

An Inconvenient Truth: Allegations of Abuse in the Divorce-Custody Context

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Agenda for Two-Part Workshop

- How divorce / custody litigation and child abuse allegations are related
- When the alternative hypothesis of psychological abuse should be investigated
- What parental alienation dynamics are
- Protocol modifications that may enhance fact-finding in such cases
- Case resolutions in the best interests of children
- Case examples

Errors in Child Abuse Determinations

Child was abused MDT agrees	Child was not abused MDT agrees
True Positive	True Negative
Child was abused MDT disagrees	Child was not abused MDT disagrees
False Negative	False Positive

<<<<<specificity<<<<<>>>>>>sensitivity>>>>>

What do we know about rates of fabricated allegations?

- 4%: no custody dispute sample
- 12%: custody dispute sample
 - Trocme & Bala (2005), *Journal of Child Abuse and Neglect*
- Allegation rate increases (4-5x) in custody dispute cases
 - Thoennes & Tjaden (1990), *Child Abuse and Neglect*
- A low-frequency event
- A form of psychological abuse

Translation in Numbers

- Say the CAC evaluates 421 children annually
- And that 5% of those cases involve high-conflict custody litigation (CL)
- 21 CL cases @ 12% rate = 2-3 fabrications
- 400 cases @ 4% rate = 16 fabrications
- 18-19 cases / year
- Is your community identifying these cases?

How Our System Can Contribute

- The "Non-Offending Caregiver" (NOC) brings child to interview
- The "Alleged Perpetrator" (AP) is not allowed on the CAC premises
- The NOC provides history & records
- Safety Plan reduces or eliminates the AP's access to the child



Why Is This Our Practice?

- Defer suspect interview to LE
- Create “safe” environment for child and NOC



What Pitfalls Do We Encounter?

- The accused has other history to tell
- The accused may have other records to share
- Without that information, we may be contributing to the validation of a false allegation
- We can generate additional questions and hypotheses based on the defense
- We can reduce confirmatory bias
- Conclude with a stronger case



Why do divorce / custody dynamics increase fabrications of abuse?

- Distrust between the estranged parents
- Anxieties for the children (separation, change, uncertainty)
- Impaired parental functioning
- Cognitive dissonance
- Fears related to change of parent-child relationship



Divorce / Custody Dynamics

- Adult informants may be less trustworthy:
 - Secondary gain issues
 - Discovery issues



In any given case:

- What impact might the allegation have on D/C/V proceedings?
- What precipitated the suspicion / disclosure / report?
- Have there been prior reports / investigations?
- If so, is there a pattern?
- Is the accused counter-claiming that this is all related to a "custody dispute?"
- Is there evidence of "doctor-" or "interview-shopping"?



What is "Parental Alienation Syndrome"

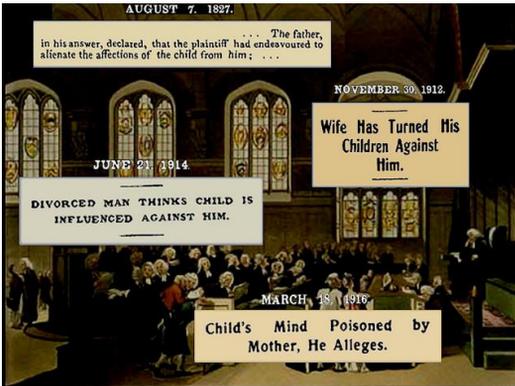
- "A disturbance whose primary manifestation is a child's unjustified campaign of denigration against, or rejection of, one parent due to the influence of the other parent combined with the child's own contributions."
 - Warshak

Foundational Principles

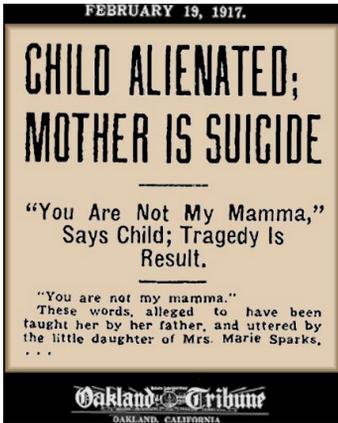
- Parental Alienation is **psychological abuse**
- Children of divorce want and deserve to have loving relationships with both parents
- Alienator's goal is to sever the tie to the other parent
- To accomplish this, (s)he needs only time and access
- Child becomes complicit and alienator need only engage in occasional maintenance

PAS Controversy

- Fact: Richard Gardner, MD coined the term in 1985
- Fiction: It "originated" in 1985









PAS Controversy

- Fact: Just like a complaint of child abuse or domestic violence, it may be a true allegation or a false allegation.

