

Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations

by

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Overview of Presentation

- ❁ Brief Background on the issue
- ❁ Sample data from pilot study
- ❁ Expansion for NIJ-funded 3-year study
- ❁ Scientific/empirical challenges

Background – Reports from the Field

- ❁ Extensive literature and anecdotal reports of battered mothers losing custody, and children being subjected to unsafe visitation
- ❁ Leadership Council estimates 58,000 children per year subjected to known unsafe parents by family courts
- ❁ Particular hostility to child sexual abuse allegations

Reports from the Field

- ❁ Castillo and Rams cases (MD)
- ❁ 175 documented cases in 2-year period of children killed by fathers after court refused mothers' pleas to ensure paternal visitation was safe or eliminated – Goldstein, *Fam. & IPV Qtrly*, 5:4 (spring 2013), 369-378

DV LEAP'S Experience

- ❁ Mission is appellate advocacy on behalf of DV survivors
- ❁ Approximately 90% of the emails/calls we receive are from desperate mothers battling in family courts
- ❁ Have developed a consulting/TA project to try to help them (approx. 30/month)

Parental Alienation Theory

- ❁ Major contributor to these outcomes
- ❁ PAS has been discredited, but PA purports to be gender-neutral and is touted by many who reject PAS
- ❁ Is often used to discredit mothers and children claiming abuse by a father
- ❁ Many scholarly and litigation critiques
- ❁ No data to support critiques

POLARIZATION

- ❁ Family courts and affiliated professionals (evaluators, private DR lawyers, psychologists) generally reject DV field's claims about FCs' endangering of children
- ❁ FC personnel see themselves as balanced, and DV people as one-sided ideologues
- ❁ Some DV orgs trying to work with family court professionals and vice versa (AFCC)
- ❁ Very little change on the ground to date

My search for Empirical Data

- ❁ Originally envisioned a simple survey aimed at gathering data to show whether PA was used in gender-biased ways
- ❁ Original survey (2-4 years ago) became “pilot” for application to NIJ for larger more scientific study
- ❁ NIJ-funded 3-year scientific investigation beginning January 2015

