

University of Windsor

## Scholarship at UWindor

---

Electronic Theses and Dissertations

Theses, Dissertations, and Major Papers

---

2008

### Exploring children's rights in custody and access

Dawne Martens  
*University of Windsor*

Follow this and additional works at: <https://scholar.uwindsor.ca/etd>

---

#### Recommended Citation

Martens, Dawne, "Exploring children's rights in custody and access" (2008). *Electronic Theses and Dissertations*. 7927.

<https://scholar.uwindsor.ca/etd/7927>

This online database contains the full-text of PhD dissertations and Masters' theses of University of Windsor students from 1954 forward. These documents are made available for personal study and research purposes only, in accordance with the Canadian Copyright Act and the Creative Commons license—CC BY-NC-ND (Attribution, Non-Commercial, No Derivative Works). Under this license, works must always be attributed to the copyright holder (original author), cannot be used for any commercial purposes, and may not be altered. Any other use would require the permission of the copyright holder. Students may inquire about withdrawing their dissertation and/or thesis from this database. For additional inquiries, please contact the repository administrator via email ([scholarship@uwindsor.ca](mailto:scholarship@uwindsor.ca)) or by telephone at 519-253-3000ext. 3208.

EXPLORING CHILDREN'S RIGHTS IN CUSTODY AND ACCESS

by

Dawne Martens

A Thesis  
Submitted to the Faculty of Graduate Studies  
through the Department of Sociology and Anthropology  
in Partial Fulfillment of the Requirements for  
the Degree of Master of Arts at the  
University of Windsor

Windsor, Ontario, Canada

2008

© 2008 Dawne Martens



Library and  
Archives Canada

Published Heritage  
Branch

395 Wellington Street  
Ottawa ON K1A 0N4  
Canada

Bibliothèque et  
Archives Canada

Direction du  
Patrimoine de l'édition

395, rue Wellington  
Ottawa ON K1A 0N4  
Canada

*Your file* *Votre référence*

*ISBN: 978-0-494-47045-9*

*Our file* *Notre référence*

*ISBN: 978-0-494-47045-9*

**NOTICE:**

The author has granted a non-exclusive license allowing Library and Archives Canada to reproduce, publish, archive, preserve, conserve, communicate to the public by telecommunication or on the Internet, loan, distribute and sell theses worldwide, for commercial or non-commercial purposes, in microform, paper, electronic and/or any other formats.

The author retains copyright ownership and moral rights in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

**AVIS:**

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque et Archives Canada de reproduire, publier, archiver, sauvegarder, conserver, transmettre au public par télécommunication ou par l'Internet, prêter, distribuer et vendre des thèses partout dans le monde, à des fins commerciales ou autres, sur support microforme, papier, électronique et/ou autres formats.

L'auteur conserve la propriété du droit d'auteur et des droits moraux qui protègent cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

---

In compliance with the Canadian Privacy Act some supporting forms may have been removed from this thesis.

Conformément à la loi canadienne sur la protection de la vie privée, quelques formulaires secondaires ont été enlevés de cette thèse.

While these forms may be included in the document page count, their removal does not represent any loss of content from the thesis.

Bien que ces formulaires aient inclus dans la pagination, il n'y aura aucun contenu manquant.

  
**Canada**

## **Author's Declaration of Originality**

I hereby certify that I am the sole author of this thesis and that no part of this thesis has been published or submitted for publication.

I certify that, to the best of my knowledge, my thesis does not infringe upon anyone's copyright nor violate any proprietary rights and that any ideas, techniques, quotations, or any other material from the work of other people included in my thesis, published or otherwise, are fully acknowledged in accordance with the standard referencing practices. Furthermore, to the extent that I have included copyrighted material that surpasses the bounds of fair dealing within the meaning of the Canada Copyright Act, I certify that I have obtained a written permission from the copyright owner(s) to include such material(s) in my thesis and have included copies of such copyright clearances to my appendix.

I declare that this is a true copy of my thesis, including any final revisions, as approved by my thesis committee and the Graduate Studies office, and that this thesis has not been submitted for a higher degree to any other University or Institution.

## Abstract

This paper explores how and whether the UN Convention on the Rights of the Child is being interpreted and employed when mediators assist separating and divorcing families in making custody and access arrangements, and secondly to investigate whether and how the Child's Best Interest Doctrine enters into the rationale used. The data was collected in April and May, 2008 by means of telephone interviews from 17 family mediators who are accredited members of the Ontario Association of Family Mediators. This sample represents approximately 12% of the accredited membership. The interpretation of this data determined there is a minimal level of compliance with the UN Convention on the Rights of the Child, but there was more compliance with the Child's Best Interest Doctrine.

## Dedication

This paper is dedicated to the children who through no fault of their own find themselves in the situation where they must leave one parent to spend time with the other. The frustration, anger and sorrow of not having a voice in decisions being made regarding your life is not falling on deaf ears and hopefully one day you will be asked if you have a preference or opinion.

## Acknowledgements

I would like to thank the Family Mediators who participated in the interviews for their time and for sharing their knowledge with me, especially David who was always there to answer my questions. I would also like to thank Kathy Echlin, Office Administrator and Daniel Lanoue, President of the Ontario Association of Family Mediators for their time and assistance with this project.

I would like to thank Dr. Ruth Mann and Dr. Jeff Noonan who sat on my committee and were there to offer their guidance. I would also like to thank Dr. Gerald Cradock who inspired me on this topic and was there to provide the guidance I needed to complete this thesis. You have helped me become a better researcher and writer. Your vast knowledge on children's issues has been a great resource.

Lastly I would like to thank my family Paul, Jennifer and Carolyn for being there while I have been studying, reading or writing. Your support has allowed me to carry on my studies and accomplish my goals.

## TABLE OF CONTENTS

AUTHOR'S DECLARATION OF ORIGINALITY	iii
ABSTRACT	iv
DEDICATION	v
ACKNOWLEDGEMENTS	vi
CHAPTER	
I. INTRODUCTION	
Statement of the Problem	1
II. REVIEW OF THE LITERATURE	
Canadian Divorce Law: A brief history	2
Childhood and Citizenship	8
Children's Desire for Unrestricted Access	15
Symbolic Interactionism and the Child's Best Interests	18
Grounded Theory	22
III. METHODOLOGY	24
Sample and Sampling Technique	25
Data Analysis	26
IV. RESULTS	26
V. DISCUSSION	33
APPENDIX A: Interview Schedule	38
APPENDIX B: Invitation for Interview	40
REFERENCES	41
VITA AUCTORIS	49

## CHAPTER ONE

### *Statement of the Problem*

The purpose of this thesis is to investigate with interviews, how and whether the UN Convention on the Rights of the Child, is being interpreted and employed when mediators assist separating and divorcing families in making child custody and access arrangements, and secondly, to investigate whether and how the child's best interest doctrine enters into the rationale that is used. Article 12 (a) of the Convention states that "Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child" (UN CRC, 1989). Based on the findings from this thesis I will evaluate if this convention is being utilized, either implicitly or explicitly, and to what extent it is being followed or used to guide the decision of custody and access.

The line of inquiry for this research originated with the interest in whether or not children are being given a say in who they want to live with, or asked their opinion in any form in divorce proceedings. Since the 1920s custody has predominantly been given to mothers – the natural caretaker (Bala, 1999). This practice in awarding custody shifted in 2002, of 35,000 dependents that had their custody arrangements determined through divorce proceedings; custody of 49.5% of these dependents was awarded to the mother (Dept. of Justice, 2004). This is the first time that less than 50% of the child custody was awarded to the mother. In contrast, custody was awarded to the father of 8.5 % of the dependents in 2002, a decrease from 9.1% in 2000 and down from a high of 15% in 1986. Custody of 41.8% of dependents was awarded to the

husband and wife jointly in 2002, maintaining a 16-year trend of steady increases in joint custody arrangements (Dept. of Justice, 2004). Under a joint custody arrangement, dependents do not necessarily spend equal amounts of their time with each parent but both parents remain involved in making decisions about the children's future such as schooling, medical treatments, religion, etc.

In this thesis I do not mean to imply that children should have the final say when parents negotiate child custody and access arrangements. However in light of Canada's ratification of the UN Convention on the Rights of the Child, children should be considered players in decisions made regarding their future, and allowed to contribute to the pronouncements made in their behalf. Canadian courts are starting to change and "must err on the side of inclusion rather than exclusion of the child's views" (Bessner, 2002: 2). This is especially important given the growing body of research which confirms that asking children if they have an opinion and helping them formulate and express their views in the process will bolster their self-esteem and give them the respect of having their opinion considered or heard (Bessner, 2002; Smith, Taylor & Tapp, 2003). Moreover, as Bessner (2002) argues, not allowing a child to have a voice goes against the best interest of the child as parents may not present the views and wishes of the child adequately if it differs from their own.

## **CHAPTER TWO**

### **Canadian Divorce Law: A brief history**

At the end of the nineteenth century the law in Canada regarding custody was very much in favour of the father (McKie, Prentice & Reed, 1983). If the wife left the matrimonial home she left without children or property, including property that was

owned by her prior to marriage. This patriarchal view started to change when the British Parliament passed Lord Talfourd's Act (1839) allowing women who petitioned the court to gain custody of their children until the children reach the "Age of Seven Years" and access to their children over such age (Lord Talfourd, 1839). By the 1920s the idea of the 'tender years doctrine' was introduced and custody was shifted to the mother (Bala, 1999). The 'tender years doctrine' was guided by the belief that young children belonged under the care of their 'natural' caregiver – their mother. This was supported by Psychologist John Bowlby with his Maternal Deprivation theory (Miller, 2003).

