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Disabled Persons Protection Commission

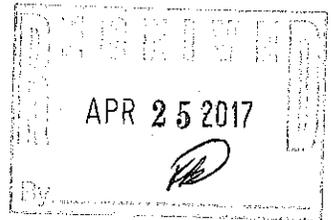
M.G.L. c. 19C / 118 CMR Investigation Report

Alleged Victim: [REDACTED]

DPPC Case Number: 152485

DDS Case Number: 05-MNSN-16-1176

Investigation Agency: DDS



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Date of Incident: 12/19/2016

Allegation Investigated: [REDACTED] reported that the ALAB punched the ALV in the face during a behavioral incident. ALAB punched the ALV in the face twice. ALV was being restrained because the ALV was being aggressive. ALV grabbed another individual who proceeded to kick ALV on the side of the face. [REDACTED] reported that ALV's lip was bloody after ALAB punched the ALV. The injury got worse after the individual kicked the ALV. ALV is at the emergency room to be evaluated.

► **Category of abuse committed by the Alleged Abuser:** Act and Omission

Injury sustained by the Alleged Victim:

Physical Injuries:

First: Bruising

Second: Laceration

Emotional Injuries:

First: None

Second: None

Abuse Per Se: None

If "other" or more than two types of injury explain: ALV sustained a swollen left eye and swollen lip as well as abrasions to the forehead, above the left eye and a bloody nose and cuts on the lip and inside of mouth area. Some of these injuries were sustained from a kick from another Individual whom ALV had kicked first and OI then retaliated.

► **Description of the act and/or omission of the Alleged Abuser that caused the injury sustained by the Alleged Victim:** There is sufficient evidence to indicate ALAB-1 punched ALV twice in the face. There is also evidence to believe both ALAB-1 and ALAB-2 were omissive in caring for ALV.

► **Facts pertinent to the allegation(s) investigated:** I-1, [REDACTED] reported that on 12/19/2016, I-11, [REDACTED], came to her office and reported what she had witnessed during one of ALV's behaviors, which is that ALAB-1 punched ALV twice in the face. I-1 indicated I-11 was visibly upset about the incident. I-1 instructed I-11 to write a statement about what she witnessed and then phoned the ALV's residence to check on ALV.

I-1 indicated she learned from the residential staff that ALV had sustained substantial injuries and that I-6, [REDACTED] had transported ALV to the Emergency Room. I-1 said that if staff were having a problem with ALV and needed additional assistance they should have yelled out for an "Assist." When staff hear this they will assist with any Individuals who are having a behavior. I-1 confirmed all staff working with ALV that afternoon were aware of ALV's behavior plan and trained in SOLVE techniques. I-1 confirmed that they were short staffed that afternoon but other staff could have assisted if ALABs had called out for help. I-1 reported ALV is credible but may hold back information because he is afraid he will be in trouble.

I-1 indicated staff had told her that at some point ALV had tried to bite ALAB-1 and ALAB-2 and had attempted to kick and did pull ALAB-1's hair. I-1 verified [REDACTED] was not notified of ALV's injuries and that ALV was not medically examined by [REDACTED] prior to leaving, nor were any paper documents (incident report, restraint forms or body charts.) submitted about the incident prior to ALAB-1 or ALAB-2 leaving on 12/19/2016.

I-7, [REDACTED] reported ALV was afraid of getting in trouble because of his behaviors that day. I-7 indicated ALV had told her ALAB-1 had hit him.

ALV is verbal and able to communicate clearly and to provide information regarding the allegations. ALV carries a diagnosis of [REDACTED] and [REDACTED]. ALV has a history of aggression, throwing or damaging objects and self-injurious behaviors. ALV has a behavior plan to address these behaviors. Initially when ALV demonstrates some antecedents prior to acting out, staff are to try to problem talk with ALV. If ALV starts to escalate, staff are to escort ALV to the relaxation room.

ALV has a tendency not to be willing to report about a behavioral incident because he is afraid he may "get into trouble." ALV needed to be assured through out the interview that he was not in trouble. ALV was interviewed by this Investigator and I-2. I-6 was present for support for ALV. ALV verified he had a behavior and had been upset that day. ALV confirmed he had pulled ALAB-1's hair and also stated ALAB-1 hit him on the face demonstrating making a fist, two times. ALV also reported that [REDACTED], R-1, had kicked him at some point as well.

I-5, [REDACTED], confirmed working in ALV's room on 12/19/16 and indicated she had been assigned to be another Individual's (R-1) 1:1 staff. I-5 reported she had left with R-1 prior to ALV's behaviors beginning. I-5 stated when she was leaving the room, other Individuals were "saying things" to ALV and ALV appeared anxious, upset, and was pacing around the room. ALAB-1 had just finished "problem solving" (A technique to de-escalate or verbally redirect ALV) with ALV but he was still pacing.

I-5 was not aware when she approached the room that ALV was in a full behavior. When I-5 returned to the room with R-1, she thought I-11 was behind her escorting Individuals out of the room. When I-5 entered the room with R-1, I-5 saw ALV's leg go up and kick R-1 in the stomach area. R-1

immediately responded and kicked ALV in the face, but I-5 could not see exactly where R-1's foot hit ALV. I-5 reported she removed R-1 from the room to check her. I-5 gave R-1 some ice and left her in room (with other staff present), so I-5 could go back and assist with ALV. I-5 reported when she returned to the room ALV was in the relaxation room on the floor "sobbing and screaming." ALAB-1 and ALAB-2 and I-6 were outside the room and ALV was trying to get through the door, which was closed. ALAB-2 was holding the door. I-5 thought ALV was carrying on for approximately 5-7 minutes. I-5 reported she went back to assist I-11 with transport. When she left the relaxation room, ALV was sitting up and bleeding from his nose. ALV's nose and eyes looked swollen. I-5 recalled when they were standing outside the relaxation room ALAB-1 and ALAB-2 and I-11 were talking about ALV trying to bite ALAB-1 and ALAB-2 and pulling ALAB-1's hair. I-5 did not report seeing any abuse by ALAB-1 and ALAB-2 but added she had left before ALV had started his aggressive behavior. I-5 never reported that I-11 was not doing her job and recalled her assisting with other Individuals when she arrived back to the room.

