

The Junk Science of “Parental Alienation”

Carrie Leonetti
Associate Professor
Te Wāhanga Ture o Waipapa Taumata Rau
University of Auckland School of Law



Junk Science



Family Violence Myths

“Knowledge of family violence in all its forms is still not widespread and its impact on children, including on their safety, is still poorly understood.”



*Te Korowai Ture ā-Whānau:
The Final Report of the Independent Panel Examining the 2014 Family Justice Reforms
May 2019*



Family Violence Myths in the Family Court

False Allegations

“Mutual Conflict”

The Need for Contact

Undue Influence and Children’s Desire Not to Be Heard

Safety Concerns are “Hostility”

“Treatment”

Gender Neutrality



Mann v Armstrong

[2020] NZFC 1319

- Child said that he did not want to see Father anymore because he did not want to upset Mother
- court psychologist opined:
 - C was “aware of his Mother’s antipathy toward his Father”
 - M had “a big influence on Child” and could “influence his feeling towards one of the most important persons in his life”
 - M was “alienating” C from F



Daniel G Saunders et al (2011)

“Practitioners who apply parent-alienation syndrome (PAS) or parent-alienation disorder formulations tend to automatically label a parent as an ‘alienator’ without a thorough investigation of the allegations.”



Tragic Results

The Junk Science of “Parental Alienation”



long-term consequences of childhood exposure to family violence

- recurrent and intrusive memories (flashbacks)
- nightmares
- hyper-reactivity
- arousal
- vigilance
- aggression
- irritability, social withdrawal, and behavioural issues



Drozd & Oleson (2004)

As “alienation” has long been misunderstood, so has domestic violence, which was underreported and not identified for many years. We find ourselves greatly concerned that there is a group of colleagues who are engaged in the practice of child custody evaluations who do not understand how to competently assess the dynamics of and the effects upon children of domestic violence. Many of these colleagues are offering opinions to the Court about family functioning without a thorough understanding of the role of domestic violence. This has led, at worst, to the removal of children from mothers who were already victimized. Efforts to protect children have led to some children being placed in the custody of manipulative and violent parents.

[I]t is important for evaluators to distinguish between protective parenting behaviors and alienating parenting behaviors. Too often, we have observed evaluators confusing protective parenting with alienation, resulting in a false conclusion of alienation when, in fact, the parent is engaged in appropriate protection of the child.

JD v PJM:

Mother's "alienating behaviours"

- making a report of concern to CYFS because one child was "pale, gaunt and had lost a lot of weight" and Father was yelling at Children and leaving them unsupervised
- taking one child to a GP who was so concerned about the child's reports of F's harsh punishments that she made a report of concern to CYFS
- allowing C to meet alone with a pediatrician, which resulted in their making disclosures of F's abuse and the pediatrician making a report of concern to CYFS
- failing to inform F that one child had expressed thoughts of self-harm since being ordered by the Court to live with him

Daviau v Desrosiers

facts

- parties separated after Father spit at Mother, dumped the contents of a glass over her head, and restrained her by grabbing her arms
- F convicted for assault (subsequently discharged)
- M sought and obtained a protection order, interim care of 7-year-old Child, who had witnessed the violence, and supervised contact with F
- during the hearing on M's application for a final protection order, FC expressed "alarm" at the "deterioration of the relationship" between C and F since the parties' separation but did not express alarm at F's violence
- F sought day-to-day care of C with no contact with M until her "alienation" was "addressed"
- M's evidence:
 - prior assaults when F repeatedly spit on her, pulled her hair, and strangled her
 - C witnessed F's violence against her
 - F inflicted violence on C directly
 - F attempted suicide in C's presence
- F admitted to "light smacking for discipline" of C five or six times and to slapping M one time (in addition to the assault that led to the parties' separation)
- C expressed that she only wanted limited contact with F
- M argued that C's resistance to contact with F was the result of years of exposure to his violence.
- C's SHINE advocate testified that C told her that she did not want to see F because she was afraid of him and recounted episodes of violence against both herself and M
- in C's evidential interview with Police, she recounted F "hitting" both her and M
- after a supervised visit, C reported that F "grabbed her arm and twisted it"
- C's doctor documented that she had a "deep red bruise" on her forearm, which was "exquisitely tender" to the touch.
- F intimidated M in the hallway of the Family Court, in violation of M's s protection order
- F, who admitted to committing violence against M at the hearing on her protection order, denied at the care proceedings inflicting any "serious" violence and insisted his relationship with C need to be "normalised"



