

27 May 2022

P Taylor

fyi-request-18842-9295e106@requests.fyi.org.nz

Dear P Taylor

Request for information

Thank you for your request of 11 March 2022, in which you requested the following:

1. any information detailing any policy or operating procedure changes that were implemented on the 01/03/2022. I would also like to request any drafting documents outlining these changes implemented on the 01/03/2022

Your request has been considered in accordance with the Official Information Act 1982 (OIA), and I can now provide the following response.

As you may be aware, the Independent Police Conduct Authority (IPCA) has commenced an independent investigation and review (Review) of the policing of the occupation on and around Parliament grounds in Wellington during February and March 2022 (Protest).

Details of the scope of the Review are available on the IPCA's website¹ and you will note this scope includes Police planning and preparation including operational guidance, Police decision-making processes, and operational execution.

Whilst this Review is underway, information relating to the issues under investigation and review is expected to be the subject of examination by the IPCA under its powers of investigation under the IPCA Act 1988. With this Review commenced, there is a strong public interest in allowing these matters to be considered in the round by the IPCA.

We envisage relevant information will be released following the conclusion of the IPCA's Review.

In the meantime, we have identified the following policy change which is within the scope of your request. On 1 March 2022, as the Director Capability, I issued changes to the Police Instructions regarding the use of Oleoresin Capsicum Spray.

For your information, I have attached a copy of the previous Police Instructions which were in place directly prior to 1 March 2022, and a copy of the current Police Instructions which were in effect from 1 March 2022.

Prior to deploying any tactical option Police staff are required to apply the threat assessment methodology TENR (Threat, Exposure, Necessity, Response).

¹ <https://www.ipca.govt.nz/Site/publications-and-media/2022-media-releases/2022-mar-24-investigation-review-occupation-parliament.aspx>

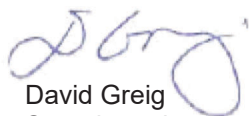
TENR is a decision-making process to support a timely and accurate assessment to the safety of police and others. The Police response to any given situation must be considered timely, proportionate, and appropriate.

The IPCA anticipates the Review will be completed and reported on by 31 March 2023. Police recognises the importance of transparency in these matters and looks forward to the release of the IPCA's report, at which time more detailed information regarding the Police response to the Protest will likely be publicly available.

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: www.ombudsman.parliament.nz.

Nāku noa, nā



David Greig
Superintendent
New Zealand Police

Oleoresin Capsicum spray.doc

Table of Contents

Table of Contents	3
Policy statement and principles	5
What	5
Why	5
How	5
Overview	6
What is OC spray?	6
Approved OC spray	6
Carrying and using OC spray	7
Carrying OC spray	7
Using force	7
Tactical options framework	7
Situations when OC spray may be used	7
Consider other options	7
Person in custody or handcuffs	7
Using O C spray in crowds	8
Using against armed people	8
Warn before using	8
Effects of OC spray	8
After using OC spray	9
Aftercare	9
Medical attention	9
Caution on arrest	9
Report after use	9
Issuing and managing OC spray	11
Employees' responsibilities when spray is issued	11
OC spray register	11
Storing OC spray	11
Internal control process	11
Returning OC Spray on resignation/leaving Police	12
OC spray coordinator's role	12
Used, lost, damaged or expired canisters	12
Disposing of used or damaged canisters	12

Part of the ['Use of Force'](#) chapter

Policy statement and principles

What

OC spray or gel are one of a number of tactical options available for use by Police within the [Tactical Options Framework](#).

Why

A key function of Police is to maintain public safety. At times this requires Police to use force, the degree of which is determined depending on the circumstances, from a wide range of tactical options available to them.

Police use of OC spray / gel is governed by sections [39](#), [40](#), [41](#), [42](#), [48](#), and [62](#) Crime Act 1961 - they set out the circumstances in which OC spray / gel or any use of force may be used.

How

Employees issued with O C spray must have a current:

- PITT defensive tactics certification;
- First aid certificate.

All OC spray use must be lawful and reasonable, i.e. necessary, proportionate to the situation and with minimum risk to the public, Police and the subject.

Employees should only use OC spray when exercising any of their statutory powers and/or carrying out their lawful duties. See '[Legal authority to use force](#)' in the 'Use of force overview' chapter.

