

Parental Alienation Syndrome: *An Age-Old Custody Problem*

by Michael R. Walsh and
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The term parental alienation syndrome (PAS), first described by Richard Gardner, is also sometimes referred to as "brainwashing."¹ Its concept and dynamics include a complex network of involvement and motives on the part of all members acting in this family drama. Furthermore, each of them usually takes his or her role in the alienation process well before the dissolution or separation process begins.

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Additionally, one should be mindful that in some instances a child does not reject a parent immediately following a parental separation but rather based upon actual or true life experiences. Thus, this syndrome affects intact, as well as divided, families.

PAS, in its most extreme form, refers to a disturbance in which a child is preoccupied with viewing one parent as all "good" and the other as all "bad." The former is loved and idealized, while the other is hated and verbally vilified.

The PAS hostility expressed by the child is generally characterized without any outward expression of guilt, embarrassment, or ambivalence. Accordingly, this conduct may be especially puzzling, even to a trained observer, if there is no apparent factual basis to justify the depth of the emotions involved.

In severe cases, the child may also suffer from psychosomatic complaints such as headaches, vomiting, loss of sleep, refusal to eat, and the like when faced with the prospect of visiting the "bad" parent. More often, however, the mild to moderately alienated child may express rejection by verbally disparaging the "bad" parent or destroying gifts or refusing to engage in family activities which were once enjoyed with that parent.

Contradictory as it may seem, such a child may also be able to show affection for the "bad" parent when alone, but will never do so in the presence of the "good" parent. This inconsistent "chameleon" quality is a diagnostic hallmark of PAS.

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This column is submitted on behalf of the Family Law Section, Martin L. Haines, chair, and John Morse, editor.

Routinely, the child living with the alienating parent (AP) for the majority of the time is in a classic "no-win" situation. If the child defies the AP's directive in vilifying the targeted parent (TP), the child is guilty of betrayal of their primary caretaker; conversely, if he or she supports these allegations or contributes to them, then the child betrays the TP. The child cannot win, and the deep conflict thus creates a passageway for the possibility of actual delusional thinking on his or her part, as well as that of the AP.

Leaving a child in this pathological environment is most damaging and, under these circumstances, a child may many times become anxious, isolated and depressed. In time, if proper intervention is not forthcoming, the child develops a deep and profound sense of self-hatred and shame for condemning the other parent. These children tend to become despondent, withdrawn, and develop psychopathic manipulative characteristics which may be carried into adulthood.

Actors, Programming, and Techniques

First of all, it is fallacious to believe that all of the responsibility for this process should be attributed solely to the AP, even though that parent has engaged in highly observable maneuvering or self-serving actions. A child usually has some contributing motive, even though it may be extremely vague or more defensible than malevolent.

Of course, there are always variables, such as where both parents appear to be playing their roles in the alienation process but the child will not join with them or is well able to disengage and maintain independence. The same may also happen with the TP, or the process may not fully play out at all because of a geographical distance involved or by the extremely limited time schedule between that parent and the minor child.²

Typically, the AP has an agenda for turning the child against the other parent. It helps to counterbalance that parent's feelings of inadequacy, lack of self-worth, powerlessness, or merely being overwhelmed with the future prospect of facing judicial proceedings. It may include revenge, guilt, fear of loss of the child, or loss of the role of primary parent or the desire to have proprietary control over the child, as well as jealousy of the other parent, the desire to obtain "leverage" as to equitable distribution, child support, or alimony, a past history of abandonment, alienation, physical or sexual abuse, self-protection, or even the loss of one's identity.

These motives lead the AP to program the child. Various techniques are used, such as: denying the existence of the TP, labeling the child as fragile, and thus requiring AP's continuous protection, creating an allegiance between the child and parent in a parental struggle, taking normal differences and turning them into a "good/bad" or "right/wrong" solutions, generalizing from specifics to global meanings, putting the child in the middle, comparing good experience with bad experience, attacking the TP's character or lifestyle, telling the child the "truth about past events," sympathy seeking, playing the victim, communications or actions prompting fear, anxiety, guilt, intimidation, threats, or merely being overly indulgent or extremely permissive.³

Alienation techniques may include attacking the other parent's character, telling the child the "truth about past events," playing the victim, or being indulgent or permissive

One must realize that the TP may also have a motive, including a hidden desire to abandon the family, intense anger at the AP, self-righteousness, past family problems, a personal history of escaping, fragile mental health, or fear of losing a relationship with the child.

