



LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

Third Session, 42nd Parliament

REPORT OF PROCEEDINGS
(HANSARD)

SELECT STANDING COMMITTEE ON
CHILDREN AND YOUTH

Victoria
Friday, November 4, 2022
Issue No. 16

KELLI PADDON, MLA, CHAIR

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MEMBERSHIP
Children and Youth

Chair: Kelli Paddon (Chilliwack-Kent, BC NDP)

Deputy Chair: Mike Bernier (Peace River South, BC Liberal Party)

Members: Susie Chant (North Vancouver–Seymour, BC NDP)
Fin Donnelly (Coquitlam–Burke Mountain, BC NDP)
Karin Kirkpatrick (West Vancouver–Capilano, BC Liberal Party)
Norm Letnick (Kelowna–Lake Country, BC Liberal Party)
Andrew Mercier (Langley, BC NDP)
Jennifer Rice (North Coast, BC NDP)
Henry Yao (Richmond South Centre, BC NDP)

Clerk: Karan Riarh

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LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

MINUTES

Select Standing Committee on Children and Youth

Friday, November 4, 2022
8:30 a.m.

Douglas Fir Committee Room (Room 226)
Parliament Buildings, Victoria, B.C.

Present: Kelli Paddon, MLA (Chair); Mike Bernier, MLA (Deputy Chair); Susie Chant, MLA;
Karin Kirkpatrick, MLA; Norm Letnick, MLA; Andrew Mercier, MLA; Jennifer Rice, MLA; Henry Yao, MLA

Unavoidably Absent: Fin Donnelly, MLA

1. The Chair called the Committee to order at 8:33 a.m.
2. Opening remarks by Kelli Paddon, MLA, Chair, Select Standing Committee on Children and Youth.
3. Pursuant to its terms of reference, the Committee continued its statutory review of the *Representative for Children and Youth Act*.
4. The following witnesses appeared before the Committee and answered questions:

Indigenous Child and Family Services Directors
 - Mary Teegee, Chair
 - Joan Conlon, Manager, Prevention Services, Carrier Sekani Family Services
 - Emma Conlon, Law Student, Indigenous Law Program, University of VictoriaBCEdAccess Society
 - Tracy Humphreys, Executive DirectorOffice of the Human Rights Commissioner
 - Kasari Govender, Human Rights Commissioner
5. The Committee recessed from 9:48 a.m. to 10:20 a.m.
6. The following witness appeared before the Committee and answered questions:

Island Health
 - Tanis Evans, Director, Child, Youth, and Family, Mental Health and Substance Use Services
7. The Committee recessed from 10:28 a.m. to 10:34 a.m.
8. The following witness appeared before the Committee and answered questions:

Adoptive Families Association of BC
 - Dr. Joanne Baker, Director, Programs and Services
9. The Committee recessed from 10:39 a.m. to 10:46 a.m.

10. The following witnesses appeared before the Committee and answered questions:

Public Guardian and Trustee of British Columbia

- Dana Kingsbury, Public Guardian and Trustee
- Dan Orsetti, Deputy Public Guardian and Trustee
- Sunny Virk, Executive Director, Child and Youth Services

11. The Committee recessed from 11:04 a.m. to 12:45 p.m.

12. The following witnesses appeared before the Committee and answered questions:

Community Living BC

- Ross Chilton, Chief Executive Officer
- Stephen Hall, Acting Executive Director, Quality Assurance

13. The Committee recessed from 1:02 p.m. to 1:16 p.m.

14. The following witnesses appeared before the Committee and answered questions:

Inclusion BC

- Dr. Erika Cedillo, Director, Public Policy and Programs

BC Complex Kids Society

- Brenda Lenahan, Founder and Director

15. The Committee recessed from 1:45 p.m. to 2:29 p.m.

16. The following witnesses appeared before the Committee and answered questions:

Union of BC Indian Chiefs

- Chief Don Tom, Vice President
- Cheyenne Arnold-Cunningham, Junior In-House Counsel

Society for Children and Youth of BC

- Stephanie Howell, Executive Director
- Suzette Narbonne, Managing Child and Youth Lawyer

Native Courtworker and Counselling Association of BC

- Kim-Marie Rumley, Acting Director, Court Services

Office of the Representative for Children and Youth

- Dr. Jennifer Charlesworth, Representative for Children and Youth
- Alan Markwart, Executive Lead, Legislation and Special Initiatives
- David Loukidelis, Legal Counsel

17. The Committee adjourned to the call of the Chair at 4:30 p.m.

Kelli Paddon, MLA
Chair

Karan Riarh
Committee Clerk

FRIDAY, NOVEMBER 4, 2022

The committee met at 8:33 a.m.

[K. Paddon in the chair.]

K. Paddon (Chair): Good morning, everyone. My name is Kelli Paddon. I'm the MLA for Chilliwack-Kent and the Chair of the Select Standing Committee on Children and Youth.

I would like to acknowledge that we are meeting today on the traditional territories of the Ləkʷəŋjɪnəŋ people, known as the Songhees and Esquimalt Nations.

While the committee is meeting in Victoria today, we will have a number of virtual presentations, so I encourage everyone participating virtually to consider the Indigenous connections to the land where you are located.

One of the roles of our committee is to review the Representative for Children and Youth Act, which sets out the mandate for the Representative for Children and Youth. This past summer, the committee accepted written submissions for this review. Today we will be meeting with the organizations who made these submissions.

I also want to take a moment to mention that the committee is currently seeking additional input by way of a survey. We encourage anyone who has feedback to share on the roles and responsibilities of the representative to share their views by November 30. The survey is available on our website at www.leg.bc.ca/cmt/cay.

[8:35 a.m.]

For today's meeting, each presenter will have ten minutes for their presentation, followed by 20 minutes for questions from the committee members. At the end of our meeting, we will hear a final presentation from the representative, Dr. Jennifer Charlesworth, who I see joining us in the gallery, along with her staff.

I'll now ask the committee members to introduce themselves, starting with our Deputy Chair.

M. Bernier (Deputy Chair): Good morning. I'm Mike Bernier. I'm the MLA for Peace River South and the Deputy Chair. Thank you for being here.

K. Kirkpatrick: I am Karin Kirkpatrick. I'm the MLA for West Vancouver-Capilano.

N. Letnick: Good morning. Norm Letnick, Kelowna-Lake Country.

H. Yao: Henry Yao, MLA for Richmond South Centre.

A. Mercier: Andrew Mercier, Langley.

S. Chant: Susie Chant, North Vancouver-Seymour.

K. Paddon (Chair): We will also be joined by Jennifer Rice.

Assisting the committee today are Karan Riarh, Lisa Hill, Mary Heeg and Jianding Bai from the Parliamentary Committees Office, and our thanks to Hansard Services for recording and transcribing today's meeting.

Our first presenter today is from the Indigenous Child and Family Services Directors. It's Mary Teegee, who is the chair; Joan Conlon, manager, prevention services, Carrier-Sekani Family Services; Emma Conlon, law student, Indigenous law program, University of Victoria.

M. Teegee: Good morning. With your indulgence, because I will be speaking about our most sacred resource, our children, I would like to open up with a prayer. Joanie Conlon will be doing that.

J. Conlon: Grandmothers, grandfathers, ancestors, we ask that you come into the room as we talk about our most sacred, precious resource, our children and our families that we serve every day. That we go as helpers in the community to be with them, to walk alongside them during their healing, their reclaiming, their rebuilding.

We ask that you come into the room, help us have meaningful conversation so that we can hear the things that need to be heard, say the things that need to be said, but most importantly, do the things that need to be done.

We want to thank you for life-giving water, our mountains, our trees, our resources, our children; the two-legged, the four-legged, the winged, the crawling. We ask that you wrap your arms of love around us so that we can have meaningful, deep, profound conversations about our most precious resource, our children.

[Dakelh was spoken.]

Presentations on Statutory Review of Representative for Children and Youth Act

INDIGENOUS CHILD AND FAMILY SERVICES DIRECTORS

M. Teegee: Good morning. I'm Mary Teegee. I am Gitxsan and Carrier. I come from Takla Nation. I am Lax Gibuu clan, Wolf clan, and I hold the hereditary name of Maaxswxw Gibuu, which is White Wolf. I come from the House of Nyguup. That's who I am.

What I do is I am the executive director of child and family services for Carrier-Sekani Family Services. I also am the president of the B.C. Aboriginal Child Care Society. I also am the British Columbia representative on the First Nations Caring Society, of course, led by the indomitable Cindy Blackstock. I am the B.C. representative on the national advisory committee on child and family services long-term reform.

I'm just really honoured to be speaking to you today in my capacity as the chair of the Indigenous Child and Fam-

ily Services Directors society. My law, my protocol, dictates that I must acknowledge the Ləkʷəŋjínəŋ people — the Esquimalt, the Songhees and the W̱SÁNEĆ.

I'm really honoured to be here. I'll just tell you a little bit about our society, the Indigenous Child and Family Services Society. We were the First Nations Directors Forum, and we're comprised of all 24 delegated agencies across British Columbia. We work to advocate for change, systemic changes, to practice, to policy, to legislation and funding to ensure that the best interests of an Indigenous child are met.

[8:40 a.m.]

We were very supportive of the RCY office coming to fruition, especially for us in the North. So as executive director for Child and Family Services at Carrier-Sekani... We're one of the largest agencies in Canada, one of the largest agencies in B.C. We've sort of been the voice, in many cases, for the North, because that is often a forgotten place.

You have to remember a long time ago, when there was a Children's Commission and then that was disbanded and how really the voices, I would say, of our children, our most marginalized, became silent. For all of us it was important that a new voice, a new entity, would be developed, so we ended up with a Representative of Child and Youth.

Because of the rates of Indigenous children in care in the North was the highest — at the time, it was between 54 to 56 percent — I advocated that the office for the advocacy be based in the North, so we do have an office in Prince George. At the time, I know that we really had hoped that we would have an Indigenous lawyer that ended up being the Representative for Children and Youth, and we know how that turned out.

Anyway, so we proceed. Here we are on this day. The Indigenous Child and Family Services Directors forum has worked for over 30 years providing culturally relevant services to our children, youth and families. Our work has been consistently constrained by discriminatory underfunding and colonial policies and legislation. The RCY really brings a lot of these issues to the light.

I've always said this, and I always state — you'll hear me state it again and again — that in order for us to move forward, we have to be really clear about what the problems and the challenges and the issues are in such a complex field as child welfare, especially with Indigenous people. We know that the rates of children in care are so high because of the direct impacts of residential schools. So when you're looking at solutions, you're not just looking at a system of child welfare in a silo. You have to look at it as broader. You have to look at the child as a whole, the community as a whole.

When we look at overcoming those impacts of residential school, we don't just look at the Indigenous people. We have to look at all Canadians. Everyone, every citizen. That

you bring your best minds forward as a father, as a mother, as an auntie, as an uncle, as a grandparent to make sure that we are taking care of children, all children. It's really important that we understand the problems.

I think this is where the RCY has come in, and we look to their reports, and we look to their recommendations often because we really need to know what's going on in our communities. I think the most important part is that the RCY gives voice to our children that no longer have a voice. When I say that, those are the ones that died in care, and those are, I think, some of the most important voices that we need to heed.

Some of the reports that were significant and, before I proceed again, I really must acknowledge Dr. Jennifer Charlesworth and her staff for the commendable, amazing amount of work that they have undertaken. Also her predecessor, RCY Bernard, for the work that he started. Those reports have been invaluable to us for the movement.

Again, we know what the issues are. There are really good recommendations in these reports. Unfortunately, I would say that MCFD has been remiss to implement those recommendations. In fact, what the matter of course has always been is that the recommendations that are easiest to attain, they will do. But the ones that actually need to be done or undertaken haven't been done. So the advocacy work is really important to identify those priorities for our people.

One of the reports that have been conducted more recently is *At a Crossroads: The Roadmap from Fiscal Discrimination to Equity in Indigenous Child Welfare*. We have been saying this, I have been saying this, since the beginning. The discriminatory funding that has impacted our children and our families has led to the break down and has severed those connections to community. We need to consider those funding practices that look at need that actually have outcomes.

I think the *At a Crossroads* really shows the glaring mistakes and errors and omissions in processes and funding systems that should be in place to ensure that the needs of our children are being met. We have years and years of research that shows the underfunding. I will remind you that we did go to court. When I say "we," that's the First Nations Caring Society along with the AFN back in 2006-2007. We won that funding against the federal government. There was no funding at the time for on-reserve prevention services. There was funding off-reserve for prevention services.

[8:45 a.m.]

When we went to court, it was 2016. We won that Canadian Human Rights Tribunal orders where it showed that Canada was in fact discriminatory.

We're in a situation here in British Columbia where that is the case again, that children that are living off reserve are now in a situation where they are being discriminated. There is no substantive equality in British Columbia for our children. There are the haves and the have-nots.

Because of the work that we did at the society, and because we won that court case and because of the CHRT orders, there are prevention services in community now. We never had that before. That money just started rolling out in 2018. So we won the court.... In 2016 we had to take Canada back to court.

The implications in B.C. are because the federal government also provides money to the province of B.C. to administer child and family services. So right now the government, I would say, is.... Right now there is inequitable funding. We have filed a notice of civil claim to ensure that discrimination and to try to get substantive equality with the province of British Columbia. I just needed to let you know that.

This *At the Crossroads* — there are good recommendations in there so that there isn't that substantive inequity in B.C. Simple things like implementing the CHRT orders. Of course, there are three principles within the CHRT orders. One is that discrimination ends, second is that discrimination will never happen again, and third is that there would be compensation for the victims. That's what we're working on right now — long-term reform at the national level.

I am on the negotiating committee for the final settlement agreement. Definitely there is room there for information, and there's room there, I believe, right now, for the province of B.C. to step up and to start looking at the recommendations in the report.

I will also talk about a report that was done before. When we think about the importance of the reports that influence us, we also have the other reports like *Skye's Legacy: A Focus on Belonging*. This really highlighted the multiple ways in which MCFD service delivery failed to support and in fact severs the connections to family, community and culture that our Indigenous children so desperately need. And that report — I really recommend that if you haven't read it, read it. It's heartbreaking.

We also have another report that the RCY completed. It's called *Excluded: Increasing Understanding, Support and Inclusion for Children with FASD and Their Families*. It revealed huge inequities in the services available to children with FASD. It also really highlighted the structural racism that blames and stigmatizes mothers and skews the referral process for Indigenous children toward an assessment of FASD.

Again, this is a long, ongoing issue of our communities, and really, when we look at the issue of FASD over the years and looking to advocate for services, especially in the North, there has been, really, that stigmatization and almost blaming, and it's a really negative space to be in. Really, that report, again, provides really good recommendations of how we could do that work respectfully and understanding, again, an impact of residential school.

A Parent's Duty: Government's Obligation to Youth Transitioning into Adulthood describes the very scary experiences of young people when they're aging out. We

know that Indigenous children coming out of care are disproportionately at risk of homelessness, addictions, involvement in the justice system, lower education levels, reduced earning potential and poor mental health. In this report, we show that a disproportionate amount of these children are predominantly Indigenous.

I think, in this case, when you think about the actual realities.... One of my relatives, years ago.... He was, I think, 21 years old. I contacted him in jail, and I contacted him because I was doing the advocacy to get HIV/AIDS and hepatitis C supports in the North. And that came on a.... We did research called the Cedar project, which some of you may have heard of, which looked at the rates of HIV/AIDS of Indigenous children and Indigenous youth in Prince George, comparing it to Vancouver.

[8:50 a.m.]

We had thought at that time that the rates, of course, would be higher in Vancouver. What we found, in fact, was that Vancouver and Prince George Indigenous youth had the same rates of HIV/AIDS. What was startling was that the hepatitis C rate in Prince George was significantly higher. Of course, hepatitis C is a harbinger of doom. You know that if you have hepatitis C, you're going to have HIV/AIDS. That's going to correlate.

The reason I bring that up is because the one young man that I talked to one — 21 years old, one of my relatives.... His parents had gone to residential school. They had five children, a set of twins. They did really well, but then they broke down a little bit, drank a little bit, but they had their children with families.

What ended up happening is a plane came into my community and took all those children. They placed them all over Prince George and actually separated the twins.

This is one of the young men that had been placed in many, many different foster homes. At that time, my family, my parents, advocated for that couple to get their children back, because they had long quit drinking. He was working, long quit drinking. They never got the children back.

By the time I talked to him, he was 21 years old. He was already HIV-positive, and he said to me.... I said: "Well, you know...." He goes: "I'm doing this. I'm going to keep talking as long as I can." He said: "Because what happened to me is that I ended up in care, and when I grew up, I turned 19. My foster parents didn't want me, and I went back to my community. I didn't know them, and they didn't know me, and I felt unwanted. What happened is I went to the streets of Prince George, and my family became the homeless, the drug sellers, the streetworkers. That's who my family became. So it's no wonder I am here, HIV/AIDS-positive."

He said to me: "I want to do this. I want to talk so that this never happens again to anybody, especially my young brother." He died two years later from HIV complications. You see the need for the connection. You need to see that every child's voice matters.

We also have another study called *Left Out: Children and Youth with Special Needs in the Pandemic*. It describes how children and families were already struggling before the pandemic and then how.... Of course, COVID had really exacerbated those situations. The pandemic brought greater urgency to the lack of services for children and youth with special needs, but these aren't new problems. They have been brought to government's attention many times and by many, many different stakeholders — most recently in a report on the mental health outcomes of children in care.

The representative was very clear, in her assessment, that the mental health needs of children in care are not adequately addressed and are often not addressed at all. There is a general lack of service, and specifically, there is a near absence of culturally relevant mental health care for Indigenous children and youth.

We provided some information to that report at the Indigenous Child and Family Services Directors forum. We have our policy people, and we did a beautiful framework for Indigenous youth mental health called *Culture Is Healing*. I strongly recommend that everybody read that as well.

There was a quote from Samantha Power that says: "All advocacy, at its core, is an exercise in empathy." That's so true.

The RCY plays a very clear and valuable role. We always need to have a Dr. Jennifer Charlesworth in some capacity. I would suggest, actually, that the role be expanded to provide for even more advocacy for Indigenous children and youth. The representative's role also should include oversight of B.C.'s implementation of the Declaration on the Rights of Indigenous Peoples Act as it pertains to children and youth. The goals of DRIPA are well aligned with the RCY's advocacy.

Accordingly, the RCY Act should also include an actual reference to the United Nations declaration on the rights of Indigenous peoples. We also have to think about this new era in child and family services, where we have federal enabling legislation, C-92. We also have the more recent Bill 38 from the province.

This is a new era. The jurisdiction is going to be reassumed where it always rightfully belonged, with our nations. I always say.... We've always had the inherent right to take care of our children. We've always had the inherent jurisdiction. What we haven't had are the resources to breathe life into our own laws. When you look at "jurisdiction" in its simplest form, its simplest definition, it's just a simple.... It's the ability to make decisions.

[8:55 a.m.]

We can make those decisions, but we also need to have the resources to go along and to fulfil those family plans that we create. Right now that isn't happening. As long as there's a substantive inequity, we're going to need an advocate. We're going to need that voice. Oftentimes that is the only voice that government and the public will hear.

When we go forward, we need to contemplate a continuing or a refreshed role for the RCY, among whose children, whose nations resume jurisdiction over child and family services in this new opportunity, the opportunity to really see.... How can the advocate's office help and make sure that the children, regardless of where they're at, have a voice.

I really am honoured to be here. It's such an important office. It's such an important initiative and such an important way forward that really speaks to reconciliation. The word has become almost trite, when we talk about reconciliation, I find. We always say that there's no reconciliation with no action, and I think the actionable piece here is to really consider the recommendations that I've brought forward to you and the ongoing support that we have for the RCY office.

Martin Luther King said: "Our lives begin to end the day we become silent about things that matter." We say in Canada and in British Columbia that every child matters. I would add that every child's voice matters. This is why I support, in total, the continuation of the RCY office.

Musi.

K. Paddon (Chair): Thank you so much for that.

I'm going to open it up to questions now. We'll start with Norm.

N. Letnick: Thank you very much for the presentation and all the work behind the scenes that went into making that presentation. It was excellent. I learned a lot listening to it.

You mentioned Bill 38. You also mentioned resources that go along with making sure we achieve success. Could you expand on that a little bit? Are we talking resources per child, resources per family? Are we talking resources to the whole community or communities? What specific action does government need to take to make sure that this initiative, this change, is successful for the children?

M. Teegee: I think that was a failing within the system. You're just looking at what the child needs. The child belongs to a family, belongs to a clan, belongs to a nation. You need to look at prevention in that scope.

When you look at Bill 38, there is no principle of substantive equality, and that needs to occur.

You can learn a lot from the federal government when you.... And I say this. You have to look at the Canadian Human Rights Tribunal orders. What happens right now with funding within the child and family realm is that maintenance is covered. If it costs \$100,000 to keep a child in care, that's what you pay for. Prevention in B.C. right now isn't covered to the extent that it should be.

I'll give you an example of this gross discrimination. I had a grandma that wanted to move home to her community so that she could take care of her three grandchildren. That grandma.... We were able, with federal fund-

ing.... She came back on reserve to get her house renovated, all the furniture she needed, food that she needed for the kids, classes, assessments for those kids. We were able to do that.

Not even six months later I get a call from a grandmother who lives in the urban setting. She had her three grandchildren, working with the ministry. In that six months, grandma, who's on a pension.... The reason she had called me is because she wanted her grandchild to be able to go on a school trip, and his snow pants didn't fit. They didn't have enough groceries sometimes for them to have lunch. The ministry worker gave her three gift cards of \$300 each over that six-month period. That's the most obvious discrimination.