I-11, [REDACTED], verified she worked in ALV's room on 12/19/16. She reported before ALV became behavioral, she was in the room and ALV was asking ALAB-1 to fill out his book. ALAB-1 kept telling ALV to "wait" and "to sit down." ALV came over to I-11 and asked her to sign his book but I-11 explained she could not and told him he was "being good" waiting for ALAB-1. ALV went back to ALAB-1 and became agitated. I-11 explained around the same time she was getting her Individual, [REDACTED] ready to go out to his transport. Just as her Individual stood up, ALV attempted to exit the room. ALAB-2 stood up and blocked him from leaving. I-11 stated she went around to the other side of the table and brought her Individual out of the room. When I-11 left the room, ALAB-2 had put his arms around ALV and it looked like they had fallen against the table. When I-11 returned to the room ALAB-1 and ALAB-2 were struggling with ALV. I-11 indicated she was guiding and directing the other Individuals out of the room and watching to make sure they went to the cafeteria. I-11 stated she was a bout 5 ft away watching while instructing the other Individuals.

ALV was on the floor being aggressive towards both ALABs. I-11 stated ALAB-2 was standing over ALV and ALV had a hold of ALAB-1's hair. ALAB-1 was bent over ALV and ALAB-2 was trying to help standing to the side. I-11 stated she recalled ALV's mouth was bleeding. I-11 stated at one point, ALAB-1 was holding on to ALV's hand that was holding her hair and then she punched ALV on the face with her other hand. I-11 could not see exactly where the punches landed. I-11 stated ALAB-1 punched ALV one time, hesitated and then punched him again. ALV then fell to the side releasing ALAB-1's hair. I-11 stated ALAB-1 nor ALAB-2 asked for assistance.

I-6, [REDACTED], reported he received a call on 12/19/16 at approximately 4:30PM that ALV had injuries to his face. I-6 picked up ALV and brought him to the Emergency room. I-6 noted ALV had a bump on the left side of his forehead, swelling around his left eye (almost swollen shut) and on his upper lip and nose area. Originally ALV said another resident had kicked him but I-6 later learned ALV has also reported ALAB-1 had punched him with a closed fist. I-6 stated I-8 and I-9 told him that ALAB-1 only told them ALV had been restrained and did not notify staff he had been hit or kicked, or that he sustained a head injury. I-6 was not aware of ALV receiving any medical attention at the time of the incident at the day program.

I-8, [REDACTED] confirmed working on 12/19/16 and picking ALV up from Amego Vocational program. I-8 reported that when ALAB-1 came out to the van she stated that ALV had been restrained and that is why he looked like he did. I-8 acknowledged ALV's face appeared swollen in areas. I-8 stated at some point they pulled over, so I-9 could inquire as to what happened and what

they should do for ALV.

I-9, [REDACTED] confirmed working on 12/19/16 and picking ALV up in the residential van with I-8. I-9 reported ALV ran out of the building first and ALAB-1 followed. ALV went directly to his seat. ALAB-1 reported ALV "had a bad day and had been restrained." I-9 stated ALAB-1 told her he had been kicked by a client. I-9 stated initially she went and sat down next to ALV and noted he had a paper towel. I-9 noted ALV was still bleeding from the lips a little and she held the paper towel on his mouth. I-9 became more concerned because the swelling was getting worse around the lip area and his left eye. I-9 instructed I-8 to pull over the van and I-9 indicated she called [REDACTED]. I-9 was told to finish the transport home. I-9 confirmed I-6 took ALV to the Emergency Room as soon as they arrived to the home.

I-10, [REDACTED] confirmed working on 12/19/2016 in a room next to ALV's room. I-10 reported he was familiar with ALV. I-10 reported that he was sitting in the room with his Individuals and heard a little banging noise initially and then heard a loud banging noise coming from ALV's room. I-10 confirmed it was some time around 2:30PM because they were getting ready for transport. I-10 stated when he heard the second louder bang he went to investigate. I-10 observed ALAB-1 and ALAB-2 struggling with ALV.

I-10 stated he observed ALAB-1 and ALAB-2 attempting to escort ALV. I-10 observed both staff one on each side of him trying to lift him up and escort him. ALV was trying to drop to the floor. I-10 stated he went behind ALV to assist with the escort. I-10 stated at that time ALV stopped resisting and allowed I-10 to assist. I-10 recalled at some point ALAB-2 was outside the relaxation room and the door was open 1/2 way. ALV was slamming himself into the door at one point but then stopped and ALV said he was bleeding. I-10 stated he went to get some gauze for ALV. I-10 indicated he gave ALV the gauze and noted he appeared more frantic than usual. I-10 recalled that ALAB-2 was in the room when he had initially gone in to assist and also recalled R-1 was still in the room with I-5. I-10 reported he was told by ALAB-1 and ALAB-2, that ALV had been kicked by R-1 and ALV jumped on the table with ALAB-2. I-10 indicated ALAB-1 and ALAB-2 told him they had to move ALV because he was trying to attack the other Individuals and staff. I-10 indicated he learned from I-11 later that she had assisted the other Individuals out of the room prior to him coming in.

I-10 reported after the incident I-11 came into his room and told him she witnessed ALAB-1 punch ALV in the mouth. I-10 told I-11 to report it. I-10 stated he did not see ALV bleeding from the nose but did see he had a cut inside of the bottom of his lip and he was bleeding when he gave ALV the gauze. I-10 stated he had no reason to believe I-11 was not telling the truth and considered her credible. I-10 noted ALV may exaggerate but he does not make up things. I-10 stated he never heard any staff call out for an "assist." I-10 reported he would have heard someone call out pointing out he actually heard the noise in ALV's room. (Note: I-10's room and ALV's room share a wall. I-10 would certainly have heard staff in the other room call out. I-10 said he heard the "banging noise.")

