



ETHICS IN ACTION: PERSONAL REFLECTIONS OF CANADIAN PSYCHOLOGISTS

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ISBN 978-1-77385-570-7

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Being Part of the Solution, Not Part of the Problem: High-Conflict Divorce, Family “Justice,” and Responsibility to Society

Jeff Chang, Nicole Vath

When parents are repeatedly embroiled in courtroom battles, they have less time and energy to devote to their children, as well as fewer financial resources to devote to their care. When parental time, energy, and resources are funnelled into litigation, children usually pay the largest price (Joyce, 2016; van Berkel et al., 2024). Children of high-conflict divorce¹ experience psychosocial problems at a much higher incidence than children whose parents divorce without excessive conflict (Kim, 2011), and carry some of these problems into adulthood (Johnston, 1994). In Canada, separation and divorce are embedded in an inherently adversarial legal system. This significantly influences how psychological services are provided in high-conflict divorce situations.

In this chapter, we first: (a) introduce ourselves in terms of Rønnestad and Skovholt’s (2003) phases of counsellor development; (b) overview the issue of high-conflict divorce and its effects on children; (c) describe some of the systemic barriers inherent in the family justice system for the delivery of psychological services to these families; and (d) from our own perspectives and activities, provide reflections on important societal-level ethical responsibilities related to this area of practice, using Principle IV (Responsibility to Society) of the *Canadian Code of Ethics for Psychologists* (Canadian Psychological Association [CPA], 2017) as our framework. Finally, we invite psychologists and mental health practitioners involved in high-conflict divorce to take action to enhance their adherence to Principle IV by improving services to families experiencing high-conflict separation and divorce and supporting renewal of the court system.

About Us

Nicole: I am a recent master's graduate in counselling psychology and a former legal assistant. For as long as I can remember, my mother worked as a legal assistant. When I was little, my father worked out of town. It was not uncommon for my mother to collect my two sisters and me after school, pick up some take-out food, and take us to her office where she finished her work. Her dedication and hard work taught me that what she did was important to her and the clients she served. As I grew up, my mother continued to demonstrate the same work ethic, impeccable professional conduct, and much empathy towards her clients.

Wanting to follow my mother's example and be in a job that helped others, I started working part-time for a family lawyer during high school. I did not interact with the clients, but I performed duties that supported the progression of their cases, requiring a higher level of professionalism than most after-school jobs. In addition, working for a family lawyer taught me about the often-caustic nature of divorce. I came to believe that the inherently adversarial legal system created a culture that does not support effective communication or healthy dispute resolution. Later on, during graduate studies in counselling psychology, I took a scholarly interest in divorce and learned about the negative long-term consequences for many families.

Ten years elapsed between first working in the law firm and completing my undergraduate psychology degree. By the time I entered graduate school, I was again working as a legal assistant. However, I was now working with my mother, who became my first professional mentor. Learning from her instilled in me diligence, as well as attention and empathy toward clients, traits that I carried into graduate school.

As I engaged in the rigorous reflection required in my graduate program, I noticed parallels between my work as a legal assistant and the attitudes and skills required of professional counsellors; namely, crisis management and the ability to deal with ambiguity, uncertain outcomes, and comorbidities. Our ethics course, based on the *Canadian Code of Ethics for Psychologists*, reinforced many values of the legal profession. I was intrigued by the explicit focus on *Responsibility to Society*.

Drawing from Rønnestad and Skovholt's (2003) six stages of counsellor development, I saw that my growth as both a legal assistant and as a graduate counselling student reflected three of their themes: (a) beginning practitioners rely on external expertise, whereas senior practitioners rely on internal expertise; (b) as professionals develop in their careers, their anxiety declines; and (c) external support is most important at the beginning of one's career and at transition points. I experienced a strong need for external support in the form of mentors who could support me to manage my anxiety, and who could be role models

for me. My training as a legal assistant informed what I sought in a practicum placement—an environment with external supports that could help me manage my anxiety around the new roles I was taking on. With the help of supportive supervisors, I moved from the beginning-practitioner phase to the novice-professional phase (Rønnestad & Skovholt, 2003), where my anxiety gave way to a general sense of competence.

As a legal assistant, I noticed that there were few services available for family law clients. As a novice counsellor, I found that even senior colleagues shied away from high-conflict families and worried about the possibility of a regulatory complaint. I thought, “Someone needs to do something,” and realized that Principle IV required me to use my unique position with one foot in the legal profession and one foot in the counselling world to be one such “someone.”

Jeff: I also find the Rønnestad and Skovholt (2003) model helpful and am very comfortable with my current phase as a senior professional. I have been a registered psychologist for 33 years, working 25 of them mainly with families embroiled in high-conflict separation and divorce. I am one of the few senior psychologists in Alberta working with these families.

