



TIVERTON POLICE DEPARTMENT

GENERAL ORDERS

Individual: Oleoresin Capsicum (OC) Aerosol Spray		General Order Number: 390.40
Section: 300 – Law Enforcement Operations		Subsection: 90 – Use of Force
Amends/Supersedes: 3-4, 390.40 (10/10/2013), 390.40 (10/09/2017)		
Effective Date: 10/10/2013	Revised Date: 12/24/2020	Review Date: As Needed
Per Order Of: Patrick W. Jones, Chief of Police		
RIPAC: 2.12, 2.19		
Distribution: Sworn Department Members		

NOTE: This written directive is for the internal governance of the Tiverton Police Department, and is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

I. PURPOSE

To establish guidelines for authorized department members regarding the use of Oleoresin Capsicum (OC) Aerosol Spray.

II. POLICY

It is the policy of the Tiverton Police Department to recognize and respect the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required.

Therefore, it is the policy of this department that police officers will use only that force that is objectively reasonable to accomplish lawful objectives. The level of force used by an officer is directly related to the facts and circumstances encountered by that officer. This includes the use of less-lethal options such as Oleoresin Capsicum (OC) Aerosol Spray.

III. DEFINITIONS

Capsicum: Any of several varieties of the red pepper with pungent fleshy pods.

Less Lethal Force: Any use of force other than that which is considered lethal or deadly force.

Lethal Force: Any use of force that is likely to cause death or serious bodily injury. Lethal force is also referred to as deadly force.

Objectively Reasonable Force: Objectively reasonable force is that force which is necessary and appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who has actually used force. Objectively reasonable force is not judged with hindsight, and will take into account, where appropriate, the fact that officers must make rapid decisions regarding the level of force to use in tense, uncertain, and rapidly evolving situations. Important factors to be considered when deciding how much force can be used to apprehend or subdue a individual include, but are not limited to:

- A. The severity of the crime at issue;
- B. Whether the individual poses an imminent threat to the safety of the officers or others; and
- C. Whether the individual is actively resisting arrest or attempting to evade arrest by flight.

Oleoresin: A mixture of a resin and an essential oil occurring naturally in various plants.

IV. PROCEDURES

- A. Authorized Users
Only officers who have successfully completed the department's approved training program(s) are authorized to use OC spray.
- B. Issuance, Maintenance and Storage
 1. The department's OC Instructor will maintain an inventory of all issued and non-issued OC containers.
 2. The department's OC Instructor shall review, inspect, and approve all department issued OC containers prior to use.
 3. Officers are responsible for the care and security of department OC containers issued to them.
 4. Officers are responsible for the safe storage and handling of OC containers in their custody.
 5. Officers who have been permanently assigned an OC container shall not loan their issued OC container to any other person, nor surrender it to anyone except a supervisor or other person in lawful authority.
 6. All reasonable precautions shall be taken to keep department OC containers away from unauthorized personnel.
 7. Each officer is responsible for damage to OC containers caused by neglect or deliberate abuse.
 8. The department's OC Instructor shall inspect all OC containers and remove from use those OC's determined to be unsafe or expired during the required two (2) year re-certification training. Supervisors will inspect, and if applicable, remove OC containers from use during monthly inspections of their respective officers. The departments OC instructor will be notified of damaged or expired OC containers and make the necessary arrangements for the repair and replacement of the OC container, if possible.
 9. OC containers shall be stored at normal room temperatures and not be placed near excessive heat or open flames. Prolonged exposure to sunlight

or to temperature of more than 120 degrees F. may cause the canister to rupture. Prolonged exposure to temperatures below 32 degrees F. may cause OC aerosol spray to be ineffective.