Daviau v Desrosiers court psychologist

- C was “profoundly alienated from her father”.
- C’s memories of F’s violence had to be false because she was too young to remember it.
- C’s disclosures to Police about Father hitting her and M were false memories.
- C’s description of showering with F and having him put his “willy” behind her described innocent conduct.
- “[T]he fluctuation of contact between positive times and disastrous times is an example of the cognitive dissonance [C] is experiencing, in that when she has a positive experience with her father, the only way her brain is able to process that, in light of her view that her father is a ‘monster’, is to ensure that the next experience is negative.”
- The “level of cognitive dissonance” being experienced by C was “severely detrimental” to her “long term welfare.”

Daviau v Desrosiers

FC findings

- F grabbed M “around the neck”, but it was not strangulation because M “did not give any evidence of the pressure or force used”.
- M and her witnesses were exaggerating because none of the witnesses called Police and M remained in a relationship with F, so M’s “view” of the incident must have become “more inflated since the separation”.
- Ms allegations of violence were unfounded because she only disclosed after separation and Police took no action
- F’s violence against M was not “serious” and was “situational”
- “no reliable evidence” that F harmed C
- “the fault of these arguments is bilateral and neither party is blameless”.
- “If I am to make any findings of general violence in the form of psychological abuse, it must go both ways.”
- “Dr Calvert’s expert opinion that [C] is an alienated child is based on years of experience, and a significant amount of data”
- M’s belief in C’s reports of abuse “reinforced” in C “that her mother will fully support anything she says without question and has been part of the process in the formation of the negative relationship.”
- the “central issue” was “whether [C] has become alienated from her father as a result of the influence of her mother and other persons and factors”
- “[C’s presence during F’s attacks on M] forms one of the bases for her resistance to her father. This incident has been inflated to the point where she now feels she can rely on it to justify her ‘fear’ of her father. The fact that she has now been told that her father is unsafe and requires supervision further fuels that fear and her understanding of the incident.”
- “I do not accept . . . that [C]’s resistance to contact and negative relationship with her father is as a result of her realistic estrangement from him. Her current negative view is not a result of her own experiences of her father.”
- C “needs her father”, and residing in M’s care was not in her “long term best interests”



Family Violence Death Review Committee (2014)

- “The National Center for the Prosecution of Violence Against Women (NCPVAW) notes that often in cases involving IPV, child abuse and sexual assault, there is an allegation by the victim that ‘he choked me’. What is often termed ‘choking’ by victims – the grabbing, suppression, squeezing or crushing of the throat – is an act of strangulation.”
- “Strangulation is a unique form of violence in that, even where physical injury is not caused to the victim, it exposes the victim to a high level of risk in respect of very serious harm and has a serious psychological impact.”



FVDRC (2014)

In order to be prevention focused, all levels of the family violence response system need to determine who the IPV predominant aggressor and IPV primary victim are – regardless of who has used physical force on any particular occasion. This is necessary so that primary victims can be identified and effectively supported before serious harm or a fatality occurs. Identifying the primary victim can also interrupt repeat victimisation and ensure the predominant aggressor is held accountable.



Daviau v Desrosiers

“alienation factors”

- M’s “belief” that F inflicted serious domestic violence on her
- the “support” that M received from her family and domestic-violence agencies in her belief that she was a victim of domestic violence
- C’s “exposure” to M’s beliefs
- C undergoing interviews after her reports of child abuse
- C’s “alignment” with M
- the supervised nature of C’s contact with F (which the Court ordered)
- M’s support person made a complaint to the Psychologist’s Board “about Dr Calvert’s bias and methodology”
- C’s “cognitive dissonance”



Oranga Tamariki

“Identify Abuse”:

“Don't be afraid of discussing a worry you're having about a child.”

“Worried About a Child”:

“Trust your instincts, and don't just hope someone else will speak up. It's everyone's job to keep children safe. And if there are serious problems, they're likely to go on until someone takes action.”



Applebaum (2011)

Although experience, including ongoing experience, with the condition at issue is important in establishing expertise for the purpose of providing evidence in a case, there is a danger that experience can be overemphasized as a criterion of expertise as well. Assuming a baseline degree of adequate training and some ongoing experience in a field or with a condition, it is not clear that additional experience necessarily enhances an expert's authoritativeness. Experts will sometimes boast of the number of evaluations they have performed of a particular type of evaluatee (e.g., alleged or convicted murderers) or of a given kind (eg, assessments of competence to stand trial). However, if evaluations are performed inadequately or used as the basis for invalid conclusions, especially if there is no feedback loop to correct the expert's errors, mere experience may only have the effect of reinforcing bad clinical habits.