Errors in Determinations and Identifying Alienation

Child was abused in the manner alleged MDT agrees True Positive for Alleged Abuse	Child was not abused in the manner alleged MDT agrees True Negative for Alleged Abuse But why was the claim made?			
Child was abused in the manner alleged MDT does not agree Effective defense of alienation / coaching False Negative for Abuse Child stays in harm's way	Good-faith false claim		Bad faith false claim	
	Court agrees True Negative for PA "No Harm No Foul"	Court disagrees False Positive for PA Weakened protector	Court agrees True Positive for PA Intervention	Court disagrees False Negative for PA Child stays in harm's way

PAS Controversy

- "It's Not in the DSM-5"
- Fact:
 - V61.20 Parent-Child Relational Problem
 - V61.29 Child Affected by Parental Relationship Distress
 - Including "unwarranted feelings of estrangement"

Who are the actors and what are their roles?

- Targeted / Alienated / Rejected parent
- Preferred / Alienating parent
- Child
- Siblings
- Extended cast of characters:
 - Grandparents
 - Step-parents
 - Therapists
 - Healthcare providers



Recognizing Pathological Alienation

1. Relentless campaign of denigration
 2. Weak, frivolous, and absurd complaints
 3. Lack of ambivalence
 5. "Independent thinker" phenomenon Absence of guilt over treatment of rejected parent
 6. Reflexive support for alienator
 7. Borrowed scenarios
 8. Rejection has spread beyond target
- Gardner, 1985



Levels of Alienation (Gardner)

- **Mild:** some programming but contact not seriously impaired; reasonably healthy relations with both parents
- **Moderate:** significant programming and struggle around contact but contacts take place and child enjoys them
- **Severe:** child is adamant about hating target parent, refuses visitation or threatens to run away or harm self or parent; child and alienator aligned against target; family abduction cases are a subset of these.



NISMART Data on Family Abductions

- 205,000 family abductions in 1999
- 43% of cases the child's location is known
- 17% of the children were moved out of State with intent to make recovery difficult
- 44% were concealed from the aggrieved caretaker
- The most common serious elements were attempts to prevent contact (76%) and intent to affect custodial privileges permanently (82%).



Making the Case for Alienation

- Evidence of good prior relationship with target parent
- **Absence of abuse/neglect**
- Presence of alienation strategies
- Child presents with the markers for PA



Children who have been abused do not typically:

- Wholly reject the abusive parent
- Eagerly broadcast their abuse
- Deny positive aspects of parent or negate the past
- Worship the other parent
- Reject extended family



Parental Motives for Alienation

- Custody/control
- Religion
- Money
- Revenge
- Misguided or distorted beliefs
- Pathological needs
- **Personality disorders**

How Does This Happen? Strategies Alienators Use

- Badmouthing
- Limiting contact
- Interfering with communication
- Creating impression that rejected parent is unsafe, unloving, unavailable
- Referring to target parent by first name
- Confiding in child, evoking pity for alienator
- Changing child's name
- Cultivating dependency
- Inciting conflict

How does the child participate?

1. Parent exploits the suggestibility of child, resulting in unwitting false statements or beliefs from child

How does the child participate?

2. Parent exploits compliance / loyalty of child, resulting in collusion with parent in making false statements and sustaining the campaign of denigration



How does the child participate?

3. Parent induces symptoms through physical victimization and/or psychological tactics such that child is "made aware" of her "reality"



Loyalty Binds

- "Alienation is the solution for the child, not the problem." (Ellis, 2005)
- Becoming alienated solves the "monkey in the middle" problem for the child
- Therapist's goal is to help child understand that alignment with one parent against the other is, in fact, a problem



What are the risks to the alienated child?

