

UNDERSTANDING AND RESPONDING TO PARENT-CHILD CONTACT PROBLEMS IN FAMILY LAW MATTERS:

ITS NOT (JUST) ABOUT ALIENATION ANYMORE!

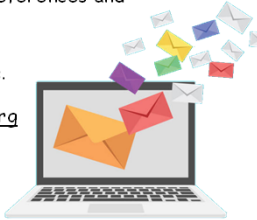


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Caveat lector


- ❖ Time is short. The topics presented here today each deserve in-depth examination. Take this presentation as introduction only. Please use the references and links provided to learn more.
- ❖ Make this the beginning of a dialogue. Contact me any time at: bdgarberphd@FamilyLawConsulting.org



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Caveat lector

- ❖ These ideas are always evolving, so this presentation must as well. **Please reach me for up-to-the-minute materials.**



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**Refuting the Five Factor Model:
Best Practice Requires a
Systemic Approach to PCCP**

AFCC Annual Conference on Child Protection and Family Services

**REFUTING THE 5 FACTOR MODEL:
BEST PRACTICE REQUIRES A
SYSTEMIC APPROACH TO PCCP**

This 30-minute critical presentation
is based on the author's research and
clinical experience. Specific case studies
are included. An ecological model is described that allows evaluation
of individual cases, and implications
for practice are discussed.


Handout → "Deconstructing" article → "Rubric" article → "Sherlock" article → Rubric worksheet →

Upcoming
AFCC 11

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Caveat lector


- ❖ Gender references and images are arbitrary for the ease of expression unless specifically noted
- ❖ **"Parent"** refers to any primary caregiver without regard to biological or genetic status, legal ties or cohabitation status unless specifically noted.



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Caveat lector


- ❖ The dynamics at issue can occur within any caregiver-child dyad regardless of legal, biological, or genetic relatedness or proximity; i.e.,
- ❖ **This is not only about divorce.**



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Caveat lector

- ❖ We don't know if or how this conceptualization may be culture-specific.



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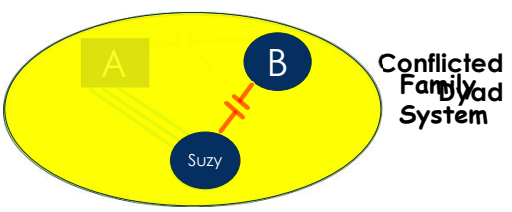
Caveat lector

- ❖ These topics are controversial and can be inflammatory.
- ❖ My goal is to push this discussion ahead toward a valid model and efficient/effective practices that genuinely serve the BIC.

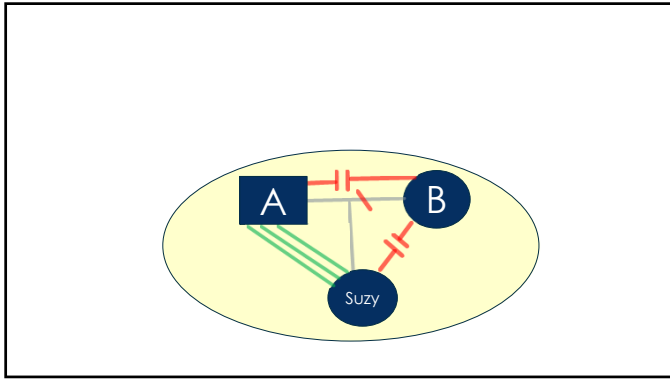
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At issue

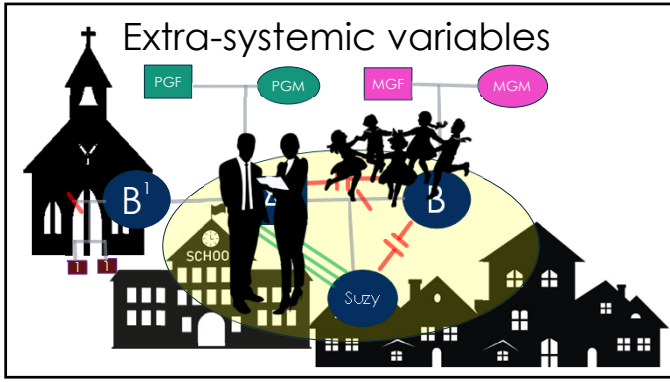
"Resist/Refuse Dynamic"
A behavioral observation without implying causation



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The polarized child

A behavioral description without implication of causation: A child who is observed to strongly prefer proximity to/communications with Parent A and to avoid, resist, refuse, or reject proximity to and communications with Parent B.