ALAB-2, [REDACTED] was interviewed initially by I-2 at the Attleboro police station. The information provided by ALAB-2 was from that interview. This Investigator made numerous contacts with ALAB-2 but ALAB-2 never followed through with an interview with this Investigator. (See dates in ALAB-2 information)

ALAB-2 reported he had been working in the vocational program at Amego [REDACTED] and was familiar with ALV. ALAB-2 reported earlier in the day ALV was not happy because he had an issue

about some holiday plans. ALAB-2 indicated at the end of the day (12/19/16) ALAB-1 and ALAB-2 were having a conversation. ALAB-2 heard ALV say "I am leaving," as he was not happy. ALAB-2 stated he stood in front of ALV to block him from leaving and told him to calm down. ALV attempted to bite ALAB-2 and ALAB-2 tried to avoid ALV. There was a struggle and they both fell to the floor and ALV was still trying to bite him. ALAB-2 indicated they were rolling around on the floor and ALAB-2 was trying to avoid ALV's attempts at biting him. ALAB-1 came to assist.

ALAB-2 reported he was able to free himself from ALV but ALV then tried biting ALAB-1. ALV was lying on the floor. ALAB-1 was leaning down in front of ALV by his head and ALV was able to get ALAB-1's hair. ALAB-1 was still standing over ALV trying to free her hair from his hands. ALAB-2 stated he held ALV's arms and fingers to try to release ALV's fingers. ALAB-2 stated he got him out of the hair pull but ALV was still trying to bite her. ALAB-2 stated at that point they decided to transport ALV out of the room and do an escort to the relaxation room. ALAB-2 indicated ALV was still struggling but he was trying to lift him by his legs and ALAB-1 was trying to lift him by the his arms. They were trying to get him up so they could walk him to the relaxation room.

ALAB-2 stated that everyone (Individuals and staff) had cleared out of the room. ALAB-2 reported I-11 came into the room with R-1 and ALV managed to kick R-1. R-1 retaliated and kicked ALV in the face. ALAB-2 stated they told I-11 to take R-1 out of the room. ALAB-2 stated he and ALAB-1 brought ALV into the relaxation room and he stayed there "for awhile." ALAB-2 could not recall if I-5 was there during the struggle but knew she was around. ALAB-2 did not report he called out for extra assistance. ALAB-2 reported ALV was slamming against the wall and the door of the relaxation room trying to get out. ALAB-2 stated he used the door to block ALV from exiting the room.

ALAB-2 stated he did not see ALAB-1 punch ALV. ALAB-2 stated ALV had ALAB-1 by the hair and he was on the ground. ALAB-2 admitted he didn't see a finger release. ALAB-2 saw ALV's hands up and ALV releasing his hands. ALAB-2 recalled ALV had a mark on the side of his forehead/face and his mouth was bleeding after the kick from R-1. ALAB-2 stated ALV received normal first aid and someone gave him an ice pack. ALAB-2 indicated staff are only to follow head injury protocol if it is a major incident. ALAB-2 discussed with ALAB-1 that ALAB-1 would explain ALV's injuries to the residential staff and write up the appropriate paper work. ALAB-2 assumed she would handle it since ALV was at her table.

ALAB-1, [REDACTED] was originally interviewed by I-4 and then by this Investigator. [REDACTED]

ALAB-1 confirmed working on 12/19/16 in ALV's room. ALAB-1 stated ALV has issues going on from the time he arrived at the program that morning. ALV would be upset and then calm down. ALAB-1 stated around 2:45PM, once he had earned his last reward of the day, ALV had told another Individual in the room to shut up. ALAB-1 indicated she told ALV he needed to be calm and tried to verbally calm him.

ALAB-1 stated ALV was agitated and she told him he needed to go to the relaxation room. ALV got mad and went to bolt out of the room. ALAB-1 indicated when he acts like that he may take off out of the building. ALAB-2 stood up and blocked ALV with his body from leaving the room. ALV jumped on ALAB-2 and tried to bite him. ALAB-2 was trying to prevent ALV from biting him and they bumped into the table and then struggled and rolled off the table on to the floor. ALAB-1 reported ALAB-2 looked like he was turning purple and really struggling to avoid ALV. ALAB-1

stated she tried to help ALAB-2 and told I-11 to help them do a 3 person escort to the relaxation room. I-11 was to the left of ALV, ALAB-1 was behind ALV, and ALAB-2 was on the right side. ALV turned and tried to hit or bite I-11 and she ran away to the other side of the room. When ALV turned and missed I-11, that is when ALV grabbed her hair. ALAB-1 described herself as leaning over ALV at that point and ALV was also trying to bite her stomach area or the front of her body. ALAB-1 stated she was trying to get ALV's fingers out of her hair with her left hand and used her right hand to do a bite release. (ALAB-1 described a bite release as holding her hand up, curling 2-3 middle finger up and applying pressure just below the nose) ALAB-1 said she had to do it two times and then ALV fell away from her and released her hair at the same time. ALAB-1 it can hurt but she did not punch ALV. ALAB-1 stated she had blood on her fingers but she stated ALV's nose was bleeding before she applied the "bite release." ALAB-1 explained ALV was trying to bite her and had not actually bit her yet. That it was a preventive move. ALAB-1 reported that is how she was trained in her SOLVE training. She recalled that she was warned by ALAB-2 to be careful at some point that ALV was bleeding.

