

## 1378 USE OF OLEORESIN CAPSICUM SPRAY

Chapter: **Juvenile Justice Field Services**

Section: **Authority Limitations**



New Hampshire Division for Children, Youth and Families Policy Manual

Policy Directive: **15-52**

Effective Date: **November 2015**

Scheduled Review Date:

Approved:

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Lorraine Bartlett, DCYF Director

Related Statute(s): [RSA 169-B](#), [RSA 169-D](#), [RSA 170-G](#), and [RSA 627:4](#)

Related Admin Rule(s):

Related Federal Regulation(s):

Related Form(s): [FORM 1360](#), and [FORM 1379](#)  
Bridges' Screen(s) and Attachment(s):

The Division is committed to professionalism in its delivery of Juvenile Justice Services and recognizes its responsibility to promote the safety of Juvenile Probation and Parole Field Staff when exercising their statutory duties. Policy, training, and practice shall be focused on meeting these standards while striving for zero use of force incidents. However, understanding that there may be limited times when the use of force is necessary, JJS staff are authorized to use force, in accordance with this and any other applicable policies and laws, as a last alternative after all other reasonable efforts to resolve a situation have failed or are determined unnecessary due to the emergent nature of an incident.

### Purpose

This policy establishes a work standard that governs the use of Oleoresin Capsicum Spray (O.C. Spray) by JJS staff for the purposes of protecting themselves or others from imminent physical harm while exercising their powers and duties pursuant to RSA 170-G:16. This policy also establishes guidelines for the proper use and care of Division-issued O.C. Spray.

### Definitions

"**DCYF**" or the "**Division**" means the DHHS Division for Children, Youth and Families.

"**Imminent Danger**" means an immediate threat of harm which could reasonably be expected to cause death or serious physical harm.

"**JJS**" means the Bureau of Field Services' Juvenile Justice Services within DCYF.

"**JJS Staff**" for the purpose of this policy, means staff employed as a Juvenile Probation and Parole Officer, Juvenile Probation and Parole Supervisor, or Juvenile Justice Field Administrator.

"**Oleoresin Capsicum Spray**" (also known as "**O.C. Spray**" or "**pepper spray**") means a chemical compound recognized to be a significant skin and mucus tissue irritant; generally recognized to be a non-deadly weapon, it is used to subdue and deter an attacker or assailant, either human or animal.

### Policy

I. JJS staff who have been authorized to use O.C. Spray are responsible for maintaining knowledge on the characteristics of O.C. Spray and the medical considerations that are required when it is used. Refer to [Facts About O.C. Spray](#) for more information.

II. GENERAL PRINCIPLES:

- A. Nothing in this policy shall be deemed to supersede or alter the expectation for JJS staff to comply with DHHS policy entitled "[Firearms and Illegal Weapons Prohibition](#)" or any subsequent revisions thereto.
- B. O.C. Spray may only be used by JJS staff within the scope of their statutorily authorized powers and duties as established by RSA 170-G:16 in accordance with this policy when other means of de-escalation or safe departure have been exhausted or are determined impractical due to the emergent nature of the threat.
- C. **O.C. Spray must never be used on a passively resisting subject.**
- D. JJS staff shall comply with the requirements of [policy 1379 "Use of Force"](#) and RSA 627:4 "Physical Force in Defense of a Person."
- E. The benchmark for determining the authorization for any use of force shall be a conclusion made by JJS staff based upon the knowledge and information available at the time which would cause a reasonable person to believe under the circumstances, that the use of force was necessary to maintain safety.
- F. O.C. Spray shall only be used by JJS staff who have completed mandatory training by the Organizational Learning Team including, but not limited to: de-escalation techniques, use of force, the use and care of O.C. Spray, its safety, and the constraints on its use.
  - 1. Successful completion of annual refresher training, including inspection of issued O.C. Spray canisters, is mandatory for JJS staff to maintain authorization to use O.C. Spray.
- G. Only O.C. Spray canisters issued by DCYF and in proper working condition shall be used by JJS staff in the exercise of their duties during approved work hours.
  - 1. Any canisters used, damaged, non-functioning, or accidentally discharged shall be immediately returned by the JJS staff to their direct supervisor for replacement.
  - 2. The JJS staff shall submit a written Form 1360 "Equipment Inventory and Equipment Incident Report" explaining the circumstances along with a request for replacement through their direct supervisor.
- H. JJS staff must ensure DCYF-issued O.C. Spray canisters are available at all times during work hours. When carrying O.C. Spray outside of New Hampshire, JJS staff must have DCYF-issued identification to present to any duly authorized state or federal authority when requested.

