

Nevada County Juvenile Hall O.C. spray

Product details: Sabre Red MK 3 crossfire spray

Product Specs: 10% OC, 1.33% capsaicinoid content

Fires 10 sec burst

Non flammable

4-1/2' x 1-1/2'd

1.4 oz canister

12 canisters kept on hand for use.

Darsi Gaines

From: donotreply@galls.com on behalf of Galls <donotreply@galls.com>
Sent: Thursday, October 19, 2017 8:06 AM
To:
Subject: Galls Order Confirmation



CATEGORIES BRANDS CLOTHING FOOTWEAR EQUIPMENT CLEARANCE

HI NEVADA COUNTY JUVENILE HALL,

**ORDER
INFORMATION**

Thank you for shopping at Galls. This is a summary of your order.

Order Number: 9218595
Order Date: 10/19/2017
Payments:
Credit Card #: *****8483

Ship To:
NEVADA COUNTY JUVENILE HALL
15434 STATE HWY 49
NEVADA CITY, CA 95959

Customer PO#:

Order Status

You can check your order status anytime by signing in to your Galls account or by clicking [here](#). If you have any questions or concerns, [email us](#) or call us toll-free at 866.673.7643.

Order Summary

Item No.	Description	Ordered	Item Price	Total Price
SD147	Sabre Red MK 3 Crossfire Spray	12	11.60	139.20

Fulfillment Location:
LEX - Galls Lexington - Corporate

Merchandise Total:	139.20
Shipping & Handling:	
Sales Tax:	12.18
Order Total:	151.38

Your order may ship in various intervals. If an item is on backorder or ships directly from our suppliers your credit card is not charged until the item ships. Your credit card statement will show this purchase from GALLS. If items have shipped from our suppliers, we may not be able to process cancellation requests.

Order Status

You can check your order status anytime by signing in to your Galls account or by clicking [here](#). If you have any questions or concerns, [email us](#) or call us toll-free at 866.673.7643.



1340 Russell Cave Road
Lexington, KY 40505
1-800-477-7766
www.galls.com

Regular



ORDER NO: 9218595-1

3007771322

DARSI GAINES
NEVADA COUNTY JUVENILE HALL Pkt Ctrl Nbr
950 MAIDU AVE
NEVADA CITY CA 95959 3007771322

NEVADA COUNTY JUVENILE HALL
15434 STATE HWY 49
NEVADA CITY CA 95959

EXPORT RESTRICTIONS:

This transaction may contain commodities restricted by the United States International Trade Regulations. If, at a later date, you, your business or agency decide these commodities will be exported from the United States, then please reference the United States Department of Commerce Bureau of Industry and Security Export Administration Regulations (15CFR 730-774), the United States Department of State International Traffic in Arms Regulations (22 CFR 120-130), as well as any other applicable laws. These laws apply to private, commercial and government agency export transactions. As an exporter, you, your business or agency, will be responsible for compliance with all U.S. laws relating to the export of these items.

WFL	QTY	ITEM NO.	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
0LSC27BB04	12.00	SD147	SABRE RED CROSSFIRE SPRAY MK3	11.60	139.20

RECEIVED

OCT 27 2017

JUVENILE HALL

all received

SEE REVERSE SIDE FOR PRE-AUTHORIZED RETURN FORM

01F01213A5D

Galls
1340 Russell Cave Road
Lexington, KY 40505
1-800-477-7766
www.galls.com
galls.com/pages/returns

1 OF 1 PAGES

Net Product \$	139.20
Tax	12.18
P & H	0.00
Total Shipment \$	151.38
MC	151.38

Cust. Phone#:5304702602

NEVADA COUNTY JUVENILE HALL

10/19/2017

10/19/2017 13:57:14 1710196819 LEX

NEVADA CITY CA 95959

Order: 9218595-1
PO #:

Nevada County Juvenile Hall

O.C Spray Deployment

2015 = No Deployment

2016 = 3 uses of O.C. Spray

NAME	SEX	AGE	HEIGHT	WEIGHT	RACE	NAT. ORGIN
J. D. (J-1212086)	M	17	5'6	150	CAUC	USA
J. G (3000825)	F	15	5'2	132	HISP	USA
D. G (3000826)	F	16	5'2	140	HISP	USA

2017 = No Deployment

2018 = No Deployment

COUNTY OF NEVADA	POLICY No 48.0 Page <u> 1 </u> of <u> 3 </u>
	SUBJECT: CHEMICAL AGENT POLICY
	AUTHORITY: Title 42 Section 1983, Title 18 section 242 Penal Code 12450 & 6030, WIC 222
PROBATION DEPARTMENT	EFFECTIVE: 4-1-02
<i>JUVENILE HALL MANUAL</i>	REVISED: 02-07-17 REVIEWED: 04-12-18

Purpose:

To establish and implement policy and procedure for the use of chemical agents within the Juvenile Hall, in conjunction with the facility policy on Use of Force, and establish reporting procedures for any incident resulting in the use of chemical agents on youth/Transitional Age (TA) young adult.

Definitions:

OC Spray: Oleoresin capsicum spray or foam containing 10% pepper in a carrier medium as approved for use by the California Department of Justice. This agent causes an irritation of the nerve endings near the skin's surface causing burning on contact.

Policy:

Only oleoresin capsicum sprays of a type and strength approved by the California Department of Justice shall be provided for use by the Probation Department for the staff of the juvenile hall. Staff is prohibited from bringing personal OC spray to the work site, and from using spray not provided for them by the department.

Chemical agents may be used to control, restrain, or subdue imminent or actual violent behavior where such behavior presents a clear danger to staff, youth/TA young adult, or other persons in the facility.

Before using chemical agents, staff should always consider the use of alternatives rather than chemical agents and should use the least noxious alternative if that alternative does not significantly increase the risk of danger to staff or others.

Noteworthy Case law (U.S. Vs Neill, 166 F3rd Circuit, 1999) held that "Pepper spray qualifies as a 'Dangerous Weapon' because it may cause 'serious injury' namely 'extreme physical pain or the protracted impairment of a function of a bodily member, organ or mental faculty' ..."

