

**STATE OF NEW YORK  
JUSTICE CENTER FOR THE PROTECTION OF PEOPLE  
WITH SPECIAL NEEDS**

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In the Matter of the Appeal of

██████████

Pursuant to § 494 of the Social Services Law

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**FINAL  
DETERMINATION  
AFTER  
HEARING**

**Adjud. Case #:**

██████████

Vulnerable Persons' Central Register  
Justice Center for the Protection of People with  
Special Needs  
161 Delaware Avenue  
Delmar, New York 12054-1310  
Appearance Waived

Justice Center for the Protection of People with  
Special Needs  
161 Delaware Avenue  
Delmar, New York 12054-1310  
By: Juliane O' Brien, Esq.

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By: Margaret J. Fowler, Esq.  
450 Plaza Drive  
Vestal, New York 13850

██████████  
The Findings of Fact and Conclusions of law are incorporated from the Recommendations of the presiding Administrative Law Judge's Recommended Decision.

**ORDERED:**

The request of ██████████ that the substantiated report ██████████  
██████████ dated ██████████ be amended and sealed is denied.  
The Subject has been shown by a preponderance of the evidence to have committed neglect.

The substantiated report is properly categorized as a Category 2.

NOW THEREFORE IT IS DETERMINED that the record of this report shall be retained in part by the Vulnerable Person's Central Register, and will be sealed after five years pursuant to SSL § 493(4)(c).

This decision is ordered by David Molik, Director of the Administrative Hearings Unit, who has been designated by the Executive Director to make such decisions.

**DATED:** Schenectady, New York  
February 20, 2015

  
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David Molik  
Administrative Hearings Unit

**STATE OF NEW YORK  
JUSTICE CENTER FOR THE PROTECTION OF PEOPLE  
WITH SPECIAL NEEDS**

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In the Matter of the Appeal of

██████████

Pursuant to § 494 of the Social Services Law

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**RECOMMENDED  
DECISION  
AFTER  
HEARING**

**Adjudication Case #:**

██████████

Before:

Gerard D. Serlin  
Administrative Law Judge

Held at

New York State Office Building  
333 East Washington Street  
Room 115  
Syracuse, New York 13202  
On: ██████████

Parties:

Vulnerable Persons' Central Register  
Justice Center for the Protection of People with  
Special Needs  
161 Delaware Avenue  
Delmar, New York 12054-1310  
Appearance Waived.

Justice Center for the Protection of People with  
Special Needs  
161 Delaware Avenue  
Delmar, New York 12054-1310  
By: Juliane O'Brien, Esq.

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By: Margaret J. Fowler, Esq.  
450 Plaza Drive  
Vestal, New York 13850

## **JURISDICTION**

The New York State Vulnerable Persons' Central Register (the VPCR) maintains a report substantiating (the Subject) for abuse and/or neglect. The Subject requested that the VPCR amend the report to reflect that the Subject is not a subject of the substantiated report. The VPCR did not do so, and a hearing was then scheduled in accordance with the requirements of Social Services Law (SSL) § 494 and Part 700 of 14 NYCRR.

## **FINDINGS OF FACT**

An opportunity to be heard having been afforded the parties and evidence having been considered, it is hereby found:

1. The VPCR contains a "substantiated" report [REDACTED] dated [REDACTED] of neglect of a Service Recipient.
2. The initial report was investigated by the Justice Center for the Protection of People with Special Needs (Justice Center).
3. On or about [REDACTED], the Justice Center substantiated the report for neglect under the theory that the Subject attempted to attack a Service Recipient and also challenged the Service Recipient to a fight in the bathroom. The Justice Center concluded that:

It was alleged that on [REDACTED], in the cafeteria at the [REDACTED] located at [REDACTED], while acting as a custodian (YDA-3), you committed neglect when you attempted to attack a [S]ervice [R]ecipient in the presence of other youth, chasing the [S]ervice [R]ecipient, threatening him with physical harm, challenging him to a fight and pushing off staff who were attempted [sic] to prevent you from attacking the [S]ervice [R]ecipient. These actions were likely to result in physical injury or serious or protracted impairment of the physical, mental or emotional condition of the [S]ervice [R]ecipients.

This allegation has been SUBSTANTIATED as Category 2 neglect pursuant to Social Services Law § 493.

4. An Administrative Review was conducted and, as a result, the substantiated report

was retained.

