

## **Child Custody Evaluations when There are Allegations of IPV and/or Child Abuse: Current Research, Ethical Issues and Common Pitfalls**

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## **Presentation Outline:**

- **Definitions and High Conflict vs Abuse**
- **Issues and Research**
- **Myths and Mistakes of Evaluators**
- **Myth of “Parental Alienation Syndrome”**
- **Alienation vs Abuse vs Rejection**
- **Coaching Issues**
- **Qualification and Roles of Evaluators**
- **Evaluation Procedures**

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## **Definitions**

### **Distinction between Abuse and Aggression:**

- **Abuse = a pattern of behavior where one partner gets his/her needs met at the expense of the other through the use of power and control; usually has elements of intimidation, and often produces trauma.**
- **Aggression = usually physical but can be verbal or sexual, where one person commits an assaultive behavior on the other person.**
- **Thus, can have abuse without physical aggression, or aggression without abuse. Mutual Abuse would be where both partners are fighting with each other for power and control (not common – 10-15% of cases).**

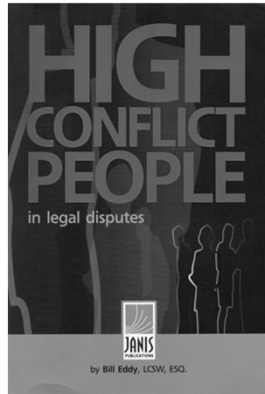
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## **“High Conflict Divorce”**

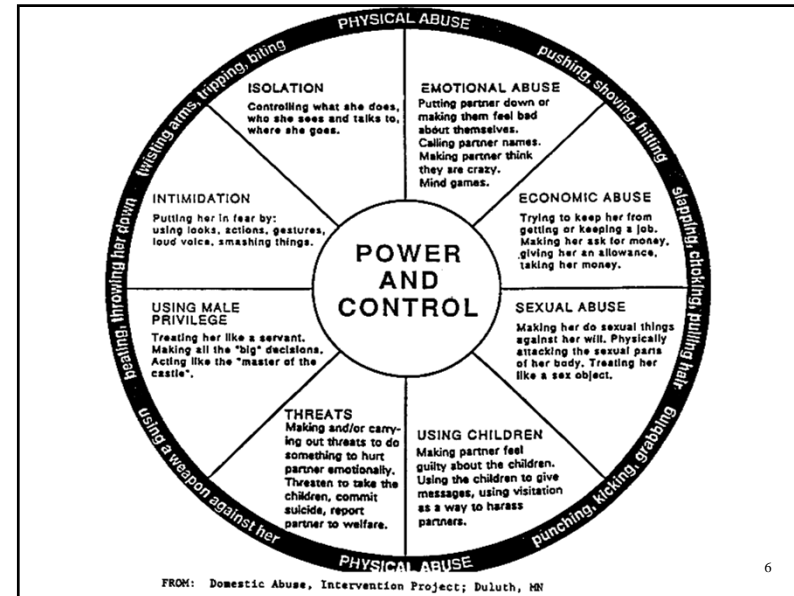
The theory/label/worldview of “High Conflict Divorce” confuses clear cut issues of domestic violence and child abuse by assigning blame for the violence equally to victims and perpetrators and viewing the violence as situationally caused by the “family system” dynamics.

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Don't confuse the theory of High Conflict Divorce with the study of High Conflict People—Bill Eddy's work sheds light on how batterers use the courts to further abuse their victims through litigation.



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## Custody Evaluators' Beliefs About Domestic Abuse Allegations

Daniel G. Saunders, Ph.D.  
University of Michigan School of Social Work  
Presentation at the NCADV, August, 2010

## Custody Evaluators' Beliefs About Domestic Abuse Allegations

Recent NIJ study that custody evaluators are very ill-informed about trauma.

Saunders, D. G., Faller, K. C., & Tolman, R.L. (2012). Child Custody Evaluators' Beliefs About Domestic Abuse Allegations

<https://www.ncjrs.gov/pdffiles1/nij/grants/238891.pdf>

## **Professionals Recruited for Saunders' Study**

**Survey of 1,187 Professionals**

**465 Custody Evaluators**

**200 Judges**

**134 Legal Aid & 119 Private Attorneys**

**193 DV Program Workers**

**185 various other professionals**

## **Sample Characteristics**

**Experience with 500 or more custody cases**

- **69% judges;**
- **35% private attorneys;**
- **38% legal aid attorneys;**
- **20% evaluators;**
- **12% DV workers.**

## **Saunders et. al., (2010) Belief in the Importance of Social Hierarchies**

- **Belief that social hierarchies are needed (social inequality is good) related to judges and custody evaluators beliefs that:**
  - ◆ **victims make false allegations**
  - ◆ **victims alienate their children**
  - ◆ **fathers do not make false allegations of abuse.**

## **Common Mistakes For Failure to Recognize Domestic Violence**

- **Focusing on police and medical records to confirm abuse**
- **Limiting issue to physical violence**
- **Skepticism of new or delayed abuse allegations**

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Goldstein, Bancroft, Jaffe, Geffner, Silberg et al

## Common Mistakes For Failure to Recognize Domestic Violence

Aggressive or "Inappropriate" behavior by victims:

Victim Challenging Abuser and Court

Victim as Litigant

Victim upset and Angry

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## General Incorrect Assumptions Often Made by Child Custody Evaluators

- IPV has no correlation with child abuse and unfit parenting
- What happens between the parents does not affect the children
- A woman must facilitate access to their children's father regardless of danger
- Maximum contact with both parents is essential and beneficial to all children

## Johnson's Typology of IPV

(Johnson, 2008)