Therefore, staff shall:

- Give warning when feasible
- Determine whether the person to be sprayed is actively resisting
- Consider the potential effects on bystanders, medical attention following the use of OC, and may give rise to liability, criminal charges, discipline or termination of employment
- If the youth/TA young adult is asthmatic, OC Pepper Spray shall not be used. Staff shall identify other force options along the continuum, and use the minimum amount of force necessary to accomplish compliance.
- If the youth/TA young adult is pregnant, OC Pepper Spray shall not be used. Staff shall identify other force options along the continuum, and use the minimum amount of force necessary to accomplish compliance.

Chemical agents shall never be used indiscriminately, nor shall they be used in response to simple threats of violence, but may only be used when there is a credible threat of violence coupled with a present ability to cause injury or loss of life.

Youth/TA young adults that are **asthmatic** and **pregnant** shall have their conditions documented on the classification sheet of the Pod folder. It shall be the booking officer's responsibility to inform Central Control of a youth's condition that is housed in Juvenile Hall. It shall be Central Control's responsibility to update the, "No Spray," list. It shall be the SGS/ASGS responsibility to report youth's/TA young adult's condition to staff turnover, and notify CFMG.

All incidents requiring the use of OC pepper spray will be documented on a special incident report and the observation log as outlined in Policy 46.

OC spray shall not be used as an offensive weapon to persuade a person to move or act in a desired manner, nor to stop undesired conduct (examples include, but are not limited to, noise, cursing, door banging, excessive room noise), which in itself, does not amount to an immediate threat to the safety and security of the youth, staff or the facility, or to effectuate an escape.

OC spray shall not be used when the person's violent activity is no longer likely to cause injury to another person or effectuate an escape.

Chemical agents shall not be used for punishment, retaliation, for disciplinary purposes, or to achieve an administrative request. Rather, its use is limited to control of specific kinds of behavior.

At no time shall staff allow youth/TA young adults access to OC spray containers for any reason.

Use of OC spray on youth/TA young adult with documented asthma or other breathing problems, or youth/TA young adult known or believed to be pregnant is strictly prohibited except in cases of mortal danger. Such documentation shall occur in the classification section of the Personal Data/ Classification sheet in the Pod folder.

OC Spray containers shall be inspected for required maintenance on a monthly basis. The inspection is to be conducted concurrently with the monthly Fire Safety Drill. The inspection will check for the expiration and capacity of all canisters in the institution (all located in Central Control). Canisters that are too low or have been in service for over one year are to be removed from service and given to the Senior Group Supervisor in charge of Facility Maintenance for replacement and disposal.

Procedure:

1. All OC containers shall be stored in Central Control when not in use. An inventory of OC containers is to be conducted by Central Control at the start of each shift.
2. Before using OC spray, staff shall always consider use of alternatives other than chemical agents. In any event, staff shall always use the lowest level of force where they are most likely to be successful to ensure the safety of staff and unnecessary injury to the youth/TA young adult.
3. The Senior Group Supervisor or Lead Staff should be consulted whenever possible before using OC spray.
4. Whenever conditions allow, OC spray should be applied from a distance of three feet or more to prevent injury to the eyes of the recipient.
5. The Probation Program Manager is to be informed of OC use immediately following the incident.
6. Following approved decontamination procedure, the medical health provider is to be notified of OC spray use. All health directives from the provider are to be documented and followed.
7. A Special Incident report is to be completed prior to the end of the shift by all staff involved in the use of OC spray. The report could contain the following:

- a. A clear and factual rationale for the use of the chemical agent.
 - b. A description of how the agent was used and the result obtained.
8. Documentation on the observation log pursuant to policy 46 is to be followed including a complete description of aftercare procedures and/or medical treatment
9. First Aid procedures following contamination from OC:
- a. Avoid contamination with spray whenever possible. Staff is to wear latex gloves during the decontamination process.
 - b. Leave the contaminated area and direct the youth/TA young adult to the outdoor caged recreation area and into fresh air.
 - c. If the youth/TA young adult continues to be combative after being sprayed, handcuffs and/or shackles may be used during the decontamination process.
 - d. As soon as the youth/TA young adult is no longer considered a threat, the restraints may be removed.
 - e. The youth/TA young adult is directed to utilize a cold-water rinse on the face and eyes until relief is obtained.
 - f. The youth/TA young adult may be directed to a cool shower and given a change of clothing. Soaps and lotions should be avoided.
 - g. The area of the spray should be cleaned and aired until clear. If sprayed in a housing room, bedding and mattress are to be replaced. Contaminated bedding is to be washed and the mattress is to be decontaminated.
 - h. Medical should be advised should the youth/TA young adult develop a rash, as this is an indication of possible allergic reaction.

COUNTY OF NEVADA

POLICY No. 87.1

Page 1 of 1.

SUBJECT: Pregnant Youth

AUTHORITY: Title 15 section 1417

EFFECTIVE: 7-17-05

REVISED: 2-7-17

REVIEWED: 04-12-18

PROBATION DEPARTMENT

JUVENILE HALL MANUAL

Purpose:

To establish and implement a policy regarding Pregnant Transitional Age (T.A.) young adult/Youth.

Policy:

Any pregnant T.A. young adult/youth shall be permitted to seek and obtain an abortion within the guidelines of the Therapeutic Abortion Act, Chapter 11, Section 2590 and following, Division 20, Health and Safety Code. Arrangements for therapeutic abortions (including counseling) shall be made by Nevada County CFMG Center and by the T.A. young adult/youth's Probation Officer. Information about the right to abortion shall be written in a manner easily understood by most T.A. young adult/youths and posted in a place to which all T.A. young adult/youths have access.

Female T.A. young adult/youths shall be notified that family planning services are available to them. Such information shall be given to each female, verbally, by the nurse at the time of the intake screening examination and shall also clearly be written and posted where all female T.A. young adult/youths have the opportunity to see it.

Any female T.A. young adult/youth who requests family planning services shall be furnished with those services within the institution or in a clinic operated by the contracting agency (Welfare and Institution Code Section 221 C).

Female T.A. young adult/youths shall have access to pregnancy testing and prenatal care while detained. A female T.A. young adult/youth is entitled to seek such services from a physician or surgeon of her choice. She is responsible for the expenses incurred when she receives such care from physician or surgeon whose services are not provided by the facility.

A clearly written statement of the above rights shall be posted where all female T.A. young adult/youths have the opportunity to see it (Welfare and Institutions Code Section 222).

Pregnant Female T.A. young adult/youth will have a plan developed by CFMG medical staff that insures the following areas are addressed. Diet, Vitamins, and education as required by Penal Section Code 6030 e.

