# The Role of the Judiciary in the Entrenchment of the Parental Alienation Syndrome (PAS)

**Richard A. Gardner. M.D.**
Clinical Professor of Child Psychiatry
Columbia University, College of Physicians and Surgeons
New York, New York

*The primary person responsible for the induction of a parental alienation syndrome (PAS) in a child is the litigating parent who hopes to gain leverage in a court of law by programming in the child a campaign of denigration directed against a target parent. In most cases alienated parents are relatively helpless to protect themselves from the indoctrinations and the destruction of what was once a good, loving bond. They turn to the courts for help and, in most cases in my experience, have suffered even greater frustration and despair because of the court's failure to meaningfully provide them with assistance. It is the purpose of this article to point out the judiciary's deficiencies and even failures in this realm. It is the author's hope that increasing recognition by the judiciary of its failures to deal effectively with PAS families will play a role in the rectification of this serious problem.*

## BASIC INFORMATION ABOUT THE PAS

### Definitions

The Parental Alienation Syndrome (PAS) is a disorder that arises primarily in the context of child-custody disputes. Although the litigants are most often the biological parents, the same disorder can arise with others who may be disputing custody of the child, e.g., a parent vs. stepparent, parent vs. grandparent, and parent vs. relative or family friend. The disorder's primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification because the target parent has always been a good, loving parent. The disorder results from the combination of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present, the child's animosity may be justified, and so the parental alienation syndrome explanation for the child's alienation is not applicable.

The alienating parent's primary purpose for indoctrinating the child(ren)'s campaign of denigration against the target parent is to gain leverage in the court of law. The programming parent believes that the more animosity the children profess against the target parent the greater the likelihood the judge will award primary custody to the alienator. It is important to note that the child's alienation is less the result of bona fide animosity or even hatred of the alienated parent, but more a manifestation of the fear that if such acrimony is not exhibited, the alienating parent will reject the child.

### PAS as a Form of Emotional Abuse

Indoctrinating a parental alienation syndrome into a child is a form of emotional abuse because such programming result in the attenuation and even destruction of the child's bond with a good, loving parent. Child abuse has been variously defined. The definition of child abuse utilized by the Senate (U.S. Senate, SB 577) states:

"Child abuse can be categorised into four different types: neglect, emotional abuse, physical abuse and sexual abuse."

With regard to the subcategory emotional abuse, ten examples are provided. Of these, seven applicable to the PAS child:

"conditional parenting, in which the level of care shown to a child is made contingent on his or her behaviours or actions"

In the PAS, the affection of the alienating parent is conditioned on the PAS child's compliance with the programmed campaign of denigration and, in many cases, the ability to provide additional "ammunition" against the target parent. As mentioned, the PAS child's love for the programmer has less to do with affection than fear of rejection if the child does not join in with the programmer against the alienated parent.

"emotional unavailability by the child's parent/carer"

The PAS child knows that the alienating parent's affection will be withdrawn if the child does not participate in the campaign of denigration.

"unresponsiveness, inconsistent or inappropriate expectations of a child"

PAS children become confused and highly anxious because they cannot rise to the challenge of the conflictual situation created by the PAS indoctrinations. It is unreasonable to ask a child to cooperate in a campaign of denigration, to do so consistently, and to do so without ambivalence (at least in the early stages). It produces in the child unnecessary confusion, tensions, and frustrations.

"premature imposition of responsibility on a child"

The child is asked to commit to memory a wide variety of indignities allegedly suffered at the hands of the alienator. Sometimes the responsibility involves promulgating a false sex-abuse accusation. This is a common spin-off of the PAS. All these indoctrinations, and the expectation that the child will parrot them accurately, place heavy burdens on the PAS child.

"unrealistic or inappropriate expectations of a child's capacity to understand something or to behave and control himself in a certain way"

Often the child cannot understand the nature of the accusations, especially the sex-abuse accusation spin-off.

"under- or over-protection of a child"

PAS children are often overprotected. They are led to believe that any contact with the target parent is dangerous. This can generalize to others. This results in the child becoming more fearful of venturing forth into the world beyond the home and more dependent on the programming parent. A vicious cycle then ensues with increasing dependency on the child's part and increasing overprotectivness on the alienating parent's part.

