PARENTAL ALIENATION AND FAMILY REUNIFICATION

CONTROVERSIAL ISSUES, CURRENT RESEARCH, APPROACHES AND PROGRAMS

Edited by
Pearl S. Berman and Ethan M. Weisinger

ROUTLEDGE

Parental Alienation and Family Reunification

This book on parental alienation and family reunification provides family court professionals with critical background in child development, dynamics present in violent families, and how to evaluate the testimony of experts to ensure it values children's views, best interests of the children, and follows evidence-based practice.

As laid out in the Child Welfare Information Gateway report, 2020, family court judges should make decisions per the best interests of the child standard. High conflict custody cases make this complicated, especially when reunification services are requested. In the middle of contentious proceedings, judges oftentimes receive conflicting information from parents. Judges and family law professionals can be lead astray, relying on unproven constructs and instruments not meeting the criteria of reliability and validity. Mandating victimized children into reunification programs that are neither evidence-based nor trauma-informed can cause further harm to the children.

This book will be of interest to those working in the family courts, particularly expert witnesses, clinical psychologists, therapists, children's services workers including social workers, child protection court workers, mental health professionals involved in child custody decisions, and researchers with an interest in parental alienation. The chapters in this book were originally published as a special issue of *Journal of Family Trauma, Child Custody & Child Development*.

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Preface—Alienation and reunification issues in family courts: Theory, research, and programs in child custody cases

Morgan Shaw and Robert Geffner

ABSTRACT

This preface highlights the significant need for the current two-part special issue on *Alienation and Reunification Issues in Family Courts* and outlines reasons why these issues continue to be relevant. Unfortunately, there continues to be the same gross misunderstandings by legal professionals, judges, child protection workers, mental health professionals, and child custody evaluators regarding abuse dynamics and the impact of trauma on the individual. These misunderstandings then lead to many family law court cases minimizing or ignoring such issues and inferring parental alienation or similar labels instead. The impact of this on the children and families involved is great, and significant change needs to occur in the various systems involved in family law cases. This preface describes many of the main issues seen regularly in the family court system and highlights the articles included in this two-part special issue. It is hoped that the articles help address the complex issues when children resist contact with a parent, and educate evaluators, investigators, and legal decision-makers to rely on actual evidence, known research and accepted knowledge in family and trauma psychology and child development.

Over three years ago, the senior author of this preface sat at her computer contemplating how to start the introduction to a 2019 special issue on misperceptions and misapplications in family law cases, published in this same journal (Shaw, 2019). In that special issue, we covered a wide range of relevant issues including suggestibility, parental alienation, and treatment programs for youth who were reportedly "alienated" from a parent or caregiver. The goal of that special issue was to educate the courts and other relevant professionals on how to better assess and address recurrent complex issues of abuse, alienation, and estrangement arising within the family court system. At the time, we were questioned by several professionals involved in child custody cases as to the need for such a special

issue since it was supposedly clear that "parental alienation syndrome" (PAS) or disorder had been debunked as junk or pseudo-science, and there was no need for the special issue. Given our experience with actual family law cases, we disagreed and went forward with the special issue.

Unfortunately, over three years later, the need for further education continues to be just as great if not more so. There continues to be the same gross misunderstandings by legal professionals, judges, child protection workers, mental health professionals, and child custody evaluators regarding abuse dynamics and the impact of trauma on adult and child victims of abuse since too many family law court cases are still minimizing or ignoring such issues and inferring parental alienation or similar labels instead. We, sadly, continue to see investigators and evaluators misunderstand and minimize indicators consistent with the effects of abuse and its resulting trauma, and to ignore disclosures of a child about abusive behaviors, poor parenting or being exposed to domestic violence. We have written about these concerns previously, but the issues are still present (e.g., Platt et al., 2016). They assign labels that are unreliable, unvalidated, nonresearched, and poorly defined, and then assert conclusions, make recommendations, and take actions based solely on these labels and supposed disorders.

They then cite outdated research studies (e.g., Ceci & Bruck, 1995) and various articles on suggestibility and coaching that are not relevant to child abuse or to the actual case (e.g., London et al., 2005), and minimize more relevant research (e.g., Goodman et al., 2009; Lyon, 2007; Saywitz et al., 2018). Many of the articles on parental alienation are anecdotal with biased and/or small samples (Baker, 2005), not methodologically sound (Harman & Lorandos, 2021), do not represent reliable "research" (Harman et al., 2022), and are not based on theory or research in the fields of family psychology, child development, or trauma psychology (Bernet, 2008; Harman et al., 2019). In fact, much of the literature supposedly supporting the dynamics of parental alienation as practiced by their proponents (still based on Gardner's outdated and unsupported principles; Gardner, 1992) contradict what is known in the fields noted above (Milchman et al., 2020). In fact, even 30 years after Gardner made up the label of PAS without any research support or reasonable operational definitions, no known mechanisms exist explaining how such indoctrination of children who supposedly have a strong relationship with a parent then leads the child to resist or refuse contact with that parent.