Pregnant females shall follow policy Penal CODE 6030 (F) with regards to limitations of restraints.

OC Pepper Spray will not be used on pregnant females. NON OC Spray list posted in Central Control.

COUNTY OF NEVADA

POLICY No 13.0

Page 1 of 2.

SUBJECT: PERSONAL APPEARANCE AND ATTITUDE

AUTHORITY: Nevada County Probation Department Manual, Nevada County Juvenile Hall Manual

PROBATION DEPARTMENT

JUVENILE HALL MANUAL

EFFECTIVE: 06-17-10

REVISED: 02-7-17

REVIEWED: 04-12-18

Purpose:

To establish and implement policy and procedure for staff appearance, dress, and personal presence.

Definitions:

Duty Gear: Handcuffs, 911 Emergency Tool, Radio, Ear Piece, O.C. Pepper Spray, Juvenile Hall Keys, Gloves, Shackles

Handcuffs: Used to secure the hands and limit movement. Handcuffs should always be checked for fit and double locked after being applied.

Shackles: Used to secure the feet and limit mobility. Shackles should always be checked for fit and double locked after being applied. Shackles are optional and may be required at the discretion of the Senior Group Supervisor or Acting Senior Group Supervisor on shift.

911 Emergency Tool: Used in cases of emergency. The 911 tool shall not be used for anything other than situations in which the health and safety of a youth and Transitional Age (T.A.) young adult is at risk. Do not use for cutting string, thread, or any other material at the request of youth or TA young adult.

Radio: Used to transmit information between staff members. Youth and TA young adult shall not be permitted to touch or use radios.

Ear Piece: Shall be worn by all staff in the presence of Youth or TA young adult.

O.C. Pepper Spray: Used only as a last resort during a threat to safety and security. Staff cannot carry O.C. Pepper Spray unless they have been trained in its use.

Juvenile Hall Keys: Keys which allow access to rooms, closets, roof, and entrances/exits to the facility. All eight sets must be accounted for before and after each shift.

Gloves: Latex gloves are available to all staff. Used to protect staff from coming in contact with harmful substances or materials.

Policy:

The Nevada County Probation Department will provide the following uniform:

- At the start of their employment each Full-Time Group Supervisor / Senior Group Supervisor will be provided free of cost three (3) New Probation Shirts with the Nevada County Probation Badge and logo.
- At the start of their employment each On- Call Group Supervisor will be provided free of cost two (2) New Probation Shirts with the Nevada County Probation Badge and logo.

-At the beginning of each year the Nevada County Probation Department will provide free of cost two (2) new shirts to all Group Supervisors, Senior Group Supervisors, and On- Call Staff.

Dress:

- Staff is expected to dress appropriately for the position.
- Pants should be neat, clean and have ample pockets. They should be loose enough to accommodate easy movement.
- While on duty Staff must wear a Probation issued or Staff purchased shirt that has the identifiable Nevada County Probation Badge and logo.
- Tank tops and sleeveless shirts are not acceptable.
- Staff is to guard against the wearing of clothing that may be too revealing.
- Duty belts or duty vests are to be worn on shift at all times while actively supervising youth and TA young adult. All duty gear is to be worn at all times, including Probation star badge. (Exceptions: 1. Staff not trained in the use of OC Pepper Spray is not to carry OC Pepper Spray until trained. 2. Shackles are only required when directed by the ASGS/SGS on shift.)
- Senior Group Supervisors that are handling administrative duties, without active supervision duties, are not required to wear a fully equipped duty belt/ vest. Those Senior Group Supervisors shall carry a radio at all times. Once they transition to supervision staff, they must wear a fully equipped duty belt/ vest.
- If department issued shirts are ripped or torn during working hours staff are to advise the Probation Program Manager. It will be his/her decision if the shirt is to be replaced and paid for by the Department.

Footwear:

- Footwear should be comfortable and rubber soled of the non-marking variety. Sandals, high or slippery soles, and high heels are not allowed while on duty.

Headgear:

- A baseball style hat is permitted. Hats must be free of logos or other representations not approved by the Probation Program Manager, and neutral in color. Hats must be worn forward and cannot impair staff vision. All other types of hats or bandanas are not to be worn inside the facility.
- Sunglasses may be worn outside.

Jewelry:

- Most jewelry should be left at home or in the employee lockers.
- A watch, wedding rings and stud earrings are acceptable.
- All forms of facial piercing are not allowed while on duty.
- Tongue piercings should be small and as unobtrusive as possible, and not interfere with the staff's ability to clearly communicate.
- Staff should avoid drawing attention to their skin art (tattoos or piercing) with the youth and TA young adult, as this is considered inappropriate and unprofessional.

Procedure:

The staff should be dressed appropriately when taking their post for a shift.

All restricted or unacceptable items of jewelry and clothing may be left in the staff lockers provided.

The Senior Group Supervisor or Lead Staff is responsible for making sure that shift members are dressed appropriately and in accordance with policy.

- Staff shall not wear Department issued staff shirts on their days off in public. Staff shall not wear Department issued staff shirts to places such as bars, casinos, or other business that primarily promote gaming or alcohol.

From: Ian Kysel
Sent: Wednesday, May 23, 2018 3:00 PM
To: Michelle Ochoa Castañeda
Subject: FW: Nevada County Chemical Agent PRA
Attachments: Policies and Procedures.pdf; Inventory Information.pdf; Demographic Info - Redacted.pdf; Training Materials part 1.pdf; Training Materials part 2.pdf

Ian Kysel, Staff Attorney
ACLU Foundation of Southern California

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From: Angelina Coffey [mailto:Angelina.Coffey@co.nevada.ca.us]
Sent: Monday, May 21, 2018 8:27 AM
To: Ian Kysel
Cc: Michael Ertola ; Mike Sypnicki
Subject: Nevada County Chemical Agent PRA

Good morning,

We have included the following as a response to this PRA:

- All policies, procedures and training materials related to OC spray.

