

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Nova Scotia (Minister of Community Services) v J.H.*, 2022 NSSC 282

**Date:** 20220711

**Docket:** *SFHCFSA*, No. 120115

**Registry:** Halifax

**Between:**

Nova Scotia (Minister of Community Services)

*Applicant*

v.

J.H., G.T.

*Respondents*

**Judge:** The Honourable Justice Cindy G. Cormier

**Heard:** April 5, 2022, and May 3 & 5, 2022 in Halifax, Nova Scotia

**Counsel:** Jean Webb, counsel for the Applicant, Minister of Community Services  
Linda Tippett-Leary, counsel for the Respondent, J.H.  
Noel Fellows, counsel for the Respondent, G.O.

**Restriction on Publication: Restriction on Publication**

Pursuant to subsection 94(1) of the *Children and Family Services Act*, S.N.S. 1990, c. 5, there is a ban on disclosing 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 a relative of the child.

**By the Court:**

[1] Together J.H, and G.T., have two children, EI and EO. G.T. was served with notice of this proceeding but he has not participated.

[2] The Minister seeks an Order pursuant to s. 42(1)(f) of the *Children and Family Services Act*, that the children, EI, born in November 2017, and EO, born in March 2019, shall be placed in the permanent care and custody of the Minister of Community Services – Child Welfare (hereinafter the Minister).

[3] The Respondent, J.H., proposes that the children be returned to her care.

[4] J.H. and G.O. have one child together: EE, born October 2020, who is no longer a subject in this proceeding. J.H. is prohibited from having contact with G.O. pursuant to a criminal court order. J.H. was scheduled to attend domestic violence court in June 2022.

**1 Termination of all disposition orders related to EE**

[5] The Minister took the position that G.O. had consistently acted in EE's best interests, adopting G.O.'s plan for EE. The Minister found G.O. was very attentive to EE's medical needs, including when EE had heart surgery to repair two holes in

his heart on January 14, 2021, and when EE was scheduled be seen by a pediatrician every two weeks thereafter.

[6] On May 5, 2022, the parties consented to terminate all disposition orders in relation to EE under the *Children and Family Services Act*, upon EE being placed in the interim primary care of his father, G.O., pursuant to the *Parenting and Support Act*, file number 125367.

[7] J.H. and G.O. have agreed that J.H. will have fully supervised access with EE, to be supervised by a third party approved by G.O. (not supervised by G.O.) and/or parenting time supervised at Veith House (12 visits). Other parenting terms to be included are that: J.H. shall have access to all third-party information related to EE; both parties are prohibited from allowing J.H.'s mother, EH or J.H.'s brother, J.H. from having contact with EE, under any circumstances; and a notification clause regarding any changes (formal or not) will be added to the Interim Order for the Minister.

[8] The parties are expected to take steps to formalize a final order which will include clauses specifying holiday parenting time. G.O.'s legal counsel will draft the Interim Order and the Veith House Order. The Minister's counsel will draft the Termination Order. The matter is adjourned to October 4, 2022.

## **2 The Minister is seeking permanent care and custody of EI and EO**

[9] Over the course of the proceeding, the Minister continued to identify the need for J.H. to work on the following issues:

1. substance abuse;
2. concerns regarding food, clothing, and shelter;
3. medical neglect; and additionally
4. “home instability.”

[10] As noted by the Nova Scotia Court of Appeal in *A.B. v. Nova Scotia (Community Services)*, 2022 NSCA 24, at paragraph 18:

two of the key issues at the final disposition hearing are to determine whether the children remain children in need of protective services and what order is required in the children’s best interests.

[11] J.H. argued that no concerns were raised about her supervised parenting time with the children after her parenting returned to the Agency offices in October 2021, and yet she was not given an opportunity to exercise unsupervised parenting time to thereby prove she had made the necessary changes.

[12] J.H. suggested that she did not have a current substance abuse problem; she had completed the services requested of her; she had not experienced trauma in her family of origin and therefore the issue was not relevant; she had arranged for

appropriate housing; and she could not control the behaviours of her mother or her brother.

[13] At paragraph 58, in *A.B., v. Nova Scotia (Community Services)*, 2022

NSCA 24, the Court of Appeal stated:

History can preface a current finding of a need for protective services. But it is not a substitute for a current finding of such a need *Nova Scotia (Community Services) v. S.E.L.*, 2005 NSCA 55 at paragraph 20.

[14] The Court went on to find that in *A.B. supra* at paragraph 61:

There was no evidentiary basis for the judge to question the enduring character of A.B.'s improvements ... that no inappropriate interactions were observed between A.B. and G.B. during visits. As discussed further below, A.B. was not given any reasonable opportunity to parent G.B. It is simply wrong to assume she could not do so.

### **3 Evidence**

[15] Evidence at trial in this matter includes entries or reports forming part of business records entered as exhibits by consent of all parties. In addition, I have considered all other admissible evidence including the testimony of witnesses entered by way of report, affidavit, or on cross-examination. I have made determinations of credibility when necessary.

[16] The respondents were given an opportunity to, and they were expected to, advise the Minister if they required any of the authors of any entries or authors of

any reports contained in the business records, or affidants for cross examination. No concerns were raised by the parties regarding their right to cross examine any witnesses.

## **4 Arguments**

### **4.1 J.H.**

[17] J.H.'s counsel argued that J.H. is "alone in the world" and that she may "only be coming to realize that her family is not as positive as she thought."

Pointing out that her client had "an emotional reaction" when being cross-examined by the Minister's counsel, she suggested that "when it's held in front of you," as it was for J.H., that "it's a wakeup call."

[18] Counsel suggested that J.H. had made tremendous progress with respect to the issue of substance abuse: J.H. had acknowledged using medication inappropriately; she had cooperated completely with urinalysis testing which ended in June 2021; and she had learned what her triggers were.

[19] In addition, counsel suggested that J.H. did good work with her first therapist Breana Lane following an assault by an intimate partner, M.K. in 2019, and J.H. had had an opportunity to address issues such as anxiety, stress-management, and coping; and that in November 2021, J.H. had started working

with a new therapist Meghan Scott MA, RCT-C, CCC, who was qualified as an expert in the proceeding, who stated that J.H. had achieved her goals.

[20] Counsel emphasized the work J.H. had done with the family support workers, first Susan Belliveau, then Amanda Peers. Peers later described J.H.'s interactions with her children very positively, including noting that J.H.: was affectionate with the children, giving them hugs and kisses, telling them she loved them; that she arrived with healthy snacks, games, and books; that she enforced the rules by encouraging them to stop running, to be gentle, to slow down, to take a break; and she praised them for listening.

[21] Counsel argued it was unfair that J.H.'s parenting time was never expanded. Counsel questioned why the Minister had never expanded J.H.'s parenting time beyond fully supervised parenting in the Agency offices. She argued that the Minister should not be able to rely on the argument that they had not had an adequate opportunity to properly assess J.H.'s gains by relying on their failure to expand her parenting time.

[22] Counsel asked that the children be returned to J.H.'s care, arguing that: community-based services were in place; that J.H. should be given an opportunity to parent the children after working so hard to address the substance abuse issue;

and after doing so well in counselling, in family skills, and in supervised parenting – claiming that that J.H. had done all she could do.

#### **4.2 The Minister**

[23] Counsel for the Minister acknowledged J.H.’s love for her children and how emotionally driven permanent care and custody trials are; however, the Minister took the position that parenting and keeping children safe from risks “takes more than love and caring.” While recognizing the things that J.H. had done since the children were taken into care, the Minister reviewed the reasons why the children came into care in the first place and took the position that the children continued to be at substantial risk of harm if returned to J.H.’s care.

[24] Pointing out the coloured pictures of the interior of J.H.’s mother’s, EH’s home, the Minister suggested EH’s home was in a “deplorable state.” Counsel pointed out how cluttered it was, how unclean it was, and that three little children had been living in the midst “of that.”

[25] Counsel reminded the Court that when the children were taken from J.H.’s care, that she was found to be under the influence of substances (several types of prescription medication not prescribed to her) which did interfere with her ability to care for the children. J.H. had acknowledged the medication she was taking was



not hers, and further she had acknowledged the text messages sent by her to G.O. asking G.O. to bring her medication to help her sleep and threatening not to hold, feed, nor change EE if G.O. did not do what she asked.

[26] The Court was reminded that if the Minister had not intervened when they did, it is much more probable than not that EE would have died from medical neglect. On balance of probabilities, J.H. had failed to update medical professionals in a timely way about EE's lack of progress and significant deterioration.

[27] Of note was that there were at least three adults living in EH's home with J.H. when EE was in crisis (and at times four people), and they did not respond to EE's distress. In response to J.H.'s concern that the Minister appeared to be blaming her for EE's "holes in his heart," the Minister acknowledged J.H. was of course not responsible for a condition EE was born with but argued that she was responsible for, and expected to, proactively seek out appropriate medical attention for his condition. As his mother, J.H. was entrusted to provide all necessary updates those who could assist EE and to seek out help if EE was not thriving.

[28] The Minister acknowledged that it was possible J.H.'s failure to identify her childhood as "traumatic" or that she had lived her life in chaos, may simply be

because J.H. has nothing else to compare her life to; however, the Minister argued that J.H.'s "inability to recognize that her family of origin was (and continues to be) 'toxic' for her has prevented her from recognizing the need to work on her past childhood trauma." Counsel argued that J.H. needs to stop shifting the blame to others and stop assuming people just have a "grudge against her or her family," and she needs to make some significant long-lasting changes.

[29] The Minister argued that J.H. has been negatively impacted by her mother EH's: lack of impulse control; tendency to incite conflict; and the level of anger EH demonstrates. Counsel drew a parallel between some her mother's, EE's and J.H.'s behaviours.

[30] The Minister also noted a concern that: J.H. has not been forthcoming with information that does not support her position. The Minister does not believe J.H. would reach out to the Minister for assistance if necessary. The Minister suggested "there was no piece of paper, no intervention order, no peace bond which would keep EH away from the children."

[31] The Minister took exception to the argument J.H. made suggesting arrangements should have been made to move her parenting time with the children to a different office because J.H. could not use a bus pass or conversely that the

Minister of Community Services – Child Protection should have provided J.H. with a bus pass, although J.H. should have been able to acquire one through her financial assistance worker.

[32] The Minister objected to J.H.'s argument that she was forced to rely on her mother for transportation, suggesting that if J.H. could not find her way to the Minister's office for her parenting time when a bus pass should have been available to her through her income assistance worker, that it would be difficult for the Minister to conclude that J.H. could manage without her mother if the Minister was no longer involved.

[33] When considering whether services have been attempted and failed, the Minister acknowledged an oversight in relation to updating their position in regarding services provided by the Chebucto Family Recourse Centre. Their Revised Plans of Care should have reported a lack of progress. In addition, the Minister reported that: J.H.: had repeatedly breached no contact orders put in place to reduce conflict with G.O; she had refused to apply for supportive housing and failed to secure her own lease; she was partly responsible for the breakdown in EI's and EO's placement with their aunt, J (for instance threatening to contact her sister's employer); and despite the therapy and support put in place for J.H., she

refused to explore any possibility of trauma related issues and continued to support contact between her mother and the children.

[34] The Minister noted that it would explore the possibility that any adoptive home would agree to allow the children, EI and EO to continue to have contact with their younger sibling EE.

## **5 Medical neglect (MSI records)**

[35] J.H. did not dispute that EE suffered from a serious medical condition and he underwent life-saving surgery. J.H. suggested she was not responsible for EE's condition and that she should not be blamed for failing to recognize EE's medical condition had worsened as medical professionals had failed to diagnose and provide appropriate treatment for EE in a timely way.

[36] The business records of the Nova Scotia Medical Services Insurance (MSI) for J.H. and for all three of the children was entered as an exhibit at trial. Although J.H.'s mother, EH and her brother, JH lived with J.H. and her children, they were not parties to this proceeding, and they did not testify. Their MSI records were not available to the Court.

[37] At trial, J.H. struggled to respond to questions about her family of origin prior to 2017, including questions about any health difficulties which may have

prevented her from attending school, and questions about her mother, EH's, mental health and involvement in any violent incidents. J.H. took the position that her life with her mother, EH, had not been chaotic, she had not experienced any trauma which could impact on her parenting, and her family of origin history should be of no concern to the Court.

[38] The information contained in business records filed with the Court did assist in corroborating some information in some instances, and in others, the information raised more concerns and more questions regarding issues including but not limited to: medical neglect; EH's mental health; and J.H.'s history of illnesses and lack of school attendance.

[39] With respect to more recent history and EE's health, the MSI business records support the conclusion that the medical professionals involved with EE at birth and before, did raise concerns about EE's weight and they also raised concerns about his heart. I have no reason to believe they did not share those concerns with J.H. I conclude J.H. should have known she needed to monitor EE's situation very carefully. Certainly, she should have known EE and his brothers needed a sober and vigilant caregiver.

[40] Whether G.O. was aware of the concerns expressed by EE's health care providers is less clear. However, G.O. did know something was wrong and he did report his concerns – thereby likely saving EE's life in the process.

[41] The MSI business records also clarify that J.H.'s mother, EH, attended the IWK Health Centre with J.H. as a child. EH reported to health professionals that she had lost an infant daughter, at about 9 months, to a condition that can present with symptoms which are often present with a diagnosis of failure to thrive. In response, the attending physician advised that the condition referenced by EH was not hereditary.

[42] Based on J.H.'s MSI records, historically, someone booked frequent appointments for J.H. with multiple physicians. J.H. was seen frequently by multiple physicians for what appeared to be somewhat mundane or everyday health complaints not necessarily requiring a visit to a doctor. It is unclear to me whether the doctors involved in J.H.'s care were aware of the extent of the services being provided to J.H. by other physicians at around the same time they provided them to her. My review of J.H.'s MSI records raised historical concerns about J.H.'s emotional and/or physical health status generally.

## 6 Legislation

[43] In any proceeding under the *Children and Family Services Act*, S.N.S.1990 c.5 (*CFSA*), the Court must give priority to the best interests of the child in accordance with s. 2(2). The factors to be considered in determining a child's best interests are set out in s. 3(2) of the *CFSA*, which I have considered and applied.

