

# HOW TO IDENTIFY AND DEAL WITH PARENTAL ALIENATION IN YOUR FAMILY LAW CASE

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*by Stewart W. Gagnon*

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In order for an attorney or judge to successfully identify a case involving parental alienation, confront it and then appropriately deal with it he or she must thoroughly understand the elements of the syndrome and how it is successfully treated. The first task of the attorney or judge is to educate himself or herself. That is the purpose of this article, to help you understand Parental Alienation Syndrome. This article also contains a bibliography of literature on the subject, which is must reading for anyone dealing with this syndrome. In addition, a brief search of the internet will turn up more helpful information.

The ultimate purpose of this article is to increase the awareness of legal practitioners to the concept of Parental Alienation Syndrome. It seeks to provide a general understanding of the origin and impact of Parental Alienation Syndrome. Its goal is to enable the legal system to respond appropriately in the best interest of the child, not the parents - when handling divorce and custody cases. Many custody decisions by the court, which appear obvious, are actually maneuvered by the presentation of feigned facts and skewed testimony regarding a child's feelings toward the "hated" parent. Parents engaged in parental alienation paint the deceptive picture of a stable and loving environment that is unmatched and unavailable in the home of the other parent. But, the beliefs and feelings of the child are actually engineered by the programming parent. For this reason, among others, the recognition of Parental Alienation Syndrome as a disorder by lawyers negotiating and/or litigating custody cases is imperative.

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## I. INTRODUCTION

Richard Gardner coined the term Parental Alienation Syndrome to describe a category of hostile divorce cases in which children are abnormally estranged from one parent because of the conscious or unconscious programming behavior of the other parent. Such cases reflect the inability of children to secure independent and truthful feelings if the behavior of one parent engenders the denigration of the other parent.

An initial discussion of Parental Alienation Syndrome emerged by Richard Gardner in his 1985 publication, *Recent Trends in Divorce and Custody Litigation*, Academy Forum (1985). Gardner, through his experience as a child and forensic psychiatrist, found it extraordinarily odd for a child to be totally aligned with one parent

and overly preoccupied with the persistent deprecation of the other parent.

In a recent article entitled *Family Wars*, Ward and Harvey describe parental alienation as the creation of a singular relationship between a child and one parent, to the exclusion of the other parent. (Ward, Peggie and Harvey, Campbell. *Family Wars*, [http://indigo.ie/-damory/Parental Alienation Syndrome Report.htm](http://indigo.ie/-damory/Parental%20Alienation%20Syndrome%20Report.htm), pg. 1.) The authors there describe that a child who has been totally alienated has no desire to interact with the other parent. This child possesses only negative feelings and finds no redeeming or valuable qualities in the parent. Unfortunately, a child so affected by one parent does not have a range of feelings for both parents that is normal for most children. Further, a child suffering from Parental Alienation Syndrome speaks of his or her hatred for one parent without guilt, embarrassment, or ambivalence.

Gardner viewed the cluster of child symptoms related to Parental Alienation Syndrome as a syndrome because of the number of cases in which these symptoms share a common underlying etiology. Rand, Deirdre C., Ph.D., *The Spectrum of Parental Alienation Syndrome* (Part II), American Journal of Forensic Psychology, Volume 15, Number 4, pp. 39-40 (1997). The syndrome eventually leads to the child's active participation in a campaign against the other parent. However, the legal system must realize that fault and responsibility lies with the parent who programs and inculcates negative beliefs into the child's mental psychology. In Parental Alienation Syndrome cases, psychological abuse by the programming parent is camouflaged and that parent presents himself or herself as the most stable and loving of the two parents.

The term Parental Alienation Syndrome is more comprehensive than simply the subconscious or unconscious programming of the child by one parent, but also includes the active participation of the child in the denigration of the hated parent. When discussing Parental Alienation Syndrome, one parent, the programmer, is occasionally referred to as the *Aloved* parent,

while the other parent is termed the *Ahated* parent. The terms *Aloved* and *Ahated* are used for convenience and simplicity, but are very much misleading. Even though a child communicates and behaves in a manner that exemplifies hatred toward one parent and undying love for the other, Gardner notes that there still exists much love for the hated parent and much hostility and fear of the allegedly loved parent. See Gardner, Richard A., M.D., *The Parental Alienation Syndrome*, Cresskill, N.J.: Creative Therapeutics (1998).

Psychology and the law must recognize that parental alienation is not parental programming, but the combination of the parent's programming and the child's active contribution that warrants the term Parental Alienation Syndrome. This distinction is most important because Gardner looked specifically at the common etiology and pathogenesis of the child's involvement when recognizing this disorder. Recognition of the child's participation is extremely important for the identification and, consequently, the proper therapeutic and legal treatment of Parental Alienation Syndrome.

Likewise, the term Parental Alienation Syndrome is improperly used in situations where a child has negative feelings against a parent who has actually engaged in physical, sexual, and/or emotional abuse of the child.

Gardner cites two primary reasons for the recent proliferation and notability in cases of Parental Alienation Syndrome. First, courts in the mid-1970s began to refuse to implement the *Atender years presumption*, that mothers are innately more capable than fathers to parent. The conclusion that such a presumption was draconian and sexist made custody decisions based directly on parenting ability, independent of gender, more competitive and unpredictable for mothers. The court was now asked to render a decision based on the *Abest interest of the child* encompassing not only the parent's ability,

but the child's relationship with that parent and the child's personal choice in some cases. Secondly, joint custody became more prevalent in the late 1970s and early 1980s, instead of one parent being designated the sole custodian and

## II. CLASSIC SCENARIO

The majority of these cases involve a preference for the Managing Conservator, the *Aloved*® or *ApREFERRED*® parent, and extreme hostility toward the Possessory Conservator, the *Ahated*® parent.

Mothers have traditionally been the perpetrators and initiators of Parental Alienation Syndrome.

Mothers are most often guilty of engaging in Parental Alienation Syndrome because the recently implemented gender-blind doctrine in custody disputes positioned women away from previous almost unquestionable custody.

