

## **Collective Memo of Concern to: World Health Organization**

**RE: Inclusion of “Parental Alienation” as a “Caregiver-child relationship problem” Code QE52.0 in the *International Classification of Diseases 11<sup>th</sup> Revision* (ICD-11)**

**From: Concerned Family Law Academics, Family Violence Experts, Family Violence Research Institutes, Child Development and Child Abuse Experts, Children’s Rights Networks and Associations<sup>1</sup>**

**Date: April 22, 2019**

It has recently come to our collective attention that the World Health Organization is considering the addition of “parental alienation” (PA) as a “caregiver-child relationship problem” in ICD-11, the *International Classification of Diseases 11<sup>th</sup> Revision*. We are surprised by the lack of prior consultation in connection with gender equality issues associated with the concept and are deeply concerned about this proposal from a women’s safety and child development, health and safety point of view, as well as from research and science perspectives.

We are requesting removal of all references to “parental alienation” and related concepts in ICD-11 for the reasons set out below. Our research and experience in court has demonstrated that parental alienation, which lacks credibility, is frequently employed to divert attention from domestic violence and abuse and other evidence relevant to the best interests of the child.

Empirically verified problems associated with the application of parental alienation theory, discussed in Part Two, include:

- Limited support for the concept in scientific research on children
- Gender bias in the application and effects of parental alienation claims
- Deflection of attention from scrutiny of parenting practices and parent-child relationships in favor of assuming primary-care parental blame when children have poor relationships with the other parent
- Deflection of attention from scrutiny of child risk and safety factors in family violence cases
- Imposition of equal time, joint custody presumptions or equal shared parental responsibility
- Deflection of attention from thorough analysis of the best interests of children criteria
- The silencing of women and children such that evidence of family violence and of negative parenting is not presented

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- The discounting of the perspectives of children and the failure to protect children from parental abuse, contrary to the internationally recognized rights of children set out in the United Nations [\*Convention on the Rights of the Child\*](#)
- Inappropriate assignment of parental blame for normal adolescent behavior
- Deflection of attention from studies that demonstrate child resistance to contact and child harm are better explained by factors other than those proposed by parental alienation theory
- Emerging evidence that parental alienation “remedies” are harming many children
- Negative effect of the theory on evidence and on legal responsibilities to assess children’s best interests and safety
- The undermining of knowledge about how family violence harms children and what is needed for their safety and well-being.

## **PART TWO: Discussion.**

### **The parental alienation concept is not supported by credible scientific research on children.**

**Discussion:** As the Amici brief to the Court of Appeals for the State of New York (March 22, 2019) associated with *E.V. (Anonymous) v R.V. (Anonymous) and G.V. (Anonymous)* Westchester Country Clerk’s Index No. 10602/2007, states:

*Parental alienation, while lacking a universal clinical or scientific definition, generally refers to the presumption that a child’s fear or rejection of one parent (typically the non-custodial parent), stems from the malevolent influence of the preferred (typically custodial) parent. The alienation hypothesis inherently relies on two flawed assumptions: (i) that children do not ordinarily fear or resist a non-custodial parent without manipulation by the other parent, and (ii) that a child’s hostility toward or fear of the other parent, can in fact be caused solely by the favored parent’s negative influence (or programming), regardless of the child’s own experience. There is little or no scientific support for either premise, and both derive from PAS, which has itself been roundly debunked by scientific and professional authorities.<sup>2</sup>*

Vigorous debate and controversy surround the validity of “parental alienation” “diagnoses” and the assessment tools and remedies associated with it.<sup>3</sup> While some authors contend that the concept has

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2 PAS stands for Parental Alienation Syndrome, a controversial concept proposed by child psychiatrist Richard A Gardner that resulted in family courts removing numerous children from the primary care of protective mothers. The concept was soundly refuted on grounds of gender bias, harm to children, and lack of scientific credibility in the mid 1980s. It then fell into disuse. The same concept resurfaced in the mid 2000s largely as a result of Dr. Amy J. L. Baker’s interviews in the United States with forty adults who responded to an advertisement, who claimed to have been alienated from a parent when they were children. Blatant anti women and children terminology found in Gardner’s earlier work has been removed (although gender bias and the undermining of the views of children have remained) and the word “syndrome” was omitted, presumably in order to avoid the need for scientific proof of a mental health condition. Despite questionable research foundations, the concept spread rapidly and is now being applied in many parts of the world.

3 Julie Doughty *et al.*, “Parental alienation: in search of evidence” [2018] Fam Law 1304 [hereafter Doughty *et al.* (2018a)]; Julie Doughty *et al.*, *Review of research and case law on parental alienation* (Cardiff: Welsh Government, 2018) [hereafter Doughty *et al.* (2018b)]; L. Drozd, “Rejection in cases of abuse or alienation in divorcing families” in RM Galatzer-Levy, L Kraus & J Galatzer-Levy, eds, *The Scientific Basis of Child Custody Decisions* (2<sup>nd</sup> ed) (Hoboken, NJ: John Wiley & Sons, 2009) 403; C.S. Bruch, “Parental Alienation Syndrome and Parental Alienation: Getting It Wrong in Child Custody Cases” (2001) 35 Family Law Quarterly 527; M.S. Pignotti, “Parental alienation

demonstrated scientific validity,<sup>4</sup> many tenured academic researchers, child experts and experts in the domestic and family violence fields disagree. References to published criticisms of parental alienation theory by internationally respected experts are listed in footnote 5.<sup>5</sup> It is important to note that many of the assertions of validity have been advanced by individuals who offer or have offered alienation “reunification therapy” for economic gain or who are expert witnesses paid to testify in custody cases.<sup>6</sup>

Concerns about parental alienation theory that have been validated empirically by researchers who do not have vested economic or personal interests in parental alienation remedie, include:

- 1) Concerns about research credibility,<sup>7</sup> limited evidence of representativeness of study samples, small sample sizes,<sup>8</sup> absence of longitudinal research,<sup>9</sup> and most importantly, lack of

