

FRAMINGHAM POLICE DEPARTMENT		Next Review Date: Annually
Subject: Oleo-Resin Capsicum Spray		Effective Date: 07/13/20; Rev. 12/01/22
Category: 100 - Operations		Expiration Date: Indefinite
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.1.2 , 1.1.4 , 1.1.5		POLICY 100-13
Distribution: Sworn Personnel	Issuing Authority <i>Lester Baker</i> Lester Baker Chief of Police	

Policy Statement

All sworn members of this department will be issued and allowed to carry an approved Oleo-Resin Capsicum (OC) spray device for use as a non-lethal weapon. This device is intended as an adjunct, not a replacement for the approved baton and/or other issued weapons. The department-issued OC spray device will be carried at all times by on-duty personnel when assigned to the patrol, detective bureau, and while working details. It will be carried whenever practical by officers assigned to administrative positions while on duty. Officers may also carry the department-issued OC spray device while off duty.

Oleo-Resin Capsicum (OC) is a naturally occurring derivative of the cayenne pepper plant. OC is non-toxic and its effects temporary. OC acts as an inflammatory agent on the mucous membranes, eyes, and respiratory system. Officers are only permitted to carry the department issued Sabre Red MK Crossfire Spray-MFG#TKO47. No other products are permitted with the exception of approved water-based OC spray that may be issued to detectives or plain clothes assignments.

Special Terms

Actively Resistant Individual: An individual who uses physical strength and/or body movement to resist a Department member. Examples of active resistance include pulling, turning, or walking away from an officer.

Passively Resistant Individual: An individual who is uncooperative but does not use physical strength or body movement to resist a Department member.

Positional Asphyxia: A form of asphyxia which occurs when someone's position prevents the person from breathing adequately.

Totality of Circumstances: Those circumstances that would lead an objectively reasonable officer to believe that he/she is encountering a situation that may require the use of force on a subject. Circumstances to consider may include the nature of the offense, seriousness of the offense, size and strength of the subject, number of subjects, availability of weapons, mental instability of the subject, availability of other force options, training and experience of the member and subject, environmental factors, and availability of back up and specialized units. This list is not meant to be exhaustive.

De-Escalation Tactics. Proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options and resources are available to gain a person's voluntary compliance and to reduce or eliminate the need to use force including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, and requesting additional resources to resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals, as defined in subsection (a) of section 51½ of chapter 111, to address a potential medical or mental health crisis. De-escalation shall include, but is not limited to, issuing a summons instead of executing an arrest where feasible.

Less Lethal Force Less lethal force is that degree of force, which is neither likely nor intended to cause death or serious physical injury. It is usually employed as a defensive measure. Officers are trained and issued less lethal police equipment, Oleo Resin Capsicum (OC), Expandable Baton (ASP), Conducted Energy Weapons (CEW), Kinetic Energy Impact Weapon and a Department K-9 when available, to provide them with an advantage when fending off or subduing an unarmed assailant. Officers are authorized to use less lethal force that is reasonably necessary and proportionate where de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances.

Policy

I. Guidelines for the Use of OC Spray 1.1.4

OC spray is considered a use of force and shall be employed in a manner consistent with the Department's use-of-force policy for the following three reasons:

- to protect an officer or other person from an assault,
- subdue a person who actively resists arrest;
- control persons engaged in riotous or violent conduct.

The use of OC Spray is not intended to replace tactics or training that can be utilized to calm or control a person, or to de-escalate a situation and avoid the use of force. It is not appropriate to use OC Spray on subjects who are compliant or who are exhibiting only passive resistance.

Officers shall only use OC Spray when it is objectively reasonable, necessary, and proportionate to effectively and safely resolve an incident, based on the totality of circumstances, and in accordance with the Department's use of force policy. Officers are reminded that the effectiveness of OC Spray varies from individual to individual and officers should use extreme caution when handling a subject who is not affected by OC Spray.