ALAB-1 stated I-11 was in the room the whole time and acted afraid. ALAB-1 stated I-11 did bring some of the other Individuals to the cafeteria but came back in the room. ALAB-1 also stated I-11 brought R-1 back into the room. ALAB-1 stated she and ALAB-2 were trying to escort ALV out of the room to the relaxation room (directly next to the room they were in) when R-1 came in with I-11 and ALV kicked her and R-1 retaliated, kicking him in the face. ALAB-1 stated all you could hear was R-1's boot hit his face, leaving the imprint on his face. ALAB-1 stated she was sure it was a boot. ALV started screaming and eventually I-10 were out in the hall and they assisted in escorting ALV to the relaxation room. ALAB-1 stated when she left the relaxation room the door was closed and she went to the bathroom to get some paper towels to give to ALV. ALAB-1 stated when she came back ALV had blood over the face and bleeding from the nose. Lips were bloody but could have smeared all over his face. ALV was trying to get out of the room and pulling at the door acting very aggressive before she left to go to the bathroom and when she came back ALV was calm but still crying. Another staff helped clean ALV up and ALAB-1 went to get an ice pack. ALAB-1 stated she did not bring ALV to the nurse and there was no supervisor on to notify. ALAB-1 stated she did not call for an "Assist" but stated I-11 had plenty of time to get help. ALAB-1 stated they didn't restrain ALV until he calmed down and attempted to move him into the relaxation room because there were other Individuals in the room. ALAB-1 admitted [REDACTED] she did not tell I-11 to get more help or call out for an "assist". ALAB-1 stated the casemanager offices are down the hall along with the nurses office. ALAB-1 reported she has been in at least 4 incidents with Individuals involving hair pulls.

I-12 confirmed that Amego is required to follow the SOLVE protocol for restraints and Individual aggressive behaviors. Bite prevention requires the staff to cup the aggressor's chin to prevent a bite. Staff should be cupping hand in a "L" position with fingers together. Thumb and fore finger make contact with aggressor's chin. There is no description of fisting the hand and pushing the hand against the top of the mouth or under the nose. I-12 also confirmed that staff should not be dragging or carrying Individuals when they are kicking and struggling, that restraining until the Individual is calm is safe for all involved.

I-12 also reported that staff should not be shutting the relaxation room door and staff should have been blocking ALV's attempts to hit his body against the door. Being inside the room with the Individual.

There is evidence to indicate ALAB-1 did punch ALV in the face. ALV and I-11 both reported

ALAB-1 hit ALV two times with her fist. Both ALV and I-11 were consistent each time they reported. (ALAB-2 denied seeing ALAB-1 punching ALV stating he was not looking and was focused on other things. It is hard to believe ALAB-1, ALV and ALAB-2 being so close and that ALAB-2 did not see something.) ALV appeared to have two distinct injuries. One to the left eye and forehead area and one to the mouth and nose area indicating there were likely two blows to the head.

There is evidence to believe both ALAB-1 and ALAB-2 were omissive in caring for ALV. While I-11 was clearing the room of other Individuals, ALAB-1 and ALAB-2 should have at some point attempted a 2 person restraint to ALV and if they could not accomplish the restraint they should have been calling for an assist for other staff. ALV could have then been restrained until he calmed down. Moving ALV and then endangering R-1 and ALV put him at risk of more harm and thus an injury. I-10 reported he never heard any call out for an assist and it was him who came to the rescue of all involved when he investigated the banging noises in ALV's room. I-12 confirmed ALAB-1 and ALAB-2 did not act accordingly and follow the SOLVE protocol. ALAB-1 and ALAB-2 [REDACTED] [REDACTED] should have taken a-initiative to get more help. ALV had serious head injuries that would require medical attention other than basic first aid. Both ALAB-1 or ALAB-2 should have taken ALV [REDACTED] to be cleared to ride the van home.

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-1. Therefore, DPPC case #152485 is substantiated.

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-2. Therefore DPPC case #152485 is substantiated.

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EOHHS Agency Regulatory Conclusion Section

Has a regulatory investigation been completed? Yes

Regulatory Conclusions: Based on the evidence gathered by the Investigator during the investigation of DDS Case #05-MNSN-16-1176, there is sufficient evidence to conclude that ALV was mistreated as the result of an act and/or omission by his caretaker, ALAB-1 and ALAB-2. Therefore, mistreatment as defined by 115 CMR 5.05 is substantiated.

I-1, [REDACTED], reported that on 12/19/2016, I-11, [REDACTED], came to her office and reported what she had witnessed during one of ALV's behaviors, which is that ALAB-1 punched ALV twice in the face. I-1 indicated I-11 was visibly upset about the incident. I-1 instructed I-11 to write a statement about what she witnessed and then phoned the ALV's residence to check on ALV.

I-1 indicated she learned from the residential staff that ALV had sustained substantial injuries and that I-6, [REDACTED], had transported ALV to the Emergency Room. I-1 said that if staff were having a problem with ALV and needed additional assistance they should have yelled out for an "Assist." When staff hear this they will assist with any Individuals who are having a behavior. I-1 confirmed all staff working with ALV that afternoon were aware of ALV's behavior plan and trained in SOLVE techniques. I-1 confirmed that they were short staffed that afternoon but other staff could have assisted if ALABs had called out for help. I-1 reported ALV is credible but may hold back information because he is afraid he will be in trouble.

I-1 indicated staff had told her that at some point ALV had tried to bite ALAB-1 and ALAB-2 and had attempted to kick and did pull ALAB-1's hair. I-1 verified the Nurse was not notified of ALV's injuries and that ALV was not medically examined by the Nurse prior to leaving, nor were any paper documents (incident report, restraint forms or body charts.) submitted about the incident prior to ALAB-1 or ALAB-2 leaving on 12/19/2016.

I-7, [REDACTED], reported ALV was afraid of getting in trouble because of his behaviors that day. I-7 indicated ALV had told her ALAB-1 had hit him.

ALV is verbal and able to communicate clearly and to provide information regarding the allegations. ALV carries a diagnosis of [REDACTED]. ALV has a history of aggression, throwing or damaging objects and self-injurious behaviors. ALV has a behavior plan to address these behaviors. Initially when ALV demonstrates some antecedents prior to acting out, staff are to try to problem talk with ALV. If ALV starts to escalate, staff are to escort ALV to the relaxation room.

ALV has a tendency not to be willing to report about a behavioral incident because he is afraid he may "get into trouble." ALV needed to be assured through out the interview that he was not in trouble. ALV was interviewed by this Investigator and I-2. I-6 was present for support for ALV. ALV verified he had a behavior and had been upset that day. ALV confirmed he had pulled ALAB-1's hair and also stated ALAB-1 hit him on the face demonstrating making a fist, two times. ALV also reported that another Individual, R-1, had kicked him at some point as well.