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syndrome (PAS): unknown in medical settings, endemic in courts” (2013) 104:2 Pub Med 54; Holly Smith, “Parental Alienation Syndrome: Fact or Fiction? The Problem With Its Use in Child Custody Cases” (2016) 11 Mass. L. Rev. 64; C. Dalton *et al.*, *Navigating Custody and Access Evaluation in Domestic Violence Cases* (Reno, NV: National Council of Juvenile and Family Court Judges, 2006); Hon. Jerry Bowles *et al.*, *A Judicial Guide to Child Safety in Custody Cases* (Reno, NV: National Council of Juvenile and Family Court Judges, 2009); Joan Meier, “A Historical Perspective on Parental Alienation Syndrome and Parental Alienation” (2009) 6 Journal of Child Custody 232; Toby Kleiman, “Family court ordered ‘reunification therapy’: junk science in the guise of helping parent/child relationships?” (2017) 14:4 Journal of Child Custody 295; Linda C Neilson, [Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights?](#) (Fredericton: Muriel McQueen Fergusson Centre for Family Violence; Vancouver: FREDA Centre for Research on Violence Against Women and Children, 2018).

4 For example, William Bernet & Amy J.L. Baker, “Parental Alienation, DSM-5 , and ICD-11: Response to Critics” (2013) 41:1 Journal of the American Academy of Psychiatry and the Law 98; Richard Warshak, “Current Controversies Regarding Parental Alienation Syndrome” (2001) 19:3 American Journal of Forensic Psychology 29; Stanley Clawar & Brynne Rivlin, *Children Held Hostage* (2<sup>nd</sup> ed) (Chicago: American Bar Association, 2013).

5 Published comments critical of parental alienation theory by internationally respected researchers and academics include: Robert Emery, PhD., Professor of Psychology in the Department of Psychology and Director of the Center for Children, Families and the Law, University of Virginia: “*Despite influencing many custody proceedings, Gardner’s ideas fail to meet even minimal scientific standards.*” Source: Robert E. Emery, “Parental Alienation Syndrome: Proponents Bear the Burden of Proof” (2005) 43:1 Family Court Review 8; Robert Geffner, Clinical Research Professor and adjunct faculty member for the National Judicial College, as well as author of numerous books on domestic violence and child abuse has commented: “*While some parents resort to such behavior, parent alienation syndrome is not a valid diagnosis and shouldn’t be admitted into child custody cases.*” Robert Geffner, “Editor’s note about the special section” (2016) 13:2-3 Journal of Child Custody 111; Walter DeKeseredy, Molly Dragiewicz & Martin Schwartz, “A Word of Caution about parental alienation” in Walter DeKeseredy, Molly Dragiewicz & Martin Schwartz, *Abusive Endings: Separation and Divorce Violence Against Women* (Oakland: University of California Press, 2017) 136; R. Freeman & G. Freeman, *Managing Contact Difficulties: A Child Centered Approach* (Ottawa: Department of Justice Canada, 2003); S.J. Dallam, “Parental Alienation Syndrome: Is it scientific?” in E. St. Charles & L. Crook, eds., *Expose: The failure of family courts to protect children from abuse in custody disputes* (Los Gatos, CA: Our Children Charitable Foundation, 1999) (online); J.S. Meier, [Parental Alienation Syndrome and Parental Alienation: A Research Review](#) *Research Forum* (National Online Resource Centre on Violence Against Women, 2009); Joan Meier & Sean Dickson, “Mapping Gender: Shedding Empirical Light on Family Courts’ Treatment of Cases Involving Abuse and Alienation” (2017) 35:2 Law & Inequality 310; P. Van Horn & B. M Groves, “Children Exposed to Domestic Violence: Making Trauma Informed Custody and Visitation Decisions” (2006) 57:11 Juvenile and Family Court Review 51; Smith, *supra* note 3; Dalton *et al.*, *supra* note 3; Bruch, *supra* note 3.

6 For example, Richard A. Warshak, formerly associated with Family Bridges workshops in the United States; Amy J. Baker; Stanley Clawar, clinical sociologist, and owner of Walden Counselling & Therapy; Barbara Jo Fidler of [Families Moving Forward](#).

7 Sources cited *supra* note 3; Rebecca Thomas & James Richardson, “Parental Alienation Syndrome: 30 years On and Still Junk Science” (2015) 54 :3 Judge’s Journal (online); Daniel Krauss, *Psychological Expertise in Court* (city: Routledge, 2016); Isabelle Côté & Simon Lapierre, *L’Aliénation Parentale Stratégie D’Occultation De La Violence Conjugale?* (Ottawa: FemAnVi, 2019) Online: [http://fedec.gc.ca/sites/default/files/upload/documents/publications/rapport\\_ap.pdf](http://fedec.gc.ca/sites/default/files/upload/documents/publications/rapport_ap.pdf).

8 Michael Saini *et al.*, “Empirical Studies of Alienation” in Leslie Drozd *et al.*, eds, *Parenting Plan Evaluations: Applied Research for Family Court* (New York: Oxford University Press, 2012) 399. Sociologist Stanley Clawar’s research is commonly cited by parental alienation advocates in support of assertions of the scientific research validity of parental

research controls to assess for and rule out alternative explanations for child resistance to contact and child harm that are known to have a negative impact on children's relationships with parents and that have been documented repeatedly in research on child well-being for decades, i.e., parental conflict, intimate partner and family violence, child abuse, weak parent-child attachment, parental neglect, parental substance misuse and/or negative or hostile parenting;<sup>10</sup>

- 2) Gender bias in the application and effects of parental alienation claims;<sup>11</sup>
- 3) Deflection of attention from scrutiny of parenting practices and parent-child relationships in favor of projecting blame onto primary-care parents when children have poor relationships with the other parent;<sup>12</sup>

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alienation theory. The claim is made that Clawar and Rivlin's empirical research documenting parental alienation and its associated child and parental behaviors is based on analysis of more than 700 (now 1000) cases. However, scrutiny of the empirical basis for the claims made by Clawar and Rivlin, *supra* note 4, "Appendix: Research Techniques and Sample Characteristics," reveals that the Clawar and Rivlin analysis is derived from client files seen in their professional practice and subsequently analyzed by the authors. In the absence of research samples and research controls, we have no way of knowing the degree to which the authors' conclusions can be extended beyond clinical samples to the general public, and we have no way of knowing the extent to which the authors considered and controlled for scientifically verified and professionally accepted adversities that affect children's relationships with their parents. Clawar and Rivlin's conclusions should be considered therapeutic theory drawn from clinical practice rather than scientific research.

