

Centre for Research & Education on Violence Against Women & Children

Learning to End Abuse



Western
Education



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**Alienation and Family Violence:
Making Sense of Children Refusing or Resisting Parenting Time**

**Resolve Manitoba Webinar
Family Violence – Family Law Project
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learningtoendabuse.ca

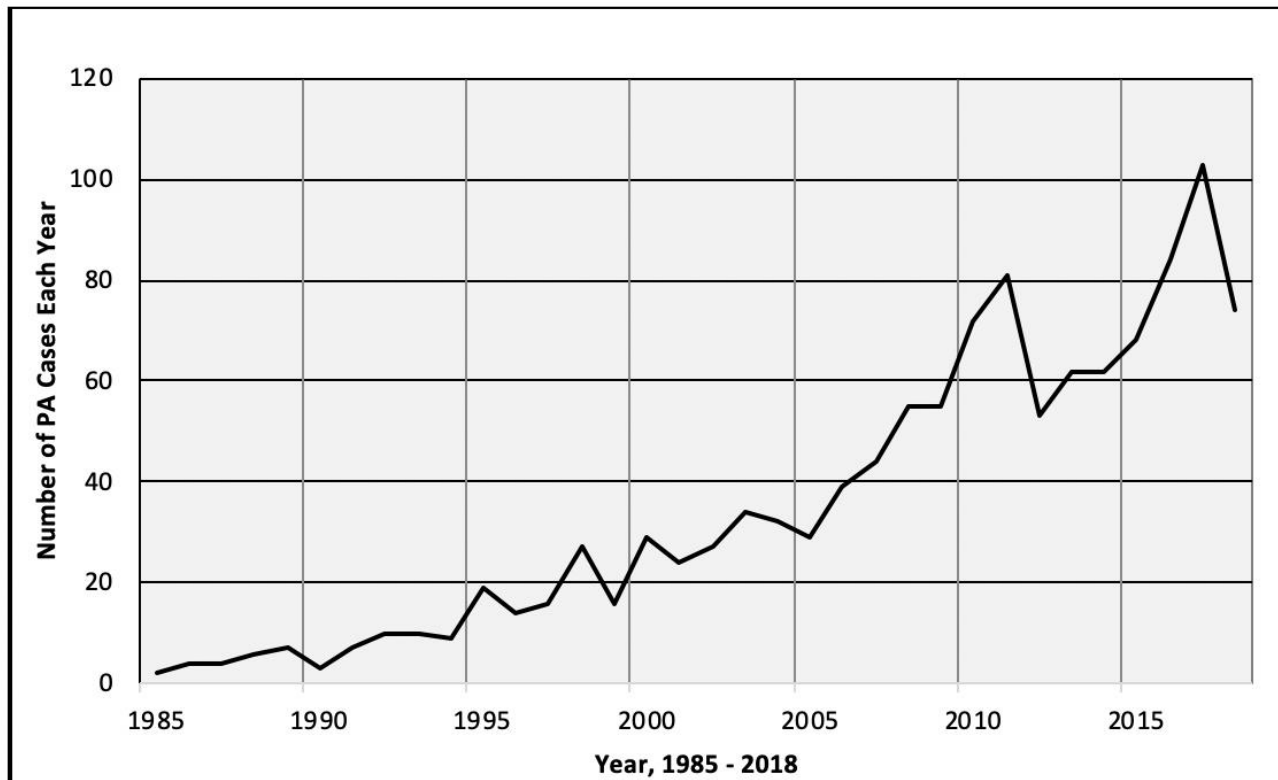
Resist, Refuse Dynamics Alienation & Alienating Behaviour



A Growing Debate

Lorandos, D. (2020). Parental alienation in US courts, 1985 to 2018. *Family court review*, 58(2), 322-339.

