


Office of the City Manager

September 11, 2012

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

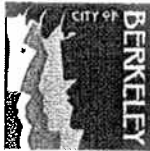
From: Christine Daniel, Interim City Manager 

Subject: **USE OF PEPPER SPRAY INCIDENT**

Attached please find the use of pepper spray report relating to the use of Oleorisin Capsicum (OC) that occurred on August 22, 2012.

Attachment: Use of Pepper Spray Report 12-45762

cc: William Rogers, Deputy City Manager  
Ann-Marie Hogan, City Auditor  
Michael Meehan, Chief of Police  
Mark Numainville, Acting City Clerk  
Lucinda Simpson, Police Review Commissioner  
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 use "Oleoresin Capsicum" OC spray during the performance of his or her duties. The authorization for this report comes from City of Berkeley Council action 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:** August 22, 2012  
Date of Pepper Spray Report

**From:** Ofc. R. Fuentes  
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.

**Case Number(s):** 2012-45762

**Incident Date:** August 22, 2012

**Incident Time:** 1628

**Incident Location:** 2709 Channing Way

**Application was:**  **Effective**  **Ineffective**

**Subject:**  **Adult**  **Juvenile**

**Subject description:** M 6' 180  
**Sex** **Height** **Weight**

**First Aid for Subject:** Paramedic responded and administered First Aid **Yes**  **No**

**Additional comments on First Aid rendered:**

**Nature of Incident:**

148 (a)(1) PC, obstructing and resisting officers

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

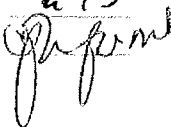
**RECEIVED**

**SEP 06 2012**

**OFFICE OF THE CHIEF**

Ofc. Borden and I detained Odhiambo in front of 2709 Channing Way because he fit the description of a person in the area possibly casing vehicles, and was last seen trying to get into a silver BMW. Odhiambo was detained next to a silver BMW and was yelling and refused to answer my questions or provide identification. I asked for his name and the license plate of the BMW that he said was his and he was silent, then yelled, "this is my car!" He refused to provide his name, or the vehicle license plate number, and was yelling "This is my car!" and acting agitated. At this point I thought it best to detain him and place him in handcuffs. I told Odhiambo he was not under arrest but being detained when he balled up and clenched his fists and verbally said, "No!" Odhiambo continued physically resisting with officers, pushing us, tensing and flexing his body, yelling and ultimately had to be sprayed with OC to be placed into handcuffs. The original reporting party, Dahringer, and 2 witnesses, Camarillo and Ramirez provided written statements of how they saw Odhiambo acting suspiciously before police arrived; looking around and trying to get into a silver BMW for several minutes, but never being successful. They also stated how they saw officers trying to detain Odhiambo, then handcuff him when he pushed the officers and physically resisted until ultimately being OC sprayed.

Please print and route through Chain of Command to the Office of the Chief.

AP S-17 Duty Supervisor  
ES L-1 Watch Commander  
613 Operations Captain  
 Chief of Police