

INVESTIGATION REPORT

‘That’s assault mate’:
Investigation into alleged
misconduct in a private prison
and how it was handled

November 2025

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**The Victorian Ombudsman pays respect to First Nations custodians of Country throughout Victoria.
This respect is extended to their Elders past and present. We acknowledge their sovereignty was never ceded.**

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973* (Vic), I present to Parliament my investigation report *'That's assault mate': Investigation into alleged misconduct in a private prison and how it was handled*.

A handwritten signature in blue ink, reading 'M. J. Baragwanath', with a stylized flourish at the end.

Marlo Baragwanath

Ombudsman

12 November 2025

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Summary



[I said] 'That's assault, mate. That's assault'. ... He just looked at me and went, 'I don't know what assault you're talking about'.

Kyle to the Supervisor

What we investigated

We received complaints alleging that private prison staff assaulted a man being held on remand ('Kyle'), restricted his access to medical help, and encouraged a further assault on him by other people in the prison.

The events were alleged to have unfolded at Ravenhall Correctional Centre ('Ravenhall'), a private prison run for the State by The GEO Group Australia Pty Ltd ('GEO').

We investigated whether a Supervisor and an Officer at Ravenhall used unreasonable force on Kyle, and failed to report it. We also looked at whether the Supervisor disabled a communication device in Kyle's cell, and later sent three men there to harm him.

As part of this we considered GEO's review of the alleged events and whether the actions it took in response were adequate. We also investigated how Corrections Victoria, which is part of the Department of Justice and Community Safety ('the Department'), oversaw the matter.

Why it matters

The allegations raised serious concerns spanning multiple corruption risks: excessive use of force, blurred professional boundaries, misuse of power and inhumane treatment of a person in prison.

Days before the alleged assaults on Kyle, Corrections Victoria had finalised a new strategy to improve its scrutiny of private prisons amid ongoing concerns about operator performance.

Kyle's case was an important test of these enhanced efforts to ensure private prison operators are delivering a vital public function to expected standards.

It is essential that the various internal and external oversight mechanisms built into the private prison contracts work properly to ensure full accountability, to safeguard the safety and rights of people in prison, and to maintain trust in the corrections system.

What we found

In relation to the allegations about the Supervisor and the Officer:

- **The Supervisor used unreasonable force, and both he and the Officer failed to report this.** Though both staff members and GEO deny any force was used, on the balance of probabilities we found the Supervisor struck Kyle in the face and the Officer did not intervene to protect Kyle. We also found neither officer adhered to incident reporting rules.
- **The Supervisor restricted Kyle's access to medical help after punching him.** Soon after Kyle left the Supervisor's office where the punch happened, the Supervisor disabled Kyle's InCell device. This prevented Kyle from using it to make a medical appointment. We did not accept the multiple reasons the Supervisor gave for turning off the device.
- **The Supervisor did not send three people to Kyle's cell to further harm him.** We were not satisfied to the required standard of proof that the Supervisor influenced three people in prison to assault Kyle. However, he referred to the men as 'heavies' who kept the unit 'in check', and he did direct at least one of them to visit Kyle's cell. While we do not know exactly what happened inside, Kyle expressed fear for his life immediately after.

In relation to how GEO and Corrections Victoria handled the assaults and other concerns arising from the alleged events:

- **Separate investigations by Corrections Victoria and GEO into the events reached different findings.** Corrections Victoria found the Supervisor did assault Kyle, which was a service delivery breach under the contract. GEO was unable to substantiate an assault. This exposed a misalignment in their respective approaches to reviewing incidents and performance.
- **GEO was too blinkered to some of the broader integrity concerns the case raised.** This highlights some potential pitfalls of self-scrutiny by private prisons, and underscores the importance of Corrections Victoria providing an effective layer of external oversight.
- **The Supervisor stayed on frontline duties for weeks after the allegations surfaced and resigned without facing disciplinary action.** This raises questions about how to balance GEO's right as a private company to manage its own workforce against the responsibilities the company and the State have for people held at Ravenhall.
- **GEO paid a significant financial penalty because the assault was a service delivery breach under the Ravenhall contract.** Corrections Victoria now acknowledges the matter should also have been treated as a 'Probity Event' under the contract. GEO and Corrections Victoria have since jointly developed a 'probity framework' to improve incident handling.
- **The InCell system still allows staff to arbitrarily restrict access.** GEO told us it had clarified its policy and reminded staff InCell access was to be changed only in limited circumstances and in keeping with the Human Rights Charter. The Department told us it was satisfied with this, and that it had changed a relevant Commissioner's Requirement. However, we think further system controls are required.

Responses to our findings

- **The Supervisor** has always denied using any force against Kyle and insisted there was no incident to report. He said he had legitimate reasons to disable Kyle's InCell device. He strongly disagreed with our findings and said he had not acted contrary to the Commissioner's Requirements, Corrections Act or Human Rights Charter.
- **The Officer** has always denied that he witnessed any use of force or that he failed to intervene to protect Kyle, and maintained there was no incident to report. He strongly disagreed with our findings.
- **The GEO Investigator** rejected our conclusion that the Supervisor assaulted Kyle, and stood firmly by GEO's investigation process, report and findings. He maintained there were too many variables to find that an assault occurred, including 'significant' differences in the accounts key witnesses gave.
- **GEO** asked us to publish its detailed response to our report in full. You can read it in Appendix 2 (with minor redactions). GEO noted the company's silence on some topics raised in our report 'should not be taken as agreement' with our findings.
- **Corrections Victoria** emphasised it works with GEO constructively to manage any service delivery issues, and that it has a detailed assurance framework in place to proactively monitor private prison performance and ensure the safety and humane treatment of people in prison.

What needs to change

Overall, we are concerned at the potential for integrity risks and other deficiencies to slip through both GEO's internal controls and the Department's external oversight. We have made five recommendations intended to ensure people in prison are not deprived of access to medical treatment and to strengthen oversight of serious incidents in private prisons.

Background

Why we investigated

On 10 October 2022 the Independent Broad-based Anti-corruption Commission ('IBAC') referred a public interest complaint to us for investigation.

The complaint alleged two staff at Ravenhall Correctional Centre ('Ravenhall') had assaulted a person being held on remand – who we will refer to as 'Kyle'. It also alleged staff influenced three other people held in the prison to further assault him.

Following a mandatory report by the Department of Justice and Community Safety ('the Department'), on 10 November 2022, IBAC referred a second public interest complaint to us about the same matter which included some extra details.

What we investigated

The allegations in the two complaints referred by IBAC were worded slightly differently. Our initial enquiries also revealed one of the named officers was incorrectly identified, and this required correction.

Taking this into account, on 4 May 2023 a former Deputy Ombudsman authorised a public interest complaint investigation under section 15C of the Ombudsman Act 1973 into four allegations.

They were that on 21 August 2022:

1. a Corrections Supervisor ('the Supervisor') and a Corrections Officer ('the Officer') used unreasonable force against Kyle
2. the Supervisor misused his position to restrict Kyle's InCell communications device, limiting access to medical and other help
3. the Supervisor misused his position to influence three prisoners to assault Kyle, after Kyle threatened to complain about the officers' assault
4. the Supervisor and the Officer failed to report their use of force on Kyle.

Ravenhall is a private prison, run for the State by The GEO Group Australia Pty Ltd ('GEO'). The Supervisor and the Officer were employed by GEO at the relevant time.

As part of our investigation, we considered GEO's own review of the matters raised, and the adequacy of its response.

We also used our 'own motion' powers under section 16A of the Ombudsman Act to investigate aspects of the Department's oversight of GEO, especially by Corrections Victoria (a business unit of the Department).

How this report is organised

Chapter 1 of this report considers and makes findings on the four allegations.

Chapters 2 and 3 consider how GEO and Corrections Victoria responded to the alleged events, and whether these actions were adequate.



Other investigations into the events of 21 August 2022

Use of force incidents and allegations of assault by prison staff automatically trigger a range of internal and external reviews. Three other investigations have looked at the events in question:

GEO considered whether the Supervisor and the Officer assaulted Kyle, and whether the Supervisor encouraged a further assault on Kyle by others. Its October 2022 investigation report was based on interviews with six Ravenhall staff, six people on remand (including Kyle), and a review of CCTV and other prison records. It found, based on the balance of probabilities, the assault allegations **could not** be substantiated.

Corrections Victoria considered whether an assault on Kyle by staff occurred. It used different criteria to GEO Group when assessing the evidence. After reviewing CCTV footage, and interviewing Kyle and one other witness, its April 2023 final report found an assault on Kyle by staff **did** occur, and a financial penalty was applied.

Victoria Police opened a criminal investigation in August 2022 after receiving a mandatory report from Ravenhall about the alleged assaults, but closed the case because Kyle did not want it pursued.

Our investigation had access to the GEO and Corrections Victoria investigation reports, plus many of the documents and interview transcripts underpinning them. We refer to these throughout this report, especially where opinions differ.

Procedural fairness and privacy

Our investigation was guided by the civil standard of proof which requires that the facts be proven on ‘the balance of probabilities’. This differs from the criminal standard of ‘beyond reasonable doubt’.

To reach our conclusions, we considered:

- the nature and seriousness of the allegations made, and matters examined
- the quality of the evidence
- the gravity of the consequences an adverse opinion could create.

This report makes adverse comments, or includes comments which could be considered adverse, about the following parties:

- the Supervisor
- the Officer
- Kyle
- Adam
- the Induction Billet
- the Meal Billet
- the Former Laundry Billet
- the ‘fourth man’ in Kyle’s cell
- the GEO Investigator
- GEO
- the Department.

In line with section 25A(2) of the Ombudsman Act, we provided these parties with a reasonable opportunity to respond to a draft extract of this report. This final report fairly sets out their responses.

In line with section 25A(3) of the Ombudsman Act, we make no adverse comments about anyone else who can be identified from the information in this report. Where a person is named or can be identified this is because:

- it is necessary or desirable to do so in the public interest
- identifying them will not cause unreasonable damage to their reputation, safety or wellbeing.

Individuals in this report, including Kyle, are de-identified to protect their privacy, safety and reputation.

Context

The Victorian prison system

Across Victoria, there are 11 public prisons run by the Department and, at the time of writing, three private prisons run under contract to the Department. The privately operated Port Phillip Prison is set to close at the end of 2025.

Corrections Victoria is responsible for prison management in Victoria, including administering the private prison contracts. It is led by a Commissioner.

All Victorian prisons, public and private, must adhere to the Corrections Act 1986 and the accompanying Corrections Regulations 2019.

They are all also subject to requirements and standards set by Corrections Victoria including:

- a set of **Commissioner's Requirements** spelling out high-level details for operational matters to ensure consistency across prisons
- a set of **Correctional Management Standards** guiding the outcomes and outputs to be achieved by prison operators.

All private prisons have their own local procedures for officers to follow, known as 'Operating Instructions'. These guide how the Commissioner's Requirements are implemented.

All prisons must also act in line with the Charter of Human Rights and Responsibilities Act 2006 ('the Human Rights Charter') which specifies the human rights afforded to all Victorians. Sections 10 and 22 are particularly relevant to the prison context. They state:

- a person must not be treated or punished in a cruel, inhuman or degrading way
- a person deprived of liberty must be treated with humanity and with respect for their inherent human dignity.

Use of force in prisons

At times it can be both necessary and lawful for officers to use force on people in prison. However, given the obvious power imbalances, this is tightly regulated by laws, policies and procedures.

The law allows a prison officer to use force against a person in prison if:

- they have a lawful reason
- the force used is not unreasonable in terms of the level or type of force and the length of time it is applied
- the use of force is consistent with the Human Rights Charter.

The use of force in prisons is guided by the Commissioner's Requirements, which reflect relevant provisions in the Corrections Act and the *Crimes Act 1958*.

Commissioner's Requirement 1.1.1 Use Of Force (May 2021) states that 'reasonable force' may be lawfully used by prison officers on people in prison to:

- compel them to comply with a lawful order
- prevent them from escaping custody
- prevent a crime or arrest someone believed to have committed one
- prevent them from assaulting another person or being assaulted
- prevent suicide.

Commissioner's Requirement 1.1.1 also states physical intervention must only be used as a last resort, and that officers should first try to resolve situations using communication skills.

This is underpinned by Ravenhall's Operating Instruction 3.7.1 Use Of Force (November 2020), which states its guiding philosophy as:

Reasonable force shall only be used in accordance with the law, where a situation cannot be resolved by other means, and then only for the minimum time needed to reach resolution.



Ombudsman's June 2022 report on use of force in two public prisons

Two months before the alleged incidents involving Kyle, we published a *Report on investigations into the use of force at the Metropolitan Remand Centre and the Melbourne Assessment Prison* ('June 2022 use of force report').

The report examined eight cases, and found unreasonable force was used in four. All eight showed concerning behaviour and poor decision making by officers, and suggested systemic problems.

The report made 12 recommendations including requiring officers to use monitored areas for sensitive conversations, ensuring prisons actively monitor and address officer conduct issues, and improving public reporting to build a culture of transparency. The Department fully or partially accepted 11 of these.

As at February 2025, one recommendation had been fully implemented, two were partially implemented, and eight were in progress.

Ravenhall prison

Ravenhall is one of two private prisons GEO runs on behalf of the State. Opened in 2017, the medium-security men's facility in Melbourne's west is Victoria's largest prison. It can accommodate 1,300 people.

Corrections Victoria's website notes that Ravenhall's areas of focus include:

- new approaches to reducing the risk of offending
- integrated and holistic mental health support
- targeted approaches for people in prison with challenging behaviours.

Those in custody at Ravenhall are a mix of people convicted and sentenced, and people being held on remand before or during their criminal proceedings. In June 2022, half of the people in Ravenhall were unsentenced.

The unit Kyle was in is for people on remand. The guiding principle of *Commissioner's Requirement 2.3.8 Remand Prisoners* (September 2020) is that because people on remand are unsentenced, they generally face fewer restrictions than people who have been convicted. This includes increased access to telephone calls for legal advice.

CCTV cameras capture footage across much of Ravenhall, though there are some blind spots including the Supervisor's office, a secure staff area, and inside cells. The CCTV does not record audio.

Along with an intercom to contact officers, cells at Ravenhall are equipped with an 'InCell' communications device. InCell enables users to access a variety of services, and to make a complaint, submit a medical request, or message prison staff.

The Ravenhall contract

The Ravenhall Prison Project Agreement ('Ravenhall contract') is a contract between the State of Victoria and ASGIP III Ravenhall Project Pty Ltd to build and run the prison until 2042.

GEO is subcontracted to manage and operate the prison.

Various oversight mechanisms are built into the contract to enable the State to monitor GEO's performance against expected standards.

GEO has an internal investigation function known as the Office of Professional Integrity ('OPI'). It is led by the OPI Manager, who we refer to in this report as the 'GEO Investigator'.

The Ravenhall contract specifies 20 service delivery outcomes ('SDOs') and 25 key performance indicators ('KPIs'). GEO is required to regularly report on these to Corrections Victoria.

GEO receives a quarterly 'service linked fee' if it successfully meets agreed SDO and KPI thresholds. This payment can be reduced if GEO fails to meet expected standards.

Other financial penalties can also be applied for specific 'charge events' such as escapes, some deaths in custody and professional misconduct.

Public reporting about Ravenhall's contract and performance

The Ravenhall contract is available to view on the 'Buying for Victoria' website. However, some parts are redacted for commercial or security reasons. This includes details of the SDOs and KPIs.

We obtained an unredacted copy of the contract under summons to help us understand GEO's obligations, along with copies of Corrections Victoria documents about Ravenhall's performance.

Our discussion in this report of material not already in the public domain was informed by commercial and security considerations.

Chapter 1:

The alleged events of 21 August 2022

This chapter examines in detail each of the four allegations we investigated.

Figure 1: Central figures in the events we investigated

Kyle: on remand at Ravenhall as he waited for a court hearing. This was his first time in prison. He had spent time in the medical unit for poor mental health.

The Supervisor: alleged to have punched Kyle in the face during an incident in his office, and to have influenced three people to further assault Kyle. The Supervisor denies both allegations. Was acting in the role at the time.

The Officer: alleged to have shoved Kyle into a chair during the incident in the Supervisor's office. Denies using or witnessing any force against Kyle.

Trio held on remand in the same unit as Kyle: commonly moved around the unit as a group. Alleged to have assaulted Kyle at the urging of the Supervisor, which they all deny. Described by the Supervisor as 'heavies' who helped keep the unit 'in check'.

Adam: a person on remand in the same unit as Kyle. He spent time with Kyle on 21 August.

Source: Victorian Ombudsman

Figure 2: Summary timeline of key events

Sunday 21 August 2022



9.44am

Kyle phones his father. They discuss his pending charges and the possibility one could result in a lengthy jail term. At the end of the call Kyle returns to his cell.



10.01am

Kyle, who experienced poor mental health on arrival at Ravenhall, feels depressed and anxious about his pending charges after speaking with his father. He goes to the officers' post and demands a call to his lawyer. The request is denied.



10.01am

Kyle swears at an officer and angrily returns to his cell. The Supervisor told us a group of onlookers heckled and called out 'bad dog' as Kyle passed them, a signal Kyle could be in danger from other people held in the prison.



10.04am

After Kyle ignores an intercom call from the Supervisor, two officers come to his cell and direct him downstairs to the Supervisor's office.



10.05am

Kyle enters the office and shuts the door. The Supervisor and the Officer are inside. Kyle alleges he is punched in the face by the Supervisor and pushed into a chair by both officers. They deny using any violence. They say Kyle was upset and they discussed his mental health and unit rules.



10.09am

People, including Adam, linger in a kitchen near the office as Kyle is inside speaking with his lawyer from the Supervisor's phone. The officers say they allowed a call to ease Kyle's anxiety. He says he did not mention the alleged assault during the call because the officers were beside him.



10.11.29am

Kyle exits the office. No injuries are visible on the CCTV. Kyle says he stopped some bleeding with tissues given to him by the officers before stepping out. The officers say they gave Kyle tissues to dry his tears because he had been crying hysterically.



10.11.43am

Kyle holds the back of his right hand to the left side of his face as he heads back upstairs. He told us once back in his cell, he tried to seek medical help but was unable to because the Supervisor had cut access to the InCell device normally used to lodge requests.



10.11.48am

Adam follows Kyle into his cell and stays about a minute. Adam later told us and Corrections Victoria, though not GEO, that he saw injuries to Kyle's lip and eye that were not there before Kyle's visit to the Supervisor's office.



10.21am

Other people have been coming and going from Kyle's cell. CCTV captures shadows on the door suggesting a burst of activity inside. This could potentially be an assault, or a recreation of one. Kyle told us he was just talking with people.



10.39am

The Supervisor briefly looks into Kyle's cell on his way past to unlock another cell. He told us he wanted to check on Kyle because he had seen multiple people going in and out. He said Kyle 'appeared fine'.



10.43am

One of many people to visit Kyle's cell in the hour after the first alleged assault is the unit's peer listener. He told GEO that Kyle looked like he had been crying and had a swollen lip but had not said how the injury occurred. The peer listener brought Kyle an ice pack.



11.11.43am

Kyle decides to visit the Supervisor's office again. He holds the left side of his face as he heads downstairs.



11.11.56am

The clearest available shot of Kyle's face shows no visible injury as he waits to see the Supervisor. However, CCTV captures him exploring his lip and inside his mouth with his hand and tongue as if in pain.



11.13am

Kyle spends two minutes alone with the Supervisor in the office. Kyle told us, but not GEO, that he'd been egged on by others to ask for nicotine patches in exchange for not reporting the alleged officer assault. The Supervisor maintains no assault happened. He agrees Kyle asked for patches, which he refused.



11.18am

After leaving the Supervisor's office Kyle spends time in Adam's cell. Adam told GEO, but not us, that they talked about how Kyle owed 'about 30 bucks' to someone, perhaps for canteen items or drugs.



11.24am

The trio head into the office, though the Supervisor says he only spoke to one – the ‘Induction Billet’ whose job it is to show new arrivals the ropes. The Supervisor told GEO he didn’t know why the men were ‘always together’. He described them as ‘heavies’ who helped keep the unit ‘in check’.



