

**PARENTAL ALIENATION AND ENMESHMENT ISSUES**  
**IN CHILD CUSTODY CASES**

**Daniel J. Rybicki, Psy.D., DAPBS**

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*Excerpt from Dr. Rybicki's forthcoming book on Expert Witness Testimony and Forensic Psychology.*

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**Relevant Clinical and Research Literature:**

In recent years, custody evaluators and family therapists have encountered numerous cases of highly dysfunctional behavior evident in divorcing couples. While scientific research literature has not yet caught up with clinical descriptions, there have been several published accounts of a process that some have come to label "**parental alienation.**" Most notable and most controversial in this history is the body of work by Dr. Richard Gardner (1987; 1992a; 1992b ). Others have popularized and expanded on Dr. Gardner's work (e.g., Darnell, 1998; 1999; Navarre, 1998), although the primary proponent of the PAS model has been Dr. Gardner. It was Dr. Gardner who labeled this process a "syndrome", implying that a set of behavioral factors or "symptoms" are present in varying combinations to form a fairly consistent profile or pattern of concerns. The implication is that this syndrome may have common causes and treatments, leading Dr. Gardner to apply his "medical model" terminology to explain his repeated clinical observations. There has been considerable debate over whether or not this account meets the requisite definition of "syndrome" (e.g., Bricklin & Elliott, 2000; Johnston and Kelly, 2001; Poliacoff, 2000; Willams, 2001), there is sufficient professional discussion of this topic to warrant closer scrutiny of just what it is that is being described in certain divorcing family systems.

Parental alienation is described by Ward and Harvey (1993) as 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." The definition suggests a range of levels of severity, and implies that several factors may contribute to this observed outcome in a family system. The alienation process is believed to set up conditions that interfere with the quality of the relationship with the alienated parent, which in turn adds to maladjustment and distortion in the child. According to Ward and Harvey, the alienating parent is motivated by residual issues from unresolved problems in the marriage or divorce. At times, the motivations may be unconscious in the alienating parent. At times, the issues are more overtly owned and expressed.

As this model implies, there is a heavy emphasis on examining the role of the parent who might act in ways which lead to alienation in the child. This viewpoint is in keeping with the position offered by Gardner whose definition of parental alienation syndrome sets forth a specific diagnosable disorder that has eight core criteria which must be met to earn this label. Gardner's formulation of the parental alienation syndrome (PAS) followed some of the formative writings of Wallerstein and Kelly (1976, 1980) which reported on observations of a clinical phenomenon in which the child's strident rejection of a parent was accompanied by strong resistance or refusal to visit with the alienated parent. This pathological alignment between a parent and a child to the exclusion of the other parent was identified several years prior to Gardner's earliest writings in the area. It was Gardner however who developed a more elaborate and detailed description and offered a series of criteria for assessing this alienation process in its most disturbing form when it appeared as a pathological syndrome.

As noted here, the clinical descriptions in the literature tend to focus on the motivations and behaviors of the alienating parent and to a lesser extent on the children involved in this process. There has been a great deal of dispute and disfavor shown amongst judges, researchers, and policy makers to this formulation, and this has led to more recent focus on a continuum of family system dynamics wherein alienation and estrangement may take place. The more acceptable view amongst a body of researchers and authors is that PAS and other forms of alienation are part of a larger set of dysfunctional family system dynamics that may become pronounced in times of marital conflict, separation, or divorce. There has been greater emphasis on the concept of the alienated child (e.g., Kelly and Johnson, 2001) which has sought to examine the methods by which a child may become estranged from a parent. The new formulations have not totally rejected the possibility of PAS being a bona fide form of disturbance, but they have described a host of other formulations and factors which must be considered, along with pointing out the range of complexity that can be associated with parent-child relationship problems in a conflictual and divorced family system (see Lee and Olesen, 2001). These authors would find less to disagree with in their view with the earlier writings of Waldron and Joanis (1996) or with Ward and Harvey (1993) who have viewed the alienation process as a form of family system disturbance. They might agree

that alienation may even be a defense mechanism which may serve the purpose of maintaining the alienating parent's symbiotic dependence on the child, assist in managing the anger and revenge felt by the child or alienated parent, protecting the alienating parent's self-esteem, or avenging the alienated parent's abandonment of the family. They find multiple pathways to observations of alienation in a family system, and they find the model offered by Gardner to be too simplistic and too unfair primarily to mothers. And, while these new formulations of the "alienated child" or alienation process in divorcing families offer a much improved clinical working model, they share with Gardner the fact that they are largely untested in terms of empirical research on diagnosis and intervention strategies.

Several authors such as Kelly and Johnston (2001) or Dallam (1998a, 1998b, 2000) have severely criticized Gardner for his unscientific model of PAS. There are those that have taken the position that the PAS as formulated by Gardner does not meet scientific standards, and therefore fails to meet Frye or Daubert/Kumho standards for admissibility. We will discuss these issues further in a subsequent section of this paper. However it should be understood that while one might argue the scientific and legal status of this label, the fact remains that this type of phenomena has repeatedly been observed to varying degrees in a large number of custody cases (witness rising frequency of topic in professional literature, in seminars at American Academy of Forensic Psychology, e.g. Nicholas, 1997). Clearly the terminology and assessment methodology needs work, and there is a serious need for more empirical data to be gathered in this area of alienation and disturbed family systems dynamic in the conflictual family post-separation or post-divorce. However, there are emerging positions that seem to flesh out more of the important domains to evaluate, and therefore give the custody evaluator more useful guidance for conducting fruitful and fair assessments.

