

AFCC FALL VIRTUAL CONFERENCE
ADDICTION, FAMILY VIOLENCE, AND MENTAL ILLNESS: ASSESSING AND MANAGING CHALLENGES TO CONTEMPORARY COPARENTING
 NOVEMBER 1-3 AND 6-7, 2023

Workshop #10
Refuting the 5 Factor Model:
Best Practice Requires a Systems Approach to PCCP
Monday November 6, 2023

Benjamin D. Garber, PhD
 Family Law Consulting, PLLC

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




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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.



4

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.**



6

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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Upcoming

AFCC 11

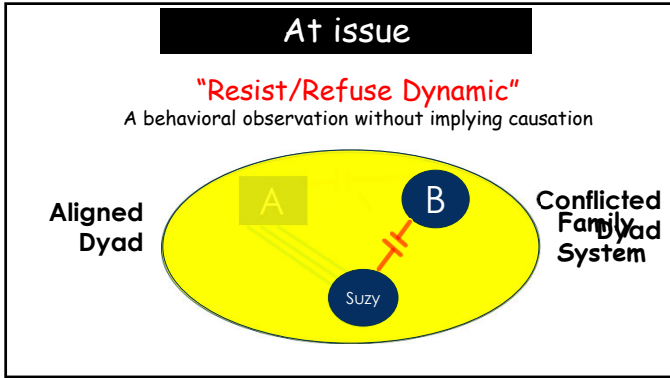
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Refuting the Five Factor Model: Best Practice Requires a Systemic Approach to RCCP
AFCC virtual presentation | 11.11.06.2023 10:00 am eastern

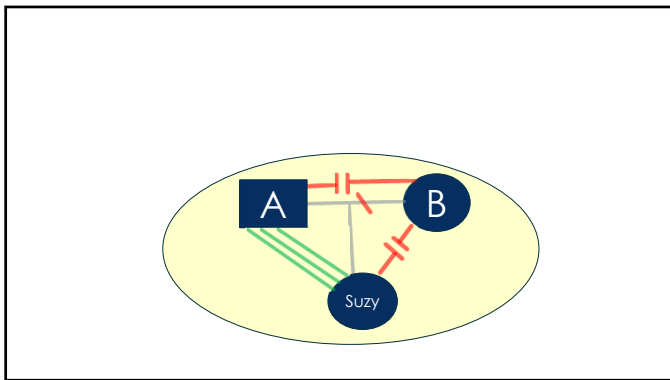
This 90 minute virtual presentation addresses the Five Factor Model as outlined in favor of identifying strengths, resilience, and self-compassion. An ecological model is described that allows evaluation, work product evaluation, and self-compassion. By Benjamin D. Garber, Ph.D.

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

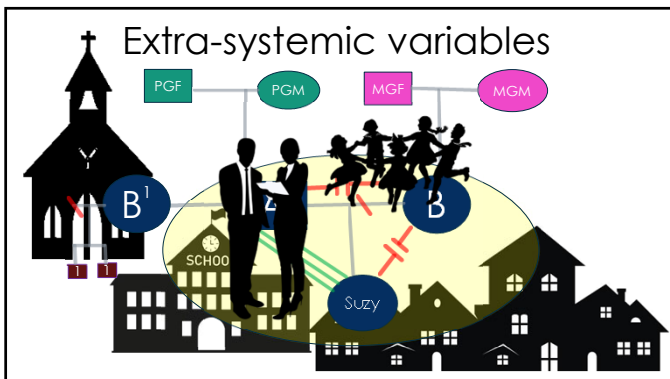
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The polarized child



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 buy/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."

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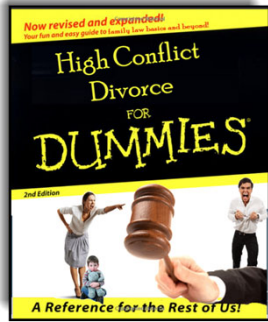
"Children are at greater risk when parent-child contact problems are not effectively addressed and when family law professionals and others echo and intensify the polarization within the family. This problem may be exacerbated by ... gendered and politicized assumptions that either parental alienation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

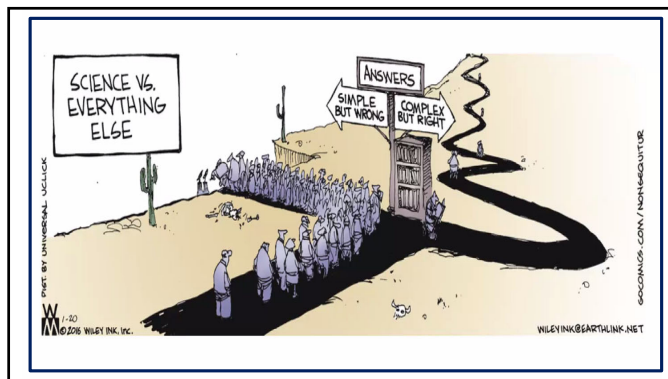


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“In the context of adversarial legal proceedings, oversimplified explanations of parent rejection can be appealing.”