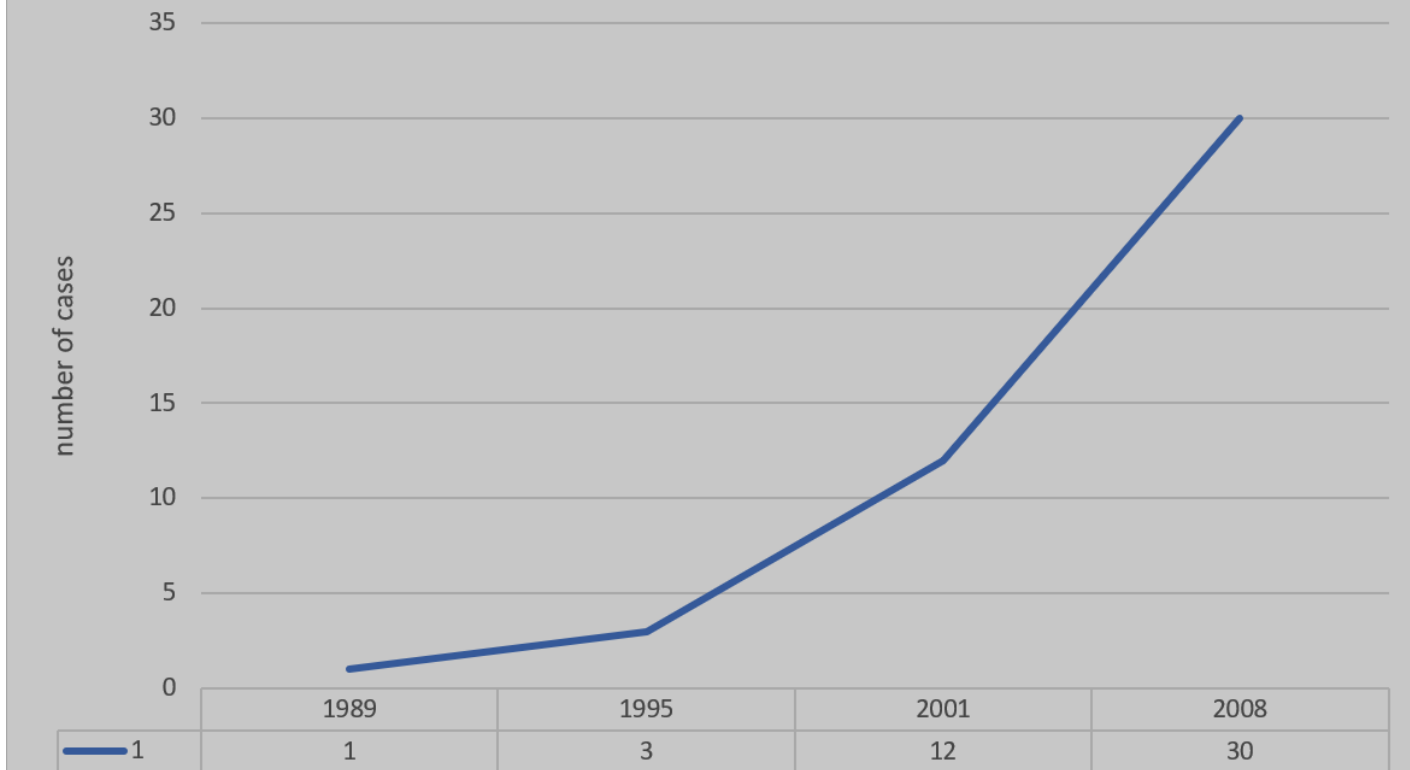
**Number of Cases Where PA Found in U.S. Courts
1985-2018**



Meanwhile in Canada

Alienation Court Claims in Canada 1989-2008

Bala, N., Hunt, S., & McCarney, C. (2010). Parental alienation: Canadian court cases 1989-2008. *Fam. Ct. Rev.*, 48, 164.



alienation can be a real problem

- Everyone agrees that after separation healthy, loving parents should try to work together as co-parents
- Children are harmed by exposure to parental conflict
- Children benefit from a relationship with both parents and extended families for healthy and safe relationships
- Turning children against the other parent is harmful in their development – these efforts may backfire against that parent
- A willful campaign to undermine the other parent is never in children's best interests

alienation is in the dictionary.

but it is not:

- Alienation
- Parental Alienation
- Parental Alienation Syndrome
- A medical or psychiatric disorder
- No consensus on definition how to identify or reliably assessed and no agreed upon and valid intervention – especially court-ordered custody changes and residential treatment
- **alienation is a label with a conclusion** – but most often masking multiple factors and system impacts/litigation that need to be understood

Physical Violence May be Obvious but What About Coercive Control?

