



TRANSIT POLICE

OLEORESIN CAPSICUM (OC) AEROSOL

Effective Date: June 29, 2011

Revised Date: November 24, 2011; February 2, 2012; February 22, 2013; September 30, 2016; July 27, 2018

Reviewed Date:

Review Frequency: 2 Years (or earlier as required)

Office of Primary Responsibility: Inspector Operations Support

POLICY

[See also policy chapters: [OH020 – Use of Force](#) and [OH070 – Independent Investigations Office.](#)]

Definitions

BCPPS – The British Columbia Provincial Policing Standards issued pursuant to the *Police Act*.

Chief Officer – The Transit Police Chief Officer or delegate.

Conducted Energy Weapon (CEW) – A weapon designed to use a conducted electrical current in order to incapacitate a person or to generate compliance through pain.

Criminal Code – Criminal Code of Canada [RSC 1985, c. C-46], as amended from time to time.

Critical Incident – Pursuant to the *Police Act* and Memorandum of Understanding respecting IIO Investigations, whenever on-duty officers attend:

- a. any incident where there is a reasonable belief that the presence, action, or decision of an on-duty officer
 - i. may have been a contributing factor in the death of any person, including all in-custody deaths;
 - ii. may have been a contributing factor in a life-threatening injury to any person;
 - iii. may cause disfigurement (permanent change in appearance), if there were no medical intervention;
 - iv. may cause permanent loss or impairment of any function or mobility of the body, if there were no medical intervention;
- b. any discharge of a firearm by an on-duty officer where there is a reasonable belief that any person (including a police officer) may have been injured;
- c. any incident where there is a reasonable belief that the action of an off-duty officer
 - i. may have been a contributing factor in the death of any person;
 - ii. may have been a contributing factor in a life-threatening injury to any person;
 - iii. may cause disfigurement (permanent change in appearance), if there were no medical intervention.
 - iv. may cause permanent loss or impairment of any function or mobility of the body, if there were no medical intervention.

NOTE: The IIO has asked that police agencies do not notify the IIO of on-duty incidents that concern pre-existing mental or physical illnesses or injuries that are not reasonably believed to have “resulted from the presence, action or decision of an on-duty officer.”

Designated Constables – The Transit Police police officers appointed by the Police Board.

Director - Police Services – The director of police services, Ministry of Public Safety and Solicitor General.

IIO – The Independent Investigations Office of British Columbia established pursuant to s. 38.02 of the *Police Act*.

Intermediate Weapon – A weapon whose normal use is not intended or likely to cause serious injury or death. Impact weapons, aerosols and CEWs fall within this category. Intermediate weapons may also be referred to as less-lethal weapons.

Less-Lethal Force – Any use of force that is not intended to be lethal.

Lethal Force – This use of force option involves the use of any weapons or techniques that are intended to, or are reasonably likely to cause grievous bodily harm or death. [In accordance with the *Criminal Code* and standards found in appropriate case law.]

Member – Designated Constable (all ranks), the Chief Officer or a Deputy Chief Officer of the Transit Police.

Metro Vancouver Transit Police (“Transit Police”) – The operating name of the South Coast British Columbia Transportation Authority Police Service.

OC Aerosol – An Oleoresin Capsicum based product designed and intended for use by law enforcement.

OPCC – Office of the Police Complaint Commissioner established pursuant to s. 47 of the *Police Act*.

Police Act – The *BC Police Act*, [RSBC 1996], c. 367, and the regulations thereto, including the *Transit Police Complaints and Operations Regulation*, all as amended from time to time.

Reasonable Grounds – Includes both subjective and an objective component and means that the officer must personally believe that the decision or action is necessary, and in addition, the decision or action must be able to stand the test of whether an objective third person, who is acting reasonably – and is informed of the officer’s training, experience and the factual circumstances at the time – would also reach the same conclusion.

Reportable Injury – As defined in the *Police Act*, any of the following: “an injury caused by discharge of a firearm; an injury requiring emergency care by a medical practitioner or nurse practitioner and, transfer to a hospital; or any injury described by s. 184(2)(c) of the *Police Act*.”

Restraint or Restraint System – Any mechanical device or system of mechanical devices that when used in their ordinary and intended manner restricts the normal physical activity or range of motion of an individual in part or in whole.

ROR – Reasonable Officer Response; ROR is a use of force post-incident, plain language articulation tool to support a reasonable perception and response by a Member. ROR is supervisor oversight to assist the Member's in articulation and reporting of use of force. ROR is NOT a model for force application based on classification of observed behaviours.

