

NOTICE OF FILING

Details of Filing

Document Lodged:	Particulars (including Further and Better Particulars)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
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File Number:	WAD109/2023
File Title:	BIJ23 & ANOR v STATE OF WESTERN AUSTRALIA
Registry:	WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Statement of Particulars – BIJ23

No: WAD109/2023

Federal Court of Australia
District Registry: Western Australia
Division: General

BIJ23 and another named in the Schedule

First Applicant

STATE OF WESTERN AUSTRALIA

Respondent

Chronological List of Events at Banksia Hill and Unit 18

Incidents at Banksia Hill Between 22 June 2022 and 20 July 2022

1. Between 22 June 2022 and 23 June 2022, while detained in a MPU cell in Banksia Hill's ISU BIJ23 struggled to cope in a cell with no working tap or working toilet, a defective intercom and scratched in-cell camera.
2. On 23 June 2022, BIJ23 told his psychologist that he was likely to experience increased levels of stress, should his upcoming application for bail be denied.
3. On 27 June 2022, between 9.00am and 1.02pm, BIJ23 was visibly upset, engaged in self-harm and attempted suicide.
4. On 1 July 2022, at around 12.45 am, BIJ23 was placed in 3-point restraints for more than 2 hours, including to eat dinner.
5. On 3 July 2022, BIJ23 was unable to be observed via in-cell with just 45 minutes of out of cell time over a 24-hour period.
6. Between 2 and 4 July 2022, BIJ23 was subject to rolling lockdowns, received no official or social visitors.
7. Between 2 July 2022 and 7 July 2022, BIJ23 was held in an MPU cell.
8. Between 2 and 6 July 2022, BIJ23 was unable to contact his family, his YJO and/or lawyer via telephone.
9. Between 2 and 7 July 2022, BIJ23 was unable to access television or any other form of in-cell distraction or any programs including education.

Filed on behalf of	Applicants		
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10. On 5 July 2022, at around 10.29am, BIJ23 removed render and bricks from his cell. Around 30 minutes later, BIJ23 threatened self-harm with a ligature.
11. On 6 July 2022, at around 12.30am BIJ23 was non-compliant with order to return to cell, which saw attending officers use force to resecure him in cell B03.
12. Between the evening of 7 July and 11 July 2022, BIJ23 was held in a cell in Banksia Hill's ISU BIJ23 was only able to be observed by YCOs conducting in-person checks due to there being no working camera in his allocated cell A05.
13. On 11 July 2022, at around 10.45am, BIJ23 threatened self-harm by tying a ligature around his neck.
14. On 11 July 2022, BIJ23 was detained in Banksia Hill's ISU cell A05 due to his ARMS rating and he threatened self-harm.
15. On 13 July at around 2.43pm BIJ23 was transferred from cell C06 in the Lenard Unit to the ISU due to a disturbance which resulted in extensive damage to cells throughout Banksia Hill.
16. Between 13 and 19 of July 2022 while held in observation cell B05, BIJ23 had limited or no access to programmes or services, in-cell activities, television, phone calls, official or social visits and/or meaningful out of cell time.
17. On 15 July 2022, at around 10.35 am, BIJ23 was taken to cell D05 in ISU's D Wing to use the toilet but when BIJ23 appeared reluctant to exit the toilet cell he was handcuffed and escorted by TANGO Officers to his cell D05 in ISU. He again attempted self-harm only to be told that a social visit had been cancelled due to operational constraints and threatened suicide. BIJ23 did not receive any follow-up care from mental health professionals.
18. On 17 July 2022, BIJ23 threatened self-harm while detained in ISU observation cell B05.
19. On 18 July 2022, BIJ23 was non-compliant with instructions and was subject to both use of force and application of handcuffs.
20. On 19 July 2022, BIJ23 complained to his YJPS psychiatrist that placement in ISU observation cell B05, lack of access to external supports and extended periods locked down were the reason for uptake in critical incidents and 'unsettled' behaviour the preceding weekend. He was then moved from an ISU Observation cell to the Karakin Unit.

