

## RESPONSE TO RESISTANCE OR ASSAULTIVE BEHAVIOR

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### USE OF CHEMICAL DETERRENTS

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**Purpose:** To establish policy and procedures for carrying and using chemical deterrents by department members.

**Policy Statement:** This department's policy is to provide the tools necessary for its members to do their jobs productive, effective, and safely. The officers of this department are issued Oleoresin Capsicum (OC) to arrest combative, resisting, or violent individuals safely. OC is not necessarily a replacement or substitute for otherwise less than lethal devices or tactics. It should only be used when determined to be the best available enforcement tool or tactic under the given circumstances. OC is another tool that can be used at the officer's discretion when the decision is made that the response to resistance/assaultive behavior is reasonable under the circumstances. OC is not intended to be an alternative to deadly force when deadly force is authorized and is necessary, as described in PD 11-1. As with any response to resistance/assaultive behavior, the officer will be accountable to the agency for the use of OC. Therefore, officers will complete a Response to Resistance/Assaultive Behavior Supplement (PD 11-2) and any other required reports using OC. [CALEA 4.1.4]

**Summary of Changes:** Added 1.2.1

#### Definitions:

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

#### Procedure:

##### 1. General

- 1.1 Only employees trained and certified by the North Little Rock Police Training Unit regarding chemical deterrents may carry or use OC. [CALEA 4.3.2]
- 1.2 Only department-issued chemical deterrents will be carried by on-duty members of this department or by off-duty members acting in a law enforcement capacity. [CALEA 4.3.1a]
  - 1.2.1 All members assigned to patrol duties will be required to carry OC spray.
- 1.3 Possible situations for the use of OC spray:
  - 1.3.1 To control animals when necessary;
  - 1.3.2 When an officer reasonably believes that they need to use OC spray to effectively control a situation and prevent it from escalating to a more physical response to resistance/assaultive behavior.
  - 1.3.3 Officers should never use OC spray as a punitive measure.
  - 1.3.4 Officers should not spray from a pressurized can directly into a subject's eyes from a close distance due to the potential for eye injury. Officers should not spray directly into a subject's eyes from a distance closer than three feet or the space recommended by the manufacturer (whichever length is shorter) unless deadly force is justified.
  - 1.3.5 Officers should consider alternatives to OC spray when attempting to control a subject in a crowded or enclosed/poorly ventilated area. The OC can contaminate the officer(s) and affect others in the room without meaning to do so.
  - 1.3.6 Members authorized to carry and use chemical deterrents are responsible for exchanging an expired OC canister for a new canister at the Training Unit. Officers will exchange depleted or malfunctioning canisters as soon as practical. [CALEA 4.3.1d]
  - 1.3.7 Once control is gained, officers should immediately provide for the decontamination of the subject when reasonable and practical to do so.

- 1.3.8 Officers will call for emergency medical services (either NLRFD, MEMS, or both, whichever is more appropriate) to assist in decontamination and ensure the subject is recovering and not in physical distress. [CALEA 4.1.5]
- 1.3.9 The use of OC spray will be documented on the Arrest Disposition Report (ADR), so intake officers know to observe the subject if 45 minutes have not passed since the time of use.
- 1.3.10 The use of OC spray will also be documented in the general report and Response to Resistance or Assaultive Behavior Supplement as outlined in PD 11-2. [CALEA 4.2.1c]

## **2. Defense Against the Use of OC**

- 2.1 The officer must understand that if a person successfully sprays them with OC, the officer will be at the mercy of the person, person's companion, or others for an extended (up to 45 minutes) time. It is foreseeable and reasonable to believe that the officers may be disarmed, killed, or seriously injured during this time.
- 2.2 When confronted with OC spray and the officer cannot safely retreat, or insufficient backup officers are present to protect the officer from attack or injury after OC exposure, the officer may use reasonable force against the OC attacker.

## **3. Large Volume OC Fogger**

- 3.1 After proper training, supervisors will be issued handheld OC fogger units. Use of the OC fogger will be at the discretion of the ranking supervisor on a significant public disturbance scene. The ranking supervisor at the location may direct a senior officer to use the fogger unit. The trained supervisor will maintain direct supervision over the officer using the fogger.
- 3.2 The ranking supervisor at the scene must consider the following before the use of the OC fogger unit:
  - 3.2.1 The necessity for the use of the OC fogger;
  - 3.2.2 The direction and speed of prevailing winds;
  - 3.2.3 The location and relocation of all officers at the scene;
  - 3.2.4 The ability to ensure the safety of affected persons, if possible, without subjecting officers to undue hazard;
  - 3.2.5 The traffic flow on nearby streets that may be affected by the spray; and
  - 3.2.6 The possible effects on nearby innocent citizens.
- 3.3 A warning should be issued before using the fogger to allow as many violators to hear the instructions. An example of a possible warning follows:
  - 3.3.1 "You are ordered to immediately leave the area in an orderly manner, or you will be exposed to pepper spray and subject to arrest."
- 3.4 Officers may use the OC fogger in the following situations:
  - 3.4.1 A hostile or disorderly crowd has been identified;
  - 3.4.2 A threat has been posed to officers on the scene;
  - 3.4.3 A violation of public peace or order exists;
  - 3.4.4 Lawful orders have been given for a crowd to disperse, and a warning issued; or
  - 3.4.5 It has become apparent that physical force will be required to disperse the crowd and restore public peace and order.
- 3.5 Officers will not use the OC fogger in the following situations:
  - 3.5.1 In a confined indoor area;
  - 3.5.2 On offenders closer than 15 feet;
  - 3.5.3 Once officers have been sent into an area to effect arrests; or
  - 3.5.4 Toward the facial area of the offenders.
- 3.6 OC fogger units will be assigned to each patrol supervisor as quantities allow.
  - 3.6.1 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.

- 3.6.2 An officer must keep the restraining pin in place until the fogger unit is ready for use.
- 3.6.3 The ultimate responsibility and accountability for the care of the OC fogger unit rest with the patrol supervisors.
- 3.6.4 Additional OC fogger units are stored at the Training Unit.

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