

# Chapter 9

## The Polarized Child

*“The relentless conflict between the parents has established an unsafe environment for the children. In order to find a place of safety and to get relief from the cognitive dissonance, which arises from trying to love people who are at war, the children have aligned with one parent and have rejected the other.”<sup>1</sup>*

*“It is quite understandable why H. might have feelings of insecurity. He has stated that he was on his ‘mother’s team’ and that his father, B.B.[.] and A.B. are on a different team. He has internalized that he has to make a choice . . . If he chooses such a relationship the implication is that he will lose his relationship with his mother.”<sup>2</sup>*

Definition:	The polarized child is aligned with Parent A and resists and/or refuses contact with Parent B. The term is descriptive, without any implication of causation or responsibility.
Reasonable precautions:	Beware that confirmation bias, zealous advocacy, and the adversarial legal system can exacerbate and reify the child’s polarized position. Only a comprehensive assessment of the child’s development, relationships, needs, and abilities in the context of the larger family dynamics can begin to untangle the unique confluence of relationship pressures and practical exigencies responsible for any particular child’s polarized position.

1. P.L.M. v. L.J., [2008] 54 R.F.L. 6th 126 para. 132, <http://canlii.ca/t/1zkcg>.  
2. H.B. v. M.B., [2018] O.N.C.J. 916 para. 164, <http://canlii.ca/t/hwwhs>.

<p>What to look for:</p>	<p>The polarized child acts and speaks as if the adult conflict is all black and white. She has created this artificially binary position by aligning with one parent and rejecting the other. Family court professionals must look beneath this veneer for inevitable shades of gray evident as mixed feelings about each of the parents, always aware that the child's rejection of Parent B may be based at least in part on valid safety concerns.</p>
<p>How to respond to the adults:</p>	<p>Therapeutic interventions and court orders must singularly emphasize the child's need and right to enjoy a healthy relationship with both parents. Helping parents to separate their feelings about the other adult from the child's feelings about that parent is often part of this process.</p>
<p>How to respond to the child:</p>	<p>A child's polarized position is seldom a response to one cause.<sup>3</sup> Instead, numerous mutually compatible relationship pressures and practical considerations must be carefully assessed in order to fully understand and thus prescribe the unique combination of interventions best suited to help any given child (re-)establish healthy relationships with both (all) caregivers.</p>
<p>Implications for custody-related decisions:</p>	<p>Approaching a child's polarized position within her parents' conflict as necessarily due to competing and mutually exclusive binary causes is to do harm. The polarized child's needs can only be served by understanding and responding to the complex and chaotic confluence of factors compromising her best interests. In some such cases, child custody evaluations and related litigation should be postponed until efforts to repair the polarized dynamics have been tried.</p>

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3. "[J]ust because children resist contact with one parent does not necessarily mean that they are alienated . . . . There may be a number of reasons as to why a child is resisting contact, all of which must be carefully considered." *M.L.S. v. N.E.D.*, [2017] S.K.Q.B. 183 para. 181, <http://canlii.ca/t/h4pqj>.

## Not All Molehills Are Mountains

Imagine a family of three that has always functioned well but has recently been disrupted by an apparent alliance between Mother and daughter. Dad catches the pair engaged in secretive, whispered conversations. He notices Mom giving the child unexpected gifts hidden in brown paper bags. He's startled to discover the pair giggling together behind a locked door.

In a healthy family system, Mother takes Father aside to alert him that their 12-year-old began her first period. The child is horrified and embarrassed and excited and needs a lot of coaching, reassurance, and supplies. Relieved, proud, and a bit uncomfortable, Dad offers his support but agrees not to talk about it until their daughter brings it up. All is well and the family resumes its healthy development.

In a conflicted family system, adult biases and beliefs color perceptions and compromise communications. Otherwise innocuous events are distorted by confirmation bias such that relationship molehills quickly become mountains of conflict. If these hypothetical parents were living apart and their daughter began to resist seeing her father once a month without explanation, Dad might allege that Mom is trying to undermine the father-daughter relationship. Mom might respond by alleging that their daughter's resistance was evidence of Dad's insensitivity or misbehavior, a conclusion that not coincidentally validates her own painful choice to leave the marriage. For some families, this is all that it takes to begin filing motions, making reports to child protective services, and obtaining ex parte protection orders.

