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 win: 70%
Mothers win: 50%

Fathers’ odds of winning are 2.3 times higher
Rates of win when alienation claims credited (or not)

<table>
<thead>
<tr>
<th>Credited</th>
<th>Mothers</th>
<th>Fathers</th>
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<tbody>
<tr>
<td></td>
<td>80%</td>
<td>95%</td>
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<table>
<thead>
<tr>
<th>Not credited</th>
<th>Mothers</th>
<th>Fathers</th>
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<tbody>
<tr>
<td></td>
<td>11%</td>
<td>37%</td>
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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

- Child Sexual Abuse: 0.00%
- Child Abuse: 20.00%
- Domestic Violence: 60.00%
- Any Abuse: 40.00%

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

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<table>
<thead>
<tr>
<th></th>
<th>Rate</th>
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<tbody>
<tr>
<td>No Abuse</td>
<td>70%</td>
</tr>
<tr>
<td>Mixed Abuse</td>
<td>43%</td>
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<tr>
<td>Child Sexual Abuse</td>
<td>88%</td>
</tr>
<tr>
<td>Child Abuse</td>
<td>80%</td>
</tr>
<tr>
<td>Domestic Violence</td>
<td>47%</td>
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"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

Father Always Wins

Paternal Abuse
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)
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, contact me at jmeier@law.gwu.edu