10. All OC containers shall be turned in to the department OC instructor upon the officer's termination of employment.

C. Training and Qualifications

1. At least biennially each officer is required to demonstrate proficiency with the OC spray which he/she is authorized to use. Proficiency standards are established as follows:
 - a. Attainment of minimum qualification requirements in accordance with performance standards as determined by current training doctrine, methods, and/or trends;
 - b. Proper demonstration of recognized physical skills; and
 - c. Demonstrated knowledge of department policies pertaining to the use of OC spray;
2. The program of instruction will be conducted by a qualified instructor who has achieved and maintained certification in the use of OC Spray.
3. The Planning and Training Sergeant will maintain training documentation to include lesson plans, attendance sheets, and proficiency records.
4. Proficiency standards shall be satisfied prior to an officer being authorized to carry and/or utilize OC spray.
5. Officers who are unable to show proficiency with OC Spray in accordance with department testing procedures will be given remedial training by the department's OC instructor.
 - a. Upon successful completion of this training, the officer will be retested.
 - b. If after a second attempt the officer does not evidence proficiency, a report will be forwarded to the Chief of Police by the department's OC instructor.
 - c. The Chief of Police will then take such action as he/she deems necessary and not inconsistent with this policy.

D. Use of Oleoresin Capsicum (OC) Spray

1. Officers are authorized to use department-approved less lethal force options, to include OC spray, to accomplish lawful objectives, as follows:
 - a. To protect themselves or another from physical harm.
 - b. To restrain or subdue a resistant individual.
 - c. To bring an unlawful situation safely and effectively under control.
 - d. To maintain control of a person or situation.
2. Officers shall be permitted to carry and use OC aerosol spray with concentration of 1.33% Major Capsaicinoids and 10% Oleoresin Capsicum. As of the date of this General Order, the authorized OC spray is the Sabre Red Crossfire ® Non-Flammable.
3. OC spray containers shall be shaken vigorously and tested before initial use, and periodically thereafter. It is also recommended that containers be shaken before each use, if time permits.

4. OC spray is to be used in controlled, minimal amounts during a use of force incident , consistent with department policy and training.
5. OC spray shall be sprayed into the individual's face using 2 second bursts. If necessary, repeat, to achieve compliance keeping in mind the O.C. spray may not have an effect on a suspect even with an appropriate deployment.
6. Officers shall not use OC spray until it drips off the individual. Over spraying does not allow the carrier to vaporize, which delays or restricts the intended effects of spray. Officers are to keep a safe distance (4 to 6 feet) from the individual.
7. Use of physical force, including OC spray, shall be discontinued when resistance ceases or when the incident is under control.
8. Physical force, including the use of OC spray, shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person.
9. Officers should avoid using OC spray near an open flame or lighted tobacco products. Officers should avoid using OC spray if an Electronic Control Weapon (ECW) has been utilized or is about to be utilized.

E. After Use Procedures

1. After OC spray has been used, the individual will be handcuffed and searched for weapons. The individual will be promptly removed from the contaminated area, and his/her physical condition will be monitored by the arresting officer or other officers designated by a supervisor or the Patrol Shift Officer in Charge (OIC).
2. If the individual is wet from spraying, allow a few minutes for OC spray to dry before transporting the individual, when possible.
3. If applicable, allow the individual to wash with soap and water after arrival at a physically secure, prisoner processing area. Utilize the eye wash station or hose in the sally port to allow the individual to decontaminate. If OC is sprayed indoors or in a confined enclosed area, wash the surfaces with soap and water to decontaminate and remove the dried residue. Failure to do so may result in the unintentional exposure of OC spray to personnel and detainees.
4. After a individual has been taken into custody, a supervisor or the OIC shall make periodic checks for any physical or medical difficulties which might indicate respiratory or allergic reactions. If such a reaction is suspected, immediately have the individual transported to a medical facility for examination.
5. Symptoms of irritation should abate within 15 to 30 minutes from the time of spraying. If significant symptoms persist longer than 45 minutes, especially those affecting the eyes or the respiratory system, or an obvious dire reaction is observed, the individual shall be transported to a medical facility for immediate medical attention. Immediate medical attention shall also be provided to an individual requesting such attention.

F. Reporting Requirements

1. Use of OC spray is considered a use of force and the officer is required to complete a “*Response to Resistance/ Non-Compliance*” form. Officers will follow all reporting guidelines as described in General Order 390.10 “Use of Force”.
2. Officers shall report incidents of accidental OC aerosol spray discharges (discharges that are not used against a person) by completing an Interdepartmental Communication. The Interdepartmental Communication shall be forwarded to the Captain through the chain of command.