

Fact Sheet: Child Sexual Abuse Allegations in Custody and Visitation Disputes*

How frequent are child sexual abuse (CSA) allegations in divorce custody disputes?

In a 1990 study of 9,000 divorces in 12 states, CSA allegations were made in less than 2% of contested divorces involving child custody. This study was commissioned by the Association of Family and Conciliation Courts.

No reliable national study documents either an increase or decrease in CSA allegations in custody disputes since 1990.

Who makes these allegations?

In the 1990 study cited above,

- Mothers accused fathers in 48% of cases
- Mothers accused stepfathers or others in 19% of cases
- Fathers accused mothers in 6% of cases
- Fathers accused stepfathers or others in 16% of cases
- Third parties accused fathers, mothers, or others in 11% of cases

How often are these allegations intentionally false?

Determining which allegations are false is often extremely difficult, and few reliable studies on this topic are available. The incidence of intentionally false reports generally appears to be 5% to 8% of all cases.

How often are these allegations “unfounded”?

The large-sample study cited above found that CSA allegations in custody disputes were substantiated about as frequently as all other CSA allegations.

What does “unsubstantiated” or “unfounded” mean?

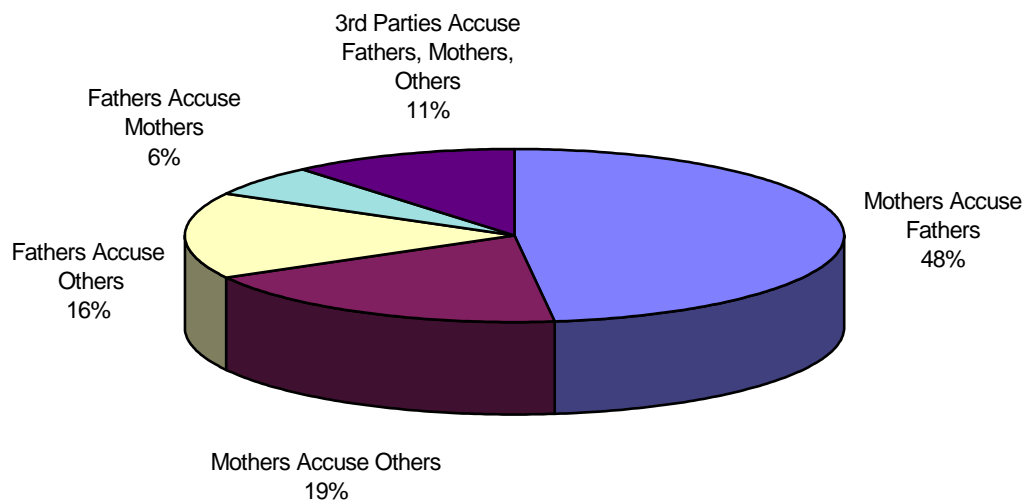
“Unsubstantiated” and “unfounded” do not mean “false.” They mean, “Not enough evidence to make a determination.” Cases may be unfounded because:

- The caseworker has no time to investigate
- The alleged victim is too young to testify
- The suspicion has been reported previously and determined to be unfounded, and is not re-investigated

*Adapted from:

Goldstein, S. L. & Tyler, R. P. (1998). Sexual abuse allegations in custody cases: Difficult decisions in divisive divorces. *APSAC Advisor*, 11(3), 15-18.

Source of Allegations of Child Sexual Abuse in Custody and Visitation Disputes*



*From:

Thoennes N. & Tjaden P. G. (1990). The extent, nature, and validity of sexual abuse allegations in custody/visitation disputes. Child Abuse and Neglect, 14, 151-163.

Characteristics of a Child-Focused, Non-Fabricating Parent

Versus

Characteristics of an Ex-Spouse-Focused, Suspect Parent

*This is not a check list - just some guidelines

1. Expresses remorse for not protecting the child sufficiently to prevent the abuse.

Versus

Expresses little or no remorse for child only vindictiveness towards ex-spouse.

2. Willing to consider other possible explanations for the behavior or statements that aroused their suspicion.

Versus

Unwilling to consider any other explanation of the child's statements, behavior, or symptoms.

3. Willing to have the child interviewed without being present.

Versus

Insists on being present when the child is interviewed and prompts her when she is questioned about the abuse.

4. Concerned about the impact on the child if he/she has to testify.

Versus

Is eager for the child to testify at all costs.

