

# COPWATCH

## Report

BERKELEY, CALIFORNIA

SPECIAL REPRINT



# Ban Police Use of Pepper Spray!

## COPWATCH Begins Berkeley Campaign

**Speak out against  
Police Pepper  
Spray —**

**Berkeley  
Police Review  
Commission**

**PUBLIC HEARING  
MAY 22 at 7 pm**

**1901 Hearst Ave.  
(North Berkeley  
Senior Center)**

**Details on back  
or call :**

**COPWATCH  
510.548.0425**

In Berkeley, Officer Bertauche held a gun to a man's head and pepper-sprayed him in the eyes. When a witness questioned his actions, he sprayed her in the face over seven times. In San Francisco, twelve cops, led by Officer Andaya, hogtied Aaron Williams, pepper-sprayed him repeatedly, and beat him. Williams died in the back of the police van. In Oakland, Dozell Thomas died after police pepper-sprayed and beat him.

The number of people who have died after police used pepper spray on them continues to mount — at least 32 in California alone in the three years since the Department of Justice approved it for law enforcement use. FBI studies claiming pepper spray was safe have been discredited; Special Agent Thomas Ward, who conducted the studies, has been convicted of taking bribes from a pepper spray manufacturer.

And the April 7 death of Marc Garcia after the SFPD pepper-sprayed him brought media attention to the question, Does pepper spray kill? COPWATCH believes it can, and we call on the Berkeley Police Department to stop using it now, before any deaths happen here. On May 22, the Police Review Commission (PRC) will hold a public hearing in response to our demand so that we can present the case against pepper spray. Then we will seek action from the City Council to take this chemical weapon out of the hands of Berkeley cops.

Originally designed as a bear repellent, pepper spray is rapidly becoming a popular chemical weapon for use against people. In police arsenals, it is almost as common as the baton and handgun. Police and military personnel use pepper spray like tear gas to crush demonstrations in Guatemala and Columbia, and more recently to attack strikers in Michigan and Illinois. Pepper spray is also increasingly common in the prisons, for "cell extractions" or to quell riots.

Police on the street in California use pepper spray 24 times every day. Instantly inflaming throat and nose membranes, pepper spray induces choking, gagging, gasping and the sensation of suffocation. Eyes burn, swell and involuntarily shut. Skin burns and stings. The victim becomes confused, disoriented, and unable to stand. Oleoresin Capsicum, more commonly

*(continued inside)*

known as OC or pepper spray, is misused, toxic — and probably deadly.

#### RULES IGNORED

In August 1992, the California Department of Justice approved police pepper spray use on a closely monitored three-year trial basis, requiring research on pepper spray safety. The California Environmental Protection Agency (EPA) and Department of Justice set up clear rules for pepper spray use. But reports by the ACLU and the SFPD, and the facts of individual cases show that these rules are routinely broken with impunity:

#### Officers may only use pepper spray in emergency situations.

In 28 cases studied by the ACLU, none of the victims that died after police used pepper spray were committing a violent crime when police arrived.

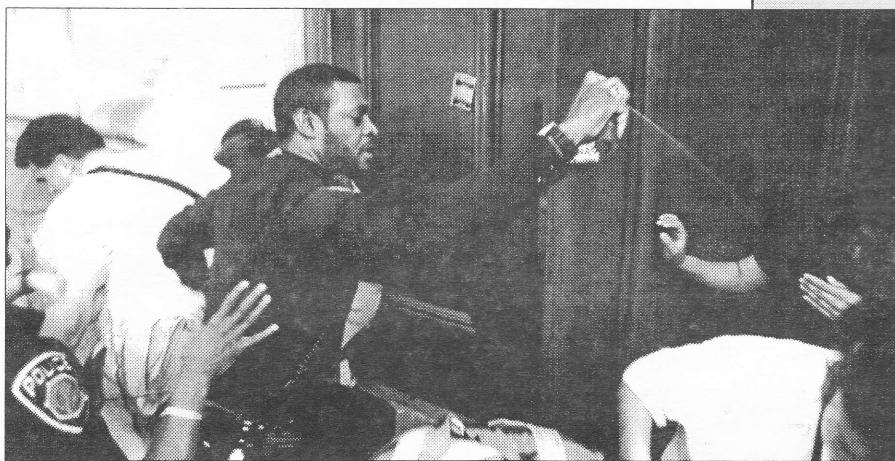
**Police may only spray once, at a distance of at least three feet.** The National Institute of Justice reported an incident in which police sprayed a youth with so much pepper spray that his clothes were soaked. Later, when the youth was shot with an electric stun gun, he caught on fire.