For the data points in section 3:

- Demographic information of each youth sprayed (age, race, national origin, gender)
- Grievances related to OC spray use - **NONE**
- Notification to parent/guardian of OC spray use – **Not currently part of policy**
- Any staff discipline related to OC spray use - **NONE**
- Records related to staff or youth injury due to OC spray use - **NONE**
- Number of and volume of all OC spray we have for use
- Purchase records of OC spray and costs
- Inspections or reports that mention OC spray – **NONE that specifically mention OC Spray**
- Anything addressing changes to the OC spray policy (approved or rejected) – **Only change was to add Transitional Age Youth to the policy in 2016**

We have consulted with our County Counsel and in relation to the incident reports, the information you are requesting is specifically exempt under Welfare and Institutions Code section 827. As was determined in the case of *Wescott v. Yuba County* (1980) 104 Cal.App.3d 103, 106, the Court specifically found that Section 827 of the Welfare and Institutions Code is controlling over the Public Records Act to the extent of any conflict. As such, records contained in the juvenile probation files are not subject to the Public Records Act. Further, the Court also cited to the case of *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767 regarding the scope of Section 827's confidentiality requirement which determined it also included police reports pertaining to minors who were not involved in juvenile court proceedings but had never been temporarily detained. The court went on to find a very broad definition of those records covered by 827 and found that 827 was written very broadly to include probation records. In fact, Welfare and Institutions Code section 827 (e) provides "[f]or purposes of this section a 'juvenile case file' means a petition filed in any juvenile court proceeding,

reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer." As such, the request for incident reports falls within juvenile case files information and is only available through a request directly to the court.

Thank you,

Angelina Coffey
Administrative Services Officer
Nevada County Probation
(530) 265-1548

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**OLEORESIN
CAPSICUM
COURSE
(O.C. SPRAY)**

**INSTRUCTORS
JOSH BROWNING
EDWARD PEEVEY**

History of Chemical Agents

- Chemical Agents used in some form for 2500 years or more
- The Chinese used pepper burned in oil to create "stink pots". Stink pots created an irritating smoke.
- 1959 – The U.S. Army declassified CS and used it as a riot control agent
- 1960 – Military M-17 gas mask was developed to filter CS

History, Continued

- 1965 – General Ordinance Equipment Corporation introduces Mace
- January 1, 1969, California Tear Gas Act goes into effect. It introduces laws to govern sale, transportation, use and training of non-lethal chemical agents
- 1992 – Oleoresin Capsicum was authorized for law enforcement use in California

History, Continued

- 1994 – California legislation allowed for civilian use of OC with regulations regarding training
- 1996 – Legislation was introduced removing all training requirements and product monitoring and control by California Department of Justice

Oleoresin Capsicum (OC)

- OC- Color Coded Orange
- Inflammatory Agent
- Closing of Eyes, Inflammation
- Disorientation, Panic, Fear
- Primary Target-Eyes
- Secondary Target-Nose, Mouth

Pepper Spray

- Natural Food Product
- Capsicum Pepper Family

Defense Technology Formula

90% Carrier

50% Distilled Water

35% Ethyl Alcohol

5% Propylene Glycol

10% Solution

6% Distilled Water

4% Raw O.C.



Recognized Conditions

- Positional asphyxia-
 - When body position interferes with respiration such as when a suspect is placed face down with pressure applied to the diaphragm from the stomach
- Drug induced psychosis
 - Most common w/ PCP, Cocaine, Meth
 - Accelerated body function

Excited Delirium

Associated with High Risk Behavior

- Bizarre and/or aggressive
- Panic, paranoia, erratic moods
- Profuse sweating
- Violence toward others
- Super human strength
- Sudden tranquility

Personal Decontamination

- Remove the person from contaminated area
- Keep the person calm
- Expose affected area to fresh air
- Flush with cool water 10-30 minutes or until subject is able to open eyes on his or her own.
- Monitor breathing and consciousness
- Seek medical assistance if symptoms persist after 30 minutes

Personal Decontamination Cont.

- Do not use oil based soaps, lotion or ointments to assist in the decontamination process. This can trap the particles and extend the discomfort.
- Clothing should be removed and laundered.
- A shower will remove the particulates for the subject's skin and hair.
- Properly document all decontamination efforts

Area Decontamination

- Take personal precautions
 - 1) Gloves
 - 2) Protective Mask
- Ventilate room or building by opening doors and windows
- Large fans may be used to circulate fresh air

Area Decontamination Cont.

- Furniture and carpeting can be vacuumed. Severe exposure may require carpeting to be removed.
- Soap and water may be required
- Exposed food should be thrown away
- Properly document all decontamination efforts

ESCALATION OF FORCE

- Professional Presence
- Verbal Commands
- Empty Hand Control
- Chemical Agents
- Impact Weapons
- Deadly Force



DOCUMENTATION

- Document the unique aspects that both the officer and suspect bring to the incident.
- Include all
 - Verbal commands and instruction
 - Type and amount of chemical agent
 - Decontamination procedures used
 - Conditions when turned over/to whom

A Complete Use of Force Report Includes:

- (note: Not all the information listed below is found in the policy, however, these are important items to think about when writing an incident report)
- **Notify supervisor and prepare the incident report prior to the end of the day**
- **Reason for contact / detention**
- **Physical Attributes of person** – height, weight, age
- **Actions of person**– pacing, yelling, clenching fists, fighting stance, etc.

IR's continued

- **Verbal Commands**– what was person told to do and what was person's response, use exact quotes if possible.
- **Articulate Resistance** – what physical actions did the person take to indicate resistance
- What was the officer **Thinking and Perceiving** at the time of the incident
- The **Type and Amount** of chemical agents used
- **Time the OC Spray was used**
- **Any and All Decontamination Efforts**

After Action Considerations

- Photograph the canister
- Collect the canister and retain as evidence
- Note and photograph all injuries sustained by suspect
- Photograph to show no injuries
- Document all chemical agents use of force

Department Policy

- Distribute Copies
- Round Robin Reading
- Discussion/Questions

Case Law

- Graham v. Conner et al. 109 S. Ct. 1865 (1989)
- Tennessee v. Garner, 471 U.S. 1 (1985)
- Scott v. Heinrich 34 F 3rd 1493 (9th Cir. 1994)

FACTS

Graham (plaintiff) is diabetic. He had an insulin reaction on the day in question, and his friend Jerry drove him to a store to buy juice. There was a long line at the store so Graham rushed out and asked Berry to drive him to a friend's house. Officer Connor (defendant) became suspicious after seeing Graham rush in and out of the store and pulled Berry's car over to make an investigative stop. Berry explained that Graham was having an insulin reaction, but Connor told them to wait there until he found out if something happened at the store. When backup arrived, Graham was handcuffed and shoved against the hood of Berry's car face down. The officers refused to give Graham sugar and ignored his request that they check his wallet for his diabetic decal. During the incident, Graham sustained several injuries, including a broken foot and shoulder injury. He was finally released when Connor learned that nothing happened at the store. Graham sued Connor and the other officers under 42 U.S.C. §1983, charging them with using excessive force in violation of the Fourteenth Amendment. Connor moved for a directed verdict. The district court applied a four-factor test and granted Connor's motion for directed verdict, finding that the force used was appropriate under the circumstances and applied in a good faith effort to restore order. The court of appeals affirmed. The Supreme Court granted certiorari.