Incidents at Unit 18 between 20 July 2022 and 22 August 2022

21. On 20 July 2022, BIJ23 was transferred from Banksia Hill to Unit 18. He was placed in 3-point restraints by approximately six Special Operations Group (SOG) Officers for transfer from Banksia Hill to Unit 18.
22. Between 20 July 2022 and at least 19 August 2022, BIJ23 had no access to any formalised programmes.
23. Between 20 July 2022 and 25 July 2022, BIJ23 was unable to contact external supports, as none of his approved contacts had been included on his Unit 18 pin sheet.
24. On 26 July 2022, BIJ23 engaged in self-harm by cutting his arms. At around 3.05pm, BIJ23 was counselled and assessed by Senior Officer. He did not, however, receive any follow-up medical care or psychological support. At around 5.15pm, BIJ23's cell flooded

by his cell's sprinkler system and he remained in flooded cell C04 and was not provided with any dry clothes or bedding until 12.01am on 27 July 2022. BIJ23 was punished by loss of canteen privileges.

25. On 27 July 2022, BIJ23 attempted suicide by hanging in ISU cell C04. Two officers attended BIJ23's cell and removed the ligature made of ripped t-shirt, which was attached to the broken viewing window on BIJ23's cell door. They did so without entering his cell. At around 1.10pm, BIJ23 again attempted suicide by hanging, this time using his jumper as a ligature, and attaching it to the same hanging point as earlier that day, namely the broken viewing window, and dropped his weight, at which point his cell was breached by the officers in attendance. At around 2.03pm, at an ARAG meeting, the on-site mental health nurse expressed concern about there being no medic on site at Unit 18 should BIJ23 require resuscitation. The ARAG Group recommended that BIJ23 be placed in rip-proof clothing due to his persistent suicidal ideation, and that he remain on ARMS 1 and subject to continuous observation.
26. On 27 July 2022, at around 8.10pm, the Assistant Superintendent attended BIJ23's cell to inform him that he would be required to wear rip-proof clothing. BIJ23 assured the Assistant Superintendent that he was "all good now" and undertook not to engage in further self-harm and/or attempted suicide, to avoid being placed in rip-proof clothing.
27. On 28 July 2022 at 11.10am, BIJ23 told his YJPS psychologist that he was not wearing rip-proof clothing as he had "made an agreement with senior staff member to desist from risk-to-self behaviour." However, BIJ23 acknowledged that he remained a potential risk to himself as he continued to struggle with extended periods of lockdown generally, and specifically in cell C04.
28. On or before 29 July 2022, BIJ23 requested a replacement sensory pack, as the pack he had been given did not have a pen.
29. On 30 July 2022, BIJ23 was allegedly non-compliant with Officers' orders to return to cell, attempted to go 'out of bounds', and caused damage to property. Officers used force, and restraints, including chemical restraints to restrain, escort and secure BIJ23 in his cell. BIJ23 was unable to access education or any formalised programs until at least the 6 September 2022. BIJ23 was not subject to a medical assessment after the use of force.
30. On 31 July 2022, BIJ23 threatened and engaged in self-harm. At around 11.48 am, SOG officers entered BIJ23's cell and used force to apply 3-point restraints, for "his own safety and welfare." At around 12.30pm, BIJ23 remained in 3-point restraints when he was provided with lunch in his cell. BIJ23 did not receive any follow-up medical or psychological care and was confined in his cell for a lengthy period.
31. On 1 August 2022, BIJ23 engaged in multiple incidents of self-harm and attempted suicide. At around 2.42pm, Officers placed BIJ23 in two-point mechanical restraints with his arms and legs strapped to a wheelchair, for transfer to Fiona Stanley Hospital (FSH). At around 6.27pm, BIJ23 tried to get out of the wheelchair in which he had been placed for transfer back to Unit 18, before Officers used force to take control of BIJ23's biceps, handcuffed him and placed him in secure pod ACE 20 for transfer from FSH to Unit 18. BIJ23 was not seen by a psychologist.
32. Between 2 August 2022 and 10 August 2022 BIJ23 was held in Unit 18's cell A01 which had a broken in-cell camera. Officers conducted in-person welfare checks.
33. On 3 August 2022 BIJ23 complained to his YJPS psychologist that he had not yet received a response to his request for an inter-prison visit with his father that he had

been unable to contact his lawyer prior to the sentencing hearing scheduled for Monday 8 August 2022, and was yet to obtain a stress ball, as approved by Unit Manager.

