



<b>Series</b> 300 Support Services	<b>Effective Date</b> 09/07/2022	<b>Review Date</b> Three Years	<b>Directive Number</b>  <b>304.3</b>
<b>Chapter</b> 304 - Training			
<b>Reviewing Office</b> Professional Education and Training			<input type="checkbox"/> <b>New Directive</b> <input checked="" type="checkbox"/> <b>Revised</b> <small>Revisions in <i>italics</i></small>
<b>References</b>			

## **CHEMICAL SPRAY DEVICE**

### **304.3 - 1 PURPOSE**

The purpose of this directive is to establish guidelines and procedures for the use of the chemical spray device.

### **304.3 - 2 POLICY**

The Detroit Police Department (DPD) has issued chemical spray to provide members with an additional use of force option for gaining lawful compliance of actively resisting or aggressive individuals. Members shall only use their Department-issued chemical spray in accordance with the guidelines and procedures set forth in this directive and Department use of force policies. The indiscriminate use of Department-issued chemical spray will not be tolerated.

### **304.3 - 3 Definitions**

#### **304.3 - 3.1 Actively Resisting**

The subject is making physically evasive movements to defeat a member’s attempt at control, including bracing, tensing, pulling away, or pushing.

#### **304.3 - 3.2 Command Investigation**

An investigation conducted by a Detroit Police Department supervisor.

#### **304.3 - 3.3 Force**

1. The term “force” **means** the following actions by a member:

- a. Any physical strike or instrumental contact with a person;
- b. Any intentional attempted physical strike or instrumental contact that does not take effect; or
- c. Any significant physical contact that restricts the movement of a person.

2. The term “force” **includes** the following actions by a member:

- a. The discharge of a firearm;
- b. The discharge of an electronic control weapon (Taser);

**304.3 Chemical Spray Device**

- c. The use of chemical spray;
  - d. Chokeholds or hard hands;
  - e. The taking of a subject to the ground; or
  - f. The deployment of a canine.
3. The term “force” does not include escorting or handcuffing a person, with no or minimal resistance. Use of force is lawful if it is objectively reasonable under the circumstances and the minimum amount of force that is necessary to effect an arrest or protect the member or other person is used.

**304.3 - 4 Authorization****304.3 - 4.1 General**

1. Only members who have completed the prescribed training on the use of Department-issued chemical spray are authorized to use or carry such spray.
2. Only the Department-issued chemical spray is authorized for carrying or use. Members assigned to patrol or investigative duties shall carry the Department-issued chemical spray.

**304.3 - 4.2 Issuing Chemical Spray**

1. Members will be issued one canister of Department-issued chemical spray.
2. The issuing member shall prepare an Inter-Office Memorandum (DPD568) entitled, “Issuance of Chemical Spray”, to acknowledge the date of receipt of the equipment. The memorandum shall also include the Department-issued chemical spray canister serial number. Commanding officers shall ensure that the canister serial number is recorded in the “remarks” area of the member’s Personnel Data Card (DPD139).
3. Training will conduct training for members in the proper use of Department-issued chemical spray.

**304.3 - 4.3 Quarterly Chemical Spray Device Inspections**

1. Each quarter, commanding officers shall ensure that the chemical spray canisters issued to members of their command are inspected. As the procedure requires a brief discharge of the canister, the inspection shall be done outside. Supervisors shall conduct the inspection in the following manner:
  - a. Visually inspect the canister for the expiration date and signs of leakage;
  - b. Shake the canister to ensure that it contains fluid;
  - c. Compare the weight of the canister being inspected with that of a full one; and
  - d. Point the canister towards the ground in a safe direction and discharge a one (1) second burst to ensure that the canister contains sufficient propellant to effectively disperse the agent.
2. The supervisor conducting the inspection shall submit a Quarterly Inspection Sheet (DPD790) to their commanding officer documenting the results.

