

Skye's Legacy:

A Focus on Belonging

JUNE 2021



REPRESENTATIVE FOR
CHILDREN AND YOUTH

I let myself feel my feelings
with each new turning point in life.
Loving people support me emotionally.
I create a safe space to be
emotionally honest.



Artwork on the inside front and back covers was created by Skye's mother. The photos on the front cover show Skye, her mother and her maternal grandmother.

June 10, 2021

The Honourable Raj Chouhan
Speaker of the Legislative Assembly
Suite 207, Parliament Buildings
Victoria, B.C., V8V 1X4

Dear Mr. Speaker,

I have the honour of submitting the report *Skye's Legacy: A Focus on Belonging* to the Legislative Assembly of British Columbia.

This report is prepared in accordance with Section 16 of the *Representative for Children and Youth Act*, which makes the Representative responsible for reporting on reviews and investigations of critical injuries and deaths of children receiving reviewable services.

Sincerely,



Dr. Jennifer Charlesworth
Representative for Children and Youth

pc: Ms. Kate Ryan-Lloyd
Clerk of the Legislative Assembly
Ms. Susan Sourial
Committee Clerk, Legislative Assembly

Acknowledgements

The Representative would like to thank everyone who has contributed to telling Skye's story by participating in this report. Skye was a special young woman who was loved by many, and this was clearly expressed by all those interviewed for this investigation. Skye's unique spirit and personality have been reflected through the memories each of you shared with our team, and we are privileged to have received a glimpse of Skye and her mother through your contributions.

The Representative uses Skye's first name in this report with permission from her family and community.

Contributors

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Michelle Jaworsky is a white settler who is grateful to live, work, and play on the beautiful and unceded territories of the Lekwungen and W̱SÁNEĆ peoples.

The Representative would also like to acknowledge the many other RCY staff who were involved in the planning, preparation and distribution of this report.

Territorial Acknowledgements

The Office of the Representative for Children and Youth (RCY) acknowledges the lands that have supported RCY to complete this important work. RCY's Victoria main office, situated on the traditional territories of the Lekwungen People, is where most of this work has taken place. The Representative acknowledges and thanks the Lekwungen People, also known as the Songhees and Esquimalt First Nations communities, for allowing RCY to do this work on their lands.

The Representative also acknowledges the traditional territories of the Wei Wai Kum First Nation. These lands supported RCY to complete a significant amount of investigative work.

RCY also acknowledges the traditional homelands of Skye and her mother, the Teetlit Gwich'in Band. "People of the headwaters" is the English translation of the Teetlit Gwich'in, who today live in Fort McPherson, N.W.T.

Honouring the 215 Lost Children

The Representative wishes to acknowledge the Tk'emlups te Secwépemc First Nation and the devastating discovery of the remains of 215 children found recently at the site of the former Kamloops Indian Residential School.

Indigenous communities have known the reality of these lost children for decades, yet the discovery and validation of this reality is heart-breaking.

We also acknowledge all First Nations, Métis, Inuit and Urban Indigenous peoples across B.C. and Canada who continue to be impacted by the residential school system and whose own lost children are still to be found.

The Representative consulted carefully with First Nations Chiefs and Leaders and with Skye's own Teetlit Gwich'in Band before proceeding with this report as scheduled given this discovery and the grieving process that is currently underway.

RCY stands with these communities and all other First Nations, Métis, Inuit and Urban Indigenous Peoples.

A National Indian Residential School Crisis Line has been set up to provide support for former residential school students. You can access emotional and crisis referral services by calling the 24-Hour National Crisis Line: 1-866-925-4419

Indian Residential Schools Resolution Health Support Program (sac-isc.gc.ca)
<https://sac-isc.gc.ca/eng/1581971225188/1581971250953>

Dene worldview from the perspective of Chief Wanda Pascal, Teetlit Gwich'in Band

According to our beliefs, the spirit and The Land are the boss of Dene life. At the time Treaty 11 was signed, Dene culture was still intact in its social, political and spiritual manifestations. Our leaders of the day were bound by the social norms, the beliefs and customs of a culture that spanned more than 10,000 years.

The Land is the boss. She provides all the necessities of life. The Dene are given the responsibility to continue to live with her in that part of her being, which has generated the Dene way of life, to govern themselves at personal, family, regional and national levels in a manner that honours and respects her. This is fundamental to survival. To disrespect the spirit of The Land is to disrespect life.

In the traditions of the Dene Elders, because The Land is the boss and will teach whoever She wants, they will accept as Dene anyone who comes to know and live as they know and live. At that time, they will be only too eager to share their responsibility for jurisdiction and governance. This is not a note on racial relationships, it is a statement to the belief of the Dene that The Land is the boss of culture, that culture is inextricably tied to The Land, and that people are required to adapt their way of life to the teachings of The Land.

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Warning to Readers

Identifying and addressing trauma is an important part of trauma-informed practice. What you are about to read may trigger past traumas that you and others you know have experienced. The Representative encourages you to reach out to the supports you trust for help.

If you require emotional support, you can contact:

- BC Crisis Centre: phone 1-800-784-2433 or online chat: www.crisislines.bc.ca
- the First Nations and Inuit Hope for Wellness Help Line and On-line Counselling Service: 24/7 toll-free at 1-855-242-3310 or through hopeforwellness.ca
- the KUU-US Crisis line: 24/7 toll-free at 1-800-588-8717 to provide support to Indigenous people in B.C. For more information, visit: kuu-uscisisline.com
- the Métis Crisis Line: available 24 hours a day toll-free at 1-833-MétisBC (1-833-638-4722).



Executive Summary

On the surface, they might seem to be unrelated stories – the recent heart-wrenching discovery of the remains of 215 Indigenous children at the former Kamloops Indian Residential School site, and the tragic death of a 17-year-old Dene girl in 2017.

But, in fact, they are different chapters of the same continuing saga – the story of colonialism and the devastating damage it has done, and continues to do, to First Nations, Métis, Inuit and Urban Indigenous children, families and communities across Canada.

The children found in Kamloops were separated from their parents, siblings, extended families, territories and cultures as a result of the residential school system that ripped them from their homes and incarcerated them in abusive and dangerous facilities.

Skye, the Teetlit Gwich'in Band girl who is the subject of this investigative report by the Representative for Children and Youth (RCY), wasn't born until 2000, four years after the last Canadian residential school closed its doors. But she, too, was removed from her mother, sister, extended family and culture as she became part of what many have described as the modern-day residential school – the child welfare system.

What has become evident to the Representative in the wake of the widespread shock expressed over the Kamloops discovery is that, despite significant undertakings – most notably the Truth and Reconciliation Commission and the National Inquiry into Missing and Murdered Indigenous Women and Girls – there remains a segment of the Canadian population still unaware of the extent of the damage that has been done, and continues to be inflicted, through colonialism.

What is also evident is colonialism's strong influence on the B.C. child welfare system both historically and today, when more than 67 per cent of the children currently in government care in B.C. are Indigenous despite the fact Indigenous people comprise less than 10 per cent of the total provincial population. According to the Ministry of Children and Family Development's (MCFD) most recent Service Plan, an Indigenous child is nearly 18 times more likely to be removed from their parents than a non-Indigenous child.¹

Colonialism still reaches into families – through the intergenerational trauma that too often goes unrecognized or ignored and therefore unsupported, and through structural bias and systemic racism – to negatively affect the services provided and by extension the outcomes for children, youth, parents and grandparents.

The intergenerational damage of colonialism on Skye's family was profound. Her mother was removed from her own family before her first birthday – adopted into a non-Indigenous home during the infamous period known as the Sixties Scoop. As a child, Skye's mother experienced extreme abuse at the hands of people known to her and as a result suffered severe and life-long mental health and substance use challenges.

¹ MCFD's Service Plan 2021/22-2023/24 (at page 8) forecasts the per capita rate of children in care for Indigenous children at 37.6 per 1,000 children (0-18 years) population in 2020/21, which is 17.9 times the rate of non-Indigenous children (2.1), The ministry's target for 2023/24 of 36.0 is 20 times the targeted rate for non-Indigenous children (1.8).



Skye herself was removed from her mother's care at age five. RCY's investigation shows that once this occurred, MCFD focused almost solely on finding Skye an adoptive home, rather than on ways to support a potential return to her mother's care or even a way for Skye to continue a relationship with her mother.

That focus resulted in three failed adoption plans for Skye before she was 12. These took a heavy emotional toll and resulted in the severing of any continuing relationship between Skye and her sister. Potential placements for Skye with extended family were not fully explored and a nurturing placement with an Indigenous foster family was inexplicably severed, as was a relationship with a trusted counsellor. During her nearly 12 years in care, Skye was moved 15 times, lived in eight different foster homes, attended eight schools and had 18 different social workers. She wasn't provided with opportunities to connect with her Dene culture in any meaningful way and she never got the chance to visit her home territory of Fort McPherson, N.W.T., despite clearly expressing her desire to do both.

The cumulative result was that Skye wasn't able to realize the sense of belonging that all humans need and seek. The focus on legal belonging (adoption) came at the expense of all the other elements of belonging for Skye, including connection to family, culture, community and physical place, and resulted in her searching for identity and meaningful connections throughout her short life, which ended with her tragic overdose death on her 17th birthday in August 2017.

The Representative chose Skye's story to investigate because it reflects the stories of many First Nations, Métis, Inuit and Urban Indigenous children that RCY sees in its day-to-day advocacy and reviews and investigations work. Much has changed in MCFD practice, policy and legislation over the past 20 years since Skye's birth, and there are many positive changes currently underway. However, the Representative continues to be aware of and involved in situations similar to Skye's – where the young person experiences a lack of connection and belonging to people, place, culture and a positive sense of self – and, as a consequence, experiences much pain, sadness, distress, risk and poorer life outcomes.

The Representative continues to see situations in which children are disconnected from their families and communities of origin due to what is often perceived or presented as a problem with the parents and family members, rather than understanding their vulnerabilities in the context of historical and contemporary trauma, racism, stigma, shame, poverty and lack of timely, accessible and culturally-attuned opportunities to heal.

RCY sought to conduct this investigation and produce the following report in a different way. The investigation team that researched and presented Skye's story was led by Indigenous RCY staff members. The research methodology used by the team has been significantly influenced by an Indigenous worldview, in which it is understood that there are multiple stories, perspectives and truths that are relevant to any situation being considered. These diverse stories and perspectives contribute to a more fulsome and holistic understanding of Skye, her family, the people connected to her, and the situations they faced. An Indigenous worldview is circular, understands that everything is connected and thus helps make sense of complex situations.

The Representative has chosen not to highlight Skye's behavioural and developmental challenges or include details of some of her negative experiences in this report, believing that such a focus might distract from fully understanding the systemic limitations of belonging for First Nations, Métis, Inuit and Urban Indigenous children and youth in care.



The Representative strongly supports the resumption of jurisdiction by First Nations, Métis and Inuit communities over their own child welfare services that has been enabled by the passage of the federal *Act respecting First Nations, Inuit and Métis children and families*. However, while that transformation process unfolds, it is important for MCFD to take steps to ensure that Indigenous children currently in its care can achieve the sense of belonging that they need and deserve. This report makes three recommendations to address the immediate actions required.

First, the Representative recommends that MCFD conduct a systemic needs analysis of cultural and family support resources required to ensure that social workers are better supported to promote a sense of belonging and identity for First Nations, Métis, Inuit and Urban Indigenous children and youth in care. This process should include a substantive investment of new resources by April 2022 that can be considered a down payment on the resources identified in the longer-term plan.

The Representative also recommends that MCFD review and revise all relevant care-planning and case management standards, policies, practice guidelines and training materials with the goal of aligning those materials with the dimensions of belonging, as described in this report.

Finally, the Representative recommends that, in the interest of improving practice, MCFD distribute this report to all staff who work with and plan for children and youth who are in care or who may come into care, and then meaningfully engage in discussions with those staff about belonging for children and youth in the context of case planning, decision-making and the development and implementation of care plans.

Skye wasn't given the opportunity to realize the sense of belonging that she needed and deserved. It is the Representative's strong hope that sharing her story will enable other Indigenous children and youth such as Skye to do so.



Methodology and Methods

Under s.12 of the *Representative for Children and Youth Act (RCY Act)* (see Appendix A), the Representative may investigate the death of a child if, after the completion of a review, the Representative determines that a reviewable service, or the policies and practices of a public body, may have contributed to that death. In June 2018, RCY completed a comprehensive review of MCFD's files on Skye. Her case fell within the Representative's mandate for investigation and, in January 2019, a decision was made to proceed with the investigation.²

All RCY investigations involve: a thorough review and analysis of the paper and electronic files concerning a child and the policies and procedures that were in place at the time; interviews with the people who were close to the child, including family members and those responsible for providing services and care; engagement of expert advisors across an array of relevant disciplines; a review of relevant academic research; an analysis of RCY data for systemic comparison; and an interjurisdictional comparison.

As Skye was never in the care of a Delegated Aboriginal Agency (DAA), DAAs were not included in this investigation. The investigation looked only at MCFD's historical and contemporary practice.

While there are similarities across all RCY investigations, the methodology and methods can vary depending upon the intentions of the investigation. The research methodology used for Skye's story has been significantly influenced by an Indigenous worldview, in which it is understood that there are multiple stories, perspectives and truths that are relevant to any situation that is being considered. These diverse stories and perspectives contribute to a more fulsome and holistic understanding of the child, their family, the people connected to the child and the situations they faced. An Indigenous worldview is circular, understands that everything is connected and thus helps make sense of complex situations. This differs from a Eurocentric worldview which is more linear and causal and may see truth as knowable and absolute.

From the outset, the RCY investigation team drew upon a principle-based Indigenous framework for engagement and research – the Five Rs – that focuses on relationships, respect, relevance, responsibility and reciprocity.³ For example, RCY sought to establish respectful relationships with MCFD staff and others who were interviewed for the investigation, recognizing that these people cared for Skye and were also impacted by her passing. Prior to conducting interviews, RCY organized a meeting with ministry staff who were to be interviewed. The purpose of the meeting was to establish relationships, for RCY to explain its process and intention, and for staff to describe their relationship to Skye and to share stories about her. The investigators also modified the typical interview approach in an effort to make the process more respectful, less intimidating and more focused on the relevant issues that each interviewee could best address. The Five Rs were reflected in all aspects of the investigation and informed the decisions that the Representative made on the recommendations.

² MCFD was notified of the decision to proceed with this investigation on Jan. 31, 2019.

³ Verna J. Kirkness and Ray Barnhardt, "First Nations and Higher Education: The Four R's - Respect, Relevance, Reciprocity, Responsibility", *Journal of American Indian Education* 30, no. 3 (May 1991): 1-15.



Storytelling as Interviewing

Another distinct aspect of this investigative process was the application of storytelling as an investigative method. First Nations, Métis and Inuit cultures have long passed on knowledge from generation to generation through oral traditions, including storytelling. Storytelling is a traditional method used to teach about cultural beliefs, values, customs, rituals, history, practices, relationships and ways of life.

Jo-Ann Archibald (Q'um Q'um Yiiem) suggests that research as storytelling is characterized as an open exchange between those being interviewed and those interviewing.⁴ This open exchange enabled RCY investigators to capture Skye's spirit and story.

This investigation combines interviews, records and statistical data to tell a story and uses storywork, rooted in both Indigenous and Western knowledge, as a methodology.⁵ In this way, RCY shares stories, quotes, images and memories throughout this report to provide an understanding of Skye's life. The investigation process and approach are further detailed in Appendices B, C and D.

The investigation included an examination of all reviewable services in B.C. involved with Skye between 2002 and 2017. Records reviewed were provided by MCFD, the BC Coroner's Service, the Public Guardian and Trustee of British Columbia, community services (e.g., counselling, outreach, youth shelters) and schools. Twenty-two individuals were interviewed, including family members, MCFD professionals, caregivers, community members and support service staff. Two additional community professionals were interviewed to highlight Indigenous knowledge, practice observations and considerations, with a focus on culturally responsive, wise practices.

Circle of Advisors

RCY is aware that First Nations, Métis and Inuit communities often do not feel connected to the research that is about them or regarding them.⁶ As part of the Indigenous methodology used for this investigation, RCY convened a Circle of Advisors prior to completing the analysis. Indigenous academics, researchers, community practitioners and advocates who comprised the Circle were provided with a summary of the investigation and its findings.

The Circle's participants provided RCY with feedback that was taken into consideration as this report was finalized. The Circle was clear that RCY needs to shift away from Western concepts that define permanency towards Indigenous concepts of belonging.

To honour the contribution of the Circle of Advisors, this report reflects a way forward, an opportunity to think beyond the Western notion of permanency. The report reflects a shift in language and thought, therefore permanency has been replaced with the intent to support belonging and connection for children and youth in care.

⁴ Jo-Anne Archibald, *Indigenous Storywork: Educating the Heart, Mind, Body, and Spirit* (Vancouver: University of British Columbia Press, 2008).

⁵ Archibald, *Indigenous Storywork*; Margaret Kovach, "Conversational Method in Indigenous Research," *First Peoples Child & Family Review* 5, no. 1 (2010): 40-48.

⁶ Kathy Absolon and Cam Willett, "Putting Ourselves Forward: Location in Aboriginal Research," in *Research as Resistance: Critical, Indigenous, and Anti-oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto: Canadian Scholars' Press, 2005), 97-126.; Marlene Brant Castellano, "Ethics of Aboriginal Research," *Journal of Aboriginal Health* 1, no. 1 (January 2004): 98-114.; Margaret Kovach, "Emerging from the Margins: Indigenous Methodologies," in *Research as Resistance: Critical, Indigenous, and Anti-oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto: Canadian Scholars' Press, 2005), 19-36.



Key Definitions

Permanency is a child welfare concept that has been in use since the 1970s and continues to evolve. The basic premise is that every child who comes into care should be supported to have a stable, enduring, safe and caring familial relationship. Ideally, this would be with biological parents or extended family members but, where this is not possible, with committed long-term family caregivers or with an adoptive family. Over time, permanency has come to include legal, relational, cultural and physical permanency – and, more recently, identity. However, there is no one definition of permanency; it is unique to every young person in care.⁷

Adoption is a legal process in which a person(s) takes on the rights and responsibilities of a parent in relationship to a child.

Custom or customary adoption refers to the diverse traditions, practices and customs of First Nations, Métis and Inuit communities to arrange familial care for their children and youth. Long established cultural practices guide arrangements for a child to be raised by a person who is not the child's biological parent, according to the customary law of the family's community. While the arrangements may take place between members of the immediate or extended family, they may also involve people close to these families, such as friends or community members, and may be facilitated by community leaders, Elders or matriarchs. Customary adoption varies from Nation to Nation, but it is common for birth parents to give their consent and to maintain a role in the child's life.

Kinship care or out-of-care arrangements refer to the care of children by relatives or, in some jurisdictions, close family friends or those who have a significant relationship with the child or youth. Relatives and family are the preferred resource for children who must be removed from their birth parents as the children's connections with their extended families and histories are then maintained.

An Act respecting First Nations, Inuit and Métis children, youth and families is federal legislation that was co-developed with Indigenous, provincial and territorial partners with the goal of keeping Indigenous children and youth connected to their families, communities and culture. Proclaimed in June 2019, it *"affirms the rights and jurisdiction of Indigenous peoples in relation to child and family services."*

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is the most comprehensive international instrument on the rights of Indigenous Peoples. Adopted by the UN on Sept. 13, 2007, it enshrines the rights that *"constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world."* The *Declaration* protects collective rights that may not be addressed in other human rights charters that emphasize individual rights, and it also safeguards the individual rights of Indigenous Peoples.

Indigenous worldview (or relational worldview) can be characterized by the concept of the circle, interconnectedness and connection to place based on respect, reciprocity, responsibility and relationships. Indigenous worldviews share a belief in the power of creating a positive shared mind with all of creation.

⁷ Federation of BC Youth in Care Networks, *Belonging 4-Ever: Creating Permanency for Youth In and From Care*, (New Westminster, B.C.: Federation of BC Youth in Care Networks), 2010, <https://fbcycicn.ca/sites/default/files/Permanency-Report-2010-web.pdf>, 6.



Eurocentric worldview is a worldview which, implicitly or explicitly, situates European history and values as the norm. This often contributes to feelings or perceptions of superiority.

Millennium Scoop describes the current over-involvement of child welfare and government in the lives of First Nations, Métis, Inuit and Urban Indigenous children and families.

Systemic racism, also known as institutional racism, is a form of racism embedded as normal practice within society or an organization which can lead to acts of discrimination.

Settler colonialism is a distinctive form of colonialism whereby settlers invade the lands of Indigenous Peoples with the intention to stay and replace or eliminate the Indigenous Peoples and assert sovereignty and control over the lands and resources.

Trauma is the response to a deeply distressing or disturbing event that overwhelms an individual's ability to cope.

Intergenerational trauma refers to trauma experienced by an individual or family within one generation that is passed to subsequent generations.

Historical trauma is a shared and *"cumulative emotional and psychological wounding across generations"* as a result of ongoing colonization and abuses experienced by Indigenous Peoples, including separation of families and forced assimilation as a result of residential schools. The reaction to this wounding *"often includes survivor guilt, depression, PTSD symptoms, physical symptoms, psychic numbing, anger, suicidal ideation, and fixation to trauma, among other features and behaviors."*

<https://ssw.smith.edu/about/news-events/dr-maria-yellow-horse-brave-heart-returns-smith-give-rapoport-lecture>

Skye's Story

About Skye

Skye was a cheeky and mischievous child with a great sense of humour and an infectious laugh. She was spunky, outgoing and vivacious, with a zest for life – a child who bubbled with energy. At the same time, she could also be emotionally reactive and intense. Skye was a young person who always needed to be busy and was able to channel her energy through activities such as rock climbing, swimming and horseback riding when these were made available to her. One of her foster parents noted, *“What Skye loved most as a little girl in life, she loved fishing ... She loved being out in nature ... She loved her life with the horses ... loved that connection with animals.”*



Skye, age seven and age 10

Skye also struggled with anger rooted in the trauma she experienced as a child. A support service provider said, *“Skye always seemed like she was a hundred years old, even as a little girl. She had a very funny, playful side to her. But she just always seemed like she'd lived a really hard life ... she just seemed worn down, like kind of old before her years.”*

Skye was intelligent and inquisitive. She would always state her opinions and was never afraid to let people know how she felt. In her own words, she was a *“wise person, an owl,”* and the kind of person who was assertive and would *“stand up for friends.”*⁸ She was engaging and connected with people easily. She was also genuine; as multiple people noted, she did not sugar-coat her opinions – she was a truth-teller.

Skye was kind and empathetic – she was drawn to caring for babies and young children. People who knew her often noted that it was easier for Skye to take care of everyone around her than it was for her to take care of herself. She wanted to work with children in the future; she expressed interest in becoming a pediatrician or a counsellor. She also wanted to have her own family.

Memories of Skye

“We were doing art and she wrote a little note and said, ‘Don't open it until you drop me off ...’ And I opened it up, and it was: ‘Your fly is undone.’”

—Skye's former social worker

⁸ Skye's voice, counselling records.

Skye's Story is also her Mother's and Grandmother's Story

One aspect of this investigation's methodology was to place Skye's experience in the context of her family's experience in order to better understand her and what happened to her. RCY investigators undertook to learn more about Skye's Teetlit Gwich'in Band and family history and reached out to her Chief and community members.

Skye was Dene from the lands on the northern coast of the Yukon and Northwest Territories, including the mountain headwaters of the Mackenzie Delta, Arctic Red and Peel Rivers. Gwich'in means "People of the Headwaters."⁹ Skye's great-great-grandfather was the father of 15 children. He was a well-respected trapper, with a vast knowledge of the land, and also a catechist.¹⁰ His son, Skye's great-grandfather, was a promising artist but had to rely on trapping for subsistence. He was known to have a "very bad temper" and that temper, at times, translated into physical violence against his partner.¹¹ Skye's great-great-aunt was a day school survivor and fluent speaker of the Gwich'in language who created many language resources both oral and written.

Skye's mother was born in Teetlit Gwich'in territory, but was removed from her own mother's care when she was an infant. Records indicate that this removal occurred in 1967. An October 2011 email to MCFD from Skye's Nation detailing her maternal grandmother's experience stated, "Back in the day, the government took it upon themselves to take children away from single First Nation mothers, not giving them a choice." This is commonly referred to as the "Sixties Scoop."

Indian Day Schools

Similar to residential schools, Indian day schools were government- and church-run schools used to assimilate Indigenous children and extinguish cultural practices. Unlike residential schools, however, children attending day schools remained in their communities with their families. Many day school survivors reported experiences of mistreatment and abuse, but those experiences were not included in the Truth and Reconciliation Commission's work or the Indian Residential School Settlement.¹¹

The Sixties Scoop

The Sixties Scoop involved the mass removal of Indigenous children from their families and communities into the child welfare system. In the wake of the 1951 amendment to the *Indian Act* – which enabled provincial child welfare to provide services that fell out of the scope of the federal government's mandate – removals often occurred without the consent of Indigenous families and Nations. This practice continued until 1996 when B.C.'s *Child, Family and Community Service Act (CFCS Act)* required social workers to alert bands whenever an Indigenous child was removed. While policies and practices have shifted over time, the significant over-representation of First Nations, Inuit, Métis and Urban Indigenous children in government care remains a disturbing reality in B.C. and across the country today. In B.C., the per capita rate of Indigenous children in care is nearly 18 times greater than the rate of non-Indigenous children in care.¹³

⁹ GTC Department of Cultural Heritage, "About the Gwich'in," 2016, <https://www.gwichin.ca/about-the-gwichin>.

¹⁰ Richard Slobodin, "Caribou Hunt," in *A Kindly Scrutiny of Human Nature: Essays in Honour of Richard Slobodin*, (Waterloo: Wilfred Laurier University Press, 2009), 111-130.

¹¹ Mike Krutko, *Mike Krutko's Amazing Adventures* (Bloomington: Trafford on Demand, 2004), 200.

¹² University of British Columbia: Indian Residential School History and Dialogue Centre, "Indian Day Schools," accessed March 9, 2021, <https://irshdc.ubc.ca/learn/indian-residential-schools/indian-day-schools/>.

¹³ Ministry of Children and Family Development, *2019/20 Annual Service Plan Report* (Victoria, B.C.: Ministry of Children and Family Development, 2020), 11.



When she was 10-months-old, Skye's mother was adopted by a non-Indigenous family who subsequently moved to Winnipeg. MCFD records indicate that Skye's mother suffered severe abuse over an extended period of time, by someone known to her. Skye's mother experienced life-long mental health challenges and used substances to cope. While she was able to maintain periodic abstinence from substances, this was not enough to address MCFD's concerns over time. She gave birth in 1998 to Skye's older sister, who was adopted by her friend. Two years later, in August 2000, Skye was born.¹⁴

RCY investigators learned about Skye's mother from the people who knew her in her community. She faced many challenges throughout her life, but those who knew her also shared memories of strength and resilience. Skye's mother was described as a gifted artist who created beautiful quilts, paintings, beadwork and medicine bags. She was described as smart and articulate, with an awesome sense of humour. She was generous and it was said that she would give most of her friends the shirt off her back. She had many friends who loved her. It is evident through RCY's investigation that Skye's mother wanted the best for her daughter and loved her deeply. When she struggled with her own mental health and well-being, she put Skye first and reached out for support to ensure Skye's safety.

Skye's Early Years With Her Mother

Shortly after Skye was born, she and her mother moved to Lethbridge, Alta., to live with Skye's adoptive grandmother and grandfather. When Skye was five-months-old, they relocated to Cortes Island to live with her mother's partner. Four months later, the couple's relationship ended and Skye and her mother moved briefly to Vancouver. For a month, they resided in several transition houses before returning to Cortes Island, near Campbell River.

In July 2002, a band social worker received a report that Skye's mother planned to drop off her daughter at the MCFD office and commit suicide. Skye's mother was located and admitted to hospital for six days while her ex-partner cared for Skye. Upon discharge, Skye's mother resumed caring for her daughter under a Risk-Reduction Service Plan.



Skye, held by her mother

A **Risk-Reduction Service Plan** was a part of an MCFD child protection service plan that outlined how specific risks to a child were to be addressed and reduced. It is now known as a Family Plan.

In March 2003, MCFD was notified by a Manitoba Child and Family Services social worker that Skye and her mother were living in a Winnipeg shelter. Their MCFD family service file was subsequently closed. In the months that followed, concerns were reported to Manitoba Child and Family Services regarding the mental health and substance use of Skye's mother.

Later in 2003, Skye and her mother moved to Vancouver, where Skye was enrolled in preschool. In October of that year, MCFD received a report that Skye had not been picked up from the preschool at

¹⁴ Skye's father died before Skye was born. RCY investigators were unable to find any further information about him or his family.



closing time. After efforts to locate her mother were unsuccessful, Skye was placed in emergency foster care. Skye's mother contacted MCFD the following morning and explained that she had been unable to pick up Skye as a result of substance use. She agreed to Skye being placed in the home of someone she knew through the Aboriginal Mother Centre Society. This was considered an out-of-care arrangement while Skye's mother attended a residential treatment program. This placement later became a three-month temporary custody arrangement with MCFD, with the consent of Skye's mother.

Aboriginal Mother Centre Society

The Aboriginal Mother Centre Society began in 2002 to address the needs of Indigenous women. Located in the east end of Vancouver, the facility provides shelter and culturally sensitive programs for Indigenous women and children who are facing homelessness and/or dealing with their children being in the care of MCFD. Its approach to healing is holistic and includes counselling, advocacy, education, training and social support.

Memories of Skye

"They were there [at Laichwiltach Family Life Society] all the time. Every day. They became part of the Society, you know, and Skye was like the little mascot of the place ... They were a full-time big part of our Society."

—Support service provider

In April 2004, MCFD returned Skye to her mother's care under a Supervision Order and Skye accompanied her mother to a family residential treatment program. After Skye's mother completed the program and the Supervision Order had expired, they moved to Campbell River. Their family service file was transferred to the local MCFD office with a Risk-Reduction Service Plan in place. In Campbell River, Skye and her mother lived close to Laichwiltach Family Life Society. They were often at Laichwiltach, where they were immersed in several different programs and groups, as well as belonging to a larger community of people and staff. At Laichwiltach, Skye and her mother also had access to ceremony, including a sweat lodge on site.

A **Supervision Order** is a court-ordered plan that provides MCFD the authority to monitor and evaluate a child's needs and progress, with the overall goal of ensuring the child's safety.

Laichwiltach Family Life Society

Established in 1991, the Laichwiltach Family Life Society is a multi-service organization that serves Indigenous people and families in Campbell River and the surrounding area. Laichwiltach provides services to support families, healing and holistic wellness.

Skye's mother received support from a drug and alcohol counsellor at Laichwiltach, who recalled: *"I remember [Skye's mother] telling me really clearly this is the first place that she felt she could trust some people. You know, not just little bit fleeting but on a general basis with our Society. She came there and she felt ... she called it 'home safe.'"*

Laichwiltach staff also worked on strengthening her parenting skills – focusing on issues around addiction, mental health and trauma. A staff member shared a memory of Skye's mother, noting her creativity: *"She was one of the most amazing artists that I've ever seen ... she created quilts that were out of this world. They were stunning."*



Skye, at about age four, and her mother

When she was four-years-old, Skye began seeing a counsellor through Laichwiltach Family Life Society and engaged in play therapy. Her counsellor recalled that Skye “*had a great imagination ... I think we had a really trusting relationship. I think she enjoyed being with me. She always ran into my office very happy.*” However, this counsellor also spoke about the anger that Skye was already experiencing, stating:

“She acknowledged that she had a temper, but she was quick to laugh about it ... anger management is such an odd word. We did talk about how she was gonna take care of this tiger or this lion, you know, so we had all kinds of alternative ways that she could process those feelings, because everything was about keeping her safe.”

