



## INTER-OFFICE CORRESPONDENCE

TO: Officer Jeff Henderson - UDN

FROM: Ronald Palmer, Chief of Police *Palmer*

DATE: January 16, 2002

SUBJECT: PERSONNEL ORDER 02-05  
Suspension

Effective January 22, 2002, you are suspended for two (2) days without pay. You will return to regular duty on January 24, 2002.

This action is taken as a result of your conduct which violates Tulsa Police Department Rules and Regulations 19 and Policies and Procedures 31-103B. Specifically, on July 20, 2001, you conducted an on duty bar check at The Id Bar at 3340 South Peoria Avenue the day following a personal dispute with an employee of the bar. Additionally, you failed to inform your assigned dispatcher that you had cleared from a call and were changing locations to conduct the bar check at The Id Bar.

Rules & Regulations 19—PERSONAL INVOLVEMENT IN QUARRELS AND DISPUTES, which states:

“Officers shall not effect any personal arrests in their own quarrels, or those of their family or friends. In such cases where officers apply for a warrant, they shall notify the Chief of Police.”



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Policies & Procedures 31-103B—Radio Communications/Primary Talkgroup Assignments, which states in part:

"1. If an officer's assignment requires the use of a talkgroup other than the assigned primary talkgroup, notify the assigned primary talkgroup dispatcher."

Any further violations of Rules and Regulations and/or Policies and Procedures of the Tulsa Police Department will lead to more severe disciplinary action, including dismissal.

In accordance with the City of Tulsa/FOP Contract and the Policies and Procedures of the City of Tulsa, you may appeal this action.

RP:lc

cc: Deputy Chief Jackson  
Major Steele  
Captain Webster  
Sergeant Sherman  
Order File  
Personnel File  
Jo Slayton, Human Resources  
Larry Simmons, Legal  
Charla Wright, Payroll  
Internal Affairs

I certify that I served the original of this document to Officer Jeff Henderson on:

011602 / 1805  
Date/Time  
UNIFORM DIVISION NORTH  
Location  
Signed by: Capt. [Signature]

(69-1-10)



# INTEROFFICE CORRESPONDENCE

CONFIDENTIAL DOCUMENT - UNAUTHORIZED DISSEMINATION PROHIBITED

TO: Chief Ronald Palmer

FROM: Sergeant T.M. Evans, Internal Affairs *TM*

DATE: December 18, 2000

SUBJECT: Summary report  
IA Case 00-199

## COMPLAINANT

Lisa Walker; B/F; [REDACTED] Ms. Walker lives at [REDACTED]  
[REDACTED] Kansas City, MO 64127. Telephone: (816) 928-3096. Ms. Walker has no local  
record. [REDACTED]  
[REDACTED]

## OFFICERS INVOLVED

1. Officer Jeff Henderson; W/M; [REDACTED] Henderson began his employment with the City of Tulsa on 060595. He is currently assigned to UDE, 3<sup>rd</sup> Shift, Edward squad. His chain of command includes Sergeant J. Davis, Captain J. Harris, Major B. York, and DCOP C. Jackson.
2. Sergeant Jeff Davis; W/M; [REDACTED] Davis began his employment with the City of Tulsa on 031891. He was promoted to Sergeant on 081597. Davis is an FTO Supervisor and a Field Training Supervisor. His chain of command includes Captain J. Harris, Major York, and DCOP C. Jackson.
3. Officer William "Woody" Wolthuis; W/M; [REDACTED] Wolthuis began his employment with the City of Tulsa on 010499. He is currently assigned to UDE, 3<sup>rd</sup> Shift, Edward squad. His chain of command



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includes Captain J. Harris, Major Yerk, and DCOP C. Jackson.

ORIGIN OF COMPLAINT

Lisa Walker completed a Citizen Complaint Report with Corporal Chris Stout, on October 15, 2000. She alleges she was sprayed unnecessarily with OC and unnecessarily handcuffed by Officer Jeff Henderson on October 14, 2000, while at the Motel 6 at 1011 S. Garnett Rd. The complaint was forwarded to Chief Ron Palmer, who reviewed the complaint and ordered an investigation. The investigation was set for assignment to Sgt. T.M. Evans, Internal Affairs on October 19, 2000.