[44] Before a court can grant an order removing a child from the care of a parent, the *CFSA* requires the circumstances enumerated in s. 42(2)-(4) must be met.

[45] The Court must complete the final review hearing within the legislative time periods, absent exceptional circumstances (*A.M. v Nova Scotia (Community Services)*, 2020 NSCA 29). The time limits are supposed to reflect a child's sense of time (*P.H. v Nova Scotia (Community Services)*, 2013 NSCA 83).

[46] This proceeding is just over 2 months past the final deadline legislated under the *CFSA*. I agreed to extend the deadline for completion of the hearing in the best interests of the children, to ensure that all viable plans for their futures were thoroughly considered, and sufficient reasons were provided to the parties.

[47] When a child protection proceeding is past the legislated time limit, the Court has only two options: 1) issue an order granting permanent care of the

children to the Minister; or 2) dismiss the proceeding (which would result in the children's return to the care of her parent(s)).

## **7 Onus**

[48] The Minister must prove its case on a balance of probabilities. I find that they have done so.

[49] Section 22(2) of the *CFSA* defines a child in need of protective services. I made a finding that EI and EO were children in need of protective services under s. 22(2)(b) on October 13, 2020. That finding was confirmed at each stage of the proceeding thereafter. For purposes of this final disposition review, I must determine whether EI and EO are still children in need of protective services (*Catholic Children's Aid Society of Metropolitan Toronto v. CM*, 1994 CanLII 83 (SCC), [1994] SCJ No. 37 (SCC)). I am not limited to considering only the risks enumerated in the Minister's plan, if there are other risks from circumstances "... which have arisen since that time" (*CM*, supra.).

## **8 Factual background**

### **8.1 2017 (age 20)**

[50] On January 18, 2017, J.H. was 20 years old and living with her mother EH, and her brother JH. On that date, the Minister requested a wellbeing check on EH, as EH had contacted the Minister's offices (financial) and stated that "she felt like



ending her life,” as she was upset over the amount of financial assistance that she was receiving to pay her rent. J.H. explained to the police that EH was experiencing financial difficulties and had difficulties providing for both J.H. and her brother JH. J.H. advised that EH was prescribed medication for depression.

[51] According to MSI records in 2017, the year J.H.’s first child, EI, was born, J.H. attended Dr. Buckley’s office in February to address issues related to hypertension and services related to cellulitis. Dr. Buckley prescribed Pen VK Tab (an antibiotic for bacterial infection) and Tylenol No.3 Tab (an opioid pain reliever).

[52] On June 22, 2017, J.H. saw Dr. Buckley and suspected she was pregnant. Thereafter, J.H. met with Dr. Buckley fifteen (15) times in total. In November of 2017, Dr. Buckley prescribed Amoxicillin (for bacterial infections). In 2017, J.H. was also seen by Dr. Mohsin (radiology); Dr. Vandenhof (gynecology); Dr. Rittenberg 5 times (obstetrics); Dr. Ahmad (radiology); Dr. Scott (OBGY); Dr. Prasad-B (anesthetist); Dr. Merrick (OBGY); Dr. McCarthy (OBGY); and Dr. Coolen (OBGY) twice in February 2017.

[53] In September 2017, J.H. was referred for pre-natal follow up at the IWK Grace Maternity Hospital. J.H.’s due date was in December 2017.

[54] In early November 2017, J.H. refused to be admitted through the admitting department “for personal reasons” related to her relationship with the admitting clerk, and therefore she presented at another desk and was admitted at 18:30. The file reflects that when the clerk went to check on J.H. at 20:43, she was gone from her room. “There was no sign of the patient in ELAU. J.H. had left without being assessed.”

## **8.2 EI was born in November 2017**

[55] In November 2017, J.H.’s postpartum summary report indicated that J.H. “declined skin to skin (with EI) even though benefits of skin to skin explained by writer, babe held by family members.” On November 26, 2017, J.H. remained in hospital following the birth. The interdisciplinary progress notes state “no concerns from J.H. but her mother out to desk, upset with being in ‘wardroom’, asked to be moved. Baby’s bloodwork due in 2 hours. Concerns heard but she became verbally abusive with charge nurse... Security called and patients’ mother escorted out of hospital. Patient very quiet. Moved to room 510 to wait for bloodwork for baby. Support given.”

[56] Following his birth in November 2017, EI was seen by Dr. Bebbington twice (unspecified), and he was also seen by Dr. Buckley for one routine check up and for a complaint of dermatitis.

### 8.3 2018 (age 21)

[57] According to MSI records for 2018, the year J.H. turned 21, she attended a doctor's office for her own health needs approximately eight times. She was seen by Dr. Buckley three times (dermatitis in January), (twice for a headache in March and July); Dr. Marshall (virus in February); Dr. Stender (dermatitis in April) prescribed Teva-Cephalexin on April 14, 2018, which was filled on that day; Dr. Tilly (dermatitis in June); and by Dr. Purdy (dermatitis in June) she was prescribed Betaderm (steroid medication) and Hydroval (skin irritations), and she filled the prescription on June 13, 2018.

[58] According to MSI records, EI was seen by doctors approximately 9 times in 2018. EI was seen by Dr. Buckley four times (two routine checkups in January and March), (chronic gingivitis in March); (acute pharyngitis in October); Dr. Marshall (virus in February); Dr. Subhani (candidiasis of mouth in May); Dr. Stender (rash in May); Dr. Tilly (open wound in June); and Dr. Marsh (erythematous, rash redness usually from injury, infection, or inflammation, August 29).

[59] The parties did not call an expert medical professional to provide an opinion and upon review of the MSI records for J.H. and EI for 2018. I was unable to

identify a clear concern related to the medical care sought by J.H. for herself or for EI in 2017 or 2018.

[60] J.H. started dating M.K. in the summer of 2018 — a relationship were MK later assaulted J.H.

#### **8.4 2019 (22)**

[61] According to MSI records for 2019, J.H. attended a doctor's office for her own health needs as follows: Dr. Stender (vomiting related to pregnancy in January); Dr. Buckley (twice in January and February); Dr. Mawdsley (OBGY in February); Dr. Khan (radiology in February); Dr. Glazebrook( seven times for pregnancy in February, March, and April); Dr. Conter (pregnancy in February); Dr. Neumann (threatened labour in February); Dr. Abidali (threatened labour in February); Dr Sjaus (abdominal pain in March); Dr. MacDonald (headache on April 29); Dr. Filter (radiology pathology interpretation in May); and Dr. Subhani (viral on August 29).

#### **8.5 2019 (EI)**

[62] According to MSI records for 2019, EI was seen by doctors approximately 9 times. EI was seen by Dr. Kitamura (balanoposthitis, infectious/irritant/traumatic?, January); Dr. Buckley (diaper or napkin rash, April)

and prescribed Clotrimaderm and Hyderm which was filled September 17; Dr. Marsh (viral in June); Dr. Minodin (infestation in July); Dr. Subhani (urinary in August), (skin erupt in September), (cellulitis on October 15), prescribed Fucidin, filled Sept; Dr. Yazer (cellulitis, on October 3), prescribed Amoxicillin Granules and Apo-Amoxi filled October; pediatrician Dr. Rose (contusion face, scalp, neck, exc eye).

[63] Again, I was unable to identify a clear concern related to the medical care sought by J.H. for herself or for EI in 2019.

[64] On January 31, 2019, J.H. was referred for obstetric care. The Consultation Report stated “21-year-old ... late to prenatal care...uncertain dates.”

[65] On February 2, 2019, J.H. attended for a pre-admission maternity assessment. J.H. reported that: she had not menstruated since giving birth to her first child; she had never had a pap test; and she had not yet had any pre-natal care for her second pregnancy. J.H. left the appointment before seeing a doctor. The record reflects that a nurse noted that she tried to stop J.H.

[66] The nurse reported that she asked J.H. “what was going on,” but J.H. “ignored her” (the R.N.) but J.H. “seemed unhappy about the wait, but would not discuss or wait any longer.” Remarks included on the record were, “Patient left

ambulatory. Writer asked patient if she was leaving without being seen by the doctor, she ignored the writer. Writer asked again if they were leaving without being seen and the woman who was with the patient aggressively banged the button for the automatic door and continued to ignore writer and left.”

### **8.6 EO who was born in March 2019**

[67] EO was born in March 2019, and according to MSI records he was seen by Dr. Glazebrook (routine health check March 1 and 2 and, in relation to concerns about nutrition/development on March 7); Dr. Tilley (urinary on March 9); Dr Kolla (candidiasis in March); Dr. Buckley (routine checkup in April); Dr. Subhani (urinary in August); Dr. Farhat (radiology in October); Dr. Yazer (pyrexia in November).

[68] Of note was the issue of nutrition and development were apparently raised in relation to EO at or near the time of his birth in March 2019.

### **8.7 J.H.’s involvement with MK – categorized as high risk**

[69] On November 15, 2019, J.H. stated that she had been dating MK since August 2018, and that MK had assaulted her by pushing, shoving, and shaking her, and then taking her telephone from her. J.H. indicated that her brother JH attempted to defend her, and MK went to his car to get a bat and began swinging

the bat at her brother JH as JH yelled at him to leave. Then, MK grabbed a knife from his vehicle and continued to threaten JH with the knife and bat. The incident was classified as High Risk.

[70] On November 21, 2019, J.H. reported that she was being harassed by her ex-boyfriend MK. J.H. reported that on January 7 and 9, 2020, her ex-boyfriend had contacted her.

[71] On November 21, 2019, Victim Services provided information related to J.H.'s involvement with MK, who allegedly assaulted her. J.H. indicated that she did not intend to pursue the relationship with MK and the Minister did not pursue the matter.

[72] After separating from MK (reportedly in the summer of 2019), J.H. began a relationship with G.O., EE's father.

### **8.8 2020 (age 23)**

[73] According to MSI records for 2020, J.H. attended a doctor's office for her own health needs as follows: Dr. Rittenberg (complication of pregnancy, May); Dr. Buckley (supervise pregnancy in May), (urinary in June), (anxiety state on November 12 and 27), (urinary on December 2) - prescribed Apo Alprazolam benzodiazepine for anxiety and 20 Amoxicillin/Apo-Alprazolam); Dr. Glazebrook

(11 times in May, June, and July – prescribed Amoxicillin bacterial infection, August, September, October (6), October 16 acute reaction to stress); Dr. Fortuna (radiology); Dr. Mata Mbemba (radiology in June); Dr. Newmann (abdominal pain in June); Dr. Coolen (OBGY July, September 21, September 28, October 5, poor fetal growth); Dr. McLeod (OBGY pregnancy poor obst in August); Dr. Abel (supervise pregnancy in September); Dr. Lorenz (abdominal pain in October); Dr. Premach (abuse of drugs, December 20).

[74] In 2020, MSI records indicate EI was seen by doctors’ approximately 5 times. EI was seen by Dr. Buckley (insomnia in February, infantile autism in August); by pediatrician Dr. Szudek (behavioural in April); Dr. Moulton (dental caries/anesthetist in September).

[75] The MSI records cover the period up to March 31, 2021, and the records indicate that in 2020 EO was seen by a doctor 4 times. Dr. Buckley (routine general medical exam in January); Dr. Killorn (poisoning/drug on January 22); Dr. Rideout (respiratory on February 19); and Dr. Quigley (cough on March 2).

[76] Of note is the suggestion that as early as February 2020, Dr. Buckley was exploring concerns about EI related to “insomnia” and “infantile autism” and “behaviour” and “carries”; and that EO was seen by Dr. Killorn in relation to



“poisoning/drug” in January 2020 when EO would have been approximately 10 months old.

[77] On April 29, 2020, police records reflect that G.O. reported J.H. had “ran into the front of his Subaru and drove off.” He reported she had agreed to drive his car a couple of blocks to her home for him but then took off. He reported that J.H. only had a learners permit and that she was taking “prescription pills that don’t belong to her.” Police noted:

G.O. had a dash camera that recorded the event. J.H. can be seen leaving the Irving and accelerating quickly away, closely followed by G.O. J.H. can be seen crossing the white and yellow lines, she makes several wide turns where she entered the oncoming lanes, failing to stop at stop signs, swaying within the lane and almost hitting a curb, driving on the wrong side of the travel lanes in a residential area, and turning left from the through lane across the left through lane.

J.H. finally turns onto Janis Ann Dr which is a dead-end road. J.H. comes to the end and G.O. pulls his Subaru across the roadway to prevent J.H. from leaving the vehicle. J.H. is off camera when she first bumps into the Subaru after turning around. G.O. backs up and pulls ahead so his front bumper is facing G.O.’s front bumper. J.H. can be seen on the video ramming the Subaru as she tries to move around G.O. J.H. leaves the scene of the accident without stopped to ensure G.O. was not injured. Police determine that it appears J.H. was using the car as a weapon against G.O.

Police observed that when J.H. was placed under arrest she was “falling asleep standing, had slurred speech, droopy eyes and was unsteady on her feet.” She was placed under arrest for dangerous driving and leaving the scene of an accident.

[78] On April 29, 2020, J.H. and G.O. ended their relationship. G.O. attended J.H.'s home to ask J.H. to give him the key to his second car.

- (a) When J.H. refused to provide him with the key, the police responded and attempted to engage J.H.'s brother and her mother to assist them as J.H. was not responding.
- (b) The police described J.H.'s brother, JH, as "initially hostile towards police" but noted that he calmed down, but he was not able to assist.
- (c) Police noted that J.H.'s mother EH "showed up and was very irate and began yelling at Cst. Varin as she pulled up." Police observed that EH "initially motioned as if she was going to drive very closely to Cst. Varin but stopped." EH was told she would be arrested without questions should she attempt to use her vehicle against police cars or officers. She parked legally on the street after apologizing. She walked in the house and spoke with J.H. where she obtained the key. The parties (J.H. and G.O.) were directed not to have any contact.

[79] J.H. was later charged with driving while under the influence, domestic violence, and dangerous driving of a motor vehicle. J.H. was then subject to a no contact order prohibiting her from having contact with G.O.

[80] On April 30, 2020, EH contacted the police and was described as “ranting and raving, demanding to know when her daughter was going to be released and the names of the officers who were on scene, yet would not leave her name or number to be called back.”