Women almost consistently possess less financial wealth to secure the services of effective attorneys who will be successful in custody litigation. Gardner speaks to the women's feelings of impotency and helplessness as motivation to win custody through manipulating the child. Such manipulation has been compared to psychological kidnaping, where mothers change, shape and steal the mental processes of a child from the other parent. Clawar SS, Rivlin BV: *Children Held Hostage: Dealing with Programmed and Brainwashed Children*. Chicago, IL: American Bar Association (1991).

Typically, in this situation the father retains only visitation rights, leaves the home of the child and is labeled as an abandoner. A child is not easily convinced that though love between the parents has vanished, the leaving parent's affection for the child remains. Children do not take well to reasons and justifications offered for the leave of the father and this causes normal alienation problems that can be enhanced by the alienating parent and eventually develop into Parental Alienation Syndrome.

More interestingly, Parental Alienation Syndrome does not have to be executed unilaterally, but both parents can

the other the visitor. Because of these recent trends, the fight increased for custody results in parents programming their children, with mothers feeling the most threatened.

contemporaneously attempt to alienate the other. Fathers can also seek to program a child in an effort to harden and debilitate the child's feeling and emotions for their mother.

Though it appears from the literature that mothers are predominately responsible for Parental Alienation Syndrome, it is biased and dangerous that when speaking of Parental Alienation Syndrome to refer to programmers only as women. Therefore, many gender neutral terms can be utilized for a bias free discussion of Parental Alienation Syndrome B with the programming, manipulating parent referred to as the "*alienating*" parent and the hated, rejected, excluded parent referred to as the "*target*" parent.

Gardner, for simplicity reasons, referred to them this way in his book.

## III. THE ALIENATING PARENT

Very often the alienating parent is motivated by angry feelings toward their spouse that comes to a climax at the time of divorce. Sometimes these intense feelings are caused by the divorce experience itself. Parents unable to resolve their own emotional problems begin to include and manipulate their children in a process of seeking retribution against the other parent. Many adults may be unaware of their own emotional problems and deny being actively engaged in a pattern of denigrating the other parent. However, unconscious alienation by a parent is just as harmful and cannot be ignored when evaluating visitation and custody decisions.

Rand describes a narcissistic vulnerability in which a parent is lacking a well-established self identity and relies on primitive defenses such as externalization, denial and projection. Some parents seek to defend themselves against narcissistic injury in divorce by fighting for the child, using the technique of defaming the other parent in order to alienate the child from that parent. See Rand, Deirdre C., Ph.D., *The Spectrum of Parental Alienation Syndrome* (Part I), American Journal of Forensic Psychology, Volume 15, Number 3, pg. 40 (1997). The alienating parent will resort to intentionally brainwashing the child because of his or her fragile emotional state following the divorce. The alienating parent will cause the child to believe even exaggerated criticisms of the other parent. Common manipulation techniques include telling the child that the possessory parent has deserted them both financially and emotionally, blocking communication between the child and other parent, and the widespread use of sarcasm or denigrating language when referring to the other parent. Other subtle forms of influence such as statements and/or suggestions appear neutral, but actually impart negative impressions about the other parent to the child.

Alienating the child is sometimes used as a technique to deflect unwanted scrutiny of the programming parent's personal problems (drugs, alcohol, neglectful parenting). In that situation, the alienating parent engages in parental alienation out of fear that they will be found wanting when compared to the more loving and capable target parent. Lastly, alienating the child from the other parent provides gratification for domination and control exerted over the child and indirectly over the ex-spouse.

#### IV. THE TARGET PARENT

The target parent refers to those parents who are truly victims. These parents have been committed and concerned parents throughout the duration of the child's life, with parenting

defects that simply do not warrant the utter rejection of the child. Initially, the target parent is confused because the child's unexpected alienation surfaces almost overnight. (Gardner 1998, 209) The target parent feels impotent because of their inability to rectify the transformation in their child's behavior. Frustration of the target parent inevitably leads to rage; and it is the combination of impotency and rage that Gardner describes as the most salient characteristic of the target parent. The target parent is trapped in a no-win situation in which their continued pressure to contact the child is viewed as harassment or even as an attempt to manipulate the child (when the real manipulation is occurring by the alienating parent). A decision to do nothing is characterized as abandonment or as an admission of guilt.

A clinical study showed that fathers found a new reward and spent more time with their children after experiencing loneliness and loss after divorce. However, these fathers could be easily driven off by the child's rejection and refusal to visit. These fathers can feel frustrated and sabotaged in their rejected efforts to maintain the bond with their children. See Jacobs, JW, *Involuntary Child Absence Syndrome: An Affliction of Divorcing Fathers: The Struggle for Parental Identity*. Washington DC: American Psychiatric Association Press (1986). Target parents who were fathers that voluntarily left the home did not expect and were not prepared for the emotional and practical consequences where his children were concerned.

The target parents are victims and have a right to feel outraged and betrayed by a system that could be perceived as bias in favor of women. Tragically, Parental Alienation Syndrome harms the target parent immensely with them often harboring thoughts of kidnaping, self-destruction, and/or violence.

#### V. DIFFERENTIATING PARENTAL ALIENATION SYNDROME AND NORMAL PARENT-CHILD ALIENATION

It is most important to understand the difference between normal parent-child alienation and Parental Alienation Syndrome as described by Gardner. Parental Alienation Syndrome is more correctly indexed according to Gardner as a subcategory of generic parental alienation. There are various reasons why it is normal for a child to have a strained relationship with one or both parents. Only when the certain elements as Normal parent-child alienation occurs because of faults and defects in the parent that naturally interfere with and injure the child's relationship with the individual parent. Rejection of a parent in these cases is not caused by a programming parent's actions, but based solely on the child's uncontaminated feelings. These reasons range from actual abuse and less serious problems to actual deficiencies in the parenting skills of the target parent. Psychologist Mary Lund offers five possible reasons for parental rejection by a child.

The list consists of bona-fide reasons that may result in parental rejection. Lund, Mary, Ph.D., *A Therapist's View of Parental Alienation Syndrome*. Family and Conciliation Courts Review (1995).