Michman, M. S. (2022). Oversimplified beliefs about alienation rebuttals of child abuse allegations—practice issue. 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.**"

Bernet and Greenhill (2022) p. 591

Why default to alienation??

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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

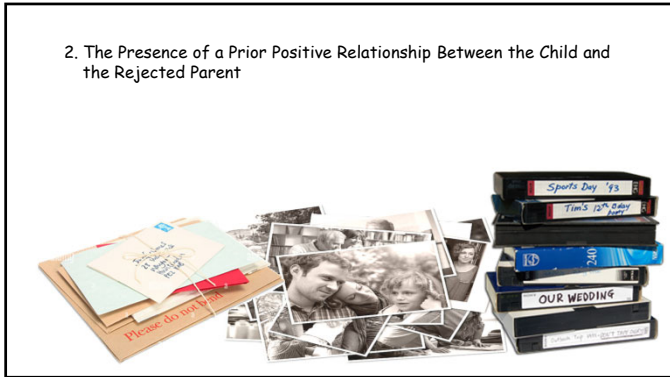


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"This might involve complete contact refusal, or it might involve agreeing to contact but resisting/refusing attempts on the part of the parent for communication, affection, and interaction. In these situations, the child may be physically present 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.

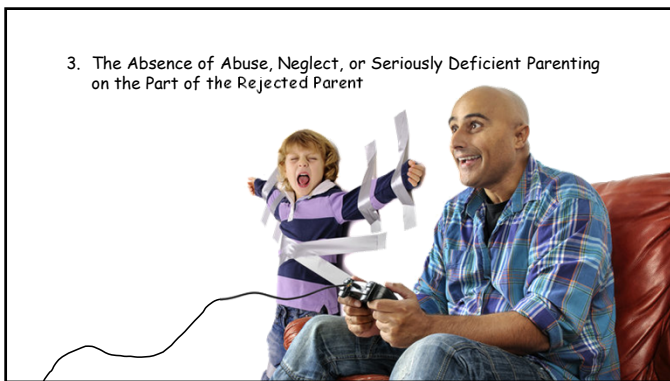
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If parent A alienated Suzy from Parent B her entire life, then Parent B could never have had a positive relationship with Suzy, which means that Parent A was not alienating!

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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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4. The Use of Multiple Alienating Behaviors on the Part of the Favored Parent



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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,45:1,97-124

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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."

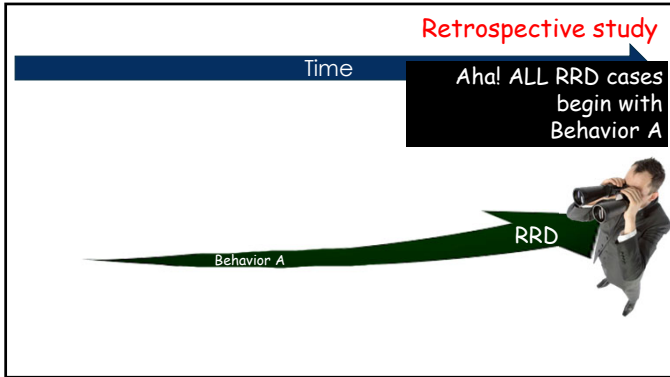
Madelyn, S. M. (2022). Assessing causes of children's parent rejection in child custody cases: Differentiating parental alienation from child sexual abuse, psychological maltreatment, and adverse parenting. In R. Gellmer, J. W. White, L. K. Hamberger, A. Rosenbaum, V. Vaughan-Eden, & V. I. Vieth (Eds.),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

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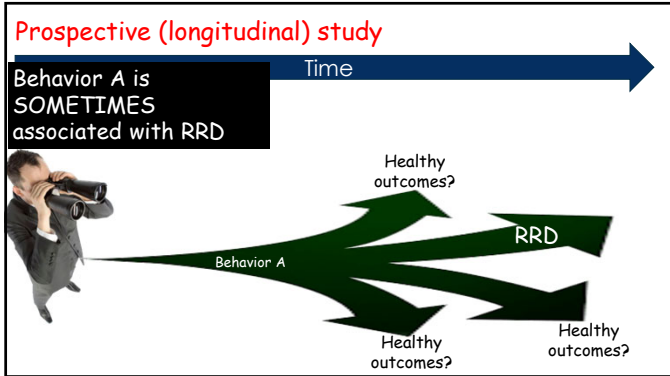
"the collection of retrospective data on subjects should not be confused with longitudinal data collection because the former is subject to distortions due to faulty recall and observers' knowledge of future outcomes."

