

Revised May 13-02, 5-31-06, 12-16-08, 2-7-12, 11-16-15, 6-8-20

DURHAM POLICE DEPARTMENT

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POLICY #: 1.3.4.1

SUBJECT: Use of Force: OC Spray

NOTE: This written directive is for the internal governance of the Durham Police Department, and as provided by RSA 516:36, 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.

PURPOSE

The purpose of this policy is to establish the training requirement circumstances, deployment and after-action practices regarding the use of hand-held canister Oleoresin Capsicum Spray, hereinafter referred to as OC spray.

POLICY

It is the policy of the Durham Police Department to arm its officers with those tools necessary to defend themselves or third person(s) from the use of force; OC Spray is no exception. Durham Police Officers shall only use that force which is both reasonable and necessary to accomplish lawful objectives.

GENERAL PROVISIONS

- An officer has a duty to intervene to prevent or stop the use of excessive force by another officer.
- All uses of force shall be documented and investigated pursuant to this agency's policies.
- An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate to reduce the need for force.
- Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

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PROCEDURE

Effective immediately, all uniformed patrol or all qualified officers shall carry OC spray while assigned to field duty as an alternative but not a substitute for other components of the force continuum. Department issued OC Spray may be carried off duty in the State of New Hampshire at the officer's discretion. When not in use in the home, officers shall take reasonable precautions to prevent OC spray from being accessible to small children.

Characteristics

- OC, unlike tear gas, is a highly concentrated form of peppers or other natural substances, therefore, is biodegradable. OC acts as an inflammatory to the mucous membranes of humans and animals.
- When applied to the face, it typically causes swelling of the mucous membranes, involuntary closing of the eyes, gagging, coughing, shortness of breath, and an intense feeling of burning on the exposed areas.
- Most persons encountering OC involuntarily bend at the waist or drop to their knees, even if they are intoxicated or in a highly emotional state.
- OC is usually effective, even against combative persons with reduced pain sensitivity and vicious animals.
- The symptoms are temporary lasting up to 45 minutes if untreated and decontamination is easier and more effective than with other chemical agents.
- The Federal Bureau of Investigation has studied and adopted OC as their official chemical agent.

Range/Tactics

- For maximum effectiveness, a targeted individual should be at a distance of not more than 10 feet. OC does not become activated in less than 4 feet, but a minimum of 6 feet is recommended in order to maintain a prudent reactionary gap.
- To be effective, OC spray must come in direct contact with the assailant's face, unlike tear gas, which is generally aimed below the face to waft upward.
- OC can be carried either strong or support side of duty belt as long as it doesn't interfere with other weapon systems.
- Due to close range of the encounter, it is extremely important for you to spray and IMMEDIATELY MOVE Laterally to side step an attempted attack.

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Precautions

- OC is only to be used for defensive purposes and in overcoming hostile resistance.
- Use reasonable caution prior to spraying OC on subjects who are physically engaged with other officers or not isolated from bystanders.
- Use caution when spraying OC under windy conditions so it does not blow back at you or an innocent person you are not seeking to arrest.
- Make sure your mode of carry is such as to avoid accidental activation.
- Recognize that OC is a non-lethal weapon and may be an inappropriate level of force against an attacker armed with a firearm, knife or other deadly weapon.
- When two officers are engaged in subduing an aggressive subject, it is the contact officer who determines if OC is to be deployed. The contact officer will announce his determination by shouting “SPRAY”.
- Officers shall maintain close observation of sprayed individuals in custody until it is determined that the effects of OC are wearing off.
- If any unusual effects appear other than what is considered OC effects; i.e. unconsciousness, unusual swelling of facial area, hives, itching or bleeding shall be medically treated immediately.
- All individuals who have been exposed to OC shall be transported in the upright seated position at all times. Subjects will not be hog-tied.
- Officers should be made aware that subjects sprayed by OC who are obese, extremely drug/alcohol intoxicated, hypertensive, excited, aggressive or have exerted more than normal amounts of physical activity or have other known medical problems are at greater risk of positional asphyxia. A second officer shall sit in the rear seat with the affected person, if there is a known medical problem.
- A medical questionnaire related to OC spray to determine if the exposed subject is predisposed to medical problems due to intoxication/drug or other medical issues will be completed by the officer and signed by the affected person.

Decontamination

- Undertake decontamination as soon as practicable once an attacker has been taken into custody.
- Instruct him/her to calm down and relax, handcuff him/her and tell him/her to try and breathe normally.

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- Move him/her to fresh air if possible.
- Flushing the affected area with cool water will speed recovery time. May pat the affected areas with dry or wet towels. Soap of a non-perfume or oil base may also be used. **DO NOT RUB.**
- In training, dipping the head in a bucket of water can sometimes re-contaminate as the face clears the water. Make sure there is fresh water each time a bucket is used.
- All symptoms should disappear within 30-45 minutes. If not, obtain medical attention immediately.
- If subject requests medical attention the officer shall provide medical assistance **IMMEDIATELY.**

Placement on the Force Continuum

- OC is considered an “intermediate weapon”, as a separate tactic on the force continuum.
- OC is to be used consistent with the Force Continuum as published by the New Hampshire Police Standards and Training Council.
- OC is a force option that may be employed at any time as appropriate and as dictated by (a) threat levels, (b) relative capabilities of officer such as physical exhaustion, martial arts skills, multiple suspects, etc., or (c) special circumstances which may require you to escalate quickly to OC skipping other steps on the force continuum.
- OC should NEVER BE USED ON A PASSIVELY RESISTING SUBJECT. It shall only be used against ACTIVE AGGRESSIVE RESISTANCE or a credible threat of aggressive resistance coupled with an apparent present ability to carry it out. **SPRAYING SHALL NOT CONTINUE ONCE THE SUBJECT HAS CEASED RESISTING.**

Use against an Officer

- If a suspect uses or threatens to use OC against you, block against it by protecting your eye area, breathing properly, disengaging and employing weapon control techniques.
- Your response to being threatened or sprayed with OC may include deadly force if you are unable to disengage and you reasonably believe you are about to be rendered completely vulnerable and in immediate danger of death or serious bodily injury.

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Care and Maintenance

- Shake your OC container on the **FIRST WORKING DAY OF EACH MONTH** to ensure that the active ingredient remains properly mixed, or before each use.
- After each use, report to the OC instructor to see if the can needs to be replaced.
- The OC instructor shall prepare an OC weapon inspection report (Force Option Training Form) and submit it to the Captain or his designee.
- If you do not use your OC regularly, test it at least every other month to be sure it still sprays properly and is not clogged.
- Do not expose your OC canister to direct sunlight for any length of time nor store it near heat or open flame or at temperatures in excess of 120 degrees Fahrenheit. Be sure to occasionally shake the canister after prolonged exposure to temperatures less than 32 degrees to insure proper mix.

- The Captain shall record the issue date of each OC container and replace unused containers in accordance with the manufacturers recommended expiration date.

Training

- No officer shall be issued or use OC spray until he/she has been trained in its use by a certified training officer or the Police Standards and Training Council or a similar course in this or another state.
- OC training shall include actual exposure to a brief burst of OC so the officer will realize its effects and that it should never be deployed indiscriminately or as a prank.
- The Durham Police Department requires all applicable employees be re-trained in the use of OC spray once every two years at a minimum. This policy is not meant to prevent less lethal instructors from conducting training every year if they prefer.
- OC instructors shall submit a Force Option Training Report for each officer trained. All reports will be submitted within one business day of course completion.