

# Perspectives on the Divorce Process: Parental Perceptions of the Legal System and Its Impact on Family Relations

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Through semistructured interviews, divorcing parents provide a consumer perspective of the legal process of divorce discussed in law and mental health literature. The parents offer a heightened awareness of families' basic needs within the legal system that may otherwise be overlooked by professionals. This article focuses on narrative accounts provided by 41 divorcing parents to describe both their positive and negative experiences with the legal system and court-related professionals. Although many parents entered the divorce process with hopes for a fair and reasonable experience and outcome, only 12 percent of the parents ended the process with positive expectations. Parents conveyed feelings of a lack of power and control over divorce outcomes. The responses from parents provide valuable insight into how reforms of the legal system can be structured best to increase the quality of the process and ameliorate potentially destructive effects of divorce on the family.

*J Am Acad Psychiatry Law* 29:18–28, 2001

The legal process of divorce continues to present clinical challenges and policy dilemmas for both legal and mental health professionals. Domestic relations cases are the largest and fastest-growing state court civil caseloads.<sup>1</sup> Since 1988, divorces have increased 8 percent on the dockets, while custody cases (between married or unmarried parents) have increased 43 percent.<sup>2</sup> The current conceptual model driving child custody decisions among litigating families of divorce is "the best interests of the child." The "best interests" concept, although placing primary impor-

tance on the child's needs and perspectives, relies on multiple and ambiguous standards for decision-making and sets the stage for prolonged adversarial conflicts throughout and beyond the divorce process.<sup>3, 4</sup>

Although the adversarial nature of divorce litigation has been eschewed frequently as an inappropriate venue for disputing families of divorce,<sup>5, 6</sup> empirical studies that support or disclaim such beliefs have been scarce. Wolman and Taylor's research<sup>7</sup> suggests that five years after divorce disputes, psychological effects on the child can persist with sufficient severity to require psychotherapy or medical treatment. The authors theorize that children whose parents litigate over them are burdened by (1) inadvertent or conscious involvement by parents in their marital hostilities; (2) parent-child role reversals; (3) stress from living in a situation for a long period in which the child and his/her parents have little control over legal events; (4) confusion resulting from two parents' extremely different views of reality; and (5) disillusion-

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ment that accompanies the discovery that cherished family values have no bearing on this new situation. Although these family dynamics occur without legal system involvement, the authors posit that litigation exacerbates negative family interactions that are normative during separation and divorce. Results from studies of mediation versus litigation lend further empirical support for the idea that less adversarial methods of dispute resolution benefit parents and children psychologically and economically.<sup>8-12</sup>

In attempts to lessen the conflictual nature of divorce, interventions that promote less antagonistic interactions between parents and improve parent-child relationships during and after the process have been instituted in court systems across the country. However, these services have been based on criteria predominately identified by professionals as crucial components of successful interventions for divorcing families. The reliance on professionally derived conceptualizations of a problem can result in services being delivered in a manner that is incongruent to client needs and goals.<sup>13</sup> During divorce, families potentially encounter a diverse array of professionals representing different parental or child legal interests, mental health concerns, or judicial goals—many of which conflict with each other and the stated objectives of safeguarding the best interests of the child. As the professionals advocate for these various perspectives, parents may feel confused, frustrated, overwhelmed, or helpless about how best to navigate the tumultuous world of divorce in the legal system. It is a system without clear rules with the potential of uncertain outcomes of major import in people's lives (i.e., living arrangements, economic commitments, and awards). Therefore, the inclusion of clients' perspectives regarding the delivery of services, noted for its importance among mental health consumers,<sup>14, 15</sup> is equally important to incorporate in divorce.

Divorcing parents are able to provide an insider's perspective and communicate an empathic representation of the pain, distress, and struggles that encompass every aspect of their lives throughout the cumbersome divorce process. By reflecting on their own experiences, newly divorced persons may identify basic needs within the system that may otherwise be overlooked by the professionals who maintain the "big picture" perspective in which individual voices can be drowned out. As established in the area of mental health, when patients provide input into the

development of systems that impact their own destiny, they may experience increased motivation, involvement, and a greater sense of ownership in achieving a successful outcome.<sup>16</sup>

This article examines the divorce process from the perspectives of parents who recently have completed their divorce. It focuses on the parents' narrative accounts describing both their positive and their negative experiences with the legal system and court-related professionals. Qualitative findings are presented from a pilot study on parents' perceptions of the divorce process and on their recommendations for improving it to bring the legal system and client needs closer in line. These findings provide preliminary data regarding how parents describe their legal experiences throughout the divorce process. Suggestions for legal and mental health practitioners working with divorcing families also are provided.

