

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

Alleged Victim: [REDACTED]

Investigation Agency: DPPC

DPPC Case Number: 151373

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Date of Incident: 11/13/2016

Allegation Investigated:

This incident occurred on 11/13/16 at 5:07 am. and was seen on video footage. The ALAB1 was working 1:1 with the ALV. The ALAB1 put the ALV to bed. The ALAB2 went to switch with the ALAB1 when it was time for him to come on shift. The ALAB2 went in to ALV's room and took off his belt and sat in the chair in ALV's bedroom. ALV jumped out of bed. The ALAB2 told the ALV to go back to bed and gestured with his belt at the ALV. Later, the ALV approached the ALAB2 again. The ALAB2 struck the ALV once in the thigh area with the belt. The ALV continued to jump out of bed. The ALAB1 then came back into the room and pushed the ALV into the bed. The ALAB2 hit the ALV again on the leg with the belt. The ALAB1 left the room after this. The ALV jumped up again and the ALAB2 told him to get back into bed. The ALAB2 attempted to hit the ALV again, but he missed.

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:

[REDACTED]

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:

[REDACTED]

► 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.

At the time of the incidents, both Alabs were employed [REDACTED] the role of which included, in part, providing 1:1 supervision for Alv.

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: None

Second: None

Emotional Injuries:

First: None

Second: None

Abuse Per Se: Pattern of touching not appropriate or required

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

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

Alab1 pushed Alv with force multiple times on 11/13/16 and at least one other known occasion. This type of interaction was not in keeping with agency training or Alv's behavior plans. In the footage of 11/13/16, it is clear that Alv responds to the pushes by vocalizing and aggressing towards Alab1. It was these vocalizations that led others to review footage of the incidents.

Alab2 clearly strikes Alv with his belt at least three times on 11/13/16, and Alv clearly responds with vocal displeasure to these audible smacks.

Although both Alabs stated that they did not intend to injure Alv, and no physical injury to Alv was found when Alv was checked that day or later that week, these pushes and belt smacks clearly cause pain to Alv. Alv cries out in response to them, and even aggresses towards Alab1 in response. The actions of Alabs are both a pattern of touching not required nor appropriate for care (which Alabs even admitted), and applications of physical force to cause pain. Alv is not able to speak to the pain it caused him, but a reasonable person would have experienced pain when pushed with force or hit with a belt. Also, it was the Alv's "out of place" and "foreign" vocalizations that drew other staff's attention to the incident.

Also on 11/13/2016, as Alab1 leaves Alv's room he says "goodnight" to Alv; Alv does not answer and Alab1 says, "I said goodnight," then spits on Alv as Alv is in the bed.

In addition to the 11/13/16 incident, many others of a similar nature were later discovered.

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► **Facts pertinent to the allegation(s) investigated:**

I-3 described Alv to be an individual with a [REDACTED] disability, who uses few words to communicate, and who has very unpredictable aggressive behaviors, towards himself and others. I-3 described that Alv has caused [REDACTED] from his self-injury and that he has also injured staff who work with him. Alv is covered by a 1:1 staff person at all time, including overnight while he is sleeping. [REDACTED] I-3 had heard that Alv had been hit with a belt, and stated that in his [REDACTED] years at the agency it was the first such allegation he'd heard.

I-4 was working in the JRC DVR monitoring area on 11/13/16. This area is typically staffed by three individuals, each of whom has a set number of residences for which to monitor the live feeds of surveillance footage. I-4 stated he was not at the station that had Alv's residence on it, but that he heard a noise from the monitors of the station of the person who was covering Alv's residence. That person who had Alv's residence was on break, which is why I-4 was listening out for issues.

I-4 said that he has worked with Alv several times in his tenure at JRC and that he heard Alv "yell or scream" in a way that "was foreign" to him, given his knowledge of Alv. Because of this, he went over to review footage and discovered the initial footage of Alab2 using a belt to hit Alv, and Alab1 forcefully pushing Alv and appearing to be present when Alab2 used the belt. I-4 said Alv's reaction was "out of place." I-4 stated that he had worked with Alv for many years and he was familiar with how Alv sounds. I-4 also said that Alab1 spit on Alv as he left the room at one point, when he said goodnight to Alv and Alv did not respond.

