



Western

Australia

RECORD OF INVESTIGATION INTO DEATH

Ref No: 26/13

I, Alastair Neil Hope, State Coroner, having investigated the death of Sean Gordan Peter MURPHY, with an Inquest held at Perth Coroners Court on 17-21 June 2013 find that the identity of the deceased person was Sean Gordan Peter MURPHY and that death occurred on 20 September 2010 at 17 Harwood Street Hilton as a result of entrapment in an airtight environment in the following circumstances -

Counsel Appearing :

Ms Emily Winborne Counsel Assisting for the State Coroner
Gail Archer SC (Sarah Harrison instructed) King & Wood Mallesons appearing on behalf of LG Electronics Australia Pty Ltd (LGH)
Mr Anthony Elliott (Shadgett Legal) appearing on behalf of Ms Kerry Murphy
Mr Tom Martin (Norton Rose) appearing on behalf of Australian Competition and Consumer Commission
Ms Clarie Lakewood (State Solicitor's Office) appearing on behalf of the Department of Child Protection

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INTRODUCTION

Sean Gordan Peter MURPHY (Sean) was a three year old boy, born on 9 March 2007, who died on 20 September 2010.

Sean was the only child to Kerry Louise Murphy and at the time of his death they resided in a Homeswest rental property situated at 17 Harwood Street, Hilton, Western Australia. They lived at that address with Kerry’s then fiancé, Craig Thomas Sheppard.

At about 1.47pm on 20 September 2010 Ms Murphy rang 000 and asked for an ambulance to attend at her home. She stated “My three year old climbed into the washing machine and he – I think he’s dead”.¹

¹ Transcript of 000 call, Ext 1, Volume 1 tab 9



The St John Ambulance operator who answered the call gave Ms Murphy instructions as to how to perform cardiopulmonary resuscitation which she commenced pending the arrival of an ambulance at the house.

During the call Ms Murphy advised that there had also been a cat located in the washing machine and told the ambulance drivers as follows:

He's (indistinct) he's killed the cat too, the cat was in there with him. I don't give a shit about that. It was fucking big though, he - I just want my son back. ²

Later during the call Ms Murphy gave the following account:

I don't know how long he's been dead for. He's gone. I can't believe he shut the door himself and locked himself in. It was very hot in there, Mariana. It was so hot in there. ³

Ambulance officers immediately went to the scene. According to Paramedic Natalie Collis, they received the call at 1.48pm to attend 17 Harwood Street, Hilton. They were advised, "Three year old, unconscious, not breathing, CPR in progress, patient was found in washing machine".⁴

The ambulance arrived at the scene at 1.55pm and a second ambulance arrived shortly afterwards.

At the scene the ambulance officers saw the deceased lying on the front lounge room floor. He was only wearing a

² Transcript of 000 call, Ext 1, Volume 1 tab 9

³ Transcript of 000 call, Vol 1 tab 9

⁴ Vol 1 tab 12, para 5



white singlet. Also at the scene was a neighbour, Narayani Palmer. Ms Palmer had been asked to help by Ms Murphy a short time earlier.

When the ambulance officers arrived they applied cardiopulmonary resuscitation although it appeared that Sean was already deceased.

The first ambulance officers at the scene were Natalie Collis and Melanie Boxtel. They were joined shortly afterwards by ambulance officers Brian Fitzgerald and Arthur Henry.

While the ambulance officers were getting prepared to defibrillate Sean Ms Murphy said, “I’m so sorry, baby. I’m so sorry baby.” She also said, “I didn’t mean this to happen.”⁵

When Ms Boxtel tried to calm her Ms Murphy said, “I killed my baby, I know I did.”⁶

While efforts were made to resuscitate him I am satisfied that the deceased was already dead on the arrival of the ambulance officers. His skin was cold to touch, his pupils were dilated and non-reactive and all of the ambulance officers were confident that he had already died. It appeared, however, that he had died very shortly before

⁵ Statement of Natalie Collis, Vol 1 tab 12, paras 24,25

⁶ Supra, para 26



their arrival. The ambulance officers particularly noted that there was no blood pooling evident.

Following a death, when the circulation ceases, blood pools as a result of gravity. This pooling would be expected to be seen shortly after death.

Ms Boxtel believed that the deceased appeared to have been “down” for a little while. By this she meant that he appeared not to have been breathing for some time.

The ambulance officers observed that Sean appeared to have small circular markings on his head. Based on the results of later examinations, these appear to have been caused by the washing machine.

Ambulance officers continued with cardiopulmonary resuscitation and subsequently conveyed Sean to Fremantle Hospital. While conveying Sean to the hospital he showed no signs of life. At 2.09pm they arrived at Fremantle Hospital and Sean was handed over to Dr Anthony Mattick.

At the hospital Sean was intubated and given cardiac drugs and cardiopulmonary resuscitation was continued. There was no response to the resuscitation efforts and cardiopulmonary resuscitation was stopped. Death was certified at 2.34pm.



At the time of the resuscitation efforts Dr Mattick noted that there appeared to be stippled dimple markings on Sean's right forehead and a footprint marking on his right shin area. There also appeared to be some bruising to his lower back.

There were a number of aspects of the case which caused the ambulance officers concerns including the fact that Ms Murphy did not wish to go to the hospital with them, although she was offered transportation in both of the ambulances.

According to the ambulance officers, mothers of seriously unwell children are usually most reluctant to leave their children and usually accompany the children to the Emergency Department.

At 2.22pm that day police officers responded to a call from the Police Operations Centre requesting that they attend at 17 Harwood Street, Hilton. They were advised that a young child had been found in a washing machine by the mother and that the mother was refusing to attend hospital with the child and was acting in a "very suspicious" manner.

The police officers secured the boundaries of the property with crime scene tape and explained the situation to Ms Murphy.



While they were at the scene Ms Murphy's sister, Lisa Murphy, arrived and told Ms Murphy not to talk to the police or to answer any questions until she had spoken to a lawyer.

At the scene First Class Constable Steven Newing overheard Ms Murphy making comments to the effect that, "I was asleep from the operation" and "I will never buy one of those fucking machines again". He heard her continue to say, "He's mischievous. He's always doing these things and getting into trouble." Constable Newing also heard her say words to the effect of, "He always wanted him dead and now he got what he always wanted".⁷

Another police officer at the scene, Constable Adam Clues, overheard Ms Murphy say words to the effect of, "It wasn't even my fault. I must have been asleep ... he does this all the time, he is a little troublemaker."⁸

Ms Murphy was detained at the scene by the police officers and was subsequently interviewed.

When police officers entered the house they found it dirty and in a grossly untidy condition with toys and clothing spread throughout the house. They found pet

⁷ Statement of Steven Robert Newing, Vol 1 tab 17 at paras 29, 30, 31.

⁸ Statement of Adam John Clues, Vol 1 tab 18 at para 59



faeces on the floor and there was an extremely strong smell of cigarette smoke.

Police identified the washing machine in which it was claimed Sean and the cat had been located. The deceased pet cat, “Snowy”, was found on the bed in the main bedroom. It was a full grown, though thin, animal.

Particularly significant in the context of what was said to have occurred was the fact that the washing machine/dryer was extremely small to have entirely held the child and cat.

