



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 27, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN, ON BEHALF OF DIRECTOR GINO BETTS, JR.  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0243

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)	Not Sustained - Unfounded (Expedited)
# 2	5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 3	6.180 – Searches-General, 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies	Not Sustained - Lawful and Proper (Expedited)

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	6.180 – Searches-General, 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies	Not Sustained - Lawful and Proper (Expedited)

**Named Employee #3**

Allegation(s):		Director’s Findings
# 1	5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	6.180 – Searches-General, 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies	Not Sustained - Lawful and Proper (Expedited)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

**EXECUTIVE SUMMARY:**

Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #3 (NE#3) responded to a disturbance call involving a trespassed Complainant, who was reportedly disruptive while renting a short-term Airbnb unit. The Complainant alleged that the named employees unlawfully entered her unit without a warrant and made unprofessional and sexual comments. The Complainant also alleged that NE#1 used unauthorized force against her.



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**ADMINISTRATIVE NOTE:**

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employees. As such, OPA did not interview the named employees in this case.

On July 16, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

**SUMMARY OF INVESTIGATION:**

On June 3, 2024, the Complainant provided a verbal complaint to OPA. She alleged that officers entered her unit without a warrant and attempted to assault her. She also alleged that officers made rude and sexual comments.

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), and incident reports. OPA also interviewed the Complainant.

On May 19, 2024, at 9:03 AM, CAD call remarks noted, "[REPORTING PARTY] REPORTING THAT AT SHORT TERM VACATIONAL RENTAL PROPERTY, FEMALE IS EXPERIENCING POSS[IBLE] SCHIZOPHRENIC EPISODES AND CAUSING [DISTURBANCE] WITH [NEIGHBORS] IN BUILDING, [REPORTING PARTY] REQ[UEST]ING SUBJ[ECT] BE REMOVED AFTER REFUNDING SUBJ[ECT], NO [WEAPONS] KNOWN."

The named employees responded to the incident location with their BWV activated, capturing the following:

The named employees spoke with Community Member #1 (CM#1), the property owner. CM#1 reported that the Complainant frequently caused noise disturbances and was asked to leave but refused. As the named employees approached the Complainant's unit, banging and yelling sounds could be heard. NE#1 knocked and announced his presence, but she did not open the door. CM#1 remotely unlocked the door, and the named employees entered. The Complainant demanded they obtain a warrant. NE#1 informed her that she needed to leave because of the noise disturbances. CM#1 told her she was permanently trespassed due to the numerous noise complaints. NE#1 told her they would stand by as she packed. The Complainant repeatedly countered that they needed a warrant to enter her room, citing a pamphlet she held. NE#1 noted that her stay was a short-term rental. NE#3 explained that she could pack and leave voluntarily or leave with them. The Complainant said she would act in self-defense. She declined housing alternatives but said she would pack if the named employees stepped out. They complied.

The named employees stood by for a considerable amount of time, occasionally assisting in removing her belongings. The Complainant became irate, demanded they get out, and swore at NE#1, calling him a "bitch." The named employees told her she needed to leave and attempted to expedite the packing process. NE#1 grabbed a bag and headed toward the door, but the Complainant obstructed NE#1 and reached for the bag. NE#1 grabbed her arm, guided her into the hallway, and told her to go outside. The Complainant swore at NE#1 and raised a fist. NE#1 shouted, "If you hit me, you will be in jail right now!" NE#2 stepped between them and told her, "Pick up your stuff. Time to go. We're done. Go! Get out!" She grabbed her belongings and said, "He was being abusive. I had to defend myself." The Complainant took her belongings to her car in the garage but continually shouted and swore at the named employees. She raised an item, appearing to throw it at NE#1, and shouted, "Get the fuck out, you fucking bitch!" NE#2 warned her that if she threw anything at them, she would go to jail. The Complainant drove away.



NE#1's incident report was consistent with BWV observations.

On June 7, 2024, OPA interviewed the Complainant. The Complainant alleged that the named employees unlawfully entered her unit. She said her pamphlet stated that they could not enter without a warrant. She said they rushed her, touched her belongings, irritated her, and bullied her while she packed. The Complainant alleged that NE#1 used unauthorized force by pushing her. She felt she had to keep her distance and defend herself. The Complainant also alleged that one named employee made a sexually suggestive gesture or comment.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 – Allegation #1**

##### ***8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)***

The Complainant alleged that NE#1 used unauthorized force by pushing her.

