anastasi, Psychological Testing (6th Ed.) New York, McMillan

FN17: See Berliner and Conte, supra note 13.

FN18: T.W. Campbell, Indicators of Child Sexual Abuse and Their Unreliability, American journal of Forensic Psychology, 1997, at 5-18.

FN19: R. Sherman, Gardner's Law, The National Law Journal, 1993, August 16.

FN20: Richard A Gardner, M.D., Evaluate Child Sex Abuse in Context, N J.L.J., May 10, 1993 at 16.

FN21: Paul C. Gianelli, The Admissibility of Novel Scientific Evidence: Frye v. United States, a Half-Century Later, 80 Colum. L. Rev. 1197, 1205, 1980.

FN22: Campbell, supra note 18; Dallam, supra note 15; Moss, supra note 14.

FN23: In the Interest of T.M.W., 553 So. 2'd 260, 262 (Fla. Dist. Ct. App. 1989).

FN24: A. Champagne, D.W. Shuman and E. Whittaker, The use of expert witnesses in American courts, Judicature, 1991, 375.

FN25: Bruce D. Sales and Daniel W. Shuman, Reclaiming the integrity of science in expert witnessing, Ethics and Behavior,1993, 223.

FN26: Principle A: Competence, and Section 7.02 Forensic Assessment (b) (c) of American Psychological Association, Ethical principles of psychologists and code of conduct, American Psychologist, 1992, 1597.

FN27: Id.

FN28: Rotgers and Barrett, supra note 9.

FN29: Supra note 26

FN30: Larson v. Dunn, 460 N.W. 2na 39, 45-46 (Minn. 1990).

FN31: Supra note 23.

FN32: Bartanus v. Lis, 480 A.2 1178, 118 (Pa. Super. Ct. 1984). ;

FN33: R.J. v. S.L.J., 801 S.W.2d 608, 609, (Mo. Ct. App. 1991).

FN34: Weiderholt v. Fischer, 485 N.W 2 d 442, 444, is. Ct. App. 1992).

FN35: Richard A. Gardner, M.D., The Parental Alienation Syndrome, (1992).

FN36: Page v. Zordan, 564 So. 2d 500, 502 (Fla. Dist. Ct. App. 1990)

FN37: Wood, supra note 5.

FN38: Dallam, supra note 15.

FN39: Benjamin D. Garber, Alternatives to Parental Alienation: Acknowledging the Broader Scope of Children's Emotional Difficulties During Parental Separation and Divorce, New Hampshire Bar Journal, 1996, at 51-54.

FN40: Carney, 598 P. 2nd 37 (Cal. 1979).

FN41: Janet R. Johnson, Ongoing post divorce conflict: Effects of joint custody and frequent access. Am. J. Orthopsychiatry,1989, 576; High conflict divorce. Future of children, 1994, 165-174;
Children's adjustment in sole compared to joint custody families and principles for custody decision making, Fam. & Conciliation Cts.. Rev., 1995, 415-419.

FN42: Garber, supra note 39 or K.H. Waldron and D.E. Joanis, Understanding and Collaboratively Treating Parental Alienation Family Law 1996, at 121-133.

FURTHER REFLECTIONS ON THE PARENTAL ALIENATION SYNDROME

Editor. The Custody Newsletter

The thrust of many articles I have recently read, as well as what I pickup from speaking to child custody experts around the country, is that somehow the PAS does not exist. This position may be presented in many different ways. A main way is to refute the existence of PAS by claming it is not in the DSM-IV. This has always seemed to me a rather perplexing argument, as it is extremely easy to think of many diseases, conditions and syndromes that existed prior to their inclusion in the DSM-N. A very recent example of this is Lyme's disease. It certainly existed long before its inclusion in DSM IV.

Dr. Poliacoff quotes Wood as claiming that "the criteria Dr. Gardner uses to determine whether PAS is present are essentially borrowed from and built upon his earlier-and now widely discredited-objective test for determining whether children were fabricating allegations of sexual abuse..." My own memory of past discussions with Dr. Gardner would challenge this assertion. The PAS has to do with issues that relate in the main to child custody disputes. While false accusations may be the spin-off-results of a PAS, many of the issues covered in the Sex Abuse Legitimacy Scale and the book, Protocols for the Sex Abuse Evaluation, have nothing to do with PAS, such as nursery school accusations, teacher accusations, clergy accusations, etc.

Richard Gardner claims the SAL scale was introduced in 1987 and that he himself stopped using it in 1989, approximately ten years ago. There were about thirty five criteria in the 1987 book. These have been expanded and are no longer used as part of a scoring system. The work on which the materials are derived are published in Gardner's book called Protocols for the Sex Abuse Evaluation. When one reads this book, it will be found that the criteria Gardner talks about are derived from the same research literature that others use when attempting to build data helpful in differentiating between true and false accusations. Gardner claims his list of differentiating criteria is generally longer and more exhaustive than other lists he has seen. (In the editor's opinion, the PAS concept stands on much firmer ground than does Gardner's procedure for investigating sex abuse allegations

Dr. Poliacoff s assertion that "too many courts and too many of the mental health professionals upon whom they rely have blithely accepted...Gardner's theoretical writings without the critical examination requisite either under the law or the ethical standards of professional psychological practice" seemed to the persons to whom I spoke to be over-stated. The implication is that courts and other mental health professionals are totally naive and gullible. While there are indeed some courts and some mental health professionals who may be gullible, it is unlikely that all of them who have been impressed with the writings of Gardner could be so characterized
On the subject of peer review, probably the easiest place to gather data in contrast to what Dr. Poliacoff asserts is in Gardner's web site: www.rgardner.com/refs. A series of articles by Deirdre Rand (which appeared in 1997 and 1998 in the Journal of the American College of Forensic Psychology) cite an enormous amount of material in this regard. Additionally, there are now about thirty six legal rulings in which the PAS has been recognized.

I am mystified by the argument about whether or not PAS is a syndrome. Whatever one labels PAS, it certainly seems to me to meet the requirements of a good scientific definition. Gardner carefully delineates the eight operational criteria by means of which one recognizes the syndrome. A definition is only as good as its operational criteria or empirical equivalents, that is, what one looks for in the real sensory world that exemplifies the defined concept. Further, I have looked up the term "syndrome" in many different medical dictionaries. While we will point out later that there is far more to be said on the issue of children caught up in high conflict custody situations than that which is covered by PAS, the PAS certainly refers to a clear subset of this overall group.

Gardner himself feels strongly that MS should be considered a syndrome. He argues that typically children who suffer with PAS will exhibit most, if not all, of the eight criteria he lists as the empirical equivalents of the syndrome or concept. This is certainly the case with what he calls moderate and severe types: In mild cases, one might not see all eight of the - criteria. However, should mild cases progress to becoming more moderate or severe,'it becomes highly likely that most of these signs will be present. In this sense, PAS children have much in common with one another. Gardner argues that just as it is true about other syndromes, it is true of PAS that there is an underlying

cause: the denigrating programming by an alienating parent in connection with the add-on something contributed by the child.

Dr. Gail Elliot and I co-authored an article about to appear in the University of Arkansas at Little Rock Law Review. This work (and the research behind it) had been requested by the journal's editorial staff. In it, we cover a huge range of issues relevant to high conflict custody cases. Our article is entitled "Qualifications of and Procedures to Be Used by Judges, Attorney and Mental Health Professionals Who Deal with Children in High Conflict Divorce Cases."

One section reviews Gardner's work. We wrote as follows.

A scientific methodology can be described in. four steps (1) A concept is a way to understand and/or predict some aspect of the world. "Intelligence," "depression," "good custody arrangements" are all concepts. (Surprisingly, a "tree" is also a concept. See the article I co-authored with Dr. Pat Bricklin called "Custody-data as decision-theory information: Evaluating a psychological contribution by its value to a decision maker." Clinical Psychology: Science and Practice, 6(3), 339-343.) (2) Empirical equivalents are what one looks at in the real sensory world that are manifestation of the concept. (3) Principles define the relations among concepts. Interest centers on concepts that can predict other concepts. For example, it is believed that the concept of "intelligence" can predict the concept of "achievement" in certain areas. (4) Validation takes place when the empirical equivalents of two concepts match what is predicted by the principle e.g., the empirical equivalents of intelligence match those of some aspect of achievement.

Gardner carefully defines the concept of a parent alienation syndrome (PAS). It occurs when a child's anger, rejection and denigration of a parent is not warranted. It is caused by a combination of alienating strategies on the part of a parent and an extra "added-on" negative embellishment by the child. Hence, PAS is not just "manipulation" or "brainwashing." If the piece added on by the child is not present, in Gardner's view the situation would not call for the PAS label. Nor, of course, would a situation be labeled PAS where the child's anger at a given parent is justified by the facts (Gardner, 1998, p. XX).

As empirical equivalents, Gardner lists the previously mentioned eight criteria, what one looks for in the real world that is a manifestation of the concept (Gardner,

1998, p. 76-77). A principle predicts the relationships between PAS and various outcome states. Validation occurs when PAS in fact predicts the existence of such conditions as parentficiation (the child takes an "I must help" parent role toward the parent, rather than a "You-are-the-parent-you-take-care-of-me" role), enmeshment (the child ceases to be able to differentiate between his or her own attitudes and feelings from those of the parent), and, of course, phobic avoidance of the target parent. PAS would also predict that standard clinical techniques will be relatively useless in addressing the situation therapeutically.

Would Gardner's contribution be more valued if he gave some statistics? Probably. But since the PAS concept adequately fulfills the criteria of a scientific approach, that is enough, in our eyes, to make it a worthwhile contribution. (Some argue PAS is not really a "syndrome." PAS meets the definition of "syndrome" in every dictionary we have consulted. And what difference would it make if we called it something else, since at an operational level a concept is only as good as its empirical equivalents, not its label. Others have argued that the phenomena covered by PAS could be accounted for by already existing concepts e.g., emotional problems, defiant behavior, etc.).

We find Gardner generally more convincing than his critics. As we see it, there is room for debate about the recommendation, sometimes made on the bases of PAS phenomena, to switch custody from the alienating to the target parent in any event, no one (including Gardner) recommends this except in the most severe cases, where damage to the child is blatantly obvious in the existing custody plan (e.g., one sees enmeshment and parentification trends, which are quite serious). The problem with switching custody is complex not only because the child will resist it tooth and nail, but also because of the frequently encountered parenting deficiencies in the target parent Further, tremendous levels of training are required to teach even an "average" parent how to deal with an enmeshed or parentified child, let alone one who has deficiencies in parenting skills. A decision to reverse custody must be made on a case-by-case basis.

I am deliberately side-stepping the Daubert/Frye issues mentioned by Dr. Poliacoff because they are far too complicated to cover briefly. While the implications of Daubert have been further reaffirmed and modified by subsequent legal decisions

(General Electric Co. v. Joiner [1997] and Kumho Tire Co. Ltd. v Carmichael [19991) there is still no general agreement among legal and psycho-legal commentators on how or even if a concept such as PAS would interface with these decisions.

Indeed one of the Professional Academy of Custody Evaluator's most distinguished members, Bruce Sales, has recently written (with co-author Daniel Shuman) as follows (paraphrased): Since Daubert, some evidence has been excluded in some few cases that might have been admitted pre-Daubert, but overall, the Daubert decision has not created many changes as regards to behavioral and social science evidence. Behavioral and social science evidence that had been admitted before this decision have since been admitted.

Krauss and Sales (2000) have argued that if one were to use child custody decision rnaking as an example, Daubert has not and probably will not make much difference as to admissible evidence. Interested readers are referred to an entire issue of Psychology, Public Policy and Law. This excellent journal is edited by Professor Sales. Volume 5, No. I dated March, 2000, is entirely devoted to "Daubert" issues. (If you have a Talmudic bent, these kinds of multi-layered issues are right for you.)

Our own work and research in this area start from a different premise. We have developed and published both in our comprehensive system (ACCESS) and in the textbook, Th Custody Evaluation Handbook, a series of red flags that we refer to as NBOAI. This stands for not-based-on-actual-interactions. NBOAI signs help an evaluator to recognize situations in which what a child is claiming to be true at a conscious level is likely not based on his or her actual interactions with the persons represented in the conscious position, but are more likely due to bribery, manipulation, intimidation or a desire to save a parent seen as impaired. In this sense, our approach aims to pick up situations that go beyond PAS. That is, the added-on piece by the child may be absent. We have always felt that evaluators have to be alert to situations in which what they observe and/or are finding in interview data may be tainted data.