**Police must provide immediate medical care after use.** In a SFPD report on pepper spray prepared in the

wake of Aaron Williams' death, the department admitted that follow-up medical care occurred in only about half of the instances of pepper spray use.

**Police must report every use to the Department of Justice.** The same SFPD report admitted that at least half of these incidents were never reported. Oakland police use of pepper spray on Dozell Thomas, who died in police custody, was also not reported.

**Police may not use pepper spray for crowd control.** Earth First! demonstrators in Fortuna, California were sprayed indiscriminately by sheriff's deputies. Eureka police used pepper spray in April 1995 to disperse the



UCPD Lt. Beckford sprays non-violent student demonstrators.

crowd around a fight at a concert. Cops in Detroit and in Decatur, Illinois, have repeatedly pepper-sprayed striking workers. In 1993, UCPD Lieutenant Beckford allegedly sprayed non-violent student demonstrators.

According to the Berkeley Police Department Training Bulletin, "OC should be used only in situation where a weapon is absolutely required to control violent behavior, and only as an alternative to more extreme applications of force. It should never be used in an indiscriminate or punitive manner... OC will only be used after all other reasonable efforts to control a violent person have failed."

After BPD Officer Bertauche abused pepper spray, the Police Review Commission sustained a complaint against him. But given the rampant disregard for pepper spray regulations in the Bay Area and throughout California, can we trust the police to hold themselves back? The special danger of chemical

## myths & facts

**MYTH:** Pepper spray is safe.

**FACT:** Pepper spray can kill. In the last three years, at least 32 Californians have died in custody after police pepper-sprayed them.

**MYTH:** Police follow strict rules about when and how to use pepper spray.

**FACT:** Police ignore these rules. S.F. cops have given only half of their pepper spray victims the required medical care, and broke Department of Justice rules by reporting only half of the pepper spray incidents. Fortuna sheriff's pepper-sprayed demonstrators who were peacefully sitting on the sidewalk, at less than one foot away from the victims' faces. This is explicitly forbidden by the Sheriff's Department. At distances of less than three feet, police pepper spray can permanently blind.

**MYTH:** Police use pepper spray instead of more lethal weapons.

**FACT:** Police don't use pepper spray instead of other weapons. They use pepper spray in combination with other weapons. In each of the 35 deaths, police also variously beat, hog-tied, stunned with electric shock, attacked with a police dog, or shot the victim.

**MYTH:** Police use pepper spray in self-defense.

**FACT:** Police frequently use pepper spray to punish and inflict pain. BPD officer Bertauche put a gun to a man's head and pepper-sprayed him. When a witness objected, Bertauche sprayed her seven times. UCPD Lieutenant Beckford allegedly pepper sprayed peaceful protesters outside California Hall. And two weeks after San Francisco gave the family of Brian Sullivan \$295,000, the cop who killed him, Officer Wohler, allegedly tortured his best friend with pepper spray.

## COPWATCH Report

The COPWATCH Report is published by COPWATCH, a grassroots all-volunteer organization which works to defend the right of everyone in our community to fair treatment under the law.

To do this we need your support, energy, and ideas! Please call us or write us, or come to our weekly Monday meeting at 8 pm in our office:

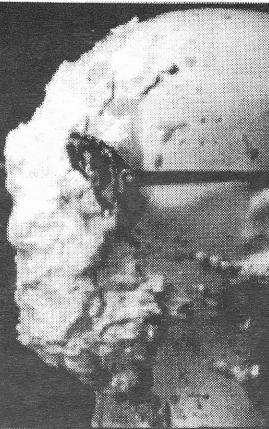
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(510) 548-0425

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## "Blindfolds" Hostile Subjects.



*Police pepper spray weapons include pepper foam and "muzzle blast" OC shotgun shells.*

weapons is that they may leave no marks. Holding police accountable, always a difficult task, is even harder when chemical weaponry leaves no bruises, and when scientists do not fully understand the chemical effects.

### DOES IT KILL?

Three years after the introduction of police pepper spray, none of the safety studies mandated by the California Department of Justice are finished. Most have not even been started.

The most influential study of pepper spray was conducted by the FBI in 1991. The "Quantico Study," overseen by Special Agent Thomas Ward, cleared pepper spray for law enforcement use. But in February, 1996, Ward pled guilty to accepting \$57,000 in bribes from Luckey Police Products, which manufactures one of the most widely-used brands of police pepper spray. The ACLU recently called on Attorney General Janet Reno to warn police departments not to rely on FBI pepper spray research.

No one knows just how deadly pepper spray is — yet cops use it every day.