The TP, for his or her part, in the past, may have well engaged in conduct leading the minor to believe that he or she wishes to abandon or harm the child. Additionally, he or she may also have been violent or insensitive. Since the diagnostic characteristic of PAS is its "license with reality," one can be sure that the allegations of the TP's wrongdoing will, in any event, be grossly distorted or even rendered fictional. Still, nevertheless, they appear to be deeply believed by the AP, as well as the child.

Lastly, the child's motivation may also include coping with the loss, resolving parental conflict and other normal developmental pressures.

Proof and Evidence

While the constant theme of the alienation may be easily identified, it is not necessarily always susceptible of specific proof. The difficulty, of course, is when there are no witnesses present to refute allegations, and such statements are offered in a courtroom setting or to a guardian ad litem or a mental health professional in conference. Practically, it is emotionally difficult to discount such accusations because they are made with high emotional pitch, urgency, and a desperation as to a description of the incidents involved. All of the foregoing contributes to believability, especially where the minor child is relating a self-reporting trauma and a real danger to him or her. Such accounts may appear to be very convincing to the listener.

Make no mistake about it, individuals with either PAS or a related malicious syndrome will and do lie! They are convincing witnesses, and their manipulative skills may influence others to follow suit. Furthermore, they have absolutely rational explanations for interference with access and contact by the other parent or the complaint of not sharing parental responsibility. Conveniently, they leave out of their testimony pertinent details or they maneuver the facts in such a manner to create an entirely false impression.

Unfortunately, many are successful and run circles around opposing counsel and the court. As a result, over a period of time, the suffering parent becomes emotionally and financially depleted and withdraws the issue from the court system.

In attempting to find "family truths," one must of necessity rely upon typical patterns often only detected by mental health specialists or psychotherapists. These include conflicting or contradictory statements by a child or the AP as to past representations, factual histories, or observations or perceptions made; spying on the TP and reporting it, even to a professional; the child engaging in character assault as to the TP or friends or family; the child parroting the themes of the AP; the child's use of similar phrases or words; the child offering up inappropriate or indelicate information about the other parent; colluding by word or action with the AP and giving only one-sided information to a professional or guardian ad litem; phrasing or speaking only positively about the AP while verbalizing only negatively and derogatorily about the TP; and, lastly, the child's lack of affinity or association with the TP's family, friends, or associates.⁴

Clear instances must be cited to the court since PAS is not generally accepted as a diagnostic tool because it has not yet gained acceptance among experts in the field.⁵

Assuming the challenging parent has assembled credible proof and can demonstrate through a variety of incidents the conduct complained of, our courts have not at all been hesitant to make a decision without regard as to whether PAS is scientifically reliable. *In the Interest of TMW*, 553 So. 2d 260 (Fla. 1st DCA 1989); *Tucker v. Greenberg*, 674 So. 2d 807 (Fla. 5th DCA 1996); *Williams v. Williams*, 676 So. 2d 493 (Fla. 5th DCA 1996); *Adams v. Adams*, 677 So. 2d 6 (Fla. 5th DCA 1996).

A Useful Judicial Tool

Alienation does not occur overnight. It is gradual and consistent and is directly related to the time spent with the alienating parent. To heal the relationship, the child requires quality time with the targeted parent and continued communication to serve as a reality check and in order to counterbalance the effect of ongoing alienation at home.

The alienating parent, on the other hand, requires time to complete the brainwashing of the child without interruption. Thus, manipulation of time is a prime weapon in his or her hands.

Unlike cases of child abuse, where time away from the abuser sometimes helps to repair a damaged relationship, any time lost in repairing a child-parent relationship only furthers the goal of alienation.

While the court needs time to assess each case and move cautiously, the court must remember that with the passage of time, the child grows to be a staunch corroborator.

In these instances, a judicial wish to maintain the status quo in the life of the child pending the outcome of a determination of PAS will only cause that minor to drift further away from the nonresidential parent. Additionally, referrals to mediation or the use of attorney-client

negotiations are often futile because implicit in these processes is a lack of a swift directive that is often perceived by the alienator as denoting approval of his or her behavior.

These authors believe that only the force of law may shorten the death of PAS in a given case! An early judicial precedent of a clear and forceful nature is needed!