34. On 3 August 2022, BIJ23 was subject to a use of force, and the application of 3-point restraints for longer than was required to prevent him from engaging in self-harm. At around 5.15pm, BIJ23 was provided with dinner to eat in cell, still wearing 3-point restraints. BIJ23 did not receive any follow up medical or psychological support, following the use of force and/or application of restraints.
35. On 4 August 2022, BIJ23 engaged in self-harm. At around 11.05 am, BIJ23 showed an Officer a piece of glass in his possession through the grill on his cell door and then swallowed the glass in front of the Officer. BIJ23 was confined to his cell for the remainder of the day. BIJ23 did not receive any follow-up medical or psychological support.
36. On 5 August 2022, BIJ23 was unable to be observed and was required to choose between seeing a psychologist, having out of cell time recreation time, and/or making telephone call to external supports. BIJ23's in-cell camera was covered and during this time, no in-person welfare checks were conducted, despite BIJ23 having highest ARMS rating. Instead, officers relied upon verbal responses from BIJ23 using cell-call system. BIJ23 elected not to see his YJPS psychologist.
37. On 9 August 2022 at 10.34am, BIJ23 was subject to use of force and physical restraint to resecure him in his cell.
38. On 16 August 2022 at around 11.50am, BIJ23 engaged in self-harm.
39. On 22 August 2022, BIJ23 was involved in at least three separate incidents of self-harm:
 - (a) At around 8.52am, BIJ23 hung himself with a towel from the bars on his cell window, before officers cut him down using a Hoffman knife. At around 9.15am, BIJ23 was seen by the mental health nurse (MHN), who requested but did not demand that BIJ23 change into rip-proof clothing.
 - (b) At around 9.40am, BIJ23 again attempted suicide by fixing a makeshift ligature to his bed. Officers forced BIJ23 face-down on the concrete floor of his cell and cut him out of his clothes, placed him in rip-proof clothing, and confiscated the ligature.
 - (c) At around 10am, BIJ23 again attempted suicide, this time making a ligature out of the rip-proof clothing he had been forced to wear whereupon officers confiscated the rip-proof clothing, leaving BIJ23 naked in his cell, with just a rip-proof doona for cover. At around 11.40am, BIJ23 requested contact with an AYSO who attended his cell and conducted an ARMS assessment through the hatch on his cell door. At 1.30pm, BIJ23 was seen by an 'unfamiliar' YJPS psychologist after calling out to them through the cell door. At around 4.49pm, BIJ23 attempted to choke himself multiple times using a piece of his rip-proof gown. TANGO officers entered cell A05, used a Hoffman knife to cut the strap, used force to restrain BIJ23 and apply mechanical restraints (handcuffs) for escort to MPU cell B05. Officers remained stationed outside BIJ23's MPU cell for approximately four (4) hours with to "stand and observe" as his cell did not have a working cell-call system.
40. On 23 August 2022, at around 9.57am, BIJ23 told his YJPS psychologist that he had not been provided with his usual medication, namely, anti-depressants, and had been forced to wear rip-proof clothing, the combined effect of which was to exacerbate risk-to-self, due to feelings of boredom and isolation.

