




RICHMOND POLICE DEPARTMENT GENERAL ORDER



Subject: OLEORESIN CAPSICUM (OC) SPRAY CANISTER AND FOGGER	Chapter 1	Number 8	#Pages 7
CALEA Standards: 4.1.4, 4.1.5, 4.2.1b-d, 4.2.2, 4.3.1a, 4.3.2, 4.3.3, 17.5.2	Related Orders: <i>General Order 01-18</i>	Effective Date: <i>12/4/2024</i> Revised By: <i>Review</i> Prv. Rev. Date: <i>07/29/2021</i>	
<i>If any provision of this General Order conflicts with any collective bargaining article, the collective bargaining agreement shall govern.</i>			
Chief of Police: <div style="text-align: center; margin-top: 10px;"></div>			

I. PURPOSE

The purpose of this directive is to establish the policy and procedure for the use of *Oleoresin Capsicum* (OC) Spray and the OC Fogger.

II. SUMMARY OF CHANGE

This General Order is up for triannual review. Updated unit names were added. All added material should be bold and italicized throughout the document.

III. POLICY

It is the policy of the Richmond Police Department to provide its members with OC Spray as a less than lethal intermediate force weapon. OC Spray may be used to affect an arrest and/or control a situation where the threat of bodily harm exists and where the use of the issued baton or sidearm is not practical. The use of OC Spray is encouraged in those situations where other means of force are inappropriate or unreasonable. Only the Department-issued individual canister may be used in any enforcement action.

IV. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this General Order. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and if appropriate, training, counseling and/or disciplinary action is initiated.

This directive is for internal use only and does not enlarge an employee’s civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

V. DEFINITION

OLEORESIN CAPSICUM (OC) AEROSOL SPRAY – An organically based less-than-lethal aerosol chemical agent designed to subdue an individual by irritating skin and mucous membranes. The result of contact with the spray is pain and discomfort such that the individual may lose their capacity to resist. This allows the officer time to subdue and gain control of the offender.

VI. PROCEDURE

A. General Policy – Individual OC Spray Canister:

1. The OC Spray individual canister shall be issued to all officers who qualify on a Department-approved training course conducted by a qualified OC instructor and will be carried while on-duty. Once the member has received the initial training and it is documented, the supervisor will ensure that *they* will receive the required refresher training and re-qualify during in-service training. Members that are unable to complete the initial or re-certification course will not be allowed to carry the OC Spray. Remedial training will be offered to those who fall into this category. The initial, Department-approved in-service training course shall consist of a four-hour training block for recruits. The Department's approved re-certification training course shall consist of a one-hour training block, during the officer's biennial (every two (2) calendar years) in-service training. All training and proficiency shall be documented and maintained by the Training Division.

[CALEA 4.1.4, 4.3.2, 4.3.3]

2. Officers are only authorized to use the Department-issued OC Spray individual canister, on-duty or off-duty, when acting in a law enforcement capacity.
3. At the beginning of each tour-of-duty, during/after roll call, the OC Spray individual canister shall be shaken to ensure the propellant and capsicum is properly mixed.
4. All officers shall be responsible for maintaining a properly charged OC Spray individual canister. On average, an officer will get [REDACTED] bursts from an individual canister. The shelf life for an individual canister is four (4) years. The officer shall follow established procedures for replacing the expended/expired canister.
5. Members of the Department will have their individual canisters inspected for serviceability/operational readiness during in-service training by the OC instructor. Any individual canister that is found to be defective will be replaced on that day, before the officer returns to regular duty. This does not relieve the individual officer from the responsibility of checking *their* own equipment on a regular basis.
6. Uniformed officers will carry the OC Spray individual canister on their duty belts in the issued carrying case.

7. Detectives, plainclothes officers and uniformed officers, in those situations where the duty belt is not worn, shall carry the OC Spray individual canister in a concealed manner.

B. Use of OC Spray Individual Canister: [CALEA 4.1.4]

1. The OC individual canister may be employed when persuasive speech or physical contact becomes insufficient to control or stop an aggressive act or act of resistance.
2. When employing the OC Spray individual canister, officers shall use [REDACTED], for only that duration which causes the aggressive/resistive behavior to cease.
3. The OC Spray individual canister should not be used at distances less than three (3) feet as it may cause injury to the suspect's eyes or adversely affect the officer. However, in an extreme situation, officers may use their discretion in deploying the spray at less than recommended distances.