In its 1995 report, the ACLU said, "adequate post-mortem tests simply do not exist to determine if pepper spray is the cause of or contributed to the death of people who died after they were sprayed."

A US Army study cited by the ACLU report states that "Pepper spray is capable of producing mutagenic and carcinogenic effects, sensitization, cardiovascular and pulmonary toxicity, neurotoxicity, as well as possible human fatalities," according to a 1993 US Army study. The Defense Technology Corporation of America - the largest pepper spray manufacturer in California - and the California EPA also

agree that pepper spray is at least toxic and may be lethal.

The California EPA warns, "so little is known about the residual effects of pepper spray that medical examiners may not know what to look for during an autopsy."

The studies may not be over, but the numbers of deaths — and lawsuits — are always increasing. Police departments and pepper spray manufacturers are on the defense.

Coroner's reports have listed asthma, schizophrenia, obesity, and other clearly non-fatal conditions as the cause of death, rather than admit that pepper spray may have been the deciding factor. Others just say "unknown causes." Law enforcement academics have recently settled upon "Sudden In-Custody Death Syndrome" as the most plausible-sounding term to explain away the rising number of deaths related to pepper spray.

Sudden In-Custody Death Syndrome — and its cousin, "excited delirium," — are vague, pseudo-medical terms that describe an overheating of the body, followed by death. Although Sudden In-Custody Death Syndrome only afflicts people who have been pepper-sprayed by cops, police claim to see no connection. The SFPD report on excited delirium described the cause of death as "not entirely clear...For whatever reason, agitation ceases, the patient becomes quiet, and then dies."

### JUST ANOTHER TOY

What do supporters of pepper spray say? The California Department of Justice claims that without pepper spray, cops would be forced to use their guns in many cases. State Senator Nick Petris claims that pepper spray successfully replaces the baton.

But too often, pepper spray is not

used instead of other weapons; it is used in combination with other weapons.

All of the 28 deaths studied by the ACLU involved some combination of pepper spray with batons, tasers, leg cuffs, hand cuffs and/or hogtying. Half were hogtied, nine were beaten with batons, two were stung with tasers, and one was placed in a choke hold. One was pepper-sprayed, stung with a taser, and shot with a gun. Police have simply added pepper spray to the multitude of weapons they simultaneously use against arrestees.

And police do not just use pepper spray in self-defense. Surrounded by other cops and with many weapons at their disposal, police often use pepper spray to punish and even torture people in their custody. SF police sprayed Aaron Williams last June after he was handcuffed, hog-tied, and made to lie on the street. Self-defense?

The variety and production of chemical weapons marketed to law enforcement continues to expand. The "Riotmaster," for example, can spew pepper spray farther than 25 feet, in a fog or stream, to "disperse crowds" and "facilitate cell extraction."

### MOVEMENT TO BAN SPRAY

Police use of pepper spray was recently banned in Australia, and organizers in Great Britain are campaigning to prevent police from ever getting it.

The National Coalition on Police Accountability, the East Bay National Organization for Women (NOW), the Northern California chapter of the American Friends Service Committee, and SF Supervisor Tom Ammiano are just a few of the people and organizations that have endorsed COPWATCH's campaign against police pepper spray.

Banning pepper spray in Berkeley would set an important precedent. If the Berkeley Police Department is serious about policing for the community, then it should not oppose a community that wants to ban police chemical weapons.

On May 22, COPWATCH will present the case against police pepper spray before the Police Review Commission. The PRC is empowered to recommend changes in police policy to the City Council. With the support of the PRC, COPWATCH will go before the City Council and take pepper spray out of the hands of Berkeley cops. 

BERKELEY POLICE REVIEW COMMISSION

# PUBLIC HEARING

## ON POLICE USE OF PEPPER SPRAY



STALEY WORKERS CAMPAIGN FOR JUSTICE

*Police in Decatur, Illinois, pepper-spray striking workers.*

**Weds. May 22, 1996 7:00 PM**

North Berkeley Senior Center, 1901 Hearst Ave. (at MLK)

## BAN POLICE USE OF PEPPER SPRAY

COPWATCH is asking the Police Review Commission to recommend a ban on police use of pepper spray. Since pepper spray's 1992 introduction, over 30 people have died in California after being sprayed by police, including Aaron Williams and Marc Garcia. There are no conclusive studies that prove pepper spray is safe. We don't need to tolerate exposure to dangerous chemicals! Come speak out!

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*If you or someone you know has been exposed to pepper spray and would like to testify at the hearing: Contact COPWATCH: (510) 548-0425*

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**COPWATCH:** 2022 Blake Street, Berkeley CA, 94704.