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#### **Ten Tips for Legal and Mental Health Professionals Involved in Alienation, or Alleged Alienation, Cases**

*By Barbara Jo Fidler, Ph.D., Nicholas Bala, J.D., LL.M. and Michael Saini, Ph.D.*

##### **1. Screen and identify parent-child contact problems early**

Just as there are different types and degrees of intimate partner violence and high-conflict, there are many reasons for a child to resist or refuse contact, including an age or gender appropriate affinity, initial alignments due to anger related to the separation, adaptation to the situational factors caused by the separation, or a justified rejection (realistic estrangement) due to violence, child abuse or neglect or inept parenting. Alienation is a child's expression of unreasonable and persistent negative feelings and beliefs (such as anger, hatred, rejection, or fear) toward a parent that is disproportionate to the child's actual experience with that parent. Many cases have elements of both alienation and justified rejection. Intentional and unintentional parental alienating behaviors by mothers and fathers are common in high-conflict separations; however, despite such parental conduct, many children do not become alienated from either parent.

##### **2. Triage, for an expedited and differentiated response**

Delays and ineffective legal and mental health interventions are likely to entrench family problems and make them more difficult to remedy. A differentiated response is required, depending on the reasons for and the severity of the strained parent-children relationship and the factors that are contributing to the contact problems, including the degree of parents' intentionality and responsiveness to the child's needs. If a child's resistance to visitation results from parental abuse or neglect, this needs to be identified as early as possible with appropriate protection plans put in place for the victimized parent and child. Mild and some moderate alienation cases may respond well to early intervention involving education and therapy, while these are likely to be ineffective in more severe cases and may even exacerbate the problem. In severe alienation cases, the alienating parental conduct is emotionally abusive, often resulting from personality disorders and destructive enmeshed parenting. In these severe cases, where less intrusive remedies have failed and the rejected parent can adequately care for the child, a custody change may be warranted. This is similar to child protection cases, where children may be apprehended from a parent due to severe mental health issues that significantly interfere with parenting capacity. To permit the child to reestablish their previously loving relationship with the rejected parent, the change in custody is likely to require temporary suspension of, or supervised contact with, the alienating parent, and may require

therapeutic support.

### **3. Listen to the voice of the child**

Often, children benefit from being heard and, while not determinative, their wishes and preferences are one important factor in the best interests test. Most children, though, do not want to choose between their parents. In alienation cases, children are unduly influenced by the favored parent, although the children will insist on the independence of their perspectives. Children's preferences often reflect the immediate future and do not always reflect their long-term best interests. Even within the complexity of these cases, it is important for children's voices to be heard.

### **4. Employ a two-pronged approach, involving both the court and the mental health practitioner**

When parent-child contact problems are identified, a case should be referred to effective case management by a single family law judge at the pre-resolution, resolution and enforcement stages of the court process. Mild and moderate alienation cases are likely to benefit from judicial exhortation and encouragement towards counseling and settlement on a basis that has both parents involved in the child's life. Often, the judge will need to include clear expectations and consequences for noncompliance, which can include specific sanctions or a custody reversal in the most severe cases. Accountability for behavior is less unlikely if the parents face different judges throughout the process. Some degree of reporting back to the court by therapists is necessary to ensure treatment compliance and resolution of the contact problem.

### **5. Judges need to effectively enforce all orders**

Many alienating parents have personality disorders or related characteristics. Judges must follow through on violations of orders with appropriate responses to failures to comply. Not doing so only reinforces the parent's narcissism and disregard for authority and rules, characteristics that can be mirrored by alienated children.

### **6. Involve all family members in treatment, not only individuals**

If abuse and violence have been ruled out, intervention for mild and moderate cases usually needs to include both parents and all children. While more than one therapist may be necessary, individual therapy for the child alone is unlikely to resolve the parent-child contact problem, and may well exacerbate the problem.

### **7. Maintain open communication between all professionals to avoid professional alignments**

Many professionals (e.g., therapists, child protection workers, lawyers, teachers, physicians, etc.) are typically involved in cases involving high conflict or alienation. Mirroring the dynamics in the family, alignments amongst these various, well-intentioned professionals are common. To minimize this risk and to better assist the family, the order or treatment contract must indicate that there is no confidentiality and the treating professionals are permitted to exchange information with each other and the courts. Sometimes, a parenting coordinator or case manager is necessary to facilitate this process.

### **8. Avoid dual roles**

Often, mental health professionals are asked by the court or lawyers to make recommendations about a parenting plan that will promote the best interest of the child. Those who have been involved in providing therapy to a parent or child may be called as witnesses, but because of their therapeutic allegiances, they should not perform a custody or visitation evaluation, or express global views about the child's best interest. Once it has been determined by a court or agreed by the parents that it is indeed in the child's best interest to have contact with the rejected parent, irrespective of the cause of the problem, the therapist's role is to implement a previously agreed to or ordered schedule. Putting the therapist in the role of offering therapeutic support and then offering opinions as to the child's best interest compromises their role and effectiveness. An order or consent order for therapy accompanied by a treatment contract is required. (See the [AFCC Guidelines for Court-Involved Therapy](#).)

**9. Interdisciplinary training and collaboration are best**

Specialized training and ongoing continuing education in high-conflict, alienation and intimate partner violence is imperative. Cross-disciplinary training will assist professional collaboration and recognition of the unique roles and responsibilities of each professional, thereby promoting an open-mind to different perspectives. Effective multi-disciplinary collaboration can prevent professional alignments and splitting.

**10. More research and further development of interventions are needed**

While there has been a significant increase in knowledge, there is clearly a need for more empirical studies to explore the etiology, prognosis and factors that contribute to strained parent-child relationships after separation. With the growing number of options for intervening in alienation cases, much more attention is needed to develop efficacy and effectiveness-based evaluation to determine what works, for whom, and in which circumstances. A greater emphasis on evidence-based approaches would provide for better individualized decisions by integrating empirical evidence with practice wisdom and the unique contextualized factors of each case.

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