5. At the time of the alleged neglect, the Subject was employed by the New York State Office of Children and Family Services (OCFS), at the [REDACTED]. The Service Recipient was a young person, who was an adjudicated juvenile delinquent placed in the custody of OCFS, and was residing at the [REDACTED]. The [REDACTED] is a limited secure residential facility which houses male youth. The Subject was employed in the capacity of a Youth Division Aid (YDA-3), and was employed by *a facility or provider agency* that is subject to the jurisdiction of the Justice Center.

6. When the Service Recipient came to the facility as a resident, he was not a “big fan of Subject,” because the Subject was more likely to give directives and hold the Service Recipients accountable. The Service Recipient historically had issues with lining-up and moving in an orderly fashion throughout the facility. (Hearing testimony of Subject)

7. On [REDACTED], the Service Recipient was scheduled to be released to home the following day. The Service Recipient was putting “on a show” for the other Service Recipients and failed to follow directives. The Service Recipient stated that he wanted to wear slippers to the cafeteria and he refused to wear his uniform. The Service Recipient said: “I am going home tomorrow. You can’t make me do that.” (Justice Center Exhibit 4: paragraph 3, statement provided by resident witness & paragraph 11, statement of Service Recipient) In the past, a Service Recipient’s release date could be pushed back for certain types of behavior, but OCFS facility directors no longer have such authority. (Hearing testimony of Subject)

8. Although the Subject developed a rapport with the Service Recipient during the Service Recipient’s stay at [REDACTED], on the relevant date, the Subject became a target of the Service Recipient’s behavior. In the cafeteria the Service Recipient said loudly about the

Subject: “This bitch ass nigger is getting on my nerves- he should go back to unit ■.” The Service Recipient who was aware that the Subject was of the Muslim faith and also that the Subject’s father was terminally ill, made derogatory remarks about the Subject’s religion and the Subject’s dying father.<sup>1</sup> The Service Recipient, who is a member of the ■ gang, also threatened to kill the Subject after his release. (Hearing Testimony of the Subject)

9. The confrontation began while the Service Recipient was standing in the food line. The Service Recipient can be seen in the video surveillance footage speaking to the Subject. The Subject then moved closer to the Service Recipient at which time other staff members’ attention was drawn to the situation. (Justice Center Exhibit 9: Video perspective ■) The Subject can be seen on the video moving about the cafeteria, pointing his finger and pushing by staff who attempted to slow him. Some of the other Service Recipients followed the Subject throughout the cafeteria. At one point, the Subject unlocked a bathroom door. At about this time the Subject challenged the Service Recipient to a fight, when he entered the bathroom and stated to the Service Recipient: “come in, come in, let’s deal with this.” (Justice Center Exhibit 8: Recorded audio interview staff ■) The Subject entered the bathroom and then exited the bathroom rather briskly and traveled back into the cafeteria area. The Subject pushed by other staff members as he exited the bathroom. (Justice Center Exhibit 9: Video perspective ■)

10. The Subject moved through the cafeteria and, at one point, started to exit the cafeteria, but the Service Recipient said to the Subject: “I am going to kill your whole family; I am going to kill your wife, and all I need to know is your Facebook page.” (Hearing testimony

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<sup>1</sup> The Subject told the Justice Center investigator in a recorded audio interview that the Service Recipient said: “I hope your father dies, fuck that nigger.” (Justice Center Exhibit 8: Audio interview with the Subject)

of Subject & Justice Center Exhibit 8: Recorded audio interview with staff [REDACTED])<sup>2</sup> The Subject then entered back into the cafeteria (Justice Center Exhibit 9: Video perspective [REDACTED]). The Subject stated to the Service Recipient: “Let’s go; let’s go.” (Justice Center Exhibit 8: Recorded audio interview with staff [REDACTED]) The Subject then moved toward the Service Recipient. Multiple staff and Service Recipients followed and attempted to slow the Subject’s progress. Eventually, several<sup>3</sup> Service Recipients and staff subdued the Subject by restraining the Subject on a dining table. (Justice Center Exhibit 9: Video perspective [REDACTED]) At the time of this incident there were approximately twenty Service Recipients and five staff members in the cafeteria. (Justice Center Exhibit 4, page 3)

### ISSUES

- Whether the Subject has been shown by a preponderance of the evidence to have committed the act or acts giving rise to the substantiated report.
- Whether the substantiated allegations constitute abuse and/or neglect or neglect.
- Pursuant to Social Services Law § 493(4), the Category of abuse and/or neglect that such act or acts constitute.