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I-11, [REDACTED], verified she worked in ALV's room on 12/19/16. She reported before ALV became behavioral, she was in the room and ALV was asking ALAB-1 to fill out his book. ALAB-1 kept telling ALV to "wait" and "to sit down." ALV came over to I-11 and asked her to sign his book but I-11 explained she could not and told him he was "being good" waiting for ALAB-1. ALV went back to ALAB-1 and became agitated. I-11 explained around the same time she was getting her Individual, [REDACTED], ready to go out to his transport. Just as her Individual stood up, ALV attempted to exit the room. ALAB-2 stood up and blocked him from leaving. I-11 stated she went around to the other side of the table and brought her Individual out of the room. When I-11 left the room, ALAB-2 had put his arms around ALV and it looked like they had fallen against the table. When I-11 returned to the room ALAB-1 and ALAB-2 were struggling with ALV. I-11 indicated she was guiding and directing the other Individuals out of the room and watching to make sure they went to the cafeteria. I-11 stated she was about 5 ft away watching while instructing the other Individuals.

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I-6, [REDACTED] reported he received a call on 12/19/16 at approximately 4:30PM that ALV had injuries to his face. I-6 picked up ALV and brought him to the Emergency room. I-6 noted ALV had a bump on the left side of his forehead, swelling around his left eye (almost swollen shut) and on his upper lip and nose area. Originally ALV said another resident had kicked him but I-6 later learned ALV has also reported ALAB-1 had punched him with a closed fist. I-6 stated I-8 and I-9 told him that ALAB-1 only told them ALV had been restrained and did not

notify staff he had been hit or kicked, or that he sustained a head injury. I-6 was not aware of ALV receiving any medical attention at the time of the incident at the day program.

I-8, [REDACTED], confirmed working on 12/19/16 and picking ALV up from Amego Vocational program. I-8 reported that when ALAB-1 came out to the van she stated that ALV had been restrained and that is why he looked like he did. I-8 acknowledged ALV's face appeared swollen in areas. I-8 stated at some point they pulled over, so I-9 could inquire as to what happened and what they should do for ALV.

I-9, [REDACTED] confirmed working on 12/19/16 and picking ALV up in the residential van with I-8. I-9 reported ALV ran out of the building first and ALAB-1 followed. ALV went directly to his seat. ALAB-1 reported ALV "had a bad day and had been restrained." I-9 stated ALAB-1 told her he had been kicked by a client. I-9 stated initially she went and sat down next to ALV and noted he had a paper towel. I-9 noted ALV was still bleeding from the lips a little and she held the paper towel on his mouth. I-9 became more concerned because the swelling was getting worse around the lip area and his left eye. I-9 instructed I-8 to pull over the van and I-9 indicated she called the "[REDACTED]". I-9 was told to finish the transport home. I-9 confirmed I-6 took ALV to the Emergency Room as soon as they arrived to the home.

I-10, [REDACTED] confirmed working on 12/19/2016 in a room next to ALV's room. I-10 reported he was familiar with ALV. I-10 reported that he was sitting in the room with his Individuals and heard a little banging noise initially and then heard a loud banging noise coming from ALV's room. I-10 confirmed it was some time around 2:30PM because they were getting ready for transport. I-10 stated when he heard the second louder bang he went to investigate. I-10 observed ALAB-1 and ALAB-2 struggling with ALV.

I-10 stated he observed ALAB-1 and ALAB-2 attempting to escort ALV. I-10 observed both staff one on each side of him trying to lift him up and escort him. ALV was trying to drop to the floor. I-10 stated he went behind ALV to assist with the escort. I-10 stated at that time ALV stopped resisting and allowed I-10 to assist. I-10 recalled at some point ALAB-2 was outside the relaxation room and the door was open 1/2 way. ALV was slamming himself into the door at one point but then stopped and ALV said he was bleeding. I-10 stated he went to get some gauze for ALV. I-10 indicated he gave ALV the gauze and noted he appeared more frantic than usual. I-10 recalled that ALAB-2 was in the room when he had initially gone in to assist and also recalled R-1 was still in the room with I-5. I-10 reported he was told by ALAB-1 and ALAB-2, that ALV had been kicked by R-1 and ALV jumped on the table with ALAB-2. I-10 also indicated ALAB-1 and ALAB-2 told him they had to move ALV because he was trying to attack the other Individuals and staff. I-10 indicated he learned from I-11 later that she had assisted the other Individuals out of the room prior to him coming in.

I-10 reported after the incident I-11 came into his room and told him she witnessed ALAB-1 punch ALV in the mouth. I-10 told I-11 to report it. I-10 stated he did not see ALV bleeding from the nose but did see he had a cut inside of the bottom of his lip and he was bleeding when he gave ALV the gauze. I-10 stated he had no reason to believe I-11 was not telling the truth and considered her credible. I-10 noted ALV may exaggerate but he does not make up things. I-10 stated he never heard any staff call out for an "assist." I-10 reported he would have heard someone call out pointing out he actually heard the noise in ALV's room. (Note: I-10's room and ALV's room share a wall. I-10 would certainly have heard staff in the other room call out. I-10 said he heard the "banging noise.")

ALAB-2, [REDACTED] was interviewed initially by I-2 at the Attleboro police station. The information provided by ALAB-2 was from that interview. This Investigator made numerous contacts with ALAB-2 but ALAB-2 never followed through with an interview with this Investigator. (See dates in ALAB-2 information)

ALAB-2 reported he had been working in the vocational program at Amego [REDACTED] and was familiar with ALV. ALAB-2 reported earlier in the day ALV was not happy because he had an issue about some holiday plans. ALAB-2 indicated at the end of the day (12/19/16) ALAB-1 and ALAB-2 were having a conversation. ALAB-2 heard ALV say "I am leaving," as he was not happy. ALAB-2 stated he stood in front of ALV to block him from leaving and told him to calm down. ALV attempted to bite ALAB-2 and ALAB-2 tried to avoid ALV. There was a struggle and they both fell to the floor and ALV was still trying to bite him. ALAB-2 indicated they were rolling around on the floor and ALAB-2 was trying to avoid ALV's attempts at biting him. ALAB-1 came to assist.