I-2 confirmed that Alab2 used a belt and Alab1 pushed Alv, and provided footage initially of this 11/13/16 incident. I-2 later reviewed all available footage of the times that Alabs worked with Alv and found additional incidents of use of the belt by Alab2 and pushing by Alab1. This included footage that spanned back to 10/8/16.

In video footage of 11/13/16, Alab1 can be seen pushing Alv when he is alone in the room with him. Alab1 is seen moving towards Alv and saying, "sit down boy," as he pushes him to the bed. Alab1 then asks Alv "ya all right?" Alab2 and Alv then switch. Just after coming into the room, Alab2 can be seen removing his belt and wrapping it around his hand, with the buckle end out. Alv is a very restless sleeper and can be seen moving the orientation of his head and feet to opposite ends of the bed many times. He also gets up and approaches Alab2 several times. Alab2 most often responds with a protective sort of stance, with one arm in front of him and the other (with the belt strap clearly held up) behind him. Alab2 hits him with the belt at least three times. After the first time, when Alv has clearly responded "ow," Alab1 enters again. Alab1 says to Alab2, "you got it?" and to Alv, "you okay?" As Alab1 leaves the room he says "goodnight" to Alv; Alv does not answer and Alab1 says, "I said goodnight," then spits on Alv as Alv is in the bed. There is no reaction from Alv to this. I-6 stated that he watched the footage many times, with close up views available, and that what had appeared to be spitting may be a spot in the footage. This Investigator and C-1 noted many dust spots in the camera, however in this instance it does appear that Alab1's mouth opens in a fashion consisting with spitting as this "spot" travels exactly from his mouth to the bed. C-1 concurred and noted in his report that Alab1's head moved back and forth and that the "spot" in question appears to have weight to it and to travel in a more constant downward motion, rather than the lighter and more random motion of the dust "spots." Alab1 enters again a few minutes later, after Alab2 has the belt raised to Alv and is telling him to lie down, and Alab1 says, "did you hear him?", and walks towards Alv as if directing him to the bed. Alab1 then leans over and says to Alv, "If you get up one more time I'm gonna ----- [word unintelligible] you." Alab1 then talks to Alab2, and during this, Alv gets up and Alab1 pushes him to the bed with his arms fully outstretched, moving toward and over Alv. Alab1 pushes Alv forcefully with two hands, and Alv cries out in response, with Alab1 pushing him again. Alv then hits Alab1 (for the first time clearly aggressing in all of this encounter) a few times and Alab1 may strike back, although it is difficult to discern, as there is movement and noise that could be consistent with either party hitting the other. During this exchange, Alab2 approaches with the belt raised and again hits Alv with it, at a distance of about one foot from Alab1, and with an audible noise of contact. Alv vocalizes in response to this. Alab1 leaves again and some minutes later Alv gets up and Alab2 again hits him with a belt and Alv cries out in response. The footage details a phone ringing in the residence, and Alab1 coming to the room and asking Alab2 to leave, which appears consistent with I-4 and I-5's testimonies about the decision being made to remove Alabs from Alv's care that night.

About the incidents of 11/13/16, Alab1 said that he did not intentionally hit Alv. Alab1 said that he is afraid of the dark (although the camera was recording, the room was in darkness), that he did not have his contacts in and that his glasses were broken. Alab1 said that due to these factors, and his knowledge of Alv, that he responded by just putting his hands out. Alab1 noted that his actions were "very inappropriate" but he intended no harm and he did not think he injured Alv. Alab1 also said that he did not see or hear Alab2 use a belt on Alv, although he did say that he had heard "unfamiliar sounds" that

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night. In contrast to his testimony, Alab1 can be seen clearly moving towards Alv, he pushes have such force that Alv responds vocally and then aggresses.

