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# Labelling & Intervening in Parental Alienation Cases: A Review of Canadian Court Decisions 2010-2012

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A thesis submitted in partial fulfillment of the requirements for the degree in Master of Arts

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LABELLING & INTERVENING IN PARENTAL ALIENATION CASES: A REVIEW OF  
CANADIAN COURT DECISIONS 2010-2012

(Thesis format: Monograph)

by

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Graduate Program in Education

Submitted in partial fulfillment

of the requirements for the degree of

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The School of Graduate and Postdoctoral Studies

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## **Abstract**

Parental alienation was examined using 101 retrospective high-conflict Canadian custody court cases between 2010 and 2012. Previous literature in the debate about whether this phenomenon should be considered a formal diagnosis or syndrome, defining behaviours of parental alienation, the impact on children, the relationship between domestic violence and alienation and use of therapeutic interventions were the major research questions. Findings demonstrate only 2% of judges used the term “Parental Alienation Syndrome.” Parents were likely to make a negative comment about the alienated parent in 90% of cases, while a child was likely to speak negatively of the alienated parent in 52% of cases. There was also a significant relationship between a judge making a finding of parental alienation and mandating counselling for the alienating parent. Implications of the study were discussed in terms of helping inform mental health professionals and court officials to assist in keeping the best interests of the child a priority in making informative decisions.

Keywords: parental alienation, alienation, custody, alienating, child-abuse

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## Chapter 1

### 1 Introduction

Richard Gardner (1985) conceptualized and defined the term parental alienation as “a child’s campaign of denigration against a parent that results from “programming (‘brainwashing’) of the child by one parent to denigrate the other parent [and] self-created contributions by the child in support of the alienating parent’s campaign ...” In its most recent form, and the operating definition for the purposes of this study, parental alienation is defined as the intentional efforts of one parent (alienating parent) to turn a child against the other parent (alienated or rejected parent). Consequently, the child allies himself or herself with the alienating parent who engages in alienating strategies and behaviours and rejects a relationship with the other parent without legitimate justification, such as domestic violence, abuse, neglect, or developmental affinities (age, gender), and alignments. This reaction is disproportionate to the child’s actual experiences (current or previous) with the rejected parent where the child previously shared a positive relationship with the rejected parent (Fidler, Bala, & Saini, 2013; Gardner, 1998; Bala, Hunt, & McCarney, 2010). Parental alienation commonly occurs when parents share an acrimonious relationship and are going through a custody trial after separation or divorce.

For the last decade, the notion of parental alienation in Canadian courts, specifically in high conflict separations, has increased significantly (Bala et al., 2010). High conflict separations or divorces are multifaceted with varying levels of complexity from family to family (Birnbaum & Bala, 2010). Common characteristics of high conflict separation include lengthy litigation and appeal, persistent anger and mistrust, ineffective communication, mental illness, personality disorders, enmeshment, involvement of multiple professionals, domestic violence, child abuse or neglect, and parental alienation (Fidler, Bala, & Hurwitz, 2013). This high level of conflict is not only harmful to children and their parents, but poses significant challenges for all parties involved. This includes the judicial system, mental health professionals, and child protection agencies.

### **1.1. Defining Behaviours of Parental Alienation**

Badmouthing is one of the defining behaviors of parent alienation and often the method of identifying parental alienation; however, other behaviors do exist. Gardner (2004) proposed eight diagnostic criteria for identifying parental alienation syndrome in children, with three clinical levels: mild, moderate, and severe. Recently, Baker and Chambers (2011) identified up to twenty such behaviors. Some of the significant behaviors include making negative comments; indicating discomfort about other parent; upsetting child affectionate with other parent; confiding in child; confiding in child about marital concerns or legal issues; encouraging disregard of other parent and; trying to turn child against other parent. Researchers found that all behaviors were endorsed by at least some participants. The most prominent behaviors were “confided in child” and “made negative comments,” and were endorsed by 61-70% of participants. The behavior, “trying to turn child against other parent” was further analyzed and it was found that those who endorsed this behavior were significantly more likely to endorse the other 19 behaviors. Retrospective studies such as Bakers and Chambers (2011) are limited because they only address exposure to parental behaviors and disregard whether the participants *actually* rejected a parent. It is important to investigate the behavior of children as well to capture the developmental trajectory of parental alienation and its implications.

### **1.2. Parental Alienation as a Formal Diagnosis**

Parental alienation is one of the most controversial issues amongst mental health and legal professionals working in the arena of child custody disputes. When Gardner (1985) coined the term "parental alienation syndrome (PAS)" almost 30 years ago, he argued that the behaviours of the parents resulted in a disorder in the child with 89-90% of child custody disputes that involve PAS (Gardner, 1998). However, O’Leary and Moerk (1999) state that Gardner’s estimates were based on cases where he was involved as an expert witness. In their own study O’Leary and Moerk (1999) found a range of ratings about the prevalence of parent alienating behaviours in custody cases (8% to 95%), with an average of 42%.

A more extreme alienation syndrome, the Malicious Mother Syndrome (MMS), has also been proposed. Turkat (1999) described MMS as one that involves more extreme alienation than those described in PAS. It is characterized by three features: (1) attempts of the mother to unjustifiably punish her divorcing husband, (2) interfering with the father's visitation and access to the child, and (3) engaging in a variety of malicious acts towards the husband, including lying and violation of the law. Example of MMS include: breaking and entering the partner's house, telling the child that the father is not their biological father, making attempts to kidnap the child and telling another person the father is physically abusive.

There has been substantial debate amongst researcher and professionals in the field about the reliability and validity of such a syndrome. According to O'Leary and Moerk (1999), there are elements of PAS that present as symptoms characteristic of most divorce situations.

Further, it is natural for a child to show some preference for one parent, not only in cases of separated family, but also in an intact family. For instance, in cases of a child being "daddy's girl" or "mama's boy." A child displaying a preference for one parent is not considered pathological. In addition, these authors state there is a continuum from attachment to alienation.

There has been a recent and failed effort to make parental alienation syndrome as a formal diagnosis for the upcoming *DSM-V*. Nonetheless, the debate about alienation, as well as proper assessment and intervention strategies persists (Bruch, 2002; Faller, 1998; O'Leary & Moerk, 1999; Peptin et al., 2012).

Since inception parental alienation has been popularized among mental health and legal professionals. Evidence supports negative implications for those children involved and some professionals assert the label of Parental Alienation Disorder (PAD), previously known as Parental Alienation Syndrome (PAS) to become a diagnosis in the Diagnostic and Statistical Manual of Mental Health (*DSM*) while others do not. For the purpose of this paper, when discussing parental alienation as a diagnosis I will use the PAS terminology.

Proponents for the diagnosis argue PAS is a valid concept, the diagnostic criteria for PAS are reliable, the label will allow for better study of the phenomenon, and allow clinicians to make

better estimates for its occurrence among divorcing families (Bernet, Boch-Galhau, Baker & Morrison, 2010).

A valid concept is defined as a mental representation that provides meaning and to which there is a general agreement regarding the meaning and definition of the concept. Bernet et al. (2010) state parental alienation has been consistently identified during that 1980s and 1990s in many children. This includes Gardner's (1985; 1992; 1998) own work (20 articles and four books) when he worked as custody evaluator simultaneously collecting observational data. Other works include those of Leona Kopeski (social worker) during the 1970s and 1980s; Stanley Clawar (sociologist) and Brynne Rivlin in 1991, who published a study through the American Bar Association titled *Children Held Hostage* (see Bernet et al., 2010 for more examples). These groups of clinicians independently identified parental alienation. The prevalence of parental alienation among children and adolescents is estimated at 1% in the United States. Rates increase as level of conflict rise in custody disputes.

Since Gardner's book, *The Parental Alienation Syndrome: A Guide for Mental Health and Legal Professionals* (Gardner, 1992) –researchers have applied the criteria which has allowed for identification of parental alienation in court cases. This has strengthened both external and ecological validity. Studies have showed good test-retest and inter-rater reliability for the PAS test instrument (Rueda, 2003, 2004; Morrison, 2006). In addition, PAS will allow for future research to be conducted in a more systematic and comprehensive manner once it is operationalized. Children who have PAS demonstrate a similar cluster of symptoms. This will allow clinicians to seamlessly identify and diagnose parental alienation in order to recommend subsequent treatment.

The available scientific evidence has influenced the acceptance of parental alienation among psychiatrists, psychologists, social workers, and family counselors who evaluate and treat children in high-conflict divorces. The diagnosis will help clarify that behaviors endorsed by children alienating a parent are significantly different than those who have other diagnostic labels (Bernet, 2010). The only theoretical perspective use by proponents of PAS is attachment theory; an emotional bond between a child and their caregiver (Bowlby, 1969 as cited in Garber, 2004). A healthy attachment is crucial to human development and alienation

severely compromises the child from having a normal and healthy attachment from the parent(s). The goal of formalizing a diagnosis will assist evaluators to determine the best interests of the child and avoid negative consequences; outcomes range from minor distress to major psychopathology and from childhood to adulthood (Lowenstein, 2007).

In contrast, some researchers are reluctant to formalize a diagnosis and argue several reasons against it. First, empirical data and peer reviewed studies are not sufficient to support the idea of adding a new child disorder (Shapiro & Walker, 2010). Literature on the concept of PAS fails to meet expectations of strong evidence and rather rely on authority, anecdotal information and circular logic to affirm arguments (Peptin et al., 2012). For instance, the definition of parental alienation is when one child allies him/herself strongly with one parent and rejects a relationship with another without legitimate justification (Bernet, 2010). However there is no explanation of what measures are to be used to determine what constitutes “legitimate justification” or “irrational” feelings towards a parent. Proponents of PAS provide shallow explanations and lack operationalization and definition of concepts that are not objective and verifiable.

Second, PAS is likely to replace child abuse and domestic violence as a commonly believed etiology of a child’s mental health problem. Courts are already seeing allegations of alienation as a dangerous tactic in child custody cases to encourage a change in parenting arrangement to parents who have been accused of abusive behavior. That is, parents are accusing the other of alienation rather than child abuse or domestic violence to explain the child’s behavior of maltreatment towards them (Jaffe, Lemon & Poisson, 2003; Meier, 2009; 2010; Pepton et al., 2012). Furthermore, it is difficult to tell the difference between alienation and real estrangement (Kelly & Johnston, 2001). A change in a child’s relationship with one parent may be merely a natural reaction to the parents separating. There are risks of mis-diagnosing children when the action of rejecting a parent may simply be a reactive consequence of the parent’s separating. Since, “legitimate justification” and “irrational” thoughts have not been operationalized, it is impossible for clinicians to conclude if a child is suffering from PAS, anxiety, or post-traumatic stress disorder for instance (Walker & Shapiro, 2010; Pepton et al., 2012).

Third, there is a lack of sufficient empirical data for courts to use PAS as a reason to force reunification of children with an alienated parent. One can only hope this custody change will facilitate a healthy growing environment for the parental relationship. Even if a child is diagnosed, there are no empirically validated interventions that can be implemented.

Although PAS will not be considered in the upcoming DSM-V, it may be propositioned again. Parental alienation is still a problem with or without a diagnosis. Therefore, the importance of researching parental alienation is further exemplified. An area of parental alienation that requires considerable attention is strategies for intervention.

### **1.3 The Impact of Parental Alienation on Children**

Parental alienation is a contentious subject in literature because children who reject a parent following divorce is one of the greatest challenges for families and professionals (e.g., judges, lawyers, and clinicians) who serve them (Bala, Hunt & McCarney, 2010; Bakers & Chambers, 2011).

The impact of divorce has been widely studied and there is a general consensus that negative outcomes for children are not due to the divorce per se, but the exposure and involvement in parental conflict that is harmful for children (Bing, Nelson, & Wesolowski, 2009; Bala et al., 2010). A reason that parental conflict is harmful for the children involved is due to the intensity of negative emotions in the presence of children by their caregivers. The children can also wrongly blame themselves for the parents' conflict (Davies, Sturge-Apple, Cicchetti & Cummings, 2008). The perspective the children come to understand, is that the parents would have stayed together if they were not fighting about them. Another reason that parental conflict is harmful is the explicit and implicit expectation that the child will agree with one parent at the expense of another. Ideally, a parent would like to have their child view him/her as "always right" and the other parent as flawed. This can lead the child to side with the alienating parent in order to cope with being torn between two parents. That is, the child will side with one parent in order to resolve conflict (Baker & Chambers, 2011).

Lavadera, Ferracuti and Togliatti (2012) are amongst the first to explore parental alienation syndrome in Italian cases. The researchers compared twelve court cases where Parental Alienation Syndrome (PAS) was diagnosed using Gardner's (2004) criteria to twelve cases where PAS was not diagnosed. A content analysis revealed that no gender differences exist for the alienated parent; most of the alienating (favored) parents lived with the child since the divorce; and 50% of the cases mother had custody of the child, in 35% of cases father had custody and 15% of cases a third party had custody (i.e. grandparents or Social Services). The findings have implications for the types of characteristics that are displayed by children who reject a parent. Results revealed no gender differences and both groups had psychological and emotional maladjustment. In the PAS group, participants tended to be *only* children; attended psychotherapy; belittled both their mother and father; tended to have a distorted family reality and less respect for authority; displayed psychological characteristics such as identity problems and difficulty in relationships. The results of this study are applicable to the divorce population of Italy and are prone to the limitations of exploratory studies. Nonetheless, the study provides valuable information in developing future research. These factors are important to consider when implementing intervention and determining why some types of intervention (i.e., family therapy, reunification therapy) may not work for specific populations. For example, a child who is generally disobedient and belittles both parents may not benefit from being sent to workshop such as Family Bridges (Warshak, 2010), but other forms of therapy may be better suited. In fact, coercing a child to attend such a workshop may be detrimental. For instance, Warshak (2010) reported one boy retaliated by physically harming his alienated mother.

