

# Parental Alienation Cases in 2010-2017 (Current as of August 8, 2017)

Presented by: Professor Elizabeth Sheehy

## **Dr Richard Gardner 1992 *The Parental Alienation Syndrome***

- Notion that child has been manipulated by one parent to distrust, express fear and/or hatred towards the other; indoctrination by a vindictive parent; obsessive denigration without cause
- "A disorder of children, arising almost exclusively in child-custody disputes, in which one parent (usually the mother) programs the child to hate the other parent (usually the father)." (Gardner 1993)

## Gardner in Context

- Not based on scientific data but his observations as expert witness testimony on behalf of fathers accused of sexual abuse
- His early papers and book self-published, not peer-reviewed; Not a university professor but a volunteer in clinical ed
- PAS not accepted in the DSM-5
- Grounded in "his extreme views of women, pedophilia and child sexual abuse" (The Leadership Council)

**Gardner, R.A. (1992). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (pp. 576-7)**

"If the mother has reacted to the abuse in a hysterical fashion, or used it as an excuse for a campaign of denigration of the father, then the therapist does well to try and "sober her up".... Her hysterics ... will contribute to the child's feeling that a heinous crime has been committed and will thereby lessen the likelihood of any kind of rapprochement with the father. One has to do everything possible to help her put the "crime" in proper perspective. She has to be helped to appreciate that in most societies in the history of the world, such behavior was ubiquitous [i.e., everywhere], and this is still the case."

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## YET Gardner's PA claims live on

- Controversy among academics and clinicians regarding the current scientific base for "PA"
- Linda Neilson "not a diagnostic condition. Instead it is a hotly contested theory that purports to 'diagnose'—usually by blaming the primary resident parent—child resistance to contact with non-primary resident parents."
- The "syndrome" not accepted by courts, but PA evidence widely relied on without regard to criteria for expert evidence/witnesses

# Linda Neilson, *Spousal Abuse, Children and the Legal System*

- 2001 study for the Canadian Bar Association examining how spousal abuse is systematically “siphoned off” from the family law system
- Multiple sources studied in order to match quantitative and qualitative data
- Maximum contact with access parent emphasized over safe environments, care from non-stressed caregivers, an adult caregiver able to prioritize children’s needs, and adequate financial support for children

## Nicholas Bala et al: 145 cases/20 yrs

- Nicholas Bala et al looked at Canadian cases 1989-2008: “While there are gender differences in both rates of alienating children (mainly by mothers) and in making unsubstantiated claims of alienation (mainly by fathers), this reflects the fact that alienation is almost always done by the parent with custody or primary care. There is no evidence of gender bias in judicial responses to these cases.”