11.25am

The trio of men exit the Supervisor’s office and go straight to Kyle’s cell. Most of the other people in the cell exit. The door closes leaving five people inside – Kyle, the trio and one other.



11.27am

Four men exit the cell. Kyle alleges the trio assaulted and threatened him. He told GEO they told him to show officers respect and not to ‘rat’ on anyone. The trio told GEO they did not harm Kyle, though gave inconsistent accounts of what happened inside the cell.



11.31am

Alone inside his cell as a group of people who had gathered outside disperses, Kyle makes an intercom call to officers, stating: *‘I’m fearing for my life, I want out’*.



11.32am

Two officers – including the Officer alleged to have pushed Kyle in the office incident – leave their post to go and check on Kyle. One notes him rambling, ‘almost like he was having a breakdown or an anxiety episode’. They tell him to put a lock on and call for help if necessary.

No image available inside cell

12.28pm

As people flood toward the kitchen for lunch, Kyle is alone in his cell. He makes another intercom call for help: ‘Yo, can I ask to be moved to protection – I’m still fearing for my life’. Officers tell him to lock his door and they’ll come and speak to him.



12.28pm

As Kyle makes his intercom call, one of the trio drops off some lunch. The man then goes back downstairs to speak briefly with the Supervisor who asks him to check on Kyle’s welfare.

1.42pm

A phone recording captures Kyle telling his mother he was assaulted by an officer and that some people in prison had also bashed him. Kyle repeats this in a later call to his father.

Monday 22 August 2022

Kyle turns up to work with a visibly fat lip, prompting an officer to log the first formal incident report.

Source: Victorian Ombudsman, based on CCTV footage and documents supplied by the Department and GEO.

Allegation 1 – Unreasonable use of force by officers

The first allegation we examined centred on whether the Supervisor and the Officer used unreasonable force against Kyle.

What Kyle says happened

Before we interviewed him, Kyle had given multiple formal and informal accounts of what happened inside the Supervisor's office on his first visit that day.

We carefully considered the various accounts Kyle gave to others and found them broadly consistent with what he told us. Some of the details did differ. We do not discuss every difference in this report, but do note inconsistencies we consider significant.

One obvious error in all of Kyle's accounts is his physical description of the Officer. In our view, Kyle's confusion is understandable given the circumstances.

Kyle stated he was assaulted by the Supervisor and the Officer as he stood in the office soon after entering:

... [They] said, 'What's wrong? What made you go off like that? Like yeah, you shouldn't be doing that and obviously we can't have that happen ...'.

And then that's when I said, 'I'm bloody depressed, I'm anxious. I just want to bloody call up my lawyer, but you won't give me a bloody call with my lawyer'.

And then that's when they've looked me in the eye and said, 'Well, there's rules you've got to follow. One, you can't be swearing at us'. And then that's when I've just looked at [the Supervisor] and said, 'Fuck your rules, I don't care'. That's when next minute, he stepped forward a little bit and just gone boom ...

Kyle described the punch as 'forceful' and said it made his head snap back.

He said both men then grabbed him and pushed him to the floor, face down.

Kyle said while on the floor, he challenged the Supervisor about the assault and warned he would be reporting it:

[I said] 'That's assault, mate. That's assault. Someone will hear about this'... He just looked at me and went, 'I don't know what assault you're talking about'.

Kyle said the Supervisor and the Officer picked him up from the floor and shoved him into a chair. He said the Supervisor moved to the door, blocking him from leaving.

Kyle said the officers then offered him a call to his lawyer, and that he responded:

I'll take the call, but you just assaulted me. The Ombudsman is still going to hear about this, no matter what you say or do. You just assaulted me.

One of the officers dialled Kyle's lawyer from the office phone. Kyle said it was a brief call as the lawyer did not have much time. He did not mention the assault.

Kyle told us he did not mention what had just happened, 'just due to being assaulted ... and not knowing what would happen next'. Kyle similarly told GEO he had not said anything to the lawyer because he was 'in fear at the time' and 'didn't want another assault'.

Kyle said that after the call, the officers told him to clean himself up and gave him tissues which he used to wipe up blood and stem bleeding from his nose before returning to his cell.

Kyle alleges that later that morning he was bashed in his cell by the trio that he believes were acting on the instruction of the Supervisor. This is covered in more detail soon, under Allegation 3.

Figure 3: Kyle's accounts over time of the incident in the office

10.11am Sunday 21 August 2022: The first person to talk to Kyle outside the office says Kyle told him that officers had punched him in the face and thrown him to the ground.

1.42pm: In a recorded call to his mother, Kyle says he was punched by the Supervisor for 'being a smart arse', and later that morning by three people in prison.

3.29pm: In a recorded call with his father, Kyle says he 'got king hit' and 'slammed to the ground' by the Supervisor and was denied medical help.

8.05am Monday 22 August 2022: Kyle tells an officer who asked about his obvious lip injury that the Supervisor punched him in the face and took him to the ground. The officer's incident report notes that Kyle 'advised he did not initiate nor retaliate'.

8.35am: In an interview with the duty supervisor, Kyle says he was assaulted by the Supervisor and another officer.

8.47am: Kyle tells a nurse assessing his injuries that he has been assaulted by an officer and later by three people in prison. They note Kyle's injuries as bruising and swelling to the left lower lip, and a small cut near the left eye.

29 August 2022: Kyle tells GEO Investigator that the Supervisor 'stepped forward and king hit' him with a fist to the left side of his face causing his lip to bleed. He says he was also 'slammed on the chair' by both officers.

21 October 2022: Kyle tells Corrections Victoria that the Supervisor punched him in the face which resulted in him falling to the ground.

6 July 2023: Kyle tells us the Supervisor stepped forward and punched him to the eye and jaw. He said he was then forced to the ground, and onto a chair, and that he suffered a blood nose.

Source: Victorian Ombudsman, based supplied documents.

Kyle's account of his injuries and the events shifted over time

When we asked him, Kyle recalled that the Supervisor's strike connected with his left eye and jaw.

He said this resulted in watering eyes and 'constant blood out of the nose'. He recalled being given tissues and stuffing one up his nostril to stem the bleeding before he left the office.

This differed slightly from his earlier accounts to others, which centred on a split to the inside of his lip which bled a lot.

We noted this inconsistency, but also noted some time had passed and that memory is imperfect.

Kyle's account of being struck to the eye and jaw aligned with injuries observed by the nurse who examined him the next day (though we note the possibility Kyle suffered one or more other assaults after the incident in the office).

The Officer's response to our draft report said that Kyle's accounts of the events over time differed 'significantly', were 'unreliable', and 'lacked cogency'. He stated:

For example, in some accounts Kyle alleges officers (plural) pushed him to the ground, in other accounts he does not allege he was pushed to the ground at all, in two accounts he says that it was the Supervisor who pushed him to the ground and in one account Kyle says he fell to the ground. Only three of the ten accounts contain any reference to Kyle being forced into a chair.

We also noticed these inconsistencies and took them into account when making our findings.

The GEO Investigator said in his response to an extract of this report that he also considered shifts in Kyle's accounts 'significant'. In particular he questioned why there was no tissue visible in any available footage of Kyle, and how Kyle could have confused a nosebleed and a cut in the mouth.

GEO also asserted that Kyle's accounts had shifted 'markedly'.

In Kyle's response to our report, he stood by the central thread of his accounts – that he was struck to the face. He said in his view, it was the officers' accounts rather than his own that did not add up.

What the officers say happened

As was the case with Kyle, when we interviewed the Supervisor and the Officer, they had each given multiple accounts over time of the events.

At all times both have denied any force was used against Kyle.

We carefully considered the various versions of events they have given in relation to this allegation. These were broadly consistent with what they told us. The accounts of the Supervisor and the Officer were also largely consistent with each other.

The Supervisor

The first account the Supervisor recorded was on the day of the alleged assault. His entry on Kyle's file stated:

[Kyle] approached officer's post distressed about upcoming court date. He appeared quite upset and asked Supervisor for a welfare call to his lawyer because he can't settle until he lets his lawyer know to drop certain charges. Supervisor facilitated welfare call for [Kyle] in office to lesson [sic] [Kyle's] anxiety considering [Kyle's] at risk history.

Eight days later, at the request of his manager, the Supervisor completed a written incident report. It described a 'distressed and irritable' Kyle demanding a call with his lawyer, and abusing officers when denied.

The Supervisor wrote that during that exchange, others in the unit had heard Kyle openly discussing his charges. This is discouraged in prison. The Supervisor wrote that onlookers heckled and called Kyle names such as 'bad dog' – which he took as a sign Kyle could be in danger.

The Supervisor stated that to defuse this situation with the other prisoners, and to discuss Kyle's welfare, he called him to his office.

Once inside, he wrote, Kyle 'started to cry hysterically in the chair', so the Officer gave him some water and tissues. The Supervisor observed Kyle was anxious about his upcoming criminal charges and being in prison:

He began to heighten when talking about rules in prison especially regarding other prisoners. I allowed [Kyle] to vent but it appeared that he was unwell as he began talking about hearing voices.

The Supervisor wrote that the Officer dialled Kyle's lawyer, and that Kyle spoke to her 'for some time' before thanking him and leaving the office, 'still visibly upset'.

We interviewed the Supervisor almost a year after the incident. When we directly put the allegation to him that he had punched Kyle in the face, the Supervisor declined to answer 'due to legal advice':

I gave my side of the story, and I'm not answering that question.

The Supervisor did elaborate on his perceptions of Kyle's behaviour on the day, and generally. He described Kyle as 'quite unwell, mentally unwell, unstable' and said officers were 'constantly having issues' with him. He said, for example, they had warned Kyle 'over and over' about standing naked for the morning count, and 'spamming' people via the InCell device.

We did not find references to these behaviours noted on Kyle's file, or that he had been warned to stop, suggesting the Supervisor did not consider them significant enough to record. (We did note that another officer told GEO Kyle had been naked 'a few days in a row' so they 'had a chat with him'. Kyle denied this. He said he had been naked in front of officers just once, when one walked in on him showering. He also denied 'spamming' officers.)

The Supervisor said on the day in question Kyle was 'quite heightened' when he entered the office – pacing, crying, and saying things like 'I'm just going so mad' and 'I'm fucking hearing voices'.

The Supervisor told us he considered making a mental health referral for Kyle, but did not do so because he knew 'psych nurses' did not work Sundays. He also observed Kyle was not the most 'mentally unwell' person in the unit at that time, and said he felt nothing would probably have happened even if he had made a report, given resource constraints.

In response to our draft report, the Supervisor said he stood by the detailed account he gave to us when we interviewed him.

The Officer

The Officer was present when Kyle first approached and abused officers, and was also in the Supervisor's office with Kyle for the follow-up discussion.

He denied personally using any force on Kyle, and when we asked whether Kyle had been punched in the face and pushed into a chair while in the office, the Officer responded:

No, that, none of that happened ... There was no assault that I witnessed.

He told us he could not recall exactly how he came to be in the office but said the Supervisor had likely asked him in. He noted 'typically you wouldn't want to be ... in a room by yourself with someone who's just verbally abused officers'. The Officer also noted that it was generally good to have more than one set of eyes present 'in case something does happen'.

The Officer recalled Kyle sitting in a chair, 'still pretty amped up' about not getting a call to his lawyer.

He said Kyle was crying, and saying 'he doesn't know anything about ... the rules and stuff like that ... He was ... swearing and stuff'.

The Officer said he got a cup of water and some tissues for Kyle, 'for his tears'. He said either he or the Supervisor dialled Kyle's lawyer on the office phone and allowed Kyle to speak to her.

Unlike the Supervisor, the Officer made no mention of Kyle pacing or hearing voices. When we asked him about Kyle's mental state he said while Kyle had seemed distressed at first, he had calmed and 'seemed fine' after the phone call. He said Kyle had thanked him and the Supervisor as he left the office.

In response to a draft of this report, the Officer repeated his strong denial that any force was used against Kyle. He disputed any suggestion that he 'took Kyle to ground' or forcibly pushed him into a chair. He stated 'at no time' did he touch Kyle, and maintained the closest they got was when he handed Kyle a cup of water. He also rejected any suggestion he had witnessed the Supervisor use force, or that he had failed to intervene to protect Kyle.

Other evidence

CCTV

CCTV blind spots hindered our investigation

Footage from fixed CCTV cameras and body worn cameras can be especially useful in resolving conflicting accounts of prison incidents.

In this case, the conversation with Kyle to address his behaviour was held in a CCTV blind spot. There is no camera in the Supervisor's office, and general duties officers do not routinely wear body worn cameras at Ravenhall.

In response to this report, Kyle commented: 'It's just easier if there are cameras. They should have voice activation so when you walk into a room they turn on'.

We acknowledge it is sometimes necessary for officers to isolate people in prison from others to speak about behaviour or welfare. However, having such conversations in a private but monitored area better protects everyone involved.

As our June 2022 use of force report noted, when incidents occur in CCTV blind spots, the officers involved can face suspicion about their actions and motives in choosing an unmonitored area.

In response to our 2022 report, the Department accepted a recommendation to issue formal guidance to officers requiring them to use CCTV-monitored areas, wherever possible, for behaviour-related conversations.

The Department also advised the policy for body worn cameras had been strengthened to explicitly require staff to activate a body worn camera when addressing the behaviour of people in prison in an area not covered by CCTV.

We reviewed CCTV footage from four relevant cameras in the unit.

In relation to this allegation, we consider the most important images are those showing Kyle walking back to his cell from the Supervisor's office cradling the left side of his face, and those captured about an hour later, showing Kyle continuing to touch and rub his face, and exploring the inside of his mouth with his tongue (see Figure 4).

No injuries are visible in any of the CCTV shots, though given Kyle's accounts of a split inside his lip and a bloody nose, it is unlikely these would be seen.

We showed the Supervisor and the Officer the footage of Kyle walking back to his cell straight after leaving the office. Neither explained why he might be touching his face.

Figure 4: CCTV and other images of Kyle's facial discomfort



10.11am Sunday 21 August 2022

Two different camera angles capture Kyle holding his right hand against the left side of face as he leaves the Supervisor's office after the alleged assault.



11.11am

Kyle holds his face as he returns to the Supervisor's office to request nicotine patches about an hour later.



11.13am

Kyle probes his mouth with his hand and tongue as he waits to see the Supervisor the second time.



11.16am

Kyle cradles left side of face on return from the second office visit.



Next morning

Kyle's photographed injuries include fat lower-left lip.

Source: Victorian Ombudsman, based on Ravenhall CCTV recordings and Kyle's medical file.

Another section of the footage potentially relevant to this allegation occurs at 10.21am. Kyle is in his cell with some other people on remand, including one present during a later incident discussed in Allegation 3.

A camera captured reflections on the door of vigorous movement inside Kyle's cell, which could potentially indicate another assault on him.

When we asked Kyle about this at interview, he said some of the people in the cell were mates, and one was not. He said that they had all just been talking. He reiterated this after seeing our draft report.

A third section of footage we examined closely showed several movements of curtains in the Supervisor's office while Kyle was inside, and an instance where onlookers turned as if they had heard noises from within. In our view it is unlikely any curtain movement or noises related to the alleged use of force on Kyle.

Adam

We spoke with Adam, who was also on remand in Kyle's unit. His accounts are of interest because he had contact with Kyle before the alleged assault, was near the office while Kyle was inside, and followed Kyle back to his cell straight afterwards.

As was the case with Kyle and the officers, by the time we spoke with Adam he had already provided multiple accounts of that day to others.

Some of the sworn evidence Adam gave us in relation to this allegation was not consistent with what he had earlier told the GEO Investigator.

Most notably for this allegation, Adam told GEO that Kyle had no injuries after the alleged assault in the office. However, Adam's evidence to us and to Corrections Victoria was that he saw injuries to Kyle's eye and lip.

Adam told us he followed behind Kyle as he returned from the Supervisor's office to his cell. Adam recalled Kyle was 'pretty frantic' and seemed 'very scared, shook up, frightened, very intimidated and lost'.

Adam said Kyle told him that officers had punched him in the face and thrown him to the ground. Asked to describe any injuries he saw, Adam said:

There was a big cut in his lip. His nose may have been bleeding a little bit out of one side and I think his eye was a bit puffy ...

We asked Adam why he told a different version of events to GEO. This is discussed in more detail in Chapter 2. In short, Adam told us he felt 'too scared' to give an accurate account when interviewed by GEO because he feared a uniformed officer who accompanied the GEO Investigator was 'mates' with the Supervisor. He also said he felt intimidated because the interview room lacked CCTV cameras.

Adam also gave GEO information he did not give us about possible motivations for an assault on Kyle by other people in prison. This is discussed more in the section on Allegation 3.

Some inconsistencies we noticed in Adam's accounts

There were some inconsistencies in Adam's various accounts. We considered these when making our findings.

Adam's perception of time is, by his own admission, 'the worst'. When we first asked him to talk us through the events of 21 August 2022, his recall was quite muddled. After he reviewed CCTV excerpts, he provided a more linear account.

Adam's recall of Kyle's injuries was also imprecise. He consistently identified the eye and lip as damaged, but flipped between it being the right or left side of the lip.

As noted earlier, human memory is flawed, and given we spoke with Adam more than a year after the incident some inconsistency is understandable.

Our impression of Adam was that he was well-meaning in agreeing to speak with us, in circumstances where many other people in prison likely would not.

He declared upfront that he had previously had 'a bit of an argument' with the Supervisor, though said his motivation in speaking to us was purely to improve 'the system'.

The peer listener

About half an hour after the alleged assault on Kyle, the Supervisor asked the unit's peer listener – a person on remand who lends an ear to others – to check on Kyle.

We reviewed notes made of the peer listener's interview with the GEO Investigator.

The peer listener recalled going to Kyle's cell and speaking with him, in the presence of some others. Multiple people had been in and out of the cell before him, and his visit was after CCTV captured reflections on Kyle's door showing vigorous movement inside.

The peer listener told GEO Kyle had mentioned a sore mouth but had not said how the injury occurred, and the peer listener had not asked why. The peer listener said he did not see any blood, but that Kyle's lip was 'a bit swollen', prompting him to fetch some frozen vegetables for Kyle to use as an ice pack.

Finding on Allegation 1

Allegation 1 finding in short

On balance, we find the allegation that on 21 August 2022 the Supervisor and the Officer used unreasonable force on Kyle is **partially substantiated**.

We find the Supervisor struck Kyle. This was unnecessary and avoidable, and therefore not authorised pursuant to Section 23 of the Corrections Act. The Supervisor's actions also appear unlawful within the meaning of Section 38(1) of the Human Rights Charter.

We do not consider the Officer used unauthorised force. However, he did not intervene to protect Kyle from the Supervisor. We find this was contrary to Section 20 of the Corrections Act which requires officers to take all reasonable steps for the safe custody and welfare of people in prison. Corrections Victoria's investigation into these events found that the Supervisor's actions represented 'an assault by staff on a prisoner'.

However, the Supervisor and the Officer have both always strongly denied that any force was used against Kyle in the office. They reiterated this in response to our draft report and expressed strong disagreement with this finding.

GEO's investigation did not substantiate the use of any force in the office, and the company stood by its finding in its response to our draft report.

In reaching a finding on this allegation, we needed to determine whether force was used on Kyle, and if so, whether it had a lawful basis and was reasonable in the circumstances.

Was force used on Kyle?

Kyle's description of being struck to the left side of the face by the Supervisor has been largely consistent in its telling over time.

This includes – within 24 hours – to other people in prison, to his parents by phone, and to prison officers and medical staff. In later weeks and months he also provided similar descriptions to us and the GEO Investigator.

It is reasonable to wonder why Kyle did not mention an assault by officers at the first available opportunity – during the call to his lawyer from the office. We accept Kyle's explanation that he felt too intimidated to say anything with the officers beside him.

CCTV footage provides the next most timely perspective. It shows Kyle touching the left side of his face almost immediately upon leaving the Supervisor's office. In our view, in combination with other evidence we reviewed, this supports a finding that force was used behind the closed office door.

While no injuries are clearly visible on CCTV footage, Kyle's apparent ongoing facial discomfort, especially around the lower lip, is evident in images captured from various angles in the next hour or so.

The areas he touches align with his verbal accounts, and with medical records from the day after the alleged incident which describe bruising and swelling to Kyle's left lower lip and a small cut near his left eye.

