

Is It Abuse, Alienation, and/or Estrangement? A Decision Tree

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ABSTRACT. Allegations of family violence, child abuse, and alienation often occur in the same contested child custody case. Custody evaluators often are poorly trained in forensic assessment of allegations of domestic violence and allegations of alienation. The authors of this article suggest language that is designed to differentiate between cases in which the term *alienation* is appropriate, as in non-abuse cases, and when

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it is best to use other language such as *estrangement*, *sabotaging*, and *counter productive protective parenting* in cases where there is abuse. This article describes a decision tree that is designed to assist evaluators in identifying the causes of multiple allegations of maltreatment and abuse.

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Following separation and divorce, families reorganize in different ways. Three quarters of these families successfully transition from nuclear to binuclear, with healthy inter-parental communication and co-parenting (Ahrns, 1994; Hetherington & Clingempeel, 1992). Approximately 10-15% of these divorcing families continue the marital conflict (Maccoby & Mnookin, 1992); some of these families may place the child in the middle of the conflict. In a smaller number of these highly conflicted families, children form a very strong bond and alignment with one parent and, simultaneously, a strong rejection of the other. Estimates of the incidence of such extreme alignments vary from 11% of 131 children (Wallerstein & Kelly, 1980) and 15% of 215 children (Johnston, 2003) to 27% of 125 children (Johnston, Lee, Olesen, & Gans Walters, 2004). These studies differed somewhat in terms of the sources of the data, families described, and the definitions of rejection of a parent. The research on frequency of allegations of a child rejecting a parent has been more extensive than research on the substantiation of allegations of parental abuse that co-occur with allegations of alienation. Johnston, Gans Walters, and Olesen (2004) have provided a discussion of the opposing points of view of professionals and a review of the existing studies on the substantiation of child abuse allegations in contested custody cases.

In their article, Johnston et al. (2004) report data on 120 separated and divorced couples that were litigating custody and the allegations they raised, including allegations of domestic violence. In 30% of the families, there were allegations of domestic violence against mothers, while in 55% of the families there were allegations of domestic violence against fathers. They reported that the allegations were substantiated in 15% and 41% of the 120 cases, respectively. In a quarter of the families, they found substantiation of allegations against both parents. Rates of substantiation of allegations of all types of abuse (child abuse, domestic violence, substance abuse) were essentially the same in their study for mothers (52%) and fathers (51%).

In the largest study to date, the National Institute of Justice and Centers for Disease Control and Prevention surveyed 16,000 adults and found that 22% of

women and 7% of men experienced physical assault by a current or former intimate partner (Tjaden & Thoennes, 2000). These national data are thought to be an underestimate of the actual prevalence of domestic violence and may be a significant underestimate of domestic violence in contested child custody cases.

In many litigating families, there are multiple allegations and counter-allegations that may include domestic violence on one hand and on the other hand, alienation against the parent who has raised the issue of domestic violence. Evaluations of families with counter-allegations of domestic violence and alienation are difficult, with pressures from both parties on the custody evaluator to reach premature conclusions that may be based on prior assumptions or dichotomous thinking.

These allegations and counter-allegations are not new. There have been intense disputes over the past two decades about the causes of child rejection of a parent. The phenomenon of extreme alignment was described by Wallerstein and Kelly (1980) and, under the name Parental Alienation Syndrome (PAS), it was elaborated in detail by Gardner (1992, 1999, 2001), Rand (1997a, b), Clawar and Rivlin (1991), and Warshak (2002). Gardner conceptualized the problem as caused by the behavior of a vindictive, hostile parent, often the mother (although later writings [Gardner, in press] acknowledged that both men and women engage in such behavior). The PAS model places the central responsibility for the child's rejection of a parent (called the "target parent") on the behavior of the parent with whom the child is aligned. It is believed by those who support this model that an aligning parent systematically influences a child to view the target parent as evil, dangerous, and undesirable in the child's life. Gardner's work attempted to seek an explanation for why children reject parents, but the majority of his work was self-published and not peer reviewed, and in large part was not accepted by the scientific and legal communities (Faller, 1998).

More recently, the issue has been analyzed and refined by Kelly and Johnston (2001), commented on by Walker, Brantley, and Rigsbee (in press), responded to by Johnston and Kelly (2004), and again commented on by Walker (2004). In their 2001 reformulation, Kelly and Johnston discuss complex interactions of causes for children rejecting parents, causes which may include alienating behavior by the favored or aligned parent, but may also include other sources of difficulty such as child abuse, poor parenting, family conflict, or domestic violence among others. Johnston (2003) presented preliminary empirical data regarding the correlations and interactions of factors that operate in families in which a child rejects a parent. Interestingly, Johnston, Kelly, and Walker agree on some points: PAS does not exist; and the behaviors of what Johnston and Kelly call the alienating parent cannot alone cause the behavior of the child who is rejecting a parent.

Today, decades after the beginning of this debate on why children reject parents, the use of the word *alienation* still sparks controversy. There is no one

single definition that is accepted by parents, mental health professionals, and the courts.

As “alienation” has long been misunderstood, so has domestic violence, which was underreported and not identified for many years. We find ourselves greatly concerned that there is a group of colleagues who are engaged in the practice of child custody evaluations who do not understand how to competently assess the dynamics of and the effects upon children of domestic violence. Many of these colleagues are offering opinions to the Court about family functioning without a thorough understanding of the role of domestic violence. This has led, at worst, to the removal of children from mothers who were already victimized. Efforts to protect children have led to some children being placed in the custody of manipulative and violent parents.

Some evaluators, on the other hand, have not recognized the reality that a parent can convince a child of something that is not true, nor have they appreciated the pernicious effect of alienating or sabotaging behavior by one parent that tries to turn the child against the other parent. At worst, the angry, blaming, and vindictive parents have capitalized on the rejected parents’ faults and succeeded in driving the rejected parents away and turning the children against them.

Given the complexity of the issues in these cases, it is not surprising that there has been widespread dissatisfaction with the conclusions of custody evaluators and the courts. (See Johnston et al. [in press], Kleinman [in press], Dalton [1999] and Dalton, Carbon, & Olesen [2003] for discussions of the arguments of critics of the family court system.)

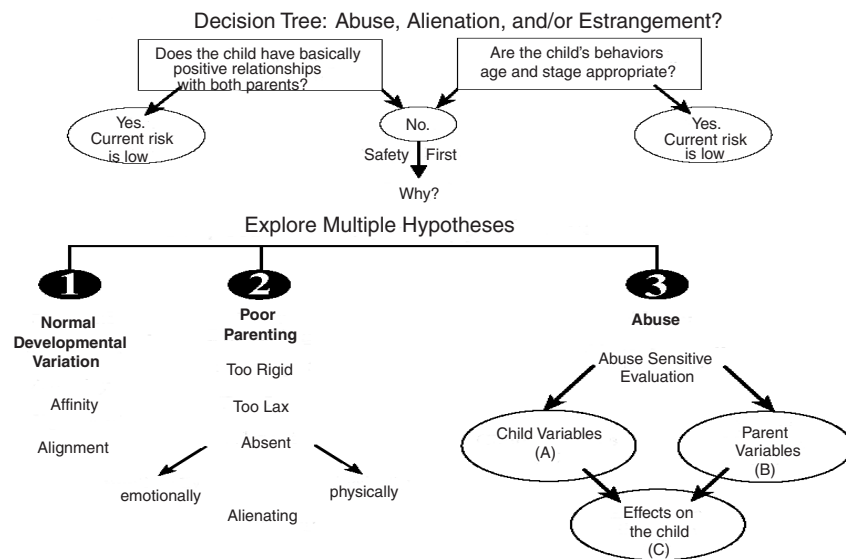
It is not our intention to describe how to do a child custody evaluation in this article. Several excellent books and articles have been written on this subject, and these authors refer the reader to these for guidance in the methods and procedures that one might employ in collecting data in a child custody evaluation. We refer the reader to the professional practice guidelines published by the American Academy of Child and Adolescent Psychiatry (1997), the American Professional Society on the Abuse of Children (1996), the American Psychological Association (APA) (1991, 2002), Board of Professional Practices and Standards Practice Directorate (1994) and the Association of Family and Conciliation Courts (1994). We also refer the reader to current books and articles on conducting child custody evaluations (Galatzer-Levy & Kraus, 1999; Gould, 1998, 2004; Gould & Martindale, 2004; Jaffe, Lemon, & Poisson, 2003; Kirkpatrick, 2004; Kuehnle, 1996; Kuehnle, Greenberg, & Gottlieb, 2004; Martindale, 2004; Stahl, 1994, 1999). Furthermore, we recommend an article by Lee and Olesen (2001) describing an evaluation protocol to be used in cases with alienation as a presenting complaint.

Whereas these guidelines and the books set forth the parameters by which the evaluator might best conduct an evaluation and even, in some, how to build and test hypotheses, this paper attempts to address something that is missing: a model for how to deal with competing cross-allegations, such as al-

legations of abuse and alienation. When there are allegations and counter-allegations of abuse and alienation, it is particularly important to have a conceptual framework to organize the multiple hypotheses as data is gathered. A conceptual framework lays out an array of variables to consider, and can help guard against premature closure of analysis and the narrow consideration of alternatives due to emotional polarization or dichotomous thinking. A conceptual framework can also prevent the evaluator from being distorted by bias, inattention, ignorance, or chance. In addition, when an evaluator follows the framework, there is a reduced possibility of confirmatory bias (i.e., the tendency to stop the investigation when one's premature conclusion appears to have been proven).

In this article, we will describe a visual representation of this idea in the form of a decision tree (Drozd, Olesen, & Kleinman, 2000), which lays out the various aspects of the family's functioning that need to be considered as well as some discussion of these various aspects (see Figure 1). This decision tree is the basis of an evaluation protocol developed for use in evaluations in which there are both allegations of abuse or neglect and allegations of alienation. We believe that our evaluation protocol may be usefully applied to other types of evaluations, such as cases in which child abuse and dysfunctional parenting are alleged. For the purposes of this article, however, we focus only on the differential analysis of allegations of alienation and allegations of spousal abuse.

