



STATE OF DELAWARE  
**THE JUSTICE OF THE PEACE COURT**

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ALAN G. DAVIS  
CHIEF MAGISTRATE

**POLICY DIRECTIVE 22-267**

**TO: ALL UNIFORMED SERVICES EMPLOYEES**

**FROM: ALAN G. DAVIS** *AGD*  
**CHIEF MAGISTRATE**

**RE: OLEORESIN CAPSICUM SPRAY (O.C. SPRAY) POLICY**

**DATE: APRIL 21, 2022**

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**Scope:**

This Policy Directive provides members of the Uniformed Services Division of the Justice of the Peace Court with guidance for the use of Oleoresin Capsicum Spray (O.C. Spray)

This policy is not designed to be all-inclusive and is intended to be used as guide. Deviation from this policy may be necessary, as circumstances dictate.

**Policy Directives/Legal Memoranda Affected:**

This policy rescinds and replaces any O.C. Spray policy or procedure in the Justice of the Peace Court State Constable and Court Security Officer Handbook.

This policy coincides with Policy Directive 19-263, Use of Force/ Response to Resistance, and the use of O.C. Spray shall be recognized and considered as Less than Lethal Force.

## **Overview:**

Oleoresin Capsicum Spray (O.C. Spray) is a less lethal use of force option used in Law Enforcement and related professions for protection and to gain compliance. When deployed, O.C. Spray causes an intense burning sensation that typically wears off within 15 to 20 minutes. A 1993 International Association of Chiefs of Police report on the use of O.C. Spray by Law Enforcement officers cited "no long-term health risks associated with the use of the spray." The Justice of the Peace Court Uniformed Services has elected to utilize a gel-based delivery method and issue it to all uniformed personnel upon the completion of training on its proper use by a certified instructor. The gel-based delivery method will afford all Uniformed Service officers the option to utilize this less lethal force option when needed both while indoors and outdoors, with little to no inadvertent effect to bystanders or the individual officer.

## **Policy:**

- 1) It will be the policy of the Justice of the Peace Court Uniformed Services to utilize O.C. Spray in accordance with the most current Use of Force Policy, as an intermediate weapon.
- 2) Only O.C. Spray issued by the Court shall be carried and used by the officers of the Justice of the Peace Court Uniformed Services and only during compensable work hours.
- 3) O.C. Spray shall remain secured in a carrying case issued by the department, affixed to the officer's duty belt, at all times.
- 4) Only officers who are trained and certified in the use of O.C. Spray by a certified O.C. Spray instructor and who have successfully completed annual recertification shall be authorized to carry O.C. Spray.
- 5) Officers should remember that O.C. Spray varies individually in its effectiveness. Officers shall be continually alert to the possibility that other means may be necessary to subdue an assailant and shall avoid placing themselves or innocent persons in danger due to the use of O.C. Spray.
- 6) O.C. spray will only be used after lower levels for force are exhausted, or when the immediate use of OC spray is necessary.
- 7) O.C. Spray can be used at an officer's discretion under the following circumstances:
  - a. When necessary to defend themselves or others;
  - b. When subduing a combative, aggressive person or person who is actively resisting detention;
  - c. To prevent the commission of a criminal offense; and/or
  - d. When lower levels of force are ineffective.

- 8) The duration of O.C. Spray application shall be limited to that required to effectively control the subject or gain compliance.
- 9) As soon as feasible after the individual on whom O.C. Spray has been used is subdued to an extent that he/she can be controlled without possible injury to themselves or others, the officer will notify emergency services for evaluation and/or transportation to a local hospital for treatment and decontamination.
- 10) The improper use of O.C. Spray will not be tolerated. Unauthorized or improper use of O.C. Spray will subject the officer to the same disciplinary action as would the use of any unauthorized or unnecessary force.
- 11) There is no tactical advantage by the indiscriminate use of O.C. spray against non-combative persons or persons restrained by means of handcuffs, leg irons, or plastic restraints. It will not be used against passive resistors or as a "come along".
- 12) A Use of Force report will be submitted whenever O.C. Spray is displayed or employed.
  - a. The only exception will be for training or inspection purposes, under the direct supervision of a certified O.C. instructor and/or a supervisor.
- 13) In the event of an unintentional or accidental discharge of O.C. Spray, the officer(s) involved will:
  - a. Summon emergency medical services to evaluate any person who has been exposed;
  - b. Immediately contact their direct supervisor, making notification of the incident;
  - c. Complete an accidental discharge report as soon as practicable; and
  - d. Receive remedial training from a certified O.C. Spray instructor prior to being re-issued the spray.
- 14) No O.C. Spray projector will be left in an officer's private, or State issued vehicle.
- 15) Officers shall periodically inspect their O.C. Spray projector and carrying case and report any damage to their supervisor.

cc: Honorable Collins J. Seitz, Jr.  
 Honorable Kathaleen S. McCormick  
 Honorable Jan R. Jurden  
 Honorable Carl C. Danberg  
 Honorable Michael K. Newell  
 Gayle P. Lafferty, State Court Administrator  
 Mark Hitch, Justice of the Peace Court Administrator  
 Elizabeth Petrick, Justice of the Peace Court Deputy Court Administrator  
 Rebecca Trifillis, Justice of the Peace Court Staff Attorney  
 Regina Elliott, Operations Manager  
 Stephanie Parker, Operations Manager  
 Kevin Jackson, Chief of Uniformed Services  
 Law Libraries: New Castle County, Kent County, Sussex County,  
 Widener University School of Law