- 9 Jean Mercer, "Are intensive parental alienation treatments effective and safe for children and adolescents?" (2019) *Journal of Child Custody* <https://doi.org/10.1080/15379418.2018.1557578>. Although Dr. Amy Baker has testified in Canadian courts, for example, *Hukerby v. Paquet* [2014] S.J. no 791, that her research is longitudinal, and other parental alienation advocates have advised courts that Dr. Baker's conclusions are based on "long-term" research." In fact, her research was actually merely qualitative and retrospective. For particulars, see: Amy J. L. Baker, "The Long-Term Effects of Parental Alienation on Adult Children: A Qualitative Research Study" (2006) 33:4 *American Journal of Family Therapy* 289; Amy J. L. Baker, *Adult Children of parental alienation syndrome: Breaking the ties that bind* (New York: W.W. Norton Professional, 2007). In contrast, a longitudinal study is a research design that involves repetitive observations and assessments of the same variables over a period of time. For example, a longitudinal study of parental alienation would start with use of a validated instrument (of which there are none) to identify a sample of children who were alienated from a parent. It would then follow and reassess the children at various points throughout their lives in comparison with children who were not alienated from a parent. Well-designed longitudinal studies implement experimental controls in order to distinguish the effects of parental alienation from the effects of other adversities on children. Dr. Baker's parental alienation research is retrospective, based on adult memory of childhood experiences and lacking in research controls. Indeed a small longitudinal study of cases in which children resisted parental contact reveals that negative outcomes for children, when they exist in these cases, can be explained by serious deficits on the part of parents the children reject: Janet Johnson & Judith Goldman, "Outcomes of Family Counselling Interventions With Children Who Resist Visitation: An addendum to Friedlander and Walters" (2010) 48:1 *Family Court Review* 112.
- 10 Without research controls it is impossible to distinguish the influence of parental alienation from the influence of other factors. Scott Huff, "Expanding the Relationship between Parental Alienating Behaviors and Children's Contact Refusal Following Divorce: Testing Additional Factors and Long-Term Outcomes" (Doctoral Dissertation, University of Connecticut, 2015).
- 11 Meier & Dickson, *supra* note 5; Madelyn Milchman, "Misogyny in New York Custody Decisions with Parental Alienation and Child Sexual Abuse Allegation" (2017) 14 *J. Child Custody* 234; Simon Lapierre & Isabel Côté, "Abused Women and the Threat of Parental Alienation: Shelter Workers' Perspectives" (2016) 65 *Child & Youth Servs. Rev.* 120; Sian Balmer *et al.*, "Parental alienation: Targeted parent perspective" (2018) 70 *Australian Journal of Psychology* 91. Note that the Balmer study differs from the other studies in that the focus was on the more particularly severe impact on mothers when fathers undermined mothers' relationships with children. Fathers often allege PA as a tactic in response to mothers' claims domestic violence or abuse or in order to present mothers' resistance to equal time parenting and equal shared parenting responsibility in a negative light: S Berns, "Parents behaving badly: Parental alienation syndrome in the family court: magic bullet or poisoned chalice?" (2001) 15:3 *Australian Journal of Family Law* 191; R Kaspiew, "Empirical Insights into Parental Attitudes and Children's Interests in Family Court Litigation" (20017) 29:1 *Sydney Law Review* 131.
- 12 Milchman, *ibid*; Nancy Erickson, "Fighting False Allegations of Parental Alienation Raised as Defenses to Valid Claims of Abuse" (2013) 6:1 *Family & Intimate Partner Violence Quarterly* 35; Meier & Dickson, *supra* note 5;

- 4) Deflection of attention from scrutiny of child risk and safety factors, particularly in family violence cases;<sup>13</sup>
- 5) Imposition of equal time, joint custody, and co-parenting assumptions by parental alienation advocates;<sup>14</sup>
- 6) Deflection of attention away from thorough analysis of the best interests of children criteria in the legal system;<sup>15</sup>
- 7) The silencing of women and children such that evidence of family violence and of negative parenting is not presented to courts<sup>16</sup>
- 8) The discounting of the perspectives of children and the non-protection of children from parental abuse, contrary to the internationally recognized rights of children set out in the United Nations *Convention on the Rights of the Child*;<sup>17</sup> and
- 9) The inappropriate assignment of parental blame for behaviors of adolescents that are normal and consistent with the needs of youth at an adolescent stage of development.<sup>18</sup>

Family violence and child welfare associations in many parts of the world have become increasingly concerned about misuse of parental alienation concepts to the detriment of women and children.

### **Child resistance to contact and child harm are better explained by factors other than those proposed by parental alienation theory**

**Discussion:** Scrutiny of emerging arm’s length research utilizing research controls and credible research methods reveals that the premises of parental alienation enthusiasts do not stand up to research scrutiny. Instead, it becomes clear that factors long identified in child-welfare and development research, such as lack of parental warmth, exposure to parental or family violence and/or parental conflict, offer far better explanations for child resistance to contact than does parental alienation theory.

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Neilson (2018), *supra* note 3; Smith, *supra* note 3; Lois Shereen Winstock, “Safe Havens or Dangerous Waters? A Phenomenological Study of Abused Women’s Experiences in the Family Courts of Ontario” (PhD dissertation in Law, York University, 2014).

