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

and Responsibility to Society

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When parents are repeatedly embroiled in litigation, they have less time and energy to
devote to their children, and fewer financial resources to devote to their care; children usually
pay the largest price (Henry, Fieldstone, & Bohac, 2009). Children of high-conflict divorce¹
experience psychosocial problems much more than children whose parents do not divorce, and
even than children whose parents divorce without inordinate conflict (Kim, 2011). Moreover,
they tend carry these problems into adulthood (Johnston, 1994). In Canada, divorce is
embedded in a legal system that inherently makes divorcing spouses adversaries. This
significantly influences how psychological services are provided in high-conflict divorce
situations.

In this chapter, we will introduce ourselves with reference to Ronnestad and Skovholt’s
(2003) phases of counsellor development, overview the issue of high-conflict divorce and its
effects on children, describe some systemic barriers to the delivery of psychological services to
these families, and 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 (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.

¹In 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.
About Us

Nicole

I am a graduate counselling psychology student and researcher and a former legal assistant. For as long as I can remember, my mother has worked as a legal assistant. Growing up, when my father worked out of town, it was not uncommon for my mother to collect my sisters and me after school, get some take-out food, and take us to her office where she finished her work in the evening. Her dedication and hard work taught me that what she did was important to her and her clients. As I grew up, my mother continued to demonstrate the same work ethic, impeccable professional conduct, and empathy towards her clients.

Wanting to follow my mother’s example and be in a job that helped others, I worked part-time during high school for a family lawyer. 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. This work showed me the often caustic nature of divorce. I came to believe that the inherently adversarial legal system can impede effective communication and healthy dispute resolution. Later on, during my graduate training in counselling psychology, I was drawn back to studying divorce and learned that what happens during the divorce process can have long-term and negative consequences for families.

Ten years elapsed between working in the law firm and the completion of my undergraduate psychology degree. When I began graduate studies in counselling psychology, I was again working as a legal assistant. This time, I was working with my mother who became my first professional mentor. Learning from her instilled in me diligence, attention, and empathy towards clients, which I carried into my graduate studies in counselling.

As I began to engage in the rigorous reflection required in our program, I noticed parallels between my work as a legal assistant and the attitudes and skills required of professional counsellors; namely, crisis management, dealing with ambiguity, uncertain
outcomes, and the complexity of comorbidities. Our ethics course, based on Canadian Code of Ethics for Psychologists, reinforced many values I recognized from working in the legal field. I was intrigued by the explicit focus on Responsibility to Society.

Drawing from Ronnestad and Skovholt (2003), who distinguished six distinct phases of counsellors’ professional lifespan development, I believe 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 the professional develops, there is a decline in pervasive anxiety; and (c) external support is most important at the beginning of one’s career and at transition points. I was experiencing a strong need for external support and mentors who could positively reinforce my efforts 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 – a supportive environment that could help manage my anxiety about the new responsibilities I was taking on. My practicum site met my expectations. With their help, I moved from being a novice into the new professional phase, where my anxiety diminished and I could feel competent as a professional counsellor.

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 were anxious about high-conflict families and worried they would be subjected to formal complaints being lodged against them with their professional body. I thought, “Someone needs to do something,” and realized that Principle IV required I 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 Ronnestad and Skovholt helpful (2003), and am very comfortable with my current phase as a senior professional. After thirty-two years as a Registered Psychologist, twelve of them working mainly with families embroiled in high-conflict separation and divorce,
I was one of the senior psychologists in Alberta working with these families when I moved into an academic position in 2007. A faculty mentor encouraged me to leverage my connections in the family law community to develop a scholarly agenda in high-conflict divorce. However, feeling weary of high-conflict families, I initially avoided this. I kept working in this area to supplement my income, but did not want to think about it more than I had to. In 2014, a family lawyer I knew from my practice was on the advisory committee for a counselling program designed to prevent high conflict post-separation parenting and needed someone to research the program’s effectiveness; I volunteered. I finally stopped avoiding high-conflict divorce in my academic life. I now have a small group of thesis students, including Nicole, who are researching in this area. However, 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 adversarial system, and wondered if I was playing a complicit role. The satisfaction of supporting a child and parent to reclaim their relationship after they have been estranged for months or years, or of making data-driven recommendations about parenting time, was sometimes overshadowed by dissatisfaction that I was not making more of a difference in the system.