This inquest was held to explore the circumstances of Sean’s death which appeared to have been most unusual and difficult to understand.

THE WASHING MACHINE/DRYER

The washing machine was a LG front-loading combination washer/dryer machine (the washing machine). The model number was WD1433RD. The machine had a wash capacity of seven kilograms and a dry capacity of four kilograms.

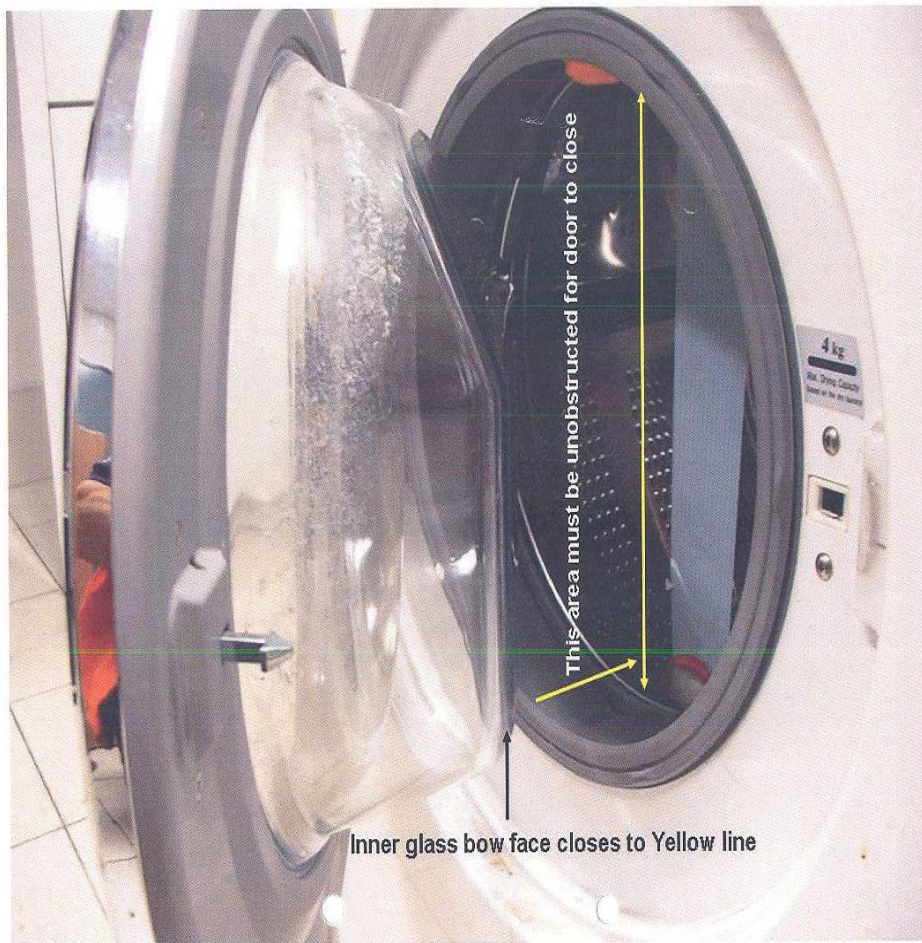


The machine had a door opening of 30cm (approximately 12 inches) and a drum size with a diameter of 48cm by about 30cm deep. The capacity of the model was 58 litres. There was an additional air cavity around the drum which was approximately two centimetres wide and which would result in approximately 14 additional litres of air being available within the drum.

Importantly inside the door was an inner glass bowl face which closed to the line of the drum.

⁹ Volume 1, tab 22





The above photograph shows the inner glass bowl face ¹⁰

Inside the drum there were three raised sections or “paddles” intended to create a tumbling action for clothes and to help with circulation of water within the drum. The paddles were raised from the level of the rest of the drum by almost 4 cm.

It was the view of representatives of LG that it was most unlikely that Sean could have climbed inside the washing machine and closed the door with himself and the

¹⁰ Email of Joe Cutrupi, Volume 2 tab 50



cat entirely within the area of the drum without outside assistance.

THE VIEWS OF THE WASHING MACHINE MANUFACTURER

Jong-Min Kim, Chief Research Engineer for the Washing Machine Standard and Product Liability Team at LG Electronics (LG) in Korea, provided a statement in which he advised that to close the door from within it would appear to have been necessary to rely on a “spring-back” action, which would result if the door was pushed open to its full extent so that it would bounce back with enough force to close.

It did not appear feasible that Sean could have pulled the door closed. The glass bowl was not easy to grasp because of its angular shape and finish, and it does not appear possible for Sean to have been able to grip the glass bowl with sufficient force to close it (even if there was not the additional problem of holding the cat).

Mr Kim advised that while it may be possible that the door could be closed by being pushed open from the inside of the machine using sufficient force for the spring-back action he did not consider that this was a realistic possibility in this case.

In Mr Kim’s view the amount of force necessary to close the door using the spring-back action would depend



on the angle of the application of the force, where the force was applied, how long the force was applied and how far open the door was prior to the force being applied. All of the above factors were clearly relevant in determining how much force would have been necessary to close the door by that method in this case.

Although police investigating the case formed the view that minimal pressure only was required to close the door from open using the spring-back action, experimentation and a demonstration in the courtroom revealed that even if the area of the door furthest from the hinge was hit with a force applied outwards from the washing machine, some force was required to cause the door to close.

Mr Kim advised that the speed at which the door would close through the spring-back action would depend on the force being applied on the door. In evidence, Joe Cutrupi, Technical Supervisor Whitegoods with LG, advised that in experiments it appeared that the spring-back effect could be achieved within about $\frac{1}{8}$ of a second.

Mr Kim expressed the following opinion in the context of this case:

I do not consider it possible for a 3 $\frac{1}{2}$ year old to close the door on himself by using his hands or feet from inside the washing machine for the spring-back action. The child's reaction time can be slower than the opening/closing movement of the door. If the child used his hands or feet to engage the spring-back action I do not believe it is very probable that he would be able to exert sufficient force to activate the spring-back action from the angle at which he would hit the door or that he



would have sufficient time to put his arms or legs back inside the machine before the door swings shut. It would be very difficult to do this holding his cat. ¹¹

If any part of Sean or the cat had been protruding into the area where the glass bowl would have to go for the door to shut, unless that part could be very easily pushed into the washing machine drum, the door would not close.

While it did appear that there were recorded accidents in Korea, two in 2008 and one in 2010, when children had died as a result of becoming trapped in LG front loading washing machines, the machines in those cases had a larger capacity and the children were older. In none of these cases was there any complicating factor such as the cat in this case.

Following the two deaths in 2008 in Korea, the Korean government introduced a new standard which applied to larger washing machines (with a 60 litre capacity or more) and required those machines to be able to be opened from the inside. There are no requirements for washing machines of the size of the one in this case to be able to be opened from the inside.

¹¹ Ext 17, para 4.7



POSSIBLE MECHANISMS FOR THE DECEASED AND THE CAT SNOWY BECOMING TRAPPED INSIDE THE WASHING MACHINE

An important question for the inquest was how a three and a half year old boy and a cat could have come to be inside a washing machine.

Ms Murphy in her various interviews with police asserted that the house was secure and it was only after Ms Murphy left the house, following removing the child and cat from the washing machine, that the dog escaped the house and so presumably no other person could have entered the house or played any part in what took place.