Family violence can take many forms and can harm people whether they

- directly experience it themselves
- see or hear it
- know it is happening

Under the new *Divorce Act*, family violence is any behaviour that is

- violent, **or**
- threatening, **or**
- a pattern of coercive and controlling behaviour, **or**
- behaviour that causes a family member to fear for their safety or the safety of another person

While many types of abuse are criminal offences, some non-criminal behaviours are still considered family violence under the *Divorce Act*.

- Children can experience family violence in different ways, such as
- having violence and abuse directed at them
- seeing or hearing someone being violent towards a family member
- seeing a family member scared or injured

All of this is considered to be family violence and child abuse under the new *Divorce Act*.

For more information see <https://www.justice.gc.ca/eng/fl-df/fsdfv-fidvf.html#s1>

Children Resist/Refuse for Many Reasons

- When there is abuse or credible allegations of domestic violence and/or child abuse, a parent has a reasonable basis in fact to be protective and concerned about contact with the other parent
- Children may be anxious and resist or refuse contact with that parent = justified rejection
- If the child's reaction/rejection appears disproportionate to child's actual experience = concerns about alienation.....but

Resist-Refuse & Parent-Child Contact Problem Increasingly Replacing “Alienation”

Multiple factors and dynamics at play in parent-child contact problems:

- “1. *child factors* (age, cognitive capacity, temperament, vulnerability, special needs and resilience);
2. *parent conflict* before and after the separation;
3. *sibling relationships*;
4. *favored parent factors* (parenting style and capacity, negative beliefs and behaviors, mental health, and personality, including responsiveness and willingness to change);

Factors and dynamics at play in parent-child contact problems (continued)

5. rejected parent factors (parenting style and capacity, negative reactions, beliefs and behaviors, mental health, and personality, including willingness to change);

6. the adversarial process/litigation;

7. third parties such as aligned professionals and extended family; and

8. lack of functional coparenting, and poor or conflictual parental communication.” (Fidler & Bala, 2020; p. 579).

Interaction of Alienation and Domestic Violence

“Common for allegations of parental alienation to be made by a person who has been accused of domestic violence, particularly when there are concerns about the children’s safety with the alleged perpetrator, or the children are reluctant to visit.....

