SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Nova Scotia (Community Services) v. C.G.*, 2019 NSSC 186
Date: 20190527
Docket: 103883
Registry: Port Hawkesbury

Between:

Minister of Community Services

Applicant

v.

C.G., C.P., B.F., L.S. and CO.G. by Guardian Ad Litem Arden White

Respondent

Restriction on Publication: Publishers of this case please take note that s. 94(1) of the *Children and Family Services Act* applies and may require editing of this judgement or its hearing before publication.

Section 94(1) Provides:

"No person shall publish or make public information that has the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding pursuant to this Act, or a parent or guardian, a foster parent or relative of the child."

Judge:	The Honourable Justice C. Murray
Heard:	June 11, 2018, June 18, 2018, July 17, 2018, August 13, 2018, August 14, 2018, September 10, 2018, October 11, 2018, October 12, 2018, October 29, 2018, October 30, 2018, November 13, 2018 and November 27, 2018 in Port Hawkesbury, Nova Scotia
Written Release:	May 27, 2019
Counsel:	Lindsay McDonald for the Applicant Drew MacQuarrie for the Applicant Douglas MacKinlay for the Respondent C.G. Coline Morrow for the Respondent C.P. Jeanne Sumbu for the Respondent L.S. Lisa Fraser Hill for the Guardian Ad Litem Arden White

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By the Court:

INTRODUCTION

[1] This is the Final Disposition Hearing in a child protection proceeding relating to children CO.G. (D.O.B**.** […], 2001), L.G. (D.O.B. […], 2003), S.G. (D.O.B. […], 2006), M.G. (D.O.B. […], 2009), A.G. (D.O.B. […], 2010), MA.G. (D.O.B. […], 2010) and N.G. (D.O.B. […], 2011).

[2] The Respondent C.G. is the Mother of each of the children. The Respondent C.G. has been residing in […] at the time of the Final Disposition.

[3] The Respondent C.P. is the father of the two eldest children, CO.G. and L.G. C.P. lives in […], Nova Scotia and attends […]school in Halifax. The Respondents C.G. and C.P. also have an adult son, D.G. C.P. has twins from another relationship.

[4] The Respondent B.F. is the father of S.G and B.F. lives in […], Nova Scotia.

[5] The Respondent L.S. is the father of M.G., A.G., MA.G. and N.G. L.S. lives in […], Nova Scotia. L.S. has six older children from a prior marriage.

[6] Arden White was appointed as Guardian Ad Litem for the child CO.G. and as a Respondent in these proceedings on May 8, 2018.

[7] This proceeding commenced by way of a Notice of Child Protection Application dated and filed on January 16, 2017, for an order determining that children are in need of protective services within the meaning of s. 22(2)(d) of the *Children and Family Services Act*. Given that the proceeding commenced on January 16, 2017, before the amendments came into force, it is governed by the version of the *Children and Family Services Act* in place prior to it being amended in March 2017.

[8] The Minister removed the children from the care of Respondent mother, C.G., on the 12th of January 2017, based on substantial risk of sexual abuse arising from unsupervised contact with the maternal grandparents.

[9] Since the proceeding commenced, the children have lived away from their mother. The children CO.G. and L.G. have been in the care of the Respondent

Father C.P. under supervision of the Minister and the five younger children have been in the Minister's care. L.G.'s parenting time has evolved into unsupervised parenting time. The Respondent Mother C.G. has been having supervised contact with the children.

ISSUES

[10] In order to decide this case, I will answer the following questions:

1. Are the children still in of protective services?
2. What order should be granted?

[11] As argued by Ms. McDonald, counsel for the Minister of Community Services, the issue for the Court is substantial risk of sexual abuse within the meaning of s. 22(2)(d) of the *Children and Family Services Act*.

[12] S.22(2)(d) of the *Children and Family Services Act* states:

…

(2) A child is in need of protective services where

(c) The child has been sexually abused by a parent or guardian of the child, or by another person where a parent or guardian of the child knows or should know of the possibility of sexual abuse and fails to protect the child;

(d) There is a substantial risk that the child will be sexually abused as described in clause (c).

[13] The Court of Appeal stated in ***M.J.B. v. Family and Children Services of Kings County,*** 2008 NSCA No. 64, at Paragraph 77:

> 77. The Act defines "substantial risk" to mean a real chance of danger that is apparent on the evidence: subsection 22(1). In the context here, it is the real chance of sexual abuse that must be proved to the civil standard. That future sexual abuse will actually occur need not be established on a balance of probabilities (*B.S. v. British Columbia (Director of Child, Family and Community Services*, 160 D.L.R. (4th) 264 [1998] B.C.J. No. 1085 (Q.L.) (C.A.) at paras 26 to 30).

[14] Sexual Abuse is defined in the Act at s. 3(1)(v) as follows:

(v) "Sexual abuse" means:

(i) The employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist any other person to engage in any sexually explicit conduct or simulation of such conduct, or

(ii) The use of a child in, or exposure to, prostitution, pornography or any unlawful sexual practice.

BACKGROUND AND PROCEDURAL HISTORY

Interim Hearings

[15] The Court proceeding began with an Interim Hearing before the Honourable Justice Cormier, on January 18th, 2017, by video conference**.** By Interim Order rendered on that date, on a reservation of rights basis, the two older children, CO.G. and L.G., were placed in the care of the Respondent father C.P. under the supervision of the Minister of Community Services. The five younger children, S.G., M.G., A.G., MA.G., and N.G., were placed in the temporary care and custody of the Minister, with supervised access to Respondent Mother C.G., on terms and conditions determined by the Minister in its discretion and access to the Respondent Fathers, B.F. and L.S., as arranged by the Minister, on terms and conditions determined by the Minister in its discretion, including discretion regarding supervision. There were further conditions, including that the children CO.G. and L.G. shall not attend at, or in, or around, the home of the Maternal Grandparents and that the Maternal Grandparents shall not have contact with any of the children except and unless supervised access arranged by the Minister and on terms and conditions in the Minister's discretion.

[16] The Interim Hearing was completed on February 13th, 2017, before the Honourable Justice D. Wilson by video conference. An Interim Order was rendered with the consent of Respondent parents, C.G. and L.S. on a reservation of rights basis, with the same terms as set out in the Interim Order rendered January 18, 2017.

Protection Hearing

[17] The Protection finding was made on April 3rd, 2017 before the Honourable Justice C. Maclellan under s. 22(2)(d) of the *Children and Family Services Act.* This finding was consented to by Respondents, C.G. and L.S., on a reservation of

rights basis. It was ordered that the children CO.G. and L.G. shall remain in the care and custody of C.P., subject to the Minister's supervision and that the remaining children will remain in the temporary care and custody of the Minister.

First Disposition

[18] The First Disposition Pre-Trial and docket was held on July 17, 2017 before the Honourable Justice C. Beaton, at which time the parties agreed that it was in the best interests of the children to waive strict compliance with the 90-day time limit for purposes of First Disposition. The Disposition Plan of Care was before the court. By Order rendered on that date and issued August 10th, 2017, the two older children remained with the Respondent father C.P. under supervision and the five younger children remained in the temporary care and custody of the Minister. The matter was adjourned to September 14th, 2017 for Settlement Conference, to November 15th, 16th and 17th, 2017 for Placement Hearing and to October 16th, 2017 for Disposition Review.

Reviews/Pretrials/Settlement Conferences

[19] This matter was before Justice Legere-Sers on October 16, 2017 for Disposition Review, on November 8, 2017 for pre-trial, on December 18, 2017 for pre-trial telephone conference and docket review and on March 7, 2018 for Disposition Review.

[20] This matter was before me for pre-trial on April 16, 2018, for pre-trial on April 24, 2018, and on May 8, 2018 for determination on the Minister's motion pursuant to s. 96 for the appointment of a Guardian Ad Litem for the child CO.G. and the admission of past proceedings.

[21] Two settlement conferences were held on September 14, 2017 and April 18, 2018.

[22] Two placement hearings were scheduled and adjourned.

Final Disposition Hearing

[23] Final Disposition Hearing commenced on June 11th, 2018 and continued on June 18th, 2018, July 17th, 2018, August 13th, 2018, August 14th, 2018, September

10th, 2018, October 11th, 2018, October 12th, 2018 October 29th, 2018, October 30th, 2018, November 13th, 2018 and November 27th, 2018. On the latter date, oral submissions were heard at the request of the parties. The Court reserved decision with a tentative date for oral decision being December 20, 2018.

[24] The first 3 days of evidence were within the legislative timelines. The parties consented to continuing the hearing beyond the disposition time limit so as to have all of the evidence heard in the children's best interests and all consented to the status quo order issued October 17th, 2018 for that purpose.

[25] This matter ran over by several months due to scheduling challenges. Throughout this proceeding the parties were advised that private matters could be bumped to accommodate this matter. In addition, other dates were offered both in court and through discussions with the scheduling clerk, but not all counsel were available. The matter went beyond normal court times on at least seven hearing dates. Attempts were made to reschedule an oral decision which was originally scheduled for December 2018 but to no avail given availability of counsel.

[26] The Respondent Mother, C.G., has been present throughout the proceedings.

[27] The Respondent Father, C.P. did not attend, nor did he have counsel on his behalf at the completion of Interim Hearing on February 13th, 2017, the Pre-Trial and docket Protection Hearing on April 3rd, 2017, the First Disposition Pre-Trial and Docket on July 17th, 2017, the Settlement Conference on September 14th, 2017, and the Disposition Review on October 16th, 2017. C.P. has participated throughout the Final Disposition Hearing with his personal appearance up to and including September 10th, 2018 and on November 13th, 2018. He was not in attendance on October 2nd, 2018, October 11th, 2018, October 12th, 2018, October 29th, 2018; October 30th, 2018 but counsel was present on his behalf.

[28] The Respondent Father, B.F., has not engaged in services and has had limited involvement in these proceedings notwithstanding personal service throughout. He did not attend any of the eleven days of Final Disposition Hearings but did attend earlier in this proceeding, namely the first appearance on January 18th, 2017, first disposition pre-trial and docket on July 17th, 2017; the pre-trial telephone conference and docket review on December 18th, 2017.

[29] The Respondent Father, L.S., has participated throughout this proceeding with the exception of January 18, 2017.

[30] Arden White, Guardian Ad Litem, attended all of the trial. His counsel, Ms. Fraser-Hill had been providing independent legal advice for the children CO.G., L.G. and S.G. and appeared on their behalf at court appearances since February 13th, 2017 up to his appointment as Guardian Ad Litem on May 8, 2018.

EVIDENCE

[31] In total eleven days of evidence was heard and a total of 38 exhibits were tendered into evidence. The Minister called 14 witnesses including one witness in rebuttal. Respondents, L.S. and C.P., were their only witnesses. C.G, the Respondent Mother, had three witnesses in addition to herself, namely her son, D.G., Bernadette Poirier and Michael MacInnis. Arden White, Guardian Ad Litem for the child CO.G., was his only witness.

[32] On June 11, 2018, the Court heard from Val Rule (Clinical and Forensic Psychologist) Dr. Allister Webster, Samantha Wong (Speech-Language Pathologist), Andrew Lafford (Access Worker), Audrey Cremo (Access Facilitator) and Brenda MacInnis (Case Aide). Eight exhibits were tendered by the Minister at that time. Exhibits 1 and 2 were Agency Court documents containing the pleadings filed by the Minister. It included copies of all affidavits submitted by the child protection workers including Dan Shea, Meghan Graham, Laura Kennedy, and Erin Warner (the child in care worker). Exhibit 3 was the Agency Court Documents Prior Proceedings Affidavit dated January 16, 2017. Exhibit 4 was Professional Reports, enclosing at Tab 1 Val Rule's CV and Safe Consultation dated July 24th, 2017 and Letter dated November 2nd, 2017. At Tab 2 was Dr. Allister Webster's CV and Report dated February 28th, 2018. At Tab 3 was Dr. Reginald Landry's CV and Developmental Assessment Report on N.G., dated November 7th, 2017. Exhibit 5 was the Court Orders. Exhibit 6 was the school report cards. Exhibit 7 was the Speech-Language Pathology Report for N.G., dated February 27th, 2017 by Samantha Wong. Exhibit 8 was the Child, Youth and Family Supports Incident Reporting form for contact with the child submitted by Brenda MacInnis for date of incident, September 13th, 2017.

[33] On June 18th, 2018, the Court heard from Gary Neufeld, Jenna Guy (formerly Case Aide), Darlene Praught (Case Aide), Constable Stevens and Dan

Shea (Intake Social Worker). Gary Neufeld's CV and professional reports dated May 2nd, 2018, June 8th, 2018 and June 12th, 2018 were tendered as Exhibit 9. During the testimony of Constable Stevens, Exhibit 10 was tendered by consent, including a general report dated September 13th, 2017, 6 pages of notes, visitors sign in book and letter dated September 12th, 2017.

[34] On July 17th, 2018, the Court heard from Erin Warner (Child in Care Worker) and Laura Kennedy (Long Term Child Protection Worker). Exhibits 11 and 12 were tendered by the Minister on that date. Exhibit 11 was the Psycho-Educational Assessment Reports from Dr. Reginald Landry for MA.G., A.G., S.G. and M.S. Exhibit 12 was the Case Activity Report dated May 31st, 2018.

[35] On August 13th, 2018, Laura Kennedy was recalled for purposes of cross-examination. Respondent Father, L.S., commenced his case on August 13th, 2018 and tendered into evidence his affidavit as Exhibit 13.

[36] On August 14th, 2018, the cross-examination of Respondent L.S., by Mr. MacKinlay, continued and Exhibit 14, a case note, was tendered into evidence on that date. Respondent C.P., commenced his case on August 14th, 2018 and tendered into evidenced his affidavit sworn June 1st, 2018 as exhibit 15.

[37] On September 10th, 2018, the cross-examination of Respondent Father C.P. continued and a letter written by C.P. was tendered as Exhibit 16. The Court also heard from the first witness for Respondent Mother C.G., namely her son, D.G. D.G.'s affidavit sworn October 30, 2017 was tendered as Exhibit 17.

[38] The matter was scheduled for October 2nd, 2018 but did not proceed as one of the counsel had a family emergency and was unable to attend.

[39] October 11th, 2018, the Court heard from Bernadette Poirier, Program Supervisor of … and Mike MacInnis. Two letters signed by Ms. Poirier dated February 7th, 2017 and June 22nd, 2017 were tendered into evidence as Exhibits 18 and 19. Exhibits 20, 21 and 22 were tendered through Mr. MacInnis, namely his CV, a Summary Report regarding his involvement as a Clinical Therapist with Respondent Mother C.G. and as well as a fax from Mr. MacInnis enclosing signed consent forms.

[40] On October 12, 2018, the Court heard from Respondent Mother C.G, who tendered into evidence Exhibits 23 to 32, namely her parenting statement and response to application relating to the two oldest children; her notice of application and parenting statement relating to S.G.; her response application and parenting statement relating to her children with Respondent L.S.; her affidavit sworn October 30, 2017; her Affidavit sworn June 11th, 2018; another Affidavit sworn June 11th, 2018; and two pictures of the child L.G. In cross-examination by Ms. Sumbu, the Respondent Mother was shown Exhibit 33, her Facebook page.

[41] On October 29th, 2018, the Respondent Mother C.G. and Gary Neufeld were recalled. Three exhibits were tendered on that date namely, two consent forms (exhibit 34), Mr. Neufeld's updated report (Exhibit 35) and a recognizance for the brother of C.G. wherein the Respondent Mother C.G. was named one of three sureties.

[42] On October 30th, 2018, Mr. White, Guardian Ad Litem for the child C.G., gave evidence and he tendered into evidence his affidavit sworn May 29th, 2018 as Exhibit 37.

[43] On November 13th, 2018, the Minister called Sergeant Thomas as a rebuttal witness through whom Exhibit 38 was tendered. The Respondent mother C.G. was recalled following the rebuttal evidence of Sgt. Thomas as agreed to by the parties.

History of Child Welfare Interventions

[44] This is the third child protection proceeding involving these children.

[45] These children have been the subject of two prior child protection proceedings brought by the Mi'kmaw Family and Children Services in 2012 and again in 2016. There was also further child welfare involvement in 2014.

[46] The risk of sexual abuse from the maternal grandparents and arising from unsupervised contact with these grandparents has been the major presenting and precipitating concern in each proceeding including the present proceeding.

[47] On May 8, 2018, the Court ordered, with the consent of the parties, the admission into evidence of the prior child protection proceedings.

[48] The Prior Proceedings Affidavit dated January 16, 2017 (Exhibit 3), set out the particulars of the prior protection proceedings including affidavits, orders and documentation about the substantiation of risk relating to the maternal grandparents. Exhibit 3 also included affidavits and orders relating to the Respondent parents, L.S., C.G. and the former spouse of L.S.

[49] According to the Prior Proceedings Affidavit, these children have been the subject of child welfare intervention since as early as 2005. The first referral was in February 2005 regarding concerns that the Respondent Mother C.G. and her three oldest children D.G., CO.G. and L.G. had moved in with her parents and that her father had been charged with sexual offences. The attachments to the affidavit also referenced allegations from 2003 having been substantiated by that Agency and that her father was still considered a risk. Those allegations related to inappropriate sexual contact by the maternal grandfather with two nieces of C.G, the Respondent Mother.

2012 child protection proceeding

[50] In November 2011, the Mi'kmaw Agency responded to a school referral, that the child L.G. had disclosed that she and her sister, S.G. were sexually abused by their maternal grandfather. L.G. further disclosed that she and S.G. had told their mother this information.

[51] A joint RCMP and Agency interview took place on December 8th, 2011. Sgt. Thomas testified on November 13, 2018 and tendered into evidence on that date as Court Exhibit No. 38, an Occurrence summary, the General Report, and three Supplementary Occurrence Reports. Sgt. Thomas stated in her oral evidence that "I had no doubts in my mind as to whether or not the children were being honest with me. And I believe that both children were being honest with me. It's whether or not you can actually put them on a stand in front of a court and proceed criminally with a matter. But I never at any point doubted what the children were telling me…And they -- basically what they were telling me was that their grandfather ... had in fact touched them….Sexually."

[52] Sgt. Thomas confirmed in cross-examination that there were other incidents, "Not in regards to ..(C.G.[sic]) and … (L.G. (sic) no. There were ….incidents in regards to the mother of a couple of the other children that were in the home. "

[53] Sgt. Thomas testified in cross-examination about hypervigilance of the Respondent Mother C.G. in this case. Sgt. Thomas stated:

> "The hypervigilance was something that we've come to deal with parents that have dealt with sexual abuse themselves or been -- had their children or other children deal with sexual abuse and are very aware of it, on the lookout for it more than what you would say the average parent might be. So that they're very tuned into it, might be asking their children all the time if anything's taking place, if they've been touched, if they've been hurt. So it becomes very much a part of their existence. And C.G. had basically with her kids been very vigilant and hypervigilant to the point of like asking them what had been taking place, if they'd ever been touched by anybody, ever been hurt by anybody."
>
> "But I know when I spoke -- like she actively called to find out when the interviews were going to be taking place. This was a couple of weeks ..-- days later I believe so she was concerned about making sure that her children were interviewed."
>
> **Q.** Okay. So there was never any issue with C.G. questioning the voracity of the allegations to you or your other Constables?
>
> …
>
> **A.** No, no.
>
> **Q.** So she truly believed that something had occurred?
>
> **A.** Yes.
>
> **Q.** Okay. And she wanted -- in fact wanted her father charged is that correct?
>
> **A.** I -- to be honest I can't remember the -- any conversation re that but I know that she was very ---
>
> **Q.** Okay. And she kept her children from seeing her father?
>
> **A.** As far as I know but I don't ---
>
> **…**
>
> **Q.** Yes. And you're aware that she had her children in counselling following the contact with the RCMP?
>
> **A.** She had -- yes I was aware that she was looking for ---
>
> **Q.** So would you agree with me that she certainly took those allegations seriously at the time?

> **A.** Yes, I had nothing to -- other than that that she was taking them seriously. S.G. that's because it's all very similar in that terms. But I do remember one of them specifically saying that they were downstairs and I interjected with even -- because a lot of it becomes what a court would typically call leading.
>
> …

[54] In cross-examination by Mr. MacKinlay, she stated:

> Q. You found C.G. to be Hypervigilant?
>
> A. Correct.
>
> Q. Can you remember why that was your assessment?
>
> A. She had been over the—it would have been from 2010 probably into 2012 she'd been involved in several calls in regards to sexual interference, sexual assault with children in her home in regards to another young fellow that I can't remember if he had a family connection to her but had a connection to her and he had disclosed sexual assault and there was one other incident and it became to the point that it was like this constant fear and constant concern that her children had been sexually assaulted or sexually interfered with. To the point that like if you asked -- if your children came home from school you'd ask how was your day to being more to the effect of if you're somebody's hypervigilant you would ask were you sexually assaulted today. That would be the context. She was very worried about her children.
>
> Q. Okay. And you recall her being upset, angry with her parents at the time?
>
> A. Correct.
>
> Q. Including her father?
>
> A. Correct.

[55] In September 12, 2012, Worker MacAulay interviewed L.G. and S.G. and stated that S.G. appeared to be confused on what had happened to her, often referring back to what she had heard people saying in her home about the sons of L.S. putting their hand down the diaper of her sister M.G. downstairs and she remembered it was last year and they had been playing tag when it happened. Both children said no one else had ever touched them in this way before. Both stated they had told their Mother about the incidents. Respondent C.G. dealt with this interview at paragraph 9 of her Affidavit (Exhibit 31).

[56] It was further noted in the prior proceedings affidavit that in March 2012, Mi'kmaw Family and Children Services responded to referrals and cross referrals alleging sexual abuse of the children of the Respondent Mother C.G. and involving also the children of L.S. One of the children of L.S. (F.S.) reported that two of the sons of L.S. touched each other in a sexual way; that the former spouse of L.S. (C.S.) had sexually touched, a long time ago, one of the other children of L.S. (V.S.). The Respondent Mother, C.G. referred to the many accusations swirling at that time, before then, and after, at paragraphs 6 to 8 of her Affidavit (Exhibit 31).

[57] On September 14, 2012, the Mi'kmaw Agency made the decision in a risk management conference to apply to the Court, that the children are in need of protection services pursuant to s. 22(2)(a), (b), (c), (f) and (g) of the *Children and Family Services Act*, and for a supervision order with the children remaining in the care of C.G. under Agency supervision and on terms and conditions including that the maternal grandparents not have any contact with the children.

[58] The protection application was brought to the Court in Sydney as the parties were living in […]. A simultaneous application proceeded through the Sydney Court with respect to the children of L.S. and C.S. from September 2012 to July 2014.

[59] Mr. Shea was asked on cross-examination about the eight month gap between the joint interview of S.G. and L.G. and when Mi'kmaw Family made the decision to get involved. Mr. Shea did not have the specifics for the reason for the gap. Nor was Mr. Shea aware of any charges being laid.

[60] The first child protection proceeding proceeded through Court on consent from the first appearance on or about October 3rd, 2012 to June 2013. Respondent Mother, C.G. consented to findings under s. 22(2)(a), (b) and (c) of the *Children and Family Services Act* and also consented to a condition that her parents not have any, direct or indirect, contact with her children. The first matter was terminated in Court on June 12th, 2013 as C.G. participated in services and understood her role in protecting her children from further sexual abuse as she continued to confirm she was not allowing her parents to have contact with them. Respondent C.G. states at paragraph 13 of her Affidavit (Exhibit 31) that she was estranged from her parents at the time.

[61] With the exception of the Court appearances on October 3rd, 2012, October 30th, 2012 and February 19th, 2013 when Respondent C.P. was present, only Respondent C.G. was present throughout the proceedings. L.S. and B.F. made no appearances during this child protection proceeding.

2014 Memorandum of Understanding

[62] During a referral alleging physical neglect and abuse of children by C.G. in 2014 (i.e.. hitting the children with a belt), it was discovered that the children of C.G. were spending time in […] with the maternal grandparents without adult supervision in the summer. The Respondent C.G. deals with this referral at paragraphs 15 to 19 of her affidavit (Exhibit 31).

[63] On September 4th, 2014, the Respondent Mother C.G. confirmed that the children had been staying with her parents. In case notes, at Exhibit E of Mr. Shea's affidavit, "She confirmed that the children had spent time at her parents' home over the summer". The worker challenged the Respondent Mother C.G. about the children being there given past sexual abuse allegations, and she stated that none of it had been true and that there was not enough evidence. She also stated that the Judge had "dismissed everything in court". The Worker explained that the proceedings had been terminated because the risk had been removed, including because she was not exposing her children to the maternal grandparents. Ms. McCarthy explained that in seeking termination of the proceedings, the Agency had asked and expected that she continue to not allow her parents to have unsupervised access with her children. The Respondent Mother C.G. stated that no one had ever explained that to her. Ms. McCarthy stated, "I told her I felt she is a good Mother and we are asking her to step up again and protect the children from people whom we believe pose a risk to them". (Exhibit D) The Respondent Mother, C.G. stated at paragraph 14 (Exhibit 31) and later at paragraph 20 (Exhibit 31) that despite not knowing that no-contact order was the rule at the time, "I still ensured my children always had another adult with them when I visited or stayed at my parents, including my then adult son, …, my brother ..., and his wife …, as I have doubts about my parents due to all the accusations.

[64] In Exhibit E, it was noted that the worker spoke with Respondent C.P. by telephone on June 20th, 2014. He advised, "that he sees his daughters on a semi regular basis and they have never disclosed anything of concern to him and he has not seen any indication of physical abuse". The worker spoke to the Respondent

C.P. again on September 2nd, 2014 and he advised he has not had any concerns about the children. He stated that C.G. is strict, but he knows there are no drugs nor alcohol in the home. He stated he has had the girls at his home and has not noticed an bruises or marks, nor have they ever disclosed any physical discipline.