#### **1.4 Parental Alienation as a Defense Mechanism for Domestic Violence and/or Child Abuse or Neglect**

The use of parental alienation as a scheme to detract from allegations of domestic violence has started to become problematic in custody cases. Abusive parents claim to be victims of parental alienation when their child(ren) have rejected them. That is, parental alienation is being used as a means to conceal a child's legitimate (i.e., abuse or fear) reasons for rejection of that parent (Jaffe, Lemon, & Poisson, 2003).



There has been a recent increase in allegations of parental alienation as an alternative where domestic violence or abuse has been alleged against fathers (Brown, 2008). Parental alienation is being used as a defense tactic by lawyers for fathers who have been accused of domestic violence or sexually abusing their children (Hoult, 2006). Instead of mothers legitimately trying to protect their children from exposure to violent and abusive fathers, the resistance that children are externalizing is viewed as a result of mothers intentionally trying to sway their child(ren) to alienate their fathers. That is, children who have witnessed abuse against their mothers may fear seeing the father post-separation (Jaffe et al., 2003). All negative statements then made by the child obscure domestic violence and sexual abuse (Brown, 2008).

As a legal response, abiding by the PAS paradigm, some custody evaluators place the child in the care of the abusive parent or increase access time. This further re-traumatizes battered women by forcing them to work with their abuser for the sake of the children. A reported 37% of custody cases have granted custody to abusers in a study of the New York family court system (Bowen, 2008).

### **1.5 Legal Responses to Parental Alienation**

When the court substantiates a claim of parental alienation against a parent, one of the following four options are mandated by judges: (1) award or maintain custody with the favored (alienating) parent with court-ordered psychotherapy and in some cases case management; (2) award or maintain custody with the rejected parent, in some cases with court-ordered, or parent-initiated therapy; (3) place children away from the daily care of either parent; or (4) accept the child's refusal of contact with the rejected parent (Warshak, 2010). Such options do not necessarily benefit the children who are forced to drastically change their living arrangements, hindering them from a nurturing relationship with both parents. In order to prevent such outcomes there is a need to focus on prevention, and early identification and parental alienation intervention that is feasible for the modern day family going through separation and divorce.

The benefits of early intervention are: (1) to provide the child with a meaningful relationship with each parent; (2) to identify if the parent is able to meet the child's physical, emotional and psychological needs; and (3) identify cases of mental illness or personality problems as cause of parental alienation (Jaffe, Ashbourne & Mamo, 2010). It is also essential to prioritize the child's best interests in deciding which approach to use. The court must weigh the long-term benefits against risks. Risks to the parent-child relationship include psychological trauma and/or prevalence of child's destructive behavior (Warshak, 2010). Jaffe et al. (2010) advise of four priority principles that must be considered when contemplating a mode of intervention:

**Priority 1.** Protect children from ongoing parental conflict and litigation.

**Priority 2.** Protect the stability and security of the child's relationship with the primary parent and respect the right of the primary parent to direct his or her own life.

**Priority 3.** Respect the rights of the children to have a meaningful relationship with each parent.

**Priority 4.** Promote the benefits to children of having a positive relationship with a co-parenting team.

When making a custody and access order, subsection 16(8) of the *Divorce Act*, R.S.C. (1985, c.3 (2<sup>nd</sup> Supp.)), provides that the court shall take into consideration only the best interests of the child of the marriage as determined by the condition, means, needs, and other circumstances of the child. The best interests of the child(ren) (see Appendix A: Best Interests of Child for definition and case law) are most vital and the priorities outlined above need to be addressed in final court decisions. Many of these guidelines are already considered by judges. However, more needs to be done with regards to therapeutic intervention. Psychotherapy can assist to amend the effects of separation for both parents and children, especially those in high-conflict.

## 1.6 Therapeutic Intervention For Parental Alienation

Several approaches have been suggested to address parental alienation, including no intervention, parent education, voluntary individual and family therapy, assessment, court monitoring and reviews, court mandated interventions, and extreme and intensive intervention (see Jaffe et al., 2010 for discussion). Although there has been research in regards to general interventions in the literature, there has been a recent interest in psychoeducation. These interventions revolve around a workshop or camp where children who have severely alienated a parent are taught to adjust and be willing to make amends with the alienated parent. I will discuss two main camps that have been notable in North America, Family Bridges: A Workshop for Troubled and Alienated Parent-Child Relationships<sup>TM</sup> and Overcoming Barriers.

Richard Warshak (2010) developed The Family Bridges Workshop program for children who have alienated/rejected a parent. This program was originally designed for the use of intervention for abducted children. The purpose was to provide relief from the stressful transition of living with their parents, for whom they had no contact for long period of time. The workshop is held for a period of four days in which the child experiences four modules with the rejected parent. Warshak (2010) concludes that Family Bridges Workshop is an effective program as 78% of the cases showed decreased or diminished parental alienation as reported by the estranged parent. Reports were recorded post-workshop for those parents that kept in touch with the program instructors by sending updates. Local mental health professionals supplemented the parent's feedback. A discussion of the program follows.

In order to participate in the workshop, enrollment prerequisites do exist, as the program is not suitable for all children who reject a parent. The program can reject referrals for children where the rejected parent or court prematurely seeks the workshop without sufficient efforts with other interventions, the child is not at risk of severe degrees of estrangement or does not meet other selection criteria, such as the child is realistically estranged from the rejected parent. Warshak (2010) in his evaluation of his program fails to provide information about how he assesses the severity of the estrangement of the rejected parent. This creates a threat of internal validity (i.e. selection and experimenter bias) because he does not report his

criteria for who was included in the program and only extreme cases of parental alienation are included. In using extreme cases, there is a likelihood of significant results. Especially without a comparison group, improvements are highly likely. To further support this notion Warshak (2010) examined only 18 children who had rejected a parent, a very small sample size. In comparison, 499 alienation court cases were found in years 2010-2012 from a Westlaw database search in Canada.

A detailed examination of the families revealed eight children had no contact with the rejected parent for a significant length of time ( $M = 24$  months), and 15 had limited or sporadic contact infused with hostility. Two years is a long time without contact. The process of the rejected parent and child meeting in a safe environment, where they participate in activities together may naturally facilitate less hate or rejection of the parent on its own. The process of spending time together may be equivalent to providing no intervention at all. The discussions of the techniques used in the workshop are consistently noted as methods that have been empirically validated such as metacognitive monitoring of thinking process to assist in critical thinking. The concepts described by Warshak (2010) are similar to those presented to a first year Psychology class. This provides support for the program in that it was devised from concrete methods of learning; however, considering the ages of some of the children, the curriculum may be difficult to comprehend. In fact, some parents may not even have the educational background to understand the information being presented – this can limit the effectiveness of the program. Additionally, the use of this program with different ethnic minorities is not addressed. Given, that North America has a diverse population it is important to address the implementation of this workshop with such families. In summary, Warshak (2010) does provide a starting point to address extreme cases of parental alienation; however, the lack of comparison groups and rigor in his qualitative study does not allow for generalization of the results.

Overcoming Barriers Family Camp (Sullivan, Ward & Deutsch, 2010) is another innovative intervention that was developed by attorneys, a judge, court personnel, mental health professionals and family camps staff to address the failure of other parental alienation interventions. Specifically, the program addresses the needs of families where one or more children are resisting contact with the rejected parent. In contrast to the Family Bridges

Workshop, the Overcoming Barriers Family Camp involves all members of the family in a five day workshop. The program includes: providing an intensive psycho-education in a safe, structured and supportive experiential-based camp milieu; intensive co-parenting work; and parent-child interventions (Sullivan et al., 2010). Researchers first piloted this program in 2008 with 5 families. Based on feedback, in 2009, 10 families participated and modifications were made to better serve these participants. Results of the exit evaluations indicate, 5 out of 11 adult participants rate the camp experience 5 out of 5 (1 = very poor; 5 = very good) and 6 rated it 4 in 2008. In 2009, 9 out of 10 adult participants rated the camp experience 5, and 1 rate it 4. Overall, most ratings were positive in terms of the morning activities, camp activities and interactions with psychologists in both years. Facilitators also collected comments and feedback from children to help improve subsequent camps. The biggest limitation of this study is that Sullivan et al. (2010) only discuss the results of their pilot data in 2008 after the conclusion of the camp. This is a concern as the results of their 2009 would have been helpful in examining the effectiveness of the program. The effectiveness of the camps showed mixed results. Of the six families one did not return messages; in a second family one is enjoying joint access to the children; in a third family, the father has visiting privileges on alternative weekends; a fourth family, the mother is still estranged and; the fifth family is still involved in litigation, and the child is still resisting the rejected father. The sixth family is having mixed results with the custodial mother seeing children in family therapy and weekly for dinner, but the children are still resisting her. Both Family Bridges and Overcoming Barriers camps have drawbacks as interventions for children who reject a parent.

The limitations of workshops include the practicality of attending. It has been noted that one workshop can cost from \$7,500 to \$20,000 (Warshak, 2010; Sullivan et al., 2010). This does not include additional travel costs. Since workshops and camps are newly developed programs, location availability is very limited, one must travel to where the instructors reside. The primary shortcoming of these camps is that the long term effects have not been measured to determine whether treatment worked. For instance, Jaffe et al., (2010) noted in one case, a teenager after returning from an intervention program, ran away from home and was admitted to a mental institution (*J.K.L. v. N.C.S.*, [2008] O.J. No. 2115, para. 193 (ON. S.C. 2008)). There is also the issue of facilitators not using a control and comparison group. It

may be possible that the accumulation of the different interventions (i.e. treatment effects) led to the positive outcomes of these workshops, since they are the final intervention being used. Therefore, the workshop may not be the direct cause of decreasing the level of parental alienation in children. It is important to recognize that legal ramifications (e.g. custody change) are often partnered with clinical interventions (e.g. counselling) to ameliorate the effects of parental alienation.

### **1.7 Experts in the Court Room**

A judge has the option to order an independent mental health professional to complete an assessment of the parties and submit a report to the court regarding custody or access issues. This type of custody and access assessment is made with the consent of all parties or can be ordered by courts where either or both parties object. Further, lawyers may also agree to an assessment without the judge's order. The purpose of a custody and access assessment, according to APA guidelines is "to investigate a substantial array of conditions, statuses, and capacities. When conducting child custody evaluations, psychologists are expected to focus on the factors that pertain specifically to the psychological best interests of the child" (p. 864, APA, 2010).

Involvement of a mental health professional and an expert in the judicial process is helpful. An expert is often used pre-trial or during trial as a consultant. A lawyer or judge may call upon an expert in order to develop or provide knowledge about an unfamiliar topic that further helps to frame complaints or understand relevant issues. Experts play a pivotal role in the development in final judgments. In fact, 95% of tort cases are resolved without a trial (Slovenko, 1990). This is true of family cases also.

Expertise in legal responses to child maltreatment plays a much more vital role. Experts are able to help draw inferences from the existing body of scientific literature. These inferences then help to assess the strength and weaknesses of available evidence, and the expert's opinion which may lead to either dismissal or support for allegations (Levesque, 2008). Undoubtedly, experts influence legal responses.

## 1.8 Parental Alienation in Canadian Courts

Parental alienation has been widely recognized among researchers, mental health professional and the courts. In fact, there has been a significant increase in the number of cases involving allegations of parental alienation. Bala et al., (2010) examined Canadian court cases from 1989-2008 and highlighted deterrents to decreasing parental alienation behaviors such as court-ordered therapeutic intervention, change in custody (i.e. suspension of access; joint custody), supervision of access, enforcing one parent to pay a portion of the other parent's legal fees, contempt of court (i.e. imprisonment of alienating parent; paying a fine) and police enforcement. The researchers do a good job of describing the complex problems that arise in cases of parental alienation. Generally, they found that in cases where alienation is present, a common judicial response was to change custody arrangements for children. Bala et al.'s (2010) discuss methods of intervening in cases of parental alienation; they fail to acknowledge interventions that a parent or children may have participated in before a matter was taken to court. They also failed to mention factors (i.e., alienation behaviours) that may help identify signs of alienation earlier in the custody process.

Exploration of early intervention is absent in studies of parental alienation. Although researchers (Bala et al., 2010; Jaffe et al., 2010) have suggested methods to identify alienation during its early stages, the use of custody and access evaluations by mental health professional are important to consider in alienation court cases. In addition, the level of parental conflict, therapy involvement prior to the commencement of trial, the mental health of parent and child(ren), and type and level of alienating behaviours can be useful in early identification of alienation before it deteriorates and resolutions become limited. Best practice circumstances will decrease the likelihood of copious court involvement and costs to all parties involved.

Although incident rates of alienation from 1989-2008 have significantly increased, it is important to understand recent cases as applicable to the current Canadian population (Bala et al., 2010). It is also important to examine factors (i.e., legal responses) that have not been included in previous research. The present study will build on the existing literature on parental alienation by addressing specific research questions.

### **Part I Research Question**

What are the current trends in legal proceedings in custody cases where parental alienation has been raised as an issue, compared to previous years? What are the judicial, legal, parent, and child factors that differentiate between cases where a judge makes a finding of alienation and cases where it is only alleged?

### **Hypotheses Part I**

There will be an increase in the number of court cases where parental alienation is raised as an allegation from 2010-2012, as opposed to previous years.

### **Part II Research Question**

What are the current trends in custody court cases when alienation is substantiated by a judge? What are the current trends in custody court cases when alienation is *not* substantiated by a court judge? What is the level of involvement of mental health experts in custody cases involving allegations of alienation? How often are custody evaluations being utilized in cases? Are judges working together with mental health experts to identify alienating behaviours?

### **Hypotheses Part II**

When there is a finding of alienation, the alienating parent is less likely to be the primary caregiver compared to cases where there is no finding of alienation.

An alienating parent will be more likely to have a mental health concern (i.e., psychological issues, trait or disorder) than the alienated parent when there is a finding of parental alienation compared to when there is no finding of alienation.

When there is no finding of alienation, the rejected parent will be more likely to have a charge of either domestic violence and/or child abuse or neglect.



There will be a disagreement between mental health professionals involved and judges in the identification of parental alienation.

### **Part III Research Question**

Are court-ordered therapeutic interventions being used as a method of addressing the impact of alienation on parent(s) and their children?

