

Date: January 13, 2025

To: Thomas B. Modica, City Manager



From: Wally Hebeish, Chief of Police



For: Mayor and Members of the City Council

Subject: **Police Protocols and Guidelines when Responding to Instances of Trespassing and Illegal Squatting**

On October 22, 2024, the City Council requested the Police Department to present its protocols when responding to reported instances of trespassing and occupying abandoned or otherwise uninhabited properties, commonly referred to as “squatting.” Further, the City Council requested an evaluation on the current legislation and associated impacts on the Department’s capabilities when responding to such incidents. This memorandum provides a response to Council’s requests.

Overview of Criminal Trespassing and Unlawful Lodging (Squatting)

Criminal Trespassing

Accessing someone else’s property without permission or consent can be criminal or civil trespassing. Criminal trespassing involves entering or remaining on the property knowing there is no permission or privilege to do so. California law also defines civil trespass, which merely requires entering the property without the consent of the owner. Criminal Trespass requires proof of the unlawful entry and unlawfully remaining on property belonging to another without permission of the rightful owner or possessor.

California Penal Code §§ 601 – 602.13 provides over 20 definitions of conduct that constitutes trespassing and aggravated trespassing. At its most basic, criminal trespassing is defined as “[e]ntering and occupying real property or structures of any kind without the consent of the owner, the owner’s agent, or the person in lawful possession” (emphasis added). Thus, it is generally not a crime to simply *enter* private property without permission unless the property is otherwise covered by a statute.¹ Instead, the trespasser must either occupy the property or refuse to leave the property after being directed to do so before the criminal provisions of the statute are triggered. As explained in greater detail below, Penal Code § 602 subd. (o) provides for a specific process to allow property owners to request a peace officer’s assistance in directing trespassers to leave their property and removing trespassers who refuse to do so.

Trespassing is typically charged as a misdemeanor crime but can also be a non-criminal infraction.

¹ For example, Penal Code § 602.5 makes it a misdemeanor to enter or remain “in any noncommercial dwelling house, apartment, or other residential place without consent of the owner, his or her agent, or the person in lawful possession” (emphasis added).

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Typical elements of the crime of trespassing include:

- Willful entry and remaining: The person intentionally entered and remained on another person's property without permission.
- Refusing or failing to leave land, property, or a structure after being told to leave.
- The property belongs to and/or is lawfully occupied by another and is not open to the general public.
- The trespasser has the specific intent to interfere with business or obstruct property rights.
- The trespasser has no permission or legal right to be on the property.

Common defenses of trespassing include:

- Lack of intent: The person did not intend to interfere with a business or obstruct property rights.
- Permission or right to be on the property: The person claims to have had permission or a legal right to be on the property.
- Mistake of fact: The person believed they had permission or a right to be on the property but were mistaken or wrong.

Unlawful Lodging

California Penal Code § 647(e) prohibits unlawful lodging, commonly referred to as "squatting." Any person who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or control of it, is guilty of unlawful lodging.

Importantly, the term "lodging" connotes the use of items or structures associated with sleeping quarters, and courts have found that a violation of Penal Code § 647(e) requires more than merely sitting or sleeping in an area without permission. Thus, an individual is guilty of unlawful lodging if they set up a temporary shelter (such as a tent), intend to stay the night, or set up other sleeping arrangements (such as a cot).

Elements of the crime of squatting include:

- Lodging in any building, structure, vehicle, or place, whether public or private.
- Without the permission of the owner, or person entitled to the possession or in control of it.

Common defenses of squatting include:

- The person had permission to be there, whether expressed or implied.

- Express permission: The owner or property manager has explicitly, whether by signage or words, permitted lodging.
- Implied permission: If the property owner or manager knows that people lodge on their property but do nothing about it, then permission is implied.
- The conduct did not amount to lodging.

It can be difficult to determine that the conduct amounted to “lodging,” versus mere loitering, which makes “squatting” difficult to prove. Establishing the length of time a person was lodging and whether it meets the criteria can be difficult. Thus, this crime can typically only be charged when there are physical manifestations of the individual’s intent to lodge, such as the erection of a tent or other temporary shelter. Even when proof of unlawful lodging is lacking, the individual can sometimes be issued a citation for other violations, including, when appropriate, trespass.

Squatters Rights

A “tenancy at will” can be formed when an individual takes possession of a property with the landlord’s express or implied permission, but for no stated term and without provision for payment of rent. However, the landlord’s express or implied consent to the individual’s initial entry is essential to the creation of a tenancy at will. Thus, no tenancy at will arises when an individual takes initial possession by trespass, that is, without the owner’s knowledge and express or implied consent.

Individuals who enter the property with the permission of the owner or with the permission of a lawful tenant and remain on the property for thirty days may obtain tenancy rights if the property owner becomes aware of the squatter and does not take immediate action. Once the squatter obtains these tenancy rights, the squatter may only be removed after a formal eviction process rather than a simple trespassing removal.

Individuals may also acquire ownership rights to a property through the use of “adverse possession.” Adverse possession is when an occupant enters a property to take legal ownership of the property. Those individuals can only claim adverse possession when the below criteria are met:

- Possession must be by actual occupation under such circumstances as to constitute reasonable notice to the owner.
- It must be hostile to the owner’s title.
- The holder must claim the property as his or her own, under either color of title, or claim of right. A claim of right can be founded on either a deliberate trespass, or a mistake if the claimant intends to claim the area occupied as his or her land.
- Possession must be continuous and uninterrupted for five years.
- The holder must pay all the taxes levied and assessed upon the property during the period.