President's Council of Advisers on Science and Technology (2016)

"[N]either experience, nor judgment, nor good professional practices . . . can substitute for actual evidence of foundational validity and reliability."



DARVO

How Junk Science Prevents the Justice System from Protecting Victims

Zoe Rathus (2020)

“Notwithstanding fathers’ violence, control and denigration, it was the mothers’ attitudes towards the father-child relationships that came under scrutiny. Again, fathers emerged as victims – and pushed a narrative that required mothers to facilitate contact.”





Vivienne Elizabeth (2020)

The majority of mothers with histories of oppressive intimacy whose difficulties with negotiating care arrangements have caused them to interact with New Zealand's family law system, in seeking to advance the complex and contested interests of their children, have simultaneously supported their children's ongoing relationship with their fathers even as they have opposed parenting orders that award often abusive and inexperienced fathers with generous amounts of usually unsupervised time with children. It's a delicate dance in which mothers run the risk of being regarded as obstructive, hostile and alienating if they speak up about violent and/or coercively controlling behaviours directed at them, make claims about violence and abuse against their children or otherwise suggest that fathers are ill-equipped to assume the role of carer for any length of time.

The requirement faced by mothers in contested custody cases in New Zealand (and elsewhere in the West) to participate in a dance of ambivalent support for fathers has been heightened over the last twenty years by the rising prominence of parental alienation (syndrome) in custody law systems, or what I refer to herein as PA(S) inflected custody law systems. Such custody law systems are characterised by the overt and covert use of PA(S) to reinforce the production of fathers as essential to post-separation care arrangements for children. One of the ways this occurs is through using PA(S) to frame mothers' active resistance to fathers' demands for care-time, as well as many ordinary practices of maternal care, in pathological terms as either consciously or unconsciously alienating.



Lapierre et al (2020)

“[A] growing number of abused women are being accused, or threatened that they will be accused, of ‘parental alienation’. Such accusations had primarily come from the women’s former partners and from professionals in family court and child protection services.”



National Council of Juvenile and Family Court Judges (US) (2008) (NCJFCJ)

The discredited “diagnosis” of “PAS” (or allegation of “parental alienation”), quite apart from its scientific invalidity, inappropriately asks the court to assume that the children’s behaviors and attitudes toward the parent who claims to be alienated have no grounding in reality. It also diverts attention away from the behaviors of the rejected parent, who may have directly influenced the children’s responses by acting in violent, disrespectful, intimidating, humiliating and/or discrediting ways towards the children themselves, or the children’s other parent.



Margaret Drew (2017)

"Parental alienation" is a term that describes one parent's attempts to undermine the relationship between the children and the other parent. While the term sounds neutral on its face, the application has a disparate impact on women. Partners who abuse claim alienation on the part of the mother as a way to discredit her allegations that the abusive partner poses a risk for the children.



Case Examples

The Junk Science of “Parental Alienation”

In Re: *Marriage of C.* (Cal. Ct. App. July 31, 2002)

- Mother separated from Father amidst accusations that Father had sexually abused then-six-year-old Child.
- DCFS initiated a dependency proceeding alleging that C had been sexually abused by F and exposed to “violent confrontations” between M and F.
- The court dismissed the sex-abuse allegations and awarded joint custody.
- DCFS filed a second petition against F alleging new abuse.
- The court appointed a psychiatrist to perform a custody evaluation. He opined that M's “obsessive focus” on protecting C from abuse could have a “detrimental effect” on C but expressed no opinion about the detrimental effect that sexual abuse might have on C.
- The court awarded sole custody to F with the condition that they attend “therapy” together, barred M from having any contact with C, and ordered the bailiff to escort M out of the court. The court gave no indication of how family therapy would mitigate the risk that F's sexual abuse posed to C, particularly if she were incommunicado in his sole custody. The court subsequently modified the custody order to allow M to have supervised contact with C.
- During the trial, C told the judge that F touched her in places that were “[n]ot okay,” including in her butt, and that M never told her to say things that were untrue. The court nonetheless left C in F's custody and continued to restrict M's contact to supervised visitation.
- A second court evaluator noted several “symptomologies” in C, including that C was angry with F, connected to M, only felt safe with M, and felt like no one in the justice system cared about her, listened to her, or protected her. The evaluator offered no explanation as to why she felt that these beliefs were pathological as opposed to perfectly reasonable responses to her F's abuse, M's attempts at protection, and the system's failure to protect her.
- The court credited the evaluator's evidence, even though the judge acknowledged that there was “evidence contrary to some of” the evaluator's claims. The court found that M “repeatedly denigrated” F to C. The court awarded sole legal and physical custody to Father and permitted M to see C only in joint therapy sessions. The court found that M had “frustrated the policy of the law to promote settlement and encourage cooperation.”