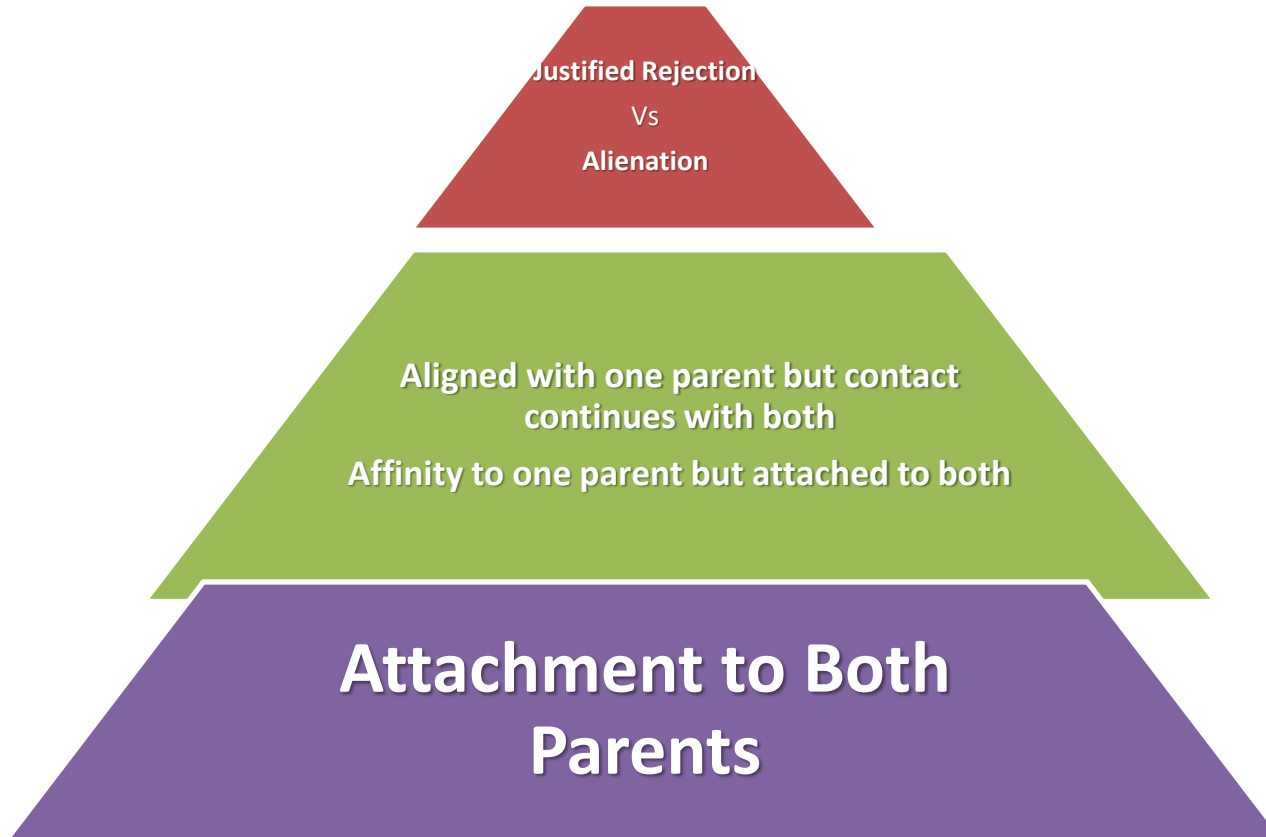
Commonly recognized pattern is for a woman to allege abuse by her partner, and then be blamed for turning the children against him....

In families in which there was abuse by the father, the mother had no greater likelihood of engaging in alienating behavior than mothers in all other families. On the other hand, fathers who had been found to have been abusive to their adult partners or their children were significantly more likely to engage in alienating behaviors than their partners or other fathers who were not abusive.

(in other words) ...the violent spouse turns the children against the victim parent”.

Oleson, N. L. J., & Drozd, L. (2008). High conflict, domestic abuse, or alienating behavior: How do you know. Innovations in interventions with high conflict families, 17-40.

Parent-Child Contact Problems



Adapted from Wong and Sullivan – AFCC Judicial Webinar @ <https://www.afccnet.org/Conferences-Training/Judicial-Webinars/ctl/ViewWebinar/WebinarID/5/mid/884>

Screening and Assessment

“If the only tool you have is a hammer, everything looks like a nail.”

Mark Twain

Assessment Issues

- Parenting history & Nature of ongoing conflict
- Nature of litigation (prolonged?)
- Child abuse and domestic violence/coercive control
- Trauma symptoms for children and parents affected by abuse
- Misuse of alienation to undermine protective parent and disinformation to confuse the court
- Alienation

Alienation Warning Signs or Domestic Violence Warning Signs? Who Decides?

1. portraying the other parent as dangerous;
2. exaggerating and exploiting the other parent's behavior, negative attributes and challenges;
3. undermining;
4. parentifying the child;
5. oversharing legal and other inappropriate information with children;
6. co-opting children as messengers, spies and confidants;
7. conspiring with children to withhold information, keep secrets and mislead the other parent;
8. surreptitiously contacting the children when they are with the other parent;
9. withholding parenting time and being inflexible around scheduling;
10. withholding love and affection from the child if they do not share and act on the parent's views;
11. disparaging the other parent's family members;
12. co-opting neighbours, therapists, school personnel and others in an effort to garner support and turn them against the other parent;
13. believing it is their right, supporting or permitting a child or adolescent to make a life altering decision to never see a parent again.