"failure to show interest in, or provide age appropriate opportunities for, a child's cognitive and emotional development"

The exclusionary maneuvers deprive the child of the input that the target parent can provide to the child's cognitive and emotional development.

As can be seen, PAS satisfies seven of the ten examples of emotional abuse provided in this bill.

**The Primary Symptoms of the PAS**

The eight primary symptoms of the PAS are:

1. The campaign of denigration
2. Weak, frivolous, or absurd rationalizations for the deprecation
3. Lack of ambivalence
4. the "independent thinker" phenomenon
5. Reflexive support of the alienating parent in the parental conflict
6. Absence of guilt over cruelty to and/or exploitation of the alienated parent
7. The presence of borrowed scenarios
8. Spread of the animosity to the extended family and friends of the alienated parent.

There are also three levels of parental alienation syndrome: mild, moderate, and severe (Table 1). For the purposes of this article, only a brief summary is warranted. Elsewhere, I have presented full descriptions of these three levels (Gardner, 1992, 1998).

**The Three Levels of PAS Children**

In the *mild* level, the alienation is relatively superficial, the children basically cooperate with visitation, but are intermittently critical and disgruntled with the victimized parent. In the *moderate* level, the alienation is more formidable, the children are more disruptive and disrespectful, and the campaign of denigration may be almost continual. In the *severe* level, visitation may be impossible so hostile are the children, hostile even to the point of being physically violent toward the allegedly hated parent. Other forms of acting-out may be present, acting-out that is designed to inflict ongoing grief upon the parent who is being visited. In some cases the children's hostility may reach paranoid levels, e.g., they exhibit delusions of persecution and/or fears that they will be murdered. It is crucial that evaluators properly diagnose the PAS level because each level requires a different psycho-
logical and legal approach (Tables 2 and 3).

### The Three Levels of PAS Alienators

Whereas the diagnosis of PAS is based upon the level of symptoms in the child, the court's decision for custodial transfer should be based primarily on the *alienator's symptom level*, and only secondarily on the child's level of PAS symptoms. The criteria I have found useful for assessing the alienator's level are to be found in Table 2. In the course of the evaluation, the evaluator should attempt to assess how obsessed the alienating parent is with attempts to exclude the victim parent from the child's life. The evaluator should also assess, to the degree possible, such areas as the frequency of the programming process, the frequency of exclusionary maneuvers, and the frequency of the violation of court orders. An assessment should be made of the successes the alienator has had in manipulating the legal system to enhance the programming. This is not usually difficult to do, because the alienator can predictably rely on court delays, court reluctance, and even court refusal to penalize the alienator via such measures as posting a bond, fines, community service, probation, house arrest, incarceration and custodial transfer that would prevent or interrupt further alienation. Last, the evaluator should assess the risk of intensification of programming if the alienator has gained primary custody.

## THE JUDICIARY'S ROLE IN DEALING WITH PAS CHILDREN

When courts and mental health professionals work together, there is a high likelihood of success when dealing with PAS families. In contrast, if either attempts to deal with these families separately their efforts are almost always doomed to failure. The therapist does not have the power of the court, and the court does not have the expertise of the mental health professional nor the opportunity to work in depth on an ongoing basis with PAS families. The judge in the courthouse is not available to reach out and deal with the details that are crucial to attend to if one is to be helpful to PAS families. And attorneys, although more available to their clients than judges, cannot deal with the whole family, because they are ethically prohibited from having any direct contact with their adversary's client.

Mental health professionals are basically impotent when it comes to requiring their patients to do anything. They can analyze, help people gain insight, suggest and recommend, but they have little if any power over their patients. It is through the power of the judge—specifically by recommendations to the judge—that mental health professionals have *potential* power, and it is through the threat (I have no hesitation using the word) of reporting to the court parents and youngsters who are not cooperating in the treatment program that such power is wielded.