[65] The Agency concluded that there was insufficient information gathered to substantiate substantial risk of physical harm and abuse. Substantial risk of sexual abuse and inadequate supervision were substantiated based on the disclosure of two of the children of having spent time with the maternal grandparents over the summer without their Mother.

[66] The decision was made to seek confirmation of the agreement and to set out the terms of the agreement and the Agency's expectation in a letter of understanding for C.G. The letter dated September 10th, 2014 was given to C.G. and signed by her on September 11th, 2014 and was attached as Exhibit F to Ms. MacAulay's affidavit, sworn May 3rd, 2016 (Exhibit 3).

2016 Child Protection Proceeding

[67] The Agency again became involved with C.G. and the children pursuant to a referral received on April 22nd, 2016, alleging that C.G. was leaving the children with the maternal grandparents. The Agency obtained an ex-parte order to get access to and interview the children of C.G. It was substantiated that C.G. and her children were residing with her parents and that the children went on an extended road trip through the United States with the maternal grandparents. C.G. continued to maintain that the allegations against her parents were untrue. The Agency substantiated concerns of risk of sexual abuse from the maternal grandparents and required C.G. to remove the children from the grandparents' home and in the alternative, to the children being taken into care.

[68] At paragraph 24 of her affidavit (Exhibit 31), the Respondent C.G. stated that by April 22, 2016, she was residing with her parents with the children after she lost her dwelling in […] and while she was waiting for new housing. The Respondent C.G. stated that while she lived with her parents, she and her son, D.G. supervised their contact continuously, although occasionally her brother and sister in law would supervise. At paragraph 25, Respondent C.G. stated that she was told to move out, or her parents had to move out, or her children would go into

care. According to her affidavit, the Respondent C.G. moved out with her children to her brother's place until they got their home in […] by September 2016.

[69] In the prior proceeding affidavit (Exhibit 3), there was a reference to a conversation with Respondent Father C.P. on May 2nd, 2016 and he was not aware of the sexual abuse concerns regarding the maternal grandparents and stated that he had not known that the child L.G. had previously disclosed that the grandparents had sexually abused her. In the case note attached at Exhibit G, to Ms. McCarthy's affidavit July 11th, 2016 (Exhibit 3), it was stated, "…(C.P. sic) stated that he has never noticed anything out of the ordinary at the … home." He said for a while he lived with them (many years ago) and did not observe anything sexual in nature. He did state, however, that if necessary he would be willing to take his children to live with him. C.P. stated that both maternal grandparents were in residential schools. He stated that the family is very conflictual and there is often feuding between the siblings. He stated that he does not disbelieve the allegations about the maternal grandparents but he does find it hard to believe.

[70] The prior proceedings affidavit further confirmed that on the Massachusetts sex offender register, that there were 5 charges for which the maternal grandfather was arraigned on or about February 1, 1993 and findings of guilt were made on March 8, 1993 with regards to lewdness in speech and behavior, open and gross lewd and lascivious behavior, and indecent exposure. At Exhibit M, it was noted that Ms. Sergeant of the Massachusetts sex offender registry was unable to advise the age of the victim in the Massachusetts matters.

[71] Mi'kmaw Family and Children Services interviewed the children of C.G. on June 6th, 2016 and none disclosed any sexual abuse. The children L.G. and S.G. stated they could not remember having made disclosures in the past. 5-year-old A.G. stated that she saw her maternal grandfather's penis before but no details were provided. Respondent C.G. deals with this interview of L.G. and S.G. in early 2016 in her affidavit (Exhibit 31). She notes that "L.G. had been 8 when she made the initial disclosure in November 2011, and it had been at a time that I was very mad at my parents and complained about them, repeatedly, due to family issues unrelated to sexual abuse." Respondent C.G. wrote at paragraphs 11 and 12 of her Affidavit (Exhibit 31):

> With my anger at my parents at the time, with L.G. likely having heard about accusations of sexual abuse against … by …'s children, and because they seemed to deny "them" being inappropriately touched on September 12th, 2013 (only 8

> months after the December 8, 2011) interviews), and their later forgetfulness about the December 8, 2011, disclosures, and with the hundreds of subsequent appropriate (supervised) interactions between my parents and my children between 2014 (when I began to invite them back into my life) up to January 10, 2017; I believe it is improbable that my parents abused …(L.G.sic) or … (S.G. sic).
> However, I know there were other accusations against my parents, and those involving my own children cannot be disproven 100%; having attended counseling with Bernadette Poirier, Michael MacInnis, and Valorie Rule, and then doing the Safe Plan with Ms. Rule, I understand that the risk existing is real…and I have to deal with it by accepting more limitations on my children's contact with my parents, to better protect my children.

[72] The Mi'kmaw Agency took matters before the Court in Port Hawkesbury by protection application of August 11th, 2016 and Ms. McDonald represented the Agency. In September 2016, C.G. moved with the children from […] to a rental home in […]. C.G. was cooperative with the case worker visits and observations of the children and home were positive In October 2016, the Agency received confirmation that C.G. had referred the children L.G., S.G. and CO.G. to individual counselling through the school system. It was agreed that in the new circumstances and subject to C.G. agreeing not to allow her children to be unsupervised with the maternal grandparents, the presenting protection concerns were addressed sufficiently to seek termination of the matter. On November 7th, 2016, the day of the scheduled Protection Hearing, the proceeding was terminated.

[73] In the Affidavit of Trish LaPorte sworn November 4th, 2016 (Exhibit 3), Ms. LaPorte writes at paragraph 17:

> THAT none of the Respondent Fathers has taken a position with the Applicant Agency or sought particular involvement." It was further noted in the case note of November 3,2016 that "…(C.G.) continues to assist her father with daily care while the children are in school but does not take the children to the home….Due to (C.G.)'s actions on taking steps to alleviate protection concerns we have decided to terminate our involvement. However, …(C.G.) must not allow her children to be in the care of … without proper supervision i.e.. Mother or oldest son ….

[74] The Respondent, C.G. wrote at paragraph 27 of her Affidavit (Exhibit 31) "That Court proceedings ended in November 2016, and I understood that I could not live with my parents again and that all their contact with my children had to be supervised."

[75] The Respondent fathers, C.P., B.F. and L.S, did not attend any of the appearances in this second protection matter. Ms. Fraser-Hill was present on the last date for independent legal advice for the children CO.G. and L.G.

Current proceeding

[76] The current child protection investigation began with an anonymous referral received on or about January 6th, 2017, by Mi'kmaw Family and Children Services. The Respondent C.G. refers to this referral at paragraph 28 of her affidavit (Exhibit 31) as "the most ridiculous referral of all…making outlandish anonymous accusations about bestiality, fecalphilia, belief in aliens within the family (me), … as a "King", sodomy, death threats, collusion, etc. and: that I had sent my children back to my parents' place; although it was anonymous, bizarre, and not "well written" like the 2014 referral, the Agency took it seriously and set for a Plan of Action."

[77] Mr. Shea noted in his affidavit that the team decided that as there was opportunity for the children to disclose sexual abuse at the investigative interviews that were conducted in June 2016 and that no disclosures were made, they would not re-interview the children regarding the sexual abuse allegation. A decision was made to interview one of the children to determine if the children were residing with the maternal grandparents and/or having unsupervised contact with their grandparents which would place them at risk of sexual abuse.

[78] Constable Stacy MacRae and Dan Shea met with the child A.G. and A.G. stated that she lives at her Grammy's house. She stated that she shares a bedroom with N.G., M.A.G. and her other brothers and sisters, and that they all sleep together. She stated that her grandparents have their own room in the house and that her uncle and aunt also stay there. A.G. stated that "uh uh" to the question if there were times she stayed just with Papa and Grammy. She stated, "yeah" to if sometimes her brothers and sisters and she are ever alone with Grammy and Grandpa. She stated that her mom goes shopping and her brother D.G. is sometimes there.

[79] C.G. was interviewed and felt that the allegations were constantly being made by two of her siblings who were causing problems for her parents and her other siblings. Regarding risk of sexual abuse around the maternal grandparents, C.G. stated, she did not believe a lot of this and that it was her sister who had

forced her to say she was abused but this was not true. She stated she and the children are staying at her parents' home as is her brother and sister in law. She further explained that the heating water pipe had broken and was leaking into the house, so the house was cold and wet; rent was expensive as was the cost of heating.

[80] At a risk conference it was determined that based on the interviews with the child, A.G. and the conversations with C.G. it was agreed that the major presenting problem of substantial risk of sexual abuse was substantiated and a court application would be commenced. Mr. Shea stated during cross-examination that there is significant risk for the children to be living in the maternal grandparents home as it is impossible to supervise 24 hours per day.

[81] The Court has heard a lot of evidence in this proceeding.

[82] In addition to concerns about C.G.'s ability to keep the children safe from her parents, the Court has heard other complaints made throughout this proceeding. In particular there were complaints from some of the children of L.S. about ears being pulled, or being hit, or being pushed. Those complaints were investigated by the Agency and they were not substantiated. In addition, the Respondent Mother C.G. has expressed her dissatisfaction with the Agency, certain case aides, her concerns about L.G.'s self harming, lice and how the biological fathers have been dealing with the issues; concerns about L.S.'s older children and her concerns about her parenting time (telephone calls).

Minister's evidence

[83] Exhibits 1 and 2 were Agency Court documents containing the pleadings filed by the Minister. It included copies of all affidavits submitted by the child protection workers including Dan Shea, Meghan Graham, Laura Kennedy, and Erin Warner (the child in care worker). The Court also heard from 14 witnesses on behalf of the Minister.

C.G.'s evidence

[84] The Respondent Mother C.G. filed three affidavits in this matter entered as Exhibits 29, 30 and 31. In her affidavit evidence, C.G. stated that she was always the one who provided for her children and took care of their needs. She states at paragraph 30 of her Affidavit sworn October 30, 2017 that C.P., L.S and B.F. have

not been there for their children for years of her children's lives and she is happy that now her children are finally becoming acquainted with their fathers.

[85] The Respondent Mother C.G. stated that she has a very close bond with all her children and they identify with her as their lifelong parent, protector and provider.

[86] The Respondent Mother, C.G. stated that she never received any regular child support but left it to the dads to step up if they felt inclined to do so. She noted that C.P. would be helpful once in a while when she requested money assistance from him. He paid a few hundred for oil once late in 2016 when she was at […] and there have been other occasional times he gave $200.00 to help with household expenses.

[87] In her Affidavit, sworn June 11, 2018 (Exhibit 30), she says that after her separation from L.S. in 2012, L.S. had little to do with his children. He was always welcome to spend time with them but chose not to do so. He never paid any child support and rarely had any contact with them until January of 2017.

[88] The Respondent Mother C.G. further states at paragraph 8e) of her Affidavit sworn June 11, 2018 that B.F. has been very distant from S.G since her birth.

[89] The Respondent Mother C.G. states that C.P. has been a distant father since separation over a dozen years ago. CO.G. and L.G. only saw him a few times per year during the last decade. She states at paragraph 12d, (Exhibit 30) that when she and C.P. separated in 2005, there was no contact for 6 months thereafter and then there was basically no contact from him until 2009. In 2009, she told him to come see children anytime. Between 2009 to 2016 C.P. saw them several times per year; C.P. only once visited them since she and children moved to […] and that was when he came to take all three children to the movies.

[90] At the commencement of her testimony, the Respondent Mother corrected paragraph 13 of her first affidavit sworn October 2017 and acknowledged that she was staying at her parents' house this past winter but not living there. At paragraphs 39 to 49 of her Affidavit sworn June 11, 2018 (Exhibit 31), the Respondent Mother outlined the living arrangements for her children and herself from early January until the apprehension and indicated at paragraph 46 that Mr. Shea misunderstood some of her answers when he interviewed her. The

Respondent Mother stated that after they moved to […] in August 2015 from her parents' home, she continued visiting her parents and their contact was always supervised. When her pipe burst in early January 2016, they visited more often to do laundry and eat meals and they stayed overnight at her parents' place on January 4, January 5, January 9 and January 11 on an emergency basis. She corrected her affidavit in her oral evidence that she moved to […] in August 2016 and that the issue with the pipes was January 2017 and not 2016. She stated that she had asked L.S. to help out to fix the pipes. He declined.

[91] At paragraph 44 of her affidavit, she indicated that she did keep an "especially close eye on my parents and on my children during those three overnights, and asked … (her son, sic) to do so as well, and during lunch time and laundry visits over the weekend of January 7-8". She further noted at paragraph 45 that "My dad was nearly bed-bound at that time due to the stroke he had suffered not long beforehand; with the Agency having made it clear just a couple of months beforehand that I was not to "live" with my parents, I did not consider a few overnights until the pipes got fixed to be "living there."

[92] In her evidence, the Respondent C.G. stated that the maternal grandparents are both victims of residential schools. Her mother is 69. Her father is going to be 75 and has been in poor health having suffered a heart attack, stroke, and mini strokes.

[93] In her evidence, the Respondent Mother, C.G. acknowledged that she made mistakes by staying with her parents in 2017. At paragraph 43 of her affidavit sworn June 11, 2018 (Exhibit 31), she stated:

> I know now that I should have either put-up with the leaky, cold mess (by coping with the woodstove) or crowded into …Jr's place or …. Place and/or to seek emergency assistance from MCS for hotel accommodation (which I felt was unlikely), rather than spending a few nights at my parents' place.

[94] In her oral evidence she stated:

> A. It's a pride thing. I have a pride thing meaning I have been a single mother for so many frigging years I hate relying on people. I always have relied on myself or my kids. And I was -- I felt ashamed if I were to ask for help. That's no fault of anybody else. That's my fault. I made a mistake living with my parents and staying at my parents on January 4, 5, 9 and 11 of 2017 January. That was a big mistake. I'm paying the price right now. My kids are not with me. I'm

> paying the price. Not any of you guys here. I am. I raised my kids since the day they were born. I have never abandoned them. I have never left them. And I'm kicking myself in the ass for that. I have never left my kids and I tried to make it -- every point, Tuesdays and Thursdays to see my children as much as I can. The fathers abandoned their children and I wish, I wish that they would help me out like they said throughout the years no matter what I'll always help you out, C.G. Trying to look for help I was declined by your client by the father of my kids. And I didn't want Mi'Kmaw Family Services coming in. I'm so sick of them.

[95] Respondent C.G. further acknowledged her mistake in living with her parents in 2016. She stated at paragraph 26 of her affidavit (Exhibit 31):

> Although I am certain that my parents did nothing inappropriate toward any of my children for those early months in 2016 when we lived with my parents, and although they were always supervised by myself or another adult (I felt I was following the exactness of the 2014 Letter of understanding), I realize now that it was a mistake to live with my parents, and should not have done so; it was too much of a risk.

[96] In her surrebuttal evidence, the Respondent Mother C.G. acknowledged that she was not correct when she stated in her evidence that she had not found out about her daughters allegations in 2011 until some eight months later. After hearing the evidence of Sgt. Thomas in rebuttal, the Respondent Mother C.G. testified in surrebuttal as follows:

> A**.** Oh yeah it did surprise me a great deal. I -- it's -- when I read it I didn't think that I would be calling in on my father like that the way I did and took it very seriously. And I did state when I was on here that if I did hear or see any child being abused or exploited any way or any form I would notify the authorities and it just shows that I did notify the authorities when I found out my kids were being possibly maybe being molested by my father. So I did -- when I read that it did shock me to the point of I took action on that. So -- and if I did not -- and I apologize to the Court that if I did -- if I forgot about it it's the fact that I got sidetracked that year due to dealing with 13 kids. Dealing with L.S.'s five other children and it took me a point where I was trying to get L.S's children to counselling and when L.S.'s children disclosed to me where -- where L.S.'s children disclosed to me that they were sexually abused by their mother that they witnessed their mother murdering their child -- or L.S's child and I took that very seriously. So my side trackness [sic] from working on helping and working on L.S.'s children is -- it sidetracked me from you know dealing with my kids and what they were telling me. But I took -- but I remember you know talking to Thomas about what my kids disclosed to me. But I also was focusing on L.S.'s children and the murder of his daughter. That's what I was focusing on so I

understand where I totally got sidetracked to the point where I took L.S.'s children to Dr. Conn and I took them to the -- I remember talking to an RCMP about what I was disclosed by what his children disclosed that they saw their mother murdering their infant sister, their baby sister. So that's the part where I'm -- I can't -- I'm not going to say I'm traumatized, I'm hurt by it because when I spoke up against it, it seems like the Agency and people did not listen to me.

….
It's not the fact that -- I totally forgot it. I'm glad that you guys brought that up. I'm glad that I got to see Thomas. When Thomas was -- Sergeant Thomas was out there I couldn't even recognize her. I just -- I had -- it was more concentrated on this here with my children. But when I seen Thomas I was very pleased to see her. She became a really great friend, not just her being a Sergeant in the RCMP, I rarely admire women but I do admire Thomas because of what she represents. She's the actually the one that I wanted to become an RCMP, she was the one that was pushing me to become an RCMP….
…

Q. After you made the initial call to Constable Munro and then you did a follow up call on the 18th to Constable Thomas what if any other follow up did you do after November the 18th?

A. I put through -- I put my kids in through counselling. Like I'm all for counselling so to me that was very important because I wanted to know the truth, that's all I wanted. If there was my kids were molested or they were not molested I still -- I don't -- we all don't even know. I don't even know to this day but if my kids tell me something I'm going to believe them. I've been believing them from the time that they disclosed that to me up until the time they've been disclosing other things. I still believe them. But for me to be -- I'm not going to argue with that. I'm just glad it's brought up. I appreciated that they brought that up because it triggered a lot of memories that I pretty much -- wasn't ignoring -- I just really did block it out to a point because of what I was going through all that time. But I know my kids now because they're older and if they tell me hey Mom some boy molested me or some boy did this I'm going to believe them. But if my kids tell me hey Mom yeah I -- nobody touched me, I'm going to believe them. They're -- they -- it's my children I have to believe what they say.

[97] In response to question by Mr. MacKinlay regarding what she said to Constable Thomas about her own abuse, the following was stated:

Q. What did you say to Constable Thomas about having suffered at your parents' hands? What did you mean by that?

A. Oh, I was in my parents' house -- well of course I was -- you know my parents were taking care of me through -- but anyways … and …, this has to go right back

> to … and … when I was living in my parents' house and how … and … fondled me and how … and … beat the crap out of me when I was a teenager. And to dealing with that, traumatized like I was traumatized throughout my whole life by that. And the control and -- I mean you want to talk about manipulation. I've been put through it and so I talked to -- I'm going to cry about it so excuse me -- so me talking to my therapist about the traumatizing, the -- where I was traumatized by … and … and it bothered me. It still bothers me today obviously, I'm tearing up a little bit. But it's the fact that my parents did not know what was going on. My parents did not -- wasn't aware of anything that was happening. So me being -- I was -- there's a word for that what she -- with the suffering part of not telling my parents about what … and … did to me until one day I just got up and I got sick of them because -- not my parents but … and … and started attacking them back verbally and standing up for my -- I even told my -- I remember telling … that I told -- I remember telling … that I told … and … one day I'm going to grow up and I'm going to be a woman and you'll never hurt me again the way you guys did. So that there is traumatizing enough what I had to go through. And I never hid that, I never hid the fact that I was fondled even my partners knew all about it. I never hid the fact that my family was indeed perfect because they weren't. I mean I never hid -- I don't hide anything but if I do forget it please forgive me, I'm not -- my mind and my memory because of everything that I've been going through and on top of that my kids are not with me it does a number on the emotion side and the mental part. So ---

[98] In response to cross-examination by Ms. Sumbu:

> …
>
> A. --- see -- again I didn't see my father or anybody else molest my children. The only time that I saw my kids get molested was by L.S's children where they were sticking their hands down my twins' pampers and M.G's pampers. So I -- therefore I called -- you know I told the Social Workers about that because I needed help and nobody was helping me out with that. And no I did not -- and if I -- if I did catch my father which I did not I would have contacted the authorities right away. But when my kids disclosed to me downstairs in my room in the basement I made sure I called the authorities which was Munro and then Thomas, Sergeant Thomas.

[99] The Respondent Mother C.G. gave evidence that she understands the risk posed by her father. On cross-examination by Ms. Sumbu, Respondent Mother C.G. acknowledged that she has been aware for some time of allegations against her father since "26/25 years". She acknowledged "There is some risk yes".

[100] In cross-examination, the Respondent Mother C.G. stated:

Q. But you said that at this time moment you also have no choice.

A. Because of the allegations. Because of all the six of my nieces and my nephew -- mostly the nieces were -- made those allegations. Of course I have to take it serious. Of course I have to be awake. Maybe many years ago I wasn't awake. But taken from -- taking my kids pretty much damaged me and woken me up to a lot of things. I had to learn a lot of things. Again please forgive me for my strong emotions. I'm going to keep on saying that because ---

[101] On redirect the Respondent Mother C.G. stated:

A. Yeah like when I meant to say maybe I don't know if my kids been molested or they haven't been molested. So it's either they have been or they haven't been. So for me to sit there -- I'm not going to say no, they have never been molested. I'm not saying that and I'm not going to say with certainty they were molested. I don't -- as a Mom I don't even know to this day but I still believe my kids, whatever they tell me, I take it greatly what my kids tell me. So when it comes to them disclosing that what are the -- there's a possibility. So if there's a possibility, there a big maybe or not a big maybe I got to -- as a parent I got to take into great consideration to keep my kids protected at all costs especially everything that I've been through, especially everything that I've been aware of and with Mike McInnis helping me out and this here, having this being shown to me it opens up my mind and a lot of other things what I need to look at the safety of my kids. That I have to be aware, that I have to be more of an out -- I can love my parents but I can disown them at the same time. I could sit there and I don't have to be a part of my parents lives. It's about my kids and what's -- their safety, what they need and right now they need me.

[102] In response to questions by Ms. Fraser-Hill, the Respondent Mother C.G. stated:

Q. And C.G. would you agree with me that in order to truly protect your children 100 percent from a risk of sexual abuse that you have to have a significant belief that it's happened, that there's a risk there?

A. It's a risk, yes.

Q. You have to believe it yourself?

A. I have -- yeah well I came a long way. I had to, this is about my kids. It isn't about me, it's about my children.
Q. You didn't believe it when these proceedings first started ---

A. Well of course ---

Q. --- did you?

A. --- because it's -- you go back. You're struggling in the back of your mind could this happen. Not once have it -- has it ever left my brain. Not once has it ever left. So it's always there.

Q. So -- but you've been aware of the allegations you said yourself for 25 years?

A. Twenty-five years due to … and … yes.

Q. The Agency came forward in 2011 and ---

A. Oh they've been around.

Q. --- expressed their concerns

A. Yeah. They've been around.

Q. About the risk of abuse by your parents, correct?

A. Yeah.

Q. Your children have made allegations?

A. They made allegations, yeah. It was substantiated and it was not substantiated.

[103] She stated at Exhibit #29, affidavit sworn October 30, 2017, at paragraph 28:

> …I never had my children taken from me before, I never did counseling to develop a detailed SAFE plan before, and I never did intensive counseling and psychotherapy before this year; I understand more clearly than before the need to restrict my parents' time with my children to only supervised time with my children, always, and that any supervisor other than myself must know and accept my SAFE plan (attached)

[104] In response to the question how the Court can believe her now that she accepts the risk posed by her parents, she stated in cross-examination by Ms. Fraser-Hill:

A. I said this and I'm going to say it when it comes to my parents and my children I will keep -- my kids come first more than anybody. They come first.

Q. So you ---

A. Not my parents. This is not about my -- like really it's not about anybody else but me and my children and how I been and always have been and will be protecting my kids from any predators. It doesn't matter. Any risk factor, any history that they have. There's no greater -- there's no greater ---

Q. So C.G. ---

A. --- waking up call than having my seven kids apprehended. That was -- that's a wake up call.

Q. So C.G. I just want to talk a minute about the sexual abuse risk.
A. Yeah.
…
Q. So it's extremely important you agree with me that however slight the risk that there must be 100 percent protection for your children?

A. Yeah that's why I mentioned here about a year ago the 100 percent protection.

Q. Okay.

A. It's right here parents -- I can keep my kids away from my parents and that would be 100 -- whether it's my parents or anybody else that has that risk ---

Q. Yes.

A. --- factor within their life I've always been like that.
…
Q. So do you now -- you're now saying you accept that this is a significant risk to your children?

A. Oh yeah lessons learned. You know my kids are not with me.

Q. So you say lesson learned, your kids aren't with you.

A. Um-hmm.

Q. And we heard Mr. McInnis testify that you were very resistant from the time he started seeing you in August of 2017 ---

A. Yes.

Q. --- right up until two or three months ago in that he said you were not acknowledging the risk of abuse by your parents?

A. Yeah we were -- like we got into deep conversations with that.

…

Q. So in light of that without it being substantiated, without you seeing it, do you believe that the risk is real?

A. It's real yeah because the one thing I wanted to see because it was Christina McCarthy said that oh there was video evidence of L.G. and C.O.G.'s interview. I've been asking for that eight months after of November of 2011 eight months after when Christy [sic] McCarthy said that to me I wanted to see the video myself.

…

Q. --- McInnis testify, he said in the last couple of months there's been a change in you. He saw a change in you as far as your resistance to believing the allegations. Can you tell us what change occurred and how you're different now.

How you see things differently now as far as your parents are concerned?