[81] On April 30, 2020, J.H. was released on an Undertaking not to have contact with G.O. J.H. was subsequently charged with several breaches of the no contact provision and several failures to appear. J.H.’s charges were scheduled to be dealt with in domestic violence court on June 15, 2022.

[82] There was a report of J.H.’s brother behaving in a threatening manner toward G.O., suggesting he will not see his child again, that he should “never want to come to this house again,” and he stated to G.O. “hopefully that ugly little blind bastard of yours dies from a brain tumour soon,” referring to G.O.’s child from another relationship. As noted previously, J.H.’s brother did not testify at trial.

### **8.9 Ongoing contact with G.O.**

[83] On May 4, 2020, J.H. was charged with a breach of the no-contact provision. J.H. was reportedly transported “to her father’s home on Drummond St. Halifax.”

[84] On June 21, 2020, EH reported that her neighbours were “yelling and mouthing off to her son in law, G.O., who was outside cleaning his car and that the exchange had “escalated to a yelling match.”

[85] On June 29, 2020, J.H. reported that the neighbours were continuing to yell at her boyfriend G.O. Police responded directing G.O. not to engage in disputes with the neighbours.

[86] On July 1, 2020, EH reported that there were several females in her yard and a male had “just broken her door.” The neighbours reported that G.O. had driven down the street “and nearly struck them” while they were riding their bicycles. The neighbour’s parent admitted to “pounding” on EH’s door.

[87] The neighbour reported that G.O. had responded, and they had a conversation and “all was good.” The neighbour alleged that EH then “came outside with a broomstick and started swinging and shouting for them to leave and J.H.’s brother, JH, called the police”. The neighbours stated that they were not struck, and they left without further incident.

[88] EH provided a video of the neighbour “pounding on her door” and she showed the police a “3-inch crack in the bottom panel on the right-hand side of the

door.” EH denied going outside with a broom handle. Police cautioned G.O. regarding his driving.

[89] On August 15, 2020, J.H. reported that her neighbours had “threatened to shoot her boyfriend’s head off.” Witnesses reported that G.O. had arrived at J.H.’s home and he immediately began yelling at the neighbours. They could hear G.O. yelling “fucking niggers” out the windows from the house. They did not mention any weapons. G.O. stated that the neighbour “appeared to be grabbing for something in his car.” The neighbour reported that G.O. started yelling at them about their music, and so he started yelling back. He stated that G.O. started yelling racist comments at him, so he went to the end of the driveway and started challenging G.O. to a fight.

[90] Clearly the family were no strangers to conflict. Despite the no contact order, both J.H. and G.O. were having ongoing contact, and both EH and J.H. were getting involved in conflict related to G.O. and their neighbours. It is of concern to me that both EI and EO were likely present each time there was a “commotion” in the home.

**8.10 EE was born in October 2020.**

[91] The MSI record reflects that EE was seen by Dr. Glazebrook (on October 10, 2020, physical check up; October 11 further assessment; October 16 undiagnosed cardiac murmurs; October 19 and **October 23** abnormal weight gain); Dr. Dhillon pediatrician (**October 30** for internal medicine interpretation/ventricular septal defect, November 12, 13, 14, 15, December 21); Dr. Petrie (**November 9** cachexia or wasting syndrome or anorexia cachexia syndrome); Dr. Quigley (November 10, and 12, nutritional/development); Dr. Ahmad (radiology, November 14); Dr. Abeysekera (November 16, 17, 18, 19, 20); Dr. Maianski (November 17, 19); Dr. Sett (December 9); Dr. Horne (December 9); Dr. Hilliard (December 11); Dr. Wilson (December 15); Dr. Bolivar (December 15,16,17, 18, 19); and Dr. Nash (December 28).

[92] It appears from the MSI record that as early as October 16, 2020, health care providers identified EE with “undiagnosed cardiac murmurs” and then they expressed concern about “abnormal weight gain” on October 19 and on October 23, 2020 (4 days). EE was not seen by a medical practitioner between October 23 and October 30 (7 days), and he was not seen again between October 30 and November 9 (10 days).

[93] Despite EE presenting with several medical concerns as early as October 16, 2020, and despite EE continuing to lose weight up until the Minister intervened on November 9, 2020, J.H. and the others in EE's home failed to ring the alarm bell – G.O. did. The health care providers could not help EE if they were unaware that EE was not improving or growing and that EE was in fact losing weight and appeared unwell.

[94] On October 14, 2020, G.O. expressed concern about J.H.'s ability to care for EE. He expressed concern about J.H.'s drug use. G.O. reported that J.H. had been "arrested" for driving under the influence while she was pregnant with EE.

[95] G.O. reported that even after the incident in April 2020, he had tried to offer support to J.H.; however, she had refused to care for their infant unless he delivered drugs to her, and she was refusing to change the child, or pick the child up when he cried. G.O. described EE as malnourished, dehydrated, and jaundiced. He alleged that J.H. threatened to make a referral regarding his girlfriend's children if he reported his concerns to the Minister.

[96] He explained that at the time he "was working a back-shift and J.H. was texting him and telling him to come back to take care of EE, and she was refusing to feed him or pick him up if he cried." He stated that when he expressed concern

that EE would “die if he cried too long,” J.H. reportedly responded “that’s your problem.”

[97] On October 15, 2020, G.O. reported that J.H. was in breach of the no-contact provision as she had called him multiple times that day. G.O. reported that J.H. was “heavily intoxicated on some kind of depressant and totally incoherent.” G.O. expressed concern about the children, suggesting he was not worried about J.H. as “being intoxicated is her baseline.”

[98] Police noted that J.H and her “very irate mother” contacted one of their police officers accusing him of being racist when he explained he would need to complete a wellbeing check. EH stated that she would not allow the police to check on J.H. as J.H. has “native blood,” and EH was afraid she would be shot. EH claimed that J.H. was “safe and sound.”

### **8.11 Intervention by Minister**

[99] On November 9, 2020, the Minister reviewed the history of the file and determined that J.H.’s children were at substantial risk of harm and required child protective services. J.H.’s children were taken into the temporary care and custody of the Minister. This proceeding began by way of Notice of Child Protection



Application dated November 12, 2020. All three children EI, EO, and EE, were initially placed in the temporary care of the Minister.

[100] The evidence supports the conclusion that on November 9, 2020, EE was taken to see a doctor and was found to be dehydrated and malnourished. He had dropped from the 30<sup>th</sup> percentile to the 3<sup>rd</sup> percentile and it was determined he was “failing to thrive.” In January 2021, EE underwent life-saving heart surgery to repair two holes in his heart.

### **8.12 Misuse of substances**

[101] Upon investigation into J.H.’s alleged misuse of substances the Minister determined:

- (a) Toxicology reports, taken at the time of the Minister’s initial involvement, found that J.H. was positive for the following substances “Ethanol, Nordazepam, Oxazepam, Tamozeplan, Lorazipam, and Delta-9 THC.”
- (b) J.H. missed the first urine analysis collections despite what the Minister considered “clear directions given.”
- (c) Seven reports received between May 15, 2021 and June 7, 2021 indicated positive results for prescribed medications only.

- (d) J.H. argued there is no evidence of continued use and the Minister agreed.

J.H. has acknowledged that some of the medications she had taken were not prescribed to her but easily accessible to her.

[102] Maggie Newcombe suggested that the Minister discontinued random urinalysis testing approximately six months prior to trial, which started in April 2022 and concluded in May 2022 (records reflect testing ended after June 2021). There was no disagreement that all the tests had been coming back containing reference to prescribed medication only.

[103] Ms. Newcombe noted that although there is no evidence that J.H. continued to misuse substances, it was the Minister's position that the issue of why J.H. was misusing substances while in a caregiving role had not been adequately addressed through counseling. The Minister took the position that J.H. has little insight into her past behaviour. There was acknowledgement that J.H. had expressed "great regret" about her use of substances, but Ms. Newcombe was concerned that J.H. had refused to discuss the issue in counseling.

### **8.13 J.H.'s brother's fiancé AC as a witness**

[104] AC testified on behalf of J.H. On cross-examination, AC confirmed that she was in a relationship and was engaged to marry J.H.'s brother, JH.

- (a) AC agreed she was living with J.H.'s mother, J.H.'s brother, and J.H.'s children when the children were taken into care. She reviewed the photographs of the home and acknowledged they were an accurate representation of the condition of the home when she resided there. She indicated that she was not concerned that the condition of the home could affect the children.
- (b) AC stated that she had been attending the Nova Scotia Community College during the week and she did not observe any signs that EE required immediate medical attention due to his low weight, lethargy, or risk of congestive heart failure. She stated that she did not observe J.H. abuse any prescription drugs and she was not aware that when J.H. was tested for drugs in her system, that J.H. had several prescribed drugs in her system, in addition to alcohol and marijuana.
- (c) AC denied any knowledge of ongoing conflict in the home, or incidents with the police attending the home due to EH's conflicts with her neighbours. She denied observing EH "yelling, cursing, or

making fun of people,” or using the “n word” on multiple occasions when referring to Black Nova Scotian police officers who attended at their home. AC denied that her fiancé, JH (who is J.H.’s brother), tried to kick anyone in the stomach when they were pregnant. She also denied having knowledge of the text messages her fiancé, J.H.’s brother, had sent to G.O., including a text suggesting “he was a useless piece of shit and would never see his kids again as he had ratted them out.”

- (d) AC denied any knowledge of an incident when J.H. allegedly lashed out at G.O. in or around May 2020. She denied knowledge of an incident when J.H. reportedly “rammed” G.O.’s vehicle while “heavily intoxicated.” She denied having any knowledge of pending criminal charges against J.H. or that J.H. is subject to an order not to have contact with G.O. and that J.H. has been charged with breaches of that order.
- (e) AC stated that she was unaware of J.H.’s issues or her situation. AC became emotional during her testimony, and she then refused to return to conclude the cross-examination. After AC was given a short break from testifying, she did not return. J.H. stated that AC did not wish to

continue. I directed she be contacted and though efforts were made, AC did not return.

[105] Other witnesses for J.H. filed affidavits, including her cousin RH and a friend of hers, MM. They were not called for cross-examination and their affidavits were marked as exhibits and admitted into evidence. Both witnesses had very positive things to say about J.H. and her mother's relationship.

[106] Although I do not doubt that J.H. can at times provide appropriate care for her children, I am satisfied that there have also been many times when J.H.'s behaviour and her choices have seriously endangered the wellbeing of her children and others. The question as of the date of trial is had J.H. alleviated the risk of harm posed to her children, and if it is in their best interests of the children to be returned to her care.

#### **8.14 2021 (24)**

[107] On January 7, 2021, J.H. reported to police that a friend of their neighbour was threatening to burn their home down. EH presented to police as "very emotional" and police reported that EH would "not listen to officers as they tried to talk with her." J.H. reported that she, her mother, and her brother JH, had been driving into the city on Magazine Hill when a friend of their neighbours began

tailgating them and giving them the finger. J.H. stated that when they arrived home, the neighbours' friend was already at their home and he began yelling at them, cursing and swearing. The friend of their neighbour reported that EH had picked up a rock from the driveway and "was going to throw it at his vehicle," and that it was EH who had tailgated him and had given him the finger.

[108] EE underwent surgery in early January 2021. Tina Wells, the casework supervisor, observed that following EE's surgery, when J.H. was unable to attend the foster home to see EE due to Covid 19 related concerns, that J.H. was very understanding.

[109] At a Protection Hearing held on February 5, 2021, the children EI, EO, and EE were found to be children in need of protective services pursuant to section 22(2)(g) of the *Children and Family Services Act*, reserving the right of the Applicant, the Minister, to lead evidence and seek a finding with respect to the allegations pursuant to sections 22(2)(b) and (k) of the *Children and Family Services Act*, and reserving the right of the Respondents, J.H. and G.O, to cross-examine on the affidavit evidence and all other evidence filed with the Court. As noted in *C.M.*, supra, I am not limited to considering only the risks enumerated in the Minister's plan; if there are other risks from circumstances which have arisen since that time, I may consider them as well.

[110] On February 12, 2021, J.H. reported to police that G.O. had been “messaging her friends and coming around her house.” G.O stated that he had not been attending at J.H.’s home or contacting her.

## **9 Least intrusive measures**

[111] In the Minister’s initial Plan of Care dated February 18, 2021, the Minister identified 1. Substance abuse; 2. Physical neglect – unfit living conditions; and 3. medical neglect, as issues needing to be addressed by J.H. The Minister’s Plan of Care supported EI and EO, being placed with J.H.’s sister, J.

## **10 Minister’s expectations at 1<sup>st</sup> disposition**

### **10.1 Misuse of recreational or prescribed medications**

[112] The Minister initially took the position that J.H. should be able to prove that she would not abuse or misuse any recreational or prescribed medications (hers or anyone else’s medication); and she would not abuse or misuse alcohol while in a child caring role.

[113] I conclude that J.H. was misusing substances when the children were taken into care in November 2020. J.H. participated in urinalysis testing and by the summer of 2021 there was no further evidence that J.H. was continuing to misuse substances. I do agree it is highly unlikely that J.H. has addressed the underlying

issues leading to her misuse of substances and her neglect of the children in the first place.

[114] I agree there is no evidence that J.H. had a long-standing problem with substances; however, I do find there is evidence that J.H. struggled with maintaining regular sleep patterns and it is likely she began misusing sleep aids when she became a parent. It is unclear how she is now managing her sleep hygiene.

### **10.2 Stable and safe environment, clean well fed, and healthy**

[115] The Minister expected J.H. to ensure the children were in a stable and safe environment, that the environment was free of hazards that may pose a risk to the children, and that the children were clean, well fed, and healthy while in her care.

[116] J.H.'s mother provided her with a significant amount of day-to-day practical support in caring for her children. I understand EI slept with his grandmother. Parenting or caring for a special needs toddler or preschooler takes a tremendous amount of energy. Based on the photographs of EH's home, energy was not directed toward maintaining a house which was free of hazards.

[117] The family was often in a state of chaos and the usual routines one often expects to have in place with young children did not exist. I come to that



conclusion based on my review of the MSI records which provided me with a historical perspective regarding the level of care provided by EH to J.H.