Bowlby hypothesized that children formed a firm attachment to their mothers within the first six months of life, if this bond is broken, the child would suffer severe consequences (Bowlby, 1969; Miller, 2003). Attachment behaviour is thought to be a type of behaviour equivalent to mating and parenting behaviour and "results in the person attaining or maintaining proximity to some other clearly identified individual" (Bowlby, 1969, 1988:27). The consequences of insecure attachment could carry forward to adulthood and influence their psychosocial performance and be exhibited in adulthood as mental disorganization and disorientation which could impact their children (Bowlby, 1988; Madigan, Moran, Schuengel, Pederson & Otten, 2007). Attachment is significant since it yields an advantage in survival as it provides feelings of safety and security to the child (Bowlby, 1969, 1988; Ma & Huebner, 2008; O'Connor & McCartney, 2007). Secure children demonstrate higher IQ tests than insecure peers, are more likely to explore their world and engage in tasks away from their secure base, display higher life satisfaction and enhanced quality of peer

relationships and are more trusting of others. (Bowlby, 1988; Ma & Huebner, 2008; O'Connor & McCartney, 2007). To illustrate the presumed importance of the mother Rowlands (1973) states,

When there is a child below five, there should if possible, be a mother. Up to five, there is desperately little understanding of adults' ideas and feelings. If there is a break-up and the mother leaves, it is all too easy for the child to relate all the details to himself – e.g. 'She doesn't love me. There must be something about me that she doesn't love" (Rowlands, 1973:62)

These were the ideals of the time.

By the 1970s the courts started to use 'best interests of the child' doctrine as the test for custody disputes. The best interests construct connotes that this principal can be applied in a natural and necessarily non-coercive manner, decontextualized from actual individuals, with separate interests as members of a family and community (Kline, 1992). To ensure a more egalitarian approach to custody, the best interests doctrine was to be gender-neutral and not afford a systemic advantage to one parent over the other (Artis, 2004). The best interests test requires people making the custody decisions to consider what is best for the child/ren taking into consideration the age, special needs, culture and extended family (Dept. of Justice, 2001b).

With the advent of divorce reform in 1968 divorce became much easier to obtain and the number of divorces granted almost doubled in number (6,563 in 1961 to 11,343 in 1968) but by the following year, the number had more than doubled again to 26,093 in 1969 (Ambert,1998). The introduction of 'no-fault' divorce in 1985 made it easier still by listing marriage breakdown as the only grounds necessary and allowing divorce after living separately for at least one year. A further explosion of divorces peaked in 1987 at 96,200. With the increase in the number of divorces came the need

for help in making the arrangements of custody and access. The process of divorce is seen as an adversarial process with a winner and a loser (Cohen, 2006). Statistics for contested custody cases, those which need to be decided by a judge, are difficult to ascertain and most often thought to be between four and five percent (Duhaime, 2006; Millar, 2001). However, these statistics can vary, according to Statistics Canada (2004, 2005), custody was granted through the courts in 29% of the cases in 2001, 28% in 2002 and 27% in 2003 (Dept. of Justice, 2004). In 2004, 4,528 divorces (6.5% of total divorces) involved dependent children. The remaining arrangements for custody are made outside of court either by mutual agreement or with the aid of a mediator.

Subsection 9(1)(b) of the Divorce Act ascribes a duty to Lawyers to bring up the option and availability of mediation to their clients as a means of resolving marital disputes (Dept. of Justice, 2001a). Mediation is defined as

...an informal process designed to assist the disputing parties to reach their own solution through agreement. The process involves the participation of a mediator. The mediator is a neutral third party who encourages the parties to cooperate with each other and facilitates the negotiation by them of their own solutions. (Alberta Law Reform Institute, 1994)

In a pilot project conducted in Hamilton, Ontario as part of the Unified Family Court, more than two-thirds of participants specified custody and access was their major concern (Kelly, 2004; Alberta Law Reform Institute, 1994). A study by Irving and Benjamin (1992) determined the majority of couples agreed that using a mediator helped to keep them focused and make good use of their time as well as provided useful suggestions with the negotiations. Kelly (2006), found that mediation of custody disputes were successful 55% to 85% of the time, with the added bonus of increased communication and cooperation between the divorcing parents.

In Ontario, the Ontario Association for Family Mediation (OAFM) was organized in 1982 with the mandate of “Fostering a community in which family mediation is the first choice for resolving family conflict.” (OAFM, 2007). The OAFM oversees the promotion of the practice of mediation as a means to dispute resolution and maintains a roster of accredited, associates and supporting members. The accredited members are those who are approved by the Ontario Government to provide family mediation service. There are several claimed benefits to using family mediation such as, the ability to speak directly regarding concerns with the child/ren; the ability to directly decide between the two parents what is best for them, the clients; in most cases it is less adversarial; simpler and less expensive. Mediation also empowers the individual by allowing the disputant to be an active participant rather than be immersed in the formality of court (Pavlich, 1996). The adversarial approach to court may exacerbate the conflict between the two parties, but with a neutral third party present this may be alleviated (Alberta Law Reform Institute, 1994).

Others note some negative exclusionary aspects to using family mediation (Cohen, 2006; Irving & Benjamin, 1995). Family mediation is modeled after the ‘average family’, which consists of white, middle-class, Anglo-Saxon couples. This model does not incorporate different types of families or different ethnicities or religions. Pavlich (1996) argues that mediation is a further neo liberal process that appears to give back some of the control to the individual but in reality allows the state to become more invasive into our private lives. Another area of exclusion is the cost of mediation, especially if one party has fewer resources than the other. When the parties can not agree and extra sessions are needed, the extra cost is conveyed to the parties

involved, who may already be stretched financially.<sup>1</sup> Mediators also have differing backgrounds and may differ on the types of cases they are willing to mediate (Cohen, 2006). Further, mediation is not recommended when a history of abuse or a shift in the equality in the relationship is present, or one or more of the participants are unwilling to agree on any issue.

The best interests test is to be applied both by the courts, and by mediators. This test takes into consideration not only on the child's present situation but is also to consider their future well-being (Darlington, 2001). Custody and access laws are directed by the principles of what is in the best interests of the child (Dept. of Justice, 2006). These principles are also outlined in the UN Convention. In Ontario when determining a child's best interests there are seven provisions the federal government suggests are imperative and are outlined in the Children's Law Reform Act R.S.O. 1990 (Dept. of Justice, 2005).

In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the needs and circumstances of the child including:

---

<sup>1</sup> Mediation that is done through the courts is funded by the Ministry of the Attorney General. It is subsidized with payment being on a sliding scale depending on income. If they are over the level they must pay for private mediation. Mediation done at the Family Court, 311 Jarvis St. in Toronto is free of charge. Depending on the jurisdiction, onsite mediation which is available to only those clients who are in court that day, have a maximum of 2 hours. This is for narrow issues that can be resolved quickly. There is also offsite mediation but each jurisdiction sets its fee scale. Private mediation prices are set by the mediators. Charges for one group who indicate they are on the lower end are \$160/hour for co-team, about \$130 for 1 mediator. For 3-5 meetings of 2-3 hours each would result around \$2500 + GST. This is to be shared somehow by both parties (we try & encourage split according to income, but sometimes one pays all . . .) There may be additional writing letters/Memorandum of Understanding costs - e.g. \$500. Charges for a mediator in the mid range that is comprehensive (both parenting and financial issues) including document preparation that will take approximately 25 hours mediation, will cost \$5000.00 + GST.

- (a) the love, affection and emotional ties between the child and,
  - (i) each person entitled to or claiming custody of or access to the child,
  - (ii) other members of the child's family who reside with the child, and
  - (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;
- (c) the length of time the child has lived in a stable home environment;
- (d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
- (e) any plans proposed for the care and upbringing of the child;
- (f) the permanence and stability of the family unit with which it is proposed that the child will live; and
- (g) the relationship by blood or through an adoption order between the child and each person who is a party to the application.

These legal definitions are necessary to minimize the impacts of competing interpretations of child's best interests language.

### **Childhood and Citizenship**

Citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed (Marshall, 1963: 87)

The rights, ideals and duties of citizens are not universal, but are determined by each society to create the ideal citizen to which everyone can aspire and be measured against (Marshall, 1963). Citizens of a liberal society all are equal in status and must abide by the rules ascribed by such society. Social class on the other hand is also based on a collection of rights, ideals and duties but is built upon inequality. Social class is based upon a hierarchy of status that is not defined by legal rights (in Canada the

Charter of Rights and Freedoms (Dept. of Justice, 1982) guarantees all citizens equal rights) but by the interplay of factors related to the national economy, education and culture.

The recognition of children's rights centres on the issue of whether or not children are citizens (Cohen, 2005; Roose & De Bie, 2007). This involves looking at the conceptualization of citizenship and how the relationship between citizens and the state is defined. If children and adults as citizens have equality of rights and are expected to assert these rights, this can create an inequality if children are unable, unwilling or not competent to claim them. The conception of children's rights in relation to the UN Convention on the Rights of the Child should be thought of as the child's ability to participate in relation to the parent's rights (Qvortrup, 2001; Roose & De Bie, 2007). The shifting discourse surrounding citizenship as it applies to children is to acknowledge the child's voice and to consider children social actors in decisions made in their best interest (Devine, 2002). Roose & De Bie (2007) suggests children should have a voice in determining their best interests, but this does not imply that children's rights supersede the rights of their parents. Freeman (2000) states one critique of children's rights is that it can undermine the family and parental decisions.