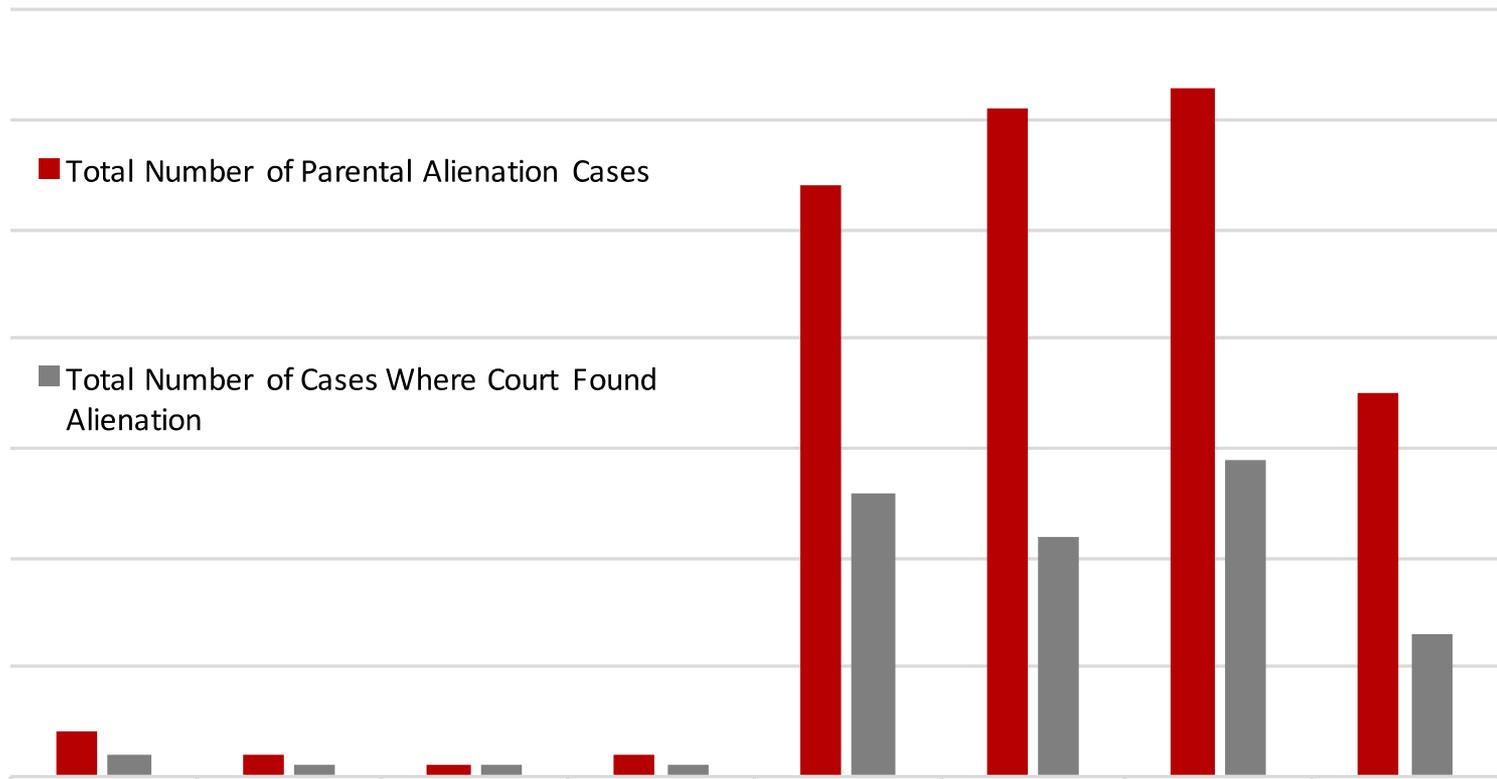
## **Linda Neilson, *Parental Alienation Empirical Analysis (2018)***

- 357 cases 2008-2018
- 68.9% claims vs mothers; 31.1% vs fathers
- Systemic sex discrimination in results:
- “When courts made definitive parental alienation findings against fathers, children were left in the primary care of the father in 19 cases (35.9 %)”
- In contrast children left in primary care of alienating mothers in only 16.8% of cases