### APPLICABLE LAW

The Justice Center is responsible for investigating allegations of abuse and/or neglect in a facility or provider agency. SSL § 492(3)(c) and 493(1) and (3). Pursuant to SSL § 493(3), the Justice Center determined that the initial report of abuse and/or neglect presently under review was substantiated. A “substantiated report” means a report “... wherein a determination has been made as a result of an investigation that there is a preponderance of evidence that the alleged act or acts of abuse and/or neglect occurred, ...” (Title 14 NYCRR 700.3(f))

<sup>2</sup> [REDACTED] stated during the interview that the Service Recipient threatened the Subject’s family.

<sup>3</sup> No less than seven people, but perhaps more, comprised of staff and Service Recipients were involved in restraining the Subject on the table. (Justice Center Exhibit 9: Video perspective [REDACTED])

Pursuant to SSL §§ 494(1)(a)(b) and (2), and Title 14 NYCRR § 700.6(b), this hearing decision will determine: whether the Subject has been shown by a preponderance of the evidence to have committed the act or acts giving rise to the substantiated report, and if there is a finding of a preponderance of the evidence; whether the substantiated allegations constitute abuse or neglect; and pursuant to Social Services Law § 493(4), the Category of abuse or neglect that such act or acts constitute.

The abuse and neglect of a person in a facility or provider agency is defined by SSL § 488:

- 1 "Reportable incident" shall mean the following conduct that a mandated reporter is required to report to the vulnerable persons' central register:
  - (a) "Physical abuse," which shall mean conduct by a custodian intentionally or recklessly causing, by physical contact, physical injury or serious or protracted impairment of the physical, mental or emotional condition of a service recipient or causing the likelihood of such injury or impairment. Such conduct may include but shall not be limited to: slapping, hitting, kicking, biting, choking, smothering, shoving, dragging, throwing, punching, shaking, burning, cutting or the use of corporal punishment. Physical abuse shall not include reasonable emergency interventions necessary to protect the safety of any person.
  - (b) "Sexual abuse," which shall mean any conduct by a custodian that subjects a person receiving services to any offense defined in article one hundred thirty or section 255.25, 255.26 or 255.27 of the penal law; or any conduct or communication by such custodian that allows, permits, uses or encourages a service recipient to engage in any act described in articles two hundred thirty or two hundred sixty-three of the penal law. For purposes of this paragraph only, a person with a developmental disability who is or was receiving services and is also an employee or volunteer of a service provider shall not be considered a custodian if he or she has sexual contact with another service recipient who is a consenting adult who has consented to such contact.
  - (c) "Psychological abuse," which shall mean conduct by a custodian intentionally or recklessly causing, by verbal or non-verbal conduct, a substantial diminution of a service recipient's emotional, social or behavioral development or condition, supported by a clinical assessment performed by a physician, psychologist, psychiatric nurse practitioner,

licensed clinical or master social worker or licensed mental health counselor, or causing the likelihood of such diminution. Such conduct may include but shall not be limited to intimidation, threats, the display of a weapon or other object that could reasonably be perceived by a service recipient as a means for infliction of pain or injury, in a manner that constitutes a threat of physical pain or injury, taunts, derogatory comments or ridicule.

- (d) "Deliberate inappropriate use of restraints," which shall mean the use of a restraint when the technique that is used, the amount of force that is used or the situation in which the restraint is used is deliberately inconsistent with a service recipient's individual treatment plan or behavioral intervention plan, generally accepted treatment practices and/or applicable federal or state laws, regulations or policies, except when the restraint is used as a reasonable emergency intervention to prevent imminent risk of harm to a person receiving services or to any other person. For purposes of this subdivision, a "restraint" shall include the use of any manual, pharmacological or mechanical measure or device to immobilize or limit the ability of a person receiving services to freely move his or her arms, legs or body.
- (e) "Use of aversive conditioning," which shall mean the application of a physical stimulus that is intended to induce pain or discomfort in order to modify or change the behavior of a person receiving services in the absence of a person-specific authorization by the operating, licensing or certifying state agency pursuant to governing state agency regulations. Aversive conditioning may include but is not limited to, the use of physical stimuli such as noxious odors, noxious tastes, blindfolds, the withholding of meals and the provision of substitute foods in an unpalatable form and movement limitations used as punishment, including but not limited to helmets and mechanical restraint devices.
- (f) "Obstruction of reports of reportable incidents," which shall mean conduct by a custodian that impedes the discovery, reporting or investigation of the treatment of a service recipient by falsifying records related to the safety, treatment or supervision of a service recipient, actively persuading a mandated reporter from making a report of a reportable incident to the statewide vulnerable persons' central register with the intent to suppress the reporting of the investigation of such incident, intentionally making a false statement or intentionally withholding material information during an investigation into such a report; intentional failure of a supervisor or manager to act upon such a report in accordance with governing state agency regulations, policies or procedures; or, for a mandated reporter who is a custodian as defined in subdivision two of this section, failing to report a reportable incident upon discovery.