ALAB-2 reported he was able to free himself from ALV but ALV then tried biting ALAB-1. ALV was lying on the floor. ALAB-1 was leaning down in front of ALV by his head and ALV was able to get ALAB-1's hair. ALAB-1 was still standing over ALV trying to free her hair from his hands. ALAB-2 stated he held ALV's arms and fingers to try to release ALV's fingers. ALAB-2 stated he got him out of the hair pull but ALV was still trying to bite her. ALAB-2 stated at that point they decided to transport ALV out of the room and do an escort to the relaxation room. ALAB-2 indicated ALV was still struggling but he was trying to lift him by his legs and ALAB-1 was trying to lift him by his arms. They were trying to get him up so they could walk him to the relaxation room.

ALAB-2 stated that everyone (Individuals and staff) had cleared out of the room. ALAB-2 reported I-11 came into the room with R-1 and ALV managed to kick R-1. R-1 retaliated and kicked ALV in the face. ALAB-2 stated they told I-11 to take R-1 out of the room. ALAB-2 stated he and ALAB-1 brought ALV into the relaxation room and he stayed there "for awhile." ALAB-2 could not recall if I-5 was there during the struggle but knew she was around. ALAB-2 did not report he called out for extra assistance. ALAB-2 reported ALV was slamming against the wall and the door of the relaxation room trying to get out. ALAB-2 stated he used the door to block ALV from exiting the room.

ALAB-2 stated he did not see ALAB-1 punch ALV. ALAB-2 stated ALV had ALAB-1 by the hair and he was on the ground. ALAB-2 admitted he didn't see a finger release. ALAB-2 saw ALV's hands up and ALV releasing his hands. ALAB-2 recalled ALV had a mark on the side of his forehead/face and his mouth was bleeding after the kick from R-1. ALAB-2 stated ALV received normal first aid and someone gave him an ice pack. ALAB-2 indicated staff are only to follow head injury protocol if it is a major incident. ALAB-2 discussed with ALAB-1 that ALAB-1 would explain ALV's injuries to the residential staff and write up the appropriate paper work. ALAB-2 assumed she would handle it since ALV was at her table.

ALAB-1, [REDACTED] was originally interviewed by I-4 and then by this Investigator. [REDACTED]

ALAB-1 confirmed working on 12/19/16 in ALV's room. ALAB-1 stated ALV has issues going on from the time he arrived at the program that morning. ALV would be upset and then calm down. ALAB-1 stated around 2:45PM, once he had earned his last reward of the day, ALV had told another Individual in the room to shut up. ALAB-1 indicated she told ALV he needed to be calm and tried to

verbally calm him.

ALAB-1 stated ALV was agitated and she told him he needed to go to the relaxation room. ALV got mad and went to bolt out of the room. ALAB-1 indicated when he acts like that he may take off out of the building. ALAB-2 stood up and blocked ALV with his body from leaving the room. ALV jumped on ALAB-2 and tried to bite him. ALAB-2 was trying to prevent ALV from biting him and they bumped into the table and then struggled and rolled off the table on to the floor. ALAB-1 reported ALAB-2 looked like he was turning purple and really struggling to avoid ALV. ALAB-1 stated she tried to help ALAB-2 and told I-11 to help them do a 3 person escort to the relaxation room. I-11 was to the left of ALV, ALAB-1 was behind ALV, and ALAB-2 was on the right side. ALV turned and tried to hit or bite I-11 and she ran away to the other side of the room. When ALV turned and missed I-11, that is when ALV grabbed her hair. ALAB-1 described herself as leaning over ALV at that point and ALV was also trying to bite her stomach area or the front of her body. ALAB-1 stated she was trying to get ALV's fingers out of her hair with her left hand and used her right hand to do a bite release. (ALAB-1 described a bite release as holding her hand up, curling 2-3 middle finger up and applying pressure just below the nose) ALAB-1 said she had to do it two times and then ALV fell away from her and released her hair at the same time. ALAB-1 it can hurt but she did not punch ALV. ALAB-1 stated she had blood on her fingers but she stated ALV's nose was bleeding before she applied the "bite release." ALAB-1 explained ALV was trying to bite her and had not actually bit her yet. That it was a preventive move. ALAB-1 reported that is how she was trained in her SOLVE training. She recalled that she was warned by ALAB-2 to be careful at some point that ALV was bleeding.

ALAB-1 stated I-11 was in the room the whole time and acted afraid. ALAB-1 stated I-11 did bring some of the other Individuals to the cafeteria but came back in the room. ALAB-1 also stated I-11 brought R-1 back into the room. ALAB-1 stated she and ALAB-2 were trying to escort ALV out of the room to the relaxation room (directly next to the room they were in) when R-1 came in with I-11 and ALV kicked her and R-1 retaliated, kicking him in the face. ALAB-1 stated all you could hear was R-1's boot hit his face, leaving the imprint on his face. ALAB-1 stated she was sure it was a boot. ALV started screaming and eventually I-10 were out in the hall and they assisted in escorting ALV to the relaxation room. ALAB-1 stated when she left the relaxation room the door was closed and she went to the bathroom to get some paper towels to give to ALV. ALAB-1 stated when she came back ALV had blood over the face and bleeding from the nose. Lips were bloody but could have smeared all over his face. ALV was trying to get out of the room and pulling at the door acting very aggressive before she left to go to the bathroom and when she came back ALV was calm but still crying. Another staff helped clean ALV up and ALAB-1 went to get an ice pack. ALAB-1 stated she did not bring ALV to the nurse and there was no supervisor on to notify. ALAB-1 stated she did not call for an "Assist" but stated I-11 had plenty of time to get help. ALAB-1 stated they didn't restrain ALV until he calmed down and attempted to move him into the relaxation room because there were other Individuals in the room. ALAB-1 admitted [REDACTED] she did not tell I-11 to get more help or call out for an "assist". ALAB-1 stated the casemanager offices are down the hall along with the nurses office. ALAB-1 reported she has been in at least 4 incidents with Individuals involving hair pulls.