Citation. 471 U.S. 1,105 S. Ct. 1694, 85 L. Ed. 2d 1,1985 U.S.

Brief Fact Summary. The officers in question shot an unarmed suspected felon. This case was instituted by the victim's family alleging that the victim's constitutional rights were violated by the officers.

Synopsis of Rule of Law. If an officer has probable cause to believe the suspect poses a threat of serious bodily harm either to fellow officers or to others, it is not constitutionally unreasonable to prevent escape by using deadly force.

Facts. The police were summoned to stop a suspected burglary. As the police arrived, Victim was seen fleeing the scene of the alleged burglary. An officer saw Victim, and could see that Victim possessed no weapon, and yelled at him to stop. Victim continued to climb the wall to escape at which point he was shot and killed. Victim's father brought this action seeking damages for a violation of the Victim's constitutional rights. The judge found the officer's actions were constitutional. The Appellate Court reversed and the State appealed.

Issue. Whether law enforcement officials can use deadly force to prevent the escape of an unarmed suspected felon under the Fourth Amendment of the Constitution of the United States.

United
States
of
America

Annotation: In analyzing the case of *Scott v. Henrich* (1994), heard in the U.S. Ninth Circuit Court of Appeals, booklet discusses related issues on when the police use of deadly force is reasonable; community oriented policing in Columbia, S.C., is also discussed.

Abstract: In *Scott v. Henrich*, the plaintiff-the wife of decedent John Scott-claimed that the police officer defendants acted unreasonably by killing her husband. This commentary considers the amount of proof needed to overcome a motion for summary judgment in a deadly force case under Section 1 of the officers raised the defense of qualified immunity, which shields government officials performing discretionary functions from liability for civil damages "insofar as their conduct does not violate established statutory or constitutional rights of which a reasonable person would have known." Officers testified that Scott responded to their knock on his door with a gun in his hand. Although gun was subsequently found to be unloaded, the officers had no way of knowing this and testified believed their lives were in danger when they shot and killed Scott. The court held there was no basis for finding the officers inadequately trained nor that they acted unreasonably in shooting Scott. The judge dismissed the suit without trial. Whether or not officers have acted reasonably in their use of force is usually a question of fact for the jury. A trial judge, however, can dismiss a suit against an officer if the judge concludes, after resolving all factual disputes in favor of the officer, that the use of force was reasonable in the circumstances. Other policy issues determined in the case are that an officer is not required to use alternative measures in approaching a situation, lack of fingerprints on a gun does not prove the gun was not used by a particular person, and deadly force may not be used after the threat of death or serious bodily injury has abated. The summary judgment also held that departmental regulations are not pertinent to the issue of the use of force unless the regulations were designed to protect the person against whom the force is used. The section on community policing in Columbia, S.C., notes that reports on the incidents of crime, ranging from homicide and rape to weapons violations and drugs, are down from 537 incidents in 1990 to 333 in August 1994. List of 13 community policing resources

USE OF FORCE

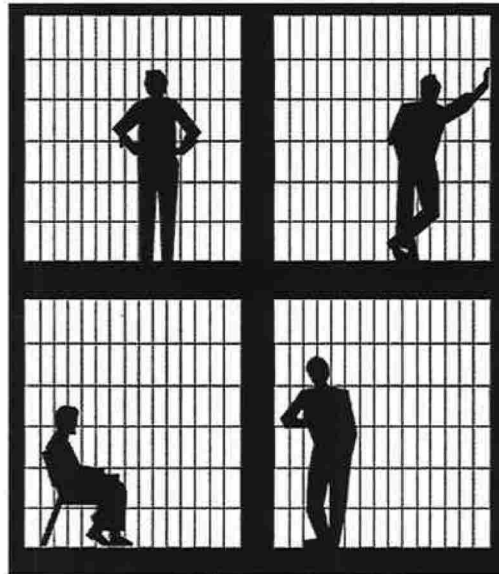
- California Penal Code - 835(a)
- **Any peace officer who has reasonable cause to believe that the person arrested has committed a public offense may use reasonable force to effect the arrest, prevent escape, or overcome resistance.**

CHEMICAL AGENTS and the LAW

- California Penal Code 12403
- Chemical agents may be used to:
 - Riot and crowd control
 - make an arrest
 - overcome resistance
 - prevent escape