Pilot Study - Method

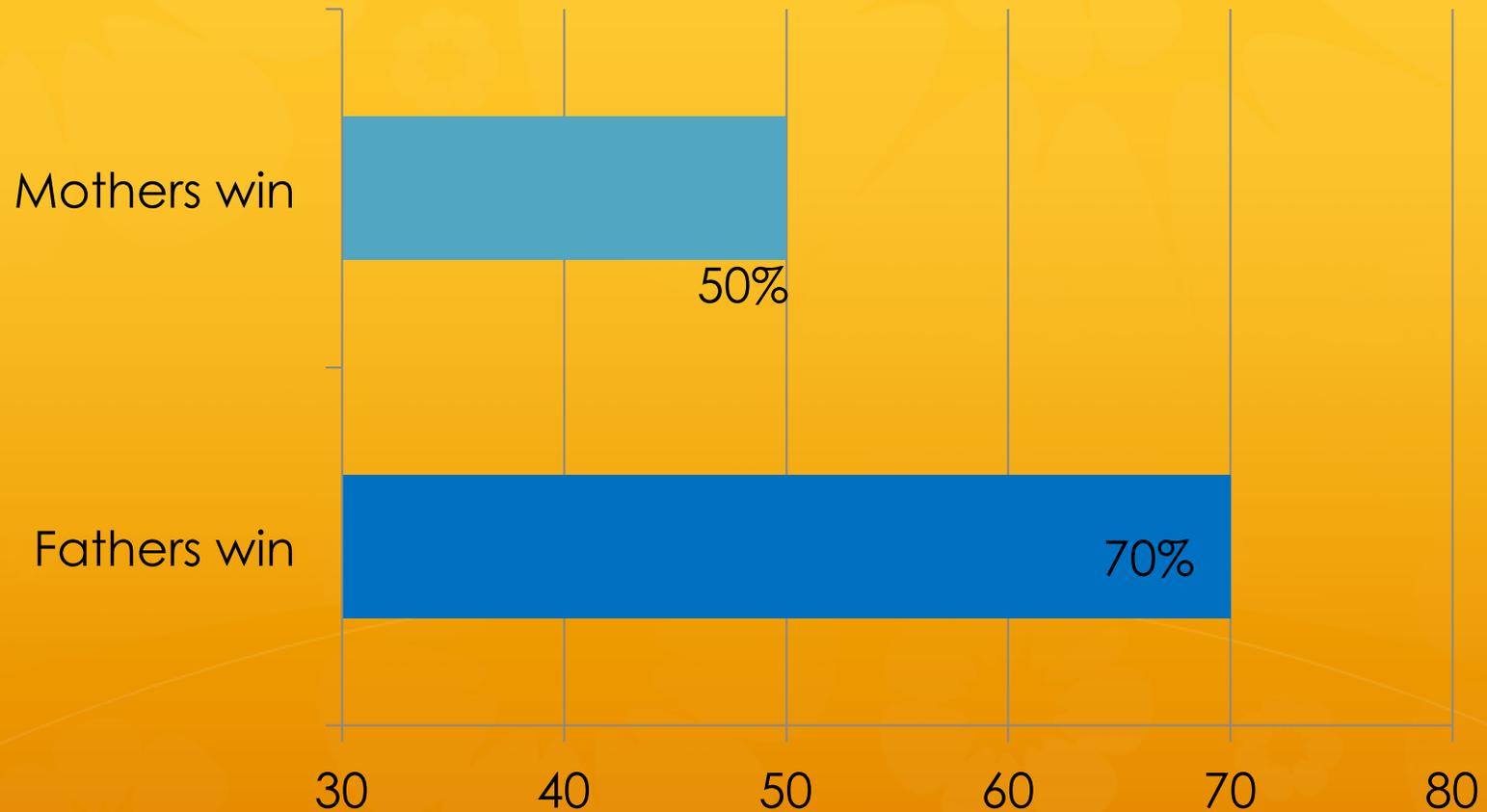
- ❁ Unscientific
- ❁ Searched electronically available opinions involving custody and parental alienation in 10-year period (c 240)
- ❁ Researcher coded them and used cross-tabs for informal analysis
- ❁ Shout-out to Sean Dickson, Esq., MPh

(DV LEAP Fellow, Summer 2013)