According to Ms Murphy at the time of the incident there could only have been herself, Sean, a middle sized active dog, “Simba”, and two cats in the house.

It appeared clear, therefore, that the only possible participants in the series of actions which resulted in the child and cat being within the washing machine were Sean, the dog and Ms Murphy.

It appeared that there were three possible explanations:

1. Sean entered the washing machine and unaided managed to close the door on himself and the cat.



2. The dog in the house closed the door to the washing machine at a time when Sean and the cat were both wholly inside it.
3. The mother of the deceased, Ms Murphy, was responsible for at least closing the door and possibly for also putting the child and/or the cat inside the washing machine first.

1. The deceased entered the washing machine and unaided closed the door on himself and the cat

(a) The Comparative sizes of Sean and the Washing Machine Drum

Sean weighed 15 kg and was 99cm tall. It was possible for him and the cat to fit within the drum of the washing machine. Important questions remaining, however, were whether it was likely that Sean voluntarily entered the drum and whether he was capable of doing the necessary acts to open the door and to subsequently close it with the cat and himself entirely within the washing machine unaided.



The above diagram taken from Exhibit 11 represents a child over one year but under four years of age. A circle has been placed over the diagram to approximately represent the inner measurements of the drum. This diagram, though inexact, graphically demonstrates the approximate relative size of Sean and the drum in which he was enclosed.

Sean was about 99cm tall and the drum had a diameter of 48cm. The drum's diameter, therefore, was slightly more than $\frac{1}{2}$ Sean's height when standing erect.

It is important to note that with the door of the drum closed, the width of the internal area was only about 30cm (about the length of an A4 piece of paper) and intruding into that area were the paddles described earlier.

The comparative sizes of Sean and the drum are such that it would have been very uncomfortable for him when he was wholly within the area of the drum. In this context it appears unlikely that he would have voluntarily closed the door on himself. The evidence does not however, permit me to conclude that it would have been impossible.

(b) Sean Opening the Door and Getting Inside the Washing Machine

Evidence from both Ms Murphy and Mr Sheppard was to the effect that the door of the washing machine was



normally closed and would have been closed on 20 September 2010 prior to the incident.

Assuming that Ms Murphy was not involved, it would have been necessary for Sean to first open the door to the washing machine. In order to open the door it would have been necessary for Sean to press a door release lever located behind the door handle. That release lever is concealed behind the door handle and it would have required a degree of dexterity and force on Sean's part to open the door.

According to both Ms Murphy and Mr Sheppard Sean had not previously opened the door to their knowledge and it is somewhat surprising that he could have worked out how to open it on his own.

Even with the door opened, it is difficult to imagine how Sean and the cat could have gone into the washing machine, to the extent both were wholly inside the drum, unaided.

Assuming that the cat was a reluctant participant, it is difficult to see how Sean could have entered the drum with the cat, or, alternatively, got the cat into the washing machine either before or after he got into it, either going in backwards or forwards. Again, while it may be difficult to imagine how such events could have taken place, that does not lead to a conclusion that they could not have happened.



(c) Sean Closing the Door

As indicated earlier, the door could have been closed by applying sufficient force to push the door into the fully opened position after which it could have sprung back and returned to closed depending on the force and speed applied.

Clearly this would have been an extremely difficult task for Sean to perform from within the washing machine. In addition that force would have had to have been applied through the area which would have to have been subsequently unobstructed for the door to close. This would have meant that Sean would have had to apply force to the door with a hand or foot and then retract that hand or foot quickly enough for it not to obstruct the area in question. The child and cat would have had to have been wholly within the internal dimensions of the tub for the door to close in this manner.

A further complicating issue in this case is the cat. If the cat was in the washing machine with Sean, as Ms Murphy's account would require, a question arises as to how Sean could have unaided got the cat into the washing machine and kept it there at the time the door was closed.



In this context it is noted that while Sean did have some minor scratches to his legs, which could have been caused by the cat, these were not significant or extensive.

I have found it very difficult to imagine how this could have happened, but have not been able to conclude on the available evidence that it was not possible that Sean was somehow able to close the door on himself and the cat.

2. The possibility that the dog closed the door of the washing machine

For the dog to have closed the door of the washing machine it would have been necessary for Sean and the cat to have both been inside the area of the drum when force was applied to the door. The door would have had to have been opened to an extent which enabled its accidental closure to take place.

While the dog would have easily been able to apply sufficient force to close the door, it seems most unlikely that the other factors would have been coincidentally present at the time the door was closed, particularly that Sean and the cat would both be wholly within the washing machine drum. Again, while this appears to be a most unlikely explanation I have not been able to conclude that it could not have happened.



3. The possibility that Ms Murphy closed the door

There were no physical factors which would make it difficult for Ms Murphy to have closed the washing machine door with Sean and the cat inside.

Whether or not this scenario was likely depends on other evidence, including Ms Murphy's own accounts.

There was no evidence which would suggest that Ms Murphy intended to cause Sean's death, however, even if that possibility could be excluded, there remains the possibility that she closed Sean (and the cat) in the washing machine, not intending his death, but for some other purpose such as to discipline him or to keep him quiet.

THE FORENSIC PATHOLOGY EXAMINATIONS

In my view a number of markings found on Sean's body were caused by the washing machine.

THE EXAMINATION OF THE CAT “SNOWY”

The body of the cat, Snowy, was examined by Dr Philip Nicholls of Murdoch University Pathology Department.

Dr Nicholls found that Snowy was a white cat in thin condition with prominent vertebral spines and coxal bones.

Imaging studies and examination of bones during the post mortem examination revealed normal bone structure. There was some minor fraying of some claws.

There was no gross or microscopic evidence of trauma. A specific cause of death was not apparent, but it was noted that death from cardiac arrhythmias may leave no gross microscopic findings and importantly that death from suffocation may also leave no significant gross or microscopic findings.

It appeared, therefore, very likely that Snowy died from the same causes as Sean and that both deaths were consistent with suffocation resulting from entrapment in an airtight environment.

THE TIME FOR DEATH TO HAVE OCCURRED



Professor Graham Hall, Head, Paediatric Respiratory
Physiology with the Telethon Institute for Child Health



Research, provided a report¹² and gave evidence at the inquest in respect of the amount of time likely to have been required for the deaths of Sean and Snowy.

Dr Hall assessed the amount of available oxygen which would have been within the washing machine in the context of literature about average oxygen consumption for a 5-7 year old boy doing normal daytime activities. For such a boy it would have taken 58.3 minutes to consume all of the available oxygen. According to Dr Hall, although the deceased was only 3 years old, this age difference would have made little difference to the oxygen consumption.

In the case of a child struggling, Dr Hall stated that oxygen consumption would be greatly increased.

Dr Hall also reviewed the production of carbon dioxide in the context of possible carbon dioxide poisoning.

Assuming normal daytime activities it would have only taken about 20.20 minutes to reach a 10% carbon dioxide concentration and 34.34 minutes to reach a 17% carbon dioxide concentration in the washing machine. Levels ranging from 10% to approximately 17% are reported to lead to drowsiness and loss of consciousness. Levels reaching 17% carbon dioxide concentration are associated with convulsion, coma and death.