### Court-ordered Therapy

Judges are quick to refer PAS families into treatment. Therapy has been oversold to the public and is far less efficient and effective than purported by most mental health professionals. Research supporting this fact has been extensive and is well known. Similarly, I suspect that most judges do not really have the respect for therapy that they profess in the courtroom, but it can serve as an ostensible if not expedient solution to the case. By ordering everyone into therapy, judges can make a quick decision and then move on to the next case.

Most PAS indoctrinators are not candidates for therapy. To be a proper candidate for meaningful therapy two provisos *must* be satisfied: 1) the individual has insight into the fact that he (she) has psychiatric problems and 2) the individual is motivated to alleviate these problems. PAS indoctrinators do not generally consider the programming of their children to be a manifestation of a psychiatric problem. They do not appreciate that poisoning a child against a loving parent is very much a form of emotional abuse—especially because it can result in the destruction of a strong bond between a child and a loving parent. PAS indoctrinators do not satisfy the first proviso. Furthermore, without insight into the fact that they have a psychiatric problem, they do not have the motivation to change anything—especially in the realm of the PAS indoctrinational process. Accordingly, the second proviso is also not satisfied.

My experience has been that judges do not appreciate that they cannot *really* order someone into meaningful treatment. I believe that judges often lose sight of the fact that there are certain limits to what they can accomplish with their orders. A judge can order a PAS indoctrinator to spend some time in a room with a therapist who is naïve enough to take on such a patient, but they cannot order the person to be motivated to change. Furthermore, most PAS indoctrinators do not follow through with the judge's order for therapy anyway, from the recognition that the judge is not going to follow up on it in the immediate future. Accordingly, they recognize that they can ignore such an order with impunity. What happens then is that the PAS indoctrinator continues to program the children, and the PAS becomes more deeply entrenched in them.

The high incidence of PAS families returning to court should impress judges that court-ordered therapy for PAS indoctrinators just will not work. There must be some judges who appreciate that therapy is at best a very soft science, and that the evidence is very weak that most forms of psychotherapy are of any value at all. Yet many continue to "believe in" therapy. One of the reasons for such blind commitment is clear. It is an easy transference of responsibility to the sea of "therapists" out there who are happy to take the patients' money and go through the motions of providing them with "treatment." Thus, the judges are happy, the therapists are happy, and even the alienators are happy because they know quite well that nothing will happen in the treatment, that time is on their side, and that the alleged therapy will ensure many more months and even years of opportunity for further programming. The only ones who are not happy are the victim parents whose grief and frustration mount formidably in the course of the "treatment."

**Guidelines to the Court for Dealing with PAS Children**

Table 3 provides what I consider to be the optimum guidelines for the judiciary to follow in PAS cases. Again, it is important to emphasize that the diagnosis of PAS is based upon the level of symptoms in the child, whereas the court's decision for custodial transfer should be based primarily on the *alienator's symptom level* and only secondarily on the child's level of PAS symptoms. It is to be noted that the legal approaches take up much more space than the therapeutic. The reason for this is that the legal approaches in Table 3 serve as the foundation for the therapeutic. Without the court's imposing proper restraints and restrictions on the alienating parent, the

therapist is helpless to accomplish anything therapeutic. The reader should note that I recommend two plans of legal/therapeutic intervention in moderate PAS cases.

In Plan A, primary custody can still remain with the alienating parent. I recommend that the court appoint a therapist, but not just *any* therapist. The therapist *must* be someone who is knowledgeable about the special techniques necessary for the treatment of PAS children (Gardner, 1992, 1998, 2001a). Most important are the warnings to the alienating parent that the court will impose sanctions if there is any violation of the court's orders regarding the children's visitation with the alienated parent. In Table 3 are six levels (a. to f.) of recommended judicial action, all of which can be readily implemented by the court, because an alienating parent who does not cooperate with a visitation schedule is basically in contempt of court.

In Plan B, the alienator is so relentless that the children must be transferred to the home of the alienated parent if there is to be any hope for alleviation of PAS symtoms. Here, the alienator is usually in the severe category and there is no evidence that they will cease and decist from their exclusionary maneuvers following the trial. The children, here are generally in the moderate level, but moving rapidly down the track to the severe category. Again the court does well to appoint a therapist knowledgable about the special techniques necessary for the treatment of PAS families. This therapist must monitor an extremely restrictive visitation program, contracted or expanded depending upon the relentlessnness of the alienator.