Our list would include items such as: responses sound rehearsed. (one child came into my office and started our interchange with, "you know, my Dad is great"); unasked-for information volunteered; responses given too quickly with hardly any pause

between question and response; BPS (or other consciously derived choices) are all for a championed parent; very little eye contact with the evaluator, no progressive relaxation of the child throughout the evaluation (even if you have been hired by the side the child is championing and the child knows this); verbal responses precede whole-organism responses; the PORT unconscious responses do not match the consciously-sourced responses; marked erasures in PORT drawings in regard to the championed parent; distortions appear on a parent drawing the child sees as impaired and in need of being

saved." Others would include that the child's affect is not consistent with what is being said. For example, in one case a child gave a whole litany of wonderful things about the father as though he were reading out of the phone book i.e., no positive affect--none!- accompanied the litany. There are many things in the observation formats that also are red flags of NBOAI. One such sign can be recognized when a child directs extremely aggressive behavior toward a particular parent (regardless of whether this occurs with both parents simultaneously present, or when the child is alone with that parent). Defiant, cursing and silly behavior is typically seen by evaluators as evidence that the parent is not able to control the child. This is hardly ever what this really indicates. It more likely points to a child who has been "ordered" by the other parent to not interact favorably with the immediate parent when any evaluator is present.

It is essential that professionals be aware that the most commonly used observation format, each parent alone with each child, is inadequate in high conflict cases. The evaluator must be able to compare how a child behaves in the simultaneous presence of both parents, where he or she has the choice of which parent to approach for feelings of safety or for information, to behavior exhibited when he or she is alone with each parent. Also a child who will not approach, say, his mother, when in the simultaneous presence of both parents but who is comfortable with her in the alone scenario, may suggest that the child is afraid to let his father view his warmth toward her. However, it is also important to realize that under other circumstances a child may be afraid to act genuinely toward a parent, say, negatively, except when the other parent is present. (It was these kinds of difficulties with interview and observation data that caused us in the late 1950s to begin research on developing techniques to elicit

information in ways that could circumvent the limitations of consciously derived data and instead tap into gut-level reactions).

Gender Shift in PAS

To: the PAS Network
From: Richard Gardner

Gender Shift in PAS

EVOLUTION OF THE GENDER SHIFT

In the early 1980s, when I first began seeing the PAS, in about 85% to 90% of the cases the mother was the alienating parent and the father the targeted parent. Fathers were certainly trying to program their children to gain leverage in the custody dispute; however, they were less likely to be successful. This related to the fact that the children were generally more closely bonded with their mothers. Recognizing this, I generally recommended the mother to be designated the primary custodial parent, even though she might have been a PAS indoctrinator. It was only in the severe cases (about 10 percent) - when the mother was relentless and/or paranoid and unable to stop the programming-that I recommended primary custodial status to the father. I was not alone in recognizing this gender disparity, which was confirmed subsequently by others.

In the last few years, I have seen a gender shift: I am seeing more fathers as primary PAS programmers than I had seen before. And colleagues of mine in various parts of the country are reporting a similar phenomenon. Why this shift? One probable explanation relates to the fact that fathers are increasingly enjoying expanded visitation time with their children in association with the increasing popularity of shared parenting programs. The more time a programming father has with his children, the more time he has to program them if he is inclined to do so. Another factor operative here probably relates to the fact that with increasing recognition of the PAS, fathers (some of whom have read my book) have learned about the disorder and have decided to use the same psychological weapons described in my book-especially the money and power factors. It is probable that other factors are operative as well in the gender shift, but these are the two best explanations that I have at this point.

This shift notwithstanding, I am still recommending mothers, much more often than fathers, as the primary custodial parent-because in most cases it is the mother who has still been the primary caretaker and, accordingly, has basically been more deeply bonded with the children. During the late 1970s and early I98os, when the best-interests-of-the-child presumption replaced the tender-years presumption, women would have done well to have argued that the real issue to be considered by the courts was not gender but bonding. Had they taken such a position, they could no longer be considered guilty of "reverse sexism" and would have still enjoyed the benefits of being given preference in child-custody disputes. Such preference would not have been the result of gender bias by courts, but derived from the court's recognition that parent/child bonding is the most important factor to consider when deciding primary custodial preference. Had this been done, the parental alienation syndrome probably would not have developed. Accordingly, the best way to prevent this disorder is for courts to give primary consideration to the bonding issue.

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OFFICIAL PACE NEWSLETTER
Professional Academy of Custody Evaluators, Inc.

An INFORMAL forum for professionals in the custody field

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Welcome to the Custody Newsletter. Our tone is informal; we WANT contributions based on your clinical experiences, as well as more formal presentations.

Second, we solicit input from members of all professions. This is why it is not mandatory that any specific References format be followed e.g., the bibliographic notation system of the American Psychological Association, the American Psychiatric Association, etc.

In general, we favor brief articles, contributions ranging from one-half of a typewritten page to about eight typewritten pages.

Issue $9 of the CH is devoted entirely to the important area of the "parent alienation syndrome" in the form of an excellent article by Peggie Ward, Ph.D. (a member of the Advisory Council of the Professional Academy of Custody Evaluators or PACE) and J. Campbell Harvey, J.D.

I would only add to this very complete work that we, as custody evaluators, must be careful not to look only at the presence or absence of alienating ploys on the part of a parent. Our primary job as evaluators (a therapist function is to intercede and make change) is to recognize what I call any NBOAI (not-based-on-actual-interaction) scenario, i.e., to recognize when data obtained from a child is not based on that child's actual interactions with a given parent.

I make this distinction because the pendulum has swung so far to an extreme position in this area such that when it is suspected a parent is using alienating strategies he or she is automatically assumed not to be a candidate for primary caretaking parent (PCP).

This does not allow for the fact that many "alienators" are quite subtle and escape detection while their blatant ex-mates are not so subtle and get caught and labeled. Further, there are actually instances in which an "alienator" may still be the better choice for primary caretaker than the so-called "target" parent. Also, we should note that the existence of the pattern often depends on hearsay, and finally, some parents using alienating strategies should be doing just that.

Although the latter situation is rare, I recall a recent case where the mother was a blatant alienator and was seen as such. Critical decision makers automatically assumed she should not be made the PCP. It was not until the PORT revealed that the child's actual interactions with the "maligned" father were indeed terrible, that a more careful investigation was launched. The father turned out to have a well hidden criminal past which included violent behavior. This mother--rightfully in everyone's opinion--sought to protect her child from this man.

The PORT's ability to separate responses emanating from less conscious sources - responses more reflective N of a child's whole-organism, gut-level interactions with a given parent - from the more conscious responses 5P which are susceptible to loyalty conflicts, yields four separate MOM scenarios. Only one might be labeled the "classic" parent alienation syndrome i.e.. a parent is trying, with success at a conscious level, to alienate a child from the other parent, and the child's actual interactions (as measured by the PORT "unconscious" indicators) are far more positive with that parent than would be assumed from what the child reveals consciously.

Approaching this area via the NBOA1 conception also alerts the evaluator to being able to detect very subtle forms of alienation, as well as cases in which a "campaigning" child--a child who is obviously championing a certain parent--is not necessarily doing this because of anything he or she was told about the non-championed parent.

None of this is to say alienating strategies on the part of one (or both) parents--even when "justified--should not be addressed therapeutically.

Ward and Campbell offer many no-nonsense interventions.

This is an important area, and we all should be concerned about it. Some mental health professionals are marketing themselves as "specialists" in the parent alienation

syndrome. This has many implications, and not all of than seem good. The following, excellent article has some controversial points to make: reader input is urgently solicited.

FAMILY WARS

The Alienation of Children

Composite Case From Actual Examples

The parents of Amy (age 10) and Kevin (age 7) are divorcing after 13 years of marriage. Their father, by temporary stipulation, has moved from the marital home. He is entitled to visit the children on alternating weekends and one evening during the week. Soon, the children refuse to go with him. At first, they do not want to leave Mom; they say they are afraid to go. When Dad comes to the house, Mom tells him that she will "not force the children to go." "Visitation is up to them," and she will "not interfere in their decision". The children refuse to talk with him on the phone. Mom calls him names when he phones and complains constantly about her financial situation, blaming him, all within hearing of the children.

Dad attempts to talk with the children about the situation, then to bribe them with movies, shopping trips, toys. They became sullen with him and resistant to coming. Anything, routine doctor visits or invitations from a friend, serve as excuses to avoid visits.

When asked, the children say "Dad is mean to us." When asked to give specific examples, their stories are not convincing. "He yells too loud when we make noise." "He made me climb all the way to the top of a mountain." He gets mad at me about my homework." They say he has never hit them, but are afraid he will.

These children are in the process of becoming alienated from their father.

I. Definitions

Parental alienation is the creation of a singular relationship between a child and one parent, to the exclusion of the other parent. The fully alienated child is a child who does not wish to have any contact whatsoever with one parent and who expresses only negative feelings for that parent and only positive feelings for the other parent. This child has lost the range of feelings for both parents that is normal for a child.

We will call the parent who acts to create such a singular relationship between the child and himself the "alienating parent.'" The parent who is excluded from the singular relationship is "the target parent." We note that alienation can occur both ways, each parent attempting to alienate the child from the other.

II. Harm to the Child

[T]he persistent quality of the conflict combined with its enduring nature seriously endangers the mental health of the parents and the psychological development of the children. Under the guise of fighting for the child, the parents may succeed in inflicting severe emotional suffering on the very person whose protection and well-being is the presumed rationale for the battle.

It is psychologically harmful to children to be deprived of a healthy relationship with one parent.

> *"Visitation agreements must insure that the emotional bond of the child with both parents is protected. There is substantial research that indicates that children need contact with adults of both sexes for balanced development."*

With the exception of abuse, there is no good reason why a child should not want to spend same time with each of her parents, and, even with abuse, most children still want to maintain some relationship with the abusive parent. It is the job of the parents,

the professionals and the courts to see that such contact is possible under safe circumstances.'

While alienating messages and behavior affect a child negatively and impact upon the child's growth and development, the impact on the child may not vary with the parent's intentions. The effect will be to place the child in a severe loyalty bind, a position wherein the child believes she must choose which of her two parents she will "love" more. To have to choose between parents is itself damaging to the child, and, if the end result is the exclusion of a parent from the child's life, the injury is irreparable.

There is a continuum of alienating parental behaviors which cause harm to children, and all positions on this continuum need be of concern to the professionals and the courts.

III. The Family Systems Approach

All families are made up of individuals who live together in relatively stable intimate groups with the ostensible purpose of supporting and caring for each other. Family members develop their own rules and boundaries, spoken and unspoken, about the ways that they will behave with each other, support and care for each other. Each family's rules and boundaries change over time to reflect modifications in membership, the evolving needs of its members and the realities of the outer world. Most changes in the family system are gradual, but some events force cataclysmic upheaval. Divorce is usually such an event.

Unless a separating family can change its own rules and boundaries without outside intervention, the divorce process itself may reach an impasse, the term applied when the divorce process itself becomes "stuck" and the family system fails to appropriately restructure itself. When there is an impasse, any move by anyone, family member, attorney, spouse, is met with a counter move resulting in no forward progress.

The impasse creates a system of its own, with its own membership, rules and boundaries. Although little recognized by professionals, membership in the divorce impasse system will include all members of the family living together and all professionals involved it "helping" the family get a divorce, i.e. the lawyers, mediators,

therapists and even the Judge. A divorce impasse can occur at three levels: an internal-level (inside an individual); an interactional level (between two individuals); and/or an external level (within the larger social and familial system).E An impasse at any one of the levels will affect the entire system, and how each individual member responds will affect all members, especially the child.

The children themselves are members in both the changing family system and in the developing broader divorce impasse system. As a member of the family system, a child is attached legally, emotionally and psychologically to each of his parents. As a member of a divorce impasse system, a child is often asked to ally himself with one parent or the other, a request which clearly places the child in a loyalty bind. Sometimes the request, either overtly or covertly, is that the child makes the alliance exclusive. All members of the divorce impasse system, including the professionals, are affected by the loyalty struggles and may become polarized.

IV. Motivation for Alienation

An alienating parent most likely has strong underlying feelings and emotions left over from earlier, un-resolved emotional issues which have been resuscitated and compounded by the pain of the divorce. The individual, in attempting to ward off these powerful and intensely uncomfortable feelings, develops behavioral strategies that involve the children. One solution to the pain and anger is to sue for custody of the child and to endeavor to punish the other parent by seeking his or her exclusion. The internal world of an alienating parent can have complex origins which are beyond the scope of this article.