Given that at least ten percent of divorcing couples face intense conflict over custody issues, the potential is fairly large for the undercurrents of tension and conflict to produce conditions in which clinicians will report alienation and enmeshment concerns within the family unit. The intense bitterness which follows from such high conflict divorce may fuel the resulting disturbed communications which in turn yields various forms of interference with visitation and undermining of respect for the noncustodial parent. Studies of children growing up in such high conflict divorce circumstances find that these tensions may continue relatively unabated over an extended period of time (e.g. Sullivan, 1997). The negative effects of such conflict and tension upon subsequent child development has been described elsewhere by authors such as Johnston (1989; 1994; 1995) and clearly documents that children who are caught in such battle zones will often develop a number of psychological problems and adjustment concerns. While debate continues over whether or not the Parental Alienation Syndrome is a term that meets Frye and Daubert standards (e.g., Bricklin & Elliott, 2000; Dallam, 1998; Garber, 1996; Poliacoff, 2000; Williams, 2001; Wood, 1994), there are several recent reports by sources such as Clawar and Rivlin (1991), Lund (1995), Turkat (1994), Stahl (1999) and Hysjulien, Wood, & Benjamin (1994) that have helped to establish this phenomenon as a major concern in child custody matters. These authors point out the importance of considering the impact of parental alienation in seeking to resolve custody and visitation

disputes, particularly since this process often plays a prominent role in causing unnecessary disruption in visitation and in the promotion of the relationship with the noncustodial parent. Legal and therapeutic interventions have been suggested by Gardner (1992a; 1992b) which are endorsed by some of these authors as well. In order to understand the controversy and the current state of affairs, it may be useful to begin with a summary of what Gardner has said, and how people have reacted to his positions.

Gardner (1987) is credited as being the first to coin the term "parental alienation syndrome", although Stahl (1999) suggests that the rudiments of this family process were reported originally by Wallerstein and Kelly (1976; 1980) when they discussed the alignment process in divorcing families. Others picked up the study of this issue by examining the nature of high conflict divorce, with Johnston and her colleagues offering useful insight into this dynamic (Johnston, 1989; 1993; Johnston & Campbell, 1988). Gardner sought to formalize the model into a working diagnosis and labeled the process as parental alienation syndrome with eight specific criteria. These include features deemed common in children with moderate to severe PAS. According to Gardner, the evaluator will observe:

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

As Gardner notes, children "who suffer from PAS will exhibit most (if not all) of these symptoms. This is almost uniformly the case of the moderate and severe types...[although] in the mild cases one might not see all eight symptoms."

Some additional support for the value of Gardner's conceptual model comes from work by Dunne & Hedrick (1994), Rand (1997) and Nicholas (1997). Gardner's criteria were found useful for differentiating cases of parental alienation from other types of postdivorce concerns. As reported by Dunne & Hedrick (1994), the cases of parental alienation syndrome appeared to be primarily a function of the pathology of the alienating parent and that parent's relationship with the children. The research by Nicholas suggests that the alienating parent may not always display pronounced pathology, but commonly share the feature of a tendency to distort reality. In the more severe cases, the alienating parent demonstrates marked personality disturbance.

These writings are unfortunately largely nonempirical case studies, and reflect clinical accounts of what may be seen by others as one extreme of the continuum of alienation concerns. Other less severe cases and other causes of disturbed parent-child relationship dynamics in the post-divorce environment are outlined in some detail by Kelly and

Johnston (2001). We will return to these points after some additional summary of the classic and somewhat extreme position offered by Dr. Gardner.

According to Gardner's model, the primary parent engaging in alienation behaviors is likely to be the mother although there are times when the father is the perpetrator of the alienation (Gardner, 1992a; 1992b ; Ward & Harvey, 1993). Gardner estimates that 9 out of 10 cases involves the mother as the alienating parent, and the father being the parent who is the outcast, rejected by the children, and prevented from developing or continuing to enjoy an effective parent-child relationship with these children of divorce. A campaign of denigration is described by these authors where the father is cast into the role of the villain, with the mother playing the victim role and the child instructed to fear and reject the father. Gardner describes the "programming mother" as angry, critical, and distant. Elements of projection, overprotectiveness, reaction formation, and fury are outlined as underlying factors. Programming of the child may be very overt or very subtle. Name calling, innuendo, and nonverbal forms of hostility may emerge in the course of the alienation process. Destruction of remnants of the father (including gifts given to the child by the father) may be part of a pattern of programming. More subtle forms may include barring the father from coming to the door.

"A common maneuver is to require the visiting father to park his car in front of the house and blow the horn when he arrives. He is not permitted to come to the doorstep, let alone, ring the bell. Although not stated, the implication here is that this very act might somehow contaminate the whole household (Gardner, 1987, p.86)."

The answering machine is commonly used to screen calls, and the father's messages may be lost or erased. Father is clearly on the unacceptable list of callers. Rigid adherence to a visitation schedule and threats of calling the police are also seen by Gardner as forms of programming and manipulation. "Visitation obstructionism is a very powerful vengeance maneuver...[as is]..withholding the children (Gardner, 1987, p.93)."

Gardner goes on to note how the mother will imply that father is ill-equipped to care for the child by preventing him access to the child when minor illness is present in the child. Sarcasm, criticism, and efforts to align with the children against the father are also noted.