When we're looking at Bill 38, the principle at the very forefront should be substantive equity. It's not there. So everything else....

Again, as I said, we have the ability to make decisions. When we make those preventative plans so that children can stay with their families.... That needs to be resourced, and it needs to be needs-based.

Those principles that we have about what prevention is.... Within our definition, at the federal level, the agreement-in-principle, there was the definition of the principle, which is culturally based, holistic and needs-based. That's what prevention is. So you're not just looking at the child. You're looking at where they're coming from, and you're looking to support the parents to keep that child with them.

[9:00 a.m.]

I'll give you another example. Years ago, probably about 16 or 17 years ago, I attended a big meeting talking about child welfare issues. This little, young 12-year-old came up and had a question and just simply asked: "Why is it that you gave money to strangers to take care of me when you couldn't give money to my parents to keep me?" It's as simple as that.

K. Kirkpatrick: Thank you so much for the presentation. I just want to get my head around in terms of what we need to do in the act to be able to have that expanded ability for the representative to oversee DRIPA but also how that connects to Bill 38.

To clarify, when there is jurisdiction within a First Nation now, when that is moved over, the representative's role ends there, because it is under MCFD and it's under government. So there needs to either be.... There needs to be something, some kind of clause or something within the act to allow individual agreements to be entered into with the nations.

I'm not sure you have the exact answer to that, but that's what we're looking for — the ability for the representative to have an agreement outside of the role that she currently has or that the office currently has through MCFD and through government. I shouldn't say MCFD, because I know there are more ministries there.

M. Teegee: We have developed.... I say we, the Carrier-Sekani. We have a jurisdiction framework model. When we were drafting our own laws.... In fact, I was part of the legislative working group at the federal level. I represented B.C. on that. I actually drafted.... Myself and my colleagues from Gowling, Scott Smith and Paul Seaman, along with Representative Denack, actually drafted a federal legislation before C-92 — a federal enabling legislation. So we've thought about this a lot.

I think the ability for nations.... If they so choose that they want to utilize the RCY advocacy, there should be something that allows the RCY to do that. In our act, we contemplate that, absolutely, children and families need a place where they can go when they feel that perhaps, in our governing structure, in our own jurisdiction, in our own law, they may not have a voice. So if that ability to have the RCY say: "Okay, yes. We are in agreement that we're able to provide these services to that nation if they so choose...." That's a simple thing that would need to change.

K. Paddon (Chair): Thank you so much for that. I'm going to ask a question that kind of piggybacks on that, and then Susie has a question for you as well.

In your recommendations.... Taking a look at the recommendation that would include oversight for components of the DRIPA action plan, I'm wondering if you could expand just a little bit on what that looks like. Are you talking about oversight and accountability regarding recommendations made based on that? Or is there something more specific that you're envisioning?

M. Teegee: I think there are two things here. First of all, DRIPA does not go far enough or even into Indigenous child and family services. It's quite silent on that, so that needs to be overhauled, I believe. There need to be clearer action items on that that are embedded in there.

I think there are certain things that — really, when you look at those action items — you're going to expand. Because we definitely.... I believe there just wasn't enough in there. UNDRIP, the declaration on the rights of Indigenous peoples, talks a lot about the rights for the children, so looking at children's rights. So if you're thinking about the rights of Indigenous people, we also have to look at the rights of the Indigenous child and to look at it from that lens. I think that's where the representative's office would be quite useful, quite helpful.

S. Chant: I'd like to go back to the huge discrepancy between children that are on their own territory and children that are in the urban environment in terms of the role and the framework of the child and youth advocate and the legislation around that. Where do you see that piece in terms of looking at that significant discrepancy? Where do you see their role in terms of oversight of that, perhaps?

M. Teegee: Yeah. I think, again, that's a good question

to ask. It's a good question for us to contemplate, especially with the practitioners in the Indigenous child and family service forum.

[9:05 a.m.]

When we look at *At a Crossroads: The Roadmap from Fiscal Discrimination to Equity in Indigenous Child Welfare*, there are very sound recommendations in that. I think that's where we start. I think you need to look at that report but, at the same time, as I say, to look at the Canadian Human Rights Tribunal orders — to look at that and say: "Okay, B.C. can emulate that."

I think the RCY would absolutely have a role in oversight of those outcomes. We need to figure out.... We have to be accountable to that. I think when you look at British Columbia, when the federal C-92....

When there was a resolution at the AFN to co-develop federal enabling legislation for us to assume jurisdiction of child welfare, within about a week, I met with the minister, Katrine Conroy and deputy minister at the time to say you need to harmonize B.C.'s legislation with whatever comes out. Of course, it's C-92.

Now, one of the things C-92 is falling far short on is that there is not a funding component. I think B.C. can do much better, because you're going to have to, because you are in a libellous situation. As I said, we've submitted a notice of civil claim in May because of that discrimination. So there has to be oversight.

Most of the reports — well, all of the reports — that I've been reviewing again over the last few weeks.... You'll see there's always really strong recommended steps around funding to resource those underserved areas. There are ways that we can do it. There are ways that do not cost as much money, I think. It's just to be innovative and to break out of the silos and to look at the issue really holistically. I'll give you a good example of how you can do this.

In the North, as the B.C. Aboriginal Child Care Society president, we undertook a research project. I got \$50,000 from MCFD — begged, borrowed and stole that money. We did a research project to show early childhood services, because I've been at meetings where not only Indigenous but non-Indigenous people in the North have no services. We don't have, for example a clinical psychiatrist in the North. What we did is they said: "Okay, well, we found, in certain areas where there wasn't a lack of services, there were no services."

What we did is we became innovative, and we said: "Well, we're never going to get the money we need to hire all these people." So what we did is we developed the Best Beginnings outreach program, the BBOP program. It's a bus that goes to our underserved communities. We provide services sometimes, to non-Indigenous. We don't have a speech pathologist, for example, that goes to my community. We have a resource bus. We have a resource worker.

What we have the ability to do at Carrier-Sekani is we have the best telehealth health system in Canada, so we're

able to have that consultation with clinical supervisors that want to live in Vancouver or Victoria and provide that support to the North. That doesn't cost that much money. We're still, again — that program is always in deficit. We're always in deficit. Everything to do with MCFD.... We maintain a deficit budget because of that.

There are simple things, I think, that are in those recommendation reports, and when you get to talk to the people on the ground to have those consultations, they say: "What exactly would that look like? What funding do you exactly need?" That's what we've been able to do with federal funding. When we do our business plan and we look at our needs, we have community engagement to say what exactly is going to work in this area, because every child has the right to live up to their full potential. We need to make sure that's the baseline, that's the value and that's the mandate that we all adopt.

Every child has the right to live up to their full potential. What does that look like? They need housing. They need food. They need attachment. They need love. That is how you bring all the ministries together.

K. Paddon (Chair): Thank you so much for answering all of our questions and your submissions and your words today. Very, very valuable to the committee. Seeing no questions, I just want to thank you all for being here today, and I hope to see you again soon.

[9:10 a.m.]

Okay, our next presenter today is Tracy Humphreys, executive director of BCeDAccess Society.

The committee has reviewed your submission. We really appreciate you sending that in and appreciate you coming in for a ten-minute presentation and an opportunity for us to ask you questions.

I'll give you the floor.

BCEDACCESS SOCIETY

T. Humphreys: Thanks very much for inviting me today. It's nice to be able to come and speak in person. You heard my name, and I'm the executive director of the BCeDAccess Society. My pronouns are she and her. I think that everyone is okay, probably, without a self-description, but if you do feel like you need a visual description, let me know. That's something I typically do, but I don't want to take up too much time today.

I do want to just acknowledge and honour that we are joining on the stolen land of the Lekwungen peoples, the Esquimalt and Songhees First Nations. It matters a lot to me, because education, which is kind of our area, is a colonial project. It was designed to exclude. It was designed to divide children from their culture and their language, which is the same.

It was great to see the presentation previously, because I was wondering what kind of feedback you might be getting from Indigenous groups, because I can't say that....

We have Indigenous families, certainly, but I can't say that we can speak and represent that. So I'm glad you have specific representation.

One of the things that we talked about in our submission, briefly, was the need to include the UN convention on the rights of the child, the UN convention on the rights of persons with disabilities and also the UN declaration on the rights of Indigenous peoples, which I notice that the previous speaker touched on, but particularly article 7.2, around forced removal of children; article 14.2, about access to all levels of education without discrimination; and article 22.2, which is protection from violence or discrimination. These all are key points to me.

The act needs to give monitoring and oversight, overall, to all ministries that are serving children, youth and young adults, because children don't live in silos. Children spend 30 percent of their day, when it's a school day, at school — 30 percent. That's a significant amount of time.

It's an equity issue. Gaps in accountability and monitoring are leaving children, youth and their families unsupported, because advocacy just isn't possible for all. Groups like BCEdAccess grew and exist because of that — because there are families who can't do that bottom-up advocacy. We've been an entirely volunteer-run organization for eight years and only just started paying me, as an executive director, in August. That's not a sustainable way to support families.

Human rights violations are common among the families that we serve all over B.C. Accountability, like I said, is bottom up. If you have the capacity, the ability and the privilege to advocate, that's great. If you don't, there are too many kids who are being left out and who are just pushed right out of the education system.

There's no union for children and youth. If there is harm being done in the system to a worker, then it's wonderful that they have protection and that they have a WorkSafe protocol. All of these things are covered. Those are not bad things. But there is nothing equivalent for children, so there is no accountability when those children are harmed or discriminated against.

[9:15 a.m.]

Our exclusion tracker, which is a tracker that we've been running for five years now, online, where we allow families and kids to report their exclusion from education.... That means anything from not being allowed to go to school, not being allowed to go to school full-time, being left out of mainstream education programming, being pulled out and being excluded in many different ways.

What we've really noted.... We did a report, and when I did my submission, it wasn't done yet. Now it's on our website, and I recommend you read it. It's 64 pages. We examine the last four years of data and kind of compare and figure out what's really happening in the system and what really.... The bottom line is we're not seeing changes. We're not seeing improvements.

The reason I talk about this in reference to this act is....

We need the representative to be able to speak to all of these things.

An example is.... There was a child. Their family was working with them. They connected with the Representative for Children and Youth. There were a lot of issues in different systems. They were not getting access to the things they needed, and the family was in crisis. They were able to improve supports within the children and youth with support needs system because they had access to the representative.

It didn't translate into equivalent help in education. I really believe that's largely because that's not necessarily under their mandate. So they're limited in what they can do and say. That's a huge problem.

Education is where many services are offered during the day through interministerial agreement. So everything from those support services for children and youth who need different kinds of.... It's not just educational support that's provided at school. It's mental health supports. It's physical supports. It's interventions and all sorts of things to help that child learn and grow, which they need in all areas of their life, but it intersects in education.

Health responsibilities are transferred to the Ministry of Education, in large part, during the day. For example, nursing support services are something that is received by children and youth at school.

You all may remember, in the news — it was quite big at the beginning of the school year — the seizure plans and how they were on hold. That meant the exclusion of children and youth from school for a month, two months, many of them, while they tried to fix the system and get new things in place instead of them proactively planning. These are all things that are just generally the gaps for kids.

A more positive example is.... There was a child, who we know of, who was living in care, and is still in care, but needed to access school. They somehow got in touch with me, which was great. That's unusual for kids to really directly come to us since we serve and support families. Getting that child into school was the key to them getting access to supports and services, to mental health supports, to medication, to just all kinds of different things that they needed. Also, it brought some oversight to their home situation, making sure that they were safe and cared for.

You can't look at kids as just living in only specific ministries. If we're going to take care of the children in our province, then we need to have someone who has that independent oversight and the monitoring capacity and who is able to speak to that.

One of the things.... Also, an example I really wanted to make note of is.... In the *Left Out* report, there were some references to education that were specific enough. We meet with the Ministry of Education staff monthly and talk about different things. Those are some of the issues that came up. They were issues.... They're pointed out in the report. They come to the staff, and the staff connect

with groups like ours to talk about.... How can we fix this? How can we make change?

It has made change. When they're able to do that, it makes a difference. I think it's really important to understand that it really does make a difference. It's because they're talking about the whole child. The child is at the centre of everything, right? Kids in foster care are not getting support and are ending up spiralling down a really bad path and even dying because of it. If we can't talk about all of the things that impacted that situation.... We have to be able to look at all of it in one piece.

[9:20 a.m.]

I'm sorry. I wasn't totally ready for today. I just made some notes and want to make sure that I'm saying the things that I wanted to say.

I wanted to also mention that in 2017, BCEdAccess and some other grassroots family advocacy groups met with Premier John Horgan and the then Minister of Education, Rob Fleming. This is the issue we raised back then, so this is not new for us in terms of advocacy. We have raised it, I think, almost every year at the budget committee. It's something that BCEdAccess is very passionate about, and it's because children need an advocate.

Children need an advocate who can speak to all areas, an advocate who can address the inequities in the system. There are two parts that I see to this role, and one is helping kids in their situation right now and trying to dig them out of the hole or pull them out of the river. The other side is the ability to make change and the ability to really close those gaps and try to actually improve things for the next kids who are coming down the road.

I don't know how long that was, but I think that's pretty much what I had to say. If you have questions, I'm usually a little better there.

K. Paddon (Chair): I think that was perfect. I think you're pretty much right on the ten minutes.

Are there any questions for Tracy?

K. Kirkpatrick: I like to wait a moment to see if someone else has them.

Tracy, thank you very much. I've heard your presentation in Finance, and I see all the work that you do on this.

Can you give us an example, so we can all see, of why a young person would be denied access to school — it may be that they don't have enough support in the school to be able to work with that young person — or just an example, maybe, of a specific one that you know?

T. Humphreys: I really appreciate the question and the way that you phrased it, because that is.... Generally, people will say it's because of their behaviour, but it's not. Kids come to school the way that they come, and we need to be prepared to educate all students. It's about having the right supports and services in place.

It's also about having the right training for staff. Teach-

ers — we still don't teach them, really, anything about disabilities. I spoke to a UVic class two or three days ago, and at the presentation, I'd say half of them had no idea what an IEP was. They're in second year. That was terrifying to me. That is such an essential document. "I don't know if you know what an IEP is," I said. It's really, really essential, and that teachers don't know, quite early on in their educational experience, what that is, is a huge gap.

Also, standards of practice for education assistants. We have education assistants who do a three-week program before they start working or a two-year program before they start working. No matter how carefully you compare what they're learning, there is no way that they are learning the same things and that they are coming with the same skills, right?

There are a lot of different gaps, and we talk about them all the time, but the reason kids get excluded is because the school is not able to support them. Some of it is funding, is what I hear from districts, that they just don't have enough money to pay for all those supports.

I think that the system is quite underfunded at this point. I'm not disputing that, but I also think it's about choices made by those districts. I think it's a provincial and a district responsibility around that. I think the choices districts make in what programs they do fund and support and what they don't support, which is actually a human right and an obligation, are problematic.

K. Kirkpatrick: A follow-up?

K. Paddon (Chair): Go ahead.

K. Kirkpatrick: Okay. Thanks very much.

Thank you, Tracy. Just so I understand, again, how it relates to the act.... The RCY has oversight if there is a young person in care in the home, but as soon as it crosses over to their being denied access to education, the RCY no longer has the ability to be involved in that? It's almost like it's just half of.... I think you said that 30 percent of a young person's time is in school. So the RCY really only has.... Is it 70 percent?

[9:25 a.m.]

I'm an accountant. I can't do math this morning. So really only has 70 percent of the picture of being able to support the mandate for a young person, if that's what I understand.

T. Humphreys: I can't say that I 100 percent understand the act, either. I did read it, because I wanted to be up to speed. I read the representative's submission, which was very helpful and educational, because I didn't quite understand how their mandate worked. But it's more.... What I noticed is that there's just not specific reference, so that allows leaving things out. It allows it to be ignored by committees like this because it's not under their mandate, technically, and that concerns me greatly.

The other thing is monitoring ability. The ability to educate the public and do that kind of work is really important. There are just a lot of people who don't even know that they exist. I spend a lot of my time referring families to different places in the hope that they can find a path that will help get their kids some support. It's one of the many.... This is what I was thinking about on the way here. Every area is.... There are barriers to accessing that kind of support, that kind of advocacy. So if you fit into the right disability designation, then you can have access to children and youth with support needs services, for example.

When I was 15, I lived on the street for a couple of years, and what got me out of that whole situation was supports and services in the community. If someone had said to me: "We really want to help you, but you don't actually have a diagnosis; you don't actually have the right thing to go this path...." That's what I see everywhere now. I didn't see that at that point. Maybe it existed, and they were just careful to help me get around it, but it's those barriers to even getting in the door that are the big problem.

Then, when we have.... The representative should have a mandate to support everybody, but they have to say: "I'm sorry. We can't help you with these pieces," or "We'll do our best." But they're squeezing it in where they can. It's not helpful to lowering the barriers, and it's not access to those human rights that I talked about at the beginning. They exist, so any time that we're not doing the things we need to do, we're violating those. But it's hard to get justice.

K. Paddon (Chair): Thank you so much for sharing that part of your story, as well, with us so that we can understand the perspective and the inputs into what you're sharing with us today.

I have a question, because I want to be very sure that I'm understanding the intent of your words when you use the word "oversight." I know that you said.... There's a lot. You've described a lot. Are you talking about advocacy? Are you talking about monitoring and reporting? Are you talking about — what's the other section there — the public reports? When you say oversight, what do your words mean there?

T. Humphreys: I guess to be fair, it's not necessarily a legislative term. It's my term. I'm talking about all of them, but I do mean monitoring, because I think that's really a missing piece in that no one is speaking to those gaps. Of course, I mean advocacy. I think advocacy is important. There are people doing it. Like I said, our organization does it. Inclusion B.C. does it. The Family Support Institute does it. I could name probably hundreds of organizations around B.C. that are doing advocacy — individual advocacy and systemic-level advocacy.

Like I said, I've been in this for about nine years, and I haven't seen a lot of movement in children and youth. I haven't seen a lot of movement in education. I see a different attitude. Absolutely. That is a huge, wonderful shift.

I see people who are on board and excited, but I don't see the big change. The thing is.... It's my understanding that legislative advocacy is different from the advocacy that we're doing.

[9:30 a.m.]

That's more what I'm thinking about, that it's a different.... They have a different level of access. They have a different.... It's different when it's in legislation, and it's mandated, from me trying to knock on doors and hopefully someone wants to listen.

J. Rice: Just so I'm clear, I think what you're saying is it's really important to have individual advocacy for what we would call casework, and then it's really important to have someone like the RCY that is flying high above in the sky and looking down with her drone.

T. Humphreys: Yeah, I think so. Speaking from my own perspective, I have seen the representatives try to do that work within the confines of their limitations. It's impressive to see that, but yeah, more freedom to operate around that would be really helpful. We're talking about the most vulnerable kids here, and again, it's just talking about the whole child. Having that child at the centre is really what we're keen on, and recognition that education and health obviously have huge, huge impacts on the development of children and youth. If we don't pull that all under one sort of umbrella, then we're missing the mark.

J. Rice: If I hear right, don't silo out the child. Look at the child from a holistic point of view, whether that's health or education or housing needs or mental health supports. It's just the whole kit and caboodle that should be part of the RCY's mandate.

T. Humphreys: Right, like when a family comes to us and they're struggling with their kids. We have a Facebook group, and it's always been a very active Facebook group. It's all over the province, but the conversations are about action that can be taken about how to support. When we talk about it, we don't just say, "Okay, this is an education advocacy group, so we're only going to talk about education," because we recognize the impact could be....

The challenge might be at school, but it might be related to trauma, which means there's a psychiatry or psychology need that's missing there, or it might be related to the fact that there's just no child care support, so the family can't afford to work. They're living in poverty, and that's just having an impact on their situation at school.

That's what I'm saying. You can't look at a child and just say, "Okay, over here in the Ministry of Children and Family Development, we're doing everything we can," because it's all of the other things that are connected to the child that matter. You have to look at the child in the middle, and all of the ministries have an impact.

J. Rice: So don't house them but not feed them. Do both. Do all of it.

T. Humphreys: That's right. Exactly. Don't take kids away from their families in order to support them. I mean, I can't tell you how many families are offered a care agreement because they are begging for help. That's the answer from the Ministry of Children and Family Development: "Well, we can offer you a care agreement." Then they'll give the money to the foster care family to properly support them, when the support is needed in that home and the crisis would not be there if that support existed in that home. That's not even an option that is available.

K. Paddon (Chair): Thank you so much, Tracy, for sharing today and for clarifying your submission and really just breathing some life and personality into it. That was helpful, for me at least, and I see people nodding, so helpful to others.

There are no further questions. I really appreciate you coming in. We are going to say thank you and see you later to you. We're going to just switch over to our next guest.

T. Humphreys: Thanks for inviting me.

[9:35 a.m.]

K. Paddon (Chair): Our next presenter is from the Office of the Human Rights Commissioner and is coming to us virtually.

Thank you so much, Kasari Govender, for joining us. She's the Human Rights Commissioner.

I will give you the floor.

OFFICE OF THE
HUMAN RIGHTS COMMISSIONER

K. Govender: Thank you very much. Good morning, Chair, Deputy Chair, members of the committee. I very much appreciate the opportunity to join you today and to join you virtually.

Before I continue, I want to acknowledge that I am joining you today from the unceded and traditional homelands of the Coast Salish peoples, including the Musqueam, Squamish and Tsleil-Waututh Nations.