Alab2 stated that he had begun using a belt or strap when he began working with Alv because he found Alv unpredictable when waking, because Alv is sometimes aggressive without antecedent. Alab2 stated he needed something to extend the reach of his arm, just to "tap" Alv. Alab2 agreed that the use of his belt, or the lighter strap that he brought to the interview to show this Investigator and C-1, was not something that he was taught to do. Alab2 said that his intent was to dissuade Alv from getting up or aggressing towards staff, but he admitted to knowing that Alv did not like being "tapped." Alab2 said he had no intention of inflicting pain, and despite Alv's vocalizations he felt he had not done this. Alab2 stated that he had not told anyone what he was doing, or that he felt uncomfortable working with Alv. Alab1 likewise had said that he had not told anyone he felt uncomfortable working with Alv, other than briefly to [REDACTED]

While all staff acknowledged that Alv can be violent to himself and others, all others beside Alabs were upset by what they witnessed on the 11/13/16 footage. I-4 clearly heard something of concern that caused him to review the footage, and I-5 immediately sent Alabs home that shift, once she could replace them. I-4 noted that some staff are afraid of Alv, and that there have been times when staff have asked to be moved, and that this is accommodated when possible. I-5 stated that she had worked alongside Alab2 many times in the past and was surprised at seeing this. I-5 said that when she spoke to Alab2 that night, he told her it was a posey strap that he was using, but that he later admitted it was his belt (when she told him she'd seen footage of him removing it). Alab2 sent an apology letter to [REDACTED] JRC [REDACTED] [REDACTED]. In this letter, Alab2 states he removed his belt in response to Alv tensing up and walking toward him, however footage shows Alab2 removed his belt immediately after shutting the door to the room.

Both Alabs were removed from the schedule immediately and later terminated. Alv was seen by nursing staff just after this incident and the following day, with no new body marks, redness, bruising or swelling noted.

I-2 stated that he reviewed all available footage of Alabs working with Alv, which he stated spanned back to 10/8/16. I-2 shared this with C-1 and this Investigator. There were 10 additional incidents on 5 additional dates involving Alab2 either shoving, punching, or striking or threatening with belt. There was one additional incident with Alab1 using a two-handed shove to Alv.

[REDACTED]

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► 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) **1 and 2**

Therefore, the investigation(s) is/are **substantiated** for DPPC case number(s) **151373**

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] several
I-2, [REDACTED] JRC, 11/21/16 (with I-1 and C-1)
C-1, Det. Marc Abramson, Randolph Police Department,
11/21/16, 12/1/16*
Alab1, [REDACTED] JRC, 11/21/16
(with I-1 and C-1)
Alab2, [REDACTED] JRC,
11/21/16 (with I-1 and C-1)
I-3, [REDACTED] JRC, 11/18/16, (with I-1)
I-4, [REDACTED] JRC, 11/30/16*
I-5, [REDACTED] JRC, 11/30/16*
I-6, [REDACTED] JRC, 11/30/16*

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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.

Alabs 1 and 2 were removed from the schedule when the events were discovered and they were later terminated by JRC.

JRC should review this incident, and make changes to their policies and practices accordingly. In doing this, JRC should consider the following: 1) Alab2 [REDACTED] admitted he had been using a belt or strap with Alv since January 2016, 2) despite having video surveillance of Alv’s room overnight available at all times, the incidents of 11/13/16 were the first ones witnessed by staff assigned to monitor said video surveillance, and 3) the statements and actions of both Alabs with regard to Alv show a lack of concern for, or knowledge of, Alv’s treatment plan or human dignity.

► **Additional Findings of Risk:**

Alabs admitted to being afraid of Alv, and to having acted out of that fear rather than asking for assistance. Once the 11/13/16 incidents were discovered, several other similar ones were located on the available footage (just over a month). Alab2 admitted to engaging in this behavior for nearly a year, yet until 11/13/16 was not discovered by the staff assigned to monitor video surveillance.

Also, that Alabs both acted with so little regard to Alv’s dignity and his behavioral program for such a period of time, suggests that staff is either insufficiently trained or supported to carry out complex treatment programs for individuals with disabilities.