"There are a wide variety of other ways in which a mother may contribute to the child's alienation against the father. She may not forward to him copies of school reports...She may refuse to allow the father to join with her in teacher's conferences...A common maneuver is not giving the father copies of school photographs (Gardner, 1987, p.95.)."

Gardner notes that these efforts at alienation have included taking the child to a therapist without the consent of the other parent, and then expressly prohibiting the therapist from communicating with the father.

"Unfortunately, many therapists go along with this and thereby unwittingly contribute to the perpetuation of their patient's parental alienation. Confidentiality is used here in the service of perpetuating psychopathology (Gardner, 1987, p.98.)."

Varying degrees of alienation have been described, ranging from mild to moderate to severe. In accordance with the level of severity of alienation, therapists such as Dr. Gardner have proposed consideration of varying levels of intervention by the court. Those persons who challenge Gardner's model are most upset over these interventions, noting that they are based on an untested and nonempirical or unscientific diagnosis, rely on an untested model and theory, and carry extreme risks for harm to the child (e.g., Johnston, Walters, and Friedlander, 2001; Kelly and Johnston, 2001; Sullivan and Kelly, 2001). We will also consider these alternative approaches to intervention, but for clarity, let us proceed with our summary of what interventions are suggested by Gardner.

In the most severe cases, the mothers are often seen as fanatic, using every mechanism at their disposal to prevent visitation. They are obsessed with antagonism toward the father, and may even demonstrate paranoid ideation according to Gardner. Stahl (1999) notes that there is clear and consistent derogation of the alienated parent, with some cases involving a combination of programming, brainwashing, and hostility that begins with the alienating parent and is taken on by the alienating child. Issues of abandonment and betrayal help fuel this anger, coupled with projection of blame and intense fear/anger. Fabrications of sexual abuse and other outrageous problems are found in this group of parents. Children become fanatic and extreme as well, demonstrating what he calls a *folie-a-deux* relationship. There is a sick bond with the mother and children, such that the children suffer dramatically as a result. Ward & Harvey (1993) see the child as highly enmeshed with the alienating parent against the villain seen in the father. The child is seen as a victim, much like the mother, and the child is often required to keep secrets from the father and to express his/her allegiance to the mother. Threats of withdrawal of love are used to bolster this parental control over the child. Gardner suggests that psychotherapy for the mother and child is essential in such severe cases. Gardner also calls for hospitalization of the child or a change of custody, as steps taken to remove the child from further exposure to the damaging effects of the parental alienation process.

"Accordingly, the first step in the therapeutic process is removal of the children from the mother's home and placement in the home of the father...The hope here is to give the children the opportunity to reestablish their relationship with the alienated father, without significant contamination of the process by the brainwashing mother. Even telephone calls must be strictly prohibited for at least a few weeks...Then, according to the therapist's judgment, slowing increasing contacts with the mother may be initiated, starting with monitored telephone calls...This period of slow and judicious renewal of contact between the children and the brainwashing parent must be monitored carefully so as to prevent a recurrence of the disorder. (Gardner, 1987, p.226-227.)."

Some have questioned the value and wisdom of Gardner's suggestion for a "parentectomy" in such severe cases of parental alienation (e.g., Isman, 1996; Lee and Olesen, 2001; Mauzerall et al., 1997; Poliacoff, 2000; Williams, 1990, 2001; Wood, 1994), arguing that the "cure" is worse and more detrimental than the "disease." A more cautious approach would be individually tailored for the specific needs of the case, but the recommendations might include court orders which establish greater structure and

place limits on the alienating parent, court ordered therapy and case monitoring, and use of a special master or guardian ad litem to monitor compliance and report further developments to the court (Stahl, 1999). The goal is help the alienating parent understand the harmful effects of alienation, while working to address any underlying pathology which may fuel the alienation process. Stahl notes that only in the most critical of cases would there be support for a temporary disengagement with the alienating parent.

The moderate cases have mothers who appear as less fanatic but still quite enraged. Stahl (1999) suggests that these parents are quite angry and often vengeful in their behavior toward the other parent. They feel hurt, and expect the child to take sides and be loyal to them over their relationship with the other parent. Stahl agrees with Gardner in noting that moderate alienating parents will work very hard to prevent visitation and to interfere with the quality of the relationship between the father and the child. They are unreceptive to complying with court orders but will do so minimally to avoid negative legal consequences. They may still bring up sexual abuse allegations, but they can differentiate between preposterous claims and those that may have some validity. They seem to delight in hearing negative news about the other parent and they communicate their dislike of visitation arrangements. They often refuse to speak to the other parent and may make derogatory remarks about them to the child. They will hold fast to their view of needing to protect the children from this other parent and see the other parent as untrustworthy, yet appear more subtle in their expression of these views with the child, friends, or therapist. The children from this system will mirror the level of severity, and like the mother, appear less fanatic but still guarded and prone to acting out. Like other high-conflict families (Johnston & Campbell, 1988; Johnston & Roseby, 1997), there will be a high level of anxiety, splitting, insecurity, and distortion, with one parent set up as the good parent and the other as the bad parent. Children will have difficulty in integrating positive and negative images of each parent, but this will be less pronounced than is apparent in the severe alienation family system (Stahl, 1999). These cases call for interventions that are less drastic than the severe cases. A change of custody may still be considered, at least for a temporary measure (Ward & Harvey, 1993). Gardner suggests that therapy be conducted by one therapist working with both parents and the children. The therapist should be court-appointed. The therapist will work to reduce the overprotective and controlling efforts of the alienating mother, while empowering the children to take care of themselves. The therapist will help the children appreciate the value and need for visitation with the father, and will work to use increased visitation time to facilitate a more effective interaction between them. This experience is monitored and helps the child to confront the false assumptions they have held, and to learn new and more adaptive methods of relating to the father.

