Coroners Act, 1996
[Section 26(1)]

Western *Australia*

RECORD OF INVESTIGATION INTO DEATH

Ref No: 31/14

I, Evelyn Felicia Vicker, Deputy State Coroner, having investigated the death of ***(Ethan)****, with an Inquest held at Perth Coroners Court, Court 51, CLC Building 501 Hay Street, Perth, on 10-11 September 2014, find the identity of the deceased child was* ***(Ethan)*** *and that death occurred on 14 November 2010 at 7 Connor Street, Toodyay, as a result of Ligature Compression of the Neck (Hanging) in the following circumstances:*

Counsel Appearing :

Ms C Fitzgerald assisted the Deputy State Coroner

Ms R Hartley (instructed by State Solicitors Office) appeared on behalf of the Department of Child Protection and Family Support
Mr P Gazia (instructed by Aboriginal Legal Service WA) appeared on behalf of the father of the deceased child.

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SUPPRESSION ORDERS

1. **Suppression of the deceased child's name and any identifying information from publication.**
2. **The detail and identities of the perpetrators of any intra familial abuse suffered by the deceased child is suppressed from publication.**

INTRODUCTION

The deceased child (Ethan) had a dysfunctional infancy and was taken into the care of, the then equivalent to, the Department for Child Protection and Family Support (the Department) at 2 years of age. He then spent 2 years at a children's home, before being placed in foster care where he remained until his foster father found him suspended from a tree in the rear garden of his foster home on 15 November 2010.

He was 15 years of age.

The fact Ethan was a child in the care of the Department on behalf of the State requires an inquest to be held into the circumstances of his death, pursuant to sections 3 and 22 (1)(a) of the *Coroners Act 1996*. By section 25 (3) of the same Act, the quality of Ethan's supervision, treatment and care whilst in the care of the State must be commented upon.

BACKGROUND

Ethan was born on 5 October 1995 in Subiaco as his mother's youngest son. He had an older half-brother born in 1989, and three older half-sisters.

Ethan's mother had a childhood and adult life marred by homelessness, drunkenness and abuse which would have provided her with few role models for appropriate parenting.[1] As a mother she struggled with alcohol and substance abuse, homelessness and domestic violence which seriously affected her ability to take care of her children. Care of her daughters was provided by extended family, but her two sons initially remained in her care. Due to her own troubles during their infancy they were often homeless and in abusive or neglectful environments.

The first report of a problem for Ethan, recorded by the Department, was when he was 7 weeks old and his mother applied to the Department for emergency accommodation. Ethan had been discharged into her care on 22 November 1995 from hospital following an admission for a fractured skull. From that point in time, until Ethan was formally taken into care in October 1997, there are in excess of 20 incidents where Ethan required input from the Department due to his mother's absence, his care by substance affected strangers, failure to thrive concerns, or police concerns with

[1] Ex 4, Tab 1, Attach 1A

respect to his mother's intoxication, imprisonment or domestic situation.

Towards the later part of 1997 Ethan's mother herself was wanting care for Ethan because she recognised she was not in a position to provide him with appropriate care.

Ethan's being taken into care was precipitated in October 1997 by the Aboriginal Legal Service (ALS) contacting the Department's Crisis Care Unit (CCU) because his mother was in custody and no family member could be found to care for Ethan. An application for his care and protection was made on 21 October 1997 and on 6 January 1998 Ethan was placed into the care of the Department until he was 5 years of age on 5 October 2000.

Ethan was placed in Djooraminda, a cottage style care facility, and supported by the Department's Cannington Office. The initial case conference notes, held on 13 August 1998, record a plan to attempt to find a placement for Ethan which was either with his extended family, or was culturally appropriate. Neither Ethan's mother nor father were present, but plans included follow up with both sides of his family for placement options.

Once Ethan's mother was relocated, contact was provided with her, and on the occasions on which it occurred, it appeared to be positive. By the time of the next annual case

review Ethan's mother could again no longer be located, and no suitable family placement had been found on either side of his family. An alternative, culturally appropriate placement was sought for Ethan.

Ethan was now 4 years of age and had effectively received no stable parental input, other than as provided in the cottage home environment, following over two years of a very disrupted and dislocated infancy.

ETHAN'S FOSTER PLACEMENT

Karl and Pamela Walsh first became aware of Ethan's circumstances in December 1999. They had care of a young relative previously[2] and believed they were in a position to provide a child, like Ethan, with a secure and safe environment in which to grow. This occurred in March 2000.