Assessment Caution

Research to date has NOT actually differentiated between children who were estranged from a parent in response to that parent's behaviors, as opposed to a preferred parent's illegitimate influence.

There is neither credible research nor any validated method for differentiating why a child is estranged from a parent

Michael Saini (2016) *Empirical Studies of Alienation*, in L. Drozd, M. Saini, and F. Olesen, eds, *Parenting Plan Evaluations: Applied Research For Family Court*, 2d ed. New York: Oxford University Press, 374, 430.

Prevention & Interventions

“First, Do No Harm”

Hippocrates

Father of Medicine (460-370 BC)

Who speaks for children?

Does Un Declaration on the Right of the Child Matter?

- Opposing parents through their counsel or self-representation?
- Mental health counsellor?
- Parenting assessment?
- Counsel or advisor for children? How do they access that resource?

Martinson, The Honourable Donna; Raven, The Honourable Rose. (2021). Implementing Children's Participation Rights in All Family Court Cases. Family Violence & Family Law Brief (9). Vancouver, BC: The FREDA Centre for Research on Violence Against Women and Children. https://www.fvfl-vfdf.ca/briefs/BRIEF-9_EN.pdf



Rights of Children

The status of children has changed dramatically from the times when children were viewed as property ... Today children are viewed as individuals, who as full rights bearers and members of a group made vulnerable by dependency, age, and need, merit society's full protection.

Justice Sheilah Martin, Supreme Court of Canada, 2020 concurring judgment in Michel v. Graydon

Consent to Treatment for “Parental Alienation” or Reintegration Counselling?

“outcome evaluation of treatments of alienation is in it’s infancy. To date, these studies have employed the weakest possible research design (i.e. a post-treatment design by researchers-clinicians who derive small samples from their own caseload). Few studies have used a comparison or control group or standardized measures of outcome. Further, these studies have included no systematic controls for many other variables that might have affected outcome” (Johnston, 2017; p 339).

Some programs require custody reversals

There is no empirical evidence that these strategies work for a particular case and a fair bit of anecdotal evidence that they can be very harmful to children. A custody reversal *“is highly intrusive and generally requires suspension of contact between the child and the favoured parent, along with the threat or reality of police enforcement, contempt, and imprisonment for former spouses (or even children) who fail to comply with court order. In addition to being very intrusive and often very expensive, custody reversal does not always succeed and may further traumatize already vulnerable children. Most significantly, this process rarely results in children establishing good relationships with both parents.”* (Drozd & Bala, 2017; p. 2.).

Consent to Treatment for Children in Family Court?

Treatment, such as counselling or psychotherapy, cannot be provided to a young person without consent. If the young person is capable, they can decide if they want to give or refuse consent to treatment.

For consent to be valid, it must be:

Informed

Given voluntarily

Not obtained through misrepresentation or fraud (or coercion)

There is no general age of consent to treatment or counselling; instead, the issue depends on whether the young person is capable of consenting. A young person will be found to have capacity to consent or to refuse consent if they both:

Understand the information relevant to the proposed treatment in issue, and

Appreciate the reasonably foreseeable consequences of consenting or refusing consent.

From Canadian Mental Health Association

<https://ontario.cmha.ca/documents/understanding-common-legal-issues-in-child-and-youth-mental-health/>

Are Judges Making Orders that
Require Mental Health
Professionals Violate their Colleges'
Professional Standards?

Solutions

- Ongoing judicial and legal education programs
- Early intervention – triage and court management
- Enhanced standards of practice for court related professionals like mediators and parenting evaluators, child protection workers
- Access to legal advice and representation for children
- More Applied Research

We need to watch more than one station



Questions, Comments, Reflections

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