FIGURE 1. Initial Decision Tree



The *Decision Tree* considers three overarching hypotheses, which are non-mutually exclusive alternatives and which are offered as possible explanations for why a child's behavior may not be age and stage appropriate and/or why a child may not have positive relationships with both parents. These three hypotheses are listed in Table 1.

THE DECISION TREE

The Child's Relationships and the Child's Behaviors

The first question that needs to be asked when evaluators begin to organize the data gathered in a comprehensive assessment is: Does the child have basically positive relationships with each parent? There are two possible decision branches: Yes and No (see Figure 2). If the data support a conclusion that the child has a basically positive relationship with each parent, then the evaluator follows the "YES" decision branch. A "YES" answer suggests that the current risk of child-parent relationship disruption is low. If the data support a conclusion that the child does not have a basically positive relationship with each parent, then the evaluator follows the "NO" decision branch.

The evaluator then asks the second question: Are the child's behaviors age and stage appropriate? If the data support the conclusion that the child's be-

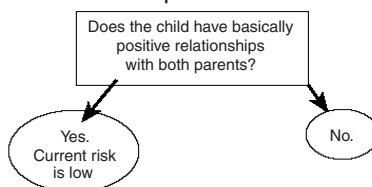
TABLE 1. Hypotheses for a Child's Age or Stage Inappropriate Behavior

Hypothesis 1: Normal Developmental Variations. The child's behavior reflects neither abuse nor alienation but a normal developmental variation in child development and/or family dynamics.

Hypothesis 2: Poor Parenting. The child's behavior reflects poor parenting on the part of one or both parents (e.g., parenting that is too rigid, too lax, absent, and/or alienating) which may include behavior that undermines the child's relationship with the other parent.

Hypothesis 3: Abuse. The child's behavior is a response to abuse of some kind in the family (child abuse, substance abuse, and/or domestic violence).

FIGURE 2. Relationships: Questions and Answers



haviors are age and stage appropriate, then the evaluator follows the “YES” decision branch, suggesting that the current risk of child-parent dysfunction is low. If the data support a conclusion that the child’s behaviors are not age and/or stage appropriate, then the evaluator follows the “NO” decision branch, suggesting that the child displays some behavior problems and/or symptomatology (see Figure 3).

It should be noted that any conclusion that a child is functioning in an age or stage appropriate level should be based on a thorough assessment. A child who is emotionally troubled may not show easily observable problems. The child may, for example, act older and more mature, which are characteristics that may seem admirable but upon further assessment may reflect role reversals in the family. Conversely, the child may be asymptomatic and appear to have positive relationships with his parents, and yet the child is exposed to extreme conflict and issues of power and control between the parents. In this instance, even though the answer to the two questions (i.e., “Does the child have basically positive relationships with each parent?” and “Are the child’s behaviors age and stage appropriate?”) are Yes, one might still want to proceed to the next step on our Decision Tree. That next step in the decision tree is to follow a line of questions that examines the child’s emotional and physical safety.

Safety Comes First

It is important to examine the safety of the child who lives in a family system with allegations of alienation, abuse, and/or cross allegations of abuse and alienation. Children exposed to familial violence, either as witnesses or as victims, are at risk for psychological and physical harm. We believe it is critically important for the evaluator to ask the question: “Is the child currently safe from physical, emotional, and psychological harm?” (see Figure 4).

There are times when evaluators are asked to conduct assessments when there has been a legal finding of abuse. Such findings may come from adjudications in one of several courts: criminal court, the dependency court that hears cases of abuse and neglect, and/or the court that hears family law matters. When legal findings of abuse precede the evaluation, it is incumbent on the evaluator to assess immediate factors for the child’s physical and/or emotional safety. If there are safety concerns, the evaluator should communicate to the

FIGURE 3. Behaviors: Questions and Answers

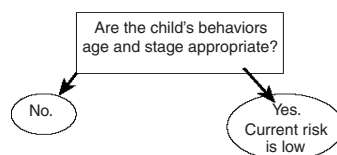
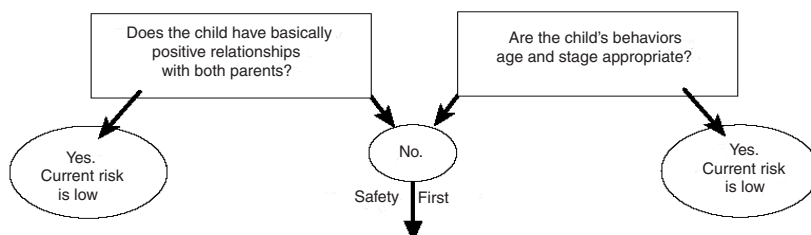


FIGURE 4. Safety First



court the specific measures to be taken to ensure the child's safety (see Drozd, Kuehnle, & Walker, 2004).

There are other times when there are no previous legal findings of abuse yet the evaluator develops concerns about a child's safety. In such cases, and guided by state reporting statutes, the evaluator must make a report to Social Services if there exists reasonable suspicion of child abuse. An immediate emergency evaluation may be ordered by the family court or by the court that handles abuse and neglect cases. Some courts direct the court-appointed custody evaluator to conduct a two-step evaluation. In step one, the evaluator is asked to conduct a risk assessment and, if risk to children is found, to make interim recommendations about child placement. In step two, the evaluator is asked to conduct a thorough child custody evaluation. There are instances in which it is fine for the evaluator to do both steps, and there are cases where it may be prudent for the evaluator to do the risk assessment (if this is their specialization) and to then refer out the rest of the evaluation. In still another instance, it may be best for the evaluator who does not have expertise in risk assessment to refer that portion of the case to an expert and to then conduct the remaining portions of the evaluation him or herself. If in doubt about which path is the best to take, the evaluator would be wise to seek consultation.

Once the issue of the child's safety is evaluated, we move back to the Decision Tree to ask, "Why?" Why is the relationship between the child and one or more of his parents not basically positive and/or why does the child have behavior problems? All possible explanations for the relationship discrepancies and the child's behavior problems should be described through building and testing hypotheses.

Hypothesis Building and Testing

To test the various hypotheses on the child's relationship discrepancies and/or behavior problems (see Table 1), the forensic evaluator must conduct a comprehensive child custody evaluation as previously cited. These hypotheses need to be investigated independently and fully. Again, any given case out-

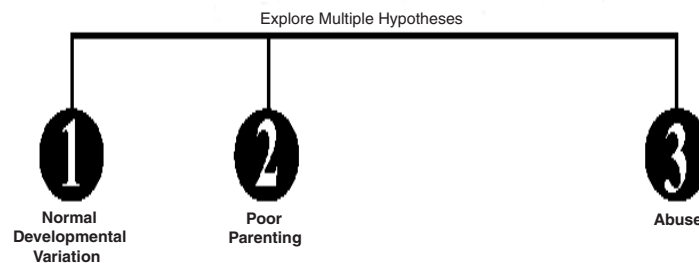
come may have multiple determinants. It is likely that the evaluator will find that the child's troubles in their relationships and/or their behaviors is the result of a combination of normal developmental variations, poor parenting (possibly including alienation), and/or abuse (see Figure 5). Johnston (2003) found complex interactions from several factors that were associated with children's rejection of parents. These included the level of warm involvement, each parent's use of sabotage against the other, the level of family violence, and parental well-being, among others. We are not suggesting any particular set of methods and procedures of data collection in a child custody case, though we are suggesting a way to organize the data once it is collected and a set of possible hypotheses to explore. It should be noted here that it is important not only to consider multiple hypotheses but also for the evaluator to report findings on all hypotheses considered (i.e., those that are ruled in and ruled out).

The order in which we describe these hypotheses has nothing to do with the order in which they should be tested and nothing to do with the importance of ruling in or ruling out any given hypothesis. What we wish to emphasize is that each one of the hypotheses should be tested before drawing any conclusions as to the cause of a child's rejection of a parent. For example, if one finds poor parenting, one should continue to move on to test the Abuse Hypothesis, inasmuch as there could be both poor parenting and abuse in a family. However, if there is one hypothesis that should be tested first, it is the Abuse Hypothesis, or at least a portion of it, to determine whether the child is or is not both physically and emotionally safe.

Hypothesis 1: Exploring the Normal Developmental Processes

Many, if not most, children in non-abusive families have equal, close to equal, or equivalent emotional relationships with their parents even when their parents are separated or divorced. Some children, though, for a myriad of reasons, do not have basically equal emotional relationships. Inequality in relationships may be simply temporary and situational or it could be part of a

FIGURE 5. Multiple Hypotheses



long-standing pattern. Some of the variation in a child's relationship with each of his parents depends upon biological and personality variables (see Figure 6).

Affinity. Affinity is a situation in which a child is closer emotionally to one parent than to the other. A child may feel more emotionally connected with one parent than the other because they have similar interests (e.g., sports or art) or similar personality styles (e.g., energetic and outgoing). There are developmental factors as well. For example, it could be that a daughter is closer to her father around ages 5 or 6 and then again in early adolescence, but that she is closer to her mother at the ages in between. This would be age and stage appropriate. This daughter would be said to have had an *affinity* toward her mother at times and an *affinity* towards her father at times. Over the years, a son might like "hanging out" with his father because they both like sports and yet the son is just fine in spending time with his mother as well. It is just that his affinity is towards his father.

Alignment. In families where there is no abuse, the child may still have an exaggerated connection with one parent at the expense of the other parent. That is, the affectional bond with one parent is strong while it is weaker or non-existent with the other parent. This may be based on dynamics in the family functioning even prior to the separation and divorce. If the son in the previous example enjoys sports with his father, excludes his mother, and mirrors the conflicted parental relationship by talking back to his mother, belittling her, or showing little affection, he can be said to be aligned with his father. It is possible that the parent with whom the child is aligned has neither directly nor indirectly promoted nor manipulated the child into the alignment, and if this is the case, the alignment may not reflect family pathology, although it is unlikely to be healthy for the boy's development.

