

Disabled Persons Protection Commission
M.G.L. c. 19C / 118 CMR Investigation Report

Alleged Victim: [REDACTED]

Investigation Agency: DPPC

DPPC Case Number: 151315 151441

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Date of Incident: 11/03/2016

Allegation Investigated:

On 11/3/2016 during evening hours the ALV's one on one noticed the ALV had bruises on both of his arms and then the one on one called and reported the bruises to [REDACTED]

On 11/4/2016 during evening hours when [REDACTED] was putting the ALV to bed she noticed the bruises reported by the one on one and also noticed additional bruises on the ALV.

The ALV had bruises on his left arm: underneath inner arm right above armpit and the bruises were hand size bruises and on the right arm underneath inner arm right above arm pit and bruises were finger size bruises.

The Alleged Victim (Alv) is a "Person with a Disability" as defined by M.G.L. Chapter 19C &/or 118 CMR? If not, please explain:

118 CMR Definition: a person 18 through 59 years of age, who is a Person with an Intellectual Disability or a Person with a Developmental Disability, as used in M.G.L. c. 123B, § 1, or who is otherwise mentally or physically disabled, and, such mental or physical disability prevents or restricts the individual's ability to provide for his or her own Daily Living Needs; provided, however, that a person who is temporarily dependent upon a medically prescribed device or procedure to solely treat a transitory physical ailment or injury shall not be considered a Person with a Disability for the purposes of M.G.L. c. 19C unless that person otherwise meets the definition of a Person with a Disability.

Alleged Victim's Primary Disability:

► The Alleged Abuser (Alab) does meet the definition of a "caretaker" as defined by M.G.L. Chapter 19C &/or 118 CMR?

If Alab does meet the definition, provide at least one example of care provided. If Alab does not meet the definition, list facts that support this determination.

The ALAB prepares meals for the ALV, and assists with daily living needs.

118 CMR Definition: Any State Agency or any individual responsible for the health and welfare of a Person with a Disability by providing for or directly providing assistance in meeting a Daily Living Need, which cannot otherwise be performed by the Person with a Disability without assistance, regardless of the location at which such assistance occurs. Minor children and adults adjudicated incapacitated by a court of law shall not be deemed to be Caretakers. Caregiver and Caretaker may be used interchangeably without changing the meaning of either.

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Category of abuse committed by the Alleged Abuser: Act _____

Injury sustained by the Alleged Victim:

Physical Injuries:

First: Bruising _____

Second: None _____

Emotional Injuries:

First: None _____

Second: None _____

Abuse Per Se: None _____

If "Other" or more than two types of injury explain:

N/A

Description of the act and/or omission of the Alleged Abuser that caused the injury sustained by the Alleged victim?

The ALV is currently wearing a back brace to restrict him from movement of his torso [REDACTED]. The current procedure states the ALV is to be showered with the brace on and has to be lying in the bed for the brace to be removed. PC-4 stated [REDACTED] on 11/3/16, when at approximately 8:00 AM on 11/4/16, he noticed a bruise while putting the ALV's brace on. PC-4 stated he reported the injury to I-6 in the Medication line and completed an incident report. I-6 stated that he did not look at the injury; he just gave PC-4 an incident report to fill out and to make sure I-4 was aware of the injury when the ALV was picked up that afternoon. I-6 could not explain why he did not access the injury and document the size and extent of the bruising.

The ALV was picked up by I-4 on 11/4/16 to go home for the weekend. I-4 stated that when she picked the ALV up PC-1 stated during their conversation "oh by the way the ALV has a bruise on his arm", but played it off like it was no big deal. That evening I-4 looked at the injury and was shocked because the bruising looked like hand prints. I-4 photographed the injuries and notified I-5 for an explanation. I-5 claimed that it may have been from the ALV putting arm over the back of the chair in class, but I-4 felt the excuse was not fitting with the injury. This investigator viewed these photos I-4 took, and more likely than not the bruising on both arms are from a hand.

