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SPRINGFIELD REGIONAL HUMAN RIGHTS AUTHORITY

REPORT OF FINDINGS

HRA CASE # 10-050-9026

JACKSONVILLE DEVELOPMENTAL CENTER

SEPTEMBER 28, 2010

INTRODUCTION

The Springfield Regional Human Rights Authority (HRA) has completed its investigation of a complaint regarding the Jacksonville Developmental Center (the Center), a facility that provides residential services for about 225 persons with developmental disabilities. The allegation states that the Center may have violated a consumer's rights when it did not follow appropriate reporting procedures or assist him to contact police after an episode of financial exploitation.

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103), the Illinois Administrative Code (59 Ill. Admin. Code 50) and Jacksonville Developmental Center's Policy.

Specifically, the complaint states that a staff member took over nine hundred dollars of a consumer's money over the past year. When notified, the consumer's guardian asked if the staff had called or assisted the consumer to call police and the Center allegedly responded "no," the Center's policy is to contact the Illinois Department of Human Services, Office of the Inspector General (OIG) and they are responsible to decide whether or not to contact the police.

METHODOLOGY

To pursue investigation of the allegation an HRA Team visited the Center and interviewed the Director and Assistant Director. With consent, the HRA reviewed the consumer's record and the Director provided applicable Center policies. The HRA Coordinator shared with members discussions he had with a Center Security Officer, the consumer's guardian and the OIG.

FINDINGS

A guardian stated that the consumer notified her of the incident of theft and that she called the OIG who stated that they were in the process of investigating the allegation. According to the guardian, the Center did not assist the consumer to contact the police when it was discovered that a staff member may have stolen a large amount of money entrusted to him by the consumer. The guardian said that the police should have been contacted when it was exposed that a crime had taken place.

The Director confirmed that an incident occurred that involved a consumer losing more than nine hundred dollars to a staff member who has been placed on paid leave pending the investigation. The director stated that the Center adhered to its policy when it contacted the OIG who in turn contacted the State Police who are currently conducting an investigation. According to the Director, the OIG's investigation will not be completed until the State Police completes its investigation of the criminal charges of theft.

The Director stated that during the weekend of May 8, 2010 the consumer discovered that there was a large deficit in his bank account; however, he could not verify that information and he repeatedly stated that he did not want to get anyone in trouble. The following Monday, May 10, 2010, the Residential Service Supervisor sent an electronic mail [email] reporting the consumer's concerns regarding his bank account and that the bank verified suspicious transactions. Upon receiving the RSS' communication, the Center security staff notified the OIG.

The Director said that security investigated the allegation by taking the consumer to his bank where it was discovered that there were unusual transactions, including a late evening transaction at a local drug store that could not have been made by the consumer. At that time, the consumer confessed that he had lent money to the staff member on several occasions over the past year.

The Director explained that the Center conducted its investigation on May 10, 2010 and that the OIG and the Department of Public Health were notified on May 11, 2010 and that OIG notified the State Police. When asked why the OIG was not notified when the allegation was initially discovered on the weekend or on Monday, May 10, she responded that the weekend staff did not know if there was sufficient evidence to call a report to OIG, and that agency does not respond on the weekend. On Monday, Center staff were gathering information and did not want to tip their hands about the investigation.

According to the Director, when the guardian was notified on May 13, 2010 she asked why the local police had not been called and the Director informed her that she could call the police. When asked, the Director stated that the Center is not required to call police immediately when exploitation is suspected and that consumers have the right to contact the police when they believe a crime may have taken place. The Director noted that the consumer was upset by the incident and repeatedly told staff he did not want anyone to get in trouble and that she believed it would not have been in his

best interest to involve him with the police at that time.

The Center Security Officer stated that a Mental Health Technician (MHT) overheard consumers speaking regarding personal funds that were taken by a staff member and not repaid. According to the Officer, the MHT reported that day to the Residential Service Supervisor who in turn reported to the Residential Service Administrator (RSA). The RSA reported to the Officer on Monday May 10, 2010 and he notified OIG that day.

An OIG representative stated that all consumers have the right to contact the police and that, in his opinion they should be informed of that right when incidents occur, though Rule 50 does not require facilities to inform them of that right. The representative stated that all allegations of financial exploitation over two hundred dollars requires the OIG to call the State Police.

A State Operated Developmental Center Operations Significant Event report dated May 13, 2010 states:

Type of reportable event: abuse or neglect.

Discovered by [security staff] on May 11, 2010 at 3:45 a.m.
Employee completing the form [Security staff] May 12, 2010 at 3:30 p.m.