**304.3 Chemical Spray Device****304.3 - 4.4 Chemical Spray Replacement**

1. Members with a defective, expired, or nearly empty canister shall request a replacement by preparing an Inter-Office Memorandum (DPD568) to Firearms Inventory, including the depleted canister's serial number. Upon approval by the member's commanding officer, the member shall report to Firearms Inventory with the empty canister and the approved memorandum.
2. Prior to transporting the device to Firearms Inventory, a supervisor shall empty the canister by spraying it outdoors towards the ground in a safe direction.
3. Firearms Inventory shall endorse the memorandum with the date of replacement and the replacement canister serial number. A copy of the Inter-Office Memorandum (DPD568) shall be forwarded to the member's commanding officer for placement in the member's command personnel file. Commanding officers shall also ensure that the member's personnel data card is updated with the replacement canister's serial number. Firearms Inventory shall retain the original memorandum.

**304.3 - 5 Usage Criteria****304.3 - 5.1 General**

1. Department-issued chemical spray may only be used under the following circumstances when a lesser degree of force is not effective:
  - a. Self-defense or the defense of others;
  - b. To effect the arrest of a person actively resisting;
  - c. To restrain a person attempting to flee from custody or to recapture a person who has been arrested;
  - d. To prevent a person from injuring a member or another person; or
  - e. To repel or control attacking or menacing animals.
2. Department-issued chemical spray may not be used in the following circumstances:
  - a. To effect the arrest of a person who is only offering verbal or visual *cues* (e.g. blank stare, clenched fists, tightening of jaw muscles, etc.) or other forms of inactive resistance (e.g. not responding to commands);
  - b. To effect the arrest of a person who is only passively resisting (e.g. going limp, offering no physical resistance, etc.);
  - c. Once a subject succumbs, becomes incapacitated, or is restrained; or
  - d. To threaten or elicit information from a person.
3. If possible, avoid using Department-issued chemical spray on persons who appear to be in frail health, young children, women believed to be pregnant or persons with known respiratory conditions.
4. If possible, obtain the prior approval of a supervisor any time chemical spray is used against a crowd.

### **304.3 Chemical Spray Device**

5. If possible, avoid using Department-issued chemical spray on a subject in a crowded area where non-involved persons are likely to be contaminated.
6. Any use of chemical spray must comply with the Department's Manual Directive 304.2, Use of Force. Members are reminded that use of force is only authorized when it is objectively reasonable and for a lawful purpose.

#### **304.3 - 5.2 Verbal Commands**

1. A verbal warning and a reasonable time to allow the subject to comply must be given prior to the use of chemical spray, unless such warning would present a danger to the member or others. If a verbal warning cannot be given, the reason shall be documented on the member's Use of Force Report (UF-002).
2. Giving verbal commands before, during, and after the application of chemical spray is important in order to de-escalate the situation and gain compliance and control of an actively resisting or actively aggressive subject.
3. Once the spray is used, commands must be given to direct the subject (e.g. "Kneel down on the ground," "Put your hands behind your back," or "Stop resisting arrest").
4. After resistance has ceased, members shall make an effort to reassure the subject that decontamination for the spray application is forthcoming.

#### **304.3 - 5.3 Department-Issued Chemical Spray – Application Techniques**

1. A one (1) or two (2) second burst of the Department-issued chemical spray should be directed to the nose/mouth area.
2. Direct discharge into the eyes should be avoided.
3. Except in an emergency situation, do not discharge Department-issued chemical spray when closer than three (3) feet from the subject because of the increased risk for self-contamination, or contamination of other members at the scene.
4. An additional burst may be used if the initial burst proves ineffective. Allow a brief time for the chemical to take effect before an additional burst. Be prepared to take other appropriate action should the agent fail to be effective.
5. Members shall not discharge the Department-issued chemical spray into or near an open flame.