### **Hypotheses Part III**

There will be fewer clinical intervention mandated when parental alienation is found by the judge for the alienating parent compared to cases when there is no finding of alienation.

Children will be more likely participate in some form of therapeutic intervention (i.e., individual counselling, group therapy, workshop) to specifically address parental alienation when there is a finding of alienation compared to when there is no finding of alienation.

### **Part IV Research Question**

What terminologies are judges employing to describe what has been known in the literature as parental alienation? Is the number of cases where parental alienation is referred to as “Parental Alienation Syndrome (PAS)” or “Parental Alienation Disorder (PAD)” increasing?

### **Hypotheses Part IV**

Judges will rarely use the label “Parental Alienation Syndrome” in decisions; rather they will refer to parental alienation, alienation or alienating behaviours when making findings.

## Chapter 2

### 2 Methodology

The current study aimed to build on previous research by providing more recent information to guide future research about parental alienation. The ability to follow participants currently involved or who had been involved in litigation was not feasible. Therefore researchers relied on available data to conduct the current study. A retrospective, quantitative case review of 101 Canadian court cases from January 2010 to December 2012 was completed. This study replicated the methodology described in Bala et al. (2010) by conducting a search for cases using two major Canadian databases of judicial decisions, and LexisNexis Academic (Quicklaw). Specific search terms included “parental alienation,” “alienated child,” “alienated” or “alienating parent.” Qualitative information from cases was provided wherever it was deemed necessary to illustrate a finding.

#### 2.1 Participants

The initial search for cases included only those where “parental alienation” was referenced as those in the above form. Judicial decisions that primarily focused on the allegation of parental alienation in a custody case, whether substantiated or unsubstantiated, were the focus of this study.

Bala et al. (2010) noted “the reported case law does not reflect the total number of cases in which alienation issues arise. Many rejected parents give up the struggle to maintain a relationship with a hostile child, either lacking the emotional energy and financial resources, to seek to change the situation, or deciding that the child is better off not being ‘caught in the middle’ of litigation. Further, if litigation is commenced the parties are still likely to settle without a trial, even in those cases involving alienation” (p. 165). Settled cases are not included in the current study. Although some of the cases that do not go to trial are unusual, an examination of the reported cases provide valuable insight as it informs research regarding how the courts comprehend the most high-conflict cases. Other cases that were excluded were those that did not satisfy the inclusion criteria using the aforementioned search terms,

that reported insufficient information, that were adjourned to a later date, those involving same-sex couples, and those that were in French.

**Ethical considerations.** It is important to ensure that persons that have been involved in litigation are not identifiable in our case review. To ensure confidentiality, only initials or last names were used to identify persons in our data files. All coding sheets were also locked up in a file cabinet. To ensure anonymity, no names or initials are used in the current paper.

## 2.2 Measures

**Overview of the judicial and legal factor definitions.** The major judicial and legal factors that were explored are gender of judge, gender of custody evaluator, presence of custody and access evaluation, access plan, custody designation, whether a mental health professional identifies parental alienation, judge identifies parental alienation, judge makes finding of parental alienation, judge makes finding of parental alienation syndrome, judge suggests counselling for alienating parent, judge suggests counselling for rejected parent, judge mandates counselling for alienating parent, and judge suggests counselling for the rejected parent. These factors are deemed important in order to highlight the current perspectives of parental alienation in custody court cases in Canada (see Appendix B for operation definitions of all factors).

**Overview of the parental factor definitions.** The major parental factors explored for the alienating parent and alienated parent are gender, legal representation, marital status, presence of a psychological problem, trait or disorder, allegation of domestic violence, finding of domestic violence, allegation of child abuse and/or neglect, finding of child abuse and/or neglect, each parent's relationship with the children, parent receiving counselling pre-trial and post-trial; individual counselling including any type of personal therapy, and parenting classes. Other factors included family therapy pre-trial, and post-trial, and various types of alienating behavior committed by a parent(s). These factors are important to understand in order to better inform the legal and mental health professionals of the dynamics of parental alienation.

**Overview of the child factor definitions.** The major child factors explored are age, gender, number of children per case, the presence of a lawyer for the child(ren), the presence of child protective services, the child(re) displaying a psychological problem, trait or disorder, the child(ren) receiving individual counselling pre-trial and post-trial; counselling included any type of personal counselling. Other factors included participating in family therapy pre-trial and post-trial. Factors that targeted counselling were child(ren) receiving individual counselling, group therapy, or attending a workshop or camp. Lastly, various types of behavior presented by children as a result of alienation were evaluated.

These factors are valuable in understanding the impact of alienation on children and the court's involvement in alleviating some of the consequences of alienation committed by a parent(s).

### **2.3 Procedure**

Randomization of the cases was completed by organizing cases by month. Any duplicate cases from Westlaw and LexisNexis databases were eliminated. Using Research Randomizer computer software, cases from each month were randomly selected for coding.

**Coding system.** Parental alienation measures were independently assessed by two reviewers (graduate students) using a coding system that evaluated pertinent factors to alienation. The variables were primarily based on Bala et al., (2010) study, updated by the authors to investigate the research goals of this study (see Appendix A Coding Data Sheet).

Training on the coding system was provided by a researcher who has experience coding custody cases. Since this was the first use of the testing instrument, a pilot study using 20 court cases was completed to evaluate inter-rater reliability and assess the data coding sheet for test re-test reliability. Once a high positive kappa reliability score (of 0.9 or higher) was achieved, the reviewers coded the remaining 81 court cases. Inter-rater reliability was re-assessed overall by randomly selecting 20 cases, therefore yielding an overall kappa of 0.93 score of inter-rater reliability. No estimates of validity exist at this time.

To ensure trustworthiness, researchers included direct quotes from court cases to exemplify findings and reflections. For the purposes of this study and within in the context of the results section, the alienating parent is referred to as *AP* and the alienated parent is referred to as *non-AP*.

#### **2. 4 Data Analysis Plan**

All identified factors were screened at the univariate level using a chi square analysis. The alpha level was set to .05 to determine statistical significance for planned tests. Unplanned tests were set to .01 alpha levels to determine statistical significance. The probability that a test will be statistically significant at the .05 alpha level increases as the number of tests increase because of the law of large numbers (Dallal, 2001; Peres-Neto, 1999). To reduce the likelihood of Type I Error (Gravetter & Wallnau, 2005) a more conservative alpha level was used for unplanned comparisons.

## Chapter 3

### 3 Results

#### 3.1 Descriptive Characteristics of Judges and Cases

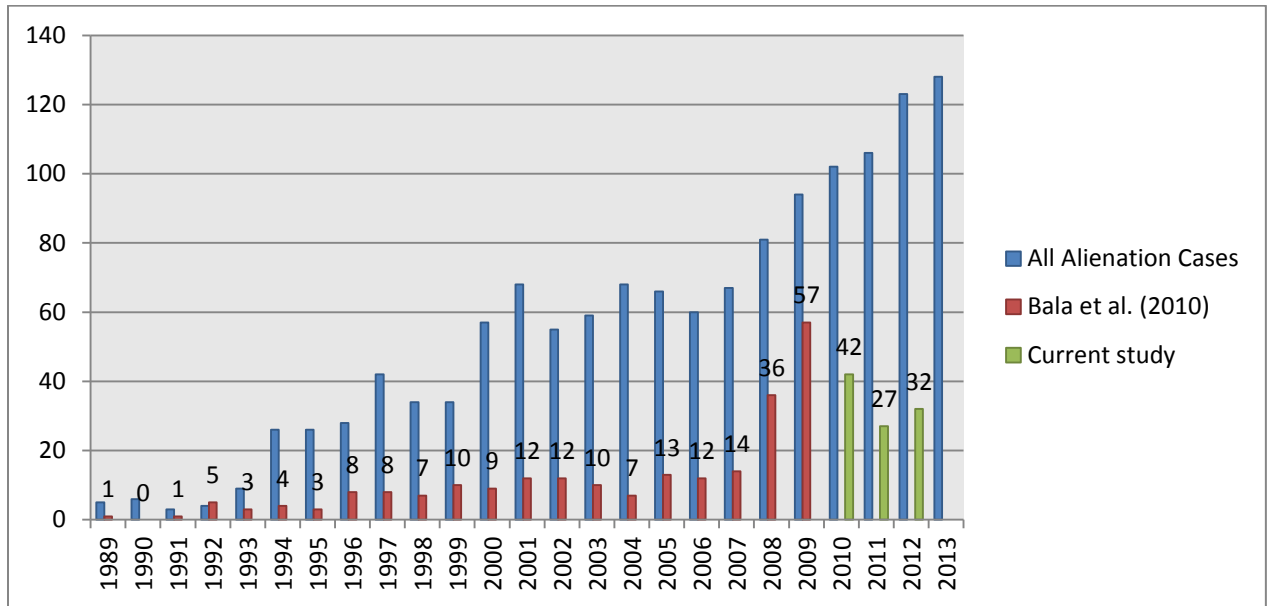
There were 101 cases reviewed in the present study. Many cases included variation orders, final custody orders, interim orders, and appeals. These cases included decisions made by male judges in 49% of the cases; female judges in 38% of cases and; there was at least one male and at least one female judge in 5% of cases. In 9% of cases the judge's gender was unidentifiable. Judges ordered custody evaluations in 61% of the cases, and there was a custody evaluation present for 66% of the cases involved in the sample. Cases in the sample were likely to involve at least one mental health professional (79%) and have involvement of Child Protective Services (59%). In 46% of the cases a mental health professional identified parental alienation. In addition, a lawyer for the children was involved in 35% of the cases.

Judges identified (discussed parental alienation over the course of trial and/or defined alienation, stated that parent(s) were engaging in some form of alienating behaviours but did not make a finding) parental alienation in 70% cases, made findings of parental alienation in 31% of cases, and made a finding of Parental Alienation Syndrome (PAS) in 2% cases.

The jurisdictions in which judges made these decisions were: Ontario (46%), British Columbia (22%), Nova Scotia (8%), Alberta (6%), Manitoba (5%), Newfoundland and Labrador (5%), Saskatchewan (3%), Prince Edward Island (1%), and Northwest Territories (1%). Some Quebec cases were excluded in this study as they were written in French which did not meet inclusion criteria. Thus, this province is underrepresented in this study.

A general search of cases where alienation had been raised as an issue from 1989 – 2013 demonstrates an increase of alienation cases per year (see Figure 1: All Alienation cases). Between 2010 and 2012 there were 331 cases where alienation was claimed. From these cases, 101 cases were included in the current sample. Bala et al. (2010) ended their search in the year 2009. Adding to their study, it is clear that the number of alienation cases has continued to increase. Note, there is missing data for 2009 as this year was not examined in the current study or Bala et al. (2010).

### Alienation Cases in Canada 1989-2013



*Figure 1.* Number of Canadian Court cases from 1989-2013 where parental alienation has been raised as an issue. Results from LexisNexis Academic database.

Ontario is the most populated province and had more cases per year than any other province from 2010 to 2012, followed by British Columbia (see Figure 2). Remember that Quebec is underrepresented in this chart because some cases were eliminated because they did not fit criteria for review. The results are organized by percentage of parental alienation cases per year. The percentage of population that each province or territory has is also presented.

### Alienation Cases by Province 2010-2012

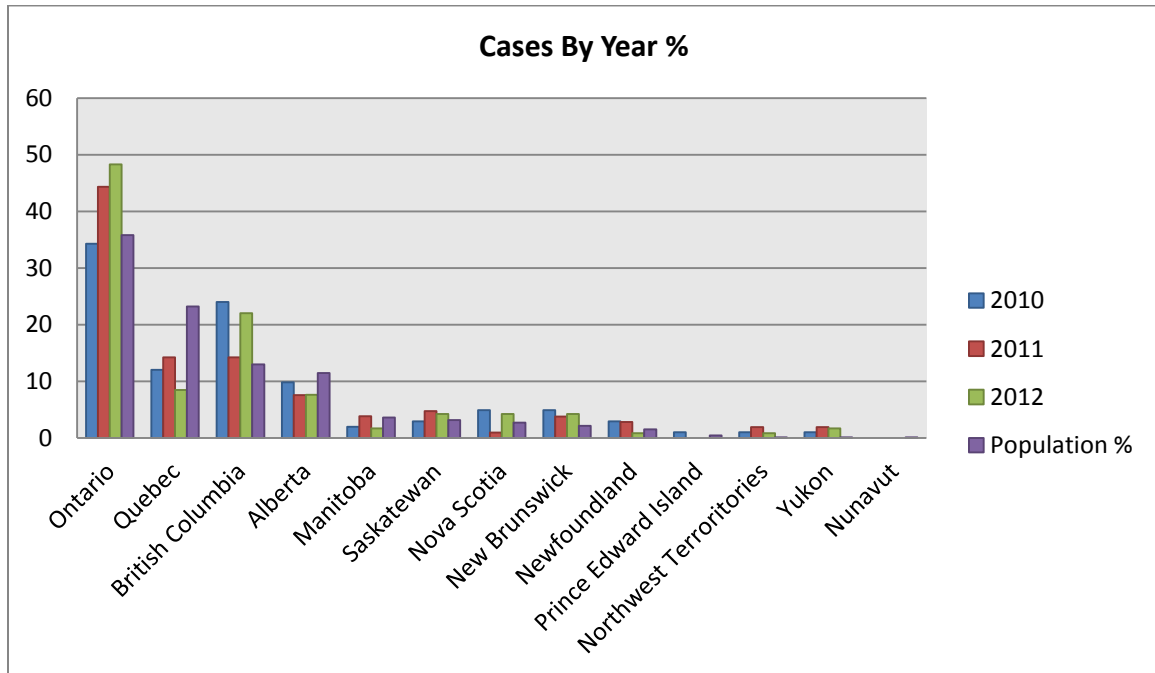


Figure 2. Parental alienation cases by province and territory for 2010-2012.

### 3.2 Descriptive Characteristics of Parents

In 61% of cases the mother was the alienating parent, with 37% fathers allegedly alienating. In 60% of cases, the father was the alienated parent, with the mother being the alienated parent in 37% of cases. In 13% of cases both parents made allegations of alienation against one another.

