

Family Court Outcomes Project - Empirical Analysis of Custody Cases involving Abuse and Alienation

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Battered Mothers'
Custody
Conference

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With deep
thanks to Sean
Dickson, MPh,
J.D.

*Who has the relevant legal knowledge, the
statistical expertise I lack,
and the critical skills of translation and
interpretation*

CUSTODY AND ABUSE LITIGATION

PRO-FATHER BIAS

- OVERT
- IMPLICIT
- HOSTILITY TOWARD MOTHERS
ALLEGING ABUSE BY FATHERS

WORKING TOWARD SYSTEM CHANGE

- Scholarly and legal critiques and complaints ineffectual
- Protective mothers deemed crazy and one-offs
- Parental alienation treated as gender-neutral (quasi-scientific), as legitimate
- **Comprehensive data** needed to PROVE that family courts are using alienation to deny valid abuse and punish mothers

EMPIRICAL EVIDENCE?

Multiple small localized studies have found that courts often ignore domestic violence, grant unprotected visitation to abusers, and even strip mothers alleging abuse of custody

but

no media coverage

and

no national comprehensive data*

* Needed to be neutral, not self-selected cases

Pilot study

Meier & Dickson, *Mapping Gender: Shedding Empirical Light on Family Courts' Treatment of Cases Involving Abuse and Alienation*, 35 *Law & Inequality* 311 (2017)

Began with students in approx. 2012

Studied 240 electronically published cases with parental alienation claims:

Findings included:

- Child sexual abuse claims => loss of custody
- Parental alienation claims help fathers more than mothers
- Abuse claims (of any kind, but especially child abuse) are infrequently credited

FULL STUDY
(NIJ Award to
GWU, 2014)

- 10 year period (2005-2015)
- Comprehensive search string netted over 15,000 cases (all electronic opinions)- narrowed to 4338
- Excluded state cases, same sex, third party custody, etc*
- Added NON-alienation cases, for comparison

*Currently also excluding mutual abuse, 3d party abuse

OVERVIEW

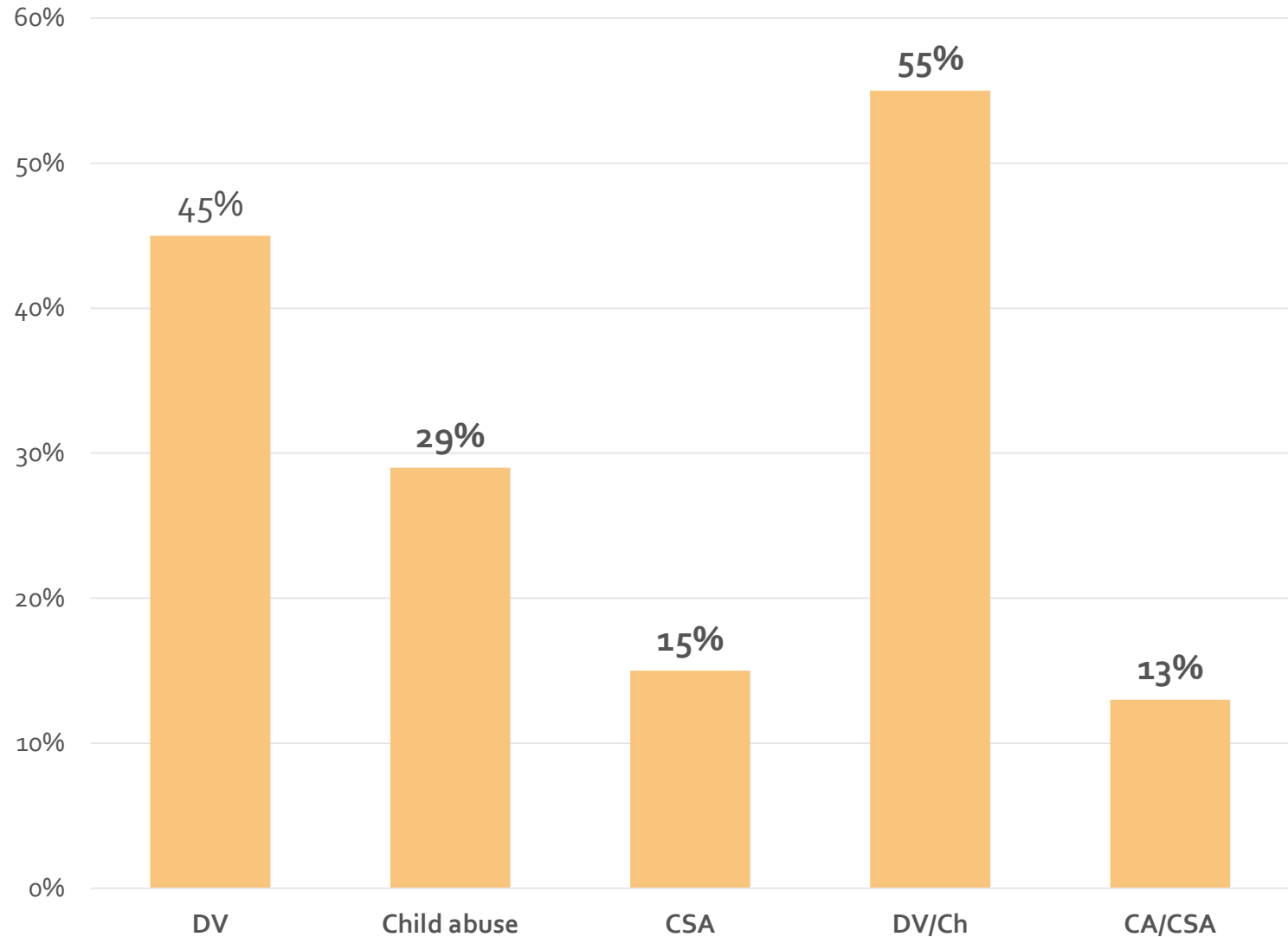
- Alienation cases only 16% of total (669/4147)
- More than half the alienation cases have no abuse
- Abuse (non-alienation) cases: 3174
- "AKA" cases: 347 (43 overlap w/alienation)