41. On 23 August at around 10am, BIJ23 requested that his YJPS psychologist help him submit a request for transfer back to Banksia Hill. The YJPS psychologist supported him on the grounds of the three suicide attempts over the previous 24-hour period, the officers' overreliance on in-cell cameras to monitor detainees in Unit 18 as compared to Banksia Hill's ISU and the unsafe conditions in Unit 18 cells, which include multiple hanging points; and slower emergency response to Unit 18 compared to Banksia Hill's ISU. At around 6.05pm, BIJ23's request for transfer was granted and he arrived at around 6.52pm, was placed in Banksia Hill's ISU, and permitted to remain in 'ordinary' (non-rip-proof) clothing.

Incidents at Banksia Hill Between 22 August 2022 and 27 September 2022

42. On 24 August 2022, BIJ23 engaged in self-harm. At around 1.00pm, BIJ23 threatened self-harm and covered his in-cell camera. At some point between 1.00pm and 1.45pm, Recovery Officers entered the cell to uncover the camera. At around 1.45pm, BIJ23 covered his in-cell camera again and it remained covered until at least 2.28pm.
43. On 25 August 2022, BIJ23 told his YJPS psychologist that his lack of clarity regarding 'milestones' to progress through stages of his Regression Management Regime, together with upcoming sentencing hearing, has contributed to emotional dysregulation, and increased risk-to-self.
44. On 29 August 2022, BIJ23 was unable to be seen by YJPS psychologist for ARMS assessment as he was being transferred to FSH following multiple incidents of self-harm incidents and suicidal threats earlier that day.
45. On 31 August 2022 BIJ23 was suffering due to his inability to contact his family via telephone since being transferred from Unit 18, and protracted periods of lockdown in cell.
46. On 5 September 2022, BIJ23 expressed frustration about mixed messages regarding placement in ISU and requested to be transferred to a 'normal' unit so that he could engage in standard programs, including education. At around 6.20pm BIJ23 was transferred from ISU to the Karakin Unit. Between 5 and 6 September 2022, BIJ23 remained locked down in his cell, despite progression out of ISU into the Karakin Unit, as the latter was being used for ISU overflow.

Incidents at Unit 18 Between 28 September 2022 and 14 December 2022

47. On 28 September 2022, BIJ23 was transferred back to Unit 18 as punishment for being a "disruptive prisoner".
48. On 29 September 2022, BIJ23 threatened and engaged in self-harm and attempted suicide. At around 8.34am, BIJ23 used his cell-call to communicate his intention to commit suicide. At around 9.30am, BIJ23 covered his camera and was obscured from view. At around 1.00pm, BIJ23 was placed in handcuffs for transport to FSH by ambulance. At around 1.30pm, BIJ23 was admitted to FSH for treatment due to incidents of self-harm and suicidal ideation. At around 10.46pm BIJ23 returned to Unit 18 from FSH was re-secured in cell.
49. On 30 September 2022, BIJ23 threatened and engaged in self-harm and attempted suicide. At around 10.40am, BIJ23 told his YJPS psychologist that he was experiencing high levels of stress due to his transfer from Banksia Hill to Unit 18 on 28 September 2022, extended periods locked down in cell without any access to distraction, and feelings of isolation from external supports. At 12.30pm, BIJ23 told an AYSO that he had been unable to contact family via telephone since his transfer back to Unit 18 from Banksia Hill on 28 September 2022. At around 1.10pm, BIJ23 told visiting Chaplain that

he was feeling stressed and wanted to eat a piece of brickwork. At around 2.27pm, BIJ23 told custodial staff that he had swallowed two screws. No medical attention was provided. At around 5.18pm, BIJ23 threatened to kill himself. Between around 8.00pm and 10.45pm, BIJ23's in-cell camera remained covered. During this period, officers conducted hourly checks via cell-call system, however, there was a 45-minute period between around 10.00pm and around 10.45pm when BIJ23 was non-responsive to communications via cell-call system and officers failed to conduct any in-person welfare checks.

