

PROTOCOL COMPLIANT INVESTIGATION REPORT

*****Example A is the initial investigation report used in training. Read through it first, note questions you would have if you were reviewing this report based on Appendix A requirements, and then read through Example B. Bold portions of Example B show the improvements.**

1. ALLEGATION

Residential Support Staff (RSS) Rashad Greene reported that co-worker Tony Steward forcefully shoved individual Jesse Drew to the floor, causing Drew to strike his head against a chair. Greene reported that Steward also yelled at Drew, but was not sure what he said. Steward was attempting to make Drew pick up grapes that Drew had thrown on the floor. Drew would not pick up the grapes, instead throwing a grape at another individual. Drew then started stepping on the grapes. Finally, Drew stuck his finger in Steward's face. Steward pushed Drew to the floor at that point. RSS Rachel O'Leary intervened and walked Drew back to his room. Nursing staff observed that Drew had redness and a small scratch on the side of his head upon examination following the incident. The redness soon faded away. **YCBDD reported the incident to the Cumberland Police Department. CPD declined to conduct a criminal investigation since no significant injury resulted.**

2. DOCUMENTS REVIEWED

1. ITS MUI Report 2010-092-0262
2. Best Care Inc. UIR, J. Drew, 6/21/10, **1:30 PM** (RSS R. Greene)
3. Behavior Support Plan, Jesse Drew

3. FINDINGS OF INVESTIGATION

Best Care Program Director Laurna Lawrence

On 6/22/10 at **9:00 AM** I contacted Best Care Program Director Laurna Lawrence to initiate the investigation. Ms. Lawrence noted that Mr. Drew's behavior was very unpredictable. He often became physically aggressive toward staff. Ms. Lawrence was not present at the home when the incident occurred. She received a telephone call from Mr. Greene describing the incident. Ms. Lawrence instructed Mr. Greene to fill out an incident report and placed PPI Steward on administrative leave pending the investigation.

Ms. Lawrence noted that Mr. Steward has been a good employee for Best Care over the past 2 years. Other staff often sought Steward's assistance when Mr. Drew's behavior got out of control. Lawrence felt Drew's behavior support plan was ineffective in addressing his problem behaviors. She felt the gist of this incident was that Drew initiated aggression toward Steward. She did not believe Steward would intentionally harm Drew or any resident of the home.

Incident Reporter/RSS Rashad Greene

Mr. Greene has worked as a RSS for Best Care for 1 ½ years. Mr. Greene reported that he was assigned to provide care to housemate Bobby Hart, and was assisting Mr. Hart with his shower when he heard a commotion in the kitchen. At first, he only heard Steward speaking sternly to Drew. But then suddenly Drew started yelling at Steward. Greene thought Steward must have said something to provoke Drew, as the pair had been getting into it with each other lately. **He could not clearly hear what Drew and Steward were saying.** As Greene walked into the kitchen, Drew was banging his fist on the table, and Steward appeared very angry. **Drew called Steward a bit.. and Steward responded by calling Drew an ass.** Drew then started throwing grapes on the floor. RSS O’Leary was attempting to reason with Drew, but Steward continued telling Drew to pick up the grapes. Drew picked up and threw a grape that hit Hart in the arm. He then told Steward that he could pick up the grapes himself, and stepped on some grapes, mashing them into the floor. Drew and Steward then started arguing, calling each other names. Finally, Drew moved **within about three inches of Steward, pointing his finger at Steward’s face** as they continued arguing. **To move Drew away, Greene described that “he (Steward) smacked Jesse hard in the chest with both hands.”** Greene demonstrated that he observed Steward fully extend his arms as he stuck Drew with open palms upon each side of his chest. The force of the shove caused Drew to uncontrollably fall to the floor on his back. Interviewed a second time, Greene denied that Drew bumped into Steward or attempted to hit him. He also rejected the suggestion that Drew might have tripped over his own feet (as indicated by PPI Steward).

As Drew fell, he appeared to hit his head on the side of the chair. **Greene later noticed that Drew had a small scratch on the same side and area of his head which struck the chair.** O’Leary helped Drew to his feet. Steward told Greene and O’Leary that they could deal with the problem, and walked into the office to complete paperwork. Steward was angry, nearly knocking down individual Curtis Fulse on his way out of the kitchen. He remained there for the remainder of the shift. Greene said he understood that Drew was difficult to deal with. Nonetheless, he felt that Steward went too far this time.