A further support for our finding that force was used is the account of Adam, who saw and spoke to Kyle minutes after he left the Supervisor's office.

Importantly, Adam's interaction with Kyle happened before anyone else came to the cell.

Adam recounted seeing injuries and swelling, and said that a clearly rattled Kyle told him officers were responsible.

While Adam gave different evidence to GEO – that he had not seen any injuries on Kyle – in our view his reason for this was understandable and does not discredit his evidence to us. This is discussed more in Chapter 2.

Further, we note that Adam had little or nothing to gain by voluntarily co-operating with our investigation. People in prison are often reluctant to become involved in issues due to a fear of reprisals or victimisation, and it is a credit to him that he participated in this process.

Our finding that the Supervisor used force is further supported by the peer listener's evidence. He saw an upset Kyle with a swollen mouth and got him an ice pack about 40 minutes after the alleged office incident.

We note that by then, quite a few other people in prison had already been in and out of Kyle's cell. It is possible one or more of them might have assaulted Kyle in the period between Adam leaving and the peer listener arriving.

Most notably, CCTV captured unusual reflections on Kyle's cell door at about 10.21am. It is possible that the burst of activity inside the cell which produced rapidly moving shadows on the door was an assault on Kyle.

However, we note Kyle has never complained about any such incident – including after seeing a draft of this report. His accounts consistently describe only two assaults that day – one by the Supervisor, and another at the hands of the trio which he says happened well after the peer listener saw him (see Allegation 3).

While Adam and the peer listener both reported seeing damage to Kyle's face, no injuries are conclusively visible in CCTV images.

The Supervisor and the Officer have consistently stated they did not use any force at all on Kyle. They reiterated their strong denials after reading draft extracts of this report. They maintain that their primary reasons for interacting with Kyle that day were to discuss his welfare and mental state, and to improve his understanding of prison rules.

The Supervisor's descriptions of Kyle's mental health while they were in the office included Kyle sobbing hysterically and saying he was hearing voices. In our view, the fact the Supervisor did not refer Kyle to medical or psychological support that day tends to undermine his accounts of how unwell Kyle was.

CCTV footage is also inconsistent with the Supervisor's description of Kyle pacing back and forth and crying upon entering the office. Footage we reviewed shows Kyle standing still and seemingly calm as he waited outside.

Further, the Supervisor told us Kyle had been naked during head counts and sent 'spam' messages on his InCell device. However, Kyle denies doing either, and we could not find any warnings for this on Kyle's file.

The second element to the alleged use of unreasonable force was whether the Supervisor and the Officer took Kyle to ground after the alleged punch, then picked him up and shoved him forcibly into a chair.

Both officers have always disputed – and continue to – Kyle's various accounts of what happened in the office that day.

In his response to a draft report extract, the Officer maintained that he had not touched Kyle, and that the closest he got was when handing him a cup of water. The Officer's response also queried the differences in Kyle's accounts outlined in the draft report extract.

Beyond the statements of the three people in the office, there is no other direct evidence available about this aspect of the use of force. Medical reports do not attribute any specific injuries to Kyle being taken to ground or pushed to sit in a chair.

On balance, based on available evidence, we did not substantiate that the Supervisor and the Officer took Kyle to ground and forced him into a chair.

Was there a basis for using force?

The Corrections Act allows prison officers to use reasonable force 'where necessary' in certain circumstances.

We find that none of the circumstances outlined in the relevant Commissioner's Requirement or Ravenhall Operating Instruction applied when the Supervisor punched Kyle in the face. The force used did not have a lawful basis.

Kyle admits to swearing at the officers immediately before he was struck, an obvious act of ill-discipline. However, the Commissioner's Requirements make it clear that physical force is a last resort for officers and that 'negotiation and communication' are the core tactical options available.

The Supervisor's use of force exceeded what was required to control the situation, and was not balanced against the risk of injury to Kyle.

We consider the unnecessary and avoidable punch was therefore not authorised by Section 23(2) of the Corrections Act.

The Supervisor's actions also appear unlawful under Section 38(1) of the Human Rights Charter, as the punch was incompatible with the right to protection from cruel, inhuman or degrading treatment under section 10(b) and the right to humane treatment when deprived of liberty, under section 22.

In response to a draft extract of this report, the Supervisor did not agree that he acted contrary to the Corrections Act or in a manner inconsistent with the Human Rights Charter.

While we do not consider the Officer used unauthorised force at any stage during the events in the office, we did not identify any evidence he intervened to protect Kyle from the Supervisor. We find this inaction was contrary to Section 20(2) of the Corrections Act which requires officers to take all reasonable steps for the safe custody and welfare of people in prison.

In response to a draft report extract, the Officer maintained his insistence that no force was used. He strongly disagreed that he witnessed a use of force or failed to intervene to protect Kyle.

GEO's investigation did not substantiate the use of any force in the office, and the company stood by this finding in its response to a draft of this report. You can read the company's full response at Appendix 2.

Allegation 2 – InCell device disabled

The second allegation centred on whether the Supervisor misused his position to restrict Kyle's InCell device, limiting access to medical and other help.

About InCell devices

Each cell at Ravenhall has an 'InCell' device. It enables users to access induction materials, interactive video learning, a digital library, the prison canteen, a timetable of scheduled activities and other services.

People can also use their InCell device to make a complaint, submit a medical request, and to message certain prison staff, such as case officers.

Ravenhall's InCell System Operating Instruction at the relevant time directed that people in prison 'be given access to all aspects of InCell unless there are reasons to limit or prohibit user access'.

If access was limited or prohibited, the Operating Instruction required reasons to be noted on the person's file, along with any remedial strategies.

However, the Operating Instruction did not provide clear guidance on acceptable reasons to restrict InCell access. It was also unclear on who had authority to restrict access, and for how long.

In response to a draft report extract, the Supervisor said the InCell system was being 'rolled out' at the time of the events in question and there were 'teething issues'. He stated that 'many' people on remand at Ravenhall were left without InCell access 'for several days (and up to a week) after arriving at a unit'. He stated this was due to a shortage of devices and IT delays.

GEO told us in response to our draft report that it had clarified its policy on InCell and communicated this with staff in the wake of the incident involving Kyle. The Department has also amended a relevant Commissioner's Requirement. This issue is discussed more in Chapter 3.

Kyle unable to log medical request via InCell

Kyle told us when he returned to his cell after the alleged office assault (see Allegation 1), he tried to request a medical appointment 'pretty much ASAP' via his InCell device. However, the system would not let him log on.

We obtained and reviewed InCell system access logs for the day in question. They show that within two minutes of Kyle leaving the office, the Supervisor totally disabled Kyle's InCell access.



Access to healthcare in prison

The Corrections Act gives every person in prison the right to access reasonable medical care and treatment. At Ravenhall, people submit requests for medical appointments via the InCell device or through a paper form lodged in a letterbox cleared daily.

The relevant Operating Instruction encourages the use of InCell for self-referrals, with paper forms used as a backup if the system is down. Officers are required to assist people in prison if they are having difficulty lodging a request.

People who are acutely unwell or have an urgent health matter are encouraged to approach an officer, with staff expected to contact nurses immediately for advice.

The Supervisor's reasoning

The Supervisor's short entry on Kyle's file that day did not refer to disabling the InCell. Nor did his later incident report.

At interview, the Supervisor confirmed to us he had disabled Kyle's InCell system access, and offered several reasons for the deactivation.

One he gave was that Kyle had been 'spamming' officers and sending 'inappropriate messages' using the InCell device. However, Kyle denied this when shown a draft report extract. He said he had used his InCell in the days before the incident to book a dental checkup, but not to message officers. We found no record of 'spamming' in Kyle's file.

Another reason the Supervisor offered to us was that the deactivation was to discipline Kyle 'on the grounds that [Kyle] was abusive to staff', which is an offence under the Corrections Regulations.

A third reason the Supervisor gave for disabling Kyle's InCell device was his ongoing concern for Kyle's mental health. He explained there was sometimes a risk of delayed responses to requests for help raised via the device, and he wanted to avoid this by having Kyle directly approach an officer with any concerns.

The Supervisor told GEO he had not warned Kyle he would be switching off the device. The Supervisor told us he told Kyle as he exited the office: 'Look, if you need anything again, come and speak to me'.

The Supervisor also noted the risk of a delayed response to InCell self-referrals in his interview with the GEO Investigator. He explained switching off the InCell was his way of encouraging engagement with officers.

However, in an email chain we saw about GEO's investigation report, Ravenhall's General Manager observed that disabling InCell for mentally unwell people in prison was not an endorsed practice.

Revoking privileges for minor offences

The Supervisor told us his role allowed him to make an ‘ad hoc’ decision to take a person’s privileges away. *Commissioner’s Requirement 2.3.3 Disciplinary Process and Prisoner Privileges* sets out steps that must be followed to investigate an alleged offence.

Once satisfied a minor offence has occurred, Disciplinary Officers may withdraw one of a list of approved privileges for up to 14 days as a penalty. There were 13 items on the list of privileges for 2022, including access to canteen spends, television, sport and hobby activities. InCell system access and medical treatment are not listed as privileges.

Further, section (50)(5) of the Corrections Act requires disciplinary officers to record offences. The Supervisor said he recorded his decision to switch off the InCell on Ravenhall’s ‘Minor Offence Register’, which he said was ‘a book’ at the officer’s post.

However, when we sought a copy of the register for August 2022, we were told there were no entries for the relevant period.

Figure 5: Supervisor’s accounts over time of disabling Kyle’s InCell device

21 August 2022: The Supervisor’s note on Kyle’s file about allowing him a call to his lawyer from his office to ease distress does not mention InCell.

29 August 2022: In his formal incident report about the alleged assault, the Supervisor makes no mention of switching off Kyle’s InCell.

30 August 2022: Asked about InCell by the GEO Investigator, the Supervisor says he ‘pulled the applications’ from Kyle’s device, but did not tell Kyle he’d done so. He says he held concerns for Kyle’s mental health and wanted him to contact a staff member directly if he needed help.

4 August 2023: The Supervisor provides multiple reasons to us during an interview for turning off the device: to stop Kyle ‘spamming’ officers; to discipline him for abusing officers; and out of concern for Kyle’s mental health.

20 November 2024: Responding to a draft of our report, the Supervisor says it was not technically possible for him to isolate certain InCell functions. He says to shut off messaging or remove a person’s access to privileges (such as television), officers had no choice but to disable the entire InCell device.

Source: Victorian Ombudsman, based on supplied documents

Finding on Allegation 2

Allegation 2 finding in short

The allegation that the Supervisor misused his position to restrict Kyle's access to the InCell device, limiting access to help and medical services, is **substantiated**.

The Supervisor had neither express authority nor a legitimate reason to disable Kyle's InCell.

In response to a draft of this report, the Supervisor disagreed that he acted contrary to the Corrections Act or in a manner that is inconsistent with the Human Rights Charter.

In our view, the varying reasons the Supervisor provided for restricting Kyle's InCell system access are not supported by the available evidence, and we do not accept any of them.

By disabling Kyle's InCell access, we find the Supervisor breached section 47(1)(f) of the Corrections Act, which gives people in prison a right to access medical treatment.

The Supervisor's actions also appear to have been unlawful under section 38(1) of the Human Rights Charter, as disabling the device was incompatible with the right of persons deprived of their liberty to be treated humanely under section 22.

In response to a draft report extract, the Supervisor disagreed that he acted contrary to the Corrections Act or in a manner that is inconsistent with the Human Rights Charter.

The Supervisor maintained during the time Kyle's InCell device was disabled, Kyle had access to a hard copy form to request medical help or could have approached the nurse during daily medication rounds.

While it is true Kyle could still have later lodged a hard copy form or perhaps approached another officer or a nurse, the fact remains Kyle's efforts to seek medical help via the InCell device were blocked by the Supervisor's misuse of his position.

We were disturbed by the Supervisor's comments in response to a draft of this report stating that officers at his level could not isolate specific InCell functions and had no choice but to 'disable the entire device'.

The Supervisor supported the idea of improved training and clarity around InCell access in his response to a draft report extract. He also queried whether the heavy workload of prison officers at the time played a role in apparent failures to keep detailed and timely written records.

GEO stated in its response to our draft report (see Appendix 2) that disabling InCell was not an endorsed practice, and that it had clarified its policy on InCell and communicated this with staff in the wake of the incident involving Kyle.

Allegation 3 – Supervisor influences others to assault Kyle

The third allegation was that on 21 August 2022, the Supervisor misused his position to influence a trio of people in prison to assault Kyle.

What Kyle says happened

Kyle has given multiple accounts of an alleged assault by the trio in his cell in the wake of the incident in the Supervisor's office.

His versions of these events have broadly aligned, except for one major discrepancy – his reason for visiting the Supervisor's office a second time. This is discussed further below, and in Chapter 2.

Figure 6: Kyle's accounts over time of the alleged assault by the trio

1.42pm Sunday 21 August 2022: In a recorded call to his mother, after saying the Supervisor had punched him, Kyle adds 'the screw denied it and got other prisoners involved to punch the fuck out of me too'.

3.29pm: In a recorded call with his father, Kyle says the Supervisor 'got all the boys to come in my cell and bash the fuck out of me, pretty much. So I got assaulted twice'.

8.05am Monday 22 August 2022: Kyle tells an officer who asked about his obvious lip injury that he has been assaulted by a staff member, and then by some other people in prison who he could not name. The incident report quotes Kyle saying: 'The Supervisor put a hit on me. If I say anything, they will come after me again'.

8.35am: In an interview with the duty supervisor, Kyle says he was first assaulted by officers, then by the trio whose names he did not know.

8.47am: Kyle tells a nurse assessing his injuries that he has been assaulted by an officer, and then by the trio.

29 August 2022: Kyle tells the GEO Investigator that the trio had 'pretty much got stuck into me'. He says all three 'had a go' at punching him in the 'same spot' as the Supervisor, and that he thinks the Supervisor might have put them up to it.

21 October 2022: Kyle tells Corrections Victoria the trio entered his cell and king hit him. He says they also told him to stop 'ratting', show officers respect, and to 'buzz up' on the intercom to request a move to another unit.

6 July 2023: Kyle tells us the trio entered his cell and punched and kicked him. He says they told him to 'leave all the guards in fucking peace' and that he had to leave the prison.

Source: Victorian Ombudsman, based on supplied documents



Nicotine in Victorian prisons

Smoking is not allowed in Victorian prisons. However, at the time of the alleged incidents, some people in prison were able to access nicotine replacement therapy.

Eligible people were given a nicotine patch each day if they returned their used patch from the day before. Some people were known to misuse the patches to create cigarette substitutes.

The supply of nicotine patches in prisons ended on 26 February 2024.

Second visit to Supervisor's office

Kyle told us after the incident in the Supervisor's office described in Allegation 1, he returned to his cell and told some other people about it.

He said one of them mentioned the Supervisor issued nicotine patches as part of a prison program, and essentially suggested Kyle 'bargain' with the Supervisor to 'try and get us some smokes' in return for not reporting the use of force.

Kyle told us he felt pressured by others to approach the Supervisor but had decided to go along with the idea:

I did feel like it was a bit, you know, 'You've got to do it', sort of thing. I didn't really want to do it but then I thought, fuck it, why not? Get something for the boys and me ... And obviously that's when I've done what I've done.

Kyle said he went into the Supervisor's office and – alone and with the door closed – put a proposal to him:

... I said, 'Hey, obviously you assaulted me. Can we do something about it? Can you give me some patches or something? ... no one else needs to know, just between me and, just yeah'.

Kyle said when the Supervisor replied 'You ain't getting any patches', he again swore at the Supervisor and walked out.

However, while Kyle told us his second visit to the Supervisor's office was to seek nicotine patches, he told the GEO Investigator it was to request medical attention because his InCell device was disabled:

I said '... you've assaulted me can I at least get some medical attention or something like that', and he said 'You're not getting it' pretty much I also asked him 'Can you also approve my lawyer's phone list' or whatever. He said 'Yeah, I can do that for you but you're not getting medical attention'.

When we asked Kyle why he'd told GEO something different, he said he was reluctant to admit having asked for the patches:

I felt ashamed actually mentioning that during the process, the interview. I didn't really want to, yeah, I just felt ashamed just mentioning the patches ...

The rest of Kyle's interview with the GEO Investigator was broadly consistent with the version of events he later provided to us.

Alleged assault in cell

Kyle told us not long after his second visit to the Supervisor, the trio came to his cell, ordered his friends out, and began to hit his head and gut, and to kick him.

He said some of the blows hit the same part of his head as the Supervisor's earlier strike. He said in addition to the damage to his lip, he suffered a bruise behind his ear and a bruise on the nose.

He recalled the men ordered him to 'leave everyone alone. Leave all the guards in fucking peace. Don't fucking rat, don't dog'.

He said the men ordered him to 'buzz up'. Kyle interpreted this to mean he should use the intercom to request to go to another area or prison.

Kyle said soon after the men left his cell, he used his intercom to contact officers. A recording of this call at 11.31am captured the brief exchange:

An officer: Go.

Kyle: I'm fearing for my life – I want out.

Kyle told us he was scared what else might happen to him, and that he might 'get got' – by which he meant stabbed or possibly killed:

I just wanted out. I just had enough. I just wanted to be safe, that's all I wanted, you know what I mean?

He told us soon after he made the intercom call, two officers attended his cell. He said one asked who had assaulted him and Kyle recalled saying: 'I can't tell you. If I tell you, something will happen'. We discuss this intercom call, and a second that Kyle made about an hour later, in more detail later in this report.

What made Kyle think the Supervisor was involved?

Kyle told GEO he was never directly told by the trio or by prison staff that the Supervisor had ordered an assault. Kyle told us several things had nevertheless led him to think the Supervisor was somehow involved.

He said he had thought from the day he arrived at Ravenhall that the Supervisor seemed close with the three men. 'You'd see them always up near the office there, talking to him. Like not just, "How are you going," they were actually talking to him', he recalled.

Kyle said the timing of the three men arriving at his cell barely an hour after being punched by the Supervisor and so soon after his unsuccessful request for nicotine patches had left him thinking there must be a link between the incidents.

He recalled telling the Supervisor multiple times that he would be reporting the punch, and speculated that the Supervisor had perhaps sent the trio to discourage him from speaking up:

I reckon the [Supervisor], from my belief, I'm not 100 per cent sure, that he's told them, 'I'll give you something on the side. Just, you know, go and sort him out'.

Kyle said when he asked the trio why they had assaulted him, they said '[be]cause of what you're fucking doing'. He said both during and after their assault, the men had referred to keeping quiet, and to leaving the guards alone.

Similarly, Kyle told GEO that when he asked the trio 'why is this going on?', they had replied: 'Don't aerate and show the officers some respect...'. (Kyle later told us 'aerate' in a prison context meant 'don't bring heat on to other people'.)

Kyle also told GEO that following the trio's alleged assault he asked his friends 'what do you reckon's happened here?'. He said they had commented on seeing the trio talking to officers beforehand, and that this had contributed to him thinking the Supervisor was involved.

About billets

Some people in prison are assigned to 'billet' roles, performing day-to-day activities such as cleaning, laundry, meal preparation and other general duties.

The Officer told us people in prison usually expressed interest in the roles 'to make some extra money' and 'to have some structure in their day'.

He said typically supervisors appointed the billets, based on suggestions from other officers:

Because there's always spots coming up, especially in, you know, the remand, having people in and out, you need billets coming in and out. So officers as well could ... basically choose and suggest prisoners to be billets.

What the Supervisor says happened

The Supervisor told us when Kyle came to see him the second time, it was to ask for nicotine patches – a request he refused.

In contrast with Kyle's account of the patches being in return for not reporting the alleged punch, the Supervisor instead recalled Kyle saying along the lines of 'Look, the boys are not going to ... leave me alone unless you give me nicotine patches'.

He said this made him think someone 'may be standing over' Kyle.

The Supervisor said Kyle had previously been taken off the nicotine replacement program for giving his patches to somebody else:

So basically, he said, 'You need to put me back on the patch or else, you know, like, or else they're just going to,' whatever. I said to him, 'Look, that's not how it works. You can't get back on the patch once you've been taken off.'