Description of event: on May 10, 2010 [a staff member] interviewed [the consumer] about a rumor that a staff member was taking money from him. On May 11, 2010 at 3:45 p.m. [the consumer] was taken to [a regional bank] and with [security] and [another staff member]. It was discovered at that time that some issues where [sic] not right with his banking transactions and [the consumer] then reported that he has been borrowing or loaning money to [a mental health technician] for about a year. [The consumer] was asked the last time [the staff] borrowed money and he replied last week. [The consumer] stated that on Thursday [May 6, 2010] [the staff] asked for a \$100.00 to get to some rock concert. [The consumer] stated he gave [the staff member] \$186.00 to deposit on Thursday but he called that bank on Friday [May 7, 2010] and it wasn't there. [Security] checked again Monday May 10, 2010 and Tuesday May 11, 2010 and the funds where [sic] still not deposited.

Page 3 of the form dated May 13, 2010 states:

The guardian was notified and that the identified staff member was placed on Administrative leave pending the outcome of the OIG investigation. The center is working with OIG to investigate this allegation.

The Significant Event Report notes that:

The Center Director was notified Wednesday May 12, 2010 at 9:00 a.m.

The guardian was notified May 13, 2010 at 11:30 a.m. and the Illinois Department of Public Health on May 13, 2010 at 2:30 p.m.

The OIG intake form states that the Center's Security Chief discovered the incident at 3:30 p.m. on May 11, 2010 and that OIG was called at 4:53 p.m. and that the allegation was exploitation.

STATUTES AND RULES

Pursuant to the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-100):

(a) No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services.

Pursuant to the Illinois Administrative Code:

“Financial exploitation”: Taking unjust advantage of an individual's assets, property or financial resources through deception, intimidation or conversion for the employee's, facility's or agency's own advantage or benefit.

a) Reporting - by a facility, community agency or employee

1) If an employee witnesses, is told of, or suspects an incident of physical abuse, sexual abuse, mental abuse, financial exploitation, neglect or a death has occurred, the employee, community agency or facility shall report the allegation to the OIG hotline according to the community agency's or facility's procedures. The employee, community agency or facility shall report the allegation immediately, but no later than the time frames specified in subsections (a) (2) and (3) of this Section. Such an employee or representative of a community agency or facility shall be deemed the “required reporter” for purposes of this Part. Such reporting will additionally meet any requirements of 59 Ill. Adm. Code 115, 119 and 132 and Department administrative directives, as applicable.

2) Within four hours after the initial discovery of an incident of alleged physical abuse, sexual abuse, mental abuse, financial exploitation or neglect, the required reporter shall report the following allegations by phone to the OIG hotline....

C) Any allegation of financial exploitation by an employee, community agency or facility....

6) Other community agency and facility requirements

A) Reporting to OIG shall not relieve the community agency or facility from any statutory or regulatory reporting requirements applicable to the community agency or facility.

B) If the authorized representative or his or her designee reviews the agency's or facility's form or any other internal document regarding alleged abuse, neglect or death at the respective community agency or facility, he/she shall not delete, delay, withhold, limit or otherwise restrict any of the information contained in the form. Information may be added by the authorized representative or his or her designee for clarification purposes only.

b) OIG hotline

The OIG hotline (#1-800-368-1463) shall be communicated to individuals and guardians at the time of admission and the number shall be posted in plain sight at each community agency and facility location where individuals receive services.

c) Other reports of allegations of abuse, neglect and financial exploitation

1) Any other person, individual, family member, guardian or advocate who witnesses, is told of or suspects an incident of alleged abuse, neglect, financial exploitation or a death of an individual may have occurred, may report the incident to OIG by telephoning the OIG hotline, or in writing by fax or other electronic reporting system offered by OIG to the OIG Intake or mail at: Office of Inspector General, 901 Southwind Road, Springfield, Illinois 62703

2) Notifications

A) OIG shall notify the authorized representative of the community agency or facility or his or her designee within 3 days that an allegation has been received unless such notification compromises the integrity of the investigation, such as, an allegation involving the authorized representative or his or her designee.

The authorized representative of the community agency or facility shall notify the victim or guardian (if applicable) and the accused that an allegation has been received within 24 hours. If the authorized representative or designee is unable to reach the guardian by phone, a letter of notification shall be sent within 24 hours.

C) OIG shall also contact the complainant immediately but no later than within 3 days regarding the allegation.

d) Training and technical assistance/other requirements

1) Agencies and facilities shall have a policy detailing procedures for reporting allegations of abuse, neglect, financial exploitation and deaths as set forth in Sections 50.10 and 50.20.