SBORR – Subject Behaviour Officer Response Report; a Ministry of Public Safety and Solicitor General use of force reporting form.

Serious Harm – As defined in the *Police Act*, “injury that may result in death, may cause serious disfigurement, or, may cause substantial loss or impairment of mobility of the body as a whole or of the function of any limb or organ”.

Authority

1. As Police Officers, Members are authorized by law to use force in the lawful execution of their duties.

General

2. The Transit Police will promote defusing tactics and commits to using the minimum level of force necessary in all of its actions.
3. Pursuant to the [BCPPS](#), only weapons approved by the Director – Police Services may be authorized for use within the Transit Police.

Force Options

4. The Transit Police uses the National Use of Force Framework (NUFF) as a use of force training aid. The following force options are set out in NUFF: officer presence, communication, physical control (hard and soft), intermediate weapons and lethal force. The Transit Police accepts that the RCMP Incident Management Intervention Model is consistent with NUFF.
5. Only firearms, ammunition and other weapons authorized by the Chief Officer will be issued to and carried by Members. [See policy chapters OH010 – Firearms, OH020 – Use of Force; OH030 – Conducted Energy Weapons, OH040 – Physical Control, OH060 – Impact Weapons and appendices.]
6. Only Members trained, current and demonstrating proficiency in the approved weapons may be allowed to carry and use such weapons.
7. In absence of a specific Transit Police qualifying standard, those endorsed by, in priority, the Director – Police Services or the Justice Institute of British Columbia Police Academy will be the benchmark.

Off Duty

8. Members will not carry their issued weapons when off duty, unless authorized by the Chief Officer.

OC Aerosol Deployment

9. Only Members trained and currently qualified to the Transit Police standard may carry and deploy OC Aerosol.
10. Only OC Aerosol issued or accepted by the Transit Police may be carried and deployed by trained Members.

Critical Incident (Death, Serious Harm or Injury)

11. When a Member's application of OC Aerosol or use of force is within the parameters of a Critical Incident or the incident is otherwise a SBORR reportable matter, the Member must immediately contact their Supervisor (or as soon as is feasible given the dynamics of the event). The Supervisor will notify the Watch Commander.
12. A Supervisor must attend the scene for all Critical Incidents and, as appropriate, attend the scene of other use of force related incidents following ROR guidelines and assessment of the circumstances.
13. In the event that the Member's application of OC Aerosol or use of force has resulted in death, serious harm or injury (a Critical Incident), the Member must immediately, when directed, surrender equipment and other items for investigative purposes [refer to policy chapter [OH070 – Independent Investigations Office](#)].
14. In event of a Critical Incident, the Watch Commander will promptly notify the Inspectors for Operations, Operations Support and Support Services/Professional Standards, and the Deputy Chief Officer Operations. The Deputy Chief Officer Operations will then promptly inform the Chief Officer and Deputy Chief Officer Administrative Services.
15. In the event that the application of OC Aerosol or use of force has caused death, serious harm or injury of a person (including a police officer) or otherwise considered a reportable injury under s. 184(2)(c) or the *Police Act*, the Chief Officer (or designate by policy) will:
 - (1) immediately report to the IIO in accordance with requirements of the *Police Act* so that an investigation can be initiated, and take all appropriate measures to support any investigation of the matter OC Aerosol;
 - (2) immediately report to the OPCC in accordance with requirements of s. 89 of the *Police Act* so that an investigation can be initiated, and take all appropriate measures to support any investigation of the matter [refer to policy chapter [AC140 – Complaints](#)]; and
 - (3) notify the Police Board (via Chair) and Director – Police Services of the matter and action taken, as soon as is practicable.
16. The Police Board may, on receiving a notification under s. 15 of this policy, make any further inquiries into the incident that the Police Board considers necessary.
17. Members will be required to comply with IIO requirements, including but not limited to scene integrity and preservation of evidence and officer submission of notes, reports or data requested by the IIO investigator [refer to policy chapters OH020- Use of Force and OH070 – Independent Investigations Office for additional information].

18. The IIO reporting requirements do not replace or change the Transit Police current obligations for reporting injuries to subjects or use of force reporting such as SBORR. However, when the IIO assumes responsibility for a Critical Incident investigation, the ROR - Category II administrative review by the Supervisor will be suspended.