¹² Exhibit 12



In the context of this case it would be likely that Sean would have died before all of the oxygen was consumed. Assuming that he was distressed in the claustrophobic environment of the washing machine, it is likely that his carbon dioxide production would have been much greater than predicted for average daytime activities, although at the time when he lost consciousness, the production could have been reduced.

In this context it should be noted that, as pointed out by Dr Cadden, there may have been a factor of positional asphyxia resulting in additional respiration problems and causing death more quickly.

It was Professor Hall's opinion that in this case it is likely that Sean died within a time period of between about 0 and 30 minutes after the washing machine door was closed.

It is possible that the cat died sooner than Sean and in this context it is noted that Ms Murphy claimed that when she removed the cat from the washing machine it was stiff so presumably rigor mortis (rigidity) had already set in. While it appears that there is largely undocumented variation in the times of onset and disappearance of rigidity in animals, this would appear to indicate that the cat had been dead for some time prior to removal from the washing



machine. There was no rigor mortis present in Sean at the time when he was examined by ambulance officers or later when he was examined in hospital.

Taking the evidence that Sean probably died less than 30 minutes after the washing machine door was closed together with Dr Cadden's opinion evidence as to the death likely having occurred less than two hours before the ambulance officers first saw Sean at 1.55pm, it would appear likely that Sean was first trapped in the washing machine no earlier than about 11.25am and possibly as late as minutes before the 000 call at 1.47pm.

POLICE FORENSIC EXAMINATIONS

Forensic examination of the house at 71 Harwood Street, Hilton, began on 20 September 2010 and continued until 22 September 2010.

The house was found to be an old weatherboard two bedroom, one bathroom dwelling. The general condition of all the internal areas was dirty and unkempt.

In addition it is noted from photographs taken at the time that the garden outside the house was also uncared for.

A deceased white cat was located on the double bed within the front bedroom of the residence. A second live cat



was present within the house and a medium sized dog was in the rear yard.

In the kitchen police located a single chair in the middle of the floor with electric hair clippers on the seat and cut hair scattered on the floor around the chair. The evidence of Ms Murphy and Mr Sheppard was to the effect that Mr Sheppard's hair had been cut in the kitchen some days earlier and the cut hair had never been cleaned up.

On the lounge room floor was a double mattress with associated bedding. It appears that this is where Ms Murphy had slept on the night preceding the death.

A large amount of clothing was found piled on the couch, some was within a clothes basket.

Compared with photographs showing a portion of the couch apparently taken by Sean on the morning of 20 September 2010, there appeared to be more clothing on the couch and jeans were laid over the back of the couch.

The second bedroom in the house, occupied by Sean, contained a single bed and a chest of drawers. The bedding from this bed was partially removed and was on the floor. Also on the floor was a large pile of clothing and an assortment of toys. Between the bed and the chest of drawers there was dried faecal material.



The bathroom and toilet of the house were both in a dirty condition with various stains on the floors and walls of an undetermined nature.

CAMERA LOCATED IN THE BATHROOM

A Sony Cybershot Megapixel DSC-P100 camera was located on a shelf within the bathroom. On reviewing the photographs captured on the memory card of the camera, the date and time settings indicated that a number of photographs had been taken on the morning of 20 September 2010.

The time displayed was New Zealand time, but when a calculation was made allowing for the time difference, it appeared that the photographs were taken between 8.33am and 9.28am.

These photographs were taken at a time when Mr Sheppard was away from the house and Ms Murphy claimed that she was asleep. This indicated that the photographs must have been taken by Sean and certainly the appearance of the photographs was consistent with them having been taken by a child.

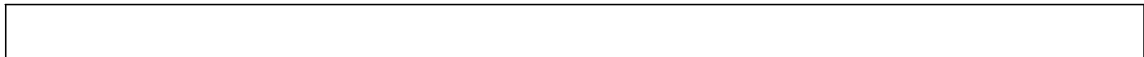
A number of the photographs, with flash, were taken in the lounge room where Ms Murphy claimed she was sleeping at the time.



TIES TO THE DOORS

The door to the bedroom occupied by Sean had a rope attached loosely to it and the doorknob to the nearby main bedroom had a bandage attached to it.

It was clear from evidence at the inquest that at least one of these ties had been used to tie the door to Sean's bedroom closed so that he could not leave that room.



In evidence Mr Sheppard agreed that he had initially concealed the truth about this from police because he knew it would “look bad” for both Ms Murphy and himself. ¹³

In her evidence Ms Murphy claimed that the rope was on Sean’s door to make it easier for him to close it and only the bandage had been used to tie the door. She said that Sean had been able to slip his hand out of the door and knock it off and also claimed that she had stopped tying Sean’s door shut “... probably about three months before he died”. ¹⁴ She said it was still on the door “probably because no one removed it.”¹⁵

I did not find this account given by Ms Murphy convincing and am satisfied that the ties were on the doors because up until his death Sean was being detained in his room with the doors tied at least from time to time.

According to the witness Melissa Collier-Long, whose evidence I accept in this regard, when she stayed in the house between about December 2009 and February 2010 Ms Murphy used to tie the door handle to Sean’s room even then, when he was two years old.

¹³ † 293

¹⁴ † 31

¹⁵ † 32



PHOTOGRAPHS OF SEAN INSIDE A CLOTHES DRYER

A number of photographs were located in the house including one which showed Sean within a front loading clothes dryer, apparently smiling.

The door to this dryer was missing and it appeared that the dryer had been discarded prior to the time of the death.

This photograph may be relevant as it shows that Sean had previously been in a machine similar to the washing machine.

Compared with the situation believed to exist on 20 September 2010 it is significant to note that in this photograph Sean's head is partially out of the dryer and certainly his head and hand are in a position which would have prevented a door, similar to the washing machine door, from closing.

There is no evidence as to how Sean came to be inside this dryer. Ms Murphy gave evidence that while she was present when the photograph was taken, she did not see how he came to be in there.¹⁶ Mr Sheppard, in his evidence, said that he "would have been there" when the



photograph was taken but could not “vividly” recall the machine even being in the laundry of the house.¹⁷

EVIDENCE OF ANIMAL CRUELTY

On 23 September 2010 data from Ms Murphy’s Nokia E63 mobile telephone was downloaded and police reviewed the material. A video file dated 21 June 2010 depicted footage of Ms Murphy engaged in an act of animal cruelty. Ms Murphy is observed to allow her pet dog “Simba” (the same dog present at the time of the death) to attack and chase a cat around the house. The cat is clearly seen to be distressed.

It appears that in the video Ms Murphy teased and excited the dog by waving the cat, covered by a towel, in front of the dog’s nose. Ms Murphy then placed the cat on the floor and removed the towel. The dog is then seen to chase the cat and attack it to the amusement of Ms Murphy and others, including children, at the house. At the time when the video footage is ceased it appears that the cat is motionless.

At the inquest Ms Murphy claimed this video showed her getting the cat “acquainted” with the dog. She said that the cat was “vicious and was attacking her dog”.¹⁸

¹⁷ t 281, 282

¹⁸ t 48



The cat, which was apparently owned by another person, was said to have been unhurt by the incident.