We repeatedly see protective parents and maltreated children further revictimized by the child protection and family court systems, often due to recommendations by child custody evaluators or mental health professionals who are not adequately trained in child development, child abuse

(especially sexual abuse), domestic violence, trauma and family psychology. Regrettably, children who disclose abuse involved in the dependency system continue to be treated differently than children who disclose abuse or poor parenting who are involved in the family law system, as the latter families frequently get labeled "high conflict" and abuse disclosures are commonly dismissed by custody evaluators, mental health professionals, attorneys, including guardian ad litems (GAL), law enforcement, child protective services, and judges. With all of the research and publications in actual peer reviewed research journals concerning child abuse, domestic violence, coercive control, and trauma during the past 20 or more years (e.g., Geffner et al., 2022), we would have thought by now that these outdated and obsolete ideas and labels would have been excluded from family law cases. However, proponents of the ideas of parental alienation noted above continue to move the goal posts with their labels, to use a sports analogy, that confuses the issues and promotes junk science.

As a culture, we live currently in a time of heightened polarization across many fields and sociocultural issues, and the abuse/poor parenting versus alienation dichotomy within the family law system is no exception. Working in this field, consulting with other professionals, attending professional trainings, and reviewing professional literature, one can so clearly see the polarized camps that more frequently cited researchers, advocates, and practitioners fall into. The reality is that the polarization then trickles down to clinicians and frontline workers who carry the biases and assumptions that bleed into their work. While most professionals in these fields would likely assure others that their primary focus is first and foremost on the safety and well-being of vulnerable children, that is not how the family court system regularly acts. Instead, what we more commonly see are people who typically fall into the "pro-mother"/"pro-father" forced dichotomy, or into a forced alienation dichotomy where the provider either sees evidence of alienation in essentially every case or conversely does not acknowledge the potential for confounding factors, such as external influence, on a child.

Reflecting on where someone might place our clinical and forensic focus on those forced (and faulty) spectrums, we recognize that this problematic polarization is not outside of us or that of the colleagues with whom we more regularly align. However, self-awareness around gender biases, inappropriate assumptions, faulty inferences, appropriate training on trauma-related issues, direct experience working with trauma and abuse survivors, and a repeated re-focusing on the safety and well-being of the children are all paramount to upholding the true nature of the best interests of the child standard. It often appears that those involved in these family law cases do not pay adequate attention to the long-term effect on the

children that their recommendations and decisions may have. Too often pseudo or junk science rules the day, with labels that are not supported by actual data or behavioral information being tossed around as if they do not have consequences.

Working as treatment providers, forensic evaluators, trainers, and researchers, it is intensely disappointing and frustrating how frequently investigators, evaluators, mental health professionals, and legal decision-makers are quick to discount abuse disclosures by children as evidence of coaching, despite minimal, if any, objective support for that assertion (Faller, 2007). Once the terms "alienation" or "coaching" are used in an investigative report, even without any actual evidence to support it, any subsequent disclosure or indicator of abuse or poor parenting are typically discounted and overlooked by decision-makers. One would think that law enforcement, mental health professionals, child protective services, and family court investigators would actually rely more on the evidence and records than assumptions or inferences, but our experience in evaluating cases and reports throughout the United States, Canada, and other countries, tells another story. It then puts wrongly identified protective parents in a difficult situation where they run the risk of either ongoing accusations of negative influence on their children, or conversely, fears of being labeled non-protective. We typically see the term "coaching" more commonly in investigative reports, while the terms "alienation," "enmeshment," "gate-keeping," or "resist-refuse dynamics" are more commonly seen in the reports or testimony by mental health professionals and evaluators. There are even grossly inappropriate terms that are completely misused and misunderstood in cases we have seen, such as "Munchausen by Proxy" "Factitious Disorder in Another" and many other absurd labels frequently thrown around as diagnoses when the evaluator or investigator does not want to actually say parental alienation since that is not an actual diagnosis. The use of these terms, labels, and ill-defined concepts are typically clear red flags that further assessment of abuse related issues or poor parenting by the parent the child does not want to visit is warranted.

