



Resources and Related Information

RFJS

Diana Lowe, KC wrote an article for the Journal of Family Law in the UK, which was published in September 2021, Vol. 51 Family Law Journal 1156:

https://www.familylaw.co.uk/news_and_comment/re-imagining-the-family-justice-system-an-introduction-to-alberta-s-reforming-the-family-justice-system-initiative .

Alberta's RFJS has expanded to other Canadian jurisdictions, and is part of a national strategy alliance to transform the family justice system (along with the Canadian Institute for the Administration of Justice (CIAJ), Access to Justice BC, Access to Justice & Law Reform of Nova Scotia and CREATE Justice Saskatchewan). Diana Lowe, KC, Nicole Sherren, PhD and Justice Rod Jerke created three podcasts with the CIAJ "In All Fairness":

The first in our series is Episode 48, entitled ***Family Law Reform Part I: The Right to a Good Life***: <https://ciaj-icaj.ca/en/podcasts/family-law-reform-the-right-to-a-good-life/>. In this episode Christine O'Doherty (Executive Director of the CIAJ) speaks with former Executive Counsel to the Court of King's Bench and RFJS Co-Lead Diana Lowe, KC about the nature and concerns about the family justice system that have led to Alberta's RFJS initiative, recommendations to improve the system and why we need a culture or paradigm shift.

Episode 49 is entitled ***Family Law Reform Part II: Brain Science, Adverse Childhood Experiences and Resilience***: <https://ciaj-icaj.ca/en/podcasts/family-law-reform-brain-science-aces-and-resilience/>. In this episode, Christine O'Doherty speaks with Dr. Nicole Sherren (PhD in Neuroscience) and Diana Lowe, KC about

- how brain science relates to family well-being
- how experiences in childhood affect the developing brain
- how adversity also affects our capacity for resilience, and
- how this science is relevant to the family justice system

The third in our series is Episode 50, ***Family Law Reform Part III: It's All About the Children***: <https://ciaj-icaj.ca/en/podcasts/its-all-about-the-children/>. This episode with Christine O'Doherty, Diana Lowe, QC and Justice Rod Jerke of the Court of King's Bench of Alberta, explored the changes that are already starting to happen as a result of this work, in a conversation that touched on

- the importance of improving the outcomes for families

- why transforming the family justice system is needed and how to achieve this
- the changes that are starting to take place
- the “Seven C’s”: creativity, curiosity, commitment, community, compassion, cash and brain science (it’s all about the children).

Brain Science

The online Core Story Brain Certification is a free, in-depth course for anyone who wants to learn more about the science of brain development. There are 19 self-paced modules, with videos of more than 30 leading experts in neurobiology and mental health. Registration is at: <https://www.albertafamilywellness.org/training-2>

Brief description of the Brain Story: <https://www.albertafamilywellness.org/what-we-know/the-brain-story/>

Early Learnings about the Resilience Scale Metaphor in Practice:

<https://www.albertafamilywellness.org/resources/reports/early-learnings-about-the-resilience-scale-metaphor-in-practice>

How Brains are Built: The Core Story of Brain Development (4:05 min video)

<https://www.albertafamilywellness.org/resources/watch/how-brains-are-built-core-story-of-brain-development>

Brains Journey to Resilience (7:44 min video)

<https://www.albertafamilywellness.org/resources/video/brains-journey-to-resilience>

Harvard Centre on the Developing Child: <https://developingchild.harvard.edu/>

“Three Principles to Improve Outcomes for Children and Families”, Harvard Center on the Developing Child, updated in 2021: <https://developingchild.harvard.edu/resources/three-early-childhood-development-principles-improve-child-family-outcomes/>

Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience, 2015, Harvard Center on the Developing Child:

<https://developingchild.harvard.edu/resources/supportive-relationships-and-active-skill-building-strengthen-the-foundations-of-resilience/>

ACEs Infographic (Robert Woods Johnson Foundation): https://ciaj-icaj.ca/wp-content/uploads/podcasts/2022/03/aces-infographic_robert-woods-johnson-fdn.pdf

Centre for Disease Control and Prevention:

<https://www.cdc.gov/violenceprevention/aces/about.html>

Paper Tigers Documentary (Trailer): <https://www.youtube.com/watch?v=NCPpv> and Resilience Documentary (Trailer): <https://vimeo.com/137282528>

The Deepest Well by Dr. Nadine Burke Harris, 2019, Mariner Books:
<https://www.goodreads.com/book/show/33413909-the-deepest-well>

Apple Magazine, Special Issue "Our brain Your Guide" (2018):
<https://www.albertahealthservices.ca/assets/apple/app-our-brain-evergreen-2016-17.pdf>

Access to Justice

Farrow, Trevor C. W. "What is Access to Justice?." *Osgoode Hall Law Journal* 51.3 (2014) : 957-988. <https://digitalcommons.osgoode.yorku.ca/ohlj/vol51/iss3/10>

Systems Change

Meaningful Change for Family Justice: Beyond Wise Words, Final Report of the Family justice Working Group, Action Committee on Access to Justice in Civil and Family Matters, April 2013.
<https://www.cfcj-fcjc.org/sites/default/files/docs/2013/Report%20of%20the%20Family%20Law%20WG%20Meaningful%20Change%20April%202013.pdf>

- Quote from pages 5-6 of this report underlines the urgency for change:
With family separation occurring on a large scale, and in the context of dramatic social change, it is not surprising that justice systems across the Western world have been struggling to meet the challenge of responding to the complex and growing needs of families. The many reports from around the common law world reflect a remarkable consistency in the conclusions reached about what does and does not work in family justice systems.

The problems identified in the reports that precede this one were distilled in the background paper prepared for the FJWG as follows:

- *There is a built-in tendency for adversarial process to polarize spouses and exacerbate conflict;*
- *Parental conflict can be very harmful to children;*
- *Conflict tends to protract process, which already tends to be complex, costly, lengthy and unpredictable;*
- *Justice systems need to do a better job of providing integrated services and multidisciplinary responses to the many "non-legal" dimensions to issues that arise when families are restructuring; and*
- *The complexity of family breakdown and the relative inaccessibility of the courts results in many family law problems remaining unaddressed and unresolved.*

Access to Civil & Family Justice: A Roadmap for Change, Report of the Action Committee on Access to Justice in Civil and Family Matters, October 2013: https://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf

- This report called for a new way of thinking, which it referred to at page 6 as “a culture shift”
- This type of transformational change was also discussed in Beyond Wise Words, which spoke at p.8 of concern about insufficiency of reforms to date:

The language of “drastic change” and “fundamental overhaul” corresponds with calls made in earlier reports for a “paradigm shift” and for a family justice system that is ‘fundamentally different from what we have known in the past.

The Water of Systems Change, John Kania, Mark Kramer, Peter Senge, FSG, June 2018:

https://www.fsg.org/resource/water_of_systems_change/

Thinking in Systems: A Primer, Donella H. Meadows, Edited by Diana Wright, Sustainability

Institute, 2008: <https://www.chelseagreen.com/product/thinking-in-systems/>

coParenter

The coParenter platform provides families with a number of tools to help them manage, organize and resolve everyday co-parenting responsibilities, with (or without) the assistance of a coach or mediator. These tools include:

- ✓ documented messaging, with a language filter that coaches parents to use appropriate language
- ✓ templates and support to create parenting time schedules, which can be incorporated into existing online calendars. This includes regular schedules, vacation schedules and holidays
- ✓ tools to reach agreement on issues, activities and schedules
- ✓ tracking parenting time
- ✓ triage and diagnose issues
- ✓ share child-related information
- ✓ manage and document expenses

Families can be referred to sign up for coParenter at www.coparenter.com

Family Supports

There are 180 Family and Community Support Services throughout Alberta, with the mandate to support families and prevent harm. A list of all of the member organizations in the Family & Community Support Services Association of Alberta is available on the FCSS Association of Alberta website, under Documents and Resources. <https://fcssaa.org/documents-resources/library/#23-32-wpfd-fcss-program-contact-lists> . You can choose a list of all organizations, or regional program lists.

New Ways for Families

New Ways for Families (NWFF) ran a 3-year pilot in Medicine Hat, which was a collaboration between the Ministry of Justice & Solicitor General, legal and social service practitioners and the Court. The case study of this program showed tremendous value in this approach. Online

courses are available to learn about the approach and gain the skills to coach families to better approaches: <https://www.highconflictinstitute.com/on-demand-courses>

Divorce Magazine

The Divorce Magazine is a free publication that is available on public stands at locations throughout Edmonton and Calgary. The Magazine includes information about a variety of supports and services for families dealing with the challenges of separation and divorce. It is also available online at: <https://divorcemagazinecanada.com/magazines>

There is an article about the RFJS at pages 6-7 of the current (2022) issue of the magazine, and in each of the past 6 issues.

Divorce Resource Groups

These are monthly meetings hosted by the publisher of Divorce Magazine, to bring together members of the public who are dealing with separation and divorce, with professionals who can help navigate. For more information see: <https://divorcemagazinecanada.com/support>

Strategy Mapping & Strategy Engagement

The link to a webinar on Strategy Mapping with Bill Barberg from InsightFormation, Diana Lowe, KC (RFJS) and Jane Morley, KC (A2JBC) “Advancing Your Community’s ACEs & Resilience Strategy” is at: <https://improvepophealth.org/advancing-your-communitys-aces>

John M. Bryson, Bill Barberg, Barbara C. Crosby & Michael Quinn Patton (2021) Leading Social Transformations: Creating Public Value and Advancing the Common Good, Journal of Change Management, 21:2, 180-202, <https://doi.org/10.1080/14697017.2021.1917492>

The link to the webinar on Leading Social Transformation (September 8, 2021) is: <https://improvepophealth.org/leading-social-transformations>

Webinar participants were also given access to a number of resources, including slides from the webinar, links to earlier programs etc: www.insightformation.com/20210908

Office of the Child and Youth Advocate

Alberta’s Child & Youth Advocate (an independent officer of the Alberta Legislature) recently issued a “Statement of Concern” regarding the well-being of children whose families are involved in high-conflict custody disputes. <https://www.ocya.alberta.ca/adult/news/child-and-youth-advocate-releases-statement-of-concern/>

Child Welfare

“Journey Home” explores the importance of healing for Indigenous children in the child welfare system. This powerful documentary provides was produced by Native Counselling Services of Alberta and provides an Indigenous community perspective on inter-generational trauma, and its impacts on children and youth in government care: <https://www.youtube.com/watch?v=G-q4VepX4vU>

Family Violence

Sagesse: <https://www.sagesse.org/>

Impact: <https://impact.sagesse.org/>

Calgary Domestic Violence Collective: <https://cdvc.ca/>

Shift: The project to end domestic violence: <https://preventdomesticviolence.ca/>

Sagesse has established domestic violence screening, which mediators, lawyers and other family law professionals can access. This is a process where clients complete a questionnaire, a Sagesse clinical team member reviews the responses, assesses the risk level of domestic violence and power dynamics, and clients receive a follow-up letter or phone call. For more information contact screening@sagesse.org or by phone at 403-234-7337

Diana recently participated in The Journeys to Hope & Healing podcast with Rowan House Society which is available at: <https://www.buzzsprout.com/887248/10688864>. You'll hear host Ally Cramm speak with Laurie Anderson and Cindy Marshall, KC, both senior counsel in Calgary who deal almost exclusively with high conflict family matters, and with Diana Lowe, KC, former Executive Counsel with the Court of King's Bench and Co-Lead of the RFJS. All three are members of the Calgary Domestic Violence Collective, Access to Legal Services Working Group. Laurie explains the need to move away from the "parental alienation" concept, and why this concept has been so harmful to families experiencing violence. Both Laurie and Cindy share insights into the challenges arising in cases where family violence is occurring. Diana speaks about the RFJS focus on family well-being. She challenges the application of the maximum contact principle as a presumption, which has led to situations where children are ordered to spend time with a parent even when they have used violence. The concern is that these orders fail to appreciate the trauma for children who experience or observe violence, adding to their Adverse Childhood Experiences (ACEs) and the lifelong risks associated with high ACE scores.

In their spring 2022 decision in *Barendregt v Grebliuas* 2022 SCC 22, the Supreme Court of Canada dealt with a case involving a family relocation in a situation where there was evidence of family violence. This important decision touches on a number of issues including clarifying that the maximum contact principle does not raise a presumption of equal parenting, and suggesting that the principle should now be referred to as the "parenting time factor".

This is the most important element from an RFJS perspective, and will go a long way to assisting with the evolution to "resist-refuse" cases, while reducing reliance on "parental alienation" type of arguments. Here are some key paragraphs on this point:

[134] [B]ut in the years since Gordon, some courts have interpreted what is known as the "maximum contact principle" as effectively creating a presumption in favour of shared parenting arrangements, equal parenting time, or regular access: . . . Indeed, the term "maximum contact principle" seems to imply that as much contact with both

parents as possible will necessarily be in the best interests of the child.

[135] **These interpretations overreach.** It is worth repeating that what is known as the maximum contact principle is only significant to the extent that it is in the child’s best interests; it must not be used to detract from this inquiry. It is notable that the amended Divorce Act recasts the “maximum contact principle” as “[p]arenting time consistent with best interests of child”: s. 16(6). This shift in language is more neutral and affirms the child-centric nature of the inquiry. Indeed, going forward, the “maximum contact principle” is better referred to as the “parenting time factor”. [Emphasis added.]

The decision also affirmed that family violence is a significant factor to consider in assessing the best interests of the child.

[143] The suggestion that domestic abuse or family violence has no impact on the children and has nothing to do with the perpetrator’s parenting ability is untenable.

Research indicates that children who are exposed to family violence are at risk of emotional and behavioural problems throughout their lives: Department of Justice, Risk Factors for Children in Situations of Family Violence in the Context of Separation and Divorce (February 2014), at p.12. Harm can result from direct or indirect exposure to domestic conflicts, for example, by observing the incident, experiencing its aftermath, or hearing about it: S. Artz et al., “A Comprehensive Review of the Literature on the 2022 SCC 22 (CanLII) Impact of Exposure to Intimate Partner Violence for Children and Youth” (2014, 5 I.J.C.Y.F.S. 493, at p. 497. [Emphasis added.]

From an RFJS perspective, the Supreme Court of Canada has helped to confirm the need to understand the impact of violence and trauma in decisions about parenting time. It provides hope that we are moving in the right direction in family violence cases.

Safe-at-Home Pilot

Information about the Safe at Home pilot is available online at: <https://www.safeathomeab.ca/> and is also discussed in this podcast:

<https://rowanhousesociety.buzzsprout.com/887248/8234445-s2-e3-safe-at-home-a-change-in-perspective>

Journeys to Hope & Healing Podcast: When the System Focuses on Families, March 2021, Diana spoke with the host, Ally Cramm, about the RFJS (41 minutes)

<https://rowanhousesociety.buzzsprout.com/887248/8604900-s2-e5-when-the-system-focuses-on-families-ft-diana-low-qc>

Alberta Courts Restorative Justice Project

In March 2022 the Alberta Courts launched a Restorative Justice Pilot Project. Information about the project, guidelines, and restorative justice resources are available at:

<https://rialbertacourts.ca/>

Diana Lowe, KC, Principal Consultant, Re-imagining Justice

Diana Lowe, KC is a lawyer with 37 years of experience which includes legal practice, research and reform of the civil and family justice systems in Canada, and most recently as Executive Counsel to the Chief Justice of the Court of King's Bench of Alberta. Since retiring from the Court in late 2020, Diana has established a consulting practice – *Re-imagining Justice*. She continues to support the Reforming the Family Justice System (RFJS) initiative in Alberta, and also works with other jurisdictions interested in justice system transformation. She can be reached by email at: diana.lowe@re-imaginingjustice.ca