Historically, EH did not prioritize J.H.'s attendance at school. J.H. often presented as sick and some of the health concerns noted in the MSI records suggested a lack of cleanliness in the home (insect infestation etc..) may have been a factor in her ongoing illnesses.

[118] The suggestion that J.H. was not always a hands-on mother who demonstrated a significant amount of energy was supported by evidence from J.H.'s sister J, who suggested that J.H. had failed to take full advantage of opportunities to parent the children while they were placed in her home, by evidence of J.H.'s use of medication to assist her with sleep and her attempts to persuade G.O. by any means necessary to come care for EE.

### **10.3 Medical attention - accountability**

[119] The Minister sought to have J.H. demonstrate accountability related to her role in failing to recognize EE's poor health, including her failure to seek emergency medical attention, and demonstrate insight into the need to ensure that any person living with the children should show a positive interest in the children's safety and well-being.

[120] At trial, J.H. continued to ask why people did not look at the doctors “who had missed” it or failed to diagnose EE. J.H.’s theory is not supported by the evidence. The MSI records clearly indicate the doctors knew, and therefore I find they told J.H. about their concerns for EE. I find J.H. was unable to recognize or chose to ignore the EE’s signs of distress because she was misusing medication at the time in question.

#### **10.4 Prevent her mother from having contact with the children**

[121] In addition to the expectation that J.H. participate in various services and ongoing risk assessment in relation to the above noted issues, the Minister expected J.H. not to threaten to refuse to provide care for the children in order to obtain goods and services from the children’s fathers or others and not to permit her mother or her brother to have contact with any of the children, requiring her to move out of her mother’s home.

[122] I am disappointed by J.H.’s choice not to take advantage of assisted living housing which may have been available to her had she applied in a timely way and asked her various support providers to advocate for her. A placement in a supported living environment would have reassured the Court that she had services in place and a plan to control her mother’s and her brother’s access to her children in a manner which may have satisfied the Court. J.H.’s refusal to pursue the

options most likely to result in her children being returned to her was not encouraging.

## **11 Breaches of Court Orders**

[123] On March 10, 2021, G.O. reported that J.H. had texted him on February 14, 2021, and on March 7, 2021, contrary to the no-contact provisions in force at that time.

[124] J.H. has lack of restraint and is impulsive. She lacks the ability, or the inclination, to plan-ahead. These traits are impediments to her ability to provide the children with a safe and predictable home. J.H. reacts first and begs forgiveness afterwards. J.H. behaves in a manner which suggests she is used to getting her own way and she does not worry particularly about consequences when she has her eye on her goal. There is evidence to suggest that both EH and J.H. have often used bullying tactics and threats to achieve a desired result.

[125] I have no confidence that J.H. would abide by direction from this Court not to allow her mother to see her children.

## **12 Community support services**

[126] In or around March 2021, J.H. attended the Chebucto Family Resource Centre. Nicole Clarke reported to the Minister that J.H. was difficult to contact.

[127] Taylor Chinerere from the Chebucto Family Centre was initially involved with J.H. in March 2021. She reported that J.H. arranged to receive personal supplies and food but she had not booked follow up sessions.

[128] J.H.'s failure to follow up with staff at the Chebucto Family Resource Centre is indicative of her general approach to the Minister's intervention. She was reportedly happy to take advantage of supplies they were able to provide but unwilling to return telephone calls and engage in programming because she did not feel she needed assistance. She believed the Minister was acting on a "grudge" against her family. J.H. had smashed into her ex-boyfriend's car after driving around erratically throughout the city, and she had then failed to recognize her newborn's signs of distress while taking someone else's prescription medication, yet she believed the Minister was acting against her maliciously. It is often difficult to comprehend or follow J.H.'s line of reasoning.

[129] Maggie Newcombe, social worker with the Minister, suggested that family skills through Chebucto Connections did not go well. I accept the Minister's position with regard to services offered through the community-based service.

### **13 Family support services through the Minister**

[130] Approximately five months later, in August 2021, family support worker Amanda Peers became involved with J.H. At trial, Ms. Peers indicated she spent the first couple of months getting to know J.H. Ms. Peers stated that when she met with J.H., she was “open, friendly, and open to the service.”

[131] Ms. Peers indicated that she met with J.H. approximately four times per month, except “snow days and any misses due to Covid.” Ms. Peers noted that when J.H. attended her parenting time with the children she was punctual, and she presented as “prepared, attentive and compliant.” Ms. Peers also observed that J.H. presented as “loving, hands on, and she had healthy snacks.” Ms. Peers indicated that she attended access visits between J.H. and the children approximately two or three times per month (J.H.’s parenting time returned to the agency offices in October 2021).

[132] Ms. Peers indicated that the goals she started out with included but were not limited to the following: positive discipline, behaviour management, child development, stress management, household management, safety, nutrition, self care, feelings and emotions, and communication with others. Ms. Peers described her interactions with J.H. as “crisis driven,” and she stated that she mostly worked with J.H. to help her become more independent.

[133] When the Minister's counsel inquired, Ms. Peers was unclear whether they had covered "stress management," and she noted that they likely did not cover the issue of stress as she would have had concerns about a duplication of services being provided by J.H.'s therapist.

[134] Again, J.H. focussed on her immediate crisis driven needs. She was unable to listen to the options and put the children's needs ahead of her own. Her time with Ms. Peers should have been spent making arrangements for a safe place for her and for her children which offered longer term services and security – not arranging to stay in someone else's apartment in the hopes of getting in under the wire so to speak.

#### **14 Incident involving J.H. and her sister's, J's, ex-boyfriend**

[135] On September 7, 2021, J.H. contacted the police to report a dispute related to her niece, JP, which she reported had started the previous Friday on September 3, 2021. She stated that her sister's ex-boyfriend RP had become angry with her after she told her niece not to give him any money and she told her sister J that JP had given him money. J.H. reported feeling threatened by RP.

[136] It is quite astonishing to me how J.H. would continue to place herself in situations which could place her children at risk of harm or would jeopardize the

return of her children to her care. In this case I believe her behaviour contributed to the conflict which resulted in the children leaving their aunt's home. J.H. has not been able to remain child focussed and think strategically to place herself in the best position to be able to protect her children.

**15 GT, biological father (not participating in proceeding)**

[137] On October 7, 2021, GT reported to the police that his “ex-girlfriend from four years ago,” J.H., was dropped off at his home by her mother EH on October 6, 2021 and that J.H. refused to leave when he requested that she leave, even after he offered her a ride home. GT indicated:

- (a) that J.H. did not wish to leave on October 6, 2021, and he allowed her to stay the night in his bedroom while he slept on the couch.
- (b) that in the morning on October 7, 2021, he offered to drive her home again, but J.H. stated that she wanted to stay. GT explained that he worked on his patio and did yard work, and when he came in the house, he offered to drive J.H. home again, but J.H. stated that she was going to “lay down for awhile and she refused to leave” his home.
- (c) that he grew tired of J.H. “lounging around in his bed and told her that she had to go.” J.H. refused and GT, stated that he “put her things

outside on the step” and told J.H. that he would call the police if she did not leave his home. GT stated that J.H. began yelling at him and she took his telephone off the counter.

- (d) that he then got her out the back door and he closed the door behind her, then he realized she had taken his cellular telephone. He stated to her that he would use his landline to contact the police if she did not return his cellular telephone. GT reported that J.H. began yelling at him once again and he closed the door on her.
- (e) that when he went to use his landline, the line was dead and that his internet service and cable were also not working. GT indicated that J.H.’s mother picked her up approximately an hour later. He then went outside and noted that the fiber op cable to his house had been cut. He believed J.H. had cut the wire when he was threatening to call the police. He requested a *Protection of Property Act* Order against J.H.

[138] I find J.H.’s apparently almost on-again off-again relationship with GT to be confusing and troubling. J.H. does not appear to even recognize why the Court might be concerned about the potential effect on the children.



[139] I would not want to hazard a guess why GT would agree to drive J.H. to her parenting time with the boys, but he has failed to arrange to see them himself. I am mystified about why he has not agreed to participate in the proceeding or at least made his views known to the Court. I believe J.H. suggested he was shy?

[140] I was troubled by J.H.'s choice to have her mother drop her off at GT's home, then refuse to leave his home when asked and refuse to allow him to drive her home. I believe GT's version of events: that J.H. held his cellular telephone hostage, and she contacted her family to pick her up.

[141] For J.H. to then suggest she did not or does not know how G.T.'s cable and telephone lines were cut that day is not believable. Then several months after that incident, to suggest they might reconcile? This defies explanation.

[142] The choices J.H. continues to make with respect to her intimate relationships (including failing to abide by no contact provisions with G.O. and failing to leave GT's home when requested) could place her children at risk of harm, both physical and emotional.

## **16 G.O.'s plan for EE**

[143] On September 28, 2021, G.O. filed a plan of care for EE. G.O. claimed that throughout the proceeding he had developed a strong working relationship with

EE's foster mother, and he had exercised access with EE some distance from the city every weekend.

### **17 G.O. reports property damage shortly after filing his Plan**

[144] A week after filing his plan of care, on October 14, 2021, G.O. reported damage to his vehicle and requested police assistance reviewing video surveillance. The police were unable to identify the suspect responsible for the damage.

[145] I am not a big believer in coincidences. On the heels of having filed a plan for primary care of EE and shortly after GT's home sustained property damage, G.O. reported damage to his property. Does J.H. think that she and her family would not be the prime suspects in that incident? What did she hope to gain?

### **18 Meghan Scott, registered counseling therapist**

[146] Ms. Scott MA, RCT-C, CCC, began working with J.H. as of November 1, 2021. In her counseling report dated January 7, 2022, she had been tasked with accomplishing the following goals:

- Explore Ms. Hubley's past and childhood trauma and understand its present day implications;
- Explore Ms. Hubley's substance abuse and work on preventing future slips;
- Aid Ms. Hubley in developing coping mechanisms for stressful events;

- Help Ms. Hubley gain insight on how her mental state impacts her parenting abilities;
- Explore healthy and abusive relationships both romantically, and within the familial framework; and
- Explore and understand the impact of trauma on childhood development.

At the outset of their therapeutic relationship, J.H. expressed that she experienced very little trauma in her life, although “she was in abusive relationships in the past.” J.H. described her involvement with the agency as being the byproduct of the agency’s “grudge against her family.”

[147] At trial, Meghan Scott, registered counseling therapist for J.H. (qualified as an expert witness in the field of clinical therapy), confirmed she began working with J.H. in November 2021 and that her involvement with J.H. ended in April 2022. She confirmed they completed twelve sessions with one “no show.” Ms. Scott stated that she did have difficulty contacting J.H. on a couple of occasions and at times J.H. “sounded fatigued while on the telephone.”

[148] Ms. Scott confirmed that the goals identified by J.H. were achieved. She agreed that J.H. did not acknowledge that her living situation with her mother EH and brother JH was unhealthy. Ms. Scott also confirmed that she and J.H. did not discuss her mother’s mental health and that J.H. did not acknowledge “childhood

trauma” was something she needed to address. Ms. Scott expressed that with more work she felt J.H. could make more progress.

[149] Maggie Newcombe acknowledged that J.H. presented as open to therapy. That the transition between J.H.’s first therapist, Breanna Lane and Meghan Scott went smoothly. Although J.H.’s attendance was “off and on,” and she was sometimes difficult to contact, the contract was renewed.

[150] I agree that J.H. has not addressed the underlying issues which resulted in her children being placed in the Minister’s care. Although I have pieced together the MSI records and other records to see what the cause of J.H.’s suspected “trauma” might be, I am not entirely sure J.H. has been traumatized. It is unclear to me whether J.H. was not more of a catalyst – perhaps learning early and quickly how to manipulate her mother to avoid doing things she did not want to do or to gain privileges or get what she wanted.

### **19 Family placement breakdown, alleging harassment by J.H. and EH**

[151] Ms. Newcombe noted that for various reasons, but also because J.H.’s and her sister J’s relationship was difficult and they were experiencing ongoing conflict, in October 2021, J.H.’s sister J reported that J.H. and her mother EH were harassing her.

[152] More specifically, the concerns raised by J.H.'s sister J to the Minister included a concern that when J.H. was permitted to attend J's home to have parenting time with the children, J.H. was not attending her home regularly, and when J.H. visited J's home, J.H. did not "parent" the children. J also observed that the children did "not know how to play with toys."

[153] The children were placed in the temporary care of the Minister at the end of December 2021. The Minister filed a Plan of Care dated January 6, 2022 seeking to have the children, EO and EI, placed in the temporary care and custody of the Minister. EI and EO were placed back into the temporary care and custody of the Minister on December 30, 2021 in the same foster home, and they were having regular access with EE who was placed in G.O.'s care in late 2021.

[154] Ms. Newcombe stated that it was hard to assess J.H.'s progress in a "fully supervised environment" and that the Minister remained concerned about J.H.'s ability to care for EI and EO due to:

1. Past substance abuse (past issues unresolved to their satisfaction);
2. Lack of food, clothing, and shelter;
3. Medical neglect; and they had an additional concern of
4. Home instability.

[155] J.H. and her mother could not resist letting J.H.'s sister know how they felt. The fact that the children would be moved from a relatives' home was not enough to encourage them to contain their feelings and put the children's needs ahead of their own. Coupled with J.H.'s choice to continue to rely on her mother for transportation to her parenting time with the children, this shows that J.H. has not been able to grasp that the children need to be her priority. A period of discomfort should have been tolerable to ensure the children were safe and with family, and then to ensure the Minister and the Court were both reassured about J.H.'s intention to protect them from their grandmother's overreactions and often violent outbursts.

## **20 Housing**

[156] After refusing to apply to any assisted living programs, after efforts to live with her grandparents failed, and after efforts to reconcile with GT failed, J.H. reported that she had moved into a one-bedroom apartment. Her name is not on the lease for the apartment.

- (a) On October 14, 2020, G.O. reported unfit living conditions in J.H.'s mother's home where J.H. was residing with EI, EO, and with EE. G.O. described J.H.'s residence as "rundown, cluttered and dirty." G.O. also observed that EI and EO presented as dirty and unkempt.

