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**GLENN A. GRANT, J.A.D.**  
Acting Administrative Director of the Courts

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**DIRECTIVE #24-17**

**[Supersedes #07-05 and #17-05]**

[Questions or comments may be directed to  
(609) 815-3810]

**TO:** Assignment Judges  
Trial Court Administrators

**FROM:** Glenn A. Grant, J.A.D. 

**DATE:** August 24, 2017

**SUBJECT:** Procedures on Aerosol Defensive Devices - Training and Policies for Use by Judiciary Staff

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This Directive promulgates a revised “*Procedures on Aerosol Defensive Devices - Training and Policies for Use*,” as approved by the Judicial Council. The Directive sets forth revised necessary training and policies applicable when officers carry Judiciary-issued aerosol defensive devices, also known as Oleoresin Capsicum (“OC”) spray or “pepper spray,” for defensive purposes in the performance of their official duties. The procedures were initially issued in Directive #2-95 and thereafter were superseded and updated in Directives #07-05 and #17-05. This issuance supersedes those directives effective immediately.

Specifically, the updated procedures include additional details regarding the side effects of OC spray and allow for alternate protection measures when a medical condition precludes an officer from using the spray. The OC canisters have a 5-year expiration term and the protocol implements an improved method for tracking the canister expiration dates and proper disposal. Consistent with the 5-year expiration timeframe for the OC spray canisters, the policy will now require refresher training and recertification every five years, rather than every three years, with that training to be tracked in JLMS. The procedures also have been updated to include more consistent terminology, such as “officers” or “judiciary employees” encompassing Probation Officers assigned to both the Probation Division and the Family Division; ISP and JISP officers; as well as supervisors and managers who may provide coverage for them.

In order to receive a Judiciary-issued OC spray canister, officers are required to complete a one-day training session, which includes the one-time exposure to OC spray as a component of the training.

The two-part, Aerosol Defensive Device Training may be conducted by Probation-certified trainers or by qualified law enforcement trainers following the Judiciary training curriculum. All authorized judiciary employees with field duties must complete Part I of the training. This is to ensure that all officers, whether or not they choose to carry OC spray, have an understanding of the policy, use and decontamination issues. Part II of the standardized training program includes an officer's exposure to OC spray for the initial training program or for recertification if exposure was not part of the officer's original training (as may have happened before the adoption of the current procedures). Experience has shown that exposure to the OC product in a safe training environment will enhance the officer's safety by providing first-hand knowledge of the effects of the spray (in the event of accidental blow-back) and of appropriate decontamination procedures prior to any use or exposure in the field. All officers with field duty are required to attend Part II of the training; they may, however, decline exposure to the OC spray. Those officers who decline OC exposure at the training will not be issued an OC canister. The remainder of the training (other than the exposure component) is mandatory to ensure that the officers understand all aspects of the Aerosol Defensive Devices policy.

The policy includes an updated "Acknowledgment of Training" form on which the officer acknowledges Part I of the training and either accepts or declines exposure to the OC spray. A separate acknowledgment addresses whether the officer has had any eye surgery within the past six to twelve months. Upon completion of Part II of the training and exposure to the OC Spray, the officer will fill out a separate "OC (Oleoresin Capsicum) Equipment Authorization" form to acknowledge receipt of an OC canister, if one is issued. After completion of Parts I and II of the training, the officers must be recertified every five years. Exposure to the pepper spray will be required only once.

Each officer's training (including whether or not the officer underwent exposure to the spray) will be documented in JLMS, the Judiciary employee training database system. No officer is permitted to carry OC spray in the course of his or her duties without having a current certification or recertification.

As noted, this policy is effective immediately. Questions regarding it may be directed to the Office of Probation Services at 609-815-3810.

G.A.G.

Attachment

cc: Chief Justice Stuart Rabner  
Steven Bonville, Chief of Staff  
AOC Directors and Assistant Directors  
Clerks of Court  
Ann Marie Fleury, Special Assistant  
Melaney Payne, Special Assistant  
Probation Division Managers/VCPOS  
Family Division Managers  
John Gusz, Chief, Probation Supervision Services  
Ralph Esposito, Chief, ISP  
Dawn Mason, Chief, JISP

# **TRAINING and POLICY FOR USE of AEROSOL DEFENSIVE DEVICES**

**Revised Policy Promulgated by Directive #24-17  
August 24, 2017**



**As Approved by the Judicial Council**

## **BACKGROUND:**

On January 17, 1995, then Administrative Director, Robert Lipscher, issued Directive # 2-95, which first authorized Probation Officers with regularly assigned field responsibilities, after successful completion of a training program, to carry Judiciary-issued aerosol defensive devices, also known as oleoresin capsicum (OC) or "pepper spray," for defensive purposes when engaged in the performance of their official duties.