As a descendant of migrants and settlers, I recognize that this gratitude must be coupled with a sense of responsibility to work continuously to repair the harms perpetrated by the colonial state on Indigenous peoples presently and historically. This responsibility is a significant shaping force in how I approach my work as Human Rights Commissioner and how my office approaches our work on human rights. It's really key to the submission I'm here to make before you today.

I am appearing today, in your review of the Representative for Children and Youth Act, to express my support for several of the recommendations included in the submission

from the Representative for Children and Youth. I will speak, first, to the legal significance of international law on domestic law and then turn to the relevance of the specific international laws that I'm proposing, or supporting, that you incorporate into the RCY Act. Finally, I'll speak to the impact of bringing a human rights approach to the work of the RCY.

As the Human Rights Commissioner, my office shares roughly the same legislative structure as the representative's office. Our roles are both set up as independent statutory officers reporting directly to the Legislature, with the ability to hire staff teams to serve our mandates. As noted on the Legislature's website, independent officers play an important role in holding the government accountable.

My mandate is to promote and protect human rights in the province, with a focus on addressing systemic discrimination through education, law and policy reform, public inquiries and other tools. Under my governing legislation, the human rights code, I have the explicit mandate to promote compliance with international human rights law. Hence, my interest in being here before you today.

Canada has ratified several UN conventions that are directly relevant to the work of the representative, many of which have not been incorporated into domestic law by federal or provincial governments. As the representative has argued, referencing these conventions in the RCY Act would visibly and affirmatively reflect both the province's and the representative's commitments to upholding human rights.

I also want to emphasize a point made by the Society for Children and Youth in their submissions. The convention on the rights of the child is the most widely ratified human rights instrument in the world, yet it is not explicitly referenced in any legislation in B.C.

While the Supreme Court of Canada has confirmed that international law, such as the convention on the rights of the child, is an important interpretive aid in the application of domestic law, explicit reference to the RCY Act would elevate the work of the representative and, indeed, their oversight over government action.

Therefore, I urge the committee to adopt the following recommendations of the representative: that the act be amended to require the rep to take into account the UN convention on the rights of the child in carrying out her functions in relation to children and youth, that the act be amended to require the representative to take into account the UN convention on the rights of persons with disabilities in carrying out her functions in relation to young adults who are eligible for CLBC services — I think we had a typo in our letter calling that a declaration; it is a convention on the rights of people with disabilities — and, finally, that the act be amended to require the representative to take into account the United Nations declaration on the rights of Indigenous peoples in carrying out her functions under the act.

While I won't speak more to the application of UNDRIP

in these circumstances, given that I know you have others making those submissions before you, I will just say.... Clearly, the instrument has been brought in from the realm of international law into domestic law through the passing of the Declaration Act.

[9:40 a.m.]

Incorporating UNDRIP into the RCY Act is a necessary element of realizing the government's legal commitment to aligning provincial laws with the declaration.

In addition, all of these human rights instruments are directly relevant to the work of RCY. In the last concluding observations on Canada in 2017, the UN Committee on the Rights of Persons with Disabilities noted its concern with the fact that there were more Indigenous children in the care of child protection services than there ever were in residential schools and urged Canadian governments to prioritize the human rights of children with disabilities in public policies.

In June 2022, the UN committee on the rights of the child issued their concluding observations on the combined fifth and sixth periodic reports of Canada to that committee. In their comments, they noted their focus on independent monitoring of children's rights in the form of provincial and federal children's advocate offices.

The committee also noted that it is deeply concerned about structural discrimination against Indigenous children and urged the government to address racial disparities in access to services. This equity lens is vital to the work of the representative, since we know that children that fall within their mandate and children within the care of the state are highly, disproportionately Indigenous.

While the current representative and her staff are clearly focused on this issue, building the convention on the rights of the child into the institution itself through the act is an important tool to ensure that the focus remains independent of who actually occupies those roles.

It is worth noting that the federal-provincial-territorial forum for ministers on human rights, including B.C.'s Attorney General, has noted that the convention on the rights of the child is its priority in their upcoming meeting in Halifax in the spring of 2023. More broadly, realizing our international commitments requires that we build a new culture of human rights in British Columbia.

While my office works to develop and deliver public information and education on human rights in B.C., change at the societal level requires the engagement of many actors, and we need to work together in partnership to create this change. That means bringing a human rights lens to bear on our public policy concerning our most marginalized and vulnerable citizens, both a human rights-based approach and specific human rights obligations detailed in the three human rights instruments that we've been discussing, alongside their interpretation in international law.

Specifically, a human rights-based approach has five key principles, but I'm going to focus on one, which is the

rule of law. The rule of law, among other things, requires that we don't pick and choose which laws apply at which times to which people. It means that when Canada has signed on to international conventions and, therefore, agreed to be bound by them, all levels of government have an obligation to implement those laws domestically, or we are undermining the rule of law on that global stage.

While human rights are inherent to us as human beings and are fundamental to the role of the state in engaging with us as humans and in protecting our human dignity, it is difficult to imagine a group of people more in need of explicit human rights protections than children, particularly marginalized children who are highly engaged in state systems.

Making the suggested amendments to the RCY Act would be complementary to my office's mandate to promote and protect human rights generally, and particularly to promote compliance with international law, because it would require the representative to apply international human rights law to their specific work under section 6 of the act.

Of course, this includes direct advocacy on behalf of children and youth and young adults to improve their understanding of and access to designated services, and also to conducting independent reviews and investigations into the critical injuries or deaths of children receiving reviewable services.

Also, importantly, it includes legislating the application of a human rights lens to monitoring and reporting publicly on designated services for children and youth. This human rights-based approach to the systemic functions of the representative's office is essential to protecting our most vulnerable citizens and our society's greatest resource, which is young people.

I would also welcome an explicit role for the representative in promoting education and awareness for the rights of children and youth as set out, again, in the convention on the rights of the child.

[9:45 a.m.]

Thank you for your consideration of these amendments. I hope the Legislature will take this opportunity to advance B.C.'s international human rights obligations through proper recognition in domestic law, and I'm happy to answer any questions you may have on those submissions.

K. Paddon (Chair): Thank you so much for that. I appreciated how direct everything was. I have great notes all around your notes.

Are there any questions regarding recommendations of the act?

K. Kirkpatrick: Thank you so much for the presentation. Perhaps I should know the answer to this. But with adding a reference, specifically, to the declarations and conventions within the representative's act, does that align with the legislation for government? In MCFD and Health,

is there already that directive with these specific conventions and declarations so that that's actually aligned, so that their office is not doing one thing that the other office hasn't committed to be doing?

K. Govender: That's a good question. There are different answers, depending a little bit on the different conventions. The short answer is no. These laws have not been explicitly incorporated into the specific statutes that govern the activities that RCY provides some oversight to. Particularly, the convention on the rights of the child has not been incorporated in B.C. law.

There's some complexity to that, because UNDRIP, of course, has a very different status in B.C. and one that is unfolding as we speak in terms of what that means. I think there is a clear obligation, to you as a committee, as you look at revising legislation — this is, I think, across the Legislature — to then incorporate UNDRIP as you go. In fact, we just saw some move towards aligning some laws around child protection with UNDRIP. That is an ongoing process that I think will be reflected here.

What this would require is for her to bring that lens to her work. I will say that while we haven't made commitments, in B.C. law, to the convention on the rights of the child, the only clear directive from the Supreme Court of Canada around international human rights law is to incorporate those principles regardless of whether it's explicit in legislation. That's in the Baker case. Many of the principles in the convention on the rights of the child — including best interests of the children, for example, or centring the views of the child — are explicitly in some of our legislation, if not in reference to the convention.

K. Paddon (Chair): Are there any other questions? No.

Okay, thank you so much. I feel like you've satisfied all in the first go. I appreciate all of your words around the recommendations and the explanations and for taking the time to be with us here today to better inform our deliberations.

K. Govender: Thank you very much. I appreciate the invitation.

K. Paddon (Chair): At this point, the committee will recess until 10:20 to allow us to have a little bit of a break, and we will be coming back at 10:20, very punctually.

The committee recessed from 9:48 a.m. to 10:20 a.m.

[K. Paddon in the chair.]

K. Paddon (Chair): Thank you very much, everyone, for being punctual.

Our next presenter is Vancouver Island Health Authority, the director, child, youth and family, Tanis Evans.

Tanis, I'll go ahead and give you the floor.

ISLAND HEALTH

T. Evans: Good morning, everyone. I wanted to thank you for inviting Island Health to provide a perspective on the Representative for Children and Youth Act.

I want to begin by acknowledging, with respect and gratitude, that I'm speaking to you today from the Łəkʷəŋjɪnəŋ peoples traditional territory, the Songhees and Esquimalt Nations, here on what is colonially known as southern Vancouver Island.

As a representative for Island Health, which serves all of the Island, I also acknowledge the many nations within Vancouver Island's First Nations families of the Coast Salish, the Nuchatlaht and Kwakwaka'wakw peoples, who have cared for and nurtured this land for time immemorial. I also recognize the Métis, Inuit and other Indigenous peoples here on Vancouver Island.

As I was introduced, my name is Tanis Evans, and I'm the director for the child, youth and family mental health and substance use services here on Vancouver Island. I've worked in the field of child and youth mental health for, shall we say, a very long time. We don't want to give too many secrets away. I've worked here on the Island, and I've also worked in several of the other health authorities, always in a role of child and youth mental health.

The Office of the Representative for Children and Youth is a critical office, providing important services for children and youth, particularly to the vulnerable and at-risk children and youth, in the province of B.C.

I want to acknowledge that I do not have any significant additional information to provide or put forward here today, beyond what Island Health submitted to this committee in writing this past summer. I do want to reiterate that, as an organization, we have no concerns with the RCY Act. In particular, we have no concerns with the functions outlined in section 6 of the RCY Act. This section is still applicable and should remain intact, in our opinion.

We are especially pleased to see the act's inclusion of young adults eligible to receive community living supports under the Community Living Authority Act or who have received a reviewable service as a child. This population, in particular, struggles with the transition to the adult system of care, and this bridging is very important to ensure seamless, supportive and capacity-building services.

The RCY Act serves the population we work with extensively in Island Health's child and youth mental health services. We regularly see the benefits when youth and families are able to access the support and advocacy of the RCY office. There have been many occasions where the RCY has participated in case conferencing family meetings and really supported families to be active and engaged participants in what is often a really complex and, at times, confusing system of care.

The benefit and the importance of the office is especially

notable for children and youth with multiple systems involved in their care or if they're transitioning across the age span, so from youth to young adults, or when supports involve those youth and families receiving support under the community living model.

[10:25 a.m.]

The more complex the network of care, the more valuable the role of RCY in supporting youth and families. We've seen the benefit of the RCY and are in full support of the continuation.

We've also experienced many collaborative partnerships with the office as they embark on new work. The most recent example has been our work with the RCY involved in the critical injury and death reporting criteria. A challenging process. The engagement with the RCY was very.... We were very grateful to be able to participate.

We also want to acknowledge that the RCY, in its report, sometimes points out opportunities where the health system can make improvements or where our systems and processes may have been a barrier for a child or a youth or a family seeking services. While this feedback is difficult for our organization and for the staff and physicians who work so hard to do their very best to meet people's needs.... This feedback is what helps us move forward with improvements in the services that we provide and, in that, is invaluable for our organization.

That's really all I wanted to share today. I'm happy to take any questions that there may be.

K. Paddon (Chair): Thank you for that.
There is a question from Susie.

S. Chant: Hi there, Tanis. I think you and I may have crossed.... Were you working for Vancouver Coastal and housed out of Lions Gate at one point?

T. Evans: I was. Oh, I know who you are. Yes, I do. I don't say that in a bad way at all. Even in this environment, when you've been around for a long time, there's always somebody you know.

S. Chant: Absolutely, yes. I'm now representing North Vancouver–Seymour as their MLA. Lord help them.

Anyway, moving right along. What I'm hearing from you is.... I just want to explore that a little bit more. Certainly, the current framework of the child and youth advocate gives feedback to the government through a reporting structure and recommendations. What I'm hearing is a direct sort of access, perhaps, to the health authorities — I'm going to say authorities, with an "s" — to be able to give direct feedback, to have a mechanism in the framework to support direct feedback activity that way.

Am I understanding correctly? It has been happening, but I'm not absolutely sure that it's in the framework right now.

T. Evans: Not in that formalized, structured way. I think the more that we can have that opportunity to have that dialogue and partnership.... It only enriches the engagement.

S. Chant: Very good. Thank you.

T. Evans: It's very nice to see you again. A completely different context.

I, myself, am moving back to the Lower Mainland, so our paths may cross.

S. Chant: Okay. Duly noted.

K. Paddon (Chair): Are there any other questions? No. All right.

Thank you so much for your submission. Thank you for taking the time to walk us through it and just put some emphasis on some of the pieces. We appreciate your time with the committee today.

T. Evans: Thank you so much.

K. Paddon (Chair): We're going to take a short recess. I'll be calling us back in a few moments.

The committee recessed from 10:28 a.m. to 10:34 a.m.

[K. Paddon in the chair.]

K. Paddon (Chair): Thanks everyone so much for your patience. The next presenter is Dr. Joanne Baker from the Adoptive Families Association of British Columbia.

Thanks for joining us, Dr. Baker. I will give you the floor.
[10:35 a.m.]

ADOPTIVE FAMILIES ASSOCIATION OF B.C.

J. Baker: Wonderful. Thank you for the opportunity to be here this morning. Hello, everyone.

I'm joining you from the unceded, traditional territories of the Musqueam, Squamish and Tsleil-Waututh.

I am the director of programs with the Adoptive Families Association of B.C. We have a youth programs area, which hosts the agedout.com website, which has over 6,700 users, predominantly youth in and from care. So it's in that capacity that I join you this morning.

K. Paddon (Chair): Did you have any additions to your submission that you'd like to make? Would you like to summarize for us?

J. Baker: No additions. But happy to briefly summarize the submission.

The majority of concerns we hear expressed by youth and young adults who are in touch with us are that when

they have sought assistance from the representative's office, they have found or been told that they're not eligible for support. We believe that, at times, that is because of the eligibility around specific programs, such as the provincial tuition waiver and the agreements with young adults program.

Also, I think there is some confusion when people look more closely into the act for the representative. They think that because they have received a service around substance use or mental health support as they have transitioned from care, or as they have grown into adulthood and had some previous time in care but didn't actually transition out of care.... They thought they were going to be eligible for support, but they didn't.

Our submission is mostly around this review, taking close consideration of clarifying and expanding eligibility for RCY support.

K. Paddon (Chair): Thank you so much.
We have a question from Karin.

K. Kirkpatrick: Thank you very much for this and for the submission. I do apologize if I've missed it in the submission. You're asking for an expansion of, I guess, the qualifiers to allow a young person to be able to access the RCY. Right now I think they've got to be in care for 24 months. There are some other pieces around that.

What would you recommend the act do in terms of...? What should those qualifiers be?

J. Baker: Understanding, as everyone does, that parameters are set in place to guard the use of resources.... However, when we think about children and youth who have had care experience, they may have been in and out of care for short but extremely traumatizing, significant periods of time. You may have had 18 months of care experience in fragments of two months, say. What a significant impact that might have on your well-being and your experience of childhood.

I would argue for eligibility in that area — if the child or youth has had care experience, that they be able to access those advocacy services for any issues that they may want to raise.

K. Paddon (Chair): Thanks for that.
Are there any other questions? All right.

I do thank you so much for joining us and for the submission from the Adoptive Families Association. Seeing no more questions, I'm going to say thank you for your time.

We're going to move on to a short recess while we wait for our next presenter.

Thank you so much.

J. Baker: You're welcome. Thank you.

The committee recessed from 10:39 a.m. to 10:46 a.m.

[K. Paddon in the chair.]

K. Paddon (Chair): Our next presenters have arrived.
Thank you so much for joining us virtually.

This will be the Public Guardian and Trustee of B.C. We have Dana Kingsbury, Public Guardian and Trustee; Dan Orsetti, deputy Public Guardian and Trustee; and Sunny Virk, the executive director of child and youth services.

The floor is yours.

PUBLIC GUARDIAN AND TRUSTEE OF B.C.

D. Kingsbury: Thank you so much, and good morning. As just indicated, I am Dana Kingsbury. I'm the Public Guardian and Trustee for British Columbia.

I'm delighted to be presenting to the committee this morning from the traditional and unceded territories of the Kwikwetlem peoples. I honour their stewardship of these lands since before recorded time.

As was indicated, with me today I have two people — Dan Orsetti, who is the deputy Public Guardian and Trustee and executive director of legal services for the Public Guardian and Trustee; and Sunny Virk, who is our executive director of children and youth services.

We have two recommendations to present to you this morning. I will do the first, and Dan will do the second. Sunny is here to support with any questions.

A quick background on the PGT and our services as they relate to children and youth. The Public Guardian serves as property guardian for approximately 4,500 children and youth who are either in care, have no guardian or are undergoing adoption. Where a child or youth is in continuing or temporary care of the province, there is a co-guardianship structure, with MCFD serving as personal guardian and the Public Guardian and Trustee serving as property guardian.

As property guardian, the public guardian and trustee has the responsibility to protect the legal and financial interests of children and youth in care. Part of that role is to investigate when MCFD notifies the Public Guardian and Trustee that a child or youth in care has been injured or been involved in a serious incident. When appropriate, the PGT will pursue legal action for compensation on behalf of that injured child or youth.

By way of contrast, one of the statutory powers of the Representative of Children and Youth is to examine the life circumstances of children and youth within the context of the entire child protection system. The representative is in the position to examine whether the child protection system has caused or contributed to the harm and to make recommendations for systemic reform.

In the course of either a PGT or an RCY investigation, the privacy of the individual child or youth is paramount. However, subsection 16(4) of the RCY Act does allow the

RCY to exercise discretion and to disclose information if it's necessary to support the findings in a report that best serves the public interest. Practically, this type of disclosure is usually done by anonymizing the youth's identity or combining information for multiple youth in aggregate.

The RCY Act does require a weighing of the public interest against an individual's right to privacy, and the result is a discretionary decision.

Children and youth who are the subject of a report are already some of the most vulnerable in our society. Their story and their identity may be some of the last personal agency that they have. Depending on the notoriety of the situation, even anonymizing the information, it still maybe identifiable to those in the youth's circle around them. The fear of being identified in such a public way can really exponentially add to the trauma that they may have already suffered.

The Public Guardian and Trustee believes that specific provisions for the young person to consent to the use of their story or their personal information would support the youth in having control over that story and how it's used. The issue itself is not academic. It was first identified — and has been identified since — in 2015 and 2016, when a youth was in a very precarious mental state and was very much against having their information included in a report.

[10:50 a.m.]

As property guardian, the Public Guardian and Trustee was considering legal steps to support the youth in voicing their objections. In the end, it wasn't necessary. The RCY did take a very cautious approach to the disclosure. But the example shows that where discretion exists, there may be conflicting perspectives in results.

The PGT does have complete faith that the RCY will take reasonable measures to anonymize personal information in a report in order to minimize the impact to the privacy interests of the child or youth who may be subject to that report. But nevertheless, there is an inherent imbalance of power between the representative and a youth, and a legislative amendment could address that imbalance.

The Public Guardian and Trustee's recommendation is that the RCY Act be amended to require that the representative respect the wishes of a child or youth who specifically objects to the disclosure of their personal information in a report and where their representative is unable to anonymize that information sufficiently to satisfy the concerns of the child or the youth.

That's our first recommendation, and I will hand over to Dan Orsetti to speak about our second.

D. Orsetti: Good morning. I would like to start by acknowledging it's an honour and pleasure to be presenting to this committee.

I am joining today from the traditional and unceded territories of the Kwantlen First Nation.

Our second recommendation is that section 12(4) of the

RCY Act be amended to expressly require that the representative notify the PGT of any investigation undertaken by the representative concerning the critical injury of a child for whom the PGT serves as property guardian.

At the centre of this recommendation is access to justice for the young person in care. Where the PGT is property guardian for a young person, the PGT has a statutory authority to act as litigation guardian and the discretion to bring and defend claims on behalf of young people where the PGT considers the claim to be in the best interest of the young person. Sufficient notice of a potential claim is critical to obtaining a good result regarding this mandate.

The PGT is mandated and resourced to carry out this task, and that provides for a young person for whom the PGT is property guardian to have access to expertise and resources that are necessary to effectively advance a meritorious claim for their benefit. Particularly, this is important when they've suffered compensable harm. In short, it aids in access to justice for this young person.

Once a person reaches the age of majority, the PGT no longer has authority as property guardian. The result is that the young person with a meritorious claim that has not yet been addressed due to lack of notice in a timely manner must navigate the legal system on their own without the support of the PGT as property guardian. This makes access to justice more difficult for the young person.

In cases where the PGT would bring a claim as litigation guardian for a young person, receiving sufficient information in a timely manner is critical. The timelines of the litigation process require as early notification of the potential claim as possible. MCFD has historically had certain resourcing limitations that, to date, have made sharing of information necessary to identify these claims and to bring them in a timely manner more challenging.

Having the RCY provide the notice to the PGT of an investigation into a critical injury will allow the PGT better opportunity to enter into the necessary analysis of potential claims that the young person may have at an earlier time in the process and will enhance the opportunity for access to justice. Giving notice of these investigations to the PGT aligns with the RCY's purpose as set out in section 6(1) of the RCY Act, which refers to advocating on behalf of a child receiving or eligible to receive a designated service.

Making the notice mandatory would eliminate the work of the RCY in having to document a discretionary decision to disclose the information and would therefore be the most efficient way of ensuring that the PGT is informed in a timely fashion. As the RCY's mandate is to investigate and to report critical injuries but not to decide whether to bring claims for compensation, the PGT has a distinct and important role to play in relation to any identified critical injury of a young person for whom the PGT is property guardian.

