

SPECIAL FEATURE

Conclusion: Mental health and legal responses to the adolescent mental health crisis: Raising the bar on best interests and promoting family connectedness in divorcing families

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Abstract

We are currently facing an unprecedented increase in adolescent mental health problems resulting in alarmingly high levels of depression, anxiety, and suicidality. Significant mental health problems among youth pose unique challenges to families in the process of separation and divorce, as well as to family law professionals across all disciplines. The current adolescent mental health crisis calls for new ways of approaching our work with high conflict families to promote family connectedness and shift away from adversarial approaches that may exacerbate conflict and further destabilize families. As a conclusion to the special issue on adolescent mental health needs, the authors make multi-disciplinary best practices recommendations and advocate for systems level changes in recognition of the needs of youth in crisis at this pivotal developmental stage.

KEYWORDS

adolescent, best practices, family law, high conflict, mental health

Key points for the family court community

- Mental health crises among adolescents and families require newer and advanced education regarding adolescent mental health for legal and mental health professionals.

- Current mental health issues among adolescents complicate family court responses and sometimes deflect from the family systems problems.
- The current crisis calls for an increased focus on careful assessment and conflict resolution in all professional roles.
- Professionals also must reach beyond coparenting conflict to assist with the family's commitment to retaining connection through the process of divorce and beyond.
- Conflict-reduction can be better supported by an equal focus on building positive coping skills, attitudes and strategies.
- Needed shifts in intervention require training in interdisciplinary teams, using case examples to foster collaborative skills.
- We recommend redefining the roles of mental health professionals so they are bounded, explicit, and supportive of family autonomy, with reduced susceptibility to being coopted into the adversarial divorce system.

INTRODUCTION

This special section took a turn from the usual scholarly directions of FCR to focus explicitly on legal and mental health professionals' perspectives of the mental health crises facing today's youth. The section editors, Dr. Amy Wilson and Dr. Marsha Kline Pruett, proposed to identify key issues and explore barriers and everyday practices with youth and their families from perspectives of various roles in family law, with the intention of inspiring workshops, research, and interventions that respond to this unusual crisis point in societal history, and by default, in family law. While depression and anxiety are the most recognizable mental health problems we face, the authors in this section identified issues that move beyond depression and anxiety, adding important detail to the general mental health problems discussed in lay literature and scholarship. These commentaries and articles provide a clearer picture of what professionals of all disciplines need to watch for, assess, and help families manage on their own or through therapeutic resources and family law interventions. They also suggest promising practices that offer hope and practical suggestions for professionals working with these youth in great pain, and their families.

PROFESSIONAL PERSPECTIVES AND RECOMMENDATIONS

Professional perspectives regarding the youth mental health crisis reveal diversity across roles, yet consistency in terms of shared concerns. **Pasternak and Montgomery**, **Ajoku**, and **Mitnick** share their “reports from the front lines” in the roles of therapist, parenting plan evaluator, and parenting coordinator. The challenges they articulate include sharply increased suicidality among teens, difficulty obtaining mental health services for their clients, and

the need for validated assessment and evaluation techniques in response to increased complexity and fragility in the family system, exacerbation of high-conflict struggles that manifest -for example- in parent-child contact problems, and an overall intensification of the most challenging aspects of our work as family law professionals. Adolescents are struggling not only within their families, but also socially and culturally as they strive to adjust to returning to school, extracurricular activities, and a society at large that is still reverberating from the impact of the pandemic and evolving social mores that offer more choices and less direction in terms of identities and behaviors. Teens, and the professionals who work with them, are carrying a load that is unprecedented in both its weight and complexity.

These authors paint a picture of a family court system in which the stakes are higher than they were previously. In effect, adolescent mental health issues serve the function of “heating” the family environment at the very time that the family is needing to quell the flames. However, we, as family law professionals, have the responsibility and the tools to help keep the systems cool. To do so effectively may require a reexamination of our standard ways of operating. That is, the traditionally adversarial system of family law may be creating a precarious environment for adolescents in crisis.

O'Brien and colleagues artfully challenge us to consider that adolescent mental health can become a “red herring” in high conflict cases, shifting focus away from parental conflict and poor coparenting and causing professionals to miss the important opportunity to recognize the deleterious impact that acrimonious coparenting has on children. This is a warning for professionals to stay focused on family systems approaches to high conflict cases, rather than allowing the child to become the “identified patient” in a dysfunctional system being driven primarily by parents in intractable conflict.

In some cases, however, adolescent mental health is not a red herring, but the central issue of concern that requires careful consideration by legal professionals and the courts. Children are being hospitalized for suicidality, entering residential treatment and wilderness programs in record numbers, and frequently returning home in a fragile state (e.g., Gutierrez-Sacristan et al., 2022). This often occurs within the context of pre-existing high conflict coparenting, parent-child contact problems, and other family systems dynamics that make reentry challenging for the family. Additionally, parents may differ in terms of their availability to monitor and provide parental care to the adolescent. In some cases, reconsideration of the custodial schedule and/or parenting plan is warranted, even if only on a temporary basis. Sometimes parents can agree to such a change, perhaps with the help of a parenting coordinator or coparenting specialist, but this situation can create a “perfect storm” that results in the family regressing to a high level of interparental conflict that makes decision-making and conflict resolution intractable. In such cases, court intervention may be warranted to protect the adolescent during this fragile period.

Greenberg and colleagues address such situations in which the child's health concerns are at the center of the family crucible in which children and adolescents have physical and/or emotional vulnerabilities. Even when a physical or mental illness is the primary concern for parents, the adolescent's condition can be significantly impacted by parental conflict directly (e.g., through the child witnessing the conflict or experiencing the lack of consistency in caregiving) and indirectly (e.g., through parental mismanagement of the condition due to parental disagreement and associated struggles related to interfacing ineffectively with the medical professionals involved). In this way, the relationship between adolescent mental illness and coparenting conflict is bidirectional, rather than linear, with each domain fueling the other. The authors highlight the fact that interventions focused on increasing coparenting collaboration are crucial to assisting teens and families in coping effectively and navigating treatment needs productively.

Sometimes situations involving teen mental health crises actually serve to bring parents together. Crisis can potentially shift parents into a deeper sense of commitment to a functional coparenting relationship, ending old patterns of bitter conflict and disconnection. Family members such as stepparents and grandparents may alter their prior unhappy stances and positions to create a healthier family environment for a child in crisis. While it would be naïve to assume such a response will emerge without significant support, a “jaded” view born of years of dealing with high conflict cases can lead us to miss the opportunity to bring a family together around the needs of an adolescent. In

such cases, the adolescent and his/her needs for stability can become a unifying theme for family members and professionals involved with the family.

The challenge of unifying parents requires effective communication among professionals working with the family system. Sullivan (2019) has highlighted the importance of the use of collaborative multidisciplinary teams when working with high conflict families. In light of the recent uptick in adolescent mental health concerns, there has arguably never been a more important time for a cross-disciplinary approach to working with divorcing families. Collaborating with other professionals working with the family serves several functions, including gathering additional information, understanding others' perspectives on the family (which may shift our own), and working collaboratively towards the shared goal of maintaining family stability. In this way, a collaborative team approach promotes a more stable environment for the children involved, which is crucial in situations involving teen mental health crises.

PROMOTING FAMILY CONNECTEDNESS

If we listen to the “voices from the field” and professional perspectives that we have gathered, there is an urgent call across disciplines to place the needs of adolescents in a more central role in our work. That is, we need to raise the bar on the “best interests” standard for adolescents in order to protect their mental health and ensure that family involvement in the legal system quells rather than exacerbates their struggles.

This goal is best accomplished by assisting families in maintaining cohesiveness and stability through the process of separation, divorce, and litigation. This is true not only for family law professionals trained as mental health providers, but for all professionals working with families in transition. Children and adolescents in litigating families are in a uniquely vulnerable position, and our collective response as professionals informs their experience of the family's separation and divorce. When all professionals are functioning to serve the family by promoting family cohesiveness and stability, we can move towards achieving the goal of protecting child and adolescent mental health.

Support for this position is evident in recent research on protective factors for adolescent physical and mental health. Researchers have found that family connectedness plays a key role in long-term well-being for teens. Steiner et al. (2019) gathered longitudinal data over a 14 year period from high school into young adulthood from over 15,000 participants, and found that family connectedness had “long lasting protective effects across multiple health outcomes related to mental health, violence, sexual behavior, and substance use” (p. 7). Adolescent protective factors “buffer the negative effects of risk factors,” and family connectedness was defined as a key buffer, connoting “a sense of caring, support, and belonging to family” (p. 2). In Steiner's comprehensive study, family connectedness was found to have “protective effects for emotional distress, all violence indicators, including intimate partner violence, multiple sex partners, sexually transmitted infection (STI) diagnosis, and [two] substance use indicators” (p. 7). In effect, the researchers found that family connectedness, coupled with school connectedness, were impactful protective factors for adolescents across multiple health-related domains and over the course of their adolescence into young adulthood.

These findings have profound relevance to the field of family law, as “family connectedness” is, in effect, what we are primarily struggling to assist families in developing and maintaining. It is widely understood that maintaining a sense of family stability through separation and divorce is in the best interests of children and their parents. A caveat to this general adherence is in situations of family violence or other mental health and substance abuse issues in which distance is needed to protect family members who have suffered as a result of another family member's behavior. Even when connectedness seems preferable for parents and children, family stability and connectedness are at great risk during separation and divorce; while many families restabilize, others continue to struggle significantly in ways that reinforce or negatively impact the mental health of the children involved. This is especially true among high conflict families, as well as those struggling with parent-child contact problems. In both instances, the children are placed at the center of the conflict and controversy, and the family system becomes the battleground

upon which the dysfunctional coparenting dynamic plays out. In many such situations, the sense of family connectedness is essentially broken, and adolescents struggle to maintain a sense of connectedness to one parent, or the other, although some may find stability through distance from both parents, focusing instead on school connectedness (Steiner et al., 2019) or connectedness to other organizations or institutions. A family that has “come apart” is infertile ground for adolescents struggling with mental or chronic health conditions. With the current rates of mental illness and suicidality reported by teens, discussed in most of the pieces in this Special Section, we must ask ourselves how our current practices and procedures are meeting the needs of this population at-risk for negative long term sequelae.

This raises several questions for family law professionals. What does it mean to strive to maintain family connectedness in a family that is, by definition, trying to disconnect through divorce and separation? How can we help children maintain that sense of family connectedness in spite of their change of living circumstances, living arrangements, schedules, and even the emotional and economic stability of the parents upon whom they depend? What is our role as family law professionals in fostering that stability as we serve our various roles as attorneys, judges, custody evaluators, parenting coordinators, therapists, and mediators? Most importantly, would a focus on maintenance of family connectedness potentially serve a preventive or protective function and result in a reduction of child and adolescent mental health crises in high conflict family law cases?

Consider the impact of placing family connectedness at the center of our work. Rather than attempting to figure out who is the better parent, or how much time each parent should have with the older child/adolescent, we would focus on helping the family reformulate in a way that maintained the greatest sense of stability for the children and adolescents involved. In this way, we might avoid O'Brien's description of the “red herring” of mental health in adolescents, recognizing that it is truly a family systems problem, and thus any solution must be approached using this perspective. Otherwise, we are likely to miss the forest for the trees, focusing on the struggles of individual adolescents rather than recognizing that their mental health crises are part of a larger systemic problem related to how families divorce within the current systems we use.

THE WAY FORWARD

Achieving the goal of maintaining family stability through separation and divorce can be Sisyphean, especially in a system that can be adversarial and divisive. It begins with a willingness to focus on conflict resolution as a primary goal—a true “best interests” approach—for all professionals involved. This will require the engagement of legal and mental health professionals through the use of collaborative multidisciplinary teams, and listening carefully to those working with adolescents to understand each youth's unique vulnerabilities and needs.

Several of the authors in this special section have noted that such a paradigm shift requires a willingness to reconsider established ways of operating. **Freed** noted a need for increased sensitivity to adolescents' role in court proceedings, given the increase in mental health concerns. She notes that when, and how to involve them, and how to best intercede on their behalf, takes on new meaning when working with an adolescent in crisis. **Shear's** paper examines how the “old ways” aren't always fitting the new paradigms, resulting in a system that often fails adolescents in crisis. She points out that “family law has not normalized the need to adapt parenting plans for the teen years,” and makes suggestions for how this might best be rectified. She also highlights the need for courts and related professionals to respond to teen mental health concerns in a timely fashion, in order to avoid crises. **McNamara** shares how the state of Colorado has responded to the increase in teen suicides by allowing teens to access mental health treatment without parental consent. Authors **Pasternak and Montgomery** and **O'Brien** offer examples of new types of programs for high conflict parents that are designed to fill current gaps in efficacious interventions. These are all important examples of the ways in which this mental health crisis leads us to envision new ways of conducting our work.

It is a unifying theme that such a paradigm shift will involve structural changes to a system that is currently designed to make one-time family-related decisions and “move on” to the next case. Courts need to order periodic follow-up status hearings for families with a child in crisis, to ensure that needed services are in place and effectively address the adolescent’s emergent mental health needs. This may include moving towards an increased willingness to alter parenting plans fluidly to meet the needs of adolescents in crisis. While this may initially seem burdensome to courts, it will hopefully reduce future litigation and serve as a protective factor for the youth involved. It may offer opportunities to bring family court and mental health courts together, or to create such entities where they do not now exist.

Of course, some family systems risk becoming more destabilized from parenting plan changes, so such actions will require careful forethought and a working relationship between parents and professionals to discourage alignment and/or estrangement between the children and one parent over the other. Experienced forensic mental health professionals who assess and work with families in conflict may be best suited to advise courts in such matters, to assist in setting up supportive structures to help families manage through periods of transition. Care must be taken, however, that professionals do not mandate or encourage numerous professionals who would not all be needed if careful interdisciplinary collaboration was instituted among wealthier families, or mandate services that are not economically feasible for families with fewer economic resources.

The requirement for parents to collaborate effectively and shield the child from conflict must also be placed front and center, and parents unable to manage their conflict effectively should be required to participate in interventions to assist them with this goal. In addition to conflict resolution, parents also need to focus on developing the positive coping attitudes, skills, and strategies necessary to cultivate a sense of family connectedness for their children. To accomplish this, courts may need to play a more active role in assuring that teens in crisis are obtaining not only the mental health services they need, but also the family stability important to their ability to thrive.

This points to the broader issue of family law professionals and courts needing to recognize and respond to the developmental needs of teens. We tend to focus on younger children in hopes that by adolescence, kids will be “on their own” and able to thrive without much concern. This could not be further from the truth. Adolescence is a time of great paradox. At this stage of development, teens are striving for independence, yet requiring a great degree of parental oversight due to increased exploration and risk-taking behavior. Raising adolescents is a balancing act between maintaining consistent guidelines and boundaries (to keep them safe) while also allowing for age-appropriate exploration and freedoms (to allow them to grow). No longer existing in the paradigm of “Mom’s time and Dad’s time” as they once did, they are beginning to manage their own lives to a greater degree, and may need more freedom and flexibility to do so. Some teens will demand such freedoms, while others do not dare to rock the boat of family tensions. While such flexibility may create problems when there are parent–child contact problems (necessitating adherence to a more rigid schedule), teens in homes with more effective coparenting teams may have different time-sharing requirements than their younger siblings; this is developmentally normative and appropriate. While parents are the ultimate decision-makers, teens may need to have more “say” in such matters, thereby moving the family away from a “Mom versus Dad” dynamic, towards a more child-focused paradigm. Helping parents support this developmental stage, rather than polarizing in response to it, is the work we face as professionals.

Providing guidance in accord with child development and mental health needs requires family law professionals to receive education in our latest research and interventions. The field of child development is changing rapidly, incorporating findings from brain research and neurobiology, as well as cultural factors influencing gender identity, sexuality, racial and ethnic development, and social media impacts on all of the aforementioned. In family law cases with an adolescent in crisis, the involvement of mental health knowledge is of utmost importance and can help shift the family’s and the court’s focus to the needs of the child. When involving mental health professionals, it is crucial to define their roles such that they are not simply coopted into the divorce system, but instead, are allowed to participate in a neutral therapeutic and/or advisory role. In this way, they can assist legal professionals in shifting from a focus on family conflict to ways that functional parenting and coparenting can promote family stability, thereby assisting in stabilizing the adolescent’s environment.

In summary, as a result of this special section, we argue for the following system level changes.

Through increased awareness of the adolescent mental health crisis, we can gain a newfound recognition that children and adolescents in divorcing and litigating families constitute a fragile population. This recognition may lead us to approach them with a greater degree of sensitivity, and even humility, in our work. By striving to better understand their needs, and allowing those needs to drive our work rather than focusing primarily on the parents and the complexity of their conflict, we might best promote the sense of family connectedness needed to protect children at this most important and pivotal developmental stage.

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