If the motivating factors are unconscious, the alienating parent may not feel and/or may not be aware of the feelings and emotions described above. Unaware parents may deny alienating behavior convincingly, but nonetheless, be involved in it.

Parents may also be aware of their angry or hopeless feelings but may consciously desire to protect the child. They tell their attorneys and the court of their conscious plans; however, despite the conscious desires, they may, unintentionally and unwittingly, engage in alienating behavior, driven by less conscious needs

Frequently, the unconscious or unintentional alienating behavior results in the milder form of alienation of the child from the target parent. Nonetheless, it is important to recognize the concrete signs of alienating behavior in order to thwart its development.

Courts should not tolerate alienating behavior simply because the intention to alienate is denied.

Neither should the courts predicate a custody award on the hopes that the behavior witnessed and cited in court is merely a product of the acrimony generated by the litigation. Parties engaged in a high conflict divorce may show their worst behavior to all, but it is impossible to predict, as the courts so often wish they could do, whether this behavior will lessen after the final resolution of the case. In a case in which the Plaintiff father was awarded custody against the recommendation of the Guardian ad Litem, the Marital Master concluded:

"The (Father) has also demonstrated some behaviors which have been troublesome to the Master as well as the Guardian ad Litem. The (Father) has been manipulative in the presentation of this case, the Master concludes that he has inappropriately attempted to influence and pressure the children into giving negative information about their mother and he has demonstrated a lack of cooperation and flexibility in respecting the (Mother's) parental rights. It is the hope of the Master that these factors have been the result of this litigation and the hostility between the parties will resolve themselves and not be a factor following this decree." S.L. v. S.L., *Superior Court, 1989.*

Here, the master has been witness to a divorce impasse which may not resolve itself without intervention, and the parties' statements of good intentions should not be relied upon to bring about a reversal of a behavioral trend already witnessed.

V. Recognition of Alienating Behaviors

A. The Continuum: Distinguishing Between “Typical” Divorce and Alienation

In a "cooperative" divorce, both parents work together to restructure their own relationship and their family to allow the children as normal a relationship with each of them as is possible. This means cooperating as to finances, logistics and schedules as well as actively supporting the children's emotional relation-ships with the other parent and the extended families. All parties to divorce experience a wide range of intense emotions, including rage, disappointment, hurt and fear. In "cooperative" divorces the parties consciously try not to engage in behavior they understand to be inflammatory to the other side.

However, an angry divorce is not necessarily an alienating one. Alienation occurs when the parties to divorce or custody litigation use their children to .meet their own emotional needs, as vehicles to express or carry their intense emotions or as pawns to manipulate as a way of inflicting retribution on the other side. The focus in determining whether or not there is alienation in an angry divorce must be not on the degree of rage or loss expressed, but on behavioral willingness to involve the children.

Parental alienation occurs along a broad continuum, based on the level of internal distress of the alienating parent, the vulnerability of the child and the responses of the target parent as well as on the responses of the external system (family, attorneys, mental health professionals, the legal system). The range may be from children who experience significant discomfort at transition times (mild), through childr-en who feel compelled to keep separate worlds and identities when with each parent (moderate), to children who refuse to have anything to do with the target parent and become obsessed with their hatred (severe).

There are alienating parents who are completely unaware of either their emotional state, the motivation to alienate, or the effects of their behavior (unconscious), while at the other end of the continuum, there are parents who

absolutely intend to bind the child to themselves than exclusive relation-ship and are explicit in their statements and behavior (overt).

B. MILD

Recognizing the mild form of alienating behavior is tricky: the alienating behavior is subtle, and the alienating parent prone to deny motivation and acts, and driven to verbally assert the opposite of what is true.

Although such statements are sincerely meant, the alienating parent's view of the other parent is compromised at this stage, as indicated by behavior. Not aware of the feelings that motivate the unintentional alienating behavior, the evaluator must look at the underlying messages that are given directly to the child. In this milder form there is less polarization of the external sources of the divorce impasse system (attorneys, courts). The communications to the child of the regard with which the other parent is held is the key to detecting alienating behavior.

Examples of mild forms of alienating behavior include:

1. Little regard for the importance of visitation/contact with the other parent:

"You're welcome to visit with Mom; you make the choice; I won't force you."
No encouragement of visits;
No concern over missed visits;
No interest in the child's activities or experiences during visitation (in a positive manner);

2. Lack of value regarding communication between visits:

No encouragement of communication between visits;
Little awareness of the distress a child may feel if a visit or phone call is missed.

3. Inability to tolerate the presence of the other parent even at events important to the child:

"I won't go to any soccer games if your mother is there."

4. Disregard for the importance of the relation-ship to the child:
Displaying a willingness to apply for and accept a new job away from the other parent, without regard to the child's relationship with that parent.

At this stage alienation is most likely to become obvious during family system transition times, such as when children leave one home and go to another, when one parent remarries or has another child. The know-ledge that a child needs the other parent may be present, but this rational belief may become overwhelmed by internal and interactional problems at this phase.

C. MODERATE

The alienating parent has some awareness of her emotional motivations (fear of loss, rage) and little sense of the value of the target parent. Sometimes, an alienating parent will understand the theoretical importance of the other parent in the life of her child, but believes that in her case, the other parent, due to character deficiencies, cannot be important to the child. Their statements and behaviors are subtle but damaging to the child.

1. Communications of dislike of visitation
“You can visit with your Dad, but you know how I feel about it."
“How can you go to see your father when you know…”
“I’ve been sick; Aunt B is here…”
“Visitation with your Dad is really up to you.”

2. Refusal to hear anything about the other parent (especially if it is good):
"That's between you and your father... (regardin6 reports of visitation; plans for visitation);"
"I don't want to hear about... (what you did with your father) (especially if it was fun);

3. Delights in hearing negative news about the other parent;

4. Refusal to speak directly with the other parent:

- When the target parent calls, gives the phone to the child, "It's him," in a disgusted tone of voice.
- Hangs up phone on the target parent;
- Silently hands the phone to the child when its the target parent calling.

5. Refusal to allow the target parent physically near:

- Target parent not allowed out of the car or even on the property, in the driveway, for pick-up and drop-off visitations;

6. Doing and undoing statements: Negative comments about the other parent made then denied:

"There are things I could tell you about your Dad, but I'm not that kind of person.
"Your Dad is an alcoholic; oh, I shouldn't have said that."

7. Subtle accusations:

"Your Dad wasn't around a lot when you were little."
"Your Dad abandoned me."

8. Destruction of memorabilia of the target person.

At this stage alienation continues to occur more frequently during transitional times, but is present in other circumstances. With moderate forms of alienation, all three divorce impasse systems are involved. The alienating parent is facing an internal conflict; the alienating parent is interacting with the spouse in a manner designed to produce conflict; and the external forces, such as therapists, attorneys and the court, are involved in the polarization, at least to some degree.

D. OVERT

When the alienation is overt, the motivation to alienate (the intense hatred of the other) is blatant. The alienating parent is obsessed and sees the target as noxious to himself or herself, the children, and even the world. A history of the marriage is related which reflects nothing but the bad times. The target parent was never worthwhile as a spouse or a parent and is not worthwhile today. Such a parent shows little response to logic, and little ability to confront reality.

Many alienating parents at this stage entertain the overt belief that the target parent presents an actual danger of harm to the children. They present this belief as concrete knowledge that if the children spend time with the target parent they will be irreparably harmed in some manner or that they will be brainwashed by the target parent not to value/love the alienating parent.

1. Statements about the target parent are delusional or false:

"Your Mom doesn't pay support" when there is evidence to show payment.
"Your father doesn't love us" (or “you”) when there is no evidence to that effect.
"Your mother drinks too much," "uses drugs," "smokes," etc. when there is no evidence to support these statements.
"Your father went out and got the meanest lawyer in town;"

2. Inclusion of the children as victims of the target parent's bad behavior:

"Your Man abandoned us";
"Your Dad doesn't love us (or you) anymore;”

3. Overt criticism of the target parent:

"Your Mom is a drug addict/alcoholic/violent person..."
"What's wrong with your Dad; he never/always does..."
"Your mother endangers your health,"
"Your father doesn't take good care of you/ doesn't feed you/ take you to the doctor/ understand you during visits."

4. The children are required to keep secrets from the target parent:

"Don't tell your Mom where you've been/ who you've seen/ where you are going/ etc."

5. Threat of withdrawal of love:

"I won't love you if you... (see your Dad, etc. "I'm the only one who really loves you."

6. Extreme lack of courtesy to the target Parent

At this stage of alienation, conscious motivation is always present, and the internal, interactional and external systems are fully engaged in supporting the alienation process.

E. SEVERE

By the severe stage, the alienating parent no longer needs to be active. In terms of the motivation, the alienating parent holds no value at all for the other parent (whether motivated by fears, emptiness, helplessness) and the hatred and disdain are completely overt. The alienating parent will do anything to keep the children away from the target parent.

At this stage the child is so enmeshed with the alienating parent that he or she agrees totally that the target parent is a villain and the scup of the earth. The child takes on the alienating parent's desires, emotions and hatreds and verbalizes them to all as his own. The child too sees the history of the target parent and family as all negative and is able to neither remember nor express any positive feeling for the target parent.

These, and overt cases of the previous paragraph, are the ones that as an attorney invade your private life and lead to emotional over-involvement, although any high conflict alienation case beginning in the moderate category can do so.

VI. Intervention in Alienation Systems

1. Prevention

A. Education

In the ideal cooperative divorce, there is little or no alienation occurring. Parents recognize the difference between their own needs and the needs of their children. They fully believe that their children have needed both parents throughout the marriage and will continue to need them after the divorce. Each parent values the role that the other parent can play in the lives of the children and the different interests and talents the other has to offer the children. There is no motivation for alienation because of the value attributed to the other parent.

This ideal is infrequently realized in real life because divorce is such an intense change of role, life stage and life style for almost all who go through it. Participants need as much education, support and information as possible to help mitigate the harms that result from high conflict divorce.

Certain counties, court systems and other governmental entities are requiring all parents of children involved in a divorce to attend an educational program designed to help them understand the impact of the divorce process on themselves and their children and to recognize the value to children of having both parents involved. The parents are educated as to the typical stages in divorce and child development and the impact they can anticipate their divorce having on their children. The studies of the long term effects of divorce and the usual problems that occur are discussed. These programs are designed to be preventative of the kinds of problems that commonly arise when parents do not understand the psychological and emotional consequences their divorce has upon themselves and their children.

Other states require mandatory mediation prior to a court trial as a way of avoiding litigation. Mediation advocates believe that mediation is more successful than the courts at avoiding future litigation."

While there have been no studies as to the effectiveness of these programs in preventing or ameliorating alienation, in one such program the participants themselves

have reported great satisfaction with the program and have recommended that it be expanded.

B. Attorneys

Attorneys and therapists are the front line professionals in most custody battles. They, too, have an obligation to educate their clients that divorce involves anger, rage, upset, distress, loyalty binds, and kids and parents who manipulate each other in crisis. The clients must be helped to understand the normality of these themes and to learn the strategies for controlling them and outgrowing them. Alternatives to intense battles must be explored.

It is the duty of the attorney to advocate for her client. Good representation will include assessing the family system clearly from the client's point of view, and to advocate for that client's interests zealously. However, we believe that such zealous advocacy must occur in the context of the client's long term interests as a member of a restructuring family system. Whatever the outcome of the immediate litigation, the client will remain in the family system with contact and relationship with all other members of the family system for the rest of his or her life. Long after the lawyers are gone, the client will live with the effects of the positions taken and the statements made in litigation. The client may later regret the vitriol and the permanency of the damage done by a high conflict divorce.

It is the attorney's job to help the client through the immediacy of the pain and the rage and to help the client see the long term view of involved family relations.

Attorneys must also be acutely cognizant of the divorce impasse system itself and the important part they play in it. Maligning the other spouse, requiring the client to have no further contact with the spouse, prohibiting any temporary agreements or a temporary separation can interfere with a real resolution of the conflict. Zealous advocacy is a poor excuse for actually damaging a client's long term familial relations.

Alienation cases present the greatest difficulty for attorneys. In the advocacy role, an attorney is bound to allow the client to define the goal of the representation and to advance that position zealously!" An attorney is also bound not to bring or defend

frivolous actions. We believe that actions harmful to children could fall under that prohibition.