5. If allegations cannot be verified, they are willing to let go of the investigatory process so long as the child's well-being can be monitored through therapy or some other process.

Versus

Shop for other professionals who will verify her suspicions and involve the child in multiple examinations so the investigation can continue, irrespective of the impact the process is having on the child.

Adapted from:

Bresee P., Stearns, G. B., Bess, B. H. & Packer, L. S. (1986). American Journal of Orthopsychiatry, 56(4).

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Literature review: Research on false allegations of
sexual abuse in divorce. *The APSAC Advisor* 6(3),
7-10.
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Literature Review: Research on False Allegations of Sexual Abuse in Divorce

Kathleen Coulborn Faller, David L. Corwin, and Erna Olafson

Introduction

The statement, “There is an epidemic of false allegations of sexual abuse in divorce cases,” is regarded by some as a truism. The argument is that women seeking to win custody of their children, to cut off the father’s visitation, or to wreak vengeance on former spouses, falsely accuse them of child sexual abuse (Mantell, 1988; Renshaw, 1985; 1986). Such is the assertion of accused fathers, their attorneys (Gordon, 1985), and their expert witnesses (Blush and Ross, 1986; Gardner, 1989). Moreover, the media have supported and broadcast these views, and many professionals with mandated responsibility for these cases, including child protection workers, law enforcement personnel, and, most importantly, judges, have come to believe that abuse allegations during divorce are likely to be false.

Are there any empirical findings that lend credibility to the view that most allegations of child abuse in divorce are false? In this article, literature addressing this issue will be critically reviewed, looking specifically at data cited, sample size, any sample biases, and the criteria employed to determine the veracity of the allegation.

Studies Providing No Data

Writers holding the most extreme positions and promulgating new “syndromes” provide no data to support their statements (Blush and Ross, 1986; Gardner, 1987).

Blush and Ross have propounded the Sexual Allegations in Divorce (SAID) Syndrome, the overwhelming majority of which they assert are false. These false allegations are fostered by mothers, whom Blush and Ross label psychotic or hysterical (dominated, dominating, or “justified vindicators”). They advise that almost no weight should be given to any statement made by the child, and in practice they may not even interview the child. However, Blush and Ross maintain, great weight should be given to the fact that these allegations are made by mothers who wish to restrict their ex-partners’ access to their children (Ross, 1988). Blush and Ross find fathers much less likely to make false allegations, and describe those who do as rigid and hypercritical of their estranged wives. Falsely accused men are also described as inadequate, dependent, and passive, descriptors the authors also apply to incest perpetrators. Since no data are provided, there is no way to evaluate the SAID Syndrome, other than to note that the admonition to put little weight on children's accounts is contrary to general practice (see Conte et al., 1991).

* APSAC is a multidisciplinary society for professionals in the field of child maltreatment. For more information, call (312) 554-0166.

Perhaps even stronger views are held by Gardner (1987; 1989; 1991; 1992), who has defined the Parental Alienation Syndrome (PAS), which is manifest in children who “view one parent as all good and the other as all bad.” These children have been “programmed by their mothers to hate their father and to subject him to a campaign of denigration” (Gardner, 1992, p. 160). Among the material the mother sometimes also programs the child to believe is that the father has sexually abused him/her. When an allegation arises after a dispute over custody, Gardner believes it possesses a “high likelihood of being false” (Gardner, 1991, p. 4).

A companion to the PAS is the Sexual Abuse Legitimacy Scale (SALS, Gardner, 1987). The present version (1992) contains 84 differentiating criteria, 24 of which apply to the alleged offender, 30 to the child, and 30 to the mother. Many of these criteria relate specifically to allegations of abuse in divorce. For example, if one finds, in examining the mother, “the presence of a child custody dispute and/or litigation,” “enlistment of the services of a ‘hired gun’ attorney or mental health professional,” or “history of attempts to destroy, humiliate, or wreak vengeance on the accused,” her allegations are less likely to be true, according to Gardner.

Gardner presents no data to validate either the PAS or the SALS. Therefore, the utility of the scales cannot be evaluated. Most of Gardner’s writing on these topics is not peer reviewed and is published through his own press.