In Re: *Marriage of Arthur* (Cal. Ct. App. Aug. 3, 2004)

- Parents separated when Children were 3 and 4.
- Mother was C's primary caretaker.
- The family law court awarded M temporary primary physical custody and ordered a custody evaluation.
- Father “had a tendency to explode verbally” and once beat Daughter with a belt.
- The court evaluators opined that M had “serious issues regarding ‘alignment’” and was alienating C from F.
- The court acknowledged that M met C's physical needs well, they were very close to her and wanted to live with her but found that M's “serious emotional problems that are detrimental to the children” outweighed their relationship and C's views. The court awarded primary physical custody to F and parenting time to M on alternating weekends.
- A nanny witnessed F pull D up the stairs and yell at her to clean her room. Son began to experience depression. Nonetheless, the court implicitly determined that, rather than F's abuse, M's “alienation” was the cause of C's escalating emotional distress and thus restricted M's visitation to supervised.

F.T. v. L.J.

123 Cal. Rptr. 3d 120 (Ct. App. 2011)

- After Mother battered Child, CPS placed him with Father and restricted M's contact to supervised visits.
- In family court, M and F stipulated that F would have legal custody of C, C's primary residence would be with F, and M would have supervised visits with C.
- F sought an order allowing him to move to Texas with C. F's ex-wife, older children, and extended family lived in Texas, and he would have job opportunities and a lower cost of living there. M opposed the relocation order.
- The court-appointed psychologist found that it would be detrimental to C to move to Texas with F because it would disrupt his relationship with M, he needed "an incrementally-based expansion of time with [M]," and F "might have some difficulty in consistently and enthusiastically supporting [C's] relationship with [M]."
- The court adopted the evaluator's recommendation, declined F's relocation request, and ordered "incrementally expanded" unsupervised time between M and C. Father remained C's primary caregiver.
- F got engaged and subsequently sought a new relocation order to move to Washington where his fiancée lived with her two children. Based on information from the court-appointed psychologist, the FCS counselor recommended that M and F have joint legal custody and that C not be allowed to move with F to Washington. The counselor's reasons included concerns that F "may not be supportive of [C's] relationship with [M]" and that F did not "seem conducive to co-parenting" based on the psychologist's "testing results." The counselor gave no indication of what "testing" the psychologist performed or how the test results led to his conclusions.
- The family court denied F's request for a relocation order, explaining: "The court feels that [C's] anger is coming from the tension between the two parties." The court also found that F's reports of concerns to CPS about bruises and other signs of potential abuse that C demonstrated after unsupervised visits with M "point[ed] to a lack of meaningful dialog between the parents."

McRoberts v. Superior Court

(Cal. Ct. App. June 19, 2012)

- Father was arrested for DV and eventually pleaded guilty to disturbing the peace, which led to the parties' separation.
- Mother told the court-appointed evaluator that she was concerned about Children's safety in F's care.
- During the initial custody evaluation in 2006, two daughters reported to the evaluator that F "tickled" them in a way that made them uncomfortable.
- Before the first custody evaluation was completed, the parties agreed that M would have custody of C and F would have visitation on alternating weekends, and it was therefore not necessary for the court-appointed evaluator to issue his report.
- In early 2009,, M filed a request for a TRO against F on the ground that he sexually molested the two girls. The court warned F "to stop tickling the girls" and to participate in therapy but concluded that "there was no credible evidence of sexual molestation" and ordered that the custody and visitation arrangement continue.
- One of the daughters became "more uncooperative" with F and pathologically afraid of being touched. She reported to her psychotherapist that F had touched her "private parts." The therapist made a child abuse report, M reported it to the police, and DCFS opened an investigation. The police investigation did not result in any criminal charges against Father, and DCFS did not file a juvenile dependency petition seeking jurisdiction over C, but there was no indication in the record as to why.
- During a weekend visit, one daughter called 911 and reported that F sexually abused her. The other daughter's pediatrician found genital warts on the skin near her anus and vagina a few days later. She reported that F touched her "butt, vagina and boobs." M filed a request for a TRO against F on the ground that he sexually abused the girls, and the court granted the TRO.
- The court reappointed the evaluator to determine whether F sexually abused the girls. The evaluator opined that there was a "very small likelihood the children were actually sexually molested" by F, F's relationship with C had "deteriorated" because of M's "hostility" toward him, and it was in Cs best interest to live with F without visitation by M. The "evidence" on which the evaluator based his conclusion of PA included that one daughter "demonize[d]" F and had become "empowered" by M and the other daughter told him that M "hate[d] F" because he sexually abused them.



