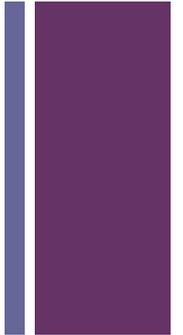


**+
Child Protection in
Child Custody Cases:
Issues and Concerns**

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+ Objectives



- **1. Identify ethical issues related to conducting therapy, forensic interviews, and forensic evaluations in child custody cases**
- **2. Learn about myths and inaccuracies regarding the prevalence of false allegations of child abuse, suggestibility of children in forensic interviewing, and Parental Alienation Syndrome (PAS)**
- **3. Apply new perspectives and understanding related to appropriate protocols to use while conducting child abuse evaluations**



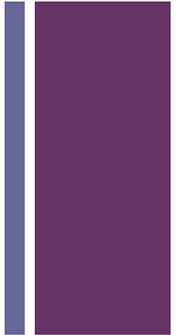
Child Abuse In Custody Cases



- **Given the often intense, contentious nature of litigation that surrounds child custody cases are there high rates of child abuse allegations?**
- **When abuse allegations are involved in child custody cases, is this strategic?**
- **How often are these allegations made? How often are these allegations valid when gaining custody can be seen as a motive for the allegation?**
- **In informal surveys of providers during the past several years, the overwhelming response is that there are child abuse allegations in most child custody cases, and that a majority of them are false.**



Child Abuse In Custody Cases



- **Thoennes and Tjaden (1990) examined these questions using information from formal surveys and interviews with legal and mental health professionals, as well as empirical data from 12 domestic relations courts throughout the United States.**
- **Concluded that only a small proportion (less than 2%) of contested custody and visitation cases involved child sexual abuse (CSA) allegations.**
- **Also found that fathers were accused in 51% of all cases, but allegations were also made against mothers, mothers' new partners, and extended family members.**



Child Abuse In Custody Cases



- **Similar studies conducted in other countries over the next 10 years.**
- **None found that the percentage of abuse allegations exceeded a rate of 20% (Hume, 1995).**
- **No study has found that there is a high percentage of child abuse allegations in divorce cases.**
- **Thus, the perception that child abuse allegations are rampant in divorce cases is a myth.**



Difficulty in substantiating allegations of abuse



- **Often little medical evidence and a lack of independent corroboration from other sources, especially in CSA (Neoh & Mellor, 2009).**
- **Allegations involving children under four years old are especially difficult to assess due to the child's cognitive limitations and the difficulty verbalizing allegations.**
- **Due to these limitations, outcries and disclosures are often made to protective parents by their children (Hewit, 1999).**
- **Despite this limitation, true CSA reports may still be interpreted as a weapon and dismissed outright or ignored when such allegations are made in a child custody case (Bala & Shuman, 2000; Neoh & Mellor, 2009).**



False Allegations of Child Abuse



- **When allegations of child physical or sexual abuse are made, an assessment of the probability of the allegations being true and the future risk to the child is needed (Faller, 2007b; Neoh & Mellor, 2009).**
- **Widespread misperception that there is a high incidence of intentionally false allegations.**
- **Can be seen as a tactical advantage or to seek revenge on their ex-spouses.**



False Allegations of Child Abuse



- **Trocme and Bala (2005) suggest that confusion defining false allegations is a key source of misunderstanding in the debate about false allegations.**
- **False vs. unable to substantiate**
- **Misperceived or misinterpreted signs**
- **Confusion in interpretation of investigation statistics is probable.**



False Allegations of Child Abuse



- **“False” allegations are defined as those in which a person makes an allegation of abuse when s/he knows it did not happen.**
- **Differentiation should occur.**
- **Rates of unsubstantiated abuse reported by child welfare services range from 30 to 70% in the United States.**
- **60% of investigations tracked in the United States reported by the third National Incidence Study were unsubstantiated (US Department of Health and Human Services, 2002).**



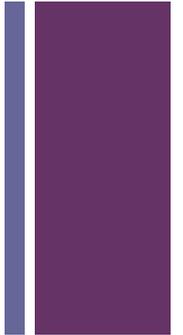
False Allegations of Child Abuse



- **Trocme and Bala (2005) suggest that most unsubstantiated investigations are the result of well-intentioned reports, rather than an intentionally fabricated allegation.**
- **These are different from false allegations.**
- **Too often many people and the media then use the term “false” to lump together and describe all for these categories.**