- 13 Erickson, *ibid.*; Daniel Saunders & Kathleen Faller, “The Need to Carefully Screen For Family Violence When Parental Alienation is Claimed” (2016) 46:6 Michigan Family Law Journal 7; Rita Berg, “Parental Alienation Analysis, Domestic Violence, and Gender Bias in Minnesota Courts” (2011) 29:1 Law & Inequality 5; Joan Meier, “Domestic Violence, Child Custody, and Child Protection: Understanding Judicial Resistance and Imagining Solutions” (2003) 11 Am. U. J. Gender Soc. Pol’y & L. 657; Meier & Dickson, *supra* note 5; Neilson (2018), *supra* note 3.
- 14 Bruch, *supra* note 3; Joyanna Silberg *et al.*, *Crisis in Family Court: Lessons From Turned Around Cases* (2013); Neilson (2018), *supra* note 3; Smith, *supra* note 3; Milchman, *supra* note 11; Meier & Dickson, *supra* note 5; Erickson, *supra* note 12; Suzanne Zaccour, “Parental Alienation in Quebec Custody Litigation” (2018) 59 Cahiers de droit 1072; Winstock, *supra* note 12; Zoe Rathus, “Mapping the Use of Social Science in Australian Courts: The example of family law children’s cases” (2016) 25:3 Griffith Law Review 352.
- 15 Bruch, *supra* note 3; Neilson (2018), *supra* note 3; Smith, *supra* note 3; Meier & Dickson, *supra* note 5; Erickson, *supra* note 12; Pamela Cross, *Alienating children or protecting them?* (online at Pamela Cross.ca, 2018)).
- 16 Linda Neilson *et al.*, “Spousal Abuse, Children and the Legal System” (Fredericton: Muriel McQueen Fergusson Centre for Family Violence Research, 2001); Leanne Francia *et al.*, “Addressing family violence post separation – mothers and fathers’ experiences from Australia” (2019) Journal of Child Custody <https://doi.org/10.1080/15379418.2019.1583151>.
- 17 Honourable Donna J. Martinson & Caterina E. Tempesta, “Young People as Humans in Family Court Processes: A Child Rights Approach to Legal Representation” (2018) 31 Can. J. Fam. L. 151; Special Issue, “A Renewed Call to Address Women’s and Children’s Human Rights” (2014) 18:6 International Journal of Human Rights; Neilson (2018), *supra* note 3.
- 18 Joan Kelly & Janet Johnston, “The Alienated Child: A Reformulation of Parental Alienation Syndrome” (2001) 39:3 Family Court Review 249; Neilson (2018), *supra* note 3.



In fact, these long-documented factors<sup>19</sup> often operate in opposition to the premises of parental alienation theory. Dr. Scott Huff reports, in his 2015 doctoral dissertation, University of Connecticut:

*These findings are notable in that alienating behaviors were not predictors of outcomes in any of the analyses, contrary to previous work on parental alienating behaviours (Baker & Verocchio, 2012; Bena-Ami & Baker, 2012).*<sup>20</sup>

Similarly, Jenna Rowen, who studied the effects on children of parents denigrating the other parent, and Robert Emery have found that denigration patterns and the effects on children were consistent with conflict theory – we have long known that parental conflict is harmful to children – and not with parental alienation theory. Denigration problems were seldom one-sided or linear. Denigration alone seldom resulted in the successful manipulation of a child against the other parent. Instead, denigration usually had the opposite effect of impairing the child’s relationship with the parent engaging in denigration.<sup>21</sup>

In other words, the child relevant factors verified by significant bodies of research – family violence, parental conflict, absence of parent-child warmth, weak parent-child attachment, parental neglect, negative parenting – that are known to be associated with children’s resistance to parental contact are both different from and more complex than the alienation theory’s primary focus on blaming the preferred parent. Yet, as Jean Mercer has documented, parental alienation advocates ask us to ignore these plausible explanations in favor of adopting a simplistic, one dimensional, speculative view of parent-child relationships that ignores most of the scientifically verified parent-child relationship factors.<sup>22</sup>

### **Parental alienation remedies are harming some children.**

**Discussion:** Parental alienation experts typically recommend that children be removed from preferred parents without any contact while children undergo “reunification therapy” for a substantial period of time to restore or build positive relationships with the parent the children rejected. Stephanie Dallam and Joyanna Silberg, of the Leadership Council on Child Abuse and Interpersonal Violence, report that the treatments recommended by parental alienation therapists are likely to cause children foreseeable and lasting psychological harm, particularly when children have already been traumatized by negative family experiences.<sup>23</sup> Indeed, removing children from preferred primary-care parents is contrary to research on child resilience, recovery from trauma and accepted child development principles.<sup>24</sup> While reunification programs may help children in some cases, for example when the parent who engaged in domestic violence has undermined the child’s relationship with the abused parent in order to retain coercive control over the family (a common phenomenon in domestic violence cases), we actually know very little about the short or long-term effects on children, positive or negative, of reunification therapy. While positive claims have been advanced by those who are, or have been, associated with and

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19 See, for example, L. Neilson, “Spousal Abuse, Children and the Courts: The Case for Social Rather than Legal Change” (1997) 12:1 Canadian Journal of Law and Society 101, in connection with the large number of consistent research studies documenting the negative impact of parental conflict on children.

20 Huff, *supra* note 10.

21 Jenna Rowen, “Examining Parental Denigration in Family Law Systems and its Association with Parent-child Closeness, Interparental Conflict, and Psychological Well-Being” (PhD Dissertation, University of Virginia, 2014); Emery, *supra* note 5.

22 Mercer, *supra* note 9.

23 Stephanie Dallam & Joyanna Silberg, “Recommended treatments for ‘parental alienation syndrome’ (PAS) may cause children foreseeable and lasting psychological harm” (2016) 2-3 Journal of Child Custody 134.

