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ABCs of Parental Alienation for Attorneys Who Defend False Allegations of Abuse

Cases of physical and sexual abuse against children are deeply concerning. These cases are particularly egregious when they involve a parent. No matter who the alleged abuser is, all child complaints of abuse must be taken seriously. While research shows that a vast majority of allegations reported by children are true,[1] sometimes children falsely accuse a parent of abuse. For instance, if a child is in the middle of a contentious custody battle, allegations of abuse can be initiated by a child at the behest of an alienating parent. When this happens, the fallout can have grave consequences for the accused. In our collective experience as a clinical and forensic psychologist and a family law attorney, we have been involved in many cases where parental alienation is the driving force in a criminal charge of abuse against a parent.

When Parental Alienation Spurs False Allegations of Abuse

Parental alienation (PA) is a pathological dynamic in which one parent strives to undermine and sever a child's relationship with the other parent.[2] Some children, without adequate justification, reject one parent, align strongly with the other parent, and adopt the preferred parent's behaviors and attitudes toward the rejected parent.[3] PA places enormous stress on the family. Children and teenagers are highly susceptible to negative influences from a parent. The child's suggestibility makes it easy for the child to be swayed, manipulated, cajoled, bribed, brainwashed, and coached by a determined parent.[4] An alienating parent might verbally assault, isolate, corrupt, reject, terrorize, ignore, and overpressure the children to alienate them from the targeted parent. In fact, an alienating parent might use any number of behavioral strategies to turn the child against the targeted parent. Some of the more notorious strategies include badmouthing, interfering with parenting time, interfering with communication, describing the targeted parent as dangerous, and demanding allegiance from the child.[5] Without effective intervention, the impact of PA on the child is huge. For instance, because of the programming to hate an otherwise loving parent, the child learns to ignore the rights of others, including an ongoing disrespect of authority.[6] A follow-up study of alienated children found that a significant portion experienced depression, anxiety, divorce, and substance abuse problems as adults.[7]

In PA, the child becomes aligned with the alienating parent and wittingly or unwittingly carries out the mission of destroying the targeted parent. And sometimes, a child advances a false allegation of abuse at the behest of the alienating parent. Children who have been enticed into making a false allegation of sexual abuse can take on the role of the professional victim; enabling others to mistreat, criticize, take advantage, and be disrespectful to them.[8] Also, when a child is brainwashed into falsely accusing a

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parent of abuse, the child may grow to believe that the abuse actually occurred. This is why manipulating a child to lodge a false allegation of abuse against the targeted parent is an especially poisonous alienating strategy.[9] This toxic strategy effectively severs the targeted parent's ability to maintain a link to the child. Eventually the targeted parent is forced to shift focus to the ensuing criminal charge that could threaten his or her freedom.

Presenting the Best Defense Against a False Allegation of Abuse

A criminal allegation of abuse against a child is a serious crime with profound implications. Criminal defense attorneys must present all plausible theories in a child abuse case. As part of a criminal defendant's right to present a defense, a defendant has a Sixth Amendment right to confront any witnesses and a Fourteenth Amendment right to present favorable evidence. Each must be explored to provide effective assistance of counsel. The criminal defense attorney must expose the bias of a prosecution witness, either by cross-examination or via the presentation of extrinsic evidence.[10] If certain formative facts give rise to an inference of bias by a prosecution witness, a defendant has a constitutional right to expose those facts to the jury, including facts that would motivate a witness to testify falsely.[11]

When a parent is falsely accused of child abuse and there is no legitimate reason for the child to have a motive to hate or fear the parent, evidence of PA is central to establish a motive for the child to fear, hate, and be biased against the accused parent, thereby testifying falsely. Under California law, for example, the existence or nonexistence of a bias, interest, or motive to falsify one's testimony is relevant and may be used to attack the credibility of a witness.[12] Such bias, interest, or motive may be established on cross-examination or by extrinsic proof.[13] Defense counsel should be allowed wide latitude in developing facts that show bias or interest of a witness and thus affect his or her credibility. Other States have similar evidence rules regarding the credibility of a witness and relevant evidence. For instance, in *Com. v. Buzzell*, the Massachusetts court stated that "[e]vidence of bias is almost never a collateral matter."[14]