Studies Involving Small Samples

The first and oft-cited clinical study of false allegations of sexual abuse in divorce involved a single case and reference to a second one (Kaplan and Kaplan, 1981). In the case, described in detail, an 11-year-old boy and his 5-year-old sister made allegations against their father and paternal grandparents. Both children had testified numerous times in court about the abuse and persisted in their accusations when challenged. Indeed, the Kaplans describe one particularly stormy session in which the boy is confronted simultaneously by the paternal grandparents and one of the Drs. Kaplan. Because, during this session, the boy partially recanted and said he had only been anally penetrated once instead of numerous times, the Kaplans conclude that his allegation is false. His partial recantation also led them to doubt the sister’s account even though, in addition to her statements, she had a number of behavioral and emotional symptoms of sexual victimization. The Kaplans propose the possible dynamic of *folie a deux* as an explanation for the children’s allegations, despite the fact there was no delusional thinking diagnosed in either child, the mother, or the maternal grandparents, who were supportive of the allegations, and despite the fact that the allegations originated with the children rather than a dominant adult.

Another frequently quoted study is that of Schuman (1986), who cites seven cases determined to be false on the basis of “psychodynamic formulation” and court determinations, out of an unknown number seen in his practice of probate and family court cases. Six of these were sexual abuse allegations against a father or stepfather; the seventh was a physical abuse case. The psychodynamic explanation for the false allegations was regression by the child and the accusing adult; in addition, in some instances (Schuman does not say how many) this adult retracted the allegation. This study is limited by its small sample size and by the lack of an empirical basis for the criteria Schuman uses to determine that allegations are false.

A study that has excited quite a lot of controversy is one reported by Green (1986) involving 11 cases from his practice, four of which (36%) he believed to be false. From these four cases, he generates criteria indicative of a false allegation, including easy disclosure, no

evidence of negative affect, use of adult sexual terminology, checking with the accusing parent (mother) during the interview, and an ability to confront the father with the accusation. Falsely accusing mothers are described as hysterical and paranoid.

Green's conclusions were challenged because of the size and bias of his sample, and because one of his "false" cases was deemed possibly valid by two other experts in child sexual abuse (which would reduce his rate of false cases to 27%). His paper occasioned a rebuttal article (Corwin, Berliner, Goodman, Goodwin, and White, 1987) as well as a letter to the editor of the journal that published the original article, challenging its findings (Hanson et al., 1988). Among other things, Corwin and colleagues point out that there is a difference between a false (no abuse) and an unsubstantiated case (a null finding). In addition, they note that marital dissolution may increase the risk of sexual abuse and increase the likelihood of disclosure of pre-existing incest.

Benedek and Schetky (1985) also present findings from their private practices. They were interested in studying the characteristics of false allegations in divorce, and Benedek (1987) reports screening at intake to include suspected false cases and to exclude ones that appeared to be true. Fourteen of the 18 cases they assessed involved custody or visitation disputes in the context of divorce (four involved other issues related to custody). The authors thought that 10 of their cases were false (71% of 14 and 56% of 18). Not surprisingly, since they screened for false cases, this is the highest false allegation rate reported by any author presenting case data. All but one of the allegedly false allegations were made by mothers. It is not clear what criteria Benedek and Schetky used to determine that allegations were false; among the explanatory factors they cited were that the mother suffered from psychiatric disturbance ("paranoia" was the diagnosis most frequently mentioned by the authors), or wished to exclude their ex-spouses from their lives, were being vindictive, or were "crying wolf." A much larger study (576 cases) of sexual abuse cases referred to child protective services provided findings relevant to the issue of sexual abuse and divorce (Jones and McGraw, 1987). Criteria employed in classifying the cases as likely true or likely false consisted of source of report, child's emotional state, physical evidence, confessions, polygraph results, and court role. Of the 5% of cases which a team of sexual abuse experts determined were "fictitious" allegations by adults, a large proportion involved contested custody or visitation. These findings suggest that false accusations are very rare generally, but may be more common in the context of custody disputes.

In a subsequent study by Jones and Seig (1988), 20 divorce cases involving accusations of sexual abuse from the Kempe Center were evaluated using the Jones and McGraw (1987) criteria to ascertain the rate of fictitious allegations. Four cases (20%) were determined to be fictitious, 14 (70%) reliable, and 2 (10%) uncertain. In this study, the authors observed that factors thought to be characteristic of false allegations were noted in the reliable cases, and characteristics expected in reliable cases were noted in the fictitious ones.