The research from which this article is drawn consists of a larger pilot research project, "Divorce in Legal Context: Outcomes for Children,"<sup>17</sup> comprised of three research components. The first component produced a broader view of litigation by examining (1) two years of court records for all families with at least one child six years or younger divorcing in one judicial district in Connecticut (sample size = 245) and (2) postevaluation surveys collected for one year by the Family Services Unit (FSU) on families with young children whose levels of conflict warranted a court evaluation of the family (sample size = 507 evaluations, with 137 qualifying for families with young children). The second and third components of research are based on interviews with a subsample of families and the legal and mental health professionals that worked with them. In these components, the families' own words were used to describe their perceptions of the positive and negative aspects of their experience in the legal system. These areas of research grounded the general legal experience in specific personal realities, suggesting common themes from which to re-examine and modify the process of divorce. This article focuses on the latter research component, in which in-depth parental interviews regarding their views of attorneys, judges, and mental health personnel were obtained, to glean individual and group reactions to the legal process of divorce. Although interviews also were conducted with the attorneys representing the divorcing families, the parents' comments are the focus

of this article. The attorney interviews have been discussed elsewhere.<sup>18</sup>

## Methods

### Participants

Families in two Connecticut judicial districts completing their divorce were identified with the assistance of a court clerk or Family Services officer from each district. Eligible families were invited by telephone or by referrals from Family Services personnel to participate in semistructured interviews. Referrals also were invited from a local preschool to attract a broad range of family experiences, including those who did not use the Family Services of the court. The overall volunteer rate among invited families was 53 percent, with the following breakdowns: 15/31 joined from the court lists, 4/6 referrals from Family Services, and 2/3 from the preschool. The final sample size consisted of 21 families of 40 invitees. All the families shared the common characteristics of a recent divorce (within six months of contact), having at least one child six years or younger, and a willingness to participate from both parents.

Families who elected to participate were presented with a consent form that was part of a university-approved Human Subjects Investigation protocol. The consent form outlined the purpose and procedures of the project, the potential risk of upset that can accompany discussion of divorce and the legal process recently undergone, and assurances of confidentiality through standard procedures used in data collection and analysis that protect the identity of each participant. Participants were advised that they were free to withdraw from the study at any point in the interview or thereafter.

In total, 41 parents participated in the study. Both parents from 20 families were included in the sample; the father in one family agreed to participate but then did not complete the interview, and his data were excluded. The 41 parents participating in the study worked with a total of 48 attorneys, with 43 representing the parents (two lawyers were used in two of the cases) and 5 representing the children.

The families were recruited from 10 Connecticut towns representing 6 judicial districts. Families from urban (31.7%), suburban (39.0%), and rural (29.3%) communities were represented in

the sample. The majority of families (67%) were recruited from one county. They were Caucasian and widely diverse socioeconomically. Although socioeconomic (SES) data were not collected from the families, home visits and interview material indicated that the families represented a cross-section of varying economic and social circumstances, ranging from families living in large, suburban homes with daily daycare to very small urban or rural homes in which the residential parent depends on welfare subsistence. In addition, family SES was approximated using several indicators as proxies for more formal data. The four indicators included (1) standard of family house (size, location, and upkeep); (2) parental verbalizations during the interview regarding finances; (3) extent of attorney involvement in the case; and (4) other financial issues in the case. Using these indicators, families were categorized broadly as lower level SES ( $n = 3$ , 14%), lower-middle level SES ( $n = 11$ , 50%), and upper middle-high level SES ( $n = 7$ , 36%).

In addition to looking at the sample as a whole, perceptions of the legal system were examined with regard to the families' level of legal involvement. Four categories for level of legal involvement were designated based on the extent of FSU utilization and legal system activity during the family's divorce process: (1) settle with little outside support or after a few FSU mediation meetings; (2) settle after FSU evaluation and/or extensive attorney negotiation; (3) trial; and (4) trial plus frequent postjudgment actions in court. Families who did not fit precisely into one category ( $n = 3$ ) were categorized by two senior clinicians based on levels of expressed parental hostility and attorney report. Eight families (38%) engaged in negligible ( $n = 3$ ) or low ( $n = 5$ ) levels of legal involvement and 13 families (62%) were designated as high legal involvement. Of the latter 13 families, 28 percent engaged in chronic, intense conflict that brought them in regular contact with the legal system.

