

Home › Culture War › Does the family court system truly understand the children whose lives it...

Does the family court system truly understand the children whose lives it is changing?

By **Lyndsey Tannen** July 2, 2026



lang="x-default" Lawyer pleading case to jury in court

This is the second in a series of articles we are publishing in TCW over the next two weeks designed to challenge one of the most powerful orthodoxies shaping family justice across the Western world, an orthodoxy that is harming children and parents alike. The first, on the consequences for children of parental alienation denial, was published yesterday. Today a former family court magistrate documents her growing doubts about the adequacy of the CAFCASS professionals' and clinical psychologists' expertise on which the courts rely.

FOR around 15 years I sat as a magistrate in family courts, much of it in the chair, always with two fellow justices. On numerous occasions we were asked whether the state should intervene in family life, sometimes to the point of separating children from their parents. We were asked whether, and on what terms, a child should have contact with a parent where allegations of harm, coercion, neglect, alienation or fear were often present.

These are among the gravest decisions any court can make. They alter childhoods, separate families, protect children from danger, but also expose them to it. Childhood moves in only one direction. A mistaken financial judgment can be corrected. A flawed criminal conviction may eventually be overturned. A child unnecessarily separated from a loving parent, or left for years in a damaging situation because the court misunderstood what was happening, never gets those years back. Such decisions demand knowledge of the deepest kind: not merely legal knowledge, but psychological, developmental and relational understanding. Yet what I increasingly saw was a system that too often behaved as if procedure, professional status and report-writing were substitutes for genuine insight.

At the same time as I was sitting in the family court, I was training to become a family therapist. That coincidence changed everything. The more I learned about trauma, attachment, child development and the long shadows cast by early experience, the more uneasy I became. I could see that the bench was frequently being asked to make life-changing decisions on the basis of knowledge that was not deep enough, accurate enough, or psychologically informed enough to justify the confidence with which the system often proceeded.

The problem was not that individual magistrates were careless. My colleagues were almost always conscientious, humane and acutely aware of the gravity of the task. The problem was systemic. The family court routinely depended on evidence that appeared authoritative but often did not provide the level of understanding required. A court file could be professionally formatted yet still fail to answer the question that mattered most: what is really happening inside this family, inside this child, inside this parent, and inside the relationships between them?

In public law, the central issue may be whether a child can safely remain at home, whether support could make the home safe, whether harm is transient or embedded, whether a parent can change, or whether delay itself is damaging the child. These are not merely administrative questions. They are profoundly psychological questions. Yet the evidence before the bench could be thinnest precisely where it needed to be deepest.

In private law, the difficulty was magnified. The court might face one parent seeking contact and another opposing it. Allegations might include domestic abuse, manipulation of the child, or parental alienation. These cases were agonising because surface presentation could be profoundly misleading. A calm parent is not necessarily safe. A distressed parent is not necessarily unreliable. A child's wishes may be coached, conflicted, frightened from being shaped by loyalty. Contact may be healing in one case and harmful in another. Refusing contact may protect a child in one situation and entrench injustice in another.

The bench, however, had to decide. Children cannot live indefinitely in uncertainty while adults search for perfect knowledge. Orders have to be made. Contact has to happen or not happen. A child has to be returned, placed, protected, moved, heard or shielded. But the finality of the order often exceeded the quality of the knowledge on which it rested. That was the moral crisis at the heart of the role.

This difficulty was intensified by a wider performance target culture which pressed family benches to move cases more quickly. Delay can deeply

damage children, and speed is not an ignoble objective. Yet over time I became concerned that timeliness was being confused with understanding. Cases completed became indicators of success. Delays became indicators of failure.

Children, however, do not live inside performance statistics. The court may reach a decision more efficiently while understanding the family less completely.

CAFCASS (Children and Family Court Advisory and Support Service) officers, social workers and expert witnesses were central to the process, 'professionals' the family court depends on. Many were doing their best under considerable pressure but the uncomfortable truth is that many were not trained to understand family dynamics at the level the cases required.

Their reports might record allegations, interviews, behaviour and recommendations, yet still fail to illuminate the underlying relations, what family behaviours meant and where they came from.

My assumption that psychological expertise automatically brought psychological understanding has, sadly, diminished over my time as a magistrate. Clinical psychologists may be highly skilled at diagnosing depression, anxiety disorders and neurodevelopmental conditions, and yet possess only limited knowledge of or training in attachment, developmental trauma, family systems and coercive dynamics. They often know even less about the ways children adapt to chronic relational conflict. Yet it is precisely these issues that often sit at the heart of family proceedings.

Some reports from clinical psychologists were particularly lacking. Despite carrying 'expert' weight, in many cases they did not seem to reflect an in-depth understanding of family dynamics in any way, shape or form. Too often, they rested heavily on self-report testing, diagnostic description, and surface presentation. Tools which create the appearance of scientific authority but missed the emotional reality of the individuals in the case.

This was not a minor technical weakness. It went to the heart of justice. In such cases, the bench was not merely under-informed. It was all too often misinformed. Institutional certainty can harden around insufficient knowledge. The system then defends the narrative it has created rather than asking whether the narrative is true.

Sometimes children must be removed. There are dangerous parents from whom children must be protected. But there are also parents wrongly accused, misunderstood, overwhelmed by process, or judged without proper appreciation of what they might become with help. The court must distinguish between them. Too often tools used were too blunt for the task.

What the family court system needs is the humility to recognise the current limits of its own knowledge, the courage to improve it. That means three things: experts who are genuinely expert in development, attachment and trauma; a deeper appreciation that human beings cannot be reduced to categories and checklists; and, finally, to fight to the 'ideological capture' that is taking place – that denies and demonises essential parental alienation diagnosis

The question that continues to trouble me is not whether family courts care about children. Most people within them clearly do.

The question is whether the system truly understands the children whose lives it is changing.

Because before any order is made, before any report is written and before any case is closed, a child may be silently asking a much simpler question: 'Has anybody really understood what I have had to do in order to survive?'