

CHILD CUSTODY OUTCOMES IN CASES INVOLVING PARENTAL ALIENATION AND ABUSE ALLEGATIONS

This research is the product of National Institute of Justice Grant Award #NIJ-2014-MU-CX-0859 (January 1, 2015 – June 30, 2019)

A SUMMARY OF MAJOR FINDINGS:

COURTS ARE SKEPTICAL OF MOTHERS' AND CHILDREN'S CLAIMS OF ABUSE BY FATHERS; ALIENATION CROSS-CLAIMS SIGNIFICANTLY INCREASE THE DISBELIEF

- # 1
- Mothers who report fathers' abuse in custody litigation are believed less than half the time on average (41%) (in non-alienation cases)
 - Courts believe mothers' claims of child abuse (CPA 29%; CSA 15%) even less than domestic violence (45%)
 - When fathers cross-claim **alienation**, courts credit mothers' abuse claims even less (DV 37%; CPA 18% CSA 2%) – for an average of 23%
 - When fathers cross-claim alienation, courts **almost never** believe child sexual abuse claims (1/51).[1]

[1] Outside research has found that 50-75% of child sexual abuse allegations in custody context are likely valid.

MOTHERS WHO ALLEGE FATHERS' ABUSE FACE SIGNIFICANT RISK OF LOSING CUSTODY

- Mothers who allege fathers' abuse in custody litigation (without alienation cross-claims) lose custody about a quarter of the time
- When fathers cross-claim alienation, mothers lose custody about half the time
- Mothers lose custody most often when they allege child physical or sexual abuse (54-64%)
- When courts believe mother is an alienator mothers lose custody 60-100% of the time (avg. 73%) depending on type of abuse alleged, including some cases when courts recognize the father is an abuser

2

GENDER BIAS ASSOCIATED WITH ALIENATION CLAIMS

- # 3
- Alienation claims are associated with favorable outcomes for fathers - but not mothers - accused of abuse.
 - Across all alienation cases (with and w/o abuse claims), mothers have twice the odds of losing custody compared to fathers, when accused of alienation.
 - Alienation's power is not as gendered in non-abuse cases (39% v 28%, not statistically significant).
 - Proven alienation is associated with gender-equal rates of custody losses (71%)

EVALUATORS AND GUARDIANS AD LITEM EXACERBATE GENDER BIAS

- The presence of an evaluator or GAL is associated with increased rejections of mothers' abuse allegations and their custody losses
- No such association is found for fathers
- The presence of an evaluator or GAL is thus associated with increased gender difference in outcomes

4

KEY TAKEAWAYS

When fathers cross-claim alienation, courts are:

- [1] more than twice as likely to disbelieve mothers' claims of (any) abuse
- [2] almost 4 (3.9) times less likely to believe mothers' claim of child abuse
- [3] almost 3 (2.9) times more likely to take custody from mothers alleging any kind of abuse

When courts found mothers were alienators and fathers were abusers, mothers lost custody to the abuser 43% of the time (6/14).

For instance, in one non-Study case:

The oldest child reported his father's hitting, pinching, being mean and being drunk; he had also witnessed his father strangling his mother, and he told evaluators that he feared his father would kill him. Rather than inferring the obvious, the evaluator characterized this child's feelings as "unnatural... abnormal" - and thereby evidence of alienation. The court adopted the parental alienation label and ordered custody to the father.

The study relies solely on electronically available published opinions in child custody cases, mostly, but not only, appellate decisions. However it analyzes the trial court's decision in each case. The comprehensive electronic search netted a total of 4338 cases that involved an abuse claim against one of the parents. However, the findings described herein are based on two sub-populations: the analytic dataset (distinguishing between cases with and without alienation claims) consists of 2351 cases involving claims of abuse by a parent against a family member, excluding mutual abuse; and the "all abuse" dataset consists of 2794 cases involving claims of abuse by a parent, including against non-family individuals, still excluding mutual abuse.