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## Introduction

The research surrounding Parental Alienation (PA)/Parental Alienation Syndrome (PAS)/Parental Alienation Disorder (PAD) varies wildly. It ranges from arguments denying its existence and saying it is used by fathers' rights organizations to hide abuse claims, to individuals writing that it is a prevalent issue and that it is a form of extreme emotional abuse usually perpetrated by mothers trying to deny access of their children to loving fathers. As is the case with many things the truth likely falls somewhere in between. Despite the extensive literature on PA/PAS/PAD there is a comparably small amount on the treatment methods of PA/PAS/PAD, with reunification therapy being the main method. This is a concern as the courts are subjecting children to non-consensual therapies that we do not have extensive data on the success of.

In this memo I will begin by addressing what PA/PAS/PAD is. This includes its change over time and the differences in terminology of PAS, PA, and PAD, as well as its difference from Realistic Estrangement. I will then discuss the treatment methods for PA/PAS/PAD, focussing on reunification therapy, what it is and its effectiveness. Finally I will discuss the impact that the age of the child has on PA/PAS/PAD.

## Parental Alienation

### Defining Principles

PAS was coined by Dr. Richard Gardner in 1985. Gardner defines PAS as:

The parental alienation syndrome (PAS) is a childhood disorder that arises almost exclusively in the context of child-custody disputes. Its primary manifestation is the child's campaign of denigration against a good, loving parent—a campaign that has no justification. It results from the combination of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present, the child's animosity may be justified

and so the parental alienation syndrome explanation for the child's hostility is not applicable.<sup>1</sup>

Said more plainly, it is contact refusal with the non-favored parent due to unjustified negative feelings towards them created by the favoured parent brainwashing the child, and the child internalizing these views and adding to them.

If there is a good reason for the contact refusal this cannot be classified as PA/PAS/PAD, and must be categorized as Parental Estrangement, or Realistic Estrangement.<sup>2</sup> This means that if there is abuse or neglect on the part of the non-favoured parent there is estrangement and not alienation.<sup>3</sup>

One of the interesting things to note is that not all scholars when defining PA/PAS/PAD, list the indoctrination of the favoured parent as mandatory, but only as a common cause of PA/PAS/PAD.<sup>4</sup> A possible explanation for this is mistaking PA/PAS/PAD and contact refusal, as many proponents of PA/PAS/PAD would say that indoctrination is necessary for PA/PAS/PAD, whereas contact refusal includes many cases where the reason for the refusal is unknown.<sup>5</sup> This means that by the definition of PA/PAS/PAD put forward by its proponents, including its creator Dr. Gardner, you cannot assume that PA/PAS/PAD has occurred simply due to contact refusal and you must show some form of alienating behaviours (ABs) from the favoured parent.<sup>6</sup> This connects to the next section in which diagnosis of PA/PAS/PAD is discussed.

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<sup>1</sup> Richard A. Gardner, "The Parental Alienation Syndrome: Past, Present, and Future" (Keynote address delivered at the International Conference on the Parental Alienation Syndrome in Frankfurt/Main, Germany, October 18-19, 2002) <<http://richardagardner.com/ar22>>.

<sup>2</sup> William Bernet et al, "Measuring the Difference Between Parental Alienation and Parental Estrangement: The PARQ-Gap" (2020) 65:4 J Forensic Science 1225 at 1225 (onlinelibrary.wiley.com) [Bernet et al, "Measuring the Differences Between Parental Alienation and Parental Estrangement"].

<sup>3</sup> *Ibid.*

<sup>4</sup> William Bernet, "Recurrent Misinformation Regarding Parental Alienation Theory" (2021) American J Family Therapy, online: <<https://www.tandfonline.com/doi/epub/10.1080/01926187.2021.1972494?needAccess=true>>.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

## Diagnosis

Diagnosis of PA/PAS/PAD has adapted over time. There have been different models of diagnosis put forward, which all build off one another. The Five-Factor Model, put forward by Dr. William Bernet and Dr. Laurence Greenhill, takes the foundations of diagnosis and adds to them.<sup>7</sup> The main diagnostic tools that they are building from are the Four-Factor Model, which was found reliable by Dr. Amy J L Baker,<sup>8</sup> and Dr. Gardner's eight symptoms of severe PAS.<sup>9</sup>

In the Five-Factor Model all five factors generally must be present to be able to diagnose PA.<sup>10</sup> Although there may be exceptions to this rule, they would not be common.<sup>11</sup> The first of these factors is that the child must be avoiding a relationship with one parent and is expressing contact refusal.<sup>12</sup> There are many reasons for contact refusal, and at this step the only concern is that the contact refusal is present.<sup>13</sup> The second factor is that there has to have been a positive relationship between the child and the rejected parent prior to the separation.<sup>14</sup> This bar does not appear to be set high as family photos or videos showing a loving relationship or a third party source such as a teacher testifying that there was a positive relationship can establish that there was one.<sup>15</sup> Third is the absence of abuse, neglect, or seriously deficient parenting on the part of the rejected parent.<sup>16</sup> If any of these things are present, the case would be more likely to be viewed as estrangement than alienation.<sup>17</sup> The bar for this factor appears to be higher than the

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<sup>7</sup> William Bernet & Laurence L Greenhill, "The Five-Factor Model for the Diagnosis of Parental Alienation" (2021) 61:5 J American Academy Child & Adolescent Psychiatry 591 at 591 (Elsevier).

<sup>8</sup> Amy JL Baker, "Reliability and validity of the four-factor model of parental alienation" (2020) 42:1 J Family Therapy 100 at 100 (EBSCO).

<sup>9</sup> Richard A Gardner, "Does DSM-IV Have Equivalents for the Parental Alienation Syndrome (PAS) Diagnosis?" (2003) 31:1 American J Family Therapy 1 at 3-4 (EBSCO) [Gardner, "Does DSM-IC Have Equivalents for PAS"].

<sup>10</sup> Bernet & Greenhill, *supra* note 7.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid* at 591-592.

<sup>15</sup> *Ibid* at 592.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

previous one, as a detailed history of their relationship is required, including information from third parties and records from medical personnel, police, and child protection agencies.<sup>18</sup> The fourth factor is the use of multiple ABs by the favoured parent.<sup>19</sup> There have been 17 primary ABs determined, which are listed in Table 1.<sup>20</sup> This affirms that there does need to be some form of indoctrination. The final factor is that the child must exhibit many of the eight behavioural manifestations of alienation, which were determined by Dr. Gardner and are listed in Table 2.<sup>21</sup> The only difference between this and the Four-Factor Model is the inclusion of the first factor.<sup>22</sup>

Table 1: 17 Primary ABs	Table 2: 8 Behavioural Manifestations of Alienation
<ul style="list-style-type: none"> <li>• Bad mouthing the rejected parent</li> <li>• Limiting the child’s contact with the rejected parent</li> <li>• Interfering with the child’s communications with the rejected parent</li> <li>• Limiting mention of the rejected parent</li> <li>• Telling the child that the rejected parent does not love them</li> <li>• Allowing the child to choose between their parents</li> <li>• Creating the impression that the rejected parent is dangerous</li> <li>• Forcing the child to reject the alienated parent</li> <li>• Confiding in the child about adult topics</li> <li>• Asking the child to spy on the rejected parent</li> <li>• Asking the child to keep secrets from the rejected parent</li> <li>• Referring to the rejected parent by their first name</li> <li>• Referring to a stepparent as “Mom” or “Dad”</li> <li>• Withholding medical, social, or academic information from the rejected parent</li> <li>• Changing the child’s name to remove association with the rejected parent</li> <li>• Undermining the authority of the rejected parent</li> </ul>	<ul style="list-style-type: none"> <li>• Campaign of denigration, whereby the child repeats their list of criticisms of the rejected parent to counselors, evaluators, attorneys, and ultimately the judge</li> <li>• Weak, frivolous, and absurd rationalizations for the child’s rejection of a parent</li> <li>• Lack of ambivalence regarding both the favored parent and the rejected parent, ie, the child considers one parent all good and the other parent all bad</li> <li>• The independent thinker phenomenon, whereby the child strongly professes that the decision to cut off the rejected parent is theirs alone</li> <li>• Absence of guilt about their rude, hurtful treatment of the rejected parent</li> <li>• Reflexive support for the favoured parent in parental conflict</li> <li>• Presence of borrowed scenarios, ie, making accusations about the rejected parent that use phrases and ideas adopted from the favored parent</li> <li>• Rejection of the rejected parent’s extended family</li> </ul>

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid*, citing Amy JL Baker & Jaelyn Chambers, “Adult recall of childhood exposure to parental conflict: Unpacking the black box of parental alienation” (2011) 52:1 J Divorce & Remarriage 55 at 67 (tandfonline).