Also depicted in Table 3 are the measures that I recommend to courts when the alienator's symptoms are at the severe level and the children's symptoms are in the moderate or severe level. In such cases, the children may not be able to visit with the alienated parent, so hostile are they. In fact, they might even be dangerous to his (her) physical well-being. Accordingly, a transitional site program must be implemented. As described in detail elsewhere (Gardner, 1998, 2001a), this program requires strict restriction of the children's access to the alienator and gradual expansion of the children's access to the alienated parent—first in the transitional site, and then in the home of the alienated parent.

**The Ways in Which the Judiciary Fails to Deal Properly and Effectively with PAS Families**

I have been testifying in PAS cases since the early 1980s. I have made recommendations along these lines in many cases. I have been successful in getting courts to change primary custody in some cases. But not once has a court gone along with my recommendation to implement any of these six sanctions. On occasion, a court will *threaten* to implement one of these measures for getting alienating parents to comply with the court-ordered visitation schedule, but not once have I been in a case when a court has actually done so. Alienating parents know well that courts are not likely to come down heavily upon them for violating a court-ordered visitation schedule. Without such consequences, they continue to program the children. They know well how to "work the system." They violate court-ordered visitation schedules, and they know that they can most often do so with impunity. They recognize that the courts are slow, and that time is on their side. The longer they have access to the children, the more deeply entrenched will become their PAS symptoms. Time is one

of the PAS indoctrinator's most *powerful* weapons, and they know quite well that the courts will predictably give them time, and more time, and more time.

This is the sequence I have repeatedly seen: The PAS indoctrinator successfully alienates the children. The alienated parent goes to court (the time gap between the onset of the alienation and the court hearing may be as long as a year). The trial drags on over a span of a few weeks or even a few months. The court orders an *evaluation* (often the evaluator is someone who may know little, if anything, about the PAS). The evaluation takes four-to-five months. Five-to-six months later there is another court hearing, at which point the judge orders *therapy* for everyone. (And the therapists may know nothing about PAS either.) The alienator does not go, nor does the alienator bring the children. The alienator recognizes that he (she) can violate the court's order for treatment with impunity. The alienated parent, in desperation, decides to bring the case back to court. By this time another six-to-nine months may have elapsed. Another hearing is scheduled six months to a year later. By this point, in typical cases, the PAS has become even more deeply entrenched in the children's brain circuitry, and the children, by this time, have been alienated for three years or more (Gardner, 1997). Back in court, the judge decides that the original evaluation is too old and orders a *new evaluation*. Sometimes this may be an update of the earlier one, and sometimes a new evaluator is brought in. In either case, the judge may take the position that any evaluator will do and is not concerned with whether the evaluator has any knowledge at all of the PAS. This takes another six months to a year. The new evaluator recommends more therapy. After the third or fourth round, the children are in their teens, and the judge (by this time the fourth or fifth one) throws up his (her) hands, claiming that there is nothing that can be done with teenagers. At that point, the children have become permanently alienated, and the judiciary has basically joined forces with the alienating parent in bringing about this all too common tragic result.

My follow-up study of 99 children provides compelling evidence for this outcome (Gardner, 2001b, and at http://www.rgardner.com/refs/ar8.html). In those cases in which the court saw fit to transfer custody from the alienating to the alienated parent there was 100 percent success rate regarding alleviation, if not complete evaporation of PAS symptoms. In contrast, when the court chose to allow PAS children to remain with the indoctrinating parent, there was a 91 percent rate of permanent alienation from the targeted parent. At any point in this tragic sequence, had the court seen fit to impose the aforementioned sanctions program, it is highly likely that the PAS would have been prevented (in the early stages) and reversed (in the moderate forms, and even in some of the severe forms). This tragedy is being played out daily in courts of law throughout the United States, Canada, and many countries abroad. I have often said that over 95 percent of PAS indoctrinators would be cured (and I do not hesitate to use that word in this situation) by a weekend in jail. I really believe that this would work. However, as mentioned, I have personally not once seen a case in which a judge has even threatened to do this.

