APSAC POSITION PAPER ON ALLEGATIONS OF CHILD MALTREATMENT AND INTERPERSONAL VIOLENCE IN DIVORCE/PARENTAL RELATIONSHIP DISSOLUTION

Introduction:

Approximately half of U.S. marriages terminate in divorce (Kreider & Ellis, 2011), with an increase in the proportion of divorces occurring among women with young children (Children Divorce Statistics, 2013). Unmarried couples with children also dissolve their relationships. Most marriage/relationship dissolutions with children do not involve disputes over child custody and visitation. However, a small number do involve custody/visitation disputes, including cases where child maltreatment and partner abuse are alleged (Saunders, Tolman, & Faller, 2013; Thoennes & Tjaden, 1991). Interpersonal violence is defined in this document to subsume partner abuse and child maltreatment, including child physical, sexual, and emotional abuse, and child neglect. Childhood experience and exposure to interpersonal violence constitutes a child welfare, public health, and legal problem with lifelong physical health, mental health, and behavioral consequences (Adverse Childhood Experiences Study, http://www.cdc.gov/violenceprevention/acestudy/; Centers for Disease Control and Prevention, 2014, http://www.cdc.gov/violenceprevention/childmaltreatment/consequences.html#).

Allegations of interpersonal violence when parents are separating, separated, divorcing, or divorced elicit skepticism not found in other circumstances when child maltreatment and violence are alleged (e.g., Campbell, 2013; Gardner, 1998). Professionals who encounter these cases in their practice need guidance about case assessment, case management, and intervention. Moreover, they need to understand the research findings on: 1) the proportion of these allegations that are true and the proportion that are not true (Trocme & Bala, 2005), 2) children as witnesses (e.g., Bottoms, Najdowski, & Goodman, 2009), 3) the disclosure process for children who have been victimized (e.g., Rush, Lyon, Ahern, & Quas, 2014), and 4) Parental Alienation Syndrome (PAS) (e.g., Faller, 1998), also called Parental Alienation Disorder (PAD) (APSAC, February 24, 2010; Bernet, von Boch-Galhau, Baker, & Morrison, 2010). Without knowledge in these domains, professionals are at risk for failure to engage in best practice.

Critical Issues when Interpersonal Violence is Alleged and Parents are Dissolving their Relationship:

Child safety must take precedence: In child protection cases addressed in the public child welfare system, child safety is the first priority, followed by child permanency and well-being (Child Welfare Information Gateway, 2013). In situations of partner abuse, victim safety is the first priority (Rosenthal & McDonald, 2003). It is APSAC’s position that the same safety standards

1 Situations where interpersonal violence leads to relationship dissolution, where it is reported after the relationship has dissolved, and where there is an existing custody/visitation arrangement that is challenged because of concerns about interpersonal violence are all situations to which this position paper applies.

2 This document is intended to address both relationships where adults are formally married and those where parents were never married, but have children in common.
should be employed in cases of marital/relationship dissolution and allegations of interpersonal violence.

It is also APSAC’s position that parental rights of access to offspring should not take precedence over child safety. The “friendly parent” standard, which is found in child custody statutes in the majority of states (http://apps.americanbar.org/legalservices/probono/childcustody/general_dv_statutes.pdf), should not be invoked when child or parent safety is an issue.

Finally, it is APSAC’s position that the “best interest of the child” to have contact with both parents should not be used as a rationale for exposing the child to risk of interpersonal violence. Once the issue of child safety is resolved, then custody and visitation issues should be addressed.

Professionals need to differentiate interpersonal violence assessment/investigation from child custody evaluations: In situations of marital/relationship dissolution, the allegation of interpersonal violence needs to be addressed before issues of custody and visitation can be addressed. Child protection and law enforcement are mandated by law to investigate allegations of interpersonal violence. It is not appropriate for these mandated professionals to defer to custody evaluators or domestic relations courts. Nor is it appropriate for a custody evaluator to undertake an evaluation in cases involving interpersonal violence, relying only upon traditional strategies used in custody evaluations (American Psychological Association, 2010). To evaluate allegations of interpersonal violence in custody cases, professionals must have specialized knowledge (Association of Family and Conciliation Courts, 2006).

Parental Alienation Syndrome/Disorder and Allegations of Child Maltreatment and Interpersonal Violence: Although parental alienation can occur in the context of divorce/custody disputes, including high conflict divorce (e.g., Kelly & Johnston, 2001; Saini, Johnston, Fidler, & Bala, in press), allegations of child sexual abuse, child physical abuse, or domestic violence should not be automatically dismissed as false because there is a divorce/custody/visitation dispute. A divorce petition may be filed and custody/visitation dispute may arise because of concerns about child maltreatment or domestic violence.

Parental Alienation Syndrome (PAS) is the invention of the late Richard Gardner, M.D., intended to support his view that the vast majority of allegations of sexual abuse that occur in the context of divorce or visitation/custody disputes are false (Gardner, 1991; 1992). Later he expanded types of interpersonal violence allegations to include child physical abuse and domestic violence in divorce/custody/visitation situations (Gardner, 1998). Despite concerted efforts (e.g., Bernet, et al., 2008), Parental Alienation Syndrome and its most recent iteration, Parental Alienation Disorder (PAD) have not been accepted as a psychiatric diagnosis and do not appear in the Diagnostic and Statistical Manual 5 of the American Psychiatric Association (2013).