There was variation between the incomes of the alienating parent and the alienated parent. An alienating parent frequently made \$50,000 - \$99,999 in 14% of cases, while the alienated parent made \$25,000 - \$49,999 in 16% of cases, with the majority of the cases (28.3%) falling between \$25,000 and \$99,000 per annum.

The level of conflict between the parents in the sample was nearly always “high” (92%), with only 8% of parents fitting into the “medium” conflict group and no parents meeting the criteria of “low conflict”



Allegations of domestic violence against the alienating parent were present in 33% of the cases and these allegations were substantiated in a finding of domestic violence in 6% of these cases. Allegations of domestic violence against the alienated parent were present in 38% of the cases, and these allegations were substantiated in a finding of domestic violence in 9% of the cases.

Allegations of child abuse against the alienating parent were found in 22% of the cases, with these allegations substantiated in 2% of the cases through criminal charges laid. Allegations of child abuse against the alienated parent were found in 44% of the cases, with none of these allegations resulting in a criminal charge (see Appendix C for operational definitions of terms).

In 16% of the cases in the sample, the alienating parent displayed psychological problems or was diagnosed with a psychological disorder. In 15% of the cases, the alienated parent displayed psychological problems or was diagnosed with a psychological disorder.

### **3.3. Descriptive Characteristics of the Children**

The children in these families ranged from 2 to 22 years of age at the time the decisions were made, with a mean age of 12 years ( $SD = 4.59$ ) for all children in the study, 8.78 years ( $SD = 3.85$ ) for the youngest child in the family, and 13.50 years ( $SD = 4.95$ ) for the oldest child in the family. The number of children in the families that were involved in the cases ranged from one to four, with a mean number of 1.72 children ( $SD = 0.75$ ). There was one child in 45% of the cases, two children in 39% of the cases, three children in 15% of the cases and four children in 1% of the cases. In these families, 33% of cases had female only children, 36% of cases had male only children, and 29% of cases had mixed gender children.

### **3.4 Chi Square Analysis of Judicial and Legal Factors**

Six of eight judicial and legal factors were found to be significant. There was a statistically significant difference between the presence of a custody and access evaluation versus no evaluation in the case,  $\chi^2(1, N = 100) = 6.16, p < .01$ . 66% of cases had a custody evaluation report. Most cases involved at least one mental health professional to assist in the alienation

allegations ( $M = 2.18, SD = 1.93$ ). There were 12 cases (12%) where more than 6 mental health professionals were involved.

There was a significant difference for whether a mental health professional (i.e., psychologist, social worker, counsellor, therapist, custody evaluator) identified (stated that he/she found evidence for alienating behaviors in a parent(s)) parental alienation in a case,  $\chi^2(1, N = 100) = 18.32, p < .01$ . A mental health professional identified alienation in 46% of total cases.

There was a significant difference for whether a judge identified (discussed parental alienation over the course of trial and/or defined alienation, stated that parent(s) were engaging in some form of alienating behaviours but did not make a finding) alienation in a case,  $\chi^2(1, N = 100) = 19.00, p < .01$ . A judge made a finding of alienation in 47% of cases where he or she identified or discussed parental alienation within the context of the trial.

There was a significant relationship between a mental health professional and a judge making a decision about the identification of parental alienation in cases where alienation was substantiated,  $\chi^2(1, N = 45) = 6.12, p < .01$ . In general, when a mental health professional identified parental alienation, the judge agreed in 77% of cases where there was a finding of alienation regardless of the availability of a custody evaluation.

A mental health professional and a judge were not likely to agree on the identification (see above for definition) of alienation,  $\chi^2(2, N = 99) = 1.05, p > .01$  in the presence of a custody evaluation. When a mental health professional identified parental alienation, the judge agreed on 48% of cases when there was a custody evaluation. That is, mental health professionals disagreed in identifying parental alienation 52% of the time when there was a custody evaluation.

A judge was likely to mandate counselling intervention for the alienating parent to address alienation,  $\chi^2(1, N = 100) = 17.55, p < .01$ . There was no significant relationship between a judge making a finding of alienation and mandating counselling for the alienated parent,  $\chi^2$

(1, N = 100) = 3.30,  $p > .01$ . A judge mandated counselling for the alienating parent in 39% of cases, and 19% of cases for the alienated parent when alienation is found.

A judge was likely to cut off access to the alienating parent,  $\chi^2 (1, N = 100) = 10.25, p < .01$ . A judge cut off a parent engaging in alienation behaviours in 26% of cases when alienation was found.

Regarding to custody, there was a significant difference between type of access arrangement,  $\chi^2 (10, N = 91) = 23.33, p < .01$ . Sole custody was given to the alienated parent with access to the alienating parent in 35% of cases where alienation was found, this was followed by shared/joint custody (32%), and sole custody given to the alienated parent with supervised access to the alienating parent (6%). Shared/joint custody was designated in 58% of all alienation cases

The judge made a finding (explicitly stated that parent(s) had engaged in parental alienation behaviours) of parental alienation in 31% of total cases. Judges rarely used the label “Parental Alienation Syndrome” with only 2% of court made decisions using this term. Table 1 illustrates an overview of the results for the judicial and legal factors.

Table 1

*Frequencies and Total Percentages of Judicial and Legal Factors in Context of Trial Outcome*

	Trial Outcome		$\chi^2$
	Alienation Unsubstantiated	Alienation Substantiated	
	n = 70	n = 31	
Gender of Judge <sup>1</sup>			
Male	30 (43%)	19 (61%)	7.52
Female	32 (46%)	6 (19%)	
Both	2 (3%)	3 (10%)	

Gender of Custody Evaluator <sup>2</sup>			
Male	16 (43%)	11 (48%)	4.84
Female	18 (49%)	11 (48%)	
Both	3 (8%)	1 (4%)	
Custody Evaluation			
Present	41 (59%)	26 (81%)	6.16**
Not Present	29 (73%)	5 (16%)	
Mental Health Professional			
Identified PA	22 (31%)	24 (77%)	18.32**
Did not identify PA	48 (69%)	7 (23%)	
Judge's Findings			
Identified PA	40 (57%)	31 (100%)	19.00**
Did not identify PA	30 (43%)	0 (0%)	
Intervention for Alienation (for parent(s))			
Suggested for AP	10 (14%)	6 (19%)	0.41
Mandated for AP	4 (6%)	12 (39%)	17.55**
Suggest for non-AP	8 (11%)	6 (19%)	1.13
Mandated for non-AP	5 (7%)	6 (19%)	3.30
Access Plan			
AP cut-off	3 (4%)	8 (26%)	10.25**
Non-AP cut-off	2 (3%)	1 (3%)	0.01
AP supervised access	10 (14%)	4 (13%)	0.03
Non-AP supervised access	5 (7%)	2 (6%)	0.02
Custody Designation			
Sole custody to non AP; access to AP	11 (16%)	11 (35%)	23.33**
Joint custody	18 (26%)	10 (32%)	
Sole custody to non-AP; supervised access to AP	8 (11%)	2 (6%)	
Sole custody to AP; access to non-AP	15 (21%)	1 (3%)	

Sole custody to AP; supervised access to non-AP	6 (9%)	0 (0%)
Parallel parenting	8 (11%)	1 (3%)
Sole custody to non-AP; AP cut-off	1 (1%)	0 (0%)
Sole custody to AP; non-AP cut-off	1 (1%)	0 (0%)
Custody to grandparent	1 (1%)	0 (0%)
Access under discretion of child protective services	1 (1%)	1 (3%)
Decision unclear	1 (1%)	2 (6%)

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Note: missing data: <sup>1</sup>(n=64) (n=28); <sup>2</sup>(n=37) (n=23); \* $p < .05$  \*\* $p < .01$

### 3.5 Chi Square Analysis of Parental Factors

Only two of seven parent factors evaluated reflected significant findings. An alienating parent was more likely to present a psychological issue, feature or disorder when there was a finding of alienation,  $\chi^2 (1, N = 100) = 5.84, p < .05$ . An alienating parent had a psychological issue in 29% of cases where there was a finding of alienation, while only 19% of alienated parents had these concerns.

An alienating parent was likely to be deemed primary caregiver in 39% of cases when there was no finding of alienation by the judge,  $\chi^2 (2, N = 99) = 7.36, p < .05$ . An alienated parent was likely to be the primary caregiver in 65% of cases when there was a finding of alienation,  $\chi^2 (2, N = 99) = 6.68, p < .05$ .

An alienating parent was not likely to have participated in personal therapy pre-trial,  $\chi^2 (2, N = 99) = 0.59, p > .05$ , or post-trial,  $\chi^2 (2, N = 99) = 3.83, p > .05$ . There were 39% of alienation cases where the alienating parent participated in counselling pre-trial, and 42%

post-trial. An alienated parent was not likely to have participated in personal therapy pre-trial,  $\chi^2 (2, N = 99) = 0.53, p > .05$ , or post-trial,  $\chi^2 (2, N = 99) = 2.46, p > .05$ . 42% of alienated parents had participated in therapy pre-trial, and 35% post-trial.

No family member was likely to have participated in family therapy pre-trial,  $\chi^2 (2, N = 99) = 2.39, p > .05$ , or post-trial,  $\chi^2 (2, N = 99) = 0.21, p > .05$ . In only 19% of alienation cases, did families participate in family counselling pre-trial, with this number dropping to 6% post-trial.

There is a likelihood that an alienating parent will had a charge of child abuse in alienation cases,  $\chi^2 (1, N = 100) = 4.60, p < .05$ . There were 6% of alienation cases where the alienating parent was found guilty of child abuse/neglect. That is, child abuse allegations against the alienating parent were substantiated in 29% of cases. An alienated parent was not likely to have allegations of child abuse,  $\chi^2 (1, N = 100) = 0.05, p > .05$ . There were no cases where there was a finding of child abuse for the alienated parent of all alienation cases.

An alienating parent was not likely to have allegations of DV,  $\chi^2 (1, N = 100) = 0.66, p > .05$  and finding of DV,  $\chi^2 (1, N = 100) = 0.02, p > .05$  in all alienation cases. An alienated parent was not likely to have allegations of DV,  $\chi^2 (1, N = 100) = 0.09, p > .05$  and finding of DV,  $\chi^2 (1, N = 100) = 0.33, p > .05$  in all alienation cases. Table 2 illustrates an overview of the results for the parental factors.

Table 2

*Frequencies and Total Percentages of Parental Factors in Context of Trial Outcome*

	Trial Outcome		$\chi^2$
	Alienation Unsubstantiated	Alienation Substantiated	
	n = 70	n = 31	
Gender of Alienating Parent <sup>1</sup>			1.47
Male	23 (34%)	14 (47%)	

Female	45 (69%)	16 (53%)	
Representation			
Self (AP)	20 (29%)	6 (19%)	0.96
Lawyer (AP)	50 (71%)	25 (81%)	
Self (non-AP)	23 (33%)	5 (16%)	3.00
Lawyer (non-AP)	47 (67%)	26 (84%)	
AP Marital Status <sup>2</sup>			3.72
Single	4 (6%)	3 (10%)	
Dating	14 (21%)	4 (14%)	
Common Law	9 (13%)	1 (3%)	
Married	13 (19%)	7 (24%)	
Divorced	27 (40%)	14 (48%)	
Non-AP Martial Status <sup>3</sup>			4.29
Single	2 (3%)	1 (3%)	
Dating	7 (11%)	6 (21%)	
Common Law	9 (14%)	1 (3%)	
Married	12 (19%)	4 (14%)	
Divorced	33 (52%)	17 (59%)	
AP Primary Caregiver <sup>4</sup>			7.36*
Yes	27 (39%)	4 (13%)	
No	42 (61%)	27 (87%)	
Non-AP Primary Caregiver <sup>5</sup>			6.68*
Yes	26 (38%)	20 (65%)	
No	43 (62%)	11 (35%)	
Gender of Primary Caregiver <sup>6</sup>			2.49
Male	16 (36%)	10 (42%)	
Female	28 (64%)	14 (58%)	
Presence of Psychological Issue(s)			
AP	7 (10%)	9 (29%)	5.84*
Non-AP	10 (14%)	6 (19%)	0.41
Domestic Violence			
Allegations (AP)	21 (30%)	12 (39%)	0.66

Finding (AP)	4 (6%)	2 (6%)	0.02
Allegations (non-AP)	27 (39%)	11 (35%)	0.09
Finding (non-AP)	7 (10%)	2 (6%)	0.33
Child Abuse or Neglect			
Allegations (AP)	15 (21%)	7 (23%)	0.02
Finding (AP)	0 (0%)	2 (6%)	4.61*
Allegations (non-AP)	30 (75%)	14 (45%)	0.05
Finding (non-AP)	0 (0%)	0 (0%)	n/a
Individual Counselling			
Pre-trial (AP)	24 (60%)	12 (39%)	0.59
Post-trial (AP)	17 (24%)	13 (42%)	3.83
Pre-trial (non-AP)	31 (44%)	13 (42%)	0.53
Post-trial (non-AP)	16 (23%)	11 (35%)	2.46
Family Therapy			
Pre-trial	6 (9%)	6 (19%)	2.39
Post-trial	3 (4%)	2 (6%)	0.21

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Note: missing data: <sup>1</sup>(n=68) (n=30); <sup>2</sup>(n=67) (n=29); <sup>3</sup>(n=63) (n=29); <sup>4</sup>(n=69); <sup>5</sup>(n=69); <sup>6</sup>(n=44)(n=24) \* $p < .05$  \*\* $p < .01$

The relationship between the alienating parent and their children was rated “good” regardless of parental alienation finding for child one and child two of a family. Similarly, this was the same for alienated parents. In 42% of cases the relationship was rated “good” for the alienating parent, while it was rated “good” in 27% of cases for the alienated parent across and up to the first four children of a family.