Alienators know that it is very easy to "work the system" and even "beat the system." They know that nothing will happen to them if they lie on the witness stand. They parrot the oath before testifying because they recognize that they have to swear to tell the truth in order to be allowed to then promulgate their strings of lies. They know well that the likelihood of the judge penalizing them for perjuring themselves on the

witness stand is just about zero. I have been testifying in custody cases almost 40 years. Not once have I ever seen a judge penalize a parent for perjuring himself (herself) on a witness stand. I recognize that the judge may appreciate that the witness is lying and that the lies affect the decision. However, I have never seen a case in which the judge has identified the perjury per se and penalized the witness for it. This failure to take action against perjurers provides support for PAS indoctrinators, and it is another way in which they make a mockery of the judicial process.

It is in dealing (or failing to deal) with PAS indoctrinators that the judiciary has failed abysmally in its obligation to serve children's best interests and to protect them from PAS-indoctrinating abusers. Poisoning a child to hate a loving and dedicated parent is a form of emotional abuse per se. It is important to note that courts have been very eager to impose the same sanctions on parents (usually fathers) who renege on their financial commitments to their spouses and children. However, the same sanctions are rarely imposed when courts deal with PAS alienators.

In some cases, courts have indeed implemented Plan B and transferred custody to the home of the alienated parent. Unfortunately, in most cases in which such transfer has taken place, the court has not recognized the importance of significant reduction of the alienator's access to the children. Often, a traditional visitation schedule is ordered for the alienating parent. Under such circumstances, the children continue to be programmed and so continue to victimize the target parent. Courts do well to view PAS alienators like other kinds of abusers who require very restricted time frames of access, sometimes with supervision. I know that there are cases in which courts have so restricted PAS indoctrinators, but they are so uncommon that they are considered newsworthy by the media. I, myself, have had cases in which the court has transferred custody, but I have never personally seen one in which the court has also ordered extremely restricted visitation for the programmer (such as two-to-four hours a week), and I have never seen a court ordered supervision for such an abusing parent.

However, I have heard from colleagues about isolated cases in which courts have ordered supervised visitation for PAS indoctrinators. I suspect strongly that any benefits to be derived from such an arrangement have less to do with the value of the supervisor per se and much more to do with the reduced access that supervision entailed. Even in the course of these short visits indoctrinating parents can easily program children. The healthy mother says, "How is your father?" The vocal intonations communicate concern. A PAS mother says, "How is your father?" using the same words, yet the vocal intonations communicate artificiality, no real concern, and even scorn. No supervisor can possibly stop these inferences and their effects on the child.

**The Special PAS Therapist**

With regard to the court-ordered therapy described in Table 3, I cannot emphasize strongly enough that the court *must* order treatment with someone who is knowledgeable about the special techniques necessary for treating PAS children (Gardner, 1998, 2001a). However, such treatment will prove futile if the children still have significant access to the alienating parent. The analogy to youngsters who have been inveigled into a cult is applicable here. One cannot successfully treat such youngsters as long as they are living primarily in the cult compound. Seeing them in

treatment once or twice a week for 45-60 minutes is not going to work as long as the children spend the rest of the week with the cult indoctrinators. Treating children under these circumstances is like throwing pebbles at a tank. It just won't work, and courts must appreciate this. Therapy is not a panacea. Therapy is far less effective than some judges would like to believe. But it has no chance at all for success if the therapist is not familiar with the PAS and comfortable with the special techniques necessary for treating such families.

Therapists not familiar with the special techniques necessary for the treatment of PAS children are very likely to empower them. Throughout their training they have been told that it is extremely important to "listen" to children, to "respect" them, and to be *really* sensitive to their needs. And this is in contrast to their parents who are often viewed as people who lack these sensitivities. While waving these banners they empower children and entrench ever more deeply their PAS symptomatology. Elsewhere, I have described this problem in detail (Gardner, 2002a).