24 Center on the Developing Child, Harvard University, [Resilience](#).

financially benefited from the delivery of such programs,<sup>25</sup> arm's length, controlled experimental research is lacking.<sup>26</sup>

We do not know much, if anything, about the impact of the removal of children from their preferred parent and engagement in "reunification" attempts; about the effects on children's relationships with preferred parents, siblings and other family members; or about the impact on children's overall health and well-being. Moreover, anecdotal news reports are emerging now from children old enough to comment on experiences in reunification programs without risk of being censored or disciplined by the legal system. These children report having been forced to attend these programs; being threatened and intimidated; loss of contact with preferred parents, siblings and family members; being exposed to pro-father, anti-mother rhetoric; not being listened to and having their views treated respectfully; and not being protected from parental abuse.<sup>27</sup> Although much of the emerging evidence from children is anecdotal and case specific, such that it is possible that other children had favorable experiences, the emerging experiences of children suggest the need for caution. We need to know a great deal more about the circumstances in which children are helped or harmed by such programs. Until the positive effects of reunification therapy are confirmed by arm's length, longitudinal research,<sup>28</sup> the current evidence does not support court-imposed reunification programs.<sup>29</sup>

Judges are not mental health experts. Inclusion of parental alienation in the diagnostic manual will result in courts not appreciating the need to assess the scientific validity of the concept when assessing admissibility and will lead to simplified and erroneous assumptions about the appropriateness of proposed remedies. Children will be harmed.

**The parental alienation concept has a negative effect on evidence and on legal responsibilities to assess children's best interests and safety:**

**Discussion:** Inclusion in the diagnostic manual would be detrimental to best interests of the child determinations in the legal system and contrary to the educational efforts of judicial educators. The National Council of Juvenile and Family Court Judges in the United States warns against application of parental alienation theory in family law cases, particularly in cases involving allegations of family violence:<sup>30</sup>

*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 [disliked] parent, who may*

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25 For example: Richard Warshak, "Reclaiming Parent-Child Relationships; Outcomes of Family Bridges with Alienated Children" (2018) *Journal of Divorce and Remarriage* <https://doi.org/10.1080/10502556.2018.1529505>.

26 Mercer, *supra* note 9.

27 Mercer, *supra* note 9; Vicky Nguyen, *et al*, [No Oversight for Programs Advertising They Reconnect Children with Alienated Parents](#) (NBC Bay Area, Investigative Unit, 2018); Cara Tabachnick, "They were taken from their mom to rebound with their dad. It didn't go well" *Washington Post* (11 May 2017); Pei-Sze Cheng, "I-Team: NJ Brother, Sister Rip 'Alienating' Divorce Program That Tore Them From Father For Years" *New York TV* (26 December 2018) <https://www.nbcnewyork.com/news/local/Divorce-Camp-New-Jersey-Investigation-503506061.html>; Trey Bundy *et al.*, "Bitter Custody" *Revealnews.org* (9 March 2019).

28 Nguyen, *ibid*.

29 Doughty *et al.* (2018a), *supra* note 3; Doughty *et al.* (2018b), *supra* note 3; Dallam & Silberg, *supra* note 23.

30 National Council of Juvenile and Family Court Judges, [A Judicial Guide to Child Safety in Custody Cases](#) (2008); Barry Goldstein, "Why Family Courts Cannot Protect Children: ACE vs. PAS" (Denver: National Organization for Men Against Sexism, no date).

*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.*

Analysis of “expert” parental alienation testimony in family law cases in Canada reveals that parental alienation “experts” testifying in Canadian courts are advising courts to ignore: the views of children; evidence of child well-being while in the care of the child’s preferred parent; evidence of negative parenting on the part of the alienation claimant; and evidence of children’s therapists in favor of adopting parental alienation theory and denying children contact with the parent they prefer in order to restore or create a relationship with the parent the children reject.<sup>31</sup> Case law in Canada and the United States is documenting children being forcefully removed by police from the homes of primary-care parents children prefer, sometimes repeatedly, and placed with parents the children fear or reject.<sup>32</sup> In a number of Canadian cases children have applied to be removed from parental authority entirely in order to escape parenting arrangements imposed on them by courts.<sup>33</sup>

Similarly, American researcher Joan Meier and colleagues, reporting on a major study of parental alienation cases in the United States, and Suzanne Zaccour in Canada, have found that alienation claims are resulting in evidence of paternal abuse of women and children being ignored by courts, in the removal of children from parents (primarily mothers) who seek to protect them, and in children’s placement with abusive parents, even in cases where judges made positive findings of family violence and abuse.<sup>34</sup> Indeed Meier and colleagues report that women who present evidence of child abuse are more apt to lose custody of their children than women who merely report intimate partner violence, and that cross-claims of parental alienation virtually double the rate of mothers’ custody losses.<sup>35</sup> Joyanna Silberg *et al.*, also reporting from the United States, examined legal cases in which family violence and child abuse claims were initially considered false (as a result of misplaced judicial scepticism<sup>36</sup> and/or the impact of alienation claims) but ultimately resulted in findings of abuse and in the return of children to protective parents. The authors report, on the basis of scrutiny of the case law, that when courts placed children with abusive parents the abuse continued, and a third of these children attempted suicide. When courts subsequently made positive findings of abuse and returned children to the custody of protective parents, the children had spent an average of three years in abusive parents’ care.<sup>37</sup> Experts in many countries are now documenting concerns about the well-being of children and children’s relationships with abused parents in cases when alienation theory is applied by courts.

### **Child research clearly documents the negative impact of family violence on children and on post separation parenting and the need to listen carefully and respectfully to the views of children**

**Discussion:** We know, from a consistent body of research over decades, that family violence against children's caregivers in children's homes causes direct, scientifically documented child stress and harm. The violence need not be witnessed directly in order to cause harm. Some of these children will

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31 Neilson (2018), *supra* note 3.

32 Meier & Dickson, *supra* note 5; Neilson (2018) *supra* note 3; Silberg *et al.*, *supra* note 14.

33 Neilson (2018), *supra* note 3.

34 Meier & Dickson, *supra* note 5; Zaccour, *supra* note 14.

35 *Ibid.*

36 In connection with judicial and legal scepticism and the reasons for such scepticism throughout the legal system, refer to Deborah Epstein & Lisa Goodman, “Discounting Credibility: Doubting the Testimony and Dismissing the Experiences of Domestic Violence Survivors and Other Women” (2018) 167 U. Penn. L. Rev. forthcoming.