- ! Developmentally normal problems occur when a child is separated from a parent. Lund describes the normal anxiety of preschool children when separated from their primary parent that is similar to the anxiety of attending school for the first time. The transition period after divorce or separation is eased by reassuring the child and by use of court ordered visitation and therapy.
- ! Deficits in the non-custodial parent's skills can make interaction between the child and a first time parent problematic. It may be difficult for a parent who is taking care of children own his or her own for the time to be cognizant of the needs and emotions of the child. This dilemma is easily and often quickly solved by parenting education classes.

described by Gardner are present, is parent-child alienation abnormal and properly diagnosed as Parental Alienation Syndrome. Gardner affirms that a diagnosis of Parental Alienation Syndrome *only applies where abuse, neglect and other conduct by the alienated parent which would reasonably justify the alienation are relatively minimal.*" (Rand, Part I, p. 27)

- ! Oppositional behavior on the part of a pre-adolescent and adolescent child is normal and results in stages of rejecting one or both parents. Though normal, such behavior can be divisive during or after a divorce. Therapy is recommended to prescribe limits and negotiate the child's independence without severing the relationship with the non-custodial parent.
- ! In high-conflict divorce families it is normal for a child to adjust and escape conflict by aligning with one parent. Such behavior, uninfluenced by parental encouragement, can be contained by legal and therapeutic intervention aimed at setting up consistent contact between the child and both parents. Parenting education and/or therapy can also be helpful.
- ! Serious problems, not necessarily abuse, can strain the parent-child relationship. Real problems of non-reportable abuse may quite naturally induce a child's rejection of a parent. Examples of alcoholism, an extremely controlling parent or a parent with psychiatric disturbances are cases in which parental rejection is common and bona-fide.
- ! Physical and sexual child abuse immediately produces disaffection for a parent that antagonizes and tears apart the parent-child relationship. In these circumstances, the child's safety is of the utmost importance. Therapy for the

parent is obligatory. The parent must accept responsibility and change their behavior before a program of monitored visits can be established.

Additionally, there are certain primary symptoms exhibited by abused or neglected children that are not common for Parental Alienation Syndrome children. Children who have been abused more so than neglected, will manifest Posttraumatic Stress Disorder in which they are preoccupied with the trauma, experience episodic reliving and flashbacks, dissociation, An evaluator must be able to decipher whether they are dealing with a case of real abuse or Parental Alienation Syndrome. A thorough and in-depth interview is the only way to correctly ascertain valid abuse allegations and Parental Alienation Syndrome. In some cases there is bona fide abuse or neglect in addition to apparent manifestations of Parental Alienation Syndrome. It is erroneous in this situation for an examiner to conclude that they are only dealing with a case of Parental Alienation Syndrome. Identifying Parental Alienation Syndrome in indistinct and complicated cases may prove to be a formidable problem.

Accurate and precise identification of Parental Alienation Syndrome is crucial because a custody decision based on a mis-diagnosis will negatively impact the child-s psychological well-being and may physically endanger the child.

## VI. IDENTIFYING ALIENATION

Though competing theories of whether one correctly identifies Parental Alienation Syndrome by referencing a child-s symptoms or analyzing the alienating parents- behavior exists, it is clear that early recognition of Parental Alienation Syndrome is essential to divorce and custody litigation. It is incorrect to identify Parental Alienation Syndrome by simply evaluating a child-s behavior, that could stem from valid reasons, but a conjunctive investigation is necessary that includes the actions and intentions

trauma-specific dreams and a fear of people who resemble the alleged abuser. Abused children become obsessed to a point where it is impossible to remove thoughts of their abuse out of their memory. The children often relive the abusive episodes and have vivid flashbacks of abuse that is triggered by a familiar stimuli. (Gardner, pg. 289) Children who have not been abused or neglected are not likely to demonstrate some of the symptoms of Posttraumatic Stress Disorder.

of the parent as well. *It is this combination of both the parents- and the child-s contributions that warrant the term parental alienation syndrome.*<sup>@</sup> Gardner, Richard, M.D., True and False Accusations of Child Sex Abuse, Cresskill, NJ: Creative Therapeutics (1987).

Gardner states that in diagnosing such children there are four distinct contributing factors:

- 1) developmental characteristics within children making them susceptible to extreme loyalty conflicts;
- 2) the *Apreferred*<sup>@</sup> parents- intentional poisoning of the child against the other parent;
- 3) subconscious or unconscious programming of the child; and
- 4) external events which exacerbate the situation.

All divorces are fused with emotion and pain, but many parents cooperate in a manner that supports the continued development of the child by encouraging a relationship with both parents. Cooperative divorces include parental collaboration and agreement as to visitation and custody rights that are in the best interest of the child, as opposed to the expressed emotional desires of either parent.

However, hostile and non-cooperative divorces can trigger Parental Alienation Syndrome. Polarization and non-communication produce anger and fear in a parent that can result in manipulative behavior.

It is worthwhile to note that an angry divorce is not synonymous with an alienating one. Residual feelings of one parent toward another does not have to lead to the behavior of one parent tearing the child away from the other parent. Parental Alienation Syndrome is harmful to both the child and parents.

Gardner has compiled eight cardinal symptoms of the Parental Alienation Syndrome manifested by a child: Gardner (1998).

7. A presence of borrowed scenarios from the alienating parent; and
8. The spread of the animosity to the extended family of the target parent.

— ***The child is aligned with the alienating parent in a campaign of denigration against the target parent, with the child making active contributions,***

The campaign of denigration is the hatred for one parent by the child that has been discussed initially. The campaign involves children describing the target parent with vilification and profanity, without embarrassment or guilt. The child can only remember and speak at length on the target parents faults and defects in a way that may mimic a drama or rehearsed speech. *"In many cases the child-s elaborations are ludicrous, and even preposterous, thereby providing the clue to their speciousness."* (Gardner 1998, pg. 77)

Gardner, through a case study of one seven year old boy, found the presence of the incredible contributions of the child that were fueling and enriching the scenarios of depreciation. The child does not remember any pleasurable, enjoyable events with their father and Gardner notes complete amnesia. Not only do these children say things with complete absence of

1. A campaign of denigration against the target parent;
2. Weak, frivolous, and absurd rationalizations are offered for the deprecation;
3. A lack of ambivalence toward the target parent;
4. The development of the *Aindependent thinker*@phenomenon;
5. Reflexive support of the alienating parent in the parental conflict;
6. An absence of guilt over cruelty to and/or exploitation of the target parent;

guilt, they act as if have no confidence in target parent.