It goes beyond the purposes of this article to describe in detail the special techniques necessary for therapists to utilize if they are to successfully treat PAS families. However, I will comment here on a few of the provisos that need to be satisfied for such therapists. They must be comfortable with waiving traditional confidentiality, because they must be able to communicate freely with attorneys and the court regarding what occurs in the sessions. They must be comfortable with authoritative and even dictatorial approaches: "If the children are not dropped off at their father's house by 5:00 p.m. on Friday, I will, on Monday morning, notify the court that you have been in violation of the court-ordered visitation schedule," "If the children are not returned at 7:00 p.m. this Sunday evening, as ordered by the court, on Monday morning I will recommend that the court impose sanctions—starting with posting a bond, and then a fine. If that doesn't work, I'm going to recommend that the court order you into a specified number of hours of community service. This should help you remember to comply with the court-ordered visitation schedule," "If the children refuse to visit, I will consider you to be responsible, not the children. It is clear to me that you're the one who is pulling strings here, and you are the primary reason why the children won't visit."

Therapists who are not comfortable using these authoritarian techniques, which are clearly at variance with traditional approaches, should not be treating PAS families. Judges who are not willing to order treatment with such therapists are also not working in accordance with the children's best interests.

## GUARDIANS AD LITEM

A guardian ad litem who is not familiar with the causes, manifestations, and proper treatment of children with PAS will not serve their best interests. The guardian who takes pride in supporting what children profess they want is likely to perpetuate the psychopathology of children suffering with PAS. The guardian must recognize that PAS children need to be forced into doing things that they profess they do not want to do. In order to do this, the guardian must "switch gears" and unlearn certain principles learned in law school regarding being a zealous supporter of one's client's requests and demands. Guardians must be ever aware that the client is a child, not an adult. Furthermore, he (she) must be ever aware that the client is just not any child, but a

PAS child. If these considerations are taken into account, the guardian will be comfortable doing just the opposite of what the client requests. Such a guardian must be comfortable with the children's criticisms and must be willing to be used as the excuse for the children saying to the alienating parent: "I really hate that lawyer. He says I must visit my father (mother). I really hate him (her). You know, Mommy (Daddy), I love you, and I don't want to go there, but that stupid lawyer makes me go." In this way, the guardian is used as a vehicle for assuaging the child's guilt over disloyalty to the alienator implied by any willingness to visit with the alienated parent.

I cannot emphasize this point strongly enough. PAS children want to be forced. They want to be able to say to the alienator, "I really hate going, but the judge/guardian forces me to. I really hate every minute I'm there." Once they have been able to say this, they can often visit and enjoy themselves immensely. However, on return, they will describe to the alienator all the indignities and tortures they suffered at the hands of the allegedly despised victim parent.

Most guardians would agree that they would not support a child's refusal to go to school, to the doctor, to eat, to sleep, to bathe, etc. Yet the same guardian will support zealously the child's wish not to have any contact at all with a loving parent—a parent who prior to the separation was completely devoted to the child.

The guardian who is truly working for the children's best interests will be able to say to the court: "It is not in these children's best interests for me to parrot everything they say, to rubber stamp every claim they have, and to zealously support their professions of refusal to visit their (mother/father). It is in the best interests of these children that the court order them to visit. They should also be warned that if they do not visit, their (father/mother) will be considered responsible, in contempt of court, and punished by the court." Guardians who are comfortable with this approach to their PAS clients will indeed be serving their clients' best interests.

**BLAMING THE VICTIM**

A common maneuver utilized by attorneys representing a PAS indoctrinating parent is to blame the target parent as the cause of the children's alienation. For example, an attorney representing an alienating mother may say to the court: "We don't deny for one minute that these children are alienated. There is no question about that. The husband claims that my client is programming them and they are suffering with this so-called, this alleged, "parental alienation syndrome" or whatever you call it. What he does not want to admit, Your Honor, is that he has brought this upon himself. It is <u>his</u> behavior that has brought about the children's alienation, and it has nothing to do with my client." When true PAS is present, and the victim parent has not been in any way responsible for the children's alienation, then this is a cruel maneuver, however this is typical of the kind of thing lawyers do. Fearing that the court will believe the wife's lawyer here, only adds to the misery of the victim parent.