TODAY

- CREDITING OF ABUSE
- F WINS
- GENDER COMPARISON (brief)
- M CUSTODY LOSSES

CREDITING OF ABUSE alleged by Mother

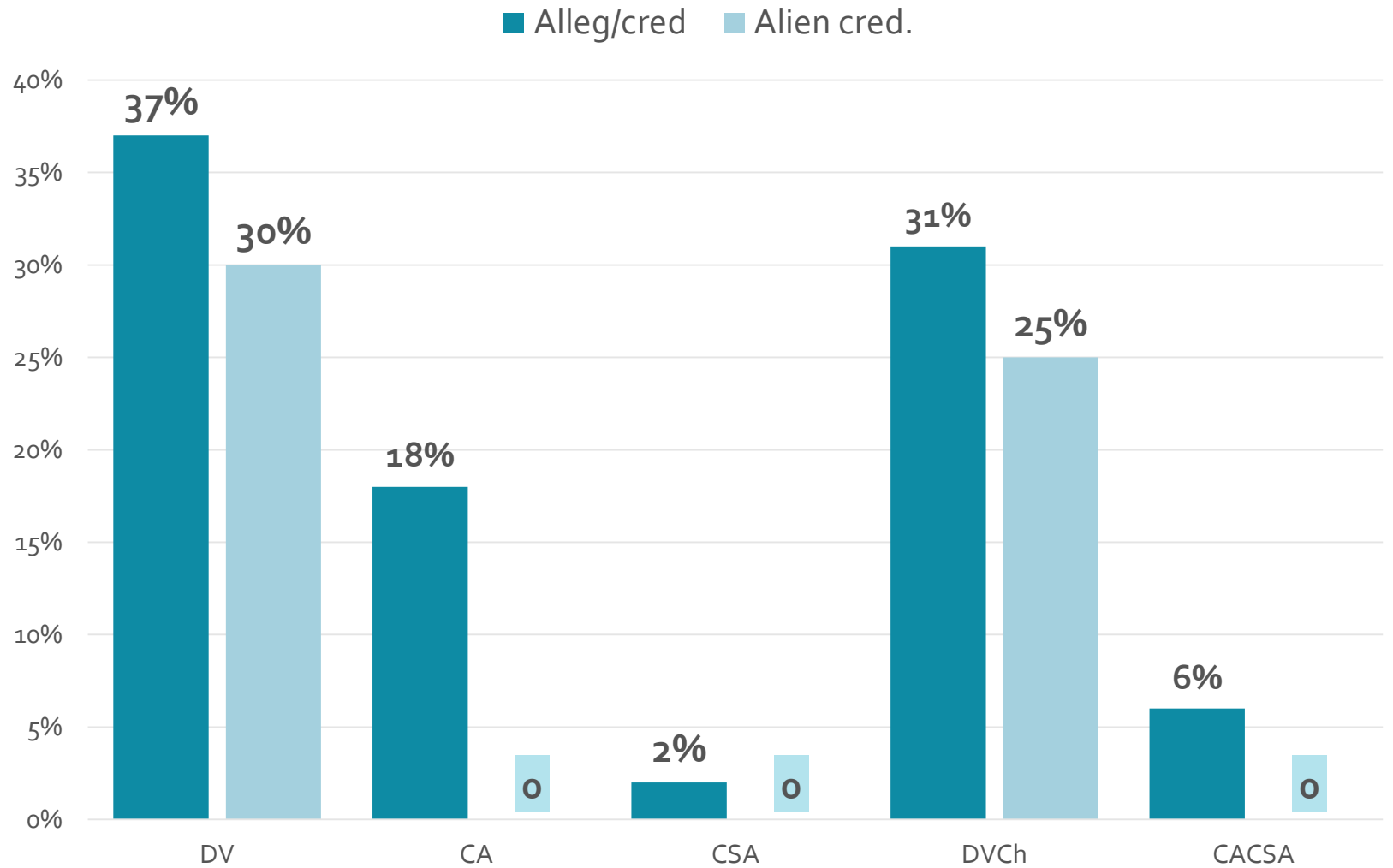
NON-ALIENATION POPULATION



Overall, courts credited 41% of abuse claims

CREDITING OF ABUSE alleged by M

ALIENATION POPULATION (F cross-claim)



Overall, courts credited **only 23%** of abuse claims

Impact of Alienation Defense on Crediting of Abuse

Courts are more than **two times (2.3)** less likely to credit M's claim of **any abuse** when F claims alienation