WITNESSES

1. Demarco Ladd; B/M; [REDACTED] Mr. Ladd lives at [REDACTED] Tulsa, OK 74106. Telephone number [REDACTED]
1. Jason Hickman; W/M; [REDACTED] Mr. Hickman is the manager of Motel 6 in Tuscaloosa Alabama. Telephone number [REDACTED]
2. Tom Evans; W/M; [REDACTED] Mr. Evans lives at [REDACTED] Telephone number [REDACTED]
3. Pete Bennett; W/M; [REDACTED] Mailing address [REDACTED] Tulsa, OK 74128.
4. Fred Stevens; W/M; [REDACTED] Stevens can be reached at 4<sup>th</sup> Street Auto 1004 E. 4<sup>th</sup> St., Tulsa, OK 74115. [REDACTED]
5. Officer Jeff Gatwood, TPD, UDE, 3<sup>rd</sup> Shift, Edward squad. [REDACTED]

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UNDISPUTED FACTS

On October 14, 2000 at 9:06 pm, Officers Jeff Henderson and Woody Wolthuis were at the Motel 6 at 1011 S. Garnet Rd. The manager of the motel, Jason Hickman, told officers he believed the occupant of Room 124 was selling drugs. Additionally, while gathering information about the occupant of Room 124, Demarco Ladd, Fred Stevens came into the motel office and asked for Ladd.

Henderson, Wolthuis, went to Room 124. Jason Hickman went with Wolthuis and Henderson. Fred Stevens also went to the room and stood near the door with Henderson. Stevens left the area after Ladd's door was knocked on and did not witness any of the events which occurred afterwards. Ladd answered his door. Officers, while standing outside of Ladd's room, observed marijuana and a gun on a table inside. Officers entered the room and arrested Ladd. Officers additionally discovered cocaine and a key to a different motel room.

Ladd was arrested on various felony charges. Jason Hickman determined the key code on the found key checked to room 160. Room 160 was registered to one person, William Sherman. Hickman called room 160 and a female answered the phone. Hickman believed someone other than the registered occupant was in the room and requested that Henderson accompany him to the room to further investigate.

Hickman knocked on the door to Room 160 while Henderson observed. After several unsuccessful attempts to contact the occupant of the room, Officer Henderson began to knock on the door. Henderson announced that he was a Tulsa Police Officer. Eventually, the door to Room 160 was opened, although the security lock was set, which only allowed the door to open partially.

Henderson and Hickman made verbal contact with Lisa Walker, who was inside the room. Neither Hickman nor Henderson was able to see into the room and Walker refused to open the door after being requested to do so.

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Hickman requested that Henderson knock open the door and Henderson made unsuccessful attempts to force entry into the room. Henderson sprayed OC through the crack of the door into Room 160. Lisa Walker opened the door after feeling the effects of OC. Walker was handcuffed and detained.

After being detained for a brief period, Walker was released. The registered occupant of the room, William Sherman, was refunded the money for the room at his request and given a gift certificate to stay at another nearby Motel 6.

Henderson notified his sergeant, Jeff Davis, of the incident on October 17, 2000. Henderson submitted a Use of Force Report with regards to the incident on November 7, 2000 through his chain of command.

### ISSUES INVESTIGATED

1. Did Officer Jeff Henderson violate Policy and Procedure 31-101 A, Use of Force and 31-101 D, Use of OC Spray by improperly using OC on Lisa Walker on October 14, 2000 and by not completing appropriate reports?
2. Did Officer Jeff Henderson violate Rule 3, Duty to Know, Enforce, and Obey Laws and Ordinances by unlawfully attempting to force entry into Room 160?
3. Did Officer Jeff Henderson violate Rule 8, Duty to be Truthful and Obedient by entering false information into a Probable Cause Affidavit, an offense report and in his Internal Affairs interview?
4. Did Officer William Wolthuis violate Rule 8, Duty to be Truthful and Obedient by giving false information in his Internal Affairs Interview?
5. Did Sergeant Jeff Davis violate Policy and Procedure 31-101D, Use of OC Spray and Rule 2, Duty to Know and Obey Department Rules, Regulations, Policies and Procedures by advising Jeff Henderson not to complete a Use of Force Report with regard to spraying Lisa Walker?

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## INVESTIGATIVE DETAILS

### LISA WALKER

Lisa Walker states in her Citizen Complaint Report that she was inside of Room 160 and "just got out of the shower" (page 1). Walker states the room was registered to her cousin who had left her alone in the room. She heard the "Police kick in the door" (page 1). Walker states she was told to "open the door" (page 1).

Walker states "I said 'One moment, let me put my clothes on.' I put my jeans on, walked over to the door to undo the second latch because the manager had already unlocked the door" (page 1). Walker states she was trying to undo the security latch when Henderson sprayed her with OC. Walker states "I ran back and grab my face ask again 'what's going on'?" (page 1).

Walker states she managed to open the door after being sprayed and Henderson grabbed and threw her to the bed. Walker states she was handcuffed and told she was under arrest for "obstructing justice" (page 1).

Walker states she was told Demarco Ladd had a key to her room. Walker denies she knew Ladd and states if he had a key to her room it "was by mistake" (page 2). Walker states when she and her cousin William Sherman, checked in they were initially given the wrong key by the front desk and believes the same mistake could have been made with Ladd.