#### **304.3 - 6 Exposure to Chemical Spray and Member Response**

1. Within several seconds of being sprayed by chemical spray, a subject will normally display symptoms of temporary blindness, have difficulty breathing, burning sensation in the throat, nausea, lung pain and/or impaired thought processes.
2. The effects of chemical spray vary among individuals. Therefore, all subjects shall be handcuffed as soon as possible after being sprayed. Members should also be prepared to employ other means to control the subject including, if necessary, other force options consistent with Department policy if the subject cannot be subdued.

### **304.3 Chemical Spray Device**

(Refer to Manual Directive 304.2, Use of Force, and Training Directive 04-3, Use of Force Continuum).

3. Whenever a subject is affected by chemical spray, members shall:
  - a. Ensure that the subject is properly restrained or no longer poses an immediate threat to the safety of members or others;
  - b. If a subject displays breathing difficulties, gagging, profuse sweating, loss of consciousness, or any other indication that medical attention is needed, members shall immediately request EMS;
  - c. Subjects affected by chemical spray shall be monitored continuously for indications of medical problems and shall not be left alone while in police custody. Members shall render first aid and request EMS, if needed, in the event that an innocent person is inadvertently sprayed or exposed to a chemical spray;
  - d. Move the person to an area that provides fresh air and direct the person's face into the wind;
  - e. Transport the person with vehicle windows partially lowered to ensure adequate ventilation;
  - f. Provide assurance to subjects who were sprayed that the effects are temporary, encourage them to relax and not rub the affected area;
  - g. Do not allow the application of salves or creams to the affected area as they will trap the chemical agent against the skin and cause burning;
  - h. Afford the subject the opportunity to flush the exposed area (at the nearest precinct) with plenty of cold water within twenty (20) minutes of application of spray or apprehension; and
  - i. Instruct individuals wearing contact lenses to remove the lenses as soon as possible.
  
4. If a person complains of continued effects after having been decontaminated, or they indicate that they have a pre-existing medical condition ( e.g. asthma, emphysema, bronchitis, or heart ailment) that may be aggravated by a chemical spray, the person shall immediately be conveyed to an approved medical facility for medical treatment.

### **304.3 - 7 Reporting Requirements**

1. Members shall immediately notify dispatch and request a supervisor to respond to the scene for the following:
  - a. Any use of force or detainee injury;
  - b. Any visible sign of injury; or
  - c. A complaint of injury.
  
2. Members shall refer to Manual Directive 201.11, Use of Force/Detainee Injury Reporting/Investigation and Manual Directive 304.2, Use of Force, for proper reporting requirements.

### **304.3 Chemical Spray Device**

#### **304.3 - 7.1 Use of Force Report**

1. A Use of Force Report shall be completed following all discharges of chemical spray except during testing, training, malfunction or accidental discharge.
2. Officers shall document the time the subject was sprayed and the time the subject was afforded the opportunity to flush the exposed area with water.
3. All Use of Force Reports shall specify the actions of the subject that necessitated the use of force, the reasons why the officer used force, any complaints of injury, medical treatment received, or refusal of medical treatment.
4. The Use of Force Report shall be submitted as soon as possible following the incident but prior to the end of his or her tour of duty. [Refer to Directive 201.11 (Use of Force Reporting)] for complete use of force reporting and/or investigative requirements.

#### **304.3 - 8 Canada**

Canadian law does not allow members of the DPD to legally carry chemical spray devices when visiting Canada. As a courtesy to this department, the U.S. Customs Service will accept a member's chemical spray for safekeeping before entering Canada.

#### **Related Procedures:**

- Directive 201.11 – Use of Force Reporting and Investigation
- Directive 202.1 – Arrests
- Directive 304.2 – Use of Force
- Training Directive 04-2 - Use of Force Continuum
- Training Directive 05-4 – Positional Asphyxia
- Training Directive 04-7 – Use of Force Reporting

#### **Form and Reports:**

- Use of Force Report (UF-002)
- Supervisory Investigation Report (UF002a) Form (SIR)
- Use of Force/Detainee Injury Investigation Guide
- Investigation Checklist