Finally, the mild cases of parental alienation tend to be more focused and limited in scope. Gardner suggests that these parents have a more healthy bond with the children and are able to recognize that alienation from the father is not in the best interests of the child. They are more willing to take a conciliatory approach to the father's requests. They may still have little regard for the importance of visitation and tend to have difficulty tolerating the presence of the other parent at events important to the child. Stahl (1999) suggests that these cases will involve subtle attempts at turning the child against the other

parent and drawing the child into the alienating parent's viewpoint. This may involve conscious and unconscious actions. The main motive may be for the parent to look better in the eyes of the child. In most cases, Stahl suggests, the results of this family dynamic will be a slight increase in loyalty conflicts and anxiety but no fundamental change in the child's own view of the alienated parent. Intervention for this group tends to be focused on specific issues, seeking to balance out the communications and dynamics. Family systems work is done to overcome the divorce impasse which may fuel the alienation.

According to authors such as Gardner (1987; 2001b) and Ward & Harvey (1993), the problems associated with the process of parental alienation tend to take on a life of their own, and unless dramatic interventions are adopted, the ongoing conflicts and undermining of parental value can seriously endanger the mental health of the child. The emotional bond of the parent and the child is disrupted and in some cases destroyed, causing irretrievable damage to the child's overall development. The child is cast into the role of a "loyalty bind", having to choose which parent they love more. Cartwright (1993) notes that prolonged alienation of the child may trigger other forms of mental illness and that slow judgments by the courts tend to exacerbate the problems. In keeping with recommendations from Gardner, this evidence points to the importance of prompt and effective interventions in such cases.

Stahl (1999) reports that the children who are most susceptible to alienation are the more passive and dependent children, or the children who feel a strong need to psychologically care for the alienating parent. The child and alienating parent share a sense of moral outrage and there is a fusion of feelings between them. While noting that there is a plethora of research studies in this area, Stahl suggests that the clinical descriptions which have found their way into the professional and legal literature offer some useful guidelines for consideration in custody decisions. Long-term effects of alienation left unchecked may lead to various pathological symptoms, which include but are not limited to:

- splitting in their relationships
- difficulties in forming intimate relationships
- a lack of ability to tolerate anger or hostility in relationships
- psychosomatic symptoms and sleep or eating disorders
- psychological vulnerability and dependency
- conflicts with authority figures
- and, an unhealthy sense of entitlement for one's rage that leads to social alienation in general.

With the classic Gardner model of PAS in mind, it may be useful to review some of the criticisms that have been levied against Dr. Gardner and his position. These criticisms have highlighted the fact that Gardner's model has focused almost exclusively on the alienating parent as the etiological agent of the child's alienation, ignoring considerable clinical research which shows a host of other factors (e.g. Johnston, 1993). Kelly and Johnston (2001) contend that "alienating behavior by a parent is neither a sufficient nor a necessary condition for a child to become alienated (p.249)," implying that the model is



too simplistic and ignores important other data. Second, these authors contend that the model proposed by Gardner is largely untestable and unfalsifiable because it is tautological. Third, they note that the PAS cannot properly be considered a diagnostic syndrome as defined by the American Psychiatric Association, nor does it reach the level of nondiagnostic syndrome. It does not offer any new information to the court, and it lacks empirical support. Finally, these authors contend that using medical terminology such as syndrome to describe a complex process of family dynamics, situational influences, and individual pathology and development is to do more to obfuscate the nature of alienating processes that appear in high-conflict cases. These arguments are carried further into challenges to the entire PAS model at the level of admissibility (e.g., Williams, 2001; Zirotiannis, 2001), and form a basis for questioning the utility of Gardner's model for custody litigation.

Instead, Kelly and Johnston (2001) seek to redirect our thinking to considering these complex issues by examining family systems factors, situational factors, and individual factors while formulating diagnostic impressions of dysfunctional families using a continuum model. The draw attention to the concept of the "alienated child" who is "one who expresses freely and persistently, unreasonable negative feelings and beliefs (such as anger, hatred, rejection, and/or fear) toward a parent that are significantly disproportionate to the child's actual experience with that parent (p.251)." Thus, there is a greater emphasis on the observed problem in the child, and less of a simple indictment of the alienating parent as the only etiological factor of note. These authors call for the evaluator to differentiate alienated children from children who resist visitation for other reasons such as normal, realistic, and/or developmentally expectable reasons. Normal separation anxieties, resistance rooted in alignment with one parent in high-conflict divorce, resistance due to parenting style, resistance due to fears over an emotionally fragile parent, and resistance due to remarriage or other relationship concerns are but a few of these other formulations which Kelly and Johnston point out.