The California Supreme Court held that expert testimony that simply informs the jury of certain psychological factors that may impair the accuracy of eyewitness identifications "falls well within the broad statutory description of 'any matter that has any tendency in reason' to bear on the credibility of a witness."[15] Testimony of this nature falls squarely in the purview of an expert witness as it is outside the scope of common experience, thus helpful to the trier of fact and generally passing evidentiary standards. The *McDonald* court also noted that in a sex abuse case, "expert medical testimony may be admitted to impeach the credibility of the complaining witness by showing that he suffers from a particular mental disorder that impairs his ability to tell the truth."[16] A defense attorney should seek to admit an expert who can testify to psychological factors that affect a child witness's ability to perceive, recollect and communicate, in other words, memory, and influence his or her biases and motives. Other cases involving sex offenses have approved the use of expert psychological testimony admitted for similar purposes.[17]

Under the Fourteenth Amendment due process clause, a criminal defendant also has the right to present favorable evidence in support of his or her defense.[18] Like evidence of third-party culpability, evidence of PA seeks to establish that the culpability for the victimization of the child lies with the alienating parent who has emotionally abused the child rather than the defendant who is accused of physical or sexual abuse.

Determining whether PA is involved can help an attorney better question the credibility of the child as the accuser. Put differently, when a parent claims that he or she is wrongfully accused of child abuse, evidence of child alienation against that parent is relevant to establish a motive for the child to hate or be biased against the accused parent, thereby testifying falsely. In a criminal case involving PA, it is important to offer proof of the existence of PA because it may help attack the motive of the accuser, which would, unfortunately, be the child. It will also help show the court or the jury that the accusations are not based on reality but are the nefarious consequences of alienation.

There is a substantial body of research developed over several decades in the fields of early childhood development, social psychology, and cognitive and learning disciplines concerning the suggestibility of children, factors influencing the accuracy of child witness reports, and its relation to PA.[19] The numerous peer-reviewed articles on "memory, suggestibility, stereotype induction, social influence, and coercive influence demonstrate that children are susceptible to accepting, and repeating as if true, suggestions implanted by adult interviewers that innocent adults did harmful or illegal things."[20] It is the duty of the criminal defense attorney to tease out the evidence that will support the defense.

Rules of Thumb for Detecting PA and False Allegations

PA in criminal cases can be uncovered by using a fact-finding approach that considers all possible explanations for the allegation of abuse.[21] It is the criminal defense attorney's job to examine all hypotheses and to expose the pernicious influence of PA when it is at play. Prosecutors rarely use such an approach. Almost always, they take the allegation against the parent at face value and rarely consider the role of PA in the criminal charge.

Here are some rules of thumb for criminal defense attorneys to detect false allegations of abuse as a part of PA:

1. In PA, the alienating parent engages in many malicious strategies, not just one or two.[22] Lodging an allegation of abuse — by itself — would not be a red flag for an alienation process. But if many strategies are being employed including an allegation of abuse, PA would be more likely. Defense counsel must look at the fact pattern to determine if it supports a theory of alienation and what offers of proof can be shown for each alienating strategy. If PA is diagnosed, the validity of the allegation of abuse against a parent must be questioned.

2. In a forensic interview, a physically or sexually abused child is typically anxious, scared, worried, conflicted, ambivalent, and prone to recantations.[23] The truly abused child wants to remain in a relationship with the abusive parent because of their emotional bond and sense of loyalty.[24] In contrast, a child who is calm, cool, collected, and smooth may be fabricating the allegation. Children who are subjected to PA usually lack guilt, ambivalence, and any positive feelings toward the targeted parent. Alienated children are not upset or conflicted

but rather focused on a campaign of denigration against the targeted parent.[25]

3. A timeline of behaviors and statements will often reveal PA and a fabricated allegation. An allegation of abuse that occurs within days or weeks of a major event in a divorce proceeding can reflect a fabricated story. For instance, an allegation of physical or sexual abuse that is lodged against a parent after he or she files for divorce, files for primary custody, starts a new romantic relationship, or petitions the court for permission to relocate to another city is frequently a fabrication.[26]

4. If the allegation of abuse first occurs *during* a divorce or child custody proceeding — not before — a fabricated story should be strongly considered. If multiple allegations are made during the legal proceeding, that is a huge red flag for fabrication.[27]

5. If the accused parent does not have a prior history of aggressive behavior, inappropriate sexual activity, criminality, or serious substance abuse, it could be possible that the current allegation of physical or sexual abuse is false.