Children often hold a tenuous position of partial citizenship, or "not-yet-citizens" where they are considered citizens and individuals capable of autonomy, yet are deemed incapable of making informed decisions about things such as voting (Cohen, 2005; Moosa-Mitha, 2005: 369; Prout, 2000; Roche, 1999). Children are confined to the private sphere and are subject to parental authority which often excludes them from public life and decision making that leads to self-governance. In

decisions of best interests, parents perform a fiduciary role regarding their minor children; children are dependent on their parents to act as proxies on their behalf which undermines their equal rights (Cohen, 2005, Leiter, Lutz McDonald & Jacobson, 2006). The position of ‘minor’ is twofold, it is considered temporary, until they have obtained a set legal age of majority, and preparatory, to prepare the child to enter adult society. Adult autonomy takes precedence over children’s needs in many cases and children’s rights take a backseat to the needs and rights of the parents. Children are considered lower status compared to adults and this practice is reinforced by socialization practices such as corporal punishment and mandatory education which are controlled by adults (Mayall, 2000; Saunders & Goddard, 2001). This contrast, Kulynych (2001) argues is that children need to be viewed and accepted as full members of the citizenry before their citizenship is viewed as meaningful and valid.

There are three common theories of children’s rights; child liberationists, child protectionists and liberal paternalists which are constructed around the dichotomy of same versus different (Moosa-Mitha, 2005). Child liberationists believe that children should have all the same rights as adults regardless of their age and recognize children as competent social actors with the ability to learn (Barnes, 2007; Kulynych, 2001; Moosa-Mitha, 2005; Roose & Bouverne-De Bie, 2007). Child protectionists highlight the differences between children and adults and emphasize the “not-yet-citizens” status as justification to control children’s lives. Protectionists believe children’s rights are important but the primary goal is protection of the child. The third theory is the liberal paternalist view which agrees that children are different from adults but that there should not be hard and fast rules, each child should be assessed by adults on an

individual basis and seen as both vulnerable and competent. Childhood should be considered a social construct that changes in space and time.

The subject of children having a voice in matters concerning their welfare has proponents, opponents and a whole range in between (Hart, 1992). Child protectionists feel that children should be protected from the problems of society and their involvement and responsibilities should be minimal so as to allow them to enjoy a carefree childhood. This includes practices focussed at greater control and surveillance (Prout, 2000). In industrialized countries this has resulted in children's free time being eroded by 'overprotective' parents, making decisions for them (Hart, 1992). Child liberationists construe children's rights as the freedom to participate as equals with adults and feel children should have the opportunity to participate in decisions made regarding their future (Barnes, 2007; Moosa-Mitha, 2005). Children can not be expected to suddenly know their own best interest or make responsible adult citizen decisions at the age of 18 or 21 when they have never been involved in the process before (Hart, 1992; Roche, 1999). For children to gain the understanding and confidence to make decisions they need practise to acquire these skills and not just have their needs met.

The association of rights and responsibilities has been questioned in the liberal paternalist view (Freeman, 2000). Does the bestowing of rights to children allow them also to act irresponsibly if they choose? If children act irresponsibly, should they be sanctioned by the same measures as adults? These are just some of the controversy of children's rights.

One of the problems with using the term ‘childhood’ is the fact it is socially constructed and it is subject to change culturally, politically and historically (Hemrica & Heyting, 2004; James & James, 2001; Kulynych, 2001). Childhood is also a developmental stage through which everyone passes through on the way to adulthood and as such typical patterns develop (James & James, 2001). The UN Convention on the Rights of the Child (1990) describes a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”, but childhood is interpreted individually by each person who engages children in social interactions. It also varies with the concept of the needs of the child in question as evident in social policies and law. Children are understood to be members of a family and are rights-bearers with personal freedom as specified in the UN Convention on the Rights of the Child, but they are also thought of as being acted upon and not active agents in their own right (Cradock, 2007). As a child, they possess basic human rights as guaranteed by the Charter of Rights, yet they don’t qualify for all of them as adults do (Seaford, 2001). One point to keep in mind is that the construction and views are those of adults and not of the children themselves.

There has been a noteworthy change in the ideals connected with the terms child and family (Cradock, 2007). Instead of centering the debate on children’s needs it focuses on the rights for children to do things on their own rather than have someone do it for them. Children are conceptualized as independent persons with agency. But the idea that children still need protection with legal measures exists in certain cases such as pedophilia and sexual intercourse. Western conceptions of childhood are still perceived as implying vulnerability and naïveté and therefore still needing protection.

A new model envisioning young children as 'social actors' has challenged the notion of the child as passive and dependent, too innocent to make decisions about their welfare and has revealed that young children can have definite views on a wide range of topics (Mac Naughton, Hughes & Smith, 2007). Children view the world and their environment differently than adults and can offer insights on their perspective if asked their opinion. Increasingly some governments are creating a right to have a say in decisions previously made on their behalf. Allowing children to have a voice as an active participant contributes to the greater knowledge of their unique perspective and provides them with the opportunity to reflect on their personal experience and interpretations (Grover, 2004).

Age is an important variable because the degree of cognitive ability, as well as social and emotional needs vary by age as well as maturity level (Mantle, Leslie, Parsons, Plenty & Shaffer, 2006; Walker, 2001). There is limited empirical literature available regarding conversational methods with children (Hill, 2006; Walker, 2001). Children can be affected by the perception of power and status of the adult interviewer and may exhibit social desirability by wanting to answer the questions as they think the interviewer wants them to respond, as well, adults may be less confident interviewing children and seem more focused or inadvertently use constructions of adult-centred ideas to interpret the child's experience (Balen, Blyth, Calabretto, Fraser, Horrocks & Manby, 2006; Hill, 2006; Mantle, et al., 2006). It is important to find the 'standpoint' that is the child's point of view to accurately interpret their answers (Balen, et al., 2006). Children are also more outcome oriented, when they are asked

their opinion about something, after replying they wait for some type of response from the person who asked the question (Hill, 2006).

Children are often thought of as a form of *homo sacer*, they are excluded from the life of the state, and others make decisions for them until they are deemed capable, but they are allowed public life and live among the rights bearers. Historically their voices have been noticeably absent in decisions affecting their welfare (Roche, 1999; Warshak, 2003). They are subject to surveillance, interrogated in the sense to train, normalize and rehabilitate or punish to mould them into moral, responsible citizens (Lewis, 2006). This inferior status for children explains how they can be subjected to corporal punishment and have their voices silenced by refusal to listen.

Some of the most recent laws or acts regarding rights and freedoms are the Canadian Charter of Rights and Freedoms (Schedule B) which was enacted in 1982 and guarantees the rights and freedoms of all Canadian Citizens (Dept. of Justice, 1982). Section 2 states:

*Everyone has the following fundamental freedoms:*

- a) freedom of conscience and religion;*
- b) freedom of thought, belief, opinion and expression, including freedom of the press and other media communication;*
- c) freedom of peaceful assembly; and*
- d) freedom of association.*

Section 7 states:

*Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.*

and the UN Convention on the Rights of the Child which Canada ratified in December 1991 (Pearson & Gallaway, 1998). Article 12 (1) of this convention states;

*Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. (UN Convention, 1990)*

This includes all persons less than 19 years of age. The key words/phrases in this statement are ‘capable’ and ‘due weight in accordance with the age and maturity of the child.’ While article 12 provides the right to “express those views” it can not be interpreted as a right to self determination (Pupavac, 2001). Who decides the criteria for capable? What tests are used to determine if the child has reached a maturity level that will allow him or her to make informed decisions on their own behalf?

### **Children’s Desire for Unrestricted Access**

There has been increasing agreement that children need to have their unique perspectives taken into consideration when decisions are being made regarding custody and access (Fabricius & Hall, 2000; Smith, et al., 2003). Research suggests the majority of children want free and frequent access to parents. Unfortunately the perspectives of these children who are in the middle of these custody and access decisions are just starting to be given a voice and have not had much influence on debates or policy in relation to custody and access. Children’s feeling have been thought of as being “relatively temporary, malleable, and ultimately not strongly connected to measurable outcomes” (Fabricius & Hall, 2000: 447)

Fabricius and Hall (2000) surveyed more than 800 students from an introductory undergraduate Psychology class who indicated their parents were divorced. When asked about their living arrangements, one thing was clear, they felt what was in the best interest of the child was to have equal time with each parent. The

majority (80%) indicated after the divorce they lived primarily with their mother but wanted to have more time with their fathers. Many studies have found that the majority of children they interviewed felt the contact established with their non-resident parent was very important (Parkinson, Cashmore & Single, 2005; Smith, et al., 2003; Rosen, 1979)

Wallerstein and Lewis (1998) conducted a longitudinal study over 25 years with 130 children involved in parental separation and divorce. The youngest group of children (2 ½ to 6 years old at breakup) now in their mid 20s reported feeling shut out, angry and a fear of abandonment after one parent left, fearing the other one would leave one day too. It was these children who were most influenced by the decisions made on their behalf of which they had no input. These children “who were rendered mute” by their parents and the court are now speaking out and making their voices heard (Wallerstein & Lewis, 1998: 369).

