

**PARENTAL ALIENATION
A DISCUSSION AND PROPOSAL
FOR AN INTERDISCIPLINARY WORKSHOP**

A book by Douglas Darnall, Ph.D., "Divorce Casualties", subtitled "protecting your children from parental alienation" provides an excellent definition of an actively alienating parent. The obsessed alienator is a parent, or sometimes a grandparent, with a cause; to align the children with his or her side and together, with the children, campaign to destroy the child's relationship with the targeted parent. (p.13)

Five percent of the children in a study by Clawar and Rivlin (1991) were programmed by an alienating parent to the "point of no return", meaning that no interventions were found to be effective in deprogramming these children. These children were emotionally and physically lost to the targeted parent.

"Maccoby, Mnookin, Depner and Peters (1992) found that one quarter of all divorces in their sample met the criterion of being high conflict more than one year after separation, while Garrity and Baris (1994) contend that one third of all children of divorce are caught in the middle of animosity between their parents." *Amy J. L. Baker, Adult Children of Parental Alienation Syndrome, 2007, page 9.*

There appears to be universal consensus in the psychological community that children who suffer the most from their parents' divorce are those who have been exposed to intense and chronic parental conflict such as parental alienation. *Baker, supra, @10..*

Obsessed alienators seek to destroy the children's relationship with the targeted parent by (a) enmeshing the children's personalities and beliefs about the other parent with their own; (b) never being wrong; (c) engaging with anyone who disagrees or opposes

them as the enemy; (d) angrily attacking the target parent for victimizing them and/or the children; and, by (e) making false reports to authorities about things the targeted parent allegedly did to the children or to the other parent.

“Severely alienated children are the victims of the obsessed alienator’s relentless campaign to destroy their relationship with the targeted parent. These children may appear to others like normal, healthy children until the topic of their targeted parent comes up. Immediately, their demeanor changes. Their friendly pleasant expression turns to anger and contempt. This is the child that Gardner is describing with his definition of parental alienation syndrome.” *Darnall, supra @ 33.*

Wallerstein and Kelly have done extensive research to learn how children of different age groups react and adjust to divorce. They describe their research in great detail, and tie it to developmental milestones. The study showed that many of the children continued to have problems adjusting to their parents’ divorce after one year. They showed signs of depression and lowered self-esteem. The effects of parental alienation seem greater than typical parental conflict and more long-lasting. See, *Amy J. L. Baker, Adult Children of Parental Alienation Syndrome, 2007.*

Common symptoms of alienation include the following:

1. Child refuses to visit targeted parent;
2. Child allowed to choose to visit;
3. Telling children about why the marriage failed, blaming the target parent;
4. Engaging the children with documents from the case;
5. Involving third parties, school officials in the battle with one sided information;
6. Blaming the ex-spouse for not having enough money, or for changes in conditions or life-style;
7. False allegations of abuse, sexual or physical;
8. Bad mouthing the other parent;

9. Repetitive complaints to law enforcement and child protective services;
10. Creating obstacles to visitation with targeted parent;
11. Over involving children to keep them away from targeted parent;
12. Moving far enough away from targeted parent so that the court has to revisit the time sharing arrangements;
13. "Arranging" your life so that a relocation with the children becomes necessary;
14. Asking kids to spy on targeted parent;
15. Engaging the children in keeping secrets;
16. Rescuing the children from the target when there is no real or apparent danger;
17. Gaslighting the children;
18. Child showing fear, disrespect, or hostility toward the target parent, when there is no real or apparent cause;
19. Child's reaction to target is not proportioned to activity of the targeted parent;
20. Limiting contact;
21. Withdrawal of love or affection if good emotions are shared with target;
22. Limiting contact with target's extended family;
23. Cultivating dependency on the alienating parent;
24. Throwing out gifts or communications from other parent;
25. Calling targeted parent by first name, or worse;
26. Having child refer to others as mom or dad.

"The child with severe PAS is adamant about his or her hatred of the targeted parent, refusing visitation and threatening to run away if forced." See, *Amy J. L. Baker, Adult Children of Parental Alienation Syndrome, 2007 @9.*

None of Oklahoma's statutes speak directly to parental alienation. However, the statutes do provide remedies for some of the *symptoms* of alienation.