50. On 4 October 2022, BIJ23 threatened self-harm and suicide.
51. On 10 October 2022, at around 12.30pm, BIJ23 engaged in self-harm by cutting himself with an AYSO within view, before covering his in-cell camera for an undisclosed period.
52. On 12 October 2022, BIJ23 threatened self-harm. At around 10.30am, BIJ23 told his YJPS psychologist that he was not coping with extended time lockdown in cell and lack of access to phone calls to external support and requested to be transferred to Banksia Hill. At around 11.20am, the Unit Manager requested that an AYSO attend BIJ23's cell. At around 11.37am, BIJ23 self-harmed by cutting his arms with a sharp implement in front of the AYSO and refused to hand over the implement. No follow up medical care was provided. At around 12.27pm, BIJ23 was served lunch in cell and remained confined to his cell.
53. On 24 October 2022, BIJ23 threatened self-harm and suicide. At around 2.40pm BIJ23 used the cell-call system and complained to officers about being confined in his cell and stated that he intended to kill himself by slashing his wrists and slitting his throat. At around 3.25pm, BIJ23 was observed through his in-cell camera scratching his arms with a piece of glass. At 3.59pm, BIJ23 handed officers the piece of glass. At around 5.16pm, BIJ23 tied a ligature around his neck and attempted to hang himself. BIJ23 did not receive any medical care following his suicide attempt.
54. On 26 October 2022, BIJ23 was seen by YJPS psychologist for ARMS assessment who noted that BIJ23 "remains vulnerable to swift changes in mood and escalation in risk-to-self in context of poor coping skills and impulsivity."
55. On 28 October 2022, BIJ23 declined to be seen by his YJPS psychologist.
56. On 1 November 2022, BIJ23 threatened self-harm. At around 9.58am, BIJ23 smashed his television when told that he would be subject to rolling lockdowns. Around 11am, BIJ23 engaged in self-harm by ingesting broken shards of glass from the television. At around 11.10 am, BIJ23 told a YJPS psychologist that he had felt 'triggered' by rolling lockdowns and was experiencing pain and discomfort from swallowing glass but had elected not to be transferred to the hospital. At around 3.04pm, BIJ23 was restrained for transport to FSH for treatment. BIJ23 was punished for engaging in self-harm by being confined in his cell.
57. On 4 November 2022, BIJ23 was required to choose between seeing a psychologist or attending programs, due to limited out of cell time and elected not to see his YJPS psychologist and made ARMS assessment impossible.
58. On 6 November 2022, BIJ23 threatened self-harm and suicide. At around 7.21pm, BIJ23 refused to uncover his in-cell camera, and threatened to kill himself by hanging. BIJ23 used his cell-call and told officers that he had ingested four pieces of glass.
59. On 14 November 2022, BIJ23 was non-compliant with instructions to take medication as directed by a member of custodial staff. BIJ23 refused to take the medication due to it

- being pre-crushed and unidentifiable, and because he had been told by another medical officer that he could be provided with his medication in its original (whole) form.
60. Between 16 November 2022 and 23 November 2022, BIJ23 was unable to see the YJPS psychologist allocated to him.
 61. On 8 December 2022, at around 6.15pm, BIJ23 was subject to the use of force. At around 6.30pm, BIJ23 threatened self-harm.
 62. On 9 December 2022, BIJ23 threatened self-harm and suicide and at 3.49pm, BIJ23 was provided with a magazine and a colouring pack. At 6.56 pm, BIJ23 returned from making a phone call to discover that the magazine and pack had been removed from his cell. BIJ23 then tied a ligature around his neck.
 63. On 10 December 2022, at around 4.00pm, BIJ23 climbed on the roof where he remained until 8.16pm, when officers used force to resecure BIJ23 in his cell. BIJ23 told officers he was experiencing excruciating pain in his neck but was offered no follow-up medical care and/or analgesia.