### Parent Interview Protocol

Semistructured interviews were conducted at each parent's home. The interviews included open-ended questions with follow-up questions used to obtain more elaborate and detailed responses. The interview protocol was designed to elicit both positive and negative impressions and to help parents reflect on their own role in the legal process, as well as the roles of

Table 1. Parent Interview

**Experience with the Legal System**

Tell me your story about your experience with the legal system/court. Who and what was good or bad? Who and what helped or did not help in your case?

**Role of the Court**

What law-related professionals have been involved with your family? (attorneys, guardian ad litem, family relations officers, judge, mental health evaluators, and mediators)

What was most helpful about what the \_\_\_\_ did? What was not helpful?

**Getting to Settlement**

What were your ideas/expectations about the legal system when you started your divorce?

What are they now?

As a survivor of the system, you have an important contribution to make with your ideas about how things might work differently.

What kinds of things would you like to see different about the role of the courts/attorneys in the future? What kinds of things would make the process work better for people in the future?

Which aspects of the legal system helped resolve the disputes between you and your ex-spouse?

Specifically, if there were disputes about your children, which aspects of the legal process helped you resolve those disputes?

What did you want out of the legal system? What did you hope to have happen as a result of the process?

Did you ever find yourself using the legal system to hurt or get back at your ex-spouse? How did you use the legal system to do that? How did it turn out?

How did the legal process affect your relationship with your ex-spouse? With your child? Did it change your ability to be the parent you want to be in any way? How?

**Conclusions**

As you went through the process, did you think about your child's best interests at all? How did you define your child's best interests? On which factors did you put the most weight?

legal and mental health professionals on whom they relied. The complete list of questions is presented in Table 1.

**Qualitative Data Analysis**

Data obtained by interviews were coded and analyzed using a grounded theory approach. The goal of grounded theory is to develop social theory directly from data.<sup>19</sup> Data are analyzed for themes based on language, quotes, or recurring descriptions of behavior. Using analytic induction techniques of seeking negative cases as a comparison against data that support the developing theory, each new participant's data are compared with the larger sample to seek confirming and disconfirming evidence of themes being developed through the interview material. This process leads to the discarding, refinement, or elaboration of the themes being developed.<sup>20</sup>

The parents' responses were audiotaped and manually recorded by the interviewer during the session.

Then, the responses from the interviews were grouped onto summary sheets developed for this study. An independent rater examined audiotaped responses that were used to authenticate information, add missing descriptions, and identify exemplary quotes.

Recurring content was identified through a reduction process that recorded participant responses, paying close attention to the content and tone of the response. Within each category, recurrent themes were derived from responses given more than once, as distinctions were made between common responses and those contributed by just a few people. Individual quotes were selected to illustrate, in a more detailed and personalized manner, the larger themes articulated by participants.

**Results****Favorable Perceptions of the Divorce Process****Positive Expectations of the Overall Legal Process**

The parent participants entered the divorce process with a variety of hopes and dreams, which encompassed the expectation that the process would work out better than it did. Approximately one-third of the men expected fathers to have a difficult time because "the courts do not favor men." The most common expectation among parents was one of "fairness" and "justice" (17 comments). Many families expected a process that was "simpler" and "shorter" than they experienced (10 comments). These comments referred to an assumption that the family could end their marriage and divide their property in a mutually beneficial process in which both sides would be protected and decisions would be longstanding. Parents also hoped for a compassionate, as well as a just, court and they anticipated that their children would be the court's priority (six comments).

**Positive Experiences with Attorneys and Judges**

Parents most often cited favorable reactions to their attorneys for three types of assistance. First, the attorneys provided needed information and guidelines about what to expect from the legal process and often served as "interpreters" of the system's unfamiliar language and procedures (seven comments). Second, parents reported favorably when their attorneys were stabilizing factors in the divorce, helping them to maintain focus and a grounded perspective. Spe-

cifically, attorneys were appreciated when they helped parents to stay "realistic," "rational," "see various sides," and "minimize conflict" (seven comments). Third, clients indicated that attorneys provided emotional sustenance in the forms of calming and listening to them and encouraging them to feel less helpless (eight comments). Fourth, they appreciated their attorneys' advocacy (nine comments), such as when they were persistent with the court.

Similarly, parents expressed positive reactions to the judge's role during the process (10 comments). They viewed the judge as "thoughtful," "understanding," "concerned," and "acting in the best interests of the child." Spouses who felt helpless in the face of a partner's perceived unreasonableness validated the judge's protective role.

Positive perceptions varied across families with higher and lower legal involvement. The low legal involvement parents found a variety of aspects of the legal system useful, including the Parenting Education Program (PEP) and their fear of the legal process, the authority of the court, and information given by the court and attorneys. Some families (five comments) of higher legal involvement found the court's authority useful; they depended on "the ability to file a motion" or "go to trial" when they felt they had no other recourse to resolve their conflicts. Thus, couples who could resolve their differences found information and skill-building useful, as well as the court's authority, but those who could not, leaned on the police power of the court to resolve disputes that seemed insoluble otherwise.

In summary, parents were able to specify how professionals involved in the process were helpful. Attorneys who provided information about the process, advocated for their clients, and did not inflame the conflict were appreciated most. The judges were viewed as helpful for taking the case and the family seriously, listening to them, and being thoughtful in their responses. Their authority was appreciated when it was perceived to support the balance of power between spouses, providing protective and enforcement functions.

### **Unfavorable Perceptions of the Divorce Process**

Despite the optimistic expectations with which parents entered the divorce process, the majority reported experiences that greatly contradicted their initial expectations. Only 12 percent of the parents (six comments) felt they ended the process with the pos-

itive expectations with which they began. Thirty-four percent of the parents (14 comments) said that no aspect of the legal process helped bring about resolution. One parent commented, "We negotiated for alimony and child support. There were never any issues about the kids. . . and the process took two years." The most prevalent feeling was that the process left parents out of the decision-making and fueled anger and conflict between parties. Even when parents felt they had fared better in the process than their ex-spouse, they described some concerns about the way in which attorneys worked within a system perceived to be inefficient at best and corrupt at worst. The sense pervaded that the process was distressful: "It is a failing system," "I have no faith left," "it stinks," "a joke," "devastating," and "unjust" were comments offered in this vein, representing over one-half of the sample (21 comments). Additional comments about the lack of fairness pertained specifically to men, who stated that the process was tipped toward women and that it was unfair to the noncustodial parent, typically, the father (five comments).

Across parents' levels of legal involvement, the high-conflict parents were more likely to report nothing helped than were low-conflict parents (seven responses versus three responses). However, there were differences between the groups in the intensity of their review. Comments from the lower legal involvement families were negative, but not scathing. They referenced the process as being long, unfair, making things harder, or not helping. In contrast, the higher legal involvement families all felt negative at the end of the divorce process, illustrating their despair with graphic words and phrases such as "it was a joke," "gross," "stinks," "devastating," "wouldn't get married next time."

Some of the recurring critiques from participants are discussed in the following section.

### **Issues of Cost**

Two of the most frequent complaints focused on the cost of the divorce and attorney fees. Specifically, parents talked about the "outrageous fees" (11 comments) and feeling that their needs and well being were subordinate to the attorneys' interest in money (11 comments). The comment, "They don't care, their main concern is money. Some of the first things they ask you is about how much you are worth," is representative of the general sentiment among these

parents. One parent concluded, "It was a money making venture for the people [professionals] involved." Parents also resented waiting to go into court for long periods, paying attorneys for so much waiting time, and missing a day of work.

Clients at the lower end of the SES spectrum were discouraged because they could not afford adequate counsel and felt that they were at a grave disadvantage in negotiations as a result (five comments). One parent described how her *pro bono* attorney sent someone else in his stead for a court date, without giving the client notice. The client's substitute attorney barely spoke or advocated for her because he was so unfamiliar with the case.

#### Scope of Services and Quality of Representation

Parents also were disappointed with the overall lack of efficiency in the court system. They felt that attorneys could play a larger role in identifying salient issues at the outset of the divorce proceedings and then help all parties stay focused on those issues so that small sticking points did not consume time during negotiations. They also had a variety of unfavorable comments that addressed perceptions of a lack of genuine investment by the attorney in clients' needs and desires. Parent participants perceived their attorneys as possessing insufficient levels of interest in their cases and, in general, providing substandard services in several domains. First, attorneys were described as not paying attention to essential details and not adequately following through as needed (11 comments). "Lawyers speak for you and they have so many clients that they cannot remember the intimate details of [your lives] and [your] specific case." Another irate parent described how her attorney, after reaching an agreement with the opposing party, did not file the relevant papers on time, resulting in a renegotiation and a less desirable outcome for the client. Consequently, the parents felt that although they were paying for services, they were not receiving quality assistance and were doing much of the work on their own.

Similar to their feelings about their own attorneys, parents were more negative than positive about the children's attorneys. The most common criticism was that the attorney for the child "did not do much," or did not have an important role (10 comments). They "didn't have all the information they needed," "hardly met with the kids," "were not asser-

tive and were afraid of judges," or just "didn't do much." "All they did was support the Family Services decision," regardless of the facts.

With regard to the judge's role, the most consistent response to various questions and in various forms, was parents' indication that judges were not central enough parts of the process. Parents felt that judges do not get involved except to "rubber stamp" what the attorneys and mental health counselors have already decided (15 comments). A subset of parents commented that the judge did not listen much (seven comments). Participants reported incidents of being embarrassed and humiliated before judges who were "dismissive," "sarcastic," "yelling and hollering," and "acting very frustrated" (seven comments).

#### Quality of Communication

Clients defined barriers of effective communication between themselves and their attorneys. Most notably, parents felt left out of the process by their attorneys who were perceived as negotiating among themselves (seven comments). There was a sense of being "[frustrated] because nobody hears you and nobody talks to you." As a result of being shut out of the process, some parents felt they should have been included in all aspects of the negotiations (five comments).

It's a business. . . . After everything was pretty much decided we were given the results of the process. We weren't included in the process. I would have liked to be asked to sit in the room, to go into the chambers with them. It's my life and I'm paying for this process. I would have liked to be included.

Eleven parents were frustrated that their attorneys encouraged them to be "conservative" in ways that the clients believed maintained the status quo rather than served their best interests. It is impossible to discern how often the attorneys were simply minimizing conflict and encouraging realistic expectations, which parents reported they appreciated in the positive comments section.

In summary, the negative aspects of the process were more salient in number and intensity than the positive ones. Parents were especially angry about the high cost of their divorce and their perceptions that the attorneys were "in it solely for the money." They blamed the attorneys for the inefficiencies of the court system (e.g., waiting time and delays). The judges were viewed as being too peripheral in the process. Parents were exquisitely aware that money talks in the legal system and that justice runs a risk of

being obscured without adequate parental financial resources.

### **Perceptions of How the Process Impacted Parental Conflict**

#### *Parental Relationships*

Most comments about changes in the parents' relationship with each other as a result of the legal process focused on the relationship turning more sour than it formerly had been (29 comments). Parents emphasized the strain that often resulted in extreme feelings of negativity toward the other parent: "It left a bitter taste." Other representative comments included, "[It] made me hate her. The legal system made a greedy shark of her that is not the person I know" or "It [the legal process] made it miserable in the beginning. We were at each other's throats. It made it nasty." The legal process exacerbated already existing feelings of distrust and conflict between the parents. It pitted parents against each other, increasing their level of antagonism. The role of the attorney was perceived as contributing to parental rivalry and conflict by creating and encouraging less communication between parents: "It is hard to coparent when you are not speaking to each other," and are "going through attorneys only."

Some of the comments addressed more mixed experiences in the legal system. For a handful of parents, the relationship got much worse during the divorce and then improved by the end. One such participant pointed out that his spouse was "not a bad person, but she became a monster" during the legal conflict. Others commented that the conflict subsided when the parents took the divorce process away from judges and the court or their attorneys and put it back into their own hands (five comments).

A sizable number of comments<sup>10</sup> indicated that the legal system did not make a bad situation worse. For these participants, the outcomes of gaining distance from an ex-spouse and getting out of the relationship were more salient than the process of getting to those outcomes. These comments suggest that the faster the process can draw to a conclusion, the better off spouses will ultimately feel. But the parents also acknowledged that getting to a conclusion quickly was hindered as much by their ex-spouse as by the attorneys and the system itself.