2) All employees, as defined in Section 50.10, shall be trained in Part 50 requirements upon being hired and at least biennially thereafter....[59 Ill. Admin. Code 50.20]

a) Availability of OIG

...e) Referral to the Department of State Police/Local Law Enforcement

The Inspector General shall, within 24 hours after determining that there is credible evidence indicating that a criminal act may have been committed in connection with an allegation of abuse, neglect, financial exploitation or death of an individual served by a facility or agency, or that law enforcement expertise is required, refer those allegations to the Department of State Police or ensure that notification is made to the respective local law enforcement entity for investigation in accordance with Section 1-17(l) of the Act.

f) Authorized representative

If the allegation of abuse, neglect or financial exploitation is within the jurisdiction of OIG, the authorized representative or his or her designee of a community agency or facility shall:

1) Ensure the immediate health and safety of involved individuals and employees, including ordering medical examinations when applicable; and

2) Remove alleged accused employees from having contact with individuals at the facility or agency when there is credible evidence supporting the allegation of abuse pending the outcome of any further investigation, prosecution or disciplinary action against the employee [405 ILCS 5/3-210]; and

3) Ensure OIG is notified; and

4) Unless otherwise directed by OIG, initiate the preliminary steps of the investigation by a designated employee who has been trained in the OIG-approved methods to gather evidence and documents and for whom there is no conflict of interest. This may include the need to:

g) OIG may determine what further action, if any, is necessary to protect the safety of any individual, secure the scene of the alleged incident, preserve the evidence and maintain the integrity of the investigation. Such action may include immediate emergency referrals (such as medical or housing services), the notification of law enforcement officials, requesting hospital services or contacting the Department or other State agencies for assistance. [59 Ill. Admin. Code 50.30]

POLICY

Pursuant to Jacksonville Developmental Center's Procedure 5.04-VIII-11:

All allegations of abuse and neglect of individuals residing at Jacksonville Developmental Center.... are to be reported and investigated in a prompt and procedurally correct manner.

II. Definitions

Abuse: for the purpose of reporting to OIG, any physical injury, sexual abuse or mental injury inflicted on an individual by an employee other than by accidental means.

Neglect: for the purpose of reporting to OIG , the failure to provide adequate medical care, personal care or maintenance, necessary to avoid physical or psychological harm to an individual or in the deterioration of an individual's physical or mental condition.

[The definitions do not include information regarding reporting requirements of financial exploitation.]

....B. It is mandatory that all Jacksonville Developmental Center employees adhere to the provisions of this procedure. This includes: reporting of incidents immediately upon becoming aware of them....

C. Reporting Requirements Based on Incident type: designee will report the following types of incidents by telephone to the OIG...any allegation of abuse or neglect by an employee....

... A. General Responsibilities of the Center: 1. Immediate reporting: All incidents as defined in this procedure must be reported by a required reporter immediately to the Center Director or designee as authorized representative of the Center Director....When an allegation is reported, the center shall immediately remove the accused from contact with individuals served pending the outcome of the OIG's investigation findings....In the event of an emergency situation requiring police assistance, the law

enforcement agency which will provide the most immediate response will be contacted by Security or, if time doesn't permit by any other center employee.

2. Required reporter's duties: the required reporter must immediately complete an SODC [State Operated Developmental Center] 620, Significant Event Report. Center's practices allow direct care and support staff [for example, housekeeping and engineering employees] to report verbally to the most immediately available supervisor, provided that the supervisor then acts at the required reporter....

4. Screening prohibited: Screening or otherwise withholding of reports of incidents reportable to OIG by any person including the Center Director or authorized representative is prohibited. Center practices do not require or allow review by a department head prior to submission of SODC-620, significant report to security or thither authorize representative. Furthermore, center practices allow any person to request and receive an SODC form and send it directly to security or other authorized representative or OIG.

....7. Notification of individual: The department head or designee as authorized representative of the Center Director will notify the individual who was allegedly abused or neglected and his legally responsible person within 24 hours of receiving the allegation.....

F. Other Requirements...1. Liaison: Security will serve as liaison for communications with appropriate reporting and investigating entities.

2. Personnel Issues: When an investigation indicates there is credible evidence supporting an allegation that an employee is the perpetrator of abuse which if true would warrant discharge, that employee will immediately be removed from any further contact with individuals, pending the outcome of any further investigation, prosecution or disciplinary action against the employee.

