

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

Alleged Victim: [REDACTED]

Investigation Agency: DPPC

DPPC Case Number: 149335

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Date of Incident: 09/07/2016

Allegation Investigated:

Yesterday Alab stepped on Alv's feet which upset Alv who told Alab not to do that because "I'm not [REDACTED]", another client whom the Alab does this to. Alv either hit or touched Alab's head and Alab responded by grabbing both of Alv's hands and making Alv hit Alv's mouth with Alv's own right hand. Alv has a history of aggressive behavior and attacked the Alab who had to restrain Alv. Alv's lip was very swollen and had a blood clot on the bottom left side of Alv's lip. Alv was applied ice. Alv wanted to call HRO but was not allowed instead was told that Alv could call [REDACTED] today. Alv was very upset.

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

118 CMR Definition: a person between the ages of eighteen and fifty-nine, inclusive, who is mentally retarded, 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 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 disabled person for the purposes of M.G.L. c. 19C unless that person otherwise meets the definition of a disabled person. The term "person with a disability" may be used in place of the term "disabled person" without changing the meaning of either.

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.

Alab is a supervisory staff at JRC. He was working in Alv's residence and was her assigned 1:1 at the time of the incident.

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 regardless of the location within which such assistance occurs. Minor children and adults adjudicated incompetent by a court of law shall not be deemed to be caretakers.

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Category of abuse committed by the Alleged Abuser: Act

Injury sustained by the Alleged Victim:

Physical Injuries:

First: Laceration

Second: Bleeding

Emotional Injuries:

First: None

Second: None

Abuse Per Se: None

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?

I-2 reported hearing Alv tell Alab not to step on Alv's feet and seeing Alv move her feet as if to avoid Alab's feet. I-2 then witness Alv attempt to strike Alab, with Alab grabbing hold of her hands in response. I-2 then saw Alab push Alv's hands into her own face, causing a cut to her lower lip. Alv described the same story and was seen with a cut to her lip after this incident.

Alab denied doing this, rather he said that he had grabbed Alv's hands to prevent being hit, but that then her hands had slipped out of his grasp and she hit her own face.

After this interaction, Alv continued to aggress towards Alab, Alab placed Alv in a one-person hold and others assisted in a brief floor restraint of Alv. None of these responding staff reported seeing the initial incident.

Video footage shows that only I-2 had a clear view of the initial interaction, and I-2 was adamant that the movement towards Alv's face was done by Alab and that it was intentional. I-2 stated that Alv was calm prior to Alab coming close to her and interacting with her in the way that he did.

Alv was seen to have a small cut on her left lower lip after the incident, which she and I-2 clearly stated was due to the actions of Alab.

Given witness testimony and evidence, it is more likely than not that Alab's action caused the injury to Alv's lip.

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► Facts pertinent to the allegation(s) investigated:

The incident occurred at the Alv's residence. Video footage of the incident was viewed on 9/12/16, when scheduled interview with Alv was to take place. Further interviews were scheduled, including for Alv, on 9/15/16. Alv was unable to attend the main campus for school either day, due to her own "unsafe" behaviors, according to I-6 and I-7, who agreed to inform when it would be "safe" for Alv to be interviewed at her residence.

I-6 and I-7 cautioned that Alv has a tendency to make allegations against staff who are following her behavioral program closely. I-7 stated that Alv is "difficult to manage" in restraints and that Alv has been injured at times in the past due to her own struggle. I-6 agreed, but noted that in this situation the total interaction between Alv and Alab could not be seen on the video footage, as the camera angle is behind Alab's body and blocks view of Alv and Alab's initial contact and the contact made with Alv's face.