The proposed amendment directly supports that role

and enhances access to justice for these PGT property guardian clients.

D. Kingsbury: That concludes our formal presentation, and we are certainly open to questions if the committee has some.

[10:55 a.m.]

K. Paddon (Chair): Excellent. Thank you.
I have a question from Andrew.

A. Mercier: My question is, I guess, around your first recommendation. I think you've put your finger on a very difficult pressure point for the act in terms of balancing the individual interests of a vulnerable youth or child versus the broader public interest that may be served by some limited form of disclosure — specifically, if it's something systemic, to prevent harm from befalling other children. Not to rule anything out, obviously, but I grow somewhat wary of absolute prohibitions on things.

This would amount, in a way, to an absolute prohibition in the sense that the vulnerable child or youth would have a complete veto over disclosure for something that potentially could have a very significant public interest. I wonder if you could comment at all on the process now, from your perspective, on going through that. Specifically, where my mind goes is: is there a way, in 16(4)(b), to include vulnerable youth in the process so that they have a voice and so that they are considered when the representative exercises that discretion? I'm wondering if maybe you could just comment or address that.

D. Kingsbury: Certainly. Thank you for the question. I think that the fallback position that you've described would be perfectly suitable in that the child would have a voice in the process. I think, in the absence of that, if we were to have the consent provision to start with, consent can always be discussed with that youth, depending on how the situation unfolds. In the situation that I described from 2015-16, that child was concerned about the anonymization of the information and how it was to be put forth.

Through discussion with PGT on behalf of that child, there was a way through that process where the child felt comfortable, and the RCY felt comfortable as well. I think when you have an imbalance of power, it's always important to rest on the side of the person who doesn't have the power and provide some support there. By merely giving a child a voice, as opposed to having their actual consent, I think it doesn't necessarily address the imbalance of the power.

It provides less of a veto-like scenario that you're describing, but I do think that there is a way through the process itself to obtain consent from the youth, because it's always a balance, and the youth is under a legal incapability for this process. If the PGT decided at that point that

the youth's consent would have to be given, then I guess, in a sense, there's an override for that.

K. Kirkpatrick: My colleague asked part of it, but I am curious about the current information-sharing with respect to the second recommendation.

Also, just to say these are both really interesting recommendations. These are not things I was alive to or would have thought about. But in terms of now, is there no identification of a critical injury with your office, or is there something informal or is there nothing at this point?

D. Kingsbury: I can let Dan just grab that one.

D. Orsetti: Currently the RCY has a discretionary ability to inform us. It isn't always exercised. The two main points that we're making are that first of all, it's important for us to get that early, but also, we have an aligned interest as property guardian with protecting the rights of that child and obtaining benefits for them where it's appropriate.

There's a reasonable connection between the RCY knowing and us knowing that the investigation is ongoing. Making it mandatory simply eliminates any process requirement that the RCY would go through to say that we should just exercise our discretion to disclose this information, rather than it being simply mandatory.

We receive it on the same privacy conditions that we receive all information on behalf of children. It just seems to be an efficient way to do it. I know that currently the RCY's policy is only to investigate incidents that relate to children who have died, so there wouldn't be, under the current policy, much change to what's going on.

[11:00 a.m.]

If that policy were to change, the RCY's policy were to change, and the RCY's office was to investigate claims for children that are alive, then this would be a significant amendment.

K. Paddon (Chair): Thanks so much for that. I actually have one question for each of the recommendations, if you'll indulge me.

The first recommendation. I'm not sure how much you'll be able to explain to me, but for the sake of my own awareness, we're talking about consent and having a voice in that process. Do you know what is true for other children or youth who are not involved with PGT whatsoever? Would this be a broader thing for us to be thinking about or looking at? Or is this specific to involvement of the PGT?

D. Kingsbury: The PGT's authority only extends to children who are in care of the province. If we were to look more broadly than that, I think the consent provision.... Since the child is under legal incapability of giving consent, that would fall to their parents to be able to provide, I

guess, in the absence of having that consent directly to the RCY.

It is a broader question and one that, as I said, the PGT doesn't extend our authority to, so I wouldn't have a lot of guidance for the committee on that front.

K. Paddon (Chair): Thank you. That was that was helpful.

Then my second question, regarding the second recommendation. I've had the opportunity to work with people who have had some PGT involvement before — a fan of your work; thank you. One of the questions that always arises and that pops into my head is: what mechanisms are there currently that would allow the RCY to know that someone has PGT involvement in order to trigger that? Is there already a list being shared?

I feel like my recall is that there isn't such information being shared already. How would one know, when they're looking at a story or a situation or doing an investigation, that the child or children that they're hearing about have PGT involvement?

D. Orsetti: I think probably Sunny is best suited to answer that question.

S. Virk: I think the best answer on that point is that if the child is in continuing care of the province, then the rep knows that the PGT is the property guardian. That is the mechanism. Once the rep establishes the care status of the child, they will know if the PGT is involved.

K. Paddon (Chair): Great. Thank you very much.

D. Kingsbury: Just to add to that a little bit, that would come from self-disclosure from the child. If there was a curiosity, I think, from the RCY's perspective.... For instance, if they didn't get either indication that there was a connection with PGT on either of the recommendations, the RCY is certainly free to contact us. We do have conversations with them on a regular basis. But we would have to, at that point, respond with checking into issues of privacy and whether we could respond directly to the RCY on the status of that particular youth.

K. Paddon (Chair): Thank you very much. I'm not seeing any further questions, so I thank all three of you for your time and the submission, along with the recommendations, and hope to see you again soon.

D. Kingsbury: Thank you very much for the opportunity. Enjoy the rest of your day.

K. Paddon (Chair): The committee is going to stand in recess until 12:45, at which point we'll have our next presenter. I will see you all by 12:44.

The committee recessed from 11:04 a.m. to 12:45 p.m.

[K. Paddon in the chair.]

K. Paddon (Chair): We have our next presenters, Community Living B.C. We have with us Ross Chilton, the chief executive officer, and Stephen Hall, acting executive director for quality assurance.

I will give you the floor and say to Ross: happy belated birthday.

COMMUNITY LIVING B.C.

R. Chilton: Oh, thank you. Good afternoon.

I would to acknowledge that I'm calling in today from the traditional ancestral and unceded territories of the Musqueam, Squamish and Tsleil-Waututh Nations, currently referred to as Vancouver.

As Ms. Paddon indicated, my name is Ross Chilton. I've been the CEO of Community Living British Columbia since 2019. Prior to that, I was the CEO of Community Living Society, a non-profit support organization that was founded by the Woodlands Parents Group, which successfully advocated for the closure of institutions and the return of their children to the community.

I'm also a parent of a 29-year-old son with a disability who benefits from CLBC-funded supports. I share this with you because my previous background and experience as a parent really does shape my work and approach to the work at CLBC.

I'm presenting today along with Stephen Hall, who is CLBC's director of quality assurance. We would like to thank the select standing committee for the invitation to testify today and for the continuing work you do to protect and support children, youth and young adults throughout British Columbia.

Very briefly, before I begin, I'd like to talk a little bit about Community Living British Columbia and the work we do. CLBC has been a Crown agency since 2005, serving adults with developmental and intellectual disabilities and those with a diagnosis of autism and/or fetal alcohol spectrum disorder who are in need of significant support. It was created at the request of self-advocates, families and other partners who believed that a Crown agency could respond flexibly to the needs of a diverse population.

This year CLBC completed and released a new strategic plan which commits to working together with the individuals, families, friends, service providers and community partners to advance the full inclusion and participation of adults with developmental disabilities.

Our vision is "Communities of belonging, lives with connection." We do this by having trusting relationships with individuals and families, aligning our work with the rights of Indigenous peoples, investing in our sector partners, and advancing community inclusion and accessibility. CLBC currently supports approximately 26,000 indi-

viduals through a network of 530 service providers, supported by over 700 CLBC employees. It's interesting to note that the number of people supported by CLBC grows by about 1,200 individuals each year.

CLBC has a long and collaborative relationship with the RCY office. I would like to recognize the principled and dedicated work of the current representative, Dr. Jennifer Charlesworth, in particular her work alongside and on behalf of First Nations, Inuit and Métis children and families. We support the important role the RCY plays in the lives of children, youth and young adults, including the role of individual advocacy, which for CLBC and the RCY is governed by an advocacy protocol that was signed almost ten years ago.

My testimony today represents CLBC's response to the RCY's recommendations in its April 2022 submission to the Select Standing Committee on Children and Youth. The RCY submitted a series of recommendations, proposing a range of legislative changes, some of which have the potential to impact the work of CLBC and, more importantly, the lives of individuals and families supported by CLBC. Many of these recommendations we support, including the following:

Strengthening the RCY's links to rights-based legislation, declarations and conventions, something CLBC is also doing.

Giving the RCY the ability to establish formal agreements with ministries and Crowns, building on the 2013 RCY-CLBC advocacy protocol agreement.

Adding health authorities as organizations with whom the RCY advocates for children and youth with support needs and young adults with developmental disabilities. We recognize this need as CLBC serves more young adults with high-intensity health care needs each year.

Expanding the scope of individual advocacy to include mental health and addiction services for young adults who were formerly in care, are eligible for or are receiving CLBC services. As we all know, effectively responding to the needs of individuals with complex needs is not easy, but it is essential.

And allowing RCY to expand its individual advocacy on behalf of former youth in care, thereby aligning with the recently announced new services that will now be available up to age 27. This makes sense, given the tremendous work the Ministry of Children and Family Development is doing to support former youth in care to succeed in adulthood.

[12:50 p.m.]

While CLBC is supportive of, or neutral on, many of the recommendations made by the RCY, we do have some concerns regarding a few. I want to speak today about three key areas in the RCY report recommendations which we did not fully support. They are the proposed housing-related advocacy function, the RCY's systemic advocacy function and the proposed expansion of the RCY's role

in relation to monitoring, reviews, audits and research on CLBC's quality assurance processes.

First, I'll speak to housing. We did find this recommendation to be somewhat broad, and while we understand the objective is to bring about positive change, it was difficult to assess potential unintended impacts. The RCY's individual advocacy currently allows for service-related advocacy with individuals involved with CLBC up to age 27.

As you would be aware, CLBC is not mandated to provide housing but, rather, is responsible for funding disability-related supports. Now, some models of supports, such as staffed homes and home-sharing arrangements, do, by design, incorporate housing. CLBC works with health authorities through added care arrangements to address high-intensity health care needs of those people with high-intensity medical needs that are living in those homes.

While we recognize the importance of housing to everyone, including those CLBC supports, we do rely on other parts of government in the non-profit, Indigenous and cooperative housing sectors to support many of the housing arrangements for our population. That is why housing is one of the four priorities coming out of the Reimagining Community Inclusion work as collaboration between organizations is required to advance inclusion and belonging.

We are concerned systemic advocacy related to CLBC and housing could lead to the expectation that CLBC has sole responsibility and capacity for providing housing and health services for young adults who have significant medical needs. This could also lead to an expectation that CLBC would develop housing without first considering unique requirements of individuals. That could lead to the preferencing of staffed homes or more individualized arrangements, including living with the individual's family and home-sharing.

It's important to articulate that CLBC remains committed to working with government and community partners to respond to a wide range of housing and support needs for individuals with developmental disabilities and health, mental health and addiction support needs.

Second, I'll speak to the systemic advocacy function. CLBC has some concerns about the RCY having a systemic advocacy function in relation to adults who are eligible for or receiving CLBC services. We believe that systems-level advocacy offered by the Advocate for Service Quality, or ASQ, performs this function. In addition to supporting individuals with developmental disabilities and their families with complaints or concerns, the ASQ reviews cases and processes, tracks data and raises awareness about systemic issues. The ASQ also makes recommendations to decision-makers, including the Minister of Social Development and Poverty Reduction.

Lastly, I'll speak to the recommendation with respect to CLBC's quality assurance processes. CLBC has some

concerns about the RCY having the authority to monitor, review, audit and conduct research in respect of quality assurance processes on the provision of CLBC-funded services. CLBC already has several formal and informal structures and the related processes in place to provide oversight and input into CLBC's quality assurance processes.

CLBC supports and services are delivered through a network of contracted service providers, and CLBC has a monitoring framework in place to monitor, review and audit services provided by these service providers. It's of note that the majority of these providers are also required to be reaccredited every three years by CARF or COA.

In addition to systemic advocacy conducted by the Advocate for Service Quality, CLBC has formal relationships with the Office of the Auditor General, the Office of the Ombudsperson, the B.C. Coroners Service and the office of the Public Guardian and Trustee.

CLBC has a minister-appointed board of directors that includes representations from self-advocates, family members and Indigenous people. CLBC also has an internal auditor, a provincial advisory committee of self-advocates and families drawn from 13 community councils and an Indigenous advisory committee representing Indigenous individuals, families and organizations supporting Indigenous peoples.

Both the provincial advisory committee and the Indigenous advisory committee chairs make live presentations to the CLBC board of directors at each of their board meetings. The CLBC service quality and performance committee of the board meets quarterly and is provided with key performance metrics on everything from complaints and complaints resolution to satisfaction with our planning processes. This committee reports to the board and seeks outside assistance from subject-matter experts when required.

So taken together, the CLBC monitoring framework and the role of these individuals and bodies provide extensive input into CLBC's quality assurance and quality improvement processes.

[12:55 p.m.]

That concludes my remarks. But once again, I would like to thank you for the opportunity to provide testimony, on behalf of CLBC, to the Select Standing Committee on Children and Youth. If you have questions, Stephen and I are happy to do our best to answer them at this time.

K. Paddon (Chair): Thanks so much for that. I have a question from Karin.

K. Kirkpatrick: Thank you very much for the presentation. I've got a question.

I guess my biggest area of concern with the recommendations is that monitoring piece. I've seen some of the work that the RCY has done with a review of MCFD processes and some of the issues that were found to be there. I

think there is a really important role to play, as an external oversight body, to take a look at things.

The monitoring that you're talking about, with the potential overlap.... All of that monitoring or review still sounds like it's connected either to your board or has some kind of internal connection — outside of, I know, CARF and those things, but that's different. It just concerns me that the kind of review that the RCY does is a systems review — efficiency, all of that — but it also looks through the lens of the impact of that system onto a young person, which I think is a greater kind of lens that they look at.

I don't know if I'm articulating this the right way. Can you explain, Ross? Are those monitoring systems that you have in place...? Is any of it completely arm's length? Do you believe it meets that need to kind of look at it, in terms of impact to the child and not simply the process?

R. Chilton: A great question. Of course, with the 530 agencies we contract with, it is, in part, our expectation that they're, of course, closely monitoring their services, and our role becomes to monitor their monitoring of those services. A couple years ago you may recall that the Office of the Auditor General did do an arm's-length review of our monitoring of home-share arrangements. A number of recommendations came out of that.

We met before that select standing committee last year, and we'll be reporting, I think, at the end of November — right, Stephen? — back to the OAG our progress with that. There's an example where we did have arm's-length review of a monitoring of a particular part of our service, which was home-sharing, because it was the fastest-growing service and, in some ways, the most independent.

K. Kirkpatrick: A follow-up to that. Do you not think there would be value in having different oversight bodies? I know, with MCFD, the B.C. Ombudsperson did a review of some of their processes, in terms of payments being directed through MCFD to families, but the RCY can also do a different kind of review or piece of oversight. Is there room, then, for still having that oversight or the ability for RCY to come in but just, perhaps, limiting the kinds of audits or investigations that they do?

R. Chilton: I guess that's not for me to decide. What I would say is, as we tried to articulate, there are many mechanisms already in place by which we review our monitoring processes. It's so essential, right? Just like for children and youth, the people that are involved with CLBC have a certain degree of vulnerability. So we need to make sure that we're attending, quite seriously, to the monitoring of those services.

It's not for me to determine if there's extra value in that, but I just want to reassure the committee that there are already many steps in place to evaluate our own monitoring of services.

K. Kirkpatrick: Thank you very much, and I certainly wasn't questioning that, just to be clear, Ross — on the quality piece. But thank you very much.

R. Chilton: It's all good.

K. Paddon (Chair): All right. I have a question. It's around the housing-related advocacy. I understand your comments around.... CLBC is not a housing organization. I know that this has also come up with other sections, like health — maybe a misunderstanding about the role of CLBC when it comes to where people that are served by CLBC live. I just want to make sure that I understand.

[1:00 p.m.]

I really appreciate your description about housing at CLBC, but I also appreciate that you are supportive of adding health authorities as organizations that the RCY advocates for children and youth within.

In the events where CLBC is providing services for children or youth — this is going to be a long run-on sentence — who are also receiving supports from the health authorities because of their complex medical needs, is that where you're also seeing that there may be a potential overlap, where RCY may come in, or are you seeing that as a part of what you're supportive of — RCY being part of that expanded mandate?

I hope that was clear. It was a lot of words.

R. Chilton: It was lengthy, as you said, and I'm getting older, so my ability to remember may not be as strong as it used to be. What we're talking about are large systems and, in particular, with Health, because there's five distinct health authorities. We, of course, represent the needs across the province of British Columbia.

That's where it's just so essential for us that the adults that are coming towards us with complex medical needs and developmental disability didn't choose to cross into two different areas of government. It just happens to be the case. We think it's very important, and it's important to families as well, that the two systems consistently respond well together so that there's not overlap but that there are also not gaps.

So we would agree — given that the fact that there are five different health authorities, in the interpretation of their role and their responsibility and a different understanding of what CLBC's role and limits are — that there would be some good work to be done there to make sure that our systems, interfacing with those five different health authorities, work for the individuals and families.

K. Paddon (Chair): Thanks for that. Are there any other questions for Ross or Stephen? No.

All right. Well, we very much appreciate the submission and the recommendations that you've made on behalf of CLBC. Thank you for taking the time to answer our ques-

tions and to make sure that we had the full perspective of those submissions.

R. Chilton: Great. It was our pleasure. Thank you for the virtual participation. It saves time and is good for the environment, so we really appreciate that and are happy to answer any other questions that could emerge.

K. Paddon (Chair): We're going to take a ten-minute recess while we organize our next presenters.

The committee recessed from 1:02 p.m. to 1:16 p.m.

[K. Paddon in the chair.]

K. Paddon (Chair): We have our next presenter, Dr. Erika Cedillo from Inclusion B.C.

Thank you for joining us. I hope I pronounced your name properly, but if not, please let me know.

You have the floor.

INCLUSION B.C.

E. Cedillo: Thank you so much. Very close. I always mention that it sounds like a "y."

Good afternoon. As it was said, my name is Erika Cedillo, and I'm the director of public policy and programs at Inclusion B.C. I appreciate the opportunity to address the Select Standing Committee on Children and Youth today and to present and discuss Inclusion B.C.'s submission on the review of the Representative for Children and Youth Act.

I want to start by respectfully acknowledging that our head office is located on the traditional, ancestral and unceded lands of the Qayqayt First Nation and that the staff and board members live and work on the unceded lands of Indigenous nations across the province.

Inclusion B.C. is a non-profit federation working with our partners to build community and enhance the lives of children, youth and adults with intellectual and developmental disabilities and their families. Our members include persons, families and 65 member organizations working together to build inclusive communities across B.C.

In our written submission, we identified important reasons to expand the mandate of the representative and how this would benefit children, youth and young adults with disabilities in the exercise of their rights.

The Representative for Children and Youth has played a significant role in advocating for the rights of children, youth and young adults with disabilities in B.C. This particularly vulnerable group receives services and supports beyond the Ministry of Children and Family Development. For this reason, we consider it necessary to have an integrated, whole-child approach to the advocacy and monitoring of the services that impact their lives.

Children and youths' lives do not unfold in silos that follow government structures. Therefore, a holistic view is necessary to address their needs adequately.

At Inclusion B.C., we provide individual advocacy support to children, youth and adults with disabilities and their families through our community inclusion advocacy program. We support an average of 1,000 situations every year, 52 percent of which involve a child or youth. Every one of them is the story of a child or youth experiencing barriers to inclusion in the community and whose rights are not being fully realized.

The main strengths and themes that emerged from our advocacy program in the last year include issues about education, at 41 percent; transition supports by Community Living B.C., at 14 percent; early childhood support by the Ministry of Children and Family Development, at 9 percent; health, mainly the access to nursing support services for children, at 4 percent; among other topics. I'm going to put them in context, with examples.

Even though the School Act and its regulations establish an inclusive education system in B.C., students with and without disabilities across the province are learning that it is acceptable to exclude a child from school for different actions, like segregated programs, reduced school hours or exclusion from field trips.

[1:20 p.m.]

When a critical access to education is denied to a student, their families enter into crisis. As families look to the Ministry of Children and Family Development for support, they find very limited options to meet their needs.

Then people eligible for services by Community Living B.C. who need specialized health support can go from a suite of services, if they received them as a child, to an absolute vacuum of support. For children who need the nursing support services program to access their education in the community and to give their families a much-needed respite, their already-stretched families are scared of advocating for fear of losing whatever level of service they receive, even if it is inadequate.

The complexity and the scarcity of support systems in B.C. have made it necessary for families to learn to advocate strongly or have an advocate by their side when people in positions of power dismiss them. Depending on the complexity of the situation, it becomes necessary not only to have a community-based, knowledgeable advocate but an advocate with a legislated mandate to ensure that the rights and interests of children, youth and their families are protected and advanced. This is where the Representative for Children and Youth advocates have come in.

