

## Responding to High Conflict Family Disputes

Allegations, Alienation and Abuse

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## Children and Divorce

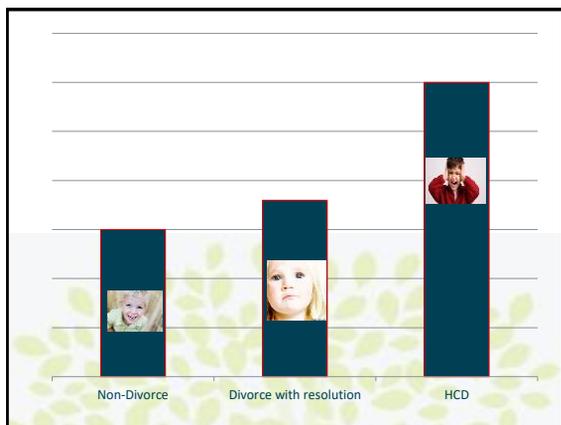
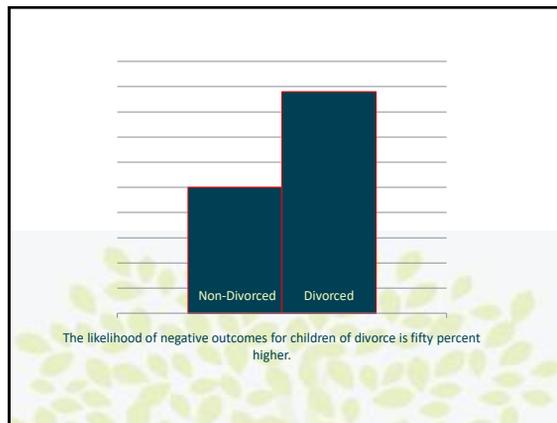
Approx. 40%-45% of marriages end in divorce.

Children who have experienced a parental separation and divorce are at higher risk for:

- Depression
- Anxiety
- Self-harming behaviors
- Suicide
- Academic issues
- Promiscuity
- Teenage pregnancy
- Alcohol and drug misuse
- Addictions
- Problematic relationships
- Divorce for themselves
- Aggression & violence
- Heart disease

## Why?

- Stress associated with a divorce.
- Parents are more distracted during a divorce and do not parent as effectively.
- Moves and major changes that the children do not get an opportunity to process appropriately.
- Diminished economic resources.
- Children caught in a high conflict situation.



## The Perfect Storm

Personality Disorders and Parental Attachment Issues + Poor/misguided Parenting = Divorce: -stress -hostility  
 High potential for Police and Court Involvement

## Police involvement

It is in the complex high conflict family situations where we see a high level of police involvement involving allegations of abuse (safety concerns) or allegations of parental alienation by either or both of the parents.

High Conflict (parental alienation and estrangement) are one of the most difficult and complex family issues to deal with in family therapy, police work and family law cases.

Quality of relationship	Child's attitude	Disordered relationship
Positive relationship with both parents	Child prefers contact with both parents	
Affinity toward one parent	Child prefers contact with both parents, but prefers one parent	
Alliance with one parent	Child prefers one parent and expresses some ambivalence toward the other	
Estranged from one parent	Child rejects other parent, and either dislikes or expresses ambivalence	Realistic Estrangement
Alienated from one parent	Child rejects other parent, expresses strong dislike, displays no ambivalence	Pathological Alienation

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### Estrangement:

Based on the Latin word *extraneare* "to treat like a stranger".

Commonly defined as "*the replacement of love and belonging with apathy and indifference.*"

Justifiable estrangement is a reaction that makes sense. It is usually a result of self protection

With estrangement you will see **mixed and ambivalent** feelings in regards to the relationship.

### Kelly and Johnston

- Child's estrangement is "**a reasoned, adaptive, self-distancing and protective stance that has led to cognitive and affective differentiation of parents**"
- Child typically wishes to severely limit contact with other parent, as alienated children do
- Estrangement can be misinterpreted as parental alienation

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### Is it appropriately developmental child behavior ?

*Not all children who resist contact are alienated or estranged*

- Age-appropriate separation anxiety
- Response to parenting style
- Response to parent's new partner, new partner's family
- Normal preference for a parent
- Change is difficult – natural adjustment

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### Is it alienation?

*Some children are reasonably estranged*

- Intense conflict during relationship, separation
- Hotly contested, highly conflicted litigation
- Witnessed or suffered abuse or family violence
- Parent's issues with substance abuse
- Unpredictable or disciplinarian parenting style
- Narcissistic and disengaged parenting style

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### Alienation:

From Latin *alienare* –to make another estranged  
*Alienus* –of or belonging to another person or place

"a withdrawing or separation of a person or a person's affections from an object or position of former attachment"  
*from Merriam-Webster*

Parental Alienation – when one parent interferes with and undermines the other parent's relationship with the child.