Most parents do engage in at least one type of alienating behavior. For overall type and amount of alienating behaviour endorsed by parent(s) see Appendix D. Five out of sixteen alienating behaviours committed by parents evaluated were significant. A parent was more likely to make a negative comment about the alienated parent in 90% of alienation cases,  $\chi^2(1, N = 100) = 7.92, p < .01$ ; a parent made a negative comment about the alienated parent’s extended family in 19% of alienation cases,  $\chi^2(1, N = 100) = 4.48, p < .05$ ; a parent required



favoritism by a child for the alienating parent in 48% of alienation cases,  $\chi^2 (1, N = 100) = 6.58, p < .01$ ; a parent made a child choose between parents in 23% of alienation cases,  $\chi^2 (1, N = 100) = 3.76, p < .05$  and; a parent made a child feel guilty about spending time with the alienated parent in 26% of alienation cases,  $\chi^2 (1, N = 100) = 6.67, p < .01$ . Table 3 illustrates an overview of alienating behaviours endorsed by parent(s) in the context of trial outcome.

Table 3

*Frequencies of Alienating Behaviors in Context of Trial Outcome*

	Trial Outcome		$\chi^2$
	Alienation Unsubstantiated n (%)	Alienation Substantiated n (%)	
	n = 70	n = 31	
Made negative comments about alienated parent	44 (63%)	28 (90%)	7.92**
Made negative comments about alienated parent's extended family	4 (6%)	6 (19%)	4.48*
Required favoritism by child for alienating parent	16 (23%)	15 (48%)	6.58**
Limited contact with alienated Parent	47 (67%)	17 (55%)	1.40
Confided in child about "adult matters" (such as marital concerns or legal issues)	28 (40)	16 (52%)	1.18
Indicated discomfort about alienated parent	23 (33%)	16 (52%)	3.19
Made communication difficult with alienated parent	22 (31%)	13 (42%)	1.05
Said alienated parent was unsafe	22 (31%)	13 (42%)	1.05

Withheld or blocked messages from alienated parent	15 (38%)	8 (26%)	0.23
Encouraged child to disregard alienated parent's rules, values, and authority	10 (14%)	6 (19%)	0.41
Displayed negative affect when child(ren) shows affection with alienated parent	9 (13%)	6 (19%)	0.18
Made child choose between parents	6 (9)	7 (23%)	3.76*
Made child feel guilty about spending time with the alienated parent	5 (7)	8 (26%)	6.67**
Asked child to spy and/or withholds information from the alienated parent	6 (9%)	4 (13%)	0.45
Requested child to refer to alienated parent by first name and/or refer to new partner as mom or dad	4 (6%)	2 (6%)	0.02
Made child feel guilty about spending time with the alienated parent's extended family	0 (0%)	0 (0%)	n/a

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\* $p < .05$  \*\* $p < .01$

### 3.6 Chi Square Analysis of Child Factors

There were four child factors out of eight that were significant. It is likely that a lawyer for the children will be involved in alienation cases,  $\chi^2 (1, N = 100) = 10.83, p < .01$ . There was a children's lawyer present in 58% of alienation cases, and only in 24% of cases where alienation was not concluded.

There was a significant difference between whether a child participated in counselling post-trial,  $\chi^2 (2, N = 98) = 10.78, p < .01$ . In 65% of alienation cases, the child participated in

counselling post-trial, while the child participated in counselling in 30% of cases when alienation was not found.

Regards to counselling specifically for alienation, it was likely the child participated in one on one counselling in alienation cases,  $\chi^2 (1, N = 100) = 6.37, p < .01$ . A child participated in one on one counselling in 32% of alienation cases. A child was likely to attend group therapy in alienation cases,  $\chi^2 (1, N = 100) = 4.61, p < .01$ . There was group therapy in 6% of alienation cases. Table 4 illustrates an overview of the results for the child factors.

Table 4

*Frequencies and Total Percentages of Child Factors in Context of Trial Outcome*

	Trial Outcome		$\chi^2$
	Alienation Unsubstantiated n (%)	Alienation Substantiated n (%)	
	n = 70	n = 31	
Number of children per case			3.67
1 child	34 (49%)	12 (39%)	
2 children	23 (33%)	16 (52%)	
3 children	12 (17%)	3 (10%)	
4 children	1 (1%)	0 (0%)	
Presence of children's lawyer	17 (24%)	18 (58%)	10.83**
Presence of Psychological issue(s)			
Child 1	17 (24%)	7 (23%)	0.03
Child 2	5 (7%)	1 (3%)	2.26
Child 3	4 (6%)	0 (0%)	1.93
Child 4	0 (0%)	0 (0%)	n/a
Presence of Child Protective Services	37 (53%)	22 (71%)	2.90
Individual Counselling <sup>1</sup>			

Pre-trial	33 (48%)	18 (58%)	1.39
Post-trial	21 (30%)	20 (65%)	10.78**
Alienation specific intervention			
One on one therapy	8 (11%)	10 (32%)	6.37**
Group therapy	0 (0%)	2 (6%)	4.61*
Workshop or camp	0 (0%)	1 (3%)	2.29

Note: missing data: <sup>1</sup>(n=69); \* $p < .05$  \*\* $p < .01$

For overall type and amount of alienating behaviour displayed by children see Appendix D. Four out of seventeen alienating behaviours displayed by children were significant. A child was likely to speak negatively of the alienated parent without guilt, remorse, or embarrassment in 52% of alienation cases,  $\chi^2 (1, N = 100) = 5.68, p < .05$ ; a child was likely to speak negatively of the alienated parent's extended family without guilt, remorse or embarrassment in 10% of alienation cases,  $\chi^2 (1, N = 100) = 3.84, p < .05$ ; a child explicitly demonstrated favoritism for the alienating parent in 42% of alienation cases,  $\chi^2 (1, N = 100) = 4.51, p < .05$  and; a child was likely to prescribe to the "Independent Thinker Phenomenon" in 39% of alienation cases,  $\chi^2 (1, N = 100) = 11.6, p < .01$ . Table 5 illustrates an overview of alienating behaviours displayed by children in the context of trial outcome.

Table 5

*Frequencies of Alienating Behaviors Displayed by Children in Context of Trial Outcome*

	Trial Outcome		$\chi^2$
	Alienation Unsubstantiated n (%)	Alienation Substantiated n (%)	
	n = 70	n = 31	
Child(ren) speaks negatively of alienated parent without guilt, remorse or embarrassment	19 (27%)	16 (52%)	5.68*

Child(ren) speaks negatively of alienated parent's extended family without guilt, remorse or embarrassment	1 (1%)	3 (10%)	3.84*
Child(ren) explicitly demonstrates favoritism for alienating parent	15 (21%)	13 (42%)	4.51*
Child(ren) prescribes to "Independent Thinker Phenomenon"	7 (10%)	12 (39%)	11.6**
Child(ren) openly discusses "adult matters" (such as marital concerns or legal issues)	21 (30%)	14 (45%)	2.18
Child(ren) refuses to visit alienated parent	31 (44%)	17 (55%)	0.96
Child(ren) refuses to interact with alienated parent	20 (29%)	13 (42%)	1.74
Child(ren) expresses fear of alienated parent	14 (20%)	9 (29%)	1.00
Child(ren) speaks to alienated parent negatively without guilt, remorse or embarrassment	12 (17%)	7 (23%)	0.42
Child(ren) disregards the alienated parent's rules, values, and authority	7 (10%)	6 (19%)	1.68
Child(ren) physically assaults alienated parent	5 (7%)	4 (13%)	0.88
Child(ren) displays guilt about expressing affection about alienated parent	5 (7%)	4 (13%)	0.88
Child(ren) expresses guilt about spending time with the alienated parent	4 (6%)	5 (16%)	2.87
Child(ren) refers to alienated parent by first name/alienated parent's new partner as mom or dad	5 (7%)	3 (10%)	0.19
Child(ren) spies and/or withholds information from alienated parent	4 (6%)	2 (6%)	0.02

Child(ren) speaks to alienated parent's extended family negatively without guilt, remorse or embarrassment	0 (0%)	1 (3%)	2.28
Child(ren) expresses guilt about spending time with the alienated parent's extended family	1 (1%)	0 (0%)	0.45

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\* $p < .05$  \*\* $p < .01$

## Chapter 4

### 4 Discussion

This study aimed to examine parental alienation, a phenomenon that has been controversial both from legal and mental health perspectives and the experiences of separating families involved in child custody disputes. The current study was descriptive and exploratory in nature and aimed to highlight the current trends in which parental alienation is operating within the Canadian court system, within families, the effects it has on children and the current strategies being implemented by court officials.

#### 4.1 Trends in Parental Alienation Cases

Although numbers of court cases have varied slightly, there has been a steady increase over time in the number of cases that explicitly raise “parental alienation” issues in Canadian courts. This finding supports previous literature (Bala et al., 2010) and our hypothesis that there was an increase in the number of parental alienation cases from 2010 and 2012 compared to previous years. Between 2010 and 2012, there were 101 cases of which only 31% of cases substantiated alienation claims by parents. In a search of cases where parental alienation was raised as a claim, between 1990 and 1992 there were 13 cases, between 2000 and 2002 there were 180 cases, and between 2010 and 2012 there were 331 cases. Thus, the term “parental alienation” has become common-place in the legal system as years have progressed. It is difficult to determine whether the increase is due to the use of the term “alienation” or rather a reflection of actual occurrence of alienation.

Hoult (2006) and others (A. Mamo, personal communication, November 2012) have noted parental alienation claims have started to be widely used to help lawyers get their clients, who have alleged to be involved in domestic violence disputes, get custody of their children. This is a matter of concern that court professionals need to be aware of when alienation claims arise.

## 4.2 Alienating Behaviours

Although a majority of alienation research focuses on the alienating parent, who is considered the instigator of the alienation process (Godbout, 2012), often both parents have been found to engage in at least one type of alienating behavior. A majority (90%) of alienating parents required favoritism by child (48%), made the child feel guilty about spending time with the rejected parent (26%), made the child choose between parents (23%) and, made negative comments about the rejected parent's extended family (19%). The most defining behaviour (i.e., badmouthed the other parent) of parental alienation was highly endorsed by both parents (72%). This behaviour may not necessarily be a symptom of alienation but is typical of most separation, divorce and custody cases.

## 4.3 The Impact of Parental Alienation on Children

Regardless of a parent engaging in alienating behaviours, most children reportedly had a good relationship with both their parents. Further, when parents engaged in alienating behaviours, in some cases the children's relationship with their parents did not impact the children. That is, it does not lead them to *actually* reject the parent or present other alienating symptoms. In the current study, 4 out of 17 internalizing and externalizing behaviours displayed by children were found significant. In alienation cases child(ren) most often (52%) spoke negatively of the rejected parent without guilt, remorse, or embarrassment; explicitly demonstrated favoritism for the alienating parent (42%); prescribed to the "Independent Thinker Phenomenon" (39%) and; spoke negatively of the rejected parent's extended family without guilt, remorse, or embarrassment.

Clawar and Rivlin (1991) described seven stages of the alienation process. Stage four includes the child showing support for the beliefs of the alienating parent, such as expressing fear of visiting the other parent or refusing to talk to that parent on the phone. Results of this study showed that parents were engaging in alienating behavior but not all children did necessarily support their beliefs or behaviours (e.g., refusing to interact with the rejected parent, speak negatively of the alienated parent). A child's relationship with the rejected parent will be impacted in his or her childhood and the relationship with the alienating parent



will be impacted in his or her adulthood. Children who are subject to alienation often realize as adults that the rejected parent is not as bad as they were made out to be. Consequentially, the parent who painted a negative picture of the rejected parent is viewed as the flawed parent. Thus, the alienating parent is setting up a potentially negative relationship in the future.

Some experts state that true alienation does not often exist. More often, children are realistically estranged from one parent or the situation is one of high conflict where both parents show varying degrees of alienating behaviour but the children themselves are not alienated. In other cases the child is siding with one parent because one parent may have more financial means than another. What child would not want to live with a parent who gives them everything (e.g., blackberry, ipod, gifts and lavish birthday parties).

Even if a child's beliefs and behaviours do not align with the alienating parents' beliefs and behaviours, the child is negatively affected. Increasing marital conflict is predictive of a child's emotional distress (Ayoub et al., 1999). A child presented at least one psychological concern in nearly half (47%) of total custody cases. Some examples of internalizing and externalizing behaviours that were displayed by children included: anxiety, inhibited, aggression, bedwetting, and problems in sleep. In one case, the child growled at people.

A psychological issue may be a result of predisposing (i.e., biological) factors or may be attributed to the exposure to high conflict between parents; either way, the effects can be detrimental. It is crucial for a primary caregiver to provide emotional and social support to children, who are going through developmental milestone in order to facilitate and help the child create a secure and healthy attachment (Bowlby, 1969).

#### **4.4 Parental Alienation as a Syndrome**

Although PAS has attracted much controversy and some researchers (Warshak, 2000) support the use of the concept, it is not often used in the legal system, with this study concluding only 2% of cases using the terminology. The notion of parental alienation as a syndrome has been criticized on the grounds that it inappropriately focuses on the alienating

parents as the source of conflict (Kelly and Johnston, 2001), fails to adequately define what would constitute a syndrome (Myers, 1993), creates a bias against women (Bruch, 2001), and has no valid scientific support (Faller, 1998). The onset of the controversy encouraged revisions of the concept, such that the term syndrome is no longer being used (Darnall, 1999) or calling it child alienation (Kelly and Johnston, 2001). Nonetheless, the topic remains controversial with ongoing attempts to formalize PAS in the DSM (Peptin et al., 2012).

Recently, a psychologist in Australia was reprimanded for providing evidence about parental alienation syndrome to the court. The judge acknowledged the mother had affected the children with the syndrome. After filing a complaint to the regulatory board, who concluded "to diagnose a patient as suffering from or demonstrating a potential to develop an unrecognised syndrome is contrary to the code of ethics."

(<http://www.theaustralian.com.au/news/nation/ruling-debunks-custody-diagnosis/story-e6frg6nf-111115991375#sthash.793xMOkG.dpuf>). This case exemplifies the cautions of citing an unrecognized syndrome as an expert of the court.