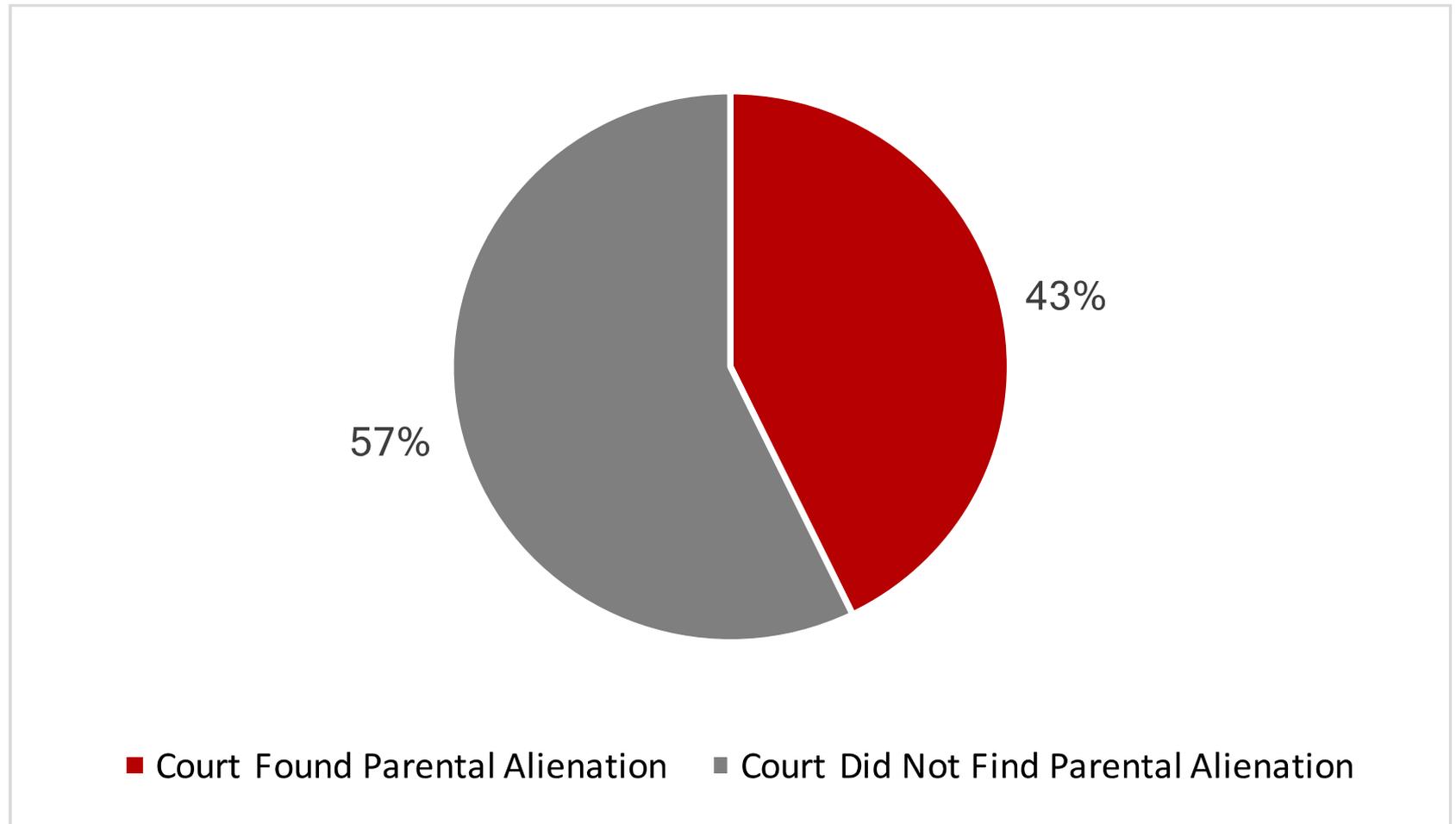
# Our study: parameters and limitations

- Dr Simon Lapierre's SSHRC-funded research
- Review of reported cases 2010-2017 using PA/alienate/alienation as search terms (now being expanded 2008-2018)
- Estimated in 2001 that 4% (max) of family disputes resolved through litigation
- "High conflict" separations more often litigated
- Anonymized; "race" and racism erased
- New terminologies deployed—ie "enmeshed"