In another example, take the mother and daughter who have very similar personality styles and interests, and who spend a lot of time with each other. Let us then say that this same daughter and her father are very different in personality and interests, and that the time they have spent together has been at

FIGURE 6. Normal Developmental Variations Hypothesis

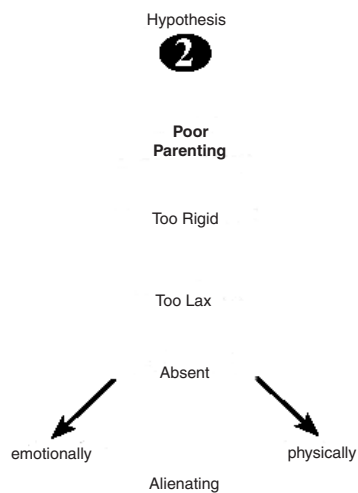


best minimal. Furthermore, let us say that the father and daughter get along reasonably well, and that the mother tries to promote the daughter's relationship with her father but that it is simply not very strong. This may be a non-pathological alignment. Another example of a problematic alignment that is not caused by direct parental abuse or alienation is the situation in which the child is unable to tolerate the tension surrounding a highly conflicted divorce. He or she may opt out of the unbearable conflict by choosing to be aligned with one parent while avoiding the other parent. This may be a psychologically good defensive move on the child's part, although it may still result in the child having some relationship and/or behavioral problems.

Hypothesis 2: Exploring the Poor Parenting Hypothesis

Another possible explanation for a child's problems with his or her relationships and/or behaviors might be poor parenting (see Figure 7). Differences in parenting style have been studied extensively in the child development literature. Baumrind (1967, 1973), and Maccoby and Martin (1983) described three major types of parenting style: the authoritative, the authoritarian, and the permissive. Later, a fourth grouping was added (Maccoby & Martin, 1983), the uninvolved-neglecting. Authoritative parenting describes parents who supervise and control their children firmly in necessary and reasonable ways, while being supportive and nurturing, encouraging communication and appropriate independence. Baumrind suggested that authoritative parents are more sensitive to the child's needs for both direction and support than are other par-

FIGURE 7. Poor Parenting Hypothesis



ents. Authoritative parenting is associated with positive child outcomes in cognitive and social competence and with strong affectional bonds between parents and children. Authoritarian parenting is rigid, controlling, and often intrusive. Permissive parenting is lax—often friendly but lacking in the limit-setting and supervising functions of parenting. It can also be intrusive, in the sense that parent-child boundaries are not observed.

Based on these theories and research data, we can look at the families we are evaluating on those dimensions. One or both of the parents may be too rigid in their parenting, perhaps are controlling, intrusive and unable to appreciate the child's internal experience. We would expect that such parenting might contribute to a child's wish to avoid spending time with that parent. On the other hand, some parents are too lax. They do not provide enough structure for their children, who in turn flounder, although they may superficially prefer the status, material goods, and the independence they have with a permissive parent. Such lax parenting distorts the parent-child relationship and may lead to rejection or avoidance of a parent who is appropriate in his or her limit setting. It is not uncommon in our clinical experience to see families in disputed custody cases that split the functions of limit setting for the one parent and support and nurturance for the other.

Absent Parenting

There are families in which one parent is absent, either physically or emotionally. The physical absence may be for pathological or non-pathological reasons. Emotional absence is more serious. Some parents are physically present in the family yet they are not there emotionally. For example, a parent may be entirely consumed with her work, hobby, or social demands on her time, spending little or no time with the child. Such parents often do not talk with their children, show no interest in the activities and interests of their children, and know little, on the whole, about the lives of their children. Additionally, they may not be interested in letting the children know much about them. In the case of such emotional absence, we would also expect to see that the child's relationship with that parent suffers.

Alienating behavior. Another type of poor parenting occurs when one parent says negative and disparaging things about the other parent to the child. These behaviors may cause the child to feel alienated (see Figure 8). Alienating behaviors may occur in a context of a less effective parenting style in the rejected parent, but may also occur independently. It is behavior that is not related to child abuse, domestic violence, or substance abuse, although there can be complex combinations of family problems, as will be discussed later. We recommend that the evaluator look into alienating behavior separately from the investigation of other allegations (see Lee & Olesen, 2001). See Kelly and Johnston (2001) for a list of common alienating behaviors. A set of questions that an evaluator might ask to explore this hypothesis can be found in Table 2.

FIGURE 8. Alienating Behaviors

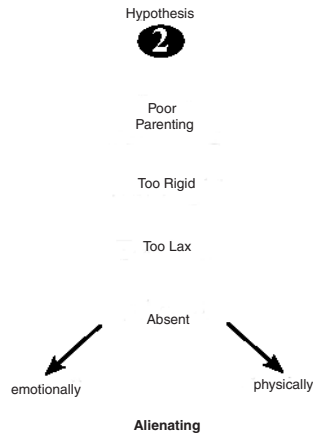
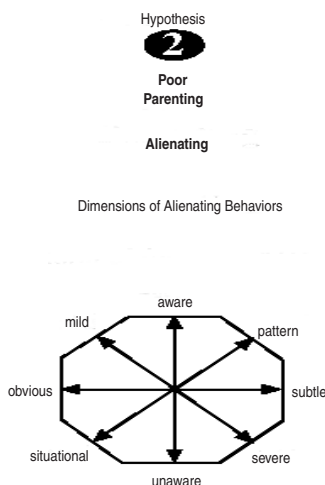


TABLE 2. Questions to Assess Alienating Behaviors

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- Does the parent believe the things s/he is saying about the other?
 - Is s/he genuinely frightened and protective, even if mistakenly so?
 - Is there a financial or any other kind of gain that would help explain the reason for the behavior if genuine fear does not seem to be present?
 - Is there a personal or family history of rejection that is being repeated in this new family?
 - Is the parent developmentally stuck in black-or-white thinking for reasons that may or may not be related to a past or present history of abuse, and does that parent see most things as a win-lose or all-or-nothing?
 - Is there documented psychopathology that would explain any existing problems with flexible and clear thinking?
 - Is the parent prone to form relationships that are merged and does the parent see the child as an extension of him/herself?
-

Dimensions of alienating behavior. Alienation is not a dichotomous variable to be noted as present or absent. It is a complex variable that ranges in several dimensions: from mild to extreme, from situational and temporary, to part of an ongoing pattern. In some situations, it is more obvious than others; in some cases, parents are aware of the alienating that they are doing and other cases, they are not (see Figure 9). A given child may manifest certain behaviors characteristic of being alienated and a given parent may manifest certain behaviors characteristics of alienating. The evaluator needs to look at the child’s symptoms and behaviors independent of the rejected parent’s behavior and independent of the alienating parent’s behavior.

FIGURE 9. Alienating Dimensions



On occasion, during the period of separation and divorce, most parents will make a few angry and inappropriate statements, and most children will find a way to ignore these occasional outbursts. It is important to look at the patterns of parental behavior, not isolated incidents, unless the incidents are traumatizing in themselves. If we find no abuse, and if we find that the rejected parent is adequate in other ways, and if we indeed find that there is an effort by one parent to turn the child away from the other, that must be investigated as possible alienation.

An evaluation that produces a conclusion that “no alienation is found” or “yes, alienation is found” must be seen as incomplete or not helpful. Said another way, the analysis of alienation is not two dimensional and certainly not dichotomous; rather, it is multi-dimensional and should be reported as such. Discussions of these continua are found in Lee and Olesen (2001), Kelly and Johnston (2001), Sullivan and Kelly (2001), and Johnston, Walters, and Friedlander (2001). Examples of different dimensions of alienating behaviors follow.

Examples of mild and severe alienating behaviors. Mild alienation may present, for example, as a child who complains about spending custodial time with one parent but does not resist visitation. Extreme alienation may present as a child who states he wishes that he could “rip his father’s DNA out of every cell” in his body. Similarly, the parental alienating behavior can range from mildly belittling and hostile comments about the other parent to intense and active campaigns to rewrite history and to assert there is only evil in the ex-spouse.

Examples of situational and pattern dimensions of alienating behaviors. As the whole idea of divorce is new to the parent, he or she may say some disparaging remarks to a child about the other parent. This is usually not a good thing to do but it is certainly understandable at the beginning of a separation and divorce, and most importantly, it may (with time and some distance from the initial decision to separate and/or divorce) dwindle down and eventually end. This is situational and potentially alienating behavior. In most cases, though, if someone points out the potentially alienating behavior to the parent, he or she will immediately correct it. On the other hand, there certainly are cases in which a very hurt and angry parent vindictively continues the alienating behaviors in a pervasive and ongoing pattern. When such a pattern develops, the parent doing the alienating, over time, may end up contributing to the severing of the relationship between the child and the other parent.

Examples of subtle and obvious alienating behaviors. In some cases, a parents' behavior is obvious and anything but subtle, such that an untrained eye could see it, and at other times, the behavior is much more subtle and difficult to discern. In one scenario, the parent openly admits making critical, denigrating comments about the other parent. These comments are justified by the erroneous belief that it is important for the child's protection or development for the child to know the truth about her bad and dangerous parent. The truth that the alienating parent seeks for the child to know includes bad things that the rejected parent has done to the family. It may be true that the parent may have behaved negatively. However, in the case of overt alienation, the information that the child is being given does not keep the child safe from harm. For example, disclosure of information that the child's mother considered abortion during her pregnancy with that same child has no purpose except to turn the child against her mother. If the parent who is engaging in the alienating behavior is aware of what he is doing, it is more likely being done with malice. On the other hand, the parent who is not aware of his alienating behavior may be operating from his own personal history and psychopathology.

