CONCEPTUALIZING VISITATION RESISTANCE AND REFUSAL IN THE CONTEXT OF PARENTAL CONFLICT, SEPARATION, AND DIVORCE

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A child's visitation resistance and refusal (VRR) in the context of parental separation, divorce, and post-divorce litigation must not prematurely be interpreted as evidence of alienation, a conclusion which can be as detrimental to the family system as it is ill founded. The present article proposes a child-centered, developmentally informed heuristic with which forensic evaluators might begin to more uniformly approach the potential causes of and remedies for VRR. An attachment-based, step-wise decision tree is described together with an overview of the remedies presently believed most appropriate to each. Recommendations for empirical study of the multiple convergent dynamics which determine VRR and establishment of corresponding interventions follow.

Keywords: *co-parent*; *separation*; *divorce*; *visitation*; *alienation*; *attachment*

Understanding and responding to the dilemma of visitation[1] resistance and refusal (VRR) in the context of co-parental conflict, separation, and divorce has become one of the stickiest wickets in contemporary family law and forensic mental health practice (e.g., Freeman & Freeman, 2003; Johnston, 1993; King & Heard, 1999; Racusin, Copans, & Mills, 1994; Stoltz & Ney, 2002; Trinder, Beek, & Connolly, 2002; Weir & Sturge, 2006). With the introduction of the concept of alienation (Kelly & Johnston, 2001; Wallerstein & Kelly, 1980) and its controversial first cousin, Parental Alienation Syndrome (PAS) (Gardner, 1987, 1992a, 1992b, 1998, 2001, 2002, 2003), concerned professionals have become vulnerable to making mountains out of molehills. Specifically, to conclude that a child's resistance or refusal to visit his/her father, for example, is wholly and exclusively the result of the mother's damning words, actions, and emotions about her co-parent is to risk exacerbating the parties' conflict, prolonging litigation, and, most tragically, compounding the child's distress.

Even while the controversy regarding the clinical validity and forensic admissibility of various conceptualizations of alienation rage in the literature (e.g., Hirsch, 2002; Freeman & Freeman, 2003) and in our courtrooms (e.g., in New Hampshire see *Lubkin v. Lubkin*, 1996), concerned professionals are left with very little practical guidance as to how to understand and respond to the phenomenon of VRR.

THE MODEL

This article propounds a conceptual model with which forensic investigators (generally child custody evaluators and guardians ad litem) might begin to uniformly approach the

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daunting if not impossible task of assessing highly conflicted family systems and recommending child-centered outcomes (e.g., Tippins & Wittmann, 2005). It moves through a hierarchical decision tree from those more developmentally expectable and environmentally manageable factors through those more systemically entrenched and pathological if not pathogenic considerations.

This model is intended to provide structure, but never limits. Confirmation that one factor is in force must not curtail consideration of subsequent factors. The evaluation of VRR must proceed through the entire decision tree, always anticipating that each individual instance of VRR is multiply determined (Johnston, 2003; Johnston & Kelly, 2004; Johnston, Walters, & Olesen, 2005).

This model has been developed as a distillation of my direct experience as a student of child and family development, child-centered clinician, and forensic investigator. It is built upon the burgeoning literature concerned with the impact of parental separation and divorce (e.g., Amato & Fowler, 2002), co-parenting (e.g., Grych & Fincham, 2001), VRR (e.g., Pollack & Mason, 2004; Stoltz & Ney, 2002), and alienation as viewed through the lens of attachment theory (Garber, 2004b). Although this broad and diverse foundation provides solid footing in addressing some relevant matters, it is admittedly weak or nonexistent in others. This model is presented here, nonetheless, in response to the very real and very immediate needs of the children whose well-being is at stake. Where the footing is shaky, continuing interdisciplinary dialogue, evolving conceptualization, and empirical anchors are called for.

WHAT IS ALIENATION?