A. Well I don't have my kids with me so it put a lot of deep thought into protecting my kids, more so than ever, ever before. When you're alone boy it's a lot that you think about. And the one thing that taught me a lot of things is that I felt like I failed as a parent in that area. And I needed to grasp it, I needed to get back up and say hey this is a possibility. There's a chance that the risks can real regardless of the timeframes with my daughters. But I think about my nieces and my nephews and the possibilities are there that what if. So as difficult as it was it seemed at the time to accept the fact that my father might be a predator although I never -- like I said I never seen it with my own eyes but hearing it and hearing it from other people it's eye wakener because I always believed that I had protected my kids. I've always -- because I always have. If I only had help with the fathers throughout the years but I didn't.

…

Q. C.G. you agree with me that prior to January of 2017 that you really didn't take the risk, the sexual abuse risk by your mother and father as seriously as you should have?

A. I've learned throughout the years, I had to. This whole -- in 2017 I -- when I was there ---

Q. But we're not ---

A. --- are you talking about when I was there?

Q. No, I'm saying prior to 2017 when the children were apprehended ---

A. Yeah.

Q. --- from 2011 right up until they were apprehended would you agree with me that you really believe the allegations. You didn't take the risk seriously enough?

A. At the time yeah I made a mistake. I should have never moved back there -- not moved back but stayed there on the temporary basis of when my -- the water -- I made a mistake. That was a failure in my life.

Q. Okay. So in 2016 which would be five years after the Agency came to you in 2011 about the concerns ---
A. Um-hmm.

Q. --- about the children being left alone with your parents you allowed them to on a trip down to the States with your parents and five other adults?

A. I did. There was six other adults and they all knew the risks. They all knew.

Q. Hindsight and looking at the devastation that can be caused by sexual abuse ---
A. Yeah see I didn't know ---

THE COURT: Okay listen to ---

--- BY MS. FRASER-HILL:

Q. --- did you think that was a good idea.

THE COURT: --- the question C.G.. Repeat the question Ms. Fraser-Hill.

--- BY MS. FRASER-HILL:

Q. In hindsight knowing what you know now going through the counselling with Mr. McInnis when you look back and see that you allowed your children to go to the States with your parents for an extended period of time do you think that was a poor decision on your part?

A. Oh, yeah I'm not a perfect mother. I make mistakes just like every other parent around here.

Q. So even though there were other adults with them you acknowledge that they should not have gone with your parents?

A. I do. Yeah it was my mistake. I made a big mistake on that part.

Q. Okay. And then in January, 2017 you were living in […] correct and you were having problems with the heating and plumbing. You were living in […]?

A. Oh yeah. Yeah I was.

THE COURT: Answer the question C.G.. Is it possible to supervise fully when you're sleeping?

--- BY THE WITNESS:

A. No it's not. It's impossible. You just can't.

…

Q. But today now C.G. realizing the impact of ---

A. Yes.

Q. --- the risk of sexual abuse ---

A. Yes I do.

Q. --- on behalf of your children ---

A. Oh 100 percent because ---

Q. --- do you now see that your actions back in January really did even if it was slight in your mind ---

A. Um-hmm.

Q. --- place your children at risk?

A. Oh yeah.

Q. Going to your parents?

A. I regret it now. Like I said this whole year you know it's a lesson, it's a lesson to be learned and you know and I learned it. And I -- and if I have to learn something really fast I'll do it and I'll keep by it.

[105] In terms of her safety plan, in her affidavit sworn October 30, 2017 paragraph 37 (Exhibit 29) she stated "I am willing to cooperate with the Agency and will respect my restrictions put on my custody and in particular restrictions regarding my parents' interaction with my children." She further states at paragraph 17 of her affidavit sworn June 11, 2018 (Exhibit 30) that her parents

both have excellent relationships with all her children but given the multiplicity of the accusations against them, she agrees and accepts that their contact should have more limitations than before the apprehension. She states at paragraph 18:

> I propose that there be no more contact between my children and my parents at their place or my place, and that the only direct contact they would have would be scheduled supervised visits at the Healing Centre, with a Healing Centre staff person present.

[106] The Respondent Mother was cross-examined about her safety plan both in her affidavit and in her oral evidence especially in cross-examination by Ms. Sumbu, Ms. Morrow and Ms. Fraser-Hill. In response to Ms. Sumbu, she stated:

> Q. Do you think anything in this plan needs to be updated?
>
> A. Oh, yeah probably. This is my first time ever making a safe plan.
>
> Q. Sure.
>
> A. Things could be -- I told Val Rule that it could be -- anything could be added. Whether the Agency wants to add more stuff or my lawyer wants to add more stuff, I don't have a problem with that.
>
> Q. Well the first thing I would say is that it is your safe plan.
>
> A. It is. It's the first time and I'm new at that.
>
> Q. Absolutely I am not trying to criticize you. this point in time looking at this safe plan right now can you think of anything that needs to be updated or changed about your safe plan?
>
> A. Needs to be updated I know that. The one thing that I told the Agency and Val Rule I could keep the kids away from my parents and that would be 100 percent protection. See when you go through a lot in your life you can disconnect yourself from families. And I did it many times. Hell I haven't even talked to my brother in almost 20 years. I haven't talked to my sister in 15 years so disconnection from family. I prefer to be with my kids than anybody else in this world. Also …, … and … no I could -- they don't even have to -- I was just -- it was just me, D.G. and his girlfriend …, that's it which it had always been like that.
>
> …

A. Like it's my first time doing this. So if I'm going to add people that I trust of course and it has to be with L.S and C.P. and forget about B.F. because he's not even around, that could be added to that. B.F. is not around. He's not -- he hasn't even been here. But to add -- if you wanted to add -- we could add L.S and C.P. on there. That's not a problem. You want to add C.P's mother, …, add her on there. People that I do trust with my kids when they're alone. As long as there's no alcohol involved, no smoking around my kids, no doing drugs, no selling drugs, not being violent, not hitting my children then I'm okay with all that. As long as it doesn't show any sorts of abuse in any way or any form then I don't have a problem with any of that. So yes it does need to be updated and if you have ideas, Ms. Sumbu please help me out with it. If the Agency has any ideas please help me out with it. Add more -- help me to add more stuff on this. If L.S and C.P. needs to add something on this please do it, I'll be happy. I'll be happy to abide by it.

…

Q. Is it your expectation that if the children are returned to you that they're going to have very regular and frequent supervised contact with your parents?

A. Well that's where the Healing Centre comes in am I right? That's going to be up to the ---

Q. Well no I'm just asking ---

…

A. That's where the Healing Centre comes in they're the ones who's going to help provide the visitations and all that stuff that needs to be taking place. But when it comes to my kids come -- being with me and living with me I can guarantee you nobody's going to be come walking in that house. I don't even allow druggies or anybody who even smokes around my children. What makes you think with the risk of my parents and all those accusations what makes you think that I'm going to have them come into my house and all of a sudden my kids get apprehended again. No it -- no.

Q. No my question is, do you expect that your children are going to have regular and frequent contact with your parents?

A. Do I expect it?

Q. Yes.

A. No.

Q. So ---

A. Because that's where I'm stopping it. I said it right here. I could keep the kids away from my parents.
Q. So is that what you plan to do then is to keep them away?

A. Oh yeah if I have to I will. I will do it. There is no doubt in that -- like I said I could ---
…

Q. So you're -- this is in the future, you have all of your children, you're saying you're going to take them with you all the time, do you plan to spend time with your parents?

A. No.

Q. So they're not going to see your parents at all?

A. No, for me. For my decision, if it was my decision I would make sure they don't see my kids at all. But if the Healing Centre is going to get involved which is Mi'kmaw Family Services then that's their -- that's what they're going to be taking care of. I don't have anything like -- I don't want nothing -- no decisions making in that sense. I just want my kids home with me. So for me, are you expecting me to spend time with my parents with my children?

Q. Yes.

A. No I could sever that. That's easy to sever.
…

Q. Okay. So you would agree with me then that part of your plan is you're not going to take your kids to your parents' house? You'd agree with that?

A. Oh I'll agree with that yes.

Q. So never? No holidays, never?
…

A. And just because I get along with them now believe me I told my parents to back off, don't come around. How I talk to my parents is nobody's concern but I'll tell you right now because this is what I told my parents if my kids come back don't be part of -- don't come over, don't come over to my house. Do not call me, do not message me. That's what I told them. And they agreed. Simple as that. I said if you do come over I'm going to have to call the cops on you but I still love them.

Q. Um-hmm. So you're going -- your plan now is to actually cut them out of your life if they are returned to you?

A. Why not? They're my kids, they're my children. I gave birth to them. Of course I will cut anybody off because of the allegations, because of the risks. Now what if -- since you're bringing that up -- I'm just thinking here.
…..

A. If the kids want to see their grandparents that's going to be up to the Healing Centre and Mi'kmaw Family Services. But if it was up to me I would not want them to be part of -- I would not want them to be around. It's easy. It may not be easy for you guys but I could -- I have a brother, … who did horrible stuff to a lot of people. I could still love him but I still don't trust him. … said the same thing.
……
Q. But you understand that the Healing Centre is not going to be responsible for booking time?

A. Yeah I know that.

Q. And they don't arrange supervisors?

A. Yeah. And that's where Mike McInnis comes in. He's going to be able to help me out to guide me through all this.

Q. So your intention is to rely on Mike McInnes to facilitate ---

A. Not rely. There's L.S, there's C.P.

Q. I'm talking about specifically access between your parents and the children, that's what I'm talking about specifically.

A. Yeah but that's the thing you guys -- you -- if it was up to me I wouldn't want my mother and father around my kids. Plain and simple, if it was up to me. I would take that to great -- after the shit that I've been going through I would take it into great consideration. Now to have the access -- so what if my kids turn around and say hey Mom we want to see our grandparents, okay I'm going to have to call Bernadette Poirier right. Maybe L.S could be part of that. Maybe C.P. could be part of that. And I could be able to arrange it then take off. Like just a call away. Then Bernadette Poirier will have to -- whoever could facilitate, whoever – L.S or C.P could decide to ---

Q. So you're saying that access to the parents is the children's' decision and not yours?

A. If it was up to me yes. But my kids love my parents so much they have a really great bond. But over all the allegations and the risks, I have to take that into precaution.

[107] In response to Ms. Morrow, she stated:

Q. The -- I'm almost finished my questions for you. If I understand your plan if the children are returned to your care that you wouldn't be the supervisor -- you would not supervise visits with your parents?

A. No I wouldn't. No.

Q. Okay. And in fact you're not going to have any more contact with your parents of any shape whatsoever?

A. I won't. I don't -- like I say I could sever the ties between my kids and my parents easily.

Q. And yourself and your parents, you're not going to see them anymore or help them or talk to them or ---

A. If I have to I will do it. It's my kids. Are you going to put a restraining order on me.

Q. No, I'm asking you about your plan.

A. Oh, that's what it was. You want to add more, it's whatever the family safety plan is and if you feel -- if L.S. feels the need or C.P. feels the need to add more onto the safety plan then do it.

Q. I'm asking you is that your plan ---

A. I can keep the kids away from my parents.

Q. --- that you're going to stay away from -- are you ---

A. And that would be 100 percent protection.
Q. Are you staying away from your parents?

A. I can yes.

Q. Okay is that your plan? That's -- is that your plan, I don't understand your plan. I'm asking you to clarify. I'm giving you an opportunity ---

A. Okay that's my plan. That's my plan. It's my plan if I -- it -- this is all about my children. It's all about my kids and if I have to keep that plan in order and what I'm saying and I'll say it again if I have to keep -- if my plan has to consist of me staying away from my parents I will do it.

Q. The -- but if your children want to see your grandparents then you'll turn to some other people to look after that?

A. Well that's where Bernadette Poirier comes in right, when it comes to the Healing Centre which they're the ones who have access visits. Supervised access visits at the Healing Centre.

[108] In cross-examination by Ms. Fraser-Hill on grandparent access to the children, there was the following exchange:

Q.--- So did you have a chance to think about that when Mr. McInnes was testifying about the impact access might have on the children?

A. I did and when it came down to it with family safe plan that's the one thing that -- and we're going back last year, 2017 -- when did I see her -- June -- June and July I said I can keep the kids away from my parents and that would be 100 percent protection.

Q. And is that what you want to do? Do you ---

A. It's what I would do, I would want to do because since Mike McInnes brought that up I've already thought about that since last year.

Q. Um-hmm. So if they were placed in your custody would your position be that you're going to terminate all contact between the children and your parents?

A. I would have to because it's about my children's -- like their -- like I said it's about their -- the impact if -- it's like a big if, if they were molested, if they're not. What's the -- they're still at risk. I still have to make that decision as a mother.

Q. And then you did testify earlier under Cross-examination you were saying you would keep them away completely and there would be no access but then you said after the proceeding is over if the children came to you and said they wanted access because they loved and missed their grandparents then you indicated that it would be up to the Healing Centre and that the access would have to be arranged through them.

A. Yes, I did say that.

> Q. And that would be up to them. But if they're returned to you and you have custody of them you're the mother, you're the adult ---
>
> A. I make the final decision ---
>
> Q. --- and the caretaker.
>
> A. --- with my kids yes.
>
> Q. Okay. So my question is, are you at this point able to say what your final decision is as to whether or not you would abide by the children's' wishes to have access at the Healing Centre?
>
> A. As a mother my first priority is my kids. And as a mother I don't make that decision for my kids. I mean my kids do not make the decisions for themselves. I make the decision for what, to protect my kids. And damn right I will if I have to eliminate people that I love out my kids' lives damn rights I would do it. I did it before and I could do it again.

[109] In cross-examination by Ms. Fraser-Hill, the Respondent Mother, C.G. further agreed that her brother who has recently been charged with child pornography is not to be part of her plan.

[110] In terms of her plan for the children, she states at paragraph 6 of her affidavit June 11, 2018: that she moved to […] in a large house with six bedrooms and a large yard. Their school is just down the road within walking distance. The school has a playground. They are […] from the […] Centre where some community activities are hosted; there is a nearby ball field and they are 5 minutes from […]. She states at paragraph 12(a) that she will seek only part-time security work during school hours and if that is not possible, she will be a full-time stay at home mom again.

C.P.'s Evidence

[111] The Respondent C.P. tendered his Affidavit into evidence at Exhibit 15.

[112] At paragraph 8, C.P. stated that he agrees with the Minister of Community Services and feels strongly that CO.G. and L.G. will be at risk if returned to the care of their mother.

[113] C.P. acknowledged his limited involvement with the children from 2005 to present. He stated he saw them maybe once per month, maybe once every 3 weeks. Overnight was even more sporadic. The Respondent C.P. testified that the Respondent Mother C.G. had an opportunity to encourage the relationship between himself and the girls but she did not do this and made access difficult.

[114] C.P. stated that CO.G. and L.G. did not have a close bond with him when they came to live with him. They looked at him as a stranger. They weren't happy and said they wanted to go to their uncle's place. He states that CO.G. and L.G. have grown attached to him in last year and a half. They now trust him and love him. C.P. stated "I love them so much".

[115] He states that they love their mom. They will always love their mom. C.P. stated that if it was ordered that the children be "back to mom, that is great; if the children are with me, they will see their mom". He explained that his door is always welcome. He testified that whatever happens with Court, whether they are to stay with him or be returned to C.G., CO.G. and L.G. are part of his life and he will try to maintain a close bond and wants to maintain all access if he can. He stated that if the Court decides to return CO.G. and L.G. to C.G., he would accept it but the door is always open.

[116] He stated that children don't confide in him, not so much. Their loyalty is still with mom. Some things they ask for guidance for school and he stated that he would take into consideration what C.G. would say.

[117] C.P. advised that CO.G. and L.G. both adjusted to their new school. CO.G did exceptionally well with the 2nd highest on total average and her lowest marks being 92 and 94. He further noted that L.G. passed. He stated that L.G.'s stress level is higher. He noted that despite being upset, they excelled in every aspect of their life.

[118] C.P. was asked how CO.G. and L.G. would take it if they could not return home with C.G. He stated that CO.G. and L.G. will be upset "It will break their hearts". At paragraph 23 of this Affidavit, C.P. states "I know that this will be difficult on the girls, and I expect that the girls may lay blame on me, they are placed in my care, but I fully understand this and I will do everything to ease the transition, and will encourage as much contact

with the mother over time, the extent of which will depend on the mother's ability to have positive parenting time with ….".

[119] C.P. expressed his appreciation for the opportunity to have this bond with the children.

[120] C.P. testified that he was planning to attend […]school in September and the children would be living with his partner of 7 years in whom he has the outmost trust. C.P's girlfriend is a […] and has been in a supervisor position after 15 years with the […].

[121] C.P. was asked about parenting time for C.G. in the event the children were to remain with him. C.P. spoke of very liberal and open access for C.G. With regards to the need for supervision, he stated that he would rather have a trial run to see how C.G is doing. He stated that there is "always room for improvement" but that the trust isn't there yet. He further stated that if the court decided in his favour, he would want them to reside with mom as much as possible.

[122] C.P. was also asked about his parenting time if the children were placed back in the care of C.G. His wish would be that they want to stay with him. C.P. talked about 95% and then said to be realistic 50-50.

[123] C.P. also stated his position that the maternal grandparents should not have unsupervised contact with any child.

<u>L.S. Evidence</u>

[124] Exhibit 13 is the Affidavit of the Respondent L.S. L.S. believes that C.G. does not appreciate the risks of the children being in contact with her parents. In his oral evidence, the Respondent L.S. expressed concern for the children's safety. In his words, "You can't turn blind eye to sexual assault". He wishes to keep them safe, in a safe environment, in a safe home and start the road to healing.

[125] He testified that he will fight until justice is done for his children and that he will not rest until the Maternal Grandfather is behind bars. He stated that "I love my children and I'm sorry I failed them… At end of day, no one preys on my children".

[126] L.S. position is that the children should not have any contact with the maternal grandparents.

[127] In his affidavit, L.S. talks about the stable and safe home environment he has for the children as well as the proposed sleeping arrangements as he has the care of six older children from a previous marriage. Under his plan, one of his older children from a previous relationship will live with his sister next door on the property. L.S. states that he has the support of family around him. L.S. is employed part time with […] on a contract/on-call basis. If need be, he identifies support persons who are all willing and capable of caring for the children. L.S. states that he is committed to attending to all of their social, educational, recreational and heath needs and is prepared to facilitate the contact of his children with CO.G., L.G. and S.G.

[128] L.S. agreed that the children miss their mom very much. According to L.S., "They love mother extremely and unconditionally". In his words, " they probably love their mother more than they love me". L.S. further acknowledged that the children want to return home with their mom.

[129] L.S. stated that he won't alienate them from mom but requires that her parenting time be supervised at all times.

[130] L.S. acknowledged his limited involvement with the children before January 2017. Respondent L.S. stated in his affidavit (Exhibit 13) that from March 2012 to January 2017, his involvement with the children was limited and controlled by the Respondent Mother C.G with whom he had a poor relationship. According to L.S., Respondent mother, C.G., did not want him co-parenting with her. L.S. further noted that because of the strain in his relationship with the Respondent Mother C.G., he felt that the only way to make sure the children weren't in the middle of this conflict and to keep the peace was to limit his involvement and let C.G. decide. In response to the question as to why he didn't make an application to see the children, he responded by saying that the last time he and C.G. met, they got into an argument and he could "no longer do this". L.S. testified that he bought children gifts but C.G. didn't want them.

[131] In cross-examination, L.S. also acknowledged his limited involvement in the past prior child protection proceedings.

[132] L.S. was asked about accusations of inappropriate conduct by his two boys and his ex-wife. He stated that he told the RCMP that if there are criminal charges to be laid, then have them charged. L.S. didn't show any worry about his former spouse, the mother of his other children and didn't see the risk. He testified that his older children have contact with their mother. He explained that his ex-wife has another child and Mi'kmaq Children and Family Services completed an investigation on his former spouse before she could take her little girl home. In cross-examination, L.S. relied on the fact that there were no charges against his ex-wife.

PROFESSIONAL REPORTS

[133] The Court heard from a number of professionals in this matter.

Valerie Rule

[134] Valerie Rule, Clinical and Forensic Psychologist for Nova Scotia, was qualified by consent in the area of clinical forensic psychology, psychological assessment, psychological assessment and treatment of sexual offenders, sexual offender awareness and family education consultation and psycho-therapy.

[135] Psychologist Rule's Safe Consultation Report and her viva voce evidence is fully before the Court as Exhibit 4, Tab 1. The date of referral was April 10th, 2017. Ms. Rule has worked with the […] but in cross-examination by Mr. MacKinlay, testified that to her knowledge, she had not done any Safe Assessments which dealt with clients who were residential school or descent.

[136] Page 3 of the report sets out limitations of the safe consultation pertaining to C.G. She noted:

> As discussed with Agency Social Worker, Ms. Laura Kennedy, the findings of the SAFE Consultation, pertaining to C.G., are limited in terms of no available data; either verbal or file material, regarding the sex offence convictions of …(maternal grandfather – sic). Although the Agency Case Recordings documented that … had been convicted of 3 out of 5 charges for sexual offences, there was no additional information. Specifically, a June 23, 2016 Case Recording documented a Collateral Contact with Ms. Cindy Sargeant of the Massachusetts Sex Offender Register; "Ms. Sargeant ran …'s criminal history (which shows convictions only) and stated that there were 5 charges for which ... was arraigned on February 1,

> 1993; and findings of guilty/not guilty were on March B (the Consultant notes that "B" appears to be a typographical error and should be a specific date), 1993 as follows: (1) Indecent Exposure – Not Guilty (2) Lewdness in speech and behavior – Guilty" (Ms. Sargeant explained this is usually something the accused has said) (3) Open and Gross Lewd and Lascivious Behavior – Guilty (Ms. Sargeant explained this is usually masturbating in public); (4) Indecent Exposure – Guilty; and (5) Open and Gross Lewd and Lascivious Behavior – Not Guilty. These charges were dealt with in Roxbury District Court. Ms. Sargeant was unable to advise as to whether the crimes involved an adult or child victim and suggested I contact the Boston Sexual Assault Unit or, failing that, the Suffolk County District Attorney's office." The Agency worker Ms. Christina McCarthy also documented, "I met with Constable Brad Anderson of Whycocomagh RCMP on May 18, 2016". He checked police systems to determine if there were any complaints against … in the US involving child sexual exploitation. He checked the U.S. National Centre of Missing and Exploited Children database and determined that the only information is that … made a complaint on March 27, 2016 that … has a history of molestation of female children and flashed the daughter of …. These charges were dealt with in Roxbury District Court, Ms. Sargeant was unable to tell me the age of the victim in this matter. I then contacted the Crimes Against Children Unit (of Boston Police) and the Suffolk County Criminal Clerks office and they were likewise unable to find any information on the age of the victim".
>
> Although the Consultant was aware that … had 3 convictions for sex offences in 1993 in Boston as described, above there was no available information regarding sentencing and/or conditions stemming from these convictions…
> The consultant discussed the problems associated with processing sex offender specific components of the SAFE program given the lack of data regarding … convictions (as described above,) and that any opinions regarding …'s risk would be hypothetical in nature. C.G. was advised that the Family Safety Plan developed at the end of the SAFE program, may have to be adjusted if any new information became available regarding …'s past offences. In addition; should any new information regarding potential risk to the children by … be received an adjustment to the Family Safety Plan would have to occur. C.G. advised she understood this limitation.

[137] In re-direct, Ms. Rule indicated that the Safe Assessment is not an assessment. It is a consultation process and a Psycho-educational process. Ms. Rule explained in her viva voce evidence that without a conviction, it is not ethical to go ahead and she could not offer this service but in this case, because of documented evidence of legal convictions, she felt it was ok. She could not address the maternal grandmother given no convictions.

[138] As noted at page 12, Val Rule reiterated that C.G. must give informed consent to participate in the program and that if she was not able to believe the convictions in the United States were valid, she would be unable to continue. Val Rule reviewed a printed copy of the file history regarding the charges and convictions of sexual offences regarding the maternal grandfather. C.G. advised that, "although she was still checking to see if he was on a sex offender registry", she accepted the documented evidence and Val Rule.

[139] It was noted in the report that the Respondent mother C.G. reminded the Consultant that her father "was not on the sex offender registry". In response to the Consultant's query regarding whether this mattered or not in terms of protecting her children, the Respondent mother C.G. stated, "No". She recognized that her "need to be in control" had become a deficit in terms of her ability to care for her children. She concluded, "I am still going to get his record from the US though". Ms. Rule noted, at page 25, "Whether or not … is on a Sex Offender Registry should not be confused with the documented evidence that he was convicted of 3 sexual offences".

[140] Val Rule determined that the Respondent mother's description of child sexual assault displayed an appropriate level of insight regarding this construct. She displayed good insight regarding children's interpretation of sexual activity at various states of development. In addition, the Respondent mother C.G. understood the signs and symptoms of child abuse and recognized that any change in a child's physical, social, academic, or emotional functioning was a sign that something was "out of balance" and should be followed up by a parent.

[141] The Respondent Mother C.G. understands the various components of denial including denial of the facts, denial of responsibility, denial of the impact of the behavior, denial of planning the offence(s), denial of violence and aggression and denial of the need for treatment. However, she is currently confused by her discrepant emotional reactions regarding her documentation of her father's 3 convictions for sexual crimes which is the 'proof' she required, and is struggling to find some level of congruence.