— ***Rationalizations for deprecating the target parent are often weak, frivolous or absurd,***

Children also use weak and frivolous justifications for their hatred towards the target parent. They often draw on events and minor altercations with the alienated parent to explain why they harbor such strong and unnatural feelings. The scenarios used by children are common in the lives of most children who quickly forget its occurrence. For this reason therapists should demand specific examples and inquire into the exact reason why they feel the way they do about the target parent. Usually, a child will answer with vague, general and unconvincing reasons that will clue therapists and lawyers into the existence of Parental Alienation Syndrome.

Some examples of weak and trivial excuses used by children to justify alienation are, *AHe always used to speak very loud when he told me to brush my teeth.*@ *AHe used to tell me to do things a lot.*@ *AHe used to make a lot of noise when he chewed at the table.*@ *AI don't want to see him again because Nana (the paternal grandmother) spoils me. She gives me too many toys.*@ (Gardner 1998, pg. 88) The children are

unable to expand their comments and further justify alienation by providing more compelling reasons than the general explanation previously offered.

Gardner explains that the alienating parent's attorney will compile a list of justifications and reasons to present in their briefs and/or motions that most support their client's position. *In a typical Parental Alienation Syndrome case, the list consists primarily, if not exclusively, of frivolous reasons. The failure to be able to provide more compelling reasons and the listing*

The baseline assumption is that all relationships between persons are ambivalent, with individuals possessing mixed feelings about all other people. The same is true for parent-child relationships in which a child should possess a range of good and bad feelings about each parent. However, this is not the case with a brainwashed child. Such a child strongly believes that the alienating parent is superbly superior and all good while the target parent is completely bad. A child suffering from Parental Alienation Syndrome is unable to list both good and bad things about each parent. The child can only recall negative qualities of a parent that was once loved by the child. Contrarily, the child only remarks highly and positively of the one parent who miraculously possesses no flawed character traits. Gardner posits that *the vilified parent may have been deeply dedicated to the child's upbringing, and a strong bond may have been created over the years*. But, sadly, at the onset of Parental Alienation Syndrome the bond spontaneously evaporates almost overnight. (Gardner 1998, pg. 95) An extreme symmetry exists in which a child describes that his father *always* yells at him and his mother *never* yells at him. The lack of ambivalence of a child and an insurgence of animosity towards one parent is a red flag denoting the possible existence of Parental Alienation Syndrome.

*of a series of these inconsequential ones is pathognomonic of the Parental Alienation Syndrome.* (Gardner 1998, pg. 89) Gardner implies that an attorney's briefs, including all legitimate reasons and justifications, ultimately and ironically provide convincing evidence for a Parental Alienation Syndrome diagnosis.

- ***Animosity toward the rejected parent lacks the ambivalence normal to human relationships;***
- ***The child asserts that the decision to reject the target parent is his or her own, what Gardner calls the Independent Thinker phenomenon;***

The *Independent-Thinker* phenomenon occurs when children fiercely profess that their decision to reject the target parent is their own. These children assert that their feelings of hatred towards one parent were conceived and compounded because of their own beliefs. One example offered by Gardner is of a child who stated the following about his father; *He thinks we don't like him because of what my mom says, but he's wrong. We just don't like him! He's gross!*. Gardner explains that the child denies that the alienating parent contributed in any way even though the *indoctrinators every act indicates otherwise.* (Gardner 1998, pg. 96)

The alienating parent supports and encourages the *independent thinking* of the child as noble and brave. The parent expresses to others, in the presence of the child, that the child's reasons are their own untainted thoughts. Children who claim that their words and behavior are completely their own creation assuage the indoctrinators' guilt and protect the alienating parent from criticism and fault.

Gardner warns that *it is important for the reader to appreciate that after a period of programming the child may not know what the truth is anymore and come to believe that the alienated parent deserves the vilification. After*

*enough leading, suggesting, and hinting from the alienating parent, a child may come to believe that the refusal to see his father is his own opinion. In the end, children claim the alienating parents thoughts as their own and feel empowered by the ability to possess independent feelings while pleasing the alienating parent.*<sup>@</sup>

- ***The child reflexively supports the parent with whom he or she is aligned;***

Gardner explains that in family conferences Parental Alienation Syndrome children immediately support the position or argument of the alienating parent, almost like second nature. These children often times side with the alienating parent even before the target parent has began to state his argument or belief. Most Commonly, a child displays no guilt for the feelings of the target parent. The cruel behavior Parental Alienation Syndrome children demonstrate towards the victimized parent is performed without remorse. The target parents's gifts and other forms of love and affection go unnoticed and without gratitude. A child may profess that they never want to see the target parent again, but still believe that the parent should continue to pay for food, rent and education. *AtThe mother and child see absolutely nothing reprehensible in making these demands, even though the children will have no contact at all with the father.*<sup>@</sup> Gardner gives one example of a child who exhibits no guilt over such cruelty and maltreatment of the target parent when in a therapy session the child said, *AtThere's nothing I like more than to see you cry.*<sup>@</sup> *ASuch lack of guilt in Parental Alienation Syndrome children is not simply explained by cognitive immaturity; rather, it is a statement to the extent to which children can be specifically programmed to levels of cruelty that they are totally oblivious to the effects of their sadism on innocent victims.*<sup>@</sup> (Gardner 1998, pg. 101).

alarming is the fact that a Parental Alienation Syndrome child will not accept evidence that is obvious proof of the target parent's position. (Gardner 1998, pg. 99) One example cited by Gardner is of a mother who claimed that her husband gave her absolutely no money at all. When the father produced a canceled checked, signed by the mother, the child insisted that it was *Aforged*<sup>@</sup>. Thus, a Parental Alienation Syndrome child is not interested in rational and legitimate arguments, but wholeheartedly supports the alienating parent, however illogical and unreasonable his or her beliefs.