37 Silberg *et al.*, *supra* note 14.



experience long term fear responses and emotional --even developmental-- harm.<sup>38</sup> Documentation of direct harm to children from violence directed against adult caregivers is consistent across research methods (qualitative and quantitative) and even across disciplines (social science, medicine, psychiatry, child development, neurobiology).<sup>39</sup> The research also tells us that perpetrating abuse against mothers commonly occurs together with abuse and violence directed at children<sup>40</sup> and that child disclosure rates are low.<sup>41</sup> The post separation parenting patterns research from many countries also tells us that negative perpetrator parenting – such as demeaning domination, monitoring and surveillance, isolation, excessive physical discipline, and coercive control – continues and often gets worse following parental separation, once the abused parent is no longer able to shield or buffer the children – that is, after the adults separate,<sup>42</sup> if the perpetrator has unsupervised access to the children.

Nonetheless, those family lawyers, mediators, evaluators and judges who do not understand that parental intimate partner violence is directly associated with child harm and child abuse<sup>43</sup> are silencing

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- 38 National Scientific Council on the Developing Child at Harvard University, [\*Persistent Fear and Anxiety Can Affect Young Children's Learning and Development\*](#) (2010) and educational materials on [toxic stress](#). For discussion of pertinent research, see Linda C Neilson, Chapter 6 “Children: Impact of Domestic Violence & Evidence of Children” in [\*Responding to Domestic Violence in Family Law, Civil Protection and Child Protection Cases\*](#) (Ottawa: CanLII, 2017); Sibylle Artz *et al.*, “A Comprehensive Review of the Literature on the Impact of Exposure to Intimate Partner Violence for Children and Youth” (2014) 5:4 International Journal of Child, Youth and Family Studies 493.
- 39 Refer, for example, to the lengthy list of references on this issue in “Supplementary Reference Bibliography: Effects of Domestic Violence on Children”, [\*Responding to Domestic Violence in Family Law, Civil Protection and Child Protection Cases\*](#) (Ottawa: CanLII, 2017).
- 40 Child Welfare Information Gateway & U.S. Department of Health & Human Services, [Domestic/Intimate Partner Violence](#) (reference materials on the connections between domestic violence and abuse directed at children); Australian Government materials on [Domestic violence and child abuse and neglect](#); Jeffrey Edleson, “The Overlap Between Child Maltreatment and Woman Battering” (1999) 5:2 Violence Against Women 134.
- 41 Jane Callaghan *et al.*, “The Management of Disclosure in Children’s Accounts of Domestic Violence: Practices of Telling and Not Telling” (2017) 26:12 J Child Fam Stud. 3370; Statistics Canada, [Family violence in Canada: A statistical profile, 2015](#). (Ottawa: Stats Canada, 2017) Catalogue no. 85-002-X, see Child disclosure.
- 42 L. Bancroft, J. Silverman & D. Ritchie, *The Batterer as Parent: Addressing the Impact of Domestic Violence on Families* (2<sup>nd</sup> ed) (Los Angeles: Sage, 2012); Linda Neilson *et al.* (2001), *supra* note 16; Australia’s National Research Organization for Women’s Safety (hereafter ANROWS), [Domestic and family violence and parenting: Mixed Methods insights into impact and support needs: Key findings and future directions](#) (Sydney: ANROWS, 2017; Dale Bagshaw *et al.*, [The effect of family violence on post-separation parenting arrangements](#) in *Family Matters* 86 (Canberra: Australian Government, 2011); ANROWS, [The impacts of domestic and family violence on children](#) (summarizing major Australian research studies) (Sydney: ANROWS, 2017).
- 43 Researchers are reporting that many custody evaluators do not have sufficient understanding of domestic violence to assess child best interests in a domestic violence context: Daniel Saunders *et al.*, [Child Custody Evaluators' Beliefs About Domestic Abuse Allegations: Their Relationship to Evaluator Demographics, Background, Domestic Violence Knowledge and Custody-Visitation Recommendations](#) (Rockville, MD: National Criminal Justice Research Service, 2012); Daniel Saunders, [State Laws Related to Family Judge's and Custody Evaluators' Recommendations in Cases of Intimate Partner Violence: Final Summary Overview](#) (Rockville, MD: National Criminal Justice Research Service, 2017); Michael Davis *et al.*, [Custody Evaluations When There are Allegations of Domestic Violence: Practices, Beliefs, and Recommendations of Professional Evaluators](#) (Rockville, MD: National Criminal Justice Research Service, 2011); Jason Hans *et al.*, “The Effects of Domestic Violence Allegations on Custody Evaluators’ Recommendations” (2014) 28:6 Journal of Family Psychology 957; Jennifer Hardesty *et al.*, [Divorcing Mothers' Demeanor in Custody Evaluations](#) (Reno, NV: National Council of Juvenile and Family Court Judges, undated); Samantha Jeffries *et al.*, [“Good Evidence, Safe Outcomes in Parenting Matters Involving Domestic Violence? Understanding Family Report Writing Practice from the Perspective of Professional Working in the Family Law System”](#) (2016) 39:4 UNSW Law Journal 1355. See also the problems identified in Linda C Neilson *et al.* (2001), *supra* note 16 and Neilson (2018), *supra* note 3; Samantha Jeffries, [“In the Best Interests of the Abuser: Coercive Control, Child Custody Proceedings and the “Expert” Assessments that Guide Judicial Determinations”](#) (2016) 5:14 Laws 1; Francia *et al.*, *supra* note 16; Nancy S Erickson, “Use of the MMPI-2 in Child Custody Evaluations Involving Battered Women: What Does Psychological Research Tell Us?” (2005) 39:1 Family Law Quarterly 87; Nancy S Erickson & Joan Zorza, “Evaluating the Handling of Domestic Violence Cases by Custody Evaluators” (2005) 10:4 Domestic Violence Report 49.