Brainwashing takes time. Early judicial intervention may send a clear message to the alienating parent to back off, and will reduce the tension between the child and the other parent

Swift judicial intercession by an award of extra or compensatory visitation to the TP oftentimes sends a clear message to the AP to "back off" and, within a short period of time, the tension and stress that previously existed between the child and the TP has completely disappeared.

Of all of the research on the effects of separation and divorce, the one conclusion that is never debated is that children fare better when they maintain a close relationship with both parents. It is generally accepted that the loss of one parent is detrimental to a child. The only exception seems to be in the case of physical, sexual, or clear emotional abuse.

Accordingly, in fashioning any remedy to PAS, the court, counsel, and the mental health specialist or psychologist must begin with the premise that children will do best when having access to both parents. No proof should be required to support this conclusion, and equal access to both the mother and the father should be legally presumed.

Inequality of access should result only when there is specific evidence that the accused parent has been guilty of abuse or has clearly violated good parental judgment on a somewhat consistent basis; otherwise, there should be no deviation.

Without keeping this perspective in mind, it is indeed difficult to establish any clear sense of the truth because one will always be caught up in the endless chasing of alleged events that are just beyond specific proofbut, yet, nevertheless, found to be credible because of the inferences drawn from them.

It is only with the above presumption in mind, as well as that of shared parental responsibility, that a baseline can be created whereby the AP's allegations, as well as the TP's responses and counter-allegations, may be tested in a true light.

The strategies utilized by the AP to alienate the children and the other parent vary from the most subtle to the most obvious. They all, however, have a consistent theme: any opportunity for the AP to control access and contact or the sharing of major decisions with reference to the child is apt to be exploited. Therefore, limiting the avenues available removes this interference obstacle.

An interesting concept recently advanced to correct this dilemma is the multi-directional court order.⁶ The court order specifies exactly the dates, times, and conditions of visitation. Further, it directs all of the persons closely associated with the AP, as well as the TP, to comply with the court order.

For example, it defines an exact date and time visitation schedule, as well as a precisely defined neutral location for visitation transfer, if that is required.

It may appoint an individual agreeable to both parties or appointed by the court to monitor and supervise the visitation transfers, if required.

Clearly worded authorization is given to all law enforcement officers to execute the transfer of the child specified in the order and, should a parent violate the specified date and time to deliver the child, the court order directs the law enforcement agency to assist the victimized parent in locating his or her child and, additionally, arrest the violating parent.

Ample authority to school personnel to provide whatever access is meaningful to the nonresidential parent is also spelled out.

Clear directives to all personnel involved in any activity relative to the child is given with the right to permit the nonresidential parent full access to any organization involving the child, should it be educational, financial, medical, professional, recreational, religious, or otherwise.

Lastly, it contains authorization to any individual and a directive to assist the nonresidential parent so that no behavior will transpire which will interfere with the contact and access rights accorded to him or her by the court order.

The order does not contain empty threats but rather delineates the penalties that may be imposed if the court order is violated.

A drafting suggestion may be to include a step-up of the sanctions involved with an appropriate list of penalties at the court's discretion which may include increased parental access and contact by the TP, monetary fines, the posting of security, community service, payment of attorneys' fees and costs, incarceration, and loss of primary residential responsibility and primary residential custody, *Schutz v. Schutz*, 522 So. 2d 874 (Fla. 3d DCA 1988). Also meaningful is a public apology as a sanction. This apology may be to the child in the courtroom, along with a promise not to interfere again, or a letter of apology to others, such as school personnel, organizational leaders, or one involved in a religious activity of the child. *Schutz v. Schutz*, 581 So. 2d 1290 (Fla. 1991).

The Role of the Attorney, Psychologist, Court and a Remedial Plan

From the general overview previously discussed, it is easy to see how PAS cases lend themselves to productive intervention, be it by court decision or voluntary settlement. One important roadblock is, however, fear.

Many attorneys or other professionals, especially therapists, tend to shy away from direct confrontation with the AP out of fear of being wrong. The price of such error is certainly harmful to the minor child, as well as a future malpractice action or criminal charge, especially in the case of a psychotherapist. While generally these clinicians do not fender "black and white" recommendations, they will in this instance most generally engage in lukewarm generic advice and, by doing so, directly or indirectly support the PAS.