[142] Ms. Rule offered the opinion that the Respondent mother C.G. has a good understanding of the concept of consent and displayed a good grasp of the process of grooming. The Respondent mother displayed a good ability to understand the concept of cognitive distortions (stinking thinking) and it was the Consultant's

opinion that she has a good understanding of cognitive distortions and in particular, how they are an integral part of the offence cycle. She further found that the Respondent mother understood the concept of fantasy, the fact that fantasy is a major part of sexual offence cycle, and that it followed the buildup phase of sexual offence cycle. At Page 21 of 27 it was written:

…

> C.G. advised that she understand how her father "could have fantasies so he could masturbate". It is the Consultant's opinion that this was a change from her previous denial regarding her father's behaviour. Subsequent to further discussion, it was evident that C.G. understood the important role fantasy plays in the sex offender cycle. She was open to the suggestion that even if her father was not physically touching children, that public masturbation was a sex offence. She agreed that children who may be the target of a sex offender's fantasy, may not realize that the offender's image of them is the catalyst of masturbatory practises. A discussion ensued regarding her children and other children in the family home; and as they grew up and discovered their father and/or grandfather is a convict sex offender, they may be affected in a negative manner knowing that he may have fantasized about them in a sexual manner.
>
> C.G agreed that it "is possible" that her father may be fantasizing about sexual activity with a child currently. The Consultant noted that she minimized the risk this may pose to her children or other children in her father's presence, by emphasizing that he is currently in ill health.

[143] Ms. Rule's opinion is that the Respondent Mother understood the offence cycle, and grasped the concept of both risk and risk management. Val Rule further noted that the Respondent Mother C.G. understood the Psycho-education regarding the importance of supervision and family safety planning and the importance of having a written plan and a plan was devised by the Respondent mother C.G.

[144] Ms. Rule in her viva voce evidence was asked if C.G.'s safety plan was capable of protecting children. Ms. Rule stated that they don't know if this is an appropriate plan as we don't have the right information. She noted in cross-examination by Ms. Fraser Hill that it was not safe at this point for the children to return to her care.

[145] At page 9, Val Rule wrote "…displayed a good level of intellectual insight regarding the current situation. By the end of the intervention, the Consultant was concerned regarding a lack of emotional insight."

[146] Ms. Rule's conclusion is found at paragraphs 26 to 27 of her report titled, "Analysis of C.G.'s Ability to Protect her Children".

> It is the Consultant's opinion that C.G. has a good understanding of the concepts contained in the SAFE Program. She displayed the ability to offer examples of the various concepts from her life experiences. The Consultant discussed with C.G. the evidence that she intellectually understood all the components of the SAFE program as presented, and articulated the potential risk … hypothetically poses to her children; however, she consistently displayed some difficulty in developing an appreciable level of emotional insight regarding the current family difficulties. Basically, C.G. has not connected "her head with her heart". She understands it all on a cognitive level, however her emotional status is fragile and she remains vulnerable. She recognized that it is extremely difficult to love her parents and then be required to keep her children safe from harm from them. She agreed with this analysis.
>
> Based on the information acquired through the process of the SAFE program, it is the Consultant's opinion that C.G. intellectually understands the psycho educational information provided through the program. It is the Consultant's opinion that C.G. has an ability to internalize the information she has learned and generalize it to a safety plan for her children. However, in terms of her emotional functioning there is some concern regarding her ability to consistently follow the family safety plan. She has advised that in the past, she has not followed the expectations of the Agency.
>
> The family dynamic is historically complicated. A concern regarding C.G's ability to protect her children is her emotional disconnection to her own functioning that is likely based in her experiences as a child growing up in a home where both parents were victims of residential school experiences, her protection of her parents, and her difficulty taking the perspective of others.
>
> It is the Consultant's opinion that C.G. will have the capacity to protect her children once she receives and successfully completes psychotherapy that approaches the psychotherapeutic intervention with her as a secondary victim to her parent's historical trauma. Her needs should be understood in regard to the resolution of that trauma, as well as the development of self perception, development of personality, and her functioning in her childhood home., There is evidence of attachment dysfunction between C.G. and her parents; and it appears that she has assumed the role of their protector. She is fiercely loyal to her parents as she struggles to understand her own experience growing up as their daughter. Therefore, before any therapeutic intervention explores the process of reworking C.G.'s affective responses and cognitive distortions that usually accompany a traumatic childhood and assist in the reduction of role conflict between her and her parents, it will be important to stabilize C.G. in terms of

> emotional functioning and strengthen her ego functioning as much as possible. If psychotherapy is successful, C.G. would have the intellectual and emotional capacity to protect her children.

[147] In terms of Services, Ms. Rule writes at page 27:

> The concern for C.G. and her children is that the matter is before the Family Court and the Agency must ensure C.G. has the ability to protect her children. Although coordination with other intervening systems is critical, and protective issues may be a major concern, the success or failure of family reunification lies in the cooperation of the systems delivering the various services. The focus must be on C.G.'s needs and the stabilizing of her emotional responses followed by familial trauma resolution. The 2 areas that need to be addressed initially include the impact of the trauma and the strengths and vulnerabilities C.G. brings to coping with crisis.

[148] In her letter undated to Ms. McDonald following a telephone consultation with Ms. McDonald on October 30, 2017 (tab 1 of Exhibit 4), Val Rule speaks of Mike McInnis at the second last paragraph:

> I am aware that C.G. has been receiving supportive the way from Mr. Mike McInnis and this is considered a positive intervention. However, the recommendation as described above, is for a specified psychotherapeutic intervention. As documented in the consultation report: "There is evidence of attachment dysfunction between C.G. and her parents; and it appears that she has assumed the role of their protector. She is fiercely loyal to her parents as she struggles to understand her own experience growing up as their daughter."
>
> It is my opinion that C.G. understands that her behavior is self-defeating and she wishes she could make meaningful changes in her perception and behavior. This is considered reasonable intellectual insight. However Intellectual insight does not influence an individual's emotions and/or behavior in a significant manner. This may be why C.G. advised that she has not always followed the Agency's expectations in the past and has had historical interpersonal difficulties. Therefore, the development of intellectual insight is not the therapeutic goal for C.G. It is simply the beginning of the process. My concern is that C.G. does not articulate or display emotional insight in terms of knowing that her perception of her family and herself are inconsistent with her intellectual insight. Therefore, before any therapeutic invention explores the process of reworking C.G.'s affective responses and cognitive distortion that usually accompany a traumatic childhood, it will be important to stabilize C.G. in terms of emotional functioning and strength her ego functioning as much as possible so she will recognize the need and have the motivation to practise new skills that may increase the opportunity for meaningful and lasting change.

> …I am confident that Dr. Webster has the expertise necessary to provide a psychotherapeutic intervention that is consistent with my recommendation and one that would be beneficial to C.G.
>
> …It is impractical to offer an opinion regarding the length of time to implement such an intervention. Psychotherapy is idiosyncratic and must be tailored to fit the client. …simply put: this is matter of hooking her head to her heart. The new skills should be reinforced with practise until they become habitual. If the intervention is successful; positive change will be observed in C.G.'s parenting role with the children. In addition, as she becomes increasingly psychologically stable, her interpersonal relationships will improve. Therefore, I recommend that the intervention be implemented for the months remaining in the current proceeding.
>
> The value of providing psychotherapeutic intervention with C.G. will be an important component in ensuring the best interest of the children are met. If she is successful in the psychotherapeutic intervention, she will likely develop a healthy level of empathy for her children in terms of their experiences with, and perception of her parenting role It is important to provide C.G. with this opportunity to increase the prognosis of the development of healthier parent/child relationships.

[149] In cross-examination by Mr. McKinlay, Val Rule stated that she was familiar with Mike McInnis and examined his curriculum vitae. She stated, if asked, that he is qualified to do a type of therapy and he seems to have good qualifications. Ms. Rule said that she did not know his work but that supportive counselling is not within the scope of her referral. Val Rule stated that the therapist must have an understanding of the sex offending process as well as being a therapist.

[150] Val Rule stated in her viva voce evidence that if there was no time left she would not have made the recommendation. If no time left after consultation, she would have taken the position that C.G. had no ability to protect her children with lack of emotional connection. On cross-examination, she stated that she could not predict the length of psychotherapy. Psychotherapy takes many months. Val Rule was hopeful but realistic. She stated that if a client had a moment of insight – a gold nugget is a beginning.

[151] She stated in cross-examination by Mr. McKinlay that there was absolutely no golden nugget moment in the few sessions they did. She was asked if it is possible that the Respondent Mother can believe the innocence of her father but at

the same time if more emotionally together, she would keep her children safe with limitation? Val Rule stated that if intervention is successful there is a much better opportunity for her to have emotional insight to compel her to keep children safe. It depends on life circumstances and there is no 100% guarantee but "we do our best".

[152] In cross-examination by Mr. McKinlay, Val Rule stated that it would be better judgement if she was to accept not facilitating zero access between her children and grandparents and leave it to third party supervision. In cross-examination, Val Rule was asked by Ms. Sumbu about the necessary qualities for a supervisor. Val Rule stated that it depends on the supervisor and children. She advised that it requires monitoring before during and after visit; 24-7 eyes on; and a clear understanding and acceptance that they are charged with protecting child from risk. According to Val Rule, the person needs to understand and be trained in sexual abuse and how it affects children. Val Rule further recommended that a child see a child therapist after a visit as we don't know how a child will interpret the visit. Val Rule further stated "it is really a difficult process but doesn't mean it cannot happen". She refers to third party, non family members. She stated that sex offenders see their children as long as children are safe and not afraid – it is having adult supervision which knows to get children out of there.

Allister Webster

[153] The Minister first contracted licensed doctoral psychologist Allister Webster to provide psychotherapeutic services to C.G. Dr. Webster was not qualified as an expert in these proceedings.

[154] Psychologist Webster provided a report dated February 28, 2018 and testified in this matter. His report is in Exhibit 4, Tab 2. The evidence is that C.G. attended appointments with Allister Webster.

[155] Clinical Psychologist Allister Webster agreed to be contracted to provide psychotherapy and the Respondent Mother attended two (2) sessions on January 31, 2018 and February 28, 2018 for approximately 50 minutes in length.

[156] At page 2 of the letter, Dr. Webster wrote "C.G. present as genuine and open. She appeared cooperative in her engagement. During both sessions, C.G. expressed her belief that her mental health needs were adequately and well

managed within her therapeutic relationship with Mike McInnis." He further noted that "In a respectful and articulate manner, C.G. voiced her belief that she did not require additional support form me."

[157] Within that first session, Dr. Webster decided that worker Laura Kennedy would be invited to the second scheduled session to provide agency input regarding the development of counseling goals. Ms. Kennedy was approached and invited to participate in the second session. Via voice mail, Ms. Kennedy reported her inability to attend/participate in the session. Ms. Kennedy was later advised that the counselling file would be closed. In the absence of Agency direction in regard to defined treatment goals and C.G.'s assertions that her needs are being met via her therapeutic alliance with Mr. McInnis, further interviews would be redundant.

[158] In cross-examination by Mr. McKinlay, Dr. Webster stated that he felt uncertain about how to proceed and requested a case conference. He was unsure of what Val Rule was seeking in terms of therapy. His hope was there would be a case conference so that they would know exactly where we all stood and to measure progress against that outcome. He was told that he should read Ms. Rule's report but when he read it, he didn't fully follow it and he felt it appropriate to voice his questions.

[159] He was asked in cross-examination about any follow up by the Department of Community Services following the termination. He was offered a case conference but he said he was basically not moving forward with the case. He was fairly busy and felt he had done what he could to spark a case conference.

[160] Dr. Webster agreed that it was not accurate to say that the Respondent Mother terminated sessions with him.

[161] Dr. Webster was asked about splintering and stated that, ethically, only one mental health worker should be in place at a time to avoid conflicting therapies. Dr. Webster didn't give an ultimatum to the Respondent Mother relating to Mr. McInnis or him. He stated that, like C.G., he needed direction.

[162] Dr. Webster confirmed that C.G. was willing to engage in psychotherapy and whatever was necessary to reunify with her children. Dr. Webster stated that at no point did she refuse to see him.

[163] Dr. Webster was asked about psychotherapy versus supportive counselling. Dr. Webster stated that he did not know what Val Rule wanted.

[164] Dr. Webster was asked about Mike McInnis and said he was not familiar with Mr. McInnis. Dr. Webster was asked about Gary Neufeld. While he heard Mr. Neufeld's name before, he had no familiarity beyond that.

Gary Neufeld

[165] The Minister next contracted Gary Neufeld who was approved by the Minister to provide psychotherapeutic services in *Children and Family Services Act* cases. Gary Neufeld provided reports and testified in this matter with respect to his attempts at the recommended psychotherapy to the Respondent mother, C.G. The evidence is that she attended appointments.

[166] Gary Neufeld, Psychotherapist, was qualified as a clinical therapist capable of giving opinion evidence respecting therapy. He was contracted to provide therapeutic services to C.G. in mid to late March of 2018. The Court heard from Mr. Neufeld on June 18, 2018 and October 29, 2018. Tendered into evidence as Exhibit 9, on June 18, 2018, was his CV and professional reports dated March 2, 2018, June 8, 2018 June 12, 2018. The report of Gary Neufeld dated July 12, 2018 and August 21, 2018 was tendered into evidence as Exhibit 35.

[167] In his CV, Mr. Neufeld noted that he worked as a master's prepared clinical therapist since 1991 and as an undergraduate. He worked as a mental health practitioner for 10 years before entering graduate work. The focus of his work in early years was largely family therapy but encompassed individual, couple and group work as well. He worked in a residential school, in both in and out patient hospital settings and most recently as a private practitioner. Over the last 14 years, he has been doing contract work for the Department of Community Services where he provides assessment and treatment for children, parents, couples and families. Mr. Neufeld has his MSW from Dal University, the Maritime School of Social Work; narrative therapy post graduate training from the Dulich Centre, South Australia and his BA Hons, Psych. St. Mary's University (psychology).

[168] In his last report, dated August 21, 2018 relating to his visit with C.G. on August 20th he noted that they had a long conversation about the merits of the continuation of their therapeutic service. It was noted therein:

> From the onset, C.G made it clear that while she was consenting to attend session with me, she questioned the notion of duplication of service, since she was already seeing Mr. Mike McInnis and continues to see him for therapy on a regular basis. C.G. has expressed that she feels the work she is doing with Mr. McInnis is and continues to be helpful. I agree that the idea of two therapists working with a client on the same or similar issues is generally contraindicated. When I received the referral from you, the understanding was that I would provide therapy to assist C.G in appreciating the emotional load of coming to terms with the view that she loves her parents while, at the same time realizing that her daughters alleged that their grandparents sexually abused them. … does not believe that her parents did sexually abuse her daughters and she has a list of reasons why she holds this view. Even so, … is clear that she has always protected her daughters from unsupervised contact with her parents because there may be remote possibility that the allegations may be true. "I'm a Mom. I have to protect my kids. I always have (protected them.)."
>
> During yesterday session …also talked about psychological insight and asked whether I believed she had it. I said that I believe she does have psychological insight but, that being said, I continue to believe that she is giving primacy to certain facts over others. On this point, I think it is fair to say that we respectfully disagree.
>
> It is my opinion that there is no reason believe that C.G.'s framing of the events that led to the allegations that her daughters made, and then recanted, is likely to change. That makes the reason for the referral unattainable and thus I have decided to close the file."

[169] Gary Neufeld testified that Val Rule was quite clear about the type of work to be provided and he found her recommendations for psychotherapy to be very clear, namely to engage with C.G. and assist her to work through the allegations that her father had sexually abused two of her daughters, her father's conviction for three sexual offences in the United States and other allegations from the extended family of C.G. concerning sexual abuse by her parents.

[170] In cross-examination by Mr. McKinlay, Mr. Neufeld agreed that it would be more difficult for a person to accept accusations if there was anything about the accusations which would take away from their veracity. C.G. explained to Mr. Neufeld that within 8 months of making the allegations, her daughters indicated nothing had happened. Mr. Neufeld agreed that it is understandable that the recantation eight months later would make it harder to accept the veracity of the allegations. With respect to the three convictions relating to her father, Mr.

Neufeld accepted that no details of the old convictions in the United States were provided in Val Rule's report. Gary Neufeld testified that C.G. was not denying convictions but one example of giving primacy to one fact over another was that she stated that her father was not on the sex offender register. Mr. Neufeld accepted that he could see it is confusing if someone is being accused of sex offences and not on a sex offender register. He acknowledged that that would give a basis for a valid question.

[171] Mr. Neufeld said that his initial work with C.G. in the first three sessions seemed similar to Dr. Webster's work, namely that he was finding it difficult to do the work he was tasked to do because of C.G.'s position at that time. This was not the evidence of Dr. Webster. Mr. Neufeld stated that especially in the beginning and less in the last sessions, C.G. gave primacy to her father not being on the sexual abuse register and to the recantations by her children and less so to her father having been convicted of three previous offences and the allegations of sexual abuse not only on her children or others. Mr. Neufeld stated with regards to his June 8th report that at that point, there had been 3 sessions and there was a pattern. He was very frank with C.G. that as court was coming up and he would be subpoenaed, if the pattern continued, he would have to answer questions which would not be helpful to her position. He was hesitant to schedule other appointments as he hadn't seen an opening that he was looking for. He then started to introduce other pieces that were in Val Rule's report that her children did disclose they were sexually abused by her parents and that her father had been convicted. He noted that there were different words that suggested that C.G. had doubt, that she had vigilance around the children being around her father. He noted that there were small openings that he attempted to pull out.

[172] Mr. Neufeld was asked in cross-examination by Ms. Morrow about Mike MacInnis and he stated that Mike MacInnis is providing largely supportive counselling. Mr. Neufeld stated that he was not sure as to the qualifications of Mr. MacInnis. He explained that he called Mr. MacInnis and they had a 20-30 minute conversation the second time. Mr. Neufeld didn't think it was possible that Mr. MacInnis was providing psychotherapy with different psychotherapeutic goals. Mr. Neufeld testified that Mr. MacInnis was really clear with what he was doing, that he was a sounding board for C.G. and was supportive. Mr. Neufeld testified that Mr. MacInnis had not read Val Rule's report but was going to read it and hadn't spoken to the caseworker. From Mr. Neufeld's knowledge, he believed that Mr. MacInnis' information came from C.G. In cross-examination by Mr.

McKinley, Mr. Neufeld stated that splintering (2 different counsellors) would be a concern if or when dismantling happens but he didn't think that was Mr. MacInnis' intention to go to that place. Mr. Neufeld stated that he was way more concerned about splintering now because it is getting closer to his therapy.

[173] He was asked about C.G. being receptive to psychotherapy. He stated that after C.G. received the report of Val Rule, she didn't appear to be open to psychotherapy. He stated in C.G.'s defence, she has made some movements toward engaging in the work. Initially, he heard the same things that her work with Mr. MacInnis was sufficient. Mr. Neufeld testified that he didn't think she would now answer it the same way.

[174] Mr. Neufeld was asked about the chance of success to which he replied that with C.G.'s level of beliefs and connection with her parents, even if break through started, it would take considerable progress.

[175] Ms. Sumbu asked if there were any mechanisms to predict timelines. He stated that the situation we are talking about was something constructed over many years. It is complicated with so much at stake and with so many pieces involved. Mr. Neufeld testified that it wouldn't be four weeks and probably wouldn't be 4 months. Sometimes it could be longer.

[176] Mr. Neufeld stated that he has seen openings. He noted that it is possible that some of these openings are because of the fact that C.G. has to be receptive given the point at which we are. He also said that these openings could be the result of court engagement which is highly emotional. He spoke of the kind of work during the last 2 sessions and that when matters are highly emotional, there is much more available. He stated that when matters are highly emotional, it makes the defences fragile and there is more opportunity. In cross-examination by Ms. Fraser-Hill he indicated that he would not go that far to say that C.G. was entrenched in her position relating to her father and mother. She presented that way at the beginning but he always felt there was something there. He noted that her position had changed from May to now after 5 sessions. In retrospect, the possibilities were there.

[177] In cross-examination by Mr. MacKinlay, he stated that C.G. is closer to giving primacy to different parts and different facts and that is where they were. He stated that it is possible for her to do the work but she needs time. He said that

in the last couple of sessions, he was getting into the gist of the matter and work had begun. He was asked about openings and explained that when he first started working with C.G. she was talking more in absolutes, that the abuse didn't happen or that her brother and sister were in large part responsible for some of the allegations. Especially at the last sessions, she was saying "I have always guarded" when children were around her dad. She also said that she dreaded the day her daughters would come to her in their twenties saying yes it did happen. That said to Mr. Neufeld that there are some cracks in the defence and what she is really sure about was that she would not expose the children unsupervised to her father because of the amount of doubt. The doubt was much smaller in the first 3 sessions, than last 2 sessions. The last couple of sessions were more substantive.

[178] In answer to the question if he is now hopeful that if sessions were to continue for some months, C.G. would have a chance to make the connect between heart and mind that Ms. Rule enunciated and Mr. Neufeld said yes, that she would have a chance absolutely.

[179] In cross-examination, he noted that C.G. has a lot of strengths. She is courageous. He really believes that she has put her adult years into parenting and that she sees her biggest identity as being a parent of 8 children. He further noted that C.G. is quite proud and a bit of a "dynamo" who doesn't hold things back. She has always been polite and articulate.

[180] Mr. Neufeld stated on cross-examination that C.G. acknowledged to him that because there's a possibility that the allegations may be true she has to protect her children.

[181] Mr. Neufeld did not discuss with her any mistakes that she might have made regarding her attempt to protect her children and how she would change her way of protecting her children. Nor did he ask her what her plan was going forward if her children were returned to her. He stated that it was not his goal to enhance C.G.'s ability to protect her children.. He identified his goal being to assist C.G. in appreciating the emotional difficulty in coming to terms with the risk that her parents presented. He explained in re-direct that safety planning did not form any component of the psychotherapeutic service he was asked to provide C.G.

<u>Mike MacInnis</u>

[182] Mike MacInnis was qualified as an expert to give opinion evidence in the field of clinical therapy/social work in the area of mental health and addictions and in particular the mental health of First Nations individuals with a focus on the impact on grief and trauma in their relationships. Mr. MacInnis was not being qualified as a psychiatrist or psychologist able to diagnose C.G.

[183] The Minister's objections to that qualification, as well as the objections by Respondents C.P., L.S and the Guardian ad litem are matters of record.

[184] Ms. McDonald argues that Mr. MacInnis is an advocate for C.G. and that he provides her with supportive counselling which is not psychotherapy. She argued that Mr. MacInnis' testimony, with respect, was confused and concerning because of its self serving, uncertain, vague and contradictory nature. Ms. McDonald argues that in his undated report which was tendered into evidence (exhibit 21), he expressed his opinion that C.G. could protect her children in the future. He gave this opinion while aware that C.G. had been seen by Val Rule for the safe consultation and that she had been referred to psychotherapy as a result of that consultation. Yet he had not read the consultation report when he expressed that opinion. The Minister objects to the admission of that opinion from Mike MacInnis and objects to any opinion from Mike MacInnis being admitted or given any weight in the court's deliberations in this matter. Ms. McDonald argues that his evidence with respect to the safe consultation report was problematic in that at some point he may have scanned it, then he read it, then he read it more than once and he agreed with much of what it said. According to Ms. McDonald, it was extremely unclear when he did any this, what he concluded from the report, what he adopted from the report, and the basis of any opinion Mike MacInnis might offer to this court. The Minister argues that the foundation of an expert opinion is an issue that the court needs to hear clearly in order to adopt or accept or be persuaded by the opinion. The Minister argues that Mr. MacInnis has not been providing the psychotherapeutic intervention recommended by Psychologist Rule in her consultation report. Counsel for C.P., L.S. and the litigation guardian echoed these concerns.

[185] Ms. Morrow stated on behalf of C.P. that she is sure that Mr. MacInnis is very beneficial and helpful in giving support in his area and on issues of residential schools. Ms. Morrow argued that Mr. MacInnis has a depth of knowledge. She doesn't have an issue with him as a counsellor but it was not the right counselling for C.G. at the right time and again, the time is up. Ms. Morrow suggests from the

evidence that more lately Mr. MacInnis was actually looking at and reading Val Rules' report.

[186] I agreed that Mr. MacInnis' counselling with C.G. is relevant to the issue before this court. The issue in this case is whether evidence from a qualified expert relating to risk to the children is relevant. The Court wants to consider any and all relevant information in order to make the right decision in the children's best interests.

[187] I found Mr. MacInnis' evidence was necessary in assisting me, the trier of fact. Mr. MacInnis has been in a therapeutic relationship with C.G. since August 2017 and it continues. There has been no other professional involved who has had as much involvement with C.G.

[188] No such exclusionary rules were identified. Mr. MacInnis has acquired special or peculiar knowledge through study and experience in the field of clinical therapy/social work in the area of mental health and addictions and in particular the mental health of First Nations individuals with a focus on impact of grief and trauma on their relationship Mr. MacInnis has a BA (social sciences) from ST.F.X., criminology studies from St Mary's, a Bachelor of Social Work from Dalhousie University and a Masters of Social Work from Memorial University. He worked in the field of clinical therapy/social work since in or about 2008 commencing as a clinical therapist for the "A Journey of Healing program" from 2008 to December 2013 with the Native Alcohol and Drug Abuse Counselling Association of Nova Scotia. He worked from December 2013 to present as Senior RHSW/Clinical Therapist with […] mental health services and from February 2015 to present as a clinical therapist/social worker with Mental Health and Addictions Services with the Nova Scotia Health Authority. Mr. MacInnis testified that he was previously qualified as an expert in a chid welfare case before the Antigonish Family Court when he worked at NADACA.