- (g) "Unlawful use or administration of a controlled substance," which shall mean any administration by a custodian to a service recipient of: a controlled substance as defined by article thirty-three of the public health law, without a prescription; or other medication not approved for any use by the federal food and drug administration. It also shall include a custodian unlawfully using or distributing a controlled substance as defined by article thirty-three of the public health law, at the workplace or while on duty.
- (h) "Neglect," which shall mean any action, inaction or lack of attention that breaches a custodian's duty and that results in or is likely to result in physical injury or serious or protracted impairment of the physical, mental or emotional condition of a service recipient. Neglect shall include, but is not limited to: (i) failure to provide proper supervision, including a lack of proper supervision that results in conduct between persons receiving services that would constitute abuse as described in paragraphs (a) through (g) of this subdivision if committed by a custodian; (ii) failure to provide adequate food, clothing, shelter, medical, dental, optometric or surgical care, consistent with the rules or regulations promulgated by the state agency operating, certifying or supervising the facility or provider agency, provided that the facility or provider agency has reasonable access to the provision of such services and that necessary consents to any such medical, dental, optometric or surgical treatment have been sought and obtained from the appropriate individuals; or (iii) failure to provide access to educational instruction, by a custodian with a duty to ensure that an individual receives access to such instruction in accordance with the provisions of part one of article sixty-five of the education law and/or the individual's individualized education program.

The Justice Center has the burden of proving at a hearing by a preponderance of the evidence that the subject(s) committed the act or acts of abuse and/or neglect alleged in the substantiated report that is the subject of the proceeding and that such act or acts constitute the category of abuse and/or neglect set forth in the substantiated report. Title 14 NYCRR § 700.10(d).

Substantiated reports of abuse and/or neglect shall be categorized into categories pursuant to SSL § 493:

4. Substantiated reports of abuse and/or neglect shall be categorized into one or more of the following four categories, as applicable:

- (a) Category one conduct is serious physical abuse, sexual abuse or other serious conduct by custodians, which includes and shall be limited to:
- (i) intentionally or recklessly causing physical injury as defined in subdivision nine of section 10.00 of the penal law, or death, serious disfigurement, serious impairment of health or loss or impairment of the function of any bodily organ or part, or consciously disregarding a substantial and unjustifiable risk that such physical injury, death, impairment or loss will occur;
  - (ii) a knowing, reckless or criminally negligent failure to perform a duty that: results in physical injury that creates a substantial risk of death; causes death or serious disfigurement, serious impairment of health or loss or impairment of the function of any bodily organ or part, a substantial and protracted diminution of a service recipient's psychological or intellectual functioning, supported by a clinical assessment performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker or licensed mental health counselor; or is likely to result in either;
  - (iii) threats, taunts or ridicule that is likely to result in a substantial and protracted diminution of a service recipient's psychological or intellectual functioning, supported by a clinical assessment performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker or licensed mental health counselor;
  - (iv) engaging in or encouraging others to engage in cruel or degrading treatment, which may include a pattern of cruel and degrading physical contact, of a service recipient, that results in a substantial and protracted diminution of a service recipient's psychological or intellectual functioning, supported by a clinical assessment performed by a physician, psychologist, psychiatric nurse practitioner, licensed clinical or master social worker or licensed mental health counselor;
  - (v) engaging in or encouraging others to engage in any conduct in violation of article one hundred thirty of the penal law with a service recipient;
  - (vi) any conduct that is inconsistent with a service recipient's individual treatment plan or applicable federal or state laws, regulations or policies, that encourages, facilitates or permits another to engage in any conduct in violation of article one hundred thirty of the penal law, with a service recipient;
  - (vii) any conduct encouraging or permitting another to promote a sexual performance, as defined in subdivision one of section 263.00 of

the penal law, by a service recipient, or permitting or using a service recipient in any prostitution-related offense;

