

USE OF FORCE

USE OF CHEMICAL DETERRENTS

Purpose: To establish policy and procedures for the carrying and use of chemical deterrents by members of the North Little Rock Police Department.

Policy Statement: It is the policy of the Department to provide the tools necessary for its personnel to do their jobs in a productive, effective and safe manner. The officers of the Department are being issued Oleoresin Capsicum (OC) so they may safely arrest combative, resisting and/or violent individuals. OC is not necessarily a replacement or substitute for otherwise less than lethal devices or tactics and should only be used when it is determined to be the best available enforcement tool or tactic under the given circumstances. OC is another tool that can be used at the discretion of the officer when the decision is made that the use of force is reasonable under the circumstances. OC is not intended to be an alternative to use of deadly force when deadly force is clearly authorized and is necessary as described in PD 11-1. As with any use of force, the officer will be accountable to the Department for the use of OC. A subject control supplement, PD 11-2, will be completed in addition to any other reports anytime OC is used.

Summary of Changes: Section 5 removed requirement for officer to carry towelettes/spray for OC spray decontamination.

Definitions:

Directional Control: is the minimum physical force required to direct or restrain the movement by means of holding with one's hands or arms.

Oleoresin Capsicum (OC): is a nonlethal aerosol spray made with the pepper derivative oleoresin capsicum; used to cause temporary blindness and incapacitation of another.

Procedure:

1. General

- 1.1 Only employees trained and certified by the Training Unit in the use of chemical deterrents may carry or use OC. [CALEA 1.3.10]
- 1.2 Only Department issued chemical deterrents will be carried by on-duty members of the Department, or by off duty members acting in a law enforcement capacity. The Department issues both the foam canister and the burst canister.
- 1.3 OC may be used in situations:
 - 1.3.1 To defend against imminent physical attack;
 - 1.3.2 To control animals when necessary;
 - 1.3.3 Where verbal compliance techniques have been ineffective and employees must use physical force in excess of directional control to effect an arrest, or;
 - 1.3.4 To effect the removal of a person from an automobile or an enclosed area when it becomes apparent physical force in excess of directional control will be necessary to remove the person.
 - 1.3.5 The use of directional control will not be a prerequisite to the use of OC if the application of directional control has the potential for increased risk of injury to any person.
 - 1.3.6 The use of directional control will not be a prerequisite to the use of OC if a subject is demonstrating an assaultive, combative or threatening posture.
 - 1.3.7 The use of chemical deterrents will be documented in the incident report, ADR and use of subject control supplement as outlined in PD 11-2. [CALEA 1.3.6c, d]
 - 1.3.8 Members authorized to carry and use chemical deterrents are responsible for exchanging an expired OC canister for a new canister at the Training Unit. Depleted or malfunctioning canisters will be exchanged as soon as practical. [CALEA 1.3.9d]

2. Restrictions on use of OC

- 2.1 Members will avoid the use of OC spray in areas where the use of OC could reasonably cause a panic, such as spraying in a darkened movie theater, or in any location where innocent bystanders may be affected.
- 2.2 OC will only be used as a control and compliance measure and will not be used as a means of punishment or interrogation.

- 2.3 Members will use only the amount of OC reasonably needed to effectively control the situation. Once control is obtained, the use of OC will be discontinued.
- 2.4 Intentionally spraying a person's groin area with OC is not permitted except in a confrontation where deadly force would be justified.
- 2.5 Members will not engage in horseplay with OC.
- 2.6 Members using OC must take all possible precautions to ensure they spray only the intended violator.
- 2.7 OC spray will not be used in detention facilities unless there is an immediate threat of serious physical injury. OC foam may be used in detention facilities; however, subject control within the confines of detention facilities will be deferred to detention personnel when possible.
- 2.8 Only OC issued in the foam canister is allowed to be utilized inside a building or in an enclosed area. This should not be construed as to disallow the use of the burst OC for vehicle extractions or residential extractions.
- 2.9 Only the foam OC canister should be utilized when working an indoor assignment or an assignment related to a large organized gathering of people.
- 2.10 Members will indicate on the ADR that OC was used on the arrested party and the time it was used, so detention employees will know to observe the subject if it has not been 45 minutes since the OC was used on the subject.