Smith, et al. (2003) interviewed young people regarding their perspective about the marital breakup, the living arrangements and the relationships with each parent. The children felt the key to the quality of relationships was satisfactory contact with their parents. The children wanted their parents to ask their preference and to listen to them, not to be forced into contact they didn't want, and to be given accurate information about what was going on. It was concluded it was important for children to be viewed as competent actors and not as mute or invisible. This view was reinforced by Parkinson and Cashmore (2007) who in their interviews with Australian judges involved in parenting disputes, determined that “children's views need to carry significant weight in making decisions about parenting arrangements” (pg. 163). The

judges took into consideration the age and maturity of the child as well as other factors in reaching a decision.

When several young adults from divorced families were asked for advice by their peers, many advised them to let their parents know their wishes and to not let their parents alone decide (Parkinson, et al., 2005). Evidence indicates that as time goes by young adults re-evaluate the relationship with their parents and have a better understanding of the circumstances of their parents divorce (Darlington, 2001). Anger dissipates with understanding and many believe they have become more independent as a result. Some youths that at the time of their parent's divorce were very angry with their father and still carry that anger today are those who had 'enforced' visitation (Wallerstein & Lewis, 1998). This 'enforced' visitation was to assure children maintained contact with their father, but it did not go as planned and had a negative impact on the relationship. They were forced to maintain a strict schedule of visitation which did not change over time, even as they changed developmentally and physically. In their study, Wallerstein and Lewis (1998) found those adults who were forced to visit as children, once they reached the age of maturity, no longer have a good relationship with their father. Moxnes (2003) found that if a good parent-child relationship was maintained the children were happy, but a good relationship that deteriorates caused pain and possibly damaged the child's self-identity.

Giving children a voice and allowing them to participate in decisions that affect their lives empowers them, helps them cope with the situation, increases their understanding and knowledge and allows them to feel like active participants (Smith, et al., 2003; Warshak, 2003). The flip side to this is giving children the opportunity to

participate may cause emotional trauma especially if they are given too much responsibility or feel it is all up to them. While not stating the depth of the involvement in the proceedings, or the definition of competent or maturity, it is suggested that arrangements be set out to benefit their emotional and social development needs.

Children want to be listened to but don't want to be responsible for the final decision (Holland & O'Neill, 2006). Children's roles within the family have been evolving towards encouraging children to participate in family decisions. This has empowered children, but as stated above empowerment can be both positive and negative. Children normally have some knowledge of the problems within their family but by allowing them a voice and the ability to deal with the problems, it can allay any fears or anxiety they may have (Smith, et al., 2003).

### **Symbolic Interactionism and the Child's Best Interests**

Symbolic Interactionism (SI) is a sociological perspective based on three premises (Blumer, 2004). These premises are first, we act towards objects, other human beings, signs, words based on the meanings we have given them. Secondly, we interpret these meanings from the interactions we have with each other. Third, the meanings are reinterpreted as we encounter these 'things'. SI looks at how language, events and behaviours are interpreted by people (Charon, 1992; Crooks, 2001; Denzin, 1992; White & Klein, 2002). SI concentrates on the meanings or interpretations given to words and concepts by members of social groups, on the assumption they select or construct meanings to justify and make sense of their own and each other's practices and actions. It is through SI and the unique make up of each person that words and objects are given meaning (Charon, 1992). It is also how we rework concepts to

maintain or produce new meanings and practices as we encounter new experiences (Denzin, 1992). This understanding allows human beings to carry out further actions and interactions and to be able to interpret these situations and make human society possible (Bankston, 2000; Crooks, 2001).

The knowledge we use to interpret situations and words is constantly evolving and being reappraised (Charon, 1992). The meaning given to objects and words depends on how we intend to utilize them in our lives. Likewise, the definition of family, parent and child is redefined as they move through the divorce process (Hopper, 2001; Madden-Derdich & Leonard, 2002). Social roles which were defined with a certain set of behaviours are modified based on the feedback received from others. New roles are taken on for which they have no experience. Divorcing parents are single rather than coupled and there are new responsibilities and obligations. Where once parents worked together for the good of the family, they may fight over property, finances or parental rights in an adversarial legal process. Sometimes the legal process is used to try to obtain what they feel they deserve or in some cases for revenge against a partner who is perceived to have “wronged” them.

Madden-Derdich & Leonard (2002) reported there were differences between mother’s and father’s satisfaction with their former spouse’s parenting performance, with mother’s being less satisfied with the father’s performance. Two areas of parenting were explored, the willingness to make changes in visitation schedules and child-rearing skills. Both mothers and fathers reported they were more willing to accommodate changes to the visitation schedule than the other parent perceived when results were compared. In the area of child-rearing skills, mothers were less satisfied

with the fathers' skills, whereas fathers were satisfied with the mother's skills. This is not surprising as mothers typically are responsible for the preponderance of child care in marriage. Mothers tended to be more satisfied with the custody arrangements, perhaps because 70% of the mothers retained sole physical custody of the children (pg. 43).

The role of the child is also redefined during the divorce process (Madden-Derdich & Leonard, 2002). The child must seek out new roles and expectations with each parent in the new living arrangements and family structure (Kelly, 2006). The term child is multi-faceted and has a variety of sometimes competing social representations as well as competing or contested political meanings (Burman, 2008). The age ranges vary greatly to define child, adolescent, and young adult depending on what literature is reviewed. This also leads to a large range of definitions of the role of children, adolescents and young adults. Children may be and arguably typically are either regarded as being endangered or as being dangerous (Aries, 1962). For either view the role of child is one of needing others to make decisions for them. For the dangerous child, they are the "Devil's spawn" and can not comprehend the dangers or risks involved to themselves or others and need to be 'trained' to be competent members of society, and for the endangered child, their innocence makes them vulnerable and in need of protection.

The courts can be guided by how the concept of "best interest" is interpreted by adults and by the children the "best interest" represents (Crooks, 2001). Adults are presumed to be capable of deciding what is in their best interest, but children are viewed as not being competent to make these decisions for themselves (Goldstein,

Freud & Solnit, 1979). Who determines when children are able to make competent decisions in their own behalf? The best interest provision in the Children's Law Reform Act has guidelines "to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children" (Children's Law Reform Act, s. 19(a), Department of Justice Canada (2005). The UN Convention on the Rights of the Child, ratified by Canada in 1991, has provisions to assure that the rights of the child are considered. The Convention states that at an undetermined age or development level children are capable making their own views and have the right to be heard. However, it does not state in the manner in which a child's views are to be voiced, or how much weight should be given to these views.

Children have fundamental rights and it is up to the parents and the state to ensure their rights are not violated (Covell & Howe, 2001; UNCRC, 1990). Article 3 of the Convention states "the best interests of the child shall be a primary consideration" (UNCRC, 1989, 3.1). The use of "*a* primary consideration" as opposed to "*the* primary consideration" makes it clear that the best interests of a child is not the primary consideration which leaves the door open to interpretation and contestation on many levels. The Convention builds, however, on the Universal Declaration of Human Rights which mandates recognition of the equal standing of all humans (Teepie, 2005). Children's rights under the UN Convention on the Rights of the Child and 'best interests' provision in the Children's Law Reform Act are evolving and depending on who is interpreting it can mean children should have a voice in matters or that someone should speak for them. Although the concept of equality is an abstract notion,

it can be seen as a starting point to the recognition that children and adults are equally human. Symbolic interaction is a method to aid in the understanding, the behaviour and the interaction of those involved in deciding custody issues, and determining the ‘meaning’ of children being given a voice in these matters (Jeon, 2004). For this paper “best interests” and “children’s rights” are both symbols whose meanings are negotiated through interaction and behaviour.

### **Grounded Theory**

Grounded theory was developed by Glaser and Strauss to look at “data, systematically gathered and analyzed through the research process.” (Strauss & Corbin, 1998: 12). Grounded theory is more likely to offer a more realistic insight of the situation and to provide a more meaningful framework to finding a solution. This approach is one of constant comparison of the data as it is obtained. The properties and concepts that emerge from comparative analysis are used as the tools to further compare new data sources. These comparisons are used to develop the concepts and categories that are linked together and relationships are recognized. There should be two essential features of concepts that are generated through constant comparison, the concepts should be analytic and sensitizing (Glaser & Strauss, 1967). Analytic so the concept generated is suitably generalized to exhibit qualities of concrete entities and sensitizing, to have a meaningful frame of reference in relation to one’s own experience.

Grounded theory is linked to Symbolic Interactionism because its goal is to explore and interpret social processes and interactions (Crooks, 2001; Heath & Cowley, 2004; Jeon, 2004). Grounded theory accomplishes this through the use of

several steps including, comparative analysis of the data, theoretical sampling, coding, memo writing and the development of theoretical concepts and statements (Glaser & Strauss, 1967; Hall & Callery, 2001; Jeon, 2004; Strauss & Corbin, 1998). The goal of comparative analysis is essential to clarify concepts and assist in the conceptualization and refining of questions. As each interview is completed it is reviewed and compared to the previous interviews. New concepts are added for subsequent interviews or the questions are reworked or removed.