- ***The child expresses guiltless disregard for the feelings of the target or hated parent;***

– ***Borrowed scenarios are present, i.e., the child-s statements reflect themes and terminology of the alienating parent;***

Children often mimic the words and scenarios of the alienating parent when seeking to justify the rejection of the target parent for themselves. The presence of borrowed scenarios are a symptom of Parental Alienation Syndrome that can clue therapists and lawyers to its existence. The child-s responses appear rehearsed and the terminology used is not common to children of that age. Some examples include young children stating that their father *Atortures@* them and subjects them to *Aslave labor@*. The children cannot provide a definition or explanation of what the words mean. The alienating parent openly badgers and degrades the target parent with expressions that the child memorizes and regurgitates. Gardner describes the scripting of phrases that amount to the children-s litanies of denigration. One example is of a four-year-old child who responds that she does not want to see the father because *AHe harasses us@*. Curiously, each time the father calls to speak with his child the mother screams, *AStop harassing us!@* and hangs up the phone. A child will frequently give answers that can be attributed to a particular statement of the parent and confirm the existence of Parental Alienation Syndrome. (Gardner 1998, pg. 101)

– ***Spread of animosity to extended family.***

The existence of Parental Alienation Syndrome is also marked by the spread of animosity to the

- ! The programming parent tests the child-s compliance, for example, asking the child questions after a visit and rewarding the child for *Acorrect@* answers;
- ! The programming parent tests the child-s loyalty by having the child express views and attitudes which suggest a preference for one parent over the other;

parents, cousins, and aunts of the victimized parent. The total rejection and denigration by the child is not confined to the target parent, but also includes the extended family. The child may have possessed loving relationships with the target parent-s family, but now those individuals are viewed in a negative light similar to the parent. A child will refuse contact and communication with the target parent-s family. Less convincing reasons are proffered by children for their rejection of extended family such as, *AI hate my Aunt Sarah. She-s always bugging me to be nice to my father, and she doesn-t listen to me when I tell her that I hate him@*.

In addition to symptoms demonstrated by the child, the alienating parent-s actions are important. Clawar and Rivlin delineate eight stages of programming/brainwashing by a parent that culminates in Parental Alienation Syndrome.

The exhibited actions can be viewed as a whole, indicative of common characteristics of Parental Alienation Syndrome: (Rand, Part I, pgs. 35-36).

- ! A sense of support and connection to the programming parent is created;
- ! Feeling of sympathy for the programming parent is induced;
- ! The child begins to show signs of compliance, such as expressing fear of visiting the target parent or refusing to talk to that parent on the phone;
- ! Escalation/intensification/generalization often occurs, for example, broadening the program with embellished or new allegations; the child rejects the target parent in a global, unambivalent fashion;
- ! The program is maintained along with the child-s compliance, which may range from minor reminders and suggestions to intense pressure, depending on court activity and the child-s frame of mind.

It is usually found that a thematic focus to be shared by the programming parent and the child emerges or is chosen. It is this combination of the child's symptoms and parent's actions that correctly identify Parental Alienation Syndrome.

Examples describing the alienating parent's actions are further detailed when discussing the varying degrees of Parental Alienation Syndrome B mild, moderate and severe.

## VII. CONTINUUM OF ALIENATION

A diagnosis of Parental Alienation Syndrome is not only justifiable when a child fully rejects one parent, but exists on varying points on a continuum. These different levels of alienation have been categorized as mild, moderate and severe depending on the specific behavior of the parent and response given by the child. The ability to recognize and stop Parental Alienation Syndrome in the early stages is essential because the adverse feelings and behavior of children in stages near to severe Parental Alienation Syndrome could be irreversible through therapy or legal intervention. Therefore, recognition of mild cases of Parental Alienation Syndrome is as important as identifying and treating severe cases.

### ! *Mild*

Speedy identification of mild forms of Parental Alienation Syndrome is imperative, but more difficult given the subtle behavior of the alienating parent and the fact that there is less polarization of the system. (Ward and Harvey, pg. 4). Parents who subconsciously alienate Visitation in mild cases is not problematic and once in the visiting home, the child will lose his incentive to align against the target parent. Children in the mild category are also easily transferred from one home to the other home with slight resistance.

Gardner does not believe that psychological counseling is necessary when dealing with cases of mild Parental Alienation Syndrome. A court order guaranteeing the target parent all

their children may be likely found in this category of alienation. Therefore, the parent may not know or believe that their actions are dangerous and will resist and deny allegations of such behavior on their part. A parent cannot be excused and Parental Alienation Syndrome cannot not be ignored or overlooked simply because the parent does not admit to be actively involved in a scheme of alienation. Recognizing Parental Alienation Syndrome when it is in the mild stages can provide for an easier and more promising recovery through court order.

In mild cases, children are ambivalent about visiting the target parent, though not fiercely opposed. A child in this category may still exhibit affection to their fathers, even in the presence of their mothers. Children in this stage of Parental Alienation Syndrome usually exhibit some, but not all eight symptoms as listed above. The father is still referred to, even if by mistake, as "*Dad*" or "*Daddy*". The child's contribution to the campaign of denigration against the target parent is minimal, with the maintenance of a stronger psychological bond with their alienating parent being their primary motive. (Gardner 1998, pg. 120)

Gardner believes that most parents in the mild category had a very healthy relationship with their children before being separated and the relationship serves as an antidote from the alienating parent's indoctrinations. (Gardner 1998, pg. 120).

visitation rights should be enough to ensure continued interaction between parent and child and eradicate the beginning vestiges of Parental Alienation Syndrome.

Examples of mild forms of alienation have been described by Ward and Harvey, that provides a helpful checklist to detect mild circumstances of alienation.

- 10 Little regard for the importance of visitation/contact with the other parent -- allowing the child to choose whether or not they will go.
- 20 Lack of value regarding communication between visits whereby the parent does not encourage communication not mandated by court order.
- 30 Inability to tolerate the presence of the target parent even at events important to the child.
- 40 Disregard for the importance of the relationship to the child.

In a sense, it is more inaction and omission of the parent that makes them nonetheless culpable of engaging in a mild form of Parental Alienation Syndrome.