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

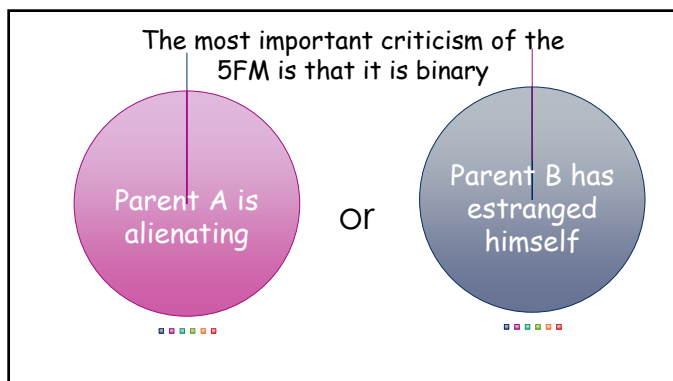
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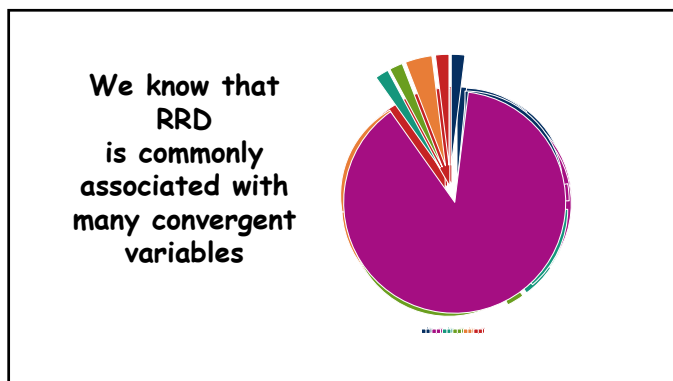


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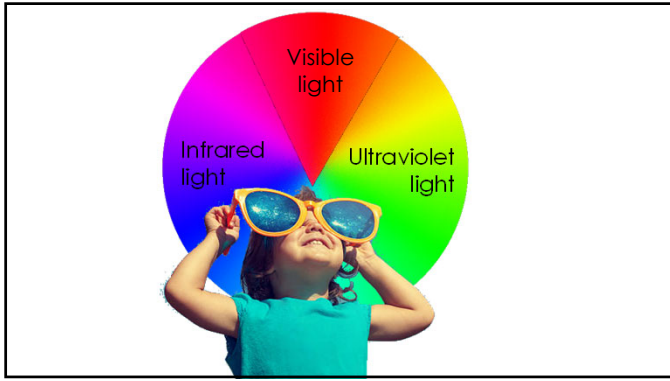
The field has often simplified the complexities of parental alienation with insistence that either an alienating parent or an abusive one caused children to reject a parent. The problem with absolute thinking is that the complexity of potential factors influencing outcomes, both positively and negatively,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

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

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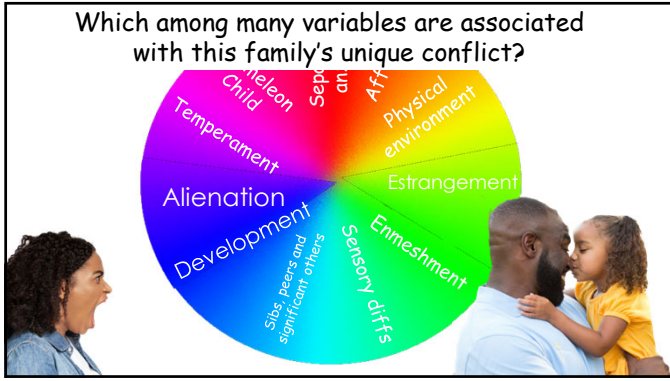
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“... uncomplicated or pure cases of alienation in which neither estrangement nor enmeshment were identified as playing a significant role, were relatively infrequent....”

Friedlander, S., & Walters, M. (2010). When a child rejects a parent: Tailoring the intervention to fit the problem. *Family Court Review*, 48(1), 98-111.

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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. (2009). Is it alienating parenting, 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.