Directive #2-95 was interpreted in practice to include any officer or probation administrator who provides field coverage for other officers, thus including Chief Probation Officers, Assistant Chief Probation Officers, and Probation Supervisors, provided they complete the Probation Officer Safety Training Course and the approved OC spray training program. Intensive Supervision Probation (ISP), Juvenile Intensive Supervision Probation (JISP) officers, and Probation Officers in the Family Division who have regularly assigned field duties are also covered. For purposes of this policy, those individuals will be referred to collectively as "authorized judiciary employees" or "officers." Directives #07-05 and 17-05 (which superseded Directive #2-95) memorialized that practice.

This policy, as promulgated by Directive #24-17, supersedes those earlier Directives. The key components of this document are:

- Policy for use of aerosol defensive devices;
- Standardization of training; and
- Standardization of method of exposure as part of the training.

## **AUTHORIZATION**

This policy, as promulgated by Directive #24-17, authorizes those judiciary employees who have regularly assigned field responsibilities to carry oleoresin capsicum (OC) or "pepper spray" canisters for defensive purposes while they are engaged in the performance of their official duties. The prerequisite for this authorization is successful completion of the Probation Officer Safety Training course and the Aerosol Defensive Device Training. The policy recognizes the risks that judiciary employees encounter in the field as they carry out their official duties. Officers who elect to carry the OC spray are required to complete these two training programs and follow approved procedures for the use of aerosol devices for defensive purposes. The training curriculum, more fully described below, was developed by the Conference of Chief Probation Officers incorporating information from the manufacturer of the Judiciary's current aerosol defensive device. The Aerosol Defensive Device Training may be conducted by Probation-certified trainers or by qualified law enforcement trainers following the Judiciary training curriculum.

Following successful completion of the training, the officers will be certified and issued a ¾ oz. pocket-sized canister of OC spray, which is the type of personal self-defense device that may be carried by any citizen pursuant to N.J.S.A. 2C:39-6i. Only approved Judiciary-issued canisters will be allowed for use by the officers in the performance of their official duties. This will ensure that use, handling, storage and

decontamination procedures comply with the approved product specifications. No officer is permitted to carry OC spray in the course of his or her duties without a current certification or recertification.

The possession of the OC canister is permitted by N.J.S.A. 2C: 39-6i, which provides, in part, as follows:

*Nothing in subsection d. of N.J.S.2C: 39-5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air.*

The aerosol device is to be used for defensive purposes only. Before discharging the spray, the officer should make every effort to neutralize or avoid potentially assaultive situations by means of verbal and nonverbal tactics, including retreat. If, despite these tactics, the officer reasonably believes that the use of the OC spray is immediately necessary as a defense against an individual, the use is appropriate and conforms to N.J.S.A. 2A:62A-20:

*Notwithstanding any provisions of law to the contrary, a person who possessed a chemical substance for the purpose of personal self-defense in accordance with subsection i of N.J.S. 2C: 39-6 and who releases or discharges that chemical substance upon or toward another person shall not be liable in any civil action for damages resulting from that release or discharge when the actor reasonably believes that the releasing or discharging of that chemical substance is immediately necessary for the purpose of self-defense. Nothing in this section shall be deemed to grant immunity to any person causing any damage by his willful, wanton or grossly negligent unlawful releasing or discharging of such a chemical substance upon or toward another person.*

An officer's unauthorized discharge of the spray against an individual may result in disciplinary action against the officer and the officer's loss of rights to a legal defense provided by the State in actions arising out of the employee's conduct.

### **AEROSOL DEFENSIVE DEVICE TRAINING**

Prior to being issued an aerosol defensive device, authorized judiciary employees must successfully complete a one-day Aerosol Defensive Device training program in the proper use and physiological effects of OC Spray. Prior successful completion of the Probation Officer Safety Training Course is a pre-requisite to this training. Only an instructor certified by the manufacturer and approved by Probation Services may conduct the Aerosol Defensive Device Training. Training should be conducted in a suitable police or fire training facility.

The training will include but not be limited to:

Part I

- Pre-test and a post-test
- Judiciary policies on the use of aerosol defensive devices.
- Proper use and handling
- Physiological effects and decontamination
- Incident reporting and debriefing
- Liability issues

Part II

- Practicum in the use of the product
- Exposure to the product – *Required if officer wishes to carry OC.* (Trainee will be partnered with an individual who will assist with the decontamination process)
- Effects will be monitored by class

All authorized judiciary employees with field duties will be required to take Part I of the Aerosol Defensive Training. This is to insure that ALL officers, whether or not they choose to carry OC spray, will have an understanding of the policy, use and decontamination issues. Trainees may decline to be exposed to the OC spray as part of the training, but nevertheless will complete the classroom session and observe and assist in the practicum.