If alienation is in progress, accepting at face value all derogatory comments about the opposing party will ill serve both the client and the attorney, as the client's judgment is emotionally tainted. It is incumbent on the attorney to sufficiently explore with the client his motivation and the reality basis is beliefs before litigation is undertaken. Careful and thoughtful exploration with the client about the good times in the marriage and the positive parenting traits of the other side will give the attorney much information about both parties, and will tell the attorney just how balanced a view the client holds.

We believe that under no circumstances should an attorney encourage a client to gain information about the opposing party from a child. An attorney should never interview a child even if the child is unrepresented. The willingness of a client to directly involve a child in the litigation should be a red flag that the parent may well be using a child to further her own agenda, even if the child is apparently acquiescent.

It is crucial to note, however, that we are describing cases where alienation exists, and other forms of abuse, such as physical or sexual abuse, do not. If abuse is honestly suspected, safety of the spouse or children becomes paramount and full evaluation by a competent professional is a necessity.

C. Courts

Courts must recognize the initial seeds of alienation and seek information about family structure to examine the degree of risk in the family: Are the adults using or manipulating the children in furtherance of their own emotional needs? Are the children vulnerable to alienation?

All children can be enlisted into the battle, but, generally speaking, the children who are most vulnerable may be overly dependent, fearful and passive. These children may express guilt feelings about their parents' divorce, identify with or play the rescuer of the alienating parent, assume caretaking roles of a parent, and/or feel conditionally

loved. The more vulnerable children pick up and resonate with the parental feelings. Generally, the children will have little insight into their situation.

The factors that identify families where alienation is less likely are: abundant positive contact between both parents and the children; sibling groups who all have good relations with both parents; good relations of the children with family and friends of both parents; free communication to the child by others of the good qualities of both parents; lack of defensiveness on the part of each parent as to the emotions, statements and criticisms of the other; ability of each parent to discuss schedules and parenting concerns with the other parent; ability of each parent to accommodate the schedules and desires of the other.

Many high conflict families view the court as deter-mining not only custody and visitation, but also making judgments about the right and wrong, good and bad parenting. Court is seen as a place where one person is judged to be fit, and the other unfit. The court can help ameliorate this unfortunate scenario by making explicit the legal and pragmatic grounds for a decision. if appropriate, the court can declare neutrality on personal and moral issues that do not expose a child to harm. Compassionate communication that does not further the anger, loss, shame and humiliation in this public forum can be immensely healing.

2. Mild Alienation Cases

Once an alienation process has been identified, the court must intervene. Even at the mild or beginning stages there is much work to be done. There is usually a healthy psychological bond between each of the parents and the child and at least a cognitive recognition on the part of the alienating parent that an estrangement between the child and the target parent is not in the best interests of the child. The alienating parent is frequently willing to participate in a program to change the direction of the case, if given the information and the guidance necessary.

Often the alienation at this stage is motivated by fear that the impending divorce will cause the child to love the alienating parent less. The finalization of the divorce itself

together with specific education and the therapy described below may ameliorate the situation.

At the mild stage, it is imperative that the family be engaged in a "family systems" therapy that is focused on changing the behavior of the parties around the child. The traditional individual therapies are not helpful as individual treatment tends to focus on only one side, therefore potentially increasing the alienation by advocacy for a client. If individual therapy is necessary for a child or a parent, it must take place with a therapist who understands the alienation process and who supports the value to a child of having a relationship with each parent. Family systems work may need to include the child at some or all sessions.

All therapists engaged with the family must understand family dynamics and parental alienation. have a systems approach and clearly understand that children need two parents. The therapists must be strong and forceful and able to utilize the force of the court through the Guardian ad Litem. The therapy must be directed at the resolution of the divorce impasse.

The Court ordered divorce impasse therapy must include all the adults directly involved in the custody of the child. This includes both parents and any live-in lovers or current spouses and any other adult who lives in the home of either the alienating parent or the target parent and any other adult who may be involved in the alienation. A court order may be necessary to require the warring adults to sit in the same room together, but we believe that they must actually face each other if possible, or, at a minimum, be involved with the same systems therapist if meeting together is not recommended.

The Court order must be forceful and explicit. The rights, responsibilities and duties of each parent must be spelled out explicitly. Attendance in therapy as required by the therapist must be court ordered. The custody and visitation schedule may also need to be explicit, with details of how, when and where pick-ups and drop-offs are to occur. All parties must understand that a court order cannot be modified unless approved by the court; if modifications can be made by the family with the agreement of the systems therapist, this must be made explicit in the order.

Confidentiality will always be an issue which should be addressed by the court, the parties, lawyers and the therapist. If the parties are able to agree to confidentiality, it should be written into the court order. If the therapy is confidential, it should be confidential to all, including the court and the guardian ad Litem. The ability of the parties to agree to confidentiality would be a major step to resolution as it indicates both motivation and trust of the system.

If the parties cannot agree to confidentiality, the court should do what it can to insulate the therapist from legal inquiry, with due regard for the parties constitutional rights. The court can order the attorneys not to speak with the therapist (except for the Guardian ad Litem) during the therapeutic process, order complete confidentiality for the therapist's working notes; delay all depositions until further court order, or otherwise limit the therapist's involvement in the litigation process.

There must be a mechanism for enforcement of the court order. The court should appoint a Guardian ad Litem who will have the authority, independent of further court order, to require a complete family system evaluation if the above treatment is not successful. The order at this stage should include the mechanism for the payment of both the Guardian ad Litem and the court ordered evaluation.

The order should also contemplate the need for rapid and complete intervention, should the parties fail to ameliorate the situation. We suggest that the court schedule a review hearing at the time it issues the therapy order, and allow only the Guardian ad Litem to cancel it.

We are hopeful that, in most cases, the court ordered expensive evaluation will be sufficient sanction to motivate the parents to genuinely participate in treatment, but the parties must be made to feel the strength of the court behind the court order. Sanctions for failure to comply must be explicit. We urge the court to spell out the next stage of intervention (described below) and include an explanation of what sanctions to expect at a future date, if necessary.

3. Moderate

Intervention for moderate alienation cannot be only the educational and counseling, intervention described for mild alienation. Education cannot be successful because the alienation at this level is not a rationai process and reason alone will not change irrational behavior. At this level the alienating parent's individual internal difficulties have become so intense that insight and Judgment as to the target parent is impaired. Further, the alienating parent's interactions with and about the target parent are based not on observed behavior but on inner fears, and serve to reaffirm the belief that the target parent is bad. Additionally, external forces (individual therapists, attorneys, extended family) have become polarized on behalf of one Party and serve to perpetuate the alienation.

We believe that the family system must be thoroughly evaluated by a professional or a team of professionals competent in the "family systems" approach. The evaluation must be of the entire system, including all adults directly involved in the life of the child, as described above. The evaluation must be generated by a single source or team; multiple individual psycho-logical evaluations will not be able to advise the court as to the inter-relational issues that are affecting the functioning of the family.

The purpose of the evaluation is to 1.) identify the specific motivations and behaviors that are causing the divorce impasse or subsequent alienation; 2.) to assess whether or not individual therapy might be beneficial for any party to help resolve intra-psychic issues; and 3.) to develop a complete behavioral plan to intervene in the alienation process.

The behavioral assessment must be very specific as to the motivations for the impasse behaviors that are causing the alienation, and the changes necessary to alter the system. Once the behaviors and beliefs are identified, the evaluator can make recommendations as to specific behavioral measures to counter the alienation. The recommendations must be sufficiently detailed and specific to be quantifiable.

We wish to emphasize here that individual psychological evaluations and therapies, or "talking" group or family therapies are of minimal value in these situations, as they may only serve to perpetuate the alienation process. The goal of appropriate

treatment is not only to gain understanding of the divorce impasse but also to behaviorally reduce or eliminate alienation within the system. In order to intervene in alienation, behavior and group dynamics must be modified.

We suggest the Individual Educational Plan (the 1EP) as a model." The Recommendations must be as specific and goal oriented as the IEP, and compliance must be targeted in much the same manner." Compliance should be approximately 70% compliance the first two months; 80% the third or fourth month; 30% the fifth month and thereafter.

For example:

1. The child will see Target Parent X times per week without parental conflict at times of transition;

2. The child will telephone Target Parent X times per week and talk about positive things for a minute or two; (depending on the age of the child); (depending upon whether telephone calls to a hostile environment would be beneficial or not to the child);

3. During the visit, the Alienating Parent may call only "x" number of times (or may not call at all);

4. The child will send Target Parent a picture or painting in the mail once per week, with a positive note attached;
The child will bring home from visits a project done or a note to Alienating Parent about what was enjoyed during each visit.

5. The Target Parent will provide a photograph of himself to the child, and the Alienating Parent shall encourage the child to display it.

Essentially, what the evaluators must do is to under-stand the impasse, address it directly and compassionately. Clearly, this plan will work best if the internal and the

interactional issues which created the divorce impasse are concurrently addressed and alleviated. At the same time the court must mandate the occurrence of specific behaviors that counteract the battle forces. The court must make the parents demonstrate that they can follow a plan whose ultimate goal is the mutuality of interest, even if they don't feel it. It is our position that the alienating parent must become the welcoming parent in deed if not in thought.

Finally, the plan must cover a specific and lengthy period of time during which behavioral requirements of the parties and the child are explicitly laid out. This will provide the parties sufficient predictability to calm the system down and to allow every one in it to get used to the idea that different relationships between the members are going to be established in a predictable manner. We suggest that the plan cover approximately six months with an automatic court review at that time.

Procedurally, we suggest that the Guardian ad Litem be authorized at the first stage of intervention, as noted above, to require the evaluation, and that the Guardian's request have the force of the court behind it. When the evaluation is commenced, the Guardian ad Litem simultaneously should request the Court to schedule a hearing to be held before the Court when the evaluation is complete. At the hearing, all par-ties could present to the court proposed remedial measures; the Guardian ad Litem would present the evaluator's report and recommendations which will likely include individual therapy to address the impasse and an MEP-like behavioral management program. The Court should then issue a detailed, quantifiable, specific order with sanctions enumerated, as to the behavioral changes necessary to ameliorate the alienation and order the parties into therapy, if recommended.

There will be no confidentiality by the time a family is in this stage of alienation and need for intervention. The court needs to be able to monitor the progress of the family through the behavior management therapy. The behavior management therapist will need to be able to communicate with any individual therapists involved with family members so that there is a full and complete exchange of information and no family secrets.

Creative sanctions must stand behind the court order as compliance at this stage will be motivated only by fear. The ultimate sanction is a change of custody, but there

are many others we could suggest. The legal system has traditionally used fines and loss of liberty as punishment for failure to comply with court orders. Certainly, these are sanctions that could be used in these cases, but they may harm or confuse the children as much as the contemnor. Obviously, an award of attorney's fees, the threat of attorney's fees, the threat of weekend jail time may be a useful sanction. Threats of transferring or assigning responsibility for the Guardian ad Litem's fees, the cost of the evaluation, the costs of the child's therapy or even therapy for the other parent can all be used to motivate compliance in this early stage of intervention, subject always to the best interests of the child.

We also suggest that the court could shift both time (expand visitation or award cherished holidays and birthdays to the complying parent) and function (assign areas of traditionally joint parental authority such as medical care, education) in favor of the target parent, both as appropriate sanctions, and as possible preparation for the ultimate sanction, a change in custody.

The careful monitoring of such a detailed court order is an essential piece of this intervention, and we suggest that there be a monitoring team to do it. The Guardian ad Litem and a therapist, most likely the evaluator or the original post-divorce counselor, should work together monitoring compliance. Such monitoring perforce will be largely through reports of the principles involved, the parents and the child, but can also be done by teachers, individual therapists, friends, etc. through reports to the Guardian ad 1-item. For instance, teachers can be asked to re port on the emotional condition of a child before and after visits and to report on any information the child offers in school. A child can be asked where he keeps the photograph of the Target Parent (as an indicator of the degree of comfort the child has in the display in the allegedly hostile environment).

A team is necessary to lessen the danger of the professionals becoming caught into the polarization in the family system. In extreme cases the monitoring team may even want to have a third consultant monitor available to them to oversee the case as a more distant figure, not caught up in the everyday details these kinds of cases chronically present. A consultant monitor could stay aloof of the various warring factions.