#### **4.5 Domestic Violence and Child Abuse as a Defense Tactic**

There were no significant findings of domestic violence or child abuse against the alienated parent in the current study. Therefore, we cannot conclude whether an alienated parent is using a claim of alienation as a strategy to conceal legitimate domestic violence or abuse. Despite the inconclusive findings of this study regarding to domestic violence and abuse, it is still important to understand that cases do exist in which children who are rejecting a parent (those who claim to be a victim of alienation) are doing so to seek protection rather than acting out a symptom of alienation (Brown, 2008). Proper screening procedures and assessment by the court system, such as custody and access evaluations are keystones to identifying cases where a child rejection of a parent is justified, and are not to be ignored.

#### **4.6 Unsubstantiated Claims of Parental Alienation**

Cases where alienation claims were not substantiated made up 70% of total cases in this study. In many cases a judge's reasons for rejecting a claim of alienation were unclear.

Judges often provided vague or multiple reasons for rejecting a claim. The current study did not measure rejection reasons; however common theme from the case review for reasons of rejection were similar to the findings of Bala et al. (2010). This included a justified estrangement due to significant parenting limitations; child disengaged but not rejecting the other parent and; insufficient evidence to substantiate the claim of alienation. Bala and colleagues (2010) also categorized justified estrangement due to abuse or violence in their study, however this factor was not supported in the current study, as discussed in the previous section.

#### **4.7 Change of Custody**

The transfer of custody from an alienated parent to the rejected parent is considered the most dramatic judicial response to alienation. When an application is made to vary custody, the court must determine that a “material change of circumstances” has occurred since the last custody order. The parent seeking the custody change has the obligation to prove to the court through expert testimony that the child has been alienated and that a change will involve minimal emotional distress to the child (Bala et al., 2010). A change in custody can be very disruptive. When such a legal response is taken it is often in cases of severe alienation and in cases of older children who have already made up their minds about the rejected parent. In the current study a judge cut-off all access that the alienating parent had in 26% of substantiated cases of alienation. However in 74% of cases, judges granted some sort of access to the alienating parent with 35% of decisions arranging sole custody to the rejected parent and access to the alienating parent, and 32% sharing joint custody in substantiated alienation cases. If necessary, supervised access was also ordered. Judges attempt to setup custody arrangement in a manner that the child(ren) are able to maintain or re-establish a good relationship with both parents; the best outcome for children in separated families. In any case, variation of custody should be accommodated with therapeutic intervention.

#### **4.8 Therapeutic Intervention or Counselling.**

The current study found that an alienating parent was more likely to be mandated to participate in counselling by a judge to address their alienating behaviours than the rejected

parent in 39% of alienation cases. However, this was less than half of total alienation cases, supporting the hypothesis that there is a low rate of mandated counselling when alienation is substantiated. In these cases, judges would order the parent to obtain a therapist and report back periodically to the court his or her progress. Reporting included providing a letter to the court that a therapist had been chosen and/or verification of attendance of counselling sessions. In some cases, the judge specified the type of counselling, such as re-unification therapy.

Re-unification therapy is a court-ordered intervention to help repair a parent-child relationship within the context of high conflict divorce. Re-unification therapy is often introduced when a parenting plan is not being followed or when a child resists maintaining a relationship with one parent or the relationship is problematic. Reunification therapy involves both parents and the children (Darnall, 2011). Re-unification therapy has largely focused on cases where parental alienation has occurred. However it can also involve the process of uniting parent(s) and children when the disruption of the parent-child relationship is caused by past abuse, domestic violence, mental illness, incarceration, or substance abuse (Carnochan, Lee & Austin, 2013)

The judge can also mandate a parent to engage their child(ren) in therapy. Our study found children obtained one on one therapy in 32%, and group therapy in 6% in cases to specifically address alienation. Although, not significant, one case from the sample was ordered to attend a workshop to address his behaviours. The emergence of workshops or camps throughout North America (Sullivan et al., 2010; Warshak, 2010) has recently become popularized but empirical evidence of their effectiveness to address alienation is lacking. Further, the likelihood that a judge will order or recommend such a workshop is very low in Canadian courts.

#### **4.9 Early Identification and Intervention**

It is important to treat children and adolescents who are victims of alienation early, when the symptomology is mild, rather than when the alienation is intractable (Darnall, 2011). In the current study children were found to be more likely to have gone to counselling prior to the

commencement of the custody trial when alienation was substantiated. However, most children still engaged in counselling in over half of all cases. There was a significant finding that over half of the children were more likely to participate in counselling post-trial when alienation was substantiated. Whether the counselling was mandated or suggested by a judge was not evaluated. Nonetheless, more than half of parents have sought out therapeutic services for their child(ren). This highlights that with direction by courts, parents better understand and are prepared to help alleviate the impact of separation and divorce with their children.

Although not significant, the rejected parent was more likely to follow through with counselling compared to an alienated parent from pre to post-trial. However, it is difficult to parse out the type of counselling that a parent had participating. Individual counselling could have been any type of counselling such as personal counselling, couple therapy, family therapy or parenting counselling or classes. Jaffe and colleagues (2010) have recommended interventions such as parent education, voluntary individual and family therapy, assessment, court monitoring, and reviews, court mandated interventions, and extreme and intensive intervention. The extent to which and how often these measures are being used is difficult to evaluate because there is no follow-up with families, and it is beyond the scope of this current study.

#### **4.10 Mental Health Issues**

Mental health problems are characterized by the extent they disrupt a person's ability to function on a daily basis. The inability to learn, work, or concentrate can be affected. Depending on the type of mental health problem, the ability to take the perspective of another, have insight into one's own behaviour, or the ability to carry out tasks can be obstructed. Further, adaptive functioning skills can be hindered. Such impediments can contribute to a parent's inability to take care of oneself or their children and family. For some such shortcomings are short-term while for others it has been a lifelong struggle. The mental health of a parent is considered by mental health professional in the process of custody evaluations. This factor must be considered in order for the court to make an informed decision regarding custody arrangements. In the current study the alienating parent identified

as having a psychological problem, trait or formal diagnosis of a disorder in 16% of total cases, similarly for the rejected parent. The presence of a mental health problem was significant in findings. The alienating parent was more likely (39%) to present a mental health concern in alienation cases than when alienation was not substantiated.

A parent may make a claim that the other parent is “out to get them” or “doing things on purpose” but factually that parent may not be aware of their mental health issue. That is, the parent may not realize their actions are negatively impacting their child and are not in their best interests. In one case, the judge commented “more disturbing was the father’s willingness to embarrass his child by having everyone in court see the video and then have the father comment upon it, for the sole purpose of fortifying his court case.” In this case the father had presented a video of his 12 year old daughter in a bikini with her friends to exemplify the mother’s lack of monitoring as a parent. This is another example of when experts and custody evaluators are useful in providing context to such behaviours in matters of custody.

#### **4.11 Lawyer for the Children.**

The children had lawyers in 34 % of all alienation cases and 58% involvement in substantiated cases of alienation. Unfortunately, the rate at which the child’s wishes were considered in the final decision was not recorded. The Ontario Office of the Children’s Lawyer (OCL) has Canada’s most extensive program for child representation. Ontario had the most OCL involvement (30 cases) than any other province. This result is proportionate to Ontario’s high density population that makes up 38.5% of Canada’s entire population. The role of a child’s lawyer is to advocate for the child(ren)’s best interests and ensure the court has evidence for the child(ren)’s wishes. In some parental alienation cases, the child’s lawyer will advocate *against* the child’s stated preferences because the lawyer perceives the child’s view are not independent, and influenced by the alienating parent. The child(ren)’s wishes are often brought to court by clinical investigator (i.e., social worker, counsellor) retained by the OCL. In alienation cases, the judge will consider the views of the children who are at least 12 years of age (Bala et al., 2010). This age is considered the benchmark by court

system as an age that signifies a certain level of developmental maturity in relation to the ability to make independent decisions for children.

#### **4.12 Experts in the Courtroom**

The Canadian court system generally recognizes the vital role of custody and access evaluation. Johnston (1994) found that in about 85% of cases, the final court order is in accordance with recommendations custody evaluations. In the current study a judge ordered a custody evaluation in 61% of cases of total cases, while over half (66%) had a presence of a custody evaluation report in substantiated cases of alienation. In some cases, custody evaluation reports were used from a previous trial. Further, there was a higher likelihood of an available custody evaluation when alienation was substantiated. The benefits of involving a court-appointed expert is that they are able to offer education and better understanding of highly complex cases to court officials, and due to the ability to access all parties, they are able to carry out a complete and objective investigation.

In regards to the involvement of a mental health professional, they also seem to play a valuable role. In fact, some authors (Tippins & Wittmann, 2005) argue that there is an overreliance upon the opinion of custody evaluators. A mental health professional identified alienation in at least one parent in 46% of total cases and 77% of cases when alienation was found by a judge. It is possible that judges made their decision based on the mental health professional's evaluation which may contribute to this high rate. However, the data did not allow the researcher the ability to explore factors that judges used to identify and/or determine alienation claims. In addition, expert reports and testimony that specifically recommend an access plan have also been recognized as a controversial topic. For instance, some authors contend that custody recommendations are not based on valid and reliable empirical data (see Tippins & Wittman, 2005 for discussion).

In 12% of cases more than 6 mental health professionals were involved. This included professionals such as psychiatrists, psychologists, counsellors, therapists, and social workers. In some cases, the mental health professional did not provide an opinion about whether or not the alienation occurred; however, he or she did provide insight into either one parent, both, or

the child from their professional work with a specific party. Even though judges generally are more likely to weigh the opinions of an independent court-appointed expert, and the other professional's involvement may not speak to the alienation per se, they can still provide awareness to the court of the underlying concerns of the family.

#### **4.13 Recommendations for Future Research**

**Effectiveness of intervention.** Like many other issues pertaining to child welfare, early intervention is ideal and effective; however, what is still of concern is when parental alienation has *already* occurred. The Family Bridges Workshop and Overcoming Barriers are some of the few programs that address such high levels of parental alienation, but lack empirical support and are not likely to be ordered by a family court judge in Canada. Although some researchers (Lavadera et al., 2012) have explored retrospective case analysis of adult children who experienced parental alienation, the focus on intervention is still lacking. A future direction in parental alienation research is to examine the long-term outcomes of therapeutic intervention mandated by judges and its effectiveness for both children and parents. The current research did not specify the nature of the counselling being used by families. Future research should conduct an in-depth examination of specific types of formalized intervention being used by families that have experienced alienation and their effectiveness. Possible forms of counselling that families may have used include individual therapy for children such as Mom's House or Dad's House; parenting groups, and; reunification therapy.

**A mixed methods approach.** The current study utilized a quantitative data collection method to review high conflict custody cases. Future research would benefit from a mixed methods approach providing more support and insight for conclusions by following families involved in custody disputes where parental alienation has been claimed.

#### **4.14 Best Practice Guidelines for Mental Health Professionals, Lawyers and Judges**

**The use of PAS.** There has been a recent increase in the number of reported cases discussing alienation as a "syndrome" (Bala et al., 2010; Kerr & Jaffe, 1998). These authors propose



that it is due to a better understanding of alienation by court officials and mental health professionals. Despite this speculation, the current study found very few cases where judges reported the use of “Parental Alienation Syndrome.” This supports the findings of Jaffe, Harris and Aujla (2013) who found a majority of respondents (58%) did not believe parental alienation should be included in the upcoming DSM-5. Respondents reported there will be many or very many unintended negative consequences that accompany a parental alienation diagnosis. Any use of the term PAS is alarming since it has not been formalized as a diagnosis in the DSM. Ethical obligations requires that mental health professionals involved in alienation cases educate the courts on this topic and resolve such controversy as experts of the court.

**Early intervention.** When custody disputes that raise issues of parental alienation are presented, it is best practice for lawyers and judges to retain a qualified mental health professional (e.g., custody evaluator) to facilitate custody and access assessment (Bala, Fidler, Goldberg & Houston, 2007; Darnall, 2011; Jaffe et al., 2010). More so, when legal professional obtain a mental health professional they need to accept and act on their recommendations. In one case, the custody assessor recommended that the rejected parent should be required to complete programs dealing with parenting 6-12 year olds; parenting through separation and divorce; anger management and parenting an anxious child, and also that completion of these programs and obtaining individual psychotherapy counselling be a condition of his continued access. The judge only mandated counselling for the alienating parent, and not both (*Caparelli v. Caparelli*. [2012] O.J. No. 1885, para. 12 (ON. S.C. 2012)). Involving both parents in therapeutic intervention is beneficial.

There is a unanimous agreement among professionals (Fidler & Bala, 2010) that a parent-child relationship breakdown needs to be identified early and that therapy needs to be delivered before the attitudes of the child and parent (s) become materialized and irreversible. Therapeutic intervention mandated should focus on building resilience in the children, offering a safe therapeutic environment in which the children can express fears, grief, worries, hopes, likes and dislikes, support their relationship with both parents through reduction in conflict and adult behaviours that put the children in the middle and, building healthy relationships with both parents. Therapeutic intervention such as *impasse-directed mediation* developed by Campbell and Johnston (1986) can be effective. Impasse-directed

mediation involves both parents and their children in a short (15 to 25 hours) intervention to high conflict families. There are two main focuses of this intervention, to help parents develop some insight into their psychological impasse or to educate parents as to the effects of their animosity on their children and counsel them about how to protect their children from their spousal conflict. Subsequently, parents are assisted with negotiating a parenting plan and modifications intermittently. A two to three-year follow-up of two studies of high conflict families reported that two-thirds were able to retain or renegotiate their own custody arrangements without court involvement (Johnson, 1994). Therapy provides gains in the restoration of a relationship between child and parent; however, it is of little assistance when parents lack the awareness of a need to change or improve (Cartwright, 2006). Mental health professionals have the due diligence to encourage and educate parents about the advantages of counselling.

Although not examined in the current study, sometimes there is significant disagreement not only between the parties, lawyer for the children, but also the two experts on the issue of parental alienation. Thus, a uniform method is needed to identify and remedy cases of alienation, especially when a case is highly complicated.