- (b) At trial, Ms. Peers noted that J.H. was not interested in suggested supportive housing, Adsum House (as she thought she would not qualify), or SHYM (she wanted her own apartment), or Alice Housing (she was concerned about the rules), but J.H. did consider living with her grandparents in Spryfield until the arrangement fell through. Ms. Peers also noted that in January 2022, J.H. was talking about reconciliation with GT, EO and EI's father, and living with him.
- (c) Ms. Peers described J.H. as reluctant to leave her mother's home but reported that at the end of February 2022, J.H. did secure a one bedroom apartment. Ms. Peers indicated that J.H. took advantage of services offered through the food bank and the furniture bank. Ms. Peers noted that J.H. took the initiative and she made the decision. Ms. Peers described J.H. as "very engaged and prepared" when working on finding a home of her own. Ms. Peers observed that finding a home of her own appeared to be a high priority for J.H. and she was really happy to finally secure her own apartment. Ms. Peers noted that J.H. experienced some stress related to getting a copy of her lease to her income assistance worker.

- (d) At trial, Maggie Newcombe confirmed that J.H.'s previous lack of a separate residence was a "stumbling block," but she had moved into her own residence on March 1, 2022 (with the Minister later qualifying that the lease was not in J.H.'s name).
- (e) Maggie Newcombe acknowledged that J.H. had found a suitable home and that she had all the necessary items to care for the children.

[157] As I have said previously, the obvious and safe choice would have been assisted living. I am not convinced J.H.'s friend's new apartment is a long-term safe solution for the children.

## **21 Mitigation of circumstances?**

[158] The Minister expressed concern due to their perception that J.H. was "late to begin participating in 'pivotal' services," such as family support services, and in any event J.H. had not satisfied the Minister that her past substance abuse issues, her parenting skills, her conflict management skills, her ability to engage in unhealthy relationships, her housing situation, and the risk of the children's exposure to her mother and brother had been mitigated. The Minister believed the children remained at substantial risk of harm.



## 22 Permanent Care - Revised Plan of Care

[159] The Minister filed a revised Plan of Care for EI and EO dated January 24, 2022, requesting that the children be placed in the permanent care and custody of the Minister. The Minister noted that J.H.:

Has engaged in services requested by the Department; however, she has refused to address some of the goals identified by the Department such as; failed to acknowledge that she has struggled with substance abuse: failed to acknowledge the role that her mother's influence has played (and arguably continues to play) in the ongoing child protection concerns: and refused to acknowledge how her mother's struggle with her mental health impacted J.H.'s life as a child.

[160] The Minister went on to note:

EH (J.H.'s mother) had identified herself as a possible placement for the children, however, the Department is not supportive of this placement for several reasons, first being that EH, has significant mental health concerns, second being that EH, has behaved inappropriately several times with Department staff such as yelling out of her car at case aides, calling protection supervisors with non-sensical remarks and that lastly, EH, was residing in the home when EE was observed to be severely malnourished and subsequently hospitalized for neglect and failure to thrive.

[161] The Minister listed the following ongoing concerns:

1. J.H. had not found appropriate housing for herself and the children;
2. J.H. had shown "no insight into the concerns pertaining to her mother's home and her mother's mental health";
3. The Minister does not believe J.H. will protect the children from harm if they return to her care;

4. J.H.'s parenting time with the children "remains supervised due to concerns that J.H. was harassing her sister J, who had care of EI and EO";
5. J.H. has "not been able to demonstrate that she has the parenting skills or insight into the concerns to allow for her to have any unsupervised contact with the children"; and
6. J.H. continued to have "inappropriate contact with J and with G.O."

### **23 The children's special needs**

[162] The Minister determined that both EI and EO may have special needs.

Arrangements were made for both children to attend full-time day care which provides structure, routine, and socialization for the children.

[163] The Minister took the position that: "the children are considered good candidates for adoption given their young ages and the care they are receiving from their current foster home."

[164] The Minister stated that they would support ongoing access between the children EI and EO, and J.H.; however, if permanent care and custody is granted, the agency does not support access being stated in a Permanent Care and Custody

Order. Should permanent care and custody be granted, the agency would provide for a final visit between the respondent and their children.

#### **24 Children's child in care worker**

[165] Beverly Brewer, child in care worker for EI and EO, met them when they initially came into care in November 2020, but did not have contact with the children while they were placed with their aunt J. She was reassigned to their file in January 2022.

[166] Ms. Brewer explained that EI was four and a half years old and attending daycare daily. She stated that in January 2022, he was exhibiting “challenges with his behaviours,” with his caregivers, suggesting they could not anticipate when he would respond in a negative way or what would “set him off.” The Minister now pays for a staff person to assist EI at day care.

[167] Ms. Brewer explained that EI was being assessed by the IWK Autism Team and that he also has a private speech language therapist. Another issue which arose was with respect to EI's teeth. EI had to have some dental work done, with some teeth being removed and some being filled. EI is scheduled to see a dentist every six months. The Minister had also determined that EI's vaccinations were not up to date.

[168] Ms. Brewer stated that EO had turned three in March 2022. She noted that EO was experiencing problems with tantrums and had been referred to the early intervention program. EO's vaccinations were not up to date.

## **25 Assessment reports**

[169] I have had the opportunity to review the Pediatric Medical Assessment Form for EI from the autism clinic, his dental examination report; the IWK Autism Team Assessment Report completed by Erica Brady PhD, R, Psych, Psychologist dated March 14, 2022; the Pediatric Medical Assessment form for EO and his Dental Examination Report; and the Pediatric Medial Assessment form for EE. None of the professionals involved in the assessments were subpoenaed to testify. The reports were entered as exhibits by consent of the parties.

[170] Dr. Brady found that EI's "profile meets criteria for a diagnosis of autism spectrum disorder (ASD). I would note that at page 18 of the IWK Autism Team Assessment Report, dated March 4, 2022, that Erica Brady, PhD, R, Psych, described EI:

as a sweet affectional boy who can be attuned to other's emotions at times. Dr. Brady reported in part that EI: did not engage in imaginative play; sometimes echoes other and repeats scripts from shows or books; has difficulty with transitions at daycare; shows strong interest in letters and numbers, and books and reading.

[171] Dr. Brady explained that the:

overall quality of his initiation of social overtures was unusual for his age at times (e.g., lacked integration of eye contact, took things from her hand without other attempts to communicate, occasionally made a comment that did not fit the context); that he sometimes had difficulty understanding or complying with tasks; his performance on a visual spatial puzzle assembly task was above average and an area of personal strength (95<sup>th</sup> percentile).

[172] She reported that EI:

rated as showing strength with his gross motor skills. His self help-behaviour, speech/language skills, fine motor skills, cognitive skills and person / social skills were rather as areas of weakness...concerns were noted with lack of fear, difficulty adapting to change, and frequent temper tantrums daily

## **26 Present and ongoing substantial risk**

[173] Maggie Newcombe submitted that “despite some progress,” there remains a risk that the children will be harmed. The major concern was whether J.H. could commit to leave her conflict laden world (and the people in it) behind and develop a new support system with the goal of giving her children a safe and stable home.

[174] There is clear evidence that J.H. has not left that life behind her. J.H. is getting dropped off at the Minister’s office by either her mother, (one of the Minister’s primary concerns is J.H.’s reliance on her mother and all the upheaval that comes with that choice), or at times she is getting dropped off by the children’s father (when it is unclear if at any point the children’s father had regular parenting time with the children and what the potential is for his appearance in and out of the children’s lives to cause harm). Contrary to J.H.’s position, I find that

her parenting time at the Minister's office has not been without concern, including the potential for conflict and confusion with the involvement of EH and/or GT.

[175] J.H. has shown no insight into how her choice to continue to rely on her mother, and at times the children's father, might affect the children. At all times during this proceeding, J.H.'s mother's presence could be felt, omnipresent, and the children's father's involvement, or lack thereof, has only raised unanswered questions and concerns.

[176] There is very little question in my mind that if given a choice, J.H. will choose to have her mother in her and in her children's lives. For example, the day before the hearing started, April 4, 2022, EH filed an application under the *Parenting and Support Act* for contact with the children. J.H. stated she was unaware her mother was filing an application, but that she supported her mother having contact with the children. Another example is the audiotaped telephone calls to various politicians' offices. J.H. and EH made many of those calls together. Their approach to solving problems in these instances suggests a significant tendency to try to force an issue through threats rather than any attempt to understand and resolve and/or do the work to properly address an issue.

[177] I do not believe J.H. was unaware of her mother's intentions. I also do not accept that J.H. is "alone" but I conclude EH is part of every decision J.H. makes. J.H.'s sister, J, was not raised by her mother. J appears to have identified a need and made a choice not to associate with EH. The police have reported ongoing conflict between J.H. and her mother, EH on the one hand, and J.H.'s sister, J and EH's mother, SH on the other hand. Police confirmed they have directed the two sides to keep their distance. What is clear is that the conflict is ongoing.

## **27 Lack of insight into trauma related to family of origin**

[178] As noted above, at paragraph 58 in *A.B.*, supra the Court of Appeal states:

History can preface a current finding of a need for protective services. But it is not a substitute for a current finding of such a need *Nova Scotia (Community Services) v. S.E.L.*, 2005 NSCA 55 at paragraph 20.

[179] In this case, J.H. has always lived with her mother and arguably she would have stayed in her mother's home indefinitely but for the Ministers' refusal to authorize the return of her children to that home. J.H. has not acknowledged that her mother or her mothers' home posed or poses a risk to her children. J.H. continues to deny any past trauma related to her family or origin.

## **28 Historical 1997 – 2016**

[180] The MSI business records provide reliable information about an aspect of J.H.'s childhood (health care provision) and the care provided to her by EH. I have

created a timeline incorporating reports available on other business records (Minister, the IWK, Halifax Police, and MSI records) to provide further context and a better glimpse at what concerns may have existed previously.

[181] In this case, with competing views about the relevance of J.H.'s history with her family of origin, I have reviewed and compared third party business records entered as evidence to gain a clearer picture of the challenges J.H. may have faced during her childhood. Upon review, I find that life at times would have been very chaotic for J.H. J.H. was exposed to repeated violent incidents and situations where her family often found themselves in "flight or fight mode."

[182] J.H.'s mother and her brother, and eventually J.H. herself, were at odds at various times with various service providers, with their neighbours, and with other family members. J.H. has her own history of incidents which did not end when the children were taken into care.

[183] It is much more likely than not that between 2017 and November 2021, for EI, and between March 2019 and November 2021, for EO, they were both exposed to repeated incidents of aggression or violence in their home with J.H. This is not the whole picture. The incidents reproduced in this decision do not capture those



incidents that may be found in the business records held by any third parties in relation to J.H.'s mother EH and/or her brother, JH.

**29 Family of origin timeline for J.H. (review and compilation of business records)**

[184] No medical expert was called to testify to assist the Court in determining if the nature of the health care services obtained for J.H., presumably by EH, were appropriate in their circumstances. It is unclear whether a review of the limited information available through the MSI record could alert a physician to a problem. It is also unclear to me what access physicians have to routinely view or oversee entries in their patients MSI records.

[185] The sheer number of entries in J.H.'s MSI record, both in relation to number of visits to doctor's offices and the number of physicians who provided services to J.H., raises a general concern about continuity of care, consistency, duplication of services, and overuse of medications; however, without an expert opinion, and/or without more complete medical information, I am not prepared to come to any final conclusions. I can say that the records raise many questions and red flags.

[186] Generally, I find that some of the information contained in the MSI records seems to at times be inconsistent with the information EH historically provided to the Minister about J.H.'s health. For instance, EH's report that Dr. Buckley was

J.H.'s primary physician is at odds with the information about how many times J.H. was seen by Dr. Buckley vs. Dr. Sinha between 1997 – 2016. Why would EH misrepresent the information? Were all the physicians involved aware J.H. was being seen by the others?

[187] I see no clear indication that J.H. suffered or was diagnosed with asthma or why J.H. would have missed so much school, or in fact even attended at a doctor's office so frequently for what appeared to me to be minor complaints. I do note that J.H. was often prescribed antibiotics, it appeared she was in fact repeatedly prescribed antibiotics, and this raises a concern about any long-lasting effects. In addition, I am curious about whether EH was at one time suggesting that because J.H. was prescribed antibiotics she could not be expected to attend school.

[188] The MSI records do raise concerns about what long term effects repeated usage of antibiotics may have had or may have on J.H.'s health. The record also raised a concern with respect to what effect taking a child to a doctor that frequently, if there was in fact no necessity to do so, might have on a child.

[189] Either way, if J.H. required the level of medical attention she received due to legitimate health concerns or if either EH had a hand in creating reasons to take J.H. to see medical professionals, or J.H. was malingering, it raises questions about

why. It may also raise concerns about EH's mental health as it relates to the trauma of losing a child and coping with a sick child or a difficult child.

[190] I would note that at around age 16, J.H. began attending physician appointments more as one would expect, on a much less frequent basis. My understanding is that by that time, J.H. had been out of school for some time.

### **29.1 1997 (birth Aug – Dec, 17 contacts)**

[191] J.H., the children's mother, was born in 1997.

[192] On August 20, 1997, J.H. was taken to the IWK Health Centre by her mother, EH. EH advised the health care provider that they had been reluctant to immunize J.H. due to concerns related to "histiocytosis in an older child of theirs who died." One well known symptom of histiocytosis is "failure to thrive."

[193] On August 21, 1997, J.H. attended for follow up at the IWK Health Centre. Records suggest the issue of "histiocytosis" was reviewed and the health care provider suggested there was no known genetic component.

[194] Following post natal care received in early August 1997 with Dr. Vincer, pediatrician, and following visits with Dr. Blake at the IWK Health Centre on August 20 and 21, 1997, J.H. was also taken to see Dr. McConnell one time, and she was seen by her primary care physician, Dr. Sinha, nine times for various

reasons September through December including: a rash in September, conjunctivitis once in September, conjunctivitis twice in October, dermatitis in October, pyrexia fever in October, acute otitis in October, a routine check-up in November, and conjunctivitis in December, for a total number of seventeen (17) contacts with health care providers. No medications were recorded as prescribed in the MSI report for J.H. in 1997.