Walker refers to an unknown Sergeant asking if she wanted to press charges against Ladd for having the key to her room. Walker states she declined to press any charges. Walker states she was eventually released.

**NOTE:** Lisa Walker has failed to respond to repeated telephone requests for an interview. She was mailed a certified letter on November 7, 2000 requesting an interview and has not responded. Walker retained an attorney in Kansas City, Kevin Regan, [REDACTED]. Regan has set up appointments for telephone interviews on November 20, 2000 and again on November 29, 2000. Regan cancelled both interviews with this investigator.

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Additionally, Lisa Walker provided witness information with only P.O. boxes for addresses. Witnesses Craig Williams, Lamonte Berry, and William Sherman have failed to respond to certified letters requesting interviews.

### DEMARCO LADD

Demarco Ladd states he was in his room at the Motel 6, when he heard a knock at the door. Ladd says he looked out and saw an acquaintance of his, Fred Stevens. Ladd says he noticed police officers outside his door when he opened the door for Stevens.

Ladd says following his arrest, officers found a room key in his pocket. Ladd states Jason Hickman checked the code on the key and determined the key was to Room 160. Ladd says the key was to a motel room at the Motel 6 in west Tulsa. Ladd states he stayed there previously and forgot to return the key when he checked out.

**NOTE:** The code on the key in question was "G10." This was the key code number to Room 160 on October 14<sup>th</sup>. Ladd claims to have previously stayed in either room 204 or 206 under a name of "Scotty" at the west Tulsa Motel 6 and the found key was to the West Tulsa room.

The key codes to rooms 204 and 206 were not "G10" at the west Tulsa Motel 6. West Tulsa manager Marsha Elliott advises the code "G10" during that time period checked to room 216. Elliott states all of the west Tulsa "G10" keys were accounted for and none were missing. Looking through registrations for rooms 204, 206, and room 216 at the West Tulsa Motel 6, there was no "Scotty" registered during the time previous to October 14<sup>th</sup>.

Ladd confirms Hickman and Henderson went to Room 160. Ladd states he saw Hickman "trying to get the key to fit in the door" (page 41), but states the key wouldn't fit. Ladd says after Henderson knocked on the door, he could hear Lisa Walker say "Hold on, I don't have any clothes on" (page 41). Ladd says Walker was not told she was trespassing, but he remembers officers discussing amongst

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themselves that Walker was "trespassing...not supposed to be out here" (page 42) and that Hickman participated in the discussion.

Ladd states he could hear the toilet flushing from inside of Room 160 and that Henderson tried to kick open the door. Ladd states Hickman sent the security guard, Tom Evans, for the bolt cutters when Henderson was unable to kick open the door.

Ladd says he could see the door partially open and saw Henderson spray OC into the room. Ladd says he did not see when the door was opened, but says Henderson brought Walker out of the room and handcuffed her outside.

**NOTE:** Ladd says he was unable to see when the door to Room 160 was opened because Jeff Gatwood was standing in front of him, threatening to put a cigar out in my eye" (page 44). Ladd states Gatwood threatened him several times. Gatwood denies the allegation and Pete Bennett confirms Gatwood never threatened Ladd.

Ladd says officers were "saying that I had told them that they were selling drugs, but I didn't even know these people and they didn't know me" (page 44). Ladd says he was taken to UDE and does not know what happened to Walker.

**NOTE:** Demarco Ladd waived his preliminary hearing with regards to this arrest and agreed to a plea bargain in lieu of a trial.

### FRED STEVENS

Fred Stevens says he went to the Motel 6 to look at a car that Demarco Ladd wanted him to repair. Stevens says he went to the motel lobby to find out which room Ladd was in and was waiting when he noticed Henderson and Wolthuis arrive.

Stevens says upon seeing the police he decided to leave and was stopped by Henderson and Wolthuis. Stevens says "I was accused by the police officer of going to see some guy that sells drugs or something" (page 50). Stevens says he had no knowledge of Ladd selling drugs. Stevens says he had been drinking some and in

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lieu of being arrested for drinking, he agreed to go to Ladd's room and knock on the door for Henderson and Wolthuis.

Stevens says he knocked on the door and walked away as instructed by the officers. Stevens says he does not want to be a part of this investigation or any investigation. He says he has been contacted by Ladd about his criminal case and has refused to help Ladd. Stevens says "I done what I thought was the right thing to do, now I wish I never went over to look at someone's car (page 50).

### JASON HICKMAN

Jason Hickman states he believed the occupant of Room 124 was selling drugs and told Henderson and Wolthuis. Hickman confirms during the course of gathering information about Demarco Ladd, Henderson and Wolthuis elicited the assistance of Fred Stevens and Stevens went to the room with Henderson and Wolthuis.