As an example, a typical scenario in which you see these types of faulty assumptions play out in cases would be to start with a disclosure of abusive behaviors by a child concerning a parent to a trusted caregiver, such as a mother or babysitter, that is then reported to a child protective services (CPS) agency directly, or to a physician or therapist who as mandated reporters contact CPS. Following the initial report, investigative workers interview the child, and potentially a forensic interview is conducted where the child may make vague statements about being touched or may deny that anyone touches them in a way that makes them uncomfortable. The alleged perpetrator, the father in this example, denies the allegations and

subsequently the investigation is closed as unfounded. The child then continues to make disclosures to the mother and/or to others, and begins to demonstrate concerning behaviors such as emotional outbursts and sexualized behaviors, but does not make clear or consistent disclosures to investigators for a variety of possible reasons. As a result of the increased stress and trauma of believing the child is being abused by their father, the mother begins to act highly distraught, comes across as disorganized, and becomes more insistent that abuse is taking place while the child is with the father. The mother may even contact an attorney at this time and file for divorce and custody of the child. The father continues to deny the allegations and tells investigators that he believes that the mother is attempting to alienate the child against him to obtain more parental time, custody, and/or money. He further highlights the "high conflict" nature of their current custody proceedings, and subsequently the investigators (e.g., CPS or law enforcement) note the child custody case, may even put this in their notes/logs, and they also begin to discount and minimize the behaviors and statements by the child. They eventually may put in their notes or logs that there are concerns of "coaching" by the mother in this scenario. The investigators also note in their records that there are concerns about the mother's mental health functioning because obviously the allegations are false even without conducting their usual thorough investigation. Too often the usual required investigation techniques and procedures that occur with children not involved in custody cases are not followed, and the assumptions of coaching and alienation become the narrative. In the above scenario, divorce was not even contemplated or filed until after repeated disclosures of abuse were made by the child, possibly also to teachers or others, and with detailed disclosures possibly beyond the child's developmental level. This timing (i.e., the disclosures occurred before any indication of divorce or custody issues) and details of the disclosures and now resistance to see that parent, in conjunction with sexualized behaviors, are often overlooked or minimized by investigators, evaluators, and courts. Circular inferences, assumptions of false allegations, perceptions, and biases have a strong influence on discounting child abuse and domestic violence in family court cases (Sanders et al. 2015; Saunders et al., 2012), and then alienation becomes the narrative.

Those notes of the CPS and law enforcement, and the poorly defined or unsupported statements about coaching and mental health concerns of the mother, continue to follow this case during the months and then years this may continue (Silberg & Dallam, 2019). The CPS records are obtained by the family law attorneys representing the family, and the statements about coaching and alienation by CPS or law enforcement begin to permeate directly into the family court. The judge who then does not know

what to do with this family, decides that they are going to order a child custody evaluation, possibly with a psychosexual evaluation of the father, to hopefully rule out concern of the father engaging in sexually abusive behaviors toward his child.

Unfortunately, the family courts and too many custody evaluators misunderstand and inappropriately believe that a psychosexual evaluation on an individual who has not ever been convicted of a sex crime or admitted such behavior, and is savvy enough to know how to engage with the evaluator, will produce a meaningful result. Even more problematic is that many of the psychosexual evaluators who agree to take family law case referrals do not appropriately note the very clear limitations of their evaluations, the results, and the conclusions. For example, they do not often inform the court that such evaluations cannot rule out sexually abusive behaviors, and they may only be able to indicate such probability of offending if a person admits or fails some of the various measures or plethysmograph (e.g., Clipson, 2003; Geffner et al., 2003; Sachsenmaier, 2005). However, a sex offender, especially an incest one, can actually pass all of these measures in the evaluation. As a consequence, the results of the psychosexual evaluation may state that the father in the above scenario does not demonstrate characteristics or risk factors consistent with an individual who sexually abuses their children, as though there is a profile to actually compare this to. The investigator, or a child custody evaluator who receives this information, may then recommend that time not be limited or supervised between the father and the child, ignoring the disclosures, fears, and behaviors of the child. This faulty and very skewed result is then used in court to support increased timesharing with the father and to "prove" that the mother must be coaching and alienating the child. This may occur despite actual evidence of detailed disclosures that are not likely able to be coached, evidence of domestic violence, or confirmation of poor boundary and parenting issues by the father above. The child is then placed back into an unsafe and abusive home while time with the mother, their primary caretaker, may now be eliminated, limited and/or supervised in what has been characterized as a "parentectomy" (Geffner & Sandoval, 2020; Williams, 1990).