Officers will only use objectively reasonable, necessary, and proportional force to the threat or urgency of the situation to achieve a law enforcement objective while protecting the life and safety of all persons. SPD Interim Policy 8.200(1) (effective April 24, 2023). Reasonability must consider that officers are often forced to make split-second decisions about the force necessary in a particular situation in tense, uncertain, dynamic, and rapidly evolving circumstances. *Id.* The question is whether the officers' actions were objectively reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id.* Several factors should be weighed when evaluating reasonableness. *See id.* Force is necessary under the totality of the circumstances when there is no reasonably effective alternative to using physical or deadly force, and the type and amount of physical or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others. SPD Interim Policy 8.050 (effective May 19, 2023). Proportional force must reflect the totality of circumstances of the situation, including the nature and immediacy of any threats posed to officers and others. *Id.* Officers must rely on training, experience, and circumstances to decide an appropriate level of force. *Id.*

This allegation is unfounded. At most, NE#1 used *de minimis* force against the Complainant. *See* SPD Interim Policy 8.050 (effective May 19, 2023) (defining *de minimis* force as a physical interaction meant to separate, guide, and/or control without using control techniques that are intended to, or are reasonably likely to, cause pain or injury). NE#1 guided the Complainant out of the unit when she was agitated and noncompliant. NE#1 did not try to push her or assault her in any way. Instead, the Complainant raised a fist at NE#1, prompting NE#1 to sternly warn her that she would be arrested if she struck him.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained – Unfounded (Expedited)**

##### **Named Employee #1 – Allegation #2**

##### ***5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional***

The Complainant alleged that the named employees were unprofessional and rude.



SPD employees must “strive to be professional.” SPD Policy 5.001-POL-10. Further, “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers,” whether on or off duty. *Id.* Employees will avoid unnecessary escalation of events, even if those events do not end in reportable uses of force. *Id.* Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward anyone. *Id.*

This allegation is unfounded. BWV did not show the named employees being unprofessional or rude. It also did not show any sexual gesture or comment. Instead, the named employees exhibited patience and courtesy throughout their contact with the Complainant. NE#1 offered her housing alternatives. The named employees honored her request to step outside while she packed and even assisted in removing her belongings. During those times when NE#1 and NE#2 were stern with the Complainant, she was noncompliant, agitated, and raised her fist and yelled at officers. Overall, the named employees were professional during their 145-minute presence at the incident location.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained – Unfounded (Expedited)**

**Named Employee #1 – Allegation #3**

***6.180 – Searches-General, 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies***

The Complainant alleged that the named employees unlawfully entered her unit without a warrant.

Officers are prohibited from searching without a valid search warrant unless a specific exception applies. SPD Policy 6.180(1). A hotel guest’s reasonable expectation of privacy may be extinguished by either a rental period’s expiration or by its lawful termination, such as justified eviction. *See United States v. Bautista*, 362 F.3d 584, 589–90 (9th Cir.2004). A hotel guest no longer has a reasonable expectation of privacy in a room when staff take “affirmative steps” to remove the guest. *See United States v. Dorais*, 241 F.3d 1124, 1127–28 (9th Cir.2001).

CM#1 took “affirmative steps” to remove the Complainant by asking her to leave and requesting police assistance in evicting her when she refused. With the Complainant’s reasonable expectation of privacy extinguished, the named employees, with CM#1’s permission, lawfully entered her unit to trespass and evict her. Under these circumstances, the named employees did not need a warrant to enter that unit.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

**Named Employee #2 – Allegation #1**

***5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional***

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).



Recommended Finding: **Not Sustained – Unfounded (Expedited)**

**Named Employee #2 – Allegation #2**

***6.180 – Searches-General, 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies***

For the reasons at Named Employee #1 – Allegation #3, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

**Named Employee #3 – Allegation #1**

***5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional***

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained – Unfounded (Expedited)**

**Named Employee #3 – Allegation #2**

***6.180 – Searches-General, 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies***

For the reasons at Named Employee #1 – Allegation #3, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**