women and are failing to investigate and consider women and children's concerns about parenting and safety in favor of punishing parents – primarily mothers -- (and children) when children resist contact with the other parent.<sup>44</sup> Children are being forcibly removed from the parents they prefer and are being forced into homes and parenting relationships they resist (on the basis that the mother did not sufficiently strongly insist on the child's relationship with the other parent).<sup>45</sup> Children are running away.<sup>46</sup> Some attempt suicide; others are killed.<sup>47</sup> Researchers are currently documenting the contributing role of family courts in child deaths as a result of family court orders mandating children into unsupervised contact with abusive fathers.<sup>48</sup>

When we turn to children for guidance, we find that children are telling researchers to ask family courts and those associated with family courts to listen and consider more respectfully children's views on contact with perpetrators of family violence (some children desire contact, others do not) and to pay more attention to children's concerns about their own and their siblings' safety. Children are also asking researchers to ask family courts to hold perpetrators of domestic and family violence accountable for harm done to the family and to ensure that perpetrators accept responsibility, apologize and make amends prior to insisting on parenting rights.<sup>49</sup>

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44 Silberg *et al.*, *supra* note 14; Neilson (2018), *supra* note 3; Meier & Dickson *supra* note 5; Winstock, *supra* note 12; Katia Gagnon, "Violence conjugale. Quand on punit la victime" *La Presse* (9 March 2019), citing parental alienation research conducted by University of Ottawa researcher, Simon Lapierre: [http://plus.lapresse.ca/screens/dea4748e-69d8-4aed-8326-c11bf9b58c25\\_7C\\_0.html](http://plus.lapresse.ca/screens/dea4748e-69d8-4aed-8326-c11bf9b58c25_7C_0.html); Zoe Rathus *et al.*, "'It's Like Standing on a Beach, Holding Your Children's Hands, and Having a Tsunami Come Towards You': Intimate Partner Violence and Expert Assessments in Australian Family Law" (2019) *Victims and Offenders* <https://doi.org/10.1080/15564886.2019.1580646>.

45 *Ibid.*

46 Neilson (2018) *supra* note 3; Silberg, *supra* note 14.

47 Silberg *et al.*, *supra* note 14; Francia *et al.*, *supra* note 16; Neilson (2018), *supra* note 3; Lori Chambers *et al.*, [Paternal Filicide & Coercive Control](#) (2018) 51:3 *UBC Law Review* 671; Winstock, *supra* note 12; Mary Ellen Turpel-Lafond, [Honouring Christian Lee — No Private Matter: Protection Children Living with Domestic Violence](#) (Victoria: Legislative Assembly British Columbia, 2009); Alberta Government, [Family Violence Death Review Committee Case Review No.3](#) (2018); [Saskatchewan Domestic Violence Death Review Report](#) (Edmonton: Ministry of Justice, 2018); David Olszowy *et al.*, [Children and Domestic Homicide: Understanding the Risks](#) (London, ON: Canadian Domestic Homicide Prevention Initiative, 2017); Myrna Dawson, "[Canadian Trends in Filicide by Gender of the Accused, 1961-2011](#)" (2015) 47 *Child Abuse & Neglect* 162; Susan Boyd & Gillian Calder, "[Connecting the dots in family-violence cases](#)" [*Victoria*] *Times Colonist* (3 January 2018); Department of Justice, [Case Study – Different systems may have information relevant to risk assessment in Chapter 2 – Risk assessment Making the Links in Family Violence Cases: Collaboration among the Family, Child Protection and Criminal Justice Systems](#) (Ottawa: Department of Justice, 2013); United States Center for Judicial Excellence, [U.S. Divorce Child Murder Data](#) and [58 Children Murdered By A Parent Who Could Have Been Saved -- Filicide in U.S. Family Courts: A Snapshot](#) (2017); Lauren L. Sabatino, [Looking at Family Court-Involved Domestic Violence and Child Abuse Fatality Cases Through a Lens of Prevention](#) (Miami: Institute for Court Management, 2009); Women's Aid, [Nineteen Child Homicides](#) (Bristol: Women's Aid, 2016).

48 Chambers *et al.*, *ibid.*; Turpel-Lafond, *ibid.*; Alberta Government (2018) *ibid.*; Saskatchewan (2018) *ibid.*; United States Center for Judicial Excellence, *ibid.*; Sabatino, *ibid.*

49 Katie Lamb, Cathy Humphries & Kelsey Hegarty, "Your behavior has consequences: Children and young people's perspectives on reparation with their fathers after domestic violence" (2018) 88 *Children and Youth Services Review* 164; Rachel Carson *et al.*, [Children and young people in separated families: Family Law system experiences and needs](#) (Australian Government, Institute of Family Studies, 2018); Backbone Collective, [Seen and not Heard: Children in the New Zealand Family Court. Part One – Force](#) (2017) and [Seen and not Heard: Children in the New Zealand Family Court. Part Two-- Lawyer for Child](#) (2018); Gillian Macdonald, "[Hearing children's voices? Including children's perspectives on domestic violence in welfare reports prepared for the English courts in private family law proceedings](#)" (2017) 65 *Child Abuse & Neglect* 1; Jane Fortin, Joan Hunt & Lesley Scanlan, [Taking a longer view of contact: The perspectives of young adults who experienced parental separation in their youth](#) (Sussex: University of Sussex, 2012); Audrey Mullender *et al.*, *Children's Perspectives on Domestic Violence* (London: Sage, 2002); R Carsen *et al.*, *Children and young people in separated families: Family law system experiences and needs* (Melbourne: Australian Institute of Family Studies, 2018).

**In Conclusion:** There is far more support for identifying intimate and family violence as a parent-child relationship problem than for identifying "parental alienation" as a parent-child relationship problem.

Indeed, the inclusion of "parental alienation" anywhere in the ICD-11 diagnostic manual is likely to strengthen existing destructive trends in family courts that are causing children and their primary caregivers harm. In addition, empirically validated concerns about the concept's lack of reliability could call into question the scientific credibility of the World Health Organization as well as the reliability of the *International Classification of Diseases*.