<sup>21</sup> Bernet & Greenhill, *supra* note 7 at 592-593, citing Richard A Gardner, “Recent Trends in Divorce and Custody Litigation” (1985) 29:2 Academy Forum 3, online: <<http://www.fact.on.ca/Info/pas/gardnr85.pdf>>.

<sup>22</sup> Bernet & Greenhill, *supra* note 7 at 593.

This diagnostic tool is not accepted by everyone in the academic community. Individuals who do not support PA/PAS/PAD have varying reasons for not accepting it as an actual syndrome or disorder at all, and if they do acknowledge the phenomenon often define it slightly differently. For example, some academics argue that not only should PA and PAS be left out of the court room, but PA is simply the persistent rejection of a parent by a child for unjustified reasons while aligning themselves strongly with the other parent.<sup>23</sup> The part of this definition that is drastically different from the Five-Factor Model is that by this definition there is no need for presenting any specific symptoms.<sup>24</sup> However, these authors differentiate PA from PAS by arguing that PAS does require a minimum presence of symptoms in the child, and that PAS is actually a specific subtype of PA.<sup>25</sup> This is significantly different than the Five-Factor Model as that model refers to PA, not PAS, and there are specific symptoms that are being looked for. The diagnostic criteria of PAS are also called into question by some academics, who argue that the diagnostic criteria are insufficient to clarify and delimit the severity of the problem, which makes it hard to know the true root cause of the behaviour and can end with the title of PAS applied when realistically there are other issues at play.<sup>26</sup>

Inconsistencies like this in the literature make it hard to firmly say what the diagnostic criteria are for PA/PAS/PAD. Proponents of PA/PAS/PAD see the Five-Factor Model and Gardner's 8 behavioural manifestations as a good way to diagnose the syndrome, whereas those pushing back against PA/PAS/PAD not only do not approve of these specific models, but argue that since PA/PAS/PAD has not been recognized by any professional organization as a real

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<sup>23</sup> Juan Gabriel de la Cruz, Julio Antonio Guija & Maria del Mar Pastor Bravo, "The so-called parental alienation syndrome and its derivations" (2021) 48:1 Spanish J Leg Medicine 22 at 24 (Elsevier).

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid* at 27.

disorder its experts should not even be allowed to give evidence in court.<sup>27</sup> PA/PAS/PAD not being in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-V) specifically also makes it difficult to determine a diagnosis method as this lends credence to the argument that it is not a true syndrome or disorder, in which case there is nothing to diagnose.

## Terminology

When looking at the academic writing surrounding PA/PAS/PAD, there are three main terms used: Parental Alienation, Parental Alienation Syndrome, and Parental Alienation Disorder. All of these terms have grown from PAS which, as established above, was developed and defined by Dr. Gardner. As many academics were moving away from the very specific PAS to the use of the more broad term of PA, Dr. Gardner wrote his own take on the differences between the two terms and which should be used in court.<sup>28</sup> Gardner wrote that PA refers simply to the “wide variety of symptoms that may result from or be associated with a child’s alienation from a parent.”<sup>29</sup> He goes on to write that this could be alienation that is caused by physical or emotional abuse.<sup>30</sup> Gardner then goes on to define PAS, in which he includes the need for some kind of programming or brainwashing from the favoured parent, as well as self-created contributions from the child that support the alienation, and goes into the symptoms that often accompany PAS.<sup>31</sup> This is interesting as it goes against the definitions of both some proponents of PA, and those against it. When looking at *The Five-Factor Model for the Diagnosis of Parental Alienation*, it is clear that the authors are using PA in the way that Gardner has defined

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<sup>27</sup> Alyssa G Rao, “Rejecting ‘Unjustified’ Rejection: Why Family Courts Should Exclude Parental Alienation Experts” (2021) 62:5 Boston College L Rev 1759 at 1760, 1796 (EBSCO).

<sup>28</sup> Richard A Gardner, “Parental Alienation Syndrome vs. Parental Alienation: Which Diagnosis Should Evaluators Use in Child-Custody Disputes?” (2002) 30:2 American J Family Therapy 93 (EBSCO).

<sup>29</sup> *Ibid* at 94.

<sup>30</sup> *Ibid* at 94-95.

<sup>31</sup> *Ibid* at 95.

PAS.<sup>32</sup> In *The so-called parental alienation syndrome and its derivations* the authors make a similar distinction between PA and PAS as Gardner, arguing that PA is much less specific than PAS, but they still include that the negative feelings toward the alienated parent need to be unjustified.<sup>33</sup> This is an important difference as the way that Gardner describes PA makes it sound almost indistinguishable from Parental Estrangement/Realistic Estrangement.

The difference between PA/PAS/PAD and Parental Estrangement is very important, as in cases of estrangement the lack of a relationship is justified as there has been some form of abuse, neglect, or bad parenting, whereas in cases of alienation the lack of relationship is unjustified.<sup>34</sup> This extremely broad definition of PA from Gardner could come from a bias for his own term of PAS, wanting to prove that PAS is better to use in court than PA due to its level of specification, but the overlap of his definition of PA with Parental Estrangement is dangerous, as these are two very different phenomena that should be used very differently in court.

Dr. David Darnell offers another distinction between PAS and PA as well.<sup>35</sup> Dr. Darnell explains that the difference between PAS and PA is that in Gardner's PAS you must look at the actions of the child, as the child's own contributions to the fabricated reason for lack of favour in the target parent is part of the syndrome, whereas in PA it is only the actions of the favoured parent that must be looked at.<sup>36</sup> This is another example in which PA is a broader version of PAS, as Dr. Darnell points out that children can suffer from parents speaking poorly of each

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<sup>32</sup> Bernet & Greenhill, *supra* note 7 at 591.

<sup>33</sup> Cruz, Guija & Bravo, *supra* note 23.

<sup>34</sup> Bernet et al, "Measuring the Differences Between Parental Alienation and Parental Estrangement", *supra* note 2.

<sup>35</sup> Justice R James Williams, "Should Judges Close the Gate on PAS and PA?" (2001) 39:3 Fam Ct Rev 267 at 270-271 (onlinelibrary.wiley.com), citing David Darnell, "Parental Alienation: Not in the Best Interests of the Children" (1999) 75 North Dakota L Rev 323, at 325-327.

<sup>36</sup> *Ibid.*



other and causing PA long before it gets to the point of brainwashing in which the child is adding their own parts to the story which would qualify it as PAS.<sup>37</sup>

These varying definitions show the lack of agreement on PAS. This confusion is in part caused by the fact that it is not listed in any diagnostic manuals, and until it is found to be a legitimate syndrome it will be very difficult to find consistency in the field. However, it appears that in general the academics who do not use PAS and PA interchangeably agree that PA is a broader term, whereas PAS is a very specific and rather severe outcome of PA that requires more actual symptoms and side effects.

The final piece of important terminology that comes up in the research is Parental Alienation Disorder. This is the same thing as PAS with a new name. It's proponents use the same behavioural manifestations and definitions as Gardner and the proponents of PAS, and they talk about them in the same way.<sup>38</sup> The major difference here is the use of the term disorder rather than syndrome. A syndrome is a "constellation of symptoms that occur together or co-vary over time," but the term carries no implications of underlying pathology.<sup>39</sup> A disorder on the other hand adds the idea that "the set of symptoms is not accounted for by a more pervasive condition."<sup>40</sup> This naming change would imply that the individuals who use PAD rather than PAS believe that you can definitively say that there is not a more pervasive condition that is accounting for the symptoms. It could be possible that PAD is being used in relation to PAS the same way that the term Fetal Alcohol Spectrum Disorders (FASD) is used in relation to Fetal Alcohol Syndrome (FAS), but this does not appear to be the case. FASDs are a group of

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<sup>37</sup> *Ibid.*

<sup>38</sup> William Bernet, "Parental Alienation Disorder and DSM-V" (2008) 36:5 *American J Family Therapy* 349 at 363 (EBSCO) [Bernet, "Parental Alienation Disorder and DSM-V"].