NOTE: OC Spray will not be used to threaten people or elicit information. Officers should test the function of the OC Spray individual canister in an area clear of individuals. OC Spray will not be tested in a crowd or in the immediate vicinity of any person, other than the testing officer. Additionally, it will not be used on people who are handcuffed, secured and in proper custody.

4. A PD-35, Use of Force Report, will be completed whenever the OC Spray individual canister is employed and a PD-35A, OC Spray – Medical Services Rendered Report form, shall be completed whenever an officer directly sprays a suspect. A supervisor shall submit photographs of any alleged injuries taken at the scene with the PD-35. The required photographs include any subject who is arrested following the use of OC Spray or any citizen who reports ill effects resulting from contact with the OC Spray. Lieutenants shall respond whenever a Sergeant deploys the spray and shall review submitted paperwork for accuracy and timeliness. [CALEA 4.1.5, 4.2.2]
5. Affected Majors shall review and properly distribute all PD-35 and PD-35A reports for accuracy, completeness and to determine if the OC Spray was utilized in accordance with established departmental guidelines. If, after further investigation, it is determined that the utilization of the OC Spray was not in compliance with departmental guidelines, they shall recommend corrective and/or disciplinary action(s) up the chain-of-command.

C. General Policy – OC Fogger:

1. The OC Fogger is approved to be carried by **Special Weapons and Tactics Team** (SWAT) and **Crowd Management Team** (CMT) personnel during normal assignments. All other officers with current certification may be issued an OC Fogger prior to the start of the officer's tour-of-duty at the discretion of **their** supervisor. Once the member has received the initial training, **they** will be required to receive refresher training during in-service

training. Members *who* are unable to complete the initial or re-certification course will not be allowed to carry the OC Fogger. Remedial training will be offered to those who fall into this category. The Precinct Commander or Division Captain shall maintain an active list of SWAT and CMT personnel under their command.

[CALEA 4.1.4, 4.3.1a]

2. It is the responsibility of the Precinct Commander or Division Captain to authorize the distribution of OC Foggers to specific approved personnel based upon the need and circumstance, as determined by the Commander or the Captain. Commanders and Captains shall ensure accuracy and timeliness of reports and disseminate the Internal Affairs Division's quarterly reports to improve Precinct and Division effectiveness. The Chief of Police or designee shall review submitted recommendations and either concur or direct that alternate courses of action be taken.
3. Supervisors and SWAT/CMT personnel shall be responsible for maintaining properly charged OC Foggers as well as OC Spray individual canisters. On average, an officer will get [REDACTED] bursts from an OC Fogger. The shelf life for an OC Fogger is four (4) years. The supervisor shall follow established procedures for replacing the expended/expired canister.
[CALEA 17.5.2]
4. Departmental inventory of the OC Foggers and OC spray canisters will be maintained at the Quartermaster's office. SWAT, CMT and Precincts may maintain an inventory at a secured location.

D. Use of OC Fogger:

1. The OC Fogger may be deployed when there is an imminent threat of injury to the officer or to a citizen. The OC Fogger is generally used to disperse disorderly crowds when non-deadly force is needed, but the potential to be injured is present for the responding officers or citizens. After deploying an OC Fogger, involved officers need to maintain a safe distance.
2. Prior to spraying a large disorderly crowd with the OC Fogger, the officer shall give ample warning, when possible, that *they are* about to deploy an OC Fogger in order to minimize the possibility of an innocent bystander being exposed. Considerations for the warning shall include the use of amplification equipment, such as the Public Address system or bullhorn, if available.
3. Prior to the discharge of the OC Fogger for a large disorderly crowd, the officer shall advise the Department of Emergency Communications, ***Preparedness and Response (DECPR)*** of a Fogger discharge alert so that responding units are aware of the situation, unless circumstances prevent the officer from making the notification. ***DECPR*** shall notify a supervisor, if one is not at the scene and notify the Richmond Ambulance Authority (RAA) to respond in a staging capacity. Should circumstances exist that prevent the officer from notifying ***DECPR*** of the "Fogger Alert", *they* should, as soon as practical, advise ***DECPR*** to notify a supervisor and the RAA.