In a more subtle scenario, the parent gives verbal support for the child's relationship with the other parent, expresses apparent dismay about the child's hostility and rejection of the other, and yet undermines the child's relationship in many indirect ways. The parent may, for example, make comments on the telephone to a third party about the failings of the other parent, within the child's hearing. The parent may leave court papers, faxes, or letters in the open for the child to read or make other "errors" that involve the child in the conflict. The parent may make attractive plans for the time when the child will be with the other parent, or imply that he or she will be unable to function in the child's absence. The parent may say goodbye with anxious overtones; comments such as, "Don't worry, you'll probably be ok with Daddy! But call right away if you get scared" may be said to the child as she leaves for time with her father. These are all examples of subtle alienating behavior.

Examples of alienating behaviors that a parent may or may not be aware of and that may or may not be done intentionally and/or with malice. In the last example above, suppose that the parent making the phone calls and leaving the court documents in view is not aware of his behavior. This would be an example of a parent who is not doing what he is doing intentionally, yet nevertheless is causing harm to the child and her relationship with the other parent.

On the other hand, there could be the case where mother is campaigning out of anger against the father, who left her for another woman. In this campaign, she may, out of her hurt and pain, be doing things or saying things designed specifically at getting back at her former partner without being aware of the effect that her campaign may have on their child. If this mother's campaign is simply an initial reaction to the painful end of her marriage, her behavior may not rise to the level of being called alienating, though if her campaign continues, her behavior would be considered to be alienating. Parents like those in this case example will most likely correct and terminate their potentially alienating behavior as they heal or with someone pointing out that they may be harming their child.

Custody evaluators are cautioned to keep their observations behavioral and not psychodynamic. When observations are not kept behavioral or when data is collected without sufficient care from third hand sources, the number of false negatives or false positives can be high. When an evaluator attempts to guess at someone's motivation or tries to imply that what someone did was because of some unconscious underlying family dynamic, the probability of errors also increases.

In cases where there is alienating behavior, it may be not just one parent's fault. Both parents may be, in some way, contributing to the problems. Take the case of the recent marital separation precipitated by an affair. Again, the mother in her hurt and pain makes disparaging remarks about the father in front of the child, and for the sake of this example, let's say that she does this for quite awhile, and let's say that the child has both behavioral problems as well as problems in his relationship with his father. An evaluator's first reaction may be that the mother is to blame, yet without looking into the father's behavior, the evaluator would not know whether or not the father was both emotionally and physically unavailable. And if he was that, it would be both the mother's alienating behavior and the father's emotional and/or physical abandonment of the children that may together, in combination, explain the child's behavior and relationship problems. Again, it is important the evaluator considers more than one possible cause of a child's behavior.

There are cases in which the alienating behaviors are not clear and in which any other explanation for the child's rejection of a parent is also not clear. The reality may be that one partner was abused but does not tell the evaluator about it. This may be done out of her own acceptance of the abusive behavior perpetrated upon her, or based on her not realizing that what was happening to her and to the children was not at all normal. The victim may not have spoken

about the abuse to her attorney or to the evaluator because she was ignorant of the importance of it, or perhaps too scared to speak up. She may be in denial or she may be still protecting the abuser out of habit. She may also still want the child to continue the relationship with the father so she doesn't say anything about abuse. There are also other reasons to motivate her including her shame, her fear that her family or his family will find out, and/or her fear he will lose his job. One partner may be alleging abuse and the other is denying it and making cross-allegations. In these cases, assuming that there is something wrong with the child's behavior or with their relationships with their parents, the evaluator must rule in or out both the poor parenting hypothesis that has just been described as well as the abuse hypothesis that follows. Hence, not only may the cause of a child's rejection be multi-dimensional within a given hypothesis, it may also be the result of some combination of multiple hypotheses. In the following section, it will become clear that if there is abuse, there can be, by definition, no alienation. This is because, as the reader will see, the term *alienation* is used only in non-abuse cases; any behavior that seems like alienation is called by other terms if abuse is present.

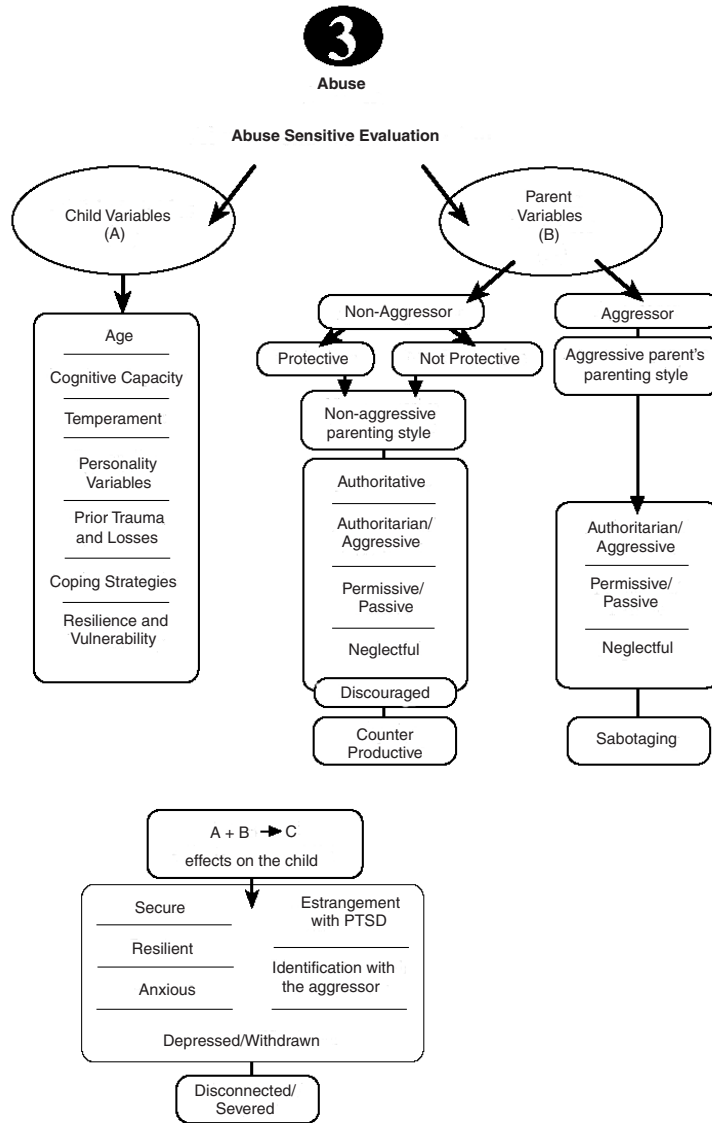
Hypothesis 3: Exploring the Abuse Hypothesis

Some evaluators stop after considering the first two hypotheses, believing that they have found the reason for the child's rejection of a parent; however, doing so leaves the third hypothesis, the Abuse Hypothesis, unexplored. At this stage of the analysis, though, the evaluator does not know the reasons behind the angry parent's behavior and whether there is good cause for this parent to be acting this way. If the evaluator stops without collecting more data, her conclusions and subsequent recommendations may be flawed at best. At worst, the evaluator may harm a child and the child's family. The Abuse Hypothesis must be considered in order to have a complete picture.

The Abuse Hypothesis states that there is a response to abuse of some kind in the family (child abuse, substance abuse, and/or domestic violence) (see Figure 10). In order to make such a determination, an *abuse sensitive evaluation* needs to be performed.

Abuse sensitive evaluation. Drozd (2003) has encouraged child custody evaluators to use an abuse-sensitive evaluation to look at the Abuse Hypothesis. In any evaluation, the evaluator creates an environment that is safe for both parents to tell their stories (i.e., safe for the victim parent as well as the abuser parent). Whereas the creation of a safe environment is important, perceived safety and necessary neutrality in the evaluation process are of utmost importance because of the dichotomous thinking that is common in these families themselves. Victims tend to see others as being totally *for* or totally *against* them. The neutral evaluator is by definition, neither of these; that is, the evaluator is neither *for* nor *against* the alleged victim and neither *for* nor *against* the alleged abuser. The evaluator can create an emotionally safe environment by

FIGURE 10. Abuse Hypothesis



showing his or her knowledge of abuse and by asking relevant and specific questions, without implying that the evaluator has prejudged the presence of abuse and thus taken the side of the parent alleging the abuse. Evaluators must remain neutral in their approach to the evaluation, in their hypothesis building, and in their data collection, while not being neutral in terms of the importance of abuse given the profound effect that abuse may have on children. In the examples that follow, we are taking the common example of a male as the allegedly violent spouse and the female as the alleged victim.⁰

In abuse-sensitive interviewing, it is best not to ask, “Have you been abused?” or “Are you a victim of domestic violence?” This is no more productive than asking a practicing alcoholic, “Are you an alcoholic?” The abuse-sensitive evaluation starts with questions about how the client and their partner (or former partner) resolved disagreements, fights, and conflicts. Questions about who is in charge of what in the relationship follow. Then the evaluator can move into asking specific questions about the different types of abuse that the person may or may not have experienced. In the area of physical abuse, one starts with questions about pushing, shoving, tripping, and slapping, and works up to questions about punching, hitting, and the use of weapons. Additional areas that one might assess in an abuse sensitive evaluation are listed in Table 3.