The PC(s) involved in this investigation are the sole caretakers for the ALV and are responsible for 1:1 supervision. It is more likely than not the incident occurred between 11/2/16 and 11/4/16 when the injury was discovered. During the investigation the PC(s) could not provide any reasonable explanation as to how the injury occurred and it is physically impossible for the ALV to self inflict these injuries.

Based on documentation and testimony there is sufficient evidence to conclude with certainty that unknown ALAB(s) or caretaker(s) have committed an act or omission in care that caused the injury to the ALV. Furthermore, there is sufficient evidence to substantiate abuse per MGL c 19C occurred as reported.

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► Facts pertinent to the allegation(s) investigated:

I-1 stated that the ALV is non behavioral but did hurt a staff awhile back by twisting their arm. I-1 stated the ALV resides at the Cardinal Cushing School Sunday night to Friday afternoon. I-1 stated that the ALV requires specially trained staff because of the support brace that he is wearing in which only a handful of staff are trained to administer [REDACTED]. I-1 stated PC-1 is primarily responsible for showering the ALV in the evenings. I-1 stated that PC-1 had spoken to I-4 upon picking up the ALV, and mentioned the bruising in the ALV's upper inner arm.

I-4 stated that when she picked the ALV up on 11/4/16 PC-1 stated during their conversation, "oh by the way the ALV has a bruise on his arm", but played it off like it was no big deal. I-4 looked at the injury and was shocked because the bruising looked like hand prints. I-4 photographed the injuries and notified I-5 for an explanation. I-5 claimed that it may have been from the ALV putting his arm over the back of the chair in class, but I-4 felt the excuse was not fitting with the injury.

I-5 stated she first heard of the ALV's injury on 11/4/16, and was very shocked by the bruising. I-5 stated that protocol would be to call the health center and have nursing staff access the injury. I-5 stated that she had not seen any notations in reference any incident or injury prior to the reporting date. However, I-5 stated that she did observe that area on 10/31/16, and there was no evidence of any bruising. I-5 was asked if any of the other clients could do this, she said it was possible but very hard with the 1:1 in place. I-5 stated that the 1:1 would note this in the log if there was an attempt; she also advised that the 1:1 staff sit right next to the ALV's bed and it would be impossible for a client to get to the ALV while he was sleeping.

I-6 stated that he did not look at the injury; he just gave PC-4 an incident report to fill out and to make sure I-4 was aware of the injury when the ALV was picked up that afternoon. I-6 could not explain why he did not access the injury and document the size and extent of the bruising. I-6 stated that when an injury occurs that medical staff need to access the injury to make a determination. I-6 stated that he believed that it was in the guideline book.

I-7 stated that 11/8 or 11/9/16 was the first time he heard of the ALV's injury. [REDACTED]. I-7 stated that during this week they were just showing how to do the brace with hands on and I-16 present.

This investigator interviewed I-8, I-10, and I-11 who [REDACTED] have worked with the ALV during the week of the incident. Neither [REDACTED] reported anything that would cause bruising under the ALV's arms. I-8, I-10, and I-11 stated that PC-1 works very well with the ALV and did not feel he would hurt the ALV. [REDACTED] also stated when PC-1 is 1:1 with the ALV he is right by his side.

This investigator interviewed I-9, I-12, I-13, I-14, and I-15, I-17 who are [REDACTED] that work with the PC(s) and do not routinely work with the ALV. The staff reported that they did not see any altercations or injuries that were not recorded in the log book. The staff reportedly was not aware of the bruise until after it was discovered and reported. The staff did not feel PC(s) would injure the ALV and if so they would report it.

