

Children’s Participation in Justice Processes:
Finding the Best Ways Forward

**CHALLENGES AND LESSONS LEARNED
ESTABLISHING CHILDREN’S LEGAL CLINICS**

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CLERC – Introduction

- Community based charity: similar to Justice for Children & Youth (Ont)
- Established in 2002 before LRCY existed and before Legal Aid Alberta began representing children in custody and access/parenting (CAP) disputes
- Provide advice, information & representation to young people (yp) 19 and under
- Two almost distinct groups of clients – young people whose parents engage in high conflict CAP disputes and youth with a broad spectrum of legal issues (small law firm)
- CLERC files – are generally disputes rooted in family dysfunction

**GOALS, PRINCIPLES & VALUES:
Relevant Issues to Consider**

- Why creating/created a legal clinic serving children & youth?
- What are the guiding principles?
- Who is your client?
- How are you going to serve that client? – Recognizing that children have special needs – are not just little adults
- What is different about providing legal services to young people?
- What different approaches are required for children as opposed to youth?
- What is your relationship to the Convention on the Rights of the Child

STATUS OF CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

- Like LRCY, CLERC is a rights-based organization representing YP's rights, interests & viewpoints
- The CRC underpins CLERC's approach to representing yp
 - Impacts all aspects of CLERC's work: advice, information, representation, education
 - Young Person is the focus
 - Determines counsel's role
- Primary goal in representing yp: to improve the life of CLERC's client



CLERC: Representational Stance/Role

- Rights based – default – represent our client as similarly as possible as would represent an adult client
 - If there are indications that **representing** a yp is not possible, then *amicus curiae*, not best interests
- Advocate for rights, interests and viewpoints
 - Broad view of rights, interests and viewpoints – what is the context of the yp's life, the why of the client's position



CLERC COUNSEL: CHALLENGES

- Young People's evidence
- Always putting the Young Person's interests first
- How would a young person be seeing and feeling in this situation
 - e.g. a telephone call from a lawyer
 - Meeting with a lawyer at school



CLERC CHALLENGES: AGENCY

- Fundraising for sustainability
- Broadening the knowledge and understanding of the benefit and value of hearing from and about young people's lives and experiences
- Acceptance of the need and value of young people's legal representation
- Succession
- Data measurement and collection
 - What is important?
 - Satisfying funders



CLERC: BEST PRACTICES

- Consideration of the whole child, not just their legal needs
- Service to a Young Person is best provided in tandem/partnership with a mental health provider with at least three areas of expertise and interest:
 - Competent in their field – including addictions, personality disorders, domestic violence, power and control issues
 - Child/youth specialist/focussed
 - Understands legal process – whether high conflict CAP or child protection



**CLERC: LESSONS LEARNED:
Custody & Access/Parenting**

- Young People caught in their parents high conflict CAP disputes are traumatized
- More traumatized than Young People screened for exposure to Domestic Violence/Abuse alone
- Divorce/Separation conflict is abusive of children
- Exposure to chronic conflict can affect brain development
- The legal system continues to prioritize parent's rights above those of their children



CLERC: LESSONS LEARNED:
Youth

- Service to youth needs to be immediate otherwise a young person with their own legal needs disappears and their legal needs and difficulties are compounded due to lack of attention
- Youth with unmet basic needs (food, clothing, shelter) have difficulty focussing on and following through in resolving legal issues
- Young people need good access to social supports (their own social worker) who can assist the young person (and consequentially the lawyer) in following legal advice



THANK YOU FOR YOUR ATTENTION!!
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