The Supervisor also told GEO Kyle had been removed from the nicotine patch program. However, Kyle told us he had never been on it at Ravenhall and GEO's investigation confirmed Kyle had never been on the program.

Further, we did not identify any evidence that the Supervisor logged an incident report or made note of his suspicions that Kyle was being stood over for nicotine patches.

The Supervisor told us when he refused Kyle's request for patches, Kyle became frustrated and began swearing and saying things like 'I don't fucking know the rules around here'.

He told Kyle he would send the unit's 'Induction Billet' – a person in prison whose job is to help people settle in – to 'have a word' and 'explain the rules of the unit'.

The Supervisor said by 'explain the rules', he meant the GEO rules, and also the 'internal rules' among the prison population such as 'don't talk to the officers, don't steal another prisoner's food, those internal politics'.

He explained that, after Kyle left, he had called the Induction Billet into the office, and that he had arrived with the other two members of the trio 'because they are always together'.

The Supervisor said though the others were present, he had spoken only to the Induction Billet. He described himself as ‘annoyed’, and said he had ‘challenged’ the billet:

I go, ‘Look, if this kid’s coming in here, he doesn’t know how things work and you’re essentially not doing your job’

...

And I said to him, ‘Look, can you have a word with [Kyle]? Look, he just needs a bit of a rundown on, like, you know, how prison operates, things like that?’. And then he said, ‘Yes’ ... then he left the office. I remained in the office and that was that.

The Supervisor’s account of this conversation to GEO was slightly different. He told GEO that he had specifically asked the Induction Billet to discuss the request for nicotine patches:

I said ‘Can you have a word with [Kyle]? Yeah. I think he’s getting stood over for the patch’ and he goes ‘Yeah, sweet’. And then, yeah, they left the office and I stayed in the office and then that was it.

The Supervisor told us and GEO he was unaware all three men had gone straight to Kyle’s cell.

In response to the allegation that he influenced the men to assault Kyle, the Supervisor told us he was ‘not answering that due to legal advice’.

Trio described as ‘heavies’ of the unit

The Supervisor told GEO the three men Kyle says assaulted him were considered ‘heavies in the unit’.

Asked by the GEO Investigator if this was ‘because they just punch everybody’, the Supervisor explained:

No ... obviously they’re all prisoners that we’re never going to trust ... fully, but there’s certain prisoners that will ... basically keep their unit in check with that prison politics which we don’t want to get involved in.

Two of the trio held billet roles in the unit, with one responsible for inductions, and one for meals. The third had previously been a laundry billet.

The Supervisor noted to the GEO Investigator that ‘generally everyone falls in line’ once inducted. He described using people in prison to gather intelligence on goings-on within the unit:

I use the prisoners just to get some basically vibe of how the unit’s running. We don’t have enough eyes [to know] what’s going on in the unit so ... we kind of use prisoners to ... our advantage just to get a scope of things.

At interview with us, the Supervisor did demonstrate some awareness of the need to maintain boundaries with people in prison, and some of the risks posed if they slipped. For example, he told us when Kyle went to shake his hand in the office he’d warned him against it:

... [H]e shook my hand and then that’s something I told him not to do ... outside where prisoners can see because, yeah, that’s a big no-no. You can’t be seen to be you know, associating too much with the officers.

What the ‘trio’ say happened

We tried to interview the three men Kyle alleges assaulted him, but they declined or did not respond to our contact with their lawyers.

GEO did interview all three, and we reviewed transcripts of these interviews. All three denied any violence took place in Kyle’s cell, but in many other respects their accounts differed.

Induction Billet

The Induction Billet told the GEO Investigator he was told by a staff member whose name he did not know to visit Kyle and help him use the InCell system. He replied ‘no’ when directly asked if he had been told by the Supervisor to ‘go and sort him out’.

He said when he and two friends went to Kyle’s cell, Kyle started talking ‘straight off the bat’ about wanting ‘smokes’ and ‘patches’.

He said the three men had left Kyle’s cell. Asked if they had punched him, he replied: ‘No. Not at all. Not at all. I didn’t touch him, [the others] didn’t touch him. And that was all’. He said Kyle had ‘no damage’ and ‘no bruises ... whatsoever’.

Meal Billet

The Meal Billet told GEO that the Supervisor had told them that Kyle had ‘wanted to get free patches off the Supervisor’, and had asked them to ‘go up to his room and tell him ... how it works. You can’t be doing that’.

He said when they went upstairs to Kyle’s cell, Kyle ‘already had bruises on his face’.

He said the trio had told Kyle: ‘You can’t be doing that, you can’t be asking screws for things’, and left the cell ‘straight after’. He said he had not punched Kyle and there was ‘no fighting’.

Former Laundry Billet

The Former Laundry Billet recalled being in the Supervisor’s office and said they had discussed his search for a job. He rejected a suggestion the Supervisor had told them ‘go and give [Kyle] a belt’.

He said he ‘didn’t really pay much attention’ while they were in Kyle’s cell:

‘I just asked him a few questions, you know. Asked him what he was in for, this, that and then asked him if he needed anything. Walked out. Yeah’.

Meal Billet’s letter to a mate

Letters in prison are monitored. We saw a note the Meal Billet wrote to a friend in the prison describing how ‘pissed off’ he was with the Supervisor over possible fallout from the incident:

Yo cuz. This is a shit go cuz haha Fuck!! St8 up I shouldn’t have gone into that room bro this is bullshit G! Well hopefully we don’t get tipped for nothing. We find out next week if we do or not.

Honestly [the Supervisor] should have never called me up to the post man fuck I’m fuckin pissed off bro 4 Reall cuz. Like I’m about to go home and this fuckin shit happens piss off!

Former Laundry Billet reported to be standing over others in prison

Among documents we reviewed was an information report dated 9 July 2022 – about six weeks before the alleged assault.

It noted the Former Laundry Billet may have been ‘standing over’ people in another unit and:

charging them rent in the form of canteen items. Information received suggests each Monday ... [he] ... collects items to the value of \$30 in a pillowcase and exits with those items.

The report noted it was unknown if there was any truth to the allegations. It also said no CCTV footage matching the behaviours described had been identified.

It is unclear if the Supervisor was aware of this information report.

Other evidence

CCTV

We reviewed CCTV footage relevant to this allegation. As noted earlier, there is no camera in the Supervisor’s Office, or in Kyle’s cell.

The available footage shows Kyle entering the Supervisor’s office at 11.13am and exiting at 11.15am.

Ten minutes later the trio enter the office and stay barely a minute before heading straight upstairs and into Kyle’s cell.

All but one of a group of people inside step out, and the door closes leaving Kyle, the trio and one other man inside. The CCTV shows the four men leaving Kyle’s cell after less than two minutes inside, and heading back downstairs.

The fourth man in the cell during alleged assault

CCTV footage shows a fourth man in the cell at the time Kyle alleges he was assaulted by the trio. The same man was also among those in Kyle’s cell when the CCTV captured reflections on the door indicating vigorous movement inside.

Kyle has never alleged this man was violent toward him, though he did tell us the man ‘didn’t like it’ when he overheard Kyle talking about potentially going to the Ombudsman.

The man declined to speak with us. He told the GEO Investigator he had gone to Kyle’s cell ‘just to ask if he’s good’. He said he had not hit Kyle, and had not seen anyone else hit him.

Adam

Adam – who gave important evidence in Allegation 1 – told us he did not see the trio enter or leave Kyle’s cell.

He did, however, offer some general observations to us and to Corrections Victoria – though not to GEO – about how he perceived the relationship between the Supervisor and the trio.

Adam believed the trio had been handpicked by the Supervisor for the billet roles which carried some responsibility and authority in the unit and were thus prized. For example, he said the one responsible for serving meals was able to eat extra, spare food. He said of the trio:

... They run the yard. Everything about the yard, they run it...

He said the men received ‘100 percent’ preferential treatment ‘because of [the Supervisor]’. He also said the men ‘were doing the dirty work’ for the Supervisor.

As noted earlier, Adam did not discuss with the GEO Investigator his perceptions of the relationship between the Supervisor and the trio. The reasons for this are explored in more detail in Chapter 2.

Intercom calls

Kyle made two intercom calls within an hour of the trio leaving his cell, one just minutes after their exit.

Kyle’s first intercom call

A recording of the first call at 11.31am captured the brief exchange:

An officer: Go.

Kyle: I’m fearing for my life – I want out.

Kyle told us he was ‘genuinely scared’ and ‘didn’t feel safe’. He said he ‘just wanted out, just somewhere to be safe, the slot, another prison, wherever’. Kyle said two officers had come to his cell in response:

And [one] said, ‘Who assaulted you?’. I just looked him and said ... ‘If I tell you, something will happen. I can’t tell you’. And they said, ‘You can tell us,’ and I said, ‘No, not going to happen, bud. Ain’t going to happen’.

One of the two officers who attended Kyle’s cell was the Officer present when the Supervisor punched Kyle in the face. The incident report the Officer filed at the request of a manager a week later noted that he had conducted a welfare check:

We asked [Kyle] if he was okay as he was sitting on his bed. He wasn’t making sense or engaging, he appeared to be anxious so we told [Kyle] to privacy lock his door should he need space and told him to let us know should he need to speak to us if he needs any help.

The second officer’s incident report recounted him asking the Officer to accompany him for a welfare check on Kyle. He said Kyle was ‘rambling’ and not making sense:

[Kyle] didn’t really say much just was going on muttering (almost like he was having a break down or an anxiety episode) there was no sign of [Kyle] doing anything reckless or dangerous to himself or others.

The second officer also said they had told Kyle he could use the privacy lock on his cell door, and if he needed assistance to press the intercom again. The officer said he had informed the Supervisor that Kyle may be anxious.

Kyle's second intercom call

A recording of the second call at 12.28pm captured another brief exchange:

Kyle: Yo, can I ask to be moved to protection – I'm still fearing for my life ... [pause]
... Hello?
An officer: Just lock your door and I will get someone to come and speak with you, alright?

The timing of this call coincided exactly with a visit to Kyle's cell door by one of the trio accused of earlier assaulting him.

CCTV shows the man first handed Kyle some lunch and walked away, then – after a brief interaction with the Supervisor – returned wanting to again talk with Kyle.

The Supervisor told GEO he had asked one of the billets to check on Kyle:

I go, 'Is [Kyle] all good? And he goes 'Yeah, he's all good'. I go 'Could you go check on him?' ... so [he] went and checked with him and then it was all good ...

We did not identify any evidence indicating officers attended Kyle's cell in response to the second call.

Finding on Allegation 3

Allegation 3 finding in short

We are not satisfied to the required standard of proof that on 21 August 2022 the Supervisor misused his position to influence three people in prison to assault Kyle. This allegation is **unsubstantiated**.

However, the Supervisor's conduct in directing at least one – though likely all – of the men to Kyle's cell raises some concerns. While we do not know exactly what happened inside the cell, the interaction left Kyle in fear for his life. We find the Supervisor's conduct was:

- contrary to section 20(2) of the Corrections Act which requires officers to take all reasonable steps for the safe custody and welfare of people in prison
- inconsistent with *Commissioner's Requirement 1.4.8 Conduct and Ethics*
- contrary to his obligations under section 38(1) of the Human Rights Charter to act compatibly with section 22.

In response to a draft report extract, the Supervisor disagreed that he failed to comply with the Commissioner's Requirements or acted contrary to the Corrections Act or the Human Rights Charter.

Kyle's description of an alleged assault on him by three people held in the prison has been largely consistent in its telling over time.

Similarly, the Supervisor and the three men have always denied an assault on Kyle was ordered or happened.

Given these contrasting accounts, we were not satisfied to the required standard of proof that the Supervisor had arranged an assault, or that one took place. (This differed from Allegation 1, where CCTV and other witness evidence corroborated Kyle's account and, in our view, tipped the balance toward more probable than not.)

The evidence we reviewed for Allegation 3 did, however, confirm Kyle unexpectedly found himself in his cell with three physically imposing men.

The Supervisor told us he asked only one of the three men, the Induction Billet, to visit Kyle. He said he did not know or expect all three would go.

This does not accord with the Supervisor's observation the men were 'always together' – to the point they arrived in his office as a trio that day when he had asked to see only one.

While exactly what happened behind the cell door when the trio visited Kyle is contested, the interaction clearly intimidated Kyle. An intercom recording minutes after the men left captured Kyle telling officers he feared for his life.

In our view, the Supervisor's decision to instruct at least one of the men to visit Kyle, who was clearly vulnerable, was highly inappropriate and raises significant concerns.

The Supervisor has provided inconsistent accounts to explain the visit. He told us it was to give Kyle a rundown on rules, and told GEO it was to check Kyle was not being stood over for nicotine patches.

The trio also gave differing accounts of the visit's purpose. One said it was to help Kyle use the InCell device – which the Supervisor knew was not functioning as he had disabled it. Another said it was to tell Kyle how prison works. The third wasn't quite sure.

Kyle told us that the men had referred to not being a 'rat' or a 'dog' which he took to mean they wanted him to stay quiet about the Supervisor's earlier punch. He said the trio also told him to leave the guards 'in peace', which compounded his impression the Supervisor was somehow involved.

The Supervisor told GEO about his strategy of using the trio, the peer listener and selected others in the prison as extra eyes and ears to collect information about how the unit was running. This is a sensible and recognised strategy for corrections officers to use. GEO highlighted in its response the important role 'peer prisoners' can play in the day-to-day functioning of prisons.

However, the Supervisor appears to have relied on a hand-picked group to actively manage the behaviour and welfare of their peers in ways that went beyond the supportive and educational nature GEO intends.

The Supervisor was open with the GEO Investigator about relying on certain people in the prison he described as 'heavies' who 'keep their unit in check', including to induct new arrivals so '...everyone falls into line'. This brings obvious risks that must be carefully managed.

In this instance, the Supervisor's action in sending at least one of the trio to Kyle's cell effectively meant they were acting on his behalf, but without his supervision or control, at a time when Kyle was clearly vulnerable.

While Kyle's account of a physical assault by the men cannot be substantiated, the interaction behind a closed door clearly left him in significant distress.

We consider the Supervisor's conduct in sending one of the men – though likely all – to Kyle's cell inconsistent with Section 20(2) of the Corrections Act, which requires officers to take all reasonable steps for the safe custody and welfare of people in prison.

We also find it was inconsistent with *Commissioner's Requirement 1.4.8 Conduct and Ethics* (November 2019), which states officers must not intentionally or recklessly place people in prison in situations where their safety, security or humane treatment is compromised.

Commissioner's Requirement 1.4.8 also requires officers to conduct themselves professionally in the way they communicate and behave with people in prison, act with the highest level of integrity and respect and always observe professional boundaries.

The Supervisor's action in sending one of the men – though likely all – to Kyle's cell, regardless of whether they used physical force, also appears contrary to his obligations under section 38(1) of the Human Rights Charter to act compatibly with section 22.

We were also troubled by the response to Kyle's two intercom calls. After the first, 'fearing for my life' call, two officers attended Kyle's cell – including the Officer, who was involved in Allegation 1.

Kyle told us one of the officers had directly asked who assaulted him. However, the officers made no mention of an assault in incident reports they later filed.

Their reports noted they had conducted a welfare check and found a rambling Kyle seemingly having a breakdown. They told him to put the privacy lock on and buzz the intercom again if he needed help.

When Kyle did this about an hour later – stating he was still fearing for his life – no guards attended. Instead, the Supervisor asked one of the trio Kyle alleges earlier assaulted him to respond to Kyle's call for help.

We consider this poor response to Kyle's distress and apparent disregard for his welfare to be inconsistent with section 20(2) of the Corrections Act and *Commissioner's Requirement 1.4.8*.

In response to a draft of this report, the Supervisor disagreed that he failed to comply with the Commissioner's Requirements or acted contrary to the Corrections Act or the Human Rights Charter.

No response from members of 'the trio', or the fourth man

We offered the three members of the 'trio' and the fourth man present in Kyle's cell the opportunity to review and comment on redacted draft report extracts, but all declined to respond.

Allegation 4 – Failure to report use of force

The fourth allegation was that the Supervisor and the Officer failed to report the use of force on Kyle.



Reporting requirements

Use of force incidents and allegations of assault in Victorian prisons are subject to a range of reporting requirements aimed at supporting accountability, ensuring appropriate medical responses and enabling effective oversight.

The Corrections Act and Commissioner's Requirements set out rules for promptly and accurately recording incidents.

Commissioner's Requirement 1.3.1 Incident Reporting states that in private prisons, if use of force causes injury it must be reported within 30 minutes. The injured person must be referred for medical assessment and photos must be taken.

Incidents of serious staff misconduct and allegations of staff assaulting a person in prison are also notifiable and must be reported within 30 minutes.

Ravenhall's Operating Instruction at the time on use of force specifically required all staff involved in a notifiable incident to submit reports 'as soon as possible' and before the end of their shift.

We found in Allegation 1 that the Supervisor struck Kyle in the face on 21 August 2022.

However, the Supervisor and the Officer have consistently denied any force was used on Kyle and insisted that no notifiable incident took place. As such, we were unable to identify any evidence they have ever reported the use of force on Kyle.

Finding on Allegation 4

Allegation 4 finding in short

The allegation that the Supervisor and the Officer failed to report the use of force on Kyle is **substantiated**.

We find the Supervisor and the Officer did not adhere to *Commissioner's Requirement 1.3.1 Incident Reporting*, and thus both breached section 20(4) of the Corrections Act.

The Supervisor and the Officer have both always strongly denied that any force was used against Kyle in the office and insisted there was nothing to report. They reiterated this in response to draft report extracts and expressed strong disagreement with this finding.

IBAC's 2021 *Special report on corrections* identified that the challenges prison staff face can build strong solidarity between employees, but also contribute to workplace cultures where colleagues may seek to protect each other by covering up incidents. It noted:

Masking behaviours occur when parties directly involved, or witnesses to an incident, actively conceal or fail to accurately disclose corrupt conduct or misconduct.

IBAC noted this 'masking' can contribute to under-reporting of incidents, which in turn can lead to missed improvement opportunities, and the potential erosion of public trust and confidence in the corrections system.

Neither the Supervisor nor the Officer gave a reason for not reporting the use of force on Kyle beyond their insistence an incident did not happen.

We find the Supervisor and the Officer did not adhere to *Commissioner's Requirement 1.3.1 Incident Reporting*, and thus both breached section 20(4) of the Corrections Act. In response to draft report extracts, both the Supervisor and the Officer disagreed with this finding.

Conclusions on the alleged assaults

The evidence we reviewed across the four allegations discussed individually in this chapter raises serious concerns when viewed collectively.

Taken as a whole, in our view it is more probable than not that the Supervisor used unreasonable force against Kyle, and took steps to conceal this misconduct. The Supervisor disagrees with this view.

Neither he nor the Officer who was in the room when the Supervisor struck Kyle in the face reported the incident at the time, or after.

Kyle told us that almost as soon as the assault happened, he warned the Supervisor he would be reporting it. Within two minutes of Kyle returning to his cell, the Supervisor had disabled the InCell device, blocking Kyle's effort to use it to seek medical help.

The snap decision to switch off the device was not documented, and the multiple reasons the Supervisor later gave were not plausible in our view.

Kyle was a relatively young man in prison for the first time, not convicted of anything and being held on remand as he awaited court proceedings. Identified as 'vulnerable' at Ravenhall, he had already spent some time in the medical unit after a mental health episode.

Everyone we spoke to agreed he was anxious and heightened that Sunday morning as he rudely demanded a call to his lawyer and swore at officers who denied his request.

While Kyle's behaviour was undoubtedly inappropriate and challenging, there were better options than force available to the Supervisor to deescalate the situation.

Had the Supervisor chosen to quietly discuss Kyle's behaviour with him in a private but monitored area, there would be more conclusive evidence about exactly what happened.

Instead, he chose a CCTV blind spot to address the issue, leaving us to weigh witness evidence and CCTV footage captured outside the office to understand the day's events.

The Supervisor and the Officer have always denied, and continue to, that force was used.

However, Kyle's evidence about being struck to the left side of his face while in the office is consistent with his behaviour on available CCTV footage, and aligns with Adam's account and Kyle's medical records.

Kyle's decision to approach the Supervisor for nicotine patches does not reflect well on him.