The aim of theoretical sampling is to interview the people more likely to have knowledge and experience related to the research topic (Glaser, 1978; Glaser & Strauss, 1967; Jeon, 2004; Strauss & Corbin, 1998). Theoretical sampling is guided by the project and emerging categories. It goes hand in hand with comparative analysis, as new concepts evolve and are coded; the questions and the people interviewed evolve. As each interview is concluded the data is coded and categorized to properly sort the information and determine if new lines of inquiry are present. There are two types of coding; substantive and theoretical. Initially during substantive coding the data is open coded, where all possible issues and ideas are developed. These open codes are then grouped together in more abstract levels and possible relationships between the codes are investigated. Theoretical coding conceptualizes the relationship of the substantive codes and the hypotheses. Both substantive and theoretical coding are done concurrently as the data is analyzed.

The ideal sampling method in grounded theory is theoretical sampling and unfortunately I was not able to use this method as intended for this study. Due to the small population of the group (N=137) and small sample size (n=17), I utilized

systemic sampling. Some of the members I invited to interview indicated they did not deal with issues relating to children, or were only involved occasionally. In keeping with theoretical sampling, some of these members I did interview and some I thanked for their response and did not interview them.

Memo writing is used to help the researcher become more reflective while coding data (Glaser, 1978; Jeon, 2004; Strauss & Corbin, 1998). Any ideas or thoughts which seem pertinent to the research are written up and used to develop theoretical codes. While comparing the data, the researcher focuses on evidence for the verification of the concepts and theory generated (Glaser & Strauss, 1967). Two forms of theory can be generated, substantive and formal. Substantive theory utilizes empirical evidence and a set of propositions, while formal theory develops a conceptual inquiry and in many cases formal theory is derived from substantive theory. The purpose of this study is to generate a substantive theory to determine if children's rights are being followed, utilizing information obtained from the interviews regarding whether or not children are given a voice when custody and access is being decided.

## **CHAPTER THREE**

### **Methodology**

The aim of this study is to examine how the best interests doctrine enters into the rationale that is used when parents can not decide amicably on this issue without the assistance of a neutral third party. I contacted the Ontario Association of Family Mediators (OAFM), the accreditation body for Family Mediators in Ontario, to discuss my research with them, and received OAFM endorsement to recruit research participants from their membership.

The findings were gathered through semi-structured qualitative interviews, employing the interview guide outlined in Appendix A. This guide consists of set of questions designed to assess family mediator knowledge, beliefs, attitudes and attributes (De Vaus, 2004). Knowledge questions determine familiarity with the best interest of the child criteria and the UN Convention. Data relevant to gender, years of experience and related factors were gathered to assess variance in attitudes and practices relevant to child custody mediation. The interview schedule was designed to consistently assess the mediator's key attitudes and practices through questions that provided leeway for their answers to be probed for clarification. This type of interview strategy is intended to gather data that is a reflection of the rich experience of each participant (Holstein & Gubrium, 1995).

#### *Sample and Sampling Technique*

My aim was to recruit a minimum of 10 percent of the OAFM membership; in actually I interviewed 17 members (12%). These 137 Family Mediators are assumed to have knowledge of Family Mediation theory and skills, extensive professional experience and must show proof of 10 hours yearly of continuing education to maintain professionalism and promote the family mediation process (OAFM, 2007). I employed systemic sampling to recruit members from the OAFM website roster. The systemic sampling technique is a very simple technique where a sample frame of all the accredited members is obtained (De Vaus, 2004). A simple calculation was used to choose every 10<sup>th</sup> member to invite for an interview. A starting point was randomly chosen and that person was counted as number 1 and every 10<sup>th</sup> member was chosen and sent an invitation by email asking them or participate (Appendix B). The

telephone interviews were set up at a mutually convenient time. The interviews were arranged by email or by phone.

### *Data Analysis*

Drawing on principles of symbolic interactionism outlined above, the interviews have been analyzed using a grounded theory approach (Charmaz, 2005; Creswell, Hanson, Plano Clark & Morales, 2007). Logistically, the interviews were audio-recorded and subsequently transcribed and reviewed, then uploaded into the qualitative software program NVIVO to be coded. The data was coded through careful reading and rereading, to identify key themes. These themes centred around mediators' responses to questions on actions taken and explanations given relevant to custody arrangements and whether and how children are included in decisions on their best interests (Creswell, et al., 2007). Once the data had been initially coded, it was reviewed to further identify areas of interest pertaining to decisions and actions on custody issues and how these do or do not comply with the Convention guidelines on child's best interests. As each interview was conducted and reviewed memos were written and the interview guide was revised to reflect the evolving concepts. Some initial questions were removed from the interview schedule when it was determined they did not reflect the mediators goals or when the answer was saturated.

## **CHAPTER FOUR**

### **Results**

The 17 interviews were conducted during the months of April and May, 2008 with 13 female (76%) family mediators and 4 male (24%). The breakdown of the OAFM roster indicates it is comprised of 95 female mediators (69%) and 42 male

(31%). The proportion of female to male mediators interviewed is similar to the roster. The years of experience as an accredited family mediator ranged from 3 years to 18 years with the average being 8.5 years. Most of the mediators stated they worked as family mediators under supervision of an accredited family mediator for the two to three years it took before becoming accredited with the OAFM.

The mediators indicated they have a wide range of background education including law degrees, teaching certificates, science and social work degrees. For all 17 mediators interviewed this was a second career or mediation is used in conjunction with an existing career. In private practice they mediate anywhere from 3 cases per year and upwards and for mediators working in the court system it can be as high as 40 to 45 per month.

One of the most important questions asked of the mediators was if they spoke to the children. If they answered in the affirmative, the mediators were asked if they enquire if the children had an opinion or a preference about the custody arrangements. Of the 17 mediators interviewed, 9 (53%) had spoken to children on at least one occasion while 8 (47%) stated they would not speak to children. In some cases the Office of the Children's Lawyer is involved to protect the rights of the child or to represent and speak for the child in any legal proceedings. Social Workers can be involved in a similar position, especially in instances when the Children's Aid Society is involved. When the family mediators were asked if they consult with either the Office of the Children's Lawyer or Social Workers, 10 indicated they will talk to these individuals regarding parenting issues, 4 would not speak to them and 3 were not asked.

In keeping with the Symbolic Interactionist model the meanings that are inferred from the UN Convention on the Rights of the Child and from the Best Interest doctrine are being interpreted differently by those who talk to children and those who don't. For this study I have placed them into two groups. The first group believes that children should have a voice and is composed of six female and three male mediators. The years of experience ranges from 3 to 12 years with an average of 7.7 years. The second group which does not speak to children includes seven female and one male mediators ranging from 3 to 18 years of experience with an average of 9.5 years.

The responses vary within the first group from one mediator who makes a point of asking children their opinion to try to uncover what is best for them and ensures the children have the mediator's phone number so they can call with any questions or concerns, to a mediator that rarely speaks to children and does so only in the presence of another sibling or responsible caregiver and only for the purpose of reducing the child's anxiety over the divorce process. Some mediators only speak to children who are in their early teens or teenagers and most don't speak to children under eight years of age. Mediators who do speak to the children do so in their office, over the phone or on a rare occasion will meet in the children's home. One of the major concerns with speaking to children is confidentiality. One mediator states

It's one thing to talk to children, it's another thing for the parties to agree to what you are going to do with that information ...When you interview children it opens up this slippery slope of what to do with that information and can it ever be used in a different context later. The parents need to agree in advance and it's a whole mini-mediation unto itself about what do to with the information when you interview a child. (Interview 10. pg. 4).

The group that does not speak to children also has some variations. Some mediators indicated they will not speak to the children, only to the parents, while others will refer the child to a social worker, counsellor or some other professional trained to speak to children. For one mediator who works under contract through the court system, a social worker is on staff and provided if it is determined there is a need, so there is no need to speak directly to the child. For another, an associate is called in when the parents request someone speak to the child. Another mediator who works for the court system indicated it was policy not to speak to children, but in private practice will speak to children.

All but one of the mediators had heard of the UN Convention on the Rights of the Child. When asked if they used the UN Convention when mediating custody issues, seven mediators used it, nine mediators did not, and one was not asked. Most of the mediators indicated they had read the UN Convention but generally the consensus was “it has been a number of years since I looked at it.” (Interview 4, pg. 4).