[189] In his report tendered as Exhibit 21, Mr. MacInnis stated that he has been providing counselling and support for the Respondent C.G. since August 17, 2017; that the Respondent C.G. has consistently attended all scheduled therapy sessions and has remained polite, respectful and communicative with the therapist in all sessions together. It was further noted by Mr. MacInnis that Respondent C.G. has consistently demonstrated resilience and a strong sense of compassion for her

children. In every session, C.G. expressed her concern and her love for her children and she remains family focused.

[190] In his report, Mr. MacInnis expressed that he provided counselling and support. Mr. MacInnis set out the therapies applied. He noted that he works in the […] and so his primary therapeutic approach involves the promotion of the foundational concepts of aboriginal wellness. He further writes that he also integrates therapeutic approaches from a post-modernist perspective including the use of cognitive behavioral therapy, structural theory, narrative therapy and solution focused therapies.

[191] In cross-examination, Mr. MacInnis stated that psychotherapy and supportive counselling are integrated and supportive counseling involves psychotherapy and they go "hand in hand." He says that he is listening to C.G. and trying to draw out some of the things and that he tries to challenge some parts and validate others. He stated in cross-examination that C.G. mentioned it to him on plenty of occasions about psychotherapy and Mr. MacInnis told her that he was providing her with psychotherapy. He stated that he feels his approach is working. The treatment objective in the supportive aspect is to make sure she is okay but he is always assessing through that lens.

[192] Mr. MacInnis testified that when a person sees a therapist, that person is involved in psychotherapy. He stated that it is just the approach to practice that may vary. Mr. MacInnis explained that he has been providing C.G. with supportive counselling. He is applying a different approach. They talk about psychoeducation and impacts of residential school. Mr. MacInnis explains that his work with C.G. is psychotherapy from his perspective. He stated that supportive counselling should not be distinguished from psychotherapy. According to Mr. MacInnis, C.G. is seeing him for psychotherapy and supportive counselling and he is assessing all the way through. He states that he has supervised master students who call themselves psychotherapists.

[193] Mr. MacInnis stated that C.G. is family focused and interested in improving herself. Most of the time he lets C.G. talk and he supports her. He explains that once there is a resolution and court is over, then the shift will be different. At that time, Mr. MacInnis' work with Respondent C.G. will be more clinical. He stated in his oral evidence that C.G. does a lot of the talking but in the latter session, they did more on awareness of risk and he thought she has learned a lot.

[194] Mr. MacInnis explained in his viva voce that he sees C.G. mostly once a week and sometimes every second week. He testified that he read Val Rule's report several times over the last few months but did not remember the first time he read it.

[195] Mr. MacInnis testified in cross-examination that C.G. did provide in detail information about the prior involvement. He explained in his cross-examination by Ms. McDonald that he read some of the court documents provided by C.G. which went back to 2003 initially and the different involvements. Mr. MacInnis knew the history of involvement with child welfare.

[196] Mr. MacInnis testified that he did try to talk to the agency worker on a few occasions but there was not much collaboration and he was just referred to Val Rule's recommendations. This is consistent with Dr. Webster's experiences. He stated that there were two occasions when he spoke to a worker but not sure of the dates at hand. He stated that there was not much conversation there and it was unlike his conversation with other service providers. Ms. Kennedy noted at paragraph 12 of her affidavit dated October 25, 2017 (Tab 2 Exhibit 2), that C.G. mentioned counsellor Michael MacInnis, a clinical social worker from […] and Ms. Kennedy wrote "..she made this referral herself and the Agency encourages her in attending this service." It was further noted in the affidavit of Ms. Kennedy dated May 22, 2018 par 67 that in reference to C.G.'s comments that Mr. MacInnis was waiting for Ms. Kennedy to call him back, Ms. Kennedy indicated she would not answer his questions because of the way the consent form was written.

[197] In the case activity report dated May 31, 2018 (Exhibit 12) Ms. Kennedy set out her contact with Mike McInnis, MSW, RSW. It was noted by Ms. Kennedy that Mr. MacInnis recognized through the court documents that there were multiple allegations from different sources in regard to the grandparents and time is running out. He noted that the allegations from L.G. and S.G. are concerning and he will be more direct with C.G. about this when he meets with her tomorrow. Mr. MacInnis further told Ms. Kennedy that he would have liked to have known about the court material sooner as having information from the other side will now make a difference in how he works with her. Mr. MacInnis further noted that there were a lot of opportunities for C.G. He indicated he has not looked at Val Rule's report, but that he was going to read it.

[198] Mr. MacInnis was asked about Val Rule's assessment and the recommendation that C.G. needs psychotherapy before she can fully realize risk. Mr. MacInnis stated that he really liked the safe assessment and described it as quite holistic and it heightened C.G.'s sensitivity and made her more aware of her risks. In cross-examination by Ms. McDonald, Mr. MacInnis stated that at the time of the report he might have reviewed Val Rule's report but quickly. Since then he read it. Referring to court exhibit 12, case note from May 31, 2018 entered by Laura Kennedy, he stated he still hadn't read it and then said he would not have read it thoroughly. He stated that at the end of May, he still hadn't read it. He thinks he read it initially but didn't study it. He said it was more recently when he was getting into it and dissecting it.

[199] On re-direct, Mr. MacInnis stated that when he spoke with Mr. Neufeld he seemed to be really focused on the charges in Boston and seemed to think they were separate incidents and that was what he emphasized in the conversation.

[200] Mr. MacInnis stated that initially when she came to see him, Respondent C.G. was quite angry, resistant and upset and didn't believe that her parents had anything to do with molesting her children. He explained that before she was very defensive of her dad and that she is very close to her parents. She didn't want to believe it could be possible. In cross-examination by Ms. Fraser-Hill, Mr. MacInnis stated that at the time he prepared his report which was sometime ago, C.G. did not believe her parents were a risk to the children. She was very protective of her parents and she referred to them as role models.

[201] Mr. MacInnis stated that presently she isn't sure. He testified that C.G. has recently stated that she just doesn't know. She now knows there is a possibility and she is acknowledging it. She made some bad choices by returning to the home and she knows that she should not have gone back to the home. She acknowledges there is a risk for sure and he believes she will try to manage the risk and keep her parents away from the children as there is so much at stake. In the last number of months, she is acknowledging and in the last few sessions she stated she was not going to take chances. She will err on the side of caution and not have her parents alone with her children. He stated that it is more difficult to provide protection if one truly doesn't believe there is a risk but she has learned a lot in the last year and a half. There is a much better chance of her protecting the children now as she has learned a lot. Mr. MacInnis doesn't think she is going to take any chances.

[202] In cross-examination, he stated that he identified a shift in C.G. within the last few months. C.G. knows it is important to always err on the side of caution. C.G. initially had her guard up and did not want to believe that there was something to the allegations. C.G. is more aware and able to manage risk even better. She doesn't know if anything happened but better to be safe.

[203] In terms of C.G.'s willingness to balance her relationships between her parents and children, Mr. MacInnis testified that C.G. told him that she loves her parents but if it meant her parents or children, she would pick her children. He explained that in the later sessions, C.G. was able to manage the risks much better and she learned a lot. He explained that her main concern is being with her children and she has made the point that she will do whatever it will take so that her children are safe and not exposed to any opportunity. Mr. MacInnis described her as a "mother bear."

[204] Mr. MacInnis found C.G. to be very sincere regarding better managing that risk. Her number one priority is having the children returned to her care. He described C.G. as pretty transparent – that she "wears her emotions on her sleeve" and "What you see is what you get." C.G. values the "7 secret teachings – honesty and love and respect are very important. She is well respected, very direct and says what she is feeling. She does not filter herself very much. She is "who she is, … She is very honest, …some people can handle her others can't". I like her as a person."

[205] Mr. MacInnis stated that C.G. was very engaged and she does a lot of the talking. In the latter sessions, they did more on awareness of risk. He thought she has learned a lot.

[206] Mr. MacInnis stated that C.G. understands that because of multiple allegations there could be risk. He further notes that no matter who it is, C.G. understands not to allow anyone with any risk potential to be unsupervised around her children. In Mr. MacInnis' words, that "was a big stride for her."

[207] Mr. MacInnis found C.G. to be always forthcoming and consistent with her information. According to Mr. MacInnis, C.G. has learned through all of the programming and counselling and the safe assessment by Val Rule that she has to

err on the side of caution when it comes to sexual abuse. Mr. MacInnis is of the opinion that she has come a long way.

[208] Mr. MacInnis stated in cross-examination that it is possible for her to go backwards and shift back at any time. She has classified herself as second generation institutional abuse survivor. He stated that there is a lot of risk in the communities he serves and there is a lot of sexual abuse. Mr. MacInnis notes that social workers have limitations and he cannot always tell what is existing in someone's thoughts, that people have their own will and their own emotions. Mr. MacInnis states that it is always possible that C.G. is minimizing this situation but he thinks she is very truthful in what she said to him. He notes that at first, she was minimizing and now she has learned she cannot take a chance on anyone. She is much more protective. He further stated to Ms. Morrow that he would be surprised if someone told him that C.G. was doing something against a rule.

[209] Mr. MacInnis was confused about the maternal grandparents having supervised visits. Mr. MacInnis testified that although the children enjoy a loving relationship with their maternal grandparents, supervised visits could be triggering for the children if something actually happened and that if something did happen it might not be in the children's best interest to have the supervised visit. He reiterated on cross-examination that it is in the children's best interests to not have contact with the grandparents. In terms of potential psychological harm, Mr. MacInnis stated that he is concerned about potential psychological harm of the children being in the presence of the grandparents if there was strong evidence they did do something. On the other side he noted that if nothing of that nature happened, it wouldn't be fair and he would promote grandparent interaction. To Mr. MacInnis, it all hinges on an unknown, if it happened or not. He concluded that he would be concerned one way or another. He further noted on cross-examination by Ms. Morrow that it would not be a good idea to support contact with family members involved with child pornography.

<u>Bernadette Poirier</u>

[210] Bernadette Poirier, Program Supervisor of the […] testified on behalf of C.G. Ms. Poirier's letters dated February 7, 2017 and June 22, 2017 were tendered into evidence as exhibits 18 and 19. In her first letter, she explained that she met with C.G. on January 25, 2017 to provide ongoing support and counselling given the taking into care. At that time, C.G. had informed her that she was required to

obtain education regarding issues of sexual abuse and awareness. Ms. Poirier further notes that on January 26, 2017, C.G. commenced a workshop on sexual abuse/child abuse with topics relating to what is sexual abuse/child abuse, the effects of abuse and prevention both primary and secondary. It was noted therein that C.G. was engaged and contributed to the conversation openly and honestly and stated she would do whatever she has to do to get her children back home.

[211] In Ms. Poirier's letter dated June 22, 2017, she confirmed that the […] Centre is willing to accommodate access visits at the centre for Respondent C.G. and the children as well as the maternal grandparents. She set out at the second paragraph the protocols for access visits, including that, "Case aide workers and social workers for this family are the only two individuals who are able to book the room at the […] Centre". Ms. Poirier further set out that "access facilitators are to remain with the children at all times". During her oral evidence, Ms. Poirier explained that if there was no social worker or case aide involved, the children's mother or father could call and set up a schedule. She stated that they do not supervise access. Ms. Poirier stated that if someone wanted to use the therapeutic room, they would have to make their own arrangements to have an adequate supervisor.

THE CHILDREN

[212] I have information about the children from the affidavits of Agency workers and more particularly from the two affidavits from Erin Warner (Affidavit sworn October 25th, 2017, Tab 1 of Exhibit 2 and the affidavit sworn May 22nd, 2018 (Tab 6 of Exhibit 2). Information about the children has also come from the reports and experts who have assessed them as well as the parties themselves.

[213] The children, CO.G. and L.G., are residing with Respondent, C.P. We know from the Affidavit of Erin Warner that M.G. is in a kinship foster home in […] and the Foster Mother is a sister of the Respondent L.S. and is also a family support worker for Mi'kmaw Family and Children Services. M.G. was initially placed in an approved foster home. S.G., A.G., MA.G. and N.G. are residing in an approved Mi'kmaw foster home in […] and the foster father in this home is related to Respondent father, B.F.

<u>CO.G.</u>

[214] The child, CO.G., is 17 years of age.

[215] Mr. White in his affidavit, tendered as exhibit 37, stated that he met with CO.G. for the first time on May 23rd, 2018. He stated at paragraph 10 that she presented as very intelligent and well adjusted. He further notes that CO.G. enjoys school very much and has aspirations of one day becoming a doctor. He describes her as a gamer who spends lots of time doing this when not working on school matters.

[216] Mr. White testified that he feels at this point in time it's in the best interests of child CO.G. to remain in the custody of her father C.P. and he supports the position of the agency and of C.P. in that regard. He takes the position that Respondent mother, C.G. has not alleviated the substantial risk of harm that's been present since 2011

[217] In cross-examination, Mr. White described CO.G. as very mature. He noted that CO.G. wants to live with her mother again.

[218] As set out in the Agency's final plan, attached to Ms. Kennedy's Affidavit dated May 22, 2018 (Exhibit 2-Tab 6) CO.G. attends supportive counselling with Janice Mahar, at […]Clinical Therapist (May 2017 to present). According to the worker's affidavit dated March 1st, 2018 she spoke on February 28th, 2018 with Janice Mahar regarding CO.G. and Ms. Mahar did not identify any particular concerns. We have in evidence CO.G.'s report card from […] school for Grade 9 in April 2018 showing grades of 87 in English, 96 in Math, 93 in Oceans and 94 Visual Arts.

<u>L.G.</u>

[219] L.G. is 15 years of age.

[220] As set out in the Agency's final plan, L.G. attends supporting counselling with Bernadette Bernard, […] (May 2017 to present). In Meghan Graham's affidavit, tendered as Exhibit 2, it was noted therein that L.G. was to have counselling with Mallory Denney of […]. L.G.'s report card from […] school, grade 9, April 2018 was tendered into evidence. It showed that L.G. consistently demonstrates in most of the learner profiles with the exception of two profiles where she was found to usually demonstrate. In the comment section, it was noted

that L.G. is a great student who would benefit more with asking for more help as needed. She is capable of doing much better in English language arts and needs to pass in completed work for assessment purposes. Her marks for the third term were 59 in Language Arts, 73 in Math, satisfactory progress in Mi'kmaw Health, well done in Physical Education, 75 in Science, 58 in Social Studies; 95 in Art and satisfactory in Technology Education.

[221] The Court heard a lot of evidence relating to self-harm by L.G. and more specifically that the child has been cutting. Certain pictures were attached to the Respondent Mother's Affidavit filed June 11, 2018 and the Respondent Mother wanted to present two other pictures taken on her phone of the child L.G. during the summertime, June of 2017, during an access visit. Respondent Mother referenced another picture in December that she did not take. The Minister objected to those photographs as they were not disclosed to the Minister. The Minister further argued that they weren't necessary as there were pictures in her affidavit and that the Minister confirmed in its own evidence that the child has been cutting. I allowed the pictures in as exhibit 32 noting that the photos should have been provided in advance but having said that I have to make a very important decision about the wellbeing and safety of these children and these are not new pictures about some other new allegations. The court noted "…to not admit those pictures, I would be doing a disservice." I gave counsel an opportunity to show these pictures to their clients before cross examining the Respondent Mother and would hear argument as to weight. The Respondent Mother later clarified that the picture was taken in June 2018.

[222] As set out in the Affidavit of Laura Kennedy, dated July 12th, 2017, Respondent Mother C.G. reported that L.G. had said she was self harming (possibly cutting) and that L.G. was saying she was sad all the time and wanted to go home. She called C.P. and he denied seeing any evidence of this. C.P. indicated that he would keep a close watch on L.G. and would follow up with the girls' counsellors to ensure their next appointments are scheduled.

[223] At paragraph 33 of Laura Kennedy's affidavit, it was noted that L.G. told her that she had cut her hand once because she was depressed and it had been when she felt she had no one to talk to. Now that she has someone to talk to, she was feeling better and not planning on cutting herself again.

[224] In the case note from May 4th,2017, Exhibit H, of Ms. Kennedy's affidavit, sworn July 12th, 2017, Respondent Father C.P. said, "L.G. is having a hard time being away from her mom and grandparents". He said, "…(sic C.G.) is making plans to being with C.P during the next school year but …(sic L.G.) is not making plans like this."

[225] In the case note of May 8th,2017, C.P. indicated that the children CO.G. and L.G. want to live with their mom. L.G. wants to see her mom everyday. C.P. indicated that C.G. has done a great job with them. CO.G. and L.G. indicated their marks were not as high as when they were at the other school. L.G. said it was because she was having difficulty with being at her dad's and getting used to being at a new school and missing her siblings and mom.

[226] In the Affidavit of Ms. Kennedy sworn October 6th, 2017 (tab 5) it was noted that on July 18th, 2017, Ms. Kennedy spoke with C.P. who reported having been advised of more comments on L.G.'s Facebook account, including, "I hate it here. My father is money hungry and he's a fake". C.P. was concerned that the Respondent Mother had L.G.'s password.

[227] In the earlier Affidavit of Laura Kennedy, dated December 14th, 2017, it referenced a conversation with C.P. on November 20th, 2017 about information reported by L.G. and CO.G. in a telephone access call with C.G., that L.G. had been threatening self harm and had been taken to hospital. C.P. stated he told her not to hang around with certain people because they are into drugs, then L.G. went ahead and hung around them. He got after her about this and she went on social media and threatened self harm. Someone saw the posting and called the RCMP. C.P. and his partner took L.G. to the hospital where she was seen by a doctor and released with the Doctor suggesting she go to counselling. On December 1st, 2017, C.P. advised that CO.G. and L.G. had met with Athanasius Sylliboy, from the […] that day.

[228] As set out in the affidavit dated March 1st, 2018, tab 4 of exhibit 2, Ms. Kennedy called Dr. Todd, L.G.'s Doctor who indicated there were no indications L.G. needs to be on medication or that her safety is at risk. He further noted that there were no concerns about her eating habits, She attends counselling and sees a registered nurse at school for support and the Doctor felt she was in a good state. Attached as Exhibit I were copies of Dr. Todd's Clinical Report and a copy of a

report from Dr. Milburn, who saw L.G. in the emergency department in November 2017.

[229] The worker spoke with Bernadette Bernard, behavioral interventionist at […]Mental Health, who meets L.G. at school and Ms. Bernard stated that there was no indication that L.G. wants to self harm. Ms. Bernard checks in with her about suicidal thoughts or plans and they meet every 2nd week. L.G. speaks openly with her.

[230] As set out in the Affidavit dated March 1st, 2018, Laura Kennedy spoke with Nurse Sylliboy on January 11th, 2018 who advised that L.G. is experiencing anxiety and is afraid that if she is returned to her mother, she would be taken away again. He has done safety planning with the child. She did not have thoughts of self harm.

[231] In the affidavit of May 22nd, 2018, Tab 6 of Exhibit 2, it was noted that Ms. Kennedy received a telephone call from C.P. on March 21st, 2018 and he advised that Respondent Mother C.G. had told him that L.G. had been cutting herself again. He indicated, he and C.G. had a good discussion about this and that he had spoken directly to L.G. and she showed him her arm and said she would not do it again. It was noted at paragraph 38, that C.P. confirmed that he did not feel the child needed to see a Doctor and that he would be contacting her counsellor to discuss the cutting.

[232] On March 21st, 2018, Ms. Kennedy spoke with L.G. about cutting and L.G. talked about being overwhelmed with the agency's involvement and having to talk to different people. She said, she wanted to live with her mother. When Ms. Kennedy asked her directly, L.G. said she did not have any thoughts of suicide or further self harm, that the cuts were not sore and were mostly healed.

[233] On March 22nd, 2018, Ms. Kennedy called C.G. and C.G. stated that L.G. told her during the last access visit that she had self harmed again. She did it after her visit on March 17th, 2018 with D.G. and his girlfriend. The Respondent Mother asked if L.G. showed her the marks and L.G. did not want to. The Respondent Mother stated there were marks on L.G.'s leg as well. Ms. Kennedy called Bernadette Bernard on March 22nd, 2018, who is providing individual counselling to L.G,. and L.G. had not spoken about cutting. She called C.P. on March 22nd, 2018 and he described having a good talk with L.G. and about L.G.

showing his girlfriend the cuts and that C.P. assured L.G. that he loves her and that Respondent mother, C.G., loves her.

S.G.

[234] S.G. is 12 years of age.

[235] S.G. attended […] School in […] and then chose to attend instead the […] School with her siblings. Ms. Warner noted that there were no concerns raised relating to S.G.'s school performance.

[236] As set out in S.G.'s final plan, counselling has been provided by Janice Mahar, […] school Clinical Therapist for supporting counselling; Child and Adolescent Mental Health (2017); Individual counselling by Andrea Donato (May 2017); Heather MacLennan, therapist counselling in 2016 and Dr. Bryson psychologist had provided counselling in 2013.

[237] In her grade 5 report card from […] School […] for 2016-2017, term 2, it was noted that S.G. is well developed in most of her learner profiles. It was further noted that S.G. has adapted into her new class very well. In her report card from […] School for Grade 6 March 2018, it was noted that S.G. is well developed in half of the learner profiles and developing as expected in the others. It was also noted in the comment section that S.G. is having difficulty adjusting to the learning expectations and if this difficulty continues in the next term, she may need to repeat.

[238] The Psychological-educational Assessment for S.G. dated June 3rd, 2018 was tendered as Exhibit 11. S.G.'s performance on the psychometric tests suggests that her profile of strengths and weaknesses is consistent with a broad based learning disability such as a specific language impairment. She presents with learning disabilities in reading, written expression and mathematics and these broad based learning disabilities affect a broad range of language skills and the person can best be described as a "visual learner". Dr. Landry made 35 recommendations including that she may benefit from a re-assessment in 2 years to follow her progress.

[239] In cross-examination by Ms. Fraser-Hill, Ms. Warner stated that S.G wants to return home to her mother's care. She misses her mom a lot and that she is

unusually close to her mother. Ms. Warner testified that it was significant that S.G. needed ongoing support. Ms. Warner noted that S.G. is less withdrawn than she was. Ms. Warner noted that S.G. was more engaged with Ms. Warner at the last visit which was 2 weeks ago. She further noted that S.G. is quite motherly with the other kids. Ms. Warner was asked if she had concerns for S.G. if she was separated from her younger siblings. Ms. Warner testified that it would be very difficult for S.G. and she would need help through this separation. Ms. Warner testified that S.G.'s mood has not changed and she wants to be with her mom. Ms. Warner also testified that S.G. does well at her foster home and has a great relationship with her foster mom and has done well in her foster home.

M.G.

[240] M.G. is 10 years of age.

[241] Ms. Warner states that M.G. has presented well in both the approved foster home and in the current kinship foster placement. She sees her siblings at school and has regular visits with Respondent Father L.S., along with her siblings.

[242] M.G. is involved in numerous activities including ballet along with her sisters A.G. and MA.G., an activity arranged by L.S. She is enrolled for figure skating this year.

[243] No concerns about M.G.'s mood or mental health have been identified by the school or foster parents or kinship parents.

[244] M.G. underwent two dental surgeries in the spring of 2017 and no issues were reported.

[245] Ms. Warner advised that there were some difficulties relating to telephone access calls for M.S. with Respondent C.G, as the kinship foster parent only has a cell phone and has older children engaged in multiple activities and the cell phone is shared.

[246] As set out in the Agency's final plan, Bernadette Bernard provides supportive counselling to M.G (November 2017 to present). A developmental assessment was completed for M.G. by Dr. Reginald Landry, Psychologist (January 2018 to present).

[247] M.G.'s report card from […] School for grade 3 for 2017 and 2018, term 2, shows that M.G. is well developed in most of the learner profiles. It was noted in the comment section that M.G. is having difficulty meeting the grade 3 expected learning outcomes for reading.

[248] Her Psycho-educational Assessment Report dated June 3rd, 2018, tendered as exhibit 11, provides that M.G. presents with well-developed cognitive abilities but with severe learning disabilities. She struggles with academic performance in terms of her literacy, which impacts all grade content areas. She has significant learning disabilities in the domains of reading, written expression and mathematics. M.G. experienced difficulties in phonological processing. She will require the use of adaptive technologies and accommodations in order to deal with some of these difficulties. It was noted that with the effective use of technologies, M.G. likely have much more success with classroom activities. Dr. Landry made 34 recommendations, including a reassessment in two years

A.G. and M.A.G.

[249] The twins are 8 years of age.

[250] Ms. Warner states that they are doing well in their foster placement with two of their siblings. They express to Ms. Warner that they miss their mother. They always ask Ms. Warner if they are going to visit with the Respondent Mother C.G. and they reportedly ask questions of their foster Mother when there are missed access visits by their mother.

[251] According to Ms. Warner, A.G. and MA.G. have always been very sociable.

[252] As set out in the Agency's final plan M.A.G. and A.G. attend supportive counselling with Janice Mahar, Clinical Therapist, […]school (May 2017 to present).

[253] With respect to A.G., in particular, Ms. Kennedy attached a note dated January 17, 2018 as Exhibit E to her affidavit of March 1, 2018 relating to Ms. Warner's visit at the […] School on January 17th, 2018. A.G. is reported to be doing pretty well with behaviors. She is currently in the lowest functioning of students in classroom. She struggles with her alphabet and focus at this time. Of

her classmates, she shows the most improvement. A.G. only knows 10 lower case letters and 12 upper case letters. There are concerns from teachers about A.G.'s ability to learn. Teachers noted that when A.G. first came to school last year, mid way through the year, she cried every single day. The school noted that A.G. grieved each day and there was no learning done. By June 2017, they had just started to see improvement. It was noted that A.G. is still probably at a primary level but in grade 2. They suggest that "trauma could be part of this delay".