Inclusion B.C. and RCY advocates have frequently collaborated in supporting children, youth and their families in conflict situations. Often, while Inclusion B.C. advocates work on the education and health barriers, the RCY advocates work on the barriers related to the Ministry of Children and Family Development. However, the types of inquiries and advocacy that the RCY can do are limited

because their mandate leaves out education and health, two critically important systems.

The representative has clearly articulated, in their submission for this process, the importance of expanding the mandate of their office. Inclusion B.C. fully supports this approach, particularly in making the representative's mandate broad enough to include all publicly funded services for all children and youth. We also endorse giving the representative systemic advocacy functions about services to young adults who were formerly in any type of care and young adults eligible for or receiving services from Community Living B.C.

Extending the representative's mandate for individual and systemic advocacy could increase the oversight of these systems and allow for systemic changes to emerge while the RCY better supports children, youth and young adults and their families across the province, in their advocacy, to access the services and supports needed to live in their communities.

The specific addition that we propose to the representative's recommendations is to include the UN convention on the rights of persons with disabilities in the list of international human rights instruments that the representative must take into account in carrying out their functions under the RCY Act in relation to children and youth, not only for young adults eligible for CLBC services, as the proposal is now.

The UN convention was created as a human rights instrument with a very explicit social development dimension. By ratifying the convention and its protocol, Canada accepted the responsibility to uphold the rights recognized by the convention at all levels of government. I want to highlight here that the convention advances the view of persons with disabilities of all ages as subjects with rights capable of exercising them.

Our submission highlights, as a starter, five articles from the convention that are particularly relevant to the rights of children and youth with disabilities. They cover topics like the enjoyment of full human rights and fundamental freedoms, education, health, habilitation and rehabilitation for independence and full inclusion, adequate standards for living, and social protection.

It is really imperative for the lives of children and youth with disabilities to take a rights-based approach to all the services and supports that impact them. The long-standing charity view of fulfilling their needs and providing the accommodations they are entitled to continues to prevent them from having full, inclusive lives in their communities of choice.

The expansion of the representative's mandate would also lead to gathering more specific data on children and youth with disabilities. This is an issue Inclusion B.C. has been emphasizing in various submissions. We have expressed how accurate data collection and its use for adequate review of policies and the corresponding allocation of resources are critically needed.

[1:25 p.m.]

We view data collection as a mechanism to increase transparency and accountability, which needs to be built into the network of supports for people with disabilities in our province. Then we also support the representative's recommendation to expand their mandate to give them the authority to monitor, review, audit and conduct research with respect to quality assurance processes for all designated services.

In summary, our recommendations are:

(1) Expand the mandate of the representative to include all public services that impact children and youth with disabilities, like education, health, child care, mental health or any other.

(2) Expand the mandate of the representative to include young adults under any status or agreement under the child and family community act without the restriction of the time when they were in care, and to ensure that this includes children and youth who have been under voluntary or special needs agreements as well.

(3) Include the UN convention on the rights of persons with disabilities in the list of international human rights instruments that the representative must take into account in carrying out their functions under the act in relation to children, youth and young adults.

(4) Expand the mandate of the representative to give them authority to monitor, review, audit and conduct research in respect to quality-assurance processes for all designated services.

Children and youth with disabilities should be able to access the supports needed and receive the necessary accommodations to exercise all their rights. While we work towards this goal, the Representative for Children and Youth plays a fundamental oversight role with both their individual and systemic advocacy.

Thank you so much for your attention. I look forward to your questions.

K. Kirkpatrick: Thank you for the presentation. Inclusion B.C. does great work. Thank you for everything you do there.

Just a question on the first recommendation, which is the expansion of the representative's mandate to include all publicly funded services that impact children and youth with disabilities. That sounds very large. Currently my understanding is that the authority is there over MCFD programs and CLBC programs. I actually don't know what that might cover if there is anything under health. Can you perhaps give some examples of what some of those additional things would be?

E. Cedillo: Absolutely. Thank you for the question. What I'm seeing is, in the situations and the people that we are supporting and with some of the examples that I was giving, sometimes we might have a family where the issue is that they are not able to access education. Inclusive edu-

cation is a challenge, and that is limited sometimes by the designations that are used or how it's categorized, because it's still based on a medical model of disability. That is one part that's outside of the scope of the RCY right now.

When it comes to health, children who are needing nursing support services — that is another area that is out of the scope of RCY. These are some of our most vulnerable children, who have complex needs and who need multiple supports. When we look forward, our ambition constantly is this collaboration among systems so that they collaborate to make things simple for families.

While that happens, and we're going through many transformations, what we hope is that in these critical opportunities in reforming the RCY Act, we can allow the RCY advocates to get involved in these other areas, like health supports, as well.

As I was speaking to our collaboration with the RCY, what we have had to do is to just clearly define: "Okay, the RCY advocate can speak only to these things, while we can speak to these other things." But the mandate that they have to inquire into actions from the Ministry of Children and Family Development would be very beneficial for many other areas in children's lives. I hope that that helps to clarify some of those points.

K. Kirkpatrick: It does, actually. Thank you. I hadn't thought kind of that big about it.

S. Chant: Thank you so much for the work that you do. I know that it's tough work. I appreciate it all.

At one point, you said that everybody needs advocates that are strong, or they're dismissed, whether it's family or somebody else by their side. Can you speak to that a little bit more for me, please?

[1:30 p.m.]

E. Cedillo: Absolutely. I think I want to go back to the root of the issue.

The way that systems are designed are not easy to understand and navigate. When I'm talking about systems, I'm talking about accessing education, going to daycare, getting respite, setting up early intervention therapies, all sorts of things.

When you have a child who has multiple needs, as a parent, you're trying to understand what's going on with your child. Then you find that when you go and talk with MCFD, you have to use this kind of language. When you go and talk to the school district, it's a different set of language. And then, if you need child support, you talk a different set of terminology and parameters.

In that process, the family has to deal with, sometimes, four or five different systems. What we provide most often doing our advocacy support as we journey along their side is to say: "Okay. This is how you can present information. This is how you can ask questions." Even just telling them: "The designations are used in this way in education,

but it's not the same when you're talking in health and you're looking for a diagnosis, but that doesn't mean that it's going to give you access to CYS and services."

All this knowledge our advocates have is usually what we bring to families and giving them those tools so they can advocate. The systems are not easy. That's why they look out for support to have someone by their side. That is from us, as a community-based organization.

When it becomes more elevated, we really appreciate the work that the RCY is able to do, because they can inquire into how things have been done from the ministry around the situation. They have very specific powers to request information to be able to review how the decisions were made, which a community advocate would not have. That's why we see their role as so important.

K. Paddon (Chair): Thank you so much for that. I'm not seeing any other questions, but I do appreciate your submission. I know we all appreciate the time you took today to be able to answer our questions and make sure we have clarity around what you shared with us previously. Thank you so much for your time, and I hope to see you again soon.

All right, we're going to move on to our next presenter, which is Brenda Lenahan, founder and director of B. C. Complex Kids Society.

Hi, Brenda. Thank you for joining us today virtually. We are happy to hear about the submission and recommendations for the act. I will give you the floor.

B.C. COMPLEX KIDS SOCIETY

B. Lenahan: I'll start by saying that I am here on the territory of the Mowachaht/Muchalaht First Nation, on the northwest coast of Vancouver Island, in a little village called Tahsis.

Thank you very much for the opportunity to present our recommendations regarding the review of the roles and responsibilities of the RCY.

We are a grassroots group that's recently become registered as a society. Our mandate is to advocate for equitable support for kids with health complexities in B.C. Our families all have children receiving support through the At Home program, which is an MCFD children and youth with support needs program.

It is, without question, in our mind, that the role and work of the rep's office continues to be necessary. We also believe that an expanded mandate would allow that work to grow even deeper in the areas of greatest concern to our demographic. Systemic reform for CYSN has been ignited in large part due to the work of the rep and her team and the work of this committee. But that work's only just beginning.

[1:35 p.m.]

Certainly, we feel it needs oversight and guidance, as

families are deeply concerned about the future of those systems.

The individual advocacy and systemic advocacy functions of the rep's office both play a truly vital role for the most marginalized children, youth and young adults in B.C. Our organization has experienced and witnessed both aspects of the representative's work, and we'd like to make some comments and recommendations around areas of mandate that could be expanded to better support young people with health complexities.

Our first recommendations are with regards to the UN convention on the rights of the child and the UN convention on the rights of persons with disabilities. We encourage you to follow the lead of other Canadian jurisdictions and amend the act to require that the representative take into account the UN rights frameworks in carrying out her functions in relation to young people with disabilities.

We also recommend that the representative is given an expanded responsibility for education, promotion and monitoring of the UNCRC and UNCRPD in B.C. These are the most universally accepted human rights instruments in the world, and B.C. would make great strides forward if society, as a whole, became more educated in this area and social policy was guided by these rights frameworks. In fact, good public policy is essential in upholding our children's rights.

Of particular concern in these times of pandemic and inflation is the right to an adequate standard of living and social protection. The UNCRPD speaks about adequacy and support for housing, disability-related expenses and respite care.

Childhood disability is very often the pathway to poverty, and it doesn't need to be that way. We believe that a focus on good policy that meets the right to adequacy is a true path towards equity and inclusion for disabled kids in B.C., and we feel strongly that the RCY is well positioned to be the vessel for the education, promotion and monitoring work that is required in this area.

Now, I'd like to speak a bit about the need for a whole child approach within RCY's mandate. We see the need for an expanded mandate in order to truly address the individual and systemic advocacy needs of young people with health complexities across B.C. Our children have high support needs in most areas of their lives, but the needed supports and services are very fragmented and siloed in various ministries or they don't exist at all where gaps between ministries exist.

Our children, and subsequently their families, are suffering due to the siloed way in which services exist, and advocacy is also challenged by the siloed approach. In working with the rep's office, our organization has experienced the barriers to advocacy support they can provide with regards to health services such as nursing support services, over which they do not have jurisdiction. This is a critical service that provides direct support for approximately 250 of the most medically-fragile young people

across B.C., and it provides delegated support for thousands of children to be able to attend school.

I'd like to share a clear example of a cross-ministry gap that has recently opened to illustrate the need for an expanded mandate for RCY. Nursing support services has played a huge role in supporting children with health complexities to attend child care settings and schools in the past. Sometimes the support has included a nurse that accompanies the child for the day. Sometimes this involves a nurse providing training to education assistants or support workers, such as for G-tube feeding.

NSS has recently rescinded all support in child care settings, and children are experiencing this as a complete barrier to participation. This is a huge step backward for inclusion and creates barriers to employment for families, yet advocacy in this area feels next to impossible for families and organizations like ours. We need the help of the rep's office on a multitude of similar issues.

[1:40 p.m.]

I'd also like to share some examples of other areas that need highlighting. MCFD's At Home program is under the umbrella of children and youth with support needs. It provides health support, including medical benefits, medical supplies, medically necessary therapy, such as occupational therapy, physiotherapy and speech therapy, as well as respite funding. CYSN also occasionally provides nursing support in extraordinary circumstances.

Eligibility for the At Home program requires assessment by a nurse in order to qualify for entry to the program, and most of the supports within the program are health-related and require referrals and justification from professionals that are housed under the Ministry of Health.

These are critical issues that need examining here, as denials and underfunding of medically necessary support is the norm from MCFD. It is problematic, to say the least, that health services are being denied and underfunded at the discretion of MCFD. We need a holistic view and cross-ministry collaboration in guiding policy in this area, especially as we move through the coming systemic reform of CYSN services.

This CYSN reform is happening at the same time as the Ministry of Health, under PHSA, is working on a long-term plan to reimagine the old Sunny Hill Health Centre, known as the Slokan site, in Vancouver. The plan is for it to become a complex care centre that serves children across the province, and early aspirations see it housing support from various ministries.

Our hope is big, but our concern is deep, as we consistently see barriers to authentic cross-ministry work that puts children in the problem area. We really need these wraparound services that cross-ministry work has the potential to provide. The representative has a natural role to play here, as her team consistently keeps children at the heart of their work.

Another area that we'd specifically like to see the representative have a role is with regards to income support

for our families. We were completely left out of the poverty reduction strategy, and our families are struggling immensely. Giving the RCY team an opportunity to do some monitoring work in this area would help to ensure that we are not continuously left out of these important provincial strategies.

It's truly essential that the rep is able to take a whole-child approach and help to bridge the gap across ministries in their work. This would be a huge step forward for families and provide much improved individual advocacy support for children who are currently unseen and underserved as well as allow the opportunity for much needed systemic advocacy and oversight.

We would like to see the representative have an expanded mandate that includes services housed in the Ministry of Health, the Ministry of Education and Child Care and the Ministry of Social Development and Poverty Reduction.

We support the representative's recommendation that, as an interim step, priority be given to expediting a broadening of the advocacy mandate by way of designating inclusive education services funded by the Ministry of Education and Child Care as well as nursing support services funded by the Ministry of Health.

We would welcome any opportunity to further discuss the role of the rep as it pertains to young people with health complexities and their families.

Thank you very much for your time.

K. Paddon (Chair): Thank you so much for that.

I have a quick question that is related, a little bit, to other things that I've heard as well, I'm wondering. You mentioned, specifically, being left out of the poverty reduction strategy. I'm wondering if you were included in the Reimagining Community Inclusion work.

B. Lenahan: I don't believe that.... That mostly would hit the kids who are transitioning to adult services and adult services, but I don't believe that work was centred on our families at all. Again, there are fragments when it comes to all of the transitions that are basically created through ministry programs, as opposed to, necessarily, natural transitions in our kids' lives.

K. Paddon (Chair): Great.

Are there any other questions?

K. Kirkpatrick: I just actually want to make a comment, because I sometimes feel that when we don't ask questions, it may indicate that we aren't engaged or something. I just wanted to say that this was important. I don't have questions. I think it was really well-laid-out.

What I'm taking away from this is the NSS example, something I wouldn't have thought about. I am concerned about the rescinding of these supports. That's another conversation I may have. Susie can help me understand that.

I just wanted to thank you very much, and I appreciate your time.

K. Paddon (Chair): Thank you so much from the committee. We appreciate you taking the time today to be available and make sure that we are understanding the submission.

I'm going to recess the committee until 2:30.

The committee recessed from 1:45 p.m. to 2:29 p.m.

[K. Paddon in the chair.]

K. Paddon (Chair): We have our next presenters, the Union of B.C. Indian Chiefs.

We have Chief Don Tom and Cheyenne Arnold-Cunningham. Welcome.

UNION OF B.C. INDIAN CHIEFS

D. Tom: Good afternoon. I'm Chief Don Tom, Chief of Tsartlip First Nation, vice-president of the Union of B.C. Indian Chiefs. On behalf of the UBCIC, I'm here today to provide you with an overview of our submission to the Select Standing Committee on Children and Youth on reviewing the Representative for Children and Youth Act.

Just to provide some background, the UBCIC has a mandate to work towards implementation, exercise and recognition of our inherent title rights and treaty rights.

[2:30 p.m.]

The UBCIC has been actively involved in advocacy efforts, with provincial and federal governments, that our inherent jurisdiction over our children be recognized and affirmed for many decades. The important work of advancing policy and legislation for our children is a priority for First Nations in B.C. and the UBCIC.

This committee is appointed and empowered to undertake a comprehensive review of the RCY Act or portions of the act, at least once every five years, to determine whether the functions of the representative described in section 6 are still required and to ensure that the needs of the children and adults as defined in that section are met. It is with this in mind that the UBCIC makes our submission which sets out UBCIC's identification of key issues, considerations and initial recommendations in order to inform the committee's review of the act.

I also want to note that just last week comprehensive amendments were introduced to child and family services legislation with Bill 38. My comments today will not take into account the impact of those changes, but they will impact many areas, and UBCIC wants to be clear that the provincial authority over First Nations government, laws and responsibility for children and families is changing, and therefore oversight will also have to change. This is not for today's submission, but it is relevant to one recommendation that we will table.

Let's start with language. The current language in the act is outdated and must be strengthened and expanded to become more effective and responsive to First Nations. Language must recognize First Nations' inherent jurisdiction in the child and family context, consistent with the act, An Act Respecting First Nations, Inuit and Métis Children and Families, also known as Bill C-92.

I wanted to speak about the appointment of the representative. Part 2 of the act, which governs the appointment of the representative, does not obligate the committee or any other body to consult with First Nations or Indigenous peoples as part of the appointment process. Articles 18 and 19 of the UN declaration require appropriate mechanisms for First Nations to participate in this decision-making process, particularly given the cohort of vulnerable First Nations children and youth impacted by such decisions.

I wanted to speak to the representative's staff and institutional capacities. Section 7 of the act, which provides the representative's staff, does not require the representative to appoint Indigenous staff or to specifically advise with Indigenous peoples or an Indigenous representative body, expert or specialist. Currently about 20 percent of the representative's staff are Indigenous, and the representative has used their discretion under section 7(1)(b) to appoint specific individuals for roles relevant to supporting Indigenous peoples. However, it is unclear how many staff members or appointees are First Nations from B.C.

The Hon. Ted Hughes, in his *B.C. Children and Youth Review*, recommended the following: that at least one of the three senior positions at the new Representative for Children and Youth be held at all times by an Indigenous person and that the representative actively recruit some Indigenous staff at all levels of the organization.

The rationale for this recommendation was articulated as follows: the Representative for Children and Youth must have Indigenous people at the senior level if it is to be seen as truly accessible and credible to Indigenous people, and, with a constituency that is at least half Indigenous, can only be fully effective if it is guided by people with a true understanding of Indigenous values, culture and communities.

I wanted to touch on reviews and investigations of critical injuries and deaths. Part 4 of the act, which provides a framework and a legal process for review and investigations of critical injuries and deaths of children, upholds the representative's discretionary and unilateral decision-making powers. Under the act, there is no requirement for the representative to consult, engage, notify or report to First Nations or other Indigenous groups during the review and in investigation procedures and processes.

[2:35 p.m.]

In addition, there is also a lack of recognition of First Nations' jurisdiction, specifically at Section 13, with no opportunity for First Nations to initiate or conduct their own review and investigation of any injury or death of

their own children and youth. The representative is also granted authority to “establish and appoint the members of a multidisciplinary team to provide advice and guidance to the representative respecting the reviews and investigations of critical injuries and deaths of children” conducted under part 4. There is no legislative requirement to appoint a First Nations or Indigenous person to the multidisciplinary team.

I wanted to touch on data collection and information-sharing. It is challenging for First Nations to access relevant data relating to their children and youth in care. While some data is shared publicly by the Ministry of Children and Family Development as well as through the representative, the information being shared is not sufficient. The act does not effectively respond to barriers that First Nations are experiencing. There are significant gaps in the collection of data, including training on data collection, as well as differences in how Indigenous identities are determined.

Few agencies have policies, procedures or training on collection and recording of data in line with a distinctions-based and intersectional approach. Specifically, the Ministry of Children and Family Development collects data on children in care in relation to indigeneity but not consistently in relation to race, ethnicity, sexual orientation, gender identity or other categories. Without adequate collection of data, gaps will limit the ability of an agency to fully understand whom they are serving, proactively address human rights concerns and measure progress of equality-based initiatives.

Even if data were collected properly, there’s no direct reporting obligation owed to First Nations governments under the act. First Nations must have a right to information under the legislative scheme, and the representative must maintain accountability directly to First Nations through strengthened reporting requirements.

UBCIC’s recommendation. On behalf of UBCIC, I’m pleased to provide you with our recommendations in response to identifying key issues and gaps in the current act.

Recommendation 1: amend section 30 to require the committee to undertake a comprehensive review of the act and to assess and report on the effectiveness of the act in ensuring that the needs of First Nations children and youth are met, either in conjunction with First Nations in B.C. or through an independent Indigenous reviewer.

Recommendation 2: amend section 30 to require the committee to specifically engage and report to First Nations in its review and assessment of the act.

Recommendation 3: amend sections 6 and 7 to include a requirement for the representative and their staff to implement the UN declaration when carrying out their functions and duties.

Recommendation 4: amend sections 4(2), 11(3), 12(1)(b)(ii), 12(3)(b), 12(4)(b), 15.1(2), 16(5) and 20(1) to require the representative to consult with First Nations

and to allow First Nations the opportunity to meaningfully participate in the legislative process.

Recommendation 5: amend section 6 to explicitly require the representative to respect, recognize and comply with First Nations law, where they have been passed by Indigenous governing bodies in line with the process set out in C-92. Indigenous law and legal orders in First Nations jurisdiction are a foundation of this work.

Recommendation 6: amend section 6 to require the representative to notify First Nations governments when they have become actively involved in a child’s life.

Recommendation 7: amend section 6 to include systemic advocacy as a function of the representative, linking this function to the support of jurisdictional shifts and the maintenance of respectful relationships with First Nations governments.

[2:40 p.m.]

Recommendation 8: amend sections 6 and 7 to ensure that the representative and their staff make space for First Nations to take back their jurisdiction and actively support them.

Recommendation 9: ensure that the act recognizes delegated agencies and First Nations governments as distinct and that functions, processes and reporting obligations are amended and realigned with regard to this distinction.

Recommendation 10: include a defined term for “Indigenous governing body” consistent with Bill C-92 and the UN declaration, which states that Indigenous people have the right to select their own representatives in accordance with their own procedures.

Recommendation 11: include and define a term for “family” informed by a diverse understanding of family and kinship within Indigenous nations and consistent with Bill C-92.

Recommendation 12: amend the definition of “critical injury” to ensure that the term “health” means both physical and mental health and is informed by the diverse understandings of health, harm and injury to children and youth within Indigenous nations and upholds article 24 of the UN declaration.

Recommendation 13: include defined terms for “Indigenous” and “Indigenous peoples” consistent with Bill C-92 and the UN declaration.

