

DIVISION OF PARKS AND RECREATION

March 5, 1996

STAFF DIRECTIVE 96-1

TO: Superintendent of State Parks
District Superintendents
Park Superintendents

FROM: Philip K. McKnelly, Director

SUBJECT: Update of Law Enforcement Policy and Guidelines

The revisions listed below implement guidelines for the issuance, training and use of O. C. Pepper Spray as approved defensive equipment. The guidelines are effective immediately.

Page 4: Section 1.4.11 added to define Oleoresin Capsicum (O.C.) Spray.

Page 15: Section 8.1.2 revised to add use of force continuum.

Page 21: Section 8.1.6.5 revised to add Oleoresin Capsicum (O.C.) aerosol irritant projector to authorized chemical agents.

Appendix O: Added to include division O.C. spray policy and training standards into the Law Enforcement Guideline.

Enclosure

PKM/TRW/jbh

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Guideline #4 Originator: Hubbard	Title: LAW ENFORCEMENT POLICY AND GUIDELINES	Section # 1.0 Page # 1 of 3 Date 5/26/88
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- 1.4.2 Department means the Department of Environment, Health and Natural Resources or any future “department level” state agency to which the Division of Parks and Recreation is assigned or any lands administered by the department.
- 1.4.3 Division means the North Carolina Division of Parks and Recreation.
- 1.4.4 Commissioned Park Ranger, commissioned special peace officer, commissioned employee or special peace officer for the purposes of this guideline refers to any commissioned, law enforcement certified employee of the Division pursuant to G.S. 113-28.1.
- 1.4.5 BLET means Basic Law Enforcement Training as prescribed by the North Carolina Criminal Justice Education and Training Standards Commission.
- 1.4.6 CJETSC refers to the North Carolina Criminal Justice Education and Training Standards Commission or any of its successors.
- 1.4.7 The term “lethal weapon” means a firearm. The term “non-lethal weapon” means all other approved defensive equipment.
- 1.4.8 The term “injury” means any attention or care provided by a physician or medical doctor as a result of the use of a lethal weapon, non-lethal weapon, or force by a commissioned employee.
- 1.4.9 Sentencing levels (1 through 5) means the criteria contained in G.S. 20-179.
- 1.4.10 Supervisor or supervisory officer means Park Superintendent, District Superintendent, Superintendent of State Parks and Director, or their Acting personnel.
- 1.4.11 Oleoresin Capsicum (O.C.) Spray means an aerosol chemical agent made from cayenne pepper contained in a pressurized canister used as a defensive weapon.

Revised 01/90
Revised 01/91
Revised 03/91
Revised 01/96

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- 8.1.1.5 Chemical weapons may be worn when the employee feels the situation warrants or when told to do so by the supervisor.
- 8.1.1.6 The Superintendent may establish policy for wearing or carrying the baton.
- 8.1.1.7 Only Division issued or Division approved weapons will be carried or worn while on duty.
- 8.1.1.8 When the commissioned employee is performing plainclothes law enforcement duties, the revolver will be holstered in such a manner as to be concealed from sight.
- 8.1.1.9 The carrying of approved weapons by off duty employees when not in uniform is permitted pending approval of the supervisor and in accordance with regulations filed with the clerk of Superior Court in the county where the park is located, in accordance with G.S. 14-269(b)(5). (See Appendix H)
- 8.1.1.10 The carrying and use of firearms outside of areas of Division jurisdiction by employees when not charged with law enforcement responsibility must be in accordance with Federal law and applicable State and local regulations and park policy.
- 8.1.1.11 Currently authorized service ammunition will be used. No other ammunition is approved.
- 8.1.1.12 Weapons and other defensive equipment will not be loaned to or used by any unauthorized persons.
- 8.1.1.13 The routine carrying of shotguns or rifles in vehicles must be approved by the Superintendent. When carried, they may be located in the trunk or in the passenger compartment in a locked mount.
- 8.1.1.14 Each employee is responsible for providing security for defensive equipment while on or off duty.