The concept of alienation in the context of family law is rooted in the archaic notion of chattel and the nearly extinct idea of "alienation of affections." Wallerstein and Kelly (1976, 1980) reintroduced the term in discussing those children whose experience of one parent's denigrating words and actions contaminate their relationship with their other parent. Gardner (e.g., 1987, 1992a, 1992b, 1998, 2001, 2002, 2003) presented a related idea in the form of a diagnosable syndrome, sparking a controversy that continues into the present (Gardner, 2004; Johnston & Kelly, 2004).

I have presented a developmentally informed and practical means of understanding the phenomenon of alienation within the family system (Garber, 2004b). This view, grounded in attachment theory (e.g., Ainsworth & Witting, 1969; Bowlby, 1969, 1973), defines alienation as the dynamic in force when any party (actor) presents information (message) which causes a child to accommodate his/her mental schema of a caregiver (target) such that the child becomes less secure with that caregiver. In one familiar scenario, if the mother refers to her objectively healthy co-parent as a dangerous and disturbed man which in turn causes her 10-year-old son to fear his father, co-parental alienation has occurred.[2]

RESISTANCE AND REFUSAL DO NOT EQUAL ALIENATION

Just as a child's inattention and distractibility do not in and of themselves constitute Attention Deficit Disorder (Garber, 2001), and just as a child's lethargy and tears do not in and of themselves constitute depression, a child's VRR with one parent must not be mistaken in and of itself as evidence of alienation. This point has been made in the past (e.g.,

Garber, 1996), but without practical guidance as to how one might constructively sort through the alternatives.

In the present model, the forensic evaluator begins evaluating VRR by asking:

1. **Is the child only saying what s/he believes the listener wants to hear?** Clinicians and family law professionals must be acutely aware of the degree to which a child's words may be inconsistent with accompanying emotion and behavior. In some such instances, the child's words of protest may be a chameleon-like compliant response to a leading question (Brady, Poole, Warren, & Jones, 1999; Fivush & Schwarzmueller, 1995; Garven, Wood, Malpass, & Shaw, 1998; Loftus, 1992; Poole & Lindsay, 1995; Poole & White, 1991, 1995) and/or a response to covert interviewer bias (e.g., Ceci & Friedman, 2000). Unfortunately, the question, "You don't want to see your father this weekend, do you?" may elicit the child's confirmation no matter what the actual feelings are. When the question is posed by an angry parent, the child's concurrence can be heard as validating the belief that the father in this example is, indeed, somehow undesirable. This, in turn, can trigger a spiral of escalating VRR.

   Forensic interviews must be flexible and responsive to the varying needs of children as a function of developmental capacity and circumstance. Familiarity with the arsenal of tools (e.g., Garber, 2007; Saywitz & Snyder, 1996; Yuille, Hunter, Joffe, & Zaparniuk, 1993) and techniques (e.g., National Children's Advocacy Center, 2005) is critical in the effort to minimize suggestion and elicit each child's genuine thoughts and feelings.
2. **Does the child resist separation from the sending parent in general?** Evidence that a child resists separating from one caregiver to go anywhere does not rule out alienation, but poses the more immediate likelihood that visitation resistance is yet another facet of what may be one of three broader dynamics: (a) developmentally appropriate separation anxiety as is often seen, for example, among 2- and 3-year-old children; (b) separation anxiety attributable to regression in the face of stress as when a previously independent 6-year-old child resumes the clingy behaviors more typical of a younger child in the aftermath of parental separation; or (c) evidence of enmeshment which may speak to the sending parent's resistance

Table 1
A Decision Tree for the Evaluation of Visitation Resistance and Refusal

1.	Is the child only saying what s/he believes the listener wants to hear?
2.	Does the child resist separation from the sending parent in general?
3.	Does the child resist contact with the receiving parent in general?
4.	Is the receiving parent notably more or less strict or demanding than the sending parent?
5.	Is the receiving parent sensitive and responsive to the child's needs?
6.	Is the sending parent supportive of the receiving parent?
7.	Can the sending parent be enlisted to help facilitate the child's security with the receiving parent? and/or
8.	Can the receiving parent be engaged to provide the child with corrective experiences?
9.	Are measures to limit the alienating/sending parent's contact with the child necessary, practical and appropriate? and/or
10.	Are measures to limit the targeted/receiving parent's contact with the child necessary, practical, and appropriate?

to being apart from the child and the possibility that the child has been adultified or parentified in that dyad. Evidence of any of these three, clarification of the distinctions among them, and their respective remedies call for evaluation and education if not psychotherapeutic intervention by one or more child-centered mental health professionals.