Pilot Results – Overview of Alienation Claims

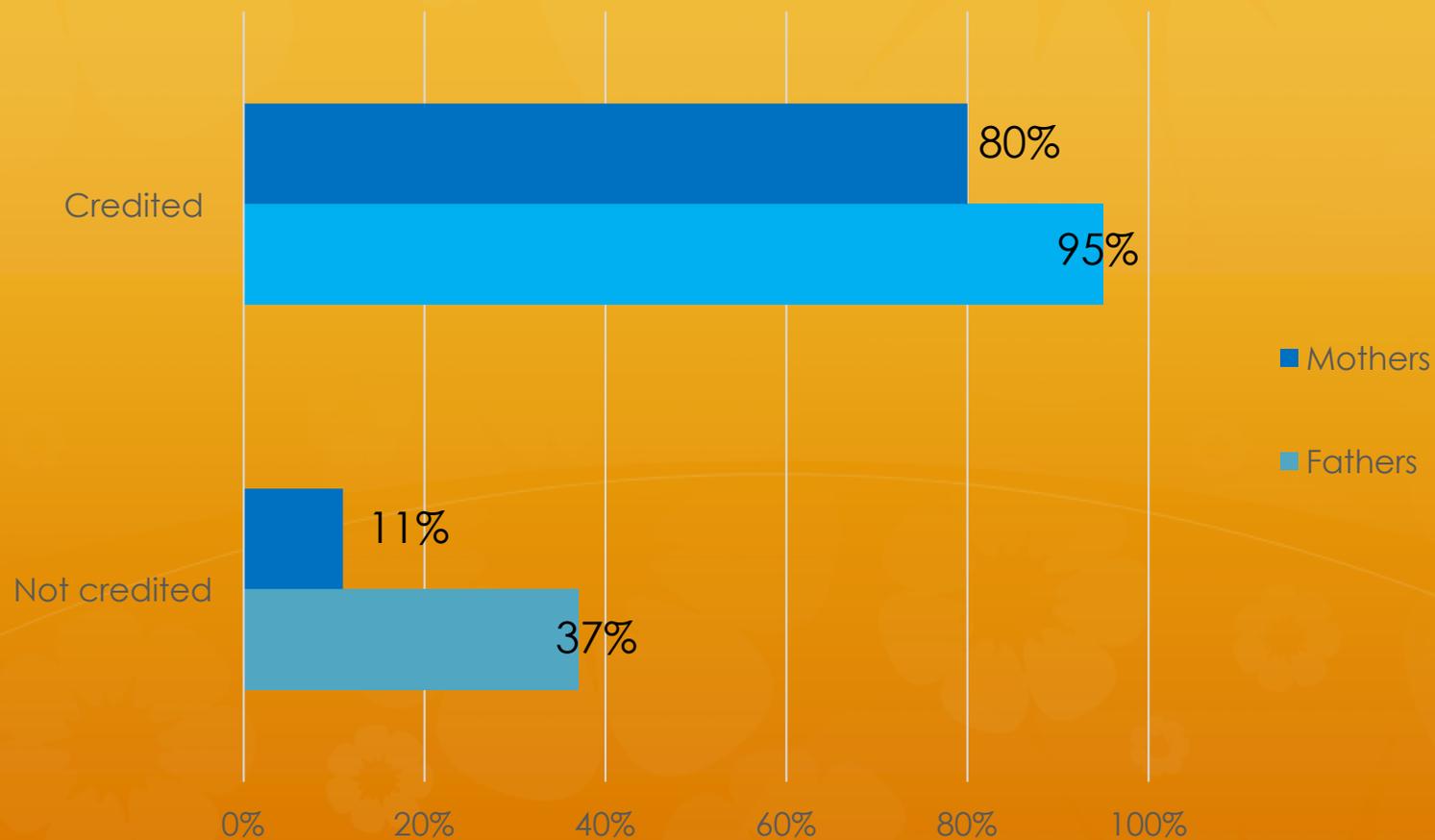
- ❁ Fathers brought 82 percent of all alienation claims
- ❁ Both genders' claims of alienation were credited 57% of the time (possible shift from the early days)
- ❁ Fathers' alienation claims were usually against a mother with primary custody
- ❁ Mothers' alienation claims were both against fathers with sole or joint custody or only visitation