**Procedures for Assessing the Need and the Use of O.C. Spray**

- I. O.C. Spray is a defensive tool within the scope of [policy 1379 "Use of Force"](#) that may be used as justified by:
  - A. The threat level assessed by the JJS staff; or
  - B. The emergent nature of the threat requiring use of O.C. Spray without employing lesser restrictive methods.
- II. Whenever practical and reasonable, JJS staff shall employ lesser restrictive methods.

- III. JJS staff are required to carry O.C. Spray when:
  - A. Entering situations with increased risk of violence such as, but not limited to: planned searches, planned custodial actions, absconder/escapee searches, homes where one or more violent offender(s) reside.
    - 1. For situations meeting the above criteria, JJS staff must be accompanied by another JJS staff or law enforcement officer.
  - B. Entering high-crime neighborhoods;
  - C. Entering areas known to be frequented by organized gangs;
  - D. Entering other dangerous locales;
  - E. Performing field services in conjunction with law enforcement, or other DCYF staff;
  - F. Entering homes known to contain unsecured weapons and case circumstances present with increased risk of violence as determined by the JJS staff;
  - G. Performing nighttime compliance and curfew checks;
  - H. Transporting youth in custody, on absconder status, or escapee status in a state vehicle; and
  - I. At all other times when, in the judgment of the JJS staff and/or their supervisor or designee, determine O.C. Spray must be carried.
- IV. JJS staff shall employ tactics and procedures according to training by the Organizational Learning Team in using O.C. Spray.
  - A. When use of O.C. Spray is imminent, the JJS staff shall position his/herself for maneuvering or escape;
  - B. Say the word "SPRAY" to alert other officers and bystanders to the imminent use of O.C. Spray;
  - C. Spray subject preferably in the eye region when possible and use a 'tactical L' maneuver, meaning after spraying a subject with O.C. Spray the JJS staff completes shuffle steps backwards and then laterally away from the subject;
  - D. Assess subject's condition, spray again if threat remains; and
  - E. DO NOT CONTINUE TO SPRAY IF SUBJECT HAS BEEN INCAPACITATED.
- V. After a subject has been exposed/sprayed by O.C. Spray, the JJS staff shall immediately assess their own safety and act accordingly:
  - A. Call 911 to report the use of O.C. Spray and the situation at the scene:
    - 1. Who was sprayed – youth or adult;

2. Where the O.C. Spray was used;
  3. Who else is at the scene;
  4. Assessed danger(s) at the scene;
  5. Request medical services to render first aid to the exposed subject and police assistance; and
  6. Inform 911 of the JJS staff's next action i.e. staying at the scene with an exposed youth, leaving the scene due to assessed danger(s).
- VI. After the incident has resolved, the JJS staff shall request prosecution of the subject with the responding law enforcement officer and cooperate with law enforcement to facilitate prosecution.
- VII. When O.C. Spray has been used on an animal, the JJS staff shall call 911 and request the assistance of an animal control officer or local law enforcement, even if the animal has left the immediate area.
- VIII. JJS staff must directly report the incident to their supervisor at the conclusion of an incident involving the use of O.C. Spray.
- A. If the supervisor is unavailable, the JJS staff shall contact Operations at the Sununu Youth Services Center and request to speak with the JJS Field Administrator On-Call to report the incident.
  - B. If the JJS staff involved is the JJS Field Administrator On-Call, the JJS Field Administrator will notify the Bureau Chief of Field Services.
- IX. Following the use of O.C. Spray, the JJS staff must complete required documentation, including [Form 1379 "Use of Force Report"](#) and submit to their supervisor within 24 hours.
- X. JJS staff shall complete all necessary documentation in NH Bridges pursuant to [policy 1450 "Case Files."](#)