[195] Despite all the doctor's visits, I did not note any prescription medication being prescribed for J.H. Either way, 17 contacts between August and December seems high, although I acknowledge I am not an expert in that area.

### **29.2 1998 (age 1, 38 contacts)**

[196] Based on the MSI records, in 1998, J.H. was taken to see her primary physician, Dr. Sinha twenty-six (26) times for various reasons including: (acute otitis ear, January); (pyrexia fever, January); (cough, February); (chronic rhinitis, March); (diaper or napkin rash, March 22); (chronic rhinitis, April 6); (serous Otitis media, April 18); (pyrexia, April 27); (pyrexia, May 25); (cough, June 15); (diaper or napkin rash/gastro, July 27); (acute pharyngitis, August 11); (dermatitis, September 5); (psoriasis, September 15); (pyrexia, September 28); (cough, October 10); (psoriasis, October 13); (chronic rhinitis, October 20); (cough, October 27);

(pyrexia, November 7); (dermatitis, November 9); (constipation, November 16); (cough, December 5); (pyrexia, December 8); and a (cough, December 14).

[197] J.H. also saw general practitioners Dr. Marsh for urinary in March; Dr. Gibbon for urinary in March, diaper or napkin rash on March 24, acute tonsillitis on June 15), and otitis media on October 20; Dr. Lee for dermatitis on March 28; Dr. McCulloch for diaper or napkin rash on March 28; Dr. Writer for unspecified viral on April 24; Dr. Russell for otitis media on October 28, pyrexia on November 17, otitis media on December 11, and acute urinary on December 23; Dr. Murry for dermatitis on December 22; Dr. Duggan for acute urinary on December 26; and Dr. Connelly for colitis/radiation on December 29; for a total of approximately thirty-nine (39) appointments with ten different doctors that year. No medications were recorded as prescribed to J.H. in the MSI report for 1998.

[198] I began including the dates of the visits to compare how closely in time some appointments were with the different practitioners. I could not determine any obvious rationale for seeing multiple physicians at about the same time and it was unclear to me if perhaps at times J.H. was being referred on to a specialist. As I mentioned before, J.H. was either a very sick little girl or there was something else happening and I am not clear what it was. The MSI record does not indicate any

prescription medication was prescribed to J.H., or at least none was filled in her name.

### **29.3 1999 (age 2, 31 contacts)**

[199] In 1999, J.H. was taken to see her primary care physician, Dr. Sinha, twenty-three (23) times. In addition, J.H. was taken to the emergency department in September 1999. J.H. was also seen by six other general practitioners including: Dr. Russell x 3; Dr. Tilley; Dr. Lidman; Dr. Hebb; Dr. McConnell; and Dr. Gibbon. This totals thirty-one (31) contacts with health care professionals in 1999.

[200] J.H. was prescribed Novamoxin (antibiotic, treats infection from bacteria). Dr. Sinha prescribed Nerisone Oily (topical corticosteroid, usually used for inflammation and itching) which was filled for J.H. in December 1999 – apparently with known adverse effects like impetigo, and other complications such as cellulitis, bacterial and fungal infections, skin disorders such as acne, burning, irritation, dryness, redness, skin colour change etc., for complaint of fever.

[201] J.H., had presented with issues such as a sore throat; skin conditions; chronic rhinitis (runny nose, itchy nose, sneezing, congestion, or postnasal drip allergic non-allergic); functional diarrhea (possibly comparison to irritable bowels

syndrome); constipation (uncomfortable infrequent movements); anorexia (characterized by abnormally low baby weight).

[202] On September 14, 1999, EH took J.H. to the IWK Health Centre Emergency department as it was believed that J.H. may have taken some of her grandfather's pills (Metoprolol), which were reported to have been "on the table in a plastic container", and of "unknown quantity/unknown meds." J.H. was reportedly found "gagging" with three pills in her hand. J.H. was seen by Dr. Hebb and by Dr. McConnell. J.H.'s grandfather was reportedly prescribed several medications [diazepam 10mgs, busperone 10mgs, metoprolol 50mgs, hydrochlorathiazide, norwasc, respiradol, novasen, ranitidine].

[203] J.H. gaining access to her grandfather's medication at age two is a serious concern, as is the ongoing illnesses with a very sick baby or misuse of health care providers' time for some unknown reason. Either way, it appears the family was at the very least under stress and at worse in constant chaos and/or crisis.

#### **29.4 2000 (age 3, 23 contacts)**

[204] According to MSI records for 2000, J.H. saw her primary care physician, Dr. Sinha twenty (20) times. Dr. Sinha (on February 1 and February 7— complaints conjunctivitis [pink eye] / acute otitis [ear infection]), a prescription for

Novamoxin (penicillin to treat infection caused by bacteria) was filled for J.H. on February 14 and on March 6.

[205] Following J.H.'s appointment with Dr. Sinha on May 23, 2000, with complaint of Dysuria – painful urination – often query urinary tract infection, further prescriptions for Novamoxin (penicillin to treat infection caused by bacteria), were filled for J.H. on May 25.

[206] Following further appointments with Dr. Sinha on September 13, Otitis media (ear infection), and on again on October 10, a prescription for Novamoxin (penicillin to treat infection caused by bacteria) was filled for J.H. on October 10.

[207] J.H. was also seen by Dr. Gibbon twice, (in January and November), following her appointment with Dr. Gibbon (January 13 - complaint/diagnosis contact dermatitis eczema). J.H. was given a prescription for Cortate (hydrocortisone cream used for relief itches and rashes) which was filled for J.H. on January 14. A further prescription for Cortate was filled for J.H. on April 19, and a third prescription was filled in July.

[208] J.H. was also seen by Dr. Marsh, who prescribed Xylocaine viscous (Lidocaine, relieve sore throat, re: some medical dental procedures) which was filled for J.H. on May 13, following an appointment that same day – (complaint



oral aphthae mouth sores) – dietary deficiencies are often queried as a cause for aphthae.

[209] Of concern to me is whether the “dietary deficiencies” are related to a condition J.H. had, or more closely related to the diet she was provided at home. It seems the issue may be relevant given that some of J.H.’s children have presented with growth issues which are possibly related to nutrition, but it is unclear in what sense. J.H. mostly saw Dr. Sinha that year, but she received prescriptions from three separate physicians. Based on her presenting symptoms, it appears J.H. must have been in some discomfort.

**29.5 2001 (age 4, 22 contacts)**

[210] According to MSI records, in 2001, J.H. attended doctor’s appointments with her primary care physician, Dr. Sinha on fifteen (15) occasions for the following: constipation; dermatitis; influenza; acute bronchitis; dermatitis; injury to finger; functional diarrhea; chronic rhinitis; anorexia; constipation; functional diarrhea; dermatitis; chronic rhinitis; pyrexia unknown (fever); and constipation. Dr. Sinha saw J.H. regarding a complaint of acute bronchitis (contagious viral infection) and prescribed her Novamoxin (penicillin to treat infection caused by bacteria) which was filled for J.H. on March 20.

[211] J.H. was seen by seven (7) other physicians including: pediatrician Dr. Hamson (issue with hand/finger); dermatologist Dr. Tremaine (April 24 - dermatitis) who prescribed Ileostomy supplies (possibly related to ileostomy related problems and complications due to low birth weight), which was filled for J.H. on that same date.

[212] J.H. also saw general practitioners Dr. Conter (urinary issue); Dr. Wieder (pyrexia or fever) who prescribed Apo-Amoxi (antibiotic for bacterial infections) which was filled for J.H. on March 4, though MSI records reflect that Dr. Wieder only saw J.H. on March 17; J.H. was also seen by Dr. Gibbon (dermatitis); Dr. Humphrey (urinary); and Dr. Swinamer (dermatitis), for a total of twenty-two (22) contacts.

[213] J.H. was referred to some specialists: a pediatrician and a dermatologist, likely in an effort to determine how to help J.H. with her ongoing medical complaints.

#### **29.6 2002 (age 5, 20 contacts)**

[214] According to MSI records, in 2002, J.H. was seen by her primary care physician, Dr. Sinha, eighteen (18) times, with complaints of: constipation; fever; dermatitis; acute pharyngitis/sore throat; constipation; influenza; cough; acute

pharyngitis/sore throat; insect bite (July 2); insect bite (July 27); functional diarrhea; acute pharyngitis/sore throat; dermatitis; constipation; otitis media/ear infection. Dr. Sinha prescribed Apo Amoxi (antibiotic for bacterial infections) for J.H. and prescriptions were filled March 27; June 18; August 20; September 10; and on December 22.

[215] J.H. was also seen by Dr. Gibbon once and prescribed Apo Amoxi (antibiotic for bacterial infections) which was filled for J.H. on February 11; and Dr. Marche (conjunctivitis or pink eye) once, for a total of twenty (20) visits.

**29.7 2003 (age 6, 23 contacts, attending class only 40% of time)**

[216] According to MSI records, in 2003, J.H. was seen by her primary physician, Dr. Sinha twenty-one (21) times, with complaints of: otitis media/ear infection; acute pharyngitis/throat; Pyrexia unknown origin/fever; dermatitis; urinary; chronic rhinitis; abdominal pain; constipation; cough; anorexia; otitis media (ear); abdominal pain; insect; cough; constipation; pharyngitis throat; abdominal pain; dermatitis; cough; and constipation.

[217] In July and August 2003, Dr. Sinha observed that J.H. presented with “dental caries.” Dr. Sinha prescribed Apo Amoxi (antibiotic for bacterial infections) which was filled for J.H. on June 4 and October 7. J.H. saw two other

physicians in 2003: Dr. Subhani (gastroduodenitis, usually caused by bacteria causing inflammation of stomach) and Dr. Haislip (urinary), for a total of twenty-three (23) visits.

[218] Again, I repeat my concern about the ongoing prescriptions for antibiotics. I also note that the following year the school calls to report that J.H. had only been attending 40% of her class time.

**29.8 2004 (age 7, 23 contacts)**

[219] According to MSI records, in 2004 J.H. was seen by her primary care physician, Dr. Sinha, twenty-one (21) times for complaints related to: headache; influenza; acute tonsillitis; headache; cough; chronic rhinitis; headache; abdominal pain; anorexia; abdominal pain; acute pharyngitis; anorexia; otitis media; dysuria; cough; headache; dermatitis; bronchiolitis; and dermatitis. Dr. Sinha prescribed Apo Amoxi (antibiotic for bacterial infections), which was filled for J.H. on January 19 and October 19.

[220] J.H. was also seen by Dr. Gibbon (hemorrhage unspecified) and Dr. Shu (unspecified foreign body on exterior of eye). A further prescription was provided for J.H. for Apo Amoxi (antibiotic for bacterial infections) and was filled for J.H. on November 3, 2004, “prescriber number 9999 - unknown”

[221] Prescription medications prescribed to J.H. between 2002 and 2004 appeared to be medications prescribed primarily for bacterial infections. I take judicial notice that antibiotics are known to cause side effects including but not limited to the following: anxiety; increased urination at night; decreased urine production; blood in urine; skin rash; hives; and itching. I would note that it is generally known that overuse can also cause upset stomach and diarrhea.

[222] On September 13, 2004, the principal at South Woodside School reported concerns about J.H. as a seven-year-old child. He reported that J.H.'s mother was refusing to take her to school that year because "she does not like J.H.'s grade one teacher." He noted that he had called and reported concerns the previous year because J.H. had only attended approximately 40% of her scheduled class time. He observed that J.H. "was obviously stressed from her home life."

[223] On September 20, 2004, the school social worker reported a meeting with EH and observed that she presented with "rapid speech"; she seemed to have an "inability to reason"; and she presented with a "flight of ideas." He reported that EH was at times "threatening toward teachers and to the school staff" and that she had spoken about her older daughter "wanting to come to the school with a baseball bat." He explained that EH was blaming J.H.'s teacher for J.H. not

wanting to attend school. The school social worker described EH as “mean and nasty,” and he reported that when J.H. was at school she “appears happy.”

[224] I conclude that J.H.’s family was in crisis during her infancy and continued to be while she was a toddler and in her elementary school years. Either J.H. was an unusually sick child or there was another serious issue causing J.H. to be taken to see medical practitioners on a regular and consistent basis. I would also note that concerns were being expressed about EH’s presentation during that period (rapid speech, inability to reason, presenting with a “flight of ideas”).

**29.9 2005 (age 8, 30 contacts)**

[225] According to MSI records in 2005, J.H. was seen by her primary care physician, Dr. Sinha twenty (20) times, for complaints including: injury to face and neck on a January 3 visit; headache; cervicalgia (neck pain); headache; otitis media (ear); cervicalgia (neck pain); unspecified abdominal pain; cellulitis/bacterial skin infection; cellulitis; headache; cervicalgia (neck pain); constipation; cervicalgia (neck pain); dermatitis; and asthma (unspecified). Prescriptions for Apo Amoxi (antibiotic for bacterial infections) were prescribed to J.H. by Dr. Sinha and were filled for J.H. on the following dates: January 27; a further prescription was filled for J.H. under “prescriber number 9999 - unknown” on September 22.

[226] In 2005, J.H. also attended additional doctor's appointments with Dr. Girgis for otitis media (ear) on January 25; September 14 for **assessment anxiety**; filled a prescription for Canesten on July 27 prior to appointment recorded in the MSI record; acute conjunctivitis twice in June; myocarditis (inflammation of heart muscle) on July 12; pulmonary valve anomaly/pulmonary valve issue. She also saw Dr. Attia for a contusion to face/neck/eye; Dr. Wieder for dermatitis; and Dr. Minodin for acute bronchitis who prescribed Apo Amoxi (antibiotic for bacterial infections) which was filled for J.H on November 3.

[227] J.H. also attended the IWK Health Centre on August 15, 2005 to be seen by Pediatrician Dr. Larson regarding undiagnosed cardiac murmurs. This comes to a total number of approximately twenty-nine (29) contacts. Of particular note:

- (a) On August 15, 2005, J.H. was taken to the IWK Health Centre by her mother EH regarding a heart murmur heard by Dr. Girgis on a physical exam the previous month, "which J.H. had not received in the past." At the appointment EH indicated that "she had not sent J.H. for her immunizations because of a previous daughter who died at 9 months and 9 days from 'Langerhan's cell histiocytosis.'" Dr. Larson observed that EH stated that: in J.H.'s family "there are several people who have some cardiac pathology"; that J.H.'s

paternal grandfather sustained several myocardial infarctions and open-heart surgery for a valve abnormality; and EH's cousin had a "hole in the heart, which did not require surgery."