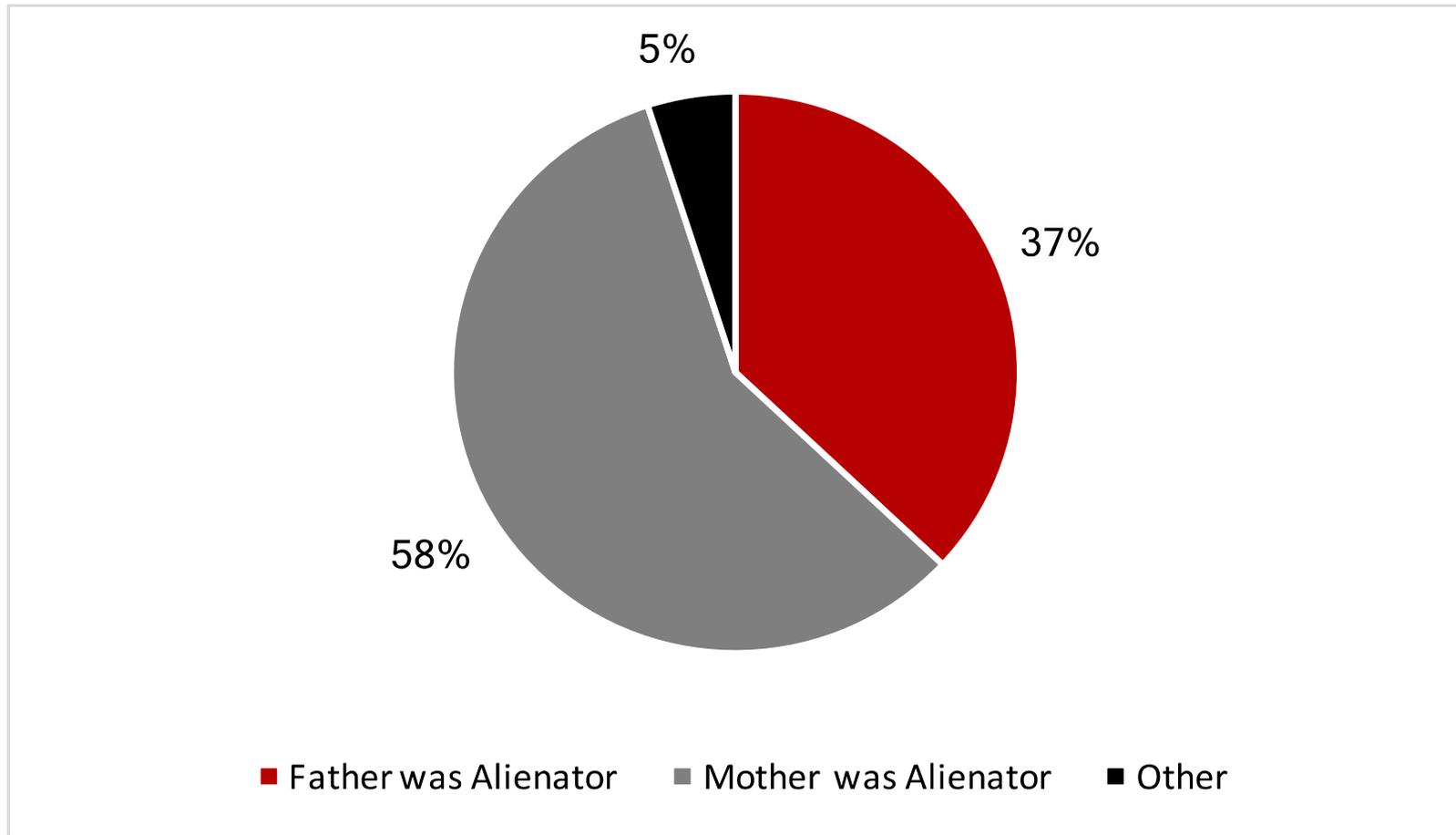
# The Parental Alienation Explosion



# Relatively high success rate



# Parental Alienation Success by Sex

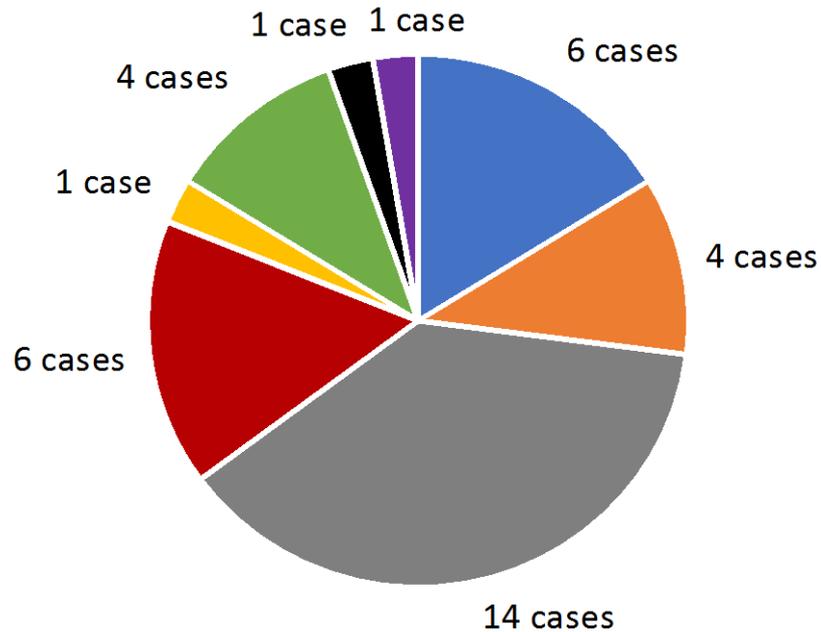


## Fabricated Claims

- TJ ruled Mother fabricated claim of Parental Alienation in 6 out of 127 cases where insufficient evidence of PA (5%)
- TJ ruled Father fabricated claim of Parental Alienation in 11 out of 127 cases where insufficient evidence of PA (9%)