In middle age, moving into an academic position in a practice-oriented program, mentors encouraged me to leverage my connections in the family law arena to develop a scholarly agenda in high-conflict divorce. However, feeling weary of high-conflict families, I avoided this for seven years. I kept working in the family law arena to supplement my income but did not want to think about it more than I had to. However, when a family lawyer I knew was advocating for implementation of a program to prevent high-conflict situations in post-separation parenting by teaching parents communication and self-regulation skills, I offered to co-ordinate the research and evaluation. I finally stopped avoiding high-conflict divorce in my academic life, and now have a small group of students, including Nicole, who are researching in this area.

After many years of using my clinical skills with families embroiled in high-conflict divorce, I often felt like a cog in a flawed and slow-to-change system, wondering if I was playing a complicit role in its adversarial nature. The satisfaction of supporting a child and parent to reclaim their relationship after the child has refused to see that parent for months or years, or of uncovering family dynamics and devising recommendations about parenting time, has given way to the feeling that I should be making more of a difference.

My experience of a loss of satisfaction with a particular aspect of my work is not uncommon among senior practitioners (Rønnestad & Skovholt, 2003). Like others in this career phase, teaching and supervising have become great sources of satisfaction. Although I am not thinking about retirement soon, I do think about the legacy I will leave and how I can help build capacity in the system as well as competence in individual practitioners. I want to escape the “intellectual

apathy and . . . boredom” (Rønnestad & Skovholt, 2003, p. 26) that some senior practitioners experience. I have the good fortune to hold an academic position that gives me the flexibility to pursue my scholarly interests and disseminate my work. However, taking Principle IV seriously requires me to use my academic position as a privilege and a platform to help develop society in beneficial ways.

“High-Conflict”: An Overview

Divorce produces challenges in the lives of most families who experience it. Approximately 80% of divorces proceed without conflict and litigation, and with a modicum of respect and civility. Another 10 to 15% require just one court appearance to resolve a contested issue. This leaves about 5 to 10% that are highly litigious (Carter & Hebert, 2012). In these families, parental conflict does not abate; the co-parenting relationship is so problematic that special attention is warranted (Amato, 2010; Deutsch, 2008; Lebow, 2019).

These high-conflict relationships are characterized by antagonistic interaction between ex-partners, and often include hostile disengagement, poor communication, and ineffective decision making. Parental decision making is impaired to such an extent that issues like holidays, school placements, extra-curricular activities, and minor schedule changes may be litigated. Elevated emotional reactivity between the parents amplifies the annoyance that is felt from simple miscommunications or mere differences in parenting style into volatile mutual interactions. Immediately blaming the other parent for minor lapses in parenting is common. Although both may be at least adequate parents, differences in parenting style or practices are magnified and/or seen as evidence of pathology. Parents sometimes engage in amateur, usually internet-aided, diagnosis of the other parent. Some parents litigate to reduce or restrict the parenting time of the other parent, sometimes out of heightened suspicion and reactivity, and sometimes to gain the upper hand in ongoing litigation (Carter, 2011; Eddy, 2016; Eddy et al., 2020; Johnston, 1994; Lebow, 2019). Allegations of domestic violence, mental health issues, substance abuse, and personality disorders are more likely in these families (Carter, 2011; Eddy, 2016; Eddy et al., 2020; Johnston, 1994; Kelly, 2000). Allegations and counter-allegations of serious problems create complex situations that psychologists must unravel to work effectively with these families. High-conflict divorce also takes its toll on the parents’ physical and psychological health (Barnett et al., 2005; Burman & Margolin, 1992; Ditzen et al., 2011).

Children and High-Conflict Divorce

In high-conflict situations, research indicates that there is a substantial risk children will undergo psychological and emotional harm, as well as experience adjustment issues, erosion of their relationship with parent(s), academic problems, etc. (Carter, 2011; Johnston, 1994; Kelly, 2000; Lebow & Newcomb Rekart, 2007; Shumaker & Kelsey, 2020, Strohschein, 2012). Some children align themselves with one parent and decline contact with the other as a strategy to manage their response to the parents' conflict.

We have seen many situations in which the parents' conflict significantly exacerbated a child's problems. For example, Jeff was seeing 10-year-old Mikalya (a pseudonym) for her anxiety. Overall, she was a well-functioning girl who did well in school, had many friends, loved her extracurricular activities, and generally exercised a fair degree of independence for a girl her age. However, her anxiety spiked when her parents were in the same physical location for functions like school concerts. Poignantly, she lamented, "My head was going back and forth like I was watching a ping-pong game. I was watching where my parents were sitting in the gym. I was so worried about what they would do that I forgot the words to the song."