6. Some children, especially younger ones, will believe physical or sexual abuse happened to them if they are repeatedly asked leading questions by a parent, investigator, or evaluator. Children want to please authority figures. In such circumstances, very young children have a difficult time distinguishing fact from fantasy.[28]

7. Sometimes a parent will misconstrue or misinterpret what a child says and then magnify it into an act of physical or sexual abuse, especially if PA dynamics are at work.[29]

Expert Witness and PA

When a false accusation that is based on PA is charged, it is critical that the defense attorney presents an expert witness who can explain PA and suggestibility to the court. A failure on the part of a defense attorney to, at least, attempt to present testimony on a scientific subject on behalf of the defendant is likely to be considered ineffective assistance of counsel and a deprivation of the compulsory process for obtaining witnesses in the defendant's favor. To explain, the Sixth Amendment to the U.S. Constitution affirms that "[i]n all criminal prosecutions, the accused shall enjoy the right to [. . .] have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."[30] And the Court has interpreted that right broadly. The Court has proclaimed that "[t]here can be no doubt that an effective defense sometimes requires the assistance of an expert witness."[31] Therefore, an expert should be appointed "whenever the [expert] services are 'necessary to the preparation and presentation of an adequate defense.'"[32] More importantly, in *United States v. Sloan*, the Court found that "[w]ithout that assistance [of an expert], the defendant was deprived of the fair trial due process demands."[33] The Fifth Circuit came to a similar decision in *Flores v. Estelle*. In that case, the court held that "the trial court erred in refusing to require [the expert] to testify, thereby depriving [the defendant] of effective compulsory process for obtaining witnesses in his favor."[34]

It is a defense attorney's duty to present an expert witness on PA. An attorney who fails to present such an expert is doing his or her client a disfavor. Courts are likely to find that such a mistake is a violation of the Sixth Amendment. Also, if the attorney tries to present an expert on PA, and the court stops the expert from testifying, that decision will likely be unconstitutional. In a criminal case, a court may be more likely to admit the expert witness as a matter of routine.[35] If an expert witness is not offered, the jury is likely only going to hear from the prosecution's expert. The court's hands are often tied when a criminal defense attorney does not effectively advocate for the client.[36] For instance, expert testimony about the vulnerability of a child to suggestion is routinely admitted by trial courts.[37] Likewise, expert testimony concerning whether a witness has been coerced or the factors affecting the voluntariness of a confession is routinely admitted.[38]

It is equally important to ensure the prosecutorial expert does not bolster the victim's credibility. In *Montana v. Byrne,*[39] a court found that an "expert's testimony that malicious false reports of sexual abuse are 'rare' and 'doesn't happen very often' improperly bolstered victim's testimony at trial for felony sexual intercourse without consent with a victim 12 years old or younger…" In this case, the court stated that an expert's testimony regarding credibility "invades jury's function by placing stamp of scientific legitimacy on victim's allegations" and reversed and remanded the case for a new trial.[40]

Case Vignette #1

Mark was accused of sexually abusing his five-year-old son, Evan. Evan reported that his father had fingered his butt on several occasions. Mark and his wife, Sarah, had separated and were involved in a contested child custody battle. Sarah wanted to have primary custody of Evan, while Mark wanted a shared custody arrangement. Sarah had informed Mark that she was having an affair and wanted a divorce. Mark immediately filed for divorce and was quite anguished because they had been married for 10 years. Sarah was engaging in numerous strategies of PA against her soon-to-be ex-husband. Four weeks after filing for divorce, Mark was accused of the sexual abuse of Evan. A criminal charge was filed. Mark adamantly denied the charge against him. At trial, a PA expert presented a timeline of events to the jury. It was apparent that the allegation of sexual abuse was fabricated to permanently separate Mark from Evan. The jury was convinced of Mark's innocence and found him not guilty.

