

Parental Alienation – Part 2

November 3, 2015 (2015-11-03T08:16:43+00:00) By John-Paul Boyd (Posts by John-Paul Boyd)



In the previous part of this article, I talked about Richard Gardner's concept of parental alienation syndrome, some of the controversy Gardner's theory raised in the mental health community and the important contributions made by Joan Kelly and Janet Johnston when they distinguish cases of parental alienation from situations in which children have become justifiably estranged from a parent.

According to Kelly and Johnston, children's relationship with a parent can break down for reasons other than the efforts of the other parent. Sometimes, a child's rejection of a parent is a reasonable consequence of the child's experience of that parent, as might be the case if the child witnesses family violence or the parent has issues with substance abuse that impair his or her parenting.

Alienation claims in court

Nicholas Bala, Suzanne Hunt and Carolyn McCarney reviewed 175 Canadian court decisions involving allegations of alienation between 1989 and 2008. Of the 40 decisions made between 1989 and 1998, 24 concluded that alienation had occurred, and of the 135 decisions made between 1999 and 2008, 82 concluded alienation had occurred. In the majority of the cases where alienation was not found, the court decided that the child was instead estranged from the rejected parent:

The malicious alienation of a child from a parent is a real phenomenon, to be sure. It is a tragedy when it happens, and can have life-long effects on children,

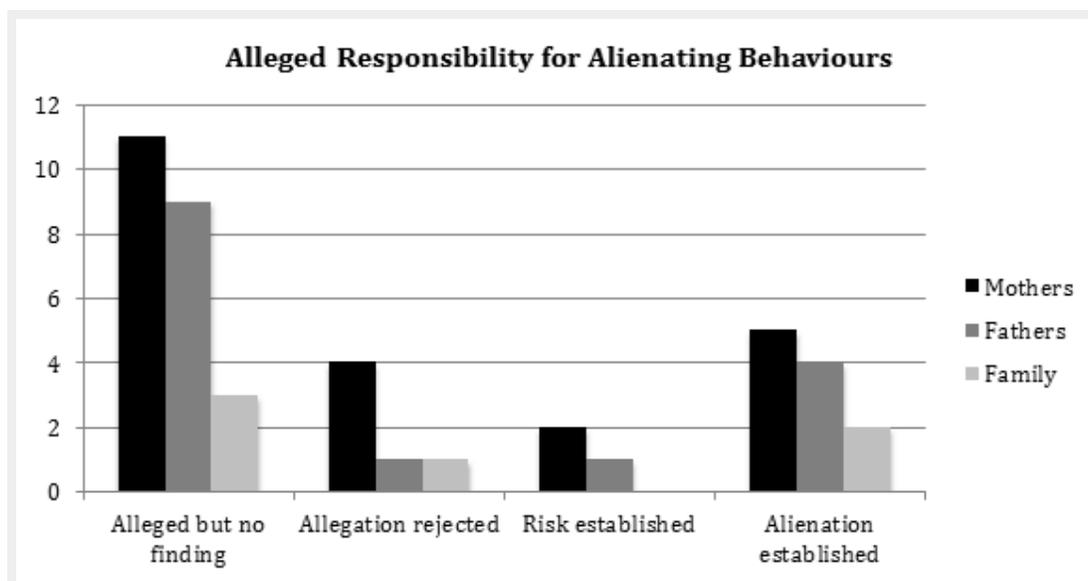
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- in 7% of these cases, the court found justified estrangement resulting from abuse or violence;
- in 35% of cases, the court found justified estrangement resulting from poor parenting;
- in 20%, the court found that the child was disengaged but not alienated from the rejected parent; and,
- in the remaining 38% of cases, the court found insufficient evidence to establish that alienation had occurred.

The Canadian Research Institute for Law and the Family recently took a similar look at court decisions from Alberta. Between 2005 and 2015, we discovered 37 cases involving allegations of alienation that were relevant to the claims the court was being asked to consider:

- in 54% of these cases, alienation was alleged in argument but no finding was made;
- allegations of alienation were rejected in 16% of these cases;
- in 8% of cases, the court held that a risk of alienation had been established, but not alienation itself; and,
- in 22%, the court held that the allegation of alienation had been proven.