In-Custody Death

- No one has died from pepper spray

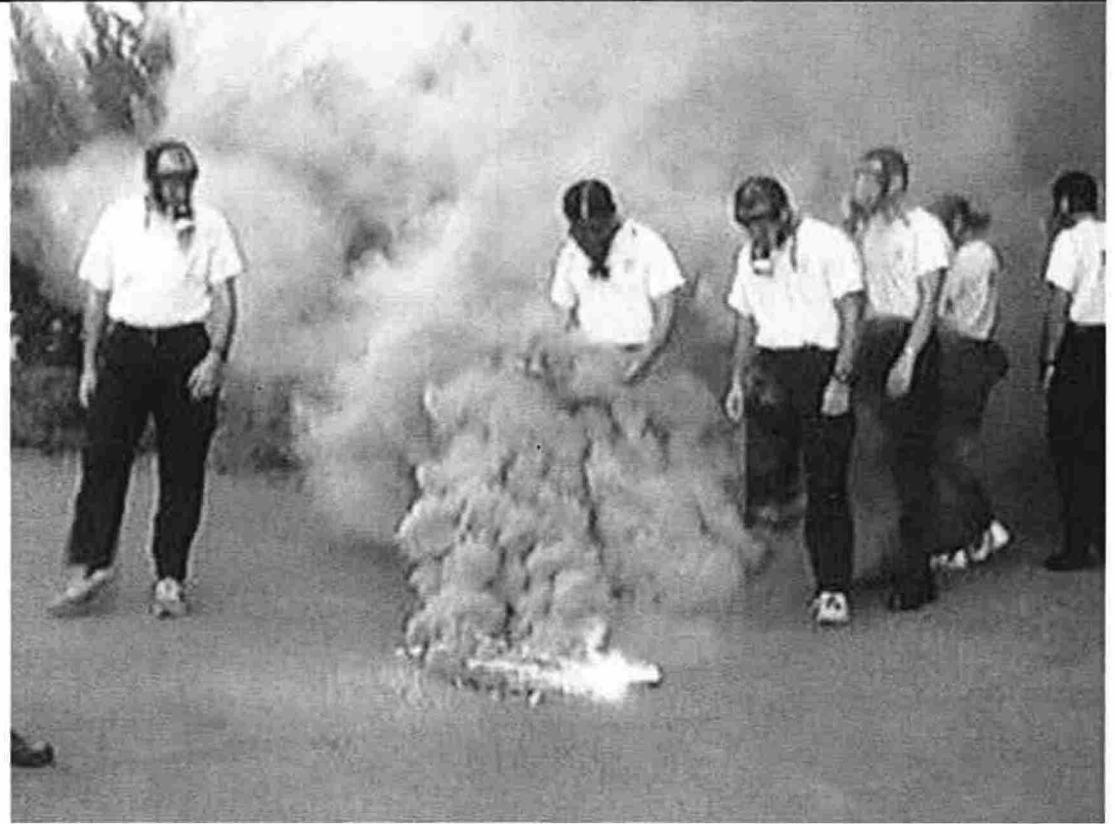


HOUR FOUR

- Practical use of OC
- Practice with Inert Spray
- Exposure to OC spray
 - **Voluntary, but highly recommended if you have not previously been exposed.**

Basic Chemical Agents

**Nevada County
Probation
Department**



History of Chemical Agents

- First recorded use was approximately 2300 years ago by the Chinese Army. They used stink pots containing red pepper burning in oil. The irritating and choking smoke proved to be a deterrent to the enemy.
- In 1912 the Paris Police are credited with the first law enforcement use of chemical agents. It was a non-lethal agent called ethylbromacetate (a fore-runner to CN). The chemical caused a reaction which made people weep, thus the term “tear gas.”

Instructional Goals and Requirements

- History of Chemical Agents**
- Chemical Agents and the Law**
- Civilian Use of Chemical Agents**
- Use of Force with regard to OC spray**
- Self-Defense Against Chemical Agents**
- First Aid and Decontamination**
- Chemical Agents and In-Custody Death**
- Identified Causes of sudden Death**
- Recognizing High Risk Subjects**
- Documenting Use of Chemical Agents**

- In 1913, during WWI, the Germans developed the chemical agent diphenylaminechlorarsine (DM) to use against the French. The use of chemical agents during the war escalated from there.
- In January of 1915, the German chemical industry produced lethal chemical weapons. (e.g., nerve gas)

1918

- The French developed bromobenzylcyanide, known commonly by the military code CA.
- The British and Americans developed chloroacetophenone (CN.) CN became the most effective and widely used form of tear gas.

Riot Control Agents

- In the postwar period of the 1920's, the urban crime wave and the emergence of gangsters spurred renewed efforts to develop riot control agents
 - OC (oleoresin capsicum) was developed in the United States by Edgewood Arsenal. At the time however, it was not considered as effective as CN.
 - The Chemical Warfare Department of the U.S. Army began to work with law enforcement agencies to modify CN for civil disturbance use.
 - In 1950, the U.S. Army declassified the agent CS (ortho-chlorobenzylidene-malononitrile) for use as a riot control agent.

MACE

- In 1965, CN was packaged as the brand name “MACE” by General Ordinance Equipment Corp.
- This was the first hand-held chemical agent to be introduced.

USE by LAW ENFORCEMENT

- In 1982 OC, also referred to as “pepper spray” was first used by the FBI in the United States. In August of 1992, the California Attorney General approved provisional use of OC by peace officers.
- Today the most commonly used chemical agents used by law enforcement officers in California include:
 - OC (oleoresin capsicum)
 - CN (chloroacetophenone)
 - CS (ortho-chlorobenzylidene-malononitrile)

CHEMICAL AGENTS and the LAW

- California Penal Code 12403
- Chemical agents may be used to:
 - Riot and crowd control
 - make an arrest
 - overcome resistance
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ENFORCEMENT SECTIONS

- 12404PC – Misdemeanor
- 12403.7 – Chemical Agents Self Defense Purposes
- 12403.7(g) – Felony
- 12403.5 – Private Security

CIVILIAN USE

- ***1994 – California legislation allows for civilian use of OC w/regulation regarding training**
- ***Law updated January 1996 – legislation removes training requirements & product monitoring.**

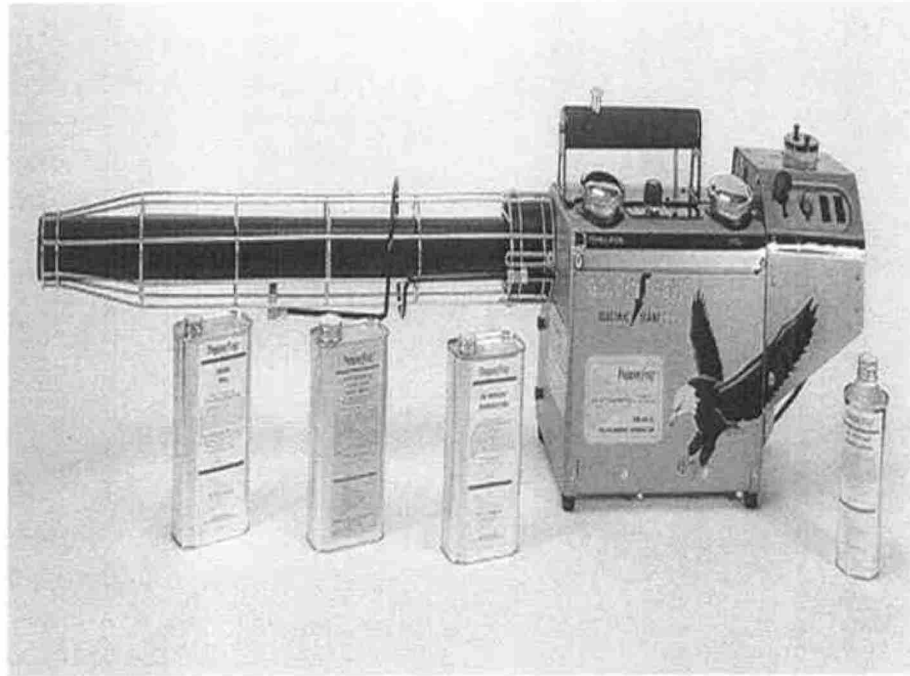
CIVILIAN USE

- No restriction on products except
- No training required
- Net weight not to exceed 2.5 ounces
- No felonies, or crimes of assault
- No misuse of tear gas
- No narcotics addicts