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Language biases perception

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Is Parent A alienating Suzy from Parent B?

Asking the question this way

- ❖ Reflects the history of our field
- ❖ Biases the evaluation (ketchup blindness)
- ❖ Promotes **binary** good guy/bad guy perspective
- ❖ Fuels acrimony
- ❖ Risks premature closure/myopic approach

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Is Parent A alienating Suzy from Parent B?

Proactive facilitation:

"... accentuated information will be more rapidly acquired, more effectively integrated with other information, and more easily recalled."

Marindale, D.A. and Shear, L.E. (2023). Best practices for structuring a family court parenting plan evaluation under the 2022 AFCC guidelines. Family Court Review [no pagination].

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Why is Suzy allied with Parent A and resisting/refusing contact with Parent B??

Asking the question this way

- ❖ Minimizes evaluation bias
- ❖ Minimizes premature closure
- ❖ Invites a broad "ecological" investigation of all relevant variables

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"Children are at greater risk when parent-child contact problems are not effectively addressed and when family law professionals and others echo and intensify the polarization within the family. This problem may be exacerbated by ... gendered and politicized assumptions that either parental alienation or intimate partner violence is the determinative issue"

15 August, 2022 by the Association of Family and Conciliation Courts (AFCC) and the National Council of Juvenile and Family Court Judges

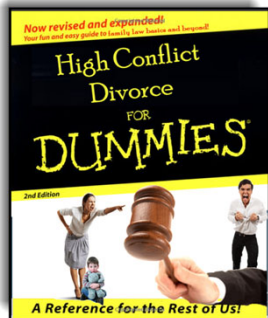
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Unfortunately, some approaches to PCCP endorse a binary alienation v. estrangement approach.

Simple, recipe-like approaches are very appealing

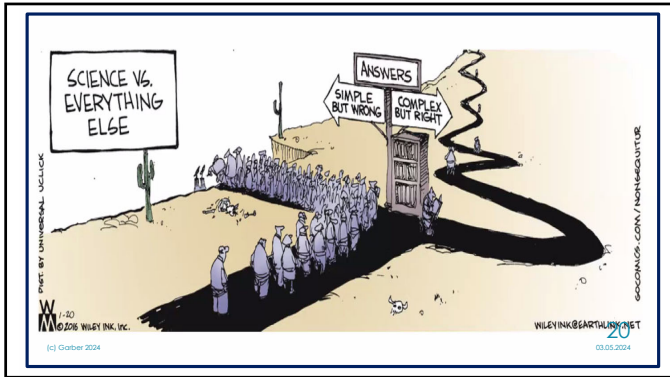


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"In the context of adversarial legal proceedings, oversimplified explanations of parent rejection can be appealing."

Mitchman, M. S. (2022). Oversimplified beliefs about alienation rebuttals of child abuse allegations—practice issues. *Journal of Family Trauma, Child Custody & Child Development*, 19(2), 102.

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The Five Factor Model

Joshi, A. (2021). *Litigating Parental Alienation*. American Bar Association: Washington D.C.

Bernet, W. (2020). The Five-Factor Model for the Diagnosis of Parental Alienation. *Feedback 6* (Summer): 3-15.

Bernet, W., & Greenhill, L. L. (2022). The Five-Factor Model for the diagnosis of parental alienation. *Journal of the American Academy of Child & Adolescent Psychiatry*, 61(5), 591-594.

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The Five Factor Model

IF...

1. The Child Manifests Contact Resistance or Refusal, i.e., Avoids a Relationship with one of the Parents, AND
2. The Presence of a Prior Positive Relationship Between the Child and the Rejected Parent, AND
3. The Absence of Abuse, Neglect, or Seriously Deficient Parenting on the Part of the Rejected Parent, AND
4. The Use of Multiple Alienating Behaviors on the Part of the Favored Parent, AND
5. The Child Exhibits Many of the Eight Behavioral Manifestations of Alienation.