If the parties fail to comply with the court orders there needs to be swift access to the courts and a second look at the custody situation.

4. The Parent Evaluation

If the above described interventions fail and the child remains virtually without relationship to the target parent a different level of intervention is warranted.- if the alienating behavior continues despite the education, the post divorce counseling, impasse resolution therapy, and the specific behavior management intervention, one can conclude as a matter of established fact that the alienating parent does not have the capacity to foster a relationship with the other parent.

There is a considerable body of research which specifically examines the effects on children of single parent homes. A full review of this literature is beyond the scope of this paper, but, in general, the evidence is overwhelming that in father-absent homes, boys have lower self esteem, are more likely to be rejected by peers and may experience deficits in cognitive functioning. Girls may be less affected than boys in father-absent homes, but the research does show negative effects on girls' social and cognitive development."

There is an additional body of research on reaction; of children to high conflict divorce." Children who experience high degrees of conflict between parent: during divorce show more emotional difficulty than those whose parents are able to better resolve their difficulties. Children whose parents are in conflict "are more likely to feel caught, and children who feel caught are more likely to experience depression, anxiety, and, to a lesser degree, participate in deviant behavior."

The deliberate alienation by one parent of the other, unmodified by the numerous interventions described above, is psychologically harmful to the child.

"It is important...to appreciate that a parent who inculcates a parental alienation syndrome in a child is indeed perpetrating a from of emotional abuse in that such programming may not only produce lifelong alienation from a loving parent, ut lifelong psychiatric disturbance in the child. '

A change of custody must be contemplated under the best interests standard as the Perrault standard of a "strong possibility of harm" has been met.

The court must determine what custody location would be the most beneficial to the child, although in many of these cases the courts actually have to decide which placement is the least damaging to the A. A comparative determination of the custodial capacity of each parent must be done. The court or the parties may well have sufficient information at this point to litigate the issue of the best interests of the child. If not, parenting evaluations become crucial.

Knowing that the alienating parent does not have the ability to foster a relationship between the child and the target parent, the issue before the court will be, does the target parent offer the child sufficient Parenting capacity to outweigh that very serious harm. We believe that, because of the very nature of the harm to the child from the lack of a relationship with the target parent, the court must determine whether the target parent has adequate parenting capacity.

If the target parent shows a parenting ability that is adequate as defined in the research and fits the needs of the child and there is a reasonable likelihood that the target parent will foster the relationship of the child with the alienating parent, the court should seriously consider modifying custody, unless the child is so enmeshed with the alienating parent that a change in custody would be permanently harmful to the child. If the target parent is not adequate, it becomes incumbent on the court to see if there are other family members or foster care available to take the child, someone to help the child create and maintain a relationship with each of his parents.

Severe: The Fully Enmeshed Child

If the alienation is allowed to progress and the child has few resources with which to resist the influence of the alienating parent, the child may become fully "enmeshed" with the alienating parent. It is estimated that very few children suffer this harm (between 1% and 5% of alienation cases23) but there are those situations where it is impossible to encourage or even force a child to be with the target parent. These

children have only extremely hostile feelings for the target parent, and no amount of evidence disproving their stated reasons for their hatred will serve to dissuade them. Enmeshed children have incorporated the alienating parent's hatreds, emotions and desires with regard to the target parent, such that it is often difficult to discern who is expressing them.

In some of these cases, the enmeshment is so complete that it would cause the child to suffer an emotional breakdown of devastating proportions if custody were awarded to the hated target parent. In these cases, the child's sense of self is totally dependent on the relationship of the alienating parent, and a loss of that relationship would mean destruction of the self. Certainly, attempts to switch custody would be fought against and undermined by the child: tactics would include runaways; reports by the child of physical/sexual abuse by the hated parent; reports by the child of self destructive behaviors such as drug abuse, suicide attempts; refusal to participate in school; etc.

In these rare cases, the child must stay with the alienating parent, as it is not proper to use a child to punish a parent for misbehavior.- For whatever solace it is, the target parent must be assured that at some point children do seek out the other parent, and the relationship is not lost forever.

When there is no relationship allowed or allowable between the target parent and the enmeshed child, some courts have suspended a target parent's child support or allowed the target parent to escrow child support so that the target parent does not have to provide financial assistance to the household that hates him so profoundly. However, even this sanction, must be used cautiously as the detriment may be experienced by the child, not the alienating parent.

VII. Weapons

"Weapons" are the false allegations by the alienating parent of behavior on the part of the target parent inimitable to the welfare of the child. The most commonly used weapons are false allegations of:

- threats of or actual domestic violence;
- sexual abuse of the child;
- physical abuse of the child;
- emotional abuse of the child;
- mental illness on the part of the target parent;
- alcoholism/drug abuse/homosexuality on the part of the target parent;

or threats of:

- moving or flight by the alienating parent.

Even when such an allegation is made in the context of high conflict litigation, it must be taken very seriously on its face and fully investigated to determine its validity. Each allegation accuses the target parent of behavior harmful to the child. Safety of the child is paramount. Neither the courts, the lawyers, the therapists or, perhaps, the parents, want to risk the welfare of the child when there is a possibility that the accusations might be true.

By their very nature, the allegations shift the emphasis of investigation onto the accused, the target parent. Several of the accusations are of very private behavior, in the home only, which behaviors are difficult to prove and/or disprove,

Most domestic violence remains invisible despite the increase in awareness of the problem. Under New Hampshire procedures outlined in NH RSA 173-B, a complaint of domestic violence taken to court together with a request for exclusive custody can give the complainant a considerable advantage in the legal system.

Custody can be gained in an ex-parte proceeding. A sworn claim of violence or the threat of violence is all that is needed. Extrinsic proof of danger or harm is rarely requested, and Judges make no inquiry whatsoever into the nature of prevailing custodial arrangements. In most cases, the procedures are appropriate and the protection given critical to the life and safety of domestic violence victims and their

children. In rare cases, the procedures afforded to domestic violence victims are manipulated to gain advantage in custody cases without being grounded in real fear of physical violence.

Attorneys are bound by their own ethical rules not to knowingly mislead a tribunal. It is highly questionable practice to refer clients who have not suffered domestic violence or the serious threat of it to court for the quick relief afforded such victims under NH RSA 173-B, although the New Hampshire District Court Judges report an increasing number of such custody cases." Advising a client to gain a tactical advantage by using the emergency procedures afforded under NH RSA 173-8 may violate the Code of Professional Conduct even if the attorney is not involved in the presentation of the case to the court.

Allegations of abuse of a child (physical and/or sexual) may be fabricated but may also be absolutely accurate; in all instances, but especially in the context of a custody battle, such allegations need to be dealt with immediately by a competent professional who fully understands: 1.) sexual and/or physical abuse of children; 2.) family systems; 3.) divorce and custody litigation and the impact of lawyers and the legal system.

Sexuality triggers intense feelings in all listeners, and fear and panic may, at times, obscure reason. Some litigants have learned to use to their advantage the irrationality that can attend allegations of sexual abuse. We caution all involved: get professional intervention immediately with a coordinated, systemic evaluation of both the allegations of sexual abuse and the family system that has produced the allegation.

Allegations of physical abuse are not used often in the context of custody litigation, perhaps because physical abuse is usually easier to detect than sexual abuse, making it easier to prove or disprove. When the allegations are made and sufficiently established to cause concern in the Superior Court, the court or the parties involved must refer the ease to the Division for Children and Youth Services under NH RSA 169-C.

If it is unclear that there is in fact abuse (sexual or physical), then the allegations may have been produced by the intensity of feelings about the divorce, the fear of abuse and a misreading of a particular situation. However, the failure to disprove the

allegations will paralyze the system to the advantage of the alienating parent because the emphasis of the Court and the professionals must be on the protection and safety of the child. Unless disproved, these suspicious allegations cast a pall of potential harm to the child that no one person, institution or agency will have courage enough to ignore.

We believe that it is important to establish a base line of facts upon which all persons involved in the divorce impasse system, family and professional alike, can rely for future decisions regarding visitation and custody. Because of the emotionally charged atmosphere sexual and physical abuse charges generate we believe that no one person should be responsible for establishing those facts. Therefore, we suggest that advisory juries be empaneled to aid the judge it his findings regarding the allegations of abuse. Ni RSA 519:23; NH RSA 491:16. Unless this is done and reliable facts are established in these cases, an accused will always be treated as guilty unless proven innocent with regards to contact with the children.

Accusations of alcoholism, mental illness or homosexuality also place a burden on the target parent to prove fitness to be with the child, but these factors are less potent in most custody litigation today than they used to be. It is easier to prove or disprove alcohol or drug abuse or mental illness as the behavior is not necessarily private. These accusations also do not directly implicate parenting capacity in the same way allegations of physical or sexual violence do, and the courts are routinely requiring that litigants prove a nexus between the alleged behavior and harm to the child.

Another weapon is the threat of moving, or the al flight of the alienating parent. The court Must immediately look to the motive, spoken or unspoken, for the move; if the motivation is to keep the target parent away, this is a clear red flag that the alienating parent will stop at nothing to achieve an exclusive relationship with the child.

No matter when a "weapon" shows up in the course of the litigation, the fact of its allegation must lead directly to a full systems evaluation by a qualified, competent professional. it serves as an indication that the alienating parent knows no bounds and that education, information and behavior management will be insufficient interventions. The courts must look to the long term best interests of the child in terms of custody because the alienation process will continue. The use of a weapon should catalyze the system to the evaluation of the custodial capacities of each parent. An expert must look

at the entire system, assess the truth and relevance of the allegations, the motivation for the allegations, assess the safety and welfare of the child and make recommendations as to the best placement and visitation arrangements for the child.

Conclusion

A partnership of judges, attorneys, and mental health professionals is critical in the resolution of high conflict alienation cases. A judge has the power to order changes but is not readily available. Lawyers are more available, but do not necessarily have proper understandings. A3 advocates, they can easily become part of a divorce impasse system, aggravating an already inflamed system. Mental health professionals must have a systems understanding and usually are available, but do not have the power of the court, nor the legal understandings of the attorney. A partnership is essential.

Attorneys must help clients discern long term interests regarding children, the meanings behind a custody battle (hurt, revenge, fears) and ensuing alienation. Attorneys must offer education about the importance of co-parenting and moving beyond the battleground. Attorneys must treat with caution and trepidation a client who sees a divorcing spouse as all bad and must avoid joining with the client in further escalating this belief. Attorneys must refer to mental health professionals trained in family systems, those who need someone who will work for the best interest of the whole family. Attorneys must recognize when they have been enlisted as active parties in the polarization alienation conflict, and seek consultation so as not to further escalate the process.

Courts must act decisively and explicitly in cases of high conflict divorce and alienation. Orders must be pragmatic and the grounds for decisions must be explained in terms that make it less likely that one party can claim a moral victory and the other feel shame of defeat. Courts must use their knowledge and power to understand the family system, to recognize high conflict alienation cases, and to make appropriate, timely and specific referrals and recommendations. By recognizing alienation in its early

forms, prevention of future harm to the child and family may well be possible.

Intervention, at any point along the continuum of harm is crucial to prevent further harm.

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1. ENDNOTES

2. Most of the research to date has shown that the mother is significantly more likely to be the alienating parent and the father the target parent. However, we note that there is a fair amount of controversy in the field regarding the conclusion that more mothers alienate than fathers, and wish to emphasize that in many cases we personally have seen, it is the father who alienates and the mother who is the target.

3. See, Lamb, M.E.(ed.) In_Non-Traditional Families, "Effects of Divorce on Parents & Children" by Hetherington, E.M.; Cox, M.; Cox, R. (1982). See also, Wallerstein, J. & Kelly, J.S., Surviving the Breakup: How children and Parents Cope with Divorce, (1980); J. Wallerstein & S. Blakeslee, Second Chances: Men, Women and Children a Decade after Divorce: Who Wins, Loses and Why (1989)

4. Johnston. J.R. & Campbell, L.E.G., impasses of Divorce "Forward" by J. Wallerstein, p.ix (1988)

5. Hodges, William F. Interventions for Children of Divorce at 151 (1986).

6. Gardner, Richard, The Parental Alienation Syndrome (1992).

7. Johnston, impasses of Divorce see Endnote 2.

8. "Families First" is a program currently mandated in several cities/counties in Georgia, Florida, Indiana, Texas, Illinois, Michigan, and Louisiana, among other states.