Mr Walsh had a military and police background, while his wife was aboriginal with a Nyoongar/Yamatji background. With Ethan's background being predominantly Nyoongar, and Mrs Walsh's involvement with the Nyoongar Community, the placement seemed suitable for Ethan's appropriate care. All the information available confirms this was the case.

[2] t 10.09.14, p31-32

Despite the fact Mr Walsh had a more disciplined approach to child rearing than his wife, it is clear the combination of those two parenting styles provided Ethan with a loving, caring, protected environment. It was an environment in which he understood the boundaries of acceptable behaviour in that family.

The Walshs facilitated contact with Ethan's biological family whenever they were able, and it was appropriate for it to occur.

Ethan's health and general well-being improved and settled and in May 2000 the Walshs were able to provide short term care for other vulnerable children without it appearing to affect Ethan's development or his relationship with his foster parents. By August 2000 the plan was to extend Ethan's care placement via court order for another two years, with continued access to his biological family where it was beneficial to Ethan.

Ultimately Ethan's care order was extended for three years to the 4th of October 2003 when Ethan would be 8 years of age, and his case was transferred from Cannington to Northam to accommodate the Walshs proposed residence in Toodyay.

Ethan appeared to have a strong bond with his half-brother who was exhibiting behavioural problems, and it was

considered more involvement with the Walshs may well encourage improvements in his sibling's behaviour. Ethan's half-brother stayed with the Walshs on occasion to facilitate his relationship with Ethan.

In November 2000 Ethan's biological father asked for contact with Ethan. He was advised this would need careful progression and indirect contact was initially provided.

The fact the Walshs were successful with the placement of other short term children in their care, and Ethan had responded positively, was considered an indication it might be advantageous to place his half-brother with the Walshs. This occurred in February 2001 when Ethan was 5 ½ and his half-brother 12 years of age.

During his placement with the Walshs it became evident Ethan's half-brother had issues from his prior placements which impacted in a negative way upon Ethan's progress. While some of these issues were managed well, and gave Ethan's half-brother a sense of place, overall the impact on Ethan remained negative and ultimately his half-brother did not remain in the Walshs' care. Some of the behaviours had been abusive[3] which greatly concerned Ethan's foster parents.

[3] t 11.09.14, p131

They maintained they could not manage Ethan's half-brother without negative effect on Ethan, which they were not prepared to sustain. Ethan's half-brother did not return following a period of absence and Ethan's progress improved. The fact the issue was dealt with was a positive response for Ethan's ongoing care and development.

In February 2002 Ethan was referred for tutoring through the aboriginal assistance scheme to facilitate his ongoing education. He made significant progress.[4]

Contact with his biological family continued where considered appropriate and circumstances permitted.

In the later part of 2003 plans were directed towards Ethan's ongoing placement with the Walshs for an additional 5 years until he was 13 years of age.

In 2005 Ethan was assessed by a child psychiatrist, Dr Margaret Doherty, due to his disrupted sleep patterns. Dr Doherty described Ethan as considering himself to be a happy child, who enjoyed school and had many friends, but she noted he was unsettled by his perception his biological father, with whom he was engaging in some limited contact, would come and take him away from his foster home.[5]

[4] Ex 4, Tab 1, Attach A20, 21, 22
[5] Ex 4, Tab 1, Attach 23

It was considered by Dr Doherty that Ethan's foster bonds should be given primacy over his biological bonds at that time to encourage his ongoing stable development. His experiences as an infant and earlier abuse were all factors impacting on his appropriate development which needed to be supported.

Dr Doherty prescribed melatonin to assist with Ethan's sleep and his foster parents provided it as an over-counter medication on Dr Doherty's advice.

Ultimately Ethan's ward ship was extended to October 2013 when he would have turned 18. It was intended he have continued contact with his biological family in ways which would not jeopardise his development. It was Ethan's wish to remain in his foster placement, but with contact with his biological family at his instigation. His foster parents supported Ethan in this when it was not seen as an impediment to his ongoing progress.

Ethan was provided with ongoing educational support when he needed it, and arrangements were made for alternative inputs where necessary.

As he entered adolescence Ethan experienced normal teenage dissatisfaction with restrictions placed on his behaviour. In addition, he experienced some racism and bullying which was initially not dealt with well by his

school.[6] These incidents were addressed by the Walshs when aware of them and did not leave Ethan feeling he was abandoned or not supported in his decision making.[7]

Overall, Ethan appears to have been quite resilient to these problems in view of his difficult infancy. He changed schools from Toodyay DHS to St Josephs College in response to the Walshs' perception he was not being appropriately supported by his previous school. While there were still incidents of racism and bullying at his new school the Walshs felt these were dealt with in ways that were appropriate and assisted Ethan's sense of self-esteem.