Rate of **Win** When **Alleging** Alienation by Other Parent



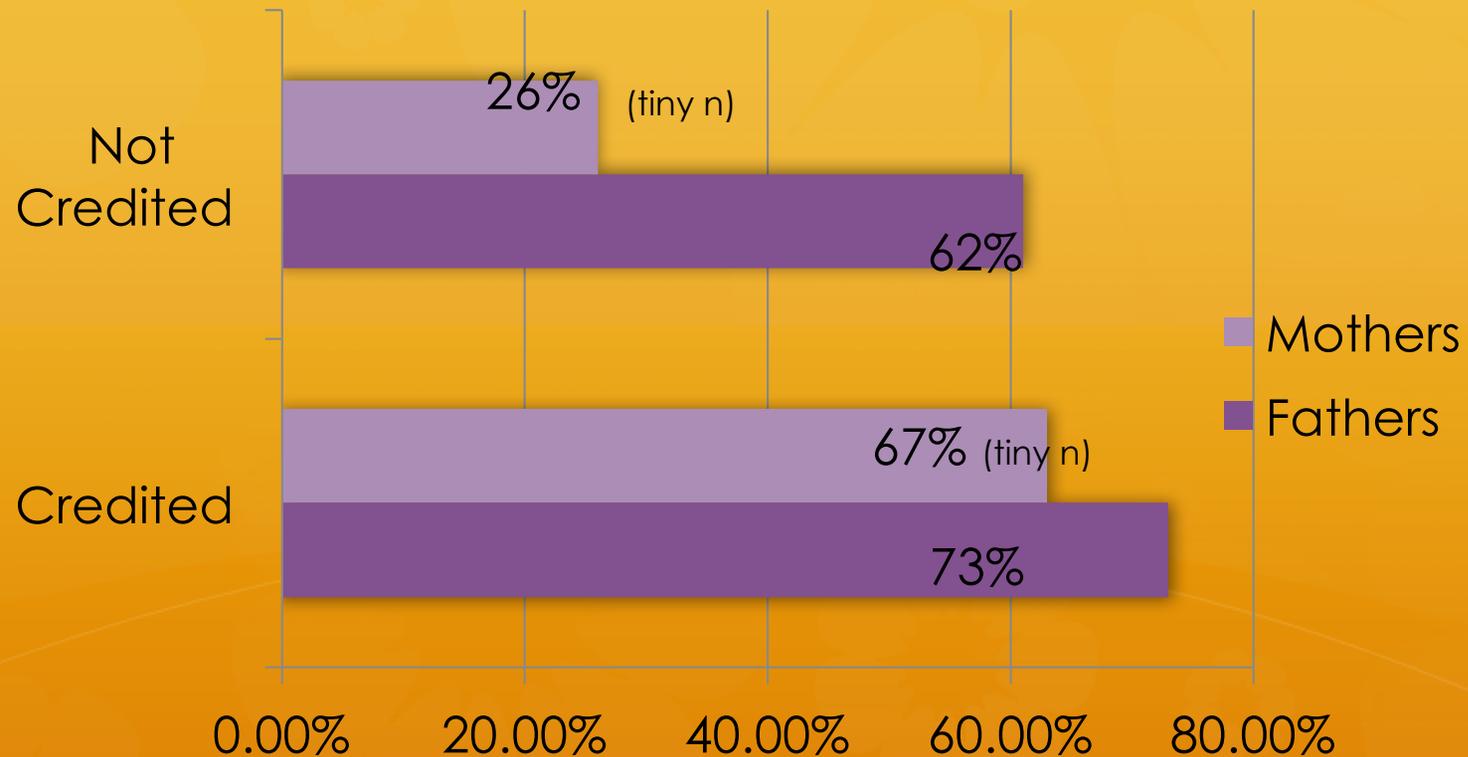
Fathers' odds of winning are 2.3 times higher

Rates of win when alienation claims credited (or not)