Before using OC spray, employees will consider communication and other less serious tactical options (e.g. control and restraint techniques or empty handed tactics not needing equipment) for resolving and controlling an incident.

They will be satisfied when using OC spray that the person is resisting (by more than passive resistance) or attempting to prevent police from lawfully controlling or arresting them.

Overview

What is OC spray?

Oleoresin Capsicum spray (OC spray) is an intermediate tactical tool available to Police employees. For the purposes of this policy, OC spray includes a spray and a gel product.

OC spray is a naturally occurring biodegradable product consisting of oleoresin oil suspended in an alcohol and water based carrier. The solution is packaged in an aerosol canister with a propellant and a dye for identification purposes.

Note: In this chapter, Police employees include employees with constabulary powers and Police Integrated Tactical Training (PITT) instructors without constabulary powers that are authorised by the Commissioner to provide training to Police employees.

Approved OC spray

There are currently two types of approved OC Spray:

- **Sabre Red Crossfire stream** (new spray) - for use in general policing situations outside of custody areas.



- **Sabre Red Crossfire gel** (new gel) - for use within Police stations and custody areas.



Carrying and using OC spray

Carrying OC spray

Employees [issued](#) with O C spray must have a current:

- PITT defensive tactics certification;
- First aid certificate.

Employees issued with OC spray must carry it if undertaking duty that may involve personal contact with the public.

OC spray must **not** be carried:

- on a commercial aircraft in the cabin or as checked or carried on baggage
- by employees rostered for duty at demonstrations - unless a District Commander specifically authorises it
- if the employee's first aid certificate has expired.

Using force

All OC spray use must be lawful and reasonable, i.e. necessary, proportionate to the situation and with minimum risk to the public, Police and the subject.

Using OC spray is using force. Employees may be liable under section [62](#) of the Crimes Act 1961 for applying any excess force to a person in the course of Police duties.

Tactical options framework

OC spray is an option available to an employee when their perceived cumulative assessment of the situation is that the persons behaviour is within or beyond the **active resistance** range on the Tactical Options Framework and the situation cannot be resolved by less forceful means. See '[Tactical Options Framework](#)'.

Situations when OC spray may be used

Employees should only use OC spray when exercising any of their statutory powers and/or carrying out their lawful duties. See '[Legal authority to use force](#)' in the 'Use of force overview' chapter.

Consider other options

Before using OC spray, consider communication and other less serious tactical options (e.g. control and restraint techniques or empty handed tactics not needing equipment) for resolving and controlling an incident. You must be satisfied when using OC spray that the person is [resisting](#) (by more than passive resistance) or attempting to prevent Police from lawfully controlling or arresting them.

Person in custody or handcuffs

Unless there are exceptional circumstances, OC spray must not be used on a person:

- in custody in a Police custodial area, and/or
- secured in handcuffs.

Exceptional circumstances include situations when either:

- the person cannot be controlled by less forceful means
- timely assistance is not available
- there is a risk of injury to the person or another person
- the prisoner is in possession of a previously unknown weapon, or
- you need to take immediate action to resolve a situation or prevent a situation continuing.

Using O C spray in crowds

As a general rule, O C spray should not be used in crowded situations. However, it can be used against more than one person at a time, if circumstances justify this.

Using against armed people

If the person is armed with a blunt edged weapon or knife exercise caution and ensure a safe distance is maintained when using OC spray

Avoid using OC spray against a person armed or with access to a firearm. Using OC spray may be appropriate as a supplementary tactic if the person:

- has put their firearm on the ground and is covered by an armed Police constable, and
- [actively resists](#) control by Police.

Warn before using

Before using OC spray, unless impractical, you must:

- warn the person that non-compliance will result in them being sprayed
- give the person a reasonable opportunity to comply before being sprayed
- warn other people nearby that a spray may be used.

Effects of OC spray

On most people, OC spray causes:

- blood vessels to dilate rapidly
- bronchial passages to constrict
- mucous membranes to secrete freely and eyes to burn and close tightly.

Physical symptoms from OC spray can last from 10 to 45 minutes. There are no known long-term after effects. See '[Medical attention](#)'.

After using OC spray

Aftercare

If you use OC spray, afterwards you must:

minimise any residual [effects](#) caused by the spray by providing proper decontamination and proper aftercare as in the 'OC Spray Training Manual' See below:

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- ensure the person's face is not covered and they are not left lying face down with their hands constrained behind their back. This may lead to positional asphyxia, where the position of the body interferes with breathing. See '[Positional asphyxia](#)'
- accompany and monitor the person for at least 45 minutes or until the symptoms or effects are no longer apparent.