## Polarized Fractals?

The polarized child is a natural and expectable byproduct of the conflicted family system,<sup>4</sup> which itself is the natural and expectable

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4. Referring to "reluctant, recalcitrant, and polarized parents." Janet R. Johnston et al., *Therapeutic Work with Alienated Children and Their Families*, 39 FAM. CT. REV. 316, 316 (2001).

byproduct of zealous advocates<sup>5</sup> whose polarized positions are, in turn, the natural and expectable byproducts of our adversarial court system.<sup>6</sup> Polarization within the family system will simultaneously spill over into allied systems, tearing neighborhoods and communities and extended families apart. Everyone involved in and connected to the polarized family across allied and superordinate systems—including you, the well-intended, skilled family law professional—is vulnerable to the either/or tug-of-war of the polarized family system. “Polarization between the mother’s camp and the father’s camp became the norm rather than the exception for family, friends and professionals. People saw things from the perspective of the camp which with they were aligned.”<sup>7</sup>

This is not to say that any one system causes the polarization of any other. This is not dominoes falling in a row or even a contagion that can be traced back to its source. This is the emergent and chaotic nature of systems, resonating together in response to relationship pressures. “Being caught in the middle of a parental disagreement places youths in a difficult position in which they may feel pressure to choose between their parents. Choosing to side with one parent may harm their relationship with the other, may lead to resentment of their parent ally . . . .”<sup>8</sup>

Confirmation bias was first introduced in Chapter 4. Recall that confirmation bias is the very human predisposition to perceive what you

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5. Referring to “polarizing professionals, including overly enmeshed counsel and mental health professionals.” JOHN-PAUL E. BOYD, CANADIAN RESEARCH INSTITUTE FOR LAW AND THE FAMILY, *ALIENATED CHILDREN IN FAMILY LAW DISPUTES IN BRITISH COLUMBIA* (2015) (2015 CanLIIDocs 321), <http://canlii.ca/t/2863> (last visited July 24, 2021).

6. “Courts and family law professionals need to move beyond polarized and simplistic analyses that not only fail to capture the richness and subtlety of these cases but also mirror the inflexible, ‘all or nothing’ thinking of alienated children and their parents.” Barbara J. Fidler & Peggie Ward, *Clinical Decision-Making in Parent-Child Contact Problem Cases: Tailoring the Intervention to the Family’s Needs*, in *OVERCOMING PARENT-CHILD CONTACT PROBLEMS: FAMILY-BASED INTERVENTIONS FOR RESISTANCE, REJECTION, AND ALIENATION* 13 (Abigail M. Judge & Robin M. Deutsch eds., 2017).

7. P.L.M. v. L.J., [2008] 54 R.F.L. 6th 126 para. 100, <http://canlii.ca/t/1zkcg>.

8. Gregory M. Fosco & John H. Grych, *Adolescent Triangulation into Parental Conflicts: Longitudinal Implications for Appraisals and Adolescent-Parent Relations*, 72 J. MARRIAGE & FAM. 254, 255 (2010).

expect to perceive, a tendency that increases as emotion increases and calm, clear thinking diminishes.

The polarized child is often a victim of confirmation bias run amok. We previously identified confirmation bias as one among the engines that drives the triangulated child's adaptation of chameleon-like characteristics. The same is true of the polarized child to an even greater extreme. Whereas confirmation bias contributes to the chameleon child's experience of two separate, parallel realities, it contributes to the polarized child's rejection of one of those realities and buy-in to the other.

It may be that most polarized kids were once, at least briefly, chameleon kids intent only on fitting into each of their parents' disparate and warring worlds. For some, this adaptation is sufficient and self-sustaining. For others, however, real-life aversive experiences and practical hurdles and the feedback loop that emerges when the child's chameleon-like behaviors encounter a parent's confirmation bias forces an impossible choice. A loyalty bind is created that teaches the child that loving that parent means betraying the other. The result is a child who is strongly aligned with Parent A and resists or refuses contact with Parent B. To illustrate:

[A] child may say something fairly neutral, but the parent will twist it into a concern about the child. To the child, it is perceived as though the aligned parent is being supportive. As soon as a child begins to define himself as a victim, the other parent begins to be defined as abusive. Once that occurs, the child has been moved into the middle of the conflict taking the lead role in rejecting the other parent, with the aligned parent taking what appears to be a passive, and supporting role.<sup>9</sup>

The dilemma is that each polarized child's polarized position within the conflicted family system is both the result and one among many causes of that family's unique constellation of interwoven dynamics. Some are as benign as the embarrassment of puberty. Others are as toxic as abuse, neglect, and the vicarious experience of adult intimate partner violence.

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9. M.L.S. v. N.E.D., [2017] S.K.Q.B. 183 para. 181, <http://canlii.ca/t/h4pqj>.

Our job as family law professionals is to put aside our own confirmation biases in an effort to see beyond the vitriol and black-white binary allegations—to recognize the entirety of the iceberg, not just the part that is obvious above the water—so as to understand the many confluent pressures that contribute to that particular child's polarized position.

### **The View through a Funnel**

We know that a very small minority of children who are sexually abused grow up to become perpetrators.<sup>10</sup> We also know that the majority of sexual abuse perpetrators were sexually abused as children. Together, these facts illustrate the view through a funnel: the world looks very different depending on which end you hold to your eye.