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After five years of adverse possession, the individual obtains ownership of the property without having to take any further action. In the above circumstances, the Police Department cannot take any action as it has become a civil matter.

602 Program

As explained above, Penal Code § 602 subd. (o) defines trespassing as refusing or failing to leave property belonging to or lawfully occupied by another and not open to the general public, “upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that they are acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession.”

However, this statute also specifies that for the Police Department to act against trespassers, the property owner must either make a separate request on each occasion for a peace officer's assistance in dealing with a trespass or make “a single request . . . in a notarized writing on a form provided by the law enforcement agency” which covers “a limited period of time not to exceed a time period determined by local ordinance or 12 months.” To be eligible for this program, the property must be closed to the public and posted as being closed.

Typically, property owners will need to call the police every time they observe a trespasser and may be required to sign a Private Person Arrest form for each suspected individual. Often trespassing or squatting occurs after normal business hours, or in the middle of the night. Further, such trespassing is observed and reported by individuals in the neighborhood who are not “the owner, the owner's agent, or the person in lawful possession” of the property. This can present challenges in contacting the legal property owner or possessor to determine whether they have authorized the individual's presence on the property. If the report comes after hours, the property owner may not be able to respond to the location and sign the necessary Private Person's Arrest form, verifying that they wish to prosecute the suspect for the alleged misdemeanor crime.

As a result, the City has implemented a “602 Program” in conformance with Penal Code § 602 subd. (o) to give law enforcement the authority to warn, cite, or arrest trespassers, even if the owner or agent is not on the premise at that time. The 602 Program allows law enforcement to remove persons unlawfully occupying a registered location without requiring the property owner to be physically on-site each time. The Police Department encourages property owners (or an authorized agent of the property owner or lease) to enroll in this program.

To enroll, interested property owners need to complete the following requirements:

- Fill out a “Request for Service” form, and have it notarized by a Notary Public.
- Post authorized “No Trespassing” signs,
 - Approved signs can either be purchased at Ace Hardware locations, or free signs can be requested through the City Prosecutor's Office.

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- Once the completed notarized form is submitted to the respective patrol division where the property is located, a police officer will visit the location and confirm the correct signs are posted and visible, then document it with a photograph.
- All forms are then entered into Laserfiche, allowing access should they need to be retrieved for verification later.
- The Communications Center then places a premise history notice for the location, which is good for one year, alerting officers each time they respond to that address that it is on file with the 602 Program.

Trespassing laws can still be enforced without a “No Trespassing” sign, but property owners would need to contact the police every time they observe a trespasser and may be required to sign a Private Person Arrest form for each suspected individual.

Community Education

The 602 Program was created collaboratively between the City Prosecutor’s Office, the Long Beach Police Department, local neighborhood organizations and the Downtown Long Beach Alliance. It is intended to ease the procedure for property owners to protect their rights against trespassers and others who violate private property rights through repeated offenses, including attempts to illegally inhabit or occupy structures.

The Police Department provides divisional assistance to the public through a variety of mechanisms, including but not limited to divisional community meetings, a robust social media community engagement philosophy, and the use of Patrol Resource Officers (PROs) to provide resource information and work closely with neighborhood and business groups and City partners to enhance the Department’s community policing efforts.

Community members and property owners who want more information regarding the 602 Program can contact their PRO within the appropriate division:

SOUTH DIVISION
LBPDSouth@LongBeach.gov
(562) 570-7566

EAST DIVISION
LBPDEast@LongBeach.gov
(562) 570-5812

NORTH DIVISION
LBPDNorth@LongBeach.gov
(562) 570-9827

WEST DIVISION
LBPDWest@LongBeach.gov
(562) 570-3462

Further, the Police Department is co-hosting an event alongside the City Prosecutor’s Office to assist residents and business owners in enrolling in the No-Trespassing Program. The event is anticipated to take place in February 2025.

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Impact on Department Resources

The chart below summarizes the impact of trespassing and unlawful lodging calls for service on Department resources:

2024 Calls for Service	Calls for Service	% of PD Calls	Avg. Responding Officers	Avg. Time in Min. Per Call
Trespassing	375	0.18%	3.9	59.8
Unlawful Lodging	8641	4.13%	1.8	16.2

Local Jurisdictions

The Department reviewed other police agencies' trespassing policies and procedures. Of the 17 agencies researched, only seven law enforcement agencies were involved in programs like the 602 Program, in which businesses and residential properties can request police intervention without needing to be present during a trespass violation. Additionally, 16 of the 17 agencies had policies concerning trespass violations and residential disputes, all of which stipulated that officers are obligated to de-escalate any tension at the scene and to refer the parties involved to the courts to resolve the issue.

Summary

The 602 Program is effective in allowing law enforcement to take action against trespassers without the physical presence of the property owner. It also provides the necessary elements for a successful prosecution of trespassers. The Police Department is committed to expanding its education efforts to include more businesses and property owners through a variety of resources, including outreach through the PROs, language access resource information and distributions, and social media and digital outreach.

Continued collaboration and partnerships will assist in the enforcement and deterrence of trespassing and crimes associated with trespass. If you have any questions, please contact me or my Chief of Staff, Commander Michael Solomita, at (562) 570-7301.

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