Medical attention

People with a severe asthma condition who are exposed to OC spray may suffer respiratory distress caused by their airways narrowing (bronchi-constriction). If this happens:

- use the salbutamol inhaler and spacing device to provide relief to the person (**Note: Police are only licensed to administer salbutamol, not to dispense it. It must remain in Police possession and control at all times, and is not to be given to, or left with, unsupervised persons**), and
- immediately seek medical attention.

Also provide medical attention immediately, if the person sprayed:

- does not recover within 45 minutes
- complains of, or appears to be, suffering from a medical condition
- asks for medical attention.

Caution on arrest

You must immediately caution the person if using OC spray leads to their arrest.

Courts might consider admissions made while the person is under OC spray's effect to be unfair and inadmissible. Repeat the caution when the arrested person has had time to sufficiently recover and is capable of understanding.

Report after use

Employees must follow this procedure after OC spray is used against a person, except during training.

Step	Action
1	Provide proper aftercare and if necessary, medical attention for the person sprayed.
2	Notify your supervisor as soon as practical to: <ul style="list-style-type: none">- attend the scene if requested by the attending officerensure the employee has provided proper aftercare and obtained medical attention when necessary
3	Complete a Tactical Options Report before going off duty. Note that if the spray was only used against an animal, use the 'Use of OC Spray on Animal Only' report.

Issuing and managing OC spray

Employees' responsibilities when spray is issued

Employees must be personally responsible for the security of OC spray canisters issued that are to them. You must ensure canisters are:

- not carried off duty (unless authorised by the District Commander)
- secured at the end of duty in a locked cabinet at the station or in another secure place approved by the district commander.

Before starting duty you must check the canister visually and by shaking it, to ensure the:

- nozzle is unobstructed
- unit is not damaged
- contents are verified
- use by date has not expired.

Supervisors must regularly inspect the integrity of canisters issued to employees under their control.

OC spray register

There must be a robust system in place for controlling stock at all stations where OC spray is stored.

The Area Commander must ensure an OC spray register is operated in their area to record stock levels at each station and other details including:

- date spray is issued or received
- employees name and ID receiving or returning the canister
- employees name and ID issuing or receipting the canister
- the canister's serial number issued or received and the expiry date
- a running total of stock on hand both new and used
- disposal details of used canisters

Storing OC spray

Stocks of OC spray must be stored in a secure environment at normal temperature. They must not be exposed to sunlight.

Store enough stock to enable ready replacement and to issue in emergencies.

Internal control process

OC spray issue must be included as part of the internal control process. Internal control must:

- check to ensure canister use by dates are current and units are not damaged
- reconcile actual canisters held to the OC spray register
- sample check of issued units from the register against what employees actually hold

Internal audit will evaluate and report on the effectiveness of the internal control procedures as part of district audit.

Returning OC Spray on resignation/leaving Police

Employees resigning or leaving Police must ensure a POL217 is completed and their OC Spray canister and holster are returned to Lockheed Martin along with the other specified items.

OC spray coordinator's role

District commanders must appoint a district OC spray coordinator responsible for:

- reviewing and filing copies of Tactical Options Reports and associated papers
- internal control and internal audit of OC spray
- interviewing employees to obtain further information about the spray's effectiveness, medical effects or any training or policy modifications that may be necessary
- making recommendations on any necessary policy or training changes to the Director: Capability, PNHQ.

Used, lost, damaged or expired canisters

If your OC spray is lost or stolen, this must be recorded in the [Security and Privacy Incident Register](#) (SPIR). See 'Loss or theft of Tactical Equipment' in the '[Approved equipment](#)' part of this chapter.

Used, damaged or operationally unused expired canisters must be returned to the issuing office and kept until sufficient quantities are gathered for [disposal](#) (seal any damaged canisters in a plastic bag to prevent leakage). Any partially used canisters may be re-issued to an authorised OC spray trainer.

The approved employee:

- records details of all canisters received and replacements issued in the [OC spray register](#)
- files reports (POL 258) and replacement authorisations.

Disposing of used or damaged canisters

OC spray canisters must be disposed of using the following process.