PC-1 states that the overnight staff had reported it to I-6. PC-1 stated that he [REDACTED] has had to adapt and get trained on the brace the ALV is currently wearing. PC-1 stated he received both PT and OT training on the ALV's brace and showering the ALV in the brace. PC-1 stated he takes the T-shirt off with the brace on before showering. PC-1 stated he currently has to assist the ALV with washing his hair and use the scrub brush where the ALV cannot reach or is not suppose to try and reach. PC-1 stated that once the showering is complete the ALV is dried and dressed from the waist down and brought to his bedroom. Once in the bedroom, the ALV lies on the bed, and the brace is removed, dried and sanitized. PC-1 stated he will then complete drying the ALV and put a new T-shirt on him and re apply the brace according to the way he was trained. PC-1 advised this investigator that during the course of the week he did not observe any bruising during showering or changing the ALV's T-shirt. PC-1 stated that he had showered the ALV every evening from 10/31-11/3/16. PC-1 stated even with the ALV rolling over to put the brace on and lifting his arms to get dried off and to put a fresh T-shirt on, no injuries were observed. PC-1 claimed he only heard about the injury and never saw it.

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M.G.L. c. 19C / 118 CMR Conclusion

► Based on information gathered by the Investigator there is sufficient evidence to conclude that Alv is a victim of abuse, as it is defined by M.G.L. c. 19C and/or 118 CMR, by Alab(s) **Unidentified**

Therefore, the investigation(s) is/are **substantiated** for DPPC case number(s) **151315 151441**

When there are multiple Alabs and allegations are substantiated on some of them, but not on others, explain:

N/A

► **Individuals Interviewed or Contacted by Investigator (Provide redaction code, name, title or relationship to Alleged Victim, method of contact and date for each person interviewed):**

I-1, [REDACTED], Cardinal Cushing School, 11/14/16.	I-15, [REDACTED], Cardinal Cushing School, 11/28/16.
I-2, [REDACTED], Cardinal Cushing School, 11/14/16.	I-16, [REDACTED], Cardinal Cushing School, 12/01/16.
I-3, [REDACTED], Cardinal Cushing School, 11/14/16.	I-17, [REDACTED], Cardinal Cushing School, 12/01/16.
I-4, [REDACTED], 11/15/16.	I-18, [REDACTED] Easter Seals, 12/01/16.
I-5, [REDACTED], Cardinal Cushing School, 11/16/16.	
I-6, [REDACTED], Cardinal Cushing School, 11/18/16.	
I-7, [REDACTED] Cardinal Cushing School, 11/18/16.	
I-8, [REDACTED], Cardinal Cushing School, 11/21/16.	
I-9, [REDACTED] Cardinal Cushing School, 11/21/16.	PC-1, [REDACTED], Cardinal Cushing School, 11/14/16, 12/01/16.
I-10, [REDACTED], Cardinal Cushing School, 11/21/16.	PC-2, [REDACTED], Cardinal Cushing School, 11/14/16.
I-11, [REDACTED], Cardinal Cushing School, 11/21/16.	PC-3, [REDACTED], Cardinal Cushing School, 11/14/16.
I-12, [REDACTED] Cardinal Cushing School, 11/28/16.	PC-4, [REDACTED], Cardinal Cushing School, 11/18/16.
I-13, [REDACTED] Cardinal Cushing School, 11/28/16.	PC-5, [REDACTED], Cardinal Cushing School, 12/01/16.
I-14, [REDACTED], Cardinal Cushing School, 11/28/16.	PC-6, [REDACTED], Cardinal Cushing School, 1/19/17.

Redaction Code Key

Alv – Alleged Victim or Victim
Alab – Alleged Abuser or Abuser
OI - Other Individual
PC – Person Considered (someone, not an Alab, whose actions or inactions were examined)
I - Denotes person interviewed during this investigation
C - Denotes person contacted for collateral or expert/professional opinion
R - Denotes person referred to in the report that was not questioned
► Required by 118 CMR
* - Telephone interview or contact
** - Email contact

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► **It does not appear that the abuse report constitutes a malicious “False Report.”**

118 CMR Definition: A report of Abuse which at the time it is made is known by the reporter not to be true and is maliciously made for: the purpose of harassing, embarrassing or harming another person; the personal financial gain of the reporter; acquiring custody of the Person with a Disability; or the personal benefit of the reporter in any other private dispute. A False Report does not include a report of Abuse of a Person with a Disability that is made in good faith to the Commission and subsequently is unsubstantiated or screened out for lack of jurisdiction under M.G.L. c. 19C.