# Custody Changes Made in 37 out of 95 cases

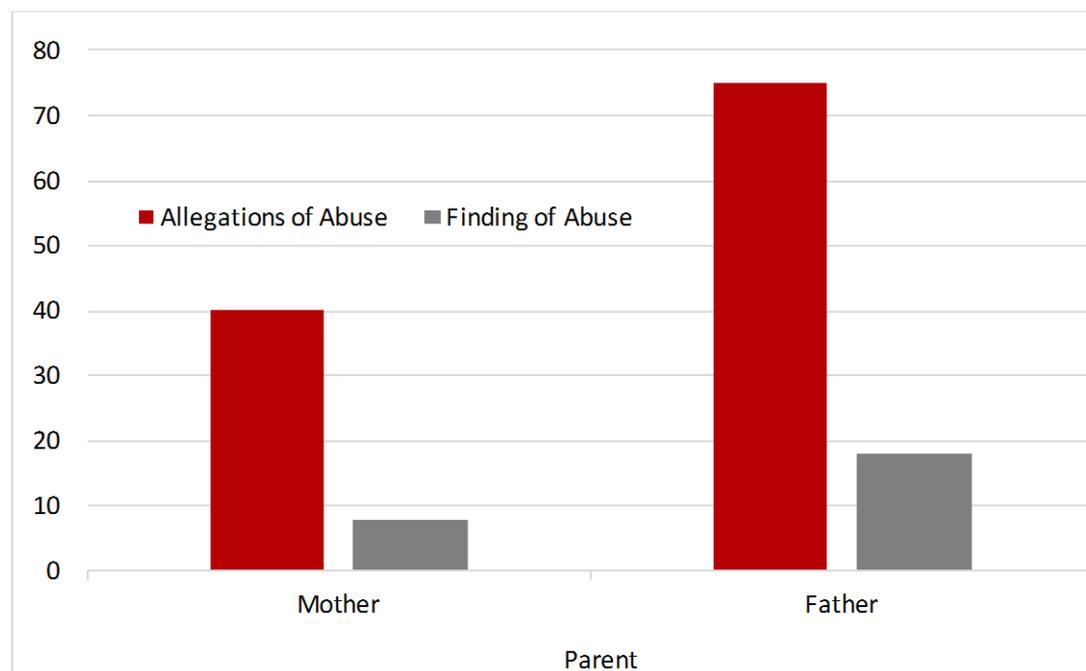
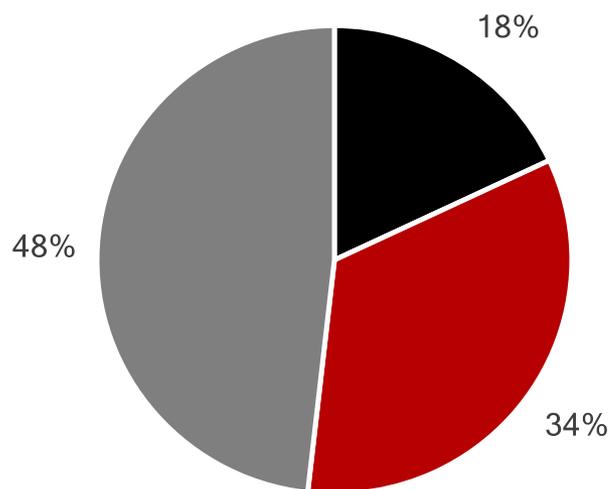
## Impacts



- Alienator Mother to Joint/Shared
- Alienator Mother to Alienated Father
- Joint/Shared to Alienated Mother
- Shared to Joint
- Alienator Father to Joint/Shared
- Alienator Father to Alienated Mother
- Joint/Shared to Alienated Father
- Alienated Mother to Parallel Parenting

