

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

Alleged Victim: [REDACTED]

Investigation Agency: DPPC

DPPC Case Number: 148305

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Date of Incident: 07/30/2016

Allegation Investigated:

Alv was seen on 8/1 with mild bruise noted under R eye. It was unexplained. Footage was later found of Alab taking Alv into the bathroom on 7/30 at 6:17 am. Alab is posturing towards Alv and then walked into the tub area and clearly punches towards Alv's face. Alv is then seen crying.

Two other incidents of Alab assaulting students in this house that morning were found. 148133, which was reported last week, and another incident involving [REDACTED] which was called in to DCF today.

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.

ALAB provided care and supervision to 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: Bruising

Second: None

Emotional Injuries:

First: Diminished function

Second: None

Abuse Per Se: Application of physical force in a manner that inflicts pain

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

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

Alv was seen with unexplained bruising under his eye on 8/1/16. When staff looked for a cause of this injury, footage was found from the morning of 7/30 showing Alab striking Alv in the face, multiple times, after bringing Alv into a shower fully clothed, and attempting to close the curtain. Alv exits the shower crying, which I-4 noted to be unusual for him, both because he does not cry often and because he has a high tolerance for pain.

While being interviewed for another case, [REDACTED] Alab stated that he had not worked directly with Alv on 7/30/16 and that he had provided no assistance to any clients with "self care routines."

When shown the aforementioned footage, Alab said he was only attempting to cue Alv to take a shower and that he had been attempting to hand Alv the shower hose. Alv's program description describes and other staff reported that Alv needs no such assistance. Also, there is no shower hose apparent in the footage, Alv remains fully clothed during the interaction and he has no shower supplies or other clothing with him as he enters the bathroom.

It is more likely than not that Alab's action of striking Alv (application of physical force) caused Alv pain and bruising to his face, and reduction in his ability to function in the form of immediate tears, which are unusual for him (only one other noted time in nearly a year), particularly given his noted high tolerance for pain.

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

This report involves allegations that Alv was hit by Alab, but these allegations only came to light after another incident had initially been reported. That incident involved R-1.

On the morning of 8/1/16, R-1 arrived to school with unexplained bruising under his left eye. There had been additional reports from the prior weekend that R-1 had a swollen and cut lip, also unexplained. This investigator observed a small bruise under R-1's left eye on 8/3/16. R-1 is not verbal and is unable to say what happened. I-2 began doing spot checks of video footage of Alv's residence (which R-1 shares with several others, including R-2 and Alv) from the prior weekend, and found an incident between Alab and R-1 in the upstairs hallway of the residence, from the morning of 7/30/16. In this footage, Alab is seen striking out towards R-1's chest and face area multiple times. I-2 noted that the exact point of contact was not clear due to an obstructed view, but the sound was. I-2 said that this was done over 10 times, at some point during which Alab paused, appeared to look up for the presence of a camera, and then continued. I-2 noted that Alab also appears to be "prompting" R-1 with Alab's foot, at times, when R-1 is on the floor. R-1 "appears fearful" in the footage, according to I-2. A review of the footage confirms what I-2 said. The allegations about Alab's treatment of R-1 were investigated in DPPC case 148133. A joint interview of Alab was scheduled with C-1 and this Investigator for 8/9/16.

Prior to that interview taking place, two additional reports were filed. One with the Department of Children and Families (DCF) for [REDACTED] R-2, and this report for Alv. R-2 and Alv had also arrived at school on 8/1/16 with unexplained bruising. Additional concerning video footage of Alab's actions with regard to each of these students was located. According to I-1 and I-3, it took additional time to locate the incident with Alv, as it occurred in a bathroom and only a few staff have the ability to view such footage.

All incidents occurred on the morning of 7/30/16 between approximately 6:15 and 6:45 a.m. The first of them involved Alab taking R-2 into a closet in his room. The closet door is partially closed and noises of a scuffle and crying are heard. R-2 leaves and clearly runs past Alab to get away from him. The incident with R-1 occurs next, then the incident with Alv.

I-8 [REDACTED] noted he had concern on 8/1/16 after seeing an apparently recent unexplained bruise to Alv's face. I-8 spoke with I-12 about this, and Alv was seen by I-15, who documented "mild bruise under R eye from unknown origin." I-8 described that although he knows Alv to sometimes have "health dangerous behaviors" of hitting his head, I-8 had never known him to target his eyes. I-8 was unaware of anything occurring at the school building that could have caused injury. [REDACTED]

I-8 described similar past Monday bruising, but noted he had never reported abuse. A review of nursing notes since Alv's 10/13/15 admission does not reveal such a Monday pattern (the only notable exception is a March lip injury which occurred on a Sunday).