The issue regarding the use of article 12 of the UN Convention, allowing children who are capable of forming their own view the right to express that view indicated seven mediators felt children should be asked their opinion, six stated they should not and four were not asked. Of the seven mediators that said they agreed children should be asked six were from the group that spoke to children. Two of the mediators who talk to children indicated they don't think that children should be asked their preference. In keeping with the Symbolic Interactionist model there is a difference in the interpretation of the language in article 12. One mediator indicated they feel the process of determining residency is not an issue affecting the child states,

It is an issue between the parents. We have to get the parents to a place where they are considering the interest of the children and then again depending on the age of the child whether or not they have verbal communication. (Interview 5, pg. 3)

Another mediator who did not know the UN Convention by name has read articles about children's rights in mediation and indicated,

I've done some reading on that lately. There are different feelings on whether they should or should not have input. Personally I think they should somehow, but I'm not sure how the best way is to do that. (Interview 9, pg. 4)

The Best Interest doctrine was familiar to 16 mediators with only one mediator indicating they had not heard of it. The mediator not familiar with this doctrine was familiar with the UN Convention. Some mediators had a checklist they used when mediating parenting issues to ensure all provisions were met, while others indicated they kept it in the back of their mind during the mediation. One mediator stated

It's like a neon sign at the top of the door as you walk in, it's paramount. I present it as a bias even though I'm neutral. (Interview 13, pg. 3)

While some mediators indicated that parents sometimes put their interests before their child's, or in times of conflict use the children to get back at the other parent, most felt that after being refocused by the mediator and asked to think about their child's needs it is like a reality check. One mediator sums it up this way

Of course, as a mediator you try to bring back the focus, often when those who are not able to come to an agreement because of what they believe is the best interest of the kids is their own best interest, and they look at the big picture. It is my job as a mediator to help them change their focus and try to help them put their kids first. (Interview 14, pg. 2)

One area of concern when asked whether or not children should be asked if they have an opinion is the legitimacy of that answer. When asked if they believed that children would give them a truthful answer when asked their preference or opinion, eight (47.1%) indicated yes, three (17.6%) stated no and six were not asked the question. From the group that does speak to children, five indicated they thought children would tell them the truth, two said they would not and two were not asked, from the group that does not speak to children three indicated they thought they would get an truthful answer, 1 indicated they would not, and four were not asked. One mediator who does speak to children stated

They are kids and in their own way they are honest, but obviously one of the things I usually do go through no matter what the age of the children is that they are young and do not have the skills or experience to see beyond this works, so I am going to try that. (Interview 8, pg. 4).

This view was shared by several of the mediators who indicated that children would not want to hurt their parents and therefore would not give an honest answer or they would feel they are being asked to side with one parent over the other. Another common view to this issue was that children may want to reside or spend more time with the parent who is more lenient, or “who has the better ice cream in the freezer” (Interview 10, pg. 5)

The Best Interest doctrine specifies that culture (among other things) is to be considered. All 17 mediators took the culture and ethnicity of the parents and the family into consideration when mediating custody or parenting plans. Even in areas of practice where there is not much diversity, they look at religious differences and examine how the family dynamics worked when they were an intact family. Two

mediators suggested that couples seeking a mediator will try to find a mediator of the same ethnic, cultural or religious background to work with. One criticism of mediation is that it is based on a white, middle-class, Anglo Saxon family, but all the mediators interviewed were concerned with these issues.

Yes, you've got culture, you've got language, you've got intelligence, and it all has to be taken into account. You can't judge, you can't put the way you do things onto people. Part of the standard is what they did as an intact family, which typically took into account that diversity. So what is going to happen now? It's always relevant. (Interview 3, pg. 3)

The question of what changes in policy or law the mediators would like to see elicited several responses, with the most common response being they would like to see changes made involving terminology, specifically elimination of the terms custody and access, endorsed by 9 of the 17 mediators. These terms are not used by most of the mediators interviewed. Parenting responsibilities and parenting orders has replaced the terms custody and access but in the Divorce Act these terms are still official. Changes to the terminology of the Divorce Act were proposed with Bill C-22 which had its first reading in the House of Commons on December 10, 2002, but because a federal election was called before these changes could be passed though parliament they are still in effect.

The second most common comment was to provide education to the parties informing them of the options available when going through marital breakdown especially when children were involved; this was endorsed by 6 of the 17 mediators. In some jurisdictional areas in Ontario, there are information sessions the parents can attend either together or individually, but they are not mandatory.

I think it would serve parents extremely well to have to attend at some kind of really well run education session before anybody was allowed to commence any kind of proceeding. I know it works the opposite; you commence the proceeding

and then go to the education session... to help parents understand they need to empower themselves in the legal system and that it is not impossible to put your children first. (Interview 11, pg. 4)

The next two recommendations were each endorsed by 5 of the 17 mediators. The first was for a change in the way support payments are calculated and the second for a unified court system. Currently support payments are tied to the amount of time spent with the child as well income level. Unfortunately some parents fight for 50/50 custody so they don't have to pay as much child support, not because they want to spend time with their children. A few mediators indicated they would also like to see changes in the Family Responsibility Office to allow parents to change the support payments without having to go to court and pay for a lawyer. "When trying to make changes it builds up arrears and resentment. It is not economical to hire a lawyer every year to make the changes." (Interview 3, pg. 5). Another issue with custody is when there is a true 50/50 joint custody arrangement; the parents should be able to claim the tax benefit 50/50 for that child or claim the equivalent to married option.

The expansion of the Unified Family Court or Collaborative Court provides parents a place to go and get all pertinent information at once, and provides consistency in adjudication and treatment of cases.

They can go to a Unified Family Court and have all the information, have someone to sit with and go through all their options and then they get information of where they can get a mediator if that's the route they want to go. But nobody has that information; a lot of it is word of mouth. (Interview 7, pg. 5)

## **CHAPTER FIVE**

### **Discussion**

The purpose of this study was to investigate how and whether the UN Convention on the Rights of the Child is being interpreted and employed as well as how the child's best interest doctrine is utilized when custody and access arrangements are being decided. Overall this study indicates that there is a wide range of interpretation. Of the mediators interviewed only 53% speak to the children to determine if they have a preference or opinion on where they would like to live. While all but one of the mediators had heard of the UN Convention, only seven utilize it when mediating custody issues. Some mediators feel that only trained professionals should talk to children that the children would not give them a truthful answer or it would be damaging to ask the children. This goes back to the dangerous versus endangered child. The dangerous child will not be truthful in their answers and the endangered child will be damaged somehow by talking to them.

Secondly all but one of the mediators use the Best Interest doctrine when working with parents and would try to refocus the parents to consider what was best for the children. Mediators are neutral third parties who use their training and skills to keep the mediation flowing smoothly while protecting the children's needs. A few indicated that if there was an area where they were biased this would be it.

Eight out of eight of the mediators asked if they thought mediated decisions lasted longer indicated that they believed mediated decisions did last longer than those made by a judge because the parents had input into the agreements as they were being developed. However, those that reported working with the court system maintained that when a couple is ordered by a judge to try mediation to resolve their issues, and one or both are unwilling, mediation does not resolve anything. This speaks to the

limits of mediation, and to the widely supported need to prioritize education aimed at enhancing parents' sensitivity to the needs and interests of their children.

The Best Interest doctrine while still based on 'common sense ideals' is very generalizable and more recognizable and used. Many of the ideas between the doctrine and the Convention are similar. The terminologies of article 12 of the Convention are open to interpretation and depending on your view of the child, as dangerous or endangered, can be thought of to allow or disallow the child's voice. When is a child capable of forming his or her own views? Who decides the maturity of the child? For 53% of the mediators interviewed they felt that they could talk to children, although usually over the age of 8 years, to ask their preference. The other 47% felt they could not talk to children.

Symbolic Interactionism and Grounded Theory were used together to identify the changing variables while trying to interpret the process of deciding custody and access. Symbolic Interactionism was used to investigate how parents construct and interpret meanings from symbols, words and interactions to determine a course of action and how children contribute to the meanings attached to "child" and therefore the rights and/or responsibilities attached to that meaning. Grounded Theory was utilized to understand and interpret the social process of custody decisions, thus it was used as a lens to focus on whether or not children's rights or best interests were being employed. Symbolic Interactionism and Grounded Theory have revealed a wide range of interpretation of children's rights.

There are limitations to this study. The qualitative interviews were only done with 17 mediators, or 12.4% of the accredited members. This number is too low to

allow generalizations of the data obtained, but sufficient to explore variations in knowledge, practices and justifications for practices relevant to implementation of UN principles aimed at ensuring children have a voice in decisions that affect them. Clearly, this research does not provide insight into how children's concerns are or are not taken into account in the far larger portion of custody cases are settled by the parents without outside help. For the most part, parents that choose mediation to settle custody issues are not high conflict. This is to say, most assumedly put their differences aside for the sake of their children.

Future research could involve interviews with the parents either individually or jointly, including parents that use a mediator and those that were able to come to a solution of their own to determine if they used the UN Convention or the Best Interest doctrine. A survey could be sent to the mediators but sent through the mail or with a letter sent through the mail and the survey on line. Initially I sent a quantitative survey by email to all members of the OAFM but due to a very low response rate I was not able to utilize it. Many members indicated they receive so many requests by email they just delete them without reading them. The mediators could be asked directly what their interpretation of article 12 of the UN Convention.

As noted in the literature review, the Canadian government became a signatory of the UN Convention on the Rights of the Child in 1991 and at that time acknowledged the obligation for compliance. Unfortunately compliance has not been forthcoming. In Canada it has proven to be a convention with no teeth and as it stands, with little chance of cutting any. I interviewed Family Mediators because they have specialized training to deal with family issues including custody and access and while I

can't use this study to generalize to the entire population, of the 17 mediators I spoke to only 9 have or do talk to children. For many of the mediators who do not talk to children it is more an issue of their comfort level talking to children. I feel rights are part of the Symbolic Interactionist world and children should have the chance if they choose to have their wishes considered. I think children's rights actually means giving children the opportunity to voice their opinions to those making the decisions to at least feel they are part of the process. It is not that children ought to be consulted about decisions affecting them, but that 'child as decision-influencer' cannot be incorporated into the meaning of 'child' when children are absent. By excluding children from the mediation process, mediators are also denying the opportunity (and possibly 'right') for children to contribute to the definition of themselves.