Use of Force Reporting – SBORR

19. Members will complete a SBORR under any of the following conditions:
 - (1) when physical control – hard, intermediate weapons, or a firearm are used in response to actual or anticipated assaultive behaviour, grievous bodily harm or death;
 - (2) where the simple presentation by the Member of a weapon, influenced or changed the subject behaviour;
 - (3) when force is used at the physical control – soft level, if that force response resulted in injury to the Member or the subject.

When deciding if the reporting threshold has been met, Members will consider the totality of the event. Further:

- a. Members may submit an SBORR at any time they believe it is appropriate.
 - b. Members should consider submitting a SBORR if the use of force is subject to an unusual event, high profile, or believed to be subject to a police conduct complaint, even if the reporting threshold is not met.
 - c. The Transit Police may request/direct that a SBORR be prepared/submitted.
20. When dealing with multiple subjects in one event where the SBORR threshold has been met and where the response of the subjects is uniform, only one SBORR needs to be prepared by the Member(s), listing the particulars for each subject directly involved in the event. Where there is not uniform response, the Member will complete a SBORR for each person where an individual threshold for SBORR preparation has been met.
 21. Multiple Members involved in one event will each need to submit a SBORR if their actions impacted subject behaviour.
 22. An observing Member will not be required to complete a SBORR.
 23. A Member injured or involved in a high stress event may not be required to complete a SBORR. A Supervisor or Member of the investigative team may complete the initial report.
 24. A SBORR will be completed prior to completion of the Member's shift, or as otherwise directed by the assigned Supervisor to the event.

Training and Qualifications

25. Members will carry only authorized weapons and ammunition. A Member's operational status, and continued safety of the public and other police officers, requires that a Member demonstrate proficiency in their issued weapons as a *bona fide* employment requirement.
26. All Members will receive periodic use of force training, as programmed by the Transit Police, in order to refresh tactics, techniques and procedures, or to introduce new weapons, tactics, techniques and procedures. Members will not be considered currently qualified until they have met the training and testing standards approved by the Chief Officer.
27. At the conclusion of each qualification session, participating Members will demonstrate the acquired skill to the satisfaction of the instructor. Members may also be required to successfully complete a written exam, when so directed.

PROCEDURES

Duty of Member

28. OC Aerosol may be utilized by Members based on an event specific risk assessment to manage the persons who are arrestable considering the totality of the situation.
29. Once a subject has been sprayed and controlled with OC Aerosol, Members will follow these procedures, where appropriate and reasonable:
 - (1) tell the subject that they have been sprayed with OC Aerosol and the effects are short term;
 - (2) where the scene is safe and it is practicable, assist the subject with de-contamination using air movement, exposure to sunlight and, if practicable, water;
 - (3) monitor the subject to ensure their safety;
 - (4) apply immediate first aid within capability, and seek Emergency Health Services/medical assistance support for subjects who show no signs of improvement or appear to be in medical distress;
 - (5) notify their Supervisor;
 - (6) document the deployment of OC Aerosol in police notebook, General Occurrence (GO) report and SBORR; and
 - (7) monitor and check the deployed OC Aerosol for condition, volume and replacement date, and if replacement of the OC Aerosol is required, the Member will advise the Transit Police Stores Coordinator (Stores Coordinator).

OC Aerosol Maintenance, Care and Control

30. OC Aerosols will be changed in the year of expiry or as required.

31. Transit Police approved OC Aerosols can be found in the [Appendix A – Approved Weapons](#) in policy chapter OH020 – Use of Force.
32. A stores supply of OC Aerosols will be maintained by the Stores Coordinator.
33. Members have a duty to ensure safe and secure storage of their OC Aerosol at all times.

Key References

BC Ministry of Justice SBOR Provincial Reporting Requirements – FAQs [January 1, 2014]
BC Ministry of Public Safety and Solicitor General Letter on Use of Force reporting and SBOR Evaluation Report [July 7, 2011]
BC Police Act, [RSBC 1996], c. 367
BC Provincial Policing Standards
Criminal Code of Canada [RSC 1985, c. C-46]
Memorandum of Understanding Respecting Investigations between Independent Investigation Office of BC (IIO) and Jurisdictional Police [July 16, 2012]
National Use of Force Framework
Police Executive Forum (PERF) – Critical Issues in Policing Series – Use of Force: Taking Policing to a Higher Standard [January 29, 2016]
Transit Police Syllabus for OC Aerosol
Subject Behaviour Office Response Reporting Lesson Plan – Justice Institute of British Columbia [May 2009]