I-12 confirmed that Amego is required to follow the SOLVE protocol for restraints and Individual aggressive behaviors. Bite prevention requires the staff to cup the aggressor's chin to prevent a bite. Staff should be cupping hand in a "L" position with fingers together. Thumb and fore finger make contact with aggressor's chin. There is no description of fisting the hand and pushing the hand

against the top of the mouth or under the nose. I-12 also confirmed that staff should not be dragging or carrying Individuals when they are kicking and struggling, that restraining until the Individual is calm is safe for all involved.

I-12 also reported that staff should not be shutting the relaxation room door and staff should have been blocking ALV's attempts to hit his body against the door. Being inside the room with the Individual.

There is evidence to indicate ALAB-1 did punch ALV in the face. ALV and I-11 both reported ALAB-1 hit ALV two times with her fist. Both ALV and I-11 were consistent each time they reported. (ALAB-2 denied seeing ALAB-1 punching ALV stating he was not looking and was focused on other things. It is hard to believe ALAB-1, ALV and ALAB-2 being so close and that ALAB-2 did not see something.) ALV appeared to have two distinct injuries. One to the left eye and forehead area and one to the mouth and nose area indicating there were likely two blows to the head.

There is evidence to believe both ALAB-1 and ALAB-2 were omissive in caring for ALV. While I-11 was clearing the room of other Individuals, ALAB-1 and ALAB-2 should have at some point attempted a 2 person restraint to ALV and if they could not accomplish the restraint they should have been calling for an assist for other staff. ALV could have then been restrained until he calmed down. Moving ALV and then endangering R-1 and ALV put him at risk of more harm and thus an injury. I-10 reported he never heard any call out for an assist and it was him who came to the rescue of all involved when he investigated the banging noises in ALV's room. I-12 confirmed ALAB-1 and ALAB-2 did not act accordingly and follow the SOLVE protocol. ALAB-1 and ALAB-2 [REDACTED] and should have taken a initiative to get more help. ALV had serious head injuries that would require medical attention other than basic first aid. Both ALAB-1 or ALAB-2 should have taken ALV [REDACTED] to be cleared to ride the van home.

Provide facts to support the conclusion: See above.

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► **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:

Name and Position	Agency	Redaction Code	Redacted Number	Date	Telephone Interview?
[REDACTED]	N/A	ALV	1	12/23/2016	No
[REDACTED]					
[REDACTED]	Amego Inc.	ALAB	1	03/20/2017	Yes
[REDACTED]					
[REDACTED]	Amego	ALAB	2	01/25/2017	Yes
[REDACTED]					
[REDACTED]	Amego Vocational program	I	1	12/21/2016	Yes
[REDACTED]					
Lt. Detective Cook, Police officer	Attleboro Police Department	I	2	12/21/2016	Yes
Kendal Poirier, Liaison	Bristol County DA's office	I	3	12/21/2016	No
Detective Dagastino, Attleboro Police	Attleboro Police Department	I	4	12/23/2016	Yes
[REDACTED]	Amego	I	5	12/27/2016	No
[REDACTED]					
[REDACTED]	Amego Residential	I	6	12/27/2016	No
[REDACTED]					
[REDACTED]	N/A	I	7	12/27/2016	Yes
[REDACTED]					
[REDACTED]	Amego Residential	I	8	03/01/2017	Yes
[REDACTED]					
[REDACTED]	Amego Residential	I	9	03/01/2017	Yes
[REDACTED]					
[REDACTED]	Amego	I	10	03/27/2017	No
[REDACTED]					
[REDACTED]	Amego	I	11	12/27/2016	No
[REDACTED]					
Nathan Hoover, Human Rights Coordinator	Department of Developmental Services	I	12	02/28/2017	No
[REDACTED]	N/A	R	1		No
[REDACTED]					

Redaction Code Key

ALV - Alleged Victim (required)

ALAB - Alleged Abuser

OI - Other Individual

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.

* - Denotes telephone interview

** - Email contact

► 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): ALAB-1 and ALAB-2 were terminated.

► Additional Findings of Risk: None

► Additional Recommendations and/or Actions Already Completed (required when additional risk is identified): It is recommended Amego review with staff at the vocational program the protocol for the quiet room and how it applies to staff closing the door and making sure they are blocking behavior Individuals from injuring them selves when they are in the room. Emphasizing the need to not isolate Individuals.

I-11 gave notice shortly after the incident for another job.

Alleged Victim (Alv) Name: [REDACTED]

Address: [REDACTED]

Date of Birth: [REDACTED]

Social Security Number: XXX-XX-[REDACTED]

Is the Alleged Victim a "Disabled Person" as defined by M.G.L. Chapter 19C &/or 118 CMR?: Yes

If no, please list the facts that support this determination:

118 CMR Definition: a person between the ages of eighteen and fifty-nine, inclusive, who is intellectually disabled, 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.

Pertinent information regarding the Alleged Victim: [REDACTED]

[REDACTED]

► Was the Alleged Victim interviewed? Yes
If no, explain why not.

Does the Alleged Victim have a Guardian? Yes

Guardian Information:
[REDACTED]

Guardian Information:
[REDACTED]

Other Individual (OI) Name:

Address:

Date of Birth:

Social Security Number:

Is the OI a person with a disability as defined by M.G.L. c. 19C?

Disability:

Does the OI have a Guardian?

Guardian Information:

Name:

Address:

Telephone Number:

Pertinent information regarding the OI:

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Alleged Abuser (Alab) Name: [REDACTED]

Home Address: [REDACTED]

Telephone Number: [REDACTED]

Date of Birth: [REDACTED]

Social Security Number:

Relationship to Alleged Victim: [REDACTED]

Employer: Amego Day Program, 33 Perry Ave., Attleboro, MA, 02703, 508-455-6217

Does the Alleged Abuser meet the definition of a "caretaker" as defined by M.G.L. Chapter 19C &/or 118 CMR? Yes

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: [REDACTED]

118 CMR Definition: any state agency or any individual responsible for the health and welfare of 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.