NCJFCJ (2008)

At-risk parents may advocate for limited or supervised contact between the abusive parent and the child; their reasons may not be clearly or easily articulated. Any allegations of abuse, whether made by the at-risk parent or the child, should be taken seriously. Often when viewed through the lens of abuse and coercive control, though, the case comes into focus. It is important that abusive parents' access to their children occur only in safe environments or when safety of both the child and the at-risk parent can be ensured.



Conclusion: Avenues for Reform

How Junk Science Prevents the Justice System from Protecting Victims

Saunders et al (2011)

High rates of domestic violence exist in families referred for child custody evaluations. These evaluations can produce potentially harmful outcomes, including the custody of children being awarded to a violent parent, unsupervised or poorly supervised visitation between violent parents and their children, and mediation sessions that increase danger to domestic violence victims. Past research shows that domestic violence is frequently undetected in custody cases or ignored as a significant factor in custody-visitation determinations.

Judges, child custody evaluators, and others involved in determining custody and visitation arrangements may simply be unaware of the factors that indicate actual or potential harm.

DV educators need to provide accurate information on: the rates and nature of false allegations and alienation; the ways in which survivors are reluctant to co-parent out of fear of future harm; the mental health consequences of DV; and the importance of understanding coercive-controlling forms of violence.

Among custody evaluators, the belief that allegations of domestic violence (DV) by mothers are false was strongly related to four other beliefs: (1) DV survivors alienate children from the other parent; (2) DV is not an important factor in making custody decisions; (3) children are hurt when survivors are reluctant to co-parent, and (4) DV survivors falsely allege child abuse. Similar results were found among judges.

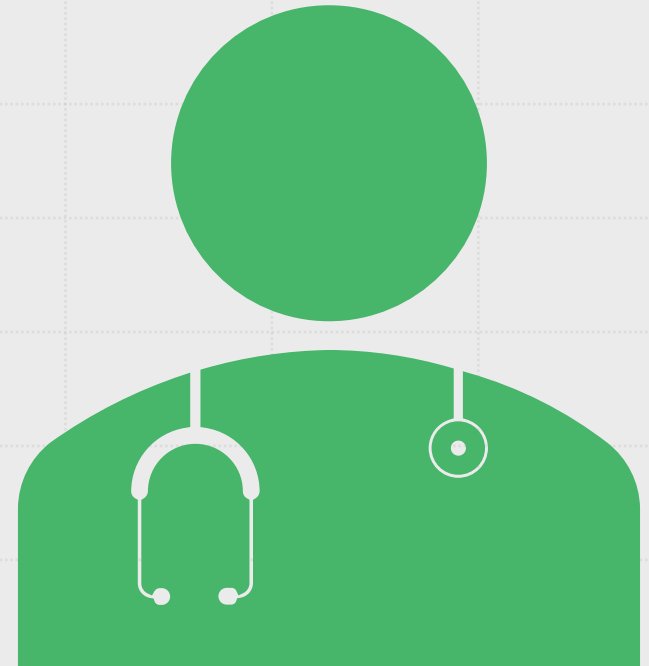
Evaluators and judges may need more training on the continued safety risks to children from abusive fathers, the likelihood of post-separation violence, and concerns about the use of mediation, parent alienation syndrome, and false allegations.

Evaluators' theoretical orientation appears to play a role in shaping their evaluations. An analysis of custody records of DV cases in one city showed that evaluators who viewed "power and control," as opposed to family system dynamics or psychoanalytic factors, as the basis for DV, were more likely to recommend parenting plans with higher levels of safety.

More DV training for judges, evaluators and private attorneys on these topics would probably be helpful. Respondents who reported more knowledge of these topics were less inclined to believe that allegations of DV are false or that victims alienate the children.

World Health Organization (2019) “Parental Alienation”

“There are no evidence-based health care interventions specifically for parental alienation.”



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