



SUBJECT: <u>TRAINING</u> IMPACT AND AEROSOL WEAPONS				
References: <u>NEW YORK STATE ACCREDITATION STANDARDS:</u> 32.4 (Use of Less-Than-Lethal Substances/Devices).				
Special Instructions: 1. This Policy supercedes all previous Policies and Procedures.				
Number: T - 32.100	Pages: 5	Effective Date: August 15, 2002	Revised Date: April 9, 2019	Issuing Authority: Chief of Police

- I. **PURPOSE:** The purpose of this Order is to establish Policies and Procedures for the use of Impact and Aerosol Weapons by Sworn Officers of the Town of Cicero Police Department.
- II. **POLICY:** It is the Policy of the Town of Cicero Police Department that Sworn Officers shall carry and use only those Impact/Aerosol Weapons issued by the Department, and that the use of those Weapons shall be within the limits established by Article 35 of the New York State Penal Law, **The 4th Amendment of the United States Constitution**, and consistent with the Training and Policies of the Department. The use **or threat of use** of any Impact or Aerosol Weapon is considered a Use of Force and shall require a "**Subject Management Report**".
- III. **DEFINITIONS:**
 - A. **IMPACT WEAPON** - A Device used to apply Force against a Resisting or Violent Subject, or to effect a Blocking or Defensive Technique. This shall include Police Batons and ASP Tactical Batons.
 - B. **AEROSOL WEAPON** - Purified Oleoresin Capsicum Aerosol Spray and similar Agents.
- IV. **PROCEDURE:**
 - 1. Sworn Officers of the Town of Cicero Police Department shall carry and use only those Impact/Aerosol Weapons Authorized, and Issued, by the Department.
 - 2. All Officers using Impact/Aerosol Weapons must successfully complete an initial Training Course prior to Issuance.
 - 3. Officers shall be provided Annual Training in the proper use of any Issued Impact or Aerosol Weapon, prior to being Authorized to Carry those Weapons.

4. Officers will be Issued, and Authorized to carry, the following Impact/Aerosol Weapons:
 - a. Police Baton.
 - b. ASP Tactical Baton.
 - c. Oleoresin Capsicum Aerosol Spray.
5. Officers may not carry any other Impact or Aerosol Weapon other than listed in (IV)(A)(3)(a–c) of this Order, unless specifically authorized by the Chief of Police.
6. Impact/Aerosol Weapons shall be carried, and/or utilized, only as Issued and Authorized, and no Changes, Alterations, Modifications or Substitutions shall be made to, or for, same.
7. The decision to use an Impact or Aerosol Weapon must be made with consideration of the Severity of Resistance or Threat, as well as the possible Injuries that may be caused by its Use. Impact/Aerosol Weapons may be used in those Situations where the Use of Force is Justified and Necessary. Under Certain Circumstances, the Use of an Impact Weapon may constitute a Use of Deadly Physical Force (e.g. Head or Neck Strikes). In such Cases, the Impact Weapon shall only be used when the Deadly Physical Force is Justified by Article 35 of the New York State Penal Law **or the Fourth Amendment of the United States Constitution**.
8. Officers are responsible for providing Maximum Security for all Impact/Aerosol Weapons, while in their Possession, or under their Control. Impact/Aerosol Weapons shall not be left in Police Vehicles when Officers are not On-Duty, or in Unsecured Areas of the Department.
9. Impact/Aerosol Weapons shall not be used for Demonstration Purposes, unless Specifically Authorized by the Chief of Police.

B. ASP TACTICAL BATON

1. Uniformed Field Services Section Officers must carry the Issued ASP Tactical Baton on their Duty Belt while On-Duty, except when wearing the Dress Uniform. Unless the use of the ASP Baton is Imminent, it shall be carried Holstered in the Issued Carrying Case. All other Officers may carry the ASP Tactical Baton on their Person, in an Appropriate Manner.
2. ASP Tactical Batons shall not be used to Strike at the Head, Neck or Groin, except in those Extreme Instances in which the Use of Deadly Physical Force is both Justified and Necessary.

