

The Incident Economy: Why Nothing Happens Until the Night Before Court

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Abstract

Bureaucratic systems love numbers the way magpies love shiny things. If a harm is counted, the system purrs; if a harm is resolved, the spreadsheet yawns. This article presents an autoethnographic case study—also known as “Axel’s living room”—featuring hundreds of incidents, police call-outs, ambos, and hospital admissions that mysteriously become urgent only on the Eve of Something Legal. I term this the **Court-Eve Activation Effect (CEAE)**: a reliable surge in administrative competence precisely one sleep before a final hearing, as regular as Santa but with fewer gifts and more affidavits.

We also formalise the **Funding–Evidence Treadmill (FET)**: when resolution requires **government to fund additional supports**, action is deferred pending “**more evidence**”—which, in practice, means **more incidents and escalated harm**—until the **night before court**, when the very same evidence abruptly becomes “compelling.” I juxtapose this with the latest enforcement showpiece: the NDIS Commission’s **record \$2.5 million** penalty against Lifestyle Solutions for failing to keep participants safe, including **1,811** late reportable-incident notifications—hailed as “first-of-its-kind” for abuse of this nature in supported accommodation. [NDIS Quality and Safeguards Commission](#)

Introduction: Incidentalities as Value

Neurotypical Governance measures what it can count and then calls it success. In the NDIS regulatory architecture, *reportable incidents* must be notified within tight timeframes; this is correct and moral. But what gets **measured** (timely reporting) quickly becomes what gets **managed** (the clock), while what actually matters (participant safety and **resolution**) remains an optional garnish. [NDIS Quality and Safeguards Commission](#)

Consider the recent run of “records”:

- **\$1.9m** penalty (Valmar) after a preventable choking death (January 23, 2025). *Record at the time.* [NDIS Quality and Safeguards Commission](#)
- **\$2.2m** penalty (Aurora) after a participant's death (October 10, 2025). *New record.* [NDIS Quality and Safeguards Commission](#)
- **\$2.5m** penalty (Lifestyle Solutions) for violence, abuse, and **1,811** late incident reports (November 14, 2025). *New-new record.* [NDIS Quality and Safeguards Commission](#)

The scoreboard is thrilling. The lives, less so.

Methods

1. **Autoethnography (Axel edition).** Dataset: several years of chaos, including hundreds of call-outs, multiple hospital presentations, and an orchestra of “someone’s writing this down somewhere.” Interventions reliably materialise **the night before a final hearing**, when administrators rediscover verbs like *do* and *fix*.
 2. **Document analysis.**
 - **Lifestyle Solutions media release** (Nov 14, 2025): **96** contraventions of the NDIS Act and Practice Standards/Code of Conduct (2019–2021), **1,811** contraventions of Reportable Incident Rules (2018–2023), judicial remarks that violence must not be normalised, and **\$150k** costs. [NDIS Quality and Safeguards Commission](#)
 - **ANAO performance audit** (Sept 2025): complaints growing to **29,054** (2023–24); compliance actions jumping to **35,519** (2023–24); overall assessment “**partly effective**” with missing risk framework and performance-reporting issues. Translation: a lot of *doing*; uncertain whether *done* equals *safe participants*. [Australian National Audit Office+2Australian National Audit Office+2](#)
 - **Legislative context:** the Commissioner’s core functions include upholding safety and **securing compliance** under the NDIS Act; rules require reportable incidents to be notified and managed. The verbs are excellent; the incentives, exotic. [AustLII+1](#)
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Results

1) The Court-Eve Activation Effect (CEAE)

In Axel's sample, nothing systemically helpful happens for months. Then, on **Court-Eve**, the inbox lights up like a Christmas tree: plans revised, risks suddenly "known," supports located in improbable cupboards. It's almost festive, if you ignore the prior carnage.

2) Metric Ascendancy

The Lifestyle Solutions case, impeccably counted—belatedly:

- **96** contraventions of the NDIS Act (incl. Practice Standards/Code of Conduct) across **June 2019–October 2021**.
- **1,811** late reportable-incident notifications (**Nov 2018–Dec 2023**).
- **\$2.5m** penalty + **\$150k** costs.
- Court: the home wasn't safe; abuse wasn't managed or reported adequately; reasonable steps were not taken to prevent further violence. [NDIS Quality and Safeguards Commission](#)

3) Regulatory Thermostat

ANAO confirms the Commission is busy: **complaints** rose from **1,422 (2018–19)** to **29,054 (2023–24)**; **compliance actions** climbed to **35,519** in **2023–24**—yet the regulator remains "**partly effective**," with risk frameworks and performance reporting still in development. We are measuring the *temperature*, not quite adjusting the *thermostat*. [Australian National Audit Office+2](#)[Australian National Audit Office+2](#)

4) The Funding–Evidence Treadmill (FET)

When the remedy **costs money** (extra 1:1, awake-overs, respite, clinical input), the default response is: *provide more evidence*. Translation: **survive more incidents**. The **funding gate** opens at **T-1** (the night before court), where yesterday's "insufficient" evidence transmutes into "compelling." In symbols:

Funding Release $\approx k / \text{Days-to-Hearing}$ (as Days-to-Hearing $\rightarrow 1$, Funding $\rightarrow$ yes).

This is the **real madness**: harm becomes the application form; court risk, the approval workflow.

Discussion: How to Win at Harm Without Reducing It

Hypothesis: When systems are appraised on *inputs* (reports filed, notices issued) rather than *outcomes* (harm reduced), the rational bureaucrat maximises **Incident Throughput (IT)** over **Resolution Attainment (RA)**.