TABLE 3. Areas to Explore When Assessing, Evaluating, and Describing Abuse

1. types of abuse
2. intensity of abuse
3. target(s) of abuse
4. pattern of abuse including whether the abuse is a single incident or part of an ongoing pattern
5. the first, worst, and last incidents of abuse
6. effects of abuse on each child
7. effects of abuse on the mother's parenting
8. effects of abuse on the father's parenting
9. intergenerational aspect of abuse
10. previous treatment efforts and their effectiveness
11. protective factors
12. mitigating factors
13. the role that other family members play in the abuse
14. child's strengths and resilience
15. protective parent's strengths and resilience
16. abuser's strengths and resilience
17. quality of protective-parent and child relationship and the abusive-parent and child relationship
18. recommendations for insuring child's protection and healthy parenting

It is important that the evaluator assess the level of fear that the parent has of the other parent, as well as the degree to which she may have been kept isolated from family and/or friends. It is also imperative that the custody evaluator considers psychological or emotional abuse as well as other kinds of abuse, including physical, sexual, financial, and legal. The research shows that psychological abuse is usually a precursor of physical abuse (Murphy & O'Leary, 1989). Victims most frequently report being ridiculed by the aggressor; coupled with threats by the aggressor (e.g., to take the children, to leave the victim without any financial resources, to physically harm the victim); these are the best predictors of future physical abuse. According to Walker (2000) and Follingstad, Rutledge, Berg, and Polek (1990), victims report psychological maltreatment as being worse than the physical abuse. Verbal threats and demeaning remarks may lead to fear and anxiety that in turn leads to the two most common psychological consequences for primary or secondary victims of abuse: depression and Post Traumatic Stress Disorder (PTSD). Depression is highly correlated with psychological maltreatment, while PTSD is correlated with a combination of physical abuse coupled with psychological abuse (Dutton, Goodman, & Bennett, 2001). Usually, physical abuse and psychological abuse are present concurrently, although there are some cases where psychological abuse alone is present. It is most likely that the worst effects arise from a combination of the two.

Abuse comes in many packages. It may come in the form of child abuse (physical, psychological, and/or sexual), substance abuse, and/or domestic violence. Neglect of children and exposing them to domestic violence may be forms of child abuse, although they are not always recognized. These kinds of abuse are usually not independent of each other (Straus, 1990). When one finds child abuse, it is not unusual to find domestic violence, substance abuse, or some combination the two all in the same family. The Decision Tree is applicable to each of these kinds of abuse. However, in this article, the authors use examples from domestic violence cases.

Gender issues may affect the reporting and descriptions of abuse. Margolin (1998) found that men only describe intentional acts as domestic violence whereas women describe anything that could be interpreted as unwanted touching as abuse.

As with alienation, abuse occurs along various continua. All types of abuse are to be considered seriously, and the intensity and the effects of its aftermath need to be thoroughly explained. The particular dynamics and behaviors of abuse in a given family must be explored. The severity, chronicity, and context of the abuse must be understood and described (Austin, 2000). Some abuse has a more profound effect on its victim, and this effect will need to be understood. Child related factors such as age, developmental level, resiliency, and support from others should also be examined and thoroughly discussed in the body of the child custody report.

If the evaluator is not well qualified to do an evaluation of abuse, then the evaluator should refer the case or a portion of the case to a colleague who is. At a minimum, the evaluator who is not an expert in abuse should consult with a colleague who is. If an evaluator does not have enough data to assist the court in making a determination of abuse, the evaluator should tell the court that which would be needed to help the court make that determination. The court then has the option of sending the evaluation back to the evaluator with orders that he might access the needed data or the court may have the attorneys provide the witnesses, police or medical reports, or the other missing data. It is when the evaluator has the expertise and when he has sufficient data that he can best assist the court. It is then that the evaluator tells the court all data that has been tested.

As in the instance of evaluating alienation, it is not as helpful to the court, the attorneys, or the family when evaluators simply report that there is or is not abuse. If, though, the evaluator is an expert in abuse, if he acquires the necessary data, and if the factors cited above are thoroughly discussed in the body of a report, then the evaluator will have provided a robust and comprehensive explanation of how abuse, if present, has operated in a particular family and what steps are necessary to move the family towards greater health. It is this kind of data and analysis that is most helpful to the court as it makes its determination of whether there is or is not abuse.

The Abuse Hypothesis should be tested as carefully when it is heard in a court that handles family matters as it is in a criminal court. The location of the case in a court that handles divorce and custody cases, where the standard of proof is a preponderance of the evidence (as opposed to beyond a reasonable doubt, as it is in criminal court) should not change the rigor with which the allegation is investigated. The gravity of the situation for a child, who has experienced, been exposed to, or witnessed abuse is not affected by the court that is hearing his family's case. If a child suffers, he suffers as much if his parent's case is heard in family court as he does if it is heard in criminal court.

Children may impose different meanings on the abusive events in their life. For example, some children interpret abusive events to mean that the world is unsafe; other children interpret abusive events to mean that the abusive parent is unsafe, and still other children interpret abusive events to mean that the victim parent is weak and unable to provide security. Some children readily accept support from outside the abusive family, while other children reject outside support. Someone who is trained in identifying relevant and age-appropriate questions and someone who is trained in how to pose these questions to children must do the abuse assessment of the child.

From Abuse to Effects on the Child as Mediated by Child and Parent Variables

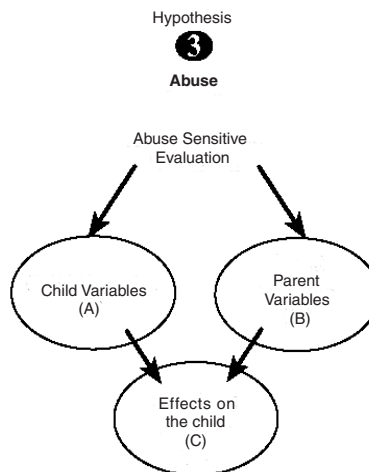
Several variables mediate the path from an abusive or non-aggressor parent's behavior to the effects that their behavior has upon a given child. The

child's own biological and psychological hardiness interacts with the parent's parenting style (see Figure 11). In a prototypical abusive family, a child has one parent who is the aggressor and one who is the non-aggressor. It should be noted, though, that the non-aggressor does not become a batterer in a domestic violence case when she is simply defending herself. In terms of the Decision Tree, she remains a non-aggressor parent, one who may or may not be protective of the children. However, there are instances where the abuse is mutual, that is, when both parents are engaging in the initiation of the violent acts.

On the *Decision Tree*, two branches represent parent variables: one describes the parenting styles of the aggressor parent and the other describes the same for the non-aggressor parent. Some non-aggressor parents are protective and some are not. Some of non-aggressor parents that are not protective of their children collude with the perpetrator, believing that this will stop him; alternatively, they may deny the abuse. Sometimes the abuser intimidates them and they may be neglectful in terms of their care of their children. The non-aggressor and protective parent may have one of several parenting styles: authoritative, authoritarian, permissive, neglectful, and/or discouraged. Some non-aggressor protective parents who have an authoritarian style of parenting may be counter productive in their attempts to protect their children.

On the other side of the Decision Tree, the parenting behaviors of the aggressor parent are listed. Unlike the non-aggressor parent, it is unlikely that the abuser will be authoritative in his parenting; like the non-aggressor parent, the aggressor may be authoritarian, permissive, or neglectful. He may also try to get back at the victim by sabotaging her relationship with their child.

FIGURE 11. Child and Parent Variables Yield Effects on the Child



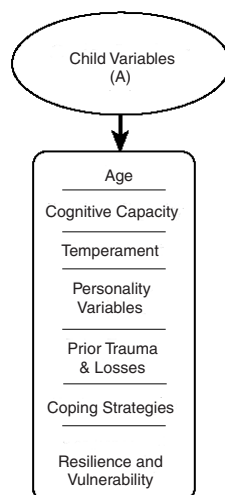
The entire situation is complicated when there is more than one aggressive parent. When children have two parents that are aggressive, it may not be clear to whom they can turn for protection and from whom they need to be protected. A parent's personality and psychological traits are additional intervening variables. One or both parents could be depressed, anxious, and/or have a personality disorder. Substance abuse on the part of one or both parents may act in a synergistic manner with the other factors, often times resulting in an increase in both the frequency and the intensity of the abuse.

Many parents believe that their children have not been exposed to the abuse that occurred in their homes. On the contrary, when there is violence, most children have witnessed or been exposed to it (Statewide Office of Family Court Services, Administrative Office of the Courts, Judicial Council of California, 1991, 1999). That exposure may very well result in behavior changes in the child as well as the development of some problems in the child's relationships with his parents. The research informs us that when there is one type of physical partner abuse, there is a high probability of emotional abuse and the increased probability of child abuse (APA, 1996; Jaffe et al., 2003). In some cases, the victim parent is abusive as well (Hanks, 1992; Johnston, Kline, & Tschann, 1990). Children who have been exposed to or have witnessed abuse of one of their parents by the other parent and who are also victims of child abuse have the greatest potential for suffering from serious psychological and emotional problems.

Child variables. Though it is clear that exposure to domestic violence affects children (Jaffe et al., 2003; Geffner & Jaffe, 1998; Johnston & Roseby, 1997), not every child is affected in the same way. Children are differentially affected by abuse based upon the following factors: age, cognitive capacity, temperament, personality variables, prior trauma and losses, and coping strategies (see Figure 12). Some children exposed to domestic violence are resilient while others are vulnerable. The research shows that children who are resilient have the following similarities: (a) the development of talents and interests (athletic, scholastic, or artistic capabilities); (b) access to close relationships with trustworthy adults; (c) the ability to escape from self-blame; (d) strength in their peer relationships (Roy, 1988; Wolak & Finkelhor, 1998); and (e) the presence of a good enough parent or parent-like figure in their life (Margolin, 1998). On the other hand, factors that may exacerbate the effects of the abuse on the child include: (a) isolation of the child from family, friends, and relatives; (b) undermining of the child's relationship with the non-abusive parent by the batterer; (c) verbal abuse about athletic or other abilities; and (d) sabotaging of the development of the child's personal strengths in a way that reduces the child's access to sources of pride and to social connections that would foster their healing from the effects of the abuse (Bancroft & Silverman, 2002).

Aggressor parent variables. In a child custody evaluation, how a person parents is among the most important things to evaluate. Research on parenting

FIGURE 12. Child Variables

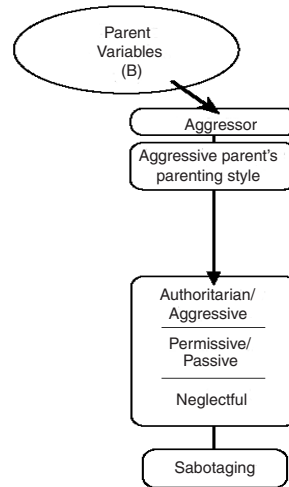


styles in families characterized by violence has not been conducted. Hence, what follows is theoretical and begs for future research. Parents in an abusive family fit into the categories found in the literature, though they do not both fit into all of them.