Courts are almost **4 times less likely (3.9)** to credit M's claim of **child abuse** when F claims alienation

Overall

Child Abuse
Rarely
Credited

IN NON-ALIENATION CASES:

- Child abuse is almost **3 times (2.9)** less likely to be credited than DV*

IN ALIENATION CASES:

- Child abuse is almost **8 times (7.9)** less likely to be credited than DV*

* excluding mixed (adult and child) abuse cases

WIN RATES

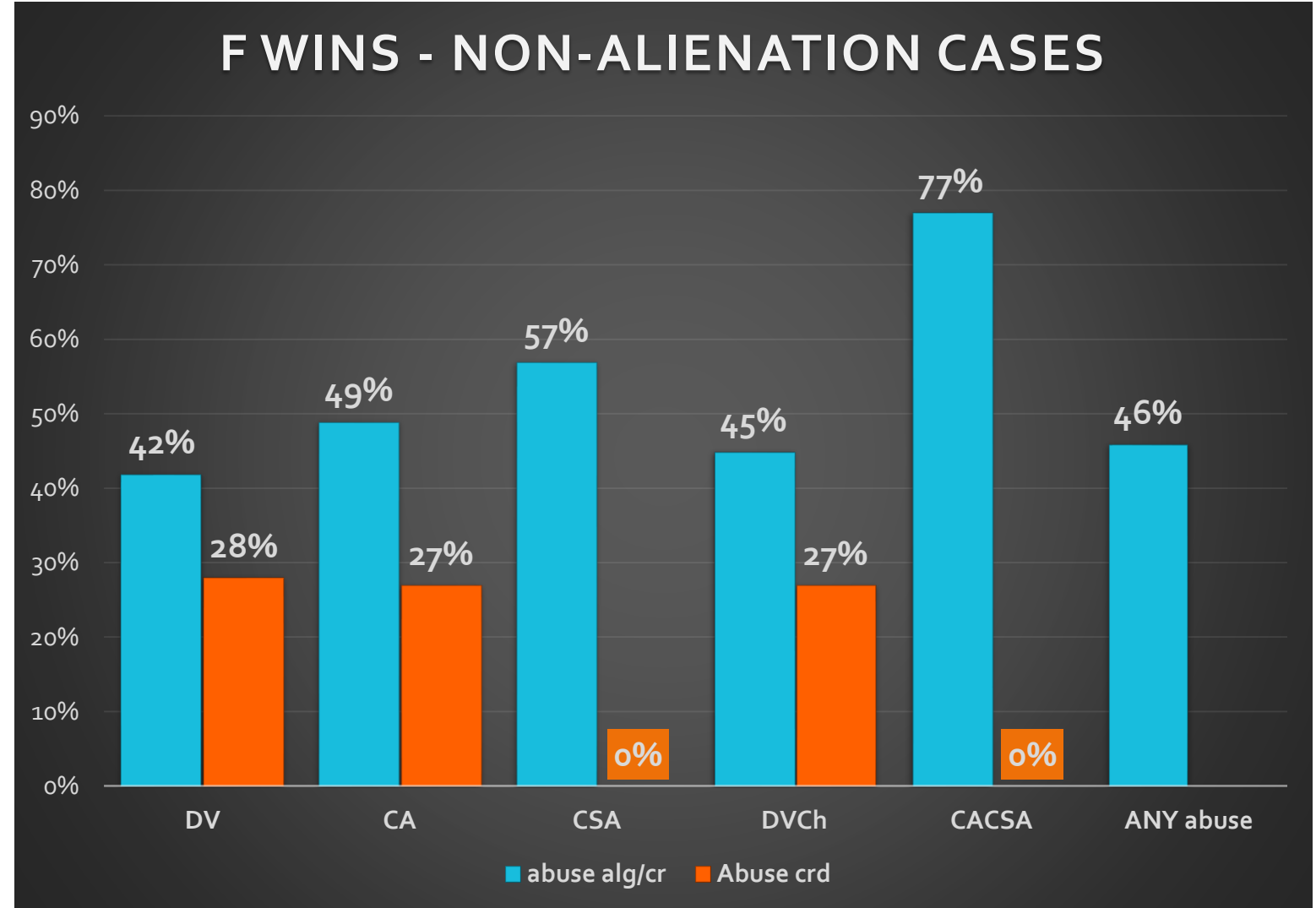
defined as getting some or all of what they sought – or preventing other party's win