I have had remarkable success responding to all three of these dynamics by helping the sending parent give the child a transitional object. In this context, a transitional object can be any tangible and pocketable thing that allows parent and child to feel emotionally connected even while apart. The nature of the transitional object is unique to each dyad, from a shared piece of polar fleece fabric to matching rings or necklaces.

Of particular note are those instances in which a child resists separating from the sending parent due to a fear for that parent's well-being during the separation. Although this dynamic is often manifest as VRR, it in fact speaks to the sending parent's pathology and the child's wish, and sometimes explicit assignment, to parent the parent. Identification of this dynamic calls for psychotherapies and allied supports (e.g., home health care, substance abuse sponsor) for the sending parent and reassurances to the child both that the sending parent will be fine in his/her absence and that the child need only be responsible for him/herself.

3. **Does the child resist contact with the receiving parent in general?** When a child evidences no resistance to contact with a parent in general (e.g., during office-based observations and interviews), but resists or refuses routine visits, factors incidental to the time, place, and context of the visits must be carefully examined. These include sensory issues (e.g., mom's new apartment has an odd smell, a noisy neighbor, or an uncomfortable bed), contextual anxieties (e.g., a growling dog, a shaky elevator, or unexplained and unfamiliar night sounds), scheduling conflicts (e.g., when visits preclude participation in social, academic, sporting, or neighborhood activities), and/or incidental interpersonal conflicts (e.g., sharing a parent with his or her new partner, sharing belongings with a new step- or half-sibling, upset with new neighbors). Forensic evaluators have a responsibility to learn as much about the particulars of visitation as possible, because younger, less mature, less articulate, and/or more anxious children may be relatively unable to express these concerns directly. This includes observing the home at the time of day that the child is intended to be there. In some instances, practical changes of no necessary import to the parents or the court can resolve the child's resistance quickly, as when a noncustodial mother realized that her 4-year-old child was resisting contact with the new cat, not with her. In other instances, where changes require substantial time, money, and effort, the parties' mutual consent and/or the court's permission may be necessary, as when an access schedule needs to be changed so as to facilitate the child's athletic interests.

   Complicating this consideration is the child's willingness to express such concerns directly to the noncustodial parent. Voicing fear or anger may seem to risk creating yet another loss, because many children learn from their parents' separation and divorce that love can end. This may be most true of the child's experience of the noncustodial parent whose presence can seem entirely too tenuous. In these instances, employing a child-centered psychotherapist to help the child overcome these fears and facilitate the parent–child communication can offer tremendous relief.

4. **Is the receiving parent notably more or less strict or demanding than the sending parent?** Even objectively small differences in parenting expectations and consequences can make some homes less appealing and less enjoyable to children than others, thereby contributing to VRR. Such differences may have been among the reasons for the co-parents' separation and, in the absence of constructive postseparation communication, different parenting positions easily and often become polarized. This common and destructive effect is amplified when parents endorse as valid a child's uncorroborated report about experiences in the other home.

   Identifying real parenting differences can be sufficient for some co-parents to reverse the trend toward polarization.[3] Identifying the extent to which children, and especially teens, tend to manipulate these differences to their own momentary gain (e.g., splitting) can open still other doors in the interest of improved communication and consistency. In more entrenched cases, however, engaging the adults in an ongoing facilitated co-parenting intervention (e.g., Garber, 2004a) or appointing a Parenting Coordinator (e.g., Association of Family and Conciliation Courts, 2006) can be necessary steps toward correcting VRR.
5. **Is the receiving parent sensitive and responsive to the child's needs?** VRR has been empirically associated with the receiving parent's relative difficulty recognizing and sensitively responding to the child's unique needs (Johnston, 1993, 2003). Variations in parenting, sensitive responsivity, or emotional availability (Bornstein, Gini, Suwalsky, Putnick, & Haynes, 2006) from healthy and appropriate to outright failures of empathy (Broberg, 2000) are strongly associated with differences in the quality of the child's attachment security with that caregiver such that children tend to develop insecure and disorganized attachments in relation to an insensitive/nonresponsive caregiver (e.g., Ainsworth & Witting, 1969; Main & Weston, 1981; Sroufe, 2005). Insecure and disorganized attachment relationships, in turn, are by definition associated with the child's inability or unwillingness to turn to that caregiver, particularly under stress.