In June 2005, Skye’s mother’s struggle with substance use escalated and she contacted MCFD to request that Skye be placed under a Voluntary Care Agreement (VCA) while she focused on her recovery. MCFD placed Skye with a non-Indigenous foster parent for two months. In July 2005, the ministry allowed Skye’s mother to attend a week-long Sundance ceremony with her daughter. Before attending the ceremony, she created Skye’s regalia, with help from support staff at Laichwiltach.

Definitions

In care refers to any child under age 19 living under the care or custody of MCFD under the *CFCS Act*.

Under a **Voluntary Care Agreement (VCA)**, a parent or guardian can enter into an agreement for the Director to provide care for a child while the parent retains guardianship rights. Time limits for VCAs are based on the age of the youngest child subject to the agreement.¹⁵

When children are removed from their parents’ care, MCFD may apply for an **Interim Custody Order (ICO)**. This order allows for a child to remain in MCFD’s care until the conclusion of a protection hearing in court. If the child is to remain in care beyond that time, MCFD may apply for a **Temporary Custody Order (TCO)**, placing the child in the temporary custody of the Director for a minimum of three months, to a maximum span of 12 to 24 months depending on the age of the child (or the age of the youngest child when part of a sibling group).

A TCO may be renewed or a **Continuing Custody Order (CCO)** can be sought if there is a significant likelihood that a child will not return to a parent’s care within the total time limits allowed for a TCO under the *CFCS Act*. A CCO places a child in the continuing custody of MCFD until they are 19 or another permanency option (such as adoption, transfer of guardianship, or cancellation of a CCO) is attained.

Out-of-care arrangements include those in which a child or youth lives with someone other than their parents, temporarily or permanently, but without the Director having custody or guardianship of the child or youth.

In August 2005, Skye was returned to her mother, who was living with a new partner. A few months later, Skye’s mother expressed concerns to MCFD that Skye had witnessed domestic violence between her and her partner and had been physically abused by other children in the partner’s home. Because of

¹⁵ The total duration of a VCA as laid out by the *CFCS Act* is 12 months if the child or youngest child subject to the agreement was under five years of age on the date the agreement was first signed; 18 months if the child was over the age of five but under the age of 12; or 24 months if the child was over the age of 12.



these concerns, Skye's mother requested that her daughter return to her former foster parent's care under a VCA while she found another place for them to live. After spending a month with this foster parent, Skye was returned to her mother's care.

In March 2006, Skye's mother was feeling unwell and requested that Skye again be placed on a VCA. Skye was already at her foster parent's home receiving care and the social worker agreed to meet with her mother the next day to sign the VCA. However, MCFD staff could not locate Skye's mother to sign the agreement and had to make the decision to remove Skye legally from her care. Skye continued to remain at the foster home. MCFD subsequently learned that Skye's mother had left Campbell River with her partner after receiving death threats from her partner's ex-husband. At this time, MCFD's plan was to return Skye to her mother's care. Skye's written care plan noted that her mother wanted to attend treatment with Skye but that the ministry did not approve this request as she did not have post-treatment housing arranged.

In April 2006, the courts granted a TCO for Skye to remain in the custody of MCFD for the next three months. The court plan of care notes that the overall goal was to return Skye to her mother's care, if possible. At the time, her mother was residing near Victoria and was unable or unsupported to visit Skye, but could have contact with her via telephone. Not long afterward, her mother left Vancouver Island and relocated to Vancouver's Downtown Eastside.

In July 2006, MCFD applied to the courts for a CCO for Skye, which is not a typical trajectory for a child who had only been in temporary custody for three months. Her mother's MCFD file indicates that after she moved to Vancouver, she decided that she could no longer care for Skye. She expressed a desire for Skye to be placed with the same friend who had adopted her older daughter in Alberta and she consented to Skye's CCO to allow MCFD to move forward with the adoption assessment.

In the years that followed, Skye's mother continued to live in the Downtown Eastside. During this time, she developed many relationships with other community members in this neighbourhood, as well as with service providers and friends. She was particularly close with the staff at Atira Women's Resource Society.



Skye, age five

Over the next 10 years, Skye's mother reached out on many occasions to Skye's social workers requesting contact and asking for visitation with her daughter. Records and interviews reviewed by RCY investigators indicated that Skye also wanted to see her mother, but that visits were not supported by MCFD. According to a support service provider, this severed relationship contributed to further trauma for her mother:

"She said to me many times over and over again, in many different ways, that not having Skye or having access to Skye or having the hope of ever being Skye's mother made her feel hopeless about everything. So that included feeling suicidal, attempting suicide [and] feeling profound shame."

Atira Women's Resource Society

Atira Women's Resource Society is a not-for-profit organization committed to the work of ending violence against women and children through providing direct service, as well as advocating for women and children who are disproportionately impacted by gender-based violence. Atira was registered as a charitable organization in 1984 and has gone through extraordinary growth from a single transition house with a staff of seven to a large, award-winning, multi-service agency with 3,000 units of housing, two for-profit subsidiaries, a development arm and an arts society. One of the services that was most relevant to Skye's mother was its legal advocacy program. This program is for low-income women (inclusive of trans-women) in the Downtown Eastside to obtain free legal advocacy in a safe and confidential, women-only space. Skye's mother was a recipient of these services while Skye was in care.

The Push for Skye's Adoption

In July 2006, Skye was five-years-old, living in Campbell River and under the continuing custody of MCFD.¹⁶ Skye's file was transferred to a guardianship social worker for permanency planning. Skye's mother had requested that she be adopted by the adoptive mother of Skye's older sister, a Métis woman who was living in Alberta. MCFD proceeded with this planning and, at the end of 2006 as part of Skye's permanency planning, she was referred to the Roots Program.

The Roots Program

Introduced in 2003, the main objective of the Roots program is to ensure that Indigenous children in the care of MCFD have a plan that will respect and preserve their identity with ties to their family, Indigenous community, heritage, culture, traditions and spiritualities.

To accomplish this, Roots practitioners may create genograms (or family trees) for children in care, support social workers to identify family members and establish cultural connections, organize cultural packages specific to each child's community, organize trips for children to visit their home communities and connect children with extended family members.

Roots practitioners (also referred to as family finders or cultural connection workers) are employed by MCFD, DAAs or community-based agencies that are contracted by the ministry to deliver this service. The Roots program can be a foundational step in helping children in care to reconnect with their ancestral roots.

After Skye's band provided written consent to the adoption and the paperwork for an interprovincial adoption was underway, Skye and her foster parent were informed that she would be moving to Alberta by the end of the 2006/07 school year. Her foster parent expressed concerns to MCFD that the move was taking too long, and that she believed the delay was detrimental to Skye's well-being. The MCFD social worker from that time recalled:

"[Skye] knew [her sister's adoptive mother] was the plan [for placement]. [We were telling her there's] 'lots of adult stuff we got to do, got to get through, it's going to take a while. So just if you can, don't worry about it, think about other things ... we're taking care of this, we're on it. If you have any questions, let me know.' I mean that was the kind of stuff I would say to her."

¹⁶ The court file does not indicate what evidence was heard in the granting of this CCO. The records include the decision, which indicates that there was s. 60 written consent by the Director, the mother and the band. There is no information about how consent was obtained from Skye's mother.



When the move had not occurred by the end of the 2006/07 school year, Skye's grandmother contacted the Representative's Office to express concern about the delay. RCY confirmed with MCFD that the adoption was progressing, and that Skye would be moving to Calgary in mid-September 2007. The MCFD social worker recalled, *"It took like ... over a year, between the time that we were getting this plan going, on to the time we actually had a home study that wasn't even complete."*

In June 2007, Skye was enjoying weekly phone visits with her sister and her sister's adoptive mother. File notes indicate that *"Skye misses her mother very much"* and that her mother called Skye's social worker to ask about how she was doing. Skye's foster parent at the time expressed concerns that she might *"fall apart"* if she were to visit her mother. Later that summer, Skye's sister and her adoptive mother travelled to B.C. to surprise Skye for her seventh birthday. When speaking with RCY investigators, her sister recalled that Skye was thrilled, remembering *"her face when we surprised her."*



A picture of Skye taken when she was surprised by her visiting sister in 2007

Memories of Skye

"So I'd be at the Christmas concert, and her foster parent would dress her in this red dress with white fur and, you know, they do their little songs. I'll never forget, she was singing her heart out out there and it was just ... I mean, that energy and that ... she just carried a really nice energy with her that you just felt good when you're with her because she – she sparkled."

—Social worker

MCFD staff had not developed an alternative plan for Skye in the event the adoption did not move forward. The social worker from that time explained this to RCY investigators by saying, *"I think we were hell-sbent on getting her placed with [her sister] and that was going to happen, hell or high water. So, it didn't even occur to us to look concurrently. And ... then things pretty much were playing sequentially at that point."* A caregiver from that period recalled, *"She was wanting to be with her sister and [her sister's adoptive mom] and she knew that's where her mommy wanted her."*

After a year of back and forth communication between MCFD and Child and Family Services in Alberta, the adoption assessment was formally started in August 2007 by Calgary's Native Multi-Service Team. The completed assessment was received by MCFD in October 2007 with recommendations that Skye not be placed with her sister and adoptive mother. There were concerns that the prospective adoptive placement might not be ready for Skye because the family had suddenly moved from Calgary to Lethbridge without informing the involved family services agencies: *"This morning, we learned [the] adoptive mom has quit her job in Calgary and is moving to Lethbridge on Friday. We have put through a call to [a] home assessment writer to try to complete whatever is outstanding and possible for her to do in the short time frame."*¹⁷

According to the adoption home assessment report, *"The family's new residence will need to be assessed to ensure it meets safety standards and has adequate space for a family of three. The applicant's knowledge of resources in her new community must be determined as well as any informal supports she has there and her ability or willingness to access these."*¹⁸

¹⁷ Correspondence from Skye's child service file.

¹⁸ Document in Skye's child service file.

The sudden move was not the only concern that prevented the approval of Skye's adoption placement with her sister's adoptive mother. The home assessment also noted concerns that her sister's adoptive mother might have omitted or withheld information from the assessor that she knew could negatively impact the outcome of the assessment, and it was determined by the team in Alberta that placement with her older sister may not be in Skye's best interests.

In November 2007, Skye was informed that she would not be adopted by this family. This news hit the seven-year-old extremely hard. In the months following, Skye told her foster parent that *"she might as well be dead; nobody wants her so there is no reason to be around"* and that she *"shouldn't be on this Earth."*

MCFD did not support Skye to maintain a relationship with her sister following the closure of the adoption application. Documents from her MCFD workers at the time state, *"I have chosen for Skye not to be in contact with [her sister] at this time. She has just gone through an adoption disruption and is very vulnerable ... I think Skye's relationship with her sibling is an important one, and should be preserved, but it should be well researched, and Skye should be in a stronger frame of mind before contact is re-initiated."*

In January 2008, Skye was referred for counselling with the Children Who Witness Abuse (CWWA) program through Campbell River Family Services, in addition to continuing to see her counsellor at Laichwiltach Family Life Society, whom the records indicate she felt *"very connected to."* Skye's counselling through the CWWA program used art, play and discussion to focus on the previous, *"abusive behaviour between Skye's mother and girlfriend."* Several months later, Skye's counsellor introduced the idea of *"grief work"* to enable her to process the *"major loss she has had in her life, not seeing her mom."*

By this point, seven-year-old Skye had been in the same foster placement since she was five and had developed a close relationship with her foster parent. Unfortunately, the failed adoption planning impacted Skye significantly and she began to act out. During the remainder of that school year, Skye was stealing from her classmates and running away from her foster home. Her foster parent struggled to manage Skye's behaviours. Additional support was provided including respite, and Skye was prescribed Risperidone to help her emotional dysregulation. According to case notes, her social worker was worried that Skye's relationship with her foster parent would become *"irreparably damaged"* if Skye was not soon moved to a permanent home.¹⁹

The MCFD social worker was in communication with a representative from Skye's Nation as plans were being made to find another adoptive home. Records indicate that the representative and Chief consulted with family and community members, coming to the conclusion that they required more time to assess options for Skye. The representative advised that the Nation was opposed to MCFD's plan for formal adoption proceedings at this time. The community felt it was best for her to remain in foster care for the short term, recognizing that it was not the best solution, but wanted to work towards a long-term plan to support Skye. The community also recognized that Skye had never been to her traditional territory and community and therefore planning had to be done carefully and mindfully in consideration of Skye's best interests.

In February 2008, Skye's Nation identified an aunt and uncle in another jurisdiction who could potentially care for her. However, when Skye's social worker emailed them, they responded with no specific questions about caring for Skye but did ask about financial support should they move forward

¹⁹ Risperidone is an atypical antipsychotic medication mainly used to treat schizophrenia and bipolar disorder, and to manage behaviours for people with autism.



with adoption planning. The social worker replied to the aunt and uncle with concerns, assuming they had financial motivations for wanting to care for Skye. At this point, Skye's aunt and uncle ended the communication with the social worker. After she reviewed the email that she had sent to Skye's Yukon family members, the social worker told RCY investigators, *"I really wish this had gone differently, because I think they [felt] shut down. And I don't know if it would have gone anywhere anyway but this might have just shut it down. And that's really awful and tragic."*

Two months later, the Nation came back to MCFD indicating that no other family members had come forward who were capable of caring for Skye and requested that Skye remain in foster care. The Nation hoped for more time to plan collaboratively with MCFD for Skye's permanency and did not wish for her to be adopted.

Despite the Nation's lack of support for adoption, searches of MCFD's adoption management system took place in the spring of 2008 as concerns remained that Skye's current foster placement was at risk of breaking down. No Indigenous homes were identified for Skye. When a non-Indigenous couple expressed interest in her in June 2008, an application and Cultural Safety Agreement were submitted to the Provincial Exceptions Committee. In order to approve an application for an Indigenous child or youth to be placed in a non-Indigenous adoptive home, an MCFD team leader told RCY investigators that *"it needs to be demonstrated that the planning is significantly robust to endure, and it needs to identify via signature people who have committed to that. So that is not just the prospective adoptive family, but all of the key players within Indigenous communities wherever that community happens to be."*

Provincial Exceptions Committee

MCFD established the **Provincial Exceptions Committee** in 1996 to review applications for Indigenous children and youth in care to be placed in non-Indigenous (non-family) adoptive homes. Currently, the Provincial Exceptions Committee consists of representatives from: MCFD (Aboriginal Services, Adoptions); DAAs; Métis Nation British Columbia; and the Métis Commission for Children and Families.

Cultural Safety Agreements are required when an Indigenous child or youth in care is going to be placed for adoption with a non-Indigenous family. MCFD guidelines for a Cultural Safety Agreement indicate that the intent of such an agreement is to *"facilitate a child's internalization of his or her culture"* – that is, to preserve the child's cultural identity and connections within their family and community. These are living documents that represent a shared responsibility between the child or youth's community and the adoptive family. They may include ways that connection will be facilitated, including contact with family, attendance at community events and access to cultural resources.

The Provincial Exceptions Committee did not approve the application, due in part to concerns *"that Skye's Dene identity may have been overlooked,"* with a lack of cultural planning specific to Skye's identity as a Dene child. The committee also expressed concerns with *"how quickly this new prospective adoptive family was located for Skye"* and it wanted to ensure that the family had been provided with all necessary information to make an informed decision before adopting Skye. Even though the application was not approved, Skye was placed with this family as a restricted family care placement in September 2008 with the intent of continuing to move toward adoption. In Skye's records, the social worker wrote that *"the intention of this decision was not to circumvent the Aboriginal Exception Committee but [to] provide stability for Skye and to resubmit an authentic Cultural Plan developed in partnership with Skye, her prospective adoptive parents and her Aboriginal community."*



Restricted Family Care Placements

Restricted family care homes are intended to support a placement of a child known or related to the foster parents. These placements are sometimes utilized as "foster-to-adopt" placements, which allows the child to be placed with the prospective adoptive family prior to the adoption arrangements proceeding. It is important to note the distinction between restricted family care placements and adoption placements as the policies and standards for practice to monitor these placements are different.

During an interview with RCY investigators, the social worker recalled making this decision at the time in the context of Skye's first adoption plan and her current foster placement both breaking down, saying,

"I just felt, I need to move this child and she needs to go. It's risky ... but the other option for her is then to be placed in a different foster home and then have that period of time to recover and then move into another ... we didn't have another foster home that was any better than the one she came from ... I was not, you know, in good conscience trying to circumnavigate [the Exceptions Committee]. I did respect the process; it was what we had to do. I understood the need for it, but I had this little girl who I was not willing to subject to an unnecessary placement if we could just do this. As it turned out though, that was a disaster."

Staff recalled that MCFD was in the midst of transitioning to a new model for evaluating potential adoption homes – the Structured Analysis Family Evaluation (SAFE). Since Skye's placement was a restricted placement – and since the SAFE study was a new model – this study was not done on the home. RCY investigators were unable to determine what type of assessment, if any, was completed on the potential adoptive family.

Structured Analysis Family Evaluation (SAFE) Study

A SAFE study is a standardized, thorough home study that allows for child welfare agencies to evaluate prospective adoptive homes. These studies assist social workers and other practitioners to conduct a critical analysis of a prospective adoptive family's abilities and capacity to parent a child or youth and identify areas of concern that may impede current functioning as well as safe and effective parenting. As stated on the SAFE Home Study website, the evaluation process helps to prevent "further abuse of children or disruption."²⁰

After Skye had been moved into her new home, the local MCFD office threw a celebration for her and her potential adoptive family. A social worker recalled:

"I remember before becoming her guardianship social worker ... we had, like, a happy celebration day for when she was being placed in her adoption home, and there was a crowd of people in our ... conference room and the new parents ... and [Skye] was just so giddy, just excited about this plan for her future."

²⁰ SAFE home study, "Structured Analysis Family Evaluation," accessed January 25, 2021, <http://www.safehomestudy.org/SAFE/SAFE-Overview.aspx>.



Skye's social worker submitted a revised cultural plan and, in January 2009, the Provincial Exceptions Committee approved the adoption. However, by this time, MCFD records also document that Skye's prospective adoptive parents seemed stuck in a *"vortex of negativity."* Skye had begun to test the family's commitment and, despite her counsellor offering support to the prospective adoptive parents and reminders that Skye's behaviour was typical given the situation, the parents *"struggled to let things go."* MCFD staff reported that the couple parented Skye in a punitive manner. Skye's files indicate that an *"adoptive families support person"* was brought in to offer suggestions and strategies, but the prospective adoptive parents did not follow through with any suggestions. In early March 2009, the parents stopped taking Skye to see her CWWA counsellor, with MCFD case records indicating that they stated, *"All Skye did was colour there."*



Skye, around age 8

After multiple home visits, the MCFD social worker concluded that the placement was not working for anyone and made the decision to enlist the help of a therapist specializing in adoption. The therapist met with the couple and the resulting assessment characterized the parents as unsuitable to adopt Skye.

The social worker began to gather information from other people involved in Skye's life, who all expressed concern for her being in this home. After seven months in their care, Skye was removed from the home in May 2009. Her social worker recalled, *"It's the only time I've had to – it was like a removal, right? To do it from a forever home, it was awful, it was just so awful ... I don't know how else to describe it – [Skye] was gray."*

That same month, eight-year-old Skye was placed with an Indigenous foster family she had known since she was three. This family had a connection to Skye and her mother but had not previously been a foster family for her. The foster mother told the social worker that this was not the same Skye they had previously known, and the social worker described Skye's presentation during this period as at times *"haunted."*

Skye resumed counselling to assist her in processing the adoption disruption. Over time, she began to adjust to her new home, progressing significantly in her behavioural and emotional development.

Between May and August 2009, the MCFD social worker received several letters from a legal advocate at Atira requesting a visit between Skye and her mother. These letters indicated her mother's immense desire to see Skye. An Atira staff member offered assistance in organizing and logistically coordinating a visit, recalling to RCY investigators:

"Multiple times I had offered to drive her to Campbell River to see Skye when she would reach out to a social worker, have contact. I never spoke to those social workers directly, so I don't know what the nature of the breakdown is. But ... she was always very excited. So, I'd say, 'Yeah ... we can go up on Tuesday, I can drive you up, I can be with you.' Then those visits would never happen. She never would talk about it, so I don't have information about why those visits that she anticipated so joyously never happened."

During this period, one of Skye's counsellors noted that "Skye had said she would like to see her mom." However, rather than supporting a visit, the MCFD social worker asked her mother to contact Skye via letter. Skye's counsellor and foster parents disagreed with this approach, noting that they would "support a visit between Skye and her mom."

Skye's mother wrote her daughter a letter in October 2009. After it was reviewed by Skye's social worker, a portion of this letter was shared with Skye three months later. It is unclear which portion of the following letter Skye was shown:

Oh My God!
I MISS YOU
♥ SKYE,
Your Momma has been thinking of you every waking moment & then my dreams are full of times I miss with you!
My prayers have been answered... because you get to read this & eventually I can hold you!!!!

& that because of that star the first star you see every night. My heart my prayers my thoughts are with ONLY YOU.
I hope pray & wish & dream that you are OK.
DO NOT GIVE UP
Be the angry person that you are.

I LOVE YOU
I MISS YOU
Do you remember me telling you that the first star you see at night, that I will also see that star NO Matter where we are...

my DNA buddy... He!
Writing this letter is both wonderful & yet, my dear, is a wave of tears.
Because... I'm missing your life & I Love you.
I can only hope that my skye is happy
STAY YOU!
Love Momma

Letter to Skye from her mother, shared in part with Skye in January 2010

Through the rest of 2009 and early 2010, Skye was feeling more settled in her foster home. MCFD social workers described Skye's foster parents as warm, welcoming and loving people who were positive role models with strong cultural identities. One social worker noted, however, that the foster mother did not comply with MCFD's standard reporting template, recalling, *"The struggles with her definitely were around documentation in some ways and wanting it linear. She's not a linear thinker, she's much more of a circular thinker."*

In May 2010, the social worker began looking at legal permanency options for nine-year-old Skye. At this time, she was engaging in disruptive behaviours at school, including lying, stealing and bullying. According to MCFD documents from this period, Skye's foster parents observed that these *"regressing and appalling behaviours started when the adoption process started."* Skye's grandparents also emailed Skye's social worker with concerns that moving from this placement *"could be counterproductive."*²¹ They noted that the foster family's *"lifestyle suit[ed] [Skye] and she has 'family.'"*

In July 2010, MCFD asked Skye's foster parents to decide whether they would adopt her, adding that, if not, the ministry would begin looking for other adoptive families. They were given approximately two months to provide their decision in writing. The foster parents felt that Skye was not ready to go through another adoption plan. They wrote to her MCFD workers, saying that they adored and loved Skye and were proud of her, but that adoption was a family process that required time and support to ensure a match between a family's needs and a child's needs. They said they would be there for Skye and support her, but that her readiness for adoption should not be determined by MCFD's *"desire for change, budget or timelines."* They added, *"All people see adoption very differently and very few people see or understand the adoption process to be equated to ministry standards and practice."*

Memories of Skye

"I'll never forget taking her to Long Beach, Tofino. Oh, we had so much fun ... we were trying to teach Skye how to surf and the waves were massive. She was just like, 'Oh my God,' like her eyes were popping out of her head. We put a wetsuit on her ... and the girls picked her up, each of them had a side of her and they just ran full flat out into these 10-foot waves and carried her. And I don't think she stopped laughing ..."

—Skye's foster parent

When speaking with RCY investigators about this time, Skye's foster mother recalled:

"[We] just shook our heads ... what I do remember is being so angry, I remember being so hurt ... we said, 'Adoption is a family process, it's not an ultimatum. This has got nothing to do with trying to demean this child's process and say that she was languishing in care. How dare you? How dare you say that about a child and then dissolve her entire life and all her attachments and force her into an adoption that she never wanted to go into?' I can't believe it even happened."

When reflecting on the process of providing ultimatums to foster parents regarding adoption, one MCFD staff member told RCY investigators, *"Certainly, that was a time when I think sometimes the ministry took too strong of an approach with foster parents."*

In December 2010, MCFD contracted with a behavioural consultant for children and adults to complete a Child's Needs Assessment for Skye. In her report, the consultant noted that Skye carried a diagnosis for reactive attachment disorder (RAD) but did not present with any indicators for attention deficit disorder (ADD) or fetal alcohol spectrum disorder (FASD).

²¹ Skye's mother's adoptive parents.





Skye's self-portrait, age 10

In January 2011, 10-year-old Skye ran away with another child living in the same foster home and was returned to the home by police. Her foster parent noted in her communication with Skye's social worker that Skye had ongoing mental health concerns and that she *"shouldn't be put up for adoption until this is all sorted out."*

Skye's social worker and the MCFD team leader decided that Skye needed more specialized supports and that they would terminate the contract with the counsellor whom Skye had been seeing since she was three-years-old in favour of a more specialized practitioner. Skye's counsellor recalled feeling *"powerless with the ministry"* noting that, *"The impression was that she is going [to go] into an adoptive home now so she'll be fine, you know ... her life will go forward now, and she won't need these services."* Other MCFD staff who had worked with Skye's counsellor noted that she had a *"trusted, attached relationship"* with Skye that was *"genuine"* and *"safe."* It is unclear to RCY investigators why the ministry chose to sever what had been a positive, therapeutic, long-term relationship for Skye.

Despite concerns raised by the foster parent and others about proceeding with another adoption plan, in an effort to secure legal permanency, MCFD moved 11-year-old Skye from her Indigenous foster home in Campbell River to a non-Indigenous restricted foster-to-adopt placement in Nanaimo in August 2011. Although Skye was very close to the age in which a child's consent for adoption is legally required – and she would have been 12 by the time the adoption proceeded – she was not informed or asked to consent to this move.²² Her new foster parents had raised four biological children and 12 adopted children, seven of whom were still residing in the family home. An involved MCFD team leader recalled, *"Honestly [I] was just quite thrilled that they were interested in Skye."* Similarly, Skye's new foster parent described a celebration in Campbell River to mark the new placement:

"When we took Skye on and then we're at that office up in Campbell River ... it's like there's this major celebration that 'Oh, the [family] has taken Skye on. Oh, isn't this wonderful and yada yada.' And we had some credibility in the adoption field and because we've been successful with kids and all that. But there was more focus on: 'Isn't this awesome and heaven.' ... Basically, it was all about a win. They had stricken this issue off their desk and, maybe I'm simple, but that's sure the way it felt."

Skye later told her social worker that she was never consulted about whether she wanted to be adopted. She was moved from her home in Campbell River to the new restricted placement in Nanaimo less than two weeks after meeting her new family.

An adoption therapy specialist was hired by MCFD to support Skye through the transition. As recorded in Skye's social worker's case notes, the specialist was *"not worried about the speed of this, as Skye [was] very used to fast moves."*

²² After age 12, children must consent to adoption. See *Adoptions Act*, RSBC 1996, s. 12(a).



According to the social worker's notes, the new foster family described the transition as *"the worst"* with *"no preparation for Skye."* The foster mother later told RCY investigators that the process was *"abrupt,"* lacking communication and pre-placement planning. She recalled, *"The whole thing for me was badly handled, including our end ... We just followed their lead and shouldn't have. [We] should have taken more steps to say: 'Actually this isn't a good way to do this.'"*

I knew them for two weeks and then I moved in.

—Skye, age 12

Similarly, when speaking with RCY investigators, the MCFD social worker noted that the transition had not been done well:

"I actually agree that Skye wasn't really prepared, because we were just kind of at the beginning, and then I came back from my vacation and was told that she was gone. I mean, that certainly wouldn't be how I would recommend a transition of any type, especially [for] a child who had been removed from an adoptive plan. I wasn't privy to all of those reasonings why, so I can't tell you anything more than that ... I just think it just went so – too fast ... although the ministry is a slow-moving machine at times, I think sometimes being thoughtful and thorough is really, you know, an appropriate way to be."

A counsellor who later worked with Skye also spoke about that day, noting that Skye did not have the opportunity to say goodbye to her foster father, with whom she had a close relationship.

They told me I was lucky. I didn't feel lucky.

—Skye, age 12

Despite Skye's move to Nanaimo, MCFD's Campbell River office continued to hold her files, and Skye's social worker continued to be based out of Campbell River. The social worker told her new foster-to-adopt parents to *"have absolutely no contact with [Skye's] prior foster parent,"* completely cutting off Skye from her connection with her former supports. Skye's previous foster parents were forbidden to reach out to her or communicate with the adoptive family and were advised to stop challenging MCFD's authority. The foster parents were concerned about consequences.

Two weeks after Skye moved into the Nanaimo home in August 2011, the new foster parents went through a traumatic family event.²³ One of those foster parents recalled:

"There were several of our kids who went into kind of like crisis at the same time. And it was totally like throwing balls in the air ... and then meanwhile trying to sustain normal family life with a lot of things going on."



Skye, around age 12

²³ To protect the family's privacy, details of these events have been withheld.

Due to this traumatic event, Skye's new foster family moved to Cobble Hill in November 2011, taking her with them. Now in a different school district, Skye was transferred to a new school. Shortly after the move, her foster placement started to break down.

Despite these challenging events in the prospective adoptive home, Skye's social worker did not see her for more than six months, until the foster mother insisted on it in February 2012. Her foster mother later recalled, *"After she moved in ... then the ball pretty much [was] dropped."*

Skye's foster-to-adopt mother left a message for the social worker in Campbell River, requesting that Skye be moved. When the social worker did not return the call, the foster mother contacted the Representative for Children and Youth. RCY opened an advocacy file, which was later closed after the foster mother provided an update, saying that the social worker had subsequently returned her call and that she felt things were now heading in the right direction and would call back if things did not go well.

In September 2012, the MCFD social worker saw 12-year-old Skye for the second time since her new placement 13 months earlier – this time due to Skye's own persistence. However, support from MCFD to Skye and her foster-to-adopt family was *"non-existent,"* according to the foster parent. Similarly, an MCFD team leader later recalled: *"I think it drifted ... my perception is that we didn't provide the [family] with supports that they needed to manage things with Skye."*

Skye's foster-to-adopt parents later told RCY investigators they were unable to fully support Skye given the unrelated trauma they were processing at the time. One of the parents noted, *"Someone should have said, 'We need to pull the plug.' I know it's terrible, but that's what should have happened."* The foster parent continued:

"We had too much on our plate to be thinking about taking somebody else in ... [MCFD staff] were so happy that they were getting this problem dealt with ... it was dealt with because she was coming to [live with us]. And that's not a really good way to go at this: 'Oh, we've got the A team here, we're good to go.' And no, we're not the A team ... But it seems to me what came out of that was they thought they had such a solid resource here that they didn't have to pay attention anymore. And that's really where it fell apart."

Skye also wrote her previous foster parents, begging for them to pick her up and take her home. The foster-to-adopt mother recalled:

"We discovered that she had sent a letter to her most recent foster parent ... [she] described wanting to go back there and saying how much she did not want to stay with us ... The fact that she wrote to [her foster family in Campbell River] ... Why wasn't that a huge red flag? Okay, we have a problem here, she's writing to her foster mom saying she wants to come back, she doesn't like us."