The aggressor parent is likely to have a parenting style or some combination that falls into one of three categories: authoritarian/aggressive, permissive/passive, and/or neglectful (see Figure 13). We predict that the batterers' most common parenting style would be authoritarian/aggressive. Some batterers are authoritarian, under-involved, neglectful, and irresponsible in their parenting. Some batterers undermine the mothers' parenting. Some act as if they are the children, that is, they have a role reversal with their children, where their children act more like adults than they do. They can be self-centered and manipulative as well. Some batterers do not have all or even some of these characteristics. As with victims, some batterers are better at parenting than others. Most batterers are, though, able to perform well when being observed. This is a factor that is particularly important for child custody evaluators to know (Bancroft & Silverman, 2002).

We have found that the aggressor parent may engage in behavior designed to sabotage the child's relationship with the victim parent. The aggressor takes advantage of the victim parent's vulnerabilities and convinces the child or children in the family that the victim parent is not a good parent and that he, the aggressor, has the power and can do best for the children. This behavior formerly may have been called alienating behavior, though inasmuch as it occurs in the context of an abusive family, we are calling it *sabotaging* behavior.

FIGURE 13. Aggressor Parent



Batterers model for children that (a) the victim is always to blame, for almost everything; (b) the use of violence is justified to impose one's will or to resolve problems; (c) boys and men should be in control, and girls and women should submit; (d) abusers do not experience consequences for their actions; (e) women are weak, incompetent, stupid, or violent; (f) fathers are better parents for teenage boys than are mothers, and teen boys need to escape their mother's influence; and (g) anger causes violence (Bancroft & Silverman, 2002).

In order that a batterer might no longer hurt their child, and for them to be good parents, not only must an aggressive parent's actions change but his attitudes must change as well. He needs to change his disrespectful attitudes about and actions towards women and children. Bancroft and Silverman (2002) report that the elements listed in Table 4 need to change before the batterer will become an adequate parent.

Holding the perpetrator accountable for his abusive behaviors is a priority. However, among the guiding principles for resolving conflicting priorities in child protection cases, it is fourth on the list; the safety of the child is the top priority (see Table 5). The goal in a family with domestic violence is to achieve all five priorities, but the lower priorities may need to be dropped. In reality, this means that the goal of protecting children is never abandoned. Johnston has stated that the trauma needs to be treated first in the child before there is any attempt to work on the estrangement with the parent (J. Johnston, personal communication, June 5, 2002); we agree.

TABLE 4. Steps to Change in Batterers (Bancroft & Silverman, 2002, pp. 180-183)

-
1. The batterer must disclose fully the history of physical and psychological abuse toward his partner and children.
 2. The batterer must recognize the behavior is unacceptable.
 3. The batterer must recognize the behavior was chosen.
 4. The batterer must recognize and show empathy for the effects of his actions on his partner and children.
 5. The batterer must identify his pattern of controlling behaviors and entitled attitudes.
 6. The batterer must develop respectful behaviors and attitudes.
 7. The batterer must reevaluate his distorted image of his partner.
 8. The batterer must make amends both in the short and in the long term.
 9. The batterer must accept the consequences of his actions.
 10. The batterer must commit to not repeating abusive behavior.
 11. The batterer must accept change as a long-term (probably lifelong) process.
 12. The batterer must be willing to be accountable.
-

TABLE 5. Guiding Principles for Resolving Conflicting Priorities in Child Protection

-
- Priority 1.** Protect the children
- Priority 2.** Increase the safety and well-being of children by increasing the safety of the adult victim
- Priority 3.** Respect the right of adult victims to make their own decisions, direct their own lives
- Priority 4.** Hold perpetrators of domestic violence accountable for their abusive behavior
- Priority 5.** Allow child access to both parents
- Strategy:** Begin with the goal of achieving all five. Resolve the conflict by abandoning the lower priority. In practice, this means the goal of protecting children is never abandoned.
-

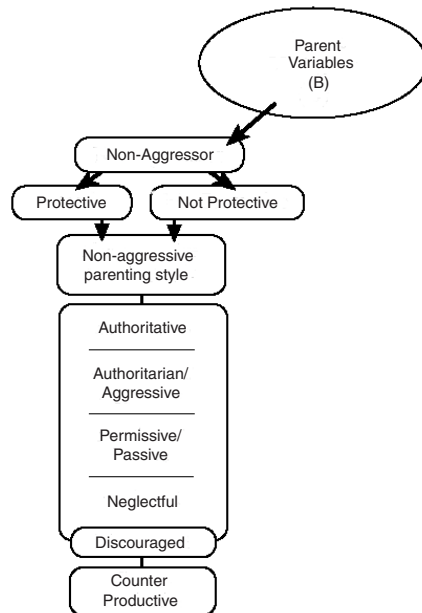
Note: This list of priorities is adapted from several sources: A lecture done by Janet Johnston, PhD, to a group of judges in the spring of 2003 and from the Family Violence Fund and others in the Child Protection and Domestic Violence national initiatives.

A group working in the Stanford University Early Life Stress Research Project (Carrion, 2003) has another approach. They have put together a 15-session psycho-educational treatment protocol that they use in treating child victims of domestic violence. In that plan, they do not require the batterer to admit to his abuse. Indeed, they do not even include the batterer in their program; just child and adult victims are included. At first, they teach the child relaxation

and cognitive tools to deal with stress and have them create a “trauma narrative,” that is, the child tells his story about the abuse he saw or was exposed to. They have the child reformulate the trauma, such that in the new version of the trauma the child feels more empowered. The child then comes up with cues that might remind him of the trauma in the here and now, after which he is exposed to those cues in a systematic manner while he uses the relaxation and cognitive tools that he has been taught and practiced. Again, the child tells his story, this time with the victim parent present. This project has measured results through various physiological measures. The researchers have found neurological changes as well as changes in psychological functioning and behavior in these once-traumatized children. It is important to note that the changes in the children in this study occurred without any involvement of the aggressive parent.

Non-aggressor parent’s parenting. Some victim parents are very effective parents. They are able to protect and nurture their children. Many victims pour much of their energy into parenting, especially into protecting their children in ways that they have been unable to protect themselves. Some non-aggressor or victim parents, though, are not protective (see Figure 14). They are intimidated by and perhaps even collude with the abuser while neglecting the children. The parenting capacity of some victim parents may be impaired by the

FIGURE 14. Non-Aggressor Parent



abuse (Lieberman, 2003). Those capacities may also be impaired early in recovery. Because of their own physical or emotional pain, depression, and other symptoms of trauma, victim parents might not be able to attend to and protect their children as well as they might have been able to before the abuse. It is likely that the victim parent may, at times, be preoccupied with her own emotional or perhaps physical survival from the domestic violence perpetrated on her. Such preoccupations may very well leave her less emotionally available to the child. Furthermore, a victim's patience, perceptions, and judgment may be challenged as might her capacity for empathy be limited.

The reader is reminded that, sometimes, in domestic violence situations what appears to be true may not be true at all. Rarely are domestic violence events described completely. By definition, the acts have been kept secret and are usually perpetrated behind closed doors. In actuality, what may appear to be non-protection really is protective in a domestic violence situation. For example, a non-abusive parent may yell and pretend to harshly discipline the child so that the other parent will think it has been hard enough and will not repeat the 'discipline.' Or, it may be that all are petrified of a man's anger and the child, acting on his or her own, takes the beating to protect the mother or many other combinations and permutations (L. E. A. Walker, personal communication, April 11, 2004).

In a family where there has been violence, the non-abusive parent's psychological state is very important simply because it is quite probable that he or she is the one that the children are exposed to the most and because the research shows that the best way to help a child who has been exposed to domestic violence is to support the healing of the non-violent or victim parent (University of Hawaii, 2000). In our clinical experience as well as the research of Lieberman (2003), these parents most often regain their parenting skills fairly quickly as they recover and as they receive ongoing support.

The protective parent is likely to have a parenting style that falls into any of the four categories found in the literature: authoritative, authoritarian/aggressive, permissive/passive, and/or neglectful. The difference between the two, the batterer and the victim, is that it is highly unlikely that the aggressor parent would employ the healthiest of the parenting styles. The protective parent, on the other hand, may be an authoritative parent. Both parents may be authoritarian, permissive, or neglectful in their parenting.

There are some parenting styles that we believe are unique to abusive families. One of them occurs when as a result of her victimization and the failures of the legal system, a parent feels helpless and fails to protect her child; she may give up, or at least feel like giving up. We have called this parenting style, which is unique to protective parents, *discouraged parenting*. The protector parent may also have a parenting style that is unique, one that we are calling *counterproductive protective parenting*.

