


Office of the City Manager

August 21, 2014

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

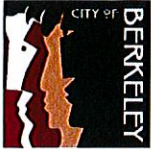
From: Christine Daniel, City Manager 

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 August 13, 2014.

Attachment: Use of Pepper Spray Report for Case 14-47376

cc: William Rogers, Deputy City Manager
Michael Meehan, Chief of Police
Mark Numainville, City Clerk
Ann-Marie Hogan, City Auditor
Chakko, Matthai, 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 13, 2014
Date of Pepper Spray Report

From: Officer Dunn #150
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): 2014-47376

Incident Date: August 13, 2014

Incident Time: 1:49 p.m.

Incident Location: 2655 Telegraph Avenue, Berkeley

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

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

Subject description: M 5' 06" 130
 Sex **Height** **Weight**

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

Additional comments on First Aid rendered: Subject denied treatment.

Nature of Incident:

On August 13, 2014 at 1:41 p.m. employee called BPD to report subject was inside CVS refusing to leave. This was the second call for service involving the subject at CVS (prior call at 11:39 a.m., CAD incident 2014-47347). The subject was asked to leave due to prior problems with him shoplifting inside the business.

BPD officer contacted the subject inside CVS and asked him to leave several times. The subject refused. BPD officer directed the subject to place his hands behind his back. The subject refused and began yelling at BPD officer. BPD officer attempted to take the subject into custody and handcuff him. The subject physically resisted and violently shoved BPD officer into the nearby Passport Photo booth against the wall. BPD officer pushed the subject away and administered a short one-second burst of pepper spray to the subject's facial area. The subject was then handcuffed and arrested. BPD officer sustained a minor cut to his right hand during the arrest.

A search incident to arrest revealed two products in the subject's possession which were store items from CVS valued at \$5.08, which the subject concealed inside his zippered backpack and did not pay for them.

The subject was placed in a patrol car where he violently kicked several times against the rear (passenger-side) window bars causing severe damage to them.

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

The subject refused to leave the business after being asked several times by BPD police officer to do so. The subject was arrestable for trespassing and for failing to obey a lawful order by a peace officer. The subject physically resisted handcuffing and pushed the officer into a nearby wall. Pepper spray was deployed to effect the arrest and overcome resistance.

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

For MK:	
<u>AN</u>	Duty Supervisor
<u>AN</u>	Watch Commander
<u>WCB</u>	Operations Captain
<u>J. J. [Signature]</u>	Chief of Police