Their continuum model posits five positions, and includes one position for more serious alienation of the type that Gardner might describe. Children's relationships with their parents after separation and divorce may fall along this continuum. The most favorable position is a positive relationship with both parents. Next the child may have an affinity for one parent over the other, while still desiring contact and continuity with both parents. Allied children tend to ally with one parent, and demonstrate a consistent preference, and want only limited contact with the other parent. This third stage may be the result of pre-divorce personality or interpersonal dynamics, parenting style, or developmental issues in the child. Level four on the continuum reflects the outcome of realistic problems, such as exposure of the children to domestic disputes or violence wherein the children become estranged. Abuse, neglect, family violence, chemical dependency in the parent, and other factors may create the estrangement, and there may be no alienating behaviors in the other parent to support the child's desire to restrict their contact with the parent. Unlike alienated children, estranged children do not harbor unreasonable anger or fear; they have a basis for their views and concerns. Finally, there is the position of the alienated child, who may strongly resist visitation or contact with the other parent, and who will express their rejection of that parent with some strident and

strong sentiments, and without guilt or empathy for the other's parent's feelings. This is a pathological response that emerges in the absence of realistic factors as noted in the case of the estranged child. It is only this level that may resemble some of the Gardner PAS or PA descriptions. Even then, Kelly and Johnston note several other factors other than an alienating parent that may account for the observed alienation in the child. These include systemic factors (child triangulated in intense marital conflict; separation experienced as humiliation; impact of high-conflict litigious divorce; contributions of new partners, extended family, and professionals), behaviors of the rejecting parent that contribute to alienation (passivity and withdrawal; counter-rejection of the child; harsh and rigid parenting style; critical and demanding traits; immature and self-centered behavior; diminished empathy for the aligned child), and developmental stage vulnerabilities within the child (child's age and cognitive complexity; child feels abandoned and rejected; temperament and personality factors). Their full model is beyond the scope of this paper to address, but the central tenet is that alienation as observed in the most severe cases may be the outgrowth of several factors all of which require thorough and detailed consideration by any evaluator seeking to study a family system for the court.

In keeping with the view that alienation issues are more complex than originally formulated by Gardner, and in accordance with the concept that alienation reflects more of a disturbance in family systems functioning than a distinct diagnosable condition, therapists Margaret Lee and Nancy Olesen offer useful recommendations for improved assessment of alienation in child custody cases. They contend that the simple three level intervention strategy used by Gardner is also grossly oversimplified, and that problems with confirmatory bias might foreclose the process of investigation when an evaluator finds some of the red flags listed by Gardner. "Another problematic conclusion is that if one finds a parent engaging in alienating behavior, the child is automatically seen as alienated. This might lead an evaluator to dismiss other relevant concerns and issues. It also leads the evaluator to conclude prematurely that the child is rejecting a parent because of these processes, even when that might not be the case (p.283)." They urge the evaluator to take a more comprehensive and thorough investigative approach, considering a host of factors such as those outlined by Kelly and Johnston (2001). They offer a decision tree for conducting that assessment which begins with having the evaluator consider whether or not the child's behavior resembles that of an alienated child (defined as "one who expresses freely and persistently, unreasonable negative feelings and beliefs toward a parent that are significantly disproportionate to the child's actual experience with that parent" citing Kelly and Johnston, 2001, p.251). If there are such indicators, then the evaluation examines parental behaviors, historical information, parent-child relationship history, and factors that might lead to estrangement. They concur with Kelly and Johnston (2001) in seeking to differentiate between alienation and realistic estrangement by considering whether the child has been traumatized by various forms of abuse or neglect, or by witnessing domestic violence. Other disturbances in parental adjustment (e.g., mental health problems, chemical dependency, harsh parenting) may also be realistic factors that contribute to the estrangement. Beyond these elements, Lee and Olesen call for consideration of the full family context, including bonding and attachment issues, alignment with one parent or siblings, communications and identification issues, etc. They go on to offer an outline of some of the sources of data

which might help the evaluator address these questions (e.g., clinical data from the parents and the child, direct observations of all of the parties, collateral input and records, and psychological testing).

This model and the model offered by Kelly and Johnston (2001) both rest on extensive clinical experience and case studies, just as does the PAS model proposed by Gardner. What is different is that these new reformulations move from a simplistic medical model approach which labels a diagnosable syndrome on the basis of a set of observed symptoms to a more rich and clinically useful family systems and ecological approach that places issues of alienation within the context of larger interpersonal dynamics, life experiences, and developmental processes. Both approaches will require more empirical and scientific study, but one feature that favors these reformulation models is their reliance on a body of empirical data from family systems research, and their statement of multiple clinical pathways by which alienation and related problems may arise. These components are more likely to meet Frye and Daubert standards for admissibility, and many of these parts rest on a body of research that is already in the literature (e.g., Johnston, 1993; Johnston and Campbell, 1988).

Thus features outlined in the more sophisticated model of alienation offered by Kelly and Johnston (2001) raise additional family systems concerns, and point to types of intervention which have a sound theoretical footing within the field. They direct the clinician to consider several commonly understood family dynamics which have been observed in a number of clinical settings. For instance, they support the recommendation of studying the **family process of enmeshment**. Just as alienation and estrangement may be concerns which help shape the custody evaluation, it may be critical for the evaluator to carefully assess the level and degree of any enmeshment or boundary disturbance that are present in a post-divorce family system. While the literature does not often incorporate discussion of this topic into descriptions of parental alienation, it would appear that enmeshment and overidentification of the child or children with one parent may significantly contribute to the level and intensity of observed alienation processes.