### ! **Moderate**

In moderate cases of Parental Alienation Syndrome, it is possible and likely that all eight symptoms are present. At this stage the parents may be more aware of their own feelings and emotions that negatively influence the child's relationship with the other parent. The campaign of denigration is certain and obvious. The parent will actively express their negative feelings toward the other parent to the child. Lund describes that the loved parent gives verbal and non-verbal cues to the child that encourage Therapy aims at helping the non-custodial parent become tough-skinned about the child's rejection, deprogramming the child and confronting the alienation tactics of the primary care giver. Like cases of mild Parental Alienation Syndrome, the child's incentive is to maintain the stronger, healthier psychological bond created with the alienating parent. Transition of the child to the target parent's home presents more difficulty than in cases of mild Parental Alienation Syndrome, but the children are willing to go despite their expressed unwillingness.

the child to act out angrily against the target parent or to be afraid of that parent.

Moderate cases of Parental Alienation Syndrome must be remedied by both court order and therapy. Psychologist Mary Lund proffers that *"therapy is not designed to increase parents' insight, but rather to structure the visitation."*

Some common characteristics of a moderate case include:

1. Communication of dislike of visitation with target parent;
2. Refusal to hear anything about the other parent, especially good and exemplary characteristics;
3. The alienating parent delights in hearing negative news about the other parent;
4. Refusal to speak directly with target parent;
5. Refusal to allow the target parent physically near;
6. Negative comments about the other parent made and then denied such as, *"There are things I could tell you about your Dad, but I'm not that kind of person."*;
7. Subtle accusations about the target parent are made such as, *"Your dad was not around a lot when you were little."*; and
8. Destruction of memorabilia of the target parent.

### ! **Severe**

The alienating parent is consciously and actively engaged in a campaign to estrange the child from the target parent. The parent openly defames and devalues the target parent with delusional or false statements. Harsh words and illogical behavior by the alienating parent is ensued as he or she many times wholeheartedly believes that the target parent is harmful to the children.

The most appropriate legal remedy in such cases is a change in custody. A parent engaged in a campaign of denigration at this juncture will not be able to change and create a living environment in which he or she fosters a relationship between the children and the hated parent simply because of a court order. A change in custody is warranted because a parent engrossed in the deliberate alienation of the other parent has severe psychopathological problems which affects their general ability to parent. See Lund (1995).

Harvey and Ward describe the actions of parents engaging in severe Parental Alienation Syndrome:

1. Statements about the target parent are delusional or false such as, "*Your mother doesn't pay support*" when there is evidence to show payment;
2. Inclusion of the children as victims of the target parent's bad behavior such as, "*Your Dad doesn't love us (or you) anymore.*";
3. Overt criticism of the target parent such as, "*Your mom is a drug addict.*";
4. The children are required to keep secrets from the target parent;
5. Threat of withdrawal of love, such as "*I won't love you if you see your Dad.*"; and
6. Extreme lack of courtesy to the target parent.

In the severe category all eight of the symptomatic manifestations of Parental Alienation Syndrome are present most. It is meaningless to argue for the recognition of Parental Alienation Syndrome in divorce and custody cases if no real harm or impropriety results from the actions of the alienating parent. Thus, identifying some functional, occupational or social difficulties is necessary.

It has been well documented in literature that it is normal and healthy for a child to develop and maintain a relationship with both parents. If a

prominently. Gardner describes the children in this category as disturbed and fanatic in a joint mission with their alienating parent in the campaign of denigration. The children in severe cases demonstrate extreme paranoia upon knowing that they will visit their father's house.

*"Their blood-curdling shrieks, agitated states, and rage outbursts may be so severe the visitation is impossible."* (Gardner 1998, pg. 121) Children may flee their father's home and become extremely destructive so that removal from the alienating parent's home is necessary.

Unfortunately, the paranoia and animosity of the child is not easily corrected when the child is separated from the alienating parent for an extended period of time with a change in custody. Children in severe cases have a psychological bond with the alienating parent that is described as pathological. The alienating parent and child are fully engaged in the campaign of denigration together and may have problems differentiating themselves from each other. The parent and child are in collusion together against the target parent and their joint actions warrant the DSM IV diagnosis *Shared Psychotic Delusion*, in which a more assertive and coercive individual induces psychopathology in a more passive and submissive and submissive person. Severe Parental Alienation Syndrome is so distressing that there is a continued sadistic pleasure in frustrating and humiliating the target parent. (Gardner 1998, pg. 123)

## VIII. HARM RESULTANT FROM PARENTAL ALIENATION SYNDROME

child is denied the opportunity to connect with one parent, then it will certainly cause functional and social difficulties. Psychological and emotion harm results not only to the child, but also to each parent.

Research indicates that the balanced development of children comes only with exposure to adults of both sexes. Ward and Harvey describe a *Aloof bind*<sup>@</sup> in which a

child is forced to choose the parent she loves most. Having to choose between parents negatively impacts the growth and development of a child and the harm may be irreparable.

The ironic tragedy in all Parental Alienation Syndrome cases is that *Under the guise of fighting for the children, the parents may succeed in inflicting severe emotional suffering on the very person whose protection and well-being is the presumed rationale for the battle.*<sup>@</sup> (Ward and Harvey, pg. 5)

## **IX. FALSE ALLEGATIONS OF ABUSE BY CHILD**

Rand explains in his article that change in the 1970s of the legal system's treatment of child abused to mandatory reporting and anonymous reporting saw a doubling of abuse cases and the same increase in false and unsubstantiated reports. Statistics from the National Center for Child Abuse and Neglect in 1988 reported that non-valid reports outnumbered cases of bona-fide abuse by a ratio of two to one. False allegations of abuse in contested divorce and custody cases is commonly referred to as the *Ultimate weapon.*<sup>@</sup> Studies from the Research Unit of the Association of Family and Conciliation Courts, utilizing national data from 1985-1986, suggest that allegations in divorce are truthful approximately 50 percent of the time.

False allegations by children are fabricated by the alienating parent about physical abuse, neglect, emotional abuse or spousal abuse that often times results in immediate termination of contact between child and target parent. Further, false allegations can lead to sole

## **X. A SYSTEMS ANALYSIS AND THE ROLE OF THE LEGAL PROFESSION IN PARENTAL ALIENATION SYNDROME CASES**

custody being granted to the alienating parent, possible elimination of visitation rights of target parent, investigation into criminal charges of child abuse by target parent, and apprehension and/or unjust imprisonment of the target parent.