Title 43 O.S. Section 111.3, D. provides that "if a court finds that visitation rights of a noncustodial parent have been unreasonably denied or otherwise interfered with by the custodial parent, the court shall enter an order for one or more of the following:"any other remedy the court considers appropriate, *which may include an order which modifies a prior order granting child custody.*"

43 O.S. Section 112, allows the Court to award custody and/or visitation, in accordance with the child's best interests, and "may modify or change any order whenever circumstances render the change proper either before or after final judgment in the action."

112 C. 1., provides, *inter alia*, that when it is in the best interests of a child, the court shall "assure children of frequent and continuing contact with both parents."

112. C.3. a. provides that when the court awards custody it "shall consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent,"

Title 43 O.S. Section 107.3 D. provides that in any proceeding concerning child custody, should it be determined by the court that a party has intentionally made a false or frivolous accusation to the court of the child abuse or neglect against the other party, the court shall proceed with any or all of the following:

1. Find the accusing party in contempt for perjury and refer for prosecution;
2. Consider the false allegations in determining custody; and
3. Award the obligation to pay all court costs and legal expense encumbered by both parties arising from the allegations to the accusing party.

The case of Finger v. Finger, 1996 OK CIV APP 91, 923 P.2d 1195 @1198, informs courts on how to look at an award of fees in post-decree matters. In deciding fees in post-decree matters, the trial court should consider "the outcome of the action for modification; whether the subsequent action was brought because one of the parties **had endangered or compromised the health, safety or welfare of the child** or children; whether one party's behavior demonstrated the most interest in the child or children's physical,

material, moral, and spiritual welfare; whether **one party's behavior demonstrated a priority of self-interest over the best interests....**". Under *Finger*, it would appear that an alienating parent can be taxed with attorney fees.

The law in Oklahoma on "child preference" has exacerbated or at least encouraged parental alienation in Oklahoma. Oklahoma statutes provide that children 12 and older are presumptively old enough and mature enough to express their preferences as to custody and visitation.

Title 43 O.S. Section 113 allows the Court to consider the preference of a child in awarding custody.

A. In any action or proceeding in which a court must determine custody or limits to or periods of visitation, the child may express a preference as to which of the parents the child wishes to have custody or limits to or periods of visitation.

B. The court shall first determine whether the best interest of the child will be served by allowing the child to express a preference as to which parent should have custody or limits to or periods of visitation with either parent. If the court so finds, then the child may express such preference or give other testimony.

C. There shall be a rebuttable presumption that a child who is twelve (12) years of age or older is of sufficient age to form an intelligent preference.

D. If the child is of a sufficient age to form an intelligent preference, the court shall consider the expression of preference or other testimony of the child in determining custody or limits to or periods of visitation. Interviewing the child does not diminish the discretion of the court in determining the best interest of the child. The court shall not be bound by the child's choice or wishes and shall take all factors into consideration in awarding custody or limits of or period of visitation.

E. If the child is allowed to express a preference or give testimony, the court may conduct a private interview with the child in chambers without the parents, attorneys or other parties present. However, if the court has appointed a guardian ad litem for the child, the guardian ad litem shall be present with the child in chambers. The parents, attorneys or other parties² may provide the court with questions or topics for the court to consider in its interview of the child; however, the court shall not be bound to ask any question presented or explore any topic requested by a parent, attorney or other party.

F. At the request of either party, a record shall be made of any child interview conducted in chambers. If the proceeding is transcribed, the parties shall be entitled to access to the transcript only if a parent or the parents appeal the custody or visitation determination.”

The Supreme Court has addressed preference twice, both times in 2010. According to the Supreme Court in *Ynclan v. Woodward*, 2010 OK 29, ¶ 13, 237 P.3d 145, the preference

of the child is only one of many factors to be considered when determining the child's best interest, and, , it should never be the only basis for determining custody.

Whether a child's preference can justify a change in physical or legal custody without meeting the requirements of *Gibbons* has not been addressed by the Supreme Court, and Courts of Appeal decisions go both ways. See, *Oklahoma Family Law, The Handbook, 2014- 2015, Robert G. Spector, page 351-353. Nelson v. Nelson, 2004 OK CIV APP 6, 83 P.3d 911, ¶ 4*, the Court of Appeals holds that "a well-founded custody preference by a child will support a change of custody without 4 proof of any other change of circumstance."