[254] A.G.'s report card from […] School, Grade 1, for 2017 and 2018, Term 2, was tendered into evidence as Exhibit 6. It noted that A.G. is developing in all learner profiles. It was noted that A.G. is having difficulty meeting the outcomes for reading in grade one.

[255] The Psycho-Educational Assessment completed by Dr. Landry, dated June 2nd 2018, showed her performance as being consistent with a language-based learning disability. Dr. Landry made 33 recommendations including that she may benefit from a re-assessment in two years.

[256] Samantha Wong testified that AG. was referred in December 2017 by a classroom teacher relating to her speech skills. An assessment was done in March 2018 and A.G. was diagnosed with mild to moderate speech difficulties. A.G. is not on Ms. Wong's regular schedule but she tries to fit her in where she can. Ms. Wong testified that she has seen her three to four times due to case load issues. Ms. Wong recommends that she continues to receive services moving forward.

[257] In terms of MA.G., Ms. Kennedy attached notes from the January 17th, 2018 meeting at the school by Erin Warner. It was noted that similar to the child A.G., MA.G. grieved and cried for much of the school time she attended last year. As months went by, some improvement was noted and it has been a month since MA.G. cried at school. MA.G. has not made the educational improvement that A.G. has made. MA.G. only knows a few letters. MA.G. is described as a hugger and very loveable.

[258] Ms. Kennedy states in her affidavit of May 22nd, 2018, at Tab 79, that during an access telephone call on March 25th, 2018 between MA.G. and C.G., MA.G. alleged that L.S. hurts and grabs her by the neck. This report was recorded on March 26th, 2018 at Exhibit M.

[259] MA.G.'s report card from […] School for Grade 01 for 2017 and 2018, Term 2, as well as her Early Literacy Progress Report of March 2018 was tendered showing MA.G. is well developed in most of her learner profiles.

[260] It was noted that MA.G. is a very hard worker but still needs guidance with certain subjects. In the comment section of the report card it is noted MA.G. is having difficulty meeting the outcomes for Grade 1. The early literacy progress report confirms the completion of 17 weeks of resource and that M.A.G. is currently reading below the grade level.

[261] Dr. Landry notes in his Psycho-Educational Assessment for MA.G., dated June 2nd, 2018, that her performance is consistent with a language based learning disability. She has learning disabilities in the academic domains of reading, written expression and mathematics. Dr. Landry made 33 recommendations including that she may benefit from a re-assessment in two years.

N.G.

[262] N.G. is 7 years of age. According to Ms. Warner, N.G. has presented with some difficult behaviors in school and some reported sexualized behavior in the foster home and efforts by current school and by the agency to obtain records from his former school ([…]) were unsuccessful. Because of the lack of records and absence of assessments, the […] school initially struggled with how to identify and provide services for N.G.

[263] As set out in the Agency's Final Plan, A Development Assessment was conducted for N.G. by Dr. Landry, Psychologist (January 2018 to present). N.G. participated in an Early Intervention Program, referral made by […]School. A referral was made by […] School for N.G. to attend speech therapy with Samantha Wong.

[264] N.G. has been receiving speech and language services in school and there has been noticeable improvement. A referral for Early Intervention Program has worked with N.G. in school and with the foster parents in the home from March 2017 until early October 2017. Early Interventionist Leah Doiron reported that things have gone very well with N.G. and that this service has now essentially been concluded. Last school year, N.G. had been sent home a number of times because of his difficult behavior such as stripping off his clothes, wandering off, being

aggressive to students and teachers. This is no longer happening. N.G. is in grade 1 in the […] School. The foster parent has also commented on marked improvement in N.G.'s behavior.

[265] In the January 17th, 2018 notes from Ms. Warner's school meeting, huge improvement were noted. Ms. Wong had assessed N.G. last February 2017 as having severe delays and presenting with many negative behaviors. N.G. is no longer disrobing in school which was a significant issue last school year. No problematic concerns have been noted but there are some reports that N.G. has hit other children. Principal […] sees N.G. as "thriving" and is no longer a flight risk.

[266] The Development Assessment Report of N.G. by Dr. Landry was tendered at Tab 3 of Exhibit 4 and dated November 7th, 2017. N.G.'s caregiver was interviewed and she described him as a "strange child". He noted at page 6 that "In summary, N.G is at risk for language related learning disabilities and presents with a Developmental Language Disorder. He would likely benefit from specific interventions to help with reading and written expression. He also presents with impairments in the skills that support "thinking" such as attention, executive functions and working memory. Dr Landry provide a list of 21 recommendations to assist in programing.

[267] N.G.'s report card from […] School, Grade Primary, for 2017 and 2018, Term 2, was tendered showing developing in learner profile.

[268] The speech language pathology report for N.G. by Samantha Wong dated February 27th, 2017 was tendered as Exhibit 7.

[269] A formal evaluation of N.A.'s speech was not completed due to time constraints but conversational speech was difficult to understand. Overall intelligibility (or how well he could be understood) was approximately 30-40% with an unfamiliar listener or when the context was unknown. Ms. Wong recommended a further assessment of his speech skill. Nation's expressive and receptive language skills indicate severe difficulties in both of these areas. Ms. Wong diagnosed N.G. with severe speech and difficulties (difficult to understand).

[270] In the 2016-2017 year, she saw him for treatment 8 times between January 2017 and June 2017. In the 2017-2018 year, she saw him about 11 times. At the time of her evidence, N.G. presented with challenges but he has made progress and

improvements. She states that he is a joy to work with and that he is motivated and willing to learn. It was recommended that N.G. continue to receive speech language services.

[271] Ms. Wong also testified that she participated at a case conference relating to N.G. at school in January 2018. In cross-examination by Mr. McKinlay, Ms. Wong was asked if there was any indication whether N.G. is understanding everything she is putting to him and whether he was hearing her clearly. Ms. Wong testified that she hoped so. She stated there was no indication of lack of hearing and that a hearing evaluation was not part of the assessment and would be out of her scope. In re-direct examination by Ms. McDonald, Ms. Wong testified that if there were concerns relating to N.G.'s hearing, she would make a referral.

Children's visits with L.S. and C.G.

[272] It was acknowledged by everyone in this case that the children love their mother, C.G., and want to be back home. Ms. Fraser-Hill filed an affidavit as lawyer for children, S.G. and L.G. This was not tendered in evidence but referenced in Ms. Fraser-Hill's submissions. Ms. Fraser-Hill submitted that she is in Court on behalf of Mr. White as Guardian Ad Litem for the child CO.G. who was made a party to the proceeding back in May and speaking on his behalf with respect to his position on the matter. Ms. Fraser-Hill further notes that there are two other children who are not parties but for whom she provided independent legal advice initially in January 2017 when they were removed from the Respondent Mother's care. Ms. Fraser-Hill stated that she met with them probably once every two months, from January 2017 up until May 2018 before this proceeding commenced so that she could file reports with the court only with respect to their wishes. Ms. Fraser-Hill was not making submissions on their behalf in any way but counsel are aware of what their wishes are. As Ms. Fraser-Hill argues, the witnesses, the Respondent mother, the social workers involved in the case, the access workers, the Respondent fathers, C.P. and L.S., all have acknowledged that the children do have a close bond with their Mother and that it's been their wish through these proceedings to have their family reunited and to return to their mother's care and those were their wishes. Ms. Fraser-Hill put those wishes on the record consistently as she has done in many other proceedings over the past number of years. Ms. Fraser-Hill explains that it was a very limited role but wanted to bring it to the attention of the Court and get permission just to state again what the wishes of the children CO.G. and L.G. have been throughout this

proceeding and those wishes have not changed. Ms. Fraser-Hill acted as their counsel since January 2017 and she felt that she owed a duty to them and it is important to them that she put their wishes on the record.

[273] Ms. Warner states that she has observed the children in access with their parents. The children present as comfortable, relaxed and happy with Respondent father, L.S. She also states that the children are "very affectionate with their mother, and I have observed them to show great loyalty and even protectiveness towards her".

[274] Erin Warner testified that C.G.'s visits all are very positive and organized. Ms. Warner described easy conversation by C.G. in visits. C.G. talked about their grades and their interests. Ms. Warner testified that when children see parents interacting with her it makes it easier for them to interact with Ms. Warner. Ms. Warner noted that C.G. was very well prepared. She brought activities and meals. In her affidavit dated May 22nd, 2018, Ms. Warner states that on March 21st, 2018, she received an email from case aide Brenda MacInnis with regards to a visit by the children N.G., A.G., MA.G. and M.G. on March 15th, 2018, this is at Exhibit I. It was noted that M.G. had tears in her eyes when the Respondent mother was calmly explaining to all the children that it is too dangerous to be on your own in places like hotels. M.G. smiled when her mother comforted her with a hug and kisses. MA.G. climbed on her mother's lap and said she wanted to go home with her. MA.G. had tears in her eyes and her mother wrapped her arms around MA.G. to give her hugs and kisses.

[275] Andrew Lafford gave evidence as to his work with the […] and Mi'kmaw Children and Family Services in providing access including transportation. Mr. Lafford testified that he provided access services to Respondent mother, C.G., and her children between February and June 2017 and another access worker was present. In cross-examination by Mr. McKinlay, Mr. Lafford stated that the Respondent mother was always respectful and always followed directions. Mr. Lafford had no problem at all with her. He stated that he co-facilitated with Darlene Praught 5 to 6 times and that the Respondent mother was alright in following directions from Ms. Praught. He described good interaction between the mother and her children. In his words, "She did really good… The children always happy to see her, seemed alright with her".

[276] The Court also heard from access facilitator, Audrey Cremo who has been providing access services for the Respondent mother since 2017 with another case aide attending. In cross-examination by Mr. McKinley, he testified that he was aware of one incident report written by Ms. Praught but he really didn't recall the exact day but does recall it and that it ended a few minutes early because of an incident. The incident was about A.G.'s constipation and how the Respondent mother and Ms. Praught dealt with it. Mr. Cremo explained that the Respondent mother was in the bathroom trying to help A.G. with her constipation, which arose one hour into the visit, and that Ms. Praught didn't let her close the door. Mr. Cremo explained that A.G. felt more comfortable with closing the door and wanted her mother in there with her. The Respondent mother suggested a little laxative, she explained that A.G. has had a problem since she was smaller. According to Mr. Cremo, Ms. Praught didn't refuse the idea of a laxative but refused the door being closed. Mr. Cremo went for a laxative but didn't leave right away to get a laxative as he was giving A.G. time to vacate on her own. Mr. Cremo explained that A.G. was in pain and was vocal letting her mother know she was having a hard time.

[277] Brenda MacInnis, case aide with the Department of Community Services, testified that she provided access services to the Respondent mother and her children and continues to do it. They have a new schedule bi-weekly where she does one of the 2 visits each week. In cross-examination by Mr. MacKinlay, she indicated that she had been supervising the Respondent mother's visits for almost a year and a half with January 26, 2017 being the first access visit. Ms. MacInnis was aware there was some time when the Respondent Mother did not have access but indicated that she might not have been directly involved in what had transpired there. In cross-examination by Mr. MacKinlay, Ms. MacInnis described her interaction between the Respondent Mother and the children, noting that she arrives on time, with home cooked meals, activities and games for the children. Ms. MacInnis noted that they appeared to have a lot of positive interactions. The children are just getting back from school and they are looking for snacks. They sit together and they fill in their mother on the day's events. They are smiling and laughing. Ms. MacInnis never witnessed any inappropriate discipline. Ms. MacInnis never had any issues or concerns with the Respondent mother not following direction and never witnessed any difficulties with her not following other facilitator's directions.

[278] Ms. MacInnis was asked by Mr. MacKinlay about access visits between the children and the maternal grandparents. Ms. MacInnis did one visit at the […]with CO.G. and L.G. without the younger children and recalled another at the […] centre. She noted that there were no problems or concerns about that access visit. They were happy, smiling and interacting well. They played cards. At the visit in […], all 7 children were present and all 7 had positive interactions with the maternal grandparents. The maternal grandmother was in the process of making them special skirts for pow wows; they were picking out material they liked. They were sitting together chatting and getting caught up. All 7 of the children readily engaged in conversations with the grandparents. The grandmother brought a meal and chatted.

[279] Ms. MacInnis also provided some access services to the Respondent father L.S. when access was partially supervised. Ms. MacInnis did 3 check-ins at L.S.'s home. She notes that L.S. was always cooperative and there were no incidents or issues of concern. In cross-examination by Mr. MacKinlay, she stated that there was one incident report based on a visit between L.S. and his children.

[280] Ms. MacInnis has had limited contact with the Respondent father, C.P. but C.P. has always been very cooperative and there were no issues or concern.

[281] Case aide Jenny Guy, between May 2017 and May 2018, provided access services with the Respondent parents, C.G. and L.S., including transport services, supervision and telephone calls. Ms. Guy explained that L.S.'s access was not full supervision but rather partially supervised whereby she checked in every hour for 10-15 minutes or so. No issues were identified.

[282] Ms. Guy was also involved with the Respondent mother's supervised access. She did 5 or so visits, in person visits, and the interaction was all positive. C.G. always had supper for the kids and would provide games and activities. Ms. Guy walked through one typical visit. The mother was always there first. The children would always be greeted with hugs, love and their mother asked how the day was. They would play and just chat and they would have supper. The two older would help clean up. They just talked and played, when time to say goodbye, their mother would say love you and see you in a couple of days. It was standard how the mother and children would interact. The Respondent mother C.G. could handle the 7 children and she would always make a point to talk to each child individually. There were no incidents with the visits. Ms. Guy was asked whether

they would tell her about things which happened at home to which Ms. Guy stated that nothing really stood out and there was no indication that she was trying to pull information from them. According to Ms. Guy, there were no problems or conflicts between the Respondent mother and herself. She had a good relationship with her and she was willing to take direction from her and she never gave Ms. Guy a problem. There was no problem or friction with co-facilitators.

[283] In cross-examination by Mr. MacKinlay, Ms. Guy testified that she also supervised visits between the Respondent mother's children and her parents. Ms. Guy noted that there were no issues, problems, concerns regarding visits observed between the grandparents and the children. Ms. Guy might have had 1 or 2 visits with the grandparents. The children were comfortable with the grandparents. Everyone was very happy to see one another and they exchanged hugs. The children enjoyed themselves.

[284] Ms. Praught, case aide, gave evidence relating to her access services for the Respondent parents C.G. and L.S. She noted that L.S. always came prepared when fully supported and she was there for arrival when his parenting was partially supported. She stated that there were no incident reports filed relating to L.S. and no issues with him following any directions. She only did 4 of his visits.

[285] Ms. Praught testified that she supervised access for the Respondent Mother from February to August 2017 and that she had filed an incident report. Ms. Praught testified to giving C.G. the option of standing at the door slightly open or Ms. Praught would go in. She testified that they got really upset and A.G. cried. She stated that someone went to get a laxative, that the mother got upset and at one point, she called emergency and the visit had to end. She stated A.G. was able to pass feces and she got off toilet and left the visit. Ms. Praught testified about the supervision guidelines and stated that she has to be able to account for children at all times. She stated that children are allowed to be in washroom alone but she has to be there when a parent is with the children. She described that behaviours escalated with A.G. and mother being upset. She stated that the mother had a right to be with her child but that Ms. Praught has to be there. Ms. Praught encouraged the mother to be calm but she continued to escalate. The mother's visits were suspended after this visit.

[286] Regarding the visit on August 11th, Ms. Praught stated that she called emergency at 7:04 p.m. before the end of the scheduled visit. Time there was 7:04

– that was probably after visit ended. Ms. Praught was looking for how to get the child to leave. If she is refusing to get off the toilet, Ms. Praught was going to do what she was given direction to do by her superiors. Ms. Praught was calling emergency duty to seek permission to physically remove her from the toilet. Ms. Praught reminded the Respondent mother C.G. that laxatives were not immediate relief and if given – would make no difference – that it may or may not have immediate effect. To her surprise, A.G. was able to do a bowel movement after the laxative. A.G. seemed relieved as did the other children.

[287] On cross-examination by Mr. McKinlay, Ms. Praught stated that before the incident involving A.G., she believed that the Respondent mother got along quite well and there were no incident reports. She explained that from February to August she did the majority of the visits, she believed it was 2 times per week but did go at least once a week definitely. Ms. Praught stated that the Respondent Mother always came prepared; interacted; they would arrive, give hugs, kisses, smiles, always ready to interact; and that she gave individual time to each of the children. The Respondent mother was very interactive with the children and those visits were positive experiences with the children. Words were expressed "I love you with all my heart and soul."

POSITION OF THE PARTIES

The Agency's Position

[288] It is the position of the Minister that on the evidence that is fully before the court, the subject children have been and will be at substantial risk of sexual abuse if returned to the care and control of C.G. It is the position of the Minister, that there has been no material change to the attitude, understanding, insight, or ability of C.G. to protect her children from the identified risk. This is despite the provision of professional services and the passage of time. The children were, are and will be at substantial risk of sexual abuse in the care of C.G. as C.G. does not have insight into the sexual risk her parents pose to her children.

[289] The Minister's Final plan for the children's care relating to CO.G., L.G., M.G., A.G., MA.G. and N.G. was dated May 22, 2018 and attached as Exhibit "U" of Ms. Kennedy's affidavit sworn May 22, 2018. The Minister is seeking orders pursuant to section 46(5)(a) that the Disposition orders in this proceeding made pursuant to section 42(1) of the CFSA with respect to the children be

terminated upon an order being issued pursuant to the *Parenting and Support Act* placing CO.G. and L.G. in the care and custody of the Respondent C.P. and placing M.G. A.G., MA.G. and N.G. in the care and custody of the Respondent L.S.

[290] Civil Procedure rule 60A.09 provides for the consolidation of this proceeding with a proceeding pursuant to the *Parenting and Support Act*

[291] The Agency's Final Plan for Child's care for S.G. is dated May 22, 2018. The Minister is seeking an order pursuant to section 42(1)(f) of the CFSA that S.G. be placed in the permanent care of the minister with adoption options to be explored. It is written in the plan that "As per Department of Community Services Policy, the agency will explore adoption possibilities for S.G. If permanent care and custody were granted to the Applicant agency, the case management for the child would be transferred to Mi'Kmaw Child and Family Services… The goal is to place the child in a culturally appropriate home that also meets her language, race and religious needs." It was further noted in the plan that the Applicant is not seeking an access order. As per policy, adoption consultation and openness meetings will be arranged in the near future. Such meetings are designed for permanency planning and address issues such as access visitation. Access requests will be considered and access arrangements may be made if the Applicant determines this is in the best interests of the child.

[292] In the Plans of Care, the Minister identified areas of concern being substantial risk of sexual abuse x 3 and parental conflict. These same concerns were also identified in the Minister's original Plan of Care dated July 10, 2017**(Tab 3 of Exhibit 1)** but the Agency also identified Risk of emotional harm or abuse. Having said so, as argued by Ms. McDonald, counsel for the Minister of Community Services, the issue for the Court is substantial risk of sexual abuse within the meaning of s. 22(2)(d) of the *Children and Family Services Act*.

[293] Ms. McDonald argues that on the evidence of C.G., the court can conclude and should conclude, that she will not do things differently than in the past. The extensive records of the child welfare involvement with these children establish the pattern. The same record establishes how child welfare authorities have attempted over and over again to address the sexual abuse risk issue with C.G. in the least intrusive means possible short of removing the children from her care. Ms. McDonald argues that C.G. knew about the sexual abuse allegations against her

parents including disclosures from her own children to her and the concerns of the agency and concerns of the court in relation to that sexual abuse risk, that staying with her parents should not have been an option for her.

Respondent C.P.

[294] Respondent C.P. agrees with the Minister and feels strongly that CO.G. and L.G. will be at risk if returned to the care of the mother. He takes the position that the mother has failed to see that her behaviour needed to change and that she does not really accept the risk to the children from contact with her parents. Ms. Morrow argues on behalf of Respondent Father, C.P. that nothing has changed. The risk is still there and it's still the same as it was at the protection finding. Ms. Morrow argues that the Respondent mother C.G. has not changed, and if anything, she has gone backwards during the hearing. Ms. Morrow argues that the Respondent C.G. has been very resistant to change and does not acknowledge or accept the sexual abuse. She has squandered her time and it is her fault and her fault alone. C.G. did not use the time under the Act to make the changes that she would have had to make. She chose to fight the minister, to not work with them, and she choose to throw blame when she could including to the fathers. Ms. Morrow argues that Respondent mother C.G. was given chances and opportunities and that she should not be given another chance.

[295] C.P. filed a notice of application on May 22, 2018 with attached parenting statement dated May 21, 2018 wherein he seeks sole decision making and that the children live with him most of the time and will be cared for by himself and his partner. In oral submissions, Ms. Morrow argued that he has had the children in his care for some time now, that the evidence is that the children are doing well. He proposes times and places agreed upon with supervision of C.G's parenting time with the hope that C.G.'s time with the children will progress well.

Respondent L.S.

[296] It was argued on behalf of Respondent Father, L.S. that there is overwhelming substantial risk of harm should the children be returned to the care of Respondent mother, C.G. Ms. Sumbu argues that the harm we are seeking to mitigate or characterize or determine is the risk of sexual abuse by the grandparents and by extension whether or not there would be any psychological

harm or future trauma arising from any further contact. Ms. Sumbu argues that the risk has been proven on a balance of probabilities.

[297] Ms. Sumbu argues that L.S.'s plan to have the children in his care would be in the interests of his children and that he is well positioned to protect the children from the future risk of sexual abuse and that it is not a situation where the Respondent mother is going to lose contact with her children. This is still a family unit and that integrity can be maintained even if the children are not returned to her. L.S. is willing to work with her and ensure that she continues to have meaningful contact with the children, recognizing that there has to be work done in terms of ensuring that the children are on the road to healing after this very lengthy process and all that they have been through coming to this point.

[298] L.S. filed a Notice of Application with parenting statement and Statement of Income on May 30, 2018 pursuant to the *Parenting and Support Act.* L.S. is seeking sole custody and parenting arrangements for C.G. supervised at all times through a supervised access and exchange (SAE) program; other regular scheduled weekly supervised parenting time from 2-7 on Wednesdays and Fridays with the option for additional holiday Monday or Friday 3-7 supervised. 5 hours supervised on Christmas Day; and 3 hours on Easter Monday supervised. She may request additional afternoons of supervised visits on two weeks notice; supervised visits in summer holiday from 3-7 on Tuesdays and Wednesdays; shared supervised parenting time on the children's birthdays when he receives reasonable requests for a reasonable sharing of time and transportation, additional supervised parenting time when he receives reasonable requests for reasonable times; and telephone supervised 1 day per week. He is also seeking the conditions that should C.G. make application to remove supervision of her parenting time that she notify the Department of Community Services and that the court shall have access to this file and that there shall be no contact or interaction time with the maternal grandparents.

<u>Respondent B.F.</u>

[299] B.F. did not engage in services and was not involved in this proceeding.

<u>Respondent C.G.</u>

[300] Respondent C.G. presents a plan seeking to have the child protection proceeding dismissed and the children returned to her custody. Her position is that she has made major changes in her life, has made progress, and has demonstrated her ability to keep her children safe. C.G. disagrees with the Minister's position. She disputes the remaining concerns of the Minister and asks that the children be returned to her care. Essentially, she says that having children removed from her care has been a wake up call for her and that, over the last several months, she has made significant progress in addressing the child protection concerns. She says that the children wouldn't be at a substantial risk of harm if returned to her care.

[301] Mr. MacKinlay argues that the Respondent mother, C.G. acknowledges that accusations exist against the maternal grandparents, they have existed and the Respondent Mother C.G. knows better now than before that despite the lack of convictions, despite the lack of charges, despite the lack of information relating to the three convictions in 1993 against her father, in Massachusetts, that those accusations mean something and that therefore there is risk and maybe things bad did happen and therefore there has to be a permanent and broader buffer between her parents and her children.

[302] On June 11th 2018, the Respondent mother, C.G., filed her Response to the private and Parenting Support Application of C.P. (Exhibit 24) seeking custody and parenting arrangements, grandparent interaction and child support table amount from June 8th, 2018 forward. In her parenting statement dated June 11, 2018 (Exhibit 23) she is seeking specific shared decision making responsibility. She wishes to make decisions about religion and they will together make decisions re healthcare, education, culture and extracurricular activities. She proposes that the children live with her most of time and be cared for by C.P. on days and times they have agreed upon based on reasonable requests for reasonable times subject to the children's wishes. She further notes that there will be no physical visitation between the children and her parents except as scheduled at the healing centre. She is proposing alternate and split time between Christmas Eve and Boxing day, Easter Saturday and March break subject to children's wishes; two weeks with C.P. for summer subject to each child's wishes; shared parenting time on the children's birthday when she receives reasonable requests for a reasonable sharing of time and transportation subject to children's wishes; additional parenting time when she receives reasonable requests for reasonable times. She further proposes that they can attend activities for the children and that they be able communicate in writing and verbally with the children.

[303] C.G. filed a Notice of Application dated June 11, 2018 (Exhibit 25) under the *Parenting and Support Act* for custody, parenting arrangements and grandparent interaction for S.G. In support she filed a parenting statement (exhibit 26), seeking sole decision making responsibility and the child living with her most of time and cared by B.F. at times and places agreed upon with the supervision of B.F.'s parenting time as may be arranged between the parties.

