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Book Review Re-Set Needed on Parental Alienation by Julie Saffren, JD

With the publication of Challenging Parental Alienation: New Directions for Professionals and Parents,¹ Professors Jean Mercer and Margaret Drew make a tremendous contribution to the work of professionals who are involved in child custody matters. As its title suggests, the book is intended for those professionals who are increasingly addressing parental alienation in child custody decision making. This book makes crystal clear, on multiple levels, the danger and harm of the entrenchment of the doctrine of parental alienation as well as the weak scientific and legal foundations upon which the concept of the parental alienation belief system rests. Indeed, a more apt book title might have been "Everything You Thought You Knew About Parental Alienation Is Wrong!"

This copiously researched and authoritative volume issues a clarion call to professionals in the child custody arena: Proclaim that collective corrective action is broadly needed in multiple areas. Parents alone cannot drive the changes that our systems and institutions require now. *Challenging Parental Alienation* helps researchers find topic areas where research is desperately needed, especially in areas

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Important Takeaways From the Murder of Gabby Petito

by Gael Strack, Casey Gwinn, Joe Bianco, Jerry Fineman and Dan Rincon

On body-camera footage - toward the end of their 75-minute contact an officer approaches a young woman sitting in the back seat of a police vehicle.¹ She appears emotionally exhausted and anxious, not sure what will happen next or when the encounter will end. She receives good news. The patrol officer tells her she is not going to be cited or arrested for domestic violence. She is free to go. "You can take the van. We have made arrangements for your fiancé to stay at a hotel. We want you to take a break from each other. Do not talk or text each other tonight. I'm going to talk to your fiancé and tell him the same thing." After her ordeal, the woman, who likely had never had an encounter with law enforcement before and after almost being arrested, was asked a question by the patrol officer: "Do you want me to say something anything to him? ... Do you want me to tell Brian you love him?" The young woman tears up, initially looks away but then slightly nods her head in a "yes" motion but only says: "Make sure he doesn't forget his phone charger. It is definitely dead.'

It was August 21, 2021, when the officers concluded their interaction with Gabby Petito and Brian Laundrie in Moab, Utah, and deemed it a "mental health crisis." The officer's final comments to Gaby and Brian suggest he believed everything was going to be all right if they promised not to see each until the next day and if each said they loved each other before he left. And no law enforcement protocol in America justifies such an approach by an officer. Weeks later Gabby's remains would be discovered, 485 miles away, in Grand Teton National Park. The cause of death was strangulation.

Gabby's parents lost contact with their daughter on August 30 and were alarmed when Brian Laundrie returned to Florida in Gabby's van on September 1, without Gabby. Gabby was 22 years old and had been traveling cross-country with her fiancé Brian Laundrie. On television news, after Gabby went missing, America witnessed the concerted effort of local and federal law enforcement agencies to find her.

Tragically, media attention and law enforcement collaboration could not save Gabby: eight days after her parents reported her missing, law enforcement officers found Gabby's body. Then, Brian Laundrie disappeared, and local and federal authorities began a manhunt for him. Ultimately, Laundrie's remains were found in a Florida nature reserve. The medical examiner ruled he died by suicide. In his notebook, he took responsibility for Gabby's murder.

What Happened to Gabby on August 12, 2021?

Earlier, on August 12, 2021, the Moab City Police Department responded to reports from concerned

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citizens about an enraged man with a young woman on the side of the road. One individual called 911 reporting that: "The gentleman was slapping the girl." "They ran up and down the sidewalk" where "he proceeded to hit her, hopped in the car and they drove off." Later that day, another witness reported that "Something wasn't right" between a man and a woman.

Reeves, Captain Brandon Ratcliffe from Price City Police Department was asked by Moab Police Chief Bret Edge to conduct an independent investigation into the manner in which Moab Police Officers responded to reports of domestic violence involving Gabby Petito and Brian Laundrie. Captain Ratcliffe's 99-page report consisted of findings and recommendations. Captain Ratcliffe identified what was done correctly, the mistakes that were

Strangulation is recognized as one of the most lethal forms of domestic violence: unconsciousness may occur within seconds and death within minutes.

Aware of these reports, officers contacted Gabby Petito and Brian Laundrie. Hardly more than an hour later, they concluded the situation did not involve a domestic violence incident, but rather a "mental health crisis." No arrest was made. No advocates were contacted or called to the scene. No safety planning was offered. No charges were filed. And no report was submitted to the local prosecutor for its evaluation of the case.²

Moab Report

In September 2021, in response to a formal complaint from Attorney Tanya

made, and the clues that were missed.³ He listed his concerns and made recommendations for improvement.