This loss of satisfaction is not uncommon among senior practitioners (Rønnestad & Skovholt, 2003). Like others in this career phase, teaching and supervising stimulate me. Although I am not thinking about retirement soon, I hope my professional legacy will include a more responsive family justice system, as well as enhanced competence in practitioners. As noted by Rønnestad and Skovholt (2003), “The seductions for professionals at the senior professional phase are the intellectual apathy and sense of boredom that can come from routine tasks completed over and over again....” I have the good fortune to hold an academic position that permits me to support the development of students and contribute to the field through my research and publication. This makes it difficult, if not impossible, to slip into the ennui.
Rønnestad and Skovholt (2003) describe. 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, leaving about 5-10% that are highly litigious (Carter & Hebert, 2012). In these families, parents remain so hostile toward one another that special attention is merited (Deutsch, 2008; Lebow & Newcomb Rekart, 2006; Mitcham-Smith & Henry, 2007).

These high-conflict relationships are characterized by antagonistic interaction between ex-partners, and often include hostile disengagement, poor communication, and ineffective decision-making. Some parents’ decision-making may be so impaired that they litigate issues like holidays, school placements, extracurricular activities, and minor schedule changes. Emotional reactivity is so great that simple miscommunication or mere differences in parenting style lead to nearly as intense a reaction from the other parent as abusive or unsafe behaviour would. They often immediately blame the other parent for minor lapses in parenting. Although both may be at least adequate parents, they magnify differences in parenting style or practices, perhaps seeing them as evidence of pathology in the other parent. Parents may engage in amateur, usually Internet-aided, diagnosis of the other parent. In some cases, 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 litigation (Carter, 2011; Johnston, 1994; Lebow, 2019; Lebow & Newcomb Rekart, 2006; Mitcham-Smith & Henry, 2007).

Allegations and counterallegations of domestic violence, mental health issues, substance abuse, and personality disorders are more likely in these families (Carter, 2011; Johnston, 1994; Kelly, 2002; Mitcham-Smith & Henry, 2007), creating complex situations that psychologists must
unravel to work effectively with these families. High-conflict divorce also takes its toll on the parents’ physical (Burman & Margolin, 1992; Ditzen, Hahlweg, Fehm-Wolfsdorf & Baucom, 2011) and psychological health (Barnett, Steptoe & Gareis, 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, troubled relationships parent(s), earlier and more alcohol and drug use, school problems, behavioural problems, earlier sexual activity, antisocial behaviour, elevated incidence of anxiety and depression, lower quality of life, and feelings of obligation to choose one parent over another. Often, these problems follow some children to adulthood (Amato, 2010; Bacon & McKenzie, 2004; Carter, 2011; Deutsch, 2008; Strohschein, 2012).

We have seen many situations in which the parents’ conflict significantly exacerbated a child’s problems. For example, I (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, and performed tasks of daily living without much prompting. However, her anxiety spiked when her parents were in the same physical location for functions like school concerts. Poignantly, she said, “My head was going back and forth like I was watching a ping pong game, but 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**

We have noted 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 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 (also known as “case law”) as they are on legislation. Secondly, the parties in a legal dispute are defined as adversaries. These features are present whether there is a dispute regarding product liability, criminal charges, or a disagreement over parenting time (e.g., “Kramer vs. Kramer” [Fischoff, Jaffee, & Benton, 1979]; “The People v. O.J. Simpson” [Alexander, Karaszewski, & Murphy, 2016]). Legal education instills in lawyers the responsibility to be zealous advocates for their clients. Accordingly, when a couple experiences relationship dissolution, their legal interests, not the children’s, are represented directly. Although the Divorce Act (1985) states that judges must be guided by *the best interests of the child* in deciding parenting issues, generally only parents are represented by legal counsel.

Only when a judge finds that conflict between parents impairs their ability to separate their needs from the children’s, do they 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, something that has been noted in judicial decisions (Lavitch v. Lavitch, 1986; Rowe v. Rowe, 1976). As mental health practitioners, if we seek to work with high-conflict families, we should understand that the legal world views parties as individual entities with individual rights. However, we endorse the view that “… family justice issues [are] primarily social and relationship problems that contain a legal element” (Alberta Justice and Solicitor General, 2018, para 7).

In spite of this bleak picture, in recent years, services designed to reduce conflict between separating parents are growing (Salem, 2009). For example, most provinces and
territories now mandate *parent education* on communication skills and the effects of separation and divorce on children for all divorcing parents with children (e.g., Alberta Government, 2019; Ontario Ministry of the Attorney General, 2018).