The term enmeshment has been widely used in the family therapy literature since it was popularized by the work of Salvador Minuchin (1978). Describing psychosomatic families, Minuchin and his colleagues outlined the impact of four disruptive family dynamics: enmeshment, overprotectiveness, rigidity, and lack of conflict resolution methods. The offspring in these families included anorexic girls who were so caught up in the family pathology that they were unable to differentiate themselves and were locked into an illness that reflected the family disorder. They were trapped in rigid roles with their other family members and they were treated in such an overprotective manner so as to make a virtual moat around the family system which blocked out the outside world. Attempts to penetrate these protective walls were rebuffed, leaving no opportunity for corrective feedback, new learnings, or breaking the suffocating mold that held the members captive.

"Enmeshment refers to an extreme form of proximity and intensity in family interactions...In a highly enmeshed, overinvolved family, changes within one family

member or in the relationship between two family members reverberate throughout the system...On an individual level, interpersonal differentiation in an enmeshed system is poor...in enmeshed families the individual gets lost in the system. The boundaries that define individual autonomy are so weak that functioning in individually differentiated ways is radically handicapped (Minuchin, et al, 1978, p.30)."

Minuchin described the **lack of clear ego boundaries** between family members which produced a form of fusion, a condition that **interfered with a clear sense of self** as apart from the family while still being a part of the family. Taken with the family failure to have suitable means for conflict resolution, Minuchin traced how the family system contributed to the production of psychopathology in the members and how it was unable to move forward to more healthy and adaptive roles. From this seminal work, a large body of literature has emerged which has been most influential in the family therapy world. As with parental alienation described above, varying levels and degrees of enmeshment may occur, ranging from mild and isolated elements of enmeshment to more pathological and pervasive features. In divorcing families, the impact of enmeshment can become more pronounced as the normal balancing influence of the other parent is gradually diminished. Much like parental alienation, the phenomenon of enmeshment may be found in varying degrees of intensity, with corresponding degrees of negative impact on child development.

A number of recent publications have advanced the concept of enmeshment and improved our methods of assessment and treatment for problems of family enmeshment (e.g., Blair, 1996; Ellis, 1994; Perosa & Perosa, 1993; Rogers, 1983; and Verheij, 1982). One may conceptualize this problem as a form of being too close, where identity fusion between parent and child is merged and it is difficult to tell where one begins and the other leaves off. In this unhealthy dynamic, the child is unable to establish a clear identity apart from the parent, such that actions of the child so significantly impact the apparent well-being of the parent that the child is held captive to a role reversal and caretaker role, subsuming their own identity and needs to those of the parent. Problems of this sort contribute to a myriad of developmental disturbances in the children of such families (Anderson & Coyne, 1991; Bebbington & Delemos, 1996; Cummings, 1994; Fullinwider & Jacobvitz, 1993; Koontz, 1983; Perosa & Perosa, 1993; Schupak-Neuberg & Nemeroff, 1993; Shean & Lease, 1991; Waring and Patton, 1984). This may include a number of forms of psychopathology (e.g., eating disorders, drug abuse) and psychosomatic or psychophysiological disorders (e.g., chronic pain, headaches, gastrointestinal disorders). Research has demonstrated that the model originally developed by Minuchin holds true in terms of an established relationship between enmeshment and these various problems. The phenomenon can be studied through observation of interactions and even more recently through self-report measures of family functioning.

When this disturbance appears, the family dysfunction resonates throughout the family system. It may even take on more pervasive elements by its multigenerational impact from grandparents, through parents, and on to the youngest children. Therapeutic intervention is a necessary first step, but this may fail due to premature termination when

the treatment process gets too close to the pathology. Ellis (1994) describes examples of this resistance to treatment with case examples where the mother-child enmeshment led to the early withdrawal from treatment. As noted above, the long-term consequences of enmeshment left unchecked can be the development of serious emotional, developmental, and physical problems.

In one notable study, adolescents from such dysfunctional homes demonstrated limitations in their coping abilities and in their development of a personal identity (Perosa & Perosa, 1993). Dating relationships may be restricted and limitations in career exploration or development may also follow from the negative impact of mother-child enmeshment (Fullinwider & Jacobvitz, 1993). When enmeshment has been present with one spouse from their family of origin, there tends to be restricted marital intimacies in the couple which appears to reflect the perpetuation of family dysfunction (Waring & Patton, 1984). Clearly, the pathology has the potential to transmit damaging messages and unhealthy family relations from one generation to the next and beyond.

Unhealthy fusion may be increased through the process of divorce (Isaacs, 1987) where any proclivity toward enmeshment is increased. However, the simple process of divorce does not in itself account for the ongoing impact of enmeshment (Zastowny & Lewis, 1989), such that the deleterious effects of enmeshment exist independently and have a life of their own if they remain unchecked. The collusion, fusion, symbiosis, overconcern, and separation-individuation problems of enmeshment create a constant state of vigilance which maintains the boundaries between the internal and external world in a rather stable state of defense (Verheij, 1982). Families where **multigenerational enmeshment** exist face added pressures at points of crisis and tend to demonstrate even greater cohesion and growth-inhibiting controls over their members. Therapeutic intervention is considered essential in such families according to these authors.