... THEN alienation Bernet and Greenhill (2022)

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The Five Factor Model

Some FFM proponents do acknowledge that there is more to RRD than binary alienation v. estrangement.

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The Five Factor Model

"There are several causes of contact refusal, and it is necessary to conduct an evaluation to determine whether the cause in a particular case is PA or some other issue within the child or the family."


Why default to alienation??

Bernet and Greenhill (2022) p. 591

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The Five Factor Model

The FFM itself is riddled with illogic and creates a false and destructive dichotomy



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1. The Child Manifests Contact Resistance or Refusal, i.e., Avoids a Relationship with one of the Parents



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"This might involve complete contact refusal, or it might involve agreeing to contact but resisting/refusing attempts on the part of the parent for communication, affection, and interaction. In these situations, the child may be physically present but is not emotionally present."

Baker, A. J. L. (2020). Parental alienation and empirical research. In D. Lorandos & W. Bernet (Eds.), Parental alienation: Science and law (pp. 207-253). Charles C Thomas Publisher, Ltd.

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2. The Presence of a Prior Positive Relationship Between the Child and the Rejected Parent



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If parent A alienated Suzy from Parent B her entire life, then Parent B could never have had a positive relationship with Suzy, which means that Parent A was not alienating!

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3. The Absence of Abuse, Neglect, or Seriously Deficient Parenting on the Part of the Rejected Parent



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- 1. Define "Abuse" and "Neglect"? Jurisdictions vary.
- 2. There is no objective measure of what is and is not scary (e.g., children with prior trauma)
- 3. 5FM ignores vicarious trauma (e.g., child witness IPV)
- 4. Half-life of child abuse? When does protective gatekeeping become alienation?
- 5. CPS has HUGE error rates (false positives and false negatives)

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"... the median estimated false positive and false negative error rates were 0.18 and 0.36, respectively"

Herman, S., & Freitas, T. R. (2010). Error rates in forensic child sexual abuse evaluations. *Psychological Injury and Law*, 3(2), 133-147.

See also: Hershkowitz, I., Fisher, S., Lamb, M. E., & Horowitz, D. (2007). Improving credibility assessment in child sexual abuse allegations: The role of the NICHD investigative interview protocol. *Child Abuse & Neglect*, 31, 99-110.

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Factor 4: Seventeen adult strategies of alienation

- 1. Bad mouthing
- 2. Limiting contact
- 3. Interfering with communication
- 4. Interfering with symbolic communication
- 5. [Contingent] withdrawal of love
- 6. Telling the child that the parent is dangerous
- 7. Forcing the child to chose
- 8. Telling the child that the parent does not love him/her/them
- 9. Confiding in the child
- 10. Forcing the child to reject the parent
- 11. Asking the child to keep secrets from the parent
- 12. Confiding in the child
- 13. Referring to the parent by his/her/their first name
- 14. Referring to step-parent as "Mom" or "Dad"
- 15. Withholding medical, academic, and other important data from the parent
- 16. Changing the child's name to remove association with the parent
- 17. Cultivating dependency/undermining the parent's authority

Baker, Amy J. L. and Darnall, Douglas(2006). Behaviors and Strategies Employed in Parental Alienation. *Journal of Divorce & Remarriage*, 45:137-124

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5. The Child Exhibits Many of the Eight Behavioral Manifestations of Alienation.



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Factor 5: Eight manifestations of alienation in children

- 1. Campaign of denigration
- 2. Weak, frivolous or absurd rationalizations for the denigration or deprecation
- 3. Lack of ambivalence
- 4. The in dependent thinker phenomenon
- 5. Cruelty toward the alienated parent with no remorse or guilt
- 6. Reflexive support of the alienated parent
- 7. Presence of borrowed scenarios
- 8. Spread of animosity to the friends and/or extended family of the alienated parent

Amy J. L. Baker and S. Richard Sauber, editors, Working with Alienated Children and Families: A Clinical Guidebook (New York: Routledge, 2013), 62.