Nevertheless, Ethan's resistance to the boundaries imposed by his placement caused friction between the Walshs themselves. His departmental case worker believed the family would be well served by the addition of a mentor to the dynamic to engage with Ethan, and mediate between Ethan and his foster parents over their difficulties with allowing him additional freedoms to advance in more personal ways (adolescent individuation process).[8]

In the circumstances of a foster placement the difficulties of normal adolescent boundary challenging can seem to be of overwhelming significance to the placement, as opposed to normal adolescent developmental behaviours. In suitable

[6] t 10.09.14, p50
[7] t 10.09.14, p93
[8] t 11.09.14, p127

situations the Department provides foster children with mentors where they believe it will assist the dynamics of a productive and beneficial placement.

Following Ethan's transfer to St Joseph's College issues with bullying were dealt with more openly and consistently and did not appear to remain an issue for Ethan who advised his foster father these things were more *"their problem"* than his.[9]

Overall Ethan's progress through his adolescence was progressing well with adjustments made to assist him in areas of difficulty. He responded very well to his mentor who helped him develop his musical abilities to the extent of cutting a disc. His sporting achievements were significant and he was expecting to attend Aquinas College in the 2012/2013 school year about which he was excited. His foster parents were very proud of him and Ethan expressed love for his foster parents despite the boundary challenging. He had a close circle of friends and was popular and well like in his community.

Ethan had contact with his biological family when he wished, and both his biological mother and father were involved in his later care plans, with his biological father being accepting of the fact his contact with Ethan needed to be in a way with which Ethan felt comfortable. On

[9] t 10.09.14, pg93

understanding how his earlier concern for Ethan had frightened Ethan, his biological father appropriately left the form future contact would take up to Ethan, once his biological father was more accessible.

EVENTS PRECEDING DEATH

Saturday 13 November 2010 had been a good day for Ethan due to his participation in a baseball game which he stated was *"exhilarating"*.[10] He had spent the day with his foster parents and a close friend.

Unfortunately, the evening was marred slightly due to a long standing dispute over Ethan's selection of an MA15+ movie, of which he knew his foster mother would not approve. The matter was resolved and was a typical example of a teenager "pushing the boundaries" of an appropriate house rule. Ethan retreated to his room but made forays into the kitchen for food without further upset.

Sunday 14 November 2010

The following Sunday morning the whole family awoke and went to church. Ethan's interactions with his foster mother, Mrs Walsh, were relaxed and affectionate and he asked if he could walk home from church which he did, and frequently did. The intention was for Ethan and his foster

[10] Ex 1, Tab 7

father to work together in the afternoon on a new floor for the pantry.

Ethan arrived home from church before his foster parents and there was a minor dispute over how he had entered the house. As a result Mr Walsh decided not to do the floor of the pantry and both the Walshs agreed Ethan could go to visit his friends, two brothers who lived close by. Ethan was asked by Mrs Walsh to let her know if he intended going anywhere other than his friends' home. This was at around lunch time.

The evidence of Ethan's friends is they met up and then went into town where Ethan and his friends moved around and generally *"hung out"* as a group, with other teenagers coming and going. During the afternoon Ethan's girlfriend also joined the group and they spent part of the afternoon at a park talking and socialising. They also visited a barbeque.

Both Ethan's friends, and his girlfriend related later they believed Ethan to have been in a happy, sociable mood. As far as they were concerned there was little of concern to Ethan at that point.[11] When Ethan and his girlfriend said goodbye to one another they made an arrangement to communicate on Facebook that evening.

[11] Ex 1, Tabs, 10, 11 & 12

At some time around 6 o'clock that evening Mrs Walsh rang Ethan's friends' mother to ask if Ethan was still there. When Mrs Walsh discovered the boys had gone elsewhere without letting her know, she advised his friends' mother the boys had been up to mischief by going out at night when on sleepovers. Between them the two mothers discussed ways of reprimanding the boys to prevent future repeat episodes. They were concerned the boys may become involved with other teenagers and some questionable behaviours reported about town.

On her boys returning home with Ethan, their mother spoke to Ethan. She said she was unhappy she was having to repeat a prior conversation, but because of continued incidents of the boys slipping out at night on sleepovers she was not prepared to allow her boys continued contact overnight. Ethan apologised and left to return home. He was said to seem sad and disappointed at that time.[12]

On arriving home Ethan had a talk to Mrs Walsh about the events and appeared to think the intention was for Ethan not to be involved with his friends at all anymore. Mrs Walsh and Ethan also had a conversation about his girlfriend and the fact Mrs Walsh was concerned about the fact of the relationship while Ethan and his girlfriend were both so young.