C. OLEORESIN CAPSICUM AEROSOL SPRAY

1. The use of Oleoresin Capsicum Aerosol Spray is an option granted to Officers as an alternative in those Situations where the Potential for Injury to an Officer, or a Third Person, exists.
2. Uniformed Field Services Section Officers must carry their issued Oleoresin Capsicum Aerosol Spray on their Duty Belt while On-Duty, except when wearing the Dress Uniform. All other Officers may carry the Aerosol Spray in an Appropriate Manner.
3. Officers are responsible for monitoring the condition of their Issued Aerosol Spray Canister and for Requesting Replacement when the Canister is Expended or Damaged.
4. Supervisors shall periodically Inspect the Canisters Issued to their Officers, to Insure Compliance with this Order.
5. Application of Oleoresin Capsicum Aerosol Spray:
 - a. In electing to use Oleoresin Capsicum Spray, Officers must understand that its Effects are not Uniformly Predictable, and that Certain Individuals may remain Undeterred by its Application. Intoxicated, Drugged, Demented or Enraged Persons may have Reduced Sensitivity to Discomfort. Any such use should be accompanied by a Realization the Officer may need to take Further Action to Ensure His/Her, or a Third Person's Safety. Conversely, all Officers should be aware of the potential, however limited, for Injury arising from the Use of this Spray.
 - b. Officers should be aware of the increased potential for Injury to the Person upon whom the Spray is used when the Subject:
 - i. Is less than Two Feet (2') away from the Officer,
 - ii. Is in an Enclosed Area without Ventilation,
 - iii. Lacks Normal Reflexes, such as the Ability to Blink, or is otherwise Incapacitated.
 - c. The Spray should be used at Distances no less than Two Feet (2'), and no more than Twelve Feet (12') from the Subject. Using the Spray at less than Two Feet (2') may result in a Lessened Effect, or Increased Potential, for an Injury. Beyond Twelve Feet (12') the effectiveness of the Aerosol Spray significantly Decreases.
 - d. Wind Conditions and other Environmental Factors, including the Proximity of Innocent Persons, should be considered before Applying the Use of Spray.
 - e. The Spray should be applied in Controlled Bursts, directed at the Upper Respiratory / Facial Area. After the Spray has been used, and the Subject is under Control, it is the Officer's Responsibility to ensure that

the Proper First Aid is Administered, and to seek, when necessary, Medical Attention. As soon as practical, but within Thirty (30) Minutes, the Exposed Areas should be treated with a Decontamination Product, or with Water. If the Spray has made Contact with the Eyes, they should be flushed with plenty of Cool Water. The Water should be Splashed, not Rubbed, on the affected Eye(s). Should Difficulty in Breathing persist, the Subject should be removed to Fresh Air, and Emergency Medical Assistance should be requested. If necessary, the Emergency Medical Service Personnel should provide Treatment and Transport to a Medical Facility.

- f. When a Defendant has been exposed to the Spray, and is taken to the Onondaga County Justice Center, the Transporting Officer shall advise Justice Center Personnel of the Exposure, so they may take necessary Precautions. Notification is to be made at the Booking Desk, as the Defendant is being Initially Interviewed, to ensure that the Notification is Recorded on the Justice Center Video Tape in addition to being noted in the Officer's Report.
- g. After using the Spray, it shall be the responsibility of the Officer to ensure there is a Sufficient Amount left in the Canister to remain Serviceable. If the Canister has been expended, the Officer shall inform the Watch Supervisor, and Request a Replacement.
- h. Oleoresin Capsicum has a Manufacturer Recommended Expiration Date. Officers should inspect the Canister for Expiration, and Inspect the Holster for Damage or Wear periodically. During that Inspection Officers should vigorously shake the Canister to prevent the Contents from Settling.
- i. Oleoresin Capsicum Aerosol Spray is effective against many Animals and may be employed by Officers to deter an Attacking Animal.

D. MEDICAL ATTENTION

- 1. Whenever an Impact or Aerosol Weapon has been used, the Officer shall immediately evaluate the need for Medical Attention for the Person upon whom the Force was Used. The Officer shall arrange for such attention by Requesting Emergency Medical Services, when the Person has sustained a Visible Injury, Complains of Injury or Discomfort, or Requests Medical Attention. If the Person refuses to be Treated, he must Sign the Refusal Statement on the Emergency Medical Service's Pre-Hospital Care Report Form. If the Person refuses to Sign, the Refusal must be Witnessed on the Form. The Subject's Acceptance or Refusal of Medical Care shall also be Documented in the Officer's Report.

E. REPORTING PROCEDURES

1. Whenever an Officer employs an Impact or Aerosol Weapon, the Officer shall complete a "**Subject Management Form Use of Force Report**," except when used for Authorized Demonstration Purposes per (IV)(A)(8) of this Order.
2. In all cases where an Impact or Aerosol Weapon has been used, the Watch Supervisor or **Duty Chief** shall be notified as soon as practically possible.

F. EVALUATING THE USE OF FORCE

1. **The Watch Supervisor or Duty Chief** shall review the Incident to ensure that the Use of Force was Necessary, Reasonable and Justified, and shall determine whether the Use of Force was:
 - a. Within Department Policy and Applicable Laws.
 - b. Out of Department Policy, and/or in Violation of Applicable Laws.
2. **If the use of force is approved by the watch supervisor, they will sign the subject management form and forward to the Chief of Police for review and approval.**
3. **If the watch Supervisor or Duty Chief find that the officer broke either department policy, state or federal laws, or there is a complaint of excessive force the case will be turned over to Internal Affairs.**
4. The Internal Affairs Officer shall **investigate the incident, confer with the department's use of force instructor**, and report his Findings, together with any Recommendations, to the Chief of Police.