**NOT VALIDATED AND DOES NOT MATCH ACCEPTED RESEARCH**

	<b>Intimate Terrorism (IT)</b> (Feminist Perspective)	<b>Situational Couple Violence (SCV)</b> (Family Violence Perspective)
<b>Motives of DV</b>	Maintaining general control over one's partner	Family conflict that is instigated by stress
<b>Distinguishing Features</b>	Violence rooted in <i>coercive control</i>	Violence rooted in <i>conflict</i> or <i>situational stress</i>
	Multiple violent and non-violent control tactics	Specific conflicts or situations in which one or both partners act out

**MISINTERPRETING UNSUBSTANTIATED CPS REPORTS TO MEAN CHILD WAS LYING OR SOMEONE WAS COACHING THE CHILD**

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## Difficulties

- Preconceived ideas (divorce)
- Poor interviewing and investigation
- Lack of knowledge of child developmental issues
- Lack of understanding of victim dynamics
- Lack of understanding of offender behaviors and profiles
- BAD reporting

**USING LABELS TO BLAME WORRIED MOTHERS (e.g., PAS, MUNCHAUSEN BY PROXY, ENCAPSULATED DELUSIONS, MALICIOUS MOTHER SYNDROME, BORDERLINE, HISTRIONIC)**

## The Myth of “Parental Alienation Syndrome/Disorder” vs Abuse vs Attempts at Parental Alienation

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### Treatment of PAS:

#### Parent-ectomy and “Threat Therapy”

1. “I strongly recommend sanctions, including transfer of custody to the alienated parent, monetary sanctions (when feasible), transfer to a neutral transitional site, and jail sentences, especially house arrest.”
  - ◆ Refers to incarceration as “short-term therapy.”
2. “Older child[ren] (11-16) . . . can be placed in a juvenile detention center for a few days to reconsider his (her) decision” [not to visit the rejected parent].
3. For younger children who refuse visitation, Gardner suggested temporary placement in a foster home or a shelter for abused children.

“This is obviously punitive and could help such children rethink their decision not to visit.”

Addendum I (June 1999) Parental Alienation Syndrome (2nd Edition)<sup>28</sup>

## PAS “cure” is like the Death Penalty

- The “danger” to the child in a PAS case is seen as having the rejected parent cut out of his or her life completely. The court sees the Protective Parent’s protective actions as evidence of alienation, not protection.
- The “cure” for PAS is to cut the child off from contact with the “alienating” parent and send them to live full time with the accused.
- Once accused fathers get custody, they invariably cut the mother out of the child’s life almost entirely. Their justification is the need to protect the child from the mother’s alienating behavior. The court does not see the father’s actions as alienation, but as protection.
- The cure is the same as the danger which justified it.

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## Distinguishing “Alienation” from Abuse: Behaviors Are the Key

- Is there trouble in the child’s attachment relationship with either parent?
- If yes, what is the cause for the dysfunction/disruption?

Drozd, L. M., & Olesen, N. W. (2005). “Is it abuse, alienation, and/or estrangement from the perspective of the child.” *Journal of Child Custody*.

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**DISQUALIFYING ABUSE  
DISCLOSURES BECAUSE  
THE CHILD DOES NOT  
PRESENT IN A  
STEREOTYPICAL  
MANNER.**

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**OVERVALUING “EXPERT”  
PSYCHOLOGICAL  
INTERPRETATION OVER  
EVIDENCE OF PAST  
BEHAVIOR AND REPORTS OF  
CURRENT BEHAVIOR**

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## OVERVALUING THE COACHING HYPOTHESIS

## Faller's Review of the Coaching Issue

In a Child Abuse and Neglect review in 2007  
Faller concluded...

“Although relevant studies do not always address directly the coaching of children, they support a conclusion that coached statements and other types of false abuse allegations by children are uncommon.”

## It's Mom's fault



- Are there actual behavioral indicators, observations, or evidence that Mom has attempted to program the child?
- Are disclosures By the Child relatively consistent?
- Investigate the divorce and the facts surrounding the child's first disclosure
- Corroborating evidence & sensory details

National Council of Juvenile and Family Court Judges

## A Judicial Guide to Child Safety in Custody Cases



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**OVERVALUING PAID  
EXPERTS WITH NO CLINICAL  
BACKGROUND OR  
SPECIALIZED KNOWLEDGE/  
TRAINING IN CHILD ABUSE  
OR INTIMATE PARTNER  
ABUSE**

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**“No. I’m not an expert in sexual  
abuse or domestic violence, have  
never treated any such clients, but  
I am an expert on false allegations  
of abuse.”**

**A major ethical and practice  
problem!**

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**EVALUATION OF CREDENTIALS OF DV/CA  
THERAPISTS, FACILITATORS, EXPERT  
WITNESSES, EVALUATORS & CONSULTANTS**

**Credentials/Vita:**

**Licensure/Certification  
Education, Degrees, Training, Conferences, Workshops (When?)  
Areas of Specialization  
Clinical and/or Professional Experience  
(Setting, # Clients Seen, Time Spent)  
Teaching or Training of Others  
Publications or Presentations  
Research Experience  
Grants Received  
Memberships and Involvement in Organizations or Committees  
Editorial Board Member  
Types of Experiences with DV Clients  
Specific Techniques Used**

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**Evaluation  
Procedures in Child  
Custody Cases  
  
Dynamics of IPV or  
Child Abuse**

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## Timelining

- A Timeline is a chronology of the entire narrative history of the case, in chronological order. It should cover all issues relevant to the child's best interests, and should include all the information available to the evaluator.

## Factors associated with Good Case Outcomes, Neustein & Goetting, 1999

- Judges trained in child abuse and IPV
- Competency of GAL's if appointed
- Sophistication and thoroughness of CPS methodology
- Quality and expertise of court appointed experts
- Protection for children viewed as goal

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