[12] Ex 1, Tab 9

Ethan reacted by blaming himself for making wrong or bad decisions. He went into his room and Mrs Walsh could hear him remonstrating with himself to the extent she asked him to be careful of himself and the furniture. She believed he needed space in which to calm down, and so left him alone in his room for a while. The evidence is Ethan was disappointed with himself, rather than being concerned by the behaviour of others. Ethan's friends saw the incident as being an example of the mothers attempting to scare the boys into appropriate behaviour. They were not as concerned as Ethan appeared to be about any discontinuation of their friendship.[13]

Sometime later Mrs Walsh decided to make hamburgers for tea and went to ask Ethan how many he wanted. At that stage she went into his room but he wasn't there and the fan had been knocked over. Mrs Walsh looked through the house to see if she could find Ethan and called out that tea was ready, but she did not receive a response.

Initially, the Walshs were not concerned at Ethan's absence because on previous occasions when he had been angry he would go for a run around the oval to get it out of his system. They assumed this was a similar situation. He had also disappeared for periods of time before but always returned home. They commenced to wait for Ethan but he still did not return and they became worried.

[13] Ex 1, Tab 12

Ethan's girlfriend went onto Facebook at approximately 8 o'clock that evening but could not raise any response from Ethan.

The Walshs rang the Police later in the evening and advised them of Ethan's absence. They also contacted the Department's CCU to advise them Ethan was missing. They were still not overly concerned due to there having been prior occasions on which Ethan had needed to let off steam, and they had allowed him to do so. Mr Walsh was able to go to bed, however Mrs Walsh was concerned and remained awake all night.

The following morning the Walshs were still unable to locate Ethan and communicated a missing person report to the Department via CCU. They also contacted his case worker. The Walshs generally contacted people around town in an attempt to locate Ethan. The police made enquiries with friends of Ethan's who were not present in town but nobody was able to contact him.

LOCATION OF ETHAN

At about 2pm on Monday 15 November 2010 the Walshs were at home when Mr Walsh went out to the back garden to do some watering. He hoped this would distract him while he waited for some news. Mr Walsh walked up some

steps in the back garden towards some of the trees at the back of the property.

Mr Walsh located Ethan in a tree behind the shed, hanging by his neck from the tree by an electrical extension cord, the police later believed may have come from the fan in the bedroom. Mr Walsh checked Ethan but understood he was deceased and there was nothing he could do for him due to the extent of rigor mortis.

Mr Walsh contacted the police and called for an ambulance to attend.

Those services confirmed Ethan was dead.

POST MORTEM REPORT

The post mortem examination of Ethan was performed on 18 November 2010 by Dr Judith McCreath of the PathWest Centre. Dr McCreath was satisfied his death was caused by ligature compression of the neck. There were no injuries or marks on Ethan which would suggest anybody else had been involved.

Toxicology showed no evidence of drugs or alcohol.

THE EVIDENCE OF MR LINDSAY AND DR SPENCER

The inquest heard evidence from Mr Gary Lindsay, Senior Consultant Psychologist with the Department; and from Dr Jillian Spencer, a Child and Adolescent Forensic Psychiatrist with the Forensic Adolescent Mental Health and Alcohol, Tobacco and other drugs Program, located in Queensland.

Mr Gary Lindsay

Mr Lindsay was asked to provide the court with some insight into the science with respect to brain development and how it is believed brain development is affected by the experiences a developing brain responds to during development.[14]

He explained that brain growth begins shortly after conception. Certain cells respond to chemical signals and so evolve in specific ways. Development occurs hierarchically from the base of the spinal column outwards, initially by the formation of the brain stem, followed by the development of the middle section of the brain, the limbic system, and finally the outer section of the brain, the cortex. While still in utero, the spinal cord and brain stem are well developed and are capable of maintaining the basic bodily functions for sustaining life, such as; heart rate, blood pressure, breathing, sucking and swallowing. The limbic

[14] Ex 4, Tab 3

system and the outer cortex are less well developed initially, but by the time of birth have developed and become responsible for emotions (limbic) and thinking (outer cortex).

Mr Lindsay pointed out maternal use of toxic substances and maternal stress during pregnancy can cause harm to foetal brain development in utero. Excessive amounts of maternal stress hormones during pregnancy has been associated with a later born infant's vulnerability to stress and a reduced capacity to regulate its own stress responses.