## **Appendix A: Interview Schedule**

### **A. Demographics**

1. How long have you been a Family Mediator?
2. Why did you become a Family Mediator?
3. How many family cases involving custody have you brought to completion?

### **B. Percentage of Cases of Custody Disputes**

4. What percentage of cases involve custody issues?
5. In your opinion how many cases are settled without outside help?
6. How many cases use a family Mediator?
7. How many cases go before a judge?
8. What kind of cases go before the judge?

### **C. Best Interest**

9. Is there Best Interest criteria for mediation?
10. Do you follow Best Interest criteria when mediating residency?

### **D. Children's Voice**

11. When mediating custody and access are children routinely asked if they have an opinion?
12. What percentage of children are asked?
13. How are children asked?
14. Where do you interview or talk to children?
15. What rationale do you use to determine which children to ask or how to approach the issue?

### **E. Personal Views**

16. Do you personally feel that children should be asked their opinion or preference?

17. Do you think children would give you a truthful answer?

**F. Conclusion**

18. What changes would they like to see regarding custody arrangements?

19. Is there anything you would like to add or say?

## **Appendix B: Invitation for Interview**

Dear

My name is Dawne Martens, and I am a graduate student in the Department of Sociology and Anthropology at the University of Windsor. Under the supervision of Dr. Gerald Cradock I am doing a study "Exploring Children's Rights in Custody and Access". The purpose of this study is to create data on the degree and kinds of applications of the UN Convention on the Rights of the Child in matters of child custody pursuant to divorce.

I recently sent you an email survey through the OAFM office. Along with the survey, I am conducting telephone interviews with 10-15 members of your association. I have randomly chosen your name from the OAFM roster to participate in this short telephone interview. The interview can be done at your convenience and should take approximately 15 minutes.

I would appreciate it very much we could arrange to conduct this interview in the next couple of weeks. You can contact me by email at [marten2@uwindsor.ca](mailto:marten2@uwindsor.ca) or at (519) XXX-XXXX.

The data from this study will be sent to your association.

I look forward to hearing from you,

Dawne Martens

Dr. Gerald Cradock  
Phone: 519-253-3000 ext. 3981  
Fax: 519-971-3621  
[geradock@uwindsor.ca](mailto:geradock@uwindsor.ca)  
University of Windsor  
Department of Sociology and Anthropology

Dawne Martens, B.A. (Hons.)  
Department of Sociology and Anthropology  
University of Windsor  
Phone (519) XXX-XXXX  
Fax (519) 971-3621  
[marten2@uwindsor.ca](mailto:marten2@uwindsor.ca)

## References

- Alberta Law Reform Institute (1994). Court-Connected Family Mediation Programs in Canada. Retrieved March 31, 2008 from <http://www.law.ualberta.ca/alri/docs/rp020.pdf>
- Ambert, A. (1998). Divorce: facts, figures and consequences. Retrieved November 12, 2007 from, [http://www.cfc-efc.ca/docs/vanif/00005\\_en.htm](http://www.cfc-efc.ca/docs/vanif/00005_en.htm)
- Aries, P. (1962). *Centuries of Childhood: A social history of family life*. New York: Vintage Books.
- Artis, J.E. (2004). Judging the best interests of the child: judges' accounts of the tender years doctrine. *Law & Society Review*, 38(4), 769-806.
- Bala, N. (1999). A report from Canada's 'Gender war zone': Reforming the child-related provisions of the Divorce Act. *Canadian Journal of Family Law*, 16, 163-227.
- Balen, R., Blyth, E., Calabretto, H., Fraser, C., Horrocks, C. & Manby, M. (2006). Involving children in health and social research: 'Human becomings' or 'active beings'? *Childhood*, 13(1), 29-48.
- Bankston, C.L. (Ed.) (2000). *Sociology Basics: Modernization and World-System Theories – Workplace Socialization*, vol 2. Hackensack, New Jersey: Salem Press
- Barnes, V. (2007). Young people's views of children's rights and advocacy services: a case for 'caring' advocacy? *Child Abuse Review*, 16, 140-152.
- Bessner, R. (2002). *The Voice of the Child in Divorce, Custody and Access Proceedings*, presented to Family, Children and Youth Section, Department of Justice. *Department of Justice Canada, 2002-FCY-1E*
- Blumer, H. (2004). *Symbolic Interactionism: Perspective and Method*. Berkeley: University of California Press.
- Bowlby, J. (1988). *A Secure Base: Parent-Child Attachment and Healthy Human Development*. New York: Basic Books Inc.
- Bowlby, J. (1969). *Attachment and Loss*. London: The Hogarth Press
- Burman, E. (2008). *Deconstructing Developmental Psychology (2<sup>nd</sup> ed.)*. New York: Routledge.
- Charmaz, K. (2005). Grounded theory in the 21<sup>st</sup> century: applications for advancing

Social Justice studies, in Norman K. Denzin and Yvonna S. Lincoln (Eds.) *The Sage Handbook of Qualitative Research* (3<sup>rd</sup> ed.). Thousand Oaks, CA: Sage Publications.

Charon, J.M. (1992). *Symbolic Interactionism: an Introduction, and Interpretation, and Integration* (4<sup>th</sup> ed.). Englewood Cliffs, NJ: Prentice Hall.

Cohen, D. (2006). Making alternative dispute resolution (ADR) less alternative; the need for ADR as both a mandatory continuing legal education requirement and a bar exam topic. *Family Court Review*, 44(4), 640-657.

Cohen, E.F. (2005). Neither seen nor heard: Children's citizenship in contemporary democracies. *Citizenship Studies*, 9(2), 221-240.

Covell, K. & Howe, R.B. (2001). *The Challenge of Children's Rights for Canada*. Waterloo, Canada: Wilfred Laurier Press.

Craddock, G. (2007). The responsibility dance: creating neoliberal children. *Childhood*, 14(2), 153-172.

Creswell, J.W., Hanson, W.E., Plano Clark, V.L. & Morales, A. (2007). Qualitative research designs: selection and Implementation. *The Counseling Psychologist*, 35(2), 236-264.

Crooks, D.L. (2001). The importance of symbolic interaction in grounded theory research on women's health. *Health Care for Women International*, 22, 11-27.

Darlington, Y. (2001). "When all is said and done": The impact of parental divorce in childhood on young adults' relationships with their parents and their attitudes to relationships and marriage. *Journal of Divorce & Remarriage*, 35 (3/4), 23-42.

De Vaus, D. (2004). *Surveys in Social Research* (5<sup>th</sup> ed.). New York: Routledge.

Denzin, N.K. (1992). *Symbolic Interactionism and Cultural Studies: the Politics of Interpretation*. Cambridge: Blackwell.

Department of Justice Canada (2006). *The Inventory of Government-Based Family Justice Services* retrieved October 2, 2007 from <http://www.justice.gc.ca/en/ps/pad/resources/fjis/browse.asp>

Department of Justice Canada (2005). *Best Interests of the Child: Legislative Provision*. Retrieved November 22, 2007 from <http://www.justice.gc.ca/en/ps/pad/reports/chart/chart1-1e.html>

Department of Justice Canada (2004). *The Daily, Tuesday, May 4, 2004*. Retrieved

November 12, 2007  
from <http://www.statcan.ca/Daily/English/040504/d040504a.htm>

- Department of Justice Canada (2001a). *Family Mediation Canada Consultation on Custody, Access and Child Support*. Retrieved November 14, 2007 from <http://justice.gc.ca/en/ps/pad/reports/2001-FCY-11/custody.html>
- Department of Justice Canada (2001b). Putting Children's Interests First, retrieved September 9, 2007 from <http://canada.justice.gc.ca/eng/pi/pad-rpad/rep-rap/cons/consdoc/toc-tdm.html>.
- Department of Justice Canada (1982). Canadian Charter of Rights and Freedoms Schedule B. Retrieved February 20, 2007 from <http://laws.justice.gc.ca/en/charter/>
- Devine, D. (2002). Children's citizenship and the structuring of adult-child relations in the primary school. *Childhood*, 9(3), 3003-320.
- Duhaime, L. (2006). Divorce Law in Canada – An Introduction retrieved October 12, 2007 from <http://www.duhaime.org/LegalResources/FamilyLaw/tabid/343/articleType/ArticleView/articleId/30/Divorce-Law-in-Canada--An-Introduction.aspx>
- Fabricius, W.V. & Hall, J.A. (2000). Young adults' perspectives on divorce: living arrangements. *Family and Conciliation Courts Review*, 38(4), 446-461.
- Freeman, M. (2000). The future of children's rights. *Children & Society*, 14, 277-293.
- Glaser, B.G. (1978). *Theoretical Sensitivity: Advances in the Methodology of Grounded Theory*. Mill Valley, California: The Sociology Press.
- Glaser, B.G. & Strauss, A.L. (1967). *The Discovery of Grounded Theory: Strategies for Qualitative Research*. New York: Aldine Publishing Company.
- Goldstein, J., Freud, A. & Solnit, A.J. (1979). *Beyond the Best Interests of the Child*. New York: Free Press.
- Grover, S. (2004). Why won't they listen to us? On giving power and voice to children participating in social research. *Childhood*, 11(1), 81-93.
- Hall, W.A. & Callery, P. (2001). Enhancing the rigor or grounded theory: Incorporating reflexivity and relationality. *Qualitative Health Research*, 11(2), 257-272.
- Hart, R. A. (1992). Innocenti Essays no. 4: Children's Participation from Tokenism to Citizenship. Florence, Italy: UNICEF.