Hickman says Fred Stevens knocked on the door while Henderson and Wolthuis stood beside the door. Hickman says when Ladd answered the door, Henderson and Wolthuis entered the room. Following Ladd's arrest, the key to Room 160 was found in Ladd's pocket.

Jason Hickman states he became concerned that the occupant of Room 124, who had drugs and a gun, would have a key to Room 160. Hickman states Demarco Ladd told him the key belonged to another hotel. Hickman states "I checked the key code. I got the room number to that key code at our motel and the key worked in the door in Room 160" (page 65). Hickman states William Sherman had rented Room 160 for one person. Hickman states he telephoned the room and a female answered the phone. Hickman requested that Officer Henderson accompany him to Room 160 to further investigate.

Hickman states he knocked on the door and "announced myself as management and I needed to speak to the person in the room" (page 53). Hickman states he could tell someone was in the room, but refused to open the door. Hickman states [after he made several unsuccessful attempts] Henderson eventually tried to make contact. Hickman says Henderson announced "that it was Tulsa Police and that she needed

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to open the door" (page 53). Hickman says Lisa Walker eventually opened the door but had the "security latch put on which causes the door to be opened approximately an inch and a half and no more" (page 53).

Hickman says he could only see partially into the room and momentarily saw Walker inside the room as she looked out the door. Hickman says he and Henderson demanded entry into the room and Walker initially stalled by saying she had been in the shower. Hickman says Henderson told her to put some clothes on and then open the door.

Hickman says, "She continuously refused to open the door. We didn't have the bolt cutters with us. We felt something was going on in the room and per my request I told him [Henderson] I said 'We need to get in the room we don't know what is going on in there'...I told him to attempt to kick the door" (page 55). Hickman says Henderson tried to kick open the door unsuccessfully. Hickman was asked specifically, "Had you ever informed her [Walker] that she was not allowed on the property or that she was trespassing"? (page 60). Hickman responded "No, that is something I don't do until I see who I'm talking to" (page 60). Hickman makes it clear that he told Walker he needed her to open the door but, without question, says he never told her she was trespassing.

**NOTE:** Hickman insinuates he may have been willing to file trespassing charges if it was determined to be necessary.

Hickman states Walker still refused to open the door, so Henderson sprayed OC into the room through the partially opened door. Hickman says Walker came out of the room a short time later after feeling the effects of the OC. Hickman says he searched the room while Henderson detained Walker outside.

Hickman states during the attempts to enter the room, "there was three black males that came around the corner of the other building, one fitting the description of the person registered in the room and two of the black males went out into the north parking lot. The black male registered to the room, Mr. Sherman, walked up the stairwell and hid around the corner of a building and watched us" (page 56).

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Hickman states he had other duties to attend to and left Walker in the care of Henderson. He states a short time later, Sherman, Walker and the two black males, checked out of the motel at their request. Hickman states he refunded their money and gave them a certificate to stay free at another Motel 6 due to their complaints about the incident. Hickman states he never told Walker she was not welcome on the property.

Hickman says "If I was going to tell them they weren't welcome they wouldn't have got a damn thing from me. And here again that was one of those 'Here, Shut up, Go away.' I knew they were involved in the other things and I'm speaking for myself, not the officers, but I knew they were involved, but I didn't see anything myself and they obviously couldn't prove anything and it was just one of those 'Shut-up, Go away, It is over with' things" (page 65).

### TOM EVANS

Tom Evans was working security for Motel 6. He first saw the officers while they were going to Room 124. By the time Evans parked his car and got to where Henderson and Wothuis were, they were already inside Room 124. Evans states he went with officers and Jason Hickman to Room 160.

Evans confirms that Hickman and Henderson both knocked on the door. He states Lisa Walker refused to open the door after "they asked her nicely to 'open the door please we need to talk to you'" (page 69). When asked if Hickman or Henderson ever told Walker she was trespassing, Evans replies "No" (page 70). Evans says he was close to where Hickman and Henderson were and believes he would have heard if Walker were told she was trespassing.

Evans states after Walker refused to open the door and after Henderson tried to push open the door with his shoulder, Hickman sent him to get a bolt cutter. Evans says when he returned with the bolt cutter, Walker was already out of the room and in handcuffs.

Evans confirms that Walker was not arrested. He states she left the motel "on her own free will" (page 71).

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PETE BENNETT

Pete Bennett is the newly hired maintenance man for Motel 6. He remembers "there was a drug bust doing down in number 124" (page 73). He confirms Hickman and Henderson went to Room 160, after finding the key on Demarco Ladd.

Bennett says he stayed a short distance away, with Gatwood and Ladd, "probably 20-25 feet" (page 74) around the corner of the building. Bennett states he doesn't recall anyone telling Lisa Walker she was trespassing. Bennett admits, however, she could have been told that and he just does not remember. Bennett states he could not see what was going on, but heard Henderson try to kick open the door to Room 160 "twice" (page 75).