Gardner declared that the vast majority of false accusers were mothers and the falsely accused were fathers. This assertion is not supported by research on false allegations, which finds that non-custodial parents (mostly fathers) are more likely to make false allegations than custodial parents (mostly mothers) (Bala, Mitnick, Trocme, & Houston, 2007; Trocme & Bala, 2005).
Further, Gardner asserted that the mother and the child collude to make a series of false allegations against the father that culminate in an allegation of sexual abuse (Gardner, 1991, 1992; 1998).

It is important to understand the beliefs that underlie Gardner’s view about why children and parents make these false allegations of sexual abuse in divorce, more specifically how children come to possess the sexual knowledge to make these allegations and why parents might make such allegations. With regard to children, Gardner asserts that they are polymorphous perverse. To quote him, "Children normally exhibit just about any kind of sexual behavior imaginable: heterosexual, homosexual, bisexual, and autosexual." In his opinion, "the normal child experiences and exhibits a wide variety of sexual fantasies and behaviors." (Gardner, 1991, p. 12; 1992, p. 124). To again quote Gardner, "A four year-old girl, for example, may harbor, among her collection of polymorphous perverse fantasies, thoughts of some kinds of sexual encounters with her father" (Gardner, 1992, p. 125). These sexual fantasies may also be triggered by media material on sex and by sexual abuse prevention programs. Gardner also believed that children make these allegations of sexual abuse because they are wicked. For example, he has written, "What is striking is the degree of sadism that many of these children may exhibit. In many of these cases I have been impressed by what I consider to be the innate cruelty of these children..." (Gardner, 1992, pp. 119-120).

With regard to mothers, they were perceived by Gardner as perverse, too. Specifically Gardner stated, "Each time the accusers make an accusation, they are likely to be forming an internal visual image of the sexual encounter. With each mental replay, the accusers gratify the desire to be engaging in the activities that the perpetrators are involved in in the visual imagery" (Gardner, 1991, p. 25). Alternatively, he proposed that mothers who make allegations of sexual abuse against their ex- or soon-to-be ex-partners are delusional (Gardner, 1992). Thus, Gardner’s belief was that mothers are sexually gratified by making sexual abuse allegations or they are mentally ill.

PAS/PAD is, at best, a non-diagnostic syndrome. That is, if it is proven that no maltreatment or interpersonal violence has occurred, one possible explanation for the false allegation may be an attempt to alienate the child from a parent. Research indicates, however, that the majority of false allegations of maltreatment in the context of divorce/custody/visitation disputes derive from misinterpretations or misperceptions rather than calculated false allegations (Bala, Mitnick, Trocme, & Houston, 2007; Faller & DeVoe, 1995; Thoennes & Tjaden, 1991).

Despite the lack of scientific support for PAS/PAD, it remains appealing for professionals who want an alternative explanation for allegations of sexual abuse and for individuals who are accused and their advocates.

Call for research: Although there are a number of older U.S. studies that afford an appraisal of allegations of interpersonal violence that have led to custody and visitation disputes (e.g., Faller & DeVoe, 1995; Thoennes & Tjaden, 1991), there is an urgent need for current research, especially with regard to child maltreatment allegations. A critical issue for research is the long-term outcomes for families and their children in cases with allegations of interpersonal violence.
and marriage/relationship dissolution. The Department of Justice, the Centers for Disease Control, and the Children’s Bureau are all appropriate federal agencies that could and should support such research.

Need for professional training: APSAC has identified the need for evidence-based training of key professionals who encounter children and families where there are allegations of interpersonal violence and marital/relationship dissolution. Issues that need to be addressed in training are: 1) appropriate strategies for assessment/investigation of allegations of interpersonal violence, 2) appropriate case management strategies in these cases, 3) prevalence and incidence rates of true and false allegations of interpersonal violence in situations of marital/relationship dissolutions, 4) appropriate custody/visitation arrangements in cases where interpersonal violence has been determined to be 1) likely, 2) unlikely, and 3) uncertain.

Professionals who require training include clinicians who are providing treatment to children in marital/relationship dissolution situations, judges handling domestic relations court cases, lawyers representing children and adults in domestic relations courts, child custody evaluators in the public and private sector, child protection investigators, and law enforcement officers.

Protocols and special courts for marital/relationship dissolution cases with interpersonal violence allegations: APSAC recommends the development of protocols for coordinated investigation/assessment and case management of allegations of interpersonal violence and marital/relationship dissolution and the piloting of special courts to handle these cases. Special courts have proven effective in fostering better outcomes in child protection cases involving infants and toddlers (Florida Supreme Court, 2014, http://www.floridasupremecourt.org/), with adults with substance abuse problems (National Association of Drug Court Professionals, 2014 http://www.nadcp.org/), and with adults with mental health problems (Mental Health America, 2014, http://www.mentalhealthamerica.net/positions/mental-health-courts). Most jurisdictions in Australia have protocols and special courts for handling cases involving marital/relationship dissolution and interpersonal violence allegations (e.g., Brown, 2002).

References


APSAC response to the proposal that Parental Alienation Syndrome (PAS) or Parental Alienation Disorder (PAD) be included in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-V), to be published in 2013. (February 24, 2010). Available at Web: www.apsac.org.


Bernet, W., Boch-Galhau, W., Kenan, J., Kinlan, J., Lorandos, D., Sauber, R., Sood, B., & Walker, J. (2008). Proposal is submitted to the Disorders in Childhood and Adolescence Work Group for the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition to have Parental Alienation Disorder included in the DSM-V. Available from William Bernet, M.D. Department of Psychiatry, Vanderbilt University, Nashville, TN.


Participants in the first APSAC Think Tank, June, 2014: