



2011 - 2012 Report on Hear the Child Education Project



British Columbia
Hear the Child
Society
www.hearthechild.ca

IICRD & BC Hear the Child Society
with funding from:

vancouver
foundation

Project Helps *Hear the Child Society* Create Child Interviewer Roster to Serve Children, Best Interests, Families and Professionals involved in Family Justice

HEAR THE CHILD EDUCATION PROJECT TARGETS HEARING THE VOICES OF CHILDREN

IN THIS REPORT

In 2011-2012 the International Institute for Child Rights and Development (IICRD) partnered with the BC Hear the Child Society to strengthen the Society and help children better share their views when their best interests are decided in family justice processes. Through the **Hear the Child Education Project**, funded by the Vancouver Foundation, in-kind contributions and fees generated by the Society, partners collaborated on developing three areas:

1) **The BC Hear the Child Society as a Focal Point:** This past year the Society built on work undertaken over the past decade by IICRD, and progressed institutionally by establishing a strong Board of Directors, launching its website www.hearthechild.ca, recruiting mental health and legal professionals as members, hosting education events, developing policy such as eligibility criteria for a Roster of child interviewers, and reaching out to the family bar and bench.

2) **A Roster of qualified non-evaluative, professional child interviewers:** A Roster of just under 40 qualified, neutral child interviewers was launched in May 2012 at events in Victoria, Kelowna, Kamloops and Vancouver. The Roster is available to the public, bar and bench through offline information such as a brochure and at www.hearthechild.ca/roster.

3) **A Community of Child Interviewer Practice:** The Project partners collaborated with the Continuing Legal Education Society of BC and expert Dr. Joan Kelly in November 2011 on a 2-day training session on *Meaningful Child Participation in Family Justice Processes*: <http://www.cle.bc.ca/onlinestore/productdetails.aspx?cid=56>. Roster members are also creating practice groups in 4 locations across BC to share expertise, wrestle with practice issues and improve how we “hear the child”.

Introduction of new *Family Law Act* underscores Project Need

The BC Government unveiled its new *Family Law Act* in November 2011 which bolsters hearing from children when their best interests are determined. The new *Act* will come into effect in 2013 and underscores the need for qualified child interviewers. See page 2



Collaborations with CLEBC and Experts Help Professionals hone child interviewing skills

More than 70 professionals gathered to hear the latest on child participation at a continuing legal education program co-led by the Continuing Legal Education Society of BC (CLEBC) and the International Institute for Child Rights and Development (IICRD). See page 3.

New Act Presumes Child's Views a Factor in Determining Best Interest

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The new *Family Law Act* will require the child's views to be considered "unless it would be inappropriate to consider them" in determining their best interests. This is a subtle but important shift as the new law presumes that the child's views will be sought and considered, arguably placing an evidentiary burden on those suggesting it is inappropriate to hear from the child.

While the new law is a step in the right direction, resources are needed to actually implement its intent, consistent with the rights of all BC children. For example, while the Province currently funds 7 family justice counsellors to listen to children and complete "Views of the Child Reports", this service does not reach every child in BC and there is a waiting time of 2 – 9 months from the time an order is made to the time the Report is in hand. The Vancouver Foundation Hear the Child Project funding is helping address this gap through its Child Interviewer Roster, and education to better equip those who need to



listen to children. Below is the provision of

the new *Family Law Act* relating to best interests of the child:

37 (1) In making an agreement or order under this Part respecting guardianship, parenting arrangements or contact with a child, the parties and the court must consider the best interests of the child only.

(2) To determine what is in the best interests of a child, all of the child's needs and circumstances must be considered, including

the following:

(b) the child's views, unless it would be inappropriate to consider them.

BC COURT HIGHLIGHTS CHILD'S RIGHT

"Children in Canada have a legal right to be heard in all matters affecting them, including custody cases."

N.J.K. v. R.W.F. 2011 BCSC 1666

Key Project Deliverables

September 2011 – 3 new directors join Hear the Child Board of Directors and Project underway

October 2011 – Article, "Move from Law to Action and Hear the Child", published in the October 2011 edition of *The Family Way* – Canadian Bar Association National Family Law Section Newsletter

November 2011 – IICRD, CLEBC, and HTC Society collaborate on meaningful child participation education program in Vancouver that attracts more than 70 participants from across BC

December 2011 – www.hearthechild.ca fully functional including online membership sign up feature

November 2011 - January 2012 – Draft Hear the Child Interviewer Roster criteria circulated for broader feedback

February 2012 – Hear the Child interviewer Roster criteria finalized by HTC Society

March 2012 – Launch Roster members identified and Roster policy developed

April 2012 – Brochure developed and Roster promoted at Parenting Coordination Seminar, Kelowna

May 2012 – Child Interviewer Roster of just under 40 interviewers launched at events in Victoria, Kelowna, Kamloops and Vancouver

September 2012 – *Views* newsletter for BC Hear the Child Society members debuts and call for applications for 2013 Roster



PARTICIPANTS SHARE WHAT THEY VALUED AT HEAR THE CHILD NOVEMBER 2011 COURSE

"exposure to different methods of listening to children and many views on the techniques;. legal authority for right of the child to be heard"

...

"the course gave a sense of not only what the law is but where it is going; it also provided a practical perspective on how to respect children's rights"

...

"discussion of methods and resources available to have the voice of the child heard"

... I find that the views of Tomer, now nearly 15, are entitled to considerable weight. He gave good reasons for wishing to live in Vancouver and to reside primarily with his father. Those views were based on his connections to school, friends, Mr. Stav's family, and, most importantly, his close bond with his father.

Stav v. Stav, 2012 BCCA 154 (CanLII), para 132

Project Helps Child Interviewers Hone Skills & Expertise

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Recent legal developments make it clear that children have a right to have their views heard when their best interests are determined in family law decisions. "It's no longer about whether to hear from children but rather, how to best hear from children" said David Dundee who together with Trudi Brown presented the law underpinning a child's right to participate. Options to hear from children were highlighted on Day 1 of the program including "hear the child" interviews that are privately funded, "views of the child" reports that are completed by a family justice counselor and paid for by the Province, expert s. 15 reports prepared by a psychologist, and a mediator listening to children's views and bringing them into the mediation. Judge Gallagher from the BC Provincial Court noted how helpful it is for judges to have someone else listen to the child and bring forward their views for consideration when the court decides the best interests of the child.

BC Hear the Child Society president Ron Smith co-chaired day one of the November 2011 continuing legal education session with Suzanne Williams (IICRD) while several other members of the Society contributed to the program with support from CLEBC program lawyer Teresa Sheward. Renowned expert, Dr. Joan Kelly, led Day 2 highlighting skills required to interview children. She outlined the recent research base and emphasized the importance of providing information to children about what is going on, "the more appropriate information you have in a crisis the better you cope with it". Dr. Kelly led the group through the 6 stage interview process and a series of experiential activities.

Day one of the program attracted 56 participants (37 of whom also attended day two) plus 12 faculty for a day one total of 68, and day two involved 44 participants (37 of whom also attended day one) plus 12 faculty for a day two total of 56.

Thank you to all who contributed time to present or participate! This was the 3rd bi-

annual CLEBC-IICRD Child Participation program and we look forward to the 4th in 2013.

Work with Children Furthered through Practice Groups

The non-evaluative child interview has been a valuable tool for those who have used it to date. Hear the Child Interviewer Roster members are forming practice groups to share tips and experiences. Some of the Roster members recently noted that:

- the non-evaluative interview served as an "ice-breaker" in re-establishing relationships between a child, father and grandparent that was a critical event in the grandparent's life as relayed on his death bed; and
- the mere act of listening to a child in a dispute can make a positive difference to the child's well-being as attested to by a parent who made a point of calling the child interviewer after the proceeding to relay this message.

Several other practice issues have been flagged and will be worked through by Hear the Child Practice Groups in the coming months to provide the best service possible to children and their families. These include situations where it may not be appropriate to interview a child such as where the child is too young, or when the issue in dispute between the parties does not affect the child.

Other examples of practice issues are giving families assurances about neutrality. As one Roster member asked, "how can we make sure there is the perception of neutrality when dealing with lay litigant cases? For example, is there some arrangement to pay the child interviewer's fees into court, and then the court can pay the interviewer so the interviewer does not know which party paid for the child's interview?". Another solution may be for a Roster member from a different firm who is not acting as the interviewer to receive the funds "in trust" for the child interviewer so the interviewer does not know who paid for the interview.

Coming up:

- October: 2012 Child Interviewer Roster Applications Due
- November 2012: BC Hear the Child Society AGM
- 2013: Hear the Child Basic Training for Child Interviewers



The International Institute for Child Rights and Development (IICRD) in partnership with the BC Hear the Child Society expresses our sincere thanks to the Vancouver Foundation for providing financial support for the Hear the Child Education Project, 2011 – 2012.

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The BC Hear the Child Society is a non-profit organization that aims to give every child the opportunity to share their views and have them heard when their best interests are decided in the family justice system. The Society hosts a roster of qualified neutral child interviewers who listen to children in family justice cases (excluding adoption) and shares their views with adults tasked with making decisions about their best interests.



www.iicrd.org

The International Institute for Child Rights and Development is a non-governmental organization that brings children's rights to life in the context of development using innovative research, education and capacity building and by drawing on the strengths of children, their families, communities and culture.