


Office of the City Manager

December 20, 2011

To: Honorable Mayor and Members of the City Council
The Police Review Commission

From: Christine Daniel, Interim City Manager 

Subject: **USE OF PEPPER SPRAY INCIDENTS**

Attached please find the use of pepper spray reports relating to the use of Oleorisin Capsicum (OC) that occurred from April 2, 2011 thru December 16, 2011.

Attachments: Use of Pepper Spray Report 11-18087
Use of Pepper Spray Report 11-39512
Use of Pepper Spray Report 11-55589

cc: William Rogers, Interim Deputy City Manager
Deanna Despain, City Clerk
Ann-Marie Hogan, City Auditor
Lillian Mayers, Interim Police Review Commissioner
Michael Meehan, Chief of Police
Mary Kay Clunies-Ross, Public Information Officer

BERKELEY POLICE DEPARTMENT
USE OF PEPPER SPRAY REPORT
(Note - this is a public document)

This report is to be completed by any Department employee who uses "Oleoridin Capsicum" (OC) spray during the performance of his or her duties. The authorization for this report comes from City of Berkeley Council actions taken September 16, 1997 directing that any use of "OC" be reported to the City Council and the Police Review Commission via the Police Department's Chain of Command as a public record within seven (7) days of its use.

Date: 040811

To: Berkeley City Council and Police Review Commission via

[Signature] Chief of Police /approved for routing
[Signature] Captain of Patrol /approved for routing
[Signature] Watch Commander /approved for routing
[Signature] Duty Supervisor /approved for routing

From:* OFF. E. BRISMAN

* Note: This form is to be completed by the Department Employee using the spray. If that person is unable to complete this form due to injury, it shall be completed by his or her immediate supervisor.

Subject: USE OF "PEPPER SPRAY" INCIDENT

Refer to Case Number(s): 11-18087

Date of Incident: 040311 (040211)

Time of Incident: 0419

Location of Incident: 2412 PIEDMONT AVE

Application was: Effective Ineffective

Information on Subject: Adult Juvenile

Physical description: _____
Sex Height Weight

First Aid for Subject: Paramedic responded and administered First Aid

Additional comments on First Aid rendered: SUBJECT REFUSED

RECEIVED

APR 11 2011

OFFICE OF THE CHIEF

COPY

Nature of Incident: I RESPONDED WITH OFF JUNG TO INVESTIGATE THE THEFT OF A BACKPACK. THE SUSPECT, POSITIVELY IDENTIFIED BY THE R/P, RAN THEN VIOLENTLY FOUGHT WITH US WHEN WE TRIED TO DETAIN HIM. HE WAS FLAILING HIS ARMS AND LEGS AND FLEXING UP ON US WHEN WE TRIED TO HANDCUFF HIM. THE SUSPECT REFUSED TO COMPLY WITH LAWFUL COMMANDS TO STOP RESISTING.

Summary and justification of the Actions of Officer(s) Involved:

DURING THE INVESTIGATION THE R/P POSITIVELY IDENTIFIED MONROE AS THE SUSPECT WHO TOOK THE BACKPACK. MONROE RAN BUT WHEN I CAUGHT UP AND REACHED FOR HIM HE SHOVED BOTH HANDS IN HIS POCKETS. MONROE VIOLENTLY RESISTED BY FLAILING HIS ARMS AND FLEXING UP ON US WHEN WE TRIED TO CUFF HIM. WE GAVE REPEATED COMMANDS TO "STOP RESISTING". MONROE PHYSICALLY RESISTED FOR SEVERAL MINUTES DURING A STRUGGLE THAT TRAVELED FROM THE PORCH, TO THE KITCHEN, BACK TO THE PORCH. I HAD A SOLID GRIP OF MONROE'S DREADLOCKS WITH MY LEFT HAND FOR THE DURATION OF THE FIGHT BUT WAS UNABLE TO CONTROL MONROE'S ARM WITH MY OTHER HAND. PAIN COMPLIANCE TACTICS WERE INEFFECTIVE. KICKS/KNEES TO THE LOWER BODY WERE INEFFECTIVE. I WARNED HIM TO STOP RESISTING OR I WOULD "SPRAY" HIM. HE FAILED TO COMPLY SO I DELIVERED SEVERAL SHORT ~ 1/2 SECOND BURSTS TO MONROE'S FACIAL AREA AS HE CONTINUED VIOLENTLY RESISTING. ^{FROM AN APPROXIMATELY ARMS LENGTH AWAY OF A'} EVENTUALLY OTHER OFFICERS ARRIVED AND IT TOOK ABOUT 6 OFFICERS TO SUBDUCE AND WRAP HIM. THROUGHOUT THE FIGHT MONROE REARDED AND FLEXED UP ON OFFICERS, REFUSING TO BE HANDCUFFED

cc: Chief of Police

BERKELEY POLICE DEPARTMENT
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Date: 7-17-11