#### *Use of Retribution*

Despite the negative responses parents had to the legal system, most parents expressed that they did not

intentionally use the system to attack or annoy their ex-spouse (30 comments). About one-half of the respondents also reported that their ex-spouses did not use the system for retribution (13 comments). However, an equal number of parents believed that their spouses did use the system against them (13 comments), including using custody, visitation, or other related threats; using police/detectives to harass; and using motions or depositions. These categories do not reflect individual responses, but rather some of the same persons reported more than one way in which their ex-spouse manipulated the system.

The findings suggest that differences may exist across levels of legal involvement concerning whether the participant or other spouse used the system for retribution. Among lower legal involvement families, both partners said they did not use the system and neither did their spouse. Among higher legal involvement families, most people said they did not use the system (11 said "no" and 1 said "yes") to punish the other spouse. However, one-half of them reported that their spouse used the system to antagonize them.

### **Perceptions of How the Process Impacted Parent-Child Relationships**

About one-quarter of the participants reported no change in their relationship with the child (10 comments). However, a larger segment of parents felt that the legal process had changed their parent-child relationship (16 comments), usually but not always for the worse. Some parents felt they were less close to their child (six comments). Some parents felt that their relationship with their child had deteriorated because of the other parent's speaking ill of him/her, causing the child to be reluctant to talk openly or to feel the need to protect that parent (five comments).

Although the divorce process itself is by definition, painful for most parents, the legal process often exacerbated the stress and turmoil at a time when parents already felt their emotional resources were worn frighteningly thin. Parents described changes in their own behavior with their child that give new content to Wallerstein and Kelly's<sup>21</sup> concept of diminished capacity to parent. The concept refers to parents' reduced capacity after divorce to provide the warmth, structure, and authority children need to feel secure. The legal process contributed to a decreased sense of energy and competence (22 comments).

Over one-half of the parents, especially fathers, commented about their inability to parent due to less time spent with the child (14 comments), "not being around for things," and having to work more hours than before the divorce. In contrast, a subsection of parents felt that the legal system did not have a long-lasting negative impact on the parent-child relationship; they reported that they began to focus more on their child's best interest by becoming "more involved with their child and getting his needs met" or "more sensitive" as a result of a threatened loss of custody (seven comments).

It appears that differences existed across level of legal involvement in how the parents felt their relationships with their children and their capacity to parent were affected by the legal process. Among lower legal involvement families, five of the parent couples (10 comments) reported that their parent-child relationships actually grew stronger. Sometimes they turned sour for a period, but ultimately they improved. It was the higher legal involvement families who reported missing time or opportunities to parent and "be there" for their child (seven comments). They reported multiple negative effects: less closeness; less fun together; more irritability, stress, and depression; fear of appearing in a negative light to the other parent; unable to provide economically for the child; and increased leniency in discipline.

To summarize, many parents felt that they experienced negative changes in their relationship with their child as a result of the legal process. These changes appeared to be an expression of fear and, for some parents—especially fathers—resignation that they might lose some access to their child. Many parents also experienced a temporary negative change in their capacity to parent caused by increased feelings of fatigue and stress related to the process. However, several parents also felt their relationship with their child improved because they had the freedom to parent at their own discretion without the presumed negative influence of the former spouse.

### **Parent Suggestions for the Legal System**

#### *For Attorneys*

A group of parents expressed little hope for the attorney in the divorce process and believed that the process would operate much smoother if attorneys were excluded altogether (eight comments). "I'd like to see a divorce not even have to be involved with attorneys. Attorneys bring out more hate in a person

toward another person." The predominant attitude of these parents was that attorneys served an antagonistic role in divorce and contributed to prolonged feelings of hardship and frustration.

Other parents acknowledged the important role attorneys play in divorce and provided less drastic suggestions regarding a modification in the attorney role. Suggestions included avoiding use of two separate attorneys, training attorneys in mediation and child development, or assigning them to work with a family as opposed to an individual client.

#### *For Judges*

A subgroup of parents indicated that they would like a more salient role for the judge. They felt that the judge should be responsible primarily for making the final decision and not just rubber stamp the decision made by attorneys or Family Services (five comments). Parents also commented that judges should consider the child's perspective (e.g., feelings and desires for visitation) by talking directly to the child or relying more substantially on child development knowledge (four comments).