Incidents at Banksia Hill/Unit 18 between September 2022 and July 2023

64. Between September 2022 and October 2023, while detained at Unit 18, BIJ23 was denied access to outdoor recreation altogether, including during his one-hour out of cell.
 - (a) BIJ23 was not told when he would be allowed out of his cell, to make phone calls to external supports.
 - (b) On 6 October 2023, BIJ23 told his YJPS psychologist that uncertainty around out of cell time and lack of structured day contributed to dysregulated behaviour and caused him to experience increase anxiety and/or distress while confined to cell.
 - (c) BIJ23 rarely communicated with other detainees when out of cell.
 - (d) Phone calls were subject to the following conditions: a limit of 10 minutes each, with a compulsory 15-minute wait time between calls which was upsetting to BIJ23 was often unable to reach family and/or external supports within the time allowed.
65. In March 2023, all the hatches on the cell doors at Unit 18 were welded closed permanently. The lack of functional hatch further impeded BIJ23's ability to communicate with other detainees, to members of custodial and/or medical staff, and meant that any request made after evening lockdown had to wait until the following day.
66. In August 2023, while detained at Unit 18, BIJ23 attempted to wrest control of the keys from a YCO due to protracted periods of rolling lockdowns.
 - (a) A code red was called and approximately four prison officers and ten YCO's ran towards him.
 - (b) BIJ23 was sprayed with chemical agent out of a contraption called a 'fogger', and immediately cried out in pain.
 - (c) The officers grabbed BIJ23 and dragged him into his cell, strapped him to the bed and hurriedly exited his cell.
67. In about July 2023, BIJ23 was placed in 3-point restraints for a "few hours" and/or following incidents of self-harm and attempted suicide. The chains which connected his legs and arms were shortened to prevent him from being able to stand up straight. On

some occasions, the chains were so short that he was forced to remain hunched over in a seated position, which prevented him from being able to use the toilet. The metal cuffs to which the chains to his ankles and wrists were attached were so tight, they rubbed his skin, causing him additional pain and discomfort.

Incidents at Banksia Hill/Unit 18 between February 2024 and March 2024

68. In February 2024, while detained at Banksia Hill, BIJ23 was subject to the use of force, and sprayed with a chemical agent. BIJ23 was in the exercise yard when several Prison Officers appeared and told him to "get down" on the ground. BIJ23 did not immediately comply which resulted in the spraying to content of multiple cans of a chemical agent on him at close range. BIJ23 was dragged back to his cell by officers, who told him to "wash his eyes out with water" but did not otherwise assist him to decontaminate his person. BIJ23 did not receive any follow-up medical attention following the use of force and chemical agent.
69. In about March 2024, a YCO known to BIJ23, 'Garry Coxon' punched BIJ23 on the right side of his face causing a cut near his eye socket. BIJ23 was not seen by a medical officer, despite there being a lot of blood and a permanent scar on his face. A scar remains on BIJ23's face.

Part 2: Particulars of BIJ23's behaviour at Banksia Hill for which he was punished by being transferred to Unit 18

1. BIJ23 was punished for his behaviour in Banksia Hill by being transferred to Unit 18 in the circumstances described in Part 1 paragraphs: 11-20, 41, 42-46, 47.

Part 3: Particulars of Confinement

1. BIJ23 was subject to general or rolling lockdowns due to operational constraints and/or staff shortages on top of 'standard evening lockdown hours' between 6.45pm and 7.45 am – a total of 13 hours).
The hours of lockdown in the below table are recorded against a 11 hour and 15-minute day. Official daily unlock hours are 9.8 hours 6 days a week; and 6.8 hours 1 day a week.

Date	Hours of Lockdown
21 July 2022	5 hours and 20 minutes
22 July 2022	2 hours and 10 minutes
23 July 2022	3 hours and 15 minutes
25 July 2022	4 hours and 45 minutes
26 July 2022	2 hours and 45 minutes
28 July 2022	12 hours and 15 minutes
29 July 2022	8 hours and 5 minutes
30 July 2022	6 hours and 10 minutes
31 July 2022	5 hours
1 August 2022	12 hours
2 August 2022	11 hours and 10 minutes