(viii) using or distributing a schedule I controlled substance, as defined by article thirty-three of the public health law, at the work place or while on duty;

(ix) unlawfully administering a controlled substance, as defined by article thirty-three of the public health law to a service recipient;

(x) intentionally falsifying records related to the safety, treatment or supervision of a service recipient, including but not limited to medical records, fire safety inspections and drills and supervision checks when the false statement contained therein is made with the intent to mislead a person investigating a reportable incident and it is reasonably foreseeable that such false statement may endanger the health, safety or welfare of a service recipient;

(xi) knowingly and willfully failing to report, as required by paragraph (a) of subdivision one of section four hundred ninety-one of this article, any of the conduct in subparagraphs (i) through (ix) of this paragraph upon discovery;

(xii) for supervisors, failing to act upon a report of conduct in subparagraphs (i) through (x) of this paragraph as directed by regulation, procedure or policy;

(xiii) intentionally making a materially false statement during an investigation into a report of conduct described in subparagraphs (i) through (x) of this paragraph with the intent to obstruct such investigation; and

(xiv) intimidating a mandated reporter with the intention of preventing him or her from reporting conduct described in subparagraphs (i) through (x) of this paragraph or retaliating against any custodian making such a report in good faith.

- (b) Category two is substantiated conduct by custodians that is not otherwise described in Category one, but conduct in which the custodian seriously endangers the health, safety or welfare of a service recipient by committing an act of abuse or neglect. Category two conduct under this paragraph shall be elevated to Category one conduct when such conduct occurs within three years of a previous finding that such custodian engaged in Category two conduct. Reports that result in a Category two finding not elevated to a Category one finding shall be sealed after five years.

- (c) Category three is abuse or neglect by custodians that is not otherwise described in categories one and two. Reports that result in a Category three finding shall be sealed after five years.
- (d) Category four shall be conditions at a facility or provider agency that expose service recipients to harm or risk of harm where staff culpability is mitigated by systemic problems such as inadequate management, staffing, training or supervision. Category four also shall include instances in which it has been substantiated that a service recipient has been abused or neglected, but the perpetrator of such abuse or neglect cannot be identified.

If the Justice Center proves the alleged abuse, the report will not be amended and sealed. Pursuant to SSL § 493(4) and Title 14 NYCRR 700.10(d), it must then be determined whether the act of abuse and/or neglect cited in the substantiated report constitutes the Category of abuse and/or neglect set forth in the substantiated report.

If the Justice Center did not prove the abuse and/or neglect by a preponderance of evidence, the substantiated report must be amended and sealed.

### **DISCUSSION**

The Justice Center has established by a preponderance of evidence that the Subject engaged in prohibited behavior, as alleged in the substantiated report. The behavior which the Subject engaged in constitutes neglect. The Category of the affirmed substantiated neglect that such act constitutes is Category 2.

In support of the substantiated findings, the Justice Center presented ten exhibits. An investigator with the Justice Center testified on behalf of the Justice Center. The Subject testified on his own behalf.

The main points of factual controversy at issue in the hearing were: (1) whether the Subject “challenged” the Service Recipient to a fight in the bathroom and; (2) whether the Subject “attempted to attack” the Service Recipient, as was alleged by the Justice Center.

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The Subject testified that he did not challenge the Service Recipient to a fight in the bathroom. Indeed the video illustrates that the Subject unlocked the bathroom door during the incident and partially entered the bathroom. The Subject stated to the Service Recipient: “come in, come in, let’s deal with this.” (Justice Center Exhibit 8: Recorded audio interview staff ██████████)

The Subject testified that he never challenged the Service Recipient to fight in the bathroom, and never had any intention of physically attacking the Service Recipient. Hearsay is admissible in administrative proceedings and an administrative determination may be based solely upon hearsay evidence under appropriate circumstances Gray v. Adduci, 73 N.Y.2d 741 (1988), 300 Gramatan Avenue Associates v. State Division of Human Rights, 45 N.Y.2d 176 (1978), Eagle v. Patterson, 57 N.Y.2d 831 (1982), People ex rel Vega v. Smith, 66 N.Y.2d 130 (1985). A crucial concern with respect to hearsay evidence is the inability to- cross examine the person who originally made the statement in order to evaluate his or her credibility. Such evidence, then, must be carefully scrutinized and weight attributed to it depending upon its degree of apparent reliability. Factors to be considered in evaluating the reliability of hearsay include the circumstances under which the statements were initially made, information bearing upon the credibility of the person who made the statement and his or her motive to fabricate, and the consistency and degree of inherent believability of the statements.