Systemic Barriers in High-Conflict Separation and Divorce

There are several systemic barriers that make the family justice system difficult for clients to navigate, and for psychologists and other mental health practitioners to provide effective services. These are: (a) the inherently adversarial nature of the legal system; (b) access to justice; (c) service fragmentation; and (d) the appropriation of psychological constructs by the family justice system.

Adversarial Legal System

Commonwealth countries and the United States have common law legal systems (Bryan, 2006), which are distinguished by two main features. First, they are bound as much by precedents of previous court rulings ("case law") as they are on legislation. Second, the parties in a legal dispute are defined as adversaries. These features are present whether the legal dispute pertains to product liability, criminal charges, or a disagreement over parenting time (e.g., "Kramer vs. Kramer" [Fischhoff et al., 1979]; "The People v. O. J. Simpson" [Alexander et al., 2016]). Legal education instills in lawyers who practice in such a system the responsibility to be zealous advocates for their clients. Accordingly, when a couple divorces, their legal interests, not the children's interests (whether legal or psychological), are represented directly. Although the *Divorce Act* (1985), last amended in 2021,

states that judges must be guided by the best interests of the child in deciding parenting issues, it is generally parents who are represented by legal counsel—not children. When a judge determines that parental conflict impairs the ability of the parents to separate their needs from the children's, the judge may appoint legal counsel for the child(ren), based on the assumption that children also have interests and are entitled to legal representation (Birnbaum, 2005; Lovinsky & Gagne, 2015). However, our experience has been that this may simply add another voice to the adversarial cacophony. Although the legal world views parties as individual entities, each with their own rights, we see “family justice issues [as] primarily social and relationship problems that contain a legal element” (Alberta Justice & Solicitor General, 2019, para 7). Zealous legal advocacy on behalf of an individual client often exacerbates conflict (Eddy, 2019).

In spite of this bleak picture, several practices have been found to be effective in reducing conflict between parents. First, most provinces and territories now require that divorcing parents participate in parent education regarding communication skills and the effects of separation and divorce on children (e.g., Alberta Justice, 2024; Bacon & McKenzie, 2004; Ontario Ministry of the Attorney General, 2024).

Mediation also has been helpful. It is intended to help divorcing couples to express their positions and negotiate to reach an agreement. Typically, mediation is brief and structured (ranging from 1 to 10 sessions), focused on developing agreements about specific issues (Emery et al., 2005). All Canadian jurisdictions provide some public funding for family mediation services (Family Mediation Canada, 2022). Like most government-funded services, waiting lists may affect availability, and services may be available only in larger centres.

Psychologists who are competent in mediation typically support parents to resolve parenting issues (e.g., parenting time, decision making). Other separating couples require assistance to resolve financial issues (e.g., property division, child and spousal support), which is more often done by lawyers who are knowledgeable about the relevant case law and legislation. Usually, mediation is “without prejudice,” meaning that the content discussed (including any agreements reached, but later rescinded) and the behaviour of the parties may not be revealed in court. Once agreements are reached, they are usually drafted into a court order (i.e., a “consent order”), which after review and endorsement by a judge, is binding.

Parenting co-ordination is a relatively new alternative dispute resolution process, usually implemented after a finalization of a court order for parenting arrangements. It is useful when high-conflict parents have a history of protracted litigation and require ongoing support to make decisions (Brophy et al., 2020; Coates et al., 2004; Higuchi & Lally, 2014; Kelly, 2008). Ideally, a parenting co-ordinator (PC) meets periodically and proactively with parents to aid

decision-making on recurrent issues (e.g., vacation, extracurricular activities), to suggest practical applications of the court orders, and to coach parents to communicate with each other. PCs educate parents about the developmental needs of children and how specific actions might affect the children, support parents' joint decision-making, and in some jurisdictions, arbitrate issues to make binding decisions. The goal, ideally, is to prevent recurring litigation. There is preliminary evidence of the benefits of parenting co-ordination both for families and the courts (Brophy et al., 2020; Henry et al., 2009; Higuchi & Lally, 2014; Scott et al., 2010).

Access to Justice

Divorce can be expensive, and legal fees are out of reach for many low- and middle-income parents. Many parents self-represent, requiring them to face arcane rules, processes, and deadlines. In most Canadian jurisdictions, there are at two levels of court where a separating partner can initiate a court action.² The less formal and more accessible provincial or territorial courts (presided over by provincial or territorial appointees) are permitted to rule on the division of property, financial support applications, and parenting for all separating parents (married or not), but are not permitted to grant divorces. Superior courts (presided over by federal appointees), which have stricter processes and deadlines, only differ in jurisdiction in their authority to grant divorces. Some separating parents are confused about where to initiate a court proceeding. Moreover, Canada currently experiences a shortage of judges, particularly at the superior court level, leading to long waiting lists and crowded court dockets (Leblanc, 2023; Pritchett, 2018).