<sup>39</sup> "DSM-IV: Symptoms, Syndrome, Disorder, Disease", online: *University of Hawaii* <[http://www2.hawaii.edu/~heiby/overheads\\_classification.html](http://www2.hawaii.edu/~heiby/overheads_classification.html)>.

<sup>40</sup> *Ibid.*

disorders that are caused by maternal drinking, and FAS is the most commonly known FASD.<sup>41</sup> If PAD was meant to include both PA and PAS, referring to the class of disorders, then it could be analogous to the terminology used with FASDs, however, it appears that PAD was meant to replace PAS, not include PAS based on the way that the writing presents.

## Controversy

There are many controversies that exist surrounding PA/PAS/PAD. The main things that academics disagree on are whether PA/PAS/PAD should be added to the DSM-V and other similar manuals, whether PA/PAS/PAD is a legitimate concern that should be taken seriously in the legal field or if it is just a way to cover up abuse, and about what the best treatment methods are. The discussion on treatment method will be saved for the next section. All of these controversies really boil down to whether there is a legitimate scientific basis for PA/PAS/PAD.

Proponents of PA/PAS/PAD believe that it should be added to the DSM-V. One of the arguments made for its inclusion in the DSM-V is that “research indicates that PAD is a valid and reliable construct.”<sup>42</sup> This is supported in the minds of the proponents of PA/PAS/PAD because different independent researchers or research groups have come to similar conclusions over time regarding PA/PAS/PAD.<sup>43</sup> For example, in the 1980s, four different groups of researchers independently identified which children of separated parents had suffered severe alienation without justification.<sup>44</sup> Similarly, Gardner developed eight symptoms of PAS, and when Kelly and Johnston proposed an alternative framework they listed very similar symptoms as features of the alienated child.<sup>45</sup> One of the flaws in this argument is that Kelly and Johnston

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<sup>41</sup> Daniel J Wattendorf & Maximilian Muenke, “Fetal Alcohol Spectrum Disorders” (2005), online: *American Academy of Family Physicians* <<https://www.aafp.org/pubs/afp/issues/2005/0715/p279.html>>.

<sup>42</sup> Bernet, “Parental Alienation Disorder and DSM-V”, *supra* note 38 at 351.

<sup>43</sup> *Ibid* at 354.

<sup>44</sup> *Ibid*.

<sup>45</sup> *Ibid* at 355.

cite Gardner's work throughout their paper *A Reformulation of Parental Alienation Syndrome*, so although they may have come to the same conclusion when listing symptoms, they were not working from scratch or blindly trying to identify the same disorder, even stating that "for the most part, our observations of the behaviours and emotional responses of alienated children are similar to those reported by others," citing Gardner.<sup>46</sup>

Those pushing to have PA/PAS/PAD added to the DSM-V also argue that the concept of PA/PAS/PAD is "almost universally accepted by psychiatrists, psychologists, social workers, and family counselors,"<sup>47</sup> which is simply untrue. While conducting research I came across many articles criticizing the validity of PA, arguing that it is not founded in science,<sup>48</sup> should not be added to the DSM-V,<sup>49</sup> does not reach the evidentiary standard to be admissible in court,<sup>50</sup> and more. Proponents of PA/PAS/PAD also argue that "it is almost certain that in the future it will be included" in the DSM-V, as it is "only too apparent from observation and from the literature that they do exist."<sup>51</sup> This claim falls to the same flaws as the claim made above, as given the amount of literature arguing against PA/PAS/PAD's inclusion in the DSM-V and attacking its validity, statements this bold cannot be made.

Those who do not want PA/PAS/PAD in the DSM-V also note that PAS cannot be included as a credible diagnosis as Gardner continually claims, because in his research he

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<sup>46</sup> Joan B Kelly & Janet R Johnston, "The Alienated Child: A Reformulation of Parental Alienation Syndrome" (2001) 39:3 Fam Ct Rev 249 at 262 (onlinelibrary.wiley.com).

<sup>47</sup> William Bernet et al, "Parental Alienation, DSM-V, and ICD-11" (2010) 38:2 American J Family Therapy 76 at 100 (EBSCO) [Bernet et al, "Parental Alienation, DSM-V"].

<sup>48</sup> Carol S Bruch, "Parental Alienation Syndrome and Parental Alienation: Getting It Wrong in Child Custody Cases" (2001) 35:3 Fam LQ 527 at 527 (HeinOnline); Robert E Emery, "Parental alienation syndrome: Proponents bear the burden of proof" (2007) 43:1 Fam Ct Rev 8 at 8 (EBSCO).

<sup>49</sup> Lenore E Walker & David L Shapiro, "Parental Alienation Disorder: Why Label Children with a Mental Diagnosis?" (2010) 7:4 J Child Custody 266 at 267 (tandfonline).

<sup>50</sup> Rao, *supra* note 27 at 1796; Lewis Ziropiannis, "Evidentiary issues with parental alienation syndrome" (2001) 39:3 Fam Ct Rev 334 at 336; Williams, *supra* note 35 at 278.

<sup>51</sup> Ludwig F Lowenstein, "Is the Concept of Parental Alienation a Meaningful One?" (2013) 54:8 J Divorce & Remarriage 658 at 665 (tandfonline).

continually references himself.<sup>52</sup> In fact, in one such article he references 10 different sources, nine of which were himself, and the last being Sigmund Freud.<sup>53</sup>

After Gardner's death a number of other proponents of PA/PAS/PAD have come forward to push for its admission into the DSM-V, and those who do not want it included do not view these new sources as any more credible. One of the main arguments against the inclusion based on these new advocates information is that there is a lack of scientific evidence.<sup>54</sup> For example, in a book chapter entitled "Twenty Reasons Why Parental Alienation Should Be a Diagnosis" two studies are used to show the reliability of PAS, but one of the studies was not published in a peer reviewed journal, and the other only had 45 responses to the 350 surveys sent out, and only 34 of those surveys were useable.<sup>55</sup> This is a very small sample size, and combining it with a non-peer reviewed paper does not lend it any significant academic credibility.

Next, outside of the DSM-V, there is controversy as to whether PA/PAS/PAD is a legitimate issue that should be taken seriously in the court room, or if it is a tactic that fathers'-rights groups use to hide abuse allegations. Many of the proponents of PA/PAS/PAD ignore this issue altogether, making sweeping statements such as: "Most evaluators, family law attorneys, and judges recognize that such programming and child alienation is common in the context of child-custody disputes,"<sup>56</sup> or "the phenomenon [of PA] is almost universally accepted by mental health professionals who evaluate and treat children of high-conflict divorces."<sup>57</sup> However, there are no citations offered for statements such as these to show proof that the majority of mental

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<sup>52</sup> Timothy M Houchin et al, "The Parental Alienation Debate Belongs in the Courtroom, Not in DSM-5" (2012) 40:1 J American Academy Psychiatry & L 127 at 128 (JAAPL), citing Carol S Bruch, "Parental Alienation Syndrome and Alienated Children: getting it wrong in child custody cases" (2001) 35:527 Fam Law Q 381 at 387 (UCDavis).

<sup>53</sup> *Ibid.*

<sup>54</sup> Houchin et al, *supra* note 52 at 128-129.

<sup>55</sup> *Ibid.*

<sup>56</sup> Gardner "Does DSM-IC Have Equivalents for PAS"y, *supra* note 9 at 2.

<sup>57</sup> Bernet et al, "Parental Alienation, DSM-V", *supra* note 47 at 82.

health professionals do in fact think that way, and given the number of articles explicitly stating the contrary, clearly it is a controversy within the field of child psychology that has yet to be solved.

When looking at the impacts of PA/PAS on the legal system in England and Wales, Dr. Adrienne Barnett found that PA's intended purpose is to "shut down domestic abuse in private family law."<sup>58</sup> This has to do with the fact that in cases where PA/PAS/PAD is raised it dominates the case, somehow making all other issues between the parents secondary.<sup>59</sup> When PA/PAS/PAD is raised, other reasons for explaining the views of the child and favoured parent fade into the background.<sup>60</sup> Barnett goes on to acknowledge that although there may be a tiny minority of mothers who are guilty of alienating their children from loving fathers, too often throwing this label at them becomes a self-fulfilling prophecy, as once they have been labelled as alienating, all of their actions are viewed in that light hurting their case in court.<sup>61</sup>

Some who do not deny the existence of PA/PAS/PAD are still hesitant to use it, and would suggest that PA/PAS/PAD, and the threat of its use, holds too much power. For example, the very existence of the claim forces mothers to discuss with their lawyers whether it is even worth bringing up genuine abuse allegations, as they do not want to be labelled as alienating and have their visitation rights limited.<sup>62</sup> Part of the reason for this is that women who have suffered trauma can be viewed as unconvincing witnesses, causing the courts to believe the fathers'

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<sup>58</sup> Adrienne Barnett, "A genealogy of hostility: Parental alienation in England and Wales" (2020) 42:1 J Soc Welfare & Fam L 18 at 26 (EBSCO).