8.1.2 Use of Defensive Equipment

It has been well established by the courts that force which is legally permissible is force that reasonable and necessary at the time of the incident. Law enforcement officers have a privilege use force generally under the following circumstances:

1. To effect an arrest and overcome unlawful resistance;
2. In self-defense;
3. In defense of a third party;
4. To prevent an individual from harming himself.

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The officer is not required to progressively work through each level of control to resolve a resistance confrontation. Considering the totality of the circumstances, the officer must base their force response decision to a specific level of resistance as demonstrated by the subject.

The FORCE CONTINUUM is a guideline representing the appropriate amount of force that may be used legitimately in a given situation. Use of force confrontations are dynamic and not static. Division officers must make their use of force decisions considering the totality of the circumstances including the following force continuum variables:

1. Size and gender of officer and subject.
2. Environmental conditions
3. Reaction time
4. Multiple subjects/officers
5. Age of officer/subject
6. Availability of other options
7. Distance from subject
8. Skill level of officer/subject
9. Injury or exhaustion
10. Closeness of a weapon.

NOTE: This section of the guideline is adapted from Non-Lethal Use of Force, by Dave F. Cloutier, Instructor/Coordinator, N. C. Justice Academy, Salemburg, North Carolina, 1994. Used by permission.

8.1.2.1 The use of deadly force is governed by North Carolina General Statutes, as follows:

15A-401(d)(2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

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8.1.6 Description of Authorized Defensive Equipment

- 8.1.6.1 Handgun (Division Issue)--American made, six shot, double action revolver, .38 caliber or .357 caliber, four (4) inch barrel, adjustable sights for windage and elevation (optional), blue steel or stainless steel (depending on area needs).
- 8.1.6.2 Handgun--Undercover/Plainclothes/Backcountry (Division Issue)—American made six shot double action revolver .38 caliber, 2 or 2-1/2 inch barrel, adjustable or fixed sights, round or square butt, blue or stainless steel.
- 8.1.6.3 Shotgun--12 gauge, pump action, receiver milled from solid block, 2-3/4 or 3 inch chamber, rifle or bead sights are authorized, tubular magazine, cylinder bore, 18-20 inch barrel, blue steel, stainless or Parkerized finish, wood or synthetic stock and forearm (American manufacture). No magazine extensions. No exposed hammers. No shotguns capable of being fired by having the trigger pulled to the rear and the closing of the action disengaging the sear causing the weapon to fire.
- 8.1.6.4 Rifles and Carbines--.223 (5.556mm) or any .30 caliber semi-automatic, bolt or pump action, stainless, blue or Parkerized finish, adjustable sights for windage and elevation. Telescopic sights optional.
- 8.1.6.5 Chemical agents—Chemical CS/CN, aerosol type, American manufacture, maximum effective range at least eight (8) feet. Oleoresin capsicum (O.C.), aerosol irritant projector. American manufacture, maximum effective range at least eight (8) feet.
- 8.1.6.6 Police Baton—metal, friction-grip, expandable baton, 20-22" in length, black in color.
- 8.1.6.7 Handcuffs—American manufacture, double lock capability, stainless, nickel, or chrome finish.
- 8.1.6.8 Disposable cuffs—plastic self locking type.
- 8.1.6.9 Handgun ammunition, American manufacture, .38 special, 125 grain, semi-jacketed or jacketed hollow point, +P.
- 8.1.6.10 Shotgun ammunition, American manufacture, 12 gauge, plastic cased, no. 4 "00" buck shot, or 7/8 oz. Or 1 oz. Rifled slug.
- 8.1.6.11 Rifle ammunition, American manufacture, jacketed soft point or hard ball for caliber needed.

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**NORTH CAROLINA DIVISION OF PARKS AND RECREATION
Oleoresin Capsicum Spray Policy**

I. POLICY

The Division's Law Enforcement Guideline, Program Direction, Section 1.1.3 sets forth division policy regarding the role of the law enforcement program. Commissioned staff should emphasize a basic educational approach in every enforcement contact where it is possible and reasonable to do so. The Division's objective is to gain compliance at the lowest possible level of enforcement action.