   When objective evaluation (e.g., Ainsworth, 1969; Bornstein et al., 2006) finds the receiving parent relatively insensitive and nonresponsive, the optimal intervention will depend upon the apparent reason for the parent's insensitivity. In the most benign instances, parent education may be necessary and even sufficient (e.g., Broberg, 2000). In the case of insensitivity associated with substance dependence or diagnosable pathology, the parent's detoxification, psychotherapy, and/or medication may also be necessary.

   Of particular value are dyadic interventions that use video feedback as a parent training device. Marvin's "Circle of Security" intervention (Marvin, Cooper, Hoffman, & Powell, 2002; O'Connor & Zeanah, 2003) have demonstrated a clear association between improved parenting, sensitive responsivity, and the security of children's attachment relationships.
6. **Is the sending parent supportive of the receiving parent?** The child's VRR may be in part attributable to third-party contamination of the child's attachment security to the receiving parent. Such contamination can result when the sending parent intentionally exposes the child to words, actions, or emotions that denigrate his/her co-parent, but can also result from other caregivers' (e.g., stepparent, grandparent, neighbor) damning behaviors and/or via incidental exposure (e.g., as when the child surreptitiously listens in on the phone extension or intercepts adult e-mails) to such messages (Garber, 2004b).

Assessment of this kind of emotional contamination is particularly challenging and controversial (e.g., Lampel, 2002). The forensic investigator who has reason to believe that contamination has occurred must take care not to assume that co-parental alienation is at work.

(a) Who is the source of the contamination? A child's emotional security with a parent can be influenced by many sources with or without the co-parent's knowledge. In one instance, a child's relationship with his/her noncustodial father proved to have been contaminated not by his/her custodial mother, but by her father, the maternal grandfather, who vented his rage at the father every school day between three and five-thirty, while the parents were each at work. When this was exposed, the co-parents were able to work together to enroll the child in an after-school care program, thereby limiting exposure to the grandfather's vitriol and dramatically decreasing the VRR.

(b) How is the contamination communicated to the child? Responding to VRR attributable to (co-)parental alienation requires identification of the means with which the damning message is communicated. Particularly when older children are involved, one must consider accidental and surreptitious exposure. Time and again, teenagers prove quite expert at listening in on telephone extensions, snooping through parents' correspondence, intercepting e-mail, and otherwise gaining access to information never intended for their consumption. Above and beyond establishing the practical measures necessary in each of the child's homes to minimize these exposures, co-parenting facilitators, psychotherapists, and/or parenting coordinators can help parents establish consistent scripts intended to explain those matters which the child may be implicitly seeking to have answered.

(c) Is it alienation or estrangement? Finally, the discovery that a sending parent's words, actions, or expressed emotions are causing the child to feel less secure with the receiving parent must be considered in the context of an understanding of that parent's sensitive responsivity. When evaluation of the receiving parent discovers relative insensitivity and nonresponsiveness, the contaminating message may serve the child's best interests. This is referred to as estrangement (Kelly & Johnston, 2001; Drozd & Olesen, 2004). A case in point arose recently when a noncustodial father complained that his co-parent had undermined his relationship with his 5-year-old son by providing him with a cell phone when they visited together. In fact, the father was chronically late and forgetful; a reality that made the mother's expressed caution necessary and appropriate, much as it may have contributed to the child's anxiety in his father's care.