#### *For Overall Legal System*

Many of the suggestions from parents were geared toward making the process more effective and predictable. The establishment and enforcement of guidelines was a common recommendation among parents. Some parents (nine comments) indicated that guidelines should be set for the divorce process and division of property akin to child support, with clear rules governing custody and access, and for enforcing agreements (e.g., child support and access) with clear recourse when such violations occur.

In addition, parents commented that the court system should assume a more active role in providing consumers with adequate information about the legal process. Parents should be prepared about how the process works to understand the course of their divorce (five comments). Regarding having access to pertinent types of information, parents also spoke about the information they received in the court mandated PEP for parents undergoing divorce. In Connecticut, all parents with minor children must attend a six-hour program with the goal of educating parents about the effects of divorce on their children and themselves and providing suggestions for maximizing parental cooperation and child adjustment. Parent advocates of PEP wanted to see the program maintained and strengthened. They commented that



PEP should be mandatory, occur for a longer period, include more reading material in the curriculum, and have a test administered at the end of the program. However, for a minority of parents, PEP was considered minimally effective either because of the timing of it, the other spouse attending the same class, the other spouse not attending at all, or the program content being irrelevant to particular concerns of the parents or ages of the children.

## Conclusions

The summarized responses of parents who have experienced a divorce recently provide insight into how involvement in the legal system impacts parents during the divorce. The divorce process is presented in this research from the unique perspectives of the parents, with their inherent biases, blind spots, and wishes. Reforms or movements for change within large public systems often are directed by professionals in the field who have conceptualized the needs of families from their own stance. In contrast to this approach, a growing body of literature in mental health care provides support for the powerful impact of client-generated systems in the delivery of services that are satisfying and effective from the clients' perspectives.<sup>22, 23</sup> Similarly, parents' perspectives contribute important information for understanding how legal system reforms could be structured to increase the quality of the process and to ameliorate potentially destructive aspects of the legal system.

In the data presented, participants' perceptions of their experiences with the legal system conveyed a lack of power and control over their own destiny. The perceptions varied somewhat depending on parents' level of legal involvement. Parents in lower legal involvement families offered a broader range of responses to the question about how they resolved their disputes than parents with higher legal involvement. By the completion of their divorce, they reached a more satisfactory resolution and provided examples of useful resources. The feelings of frustration expressed by the parents, especially those with high legal system involvement, echo the voices of clients in the mental health system. Such frustration may result in increased client disengagement and relapse or, in legal terms, relitigation.<sup>24, 25</sup> The comments and suggestions offered by the parents can serve as a vehicle for change toward a more family focused system that creates a sense of empowerment, respect, and fair treatment for the client.

## Recommendations to Legal and Mental Health Professionals

Most saliently, these parents advocated for a collaborative divorce system that involves all parties and holds the well-being of the child and cooperative family relations as primary goals during and after the divorce. In particular, parents expressed the need for attorneys to assume a less adversarial, more family focused perspective that includes counseling clients on rights and responsibilities as parents, advocating for mutually beneficial solutions, and fully informing clients about their options and the consequences, both negative and positive. Clients also called on attorneys to provide more external structure within the divorce process for families fragmented by ongoing conflict to proceed with order and safety after separation. Judges were asked to adopt a larger role in the process, providing leadership in reaching agreements, and in fashioning more effective means of enforcing agreements.

In addition, parents recognized the need for collaborative as well as supportive roles for mental health providers and custody evaluators within the divorce process. Together, legal and mental health professionals are needed to provide parents with information (about the legal process, the divorce experience, and the needs of their child) and support to facilitate a realistic, cooperative tone for the divorce. They can offer information about alternative methods of dispute resolution and nonconflictual ways of handling impasses so that parents feel they participated in the choices about the flow and design of their case. They also can help foster agreements that incorporate parental involvement in ways that meet the needs of the particular couple and the child(ren) at issue and establish procedures to promote parents' compliance with plans to optimize the security and stability of the child's relationships with both parents and extended family members.

## Benefits of a Collaborative Divorce Process

The blueprint for this form of mental health-centered, interdisciplinary collaboration to resolve family related disputes has been set in other areas. Similar models are instituted in other arenas of the legal system, such as in juvenile court cases and school-related conflicts.<sup>26</sup> Such arenas benefit from case management and integrated clinical services that guide patients through a complicated system that uses unfamiliar vocabulary and procedural rules.