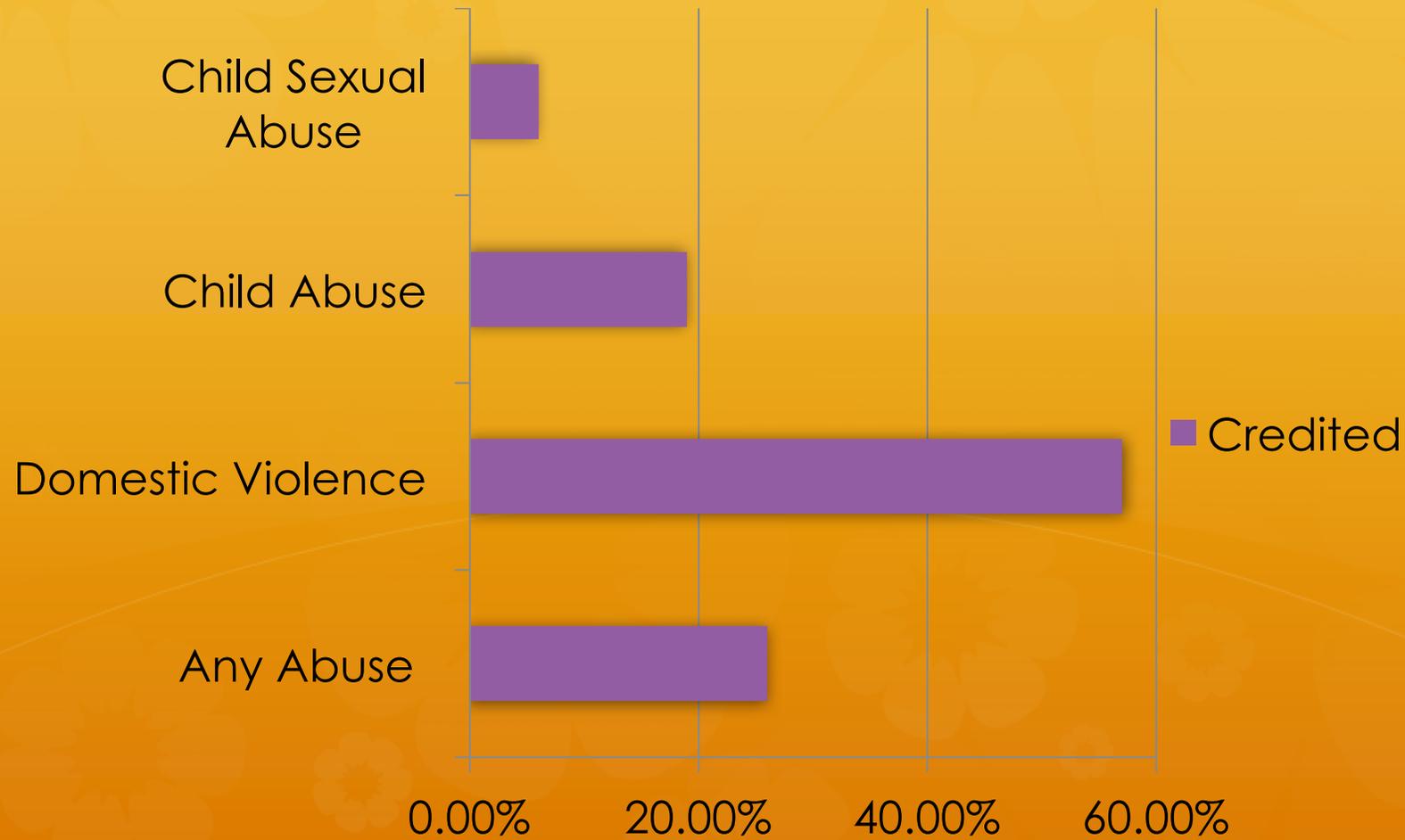
Fathers' odds of winning nearly 5x greater than mothers'