[304] On June 11 2018, C.P. C.G. filed her response to the application by L.S. (Exhibit 27) under the *Parenting and Support Act* wherein she seeks custody and parenting arrangements, grandparent interaction and child support table amount from June 8th, 2018. In her parenting statement dated June 11, 2018 (Exhibit 28) she is seeking sole decision making responsibility with children living with her most of time and being cared for by L.S. on days and times agreed upon based on reasonable requests for reasonable times. She is proposing alternate and split time between Christmas Eve and Boxing day as agreed between the parties; alternate and split Easter Saturday as agreed between the parties; alternate and split March break as agreed between the parties; shared parenting time on the children's birthdays; and additional parenting time when she receives reasonable requests for reasonable times. She is also proposing that the parties can attend activities for the children and be able to communicate in writing and verbally with the children.

Guardian Ad Litem

[305] Arden White takes the position that the protection concerns have not been alleviated. There has been no change in C.G. since the commencement of the proceeding and he does feel that it is in the best interest of child CO.G. to remain in the care and custody of her father.

[306] Mr. White submits, considering all of the factors, considering CO.G.'s age and considering her maturity level he feels at this point in time it's in her best interest to remain in the custody of her father C.P. and he supports the position of the agency and of C.P. in that regard and does feel that the Respondent mother unfortunately has not alleviated the substantial risk of harm that's been present since 2011 and Mr. White had great concerns about that throughout the matter. He would like to see certainly access and contact maintained by CO.G. with her mother and her siblings. He doesn't believe at this point after listening to the evidence of Val Rule, Gary Neufeld, Mr. MacInnis, that the Respondent mother

has recognized or gained any insight into the substantial risk that remains, and she hasn't done anything to alleviate that risk so those protection concerns are real concerns and Mr. White supports the agency in this matter.

LAW

[307] I will now review that law that I applied in reaching my decision.

[308] As set out in Section 2 of the *Children and Family Services Act,* the purposes of the *Children and Family Services Act* are to protect children from harm, to promote the family's integrity and to assure children's best interests. The overriding consideration is, however, the best interests of children.

[309] At different points in a child protection application, the *Act* directs me to consider "the best interests of a child" when making an order or a determination. Subsection 3(2) dictates that I consider those enumerated circumstances which are relevant.

Burden of Proof

[310] The Minister of Community Services bears the burden of establishing on a balance of probabilities that the children continue to be in need of protective services as there remains a substantial risk of sexual abuse, pursuant to s. (22)(2)(d) of the *Children and Family Services Act* and that a Permanent Care Order is in the best interests of S.G.

[311] In ***Mi'kmaw Family and Children Services v. KD,*** 2012 NSSC 379, Justice Forgeron identified the following principles commencing at paragraph 18:

> 18. In this case, the agency is assigned the burden of proof. It is the civil burden of the proof. The agency must prove its case on a balance of probabilities by providing the court with "clear, convincing, and cogent evidence"**: C. (R.) v. McDougall**, 2008 SCC 53. The agency must prove why it is in the best interests of the children to be placed in the permanent care and custody of the agency, according to the legislative requirements, at this time.

Timelines

[312] Section 45 of the *Children and Family Services Act* sets out the total duration of all disposition orders. Upon the expiration of the maximum time limited prescribed by section 45, there are only two possible disposition orders available to the Court: dismissal of the proceedings or an order for permanent care and custody. The Court must also be cognizant of the legislative time periods.

[313] The principle behind the statutory time limits can be found in the preamble of the *Children and Family Services Act*. As Justice L. Jesudason writes in ***Minister of Community Services v. A.R. and G.B.***, 2018 NSSC 86, referred to by Ms. Sumbu in her submissions:

> [4] The preamble to the *Children and Family Services Act* ("*CFSA*"), recognizes that children have a sense of time that's different from adults and that services provided and proceedings taken under the *CFSA* must respect the children's sense of time. Furthermore, decisions made under the *CFSA* must not be dictated by feelings of sympathy for parents whose circumstances are extremely challenging. Rather, the paramount consideration for decisions is the best interests of the children: section 2(2).

[314] In ***Nova Scotia (Community Services) v. R. F.***, 2012 NSSC 125, Justice Jollimore stated as follows commencing at paragraph 165:

> 165. According to Justice Saunders in *Children's Aid Society of Halifax v. B.(T.),* 2001 NSCA 99 at paragraph 19, I'm to consider each of the possible dispositions in section 46(5) and, by virtue of section 46(5)(c), section 42(1). His Lordship's reasons limit my considerations. At paragraph 23, he explained:
>
> > As the proceeding nears a conclusion, the opportunity to grant disposition orders under s. 42(1) (c) diminishes until the maximum time is reached at which point the court is left with only two choices: one or the other of the two "terminal orders". That is to say, either a dismissal order pursuant to s. 42(1) (a) or an order for permanent care and custody pursuant to s. 42(1) (f).
>
> 166. This proceeding is nearing its conclusion: the deadline for a final disposition is April 7, 2012. As a result, the only two options available for my consideration are dismissing the Minister's application or placing C in the Agency's permanent care and custody.

[315] The Court is not able under the *Children and Family Services Act* to issue a Termination Order with a "conditional order" providing for ongoing services: ***Children's Aid Society of Inverness/Richmond v. S.(S.)***, [2010] N.S.J. No., 455,

2010 NSSC 308, para. 92 (N.S.S.C. (Family Division)). ***Nova Scotia (Minister of Community Services) v. F.(B.)***, [2003] N.S.J. No. 405, 2003 NSCA 119, para. 67 (N.S.C.A.)

Review

[316] This is the last of the disposition reviews. Section 46 of the *Children and Family Services Act* outlines the process to be following for a disposition review. Before I make an order in a review, I must consider whether the circumstances have changed since the previous disposition order was made; whether the plan for the children's care applied in that order is being executed; and the least intrusive alternative available that is in the children's best interests. Because we are at the end of the times, I cannot consider s. 46(6).

[317] In conducting a Disposition Review, I must assume that the orders previously made were correct in time. It is not the Court's function to retry the protection finding but rather the Court must decide whether the children continue to be in need of protective services. Justice Forgeron identified the following principle at paragraph 22 in ***Mi'Kmaw Family and Children Services v. KD***, 2012 NSSC 379:

> 22. When a court conducts a disposition review, the court assumes that the orders previously made were correct, based upon the circumstances existing at the time. At a review hearing, the court must determine whether the circumstances which resulted in the original order, still exist, or whether there have been changes such that the children are no longer children in need of protective services: sec. 46 of the *Act*; and ***Catholic Children's Aid Society of Metropolitan Toronto v. M. (C.)*** [1994] 2 S.C.R. 165.

Section 42

[318] Before I can grant an order removing a child from a parent and placing a child in permanent care and custody pursuant to s. 47, I must consider subsections 42(2) to 42(4) of the *Children and Family Services Act*. Section 42(2) mandates that I do not make an order that removes the children from parental care unless I am satisfied that the least intrusive alternatives have been tried and have failed, have been refused, or would be inadequate to protect them.

[319] Section 42(4) instructs that I shall not make a Permanent Care and Custody order unless I am satisfied that the circumstances which justify the order are

unlikely to change within a reasonably foreseeable time, not exceeding the maximum time limits.

[320] According to subsection 42(3) of the *Children and Family Services Act*, I am not to place children in the Minister's permanent care and custody without considering whether there is a possible placement with a relative, neighbour or other member of the children's community or with extended family.

[321] The obligation to provide services is not without limit. In ***Children's Aid Society of Shelburne County v. S.L.S.*** [2001] N.S.J. No. 138 (C.A.),

[322] S. 18 of the Parenting and Support Act is the legislative authority relating to the private applications.

Credibility

[323] In ***Baker-Warren v. Denault***, 2009 NSSC 59, which was cited with approval by the Court of Appeal in ***Hurst v. Gill***, 2011 NSCA 100, the Court reviewed factors to be considered when making credibility determinations. Justice Forgeron stated at paragraphs 18 to 20:

> 18. For the benefit of the parties, I will review some of the factors which I have considered when making credibility determinations. It is important to note, however, that credibility assessment is not a science. It is not always possible to "articulate with precision the complex intermingling of impressions that emerge after watching and listening to witnesses and attempting to reconcile the various versions of events." ***R. v. Gagnon***, 2006 SCC 17 (S.C.C.), para. 20. I further note that "assessing credibility is a difficult and delicate matter that does not always lend itself to precise and complete verbalization." ***R. v. R.E.M.***, 2008 SCC 51 (S.C.C.), para. 49.
>
> 19. With these caveats in mind, the following are some of the factors which were balanced when the court assessed credibility:
>
> a) What were the inconsistencies and weaknesses in the witness' evidence, which include internal inconsistencies, prior inconsistent statements, inconsistencies between witness' testimony, and documentary evidence, and the testimony of other witnesses: ***Novak Estate (Re)***, 2008 NSSC 283 (S.C.);
> b) Did the witness have an interest in the outcome or was he/she personally connected to either party;
> c) Did the witness have a motive to deceive;

d) Did the witness have the ability to observe the factual matters about which he/she testified;
e) Did the witness have sufficient power of recollection to provide the court with an accurate account;
f) Is the testimony in harmony with the preponderance of probabilities which a practical or informed person would find reasonable given the particular place and conditions. ***Faryna v. Chorney***, [1952] 2 D.L.R. 354;
g) Was there an internal consistency and logical flow to the evidence;
h) Was the evidence provided in a candid and straight forward manner, or was the witness evasive, strategic, hesitant, or biased; and
i) Where appropriate, was the witness capable of making an admission against interest, or was the witness self-serving?

20. I have placed little weight on the demeanor of the witness because demeanor is often not a good indicator of credibility: ***R. v. Norman,*** (1993), 16 O.R. (3d) 295 (C.A.) at para. 55. In addition, I have adopted the following rule, succinctly paraphrased by Warner, J. in ***Re: Novak Estate***, *supra*, at para 37:

> There is no principle of law that requires a trier of fact to believe or disbelieve a witness's testimony in its entirety. On the contrary, a trier may believe none, part, or all of the witness's evidence, and may attach different weight to different parts of a witness's evidence. (See ***R. v. D.R.*** [1966] 2 S.C.R. 291 at 93 and ***R. v. J.H.***, *(supra*)

LEGAL ANALYSIS

[324] In reaching my decision, I have considered the applicable law and the legislative provisions of the *Children and Family Services Act*. In particular, I have considered the preamble to the legislation which underscores the purpose and philosophy of the Act and clearly emphasizes that children are only to be removed from the care of their parents when all other measures are inappropriate.

[325] I have considered s. 3(2), and the relevant circumstances as listed therein, in determining the best interests of the children in light of the evidence presented.

[326] I have also considered the Agency's obligation to provide services as per s. 13. I have taken note of the relevant provisions as set forth in s. 22(2) in determining whether the children continue to be in need of protective services. I have also taken into consideration s. 42, 45, 46, and 47.

[327] I have read all the evidence and conducted the analysis required by the legislation.

[328] I have scrutinized the evidence with care. Although I may not have specifically commented on all of the evidence in this decision, I have nonetheless, considered the totality of the evidence in reaching this decision.

[329] This has been a very difficult case. The Court has heard much testimony over eleven days and over the span of five months.

[330] I have also carefully considered the able and thorough submissions of counsel.

[331] Finally, I have applied the burden of proof to the Minister of Community Services. There is only one standard of proof and that is the onus requiring the Minister of Community Services to prove its case on a balance of probabilities, a burden which must be discharged by the Minister.

[332] This is an application for a Final Disposition Order.

[333] This proceeding has exceeded the time limits with consent of the parties.

[334] The statutory deadline has already been exceeded. As noted earlier in this decision, the parties consented to continuing the hearing beyond the disposition time limit so as to have all of the evidence heard, in the children's best interests and all consented to the status quo order issued October 17, 2018 for that purpose.

[335] The Court finds as a fact that the statutory time limit of July 17th, 2018 was in conflict with the children's best interests.

[336] While there are options for six of the seven children, upon the expiration of the maximum time limit prescribed by s. 45, there are only two possible dispositions orders available to the Court for S.G.: dismissal of the proceedings, or an order for permanent care and custody. There is no middle ground for S.G.

[337] The protection finding was made on April 3rd, 2017 based on the substantial risk of sexual abuse, s. 22(2)(d) of the *Children and Family Services Act*. That was the correct order at that time. I find based on the evidence before me that the degree of risk that justified the finding that the children were in need of protective services on April 3, 2017 was substantial based upon the history of agency

involvement. The Minister was justified in apprehending the children for their protection on this basis.

[338] The Respondent Mother C.G. put her children in harm's way by staying with her parents in January 2017. From the Court's perspective, whether the Respondent Mother C.G. was living with her parents or staying at her parents, this is a distinction without a difference. It does not matter if it was temporary. C.G. had stayed overnight with the children in the home with the maternal grandparents despite C.G. having, on her own evidence, awareness of multiple allegations of sexual abuse of children against her father including her own daughters' disclosures in 2011, and despite the fact that as recently as August 2016 the Mi'kmaw agency had told her she must get the children out of that home or they would be taken into agency care. She stayed with the children in her parents' home in January 2017 within two short months of the conclusion of the 2016 protection proceeding.

[339] By staying with her parents on those occasions, the Respondent mother C.G. demonstrated to the Court poor judgment and lack of insight in terms of the possible danger her parents presented to her children. Her decision to stay overnight at her parents on those occasions in January 2017 placed her children at risk. While the Respondent mother had housing issues, there is no excuse for the Respondent Mother C.G. to act irresponsibly as a mother in January 2017. The suggestion that the children were never left unsupervised in the presence of her parents is self-serving and unsubstantiated. The Court rejects this explanation. Simply put, the children should not have stayed overnight at the maternal grandparents home and simply put, the Respondent Mother, C.G. could not have supervised the children 24 hours a day.

[340] I must determine whether or not the children remain in need of protective services. If the children are no longer in need of protection, the Minister's protection proceeding terminates and the Minister's application for permanent care must be dismissed.

[341] As argued by Ms. McDonald and by Ms. Morrow, in determining the ultimate issue in this case, the Court must come forward from the Order for finding on April 3, 2017. The reservation of rights in cross-examination by the Respondents in consenting to the Order for Finding, does not negate the consent to

the finding itself, the finding of substantial risk of sexual abuse and the order for finding not appealed is set in time and assumed properly made at the time.

[342] The question is what has changed since 3rd of April 2017, has there been a material change such that the substantial risk of sexual abuse, which existed then, has been mitigated or resolved.

[343] The Minister seeks permanent care of S.G. The Minister's plan for six of the seven children involve a termination with the children in the care of Respondent Fathers, C.P. and L.S., as per private applications pursuant to the *Parenting and Support Act* of Nova Scotia. As such, I am ordering that pursuant to Civil Procedure Rule 60A.09, the proceeding herein shall be and is hereby consolidated with the proceedings pursuant to the *Parenting and Support Act.*

[344] I agree with the argument of Ms. McDonald that first and foremost among a child's best interests are that the child be protected from abuse. That is the responsibility of the Minster in intervening in families and that is the responsibility of the court. So, all of the other factors notwithstanding, if the child will not be safe in parental care, then that parental care is not an option for the Court.

[345] This is a very difficult situation and decision. My decision must focus on these children. Ms. Sumbu argued in her submissions that there is no doubt that the Court has sympathy for Respondent C.G. and that the sympathy is appropriate but, "we have to ensure that sympathy does not override the actual test before the Court as well as the evidence that has to be considered". For the record, the sympathies of the Court are towards these seven children and not to the Respondent Mother. The children's best interests and not the best interests of Respondent Mother C.G. must be paramount. The child-centered focus of child protection means that the best interests of children trumps the wishes and interests of the parents: ***C.(G.C.) v. New Brunswick (Minister of Health and Community Services)***, [1988] 1 S.C.R. 1073, paragraph 14.

[346] The Minister of Community Services bears the burden of establishing on a balance of probabilities that the children continue to be in need of protective services if returned to their mother as there remains a substantial risk of sexual abuse, pursuant to s. (22)(2)(d) of the *Children and Family Services Act* and that a Permanent Care Order is in the best interests of S.G.

[347] As argued by Ms. McDonald, the issue for the Court is substantial risk of sexual abuse. No other protection risks were identified in the argument of the Minister other than the major presenting risk relating to sexual abuse by the maternal grandparents. In the case note from May 10, 2017, exhibit K, of Ms. Kennedy's affidavit sworn July 12, 2017, (Tab 4 of Exhibit 1), Ms. Kennedy stated that she advised the Respondent Mother C.G. that we had no concerns about her parenting skills. As acknowledged by Ms. McDonald, in her oral submissions, there is much that is positive about the parenting of the Respondent Mother C.G. On the evidence, she loves her children, she is proud of them, she interacts with them energetically and loving and positively. The Minister has never denied this.

[348] As argued by Ms. Sumbu, this case isn't about whether or not the Respondent Mother is a good parent, whether or not she is a loving Mother or whether or not she has bonded with her children. Those are factors that the Court has to consider but what we really have to consider is whether the Respondent Mother C.G. has the ability to protect them if they return to her care and in order to protect children from harm, there has to be appreciation for the nature of the harm and the nature of the risk.

[349] Before addressing the ultimate issue, I will make some preliminary findings in this matter as well as credibility findings.

[350] First and foremost, I accept, without reservation, that Respondent parents, C.G., C.P. and L.S. love their children.

[351] As argued by Ms. McDonald, there are no custody orders predating this proceeding and no presumptions with respect to return to care and custody. That being said, from all the evidence before me and in particular from the Respondent fathers CP and L.S., I find that the Respondent C.G. was the primary care giver of the children up until this child protection proceeding. Both Respondent fathers, C.P. and L.S., accept that before the Minister got involved, the children were in the mother's care.

[352] I accept that Respondent fathers C.P. and L.S. are ready, willing and more than capable to provide safe and adequate care to their children. The Minister supports placement of the children with these fathers.

[353] I find that the Respondent fathers have not been very involved in the children's lives up until the child protection application. The Respondent fathers C.P. and L.S. lay blame on the Respondent Mother. The Respondent Mother takes the contrary position. Whatever the reason, the court is concerned about the lack of involvement by the fathers with the children up until the child protection proceeding. The Court is very pleased that Respondent fathers, L.S. and C.P., are now very much involved with their children's lives again.

[354] I further accept from all the evidence before me, including the Minister's witnesses, the fathers and the litigation guardian, that all seven children want to return home to their mother. Respondent C.P. states in his affidavit that the children love their mother and wish to be reunited with her and their siblings. While not taking away from this, I must determine whether there is substantial risk in this case.

[355] I am further satisfied based on the evidence before me that the parents of the Respondent Mother C.G. are a risk to the children. The issue becomes whether there remains a risk to the children in the care of C.G. Is C.G. now able to keep them safe from the risk of sexual harm by the maternal grandparents?

Credibility findings

[356] In terms of my credibility findings, I have applied the principles as set out in ***Baker-Warren (supra)*** as approved in ***Hurst v. Gill (supra).***

[357] With respect to the witnesses who testified on behalf of the Minister of Community Services, I find that they testified in an honest and straightforward manner. They appeared willing to concede positive progress on the part of the Respondent Mother C.G. while explaining the basis for their continuing concerns. The witnesses on behalf of the Minister of Community Services were responsive to questions during cross-examination and were not argumentative or evasive. Contrary to the argument of Mr. MacKinlay, while the court was disappointed with the suspension of access as a result of the constipation issue and while the court was disappointed by Ms. Kennedy's response to Dr. Webster's request for a case conference and her dealings with Mr. MacInnis, I do not find any bias on the part of Ms. Kennedy when dealing with C.G.

[358] I accept that Mr. White was an objective witness and was acting in the best interests of CO.G. throughout the proceeding since his recent appointment on May 8, 2018.

[359] I further accept that all the professionals who provided reports and evidence in this matter testified in an honest, straightforward and impartial manner. I refer in particular to Val Rule, Mr. Webster, Gary Neufeld, Mike MacInnis and Bernadette Poirier.

[360] Similarly, I have no reservations with respect to the credibility of C.P. or L.S. While they both blamed C.G. for their lack of involvement in the children's lives which the court found to be a bit self-serving, I find that both fathers testified in an honest and straightforward manner. They genuinely presented as concerned parents and the children are fortunate to have them so involved in their lives at this time.

[361] I do have significant credibility concerns with respect to the testimony of D.G., the son of the Respondents C.G and C.P. I found his testimony not credible. I was most disturbed by the evidence relating to his involvement in getting two of L.S.'s daughters (not children subject to this proceeding) to sign a waiver to the effect that the maternal grandfather did not abuse them. The Court was saddened to read in particular Exhibit 8 – Child, Youth and Family Supports Incident Reporting form submitted by Brenda MacInnis for date of incident September 13, 2017. In that report, Ms. MacInnis related the comments of one of L.S.'s daughters and noted that the girl wiped her tears from her face as she spoke to her father. I do not believe D.G. when he stated that he went to the school with the waivers but didn't know what they were about, that he deliberately did not look at them, that he did not want to see them, he didn't know what was happening but he was trying to be a helpful older brother. C.G. denied any knowledge of the plan and suggested that had she known, she would have put a stop to it. She stated that she was told by D.G. and his girlfriend about the signed waiver but she didn't ask to see it and simply didn't care and wasn't interested. The Respondent Mother C.G. was cross examined about the waiver and said that she had no knowledge about the waiver until after the fact and had she known she would have stopped it. She referred to her son, D.G. as the messenger and she found out after the fact that it was her daughter CO.G. who wrote the letter. I find that D.G. orchestrated the waivers in the misguided attempt to help his mother. I accept that C.G. did not

touch the waiver not out of disinterest but out fear of having anything to do with the waiver.

[362] Ms. McDonald argues that C.G.'s evidence is ripe with contradictions, reversals and revisions and this bears directly on any representations she may be making to this Court about her willingness and ability to protect her children, to somehow do things differently from the way she has done them in the past. She references, in particular, the statements by C.G. and her son D.G. in their sworn affidavits for a placement hearing in November 2017 which did not take place that they were not staying in the maternal grandparents home in 2017 and that they did not even spend one overnight in that home. When Respondent C.G. and D.G. came forward to testify in the current proceedings in October 2018, they both sought to correct those untrue statements. The Court does not take lightly untrue statements in a sworn affidavit before the Court. It was not a "little" mistake as alleged by the Respondent C.G. Having said that, it is mitigating that C.G. and D.G. corrected these incorrect statements when each of them came forward to testify.

[363] Ms. McDonald also points to a few inconsistencies relating to the period of estrangement with her parents, relating to C.G.'s brother now charged with child pornography and the time he spends alone with her children; the dates when C.G. stayed at her parents between 2015 and 2016 and inconsistencies with the time frame of disclosures with access by the maternal grandparents and relating to the Memorandum of Understanding. Ms. McDonald also points to the testimony from C.G. in response to Ms. Sumbu, that the Agency changed its position with respect to allowing unsupervised contact with her parents at several times. When pressed under cross-examination C.G. admitted that the agency never did change its position on the grandparents and that the Mi'kmaw agency and the Minister never changed the position, always requiring supervision of that access. Ms. McDonald also points to contradictory evidence with regard to the abuse C.G. suffered.

[364] I agree with the Minister that there are some inconsistencies in the evidence of C.G. I take into consideration, however, that C.G. was cross examined at length by four counsel on the circumstances of her life dating back many years prior to this proceeding which also involved two other child protection proceedings and much familial dysfunction with C.G.'s parents and siblings. As for C.G.'s inconsistency as to the abuse she personally suffered, C.G. acknowledged the abuse suffered at hands of two of her siblings. C.G. was asked about whether she was abused by her parents and she denied same. C.G. has been a victim of abuse

by family members. I accept that it is not easy for a victim to openly share that information.

[365] My paramount consideration is the best interests of the children and whether the Minister has established that the seven children continue to be in need of protective services if returned to the care of C.G. As Justice Jesudason stated in ***Minister of Community Services v. A.R. and G.B.,*** 2019 NSSC 1 at paragraph 80:

> …Indeed, there may be parents who appear before this court who have been less than honest about things occurring in their lives. Those parents aren't deprived permanently of their children simply because they have been less than honest about those events.

[366] Ms. McDonald argued that C.G. attempted to explain away her children's statements and that it goes against her credibility when C.G. testified that she had no recollection of her children making the disclosure to her in 2011 about the sexual abuse until many months later, until hearing rebuttal evidence to the contrary. While to many it is unbelievable that a parent would forget about phoning the police about his/her parents allegedly sexually abusing his/her child, the fact of the matter is that C.G. reacted appropriately at the time of the disclosures by going to the authorities. Sgt. Thomas in her evidence on November 13, 2018 spoke in detail about C.G.'s hypervigilance and C.G.'s concern relating to this allegation.

[367] I further find that C.G. was capable of making admissions against her interest. As will be discussed in greater detail below, C.G. has accepted that she made mistakes. I also note that C.G. corrected in cross-examination that the pictures she admitted into evidence were taken June 2018 and not 2017 as earlier stated. In her words, ".. that picture that I said in 2017 of the arms it was not true of the date. I got mixed up, I'm only human I make mistakes just like everybody else…A. Yeah I'm doing my best."

[368] I conclude that C.G. was generally truthful at this trial when giving evidence which goes to the heart of the issue of whether the children would be in need of protective services if returned to her care.

[369] I find that the Minister of Community Services has not discharged the burden of establishing on a balance of probabilities that the children continue to be in need of protective services if returned to their mother as there remains a

substantial risk of sexual abuse, pursuant to s. (22)(2)(d) of the *Children and Family Services Act* and that a Permanent Care Order is in the best interests of S.G. I am not satisfied that the evidence of the Minister of Community Services is sufficiently clear, convincing and cogent to satisfy the balance of probabilities test.