#### Implications for Custody Evaluators:

The early descriptions of alienation and high-conflict family disturbance offered by Wallerstein and Kelly (1976; 1980) and the work on enmeshment (Minuchin et al., 1978) set the stage for closer consideration of the types of variables that can yield impaired adjustment in the parents and children of divorce. Additional controversy sparked by Gardner's formulation of the PAS combined with intense debates in the mental health and legal literature have helped to move the field further along the process of developing more complex and rich theoretical models. While more research is clearly needed, there is an emerging literature that is very clear that enmeshment and alienation dynamics can produce extremely serious developmental consequences for persons caught in such dysfunctional family dynamics. The typical custody evaluator is often faced with the task of observing these clinical features in the divorced family system. While Gardner offers a list of eight criteria for PAS, and while he has formerly suggested that evaluators use his Sexual Abuse Legitimacy Scale to distinguish false allegations of sexual abuse from bona fide allegations, it has been noted that neither approach represents a true psychological measure. In fact, Gardner has discontinued using the SAL in the face of such criticism. The new alienated child model offered by Kelly, Johnston, Lee, and Olesen sets forth

several areas to evaluate, but lacks any specific formalized tools for measuring these issues. Clinical judgment remains the primary methodology for even this more sophisticated analysis.

Thus, psychological assessment of parental alienation or enmeshment is complicated by the fact that there are no specific or scientifically validated methods or scales for making this type of family evaluation. More general reliance on customary clinical tools such as interviews, family observations, collateral interviews, and psychological testing will only give the evaluator a piece of the puzzle at best. These may have some established empirical support, but there remains no set of cut-off scores or other methods for clear demarcation of estrangement versus enmeshment, to highlight one example. It may be possible to use the recent formulations by Kelly and Johnston to organize the data collected from these and other sources. Some may elect to rely on Gardner's approach. And, to the extent that some empirical descriptors are available for evaluating parents who engage in such alienating behavior or abuse, it may be possible to combine these findings by using the summary of common profiles that appear in the literature and compare them with the data from the subject in question. In this approach, the evaluator may offer a statement to the court as to the degree to which a given parent or a given family resembles the typologies listed by other authorities in the field.

Plausible rival hypotheses must be given serious consideration when the evaluator detects evidence of what might appear to be parental alienation, enmeshment, estrangement, and other such features in a given case. These complex models offer some parameters for making this type of comparison. In the case of alienation, Poliacoff (2000) suggests that the child's ambivalence towards a parent or their overt rejection of one parent may reflect several other factors such as:

- developmentally normal separation problems,
- deficits in the non-custodial parent's skills,
- oppositional behavior in the child,
- high-conflict divorce proceedings,
- other serious emotional or medical problems of one family member,
- child abuse and neglect,
- 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.

Thus, Poliacoff joins with Kelly and Johnston (2001) and Lee and Olesen (2001) in suggesting that the evaluator give consideration to these and other family features when the evaluator wishes to document possible parental alienation or related family dysfunction. When the data do not converge, or when key elements are missing from the profile, even Gardner (1998) will agree that parental alienation syndrome is not the best label to describe the observed family problems.

Some specific suggestions for weighing the various findings in suspected alienation cases is provided by Bricklin and Elliott (2000). They suggest that the evaluator may become alert to parental alienation or other forms of distortion by attending to any and all "red flags" that arise in the course of the custody investigation. In their handbook, these authors refer to a concept called **NBOAI** -- which stands for **not-based-on-actual-interactions**. These NBOAI signs will help the evaluator "to recognize situations in which a child is claiming to be true at a conscious level material which 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." Examples of this would include responses which sound rehearsed; unasked-for-information too readily volunteered; responses given too quickly with hardly any pause between question and response; Bricklin BPS scores which are skewed to one championed parent; limited eye contact with the evaluator; and affect inconsistent with stated events. Defiant, cursing, silly behavior taken to extremes may be a signal of prompting and coaching, and less an indicator of one parent's lack of control. All of these examples should lead the evaluator to consider parental alienation or other forms of distorted information emanating from the assessment with the child or children.

The task of assessment is made somewhat easier when extensive information is collected from a variety of sources. The common child custody evaluation practices of using psychological testing, individual clinical interviews with each of the parents and each of the children, as well as individual observations of the parents with the children will provide merely a starting point for this evaluation. Bricklin and Elliott (2000) concur that there is a need for additional observations of the child or children in interactions with both parents present. Where possible, this type of observation may afford the evaluator a chance to witness how the child greets and interacts with both parents collectively, then compare this with how the child relates to the parent in a one-on-one observation period. Information observations and more structured observations (e.g., Rybicki, 1991) may assist the evaluator in collecting this respective behavioral data. This may be accomplished in part by having extended clinical sessions wherein one parent completes psychological testing while the other parent interacts with the children, followed by points of overlapping observations where the children spend time with each parent individually, and with both parents in some collective situation. Additional collateral information must be collected from a variety of sources, including careful review of various documents and records, as well as directly contacting various collateral sources such as friends, family, neighbors, teachers, therapists, and others who have additional information about the parents, children, and family history. Where possible, reviewing family home movies or video, as well as photographs and other records of family relations will assist the evaluator in gaining some insight into family dynamics. And, clearly, a home visit becomes almost mandatory in order to further observe family relations in the respective households. Developing an evaluation data collection system that is consistent with prevailing professional standards (e.g., American Psychological Association, 1994; Ackerman & Ackerman, 1997; Clark, 1997; Skafte, 1985; Stahl, 1994) is imperative in order to amass the requisite data for determining the level and degree of alienation and/or enmeshment factors which may be present in a given family system. Adhering to these standards closely, and clearly specifying in advance the nature

and types of evaluation processes will also serve reduce liability concerns in this uniquely litigious area.