In all events, successful intervention of PAS requires coordination by the court and all members of the legal and mental health community.

The attorney for the TP will find a receptive audience as a client, while the attorney for the AP has a more difficult role. The AP, having invested substantial time and collected substantial evidence, wants the attorney, mental health professional and judicial system to agree with him or her.

Accordingly, this attorney must be called upon to exercise professional judgment and to avoid being swept up in the process of PAS by remaining neutral or not focusing entirely on all of the known evidence.

In any event, the attorneys must cooperate together in securing representation for each interested party, including the minor child. The appointment of a guardian ad litem provides a special opportunity for additional coordination of efforts and, at long last, some collaboration in the fact finding process as to PAS.

Attorneys representing these parents are ill-equipped to render the necessary professional judgment required to bring the family back to a more constructive route, and thus the next step is to involve a mental health professional who is familiar with family law, custody assessment, and PAS. These authors recommend a court-appointed expert for this purpose.

The role of the court-appointed psychologist must be to first identify the causation and rejection of a parent by the child and to determine whether or not it is the result of PAS.

This psychological evaluation, to be used as the integral part of the remedial plan, must go beyond the identification process and be directly oriented toward the motives of all family members, the defense factors or functions of PAS in the family, and the specific techniques employed and patterns involved.

Further, the evaluation-must be dedicated to routing out the extent of the alienation and the psychological or emotional damage done. A written evaluation is prepared and forwarded to the court and counsel.

Once the evaluation is completed, then, and only then, should joint corroboration on a rehabilitative plan begin. It should hopefully be nonadversarial, but if the controversy still brews, the court must quickly intervene and use its authority.

The court, at this point, should encourage joint negotiations or family law mediation as being preferable to a non-jury trial. Even, however, should these alternatives prove futile, the trial judge is now, nevertheless, in the position of having an in-depth knowledge of the causation and extent of the family chaos at hand and a useful roadmap in the way of the evaluation to help chart a course for its correction.

Any intervention plan must be based upon the premise that there is a distinct advantage to having an on-going relationship between the minor children and the TP. This is the goal of the remedial plan!

By drawing in, and with all family members contributing, the end product hopefully will reflect the airing of all family views and thus a better prospect for a family contract or compact.

Any meaningful plan should include a provision for a neutral or independent mental health expert to be appointed or selected as a monitor relative to the future needs of the child and as a "safe harbor" for that minor. It should also provide for a referral as to separate therapists for each of the parents, as well as perhaps an on-going evaluation by the guardian ad litem and court-appointed expert.

In any event, once the evaluation is completed, swiftly orchestrating such a plan to fruition will greatly diminish the PAS process and, in most cases, eliminate it completely. Acting in this manner and establishing the benefits of a renewed and continuing relationship, the family now begins to draw closer together in providing solutions rather than problems, and the child, once and for all, is finally relieved of previous emotional pressures.

¹ R. GARDNER, PARENTAL ALIENATION SYNDROME AND THE DIFFERENTIATION BETWEEN FABRICATED AND GENUINE CHILD SEX ABUSE (1987).

² Dunne and Hedrick, *The Parental Alienation Syndrome: An Analysis of Sixteen Selected Cases*, J. DIVORCE & REMARRIAGE (1994).

³ Waldron and Joanis, *Understanding and Corroboratively Treating Parental Alienation Syndrome*, 10AM. J. FAM. L. 121-133 (1996).

⁴ *Id.* at 126.

⁵ *Frye v. United States*, 293 F. 2d 1013 (D.C. Cir. 1923); *Daubert v. Merrel Dow Pharmeceuticals, Inc.*, 113 S.Ct. 2786 (1993); *Karen "PP" v. Claude "OO,"* 574 N.Y.S. 2d 267 (Fam. Ct. 1991); *In re Marriage of Wiederholt v. Fisher*; 485 N.W. 2d 442 (Wis. Ct. App. 1992); *Page v. Jordan by and through Jordan*, 564 So. 2d 500 (Fla. 2d D.C.A. 1990); *The Parental Alienation Syndrome: A Dangerous Aura of Reliability*, LOY. L.A. L. REV. (spring 1994); *Gardner's Law*, NAT'L L.J. Vol. 15, NO. 50, Aug. 16, 1993.

⁶ Turkat, *Management of Visitation Interference*, JUDGES' J., A.B.A., Feb. 1997.