Custody switches to party alleging alienation when credited (or not)*

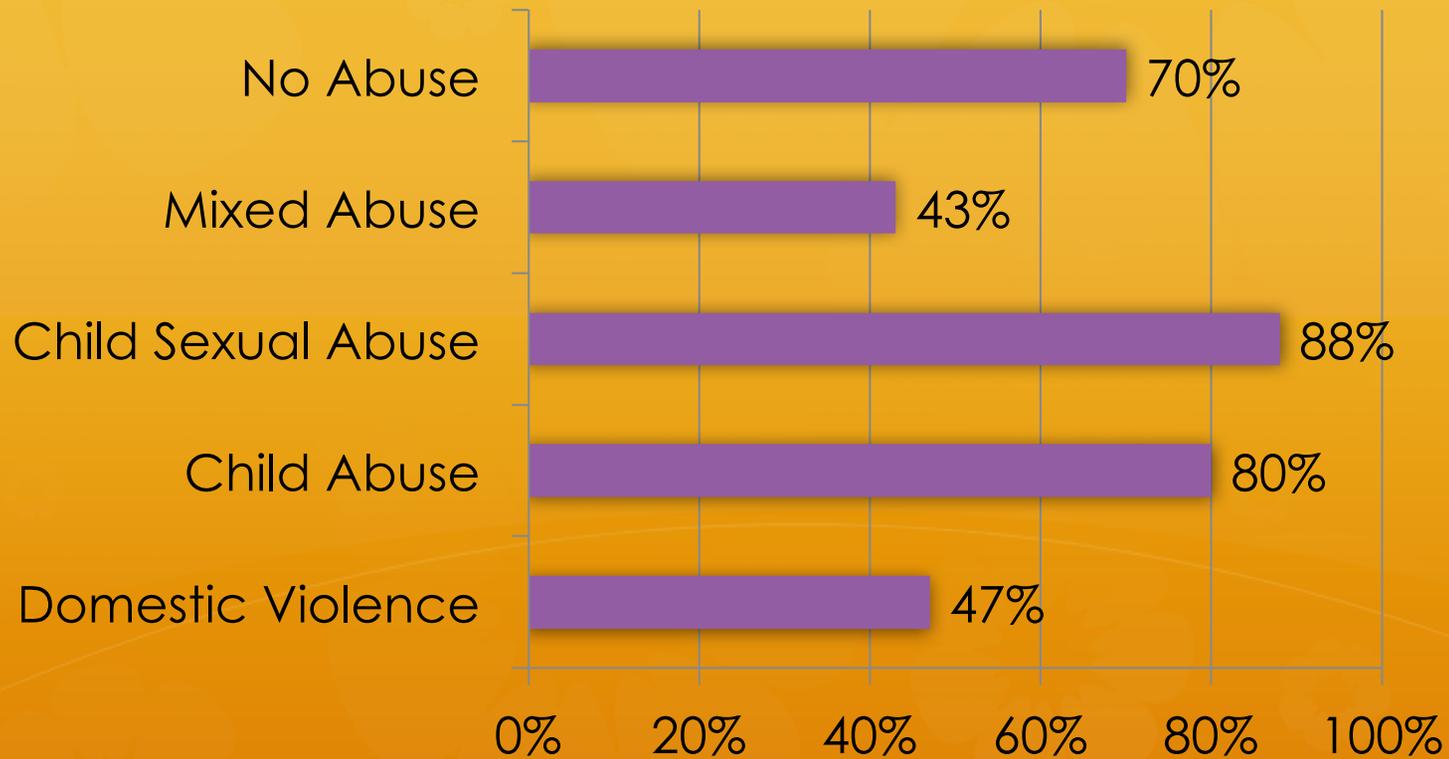


When fathers **alleged** alienation, mothers lost primary custody 69% of the time

Where Maternal Alienation **Alleged**, Rates at which Paternal Abuse **Validated**



Rate of **Custody Switches** to Fathers When Mothers Allege Abuse (and Fathers Allege Alienation)



“Child Abuse penalty?”

Mother 8.4% more likely to lose custody if alleges csa than dv; 4.6% more likely if alleges ca than dv

Both Abuse and Alienation Credited (7 cases)

Maternal
Alienation

Paternal
Abuse

Father
Always
Wins

NIJ-FUNDED STUDY

- ❁ Expands Pilot:
 - ❁ Not just alienation cases
 - ❁ Any custody opinions where abuse OR alienation alleged
 - ❁ Want to be able to show how alienation affects outcome *compared* to comparable cases without alienation claims
 - ❁ Brought in empirical and statistical researchers

(IWPR; Chris O'Sullivan, Leora Rosen)

Expansion, cont'd

- ❁ Began this January – three year study
- ❁ Much more scientifically rigorous
- ❁ Just defining the search has taken two months (Goldilocks standard)
- ❁ Need to: Capture varied language for types of abuse; Exclude TPRs, state cases, etc
- ❁ Google Scholar vs. Lexis

Additional types of issues to be coded

- ❁ Alienation by other names, e.g., enmeshment, coaching/influence, etc
- ❁ Judicial hostility/rage
- ❁ Judicial dismissal (ignoring) of abuse claims
- ❁ Corroboration of abuse claims
- ❁ Outcome on appeal
- ❁ Representation at trial
- ❁ Roles of GALs, custody evaluators, experts

Challenges

- ❁ Quantity of data
- ❁ Ensuring objective dataset and objective coding
- ❁ Data coding/analysis package: Nvivo?
- ❁ Minimizing vulnerability to attack by those who don't like results

End Game - Minimum

- ❁ Extent to which fathers or mothers are winning, overall
- ❁ Significant data on mothers losing custody
- ❁ Data on parental alienation claims/findings and outcomes (by gender)
- ❁ Data on validation of different types of abuse
- ❁ Data on win rates for different types of abuse allegations

Scientific Limits: Can we prove family courts are failing to protect?

- ❁ Uncertain how much regression analysis possible (can we rule out other factors?)
- ❁ Cross-tabs and correlations still meaningful
- ❁ May show how extremely rarely child abuse is validated in family court
- ❁ Though can't prove such findings are wrong, can contrast rates of courts' disbelief to rates of false claims generally

STAY TUNED . . .

For questions or comments,
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