Kyle told us that, feeling somewhat pressured by others, he had tried to bargain with the Supervisor in return for not reporting the assault to us or other authorities.

The Supervisor's account, however, was that Kyle had simply asked for patches, leading him to suspect Kyle was being stood over. He also said Kyle had previously been removed from the patch program for misuse. GEO later confirmed this was not so.

In any case, the Supervisor's response to Kyle's nicotine patch request was to enlist the unit's Induction Billet to 'have a word' with Kyle and give him a 'rundown' on the rules.

While the Supervisor told us he instructed only one of the trio to speak with Kyle, we do not accept his assertion that he was unaware all three made a beeline from his office to Kyle's cell.

Kyle alleged an assault occurred behind a closed door when the physically imposing trio visited him. Though the men did not explicitly say they were there on the Supervisor's orders, he formed that impression.

On the available evidence, we were not able to substantiate that an assault was ordered or took place.

However, taking earlier events into account and given Kyle's ongoing comments about reporting the punch, we consider it more probable than not that the Supervisor's intent in sending at least one of the trio to Kyle's cell was to deter him from reporting misconduct.

We consider the reaction of the Supervisor to two intercom calls Kyle made expressing fear for his life in the wake of the trio's visit to be telling.

After the first call an officer noted Kyle seemed 'almost like he was having a breakdown or an anxiety episode'. Made aware of this, on the evidence we obtained, the Supervisor did nothing.

When Kyle made the second call for help, instead of sending officers to check on Kyle's welfare, the Supervisor asked one of the trio whose earlier visit triggered Kyle's request for protection to go.

Commissioner's Requirement 1.4.8 Conduct and Ethics expressly requires officers to maintain professional boundaries between themselves and those in prison, and to avoid any real or perceived conflicts of interest.

Given the seniority of his position, the Supervisor had an important role to play in modelling expected standards of behaviour for the unit.

We were concerned by evidence we heard and saw suggesting the Supervisor was unhealthily close to the trio.

The perception expressed by Kyle and Adam that the Supervisor used the trio to do his bidding and 'run the yard' in our view raises concerns about the environment the Supervisor had cultivated.

We observed that when the Supervisor spoke to the trio in his office, he did so alone with the door closed and away from CCTV, seemingly confident he was safe and did not need officer back-up.

There are legitimate reasons for prison staff to develop and sustain positive relationships with the people under their watch. Gaining trust and building rapport are essential to maintaining the security and good order of a prison.

However, as IBAC's *Special report on corrections* noted, inappropriate relationships between prison staff and people in prison can sometimes develop, posing a potential corruption risk.

On the evidence we reviewed, the Supervisor did not seem sufficiently alert to these risks and how to manage them.

IBAC's report also noted the importance of accurate incident reporting and investigation in prisons to ensure wrongdoing is uncovered and appropriate action taken to promote a strong integrity culture.

To that end, the following chapters explore some of the broader issues we observed surrounding how GEO and the Department investigated and responded to the alleged assaults on Kyle.

Chapter 2:

Investigations into the events

The morning after the events discussed in Chapter 1, Kyle reported for work in the prison kitchen with visible facial injuries.

An officer asked about the cut lip and, on hearing Kyle's explanation, promptly set in motion the formal incident handling process.

A senior officer interviewed Kyle briefly, nurses performed a medical check, and Kyle was moved to another area of the prison for his safety – as he had requested the day before.

Ravenhall staff also reported the alleged incidents to GEO, Corrections Victoria and Victoria Police, triggering multiple reviews.

Early responses to the allegations

GEO: Staff in Ravenhall's Prison Intelligence Unit began securing and analysing relevant material such as phone and intercom recordings, CCTV footage, incident reports and other files.

Corrections Victoria: Operations Directorate staff – who, among other things, monitor use of force – identified the incident and reviewed available material. They formed an early view that CCTV corroborated Kyle's accounts, and reported the incident to another team in the Department to progress.

Victoria Police: Detectives told GEO they would wait until Kyle's release from custody before trying to speak with him, but said internal GEO inquiries could go ahead in the meantime.

GEO's investigation

On 25 August 2022, GEO's then Managing Director authorised an internal investigation by the GEO Investigator.

The wide-ranging terms of reference stated the GEO Investigator was to report on 'the full circumstances' surrounding both alleged assaults, the restriction of Kyle's InCell device, and 'any matters arising'.

The GEO Investigator was also to report on whether staff had breached the Crimes Act, the Corrections Act and GEO's corporate policies. This included considering whether disciplinary action was warranted.

GEO's early views

The day the internal probe began, the GEO Investigator reviewed CCTV footage, including some from a camera directed at Kyle's cell.

That afternoon, he emailed Ravenhall's General Manager, describing what he considered a 'crucial' section.

The email noted video taken after Kyle left the Supervisor's office but before the trio visited clearly showed 'no injuries to [Kyle's] mouth at all', leading the GEO Investigator to conclude:

Any damage to [Kyle] probably occurred in [the] 30 seconds when the [trio was] in there alone with him. If he is saying that the injuries were caused by the officers then I believe this negates that.

This early opinion was directly at odds with Corrections Victoria's initial view that CCTV corroborated Kyle's account of an officer assault – the first sign of a divide that significantly deepened as inquiries progressed.

At interview, the GEO Investigator told us his general approach was to go into investigations 'with an open mind', and 'to listen to what everybody has got to say'.

To that end, he completed 13 interviews within a week. Six were with the unit staff on duty that day – including the Supervisor and the Officer. The other seven were with people held in the prison, including Kyle, Adam and the trio.

The GEO Investigator told us he was mindful of a request from Corrections Victoria for a progress update as soon as possible. He provided a four-page 'preliminary note' on 2 September 2022 that he later reiterated in an internal document was 'by no means a complete report'.

The preliminary briefing broadly outlined the interviews conducted and some other observations, and concluded:

I will compile a formal report which will expand on the above information and include transcripts of all of the interviews ... My initial assessment is that the allegations against staff are not able to be substantiated at this point.

Corrections Victoria reaction to preliminary GEO briefing

The four-page preliminary document provided by the GEO Investigator raised some concerns among Corrections Victoria staff.

They thought it lacked detail on things such as the disabling of Kyle's InCell, the trio's visit to the Supervisor's office, and the handling of Kyle's mental health.

They also noted it failed to mention Kyle's fearful intercom calls and the response to them, and queried why prison staff were present for some witness interviews.

Corrections Victoria told us in response to a draft of our report that an Assistant Commissioner at the time had verbally raised the concerns with Ravenhall's General Manager for consideration.

GEO's final report

The GEO Investigator finalised a 111-page report on 20 October 2022, two months after the alleged incidents. It set out the facts, included 16 pages of analysis and concluded with three findings. It did not make any recommendations.

While the original terms of reference offered a broad scope, the report made findings on three allegations 'extracted' by the GEO Investigator 'based on the material provided and discovered'.

The GEO Investigation found that, on the balance of probabilities:

- the allegation that the Supervisor punched Kyle in the face was **not able to be substantiated**
- the allegation that the Supervisor and the Officer forced Kyle roughly into a chair was **not able to be substantiated**
- the allegation that the Supervisor arranged for other people held in prison to assault Kyle was **not able to be substantiated**.

The GEO report in short

On the alleged assault in Supervisor's office

The GEO investigation was not able to substantiate an assault in the Supervisor's office.

One factor given significant weight was the absence of visible swelling or injury to Kyle's face on CCTV footage taken after he left the Supervisor's office. The report did consider the possibility Kyle suffered an injury inside his mouth, but expressed doubt about whether he could have stemmed significant bleeding in the short time available before his exit from the office.

Another factor given weight by the GEO report was the denials of the officers, along with their accounts of concern for Kyle's mental state and of efforts to calm him.

On the alleged assault by the trio

The allegation that the Supervisor subsequently sent the trio to assault Kyle in his cell was also found by GEO to have no basis.

The report left open the question of whether the trio assaulted Kyle. It noted that 'numerous' people held in the prison visited his cell on the day in question, and that 'any of them' could have inflicted the observed injuries.

One motive raised for an attack on Kyle was the possibility he owed a drug debt to someone. The report observed that on a recorded phone call three days before the alleged assaults, Kyle had commented to family: 'Last night was good, I had that thing I told you about. Off chops'.

The report suggested this meant Kyle had 'most likely taken some sort of drug' in the lead-up to the alleged assaults and possibly owed the supplier. Kyle was not directly asked by GEO about this as it came to light after he was interviewed. Kyle told us in response to a draft report extract that some people in prison ferment fruit for several weeks and then drink the liquid because it makes you 'off chops', as in 'really out of it'. He said it was not a reference to drugs, and he did not take any while at Ravenhall. GEO noted there were no home brew seizures from the unit housing Kyle in the month before or after the incident in August 2022.

The idea of Kyle owing money to others was bolstered by evidence Adam gave to GEO of Kyle having a \$30 debt to another person. (Adam later told us he made up that story because he felt intimidated during the interview. This is discussed more in the next section.)

Another motivation raised by the Supervisor in the GEO report to potentially explain an assault on Kyle by others was that someone was standing over him for nicotine patches.

On the InCell device deactivation

The GEO report touched only lightly on the disabling of Kyle's InCell device by the Supervisor. It appeared to accept the Supervisor's explanation he did so 'as he was worried about [Kyle's] mental health and to ensure that if he needed anything that he was forced to attend the officer post'.

In our view, the GEO final report lacked analysis of some issues that warranted further exploration – a view also held by Corrections Victoria. This is discussed in more detail soon.

Internal GEO reaction

Ravenhall's General Manager sent an email to the GEO Investigator and two GEO executives two days after the report was delivered. It stated:

Notwithstanding [Corrections Victoria's] inquiries, on the basis of the information provided in the report I have no further comment, other than a couple of anecdotal observations:

- First time prisoner struggling mentally, who was in debt, involved in nicotine patch misuse (stood over), and disliked by other prisoners (bad dog), should of received greater support then using other prisoners to 'check up on him'. [The Supervisor's] use of 'heavies' to manage what was clearly a prisoner in distress, was not appropriate and no doubt fed a perception [the Supervisor] instigated the prisoner-on-prisoner assault in [Kyle's cell].
- Disabling of in-cell for mentally unwell prisoners is not an endorsed (or known) practice.

If everyone is happy, I'll forward the report to [Corrections Victoria] tomorrow morning and await their response.

In its response to our draft report, GEO reiterated the Ravenhall General Manager's comments that use of 'heavies' was not appropriate. GEO stated:

Such relationships are not supported by GEO and are contrary to the safety and good order of a correctional centre and pose a corruption risk.

InCell system changes required

The GEO report did not discuss in detail the Supervisor's deactivation of Kyle's InCell device or make a finding about it. Nor did it explicitly recommend changes to prevent people in prison being denied access to medical help, as Kyle was.

The GEO Investigator told us changes were made to the InCell system 'immediately' after the Supervisor's actions and the reasoning behind them became known:

It didn't wash with anybody there, so the system was changed ... I'd say within the first week. Once we found out about it. And there was some things put in place, I'm pretty sure straight away.

He said the report was therefore largely silent on the issue because in GEO's view, 'it was dealt with already'.

He also explained the report could not explicitly call out the Supervisor for doing the wrong thing because:

... there was no directive not to do that. It was just not an accepted practice. There's no, there was nothing written down anywhere that said, 'You can't do that'.

At interview, the GEO Investigator reiterated the view presented in the Ravenhall General Manager's email, stating the disabling of InCell devices was 'certainly not something that is a common practice, at all'.

However, GEO's preliminary note to Corrections Victoria had indicated a contrary view on the frequency of InCell deactivation. In it, the GEO Investigator wrote:

Initial inquiries reveal that this is a practice which is in place in some units within [Ravenhall] and a recommendation is to be made to standardise or cease the practice according to the operational guidelines.

At interview, the GEO Investigator maintained that changes put in place meant supervisors would now only be able to deactivate the InCell system because of misuse and only with manager approval.

However, GEO subsequently advised us that the flagged change was not enacted because it had realised employees at a supervisor level sometimes needed to be able to restrict access to 'privileges' in line with formal disciplinary processes.

The GEO Investigator advised they had instead requested that the relevant Operating Instruction be amended to make it clear that supervisors can only restrict InCell access in certain circumstances.

GEO's response to our draft report reiterated that it had clarified its policy on InCell and communicated this with staff in the wake of the incident involving Kyle. It said it had reminded staff InCell access was not to be changed other than for 'limited approved matters', and only in keeping with the Human Rights Charter.

Even so, it is our understanding that at the time of writing, Ravenhall supervisors remain able to entirely deactivate a person in prison's InCell access – including access to medical help as in Kyle's case.

The Supervisor resigns

The GEO report was silent on whether the Supervisor should face any disciplinary action.

He had remained working at Ravenhall during the investigation pending its outcome, though was removed from frontline duties while it was underway. GEO at first resisted doing this, but Corrections Victoria insisted.

Within a fortnight of the GEO Investigator circulating the final investigation report, the Supervisor quit. His resignation letter stated that he had 'decided to find employment elsewhere following recent events'.

At interview, he told us he was now working for an agency helping young offenders. He said he had never formally been advised by GEO of the outcome of its investigation.

Documents we saw showed the Supervisor requested to remain on Ravenhall's books as a casual employee for one or two shifts a fortnight, but this request was rejected.

At interview, the GEO Investigator noted that 'some other issues' relating to the Supervisor's secondary employment had come up and that:

... in the end we just said, "Well, how easy is this? We're not even going to give him any shifts". And he ended up resigning ...

GEO reiterated in its response to our draft report that because its investigation did not substantiate any allegations against the Supervisor, no disciplinary process was necessary.

Corrections Victoria's investigation

Staff within Corrections Victoria's Operations Directorate first reviewed the matter as part of their routine use of force audits in the days after the incident was reported.

They observed that CCTV footage appeared to align with Kyle's accounts of two assaults, and developed concerns about possible corruption risks.

After identifying shortfalls in the interim report provided by GEO, the Operations Directorate decided to also fully review the circumstances surrounding the matter, with support and advice from the Department's integrity unit which routinely investigates staff misconduct at public prisons.

Their joint efforts resulted in a document we will refer to as the 'Corrections Victoria report'.

Corrections Victoria report

Corrections Victoria finalised its five-page report in April 2023. It was based on two witness interviews – with Kyle and Adam – plus reviews of CCTV, and incident reports from officers.

It also took GEO's preliminary briefing and final report into account, and devoted about a page to discussing their perceived shortfalls.

The Corrections Victoria report's primary focus was the alleged punch to Kyle's face by the Supervisor. It found, based on a very specific definition, that **an assault by staff on Kyle occurred.**

The Corrections Victoria report in short

On the alleged assault by the Supervisor

The Corrections Victoria report found that an assault did occur in the office. It noted that CCTV appeared to back up Kyle's account of events. This included Kyle looking 'red in the face' on exit from the office, and later touching his mouth 'as though ... in pain'. Corrections Victoria staff also gave weight to their interview with Adam, noting he had told them he checked on Kyle straight after the office incident and observed 'an injury to his eye and lips'.

On the alleged assault by the trio

The Corrections Victoria report observed that CCTV showed the three men leaving the Supervisor's office and walking 'with purpose' directly to Kyle's cell, but made no finding about the alleged assault.

On the InCell device deactivation

The Corrections Victoria report stated Kyle's ability to seek medical help using the InCell device was cut off by the Supervisor, 'for unknown reasons'. It labelled this an 'odd decision' given the Supervisor's stated concerns for Kyle's mental health.

On the GEO report

The Corrections Victoria report raised multiple concerns about the GEO report. This included about topics Corrections Victoria felt were either not adequately covered, or were totally left out. It stated that it appeared the GEO report 'attempted to discredit' Kyle yet took GEO staff 'at face value'. It said aspects of the Supervisor's interview 'were not further explored or challenged'.

On broader risks identified

The Corrections Victoria report called out general concerns with the Supervisor's use of certain people in prison who 'keep their unit in check', and noted comments by Adam suggesting the Supervisor spoke with them in another language.

It also queried the Supervisor's decision to send 'heavies' to Kyle's cell to deal with suspicions he was being stood over for nicotine patches, and highlighted a general lack of care for Kyle's mental health.

It took Corrections Victoria some months to finalise its report as it internally debated next steps and a possible penalty. This process is discussed in more detail in the next chapter.

Corrections Victoria gave GEO a copy of the report in April 2023. The finding that an assault had occurred – in direct conflict with the GEO’s finding – triggered strong objections from the prison operator.

Response within GEO to the Corrections Victoria report

The GEO Investigator emailed colleagues soon after receiving the Corrections Victoria report, declaring it was ‘reckless to say the least’ for the State to have found an assault occurred. He considered Corrections Victoria’s five-page report a ‘simplistic’ review and later shared a long and detailed list of objections to its contents within GEO.

He told us the extensive response was necessary because ‘essentially, they’re saying I’ve done the wrong thing here. And I disagree with that completely’. Corrections Victoria told us GEO had not shared these concerns with it.

Why the investigation outcomes differed

Given our view matches Corrections Victoria’s finding that the Supervisor hit Kyle, we sought to understand why GEO was not able to substantiate an assault.

We also sought to understand why the GEO report did not address some of the broader integrity and other risks that surfaced during the various examinations of events.

To do this we focussed on key pieces of evidence which significantly affected the direction of enquiries, and the subsequent information uncovered.

Perceptions of Kyle’s credibility

Our June 2022 use of force report demonstrated some of the challenges faced by people in prison in establishing their credibility as witnesses, with officer accounts often preferred.

An internal Corrections Victoria memo we saw hinted at this issue. It flagged that finding Kyle was assaulted would ‘likely be seen as “taking a prisoner’s word over an officer’s”’, and that this could ‘rouse discontent’ among prison staff.

Corrections Victoria nevertheless formed the view Kyle’s account was credible, stating in the memo:

... [based on Kyle’s] truthfulness in his account of events on every other aspect of what can be seen on CCTV, there is no reason to discount what he states happened behind closed doors.

Corrections Victoria’s report commented that:

... it appeared that the [GEO] report attempted to discredit [Kyle] and took everything that the Correctional Staff said at face value. Aspects of [the Supervisor’s] interview were not further explored or challenged.

The GEO Investigator told us he had put much less emphasis on Kyle’s account because in his view there was a total lack of supporting evidence for it. He said:

Look, if there had have been corroboration for [Kyle’s account], it would’ve had weight, you know? And that’s what I do. Instead, I had half a dozen people talking about the fact that they didn’t see an injury on him ...

In an internal exchange with colleagues, the GEO Investigator also queried Kyle's failure to mention nicotine patches at all in his interview with GEO, which left him wondering if Kyle had been entirely forthcoming. In response to a draft report extract, he emphasised his view that Kyle's request for patches also corroborated the possibility Kyle owed a debt.

At interview, the GEO Investigator told us he thought a telephone call made in the days after the assault further indicated Kyle's allegations might be self-serving:

There is mention in a telephone call to his mum about getting out, this is going to get him out of jail, and also this is going to get him compensation.

Overall, the GEO Investigator told us, 'it just seems that of course [events as Kyle described them] could have happened, but there's nothing to support that. There's one person's statement'.

In response to a draft report extract, the GEO Investigator reiterated his view that shifts in Kyle's descriptions over time of the officers involved, the events inside the office and the injuries received were 'significant', and queried our acceptance of them.

Similarly, in its response, GEO also highlighted that the description by Kyle of the alleged events in the office had changed 'markedly', and maintained little weight can be placed on Kyle's evidence 'due to the number of different accounts by Kyle of what he says occurred'. It said this meant the GEO Investigator was not provided with all the information available to Corrections Victoria.

Adam's varying accounts

The evidence of Adam – who followed Kyle to his cell straight after the incident in the Supervisor's office – was a central strand in every investigation.

However, the accounts he gave to us and Corrections Victoria differed vastly from what he told the GEO, which had significant impacts on the findings each investigation made. Most notably Adam:

- told us and Corrections Victoria that he had observed freshly inflicted injuries to Kyle's face, but told GEO he had not
- raised suspicions with us and Corrections Victoria that the Supervisor used certain people in the prison to do his bidding, but did not mention this to GEO
- gave GEO, but not us or Corrections Victoria, information about Kyle possibly having a drug debt.