False Allegations of Child Abuse



- **Despite many unsubstantiated abuse reports being well intended, common misconceptions exist about false allegations being intentionally produced by parents and children alike in divorce cases.**
- **Children, specifically, have been a key focus of studies on the probability and ability to coach a child.**
- **Studies have concluded that children, especially children under the age of five, are vulnerable to certain types of suggestion (Neoh & Mellor, 2009).**
- **Also conclude that children are mostly accurate in oral accounts of their experiences (Ceci & Bruck, 1993).**



False Allegations of Child Abuse



- Seidl (1992) postulated that it is very difficult to make young children stick to a repetition of a false or programmed story.
- Most research on abuse reports is based on studies with compelling medical evidence, audiovisual evidence, or other independent indicators of abuse occurring without a child's disclosure (Faller, 2007a).
- Numerous studies of this kind suggest that false negatives occur at statistically significant and much higher rates than false positives in reports of abuse (Faller, 2007a).
- Subsequently, research suggests that children are more likely to refrain from reporting actual abuse than to fabricate stories of abuse. However, this often seems to be ignored in child custody cases.



False Allegations of Child Abuse



- **Evidence of whether children can be programmed or coerced into false allegations of abuse is rather scarce due to ethical limitations in conducting such research.**
- **Studies related to the prevalence of false allegations of abuse, however, are not.**
- **For instance, as noted above, Thoennes and Tjaden (1990) found that only a small percent (less than 2%) of 6,100 Family Court cases actually involved reports of child sexual abuse.**



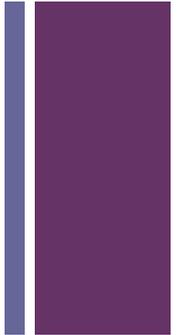
False Allegations of Child Abuse



- **Thoennes and Tjaden (1990) noted that half of these reports of child sexual abuse in divorces cases in the US were confirmed to be true, one third were confirmed to be untrue (including false as well as misinterpreted), and the rest were unclear.**
- **They found that age of the victim, frequency of the alleged abuse, prior abuse reports, and the amount of time elapsing between filing for divorce and the emergence of the allegation were all associated with the perceived validity of the abuse report.**



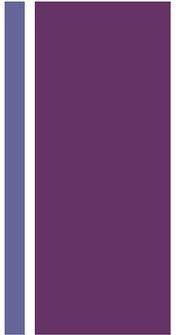
False Allegations of Child Abuse



- **US Department of Health and Human Services (2002) reported that less than 1% of investigated cases in five states in the United States in 2002 were found to have intentionally falsified reports of abuse.**
- **Studies have concluded that rates of intentionally false allegations range from 4% to 15% (Bala & Shuman, 2000; Brown, Frederico, Hewitt, & Sheehan, 1998; Faller, 1991; Faller & DeVoe, 1995; Thoennes, 1988).**
- **Of allegations that were determined to be intentionally false, Jones and McGraw (1987) found that 6% of allegations were made by parents and 2% of these allegations were made by children.**



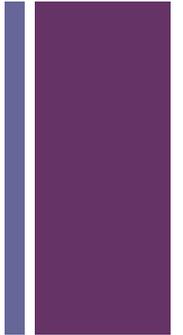
False Allegations of Child Abuse



- **Oates et al. (2000) replicated Jones and McGraw's study, finding that 2.5% of false accounts were by children and that less than 1% of cases involved adult-child collaborative false allegations, such as coaching.**
- **Although there are many theories of why false allegations may also be more likely at the time of parental separation, it appears that children make relatively few false disclosures.**
- **A key issue here, then, is the suggestibility of children to make an allegation of abuse.**



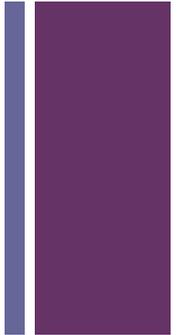
Parental Indoctrination



- **Parent or adult fabricates an allegation and coaches a child consciously and intentionally to manipulate the legal system for their own goals.**
 - › **Classic coaching**
 - › **Not easy to do, especially with young children**
- **In a Child Abuse and Neglect review in 2007 Faller concluded... “Although relevant studies do not always address directly the coaching of children, they support a conclusion that coached statements and other types of false abuse allegations by children are uncommon.”**
- **Too often suggestibility research has been misapplied or over-generalized to abuse cases**