Availability of *mediation* has also been helpful. Mediation 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), and may encompass parenting and financial issues, depending on the needs of the separating couple and the competencies of the mediator (Emery, Sbarra, & Grover, 2005). Usually, mediation is *without prejudice*. This means that the entire process, including any agreements reached and then rescinded, and the conduct of the parties no matter how egregious, may not be used in evidence in litigation. Agreements reached in mediation usually form the basis of a court order (i.e., a “consent order”).

*Parenting coordination* is a relatively new alternative dispute resolution process. It usually is implemented after a final court order for parenting arrangements has been finalized. It is useful for high-conflict parents with a history of protracted litigation (Coates, Deutsch, Starnes, Sullivan, & Sydlik, 2004; Higuchi & Lally, 2014; Kelly, 2008). Ideally, a parenting coordinator (PC) meets with parents regularly throughout the year to focus on recurrent issues such as extracurricular activities, health care, school, vacations, and holiday time. They may also meet with parents on an emergent basis to focus on issues such as changes in a child’s educational needs, or changes in parenting time for special circumstances). PCs work to develop practical applications of court orders and support timely and developmentally appropriate decisions on behalf of children. The overall intent is to prevent recurring litigation. There is preliminary evidence of the benefits of parenting coordination both for families and the courts (Henry, Fieldstone, & Bohac, 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 least two levels of trial court. The less formal and more accessible provincial courts\(^1\) (presided over by provincial appointees) are permitted to deal with financial support and parenting for all separating parents (married or not), but may not to grant divorces. High or superior courts (presided over by federal appointees), with stricter processes and deadlines, are the only level of court permitted to grant divorces. Some separated parents are confused about where to initiate a court proceeding. Moreover, Canada currently has a shortage of judges, particularly at the superior court level, leading to long waiting lists and crowded court dockets (Pritchett, 2018). We have both encountered parents who exhaust their financial resources in parenting litigation and who feel lost in court processes.

To address the problem of access to justice, the Chief Justice of the Supreme Court of Canada established the Action Committee on Access to Justice in Civil and Family Matters (ACAJCFM). ACAJCFM identified several strategies to improve access to justice for family law clients: simplifying court processes (ACAJCFM, 2012a); access to legal services (ACAJCFM, 2012b); prevention, triage and referral (ACAJCFM, 2012c), and family justice reform (ACAJCFM, 2012d). As one example, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, and Saskatchewan have adopted unified family courts that deal with all family law matters (Canadian Forum on Civil Justice, 2002; Department of Justice Canada, 2015), simplifying processes and increasing access. Actual reform is moving slowly; however, the blueprint for increasing access to justice has been

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\(^1\) These are given different names in each jurisdiction. For example, in Alberta and British Columbia, the lower court is called the Provincial Court. In Ontario it is called the Ontario Court of Justice. The high courts, all with the same basic jurisdiction, are called the Supreme Court of British Columbia, the Court of Queen’s Bench of Alberta, and the Ontario Superior Court of Justice.
developed (Federation of Law Societies of Canada, 2019).

Service Fragmentation

How then do psychological services fit in? Besides complexity of possibly navigating two levels of court, there can be several dispute resolution and therapeutic services – both publicly and privately funded – with little coordination between them. Psychologists in systems like child protection, hospitals, residential treatment, or disability management, may be accustomed to a designated case manager who coordinates services based on the needs of various individuals, avoids duplication, and supports interdisciplinary practice. This kind of coordination seldom happens in family law matters. In some jurisdictions, a judge can take on case management function, dealing with all the court applications involving one family prior to a trial. However, this is typically reserved for the most high-conflict situations due to the scarcity of judicial time, and is geared to legal issues, not clinical services. There may be several therapeutic and dispute resolution professionals involved (e.g., a mediator, parenting coordinator, or child therapist), 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 parent, and may act to support their client’s position in litigation (Canadian Forum on Civil Justice, 2002; Department of Justice Canada, 2018). There is typically no neutral coordinator with an eye on the psychosocial health of the whole family. We have found that the various professionals often work at cross purposes.

To remedy this, some jurisdictions have adopted a publicly funded triage model (Manitoba Family Law Reform Committee, 2018; Salem, 2009), which refers separating parents to appropriate services upon their first contact with court. High-conflict cases can be referred immediately to more comprehensive services such as risk assessment, bilateral evaluation, or direct court involvement. However, triage has not yet been adopted widely across Canada.
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. Below are some examples.