Date	Hours of Lockdown
3 August 2022	10 hours and 50 minutes
4 August 2022	10 hours and 45 minutes
5 August 2022	9 hours and 35 minutes
6 August 2022	6 hours and 30 minutes
7 August 2022	10 hours and 40 minutes
8 August 2022	9 hours and 31 minutes
9 August 2022	8 hours
10 August 2022	9 hours and 30 minutes
11 August 2022	9 hours and 10 minutes
13 August 2022	8 hours and 30 minutes
14 August 2022	6 hours and 45 minutes
15 August 2022	11 hours and 25 minutes
17 August 2022	10 hours and 18 minutes
18 August 2022	1 hour and 20 minutes
19 August 2022	8 hours and 10 minutes
24 August 2022	7 hours and 25 minutes
25 August 2022	5 hours
26 August 2022	5 hours

2. BIJ23's confinement followed the use of force by Officers or threatened use of force by Officers in the circumstances described in Part 1, paragraphs: 29, 30, 31, 34, 37, 56, 61, 63, 66, 67.
3. BIJ23's confinement followed incidents of self-harm in the circumstances described in Part 1, paragraphs: 24, 25, 26, 34, 35, 39, 47, 48, 49, 51, 56.
4. BIJ23 was confined when Officers assigned to supervise BIJ23 during unlock hours were unavailable in the circumstances described in Part 1, paragraphs: 53, 56.

Part 4: Particulars of Use of Force (with the following sub-categories)

1. BIJ23 was subjected to force it was not in an immediate period when BIJ23 was imminently presenting a risk of injury to himself or other detainees or staff in the circumstances described in Part 1, paragraphs: 21, 31, 34.
2. BIJ23 was subjected to force after the imminent risk of injury had passed and BIJ23 had been stabilised in the circumstances described in Part 1, paragraphs: 31, 34
3. BIJ23 was subjected to force that was more than the degree of minimum physical force required to control BIJ23's behaviour in the circumstances described in Part 1, paragraphs: 29, 30, 31, 34, 37, 39, 62, 63, 66, 67, 69.

Part 5: Particulars of Restraints (handcuffs; 3-point restraints)

1. BIJ23 was subjected to handcuffing or other restraints in the circumstances described in Part 1, paragraphs: 21, 29, 30, 31, 34, 37, 39, 67.
 2. Of the occasions referred to in Part 5, Paragraph 1 the use of restraints was:
 - a. Not authorised by the CEO or the Superintendent in the circumstances described in Part 1, paragraphs: 20, 30, 66, 66
 - b. Alternatively, authorised by the CEO or the Superintendent but not in an immediate period when the mechanical restraint of BIJ23 was necessary to prevent injury to himself or other detainees in the circumstances described in Part 1, paragraphs: 21, 30, 34, 39, 67.
 - c. If the CEO or the Superintendent did form the opinion that the handcuffing or other restraint of BIJ23 was necessary to prevent injury, the opinion of the CEO or the Superintendent was not reasonable in the circumstances described in Part 1, paragraphs: 21, 29, 30, 31, 34, 37, 39, 67.
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Part 6: Particulars of breach of duty of care.

1. Failing to provide adequate mental health services in the circumstances described in Part 1, paragraphs: 24, 25, 27, 30, 31, 34, 35, 39, 40, 47, 48, 50, 51, 53, 55, 60.
 2. Failing to modify behaviour and discipline policies at Unit 18 in the circumstances described in Part 1, paragraphs: 29, 37, 54, 59.
 3. Giving peremptory or unpleasant commands in the circumstances described in Part 1, paragraphs: 29, 31, 37, 52, 58, 59, 61, 67
 4. Failing to protect against self-harm by failing to adequately monitor BIJ23 in the circumstances described in Part 1, paragraphs: 24, 25, 26, 30, 31, 34, 35, 36, 38, 39, 40, 47, 49, 50, 51, 52, 53, 54, 57, 58, 67.
 5. Failing to provide a safe environment for a child detainee in the circumstances described in Part 1, paragraphs: 24, 25, 29, 31, 32, 34, 35, 36, 39, 40, 41, 47, 49, 50, 51, 52, 53, 56, 57, 58, 63, 65, 67.
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Part 7: Particulars of incidents of self-harm and/or attempted suicide