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1. Studies alleging to validate these variables are cross-sectional and retrospective, contaminated by participant self-selection and investigator bias.

2. We don't know if or how any of these variables proactively might contribute to resist/refuse "polarized" outcomes.

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"the absence of methodologically sound empirical validation ... gives evaluators a strong warning that the presence of these behaviors cannot be equated with PA just because they have been promulgated to be PA."

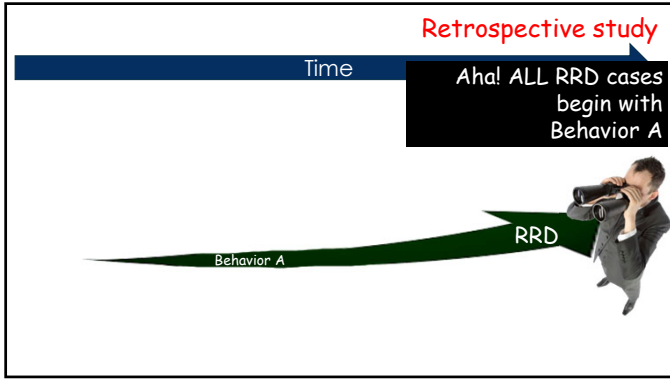
Madelyn, S. M. (2022). Assessing causes of children's parent rejection in child custody cases: Differentiating parental alienation from child sexual abuse, psychological maltreatment, and adverse parenting. In R. Gellner, J. W. White, L. K. Hamberger, A. Rosenbaum, V. Vaughan-Eden, & V. I. Vieth (Eds.), Handbook of interpersonal violence and abuse across the lifespan: A project of the National Partnership to End Interpersonal Violence Across the Lifespan (NPEIV) (pp. 1607-1628). Springer Nature Switzerland AG.

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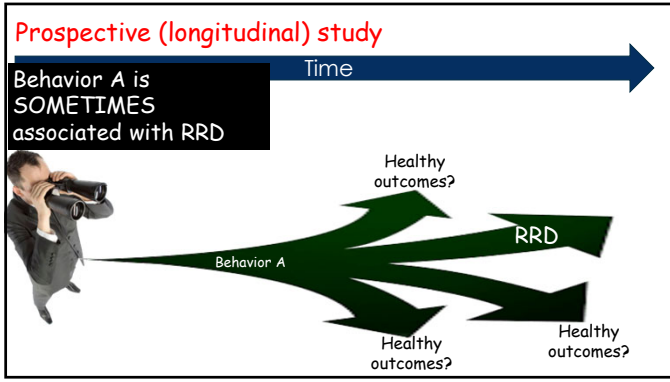
"the collection of retrospective data on subjects should not be confused with longitudinal data collection because the former is subject to distortions due to faulty recall and observers' knowledge of future outcomes."

Saini, M., Johnston, J. R., Fidler, B. J., & Bala, N. (2016). Empirical studies of alienation. In L. Drozd, M. Saini, & N. Olesen (Eds.), Parenting plan evaluations: Applied research for the family court (pp. 374-400). Oxford University Press.

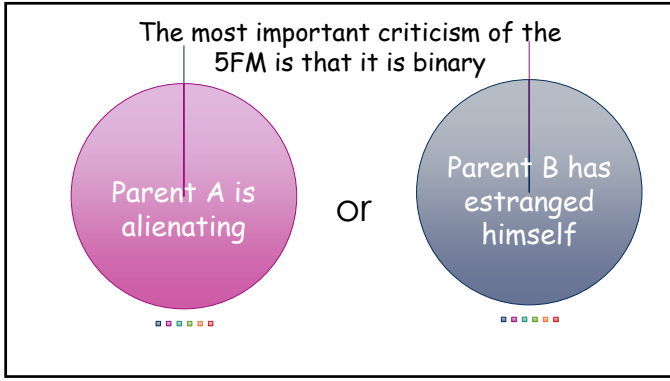
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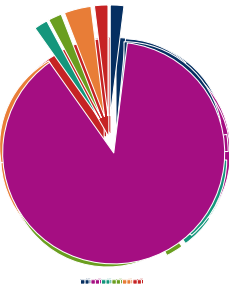
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The field has often simplified the complexities of parental alienation with insistence that either an alienating parent or an abusive one caused children to reject a parent. The problem with absolute thinking is that the complexity of potential factors influencing outcomes, both positively and negatively, is missed.