We have reviewed his report from the August 12, 2021 incident, including body-camera footage. Unfortunately, the report did not include an interview with the original 911 caller, nor a printout of the entire 911 call. It also did not include a written statement from the independent witness or an interview with Park Ranger Mellissa Hulls who was seen multiple times interacting with Gabby Petito. We offer our conclusions, takeaways, and recommendations that law enforcement officers

and policymakers can use to improve responses in similar incidents.⁴

Coercive Control

We conclude that the officers missed or dismissed evidence of the power and control that Brian Laundrie was exercising over Gabby Petito, both at the scene and in the context of their relationship. "Coercive control" is a pattern of behavior that unreasonably interferes with a person's free will and personal liberty and includes, among other things, unreasonably isolating a victim from friends, relatives, or other sources of support, including "[d]epriving the other party of basic necessities," and "[c]ontrolling, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or access to services."5

Brian had the keys to Gabby's van, locked her out of the van, told her to take a walk and even started to walk away from her in a city where she had no friends, family, or resources. Under these circumstances-without access to her keys to the van, laptop, money, or even water-Gabby likely felt abandoned, isolated, and vulnerable. When she refused to leave and insisted on getting into the van (a safe place), Brian became loud, intimidating, and physically abusive.

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The officers appear to have completely missed or disregarded the evidence of Brian's coercive control over Gabby, falling for his description of her as "just crazy" and "he was the one was that was marked up." Through no fault of the officers, they also did not have the benefit of interviewing the independent eyewitnesses to the violence before they arrived or the opportunity to listen to the 911 call. These witnesses, including the park ranger, and the 911 call itself likely would have provided additional context to Laundrie's abuse. The lead officer's decision to simply separate Gabby and Brian

escalating violence. She appeared to minimize the situation and was willing to take responsibility for her actions in order to protect Brian and avoid upsetting him any further.

Most telling, however, were Brian's injuries. His injuries were more consistent with Gabby defending herself from being grabbed in the face than Gabby being the predominant physical aggressor (Harm/Rajs, 1981).⁶ We also have the benefit of hindsight. Gabby was strangled to death. Given the research that most victims are strangled before they are murdered, all the clues lead us to conclude that Gabby was most likely strangled and/ or suffocated by Brian before the police arrived on August 12, 2021.

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for the night, offer to convey words of love back to each of them, and offer no other resources was a missed opportunity to discern that Laundrie's abuse of Gabby was escalating.

Strangulation and/or Suffocation

We believe that Gabby may have been strangled and/or suffocated by Brian Laundrie on August 12, 2021, weeks before she ended up being strangled to death in September. There were clues: They had been fighting all morning. Things were escalating. Gabby wanted to get water, work on her blog, and sit in the van. Brian, on the other hand, wanted to lock up the van, keep her from working, and make her take a walk. Gabby was upset and frustrated that Brian was yelling at her and preventing her from entering the van. Brian's rage was public. It was drawing the attention of concerned citizens. Brian grabbed Gabby's face, which is a common tactic by abusers to control their victims and keep them quiet. Gabby's demeanor and response when the officers contacted her were consistent with classic victim dynamics, a history of coercive control, and

Today, 48 states have passed some form of strangulation and suffocation felony laws. In addition to states, Congress amended Federal Code § 18 U.S.C § 113(a) in 2013 to include a specific charge of assault or attempted assault by strangulation or suffocation with sentencing recommendations of up to 10 years. The federal statute defines strangulation as intentionally, knowingly or recklessly impeding the normal breathing or circulation of blood of a person by applying pressure to the throat or neck, regardless of whether that conduct results in any visible injury or whether there was any intent to kill or protractedly injure the victim under subsection (b)(4). The federal statute defines suffocation as intentionally, knowingly or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person or both, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim under subsection (b)(5).

Yet, only Massachusetts,⁷ Maryland⁸ and Texas⁹ require law enforcement officers to be trained on the identification, investigation, and documentation of non-fatal strangulation and suffocation cases. It is very likely the officers who investigated this case were not trained to recognize and record the signs and symptoms of non-fatal strangulation and suffocation assaults.

A lack of training in strangulation/ suffocation assault would explain why no questions were asked about potential method of suffocation or strangulation, amount of pressure, length of pressure, what Gabby thought was going to happen or whether she was able to breathe normally. Officers did not document the injuries on Gabby, nor did they analyze the injuries on Brian as potentially the result of Gabby defending herself after being strangled or suffocated.