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> Zoe Rathus, "A history of the use of the concept of parental alienation in the Australian family court system: Contradictions, collisions and their consequences" (2020) 42:1 J Soc Welfare & Fam L 5 at 11, citing Lesley Laing, *No way to live: women's experiences of negotiating the family law system in the context of domestic violence*, (Sydney: New South Wales Health, university of Sydney and Benevolent Society, 2010) at 10, 55 (ResearchGate); Vivienne Elizabeth, "The affective burden of separated mothers in PA(S) inflected custody law systems: a New Zealand case study" (2020) 42:1 J Soc Welfare & Fam L 118 at 119 (EBSCO).

claims that they are not abusive despite the evidence pointing in the other direction.<sup>63</sup> A Canadian paper written by Suzanne Zaccour added to this notion, stating that “as families repeatedly interact with the justice system, domestic violence tends to leave the picture.”<sup>64</sup> This results in abusive fathers using PA/PAS/PAD to punish mothers and receive custody.<sup>65</sup> Zaccour argues that on appeal, abuse allegations are often overlooked, and that it is in fact the norm in cases of PA/PAS/PAD for the father to be abusive, and not the exception.<sup>66</sup>

Although some individuals believe extremely strongly in the existence of PA/PAS/PAD and think that it should be an issue of high focus in the court room as well as added to the DSM-V, this is not universally accepted. Many believe that PA/PAS/PAD is not based in science and does not have enough empirical evidence to be included in the DSM-V, and that it is too dangerous to be used in the court room as it could allow fathers to cover up abuse allegations. One of the things that spurs this controversy forward is that technically if there is abuse then what the child is experiencing is Parental Estrangement and not PA/PAS/PAD, so proponents of PA/PAS/PAD argue that the prevalence of abuse in some cases is irrelevant as this makes it a non-PA/PAS/PAD issue. However, this is missing the core of the counter argument, that despite the difference in terminology people still try to use PA/PAS/PAD to cover up abuse, and too often it is believed and cases that should be marked as estrangement are in fact marked as alienation. Overall, PA/PAS/PAD is not nearly as universally accepted as its proponents would like everyone to believe.

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<sup>63</sup> Rathus, *supra* note 62 at 11, citing Kathy Mack, “Continuing barriers to women’s credibility: A feminist perspective on the proof process” (1993) 4:2 Crim LF 327 at 330 (SpringerLink).

<sup>64</sup> Suzanne Zaccour, “Does Domestic Violence Disappear from Parental Alienation Cases? Five Lessons from Quebec for Judges, Scholars, and Policymakers” (2020) 33:2 Can J Fam L 301 at 301 (EBSCO).

<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*, 302.

## Impact

When looking at the impacts of PA/PAS/PAD on children, there is far more data available that looks at the long term impacts that remain with them in adulthood than there is looking at the immediate impact on them as children.

Interestingly, the studies that are available looking at the impact of parents denigrating and belittling the other parent during a high conflict divorce do not yield the results that proponents of PA/PAS/PAD would be hoping for. Parental denigration is part of PA/PAS/PAD, as it is one of the main ABs. It is important to acknowledge, however, that just because you have spoken negatively about the co-parent does not mean that alienation has occurred, so these studies that look at the impact of parental denigration are not looking at cases that have led to PA/PAS/PAD. In general, parental denigration tends to backfire, and leads to the child having more negative feelings towards the parent that is committing the denigration.<sup>67</sup> The conclusion drawn from this is that although denigration may be able to lead to alienation, the overwhelming majority of the time it actually has a boomerang effect and more negatively impacts the relationship with the denigrating parent.<sup>68</sup> This would suggest that the court should be very cautious in finding PA/PAS/PAD, as these studies would imply that the lack of relationship comes from some cause other than the denigration of one parent by the other.

Looking at the long term impacts of alienation, studies suggest that there are long term mental health implications. First, children who report high levels of parental denigration, which should in theory lead to PA/PAS/PAD, report high levels of depression and dissatisfaction with

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<sup>67</sup> Jenna Rowen & Robert Emery, "Parental Denigration: A Form of Conflict that Typically Backfires" (2018) 56:2 Fam Ct Rev 258 at 267 (EBSCO) [Rowen & Emery, "A Form of Conflict that Typically Backfires"]; Jenna Rowen & Robert Emery, "Parental Denigration Boomerangs Versus Alienates: Parent-Child Closeness, Reciprocity, and Well-Being Using Multiple Informants" (2019) 68:1 Family Relations 119 at 131 (onlinelibrary.wiley.com).

<sup>68</sup> *Ibid.*

life.<sup>69</sup> Looking at long term outcomes, a study of Italian adults whose parents separated reported that the children who were exposed to PA/PAS/PAD tended to report lower levels of self-esteem.<sup>70</sup> In other similar studies it has also been found that adults who were exposed to PA/PAS/PAD as children report higher levels of depression<sup>71</sup> and anxiety.<sup>72</sup> These results would indicate that PA/PAS/PAD is something that should be taken seriously in the court room. It appears that growing up being exposed to ABs and being alienated from a parent can have negative impacts on people for the rest of their lives and it must be taken seriously. However, there is also the argument that if the courts take PA/PAS/PAD too seriously they could be exposing children to an abusive parent, forcing them to endure more abuse which could also have lasting impacts on their mental health.

One study on the long term impacts of PA/PAS/PAD also found that there is a strong correlation between adults who reported experiencing PA as children and those who reported maltreatment as children.<sup>73</sup> Although this would suggest that parents who use ABs to alienate their child from the other parent are also the cause of the maltreatment, this is not necessarily the case as one of the study limitations is that the participants were not asked which parent they were alienated from or which parent exhibited the psychological maltreatment.<sup>74</sup> This means that it

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<sup>69</sup> Rowen & Emery, "A Form of Conflict that Typically Backfires", *supra* note 67.

<sup>70</sup> Maria C Verrocchio, Daniela Marchetti & Mario Fulcheri, "Perceived Parental Functioning, Self-Esteem, and Psychological Distress in Adults Whose Parents are Separated/Divorced" (2015) 6 *Frontiers in Psychology* 1760 at 7 (NCBI).

<sup>71</sup> M C Verrocchio et al, "Depression and quality of life in adults perceiving exposure to parental alienation behaviours" (2019) 17:1 *Health & Quality Life Outcomes* 14 at 8 (EBSCO).

<sup>72</sup> Maria Cristina Verrocchio, Amy J L Baker & William Bernet, "Associations between Exposure to Alienating Behaviours, Anxiety, and Depression in an Italian Sample of Adults" (2016) 61:3 *J Forensic Sciences* 692 at 696 (onlinelibrary.wiley.com).

<sup>73</sup> Amy J L Baker, "Adult Recall of Parental Alienation in a Community Sample: Prevalence and Associations With Psychological Maltreatment" (2010) 51:1 *J Divorce Remarriage* 16 at 31 (tandfonline).

<sup>74</sup> *Ibid* at 30.



could have been that one parent alienated them from the parent who was perpetrating the psychological maltreatment despite the study suggesting otherwise.

There needs to be more research done on the immediate and long term impacts of PA/PAS/PAD.

### State of Research

Although there are many papers and articles written on the topic of PA/PAS/PAD, the state of the research is not as conclusive or complete as its proponents would like to suggest. There are many academic papers that take directly opposing sides, arguing that it should or should not be included in the DSM-V, that it does or does not meet the evidentiary standard of the court room, and arguing as to whether the entire concept of PA/PAS/PAD is scientifically valid. The main issue within these debates is surrounding the scientific validity of PA/PAS/PAD, as the other debates turns on that factor.