To address these issues, six provinces (Manitoba, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island, Ontario, and Saskatchewan) have adopted unified family courts (UFCs) that deal with all family law matters (Canadian Forum on Civil Justice, 2002; Department of Justice Canada, 2018; Ross, 1998). These courts provide greater access and simplified processes and reduce overlapping jurisdiction. In addition to UFCs, the chief justice of the Supreme Court of Canada established the Action Committee on Access to Justice in Civil and Family Matters (ACAJCFM, 2012), which identified several strategies for improving access to justice for family law clients. Reform is moving slowly; however, the blueprint for increasing access to justice has been developed (Federation of Law Societies of Canada, 2019).

Service Fragmentation

How do psychological services fit in? In addition to the confusion and complexity that parents sometimes experience navigating two levels of court, there are a diversity of dispute resolution and therapeutic services—both publicly and privately funded—with little co-ordination among them. Psychologists working in

organizations may be accustomed to being able to liaise with a designated case manager, as found in entities like the child protection system, hospitals, residential treatment, or disability management services. The case manager co-ordinates services based on awareness of the needs of various individuals, avoids duplication, and supports complementarity and interdisciplinary practice. However, this kind of co-ordination seldom happens in family law matters. In some jurisdictions, judges can decide to hear all the applications involving a family prior to a trial. There may be several therapeutic and dispute resolution professionals involved (e.g., a mediator, PC, or child therapist) that have been jointly retained by the parents. Other professionals (e.g., a psychologist assessing a parent's risk for substance misuse, interpersonal violence, etc.; or a parent's individual therapist) may be working to help one of the parents, possibly also to support the client's position in litigation (Canadian Forum on Civil Justice, 2002; Department of Justice Canada, 2018). A judge may manage legal issues, but there is typically no neutral co-ordinator with an eye on the psychosocial health of the whole family.

To remedy this, some jurisdictions have adopted a publicly funded triage model (Manitoba Family Law Reform Committee, 2018; Salem, 2009) aimed at referring separating parents to appropriate services upon their first contact with court. In this way, high-conflict cases can be referred immediately to more comprehensive services such as risk assessment, bilateral evaluation, or direct court involvement.

Appropriation of Psychological Constructs

"A little learning is a dang'rous thing" (Pope, 1709, Part II). Psychological constructs such as attachment, diagnostic categories, parental alienation, parenting capacity, personality, risk of violence, and many others have found their way into family law discourse. Some of these constructs are better established in the psychological literature than others. Here are a few examples.

ATTACHMENT

Attachment (Ainsworth & Wittig, 1969; Bowlby, 1969) is a well-established construct with a strong research base and contemporary clinical applications in child psychotherapy (e.g., Aktar, 2012; Baylin & Hughes, 2016; Booth & Jernberg, 2010; Oppenheim & Goldsmith, 2007). Unfortunately, in litigation, a parent may be motivated to demonstrate their child's attachment to them is "better" than their attachment to the other parent. When Jeff has testified, lawyers have asked him if a child "is attached" to a parent, whether attachment to the parent they are representing is "secure," and whether attachment to the other parenting is "anxious" or "insecure." These questions are based usually on a very simplistic understanding of these constructs.

RISK OF PHYSICAL VIOLENCE

Another example of appropriation of psychological constructs relates to the assessment of the risk of interpersonal violence, which is a serious, but low base-rate behaviour. Of course, the presence of risk factors for physical violence increases the statistical probability that an individual will commit a violent act. Several times, Jeff has been examined by lawyers seeking to suggest that the opposing client will “probably” commit violence. Few lawyers and fewer lay people understand that just because one’s risk of violence is higher than in the general population, this does not make violence certain, or even likely. If a psychologist does not understand the actuarial basis of risk factors and risk assessment, they run the risk of accepting a cross-examining lawyer’s overly simplistic proposition and misrepresenting psychological data (Harris & Rice, 2007).

PARENTAL ALIENATION

Although attachment and risk assessment have well-established research foundations, the constructs of “parental alienation” and “parental alienation syndrome” do not. Gardner (1998, p. 9), who coined the term, states:

The *parental alienation syndrome* (PAS) is a disorder that arises primarily in the context of child custody disputes. Its primary manifestation is the child’s campaign of denigration against a parent, [which] has no justification. It results from the *combination* of a programming (brainwashing) parent’s indoctrinations and the child’s own contributions to the vilification of the target parent [Italics in original].