Alv is primarily non-verbal and was unable to speak about what happened. I-4 and I-5 described Alv as having made progress since his admission. They were aware of I-8's concerns about the residence, but had not seen this pattern, and actually felt that I-8 might be exaggerating due to his fondness for Alv. They noted that Alv has a high tolerance for pain. I-4 noted that he had seen Alv cry only one other time, when he was unable to have contact with [REDACTED]

I-3 actually found the footage of the incident involving Alv and Alab, as he is one of the few staff allowed to view bathroom footage. It is in the downstairs bathroom, and there is no audio to the recording. Alab brings Alv in, fully clothed, with no shower supplies or additional clothing, at approximately 6:44 a.m.. Alab guides Alv into the room, pushes the door shut a bit, and after directing Alv into the shower, still clothed, Alab hits Alv three times in the face with Alab's left hand and then once with his right. Alv leaves the shower and his face is contorted with apparent tears. Alv touches his face. Alab pushes the door closed and again guides Alv to the shower, pulling the curtain closed a bit (which serves no apparent purpose other than concealment, as Alv remained clothed and no water was on), Alab hits Alv three times in the face with his right hand one time with his left hand. Alv touches his mouth and exits the shower, crying. Both then leave the bathroom. The whole exchange takes less than two minutes.

When interviewed by C-1 and this Investigator about the first known incident, the alleged assault of R-1, Alab denied working with Alv or R-2 on that same day. Alab admitted that the footage with R-1 looked bad, but denied hitting R-1. When asked if additional footage showed him interacting in a similar manner with Alv and R-2, how that might look, Alab admitted that this would also look bad. Alab said there could be no such footage. He was unaware that additional footage had already been found. Alab also said he had done no assistance with any personal care routines that day.

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The following day, this Investigator showed Alab footage of the incident with Alv. When asked why he had taken Alv into the shower fully clothed, Alab said that sometimes Alv needs this "cue" to take his clothes off. Alab said that there was a loose hose in the shower and that he was trying to "shove it in [Alv's] hand." When asked why he had just the day before said he had not worked directly with Alv and had done no "self-care routines," Alab maintained that he had not done Alv's shower, that he was just trying to "get him started." Alab denied hitting Alv, when asked about the second motion that appeared to all present as a series of strikes, Alab said he was pushing Alv towards the hose. The hose is not apparent in the footage, and I-3 confirmed it is on the wall furthest from where Alv was in the shower. Alv's Program Description notes Alv "requires assistance with self care and general hygiene activities. Level of prompting is primarily verbal with physical gestures. Staff should NOT (original emphasis) have to hand over hand. Please contact treatment team if you do."

Contrary to Alab's testimony about Alv, I-10 said that in his experience Alv always goes willingly to the shower and takes his own clothes off. I-10 said that Alv complies very quickly and knows to put his own dirty clothes in the basket. I-10 said he had never had such a hard time with Alv.

I-1, I-2 and I-3 had each viewed the footage of the incident. None of them felt that Alab's actions were consistent with any JRC training.

There were five other staff on duty in the house on that particular shift; the others were I-6, I-7, I-10, I-11 and R-3. Alab said he had not asked others for help at any point. None of the other staff interviewed recalled hearing anything of concern on the shift, or seeing anything that could have caused injury to Alv. The incident with Alv was so quick, that it could have gone unnoticed. Although there is video feed to the primary location that is watched by other staff, each camera view is not watched constantly (and bathroom views are not watched without specific need). Although other staff had not witnessed an incident with Alv, they expressed awareness that he does cause injury to himself at times.

Based on the totality of evidence, it is more likely than not that the Alab's actions of striking Alv caused pain and bruising to Alv's face and caused Alv to cry, which I-4 noted was unusual, as he knew Alv to have a very high tolerance for pain and to have only cried one other time since his admission. No other staff working with Alv could explain Alv's injuries. Further, I-1, I-2 and I-3 had each viewed the footage of the incident and none of them felt that Alab's actions were consistent with JRC training.