Advocates of PA/PAS/PAD rely heavily on anecdotal and empirical evidence.<sup>75</sup> Anecdotal evidence itself cannot identify PA/PAS/PAD as a distinct phenomenon, as it cannot differentiate it from other phenomena that may present similarly.<sup>76</sup> Scientific evidence is meant to support and refute a hypothesis in order to actually be able to distinguish if it is valid, and anecdotal evidence does not do this.<sup>77</sup> Furthermore, if the alienated parent is the one providing the evidence it is highly unlikely they would expose their own abuse or any other reason for justified estrangement.<sup>78</sup>

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<sup>75</sup> Madelyn Simring Milchman, "How far has parental alienation researched progressed toward achieving scientific validity?" (2019) 16:2 J Child Custody 115 at 117 (tandfonline).

<sup>76</sup> *Ibid* at 121.

<sup>77</sup> *Ibid* at 122.

<sup>78</sup> *Ibid* at 122.

Those arguing against the scientific validity of PA/PAS/PAD also add that the empirical studies have crucial and foundational weaknesses and do not show construct validity.<sup>79</sup> Many of the studies use “inadequate assessment instruments, biased selection of subjects, lack of adequate comparison group, inadequate statistical analysis, and circular reasoning.”<sup>80</sup> Many of the studies that attempt to point at the negative psychological effects on the children also fail to look at other potential reasons for the psychological disorders, all of which are common and have many different causes.<sup>81</sup>

Much of the terminology surrounding PA/PAS/PAD is vague.<sup>82</sup> What constitutes a high conflict divorce, brainwashing, and broadening of hatred are not easily definable, which is an issue when all of these terms are at the core of the syndrome.<sup>83</sup>

Finally, in combination with many other issues such as unknown rates of PA/PAS/PAD, lack of information on what is typical in divorce, failing to consider possible impacts on the child’s state other than the acts of the parent, and the lack of evidence that it is actually a syndrome, PA/PAS/PAD has not undergone proper scientific testing since it was proposed.<sup>84</sup> Research has shown that a child’s negative attitude towards one parent normally has numerous causes, and these causes have not been properly examined.<sup>85</sup> There needs to be more research done in the field of PA/PAS/PAD. These studies need to use larger samples, better define the terms, and test for all aspects of the proposed syndrome or disorder, including the potential other causes that could explain the lack of relationship with the non-favoured parent.

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<sup>79</sup> *Ibid* at 123.

<sup>80</sup> *Ibid*.

<sup>81</sup> *Ibid* at 124.

<sup>82</sup> William O’Donoghue, Lorraine T Benuto & Natalie Bennett, “Examining the validity of parental alienation syndrome” (2016) 13:2 J Child Custody 113 at 117 (tandfonline).

<sup>83</sup> *Ibid*.

<sup>84</sup> *Ibid* at 118-122.

<sup>85</sup> *Ibid* at 118.

## Treatment

### What Treatments are Available

There are a number of different treatments available for children and families that experience PA/PAS/PAD. Many of these focus on making healthy relationships with both parents and encourage full family involvement. However, one of the inherent issues with treating PA/PAS/PAD is that treatments designed for a specific purpose are chosen based on a specific diagnosis, so if PA/PAS/PAD cannot be diagnosed it cannot be correctly treated.<sup>86</sup> As discussed earlier, diagnosis is difficult as PA/PAS/PAD is not in a diagnostic manual and its existence, prevalence, and diagnostic criteria are not uniformly agreed upon in the academic world. Nevertheless, some of the interventions used for mild to moderate alienation include Family Restructuring Therapy, Multi-Modal Family Intervention, Child-Centered Conjoint Therapy, New Ways for Families, and Overcoming Barriers.<sup>87</sup>

Family restructuring therapy is meant to teach families how to interact in a more positive way, teaching parents about better co-parenting strategies and reuniting parents with alienated children.<sup>88</sup>

The Multi-Modal Family Intervention stresses the inclusion of all family members, and uses many different techniques including individual therapy, family therapy, education and coaching, and case management with the aim of modifying feelings, beliefs and behaviours.<sup>89</sup>

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<sup>86</sup> Jean Mercer, “Are intensive parental alienation treatments effective and safe for children and adolescents?” (2019) 16:1 J Child Custody 67 at 73 (tandfonline) [Mercer, “Are intensive treatments effective”].

<sup>87</sup> Richard A Warshak, “Risks and Realities of Working With Alienated Children” (2020) 58:2 Fam Ct Rev 432 at 437 (EBSCO) [Warshak, “Risks and Realities”].

<sup>88</sup> Stephen Carter & James Bateman, “Family Restructuring Therapy: A Model for Parent Conflict Intervention With Separated/Divorced Families (Including Never-married) Families” (January 2017), online: *Talking About Reforming the Family Justice System – Helping Families Thrive* <<https://rfjslab.files.wordpress.com/2017/11/family-restructuring-therapy.pdf>>.

<sup>89</sup> Steven Friedlander & Marjorie Gans Walters, “When a Child Rejects a Parent: Tailoring the Intervention to Fit the Problem” (2010) 48:1 Fam Ct Rev 98 at 98 (EBSCO).

The Multi-Modal Family Intervention also emphasizes looking at and addressing all of the multiple factors that have contributed to the child's reluctance for contact, and have broader goals of understanding and treatment than simply to restore a relationship with the alienated parent.<sup>90</sup>

A child first therapy model, the Child-Centered Conjoint Therapy Model, focusses on the child's independent needs, only involving other family members when the therapist deems it appropriate.<sup>91</sup> Child-Centered Conjoint Therapy looks at the full scope of the child's activities and relationships to help with developmental tasks that children need to achieve to have successful relationships in the future.<sup>92</sup> After developing healthy pro-social behaviour in the child, the therapy often eventually leads to the ultimate goal, family discussions surrounding the emotional history that led to the need for the intervention.<sup>93</sup>

Unlike the child focussed Child Centered Conjoint Therapy Model, the New Ways for Families is much more parent focussed. This therapy model begins with parents addressing their concerns with the other parent, as well as acknowledging their positives, and then proceeds to individual parent counselling where they focus on both parents learning the skills of flexible thinking, managing emotions, and moderating behaviour.<sup>94</sup> Once the individual parent counseling is complete, the next step is parent-child counseling.<sup>95</sup> In this step, both parents receive the same number of sessions with their child, and begin by teaching the child what they

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<sup>90</sup> *Ibid* at 98-99.

<sup>91</sup> Lyn R Greenberg, Lynda Doi Fick & The Honourable Robert A Schneider, "Catching Them Before Too Much Damage is Done: Early Intervention with Resistance-Refusal Dynamics" (2016) 54:4 Fam Ct Rev 548 at 549 (EBSCO).

<sup>92</sup> *Ibid*.

<sup>93</sup> *Ibid*.

<sup>94</sup> Billy Eddy, "Handling Alienation in New Ways for Families" (17 September 2009), online: *High Conflict Institute* <<https://www.highconflictinstitute.com/hci-articles/handling-alienation-in-new-ways-for-families>>.

<sup>95</sup> *Ibid*.

have learned about flexible thinking, managing emotions and moderating behaviour.<sup>96</sup> After this, the focus shifts to having the children express their concerns with the separation or divorce to their parents, with the counsellor encouraging the parents to hear the children's concerns without judgement or anger and without giving in.<sup>97</sup> The counselling sessions then move to looking at how the children and parents can all interact with one another more positively in the future.<sup>98</sup> Throughout this entire processes there is no contact between the parents to avoid situation of high conflict and protect the parent that has claimed that the other is abusive if this is something that is at play.<sup>99</sup> Although this appears to make sense it seems wrong to acknowledge that a parent may need to be protected from an abuser and then expose the child to that abuse through extensive parent-child therapy. If at the end of this process the parents cannot come to a joint decision about parenting, they do go to court to have the issue of custody decided, and at the request of a parent or judge the parent-child counsellor can testify.<sup>100</sup>

Overcoming Barriers Family Camp uses a 5-day, 4-overnight camp structure to deliver high intensity treatment to high-conflict families.<sup>101</sup> The camp uses a 'whole family' approach, including both parents, their new marital partners, and the children.<sup>102</sup> The specific goal of this program is to overcome obstacles and to reconnect the child and the rejected parent.<sup>103</sup> The camp works towards this goal both by providing safe opportunities for the children and the rejected parent to connect, as well as facilitating co-parenting discussions between parents to try to

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<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

<sup>100</sup> *Ibid.*

<sup>101</sup> Matthew J Sullivan, Peggie A Ward & Robin Deutsch, "Overcoming Barriers Family Camp: A Program for High-Conflict Divorced Families Where a Child is Resisting Contact with a Parent" (2010) 48:1 Fam Ct Rev 116 at 116 (EBSCO).