Case Vignette #2

Mary and Henry had been separated for nine months and were pursuing a divorce. They had two children, Hope (eight years old) and Mack (five years old). Each parent wanted to have primary custody of the two children. During the separation, Henry was engaging in multiple strategies of PA against Mary. Mary began a new romantic relationship and was emotionally moving on from her failed marriage. Within 16 days of finding out about her new relationship, Henry accused Mary of strangling Mack during a recent visit. Henry was so upset that he called the police, and a criminal charge was filed. At trial, a PA expert presented a timeline of events to the jury. The timeline demonstrated that the allegation against Mary was lodged after Henry found out about her new romantic partner. No physical evidence of strangulation existed. It became obvious that Henry hoped the criminal charge against Mary would prevent her (and her new partner) from having a close relationship with his children. A jury acquitted Mary of the criminal charge.

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Case Vignette #3

Michael and Stephanie have been separated for four months as they pursue a divorce. They have three children, ranging in age from two years old to 11 years old. Stephanie wants to have primary custody of their children. Her goal is to move to Hawaii, where her parents reside. Stephanie began engaging in many behavioral strategies of PA. She then accused Michael of sexual abuse of their five-year-old daughter, Megan. Stephanie was convinced that Michael had "touched Megan's private parts." Stephanie took Megan to her pediatrician, who found "some redness" around her vagina. Stephanie contacted the police, and a criminal charge was filed. At trial, Stephanie's multiple alienating behaviors were divulged. Her desire to move the children to Hawaii was exposed as her motive for filing a criminal charge against her soon-to-be ex-husband. Stephanie believed that a conviction against Michael would give her sole custody of the children and allow her to move to another state. The jurors acquitted Michael after they heard the PA expert explain Stephanie's alienating behaviors and conniving motive.

Conclusion

It is a grave mistake to simply assume that all criminal charges of physical or sexual abuse against a parent are true. This statement is especially valid when PA dynamics are detected in a family. Defense attorneys and mental health experts can work collaboratively in a criminal abuse case involving a child and a parent. In addition to exposing PA in a case, the mental health expert can help put together the timeline of events and statements that will prove to the jury that the allegation of abuse is false and that the accused parent should be acquitted because he or she is the victim of PA tactics.

No one wants a truly abusive parent to escape accountability and fool the criminal justice system. Also, no one wants an innocent parent to be unjustly convicted of a crime. When PA is not considered in a case, serious mistakes can be made. Defense attorneys can work with mental health experts to make sure that such mistakes are avoided.

PA is a toxic and pathological phenomenon that often finds its way into the criminal courtroom. False allegations of abuse can and do occur, especially when they are being devised and weaponized by PA. The alienating parent with the "help" of the alienated child — rather than the accused, targeted parent — is the culprit in such criminal matters.

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Notes

1. M. Cyr & G. Bruneau, *False Allegations of Child Sexual Abuse, in* M. St-Yves & M. Tanguat (eds.), The Psychology of Criminal Investigations: The Search for the Truth 199-228 (2008).

2. D. Lorandos & W. Bernet (eds.), Parental Alienation — Science and Law (2020).

3. J.J. Harman, R.A. Warshak, D. Lorandos & M.J. Florian, *Developmental Psychology and the Scientific Status of Parental Alienation*, 58(10) Developmental Psychology 1887–1911 (2022); https://doi.org/10.1037/dev000140.

4. S.J. Ceci & M. Bruck, *Children's Suggestibility: Characteristics and Mechanisms,* 34 Adv. Child Dev. Behav. 247-281 (2006).,

5. A. Baker & D. Darnall, *Behaviors and Strategies Employed in Parental Alienation*, 45(1-2) J. Divorce and Remarriage 97-124 (2006).

6. Richard Gardner, *Future Predictions on the Fate of PAS Children: What Hath Alienators Wrought? in* International Handbook of PAS (2006).

7. A. Baker, Adult Children of Parental Alienation Syndrome: Breaking the Ties That Bind 17 (2007).

8. *Id*.

9. A.D. Blotcky, *Timelines Are a Critical Tool in Cases of False Allegations of Abuse and Parental Alienation*, Psychiatric Times (May 12, (2002).