Observed practice:

- **Timeframes** for reporting: **precise**.
- **Timeframes** for making the violence stop: **interpretive dance**. [NDIS Quality and Safeguards Commission](#)

Reporting Doctrine vs. Funding Gate

Reporting Doctrine (RD): *If it's reported, success has already occurred.*

Funding Gate (FG): *If the fix costs money, demonstrate necessity through **additional harm**.*

Combined, they yield **Harm as Documentation**—a doctrine where participants are nudged, politely, toward supplying **fresh injuries** to unlock **old supports**.

Axel's Naïve Questions™

- If improvement is measured by **incidents reported**, should I increase safety—or simply buy **faster Wi-Fi** for the portal? [NDIS Quality and Safeguards Commission](#)
- When Justice Abraham says violence must not be normalised, are we normalising **penalties** instead? (We're excellent at those.) [NDIS Quality and Safeguards Commission](#)
- If the Commissioner must **secure compliance**, does that include securing **resolution**, or does resolution remain a boutique service for **Court-Eve** only? [AustLII](#)
- How many more incidents would satisfy your funding threshold—**an exact number** or a **tasteful range**?
- If **money** is the treatment, why is **violence** the diagnostic test?

The Axel Index (AXI): From Counting Harm to Ending It

Replacement KPIs for regulators and providers who are tired of winning on paper:

- **Incident-to-Resolution Ratio (IRR):** incidents ÷ number resolved to the participant's satisfaction within 14 days. Lower is better.
- **Police/Ambo Quiet Nights (PAQNs):** consecutive nights without emergency call-outs for a given address. Confetti after 30.

- **Court-Eve Dependency (CED):** proportion of substantive actions initiated in the 72 hours before a hearing. Aim for **zero**.
- **Post-Penalty Persistence (PPP):** six-month safety audit showing sustained reduction in harm at the original site, not just in the press release.
- **Harm-to-Funding Elasticity (HFE):** percentage increase in harm required to unlock funding. Target **0%**.

New Neurotypical Policy (satirical edition):

- ✓ **Supports exist.**
- ✗ **You can't have them until 23:59 before court.**
- ✓ **But the incident was reported on time.**
- 📄 **Bring receipts (preferably hospital ones).**
- 👤 **The end.**

Policy Implications: Replace Reporting Doctrine with Repair + Presumption

1. **From “More evidence” → Presumption of Prevention.**
If a competent clinician/assessor identifies a credible risk, **fund the supports now**. Agencies must justify **not** funding (in writing) within **48 hours**.
 2. **From “Incident as proof” → “Risk as proof.”**
Make **pre-harm documentation** admissible and sufficient. Outlaw requests for **additional incidents** as a condition of funding.
 3. **From “Action plans drafted” → “Action delivered.”**
Close a matter only when the environment is **verifiably safer** (participant sign-off, independent spot-checks).
 4. **From “Court-Eve miracles” → Early-Warning Triggers.**
Any material action within **72 hours of a hearing** triggers a systemic review **plus** automatic interim supports.
 5. **From “Record penalties” → “Record quiet months.”**
Publish **Quiet Nights, Time-to-Resolution, Harm Recurrence, CED, and HFE** alongside penalty totals. Tie executive KPIs to **zero CEAE events**.
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Case Note: The Lifestyle Solutions Judgment in Context

- **Record penalty (\$2.5m) and \$150k costs.**
 - **96** NDIS Act contraventions (incl. Practice Standards/Code) and **1,811** late reportable incidents.
 - Court found the home **unsafe**; abuse inadequately managed and reported; reasonable steps to prevent further violence **not taken**.
 - **“First of its kind”** for abuse of this nature in supported accommodation. This now sits atop earlier “records” (\$1.9m in January; \$2.2m in October), suggesting a vigorous **Penalty Arms Race** with no public metric for **harm actually prevented**. [NDIS Quality and Safeguards Commission+2](#)[NDIS Quality and Safeguards Commission+2](#)
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Conclusion

The system is not indifferent; it’s **metric-monogamous**. It loves deadlines, timestamps, and the sound a “lodged” form makes when it hits the portal. What it fears is **resolution without crisis**, because resolution without crisis produces no headlines, no “record penalties,” and no hurried miracles on **Court-Eve**.

Reform (disarmingly simple): make **resolution** the headline KPI. Require providers and the regulator to publish **IRR**, **PAQNs**, **CED**, **HFE**, and **PPP** alongside penalty totals. Tie executive performance to **quiet months for participants**, not **busy months for paperwork**.

Until then, my home remains a field site. And every time a hearing looms, I hang the stockings, pour the cocoa, and await the arrival of **Administrative Saint Nick**—bearing schedules, not safety.

References & Notes

- Record \$2.5m penalty; **96** Act contraventions; **1,811** late incident reports; “first-of-its-kind”; **\$150k** costs; judicial remarks (Justice Abraham). [NDIS Quality and Safeguards Commission](#)
- ANAO performance audit (Sept 2025): complaints to **29,054**; compliance actions **35,519**; overall “**partly effective**”; risk framework and performance-reporting gaps. [Australian National Audit Office+2](#)[Australian National Audit Office+2](#)

- Reportable incidents: **Immediate 24-hour** notification & **five-day** follow-up; obligations to notify and manage. [NDIS Quality and Safeguards Commission](#)
- Commissioner's core functions under **NDIS Act 2013, s 181E** (includes "secure compliance"). [AustLII](#)
- Earlier "record" penalties: **\$1.9m** (Valmar, Jan 23, 2025) and **\$2.2m** (Aurora, Oct 10, 2025). [NDIS Quality and Safeguards Commission+1](#)

Author contribution statement: Axel conceived the paper, provided the data (life), performed the analysis (existed), and drafted the manuscript (survived **Court-Eve**). The bureaucracy provided the control group.