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		<b>POLICY # 800.06.02</b>	

## I. PURPOSE

To establish policy and procedures for the training, issuance, use, decontamination, and guidelines for monitoring exposure of Oleoresin Capsicum (OC) Aerosol Sprays by members of this Department.


## II. DISCUSSION

Officers are confronted daily with situations where control must be exercised to make arrests and to protect the public safety. Control can be achieved through advise, warnings, persuasion, or use of force. While force may be necessary in some situations, it should not be used indiscriminately. The law specifies under what conditions and to what extent force may be employed in North Carolina General Statute 15A-401 (d) Use of Force in Arrest. OC, commonly referred to as pepper spray, represents a use of force option that can stop an attacker with no lasting after effects. This is a soft deterrent, less-than-lethal force option available to officers that enhances their chance to neutralize aggressive situations before they escalate thus decreasing the chance of injury to officers, arrestees, and the public.

Among the chief advantages of an OC aerosol spray is that it allows police officers to stay out of reach of adversaries while still being in effective target range to spray the person. OC is an inflammatory agent that swells the mucous membranes, causes an immediate closing of the eyes, uncontrollable coughing, gagging, and gasping for breath. In addition, there will be an intense burning sensation of the skin and mucous membranes inside the nose and mouth. OC causes a subject to lose upper body control and incapacitates him, allowing him to be handcuffed and taken into custody.

## III. DEFINITIONS

- A. Oleoresin Capsicum (OC): OC is a naturally occurring substance. It is found in the oily resin of cayenne and other varieties of peppers – the same peppers used to “heat up” spicy foods.
- B. “Soft Hand” Techniques: Includes any touching or attempted touching by an officer, such as applying moderate pressure to turn, guide, or escort the person being arrested. Wrestling a suspect, pulling a suspect, and bending arms for handcuffing are higher levels of force than “soft hand” techniques.

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## IV. PROCEDURES

### A. General Principals

OC spray is a liquid spray containing oleoresin capsicum in sufficient concentration to produce a short period of pain, gagging, and loss of vision. Federal and state laws on the use of force generally regulate the use of OC spray. The following general principals apply to all use of force by law enforcement officers, including OC spray.


The law requires all citizens to submit peacefully to arrest and to cooperate with lawful orders of an officer during the arrest or custody process. Citizens must also refrain from contact that reasonably appears to create an imminent threat of physical harm to an officer in the performance of lawful duty. Reasonable force may be used to overcome resistance to lawful arrest, to enforce compliance with lawful orders of custodial officers, or prevent physical injury to the officer or others.

All force must be reasonably proportionate to the apparent need to overcome resistance to arrest or defend against an imminent threat of physical injury. Unreasonable and excessive force is never justified, nor is any force allowed to take action an officer knows, or reasonably should know, is lawful. OC cannot be used against a citizen who peacefully submits to arrest and complies with lawful orders during an arrest or stop.

Citizens have a right to express verbal disagreement with an officer's actions and no force can be used in response to offense language alone. OC spray cannot be used to retaliate against language that is merely offensive but is not imminently threatening. Language that is imminently threatening or loud shouting that significantly obstructs or delays performance of lawful duty is criminal and is not justified as mere verbal disagreement.

### B. Training

No officer of the Gastonia Police Department shall carry or use OC spray until the officer has attended and successfully completed the basic OC certification course developed by the Gastonia Police Department Training Bureau. Initial training will consist of a minimum of four (4) hours of instruction, which shall include both classroom and hands-on practical training. To familiarize the officers to the effects of OC, all officers will receive a controlled spraying of OC during the practical phase of the initial training.

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### **C. Departmental Issuance of OC**

All sworn personnel are required to undergo GPD OC aerosol training and certification. Uniformed Sergeants and below are required to carry OC spray. Any officer, regardless of rank, working in a uniformed off duty capacity will carry OC aerosol spray. Officers are authorized to carry and use only the OC sprays issued by the Gastonia Police Department.

### **D. Documenting Use of Force**

1. Any use of OC spray on a person or animal shall be documented in Blue Team/IAPro. The form shall include the following:
2. The officers and subject's actions and/or statements prior to discharging the OC spray.
3. The officer's approximate distance from the subject when discharged.
4. The approximate amount of OC spray discharged (number of bursts/seconds).
5. The amount of time after exposure for the OC spray to take effect.
6. Manner in which the subject is initially restrained following use of OC spray.
7. Officer's efforts to conduct after-use care on the subject.
8. Recovery time of the exposed subject.
9. Whether exposed subject received medical treatment and who provided the medical treatment (EMS, emergency room, etc.).