### Legal Status of Parental Alienation Syndrome Testimony:

Recent years have witnessed considerable argument and debate over the legal status of the PAS (e.g., Kopetski, 1998a, 1998b; Palmer, 1988; Warshak, 2001). Gardner and his colleagues have been eager to attest to the fact that over 100 articles on PAS have appeared in peer-reviewed journals. The majority of these articles have been non-empirical case-study and clinical accounts, and most have been authored by Dr. Gardner himself. More recently there have been some additional empirical studies on PAS related concerns, and on this basis, there has been some emerging acceptance within at least a few jurisdictions of testimony on the basis of PAS (*Kilgore v. Boyd*, 13th Circuit Court, Hillsborough County, FL., Case No. 94-7573, Nov. 22, 2000). At the same time, there has been serious challenge to the PAS concept, with authors such as Stephanie Dallam (1998b; 2000), Judge Williams (2001) and Lewis Ziropiannis (2001) criticizing PAS as unscientific and not suitable for admissibility.

Expert testimony regarding concepts such as parental alienation syndrome is subject to judicial review according to standards set forth in the Federal Rules of Evidence, and in several legal precedent setting cases (*Frye v. United States*, 293 F. 1013, D.C. Cir. 1923; *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 113 S. Ct. 2786, 1993; *Kumho Tire Co. v. Carmichael*, 119 S. Ct. 1167 1999). Using these standards, authors such as Poliacoff (2000) join with Dallam, Williams, and Ziropiannis to contend that Gardner and others have failed to demonstrate that PAS meets these criteria for admissibility. They collectively argue that the theoretical concepts of parental alienation syndrome lack empirical validation, rely too heavily on reverse logic to demonstrate causality, and fail to meet expectations for peer review. At the opposite end of the spectrum, authors such as Bricklin and Elliott (2000) join with Gardner (2001a) to cite over one hundred articles on the PAS which have appeared in peer-reviewed journals. However, as noted above, many of these remain largely nonempirical clinical writings based on case studies. To date, there has been no suitable scientific validation of the PAS model as outlined by Gardner. Other elements of the reformulation models offered by Kelly and Johnston (2001) at least rest on some empirical data that would meet such criteria.

Poliacoff (2000) and Ziropiannis (2001) argue further that reliability and validity have not been established with regard to use of the PAS term for parental alienation syndrome, nor have the various levels of PAS been clearly delineated. Poliacoff cites somewhat dated cases in Florida (e.g., *In the Interest of T.M.W.*, 553 So. 2nd 260, FL. Dist. Ct. App., 1988) that have adopted this position and refused to allow testimony around PAS claiming that it lacks general professional acceptance. Yet, by using more specific criteria such as the eight factors listed above by Gardner, there has been at least one successful Frye hearing on PAS which has allowed such testimony as admissible on the basis of general acceptance (*Kilgore v. Boyd*, 2000). Other caselaw in Wisconsin (*Weiderholt v. Fischer*, 485 N.W. 2nd 442, Wis.Ct. App. 1992) joins with this perspective in ruling that there is at least "limited research data" to support the parental alienation syndrome



concept and its recommended forms of intervention. Bricklin and Elliott (2000) note that there are now about forty legal rulings in which PAS has been recognized in court (for update see [www.rgardner.com/refs/pas](http://www.rgardner.com/refs/pas)), adding further weight to their contention that the PAS is a useful clinical description for assisting the court in making custody recommendations.

While many states have adopted the Daubert standards of admissibility, some states continue to rely upon the Frye standards. The former set of standards as articulated in the Kumho decision underscore the important gatekeeper function that the judge must play in evaluating scientific and expert testimony. The Frye standards rely more on "general acceptance" which appears to be a more vague term, subject to individual interpretation by each presiding judge. Bricklin and Elliott (2000) concur with Krauss and Sales (2000) who suggest that Daubert standards have not yet and probably will not make much difference to admissible evidence in the child custody domain, largely due to the residual use of the Frye standards. Thus, the impact on PAS admissibility remains to be seen. However, there are strong position statements offered by sources such as Ziropiannis and Williams who contend that PAS does not meet either Frye or Daubert criteria.

While debate within the literature continues, the court system still relies upon expert testimony regarding such pivotal concepts as parental alienation, estrangement, and enmeshment. It is possible for the evaluator to operate within professional and ethical guidelines by articulating both sides in this debate, and offering cogent reasoning for the position that they adopt. Perhaps the most ethical and appropriate position to adopt is one that sidesteps the debate over the syndrome and instead relies on specific observations and forms of clinical evidence, presented in an orderly fashion in the report or trial testimony, allowing the judge and trier of fact to consider the weight and impact of these dynamics on the best interests of the child. This approach is clear and honest, and falls within Daubert standards. Regardless of the final outcome of the debate over syndrome diagnoses (e.g. Rotgers and Barrett, 1996), the fact remains that experts may continue to testify as to observed family dynamics which have merit in making child custody decisions. There may be even better empirical foundations to rely upon when using the more sophisticated model of the "alienated child" as proposed by Kelly and Johnston (2001). Continued research is clearly necessary, and the best informed custody evaluator will be most helpful to the court. Remaining current on these professional writings and attending conferences such as those sponsored by the Association of Family and Conciliation Courts will be helpful ways to gain such knowledge.

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