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This fact sheet was written by Chief Justice Bryant**

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Parental Alienation Syndrome

Most school-aged children, although pained by loyalty conflicts and at times angry and upset with their parents are eager for contact with both parents and want to maintain a relationship with both. By contrast, a small number of children express negative attitudes towards one of their divorced parents and vehemently resist or refuse to visit or have anything to do with that parent.

The phenomena of a child's strident rejection of one parent, generally accompanied by a strong resistance or refusal to visit or to have anything to do with that parent, was first recognised by Wallerstein and Kelly (1976, 1980), North American researchers, in their seminal study of children of divorce.

Later, Dr Richard Gardner, a North American psychologist, coined the label Parental Alienation Syndrome ('PAS') to describe a diagnosable disorder in a child in the context of a custody dispute. Controversially, as part of Gardner's view that an alienating parent is the principal if not sole cause of the problem, in severe cases of PAS he recommended change in custody.

In 1999, a taskforce of researchers in the US, including Dr Johnston, was established to study the problem of children who become estranged from one of their divorcing parents. There was a series of six published papers and at least another five subsequently. Importantly, their research indicated that children's rejection of a parent had multiple causes, with both the aligned parent and rejected parent implicated in the problem.

The research of Janet Johnston and others rejected Gardner's theory of PAS being a disorder and found no convincing evidence to support his one-dimensional theory that an alienating parent is primarily responsible for a child's alienation. Similarly, they did not find evidence that abuse was primarily responsible for a child's rejection of a parent. The research of Dr Johnston and others is widely accepted in Australia.

Many of the independent experts, psychologists, psychiatrists, and Family Consultants who give evidence to the Court in parenting cases have shown themselves to be aware of and reply upon the breadth of research, including the research of Dr Johnston and her colleagues.

The world-wide manual of psychiatric diseases, and the main diagnostic reference of mental health professionals, the 'Diagnostic and Statistical Manual of Mental Disorders - Fourth Edition (DSM-IV-TR) has not accepted PAS as a psychiatric disease.

The DSM IV-TR is published by the American Psychiatric Association and it is used in Australia by mental health professionals.

How the allegation arises in Family Court cases

Because the Family Court deals with the most difficult cases, Judges are confronted by cases in which children have become alienated or estranged from a parent as a matter of fact.

As Dr Johnston has said, the estrangement may be caused by previous experience that the child has had or influence by an adult in the child's life (either deliberately or unconsciously) or some other factor.

In each particular case the Judge is called upon to make an order that best promotes the child's interests. This will include considering whether a child's interests are best served by a complete cessation of a child's relationship with a parent, or a change in the parent with whom the child will primarily live or some other order. Each case is always decided on its own facts and with the assistance of independent experts, who are sociologists, psychologists and psychiatrists.

Recent Family Court cases dealing with alienation

An example of some recent cases where PAS has been rejected or not accepted as a concept includes:

C & C [2004] FamCA 708

In this case the judge described the term "Parental Alienation Syndrome" as "a descriptor unsuited to the discussion of complex dynamics involving at least three people and it is further unsuited because as a 'diagnosis' it could lend itself to automatic or prescriptive treatments." She also observed "serving the interests of a child requires a solution to difficulties confronting that child to be tailored after considering a whole range of factors specific to that child, including but by no means limited to the child's age, stage of development and temperament. One size does not necessarily fit all."

Lane & Arthurs [2006] FamCA 87

In this case the judge ultimately determined that whilst she declined to accept that the children were affected by PAS, she did consider the children had been alienated from the father as a result of a combination of factors including the mother's behaviour. The judge noted "I do not find it helpful for opinion to be presented with this label attached to it under the rubric of work so notoriously controversial as 'PAS' and without any discussion of the body of reputable work virtually discrediting it."

Parker & Elliott [2003] FamCA 990

In this case the judge similarly dismissed the validity of PAS. In his judgment he noted "I am not prepared to find that the syndrome applies in this case, if indeed there is such a syndrome. Counsel conceded, quite properly, that the question of a syndrome as described is a matter of controversy. None of the experts who gave evidence before me gave any evidence at all of whether there is indeed such a syndrome, and if there is whether on the material that each has been furnished, symptoms consistent with such a syndrome have manifested themselves. As a result, I am not in a position to make any findings in that regard."

SS & AH [2005] FamCA 481

In this case the judge was of the view that the mother would proactively undermine the children having a relationship with the father. The children were moved to the father's residential care and orders were made for them to have contact with the mother. While there were numerous experts involved in this matter, 'Parental Alienation Syndrome' was neither alleged nor accepted by the Court. The Court did consider expert evidence concerning the children being alienated from the father, and in this regard the term 'parental alienation' was used.

Summers & Nathan [2005] FamCA 1406

In this case the judicial officer initially noted that evidence of 'Parental Alienation Syndrome' had previously been recognised as "a substantially established area of knowledge", he ultimately concluded that "In the light of [the referenced] articles and a large body of recent literature, I am not persuaded immediately that "P.A.S." has been established irrevocably as being within a substantially established area of knowledge allowing for the receipt of expert evidence. ... [T]he scientific basis for Parental Alienation Syndrome as a diagnostic entity has been challenged by both mental health and legal professionals and the syndrome has not been accepted as a psychiatric diagnosis in DSM III or IV."

Please note that pseudonyms have been utilised in the above cases to protect the identity of the parties in each case.