10. *See* People v. Balderas, 41 Cal.3d 144 (1985). *See also* People v. Monroy, No. C086798, 2022 WL 1284219, at *16 (Cal. Ct. App. Apr. 28, 2022), review denied (July 13, 2022) (*quoting Balderas*: "Now that both parties are aware of the importance of the intent issue, both must have the opportunity to introduce all evidence at their command on that issue." (*Id*. at 199 n.25). This was the case even though evidence of intent to kill was relevant at the original trial to prove valid theories of deliberate and premeditated murder as an alternative first-degree murder theory, or express malice to prove second degree murder. Had a new trial on the special circumstance been denied by the *Balderas* court because the prosecution could have proved intent to kill at the original trial, the *Figueroa* court would have been correct to rely on *Balderas*. But that was not the case. Instead, the *Balderas* court remanded for a new trial on the special circumstance, allowing the prosecution to prove intent to kill using "all evidence at their command on that issue." (*Balderas*, at 199 n.25.)

11. *See* Davis v. Alaska, 415 U.S. 308 (1974); *see also* United States v. Feldman, 788 F.2d 544 (9th Cir. 1986); Chipman v. Mercer, 628 F.2d 528 (9th Cir. 1980) (Kennedy, J.); United States v. Schoneberg, 396 F.3d 1036 (9th Cir. 2005); United States v. Lankford, 955 F.2d 1545 (11th Cir. 1992); United States v. DeSoto, 950 F.2d 626 (10th Cir. 1991).

12. *See* People v. Avelar, 193 Cal. App. 2d 631, 634, 14 Cal. Rptr. 520 (Ct. App. 1961). *See also* Newman v. Los Angeles Transit Lines, 120 Cal.App.2d 685, 691, 262 P.2d 95 (1953).

13. *Avelar, supra* note 12, at 635.

14. *See* Commonwealth v. Buzzell, 79 Mass. App. Ct. 460, 947 N.E.2d 75 (2011) ("The right of a criminal defendant to cross-examine a prosecution witness to show the witness's bias, and hence to challenge the witness's credibility, is established in the common law, in the United States Constitution, and in the Massachusetts Constitution. U.S.C.A. Const. Amend. 6; M.G.L.A. Const. Pt. 1, Art. 12.") *See also* State v. Crum, 287 Or. App. 541, 403 P.3d 405 (2017); *see also* Mitchell v. State, 862 So. 2d 908 (Fla. Dist. Ct. App. 2003) ("Error in precluding defendant from cross-examining state's witness regarding his alleged bias against African American men, such as defendant, dating assault victim, was not harmless, in trial for trespass of structure and battery; witness's credibility was crucial to State's case, in light of contradictory testimony by assault victim that defendant did not enter neighbor's house after she ran there in course of argument and that defendant had not struck neighbor. U.S.C.A. Const. Amend. 6; West's F.S.A. § 90.608(2)."). *See also* Jackson v. State, 695 P.2d 227, 230 (Alaska Ct. App. 1985) ("A more particular attack on the witness's credibility is effected by means of cross-examination directed toward revealing possible biases, prejudices, or ulterior motives of the witness as they may relate directly to issues or personalities in the case at hand. The partiality of a witness is subject to exploration at trial, and is "always relevant as discrediting the witness and affecting the weight of his testimony." 3A J. Wigmore Evidence § 940, at 775 (Chadbourn rev. 1970). We have recognized that the exposure of a witness's motivation in testifying is a proper and important function of the constitutionally protected right of cross-examination.").

15. See People v. McDonald, 37 Cal. 3d 351, 690 P.2d 709 (1984), overruled on other grounds by People v. Mendoza, 23 Cal. 4th 896, 4 P.3d 265 (2000).

16. *Id.* at 370.