9. California (The Family Act, Sec. 4607, The Civil Code), Maine (19 Maine Revised Statutes 214.4), North Carolina (7A North Carolina Revised Statutes 494) and Wisconsin (767.001 Wisconsin Revised Statutes) require mediation for custody cases.

10. Zirps, Fotena A., Ph.D. Children Cope with Divorce -- Follow-up Study, Cobb County, Families First, Atlanta, Georgia, (1992)-

11. Code of Professional Conduct Rule 2.1.

12. Code of Professional Conduct Rule 3.1.

13. American Academy of Matrimonial Lawyers, Standards of Conduct Rule 2.25 An attorney should not contest child custody or visitation for either financial leverage or vindictiveness. Comment: ..."Proper consideration of the welfare of the children requires that they not be used as pawns in the adversary process. if despite the attorney's advice the client persists, the attorney should seek to withdraw. Rule 2.27 An attorney should

refuse to assist in vindictive conduct toward a spouse or third party and should not do anything to increase the emotional level of the dispute. Comment: "If...the client...asks the attorney to engage in conduct the attorney believes to be imprudent or repugnant, the attorney should attempt to convince the client to work toward family harmony or in the interests of the children. Conduct in the interests of the children or the family will almost always be in the client's long term interests."

14. American Academy of Matrimonial Lawyers, Standards of Conduct Rule 2.24 When issues in a representation affect the welfare of a child, an attorney should not initiate communication with the child, except in the presence of the child's lawyer or guardian ad litem with court permission, eras necessary to verify facts in motions and pleadings.

15. Ross v. Gadwah, 131 N.H. 391 (1988).

16. Individuals with Disabilities Education Act, 20 U.S.C. S 1400 et seq.

17. See N.H. Standards for the Education of Handicap Students, Chapt. Ed. S 1109 (1988)

18. Hodges, see Endnote #4. There is not enough research on mother absence to reach conclusions at this point in time as the frequency of mother absence is so low that obtaining generalizable samples is virtually impossible.

19. Wallerstein, Second Chances, see Endnote #2.

20. Buchanan, C. & Maccoby, E., "Variation in Adjustment to Divorce: The role of feeling caught between Parents" April 1991, Paper presented at the Biennial Meeting for the Society for Research in Child Development, Seattle Washington, April 18-20, 1991.

21. Gardner, The Parent Alienation Syndrome at viii

22. Perreault v. Cook, 114 N.H. 440 (1974); Howard v. Howard, 124 N.H. 267 (1983).

23. There is substantial research on adequate or "good-enough" parenting: Hodges, see Endnote #3; Shutz, B.M., Dixon, E.B., Lindenbergen, J.C., Ruther, N.J., Solomon's Sword {1989)

24. Clawar & Rivlin, Page 142.

25. Webb v. Knudson, 133 NH 665, 673 (1990). "Children are not chargeable with the misconduct of their parents and should not be uprooted from their home in order to discipline a recalcitrant parent." See also, Houde v. Beckmeyer, 116 NH 719 {1976).
26. Code of Professional Conduct Rule 3.3 A lawyer shall not knowingly mislead the court or use illegal or false evidence.

27. Domestic Violence Training for District Court Judges, January, 1990, personal conversation.

28. This suggestion has been made by Judge Linda Dalianis of the New Hampshire Superior Court. See, Bonser v. Courtney, 124 N.H. 796 (1984) Only a Judge, not a Marital Master, could empanel an advisory jury.

Subject: An Important PAS Ruling in the UK

To the PAS Network
From Richard Gardner

Courts in the UK have been extremely reluctant to recognize the PAS. Now, to the best of my knowledge, we have a breakthrough-not simply from a trial court, but from a Court of Appeals that has recognized the PAS and ordered Children and Family Court Advisory and Support Services (CAFCASS) to conduct an evaluation for the parental alienation syndrome. This is the citation (In Great Britain, it is illegal to identify names in family court citations):

Re: C (Children) (2002) CA (Dame Elizabeth Butler-Sloss P, Thorpe LJ, Kay LJ) 20/2/2002 COURT OF APPEAL REF: 2001/1642. (Great Britain)

This brings to 68 the number of citations on my website list of PAS rulings http://www.rgardner.com/refs/pas_legalcites.html

The UK can now be added to the 4 other countries in which courts have recognized the PAS (Australia, Canada, U.S., and Germany)

Again, please forward to me any other PAS citations that come your way. Also, send on any new articles on PAS published in peer-review journals for my website list (now 140) http://vvww.rgardner.com/refs/pas_peerreviewarticles.html

These lists have proven to be extremely valuable in PAS testimony and played a central role in the success of the two PAS Frye Test hearings.

The Role of the Judiciary in the Entrenchment of the Parental Alienation Syndrome (PAS)*

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The primary person responsible for the induction of a parental alienation syndrome (PAS) in a child is the litigating parent who hopes to gain leverage in a court of law by programming in the child a campaign of denigration directed against a target parent. In most cases alienated parents are relatively helpless to protect themselves from the indoctrinations and the destruction of what was once a good, loving bond. They turn to the courts for help and, in most cases in my experience, have suffered even greater frustration and despair because of the court's failure to meaningfully provide them with assistance. It is the purpose of this article to point out the judiciary's deficiencies and even failures in this realm. It is the author's hope that increasing recognition by the judiciary, of its failures to deal effectively with PAS families will play a role in the rectification of this serious problem.

DEFINITIONS

The Parental Alienation Syndrome

The Parental Alienation Syndrome (PAS) is a disorder that arises primarily in the context of child-custody disputes. Although the litigants are most often the biological parents, the same disorder can arise with others who may be disputing custody of the child, e.g., a parent vs. stepparent, parent vs. grandparent, and parent vs. relative or family friend. The disorder's primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification because the target parent has always been a good, loving parent. The disorder results from the combination of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present, the child's animosity may be justified, and so the parental alienation syndrome explanation for the child's alienation is not applicable.

The alienating parent's primary purpose for indoctrinating the child(ren)'s campaign of denigration against the target parent is to gain leverage in the court of law. The programming parent believes that the more animosity the children profess against the target parent the greater the likelihood the judge will award primary custody to the alienator. It is important to note that the child's alienation is less the result of bona fide animosity or even hatred of the alienated parent, but more a manifestation of the fear that if such acrimony is not exhibited, the alienating parent will reject the child.

PAS as a Form of Emotional Abuse

Indoctrinating a parental alienation syndrome into a child is a form of emotional abuse because such indoctrinations result in the attenuation and even destruction of the child's bond with a good, loving parent. Child abuse has been variously defined. The definition of child abuse utilized by the Senate (U.S. Senate, SB 577) states:

> *"Child abuse can be categorised into four different types: neglect, emotional abuse, physical abuse and sexual abuse."*

With regard to the subcategory emotional abuse, ten examples are provided. Of these, the following are applicable to the PAS child:

> *"conditional parenting, in which the level of care shown to a child is made contingent on his or her behaviours or actions"*

In the PAS, the affection of the alienating parent is conditioned on the PAS child's compliance with the programmed campaign of denigration and, in many cases, the ability- to provide additional "ammunition" against the target parent. As mentioned, the PAS child's love for the programmer has less to do with affection than fear of rejection if the child does not join in with the programmer against the alienated parent.

> *"emotional unavailability by the child's parent/carer"*

The PAS child knows that the alienating parent's affection will be withdrawn if the child does not participate in the campaign of denigration.

"unresponsiveness, inconsistent or inappropriate expectations of a child"

PAS children become confused and highly anxious because they cannot rise to the challenge of the conflictual situation created by the PAS indoctrinations. It is unreasonable to ask a child to cooperate in a campaign of denigration, to do so consistently, and to do so without ambivalence (at least in the early stages). It produces in the child unnecessary confusion, tensions, and frustrations.

"premature imposition of responsibility on a child"

The child is asked to commit to memory a wide variety of indignities allegedly suffered at the hands of the alienator. Sometimes the responsibility involves promulgating a false sex-abuse accusation. This is a common spin-off of the PAS. All these indoctrinations, and the expectation that the child will parrot them accurately, place heavy burdens on the PAS child.

"unrealistic or inappropriate expectations of a child's capacity to understand something or to behave and control himself in a certain way"

Often the child cannot understand the nature of the accusations, especially the sex-abuse accusation spin-off.

"under- or over-protection of a child"

PAS children are often overprotected. They are led to believe that any contact with the target parent is dangerous. This can generalize to others. This results in the child becoming more fearful of venturing forth into the world beyond the home and more dependent on the programming parent. A vicious cycle then ensues with increasing dependency on the child's part and increasing overprotectivness on the alienating

parent's part.

> *"failure to show interest in, or provide age appropriate opportunities for, a child's cognitive and emotional development"*

The exclusionary maneuvers deprive the child of the input that the target parent c-provide to the child's cognitive and emotional development.

As can be seen, PAS satisfies seven of the ten examples of emotional abuse provided in this bill.

The Three Levels of Parental Alienation Syndrome

The eight primary symptoms of the PAS are:

1. The campaign of denigration
2. Weak, frivolous, or absurd rationalizations for the deprecation
3. Lack of ambivalence
4. the "independent thinker" phenomenon
5. Reflexive support of the alienating parent in the parental conflict
6. Absence of guilt over cruelty to and/or exploitation of the alienated parent
7. The presence of borrowed scenarios
8. Spread of the animosity to the extended family and friends of the alienated parent

There are also three levels of parental alienation syndrome: mild, moderate, and severe (Table 1). For the purposes of this article, only a brief summary is warranted. Elsewhere, I have presented full descriptions of these three levels (Gardner, 1992, 1998).

The Three Levels of PAS Children

In the mild level, the alienation is relatively superficial, the children basically cooperate with visitation, but are intermittently critical and disgruntled with the victimized parent. In the moderate level, the alienation is more formidable, the children are more disruptive and disrespectful, and the campaign of denigration may be almost continual. In the severe level, visitation may be impossible so hostile are the children, hostile even to the point of being physically violent toward the allegedly hated parent. Other forms of acting-out may be present, acting-out that is designed to inflict ongoing grief upon the parent who is being visited. In some cases the children's hostility may reach paranoid levels, e.g., they exhibit delusions of persecution and/or fears that they will be murdered. It is crucial that evaluators properly diagnose the PAS level because each level requires a different psycho-logical and legal approach (Tables 2 and 3)

The Three Levels of PAS Alienators

Whereas the diagnosis of PAS is based upon the level of symptoms in the child, the court's decision for custodial transfer should be based primarily on the alienator's symptom level, and only secondarily on the child's level of PAS symptoms. The criteria I have found useful for assessing the alienator's level are to be found in Table 2. In the course of the evaluation, the evaluator should attempt to assess how obsessed the alienating parent is with attempts to exclude the victim parent from the child's life. The evaluator should also assess, to the degree possible, such areas as the frequency of the programming process, the frequency of exclusionary maneuvers, and the frequency of the violation of court orders. An assessment should be made of the successes the alienator has had in manipulating the legal system to enhance the programming. This is not usually difficult to do, because the alienator can predictably rely on court delays, court reluctance, and even court refusal to penalize the alienator via such measures as posting a bond, fines, community service, probation, house arrest, incarceration and custodial transfer that would prevent or interrupt further alienation. Last, the evaluator should assess the risk of intensification of programming if the alienator has gained primary custody.

The Judiciary's Role in Dealing with PAS Children

When courts and mental health professionals work together, there is a high likelihood of success when dealing with PAS families. In contrast, if either attempts to deal with these families separately their efforts are almost always doomed to failure. The therapist does not have the power of the court, and the court does not have the expertise of the mental health professional nor the opportunity to work in depth on an ongoing basis with PAS families. The judge in the courthouse is not available to reach out and deal with the details that are crucial to attend to if one is to be helpful to PAS families. And attorneys, although more available to their clients than judges, cannot deal with the whole family, because they are ethically prohibited from having any direct contact with their adversary's client.

Mental health professionals are basically impotent when it comes to requiring their patients to do anything. They can analyze, help people gain insight, suggest and recommend, but they have little if any power over their patients. It is through the power of the judge-specifically by recommendations to the judge-that mental health professionals have potential power, and it is through the threat (I have no hesitation using the word) of reporting to the court parents and youngsters who are not cooperating in the treatment program that such power is wielded.