In December 2012, Skye's foster-to-adopt parents told MCFD that they were *"no longer able to provide care for Skye ... and [that was] what Skye wants."* These foster parents had discussed different options with Skye, who had maintained her interest in returning to Campbell River. As they recalled:

"Skye was expressing how much she wanted to go back to Campbell River to live. There were no social workers available to talk to her except the adoption worker at the Duncan office. She met with Skye and explained that if she were to be moved to Campbell River, there was no guarantee that she would live where she had [lived] before, or even that there would be a 'bed' available there for her; that she might end up living in Sayward, or some other community."



The Representative was unable to find any rationale as to why the ministry didn't consider moving Skye back to her previous foster home in Campbell River. Following these discussions, Skye's foster-to-adopt mother left a message for her social worker requesting that Skye be placed in the home of a family friend in Nanaimo, who had provided respite care to Skye in the past. MCFD notes indicate that Skye was open to the idea of going to the respite home in Nanaimo and described this home as, "quieter, more attention and love, won't be a lot of kids in the house." Her foster-to-adopt parents offered the following recollection to RCY investigators:

"I feel like we sort of guided her into that because it seemed like a better solution and maybe it wasn't. But it felt better for her to go somewhere she had a relationship than to go to a random place ... I don't think MCFD ever really consulted with her."

Skye was slowly transitioned to the respite care provider's foster home in Nanaimo over a three-month period as a restricted placement. Although the two families engaged in a gentle transition for Skye, her new foster parent told RCY investigators that MCFD provided no support: "The ministry gave me nothing. Like, her transition, brutal."

Skye's Adolescence

Skye was described as well behaved in her new foster home, and the family enjoyed a number of local and cross-country trips together. The foster parent recalled:

"When we went to Niagara Falls, I said, 'Okay, girls, there are tons of activities to do here, we can't do them all, you can each pick one, but you can do both of them together,' in addition to the regular like ferris wheel and all the normal stuff ... Skye picked Build-A-Bear. She's like, 'Can we do Build-A-Bear?' I have the cutest picture of Skye and [my daughter], and they're holding their Build-A-Bears."

Memories of Skye

"We went on a road trip ... and I looked out my side mirror and Skye had her head out the window a little bit and she had the wind ... the wind blowing on her face ... like she had no cares in the world at that point, that she was just living her moment."

—Skye's foster parent



Skye, as described in the memory, age 12

During this time, Skye maintained that she did not want to be adopted. Her foster parent recalled:

"I had applied to adopt her; we were going through that process for when and if she was ready, which I actually don't think she would have ever been ready – maybe when she was an adult. But I wanted to get that process rolling so if she ever did say, 'Yes, I want this permanently,' we wouldn't have to say, 'Well, it's going to take three years.'"

In June 2013, Skye's foster parent arranged for her to see a counsellor who specialized in trauma. She attended 16 sessions from June through December 2013. She never refused to attend a session but, according to the counsellor, was *"reluctant to open up."* The counsellor also described Skye as being *"angry at her life situation."* Skye and her counsellor engaged in strengths-based exercises to highlight Skye's qualities, including her courage, loyalty and kindness.²⁴ The counselling sessions also largely focused on trauma, which centred on Skye's experiences in care. During these sessions, Skye was asked to rate her various areas of trauma on a scale from 1 to 10, with 10 being the worst type of trauma:

Went to foster care 1st [time]...

Bothers me: 10/10

My mom left me, kind of went away.

Bothers me: 10/10

Overdosed on pills, hospital, 13 years old. Bothers me: 1/10

As Skye started Grade 8 at the local high school, she was going through a period of rapid transition. Her foster parent told RCY investigators, *"This kid went from 'I want to do Build-A-Bear and follow One Direction,' to 'I'm going to smoke weed and drink and skip school' within six months ... when she just started skipping school and drinking during the day, she was a goner."*

In October 2013, Skye's child service file was finally transferred from Campbell River to Nanaimo, where a local social worker could check on her more frequently. It is unclear to the Representative why this transfer did not happen when Skye was first moved to Nanaimo in 2011.

Also in October 2013, Skye began engaging in self-harming behaviours and, at one point, was taken to hospital for cuts to her wrist which she had closed with glue. In January 2014, Skye was suspended and subsequently did not return to school for some time. Records reviewed for this investigation do not indicate the reason for the suspension. Her foster parent told RCY investigators, *"She got suspended middle of eighth grade ... It was like at the end of the semester when they had their breaks for exams or whatever. I don't think she ever went back."*

At the same time, Skye's behaviours were becoming difficult for her foster family to manage. Skye once again indicated that she wanted to be moved to Campbell River. Given the time it would take to locate an appropriate placement in Campbell River and coordinate plans to move, MCFD provided supports to the foster family, including weekly integrated case management meetings, which a social worker said *"helped maintain the longevity of the placement until another home could be found."*



Skye, age 11

"So, I feel like the school gave up on her way too quickly. Did they try? Yeah, they tried, a little bit. But she was too high maintenance for them."

—Skye's foster parent

²⁴ Counselling records.

While Skye waited to be moved to Campbell River, she was frequently absent from her foster home in Nanaimo, couch-surfing and staying with friends. At the end of February 2014, 13-year-old Skye was moved to a foster placement in Campbell River. However, she was not placed with her former foster family there. In fact, when RCY investigators spoke with Skye's Indigenous former foster parent in Campbell River, she noted that she was not asked whether she could care for Skye again and was not notified that Skye had been moved back to Campbell River.

Shortly after moving back to Campbell River, Skye began refusing to stay at her new placement. She was frequently reported to police as missing, and was turning up in Nanaimo and Port Alberni. Skye's Campbell River placement remained open for about a month while her social worker and others tried to encourage her to return. By mid-March 2014, Skye's social worker finally connected in person with Skye in Nanaimo. Although it was not ideal, Skye was staying with friends who were also known to the social worker and she felt it was safe as a temporary measure as there were no safe house beds available in Nanaimo and Skye did not want to return to Campbell River.

Skye indicated that she would be willing to stay at a foster home in Nanaimo. However, no placement options could be found there. On March 18, an MCFD resources team leader in Nanaimo sent an email to Skye's social worker, stating, *"A Nanaimo resource would be considered – pending the availability of a bed at the safe house, and continued direction to support and planning to connect with the resource option in Campbell River."*

Many unsuccessful attempts were made by Skye's social worker and friends to encourage her to return to the Campbell River foster placement. MCFD eventually closed that placement at the end of March 2014. By mid-April, Skye was placed in a Nanaimo foster home that, according to the MCFD social worker, specialized in working with *"really challenging teenagers."* This was Skye's last foster placement before her death.

Shortly after moving into this Nanaimo foster home, Skye left for Port Alberni and was with an adult male whose relationship with Skye appeared to be exploitive in nature.²⁵ Skye was frequently absent from her foster placement during this time. Nevertheless, MCFD kept this placement open for Skye.

Safe Houses and Shelters

Safe houses and shelters are short-term emergency housing services available in some B.C. communities. These resources provide shelter and support services to those in need, some of which are specifically geared to serving youth under the age of 19. Information about where these resources are available can be found by dialing 211 or visiting bc211.ca.

Memories of Skye

"She was passionate about people and she was such a caregiver. She took care of everybody. Like, all of her friends, she was the one – she parented them all, she made sure they were safe."

—Former caregiver for Skye

Skye began receiving help in March 2014 from a community agency in Nanaimo that provided substance use counselling and support for personal safety. This agency was committed to providing outreach in the communities where Skye was staying. However, it closed her file in September 2014 having had little success in connecting with Skye.

²⁵ While the full nature of this relationship is not known, it should be noted that Skye referred to this person as her 'boyfriend'. The age of consent for all types of sexual activity, even kissing, for example, is 16. Sexual activity by an adult with somebody younger than 16 is a criminal offence. <https://www.justice.gc.ca/eng/tp-pr/other-autre/clp/faq.htm>

In May 2014, Skye's social worker requested that MCFD's Port Alberni office assist in getting medical attention to address some untreated conditions for Skye. The same social worker later told RCY investigators that she had been "*chasing [Skye] from Port Hardy to Victoria, to Port Alberni*" during this period of time.

On Sept. 8 of that same year, RCMP transported Skye, who had recently turned 14, to the Port Alberni hospital for an overnight psychiatric assessment after she threatened to jump off a bridge. Skye was committed under the *Mental Health Act*. An emergency referral to Aboriginal Child and Youth Mental Health (ACYMH) was made and an ACYMH outreach worker completed an intake in hospital. Skye told the worker that she had been experiencing depression since she was six-years-old and disclosed having experienced past sexual assaults. Skye did not receive counselling to process this as the ACYMH intake was closed after a few failed attempts to locate her.

Aboriginal Child and Youth Mental Health (ACYMH)

ACYMH provides counselling and support to self-identified Indigenous children and youth who present with mental health challenges.²⁶

While a thorough examination of ACYMH was beyond the scope of this investigation, the Representative regularly reviews situations in which Indigenous children, such as Skye, don't appear to be offered mental health supports by ACYMH that meet their significant needs. Skye's experience, as well as the experience of other Indigenous children, may indicate a need for further exploration.

The Representative also recently released a statistical report titled *Illuminating Service Experience: A Descriptive Analysis of Injury and Death Reports for First Nations Children and Youth in B.C., 2015 to 2017*, which speaks to the challenges of ACYMH.

Of the 200 care plans that were reviewed for this December 2020 report, only four per cent indicated ACYMH involvement. The report revealed that there are only six ACYMH teams in the province. It also indicated that CYMH and ACYMH are only available to those with diagnosed mental health disorders, so supports are not available to all children or youth, such as those experiencing distress due to trauma. The report also noted that some First Nations leaders, service providers and community members find that ACYMH does not provide Indigenous-specific approaches to child and youth mental health, as it is intended to do.

Four days later, Skye was picked up by RCMP and brought to the hospital to be treated for alcohol poisoning. She left the hospital shortly after admission and travelled to Port Hardy to stay with her boyfriend. The next month, Skye returned to her foster placement in Nanaimo and began using methamphetamines.

On May 21, 2015, Skye checked into a youth detox facility in Victoria but discharged herself three hours later. She stayed in several different locations after this, including the homes of two older males. Support services for sexually exploited youth in Victoria sought to connect with Skye and informed her social worker whenever she was in the community.

²⁶ ACYMH and CYMH services in B.C. are voluntary support services that offer triage, resource and support services, assessments, treatment, therapeutic interventions and consultation. Offers of service may be declined by the individual or service providers may have difficulty reaching the individual, resulting in referrals or intakes being closed with no service provided.



Sexual Violence and Exploitation

The Representative has a mandate to review all critical injuries of children and youth who are in care or receiving reviewable services from the B.C. government – such as Skye. Sexual exploitation may be difficult to discern as it often co-occurs with – and is hidden by – other more apparent injuries such as substance use, assault or suicide attempt or suicidal ideation injuries. However, the Representative is aware that sexual exploitation is all too common, particularly for youth who have experienced childhood trauma. In fact, those who have experienced trauma are more frequently targeted for exploitation.²⁷

Preliminary analysis of sexualized violence injuries reported to the Representative confirms this. For example, of 282 reports of sexualized violence injuries reported from April 1, 2020 to March 31, 2021, 161 of the young people (57 per cent) had a history or contemporary experience of poverty, 93 (33 per cent) had experienced suicidality and 95 (34 per cent) were noted to have had co-occurring mental health and substance use challenges. Further, 121 (43 per cent) of these young people had multiple placements, which suggests a lack of stability and continuity of caregiver relationships, housing, school and community connections.

Of this group, 135 injuries (48 per cent) were reported for First Nations youth and 32 injuries (11 per cent) were reported for Métis youth, while 229 sexualized violence injuries (81 per cent) were reported for female youth. The Representative intends to conduct further work on this, in consultation with Indigenous communities, young people, service providers and community professionals.

In June 2015, Skye's MCFD social worker travelled to Vancouver and tried to locate Skye's mother so that they could reconnect. She found her mother's residence and checked twice but was unable to locate her. Following this attempt, she sent a letter to Skye's mother, saying, *"I hope you can connect with me, [I want to see] if you are open to contact with Skye, she is desperately seeking a sense of belonging."*

Throughout this period, Skye's social worker continued frequent communication with Skye by text message in an attempt to determine her location, ensure she was safe and encourage her to connect with services.

Reportable Circumstance Reports

In June and July 2015, Skye was the victim of two critical injuries. Under the *RCY Act*, MCFD was required to submit reportable circumstance reports to RCY for each of these incidents. While the ministry completed reports for both incidents, only one was submitted to RCY – for an incident that occurred on June 7, 2015. RCY received this reportable circumstance on March 15, 2018 – seven months after Skye's death.

²⁷ Stephanie Moss, *Sexual Exploitation and Trafficking of Children and Youth in Canada: A Prevention and Early Intervention Toolkit* (Coquitlam, B.C.: Children of the Street Society, 2017), 59.





Skye, age 15

Late in the summer of 2015, her social worker initiated another referral to ACYMH for emergency outreach support. An intake worker met with Skye the following day in her resource and another meeting was arranged for the following Monday but Skye's social worker emailed the intake worker, advising that Skye *"went AWOL and is currently staying at a known 'drug house'."* The ACYMH intake file was closed at this point as it was not expected that Skye would engage. Her social worker later told RCY investigators that the ACYMH services were *"useless, unfortunately"* as they were unable to meaningfully engage Skye.

In September 2015, after hearing that Skye was once again missing from her Nanaimo foster home, her grandparents contacted RCY to express concern that the now 15-year-old was staying with a 19-year-old man. An RCY advocate discussed the legal age of consent, protective intervention orders and advised the grandparents about how they could request a plan for Skye from MCFD.

Around this time, Skye began interacting with a youth outreach worker at a community organization in Nanaimo and built a strong relationship with this worker. They discussed family, trauma and addictions. The youth outreach worker indicated in her notes that Skye had incredible *"intelligence and insight on the topics"* and felt that Skye would *"make an amazing social worker one day"* due to her lived experience and empathy. The outreach worker left her position a year later, but she told RCY investigators that she maintained a connection with Skye in the community.

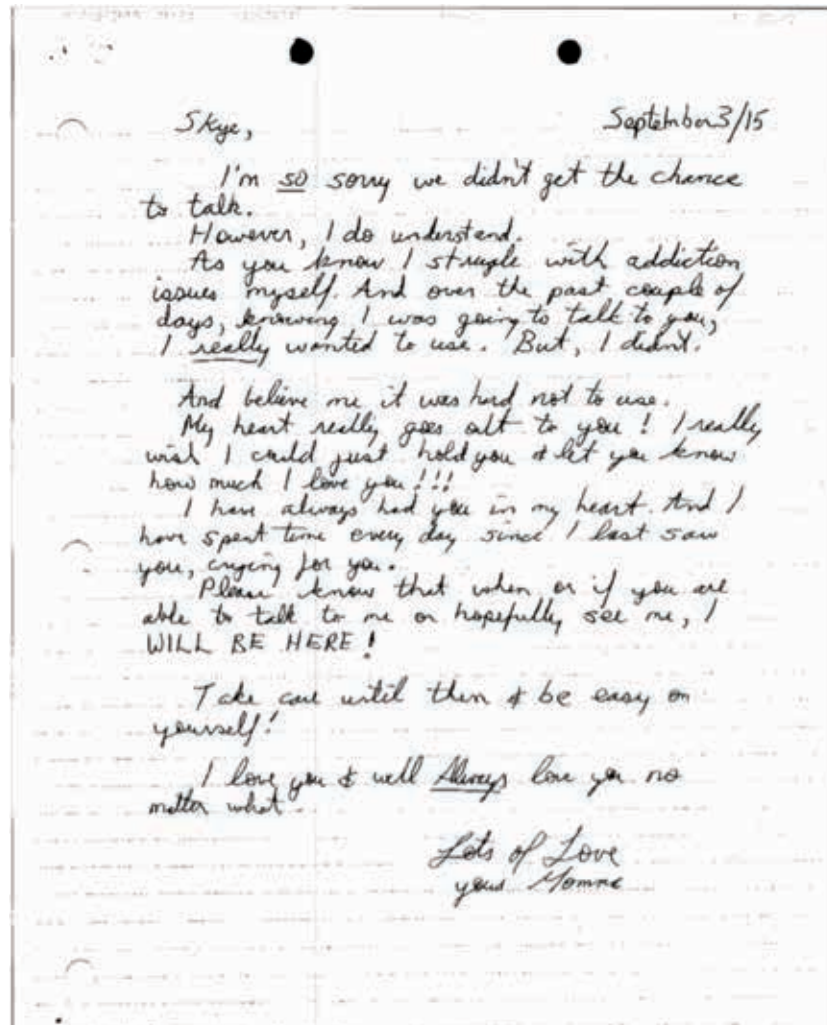
Memories of Skye

"Yeah, she was that sort of just caring for everybody. It was always like having to wait because she's doing something to care for somebody else or to find somebody else, making sure somebody's okay. Yeah, she definitely had a huge street family. That sort of shifted off and on, but it was always very much about taking care of other people."

—Social worker



In September 2015, Skye's mother sent her a letter. In this letter, it is clear she knew that Skye was not doing well and she expressed her love for Skye and how badly she wanted to be part of her life:



Letter to Skye from her mother, September 3, 2015

In February 2016, accompanied by her social worker, Skye began assessments for FASD. This process eventually resulted in her being diagnosed with FASD, RAD and Attention-Deficit Hyperactivity Disorder (ADHD). Skye's social worker told RCY investigators that she has since questioned the validity of these assessments, noting that Skye had been using substances on the day she was assessed. Skye's social worker submitted referrals for the Personalized Supports Initiative (PSI) through Community Living BC (CLBC) and Persons with Disabilities (PWD) benefits, but Skye was ineligible due to her IQ and adaptive functioning being higher than the threshold set to access these services and supports.

Personalized Supports Initiative

To be eligible for the PSI through CLBC, individuals must be assessed by approved professionals as having a diagnosis of either FASD or Autism Spectrum Disorder (ASD) and significant limitations in adaptive functioning, but not a developmental disability.

In fall 2016, Skye was enrolled at Tsawalk Learning Centre, an alternative education centre in Nanaimo. Entering the school year, her goals included “*getting a job,*” “*graduating*” and “*being happy without using drugs.*”²⁸

Long term goal: Be able to have crazy amazing stories and memories.

Promising Practice

Tsawalk (Nuu-chah-nulth, meaning “*we are all one, we are all connected*”) Learning Centre opened in September 2015. The program is designed for youth in Grades 8 to 12. It is focused on community-based learning, later start times, a year-round calendar and a celebration of culture. Its programming is well received by many youth who have experienced significant disruption to their learning over the years.

The Death of Skye's Mother

“Skye was [her mother's] greatest love and the source of [her mother's] greatest grief.”

—November 2016 email from Atira to Skye's social worker

On Nov. 16, 2016, shortly after Skye's 16th birthday, her mother died from a suspected overdose. Skye's social worker accompanied her to the memorial in Vancouver, where Skye met a number of people who had been close with her mother, including friends and staff at Atira. Skye had not seen her mother since coming into MCFD's care in March 2006. Following her mother's death, Skye's own substance use increased.

Honouring Skye's Mother at Atira

In 2013, as part of Atira's 30th anniversary celebration, Skye's mother was nominated by the Atira staff to be one of 30 women honoured. Today, her memory lives on through a beautiful affordable housing tower for low-income residents named after her two daughters, Skye and Olivia.

Skye's Death

During the 2016/17 school year, Skye only attended the program at Tsawalk for a total of 14 days. Despite her sporadic attendance, school staff noted in a letter to RCY investigators that many of the other learners “*looked up to Skye; in fact, she was a bit of a mother hen to several.*”

Skye maintained a close, positive relationship with her social worker. She also had a boyfriend and a small group of close friends, with whom she shared challenges with substance use. While MCFD continued to keep her Nanaimo foster placement open during her last three years, Skye was frequently reported missing and often chose alternative sleeping arrangements.

Skye's social worker had connected her with outreach support services based in Nanaimo in mid-2015. By the end of November 2016, Skye had met with her outreach worker more than 80 times. That outreach worker set goals to help Skye with her resume, made appointments, discussed her substance use through a harm-reduction approach and helped her with housing. They met at least once a week and had many conversations about helping Skye to attend a detox centre. However, Skye

²⁸ Skye's voice, school records.



always ultimately decided that she was not yet ready to attend. The worker's notes state that Skye was easy to talk to, interesting, smart, with a great sense of humour, and that she loved building personal connections with people.

On June 19, 2017, Skye went to the hospital in Nanaimo, accompanied by her social worker, after she experienced trouble breathing. She was diagnosed with pneumonia and was discharged with a prescription for antibiotics and an

"I don't want to see drugs ruin your life. But I am always here for you if you are using or not!!!"

—May 2015 text from Skye's social worker

inhaler. Skye also began the methadone maintenance program at this time. Before the end of July, she was hospitalized in Nanaimo a second time as she was again having difficulty breathing.

On Aug. 3, 2017, Skye told her social worker that she had missed five days worth of methadone doses. She asked for help to get back on the opiate replacement so that she could attend RCY's Ignite Your Spirit camp later that week.²⁹ Skye was prescribed three days worth of methadone to help ward off withdrawal. However, she missed the bus for the RCY camp and therefore did not attend.

Eight days later, on Skye's birthday, her former foster parent was looking for her. *"I [was] going to pretend to bump into her, be like, 'Hey, it's your birthday, let's go to [Tim Horton's].' I drove around looking for her and I couldn't find her ..."*

Skye was at a friend's house that day. Once again, she experienced trouble breathing. Emergency responders were called but, by the time they arrived on the scene, Skye was unresponsive and she could not be revived.

Skye died on Aug. 11, 2017 – the same day she turned 17 – due to what the BC Coroners Service determined was an unintentional overdose.

Memories of Skye

"When I think of Skye, I am reminded of that age-old wisdom that tells us it is so important to say what we need to say to people whenever we get the chance. I believed that I would have the chance to get to reconnect with her when she got older. Most of what happened to her in her life was not her fault. She was born to a mother who had suffered from the strain of systemic disruption of First Nations families that has been going on for generations. Her mother's inability to parent her in a safe way was another piece to the puzzle that we collectively as a society have not been able to put together. What I mean by that, partly, is that we still apprehend and place kids into care who could possibly stay with their birth families with significant support – support that would likely cost less financially [not to mention the human toll] than the subsequent foster families and resources and, in the end, possibly save lives like hers. The tragedy of her sense of displacement probably began in her early years and nothing any of the adults in her life did [could do] much to repair this. Skye was beautiful and smart. She had a good sense of humour and was incredibly sweet with young children ..."

—Skye's foster parent

²⁹ The Ignite Your Spirit Forums were youth-led events hosted by RCY and "designed to engage and empower Indigenous youth in the child welfare system and to enable them to use their voices to self-advocate." <https://rcybc.ca/youth-outreach/indigenous-youth-leadership-events/>.

Findings and Analysis

The Importance of Belonging

A primary intention for any review or investigation of a critical injury or death that RCY undertakes is to understand what aspects of the child- and family-serving systems of care – including resources, programs, policies and practices – contributed to the serious harm or tragedy that the child experienced.

One aim of RCY's work is to illuminate issues so that improvements can be made to reduce the likelihood of similar negative childhood experiences and outcomes in the future. Another aim is to identify opportunities for improvement so that the balance is tipped from reducing the likelihood of harm to increasing the likelihood of a child being able to thrive. One of the reasons that the Representative chose to undertake the investigation of Skye's experience was that her story was familiar. Through RCY's Advocacy and Reviews and Investigations work, the organization comes to know about many other young people who have had or are having similar experiences. Skye's story is both unique to her and all too familiar to many.

As RCY investigators learned more about Skye and her mother and their experiences of the child welfare system, it became clear that Skye is a great teacher. There is much to be learned through her story. There were many people who cared about Skye and her mother and they endeavoured to provide supports within their specific frame of reference and scope of authority. Mistakes were made and opportunities were missed. However, there is no one decision, action or inaction that the Representative can point to as the primary factor that led to the trauma that Skye experienced and to her eventual death. Rather, what has become clear through this investigation is that the narrow frames of reference, and the lack of collaboration and shared vision about what Skye needed in order to thrive, created the conditions for harm.

As they considered the findings, the Representative and her team wondered, *“What does Skye's story teach us about what children need in order to thrive? What was missing for her?”*

Dr. Martin Brokenleg, co-author of the book *Reclaiming Youth at Risk: Our Hope for the Future* and co-developer of the Circle of Courage model says that *“belonging is the most necessary human experience – it is in every child.”*³⁰ Through experiences of belonging – to family, community, school, culture – young people come to discover themselves, their place in the world and their interconnections with others. As Dr. Brokenleg and co-authors Dr. Larry Brendtro and Dr. Steve Van Bockern speak to in their Circle of Courage model, belonging is a necessary experience for young people to be able to develop mastery, generosity and independence. Belonging, they say, is both a philosophy and a strategy. That is, it is a way of thinking about what we are trying to foster as we support young peoples' development that is deeply embedded within Indigenous ways of knowing and being. It is also a strategy in that it serves as a lens through which we may assess and design care plans, policies, programs and practices.

³⁰ Martin Brokenleg, “First Nations Principles of Learning,” Dec. 1, 2015, video, 3:19-3:24.
<https://www.youtube.com/watch?v=2Z4Bn44giR8>.



The experience of belonging is particularly important when a child is living with intergenerational trauma – as Skye did. And yet, Dr. Brokenleg notes that when young people are in crisis, our child welfare, educational and justice systems often respond with acts of “*unbelonging*.” Young people in crisis are removed from family and community, moved between placements, separated or excluded from activities and recreation, suspended or expelled from school, detained in hospital or custody centres, and separated from their own sense of voice, agency and mastery.

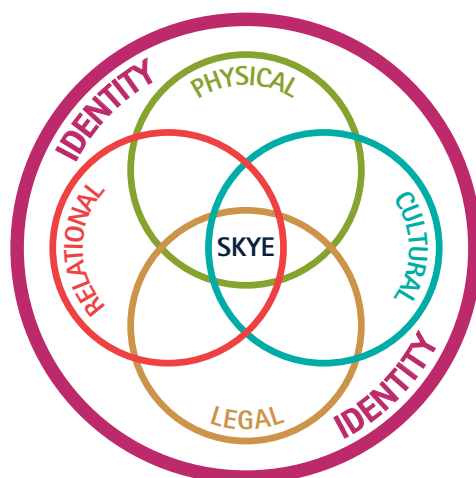
RCY’s cultural safety advisor, Harley Eagle, speaks about the primary tool of colonization being separation. Colonizers separated children from family, separated people from one another through false narratives about superiority, and divided communities. To decolonize is to come home to connection and to belonging.

As RCY considered how best to present the findings in this report, the Representative and her team decided to focus on belonging and to adapt a permanency framework that is familiar to those working in the ministry and in the broader child welfare system. The four dimensions of permanency – legal, relational, cultural and physical – are relatively well known within the child welfare system. However, through RCY’s advocacy and reviews – including an in-depth review of care planning that RCY is currently undertaking – it is evident that these dimensions are often narrowly understood, lack depth and are not seen as interconnected and interdependent. For example, planning for cultural permanency might simply entail attendance at a cultural event or camp. Further, and as Skye’s story illustrates so clearly, there is a hierarchy of dimensions, with legal permanency often being viewed as more important than the others.

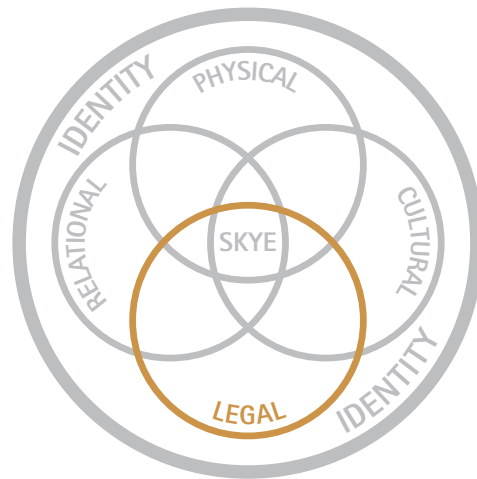
Given these concerns with the ways in which permanency has been understood, RCY decided to build on the four dimensions, add a fifth dimension of ‘identity’ and replace the language of ‘permanency’ with ‘belonging’. This shift in language is more than semantics. It calls for a different way of thinking about what the system’s responsibility to a child is: to create belonging. It is also a lens through which the decisions made and actions taken in planning and caring for a child such as Skye can be assessed: how will the interaction with the child, the plan being developed, the decision being made, or the service being offered contribute to the child’s sense of belonging to people, place, culture, community and sense of self?

Figure 1: Domains of Belonging

Domains of Belonging



Overall Finding: A narrow focus on trying to ensure that Skye was adopted came at the expense of all other aspects of her belonging. While MCFD made three unsuccessful attempts to place her in an adoptive home, the ministry did little to nurture Skye's relational, cultural and physical senses of belonging and, in some cases, even prevented such connections. Though there were periods of strong social work practice with and for Skye, the systemic focus on legal permanency (adoption) resulted in significant loss, harm and instability, and ultimately contributed to her fate.



For many children and youth in government care, a successful adoption into a loving family can help them to develop a healthy and full sense of belonging. But in Skye's case, the strong push for adoption that characterized B.C.'s child-serving system at the time resulted in three failed attempts to place her with a permanent "forever family" and left her disconnected from her birth family, community and culture. Rather than facilitate belonging for her, this process played a role in preventing it.

During the time Skye was in care, MCFD prioritized legal permanency through the Eurocentric version of adoption. This was clearly reflected in the ministry's *Adoption Practice Standards* then in place, which required that social workers obtain an exception from their regional manager in order to pursue a permanency plan other than adoption for any child on a CCO under age 12.³¹

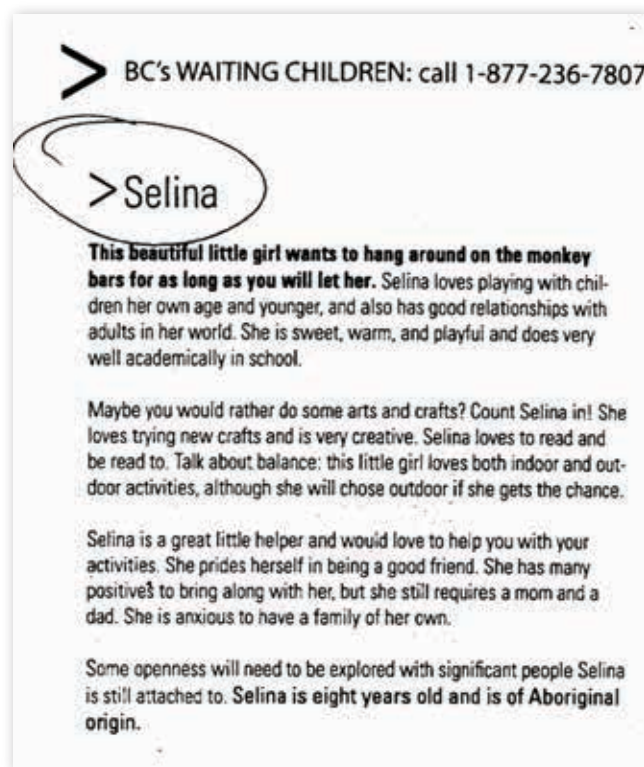
This focus on adoption led to the allocation of resources, the setting of provincial targets for adoption placements, and significant pressure on front-line workers to find adoption placements for children in care.³²

MCFD promoted adoptions of children in its care through advertising in print and online – methods that were criticized by some interviewed for this investigation as examples of "white-washing" Indigenous children. (See Figure 2, the adoption advertisement for Skye)

³¹ Ministry of Children and Family Development, *Practice Standards and Guidelines for Adoption* (Victoria, B.C.: Ministry of Children and Family Development, 2001), 3.2-7.