# Allegations of Abuse

- Percentages and numbers

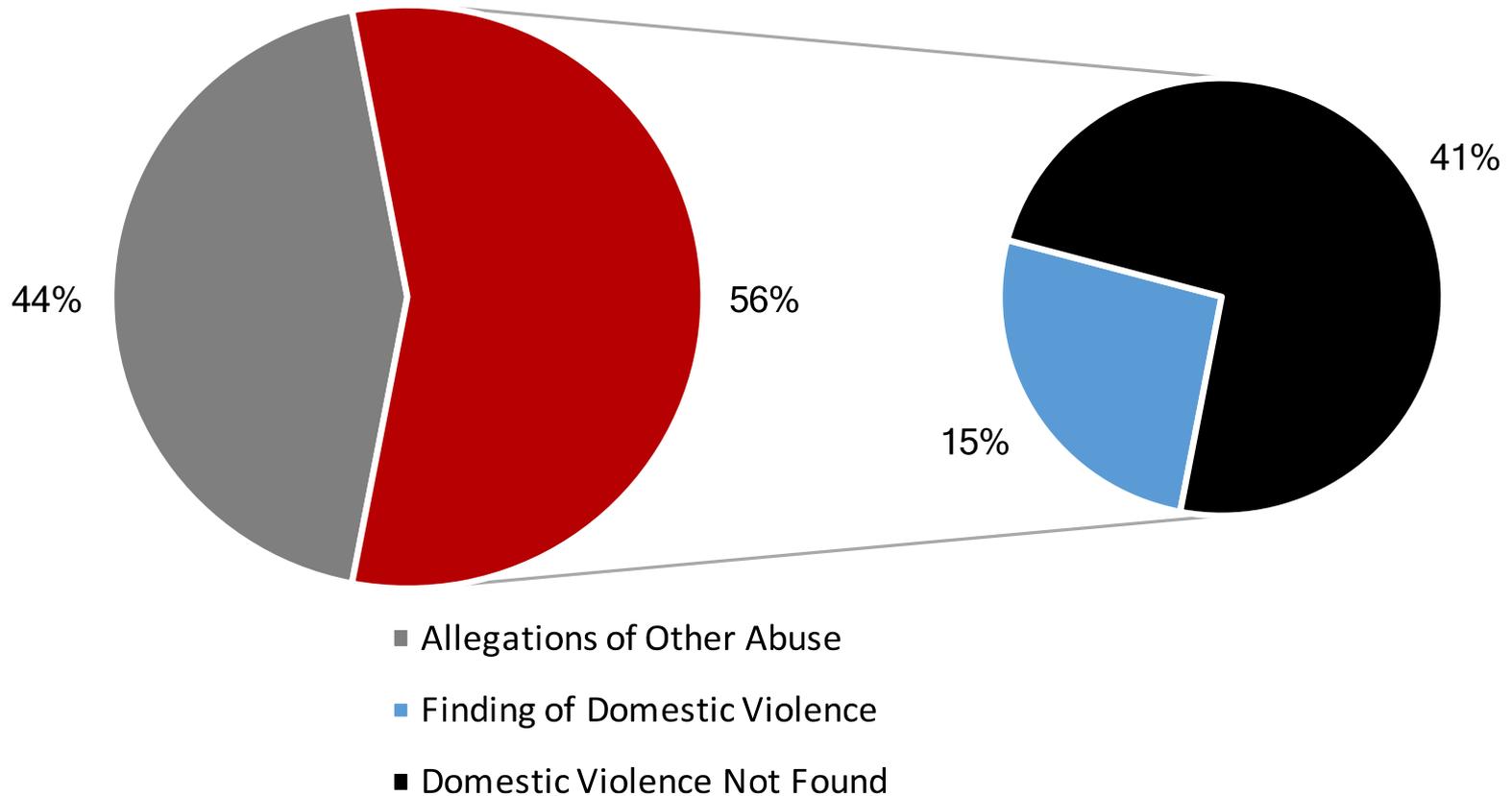


- Allegations of Abuse Against Mother ■ Allegations of Abuse Against Father
- No Allegations of Abuse