By contrast, when the sending parent is exposing the child to negative messages about a genuinely sensitive and responsive receiving parent, co-parental alienation is at work. Under these conditions, the evaluator must next consider:

7. **Can the sending parent be enlisted to help facilitate the child's security with the receiving parent?** and/or
8. **Can the receiving parent be engaged to provide the child with corrective experiences?** Among the many controversies surrounding the topic of alienation is the question of how such schisms are most appropriately repaired. In instances of mild to moderate alienation (Ward & Harvey, 1993), a combination of parent education and facilitated corrective experiences for the child with the actor/sending parent

(Garber, 2004b, 2005) and/or with the target/receiving parent (Riggs, 2005) may prove necessary to the resolution of the VRR.

In other cases of moderate alienation, even when the alienating/sending parent's position is unrelenting, more mature children may still benefit from facilitated corrective experiences with the targeted/receiving parent, as in a "Circle of Security" (Marvin et al., 2002) type of intervention.

However, when the alienation is severe, the alienating actor/sending parent will not facilitate the child's security with the targeted/receiving parent and/or when the VRR precludes providing the child with corrective experiences with the targeted/receiving parent, then the evaluator is left to address:

9. **Are measures to limit the alienating/sending parent's contact with the child necessary, practical, and appropriate?** and/or
10. **Are measures to limit the targeted/receiving parent's contact with the child necessary, practical, and appropriate?** The child caught in this most severe and intractable dynamic is being psychologically torn in two. S/he is at high risk for anxiety, depression, and a host of associated pathologies (Freeman & Freeman, 2003; Johnston, Walters, & Friedlander, 2001; Smart & Neal, 2000). Although various remedies have been offered and debated (e.g., Birnbaum & Radovanovic, 1999; Ward & Harvey, 1993; Gardner, 1992a), none have been broadly endorsed or adequately studied yet.

In instances in which the child's VRR is attributable at least in part to the sending parent's intractable alienating messages, evaluators must consider recommending any remedy which serves to limit the child's exposure to what amounts to psychological abuse. At the least, this includes the court's prohibition against visitation interference with associated sanctions; court-ordered child impact and parenting classes; and/or goal-directed, cognitive behavioral psychotherapy for the sending parent and the child and/or for the receiving parent and child together.

In addition, evaluators must carefully consider recommending custodial periods and conditions which support the child's relationship with each parent. This may mean contact schedules which call for fewer transitions between and longer periods within each home, access schedules which minimize or eliminate the sending and receiving parents' face-to-face encounters (as when transitions are scheduled to occur consistent with the school day or a therapy appointment), or, at the most extreme, primary placement with the healthier parent and supervised contact with the other.

This latter recommendation is not to be confused with Gardner's (1992a) recommendation that the child be placed with the targeted parent in response to evidence of severe alienation. Although Gardner's highly controversial and even radical recommendation may have its place, evaluators must make such extreme placement decisions only in the context of a greater knowledge of the child's experience of security with each parent. When every effort to facilitate the child's healthy relationship with each parent fails, such decisions must ultimately focus on facilitating the child's experience of emotional security, even at the cost of one or the other parent's wish for contact.

In this context, I must acknowledge those few, tragic, and extreme circumstances in which the child's view of one parent is so irremediably negative and intractably resistant to every intervention that any contact with the targeted/receiving parent is experienced as an abuse. When every avenue for practical change, therapy, facilitated contact, and court mandate is exhausted, there may be reason

to withdraw the expectation for visitation. In these extreme instances, the rejected parent can only be advised to continue to provide regular opportunities for contact (e.g., weekly postcards, letters, e-mails) and to always remain open to the child's future overtures. It may be useful and therapeutic, even if a poor substitute, for this parent to collect mementos for the child over time, against the likelihood of later reconciliation. Unfortunately, child-centered mental health and forensic professionals have yet to devise a better remedy.

RESONANCE IN THE LARGER FAMILY SYSTEM

The linear and logical progression inherent in this model is necessary, but must not be mistaken to be sufficient in and of itself. Identification (and remediation) of VRR predictably resonates elsewhere in the system, because families are dynamic systems. In this perspective, the forensic evaluator must attend not only to the dynamics which bear on a child's VRR, but the meaning of this behavior within the larger system. Lebow (2003) astutely refers to these as the "circular causal pathways" within divorcing families.