Following birth an infant's brain continues to develop and specialise in the areas of the limbic system and cortex. The process of brain growth once born is highly dependent upon an infant's environment and a predominately conducive environment will result in regulated and synchronised brain development, while a stressful living environment can result in dysregulated and asynchronous brain development. This results in disorganised and abnormal growth. As a consequence a stressful living environment places an infant at significant risk of a range of difficulties in later life, including diminished self-worth, difficulty with emotional regulation, difficulty with impulse and behaviour control, reduced cognitive and problem solving capacity and resulting relationship problems. All these difficulties place an infant at a greater risk of adverse life outcomes, including suicide.

Infants and children have usually been placed in a care or foster situation as a result of having experienced adverse environments while in infancy. Unfortunately, the very factors responsible for placing a child in care indicate there is always a risk of adverse life interactions unless some of those developmental difficulties can be reversed, or at the very least counteracted with enough positive interactions to overcome damage, and ultimately forge alternative developmental pathways within the further developing brain.

One of the most critical factors to affect the infant's development is the quality of the environment, including the interaction of the infant with its critical care giver. The infant care giver attachment is a critical neurobiological determinant of the subsequent child's self-perception, the capacity for emotion regulation, capacity for impulse and behaviour control, cognitive development and functioning within relationships.

An infant care giver who is predominately joyful in their interactions with their infant gives the infant a positive experience of self, while a care giver's experience with an infant that is predominately negative gives the infant a predominately negative experience of their self-perception. A predominately inattentive and deregulated care giver is unable to provide the co-regulation that promotes the neural sprouting and connections between the infant's

cortex and limbic systems. The infant does not develop appropriate neuronal pathways between the emotional and thinking parts of the brain for autonomous self-regulation. This renders the infant vulnerable later in life to frequent emotional outbursts and emotional reactivity which correspondingly affects the infant's ability to control impulsive behaviour.

Repeated exposure to maltreatment (including predominantly negative as opposed to predominantly positive responses) during childhood is known as cumulative harm. Bad interpersonal relationships between children and their primary care givers can disorganise and compromise the neurological growth and development of affected children. This results in common forms of psychopathology, with these children remaining an extremely vulnerable population, neurologically ill equipped to manage daily life stresses and demands. Without significant immediate intervention recipients of cumulative harm remain at high risk of attempted and completed suicide.

Mr Lindsay advised the court there is an expanding body of research which suggests that cumulative harm in early childhood not only disorganises neural growth and spread, but causes strong consolidation of neural pathways associated with a flight/flight or fear response. Also, that chronically high levels of stress hormones in the infant

brain leads to permanent increases in the child's stress hormone production. All these factors predispose a child to hypervigilance, hyperarousal, impulsivity and poor behaviour control. All these factors are extremely relevant when considering the child's later learning and educational experiences.

Cumulative harm, depending on its type and frequency, has been shown to affect a child's cognitive development and impede higher levels of thinking. It also affects the capacity of those children to develop and sustain healthy relationships with other people. It produces black and white or rigid thinking and can lead to a tendency to conceptualise relationships as hierarchical rather than reciprocal. This has a tendency for those individuals to preferentially select hierarchical relationship dynamics comprising of dominance and submission, thus increasing the capacity for future relationships to reflect past abusive experiences.

Overall, as a result of their compromised brain development recipients of cumulative harm are neurologically less equipped to manage daily lifes' stressors and demands. They require ameliorative intervention which seeks to firstly correct harm and then foster new behaviours. There is a powerful relationship between cumulative harm and negative health outcomes throughout a person's life,

including substance abuse, depressive disorders and attempted and successful suicide.

Dr Jillian Spencer[15]

The inquest sought a posthumous psychiatric report from, and heard the evidence of, Dr Jillian Spencer, following her review of Ethan's case notes for the Department and the extensive evidence collected for the police investigation.

Dr Spencer noted Ethan's early infancy, which included selective mutism, while in the care of his biological family until two years of age. Ethan was then placed in a group home, and was not able to be permanently placed until the Walshs became his foster parents, when he was over four years of age.

It was Dr Spender's view Ethan would have suffered frontal executive system difficulties[16] as a result of being in an abusive and neglectful environment at critical times in his brain's development. Ethan should have been removed from that environment as soon as authorities were aware of the serious outcomes for Ethan of that environment. In Ethan's case that was at seven weeks of age when there was a continuation of an inability to properly care for Ethan following his hospitalisation for a fractured skull.

[15] Ex 4, Tab 4
[16] t 11.9.14 p126

The difficulties for Ethan in early infancy continued as a consequence of his environment and lack of appropriate responsive care during his early development, and later in a group home environment.

