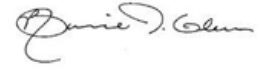

Issued Date: JANUARY 31, 2025

From: Deputy Director Bonnie Glenn on Behalf Of Director Gino Betts, Jr.
Office of Police Accountability



Case Number: 2024OPA-0244

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 6.180 – Searches-General, 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies
Finding: Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

1. **Allegation #1:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional
Finding: Sustained
2. **Allegation #2:** 8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)
Finding: Not Sustained - Lawful and Proper
3. **Allegation #3:** 6.180 – Searches-General, 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies
Finding: Not Sustained - Lawful and Proper (Expedited)
 - **Proposed Discipline:** Nine (9) to Eighteen (18) Hours Suspension and Re-Training
 - **Imposed Discipline:** 18 Hours (2 Days) Suspension

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

Administrative Note on Proposed Findings:

When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee's chain of command and the department's human resources representative, convenes and may propose a range of disciplinary to the Chief of

Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.

Executive Summary:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a trespass call at a hotel and, at the hotel's request, removed the Complainant. The Complainant alleged that the named employees unlawfully entered her room, failed to de-escalate, and were unprofessional.

Administrative Note:

NE#1 was reportedly unprofessional and escalatory. OPA sent NE#1's alleged violations of SPD Policy 5.001-POL-10 (Employees Will Strive to be Professional) and SPD Policy 8.100-POL-1 (When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force) to his chain of command for an "FYI" Supervisor Action. "FYI" Supervisor Action generally involves a complaint deemed unfounded through the intake investigation that does not meet the criteria to be closed as a Contact Log. See OPA Internal Operations and Training Manual section 5.4(B)(ii). In these situations, OPA directs the chain of command to take no action other than informing the named employee of the complaint's closing. *Id.*

Two allegations concerning SPD Policy 6.180-POL-1 were 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 about those allegations. As such, OPA did not interview the named employees about those allegations. On July 18, 2024, OIG certified OPA's expedited investigation as thorough, timely, and objective.

The remaining allegations underwent a full investigation. On October 25, 2024, OIG certified OPA's full investigation as thorough, timely, and objective.

Summary of Investigation:

A. OPA Complaint

On June 3, 2024, the Complainant provided a verbal complaint to OPA. She said the named employees escorted her out of a hotel at the manager's request. She alleged one named employee aggressively pulled her away, even though she did not resist. She also alleged one named employee threatened her with sexual assault.

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

B. Computer-Aided Dispatch (CAD) Call Report

On December 23, 2023, at 3:43 PM, CAD call remarks noted, "REMOVE FEMALE REFUSING TO LEAVE HOTEL, ONGOING ISSUE OF SUSP[ECT] YELLING AND CURSING IN ROOM, SUSP[ECT] IS CALM CURRENTLY, NO [WEAPONS] SEEN."

C. Body-Worn Video (BWV)

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

The named employees spoke with Community Member #1 (CM#1), the hotel manager. CM#1 said the Complainant was the subject of multiple noise complaints. CM#1 said a manager previously contacted her about the noise, which she denied making. CM#1 played a recording of the noise on his phone. NE#1's field contact report stated, "In the clip I could hear what sounded like a single female voice yelling non-specific words from inside the room." CM#1 said he asked the Complainant to leave and gave her an hour to pack, but she refused, prompting his call to the police. CM#1 escorted the named employees to the Complainant's room on the second floor. No one responded to knocks or announcements, so CM#1 unlocked the door and entered, and the named employees followed. The Complainant was absent. CM#1 said housekeeping would pack her belongings.

CM#1 redirected the named employees to the third floor. CM#1 and the named employees approached the Complainant, who held an iPad, in the hallway. CM#1 asked her to leave, but she denied any wrongdoing and asked to speak with the property manager. CM#1 said the property manager was unavailable. The Complainant insisted the noise originated elsewhere. CM#1 told her to leave, trespassed her, and instructed her to pack her belongings. CM#1 then walked away. The Complainant requested 10 minutes to book a room, but NE#2 denied it and told her to pack, leave, and then book a room. The named employees and the Complainant walked toward the elevator. The named employees entered without the Complainant. She said she would take a separate one.

The named employees went to the second floor. As they looked for the Complainant's room, NE#2 told NE#1 they would need to physically haul her out of the hotel. NE#1 suggested an Involuntary Treatment Act (ITA) detainment. The ITA permits an officer to take into custody and deliver a person to a facility when the officer reasonably believes that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled. See RCW 71.05.153(2). The named employees went to the first-floor lobby and briefly spoke with CM#1. CM#1 denied seeing the Complainant there. NE#2 said she probably remained on the third floor and told NE#1, "I'm not even gonna play around with her, man. Once we find her, she's out." The named employees reentered the elevator.