1. BIJ23 engaged in self-harm in the circumstances described in Part 1, paragraphs: 24, 25, 30, 31, 34, 35, 38, 39, 47, 48, 49, 50, 51, 52, 53, 56, 58, 61, 62, 67.
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Part 8: Punitive responses to manifestations of disability

1. Loss of program placement in the circumstances described in Part 1, paragraphs: 22, 29.

2. Loss of canteen privileges in the circumstances described in Part 1, paragraphs: 22, 24.
3. Loss of TV privileges in the circumstances described in Part 1, paragraphs: 39, 47.
4. Loss of recreation privileges in the circumstances described in Part 1, paragraphs: 36, 39, 47, 62, 64
5. Confiscation of in-cell activities in the circumstances described in Part 1, paragraphs: 28, 33, 39, 47, 62.
6. Refusing to allow BIJ23 to engage in education in the circumstances described in Part 1, paragraphs: 29, 39, 47.
7. In 2022, BIJ23's access to education while in detention at Banksia Hill and Unit 18 was limited as follows:

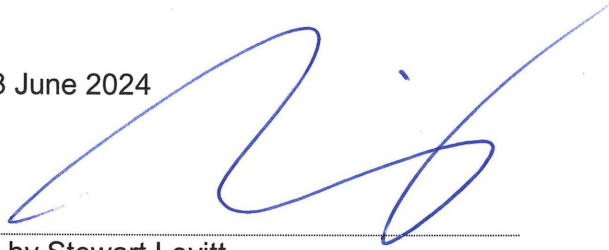
<u>Timetable Month in 2022</u>	<u>Location</u>	<u>Hours of Attendance</u>
January (Banksia Hill)	Banksia Hill	20
February (Banksia Hill)	Banksia Hill	21 hours; 40 minutes
March (Banksia Hill)	Banksia Hill	7 hours; 10 minutes
June (Banksia Hill)	Banksia Hill	0
July (Unit 18)	Unit 18	0
August (Unit 18)	Unit 18	1 hour; 40 mins
December (Unit 18)	Unit 18	1 hour; 45 mins
Total:	52 hours; 15 mins (combined Banksia Hill/Unit 18)	
Unit 18	3 hours 25 mins (Unit 18)	

Part 9: Deprivation of Goods Services and Facilities

1. BIJ23 was denied access to phone calls in the circumstances described in Part 1, paragraphs: 23, 30, 34, 49, 52, 64.
2. BIJ23 was denied access to family contact in the circumstances described in Part 1, paragraphs: 23, 33, 34, 36, 49, 57, 64.
3. BIJ23 was denied access to official contacts, including with his lawyers, in the circumstances described in Part 1, paragraphs: 33, 34.
4. BIJ23 was denied access to a psychologist described in Part 1, paragraphs: 24, 30, 31, 34, 36, 57, 58, 60.
5. BIJ23 was denied access to timely and appropriate medical care as described in Part 1, paragraphs: 24, 25, 29, 30, 31, 34, 35, 36, 39, 40, 47, 49, 51, 52, 53, 56, 58, 59, 61, 63, 69.

6. BIJ23 was denied access to programs in the circumstances described in Part 1, paragraphs: 22, 49, 29, 52, 57, 64
7. BIJ23 was denied access to necessities such as drinking water, use of a toilet and showering in the circumstances described in Part 1, paragraphs: 24, 39, 40.
8. BIJ23 was denied access to protection against self-harm in the circumstances described in Part 1, paragraphs 25, 26, 31, 34, 36, 39, 41, 49, 50, 51, 52, 57, 58, 60.
9. BIJ23 was denied access to in cell activities in the circumstances described in Part 1, paragraphs: 28, 33, 40, 48, 49, 62.

Date: 13 June 2024



Signed by Stewart Levitt
Lawyer for the Applicants

SCHEDULE OF PARTIES

First Applicant: BIJ23

Second Applicant: BIK23

Respondent: State of Western Australia