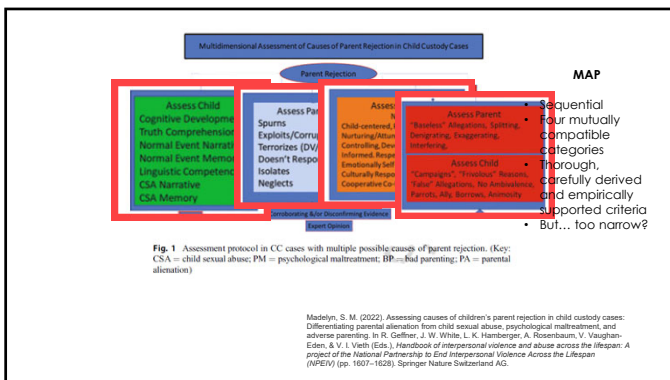
Garber, B.D. (2019). Sherlock Holmes and the case of resist/refuse dynamics: Confirmatory bias and abductive inference in family law. *Family Court Review*, 38 (2), 386-402.



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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*.

54

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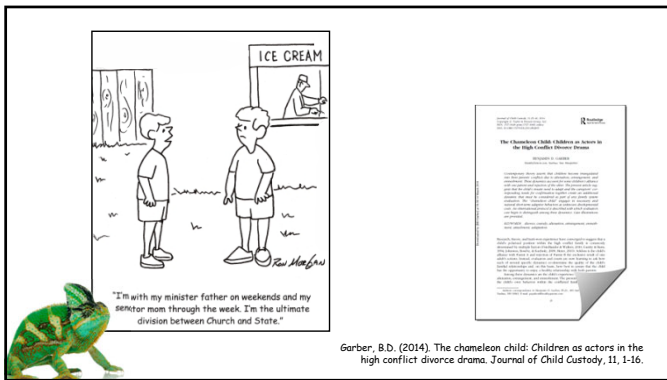
Anxious?
Cautious?
Slow-to-warm?
Separation anxiety?
Autism spectrum disorder?

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3. Child-Parent A dyadic variables

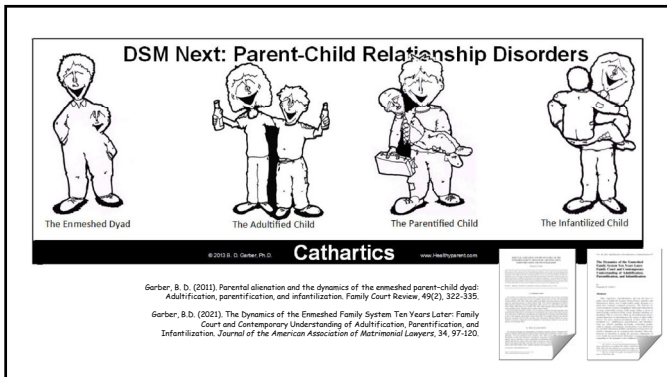
Is there evidence of?	<input checked="" type="checkbox"/>
(a) Is the child's resistance due to a relationship affinity appropriate to the child's experience, development, and culture?	
(b) Is the child saying and doing what the Parent A needs to hear and see in order to maintain love and/or avoid anger and rejection? Does the child respond in a similarly chameleon-like manner with others?	
(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."	
(d) Does the child resist all separations from Parent A but manages separations from others?	
(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?	

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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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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, 97-120.

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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?	
(b) Does the child experience Parent B's behavior, language, habits, beliefs, or activities as foreign, unacceptable, or embarrassing?	
(c) Estrangement: Has the child directly experienced Parent B as insensitive, unresponsive, abusive, or neglectful toward her?	
(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)?	
(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?	

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Direct experience of insensitive, unresponsive care



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Vicarious experience of insensitive, unresponsive care



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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?

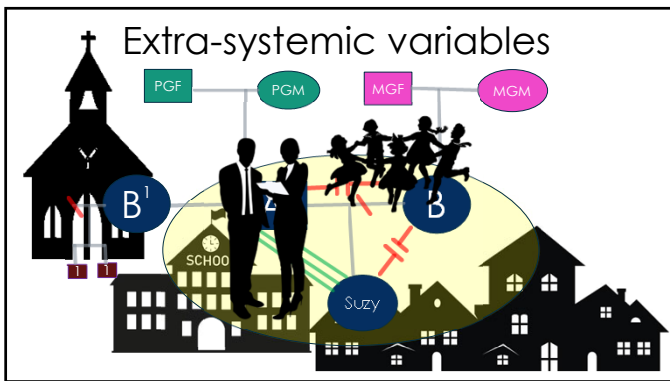
Yes

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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?	<input type="checkbox"/>
(b) Professional helper bias including teachers, coaches, clergy, and THE SILOed THERAPIST	<input type="checkbox"/>
(c) Is the child missing desired activities in Parent A's community while with Parent B?	<input type="checkbox"/>
(d) Is the child avoiding undesirable activities in Parent B's community while with Parent A?	<input type="checkbox"/>
(e) How do media and other models influence the child's choices?	<input type="checkbox"/>

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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



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

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Developmentally-aware, systemically-informed, child-centered expert psychological services.

Publications

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