RSS Rachel O’Leary

Ms. O’Leary provided an incident account very similar to that provided by Mr. Greene during two interviews. Subsequent to her follow-up investigation interview, she submitted a written statement. The following excerpt described O’Leary’s observation, along with her dismissal of Steward’s incident account:

...Jesse and Tony were arguing because Jesse refused when Tony told him to clean up the food he dumped on the table. They called each other names and Jesse started throwing grapes on the floor and stepping on them. Then Jesse stood eye-to-eye with Tony within a couple of inches, telling Tony that he wasn’t his boss and that he could go screw himself. Jesse did not bump into Tony or attempt to hit him. He just moved very close to Tony as if to challenge him. Tony then pushed Jesse away with his hands around Jesse’s shoulder or chest. Jesse did not trip over his own feet. He fell because Tony pushed him very hard. He extended both arms following through as Tony lost his balance and fell backward. I was standing just a few feet away and clearly saw the whole thing...

She felt Steward handled the situation very poorly. **O’Leary was assigned to Drew and said she did not ask for Steward’s assistance. Steward intervened on his own initiative once Drew dumped his food on the table. He loudly confronted Drew, instead of remaining calm, telling Drew, “You will clean up this mess.”** Steward spoke to Drew in a demeaning manner that only exacerbated an already volatile situation. **He told Drew that he was nothing but a troublemaker, and that the home would be much better without him. They eventually started cussing at one another, with Steward calling Drew an ass.** O’Leary said she was unsure what would have happened if she hadn’t stepped in between the men and helped Drew to his feet. **Steward was very angry and was moving toward Drew on the floor.** In the past Steward had been successful dealing with Drew when he became upset. O’Leary thought that Drew respected Steward because he was the largest staff member and dealt with individuals in a stern, no-nonsense manner. However, lately Drew seemed to become combative whenever Steward was around. **Once engaged,** Steward should have just asked Drew to go to his room and calm down when he started throwing the grapes on the floor, as indicated in his behavior plan. Instead, he attempted to force him to pick up the grapes. O’Leary said there was no possibility Drew would pick up the grapes while still angry with Steward. Drew then started to mash the grapes into the floor, leading to the physical confrontation.

Housemate Bobby Hart

Mr. Hart is a talkative individual assessed with a mild developmental disability. He recalled that Steward and Drew were yelling at one another for a “*long time.*” Drew knocked the grapes off the table onto the floor because he was mad at Steward. He then threw a grape that hit Hart in the arm. Drew and Steward bumped into each other. Drew fell to the ground. Steward yelled at Drew some more and then told O’Leary he was her problem. **Asked to demonstrate the manner in which Drew and Steward bumped into each other, Mr. Hart said he couldn’t remember. He also answered that he didn’t know why Drew was mad at Steward. However, he recalled that Drew called Steward a Son of a B.... and Steward then called Drew an ass....** Hart could not remember anything else about the incident.

Individual Jesse Drew

Jesse Drew is a thirty-two year old individual assessed at the mild level of developmental disability. Mr. Drew has a behavior support plan that identifies target behaviors of physical aggression, verbal assaults, and inappropriate sexual comments. **The plan directs staff to speak in a calm voice; suggesting that Mr. Drew go to his room to relax until he calms down. The plan does not call for any physical restraint or aversive measures.** Over the past three months Mr. Drew has been involved in seven incidents of physical or verbal aggression toward either staff or peers. **Three of those incidents involved physical and verbal aggression toward Mr. Steward (4/1/10; 4/4/10; 6/11/10).**

I interviewed Mr. Drew on 6/29/10 at his residence (**Mr. Drew was not available at any earlier date, as he was out of town on family vacation through 6/27**). Mr. Drew initially seemed reluctant to talk about the incident, but eventually responded to my

questions with some prompting. Drew admitted he threw grapes on the floor, but said he did so because PPI Steward did not respect him and was butting into his business. He acknowledged that he shouldn't have thrown the grape at Bobby Hart. Drew said he was just trying to stand up for himself, saying he was sick of Steward treating him like a child. **Drew said Steward called him an ass and said the home would be better off without him.** Steward knocked him to the ground after he threw the grapes on the floor. **Asked how Steward knocked him to the ground, Drew said Steward shoved him in the chest with his "full might", using both hands. Drew fell backward, landing on his back and hitting his head on the leg of a chair. Drew demonstrated the incident at my request, striking me in the chest very forcefully with the open palm of both hands. Drew said that there was no reason for Steward to hit him, stating, "I was calling him names and got up in his face, but I never touched him. He hit me with a cheap shot and knocked me down because I wasn't expecting it..."**

Primary Person Involved/RSS Tony Steward

Tony Steward has worked as a RSS for Best Care for two and ½ years. An ITS review revealed that Steward was named as the PPI in two prior physical abuse allegations and one prior verbal abuse allegation. Each allegation was unsubstantiated **due to Insufficient Evidence. One of the prior physical abuse allegations involved an allegation by Mr. Drew that Mr. Steward kicked him in the leg because he broke Mr. Steward's DVD tape (2009-092-0078). The incident was unsubstantiated because Drew sustained no injury and no witnesses were present. However, Mr. Drew did not recant the allegation, and again referenced that alleged abuse during the current investigation.**