The alienating parent can threaten or bribe a child to contribute and participate in the lies of false allegations. This leads to horrific emotional complications for a child who knowingly lies and unwillingly detaches himself from the target parent. The child is honestly afraid of the consequences of divulging the secret shared with the alienating parent. Abuse by the alienating parent take the form of threats including the murdering of the child's parent and/or other loved ones, murdering the child, and the perpetrators leaving the home or even committing suicide.

Even after a target parent has cleared his or her name and successfully defeated the charges of abuse much has been lost. The parent has forgone valuable time and contact with the child that is not recoverable. The target parent has also suffered tremendous damage to his personal dignity and reputation. Finally, the costs involved in legally refuting charges of abuse and gaining access to the child may have resulted in depletion of the target parent's financial resources.

False allegations often arise as a derivative of Parental Alienation Syndrome, emerging after other attempts to exclude target parent have failed. Gardner warns that when a parent coaches a child in false allegations this is a form of abuse itself that can result in permanent destruction of the child's relationship with the target parent and can be more harmful to the child than if the abuse actually occurred.

The concept of Parental Alienation Syndrome is not confined to the actions of alienating parents, but is also solidified by varied external forces. This system consists of extended family members who suggest, urge or participate in the aforementioned characteristics; attorneys who advise clients not to communicate with spouses

and zealously advocate positions not in the best interest of the child; and adverse courtroom litigation that further divides and discourages civil compromise and resolve. Attorneys, family members and therapists must recognize their role as active players in the system of alienation, though none intentionally decide to be a component.

Legal recognition of Parental Alienation Syndrome is absolutely critical to making poignant and proper custody decisions, but many lawyers have continued to defend programming parents arguing that there is no scientific proof of Parental Alienation Syndrome because it is not listed in DSM-IV. Judges, more so than lawyers, have initiated the acceptance of Parental Alienation Syndrome in judicial rulings. There have been some court cases that acknowledge the existence of Parental Alienation Syndrome, but many others have denied Parental Alienation Syndrome as sound psychological evidence. However, the rejection by some courts and lawyers does not prove that Parental Alienation Syndrome is nonexistent. As the amount of psychological literature on Parental Alienation Syndrome continues to accumulate, then the listing of Parental Alienation Syndrome in the future DSM-V is probable. Further, legal literature must also begin to address Parental Alienation Syndrome to effectuate its acceptance in the legal arena. Attorneys, judges, and guardian ad litem are all legal professionals involved with custody and divorce litigation and must become familiar with the issue..

### ! Attorneys

An attorney who represents parents should avoid being swept up in the seductive process of Parental Alienation Syndrome and remain neutral focusing on the factual evidence in the case. Attorneys must avoid becoming polarized and not contribute to inducing or sustaining Parental Alienation Syndrome. Attorneys handling Parental Alienation Syndrome cases must secure the help of a strong, qualified and seasoned psychological expert. Attorneys

Gardner speaks of the ethical dilemma attorneys face when striving to adamantly represent a parent whose position is not in the best interest of the child. Lawyers who are ignorant of Parental Alienation Syndrome escape such ethical conflict because they blindly accept statements by a parent and child as true and proceed as a zealous advocate without guilt. (Gardner 1998, pg. 251)

Gardner suggests that it would be most ethical for a lawyer to refuse to represent a programming parent. But, there are probably few attorneys who would outright refuse to represent an individual. Gardner proposes that litigation produces more money for attorneys than alternative dispute resolution and is pursued for this very reason. Gardner believes that a moral revolution for lawyers in which the adversary system is less utilized is the answer in custody cases. This change is proposed by Gardner with law schools educating students to be moral and noble.

Gardner professes that legal professionals are seriously compromised in their ability to make judicious recommendations for their clients that will truly serve the best interests of children. The legal system's commitment to the adversarial process encourages and sustains Parental Alienation Syndrome. Litigation becomes a weapon to be used to exclude the target parent. Gardner summarizes that legal professionals do not question the shortcomings of the adversary system in which attorneys become preoccupied with the development and presentation of one position.

involved in difficult family law cases must critically assess the qualifications and conclusions of therapists and probe their findings through cross-examination for accuracy. The credibility of expert testimony in Parental Alienation Syndrome cases is an issue given the general aversion to psychology as an empirically sound science. Specifically considering Parental Alienation Syndrome, the problem is aggravated because the syndrome is

not recognized by the psychological community itself in the DSM-IV. It seems problematic for an attorney to verify a therapist as an expert witness speaking to a theory that has yet to be properly catalogued as a diagnosis in the DSM-IV. Therefore, attorneys must meet the challenge of attaining a psychologist with first-hand knowledge and experience of Parental Alienation Syndrome to offer reliable expert testimony.

An attorney who represents the target parent must do everything in her power to formally or informally submit literature and evidence of Parental Alienation Syndrome to the judge. Educate the Judge as much as you can. When dealing with a suspected Parental Alienation Syndrome case, an independent evaluator familiar with the dynamics of the Syndrome must be appointed to give a fair and accurate account of the child's relationship with both parents. Gardner warns that attorneys unfamiliar with Parental Alienation Syndrome run the risk of being seduced into their client's delusional system. Even the best therapist, with full knowledge of Parental Alienation Syndrome, can be fooled by a clever client; therefore it is probable that an attorney could be duped into arguing a position that is a disservice to the child.

Gardner does not unconditionally support the role of guardian ad litem. Weary of the adversarial system as a whole, the ad litem is viewed as the addition of another uneducated attorney into polarized litigation that further

## ! Judges

Gardner posits that judges are in the best position, in the legal system, to gather accurate information through confidential interviewing of the child. The most powerful source for determining if Parental Alienation Syndrome is present is to conduct separate in-depth interviews with the child and individual parents as well as joint interviews. Family interviews are valuable because they do not allow the child to cater to each parent, reciting what the child believes each wish to hear. Family interviews enable the judge to observe the interaction between each parent and child which is useful when attempting to discern the truth from induced fabrications.