**Being aware of the parental alienation and domestic violence relationship.** Legal and mental health professionals already face complex challenges when attempting to verify alienation. Historically, domestic violence has been ignored, minimized and denied. It is possible that this trend is attributed to difficulties of clinically validating domestic violence due to the requirement of a sophisticated level of assessment (Jaffe et al., 2003). It is also possible that allegations of parental alienation may be overshadowing domestic violence occurring within families. Nonetheless, evaluators need to be aware of this relationship when assessing mothers and fathers, and conduct a thorough exploration as to why a child holds a particular view of a parent, or rejects him or her.

**Education.** The factors that are considered in each parental alienation case vary and are highly complex. It is valuable for mental health professionals, lawyers and judges in the family justice system to acquire continuing education and training in such specialized areas. Lawyers and mental health professionals are susceptible to becoming enmeshed with their

clients, doing a disservice to the children and their clients. Appropriate training can address this issue (Fidler & Bala, 2010).

#### **4.15 Limitations**

This study is limited in its findings and the results should be interpreted with caution. There is a possibility of a trend for a parent to claim allegation as a means to financial gain, such as the division of property and assets. Whether a parent previously or in the current court case raised issues of spousal support, child support, or property and assets division was not measured in the present study. These constructs should be considered for future research. If these variables correlate, it may offer further explanation for the rise of parental alienation claims in courts.

A significant portion of cases where alienation is alleged are not in fact alienation cases. In this study 70% of cases were unsubstantiated for parental alienation. Since the focus of the current study was to examine trends in cases where alienation was substantiated, a detailed exploration of these cases is lacking. It is possible that in these unsubstantiated cases, there are different underlying concerns that are misconstrued for alienation. The examination of gender differences was limited in this study as well.

In the current study, the mental health professional category included both court-appointed custody evaluators and therapists for either mother or father. In 52% of cases where mental health professionals are disagreeing in the identification of parental alienation when there is a custody evaluation, explanation is challenging. It is difficult to differentiate whether the mental health professional holds a contrary view of alienation from the judge or whether it is due to the lack of discussion about alienation in his/her testimony. Future research distinguishing impartial custody evaluators from therapists that may be advocating for one parent is needed to meaningfully examine level of agreement regards to alienation between neutral custody evaluators, therapists and judges. A therapist who has only interacted with one parent may be more in disagreement with a neutral custody evaluator who might understand reason behind perceived alienation.

Gendered views of parental alienations are an area of controversy in the literature. Some men's rights activists claim that mothers alienate children from fathers to seek revenge for separation by making false allegations of abuse. Some feminist groups assert that all alienation allegations are fabricated by male perpetrators (fathers) of intimate partner violence to gain control over the victimized mothers and maintain contact with children, who legitimately resist or refuse contact with them (Bruch, 2001; Katz, 2003; Adams, 2006). Gender differences were not examined in the current study.

In addition, there are cases, as mentioned by Bala and colleagues (2010) that do not reach litigation and are settled, or parents give up the struggle to gain custody. Parents can become emotionally and financially strained by court proceedings that can last for years. There are also factors (e.g., police enforcement, relocation, contempt of court, costs) that were not explored in depth that would benefit from more qualitative data collection methods to provide a better understanding of parental alienation. Further, cultural and religious factors were measured in the current study. Such factors can affect the nature and response to alienation.

The results of this study are not generalizable to all high-conflict custody cases where parental alienation has been claimed. While cases from most Canadian provinces were reviewed, Quebec, Yukon, Nunavut and Northwest Territories were underrepresented in the sample. In these regions, the method of assessing and factors that are considered in making final conclusions by a judge may differ than what has been revealed in this study.

Lastly, the sample size in the current study was relatively small. Such a small sample size runs the risk of not truly representing the population. Again, the results of this current study should be interpreted with caution. The goals of this study were to provide an overview of the current trends of parental alienation in the judicial system and explore factors that influence the outcome of alienation.

## Chapter 5

### 5 Conclusion

Parental alienation continues to be a complex problem in the Canadian family court system. An increase of parental alienation allegations in the court system over the years, as found in the current study, supports the demand for more research on this topic.

The use of PAS has started to emerge without any governing bodies supporting such a diagnosis. Further, many mental health professionals have reported more unintended consequences if parental alienation was to be formalized as a diagnosis in the DSM. Professionals have cautioned against using such terminology until more research has been completed. This notion is supported by findings that judges are only using the PAS label 2% of the time. Regardless of the labels being used by the court system, mental health professionals, lawyers and judges have come to an agreement that parental alienation is a significant concern that negatively affects parents and their children.

This study supported some of the alienating behaviours displayed by children (i.e., speaking negatively of the rejected parent) whose parent has engaged in alienating behaviours (i.e., speaking negatively of the rejected parent in the presence of their child(ren)). Although, it was not supported in the current study, psychological concerns among children need to be considered in child custody disputes. Internalizing (i.e., low self-esteem, depression) and externalizing (i.e., aggression) behaviours among children not only are displayed at a young age but have implications in adulthood (e.g., relationship problems, alienating own children).

Mental health professionals may play a pivotal role in some alienation cases through child custody assessments. However, mental health professionals and judges disagreed on 52% of cases in identifying parental alienation where there was a custody evaluation. One would expect a high level of agreement since judges often rely on mental health professionals to confirm these clinical findings. This study did not explore the level of agreement between judges and mental health professionals on the final decision in regards to the custody and access plan or the contribution of a finding of alienation to that decision. In any event, expert testimony may provide the court critical information and educate all parties about

an understanding of each family before a final decision is made as well as the need for ongoing counseling interventions.

The expert testimonies that professionals provide the court can educate all parties and provide a better understanding of each family before a final decision is made. Although assessments are inherently an exercise of discretion for Canadian courts, lawyers and judges need to consider expert knowledge in making conclusions about alienation, custody variations and therapeutic interventions.

Domestic violence in families has the tendency to be secretive, denied and covered-up. Thus, it is important to take all allegations seriously. Although, not found in the current study, there is potential for a parent to make a false claim of alienation in order to gain custody of their child(ren). A finding that some alienating parents may be experiencing mental health issues is concerning as well. It is possible, not by their own account, that these parents are displaying alienating behaviours. Depending on the type of psychological problem, a parent may not have insight into their behaviour that subsequently may affect their child(ren). Suspicions of domestic violence and mental health concerns drive the need to put forth efforts for intervention.

The judicial system should focus on mandating intervention for all members (not just one parent or only child(ren)) of the family as part of their best practice guidelines for high-conflict custody disputes. Whether parental alienation claims are substantiated or unsubstantiated, a separation or divorce for children is difficult. Therapy can only ease the negative impact on children and minimize harm. Consequentially, such practices will decrease parental conflict, will alleviate the impact of separation on children and, reduce the likelihood that parents will bring back variation orders to court. The intended outcome of this research was to contribute to the literature and expand knowledge of mental health professionals and court officials in considering the “best interests of a child” in the context of allegations of parental alienation.

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## Appendix A: Best Interests of Child

### **Best interests of child:**

(2) The court shall consider all the child's needs and circumstances, including,

- (a) the love, affection and emotional ties between the child and,
  - (i) each person entitled to or claiming custody of or access to the child,
  - (ii) other members of the child's family who reside with the child, and
  - (iii) persons involved in the child's care and upbringing;
- (b) the child's views and preferences, if they can reasonably be ascertained;
- (c) the length of time the child has lived in a stable home environment;
- (d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
- (e) the plan proposed by each person applying for custody of or access to the child for the child's care and upbringing;
- (f) the permanence and stability of the family unit with which it is proposed that the child will live;
- (g) the ability of each person applying for custody of or access to the child to act as a parent; and
- (h) the relationship by blood or through an adoption order between the child and each person who is a party to the application. 2006, c. 1, s. 3(1); 2009, c. 11, s. 10.

### **Past conduct**

- (3) A person's past conduct shall be considered only,
- (a) in accordance with subsection (4); or
  - (b) if the court is satisfied that the conduct is otherwise relevant to the person's ability to act as a parent. 2006, c. 1, s. 3(1).

**Violence and abuse**

(4) In assessing a person's ability to act as a parent, the court shall consider whether the person has at any time committed violence or abuse against,

- (a) his or her spouse;
- (b) a parent of the child to whom the application relates;
- (c) a member of the person's household; or
- (d) any child. 2006, c. 1, s. 3(1).

***The Case Law******Best interests of the child***

In *Gordon v. Goertz*, [1996] 2 S.C.R. 27 at paras. 17-25, the Supreme Court of Canada stated that ultimately, the "only issue when it comes to custody and access is the welfare of the child whose future is at stake."

The Supreme Court noted that, in enacting the *Divorce Act*, Parliament provided two specific directions as to the best interests of children. First of all, the conduct of parents, "however meritorious or however reprehensible," should only be considered if it affects the ability of the parents to meet the child's needs. Secondly, the child should have as much contact with each parent as is consistent with their best interests. According to the Supreme Court, this principle is "mandatory, but not absolute." A judge "can and should restrict access" if he or she finds that the current custody and access schedule is not in the child's best interests (*Divorce Act*, R.S., 1985, c.3 (2nd Supp.)).

## Appendix B Coding Sheet

Coding Data Sheet: Parental Alienation Variables  
Examined in Judges' Decisions

Case Name: \_\_\_\_\_

Coder: \_\_\_\_\_

Date of Coding: \_\_\_\_\_

Parent 1 (Alienating Parent (AP)): \_\_\_\_\_

Parent 2 (Non-Alienating Parent (Non-AP)): \_\_\_\_\_

Date of Separation (years): \_\_\_\_\_

Date of Divorce (years): \_\_\_\_\_

Date of Judgment \_\_\_\_\_

Number of previously reported trials: \_\_\_\_\_

Heard [ ] OCL: 0 = No 1 = Yes 2 = No information

<i>Coding Sheet for Parental Alienation Case Review Study</i>					
Representation Status of Parent 1	0 = Self	1= Lawyer	2= Legal Aid	3= Not reported	
Representation Status of Parent 2	0 = Self	1= Lawyer	2= Legal Aid	3= Not reported	
Gender of Judge	0= Male	1= Female	3= Both	4= Not available	
Gender of Custody Evaluator	0= Male	1= Female	3= Both	4= Not available	5 = No information
Gender of Alienating Parent	0= Male	1= Female	3= Both	4= Not available	
Gender of Alienated Parent	0= Male	1= Female	3= Both	4= Not available	
Number of Children	0= 0 children	1= 1 child	2= 2 children	3= 3 children	4= 4 children or more
Number of Total Children (includes step children)	0= 0 children	1= 1 child	2= 2 children	3= 3 children	4= 4 children
	5= 5 children	6 = 6 children or more			
Age of children	Child 1:	Child 2:	Child 3:	Child 4:	Child 5:
Gender of Child 1	0= Male	1= Female	2= Not available		

Gender of Child 2	0= Male	1= Female	2= Not available	3 = No information	
Gender of Child 3	0= Male	1= Female	2= Not available	3 = No information	
Gender of Child 4	0= Male	1= Female	2= Not available	3 = No information	
Gender of Child 5	0= Male	1= Female	3= Not available	3 = No information	
Parent 1 Marital Status	0= Single	1= Dating	2= Common Law	3= Married	4= Divorced
	5 = Separated	6 = Not available			
Parent 2 Marital Status	0= Single	1= Dating	2= Common Law	3= Married	4= Divorced
	5 = Separated	6 = Not available			
Parent 1 Occupation					
Parent 1 Income	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Parent 2 Occupation					
Parent 2 Income	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Parent 1 Partner Occupation					
Parent 1 Partner Income	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Parent 2 Partner Occupation					
Parent 2 Partner Income	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999

Income	\$10,000				
	5= \$100,000 - \$149,999	6= \$150,000 - \$199,999	7= \$200,000 or more	8= No information	
Household Income Parent 1	0= Less than \$10,000	1= \$10,000 - \$14,999	2= \$15,000 - \$24,999	3= \$25,000 - \$49,999	4= \$50,000 - \$99,999
	5= \$100,000 - \$149,999	6= \$150,000 - \$199,999	7= \$200,000 or more	8= No information	
Household Income Parent 2	0= Less than \$10,000	1= \$10,000 - \$14,999	2= \$15,000 - \$24,999	3= \$25,000 - \$49,999	4= \$50,000 - \$99,999
	5= \$100,000 - \$149,999	6= \$150,000 - \$199,999	7= \$200,000 or more	8= No information	
Judge deems AP primary caregiver	0= Yes, explicitly states	1= J. describes AP as PC	2= Both parents/ Neither parents PC	3= J. says AP is not PC explicitly	4= Not available
Parent 1 meets definition of primary caregiver	0= No	1= Yes	2= Unsure/ too little info.	3= No information	
Parent 2 meets definition of primary caregiver	0= No	1= Yes	2= Unsure/ too little info.	3= No information	
Primary Caregiver Gender	0= Male	1= Female	2= Both	3= Unknown	
Primary Caregiver Biological Parent?	0=No	1= Yes	2= Unknown		
Allegations of Alienating Behavior by Parent 1	0= No	1= Yes	2= Not applicable		
Allegations of Alienating Behavior by Parent 2	0= No	1= Yes	2= Not applicable		
Relationship between Child 1 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship	0= Poor	1= Neutral	2= Good	3= No	4=Conflicting



between Child 2 and Parent 1				information	information
Relationship between Child 3 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 4 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 5 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 1 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 2 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 3 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 4 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 5 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Conflict in Parental Relationship	0= Low	1= Medium	2= High	3= No information	
Judge orders custody evaluator	0 = No	1 = Yes	2= No information		
Presence of Custody Evaluation	0= No	1= Yes	2= Not Applicable		
# of Mental Health professionals involved in case	0 =0	1=1	2=2	3=3	4=4
	5=5	6= 6 or more			
Presence of Child Protective Services	0= No	1= Yes	2= No information		