Alv was interviewed and seen at her residence on 9/21/16. She initially refused, but then spoke to Investigator briefly. She stated that Alab had stepped on her foot, as he had done to another student on 9/7/16. Alv said that she spoke back to Alab and put her hands up. Alv said that Alab grabbed her hands and pushed them to her face, causing her lip to be injured. Alv said that Alab said that she hit herself, but that was not what happened and I-2 saw the whole thing. Alv said that I-2 was the only real witness (footage and testimony supports this). Alv said that in the restraint that followed Alab also had his knee on her chest, but she noted that there was no injury from this and he was replaced right away by another staff. When asked what she wanted to happen, Alv said she just wanted Alab not to work closely with her again.

I-2 said that she heard Alv say to Alab, "don't step on me, I'm not [REDACTED]," referring to another student whom Alv said Alab had stepped on earlier. (I-2 did not see this happen to the other student, she only heard Alv say that it did). I-2 said that she saw Alv avoid Alab's moving feet while saying this (footage supports that Alv and Alab's feet are close together and moving). In what followed, I-2 said that Alv reached for Alab first, but then he grabbed her hands, pushing them towards her face, causing her to strike her own face. I-2 was adamant that the movement towards Alv's face was done by Alab and that it was intentional. I-2 said that following this, Alv went after Alab attempting to strike him, and that he put her into a one-person hold, until further staff arrived to assist with a restraint. I-2 stated that Alv began yelling for I-3 and stating that Alab was "violating" her. Alab was replaced in the restraint and Alv calmed.

I-3, I-4 and I-5 all reported arriving after the initial incident had occurred, and seeing a crisis in progress, with Alab restraining Alv and Alv clearly attempting to aggress towards him. I-2 stated that Alv was calm prior to Alab coming close to her and interacting with her in the way that he did. Alv was seen to have a small cut on her left lower lip after the incident, which she and I-2 clearly stated was due to the actions of Alab.

Alab denied doing what was alleged. He stated that as he approached Alv, she said, "you're not going to step on me" and Alv slapped him, saying, "what is your comeback?," then she grabbed his hands and he grabbed hers, but that she twisted and slipped out of his grasp and hit herself in the face. Alab stated that then Alv swung at him and he put her in a one-person hold. Alab reported he was upset that another staff would say that he had done this intentionally. Alab said that if he had actually punched Alv, she would have more of a cut on her lip, as he has "rough hands."

Video footage does not offer a clear view of what occurred, as the camera is behind Alab's back and he blocks view of Alv's face. The only person in the footage who appears to have a clear view is I-2, who was adamant about what she saw. Also, reviewing the footage, Alab's arm does appear to move towards Alv prior to her crying out when contact with her face is made. Footage also does show movement of Alv and Alab's feet, when Alv and I-2 say that Alv was asking Alab not to step on her feet. Footage of the restraint does not clearly show Alab's knee on Alv's chest, however there are times in the initial commotion when her chest and his knee are not fully visible.

Although I-3 reported believing Alab's version of events, he stated that Alab was moved to another residence that evening, after the incident. I-3 confirmed however, that he did not witness the incident, and that it appeared only I-2 had. I-3 stated his reason for believing Alab was that Alv is "wiry" and Alv has a tendency to blame others for her situation. I-4 and I-5 reported assisting in the subsequent restraint, along with I-3; both I-4 and I-5 reported that they were assisting other residents and did not see the original incident between Alv and Alab. I-4 stated that the only staff person who might have seen this incident was I-2. No one interviewed reported any history between Alab and I-2, or any reason why I-2 would report anything other than what she had seen. All staff confirmed that Alv's lip was cut and swollen after the incident.

Given the totality of the actual witness testimony (I-2 being the only staff who saw the incident first hand) and evidence, it is

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more likely than not that Alab's action caused the injury to Aliv's lip.