Unfortunately, this example is a common pattern in the cases we and many others across the country (and internationally) have seen or evaluated. We now have many examples of adults who were the unfortunate child victims of this dysfunctional and problematic system who have come forward to describe their experience. Future issues in the *Journal of Family Trauma, Child Custody, and Child Development* (*JFT)* will include articles concerning these situations. We have these same adults now advocating for significant change to our CPS and family court systems that so fre-

quently fail the children and families that they are meant to serve (e.g., Cable & Riley, 2022; The Center for Investigative Reporting, 2019). We continue to have researchers and other professionals, many of whom published peer reviewed articles included in the prior special issue and now in this current special two-part issue, who are attempting to continue to educate the courts and relevant professionals about these problematic patterns and use of junk science.

It should be noted that PAS, PAD, or even parental alienation have never been successfully included in any official medical or mental health diagnostic system, despite persistent and intense promotion by the alienation activists and supporters for over 15 years in the United States and now in other countries (e.g., Crary, 2012). As we noted above about moving the goal posts, this has been the ongoing strategy by these supporters as they continue to try to change or modify labels. When PAS or Parental Alienation Disorder were denied entrance into any of the diagnostic classification systems noted above, the supporters than announced that it actually was in the classification systems under "Parent-Child Relationship Problem." The problem with this approach is that Parent-Child Relational Problem (PCRP) has been in these diagnostic codes for decades (American Psychiatric Association, 1980), having nothing to do with alienation, and even PCRP was never a diagnosis; it was labeled a behavioral issue. In moving the goal posts, they just deleted the words "syndrome" or "disorder" and just started using "alienation," attempting to couch this as child abuse or family violence in these family law cases (e.g., Harman et al., 2018). However, the principles of PAS/PAD did not change and were still the foundation of their approach and recommendations of a "parentectomy." Now the goal posts have moved once again, and these same supporters are saying that the diagnosis is actually "parent alienation relational problem" (PARP; Bernet & Baker, 2022). Keep in mind the principles have not changed, rather the label is new in an attempt to confuse people. The word "alienation" is a common lay term that most people can define. They believe it to be something one parent does to turn a child against another parent. They do not understand or know the principles, applications, and ultimately the consequences that alienation supporters promote. Regardless of how much it is promoted or the words are changed, alienation is not a research-supported clinical diagnosis. Hopefully, this sleight of hand wording will not sway the actual diagnostic classification committees.

Alienation is a behavior that could occur when one parent attempts to turn a child against another parent, as noted above. We all have had such cases, and we look for such behaviors in our evaluations or investigations. Using a common term that is familiar to all professionals and

lay people makes it sound like there is objective evidence of such behaviors whenever it is used. It is actually easier to believe that a child has been alienated than it is to believe a child has been abused physically or sexually by an offending parent who does not meet any of the stereotypes of an abusive person. It is time to get back to basics in thorough investigatory evaluations no matter what the allegations are of child abuse, domestic violence or alienation (Benjamin et al., 2018; Geffner, et al., 2009). We need to look at the research, theories, behaviors, and objective evidence in these complex child custody cases. **The best interest of the child standard requires us to prioritize a child's safety and well-being.**

Thus, the current two-part special issue edited by Berman and Weisinger provide articles dealing with alternative explanations for parent alienation, such as coercive control as the key aspect of domestic violence by the parent who the child(ren) does not want to visit (Champion, 2022; Fite et al., 2022; Lapierre et al., 2022; Taverna et al., 2022). It also includes an important Commentary on challenges to research on what does happen in courts when allegations of parental alienation are promoted (Meier et al., 2022). These are the main areas of focus for Part 1 of the special issue.

The articles in Part 2 begin with reunification research in cases or situations that do not fall into the child custody cases noted in this preface. Too many evaluators use the terms of attachment or bonding without necessarily understanding what attachment research has shown, which is also discussed in one of these articles (Chester, 2022; Mercer, 2022-b). If evaluators or mental health professionals do not truly understand the attachment research, they are more likely to make mistakes in their conclusions and recommendations. Additional articles focus on the way reunification is emphasized in the alleged parental alienation cases and how they do not follow principles of known research or theory, and instead these reunification programs can produce even more trauma for these children (Chester, 2022; Mercer, 2022-b). Finally, two articles discuss the flaws and critiques of the theories and research for three major programs - Family Bridges, Turning Points, and Overcoming Barriers—utilized by parent alienation advocates and the professionals and courts who refer to them in these cases (Avalle et al., 2022; Andreopoulos & Wexler, 2022). Their critiques demonstrate the lack of adequate research or theory behind these programs and suggest they are not validated. They also discuss the ethical issues involved in the coercive methods utilized by some of these programs. These articles highlight that it is dangerous to force traumatized children into unvalidated programs that do not even refer to themselves as treatment, even when licensed mental health professionals are involved in conducting them.