In the video it can be seen that the cat, which was quite small, was frightened and was attempting to escape from the dog. Ms Murphy's explanation in this regard was not credible and showed a propensity to lie about relatively peripheral matters.

This incident may be of significance in the context of the fact that the cat Snowy appears to have died in the washing machine at or about the time of Sean's death. The question remains whether Snowy's presence in the washing machine was the result of some similar act of cruelty on the part of either Sean or Ms Murphy.

THE CONDITION OF THE HOUSE

Both Mr Sheppard and Ms Murphy claimed that the house was normally kept in a reasonable condition. Mr Sheppard, for example, stated in evidence that the condition of the house was normally "very good"¹⁹ and that when he left it on the morning of 20 September 2010 he was "happy"²⁰ with its condition.

Ms Murphy in her evidence claimed that a quantity of the clothing and toys shown on the floor of various rooms

¹⁹ † 284
²⁰ † 286



had been put there by police, although she conceded that the house was not neat at the time of the death. She claimed that in respect of the clothing found in the lounge room, that had been put away in neat piles and there had been no clothes on the floor when she had gone to bed.

I do not accept that the house was in a fit condition for a young child to live in at the time of Sean's death. While the condition of the house may have varied and Department of Child Protection officers who visited the house in 2008 and 2009 claimed that it had then been untidy, rather than dirty, I am satisfied that at the time of the death it was in a dirty condition.

There was evidence from people who visited the house previously to the effect that it had been in an unhygienic state.

Ms Collier-Long, who had stayed at the house between the end of December 2009 and February 2010, described the condition of the house then as "appalling".²¹ She said that there was "clutter everywhere", the kitchen was a "mess constantly" and the linoleum floors looked like they had never been mopped.

While Ms Collier-Long had a falling out with Ms Murphy prior to the death and so her evidence needed to

²¹ t 227



be approached with caution, Ms Collier-Long was visited at the house by Luke Goodman in respect of whom no such concerns apply.

Mr Goodman stayed at the house for a weekend in February 2010.

He also described the condition of the house as “appalling”. He described it as being, “Filthy, unhygienic”.²² He said he saw clutter everywhere with washing “from one end of the house to the other.”²³ He gave evidence that the house was, “...unfit for animals, in my opinion”.²⁴

He described a litter box which had not been cleaned, the smell of which was overpowering. He stated that he was reluctant to eat any food while he stayed at the house because of its unhygienic condition.

I accept as reliable the account of Mr Goodman in this regard and have no doubt that on occasions the house was in an unfit condition for habitation by a small child.

THE TREATMENT OF THE DECEASED BY MS MURPHY PRIOR TO THE INCIDENT

Evidence of the way in which Ms Murphy treated Sean prior to his death was in some respects inconsistent.

²² † 238

²³ † 238

²⁴ † 238



There can be no doubt that a large number of toys had been purchased for him and these were seen by police throughout the house after the death.

Ms Murphy clearly had concerns in relation to Sean's behaviour and welfare generally and on 19 November 2008 she went to the offices of the Department for Child Protection seeking assistance in caring for Sean.

Ms Murphy advised a worker that she had mental health issues and had been diagnosed with suffering from a personality disorder. She stated that there had been a lot of issues resulting from her past life experiences and stated that she sometimes found it difficult to cope with Sean and his behaviour. A Parent Support referral was completed and Ms Murphy then had ongoing interaction with the department.

That interaction continued until July 2010.

For much of this period her case manager was Corinna Abraham, who gave evidence at the inquest as did Rose Homan, a case worker who also visited Ms Murphy and Sean in their home.

It appeared that Ms Abraham had most contact with Ms Murphy and conducted a number of home visits.



In a file note written after the death on 24 September 2010, relating to interaction on 2 July 2010, Ms Abraham recorded that Ms Murphy had expressed a number of concerns about Sean’s behaviour including stating that he wanted to “kill a cat”, and when he visited a doctor he had said “I am going to kill Elmo”.²⁵

Ms Murphy advised that her strategies for dealing with Sean’s behaviour included using “time out”, but when this occurred she advised that he, “... kicks the door, screams or slams the door”.²⁶

When asked what support she had, Ms Murphy claimed that Mr Sheppard stopped over on weekends. This was untrue as at the time Mr Sheppard was living at the house.

With Ms Abraham’s assistance Ms Murphy completed a Sleep/Feed Chart prepared by Ngala recording what Sean was being fed and how long he was sleeping over a period of two weeks. These charts appeared to reveal that he was being provided with sufficient food and was sleeping relatively well.

There was, therefore, evidence which supported Ms Murphy’s claims that she cared for Sean and to her

²⁵ DCP file, Volume 5 tab 3

²⁶ *supra*



credit it appears clear that she took steps to obtain assistance in looking after him.

CONCERNING REPORTS IN RESPECT OF PAST TREATMENT OF THE DECEASED

There were concerning descriptions of Ms Murphy's approach to disciplining Sean given by a number of witnesses including Ms Collier-Long, Mr Goodman and neighbour, Daniel Dickerson.

Ms Collier-Long stated that Ms Murphy did not have a loving relationship with Sean and she would often "yell" at him. She claimed that she had seen Ms Murphy pick Sean up by the arm and throw him into his room and on one occasion try to throw him against a wall. She claimed that there was a separate occasion when Ms Murphy had lifted Sean up as if to throw him, but Ms Collier-Long had stopped her.

She claimed that on occasions Sean was secured in his room and at times had been left there all day and only brought out for dinner or to go to day care.

While Ms Collier-Long clearly had a falling out with Ms Murphy prior to the death and her evidence needs to be approached with caution, it is noted that on 25 February 2010 she contacted Ms Murphy's family doctors seeking help for her. The practice records indicate that Ms Collier-



Long was reporting Ms Murphy as having an “acute crisis – suicidal thoughts, breakdown, crying +++ not able to cope, needing help to care for son”.²⁷

It is clear from the above, that Ms Collier-Long, at the time, had concerns about Ms Murphy’s welfare and her ability to care for her son.

Mr Goodman gave evidence that Ms Murphy yelled at Sean because he had been doing things that she did not like. In his view the “yelling” was “over the top” and there was no necessity for it. He believed that Sean was acting as a normal three year old.²⁸

William Morrison, step father of Ms Collier-Long, was contacted during the inquest and provided a statement and gave evidence. In Mr Morrison’s account he recalled Ms Murphy saying words to the effect of “I could kill him sometimes” or “I hate that little bastard”.²⁹ Mr Morrison gave evidence, however, that he did not believe that Ms Murphy really meant what she was saying.

The next door neighbour, Daniel Dickerson, provided a statement and gave evidence to the inquest. In his statement dated 28 September 2010 he claimed that he had reported Ms Murphy to the Department for Child Protection

²⁷ Vol 2, tab 56

²⁸ Vol 2, tab 47

²⁹ Statement of 19 June 2013 Exhibit 20



because of the way she treated Sean. He said that she used to “stand over him and yell”.³⁰

In evidence he claimed that while at times she could be a “loving mother” at other times she could be “nasty” and “arrogant” to him.