Voluntary exposure to the OC spray for training purposes is defined as very brief (approx. 1 second) burst of OC spray to the forehead just above the brow. This will allow a minimal amount of OC to enter the eyes, providing a sufficient application for the trainee to experience the effects of OC. Immediately upon being affected by the OC, the trainee will be led by a training partner to available water where the decontamination process will be completed.

The physiological and psychological effects of OC spray exposure will be explained in detail during Part I of the training and they include the following:

1. Swelling of the mucous membranes of eyes, nose, and throat
2. Nasal and Sinus discharge
3. Coughing
4. Shortness of Breath
5. Involuntary Eye Closure
6. Painful burning of the skin, eyes, nose, and throat
7. Hyperventilation
8. Psychological Effects of Fear, Anxiety, and Panic

In addition, trainees will be required to acknowledge that they have not had eye surgery within the last six (6) to twelve (12) months. All trainees will complete the Acknowledgment of Training and Exposure/Declination of Exposure Form at the completion of Part I of the training. This form, also signed by the Instructor, will assist in

keeping a record of the trainees who have been exposed to the OC spray.

However, a trainee will not be issued a canister if he/she has not been exposed to the spray in training. Such individuals will, nevertheless, be expected to perform the same field duties as officers who elect to carry an aerosol defensive device. The Acknowledgement of Training and Exposure/Declination of Exposure Form serves as a declination for any trainee who chooses not to be exposed to the spray.

If the trainee declines exposure and self-discloses a medical reason for doing so, the Vicinage Chief Probation Officer/Family Division Manager/Division Manager or designee needs to ascertain what steps need to be taken to accommodate this individual in the performance of field duties. This may include pairing the officer with a field partner who does not carry OC. Medical documentation specific to the use of OC spray must be produced in order for the Vicinage Chief, Division Manager/Family Division Manager to consider the appropriate accommodation.

Voluntary exposure for trainees wishing to carry OC spray is an essential element of training because:

- There is a very real possibility that an officer who carries an aerosol defensive device will experience residual exposure to the OC spray when either the officer or the officer's field partner uses the spray against an attacker. The reason for this may be the confines of space, a back spray due to wind conditions or the location of the officer in the path of the spray.
- The first time an individual is exposed to OC, it is common to experience a degree of anxiety due to the discomfort and the inability to open one's eyes. This first exposure should not occur in an actual hostile situation when safety may be compromised either from residual or misdirected spray or spray emanating from an attack on the officer. Experiencing the effects of this spray in a safe and controlled training environment will enable the officer to get the maximum benefit of the experience without the stress of unforeseen danger. The fact that there is peer support and medical assistance (certified CPR or EMT at the police/fire training facility), if needed, assures the officers' protection while enabling them to understand the ramifications of using OC spray.
- Research has shown that once an individual has experienced the effects of OC, subsequent exposures tend to be less dramatic, giving the officer confidence to focus on his/her immediate situation and employ defensive tactics, including escape.
- Officers who have been exposed will have first-hand knowledge of the product's ability to affect an individual, including the fact that in some instances it is possible for that individual to continue to pose a threat to the officer after being sprayed.

- Exposure to OC also has the effect of reinforcing the need for the officer to arrange for decontamination and safe monitoring of anyone the officer sprays.
- If an Officer is called upon to testify to the use of OC spray during the performance of his/her duties, it is in the officer's best interest to relate his or her first-hand knowledge of the effects of the OC spray.

## **CERTIFICATION**

Upon successful completion of the Aerosol Defensive Device training, trainees will receive a Certificate of Training. Officers must complete a refresher every five (5) years in order to continue to carry the spray issued by the Division. All probation officers who choose to carry OC spray must comply with the aforementioned protocol for exposure; therefore, any officer who has not been previously exposed to OC in training must undergo the exposure upon recertification. Thereafter, exposure to the product is not required for recertification.

## **EQUIPMENT**

Officers who receive a Certificate of Training for Aerosol Defensive Devices will be issued a ¾ ounce pocket-sized canister of Oleoresin Capsicum (OC) by the Vicinage Chief Probation Officer, Division Manager, Family Division Manager or designee. The attached Equipment Authorization Form will be signed by the officer and maintained at the officer's job location. It is the officer's responsibility to maintain the OC canister device as instructed in training. It is also the officer's responsibility to secure the device in order to prevent its use by an unauthorized person. In the event of theft, loss, and/or allegations of misuse or accidental discharge, the Vicinage Chief Probation Officer/Family Division Manager/Division Manager or designee shall be notified immediately. Substantiated misuse of the device may result in disciplinary action. The assigned OC canister is not for personal use. Officers carrying OC spray canisters must receive a replacement canister 5 years from the date of manufacture (listed on the canister) or whatever timeframe is consistent with the canister's warranted lifetime.