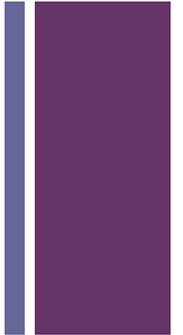
Suggestibility



- **Some question the ability of young children to report accurately on their traumatic experiences (i.e., Ceci & Bruck, 1993)**
- **Also imply that suggestibility plays a major role in our inability to extract true and accurate information (Poole & Lindsay, 2001).**
- **‘The New Wave’ of researchers as coined by Lyon (1999)**



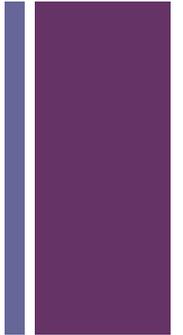
Suggestibility- 'New wave' research



- **Social vs. cognitive factors that underlie suggestibility (Bruck & Melnyk, 2004).**
- **Some hypothesize that suggestibility is the result of a desire to comply on the part of the child respondent (social factors)**
- **Others see suggestibility as the inability to recall correctly as a result of cognitive limitations (Bruck & Melnyk, 2004).**



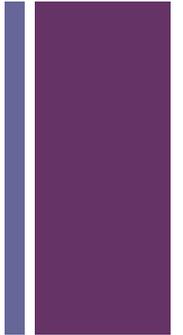
Suggestibility- ‘New wave’ research: Social



- **Studies have shown that children can accurately reject false suggestions (Drohan-Jennings et al., 2010).**
- **The new wave fails to recognize that children are actually motivated not to report occurrences of sexual abuse.**
- **Lawson and Chaffin (1992) found that 57% of children who had been abused and diagnosed with a sexually transmitted disease (STD), failed to report the abuse which allowed for the transmission of said STD.**



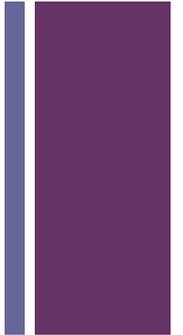
Suggestibility- ‘New wave’ research: Cognitive



- **Cognitive weakness**
- **Hypothesize that such a weakness is biological, and that such children are more prone to report traumatic experiences because they are more prone to fantasy and, therefore, more dissociative (Giesbrecht, Lynn, Lilienfeld, & Merckelbach, 2008; Giesbrecht, Merckelbach, & Geraerts, 2007; Merckelbach & Muris, 2001; Merckelbach, Zeles, Van Bergen, & Giesbrecht, 2007).**
- **The fantasy model of dissociation has not supported by recent research (Kluemper & Dalenberg, In Press).**



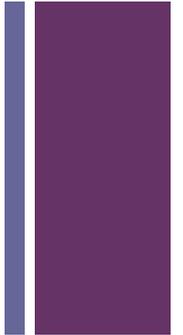
Suggestibility- Research



- **Bruck and Melnyk (2004) state that demographic variables, gender, traditional tests of memory, executive functioning, social engagement, self-concept/self-efficacy, emotional state, IQ, and children's behavioral symptoms all failed to significantly correlate with suggestibility, overall.**
- **Bruck and Melnyk (2004) also found that increased language skills correlated negatively with suggestibility in a total of four studies (three conducted in English and one in German).**

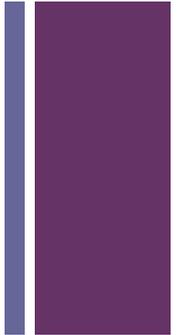
+ Suggestibility

- **Studies have shown that children as young as three can provide accurate reports of known (laboratory controlled) events (Leander et al., 2007), and they can be relied upon to provide details in non-laboratory setting as well.**
- **Ahern, Lyon, and Quas (2011) concluded that before the age of 3 ½, participants were unable to maintain false claims across questions.**
- **By 3 ½, the majority of normally developing children are becoming increasingly verbal.**





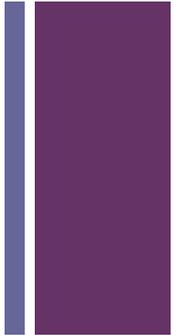
Suggestibility- Differences in research



- **Implanting false memories of some common events or situations vs. looking at true events and the ability to recall in the face of various types of questioning.**
- **Safety of the child vs. falsely accusing a parent**
- **Both positions have some merit, although the safety of the child does seem to be paramount.**



“Parental Alienation Syndrome” (PAS/PAD)