Dr Spencer saw the placement of Ethan with the Walshs as foster parents as a very appropriate placement where Ethan was loved, supported, involved and encouraged to engage in many confidence building pursuits from education through sporting and spiritual activities. The fact they had firm boundaries also assisted Ethan in developing a strong set of values for his identity and self-worth.

Dr Spencer considered the continued placement of Ethan's older half-brother with the Walshs, once Ethan expressed his discomfort was an error on the part of the Department. It gave his half-brother primacy in care which was not fair on Ethan, even though the intention was for both children to improve their behaviours with strong familial bonding. Ethan was too vulnerable at that stage of his development, on top of his prior delayed functioning, to transcend the additional stress that relationship placed on his development. Ethan, overall, managed to do very well with the Walshs care and seems to have been relatively resilient in the long term to that earlier damage. It was a very positive placement. However, the residual effects would still have been there when he reached adolescence, in itself a

time of great change on many levels, social, psychological and biological for the brain.

Dr Spencer pointed out Ethan was very connected with his friends, as was appropriate in adolescence, and was pushing boundaries in his home as part of the adolescent individuation process. Adolescence is a time when people are trying to find their place in the world and struggling to separate from their family of origin (in this case the Walshs) in terms of identity and relationships. Their friendships become very important as part of a stepping away from family as their sole identity.

As a result Dr Spencer considered that at the time of his death Ethan was *"subject to normative adolescent brain changes which can cause poor decision making in an emotional context"*.[17]

In addition, Ethan, *"likely suffered a higher degree of impulsivity and poorer problem solving derived from his cognitive and frontal executive system deficits due to his prolonged exposure to abuse and neglect as an infant. Ethan had experienced multiple losses which may have led him to forming an underlying idea that loss is generally permanent and difficult to repair. He may have had underlying fear that he was to blame for the bad experiences he suffered from his biological family. Such underlying issues were possibly*

[17] t 11.09.14, p128

reactivated when he perceived that he would no longer be allowed to see his friends due to having led them astray by encouraging them to sneak out at night. Feeling strong feelings of loss, shame and anger, mainly at himself, he was unable to reason that it was unlikely that his friends' mother would really have kept the friends apart for long and that there would be no long term consequences for his mistake. Unfortunately he was unable to come to the same reasonable conclusion as his friend that their parents were trying to scare them into doing the right thing. Suicidal ideation and suicidal attempts are not unusual amongst adolescents, especially in response to experiences of loss, failure or shame. Such attempts can occur in adolescents who have not had a history of abuse before foster care. Unfortunately Ethan selected a highly lethal means of suicide, sadly he did not have the opportunity to learn that loss is not always enduring, that feelings of shame will pass and that he had the ongoing support and love of the community around him".[18]

Dr Spencer believed her clinical impression was that any child which had a history of disadvantage is at an increased vulnerability to suicidal ideation and completed suicide.

The advantages to an adolescent in Ethan's situation with the appropriate boundaries set in place by the Walshs were they communicated to him that he was cared for, and that

[18] t 11.9.14 p128

he had a safe and predictable home to which he could return on the occasions he stepped outside the boundaries. It was part of *"stepping away from his family of origin"*. It was irrelevant an adolescent disliked the boundaries, the importance was of the boundaries and understanding the care concept.

Dr Spencer considered Ethan was given an appropriate degree of personal freedom by his foster parents and that when his behaviours were considered inappropriate it was discussed and explained. This gave Ethan a sense of worth and potential.

Ideally, Dr Spencer believed Ethan should have been removed from his biological family earlier, and placed into safe foster care, such as that provided by the Walshs, immediately.

His placement in a group home was a better option for him than remaining with his biological family, however, it was not ideal for his appropriate brain development, and should have occurred long before he was two years of age. It should also have been a permanent placement to allow feelings of security and safety to develop during early brain development.

Dr Spencer indicated safe placements were important for children but were really vital for infants under two years of

age, who needed to have relationships that were close and nurturing and highly interactive. An infant needs to be directly and appropriately responded to, for optimal brain development in the frontal executive system and cognition.

Dr Spencer referred to the Bucharest Early Intervention Project, reported in 2010, where infants had been placed in foster care or continued institutional care. The study followed the children's cognitive development through to 54 months of age and found the institutionalised children's intellect and physical development was markedly delayed compared to never institutionalised children. The cognitive outcome for children placed into foster care at different ages concluded that in terms of intelligence and development the younger a child is placed into safe foster care the better the outcome for the child.[19]

Dr Spencer indicated placing deprived children into foster care may not be sufficient if the foster placement is not able to provide the level of nurturing, responsive and reliable relationships, required to support cognitive and emotional development. This may not be the fault of the foster placement but can be a combination of factors including the child's level of developmental deficit.