Parent 1 Received individual counselling pre-trial	0 = No	1 = Yes	2= No information		
Parent 2 Received individual counselling pre-trial	0 = No	1 = Yes	2= No information		
Parent 1 Received individual counselling during trial	0 = No	1 = Yes	2= No information		
Parent 2 Received individual counselling during trial	0 = No	1 = Yes	2= No information		
Parent 1 Received individual counselling post-trial	0 = No	1 = Yes	2= No information		
Parent 2 Received individual counselling post-trial	0 = No	1 = Yes	2= No information		
Children received individual counselling pre-trial	0 = No	1 = Yes	2= No information		
Children received individual counselling during trial	0 = No	1 = Yes	2= No information		
Children received individual counselling post-trial	0 = No	1 = Yes	2= No information		
Family	0 = No	1 = Yes	2= Yes, but 1	3= No	

Therapy received pre-trial (all members)			parent absent/refused	information	
Family Therapy received during trial (all members)	0 = No	1 = Yes	2= Yes, but 1 parent absent/refused	3= No information	
Family Therapy received post-trial (all members)	0 = No	1 = Yes	2= Yes, but 1 parent absent/refused	3= No information	
Allegations of domestic violence (physical & sexual) against Parent 1	0 = No	1 = Yes	2= No information		
Allegations of child abuse (physical, sexual & neglect) against Parent 1	0 = No	1 = Yes	2= No information		
Allegations of domestic (physical & sexual) violence against Parent 2	0 = No	1 = Yes	2= No information		
Allegations of child abuse (physical, sexual & neglect) against Parent 2	0 = No	1 = Yes	2= No information		
Finding (incl. previous conviction) of domestic	0 = No	1 = Yes	2= No information		

violence against Parent 1					
Finding (incl. previous conviction)of child abuse against Parent 1	0 = No	1 = Yes	2= No information		
Finding (incl. previous conviction) of domestic violence against Parent 2	0 = No	1 = Yes	2= No information		
Finding (incl. previous conviction)of child abuse Parent 2	0 = No	1 = Yes	2= No information		
AP displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information	3= Contradicting information	
Non-AP displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information	3= Contradicting information	
Child 1 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child 2 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child 3 displays psychological	0 = No	1 = Yes	2= No information		

problems, traits and/or disorder					
Child 4 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child 5 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child(ren) received individual counseling for alienation	0 = No	1 = Yes	2= No information		
Child(ren) received group therapy for alienation	0 = No	1 = Yes	2= No information		
Child(ren) attended a workshop for alienation	0 = No	1 = Yes	2= No information		
Mental health professional (psychiatrist, psychologist, counselor or social worker) identified parental alienation	0 = No	1 = Yes	2= Conflicting information	3 = No information	
Judge identified parental alienation	0 = No	1 = Yes	2= No information		
Judge makes finding of parental alienation	0 = No	1 = Yes	2= No information		
Judge labels & makes finding	0 = No	1 = Yes	2= No information		

of parental alienation as syndrome					
Judge mandates counseling for AP for PA	0 = No	1 = Yes	2= No information		
Judge suggests counseling for AP for PA	0 = No	1 = Yes	2= No information		
Judge mandates counseling for Non-AP for PA	0 = No	1 = Yes	2= No information		
Judge suggests counseling for Non-AP for PA	0 = No	1 = Yes	2= No information		
Access Plan: AP cut-off	0 = No	1 = Yes	2 = No information		
Access Plan: Non- AP cut-off	0 = No	1 = Yes	2 = No information		
Access Plan: AP Supervised Access	0 = No	1 = Yes	2 = No information		
Access Plan: Non-AP Supervised Access	0 = No	1 = Yes	2 = No information		

**Types of Alienating Behavior(s) committed by AP:**

- Made negative comments about alienated parent
- Made negative comments about alienated parent's extended family
- Limited contact with alienated parent
- Withheld or blocked messages from alienated parent
- Made communication difficult with alienated parent
- Indicated discomfort about alienated parent
- Displayed negative affect when child(ren) shows affection with alienated parent

- Made child choose between parents
- Said alienated parent was unsafe
- Confided in child about “adult matters” (such as marital concerns or legal issues)
- Required favoritism by child for alienating parent
- Asked child to spy and/or withholds information from the alienated parent
- Requested child to refer to alienated parent by first name and/or refer to new partner as mom or dad
- Encouraged child to disregard alienated parent’s rules, values, and authority
- Made child feel guilty about spending time with the alienated parent
- Made child feel guilty about spending time with the alienated parent’s extended family

**Symptoms displayed by children as result of alienation:**

- Child(ren) speaks negatively of alienated parent without guilt, remorse or embarrassment
- Child(ren) speaks negatively of alienated parent’s extended family without guilt, remorse or embarrassment
- Child(ren) speaks to alienated parent negatively without guilt, remorse or embarrassment
- Child(ren) speaks to alienated parent’s extended family negatively without guilt, remorse or embarrassment
- Child(ren) refuses to visit alienated parent
- Child(ren) refuses to interact with alienated parent
- Child(ren) physically assaults alienated parent
- Child(ren) displays guilt about expressing affection about alienated parent
- Child(ren) expresses fear of alienated parent
- Child(ren) openly discusses “adult matters” (such as marital concerns or legal issues)
- Child(ren) explicitly demonstrates favoritism for alienating parent
- Child(ren) spies and/or withholds information from alienated parent
- Child(ren) refers to alienated parent by first name/alienated parent’s new partner as mom or dad
- Child(ren) disregards the alienated parent’s rules, values, and authority
- Child(ren) expresses guilt about spending time with the alienated parent
- Child(ren) expresses guilt about spending time with the alienated parent’s extended family
- Child(ren) prescribes to “Independent Thinker Phenomenon”

Comments:

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## Appendix C: Operational Definitions for Parental Alienation Variables

Operational Definitions for Parental Alienation Variables  
Examined in Judges' Decisions

<b>Variable</b>	<b>Definition</b>
Alienating parent	Parent who engages in parental alienating behaviors
Non-alienating parent	Parent who is alienated from the child
Number of previously reported trials	Number of previous trials as related to custody for the children in question of current trial that has been cited in case
Representation Status of Parent 1	Self-representation in court; lawyer; legal aid (government funded lawyer)
Representation Status of Parent 2	Self-representation in court; lawyer; legal aid (government funded lawyer)
Gender of Judge	Male; female; no information
Gender of Custody Evaluator	Male; female, both, (if multiple evaluators), no information
Gender of Alienating Parent	Male; female; both (if both parents found to be engaging in alienating behaviors)
Gender of Alienated Parent	Male; female; both (if both parents found to be engaging in alienating behaviors)
Number of Children from parent 1 between parent 2	1;2;3;4 children or more
Number of Total Children (includes step children)	1;2;3;4;5;6 children or more
Gender of Children 1-5	Male; female; not available (does not apply)
Marital Status	Single; dating; common law; married; divorced; separated; not available
Household income	Combined income of each parent 1 and new partner, if applicable; combined income of parent 2 and new partner
Primary caregiver	Person who legally takes care of child(ren) most of the time; has legal guardianship to care for child(ren)
Allegations of alienating behavior	Parent claiming other parent has been engaging in alienating behaviors with child(ren)
Relationship between child and parent	Poor; neutral; good; no information; conflicting information as explicitly stated by legal and/or mental health professional
Conflict in parental relationship	Low (minimal disagreement between parents); medium (some agreement/ some disagreement between parents, parents can



	communicate pertaining to parenting); high (high disagreement, parents cannot communicate); no information
Custody evaluator	Employee of the court or private practitioner appointed by the court to conduct custody evaluation
Parent received individual counseling pre-trial, during trial and post-trial	Any counseling pertaining to divorce, separation or parenting skills
Children received counseling pre-trial, during trial and post-trial	Any counseling pertaining to divorce, separation, parental conflict, behavior and/or emotional problems
Family Therapy	Counselling sessions that include all willing parties (mother, father, and children)
Domestic violence	Physical and/or sexual assault of a partner
Child abuse	Physical, sexual and/or neglect of child
Allegation	Claim only
Finding	Finding by judge or indication by previous conviction
Psychological problem(s) and/or disorder (diagnosis) assessed during trial	Results of any mental health professionals involved during trial indicating the subject may have a psychological problem(s) and/or disorder (diagnosis).
Mental Health Professional identifies parental alienation	Mental health professional states that he/she found evidence for alienating behaviors in a parent(s)
Judge identifies parental alienation	Judge discussed parental alienation over the course of trial and/or defined alienation, stated that parent(s) were engaging in some form of alienating behaviours but did not necessarily make a finding
Judge makes finding of parental alienation	Judge explicitly stated that parent(s) had engaged in parental alienation behaviours
Judge mandates counselling	Refers to counselling to pertaining to parental alienation issues
Judge suggests counselling	Refers to counselling to pertaining to parental alienation issues
Access Plan: Cut-off	Parent no longer has contact with child(ren)
Access Plan: Supervised	Parent can only visit child(ren) under supervision
<b>Parental Alienation Behaviors of Alienating Parent</b>	
Negative comments toward alienated parent	Alienating parent makes negative comments about alienated parent to child(ren)
Negative Comments toward alienated parent's extended family	Alienating parent makes negative comments about alienated parent's

	extended family to child(ren)
Limiting Contact	Alienating parent limits contact with alienated parent such that child(ren) spends less time with alienated parent
Withheld/ Blocked Messages	Alienating parent withholds/ blocks messages from alienated parent to child
Hindering Communication	Alienating parent makes communication between alienated parent and child(ren) difficult (i.e., stays in room while child talks to alienated parent on phone)
Displays Discomfort with Alienated Parent	Alienating parent indicates discomfort pertaining to alienated parent
Negative Affect Regarding Relationship with Alienated Parent	Alienating parent displays negative affect when child(ren) shows affection toward alienated parent
Makes child choose between parents	Alienating parent has child(ren) choose between themselves and the alienated parent
Expressed concerns pertaining to the safety of alienated parent	Alienating parent states that alienated parent is unsafe to child(ren)
Confiding in child about “adult matters”	Alienating parent discloses “adult matters” to child(ren)
Requiring/ Demonstrating Favoritism	Alienating parent requires child(ren) to demonstrate preference for alienating parent over alienated parent
Spying/ Withholding Information	Alienating parent asks child(ren) to spy or withhold information from alienated parent
<b>Symptoms of Parental Alienation in Child(ren)</b>	
Negative comments toward alienated parent	Child(ren) makes negative comments about alienated parent
Negative comments toward alienated parent’s extended family	Child(ren) makes negative comments about alienated parent’s extended family
Limiting contact	Child(ren) ignores/ refuses to visit alienated parent
Discomfort with alienated parent	Child(ren) express discomfort with alienated parent
Negative affect when discussing alienated parent	Child(ren) express negative affect (e.g., guilt, shame, etc) when discussing alienated parent
Safety concerns of alienated parent	Child(ren) express concerns pertaining to safety with alienated parent
Discussing “adult matters”	Child(ren) discuss “adult matters” (e.g., marital/ legal issues) as reason for disliking alienated parent
Dichotomous Thinking	Child(ren) expresses solely positive

	attributes concerning alienating parent and solely negative attributes pertaining to alienated parent
Spying/ Withholding Information	Child(ren) spies or withholds information from alienated parent
Independent Thinker Phenomenon	Child believes that his/her decision to profess a dislike for the alienated parent is one he/she arrived at on his/her own

## Appendix D: Type and Amount of Alienating Behaviour Endorsed by Parents

Type of Alienating Behaviour	% Parents Who Endorsed Alienating Behaviour
<b>Made negative comments about alienated parent</b>	<b>71%</b>
<b>Limited contact with alienated parent</b>	<b>63%</b>
<b>Confided in child about “adult matters” (such as marital concerns or legal issues)</b>	<b>44%</b>
Indicated discomfort about alienated parent	39%
Made communication difficult with alienated parent	35%
Said alienated parent was unsafe	35%
Required favoritism by child for alienating parent	31%
Withheld or blocked messages from alienated parent	23%
Encouraged child to disregard alienated parent’s rules, values, and authority	16%
Displayed negative affect when child(ren) shows affection with alienated parent	15%
Made child choose between parents	13%
Made child feel guilty about spending time with the alienated parent	13%
Asked child to spy and/or withholds information from the alienated parent	10%
Made negative comments about alienated parent’s extended family	10%
Requested child to refer to alienated parent by first name and/or refer to new partner as mom or dad	6%
Made child feel guilty about spending time with the alienated parent’s extended family	0%

## Appendix E: Type and Amount of Alienating Behaviour Displayed by Children

Type of Alienating Behaviour Displayed by Child(ren)	% Child(ren) Who Endorsed Behaviour
<b>Child(ren) refuses to visit alienated parent</b>	<b>48%</b>
<b>Child(ren) speaks negatively of alienated parent without guilt, remorse or embarrassment</b>	<b>35%</b>
<b>Child(ren) openly discusses “adult matters” (such as marital concerns or legal issues)</b>	<b>35%</b>
Child(ren) refuses to interact with alienated parent	33%
Child(ren) explicitly demonstrates favoritism for alienating parent	28%
Child(ren) expresses fear of alienated parent	23%
Child(ren) speaks to alienated parent negatively without guilt, remorse or embarrassment	19%
Child(ren) prescribes to “Independent Thinker Phenomenon”	19%
Child(ren) disregards the alienated parent’s rules, values, and authority	13%
Child(ren) physically assaults alienated parent	9%
Child(ren) displays guilt about expressing affection about alienated parent	9%
Child(ren) expresses guilt about spending time with the alienated parent	9%
Child(ren) refers to alienated parent by first name/alienated parent’s new partner as mom or dad	8%
Child(ren) spies and/or withholds information from alienated parent	6%
Child(ren) speaks negatively of alienated parent’s extended family without guilt, remorse or embarrassment	4%
Child(ren) speaks to alienated parent’s extended family negatively without guilt, remorse or embarrassment	1%
Child(ren) expresses guilt about spending time with the alienated parent’s extended family	1%

## Curriculum Vitae

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The Canadian Psychological Association (CPA)  
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**Related Work Experience**

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The Centre for Children and Families in the Justice System

- Custody and Access Assessment
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London Health Service Centre (LHSC)

- Traumatic Stress Services
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