Such collaboration in divorce would lead to a system that assists families in resolving impasses, protects children's access to positive pathways of development, and emphasizes parental strengths. By redirecting parents' focus from fighting in the legal process to one of creating detailed parenting plans that account for children's changing developmental needs, this partnership also would lead to a more efficient system for determining parenting plans by producing more comprehensive recommendations.<sup>27</sup>

Interdisciplinary collaboration, joined with a restructuring of the ways in which families enter, pass through, and leave the legal system, should have long-term implications for the well-being of children and their families. New models that help families reduce their reliance on court intervention during the divorce process should be integrated into the overall family court system, using a continuum of services geared toward the diverse needs of separating and divorcing families. In collaboration, mental health professionals can provide leadership in helping divorcing parents cope with conflict and make decisions that place the well being of their children and families in the forefront of the legal process.<sup>28</sup>

The difficulty of changing the legal system notwithstanding, mental health professionals' involvement in these new interdisciplinary models can make a difference within the divorce process because, compared with other arenas of the legal system, the divorce process is as much, or more, about psychological disengagement as substantive legal issues. To the extent that their involvement promotes a nonadversarial process and focuses on altering family dynamics that sustain parental conflict by helping parents stay focused on their children, they are drawing directly on their training and areas of expertise.

Although change toward a collaborative divorce process cannot occur within the system without reform from administrative, judicial, and mental health actions that support reform in similar directions, the voices and needs of the consumers (i.e., divorcing families) should serve as the foundation for this effort of reform. The intensity of their outcry requires that we take further steps to heed their concern and create, with them, systemic solutions that will benefit all families undergoing divorce now and in the future.

### **Limitations of the Study**

Cautions about the limitations of these data are warranted. The small sample size, although adequate for in-depth qualitative research, is a limitation created by the methodology of intensive interviews. Although the sample is fairly diverse regarding social and economic characteristics, it does not address issues that may be unique to persons of color, families from various cultural subgroups not included in this sample, and unmarried parents. In addition, it is impossible using these methods to tease apart the effect of divorce itself from any predisposing morbidity these families bring to their understandings or experience of the divorce and impressions of legal professionals. Although prior research has shown that pre-existing characteristics of families, including genetic and environmental factors,<sup>29</sup> and familial risk and protective factors<sup>30, 31</sup> may influence the outcome of the divorce experience, examination of these potential mediating factors are beyond the scope of this research design. It is recommended that future research examine how such premorbid familial characteristics may influence individuals' perceptions and experiences within the legal system.

Although the parents' voices raise some concerns about the efficacy of the current system, it is equally important to understand those concerns within the context of the divorce process. The adversarial system may be "a necessary evil" in family law, as one parent stated. Yet, it does create obstacles to obtaining a timely and mutually satisfactory resolution to the issues of coparenting and attendant scheduling of living arrangements for the child with both parents. It is an inescapable fact that divorce is among the most stressful experience faced by many families. It is difficult to conceive how most parents, with all the anger and hurt attendant to divorce, could reach agreement without attributing much of their pain to the legal process and to legal professionals themselves. Therefore, their comments must be viewed in the context that it is much easier to kill the messenger than to change the situation at the core of the problem—the conditions within the family that led to the divorce itself. The purpose of these qualitative data is not to claim generalizable results, but rather to offer empirical data about themes widely acknowledged in legal and mental health arenas but which have not been researched.

## Future Directions

Based on the pilot results reported in this study, the senior author is conducting a preventive intervention study to test the extent to which timely, appropriate information for parents and children, combined with collaboratively oriented mental health and legal intervention, will assist in the preservation of families' long-term well being during and after the divorce process. Psychoeducational instruction and group participation, therapeutic consultation, case management, and collaborations between the judiciary, attorneys, Family Services, and supporting mental health personnel are combined into a continuum of court services for divorcing families with young children. This author hypothesizes from these data that divorcing parents will benefit from collaborative interventions among legal and mental health professionals that remove parents from the potential toxicity of adversarial divorce,<sup>32</sup> maximize parental support, and provides, when needed, mental health resources. Expanding on the qualitative work presented in this article, this intervention study will consist of more rigorous methodology such as well-monitored detailed sampling procedures and criteria and an empirical test of the effectiveness of the intervention, including a long-term follow-up.

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