Using the criteria developed by Jones and McGraw (1987) and used by Jones and Seig (1988), McGraw and Smith (1992) re-examined 18 cases referred to Boulder County Protective Services involving sexual abuse allegations in the context of divorce, all but one of which had been unfounded after CPS investigation. The results of this re-examination were that eight cases (44.4%) were founded, seven cases (39%) had insufficient information or unsubstantiated suspicion, and three (16.5%) were fictitious (one from a child and two from adults). The authors admonish investigators and clinicians to keep an open mind when investigating such cases, rather than assuming that they will be false.

Studies Comparing Divorce Cases to Other Sexual Abuse Cases

Two studies compare results from divorce and non-divorce cases. Paradise, Rostain, and Nathanson (1988) examined 31 cases (25 from Children's Hospital of Philadelphia and six from the first author's private practice), 12 of which involved divorce. Those cases involving divorce were significantly less likely to be substantiated: 67% substantiation rate in divorce cases vs. 95% substantiation rate in cases not involving divorce. In addition, children in the divorce group were significantly younger (5.4 years vs. 7.8); this age difference may have affected substantiation rates, since cases involving younger children may be generally more difficult to substantiate (Thoennes and Tjaden, 1990).

Hlady and Gunter (1990) examined the records of 370 children seen at the Child Protection Service Unit at British Columbia Children's Hospital. One hundred seventeen children were primarily referred for alleged physical abuse, and 253 for alleged sexual abuse. Forty-one children were the objects of custody disputes. Surprisingly, children involved in custody disputes were more likely to exhibit physical findings (75% had findings of physical abuse, 17.6% had findings of sexual abuse) than were children not involved in custody disputes (43.6% showing findings of physical abuse, 15% of sexual abuse). Generalizations from these data must be cautious, since the number of custody cases with allegations of physical abuse was small, and the difference on sexual abuse cases was not significant. However, these data suggest that sexual abuse allegations made in the context of divorce are at least as likely to have the corroboration of medical findings.

More studies comparing commonly evaluated characteristics of sexual abuse cases in divorce and other contexts would be very useful.

Studies Involving Larger Samples

To date, there are two pieces of research with samples larger than 100 cases. Faller (1990) studied 136 cases involving divorce that were referred to the University of Michigan Interdisciplinary Project on Child Abuse and Neglect, which includes a tertiary care program for evaluation of child maltreatment cases. Using criteria derived from a study of confessed cases, Faller determined the likelihood of sexual abuse in her sample. These criteria included (1) description of the sexual abuse; (2) details about the context; and (3) affect congruent with allegations and circumstance. Faller categorized these cases into six groups: cases in which disclosure of apparently true abuse leads to divorce (N=11; 8.1%); cases in which divorce leads to disclosure of apparently true abuse by the child or belief by the parent (N=26; 19.1%); cases in which divorce leads to sexual abuse (N=52; 38.2%); cases in which apparently false allegations arise in an atmosphere of acrimony surrounding the divorce (N=19; 14%); cases in which false allegations may have been made (N=12; 8.8%); and cases in which other dynamics were at work (N=16; 11.8%). Of the 19 cases involving apparently false allegations, three appeared to be consciously made; two of these three intentionally false allegations were made by fathers.

By far the most important study to date is that conducted by the Association of Family and Conciliation Courts Research Unit (Thoennes, Pearson, and Tjaden, 1988; Thoennes and Tjaden, 1990). The researchers surveyed 9,000 divorce cases involving custody/visitation disputes from 12 domestic relations courts to determine how many such disputes involve allegations of sexual abuse. The researchers found allegations of child sexual abuse in less than two percent (169) of these cases. In 129 cases, the question of sexual abuse was addressed by the domestic relations court. Accusations were made by mothers (67%), fathers

(28%), and third parties (11%). Fewer than half of cases involved mothers making accusations against the fathers of children.

Using the Child Protective Services determination and/or the report of a court-appointed mental health evaluator as the criteria for substantiation, the researchers found that 50% of cases were likely, 33% were unlikely, and 17% were uncertain (which included cases in which two evaluators held different opinions). They also attempted to discern the motivation for unlikely reports and found 58 cases in which the case material addressed that issue. In eight cases, child protective service workers thought the allegation was maliciously made. Factors associated with cases being classified as unlikely or uncertain were younger age of the child, a single incident alleged, non-intrusive sexual behavior, a single report, a report less than two years since the filing for divorce, and animosity between the parents.

Conclusions

On the basis of the research that has been conducted so far, it is difficult to support an assertion that there are high rates of false allegations of sexual abuse consciously made by mothers in divorce situations.