- False memories of abuse and the sequelae that accompany abuse
- Destruction of a relationship with a non-abusing parent
- Sole custody by a parent who was willing to lie and deprive child
- When interventions are inadequate, children are more vulnerable to severe forms of alienation



Alienation Involves Multiple Losses

- Parent
- Extended family
- Family traditions
- Child loses a piece of him or herself



Long Term Effects of Alienation

Amy J.L. Baker, Ph.D. (2006):

- Low self esteem
- Depression
- Trust issues
- High rates of divorce
- Substance abuse
- Low achievement
- Intergenerational cycle of PA



Case Challenges When Fabrication / Alienation is Suspected:

- Adult Informants
 - Have identifiable secondary gain potential
 - Control access to information
 - May provide skewed historical data
 - May use / misuse feedback from investigative team



Challenges to Investigation

- Child Informant(s)
 - May have been misinformed
 - May have been coached
 - May be unsure of their own reality
 - May have false memory
 - May wish to protect an abusive parent
 - May wish to protect a "preferred" parent



Suggested interview modifications

- Truth-induction makes a difference (Lyon)
- Have neutral party bring child to interview(s)
- Collect same history from both parents separately
- Limit or refrain from giving parental feedback until investigation is complete
- Seek ALL records



For Older Children (8+)

- Varied Retrieval
- Discussion about psychological pressures



Confronting Important Inconsistencies:

- Introduction of materials related to the accused (photos, letters) if long-term alienation has occurred
- Reality-testing
- Reawakening cognitive dissonance



Strategies for MDT

- Extended evaluation format
- Suspend therapy
- Control out-flow of investigative information
- Video-record
- Corroborate
- Psychological evaluations of parents
- Removal of the child



Separation Strategy

- How do you do it?
 - Child is placed in foster care or neutral placement for a period of time
 - Child has no contact of any kind with either parent during this period
 - Child is then interviewed, typically in a series



Separation Strategy

- Why?
 - Because this is the best chance at getting a clean interview without contamination from any interested party
 - The neutral foster setting allows for a “de-toxification period” and helps minimize the effects of any threats, coaching, or environmental contamination that has taken place



Separation Strategy

- Isn't this awfully hard on the child?
 - it is in the long-term best interests of the child to establish the truth.
 - The potential for psychological damage from alienation on the one hand or typical child abuse on the other are both far greater than that of a brief, carefully chosen placement
 - An honest, developmentally appropriate explanation for the placement is ideally given to the child by a trusted but neutral party



Interventions to Consider

- Changes in custody and visitation
- Supervised visitation
- Clarification therapies
- Choosing the child's therapist
- Coordination of treatment and Family Court actions



What does not work:

- Giving kids “time to come around”
- Giving kids the power to choose whether they want a relationship with a parent
- Conventional individual therapy with child
- Naïve therapist: educate yourself
- Alienator as gatekeeper



Treatment Strategies

- Therapist must have power of court behind him/her
- Begin with individual tx but move ASAP to some level of contact with target parent
- Alienation thrives on time apart from rejected parent—intervene quickly



Treatment Strategies

- Build rapport (not easy with alienated children!)
- Create contact opportunities
- Be creative
- Help targeted parent be different from PA message
- Critical thinking skills impaired by propaganda



Treatment Strategies

- Practice perspective taking
- Family problem solving
- Encourage honesty and pro-social behavior
- Monitor situation for “leaks”
- Enforce period(s) of “no contact” with alienator



Recovery

- Biggest enemy of recovery is premature contact with the alienator
- Child and targeted parent need protected time to recover their relationship



Therapeutic Progression

- Outright Hostility
- Resistance to outside messages
- Interest
- Participation/Questioning
- Child begins to appraise reality independent of alienator
- Returners v. Retractors



Working With Alienated Parent

- Don't take the bait
- Don't take it personally
- Holding to highest standard—fairness irrelevant
- Avoid being too passive or too reactive
- Be different than the PA message
- Always show up
- Be creative in keeping in touch



Working with the Alienated Parent

- Allow child to express feelings *respectfully* but let them know natural consequences for behavioral acting out
- Re-establish healthy hierarchy
- Authoritative parenting
- Moratorium on past allegations



Working With Preferred Parent

- Give them opportunities to do the right thing and see what they do with them
- While it is preferable to have both parents "On Board" it is not strictly necessary to have the preferred parent's cooperation to overcome alienation
- Sadly, a high percentage of alienators will walk away rather than rehabilitate

Interventions to Consider

- Changes in custody and visitation
- Supervised visitation
- Clarification therapies
- Choosing the child's therapist
- Coordination of treatment and Family Court actions
- Specific program for Alienated Children

Intervention Programs for Alienated Children and Their Families

- Family Bridges
- Transitioning Families
- Overcoming Barriers
- Family Reflections

Some References & Resources

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