³² Representative for Children and Youth, *Adoption & Permanency Options Update*, (Victoria, B.C.: Representative for Children and Youth, 2019), 3.

Figure 2: Skye's Public Adoption Advertisement



One MCFD director interviewed for this investigation said that during the 12 years Skye was in care (2005 to 2017), the ministry placed all children on a CCO in its adoptions management system, regardless of whether they were ready for adoption or not.

This practice resulted in the appearance that there were a high number of children waiting to be adopted. Another MCFD director recalled that *“high numbers in the adoption management system provoked a targeted approach to adoptions,”* something that further contributed to the pressure on front-line workers. *“I think the ministry has always been clear that we had, you know, a certain [target] number ...,”* said one Team Leader. *“We would have displays up in the office ... about the number of kids we placed.”*

A 2014 report by the Office of the Representative for Children and Youth, titled *Finding Forever Families – A Review of the Provincial Adoption Program*, contributed to this strong focus on adoption. So did four subsequent *RCY Adoption & Permanency Option Updates*, outlining the ministry’s progress on adoption placements, released between 2015 and 2018.

Over time, First Nations, Métis and Inuit leaders, communities and families have challenged MCFD’s and RCY’s conceptualization of permanency, with many suggesting that adoption is a colonial construct that has caused harm. These voices have called for more work to be done to prevent removals from family members, greater efforts to place children and youth with extended family members, more attention paid to cultural permanency, and more effort given to supporting customary or custom adoption within Indigenous communities.³³

³³ Representative for Children and Youth, *Adoption & Permanency Options Update*, 2019, 3.

MCFD now acknowledges that many Indigenous organizations and communities do not support adoption of their children and prefer other permanency options that are grounded in, and supportive of, Indigenous cultures. The ministry acknowledges that, for many Indigenous people, adoption outside one's extended family and community by non-Indigenous families has resulted in significant losses – of rights, culture, identity and sense of belonging.³⁴ The ministry has increasingly made use of other permanency options, including reunification with parent(s) or extended family members and rescindments of CCOs.

In 2017, MCFD stopped making adoption listings publicly available, following media coverage highlighting that Indigenous children continued to be advertised on the ministry's website in a similar style to practices in the 1960s and 1970s. In July 2018, the ministry removed the requirement for social workers to obtain an exception to adoption in order to pursue an alternative permanency plan for children under 12.³⁵ At the same time, the ministry also indicated that it was reviewing the permanency plan of each child and youth who had adoption identified as their aftercare plan to ensure that each of them had what MCFD described as a “*best interest informed permanency plan.*”

RCY's approach to permanency (belonging) has also shifted due to the ways in which permanency and adoption are now understood. A fifth and final RCY *B.C. Adoption & Permanency Options Update (August 2019)* acknowledged this:

*“Although the initial report and subsequent B.C. Adoption & Permanency Option Updates fulfilled the intention of public and ongoing monitoring of key adoption metrics, they did not provide adequate information on the extent of permanency experienced by children and youth involved with the B.C. care system. Conceptualizations of permanency have been shifting and evolving during the five years since the first RCY adoption report. In 2014, legal permanency (primarily referring to adoption) was believed to be more desirable than other established aspects of permanency, which include relational, cultural and physical permanency. At that time, adoption was prioritized over other permanency options within MCFD Adoption Practice Standards... RCY recognizes that adoption numbers do not tell the complete story when it comes to working toward permanency for the children who come in contact with the care system. The Representative is concerned about the bigger questions pertaining to all dimensions of permanency and how the ministry is addressing these.”*³⁶

The Representative committed to monitoring MCFD's efforts to address all dimensions of permanency and honouring the voices of young people who spoke about the importance of not only relational, cultural, physical and legal permanency, but also identity permanency.³⁷

³⁴ Ministry of Children and Family Development, *Application for Exception to Policy: Adoption Placement of an Aboriginal Child into a Non-Aboriginal Home Guidelines* (Victoria, B.C.: Ministry of Children and Family Development, October 2009), 4.

³⁵ Information provided to the RCY from MCFD on August 17, 2018.

³⁶ Representative for Children and Youth, *Adoption & Permanency Options Update*, 2019.

³⁷ Representative for Children and Youth, *Adoption & Permanency Options Update*, 2019.



Skye's First Planned Adoption

Skye was removed from her mother's care by MCFD for the final time in March 2006. The court granted a TCO for her in April and, three months later, the ministry successfully applied to court for a CCO.

Both Skye's mother and her Nation consented to the CCO. Their consent was based on the plan for Skye to be adopted by her sister's adoptive mother. It is unclear from the records reviewed by RCY investigators why the ministry applied for the CCO so quickly, but one possible reason is that Skye's mother had indicated a desire to see her adopted by this particular family.

A social worker interviewed for this investigation cited the complexities of interprovincial processes – including difficulty obtaining documentation and the incorrect assumption that the prospective adoptive home in Alberta would pass pre-placement assessments – as the reasons for this plan's failure, saying *“We really wanted to honour [Skye's mother's] wish and we really wanted the kids to grow up together but we just couldn't... resolve them.”*

When MCFD received the assessment from Alberta recommending that Skye not be placed with her sister and adoptive parent, it quickly shifted its focus to finding her another adoption placement. MCFD workers involved with Skye during this period told RCY investigators that they felt considerable pressure to make this happen quickly.

Skye's CCO had extinguished the parental rights of her mother, including her right to consent to future adoption placements. The ministry did not include Skye's mother, her Nation, or other key supports important to Skye when they started over with her plan for legal permanency. Said one social worker, *“Back then ... we were more thinking about permanency rather than keeping that relationship [with Skye's mother].”*

Despite being extremely disappointed about not being able to live with her sister in Alberta, Skye continued to express a desire to be adopted. In 2008, she told her social worker that she wanted a family and was aware MCFD was searching, but that she *“wanted it to hurry because it takes too long.”*

Social workers' notes from the same period indicate that *“Skye can't wait to be adopted. She watched other children in her foster home move into forever families and desperately wants adults to whom she can refer to as 'Mum and Dad.' She wonders what adoption will be like and how she will feel.”*



The Second Planned Adoption

In June 2008, a non-Indigenous couple expressed an interest in adopting Skye. The ministry's *Practice Standards and Guidelines for Adoption (2001)* set out a clear process that MCFD was required to follow when considering such a placement. Because the prospective adoptive parents were non-Indigenous, a Cultural Safety Agreement was developed, and an exception application was submitted to the Provincial Exceptions Committee.

The committee denied that application. Nevertheless, Skye was placed with this family in a restricted family care placement three months after they had first expressed an interest in adopting her. MCFD's rationale for placing Skye with this family so quickly was that her foster placement at the time was breaking down and the ministry needed to move her anyway. Rather than placing her in another temporary home, MCFD placed her with the family that was still hoping to adopt her.

Putting Skye in a restricted family care placement meant that, until the placement was formally changed to an adoption placement, the ministry was not required to follow processes outlined in its *Practice Standards and Guidelines for Adoption (2001)*, including ensuring that she was prepared emotionally and counselled about the meaning and effects of adoption, developing a written plan for pre-placement visits, determining whether Skye was ready to move into the home by consulting with her, her caregivers, other professionals who knew her and the adoption worker, and determining that the prospective adoptive parent(s) were ready.

In January 2009, Skye had been living with her prospective adoptive family for three months in a restricted family care placement. A revised Cultural Safety Agreement was submitted to the Provincial Exceptions Committee and, this time, the exception was granted. Skye's placement was subsequently formally changed to an adoption placement. However, the adoption process was disrupted just five months later after it became clear that the family was not a suitable fit for Skye. There had been evident struggles with the placement before the exception was granted and, although there was hope that things would stabilize as the arrangement became more formal, Skye's prospective adoptive parents were unable to support the complexity of her physical and emotional needs.

For the second time in less than three years, Skye suffered the immense emotional trauma of an unsuitable placement and a failed adoption plan.

"Back then, we called them 'forever families.' I don't call them that anymore for obvious reasons."

—MCFD social worker



Adoption Disruption and Breakdown

Adoption disruption is used to describe an adoption process that ends after the child is placed in an adoptive home but before the adoption is legally finalized.

Adoption dissolution is often used to describe an adoption in which the relationship between the adoptive parents and adoptive child has been legally finalized but is subsequently severed, either voluntarily or involuntarily.

Adoption breakdown is more commonly used to mean the end of adoptive family life together for parents and children irrespective of whether the legal adoption proceedings have been finalized. Adoption disruption, dissolution or breakdown results in the child's entry into or return to another placement including foster care, residential program, kinship care or placement with new adoptive parents.³⁸

Adoption can be a suitable option for children who are not able to live with their families. However, there are many challenges associated with completing successful adoptions. When challenges become insurmountable, the resulting adoption disruptions or breakdowns can be devastating for the children and families involved.

Research has identified several factors that may be associated with the success or failure of adoption placements. Child-specific factors that are correlated with adoption breakdowns include the child's age (older children may experience higher rates of adoption disruption); trauma and adverse experiences of a child and behaviours and attitudes that may be associated with that trauma; the number of placements that a child experienced while in care; and the placement of siblings (placements with siblings who are living in a home together tend to be more stable).³⁹

Additionally, adoptive parents who had a prior relationship with the child have generally experienced more stability in the subsequent adoption placement.⁴⁰ Similarly, adoptions by relatives often have better outcomes.⁴¹

Practice and systemic issues undoubtedly impact adoption outcomes. Practice considerations that influence outcomes include the importance of conducting suitability assessments when matching children with adoptive parent(s), the degree to which parents and children are prepared for adoption, communication about the adoption with the child, and the availability of adoption supports.⁴²

In May 2009, Skye was removed from her adoptive placement and placed with an Indigenous foster family she had known since she was three. She did well in this home – she was loved, had stability, was supported to heal, and connected to culture.

³⁸ https://www.childwelfare.gov/pubPDFs/s_disrup.pdf There is no formal mechanism in Canada to follow up with any adoptee once an adoption order is granted in court and, as a result, there is no official record of the number of adoption dissolutions involving Indigenous and non-Indigenous adoptees.

³⁹ Jesús Palacios et al., "Adoption breakdown: Concept, research, and implications," *Research on Social Work Practice*, 29, no. 2 (2018): doi: <https://doi.org/10.1177/10497315187852>; Nancy Rolock and Kevin R. White, "Post-permanency discontinuity: A longitudinal examination of outcomes for foster youth after adoption or guardianship," *Children and Youth Services Review*, 70 (2016).

⁴⁰ Palacios, et al., "Adoption Breakdown."

⁴¹ Susan Livingston Smith et al., "Where are we now? A post-ASFA examination of adoption disruption," *Adoption Quarterly*, 9, no. 4 (2006): 19-44, doi: https://doi.org/10.1300/J145v09n04_02.

⁴² Palacios, et al., "Adoption Breakdown."



Nevertheless, MCFD's permanency plan for her continued to be adoption. In July 2010, just over a year after Skye's second adoption plan was disrupted, MCFD asked the Indigenous foster parents if they would adopt her. Ministry staff told these foster parents that if they would not adopt Skye, MCFD would look for another adoptive family. The ministry gave them two months to decide.

The foster parents did not believe Skye was ready to be adopted but they made it clear to the ministry that she was welcome to continue living with them and that her placement was not in jeopardy. On Sept. 16, 2010, one of them wrote to MCFD, expressing concern about the rush for Skye to be adopted:

"... It is not even remotely realistic to believe that all she will need is two parents who will commit to her for life, with a few skills they can throw in. It would be detrimental to her growth, healing, and her potential to just sum up her past 12 months as a healing journey and languishing in care. Skye is not languishing nor is she just skipping along on a healing journey. She is doing the most significant trauma work she has ever done and she is shifting her belief system about herself and the world around her."

Those close to Skye, including her foster parent, her counsellor and her grandparents, all advocated for Skye to stay in this home and for MCFD not to rush into another adoption. Skye's grandparents wrote the following to her social worker:

"Re 'adoption fever' – perhaps a crude way of expressing our fears that adoption process could be proceeding too fast for Skye [and us] to feel at ease with ..."

"Skye appears settled with [her foster parents] – their life style suits her and she has 'family'; we also hear she is re-united with ... her long-ago counsellor. Moving her at this time, we think, could be counterproductive, whether or not there are any prospective parents in the waiting. There are so many things important to her life – [her foster parents], the family and family events, horses, school, friends and the Glee Club at school ... it seems to be a life style that totally suits her. We cannot understand why Skye needs to be moved."

"Skye seems to have found her niche; it would be hard to see her moved and to start wondering, 'who am I now', as she would be with total strangers at a very important time in her life. We also understand that Skye has recently expressed her wish NOT to be adopted – and that this statement was made voluntarily."

The Third Planned Adoption

In August 2011, Skye was rushed into an adoption placement for which she was not ready. After a two-week transition period, her care team moved her out of the care of the Indigenous foster parents in Campbell River, the place she considered home, to a new community (Nanaimo), a new family and a new school.

Skye told her social worker that she was not asked about whether she wanted to move. When interviewed for this investigation, her prospective adoptive parents recalled the transition as "the worst" with "no preparation for Skye." In her own words about this placement, Skye said: "I knew them for two weeks and then I moved in ... They told me I was lucky. I didn't feel lucky."



Despite a major crisis occurring in the new placement that was unrelated to Skye, the ministry provided no support to Skye or her new prospective adoptive family. In fact, her social worker did not see Skye until February 2012, six months after she had moved in. During this time, Skye was writing to her former foster parents, begging them to bring her back home. By December 2012, the family caring for Skye was managing the aftermath of a family crisis and struggling to meet Skye's needs. This resulted in the placement breaking down and, once again, Skye's social worker started making arrangements for her to move.

In March 2013, Skye was placed in the home of a family who were friends with her prospective adoptive parents in Nanaimo and who had provided respite care to her. MCFD records note that Skye wanted to be involved in the plan to move and expressed a desire to live with this foster family. Although her new foster parent was prepared to adopt Skye if that was her wish, Skye was clear that this was not something she wanted.

*You're born into a family. It should be forever.
What's the point of really connecting?
What if I'm never ready to be adopted?*

—Skye, age 13

How Failed Adoption Plans Affected Skye

Skye experienced several losses when her first adoption plan did not become a reality. She lost a longed-for connection to her sister that she knew her mother wanted for her and a prospective adoptive mother who knew about her life before she had come into government care.

Two subsequent failed adoption plans compounded those losses and may have informed Skye's eventual decision to resist the placement choices others were making on her behalf and to live where she felt she could have more control over her circumstances. Unfortunately, this meant that she lived precariously on the streets, couch-surfing and in safe houses starting when she was 13. When interviewed by RCY investigators, her counsellor described Skye at this time as *"being angry at her life situation."*

After the breakdown of the second adoption plan, file records indicate that *"Skye was shut down and tended to isolate herself."* Social workers noted that it seemed as if she was in shock and did not feel emotions. During this period, Skye often had a *"haunted expression about her and tended to be reactive only within the school setting (defiant, lying, stealing)."* Although Skye had started to settle with her Indigenous foster home, the foster parent told RCY investigators that Skye's behaviour regressed once the ministry began talking again about adoption.

The Representative believes that the ministry did not accurately assess Skye's best interests when she was abruptly moved from her stable, loving, Indigenous foster home in Campbell River to the third planned adoption placement. Although her caregiver and grandparents both advocated and expressed concerns that Skye was not ready for adoption, MCFD moved forward with a plan that did not seem to recognize the immense losses that Skye had already experienced.



Practice Observation

Section 4 of the *CFCS Act* identifies the factors that must be considered in best interest decision-making and includes the child's views. This is further supported by s. 70, which outlines the rights of children in care. Skye had a right to be informed and to share her views about planning at every step and certainly in relation to a significant decision such as a prospective adoption placement. The legal and practice guideline mechanisms existed during Skye's time in care, yet her views were not consistently sought or considered in planning. Unfortunately, the practice of gathering a child's views and meaningfully involving them in decision-making continues to be an area of concern consistently seen in RCY advocacy work. The Representative believes that greater efforts are needed to ensure all factors informing the best interests of children are fully explored. The United Nations Committee speaks to this in General Comment No. 14, stating: "*The concept of the child's best interests is aimed at ensuring both the full and effective enjoyment of all the rights recognized in the Convention and the holistic development of the child. The Committee has already pointed out that 'an adult's judgment of a child's best interests cannot override the obligation to respect all the child's rights under the Convention.' It recalls that there is no hierarchy of rights in the Convention; all the rights provided for therein are in the 'child's best interests' and no right could be compromised by a negative interpretation of the child's best interests.*" https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f14&Lang=en

The ministry's decision to proceed with a third attempted adoption placement failed to consider the benefits of Skye remaining in a loving, Indigenous foster home that had been connected to her mother and where she was also well connected to culture. MCFD's primary goal was adoption, at the expense of all the other dimensions of belonging that Skye enjoyed in this foster home.



Adoption, an Indigenous Perspective

Scholars Sandrina de Finney and Lara di Tomasso assert that most Indigenous languages do not have a word for "adoption"; rather, it is often considered to be an imposed concept that does not translate into relational, kin-centred Indigenous languages and worldviews.⁴³ They note that for Indigenous children and families, MCFD should consider other forms of permanency rather than focusing solely on legal adoption, which may not be the most culturally appropriate or safe choice.

Dr. Raven Sinclair, a Cree/Assiniboine/Saulteaux scholar in social work, notes that adoptions of Indigenous children and youth by non-Indigenous families – regardless of the children's age at time of placement – have consistently trended toward negative outcomes. She notes that historical data have shown "transracial" adoption breakdown rates of 85 to 95 per cent, and that Indigenous adoptees are often faced with feelings of "otherness" and difference with respect to their cultural identities.⁴⁴ Research dating back to the 1980s and 1990s has illustrated similar trends and yet MCFD policy and practice at the time of Skye's adoption placements strongly pushed adoption.⁴⁵

A culturally appropriate way to provide belonging and certainty to children includes "a complex web of intersecting connections" where, instead of a nuclear (or adoptive) family, "the child is raised by multiple people who have various roles which ultimately support the formation of the entire identity of the child."⁴⁶

Skye's story provides heartbreaking insight into the harm that can result from a singular focus on adoption which, for her, meant losses of family relationships, culture and community, as well as great instability. While the ministry has recently made progress toward recognizing the other domains of belonging, one MCFD Executive member interviewed for this investigation said that the ministry continues to strive for legal permanency:

"I think it's fair to say that we always strive for legal permanency if we can ... you know, we don't want to have children lingering in foster care. So if we can get a legal permanent placement for this child we would explore that. But we also have been really focused on making sure we're doing all the four domains of permanency."

While legal permanency has a place and is appropriate for and desired by some children and youth, a singular focus on legal permanency/adoption has caused, and continues to cause, harm. The Representative believes that it's critical for MCFD to ensure that every child the ministry supports has a strong sense of belonging, regardless of their permanency plan. This includes belonging to family and other supportive adults, to place, to community and to culture.

⁴³ Lara di Tomasso and Sandrina de Finney, "A Discussion Paper on Indigenous Custom Adoption, Part 2: Honouring Our Caretaking Traditions," *First Peoples Child & Family Review*, 10, no. 1 (2015): 19-38.

⁴⁴ Raven Sinclair, "Identity Lost and Found: Lessons from the Sixties Scoop," *First Peoples Child and Family Review*, 3, no. 1 (2007): 65-82.

⁴⁵ Suzanne Fournier and Ernie Crey, *Stolen from our Embrace: The Abduction of First Nations Children and the Restoration of Aboriginal Communities* (Madeira Park, B.C.: Douglas and McIntyre, 1997).

⁴⁶ Peter W. Choate et al., "Where Do We Go from Here? Ongoing Colonialism from Attachment Theory," *Aotearoa New Zealand Social Work* 32, no. 1 (2020): 32-44.



Moving Forward

The federal *Act respecting First Nations, Inuit and Métis children, youth and families*, proclaimed in June 2019 and brought into force in January 2020, sets out national standards that must be applied in permanency planning for Indigenous children who are involved with the Director under the *CFCS Act*. These standards relate to:

- placement priorities
- ongoing reassessment of a placement
- promoting the child's attachment and emotional ties
- giving notice before taking a significant measure.

For Indigenous children who are placed under the *CFCS Act* with someone other than their parent, the federal Act requires staff to continually reassess the placement, and to promote the child's attachment and emotional ties to their family, where that is consistent with the child's best interests, including when a permanency option outside of the child's family is being explored.

"I don't think adoption is really necessarily the route for our aboriginal kids...legal adoption – doesn't fit really with traditional ways."

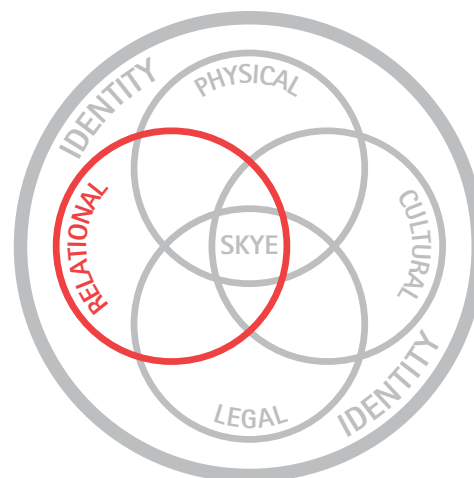
–Permanency planning social worker

These steps, while too late for Skye, should result in greater identification of permanency options within Indigenous children's families and communities, and enhanced, sustained cultural connections for Indigenous children for whom permanency is not found within their families or communities.



Relational Belonging

Finding: *Skye's family relationships – most importantly with her mother and sister – were not sufficiently prioritized, encouraged or supported by MCFD, and potential placements with extended family were not adequately explored by the ministry. Other important relationships, with foster parents, social workers and counsellors and community members, were not always valued or maintained. As a result, Skye was unable to benefit from the sense of relational belonging and the protective factors that such connections could have provided.*



Relational belonging for a child or youth comes through strong and sustainable relationships with family, extended family, friends, community, support service providers – anybody who plays a significant role within a child's life. Strong, positive relationships are indicative of a secure sense of self and belonging and relational permanency is a vital component of permanency for children and youth.⁴⁷

"All of Skye's challenges appear to be related to the lack of a permanent and committed attachment figure rather than to any organic behaviour disorders."

–Mental health consultant, in a 2010 assessment

Even when youth in care have been removed from their birth homes, research shows that many who continue to have relationships with their birth parents and extended birth families experience better outcomes.⁴⁸ Further, many youth who age out of the child welfare system end up returning to the home of their birth parent(s).⁴⁹ Ensuring this relationship with birth parent(s) exists – when possible and in the best interests of the child – can help youth, both in the present and in the future.⁵⁰

Relational Permanency

MCFD defines relational permanency as *"strong, long-lasting connections with a biological family member/siblings, a guardian, an adoptive family, community members or sometimes an individual from an organization ... anybody who gives positive, unconditional commitment."*⁵¹

⁴⁷ Federation of BC Youth in Care Networks, *Belonging 4-Ever*, 6.

⁴⁸ Representative for Children and Youth. *Adoption & Permanency Options Update*, 2019, p. 3.

⁴⁹ Peter J. Pecora et al., "Assessing the Effects of Foster Care: Early Results from the Casey National Alumni Study," *The Foster Care Alumni Studies: Stories from the Past to Shape the Future* (Seattle, WA: Casey Family Programs, 2003), https://www.casey.org/media/AlumniStudy_US_Report_Full.pdf.

⁵⁰ W. Andrew Collins and Brett Laursen, "Parent-Adolescent Relationships and Influences," in *Handbook of Adolescent Psychology*, eds. Laurence M. Steinberg and Richard M. Lerner, 2nd ed., (Hoboken, N.J.: John Wiley & Sons, Inc., 2004), 331–362.

⁵¹ Ministry of Children and Family Development, *Permanency Framework Summary: Achieving Out of Care Permanency for Children and Youth* (Victoria, B.C.: Ministry of Children and Family Development, 2015), 2.

Research shows that stable, healthy and lasting relationships greatly improve the social, emotional and physical outcomes for children and youth in care as they move into adulthood. These relationships help to minimize the negative impact on young people from any failed attempts at reunification with birth parents, unplanned multiple placements and drift in the care system.⁵²

Quality relationships with adults are important to all children and youth. However, they are especially important for children and youth in care. Adolescents without supportive adult relationships are often anxious, isolated and have trouble relating to others. When young people experience a caring relationship with an adult, they are more likely to have better experiences in school, healthier relationships with others, and are better equipped to overcome adversity. Research suggests that children and young people who do best in long-term foster care are those who have continuous, supported ongoing contact and/or links with their families or family-like connections. In comparison, most children and young people without ongoing involvement with their families don't fare as well. Families can provide continuity, roots and help foster a positive identity for children and young people in care.⁵³

MCFD Practice Standards

When Skye first came into care in 2005, the term "*relational permanency*" was not commonly used in MCFD policy and practice. However, the concept of relational permanency was clearly understood, as is demonstrated by MCFD's *Children in Care Service Standards* – the policies in use at the time.

In particular, Standard 10: Meeting a Child's Need for Stability and Continuity of Lifelong Relationships included a requirement to promote the stability and continuity of life-long relationships for a child, and to do that in several ways including:

- by actively supporting the child in maintaining positive attachments with parents, siblings, extended family, friends, caregivers and others, consistent with the child's best interests
- by considering how every action taken will affect a child's relationship both before and while a child is in care
- that every effort be made to arrange for the child to be cared for and have regular contact with people who have a significant lifelong relationship with the child, including family and extended family.

As discussed in detail below, this standard was not adequately followed in Skye's case.

At every stage of her life, Skye had people who loved her and wanted to be a part of her life. Likewise, she valued connections to these important people, but many of these relationships were not properly nurtured by MCFD and some were severed. Had the ministry put consistent effort into maintaining relationships between Skye and her mother, sister, extended family and other significant people, her life trajectory might have been different.

Memories of Skye

"It was really not hard to really love her and enjoy her and look forward to time spent with her. Yeah, she had that sparkle in her eye."

—Skye's former social worker

⁵² Federation of BC Youth in Care Networks, *Belonging 4-Ever*, 8.

⁵³ Federation of BC Youth in Care Networks, *Belonging 4-Ever*, 8-9.



Skye's Relationship with her Mother

It is evident through records reviewed and interviews conducted for this investigation that Skye's mother consistently showed a desire to parent her – or at the very least to be involved in her life – and that she worked extremely hard toward that end.

From 2003 to 2006, while Skye was in her care, she sought out support services from MCFD and it appears that she had a trusting relationship with her social workers during this period. Each time she had a substance use relapse or was struggling to parent, Skye's mother contacted MCFD and put her daughter's safety first, and the ministry supported this through the use of short-term VCAs.

These short-term VCAs helped to alleviate the stress of parenting and provided her with time and space to stabilize herself. However, once Skye's mother was stabilized and able to resume caring for her daughter, few supports were available to sustain the healing and well-being of both mother and child. Skye's mother would have benefited from ongoing wraparound supports while she was parenting.

In 2006, with Skye on a VCA, her mother asked MCFD if she could bring her daughter with her while she attended a substance use treatment program. However, this request was denied because she did not have secure and stable housing lined up for after her discharge from the program. This MCFD decision contributed to the chronic instability and resulting continuous harms that were experienced by Skye. Had her mother been supported to attend treatment with Skye, and had they received support as a family to ensure housing would not be a concern upon discharge, there may have been significantly different outcomes for both mother and daughter.

"[Skye's mother] struggled, she struggled with mental health, she struggled with addiction ... If we had resources where moms and parents could be with their children and have support and supervision so that that child could be with their parent, would that have had a different outcome? ... If we could have engaged [Skye's mother] differently by supporting her differently, having the resources to support her differently, to actually care for Skye and raise Skye or be more present in her life and her feelings, instead of probably feeling like a failure."

—MCFD adoptions Team Leader

An Atira support staff member described the ministry's role in not preserving the mother-daughter relationship as a tragedy: *"I believe absolutely that if the ministry had invested the money in supporting [Skye's mother] to raise Skye that [it] would have been a good experience for both of them and that [it] was a massive missed opportunity that has resulted in both [Skye's mother] and Skye being dead."*

Practice Observation

Skye's written care plan noted that her mother wanted to attend treatment with Skye but that the ministry did not approve this request as she did not have post-treatment housing arranged. This was a missed opportunity of relationship stability and development for Skye and her mother. It is critical that families are supported to recover from substance use and trauma. This is especially important for the many families such as Skye's who continue to experience the repercussions of residential schools, the Sixties Scoop and ongoing structural racism. This is a shared responsibility and the Representative recommends that government work to enhance family-based mental health and substance use treatment options, including intensive residential and community support for parents with young children as well as for parents with older children who are also experiencing mental health and substance use challenges.

The mother–daughter relationship after the CCO

Skye came into the ministry’s care for the third time in March 2006. Once again, the plan was for her to be placed on a VCA. However, MCFD could not locate her mother for several days before the agreement could be signed. Without her mother available, Skye was found by MCFD to be in need of protection and removed from her mother’s care.

The court granted the Director continuing custody of Skye in July 2006.⁵⁴ Despite court documentation from the time that stated that Skye would continue to have regular visitation or phone access with her mother, records indicate that MCFD became resistant to her mother being involved in Skye’s life from this point forward. This was most evident by the lack of support shown by the ministry for contact between the two, even through letters. Going forward, the mother–daughter relationship was generally not supported despite both asking for it to be preserved.

“Skye misses her mother very much and wishes that she could see her. [Her mother] has made several phone calls to Skye’s SW to ask after her daughter’s welfare. She asked for a visit at Christmas, but it was for a day that Skye was unavailable. [Her foster parent] worries that if Skye has a visit with her mom she will fall apart, screaming, yelling and angry.”

—Social worker’s notes, early 2007

MCFD staff interviewed for this investigation commonly pointed to her mother’s substance use as a rationale for the ministry not supporting visits with Skye. Records reviewed indicate that MCFD believed her substance use presented safety

concerns. One social worker told RCY investigators, *“Her mom was quite involved at the beginning and then was not healthy enough to be for awhile there and so that was very challenging.”*

Practice Guidelines and Parental Substance Use

At the time Skye came under a CCO, social workers had limited guidance with regard to assessing parental substance use and determining whether or how to support parental access to children in their care. MCFD’s *Practice Guidelines for Considering Access with Regard to Children in Continuing Care (2002)* listed a number of considerations for social workers including, but not limited to:

- the child’s safety with the individual
- the child’s views
- the importance to the child of continuing contact
- the child’s age, level of development, physical and emotional needs
- the importance of preserving the child’s cultural, racial, linguistic and religious heritage, and whether the child would benefit in this regard from contact with the individual
- for an Aboriginal child, the importance of preserving the child’s cultural identity and the views of the child’s Band or Aboriginal community.⁵⁵

⁵⁴ The Director refers to the Director of Children and Family Services as designated under s. 91 of the *CFCS Act*.

⁵⁵ Ministry of Children and Family Development, *Practice Guidelines for Considering Access with Regard to Children in Continuing Care* (Victoria, B.C.: Ministry of Children and Family Development, 2002), 5.



While these guidelines do not explicitly speak to substance use, ultimately access was decided at the discretion of the ministry and dependent on the social worker's assessment to determine whether substance misuse would negatively impact these considerations.