Recommendation 14: amend sections 7 and 19 to replace “aboriginal” with “Indigenous.”

Recommendation 15: amend sections 2 and 5 to require the committee to consult and engage in joint decision-making with First Nations relating to the selection and recommendation of the representative appointees.

Recommendation 16: ensure that First Nations and Indigenous applicants are given priority as part of the committee selection processes for the representative’s position.

Recommendation 17: amend the act to specifically appoint a separate and independent Indigenous advocate,

accountable to First Nations government, either in the representative's office or outside of it.

Recommendation 18: amend 6 and 7 to require the representative to establish a clear plan to increase First Nations representation among their staff, specifically First Nations from B.C., to meet a required threshold of at least 50 percent.

Recommendation 19: amend section 7 to require the representative to appoint a specifically First Nations advisory role to assist the representative in exercising their powers, functions and duties under the act.

Recommendation 20: amend part 4 — specifically 11, 11(3), 12(3), 15.1, 16(2) and (5) — to require the representative to consult with or report to First Nations and/or other Indigenous groups whose children and youth have experienced a critical injury or death throughout all stages of a review and/or investigation.

Recommendation 21: amend section 12(4) to require the representative to notify the First Nation and/or other Indigenous groups whose children and youth have experienced a critical injury or death.

Recommendation 22: amend section 15 to set out a process for the appointment of an advisory group like the multidisciplinary team to support, advise and provide guidance to the representative respecting the reviews and investigations of critical injuries and deaths of Indigenous children conducted under part 4.

Recommendation 23: ensure that the Ministry of Children and Family Development and the representative develop and implement mechanisms for proper disaggregated data collection to reflect the distinct-based and intersectional approach in alignment with B.C.'s Declaration on the Rights of Indigenous Peoples Act and the action plan.

[2:45 p.m.]

Recommendation 24: amend section 10 to grant First Nations government the right to access information specifically on their children and youth in care or in the Ministry of Children and Family Development case management system.

Recommendation 25: amend sections 19 and 20 to require the representative to report annually directly to First Nations updated data in its work with First Nations children and youth.

In conclusion, our recommendations seek to ensure the legislative framework is effective for First Nations in B.C. and that their children and youth are cared for, supported and protected. We urge the committee to look beyond the scope of section 6 and to deeply review the act as a whole.

We also urge the committee to use the United Nations declaration on the rights of Indigenous peoples as a minimum standard for its recommendation and to fulsomely engage with First Nations in all stages of your work. In this regard, there is an urgent need to address oversight but also whether the free, prior and informed consent of First Nations is necessary to the oversight mechanism. This is

unfinished work, and we urge you to look at this in more depth.

I also wanted to add, as we approach, with Bill C-92, where First Nations have the ability to create their laws, to have that jurisdiction.... How that intersects with B.C.'s jurisdiction or the independent office of the RCY has to be figured out and has to be recognized in that manner.

These are children. These are my children. These are Tsartlip's children. These are children of First Nations here in B.C. We have that inherent right to look out for their best interests, to be part of the planning, to be part of the discussion. If they so choose to fall under the representative or if they so choose to have their own independent person.... I think the RCY Act must reflect that and must recognize and honour that jurisdiction — that B.C. leaders and B.C. families have that inherent jurisdiction over their children and families.

Thank you for the opportunity to be here today and for your time and consideration of our submission.

K. Paddon (Chair): Thank you so much. I have to say that was an incredibly impressive amount of information to get so clearly communicated in such a short time. So thank you very much for that. I know I appreciate it.

Questions?

I'll start with Henry and Karin.

H. Yao: Thank you so much for your presentation. I really appreciate, again, the depth. I understand a lot of the recommendations are due to the introduction of Bill 38. Because it became more complicated, it had to be reorganized again.

I would like to go back to one of the recommendations you mentioned earlier, that one of the top-three level positions with RCY be Indigenous-oriented. As a person who comes from a multicultural background myself.... We also understand that just because somebody claims to be a Chinese Canadian doesn't mean they can fully comprehend the complexity of Chinese-Canadian culture.

I guess another question I also have is.... With 200-plus First Nations in B.C.... Obviously, every little nation has their own unique culture, unique perspective on certain things. From the UBCIC's perspective, how would you see yourself, as an organization, being able to comprehensively support, to see how to pick that individual so that the person who is selected is not just simply carrying the Indigenous identity but is somebody who the community views as an individual who is truly well educated enough to represent your culture?

D. Tom: Thank you for the question. Here in B.C., I think what we want to have is the representative using their discretion to go beyond having Indigenous people and, specifically, having First Nations from B.C. appointed to those three top positions. It's important that we have people who are from these lands, people with the history

here, people who know the languages versus someone out of province who maybe doesn't know the culture, someone who doesn't have the attachment to these children directly.

[2:50 p.m.]

It's important to have that distinctions-based of a First Nations person to be sitting there from B.C.

I don't know if you want add anything else.

C. Arnold-Cunningham: I guess the only thing I would add is that that recommendation is just one of many. The hope there is that with increased representation of, as Chief Don Tom has just mentioned, people who have that understanding and connection to these lands and the children that are impacted, but also that paired with all of these other changes, would very much reduce the barriers and challenges that First Nations children, youth and their communities are facing.

K. Kirkpatrick: Thank you very much, Chief Tom and Cheyenne.

What I'm understanding in terms of what we actually have to do with this legislation, and Bill 38 has kind of complicated or confused how we're going to be doing this, is looking for the opportunity for a First Nation to determine, themselves, whether they would like the office of the RCY to be the advocate for their children or they would like to have an Indigenous independent office or role separate from the RCY. However that would be, it would be up to the First Nations to make that determination. We're looking for an ability in this legislation, then, to allow that to happen.

I wanted to clarify that that's, in terms of what we're trying to do with this.... That makes sense to me. I'm presuming, as we go through this, that that will be a difficult but possible, certainly, thing to do. And then what I'm hearing a lot here is that there's a real need for some kind of legislated, documented requirement for the information-sharing and for making sure that First Nations are aware when there's some kind of contact between a child who is a member of a nation and the RCY. It may be happening now, and if it's not happening, it's something that needs to be happening.

This isn't a question. I apologize. It's just more kind of feeding back so that I understand this. And then, also, the ability through that to be involved with walking with the RCY in terms of doing investigations that there are critical injuries, death — being able to be part of, actually, the investigative piece of that as well. Is that...? There may have been a question in there. If you found one, please answer. But otherwise, I was just trying to feed that back.

D. Tom: Yes, thank you for that. I think you heard from our submission the importance of jurisdiction being recognized with a new legislation that changes the landscape of, I think specifically, the RCY office in its duty. I think the RCY office can no longer assume that this responsibility is

theirs when the jurisdiction falls under whether it be Indigenous governing bodies or directly with the First Nations themselves.

Also, I think utilizing the UN declaration as a minimum standard here and ensuring that Indigenous people are not only part of the discussion but also part of the decision-making — that is also for this, RCY, in your considerations in this committee.

What were the other things? But I think as we venture on and we find, whether the province finds themselves at an intersection of whether it be Bill C-38 and data sharing.... Data sharing is.... If I were to look at the different governing bodies or Orders of Canada, B.C.'s relationship is very much set out as to what your responsibilities are and what Canada's responsibilities are. That's not quite clear between what your responsibilities are and what First Nations responsibilities are.

There is a degree here of where First Nations or Indigenous governing bodies are taking their rightful place in having that jurisdiction. Part of that is to have accurate data — to have the data being available so that we can properly plan for our children and properly have that information to make these decisions or to proactively make decisions.

[2:55 p.m.]

Data is important. Whether it be from the Ministry of Children and Families.... I think the new legislation is helpful in ensuring that the MCFD is providing that information and sharing that information directly with the First Nations or Indigenous governing bodies. But I think we also find difficulty in information that comes from RCY as well and is part of that relationship that is different now with new legislation, whether it be Bill C-92 or it's with, I think, Bill 38 here, just recently passed. Times are changing. It's, I think, difficult to keep up.

But I think everything that you shared with me is in the direction that we wish to have — those opportunities for First Nations to be able to make those decisions with the accurate data and that it's not a controversial relationship with MCFD or RCY in trying to obtain that information.

S. Chant: I echo my colleagues in that was a lot of stuff.

At one point, you referred to redefining two words. One was "family" and one was "Indigenous." Can you talk about that a little bit more for me, please?

C. Arnold-Cunningham: In our recommendations, we actually point to some legislation that already has those terms defined. Our recommendation was to keep it consistent with those terms. Specifically in the United Nations declaration on the rights of Indigenous peoples and Bill C-92, there are definitions for "family" and "Indigenous."

But one thing that I would point out is just trying to step out of the Western understandings of those terms and also recognizing diversity and distinctiveness among Indigenous peoples, not only just First Nations, Métis and Inuit,

but distinctions within even those groups themselves and making sure that that's reflective in your definitions.

S. Chant: Thank you. I appreciate that.

K. Paddon (Chair): Thanks so much for that. Henry has another question.

H. Yao: Actually, no. Susie actually asked my question that I was.... That's the exact answer I was looking for. Thank you.

K. Paddon (Chair): Okay. I'm going to ask my question then. You had mentioned.... I was scribbling down notes around the recommendations, and they're really well laid out in the written submission. Thank you so much.

You kept saying "oversight mechanism." I think you said it a couple of times, or the words "oversight" and then "mechanism" closely together, and that it required First Nation involvement and Indigenous involvement in the oversight mechanism.

I just want to clarify for myself to make sure that when I come back and look at this, I'm accurately understanding. Are you talking about the oversight by this committee of the act and RCY, or are you speaking of the work of the RCY with reports and their oversight — because that word has been used a lot — and investigations and advocacy? Does that make sense? When you say "oversight mechanism," are you talking about the oversight of the RCY or the oversight that the RCY offers?

C. Arnold-Cunningham: I think it's applicable to both. The oversight, broadly, is really state-led, and it's not really reflective or there are not a lot of mechanisms or opportunities for recognition of First Nations jurisdiction to actually participate in that process. So our recommendations are more specific to the oversight of the RCY.

To answer your question, I think it also applies to both.

D. Tom: In the oversight and providing the ability to.... I guess looking at the relationship that the representative has, it has a clear relationship with this Legislature. It does not have that clear same relationship with First Nations or Indigenous-governing bodies.

That relationship needs.... I guess it needs to reflect how that oversight is going to be inclusive of First Nations or Indigenous-governing bodies, whether it be sitting at tables like this when you do your reviews or whatever it may be. But that inclusion of having the First Nations take part in this as well.

K. Paddon (Chair): Thank you so much for that. I really appreciate that this was all a lot to bring down into the time frame that we've allowed. So I do sincerely appreciate that.

[3:00 p.m.]

As far as the mentions of the legislation that's before the House right now, I look forward to all of the complexity and conversations that will need to happen to figure out what that looks like as it gets built. I serve on Stó:lō territory, and Sts'ailes First Nation will be one of the First Nations leading the way there. I'm very grateful for that.

Thank you for your time today. Thank you for coming out to be with us as well. Unless there's anything else, I'm going to move on to our next presenters.

D. Tom: I think that's everything. I would just like to thank the committee for your time, and I'm glad you enjoyed the presentation.

K. Paddon (Chair): Our next presenters are from the Society for Children and Youth of B.C. We have Stephanie Howell, executive director, and Suzette Narbonne, managing child and youth lawyer.

Go ahead. You have the floor.

SOCIETY FOR
CHILDREN AND YOUTH OF B.C.

S. Howell: Hi there. Good afternoon. Thanks for providing us with the opportunity to present to you today.

As you mentioned, I'm Stephanie Howell, and I'm the executive director of the Society for Children and Youth of B.C. I've been with the organization since 2014. I'm joined here by Suzette Narbonne, who is our managing lawyer. She's been with the society for over five years now, since our Child and Youth Legal Centre opened up in 2017. It's been five years and a week today.

SCY is a not-for-profit child rights-focused organization. We've been in operation for almost 50 years now. We serve children and youth provincially. Our mission is to foster the well-being and resilience of children and youth in B.C. by advancing their rights. Our current work falls under three main program areas, including child rights awareness, child- and youth-friendly communities and our Child and Youth Legal Centre.

We feel we are uniquely situated to comment on the recommendations that we've made to the committee, in that we've used the United Nations convention on the rights of the child as a foundation for our work for over 30 years now, since it was ratified. All of the work that we do centres around children's rights, with most very specifically focusing on upholding young people's right to meaningfully participate, especially in decisions, when they're being made, that significantly impact their lives.

The representative's office and the Society for Children and Youth are both guided by similar sets of values and provide complementary but very different services. We have unique mandates and expertise and focus areas. For example, RCY provides advocacy for children and youth but doesn't provide legal services, as you know. SCY does provide those free, direct legal services to young people

through our Child and Youth Legal Centre, which is an essential service that isn't offered by anyone else in B.C.

At this point, I'd like to pass things over to my colleague Suzette, who will speak more about this and about our submission and our recommendations specifically.

S. Narbonne: Thank you, Stephanie. Thank you from all of us for inviting us here today. I know that SCY and the representative's office have worked together on a number of common goals over the years. What I thought I'd do is start by sharing a story with you that I think really exemplifies the importance of the special role the representative's office plays in supporting young people.

A young person came to Canada as a refugee. They had no family here at all, and they had no financial support. After they arrived in Canada, in British Columbia, they applied for financial assistance from a number of different programs through the Ministry of Children and Family Development, and they were successful in these applications.

[3:05 p.m.]

Unfortunately for this young person, there was some confusion around them accessing all these different streams of financial assistance. Instead of clarifying for the young person what they could and could not apply for, MCFD cut them from all of the programs. So now this young person was, again, financially destitute, essentially homeless, no support at all.

This young person had fled a war-torn country, and they had experienced a lot of trauma as a young person. They were easily triggered in their conversations with MCFD, because they just didn't understand what was going on or why the support had been pulled. They did try to self-advocate, but again, because of their own trauma, they would get quite upset, and their conversations didn't go well. It got to the point where they were not welcome at the MCFD offices anymore, and police would be called if they showed up.

That's when they came to us. They wanted help at this point in just understanding: "What is the law? What are my rights? What are the policies here? What's going on?" We were able to help this young person, initially, with understanding their rights and some options, but when it came to things like policy and how that policy was actually being used, that's simply not our area of expertise. We referred them to the representative's office.

RCY was able to step in. They were able to figure out the reason behind these MCFD decisions. They were able to clarify the requirements and the expectations around this financial support. Once everyone had a better understanding of what the impediments actually were, this young person was able to get their funding and the support that they needed. While we at the Child and Youth Legal Centre could certainly advocate for this young person's needs, RCY was able to get that actual information that the young person needed to figure out the best course of action.

I know, because we had an ongoing relationship with this young person, that they really felt supported in a child-sensitive and child-friendly manner, something that they had not experienced in their other dealings, certainly with government.

I think this is a really great example of the important role that RCY plays every single day in the lives of young people. That is why our first recommendation is that section 30 of the act be amended. Now, as you know — and you've been listening to people all day and asking questions all day — that section requires a five-year review to determine if the functions of the representative are still required. It's our submission that this kind of requirement at this stage in the game really threatens the permanence and the stability of the office and its ongoing role in really being a champion for child and youth rights.

We know children are rights-bearers, just like adults, but they have less ability to actually make sure their rights are being respected. When I was a student in law school, far too long ago, we learned that a right without a remedy is no right at all. I truly believe that.

RCY is uniquely positioned to collect important information about how decision-makers are in fact making decisions, to work their way through the confusing landscape of these overlapping policies or gaps in service, to expose the weaknesses that are harming children.

In our submission, this is an ongoing role that, frankly, cannot be divided into five-year segments. We submit that instead of reviewing whether or not the functions of the representative are needed, going forward, the legislation should mandate periodic comprehensive reviews, with a focus on the act itself and how it can be improved to best support the promotion and protection of child and youth rights in B.C.

I think that's probably a consistent message you've heard all day today. Certainly my reading of the recommendations and listening to these hearings today suggests that you're not hearing a whole lot of people saying that there is no longer relevance but, rather, that we need to be current and up to date in our legislation.

Now, I want to turn just really briefly to the UN committee on the rights of the child. As you know, Canada submits periodic reports to this committee, and the committee is tasked, amongst other things, with monitoring compliance with the convention on the rights of the child.

[3:10 p.m.]

In its concluding observations to its most recent report respecting Canada's periodic reports, the UN committee commented on how important it is to have an independent children's rights commissioner, both at the federal level and at the provincial level.

In our submission, the importance of that independent role that RCY plays in ensuring that our children are represented and are supported in a personal and in a systemic way just cannot be overstated.

That brings me to our second and last recommendation,

which is that the reference to the UN convention on the rights of the child should be integrated into the RCY Act. We suggest, as a starting place, that the Legislature amend section 6 of the act to require the representative to consider the UNCRC in carrying out her functions in relation to children and youth.

Now, the convention has been described as an international agreement on childhood, and Canada.... As Stephanie has pointed out, we've been a signatory since 1991 to this. Where I work, we use the UNCRC as a foundation for all of the work that we do. It informs the work that we do in child rights. We believe that it can and should also help inform the role of the representative as she continues to carry on her important work. So our recommendation is that the representative be required to take that convention into account — to make it a touchstone, as it were.

Thank you again for the opportunity for Stephanie and I to speak with you. We're happy to answer any questions you may have.

K. Paddon (Chair): Thank you so much for that.

Are there any questions from the committee on the submission?

K. Kirkpatrick: Thank you very much for the presentation. Actually, this isn't a question as much as it was.... My eyes were open when you were talking about section 30. When I read the act, where it said "still required," I actually had a reaction to that. But then, I never kind of thought about it in terms of something that could be changed in the act.

I just wanted to say I hear that. That is something that does question the stability and the ongoing role. So thank you for that, and thank you for the presentation.

S. Narbonne: Yes, I had the same surprise when I read the wording.

K. Paddon (Chair): All right. Well, thank you. I'm not seeing any other questions from the floor.

I do appreciate your comments about.... You know, we have not been hearing a lot about how the representative is definitely not.... That it's not needed anymore: "We're okay. Everything is fixed. It's great." So I do appreciate your comments on that as well. Just the clarity of these two recommendations — I think they're really well outlined, which is probably resulting in there not being any questions.

Thank you so much for your time today. I just appreciate you being here and offering this submission.

We're going to move on to the next presenter.

Our next guests are the Native Courtworker and Counselling Association of British Columbia. We have Kim-Marie Rumley.

Thank you for being here, Kim.

NATIVE COURTWORKER AND COUNSELLING ASSOCIATION OF B.C.

K. Rumley: Good afternoon, everyone. Thank you for inviting me to be present today.

I would like to start off today by acknowledging the Squamish, Tsleil-Waututh and Musqueam First Nations, whose traditional territories I am on today.

I apologize for not being present in person today. Given the time factors that we have today, I'm going to get right into our report findings. Our report is a 94-page document, an Indigenous justice report called *Finding Better Solutions*. It's a combination of a consultation process that we did across the province through justice forums, literature reviews, community consultations and a direct engagement process with former youth in care and a couple of youth in care.

[3:15 p.m.]

I'm going to start off by briefly reviewing the recommendations on page 4 of the report. Then I'm going to get into, if we have time, a few direct suggestions made by some of the former youth in care, which I think will be super helpful to the committee.

The initial recommendation in the report, No. 1, is: consider increasing education for young people to safely use the Internet and social media. This is in direct correlation to the *Calls for Justice*, 11.2, which states: "We call upon all educational service providers to develop and implement awareness and education programs for Indigenous children and youth on the issue of grooming for exploitation and sexual exploitation." I'm not going to break down every single recommendation, just knowing our time constraints today, but feel free to review the recommendations on page 4.

Recommendation No. 2: consider implementing safety planning as part of school programming to normalize focusing on safety for women, non-binary folks and children. There was a real highlighted focus about the importance of safety planning and preventative support for children and youth. By implementing community supports and having community supports in place, MCFD involvement in the province can be minimized immensely. Also during the consultation process, people spoke about the need for education on Indigenous children's right to be safe.

Recommendation No. 3: consider framing policy within the justice system to centre the well-being of children, first and foremost. Again, a direct correlation to *Calls for Justice*, 12.3: "We call upon all governments and Indigenous organizations to develop and apply a definition of 'best interests of the child' based on distinct Indigenous perspectives, world views, needs and priorities, including the perspectives of Indigenous children and youth."

Recommendation No. 4: consider implementing policies that support family preservation and support to uphold the dismantling of colonial cycles of trauma.

“Breaking cycles of trauma” was a main theme that arose through our consultation and conference processes. This recommendation is supported by the *Calls to Action*, 1.ii: “Providing adequate resources to enable Aboriginal communities and child welfare organizations to keep Aboriginal families together where it is safe to do so and to keep children in culturally appropriate environments, regardless of where they reside.”

Recommendation No. 5: consider support for the implementation of initiatives to raise awareness around the need for knowing the signs of human trafficking. Attendees at both conferences shared, throughout, the need to raise awareness of the signs of human trafficking for children and youth who are at risk — specifically, Indigenous children in the province of British Columbia — as well as for community and bystanders, who can help prevent human trafficking from occurring. This recommendation is in alignment with *Calls for Justice*, 7.9.

Recommendation No. 6: consider advocating for the funding of after-school and late-hour programs, specifically for Indigenous children and youth, who are at higher risk of being trafficked. There was great consultation around the need for safe places for youth to go to at night, to help minimize risk of trafficking and gang involvement. This recommendation is also supported by the *Calls for Justice*, 16.24.