We asked Adam why he gave GEO a totally different version of events. He told us he felt 'too scared' to give them an accurate account. He said this 'fear factor' was mostly sparked by the presence during his interview of a uniformed officer in the room who he thought was 'mates' with the Supervisor.

Adam perceived the interview as sprung on him with no notice, and held in 'one of the only ... places in the whole jail where there's no cameras', which he said contributed to his fear.

He said he also felt intimidated because he – wrongly – believed the GEO Investigator was the 'big boss' of GEO.

He was also worried that, given he was the first to see Kyle after the office incident, he might get the blame for Kyle's injuries. After seeing a draft report extract, Adam added he was concerned about retribution from Ravenhall staff if he 'told the truth' to GEO, as he had heard rumours of other people in Ravenhall and Fulham prisons being 'treated badly' for calling out problems.

He told us the information he gave GEO about Kyle owing \$30 – which was central to GEO's understanding of the incident – was a 'cover' story to avoid having to talk about what had happened.

Corrections Victoria raised the prospect in its final report that the presence of the uniformed officer during Adam's interview 'could be deemed a form of intimidation and potentially lead to false accountings'.

We understand GEO's Operating Instructions do not outline specific processes or procedures for investigators when interviewing people held in prison.

Speaking generally, the GEO Investigator told us a uniformed security presence was sometimes required for interviews for safety reasons, and this was assessed case-by-case.

The GEO Investigator told us in this case, Ravenhall's 'intel manager' observed the interviews as a training opportunity.

The GEO Investigator told us he had found Adam 'very forthcoming' during the interview and that he had not felt the uniformed officer's presence was affecting the quality of Adam's evidence. The GEO Investigator reiterated this in an internal document we saw. It noted that Adam had:

... agreed to participate in a recorded interview and was openly forthcoming with information. He expressed no concerns whatsoever about [a prison officer] being present.

The GEO Investigator told us if he had known of Adam's unease, he would have 'been comfortable speaking with him alone, you know? That would've been an assessment that I would make'.

He said if Adam had told him of observing fresh injuries to Kyle, 'it would've been another avenue to explore':

If [Adam] had have told me that, then I would've been able to explore that, you know? As it was ... his information sent me down a different path.

In their responses to a draft report extract, the GEO Investigator and GEO reiterated their view that Adam had willingly provided information and was not under pressure when interviewed. GEO also emphasised the shift in Adam's accounts meant its investigator was not provided with all of the information available to Corrections Victoria.

Criteria used to assess 'assault'

Another difference between the investigations was that GEO and Corrections Victoria applied different criteria in making findings.

The GEO report, which arrived at a finding that an assault could not be substantiated, did not explicitly explain how it was defining assault. Instead it listed:

- the section of the Corrections Act relating to use of force
- sections of the Crimes Act relating to causing injury to another person.

The Corrections Victoria report applied a very specific definition of assault contained in the Ravenhall prison contract.

About Service Delivery Outcome 7 – ‘Assault on Prisoners by Staff’

Corrections Victoria measures the performance of each prison – public and private – against a set of Service Delivery Outcomes and Key Performance Indicators.

Service Delivery Outcome 7 (SDO 7) relates to ‘Assault on Prisoners by Staff’.

Corrections Victoria takes a ‘zero tolerance’ approach to assaults by staff and proven SDO 7 breaches can result in significant financial penalties for private prisons. This process is discussed in more detail in Chapter 3.

SDO 7 requires the Operations Directorate to confirm or disprove an alleged assault by conducting a review.

Figure 7 shows the number of allegations of assault by staff on people in prison recorded by the Department across all Victorian prisons for the financial year 2022-23 (the year of the alleged assault on Kyle). Fewer than 10 per cent resulted in a proven SDO 7 finding by the Department.

Figure 7: Allegations of assault by staff on people in Victorian prisons (public and private) in 2022-23

Prison	Number of allegations of assault	Rate per 100 people in prison	Number of proven assaults (SDO 7 finding)
Metropolitan Remand Centre	16	2.15	-
Ravenhall	10	1.06	1
Melbourne Assessment Prison	6	3.41	1
Port Phillip Prison	3	0.36	1
Dame Phyllis Frost Centre	3	1.15	-
Hopkins	2	0.32	-
Fulham	2	0.31	-
Dhurringile	1	0.46	-
Barwon	1	0.34	1
ALL	44	0.68	4

Source: Victorian Ombudsman, based on Department data. Note variations in the profile, size and purpose of each facility mean numbers should be interpreted with caution. Rate per 100 people in prison calculated using Annual Prisons Statistical Profile Table 4.1 ‘All people in prison by prison locations at 30 June 2023’. Chart excludes locations where no allegations of assault were made in 2022-23. Population at all prisons used to calculate total rate per 100 people.

On 16 December 2022, the Commissioner of Corrections Victoria formally approved that ‘for the purposes of SDO 7 [the Supervisor’s] actions represent an assault by staff on a prisoner’.

Despite Service Delivery Outcomes being one of the primary measures of GEO’s performance against the Ravenhall contract, the GEO report did not refer to SDO 7 at all.

In response to a draft report extract, the GEO Investigator rejected any suggestion the SDO 7 definition of assault should have been referenced in his report, and said in his opinion, none of the SDO 7 criteria were met in this case.

GEO endorsed the GEO Investigator’s view that even if an SDO 7 lens was applied in this case, GEO would not have established an assault had occurred.

Weighing of evidence

All three investigations – ours, GEO’s and Corrections Victoria’s – used the civil standard of proof, known as the ‘balance of probabilities’.

Investigators were all mindful of what is known as the Briginshaw test – a legal principle which effectively requires higher levels of proof the more serious an allegation and its consequences are.

Even so, each investigation took a slightly different approach to the standard of proof and the weighing of evidence.

The GEO Investigator told us he had applied a ‘higher level of balance of probability ... because that’s what I have to do’. He explained that because some GEO investigations could result in officers losing their jobs, report findings generally had to be strong enough to withstand a legal challenge.

GEO’s Managing Director at the time reiterated this in a meeting with Department representatives. A transcript shows he told Department representatives this was a complicated matter:

[N]ormally if we’ve got sufficient evidence, we would take disciplinary action without fail ... [I]n the case of assault, we summarily dismiss people. That would invariably, in our case, nine out of 10 times end up as being dragged before Fair Work Australia.

Because they challenge it either in the hope of getting reinstatement or hope of getting some money from us. Our investigations, for that very simple purpose, need to prove that assault took place beyond all reasonable doubt or at least on the balance of probabilities.

GEO expanded on this topic in its response to a draft of our report. It observed the implications for an employee of a finding of assault on a person in prison are ‘very significant’ because GEO sacks employees where this is established. It stated:

... employees should not be subject to termination of employment (including summary termination) where the evidence supporting their alleged misconduct is ambiguous and/or based on a lower level of proof that the employer would have to meet in the Fair Work Commission (FWC) (in any subsequently claim of unfair dismissal).

The Department has also traditionally taken a strict approach in public prisons. In response to our June 2022 use of force report, the Department stated it:

... must be satisfied to a higher degree on the balance of probabilities that the conduct occurred. If the Department, as an employer, fails to do so it risks the investigation being challenged at the Fair Work Commission.

This sometimes results in the Department deciding there is not enough direct evidence available to meet the high bar it has set to substantiate allegations, even in the face of persuasive circumstantial evidence.

This was evident in our June 2022 report in which we reviewed some cases where the Department was not able to substantiate allegations, and we reached different conclusions.

Corrections Victoria told us since our June 2022 report it had changed its approach and was ‘examining matters with a different lens’.

This shift was also called out in a December 2022 memo the Corrections Commissioner signed agreeing an assault for the purposes of SDO 7 had occurred on Kyle.

The memo observed the finding ‘sets a precedent and [is] a significant shift away from the Briginshaw standard of strict proof previously relied upon for making such determinations’. It stated:

Historically, as there is no vision of an assault taking place it would be difficult for you to make a determination of assault by staff. In this case, however, although the evidence supporting [Kyle’s] allegation is circumstantial; the circumstantial evidence is significant.

Corrections Victoria managers subsequently met with GEO to discuss the difference in approaches. An August 2023 letter we saw from the Department to GEO stated that:

It was explained at this meeting that the State does not simply rely on direct evidence when making determinations on allegations made by prisoners. Circumstantial evidence is also used to corroborate or rule out certain elements of the accusation.

Suggestions of a shift to a less strict approach to the standard of proof are not accepted by GEO. In response to a draft of our report, it observed:

Different burdens of proof for different jurisdictions will inevitably lead to complexities and confusion. Respectfully, it is not sufficient for a body to say that its concern is with applying a lower standard of proof in cases of alleged staff misconduct, without also addressing the difficulties this poses in other jurisdictions, such as in the FWC.

Review recommends lower evidence threshold and broader scope for Operations Directorate investigations

The impacts of setting a very high bar when assessing conduct and systemic risk came up in the wide-ranging 2022 *Cultural Review of the Adult Custodial Corrections System* ('Cultural Review').

The Cultural Review final report observed that a strict application of the Briginshaw test meant Department investigations 'frequently require the type of probative evidence that is rarely available in a custodial context'. The report stated that as a result:

... even where the circumstances and testimony available suggests it is reasonably likely the conduct occurred with significant impact on the alleged victim and broader custodial culture, the individual likely responsible is not held accountable and may continue to pose a risk within the custodial environment.

The Cultural Review recommended that to better manage integrity risks, the Operations Directorate should use a lower threshold – 'reasonably likely' – to assess conduct and systemic risk.

The Cultural Review team said once matters were assessed at a lower level by the Operations Directorate, where necessary they could be formally referred to the Department's integrity team to handle formal misconduct proceedings.

Another suggestion was that the Operations Directorate should 'be careful to consider all potential integrity breaches and the context in which they may arise'.

It noted that, for example, allegations of assault frequently occurred alongside allegations of disrespectful treatment of people in custody, inappropriate searches and use of restraints.

The Cultural Review report stated misconduct investigations 'should ensure all related misconduct matters are investigated, rather than focusing on the most serious conduct (which may be most challenging to substantiate)':

It may be, then, that lesser conduct – for example, related to breaches of the Code of Conduct or Commissioner's Requirements – may result in a disciplinary outcome that addresses the risk present in the workplace. This approach including adopting a lower standard of proof for lower-level conduct, is consistent with Briginshaw. In this way, [the Department] may be able to ensure related matters are substantiated while reducing the investigative burden and ensuring accountability.

Scope

Corrections Victoria's investigation report – like ours – considered some of the broader context and risks surrounding the alleged assaults on Kyle. This included the Supervisor's use of 'heavies' who keep the unit 'in check', and the removal of Kyle's InCell access despite his vulnerable state.

In contrast, GEO's investigation report took a relatively narrow view to analysing and addressing conduct issues beyond the alleged assaults.

For example, while the GEO report included an excerpt of the interview transcript where the Supervisor talked about his use of 'heavies', the report did not directly challenge or comment on this practice.

The original terms of reference for the GEO investigation were broadly set and called for a review of 'the full circumstances surrounding any matters arising' from the Supervisor's conduct toward Kyle.

These expansive terms left the door open for GEO to identify opportunities for system improvements, such as revising InCell procedures, addressing the misuse of 'heavies', and cracking down on potential nicotine patch 'standovers' if the Supervisor's suspicions were correct.

However, the final GEO report – though it included many pages of raw transcripts – contained only bare findings on the alleged assaults and little to no analysis of broader integrity and other issues.

We asked the GEO Investigator why, despite the original scope, the findings of the final report had a relatively narrow focus.

The GEO Investigator told us that the terms of reference were generally set quite broadly to allow him to get an investigation underway amid uncertainty, and this scope would usually 'morph' depending on where the evidence took him.

We raised with the GEO Investigator the general observation made by IBAC's *Special report on corrections* that financial penalties for private prisons might act as a disincentive to findings of poor conduct.

He replied this had 'never been an issue' and that GEO's Managing Director 'doesn't care how much it's going to cost, but the important thing is there is integrity in our investigations'.

He emphasised GEO was highly supportive of the internal investigations function and put great emphasis on integrity, telling us 'there's no sugarcoating anything that we do'.

Other recent Ravenhall cases reviewed by GEO's Office of Professional Integrity

The GEO Investigator provided data about the investigations conducted by the Office of Professional Integrity into incidents at Ravenhall between 2021 and 2023 (Figure 8).

The data shows 11 matters were investigated. Three involved deaths in custody, and one a fraud allegation. Figure 8 shows the outcome of the remaining cases.

Figure 8: GEO investigations into Ravenhall incidents 2021 to 2023

Allegation	Outcome	Result
Excessive use of force	Not substantiated	-
Excessive use of force	Not substantiated	-
With-holding medications	Not substantiated	-
Incorrect use of force (clearance strike)	Substantiated	Warning and training
Excessive use of force	Not substantiated	-
Incorrect use of force (compliance hold)	Substantiated	Warning and training
Excessive use of force x 2	Substantiated	Termination of employment

Source: Victorian Ombudsman, based on information supplied by GEO

GEO Investigator's response to our report

In a written response, the GEO Investigator rejected the Ombudsman's conclusion that the Supervisor assaulted Kyle, and stood firmly by his own investigation report and findings. He maintained there were too many variables to find that an assault occurred in the office.

The GEO Investigator noted we had made some adverse comments about his investigation process, and expressed strong disagreement with our views. He said he was confused by our acceptance of changes over time in the accounts of Kyle and Adam as outlined in Chapter 1, and noted the officers' accounts had remained stable.

He reiterated his belief Adam had willingly provided information to GEO and was not under pressure when interviewed. The GEO Investigator stated he had reached his conclusion based on the evidence available to him at the time. He rejected our suggestion the SDO 7 definition of assault should have been referenced in his report, and said in his opinion, none of the SDO 7 criteria were met in this case.

The GEO Investigator submitted GEO had co-operated with a Victoria Police investigation into the matter, and noted the police had closed the case. (The matter was the subject of a mandatory report. Victoria Police confirmed Kyle did not want to proceed with a complaint. Kyle told us this was because he had feared retribution from people in prison.)

The GEO Investigator's response asked us to acknowledge – which we do – that he was co-operative with us. He voluntarily participated in a recorded interview and provided some extra items to aid discussion and analysis.

His response to the draft report extract repeated his comments at interview that neither he nor GEO had anything to hide, and he maintained that if prison staff breach GEO policies, procedures or ethics, they are dealt with properly. He stated if his investigation in this case had found an assault had occurred, the employment of both officers would have ceased.

The GEO Investigator criticised the time taken to finalise our investigation and report and said our process had been stressful for himself and likely all involved.

GEO's response to our report

GEO provided a seven-page written response that it said addressed key matters, and asked us to publish the response in full. You can read this at Appendix 2 (with minor redactions). The response discusses multiple topics raised in this chapter.

However, GEO noted our report was lengthy and detailed and said it was not reasonably possible to respond to all of the matters we raised. The response stated GEO's silence on some topics 'should not be taken as agreement' with our findings.

Chapter 3:

Oversight of GEO's response to the alleged events

While investigating the specific allegations referred to us about the events of 21 August 2022, we also looked at aspects of the Department's oversight and contract management.

Our focus was on the ability of the Department – particularly Corrections Victoria – to ensure GEO addressed the various issues and integrity risks we observed in this case.

Cultural Review called for improved private prison oversight

The Cultural Review found that despite various existing monitoring mechanisms, the Department had 'limited control, visibility and oversight of private prison culture and performance'. It noted this situation was in part due to the setup of the contracts, and a lack of protocols for information sharing.

The December 2022 final report also observed that 'monitoring, accountability and information-sharing arrangements for private prisons could be improved'.

The report noted Corrections Victoria had recently introduced an Assistant Commissioner role dedicated to private prisons, along with a new performance management framework (discussed more below). Both were anticipated to improve operational oversight.

Nevertheless, the Cultural Review report suggested a more holistic approach was required for oversight and performance monitoring at both public and private prisons, beyond existing SDOs and KPIs.

How Corrections Victoria oversaw this case

Corrections Victoria is primarily responsible for prison management in Victoria. This includes monitoring and performance management of the Ravenhall contract.

Ravenhall is a public private partnership delivered under the Partnerships Victoria project framework. Corrections Victoria told us this means 'the State and [GEO] constructively work together to manage service delivery issues'.

Multiple arms of Corrections Victoria were involved in overseeing and handling the allegations of assault on Kyle. The two main ones were:

- the **Operations Directorate**, which identified the potential use of force on Kyle during routine audits and led the Corrections Victoria investigation
- the **Contracts and Infrastructure Branch ('CIB')**, which led interactions with GEO about the incident, and considered what actions to take under the contract.

New Private Prison Performance Management Strategy signed off days before alleged assaults on Kyle

In August 2022, Corrections Victoria launched a new Private Prison Performance Management Strategy in response to ‘recurring’ issues at GEO’s Ravenhall and the G4S-operated Port Phillip Prison.

It aimed to ensure both private prisons were acting in line with their contracts and, if not, that ‘swift’ action was taken to remedy problems. It listed four key principles. One was the safety and wellbeing of people in prison. Another principle was ‘public accountability’, with the strategy seeking to ‘achieve an appropriate level of State scrutiny’ of the prisons.

To this end, the strategy proposed increased stakeholder engagement and new, weekly meetings with contractors to discuss significant incidents and non-compliances. It outlined ‘compliance uplift’ efforts to validate (or challenge) information self-reported by prisons, and to better identify emerging trends and issues.

The strategy also strengthened reporting obligations for prisons. It observed that some action plans provided by contractors to fix identified problems were ‘not as comprehensive as the State expects them to be’.

The enhanced reporting included a monthly report to identify issues and incidents not necessarily regarded as contract failures, but which could still inform views on the safety and security of the prison. The strategy also involved the development of an improved risk register to allow the contract team to identify and track risks.

In keeping with the new performance management strategy, Corrections Victoria staff responded quickly when the alleged events of 21 August were formally reported by Ravenhall.

As discussed in earlier chapters, within a week, Corrections Victoria did a preliminary review and identified early concerns.

Push to remove Supervisor from frontline duties

Ravenhall staff are employed by GEO, not the Department. This limited the role of Corrections Victoria in any possible misconduct or disciplinary processes against the Supervisor.

Given the seriousness of the allegations, Corrections Victoria wanted GEO to ‘immediately’ move the Supervisor to a ‘back office’ role.

The Department told us that it ‘cannot recall a previous situation where [GEO] did not suspend or move an employee while they were under investigation’.

Nevertheless, Ravenhall management strongly resisted in this case.

GEO’s response to our draft report expanded on the company’s position on removing the Supervisor from front line duties. It noted Kyle and Adam ‘gave materially different evidence to GEO’ than to Corrections Victoria meaning ‘there was insufficient evidence available for GEO to remove a staff member from prisoner contact’.

It stated:

GEO is not resistant to taking disciplinary action (including summary termination of employment) in appropriate case where evidence exists of a staff assault upon a prisoner. GEO has had to defend such decisions in subsequent claims of unfair dismissal. GEO does stress that there must be sufficient and cogent evidence to support disciplinary action.

...

If GEO removed an employee from their post as a standard practice following an allegation a prisoner was assaulted by staff ... this would present opportunities for prisoners to compel the removal of staff from areas/units by making vexatious and untruthful allegations and rendering the Centre unworkable.

In this regard, there needs to be a test of the known facts to positively support an allegation of assault before taking such action.

GEO's resistance prompted the Department to seek advice from its Office of General Counsel to clarify Corrections Victoria's ability to restrict – at least temporarily – a private prison officer's duties.

Three options identified

The Department's Office of General Counsel identified three options.

The first – and recommended – option was for the Department to write to GEO directing the Supervisor be removed from his duties using rights available under the Ravenhall contract's 'relevant persons' clause.

The clause allows the State to give notice that GEO must remove a person from their role if the State thinks the person has engaged in misconduct, is unsuitable or that it is not in the public interest for them to remain.

The second option was for the Department Secretary to direct the Supervisor to perform back-office duties on the basis of the Corrections Act. This was considered 'less preferable' because 'an exercise of statutory power may be more easily challenged' and 'may cause greater relationship issues' with GEO.