<sup>102</sup> *Ibid* at 118.

<sup>103</sup> *Ibid* at 119.

establish better teamwork and collaboration in raising their child.<sup>104</sup> One of the limitation to this family camp in terms of PA/PAS/PAD is that it only seeks referrals from families in which both parents want the child to have a relationship with both parents.<sup>105</sup>

There are many other programs and therapies that can be used as well, including individual therapy for the child and reunification therapy.<sup>106</sup> Reunification therapy is the most common intervention utilized in cases where the child is allegedly unjustifiably rejecting a parent, being used in one quarter of these cases in Canada.<sup>107</sup> Due to the prevalence of cases in which reunification therapy is ordered, it will be looked at explicitly in the next section.

Although there are other intervention methods that can be used as well, the discussion in this section of some of the possibilities provides an idea of what non-reunification therapy interventions can look like.

### Reunification Therapy

Reunification therapy is a specific form of therapy in which the main goal is to re-establish positive parent-child relationships.<sup>108</sup> It does this by “transform[ing] the children’s polarized views of their parents into more balanced and realistic views of each parent, with the hope that the child will reconnect with the rejected parent.”<sup>109</sup> This intervention model differs

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<sup>104</sup> *Ibid.*

<sup>105</sup> Warshak, “Risks and Realities”, *supra* note 87 at 438, citing “Camp Information for Involved Professionals, Professional Expectations and Contributions” (January 2018), online: *Overcoming Barriers* <<https://overcomingbarriers.org/ocb-approach/faqs-for-professionals/>>.

<sup>106</sup> Amy J L Baker, Colleen Murray & Kevin Adkins, “Parameters of Reunification Therapy and Predictors of Treatment Success in High Conflict Divorce Cases: A Survey of Mental Health Professionals” (2020) 61:8 J Divorce & Remarriage 593 at 594 (tandfonline).

<sup>107</sup> *Ibid.*, citing Nicholas Bala, Suzanne Hunt & Carolyn McCarney, “Parental Alienation: Canadian Court Cases 1989-2008” (2010) 48:1 Fam Ct Rev 164 at 171 (EBSCO).

<sup>108</sup> Baker, Murray & Adkins, *supra* note 106.

<sup>109</sup> Richard A Warshak, “Reclaiming Parent–Child Relationships: Outcomes of Family Bridges with Alienated Children” (2019) 60:8 J Divorce & Remarriage 645 at 646 (tandfonline) [Warshak, “Reclaiming Parent–Child Relationships”], citing, Janet R Johnston, Marjorie Gans Walters & Steven Friedlander “Therapeutic Work With Alienated Children and Their Families” (2001) 39:3 Fam Ct Rev 316 at 316 (onlinelibrary.wiley.com); S Richard Sauber “Reunification Planning and Thereapy” in Demosthenes Lorandos, William Bernet & S Richard Sauber

from those above because the express goal is for the child to re-establish a relationship with the rejected parent. The other intervention models above have multiple goals, and look at what good specific goals may be, but reunification therapy has one clear and express goal.

It is hard to determine the success of reunification therapy. Although it has been suggested that individual therapy for children is not effective, there is an absence of data surrounding the success of reunification therapy.<sup>110</sup> Part of the issue with this data collection is the lack of agreement on what constitutes a success. For example, in a survey of mental health professionals who do reunification therapy, only half of clinicians reported thinking that it is was very important to change a child's distortions about the alienated parent.<sup>111</sup> When there is a lack of consensus on what constitutes success, success becomes hard to measure. However, the same study showed that only 12% of clinicians reported that parenting time was resumed with the alienated parent in more than 75% of their cases, and 25% of clinicians reported that parenting time was resumed in fewer than 25% of their cases.<sup>112</sup> These are not high success rates, and would not seem to suggest that reunification therapy is the correct choice to be the most common intervention method. Overall, there is no adequate evidence that shows that these PA/PAS/PAD treatment methods are effective.<sup>113</sup>

There is not only a lack of evidence on the success of reunification therapy, but there is suggestion that it may in fact be harmful to the children who are forced to participate in it. Reunification therapy separates children from the parent with whom they are most bonded at least for a short amount of time, and in severe cases entirely, to make them spend time with a

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(Eds), *Parental Alienation: The Handbook for Mental health and Legal professionals* (Springfield: Charles C Thomas, 2013) 190.

<sup>110</sup> Baker, Murray & Adkins, *supra* note 106 at 594-595.

<sup>111</sup> *Ibid* at 607.

<sup>112</sup> *Ibid*, 610.

<sup>113</sup> Jean Mercer, "Examining Parental Alienation Treatments: Problems of Principles and Practices" (2019) 36:4 *Child & Adolescent Soc Work J* 351 at 359 (EBSCO) [Mercer, "Examining Parental Alienation Treatments"].

parent who has been rejected, and is possibly abusive.<sup>114</sup> This is made more concerning by the fact that only 31.9% of clinician survey respondents reported that it is very important to differentiate cases of alienation and estrangement, and only 67% of respondents reported that they do any kind of diagnostic/screening to discover if the rejection of the parent is estrangement or alienation.<sup>115</sup> These numbers are startling as it suggests that if the court did not have it right, or did not take the time to determine alienation versus estrangement prior to therapy recommendation, a case of estrangement could easily be treated as alienation and a child could be forced to spend time with an abusive parent.

Reunification, as well as other forms of treatment for PA/PAS/PAD, can also be harmful as often they are court ordered, and the children have no desire to participate as they believe that their perceptions are justified, and force may be used on the children if they resist.<sup>116</sup> Due to this resistance, some children are transported in handcuffs when taken from their home, school or court room to take part in non-consensual treatment.<sup>117</sup> On top of this physical force, in extreme cases children can also have contact from their preferred parent cut off entirely for a period of at least 90 days, with the threat that if contact is established the 90 day count restarts.<sup>118</sup> Removal from the preferred parent in extreme cases can lead to years without contact.<sup>119</sup> This is combining physical force and verbal and emotional threats on young children to force them to spend time with someone that they did not wish to spend time with in the first place at the very least, or at worst, this force is used to make them spend time with a parent who is abusive.

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<sup>114</sup> Stephanie Dallam & Joyanna L Silberg, “Recommended treatments for ‘parental alienation syndrome’ (PAS) may cause children foreseeable and lasting psychological harm” (2016) 13:2 J Child Custody 134 at 139 (tandfonline).

<sup>115</sup> Baker, Murray & Adkins, *supra* note 106 at 603.

<sup>116</sup> Mercer, “Are intensive treatments effective”, *supra* note 86 at 79.

<sup>117</sup> *Ibid.*

<sup>118</sup> Dallam & Silberg *supra* note 114.

<sup>119</sup> Mercer, “Examining Parental Alienation Treatments”, *supra* note 113 at 356.



Based on the lack of evidence regarding the success of reunification therapy and the glaring potential harms, courts should be cautious in using this intervention. More research needs to be done in this area in controlled and safe environments before judges should feel comfortable forcing children to be reunified with a parent that they have rejected for what they believe are good reasons.

### Family Bridges

One of the most discussed forms of reunification therapy is the Family Bridges program. Family Bridges is used for moderate to severe cases of alienation and has served as the prototype for many other interventions.<sup>120</sup> It is an educational workshop that was developed in 1991 as a way to reunite recovered missing children with the parent that they were taken from.<sup>121</sup> The four day workshop brings the alienated parent and child(ren) together without the favoured parent, with whom contact has been temporarily suspended.<sup>122</sup> Through teaching the children critical thinking, how to maintain balanced realistic and compassionate views of both parents, and how to resist outside pressures to act in certain ways, Family Bridges' goals are to 1) prepare children to cooperate with court orders to live with the rejected parent while having no contact with the other parent, and 2) improve the parent child relationship.<sup>123</sup> The hope is that four full days in a leisure setting can accomplish what months or years of irregular visits in a clinical setting could.<sup>124</sup>

According to Dr. Richard Warshak, in a sample of 83 severely alienated children between 75-96% of children overcame their alienation.<sup>125</sup> Evidence also indicates that the workshop was

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<sup>120</sup> Warshak "Risks and Realities", *supra* note 87 at 439.

<sup>121</sup> *Ibid.*

<sup>122</sup> Warshak, "Reclaiming Parent-Child Relationships", *supra* note 109 at 648.