Bennett says he knew Walker had been sprayed by Henderson, but did not actually see her sprayed. Bennett confirms she showed minimal signs of being affected by OC. Contrary to Demarco Ladd's allegation, Bennett states Jeff Gatwood never threatened to put out a cigar in Ladd's eye.

Bennett says at the conclusion, Walker was released and given a refund. Bennett confirms only Ladd went to jail.

WOODY WOLTHUIS

Officer Woody Wolthuis says he and Henderson were gathering information on Demarco Ladd, to develop their suspicion to conduct a knock and talk. Wolthuis says Fred Stevens was in the motel office inquiring about Demarco Ladd's room. Wolthuis states Fred Stevens agreed to go with them to point out Ladd's room.

**NOTE:** Wolthuis says motel manager, Jason Hickman, went with Henderson and him. Wolthuis is unclear as to why Fred Stevens was needed to point out Ladd's room. Although Stevens came to the office to determine which room Ladd was in, Wolthuis says Stevens was able to point out Ladd's room to officers.

Wolthuis says Stevens stood at the door with Henderson, while Henderson knocked.

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Wolthuis concurs that after Ladd answered the door he was arrested and the key to Room 160 was found in Ladd's pocket. Wolthuis states he went to Room 160 with Henderson and Hickman.

Wolthuis states Hickman "knocked on the door a few times and said 'Motel management...motel management' and a female didn't answer the door, she screamed from inside 'Who is it?' 'Motel management'" (page 81). Wolthuis says Hickman continued to knock and he believes the door was opened partially. Wolthuis says two black males, who had been walking towards the room and began to run away, distracted him. Wolthuis states he ran after the males.

Wolthuis says when he returned to the room; Lisa Walker was in handcuffs, outside the room. Wolthuis could tell she had been affected by OC and he could smell traces of OC. Wolthuis says he did not speak with Henderson as to the purpose for using OC. Wolthuis can only assume the use was for safety reasons.

Wolthuis says he transported the original suspect, Ladd to UDE shortly thereafter. Wolthuis says there was not a supervisor present prior to his leaving the Motel 6.

### JEFF GATWOOD

Jeff Gatwood states he assisted Jeff Henderson at the Motel 6 by maintaining control of Demarco Ladd following his arrest. Gatwood confirms Henderson and Jason Hickman went to Room 160.

Gatwood states from his position, he was unable to see what occurred at Room 160. Gatwood says he did hear both Hickman and Henderson advise Lisa Walker that she was trespassing and needed to come out of her room.

Gatwood says he came into contact with Walker after she was handcuffed and out of the room. Gatwood says Walker showed minimal signs of exposure to OC.

Gatwood says he asked Walker if she wanted to speak to a supervisor, but she declined after admitting that she was trespassing. Walker told Gatwood, "She understood what had happened and she just wanted to leave and go on about her

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business" (page 92).

JEFF HENDERSON

Officer Jeff Henderson states he received information from Jason Hickman about Demarco Ladd possibly dealing drugs. Henderson says Fred Stevens was in the motel office asking for Demarco Ladd and was detained and interviewed.

Henderson says Stevens "opened up" (page 114) and stated he had come to buy cocaine from Demarco Ladd. Henderson states he, Wolthuis, and Jason Hickman went to Ladd's room and that Stevens also went to point out Ladd's room. Henderson says Stevens did not knock on Ladd's door, but stood near the door when he [Henderson] knocked. Henderson says Stevens was told to leave just prior to Ladd opening the door and that Stevens left the area.

NOTE: Neither the incident report nor the PC Affidavit mentions Fred Stevens. In detailing why officers went to Room 124, there is no mention that they had first hand information that Stevens was there to purchase cocaine from Ladd. Henderson states Stevens was not mentioned in the reports because he left prior to Ladd opening the door and was not a witness to any of the crimes.

Henderson states when Demarco Ladd opened the door to his room the smell of marijuana emanated from the room. Henderson states he could see a bag of marijuana and a pistol in plain view inside of Ladd's room. Henderson says Ladd saw that the police were at the door and made movements towards the marijuana and gun. Henderson states Ladd was arrested and subsequent to the arrest the key to Room 160 was discovered.

Henderson states "I went over to the room with the manager at a little after 9 o'clock. The key fit the door, he [Hickman] knocked on the door, a female inside asked who it was and he advised her that he was management and we needed her to open the door, that she wasn't checked into that room, that at that point he wanted to know why she was there" (page 94). Henderson states the female, Lisa Walker, refused to open the door and made an excuse of having been in the shower and not

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being clothed.