Strangulation is recognized as one of the most lethal forms of domestic violence: unconsciousness may occur within seconds and death within minutes.¹⁰ It is known that victims may have no visible injuries at the timeyet may have many serious internal injuries or die days or several weeks later. Strangulation is indicative of a high level of domestic violence in a relationship that can escalate quickly to death and is considered the ultimate form of coercive control.¹¹ The inability to breathe can be terrifying. The trauma experienced from the assault and/or the lack of oxygen to the brain can make it difficult for victims of strangulation to tell what happened in a chronological order. Strangulation is the calling card of a killer. If a victim of domestic violence is strangled even one time, she is 750% more likely to be killed by the person who strangled her.12 The majority of all women murdered in this country are strangled before they are murdered.¹³ It is also known that stranglers who kill have likely done it to the victim before they kill her later with their hands or a firearm. In 2017. Utah recognized the act of strangulation and/or suffocation as an aggravated assault.14 In 2019, the Utah Court of Appeals in State v. Alires, 438 P.3d 984 (Utah App. 2019), held that strangulation can cause serious bodily injury even when a victim does

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not lose consciousness or experience severe physical symptoms.

Predominant Physical Aggressor

We conclude the officers who interacted with Gabby and Brian did not properly apply or administer Utah's Predominant Physical Aggressor law. There are four key considerations for identifying the predominant physical aggressor under Utah's law: Prior domestic violence; assessment of injuries as being offensive or defensive in nature; assessment for future harm; and consideration of self-defense and/or defense of property.¹⁵ The officers did not document their evaluation of any of these four required considerations. They also referred to Gabby as the "primary aggressor" citing her statement that she hit him first. Utah's law is not a "primary aggressor" law, and the first person to hit is not necessarily the predominant physical aggressor.

The officers found that Gabby did not pose a threat to Brian. They considered Brian to be bigger, stronger, older, and in control of the relationship. Gabby was described as "tiny," "little," and "105 pounds soaking wet." While Gabby admitted to hitting Brian first, she also reported that she was trying to retrieve the keys to the van from Brian to get in the van. She also wanted Brian to stop yelling at her. Gabby had a right to retrieve her property. Gabby reported that Brian "grabbed her face" and caused injury. She even mentioned that his backpack may have "got" her and caused a bruise on her arm. Gabby was interrupted by the officer in trying to describe what happened as well. Had Gabby not been interrupted in telling the officer what happened and quickly dismissed as being in a mental health crisis with "high anxiety," she may have been able to explain much more, including any history of prior violence.

It is common for victims of strangulation and/or suffocation to defend themselves. Studies indicate victims of strangulation will defend themselves up to 65% of the time.¹⁶ The injuries on Brian's face and body are consistent with defensive injuries caused by Gabby trying to protect herself.¹⁷ While they took photos of Brian's injuries, no photos were taken of Gabby's injuries. They did not look for any additional injuries, ask about pain, or offer her medical attention. They did not even confront Brian about "grabbing her face," causing her injury or the bruise on her arm. Based on their limited investigation and observations, officers concluded that "things were lining up" that Gabby was the "primary aggressor." However, they also did not want to arrest Gabby and chose to temporarily separate them instead.

Recommendations

The Strangulation Prevention Institute (see n. 17), supports the recommendations of Captain Ratcliffe for additional training for all law enforcement officers, review of the report approval processes in Moab, follow-up with the independent witnesses who called 911, a review of the software used, and overall review of internal policy of the Moab Police Department (all law enforcement agencies) on domestic violence cases. We support the recommendations that the Moab Police Department: (1) adopt the Lethality Assessment Program; and (2) require every officer to receive specific training in (i) trauma-informed interviewing, (ii) investigating strangulation and/ or suffocation cases, and (iii) how to identify the "predominant physical aggressor."

We also recommend that patrol officers either be given access to 911 calls in domestic violence cases or that dispatchers be trained to provide such information to the officers to enable them to conduct an adequate and effective investigation in domestic violence cases. The officers had eyewitnesses to the actual assault that they did not interview, and it appears they formed their conclusions without even speaking to the original 911 caller.

We recommend law enforcement agencies develop domestic violence response teams to support victims at the scene of the crime.¹⁸ The presence of an advocate at the scene might have helped officers better support Gabby Petito and better assess the actual context of the incident and their relationship.

We recommend all communities rural, suburban, and urban—consider the creation of a Family Justice Center or similar framework where potential victims of abuse can be referred one place for support and services.¹⁹ There is no such model in Moab for officers to refer (or transport) victims to after a violent incident.²⁰ Brian was sent to a motel; Gabby was left on her own with no support of any kind.

We also recommend Utah's law on predominant physical aggressor be amended to include considerations such as other legal defenses, level of violence, non-fatal strangulation and/ or suffocation, height/weight of parties, the presence and/or absence of fear, use of drugs and/or alcohol, corroborating evidence, detail of statement and/or document or undocumented prior violence or coercive control.

Conclusion

Finally, we commend the Moab Police Department for their willingness to seek an independent review of their handling of this case and to make changes to improve their response going forward. We also acknowledge the need for more resources and training to be provided to law enforcement officers. We do not seek to blame the officers for Gabby Petito's death. The only person responsible for Gabby's death is Brian Laundrie. But we aspire to a day when officers utilize the best practices we have recommended here and see early intervention as the pathway to homicide prevention. International Association of Chiefs of Police Association and our Strangulation Prevention Institute have developed numerous resources and trainings to help law enforcement officers to effectively respond to domestic violence, strangulation and suffocation cases, and we stand ready to help.