In 2018, MCFD released new guidelines, *Practice Guidelines When Assessing Parental Substance Use in Child Welfare (2018)*. According to these guidelines, which remain in place today, parental substance use is not considered a concern for child abuse or neglect, but rather for the potential impact that this substance use may have on the child's safety and well-being in relation to the child's vulnerability. The 2018 guidelines provide a culturally safe and trauma-informed approach to assessing parents who use substances.⁵⁶

Family Access

While the guidelines for access to children in continuing care include a number of considerations, they state that *"The decision to support access to the child is based solely on whether access is in the child's best interests."*⁵⁷ This leaves a great deal of power in the hands of the social worker to determine what those best interests are.

The *CFCS Act* contains provisions that entitle parents or family members of children in care to apply for court-ordered access in cases where there are issues preventing that access. Section 56(1) states that *"if a continuing custody order is in effect, a parent or any other person may apply to the court for access to the child."* If such an order is made, s. 56(3) states that *"the court may order that the applicant be given access to the child if access is (a) in the child's best interests; (b) consistent with the plan of care; and (c) consistent with the wishes of the child, if 12 years of age or over."*

RCY investigators could not determine whether Skye's mother ever applied for access or was advised of her right to apply for access to Skye through the courts.

As Skye grew older, MCFD's support of her relationship with her mother further decreased. Skye's mother made significant efforts to try to contact her, using various methods, including sending letters to MCFD, contacting Skye's foster parents and involving a legal advocate to gain visitation access, all to little or no avail.

Skye's mother sent MCFD social workers a letter, dated March 13, 2008, requesting visits with Skye, citing that she had supports through the Aboriginal Mother Centre Society and Atira Women's Resource Society. Records from Skye's social worker at that time state, *"[Skye's mother] has requested visits with her daughter, I have requested she start contact with her daughter by writing a letter or drawing some pictures. To date, I haven't received any notes for Skye."*

⁵⁶ Ministry of Children and Family Development, *Practice Guidelines When Assessing Parental Problematic Substance Use in Child Welfare* (Victoria, B.C.: Ministry of Children and Family Development, February 2018), 6.

This guide is meant to be used in conjunction with the Structured Decision Making (SDM) tools for assessing the vulnerability of the family and the risks problematic substance misuse poses to the child, and speaks more to working with the families at initial intake. Guidance around cultural safety is woven in with the inclusion of the Aboriginal Policy and Practice Framework (APPF) emphasizing a collaborative approach with the ministry, the family and the family's key support circle (which may include Elders, Indigenous agencies, representatives and Nations).

⁵⁷ Ministry of Children and Family Development, *Practice Guidelines for Considering Access*, 5.



Skye's care plan from that time recognized that she needed a connection with her mother and her grandparents. The plan noted that both Skye and her mother were asking for access to each other, but that the social worker could not approve this request because Skye's mother "was not in a good place."

Skye's mother sent a hand-written letter for her daughter to the ministry in October 2009. The letter was reviewed by MCFD before being given to nine-year-old Skye in January 2010. Records indicate that Skye's counsellor sat down with her to process the letter and offered to help her reply to it. At the time, Skye told her counsellor she was not ready to reply.

"Skye continues to be concerned about her mother and wonders how she is. She has written two letters to her mother to let her know how she is feeling. Skye had a hard time the other day when all of the other kids were talking about their moms and she didn't have a mom to talk about."

—Skye's 2008 care plan

The Representative notes that although Skye wasn't ready to respond to her mother's letters at a point in time, that doesn't mean she did not want to have any relationship with her mother, or that MCFD should not have continued to try to support a relationship between them. CIC Standard 5 states that the social worker should be "promoting and providing opportunities for the child to have ongoing contact with his or her family (including parent and siblings), extended family, Aboriginal or cultural community, and friends."⁵⁸

The legal advocate working on behalf of Skye's mother sent two follow-up letters to MCFD. On Nov. 5, 2009, the advocate reminded the ministry that Skye's mother was writing the letter in accordance with MCFD's 2008 direction and that she wanted to have a visit with Skye and also to receive an updated picture of her daughter. The ministry did not respond to this letter. The advocate sent a second letter, on Jan. 5, 2010, requesting a response from MCFD. Skye's social worker responded by phone that same day, and also in writing on Jan. 13, 2010, replying:

"I have been discussing with Skye's support team to determine what is in Skye's best interest in terms of contact with [her mother]... a decision was made to share a portion of [her mother's] letter with Skye at Christmas time ... Skye continues to be a very caring, loving, social girl, who is thriving in her current foster home ... At this time I am waiting for Skye to initiate a letter/picture to [her mother] and will meet with her in the next few weeks to see where she is at ... Should [her mother] wish to send another letter, etc., I would be happy to review it with Skye's team and share what is appropriate."

The legal advocate followed up again on April 12, 2010, asking why only a portion of the letter from her mother had been shared with Skye. The advocate explained that Skye's mother had been excited to write the letter, but was now unsure what she was allowed by MCFD to include in correspondence with her daughter. The advocate also requested current photos of Skye. After the ministry failed to respond to this communication, the advocate re-faxed it to MCFD on May 31. RCY investigators could find no response to this correspondence in Skye's records.

⁵⁸ Ministry of Children and Family Development, *Children in Care Service Standards* (Victoria, B.C.: Ministry of Children and Family Development, 2003), 100.



The next mention of Skye’s mother in MCFD records appears in January 2011. The social worker delivered Christmas gifts to Skye from her mother on Jan. 13 and asked whether she wanted to respond to her mother with a letter. Case notes indicate that Skye said she was willing to do so, but it is unclear to RCY investigators whether this ever occurred.

The social worker’s notes also indicate that she had ongoing concerns with Skye’s safety with regard to her mother. Although no specifics were mentioned, it appears that concern continued to centre on her mother’s substance use issues.

“I have not heard a word in relation to [Skye’s mother]. I did confirm with an advocate of her’s [sic] that Skye received her Christmas gifts, but have not had any conversations regarding a visit. Naturally if a visit were to happen it would be STRICTLY supervised and I would have to have some info regarding what [her mother] has done in the past 2 yrs regarding her addiction issues and I would need to have an office visit with her prior to in order to discuss what the parameters of a visit would be. Within the past 2 yrs we have not received any info from [her mother] or anyone else regarding her addiction issues.

“If she is in town, we need to be extra vigilant regarding Skye. At this time, [Skye’s mother] is to have absolutely NO CONTACT what-so-ever with Skye – No phone calls, notes, letters, visits without my approval.”

—Email from MCFD social worker to Skye’s foster parent, Jan. 28, 2011

On Feb. 9, the legal advocate sent another request to MCFD on behalf of Skye’s mother: *“This is a follow up to my fax to you on January 5, 2011... We would appreciate if you could get back to us with the questions posed. While I recognize you have only been assigned to Skye’s file in the last several months, there appears to be a chronic issue of delayed responses or no responses at all from the MCFD Campbell River Office... please note if I do not hear back by February 17, 2011, I will be following up with the supervisor/Team Leader.”*

Skye’s social worker responded later that month, explaining that Skye *“is now at an age where she can participate in decisions that are directly related to her.”* The email said that the idea of Skye writing a letter to her mother had been discussed with her but explained that she couldn’t force Skye to write a letter. The social worker also responded to the request from her mother for a visit:

“In relation to [Skye’s mother] having a visit with Skye, this has been discussed with Skye’s team. We are not opposed to a supervised and controlled visit. However, as we have no idea or information as to what [Skye’s mother] has done to address her addiction and mental health issues, information and discussion regarding these concerns would have to be addressed first and foremost. Additionally, a meeting between [Skye’s mother], myself and another member of Skye’s team would have to be held to lay the ground rules for the visit and to ascertain the intent behind [Skye’s mother’s] visit. It is hoped that it is [Skye’s mother’s] intent to give Skye closure, to encourage and support Skye being adopted and to allow Skye to move on with her life.

“At this time, due to the uncertainty behind [Skye’s mother’s] request to visit Skye and also in relation to [Skye’s mother’s] addiction and mental health issues, a recent photo of Skye will not be made available. However, should [Skye’s mother] wish to address and discuss the concerns above, her request will be re-evaluated.”

RCY investigators did not find any rationale beyond what was stated in the above email for refusing to provide Skye's mother with a photo of her daughter. This decision appears to the Representative to be unnecessarily callous, disrespectful and lacking recognition of the trauma and loss that Skye's mother had experienced throughout her own life. It appears to be grounded in the assumption that Skye's mother was not healthy and was not working on her mental health and substance use challenges, rather than inquiring to learn more about her circumstances. Further, the social worker's suggestion that a visit with her mother should be for closure – to encourage adoption and for Skye to move on with her life – reflects the undue focus on adoption and corresponding lack of importance MCFD attached to preserving any relationship between Skye and her mother.

Skye's mother continued trying to coordinate supervised visits with support from Atira, but interviews and records reviewed by RCY investigators confirm that these efforts were not supported by MCFD. A life-long support person for Skye's mother told investigators, *"There were multiple times – I couldn't tell you how many – when we thought that she might be able to see Skye. I offered to drive her up to Campbell River or wherever Skye was."* One of Skye's foster parents added that Skye's mother tried hard, saying, *"[She] sent letters and she messaged me, and she wanted to have communication with Skye ... And, you know, I was like, 'Who are you to tell a child she can't even say hi to her own Mom?' But [MCFD] kiboshed it. So, I know [Skye's mother] tried and it didn't happen."*

Records indicate that her mother sent gifts for Skye's birthday in September 2011. The next MCFD-documented communication between Skye and her mother didn't occur until nearly three years later, in August 2014. That month, Skye's mother sent her a package, and subsequent communication between social workers stated, *"I know Skye has been worried about her mom. Hopefully you can give this parcel to her and help her process her feelings from it."* It is unclear whether the parcel referenced was delivered to Skye.

Based on interviews conducted by RCY investigators, it is evident that Skye wanted a relationship with her mother. One of Skye's counsellors provided the following assessment: *"[Skye] lost hope, I think, or belief in other people – that people would really be there for her... But [an] underlying theme, was her idealizing her Mom and wanting [to find her] – so she did have some connection with her... [Skye] fantasized about how she would find her."*

Practice challenges in preserving the mother/daughter relationship

In interviews with MCFD staff, RCY investigators explored why the ministry did not support Skye and her mother to have a relationship over time. Several alluded to *"losing touch"* with Skye's mother after she moved from Campbell River to Vancouver. One noted: *"There were some phone calls, definitely quite a bit in the beginning. And then she just stopped phoning."*

After Skye had been in care for several years, her social workers said they simply accepted that she was not supposed to have contact with her mother, without ever being provided with a clear rationale for keeping the two separated. One told RCY investigators, *"I don't know why the access stopped."* Another said, *"I remember taking over for Skye and not really knowing that her Mom had contact until I got an email or a letter or a phone call from [her Mom] ... [asking] why weren't we letting her have contact with Skye ... I don't know, I can't figure out why, and I don't know that I questioned it, to be honest."*



A former caregiver told RCY investigators that her mother's substance use was the reason MCFD discouraged the relationship: *"I was told [by Skye's social worker] that because her Mom was an active drug user – and at that point Skye had gone down the road of addiction – ... [that] it's very common for parents to use with their kids, and they didn't want to put Skye in a situation where her and her Mom would be using together, and that she might end up on the Downtown Eastside."*

Positive Practice Example

In 2015, a ministry social worker assigned to Skye made a concerted effort to rekindle the relationship between mother and daughter. Skye's guardianship social worker went beyond what was expected of her to try to arrange contact, including giving Skye a letter from her mother, and also attempting to locate her mother in Vancouver in order to speak to her in person. This social worker far exceeded the contact expectations with Skye. They had a close relationship and maintained frequent contact by text. This allowed the social worker to build a relationship with Skye, and to try to help support her safety and well-being.

"Children and youth shouldn't have to lose a family to get a family ... their mothers and fathers and grandmothers and grandfathers and aunts and uncles will forever be their family, despite what their legal permanence looks like going forward. And to suggest otherwise is just not okay. Kids need to always stay connected, despite the legal statuses that they gain in care."

—MCFD Executive member

Skye's Relationship with her Family

Relationships with family members, particularly siblings, are important to all children, and these relationships can be particularly significant for children and youth in care, especially if the parent is unable to maintain contact.⁵⁹ MCFD policy recognizes this in multiple areas throughout service standards and practice guidelines, including the *CIC Access Guidelines (2003)*, Practice Standard 10: Promoting Attachment, Continuity and Stability in the Child's Life and Care:

"Emotional attachments that child has with parents, family members, friends and caregivers are respected and actively supported, consistent with the child's best interests; Steps taken to provide as much continuity as possible in child's care and relationships."

MCFD encouraged Skye to have contact with her sister and her sister's adoptive mother as the ministry planned for her adoption in 2006. However, this contact was stopped after the ministry ultimately decided that it could not proceed with the placement. Why the ministry felt that it was best to sever all contact between Skye and her sister after the planned adoption fell through remains unclear to the Representative. It seems especially traumatic for a child to experience the loss of relationship with her sister given that she had just experienced the intense disappointment of not being adopted.

⁵⁹ Emily Kernan, "Keeping siblings together: Past, Present, and Future," *National Center for Youth Law*, n.d. <https://youthlaw.org/publication/keeping-siblings-together-past-present-and-future/>; Mary Anne Herrick and Wendy Piccus, "Sibling connections: The importance of nurturing sibling bonds in the foster care system," *Children and Youth Services Review* 27, no. 7 (2005): 845-861.

MCFD Policy

CFS Standard 20: Placements When a Child Comes into Care (2003)

Maintaining contact with relatives and friends

Consider placing a child in a placement that will promote the maximum contact between the child and parents and other family members. Whenever possible, select caregivers who:

- live in close geographic proximity to the child's extended family and friends, and
- are willing to promote the child's regular contact with extended family and friends, consistent with his or her needs.

When a child's best interests are served by living with caregivers who do not live close to the child's family and/or friends:

- make efforts to involve family and extended family in decisions about the child
- assist the child in maintaining contact with family, extended family and friends, subject to court-ordered access restrictions, and
- offer support services to the family and extended family to help maintain or enhance their ongoing involvement with the child.

Keeping siblings together

Make efforts to keep siblings together to:

- reduce the trauma of separation, and
- promote continuity and stability of this lifelong relationship.

Positive Practice Example

MCFD records indicate that, in May 2008, a new social worker assigned to Skye was concerned that she had not had contact with her sister since the first adoption plan fell apart. This worker set a goal to renew contact between the siblings. She wanted to let Skye know that the relationship was okay and to help facilitate a connection. Records indicate that, as a result of this effort, Skye had some contact with her sister through her social worker's email address, as well as over the phone. However, as noted below, this contact did not continue under future social workers.

After Skye's second prospective adoptive placement was disrupted in May 2009, her sister's adoptive mother asked MCFD to reconsider its decision to deny her adoption of Skye. RCY investigators could find no documented response to this request. One month later, in June 2009, MCFD ceased Skye's contact with this family.

Skye's social worker at the time noted, *"I have chosen for Skye to not be in contact with [her sister and adoptive mother] at this time,"* referencing concern about Skye's vulnerability. The worker noted that, although Skye's relationship with her sister was important, it needed to be carefully *"prepared."* MCFD records contain no explanation of what this meant, why it was necessary, or whether such preparation was taking place. RCY investigators could find no rationale as to what had changed from just a year prior, when Skye's previous social worker had proactively encouraged contact with her sister.

When Skye was an adolescent, she reconnected with her sister and her sister's adoptive mother through



social media, but she never had the opportunity to visit with them again. This lack of connection represented a significant loss to both Skye and her sister. One family member noted, *“If they would have had the opportunity to be closer together, things would have turned out better for both of them.”*

Throughout her childhood, Skye was supported in maintaining contact with her mother’s adoptive parents (Skye’s grandparents) and was often taken on weekend trips to visit them. Her grandparents were described by a caregiver as being *“well-intentioned”* and *“committed to Skye.”* However, this strong connection was not maintained into her adolescence, largely due to challenges related to Skye’s substance use.

Unfortunately, it appears that Skye was not provided with any opportunity to form a relationship with her biological maternal grandmother, who lived in Fort McPherson, N.W.T. This grandmother wrote Skye’s mother a letter in October 2011, asking for photos of her granddaughters and their foot sizes and sharing information about their extended family. This letter was passed on to Skye’s social worker at MCFD. However, it’s unclear if it was ever given to Skye or her mother. Skye’s maternal grandmother died the following year at age 63.

Skye never got to meet or to have a relationship with any other members of her biological family. This included Skye’s maternal aunt and uncle, with whom MCFD staff had been in contact in 2008 when the ministry was exploring adoption placement options. After some initial contact over the potential of adopting Skye, this aunt and uncle did not hear from MCFD again, nor were they informed that Skye had died in 2017. The aunt and uncle had expressed an interest in caring for Skye and, at minimum, the Representative believes that the ministry could have connected Skye with them. Records do not indicate why this connection was never made, or whether Skye was aware her aunt and uncle had been interested in caring for her.

Skye's Relationship with her Previous Caregivers

Several of Skye’s caregivers told RCY investigators that they would have liked to remain connected to her after MCFD moved her on to other placements. As one of them said, *“Skye had all those caregivers in her life. And every time that home broke, the relationship stopped. That doesn’t make sense.”*

In some cases, these relationships were not prioritized by MCFD. In other cases, such as with a foster parent from Skye’s early childhood and also with Skye’s foster parent between 2009 and 2011, MCFD explicitly directed that there be no further contact.

“She did not want to lose everybody that she thought loved her, that she felt loved her, that she felt connected to.”

—Skye's former caregiver

Prior to Skye’s abrupt move from Campbell River in August 2011, she had been residing with an Indigenous caregiver whom she had known since she was a young child. This caregiver understood the importance of introducing Skye to her culture and consistently maintained a loving and accepting home for Skye. MCFD did not support this relationship to continue once Skye was moved. It is unclear to the Representative why this relationship was not permitted to continue but an MCFD social worker later acknowledged in her 2014 care plan that this had been a mistake:

“Skye, you left your old foster home where you were hoping to be adopted and your new foster parents were advised by your SW that you were not allowed contact with the previous foster parents. In retrospect, this was a mistake as you were attached and had yet another abandonment.”

MCFD's failure to support Skye's relationships with people who had loved and cared for her did her a great disservice and contravened *CIC Standard 10: Meeting a Child's Need for Stability and Continuity of Life Long Relationships*. Each time Skye was moved, she experienced the grief and loss of another significant relationship in her life and was rarely allowed to look back.

Skye's Relationship with her Childhood Counsellor

Skye started working with a counsellor through a community-based organization when she was three-years-old. She saw the counsellor monthly and, in 2008, another service provider noted that Skye *"felt very connected to her."* This relationship continued throughout Skye's early and middle childhood, despite the various social workers and caregivers she had.

Not long after Skye was moved from her stable Indigenous foster placement to a prospective adoptive placement in September 2011, the ministry terminated its contract with this counsellor, who by then had been working with Skye for six years. The ministry sent a termination letter in April 2011 that read, in part: *"As you know we are preparing Skye for adoption and it's believed by her team, here at the Ministry that at this time Skye requires more specialized counselling ... Although you have provided a great service to Skye, we would like Skye to have only one counsellor at this time and therefore your services are no longer required."*

"When Skye came into my care, her counsellor helped me self-regulate and ground that child in 24 months... It was [unheard] of to take a child that came from that kind of significant trauma and ground her and have her functioning in 24 months in a way that... she was a young girl again, that she was having a childhood. [This counsellor] had years of a trusted, attached relationship with [Skye]. It was so genuine. She felt so safe there, so comfortable."

—Skye's former caregiver

The counsellor responded with a letter stating that MCFD was showing *"blatant disregard"* for Skye and her needs, that she did specialize in grief counselling and that, although MCFD had the right to terminate her contract, Skye's best interests would be better served by gradually transitioning her. The counsellor added: *"I suggest that you consider how MCFD has handled the two adoptions for Skye and at least acknowledge the damage you do when you arbitrarily decide to abruptly change structure, lesson plans, and relationship without a transition period."*

RCY investigators could not find a response from the ministry to this counsellor's concerns, and MCFD proceeded with the change to a new counsellor. In her interview with RCY, the counsellor recalled that her termination was based on MCFD's reluctance for her to do *"deep"* work with Skye that would get to the root of her grief, adding:

"... I still think, what I did was completely appropriate ... I remember now just feeling like I'm supposed to pull back and basically just not cause any problems. 'Don't deal with the real issues.' The impression [from MCFD] was that 'She is going into an adoptive home now so she'll be fine, you know, everything in her life will go forward now and she won't need these services.'"

Skye's foster parent at the time wrote to her social worker, saying that she did not agree with ending the counsellor's contract, and that it was *"more loss from Skye's perspective."* RCY investigators could find no response on file from MCFD to this communication. The foster parent characterized this period in Skye's life by saying, *"They broke all attachments. They took away the best woman that ever could have been her counsellor in her life."*



The new counsellor worked with Skye until December 2013. Her goal was to support Skye in her new adoption and attachment – as well as with other needs – and to help her process her trauma, if Skye was willing to do so. When the new counsellor’s contract ended in December 2013, she observed that there would still be a long road ahead for Skye and her foster parent.

The new counsellor was away from work for three months but let MCFD know that Skye had requested to see her again once she returned. However, after she returned from leave in March 2014, MCFD did not continue to support this counsellor’s relationship with Skye, either.

Social Worker Continuity and Relationships

Skye had a total of 18 social workers, from when she first came into MCFD care in 2005 until her death in 2017.

Her relationships with her social workers varied, depending on who was serving as her guardianship social worker. Her file was held primarily in Campbell River, and it did not transfer when she was first moved to Nanaimo to live with her third prospective adoptive family. This made it difficult for Skye and her caregivers, who had to insist after six months of no contact that her social worker see her in Nanaimo. When the family moved in 2012 with Skye to the Cowichan Bay region, her file still remained in Campbell River. Skye’s file only transferred in 2013 (18 months later) when the placement with her adoptive family broke down and Skye was moved to a new home in Nanaimo.

Case notes indicate that Skye’s social worker at this time “*assumed [11-year-old Skye] was happy*” without any contact. Records indicate that the social worker did not check in until Skye eventually “*demande*” to see her and requested support to address her grief, loss and attachment issues. This request was agreed to, but not followed through on until after Skye left the foster-to-adopt home.

MCFD’s *Children in Care Service Standards* at the time required that social workers visit children on their caseload at least every 90 days or more frequently if major events occurred. The service standards were not met for Skye during a critical time in her life, when she was struggling with an unsuitable adoption placement and when she needed critical support from the person who was meant to be her guardian.

The Cumulative Effects on Skye

The last care plan on Skye’s MCFD file, from 2016, includes observations that teenage Skye “*has a tendency to push people away that get too close and too caring*” and that the “[*social worker*] has talked to Skye about this on several occasions and hopes Skye will go to counselling to address her attachment issues.”

It is hardly surprising that Skye, by this point, had developed this self-preservation mechanism. She had learned early and repeatedly that relationships she had with key people would be broken. However, the social worker’s assessment in this care plan placed the responsibility on Skye to address her attachment issues rather than on the system that failed to nurture – and in some cases disrupted – the most meaningful relationships in her life.

In failing to prioritize Skye’s relational connections and sense of belonging, the ministry left her without the safety, love, stability and strength those connections could have provided her later in her life.



What has Changed with Regard to Relational Belonging?

Since 2015, MCFD policies have changed to further highlight the importance of relational permanency. These include the *MCFD Chapter Permanency Policies - Chapter 6*, first implemented in June 2017 and then updated in April 2019, as well as the *Aboriginal Policy and Practice Framework (2015)*, which emphasizes the importance of relational permanency for Indigenous children through its focus on belonging. It also states an expectation of workers to “support caring and nurturing relationships where [Indigenous] children, youth and families have a positive sense of family and community, feel valued and safe and have a positive sense of place and belonging.”⁶⁰

MCFD workers are encouraged to facilitate belonging by:

- recognizing all people, including the child or youth, have a place in the Circle with their own strengths and deserve to be loved and have a positive sense of family and community belonging⁶¹
- drawing on the strengths of Indigenous cultures, traditions and languages to connect individuals
- acknowledging the strengths of positive relationships and supporting those relationships to help children have a healthy sense of self.

In 2017, MCFD's child and youth in care policies were updated.⁶² These changes did not affect Skye; however, the new policies include stronger clarity and emphasis on the importance of relational permanency. They state the following about maintaining connections for children and youth in care:

- Social workers should promote and support opportunities for the child/youth to develop and maintain emotional attachments.
- Whenever possible, social workers should develop an out-of-care living arrangement that will provide the opportunity for the child/youth to maintain and develop lifelong relationships with extended family or other individuals who have a relationship with or a cultural or traditional responsibility to the child/youth. This includes with their parents, siblings, extended family and others who are significant in their life.
- When deciding about visitation and access to the child/youth, social workers should consider their best interests, including attachment and continuity of relationships, as well as belonging to their Indigenous community for Indigenous children and youth.
- Social workers should inform and involve the caregiver in developing and implementing strategies to promote the child/youth's stability and continuity of lifelong relationships, as well as belonging to their Indigenous community for Indigenous children and youth.

These updated policies demonstrate MCFD's improved recognition of the critical importance of belonging and relational permanency.⁶³

⁶⁰ Ministry of Children and Family Development, “Permanency Policies - Chapter 6, Effective Date June 30,” 2017, Last revised: April 1, 2019; Program staff: if there is a website, please add it; Ministry of Children and Family Development, *Aboriginal Policy and Practice Framework* (Victoria, B.C.: Ministry of Children and Family Development, 2015), 11.

⁶¹ The Aboriginal Policy and Practice Framework refers to the “circle” being an essential network of support for the child. It references traditional systems of decision-making, bringing the child's family, extended family and communities together to encircle the family with a restorative approach focusing on culturally safe, trauma-informed practice.

⁶² Ministry of Children and Family Development, *Children and Youth in Care Policies - Chapter 5*, (Victoria, B.C.: Ministry of Children and Family Development, 2017), 21-22.

⁶³ The Children in Care Service Standards (2003) was replaced in 2017 by MCFD's Children and Youth in Care Policies - Chapter 5.



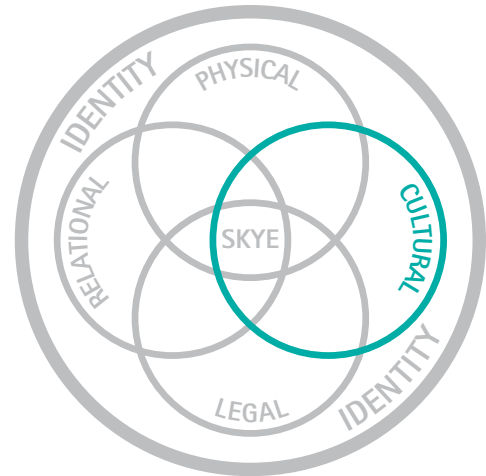
Keeping Families Safely Together

RCY has a focus on prevention and early intervention. In the context of children and families, the early years are recognized as being critical for life-long health and well-being, and an important opportunity to address risks and find opportunities to nurture resilience. RCY's own data reveals that most of the youth it sees through Advocacy and Reviews and Investigations experienced challenges during their early childhood that went unsupported or unaddressed. RCY's Keeping Families Safely Together initiative focuses upstream and on preventative approaches in the early years. It is taking a systems approach by first laying a foundation of understanding about universal health and well-being in the early years and also the specific experiences of more vulnerable families and children. In doing so, RCY is grounding the work in a strengths-based approach that moves away from problematizing or labelling some families "at-risk," to a narrative that focuses on what makes families strong and children healthy. RCY's first step, currently in process, is to work with researchers, partners and families to understand more deeply the B.C. context for families. This work will also clarify a role for RCY. In fall 2021, RCY expects to initiate a series of specific activities and projects that will bring RCY's voice and action to the challenges that families experience and the potential for improved, system-wide and specific support for parents, extended family and other caregivers raising B.C.'s youngest citizens.



Cultural Belonging

Finding: *Skye's need, desire and right to connect with her First Nations culture, traditions and practices were not consistently supported by MCFD in more than a superficial way. She longed to visit her traditional territories but never had the opportunity. These factors, combined with the severing of key relationships in her life, led to a lack of cultural belonging.*



Indigenous Culture – a Definition

There are many different ways that First Nations, Métis, Inuit and Urban Indigenous Nations and communities may describe their cultures. Onowa McIvor and Art Napoleon acknowledge the diversity as well as the commonalities in the definition that follows: “Systems of belief, values, customs, and traditions that are transmitted from generation to generation through teachings, ecological knowledge and time-honoured land-based practices. Culture takes many forms which include (but are not limited to) ceremonies, methods of hunting, fishing and gathering foods, the gathering and use of traditional medicines, traditional diet, spiritual journeying, and traditional art forms such as drumming, dancing and singing. It is also important to recognize that culture is not static, it is dynamic and ever-changing and each community, particularly urban communities, may define and experience it differently.”⁶⁴

Indigenous worldviews are grounded in collectivism, placing a significance on collective identity and interdependence in contrast to the Eurocentric worldview of individualism.⁶⁵

Cultural belonging creates roots that strengthen an individual through connection to ancestry, traditional customs and support from their community. Gregory Cajete writes, “*Relationship is the cornerstone of tribal community, and the nature and expression of community is the foundation of tribal identity. Through community, Indian people come to understand their ‘personhood’ and their connection to the communal soul of their people.*”⁶⁶

For Indigenous children, cultural connection is the glue that binds all the other domains of belonging and is a known protective factor.⁶⁷ Research has shown that cultural continuity can prevent physical

⁶⁴ Onowa McIvor and Art Napoleon, “Language and Culture as Protective Factors for At-Risk Communities,” *Journal of Aboriginal Health* 5, no. 1 (November 2009): 7.

⁶⁵ Michael Kral, *Unikkaartuit: Meanings of Well-Being, Sadness, Suicide, and Change in Two Inuit Communities: Final Report to the National Health Research and Development Programs* (Health Canada, 2003), 8.

⁶⁶ Gregory Cajete, *Native Science: Natural Laws of Interdependence* (Santa Fe, NM: Clear Light Publishers, 2000), 86.

⁶⁷ Michael J. Chandler and Christopher Lalonde, “Cultural Continuity as a Hedge Against Suicide in Canada’s First Nations,” *Transcultural Psychiatry* 35, no. 2 (June 1998): 191-219 doi: <https://doi.org/10.1177/136346159803500202>.

illness and suicide and is a major predictor of overall mental wellness and stability.⁶⁸ It is further understood that the biggest factor in ensuring cultural connectivity is relationships, which are central to all Indigenous community life.⁶⁹

Significant complexity and diversity exists across Indigenous cultures. A cultural resource that is appropriate for one person may not be appropriate for another. While there is benefit from attempts at connecting an Indigenous child to generic cultural supports and activities, that pales in comparison to enabling and supporting them to belong to their own culture and community.

Skye did not have the benefit of such connection, which could have been an important protective factor. Her story is marked by a lack of meaningful planning and work by MCFD to connect her to her Dene culture.

While Skye was unique, her story is not. RCY investigators heard multiple times throughout this investigation that her experience of disconnection from culture reflects the circumstances of many Indigenous children and youth in care. This is consistent with our observations throughout all of RCY's work. Skye's story reminds us that cultural connection is critical. It should not be symbolic or performative in nature, nor should it be an afterthought. It is a way of life.