CIVILIAN USE

- Minors between 16 and 18 years
- Airports and planes prohibited
- No prohibitions on schools
- Government buildings
- Courts

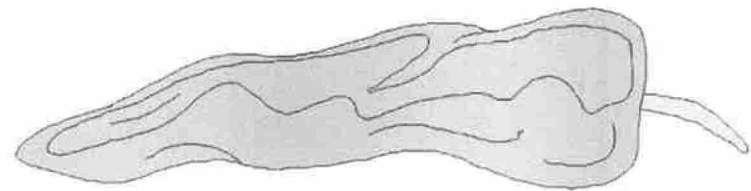
Gas Powered Pepper Fogger



Produces 100,000 cubic feet of irritant in 26 seconds.

Defense Technology Formula

- 90% Carrier
 - 50% Distilled Water
 - 35% Ethyl Alcohol
 - 5% Propylene Glycol
- 10 % Solution
 - 6% Distilled Water
 - 4% Raw O.C





Area Decontamination

- Take personal precautions
 - Gloves
 - Protective masks
- Ventilate room or building by opening doors and windows
- Large fans may be used to circulate fresh air
- Soap and water may be required to clean contaminated surfaces
- Exposed food should be thrown away
- Document, Document , Document

Additional Physical and Psychological Effects

- Burning sensation of skin
- Involuntary closing of eyes
 - Tearing of eyes
- Inflammation of the respiratory system
- Swelling of the mucus membranes
 - Panic
 - Fear
- Disorientation





















KICKIN' THE **SHU** OUT OF **OC**



Pepper Spray

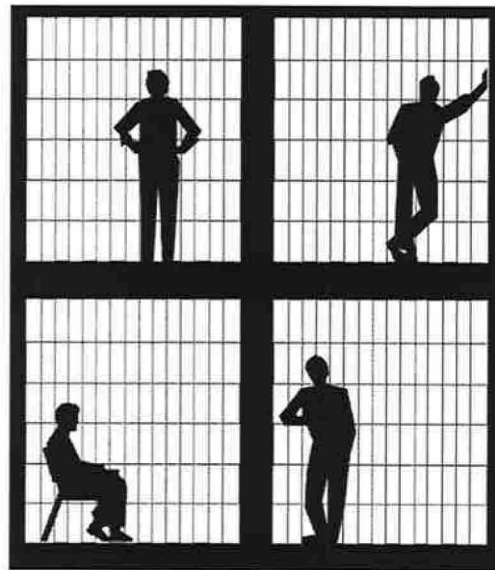
- Natural food product
- Capsicum Pepper family

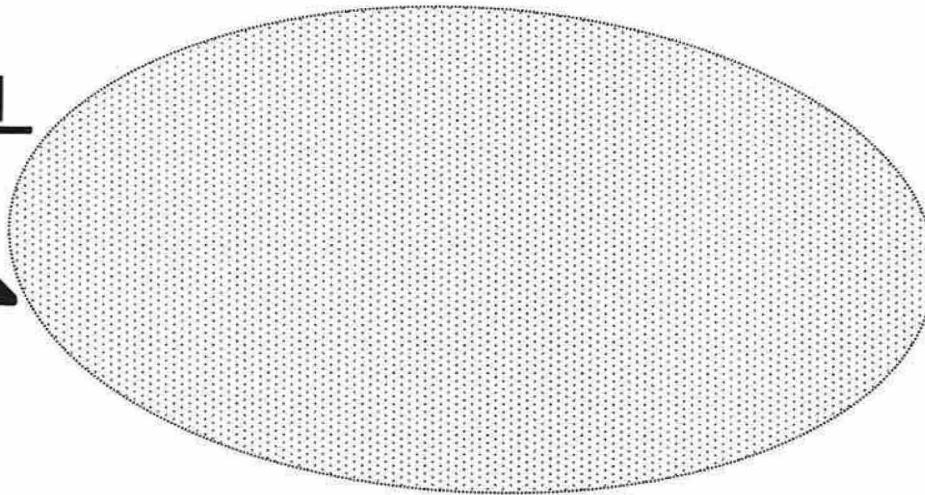


				
Jalapeno	Habanero	Guajillo	New Mexican	Mexi-Bell
				
Santa Fe Grande	Pasilla	Squash Pepper	Tabasco	Chinese Multi-Color
				
Yellow Wax	Hungarian	Serrano	Cascabel	Pepperoncini
				
Peter Pepper	Mirasol	Santaka	Ancho	Cayenne

In-Custody Death

- No one has died from pepper spray

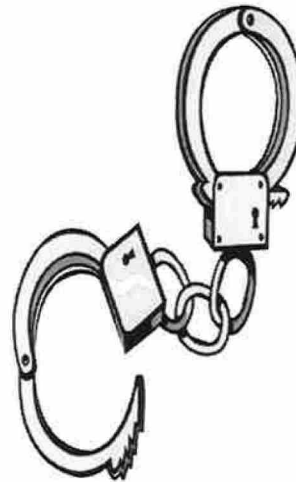




Spray pattern:
11.5 " wide X 12" high
Range:
3-15 feet

ESCALATION OF FORCE

- Professional Presence
- Verbal Commands
- Empty Hand Control
- Chemical Agents
- Impact Weapons
- Deadly Force



USE OF FORCE

- California Penal Code - 835(a)
- **Any peace officer who has reasonable cause to believe that the person arrested has committed a public offense may use reasonable force to effect the arrest, prevent escape, or overcome resistance.**

Using Handheld Devices

- Weather and cross contamination
- Use non-gun hand
- Pistol grip, thumb on actuator
 - Safety hood
- Aim for eyes using figure eight
- Handcuff and render first aid

Decontamination

- Responsibility of peace officer
- Exposure to cool fresh air
- Flush eyes with water
- Provide re-assurance
- Monitor breathing
- Seek medical help if needed



Decontamination Cont.