End Notes

1. See Gabby Petito Case: Full Utah Bodycam Video. Available on YouTube at https://www. youtube.com/watch?v=fCGsW41aQEw.

2. Investigative Review of Aug.12, 2021, Petito-Laundrie Incident in Moab prepared by Captain Brandon Ratcliffe, Price City Police Department (unknown date of publication).

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Available at https://moabcity.org/DocumentCenter/View/3432/Combined-Statement-and-Investigative-Report–Petito-Laundrie-Incident. Accessed April 12, 2022.

3. Id.

4. This article is based on an evaluation of the August 12, 2021 incident by the listed authors as well as faculty members at the Institute including: Detective Mike Agnew (Ret.), Fresno Police Department, California; Megan Ahsens, Assistant District Attorney, Johnson County, Kansas; Brett Joann Engler, Chief, Domestic Violence Unit, Frederick County State's Attorney, Maryland; Detective Robert Frechette, Rochester Police Department, New Hampshire; Master Investigator Rachael Frost (Ret.), Riverside County Sheriff's Office, California; Josh Helton, Patrol Officer, Davis Police Department, California; Retired Judge Eugene Hyman, Santa Clara County Superior Court, California; Detective Nate Griesse, Missoula Police Department, Montana; Senior Attorney Alexandria Ruden, Legal Aid Society of Cleveland, Ohio; and Assistant Public Defender Laura Zimm, Sixth Judicial District, Duluth, Minnesota.

5. See, for example, Cal. Fam. Code § 6320.

6. Harm, T. & Rajs, J (Sept.-Oct. 1981). Types of injuries and interrelated conditions of victims and assailants in attempted and homicidal strangulation, *Forensic Sci. Int.* 18(2), 101–23. doi: 10.1016/0379-0738(81)90148-1.

7. Mass. Gen. L. Ann. 6 § 116A.

8. Maryland Police Training and Standards Commission Lesson Plan on Non-Fatal Strangulation Domestic Violence Investigations, January 2017. Available at https://mdle.net/downloads/ NON_FATAL_STRANGULATION-12-16-16.pdf, https://www.strangulationtraininginstitute.com/ maryland-strangulation-laws/.

9. Tex. Occupations Code § 170.253(d); Mass. Gen. Law Ann. 6 § 116A; https://capitol.

texas.gov/tlodocs/86R/billtext/pdf/SB00971F. pdf#navpanes=0.

10. Strack, G. & Gwinn, C., Guest Editors (Aug/Sept 2014). Special Issue on Strangulation, *Domestic Violence Report*, 19(6), 81–100.

11. Brady, P., Fansher, A., Zedaker S. (2021). How victims of strangulation survived: Enhancing the admissibility of victim statements to the police when survivors are reluctant to cooperate, Violence Against Women, (28(8), 1-26; Stansfield, R., Williams, K. (2018). Coercive control between intimate partners: An application of strangulation, J. of Interpersonal Violence, 36(9-10), 1–20 See also www.strangulationtraininginstitute.org for additional research.

12. Glass, N., Laughon, K., Campbell, J., Block, C. R., Hanson, G., Sharps, P. W., & Taliaferro, E. (2008). Non-fatal strangulation is an important risk factor for homicide of women, *J. Emergency Med.* 35(3), 329–335.

13. Gwinn, C. and Hellman, C. (2019). Hope Rising: How the science of HOPE can change your life. New York, NY: Morgan James Pub.

14. See Utah Code 76-5-103. Available at *https://le.utah.gov/xcode/Title76/Chapter5/*76-5-S103.html. Accessed April 7, 2022.

15. See Utah Code 77-36-2.2. Available at *https://le.utah.gov/xcode/Title77/Chapter36/*77-36-S2.2.*html*. Accessed April 7, 2022.

16. Harm & Rajs, supra note 6.

17. Investigation and Prosecution of Strangulation Cases, California District Attorneys Association and the Training Institute on Strangulation Prevention (2020). Available at https://www.familyjusticecenter.org/resources/ cdaa-investigation-and-prosecution-of-strangulation-cases-manual/. Accessed April 7, 2022.

18. Stover, C. S. (2012). Police-advocacy partnerships in response to domestic violence. *J. Police Crisis Negotiations*, 18(4), 183–198. Available at https://doi.org/10.1080/1533258 6.2012.717031.

19. For more information about Family Justice Centers, go to: *www.familyjusticecenter.org*. 20. Our Family Justice Center Alliance program works with local communities to develop and sustain Family Justice Centers to serve victims of domestic and sexual violence. For more information, contact us at *info@allianceforhope.com*.

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