It is for this reason most agencies dealing with children requiring care now have training units designed to assist

[19] t 11.09.14 p133

foster parents understand 'loving and caring' may mean different things. A child who has been deprived of a responsive environment may well need cognitive input to undo the damage, and allow new pathways supportive of the infant's self-worth to be put in place. The intention of the programs is to assist foster parents to respond sensitively, follow the child's lead and to respond consistently and continually to positive and negative behaviours.

Dr Spencer provided the court with a paper produced by Harvard University which outlined the effects of different types and lengths of unresponsive care on a developing child and some methods for attempting to reverse damage and build better pathways.[20] This sort of data, and implications for a developing infant's needs were not generally understood at the time Ethan was originally removed from his biological family. As a result of these studies there are three main programs which have been developed to assist authorities assist infants requiring foster care.

Dr Spencer was also asked to comment on a concern for the Department that Ethan had been given melatonin. Essentially, Dr Spencer was not concerned with the provision of melatonin to Ethan, other than a consideration the amounts with which he was eventually provided, as

[20] Centre on The Developing Child Harvard University National Scientific Council on The Developing Child, The Science of Neglect: The Persistent Absence of Responsive Care Disrupts the Developing Brain. Working Paper 12 December 2012

opposed prescribed, may have been too high, and caused him some sedation during the day which may have affected his receptiveness to learning. She agreed there is no evidence she is aware of that melatonin affects the fertility of the recipient, and it is generally considered to be safe with few adverse side effects. The fact Ethan reportedly derived benefit from the melatonin due to his sleep difficulties was significant. It may have warranted further input from his treating doctor at that time.

Overall, Dr Spencer thought the issues surrounding Ethan's death related to his adolescent boundary challenging behaviours, superimposed on his vulnerable personality. She did not view with concern his foster placement at the time of his death. The issues were all entirely natural, and the boundaries appropriate, and Ethan's pushing against those boundaries also appropriate. Unfortunately, the method Ethan chose to end his life was very rapid and one which, even most adults, don't understand becomes irreversible, very quickly.

CONCLUSION AS TO THE DEATH OF ETHAN

I am satisfied Ethan was a 15 year old adolescent aboriginal boy who had suffered an early infancy of neglect, in that he was deprived of appropriate responsive care during crucial times for the development of his frontal executive brain functions. The experiences he suffered during infancy

would have elevated his arousal and irritability response to stressful situations and given him much lesser tolerance and impulse control to develop resilience to life's normal stressors.

Whilst Ethan's need for a safe environment was eventually appropriately recognised, an appropriately responsive care environment could not be provided to Ethan immediately. It was not until he was four years of age he moved from not being 'just safe', but also individually loved, nurtured and responded to.

I fully accept the knowledge and science which has been forthcoming in the last decade was not as well understood at the time Ethan was, firstly, removed from his biological family, and later placed in the care of the Walshs.

In view of the fact the Walshs understood nothing about the bio physiological effects of an adverse environment on a developing infant's brain, they did extremely well in providing Ethan with the support and input necessary to attempt to ameliorate some of his expected vulnerabilities.

The Walshs, as Ethan's foster parents, gave Ethan strong boundaries, gave him a strong idea of his self-worth and encouraged his appropriate development, including facilitating his contact with his biological family, in ways it was hoped would not be damaging.

The Walshs attempted to remove the, later understood, damaging effects from those contacts by allowing Ethan to control those contacts. They certainly ultimately put Ethan's welfare above other considerations.

I accept Ethan would have been especially vulnerable to bullying, racism, and other life stressors due to his difficult development. However, the overall impression is Ethan ultimately dealt very well with those situations because he was supported by the Walshs and he understood the boundaries they placed around him, even if he found them frustrating as a teenager. As a result Ethan was able to approach adolescence in a relatively normal way, and experienced stressors in the way many adolescents do. This would always be superimposed on a rather more vulnerable base line.

In the year before his death Ethan had started challenging those boundaries and there had been some discord with his foster parents. They, like most parents, found it difficult to deal with the discord. They put strategies in place in an attempt to deal with his rebellion and on the whole these were working but led to normal conflict. Largely, a number of the issues were resolved or ameliorated by the continued support the Walshs provided, with the help of the Department, in supporting his musical and sporting abilities.