CONCLUSION

The Illinois Administrative Code states that "if an employee witnesses, is told of, or suspects an incident financial exploitation the employee, community agency or facility shall report the allegation to the OIG hotline according to procedures. The employee shall report the allegation immediately, but no later than the time frames specified in subsections (a) (2) and (3) of this Section. Such an employee shall be deemed the 'required reporter' for purposes of this Part. Within four hours after the initial discovery of an incident of alleged financial exploitation the required reporter shall report the following allegations by phone to the OIG hotline...."

Additionally, the Center's Policy requires the department head or designee to notify the individual and his legally responsible person within 24 hours of receiving an allegation.

The allegation that the Center violated consumers' rights when it did not follow appropriate reporting procedure is substantiated.

The part of the allegation stating the Center did not assist the consumer to contact police is not substantiated.

RECOMMENDATIONS

The HRA recommends that the Center:

1. Adhere to Rule 50 and ensure that OIG is notified immediately or within four hours in response to allegations of financial exploitation.
2. Train all staff regarding OIG notification requirements.
3. Amend the Center's policy to include the definition of financial exploitation and;
4. Include that term as appropriate throughout the policy.
5. Adhere to Center policy and ensure that the consumer and their legal representatives are notified within twenty four hours of receiving an allegation.

SUGGESTION

Consider notifying police when abuse, neglect or financial exploitation is alleged to facilitate the timely gathering of evidence and the timely initiation of a criminal investigation. Consider adding to the resident rights statement the right of consumers to contact police regarding abuse, neglect or financial exploitation.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

Pat Quinn, Governor

Michelle R. B. Saddler, Secretary



Jacksonville Developmental Center

1201 South Main Street • Jacksonville, IL 62650-3396

Date: December 15, 2010
To: Debbie Weiner, Chairperson
Regional Human Rights Authority
From: Peggy Davidsmeyer, Center Director
Subject: HRA Case # 10-050-9026

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DEC 27 2010
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ADVOCACY COMMISSION

Below are the recommendations and this Center's response to each recommendation for HRA Case # 10-050-9001

Recommendation 1. Adhere to Rule 50 and ensure that OIG is notified immediately or within four hours in response to allegations of financial exploitation.

Center Response: All employees receive annual training on OIG notification requirements via JDC 5.04-VIII-11 Reporting and Investigating Incidents and Allegations of Abuse and Neglect. Employees who fail to comply to OIG notification requirements within the proscribed timeframe are subject to corrective administrative action.

Recommendation 2. Train all staff regarding OIG notification requirements.

Center Response: All employees receive annual training on OIG notification requirements via JDC 5.04-VIII-11 Reporting and Investigating Incidents and Allegations of Abuse and Neglect. Employees who fail to comply to OIG notification requirements are subject to corrective administrative action.

Recommendation 3. Amend the Center's policy to include the definition of financial exploitation and include that term as appropriate throughout the policy.

Center Response: JDC Procedure 5.04-VIII-11 Reporting and Investigating Incidents and Allegations of Abuse and Neglect includes a definition of financial exploitation and references to financial exploitation as abuse.

(217)479-2110 Voice
Center Director's Office

(217)243-0010 Fax

(217)245-4215 TTY

Recommendation 4. Adhere to the Center policy and ensure that the consumer and their legal guardian are notified within twenty four hours of receiving an allegation.

Center Response: All employees receive annual training on JDC 5.04-VIII-11 Reporting and Investigating Incidents and Allegations of Abuse and Neglect. Employees who fail to comply to notification requirements are subject to corrective administrative action.

Suggestion: Consider notifying the police when abuse, neglect or financial exploitation is alleged, to facilitate the timely gathering of evidence and the timely initiation of a criminal investigation. Consider adding to the resident rights statement the right of consumers to contact police regarding abuse, neglect or financial exploitation.

Center Response: Illinois Administrative Code Part 50 Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies, Section 50.30 specifies that OIG, within 24 hours after determining there is credible evidence indicating a criminal act may have been committed, refer the allegation to the Department of State Police or ensure that notification is made to the respective local law enforcement entity for investigation.

Section 50.30 further specifies that the Authorized Representative, in this matter the Center, completes preliminary steps of the investigation and completes additional action beyond the preliminary steps upon the direction of OIG. Section 50.30 indicates that additional actions, which may be completed by the Center, after being directed to so do by OIG, includes notification of law enforcement officials.

Additional Center Response: All employees assigned to Gillespie were trained on staff duties as related to off campus banking with individuals served.

: HRA file