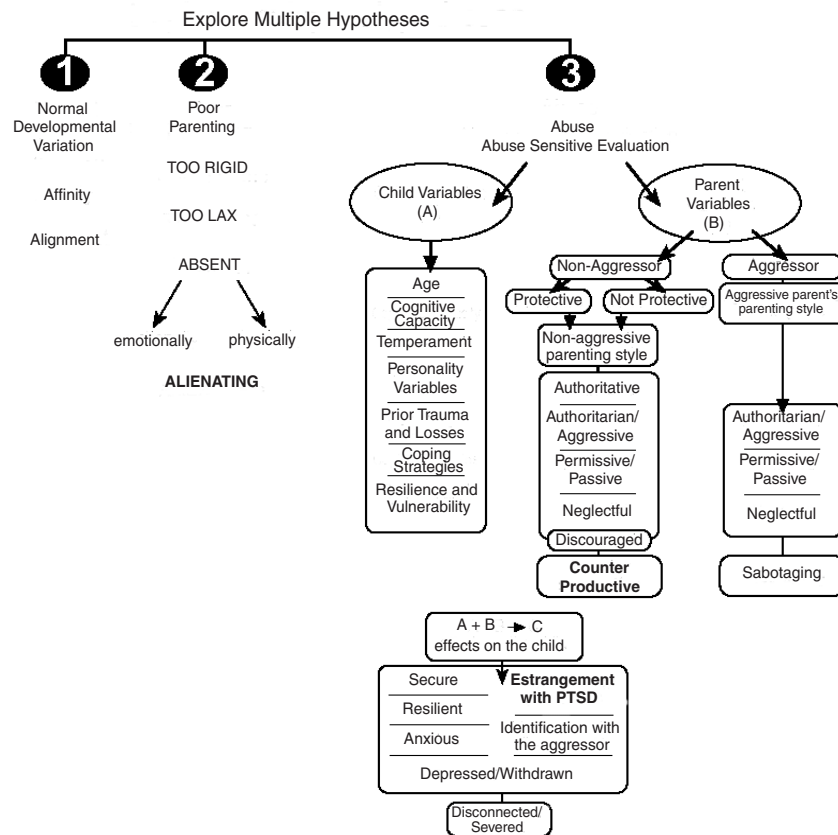
The terms: Alienation, estrangement, sabotaging, and counter productive protective parenting. At this point, we are going to take a step away from the

Decision Tree, per se, and discuss the use of the terms alienation, estrangement, sabotaging, and counterproductive protective parenting (see Figure 15).

What these terms have in common is that in one way or another they are used to describe situations in which a child rejects a parent. Sometimes a child may reject a parent for no apparent rational reason, that is, the child does not have a reality-based reason for rejecting their parent. They may have been told negative things about one parent by the other parent, things that are either not true, exaggerated, or are not relevant to the child's relationship with that parent. The child in this situation would be called an alienated child, after the terminology developed by Kelly and Johnston (2001).

On the other hand, sometimes children have good cause to reject a parent. They are frightened and/or they reject parents after being direct victims of

FIGURE 15. Language Is Key



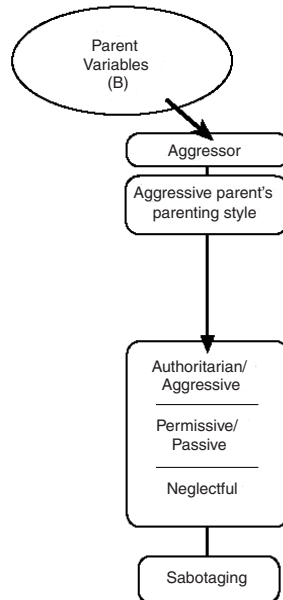
abuse themselves or after they have been exposed to abuse or seen parents abused. They are scared of the parent who has been abusive, and they have good reason to be. Using the terminology of Kelly and Johnston (2001), we are going to describe these children as *estranged*. Thus, a child who rejects a parent because the other parent has said negative and untrue things about that parent is *alienated* from that parent. A child who rejects a parent who has abused her or whom she has seen abuse her mother is *estranged* from the abusive parent. At times the child who is estranged also suffers from Post Traumatic Stress Disorder. Therefore, in the way that we are using the terms in the Decision Tree, alienation or alienating behaviors do not exist in cases where there has been abuse. What may exist in abuse cases is something called estrangement after Kelly and Johnston (2001), not alienation. Alienating behaviors or alienation may exist only in cases where there is no abuse.

This is an important distinction because of the ways that the terms Parental Alienation Syndrome (PAS), alienation, and alienating behaviors have been misused in court. Use of these terms may result in the dichotomous thinking that we discussed earlier in this article. It is as if the discussion about why a child has rejected his parent gets derailed once one of these terms is used in a case in which there are also allegations of abuse. People get lost in the argument as to whether PAS, alienation, and/or alienating behaviors exist at all and then they fail to look at the unique dynamics of each case.

This is not to say that some parents do not engage in behaviors that would clearly be seen as potentially alienating, because they do. Such behavior can occur in families with or without abuse. Because discussions of these variables in the field have been so contentious and often dichotomous, it is our suggestion that the term alienation should be used only in those cases where there is no abuse, and that estrangement, sabotaging, and counterproductive protective parenting should be used in abuse cases where a child rejects his or her parent. Each of these terms is meant to be used descriptively and not as part of some clinical syndrome; that is, they describe behaviors that unfortunately some parents engage in.

Abuser may engage in sabotaging (alienating) behaviors. Clinically, we have seen more batterers than victims engage in behaviors that interfere with a child's relationship with the other parent (see Figure 16). Recent research by Johnston et al. (2004) supports this finding, that is that the abuser, at least as often as the victim, engages in such behaviors. It is the abuser, with all of his or her power, who sets out to say and do things that may result in the child rejecting the victim parent. In an attempt to avoid the use of the word alienation in cases where abuse is present, we are calling the alienating behavior of the abuser *sabotaging*. This parenting style is most commonly found in the abuser. It is a subset of the more commonly used authoritative/aggressive parenting style. The abuser (in many cases, the father) sabotages the child's relationship with the non-abusive parent (in many cases, the mother). This sabotaging behavior on the part of the aggressor may very well result in the child rejecting

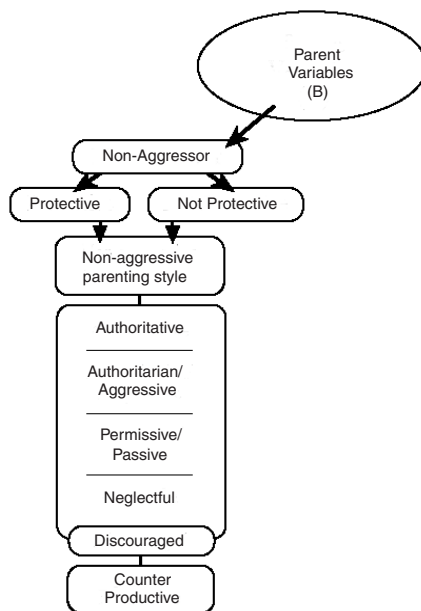
FIGURE 16. Sabotaging



the non-aggressive parent similarly to the way a child may reject a target parent when his or her other parent has engaged in alienating behavior. However, because there has been abuse this behavior is called sabotaging, not alienating.

Victim parent may engage in counter productive protective parenting. Victim parents may conduct themselves in ways that result in the child further rejecting the abusive parent. This behavior by the victim is similar to the abuser's sabotaging behavior inasmuch as both may involve an authoritarian style of parenting as well as a child's rejection of a parent (see Figure 17). The two are dissimilar inasmuch as the non-aggressive parent's behavior not only may involve an authoritarian parenting style, but it also may be a manifestation of the victim parent's fear of the abuser. This behavior by a non-aggressive parent, or victim, we are calling *counter productive protective parenting*. Sometimes the victim parent is so scared and so frantic that she is not effective in her efforts to protect her child. Instead, she may react out of her own fear and rage and not out of reality-based danger to the child. For example, take the child who was not frightened of her father until her mother made her so. In an attempt to be thorough in her protection of her child, some victim mothers go beyond that which is necessary to protect their children. The child may then reject the abuser, not because she is scared but because her mother is scared. In these cases, the victim parent's intent is to protect her child from the abuser but

FIGURE 17. Counter-Productive



she may not succeed because she looks unreasonable and ultimately her attempts to protect the child might end up being counter productive.

Some mothers, often ones with serious psychopathology, use their children to avenge the abuse they have suffered. In rare instances, a victim-mother may with malice and intent sabotage her child's relationship with the abuser (frequently the father) out of rage. Again, this is not the norm in our clinical experience. Cases in which the mother's intent is malicious and in which she is acting out of revenge are labeled as *sabotaging*. Sabotaging mothers and counter productive protective mothers are different in terms of their intent. The mother whose intent is to protect her child, even if her fear causes her to do it badly, would be called counter productive.

Some mothers are blamed for sabotaging (misabeled as alienating behaviors) their children's relationships with their fathers when they intend to protect their children. Their intent is protection, not revenge. A significant problem occurs when evaluators fail to thoroughly explore the factors operating in the particular family: the abuse hypothesis as well as the specific types of parenting. Mistaking one type of interference with the child's access to the other parent for another type can have serious and pernicious effects, including that a protective parent may lose her children, the batterer may go free, and

the children may be placed in an inappropriate home. This occurs when the process fails the family.

The system fails the protective, once abused, parent. A seminal study by Liss and Stahly (1993) showed that it was likely that an abuser would be granted custody of the child or children in contested child custody cases. The protection against this happening is for the evaluator to consider, amongst other hypotheses, the Abuse Hypothesis.

Consider the case in which the mother is a domestic violence victim of the abusive father. She may fail in protecting her children when the court grants the father unmonitored contact with the children, or possibly even full custody. In her mind, the system has failed her and she has failed her children. She is angry, frightened, horrified, demanding, single-focused, and desperate. Her behavior may become counter-productive. The angrier she gets, the more frightened she gets; the more horrified, demanding, desperate, and single-focused that she becomes, the less likely that the custody evaluator or the court will see her as parenting in a manner that is in the best interest of her children. The more she acts this way, the less likely she is able to protect her children or perhaps even to parent them appropriately. Her behaviors are counter-productive and her parenting style can be described by the same name.

Exploring other hypotheses. There are many other factors that might explain a child's problems with behavior and/or relationships. Those might include any or a combination of several individual variables in the child, in addition to the variables that relate to normal developmental variations (including affinity and alignment), poor parenting (including parenting that is too rigid, too lax, absent, and/or that is alienating), and abuse. Developmental age, gender, temperament, school or learning issues, medical or psychiatric issues (on the part of a parent or the child), family dysfunction, along with a family's socioeconomic status are all factors that could directly or indirectly affect a child (Kelly & Johnston, 2001).

In families where there has been abuse, our clinical experience has led us to believe that the most common parent-child relationship is that of estrangement. Next in order of frequency is identification with the aggressor coupled with sabotaging behavior by the aggressor parent, whereas such behavior by the non-offending or victim parent is significantly less common.