Cultural Permanency

MCFD defines **cultural permanency** as *"an inherent right to have continued, constant connection to traditions, language and culture, regardless of what else is changing; The sense of belonging to one's heritage and cultural community is desired by, and a protective factor for, many young people. Cultural connection and permanency are particularly important for children and youth of Indigenous heritage."*⁷⁰

Cultural Permanency and Research

Kinship ties are among the most important and foundational ways that children can remain connected to their culture. Kathy Absolon's Indigenous holistic theory states that Indigenous communities have vast strengths and resources to provide for their children, including kinship ties, healing and recovery, wellness, survival and collectivity.⁷¹ She writes that *"kinship systems serve to connect threads between individuals, families, and community and extend beyond biology."*⁷²

Kinship from an Indigenous perspective is understood as the holistic connection between First Nations, Métis and Inuit people, their community and their land. Indigenous communities have historically thrived because of their fundamental practice of being in relationship with each other and their environment. For Indigenous people, the responsibilities of raising and teaching children are understood to be the work of an entire community, including extended family, tribal members and ancestors.

⁶⁸ Michael J. Chandler and Christopher Lalonde, "Cultural Continuity as a Protective Factor against Suicide in First Nations Youth," *Horizons - A Special Issue on Aboriginal Youth, Hope or Heartbreak: Aboriginal Youth and Canada's Future* 10, no. 1 (2008): 68-72.

⁶⁹ Jeannine Carriere and Cathy Richardson, "Relationship is Everything: Holistic Approaches to Aboriginal Child and Youth Mental Health," *First Peoples Child and Family Review* 7, no. 2 (2012): 8-26.

⁷⁰ Ministry of Children and Family Development, *BC Permanency Framework*, 4.

⁷¹ Kathy Absolon, "Indigenous Wholistic Theory: A Knowledge Set for Practice," *First Peoples Child and Family Review*, 5, no. 2 (2010): 80.

⁷² Absolon, "Indigenous Wholistic Theory", p. 80.



Indigenous ways of knowing and being see individuals as having a place and a purpose within their community, as part of the collective circle – a place where they belong, where they will be supported and upheld. When children are adopted or removed from their families in ways that sever parental and extended relationships, they do not just lose those immediate relationships; they also lose an entire collective relationship with their land, their community and ancestors – a place where they have always belonged and always will belong.

In a 2007 study, one of the most common reasons that First Nations adoptees wanted to be reconnected to family and community was to gain “official recognition of who they are, as an Indigenous person.”⁷³

Sandrina de Finney and Lara di Tomasso speak to what Skye experienced in their article *Creating Places of Belonging: Expanding Notions of Permanency with Indigenous Youth in Care*. Connection to culture, family and community help to foster a sense of belonging for Indigenous children and youth, which is particularly valuable for those in government care. De Finney and di Tommaso state:

“Many Indigenous young people over the age of 12 who are either in the child welfare system or have been disconnected from their families and communities through intergenerational breakdown and trauma grow up without a web of permanent connections. Disconnection from family, kin, community, culture, ancestral relations, and language necessitates that the goal of permanency includes more than the pursuit of a stable ‘forever family.’ It must also aim to create lifelong healthy connections to community, culture, and land that can bring Indigenous youth the experience of truly belonging – of being claimed back as proud First Peoples.”⁷⁴

Legislation and Rights Conventions

Provisions throughout the *CFCS Act* speak to the legal responsibilities of MCFD regarding cultural continuity for Indigenous children. However, the Act does not specifically define meaningful, wholesome connection to culture.⁷⁵ Without such a definition, cultural planning for children in care may result in generic, superficial connections to programs that are pan-Indigenous in nature when what the child needs is authentic connection to their specific culture and community. However, the 2019 amendments to the *CFCS Act* did go further in the s.70 rights to include “s.70(1.1) In addition to the rights set out in subsection (1), Indigenous children have the right to

- (a) receive guidance, encouragement and support to learn about and practise their Indigenous traditions, customs and languages, and
- (b) belong to their Indigenous communities.”

⁷³ Carriere, “Promising practice for maintaining identities,” 50.

⁷⁴ Sandrina de Finney and Lara di Tomasso, “Creating Places of Belong: Expanding Notions of Permanency with Indigenous Youth in Care,” *First Nations Child and Family Review* 10, no. 1 (2015): 65.

⁷⁵ Ardith Walkem, *Wrapping Our Ways Around Them: Aboriginal Communities and The CFCSA Guidebook*, 1st ed., (Nlaka’pamux Nation Tribal Council, 2015), 89.

This statement refers to Ardith Walkem’s commentary on the *CFCS Act* in 2015 when Skye was still in care before amendments to the Act came into effect in 2019 which contain stronger language and definitions to protect the cultural identities of Indigenous children being served under the Act.



United Nations Convention on the Rights of the Child (UNCRC) and United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Article 30 of the *UNCRC*, ratified by Canada in December 1991, provides that a child “shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess or practise his or her own religion, or to use his or her own language.”

Canada's adoption of *UNDRIP* in 2016, while too late to practically benefit Skye, reinforces this country's obligation at every level to improve the well-being of Indigenous Peoples, particularly through Article 8 which states that “Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.”⁷⁶ Article 11 of *UNDRIP* recognizes that “Indigenous peoples have the right to practise and revitalize their cultural traditions and customs,” and Article 13 protects the right to transmit these cultural traditions to future generations.

Cultural Planning and Connection for Skye

When Skye was in care, guardianship social workers were guided by MCFD's *Children in Care Service Standards (2003)*. These standards spoke to establishing partnerships with a child's Indigenous community, developing a plan to promote their cultural identity, and honouring and considering placement priorities for the child with extended family, community or other Indigenous families.

If a child could not be placed with extended family or in their community, these standards stipulated that placement must be with a caregiver who “has or is willing to develop an understanding of and sensitivity to the child's Aboriginal heritage and identity, and who is willing to support ongoing contact with the Aboriginal community, and providing the caregiver with information about the child's Aboriginal heritage.”⁷⁷

While these provisions were in place within policy – and Skye's care plans were generally completed in compliance with CIC standards and in a timely manner – the cultural components of those care plans significantly lacked tangible and sustainable goals for meaningful connection to her Dene identity.

“Skye is now just starting to become curious about what it means to be First Nations but she has bigger worries right now – finding a family. When I showed her the cultural package she loved it. There was an emotional reaction when she saw it but has no frame of reference for it right now.”

–Email correspondence from Skye's social worker

“I really believe attempts were made. But was [Skye] connected to her culture? No, she wasn't at all, and that's, for me, one of the big pieces that I think was really missing for her.”

–MCFD Team Leader

⁷⁶ UN General Assembly, Resolution 61/295, United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295 (Sept. 13, 2007), https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

⁷⁷ Ministry of Children and Family Development, *Children in Care Service Standards*, 89-90.

Children in Care Service Standards (2003)

CIC Standard 1: Preserving the Identity of an Aboriginal Child in Care

The intent of this standard is to reinforce the requirement that delegated individuals responsible for planning and providing services for an Aboriginal child in care work actively with individuals in the Aboriginal community, such as extended family and elders. This includes decisions and actions relating to planning living arrangements, arranging social and recreational activities for the child, and developing culturally appropriate plans of care. It also includes finding ways to help the child explore and understand the history, geography, language, customs and spiritual beliefs of his or her community, and to develop lifelong relationships with people in that community.⁷⁸

CIC Standard 11: Assessments and Planning for a Child in Care

The intent of this standard is to ensure that every child who comes into care has a plan of care that:

- *is holistic, current and relevant to the child's unique circumstances and needs*
- *reflects ongoing significant changes in the child's development, and*
- *takes into account the child's family and community situation.*

The plan of care:

- *reflects and is responsive to ongoing assessments of the child's needs*
- *ensures that services in place for the child support the overall goal and are focused on the best outcomes for the child, and*
- *is developed in collaboration with the child, family, extended family and cultural community.⁷⁹*

When developing a plan of care, ensure that the child in care has a cultural plan, if the child is Aboriginal.⁸⁰

Missed Opportunities for Cultural Belonging

Support for cultural belonging and connection could have started when Skye and her mother first became involved with MCFD, before Skye ever came into care. Skye's mother was engaged in some cultural practices and brought young Skye to cultural events, including Sundance ceremonies. Support for Skye's mother to practise and get closer to her Dene culture might have mitigated some of the risks that brought Skye into care in the first place.

One of Skye's social workers, describing systemic challenges in practice within MCFD, noted, *"There isn't a strong focus on supporting cultural permanence. You're just resolving risk. Then you move to our family service team, where you then have guardianship responsibility."*

⁷⁸ Ministry of Children and Family Development, *Children in Care Service Standards*, 89.

⁷⁹ Ministry of Children and Family Development, *Children in Care Service Standards*, 115.

⁸⁰ Ministry of Children and Family Development, *Children in Care Service Standards*, 117.



Families tend to receive the most support and attention from MCFD during times of urgency or crisis. There is little opportunity for social workers to build relationships with families and provide preventative care, such as seeking out and referring families to appropriate cultural resources. As Ardith Walkem writes:

“Efforts to keep Aboriginal children connected to their Aboriginal cultural heritage, or to preserve their Aboriginal identities, often fail because they occur too late, or reflect an ‘either/or’ scenario which does not consider possibilities which might allow children to remain in homes where they have formed attachments and still be actively connected to their Aboriginal cultural heritage.”⁸¹

Once Skye came into care, ensuring that her cultural identity was meaningfully maintained and preserved became a guardianship issue. The first adoption plan would have been appropriate in this regard considering the family’s Dene connection.

After MCFD determined that this placement was not going to be suitable, the ministry looked for other family in Skye’s traditional territory who might be able to care for her. In March 2008, when Skye was 7½, her social worker exchanged emails with an aunt and uncle in the Northwest Territories who showed interest in caring for her. However, records indicate that there was a misunderstanding about questions the couple asked regarding financial support and communication did not continue. This represented another lost opportunity for connection to culture.

Records indicate that Skye’s Nation had requested more time to explore ways to support familial and cultural connections – including with her grandmother – and asked that the ministry continue to support Skye in foster care and not proceed to another adoption. In fact, the Nation made it clear that it did not consent to a second adoption plan at the time. Nonetheless, the ministry began to search MCFD’s adoption management system for a suitable match. When there were no available Indigenous adoptive homes, the ministry moved to considering non-Indigenous adoptive homes, which meant demonstrating to the Provincial Exceptions Committee how a non-Indigenous home could meet Skye’s long-term needs and support her identity as an Indigenous person.

While Skye was in foster care, cultural connection appeared largely dependent on her placement. Her first foster parent was non-Indigenous, and Skye’s social worker noted at the time that Skye was not given much opportunity to attend cultural activities. In 2009, Skye was placed with an Indigenous family who had known her from the time she was three. While this family was not Dene, she was given an opportunity to explore Indigenous identity, spirituality and ancestry, while participating in and learning from local ceremony and practices. Her Indigenous foster parent recalled, *“Culture was not an event or an activity to be documented or owned. It was our life, our experiences, who we are ... We made sure that Skye was a part of every single thing that we did in our Aboriginal community – so the feasts, the potlatches, the gatherings, the celebrations.”*

This home gave Skye more than a place to live. She had cultural connections, including two Dene Elders in her local community, and it was a place she could feel a sense of belonging. Based on records reviewed and interviews conducted by RCY, this was likely the most positive and supportive placement Skye experienced while in care.

⁸¹ Ardith Walkem, *Wrapping Our Ways Around Them: Aboriginal Communities and The CFCSA Guidebook*, 1st ed., (Nlaka’pamux Nation Tribal Council, 2015), 99.



MCFD social workers interviewed for this investigation all agreed that culture is a fundamental aspect of permanency planning for Indigenous children and youth in care. However, they also expressed overwhelming sentiment that MCFD does not do enough to plan for and support cultural permanency.

"What Skye loved most as a little girl in life, she loved fishing ... holy mackerel, that was her Zen. She loved being out in nature, but she loved her life with the horses as well. She loved horses, loved that connection with animals. But what Skye really liked were all the baby showers and the weddings. She liked attending the core functions that families went through together."

—Skye's former caregiver



Skye petting farm animals

One social worker described cultural planning during Skye's adolescence as *"a lot of conversations, not a lot of connection."* The worker noted that a lack of cultural planning during Skye's childhood may have compromised the work that she did around cultural connections in Skye's adolescence, adding, *"I actually didn't know a ton about her background and her mom's background with culture, because everything had been presented to me like she hadn't been engaged."* Similarly, Skye's caregivers noted little was done in this area; as one said, *"There was no cultural plan ... Skye had nothing."*

Plan of Care (Care Plan)

According to MCFD's *Children in Care Service Standards (2003)*, a plan of care is *"an action-based planning tool for children in care, used to identify specific developmental objectives based on continuous assessments of the child's evolving needs and the outcomes of previous decisions and actions. Care plans are completed by the child's worker with the involvement of the child, the family, the extended family and Aboriginal community if the child is Aboriginal, the caregiver, service providers and significant people in the child's life."*⁸² Social workers are required by policy to complete a full plan of care within six months of a child coming into care. These care plans are meant to be living documents, to be reviewed every six months or sooner when goals for a child change or there are significant changes within a child's life.

Skye's Care Plans

RCY conducted a review of Skye's care plans, concentrating on the areas of permanency planning, transition planning and cultural planning. In conducting this review, RCY accounted for shifts in MCFD policy related to care plans over the course of Skye's time in care.

Skye had a total of 12 care plans. Regarding cultural planning, there were many statements in those plans around Skye's desire to learn about her heritage including one that suggested she wanted to visit her traditional community. In her 2013 care plan, her social worker wrote: *"Skye, you have also expressed a desire to learn more about your ancestry, particularly you would like to visit Fort McPherson, where your mom is from. When Aboriginal culture is discussed, you note that the language that is taught in your school in Nanaimo is not the same."*

⁸² Ministry of Children and Family Development, *Children in Care Service Standards*, 7.

Skye was aware that her Dene culture was different from the cultures she was being exposed to and maintained a curiosity about her own history. For example, Skye asked questions about her family and conducted Internet searches about her culture and her Nation. As she got older, Skye started to search out family members on social media looking for her own familial and cultural connections and belonging.

According to the *Child in Care Service Standards*, Skye's community and family should have been involved in reviews and changes to her care plan at every stage of her life, regardless of her CCO status and the fact that MCFD was pursuing adoption for her. The care plan is meant to be a collaborative document that grows and changes based on a child's needs during their time in care and requires input from the child, caregivers, community and family. RCY's audit of Skye's care plans shows no evidence that family members were included in her cultural planning.

Skye's Cultural Plan for Adoption

Skye's records include a cultural plan for the purpose of adoption to a non-Indigenous family in 2008. However, this cultural plan was not mentioned or integrated into her subsequent care plans on MCFD's Integrated Case Management System.⁸³

The cultural plan that was eventually approved by the Provincial Exceptions Committee was very detailed, including the roles and responsibilities of the key players in Skye's life – among them local support people in Campbell River who would be involved in helping Skye establish a connection with her Dene identity.⁸⁴ The following is an excerpt from Skye's plan:

"The Teetl'it Gwich'in First Nation is the primary source of information in planning for the preservation of Skye's Dene cultural teaching including information about: Dene language, history and current affairs, traditional teachings, traditional foods, cultural ceremonies, spiritual practices and community structure.

"[Skye's prospective adoptive parents] have a strong belief that developing an understanding of Dene culture and traditions is the foundation of Skye's ability to successfully inform her identity... they will engage in the following cultural traditions with Skye: learn key phrases and words of the Dene language, expanding the repertoire over time; learn about the history of Dene people; read books about Dene culture; take in the work of contemporary Dene musicians and artists; learn about spiritual practices of the Dene people and preparing traditional Dene foods for the family together."

When Skye's second adoption plan failed, little effort was made to integrate the cultural plan into her subsequent care plans. For example, her cultural plan names a contact person from Skye's traditional community and a Dene contact person located where Skye was living. Despite these individuals being identified, they were not included in her subsequent care plans and it is unclear to RCY investigators whether Skye knew about these people or was supported to contact them. Perhaps because she was moved to the home of an Indigenous caregiver when the second adoption failed, it was assumed that cultural planning was no longer necessary. Nevertheless, even in that situation, standards dictated that her social worker had a responsibility to ensure Skye's cultural needs were being met.

"For Indigenous children and youth in care, culture is more about the necessary paperwork, rather than genuine connections to family and community."

—MCFD social worker

⁸³ MCFD's Integrated Case Management System is a government computer information system used to deliver critical social programs including child protection services, child care subsidies and income assistance.

⁸⁴ Cultural Plan for an Aboriginal Child Placed for Adoption in a Non-Aboriginal Home, October 2008

The review of Skye's care plans illustrates a disconnection between MCFD policy and practice. One of Skye's social workers elaborated about the quality and authenticity of cultural planning and permanency for Indigenous children in care by saying, "I didn't see that those documents were really very meaningful or useful or something that ... People signed them, but did they follow through ... or did they understand what this really means? I didn't really think so at the time."

An MCFD Executive member added: "We need to do it from day one of being involved in a child's life and not when we've run the course of our two years in court and we have a CCO, then we start. I think those efforts and that lens – and that perspective – should be applied from the first day that we get involved in that child's life outside of their parental home."

The *APPF* speaks to the importance of culture and that the roles of culture, tradition, values and language are essential to the well-being of Indigenous children and are fundamental to healthy processes of identity formation. The way in which services are delivered must reflect and respect the child's particular culture, language, traditions and values. Skye's workers could have enhanced her cultural belonging by involving her community, gathering her circle, and including Dene cultural advisors to strengthen the inclusion of culture in her life and in her planning.

Best Practices for Cultural Planning

Ardith Walkem's *Wrapping our Ways Around Them: Aboriginal Communities and the CFCSA Guidebook, 2nd Edition (2021)* provides some best practice examples of how to better create cultural plans for Indigenous children and families. These plans could include:

1. Identify cultural factors that need to be included in a child's plan of care (including specific steps or opportunities for a child to participate in cultural activities that maintain or establish their connection to their land and culture, such as language classes, gathering activities, spiritual or cultural celebrations, community dinners or sporting events, lahal and other activities)
2. Identify community supports to maintain a child's connection with their Indigenous community and cultural heritage
3. Identify family or community members that could take care of the child on a temporary basis while a child protection matter is addressed to keep the child within their extended family or cultural community; or, on a permanent basis, if necessary
4. List family or community members that play an important role in the child's life (such as elders or extended family members), together with a proposal for how to maintain those relationships
5. Identify a network of people or supports to keep the child safe and ensure that they can grow to adulthood within their culture
6. Identify elders, cultural or spiritual supports from within the Indigenous community who can work with a child or family within a traditional wellness or healing model
7. Identify alternative or traditional decision-making processes – including those based in Indigenous traditions – that the Indigenous community may wish to refer the matter to (for example, under s. 22 of the *CFCS Act* or under Indigenous law directly).⁸⁵

⁸⁵ Ardith Walkem, *Wrapping Our Ways Around Them: Aboriginal Communities and The CFCSA Guidebook*, 2nd ed., (Nlaka'pamux Nation Tribal Council, 2021), 95.



Roots Work, Cultural Plans and Family Finding

After Skye's CCO was granted, a Roots practitioner was assigned to gather information about her cultural heritage. The Roots practitioner compiled a cultural package for Skye that included information about her First Nations community and also completed a genogram for Skye to document her extended family.⁸⁶

When Skye was placed in her prospective adoptive home in September 2008, she was given a Roots package. An email from her caregiver to her social worker at the time noted: *"Skye is now just starting to become curious about what it means to be First Nations, but she has bigger worries right now – finding a family. When I showed her the cultural package, she loved it. There was an emotional reaction when she saw it but [she] has no frame of reference for it right now."* In May 2009, when Skye was moved from this home, her Roots package was left behind.

As part of her third planned adoption process, in August 2011, it appears that the prospective adoptive parents received a similar cultural package.⁸⁷ File notes indicate that when Skye moved into this home, she was given a backpack containing her Roots information and a book on Dene culture. RCY investigators were unable to determine what happened to those documents after this adoption placement was disrupted.

Communication within the MCFD team in late 2012 indicated the need to provide more assistance to Skye and her prospective adoptive family in order to support her sense of cultural belonging and identity, including the need for a *"cultural safety plan."* The 2013 Roots referral for Skye sent by her social worker is sparse and requests *"increased connections with her local community and with her own culture,"* as well as a trip to her own community. Despite a Roots worker being contracted by MCFD in 2013 to support Skye, RCY investigators found no evidence that any subsequent work was actually conducted to support her cultural connections.

Skye's Home Community

Skye never set foot on her own traditional land, nor was she given the opportunity to meaningfully engage with her Dene culture and traditions as a Teetit Gwich'in youth. Dene culture is vastly different from the traditions and customs of the region where she grew up and this important aspect of cultural belonging for Skye was not adequately or consistently addressed. Although her caregiver expressed a desire to take Skye to Fort McPherson to meet her family when she was 16, her social worker at the time suggested that she would be a better person to accompany Skye. Regardless, this trip never occurred.

"I think that every child has the right to visit their traditional territories and to have their own cultural mentor. I can't think of a better word right now, but to have someone when they're visiting, to just not have a non-Indigenous social worker or foster parent drive them around and go, 'Well, this is it.' I mean, they actually need to be connected, it needs to be planned and done in a good way, right?"

—Skye's former social worker

⁸⁶ A genogram is a type of family tree that gives the reader a visual representation of connections and relationships between family members. It provides more detail than a typical family tree as it can be used to identify hereditary patterns and other factors that impact relationships.

⁸⁷ This document was found on file but was not signed or dated and could not be verified.

Rather than building relationships with local Nations and understanding opportunities to connect Skye with her Dene roots, MCFD's support in this regard was spotty. Communication between MCFD and Skye's Band ebbed and flowed, largely depending on the social workers involved and the permanency goals for Skye at any given time. When MCFD provided the Teetlit Gwich'in Band with an opportunity to work together on Skye's potential adoptions, one social worker described the Nation as "involved" and "thoughtful" in planning for Skye and trying to connect her with the community. However, it does not appear that MCFD involved the Band in Skye's ongoing care planning after the third and final planned adoption fell through.

Skye made specific requests to visit her home community in 2013 and 2014, as documented in her care plan. Her social workers told RCY investigators that these requests were not supported due to the cost of travel. One recalled, "*Skye even talked about, wouldn't it be cool to go where she was from. I looked it up, I kind of ran [with] it for – I believe my team leader said it was going to be upwards of \$10,000.*" Another social worker added, "*Her territory was so far away ... Back then, we just didn't do that, there wasn't the money. We wouldn't have been supported to do that.*"

Several MCFD staff noted that these barriers meant a missed opportunity for Skye to connect with her family, her community and her culture. An MCFD Team Leader told RCY investigators, "*I think it would have been important to have tried to get her up ... to her home community to meet her family and her community and her relatives and try and engage her sooner with who she was. Yeah, critical.*"

Today, there are more opportunities for such funding, when justification for a visit is supported within a child's care plan and linked to their permanency goals. Opportunities for children and youth to visit their home community are now supported through MCFD policy. However, a ministry Executive member told RCY investigators that requests for Indigenous children and youth to travel out-of-province to visit their home communities require Executive-level approval with an "extra level of screening."

RCY investigators sought current information from MCFD on the numbers of Indigenous children in care who are supported to visit their traditional homelands and the amount of funding budgeted to facilitate those visits. However, the ministry was unable to provide that information.



MCFD Policy on Meaningful Connection to Community

MCFD's *Chapter 5 Children and Youth in Care Policy* replaced previous CIC policies in 2017. It contains provisions that outline meaningful connection for Indigenous children and youth to be able to belong to their communities. The policy states:

*"Develop cultural planning in accordance with any agreement in place between the director and the Indigenous community under section 92.1 of the CFCSA, and where there is no agreement, planning should outline:"*⁸⁸

- *The steps to be taken at least annually to ensure participation of the Indigenous community (including communities that are outside British Columbia) in the development and implementation of the child/youth's cultural planning, including the mobilizing and forming of a Circle*
- *The identification and involvement of someone from the child/youth's Indigenous community to be the child/youth's cultural contact or mentor*
- *The ways in which the child/youth's participation in culturally specific activities, including traditional customs and activities that are unique to the community, will be promoted and preserved*
- *The steps to be taken to facilitate the child/youth's involvement in the Indigenous community's oral history, traditional roles and responsibilities, traditional family systems, traditional diet, language, songs, dances, ceremonial activities, arts and crafts, sports events and activities*
- *The steps to be taken to explore the possibility of the child/youth travelling to their Indigenous community, or to participate in homecoming events where available*
- *How the child/youth will be connected to their culture within the community where they reside if they are not living in close proximity to their Indigenous community."*

The policy also notes that there may be opportunities to resolve barriers through Jordan's Principle if necessary:

*"When there is uncertainty or a dispute over which level or branch of government has funding responsibility for supports and services for an Indigenous child/youth, access information about Jordan's Principle. Note: The application of Jordan's Principle is not limited to situations involving a funding dispute."*⁸⁹

Cultural Connections – A Way Forward

At the time Skye was in care, the guiding principles under the *CFCS Act* pertaining to Indigenous families and children were extremely weak. These principles stated that: *"kinship ties and the child's attachment to the extended family should be preserved if possible"* and *"the cultural identity of aboriginal children should be preserved."*⁹⁰ The service delivery principles acknowledged that Indigenous people should be involved in the planning and delivery of services, but included no language of accountability outlining what that involvement should look like or any meaningful definitions.

⁸⁸ Section 92.1 of the *CFCS Act* refers to standing protocol agreements between MCFD and some Indigenous governments in B.C. If there are standing protocols, those parameters must be taken into consideration while planning for the child who belongs to that community.

⁸⁹ Ministry of Children and Family Development, *Chapter 5*, 8.

⁹⁰ *CFCS Act*, ss. 2, 3.

MCFD policies have shifted over time in ways that demonstrate increased understanding of the value of culture in the lives of Indigenous children and youth in care, including the recognition that cultural permanency is an important component of permanency planning.

There has been good progress within MCFD policy and practice in recent years, but there is still much left to be done. In 2015, MCFD released the *Aboriginal Policy and Practice Framework* and, in 2017, the ministry developed new permanency policies that included the dimension of cultural permanency.

Aboriginal Policy and Practice Framework

This framework was introduced in 2015 and applies to all policy and practice involving Indigenous children, youth and families who receive services from DAAs and/or MCFD. The framework applies to all service areas (Early Years, Children and Youth with Special Needs, Child and Youth Mental Health, Child Safety, Family Support, Children in Care, Adoption and Youth Justice.)⁹¹

The framework contains cultural values that support process, including: respect, inclusion, truth telling, wisdom and belonging.⁹²

It also shares core foundational principles stating that more emphasis is required on ensuring an appreciation for the strengths of traditional practices and how they should be included moving forward. These core foundations are related to:

- Understanding the role of community Elders, family and extended family in upholding the sacredness of children;
- Cultural safety – creating space where culture can be freely expressed, shared, learned and supported
- Understanding of the interconnectedness of relationships and the need to respect and strengthen them
- Respect for diversity, self-determination and autonomy and challenging one's personal, professional and societal assumptions to ensure the best decision-making for a child

The *APPF* calls on us to understand and accept our collective responsibility to understand, support and honor Aboriginal systems of caring and resiliency with the intention to improve the well-being of Aboriginal children.

On April 1, 2019, significant changes to the *CFCS Act* came into effect, strengthening the legislation around the importance of cultural identity for Indigenous children and families. The following principles represent some significant changes:

- Indigenous families and Indigenous communities share responsibility for the upbringing and well-being of Indigenous children
- Indigenous children are entitled to practice their Indigenous traditions, customs and languages, and belong to their Indigenous communities.⁹³

⁹¹ Ministry of Children and Family Development, *Aboriginal Policy and Practice Framework*, 3.

⁹² Ministry of Children and Family Development, *Aboriginal Policy and Practice Framework*, 12-13.

⁹³ *CFCS Act*, s. 2.



The Act further acknowledges that the impact of residential schools on Indigenous children, families and communities should be considered in the planning and delivery of services to Indigenous children and families.⁹⁴

Importantly, the best interests of the child include specific parameters for Indigenous children: the importance of the child being able to learn about and practise their Indigenous traditions, customs and language, as well as the importance of the child belonging to their Indigenous community.⁹⁵

How An Act respecting First Nations, Inuit and Métis children, youth and families Speaks to Culture

The federal Act goes beyond the provincially legislated definitions of best interests of the child to encompass the diversity of Indigenous cultures and how the best interests of Indigenous children will differ depending on their cultural heritage. The principle of cultural continuity reflects the concepts of culture being essential to the well-being of the child. The continuous transmission of language, customs, traditions and Indigenous knowledge is important. The child's well-being is promoted when able to reside with members of family or other members of their community. Services must be provided in ways that are not assimilative, and the challenges and characteristics of the region where the child resides must be considered.

Practice Observation

Standards of practice differ between Delegated Aboriginal Agencies (DAAs) and MCFD. The DAAs follow *Aboriginal Operations and Practice Standards (AOPSI)* from 2009 and MCFD, at the time Skye was in care, utilized the *Children in Care Service Standards (2003)*. This raises the question of why practice standards are not consistent for all First Nations, Métis, Inuit and Urban Indigenous children in care, regardless of whether they reside in an area served by a DAA. It is also significant to note that not all Indigenous families who live in regions served by DAAs receive DAA services as this depends on whether their Nation has an agreement in place with a DAA. As suggested by a former Director of MCFD, "*AOPSI standards should be standards of life for all Indigenous children, regardless of who serves them.*"

This statement parallels the thoughts expressed by one of Skye's former caregivers with regard to Indigenous children receiving more culturally attuned services: "*Maybe that's something to look at ... Instead of her file being transferred to the youth office here from MCFD, maybe her file should have been transferred to one of the other [DAAs].*"

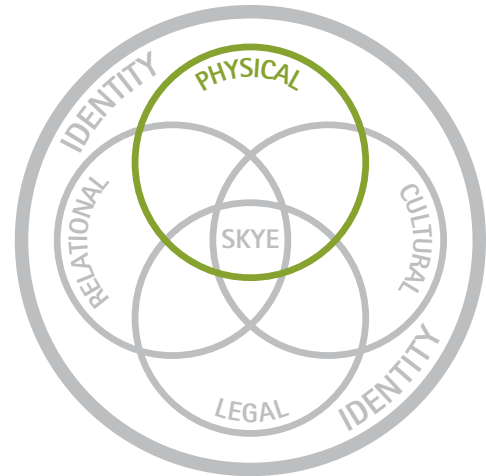
⁹⁴ *CFCS Act*, s. 3.

⁹⁵ *CFCS Act*, s. 4.



Physical Belonging

Finding: After Skye came into continuing care, her connection and belonging to her physical environment – the lands that she was on, her community, school and her home – were repeatedly disrupted. Frequent moves that took her to multiple homes, schools and communities resulted in Skye experiencing instability and a lack of opportunity to establish physical permanency and belonging to place.



Physical Permanency

The ministry defines **physical permanency** as “creating a safe, stable, healthy and lasting living arrangement” for children.⁹⁶

Children and youth in care experience many changes when they are moved between placements. These may include moving to a new neighbourhood, living with new caregivers, attending a new school or being separated from friends or family. Each change may have a different impact on a child or youth’s immediate and long-term well-being.