## Kelly and Johnston

Alienated child is **“one who expresses, freely and persistently, unreasonable negative feelings and beliefs ... toward a parent that are disproportionate to the child’s actual experience with that parent”**

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## Kelly and Johnston

Environmental factors increasing risk of alienation:

- History of intense marital conflict
- Humiliating separation
- Highly conflicted litigation
- Personality of each parent (especially if personality disorders are present)
- Age, cognitive capacity and temperament of child
- Triangulation of child in parents’ conflict

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## Bala and Fidler

Alienating behaviours increasing risk of alienation:

- Attributing negative qualities
- Limiting contact
- Limiting symbolic contact
- Frequently calling or messaging when in the care of the other parent
- Giving child inappropriate choices; improperly empowering child

## Bala and Fidler

• Alienating behaviours:

- Declining responsibility (“the Judge made me do it”)
- Having child spy on the other parent and report back
- Blocking calls, taping calls
- Not sharing information about school and activities
- Withdrawing approval if the child is positive about the rejected parent
- Putting child in loyalty bind/conflict
- Rewarding child for rejecting the other parent

## Long Term Consequences

**When a child is resistant to maintaining a relationship with one parent (alienation or estrangement), this is a signal of much deeper family issues.**

**Attachment disruptions cause significant problems throughout the lifespan**

## Signs of Estrangement After Separation

- The story makes sense upon presentation, first intervention.
- The narrative remains consistent over time.
- There appears to be a pattern of behaviours.
- The drama is a natural reaction to the situation – rather than that overly dramatic feeling.
- There are specific details in regards to the issues.
- The child(ren) are ambivalent, they have a variety of feelings. There is often a lot of sadness rather than statements of righteous indignation.
- The children may even be protective of the parent who is being accused of something.
- The children act like children – rather than little adults.

### Signs of Alienation After Separation

- Temper tantrums when the child is to go with one parent.
- Child enraged over being "forced" to go.
- Child stating they hate the other parent.
- Threats of running away.
- Police involvement. (I don't feel safe, but no specifics as to why)
- Multiple reports of abuse, or the free use of the word abuse.

### Signs of Alienation After Separation

- Child pleading or negotiating not to go with the other parent.
- The child making bizarre and unlikely claims.
- The child constantly putting the other parent down.
- The child saying they can decide which parent they see.
- The children proclaiming their rights ( and quoting what they have researched on the internet in regards to their rights)

### Responding to Allegations

1. Don't oversimplify the problem by only focusing on the reporting of the parent.
2. Look at how the child is acting (is there ambivalence) not just what they are saying.
3. Don't assume allegation is true/false merely because allegation is strategically useful.
3. Remember that adversarial system can potentiate breakdown in relationship.
4. Don't assume that presence of alienation excludes possibility of estrangement or visa versa.

### Responding to alienation

- Rapid intervention
  - Restore contact
  - Prevent further deterioration of relationship
  - Counselling is needed
- Case management
  - Early, vigilant involvement of court
  - Quick response to breaches, other problems
- Focus on long-term interests of child
  - Benefit in long run must outweigh short-term discomfort

### Enforcing parenting arrangements

#### Judicial sanctions

- Orders for Parenting Time and Make-up time
- Enforcement Orders
- Payment/Awards of legal costs
- Punitive costs awards
- Contempt

### Enforcing parenting arrangements

- Finding of contempt requires proof of willful breach of order
  - Quasi-criminal, therefore high threshold
  - Rarely on first, second or even third applications
  - Object not to punish but secure compliance
- Court rarely acts meaningfully when contempt found; the party in contempt usually allowed to purge contempt by compliance with order

## Enforcing parenting arrangements

- Peace officer enforcement is a pragmatic response to enforcement problem but creates stress for the child and the officers
  - Often and appropriately viewed as last resort
  - May result in child experiencing significant distress
  - Peace officers may also choose not to enforce order, further empowering and aggrandizing alienating parent

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## Child Sensitive Responses

- Kind, calm and gentle language
- Demonstrating respect to all involved - children/parents/adults
- Helping children understand the rules – and how we all have to follow the rules
- Clarification of roles
- Be aware of agenda, but check you own bias and do not get caught in quick judgments
- No debate of the issue
- Validation of difficult situation
- Compassion and empathy for the child – not your job to fix it all or figure it all out – but keeping children as safe and secure as possible through this storm.

## Fact Pattern #1

Child goes to visit parent. History of supervised contact between child and father due to past alienating behaviours.

Second time the child has had overnight with this parent. The parent refuses to return the child saying the child is claiming that the mother had hit her and is scared to go back to mother's.

Additional order is granted to return child to mother's care.

Father says he is unable to force the child to return to mother's as the child is afraid mother will hit her again.

Police are called to remove child from father and return to mother's care.

Child claims she is afraid of her mother and does not want to return. Child highly emotional.

Police return child. High levels of stress and distress.

## It's Court Time!

### The Do's and Don'ts of Testifying.

## Some Relevant Case Law

*R.R. v. S.L.*, 2016 BCSC 1230

*Nair v. Woodrow*, 2016 BCSC 2266; *Nair v. Woodrow*, 2017 BCSC 492

*Cotton v. Berry*, 2017 BCSC 907

*Chatha v. Uppal*, 2018 BCSC 6

N.R.G v G.R.G, 2015 BCSC 1062

JP v. BC (Children and Family Development) BCCA 308

## Fact Pattern 2

- The parents sign a consent agreement for the children to go into care of rejected parent for 1 month. All family working together in reunification program.
- Children run away at time of transfer.
- Police called.
- Children call 911 saying they are not safe with father.
- Father accuses mother of setting this up.
- Police collect children after 911 call and return to counselling office.
- Children say they do not feel safe to go with father.
- Police make decision to return to care of mother despite Court Order that children are to go into the care of the father – reasoning was that children were highly distressed and refusing to go with father.

Questions ?