### **Care and Maintenance**

- I. JJS staff are responsible for the proper care and storage of Division-issued O.C. Spray canisters.
- A. O.C. Spray shall be carried and stored upside down otherwise the retaining ring/seal can dry and leak.
    1. If stored in the office, O.C. Spray is shaken daily; or
    2. If carried, the canister is shaken weekly.
  - B. The O.C. canister shall not be exposed to direct sunlight for any length of time.
  - C. O.C. canisters shall not be stored near heat, open flame, or at temperatures in excess of 120 degrees Fahrenheit.
  - D. The O.C. canister shall not be left in vehicles for extended periods.
- II. JJS staff shall exercise proper security techniques as instructed in their training.

## Facts about O.C. Spray

### I. CHARACTERISTICS OF O.C. SPRAY:

- A. O.C. Spray is a concentrated, chemically synthesized mixture of oil, resin, and propellant derived from cayenne peppers.
- B. O.C. Spray is highly inflammatory when in contact with the mucus membranes of the face and creates physical and psychological effects.
  - 1. Physical effects include: burning eyes, inflammation of the respiratory system, difficulty breathing, and a burning sensation on the skin.
  - 2. Psychological effects include: feeling of blindness, disorientation, the sensation that the subject cannot breathe, loss of thought process, and the creation of a pause in combative behavior that allows for reassessment of the situation.
- C. O.C. Spray has been proven effective against highly agitated subjects as well as those under the influence of drugs or alcohol. The effects are temporary, lasting up to 45 minutes; however, it is not effective against all human and animal subjects.
- D. O.C. Spray may be dispersed by the wind causing cross-contamination. In addition, secondary exposure may occur if an individual comes in contact with the exposed area after initial deployment.

### II. MEDICAL CONSIDERATIONS:

- A. Allergic reactions – A very small percentage of the population (.005%) will have an allergic reaction to O.C. Spray. **JJS staff must inform 911** of subjects exhibiting symptoms beyond those described above after exposure to O.C. Spray.
- B. Consumption of Drugs and/or Alcohol – Intoxicated subjects exposed to O.C. Spray may have an extreme cardiac reaction potentially causing a heart attack. **JJS staff must inform 911** of subjects known or suspected to be intoxicated before O.C. Spray exposure and exhibiting or complaining of cardiac symptoms after exposure to O.C. Spray.
- C. Acute Hyperventilation Syndrome – Subjects in a high state of anxiety when exposed to O.C. Spray may hyperventilate causing them to lose consciousness. Symptoms include: rapid breathing, pale skin, posturing, tightness in chest, irritability, and tingling in the hands and feet. **JJS staff must inform 911** of subjects exhibiting these symptoms after O.C. exposure. The JJS staff shall also attempt to calm subjects and encourage them to take deep breaths.
- D. Asthmatics – O.C. Spray can potentially initiate an asthma attack. Asthmatics exposed to O.C. Spray **must be allowed to use their inhaler** if they have one; **JJS staff must inform 911**.
- E. Burning – Prolonged exposure to O.C. Spray increases the possibility of first- or second-degree burns. First-degree burns are characterized by a bright red color to the skin that does not dissipate after an expected period; second-degree burns include blistering to the affected area. **JJS staff must inform 911** of a subject complaining of burning and exhibiting bright redness and/or blistering to the skin after exposure to O.C. Spray.

- F. Positional Asphyxia - **The use of a prone restraint beyond the establishment of control is not authorized due to the potential to cause positional asphyxia.**
1. "Positional Asphyxia" means the positioning of a person's body that restricts or interferes with their breathing leading to hypoxia, an inadequate amount of oxygen to meet the body's demand.
    - (a) Causes include: intense physical activity, drug or alcohol use, physical build, and environmental factors.
    - (b) Symptoms include: vomiting, loss of consciousness, labored breathing, going limp, and the inability to answer simple questions.
  2. Subjects exposed to O.C. Spray shall be immediately removed from a prone position into a seated or standing position after the establishment of control according to policy and training.