Used, inoperable or expired devices must be turned in to the Vicinage Chief Probation Officer/Family Division Manager/Division Manager or designee prior to the issuance of a new canister. OC canisters must be turned in upon resigning, retiring, transferring to another division, or when instructed to do so by the Vicinage Chief Probation Officer/Division Manager/Family Division Manager or designee. The serial numbers for each OC canister issued to an officer are to be documented by the Vicinage, including the following information: date issued to the officer, date returned by the officer, and date destroyed. This information is to be provided to Probation Services for tracking purposes. All expired canisters will be disposed of by the Vicinages at local Hazardous Waste Collection Sites.

## **POLICY REGARDING THE USE OF SPRAY**

Promulgated by Directive 24-17

August 24, 2017



As previously described, the aerosol device is to be used for defensive purposes only, in accordance with Judiciary policies and as specified in the Aerosol Defensive Device training. Officers will make every effort to neutralize or avoid potentially assaultive situations through verbal and non-verbal tactics, including retreat. If, despite these tactics, the officer reasonably believes that the use of the OC spray is immediately necessary as a defense against an individual, the use is appropriate. While OC spray will subdue most people, some individuals may have little to no reaction to being sprayed. In addition, using OC spray on an animal is not recommended because of the unpredictability of the reaction it will produce.

If the device is used, the officer must immediately contact the local police or Sheriff's Department to report the incident. The authorities must be advised that OC was used to subdue the attacker and decontamination or medical assistance may be necessary.

The officer will file the appropriate police reports and complaint. Notification to the supervisor must be made as soon as possible. By the end of the next working day, the officer must submit the New Jersey Judiciary Workplace Violence/Security Incident Report to the Workplace Violence Liaison. In addition, a copy must be given to the Vicinage Chief Probation Officer/Division Manager/Family Division Manager or designee who will conduct a review within one working day. The purpose of the review is to assess the use of OC under the circumstances, develop or modify any related policies or procedures and identify training issues. This review is also an opportunity to assist the officer in dealing with the aftermath of an assaultive situation.

**New Jersey Judiciary  
Probation Division  
ACKNOWLEDGMENT OF TRAINING  
EXPOSURE/DECLINATION OF EXPOSURE  
to OC (Oleoresin Capsicum) DURING TRAINING**

I, \_\_\_\_\_, acknowledge that I have been provided with Directive #24-17 and received Part I aerosol defensive training for the use and handling of OC spray in accordance with Judiciary policy and guidelines.

I have voluntarily made the following determination with regard to my situation (please initial each line below):

\_\_\_\_\_  
(Initials) I choose to be exposed to OC spray during Part II training session and I confirm that to the best of my knowledge, I have no known medical condition, which may be affected by my participation. Moreover, I am aware that a person exposed to OC spray may experience physiological and psychological effects. Some of those effects include, but are not limited to:

- Swelling of the mucous membranes of eyes, nose, and throat
- Nasal and Sinus Discharge
- Coughing
- Shortness of Breath
- Involuntary Eye Closure
- Painful Burning of the skin, eyes, nose, and throat
- Hyperventilation
- Psychological effects of Fear, Anxiety, and Panic

\_\_\_\_\_  
(Initials) In addition, I also acknowledge the following:

- I have not had eye surgery within the last six (6) to twelve (12) months.

\_\_\_\_\_  
(Initials) I decline exposure to OC spray during Part II training session and I will not be issued an OC spray by the probation division.

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Certified Instructor

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**New Jersey Judiciary  
Probation Division**

**OC (Oleoresin Capsicum) – Equipment Authorization**

I have read Directive #24-17 and received aerosol defensive training Part I & II.

I am in receipt of OC canister \_\_\_\_\_ as of \_\_\_\_\_.  
Serial# Date

OC Canister expiration date: \_\_\_\_\_  
(The expiration date is 5 years from the date of manufacture listed on the canister)

I understand that upon resigning, retiring, or transferring to another Division, I must return the canister to the Vicinage Probation Division Manager (VCPO), Family Division Manager, or their designee. Moreover, I understand that I must be recertified, without exposure, five years from the initial training date or I must return the OC canister to the Vicinage Probation Division Manager (VCPO), Family Division Manager, or their designee. I understand that at any time I may be asked to produce the OC Canister that has been assigned to me for purposes of inspecting and auditing all currently assigned canisters.

Name: \_\_\_\_\_  
(Please Print Name and Job Title)

Signature: \_\_\_\_\_

Job Location: \_\_\_\_\_

All expired canisters must be returned to the Vicinage Probation Division Manager (VCPO), Family Division Manager, or their designee 5 years from the date of manufacture.