Oleoresin Capsicum Spray

Table of Contents

Table of Contents	3
Policy statement and principles	5
What	5
Why	5
How	5
Overview	6
What is OC spray?	6
Approved OC spray	6
Carrying and using OC spray	8
Carrying OC spray	8
Using force	8
Tactical options framework	8
Situations when OC spray may be used	8
Consider other options	8
Person in custody or handcuffs	8
Using O C spray in crowds	9
Using against armed people	9
Warn before using	9
Effects of OC spray	9
After using OC spray	10
Aftercare	10
Medical attention	10
Caution on arrest	10
Report after use	10
Issuing and managing OC spray	12
Employees' responsibilities when spray is issued	12
OC spray register	12
Storing OC spray	12
Internal control process	12
Returning OC Spray on resignation/leaving Police	13
OC spray coordinator's role	13
Used, lost, damaged or expired canisters	13
Disposing of used or damaged canisters	13

Part of the ['Use of Force'](#) chapter

Changes to this version were issued by the Director: Capability on 1 March 2022 in relation to the use of Mk9, a District Commander may authorise the carriage of OC spray at demonstrations, and the requirement to facilitate decontamination and aftercare where Police cannot physically provide it.

Policy statement and principles

What

OC spray or gel are one of a number of tactical options available for use by Police within the [Tactical Options Framework](#).

Why

A key function of Police is to maintain public safety. At times this requires Police to use force, the degree of which is determined depending on the circumstances, from a wide range of tactical options available to them.

Police use of OC spray / gel is governed by sections [39](#), [40](#), [41](#), [42](#), [48](#), and [62](#) Crime Act 1961 - they set out the circumstances in which OC spray / gel or any use of force may be used.

How

Employees issued with O C spray must have a current:

- PITT defensive tactics certification;
- First aid certificate.

All OC spray use must be lawful and reasonable, i.e. necessary, proportionate to the situation and with minimum risk to the public, Police and the subject.

Employees should only use OC spray when exercising any of their statutory powers and/or carrying out their lawful duties. See '[Legal authority to use force](#)' in the 'Use of force overview' chapter.

Before using OC spray, employees will consider communication and other less serious tactical options (e.g. control and restraint techniques or empty handed tactics not needing equipment) for resolving and controlling an incident.

They will be satisfied when using OC spray that the person is resisting (by more than passive resistance) or attempting to prevent police from lawfully controlling or arresting them.

Overview

What is OC spray?

Oleoresin Capsicum spray (OC spray) is an intermediate tactical tool available to Police employees. For the purposes of this policy, OC spray includes a spray and a gel product.

OC spray is a naturally occurring biodegradable product consisting of oleoresin oil suspended in an alcohol and water based carrier. The solution is packaged in an aerosol canister with a propellant and a dye for identification purposes.

Note: In this chapter, Police employees include employees with constabulary powers and Police Integrated Tactical Training (PITT) instructors without constabulary powers that are authorised by the Commissioner to provide training to Police employees.

Approved OC spray

There are currently three types of approved OC Spray:

- **Sabre Red Crossfire** (new spray) - for use in general policing situations outside of custody areas.



- **Sabre Red Crossfire gel** (new gel) - for use within Police stations and custody areas.



- **Sabre Red Mk 9** - for use in crowd management situations



Carrying and using OC spray

Carrying OC spray

Employees [issued](#) with O C spray must have a current:

- PITT defensive tactics certification;
- First aid certificate.

Employees issued with OC spray must carry it if undertaking duty that may involve personal contact with the public.

OC spray must **not** be carried:

- on a commercial aircraft in the cabin or as checked or carried on baggage
- by employees rostered for duty at demonstrations - unless a District Commander specifically authorises it
- if the employee's first aid certificate has expired.

Using force

All OC spray use must be lawful and reasonable, i.e. necessary, proportionate to the situation and with minimum risk to the public, Police and the subject.

Using OC spray is using force. Employees may be liable under section [62](#) of the Crimes Act 1961 for applying any excess force to a person in the course of Police duties.

Tactical options framework

OC spray is an option available to an employee when their perceived cumulative assessment of the situation is that the persons behaviour is within or beyond the **active resistance** range on the Tactical Options Framework and the situation cannot be resolved by less forceful means. See '[Tactical Options Framework](#)'.