In this instance the hearsay statements of staff ██████████ are credited hearsay because ██████████ had no motive to fabricate, and the video tends to corroborate the hearsay statement. Finally, the Subject’s hearing testimony denial was not credited evidence.

The Subject also testified that staff and the other Service Recipients in the cafeteria overreacted or “misunderstood the situation,” when they elected to subdue the Subject on a table.

The Subject's testimony on this point is not credited evidence and is not corroborated by the video evidence. A reasonable person observing the Subject's behavior, demeanor and body language could conclude that the Subject was intending to attack the Service Recipient. In fact, no less than seven persons in the cafeteria must have reached that conclusion because at least that many worked together to restrain the Subject on a table.

The risk of physical injury or serious or protracted impairment of the physical condition of the Service Recipient was absolute. At the time of the incident the cafeteria was populated by a ratio of four Service Recipients to one staff member. The facility, had in the past, experienced Service Recipient initiated riots. (Justice Center Exhibit 4, page 3) The alleged neglected Service Recipient, who the Subject engaged with, was a member of the [REDACTED] gang.

Many of the Service Recipients participated in holding the Subject "back" and/or subduing him on the table. Some Service Recipients tried to calm him and the Subject, who was popular with many Service Recipients, clearly had a following amongst the Service Recipients. (Justice Center Exhibit 4: paragraph 9-statement provided by staff [REDACTED]) When the Subject challenged the Service Recipient to a fight and chased after him in a threatening situation, the Subject created a situation which was likely to result in physical injury or a serious or protracted impairment of the physical condition of the alleged neglected Service Recipient, as well as other people present in the cafeteria.

The Subject argued that [REDACTED] staff failed to act, though required and/or authorized to do so, to remove the Service Recipient from the cafeteria when the Service Recipient began belittling the Subject. While, previous to 2012, the relevant OCFS policy on physical intervention allowed for the use of a "physical escort" when the "youth's behavior [was] escalating to the point that further de-escalation techniques need[ed] to take place in another

location”<sup>4</sup>, the current restraint policy eliminated the afore-cited justification for an escort of a Service Recipient. (See NY OCFS Crisis Prevention and Management (PPM 3247.12) Effective date: February 6, 2012). There is little that the facility staff could have done within the bounds of OCFS policy to effectively end the Service Recipient’s verbal aggression toward the Subject. In any event, whether or not staff could have, or should have, intervened has no bearing on the outcome of this case.

After considering all of the evidence the Justice Center did establish by a preponderance of the evidence that the Subject committed the act “Neglect” as that term is so defined in Social Services Law § 488(1)(h). The Substantiated report constitutes neglect and is properly categorized as a Category 2 act.

Category 2 conduct under this paragraph shall be elevated to Category 1 conduct when such conduct occurs within three years of a previous finding that such custodian engaged in Category 2 conduct. Reports that result in a Category 2 finding not elevated to a Category 1 finding shall be sealed after five years.

**DECISION:** The request of [REDACTED] that the substantiated report [REDACTED] [REDACTED] dated [REDACTED] be amended and sealed is denied. The Subject has been shown by a preponderance of the evidence to have committed neglect.

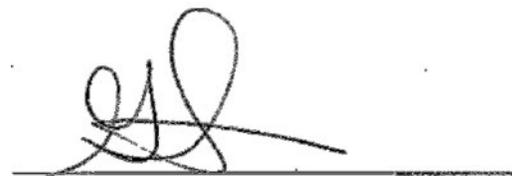
The substantiated report is properly categorized as a Category 2.

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<sup>4</sup> Use of Physical Restraint PPM 3247.13: effective February 27, 2007-Now Superseded

This decision is recommended by Gerard D. Serlin, Administrative Hearings Unit.

**DATED:** February 9, 2015  
Syracuse, New York



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Gerard D. Serlin, ALJ