- (b) In May 2005, the Dr. Attia observed "contusion to face, scalp, neck, exc eye"; in July 2005 with "myocarditis unspecified"; in August 2005 Dr. Larson noted undiagnosed cardiac murmurs"; and in September 2005, at the age of eight years, J.H. met with Samira Girgis in relation to "generalized anxiety disorder."

[228] On October 4, 2005, a referral was made by the Halifax Regional Police who reported that EH had been driving with her son and daughter when she spotted a group of youths she believed had been "harassing" her and J.H. EH is "reported to have exited her vehicle, chased the student, and yelled death threats toward her. The student got away, spraining a finger in the process. A bookbag left behind by the student was run over by EH before being dropped off at the school. EH was charged with uttering threats and mischief."

[229] I would note that when she was only eight years old, J.H. was first assessed for concerns related to generalized anxiety disorder. At that time, concerns were being raised about J.H. being bullied at school and J.H. had missed quite a bit of school time.



**29.10 2006 (age 9, 31 contacts)**

[230] According to MSI records, in 2006 J.H. was seen by her primary care physician, Dr. Sinha, twenty-five (25) times for complaints such as virus in January: dermatitis in January; chronic rhinitis in January; cervicalgia (neck pain) in February; hordeolum externum, eyelid, in March; pyrexia fever in April; acute pharyngitis in April; cervicalgia in April; cellulitis in May; lips in May; Cancrum oris (gangrene origin unknown – most often occurs in malnourished children living in areas with poor sanitation); acute pharyngitis in September; insect bite in August; backache in August; headache in September; cellulitis/abscess of face in September; backache in Sept; abdominal pain in September; acute pharyngitis throat in October; dermatitis in October; backache in November; headache in November; backache in December; headache in December; and backache at the end of December. Dr. Sinha prescribed Apo-Amoxi for J.H. which was filled for her on April 10 and another prescription was filled September 10.

[231] J.H. was also seen by other doctors in 2006, including Dr. Gibbon for dermatitis in January; Dr. Wieder for dermatitis in June; Dr. Gregus for cellulitis in August; urinary in September; and gastroduodenitis in December; and Dr. Aziz for acute pharyngitis in November. This totals thirty-one (31) visits in 2006.

[232] I would note that for the first time Dr. Sinha indicated J.H. had been seen in relation to a concern about “cancrum oris” which I believe to be gangrene origin unknown, a condition most often seen in malnourished children living in areas with poor sanitation. Given the Minister’s concerns about the cleanliness of EH’s home, it suggests that this has been a struggle for EC throughout J.H’s life and that it may have contributed to the lengthy list of illnesses that J.H. presented with.

**29.11 2007 (age 10, 27 contacts)**

[233] According to MSI records, in 2007 J.H. attended appointments with her primary physician Dr Sinha nineteen 19 times including for: chronic rhinitis in January; backache in February; pain in limb in February; constipation in March; dermatitis in April; backache in May, pyoderma bacterial infection in May; backache in June; headache in June); cough in July; cough in August; backache in August; and headache in September.

[234] J.H. was also seen by Dr. Adams for urinary in February; Dr. Champion for urinary in April; Dr. Varma for vaccination/abrasion in May; Dr. Gregus for urinary in September and December, who prescribed J.H. Apo-Amoxi which was filled for her in December; Dr. Gibbon for stomatitis (swelling of mouth bacterial) in October, who prescribed J.H. Oracort dental paste, which was filled in October for relief from mouth sores due to injury; Dr. O’Connor for chronic gingivitis in

October, who prescribed Apo-Pen VK antibiotic which was filled in October; and Dr. Harley for gingivitis in November.

[235] The record suggests Apo-Amoxi was prescribed three times by prescriber “9999 – unknown” and filled for J.H. in February, September, and October. The record suggests Dr. Cooper prescribed Apo-Amoxi which was filled in November, but there does not seem to be a corresponding appointment with Dr. Cooper. This brings us to a total number of twenty-seven (27) visits in 2007.

[236] In 2007, J.H. begins to be seen for two new types of complaints: a backache and pain in her limb. Other common complaints continue.

**29.12 2008 (age 11, 24 contacts)**

[237] According to MSI records, in 2008 J.H. attended appointments with her primary physician Dr. Sinha seventeen (17) times including for the following: headache in January; dermatitis twice in February; pharyngitis in March; constipation in April; cough in April; headache in May; acute bronchitis in June; cancrum oris in July (gangrene origin unknown – most often occurs in malnourished children living in areas with poor sanitation); acute gingivitis in August; acute pharyngitis in September; constipation in October; injury to

elbow/forearm/wrist in October; headache in November; sinusitis in November; dermatitis in December; and headache in December.

[238] J.H. was also seen by Dr. Cooper for cellulitis in January; Dr. Wiebe for otalgia (ear) in April; Dr. Gregus for gingivitis in July), urinary in July), pain in limb in September; Dr. Banks for acute gingivitis in September; and Dr. Scott for contusion of foot in September. J.H. was prescribed the following medications in 2008: Apo-Amoxi by Dr. Cooper in January; Dr. Sinha in June; Dr. Gregus in July; and “prescriber 9999 – unknown” in July; APO-Cefaclor by Dr. Banks in July; and Novamoxin by “prescriber 9999 – unknown” in September. In total, there were twenty-four (24) visits.

[239] Once again, cancrum oris was considered, which most often occurs in malnourished children living in areas with poor sanitation. The backache and lower limb problem appears to have resolved and new complaints include an injury to her arm and a bruised foot, as well as heightened concerns about her teeth.

[240] On August 20, 2008, J.H. was attending a cheer practice when she became upset as she perceived another participant “had looked at J.H. in a way that upset her.” The facilitator, LB, stated to police that she tried to diffuse the situation but upon EH noticing that J.H. was upset, EH “came face to face and was stating that

she would wipe the smile off her face...” and “that she could have her older son come down and wipe the girls out.” A witness confirmed this information. EH suggested that the facilitator LB had called J.H. a “hussy” and that LB stated that J.H. “needed to grow a backbone if she was going to be upset about someone looking at her.”

### **29.13 2009 (age 12, 20 contacts)**

[241] According to MSI records, in 2009 J.H. attended appointments with her primary care physician Dr. Sinha fifteen (15) times including for the following: injury “multi sites” in January; otalgia in January); pharyngitis in February; pain in lower leg in February, March, April, June, July and August; dermatitis in August; constipation in September; other in October); cancrum oris (gangrene origin unknown – most often occurs in malnourished children living in areas with poor sanitation) in October; knee, leg, ankle, and foot in November; and lower leg in December.

[242] J.H. was also seen by Dr. Gregus for backache in January; pain – lower leg in November; Dr. Lee for urinary in February; Dr. Gibbon for “other” in April; and Dr. Soudek for bronchitis. J.H. was prescribed the following medication in 2009: silicylic acid by Dr. Gibbon, filled for J.H. in April; and Apo Amoxi by “prescriber

9999 – unknown” filled for J.H. in October. J.H. attended a doctor’s office approximately twenty-times (22) in 2009.

[243] During this period, the bulk of J.H. reports are multiple injury sites, and other complaints seem to be related to soreness in her limbs (lower leg, knee, leg, ankle, foot), but I would note that once again Dr. Sinha has referenced gangrene, which most often occurs in malnourished children living in areas with poor sanitation.

[244] On June 17, 2009, EH reported to police that SH had stolen J.H.’s PlayStation Portable (PSP) and was trying to sell it. She stated that she had messaged SH’s sister, BG, to ask her to “keep an eye out for the PSP.” BG subsequently contacted EH and SH got on the telephone with EH and he warned EH that if she touched his grandmother, he would cut EH’s throat and stab her. EH stated that SH further threatened that he would “get (her) whole family” and that he was “going to firebomb (her) house.” EH alleged that SH stated, “make sure you don’t let your daughter out cause I’ll be watching for her.” J.H. was 11 years old at that time.

[245] Referral information received by the Minister in September 2009 suggested that EH was refusing to allow J.H. to attend school because EH did not like her

teacher; the school understood it was because the teacher was from Newfoundland. The school explained that EH's pattern of preventing J.H. from attending school was "starting again and this child is not attending school" and she was bumped into grade 6 out of grade 5 without school expectations being completed.

[246] On November 2009, a representative of the Minister met with EH and with J.H. to discuss J.H.'s absences from school and reports that EH was "fighting with everyone, being aggressive and being disrespectful," and that she was displaying inappropriate behaviour with J.H. present. EH suggested that Dr. Gibbons was J.H.'s primary physician but she had recently taken J.H. to see Dr. Sinha as it was difficult to book appointments with Dr. Gibbons.

[247] It is apparent from the MSI file that Dr. Sinha was seeing J.H. "primarily" and that J.H. also saw various other health professionals for what appeared to sometimes be regular everyday concerns where one would not expect to have to attend a doctor's office. Ms. Hubley advised that she had arranged for J.H. to attend another school.

**29.14 2010 (age 13, 14 contacts)**

[248] According to MSI records, in 2010 J.H. attended appointments with her primary care physician Dr. Sinha fourteen (14) times for the following: pain in

lower leg in January; headache in February; constipation in March; otitis in April; pharyngitis in May; pharyngitis in June; dysmenorrhea (problems with menstruation) in July; abdominal pain in August; headache in August; knee, leg, ankle, foot, in September; lower leg in October; acute sinusitis in October; pain lower leg in November; and pain lower leg in December.

[249] J.H. was also seen by Dr. Gibbon for cellulitis in January. J.H. was prescribed the following medication in 2009: Garamycin by Dr. Gibbon, which was filled for J.H. in January; and Novamoxin by “prescriber 9999 – unknown” filled for J.H. in April.

[250] On January 12, 2010, a representative of the Halifax Regional Police advised the Minister that EH had been charged with several incidents of criminal harassment involving CS, the mother of one of J.H.’s school mates. One incident related to EH’s verbally abusive behaviour via telephone. Another incident took place November 6, 2009, when EH reportedly followed CS to her daughter’s place of employment a local Pharma Choice and began yelling and screaming. When security directed EH to leave the premises, she kicked, punched, and pushed the security officer. The third incident referenced was when police attended EH’s residence on November 11, 2009 to arrest EH, and EH became “agitated and physically threatening,” and while walking away to retrieve her coat, she could be



heard stating “fucking nigger – I hate fucking niggers.” Police noted that J.H. was present at that time. The final incident reported by police was a dispute between EH and her daughter J (27 years old at that time) and EH’s mother SH. Police explained that no charges were laid in the latter, but EH was reported to have approached her mother and to have “yelled at her and called her names.” Police believed the conflict was over money EH owed to her mother.

[251] On December 17, 2010, J.H. contacted the police and reported that her sister had threatened to slap her when they saw each other at Mic Mac Mall. J.H.’s sister alleged the same about J.H. Police noted that both sisters were crying and that the children were living separately, one with EH and the other with EH’s mother SH. Police noted that there had been ongoing disputes between the two families, and they had been directed to avoid each other.

[252] J.H. continues to be exposed to incidents which would cause the average person a considerable amount of stress. EH continues to model maladaptive ways of dealing with issues which arise in everyday life.

**29.15 2011 (age 14, 15 contacts, did not attend school)**

[253] According to MSI records, in 2011, J.H. attended appointments with her primary care physician Dr. Sinha thirteen (13) times for the following: chronic

sinusitis in January; headache in February; anxiety in February, March, April, June August, and September; conjunctivitis in May; “other” in August; headache in October and November; and pain in lower leg in December.

[254] J.H. was also seen by Dr. Banks for conjunctivitis in May, and Dr. Gibbon in June. J.H. was prescribed the following medication in 2011: by Dr. Sinha, Diazepam x 5 filled for J.H. in March, April, June, September, and November; by Dr. Banks, Tobradex (eyes) in May; by Dr. Gibbon, Hyderm (contains hydrocortisone) in June. J.H. attended a doctor’s office approximately fifteen (15) times in 2011.

[255] When J.H. is 14 years old, she is prescribed Diazepam in response to complaints about her anxiety. Given the type and the number of complaints communicated about EH’s interactions with others, I conclude there were many other incidents and that J.H. lived her life in a state of ongoing chaos. In addition, J.H. was the target of bullying. It is entirely possible J.H. could in fact benefit by exploring how her experiences as a child shaped her worldview and thereby effect long lasting change, but there is insufficient evidence to suggest J.H. recognizes the issue or the need for significant change.

[256] On April 10, 2011, EH contacted police and reported that J.H. had been the subject of bullying via Facebook and telephone text messaging for approximately eleven weeks. EH reported to the police that she had advised J.H.'s school that J.H. was attending counseling and J.H. would rarely "go out in public." EH reported that the school had provided J.H. with a tutor and J.H. was being "home schooled." Police noted that they observed "several Facebook messages as well as text messages on J.H.'s cellular telephone and her computer where she was belittled, called out to fight, and told things would get worse with time." EH provided the names of ten girls who she believed were involved. The police noted that "due to psychological distress caused by bullying, which was already addressed by the school resource officer with some of the subject females, suspensions for those continuing to bully the subject should be considered by school board staff."

**29.16 2012 (age 15, 15 contacts, not attending school)**

[257] According to MSI records, in 2012, J.H. attended doctor's appointments as follows: she attended appointments with her primary physician Dr. Sinha eight (8) times for the following: anxiety in January; headache in February; anxiety in March; pain in lower leg in April; headache in May; otalgia in June; gingivitis in

July); and acute pharyngitis in August. Dr. Sinha prescribed Diazepam which was filled for J.H. in February and November.