Pertinent information regarding the Alleged Abuser: [REDACTED]

► **Was the Alleged Abuser interviewed?** Yes
If no, explain why not.

Date: 03/20/2017

Alleged Abuser (Alab) Name: [REDACTED]

Home Address: [REDACTED]

Telephone Number: [REDACTED]

Date of Birth:

Social Security Number:

Relationship to Alleged Victim: [REDACTED]

Employer: Amego, 33 Perry Ave., Attleboro, MA, 02703, 508-455-6217

Does the Alleged Abuser meet the definition of a "caretaker" as defined by M.G.L. Chapter 19C &/or 118 CMR? Yes

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: [REDACTED]

118 CMR Definition: any state agency or any individual responsible for the health and welfare of 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.

Pertinent information regarding the Alleged Abuser: [REDACTED]

► **Was the Alleged Abuser interviewed?** No

Date:

If no, explain why not. ALAB-2 was called and an interview date was set up for 1/31/2017-ALAB-2 did not show. TC on 1/31/17 to ALAB-2, no phone response and sent out letter. TC on 2/13/17 from ALAB-2 confirming letter. ALAB-2 claimed no transportation and I agreed to interview ALAB-2 by phone. I sent a "rights form" for him to fill out with a self addressed envelope on 3/2/2017. It was agreed when this Investigator received the rights form I would call ALAB-2 and do a phone interview. No response. ALAB-2 was interviewed by I-4 but this Investigator had numerous questions about details not divulged in that interview.

► **Was the Reporter interviewed?** Yes

If no, explain why not.

► **Was an agency representative interviewed?** Yes

If no, explain why not.

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► **Site of Abuse: Amego Day/Vocational Program**

► **Name of Vendor if Site of Abuse is a vendor: Amego, Inc.**

► **Pertinent Information regarding the Site of Abuse:** During the site visit this Investigator did not observe any obvious environmental hazards that could pose a potential for risk to the ALV.

► **Photographs /Physical /Other Evidence:** Digital photos from Amego staff.

► **Documents Reviewed: Date(s):**

- | | |
|---|------------|
| <input type="checkbox"/> Accident Report | |
| <input type="checkbox"/> Activity Report | |
| <input type="checkbox"/> Admission Report | |
| <input type="checkbox"/> Ambulance Log/ Trip Sheet | |
| <input type="checkbox"/> Audio Recording | |
| <input type="checkbox"/> Communication Book | |
| <input type="checkbox"/> Death Report | |
| <input type="checkbox"/> Discharge Summary | |
| <input type="checkbox"/> Doctor's Orders/ Note | |
| <input type="checkbox"/> Facility Security Log | |
| <input checked="" type="checkbox"/> Hospital Record | 12/19/16 |
| <input type="checkbox"/> Human Rights Complaint | |
| <input type="checkbox"/> Human Rights Report | |
| <input checked="" type="checkbox"/> Incident Report | 12/19/16 |
| <input type="checkbox"/> Individual Day Program Agency Record | |
| <input type="checkbox"/> Individual Education Plan | |
| <input type="checkbox"/> Individual Residential Agency Record | |
| <input type="checkbox"/> Individual Service Agency Record | |
| <input checked="" type="checkbox"/> Individual Service Plan | 05/03/16 |
| <input type="checkbox"/> Individual Treatment Plan | |
| <input type="checkbox"/> Injury Report | |
| <input type="checkbox"/> Level of Supervision Form | |
| <input type="checkbox"/> Medical Examiner's Report | |
| <input checked="" type="checkbox"/> Medical Record | 05/03/16 |
| <input type="checkbox"/> Medication Error Report/ Form | |
| <input type="checkbox"/> On-Call Record/ Schedule | |
| <input type="checkbox"/> Personnel File | |
| <input type="checkbox"/> Policies and Procedures | |
| <input type="checkbox"/> Previous Abuse Investigation Report | |
| <input type="checkbox"/> Previous Hotline Report | |
| <input type="checkbox"/> Progress Notes | |
| <input checked="" type="checkbox"/> Police Report | 01/05/2017 |
| <input type="checkbox"/> Psychiatric Evaluation/ Report | |
| <input type="checkbox"/> Psychological Evaluation/ Report | |
| <input type="checkbox"/> Psychosocial Evaluation/ Report | |
| <input type="checkbox"/> Quality Assurance Report/ Evaluation | |
| <input type="checkbox"/> Restraint/ Seclusion Form | |
| <input type="checkbox"/> Staff Assignment Schedule | |
| <input type="checkbox"/> Staff Communication Log | |
| <input type="checkbox"/> Video Recording | |

Additional Documents Reviewed: SOLVE restraint protocol for bite release and bite prevention/block, ALV's targeted Behavior Support plan-8/2010, Amego Emergency Fact sheet for ALV-5/18/16, Hand written physical restraint form and body check sheet-12/19/16, Police Interview Attleboro PD # [REDACTED] video and audio tapes, ALAB-1 and ALAB-2, Amego, Inc. Investigation 12/2016 and ALAB-2 typed statement-12/19/16 and hand written restraint report from ALAB-1 not signed-12/19/16.

Criminal Investigation and Prosecution Status:

Was a criminal investigation conducted? Yes

Were criminal charges filed? No

Type of charge filed: None

If other explain:

Prosecution result: No prosecution

If other explain:

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 for DPPC case number 152485 is accurate.

MULDOON, JUDITH

04/06/2017

Investigator Name (print or type)

Date Report Submitted to Supervisor

MACDONALD, THOMAS

04/19/2017

Supervisor Name (print or type)

Date Report Approved by Supervisor

This report was submitted by MULDOON, JUDITH on 04/06/2017.

This report was approved by MACDONALD, THOMAS on 04/19/2017.

This report was finalized by MACDONALD, THOMAS on 04/25/2017.

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