17. *See* State v. James B., Sr., 204 W.Va. 48, 50, 511 S.E.2d 459, 461 (1998) ("Expert psychological testimony is permissible in cases involving incidents of child sexual abuse and an expert may state an opinion as to whether the child comports with the psychological and behavioral profile of a child sexual abuse victim, and may offer an opinion based on objective findings that the child has been sexually abused. Such an expert may not give an opinion as to whether he personally believes the child, nor an opinion as to whether the sexual assault was committed by the defendant, as these would improperly and prejudicially invade the province of the jury." Syl. Pt. 7, State v. Edward Charles L., 183 W.Va. 641, 398 S.E.2d 123 (1990)."). *See also* Sexton v. State, 529 So. 2d 1041, 1049 (Ala. Crim. App. 1988) ("We think the true rule is that admissibility depends on the nature of the issue and the circumstances of the case, there being a large element of judicial discretion involved." Bell v. State, 435 So.2d 772, 776 (Ala. Cr. App. 1983) (quoting Hamilton v. United States, 73 F.2d 357, 358 (5th Cir. 1934)). In McCord, "Expert Psychological Testimony," *supra*, the author outlines a balancing test to determine whether such evidence should be admitted in cases of child sexual abuse. "A review of the case law and commentary suggests that there are four general factors that should be considered: necessity, reliability, understandability, and importance." McCord, "Expert Psychological Testimony" at 31. We refer those interested to the rather lengthy commentary explaining the sub-inquiries under each category, but we note that, in general, the categories are defined as follows: Necessity — the extent to which a fair trial makes expert opinion critical. For example, expert opinion may be extremely necessary in a case where, as here, the defense raises the inference that because the prosecutrix delayed reporting the abuse her story is suspect. This inference should be allowed to be rebutted by expert testimony that delayed reporting is very common among child sexual abuse victims. Reliability — the extent to which the subject of expert opinion has achieved general acceptance in the relevant scientific community. This category accommodates the concerns underpinning the *Frye* test. See Frye v. United States, 293 F. 1013 (D.C. Cir. 1923). Understandability — the extent to which the expert opinion will actually assist the trier of fact. Is it beyond the knowledge of the average juror? Can it be easily explained and/or is it likely to overwhelm the jury? Importance — the extent to which the expert opinion is dispositive of the issue in the case. This category accommodates the concerns underlying the rule against testimony on the 'ultimate issue.' A high degree of importance, unlike all the other categories, weighs against

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admissibility. Our weighing of the factors convinces us that Dr. Renfro's testimony was admissible." *See also* People v. Williams, 78 Cal.App.4th 1118 (2000) ("no evidence of prior abuse necessary to admit expert testimony concerning battered women's syndrome to explain the purported victim's behavior.").

18. *See* Washington v. Texas, 388 U.S. 14 (1967); *see also* Chambers v. Mississippi, 410 U.S. 284 (1973); Davis v. Alaska, 415 U.S. 308 (1974); United States v. Scheffer, 523 U.S. 303 (1998); Edward Imwinkelried, *A Defense of the Right to Present Defense Expert Testimony: The Flaws in the Plurality Opinion in United States v. Scheffer*, 69 TENN. L. REV. 539 (2002).) *See also* Agavo v. Johnson, No. 213CV01741JCMDJA, 2021 WL 4851061, at *15 (D. Nev. Oct. 18, 2021), *aff'd*, No. 21-16908, 2023 WL 109724 (9th Cir. Jan. 5, 2023) ("The Supreme Court held that by precluding the cross-examination, the eyewitness was "in effect asserting, under protection of the trial court's ruling, a right to give a questionably truthful answer to a cross-examiner pursuing a relevant line of inquiry" and "[i]t would be difficult to conceive of a situation more clearly illustrating the need for cross-examination." *Id*. at 314. The Supreme Court declined to "speculate as to whether the jury, as sole judge of the credibility of a witness, would have accepted [the defense's] line of reasoning had counsel been permitted to fully presented it," but concluded "the jurors were entitled to have the benefit of the defense theory before them so that they could make an informed judgment as to the weight to place on the witness's testimony." *Id*. at 317 (citation omitted). The Supreme Court reversed because "[t]he accuracy and truthfulness of [the witness's] testimony were key elements in the state's case against petitioner" and the eyewitness "provided 'a crucial link in the proof ... of petitioner's act.' " *Id*. at 317, 321.10").

19. J.J. Harman, R.A. Warshak, D. Lorandos & M.J. Florian, *Developmental Psychology and the Scientific Status of Parental Alienation*, 58(10) DEVELOPMENTAL PSYCHOL. 1887–1911 (2022), https://doi.org/10.1037/dev000140.