4. The deploying officer(s) will take into consideration all safety factors before deploying the fogger. These include but are not limited to:
 - a) Citizens and police officers in the area;
 - b) Escape and evacuation routes and/or wind direction;
 - c) Travel routes of responding officers;
 - d) Crowd mentality and/or age of crowd; and,
 - e) Imminent threat of injury to officer or other citizens.
5. If used, the OC Fogger should not be directed at a person's face. The Fogger should be directed at the lower portion of the body or over the head of the crowd unless there are extreme circumstances. When aiming at the lower portion of the body, the Fogger should not be used at distances less than three (3) feet. However, in an extreme situation, officers may use their discretion in deploying the OC Fogger at less than the recommended distances. The maximum effective distance of the Fogger is [REDACTED].
6. Use of the OC Fogger Indoors:

Use of the OC Fogger in confined areas can be very hazardous and should only be considered as an option under the most extreme circumstances, after the officers have carefully considered all other options, including disengagement. Officers should weigh the totality of the circumstances they are presented with, before deploying the OC Fogger indoors. The size of the structure, the number of people involved in the situation as well as access to exit area, must be considered prior to deploying the OC Fogger indoors.
7. A PD-35 will be completed whenever an OC Fogger is employed. Whenever a suspect(s) is directly sprayed with OC Spray, the officer(s) shall also complete a PD-35A if, as a result, there are individuals who require medical attention. A supervisor shall submit photographs of any alleged injuries taken at the scene along with the PD-35. The required photographs include those of any subject who is arrested following the use of the OC Fogger or any citizen who reports ill effects resulting from contact with the OC Fogger. A photograph of the location where the OC Fogger was discharged shall also be attached to the PD-35. Supervisors are to respond to incidents where a member has deployed the OC Fogger. [CALEA 4.1.5, 4.2.2]
8. A cover letter documenting the circumstances surrounding the OC Fogger deployment shall be completed by the officer and attached to the PD-35 and the PD-35A if applicable. [CALEA 4.2.2]
9. Lieutenants shall respond whenever a Sergeant deploys the spray and shall review submitted paperwork for accuracy and timeliness.
10. Affected Majors shall review and properly distribute all PD-35 and PD-35A reports for accuracy, completeness and to determine if the use of the OC

Spray was utilized in accordance with established departmental guidelines. If, after further investigation, it is determined that the utilization of the OC Spray was not in compliance within departmental guidelines, they shall recommend corrective and/or disciplinary action(s) up the chain-of-command and properly distribute the PD-35. [CALEA 4.2.2]

E. Medical Treatment for Sprayed Individuals: [CALEA 4.1.5]

1. As soon as practical after being sprayed, the individual shall be seated in an upright position and monitored for medical problems, should they occur. The arresting officer shall contact **DECPR** to call the RAA to respond to the scene and flush the subject's eyes and face. RAA will be called in all instances where a subject has been directly sprayed. If, at any point, RAA feels the subject displays a reaction not consistent with the expected response to aerosol OC Spray, the subject will be transported to the Medical College of Virginia Hospital (MCV) immediately.
2. To avoid positional asphyxia, officers will not keep a sprayed subject in a face-down position any longer than necessary to end the threat of harm or escape and handcuff the subject as quickly as possible.
3. Officers shall not use any creams, ointments, or bandages on affected areas on the sprayed subject.
4. Officers will complete a PD-35A whenever a subject has been directly sprayed with aerosol OC Spray. The original copy of the PD-35A will be delivered with the subject to Sheriff's personnel; a copy will be retained by the officer and a copy will be attached to the original PD-35. [CALEA 4.2.1b-d]

NOTE: Personnel shall be aware that although OC Aerosol Spray may subdue some subjects immediately, some subjects will still be able to carry out their attack after being sprayed. Officers should be prepared to evade attack or use other appropriate force options after using OC Aerosol Spray.

F. Effectiveness Review: [CALEA 4.2.2]

1. ***All uses of OC Spray and OC Fogger are required to be reported as Uses of Force and must go through the Use of Force review process. Please refer to General Order 01-18, Use of Force Review Board for details concerning the Use of Force review process.***
2. The OIC of the Training Academy, or designee, will assess the use of the authorized OC Spray and maintain an OC Spray Log, which will indicate the type, description and identifying model of the OC Spray that is authorized for use. [CALEA 4.3.1a]

VII. FORMS

- A. PD-35, Use of Force Report
- B. PD-35A, OC Spray – Medical Services Rendered Report
- C. *OC Spray Log*