Henderson states Hickman "continued to advise her that at that point she was trespassing and that he was the manager of the property" (page 94). Henderson states Walker refused to open the door even after Hickman "told her several times" (page 96) that she was trespassing. Henderson states "At that point it was a criminal matter. She was trespassing and at that point she was obstructing the instruction of us trying to complete an arrest, execute the arrest for her trespassing on private property" (page 95).

Henderson says Hickman "asked me if I could force entry and try to get in the room basically so he could remove this subject from his property" (page 95). Henderson says he unsuccessfully tried to kick open the door twice. Henderson states he then considered the amount of damage he would cause by kicking the door open.

NOTE: City Attorney, Mike Romig advises that even with the permission of the hotel manager, the occupants of the room have 4<sup>th</sup> Amendment Protection. The hotel manager would have the right to force entry into the room, however when the police become involved, it becomes a "police action." Absent exigent circumstances, an officer would not have the authority to force entry without a warrant.

Henderson says, "So I used my OC spray and sprayed one burst into the room towards the bed. Not directly hitting her, not directly contacting her, she was and never once did I intend to spray her. The spray was used more or less as a tool to get her to remove herself from the room." (page 95). Henderson states he was unable to see into the room and did not know if anyone else was inside when he sprayed.

Henderson says from the time Walker first refused to answer the door until he sprayed OC was approximately "five minutes" (page 98). Henderson says Walker opened the door within a minute. Henderson says he grabbed her, handcuffed her, and removed her from the room.

Henderson states he has never been trained to use OC to remove people from rooms.

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Henderson states he was trained to use OC to overcome resistance from an aggressor. Henderson states Walker was not being aggressive, but he believed her to be resistive to his commands for her to exit the room.

Henderson says Walker was eventually released. Henderson says "Using my discretion, the female [Walker] was from Kansas City and she apologized and said that she was in the wrong that she shouldn't have acted the way she did. She didn't know what to do, in her words she didn't know whether to let us in or not. The manager asked her to not come back and advised her that she is not allowed on Motel 6's property anymore" (page 97)

NOTE: Jason Hickman denies banning Lisa Walker from Motel 6.

#### JEFF DAVIS

Jeff Davis states he was on-duty the night of October 14<sup>th</sup>, but had no knowledge of the incident at Motel 6 until he came back to work on October 17<sup>th</sup>. Davis agrees that Henderson's delay in notifying a supervisor does not comply with policy. Davis says, "That part of the policy is not well known" (page 120).

Davis states during his conversation with Henderson on October 17<sup>th</sup>, Henderson informed him "that there may be a complaint coming down on him" (page 117). Davis says Henderson gave him a brief synopsis of the events from October 14<sup>th</sup>. Davis says he was told the occupants of Room 160 were associated with Demarco Ladd and that Ladd had been arrested. Davis says, "Officer Henderson indicated that she [Walker] was trespassing. I don't know if this was because of some conversation obviously he had with the motel manager, or she didn't belong there, but the gist of it was that she was going to have to leave and he and the motel manager were both on the same page on that" (page 117).

Davis states he is unsure if Henderson told him of the attempted to force entry, but states "He [Henderson] indicated to me that forced entry wasn't an option" (page 117). Davis says he was informed that Henderson sprayed OC into the room. Davis says "He [Henderson] said he shot a real small burst of OC into the room with the hopes that the nature of the OC being as it is the effects that the only person in there

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would cause them to be uncomfortable enough that they would decide to leave the room of their own volition" (page 117). Davis says Henderson "inquired if a Use of Force Report would be appropriate and my response to him at the time was 'I'm not sure that is a use of force, per se, as described in policy. Right now hold off on doing one and I'll discuss this with whoever I need to discuss it with, reread the policy, whatever and we will address that issue at another time'" (page 118). Davis says he discussed the incident again with Henderson the day before Henderson's IA interview, which Davis estimated to be approximately a week later.

**NOTE:** The Use of Force Report was completed twenty days after Davis was notified by Henderson of the event.

Davis states once he realized there was no documentation of the incident and now that IA was investigating, "We decided that it would be best to do a Use of Force Report to document the incident. But I still wasn't and still am not to this day, well I still think the policy is vague enough that it could be opened to interpretation whether or not this was actually a use of force, which would require a report" (page 118).

Davis has taught defensive tactics, which includes the training with OC, at the academy for approximately five years. Davis is aware that OC is considered "intermediate force...calculated to control and overcome...resistance" (page 119). Davis states policy does not address using OC to force someone out of a room and says that tactic is not taught to officers. Davis says, "I think any policy is a guideline and even if you are considering this a use of force, our use of force policy is based on reasonableness, reasonable use of force. But I'm not sure still that the simple fact of subjecting someone to the effects of OC is actually a use of force" (page 120).