He said that her “nasty” behaviour including calling him a “little bastard” or saying “shut up you little C.”³¹

In evidence Mr Dickerson also claimed that on the morning of the death he had heard Sean crying and that at some time between about 7 and 7.45am he had heard Ms Murphy “cursed him to shut up” after which he heard thumpings following which Sean’s cries were “muffled”.³² He said he thought she had taken him to his room. He claimed that he had heard Ms Murphy say something to the effect of “Shut up you little bastard, and ...stay in there until you be quiet” and “I’m sick of you”.³³

According to Mr Dickerson he did not tell police about the above allegation because he did not want to become more “involved”.

Even if Mr Dickerson’s account is accurate, apart from establishing that Ms Murphy was awake on the morning of

³⁰ Vol 2, tab 30

³¹ † 124, 125

³² † 129

³³ † 137



20 September 2010 contrary to her accounts, the evidence would not conclusively establish anything about the circumstances of the death.

If Mr Dickerson's account is accurate, what he heard could simply have been an occasion when Sean cried and was put in his room as had happened on many occasions previously.

Based on the timing of the death it is clear that Sean was not closed in the washing machine as early as between 7 and 7.45am. He appears to have been free to use the camera between 8.33am and 9.28am and based on the evidence of his recent death when viewed by ambulance officers it is likely that he was not trapped in the washing machine until much later than that.

In respect of the general evidence relating to Ms Murphy's interaction with Sean, this revealed that while on occasions she attempted to be a caring mother, on other occasions she experienced difficulty in coping with her young son and may have had poor parenting skills.

TELEPHONE CALLS

Police obtained telephone records from the relevant providers for Mr Sheppard and Ms Murphy. These records comprised important reliable information as to the timing of telephone calls between them.



The records for 20 September 2010 are detailed below, exact times are in brackets.

Mr Sheppard rang the landline telephone at 17 Harwood Street at 1.16pm (1:16:14) and 1.30pm (1:30:46) using his work telephone. The duration in respect to those calls was only recorded as 6 and 5 seconds so it appears that the calls were not answered.

At 1.32pm (1:32:56) Mr Sheppard rang Ms Murphy's mobile telephone using his mobile telephone but again the call was not answered.

At 1.35pm (1:35:39) Ms Murphy rang back using her mobile telephone, calling Mr Sheppard's mobile telephone but, the call was not answered.

At 1.36 (1:36:02) Mr Sheppard used his mobile telephone to ring Ms Murphy's mobile telephone and a call of 326 seconds took place.

At 1.46 (1:46:52) Ms Murphy, using the home landline telephone, called 000 and that call lasted for 557 seconds.

In respect to these calls it is significant to note that Ms Murphy did not answer the calls to the landline at



1.16pm and 1.30pm, she later claimed that she was asleep at that time.

The call between Mr Sheppard and Ms Murphy which commenced at 1.36pm and lasted 326 seconds (approximately 5½ minutes) was only completed less than five minutes before Ms Murphy's telephone call to 000, in which she reported Sean's death.

Sean must have been in the washing machine when that call took place.

Sean may have been in the washing machine at the time of all of the other calls detailed above.

THE ACCOUNT OF CRAIG SHEPPARD

In accounts given to police in a recorded interview on the day of the death and in a statement dated 20 September 2010 Mr Sheppard lied about the fact that he was living at the house at 17 Harwood Street at the time of the death .

He told police he was staying at an address in South Lake and that Ms Murphy and Sean lived alone in the house.

Mr Sheppard claimed that he lived with Ms Murphy's best friend, Renee Hall, and her husband, Mark. He gave



police detailed information as to how he claimed he visited the address at Harwood Street during weekdays, but only stayed overnight between Friday and Monday mornings.

In evidence Mr Sheppard agreed that this account was untrue and stated that he lied because the house was rented through Homeswest and if they told the truth Ms Murphy could lose the home and she could get into trouble for falsely claiming Centrelink payments.

He first changed this account in a statement dated 21 December 2010.

In the statement dated 20 September 2010 Mr Sheppard declared that the statement was true and correct to the best of his knowledge and belief and was made knowing that if it was tendered in evidence he would be guilty of a crime if he had wilfully included in it anything which he knew to be false.

He gave evidence at the inquest that in spite of this declaration he was willing to lie to protect Ms Murphy.

He stated that on the day before the death he, Ms Murphy and Sean travelled from Hilton to Margaret River, then to Dunsborough, Busselton, Bunbury and then back to Hilton.



He stated that they arrived home at about 7.30pm.

In evidence he explained that a purpose for taking the trip was because the vehicle which he was using was subject to a novation agreement and it was necessary for him to complete a specified number of kilometres on the vehicle within a certain timeframe.

He stated that on the next day he woke at 5am and left the house at approximately 5.45am to go to his place of work at EasiFleet in Albany Highway, Victoria Park.

He told police that he rang Ms Murphy on the afternoon of 20 September 2010 to ask her about putting a small amount of money (\$5 was discussed) on a lay-buy purchase. He stated that he rang her at about 12.30pm from mobile to mobile and they had only spoken about putting the money on the lay-buy. Based on the telephone records this must have been the call which in fact commenced at 1.36pm and finished only minutes before the 000 call. Sean was in the washing machine at that time.

In his interview with police Mr Sheppard was asked how Ms Murphy seemed on the telephone during this call to which he replied, "She seemed okay. She seemed cheery."



The following exchange then took place between Detective Stephen and Mr Sheppard:

STEPHEN Did she say what she was doing?

SHEPPARD She said that she had been speaking to Marion, because she actually missed the first phone call I made, and then she rung me back which I missed and then I called her again.

STEPHEN All right, so she was speaking to the neighbour?

SHEPPARD That's correct, yes.

STEPHEN Yes. And did she say what Sean had been doing?

SHEPPARD No. ³⁵

The reference to "Marion" may be to the neighbour Narayani Palmer.

In respect to Mr Sheppard's account that he was told by Ms Murphy that she had been speaking to the neighbour when she missed his earlier telephone call, according to Ms Murphy this was a lie she told him because she did not want Mr Sheppard to know that she had been asleep at the time of his earlier call or calls.

This evidence about the telephone call is extremely strange. Ms Murphy must have been speaking for the 5½ minutes of this call within metres of the washing machine where Sean was trapped, dead or dying. The fact that she appears to have lied to Mr Sheppard about what she had been doing just before that time is concerning.

³⁵ Interview transcript, Vol 2 tab 36, paras 30-41



A further strange feature of this evidence about the telephone call is that according to Mr Sheppard's fellow worker, Mathew Dobson, he was formally advised he was made redundant that day at 1pm and Mr Sheppard was next in line to get the same advice minutes afterwards. If that did occur, even if the redundancy news was expected, it seems remarkable if this was not a subject of the telephone call between Mr Sheppard and Ms Murphy at 1.36pm.

CONCLUSION IN RESPECT TO MR SHEPPARD'S INVOLVEMENT

Mr Sheppard was at work when Sean became trapped in the washing machine and so could not have had direct involvement in his death.

ACCOUNT OF KERRY MURPHY

Kerry Murphy was interviewed by police on 20 September 2010 at 9.55pm and 11.17pm and again on 21 October 2010 at 10.33am. She also provided police with a statement dated 21 December 2010.

When interviewed by police Ms Murphy initially claimed that she and Sean lived alone at 17 Harwood Street and claimed that Craig Sheppard only visited them "occasionally". She later said that he would stay for dinner on most days and then she would take him home. She claimed that he stayed over only on the weekends.