Officers are further trained that whenever a particular force option is utilized against an individual who fails to comply with the reasonable and lawful commands of the officer(s), that particular force option shall terminate, when it is deemed to be objectively reasonable that a subject is fully within the law enforcement officers' control.

An officer may use deadly force to protect himself or herself from the use or threatened use of OC Spray toward the officer, when the officer reasonably believes deadly force will be used against them if they become incapacitated from the effects of the OC Spray.

A. OC Spray May Be Employed in the Following Situations: 1.1.4

1. Where passive resistance techniques have failed and officers may have to use physical force to maintain control;
2. When the subject actively resists arrest;
3. When the subject has manifested the intention to actively resist arrest;

4. When the subject refuses to comply with an officer's lawful commands if compliance with those commands is, under existing circumstances, essential to the safety of the subject, the officer or the public, and other means of obtaining compliance are ineffective or not feasible;
5. When the subject is attacking, or is about to attack a person;
6. In any other situation where the use of that degree of force is justified under the law and is in accordance with department policy.

B. OC Deployment Considerations

1. Unless it is impractical, unreasonable or dangerous to do so, before employing OC spray, officers should verbally warn the subject that the OC "pepper" spray will be used if compliance is not forthcoming. Prior to discharging the OC spray, when feasible, officers shall permit a reasonable period of time to allow compliance with the warning. De-escalation efforts should always be made when practical.
2. Officers should avoid the use of OC in areas where the use of OC could reasonably, and could be foreseen, to cause a panic, e.g. spraying OC in a darkened movie theater.
3. Officers must also be aware that employing OC spray indoors, especially in confined areas, increases the risk of contaminating the officer, other officers and bystanders.
4. OC shall only be used as a control and compliance measure and shall never be used for any illicit or unlawful purpose. Once a subject has been subdued and brought under control, there is no further justification to continue the use of OC spray.
5. Officers should not use OC Spray against the elderly or children unless exceptional circumstances are present that pose an immediate threat of harm to the member or another party and no reasonable alternative is available.
6. Under all circumstances, the use of OC shall be consistent with any applicable state or federal law, the Department's use-of-force policy and the manufacturer's specific guidelines for use. Effective range will be determined by the specific OC product being used and the environmental factors, including wind, rain, snow, ventilation, etc.
7. Officers are advised to administer two (2), one (1) second bursts from at least three (3) feet away from the subject unless exceptional circumstances require otherwise. Each deployment of OC spray constitutes a separate use of force and must be justifiable.

8. Two (2) one (1) second bursts should be directed into the primary target area which consists of the subjects: face, eyes, nose, and mouth.
9. When employing OC outdoors the officer should position themselves upwind from the subject before spraying.
10. Except under extreme conditions, OC should not be employed when other officers are within the spray area. Where possible, the spraying officer shall clearly verbalize a warning to other officers that the use of OC spray is imminent and the other officers should immediately vacate the spray area.
11. Officers shall not ordinarily use OC Spray on a person who is handcuffed or otherwise restrained. If such a person, however, is still combative and/or violent, **and** presents an imminent threat to the safety of the officer or others, officers must first attempt to exercise additional control over the individual by using hands-on control measures or arrest control techniques before the use of OC Spray is justified. Any officer who uses OC Spray on an already restrained person must be able to articulate the facts and circumstances that justified the use of OC Spray under these circumstances.
12. Officers are prohibited from using OC Spray to disperse crowds or others unless those crowds or others are committing acts that endanger officer or public safety and security, participants refuse to obey lawful orders to disperse and the use of OC spray is objectively reasonable, necessary, and proportional.

C. The Effects of the OC Exposure and Officer Response

1. Officers should avoid entering the sprayed area for several seconds to limit the possibility of cross contamination.
2. The effects of OC will vary among individuals therefore; all subjects shall be handcuffed as soon as practical after being sprayed.
3. Officers should be prepared to employ other means to control the subject - to include other force options, if necessary, that are consistent with Department policy - if the subject does not respond sufficiently to the spray and cannot be otherwise subdued.
4. Once handcuffed, a contaminated subject should not be placed faced down due to the risk of positional asphyxia. Officers shall monitor handcuffed subjects.