Recommendation No. 7: to help rebuild family structures that have been impacted by colonial violence, advocate for funding and capacity to support intergenerational connections, such as after-school programs for youth to learn from and build relationships with Elders and learn culture and language. During the consultation processes, there was a recurring theme about our Indigenous youth needing more access to Elders and for Elder-youth programming to be supported by government. Again, this aligns with the recommendation in *Calls for Justice*, 2.3.

Recommendation No. 8: consider advocating for the implementation of culturally specific supports for Indigenous peoples to reduce risks of human and sex trafficking. Because of the disproportionate impacts on Indigenous people, as described in the missing and murdered Indigenous women and girls report, it is important to create culturally specific supports and education materials on the prevention of human trafficking of Indigenous women and children.

[3:20 p.m.]

Many of our children who are involved in the care system become a direct result of human trafficking. It is also necessary to educate stakeholders in both justice and MCFD capacities around human trafficking and the dehumanization of Indigenous peoples in Canada.

Recommendation No. 9: ensure strengthening of policies that allow for programs, infrastructure and legislation that foster a sense of belonging and identity for youth living off reserve, such as ways for youth to feel connected,

safe and like they have a place on reserve even if they didn't grow up there.

Consultation processes and conference attendees highlighted a need for an increased sense of belonging for youth living off reserve, where the disconnection and alienation felt is due to colonial violence and colonial policies that separate and divide Indigenous people from one another in their communities and on their lands. This was reiterated by our youth in care numerous times through our consultation process.

Recommendation No. 10: consider implementing policy to create more funding opportunities for programming supports to Indigenous men and boys, such as supports for healing and developing a healthy sense of masculinity as well as places for perpetrators of violence to heal and be heard regarding their own colonial traumas. Highlighted was the need to bring men and boys along in healing and the need for holistic community healing, as colonial violence impacts all genders.

Recommendation No. 11: consider mandating more rigorous education and competency requirements for judges, lawyers, police, social workers and other professions that work in the justice system on their level of understanding of colonial violence. This recommendation is directly supported by call to action 1.iv.

Recommendation No. 12: advocate for policies that do not perpetuate colonial harm and maintain colonial systems.

Recommendation No. 13: specific recommendations to increase support for children and youth aging out of care include the following.... It references the B.C. Representative for Children and Youth report, 2016, pages 62 to 67. I won't break those down for you, but they are broken down in the report.

Recommendation Nos. 14 and 15 also speak to other reports, recommendations that emerged from the *Indigenous Resilience, Connectedness and Reunification: From Root Causes to Root Solutions* report. I would encourage you to reference this in the breakdown of our report. It has several key recommendations that, again, were supported in our consultation processes with community and with Indigenous children in care or Indigenous children in care who have aged out.

The final report references the B.C. Representative for Children and Youth, RCY, report *Too Many Victims: Sexualized Violence in the Lives of Children and Youth in Care*. We broke down these recommendations in our report and our recommendations as well, and they're supported by many of the calls to action and calls to justice.

Those were the recommendations that we really wanted to highlight and bring forward to the committee today, which are all broken down on pages 4 and 5 of the report.

I'm not sure of my time remaining. If I have a little bit of time, I'd like to highlight some of the recommendations that were brought forward by our youth in care.

K. Paddon (Chair): Yeah, that'd be great. Thank you.

K. Rumley: Okay, thank you.

We underwent a fairly extensive consultation process with youth in care, our former youth in care with whom agencies that we were working with had relationships with. In this consultation process, I want to assure you that there were Elders present. There were community advocates present, and there were support services present, because it was never our intent to trigger or harm our Indigenous children any more than they already had been.

Some of the key things that I wanted to bring to the attention of the committee were.... One of the key themes that emerged when speaking to Indigenous youth who were formerly in care of the B.C. welfare system was the acknowledgment of the impact of intergenerational traumas on their families.

While reflecting on the reasons for being taken into care, participants shared how parents struggled with the impacts of residential school, such as trauma and substance abuse, mental health issues, without needed supports to promote healing. One person explained that his mother didn't reach out for support because she feared that punitive actions would be taken by MCFD regardless of her attempts to access supports to better herself.

[3:25 p.m.]

Others described how they were able to acknowledge the need for a space away from their parents while they struggled with substances and mental health but wished extended family and parents could have been better supported to take on that role.

A quote from one of our former children in care:

"I think about the challenges in keeping families together. I think about going back to when our older generations went to residential school and how residential school had an effect on everybody.

"My late dad went to residential school, but I didn't talk about it at all. Nor did he. My mom went to residential school as well. It was a day school, but still went every day. I think about the fact that I ended up in foster care because my parents were alcoholics as a result of that system. A touchy subject, keeping families together. It's like being stuck between a rock and a hard place because of the trauma that was caused."

Another big focus by our youth in care and our former youth in care was healing and recovery and breaking cycles. It was acknowledged that the healing from the impacts of substance use continues to occur, allowing for parents to regain their roles as caregivers. All youth who spoke about the impacts of substance use on determining their in-care status also described healing stories, where parents were able to repair relationships with their children.

One youth described how healing occurred in their family through substance use recovery, which enabled them to be returned to live with their parents as a youth. This person explained how healing recovery of a step-parent was a key step which created positive relationships

and ongoing healing at the family level and provided an example of sobriety for others in the family.

Growing up around drugs and alcohol, I knew I wanted to steer away from it. Everything that my parents did gave me a reason not to do it. I'm trying to keep it positive in my life.

My partner and I are adopting a baby soon. I would rather adopt and raise him in our own home than have the child in the system. My baby's mother was going to have an abortion. It was either an abortion or the baby goes to MCFD. My partner and I had to jump through a lot of hoops. We are Indigenous, so we have to jump through even more hoops. We're willing to do it. We want to bring him home when he is born. It's so hard, but we have to do it to avoid him going into care.

Again, a common theme amongst our youth who have aged out of care or who are currently in care was keeping families together and communities together. There were a lot of discussions around siblings being broken up when they were involved in the child welfare system in British Columbia, and social workers were not including the children and the decisions being made about their own futures, even though some of the children were a lot older. The disruption of those relationships was a common theme around trauma and family reunification. It was an issue because the children were separated and raised very different.

There were some key recommendations from former youth in care about, at all costs, keeping siblings together if it was necessary for them to even go into care. And, again, they reiterated the importance of being in an Indigenous home when they do go into care.

Another issue that was a reoccurring theme was the inconsistency in foster home quality. All former children and youth that stayed in more than one foster home said that each home was different, with some feeling significantly safer than others. When talking about foster placements, it was shared that some foster placements were supportive and welcoming while others demonstrated neglect, apathy and abuse. For example, favouritism towards biological children was a common theme, where children in care felt they were not given equal opportunities as the biological children of the foster parents.

One person explained that the foster parents would drink alcohol and become physically abusive to the foster kids, which they had never experienced before being placed in the MCFD care system. Another person explained that many of their peers have been abused by foster parents and stated that they felt fortunate to not have experienced that. One person that experienced neglect reflected on the capacity of the foster parents to adequately support them and noted a lack of foster homes and safe places to go.

[3:30 p.m.]

One person shared that they were recently asked to contribute to an MCFD investigation into a foster home,

which she described as overcrowded, with eight children in the house with three caregivers. Her observation was that foster parents were unable to meet the complex needs of children who have experienced trauma with so many children to care for.

Another person reflected on the lack of foster homes and time spent in transitional placements and commented that there was a clear lack of foster homes and safe places for children in care to go, let alone Indigenous homes. A former child and youth in care also shared about a positive experience in the foster placement where children in care felt connected to and generally cared for by the foster parents. This was an Indigenous foster home.

One person shared that she always felt accepted and that her foster parents genuinely cared about her. This person went on to describe how her foster parents supported her in maintaining relationships with her family and invited her mom and siblings to their home for dinners. In this instance, the foster parent earned respect based on tireless advocacy and support for the Indigenous family to remain connected.

That was a key message to us from our youth in care and former youth in care. Despite the fact that they were in the care system, one of the key factors in their resilience and their ability to reconnect with their culture and their family was having the foster parent and the foster home and social worker on board to maintaining those connections to their family, even if it was just one healthy family member or even if it was through the supervised visit process if family members weren't healthy. So that was a huge piece during the consultation process with our youth in care about their resiliency and their ability to move through their trauma and heal.

It's interesting. I just want to end with an observation through my work in the friendship centre movement with youth, youth probation, youth restorative justice programs and finally in the delegated agency in the province with youth in care: our children always go home. No matter what, our children always go home, so we need to be able to support our children in a culturally-appropriate, good way to go home.

I just want to thank you for your time today. As you know, we've delivered a very extensive report, and there have been five years of community consultations. I thank you for reviewing the report and for your time, and I'm open to any questions should you have them.

K. Paddon (Chair): Thank you so much for not only coming today, but for all of the work and everyone who contributed to the report. It's a significant and important piece of work. I appreciate you sharing the themes and stories.

As it applies to our work here in reviewing this act for the Representative for Children and Youth, for me, I see clarity in everything you've shared. This is still one of the functions of this committee, at this point in this review

— to review whether or not this is still relevant and if we still need a Representative for Children and Youth. I think through your work, among other things, it's very clear that the functions of RCY are still very relevant to everything you've described and all of the stories you shared. Thank you so much.

I know Norm has a question.

N. Letnick: To follow up on our Chair's thank-you, thank you for the presentation and the stories, in particular that the one near the end about the foster parents that were engaging the birth parents, the family. Is there anything that requires foster parents to do that or anything that hinders foster parents from doing that so that we can get more foster parents copying that example?

K. Rumley: The short answer is yes and yes. However, I think what needs to happen.... I know this can often be difficult for MCFD social workers. Delegated agencies have a little bit more flexibility in this instance, but I think what needs to happen is in the screening process. We do have some great foster care training that goes on in the province now, the PRIDE pre-service training.

[3:35 p.m.]

I think what needs to happen is foster parents really need to be screened and vetted to ensure that they're genuinely on board — if they're going to be fostering Indigenous children, that they're genuinely on board with trying to also foster that relationship with those children's families and that they're willing to have them in their home, they're willing to take them to cultural events.

We do get a lot of lip service in the foster parent screening process, and then when it comes down to actually.... Especially homes that have a lot of children in them. These children have diverse cultural needs because they're from different nations, and then they've committed to: "Yeah, we'll take Indigenous children. We'll support them to connect with their family. We'll support them in attending cultural events and connecting with Elders from their community." Those foster parents really need to understand what they are committing to.

The individuals that are quoted in the report.... I actually knew that foster family and worked with them, and I knew two of the Indigenous children in that home. That's how we were able to bring them into the consultation community engagement process. That foster family is actually Métis, so to have that family connection and those cultural connections was so important for them, and they foster all those relationships with all their children. They try and connect them to their family.

It's an integral, key piece of the success of our children aging out of care, because like I finished with, our kids always go home, so we want them to go home to safe places. We want them to go home culturally connected. We want them to go home knowing who they are. If they have to be in the care system in this province, we need

them to know who they are, where they come from, that they do have community and family that love and care for them and that the traumas and the addictions are not their fault, because many of our children internalize those traumas.

I hope I answered your question.

N. Letnick: Yes, thank you.

K. Paddon (Chair): Okay, I'm not seeing any further questions, so I just want to thank you for your time this afternoon and the information you shared with the committee to frame our considerations, moving forward. Thank you so much for being here.

K. Rumley: Thank you. I appreciate the honour.

K. Paddon (Chair): All right. The committee will be moving to the next presenter, which is our Representative for Children and Youth.

Our final presenter today is the Office of the Representative for Children and Youth. We have Dr. Jennifer Charlesworth, Alan Markwart and David Loukidelis.

Excellent. The floor is yours.

OFFICE OF THE REPRESENTATIVE FOR CHILDREN AND YOUTH

J. Charlesworth: Thank you so much. We're spending a lot of time together this week. This is quite lovely. Thank you very much.

I'm pleased to be here today to speak with members, once again, about the committee's statutory review of the Representative for Children and Youth Act. I would like.... It's been a little while since we acknowledged the territories, and I think it's important that we do so, especially as a storm moves in.

We are very fortunate to be gathering together on the traditional and unceded lands of the Ləkʷəŋjínəŋ peoples and grateful to the stewards of these lands for time immemorial.

You have met my colleagues. We've been working together on the statutory review and the legislative amendments for some time: Alan Markwart, who you know well, and David Loukidelis, who is very gratefully.... He said yes when we asked him if he would support us as external legal counsel.

[3:40 p.m.]

Before providing the RCY with updated recommendations on revisions to the legislation that guides our office's work, I wanted to acknowledge the written and oral submissions that the committee has heard and received both today and over the last several months. It is gratifying to see interest in the RCY and the mandate of our office.

As you've no doubt gathered, there are many amazing

organizations in this province that are doing exceptional advocacy work, and we value them as both partners and collaborators. I think one of the things is that there's such a significant need, and we actually need us all to be working together. I am grateful for the skill, tenacity and empathy of these colleagues that have presented to you today. I just want to say that it's never an either-or but a both-and in terms of the way in which we do our work.

As you'll recall, we submitted an initial written submission to the committee in April and then brought that forward to the committee thereafter. At that time, we identified a number of recommendations for change and also said: "Here are some things that you may wish to consider as you're receiving information."

We will be preparing a very fulsome final written submission by the end of this month, but we wanted to take this opportunity — because everything is fresh in your mind from these oral submissions — to bring forward our final recommendations, subject to a little bit more reflection after today. We wanted to make sure that we had an opportunity to speak directly with you as you continue your deliberations.

I'm not going to speak to all of the things that we've included in this short summary, the final recommendations summary. However, I do want to bring forward some that I feel are particularly important. I think they resonate with the things that you've heard today.

The first and most important is the assertion of jurisdiction. I was very honoured last week to be in the House when Bill 38 was introduced, enabling First Nations in B.C. to move ahead with assertion of jurisdiction over their own child welfare, which complements the federal legislation that you've heard Chief Tom speak to. That came into force nearly three years ago.

The amendments under Bill 38 are a very important step in a complex process that will take time to complete. As that process unfolds, nations or their Indigenous governing bodies will likely require support from our office, and we want to work alongside them, supporting and being responsive to any and all such requests. In fact, we've already been approached now by four nations who've indicated that they look forward to working with RCY as they assume jurisdiction.

We, of course, fully support jurisdiction but know that that's not going to be an easy journey, for a number of reasons. In fact, just last week, Blair Mitchell and I — Blair is the executive director of advocacy — had an extraordinarily wonderful, generative and creative meeting with a nation that is well on their way to restoring jurisdiction. They informed us that they would like to be the first B.C. nation to negotiate a working agreement with our office that would include information-sharing, advocacy and possibly some other services.

That brings me back to the RCY Act, because right now that would be a very difficult ask, especially as jurisdiction unfolds. One of my key recommendations is for the addi-

tion of a provision in the act to enable RCY to enter into agreements with Indigenous governing bodies to support them in developing the capacity to carry out one or more of the functions of the representative or for the RCY to directly provide those services for a nation.

Section 22 of the act now enables the representative to enter into agreements for the purpose of exercising the powers and performing the functions and duties under the act. We suggest that for clarity, the section be amended to expressly permit RCY to, at their request, enter into agreements with Indigenous governing bodies under which RCY may exercise all or some of its powers, duties and functions as a service to them.

Without such a change, questions could be raised about RCY's authority under the act to do so. We'd like to prioritize this recommendation because, as I've mentioned, we've already entered into exploratory conversations about this with some nations, and there are a number of nations that are poised just on the edge of drawing down their jurisdiction.

The assertion of jurisdiction by nations will obviously have significant impact on the office's work in the years to come. This is, therefore, a larger area of discussion. I would suggest that by 2027, we'll be having some very different kinds of conversations about the act, but in this intervening period of time, we want to make sure that we can walk alongside and be supportive.

[3:45 p.m.]

Are the functions of the representative still required under section 30? As you know, section 30 requires the committee to ask, during its five-year legislative review, whether the needs of children and youth in B.C. are being met and whether functions of the representative are still required.

I think, as a result of today, the answers to those questions are clear. There have been improvements, but the needs of the most vulnerable children, youth and young adults in B.C. are too often not being met. Therefore, the functions of the representative are definitely still required. Moreover, support for the continuance of the office and all of its functions and, indeed, for expanded jurisdiction, which I'll come to, is evident from the submissions that you've received.

We therefore recommend that section 30(1) be amended to remove the reference to determining whether the functions of the representative are still required — I should add that we're the only independent office that has that kind of provision — and to simply state, like the governing statutes of the Information and Privacy Commissioner and the Human Rights Commissioner, that the committee undertake "a comprehensive review" of the act every five years.

We recommend that section 30(2) of the act be repealed. I should say that this committee made a similar recommendation in 2017, but that was not acted upon.

The next thing I want to speak to is RCY as a human

rights institution. We have put forward recommendations for changes that would affirm, in law, RCY's role as a human rights institution.

One of the fundamental underpinnings of our office's work since its inception has always been the United Nations convention on the rights of the child, or UNCRC. In recognition of the overinvolvement of MCFD in the lives of Indigenous children, youth and families and also the enduring damage that has been done by colonial policies and practices in child welfare, we're also very much grounded in the UN declaration on the rights of Indigenous peoples. Given our considerable work in individual and systemic advocacy, our office is also guided by the UN convention on the rights of persons with disabilities.

Those are the foundation on any basis, but to bring that into the legislation would be a significant and important gesture on the part of the government and the Legislature. Our submission proposes that action be taken to remedy these omissions. In practicality, RCY, as I say, operates within these almost universally accepted conventions, but we can do so much more if we have that clearly embedded in our legislation.

More specifically, how that would look: we recommend that section 6 of the act be amended to require the representative to take UNDRIP into account in carrying out the office's functions, that section 6 also be amended to require the representative to take the UNCRC into account in carrying out the office's functions in relation to children and youth, and that the section be amended to require the representative to take into account the UN convention on the rights of persons with disabilities in carrying out the office's functions in relation to children, youth and young adults.

I should just note that that's a shift, actually, from where we started. Initially, we had spoken only of the UNCRPD in relation to young adults, but we also think it's very important with children and youth.

Finally, section 6 should also be amended to expand the representative's functions to include the education, promotion and monitoring of the rights of children, youth and young adults, as set out in the UNCRC and the UNCRPD. That's on the human rights side of things.

Now let's talk about jurisdiction, specifically focusing on services to vulnerable children. As you know, our jurisdiction extends beyond child welfare, including children and youth with extra support needs, and mental health and substance use. Changes are required to clarify our mandate, because designated services are defined in the act in a variety of different and, quite frankly, muddled ways. This is problematic, because it leads to a lack of clarity about the scope of services that are within the representative's mandate and to the exclusion of relevant and important services for vulnerable children.

The responsibility for programs and services, as you know, can sometimes shift between different legislative

authorities, different ministries and public bodies. What happens then is that it leads to gaps and uncertainties. The needs of the children and youth with extra support needs cannot and should not be described and limited by the silos of ministry mandates and legislation.

[3:50 p.m.]

What we're suggesting as a better approach would be to describe all of the services that are to be included in relation to vulnerable children and youth in a clear, generic manner, as is currently the case in our legislation, for example, with mental health services for children or addiction services for children.

Therefore, we recommend that, for the purposes of individual advocacy and systemic advocacy, the scope of services for children and youth should be amended to include early childhood development services, child welfare services, mental health services for children and youth, addiction services for children and youth, services for children and youth with special needs, special education or inclusion services for children and youth, youth justice services, services for youth in their transition to adulthood and services for gender-diverse youth.

I should highlight from the list that the inclusion of special education services for children and youth and services for gender-diverse youth would represent an expansion of our current jurisdiction. If we have a generic reference to children and youth with special needs rather than CYSN under MCFD only, that would enable the inclusion of nursing support services and other health-related services for children who need that assistance.

I should also say that right now we have a mandate for child care services. "Child care services" is very broad, and many of the families and children that access child care services are not vulnerable. So we're actually suggesting that we narrow the focus there and that we focus on early childhood development, rather than having a very generic and broad focus. Once again, we're coming back to the whole child and to those children who are the most vulnerable and who would best be served by an office like ours.

We also suggest, related to this, that authority and responsibility be given to the representative to develop agreements with ministries and public bodies as to which particular services and programs are to be included — and that, in the event of a disagreement, you get to be the arbiter. The authority for this would be referred to the committee to resolve.

The reason we put that in is really that, as we know, their programs and services are constantly evolving, so they should. We learn more; we change. It is important for us to work with those public bodies and the ministries to get very clear: what's the scope of our services, and how will we work with those public bodies in order to make sure that children are best supported? I'd also like to say that we're feeling a sense of urgency as well. As you heard

from a number of people today, there are some significant gaps over which we have no jurisdiction.

What we'd like to suggest is an interim step, pending legislative amendments, that priority be given to expediting a broadening of our advocacy mandate in relation to children and youth with special needs by way of regulation — which can be done — specifically to include special or inclusive education services funded by the Ministry of Education and Child Care; and nursing support services in the assessment and diagnostic clinics for children with autism — BCAAN is the entity — and complex behavioural disorders funded by the Ministry of Health or health authorities. That would be an immediate quick fix.

I can't emphasize enough the importance of including these crucial education and health services for children and youth and, as we've spoken about before, the importance of understanding the whole child and supporting the whole child, because if one area is falling flat in their life, then it has a ripple effect in many other areas. If we're not able to advocate, for example, for access to inclusive education or nursing support services, my goodness.

We just had, as you heard from Brenda, a situation where we could see that there was going to be tremendous damage done to a whole number of families on the basis of the decision that was being made, and we had no authority to intervene. I'll leave that with you.