ALIENATION CASES – CHILD ABUSE PENALTY

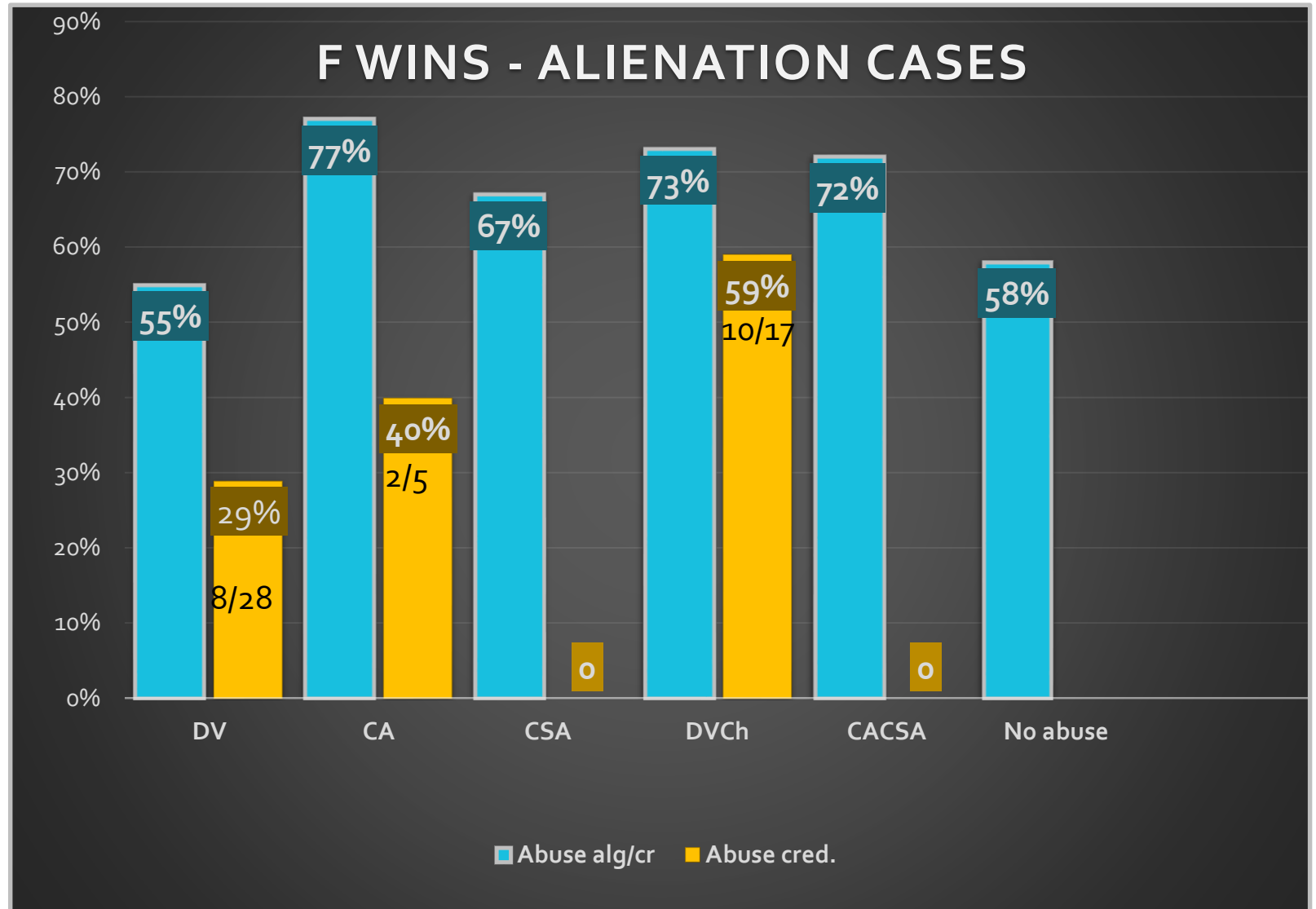
- F almost twice (1.9) as likely to win if M alleges child abuse, compared to DV
- F 1.7 times more likely to win if M alleges child abuse than no abuse