Our hope is that at some point in the near future, we will no longer have the need for all of these special issues. Our goal is to no longer need to advocate so strongly for such significant change, and for the child protection and family court systems to rely on research, theory, and behavioral data that are validated and focused on the actual best interest of the children. Until then, we will continue to use these outlets to move forward the conversation and hopefully get away from false inferences, unreliable assumptions, biases, and faulty dichotomies.

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Introduction—Parental alienation vs coercive control: Controversial issues and current research

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ABSTRACT

Family court judges should make decisions per the *best interests of the child standard* (Child Welfare Information Gateway, 2020). High conflict custody cases make this complicated, especially when reunification services are requested. In the middle of contentious proceedings, judges oftentimes receive conflicting information from parents. Judges and family law professionals can be lead astray, relying on unproven constructs and instruments not meeting the criteria of reliability and validity. Some victimized children have been mandated into reunification programs that are neither evidence-based nor trauma informed, causing them further harm (Chester, 2022). This two-volume special issue on Parental Alienation and Family Reunification provides courts with critical background in child development, dynamics present in violent families, and how to evaluate the testimony of experts to ensure it values children's views and follows evidence-based practice.

Introduction

Family court judges need to make decisions following the *best interests of the child standard* (Child Welfare Information Gateway, 2020). Providing for the best interest of the child in high conflict custody cases is complicated, especially when reunification services are needed. In the middle of contentious proceedings, judges oftentimes receive conflicting information from parents seeking to maintain or enhance their custodial rights. In this scenario, judges and family law professionals can easily be lead astray, relying on unproven constructs and instruments, which do not meet the criteria of reliability and validity. The American Psychological Association (APA) has put forth standards for professionals testifying in court about complex family cases that require evidence-based practices to be followed. For example, in 2013, The APA provided guidelines for psychologists completing

Psychological Evaluations in Child Protection Matters (American Psychological Association, 2013a), as well as Specialty Guidelines for Forensic Psychology (American Psychological Association, 2013b), which require professionals to only provide courts with information, evaluation methods, and treatment strategies that have undergone repeated, un-biased peer review and testing that ensures the testimony meets the best evidence-evaluable in the field.

In part, the reason for the need for evidence based, reliable therapeutic practice standards stems from concepts originating in the work of Richard Gardner. In 1992, Gardner asserted his infamous theory of Parental Alienation, hypothesizing that when there is no evidence of abuse and a child's attachment to a parent is diminished, the result might be caused by one parent poisoning the child's mind against that other parent. (Gardner 1992). Gardner's initial concept has been broadened to suggest the existence of Parental Alienation Syndrome (PAS), Parental Alienation Disorders (PAD) and/or parental alienating behaviors (PA) on the part of one parent against the other. Since 1992, several studies have been conducted to examine the validity of PAS, PAD, and PA. Unfortunately, these studies are all based on small samples, wherein the rules of experimental design, critical for valid interpretation of results, have not been followed (Saini et al., 2016).

Bowles et al. (2008) assert that PA, PAS, and PAD should not be asserted as valid concepts in court because they do not meet the criteria detailed in Daubert and Frye. The Daubert and Frye criteria require the application of a multi-factor test to any evaluation procedure used as the basis of court testimony (Cappellino, 2021). To date, the concept of PAS has not been subjected to this multifactor test and therefore the concept should not be admissible in court. The American Professional Society on the Abuse of Children (APSAC), a nonprofit, national organization focused on meeting the needs of professionals engaged in all aspects of services for maltreated children and their families, states that the concepts of PAS, PAD, PA, and Parental Alienation Behavior (PAB) give a parent's desire to have contact with a child supremacy over the child's safety (APSAC, 2012). These parental alienation concepts involve ignoring the words of the child, as the child's word is considered invalid. However, a great deal of research demonstrates that courts should listen to the words of children. Children can, and often do, provide accurate and reliable information about whether or not they have been maltreated when they are interviewed by a professional trained in child forensic evaluations (Newlin et al., 2015).

The American Professional Society on the Abuse of Children (APSAC),) (2016) has published papers on *Allegations of Interpersonal Violence in Divorce/Relationship Dissolution*, as well as *Guidelines for Forensic Evaluations*. Further, APSAC has also published *Practice Guidelines: The Investigation and Determination of Suspected Psychological Maltreatment of*