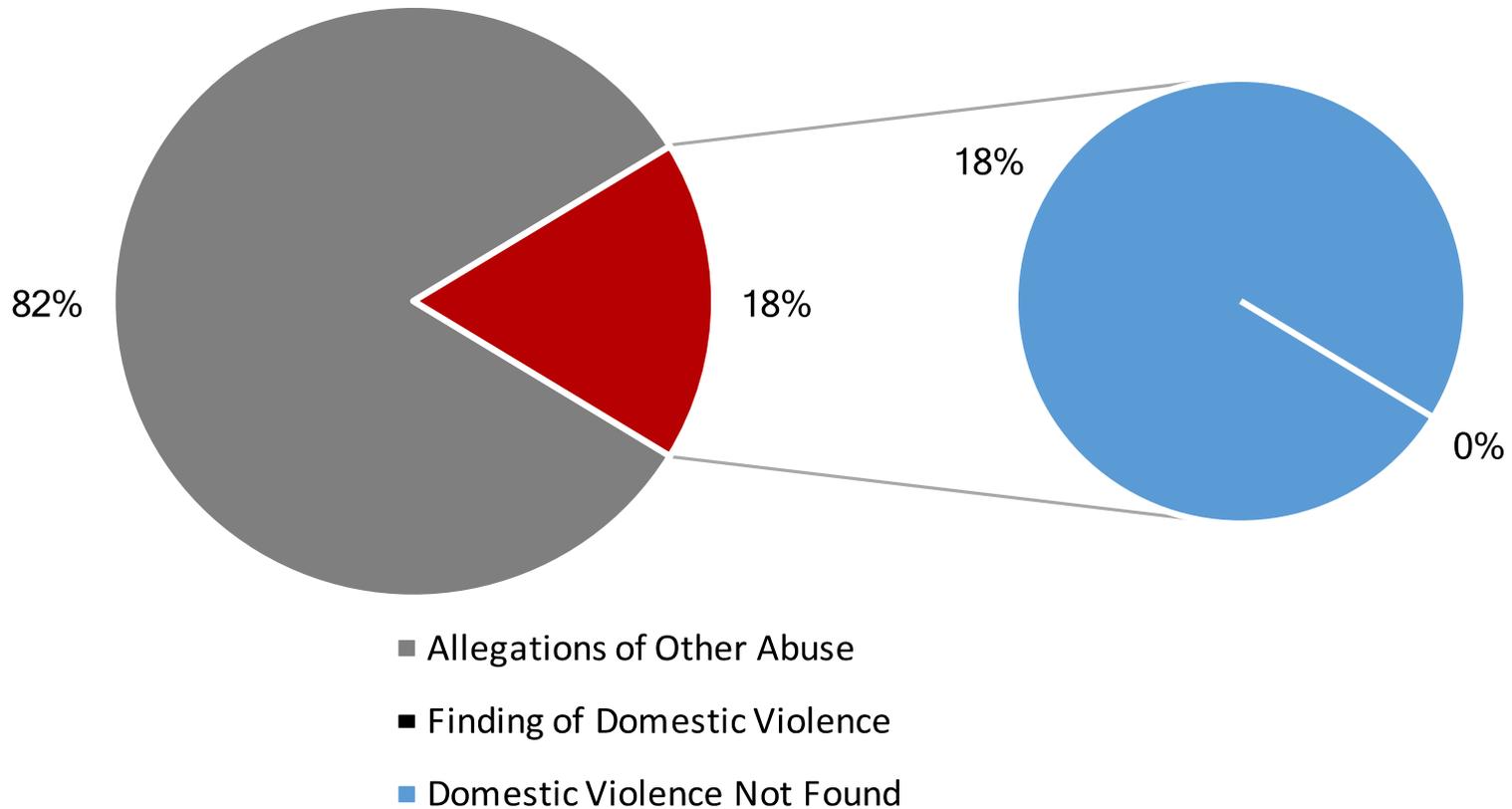
## **Linda Neilson, *Parental Alienation Empirical Analysis (2018)***

- 142/357 PA cases involved allegations of child abuse or DV, ie **41.5%**
- In **76.8%** of these, the PA claim was advanced by the alleged perpetrator of DV or child abuse
- In **23.2%** the PA claim was advanced by the parent claiming DV or child abuse