The named employees went to the third floor. The Complainant, near the elevator, requested five minutes. NE#2 told her to leave, pressed his hand against her back, and physically guided her into the elevator. The Complainant shouted, "Please don't touch me!" The named employees told her she was trespassed. She said, "Okay, can I at least inspect..." but was interrupted by NE#2, who said, "Be quiet. You're gonna listen to us, and you're gonna do what we tell you to do, or we're gonna put our hands on you." The Complainant appeared to cry and asked, "What

disgusting shit is this? You touch me, and all of that when I am not at fucking fault here!" NE#2 replied, "All you had to do was leave." The elevator door opened on the first floor. NE#2 grabbed the Complainant's arms, guided her forward, and pushed her as she repeatedly demanded, "Don't touch me!"



NE#2 replied, "Walk then." The Complainant walked forward. NE#2 pushed her back using his right hand. The Complainant stopped, looked around, and ask for her keys. NE#2 pushed her left arm using his left hand and said, "Walk this way." She walked forward, stopped near the entrance, and shouted, "What kind of fucking shit is all this crap nonsense?" NE#2 pushed her back using his right hand. The Complainant walked through the entrance door and shouted, "Don't touch me!" NE#2 replied, "Then walk." The Complainant exited, stopped right outside of the entrance door, and asked for her car. NE#2 pushed her back using his left hand.

The named employees spoke with the Complainant in front of the hotel. NE#2 admonished her not to reenter and said hotel staff would bring her belongings. The Complainant shouted at the named employees for touching her, insulting her, and refusing to give her five minutes. NE#1 suggested she work on her iPad now. NE#2 said, "Well, you are doing a lot of talking, but not doing a lot of typing." The Complainant continued to shout at the named employees. NE#2 asked, "Would you like to go to the hospital and talk to a social worker about all these various ailments you have?" The Complainant said NE#2 would lose his job and did not deserve to have a woman around him. She declined assistance from the named employees and repeatedly called them "fucking shits." NE#2 laughed and said, "Keep talking." She replied, "How dare you not touch me!" NE#2 said, "You've already said all that a bunch of times. Find something new to say." The Complainant continued to shout and swear at the named employees. NE#2 laughed and told her, "If you're not happy with your choices, go look in the mirror."

Hotel staff brought the Complainant's belongings outside. The Complainant was inspecting her belongings when Community Member #2 (CM#2) walked by and thanked NE#2 for his service. The Complainant argued with CM#2. CM#2 said NE#2 was "doing his job," called the

Complainant a “cunt,” and told her to “shut the fuck up.” NE#2 laughed and told CM#2, “Thank you. Good try, though.” The Complainant reparked her car in the front, exited, and asked for the named employees’ names and badge numbers. They provided their information. NE#2 advised her to leave, but she again requested their names and badge numbers and then went to retrieve her iPad from her car. NE#2 told NE#1, “Fucking God, dude. Man, it’s just never over with this lady, man. Holy crap.” The Complainant documented the named employees’ names and badge numbers on her iPad. NE#1 said, “Okay, ma’am. You need to go.” NE#2 provided his badge number and said, “You’ve got three seconds to write it down before I put you in your car and push you off the property.” NE#2 repeated his badge number and said, “We’re done. Get in your car. Get in your car. Time to go. We’re done with this fucking game, dude.” The Complainant walked to the driver’s side door and said, “Don’t touch me.” NE#2 replied, “No one’s touching you. No one wants to touch you.” The Complainant drove away.

D. OPA Interviews

On June 7, 2024, OPA interviewed the Complainant, whose recollection and perception of the incident were generally consistent with BWV observations. She felt the named employees were overly aggressive, rude, and condescending as they were trespassing her from the hotel. She believed the named employees dismissed her account, grabbed and pushed her, made sexual comments, and were unprofessional during their interaction with her. She also believed the named employees unlawfully entered her room without a warrant.

On September 23, 2024, OPA interviewed NE#2, whose statements were consistent with the abovementioned evidence. NE#2 said he observed mental health indicators from the Complainant, like causing noise for several days, hostility, talking to herself, and inability to comprehend orders. NE#2 described a mental health situation as potentially dangerous due to its unpredictability but noted insufficient indicators for an ITA detainment. NE#2 said he attempted to gain voluntary compliance, but the Complainant disobeyed orders, escalated the situation, and became verbally abusive. NE#2 characterized de-escalation attempts—including speaking with the Complainant, utilizing time and distance, and offering resources—as ineffective. NE#2 said he did not give the Complainant time to book a room because she needed to pack her belongings. NE#2 believed force or an ITA detainment may have been necessary because the Complainant was confrontational, argumentative, hostile, and verbally abusive. NE#2 believed the Complainant intentionally disobeyed commands.

NE#2 said he used *de minimis* force to escort the Complainant into the elevator. *De minimis* force is 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. SPD Interim Policy 8.050 (effective May 19, 2023). *De minimis* force includes using hands or equipment to stop, push back, separate, or escort a person without causing pain or in a manner that would not reasonably cause pain. *Id.* NE#2 denied threatening her with sexual assault when he told her, “We are going to put our hands on you” but acknowledged that she could have interpreted it that way, given cultural or language differences. NE#2 did not believe his comments to the Complainant while outside the hotel were taunting or insulting. NE#2 noted that his comments were intended to get her focused on booking a room, offer her services, or get her to avoid thinking about assaulting anyone. NE#2 did not believe his laughter was taunting or insulting because it was not directed at

her. NE#2 said he laughs as a coping mechanism, believing humor is necessary for his job. NE#2 denied hearing CM#2 insult the Complainant due to traffic noise and the Complainant being loud. NE#2 also noted that he is partially deaf in his left ear. NE#2 believed the Complainant could have become violent at any moment.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

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 room.