**Attachment.** Attachment (Ainsworth, 1969; Bowlby, 1969) is a well-established construct with a strong research base and contemporary clinical applications in child psychotherapy (e.g., Aktar, 2012; Angelini, 2012; Baylin & Hughes, 2016; Booth & Jernberg, 2010). Unfortunately, in litigation, a parent may be motivated to demonstrate their child’s attachment to them is “better” than the child’s attachment to the other parent. When giving evidence, lawyers have asked me (Jeff) 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” — usually based 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 — a serious, but statistically infrequent behaviour. Of course, the presence of risk factors for physical violence increases the probability that an individual will commit a violent act. Several times I (Jeff) have been examined by lawyers seeking to suggest that the opposing client will “probably” commit violence, suggesting that committing violence is more likely than not. Few lawyers and fewer lay people understand that if one’s risk of violence is higher than in the base rate in the population, this does not make violence certain, or even likely. If a psychologist does not understand the actuarial basis of 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 (PA) and parental alienation syndrome (PAS) 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 certainly are situations when parents actively denigrate the other parent, and a child refuses contact with them, PAS is not empirically supported, and the concept of PA is now considered to be an oversimplification that overlooks systemic and contextual factors (Clemente & Padilla-Racero, 2016; Dallam & Silberg, 2016; Katz, 2003). However, the debate about the validity of PA and PAS led to more robust clinical conceptualizations of the situation surrounding children who decline contact with one parent. (Kelly & Johnson, 2001; Polak & Saini, 2015).

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

Diagnosis. As a final example of the appropriation and oversimplification of psychological constructs, I (Jeff) provide a personal anecdote. As I was in court waiting to give evidence, the judge was dealing briefly with an apparently routine matter. Counsel for the Director of Child Welfare and counsel for a mother had agreed that she had made sufficient progress for her daughter to be returned home. In turn, the lawyers asked the judge to replace the Temporary Guardianship Order with a Supervision Order, permitting Children’s Services
to return the child home while still requiring 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 that takes a minimum of eighteen months. I’m not returning this little girl until that’s been done.” Although the judge clearly had the authority to rule as he did, and it was admirable that he had apparently had some education on clinical issues and practices he might encounter as a family court judge, he was effectively acting as his own expert witness. 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 in this work experience more complaints against them than psychologists in other areas of practice. Parents who already feel wounded by marital dissolution and aggrieved by the other parent’s conduct, and who end up with less parenting time and/or higher child-support payments after a bilateral parenting evaluation, may find it incomprehensible that they “lost.” They may conclude the psychologist was biased, incompetent, or both, and may be prone to complain to the psychologist’s regulatory board (Bow, Gottlieb, Siegel, & Noble, 2010).

How prevalent are complaints against psychologists in child custody matters? Bow and Quinnell (2001) surveyed 198 psychologists performing child custody evaluations. Thirty-five percent had received at least one regulatory complaint. Kirkland and Kirkland (2001) surveyed the 61 members of the Association of State and Provincial Psychology Boards. The 34 responding boards received 2,413 complaints over child custody issues, with only 27 (1.1%) resulting in finding of fault. One author has even suggested that custody evaluators be given immunity from regulatory complaints (Koller, 2005).

In the Canadian context, the annual reports of the College of Psychologists of Ontario (CPO) between 2007-08 and 2017-18 indicate that, at its peak in 2007-08, 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). On the other hand, CPO’s annual reports indicate a steady decline from the 2007-08 peak, with only 3 out of 83 complaints (3.61%) in 2017-2018 concerning custody-access and child protection work.

Although the proportion of complaints seems to be declining in some locations, our experience is that practitioners generally have a visceral aversion to 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. The employer would have covered travel to a major urban centre (with much better shopping!), two nights of accommodation and meals, and (hopefully) useful training. Both employees declined, stating, “If we take this training, you will make us work with these families.” We have heard of situations in which child and family therapists have found the parents’ conflict is too difficult to manage. Their unfortunate risk management strategy has been to withdraw their services, depriving children involved of services when they are likely to need them the most.

The aversion to working with these families also affects clinical supervisors. Experienced clinicians who become clinical supervisors often are not competent to work with high-conflict families. Because supervisors must be competent to perform the work their supervisees are doing (APA, 2014; Association for Counselor Education and Supervision, 2011; ASPPB, 2015; CPA, 2009), this highly problematic. Supervision in this area is often “the blind leading the blind” (Chang, 2018), leading to a competence gap in needed services.