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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) 1

Therefore, the investigation(s) is/are **substantiated** for DPPC case number(s) **148305**

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] JRC, 8/3/16, 8/8/16, 8/9/16, 8/10/16, 8/11/16	I-9, [REDACTED] JRC 8/11/16 (with I-1 and C-2)
I-2, [REDACTED] JRC, 8/3/16* (with I-1)	I-10, [REDACTED] JRC, 8/11/16
I-3, [REDACTED] JRC, 8/8/16 (with I-1), 8/9/16 (with I-1 and C-2), 8/12/16 (with I-1 and C-2)	I-11, [REDACTED] JRC, 8/11/16 (with I-1 and C-2)
R-1, [REDACTED] 8/3/16 (with I-1)	I-12, [REDACTED] JRC, 8/11/16 (with I-1 and C-2)
C-1, Detective Charles Turcotte, Detective, Norton Police Department, 8/8/16*, 8/9/16	I-13, [REDACTED] JRC, 8/12/16*
Alab, [REDACTED] JRC, 8/9/10 (with C-1), 8/10/16 (with I-1 and I-3), 8/11/16 (with I-1 and C-2)	R-2, [REDACTED]
I-4, [REDACTED] JRC, 8/9/16 (with I-1 and I-5)	R-3, [REDACTED] JRC
I-5, [REDACTED] JRC, 8/9/16 (with I-1 and I-4)	C-3, Christine Lowe, Investigator, EEC
I-6, [REDACTED] JRC, 8/10/16 (with I-1)	I-14, [REDACTED] JRC, 8/22/16 (with I-1 and C-3)
I-7, [REDACTED] JRC, 8/10/16 (with I-1)	I-15, [REDACTED] JRC, 8/22/16 (with I-1 and C-3)
I-8, [REDACTED] 8/9/16 (with I-1)	
Alv, [REDACTED] Alleged Victim, 8/9/16 (observed only)	
C-2, Jim Nolan, Investigator, DCF, 8/11/16 (with I-1)	

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.

Alab was terminated.

► **Additional Findings of Risk:**

Even though there is no footage showing staff witness Alab's actions, It is concerning that Alab appears to have assaulted and injured Alv and [REDACTED] during a one hour period, yet these actions were not witnessed by his five coworkers or by the staff assigned to remotely monitor the video footage of the residences. Even acknowledging that the remote staff do not have live views of all cameras at all times, these incidents were severe and spanned a considerable amount of time.

Staff appeared to have no consistent understanding of how and to whom to report new injuries to clients. Had these injuries all been reported accurately and quickly the incidents might have been found out sooner.

A review of Alab's personnel file shows [REDACTED]

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

Even though it appears Alab was undetected in his actions, JRC should review this incident and make changes to direct care and monitoring staffing and/or provide discipline and retraining to staff, as needed, to ensure greater oversight of residences where the clients are mainly nonverbal.

JRC should develop clear injury reporting guidelines to ensure that nursing and clinical staff are immediately notified when an injury of unknown origin is found.

JRC should ensure that all staff involved in overly aggressive physical interactions are, at the very least, retrained and watched closely.

JRC should ensure that all allegations of potential abuse reported to administrative staff are reported to DPPC. JRC should also review the performance of I-10 to ensure that he treats clients and coworkers respectfully.

Alleged Victim (Alv) Information: [REDACTED]

Address: [REDACTED]

Telephone Number: [REDACTED]

Date of Birth: [REDACTED]

Social Security Number: [REDACTED] XXXX

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]

[REDACTED]

[REDACTED]

[REDACTED]

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► Was the Alleged Victim interviewed? Yes No

If no, explain why not:

Alv was visited on 8/9/16, but he was unable to speak to the allegations of this report.

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: _____

▶ 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:

██████████

NORTON

MA 02766

▶ 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 was initially viewed via video footage from the main building. The home was later visited, when EEC staff conducted a site visit for their regulatory investigation.

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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 checked="" 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 type="checkbox"/> Restraint/ Seclusion Form
<input type="checkbox"/> Individual Service Agency Record	<input checked="" type="checkbox"/> Staff Assignment Schedule
<input type="checkbox"/> Individual Service / Support Plan	<input type="checkbox"/> Staff Communication Log
<input type="checkbox"/> Individual Treatment Plan	<input checked="" type="checkbox"/> Video Recording

Additional Documents Reviewed:

JRC email and therapy notes

► Photographs /Physical / Other Evidence:

CD's containing video footage of Alab with Alv and of Alab with R-3. Photo of R-1s face, taken by this Investigator on 8/3/16

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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

3/15/2017
Date Report Submitted to Supervisor

Emil DeRiggi
Supervisor Name

3/16/2017
Date Report Approved by Supervisor

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