Levels of enforcement action range from mere officer presence up to and including the use of deadly force. Commissioned staff are trained in the appropriate use of a wide spectrum of enforcement actions generally referred to as the "force continuum", (ref. L.E. Guideline, Section 8.2.2, Use of Defensive Equipment). Aerosol chemical agents represent a non-lethal defensive weapon that is placed on the low to middle range of the force continuum.

The Division issues oleoresin capsicum (O.C.) spray to qualified commissioned staff as an optional chemical agent. Only commissioned staff who have been trained in the use of O.C. spray, including experiencing the effects of the spray, are authorized to carry it.

II. DEFINITION

- A. Oleoresin Capsicum Spray is an organically based, less-than-lethal weapon designed to incapacitate without lasting aftereffects. Oleoresin Capsicum (O.C.) is a mixture of essential oil and a resin found in any solanaceous plant of the genus capsicum, such as cayenne pepper, which is a natural product listed in many foodstuffs. O.C. spray may be referred to as pepper mace or pepper gas.
- B. O.C. spray is a personal defense spray that disables a suspect by causing severe irritation of the eyes, throat and upper respiratory tract. This product can create spasms and involuntary closing of the eyes, coughing, gasping and shortness of breath similar to a severe asthma attack. These effects may last up to 45 minutes.

III. DEPARTMENTALLY-APPROVED SPRAY

- A. An officer shall only possess and use O.C. spray approved and issued by the Division.
- B. issued O.C. spray will be carried on the equipment belt in a holster approved and issued by the Division.

IV. TRAINING

- A. Each officer must receive training prior to being issued the product.
- B. The training will be delivered in the following format:
 - 1. Classroom instruction and practical exercise provided by an instructor who has received training from a manufacturer of O.C. spray or an instructor recognized as appropriate by the North Carolina Justice Academy, North Carolina Department of justice.
 - 2. The training will be delivered in a four-hour block of instruction which includes lecture and practical exercise including decontamination.
 - 3. The classroom instruction will include the following topical areas:
 - a. History of Oleoresin Capsicum Spray
 - b. Product Components
 - c. Physiological Effects of O.C. spray
 - d. Use of Force (Continuum)
 - e. Proper Deployment of O.C. spray
 - f. Decontamination Procedures
 - g. Documentation of Use of Spray
 - 4. A written examination will be given to each officer with regard to the above mentioned topics.
 - 5. Each officer will be required to participate in a practical exercise in which they will be sprayed with a one(1) second burst of O.C. in order to receive the effects of the spray. In addition, each officer will assist in the decontamination procedures used on the participants who have been sprayed.

V. ANTICIPATED REACTIONS OF SUBJECTS EXPOSED TO O.C. SPRAY

- A. The effects of O.C. spray are usually instantaneous; however, the effects to the eyes usually precede the effects to the respiratory or skin areas.
- B. When a subject is surprised with an application of O.C. spray, he/she will often gasp in surprise, thus inhaling additional amounts of spray into the lungs. This will result in a broader range of field-observed effects from those observed and experienced in the classroom training exercise.
- C. Generally, the subject experiencing O.C. spray exposure may:
 - 1. drop to both knees and fall onto their chest. [A forward moving subject still operating on inertia must be avoided. The officer must be prepared to deflect and/or sidestep the subject that has been sprayed.]
 - 2. drop whatever is in his/her hands;
 - 3. bend forward at the waist;
 - 4. put his/her hands to his/her face; or
 - 5. place his/her hands on the knees or will go down on one knee.
- D. The officer should note at this point that the subject is reacting to the O.C. spray and he/she should be ordered into a prone or flatwall position for handcuffing. The officer should reassure the subject that he/she will be treated and that the effects will wear off shortly.

