

April 13, 2010

Daniel S. Pine, M.D., Chair and Members of
The Childhood and Adolescent Disorders Work Group
American Psychiatric Association
1000 Wilson Boulevard, Suite 1825
Arlington, Va. 22209-3901

RE: Evaluation of "Parental Alienation Disorder" - Condition Proposed by Outside Sources, believed to be proposed for inclusion under Disorders Usually First Diagnosed in Infancy, Childhood, or Adolescence.

Dear Dr. Pine and Members of the Childhood and Adolescent Disorders Work Group:

This letter expresses the concerns of the National Organization for Women Foundation regarding the American Psychiatric Association potentially adding the so-called Parental Alienation Disorder (PAD) (proposed subject disorder) to the Diagnostics and Statistics Manual - V (DSM-V). It is the mission of our organization to advocate for the rights of women, and for many years we have witnessed the abuse of women in family courts accused of this "disorder." Its central premise is that accusations of physical or sexual abuse of children that arise during divorce or custody disputes are always (or nearly always) false -- yet empirical evidence is utterly lacking for such a claim.

We must ask whether an apparent and alarming increase in the numbers of minor children killed by fathers in situations involving child custody challenges, visitation or child support is linked to the accusation of parental alienation, resulting in the abusive parent being granted custody or increased visitation. The alienation accusation has frequently been used by abusive parents to gain custody; and many more children may be placed at serious risk if the proposed subject disorder is given professional recognition in the DSM-V. We therefore object to any formal consideration of the proposed subject disorder and firmly oppose its inclusion in the DSM-V.

The fact that two prestigious legal and judicial professional organizations have stated in their publications that the proposed subject disorder should be inadmissible in court should be sufficient indication that incorporation of the alleged disorder in the DSM would be without justification.

Acceptance of this supposed disorder into the DSM has been promoted by so-called fathers' rights groups, many of which are well-funded and politically active, but do not

have the best interests of the child as their primary objective in custody determinations. Nor do they respect the critical importance of valid, peer-reviewed scientific research findings in identifying what is a psychological or psychiatric "disorder." Rather their goal is to raise the credibility of what is in reality often a false accusation that becomes a weapon against a protective parent in child custody disputes.

We believe that if the proposed subject disorder is added to the DSM-V it will be given an undeserved credibility as it is used unfairly against protective parents -- usually mothers -- in the courts. Frequently, the accusation of alienation figures into child custody cases when there is documentation that a parent --usually a father -- has been sexually and/or physically abusive, sometimes of the children as well as the mother. In many cases, the accusation of alienation has been deployed as a tool of intimidation. Over the past two decades, the National Organization for Women and many of our chapters have received hundreds of calls from women who have been subjected to what can be termed a "scorched earth" strategy of courtroom tactics to wear them down financially and emotionally and who have been accused of the false alienation "disorder." There is a pattern here which strongly indicates that a network of activists, lawyers and even some court personnel have instructed one another on how to deploy this accusation as a tactic to disadvantage protective mothers seeking custody.

In our view, the late Dr. Richard Gardner, who created the notion of the proposed subject disorder, had the clear intention without sufficient scientific foundation of promoting the use of this "disorder" by attorneys and other court personnel and consultants to disadvantage a protective parent seeking custody of minor children. This proposed subject disorder has not met the requirements of the scientific review by subjecting it to empirical studies, accompanied by peer review. It simply does not rise to the equivalent of a psychiatric or psychological disorder or disease. It has been routinely rejected by courts and mental health professionals as inadmissible in courtrooms. The American Bar Association's Spring 2006 journal article, "The Evidentiary Admissibility of Parental Alienation Syndrome: Science, Law and Policy," concluded that the supposed disorder is inadmissible in court "given its lack of scientific validity and reliability." The National Council of Juvenile and Family Court Judges rejects it and recommends that "under relevant evidentiary standards, the court should not accept this testimony." In their publication, *Navigating Custody & Visitation Evaluations in Cases with Domestic Violence: A Judge's Guide* (2nd edition). Reno, NC: NCJFCJ, page 24, the authors declare:

The theory positing the existence of "PAS" has been discredited by the scientific community.[53] In *Kumho Tire v. Carmichael*, 526 U.S. 137 (1999), the Supreme Court ruled that even expert testimony based in the "soft sciences" must meet the standard set in the *Daubert* [54] case. *Daubert*, in which the Court re-examined the standard it had earlier articulated in the *Frye* [55] case, requires application of a multi-factor test, including peer review, publication, testability, rate of error, and general acceptance. "Parental Alienation Syndrome" does not pass this test. Any testimony that a party to a custody case suffers from the syndrome or "parental alienation" should therefore be ruled inadmissible and/or

stricken from the evaluation report under both the standard established in *Daubert* and the earlier *Frye* standard.[56]

The proposed subject disorder does not properly take into account the realistic causes, including heightened emotional stress, that almost always occur during a divorce especially when there is significant animosity between the ex-spouses. Gardner's alleged disorder makes excuses for one party in the court to accuse the other of brainwashing the children. Especially in the many cases where children have been molested or abused by a parent, use of this allegation has the effect of disregarding the child's testimony of pain and suffering by diagnosing that the child has been coerced into making accusations.

Many of the true victims in these divorces are re-victimized by the use of the proposed subject disorder as it forces them to agree to joint or full custody for a parent whose abuse of the child (and often of the mother as well) led to the divorce in the first place. That alone should make it an abomination to the medical practice. No objective testing suggests that protective behaviors constitute a psychiatric or psychological disorder; in fact, anger and fear are natural emotional reactions when abuse is involved. To be sure, one parent may say nasty things about the other during a trial in the presence of the child. But irrationally, the accusation of alienation causes the courts to thereby conclude that no abuse is occurring behind closed doors in that relationship, when the opposite is more likely to be the case.

In certain families it is very common for one parent, who previously was not active in the child's life, to suddenly use controlling and abusive techniques to control the child if the parent feels he or she may lose that child upon the divorce. The abusive parent may attempt to "buy" the child's affection using money or gifts. Even more frequently, when the mother is being abused in the relationship, courts may not take this battery into consideration when awarding custody. In these cases the abused mother may seem more hysterical and emotional in gaining custody of her children because she legitimately fears for their safety. This is the emotional ground that accusers of alienation use to gain an advantage in the courtroom. The mother is said to be emotionally unfit to have full custody and even to have been telling lies about the abusive parent to the children. In too many cases, psychological evaluators minimize the importance of violence against the mother, or pathologize her responses to it, accusing her of alienating the children from the father; and the upshot is a recommendation giving custody to the father in spite of his history of violence.

To place a false disorder in the DSM would give it unwarranted legitimacy to be used by more and more professionals. Aggressively promoted by a well-funded network of so-called "father's rights" groups, the "parental alienation disorder" is already believed to be true by far too many because it has an official-sounding name. That misperception creates a very dangerous environment for children who need protection from an abusive parent. Even Mr. Gardner himself admitted that the accusation of an alienation "syndrome" is used by "bona fide abusers" as a weapon in court against the accusing parent. Abusive parents should not be allowed to deny their abuse and claim that the child's animosity

against them results from the accusing parent's brainwashing or programming of that child.

Finally, there is the problem of what appears to be a significant number of cases of violence -- beatings and murders -- of children by fathers in situations involving child custody challenges, visitation or child support complications. Whether these are cases where the father has gained custody with the help of a parental alienation accusation and whether there had been previous documentation of that parent's violent behavior is not always known. But there are enough tragic cases where such questions must be asked. Would legitimization of this alleged disorder accelerate its use in the courtroom, being especially helpful for abusive parents to gain custody? We believe that will likely be the case.

For all these reasons, the National Organization for Women urges the American Psychiatric Association not to add the proposed subject disorder to the Diagnostics and Statistics Manual-V.

Thank you for your consideration.

Sincerely,

Terry O'Neill
President

Cc: Ronald E. Dahl, M.D.
Regina Smith, M.D.
Rachel Klein, M.D.
James Leckman, M.D.
Ellen Leibenluft, M.D.
Judith Rappoport, M.D.
David Shaffer, M.D.
Eric Taylor, M.D.
Charles Zeanah, M.D.