This lesson teaches us to be wary of retrospective research. No matter how well-intended, any study that begins with an outcome phenomenon and attempts to reason backward to identify origins or causes or even correlations (particularly without a matched control group) is likely to be grievously flawed and misleading.<sup>11</sup> Thus, although it may be correct to observe that "severely alienated children express extremely polarized views of their parents,"<sup>12</sup> it is illogical and bad science to thereby assert that all children who express extremely polarized views of their parents have been alienated.

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10. See Matthew Glasser et al., *Cycle of Child Sexual Abuse: Links between Being a Victim and Becoming a Perpetrator*, 179 BRIT. J. PSYCHIATRY 482 (2001).

11. Regarding the flaws inherent in backward reasoning particularly among professionals espousing a binary model of alienation see Kimberly Joyce, *Under the Microscope: The Admissibility of Parental Alienation Syndrome*, 32 J. AM. ACAD. MATRIMONIAL LAW 53 (2019).

12. Richard A. Warshak, *Severe Cases of Parental Alienation*, in PARENTAL ALIENATION: THE HANDBOOK FOR MENTAL HEALTH AND LEGAL PROFESSIONALS 125 (Demosthenes Lorandos et al. eds., 2013).

## Enumerating Relationship Pressures and Practical Hurdles

Our understanding of the factors that contribute to the polarized child's position within the conflicted family system has emerged fitfully and painfully over time. The history that created the false dichotomy between alienation and estrangement, the introduction of the hybrid model, and the evolution of an ecological model are detailed in Chapter 15. We offer here a brief overview of the many factors that must be considered in the process of serving the best interests of each unique polarized child.<sup>13</sup> We have identified the 13 factors in five categories.

### 1. Temporal, proximal, and environmental variables include:

(a) **Is the child's position acute and reactive?** Too often, evaluators and the court have little more than a brief snapshot of a family's dynamics. Without an understanding of the family's history and a larger picture of the child's behavior, it can be impossible to distinguish a child's vehement rejection of Parent B in response to a recent punishment from the same behavior associated with a history of insensitive care. Context is just as necessary if one is to distinguish a child's fawning adoration of Parent A immediately after receipt of a gift or bribe from the same behavior associated with a particularly strong affinity, idealization, or enmeshment. With this in mind, the evaluator is reminded that one interview is never sufficient,<sup>14</sup> and advised that a process-oriented observation protocol can further help to make these distinctions.<sup>15</sup>

(b) **Is the child's resistance/refusal event- or time-dependent?** Allegations of alienation, supercharged emotions, and zealous advocates can blind all involved to simple, pragmatic concerns. When court-ordered time with Parent B conflicts with desirable events scheduled in the child's

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13. This section is adapted and expanded from Benjamin D. Garber, *Sherlock Holmes and the Case of Resist/Refuse Dynamics: Confirmatory Bias and Abductive Inference in Child Custody Evaluations*, 58 FAM. CT. REV. 386 (2019).

14. Daniel J. Hynan, *Interviewing Children in Custody Evaluations*, 36 FAM. & CONCILIATION CTS. REV. 466 (1998).

15. Benjamin D. Garber, *Exploring a Process-Oriented Forensic Family Observation Protocol*, 54 FAM. CT. REV. 261 (2016).

world (e.g., team practice or a playdate) or in Parent A's home (e.g., family dinner, holiday celebration, time with a beloved half-sibling or step-sibling), a child's transition resistance may have little or nothing to do with either parent. For example:

[C]hildren might rather stay at one parent's home not because they have an alignment toward that parent, but because their friends or significant other lives in the neighborhood. This is especially important for children who attempt to remove themselves from any ongoing parental conflict by spending more time with friends.<sup>16</sup>

**(c) Is the child clinging to stimuli incidental to Parent A?** Technology should be the first suspect. Some children resist or refuse contact with Parent B not because of Parent B, but more concretely because they are granted greater power, control, and access to resources in Parent A's care. More screen time. More sugary foods. Later bedtimes, curfews, and wake-up calls.

When parents recognize how these factors motivate the child's behavior, some effectively create a bidding war for the child's affections, each trumping the other's latest offer of more technologies, greater freedoms, and more fun.

When parents don't recognize how these factors motivate the child's behavior, confirmation bias can cause one or both to misinterpret the child's behavior as validating larger fears and accusations. It's not unusual, for example, for Billy's wish to spend more time at Mom's because she has the latest, shiniest, megapixelated gizmo to fuel Mom's belief that Billy is avoiding Dad because he's abusive or neglectful.

**(d) Is the child avoiding stimuli incidental to Parent B?** Aversive environmental factors that the child associates with Parent B can motivate contact resistance and easily become confused with resistance of

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16. Shely Polak & Mike Saini, *Children Resisting Contact with a Parent Postseparation: Assessing This Phenomenon Using an Ecological Systems Framework*, 56 J. DIVORCE & REMARRIAGE 220, 237 (2015).