

P.G. 212-95 Use of Pepper Spray Devices

Date Effective: 02-04-15

PURPOSE

To inform uniformed members of the service of circumstances under which pepper spray may be intentionally discharged and to record instances where pepper spray has been discharged, intentionally or accidentally.

SCOPE

Use of Oleoresin Capsicum (O.C.) pepper spray constitutes physical force under the New York State Penal Law. Use of pepper spray is proper when used in accordance with Article 35 of the Penal Law and Department procedures. O.C. pepper spray may be used when a member reasonably believes it is necessary to effect an arrest of a resisting suspect, for self-defense or defense of another from unlawful force, or to take a resisting emotionally disturbed person into custody. In many cases, pepper spray will reduce or eliminate the need for substantial physical force to effect an arrest or gain custody. It will often reduce the potential for injuries to members and suspects that may result from physical restraint and it should be regarded as a possible alternative to such force and restraint, where practical. Pepper spray shall not be used in situations that do not require the use of physical force. O.C. pepper spray may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance.

PROCEDURE

When necessary to use pepper spray device:

UNIFORMED MEMBER OF THE SERVICE

1. Hold pepper spray in an upright position, aim and discharge pepper spray into a subject's eyes for maximum effectiveness, using two one second bursts, at a minimum distance of three feet, and only in situations when the uniformed member of the service reasonably believes that it is necessary to:

- a. Protect self, or another from unlawful use of force (e.g., assault)
- b. Effect an arrest, or establish physical control of a subject resisting arrest
- c. Establish physical control of a subject attempting to flee from arrest or custody
- d. Establish physical control of an emotionally disturbed person (EDP)
- e. Control a dangerous animal, by deterring an attack, to prevent injury to persons or animals present.

2. Effect arrest of criminal suspect against who pepper spray was used and charge with crime which initiated use of the pepper spray.

- a. Add resisting arrest charge, when appropriate

b. P.G. 210-13, "Release Of Prisoners - General Procedure" will be complied with if it is determined that arrested person did not commit the crime or that no crime was committed.

c. P.G. 216-05, "Mentally Ill Or Emotionally Disturbed Persons," will be complied with, when appropriate.

NOTE: Do not use pepper spray on subjects who passively resist (e.g., going limp, offering no active physical resistance). If possible, avoid using pepper spray on persons who appear to be in frail health, young children, women believed to be pregnant, or persons with known respiratory conditions. Avoid discharging pepper spray indiscriminately over a large area for disorder control. (Members who are specifically trained in the use of pepper spray for disorder control may use pepper spray in accordance with their training, and within Department guidelines, and as authorized by supervisors.). In addition, avoid using O.C. spray in small contained areas such as automobiles and closets.

3. Request response of Emergency Medical Service (EMS) once the situation is under control.

a. Advise person sprayed that EMS is responding.

4. Remove the subject from the contaminated area and expose to fresh air while awaiting the arrival of EMS, or transportation to hospital/stationhouse if tactically feasible.

a. Determine whether the person sprayed is wearing contact lenses. (It is strongly recommended that contact lenses be removed as soon as possible after exposure to O.C. spray.)

5. Position subject on his/her side or in a sitting position to promote free breathing.

a. The subject should never be maintained or transported in a face down position.

b. Do not sit, stand, or kneel on subject's chest or back.

6. Provide assistance to subject as follows:

a. When consistent with member's safety, and provided a source of water is readily available, the uniformed member should flush the contaminated skin area of a subject with profuse amounts of water.

b. Repeat flushing at short intervals, if necessary, until symptoms of distress subside.

c. Continue flushing the contaminated skin of the subject in custody, at the stationhouse as needed.

d. Commence the flushing of a subject's contaminated skin upon arrival at the stationhouse, if this has not already been done.

NOTE: Do not rub or touch skin of contaminated person, as the initial effect of pepper spray does not dissipate for 15 - 20 minutes. Also, do not use salves, creams, ointments, commercial eye washes or bandages. The desk officer

will ensure that all prisoners who have been sprayed with pepper spray receive appropriate first aid, if needed, upon arrival at the stationhouse. Desk officers are also responsible for ensuring that prisoners who have been sprayed with pepper spray are properly observed throughout the arrest process, and that they receive prompt medical attention if they need or request it. A Command Log entry will be made stating whether the prisoner has had his/her skin flushed with water, been examined by EMS, or been transported to the hospital.

7. Transport prisoner immediately to the emergency room of the nearest hospital if he/she is demonstrating difficulty breathing, or exhibiting signs of severe stress, hyperventilation etc.

a. Windows of transport vehicle should be kept open

b. Members who come in contact with persons who have been exposed to pepper spray must thoroughly wash their hands afterward and avoid having any contaminated clothing make contact with their face

c. Advise hospital staff that pepper spray has been used on prisoner.

8. Prepare ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD 244-159) and MEDICAL TREATMENT OF PRISONER (PD 244-150) in arrest situations.

9. Complete the AIDED REPORT WORKSHEET (PD 304-152b) in non-arrest situations, e.g. EDP, and:

a. Check box "O.C. Spray Used"

b. Enter rank, name, and tax registry number, of each MOS who discharged spray in the "Details" caption

c. List the time, doctor's name, and diagnosis under "Details" caption, when applicable.

COMMANDING OFFICER, INFORMATION TECHNOLOGY SERVICES DIVISION

10. Provide a quarterly printout of all arrest and aided incidents where pepper spray was discharged to the commanding officer, Firearms and Tactics Section.

COMMANDING OFFICER, FIREARMS AND TACTICS SECTION

11. Analyze situations where O.C. spray was employed to evaluate its effectiveness.

a. As appropriate, modify existing training/tactics relative to the use of pepper spray.

ADDITIONAL DATA

The only pepper spray authorized for use is the type issued to all uniformed members through the Firearms and Tactics Section.

In order to maintain the effectiveness of the spray, it is recommended that the device be shaken at the start of each tour. Carrying the pepper spray device during normal patrol duty should be sufficient to keep the solution thoroughly mixed.

Pepper spray will not automatically stop all subjects, and even when it does incapacitate, the effects are temporary. Members should therefore be ready to use other appropriate force options and tactics.

When performing duty in uniform, the pepper spray shall be carried in its holster attached to the non-shooting side of the gun belt. When performing enforcement duty in civilian clothes the pepper spray must be carried, in the holster attached either to a belt or in another appropriate manner. Undercover members may opt not to carry the pepper spray. Members of the service may carry the pepper spray device during off duty hours.

RELATED PROCEDURES

Lost or Damaged Uniform ([P.G. 204-07](#))

Prisoner Requiring Medical/Psychiatric Treatment ([P.G. 210-04](#))

Release of Prisoners - General Procedure ([P.G. 210-13](#))

Hazardous Material ([P.G. 212-37](#))

Hostage/Barricaded Persons ([P.G. 212-38](#))

Aided Cases - General Procedure ([P.G. 216-01](#))

Preparation of Aided Report Worksheet ([P.G. 216-02](#))

Mentally Ill or Emotionally Disturbed Persons ([P.G. 216-05](#))

Loss or Theft of Department Property ([P.G. 219-20](#))

FORMS AND REPORTS

AIDED REPORT WORKSHEET (PD304-152b)

ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)