Around the time of his death his musical and sporting abilities were coming to the fore. It is clear Ethan was actually enjoying positive outcomes for his efforts. I speculate, as a result of his experiencing such positive outcomes, he was particularly disappointed with himself over the incidents on the day of his death, which led him to be concerned he would not be allowed to mix with his friends. The importance of friends to adolescents was outlined by Dr Spencer. The fact it was Ethan's perception of the situation, rather than that perceived by both the Walshs, his friends' mother, and even his friends, is probably due to his vulnerability in those areas. No one had done anything inappropriate to normal boundary setting.

Pointing out to Ethan he needed to make appropriate decisions and that he could be trusted to try and do so was positive support. It is one of the difficulties many parents face with adolescent children, the wish to protect them and nurture them, against the acceptance they must step out for themselves and indulge in risk taking behaviour in order to learn how to protect themselves.

Unfortunately, in his impulsivity, Ethan made a wrong decision. The fact that it was wrong is quite clear from the reports by all his friends who considered him to be a happy, well liked and popular teenager, with possibly a few mood

swings, who was successful in many areas to which he applied himself. His potential was enormous.

I am satisfied Ethan impulsively made a bad decision in response to his concern about earlier wrong decision making. He did not fully think through the consequences of his hasty actions. In his frustration he suspended himself from a tree and died with the intention of taking his life, some time on the evening of 14 November 2010.

I find death arose by way of Suicide.

COMMENTS ON THE SUPERVISION, TREATMENT AND CARE OF ETHAN AS A WARD OF THE STATE

The Department accepts, that with the current state of knowledge of the effects of a non-responsive relationship on the infant brain, ideally, a child like Ethan, would have been removed from an unsafe environment immediately it was perceived it was unsafe and continuing to be unsafe.

Unfortunately, that is not the end of the matter for the Department because the Department is then faced with the difficulty of finding appropriate safe and responsive care for it's infant children. It is required to do so by legislation, but the practicalities of safe, appropriate and responsive care, are daunting.

It was very obvious during the course of this inquest that what is appropriate care for an infant involves much more than just a loving environment. It must be loving, nurturing and responsive.

The Department is not in an ideal situation to be able to provide that type of care to the numbers of children who require their protection. Nevertheless, they are charged with that duty on behalf of the community and, with the advent of more understanding, the Department is seeking expert input to formulate programs and modules for the training of those prepared to be foster parents for these extremely vulnerable children.

With the eventual placement of Ethan with the Walshs he was provided with a safe, protective, loving and supportive environment. It is a tragedy for everybody concerned with Ethan's care that, despite the Walshs' love and care for Ethan, and his obvious love and respect for them, he was unable to control his impulsive response to a perceived loss of friendship.

I am satisfied the Department, through the Walshs provided Ethan with the best possible supervision, treatment and care, despite which he died by way of suicide.

I accept that at the time the Walshs became foster carers for Ethan there was not the understanding, and therefore not

the training available, for carers to help them with the difficulties of parenting vulnerable children. Mr Walsh said they had received no training at the times they offered to foster children, and at times felt they were not supported by the Department.

While I can understand foster carer distress with a lack of resourcing for optional departmental input; overall, I accept the case workers' involvement with Ethan, especially as he became a teenager, were very focused on trying to support both the Walshs and Ethan from their perspective. Educational and mentoring supports were provided and attempts made to support the parental role, even when there may have been a difference in opinion as to "suitable" boundaries.

In hindsight, the issue with the provision of melatonin to Ethan could have been resolved before he died with additional input from Dr Doherty as to appropriate dosages. I am satisfied Ethan's case worker did have concerns from a health perspective she attempted to clarify, and her objective was Ethan's future welfare, not a lack of support to his foster parents.

I am satisfied foster parents now have a range of training modules available to assist them with the daunting prospect of caring for children, vulnerable enough to require care in the first place. It seems there are more and more children

needing care and good foster parents are of huge value to the community as a whole. There are cycles of neglect which need to be addressed at a community level.

I would like to note the police investigation report into Ethan's death was exceptional, with a clear understanding the matter would be required to go to inquest due to the circumstances of Ethan's wardship.

I do not intend to make any recommendations at this stage on the understanding the information with respect to the nurturing of abused children and their later appropriate care during development is a fairly new area of endeavour, and there are not always the resources to provide the perfect care for the many children who need it.

I can only hope the Department continues to be aware of advances in child development, and the need for all those involved in care to fully understand the complexities surrounding the placement of children which the Department has a duty to protect on behalf of the community.

E F VICKER
DEPUTY STATE CORONER
October 2014