20. RICHARD GARDNER ET AL., THE INTERNATIONAL HANDBOOK OF PARENTAL ALIENATION SYNDROME: CONCEPTUAL, CLINICAL AND LEGAL CONSIDERATIONS 358 (2006).

21. K. London, M. Bruck, S.J. Ceci & D.W. Shuman, *Disclosure of Child Sexual Abuse: What Does the Research Tell Us About the Ways That Children Lie?* 11(1) PSYCHOL. PUB. POLICY & L. 194-226 (2005).

22. W. Bernet & L.L. Greenhill, *The Five-Factor Model for the Diagnosis of Parental Alienation*, 61(5) J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 591-594 (2022).

23. W.T. O'DONOHUE & M. FANETTI, FORENSIC INTERVIEWS REGARDING CHILD SEXUAL ABUSE: A GUIDE TO EVIDENCE-BASED PRACTICE (2016).

24. S. Radcliffe & D. Pollack, *Why Some Children Want to Stay With Their Abusive Parents*, NEW JERSEY L.J. (July 5, 2021).

25. D. LORANDOS & W. BERNET, *supra* note 2.

26. A.D. Blotcky, *Timelines Are a Critical Tool in Cases of False Allegations of Abuse and Parental Alienation*, PSYCHIATRIC TIMES (May 12, 2022).

27. A.D. Blotcky, *Child Abuse Allegations: Sorting Out Lies Versus Truth*, PSYCHIATRIC TIMES (August 25, 2021).

28. C. Hughes-Scholes & M.B. Powell, *An Examination of the Types of Leading Questions Used by Investigative Interviewers of Children*, 31(2) INTERNAT'L J. POLICE STRATEGIES AND MANAGEMENT 210-225 (2008).

29. W. Bernet, *False Statements and the Differential Diagnosis of Abuse Allegations*, 32(5) J. AM. ACAD. CHILD ADOLESCENT PSYCHIATRY 903-910 (1993).

30. U.S. CONST. AMEND. VI.

31. *See* Williams v. Martin, 618 F.2d 1021, 1025 (4th Cir. 1980). *See also* Cook v. Stewart, No. CV-97-146-PHX-RCB, 2000 WL 36736584, at *1 (D. Ariz. May 3, 2000) ("Regarding the provision of expert services, an expert should be appointed "when a substantial question exists over an issue requiring expert testimony for its resolution and the defendant's position cannot be fully developed without professional assistance."). *See also* 21 U.S.C. § 848(q)(9). Section 848(q)(9) provides in part, "Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or to the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10)."

32. *See* Proffitt v. United States, 582 F.2d 854, 857 (4th Cir. 1978), *cert. denied*, 447 U.S. 910 (1980).

33. *See* United States v. Sloan, 776 F.2d 926, 929 (10th Cir. 1985).

34. *See* Flores v. Estelle, 492 F.2d 711, 712 (5th Cir. 1974).

35. Valena Elizabeth Beety, *Cops in Lab Coats and Forensics in the Courtroom*, 13(2) OHIO STATE J. CRIM. L. 554 (2016), available at https://ssrn.com/abstract=2686231.

36. *Id*.

37. *See* People v. Harlan, 222 Cal.App.3d 439 (1990).

38. *See* In re Joshua C., 24 Cal.App.4th 1544, 1546 (1994) (trial court admitted expert testimony regarding whether the child's mother had coerced the child into making a false allegation of abuse); *see also* People v. Mayfield, 5 Cal.4th 142, 204-205 (1993) (expert testimony on subject of voluntariness). *See also* People v. Picazo, 84 Cal. App. 5th 778, 805, 300 Cal. Rptr. 3d 649, 670 (2022) ("Under the *Kelly/Frye* test, when expert testimony based on a new scientific technique is offered, the proponent of the testimony must first establish the reliability of the method and the qualifications of the witness. Reliability of the evidence is established by showing 'the procedure has been generally accepted … in the scientific community in which it developed. …' (People v. Harlan, 222 Cal.App.3d 439, 448 (1990).) [¶]."

39. *See* Montana v. Byrne, 2021 MT 238, 405 Mont. 352, 495 P.3d 440.

40. *See id*. ■

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