

MEDIATION: PARENTAL ALIENATION SYNDROME

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Parental Alienation Syndrome is currently a popular buzz word in family law. Coined by Richard A. Gardner,¹ the term Parental Alienation Syndrome implies that one parent is consciously or unconsciously sabotaging the relationship between the child and the other parent. In more severe cases the child is responding to the need for closeness of an emotionally disturbed alienating parent. While Gardner acknowledges that the rejected parent may have some realistic problem in the relationship with the child, he assumes that there is no substantive reason for the level of the rejection, such as physical, sexual, or emotional abuse.

The dilemma for attorneys dealing with these cases is that quite often extreme accusations are made as the explanation for why a child reportedly refuses contact with one parent. One side will claim child abuse, and the other Parental Alienation Syndrome. However, it is important for attorneys to consider also that there will be many cases in which there are more commonplace problems between parents and children that will lead to temporary estrangement. Lack of empathy or parenting skill by the rejected parent, the child's tendency to align with one parent as a way of resolving the difficult position of being in the middle, or developmental issues in which a child will more naturally want to take a defiant stance with a parent, are problems that can be helped if the rejected parent gets quick help through counselling.

Mental health professionals tend to agree that time is of the essence in dealing with problems of parent-child estrangement that can develop into Parental Alienation Syndrome. If contact is stopped between parent and child, a pattern is likely to develop such that it will be difficult to mend the relationship. Delays inherent in formal court proceedings make it difficult to use orders to reinstate contact.

If the child is put into therapy with a mental health professional who identifies with one parent and excludes the other, the mental health professional can become part of the Parental Alienation Syndrome. Mental health professionals are as likely as attorneys to contribute to the division of the family into separate warring camps, described in the chapter "Unholy Alliances and Tribal Warfare" in the book by Johnston and Campbell, *Impasses of Divorce*. Thus, delays caused by court proceedings and the division into warring camps of attorneys and mental health professionals can contribute to a full blown Parental Alienation Syndrome.

How can an attorney responsibly respond to a case in which a child is reportedly refusing contact with one parent without contributing to Parental Alienation Syndrome? The solutions will require legal, evaluation and therapeutic interventions. If one parent has gone so far as to consult art attorney, it is unlikely that counselling alone will help this family. Any abuse allegations will have to be taken seriously but also weighed against the equally problematic issue of disrupting contact between the rejected parent and the child. Attorneys' involvement in facilitating a

mediated solution can be crucial in both providing protection when necessary and preventing disruption in contact.

First, either by agreement or court order some contact should continue. Since judges may be reluctant to order it, a mediated agreement between parties can provide limited or monitored interim contact while the causes for the problem are investigated. If the case involves Parental Alienation Syndrome, as described by Gardner, the child will experience the legal mandate to visit the rejected parent as relieving his guilt or responsibility about being with that parent.

Second, a neutral evaluator is in the best position to evaluate whether there are substantive reasons for the child's rejection of one parent or whether the child is responding to the needs of the other parent to have an ally. The attorney can use mediation to facilitate a speedy selection of an evaluator rather than waiting for the court to appoint one. This step is especially important when abuse allegations are made.

Third, the attorney can work to negotiate or mediate the selection of a neutral therapist who will work with the child and the rejected parent. This form of therapy will almost always be ordered as result of the lengthy court process, except in the more extreme cases of abuse. Therapy should focus on specific problems and solutions. An anecdote from one judge suggested that the solution to a twelve year old not wanting to spend time with his father was as simple as suggesting that the well-to-do father buy a piano and a computer for the child to enjoy in the father's home. Many parents must be helped to tune in to the needs of their children rather than their own needs at the time of their divorce. If the case involves the more severe Parental Alienation Syndrome, as described by Gardner's theory, therapy between the rejected parent and the child provides a place for the child to test the reality of his or her fears about that parent. Whatever the grounds for the rejection of the parent, it is better for the child to have therapy early in the process rather than experiencing a long break in contact.

Attorneys should expect that there will be reluctance on the part of some parents to negotiate or mediate parent rejection problems. However, an effort to explore the reasons a child does not want to spend time with one parent will benefit the child whatever the reason. Sometimes a mutual good faith effort will show there really is abuse or such animosity between parent and child that distance is the only solution. However, an attorney who attempts a negotiated or mediated solution will know that all avenues have been explored and that he or she has not contributed to Parental Alienation Syndrome.

1. Richard A. Gardner, "Parental Alienation Syndrome and the Difference Between Fabricated and Genuine Child Abuse," (1987). *Creative Therapeutics*.