Situations when OC spray may be used

Employees should only use OC spray when exercising any of their statutory powers and/or carrying out their lawful duties. See '[Legal authority to use force](#)' in the 'Use of force overview' chapter.

Consider other options

Before using OC spray, consider communication and other less serious tactical options (e.g. control and restraint techniques or empty handed tactics not needing equipment) for resolving and controlling an incident. You must be satisfied when using OC spray that the person is [resisting](#) (by more than passive resistance) or attempting to prevent Police from lawfully controlling or arresting them.

Person in custody or handcuffs

Unless there are exceptional circumstances, OC spray must not be used on a person:

- in custody in a Police custodial area, and/or
- secured in handcuffs.

Exceptional circumstances include situations when either:

- the person cannot be controlled by less forceful means
- timely assistance is not available
- there is a risk of injury to the person or another person
- the prisoner is in possession of a previously unknown weapon, or
- you need to take immediate action to resolve a situation or prevent a situation continuing.

Using O C spray in crowds

Where the circumstances justify its deployment, OC spray can be utilised against more than one person at a time. The use OC spray in crowded situations should consider the potential for cross contamination of both subjects and staff due to overspray.

Using against armed people

If the person is armed with a blunt edged weapon or knife, exercise caution and ensure a safe distance is maintained when using OC spray.

Avoid using OC spray against a person armed or with access to a firearm. Using OC spray may be appropriate as a supplementary tactic if the person:

- has put their firearm on the ground and is covered by an armed Police constable, and
- [actively resists](#) control by Police.

Warn before using

Before using OC spray, unless impractical, you must:

- warn the person that non-compliance will result in them being sprayed
- give the person a reasonable opportunity to comply before being sprayed
- warn other people nearby that a spray may be used.

Effects of OC spray

On most people, OC spray causes:

- blood vessels to dilate rapidly
- bronchial passages to constrict
- mucous membranes to secrete freely and eyes to burn and close tightly.

Physical symptoms from OC spray can last from 10 to 45 minutes. There are no known long-term after effects. See '[Medical attention](#)'.

After using OC spray

Aftercare

If you use OC spray, afterwards you must if the circumstances allow:

- plan to minimise any residual [effects](#) caused by the spray by providing proper decontamination and proper aftercare or access to decontamination and aftercare as in the 'OC Spray Training Manual'. See below:

-

[OC Spray Manual V3 \(PDF\)](#)

693.65 KB

- ensure the person's face is not covered and they are not left lying face down with their hands constrained behind their back. This may lead to positional asphyxia, where the position of the body interferes with breathing. See '[Positional asphyxia](#)'
- accompany and monitor the person for at least 45 minutes or until the symptoms or effects are no longer apparent.

Medical attention

People with a severe asthma condition who are exposed to OC spray may suffer respiratory distress caused by their airways narrowing (bronchi-constriction). If this happens to someone in your care:

- use the salbutamol inhaler and spacing device to provide relief to the person (**Note: Police are only licensed to administer salbutamol, not to dispense it. It must remain in Police possession and control at all times, and is not to be given to, or left with, unsupervised persons**), and
- immediately seek medical attention.

Also provide medical attention immediately, if a person sprayed in your care:

- does not recover within 45 minutes
- complains of, or appears to be, suffering from a medical condition
- asks for medical attention.

Caution on arrest

You must immediately caution the person if using OC spray leads to their arrest.

Courts might consider admissions made while the person is under OC spray's effect to be unfair and inadmissible. Repeat the caution when the arrested person has had time to sufficiently recover and is capable of understanding.

Report after use

Employees must follow this procedure after OC spray is used against a person, except during training.

Step	Action
1	Provide proper aftercare or access to aftercare and if necessary, medical attention for the person sprayed.
2	Notify your supervisor as soon as practical, to: <ul style="list-style-type: none"><li data-bbox="225 416 959 454">- attend the scene if requested by the attending officer<li data-bbox="225 465 1449 539">- ensure the employee has provided proper aftercare and obtained medical attention when necessary.
3	Complete a Tactical Options Report before going off duty. Note that if the spray was only used against an animal, use the 'Use of OC Spray on Animal Only' report.

Issuing and managing OC spray

Employees' responsibilities when spray is issued

Employees must be personally responsible for the security of OC spray canisters issued that are to them. You must ensure canisters are:

- not carried off duty (unless authorised by the District Commander)
- secured at the end of duty in a locked cabinet at the station or in another secure place approved by the district commander.