The judge must be careful to interview all children separately so that younger children do not simply copy the words and feelings of older siblings. Also, multiple interviews are necessary because the child is more likely to be forthcoming with true information if he is being questioned by a familiar person. Though in camera interviews are less frightening for the child, the judge is still a fearful being so that a single interview will not produce all necessary and available evidence.

Gardner also notes that judges need to be concerned with other factors such as preparation by the parent bringing in the children and intimidation of the parent in the waiting room.

The judge, more so than attorneys representing individual clients, play a neutral role in which recognizing Parental Alienation Syndrome could rapidly change the manner in which the law treats and responds to Parental Alienation Syndrome.

## ! Guardian Ad Litem

frustrates compromise. However, the guardian ad litem can be beneficial in evidence gathering of all documents, assisting reluctant parents to submit to an evaluation and helping expedite the litigation process through direct communication

with the judge. If a guardian ad litem is to be chosen, the attorneys and judge should be particularly concerned that the attorney is familiar with the Parental Alienation Syndrome and understands that children as clients do not always know what is in their own best interests, preferring a guardian ad litem rather than an attorney ad litem. (Gardner, 1998 pgs. 274-75).

## **XI. APPROPRIATE RESPONSE OF LEGAL PROFESSION**

It is incumbent on attorneys and courts to identify, notice and take heed to the type of negative responses emanating from the child to a parent.

Attorneys must evaluate the child's reasons and based on the strength and credibility of the allegations conclude if one parent is engaged in Parental Alienation Syndrome.

If animosity for one parent reaches an extreme such that a child refuses to visit with the hated parent, a deviation from the Standard Possession Order may be required to encourage continued relations necessary for the child's emotional well-being. A child's statements in divorce and custody cases about rejecting one parent should not be taken at face value or assumed as genuine, but demands evaluation for possible Parental Alienation Syndrome characteristics.

Psychologist Mary Lund posited that this insight is one of Gardner's most important contributions because it alerted the legal system, parents and mental health professionals dealing with divorce to an important possibility which can have disastrous effects if unrecognized.

The most significant problem is that Parental Alienation Syndrome cases are litigated, but attorneys and courts are unaware of its existence and harm. Simply being able to identify the characteristics of Parental Alienation Syndrome in divorce and custody cases can bring about necessary, useful and corrective legal intervention to a family psychopathological. Attorneys and courts must properly intervene to combat Parental Alienation Syndrome. The

problem that might otherwise go undetected. The question becomes how should legal strategies be formulated in a way that effectively address, and hopefully solve, the problems of families suffering from Parental Alienation Syndrome.

The first step is to guarantee the recognition of Parental Alienation Syndrome in the legal arena.

This includes educating attorneys and courts and judges with the ability to identify Parental Alienation Syndrome in divorce and custody cases. Attorneys then must be committed to earnestly inquire and investigate all cases to discover possible Parental Alienation Syndrome manifestations. In the best interest of the child, attorneys must then advise and instruct their client-parent to undergo psychiatric evaluation to discern if their behavior and outlook on the divorce is symptomatic of Parental Alienation Syndrome. It is imperative that attorneys determine if their client is responsible for alienation problems before beginning any type of litigation.

Gardner recommends that attorneys decline to represent programming parents. However, an attorney choosing to represent a programming parent should instruct their client to terminate their behavior immediately. Attorneys and legal officials must educate parents about the long-term benefits of cooperative divorce, contrary to the harm emerging from hostile and non-cooperative divorce. Attorneys must inform clients of the negative effects of Parental Alienation Syndrome and the destructive nature of their actions to the child and encourage open communication between parents. Attorneys should seek to resolve custody and divorce cases through mediation or alternative dispute resolution, thereby avoiding contentious litigation. State courts could venture to implement a mandatory process of some form of alternative dispute resolution before litigating custody and divorce cases.

legal system must modify normal divorce and custody proceedings to include immediate

therapy with a professional competent to evaluate Parental Alienation Syndrome. The legal system must ensure that traditional individual therapy is not utilized because alone it is counterproductive in Parental Alienation Syndrome cases. Joint therapy and family interviews are necessary in addition to individual evaluations of each parent and child.

Further, there must be collaboration among the individual therapists. It is optimal to appoint an independent therapist to give a fair and accurate evaluation whether or not Parental Alienation Syndrome dynamics are manifest in a particular case.

Prompt and consistent contact between the target parent and child is most important. In an effort to repair and encourage a healthy relationship with the target parent and thwart the actions of the programming parent, ensuring visitation is fundamental. For this reason, court orders must meticulously outline custody and/or visitation specifics. Drafted visitation agreements should detail all information so that uncertainty regarding the intention and/or requirements of the court order will not arise. The court must be conscious to include any and all details concerning visitation including; location; the parent responsible to deliver or pick up the children for visitation; the allocation of costs if air, train or bus transportation will be necessary; and specific days and times throughout the year visitation will take place. Court orders and agreements must be drafted in unambiguous language to ensure that the visitation and/or custody rights of the target parent are not forfeited. Further, the enforcement of court orders is critical. Mechanisms of enforcement must be utilized including fines, imprisonment, payment of attorney's fees, and ultimately the threat of losing custodial and/or visitation rights to the child.

## XII. CONCLUSION

Even if reluctant to recognize the concept of Parental Alienation Syndrome, the legal community cannot ignore the individual and familial relationship problems cited that demand our attention. There is a body of divorce research and clinical literature describing the phenomenon of Parental Alienation Syndrome, though not by any name or title. Therefore, the legal community must be willing to embrace and understand psychological findings, educate ourselves to causes and effects of Parental Alienation Syndrome and remain mindful of Parental Alienation Syndrome when preparing for litigation. Certainly, the legal profession must be adamant in the development of not only litigation strategies in the context of Parental Alienation Syndrome, but also preliminary and alternative methods of dispute resolution.

Gardner espouses the reality that absent situations in which the target parent is indeed abusive, there is no good reason for a child to reject a parent. *Children are not born with genes that program them to reject a parent. Such hatred and rejection are environmentally induced, and the most likely person to have brought about the alienation is the Parental Alienation Syndrome indoctrinators.* (Gardner, 1998, pg. 98).

Proper custodial recommendation based on the existence of Parental Alienation Syndrome depends on the awareness and responsiveness of the legal community.



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