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).

Before the named employees entered the Complainant's room, the hotel took "affirmative steps" to remove the Complainant. CM#1 asked the Complainant to leave because of the disturbance she caused and gave her an hour to pack her belongings. CM#1 requested police assistance after the Complainant refused to leave. The Complainant lacked a reasonable expectation of privacy in her room because she was evicted. With the hotel staff's permission, the named employees lawfully entered her room.

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

The Complainant alleged that NE#2 was unprofessional.

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.* Additionally, the policy instructs Department employees to "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.*

NE#2's comment in the elevator ("we're gonna put our hands on you") could have been construed as a threat of sexual assault, but the context in which it was said suggested otherwise. As noted below in Named Employee #2 – Allegation #2, NE#2 exhausted de-escalation efforts, requiring him to physically escort the Complainant, who disobeyed eviction instructions and was trespassed. NE#2's admonishment in the elevator suggested he would continue to use force if the Complainant remained noncompliant. It was an order, not a threat of sexual assault.

However, NE#2 demonstrated unprofessional behavior outside during his interaction with the Complainant. During his OPA interview, NE#2 defended his comments, suggesting he tried to get her refocused on booking another room, offer her services, "reel her back in," or get her to avoid thinking about assaulting anyone. These justifications are unconvincing. NE#2's comments and laughter served no purpose but to taunt or insult the Complainant. NE#2 told her she talked too much, had "various ailments," and was unhappy with her choices. NE#2 also inappropriately laughed at various moments, even when CM#2 told the Complainant to "shut the fuck up." NE#2 told OPA he did not hear CM#2, but his laughter and "good try though" remark to CM#2 suggested that, at the very least, he understood CM#2's tone and general meaning, even if he did not hear her exact words. Finally, NE#2's concluding remarks—telling her he would push her off the property and no one wanted to touch her—were unnecessary and disrespectful.

OPA acknowledges the Complainant was verbally abusive toward both named employees. She also insulted NE#2, telling him no woman deserved to be around him. Nevertheless, the department expects employees to adhere to its professionalism standards under hostile or difficult circumstances. NE#1 adhered to such standards by refraining from insulting the Complainant. NE#2 did not. OPA also notes that NE#2 is aware of the requirements of the professionalism policy, as he was also previously disciplined for unprofessional behavior. See 2021OPA-0024 (finding NE#2's interaction with hospital staff as "collectively unprofessional" because NE#2 "spoke rudely to hospital staff and was dismissive of their concerns"). Overall, NE#2's comments and laughter were unprofessional and reflected negatively on NE#2 and the department.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 – Allegation #2

8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)

The Complainant alleged that NE#2 failed to de-escalate before applying force to escort her out of the hotel.

When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force. SPD Interim Policy 8.100-POL-1 (effective April 24, 2023). Officers are encouraged to use team approaches to consider whether any officer has

successfully established a rapport with the subject. *Id.* De-escalation options should be guided by the totality of the circumstances. *Id.* SPD policy emphasizes communication, time, distance, and shielding to minimize the need for force. *Id.*

NE#2 adequately de-escalated before applying *de minimis* force to physically escort the Complainant into the elevator. Hotel staff instructed the Complainant to leave. In fact, CM#1 previously trespassed her and gave her an hour to pack and leave. After the named employees arrived, they gave her multiple opportunities and time to comply with eviction instructions. They attempted to escort her to her room on the second floor, but she expressed her intent to take another elevator. The named employees went to the second floor and then the lobby but realized the Complainant disobeyed instructions. When the named employees returned to the third floor, the Complainant remained defiant, insisting she get five more minutes. De-escalation appeared unfeasible at this point, justifying NE#2 to forcibly escort her into the elevator.

OPA questions whether NE#2 repeated pushing in the lobby was the best approach to escort the Complainant out of the building since she appeared to walk voluntarily at that point. However, de-escalation was unfeasible even when the named employees and the Complainant reached the lobby floor. Given the Complainant's prior behavior, NE#2 had no reason to believe she would comply with further commands. The named employees could have even arrested the Complainant on the third floor for trespassing. Instead, NE#2 applied *de minimis* force to remove her from the building, given her repeated defiance. In fact, during the escort in the lobby, the Complainant stopped twice, indicating her attempt to resist NE#2. While OPA recognizes that NE#2 could have used another method to physically escort her, a preponderance of the evidence shows NE#2 adequately de-escalated before using *de minimis* force.

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

Recommended Finding: **Not Sustained – Lawful and Proper**

Named Employee #2 – Allegation #3

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

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