WIN RATES (2) BY TYPE OF ABUSE

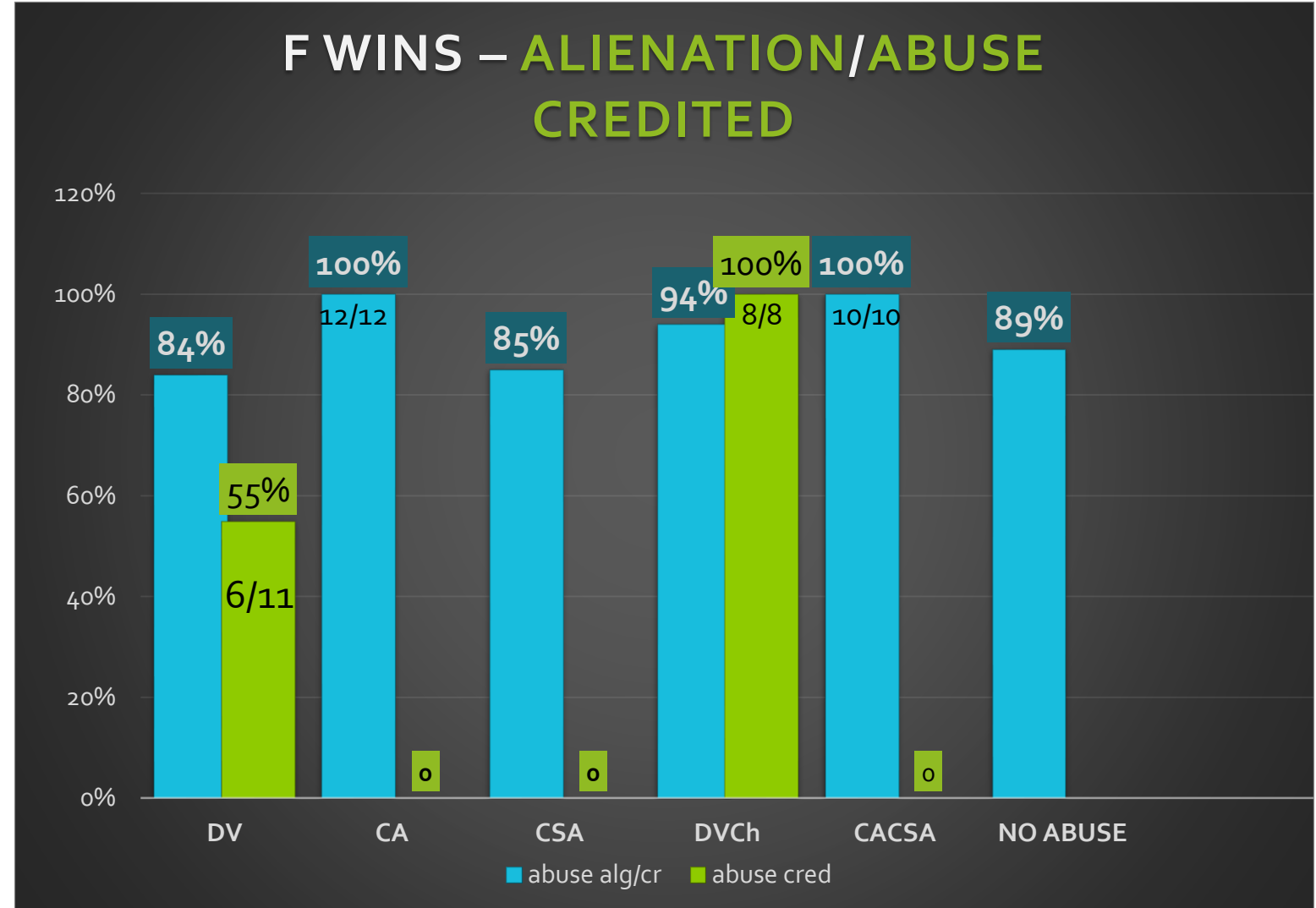
defined as getting
some or all of what
they sought – or
preventing other
party's win



F WIN RATES (3) BY TYPE OF ABUSE



WIN RATES (4) WHEN ALIENATION CREDITED



Note: no child abuse credited when M alienation credited

GENDER:

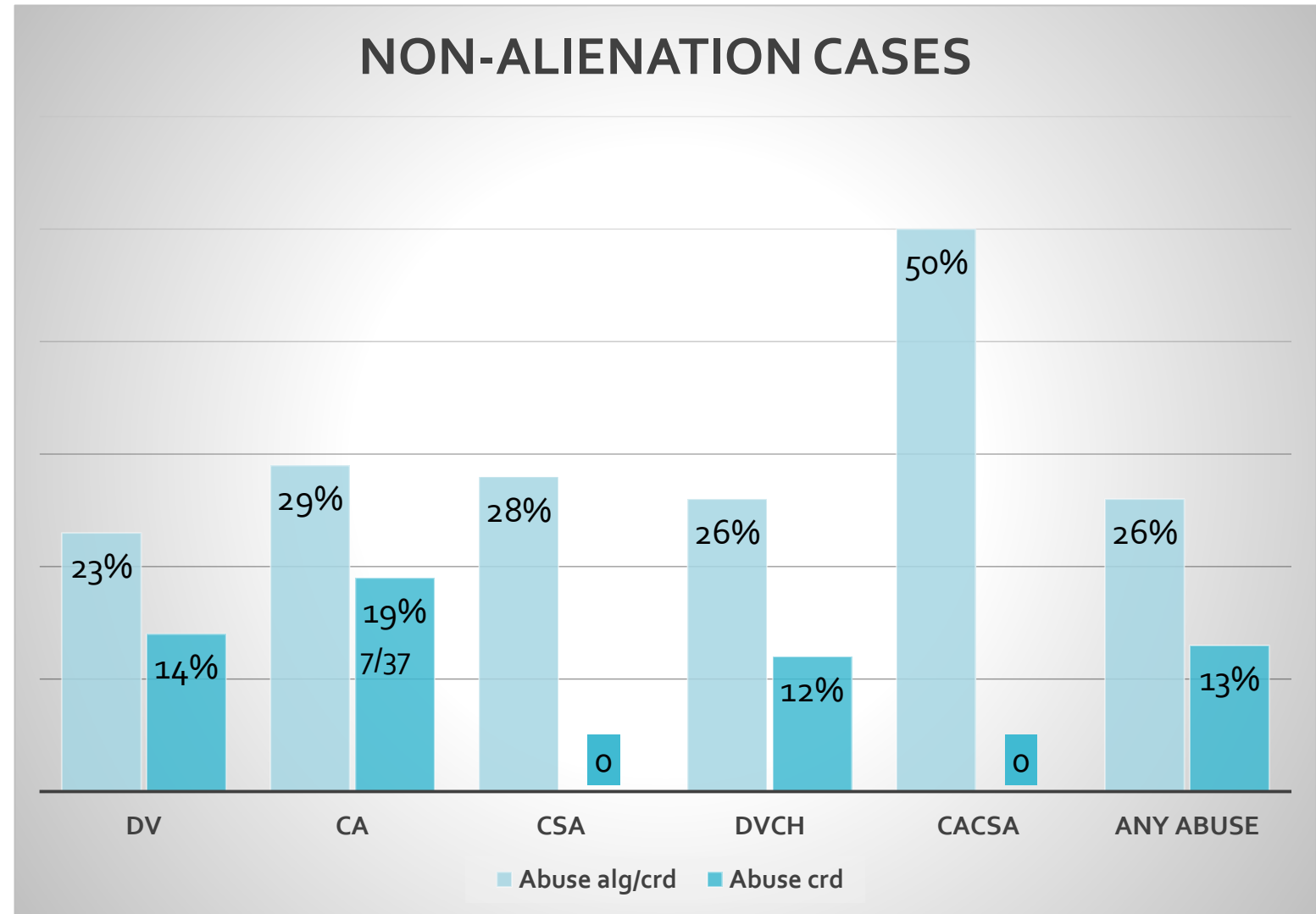
ABUSE CLAIMS HAVE GENDERED IMPACT

In alienation cases:

- When accused of abuse, M is **3.3** times more likely to have her alienation claim credited
- When accused of abuse, F is almost **8 (7.8)** times more likely to have his alienation claim credited
- As seen, credited alienation dictates wins