This was untrue. In evidence Ms Murphy explained that they had both lied, claiming that Mr Sheppard lived in a house in South Lakes, in order to avoid problems with her Homeswest rented house and Centrelink. She said that she had also lied to a number of different authorities about where Mr Sheppard lived.

She stated that in the last week or two before the death she had been sleeping in the lounge room because she had a tonsillectomy and as a result of the medications she had been taking she had found it hard to wake up.

She advised, however, that she had not taken the pain medication (Oxycodone) for a week or just over prior to the death.

She claimed that on 19 September 2010 they had been to Margaret River, Dunsborough, Busselton and Bunbury and had got back at about 7.30pm that night. She stated that they had eaten McDonalds for dinner which had been purchased in Bunbury. She said that during the trip home she had given Sean the remainder of his McDonalds meal.

She said that she went to bed at between 10.30 and 11pm and gave the following account in relation to her discovery of the deceased in her first video recorded interview:



The next thing I know is waking up and I couldn't find him anywhere and I thought he'd gone back to bed. I searched the house high and low then realised his door was – his bedroom door was shut and I went and had a look in there and he wasn't there. So I have tipped his room upside down, thinking he was hiding from me and I couldn't find him. And as I have walked back out into the lounge room I have turned around and looked at the – looked at the washing machine and seen there was something in there and there was nothing in there last night, so panic has gone straight through me and I have gone over there and I have opened it up and I have seen him and the cat in there. And I was – I ripped, the cat was in my way, so I ripped the cat out, put her on the floor next to me and then just grabbed – grabbed him out and I pulled him into the lounge room and started – I dialled the Triple-0 number and then put it on speaker phone next to me and I started doing – doing the – I started doing the CPR then and there. And then basically they were – they were also talking me through it on the phone.

All right. Now, just go back a bit.

Yeah.

What time did you wake up this morning?

It was around lunchtime sometime. I really couldn't tell you what time.

So from going to sleep about 11 o'clock last night, you slept through till about lunch time today?

Yes.³⁶

If Ms Murphy had woken only shortly before the telephone call recorded as being received at 1.36pm, this would have meant that she had been asleep for about 14½ hours.

Ms Murphy was asked in the first interview about telephone calls and the following exchange took place:

STEPHEN Up until ringing the triple zero, had anyone rung you, or - - -

MURPHY I had a few missed phone calls on my mobile. And that was from my other half, Craig

STEPHEN All right. Now when you've rung triple zero, was that the first time you spoken to anyone today?

MURPHY Yes.³⁷

In this account Ms Murphy failed to refer to the 326 second telephone call which she had with Mr Sheppard at 1.36pm.

Ms Murphy claimed that she spent a good 40-45 minutes looking for Sean before she phoned for the ambulance and said that she may have woken up at about "lunchtime somewhere".

Based on the timing of the telephone calls this version could not have been accurate. There was less than five minutes between the conversation between her and Mr Sheppard and the call to 000, so if she had not commenced to search for Sean prior to that call, the total period available for a search was less than five minutes, not 40-45 minutes.

Ms Murphy was specifically asked about Mr Sheppard's account about the earlier telephone conversation and the following exchange took place:

³⁷ Vol 2, tab 33 at p.62



STEPHEN All right. It's just – we've spoken to Craig. And obviously we've spoken to Lisa. Craig said that he rang you today about 12.30, and you were awake. And you said that you had been speaking with the neighbours, and everything was fine. And he spoke to you about putting money on a lay-by. Do you remember that call happening?

MURPHY Yes. That was before – before I realised Sean was missing.

STEPHEN Yes. But you haven't mentioned that. You said you just woke up and then - - -

MURPHY Like I said, everything's a blur to me at the moment, mate. You know, I've lost my son today - - -

STEPHEN Yes.

MURPHY And no, I haven't locked Sean in the washing machine deliberately. I know that – I know that's what you guys are aiming at. And that's not what happened. I loved my son, I would never do that to him.

STEPHEN So now that I've mentioned it, do you remember that call happening

MURPHY Yes. And that was only – it was a very brief phone call that he - - -

STEPHEN Yes. He said it went for no more than three minutes.

MURPHY He – he had actually woken me up. I remember that now. He actually – the phone call had actually woken me up. ³⁸

In fact, as noted earlier herein, the telephone conversation was not 'very brief' as according to the provider records it lasted for 326 seconds. In addition, she had in fact rung Mr Sheppard at 1.35pm following his calls to her

³⁸ Vol 2, tab 33 at p66-67



at 1.16, 1.30 and 1.33, so if she had been woken by a call, that must have been at least minutes earlier.

In her second interview with police at 11.17pm Ms Murphy gave a similar account.

She continued to lie about the fact that Craig was staying at the house, claiming that he was staying with her girlfriend.

In her statement of 21 December 2010 she claimed that she could remember being woken up by her mobile telephone ringing next to her ear and the time was then about 1.30pm.

She stated that the conversation which she then had with Craig was about putting \$5 on a lay-buy.

She claimed that she then could not hear Sean and searched for him, to find him in the washing machine with Snowy the cat. She stated Snowy was wrapped around Sean's bottom and legs at the glass door. She stated that she first "yanked" Snowy out and chucked it to one side.

She stated that Snowy was stiff and she knew the cat was not alive.

She then described pulling Sean out from the machine.



In her evidence Ms Murphy claimed that Sean was in a “foetal” position in the washing machine. ³⁹

Explaining in her evidence why she told a number of people that she had killed her baby, she stated that she meant she could have injured him while attempting cardiopulmonary resuscitation, or, if she had have been awake, she would have been able to save him and it was through her being asleep that his death had occurred.

ANALYSIS OF THE ACCOUNT OF KERRY MURPHY

I did not consider Ms Murphy was a reliable or truthful witness. On her own admission she told a number of lies prior to the death and during the course of the police investigations into Sean’s death.

Particularly difficult to believe in the context of other evidence is Ms Murphy’s claim that she slept on a mattress in the lounge room of the house from 11pm or thereabouts on 19 September 2010 until about 1.30pm on 20 September 2010, a period of 14½ hours, during which time Sean and the cat got themselves somehow trapped in the washing machine.

The house is very small and it is obvious from the photographs taken during the morning by Sean that he was

in the lounge room where Ms Murphy claims that she was sleeping. The photographs were taken using a flash between 8.33am and 9.28am that morning. A number of the photographs were taken with the camera pointed in the general direction where Ms Murphy would have been lying, although she is not seen in any of the photographs.

In addition it is clear that in the lounge room with Sean there was at least one other cat and the dog, which was described as being extremely active.

In the case of the dog, that had been shut in the house all of the day of 19 September, when the family had been travelling, and had obviously not been taken for a walk on the morning of 20 September 2010 by Mr Sheppard who had left the house on his account before 6am. The dog, child and cat would have all been moving around and creating noise in the room.

In respect of Sean, there is no evidence he had been given any food after they had arrived back in Hilton at 8pm on the night before. He had not been provided any food by Mr Sheppard before he left the house that morning.