- Do not use oil based soaps, lotions or ointments to assist in the decontamination process. This can trap the particle and extend the discomfort
- Clothing should be removed and laundered
- Properly document all decontamination efforts



Recognized Conditions

- Positional asphyxia
- Drug induced psychosis
- Excited delirium

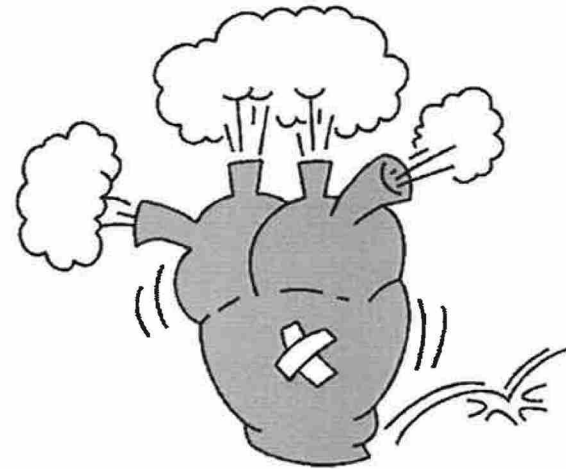


Positional Asphyxia

When body position interferes with respiration such as when a suspect is placed face down with pressure applied to the diaphragm from the stomach.

Drug Induced Psychosis

- Drug overdose most common with
 - PCP
 - Cocaine
 - Methamphetamines
- Accelerated body function



Excited Delirium/High Risk Behavior

- Bizarre and or aggressive
- Panic, paranoia, erratic moods
- Profuse sweating
- Violence towards others
- Super human strength
- Sudden tranquility



Self Defense Tactics

- Eye protection
- Look to the side, block the stream
- Grab the canister at the nozzle



Preparation

- Have a plan ahead of time
- Force eyes open - “OK” sign
- Don’t panic, fight through pain
- Think survival, don’t give up
- Deadly force options

Use of Force Decision Making

OFFICER



Professional Presence

Verbal Commands

TRAINING AND EXPERIENCE

NON-INJURING FORCE

Chemical Agents

Empty Hand Control

INJURING FORCE

Impact Weapons

Deadly Force

Case Law

Statutory Law (835a PC)

Department Policy



THREAT

Oleoresin Capsicum (OC)

- OC - Color coded orange
- Inflammatory agent
- Primary target - Eyes
- Secondary target - nose, mouth

Case Law

- Graham v. Conner (1989)
- Tennessee v. Garner (1985)
 - Scot v. Heinrich (1994)

IR's continued

- **Verbal Commands**– what was person told to do and what was person's response, use exact quotes if possible.
- **Articulate Resistance** – what physical actions did the person take to indicate resistance
- What was the officer **Thinking and Perceiving** at the time of the incident
- The **Type and Amount** of chemical agents used
- **Time the OC Spray was used**
- **Any and All Decontamination Efforts**

Objective Reason

- Officer perception and thought
- Include all
 - Verbal commands and instructions
 - Type and amount of chemical agent
 - Decontamination procedures used
 - Condition when turned over

Documentation

- Physical attributes
- Physical condition
- Actions of resistance
- Verbal statements

Document the unique aspects that both the officer and suspect bring to the incident.

*

INTRODUCTION - BRIEF PERSONAL HISTORY, CLASS INTRODUCTION S

Hour 1

SAFETY PLAN

- NEAREST RESTROOMS, FACILITY EXITS, FIRST AID KIT, ANY MEDICAL CONDITIONS / ISSUES

HISTORY OF CHEMICAL AGENTS AND OC

- DISCUSS / REVIEW HANDOUT #1

PROPERTIES AND CHARACTERISTICS

- DISCUSS / REVIEW HANDOUT #2
- DISSEMINATION METHODS (LIQUID, FOG, GEL, PEPPER BALLS)
 - * PROJECTILES FOR SWAT, SED, CERT (37MM, 40MM, SHOTGUN)
- DISCUSS DIFFERENT TYPES OF CONCENTRATIONS / RATINGS

FACTORS AFFECTING USE OF OC

- METEOROLOGICAL CONDITIONS
- MUNITION CHARACTERISTICS
- TARGET AREA(S), DISTANCE
- SURROUNDING AREA(S)
- SUPPORT PERSONNEL

Hour 2

DECONTAMINATION

- DISCUSS / REVIEW HANDOUT #3
- VIDEO (OC IN LAW ENFORCEMENT)

Hour 3

POLICY AND PROCEDURES

- IDENTIFY AND DISCUSS LEVELS OF FORCE AVAILABLE (WHOLE)
- DIFFERENCE BETWEEN ACTIVE AND PASSIVE RESISTANCE
- REVIEW/DISCUSS EXISTING DEPT. POLICY, REPORTING REQUIREMENTS, USE AND CARE OF EQUIPMENT, STORAGE CONSIDERATIONS (FIELD WORK VS INSTITUTIONS)

CASE LAW (INDICATORS OF AGGRESSION)

- DISCUSS / REVIEW PC SECTIONS HANDOUT #4
- WHITELEY V. WARDEN
 - ✓ IF IT IS NOT DOCUMENTED, IT DIDN'T OCCUR
- CITY OF CANTON OHIO V. HARRIS
 - ✓ "FAILURE TO TRAIN" CAN BE BASIS FOR "DELIBERATE INDIFFERENCE"
- FOREESTER V. SAN DIEGO
 - ✓ OFFICERS NOT REQUIRED TO USE "LEAST INTRUSIVE" DEGREE OF FORCE
- GRAHAM V. CONNOR
 - ✓ OBJECTIVE REASONABLENESS

Handout #5

Hour 4

PRACTICAL DEMONSTRATION

- DEPLOYMENT AND USE OF VERBAL COMMANDS
- TARGET ACQUISITION (DISTANCE VARIABLES)
- * STUDENT DIRECT EXPOSURE
- EVALUATE PERSONAL TOLERANCE LEVELS AND ABILITY TO FUNCTION UNDER OC EXPOSURE

CONCLUSION - TRAINING / CLASS EVALS