[370] I am satisfied that there is evidence of substantial change in the circumstances of the Respondent Mother C.G. since the date of the protection finding and since the original disposition order to now in so far as the Respondent Mother C.G. has been able to address the Minister's protection concerns given the services offered and the opportunity afforded her.

[371] I agree that the Respondent Mother C.G. is not in the same position at the end of this proceeding that she was at the commencement of the proceeding when the protection finding was made. I find that Respondent Mother C.G. has made significant progress in addressing the child protection concerns.

[372] I find that the disposition plan has been executed by C.G. in that she has done services to adequately address the protection issues and I find that she has progressed to a point where the concerns of risk of sexual abuse have been meaningfully addressed.

[373] More specifically:

- C.G. took part in SAFE assessment with Val Rule;

- She attended psychotherapy with Dr. Allister Webster, Clinical Psychologist, which was terminated given in part to the failure of Minister to provide directions and not solely due to C.G.'s assertion that her needs were being met though her therapist counselling with Mike MacInnis Mental Health Services MH Services. The Court is disappointed with the delay in arranging for psychotherapy. In July 2017, Ms. Rule asserted that C.G. should have psychotherapy. It wasn't until the middle of December that that service had been commenced as facilitated by the agency. The Court is also disappointed that the worker did not arrange a conference as requested by Dr. Webster.

- C.G. attended psychotherapy with the last expert hired by the agency, Mr. Neufeld. Mr. Neufeld met with her approximately 7 times and then

he asserted basically he is not going to reach the goal that was set in front of him in the timeline.

- She has been attending therapy with Mike MacInnis since August 17, 2017.

- Relating to the concerns regarding parental conflict, as set out in the Disposition Plan of Care, C.G. attended a co-parenting program through family services of Eastern Nova Scotia. She did not sign a consent form for this program but indicated she completed it.

- C.G. completed anger management program, a sexual abuse awareness program and a health relationships program at the Healing Centre provided by Bernadette Poirier.

- As further set out in the Plan, she attended with Heather MacLennan, therapist (2016) and individual counselling and the Parenting program through Family Support Work in 2012.

[374] The evidence in this case shows that the Respondent C.G. has not refused any service and that she has been cooperative with all service interventions.

[375] Contrary to the arguments of Ms. Morrow, I find that C.G. did not squander the time available to her to resolve the risks. I do not agree with the argument that she has fought the Minister and the Court every step of the way. The Respondent Mother C.G. participated throughout this proceeding, has made every Court appearance, attended all services and agreed to adjourn the Placement Hearings.

[376] A big change for C.G. is that C.G. has had the benefit of the professional services of Val Rule, Allister Webster, Gary Neufeld, Michael MacInnis and Bernadette Poirier.

[377] C.G. stated that she never did counselling to develop a detailed SAFE plan before and that she never did intensive counselling and psychotherapy before this year.

[378] At page 9, Val Rule wrote that she "…displayed a good level of intellectual insight regarding the current situation." In cross-examination, Val Rule talked

about the gold nugget moment. I find that C.G. had her gold nugget moment with Mr. Neufeld. Mr. Neufeld noted that there were different words that suggested that C.G. had doubt, that she had vigilance around the children being around her father. He noted that there were small openings that he attempted to pull out. He noted that it is possible that some of these openings are because of the fact that C.G. has to be receptive given the point at which we are. He also said that these openings could be the result of court engagement which is highly emotional. He spoke of the kind of work during the last 2 sessions and that when matters are highly emotional, there is much more available. Gary Neufeld stated that he would not go that far to say that C.G. was entrenched in her position relating to her father and mother. She presented that way at the beginning but he always felt there was something there. He noted that her position had changed from May to now after 5 sessions. In retrospect, the possibilities were there. He stated that C.G. is closer to giving primacy to different parts and different facts and that is where they were. He stated that it is possible for her to do the work but she needs time. In the last couple of sessions, he was getting into the gist of the matter and work had begun. There were cracks in the defence and what she is really sure about was that she would not expose the children unsupervised to her father because of the amount of doubt. The doubt was much smaller in the first 3 sessions than in the last 2 sessions. The last couple of sessions were more substantive. He noted that if sessions were to continue for some months, C.G. would have a chance absolutely to make the connect between heart and mind that Ms. Rule enunciated. Unfortunately those sessions ended with Mr. Neufeld and it is unfortunate that he didn't do safety planning with C.G.

[379] The evidence is clear that throughout this proceeding, the cracks in her defence and the openings continued to grow such that C.G. has gained the necessary emotional insight to keep her children safe from the risk of sexual abuse by her parents.

[380] Mr. MacInnis' opinion evidence has been outlined in detail in this decision. Mr. MacInnis recently stated that she just doesn't know. He stated that C.G. now knows there is a possibility and she is acknowledging it; that she made some bad choices by returning to the home; and that she knows that she should not have gone back to the home. According to Mr. MacInnis, C.G. acknowledges there is a risk for sure and he believes she will try to manage the risk and keep her parents away from the children as there is so much at stake. Mr. MacInnis noted that in the last number of months, C.G. is acknowledging the risk and in the last few sessions she

stated she was not going to take chances. C.G. will err on the side of caution and not have her children alone with her parents. Mr. MacInnis offered the opinion there is a much better chance of her protecting the children now as she has learned a lot. Mr. MacInnis identified a shift in C.G. within the last few months and that C.G. is more aware and able to manage risk even better. According to Mr. MacInnis, C.G. doesn't know if anything happened but better to be safe. Mr. MacInnis stated that C.G. understands that because of multiple allegations there could be risk. He further notes that no matter who it is, C.G. understands not to allow anyone with any potential risk to be unsupervised around her children. In Mr. MacInnis' words, that "was a big stride for her."

[381] Mr. MacInnis found C.G. to be always forthcoming and consistent with her information. According to Mr. MacInnis, C.G. has learned through all of the programming and counselling and the safe assessment by Val Rule that she has to err on the side of caution when it comes to sexual abuse. Mr. MacInnis is of the opinion that she has come a long way.

[382] The Minister objects to the admission of that opinion from Mike MacInnis and objects to any weight being given to Mr. MacInnis' opinion in my deliberations in this matter. It was argued Mr. MacInnis' evidence with respect to the safe consultation report was problematic in that at some point he may have scanned it, then he read it, then he read it more than once and he agreed with much of what it said. According to Ms. McDonald, it was extremely unclear when he did any this, what he concluded from the report, what he adopted from the report, and the basis of any opinion Mike MacInnis might offer to this court. It was further argued that Mr. MacInnis has not been providing the psychotherapeutic intervention recommended by Psychologist Rule in her consultation report.

[383] I have considered the arguments put forth by counsel when weighing Mr. MacInnis' evidence. I don't conclude they justify discounting his evidence.

[384] In response to Ms. McDonald's arguments, I did not find Mr. MacInnis' evidence confusing, uncertain or vague.

[385] I find that the fact that Mr. MacInnis had advocated on behalf of C.G. does not, in my opinion, exclude him from giving opinion evidence and giving an objective opinion for the assistance of the court.

[386] I also do not find that the foundation of his opinion is an issue. At the time of preparing report, he had read materials from the Minister. Mr. MacInnis testified in cross-examination that C.G. did provide in detail information about the prior involvement. He read some of the court documents provided by C.G. which went back to 2003 initially and the different involvements. Mr. MacInnis knew the history of involvement with child welfare. Mr. MacInnis testified that he did try to talk to the agency worker on a few occasions but there was not much collaboration and he was just referred to Val Rule's recommendations. This is consistent with Dr. Webster's experiences. Mr. MacInnis stated that he really liked the safe assessment and described it as quite holistic and it heightened C.G.'s sensitivity and made her more aware of her risks. In cross-examination by Ms. McDonald, Mr. MacInnis stated that at the time of the report he might have reviewed Val Rule's report but quickly. Since then he read it. Yes, it would have been preferable that he studied in full the consultation report prior to preparing his report. It is clear to the court that he had studied same in full prior to his oral evidence. While Mr. MacInnis may not have known the specific details of Val Rule's report at the time of writing his report, he was aware of the issues before the court.

[387] In conclusion I found Mr. MacInnis' evidence to be helpful when considering the progress C.G. made in therapy in addressing the child protection concerns relating to the risk of sexual abuse by her parents. I find that C.G. has benefitted in full from the therapy provided by Mr. MacInnis. I find that Mr. MacInnis clearly spent significant time in his sessions working with her on those issues. While there was much argument about Mr. MacInnis not providing psychotherapy, it is clear from their testimony that Ms. Rule and Mr. Webster were both unclear as to Mr. MacInnis' qualifications. The Court finds that Mr. Neufeld acknowledged in part that Mr. MacInnis may have gone beyond supportive counselling when he testified during cross-examination about the issue of splintering. Mr. Neufeld stated that splintering would be a concern if or when dismantling happens but he didn't think that was Mr. MacInnis' intention to go to that place. Mr. Neufeld stated that he was way more concerned about splintering now because it is getting closer to his therapy. I disagree with the argument that Mr. MacInnis only provided supportive counselling to C.G. which hasn't addressed the protection concerns.

[388] While I found Mr. MacInnis' evidence helpful, it is only one piece of evidence I have considered and my decision is not based primarily on this opinion.

Even if I didn't find Mr. MacInnis' evidence helpful or persuasive and even without the therapy by Mr. MacInnis, C.G. made progress in the safe assessment and from her sessions with Dr. Webster, Gary Neufeld and Bernadette Poirier.

[389] I find that the most significant evidence about C.G.'s progress in addressing the concerns about risk her parents present came directly from C.G. and I have outlined her evidence in this decision. As Justice Jesudason stated at paragraph 66 of ***Minister of Community Services v. A.R.,*** 2019 NSSC 1:

> Indeed, it's one thing for a parent to engage in services with a professional to address child protection issues and have that professional testify as to the parent's level of insight and progress. It's quite another thing to hear that insight directly from the parent. Indeed, simple participation in services doesn't necessarily result into better parenting.

[390] While Mr. MacInnis' evidence as well as the expert evidence of Val Rule and Gary Neufeld provides valuable and relevant evidence for the court, the expert evidence is to be considered by the court like any other piece of evidence. Expert opinions do not replace the court's judgment and should not drive the process. The opinions of the expert, once qualified, may be accepted or rejected by the court. It is the responsibility of the court to determine whether or not recommendations are consistent with other evidence before the court. In the end these are professional or clinical judgments and the trier of fact is responsible to give weight to the opinions as deemed appropriate in light of all other evidence.

[391] I find that she has insight into the sexual abuse risk her parents pose to her children. C.G. has insight about the risks to her children such that the children will be safe in her care.

[392] The Respondent mother, C.G. acknowledges that accusations exist against the maternal grandparents, they have existed and the Respondent Mother C.G. knows better now than before that despite the lack of convictions, despite the lack of charges, despite the lack of information relating to the three convictions in 1993 against her father in Massachusetts, that those accusations mean something and that therefore there is risk. C.G. appreciates that there has to be a permanent and broader buffer between her parents and her children.

[393] The Respondent Mother C.G. admitted that she had mistakes and she may not have appreciated, in the earliest months of this proceeding, about the mistake

of assuming that she could supervise access on an overnight basis at her parents' home. C.G. understands now, as she stated on the stand, that she made mistakes staying overnight at her parents' for 4 nights in the early days of January 2017. The Respondent Mother C.G. acknowledges that she made a mistake, and testified it will never happen again.

[394] The Respondent Mother C.G. also admitted that she had made the mistake of living at her parents' home on other occasions which lead to the prior proceedings.

[395] I further find that the Respondent Mother C.G. has accepted that her actions put the children at substantial risk of harm. That is a difficult realization for any parent. She confirmed it would not happen again. The issue becomes whether she can be trusted given the past history in this file.

[396] I am satisfied that the Respondent Mother C.G. has the ability to protect her children and that she can be trusted. Yes, she struggled to perceive her father as a sex offender and therefore a risk to the children but she now sees the possibility he is a sex offender and is a risk to the children.

[397] I find that Respondent Mother C.G. is more aware of the risk posed by her parents today then perhaps any other time. I do not find that Respondent Mother C.G. is still so enmeshed with her parents that she is not able to protect her children. She is no longer in denial of the possibility of abuse by her parents.

[398] In her evidence before the Court, both her oral evidence and her affidavit, she went from basically asserting over the years that her parents are innocent and that there are various explanations as to the weakness of the supposed evidence against them and the accusations in the past. In her evidence on the stand, before the Court, the Respondent Mother C.G. is aware that maybe they are guilty, maybe they are innocent, but maybe they are guilty. I accept that, that is a major and substantive shift in her insight and belief.

[399] I find that C.G. has connected her head with her heart. In response to a question on cross-examination by Jeanne Sumbu, Respondent Mother C.G. states:

> …And that hurts, it hurts a lot because I'm not with my kids. Now you see why I'm unemployed, because I can't -- my emotions are fluctuating. Losing my kids is almost equivalent of death. And I'm still mourning for my kids.

C.G. also stated:

> **A.** Well I don't have my kids with me so it put a lot of deep thought into protecting my kids, more so than ever, ever before. When you're alone boy it's a lot that you think about. And the one thing that taught me a lot of things is that I felt like I failed as a parent in that area. And I needed to grasp it, I needed to get back up and say hey this is a possibility. There's a chance that the risks can real regardless of the timeframes with my daughters. But I think about my nieces and my nephews and the possibilities are there that what if. So as difficult as it was it seemed at the time to accept the fact that my father might be a predator although I never -- like I said I never seen it with my own eyes but hearing it and hearing it from other people it's eye wakener because I always believed that I had protected my kids. I've always -- because I always have. If I only had help with the fathers throughout the years but I didn't.

[400] I accept that having her seven children removed from her care, since January 2017, has been a wake up call for the Respondent Mother C.G. This is the first time the children have been taken out of her care, despite the proceeding in 2012 and 2016 and the letter of understanding in 2014. That's a change in circumstances and a substantive difference from the earlier proceedings and involvement in 2012, 2014 or 2016.

[401] I accept that Respondent Mother C.G. knows better now, then ever before, that the Court order lasts beyond a dismissal date of an application that lead up to a dismissal.

[402] Another change in circumstances from January 2017 to November of 2018 has been that Respondent Mother C.G. now has a support system that she did not have before. We have heard evidence from Bernadette Poirier, Mike McInnis and the support they can give her. We now have the full involvement of the Respondent Fathers C.P. and L.S. such that if the children are returned to the Respondent Mother C.G., she has other back-ups to go to.

[403] The Respondent Mother C.G. drafted an initial safety plan in the process of the safe assessment process with Valarie Rule in June and July of 2017. The Court has heard evidence from the Respondent Mother C.G. as to the changes made to that safety plan since that date Throughout her evidence, C.G. was genuine in her willingness to add anything to her safety plan which the Minister or the fathers wanted. Her plan is to not facilitate any access whatsoever between her parents and her children. She is not going to take her children to her parents' house and

her parents will not be permitted at her home. There shall be no contact with the maternal grandparents except any supervised interaction at the Healing Centre. The Respondent Mother will not be arranging it and would leave that up to third parties to initiate and to facilitate supervised interaction. To this end, she names Mike MacInnis, Bernadette Poirier and the fathers. She testified in keeping with Mr. MacInnis' recommendation, that her brother who was recently charged with child pornography related offences is not to be part of the plan. Given my findings of insight on the part of C.G., the Court does not have difficulty, as suggested by Ms. Sumbu, in balancing C.G.'s role as surety for her brother and her responsibility to protect her children. C.G.'s brother is not living with her.

[404] While the Minister of Community Services argues that there is no real framework for carefully considered and secure and safe contact, I find that the Respondent Mother's plan is not an empty, meaningless piece of paper. This safety plan has been constructed by C.G. who has been without her children since January 2017 and who has developed deep insight into the protection risks. I find that C.G. has presented me with a viable plan of care which satisfied me that the children could be safely returned to her care.

[405] I find that the dis-connect with the maternal grandparents offered through the Respondent mother's plan for the children alleviates the protection concerns. Risk is removed because children will not be exposed to the maternal grandparents unless supervised at the Healing Centre.

[406] Viewed from a best interests and child-focussed lens, I find that returning the children to the care of the Respondent Mother does not place them in a substantial risk of harm.

[407] I find that the least intrusive alternative available that is in the children's best interests is a dismissal of the protection application. As I have dismissed the Minister's application for permanent care and custody of S.G., I must now consider the private applications under the *Parenting and Support Act.*

[408] In reaching my decision relating to the private parenting applications, I have considered the applicable law and the legislative provisions of the *Parenting and Support Act.* In particular, I have considered subsections 18(4) and section 18 (5) which states that I shall apply the principle that the children's welfare is the paramount consideration. I have also considered the factors enumerated under

section 18 (6) for the determination of best interests. I also have considered subsection 18(8) which tells me that I am to give effect to the principle that children should have as much contact with each parent as is consistent with the best interests of the children.

[409] Much of the hearing focused on the proceeding under the *Children and Family Services Act*. In deciding the applications under the *Parenting and Support Act* I need to review the evidence I heard from the perspective of these application.

[410] According to section 18(5), in any proceeding concerning care and custody, I shall apply the principle that the child's welfare is the paramount consideration.

[411] With regards to the factors set out at section 18(6), I find as follows:

a. Re the circumstances of the children in terms of their physical, emotional, social and educational needs, including the child's need for stability and safety, taking into account the child's age and stage of development are well before the court. – the particulars of the children are set out in this decision. Other than the risk of sexual abuse, the parenting by C.G. was not the issue in the protection proceeding. The children have had the benefit of assessments in this proceeding and the recommendations set out therein. The Respondent parents are all able to follow those recommendations.

b. Re each parent's or guardian's willingness to support the development and maintenance of the child's relationship with the other parent or guardian – we have heard evidence from the Respondent C.G. that she is happy that Respondent fathers C.P. and L.S. are involved and will support the children's relationships with C.P. and L.S. C.P. and L.S. have acknowledged throughout the love the children have for their mother and I have no issue with the willingness of the fathers to support the children's relationship with their mother.

c. Re the history of care for the child, having regard to the child's physical, emotional, social and educational needs – as set out in my earlier findings, up until the child protection

proceeding, all seven children were in the care of the Respondent mother C.G. since birth with limited involvement by the fathers.

d. Re the plans proposed for the children's care and upbringing, having regard to the children's physical, emotional, social and educational needs – the plans have been well before the court. While the Court is pleased with the care provided to the children by Respondent Fathers C.P. and L.S., the plan of C.G. is preferable given that her plan allows all children to reside together which has been their reality since birth up until the apprehension in January 2017. While the Court does not doubt the intentions of C.P. and L.S. to encourage contact between the children, their respective plans will not allow the children to primarily reside in the same home. In addition, I find that the Respondent C.G has more availability for the children as opposed to the Respondent Fathers C.P. and L.S. The children have great role models in their fathers C.P. and L.S. I find that the plan of C.G. best provides for their healthy growth, development and education.

e. Re the child's cultural, linguistic, religious and spiritual upbringing and heritage – I accept that this factor favors C.G.

f. Re the children's views and preferences – it is clear from the evidence that while the children love their fathers, the children want to return to their mother.

g. Re the nature, strength and stability of the relationship between the child and each parent or guardian – I find based on the evidence that the children have strong relationships with each of their parents but the strongest relationship is with their mother. This has been acknowledged by C.P., in particular, in his evidence.

h. Re the nature, strength and stability of the relationship between the child and each sibling, grandparent and other significant person in the child's life – C.G.'s plan will involve

all children living together. C.G.'s plan also allows the children to continue to have the close relationships with their siblings and relatives on their paternal side.

i. Re the ability of each parent, guardian or other person in respect of whom the order would apply to communicate and cooperate on issues affecting the children – it would appear that the parties should be able to communicate and cooperate on issues affecting the children.

j. Re: impact of any family violence, abuse or intimidation – there is no evidence of family violence between the Respondent parents. The issue of risk of sexual abuse by the maternal grandparents has been resolved by this application.

[412] The evidence supports and justifies the conclusion that the Respondent Mother C.G.is best able to provide all children with a safe and secure home environment where the children's needs will be adequately met on a consistent basis.

[413] The Court finds that the Orders requested by the Minister, namely private orders in favour of Respondent fathers, C.P. and L.S., are not the appropriate ones having considered the totality of the evidence and applicable law.

[414] I am satisfied that the Respondent mother's plan of care has more merit than the plan of the Respondents, L.S. and C.P. (the latter plan being supported by the litigation guardian for child CO.G.) In keeping with the circumstances set out in section 3 of the *Children and Family Services Act* and the provisions of section 18 of the *Parenting and Support Act*, I find that it is in the best interest of all the children to return to the care of their mother.

[415] I find that a return of the children to the care of the Respondent Mother C.G. is consistent with the best interests of the children and adequate to ensure the safety and welfare of the children. The Mother had primary care of all children at the commencement of the proceedings, with little involvement by Respondents, C.P. and L.S., up until that point. I find that it is in the best interests of all the children to be returned to primary care of the Respondent Mother C.G. where they have the opportunity to live together as a family unit.

[416] I acknowledge the positive relationships the children now have with their fathers, C.P. and L.S. As such, I find it is in the best interests of CO.G., L.G., M.G., MA.G., A.G. and N.G. that the parents have joint custody in terms of making major decisions for the children. The parties share decision making such that the parents must agree about decisions that have significant or long lasting implications for the children or that impose responsibilities on a parent. This includes the decision as to whether the children should have any supervised interaction time with the maternal grandparents. In the event of a disagreement on the issue of maternal grandparent interaction time, the Respondent Fathers C.P. and L.S. shall have final decision making. This is consistent with the safety plan of C.G. that she will not arrange for the supervised parenting time and that all supervised parenting time shall take place at the Health Centre and be arranged by someone other than herself.

[417] Given the lack of involvement by Respondent Father B.F., I am ordering that the Respondent Mother C.G. have sole custody of the child S.G., with parenting time to Respondent Father B.F., as per her sole discretion and subject to further order of this Court.

[418] I am further ordering that the parents follow the recommendations of all service providers who were retained for the children in this proceeding. In particular, I'm ordering that the parties follow the recommendations of Dr. Landry in the assessments prepared.

[419] In terms of regular parenting time to C.P. and L.S., which will be subject to shared holiday time, the Respondent fathers shall have parenting time every weekend with the exception of the last full weekend of each month, from Friday after school until Sunday evening, and to be extended in the event of an in-service or holiday on the Friday or Monday to Thursday after school or Tuesday morning.

[420] The Fathers C.P. and L.S. shall have other reasonable parenting time, including reasonable telephone and other electronic communication, provided it occurs at reasonable times, for reasonable periods of time and at reasonable frequencies and additional parenting time, upon reasonable request, for reasonable times. The parties shall be entitled to attend events relating to the children that parents are normally entitled to attend such as school concerts, sporting events and other such recreational activities.

[421] For holidays that require it, the regular schedule is to be suspended and the regular schedule is to resume after the holiday has ended. The parties shall enjoy week about parenting time with the children during the summer, from Friday to Friday, commencing on the father's first parenting weekend, following the children's last day of school, each year until August 31. Friday exchanges shall occur at 5:00 p.m. unless otherwise agreed to between the parties.

[422] The parties shall alternate March breaks with the Respondent fathers C.P. and L.S. having the children in their care every even year and every odd year for the Respondent Mother C.G.

[423] The parties shall share equally the Christmas vacation from school as well as the Easter weekend.

[424] If Father's Day falls on the Respondent mother's weekend, the Respondent father's C.P. and L.S., shall have care of the children from 9:30 a.m. to 5:00 pm Sunday. If Mother's Day falls on the weekend for the Respondent fathers, the Respondent Mother C.G. shall have care of the children from 9:30 a.m. for the balance of the weekend.

[425] Each parent shall be able to spend two hours with the children on the children's birthday and each parent shall be able to spend at least one hour with the children on their own respective birthday. It is further ordered that the parties shall cooperate to ensure the children are able to attend special functions and events, in the best interest of the children.

[426] Consistent with the safety plan of the Respondent Mother C.G., I am ordering that the maternal grandparents shall not have contact with any of the children or associate in any way with the children except and unless by supervised access arranged through the healing centre on the terms and conditions of the healing centre. C.G. shall not be part of those arrangements nor any family members of C.G.

[427] For greater clarity, I am ordering that the children shall not attend, at or in or around the home of the maternal grandparents, and shall not reside or stay in the same home as the maternal grandparents or either of them. The Respondent Mother shall not permit the maternal grandparents of the children to have any

contact, direct or indirect, with the children, including email, texting, Facebook, telephone, mail, through third parties or at school.

[428] I'm also ordering that the parties shall immediately notify the agency of any potential child welfare issues involving the children.

[429] The order will contain a provision that should the grandparents make any application for access, the child protection authority in the area where the children are residing is to be notified.

[430] I have attempted to provide for a comprehensive parenting arrangement. As the hearing was primarily related to the child protection proceeding, if any of the parties wish a review on the parenting issue, an appearance can be arranged. I remain seized with the private applications for this review and any hearings arising from them.

[431] The issue of child support is adjourned without date, with the parties to contact the Court if they require court time on this issue.

[432] I thank counsel for their cooperation and assistance.

Conclusion

[433] I conclude that the children are no longer in need of protective services and dismiss the Minister's application for permanent care and custody of S.G.

[434] I ask that Ms. McDonald draft the appropriate form of Dismissal Order reflecting my decision and that Mr. MacKinlay draft the private *Parenting and Support Act* orders. The draft orders must be exchanged between counsel and if either party have concerns with the form of the Orders, they must outline their concerns, in writing, within two business days.

Justice C. Murray