There is no way to evaluate authors' opinions not supported by data. Thus all that can be said about the SAID Syndrome and the Parental Alienation Syndrome is that they express the authors' opinions. Moreover, the language used in both suggests a bias against mothers concerned about sexual abuse of their children.

The remainder of the research can be evaluated regarding possible sample biases, sample size, and criteria used to determine that the allegation is false.

With the exception of the research supported by the Association of Family and Conciliation Courts (Thoennes and Tjaden, 1988; Thoennes and Tjaden, 1990) and that by Paradise and colleagues (1988), all of the studies cited rely on cases from a single source. A single site or source may introduce biases based upon geography, the authors' selection criteria, and the reputation of the clinician or the site. Selection criteria include such factors as Benedek's screening for cases she thought might be false, or Faller's taking cases referred by another agency. Payment source for the service may also determine the sorts of cases seen at a particular site. In addition, cases seen in private practices are likely to differ from those seen at an agency or at a hospital.

Sample size is also very important in weighing the utility and potential validity of findings. It is very difficult to draw any conclusions from samples smaller than 20 cases. Particularly problematic is the situation in which the writer draws conclusions about characteristics of false allegations from a subset of a small sample, as does Green (1986).

The most difficult problem in evaluating research on allegations of child sexual abuse is evaluating the criteria researchers use to assess the veracity of allegations. To test these criteria, researchers need to see if they are in fact reflected in a sample of cases proven false or true by some independent measure (for example, that the offender never had access to the victim, or, alternatively, that the offender gave a complete, detailed confession). Since such samples are hard to find and indeed may be unrepresentative, research on the veracity of child sexual abuse allegations cannot draw upon them. Most writers use their clinical judgment, the consensus of several clinicians or experts, or a legally supported decision, such as the disposition of the child protection agency, the conclusion of a court-appointed expert, or a judge's opinion. All of these have limitations. Jones' and Seig's (1988) determination that cases thought to be reliable had characteristics of false reports and vice versa is illustrative. So

is the Association of Family and Conciliation Courts' classification of cases as "uncertain" when two opinions disagreed.

Moreover, there is a fair amount of disagreement among writers about characteristics of false allegations. Indeed, one professional's indicator of a false allegation may be another's indicator of a true one. In addition, some criteria lend themselves to a variety of interpretations, either in the context of a single case, or depending upon the case.

When the research is examined critically, the strongest study is that conducted by the Association of Family and Conciliation Courts, because of its large sample, its use of multiple sites, and the fact that cases are fairly representative of the total population of divorce cases with disputes over custody and visitation. Its findings indicate that sexual abuse allegations do occur in the context of divorce, but the overwhelming majority (98%) of disputed custody cases do not involve sexual abuse accusations. Moreover, although the majority of charges are brought by mothers, by no means all are. The predominance of women as accusers and men as accused is consistent with the finding that the majority of offenders are men. This study and that of Faller contradict the assertion by others that most adults who make false reports do so knowingly (e.g. Benedek and Schetky, 1985; Blush and Ross, 1986; Gardner, 1987; Renshaw, 1986).

Where the Association of Family and Conciliation Courts may be weaker than other studies is in the criteria it used to judge the veracity of an allegation: the child protective services determination or a court-appointed mental health professional's opinion. Perhaps criteria such as those based on a consensus of experts or a collaborative decision (Jones and McGraw, 1987; Jones and Seig, 1988; McGraw and Smith, 1992) or derived indirectly from cases substantiated by confession (Faller, 1990) are more accurate. Interestingly, substantiation rates tend to be higher in such studies and uncertainty rates lower.

Altogether 11 data-based articles about sexual abuse allegations in divorce are cited here. This number is too small to draw more than tentative conclusions. Moreover, characteristics of allegations in divorce may be influenced by increased public education and experience regarding sexual abuse, so that samples that are just five years old may not reflect current caseloads. Perhaps the likelihood of a parent making a false allegation in divorce has increased because of greater awareness of sexual abuse and of the potential power of an allegation. Conversely, adults may be cognizant of the recent outcomes in such cases. These include disbelief by the court or refusal to hear evidence of sexual abuse, incarceration of the parent who refuses visitation, loss of custody by the parent alleging sexual abuse, and negative experiences of parents, who with their children may go so far as to enter the "underground" to avoid court decisions. This knowledge may result in parents becoming less likely to raise a legitimate concern about sexual abuse because the legal consequences may further traumatize a child and family without stopping the abuse.

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