

Evidence submitted by John Sweeney, BBC Reporter

FAMILY JUSTICE: THE FAMILY COURTS

Since 2001 the BBC has investigated the possibility that the state has abused children by locking up their mothers or taking them away from their mothers on the basis of flawed evidence. The features of the Sally Clark case—she was freed in 2003 by the Appeal Court, at her second attempt—are typical: no hard evidence of abuse, no broken bones, no bruises, no history of abuse; no clear diagnosis of what went wrong; an assumption by an expert witness that it must have been foul play.

But what if the expert got it wrong?

In 2003 Sally Clark, Trupti Patel and Angela Cannings were all cleared of murdering their babies. The landmark judgment was made in December 2003, when Angela Cannings was freed by the Appeal Court thanks, in part, to fresh evidence provided by my colleagues Sarah Mole, Jim Booth and I. The criminal law was changed by Lord Justice Judge and others, so that no-one should go to prison again on the basis of expert witness evidence alone.

No such changes have taken place within the Family Court system.

I believe that the Family Court system is systemically unfair to parents accused of child abuse. This is because, firstly, the system is closed and takes places very much behind closed doors. Secondly, because the "primacy of the child" effectively over-rides and indeed reverses the presumption of innocence. Thirdly, because "expert" evidence outweighs that of lay people who know the family.

As a result of these three failures, my colleagues and I have been horrified to discover a series of what we believe have been a whole category of miscarriages of justice in the Family Courts.

1. Secret courts are bad courts. In rape cases, the media is not allowed to name the victim and sometimes the accused. But we are allowed to report in full the evidence. In exactly the same way the media should be allowed to write and report the evidence in a Family Court—so long as we don't identify the child. In the Family Courts, if the only evidence against a parent comes from an "expert" then the parent suffers a grievous disadvantage if that evidence can never be brought to the public eye. In the case of Child U, the mother was accused by an expert witness, Dr X, of trying to kill her child four times. He did not meet the family, the mother or the child nor did he take a family history—"could this be genetic?"—before coming to his conclusion. This appears to be a breach of guidance by the Royal College of Paediatrics. However, thanks to a Court Order by Mrs Justice Butler-Sloss we are prevented, "to protect the identity of the child", from naming the doctor, his hospital, the city name of the social services department or the region in England where it lies. This has nothing to do with protecting the child but everything to do with protecting an "expert" and a social services department from public scrutiny.

2. "The primacy of the child" over-rides and reverses the presumption of innocence. Parents are placed in the appalling position of having to prove their innocence; if they do not know why their child is sick, they cannot and therefore they must be guilty.

3. "Experts" who don't know the family count double over inarticulate relatives who do. The

most dangerous kinds of experts are those who trumpet criminalising diagnoses without giving the benefit of the doubt to innocent explanations. Shaken Baby Syndrome and Munchausens Syndrome By Proxy are two such diagnoses. Munchausens is a criminalising diagnosis with no scientific validity. It is not in either the World Health Organisation or the US standard diagnostic bibles. The man who first identified it, Professor Sir Roy Meadow, comes before the General Medical Council next year for ramping evidence against cot death mothers like Sally Clark and seven cases in the Family Courts.

I would be more than happy to expand on these points in person if the committee thought that might be useful.

John Sweeney

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