► **Protective Service Actions Taken and/or Recommended (required when abuse is substantiated):**

>The agency providing protective services to the Alv should ensure that the Alv is provided with access to trauma informed therapeutic supports that are appropriate to Alv’s individual situation and needs.

It is recommended that all staff be retrained on injury identification, reporting injuries to supervisors, and when to report to DPPC.

► **Additional Findings of Risk:**

Additional risks that were discovered during the investigation were the lack of medical attention administered to the ALV. Neither, I-2 or I-6 assessed the ALVs injury. There was no documentation of the size or extent of the injury and whether or not it was just a bruise. Based on the documentation and interviews there was a clear disregard of protocol for treating a client.

That the ALV is 1:1 supervision 24/7 and is unable to self inflict these injuries.

It was also discovered that PC-1 could have possibly showered the ALV while these bruises were on his body. This raised the question as to whether PC-1 as well other staff are observing the ALV’s body while bathing.

It was also discovered that only the bruise on the left arm was found on the ALV and a complete body check was not done. The second bruise was discovered by I-4 on the right arm at her residence.

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► Additional Recommendations and/or Actions Already Completed (required when additional risk is identified):

It is recommended that I-2 and I-6 as well as the entire nursing staff be retrained on what the proper procedure is and the importance of adhering to the protocol.

It is recommended that a body check form be established in order to keep track of injuries and to promote a more stringent body check of the ALV and other staff.

It is also recommended that the ALV have 2:1 staff or have increased oversight on the 1:1 staff.

Furthermore, it is recommended that a body check be done in cases of injury to document if there are any more injuries on the client's body.

Alleged Victim (Alv) Information: [Redacted]

Address: [Redacted]

Telephone Number: [Redacted]

Date of Birth: [Redacted]

Social Security Number: [Redacted]

Pertinent information regarding the Alleged Victim:

[Redacted]

Alleged Victim Guardian Information: Guardian? Yes No Unknown

Guardian:
Name: [Redacted]
Address: [Redacted]
Telephone: [Redacted]
Type: [Redacted]

Co-Guardian:
[Redacted]

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► Was the Alleged Victim interviewed? Yes No

If no, explain why not:

The ALV is non verbal, but face to face was conducted.

Other Individual (OI) Information:

Name: _____

Address: _____

Date of Birth: _____

Social Security Number: _____

Is the OI a person with a disability as defined by M.G.L. c. 19C? Yes No

OI Disability: _____

Pertinent information regarding the OI:

OI Guardian Information:

Does Other Client have a guardian? Yes No Unknown

Name: _____

Address: _____

Telephone Number: _____

► **Alleged Abuser Information:**

Alleged Abuser 1 (Alab 1) Name: Unknown

► Was the Alab 1 interviewed? Yes No

ALAB 1 Information:

Unidentified

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Alleged Abuser 2 (Alab 2) Name: _____

▶ Was the Alab 2 interviewed? Yes No _____

ALAB 2 Information:

Alleged Abuser 3 (Alab 3) Name: _____

▶ Was the Alab 3 interviewed? Yes No _____

ALAB 3 Information:

Alleged Abuser 4 (Alab 4) Name: _____

▶ Was the Alab 4 interviewed? Yes No _____

ALAB 4 Information:

Alleged Abuser 5 (Alab 5) Name: _____

▶ Was the Alab 5 interviewed? Yes No _____

ALAB 5 Information:

Alleged Abuser 6 (Alab 6) Name: _____

▶ Was the Alab 6 interviewed? Yes No _____

ALAB 6 Information:

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Alleged Abuser 7 (Alab 7) Name: _____

▶ Was the Alab 7 interviewed? Yes No

ALAB 7 Information:

Alleged Abuser 8 (Alab 8) Name: _____

▶ Was the Alab 8 interviewed? Yes No

ALAB 8 Information:

Did ALAB(s) Receive a Copy of the DPPC Notice of Alleged Abuser's Rights Form? Yes No

If no, explain why not:

Unidentified

▶ Were all Reporters interviewed? Yes No

If no, explain why not:

▶ Were all available witnesses interviewed? Yes No

If no, explain why not.