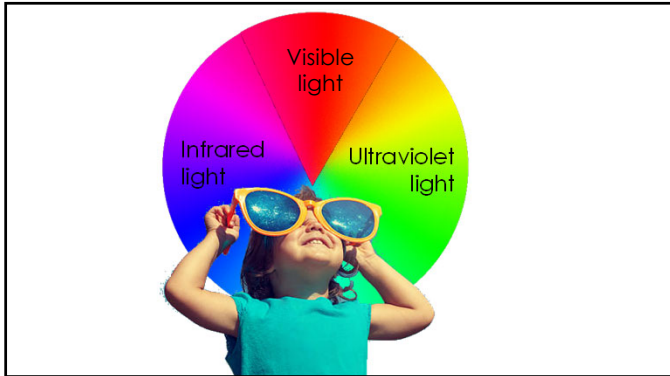
Saini, M., Johnston, J. R., Fidler, B. J., & Bala, N. (2016). Empirical studies of alienation. In L. Drozd, M. Saini, & N. Oleson (Eds.), *Parenting plan evaluations: Applied research for the family court* (pp. 374-430). Oxford University Press.

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We know that RRD is commonly associated with many convergent variables



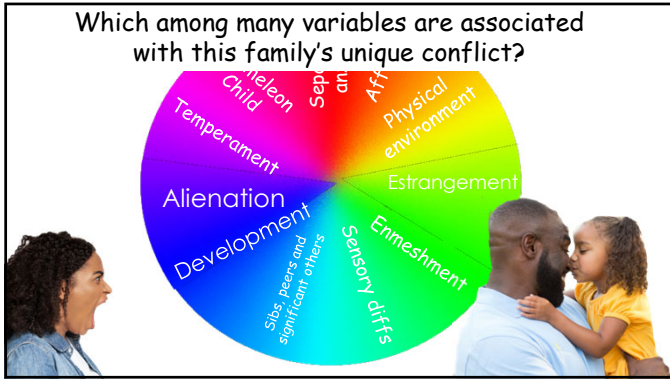
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RRD is associated with
 "... a multi-factor explanation of
 children's rejection of a parent with
 both the aligned and rejected parents
 contributing to the problem, together
 with role reversal in parent-child
 relationships"


Johnston, J. R., Walters, M. G., & Oleson, N. W. (2005). Is it alienating parent? role reversal, or child abuse? A study of children's rejection of a parent in child custody disputes. *Journal of Emotional Abuse, 5*(4), 191-218.

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An ecological perspective examines the
 full spectrum of
 relationship pressures
 and practical variables
 that mutually contribute to a unique
 child's specific circumstance.

Garber, B.D. (2019). Sherlock Holmes and the case of resist/refuse dynamics: Confirmatory bias and obstructive inference in family law. *Family Court Review, 58* (2), 384-402.

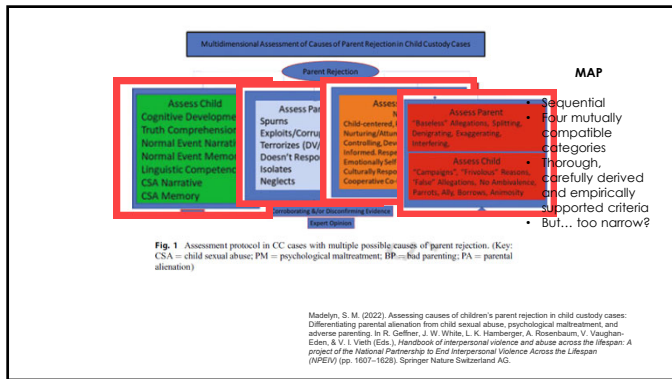


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Practical tools



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Rubric

A structure or checklist of criteria each of which must be addressed in order to complete the whole.