3. Defense against use of OC

- 3.1 When an officer is confronted by an assailant, attacker or suspect holding, wielding or threatening the officer with an OC aerosol, the officer will make reasonable efforts to minimize the amount of self-defense force applied.
- 3.1.2 The officer confronted must understand if the person is successful in spraying the officer with OC, the officer will be at the mercy of the person, person's companions or others for an extended (up to 45 minutes) period of time. It is foreseeable and reasonable to believe during this time the officer may be disarmed, killed or seriously injured.
- 3.1.3 If the officer can reasonably retreat safely to a distance outside of the foreseeable range of the OC (a minimum of 25 feet) the officer should do so, provided the retreat does not create substantial additional risk of harm or injury to the officer or others.
- 3.1.4 If the officer confronted by a suspect wielding or threatening the officer with OC cannot safely retreat from the scene, or if there are not sufficient backup officers present to protect the officer from attack or injury after OC exposure, the officer may use reasonable force against the OC attacker.

4. Large Volume OC Fogger

- 4.1 After proper training, supervisors will be issued hand held OC fogger units. Use of the OC fogger will be at the discretion of the ranking supervisor on the scene of a large public disturbance. The ranking supervisor at the scene may direct a senior officer to use the fogger unit. This use must be under the direct supervision of a supervisor who has been trained in the use of the fogger unit.
- 4.2 The ranking supervisor at the scene must consider the following before the use of the OC fogger unit:
 - 4.2.1 The necessity for the use of the OC fogger;
 - 4.2.2 The direction and speed of prevailing winds;
 - 4.2.3 The location and relocation of all officers at the scene;
 - 4.2.4 The ability to insure the safety of affected persons if possible, without subjecting officers to undue hazard;
 - 4.2.5 The traffic flow on nearby streets that may be affected by the spray; and
 - 4.2.6 The possible effects on nearby innocent citizens.
- 4.3 A warning should be issued prior to use of the fogger, in a manner that will allow as many violators as possible to hear the instructions. An example of a possible warning follows:
 - 4.3.1 "You are ordered to immediately leave the area in an orderly manner or you will be exposed to pepper spray and subject to arrest."
- 4.4 The OC fogger may be used in the following situations:
 - 4.4.1 A hostile or disorderly crowd has been identified;
 - 4.4.2 A threat has been posed to officers on the scene;
 - 4.4.3 A violation of public peace or order exists;
 - 4.4.4 Lawful orders have been given for the crowd to disperse, and an OC fogger warning has been given to the crowd; or
 - 4.4.5 It has become apparent that physical force will be required to disperse the crowd and to restore public peace and order.
- 4.5 The OC fogger will not be used in the following situations:
 - 4.5.1 In a confined indoor area;
 - 4.5.2 On offenders closer than 15 feet;
 - 4.5.3 Once officers have been sent into an area to effect arrests; or
 - 4.5.4 Toward the facial area of the offenders.

4.6 OC fogger units will be assigned to each patrol supervisor as quantities allow.

4.6.1 The OC fogger will be stored in the patrol supervisor's vehicle out of direct sunlight in an area of the vehicle where the temperature will not exceed 120 degrees Fahrenheit.

4.6.2 The restraining pin must be kept in place on the handle until the fogger unit is ready for use.

4.6.3 The ultimate responsibility and accountability for the care of the OC fogger unit rests with the patrol supervisors.

4.6.4 Additional OC fogger units are stored at the Training Unit.

5. OC Decontamination

5.1 After use of OC on a person has resulted in control being established, the officer will make reasonable efforts to provide relief from the discomfort associated with OC. Metropolitan Emergency Medical (MEMS) or North Little Rock Fire Department (NLRFD) will be requested to respond to the scene for decontamination. Consumable water may also be used to facilitate decontamination of an affected subject before MEMS or NLRFD arrive on scene.

5.2 MEMS will be called to the scene immediately if the OC exposed person requests them.

5.2.1 Medical attention will be provided to the exposed person, whether requested or not, if the officer reasonably believes the affected person is in need of medical treatment. [CALEA 1.3.5]

Mike Davis
Chief of Police