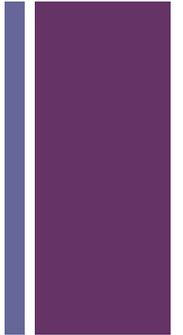


- **Coined by Richard Gardner in 1988**
- **Child will have a strong alignment with one parent while rejecting a relationship with the other parent without “legitimate justification” (Bernet, 2010; Gardner, 1992).**
- **In these cases, a child reportedly refuses contact with the rejected parent and harbors “irrational anxiety and/or hostility” towards him/her (Bernet, 2010).**



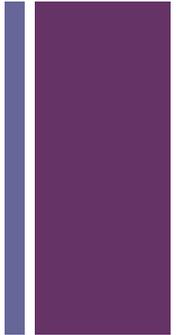
PAS/PAD

- **Different versions of it over the past two decades, including more recently Parental Alienation Disorder (PAD) and Parental Alienation Relational Problem (Bernet, 2010).**
- **Discredited by a wide portion of mental health professionals (Geffner, Conradi, Geis, & Aranda, 2009; Walker & Shapiro, 2010; Zorza, 2009) and almost all professional organizations.**
- **Excluded from the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM V) (American Psychiatric Association, 2013; Faller, 2010).**





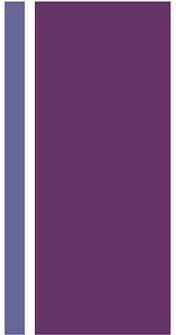
Parental Alienation vs. Rejection Due To Abuse



- **Important to consider the various factors that could lead to a child rejecting his/her parent.**
- **Drozd and Olesen (2004) describe several of these factors, including normal developmental variation, poor parenting, and abuse.**
- **Knowledge about the dynamics of physical, emotional, and sexual abuse is essential.**



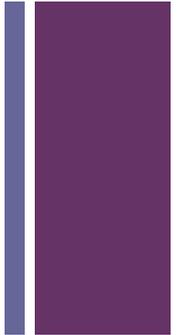
Parental Alienation vs. Rejection Due To Abuse



- **Emotional effects of domestic violence on children (Geffner et al., 2009; Walker & Shapiro, 2010).**
- **Anger about the separation and/or divorce (Walker & Shapiro, 2010).**
- **Little to no evidence regarding a parent's ability or the techniques to use to program or alienate his/her child against the other parent (Geffner et al., 2009).**



Alienation vs. Protective Parenting



- **Poor consideration of the role of domestic violence and child abuse in children's behavior.**
- **Child's rejection is attributed to the preferred parent's behaviors (Bernet, 2010).**
- **These behaviors include speaking ill of the rejected parent and complaints to child protection and law enforcement agencies with allegations about the rejected parent (Bernet, 2010).**

+ Alienation vs. Protective Parenting

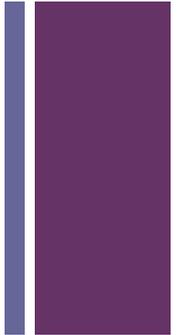
- **Particularly common in situations where fathers have been abusive towards their children and accuse mothers of alienating the children against them (Walker & Shapiro, 2010).**
- **Mothers typically report their child's outcries of abuse to the authorities.**
- **If the protective parent does not fulfill this duty, CPS will likely remove the child from her/his care for "failure to protect."**
- **Protective parents often find themselves in a bind.**

+ Alienation vs. Protective Parenting

- Proponents state that mental health and child protection workers have the ability to help alienate a child against his/her parent (Bernet, 2010).
- That way the rejection of a parent is never “justified.”
- Proponents of PAS/PAD recommend increased contact with the rejected parent as an intervention strategy (Walker & Shapiro, 2010).

+ Alienation vs. Protective Parenting

- Risk of re-victimization
- Judges have also been known to award custody to the rejected parent and restrict access between the child and protective parent.
- Development of PTSD, or other symptomatology, due to their continued exposure to the “traumatic trigger” without the presence of a source of support or safety (Walker & Shapiro, 2010).



+ Alienation vs. Protective Parenting

- **PAS/PAD ignore decades of research and theory in child development, attachment, and separation trauma.**
- **In summary, serious and often dangerous repercussions can arise from the use of PAS/PAD in child custody cases.**
- **Essential that a thorough and exhaustive evaluation of the child and parents' behaviors be completed.**