A single case example serves to illustrate: In a not unfamiliar dynamic, one of a pair of school-aged children refuses to go on visits with her father even while her older brother shifts between the parents' homes without difficulty. When dad alleges that mom has alienated the daughter, a forensic evaluator is engaged. Step-wise evaluation determines that (1) the child's words are consistent with her apparent affect, behavior, and across contexts, but that (2) the child seldom separates from her mother easily under any circumstances. There was no evidence that (3) the child generally resisted contact with her father, that (4) the parents' respective expectations and consequences were not notably different and (5) each parent proved to be at least adequately sensitive and responsive to the children's needs. Her mother (6) reported that she supported the children's relationship with their father, but expressed marked ambivalence about the father–daughter contact. Recommendations for implementation of a facilitated reunification between father and daughter quickly resolved the daughter's VRR. All would have lived happily ever after, except that the son now refused to visit with his father.

What happened? Families (like nature) abhor a vacuum. The children had implicitly accepted the role as the mother's caregiver. When intervention enabled the daughter to abandon that role, the son fell into it. It was only in observing these shifting dynamics that the mother's undiagnosed depression and prescription medication abuse was uncovered. It was finally her treatment and the continuing support of the children's therapist that allowed the siblings together to leave their mother and enjoy their time with their father.

DISCUSSION

This article recommends a step-wise heuristic with which forensic family investigators might more uniformly and parsimoniously approach the evaluation and remediation of VRR. The decision tree introduced emphasizes the importance of considering those more expectable and circumstantial causes of VRR in the first instance as alternatives to and, as necessary, as possible complications of frank alienation. The uniformity of this approach seeks to standardize one narrowly defined aspect of forensic family evaluation toward the goal of facilitating children's relationships with both parents.

Standardization of the forensic evaluation process is in and of itself a very desirable goal (Tippins & Wittmann, 2005). Standardization provides evaluators and triers of fact additional means with which to understand and critically assess forensic reports and associated recommendations.

Even though this model has proven useful in my own experience, the scope of its genuine value awaits broader application and development across populations. Three areas of particular interest at this time are noted: (1) Understanding the extent to which population variables (e.g., culture, religion, ethnicity, and language) might bear on this step-wise process and its outcome with any particular family. For example, the fact that some religious and/or cultural groups do not empower women and men equally certainly bears upon how VRR might be understood within such groups. (2) Understanding how individual child variables (e.g., intelligence, verbal expressive/comprehension skills, developmental status, and social and emotional differences) must be accounted for when working within this model. For example, separation anxiety is normatively more common in certain age ranges than others. Much less well established, for example, is the impact of same-gender versus opposite-gender parent preferences as a factor in VRR matters. (3) The development of relevant assessment tools (e.g., attachment security to each caregiver across ages, the quality of each parent's caregiving sensitivity and responsivity, the quality of the co-parent's mutual support, assessing the multiple causes of alienation and their respective contributions to VRR) will continue to be critical to the evolution of this model.

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NOTES

1. "Visitation" is used here to refer to a child's scheduled contacts with a caregiver, acknowledging that states are generally moving toward language which more appropriately describes each caregiver's respective schedule of parenting rights and responsibilities. "Sending parent" is used here to refer to the caregiver relinquishing care at any given time and "receiving parent" is used to refer to the caregiver who then assumes responsibility for the child's care.

2. "Co-parental alienation" specifies that the actor and the target are both parents, not that the dynamic is reciprocal. In this way, co-parental alienation can be differentiated from "parental alienation" which identifies that the actor is not a parent, as when a grandparent or neighbor provides information which negatively and inappropriately impacts the child's relationship with the target parent.

3. On this point, co-parents routinely find a brief metaphor useful: You and your partner are sitting side by side in a row boat. You think he's leaning too far to one side so, rather than saying anything, you lean out in the opposite direction. When he realizes that you are leaning away from him, rather than saying something, he leans further in your direction. If neither of you ever say anything, you'll both fall in and the boat will float away.

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