Before starting duty you must check the canister visually and by shaking it, to ensure the:

- nozzle is unobstructed
- unit is not damaged
- contents are verified
- use by date has not expired.

Supervisors must regularly inspect the integrity of canisters issued to employees under their control.

OC spray register

There must be a robust system in place for controlling stock at all stations where OC spray is stored.

The Area Commander must ensure an OC spray register is operated in their area to record stock levels at each station and other details including:

- date spray is issued or received
- employees name and ID receiving or returning the canister
- employees name and ID issuing or receipting the canister
- the canister's serial number issued or received and the expiry date
- a running total of stock on hand both new and used
- disposal details of used canisters.

Storing OC spray

Stocks of OC spray must be stored in a secure environment at normal temperature. They must not be exposed to sunlight.

Store enough stock to enable ready replacement and to issue in emergencies.

Internal control process

OC spray issue must be included as part of the internal control process. Internal control must:

- check to ensure canister use by dates are current and units are not damaged
- reconcile actual canisters held to the OC spray register
- sample check of issued units from the register against what employees actually hold.

Internal audit will evaluate and report on the effectiveness of the internal control procedures as part of district audit.

Returning OC Spray on resignation/leaving Police

Employees resigning or leaving Police must ensure a POL217 is completed and their OC Spray canister and holster are returned to Lockheed Martin along with the other specified items.

OC spray coordinator's role

District commanders must appoint a district OC spray coordinator responsible for:

- reviewing and filing copies of Tactical Options Reports and associated papers
- internal control and internal audit of OC spray
- interviewing employees to obtain further information about the spray's effectiveness, medical effects or any training or policy modifications that may be necessary
- making recommendations on any necessary policy or training changes to the Director: Capability, PNHQ.

Used, lost, damaged or expired canisters

If your OC spray is lost or stolen, this must be recorded in the [Security and Privacy Incident Register](#) (SPIR). See 'Loss or theft of Tactical Equipment' in the '[Approved equipment](#)' part of this chapter.

Used, damaged or operationally unused expired canisters must be returned to the issuing office and kept until sufficient quantities are gathered for [disposal](#) (seal any damaged canisters in a plastic bag to prevent leakage). Any partially used canisters may be re-issued to an authorised OC spray trainer.

The approved employee:

- records details of all canisters received and replacements issued in the [OC spray register](#)
- files reports (POL 258) and replacement authorisations.

Disposing of used or damaged canisters

OC spray canisters must be disposed of using the following process.

Step	Action
1	If the OC spray can is damaged, wear appropriate safety apparel when handling - the minimum is rubber gloves and safety glasses.
2	Centralise OC spray for disposal, record the serial number on a spread sheet and place the can into the lockable container provided.
3	When the container is full, enclose a copy of the spread sheet and secure the container with the supplied combination lock.
4	Use the New Zealand Couriers Electronic ticketing system to dispatch the items to the destruction destination.
5	E mail the contracted service provider (steve@steveswholesale.nz): <ul style="list-style-type: none">- a copy of the spreadsheet listing S/No of canisters to be supplied- the combination for the container.
6	The service provider will: <ul style="list-style-type: none">- provide a certified copy of the serial numbers destroyed for local records- return an empty container and lock for future use.

Printed on : 29/04/2022

Printed from : <https://tenone.police.govt.nz/pi/oleoresin-capsicum-spray>

Step	Action
1	If the OC spray can is damaged, wear appropriate safety apparel when handling - the minimum is rubber gloves and safety glasses.
2	Centralise OC spray for disposal, record the serial number on a spread sheet and place the can into the lockable container provided.
3	When the container is full, enclose a copy of the spread sheet and secure the container with the supplied combination lock.
4	Use the New Zealand Couriers Electronic ticketing system to dispatch the items to the destruction destination.
5	E mail the contracted service provider (steve@steveswholesale.nz): <ul style="list-style-type: none">- a copy of the spreadsheet listing S/No of canisters to be supplied- the combination for the container.
6	The service provider will: <ul style="list-style-type: none">- provide a certified copy of the serial numbers destroyed for local records- return an empty container and lock for future use.

Printed on : 02/05/2022

Printed from : <https://tenone.police.govt.nz/pi/review/oleoresin-capsicum-spraydoc>