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

While the video surveillance is to be commended, as it was the tool that brought these instances to light, it appears to also have been insufficient (or disregarded) given the number of other instances that were later found and admitted to. JRC should review and revise this system to ensure the best protection for students and staff.

JRC should review their existing training and supports for staff, with this incident in mind. DDS should ensure that JRC abides by their human rights regulations/standards and provide training as necessary.

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:

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► Was the Alleged Victim interviewed? Yes No

If no, explain why not:

Alv was visited in his classroom on 11/21/16, although he is mostly non-verbal and was unable to communicate anything about the incident.

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: _____

► Was the Alab 1 interviewed? Yes No

ALAB 1 Information:

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Alleged Abuser 2 (Alab 2) Name: [REDACTED]

▶ 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:

▶ **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:** _____

RANDOLPH

MA 02368

▶ **Name of Vendor if Site is a Vendor:** JUDGE ROTENBERG EDUCATIONAL CENTER (THE) / JRC

Type of Setting: RESIDENTIAL

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

The site of abuse is Aliv's single bedroom at the address above. It was not visited in person, as the incidents themselves were recorded on video footage and viewed at the 250 Turnpike Street address.

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► Documents Reviewed:

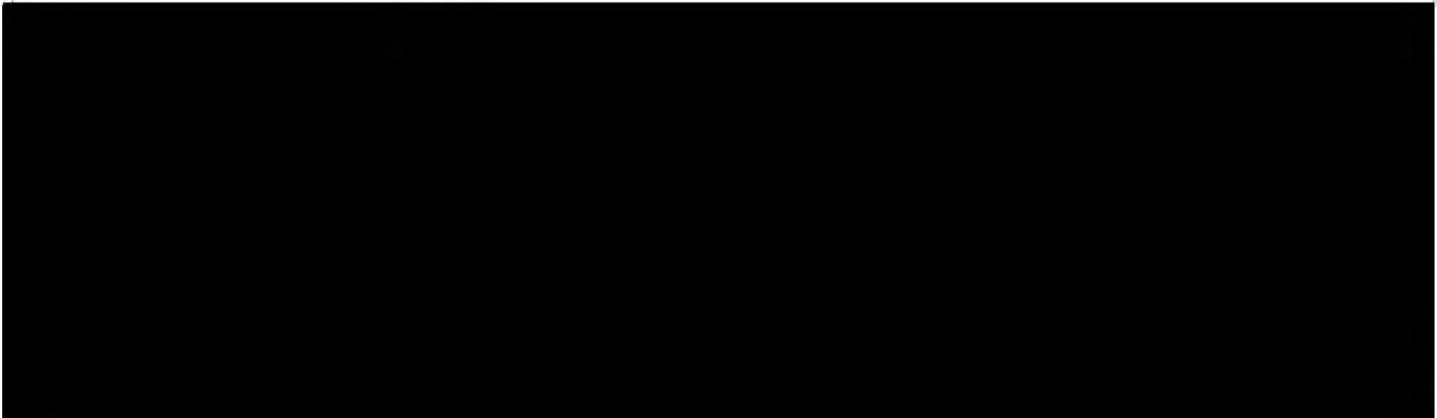
<input type="checkbox"/> Accident Report	<input type="checkbox"/> Injury Report
<input type="checkbox"/> Activity Report	<input type="checkbox"/> Level of Supervision Form
<input type="checkbox"/> Admission Report	<input type="checkbox"/> Medical Examiner's Report
<input type="checkbox"/> Ambulance Log/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

Additional Documents Reviewed:

██████████ Bedroom Assignments sheet (with layout of residence), Letter from Alab2 ██████████ dated 11/15/16

► Photographs /Physical / Other Evidence:

-CDs containing footage of incidents mentioned in the report



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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.

Seana Miller

Investigator Name

12/22/2016

Date Report Submitted to Supervisor

Emil DeRiggi

Supervisor Name

12/23/2016

Date Report Approved by Supervisor

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