The third option was for the Department Secretary to revoke the Supervisor's 'Instrument of Authorisation' ('IOA').

An IOA is a document which outlines the legal powers delegated to a prison employee, such as the use of force or restraints, and the ability to perform searches.

The Department told us revoking the IOA was considered a 'last resort':

The State contracts [GEO] to manage its workforce and make decisions on its employees. If the State was to intervene, it could set a precedent that [GEO] will potentially stand aside and wait for the State to step in and make tough decisions so it bears no responsibility and cannot be questioned by the Fair Work Commission. By doing so, it transfers the risk back to the State. The State could be subjected to Fair Work Commission proceedings, as [GEO] would simply divert the cause of the employee's termination directly to the State removing the employee's authorisation to work on the contract.

None of the three options identified were enacted.

GEO did eventually move the Supervisor to a 'back office' role after discussions with Corrections Victoria. As discussed in Chapter 2, the Supervisor quit his Ravenhall role soon after the final GEO report was distributed, without facing disciplinary action.

Officer obtained new corrections role in public system

The Officer also did not face any disciplinary action from GEO. He told us at interview he left the private prison system in early 2023 and was employed by the Department in a corrections role.

The Department told us there was no 'adverse intelligence' recorded in its systems against the Officer's name when he was hired into the public system:

Operations Directorate staff acknowledge that an information report should have been entered [about the Officer] but this did not occur as the investigation was focussed on [the Supervisor].

The Department told us it does not have access to the personnel files of staff in private prisons, and relies on declarations made by job applicants. It told us it is responding to recommendations in IBAC's *Special report on corrections*, and in our June 2022 use of force report, to strengthen staff vetting processes across public and private prisons and ensure recruitment decisions are properly informed.

Penalty applied for SDO 7 failure

As discussed in Chapter 2, in December 2022 Corrections Victoria found the Supervisor's actions breached one of the service delivery outcomes in the contract, SDO 7 – 'Assault on Prisoners by Staff'.

Private prisons face a significant financial penalty for such failures. This is intended as an incentive to maintain high standards. (Public prisons also track SDO 7 performance, but no monetary penalties apply.)

Emails indicate GEO internally debated challenging the penalty applied in this case, given GEO's report had not substantiated an assault by staff. The company ultimately decided, as one manager put it, to 'suck it up'.

SDO 6 'prisoner on prisoner' assault also logged

Another of the Service Delivery Outcomes in the Ravenhall contract is SDO 6 – 'Assault on Prisoners by Other Prisoners'.

GEO acknowledged that an assault on Kyle happened, though not at whose hands. This was reiterated by GEO's then Managing Director in a meeting with the Department, where he stated: 'I think we all are clear in our minds that an assault took place'. GEO further stated in response to our draft report there was 'decidedly more evidence that the injury occurred in Kyle's cell at the hands of the prisoners who were visible only in reflections or the three "heavies"'.

Yet neither the Corrections Victoria report nor the GEO report made any reference to or a finding about an SDO 6 breach. Corrections Victoria told us in response to our draft report that a 'prisoner on prisoner' assault was logged in the official recording system, though did not result in a financial penalty as 'the benchmark was not exceeded for the quarter'.

Further contractual action not pursued

Several performance management levers are built into the Ravenhall contract, beyond monitoring against SDOs and KPIs.

Charge Event

Generally when SDO 7 is breached, the Department would issue a 'Charge Event' to the private prison operator.

The Ravenhall contract outlines five types of 'Charge Events' for which GEO must pay the State a significant sum, including one for serious professional misconduct.

For Corrections Victoria to issue the Charge Event, the Commissioner must determine that misconduct has occurred. This is a separate process from the SDO 7 determination.

After several months of back and forth, a Department briefing to the Commissioner recommended no Charge Event be applied. The briefing noted that this case was 'unique' because of a lack of direct evidence.

Applying a Charge Event would have required GEO to provide Corrections Victoria with a formal action plan setting out the steps it would take to address the causes of the problem and prevent it from happening again.

Corrections Victoria told us though no Charge Event was applied, and therefore no formal remedial action plan was required, the SDO 7 breach carried a requirement for GEO to review the event to determine causal factors, address them in a local level action plan, and report on this quarterly to the Department.

Probity Event

The Ravenhall contract includes a section on 'Probity Events'. It defines these as 'any event or thing' which has a real or perceived impacts on the character, integrity or honesty of an employee making them no longer fit to perform their role. It also covers adverse effects on the public interest or public confidence in the Ravenhall contract.

Under the Ravenhall contract, Corrections Victoria and GEO must meet within 10 business days of a Probity Event notice being issued to agree on actions to remedy the matter.

It was unclear to us why some of the conduct surrounding the use of force on Kyle – such as the disabling of his InCell device and the Supervisor's reliance on 'heavies' – was not investigated and managed as a Probity Event.

In response to a draft of this report, the Department said it had managed the case appropriately under its integrity framework. However, it acknowledged that from a contract perspective it should also have been handled as a Probity Event.

The Department also stated that other contractual notices issued to private prison operators in the past demonstrated it will use available contract mechanisms 'when it is necessary'.

Lack of transparent reporting about private prison performance

We found it difficult to get a complete picture of how many serious incidents occur at Ravenhall. Corrections Victoria told us two Charge Events for serious professional misconduct had been issued to Ravenhall since it opened. (Both were downgraded to isolated professional misconduct.)

For matters that are not employee misconduct but a failure of process or procedure, Corrections Victoria can, under the contract, issue a 'Service Failure' or 'Default' notice. These notices specifically require GEO to remedy identified issues. If the problems are not fixed, the matter can be escalated. In serious unresolved cases, the contract can be terminated.

Since opening, Ravenhall has also received at least four Default Notices (for unsecured doors, missing electronic devices, a video visit security incident and failing to investigate possible child abuse material on a laptop). The most recent document we saw suggested that in July 2023 a further Default Notice was pending after Corrections Victoria audits identified staff working at Ravenhall without the correct authorisation or checks.

Documents we saw suggest Ravenhall has also received at least three Service Failure Notices (for non-compliant tools and keys, stolen hand sanitiser and a tablet device in a cell).

The lack of transparent reporting of events across all prisons – public and private – was a problem noted by the Cultural Review. It recommended that to increase accountability, the Department should provide a report to Parliament each year on the SDO and KPI performance of each prison. This already happens in some jurisdictions, such as New South Wales.

Other active steps

In keeping with the new Private Prison Performance Management Strategy, Corrections Victoria informally raised Kyle's case and related issues at its regular meetings with GEO while the decision on possible contractual action was pending.

Moves to align investigation approaches

We understand two meetings were held in an attempt to better align the approach to investigations by GEO and Corrections Victoria in future.

We saw a video recording of a June 2023 meeting between senior Department and GEO staff where this was broadly discussed.

In light of the perception that each organisation was applying a different approach and threshold, the possibility of investigators from both organisations 'teaming up and doing it together' in future cases was raised.

We understand there was also a second meeting attended by the GEO Investigator and Corrections Victoria Operations Directorate staff.

A letter from a Corrections Victoria Acting Deputy Commissioner, Custodial Operations to GEO's then Managing Director summarised the outcome:

I am advised that at the conclusion of the meeting the perceived deficiencies with the methodology of this particular investigation were largely agreed upon, and I trust that I can have comfort in such investigations being managed appropriately in future.

The GEO Investigator told us at interview meaningful discussions were held, and information sharing had improved:

So I can go to [Corrections Victoria] now and I can say, 'This is what I've got. Can you assist me?' And they are forthcoming with that. So ... some good has come out of it.

....

Look, we're very much collaborative now, whereas we weren't before. We would just provide a final report. We're very much in tune with providing each other with information ... So we've been able to assist them in some enquiries and they've been able to assist us as well.

GEO told us it had made multiple other changes since the incident involving Kyle. It outlined an updated process for higher-level oversight by GEO leaders 'to provide for consistency, independence and integrity' in investigations.

It also reiterated the ongoing importance of local, prison-level reviews. Changes have included establishing:

- a Serious Incident Review Committee ('SIRC') which meets weekly to discuss serious incidents and can make and track recommendations
- an Investigation Review Committee ('IRC') to ensure the findings of all formal investigations are considered and any recommendations made will address causal factors. The IRC also analyse SIRC reviews and refers misconduct matters for formal investigation.

GEO also told us that it 'supports further collaboration initiatives with the State':

GEO confirms that further meetings with the State have occurred, most recently [in early 2025], which has included information sharing between GEO and the State occurring in investigations.

Investigation requirements lack clarity

We observed a lack of clarity around what Corrections Victoria expects from investigations conducted by private prison operators.

Its working instruction for incident specific reviews states these will 'generally' be conducted by the prison operator for matters likely to trigger a Charge Event or the issue of a Service Failure or a Default Notice. The working instruction does not specifically mention an SDO breach, though does say it is 'possible' for a review to commence into notifiable incidents, which include assaults by staff.

The working instruction states the contractor - in this case GEO - will submit an Internal Management Review ('IMR') 'outlining the known circumstances of the incident after a preliminary internal investigation'.

However, it notes the contractor 'may elect not to conduct an IMR', though 'can be requested to do so by the State'. GEO's corporate policy for the investigation of incidents and allegations applies to all of GEO's work locations and does not specifically address Corrections Victoria requirements or elements of the Ravenhall contract.

GEO stated in response to a draft of this report it would review its policy with a focus on risk principles.

Department reliant on external support for complex integrity investigations in private prisons

When this matter originally came to our attention, we commended the Department for its diligence in identifying the potential integrity issues at its heart. The Department said Corrections Victoria's System Performance Branch and Contracts and Infrastructure Branch, along with the Department's overarching Integrity and Investigations team generally all worked together on such cases that involved private prisons.

In this case, the Department informed us it considered we were 'better equipped to handle the investigation and compel GEO Group to provide evidence'. Because the matter met the threshold for suspected corrupt conduct, the Department also referred the matter to IBAC as required under section 57(1) of the *IBAC Act 2011*.

The Department told us Corrections Victoria – including the Contracts and Infrastructure Branch – was 'currently exploring opportunities to address workforce shortfalls and increasing staff capability to conduct investigations (through formal qualifications)'. It said this would help acquit Corrections Victoria's obligations to provide assurance and oversight to the Secretary on the management of Victoria's prison system.

Moves to tighten InCell rules

As discussed in Chapter 2, GEO told us it had moved quickly to clarify who can alter InCell device access and under what circumstances, and communicate this to staff.

Corrections Victoria told us it had confirmed disabling InCell was not an endorsed GEO policy, and was satisfied with GEO's communication to staff. It said it would continue to monitor restrictions on InCell 'and if any future events surfaced, the events would be reviewed and the application of a contractual notice would be considered'.

Corrections Victoria maintained that system adjustments to prevent the devices from being disabled were not necessary:

... the State does not believe that imposing additional system controls is the ultimate solution when the In-cell devices are utilised for a range of activities, such as the management of a person on a loss of privileges regime.

It could be said that there are a range of activities whereby an employee could abuse or overstep the power granted to them to exercise their role, however it is the policies and procedures in place that govern the way a person performs their role.

Ultimately [GEO is] responsible for ensuring its workforce is complying and adhering to these policies. Corrections Victoria provides assurance by undertaking its own compliance and validation framework, which includes a component of onsite observation presence.

Separately, the Department told us Corrections Victoria had amended a Commissioner's Requirement relating to computers and devices to protect access to essential services.

Agreement on new probity framework

Corrections Victoria and GEO told us in their responses to our report that they had recently worked together to develop a 'probity framework' aligned to the Ravenhall contract.

GEO stated the framework was intended to provide greater transparency and clarity concerning the handling of incidents that have or likely will trigger a 'Probity Event' under the Ravenhall contract.

Conclusions on response and oversight

Days before the alleged assaults on Kyle, Corrections Victoria had finalised a new strategy to improve its scrutiny of private prisons amid ongoing concerns about operator performance.

Kyle's case became one of the first tests of an enhanced oversight regime aimed at better holding private prison operators to account for their delivery of a vital public function.

Corrections Victoria staff deserve credit for promptly identifying the integrity concerns provoked by the two alleged assaults, the denial of access to medical help, and the involvement of a trio of 'heavies'.

However, while the Department is clearly keeping a watchful eye, some of its actions – or more accurately, inactions – suggest it does not always feel sufficiently empowered to effectively deal with all it sees.

And some aspects of GEO's response left the impression it lacked sufficient regard for the public interest, and for its obligations to treat Kyle – and manage Ravenhall – in a safe and humane manner.

Our concerns are best illustrated by the fact the Supervisor remained on frontline duties for almost two months after the allegations against him surfaced – and ultimately resigned without ever facing disciplinary action.

Corrections Victoria had hoped GEO would at least move the Supervisor to a 'back office' role pending the outcome of inquiries – as would have happened if Kyle had been in a public prison.

The company, however, resisted this because it did not feel it yet had enough evidence to support disciplinary action and was worried about a possible unfair dismissal claim.

Department legal advice suggested multiple contract options were available to deal with this situation. However it told us it chose not to use them, largely because it, too, was worried about being taken to the Fair Work Commission.

GEO's right as a private company to manage its own workforce should not prevail over the responsibilities it and the Department have to ensure the safety and wellbeing of people held at Ravenhall.

It concerns us that the Supervisor – who the Department considered posed a risk to the safety and security of the prison and people held there – remained in a position of significant authority in the unit for some time.

We are equally concerned that the Department has not required GEO to adjust the InCell system to ensure officers are never again able to arbitrarily prevent people in prison seeking medical help.

GEO told us it has clarified its policy and reminded staff InCell access was not to be changed other than for 'limited approved matters', and only in keeping with the Human Rights Charter.

The Department told us it was satisfied with this intervention and did not think further system controls were required. It also told us it had updated a relevant Commissioner's Requirement to protect access to essential services.

These changes by GEO and the Department are useful steps. But as the Supervisor's actions showed, staff do not always adhere to policies. We have recommended that the InCell system itself be adjusted to ensure access to medical services can never be disabled.

Another significant area of concern arising from this case is the lack of alignment between the Department and GEO's respective approaches to establishing what happened.

This is best illustrated by the fact Corrections Victoria found an SDO 7 ‘assault on prisoner by staff’ had occurred, while GEO was unable to substantiate that the Supervisor assaulted Kyle.

The SDO 7 finding resulted in GEO having to pay a significant financial penalty for breaching its service delivery obligations.

The Department’s approach of applying the SDO 7 criteria to the situation, including giving appropriate weight to circumstantial evidence, is welcomed.

GEO’s investigation was done by its national Office of Professional Integrity, using a somewhat ‘boilerplate’ approach, and not tailored to the requirements of the Ravenhall contract.

GEO’s investigation report made no mention of the SDO 7 criteria when assessing the Supervisor’s conduct, instead referring to sections of the Corrections Act and the Crimes Act.

We note GEO’s view that even if it had applied an SDO 7 lens in this case it would not have established an assault occurred. Even so, given SDOs are a contractual obligation GEO is required to deliver against, the operator’s investigation reports should include an assessment of incidents against any relevant SDO criteria.

Corrections Victoria’s approach mirrored that taken with use of force incidents in the public system.

In the public system, the Department usually conducts separate investigations into such incidents: one into the alleged SDO breach with a focus on system integrity, and another to inform potential disciplinary action which might flow from it.

This differs from GEO’s general approach, where a single probe underpins both performance monitoring and any resulting disciplinary action.

GEO’s response to our draft report emphasised that a prime concern for the company was that employment decisions must withstand unfair dismissal action at the Fair Work Commission.

In our view, GEO’s current approach to investigations, with its heavy regard for what an employment tribunal might ultimately think, takes focus away from the essential task of properly identifying and managing integrity gaps exposed by an incident.

Despite wide-ranging terms of reference, GEO’s report was too blinkered to the underlying causes of the Supervisor’s conduct, and the broader integrity concerns it raised.

Notably, the GEO report made too little of the Supervisor’s revealing comments at interview about his use of the trio of ‘heavies’, and how they keep other people in the unit ‘in check’.

While GEO did look at the allegation that the Supervisor incited the trio to assault Kyle, in our view there were gaps in the prison operator’s efforts to probe ‘the full circumstances’ as the terms of reference had outlined.

We consider the interactions between the Supervisor and the trio one of the most disturbing aspects of this case.

Inappropriate relationships between prison officers and the people in their care are widely recognised as a significant corruption risk for any prison. They can easily develop into a dynamic ripe for exploitation and compromise.

It is troubling that the GEO report did not explicitly address the Supervisor’s blurring of professional boundaries.

We note the Ravenhall General Manager’s email response when the GEO report was circulated internally shows he at least recognised the use of ‘heavies’ as inappropriate. GEO backed this sentiment in response to a draft of our report, adding:

Such relationships are not supported by GEO and are contrary to the safety and good order of a correctional centre and pose a corruption risk.

However, we are disturbed GEO continues to downplay the trio's visit to Kyle's cell that day, painting the Induction Billet as merely a 'trained peer' trying to support Kyle in line with Ravenhall's ethos.

In our view, GEO appears to have missed – and continues to miss – opportunities to apply a more holistic lens to the various risks this case exposed.

This highlights some pitfalls of self-scrutiny by private prisons, and raises concerns about the suitability of the system in Victoria where operators can mark their own homework.

The Department emphasised in its response to our draft report that it does not solely rely on self-reporting from private prisons, and that it has a detailed assurance framework in place, including an onsite presence at private prisons, to otherwise ensure contractor compliance.

It also acknowledged Corrections Victoria had missed an opportunity in this case, by not treating the Supervisor's actions as a 'Probity Event' under the Ravenhall contract.

In public prisons, adverse events or issues can be more flexibly dealt with than in private prisons. This case has shown that the various levers available in private prison contracts can be too slow and clunky to engage, or the Department sometimes lacks the appetite to use them.

The current heavy oversight focus on compliance against clearly defined SDOs and KPIs could not readily deal with the complex and less 'countable' nature of this matter.

GEO has since introduced new internal incident review processes, and told us of productive meetings with Corrections Victoria. They have recently jointly agreed on a new 'probity framework' to guide how GEO will identify and investigate future probity issues. The Department told us this new framework had already resulted in a significant increase in the reporting of actual or likely probity events.

It also told us it was looking to boost the capability at Corrections Victoria to conduct investigations to better acquit its oversight obligations for private prisons.

This case highlights the importance of Corrections Victoria's role in providing an effective layer of external oversight, especially for serious incidents.

The GEO Investigator was adamant the company does not 'sugar coat' problems and we are not suggesting a deliberate cover-up occurred in this case.

However, an inherent conflict of interest exists where any private prison operator conducts its own investigation into events behind prison walls.

Private prison employees work for a company that is ultimately driven by a profit motive. An investigation that finds fault by the prison or prison staff can directly hit the company's bottom line.

Regardless of the good intentions of individual private prison staff conducting investigations, the overarching profit motive of prison operators raises a conflict of interest that seems incurable.

In our view, increasing the involvement of senior company executives in overseeing serious incident investigations – as GEO told us it had after this case – has potential to heighten the risk of that conflict arising.

The steep financial penalties that might apply for contract breaches, along with other commercial considerations, can act as a disincentive to proactively identifying and addressing problems.

This conflict does not arise when public servants investigate incidents, be they in public or private prisons.

For public prisons, Corrections Victoria has a grading system for incident reviews, with local prison staff handling less serious matters and extra layers of Department scrutiny applied in more serious cases.

We think there is a need for a similar tiered approach to guide private prison incident investigations. For serious matters, Corrections Victoria should be closely involved in setting the terms of reference and monitoring progress of the prison's investigation. In the most serious cases, it should lead the investigation.

Overall, we remain concerned that integrity risks and other deficiencies might be slipping through both GEO's internal controls and the Department's external oversight and left unaddressed.

Our recommended changes are therefore aimed at further reinforcing the corrections system and better managing inherent risks at private prisons.

GEO's response to our report

We gave GEO a copy of our draft report to review. GEO provided a seven-page written response it said addressed key matters, and asked us to publish the response in full. You can read this at Appendix 2 (with minor redactions). The response discusses multiple topics raised in this chapter.