[258] J.H. was also seen by Dr. Chow for “other” in January and Dr. Gibbon for psoriasis (a long term skin condition with no cure) and stomatitis. Dr. Gibbon prescribed Oracort and the prescription was filled in July, as well as Teva-Cephalexin antibiotic for bacterial infections. J.H. also saw Dr. Stender for a foreign body in nose in August; Dr. Vuto for pain in limb and “other”, who prescribed Alysenia; Dr. Tremaine for psoriasis, who prescribed J.H. Ratio-Mometasone, a topical anti-inflammatory cortisone. J.H. attended a doctor’s office approximately fifteen (15) times in 2012.

[259] On February 8, 2012, police reported receiving a 911 hang up call from J.H., where they heard crying in the background on the call. Police attended the home of EH where J.H. was residing and could not locate anyone. After searching for J.H. in the community for a period, police returned to the home and “forced the front door open.” No parties were located inside the home, although police observed approximately eight to ten cats. Police patrolled the neighborhood and then returned to the home. EH arrived with J.H. Police described EH as “a very unhappy homeowner” and observed that EH kept interrupting police when they were trying to explain how she could arrange to fix her door. Police observed that

EH stated that the police were “going to fix her door before (they) left (that evening)”. EH stated that “she would go higher than that and she would have Darrell Dexter repair her door.” Police noted that EH referred to the police officers as pigs and “began to run down police.” EH alleged she had previously been sexually assaulted by police and “nothing was done about it.” Police reported that EH made “racial slurs about black police officers touching her and sexually assaulting her.”

[260] In early February 2012, EH attended a Choice appointment with J.H. expressing concern that J.H. had not attended school in a year and a half because she was “being bullied and harassed.” EH suggested that J.H. had experienced racist comments in the school setting and that she had moved schools twice to avoid bullies. EH also suggested there were “verbal confrontations with other youth and adults.” J.H. suggested that: she worried about those issues on a daily basis; she did not feel safe; she continued to experience sleeping problems (settling at night); and her appetite had decreased.

[261] On June 11, 2012, police received information from Deacon Brian Smith, who requested a well being check on EH. He stated that EH had remarked that “she had had enough and wanted to die,” and that EH indicated “she just wanted them all to die now.” EH had claimed that the police were “pushing her over the

edge and she can't take it anymore." Mobile Mental Health Crisis attended the location. Police noted that they were uncertain if any of EH's children were home.

[262] EH was referred to a two-hour Psychoeducational Session for Parents Only, and she was encouraged to register J.H. in the second component of their program, the Chilled Teen group.

[263] In February 2012, J.H. did reach out to make a Choice appointment, expressing anxiety about not attending school and about being bullied. J.H. suggested she was experiencing sleeping problems and her appetite decreased. Again, there is sufficient evidence to find that J.H. and her family were in crisis and responding with "fight or flight" responses on a regular basis.

**29.17 2013 (age 16, 6 contacts)**

[264] According to MSI records, in 2013, J.H. attended doctor's appointments as follows: Dr. Vuto for "other" in January; Dr. Gillis for dermatitis; Dr. Malik for "other"; Dr. Minodin for "dizziness and giddiness" and lightheadedness on October 10; Dr. Saric for "dizziness and giddiness" and lightheadedness on October 21; and Dr. Williams for nausea with vomiting. I note that in March 2013, J.H. was prescribed Hyderm cream by a prescriber who does not seem to appear in

J.H.'s patient history (106290). In 2013, J.H. attended a doctor's office approximately six (6) times.

[265] On October 19, 2013, EH contacted the police with a complaint that a car was driving up the street very slowly. EH complained about ongoing issues with her neighbours. Police determined that EH "was unable to articulate any threat made to her or her family members..." One witness indicated that it was EH who "instigated the verbal dispute by yelling obscenities at the family across the street." Another witness stated he was getting out of his car and EH got out of her home and starting "swearing and yelling."

[266] J.H. was seen on November 19, 2013, for a consultation at Capital Health after she took 7 birth control pills and 2 valium the previous evening. J.H. reported that she was "stressed out about school and had an argument with her boyfriend." She was not attending school due to bullying issues the previous year. J.H. was noted to express remorse about her actions but suggested "she could not attend an appointment in Dartmouth at Community Mental Health due to the fear of running into people that may bully her." J.H. acknowledged she was "feeling depressed last evening when she took the pills."

[267] J.H. attended far fewer appointments with doctors related to what appeared to have been more somatic like complaints in the past. Of greater concern is that she attempted to harm herself in response to distress related to a breakup with her boyfriend.

**29.18 2014 (age 17, 3 contacts)**

[268] According to MSI records, in 2014, J.H. attended doctor's appointments as follows: she attended appointments with Dr. MacGregor for pharyngitis in August; Dr. Banks for urinary in Oct; and Dr. Gibbons for psoriasis in November. J.H. attended a doctor's office three (3) times in 2014. In 2014, prescriber 108061, who does not appear in J.H.'s patient history, prescribed Apo-Amoxi (penicillin) for J.H. and it was filled for J.H. in November. Dr. Banks prescribed Sulfatrim (antibiotic for bacterial infections and prevention).

[269] On January 25, 2014, NC reported to police that J.H. would not leave his apartment. He explained that he had ended his relationship with J.H. and he had asked her to leave his apartment, but she was refusing to do so. The police assisted J.H. to gather her belongings.

[270] On April 25, 2014, J.H. attended at the IWK Mental Health and Addictions Community Clinic for a Choice appointment on April 25, 2014. The Nova Scotia



Tool for Suicide Risk Assessment was completed with J.H. in April 2014. J.H. expressed concern about not being able to access a tutor through the Board of Education and that she was concerned she may “not pass.” J.H. indicated a desire to address her “anxiety through Partnership” and was booked with a psychologist. The three counseling sessions J.H. attended did not appear in the MSI record.

[271] On May 18, 2014, EH was alleged to have threatened to assault NR with a weapon, or imitation thereof to wit, mace spray contrary to Section 267(a) of the *Criminal Code*. A witness stated that a man (JH) came out of the front passenger’s side of EH’s car and started punching a man while EH sprayed the man with mace. The witness noted that a young girl (J.H.), and young boy (?) got out of the car and “started beating” the man as well. The driver of the first car got out of her van to help the man and it appeared she was also sprayed with mace. Two witnesses noted that the “girl” started kicking and swearing at one of the victims, stating that after the victims were hurrying home to “wash the spray off”, that “the younger girl was still shooting her mouth off and then the police finally showed up.”

[272] On July 21, 2014, J.H. attended her partnership appointment accompanied by EH. They were advised that the primary purpose of attending the appointment was to obtain assistance with support and coping, and that advocacy for a tutor or school credits was not the main purpose of the appointments. J.H. confirmed she

had not attended school at all in 2013/2014, and had only attended school for a few months the year before. J.H. stated that several youths from the area had bullied her and that “they often avoid going out and do all their shopping in Halifax.” EH shared that J.H. spent most of her time at home and did not have any friends. J.H. acknowledged daily fears or worries about seeing those who bullied her. The clinician noted that the family had previously been referred to an anxiety group at Dartmouth CMH.

[273] On August 22, 2014, J.H. and EH attended for J.H.’s appointment but both EH and J.H. left before the appointment stating that J.H. was feeling ill that day.

[274] On August 26, 2014, J.H. missed her appointment as EH reported that J.H. was still ill.

[275] On September 8, 2014, follow up correspondence was sent to J.H. and her mother regarding rebooking an appointment and suggesting her file would be closed if there was no further follow up.

[276] On October 17, 2014, J.H. attended a further appointment, and she requested her mother attend with her. EH expressed frustration that the school board would not provide J.H. with any educational opportunities. The clinician noted that J.H. was “generally unwilling to provide information about her current functioning or

anxiety symptoms.” The clinician later reported “ongoing difficulties coping with past bullying and current anxiety. She stated that her mood is down because she frequently thinks about her school problems and noted that she usually stays up all night and sleeps in.”

[277] On November 15, 2014, J.H. attended a further appointment with her mother. The clinician noted that “neither J.H. nor EH were receptive to the options presented as they did not include home based tutoring.” J.H. stated that “she was not willing to do what HRSB was asking as they would not do anything for her (ie., provide tutoring). EH also stated that she was only willing to consider tutoring (versus other options), and she complained that HRSB would not be willing to provide a written promise that J.H. would not be physically harmed while attending school in Dartmouth. The clinician went on to say “this writer attempted to redirect EH as she made several inappropriate and racist remarks during this conversation...” She noted “J.H. tended to shut down as her mother made very clear statements that she was not open to exploring any options aside from tutoring”... “this writer again requested to meet with J.H. individually.”

**29.19 2015 (age 18, 2 contacts)**

[278] According to MSI records, in 2015, J.H. attended doctor's appointments as follows: J.H. was seen by Dr. Malik for pain in lower leg in February; and by Dr. Gillis for migraine in February.

[279] On January 22, 2015, EH cancelled J.H.'s Choice appointment stating that they had a family member that had only "minutes to live."

[280] In April 2015, J.H. was discharged from the IWK Health Centre therapy program as she had only attended three sessions, including the first appointment following the initial assessment. The clinician noted that J.H. struggled to "engage in any work on managing her anxiety."

[281] Historically, J.H. and her mother have attended services and made very specific demands, often avoiding what experts in various fields have identified as issues needing to be worked on. J.H.'s refusal to speak in therapy about the issues identified as important by service providers is not a new issue.

**29.20 2016 (age 19, 5 contacts)**

[282] According to MSI records, in 2016, J.H. attended doctor's appointments as follows: J.H. was seen by Dr. Subhani for impetigo in April; Dr. Malik for

abnormal weight loss twice in June); Dr. Roberts for cellulitis in July; and Dr. Roberts for aftercare in July.

[283] When cross examined by the Minister's representative, J.H. acknowledged that as a child she had missed a significant amount of school time due to alleged illnesses. The Minister's counsel suggested J.H. also missed school because her mother, EH, would not send her to school because J.H. was going to be taught by a teacher from Newfoundland. The Minister suggested that when J.H. was school aged, EH had various verbal altercations with other children in J.H.'s school, and on one occasion, EH made death threats toward a classmate of J.H.'s and then ran over the child's school bag. The Minister suggested EH had prevented J.H. from going to school regularly due to EH's mental health struggles. In addition, the Minister suggested it was EH who kept J.H.'s brother, JH, out of school. J.H. had difficulty recalling facts related to her lack of attendance at school. I would note, however, that police clearly observed evidence that J.H. was a victim of bullying during her school years and it is entirely possible that the bullying contributed to J.H.'s difficulties attending school.

**30 Section 42(2) Have the least intrusive measures, including services, been attempted and failed? Or would they be inadequate to protect the children?**

[284] The underlying concern in this matter is not whether J.H. is smart enough or capable enough to care for her children – it is whether she will choose to care for them without exposing the children to the ongoing risk of physical and/or emotional harm or the risk of neglect. In counseling and family support work, J.H. refused to work on certain issues, suggesting the Minister had a “grudge” against her family and there was nothing wrong.

[285] When required to leave her mother’s home, J.H. insisted on finding her own apartment. She would not consider supportive housing, which would most likely have guaranteed the return of her children to her if she followed through. At trial, J.H. had not yet provided evidence that the apartment she presented to the Minister is actually her own to continue living in with the children. Her name was not on the lease.

[286] J.H. has failed to abide by no contact orders in place after the Minister took the children into care. J.H. does not or she is unwilling to recognize the risk to the children posed by her mother or her brother and the ongoing conflict their behaviour generates. It is a question of choice for her. I do not necessarily see J.H. as a victim in this scenario. J.H. presents as capable of change but being

perfectly comfortable the way things were before the Minister's involvement. J.H. will accept services on her terms only.

[287] Despite the Minister's oversight and J.H.'s suggestion that she was prepared to do whatever was necessary, J.H. continued to create her own conflict: with her sister; with her sisters' ex-boyfriend; with her ex-boyfriend and father of two of the children, GT.

[288] J.H. presents as extremely impulsive with limited self control and a clear desire to do things her way or no way. I am unclear whether J.H. truly knows how to create and maintain a stable safe place for her children. She does not or she is unwilling to recognize the risk to the children posed by her own behaviour. Her world view has been shaped by her experiences with her family of origin, and it is possible she has no true intention of trying to engage her family in change or ever engaging in changes prescribed by others.

[289] J.H. has not proven to me that she can envision what the necessary changes are from anyone else's perspective. There is no evidence that J.H. values the idea of long-term change. She is crisis driven and does not appear to engage in long-term planning for her own future. She has not communicated any concrete plans for her future, any desire to address her educational or vocational needs, nor how

she will support her children's special needs. J.H. could have advocated for herself and she could have obtained a bus pass. She chose not to do so. She chose to continue to have others drive her because it suited her, and she did not care about the Minister's discomfort or concerns about her mother.

[290] There is little evidence that J.H. sees anything wrong with the way she was living, the way she was raised, or the way she has behaved. The issue from her perspective is that she "got caught," and she blames G.O. for "ratting" her out. J.H. has not used the time available to her since the first disposition order was granted to make any significant long-lasting changes, although she appears perfectly capable of doing so if she chose to do so. Further counseling is unlikely to be of any assistance unless J.H. decides it will, but in any event, the Court is out of time.

[291] J.H. has not proven to me that she did what was necessary to give her children the chances she may not have had, in part because of the challenges her mother was facing, including mental health challenges. Every child, including EI and EO, deserve the chance to be safe, to go to school, to make friends, and to have choices in their lives. I am entrusted to decide based on the children's best interests, not J.H's.



[292] I cannot conclude that the risks have been mitigated. I find that the children continue to be at substantial risk of harm if returned to their mother's care.

**31 Section 42(3) and 46(6) – Are circumstances likely to change in a reasonably foreseeable period of time not exceeding the maximum time limits?**

[293] The deadline for final review has passed. This case is not about giving J.H. another chance. The time has expired. It is about deciding what is in the children's best interests.

[294] I grant the Minister's application for an order for permanent care and custody of both children, EI and EO.

[295] I understand that the Minister plans to place the children for adoption. In this case, I find that any order or agreement allowing J.H. or her mother, EH, or any other family member contact or parenting time, would inhibit the children's opportunity to find a stable, safe, caring and nurturing home of their own.

[296] Counsel for the Minister of Community Services shall draft and file two separate orders, one for each child attaching each child's birth certificate.

Cormier, J.