Although there are situations when parents actively denigrate the other parent and a child refuses contact with them, PAS as a syndrome is not empirically supported. However, the concept of PAS has pushed researchers and clinicians to develop more nuanced conceptualizations about children who decline contact with one parent. The concept of parental alienation is now generally thought to be an oversimplification that overlooks systemic and contextual factors (Clemente & Padilla-Racero, 2016; Dallam & Silberg, 2016; Johnston & Sullivan, 2020; Katz, 2003; O’Donohue et al., 2016). There are now coherent models (Kelly & Johnson, 2001; Polak & Saini, 2015; Sullivan et al., 2023) to explain children’s refusal of contact with a parent and to guide intervention.

Unfortunately, the questionable construct of parental alienation has found its way into popular culture. We both have seen many parents who assert that they have been the target of parental alienation when their children challenge their authority, or when they and their children experience conflict. For some, the construct of parental alienation is a way to externalize blame for their own possible mistakes in parenting their child.

DIAGNOSES

As a final example of the appropriation and oversimplification of psychological constructs, Jeff provides a personal anecdote. As he was in court waiting to give evidence, the judge paused the proceedings to deal briefly with a seemingly routine matter. Lawyers for the director of Child Welfare and for a mother had agreed that she had made sufficient progress for her young daughter to be returned home. In turn, the lawyers asked the judge to replace the Temporary Guardianship Order with a Supervision Order, which would permit Children's Services to return the child home but require the mother to comply with the case plan. The judge replied, "Just wait right here. This mother has been diagnosed with borderline personality disorder. The only effective treatment for that is Dialectical Behaviour Therapy, and it takes a minimum of 18 months. I'm not returning this little girl until that's been done." Although the judge clearly had the power to accept or reject the joint request of counsel, and it was admirable that he (Jeff assumes) had attended training to learn about clinical issues and practices he might encounter as a family court judge, he effectively was acting as his own expert witness in this case. His oversimplified knowledge led to further separation of the child from her mother.

Regulatory Risk to Psychologists and the Resulting Competence Gap

Because of the high-stakes nature of services related to separation and divorce, psychologists doing this work experience more complaints against them than psychologists in other areas of practice. A parent who already feels wounded by marital dissolution and aggrieved by the other parent's conduct, and who ends up with less parenting time after a psychologist has been involved in some way, may blame the psychologist. They may believe the psychologist was biased, incompetent, or both, and may complain to the psychologist's regulatory board (Bow et al., 2010). Bow and Quinnell (2001) found that 35% of 198 psychologists doing child custody evaluations had received at least one regulatory complaint, and 10% had been sued for malpractice. Kirkland and Kirkland (2001) surveyed the 61 members of the Association of State and Provincial Psychology Boards (ASPPB). The 34 regulatory bodies that responded to the study received 2,413 complaints pertaining to child custody issues, with 27 (1.1%) finding that the psychologist's practice was inadequate. One author has even suggested that custody evaluators be given immunity from regulatory complaints (Koller, 2005).

The Canadian context is similar. Between April 2022, when the College of Alberta Psychologists began to publish hearing tribunal decisions on their website, and January 2024, 3 out of 6 decisions describe psychologists' misconduct in high-conflict parenting matters. The annual reports of the College of Psychologists

of Ontario (CPO) between 2007–2008 and 2016–2017 indicate that 16 out of 53 (30.18%) complaints originated in custody/access and child protection work. In Saskatchewan between 2005 and 2018, 30% (6 out of 20) of reported findings of fault by psychologists originated in child custody work (Saskatchewan College of Psychologists, 2018). Encouragingly, CPO’s annual reports indicate a steady decline from the 2007–2008 peak, with only three out of 83 complaints (3.61%) in 2017–2018 concerning custody-access and child protection work. However, overall, the data seem to indicate that, despite being only a tiny proportion of psychological services delivered, practice with families in high-conflict divorces draws a disproportionate number of complaints.

It is not surprising that practitioners seem to be repelled by this work. For instance, Jeff recently taught a workshop on family therapy with high-conflict post-separation families. One of the participants, the director of a rural child and adolescent mental health clinic, told him that she had offered to bring two of her staff to the workshop. She offered to cover travel to a major urban centre (with much better shopping!), two nights of accommodation and meals, and (hopefully) useful training. Both the staff members to whom she made the offer declined, stating, “If we take this training, you will make us work with these families.” We also have heard of situations in which child and family therapists have withdrawn their services from children because the parents’ conflict was too difficult for them to manage, thereby depriving children of services when they are likely to need them the most.