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.*

<sup>125</sup> *Ibid* at 661.

helpful for even the children who did not appear to respond positively, and that it did not harm the children.<sup>126</sup> Dr. Warshak also makes a point of stating that every parent reported that there was no mistreatment of their child and that the professionals were kind.<sup>127</sup> When interpreting this study it should also be noted that Dr. Warshak has conducted Family Bridges workshops himself.<sup>128</sup>

Although the proponents of PA/PAS/PAD such as Dr. Warshak argue that workshops such as Family Bridges are safe and beneficial, not all agree. Despite Dr. Warshak claiming that Family Bridges is evidence based, the supportive research is at a modest level as it is only before-and-after studies and not up to the normal level of evidentiary support of randomized controlled studies or the nonrandomized controlled clinical studies.<sup>129</sup> The research is not at a point that all would consider it adequate to support claims of effectiveness for Family Bridges.<sup>130</sup>

Furthermore, not all researchers agree that it is safe. When looking at reports from individuals who participated in Family Bridges, one woman reported that at age 17 she and her younger sister were taken to Family Bridges in handcuffs and were threatened with being transferred to a wilderness facility or to a residential treatment center where there was no ability to contact anyone outside of the facility if she did not cooperate with her rejected parent and her rejected parent's new partner.<sup>131</sup> She was also told that if she did not cooperate, her father, her preferred parent, would be sent to prison.<sup>132</sup> Another woman reported that at age 15 she was taken to Family Bridges where they told her that if she did not have a relationship with her

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<sup>126</sup> *Ibid* at 662.

<sup>127</sup> *Ibid* at 663.

<sup>128</sup> Richard A Warshak, "Family Bridges: A Workshop for Troubled and Alienated Parent-Child Relationships" online: *Dr. Richard A Warshak* <<https://www.warshak.com/services/family-bridges.html>>.

<sup>129</sup> Mercer, "Examining Parental Alienation Treatments", *supra* note 113 at 355.

<sup>130</sup> *Ibid*, citing Mercer, "Are intensive treatments effective", *supra* note 86 at 87.

<sup>131</sup> Mercer, "Are intensive treatments effective", *supra* note 86 at 82.

<sup>132</sup> *Ibid*.

father, her non-preferred parent, she would become an alcoholic or drug addict.<sup>133</sup> There is also speculation that camps such as Family Bridges label themselves as educational to avoid scrutiny from regulatory bodies as they are isolating the child from everyone they are familiar with and forcing them to adopt a different view of a parent as pushed by a stranger, which can be in itself a traumatic experience.<sup>134</sup> It is also pointed out that Dr. Warshak has claimed that despite the children's screaming and refusal to go to Family Bridges "children and teens welcome the sense of protection and control that comes when adults exert appropriate authority to keep children on the right track" without any peer reviewed research to support such claims.<sup>135</sup>

The cost of this program is also born by the preferred parent despite them not participating, and in the United States this runs \$20,000.<sup>136</sup> After the program has finished, the child and 'formerly' rejected parent are expected to go on vacation together.<sup>137</sup> If the court has made a mistake in judging abuse forcing the child to go on a vacation with the parent is a serious issue as you're subjecting them to one on one time away from everyone that they know and any security measures.

Similar to reunification therapy as a whole, Family Bridges has not had enough large scale studies done to declare it successful. Given the lack of evidence on the success of Family Bridges, the concerns of misdiagnosis of alienation versus estrangement, the impacts of taking children away from the preferred parent and giving them to a potentially abusive parent, as well as potential trauma of physically forcing them to undergo therapy that they did not consent to,

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<sup>133</sup> *Ibid.*

<sup>134</sup> Dallam & Silberg, *supra* note 114.

<sup>135</sup> *Ibid.*, citing Richard A Warshak, *Divorce Poison: How to Protect Your Family From Bad-mouthing and Brainwashing* (New York: Harper Paperbacks, 2010) 304.

<sup>136</sup> Mercer, "Examining Parental Alienation Treatments", *supra* note 113 at 354.

<sup>137</sup> *Ibid.*

judges should be very hesitant to assign Family Bridges as the form of reunification therapy in cases of potential alienation.

## Impact of Age

The final aspect that needs to be analyzed is the impact of the age of the child at the time of alienation. This is yet another area where not all academics agree. Some argue that the younger the child is, the more vulnerable they are to alienation.<sup>138</sup> Others take the stance that if a child is below the age of seven or eight they are not capable of being alienated as they do not have the ability to cognitively and emotionally maintain the rejection of a parent.<sup>139</sup> Overall, research indicates that adolescents are typically more likely to be alienated than very young children, with the most common age range being between 9 and 15 years old.<sup>140</sup> The average age for children to experience their parents divorce is 6-7 years old in the United States,<sup>141</sup> and has been trending younger in Canada since the 1980s.<sup>142</sup> This difference in the average age of divorce and average age of experiencing alienation would support the claim that very young children are less susceptible to alienation. It is also important to keep in mind that when dealing with children of a very young age, if allegations of PA/PAS/PAD are brought up they must be thoroughly examined and the potential for it to be Realistic Estrangement must be evaluated, as

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<sup>138</sup> J Michael Bone & Michael R Walsh, “Parental Alienation Syndrome: How to Detect It and What to Do About It” (1999) 73:3 Fla BJ 44, online: <<http://www.fact.on.ca/Info/pas/walsh99.htm>>.

<sup>139</sup> Kelly & Johnston, *supra* note 46 at 260.

<sup>140</sup> Alan M Jaffe, Melanie J Thakkar & Pascale Piron, “Denial of ambivalence as a hallmark of parental alienation” (2017) 4:1 Cogent Psychology 1327114 at 2 (tandfonline).

<sup>141</sup> Jennie E Brand et al, “Parental divorce is not uniformly disruptive to children’s educational attainment” (2019) 116:15 Proceedings National Academy Science 7266 at 7270 (PNAS).

<sup>142</sup> “Selected Statistics on Canadian Families and Family Law: Second Edition” (2015), online: *Department of Justice* <<https://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/stat2000/p3.html>>.

young children are more vulnerable to abuse and are more likely to be seriously hurt or killed by abuse, with 90% of abuse fatalities involving children ages 5 and younger.<sup>143</sup>

An Italian study showed that parents who are perpetrating ABs tailor them to the age of their child.<sup>144</sup> As the child grows older, parents are more likely to use ABs that require more cognitive maturity, such as making negative comments about the other parent, asking the child to keep secrets from the other parent, and confiding in the child.<sup>145</sup> On the other hand, when children are young the alienating parent is more likely to put up physical barriers such as limiting contact, or withholding and blocking messages.<sup>146</sup>

When looking at treatment for PA/PAS/PAD, most treatments are directed at children aged 8 or above.<sup>147</sup> As children become teenagers they seek higher levels of autonomy and independence rather than relying on attachment to their parents, so the treatments that emphasize parental authority are at odds with the developmental stage that most children being treated for PA/PAS/PAD are in.<sup>148</sup> The other key factor pertaining to children's growing desire for autonomy as they grow is their participation rights. The United Nations Convention on the Rights of the Child, which Canada has ratified, shows that participation rights should be recognized as article 12 states:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through

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<sup>143</sup> Pamela S Ludolph & James N Bow, "Complex Alienation Dynamics and Very Young Children" (2012) 9:3 J Child Custody 153 at 155, citing John E B Myers, "Expert Testimony Describing Psychological Syndromes" (1993) 24 Pac LJ 1449.

<sup>144</sup> Maria Christina Verrocchio, Amy J L Baker & Daniela Marchetti, "Adult report of childhood exposure to parental alienation at different developmental time periods" (2018) 40:4 J Family Therapy 602 at 614 (EBSCO).

<sup>145</sup> *Ibid* at 610 & 614.

<sup>146</sup> *Ibid* at 610.

<sup>147</sup> Mercer, "Examining Parental Alienation Treatments", *supra* note 113 at 358.

<sup>148</sup> *Ibid*.

a representative or an appropriate body, in a manner consistent with the procedural rules of national law.<sup>149</sup>

As most allegations of PA/PAS/PAD are in reference to older children, their views should be given more weight as their age and maturity are higher. However, due to the claims of brainwashing and indoctrination, this acknowledgement of age and maturity is often ignored and decisions are made for them, assigning custody situations and therapy that the children do not consent to. As children become older, their preferences and opinions are supposed to be given more weight, but allegations of PA/PAS/PAD can negate adolescents playing a significant role in determining their own future.