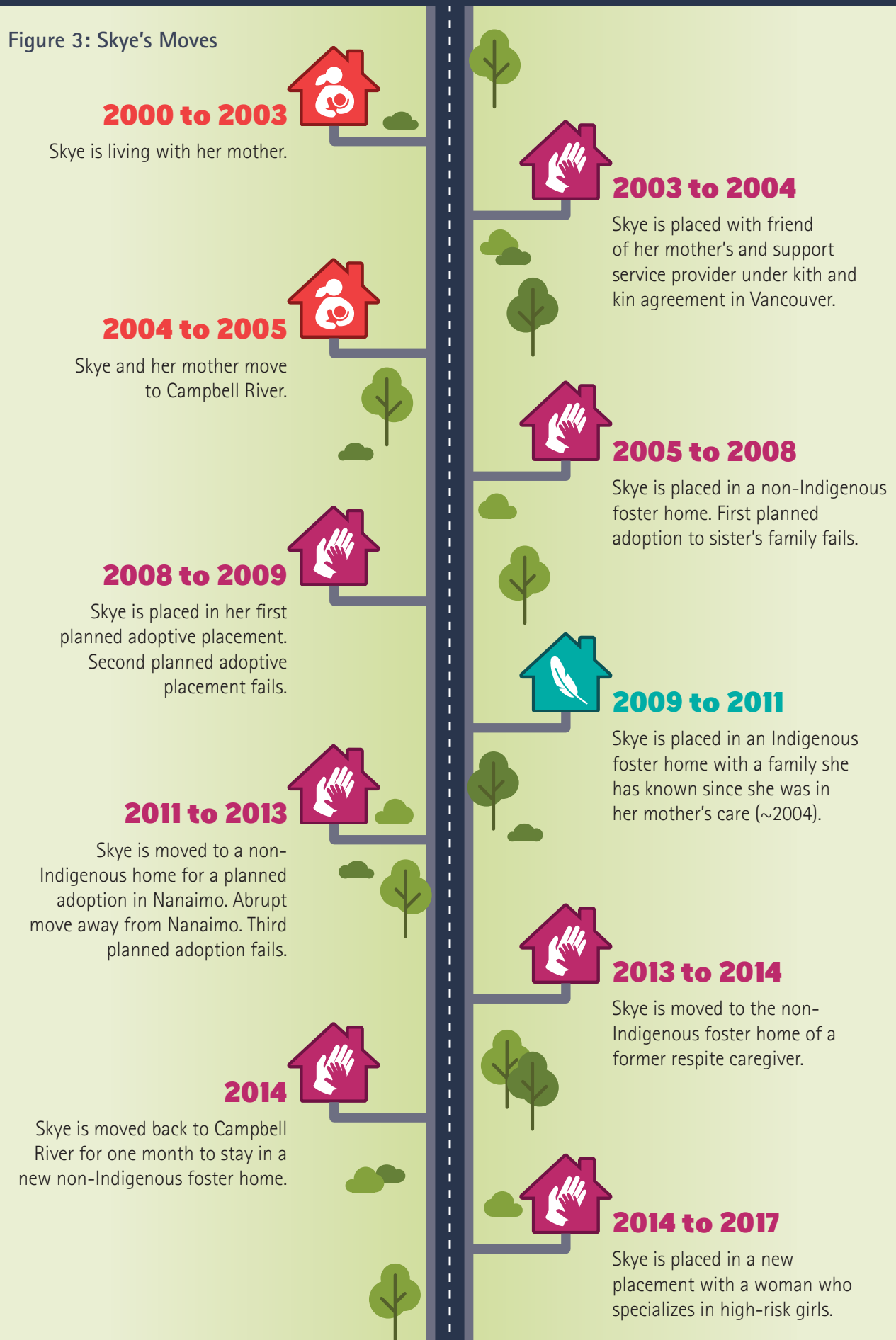
Skye’s experience prior to coming into care was characterized by multiple moves. But rather than achieve more stability and continuity after coming into care, she was not allowed to realize much, if any, sense of physical belonging. In her 11-plus years in care, she experienced 15 moves, lived in eight different foster homes, resided in five different communities, and attended eight different schools in three different districts. She did not live in any home for longer than three years (see Skye’s Moves, Figure 3). Moves were sometimes rushed without a sufficient transition period and, in at least three cases, Skye believed she was in a permanent home only to see an adoption placement fail and be moved on to yet another caregiver.

Like all other areas of belonging, physical belonging was elusive for Skye. Her consistent returns to Campbell River reflected her desire to connect to a physical place of belonging – the last place she had lived with her mother. Her enduring desire and repeated requests to go to her Teetlit Gwich'in Band community reflected a curiosity about where she was from.

⁹⁶ Ministry of Children and Family Development, *Permanency Framework Summary*, 4.

PLACEMENT TIMELINE

Figure 3: Skye's Moves



Perspectives from Policy and Research

Research suggests that multiple placements can lead to negative psychological, emotional, social and academic consequences. Children and youth may find it difficult to settle down at school, make new friends or build personal connections with others.⁹⁷ They may find it difficult to develop trust and form relationships, decreasing the likelihood of reunification or permanency. Placement instability may also compound existing difficulties that children in care face and exacerbate feelings of anxiety, loss and depression.⁹⁸

For Indigenous children, placement instability may also lead to separation from their communities, extended family members and cultural identity.⁹⁹ Not only is it important to minimize the number of moves, it is important to ensure Indigenous children and youth are connected to their cultural identity, extended family members and community to provide them with a sense of belonging.¹⁰⁰ In this way, physical belonging clearly overlaps with cultural and relational belonging.

Although policies in place during most of the time Skye was in care did not use the term “*physical permanency*,” the concept permeates many of the standards from this period, including CIC Standard 10: *Meeting a Child’s Need for Stability and Continuity of Lifelong Relationships (2003)*. This standard says, in part, “... *all services should promote stability and continuity of lifelong relationships ...*” and suggests, “*maintaining or, where required, developing enduring and stable living arrangements for the child as quickly as possible.*”

Standard 12, *Supporting and Assisting a Child with a Change in Placement (2003)* “*reflects the fact that a change in a child’s care arrangements may be disruptive and emotionally destabilizing. All efforts are therefore made to prevent and mitigate the trauma that a child may experience when making this transition. Involving the child throughout the transition and providing opportunities to work through feelings resulting from the move helps mitigate some of the harmful effects of removal and any subsequent change in the child’s living arrangement...*”

Skye's Placements

Skye was in care for more than 11 years. Ostensibly, one of the reasons she came into permanent care was to stop the pattern of instability she had been experiencing and to offer her the physical permanency that MCFD believed her mother was unable to provide. However, the ministry also failed to provide any lasting sense of physical belonging.

Skye’s 15 moves do not include the times when she was living in unknown places and communities outside of her foster home. Although she experienced short periods of time living in safe, stable and loving homes, this proved to be the exception rather than the rule.

⁹⁷ Harriet Ward, “Patterns of instability moves within the care system, their reasons, contexts and consequences,” *Children and Youth Services Review* 31, no. 10 (2009), 1113-1118.

⁹⁸ Sonya J. Leathers, et al., “Placement disruption in foster care: Children’s behavior, foster parent support, and parenting experiences,” *Child Abuse & Neglect* 91 (2019), 147-159.

⁹⁹ Kathleen Bennett, “Cultural Permanence for Indigenous Children and Youth in Care: Advancing Knowledge and Current Practices for Promoting Resiliency and Belonging” (master’s thesis, University of Victoria, 1997), 19, https://dspace.library.uvic.ca/bitstream/handle/1828/5307/Bennett_Kathleen_MSW_2014.pdf?isAllowed=y&sequence=4.

¹⁰⁰ Kathleen Bennett, “Cultural permanence for Indigenous children and youth in care,” *First Peoples Child & Family Review* 10, no. 1 (2015): 12.



RCY Analysis of Placement Instability For First Nations Children and Youth

As part of the December 2020 report *Illuminating Service Experience: A Descriptive Analysis of Injury and Death Reports for First Nations Children and Youth in B.C., 2015 to 2017*, RCY explored the systemic nature of placement instability.

RCY examined a random sample of 200 care plans for First Nations children and youth in care who had experienced critical injuries and determined the average number of placements they experienced.

On average, more placements were reported for female youth ages 13 to 18 compared to male youth of the same age. The average number of placements for female youth was 8.5, with a range between one and 20. With eight foster placements, Skye would have been close to the average when compared to the cohort of Indigenous girls whose care plans were examined for the *Illuminating Service Experience* report.

When placement with family is not possible, the *CFCS Act* requires the ministry to consider placing the child in a location where they can maintain contact with friends and family and where they can continue in the same school.¹⁰¹ In making its placement decisions for Skye over time, it is unclear to the Representative whether MCFD adequately considered such factors.

Indigenous Foster Homes

In interviews conducted for this investigation, MCFD staff frequently pointed to a lack of foster homes, particularly Indigenous foster homes, in the North Vancouver Island service delivery area as contributing to the difficulty in securing physical belonging for many children in care. When reflecting back on Skye's second unsuccessful adoption plan, her social worker from that time said, *"I was just feeling like I didn't have a lot of options for her."*

Various MCFD social workers who were involved with Skye noted their frustrations – both in terms of trying to place her, and in working within the child welfare system generally. As one of Skye's social workers put it:

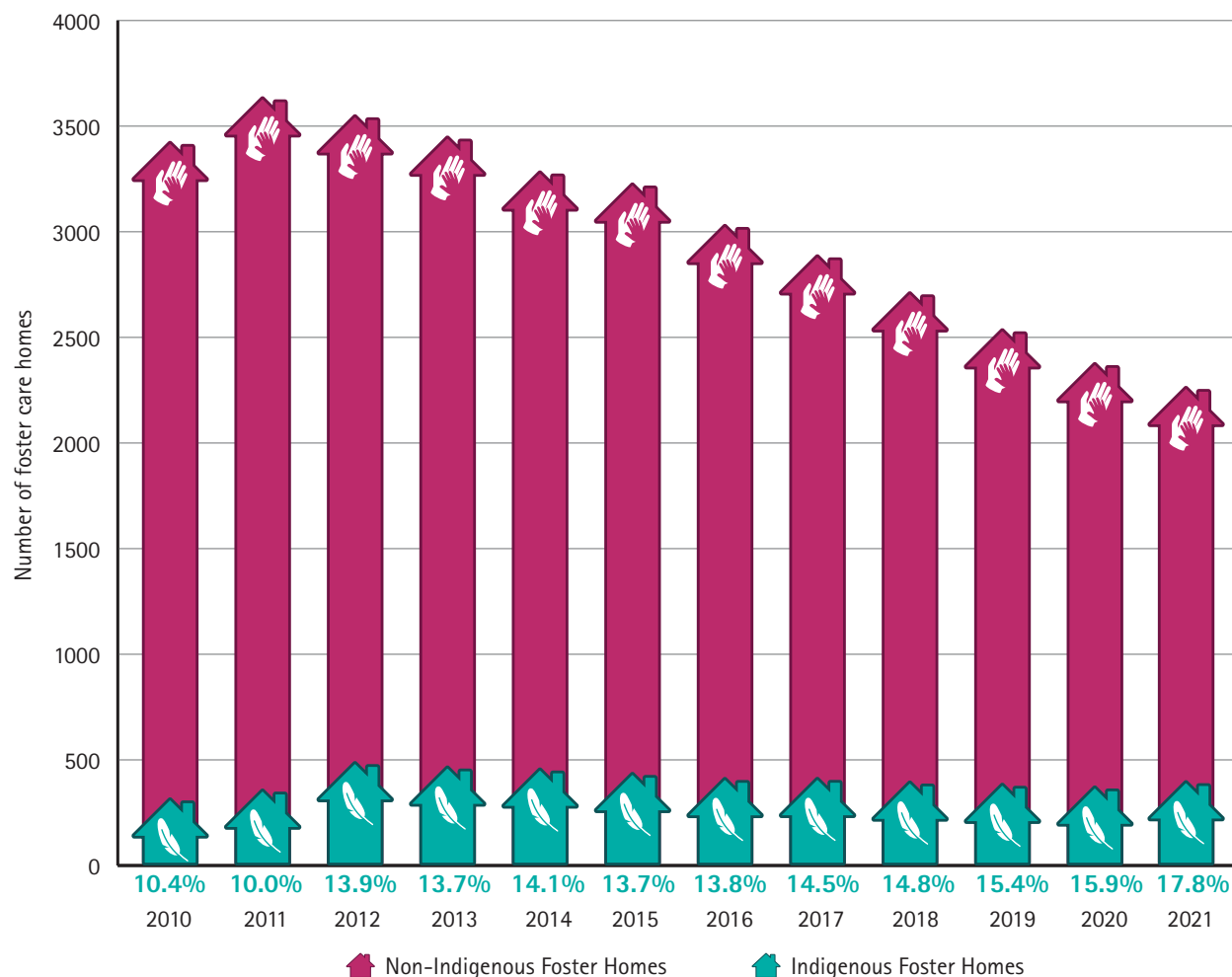
"It felt a lot like I was yelling into a void ... you know, when you knew what this kid needed ... [I would say] this is not good enough and we need to do better and it just didn't even echo back ... That's a systemic issue ... There just aren't enough homes that we can match ... We do need more foster homes in every community, and we need more trained foster homes, we need more Indigenous foster homes, we need more foster homes who are a little more accepting of some kids' behaviour."

"It is a huge, huge concern: recruiting Indigenous foster homes. And I think that just speaks to how we recruit them and how this process is going ... how we recruit them and how we treat them."

—MCFD social worker

¹⁰¹ *CFCS Act*, s. 71.

Figure 4: Number of Indigenous and non-Indigenous foster homes in B.C. as of March 31, 2010 to 2021



The above data confirm the social workers’ experiences and frustrations. The number of Indigenous foster homes compared to non-Indigenous foster homes in B.C. between 2010 and 2021 is shown in Figure 4.¹⁰² Over this 11-year period, the percentage of all foster homes that were Indigenous ranged from 10 to 17.8 per cent. Over this same time period, the proportion of Indigenous children and youth in care ranged from 52 per cent to 68 per cent, illustrating the lack of Indigenous foster homes relative to the need.

Staff described some of the ways that MCFD has worked to recruit potential foster parents from local Indigenous communities but also noted the challenge in limiting recruitment efforts to families who would qualify for ministry approval. A Team Leader told RCY investigators:

“I think that Nations have been quite reluctant to engage with us because our only line has been: ‘Come be a foster parent.’ And when you look at the fragility of some Indigenous families and the historical trauma experience, they wouldn’t even pass a safe home study. So, what are we doing going out and saying, ‘Come be a foster parent. Oh, wait, you actually can’t be.’ So, it’s this double message that we need to be clear

¹⁰²The count of foster homes with an active contract may not reflect the entirety of available foster homes. Some homes may not have an active contract despite being approved and available for placement(s).

about: 'How can you play a role in caring for your children, because they're your children; how can we get you involved?' And there's a lot of ways to be involved that don't include that very colonial safe study."

MCFD staff interviewed pointed to the importance of cultural safety and non-discrimination for Indigenous foster parents. According to a Team Leader, the relationship between the local ministry staff and Skye's Indigenous foster family was *"rooted in a lack of respect and the absence of cultural safety."* Another social worker recalled that Skye's Indigenous foster mother *"continued to feel very disrespected."*

While all staff interviewed acknowledged that this Indigenous foster home provided a space of belonging for Skye, clashes between Indigenous ways of knowing and Western-focused priorities and policies caused strain between MCFD and the foster family. The family was willing to continue to care for Skye, but was not ready to commit to legal adoption, explaining that Skye herself was not ready. From records reviewed and interviews conducted, it is apparent to the Representative that, at multiple key points, this foster mother's voice was not heard and her ways of being, which offered safety and belonging for Skye, were not adequately respected.

"I think the hardest and most difficult part in all my 20 years as a caregiver for Indigenous children in working with [MCFD] has been that they do not acknowledge other peoples' expertise. They do not acknowledge other peoples' knowledge, and that's ... a really difficult space for all of us."

—Skye's former foster parent

School as a Place of Belonging

School is an important component of physical belonging. For some children in care, school is "the constant" in their lives – a place of stability, normalcy, connection and safety – amidst traumatic or uncontrollable events at home or in care.¹⁰³ Outside their homes, most waking hours are spent at school and the stability and physical belonging that schools provide is vital to the well-being of children and youth. School can be a social hub, where children and youth say they feel safe and supported, and experience respite from the challenges in their lives.¹⁰⁴ School also offers a platform for caring and supportive connections with teachers, counsellors or other adults. These are the people paying attention to them: noticing missed attendance, inquiring how they are faring, or gauging whether they need academic or emotional support.¹⁰⁵ At school, children can access extra-curricular activities, after-school clubs and peer mentors, all of which bring children together to support one another and create a sense of belonging.¹⁰⁶

For Indigenous children in care, school can also be a place to learn about their culture, traditions and history, and access Aboriginal support workers who can advocate for them.¹⁰⁷ When children attend school, they are more visible in their community and, in particular, to family members, neighbours, agencies and others who have an interest in their safety and well-being.¹⁰⁸

¹⁰³Deborah Rutman and Carol Hubberstey, *Fostering Success: Improving Educational Outcomes for Youth in/from Care* (Victoria, B.C.: University of Victoria School of Social Work), 2016, 10.

¹⁰⁴Representative for Children and Youth, *Room for Improvement: Toward Better Education Outcomes for Children in Care* (Victoria, B.C.: Representative for Children and Youth), 2017, 50.

¹⁰⁵Rutman and Hubberstey, *Fostering Success*, 12.

¹⁰⁶Representative for Children and Youth, *Room for Improvement*, 47-51.

¹⁰⁷Representative for Children and Youth, *Room for Improvement*, 49.

¹⁰⁸Representative for Children and Youth, *Alone and Afraid: Lessons Learned from the Ordeal of a Child with Special Needs and His Family* (Victoria, B.C.: Representative for Children and Youth), 2018, 11.

School could have been a place of belonging, resiliency and strength for Skye. It was evident from records that she was well-liked by her peers and was considered smart and capable by her teachers and school-based support staff.

Data available from MCFD's Reporting Portal indicates that more than 30 per cent of children and youth in care in B.C. had moved one or more times within the first 12 months of their current episode of care.¹⁰⁹ The repeated moves Skye experienced meant that she was continuously changing schools and districts. She was never kept in placements long enough to establish real roots in a school community.

Research shows that most moves experienced by children in care occur during school years, which impacts their educational experience.¹¹⁰ This was certainly the case for Skye, who attended seven schools in four years between 2010 and 2014 with some of these disruptions occurring mid-school year.

RCY investigators found no evidence that MCFD considered Skye's school stability as a factor in its decision-making regarding her placements. Her education was significantly impacted by the frequency of moves she encountered while in care, most profoundly after she left Campbell River and was moved to Nanaimo. Correspondence from the Nanaimo/Ladysmith School District to RCY stated, "*Skye's records verify little or no attendance between the period of 2013 to 2015 as she moved between 4 different schools.*" Skye was between 13- and 15-years-old during this period.

In 2016, when Skye attended a new school in Nanaimo, she was well-liked by her peers, but her sporadic attendance hampered her learning. In correspondence to RCY, the school principal commented on Skye's time there: "*We never received [Skye's] official files from her previous school district. In addition to that, Skye only attended our program 14 days throughout the school year. When she was here, she was interested in art, colouring, and in connecting with other youth in the space ... With her limited and sporadic attendance, we never got into any deeper learning, and as a result never chased her official file when it didn't arrive after we requested it ...*"

¹⁰⁹Ministry of Children and Family Development, "4.14 Rate of CYIC per 1,000 Population", *MCFD Reporting Portal*, as of March 31, 2019, <https://mcfcd.gov.bc.ca/reporting/services/child-protection/permanency-for-children-and-youth/performance-indicators/children-in-care>.; This measure is unlikely to provide an accurate reflection of placement stability and the number of moves experienced by children in care over their lifetime. The data is likely to underestimate the extent of stability within the lives of children and youth in care because it is limited to the number of moves within the first 12 months of their current episode in care only. It does not count any moves from previous episodes of care, or moves that occur following the first 12 months in their current care episode. With this methodology applied, many of the moves that Skye experienced in her life would not have been captured in this indicator of placement stability. The following types of moves are excluded from the indicator: a child's first placement, change of caregiver address, youth custody centre, hospital, AWOL, pays own board, independent living, placements lasting three days or less.

¹¹⁰Rachael M. Harker et al., "Who Takes Care of Education 18 months on? A follow-up study of looked after children's perceptions of support for educational progress," *Child & Family Social Work* 9, no. 3 (August 2004): 276, doi: <https://doi.org/10.1111/j.1365-2206.2004.00316.x>.

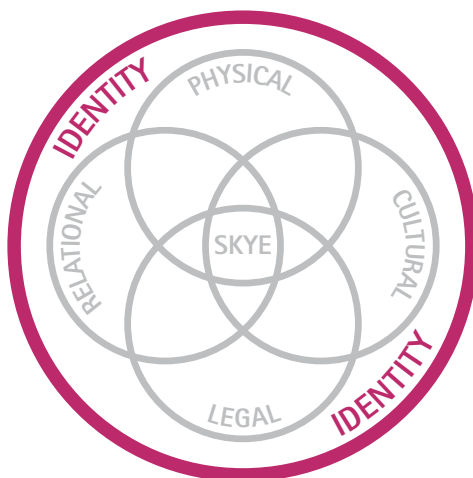


Identity Through Belonging

Finding: *As a result of a lack of connection with family members and other important people in her life, the lack of a permanent physical home and the lack of connection to her culture, Skye was never able to fully establish a sense of her own identity.*



Skye, age 12



Drawing in journal by Skye, 2013

Identity formation is a life-long process as experiences continually shape and reshape who we think we are, our concepts of who we could be and what we could achieve. However, identity formation is particularly important for Indigenous children and youth. Their formative experiences associated with belonging to people, place and culture informs how they see themselves and thus what they can imagine for their future.

For children and youth in care, the development of a positive sense of identity – in which they come to have a sense of belonging to and valuing of themselves – is often more challenging due to the disruption and trauma that they have experienced during their childhoods. The lack of continuity and stability in relationships, the places in which they live, schools and cultural ties makes it more difficult for young people to see themselves as safe, whole and capable.

For some, their sense of identity is defined by these fractured connections and lack of belonging. Skye's story illuminates how children who do not experience a strong sense of belonging may come to define themselves as unworthy.

Youth in care or formerly in care have informed the Representative that healthy identity formation is an area of importance for them. Many young people have shared that, in addition to knowing their cultural heritage, they also need to understand what has happened to them in the past and the events that led to them being in care. They have expressed a need to understand their in-care journey, including who they lived with and where, and what they experienced in terms of developmental, mental health and behavioural issues. These young people have told the Representative that, without this knowledge, pieces of the puzzle can't be added to their understanding of self and identity. In the

"Our kids deserve to know ... about their families. Yes, Skye's mom had a lot on her plate, but ... she survived every day for a long while, even though navigating through some horrific stuff. That might've brought Skye some [comfort] to know she has that in her blood."

—Skye's former social worker

absence of this information, young people may be left adrift in terms of positive identity formation.

Article 8 of the *UNCRC* recognizes the importance of preserving a child's identity. It states that governments shall “undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. And where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.”

“Young people have put another dimension to permanency, which is their own self permanency – to say that ‘I’m okay being me and I’m okay with who I create to be me.’ ”

—Skye's former social worker

Research on identity formation for youth in care

Substantial research suggests that, compared to the general population, children and youth in care are more likely to experience a multitude of stressful life events, including experiencing or witnessing abuse, living in poverty and social instability.¹¹¹ The plethora of research examining the health and development of young people with experience living in care has primarily focused on their increased risk of negative outcomes, such as developmental delays, physical and mental health conditions and poor academic outcomes.¹¹²

Researchers have also noted that the disconnection felt by First Nations, Métis and Inuit children and youth when they are separated from family, culture and place as a result of being in government care equals spiritual dissonance, which has substantive impacts on their health.¹¹³

A widely shared Indigenous worldview holds that family traditions and kinship ties are interconnected to the well-being of community.¹¹⁴ “Indigenous perspectives hold that identity formation is ... about actualizing who one is in relationship to the world.”¹¹⁵ First Nations, Métis and Inuit identities are constructed through relatives, friends, community, geography, language and other social factors.¹¹⁶

¹¹¹Carly Magee et al., “Mental well-being among children in foster care: The role of supportive adults,” *Children and Youth Services Review*, 102 (July 2019): 128-134, doi: <https://doi.org/10.1016/j.childyouth.2019.05.005>; Sylvia H. Oswald, Katharina Heil and Lutz Goldbeck, “History of Maltreatment and Mental Health Problems in Foster Children: A Review of the Literature,” *Journal of Pediatric Psychology* 35, no. 5 (June 2010): 462-472, doi: <https://doi.org/10.1093/jpepsy/jsp114>; Stephen Gaetz et al., *Without a Home: The National Youth Homelessness Survey* (Toronto: Canadian Observatory on Homelessness Press, 2016), <https://www.homelesshub.ca/sites/default/files/attachments/WithoutAHome-final.pdf>.

¹¹²Johanna K. P. Greeson et al., “It’s good to know that you got somebody that’s not going anywhere: Attitudes and beliefs of older youth in foster care about child welfare-based natural mentoring,” *Children and Youth Services Review* 48 (January 2015): 140-149, doi: <https://doi.org/10.1016/j.childyouth.2014.12.015>; Laurel K. Leslie et al., “Developmental delay in young children in child welfare by initial placement type,” *Infant Mental Health Journal* 23, no. 5 (September 2002): 496-516, doi: <https://doi.org/10.1002/imhj.10030>; June M. Clausen et al., “Mental health problems of children in foster care,” *Journal of Child and Family Studies* 7 (September 1998): 283-296, <https://doi.org/10.1023/A:1022989411119>.

¹¹³Bennett, “Promoting Resiliency and Belonging”.

¹¹⁴Marlene Brant Castellano, “Aboriginal Family Trends: Extended Families, Nuclear Families, Families of the Heart,” *Contemporary Family Trends* (Ottawa: The Vanier Institute of Family, 2002).

¹¹⁵Ashley Quinn, “Nurturing Identity Among Indigenous Youth in Care,” *Child & Youth Services* 41, no. 1 (2020): 90, doi: <https://doi.org/10.1080/0145935X.2019.1656063>.

¹¹⁶Michael Anthony Hart, *Seeking Mino-Pimatisiwin: An aboriginal approach to helping* (Halifax: Fernwood Publishing, 2002).



It's been suggested that “*supporting the identity development of Indigenous youth, particularly those caught in the nexus of two or more cultures, as is the case of most Indigenous children and youth, requires accounting for Indigenous ways of knowing as well as effects of colonization.*”¹¹⁷ It's also been suggested that a theory of identity formation for First Nations, Métis and Inuit people includes resisting imposed definitions or rejecting negative stereotypes, reclaiming Indigenous traditions and constructing dual identities by translating tradition into the contemporary context.¹¹⁸

A concept closely related to identity and identity formation is that of resiliency. Any child or youth in care will have had adverse experiences during their childhood. When adversities are recurring, sustained or occur during critical developmental periods such as early childhood, there are short- and long-term risks to health and well-being and to a child's sense of attachment, value and place. However, these experiences do not need to define a young person and their future and the risks can be mitigated. Resilience in the context of child development refers to the capacity of a young person to successfully adapt to the adversities and challenges that threaten their safety, security and well-being. A resilient person can develop adaptive functioning and competencies despite exposure to severe stress.¹¹⁹

The developing child is influenced by the complex interactions between themselves and the environments in which they reside.¹²⁰ A child's capacity to be resilient is dependent on them having caring and supportive relationships with significant adults.¹²¹ In many ways, Skye demonstrated significant resilience, which was largely attributed to the supportive and caring adults she had in her life. However, her resiliency and her consequent sense of identity was harmed when these relationships were lost or severed and when her environmental context did not provide connection, continuity and stability.

“I learned a lot about resilience, I think, really from her.”

—Skye's former social worker

Skye's identify formation

Skye's identity was significantly shaped by the experiences she had while in care, many of which were characterized by grief and loss, missed connections and multiple disruptions. Despite these circumstances, there were resounding positive sentiments from those who knew her, including that she was a “*bright spark,*” “*full of energy,*” “*a mother hen,*” “*she cared about everyone*” and “*everyone loved her,*” which speaks to her strength and resilience.

Skye clearly showed a desire to understand herself in relation to others. Her former caregiver recalled, “*Anywhere we went, First Nation people were where she'd want to be.*” She exhibited a keen and growing interest in where she came from and who her extended family was, including conducting her own Internet searches to find them.

¹¹⁷Quinn, “Nurturing Identity”, 83.

¹¹⁸Jeannine Carriere, “Promising practice for maintaining identities in First Nation adoption,” *First Peoples Child and Family Review* 3, no. 1 (2007): 46-64.

¹¹⁹Nan Henderson and Mike M. Milstein, *Resiliency in Schools: Making it Happen for Students and Educators* (Thousand Oaks, California: Corwin Press Inc., 1996), p. 11–15.

¹²⁰Anne S. Masten, “Ordinary magic: Resilience processes in development,” *American Psychologist* 56 no. 3 (March 2001): 227–238, doi: <https://doi.org/10.1037/0003-066X.56.3.227>; Anne S. Masten and Andrew J. Barnes, “Resilience in Children: Developmental Perspectives,” *Children* 5, no. 7 (2018): 98, doi: <https://doi.org/10.3390/children5070098>.

¹²¹Eva Oberle et al., “The role of supportive adults in promoting positive development in middle childhood: A population-based study,” *Canadian Journal of School Psychology* 29, no. 4 (January 2015): 296–316, doi: <https://doi.org/10.1177/0829573514540116>.

Skye's increased curiosity about where she came from is common for children in their middle years. *"Middle childhood is a critical developmental period spanning the ages of 6 to 12, and is characterized by substantial cognitive, social, and physical changes."*¹²² One of the central developmental tasks youth face on their journey to adulthood is the establishment of a stable identity.¹²³ Research on the positive well-being of children during this stage of development suggests that a stable identity can protect against social, psychological, health and educational problems that often arise during adolescence.¹²⁴ In many ways, *"middle childhood is the gateway to adolescence; as such, development during this period sets the stage for the course of development in adolescence."*¹²⁵

'The Fast Life'

In some Indigenous communities, the life stage of children ages seven to 14 years is often called, *"the fast life."* This stage is ripe with growth, curiosity and challenges. As a child gets to the later stage of the fast life, emotional growth, maturation and independence become front and centre. The fast life is the process of moving from being a child to becoming a respectful youth who is conscientious and aware. This is the time for discovering the gifts (i.e., skills, values, knowledge) that each child possesses and providing each child with opportunities to further explore these attributes. The core philosophy of the fast life is based upon the circle teachings, in which no one is to be left out and each child is to be valued and loved.¹²⁶

By the time Skye reached her middle childhood, her earlier experiences in care were beginning to shape how she viewed herself in relation to the world around her. This is because *"the physical, cognitive, and social achievements of early childhood form the foundation for concepts and skills that emerge when children begin to more formally represent their knowledge of the physical, cognitive, social, and emotional world and self."*¹²⁷

Therefore, Skye's earlier experiences of disconnection, relationship disruption and cultural dissociation were at the centre of how she was forming her identity. She was literally searching for herself through the fragmented information she possessed. RCY investigators could not be sure what specific information Skye was provided about her family and community, although records indicate that Roots packages were shared with her, including information about her family and community. On Dec. 4, 2012, Skye's former transition social worker wrote:

"I will be talking to ROOTS to see if we can get the Aboriginal community to start talking to this child ASAP. Her struggle with identity is absolutely normal and so a direct attempt to connect with her is my first move on this ..."