▶ **Site of Alleged or Actual Abuse:** _____

HANOVER MA 02339

▶ **Name of Vendor if Site is a Vendor:** CARDINAL CUSHING SCHOOL/ ST. COLETTA'S

Type of Setting: RESIDENTIAL SCHOOL

▶ **Date of Visit and Pertinent Information Regarding Risk at the Site:**

Cardinal Cushing School in Hanover supports students age 6-22. Class size ranges from five to seven students. All classrooms have a licensed teacher and at least one full-time educational assistant, with some classrooms having more assistants as needed. Some of the students attend school for the day, others participate in the residential program.

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► Documents Reviewed:

<input type="checkbox"/> Accident Report	<input checked="" type="checkbox"/> Injury Report
<input type="checkbox"/> Activity Report	<input type="checkbox"/> Level of Supervision Form
<input type="checkbox"/> Admission Report	<input type="checkbox"/> Medical Examiner's Report
<input type="checkbox"/> Ambulance Log/ Trip Sheet	<input type="checkbox"/> Medical Record
<input type="checkbox"/> Audio Recording	<input type="checkbox"/> Medication Error Report/ Form
<input type="checkbox"/> Communication Book	<input type="checkbox"/> On-Call Record/ Schedule
<input type="checkbox"/> Death Report	<input checked="" type="checkbox"/> Personnel File
<input type="checkbox"/> Discharge Summary	<input checked="" type="checkbox"/> Policies and Procedures
<input type="checkbox"/> Doctor's Orders/ Note	<input type="checkbox"/> Previous Abuse Investigation Report
<input type="checkbox"/> Facility Security Log	<input type="checkbox"/> Previous Hotline Report
<input type="checkbox"/> Hospital Record	<input type="checkbox"/> Progress Notes
<input type="checkbox"/> Human Rights Complaint	<input type="checkbox"/> Police Report
<input type="checkbox"/> Human Rights Report	<input type="checkbox"/> Psychiatric Evaluation/ Report
<input checked="" type="checkbox"/> Incident Report	<input type="checkbox"/> Psychological Evaluation/ Report
<input checked="" type="checkbox"/> Individual Day Program Agency Record	<input type="checkbox"/> Psychosocial Evaluation/ Report
<input checked="" type="checkbox"/> Individual Educational Plan	<input type="checkbox"/> Quality Assurance Report/ Evaluation
<input checked="" type="checkbox"/> Individual Residential Agency Record	<input type="checkbox"/> Restraint/ Seclusion Form
<input type="checkbox"/> Individual Service Agency Record	<input type="checkbox"/> Staff Assignment Schedule
<input checked="" type="checkbox"/> Individual Service / Support Plan	<input checked="" type="checkbox"/> Staff Communication Log
<input type="checkbox"/> Individual Treatment Plan	<input type="checkbox"/> Video Recording

Additional Documents Reviewed:

None

► Photographs /Physical / Other Evidence:

Photos of bruising on Both upper portions of the ALV's arms.

Criminal Investigation and Prosecution Status:

Referred to District Attorney: YES NO

Was a criminal investigation conducted? Yes No

Were criminal charges filed? Yes No

Type of charge filed: None

If other explain: _____

Prosecution result: No prosecution

If other explain: _____

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The assigned investigator and their supervisor certify that to the best of their knowledge the information contained in this M.G.L. c. 19C investigation report is accurate.

Ryan Savje
Investigator Name

1/24/2017
Date Report Submitted to Supervisor

David Viens
Supervisor Name

1/25/2017
Date Report Approved by Supervisor