Unfortunately, there are judges who will "buy into" this specious argument and accept as valid every frivolous, absurd, and preposterous complaint the children have to justify their campaign of denigration and ongoing rejection of the innocent victim parent. I have seen courts recommend that such fathers take courses in "parenting skills." They take the course and learn nothing, because they already have good

parenting skills. But what does happen is that more time is given to the programmer to entrench the children's PAS campaign of denigration. The "he (she)-brought-it-upon-himself (herself)" flag is sometimes waved by mental health professionals. They may use the term, *justified estrangement* to refer to the children's alienation from the victim parent. There are situations in which the court will order supervision of the victim parent in order to protect the children from his alleged abuses. The supervisors may then also wave this banner, and will interpret the children's animosity as due to something he has done in the meeting, and they usually find something. For example, a father's crying will be interpreted as a "manipulation" of the children. His beseeching the children to trust their own judgment regarding his alleged depravities will be labeled "an attempt to discredit and criticize" the alienating parent, thus violating court orders to refrain from such behavior. All this only deepens the alienated parent's sense of frustration and impotent rage.

**THE PAS VS. PA CONTROVERSY**

A parent accused of inducing a PAS in a child is likely to engage the services of an attorney who can be relied upon to invoke the argument that there is no such thing as a PAS. The reasoning goes like this: "If there is no such thing as the PAS, then there is no programmer, and therefore my client cannot be accused of brainwashing the children." This is an extremely important point, and I cannot emphasize it strongly enough. It is a central element in the controversy over the PAS, a controversy that has been played out in courtrooms not only in the United States, but in many other countries as well. And if the allegedly dubious lawyer can demonstrate that the PAS is not listed in DSM-IV, then the position is considered "proven." The lawyer may have seen PAS in many cases and even argued for its existence in them. He (she) may recognize, as well, that there were too few articles on the PAS in the early 1990s to warrant submission to the DSM-IV which was published in 1994, but that it certainly will be a candidate for DSM-V, scheduled to be published in the year 2010.

This lawyer may recognize that there are now at least 145 peer-reviewed articles in the scientific literature on the PAS (these are listed and frequently updated on my website at http://www.rgardner.com/refs/pas_peerreviewarticles.html) and that there are now at least 68 legal citations from courts of law that have recognized the disorder (these are also listed and frequently updated on my website at http://www.rgardner.com/refs/pas_legalcites.html). The lawyer may also know that there are now at least two Frye Test hearings (see Kilgore vs. Boyd [2001], and Bates vs. Bates [2002], in the aforementioned list of legal citations) in which the court ruled that the PAS has gained enough recognition in the scientific community to warrant recognition in courts of law. Such a lawyer may actually believe that such duplicity is serving the client. The lawyer hopes, however, that the judge will be taken in by this specious argument and will then conclude that if there is no PAS, there is no programming, and so the client is thereby exonerated.

Another ploy used by lawyers representing PAS alienators goes like this: "Of course, Judge, we recognize that these children are alienated. No one can deny that. What we deny is that there is such a thing as the PAS. We do recognize parental alienation, that is, PA." Substituting the term *parental alienation* (PA) for PAS muddies the waters, is a diversionary maneuver, and distracts the court from the causes of the alienation. PAS demands investigation for an alienator. PA does not. When the term PA is used,

no alienator is identified, the sources of the children's alienation are vaguer, and the causes could lie with the mother, the father, or both. The drawback here is that the evaluator who only uses PA may not provide the court with proper information about the cause of the children's alienation. It lessens the likelihood, then, that the court will have the proper data with which to make its decisions. Elsewhere, in my follow-up study of 99 PAS children, I have elaborated on this important issue (Gardner, 2002b).