¹²²Magee, et al., "Mental well-being", 129.

¹²³Erik H. Erikson, *Identity: Youth and Crisis* (New York: Norton, 1968), p. 91–135.

¹²⁴Magee, et al., "Mental Well-Being", 129.

¹²⁵Magee, et al., "Mental Well-Being", 129.

¹²⁶Best Start Resource Centre, *A Child Becomes Strong. Journeying Through Each Stage of the Life Cycle* (Toronto: Best Start Resource Centre), 2010, 11-12.

¹²⁷Mary Helen Immordino-Yang, Linda Darling Hammond and Christina Krone, *The Brain Basis for Integrated Social, Emotional and Academic Development: How Emotions and Social Relationships Drive Learning* (Washington D.C.: The Aspen Institute National Commission on Social Emotional and Academic Development), 2018, 6.



Skye's middle childhood marked a crucial phase in her development. It was a time in her life when she needed the support of many caring adults and, although she did have some support and many people cared about her, several of these significant relationships were abruptly severed in the process of trying to establish legal permanency.

Skye's opportunity to establish the protective factors she needed before adolescence – the factors that could have enhanced her resiliency and capacity to adapt to the many challenges she was faced with as well as to develop a positive identity – was eroded by these disruptions. Her active search for her extended family can be viewed as both an act of resilience and resistance, as she endeavoured to find connection and define herself as a Dene youth.

Promising Practice: The Na Gan Ts'i'stk Grandmothers' Group of Lax kw'alaams

The Northwest Inter-nation Family and Community Services Society (NIFCS) is an Indigenous-based agency that provides family support, guardianship and caregiver services to seven First Nations communities in the northwest region of B.C. – Kitsumkalum Indian Band, Kitselas, Lax Kw'alaams Band, Metlakatla First Nation, Gitxaala Nation and the Gitga'at Nation. The Na Gan Ts'i'stk Grandmothers' Group of Lax kw'alaams is a group of matriarchs who meet once a month and provide a connection to love, guidance and identity for their children and youth who are in the continuing care of MCFD. The grandmothers go through each page of a child's cultural plan designed by a ministry social worker and offer suggestions about how a child's identity can be further supported by connections to their community, culture and family. The group has continued to meet during the pandemic and plans to make videos for their children and youth that focus on the transmission of culture by providing instructions on harvesting, coming-of-age traditions and life skills.

Views of the Child

Finding: *Skye's views were not adequately considered as MCFD planned and carried out her adoption and foster placements, despite this being a requirement of provincial legislation and practice standards and the UN Convention on the Rights of the Child (UNCRC).*

The right of a child to be able to express their views and to have them adequately considered when decisions are being made about them is upheld in international conventions as well as provincial child welfare legislation and policy.

Article 12 of the *UNCRC* states that:

1. *States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
2. *For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*



The *CFCS Act* and the *Adoption Act* include several provisions regarding a child's right to express their views. The Guiding Principles of the *CFCS Act* provide that the legislation must be interpreted and administered so that the safety and well-being of children are paramount considerations and that it must be interpreted in accordance with a number of principles including that *"the child's views should be taken into account when decisions relating to a child are made."*¹²⁸

Section 70 of the *CFCS Act* provides children in care with a right to be informed about their plans of care, to be consulted and to express their views about significant decisions affecting them, according to their abilities.

In planning for placement and adoption for a child in care, the ministry is required to consider the best interests of the child. Section 4 of the *CFCS Act* and s. 3 of the *Adoption Act* specify that, in determining the child's best interests, all relevant factors must be considered, including the child's views.

Both the *CFCS Act* and the *Adoption Act* require the ministry to consider the child's best interests when deciding where to place them. In considering a child's best interests, MCFD is required to consider all relevant factors including:

- the child's safety
- the child's physical and emotional needs and level of development
- the importance of continuity in the child's care
- the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship
- the child's cultural, racial, linguistic and religious heritage
- the child's views.

If the child is Indigenous, the ministry is also required to consider:

- the importance of an Indigenous child being able to learn and practise Indigenous traditions, customs and language
- the importance of the child belonging to their Indigenous community.¹²⁹

In addition, s. 13 of the *Adoption Act* recognizes the life-long implications of adoption by requiring the consent of a youth to the adoption. Consent is only required from children who are 12 or older. A child over 12 must be offered independent legal advice prior to consenting.¹³⁰

Section 30 of the *Adoption Act* requires that, for children between the ages of seven and 12, a written report be prepared for the court that includes the child's understanding of the meaning of adoption, the child's

¹²⁸*CFCS Act*, s. 2.

¹²⁹This section of the *CFCS Act* was amended in April 2019. At the time Skye was in care, this portion stated *"If the child is an aboriginal child, the importance of preserving the child's cultural identify must be considered in determining the child's best interest."*

¹³⁰MCFD policy on independent legal advice (ILA) for children states that ILA from an approved lawyer should be offered to children age 12 or older when permanent orders are sought under the *CFCS Act* or when consent of a child is required under s. 60 of the Act. ILA is also available to children 12 or over who are under a CCO and being placed for adoption.



views on the adoption and the child's views on maintaining significant relationships after adoption.¹³¹ Importantly, the *Adoption Act* requires the director to ensure that the child “has been counselled about the effects of adoption” and has been informed about the right to consent before placing the child for adoption.

Although *An Act respecting First Nations, Inuit and Métis children, youth and families* was not in place during Skye's lifetime, it is worth noting that it contains several statements pertaining to the consideration of a child's views when making decisions affecting the child.

Age of Consent to Adoption

While 12 is the age when consent to adoption by the child is required in B.C., other jurisdictions require consent when children are younger. Notably, in Ontario, the age for consent to adoption is seven and, in Quebec, the age of consent is 10. Ontario's adoption laws require a child to obtain counselling and independent legal advice prior to giving their consent. See **Appendix E** for a full breakdown of adoption legislation across Canada.

Representative's Reports on Child Participation

The Representative is currently undertaking a series of reports on child participation in matters that affect them. The first report, released in January 2021, focused on children and youth's involvement with B.C.'s *Mental Health Act*, which sets out rules that govern the voluntary and involuntary care and treatment of people with mental health challenges in designated facilities. This report, titled *Detained: Rights of children and youth under the Mental Health Act*, explored how children's voices are sought, reflected and heard within the context of involuntary detentions. It also sought to understand how First Nations, Métis, Inuit and Urban Indigenous children and youth experience mental health detentions in light of the history of colonization, residential schools and the child welfare system. The report amplified the voices of youth with lived experience of involuntary detention and started from the premise that young people have the right to participate in making decisions about their care.

The second report in the series will focus on children and youth's participation in child protection legal processes and concurrent family law legal processes. The *CFCS Act* and the *Family Law Act* both have provisions for hearing children's views as a factor in determining the best interests of the child. However, it is unknown how successful these provisions are in providing meaningful avenues for hearing children's views and their right to contribute to decisions that are being made about them. By engaging young people with lived experience in child protection and family law legal processes, the project team will produce a report that explores opportunities for children to participate in *CFCS Act* and concurrent *Family Law Act* legal processes in a meaningful and inclusive way. The Representative plans to release this report in late 2021.

¹³¹Written reports are prepared by either a social worker, an approved adoption worker, a medical practitioner authorized to practice psychiatry or a registered psychologist.



"Children are not encouraged or supported to speak up for themselves, and the few that do regardless are incredibly strong-spirited and resilient. Still, they haven't been supported in the ways they should be. Initiated by the adults rather than the children, usually, when a situation calls for immediate decision-making — it's completed without any input from the children and leaving them to grasp its lasting impacts alone. A social worker needs to be meeting regularly with the children on their caseload. If they aren't taking the time to be there in person, they probably aren't noticing much of the child's individuality or development. If they can't answer basic questions with the child, they shouldn't speak for that child. A social worker should take the time to listen to the children at ground level and ask them what they need to thrive."

—Cheyenne Stonechild
Community researcher and advocate

Child Participation and Skye's Views

At times, MCFD sought and considered Skye's views as was required by the *CFCS Act* and ministry policy, such as when efforts were made to find a placement for her in Campbell River after she expressed a strong desire to return to that community. However, it appears that the engagement of Skye to seek her views and to be responsive to her expressed needs was inconsistent. This may have been influenced by the views and priorities of the workers and their relationship with Skye when significant decisions were being made. For example, when Skye's social worker was away on leave, an abrupt decision was made to remove her from a foster home where 11-year-old Skye was relatively stable and attached and place her in a prospective adoptive placement within a two-week period. While this decision was delayed for a couple of months, this was only because the receiving home was unable to accommodate the timeline, not due to Skye's views or needs. Skye had clearly expressed that she did not want to leave her foster home and did not want to be adopted; however, her views and consent were either not sought or did not inform the decisions that were made.

It is important to note that although the ministry did not technically need to obtain Skye's consent prior to the placement in the third prospective adoptive home as she was 11-years-old, Skye would have turned 12 by the time the third adoption plan came before the courts. As such, her consent would have been required and she would have had to be offered independent legal advice. The lack of consideration of her views and any effort to discuss her rights and consent with her prior to this placement was a missed opportunity. At 11, Skye clearly had capacity and a perspective that was important to understand and respect.

The Representative believes that, where a child has capacity to understand, there should be a formal requirement to obtain and record the views of that child on any planned adoption before the child is either placed for adoption or in a foster placement with the intention of it becoming an adoption placement.



Recommendations

Preface

Skye's story is presented at a time when great change in child welfare is at once both underway and emerging for First Nations, Métis, Inuit and Urban Indigenous Peoples.

The Representative strongly supports the resumption of jurisdiction by Nations and Métis and Inuit communities over their own child welfare services that has been enabled by the passage of the federal *Act respecting First Nations, Inuit and Métis children and families*. However, the transition process from legislation to actual realization will not be a quick or easy one.

Nations and communities have their own visions and timelines for resuming this inherent authority. RCY is committed to doing everything within its mandate to assist these efforts. This includes encouraging both the B.C. and federal governments to live up to their legal and financial commitments and their ethical and moral responsibilities to enable Indigenous governing bodies to achieve their visions for change. Fulsome financial support for capacity-building and program development must be extended by governments to Indigenous communities in order to make this transition as effective and successful as possible.

The full transition to Indigenous communities assuming jurisdiction over child welfare has been – and will continue to be – a complicated process, with some Nations and communities able to take this step sooner than others. However, while this transition is taking place, there are First Nations, Métis, Inuit and Urban Indigenous children in the current system – children like Skye – who must be better served right now. Children's formative years go by quickly. They can't wait for new entities and systems to be in place in order to experience the sense of belonging they all require to have their best opportunities in life. The Representative has been urged by First Nations leadership who are familiar with Skye's story to keep a clear focus on improving the experience of children here and now, while the resumption of jurisdiction unfolds over the coming years. Children need to feel that belonging now and cannot continue to be lost as a consequence of their experience in care.

These Recommendations are therefore targeted to improving the circumstances of Indigenous children who are currently in care or likely to be brought into care in this interregnum period preceding the re-assumption of jurisdiction. They are made in recognition of the time of change that we are currently navigating. They are made in the spirit of improving the current system for Indigenous children while moving toward a better one.

The Representative recognizes that MCFD has made a number of significant changes in legislation, policy, resourcing and practice. This has been done in recognition of the overwhelming need to fundamentally change the way in which child welfare services are delivered to, for and with First Nations, Métis, Inuit and Urban Indigenous children and youth and their families and communities. In particular, the Representative acknowledges the development of the *Aboriginal Policy and Practice Framework (APPF)* with its focus on culturally safer and trauma-aware restorative policies and practices that respect and uphold Indigenous cultural systems of caring.

"I'd like to see something done that we can say: 'That's Skye, that's her law or her policy or something for her,' to give her justice, you know."

—Former foster parent

Recommendations

However, while improvements have been made, the Representative is saddened to see, virtually routinely, far too many cases that are similar to Skye's – where a young Indigenous person in care experiences a profound lack of connection and belonging to people, place, culture and a positive sense of self – and, as a consequence, endures much pain, sadness, distress, risk, poorer life outcomes and, sometimes tragically, death.

A holistic understanding of belonging (permanency) and its application in practice lags behind what is known through historical knowledge and experience as well as contemporary research and intention. We continue to see situations in which children are disconnected from their families of origin and communities due to what is often perceived or presented as a problem with the parents and family members, rather than understanding their vulnerabilities in the context of historical and contemporary trauma, racism, stigma, shame, poverty and lack of timely, accessible and culturally-attuned opportunities to heal.

While longer-term change is in progress, provisions are already in place – through vehicles such as the *UNCRC*, *UNDRIP*, the *APPF*, the *CFCS Act* and *Act respecting First Nations, Inuit and Métis children and families* – to help Indigenous children experience greater belonging right now. An immediate and sustained injection of fulsome resources is certainly required to enable social workers and others to have the necessary time and tools to help these children be heard and understood, and connected with family, culture and community. However, there is also a need for a conscious shift in attitudes and beliefs.

People working in the child-serving system need to recognize the inherent biases that exist within that system and the stigma too often felt by First Nations, Métis, Inuit and Urban Indigenous families. MCFD leadership must make efforts to ensure that the lessons from Skye's story are used wisely to help other children such as her find the belonging that they need and have a right to experience.



RECOMMENDATION 1

MCFD to conduct a systemic needs analysis of cultural and family support resources required to ensure that social workers are better supported to promote a sense of belonging and identity for First Nations, Métis, Inuit and Urban Indigenous children and youth in care in relation to their families, culture and cultural community over time and at different stages in their lives and identity development. This review will inform the development of a longer-term resourcing and implementation plan. However, given the urgent need to address the significant over-involvement of the child welfare system in the lives of Indigenous children and families and poor outcomes for Indigenous children in the child welfare system, a substantive investment of new resources should be made immediately that can be considered a down payment on the resources identified for the longer-term plan.

Funding for immediate and substantive new resources to be secured and implementation to begin no later than April 1, 2022.

Needs analysis and resourcing plan to be completed by Sept. 30, 2022 with longer-term, sustained funding secured and implementation of new resources beginning by April 1, 2023.

Note: The needs analysis of cultural support resources must be informed by meaningful consultation and collaboration with First Nations, Métis and Inuit entities in accordance with obligations under DRIPA and recognizing that Indigenous people hold the expertise, and inherent right of responsibility, over their children. Without limiting the foregoing, the ministry should consider enhancing social workers' capacity to do the required work; Roots workers/Family Finders; working with communities to create cultural support circles, matriarchal circles or other circles deemed appropriate by individual communities; cultural reconnection and reunification actions such as visits to home communities and places of connection; support for case re-assessments and family/community reconnection; support to family member visitations regardless of where the child lives; participation in cultural activities; and children in care being supported to visit their traditional territories for significant family or milestone ceremonies and at minimum twice a year.

RECOMMENDATION 2

That MCFD conduct a comprehensive review and revision of all relevant care-planning and case management standards, policies, practice guidelines and training materials with the goal of aligning those materials with the dimensions of belonging, as described in this report. *(See Appendix F for areas the Representative has identified for possible policy amendments.)*

Revisions of all relevant materials to be completed by March 31, 2022.

Note: The review and revisions noted above should be aligned with the 'best interest' provisions in the federal Act concerning First Nations, Inuit and Métis children and families, informed by meaningful consultations with relevant First Nations, Métis, Inuit and Urban Indigenous entities and include Delegated Aboriginal Agencies as well as the Policy, Practice and Aboriginal Services branches within MCFD to ensure a fulsome and progressive review that advances the changes that are already underway.

RECOMMENDATION 3

In the interest of improving practice, that MCFD distribute *Skye's Legacy: A Focus on Belonging* to all staff who work with and plan for children and youth who are in care or who may come into care, and then meaningfully engage in discussions with those staff about belonging for children and youth in the context of case planning, decision-making and the development and implementation of care plans. These discussions should be informed by the Circle practices developed in the *APPF* in order to foster strength-based, holistic and restorative work that centres child and youth well-being and belonging and should be designed to promote thoughtful reflection and enhance understanding. This process of engagement should not be a one-time process and should occur regularly to support strong practice development and reflection.

Report dissemination to be completed by Aug. 31, 2021 and initial Circle discussions to be completed by March 31, 2022.



Appendices

Appendix A: Representative for Children and Youth Act

Part 4 – Reviews and Investigations of Critical Injuries and Deaths

Section 11 - Reviews of Critical Injuries and Deaths

- (1) After a public body responsible for the provision of a reviewable service becomes aware of a critical injury or death of a child who was receiving, or whose family was receiving, the reviewable service at the time of, or in the year previous to, the critical injury or death, the public body must provide information respecting the critical injury or death to the representative for a review under subsection (3).
- (2) For the purposes of subsection (1), the public body may compile the information relating to one or more critical injuries or deaths and provide that information to the representative in time intervals agreed to between the public body and the representative.
- (3) The representative may conduct a review for the following purposes:
- (a) to determine whether to investigate a critical injury or death under section 12;
 - (b) to identify and analyze recurring circumstances or trends
 - (i) to improve the effectiveness and responsiveness of a reviewable service, or
 - (ii) to inform improvements to broader public policy initiatives.

Section 12 - Investigations of critical injuries and deaths

- (1) The representative may investigate the critical injury or death of a child if, after the completion of a review of the critical injury or death of the child under section 11, the representative determines that
- (a) a reviewable service, or the policies or practices of a public body or director, may have contributed to the critical injury or death, and
 - (b) the critical injury or death
 - (i) was, or may have been, due to one or more of the circumstances set out in section 13 (1) of the *Child, Family and Community Service Act*,
 - (ii) occurred, in the opinion of the representative, in unusual or suspicious circumstances, or
 - (iii) was, or may have been, self-inflicted or inflicted by another person.
- (2) The standing committee may refer to the representative for investigation the critical injury or death of a child.
- (3) After receiving a referral under subsection (2), the representative
- (a) may investigate the critical injury or death of the child, and
 - (b) if the representative decides not to investigate, must provide to the standing committee a report of the reasons the representative did not investigate.

(4) If the representative decides to investigate the critical injury or death of a child under this section, the representative must notify

- (a) the public body, or the director, responsible for the provision of the reviewable service, or for the policies or practices, that may have contributed to the critical injury or death, and
- (b) any other person the representative considers appropriate to notify in the circumstances.

Section 16 - Reports after reviews and investigations

(1) The representative may aggregate and analyze the information received from the reviews and investigations conducted under sections 11 and 12 and produce a report of the aggregated and analyzed information that does not contain information in individually identifiable form.

(2) The representative must provide a report made under subsection (1) to the following:

- (a) the standing committee;
- (b) the public body, or the director, responsible for the provision of a reviewable service that is a subject of the report;
- (c) any other public body, director or person that the representative considers appropriate.

(3) After an investigation of the critical injury or death of a child under section 12, the representative must make a report on the individual critical injury or death of the child.

(4) A report made under subsection (3) must contain the representative's reasons for undertaking the investigation and may contain the following:

- (a) recommendations for
 - (i) the public body, or the director, responsible for the provision of a reviewable service that is a subject of the report, or
 - (ii) any other public body, director or person that the representative considers appropriate;
- (b) personal information, if, in the opinion of the representative,
 - (i) the disclosure is necessary to support the findings and recommendations contained in the report, and
 - (ii) the public interest in the disclosure outweighs the privacy interests of the individual whose personal information is disclosed in the report;
- (c) any other matters the representative considers relevant.

(5) A report made under subsection (3) may be provided to any person that the representative considers appropriate and must be provided to

- (a) the standing committee,
- (b) the public body, or the director, responsible for the provision of a reviewable service that is a subject of the report, and
- (c) the public body, or the director, that is a subject of recommendations in the report, if not already provided the report under paragraph (b).

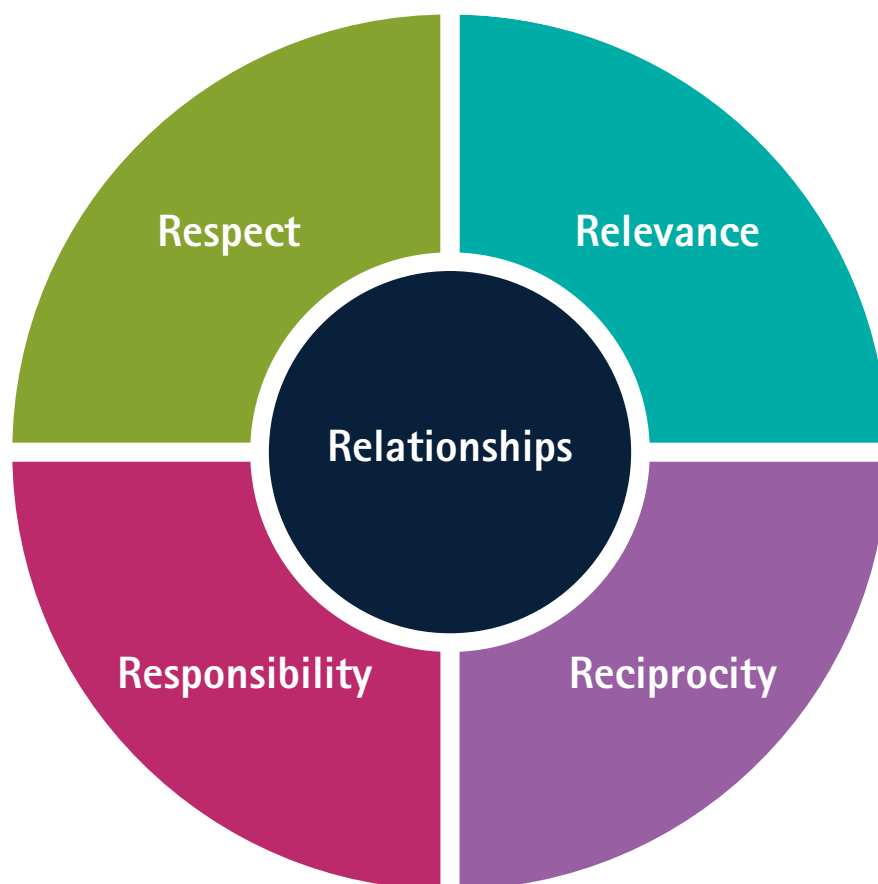


Appendix B: Methodology

The Five Rs

Kirkness and Barnhardt first published work about their concept of the *4 Rs* - *Respect, Relevance, Reciprocity, and Responsibility* in 1991, as a way to highlight the need for these important considerations to support Indigenous people pursuing higher education.¹³² It has since developed over the last 30 years into a methodological framework for ethical Indigenous-based research adopted by many researchers. Adopting the 4 Rs has been important in shifting the ways that RCY engages in investigations and research with communities across the province and led to the integration of the 5th R, *Relationships*, as discussed in RCY's *2019/2020 Annual Report and 2020/21 to 2022-23 Service Plan*, released in November 2020.

Figure 5: The Five Rs¹³³



The Five Rs framework was a key priority as RCY approached the work on Skye's investigation as the investigations team engaged with those closest to Skye throughout her short life, including family members, caregivers, community service providers and social workers.

¹³²Kirkness and Barnhardt, "The Four R's," 1.

¹³³Representative for Children and Youth, *Annual Report 2019-20 and Service Plan 2020/21 to 2022/23* (Victoria, B.C.: Representative for Children and Youth, 2020), 22.

Storytelling and Weaving in Indigenous Ways of Knowing

Another distinct aspect of this investigative process was the application of storytelling as an investigative method. First Nations, Métis and Inuit cultures have long passed on knowledge from generation to generation through oral traditions, including storytelling. Storytelling is a traditional method used to teach about cultural beliefs, values, customs, rituals, history, practices, relationships and ways of life.

Jo-Ann Archibald (Q'um Q'um Yiiem) suggests that research as storytelling is characterized as an open exchange between those being interviewed and those interviewing. This open exchange enabled RCY investigators to capture Skye's spirit and story.

The investigation included an examination of all reviewable services in B.C. involved with Skye between 2002 and 2017. Records reviewed were provided by MCFD, the BC Coroners Service, the Public Guardian and Trustee of British Columbia, community services (e.g., counselling, outreach, youth shelters) and schools. Twenty-two individuals were interviewed, including, MCFD professionals, caregivers, community members and support service staff. Two additional community professionals were interviewed as key informants to highlight Indigenous knowledge, practice observations and considerations, with a focus on culturally responsive, wise practices.

The Representative makes every attempt to include and involve a child's family in a meaningful way through the investigative process to both obtain valuable information that may not be available in records, and to ensure an accurate reflection of the family's story, among other important details. However, in some cases, circumstances make participating in the investigation process challenging for family members, and the Representative wanted to be mindful about making the process of completing Skye's investigation accessible in the ways that best suited the needs of the family. RCY investigators were grateful to connect and establish relationships with members of Skye's family. Family members were invited to participate and engage in consultation and conversation at multiple stages of the investigation to help guide Skye's story.

Skye's community, the Teetlit Gwich'in Band Council, was involved in a similar way to the family. RCY investigators are appreciative of the relationship with Chief Wanda Pascal, who participated and engaged throughout the investigation. RCY wishes to express sincere gratitude for her offers of wisdom and guidance in helping carry Skye's story out into the world in a good way.

Interviews

RCY conducted 26 interviews between 2019 and 2020 for this investigation including caregivers, MCFD social workers and executives, community service providers, as well as key informants who have specialized knowledge in their field to help inform the report's findings and recommendations.

- Foster caregivers (5)
- Community support service providers (4)
- MCFD staff (15)
- Key informants (2)



Appendix C: Records and Interviews

MCFD Records

- Skye's mother's family service file
- Skye's child service file
- Provincial Exceptions Committee file
- Skye's Child and Youth Mental Health records
- Skye's medical benefits file
- Foster parent resource files (6)
- Case review

BC Coroners Service Records

- Coroner's report of Skye's death

Ministry of Education records

- Records from four of Skye's schools

Community Agencies

- Counselling records
- Atira Women's Resource Society records
- Community service/support services agencies (6)

Standards and Policies

- Ministry of Children and Family Development Standards and Policies
- Practice Standards and Guidelines for Adoption (2001)
- Practice Guidelines for Considering Access with Regard to Children in Continuing Care (2002)
- Children in Care Service Standards (2003)
- Children and Family Services Standards (2003)
- Aboriginal Operational Practice and Standards Indicators (2005)
- Application for Exception to Policy: Adoption Placement of an Aboriginal Child into a Non-Aboriginal Home Guidelines (2009)
- Aboriginal Policy and Practice Framework (2015)
- Permanency Policies – Chapter 6 (2017)
- Children and Youth in Care Policies – Chapter 5 (2017)
- Practice Guidelines When Assessing Parental Problematic Substance Use in Child Welfare (2018)

Legislation

- *Child, Family, and Community Service Act* (1996). Victoria, B.C. Queen's Printer
- *Adoption Act* (1996). Victoria, B.C. Queen's Printer
- *An Act respecting First Nations, Inuit and Métis children, youth and families* (2019). Parliament of Canada



Appendix D: Circle of Advisors and Key Informants

Past RCY reports have involved a Multidisciplinary Team (also known as an MDT) which is a panel of appointed advisors with expertise in their fields to help inform and guide the investigation process and the resulting final report. For Skye's investigation, this was done differently.

With an Indigenous worldview applied throughout this investigation, RCY asked to engage with a Circle of Advisors as an alternate process. In February 2021, RCY held a gathering with 10 academics, researchers, community practitioners and advocates who offered their insight and perspectives on the concepts of belonging, connection, culture and identity for Indigenous children and youth in care. Their feedback was considered and is reflected in this report.

With gratitude, RCY recognizes the following participants in Gathering the Circle:

Circle of Advisors Members

Dr. Kimberly A. Schonert-Reichl, Professor, University of Illinois at Chicago, Formerly professor in the Department of Educational and Counseling Psychology, and Special Education, University of British Columbia.

Dr. Sandrina de Finney, Associate Professor, School of Child and Youth Care, University of Victoria

Dr. Natalie Clark, Associate Professor and Chair, School of Social Work and Human Service, Thompson Rivers University

Kathleen Bennett, Executive Director, Northwest Inter-Nation Family and Community Services

Dr. Martin Brokenleg, Retired Professor; Consultant; Co-Author of Reclaiming Youth at Risk: Our Hope for the Future; Co-Developer of the Circle of Courage Model

Dr. Peter Choate, Professor, Department of Child Studies and Social Work, Mount Royal University

Dr. Jacquie Green, Director and Associate Professor, School of Social Work, University of Victoria; Chair of the Indigenous Child Welfare Network

Dr. Todd Ormiston, Chair, Indigenous Studies, Camosun College

Key Informants

It was important for one of our Key Informants to this project to be named in the report as a strong and proud advocate for Indigenous youth in care. With gratitude, RCY recognizes Cheyenne Stonechild.

Cheyenne Stonechild (Sept. 21, 1995). Cree (Nehiyaw) and Irish. Member of the Muscowpetung Saulteaux Nation in Saskatchewan. Raised in Vancouver's Downtown Eastside, Cheyenne gained interesting life experience through her time with the Ministry of Child and Family Development, due to the quality of 'care' she received over a lengthy period in her youth. That is where she started to advocate for change in the world. She is currently working as an independent contractor on a case-by-case basis. She became a member of the advisory at the FREDA Centre for Research on Violence Against Women and



Children to lend her voice to issues that matter. Cheyenne has been an advocate for Indigenous children involved with MCFD since 2012. She has hosted workshops for the public on Indigenous genealogy and a variety of other topics. She has presented at conferences for organizations such as Continuing Legal Education Society of BC (CLEBC), the Canadian Bar Association BC Branch (CBABC), the Trial Lawyers Association of BC, and also been a public speaker on select issues. Cheyenne was the “4 the Generation Project” manager from 2015 to 2021 and was a member of the International Institute for Child Rights and Development (IICRD) from 2018 to 2020. Cheyenne has actively contributed to the growth of her community in various capacities and is committed to continuing this work going forward.



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Appendix F: Supplementary to Recommendation 2

As the ministry undertakes a comprehensive review and revision of all relevant care-planning and case-management standards, policies, practice guidelines and training materials with the goal of aligning those materials with the dimensions of belonging, the Representative suggests that the following be considered:

1. Enhance existing *Children and Youth in Care Policies* – Chapter 5 by adding a preamble describing the dimensions of belonging and how they shape a child’s identity. Each sub-policy in Chapter 5 and related procedures and decision points should be considered through the lens of each individual child’s needs in relation to belonging and identity formation. Associated questions and considerations should be clear throughout the policy.
 - a. Special attention should be given to policy 5.2: Assuming Responsibility for a Child/Youth in Care. Procedures to include process to build understanding of a child’s current sense of belonging and identity development. This should be done through observation of and dialogue with the child and their most significant relationships to date.
 - b. Special attention should be given to policy 5.8: Supporting and Assisting a Child/Youth with a Change in Placement. Any changes in placement should enhance a child’s sense of belonging and contribute positively to their identity development. Rationale as to how this change in placement is intended to enhance a child’s sense of belonging should be clearly documented.
2. Enhance existing *Permanency Policies* – Chapter 6 by changing language from the ‘4 dimensions of permanency’ to the ‘dimensions of belonging’. This should include a preamble which provides context and information about the dimensions of belonging and how they shape a child’s identity.
3. Enhance the existing *Care Plan Practice Guide* to reflect the dimensions of belonging and provide information to support and guide social workers to ensure each domain of belonging is given equal weight in planning. Ensure that each area or domain of the Care Plan provides space for reflection regarding the child’s views in terms of how they see themselves in the world and describes the child’s current sense of belonging.



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