D. OC Decontamination Procedure

Once control of the subject has been established, and/or resistance has ceased, the officer will make reasonable efforts to allow the OC effected subject relief from the discomfort associated with the application of OC, this should usually occur within twenty (20) minutes of the OC deployment.

1. Fresh air will normally begin reducing the effects of OC spray within 15 minutes of exposure.
2. Severe symptoms of OC exposure are expected to disappear in forty-five (45) minutes or less with only minor after effects (red skins, mild burning sensation).
3. Officers should provide assurance to the sprayed subject that the effects are temporary and encourage them to relax.
4. Reasonable OC decontamination efforts may include (as practical under the circumstances of the exposure):
 - a. Removing the effected person from the spray area to an area of fresh air or providing some other ventilation.
 - b. Keeping the person calm by calmly informing the person of the anticipated effects of the OC exposure.
 - c. Instructing the affected person to blow his/her nose to remove any lodged OC particles
 - d. Allowing the affected person to flush the affected area with saline solution or clear water (if available) to relieve the inflammation to the eyes and skin
 - e. If practicable, the affected person should be allowed to wash all effected skin areas with soap and water
 - f. Arrange for professional medical attention if the person complains of an injury other than from the effects of OC spray. If serious symptoms persist after forty-five (45) minutes from OC exposure, or if the officer reasonably believes that the person needs medical attention.

Allow the person affected to change contaminated clothing (when/if practical to do so).

5. Do not put any type of salve on the affected areas of the skin. This will trap the particles which are present against the skin. Salve includes; butter, cold cream, Vaseline, lanolin and other similar materials.
6. Secondary contamination or effects on the user are generally negligible. The subject may be handled immediately after exposure. The user should exercise caution to avoid contact between their hands and face until thoroughly washed with soap and water.
7. Immediately after spraying the subject, officers shall be alert to any indications that the individual needs medical care. If symptoms persist beyond 45 minutes, with no signs of dissipation or the subject exhibits signs of respiratory distress, emergency medical care shall be provided.
8. Officers shall transport sprayed subjects to the hospital for treatment when they complain of continued effects after decontamination or they indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis, heart ailment, etc.) that may be aggravated by the application of OC spray.
9. After any level of less lethal force is used, the officer shall immediately evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when: [1.1.5](#)
 - a. That person has a visible injury; or,
 - b. That person complains of injury or discomfort and requests medical attention.

NOTE: Any person requesting and/or deemed in need of immediate medical attention shall be transported by ambulance (in accordance with departmental transportation procedures) to the nearest available emergency treatment center or hospital. All medical treatment received shall be noted in the officer's report.

E. OC Spray Reporting Requirements

Any use of OC spray shall be reported to the officer's immediate supervisor as soon as possible. This includes intentional, unintentional, and accidental discharges.

1. The discharge of OC spray to accomplish a police objective requires a use of force report. See Framingham Police Use of Force Policy 100-4. The reports shall include, but not be limited to, the following information:
 - a. Date and time of OC use
 - b. A list of all participants, including supervisors and witnesses to the incident
 - c. An accounting of the events leading to the use of OC
 - d. A description of the incident and reason(s) for using OC
 - e. A description of any injuries suffered and the treatment given.

F. Safety in Storing and Maintaining Oleoresin Capsicum

Officers should avoid storing OC in direct sunlight or in areas where the temperature can exceed 120 degrees Fahrenheit. As a matter of routine maintenance, inspect OC canisters for any signs of erosion, leakage, dirt in the nozzle, fullness and/or damage.

G. Training Requirements

1. Only officers who have successfully completed the prescribed course of instruction on the use of OC are authorized to carry and use OC Spray.
2. Officers will be re-certified as required every other year.
3. The Policy on Use of Force and OC will be reviewed during each OC training and prior to being issued.
4. De-escalation techniques will be discussed during training.