VI. GUIDELINES FOR USAGE

- A. The officer may use O.C. spray in situations where physical force is authorized by law and Division policy. In particular, O.C. spray may be used:
 - 1. where the officer's presence and verbal commands are ineffective or inappropriate; or
 - 2. where soft hand techniques (light touching, escort techniques) have failed and the officer may be required to use hard hand techniques to maintain control, or where the officer has reasonable grounds to believe soft hands techniques will not succeed or will expose the officer to physical assault by the subject.

- B. An officer may use the O.C. spray under any other circumstances where it is reasonably necessary to effect an arrest, prevent an escape, or protect the officer, the arrestee, or another from injury. When practical, O.C. spray should be used in place of striking the subject with a fist or weapon in order to avoid injury to the subject and the officer.
- C. O.C. spray shall be used in accordance with prescribed training procedures. An officer shall not engage in horseplay with O.C. spray. The spray shall not be used to quiet a verbally abusive subject, to punish a subject, as part of interrogation of a subject, or against a subject who peacefully complies with orders and commands.

VII. PROCEDURES

- A. An officer should disengage from a subject, when possible, prior to drawing the O.C. spray. The effective range of the O.C. canister is 8 to 12 feet.
- B. Once the O.C. canister is drawn, the officer, when possible, should give a verbal warning to the subject prior to the use of the spray. Example: "Stop resisting. Get down on the ground, or I'll spray you with pepper." This warning is recommended if a warning can be given without risk of injury to the officer.
- C. The target area for the spraying of O.C. is the bridge of the nose.
- D. An officer should utilize a spray pattern consistent with approved training and adequate for the circumstances.
- E. A one-second spraying onto the facial area of a person will usually produce effective results. Additional spraying may be required if the person remains aggressive and does not respond to verbal commands.
- F. After the subject has been sprayed, he/she should be verbally ordered to an appropriate handcuffing position. The officer should assure the subject that he/she will be treated and that the effects will dissipate shortly. The officer will first handcuff and then search the subject.

VIII. DECONTAMINATION

- A. Officers must pay strict attention to the physical condition of a prisoner after using pepper spray. Immediate medical attention should be provided if breathing difficulties persist after 2 minutes or the prisoner loses consciousness, appears sick, or sweats profusely.
- B. When circumstances permit, the officer should wait a period of fifteen (15) minutes before transporting the subject to allow natural evaporation to reduce the effects of the O.C. spray in the patrol car. During this fifteen (15) minutes, the officer should handcuff and search the subject. The officer will also decontaminate the subject at the scene of the arrest when an officer's safety is not jeopardized.
- C. After handcuffing and searching the subject, an officer should instruct the subject to stay still, not to rub his/her eyes, breathe normally, and relax as much as possible.
- D. An officer should move the subject into an uncontaminated area as soon as possible and face the subject into the wind.
- E. Prior to transporting the subject and when safety permits, an officer will utilize an appropriate spray bottle and spray water only onto the subject's face and eyes. The subject's face may be patted dry with paper towels.
- F. While transporting the subject, an officer shall provide ventilation to the subject by opening the window and/or directing the air conditioning vent toward the subject's face.
- G. Upon arrival, an officer shall allow the subject to flush his face and eyes with cool water. A non oil-based soap or detergent can be used and will help remove the resin from the skin.
- H. Do not use any commercial eye wash during the decontamination process.
- I. Subjects wearing contact lenses should remove them before flushing the eyes with water and soak the lenses with appropriate cleaning solutions.
- J. Under normal circumstances, all symptoms should disappear within forty-five (45) minutes. If symptoms persist beyond forty-five (45) minutes, an officer must seek medical attention for the subject. If the subject requests medical attention after the flushing of the eyes and face, an officer shall assist the subject in obtaining medical attention.

IX. DOCUMENTATION

The use of O.C. spray will be documented in detail on a Case Incident Report. The supervisor and district superintendent shall be notified within 24 hours. All other use of force will be documented in accordance with the Division law enforcement policies and guidelines.