The work seems to elicit anxiety and repel even experienced psychologists. With a small pool of experienced practitioners, the pool of potential supervisors competent to work with high-conflict divorcing families is also small. This is highly problematic, given that supervisors are required to be competent to do the work their supervisees are doing (APA, 2014; ASPPB, 2015; Council for the Accreditation of Counseling and Related Education Programs, 2011; CPA, 2009). Anecdotally, it seems that supervision in this area is often “the blind leading the blind” (Chang, 2018), leading to a competence gap and exacerbating the shortage of needed services.

Personal Efforts to Honour Principle IV (Responsibility to Society)

The factors we have just described help explain some of our earlier comments about the strong need for support and the feeling of being a cog in the system. Given that the systemic barriers fuel, and are fuelled by, societal-level problems, we find it helpful to frame our experiences through the *Code’s* Principle IV. This assists us in recognizing what we have accomplished, gives us the confidence to

persist, and helps us prioritize where and how to focus our personal efforts and support the initiatives of the psychology community. System change is required.

Principle IV (Responsibility to Society) (CPA, 2017) calls on psychologists to add to the knowledge base of psychology and promote the welfare of all. Individually and collectively, we have an ethical responsibility to support the appropriate application of psychological knowledge to social policies and initiatives, and to do so toward “just and beneficial purposes . . . [reflecting] respect for the dignity of persons and peoples, responsible caring, integrity in relationships, and responsibility to society” (Values Statement, para 4).

We do not believe that those who work in the family justice system are intentionally eroding respect for the dignity of persons and peoples, responsible caring, integrity in relationships, or responsibility to society. Lawyers, judges, and other professionals are doing their best to advance the welfare of clients within a system that is flawed. The system serves most divorcing families adequately. But we believe that the barriers we describe above constrain the system, resulting in poor outcomes for the 5 to 10% of separations considered high conflict. Below we describe some of the activities we have engaged in that we believe support the five values of Principle IV.

Development of Knowledge

Under Principle IV, the value *Development of knowledge* urges psychologists to contribute to the generation, transfer, and mobilization of knowledge, and to keep abreast of new developments in the field. How have we been doing this? In our work together as researcher and research supervisor, we recently completed a second research study on a program called *New Ways for Families*⁹ (NWFF). This program is “a structured parenting skills method intended to reduce the impact of conflict on the children in potentially high-conflict divorce” (Eddy, 2019). Nicole presented preliminary results of this research in June 2018 (Lipp et al., 2018) at the conference of the Association of Family and Conciliation Courts, which is an international organization of lawyers, judges, and mental health professionals. This enabled Nicole to connect with the larger community, see the potential of system advocacy, and sample the broad range of scholarly work in the field. Jeff is currently conducting a controlled effectiveness study of NWFF. Control-group data will be made available to researchers who wish to use the same dependent measures. In addition to generating conference presentations, publications, and a completed thesis, we have found that our relationship supports our mutual interests and spurs us to further develop knowledge about high-conflict divorce.

As another example of the development of knowledge, in 2016, Jeff and a colleague served as guest editors of a special issue of the *Canadian Journal of Counselling and Psychotherapy* on counselling interventions in divorce (Chang & Kier, 2016). Included were three articles that dealt specifically with high-conflict

parenting situations (Amundson & Lux, 2016; Chang, 2016; Rauh et al., 2016). As editors, we provided students and colleagues with opportunities to collaborate and contribute, and to enhance their engagement in work in the high-conflict divorce arena. In addition to this special issue, Jeff has manuscripts in preparation on such topics such as NWFF, clinical supervision of therapists working with high-conflict families, and a model of family intervention when children or adolescents experience mental health problems exacerbated by parents' conflict.

Still another example is that, in 2018–2019 and 2019–2020, staff and students at the Calgary Family Therapy Centre (CFTC), where Jeff works as a part-time consultant, focused on families considered high-conflict, using an approach called *Research as Daily Practice* (St. George et al., 2015). As a team, the staff and students discussed particular families, their emotional and clinical responses to them, distinguished commonalities, documented their conversations, and repeated the process every four to six weeks for two years. One team member suggested that it might be more useful to think of high-conflict co-parents as “high-discrepancy,” meaning that parents saw the situation very differently, but in a way that made sense to them. In Jeff’s view, this reframing in the context of supportive collegial and supervisory relationships contributed to a striking development: Practicum students in clinical social work and counselling psychology (and the whole staff for that matter) became more curious about high-conflict separating families than fearful of them. The CFTC team developed a community of practice and a community of inquiry simultaneously (Ethical Standards IV.1, IV.2, and IV.3)—a contribution to closing the “the vast cultural chasm of research and practice” (Imber-Black, 2011, p. 1).