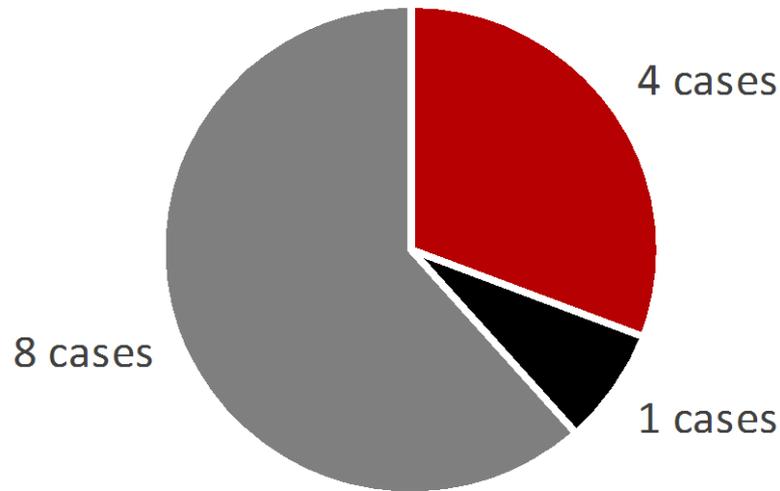
# Allegations of Domestic Violence Against the Father



# Allegations of Domestic Violence Against the Mother



# Allegations of Domestic Violence Against Both Parties Made in 13 Cases



- Domestic Violence Found Against Both Parties
- Domestic Violence Found Against Mother
- Domestic Violence Not Found

## Judges avert to allegations of domestic violence, but do not resolve

- *D (PC) v V (RZ)* 2015 BCSC 1554: need not determine whether child's rejection of F caused by PA or FV : "A was exposed for years to the highly dysfunctional relationship of her parents"; mainly due to estrangement by F's conduct **BUT** M has "worsened" child's feelings
- *M (AD) v L (SW)* 2015 ABQB 630 173: "no objective evidence that allegations of FV should influence the decision of what is in S's best interests"

## Judges accept that DV occurred, but view it as "one-off," mutual or resolved by separation

- *B (RW) v B (DC)* 2015 NSSC 254: Judge: "I accept that there was some... pushing, shoving and pulling .. this was situational and the M was as much a participant as was the F" "no coercive control"
- *F (JA) v F (JJ)* 2016 BCSC 300: If DV occurred, "it was isolated, situational, and was directed at her mother, not the daughter" unlikely to recur "no history of significant violence between the M and the F."

## ***If DV occurred, impact discounted***

- Rarely discuss the impact of DV upon children, or on claims of “parental alienation”
- *Richards-Rewt v Rushchyna* 2015 BCSC 1391: J accepts that “FV behaviours occurred” in front of child, *and* that F alienated child vs mother: “However, I do not consider, and there is no evidence before me, that these behaviours, as of yet, impact A’s safety, security or well-being, except insofar as they impact her relationship with her mother”

## No discussion of the whys behind women's conduct

- *J (CA) v J (N)* 2014 CSC 279 105 “her injuries consist of self-battering, as far-fetched as such an act may seem in the abstract”; M described as having “unstable personality with propensity for rage and physical violence”
- *Bradford v Bradford* 2017 BCSC 661: “she presented herself as an extremely anxious and fearful woman with little control of her emotions”

## The ideology of "parental alienation"

- *E (HF) v E (JC)* 2016 BCPC 107: "Hopefully she would not give them the same freedom of choice in other matters such as drug use"
- *Skulason v Crackle* 2017 MBQB 103: "the most child-sensitive approach at this time would be for the adults to take steps to change the way [F] is viewed by the children"
- *T (DL) v M (KK)* 2015 BCSC 1771: "upholding the image of the other parent is considered to be a fundamental aspect of parenting"

## Linda Neilson (2018)

- “Some of the cases in which children were removed from their mother’s primary care and denied parenting contact are worrying in terms of child safety; others are simply heartbreaking”
- *JCW v JKRW* 2014 BCSC 488: “they are distant from him. They show no affection toward him; and they are not receptive to any show of affection from him.”
- From joint custody to suspension of all contact