However, GEO noted our report was lengthy and detailed and said it was not reasonably possible to respond to all of the matters we raised. The response stated GEO's silence on some topics 'should not be taken as agreement' with our findings.

Recommendations

It is recommended that the Department of Justice and Community Safety:

Uphold the rights of people in prison

Recommendation 1

Within 12 months:

- a. ensure Commissioner's Requirements explicitly and prominently prohibit removal of access to medical services, under any circumstances, for people in prison
- b. work with The GEO Group Australia Pty Ltd to develop a plan to implement adjustments to the InCell technology to ensure access to medical services via the system cannot be restricted.

Department response:

Accepted

Recommendation 2

Ensure where there is sufficient evidentiary basis to do so and there is a risk to the safety and human rights of people in prison, private prison staff who are the subject of allegations under active investigation are removed from frontline service.

Department response:

Accepted

Improve the standard of private prison investigations

Recommendation 3

Put in place a system within 12 months (similar to the Internal Management Review levels in public prisons) enabling it to be proactively involved in setting the terms of reference and monitoring the progress of investigations conducted by private prison operators and, in the most serious cases, to lead these investigations.

Department response:

Accepted

Recommendation 4

Require, within 12 months, that investigation reports provided to Corrections Victoria by private prison operators must include dedicated consideration of whether relevant contractual obligations have been met (eg Service Delivery Outcomes, Charge Events, Probity Events).

Department response:

Accepted

Promote transparency of the prison system

Recommendation 5

Report annually to Parliament summary details of each Charge Event and Notice (Service Failure, Default or Major Default) recorded at each private prison.

Department response:

Not accepted. The Department indicated it considered this impractical to implement, but said it would explore with our office other practical actions that might be taken.

Appendix 1: Our investigation

Authority to investigate

The Ombudsman has jurisdiction under the Ombudsman Act 1973 to investigate public interest complaints about conduct by or in an ‘authority’ or ‘public interest disclosure entity’.

The Department of Justice and Community Safety is an ‘authority’ by virtue of section 2(1) (a) of the Ombudsman Act.

The GEO Group Australia Pty Ltd operates Ravenhall on behalf of the State and is an ‘authority’ by virtue of Schedule 1 (items 23 and 24) of the Ombudsman Act.

In addition, section 13(2) of the Ombudsman Act provides the Ombudsman the power to enquire into or investigate whether administrative action is incompatible with a human right set out in the Charter of Human Rights and Responsibilities Act 2006.

The investigation into the four allegations considered in Chapter 1 was conducted under section 15C of the Ombudsman Act, which provides that the Ombudsman must investigate a public interest complaint, subject to sections 15D, 15E and 17.

The investigation into the Department’s response to the alleged conduct at Ravenhall and management by GEO was conducted under section 16A of the Ombudsman Act, using the Ombudsman’s ‘own motion’ powers.

The investigation also used the Ombudsman’s own motion enquiry powers under section 13A of the Ombudsman Act to gather further information which was used in this report.

How we investigated

On 4 May 2023, a former Deputy Ombudsman notified the Minister for Corrections, the Secretary of the Department of Justice and Community Safety, and the Managing Director of GEO at the time of her intention to investigate the public interest complaints.

On 20 September 2023, the then Ombudsman notified the Minister for Corrections and the Secretary of the Department of Justice and Community Safety of her intention to investigate its oversight of the alleged conduct.

The investigation involved:

- conducting compulsory interviews with two people and issuing them with confidentiality notices:
 - the Supervisor
 - the Officer
- conducting voluntary interviews with three people:
 - Kyle
 - Adam
 - GEO Investigator
- reviewing relevant legislation, including the:
 - Corrections Act 1986
 - Corrections Regulations 2019
 - Crimes Act 1958
 - Charter of Human Rights and Responsibilities Act 2006
- reviewing the Correctional Management Standards and relevant Commissioner’s Requirements
- reviewing relevant Ravenhall Operating Instructions
- considering other relevant information and records provided by the Department
- considering relevant information, records and policies provided by GEO
- considering relevant information and records provided by Victoria Police about the status of its investigation
- considering various open source records and reports, including:
 - the Final report of the Cultural Review of the Adult Custodial Corrections System (December 2022)
 - our Report on investigations into the use of force at the Metropolitan Remand Centre and the Melbourne Assessment Prison (June 2022)
 - IBAC Special report on corrections (June 2021)
 - VAGO Safety and Cost Effectiveness of Private Prisons (March 2018).

Appendix 2: GEO's response to the report

* Minor redactions applied for privacy and security reasons, or where reference is made to draft material excluded from this final report.

Better Corrections > Safer Communities



20 March 2025

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Dear Deputy Ombudsman

Re: The GEO Group Australia Pty Ltd (GEO) - Response to the Victorian Ombudsman (Ombudsman) Draft Report 'Investigation into alleged assaults in a private prison and how they were handled' dated February 2025 (Draft Report).

GEO thanks the Ombudsman for the opportunity to provide GEO's response to the Ombudsman's Draft Report concerning the investigation of two complaints against two employees at the Ravenhall Correctional Centre (RCC).

GEO refers to the parties involved using the same pseudonyms applying in the Draft Report, i.e.:

- The Supervisor
- The Officer
- Kyle [REDACTED]
- Adam (another remand prisoner who interacted with Kyle in the RCC).

Noting section 25A (2) of the *Ombudsman Act 1973* (Vic) GEO requests that the Ombudsman include the entirety of GEO's response in the Ombudsman's final report as being the only way to fairly include GEO's response.

It is noted that the Ombudsman's Draft Report is a lengthy and detailed document. It is not reasonably practicable to address all matters raised in the Draft Report. GEO will address key matters, which should not be taken as agreement with the findings in the remainder of the Draft Report.

GEO's Response to Provisional Conclusions on Response and Oversight (found on page 84 and following of the Draft Report)

InCell Operating Devices

(Paragraphs 469 to 474 of the Draft Report) The Draft Report raises a concern that the communication devices located in cells (referred to as InCell) remain open to potential abuse by RCC correctional staff, that there has been no satisfactory 'fix' and that RCC's InCell Operating Instruction does not provide sufficiently clear guidance on acceptable reasons to restrict prisoner's InCell access or about who has authority to restrict access, and for how long.

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However, and as identified in the Draft Report, the RCC General Manager's email (p 54 of the Draft Report) states that disabling the InCell device is not an endorsed or known practice. The GEO Investigator has also stated that it is not an accepted practice (p 55 of the Draft Report).

Following the GEO investigation into the incident on 21 August 2022, the RCC policy regarding the management of the In-Cell function was clarified and communicated to relevant staff. Since the incident, the RCC Operations Manager has issued communications to staff, clarifying the basis upon which a person authorised under the *Corrections Act 1986* (Vic) may lawfully deprive a prisoner of a privilege/s and reminding staff that prisoner privileges are not to be changed on Gateway other than for limited approved matters.

Additionally, the GEO policy for prisoner disciplinary process and prisoner privileges (most recently reviewed in January 2024 and which is endorsed by Corrections Victoria (CV)) provides that staff must consider and act in accordance with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

Inappropriate Relationships between Correctional Staff and Prisoners

(Paragraphs 484 to 490) GEO also notes that the term 'heavies' was initially raised by Kyle, being his perception of the trio of prisoners and has been reproduced as a term in interviews and in the Draft Report.

The RCC General Manager has stated that the Supervisor's awareness or use of the trio of "heavies" was not appropriate.

Such relationships are not supported by GEO and are contrary to the safety and good order of a correctional centre and pose a corruption risk.

It is noted that the Supervisor did not admit to using or directing a trio of "heavies" to attend Kyle's cell. Rather the Supervisor requested one of the group (who was a billet performing general duties in the unit) to attend Kyle's cell after Kyle was upset, to explain how the unit systems work. Kyle has a belief that the Supervisor was involved in directing the trio of prisoners to assault Kyle but admits that he has no proof of this (page 36 of the Draft Report).

It is important to place the role of peer prisoners in context. An important aspect of RCC's ethos is the use of trained peer prisoners, who are tasked to perform education and basic awareness activities including assisting staff induct/orientate new arrivals, promote harm reduction or support the detection/referral of people in distress. These trained peer prisoners do not undertake counselling or any therapy but are engaged to assist prisoners living in the RCC through support, education and where required referral to appropriate staff/services. The role of peer prisoners is set out in **Annexure A** to this Response.

It is also noted that the Ombudsman was not satisfied on the required standard of proof that the Supervisor misused his position to influence the three prisoners to assault Kyle, finding this was unsubstantiated.

Disciplinary Action against the Supervisor and Officer

(Paragraphs 458 to 463 and 494) The Draft Report expresses concern as to why the Supervisor was not removed from front line duties and was not ultimately disciplined.

GEO is not resistant to taking disciplinary action (including summary termination of employment) in appropriate case where evidence exists of a staff assault upon a prisoner. GEO has had to defend such decisions in subsequent claims of unfair dismissal. GEO does stress that there must be sufficient and cogent evidence to support disciplinary action.

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Additional information provided by prisoner witnesses was not available to GEO at the time of preparing the GEO investigation Report. Based on this additional information provided by the prisoner witnesses, the State quickly formed a view the Supervisor assaulted Kyle in the Supervisor's office.

However, these same witnesses gave materially different evidence to GEO and based on the evidence provided to GEO at the time, GEO did not consider there was sufficient evidence the Supervisor had assaulted Kyle. In this regard, GEO was concerned that the Supervisor was not being afforded due process and natural justice (noting GEO's obligations as an employer).

Initial information concerning the assault allegations did warrant notification to CV, Police and the Office of Professional Integrity (OPI) (which occurred). However, there was insufficient evidence available for GEO to remove a staff member from prisoner contact. If GEO removed an employee from their post as a standard practice following an allegation a prisoner was assaulted by staff (or on the basis that an allegation of assault cannot be disproved) this would present opportunities for prisoners to compel the removal of staff from areas/units by making vexatious and untruthful allegations and rendering the Centre unworkable. In this regard, there needs to be a test of the known facts to positively support an allegation of assault before taking such action.

GEO's OPI which investigated the complaint, did not substantiate the allegations against the Supervisor and accordingly a disciplinary process against the Supervisor was not commenced. As is recorded, the Supervisor resigned shortly thereafter having obtained other employment.

Criticisms of the GEO Investigation Report

(Paragraphs 481 and 483, in addition to other references in the Draft Report criticising the GEO Investigation) The GEO Investigator was not provided with all the information available to CV. Both Kyle and Adam, as key witnesses, gave different responses and versions of events to the GEO Investigator, to CV and then to the Ombudsman's investigators.

The Draft Report itself clarifies this by stating that "some of the sworn evidence Adam gave us in relation to this allegation was not consistent with what he had earlier told the GEO Group investigator" (p 24 of the Draft Report). Adam told the GEO Investigator that Kyle had no injuries after the alleged assault in the Supervisor's office. However, Adam's evidence to the Ombudsman and to CV was that he saw injuries to Kyle's eye and lip at that time (p 24 of the Draft Report).

The description by Kyle of the alleged events in the Supervisor's office changed markedly, from being punched in the jaw and thrown into a chair, to being punched in the face and falling to the ground, to being punched and then taken to the ground before being forced into a chair.

The Draft Report acknowledges that there were no visible injuries to Kyle but surmises that the CCTV footage would not reveal any injuries to the inside of his mouth or in his nose. The Ombudsman suggests that Kyle should be excused for giving a number of different accounts of the alleged incidents. However, another interpretation is that little weight can be placed on Kyle's evidence due to the number of different accounts by Kyle of what he says occurred.

Insofar as there is criticism that there was no disciplinary action for the Officer (who was allegedly aware of the Supervisor hitting Kyle), Kyle told the GEO Investigator that the Officer was [REDACTED]. The Officer (who is correctly identified in the Ombudsman's Draft Report) [REDACTED].

Interview with an Officer Present

Relevant to the above, Adam told the Ombudsman that he felt 'too scared' to give an accurate account when interviewed by the GEO Investigator because he feared a uniformed officer who accompanied the



GEO Investigator was 'mates' with the Supervisor. He also said he felt intimidated because the interview room lacked CCTV cameras.

The GEO Investigator disputes that Adam was under pressure. Adam willingly provided information to the GEO Investigator shortly after the alleged incident. Adam stated that he did not see any injuries to Kyle and that Kyle did not tell him about being assaulted by staff. Adam *volunteered* evidence suggesting Kyle owed money to others for canteen or drugs, and that he (Adam) advised Kyle that he should pay his debts and keep out of 'jailhouse politics'.

The GEO Investigator came to their conclusions on the evidence available to them at the time. It is noted that the GEO Investigator was commended by the Ombudsman's office during their voluntary interview, for conducting such an involved investigation within a very acceptable time frame.

Standard of Proof

(Paragraphs 496, 498-502) The Draft Report states that the GEO Investigator should have used the much lesser standard of proof as found in SDO7 in investigating the incident. GEO submits that even applying the SDO 7 criteria [REDACTED] these tests do not establish that an assault occurred on the relevant facts:

[REDACTED]

Kyle claimed that he was assaulted first by the Supervisor and then again later in his cell by other prisoners. It is acknowledged in the Draft Report that there were no visible injuries post Kyle leaving the Supervisor's office.

Further there was a reflection of movement in Kyle's cell (which could have been an assault by other prisoners) even before the three 'heavies' allegedly assaulted Kyle. Kyle has provided varying accounts of what occurred sufficient to doubt his claim.

Kyle also admitted to demanding nicotine patches from the Supervisor in return for Kyle not reporting the alleged assault (this demand was refused by the Supervisor), further casting doubt on Kyle's account. It is also noted that Kyle did not provide this information to the GEO Investigator.

[REDACTED]

[REDACTED] Adam was not present in the Supervisor's office and therefore cannot give direct evidence of what occurred in that office. CV and the Ombudsman made the issue of the curtains covering the office window moving as 'proof' of the assault and that Adam witnessed this.

However, during the GEO Investigator's interview with the Ombudsman, the GEO Investigator was able to establish that Adam was not near the Supervisor's office or even looking towards the office when the curtains moved. GEO notes the Ombudsman's subsequent statement in the Draft Report that the curtains were not relevant to the matter.

CV asserted that the curtains moving was a significant factor in their consideration that an assault has occurred in the Supervisor's office which (as noted above) is without foundation.

Adam gave his version of events to the GEO Investigator within a week of the incident in a recorded interview.

It was Adam who introduced the suggestion that Kyle owed another prisoner for drugs. This was corroborated somewhat by the comment made to Kyle's relative of being 'off chops' after

'having that thing I told you about'. When the Ombudsman spoke with Kyle and asked him about this, he said he consumed a home brew and that he had not taken any drugs. There had not been any home brew seizures from the unit housing Kyle in the month before or after the incident in August 2022.

The above consistencies (especially about not in fact being able to view the curtains moving as he claimed) is evidence that Adam was not able to provide [REDACTED]

There was no visible injury on Kyle's face until the next day. There is no sufficient evidence that the injury occurred in the Supervisor's office. There is decidedly more evidence that the injury occurred in Kyle's cell at the hands of the prisoners who were visible only in reflections or the three 'heavies'. Further the *balance of probabilities* (to be applied when considering if an assault had caused the injury) still incorporates and applies the *Briginshaw* principle (i.e. that when considering serious allegations or those with grave consequences, stronger evidence, including up to strict proof, is required to establish same on the balance of probabilities)

The Ombudsman also observed that GEO operates on a strict view of what evidence it requires to act on staff misconduct (p 87 of the Draft Report). This is because the implications for an employee of a finding of assault on a prisoner are very significant. In this regard, GEO does terminate employees where a staff assault on a prisoner is established.

By the same token, employees should not be subject to termination of employment (including summary termination) where the evidence supporting their alleged misconduct is ambiguous and/or based on a lower level of proof that the employer would have to meet in the Fair Work Commission (FWC) (in any subsequently claim of unfair dismissal). Different burdens of proof for different jurisdictions will inevitably lead to complexities and confusion. Respectfully, it is not sufficient for a body to say that its concern is with applying a lower standard of proof in cases of alleged staff misconduct, without also addressing the difficulties this poses in other jurisdictions, such as in the FWC.

That being said, GEO does confirm the productive meetings with CV to better align investigation approaches for future incidents (as recorded in paragraph 507 of the Draft Report).

GEO Policies

The Draft Report (p 80) comments upon GEO's corporate policy for the Investigation of Incidents and Allegations.

GEO will review this policy for the purpose of applying the principles of risk as it relates to the specific processes for undertaking investigations. GEO will also amend references in the policy to include a reference to quality standard ISO 31000 and to identify root causes or systemic issues as part of the investigation process. (In saying this, GEO does emphasise that the investigation process already allows for the GEO Investigator to identify processes, work practices or policies that need to be further examined associated with the incident under investigation as well as the further processes listed below which also apply a root cause analysis methodology).

GEO has a process of both local reviews and higher level reviews to provide for consistency, independence and integrity in the investigation process.

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This commences with incident reviews at the local level. At the beginning of 2025, GEO's Director of Correctional Services reiterated the role of local reviews:

The key principle of the local incident review is to ensure ownership of mitigating any identified risks and or behaviours to minimise a reoccurrence of a similar incident occurring.

The next level is the GEO Serious Incident Review Committee (SIRC). This was established in October 2023 and involves a multidisciplinary team that undertakes reviews of serious incidents (see Terms of Reference, **Annexure B**). The SIRC process allows for differing expertise (from different work streams e.g. health, rehabilitation and reintegration etc.) and applies a wholistic perspective when reviewing an incident. Utilising a root cause methodology, SIRC recommendations are forwarded to the relevant GEO General Manager for endorsement and/or for action plans to be developed and outcomes tracked/evidenced where considered appropriate. Since January 2024, SIRC have undertaken 108 reviews.

In addition, the Investigation Review Committee (IRC) which was established in 2023, governs the outcomes of all formal investigations, ensuring that the findings are considered and any recommendations made are commensurate and effective in addressing causal factors. The IRC is comprised of GEO Directors from a variety of operational areas of GEO.

The IRC also conducts analysis of all SIRC reviews and where necessary refers matters of potential misconduct, to the OPI for formal investigation. Through this process the IRC maintains oversight of and assures the integrity of local reviews and SIRC reviews.

A summary of this detailed incident review escalation process, to the IRC (also referred to as the National Review Committee) is set out in **Annexure C**.

Collaboration - GEO and Corrections Victoria Collaboration

The Draft Report makes a recommendation for improving monitoring, accountability and information sharing arrangements between the State and GEO. GEO supports further collaboration initiatives with the State. GEO confirms that further meetings with the State have occurred, most recently four weeks ago, which has included information sharing between GEO and the State occurring in investigations.

During 2024, RCC leadership and representatives from CV Contracts and Infrastructure Branch (CIB), have been developing a Probity Framework which is aligned to the management contract for the Centre. Recently finalised, the Probity Framework provides greater transparency and clarity concerning incidents that have or likely will trigger a Probity Event including notification, referral, and action/s.

Clarification of Investigation Outcomes for RCC Matters

The Ombudsman has sought clarification of the statistics shown in Figure 8 of the Draft Report (p 69), requesting identification of investigations which pertained to prisoners. In the relevant period (January 2021 – December 2023) there were 11 investigations involving prisoners however only seven of those investigations related to prisoner allegations of excessive use of force or similar. (For clarity, three of the 11 investigations involving prisoners concerned deaths in custody and one related to investigation of an alleged fraud involving an ex-prisoner and therefore fall outside of the scope of investigations for which the Ombudsman has sought further information).



This is set out in the table below:

Number	Incident	Outcome	Result
1	Allegation of excessive use of force	Not substantiated	Nil
2	Allegation of excessive use of force	Not substantiated	Nil
3	Allegation of the with-holding of medications	Not substantiated	Nil
4	Allegation of incorrect use of force (clearance strike)	Substantiated	Warning and training
5	Allegation of excessive use of force	Not substantiated	Nil
6	Allegation of incorrect use of force (compliance hold)	Substantiated	Warning and training
7	Two allegations of excessive use of force	Substantiated	Termination of employment

Once again, I thank the Ombudsman for the opportunity to provide GEO's response and confirm that GEO's response be included in full in the Ombudsman's Final Report.

Kind regards



[Redacted Name]

Managing Director



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