Beneficial Activities

Psychologists can support the value of *Beneficial activities* under Principle IV by contributing to the growth of others both within and outside the discipline of psychology. This includes supporting students to understand their ethical obligations, helping to ensure that the discipline of psychology contributes to the betterment of society, and emphasizing the importance of being personally accountable for one’s practice and professional activities. As one example of trying to do this, Jeff has engaged in several activities that support community capacity in working with high-conflict separation, divorce, and parenting. These have included consultation with individuals and organizations about how they can respond to post-separation high-conflict parents. Also, as a research supervisor, Jeff was thrilled to support Nicole to connect with her co-presenters, the developer, and two experienced practitioners of *New Ways for Families*⁸. He also has presented at conferences and workshops, where audiences seem hungry for guidance on the topic of high-conflict separation and divorce (Ethical Standard IV.4). In addition, as Jeff particularly enjoys clinical supervision, he has accepted many

requests to consult to other clinical supervisors whose supervisees are working with high-conflict parenting cases (Ethical Standard IV.5 and IV.10). He also has consulted with and trained school division staff about how to support students whose parents are embroiled in high-conflict co-parenting, and with counselling agencies on how to manage the intake process and clinical work.

In all of his work related to the value of *Beneficial activities*, whether as a consultant, workshop presenter, teacher, or expert witness, Jeff does everything he can to ensure that the psychological principles on which he bases his work are represented accurately, and with sufficient nuance, so as not to be misunderstood (Ethical Standard IV.11). He takes particular care with this when acting as an expert witness, given that a judge may make decisions that affect the lives of children and parents largely based on his evidence.

Respect for Society

Under the value of *Respect for society* of Principle IV, psychologists have an ethical responsibility to understand and join with the organizations with which they work, respect pre-existing history, customs, and rules, and be accountable to the communities they serve. During the time that Jeff has been providing psychological services in the family law arena, he has tried to honour this value by working to understand the particular culture of the family court system. He has developed strong professional relationships with many family lawyers and judges. Although he does not relish being cross-examined, he accepts it as the way in which our common law legal system finds the “truth.” Above, we noted the tendency of those in the legal system to appropriate and misuse psychological constructs, put forth their positions as counterarguments for the opposing party’s positions, and select only the part of the narrative that benefits their client (Ethical Standards IV.15, IV.16). As a consultant and a trainer, Jeff strives to orient others to these aspects of the legal system, so they too can carry out the aspirations of the *Code* (Ethical Standards IV.17, IV.18).

Development of Society

Ethical Standard IV.19, under the value of *Development of society*, urges psychologists to “act to change those aspects of the discipline of psychology that detract from just and beneficial societal changes, where appropriate and possible.” In our view, psychology and other mental health professions are essential to the operation of the family justice system. Psychologists and other mental health practitioners possess competencies that can help children heal, and help parents reduce conflict and make effective joint decisions on behalf of their children. Furthermore, as evaluators, psychologists also can provide valuable evidence to judges.

However, we both have seen instances in which high quality psychological services are not deployed optimally. Because of service fragmentation, parents often are not referred for services quickly enough. Given our inherently adversarial legal system, the parents must agree to dispute resolution or evaluation services unless they have been ordered by the court to participate in these services. Jeff has seen many times when “the system”³ responded too slowly to obtain psychological services for families in dire need, providing time for conflict to develop and fester. Some jurisdictions have remedied this by mandating triage, in which parents are required to meet with a counsellor or mediator before their matter can proceed to court.

Another issue is cost. The hourly fees for specialized assessment services can be 50 to 100% higher than therapy fees. A “voice-of-the-child assessment” (Chang, 2016), designed to ascertain a child’s “true” sentiments about their situation insulated from their parents’ influence, can take 20 hours, including report-writing time. A bilateral parenting evaluation, in which parents, the children, and their relationships, are assessed (Chang, 2016) can use between 50 and 60 hours, including report writing. This is cost-prohibitive for many people. In order to provide services that are timely and affordable, significant reform would be necessary to fund services and arrange them so that a co-ordinator mandated by the court would screen and direct parents into appropriate services.