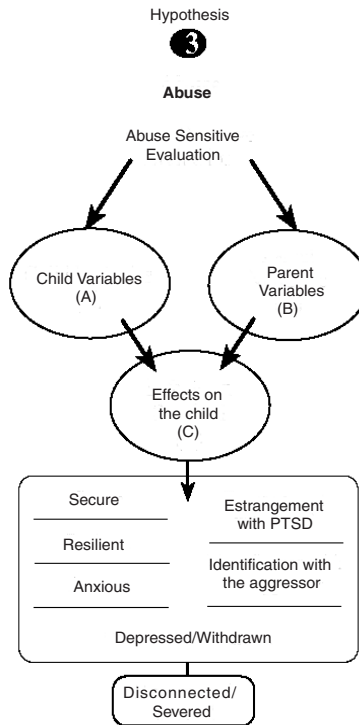
As mentioned above, it is important for evaluators to distinguish between protective parenting behaviors and alienating parenting behaviors. Too often, we have observed evaluators confusing protective parenting with alienation, resulting in a false conclusion of alienation when, in fact, the parent is engaged in appropriate protection of the child. The difference in an abuse case is whether or not the protective parent is in reality protecting the child from an abusive parent or if she is interfering inappropriately with the child's relationship with an abusive parent. The latter most likely can be seen as counter-productive protective parenting.

Distinguishing between alienation, abuse, and protective parenting may be difficult for evaluators; we believe that use of the Decision Tree described in this paper should make this investigative task clearer. One of the evaluator's challenges is to assess whether a child needs protection from an abusive parent or whether a parent's psychological processes are driving the parent's perception of an abuse threat when none is present. Trained evaluators can use the Decision Tree as they sort through distinctions between these and other possible hypotheses.

EFFECTS UPON THE CHILD

The Decision Tree ends by describing the possible range of effects upon the child. Child variables combine with parent's parenting behavior to produce the effects seen in the child (see Figure 18). (For further discussion of the ef-

FIGURE 18. Effects on Child



fects of domestic violence upon children, please see Drozd et al., 2004; Jaffe & Geffner, 1998; Kuehnle & Walker, 2003; Pagelow, 1993; and Straus, 1992).

Effects upon the Child Mediated by the Aggressor Parent

The aggressor parent's actions may result in the child being estranged (possibly with Post Traumatic Stress Disorder) or it may result in the child identifying with the aggressor. The child may also become depressed and withdrawn if s/he lacks the resources to cope with the abuse in the family. The child may be so estranged from the abuser that she does not want to have anything to do with that parent. This can happen in cases where the child witnesses or is exposed to severe abuse or when the child has not had a close relationship with the abuser prior to the abusive incidents. Another possible outcome is that the child's relationship with the abuser may become one of approach-avoidance. The child seeks closeness with the abuser while, sometimes simultaneously, retreating and withdrawing out of fear. And finally, the child may decide on his or her own, or perhaps with the help of a therapist, not to have anything to do with a parent seen as dangerous and/or disturbed. All of these are examples of reality-based reasons for the child's rejection of a parent.

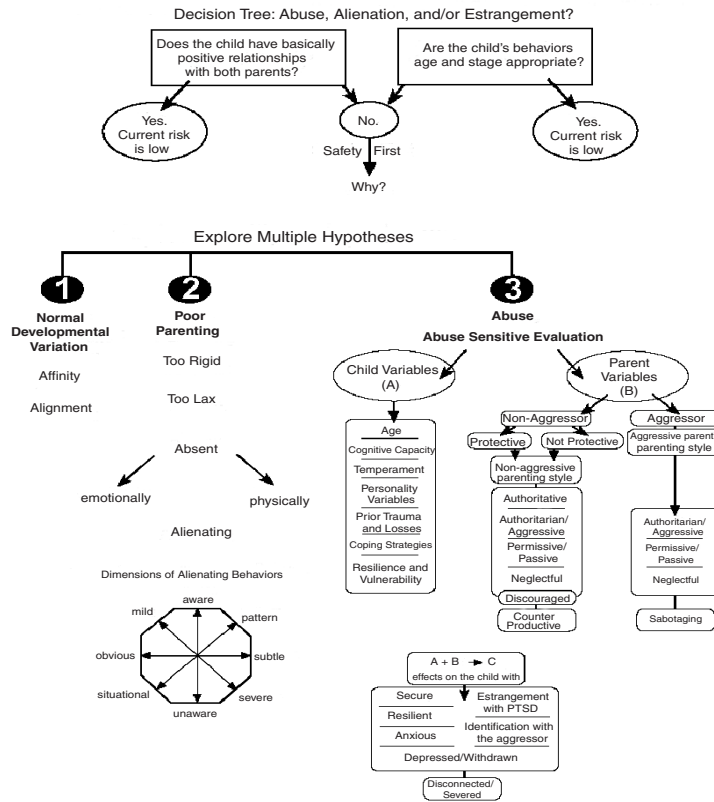
Effects upon the Child Mediated by the Non-Aggressive Parent

Effects upon children from abusive homes are not solely the result of their interactions with the abuser. Their relationships with the non-abusive, protective, or not-so-protective parents may mediate the effects of the abuser. If the victim parent is particularly pathological, there may very well be a synergistic effect between the abuser's pathology and the victim's pathology resulting in even more serious problems for the children. Children with two aggressive parents do not know to whom to turn for protection and from whom they need protection. They are often left alone to cope on their own, or they may, if fortunate, turn to siblings, friends, or other family members.

CONCLUSION: IS IT ABUSE, ALIENATION, AND/OR ESTRANGEMENT?

The authors want to emphasize that this Decision Tree (see Figure 19) is not meant to further splinter a field that is already divided. In almost all instances, it is not so simple as "all or nothing." The categories discussed in this article have gradations. What cannot be drawn on a one-dimensional decision tree is the interaction among all of the variables. It is in the interaction that the effects of abuse, estrangement, or alienation are either perpetrated on the child or me-

FIGURE 19. Complete Decision Tree



diated by child and parental variables. The child may be psychologically hardy and/or resilient, vulnerable, and/or some combination thereof. Add to this equation the behavior and parenting styles of the child's parents. It is the interaction among these variables that either results in the child having serious problems with his behaviors and relationships or results in seeing the child survive the stress of living in a conflicted or abusive family with few scars.

In families in which the child is resisting or avoiding contact with a parent, the careful evaluator must consider several hypotheses. One hypothesis is that the basis for a child resisting contact with a parent lies in normal developmental variations. Poor parenting, including lax, rigid, absent, and alienating parenting, is the second hypothesis. Abuse is the third possibility, and the fourth hypothesis is some combination of the aforementioned.

In this article, we have provided a decision tree for the competent and comprehensive assessment of these hypotheses. We believe that application of our

Decision Tree leads to a more thorough investigation of relevant factors, resulting in an expert report containing information upon which the court may rely, increasing the probative value of the evaluation. Ultimately, we believe that the reader will find that alienation may appear in contested divorces in high conflict families, and that abuse and estrangement (along with sabotaging and counter productive protective parenting) may occur in families where abuse is a factor. Thus, the answer to the question posed in the title of this paper is not “Yes” and it is not, “No.” Rather, it is sometimes “Yes” and sometimes “No,” sometimes “Neither” and sometimes “Both.” The answer is precisely that this field needs more multivariate thinking.

This Decision Tree offers the field of child custody an alternative approach to the either-or thinking that sometimes characterizes debates about abuse and alienation in divorcing families. *Alienation* and *abuse* are not dichotomous variables; instead, they may occur across continua. We have also provided the reader of this article an invitation to use new terms to explain the reasons that any given child might reject a parent: alienation, in non-abuse cases, and estrangement, sabotaging, and counter productive parenting in cases where there is abuse. The categories that we set forth are theoretical and, for the most part, not researched (with the exception of various parenting styles, which have been researched extensively over the years). Johnston and her colleagues (2003, 2004, in press) have begun preliminary studies on the factors involved in divorcing families, in which children are rejecting one parent and aligning themselves with the other. Readers are urged to read these research papers as they are published. More research is also needed. It is certainly possible that there are other mediating variables that enter into the Decision Tree.

Further work is needed to assist the court in decision-making where there are immediate safety concerns but no certainty. Research is also needed in regards to the prevalence and degree of co-occurrence of abuse (domestic violence and child abuse), alienation, estrangement, sabotaging, and counter-productive protective parenting in divorcing families. Finally, research into the psychological and familial causes of abuse and alienation are also needed.

We would all like to believe that all evaluators are pro-child, that we are all looking out for the safety and after the best interests of children. One of the things that may stand in the way of some evaluators doing so is their lack of experience and knowledge about the issues of abuse, alienation, and estrangement. We hope that the conceptualization that we present in this paper is helpful as one way to approach each family, recognizing that each family is unique.

NOTE

1. Research conducted in clinical settings show males as significantly more violent than females, with about 85% of the victims being females and 15% of the victims being males or cases where there was mutual combat (Rennison & Welchans, 2000). Mutual combat is where each partner is the one who initiates the aggressive behavior at times. It is not when one party defends themselves against the primary aggressor.

Walker (personal communication, April 13, 2004) reports finding 25% of those who have initial contact with the police, reporting mutual violence, but that the numbers settle down to around 5-10% for mutual violence and around 5-7% woman to man aggression with the remaining percentage being male-initiated aggression. In a meta-analysis of research using community samples, Archer (2000) found violence as much more equally distributed across gender. There are many problems with this meta-analysis, including the fact that there is no one definition of domestic violence in all of the studies, the assessment instruments differed significantly, and there is no accounting for the fact that women tend to over report abuse when they are the perpetrators and males tend to under report it when they are the perpetrators. Although the research conducted on community samples shows that both men and women engage in family violence, the greater likelihood of injury and death occurs in the cases of male-against-female intimate violence. The evaluator should never forget that the converse could be true but we will use the male-perpetrator, female-victim as the example in this paper because of its prevalence in the clinical samples that child custody evaluators see in the evaluations that they do for the courts.

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