To: Berkeley City Council and Police Review Commission via

[Signature] 8-3-11
Chief of Police /approved for routing
[Signature]
Captain of Patrol /approved for routing
[Signature]
Watch Commander /approved for routing

Duty Supervisor /approved for routing

From:* SGT. REECE S-8

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Subject: USE OF "PEPPER SPRAY" INCIDENT

Refer to Case Number(s): 11-39512

Date of Incident: 7-17-11

Time of Incident: JP TO 0522

Location of Incident: 3357 MLK JR WAY

Application was: Effective Ineffective

Information on Subject: Adult Juvenile

Physical description: M 5'8" 175
Sex Height Weight

First Aid for Subject:

Paramedic responded and administered First Aid

Additional comments on First Aid rendered: SUSPECT'S EYES WERE FLUSHED
WITH CLEAN WATER. HE REPORTED NO OTHER
COMPLAINTS OF PAIN.

COPY

Nature of Incident:

OC Pepper Spray was used in an attempt to stop a felony suspect from entering his apartment and evading arrest.

Summary and justification of the Actions of Officer(s) Involved:

On 7-17-11 at 0457 hours BPD received a 911 call reporting an in-progress auto burglary. When the first two officers arrived they observed the suspect inside of the victim vehicle and also noticed that the front driver's window of the victim vehicle was shattered. The suspect then fled on foot with the officers giving chase. The suspect ran to his apartment complex and locked a security gate behind him, locking the officers out. The suspect had just enough of a lead that the officers were not initially able to see which apartment the suspect went into.

The security gate that the suspect went into only allowed him to enter two apartments (3357 & 3355 MLK Jr Way). 3355 MLK was ruled out since the resident of that apartment allowed officers to check her apartment for the suspect. This same resident described the resident of 3357 MLK and that description matched the description of the suspect. Several attempts to contact the occupant of 3357 MLK were unsuccessful, although noises could be heard from inside that apartment.

The two apartments (3355 and 3357 MLK) have a fully enclosed courtyard that is approximately 10' x 10'. There are no doors to enter this courtyard, just windows from both apartments that face into the courtyard. The ground in the courtyard is concrete; there is nothing else in this courtyard.

From inside the bathroom of 3355 MLK I noticed that the bathroom window, which leads into the courtyard, was open and the screen was bent outward. As I (Sgt. Reece) looked into the courtyard I could not see anything, but I could hear the sounds of someone breathing heavily. I ordered this person to put their hands up and show themselves. A BM (later identified as Springfield) appeared from his hiding spot near the east wall of the courtyard. He was wearing a pair of shorts and a sweatshirt. He was also sweating and very fidgety. He was refusing my orders to raise and show his hands and kept saying that he didn't do anything. I then ordered him to show his hands at gun point. At this time, Ofc. McIntosh, looked over my shoulder and told me that this was the same person that he had just chased into the building. Springfield still did not comply with my orders. Springfield then started to climb into the bathroom window of

his apartment, which was just to the north of my position. From my position in the bathroom window of 3355 MLK, I could not safely reach Springfield to stop him.

At this point I knew that Springfield was the suspect that committed the auto burglary and fled from officers. I was concerned that once he made it into his apartment he could arm himself with a weapon, barricade himself in his apartment and become a greater threat to officers. I then deployed my OC pepper spray and was able to spray Springfield once in the area of his face with one short burst. This was done in an attempt to stop him from re-entering his apartment and so that we could affect an arrest for his crimes. The OC spray did not stop Springfield and he continued to climb into his window.

I then directed officers that were staged at Springfield's back door to force entry into his apartment. Springfield was then arrested after a brief struggle. Springfield was treated for his OC exposure by BFD paramedics. He had no other visible injuries or complaints of pain.

Nothing further.

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Date: 10/1/11

To: Berkeley City Council and Police Review Commission via

JP for mcm
Chief of Police /approved for routing
KS
Captain of Patrol /approved for routing
ES
Watch Commander /approved for routing
FS-2
Duty Supervisor /approved for routing

From:* Officer J. Grant

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Subject: USE OF "PEPPER SPRAY" INCIDENT

Refer to Case Number(s): 11-55589

Date of Incident: 10/1/11

Time of Incident: 1836

Location of Incident: 2642 Sacramento

Application was: Effective Ineffective

Information on Subject: Adult Juvenile

Physical description: M 5'7" 175
Sex Height Weight

First Aid for Subject:
 Paramedic responded and administered First Aid

Additional comments on First Aid rendered: _____

COPY

Nature of Incident: Call of domestic violence in progress. Upon arrival observed injuries to female victim. Suspect very hostile and attempted to barricade himself. Suspect took a fighting stance and was threatening officers. I pepper sprayed the suspect. The pepper spray was ineffective and the suspect charged me, punched me twice in the face and tackled me to the ground.

Summary and justification of the Actions of Officer(s) Involved:

SEE ABOVE