Court-ordered Therapy

Judges are quick to refer PAS families into treatment. Therapy has been oversold to the public and is far less efficient and effective than purported by most mental health professionals. Research supporting this fact has been extensive and well known. Similarly, I suspect that most judges do not really have the respect for therapy that they profess in the courtroom, but it can serve as an ostensible if not expedient solution to the case. By ordering everyone into therapy, judges can make a quick decision and then move on to the next case. Most PAS indoctrinators are not candidates for therapy. To be a proper candidate for meaningful therapy two provisos must be satisfied: 1) the individual has insight into the fact that he (she) has psychiatric problems and 2) the individual is motivated to alleviate these problems. PAS indoctrinators do not generally

consider the programming of their children to be manifestation of a psychiatric problem. They do not appreciate that they perpetrating a form of emotional abuse, because poisoning a child against a loving parent is very much a form of emotional abuse-especially because it can result in the destruction of a strong bond between a child and a loving parent. Accordingly, they do not satisfy the first proviso. Furthermore, without insight into the fact that they have a psychiatric problem, they do not have the motivation to change anything-especially in the realm of the PAS indoctrinational process. Accordingly, the second proviso is also not satisfied.

My experience has been that judges do not appreciate that they cannot really order someone into meaningful treatment. I believe that judges often lose sight of the fact that there are certain limits to what they can accomplish with their orders. A judge can order a PAS indoctrinator to spend some time in a room with a therapist who is naive enough to take on such a patient, but they cannot order the person to be motivated to change. Furthermore, most PAS indoctrinators do not follow through with the judge's order for therapy anyway, from the recognition that the judge is not going to follow up on it in the immediate future. Accordingly, they recognize that they can ignore such an order with impunity. What happens then is that the PAS indoctrinator continues to program the children, and the PAS becomes more deeply entrenched in them.

The high incidence of PAS families returning to court should impress judges that court-ordered therapy for PAS indoctrinators just will not work. There must be sor judges who appreciate that therapy is at best a very soft science, and that the evident, is very weak that most forms of psychotherapy are of any value at all. Yet many continue to "believe in" therapy. One of the reasons for such blind commitment is clear. It is an easy transference of responsibility to the sea of "therapists" out there who are happy to take the patients' money and go through the motions of providing them with "treatment." Thus, the judges are happy, the therapists are happy, and even the alienators are happy because they know quite well that nothing will happen in the treatment, that time is on their side, and that the alleged therapy will ensure many more months and even years of opportunity for further programming. The only ones who are not happy are the

victim parents whose grief and frustration mount formidably in the course of the "treatment."

Guidelines to the Court for Dealing with PAS Children

Table 3 provides what I consider to be the optimum guidelines for the judiciary to follow in PAS cases. Again, it is important to emphasize that the diagnosis of PAS is based upon the level of symptoms in the child, whereas the court's decision for custodial transfer should be based primarily on the alienator's symptom level and only secondarily on the child's level of PAS. symptoms. It is to be noted that the legal approaches take up much more space than the therapeutic. The reason for this is that the legal approaches in Table 3 serve as the foundation for the therapeutic. Without the court's imposing proper restraints and restrictions on the alienating parent, the therapist is helpless to accomplish anything therapeutic. The reader should note that I recommend two plans of legal/therapeutic intervention in moderate PAS cases. In Plan A primary custody can still remain with the alienating parent. I recommend that the court appoint a therapist, but not just any therapist. The therapist must be someone who is knowledgeable about the special techniques necessary for the treatment of PAS children (Gardner, 1992, 1998, 2001a). Most important are the warnings to the alienating parent that the court will impose sanctions if there is any violation of the court's orders regarding the children's visitation with the alienated parent. In Table 3 are six levels (a. to f.) of recommended judicial action, all of which can be readily implemented by the court, because an alienating parent who does not cooperate with a visitation schedule is basically in contempt of court.

Also depicted in Table 3 are the measures that I recommend to courts when the alienator's symptoms are at the severe level and the children's symptoms are in the moderate or severe level. In such cases, the children may not be able to visit with the alienated parent, so hostile are they. In fact, they might even be dangerous to his (her) physical well-being. Accordingly, a transitional site program must be implemented. As described in detail elsewhere (Gardner, 1998, 2001a), this program requires strict restriction of the children's access to the alienator and gradual expansion of the

children's access to the alienated parent-first in the transitional site, and then in the home of the alienated parent.

The Ways in Which the Judiciary Fails to Deal Properly and Effectively with PAS Families

I have been testifying in PAS cases since the early 1980s. I have made recommendations along these lines in many cases. I have been successful in getting courts to change primary custody in some cases. But not once has a court gone along with my recommendation to implement any of these six sanctions. On occasion, a court will threaten to implement one of these measures for getting alienating parents to comply with the court-ordered visitation schedule, but not once have I been in a case when a court has actually done so. Alienating parents know well that courts are not likely to come down heavily upon them for violating a court-ordered visitation schedule. Without such consequences, they continue to program the children. 'I a-know well how to "work the system." They violate court-ordered visitation schedules, and they know that they can most often do so with impunity. They recognize that the courts are slow, and that time is on their side. The longer they have access to the children, the more deeply entrenched will become their PAS symptoms. Time is one of the PAS indoctrinator's most powerful weapons, and they know quite well that the courts will predictably give them time, and more time, and more time.

This is the sequence I have repeatedly seen: The PAS indoctrinator successfully alienates the children. The alienated parent goes to court (the time gap between the -onset of the alienation and the court hearing may be as long as a year). The trial drags on over a span of a few weeks or even a few months. The court orders an evaluation (often the evaluator is someone who may know little, if anything, about the PAS). The evaluation takes four-to-five months. Five-to-six months later there is another court hearing, at which point the judge orders therapy for everyone. (And the therapists may know nothing about PAS either.) The alienator does not go, nor does the alienator bring the children. The alienator recognizes that he (she) can violate the court's order for treatment with impunity. The alienated parent, in desperation, decides to bring the case

back to court. By this time another six-to-nine months may have elapsed. Another hearing is scheduled six months to a year later. By this point, in typical cases, the PAS has become even more deeply entrenched in the children's brain circuitry, and the children, by this time, have been alienated for three years or more (Gardner, 199' Back in court, the judge decides that the original evaluation is too old and order new evaluation. Sometimes this may be an update of the earlier one, and sometimes a new evaluator is brought in. In either case, the judge may take the position that any evaluator will do and is not concerned with whether the evaluator has any knowledge at all of the PAS. This takes another six months to a year. The new evaluator recommends more therapy. After the third or fourth round, the children are in their teens, and the judge (by this time the fourth or fifth one) throws up his (her) hands, claiming that there is nothing that can be done with teenagers. At that point, the children have become permanently alienated, and the judiciary has basically joined forces with the alienating parent in bringing about this all too common tragic result.

My follow-up study of 99 children provides compelling evidence for this outcome (Gardner, 2001b, and at http://www.rgardner.com/refs/ar8.html). In those cases in which the court saw fit to transfer custody from the alienating to the alienated parent there was 100 percent success rate regarding alleviation, if not complete evaporation of PAS symptoms. In contrast, when the court chose to allow PAS children to remain with the indoctrinating parent, there was a 91 percent rate of permanent alienation from the targeted parent.' At any point in this tragic sequence, had the court seen fit to impose the aforementioned sanctions program, it is highly likely that the PAS would have been prevented (in the early stages) and reversed (in the moderate forms, and even in some of the severe forms). This tragedy is being played out daily in courts of law throughout the United States, Canada, and many countries abroad. I have often said that over 95 percent of PAS indoctrinators would be cured (and I do not hesitate to use that word in this situation) by a weekend in jail. I really believe that this would work. However, as mentioned, I have personally not once seen a case in which a judge has even threatened to do this.

Alienators know that it is very easy to "work the system and even "beat the system." They know that nothing will happen to them if they lie on the witness stand. They parrot the oath before testifying because they recognize that they have to swear to tell the truth in order to be allowed to then promulgate their strings of lies. They know well that the likelihood of the judge penalizing them for perjuring themselves on the witness stand is just about zero. I have been testifying in custody cases almost 40 years. Not once have I ever seen a judge penalize a parent for perjuring himself (herself) on a witness stand. I recognize that the judge may appreciate that the witness is lying and that the lies affect the decision. However,' I have never seen a case in which the judge has identified the perjury per se and penalized the witness for it. This failure to take action against perjurers provides support for PAS indoctrinators, and it is another way in which they make a mockery of the judicial process.

It is in dealing (or failing to deal) with PAS indoctrinators that the judiciary has failed abysmally in its obligation to serve children's best interests and to protect them from PAS-indoctrinating abusers. Poisoning a child to hate a loving and dedicated parent is a form of emotional abuse per se. It is important to note that courts have been very eager to impose the same sanctions on parents (usually fathers) who renege on their financial commitments to their spouses and children. However, the same sanctions are rarely imposed when courts deal with PAS alienators.

In some cases, courts have indeed implemented Plan B and transferred custody to the home of the alienated parent. Unfortunately, in most cases in which such transfer has taken place, the court has not recognized the importance of significant reduction of the alienator's access to the children. Often, a traditional visitation schedule is ordered for the alienating parent. Under such circumstances, the children continue to be programmed and so continue to victimize the target parent. Courts do well to view PAS alienators like other kinds of abusers who require very restricted time frames of access, sometimes with supervision. I know that there are cases in which courts have so restricted PAS indoctrinators, but they are so uncommon that they are considered newsworthy by the media. I, myself, have had cases in which the court has transferred

custody, but I have never personally seen one in which the court has also ordered extremely restricted visitation for the programmer (such as two-to-four hours a week), and I have never seen a court ordered supervision for such an abusing parent.

However, I have heard from colleagues about isolated cases in which courts have ordered supervised visitation for PAS indoctrinators. I suspect strongly that any benefits to be derived from such an arrangement have less to do with the value of the supervisor per se and much more to do with the reduced access that supervision entailed. Even in the course of these short visits indoctrinating parents can easily program children. The healthy mother says, "How is your father?" The vocal intonations communicate concern. A PAS mother says, "How is your father?" using the same words, yet the vocal intonations communicate artificiality, no real concern, and even scorn. No supervisor can possibly stop these inferences and their effects on the child.

The Special PAS Therapist

With regard to the court-ordered therapy described in Table 3, I cannot emphasize strongly enough that the court must order treatment with someone who is knowledgeable about the special techniques necessary for treating PAS child (Gardner, 1998, 2001a). However, such treatment will prove futile if the children s. I have significant access to the alienating parent. The analogy to youngsters who have been inveigled into a cult is applicable here. One cannot successfully treat such youngsters as long as they are living primarily in the cult compound. Seeing them in treatment once or twice a week for 45-60 minutes is not going to work as long as the children spend the rest of the week with the cult indoctrinators. Treating children under these circumstances is like throwing pebbles at a tank. It just won't work, and courts must appreciate this. Therapy is not a panacea. Therapy is far less effective than some judges would like to believe. But it has no chance at all for success if the therapist is not familiar with the PAS and comfortable with the special techniques necessary for treating such families.

Therapists not familiar with the special techniques necessary for the treatment of PAS children are very likely to empower them. Throughout their training they have been told that it is extremely important to "listen" to children, to "respect" them, and to be really sensitive to their needs. And this is in contrast to their parents who are often viewed as people who lack these sensitivities. While waving these banners they empower children and entrench ever more deeply their PAS symptomatology. Elsewhere, I . have described this problem in detail (Gardner, 2002a).

It goes beyond the purposes of this article to describe in detail the special techniques necessary for therapists to utilize if they are to successfully treat PAS famili-However, I will comment here on a few of the provisos that need to be satisfied such therapists. They must be comfortable with waiving traditional confidentiality because they must be able to communicate freely with attorneys and the court regarding what occurs in the sessions. They must be comfortable with authoritative and even dictatorial approaches: "If the children are not dropped off at their father's house by 5:00 p.m. on Friday, I will, on Monday morning, notify the court that you have been in violation of the court-ordered visitation schedule," "If the children are not returned at 7:00 p.m. this Sunday evening, as ordered by the court, on Monday morning I will recommend that the court impose sanctions starting with posting a bond, and then a fine. If that doesn't work, I'm going to recommend that the court order you into a specified number of hours of community service. This should help you remember to comply with the court-ordered visitation schedule," "If the children refuse to visit, I will consider you to be responsible, not the children. It is clear to me that you're the one who is pulling strings here, and you are the primary reason why the children won't visit." Therapists who are not comfortable using these authoritarian techniques, which are clearly at variance with traditional approaches, should not be treating PAS families. Judges who are not willing to order treatment with such therapists are also not working in accordance with the children's best interests.

