

Office of the City Manager

February 24, 2017

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

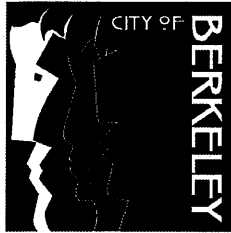
From: *DWR* Dee Williams-Ridley, City Manager

Subject: **USE OF PEPPER SPRAY INCIDENT**

Attached please find the Use of Pepper Spray report that occurred on October 14, 2016. The authorization for these reports comes from the City of Berkeley Council action taken September 16, 1997, directing that any use of "Oleoresin Capsicum" OC spray be reported to 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.

Attachment: Use of Pepper Spray Report 16-61133

cc: Jovan D. Grogan, Deputy City Manager
Mark Numainville, City Clerk
Ann-Marie Hogan, City Auditor
Andrew R. Greenwood, Interim Chief of Police
Matthai Chakko, Assistant to the City Manager / Public Information Officer



Police Department

February 17, 2017

To: Dee Williams-Ridley, City Manager
From: Andrew R. Greenwood, Interim Chief of Police
Subject: **USE OF PEPPER SPRAY INCIDENT**

Attached please find the Use of Pepper Spray report that occurred on October 14, 2016. The authorization for these reports comes from the City of Berkeley Council action taken September 16, 1997, directing that any use of "Oleoresin Capsicum" OC spray be reported to 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.

This report is a late submission. While the use of pepper spray in this incident was reviewed as part of the Department's Use of Force reporting and review process, the separate "Use of Pepper Spray" report was not prepared at the time, an apparent oversight. Following an inquiry from the Police Review Commission investigator, Berkeley Police staff determined the required Use of Pepper Spray report was not prepared. Staff are now auditing the past several years of Use of Force reports (which always include pepper spray use) against the separate, "Use of Pepper Spray" reports sent to Council, to ensure compliance with the 1997 Council action. Additionally, staff are considering the creation of an annual Use of Force report, which would be published by the Berkeley Police Department (BPD), posted on the BPD website, and included in the annual MOU Compendium submittal to Council. This report would provide an aggregated report to the Council and Community of *all* uses of force.

Attachment: Use of Pepper Spray Report Case 16-61133



**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: 2/10/17 LAME REPORT
Date of Pepper Spray Report

From: Officer Emelson #108
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): 16-61133

Incident Date: October 14, 2016

Incident Time: 2224

Incident Location: 1226 Ashby Ave

Application was: Effective Ineffective

Subject: Adult Juvenile

Subject description: M 6'04 270
Sex Height Weight

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

Additional comments on First Aid rendered:

Nature of Incident:

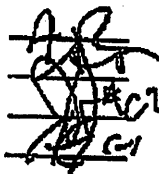
On 10/14/16, _____, heavily intoxicated, called Berkeley Police to report a domestic dispute with his girlfriend. On direct questioning he reported no battery, threats or assaults by his girlfriend. BPD officers attempted to mitigate the dispute by requesting that the parties separate for a cooling off period. BPD officers left without incident. _____ was upset that his girlfriend was not arrested. He called BPD 911 numerous times to complain even after

dispatchers told him to stop calling. BPD officers returned at 2224 HRS to contact about the calls and place him under arrest.

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

While attempting to place [redacted] into handcuffs, he punched a BPD sergeant twice in the head and bit another officer in the arm. [redacted] has a large build and resisted handcuffing. Four officers were not enough to handcuff [redacted]. Pepper spray was applied but was ineffective and he continued to resist. After a prolonged struggle, [redacted] was taken into custody.

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

 Duty Supervisor
Watch Commander
Operations Captain
Chief of Police