As children grow they desire more autonomy, and for their decisions to be heard more. However, in cases of high conflict divorce as children grow they are more likely to be labelled as alienated and brainwashed, and thus have their views ignored entirely. Although parents are more likely to use more psychological ABs as the child gets older, they are also more able to sort out for themselves what is true and what is not, and this should be given due weight. Children's participation rights are meant to become more robust as the child ages, and in cases of PA/PAS/PAD this unfortunately is often not the case.

## Conclusion

To conclude I will briefly go over each of the topics of interest.

1) What are the defining principles of PA/PAS/PAD?

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<sup>149</sup> *The United Nations Convention on the Rights of the Child*, 2 September 1990, art 12, online (pdf): *United Nations International Children's Emergency Fund* <<https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>>.

The main defining principles of PA/PAS/PAD are unjustified contact refusal or resistance from a child to their unfavoured parent due at least in part to brainwashing or indoctrination caused by the favoured parent's use of alienating behaviours.

## 2) How is PA/PAS/PAD diagnosed?

PA/PAS/PAD is difficult to diagnose as it is not in any diagnostic manual and is not officially recognized as a syndrome or disorder. However, proponents of PA/PAS/PAD have presented the Five-Factor Model as a diagnostic tool. The five factors are:

- 1) Contact resistance from the child toward the alienated parent.
- 2) The presence of a positive relationship between the child and rejected parent prior to separation.
- 3) The absence of abuse, neglect or seriously deficient parenting on the part of the rejected parent.
- 4) The use of multiple ABs by the favoured parent.
- 5) The child exhibits many of the eight behavioural manifestations of alienation as defined by Dr. Gardner.

Those who are not proponents of PA/PAS/PAD argue that diagnostic models like this are not acknowledging the plethora of different factors that could be contributing to the contact refusal, and due to its lack of acknowledgement in any diagnostic manual or scientific background this model should not be used, and should not be permitted to be evidence in court.

## 3) What is the terminology involved with PA/PAS/PAD?

The classic thinking about parental alienation is referring to Dr. Gardner's PAS. PAS requires the favoured parent utilizing ABs as well as the child exhibiting symptoms of PAS. PA on the other hand was introduced as a broader term not referring to specific symptoms. PAD has now been used as a direct replacement term for PAS as its proponents have been trying to make the terminology as accurate as possible to have it admitted to the DSM-V, and they believe that disorder is a more appropriate term than syndrome. The final important term is Parental Estrangement or Realistic Estrangement, which refers to contact refusal that is justified.

#### 4) What controversies surround PA/PAS/PAD?

The majority of the controversies surrounding PA/PAS/PAD deal with whether the concept of and research surrounding PA/PAS/PAD are scientifically valid. This is the basis of the arguments for and against its inclusion in the DSM-V and its use in the court room. Its proponents argue that given the high number of peer reviewed articles on the subject and consistency in the research, it is valid and should be added to the DSM-V and be admissible in the court room. Those who argue against it note that Dr. Gardner cited himself regularly while developing PAS and that there are many claims made in his, and others, papers without providing proof. They also add to this debate that the risks of allowing PA/PAS/PAD in the court room are very high as if it is diagnosed improperly when it is not actually present, children are being forcibly sent to an abusive parent. There is a strong case to be made that allegations of PA/PAS/PAD can be used to cover up abuse.

#### 5) What are the impacts of PA/PAS/PAD on children?

Generally when children are exposed to denigration of one parent by the other it makes them less close to the parent committing the denigration. This somewhat refutes the concept of PA/PAS/PAD as it would suggest that the lack of relationship is due to factors other than the favoured parent making negative comments about the other.

Studies suggest that there can be lasting impacts of PA/PAS/PAD, as adults who report experiencing PA/PAS/PAD as children report higher rates of depression and anxiety, and lower rates of satisfaction with life and self-esteem.

#### 6) What is the state of research surrounding PA/PAS/PAD?

There is a lack of scientific research surrounding PA/PAS/PAD. The studies that have been done have strong limitations with inadequate assessment instruments, biased subject



selection, inadequate statistical analysis, circular reasoning, lack of comparison groups, and the subject as a whole uses vague terminology. To be comfortable using PA/PAS/PAD in the court room there needs to be more large scale controlled and definitive studies done on the subject.

7) What treatments are available for PA/PAS/PAD

There are many different treatments available for PA/PAS/PAD. Most of them focus on creating healthy relationships with both parents to some extent, but vary in how strong this goal is as the main purpose of the treatment. However, the inherent issue with treating PA/PAS/PAD is that given the lack of consensus on diagnosis it is difficult to treat properly.

8) What is reunification therapy and how effective is it?

Reunification therapy is a specific form of therapy in which the main goal is to re-establish positive parent child relationships. It is hard to determine the success of reunification therapy. This is in part due to the fact that clinicians do not all define the therapy's success the same way. However, given the low number of reports that parenting time has resumed after intervention it is difficult to say that reunification therapy is successful.

There is also a risk that reunification therapy may actually be harmful to the children forced to participate in it. The children are being forced to spend time with the rejected parent, who, given the lack of screening for alienation versus estrangement done by many clinicians, could be abusive. The children are also often away from their preferred parent with whom they feel safe. The children can also be physically forced to take part in this treatment, being transported in handcuffs and threatened that if they do not participate their time away from their preferred parent will increase.

Given the lack of evidence to suggest that reunification therapy is successful combined with potential harms of the therapy, the courts should be very careful in assigning it and more studies should be done on its safety and success.

9) What is Family Bridges and how successful is it?

Family Bridges is a specific program of reunification therapy, and it is a program that many other interventions have based themselves off of. It is a 4 day intensive program that involves the child spending the 4 days in educational workshops with the rejected parent while having no contact with the preferred parent. According to Dr. Richard Warshak, who has worked with Family Bridges, including running the sessions himself, the program is extremely effective and has significant success rates helping children overcome alienation. Others disagree. These successes are only based on before-and-after studies and do not stand up to the normal level of evidentiary support required to be able to claim that the program is effective. The program is also not safe in all academics' opinions, as it takes children by force in handcuffs, cuts them off from communication with the outside world, threatens the children with negative outcomes if they do not participate, and threatens that the favoured parents will have negative outcomes if the children do not participate. A 4 day intensive therapy 'camp' is a very severe form of therapy and should not be assigned lightly. The potential for harm to come in some form while forcing a child to be with a parent that they have rejected in this high intensity of a setting is high, and more studies should be done on Family Bridges before it continues to be used as a PA/PAS/PAD treatment.

10) What is the impact that age has on PA/PAS/PAD?

The most common age range for children to be found to have been alienated is between 9 and 15 years old. Many theorists believe that very young children, below 7 or 8, lack the capacity

to be alienated. If true, this is good, as the most common age to be when your parents get divorced is 6-7, and very young children are more vulnerable to abuse, so unfounded claims of alienation could have the most severe consequences for them if they are inappropriately given to an abusive parent.

As children get older, the ABs that parents use shift from more physical ABs, such as denying contact and intercepting communication, to more emotional ones such as speaking negatively about the other parent and asking the children to keep secrets from them.

Treatment of PA/PAS/PAD in adolescent and teenage years goes against the developmental stage that they are at. Adolescents ask for and need, more autonomy and decision making power, while the treatment methods are taking that away from them. This also goes against their participation rights in the United Nations Convention on the Rights of the Child, as the older a child is the more their opinion should be taken into account when determining their future. Claims of alienation are used to drown out the voice of children when they are old enough to participate in the custody process.

## General Conclusions

If judges wish to use PA/PAS/PAD in the court room and use court ordered reunification therapy, there needs to be more research done in this field as to the legitimacy of PA/PAS/PAD, and the success and safety of the treatment methods. Claims of abuse should always be taken very seriously, and some parents use PA/PAS/PAD to bury these claims. There may be some legitimate cases of PA/PAS/PAD, as some parents surely alienate their children during high conflict divorces, but this should not be an excuse to try to hide allegation of abuse that should always be taken seriously. Taking the child from the favoured parent, cutting off contact and giving them to the rejected parent is an intense and severe remedy for alienation at best, and at

worst is exposing them to prolonged abuse with no safety net to rescue them. Before the court can feel comfortable accepting allegations of PA/PAS/PAD, there needs to be much more research done in this field so that children are protected from parents who have been abusive, neglectful, or have fallen far below the standard of which all parents should be held.