Moving on, RCY's advocacy mandate for young adults. The next recommendation I'll highlight deals with our advocacy on behalf of young adults. If the goal of individual advocacy for young adults is to improve services to, and outcomes for, those with extra support needs, then a whole-person approach is required there too. It demands that, at the least, the core services necessary to support them in their transition to adulthood be able to be addressed.

[3:55 p.m.]

This could include, for example, things such as mental health and addiction services, housing supports and financial supports, or, in the case of CLBC, young adults who have concurrent significant medical needs, specialized health services and supports.

We've now had several years' experience with advocacy for young adults involved in the CLBC service system, and there have been many case examples where advocates have not been able to address the services necessary to support them in their transition to adulthood. In fact, Ross Chilton spoke about that — the complexity of the circumstances they're dealing with now and the lack of ability that we have to advocate for a more fulsome.... Mental health and substance use, particularly, are the ones that frequently come up for us. It's like having one hand tied behind our backs.

Government has clearly acknowledged and responded to other needs of young adults who were formerly in care through very welcome new initiatives arising from the 2022 provincial budget. Despite these well documented

needs, RCY's individual advocacy jurisdiction in relation to these young people continues to be limited to just agreements with young adults, tuition waiver programs and those eligible for or in receipt of CLBC services.

We recommend that the committee consider amendments to enable the representative to provide individual advocacy services to young adults in respect of services necessary to support their successful transition to adulthood, giving the authority and responsibility to the representative to develop agreements with ministries and public bodies as to which services and programs are to be included — and once again, you get to be the arbiter if there is disagreement.

Further, as an interim step, pending amendments to the act, we recommend priority be given to expediting a broadening of RCY's advocacy mandate, by way of regulation, to include mental health and addiction services, funded by the Ministry of Health and health authorities, for young adults who were formerly in care or eligible for or in receipt of CLBC services. I have a lot of examples of why that would be necessary. Just saying: an opportunity for questions later.

The next recommendation — we've just got a few more highlights — I will address is with regard to fixing a current limitation on our ability to investigate a death or critical injury of a youth that occurs after they reach the age of 19. I actually have in my mind a young woman and her story in bringing this forward, just to give you a snapshot of why this matters.

We became aware of this young person's story as a result of a health professional reaching out to us and saying that they had been caring for this young person while they were detained under the Mental Health Act and that they were very troubled by what they had seen. They asked us to take a look. The sad part was that this young person had been detained for many months within a mental health institution, and just around her 19th birthday, she was discharged. She was given a taxi voucher, she was sent to a shelter, and several days later she died of an overdose.

When we looked at this situation — I did do a comprehensive review on this one — we were not able, with our current mandate, to undertake an investigation. There was so much to be learned in this situation. The reason was that we had not received any reportable circumstances prior to her 19th birthday, yet she became known to us through a concern raised in the community. She'd been in care for many, many years. Clearly, there were many reasons that it would have met every other threshold for investigation, but because I didn't have authority past the age of 19, I couldn't do anything.

We are recommending that the act be amended to provide that where a critical injury has arisen while the injured person was a child, an RCY investigation may include events and incidents that occurred at least one year after the child reached 19, where the representative

believes that such an investigation raises important public policy issues.

I really encourage you to think about that because, as you know, there are heightened risks when a young person is leaving care, especially in those first few years after leaving care. If we're really trying to do a better job of preparing for transitions, we need to be able to monitor what happens thereafter and to undertake investigations.

The next area is information-gathering and disclosure. This is the last recommendation I'll highlight. Both touch on current restrictions to our office's ability, under the act, to share information in instances where it would be beneficial to organizations and families.

[4:00 p.m.]

The act accords the representative extraordinary powers to gather information, and these powers are in turn balanced by extraordinary limitations on the disclosure of information. It makes sense to some extent, but there are a couple of problems with that. Those disclosure limitations are such that there are situations in which I have no discretion. I would very much like to exercise more discretion in sharing some very basic information with family members, parents and loved ones of a child after they have passed, for example.

Let me go into the specific recommendations. We conducted dozens of comprehensive reviews of individual injuries and deaths in addition to our investigations, each of which includes a detailed examination of the child or youth's files. Due to the strict limits of confidentiality and disclosure set out in the act, all reviews of critical injuries or deaths that don't go to investigation — in other words, almost all of our cases — are carried out in complete confidence, with the representative being legally unable to disclose to parents or others the findings or actions taken.

This means that the results of a comprehensive review of an injury or death of a child by our office may be disclosed only to the public body or director responsible, with all others, including the parents and close family members, being left in the dark about the results of the review. This can be extremely frustrating and heartbreaking for parents.

I've had to deny parents requests for this basic information about their children on several occasions — actually, more than several occasions, multiple occasions. There's nothing that feels good about that, because it's an opportunity to share something that would enable healing and closure, and I'm not able to help.

The inability to disclose any information at all, even generally or in summary, to parents, especially in cases where the child has died, is simply wrong. I recommend that the act be amended to give the representative the discretion to disclose limited summary information of the results of reviews of critical injuries and deaths to birth or adoptive parents of a child, regardless of whether that parent has or had guardianship.

Of course, this disclosure would be subject to clear cri-

teria and to constraints on the subsequent disclosure or use of that information. For example, if I shared information to a family member, they wouldn't then go to media. It would be something that would be in a more intimate relationship of sharing information.

The other thing I should say — because you heard first today from the wonderful Mary Teegee — is that we have some limitations on the opportunity to disclose information to the Indigenous child and family service agencies. For example, if I undertake a comprehensive review, even if the comprehensive review pertained to a child that was in the care of Indigenous child and family service agencies, I am not able to disclose that information to the agency itself.

I have to go to the provincial director and ask them to share the information. It's entirely in their discretion. I have no authority as to what they do with that information. I think that's a colonial limitation that prevents us from directly providing the Indigenous agencies, delivering the services at the local level, with important information that would improve outcomes for children and youth.

Those are the highlights. We've identified a number of other issues in the recommendations that are included in your summary report. Of course, we'll have a full final report to you, as well as reflections and suggestions from today, at the end of this month.

That concludes my presentation. We welcome questions. I will let you know that I have two amazing respondents here, and I will probably not talk a whole lot more after this with any legislative matters, because we have the pros beside me.

K. Paddon (Chair): Thank you so much.
The first question is from Norm.

N. Letnick: Thank you for the presentation and the recommendations. What I heard a lot of today was fascinating, troubling, interesting, all kinds of adjectives.

I think you hit one point, which was that there are gaps. The presenters talked about the silos as well. I've been in public office for almost 25 years, and I've been hearing about silos since day one. I'm still hearing about it, and probably my kids will hear about it. I don't know how much better we can get at it, but we have to keep picking away at them of course.

[4:05 p.m.]

Another thing I heard — and it's because of my lack of knowledge in this area, I believe — is the overlap. I saw groups overlapping each other, trying to serve the same clients in different ways or the same ways. Again, I'm not too sure if that's just me and my perception or whether that's the reality.

My question to you is: does your mandate...? Does the legislation need to change? It might already be in there, where you have the power to look at the whole system and all these not-for-profits and other service agencies that are

providing services to our most vulnerable children and try to rationalize it somehow, saying: "We have limited dollars. We have limited people to provide resources, and we have all this overlap over here and all these gaps over here. We need to somehow help them take care of the gaps and stop the overlap."

Do you know what I'm saying? Is there anything in your legislation that gives you that ability to take the 30,000-foot-level view of this and try to help our kids because you're able to get the resources where they're needed, when they're needed as opposed to a whole bunch here on top of each other and none over there?

J. Charlesworth: What a fascinating question. I'm going to make an effort to respond to that, Norm, and then look to David and Alan to speak in. Right now we have, in our legislation, section 20, which allows me to undertake special reports. They would be of the more systemic nature. They would be looking at the big picture.

Theoretically, I could undertake a special report that says: here's what I see in terms of the distribution of resources and that there are gaps over here, and it might appear that there are some overlaps over here. However, having worked in the field for so many years, there are overlaps in effort but not a whole lot of overlap of resourcing. That is a perspective. But theoretically I could undertake that.

It's a bit of a tension, though, I would say, because so many of the decisions are made in a way that is determined at the local level with an understanding of local needs. It would be virtually impossible for an office like mine to understand every local community and what their needs and requirements are. As a former community developer, I have to respect that the communities actually know better than I would.

Theoretically, yes, we could take a look at the broader resourcing issue. But practically, it would be very challenging to get to that level of detail about: are the resources being spent well in Lake Country, for example? Should we be taking from the resources that are allocated in your area or for this population of children and put them over here? I would find that extremely difficult.

A. Markwart: Well, I would maybe build on that and say that we can't do everything ourselves, and in fact, we are reliant on grassroots and other advocacy organizations. We work together with them to kind of clarify who is going to do what.

In some ways, I mean, we are a system of last resort, because we have legislative powers that other community advocacy groups do not have. For example, we have access to information. We have powers to compel access to information. Quite frankly, if we have an advocate who is coming from our office, that alone, because we have statutory authority, commands a degree of respect.

It's really, I think, a matter of coordination. As Jennifer

said, I think we can't do everything in every community in the province. In fact, if you look at section 6, part of the role in advocacy in our office is actually supporting, promoting in communities and commenting publicly on advocacy services for children. There's an assumption there that we're not going to do it all, that it needs to be devolved and that there are going to be community-based organizations doing that. What we need to do is make sure that we're not stepping on each other's toes. I think we do that.

J. Charlesworth: Does that answer your...?

N. Letnick: Yeah. Mm-hmm.

[4:10 p.m.]

K. Paddon (Chair): All right. We have another question from Andrew and then Karin.

A. Mercier: We've heard a lot today, and I appreciate that we'll be receiving a final fulsome submission with your perspectives. I'm looking forward to reading it.

I'm wondering if you can provide some initial comment on the recommendation raised by the Public Guardian with respect to having a legislative requirement for a role for the child or youth or a consideration, specifically, in order to preserve autonomy when weighing your discretion.

I take the point that there is likely a fairly robust process that you go through doing that and that it's not taken lightly. I'm wondering if you could just provide some initial comments, from your perspective, on that.

J. Charlesworth: Yes. I will start, and then I will look to my colleagues here.

This is an interesting one. A couple of things. This is actually going to be a challenge. I'll just kind of go out in the nether regions for a moment and come back, Andrew.

It's going to be one of the challenges that this committee faces. What do you put in legislation, and what do you put in regulation? Then what do you trust the representative to do with that legislation or with the enabling clauses in the legislation?

I'll give you a concrete example of that. As the rep, I've made a decision, for example, that we will not do an investigation on a child who is living. That has not always been the case, but I felt that it was important. There are significant risks for a child who is still living if we do a report. Just imagine ten years on. If the child knows that that report was done, it could be retraumatizing. It could be triggering, and there could be some significant concerns. That's really what Dana was speaking to, the memory of that situation in 2015, 2016, prior to my time.

That's a policy decision. It doesn't need to be in the legislation per se in order to exercise good judgment and discretion around how you tell a child's story.

I have to say that I do have some concerns about the requirement of gaining consent. As you said earlier, that could amount to a veto power. That's for a number of reasons.

For example, a young person.... We could do a tremendous job in anonymizing, and none of you would know, even if you were in the community, as a result of the way in which we anonymized a child's story. The child will read that, and they'll know that it's their story. They will think that everybody else will know that it's their story. They're going to say: "I'm really uncomfortable about that." Or they might well say: "Damn right, that's my story. I want my name on it." We're thinking: "Oh my goodness. Is that a wise decision?"

Again, I don't want to be paternalistic about this. But is that a wise decision? Going forward into time, will that still be comfortable for that child?

As I say, it's a non-issue, because we don't do investigations on children who continue to be with us. A different representative might have a different interpretation of it.

I think there's an important distinction between voice and consent. So having a child's voice and an understanding and what would make them feel most comfortable as opposed to the veto power of consent. I think it's something that needs to be wrestled with there.

The other thing that I think is important is.... It's always going to be a tricky one around the capacity of a child to provide that consent or to be able to express their voice in a safe way. I think it's also a consideration around families. If you've got a younger child, for example, where is the family's role in there, and where are the child's rights in that situation? It's a bit of a thorny issue. I think I embrace the whole notion of voice and participation in situations like this, but the whole area of consent, I think, is a slippery slope.

The other thing I just want to say is.... When we do our investigative work now, we are very mindful of connecting with family. If a child has passed and we're choosing to do an investigation, connecting with family, connecting with those who knew that child well and their loved ones, the people who could bring that child's voice forward in these times, even after they have passed. We take that into account.

[4:15 p.m.]

If we are doing any kind of aggregate review or systemic review in which a child's story is being used, as much as possible, we get their consent for the way in which we tell the story now. That's a policy, not something that's entrenched in legislation.

A. Mercier: Just a quick follow-up. Functionally, with the policy you operate with now, if there was a provision that said something to the effect, thereof, that the office of the rep for child and youth will seek the participation of the child or youth in the process and give consideration to that.... Thinking of that as language, that would poten-

tially give some solace and some autonomy to the child or youth.

Would that functionally change or hinder how you go about the process now, or would it add capacity issues?

J. Charlesworth: Hmm. Again, I'm going to turn to you, David, on this one.

I think that would, essentially, affirm the practices that we're currently doing. It would create the enabling provision — I think that's the intention here — as opposed to having something that locks us down so much that we have no discretion left.

Over to you, David.

D. Loukidelis: Yeah. I don't think I could add much more to what the representative already said.

In answer to your last point.... Of course, section 23 of the legislation imposes a very strict confidentiality obligation. Consistent with that, as we've heard, the office has in place practices and policies that, on the one hand, try very hard to give a voice to children and their families in an appropriate way.

To build in that kind of discretion, if you will, could be done. At the same time, I don't know, frankly, that it's a necessary thing to do. We've heard that it's a policy of the office, but to put that in legislation I don't think would necessarily achieve, particularly, much.

K. Paddon (Chair): Thank you so much.

K. Kirkpatrick: I have a couple of questions. I'll just start with one and then see if.... I don't want to take all the time.

Thank you very much for the presentation. The one thing I just want to come back to is that interim step that you were talking about and the ability to actually expand some of the scope, BCAAN and that, through a regulatory change as opposed to a change to the act.

Maybe this is a broader question, even to Karan. What could our role, if we would even have a role, in making some kind of recommendation to support that...? Or is that something that your office would do directly with government, in terms of asking for miscellaneous change?

I'm thinking there's a time.... You want something done quickly. I'm not sure how to get something done quickly, with this committee, at this point. Our review is to make recommendations on the change of the act. I guess a regulation is part of that legislative framework. It could be included in there, but I'm not sure if it's actually part of — I'm looking to Karan now — a recommendation that we could make.

Mr. Loukidelis may know.

A. Markwart: Well, if I may, it would be extremely helpful if the committee would make a recommendation for both an amendment to the act, which, as we all know, is

going to take a considerable period of time, likely years, and, accompanying that, make a recommendation that would carry a whole lot of weight in saying.... In the interim, pending these legislative amendments, designate these particular services — special education and nursing support services and the diagnostic centres — by way of regulation.

That can be done, in government terms, relatively quickly. It becomes a bridging between the actual amendments to the act and enabling us to assume jurisdiction and advocate fully on behalf of those kids.

D. Loukidelis: I was just going to say.... I hope I'm not venturing too much, not being presumptuous.

Similarly, I think the office is in the hands of the committee. It might be something that the committee could, if it's minded, do to support the notion of regulations being made as an interim bridging measure, in an interim report or resolution of the committee in advance of its final report. As I said, I don't want to be presumptuous. That's, obviously, up to you, not to me.

[4:20 p.m.]

J. Charlesworth: I should add, too, that this is not without precedent. There was a regulatory change that enabled the expansion of the mandate in.... What year? Several years ago now. That was done through a negotiation with the Ministry of Attorney General. In recognition that the legislative amendments were going to take some time, they did an interim regulatory amendment for us.

K. Paddon (Chair): Go ahead with your next question.

K. Kirkpatrick: Thank you very much. That's interesting.

My second question. When you were talking about changes with respect to special ed, were you talking...? There was conversation previous to that about having more mandate, just in terms of education in general. Is that part of this, where you've got a young child...? We've had these conversations where we've had a case issue with a young child in with MCFD, a child in care, not being able to access school because the school itself didn't have the supports to help that young person.

Is that part of what you're asking for here?

J. Charlesworth: Yes.

K. Kirkpatrick: Okay. Thank you.

K. Paddon (Chair): That was a very efficient answer.

I have a question, and it's so that I can better consider some of the things that we had previously read. I'm curious to know to what extent the RCY and the Advocate for Service Quality connect, interact or overlap, or what the

experience currently is, because I have experiences of both but never experiences of them together.

In consideration of youth transitioning into adulthood, I'm particularly aware of the fact that not every child or youth with special needs will be deemed eligible for Community Living B.C. supports and services, so there is that space as well. I'm just interested in knowing what that interaction looks like currently.

J. Charlesworth: Well, we've been very fortunate, actually, to have a very good working relationship with the Advocate for Service Quality. As you know, Leanne Dospital was there for many years and has moved into another role, and we're building a relationship with the new advocate. How that looks is primarily between Blair Mitchell and the Advocate for Service Quality. They have regular interactions, and they work together on shared interests.

I do want to point out that the Advocate for Service Quality does fantastic work. They are three people, and they are embedded within a ministry. They have no authority to issue public reports. They are an advice giver in that line, so they're not independent.

The nature of the relationship is very much about us understanding the kinds of things that they are seeing and that they are dealing with, comparing notes on the patterns and the trends, and then us having a better sense of the kinds of things that we might action with our frame of reference, with our scope of influence, as well.

That's how they work, both on the individual and better understanding the systemic. But I wouldn't want to equate the Advocate for Service Quality as being the same as the RCY, because of the way in which that office is structured.

Nonetheless, great relationships will continue on there, but we're different beasts.

K. Paddon (Chair): It's embedded in Social Development and Poverty Reduction, correct?

J. Charlesworth: That's correct.

K. Paddon (Chair): Are there any other questions?

K. Kirkpatrick: Oh, so many, but I'll keep them short.

Currently with the ability to share information, there was the other piece to the Public Guardian as well, in terms of asking to be notified for critical injuries, so that if legal proceedings needed to be filed.... Is that something that you're supportive of? Would there be a mechanism for that?

The other piece of it is just, at this point, are you able to communicate with First Nations when a child of a nation is connected to your office?

J. Charlesworth: Well, why don't we do that in two parts.

K. Kirkpatrick: There were two questions. I snuck the second one in. Thank you.

J. Charlesworth: Sneaky.

I'm going to ask Alan to speak to the PGT one.

A. Markwart: Well, we actually had discussions with the Public Guardian and Trustee following their submission. I'd point out two things.

[4:25 p.m.]

They acknowledged in their presentation that they receive reports of critical injuries and deaths from the ministry themselves, so they are privy to the same information that we have. What they're requesting is notice if we are commencing an investigation.

Number one is that we do very few investigations. We do an awful lot of reviews, but very few investigations. It's really a question, in my mind: is that something that requires a statutory authority, and make it mandatory or not, or could it be more an administrative matter that would be covered by way of a memorandum of understanding, which we are prepared to pursue?

Regardless of what decision the committee makes about that particular recommendation, we intend to pursue that memorandum of understanding so that we will provide notice as an interim step, pending any amendments, should you choose to decide to recommend that.

J. Charlesworth: With respect to notifications of First Nations, this is an interesting area in terms of practice and policy for us. In practice, I do personally reach out to First Nations when we are undertaking an investigation of a child who is part of their community. It's an interesting sort of balance that we have to have because, of course, we're also bound by significant restrictions on our ability to share.

I am actually doing this with several nations right now. A young person has passed who is connected maternally through to one nation and paternally to another.

So it's reaching out to chief and council, saying: "This is who we are, and this is what we're planning on doing. We want to make sure that we're respecting the protocols and the wishes of the community. I'm happy to have a conversation with you." I would not be sharing the personal information of the child with them, but the beauty of that is that then they begin to have some comfort that there is somebody paying attention.

Furthermore, they can assist us in connecting to extended family members, which is also really important. We often know many of the family members, but the community can often help us reach out to those who might need to know that we are undertaking this, because the last thing I want is for a family to hear through the media that we're doing something that's pertaining to their loved one. That's a practice. It's not in our legislation, but that's just a way of being in relationship with the community. With

respect to further disclosure, again, we've got some pretty limited capacity to do that.

I think it's going to have to evolve as the relationships with the nations evolve. At this point right now, I can give aggregated information. In fact, we did two reports, one called *Illuminating Service Experience*, and the other one was *Invisible Children*. *Invisible Children* was around Métis kiddos, and *Illuminating Service Experience* was around First Nations children and bringing our data forward to say: "Here's what we've got, nations, to give you a sense of what your children are experiencing." We're happy to continue to do that and work alongside them, but we are hampered by not having anything that would be identifying or problematic to share.

Do you want to add anything there?

D. Loukidelis: I think one perspective might be.... It'll be interesting to see where, in five years, as the representative has said, things stand in terms of the evolving rela-

tionship with various First Nations and communities, and what the implications might be for amendments on the next review of the legislation.

K. Paddon (Chair): Is the committee satisfied with the day? Yes, I'm just seeing nods. Okay.

Thank you so much for not only answering our questions and the summary, but also for sitting here all day so that you'd get to hear what people had to offer in their submissions. Thank you for the work, and to the committee and to Hansard and our amazing staff, thank you so much.

I have no other business on the agenda, so I would seek a motion to adjourn.

Motion approved.

The committee adjourned at 4:30 p.m.

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