Custody litigation relating primarily to a child's preference in Tulsa County is like all other litigation in family law court, in that it requires a motion to modify, a scheduling order, a mediation, a pre-trial conference and a trial. It often takes six to eight months (sometimes longer) to go through that process and have the child's preferences actually heard by a court.

Pre-filing and prior to trial, opportunity arises for both parents to affect or influence a child's preferences. One consequence of allowing children's preferences to decide custody is that our children are discussing their "right" to decide where they live. Another consequence is that our courts are refusing to force older children to see a parent, even when there is no abuse or trauma. Yet another consequence is that the children involved in preference issues are subject to browbeating, fear, bribery and patterned alienation over their "preference".

How does a court, sitting in equity, allow a child's preference to result in a parent-ectomy? In absence of abuse or trauma to the child demonstrably caused by a parent to a child, is it ever appropriate to allow a child to divorce a parent? What are the long term effects of giving children the impression that they possess the power to decide where they live?

The "standard solution" to the issue of a child not wanting to see a parent is now what we call "reconciliation therapy". The Courts, at least in Tulsa County, have begun to routinely appoint a therapist to attempt to reconcile the objecting child to the objectionable parent. Depending on the age of the child, and other factors, when reconciliation therapy does not work, the Court generally shrugs its shoulders and moves on with the case.

Is it in the best interest of a child to "force" or coerce by some means a minimal relationship between the objecting child and the objectionable parent. A child who has experienced no trauma, but articulates a desire to not see another parent, will not wither, die, or undertake more drastic behaviors if they are forced to see a parent twice a month for two hours each, in a public setting.

When there is proven alienation by a parent which created the child's objection to visitation, then we should consider some radical and immediate solutions. If the system attempts reconciliation therapy and it does not work, the system should attempt a different solution before writing off a fundamental relationship.

First, as Richard Gardner once proposed, the court should consider transferring custody to the alienated parent. If that appears too risky to the court, depending on the reports of mental health experts, then the court should strongly consider a third-party

Are we fostering attachment disorders in children and adults? Has the law become a reflection of society? Mr. Warshak, states that “rejected parents suffer a searing pain described as worse than the grief associated with the death of a child, because it is an ambiguous loss that does not allow the closure of a normal grieving process”. Supra at 53. Likewise, Mr. Warshak thinks that the “favored” parent might risk future enmity if and when the children ultimately come to understand how they have been exploited.” Supra at 53.

The purpose of this narrative is to bring good people together to discuss parental alienation, and methods of addressing PAS in court, in an effort to prevent the parents’ conflict from harming their children and their grandchildren’s lives.

I am proposing that we put together an inter-disciplinary program, of psychologists, therapists, lawyers, judges, victims of alienation, and adult children of parental alienation in focused groups. The goal of the program would be to put together a nuanced and timely approach based on existing research to resolve the conflict created by parental alienation before it affects the target and the child for the rest of their lives.

placement, with a nurturing close relative and provide the alienating parent with the same level of visitation as the alienated parent.

If parental alienation is not an issue, the court should consider an interdisciplinary approach where the court lets the child know that the court will require a minimum of visitation, even if the child objects. This approach would entail having a therapist for the child, a juvenile authority who can be used to threaten and/or impose relative sanctions on the child, and, if possible a Guardian Ad Litem to make recommendations to the court.

These radical solutions are not intended for cases where the objectionable parent has been found to have traumatized the child, harmed the child, or done something to legally justify the absence of contact. They are intended, however, to prevent a child from being allowed to divorce a parent, and deprive a parent of his or her constitutional right to have contact with his or her child.

If we give up on reunification efforts entirely “the child and favored parent may interpret this as parental abandonment; the child is encouraged to avoid rather than manage conflict’ the child’s irrational beliefs about the rejected parent could be reinforced; and the child receives no help to better understand the relationship with each parent and to reduce the likelihood of future problems related to a loss of such magnitude.” Richard A. Warshak, *Family Court Review*, Vol 48 No. 1, January 2010, pages 52 and 53. If children of non-intact families can banish a parent, how will they deal with a future primary relationship with their mates, spouses and children. Is the law on preference helping to create an expectation that if you dislike a relationship you ignore it or throw it away?