**Our 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. Because these system
barriers are fueled by societal-level problems, we found it helpful to frame our thoughts and experiences using the framework of the Code’s Principle IV to help us recognize what we have accomplished, give us the confidence to proceed, and guide us in where and how to focus our efforts and the efforts 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. We are obligated to support the appropriate application of psychological knowledge in social policies and initiatives 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 their clients within a flawed system. The system serves most divorcing families adequately. But, in our view, this system has barriers that render it ineffective for the 5 to 10% of separations considered high-conflict. Here are some ways we currently implement Principle IV. Each section below focuses on one aspect of Principle IV.

**Development of Knowledge**

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. We believe we have been doing this. As researcher and research supervisor, we have almost completed the second research study on a New Ways for Families® (NWFF), “… 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 her research in June 2018 (Eddy, Lipp, Vandenbosch, & Vath, 2018) at the conference
of the Association of Family and Conciliation Courts, 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. More than simply generating conference presentations, publications, and a completed thesis, we have found that our relationship supports our mutual interests and spurs us to the further development of knowledge about high-conflict divorce.

Jeff has participated in several dissemination projects. In 2016, he co-edited a special issue of the Canadian Journal of Counselling and Psychotherapy on counselling interventions in divorce (Chang & Kier, 2016). Included were three articles specifically on high-conflict situations (Amundson & Lux, 2016; Chang, 2016; Ruah, Irwin, & Vath, 2016). Jeff also has manuscripts in preparation on 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. Finally, he is currently conducting an effectiveness study comparing the outcomes of NWFF on standardized measures of parenting satisfaction, executive functioning, conflict style, and general symptoms of distress with a no-intervention control group.

In 2018-2019, at the Calgary Family Therapy Centre where Jeff works as a part-time clinical supervisor, a group of staff, students, and interns engaged in inquiry about families considered high-conflict, using an approach called Research as Daily Practice (St. George, Wulff, & Tomm, 2015). Akin to participatory action research (Kemmis & McTaggart, 2000), we met monthly to discuss our struggles, questions, and useful strategies in our work with high-conflict families. With the consent of all concerned, we video-recorded these conversations.

Modelling vulnerability – even experienced staff find working with high-conflict families fraught – helped us develop connections and share knowledge. These were first steps in
building capacity and reducing the anxiety that drives practitioners to avoid this area of practice. A community of practice and a community of inquiry developed simultaneously (IV.1, IV.2, and IV.3). Strikingly, even the novices – practicum students in counselling psychology and clinical social work – became more curious about these families than anxious. We hope that presenting and publishing our struggles and thoughts will might encourage others to overcome their aversion to working with high-conflict families, one small step in 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 of 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 being personally accountable for one’s practice and professional activities. As one example of trying to do this, I (Jeff) support community capacity in working with high-conflict separation, divorce, and parenting whenever I can. This has included consultation with individuals and organizations about how they can respond to post-separation high-conflict parents. As a research supervisor, I was thrilled to support Nicole to connect with her co-presenters, the developer and two experienced practitioners of NWFF. I have been fortunate to present at conferences and workshops, where it seems that audiences are hungry for guidance on the topic of high conflict separation and divorce (IV.4). I particularly enjoy clinical supervision, and have been consulted by clinical supervisors whose supervisees are working with high-conflict parenting cases (IV.5 and IV.10).

As workshop presenter, teacher, and expert witness, I work to ensure that the psychological principles on which I base my work are represented accurately, and with sufficient nuance, so as not to be misunderstood (IV.11). This is particularly crucial as an expert
witness, given that a judge may rely on my evidence to make decisions that affect the lives of children and parents. I have consulted with school divisions to develop policies and practices to support students whose parents are embroiled in high-conflict co-parenting, and by counselling agencies on how to manage the intake process and clinical work. I hope this helps them improve their responsiveness and effectiveness with these families (IV.8, IV.9).

**Respect for Society**

Under the value of *Respect for society* of Principle IV, psychologists should aspire to understand and join with the organizations with which they work, respect preexisting history, customs, and rules, and be accountable to the communities we seek to serve. During the time that I (Jeff) have been providing psychological services in the family law arena, I have tried to honour this value by working to understand the particular culture of the family court system. I have been fortunate to develop strong professional relationships with many family lawyers and judges. Although I do not relish being cross-examined, I accept it as the way our common law legal system finds the best evidence. Above, we noted the tendency of those in the legal system to appropriate and misuse psychological constructs, put forth their positions as the counterargument for the opposing party’s position, and select only the part of the narrative that benefits their client (IV.15, IV.16). As a consultant and a trainer, I strive to orient others to these aspects of the legal system, so they too can carry out the aspirations of the *Code* (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 to heal, support
parents reduce conflict and make effective decisions for their children, and provide valuable
evidence to judges.