- Heath, H. & Cowley, S. (2004). Developing a grounded theory approach: a comparison of Glaser and Strauss. *International Journal of Nursing Studies*, 41, 141-150.
- Hemrica, J. & Heyting, F. (2004). Tacit notions of childhood: an analysis of discourse about child participation in decision-making regarding arrangements in case of parental divorce. *Childhood*, 11(4), 449-468.
- Hill, M. (2006). Children's voices on ways of having a voice. Children's and young people's perspectives on methods used in research and consultation. *Childhood*, 13(1), 69-89.
- Holland, S. & O'Neill, S. (2006). 'We had to be there to make sure it was what we wanted.' Enabling children's participation in family decision-making through the family group conference. *Childhood*, 13(1), 91-111.
- Holstein, J.A. & Gubrium, J.F. (1995). *The Active Interview*. Thousand Oaks: Sage Publications.
- Hopper, J. (2001). The symbolic origins of conflict in divorce. *Journal of Marriage and Family*, 63, 430-445.
- Irving, H.H. & Benjamin, M. (1995). *Family Mediation: Contemporary Issues*. Thousand Oaks: Sage Publications.
- Irving, H.H. & Benjamin, M. (1992). An evaluation of process and outcome in a private family mediation service. *Mediation Quarterly*, 10(1), 35-55.
- James, A. & James, A.L. (2001). Childhood: toward a theory of continuity and change. *The Annals of the American Academy of Political and Social Science*, 575, 25-37.
- Jeon, Y.H. (2004). The application of grounded theory and symbolic interactionism. *Scandinavian Journal of Caring Sciences*, 18(3), 249-256.
- Kelly, J.B. (2006). Children's living arrangements following separation and divorce: insights from empirical and clinical research. *Family Process*, 46(1), 35-52.
- Kelly, J.B. (2004). Family mediation research: is there empirical support for the field? *Conflict Resolution Quarterly*, 22(1-2), 3-35.
- Kline, M. (1992). Child welfare law, "Best Interests of the Child" ideology, and first nations. *Osgoode Hall Law Journal*, 30(2), 375- 425.
- Kulynych, J. (2001). No playing in the public sphere: Democratic theory and the

- exclusion of children. *Social Theory and Practice*, 27(2), 231-264.
- Leiter, V., Lutzy McDonald, J. & Jacobson, H.T. (2006). Challenges to children's independent citizenship. *Childhood*, 13(1), 11-27.
- Lewis, T.E., (2006). The school as an exceptional space: rethinking education from the perspective of the biopedagogical. *Educational Theory*, 56(2), 159-176.
- Ma, C.Q & Huebner, E.S. (2008). Attachment relationships and adolescents' life satisfaction: some relationships matter more to girls than to boys. *Psychology in the Schools*, 45(2), 177-190.
- Mac Naughton, G., Hughes, P. & Smith, K. (2007). Early childhood professionals and children's rights: tensions and possibilities around the United Nations General Comment No. 7 on children's rights. *International Journal of Early Years Education*, 15(2), 161-170.
- Madden-Derdich, D.A. & Leonard, S.A. (2002). Shared experiences, unique realities: Formerly married mother's and father's perceptions of parenting and custody after divorce. *Family Relations*, 51, 37-45.
- Madigan, S., Moran, G., Schuengel, C., Pederson, D.R. & Otten, R. (2007). Unresolved maternal attachment representations, disrupted maternal behaviour and disorganized attachment in infancy: links to toddler behavior problems. *Journal of Child Psychology and Psychiatry*, 48(10), 1042-1050.
- Mantle, G., Leslie, J., Parsons, S., Plenty, J. & Shaffer, R. (2006). Establishing children's wishes and feelings for family court reports. The significance attached to the age of the child. *Childhood*, 13(4), 499-518.
- Marshall, T.H. (1963). *Sociology at the Crossroads and other essays* (chapter 4). Toronto: Heinemann
- Mayall, B. (2000). The sociology of childhood in relation to children's rights. *The International Journal of Children's Rights*, 8, 243-259.
- McKie, D.C., Prentice, B. & Reed, P. (1983). *Divorce: Law and the family in Canada*. Ottawa, Canada: Minister of Supply and Services Canada.
- Millar, P. (2001). Custody Statistics for Canada retrieved December 12, 2007 from <http://fathersforlife.org/millar/custody.htm>
- Miller, K. (2003). Fifty years of 'Maternal Deprivation' reassessed. Retrieved November, 24, 2005, from <http://mens-network.org/maternaldepriv.html>
- Moosa-Mitha, M. (2005). A difference-centred alternative to theorization of children's

- citizenship rights. *Citizenship Studies*, 9(4), 369-388.
- Moxnes, K. (2003). Risk factors in divorce: perceptions by the children involved. *Childhood*, 10(2), 131-146.
- O'Connor, E. & McCartney, K. (2007). Attachment and cognitive skills: an investigation of mediating mechanisms. *Journal of Applied Developmental Psychology*, 28, 458-476.
- Ontario Association of Family Mediators, (2007). Retrieved August 15, 2007 from <http://www.oafm.on.ca/>
- Parkinson, P. & Cashmore, J. (2007). Judicial conversations with children in parenting disputes; the views of Australian judges. *International Journal of Law, Policy and the Family*, 21, 160-189.
- Parkinson, P., Cashmore, J. & Single, J. (2005). Adolescents' views on the fairness of parenting and financial arrangements after separation. *Family Court Review*, 43(3), 429-444.
- Pavlich, G. (1996). The power of community mediation: government and formation of self-identity. *Law and Society Review*, 30(4), 707-733.
- Pearson, L. & Gallaway, R. (1998). *For the Sake of the Children*. Retrieved November 8, 2005 from <http://www.parl.gc.ca/InfoComDoc/36/1/SJCA/Studies/Reports/sjcarp02-e.htm>
- Prout, A. (2000). Children's participation: Control and self-realisation in British late modernity. *Children & Society*, 14, 304-315.
- Pupavac, V. (2001). Misanthropy without borders: the international children's rights regime. *Disasters*, 25(2), 95-112.
- Qvortrup, J. (2001). Childhood as a social phenomenon revisited (Chapter 10). In Manuela du Bois-Reymond, Heinz Sünker & Heinz-Hermann Krüger's (Eds.) *Childhood in Europe*. New York: Peter Lang.
- Roche, J. (1999). Children: Rights, participation and citizenship. *Childhood*, 6(4), 475-493.
- Roose, R. & Bouverne-De Bie, M. (2007). Do children have rights or do their rights have to be realised? The United Nations Convention on the Rights of the Child as a frame of reference for pedagogical action. *Journal of Philosophy of Education*, 41(3), 431-443.
- Roose, R. & De Bie, M. (2007). Children's rights: a challenge for social work.

- International Social Work*, 51(1), 37-46.
- Rosen, R. (1979). Some crucial issues concerning children of divorce. *Journal of Divorce*, 3(1), 19-25.
- Rowlands, P. (1973). *Children Apart: problems of early separation from parents*. London: J.M. Dent & Sons Ltd.
- Saunders, B.J. & Goddard, C. (2001). The textual abuse of childhood in the English-speaking world: the contribution of language to the denial of children's rights. *Childhood*, 8(4), 443-462.
- Seaford, H. (2001). Children and childhood: perceptions and realities. *The Political Quarterly*, 72(4), 454-465.
- Smith, A.B., Taylor, N.J. & Tapp, P. (2003). Rethinking children's involvement in decision-making after parental divorce. *Childhood*, 10(2), 201-216.
- Statistics Canada, (2004). The Daily, Tuesday May 4, 2004 retrieved November 12, 2007 from <http://www.statcan.ca/Daily?English?040504/d040504a.htm>
- Statistics Canada, 2001 Census. Retrieved November, 23, 2005, from <http://www12.statcan.ca/english/census01/Products/Analytic/companion/paid/pdf/96F0030XIE2001009.pdf>
- Strauss, A. & Corbin, J. (1998). *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (2<sup>nd</sup> ed.). Thousand Oaks, California: Sage Publications
- Talfourd, Lord (1839). 2 & 3 *Victoria*, C 54, pg 343-344.
- Teeple, G. (2005). *The Riddle of Human Rights*. New York: Humanity Books.
- United Nations (1990). *Convention on the Rights of the Child*. Retrieved November 12, 2006 from <http://www.unicef.org/crc>.
- Walker, S. (2001). Consulting with children and young people. *The International Journal of Children's Rights*, 9, 45-56.
- Wallerstein, J.S. & Lewis, J. (1998). The long-term impact of divorce on children: a first report from a 25-year study. *Family and Conciliation Courts Review*, 36(1), 368-383.
- Warshak, R.A. (2003). Payoffs and pitfalls of listening to children. *Family Relations*, 52(4), 373-384.

White, J.M. & Klein, D.M. (2002). *Family Theories* (2<sup>nd</sup> ed.). Thousand Oaks: Sage.

## VITA AUCTORIS

NAME: Dawne A. Martens

PLACE OF BIRTH Windsor, Ontario

YEAR OF BIRTH 1956

EDUCATION Belle River District High School, Belle River  
1970-1974  
University of Windsor, Windsor, Ontario  
2002-2006 B.A.  
University of Windsor, Windsor, Ontario  
2006-2008 M.A.