### **E. Rules on OC Spray as the Use of Force**

OC spray used in compliance with these guidelines is lawful non-deadly force. OC spray used in compliance with these guidelines is authorized to effect a lawful arrest, to prevent escape from lawful custody, or to defend the officer or another from what the officer reasonably believes is the imminent use of physical force, or to restore institutional integrity in a detention facility.

#### **RULE A.**

OC spray cannot be used against a person who:

1. Submits peacefully to arrest and complies with lawful commands during a lawful arrest, or

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2. Complies with lawful commands during a valid investigative stop or stop for citation purposes, or while in custody or detention.
3. Is expressing mere verbal disagreement that does not threaten or incite others to threaten an officer and is not significantly delaying or obstructing discharge of duty.


#### **RULE B.**

1. Verbal persuasion (verbalizing) and a warning are required before using OC spray if circumstances allow verbalizing and warning without risk to the safety of the officer or others. Verbalizing and warning are not required when the defendant resists “soft hand” techniques, or resists more substantial force, or when there is a risk to the safety of the officer or others if use of OC spray is delayed.
2. Non-threatening suspects who do not pose a significant risk to officer safety should not be sprayed unless verbalizing, warning, and “soft hands” have been attempted and resisted. This category includes suspects who are non-threatening and are very young, or old, or infirm or disabled in an obvious manner.
3. Non-violent demonstrators, who are subject to lawful arrest, and who engage in peaceful noncompliance should not be sprayed unless all other reasonable means have been exhausted to affect the arrest. Peaceful noncompliance is not considered resisting as described in section (2) of this rule. This section does not preclude the use of OC spray should the arrestee threaten the officer or physically resist the efforts to arrest which may result in a risk to the safety of the officer or others.

#### **RULE C.**

A person who refuses to submit peacefully to lawful arrest or attempts to escape from lawful custody, or refuses compliance with lawful orders during arrest, detention or custody is subject to the use of OC spray:

1. After the officer has attempted “soft hand” techniques and the arrestee resists the attempt, or
2. When the officer reasonably believes the use of “soft hand” techniques may jeopardize the officer’s safety, or
3. When the circumstances reasonably indicate that attempting “soft hand” control may lead to an escalation of force with a risk of serious physical injury to the person being arrested or to the officer.

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#### RULE D.

A person who assaults an officer, or whose conduct reasonably appears to be an imminent threat to the safety of the officer or others, who resists “soft hand techniques, or flees from lawful arrest or custody, is subject to use of OC spray. Verbalizing and warning are not required.

#### RULE E.


A prisoner lawfully confined in a detention or correctional facility, before or after conviction of a crime, is subject to the use of OC spray when:

1. The prisoner assaults or threatens imminent assault of any person, or by language or any conduct incites others to assault any person, or damages property of the facility or any person, or
2. The prisoner refuses to comply with a lawful command related to maintenance of the good order and security of the facility or court, or refuses to comply with a lawful command to do any act, or refrain from doing any act, that is necessary for legitimate safety concerns of the institution or court security purposes.
3. Officers are not required to enter a locked area or attempt “soft hand” control techniques before use of OC spray.
4. A warning before using OC spray is required if circumstances permit a warning without risk of injury to persons or property.

#### **F. Guidelines for Caring for Prisoners After OC Spray Use**

When the use of OC spray is necessary, the person being sprayed may experience elevated levels of emotional and physical stress. Officers using OC spray must follow the guidelines set forth in this Policy to ensure proper post-care of the arrestee who has been exposed.


1. Immediately advise the subject of the fact that OC spray was used. Reassure the subject of the temporary nature of the reaction to OC. Example: “You have been exposed to pepper spray. Don’t struggle. You will be ok. I have something to rinse your face and eyes.”
2. If circumstances allow, do not attempt to forcibly handcuff a sprayed prisoner immediately after spraying. Give the prisoner a brief opportunity, about 30 to 60 seconds, to react to the spray and overcome gagging and coughing. This gives the prisoner an opportunity to overcome the temporary effects of OC spray on the respiratory system unaffected by the physical stress of handcuffing.