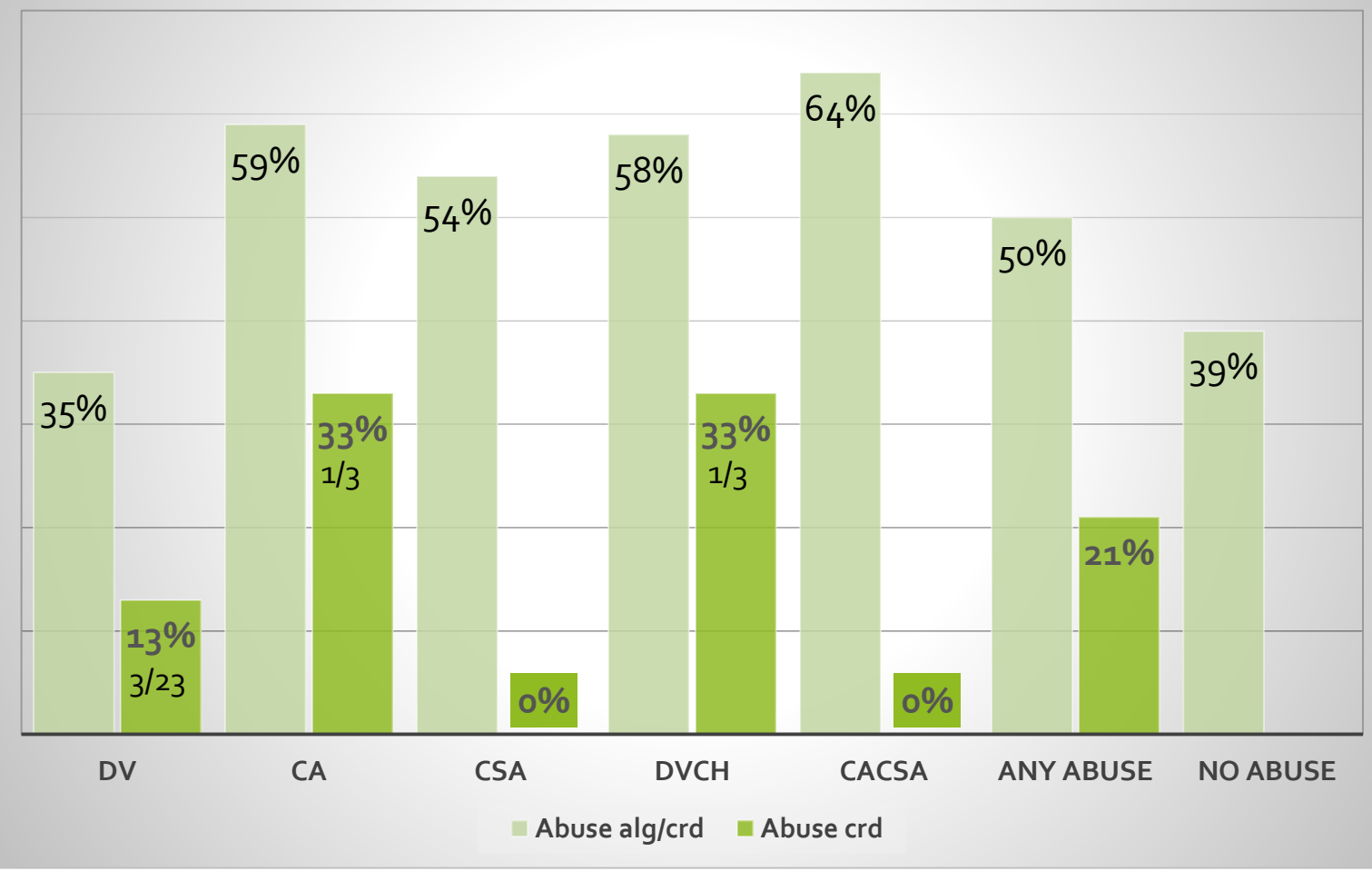
MOTHERS' CUSTODY LOSSES

Switch of Primary custody from M to F

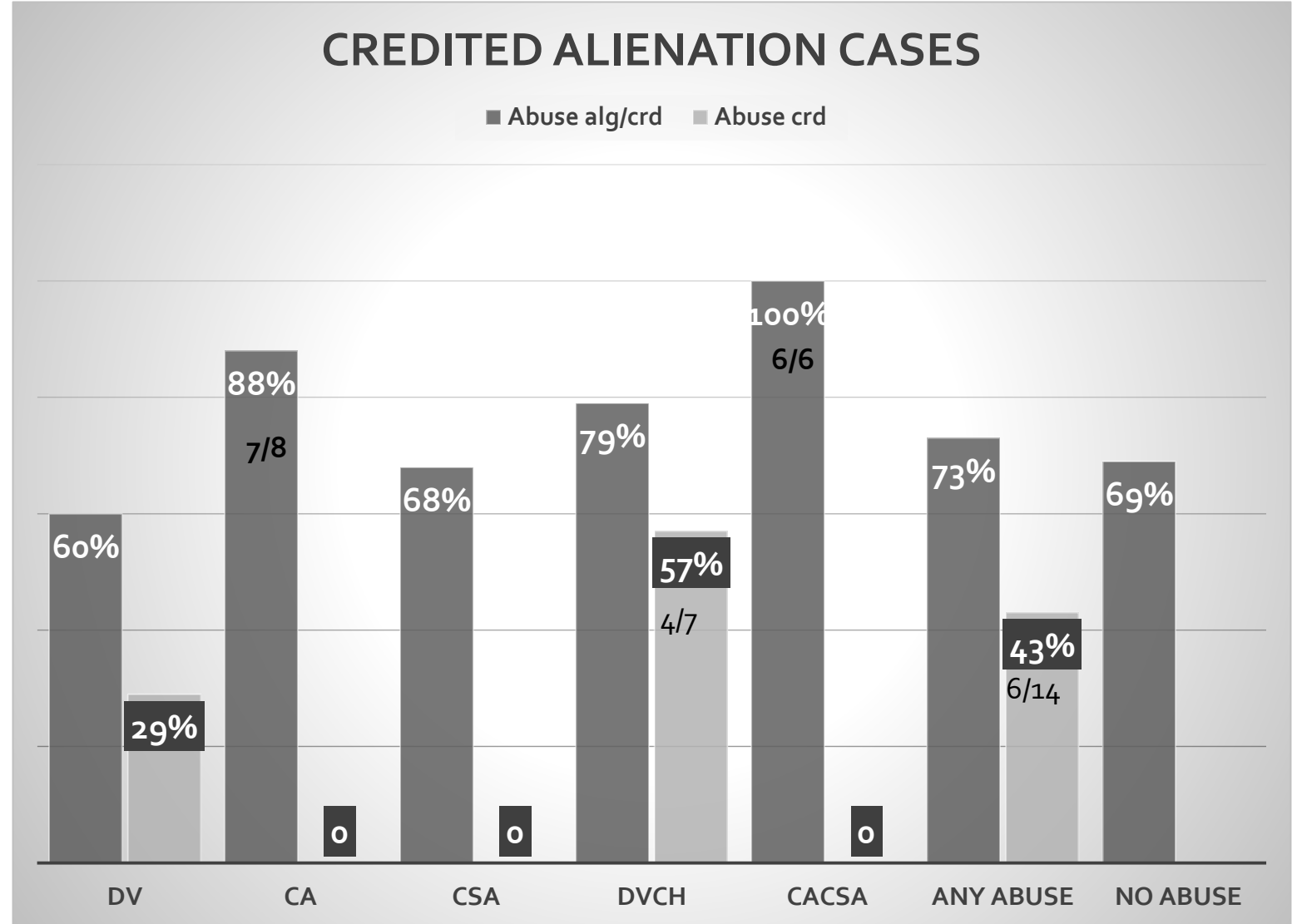


MOTHERS' CUSTODY LOSSES (2)

ALIENATION CASES (ALG/CRD)



CUSTODY LOSSES (3)



Note: No CA or CSA credited when alienation credited

CUSTODY
LOSS:
Impact of
CHILD ABUSE
compared to
DV

Child abuse vs DV:

- In **alienation** cases, Ms were 2.5 times more likely to lose custody if they alleged child or child sexual abuse than if they alleged DV

CUSTODY
LOSS (2):
CHILD ABUSE
and
ALIENATION

Child abuse in alienation vs non-alienation cases:

- Fs were 3.1 times more likely to take custody from M in **alienation** cases than in **non-alienation** cases, when M alleged child or child sexual abuse

CUSTODY
LOSS (3):
ANY ABUSE
and
ALIENATION

Any abuse in alienation vs. non-alienation cases:

- In **alienation** cases, Fs were almost 3 (2.9) times more likely to take custody from M if M alleged any abuse, compared to **non-alienation** cases |

WIN RATES

when both abuse
and alienation are
credited (n = 19)



Maternal
Alienation



Paternal
Abuse

Father Wins 74%
(14/19)

CUSTODY LOSSES

when both abuse
and alienation
are credited



Maternal
alienation



Paternal
abuse

M loses custody 43%

(6/14)

FUTURE ANALYSES (much more available data)

Likely:

- Impact of Guardians Ad Litem
- Impact of Custody Evaluators
- Impact of corroboration of abuse
- Custody changes to and from joint custody

Possible:

- Visitation outcomes
- 3d party abuse victims
- Role of mental health labelling

Hopeful:

- State-specific analyses for use in state-level advocacy [after our study ends]

QUESTIONS and DISCUSSION

Child Custody Outcomes in Cases Involving Parental Alienation and Abuse Allegations, National Institute of Justice Grant 2014-MU-CX-0859

Study team:

- Joan Meier, Principal Investigator
- Sean Dickson, Consultant
- Chris O'Sullivan, Consultant
- Leora Rosen, Consultant
- Institute for Women's Policy Research, contractor

Please contact Joan Meier at jmeier@law.gwu.edu or 202-994-2278 to discuss this study further