**NOTE:** City Attorney Mike Romig advises that court cases have decided; anytime you use a chemical agent, including OC, with the intent to affect an individual, whether known to you or not, it is considered a use of force.

Davis says there are occasions when OC is used that a Use of Force Report is not

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completed, such as accidental exposure to officer or civilian, or spraying an animal. When asked, "Has there ever been another time that you are aware of that we have intended for somebody to feel the effects of OC spray and not done a Use of Force Report"? Davis replies "not that I'm aware of" (page 121). Davis states given the other options, such as kicking open the door, Davis says Henderson's "use of OC was reasonable even if it doesn't technically fall within the policy" (page 121).

Davis says Henderson was requested by the owner of the property to remove a trespasser. "The option to walk away was not an option. This person is going to leave the room" (page 122). Davis says once Walker was removed from the room, Henderson used his discretion "not to place her under arrest" (page 123).

### FINDING OF FACT

Did Officer Jeff Henderson violate Policy and Procedure 31-101 A, Use of Force and 31-101 D, Use of OC Spray by improperly using OC on Lisa Walker on October 14, 2000 and by not completing appropriate reports?

It is undisputed that Jeff Henderson, after unsuccessfully attempting to force entry into Room 160, sprayed OC into the room through a partially opened door. It is further undisputed that Henderson intended for Lisa Walker to feel the effects of the OC.

Henderson admits he was never trained to use OC to remove people from rooms. Henderson says he was trained to use OC to overcome resistance from an aggressor. Henderson admits Walker was not aggressive, but believed her to be resistive to commands for her to exit. Henderson had no knowledge of who or how many people were in the room prior to his using OC. Henderson says he never intended to directly spray Walker, but used OC as a tool to "get her to remove herself from the room."

Henderson says he informed a supervisor of his use of OC, three days later. Henderson says he did not complete a Use of Force Report at the direction of Sergeant Davis. Sergeant Jeff Davis concurs with Henderson that there was a delay in completing a Use of Force Report. Davis says he told Henderson to delay

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reporting the incident, as he was unsure if the use constituted force, which would require a report.

Did Officer Jeff Henderson violate Rule 3, Duty to Know, Enforce, and Obey Laws and Ordinances by unlawfully attempting to force entry into Room 160 on October 14, 2000?

Jeff Henderson says both he and Jason Hickman told Lisa Walker that she was trespassing and she refused to exit the room and leave the property. Henderson says Hickman, who is the motel manager, gave him permission to kick open the door.

Jason Hickman, without question, denies he ever told Lisa Walker she was trespassing. Hickman says since he could not see Walker, he would not have known if she was trespassing or not. Hickman, however, alludes to the fact that he would be willing to file trespassing charges if it were needed. Hickman says after he and Henderson repeatedly told Lisa Walker she needed to open the door, he gave Henderson permission to kick open the door and that Henderson kicked the door, but was unable to force it open.

All witnesses state they never heard Hickman or Henderson tell Lisa Walker she was trespassing except for Jeff Gatwood. Lisa Walker mentions in her Citizen Complaint Report, that she believed to be under arrest for "Obstructing Justice." Demarco Ladd states officers and Jason Hickman discussed amongst themselves that Walker was trespassing, but never told Walker she was trespassing. City Attorney Mike Romig says even if the crime of trespassing were being committed, the occupants of the room have 4<sup>th</sup> Amendment protection and absent exigent circumstances or a warrant, a police officer would not have authority to forcibly enter the room.

After Lisa Walker came out of the room, she was not arrested or cited for any violation. Jeff Henderson states she was released at his discretion. Jason Hickman says Walker and William Sherman were refunded the money for the room at their request, given a free night stay at another Motel 6 and were not banned from the property.

Did Officer Jeff Henderson violate Rule 8, Duty to be Truthful and Obedient

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by entering false information into a Probable Cause Affidavit, an offense report and his Internal Affairs interview?

In Jeff Henderson's Probable Cause Affidavit for Demarco Ladd, he states "Officers went to Room 124" and "Officers knocked on the door" (page 21). In Henderson's IA interview he gave the same account. Henderson never mentions Fred Stevens in any reports. Further, Henderson never mentioned Fred Stevens in his IA interview until this investigator revealed that he knew Fred Stevens was at Room 124 with officers.

Henderson states Stevens admitted that he was being at the motel to buy cocaine from Ladd. Henderson says Stevens went with officers merely to point out Ladd's room. Henderson knocked on Ladd's door while Stevens stood near the door. Henderson says before Ladd opened the door, Stevens was told to leave and he complied.