In these Alberta cases, as in the cases examined by Bala, Hunt and McCarney, mothers were more often accused of engaging in alienating behaviour than fathers and other family members:



As these cases suggest, it's much easier to allege that a parent is engaging in alienating

behaviours than it is to prove that alienation has actually occurred. (Over the course of 13 years of practice, I became involved in only three, perhaps four, cases in which it was evident that alienation had occurred, and in two of those cases I was counsel for the child rather than a parent. However, my custody clients often started their work with me convinced that alienation was a live issue.) Part of the difficulty with allegations like these is that there are a number of reasons other than alienation why a child might resist contact with a parent, including:

- normal, age-appropriate separation anxiety;
- a reasonable reaction to the rejected parent's parenting style;
- fear for an emotionally vulnerable favoured parent;
- a reasonable response to the rejected parent's repartnering, new partner, or new partner's family; and,
- a normal, age- or gender-appropriate preference for one parent over the other.

A child might also be justifiably estranged from a parent, rather than alienated, for the reasons pointed out by Kelly and Johnston, including:

- the presence of intense conflict between the parents during their relationship and after their separation;
- the parents' involvement in hotly contested, highly conflicted litigation;
- the child witnessing or suffering emotional abuse or family violence;
- the rejected parent having substance abuse problems, especially problems affecting parenting; and,
- the rejected parent having an unpredictable or disciplinarian parenting style.

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Finally, some parents just don't want to admit they are poor parents or have an imperfect relationship with their children. It's always easier to blame someone other than yourself when your child is resisting seeing you. It can also be difficult to admit your own weaknesses to your lawyer, a mental health professional or the judge.

Recognizing the risk of alienation

Thankfully, Nicholas Bala and Barbara Jo Fidler provide a helpful list of red flags that suggest when alienation may be a risk in their 2010 article *Children Resisting Post-*

Separation Contact with a Parent, including the following, some of which I have paraphrased and expanded:

Badmouthing the other parent

- portraying the parent as dangerous or mean
- using other parent's first name with the child
- attributing negative qualities to the other parent when talking to the child

Limiting the child's contact with the other parent

- arranging activities that conflict with the other parent's contact with the child
- frequently calling or messaging during other parent's time with the child
- moving away from other parent with the child

Declining responsibility for parenting arrangements

- telling the child that the judge has tied parent's hands and the child's contact with the other parent is beyond the parent's control
- giving the child a choice about attending scheduled visits with the other parent

Limiting the child's symbolic contact with the other parent

- removing photographs of the other parent from the child's room
- encouraging the child to call someone else mom or dad
- refusing to mention the other parent in the presence of the child

Limiting communication between the child and the other parent

- blocking telephone calls, text messages and email from the other parent
- intercepting letters and packages sent by the other parent
- monitoring or recording communication between the child and the other parent

Refusing to communicate with the other parent about the child

- not sharing information and notices from the child's school, teams and health care providers
- refusing to talk to the other parent about the child
- using the child to pass messages to the other parent

Emotionally manipulating the child

- withdrawing or threatening to withdraw affection if the child expresses positive feelings toward the other parent
- making the child feel guilty about spending time with or favouring the other parent
- interrogating the child about his or her time with the other parent
- putting the child in loyalty binds
- rewarding the child for expressing criticism or rejection of the other parent
- using the child to spy on the other parent or activities in the other parent's house
- encouraging the child to keep secrets from the other parent

Options and alternatives when alienation is established

The malicious alienation of a child from a parent is a real phenomenon, to be sure. It is a tragedy when it happens, and can have life-long effects on children, which I'll discuss in a future article, not to mention its effect on the wellbeing of the rejected parent. It is important, however, to distinguish between refusal to visit caused by: actual alienation resulting from the malevolent actions of the favoured parent; other potential explanations for a child's reluctance to visit a rejected parent, including factors relating to the child's age, gender and the circumstances of the parents' relationship; and, the justified estrangement of a child resulting from the behaviour of the rejected parent.

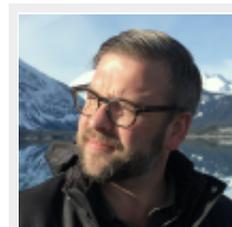
What makes the tragedy of parental alienation so much worse is that the remedies available to the court are so clumsy and of such uncertain benefit. I'll talk about the legal and therapeutic options available when alienation is suspected and established in the third and final part of this article.

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Authors:

John-Paul Boyd

John-Paul Boyd presently serves as the director of the Canadian Research Institute for Law and the Family, prior to which he practiced family law in Vancouver for fourteen years.





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