However, we think high quality psychological services are often not deployed optimally. Service fragmentation means families are often 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 court-ordered to do so. I (Jeff) have seen many times when “the system” moved slowly to obtain psychological services for families who were in dire need, providing time for conflict to worsen. In our view, triage, which we have described above, has not been implemented widely enough to have a significant impact.

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” (Chang, 2016) assessment, 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 40 and 60 hours, including report writing. This is cost-prohibitive for many people. To provide services that are timely and affordable, significant reform is necessary to fund and coordinate services for maximum impact.

What can we, as individual psychologists or as a community of psychologists, do to alleviate this? When possible, we participate in initiatives to enhance the system. As just one example, after defending my thesis, I (Nicole) looked forward to developing a community of practice in Vernon, BC to discuss how to better serve families experiencing high-conflict separation. As another example, I (Jeff), was invited to participate in Reforming the Family

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1 I 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.
Justice System (RFJS), an initiative led by the Court of Queen’s Bench of Alberta, Alberta Justice and Solicitor General, and the Law Society of Alberta. Meeting semi-annually, the objectives of RFJS are largely in line with the ACAJCFM framework described earlier. Whenever involved in this and other initiatives (IV.19), I have striven to present psychological knowledge, and its limitations, accurately. When advocating for psychological services, I draw from my knowledge of the context and history of psychological services in the family law arena in Calgary and province-wide (IV.20), maintain current knowledge (IV.21), and keep abreast of how the field is developing (IV.24). As a senior practitioner, I use my knowledge and experience in my systems advocacy (IV.22), but also acknowledge its limitations (IV.23), both in general, and particularly with respect to marginalized populations (IV.25).

Extended Responsibility

Under Ethical Standard IV.29, under the value of Extended Responsibility, psychologists should “Encourage others, in a manner consistent with this Code, to exercise responsibility to society.” Ethical Standard IV.30 urges psychologists to “Assume overall responsibility for the scientific and professional activities of their assistants, employees, supervisees, students, and trainees with regard to the Principle of Responsibility to Society, all of whom, however, incur similar obligations.” As a teacher, supervisor, consultant, and advocate, I (Jeff) strive to be a leader, modelling commitment to excellence in practice and ethical care. In my view, sharing my experiences with others, providing them with factual information about the family justice system, and providing some practical tips about how to handle tricky situations enhances knowledge and helps reduce anxiety. I think these conditions can combine to help practitioners make better ethical decisions. It’s been gratifying to receive feedback about how helpful my support has been to others.

A Call to Action

Although at opposite ends of our career paths, we are both passionate about providing
and improving counselling and psychological services for families experiencing high-conflict divorce. We are both looking ahead – Nicole to completing the analysis for her thesis research, graduating with her Master’s degree in counselling psychology, entering the field as a new professional, and taking her knowledge forward to the community – and Jeff to better use the platform provided by a faculty position to help build community capacity, enhance the competence of others, and advocate for system change.

We believe it is not an exaggeration to say psychologists and other mental health practitioners are indispensable to the family justice system. With our knowledge of family dynamics, mental disorders, child development, conflict and conflict resolution, methods of behavioural change and emotional healing, and many other relevant areas, we have much to contribute. Yet, the family justice system presents 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 Ronnestad and Skovholt’s (2003) phases of counsellor development, and outlined the critical practice area of high-conflict separation. 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 do not intend to put forth what we do as a normative expectation. However, we do invite you to think seriously about how you can contribute to this area of practice. We hope that if you “dip a toe in,” you might be inspired to provide services or help back community initiatives that will reform the system and 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 experiencing a divorce need to navigate this significant life transition. What gaps did you experience or identify? Now consider, in your present-day home community, hypothetically, what would have to happen to “fill the gap”?

2. Research the available resources for children and adults experiencing a divorce. These could include parent education, dispute resolution, specialized therapeutic services, groups, information and referral services, etc. How would you integrate these into your practice?

3. The Association of Family and Conciliation Courts (AFCC) has developed practice guidelines for various services that can be provided by psychologists and other mental health practitioners (https://www.afccnet.org/Resource-Center/Practice-Guidelines-and-Standards). Assuming you are interested in expanding your competence to provide one of these services, how would you plan for your professional development?

4. Reflect on your values about family life, parenting, and divorce. How might these affect your work with clients involved in high-conflict divorce and parenting, should you choose to do this work?
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