Garber, B.D. (in press, 2023). A structured rubric for evaluating the many systemic variables that can contribute to parent-child contact problems (PCCP). *Family Court Review*.

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The rubric requires consideration of **six domains** of variables

1. Incidental sensory, temporal, and proximal factors
2. Child variables
3. Child-Parent A dyadic variables
4. Child-Parent B dyadic variables
5. Systemic variables
6. Extra-systemic variables

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1. Incidental sensory, temporal, and proximal variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance recent and abrupt? If so, what triggers?	<input type="checkbox"/>
(b) Is the child's resistance event- time- or place-specific?	<input type="checkbox"/>
(c) Is the child's resistance associated with access to peers, siblings, step- and half-siblings?	<input type="checkbox"/>
(d) Is the child's resistance related to her negative experience with or expectations about a third party or animal associated with Parent B (e.g., new partner, neighbor, pet)?	<input type="checkbox"/>
(e) Is the child's resistance related to sensory (i.e., visual, olfactory, auditory, tactile, and/or gustatory) experiences at transition or anticipated in Parent B's care that may be subjectively aversive or overwhelming?	<input type="checkbox"/>

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Sounds?
Smells?
Textures?



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Avoiding the war
that erupts at
transition, not
Parent B
him- or herself




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2. Child variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance associated with temperament?	<input type="checkbox"/>
(b) Does the child resist change, transition, and/or separation across contexts (i.e., not exclusively when transitioning between care environments)?	<input type="checkbox"/>
(c) Is the child's resistance due to diagnosed/clinically significant social, emotional, behavioral, and/or cognitive differences?	<input type="checkbox"/>
(d) Is the child's resistance due to a history of trauma not exclusively associated with either adult?	<input type="checkbox"/>

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Anxious?
Cautious?
Slow-to-warm?
Separation anxiety?
Autism spectrum disorder?

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3. Child-Parent A dyadic variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance due to a relationship affinity appropriate to the child's experience, development, and culture?	<input type="checkbox"/>
(b) Is the child saying and doing what the Parent A needs to hear and see in order to maintain love and/or avoid anger and rejection? Does the child respond in a similarly chameleon-like manner with others?	<input type="checkbox"/>
(c) Is the child's resistance associated with Parent A's threats, promises, and/or bribes as in "If you don't tell the evaluator you want to live with me I'll kill myself" or "If you tell the GAL you want to live with me I'll get you a car"?	<input type="checkbox"/>
(d) Does the child resist all separations from Parent A but manages separations from others?	<input type="checkbox"/>
(e) Enmeshment: Are the interpersonal boundaries between Parent A and the child appropriate to the child's developmental capacities and the ambient culture? Is the child adultified, parentified, and/or infantilized in this relationship?	<input type="checkbox"/>

60

"I'm with my minister father on weekends and my senator mom through the week. It's the ultimate division between Church and State."

Garber, B.D. (2014). The chameleon child: Children as actors in the high conflict divorce drama. *Journal of Child Custody*, 11, 1-16.

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DSM Next: Parent-Child Relationship Disorders

The Enmeshed Dyad The Adultified Child The Parentified Child The Infantilized Child

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Garber, B. D. (2011). Parental alienation and the dynamics of the enmeshed parent-child dyad: Adultification, parentification, and infantilization. *Family Court Review*, 49(2), 322-335.

Garber, B.D. (2021). The Dynamics of the Enmeshed Family System Ten Years Later: Family Court and Contemporary Understanding of Adultification, Parentification, and Infantilization. *Journal of the American Association of Matrimonial Lawyers*, 34, 97-150.