Steward asserted that he was the only person who could manage Mr. Drew's out of control behavior. Although Ms. O'Leary was specifically assigned as Mr. Drew's support staff, he had to intervene when O'Leary couldn't handle Drew. Drew called Steward a *jackass*. Steward denied that he called Drew names. He said he only explained to Drew that his behavior was unacceptable, and that he needed to respect all other staff and individuals in the home. Steward wouldn't listen, and eventually threw a grape at Bobby Hart. He then began knocking grapes on the floor and stepping on them. Steward said he calmly but firmly asked Drew to pick up the grapes. Drew kept cussing at Steward. He then bumped into Steward and attempted to hit him in the face. At that point, Steward stated that he placed his hands upon Drew's chest and moved him back out of his personal space while telling him that he needed to leave the kitchen and calm down. **He described the action as a gentle nudge intended to prompt Drew to move back out of his space. He denied that he "shoved" Drew as alleged or that he knocked Drew off balance, causing him to fall. He demonstrated to me by exerting very light pressure upon my chest.** Steward said Drew stumbled and fell because he tripped over his own feet. **Steward was no longer touching Drew at the point he fell.** Steward said he acted only to protect himself. **Steward suspected that his co-workers exaggerated the incident because they didn't like him and felt he was too stern with the individuals.** Steward reported that he walked away from the situation at that point. He allowed O'Leary to deal with Drew for the remainder of the evening, which she should have done in the first place. He felt his presence would continue to provoke Drew's aggressive behavior.

Credibility Assessment

RSS Greene, O'Leary, and Mr. Drew independently provided consistent incident accounts. They similarly reported that Steward forcibly pushed Drew to the ground. Each reported that Steward forcefully shoved Drew with both hands, knocking Drew off balance. Consequently, Drew hit his head on the chair. While peer Bobby Hart was unable to provide a detailed incident account, he reported that Drew fell to the ground when he and Steward bumped into each other. There appeared to be no motivation for co-workers Greene or O'Leary to be untruthful in reporting what they witnessed. This is particularly true for O'Leary, a Best Care employee of just seven weeks who had no history of conflict with Steward. Greene's account also matched his incident report documentation, written immediately following the incident. Greene, O'Leary, and Drew appeared to be credible witnesses.

PPI Steward denied that he shoved Drew in the chest, reporting that Drew fell because he tripped over his own feet. Steward's account did not appear credible in light of the consistency Greene, O'Leary and Drew's alternative account. Moreover, Greene and O'Leary specifically rejected Steward's suggestion that Drew fell because he stumbled over his feet. One might also note that Mr. Drew is steady on his feet, with no history of falls. Steward's claim that Drew fell on his own accord appeared improbable.

The investigator also substantiates verbal abuse against PPI Steward. Greene, O'Leary, and Drew each reported that Steward called Drew an ass and yelled at him in a demeaning manner. Steward responded that he only spoke firmly with Drew.

Mr. Drew's ISP noted a history of making false allegations against staff that made him angry or whom he didn't like. **However, in this instance, Drew appeared to be a credible reporter, as his account details were corroborated by Greene and O'Leary.** It is also notable that, on his own initiative, Drew referenced MUI 2009-092-0078, again claiming that Steward kicked him in the leg after he broke Steward's DVD during the May 2009 incident.

4. CONCLUSION

The investigator substantiates the allegation that RSS Tony Steward physically abused individual Jesse Drew. Co-workers Rashad Greene and Rachel O'Leary each witnessed Steward push Drew to the ground after Drew threw grapes on the kitchen floor. Mr. Drew also reported that Steward knocked him to the ground. Drew sustained redness and a small scratch to the side of his head as a result of the incident. PPI Tony Steward denied that he pushed Drew to the floor. He stated that Drew fell when he stumbled over his own feet. However, Steward had motivation not to be forthcoming regarding the incident, as he was aware that a substantiated physical abuse MUI warranted disciplinary action.

Primary Causes: PPI Steward intervened to address Mr. Drew's behavior on his own initiative, despite the fact that RSS O'Leary was assigned to work with Drew. Steward

addressed Drew in a loud, confrontational, and demeaning matter. He violated Drew's BSP, which advised staff to calmly ask Drew to retire to his room to calm down.

Secondary Factors: PPI Steward responded with physical aggression after Mr. Drew threw grapes on the floor, violated Steward's personal space and **pointed** his finger **in close proximity** to Steward's face.