## CONCLUSIONS

Indoctrinating parents are the ones who are primarily responsible for the development of PAS in their children. The children, in order to ingratiate themselves with and protect themselves from being rejected by the alienating parent, contribute to the expansion and intensification of PAS campaigns of denigration. Lawyers who work within the adversary system—although they are doing what they were taught to do in law school, that is, zealously support their clients—are playing an active role in promulgating and entrenching the PAS. They thereby join the coterie of supporters and enablers who typically surround PAS indoctrinators. Many lawyers do this even when they recognize that their client is a PAS indoctrinator. Although such lawyers may get an A+ from their law school professors, they get an F- from this medical school professor. Such attorneys are contributing to the corruption of youth, the poisoning of young minds, and the attenuation and even destruction of the important parent-child bond. Elsewhere, I have described in detail their role in producing PAS and other forms of psychopathology in children whose parents are litigating for their custody (Gardner, 1985, 1989, 1992, 1996).

Therapists also play an important role in the etiology and development of the PAS. This is especially done by their empowerment of children. Many sanctimoniously profess that they *really listen* to children (as opposed to the rest of us who do not). They profess that they *really respect* what children want (with the implication that the rest of us do not). What they are basically doing is contributing to pathological empowerment, which is a central factor in the development and perpetuation of the PAS. PAS indoctrinators know well that they can rely upon most therapists to empower their children in this way duping the therapist into joining the alienator's parade of enablers and supporters.

One would hope that by the time the parade of PAS enablers reaches the courtroom, the judiciary would recognize what is going on and bring an end to this abomination. Unfortunately, this rarely proves to be the case. Rather, the judiciary gets drawn in and contributes immeasurably to the perpetuation and entrenchment of the PAS, often with the result that children become permanently alienated from a loving and kind parent. Compelling evidence for this is to be found in my aforementioned follow-up study of 99 PAS children. When courts chose to reduce the children's access to the alienating parent, especially by a transfer of custody, there was an alleviation of symptoms in <u>all</u> cases. In contrast, when the court chose not to restrict such access, there was an intensification of the PAS, with the result of permanent destruction of bonding in over 91 percent of cases. This study provides compelling evidence that judicial decisions play a vital role in what happens to PAS children.

One of my strongest criticisms of the judiciary is that it "lacks heart" and "really doesn't care." Although family court judges *profess* that they serve the best interests

of children, their actions (or more properly, *inactions*) do just the opposite. If judges *really* cared about children who are PAS victims (and I do not hesitate to use the term *victim* to describe these children) they would act with "deliberate speed" as guaranteed in our Constitution. I have encountered myriad excuses for rescheduling trials—"The judge had to go to the doctor," "A new judge has not been assigned," "The judge has recused himself," "The judge has no time for a case of this complexity," "The judge is in the hospital and there is no replacement," "The judge had to go to a funeral," "The judge's wife is sick," etc., etc. I have heard it said that, "the most successful lawyers are those who know best how to slow up the court and delay the court's ability to make a decision." Unfortunately, there is much truth to this, and judges allow it to happen. In short, my experience has been that most judges "just do not care," their professions to the contrary notwithstanding.

The PAS is primarily a product of the utilization of the adversary system for adjudicating child-custody disputes. A parent's primary reason for indoctrinating a PAS into a child is to gain leverage in a court of law. In countries in which people cannot afford to take such disputes to court, there is little public recognition of PAS. Somehow, some way, they resolve these disputes without the utilization of the courtroom proceedings. I believe that if courtrooms were not available for the adjudication of child-custody disputes, some children would certainly suffer, but more would be better off. Years of exposure to and embroilment in courtroom litigation scar most children. To recommend that the courtroom doors be closed to parents who are disputing over the custody of their children is not realistic. However, I am convinced that such blockage, such unavailability, would protect more children than it would harm. The number of children who would suffer untoward consequences from not having a court of law available to protect them would be small compared to the benefits enjoyed by those who would not have that forum available to them. In short, the system as it exists today is doing PAS families much more harm than good and is not serving the best interests of the children. It has been the purpose of this article to focus on the judiciary's role in the perpetuation of this tragic situation.

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*This article and the tables referred to within it can be downloaded from Dr. Gardner's website at http://www.rgardner.com/ar11.html and http://www.rgardner.com/3pastables.html