**The following experts and organizations endorse this memo and seek removal of references to "parental alienation" and related concepts from the ICD-11, International Classification of Diseases.**

## **AUSTRALIA**

### **Experts:**

1. Moo Baulch, CEO, Domestic Violence NSW, Sydney, Australia
2. Dr Karen Crawley, Senior Lecturer, Griffith Law School, Brisbane, Australia
3. Professor Heather Douglas, Law School, the University of Queensland, Australia
4. Dr Molly Dragiewicz, Associate Professor, School of Justice, Faculty of law, Queensland University of Technology
5. Professor Patricia Easteal, AM, PhD, Consultant, Legal Lightbulbs, Australia
6. Belinda Fehlberg, Professor of Law, Melbourne Law School
7. Dr Michelle Fernando, Senior Lecturer, School of Law. University of South Australia, Adelaide, South Australia, Australia
8. Dr Samantha Jeffries, Senior Lecturer, School of Criminology and Criminal Justice, Griffith University, Brisbane, Australia
9. Cathy Humphreys, Head of Department, Professor of Social Work, University of Melbourne
10. Janet Loughman, Principal Solicitor, Women's Legal Service New South Wales, Australia
11. Professor Elena Marchetti, Griffith Law School, Brisbane, Australia
12. Elspeth McInnes AM, Associate Professor of Sociology in Education, Chair Human Research Ethics Committee, School of Education Magill, University of South Australia
13. Dr Helena Menih, PhD, Lecturer in Criminology, School of Humanities, Arts and Social Sciences, University of New England, Armidale NSW 2, Australia
14. Associate Professor Silke Meyer, Associate Professor in Criminology, Monash Gender and Family Violence Prevention Centre, Monash University. Melbourne, Australia

15. Associate Professor Carolyn Quadrio, Consultant Child & Family & Forensic Psychiatrist, School of Psychiatry University of New South Wales, Sydney, Australia
16. Zoe Rathus, Senior Lecturer, Griffith Law School, Brisbane, Australia
17. Joanne Stagg, Lecturer, Griffith Law School, Griffith University, Gold Coast, Australia.
18. Professor Julie Stubbs, *UNSW LAW*, Co-Director, *Centre for Crime, Law & Justice*, University of New South Wales, Sydney, Australia
19. Professor Lisa Young, Associate Dean Research, Murdoch School of Law, Perth, Australia

## **CANADA**

### **Experts:**

20. Dr. Dan T. Ashbourne, C. Psych, Executive Director & Psychologist, London Family Court Clinic, La Clinique Judiciaire Familiale de London, London, Ontario
21. Carol Barkwell, Executive Director, Luke's Place, Support and Resource Centre for Women and Children in Durham Region, Ontario
22. Suki Beavers, Project Director/directrice de projet, NAWL/ANFD, Ottawa, Ontario
23. Isabelle Boisclair, Professor, Université de Sherbrooke, Sherbrooke, Canada
24. Gabrielle Bouchard, President, Fédération des femmes du Québec
25. Mélissa Blais, professeure associée, Institut de recherches et d'études féministes, Université du Québec à Montréal, Canada
26. Susan Boyd, F.R.S.C., Professor Emerita, Peter A. Allard School of Law, University of British Columbia;
27. Andrea Breanne, McGill Law alumni, London, Ontario
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29. Dr Isabelle Côté, Ph.D., Professeure adjointe, École de service social, Université Laurentienne, Bureau SE 103E
30. Pamela Cross, Family Lawyer and Legal Director, Luke's Place, Ontario
31. Dr Dominique Damant, Ph.D, Associate Professor, School of Social Work, Université de Montréal, Canada
32. Anick Desrosiers, doctoral student in social work, Université de Montréal, Montréal, Canada.
33. Dr Francis Dupuis-Déri, Professor, Political Sciences, Université du Québec à Montréal, Canada

34. Jo-Anne Dusel, Executive Director, Provincial Association of Transitions Houses and Services of Saskatchewan (PATHS)
35. Dr Catherine Flynn, Ph.D., Professor, Department of Human and Social Sciences, Université du Québec à Chicoutimi, Canada
36. Michèle Frenette, PhD Student, University of Ottawa, Canada
37. Crystal Giesbrecht, Director of Research and Communications, Provincial Association of Transitions Houses and Services of Saskatchewan (PATHS)
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39. Kim Hawkins, Executive Director, Rise Women's Legal Centre, Vancouver
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43. Dr Peter Jaffe, PhD, Psychologist & Professor, Academic Director, Center for Research and Education on Violence Against Women and Children, Western University, London ON, Canada
44. Dr Darlene Juschka, PhD, Associate Professor, Department of Gender, Religion, and Critical Studies and RESOLVE Alberta
45. Patrick Ladouceur, PhD Student, University of Ottawa, Canada.
46. Dr Michele Landsberg, LL.D. (Hons), Canadian journalist and author, member of the Order of Canada
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**It is important to note that there were Directors of the Canadian Family Violence Research Centres (including one past Director) who have endorsed this memo.**

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61. Fédération des femmes du Québec
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66. National Association of Women and the Law (NAWL/ANFD), Ottawa, Ontario
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68. Rise Women's Legal Centre, Vancouver
69. West Coast LEAF, Vancouver, British Columbia.
70. Women's Legal Education and Action Fund (LEAF FAEJ), Toronto, Canada

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74. Dr Anne-Marie Clement, President of the Fédération des Comités Alexis Danan pour la Protection de l'Enfance, Paris, France
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159. Gimel Rogers, Psy.D, Training Director, IVAT
160. Kathleen Russell, Executive Director, Center for Judicial Excellence, California
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167. Dr Evan Stark, Ph.D, MSW, Professor Emeritus, Rutgers University
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170. Connie Valentine, California Protective Parents Association,
171. Merle Weiner, Philip H. Knight Professor of Law, University of Oregon
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