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3. Some prisoner may panic and run blindly after being sprayed. Officers should anticipate the need to prevent injury during a panic reaction. Immediate restraint of a prisoner who panics may be necessary.
4. Rinse the affected areas with water or saline solution if available. Pour the liquid over the bridge of the nose so that it floods both eyes. Encourage the prisoner to blink his eyes repeatedly.
5. Officers should determine if the subject wears contact lens, Officers may handcuff a prisoner with hands in front if that is reasonably safe under the circumstances and when an opportunity is available, allow the prisoner to remove contact lens. First Responders may be called to help remove the contact lens from a sprayed prisoner.
6. Expose the sprayed prisoner to fresh air and ventilation. If circumstances permit after handcuffing the prisoner, delay putting the prisoner in a car for transportation until the OC spray has had a chance to dissipate. This delay may be as long as needed. Delayed transportation should occur only in instances in which it is reasonable to do so based on all surrounding safety and security factors.
7. Give the prisoner an opportunity to wash affected areas with soap and water after arriving at the Department or detention facility. Tell the prisoner to remove and wash contaminated clothing as soon as practical.
8. Officers should initiate immediate medical attention when: Gagging or breathing difficulties persist beyond an initial period of 2 to 4 minutes, or the prisoner loses consciousness, sweats profusely, appears sick, or Still significantly suffers from the effects of pepper spray more than 45 minutes after contamination.
9. If circumstances permit, when a prisoner complains of any medical problem, offer to take the prisoner to a hospital or be seen by EMS personnel. Advise the prisoner that any cost of medical care will be the prisoner's responsibility and will not be paid by the Department.
10. Ask if the prisoner suffers from bronchitis, asthma, or emphysema, or similar respiratory disease. If the answer is affirmative, initiate immediate medical attention – GEMS, E.M.T., Rescue Squad, or Emergency Room.

#### **G. Guidelines for Monitoring a Prisoner's Medical Condition**

Any prisoner can suffer a medical emergency during arrest or while in custody. For prisoners with a bad heart condition, the emotional stress of arrest may provoke a heart attack. Prisoner with severe asthma can suffer a fatal bronchial attack from emotional or physical stress, even though force used to arrest was minimal. Medical emergencies aren't


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necessarily signaled by telltale symptoms. Officers must be alert to a medical crisis in any prisoner, no matter how trivial the crime or uneventful the arrest. Officers must use reasonable care in responding to a prisoner's medical needs.

1. For all arrestees sprayed with OC spray, continually monitor the level of consciousness and breathing. While totally uninterrupted monitoring may not be possible, officers should look and talk to the arrestee on a frequent basis during custody. Arrestees who have been sprayed with OC should not be left alone in a car or in a room. Do not assume a silent arrestee is asleep or harmlessly intoxicated. Monitor the subject for approximately 45 minutes, or until the arrestee is released from custody or turned over to another agency.
2. The following prisoners are in a "SPECIAL ATTENTION" category for medical emergencies:
  - (a) Prisoners who run from officers, or violently resist restraint, or try to assault officers.
  - (b) Prisoners substantially impaired by alcohol or drugs.
  - (c) Prisoners who are breathing very rapidly, or sweating heavily, or exhibiting pallid skin.
  - (d) Prisoners engaging in deranged and irrational conduct or speech.
  - (e) Very obese prisoners or prisoners with a known medical condition like diabetes, a seizure disorder, asthma, or heart trouble, or are of advanced age.
  - (f) Arrestees with any other signs of injury that may have been received before or during the arrest.

For "special attention" prisoners, an officer should monitor a prisoner's breathing and consciousness on an uninterrupted basis, unless a law enforcement emergency prevents it. If feasible, try to monitor a "special attention" prisoner at all times during and after arrest until the prisoner is released from custody or turned over to another agency. If back-up officers are available, use two officers to transport "special attention" prisoners, whenever possible.

"Special attention" prisoners should be asked if they are suffering any serious medical condition. If a "special attention" prisoner wants to be taken to a health care facility, that request should be honored if possible. Advise the prisoner that the cost of medical care must be paid by the prisoner and will not be paid by the Department. "Special attention" prisoners should be handcuffed with hands in front, not behind the back, unless officer safety considerations make that too dangerous.

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Look for a Medic Alert bracelet or necklace in making the determination if the sprayed subject may be a “special attention” prisoner.

3. If any prisoner, “special attention” or otherwise:

- (a) Loses consciousness or
- (b) Stops breathing, or
- (c) Suddenly becomes incoherent, or
- (d) Begins to hyperventilate, or
- (e) Starts to look very sick

Medical personnel should be called or made available without delay. This duty may be satisfied by calling for an E.M.T. unit, or taking the prisoner to a hospital or medical facility, if one is relatively near. If a hospital or medical facility is not close by, the prisoner should be transported by ambulance or rescue squad.

- 4. Transport prisoners in an upright position with the seal belt buckled. Do not transport prisoners lying face down or face up on the back seat. Do not “hog tie” prisoners by connecting foot and hand restraints. An arrestee placed in a horizontal or prone position may be at risk of positional asphyxia. Do not gag arrestees or cover the mouth or nose.
- 5. Notify jail personnel that your arrestee has been exposed to OC.