Woody Wolthuis also never mentioned Fred Stevens in his IA interview until this investigator informed Wolthuis of his knowledge of Stevens. Wolthuis then gave a version of events similar to Henderson's. Wolthuis says he and Henderson contacted Stevens in the motel office as he was inquiring about Demarco Ladd's room. Wolthuis says, although Stevens appeared not to know where Ladd's room was, Stevens showed officers which room was Ladd's. Wolthuis gives no reason why Stevens, who was at the motel to buy cocaine from Demarco Ladd, was not mentioned in reports as being part of the reasonable suspicion to go to Ladd's room.

Wolthuis says he saw Henderson knock on Ladd's door while Stevens stood nearby. Wolthuis concurs with Henderson that Stevens walked away prior to Ladd answering the door.

Fred Stevens says he came to the motel to look at a car that Demarco Ladd wanted repaired. Stevens says he did not know which room Ladd was in, which was his reason for being in the office. Stevens says he had been drinking and in lieu of being arrested, agreed to go to knock on the door to Room 124 for Henderson and Wolthuis. Stevens says he was told to knock on the door and walk away, which he did.

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Jason Hickman concurs with Stevens. He states Stevens knocked on the door while Wolthuis and Henderson stood beside the door. Hickman says Henderson and Wolthuis entered the room as soon as Ladd opened the door. Hickman says he stood back some and is unsure of what officers saw that made them enter the room.

Henderson says Stevens was not mentioned in reports because he left before Ladd opened the door, therefore did not witness any of the crimes. Henderson also says he had not obtained enough information from Stevens to list him as a witness prior to Stevens leaving.

Henderson and Wolthuis, both state although Stevens came to the office to determine which room Ladd was in, he was able to point out Ladd's room to them. Both Henderson and Wolthuis admit Jason Hickman, the motel manager, was with them when they went to the room. Additionally, all of the rooms at Motel 6 have the room numbers posted on the doors to identify the individual rooms.

**Did Officer Woody Wolthuis violate Rule 8, Duty to be Truthful and Obedient by giving false information in is Internal Affairs Interview?**

In Jeff Henderson's Probable Cause Affidavit for Demarco Ladd, he states "Officers went to Room 124" and "Officers knocked on the door" (page 21). In Henderson's IA interview he gave the same account. Henderson never mentions Fred Stevens in any reports. Further, Henderson never mentioned Fred Stevens in his IA interview until this investigator revealed that he knew Fred Stevens was at Room 124 with officers.

Henderson states Stevens admitted that being at the motel to buy cocaine from Ladd. Henderson says Stevens went with officers merely to point out Ladd's room. Henderson knocked on Ladd's door while Stevens stood near the door. Henderson says before Ladd opened the door, Stevens was told to leave and he complied.

Woody Wolthuis also never mentioned Fred Stevens in his IA interview until this investigator informed Wolthuis of his knowledge of Stevens. Wolthuis then gave a version of events similar to Henderson's. Wolthuis says he and Henderson contacted Stevens in the motel office as he was inquiring about Demarco Ladd's

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Wolthuis says he saw Henderson knock on Ladd's door while Stevens stood nearby. Wolthuis concurs with Henderson that Stevens walked away prior to Ladd answering the door.

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Jason Hickman concurs with Stevens. He states Stevens knocked on the door while Wolthuis and Henderson stood beside the door. Hickman says Henderson and Wolthuis entered the room as soon as Ladd opened the door. Hickman says he stood back some and is unsure of what officers saw that made them enter the room.

Henderson says Stevens was not mentioned in reports because he left before Ladd opened the door, therefore did not witness any of the crimes. Henderson also says he had not obtained enough information from Stevens to list him as a witness prior to Stevens leaving.

Henderson and Wolthuis, both state although Stevens came to the office to determine which room Ladd was in, he was able to point out Ladd's room to them. Both Henderson and Wolthuis admit Jason Hickman, the motel manager, was with them when they went to the room. Additionally, all of the rooms at Motel 6 have the room numbers posted on the doors to identify the individual rooms.

Did Sergeant Jeff Davis violate Policy and Procedure 31-101D, Use of OC Spray and Rule 2, Duty to Know and Obey Department Rules, Regulations, Policies and Procedures by advising Jeff Henderson not to complete a Use of Force

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Report with regard to spraying Lisa Walker?

Sergeant Jeff Davis is a use of force instructor and Henderson's supervisor. Davis says OC is considered intermediate force, but is unsure if Henderson's use of OC constitutes a use of force. While Davis does not deny the use "technically" does not comply with policy, Davis says the policies governing use of force are a guideline based on what is reasonable.

Davis states Henderson told him of the incident three days after the occurrence. Davis admits he told Henderson to "hold off" on completing a Use of Force Report until he could determine if an actual use of force had occurred. Davis says he told Henderson to complete a report for documentation purposes when they met again the day prior to Henderson's IA interview. Henderson's IA interview was 20 days after notifying Davis of the incident.

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