What can we, as individual psychologists, or as a community of psychologists, do to alleviate this? When possible, we both have participated in initiatives to try to enhance the system. As just one example, after defending her thesis, Nicole contributed to developing a community of practitioners in Vernon, BC, to discuss how to better serve families experiencing high-conflict separation. As another example, Jeff accepted an invitation to participate in *Reforming the Family Justice System*, an initiative led by the Court of King’s Bench of Alberta, Alberta Justice, and the Law Society of Alberta. The potential reforms being discussed could address many of the barriers we identify above, namely, early dispute resolution, parent and family education, research and evaluation regarding the operation of the family justice system, legal education, enhanced access to legal advice, and streamlined court processes. Whenever involved in this and other initiatives (Ethical Standard IV.19), Jeff has striven to present psychological knowledge and its limitations accurately. When advocating for psychological services, he strives to: (a) draw from his knowledge of the context and history of psychological services in the family law arena in Calgary and province-wide (Ethical Standard IV.20); (b) maintain current knowledge (Ethical Standard IV.21); and (c) keep abreast of how the field is developing (Ethical Standard IV.24). However, in his systems advocacy (Ethical Standard IV.22), he also is careful to acknowledge the limitations of psychological knowledge (Ethical Standard IV.23) and takes care to speak out if he thinks the knowledge is being misunderstood or misused in the

development of social policies and practices that discriminate against or could harm marginalized populations. (Ethical Standard IV.25).

Extended Responsibility

Nicole is advocating for the development of services in her community. As a senior psychologist in his community working with high-conflict families, Jeff supports other mental health practitioners and lawyers in their efforts to exercise responsibility to society by inviting them to collaborate on the design and delivery of more, and more affordable, intervention services. Jeff recognizes his responsibility to urge his research and clinical supervisees to serve society by developing services, donating his time, and striving to be an example in this regard.

A Call to Action

Although at opposite ends of our career paths, we are both passionate about providing and improving counselling and psychological services and about contributing to system change for families experiencing high-conflict divorce. We are both looking ahead. Now that Nicole has completed her master's degree, she is taking her knowledge forward into a community counselling agency and advocating for change in the Okanagan Valley of British Columbia. Jeff looks forward to better using the platform provided by a faculty position to help build community capacity, enhance the competence of others, and advocate for system change.

We both strongly believe that psychologists and other mental health practitioners have a great deal to offer the family justice system. With psychology's knowledge of family dynamics, mental disorders, child development, conflict and conflict resolution, methods of behavioural change and emotional healing, and many other relevant areas, psychology has much to contribute. In fact, we believe it is not an exaggeration to say psychologists and allied mental health professionals are indispensable. Yet, the family justice system presents a number of barriers that make navigating the system difficult for clients and creates less than optimal conditions for delivering effective psychological services.

In this chapter, we have situated ourselves in terms of Rønnestad and Skovholt's (2003) phases of counsellor development, outlined the critical practice area of high-conflict separation, divorce, and co-parenting, and described its toll on children. We described some of the barriers to the optimal delivery of psychological services in the family justice system (including our concern about the competence gap in the field for working within the context of high-conflict separation and divorce) and described our current thoughts and efforts regarding upholding the principle of *Responsibility to Society*. We recognize that not everyone will be as passionate about these issues as we are. We hope that reading

this chapter might inspire you to provide some services or help back community initiatives that will alleviate the suffering of children, adolescents, and adults experiencing high-conflict divorce.

Questions for Reflection

1. Drawing from your own experience or that of someone close to you, reflect on what parents and children need to navigate a divorce. What gaps are there in your home community for helping parents and children to meet these needs? What would have to happen to fill these gaps? Who would have to take action?
2. Do an internet search on available resources for children and adults experiencing divorce in your community. What are they? How would you integrate these into your practice?
3. Imagine you are interested in specializing in high-conflict divorce. Examine the practice guidelines developed by the Association of Family and Conciliation Courts (<https://www.afccnet.org/Resource-Center/Practice-Guidelines-and-Standards>). Based on these guidelines, how might you plan for your professional development?
4. Summarize your personal values about divorce and post-divorce parenting. What key influences or experiences shaped your values? How might these values influence your work with divorcing families?

NOTES

- 1 In this chapter, we use the term “high-conflict divorce” to describe highly conflictual interactions that may include protracted or recurrent litigation, irrespective of whether the former couple had been legally married or not.
- 2 These have different names in different jurisdictions. For example, in British Columbia, the lower court is called the Provincial Court, in Alberta it is called the Alberta Court of Justice, and in Ontario it is called the Ontario Court of Justice. The superior courts, all with the same basic jurisdiction, are called the Supreme Court of British Columbia (which is not in fact “supreme” given that it is subordinate to the British Columbia Court of Appeals), the Court of King’s Bench of Alberta, and the Ontario Superior Court of Justice.
- 3 Jeff cannot think of a better way to identify the “culprit.” This has happened when “everybody had been doing their job” appropriately. Over-scheduled court calendars and busy lawyers, exhaustion of financial resources, and filing deadlines are all part of “the system” that often lets families down—which is the very point of this chapter.

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