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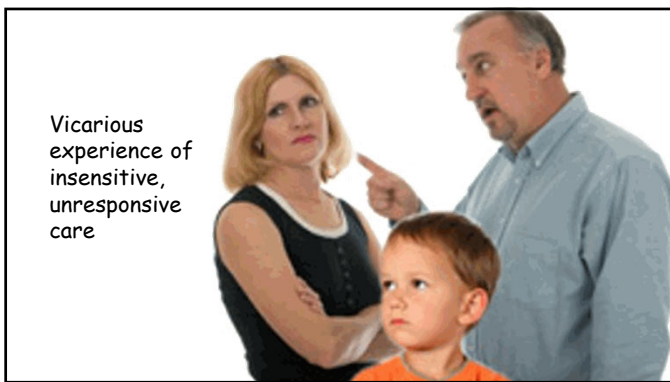
4. Child-Parent B dyadic factors

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Did the child ever have a relationship of any sort with Parent B?	<input type="checkbox"/>
(b) Does the child experience Parent B's behavior, language, habits, beliefs, or activities as foreign, unacceptable, or embarrassing?	<input type="checkbox"/>
(c) Estrangement: Has the child directly experienced Parent B as insensitive, unresponsive, abusive, or neglectful toward her?	<input type="checkbox"/>
(d) Estrangement: Has the child directly experienced Parent B as insensitive, unresponsive, abusive, neglectful, destructive or threatening toward others including animals and objects (i.e., vicarious exposure)?	<input type="checkbox"/>
(e) If the child has direct or vicarious negative experiences associated with Parent B, do these constitute trauma that trigger extreme anticipatory anxiety, dissociation, flashbacks, resistance and/or refusal of contact?	<input type="checkbox"/>

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5. Systemic variables	
Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance to Parent B associated with an avoidance of the (emotional, verbal, and/or behavioral) conflict that erupts when the two adults are face-to-face?	
(b) Is the child's resistance to Parent B an effort to avoid "culture shock"?	
(c) Does the child experience the culture in one home as more aversive than the other? For example, teenagers may gravitate toward a permissive parent's home and away from an authoritarian's parent's home.	
(d) How has each parent scripted the adult separation, the adult conflict, and the other parent's role in the child's life for the child?	
(e) Is the child escaping the adult conflict by arbitrarily picking sides?	
(f) Alienation: Is this child's resistance/refusal of Parent B associated with her exposure to Parent A's (direct or indirect, intended or incidental) negative words, behaviors, and/or emotions about Parent B? This includes Parent A's effort to enroll the child as her spy, courier, or go-between to the extent that these actions communicate that Parent B is not safe or trusted.	

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Can a modified 5FM assist in identifying alienation as one variable relevant to the child's unique socio-emotional ecology?

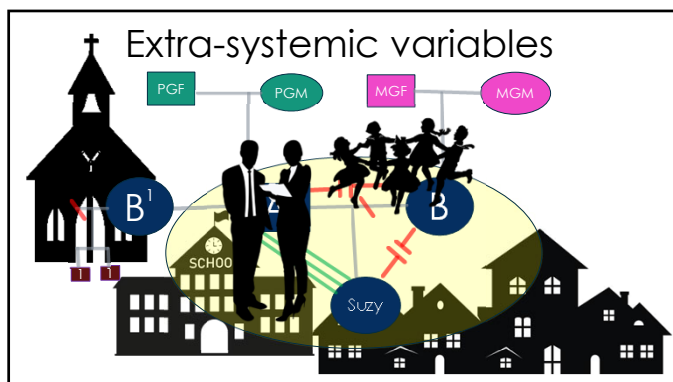
Yes

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6. Extra-systemic variables

Is there evidence of?	<input checked="" type="checkbox"/>
(a) Extended family influences including grandparents, step-parents, uncles, aunts, siblings?	
(b) Professional helper bias including teachers, coaches, clergy, and THE SILOed THERAPIST	
(c) Is the child missing desired activities in Parent A's community while with Parent B?	
(d) Is the child avoiding undesirable activities in Parent B's community while with Parent A?	
(e) How do media and other models influence the child's choices?	

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The silo-ed therapist is one common example of an extra-systemic influence that must be addressed.



Greenberg, L. R., Gould, J. W., Gould-Saltman, D. J., Stahl, P. (2003). Is the child's therapist part of the problem? What judges, attorneys, and mental health professionals need to know about court-related treatment for children. Family Law Quarterly, 37, 241-271.

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Always start by asking the right question

Is Parent A alienating?

What combination of pressures is causing this child to align with Parent A and reject Parent B?

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