By 1.30pm on the afternoon of 20 September Sean was likely to have been very hungry and agitated. I cannot accept that he would not have made determined efforts to



wake his mother, had she been asleep on a mattress in the lounge room.

In addition, the photographs taken by Sean depict items in the room in a different position to those seen by police on their arrival and it appears that a number of items in the room had been moved, such as jeans photographed by police on the back of the couch, which were not evident in Sean's photographs.

According to Ms Murphy Sean must have moved clothes on the couch immediately above where she was lying without waking her. Again this seems unlikely.

There were also unanswered telephone calls, particularly the calls to the house landline at 1.16 and 1.30pm, which would have been likely to wake her. The telephone was normally located within a short distance of the mattress where Ms Murphy claimed she was sleeping and in evidence she said she generally slept with both the house and mobile telephones beside her.

While Ms Murphy claimed that the volume on the telephone had been turned down, Mr Sheppard was familiar with the house and he had called her on the landline, presumably expecting that the noise would be sufficient to cause her to respond. The telephone records indicate that



calls were answered using that telephone both before and after the death.

There was no good explanation provided as to why or how Ms Murphy could have slept for 14½ hours. While Ms Murphy's counsel, Mr Elliott, submitted that she may have underestimated the extent of her fatigue on the day before and it was more plausible that she slept for this lengthy period of time than that she closed her son in the washing machine, I do not agree.

Unfortunately, however, while it is possible to conclude that Ms Murphy did not truthfully describe the events of the day, that does not assist in determining what did happen or how Sean came to be trapped inside the washing machine.

My assessment of Ms Murphy is that she is a person who is prepared to lie whenever she considers the truth is unfavourable to her and so the mere fact she may have told lies does not necessarily involve consciousness of guilt. In that context, in fairness to her, I note that the evidence revealed that she had a most unfortunate childhood and it is unsurprising that she may have adopted telling untruths as a form of survival strategy.



CONCLUSIONS

It is clear from the evidence that Sean died on 20 September 2010.

I am satisfied that Sean died as a result of being trapped within an airtight environment inside the washing machine at 17 Harwood Street, Hilton.

I am satisfied that he died on the afternoon of that day, not long before his mother, Ms Murphy rang 000 and asked for an ambulance to attend at her home.

In respect of the actions which resulted in Sean being within the washing machine, in my view there are only three possible explanations:

1. Sean entered the washing machine and unaided managed to close the door on himself and the cat, Snowy.
2. The dog in the house closed the door to the washing machine at a time when Sean and the cat were both wholly inside it.
3. The mother of the deceased, Ms Murphy, was responsible for at least closing the door and possibly for also putting the child and/or the cat inside the washing machine first.



I have carefully reviewed the helpful submissions provided by counsel who appeared at the inquest and particularly the thoughtful submissions provided by Ms Winborne, counsel assisting, and Ms Archer, representing LG Australia Pty Ltd, who both submitted that I could find that an action of Ms Murphy led to Sean's death and I should prefer conclusion 3 above.

Mr Elliott, counsel for Ms Murphy, provided detailed arguments to the contrary and argued that I should conclude that the death resulted from a terrible accident.

In approaching this question I have applied the standard explained in *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361-3 and consider that because of the gravity of the consequences flowing from a finding to the effect that Ms Murphy was responsible for the death, I should not come to such a conclusion on the basis of other than cogent and reliable evidence and I am mindful of the presumption of innocence.

As indicated earlier in these reasons I have come to the conclusion that aspects of Ms Murphy's account given in court and her various accounts given to police are not truthful. Unfortunately this does not provide cogent evidence as to what did occur or explain how Sean came to be inside the washing machine.



While explanations 1 and 2 above appear unlikely for the reasons expressed herein, unlikely events do occur and there is an important difference between an explanation being unlikely and it being impossible.

On the evidence available to me I do not consider that I can be satisfied to the required degree that Ms Murphy must have been responsible for at least closing the washing machine door with Sean inside and I, therefore, do not find that she either caused or contributed to the death. I cannot, however, discount that possibility and it appears that none of the three possible explanations can be definitely excluded.

In that context it would appear advisable for the washing machine to be retained by police so that this question can be revisited at some time in the future, hopefully with the benefit of future advances in computer technology which would enable the matched body markings to the interior of the washing machine to form the basis of computer imaging of Sean's likely position at the time the markings were formed. This would assist in determining the extent he could have moved after the door was shut and could assist in determining whether any of the suggested possibilities could be safely rejected as impossible.



On the basis of the information provided to me, however, I make an Open Finding as to how the death arose.

COMMENTS AS TO SAFETY ISSUES

Whichever of the three possible explanations for Sean being trapped in the washing machine is correct, the fact is that when Sean was within the washing machine he was trapped in an airtight environment and without outside assistance his death was inevitable.

In this context consideration was given to whether there should be additional safety features in washing machines such as the one in question which would either make it more difficult to get inside the washing machine or which would enable a child, trapped within a washing machine, to escape.

I accept that the washing machine was fully compliant with Australian and New Zealand Standards as well as the International Standards.

I note that the International Electrotechnical Commission has released a proposal to amend the relevant washing machine standard for larger appliances requiring that it be possible to open those appliances from the inside when not in a locked state with a force not exceeding 70N.



It is noted that even if implemented, this amendment would not apply to washing machines as small as one in this case.

It is also noted that all of LG's larger models can be opened from the inside, no matter which country they are sold in.

Information provided by Mr Kim to the inquest indicated that the ability to open small capacity washing machines from the inside would require a redesign of all smaller capacity machines on the Australian market. This would not, therefore, be a change which could easily be effected.

While I accept the merit of the arguments put forward on behalf of LG to the effect that no recommendation should be made in this context, I remain concerned that small children could possibly become trapped in washing machines of this type, including washing machines of the size of the one in the present case.

I have been advised by the representatives of LG that any recommendations in this context should be directed to the joint Australian and New Zealand Standards Committee that is responsible for the safety of electrical washing machines, the Electrical Safety Committee.



In the event that it is found not to be practicable to require there to be two-way latches in small washing machines, I consider that at least consideration should be given to altering the form of safety catch on the door to make it harder for young children to open the door.

I RECOMMEND that the Electrical Safety Committee consider the possibility of amending the relevant Australian Standards so that all front loader washing machines have a two-way latch mechanism regardless of dimensions. In the event that this is found to be impracticable, **I RECOMMEND** that the Electrical Safety Committee consider the possibility of amending the relevant Australian Standards so that for machines to which a two-way latch is not fitted, there is a safety catch on the door which would be difficult for a young child to open.

I note that the submission on behalf of Standards Australia Limited (Standards Australia) in this case suggests that a somewhat different mechanism could better achieve the object of this recommendation. It was submitted that if a recommendation was to be made in relation to AS/NZS 60335.2.7 (the relevant standard) the recommendation should be that Standards Australia arrange for the relevant technical committee to review the standard.



As I am not in a position to determine which is the better mechanism to effect the intended result, I propose to make this suggested recommendation as well, confident that the Electrical Safety Committee and Standards Australia will be able to determine the best way to progress the matter.

I RECOMMEND that Standards Australia arrange for the relevant technical committee to review AS/NZS 60335.2.7 in the context of the concerns expressed in these comments.

A N HOPE
STATE CORONER
19 July 2013