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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) **149335**

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, 9/12/16
I-2, [REDACTED], JRC, 9/12/16 (with I-1)
I-3, [REDACTED], JRC, 9/12/16 (with I-1)
I-4, [REDACTED], JRC, 9/12/16 (with I-1)
I-5, [REDACTED], JRC, 9/12/16 (with I-1)
Alab, [REDACTED], JRC, 9/12/16 (with I-1)
I-6, [REDACTED], JRC, 9/15/16 (with I-1 and I-7), 9/21/16 (with I-7)
I-7, [REDACTED], JRC, 9/15/16 (with I-1 and I-6), 9/21/16 (with I-6)
Alv, [REDACTED], 9/21/16 (with I-6 and I-7)

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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: False Report - 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 involving a person with a disability. The term 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):**

In all substantiated cases, the agency providing protective services to the Alv should ensure that the Alv is provided with access to therapeutic supports that are appropriate to Alv's individual situation and needs.

Alv received medical evaluation and ice. Her injury has since healed.

JRC should appropriately address Alab's behavior, and he should no longer work with Alv.

JRC should ascertain from the student "██████" whether she was injured by Alab's actions, and report this if necessary.

► **Additional Findings of Risk:**

Alv remains restricted from school due to her behaviors (this lasted for nearly two weeks as of this writing). When interviewed, Alv was in her room, furnished only with gym mats, lying face down on the floor. Alv was staffed 2:1, and reported to be noncompliant with staff directions.

I-2 noted that ████████ (who was one who said Alv could not report incident) that night told her to file report, but gave her DCF number not DPPC's. Further, ████████ who assessed Alv noted in report that Alv said staff had hit her in the lip, yet only documented that Alv's treatment team and the DVR monitoring staff were made aware of the incident.

Many staff reported that I-2 should not have had Alv sitting at the in-house DVR monitoring station with her, as this is against policy. I-2 reported Alv wanted to speak with her and that she thought Alv was not facing the monitor so that this was okay. It was also reported that Alab was Alv's 1:1 staff at the time of the incident.

One of the two restraint forms completed does not list all staff involved in the restraint.

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

JRC reports that there is a teacher assigned to Alv's residence when she is restricted there due to behavior, and that staff was appropriate to her needs. JRC should review this case with the Departments of Early Education and Care and Elementary and Secondary Education to ensure that Alv's restriction to her residence did not violate any of their regulations regarding restraint and seclusion or access to education.

JRC should ensure that the [REDACTED] and [REDACTED] involved are retrained, as appropriate, and that reports are made in a timely manner and without restriction in the future.

JRC should retrain, and or discipline, these staff as appropriate.

JRC should ensure that their staff is appropriately trained in filling out required paperwork.

Alleged Victim (Alv) Information: [REDACTED] [REDACTED]

Address: [REDACTED]
[REDACTED] [REDACTED] [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]
[REDACTED]
[REDACTED]

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► Was the Alleged Victim interviewed? Yes No

If no, explain why not:

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:

▶ **Were all Reporters interviewed?** Yes No _____

If no, explain why not:

Although report was filed anonymously, [REDACTED] did identify themselves during interview.

▶ **Was an agency representative interviewed?** Yes No _____

If no, explain why not.

▶ **Site of Abuse (Address or Other Description):** [REDACTED]

STOUGHTON MA

▶ **Name of Vendor if Site of Abuse is a Vendor:** JUDGE ROTENBERG EDUCATIONAL CENTER

▶ **Pertinent Information regarding the Site of Abuse:** RESIDENTIAL

The incident occurred in the foyer area of the Stoughton residence. This large room has doors to the exterior of the home, as well as entries to the rest of the residence. It also has two computer desks. The site was not relevant to the allegation.

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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 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 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 type="checkbox"/> Individual Treatment Plan	<input checked="" type="checkbox"/> Video Recording

Additional Documents Reviewed:

n/a

► Photographs /Physical / Other Evidence:

-CD containing video footage of the incident

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: _____

If other explain: _____

Prosecution result: _____

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.

Seana Miller
Investigator Name

9/22/2016
Date Report Submitted to Supervisor

Emil DeRiggi
Supervisor Name

9/23/2016
Date Report Approved by Supervisor

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