GUARDIANS AD LITEM

A guardian ad litem who is not familiar with the causes, manifestations, and prop--treatment of children with PAS will not serve their best interests. The guardian v takes pride in supporting what children profess they want is likely to perpetuate the psychopathology of children suffering with PAS. The guardian must recognize that PAS children need to be forced into doing things that they profess they do not want to do. In order to do this, the guardian must "switch gears" and unlearn certain principles learned in law school regarding being a zealous supporter of one's client's requests and demands. Guardians must be ever aware that the client is a child, not an adult. Furthermore, he (she) must be ever aware that the client is just not any child, but a PAS child. If these considerations are taken into account, the guardian will be comfortable doing just the opposite of what the client requests. Such a guardian must be comfortable with the children's criticisms and must be willing to be used as the excuse for the children saying to the alienating parent: "I really hate that lawyer. He says I must visit my father (mother). I really hate him (her). You know, Mommy (Daddy), I love you, and I don't want to go there, but that stupid lawyer makes me go." In this way, the guardian is used as a vehicle for assuaging the child's guilt over disloyalty to the alienator implied by any willingness to visit with the alienated parent.

I cannot emphasize this point strongly enough. PAS children want to be forced. They want to be able to say to the alienator, "I really hate going, but the judge/guardian forces me to. I really hate every minute I'm there." Once they have been able to say this, they can often visit and enjoy themselves immensely. However, on return, they will describe to the alienator all the indignities and tortures they suffered at the hands of the allegedly despised victim parent.

Most guardians would agree that they would not support a child's refusal to go to school, to the doctor, to eat, to sleep, to bathe, etc. Yet the same guardian will support zealously the child's wish not to have any contact at all with a loving parent-a parent who prior to the separation was completely devoted to the child.

The guardian who is truly working for the children's best interests will be able to say to the court: "It is not in these children's best interests for me to parrot everything they say, to rubber stamp every claim they have, and to zealously support their professions of refusal to visit their (mother/father). It is in the best interests of these children that the court order them to visit. They should also be warned that if they do not visit, their (father/mother) will be considered responsible, in contempt of court, and punished by the court." Guardians who are comfortable with this approach to their PAS clients will indeed be serving their clients' best interests.

BLAMING THE VICTIM

A common maneuver utilized by attorneys representing a PAS indoctrinating parent is to blame the target parent as the cause of the children's alienation. For example, an attorney representing an alienating mother may say to the court: "We don't deny for one minute that these children are alienated. There is no question about that. The husband claims that my client is programming them and they are suffering with this so-called, this alleged, "parental alienation syndrome" or whatever you call it. What he does not want to admit, Your Honor, is that he has brought this upon himself. It is his behavior that has brought about the children's alienation, and it has nothing to do with my client." When true PAS is present, and the victim parent has not been in any way responsible for the children's alienation, then this is a cruel maneuver, although it is typical of the kind of thing lawyer's do. Fearing that the court will believe the wife's lawyer here, only adds to the misery of the victim parent.

Unfortunately, there are judges who will "buy into" this specious argument and accept as valid every frivolous, absurd, and preposterous complaint the children have to justify their campaign of denigration and ongoing rejection of the innocent vie' parent. I have seen courts recommend that such fathers take courses in "parent_ skills." They take the course and learn nothing because they already have good parenting skills. But what does happen is that more time is given to the programmer to entrench the children's PAS campaign of denigration. The "he (she)-brought-it-upon himself (herself)" flag is sometimes waved by mental health professionals. They may use the term, justified

estrangement to refer to the children's alienation from the victim parent. There are situations in which the court will order supervision of the victim parent in order to protect the children from his alleged abuses. The supervisors may then also wave this banner, and will interpret the children's animosity as due to something he has done in the meeting, and they usually find something. For example, a father's crying will be interpreted as a "manipulation" of the children. His beseeching the children to trust their own judgment regarding his alleged depravities will be labeled "an attempt to discredit and criticize" the alienating parent, thus violating court orders to refrain from such behavior. All this only deepens the alienated parent's sense of frustration and impotent rage.

THE PAS VS. PA CONTROVERSY

A parent accused of inducing a PAS in a child is likely to engage the services of an attorney who is likely to invoke the argument that there is no such thing as a PAS. The reasoning goes like this: "If there is no such thing as the PAS, then there is no programmer, and therefore my client cannot be accused of brainwashing the children." This is an extremely important point, and I cannot emphasize it strongly enough 1, a central element in the controversy over the PAS, a controversy that has been played out in courtrooms not only in the United States, but in many other countries as well. And if the allegedly dubious lawyer, can demonstrate that the PAS is not listed in DSM-lv, then the position is considered "proven." The lawyer may have seen PAS in many cases and even argued for its existence in them. He (she) may recognize, as well, that there were too few articles on the PAS in the early 1990s to warrant submission to the DSM-IV which was published in 1994, but that it certainly will be a candidate for DSM-V, scheduled to be published in the year 2010.

This lawyer may recognize that there are now over 143 peer-reviewed articles in the scientific literature on the PAS (these are listed and frequently updated on my website at http: / /www.rgardner.com/refs/pas peerreviewarticles.html) and that there are now at -least 68 legal citations from courts of law that have recognized the disorder (these are also listed and frequently updated on my website at http://www.rgardner.com/refs/pas

legalcites.html). The lawyer may also know that there are now at least two Frye Test hearings (see Kilgore vs. Boyd [20011, and Bates vs. Bates [2002], in the aforementioned list of legal citations) in which the court ruled that the PAS has gained enough recognition in the scientific community to warrant recognition in courts of law. Such a lawyer may actually believe that such duplicity is serving the client. The lawyer hopes, however, that the judge will be taken in by this specious argument and will then conclude that if there is no PAS, there is no programming, and so the client is thereby exonerated.

Another ploy used by lawyers representing PAS alienators goes like this: "Of course, Judge, we recognize that these children are alienated. No one can deny that. What we deny is that there is such a thing as the PAS. We do recognize parental alienation, that is, PA." Substituting the term parental alienation (PA) for PAS muddies the waters, is a diversionary maneuver, and distracts the court from the causes of the alienation. PAS demands investigation for an alienator. PA does not. When the term PA is used, no alienator is identified, the sources of the children's alienation are vaguer, and the causes could lie with the mother, the father, or both. The drawback here is that the evaluator who only uses PA may not provide the court with proper information about the cause of the children's alienation. It lessens the likelihood, then, that the court will have the proper data with which to make its decisions Elsewhere, in my follow-up study of 99 PAS children, I have elaborated on this important issue (Gardner, 2002b).

CONCLUSIONS

Indoctrinating parents are the ones who are primarily responsible for the development of PAS in their children. The children, in order to ingratiate themselves with and protect themselves from being rejected by the alienating parent, contribute to the expansion and intensification of PAS campaigns of denigration. Lawyers who work within the adversary system although they are doing what they were taught to do in law school, that is, zealously support their clients—are playing an active role in promulgating and entrenching the PAS. They join the coterie of supporters and enablers who typically surround PAS indoctrinators. Many such lawyers do this even when they recognize that their client is a PAS indoctrinator. Although such lawyers may get an A+ from their law

school professors, they get an F- from this medical school professor. Such attorneys are contributing to the corruption of youth, the poisoning of young minds, and the attenuation and even destruction of the important -parent-child bond. Elsewhere, I have described in detail their role in producing PAS as well as other forms of psychopathology in children whose parents are litigating for their custody (Gardner, 1985, 1989, 1992, 1996).

Therapists also play an important role in the etiology and development of the PAS. This is especially done by their empowerment of children. Many sanctimoniously profess that they really listen to children (as opposed to the rest of us who do not). They profess that they really respect what children want (with the implication that the rest of us do not). What they are basically doing is contributing to pathological empowerment, which is a central factor in the development and perpetuation of the PAS. PAS indoctrinators know well that they can rely upon most therapists to empower their children in this way so that they are readily duped into joining the parade of enablers and supporters.

One would hope that by the time the parade of PAS enablers reaches the courtroom that the judiciary would recognize what is going on and bring an end to this abomination. Unfortunately, this rarely proves to be the case. Rather, the judiciary gets drawn in and contributes immeasurably to the perpetuation and entrenchment of the PAS, often with the result that children become permanently alienated from a loving and kind parent. Compelling evidence for this is to be found in my aforementioned follow-up study of 99 PAS children. When courts chose to reduce the children's access to the alienating parent, especially by a transfer of custody, there was an alleviation of symptoms in all cases. In contrast, when the court chose not to restrict such access, there was an intensification of the PAS, with the result of permanent destruction of bonding in over 91 percent of cases. This study provides compelling evidence that judicial decisions play a vital role in what happens to PAS children.

One of my strongest criticisms of the judiciary, is that it "lacks heart" and "really doesn't care." Although family court judges profess that they serve the best interests of children, their actions (or more properly, inactions) do just the opposite. If judges really cared about children who are PAS victims (and I do not hesitate to use the term victim

to describe these children) they would act with "deliberate speed" as guaranteed in our Constitution. I have repeatedly encountered myriad excuses for rescheduling trials—"the judge had to go to the doctor," "a new judge has not been assigned," "the judge has recused himself," "the judge has no time for a case of this complexity," "the judge is in the hospital and there is no replacement," "the judge had to go to a funeral," "the judge's wife is sick," etc., etc. I have heard it said that, "the most successful lawyers are those who know best how to slow up the court and delay the court's ability to make a decision." Unfortunately, there is much truth to this, and judges allow it to happen. In short, my experience has been that most judges "just do not care," their professions to the contrary notwithstanding.

The PAS is primarily a product of the utilization of the adversary system for adjudicating child-custody disputes. A parent's primary reason for indoctrinating a PAS into a child is to gain leverage in a court of law. In countries in which people cannot afford to take such disputes to court, there is little public recognition of PAS. Somehow, some way, they resolve these disputes without the utilization of the courtroom proceedings. I believe that if courtrooms were not available for the adjudication of child-custody disputes, some children would certainly suffer, but more would be better off. Years of exposure to and embroilment in courtroom litigation scar most children. To recommend that the courtroom doors be closed to parents who are disputing over the custody of their children is not realistic. However, I am convinced that such blockage, such unavailability, would protect more children than it would harm. The number of children who would suffer untoward consequences from not having a court of law available to protect them would be small compared to the benefits enjoyed by those who would not have that forum available to them. In short, the system as it exists today is doing PAS families much more harm than good and is not serving the best interests of the children. It has been the purpose of this article to focus on the judiciary's role in the perpetuation of this tragic situation.

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*This article and the tables referred to within it can be downloaded from Dr. Gardner's website at http://www.rgardner.com/ar11.html and http://www.rgardner.com/3pastables.html

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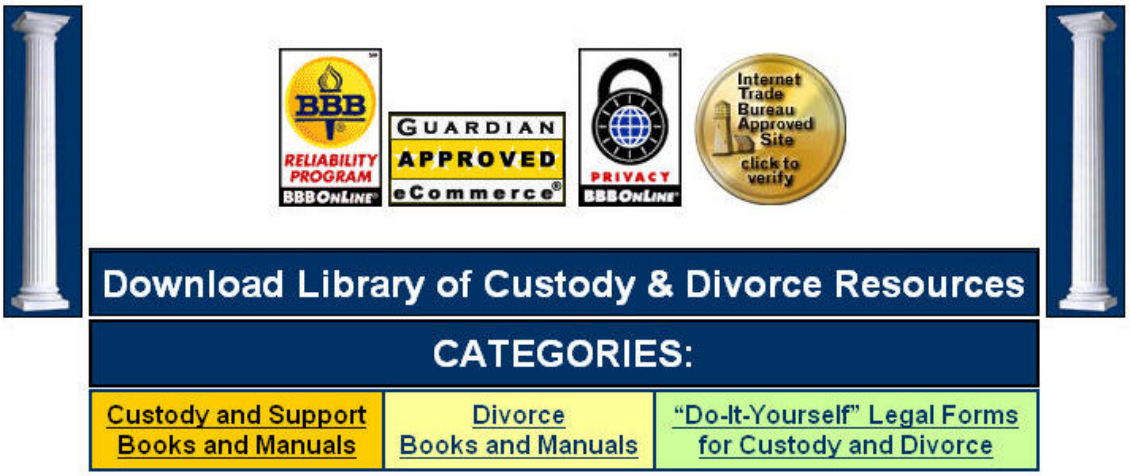

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